



**BURNING**  
A RIGHTS ADVOCACY MANUAL  
FOR LAWYERS, ACTIVISTS &  
**INJUSTICE**  
SURVIVORS ON ACID VIOLENCE IN INDIA

EDITED BY: KERRY MCBROOM AND SALINA WILSON

**IRLN**

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A RIGHTS ADVOCACY MANUAL FOR  
LAWYERS, ACTIVISTS & SURVIVORS ON  
ACID VIOLENCE IN INDIA

EDITED BY  
KERRY MCBROOM AND SALINA WILSON

**HRLN**  
Human Rights Law Network

## **BURNING INJUSTICE:**

**A Rights Advocacy Manual for Lawyers, Activists  
and Survivors on Acid Violence in India**

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**To all survivors, victims and their families**

**For their undying spirit and**

**Courage to fight**

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—Kerry McBroom & Salina Wilson

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*Photo: Gaurav D*



# Introduction

## Sushma Varma

*—Sushma Varma is one of the founder members of CSAAAW. She is part of a women's organisation in Karnataka named Mahila Munnade. Sushma is a bank employee and is active in the trade union movement. She has a degree in law and a Masters degree in sociology.*

Campaign and Struggle Against Acid Attacks on Women (CSAAAW) is happy to note that HRLN is bringing out a training manual to deal with the issue of acid attacks. After our legal advocacy on acid attacks in Karnataka, CSAAAW published “Burnt not Defeated” an analysis of the High Court cases. This new publication is timely and pertinent because acid violence against women continues to be one of the most heinous forms of violence. Acid attacks involve deliberate use of acid as a weapon on the victims’ faces and bodies so as to cause serious injuries that are sometimes fatal.

Violence against women as a form of patriarchal dominance has found expression in many ways – sexual abuse, dowry harassment, female infanticide, sexual harassment at the workplace, caste violence and so on. Even as women struggle against these, and many more forms of violence continue, we are faced with yet another horrific crime – that of acid attacks. Acid attacks are not limited to any caste, class, profession, urban/rural area or other such categories. As in other cases of violence against women, men known to the victim/survivor usually perpetrate acid attacks. The attacker(s) may be a friend, colleague, employer or husband. Another characteristic feature is that these attacks are carried out both in private as well as public spaces. Acid attacks are not random or natural phenomena, but a social phenomenon deeply rooted in a gender system that is highly patriarchal and establishes control over women, which in turn justifies the use of violence against women.

Acid violence has been on the increase all over the world. These attacks are prevalent wherever there is prevalence of patriarchy. We have seen this deliberate use of acid on women as an instrument of punishment and as a means of exerting control from countries such as Cambodia, Nigeria, China, Malaysia, Afghanistan and Argentina apart from the Indian Subcontinent. We see that there is a systemic nature to the violence that is perpetrated mainly to silence and control women, where the body is a site of violence. Whenever a woman has acted strong, independent and rejected the diktats of men, we have seen such attacks taking place. Prevalence of acid attacks is increasing in Asian countries supported by the high frequency of cases in Bangladesh and Pakistan.

Acid violence needs to be dealt with in a comprehensive manner. While we need to address individual cases, there is an urgent need to approach this on a multi pronged level involving both the State as well the society.

1. State responsibility to ensure justice and rehabilitation for acid attack victims: CSAAAW has been clear about holding the State responsible for ensuring that survivors get justice. The protection of citizens is the primary responsibility of the state. CSAAAW was united in its understanding that the State has to assume complete responsibility for providing the survivors the required medical facilities and ensuring legal justice through the maze of police investigations and courtroom trials. It is also, undeniably, the duty of the State to support the survivors' efforts to rebuild their lives by ensuring a larger rehabilitative security net. In the words of Shanti, a CSAAAW member and acid attack survivor from Mysore, "A child born today carries on its head the burden of the loans taken by the State supposedly on its behalf. If that is true, then it is the duty of the State to protect and support each and every citizen, especially in circumstances such as ours."

Our journey into each acid attack case proved that the state machinery failed in each and every aspect of its duties. I shall illustrate this with one or two examples. When the police register a case, the way the investigations were being carried out was really disgusting. The focus of the investigation was on the victims rather than on the accused. The government hospitals were not equipped to handle acid attack cases. Therefore the victims had to pay huge sums of money for treatment in private hospitals. Even when it comes to courts, the overburdened public prosecutors could not dedicate adequate time or resources to the case. So, at every level the victim had to face many hardships. This made CSAAAW develop various programmes and strategies to make the State responsive.

CSAAAW's confrontations with the State began with its first public hearing held on 4 January 2004 in Bangalore. Acid attack survivors deposed – sharing explicit details of their struggles within government medical hospitals, police stations, at courtrooms with public prosecutors and judges. The public hearing was instrumental in highlighting the fact that every single step of the journey towards justice was punctuated by insensitive officials and a system determined to brush aside legitimate demands. The government was forced to recognize acid attacks as a serious problem and CSAAAW consolidated various voices in this fight.

Another significant milestone in CSAAAW's struggle journey emerged with the August 2006 Karnataka High Court judgment in Haseena's case (a CSAAAW member and acid attack survivor). The judgment sentenced the accused to life imprisonment and increased the compensation amount that was due to Haseena. Despite several problems in the judgment, it successfully set a precedent for other acid violence cases in the lower courts. Around the same time, in an attempt to force the State to accept its responsibilities to provide medical services, to ensure rehabilitation safety nets, and to seek a control on the sale of concentrated acid, CSAAAW filed a PIL in the High Court of Karnataka in August 2006. The matter was placed before the same bench that delivered the judgment in Haseena's case and while the proceedings are still ongoing, the Court passed an interim order.

This interim order from the High Court, passed in February 2007, mandated that the State establish a Committee under the aegis of the Women and Child Development Department with representations from Home Department,

Health and Family Welfare Department, Law Department, Finance Department, Commission for Disabled Persons, and Karnataka State Women's Commission. CSAAAW too was invited to the Committee as an external interested agency. Since then, this Committee has held precisely two meetings – at least CSAAAW was invited to only two meetings. But as a definite consequence of these meetings and the High Court directions in the matter, the Women and Child Welfare Department released a proposed framework towards providing acid attack survivors with relief and compensation.

The Court also ordered the Department of Women and Child Welfare to budget Rs. 20,000 (an increase from the Rs. 10,000 awarded in the original judgment) for acid attack survivors. The Court also ordered that in case of a victim's death, this amount was to be made available to the next of kin. Further under the proposed framework, all acid attack survivors were awarded medical reimbursements of Rs. 2 lakhs against provision of medical bills. This was passed in retrospective effect, with previous surgeries and medical expenses also accounted for.

Fighting patriarchal values: The second objective is to fight against patriarchal values manifest in our society; our fight is to erase a value system that justifies and actively abets violent attacks on women since this value system builds, sustains and justifies the construction of women as objects and as subservient beings. Our targets then are these value systems and their manifestations – seeking to destroy the dynamics of power even as we create spaces for assertion for women.

Interactions with the society in our efforts to fight value systems has to take on a more deep-rooted and multi-pronged approach given that the struggle in this case is a long-term one. CSAAAW's identification of acid attacks on women as an extension of other forms of violence – such as dowry harassment, domestic violence, honour crime, and sexual harassment at workplace, etc. – necessitates a sustained struggle. We have regularly had detailed interactions with a cross-section of audience, from college students to lecturers to bank employees to working class men and women. Using the medium of films and other means of communication, we have taken the voices of the survivors and the struggle exemplified by them into classrooms, lecture halls, slums, and auditoriums in our attempt to battle mindsets.

On another level, there is a specific need to unite all the voices that have risen against this heinous form of violence. Unless there is a united effort to fight against violence, there will no significant shift towards equal rights for women. We also recognize that such battles for equality need to be waged in every sphere where women face violence to even conceptualize a systemic change.



*Photo: Gaurav D*



# The Consequences of Acid Violence: Medical and Psychological

**Gilli Paveley | Andrew Kirtley**

*—Gilli Paveley, from the United Kingdom, interned at HRLN during the summer of 2014. An accountant by trade, she also has a Bachelors degree in Mathematics from the University of Birmingham and a Masters degree in the History of Science, Technology & Medicine from Imperial College London. Having visited India almost every year since 2005, living and working with tribal communities and disenfranchised women, Gilli has become increasingly interested in women's rights in India. The experience of working with a frontline human rights organisation has inspired her to refocus her professional objectives and she now hopes to pursue a career in law or activism.*

*—Andrew Kirtley is an American lawyer and activist. He graduated from Northeastern University School of Law in May 2014, and he also holds a Master of Environmental Law and Policy from Vermont Law School. In the spring of 2014, Andrew was a legal fellow at HRLN's Reproductive Rights Initiative in New Delhi, where much of his work focused on HRLN's litigation strategy in acid attack cases. He currently lives and works in Washington, DC, USA.*

## INTRODUCTION

This chapter explains how acid violence affects survivors' bodies, minds, and social and economic security. While the immediate physical consequences of acid attacks are often appreciated by the media and the courts, most people lack a comprehensive understanding of the long-term treatment required by survivors, including complex surgeries and prolonged courses of physiotherapy. Similarly, there is a significant lack of research on the psychological repercussions of acid attacks. While the psychological impact of any violent incident may be severe, the particularly brutal, visible, and gender-specific nature of acid violence sets it apart from other violent crime. Survivors of acid attacks experience a host of psychological repercussions caused by the attack itself, and they typically have difficulty learning how to live with an altered appearance that provokes negative reactions from the public. Survivors are therefore likely to require specialised long-term psychosocial care.

In contrast with their understanding of the immediate physical consequences of acid violence, both journalists and courts have largely failed to appreciate the

survivor's path to reintegration into society following an attack. After an attack, survivors find it difficult to interact with their friends, family, and the public in the ways that they used to. Similarly, getting married, finding a job, or going to school present huge challenges, and many survivors become dependent on others for money, food, and care for the rest of their lives. Dealing with the social and economic consequences of acid violence can be the most frustrating and devastating aspect of the recovery process.

In order to secure justice for survivors, the state has an obligation to provide a comprehensive and well-rounded course of treatment. Acid violence causes a complex, interconnected web of consequences, requiring holistic and integrated (rather than isolated) treatment. Landmark court judgments on acid attacks have largely failed to address the medical, psychological, and social and economic consequences faced by survivors.

## 1. Medical Consequences and Treatment

This section first outlines the physical and medical implications of acid violence, including the immediate effect of acid on the body and the long-term repercussions, such as scarring and the risk of infections, complications, and further injury resulting from poor treatment. It then examines the various aspects of treatment a survivor is likely to require, including emergency treatment, medicines and supplies, physiotherapy, and surgery.

### a. Physiological Impact of Acid on the Body

The effect of acid on the body is immediate and irreversible. The initial injuries caused by acid burns to the face and upper body result in permanent scarring, which can severely restrict movement and make simple tasks such as eating and drinking extremely difficult. Survivors also risk infections and complications from external or internal injuries, which can be exacerbated by poor treatment.

#### i. Immediate Consequences

Hydrochloric, sulphuric, and nitric acids, often used as cleaning products, are also cheap and accessible weapons. These highly corrosive substances rapidly dissolve skin tissue, fat and muscle when they come into contact with the body. Within seconds of an acid attack, the physical effects are already permanent and severe. Until it is thoroughly washed off with water, acid will continue to burn and penetrate skin and subsequent layers of tissue. If not sufficiently washed off, acid can even penetrate deep enough to cause serious organ damage and, given enough time, dissolve underlying bone. In many cases, victims suffer a slow and painful death.<sup>1</sup> Burns covering more than 50 per cent of the total body surface area are almost always fatal.<sup>2</sup>

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1. Law Commission of India, *The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Survivors of Crime: Report No. 226* (Delhi: Law Commission of India, 2008), 8.

2. Nick R. Waldron et al., "Acid Violence in Cambodia: The Human, Medical and Surgical Implications," *Burns* (2014), 4.

Acid causes extreme, instantaneous injuries and an “unparalleled degree of pain.”<sup>3</sup> In most cases, acid is also inhaled by the victim and attacks internal tissue in much the same way that it burns through skin, damaging and producing a toxic reaction in the lungs and causing immediate swelling in the throat. A person attacked with acid is therefore likely to experience immense breathing difficulties in the moments following the attack.<sup>4</sup>

Acid thrown on to the face has a particularly devastating effect since it causes irreversible damage to the parts of the body most commonly used for social interaction, communication, and sensory perception. Acid will quickly burn through the soft tissue of the eyeball, causing blindness or even the loss of the eye entirely. Acid burns rapidly through lips and eyelids and destroys cartilage in the nose, causing the nostrils to close. Many survivors are rendered permanently deaf as a result of acid entering the ear canal or melting the tissue surrounding the ear. If acid reaches the scalp, it will melt follicles and cause irreversible hair loss.<sup>5</sup>

In some cases acid is ingested, either forcibly or as a means of committing suicide. When acid is swallowed, it is likely to produce “superficial injuries to the oesophagus and deep injuries to various portions of the stomach.”<sup>6</sup> According to the U.S. National Library of Medicine, short-term effects of acid poisoning include breathing difficulty due to swelling of the throat and vomiting blood.<sup>7</sup> Acid ingestion frequently leads to significant morbidity and mortality.<sup>8</sup>

## ii. Targeted Areas

When acid is used as an instrument of violence, it is most commonly aimed at the face.<sup>9</sup> The upper arms, neck and chest are also frequently injured because of their proximity to the face, while areas not located near the face, such as the legs and feet, are usually less affected. Bystanders are also often harmed, either because they were standing near the victim at the time of the attack, or because, in attempting to help the victim, acid comes into contact with their skin.

## iii. Scarring

Within days of the attack, thick scars start to form over burned areas, stretching and contorting the surrounding skin. This can affect the face by,

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3. *Ibid.*, 8.

4. *Ibid.*, 9.

5. Law Commission of India, *The Inclusion of Acid Attacks*, 10.

6. Gary E. Penner, “Acid Ingestion: Toxicology and Treatment,” *Ann Emerg Med* 9 (1980): 374-379.

7. U.S. National Library of Medicine, “Hydrochloric Acid Poisoning,” <http://www.nlm.nih.gov/medlineplus/ency/article/002498.htm> (accessed 6 August 2014).

8. Jan-Werner Poley et al., “Ingestion of Acid and Alkaline Agents: Outcome and Prognostic Value of Early Upper Endoscopy,” *Gastrointestinal Endoscopy* 60, no. 3 (2004): 372.

9. While the face is the most common target, the gender-specific nature of acid violence in India means that perpetrators also sometimes intentionally target the genitalia and breasts, presumably, in some cases, because this expresses patriarchal ownership of the victim’s body and a corresponding entitlement to deny the victim her right to sexual autonomy.



for example, permanently forcing the eyes open.<sup>10</sup> If the mouth is affected it can be forced closed with lips fused together, or forced open with teeth exposed. In either scenario, eating becomes extremely difficult. Cheeks can be left scarred and deformed. Acid causes the pores of the skin to melt and, after some time, survivors' skin becomes incredibly dry.<sup>11</sup> The neck and chest often become heavily scarred, with some survivors' chins becoming fused with their chests. There is often extensive scarring in the breast area and on the arms.

Scars can cause permanent disabilities if they form and stiffen around joints or parts of the body that require freedom of movement, such as the neck, shoulders and armpits. Prompt surgery and many months (if not years) of physiotherapy are required to maintain elasticity in scar tissue if these areas are affected.<sup>12</sup> This is an absolutely critical part of medical treatment, a fact that is little understood. Without ample and effective physiotherapy, survivors may not be able to move their necks or upper arms, rendering them disabled in these areas.

#### **iv. Infection and Complications**

There is a high risk of infection (such as septicaemia and gangrene) or complications due to internal acid injuries during the weeks and months following the attack, which can lead to further infection or even death.<sup>13</sup> In a recent study on the medical and surgical implications of acid attacks in Cambodia, five (two per cent) of the tested patients died during or after treatment. The causes of death were sepsis (two cases), pulmonary oedema, complications relating to anaesthesia, and suicide.<sup>14</sup>

#### **v. Further Injuries Resulting from Poor Treatment**

Burns and infections can all be exacerbated by poor treatment. For example, negligent or inappropriate physiotherapy can lead to contractures (shortening of muscles or joints, causing them to become rigid and deformed). Similarly, treating burns with improper substances and materials, such as coconut oil or blankets, can cause irreparable damage.<sup>15</sup>

### **b. Medical Treatment**

For most survivors, medical treatment and rehabilitation should incorporate the following elements: emergency treatment, medicines and supplies, physiotherapy, and surgery.

#### **i. Emergency Treatment**

This manual defines “emergency treatment” as the aid given to the survivor in the immediate aftermath of the attack, up to the point at which she is discharged from hospital. Although doctors, nurses, and paramedics should carry out emergency treatment, there is typically a delay between

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10. Ibid., 10.

11. <http://www.stopacidattacks.org/p/medical.html>.

12. Taiba Zia, “Acid Violence in Pakistan,” UCLA Centre for the Study of Women (2013), 14.

13. Ibid., 14.

14. Waldron et al., “Acid Violence in Cambodia,” 3.

15. Law Commission of India, *The Inclusion of Acid Attacks*, 8-10.

the attack and the arrival of medical professionals. During this period, much can be done to limit the damage caused by acid. Unfortunately, the state has done little to ensure public awareness of acid attacks and emergency care.

Acid Survivors Trust International advises the following immediate measures:

Stop the burning process by first removing affected clothing (unless clothing is stuck to the patient) and then thoroughly dousing the affected areas with water for at least 30 minutes. Survivor should be taken to the nearest running water source and water should ideally be at room temperature.

Attempt to neutralise the acid by applying an alkaline solution to the affected area (bi-carbonate of soda and water, for example).

The patient should be taken to a medical facility as soon as possible, where treatments should be conducted in a sterile environment; antiseptic dressing and antibiotics should be administered.<sup>16</sup>

Emergency treatment is often severely hampered because doctors do not have the training to address acid injuries. In some cases, doctors have applied incorrect substances, such as oils or blankets, further damaging the skin, extending the recovery period, and increasing the risk of scarring. It is imperative that the initial treatment of an acid burn is based on intensive lavage (washing with water).

The importance of administering prompt medical attention is illustrated in the case of Haseena Hussain who, after being attacked with acid by a former employer in 1991, was forced to lie in a hospital bed for three days before receiving any medical attention. As a result, Haseena says that “the acid continued to spread through my body, and my injuries got deeper and deeper. After six months, I lost one ear, after a year and a half I lost my full vision. Today, I’m totally blind.”<sup>17</sup>

## ii. Medicines and Supplies

This manual defines medicines and supplies as any prescriptions or medical products procured by the patient or her family. For example, these would include any gel sheets, anti-scar ointments, and pressure garments that survivors need to treat their burns and recover from reconstructive surgeries.<sup>18</sup>

The costs of medical supplies can be significant. Aarti Thakur, for example, who was attacked in January 2012, paid over Rs. 4,000 for her medication in the first year of treatment which is a substantial amount for vulnerable

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16. Acid Survivors Trust International, “Pre-Hospital Approach to Acid and Burns Patient Management,” <http://www.acidviolence.org/index.php/acid-violence/first-aid-information/> (accessed 20 August 2014).

17. Priyali Sur, “Indian Government Fails Acid Attack Survivors, Activists Say,” *Women Under Siege*, 8 August 2014.

18. Dinesh C. Sharma, “India Promises to Curb Acid Attacks,” *The Lancet* 382 (2013): 1013.

people in India.<sup>19</sup> For Chanchal Paswan, attacked with acid in October 2012, medication costs exceeded Rs. five lakhs in the first few years of treatment.<sup>20</sup>

### iii. Physiotherapy

Although Indian courts rarely mention physiotherapy as a necessary component of treatment for burns, the medical community has long emphasised the critical role of this aspect of rehabilitation. The World Health Organisation states that “in low and middle-income countries, those who suffer even a fairly small per cent body surface area burn injury to the extremities will often develop significant disabilities from burn wound contractures . . . [which] could be prevented with simple physical therapy (physiotherapy) and rehabilitation methods.”<sup>21</sup>

The National Burns Centre explains the complex process of physiotherapy for burns survivors as a “changing process that may need to be modified daily. The physical rehabilitation consists of prevention of scar contracture, restoration of normal range of motion (ROM), prevention and minimization of hypertrophic scar and improvement in muscular strength and cardiovascular endurance and to help the burns survivor to return to function and performances of activities of daily living.”<sup>22</sup>

In a letter to the editor of the medical journal *Burns* in 2000, a Chennai burn specialist described the role of physiotherapy as follows:

The road to recovery from severe burns depends on prompt physical therapy and rehabilitation methods which allow the patient to lead a good quality post burn life. Aims of physical therapy are prevention of contracture, maintaining good joint movements, providing good muscle tone and preventing scarring and deformities. This is achieved by splinting, with active and passive exercises as early as possible.<sup>23</sup>

### iv. Surgery

Surgery is by far the most complex and expensive aspect of rehabilitation. The Indian Law Commission reports that “survivors of acid attack need both short-term as well as long-term specialised medical treatments and plastic surgeries”<sup>24</sup> costing many lakhs of rupees.<sup>25</sup>

The type of surgery required for acid burns is dependent on the extent and nature of the patient’s injuries. Severely injured patients are, understandably, more likely to need a greater number of operations than patients with less severe injuries. The most common surgeries performed

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19. Aarti Thakur vs. State of Maharashtra & Ors. WP (2014).

20. Writ Petition No. (s). 867 of 2013 (Parivartan Kendra vs. Union of India & Ors.) asserts that Chanchal’s father spent Rs. 5 lakhs out of pocket for medicines alone.

21. World Health Organisation, A WHO Plan for Burn Prevention and Care (2008): 5.

22. National Burns Centre: Department of Physiotherapy, “Physiotherapy Management in Burns,” <http://www.burns-india.com/physiotherapy.htm> (accessed 6 August 2014).

23. V. Alamelu, Letter to the Editor: Burns treatments — then and now in India, 26 *Burns* (2000): 75-76.

24. Law Commission of India, The Inclusion of Acid Attacks, 6.

25. *Ibid.*, 39.

on acid attack victims are debridement (removal of dead or damaged tissue), skin-grafting, and z-plasties (improvement of cosmetic appearance of scars).<sup>26</sup>

The most difficult aspect of surgery for acid burns is the complex facial surgery. Experts state that the face “represent[s] the most demanding and complex challenge for the reconstructive surgeon [since the face] features three-dimensional structures that are difficult to reconstruct.”<sup>27</sup>

The number of surgeries required varies and is highly dependent on the severity of the patient’s injuries. While those with relatively mild injuries will typically need no more than 10 surgeries, exceptional cases can necessitate more than 20 surgeries. For example, the case of Sonali Mukherjee, who required 22 surgeries after an attack in 2008, has been well documented in the Indian and international press.<sup>28</sup> Monica Singh, attacked with acid by a spurned suitor, has undergone over 40 reconstructive surgeries in the nine years since she received her injuries.<sup>29</sup>

Acid ingestion entails exceptionally complex medical procedures that are so far “poorly understood.”<sup>30</sup> Many doctors are unaware of the internal injury pattern of acid and the length of time acid continues to burn, especially since (unlike other corrosive substances) acid continues to damage tissue for a long period of time after contact. Internal acid burns are often incorrectly regarded as similar to burns caused by alkali or bleach and treated as such, which can have further damaging effects on the patient’s internal injuries.<sup>31</sup>

### Special Note on the Costs of Surgery

Surgery is by far the most expensive aspect of a survivor’s treatment. The cost of surgery depends upon the extent of the survivor’s injuries. Moreover, as a result of inadequate training and resources, Indian survivors generally do not receive the full range of required surgeries, which artificially depresses perceptions of the cost and average number of surgeries required. Based on past cases, the cost of surgery over a lifetime can be estimated at anywhere between Rs. 3 to 50 lakhs.

For example, Aarti Thakur spent around Rs. 2 lakhs on medical treatment in her first year of treatment. This included three skin-grafting surgeries costing over Rs. 1 lakh in total, surgery to correct atrophy of the eyelid costing over Rs. 31,000, and further surgery for excision of scars costing

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26. Waldron et al., “Acid Violence in Cambodia,” 3.

27. C. Tahir, B.M. Ibrahim, E.H. Terna-Yawe, “Chemical Burns from Assault: A Review of Seven Cases Seen in a Nigerian Tertiary Institution,” *Annals of Burns and Fire Disasters* 25, no. 3 (2012): 126.

28. “Give Me Justice or Let me Die,” *The Daily Mail*, 16 July 2012 (reporting that even after 22 surgeries, acid survivor Sonali Mukherjee still needs many more surgeries costing Rs. 10-15 lakhs); “Sonali Mukherjee – Acid Attack Survivor who became a TV Millionaire,” *Hindustan Times*, 23 December 2012.

29. “Acid Attack and 43 Surgeries Later, She Fashions a Fresh Start,” *The Times of India*, 20 July 2014.

30. Penner, “Acid Ingestion,” 1.

31. *Ibid.*

over Rs. 50,000. Medical staff estimated that the cost of further skin-grafting surgeries could exceed Rs. 3 lakhs. The total cost of surgery for Aarti is therefore estimated to be at least Rs. 5 lakhs.<sup>32</sup>

For some patients, the projected cost of surgery can be twice this figure. Chanchal Paswan received severe burns to her face, neck, and chest in October 2012, which medical staff estimated would cost up to Rs. 10 lakhs to treat. Even after Sonali Mukerjee's family sold their ancestral land and jewelry to pay for treatment after her attack in 2003, doctors estimate that she will require an additional Rs. 10 to 15 lakhs in surgeries to allow her to look "even remotely human."<sup>33</sup>

While many patients have incurred medical costs in excess of Rs. 10 lakhs and the National Commission for Women has suggested that the costs of treatment could reach up to Rs. 30 lakhs<sup>34</sup> in some cases, the cost of surgeries sometimes exceeds even this upper estimate. Monica Singh's treatment, for example, has cost her nearly Rs. 50 lakhs.

The most recent Supreme Court order on acid attacks obligates states to provide a minimum compensation of Rs. 3 lakhs. Even if every rupee of this compensation were put towards surgeries, this would still not be anywhere near enough to cover even the most basic medical treatment for the vast majority of acid attack survivors.

## 2. Psychological Consequences and Treatment

This section covers the range of psychological consequences experienced by survivors, including the emotional effect of living with disfigurement, the psychological impact of the assault itself, and the repercussions of acid violence as a form of domestic violence. This section explores possible treatment options for survivors. Since the therapeutic and counselling needs of acid attack survivors has been little investigated by either the media or academics, this section looks to the kinds of treatment used for other forms of gender-based violence.

### a. Psychological Consequences

Since many survivors of acid violence must live with physical scars or acute facial disfigurement, it is not surprising that the psychological repercussions are severe and manifold. Living with injuries that often evoke stunned and even hostile reactions from people leads many survivors to depression and, in some cases, suicide. Memories of the assault itself can also lead to stress or mental illness. Psychological repercussions are particularly significant in cases in which the acid attack was a form of domestic violence.

#### i. Psychological Impact of Living with Disfigurement

Acid attack perpetrators usually target the face, for the obvious reason that the face is heavily associated with a person's identity and social perceptions of attractiveness. This can have far-reaching psychological, as well as social repercussions (the latter are discussed in the following chapter, Social and

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32. Aarti Thakur vs. State of Maharashtra &Ors. WP (2014).

33. "Give me Justice," Daily Mail.

34. National Commission for Women, Annual Report (Delhi, 2008-2009): 31.

Economic Consequences). According to Dr. Malcolm Roth, President of the American Society of Plastic Surgeons in 2012:

Our face defines us, provides information about our age, gender, and ethnicity, and is central to communication and our recognition by others. Thus, an attack that disfigures the face is not merely the imposition of a physical limitation, as in the case of a loss of a hand or an arm, but it has the potential to transform how others see and treat the victim. Again, individuals that fall outside of appearance norms due to severe facial deformity or disfigurement often experience psychological suffering and social isolation.<sup>35</sup>

Thus, by causing facial disfigurement, attackers seek to inflict not just physical pain, but a life sentence of emotional and psychological trauma. Most acid attack survivors are scarred for life. Although surgery can go a long way toward correcting the damage caused by acid, no amount of surgery or therapy can fully ‘undo’ a survivor’s physical (or psychological) injuries. For many survivors, the process of coming to terms with the permanent nature of their disfigurement can lead to feelings of self-hatred, worthlessness, and shame. Many suffer from severe self-consciousness about their appearance, fuelled by negative reactions from the people they come into contact with. A desire to avoid such reactions and a fear of facing the outside world cause some acid attack survivors to lead an introverted and socially detached life. The combined effect of such acute mental suffering drives many survivors to suicide.

The degree of psychological impact of an attack does not necessarily correlate with the extent of the survivor’s injuries. For most it is the nature of the crime and the survivor’s perceived severity of their injuries that tend to have the most significant psychosocial impact.<sup>36</sup> Thus, courts and the media step into pernicious territory when they attempt to determine the extent of psychological trauma based on the severity of a survivor’s injuries.

## ii. Psychological Impact of Assault

Mental illness, anxiety, and shock are a very common consequence of acid violence. In the immediate aftermath of the attack, survivors are likely to struggle with insomnia, nightmares, flashbacks, post-traumatic stress disorder (PTSD), and shock. Many survivors battle suicidal thoughts as they attempt to come to terms with what has happened to them. The long-term repercussions include anxiety, mood swings, depression, fear of future attacks, intense feelings of shame or guilt, and a tendency to dwell on the reasons for the assault. Many survivors require long-term therapy to address the physiological impacts of an attack.

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35. Mikaela Conley, “Acid Attack Victim Fakhra Yunus Commits Suicide,” ABC News, 28 March 2012, <http://abcnews.go.com/Health/victim-acid-attack-commits-suicide/story?id=16011971> (accessed 16 August 2014) (quoting Roth).

36. Mannan et al., “Psychosocial Outcomes Derived from an Acid Burned Population in Bangladesh, and Comparison with Western norms,” *Burns* 32 (2006): 235-241.

### iii. Psychological Impact of Domestic Violence

When acid attack is used as a form of domestic violence, it has an especially traumatic psychological impact. Most survivors are women, and in many cases, husbands carry out attacks. It is therefore likely that a survivor will find herself face-to-face with her attacker on a regular basis and live in fear of further attacks. Studies have found that the trauma-related effects of domestic violence are intensified when the attacker is someone on whom they depend for economic or emotional support, “a reality that compounds the psychological consequences of the abuse . . . and exacerbates their feelings of vulnerability, loss, betrayal, and hopelessness. Abused women frequently become isolated and withdrawn.”<sup>37</sup> In terms of acid violence specifically, it has been shown that psychological repercussions are likely to be significantly heightened and prolonged when the perpetrator was a relative or spouse of the survivor.<sup>38</sup> Acid attack survivors are therefore extremely vulnerable to severe psychological consequences that need to be addressed through long-term treatment.

### b. Psychological Treatment

Little documentation, academic literature, or survivor testimony directly addresses the types of psychological treatment required for acid attack victims. However, facial disfigurement and gender-based violence are not unknown problems to science or law, and any research or legal discussion focusing on these issues can be applied in the case of acid attacks. Thus, there is a basis on which to understand the psychological needs of acid attack survivors.

Unfortunately, however, acid attack survivors’ psychological needs are not being met, either because such treatment is simply not available, or because the survivor is unable to fund it. Aarti Thakur, attacked in January 2012, could not receive psychological or psychiatric treatment due to her limited financial circumstances, even though medical experts recommended such treatment.<sup>39</sup>

### i. Consensus on the need for Long-Term Psychological Counseling

The 2013 Report of the Committee on Amendments to Criminal Law contains an amendment entitled “Psychological Interventions in Sexual Assault/Rape,” which recommends that all survivors receive a course of psychological counseling.

Counselors are advised to be calm and respectful of the survivor, to assure her the attack was not her fault, and to validate the emotions she is feeling. The survivor should be given the space and confidence to talk about her experience and counseling should be empathetic and non-judgemental. Counselors are also encouraged to provide information to the survivor about hospital procedures and medical examinations, and to help her make informed decisions about her treatment.<sup>40</sup>

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37. L. Heise, “Violence Against Women: The Missing Agenda,” in *Women’s Health: A Global Perspective*, ed. M. Koblinski et al. (Westview, Boulder, 1993): 171-195.

38. *Ibid.*, 237.

39. Aarti Thakur vs. State of Maharashtra &Ors. WP (2014).

40. Justice J.S. Verma, Justice Leila Seth & Gopal Subramaniam, Report of the Committee on Amendments to Criminal Law 471-476 (2013).

The UK Counseling Directory recommends counseling as “an important tool for the victim to help overcome the trauma, recover and rebuild their life. It provides a safe environment where the victim can work through their issues, helping them to get their life back on track and be able to move on.”<sup>41</sup>

**ii. Therapy to Alleviate the Psychological Impact of Living with Disfigurement**

A number of studies have researched the benefits of therapy to treat those living with facial disfigurement, whether present at birth, congenital, or acquired later in life through illness, accident, or violence. Cognitive Behavioural Therapy (CBT) has been found to be a particularly useful approach in treating disorders of body image. Even short courses of CBT can improve self-esteem, quality of life, and body image in patients suffering from extreme self-consciousness.<sup>42</sup> CBT aims to positively alter the way that patients think about their appearance and the reactions that their appearance elicits from others.

Mutual support and self-help can be another useful form of treatment for survivors. Providing a platform for survivors to share their experiences, such as self-help groups specifically for survivors of acid violence, can be useful sources of support for, and information about, coping with physical appearance or social concerns.

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41. “Domestic Violence,” Counselling Directory, <http://www.counselling-directory.org.uk/domestic-violence.html#whatshouldbelookingforinacounsellororpsychotherapist> (accessed August 18, 2014).

42. A. Clarke, “Psychosocial Aspects of Facial Disfigurement: Problems, Management and the Role of a Lay-led Organisation,” *Psychology, Health & Medicine* 4, No. 2 (1999): 134.





*Photo: Gaurav D*



# The Consequences of Acid Violence: Social and Economic

## Gilli Paveley | Andrew Kirtley

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## 1. SOCIAL CONSEQUENCES

For many survivors, the long-term consequences of medical and psychological damage are compounded by lifelong social and economic consequences. Negative or unsympathetic behaviour towards the survivor from family or community can lead to the breakdown of familial relationships and a sense of remoteness from friends and neighbours, exacerbating the survivor's sense of isolation. For some, the loss of familial support also means a loss of economic surety, and many survivors are left with little emotional, financial, or social support in the aftermath of their attack.

At the same time, finding adequate employment is a perpetual struggle for many survivors. Employers discriminate based on the survivor's disfigurement and rarely hire survivors regardless of their qualifications, especially in service industries. The survivor is likely to find herself trapped in a life of poverty and depression. Requiring the government to provide social and economic stability for survivors is therefore one of the most important and urgent tasks of the courts. While the government may currently provide survivors with some medical support and perhaps even have plans to provide psychological support in a handful of states, the government rarely provides any form of social or economic assistance. Thus, many survivors feel abandoned and confused. For many, the social and economic consequences of an acid attack are the most pressing and difficult aspects of rehabilitation.

## **a. Familial and Marital Disruption**

Familial relationships can break down in the wake of an acid attack. The financial and social implications can be equally dire for the survivor's close family members, who may suddenly find themselves under an enormous amount of pressure to pay for medical treatment, care for the survivor, and assist her to secure justice. Some family members may feel ashamed or disgusted by the survivor's altered appearance, or they may even blame the survivor for the attack. Worse, many survivors find themselves rejected or abused by their families. Speaking at a national consultation on acid violence in July 2014, acid attack survivor Sapna spoke about the fragmentation of her family in the wake of her attack, saying "my relatives used to come to see me but they have now broken off."<sup>1</sup>

For unmarried women, disfigurement caused by an acid attack reduces their opportunities for marriage and having children, while survivors who were married at the time of their attack are at increased risk of abandonment by their husbands and face potential loss of contact with their children. In a society in which many women depend on their husbands for their every economic need, being single can have devastating financial implications. Without a spouse or a family that is financially able and willing to support them, many acid attack survivors are left with no choice but to seek employment – a daunting prospect.

For women who have been attacked by their husbands, the social and economic impacts can be particularly devastating. It is likely that the survivor will be unable to live independently of her attacker due to economic dependency, difficulties gaining a divorce, or a desire to avoid the social stigma attached to divorce. Married women are also less likely to report their husband to the police for similar reasons. Fear of social stigma, fear of retribution, economic dependence, or mistrust of the criminal justice system encourages many wives to conceal their abuse from the authorities, and thus protect their husbands from the law.<sup>2</sup> Many women accept domestic violence as their husband's right and as a normal facet of married life, and continue not only to live with their husband, but to suffer further abuse at his hands.<sup>3</sup> For many women, the threat of acid violence is enough to keep them trapped in an abusive or unhappy marriage.<sup>4</sup>

## **b. Stigmatisation and Withdrawal from Society**

The concept of stigma and its implications for people living with disfigurement is extremely important, as sociologist Erving Goffman has emphasised. He describes stigma as:

The situation of persons who are unable to conform to standards that society calls normal. Disqualified from full social acceptance, they are stigmatised individuals. Physically deformed people . . . must constantly strive to adjust to their precarious social identities. Their image of themselves must daily confront and be affronted

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1. Quote from Sapna's testimony presented at national consultation, *Using the Law to Combat Violence Against Women*, New Delhi, 12 July 2014 (Transl. by Salina Wilson).

2. Taiba Zia, "Acid Violence in Pakistan," (paper presented at the UCLA conference *Thinking Gender*, February 2013), 9.

3. *Ibid.*, 8.

4. *Ibid.*, 15.

by the image which others reflect back to them.”<sup>5</sup>

A fear of stigmatisation and rejection creates a barrier between the survivor and the world around them, making it very difficult for survivors to socialise and form relationships. For some survivors, being seen in public is unbearable. They fear they will be stared at, ridiculed, or mistreated, or that they will be blamed for the attack.

For many acid attack survivors, the inevitable outcome of living with disfigurement is withdrawal and ostracism from society. Consequently, many survivors become confined to their homes, living out years or even the rest of their lives concealed from public view.<sup>6</sup> Survivor Laxmi recalls hiding indoors for eight years following an acid attack by a spurned marital suitor in 2005 that left her with severe facial scarring. The few times she ventured outdoors, she would cover her face.<sup>7</sup>

Withdrawing from society has the obvious consequence that the survivor will have vastly reduced opportunities for friendship, marriage, education, and employment. Since the precise number of acid attack victims in India is still unknown, it is not inconceivable to imagine that a large number of women throughout the country are currently living secluded and hopeless lives as a result of acid violence. As suggested by experts on facial disfigurement, “there are countless numbers of disfigured persons among us who keep a low profile. By seeking refuge in their small circumscribed worlds and shunning face-to-face encounters, they remain a hidden people, a fact that accounts for the widespread ignorance of a major social problem.”<sup>8</sup>

## 2. ECONOMIC CONSEQUENCES

### a. Loss of Financial Support

The economic implications of acid violence are equally dire. With specialised treatment costing many lakhs of rupees over a number of years, virtually all acid attack survivors face the prospect of losing all savings and taking on an overwhelming amount of debt. For survivors who are abandoned by the people around them, this threat is ever more real, since they will very likely lose the financial support of their families, husbands, and communities.

For many, surviving the attack itself is overshadowed by the struggle to survive in a financially insecure and threatening world. According to the Indian Law Commission report of 2009, acid attack survivors are often left without any economic resource whatsoever and many “become dependent on others for food and money.”<sup>9</sup>

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5. Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (1986).

6. Law Commission of India, *The Inclusion of Acid Attacks*, 8.

7. Harinder Baweja, “Don’t stare at me I am human too: acid attack survivor Laxmi,” *The Hindustan Times*, 20 July 2013.

8. Frances Cooke Macgregor, “Facial Disfigurement: Problems and Management of Social Interaction and Implications for Mental Health,” *Aesthetic Plastic Surgery* 14 (1990): 249-257.

9. Law Commission of India, *The Inclusion of Acid Attacks*, 13.

## **b. Reduced Earning Potential**

Furthermore, the consequences of an acid attack dramatically limit a survivor's present and future earning potential. Prolonged courses of treatment and surgery mean that a survivor may be unable to attend work or school for many months (if not years) following an attack. It often becomes extremely difficult for a survivor to secure employment, since physical disfigurement, disabilities, and psychological issues are likely to impact their 'attractiveness' to potential employers. Consequently, many acid attack survivors are automatically rejected from jobs before they have had a chance to demonstrate their qualifications or experience.

Sapna has spoken about her struggle to find a job since she was attacked with acid in August 2012, explaining that "when [interviewers] see my face they try to find excuses for not giving me the job."<sup>10</sup> Similarly, in the years after she was attacked, Laxmi desperately tried to find employment but was consistently turned away: "I tried to pick up a job but nobody was willing to hire me. Some said: 'People will get scared if they see you.' Others said they will call back but, of course, the phone never rang. I tried Business Process Outsourcing (BPOs), banks and beauty parlours but all I got was rejection. Nobody wants to hire acid victims because of the way they look."<sup>11</sup>

## **3. SOCIAL REINTEGRATION ASSISTANCE**

Many acid attack survivors experience immense difficulties integrating back into society. In particular, survivors require assistance in overcoming legal hurdles associated with gaining justice and compensation, completing schooling, gaining employment, and obtaining housing.

### **a. Legal Assistance**

Since some survivors file a First Information Report (FIR), they will be thrust into a complex criminal justice system for which they will likely require legal assistance. A legal advocate is crucial to help survivors navigate the criminal justice system and protect themselves and their loved ones. In domestic violence situations (e.g., for obtaining restraining orders or for securing custody of children from an abusive husband), the state should provide legal assistance to acid survivors as an essential service on the path to social reintegration. Legal assistance helps survivors assert their legal rights to compensation and rehabilitation services that will be critical in improving their quality of life.<sup>12</sup>

### **b. Education and Occupational Training Assistance**

Many survivors are teenage girls, who find their education disrupted as a result of their attack. Chanchal Paswan, for example, lost a year of her studies due to being attacked with acid when she was 18 and in Class 10.<sup>13</sup> Alternatively, a survivor

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10. Quote from Sapna's testimony presented at national consultation, *Using the Law to Combat Violence Against Women*, New Delhi, 12 July 2014 (Transl. by Salina Wilson).

11. Harinder Baweja, "Don't stare at me," *Hindustan Times* (quoting Laxmi).

12. See also Delhi Domestic 5(1)-(6) (finding that Articles 21 and 38(1) of the Constitution require that the Government provide rape survivors with legal representation).

13. Writ Petition No. (s). 867 of 2013 (*Parivartan Kendra vs. Union of India &Ors.*)

may have to rethink established career plans and retrain for a different line of work. These decisions are extremely difficult for an acid attack survivor who is likely to be experiencing physical, financial, and psychological difficulties. To ensure justice and rehabilitation, the state should provide assistance and support in these areas. School-age survivors and those wishing to pursue occupational training must be provided with adequate financial, logistic, and psychological support. Survivors may need specialised counseling to help them understand what options are open to them, including guidance on how to access these opportunities.

### **c. Employment Assistance**

Similarly, survivors who find themselves rejected from jobs urgently require assistance to ensure they are not left without any income. Many acid attack survivors who cannot rely on a husband or a family urgently need to earn a living. However, survivors often find themselves turned away from jobs as a result of their atypical appearance. Anu, from Delhi, struggled to find work after she was attacked in 2004. Only in the past year (2013) has she been able to find employment, thanks to a Supreme Court judge who secured her a government position.<sup>14</sup> Cases like this demonstrate that while many acid attack survivors are perfectly capable of doing work, they need the support to find employment.

### **d. Housing Assistance**

Survivors often need new housing after an attack. This could be for a variety of reasons, including that the survivor:

- was attacked by her family;
- was abandoned by her family after the attack (e.g. because she was seen as a burden);
- was attacked in her home and cannot cope psychologically with continuing to live at the site of her attack;
- was evicted from her home;
- needs to relocate because of threats of further violence from her attacker (e.g. for filing a FIR or cooperating with law enforcement officials);
- needs to relocate to a home that accommodates post-attack disabilities;
- needs to relocate to be closer to family members who can provide support or care; or
- needs to relocate in order to be closer to health facilities where she receives treatment.

Many survivors are overwhelmed by the thought of finding housing in the immediate aftermath of an attack (perhaps as early as on being discharged from hospital). Many face discrimination from landlords (e.g., because of their disfigurement, psychological trauma, or the perceived likelihood of a future attack occurring). Also, many survivors are young women who may have no experience securing housing on their own. For all of these reasons, the state should assist survivors with finding and securing new housing.

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14. Quote from Anu's testimony presented at national consultation, *Using the Law to Combat Violence Against Women*, New Delhi, 12 July 2014.

## Conclusion

The consequences of an acid attack are manifold. The bodily and facial injuries caused by acid can lead to severe and widespread scarring, loss of vision, loss of hearing, and life-threatening internal damage. Survivors require many months, if not years, of complex surgeries and physiotherapy to regain a semblance of their former appearance and mobility. The psychological repercussions of acid violence, which can include shock, extreme self-consciousness, and depression, require extensive and specific treatment in the form of counselling and self-help groups. Similarly, the social and economic ramifications of an acid attack are complex and in many cases, overwhelming. Survivors will very likely find themselves isolated as a result of their altered appearance, and potentially the subject of derision or abuse from the people around them. Many survivors find themselves in a position in which they must support themselves financially, but are unable to do so due to discrimination on the part of potential employers. Rehabilitative assistance for survivors should therefore take the form of guidance and counselling on the choices and opportunities available to them in terms of education, occupational training, and employment. Similarly, many survivors require assistance understanding and manoeuvring their way through a complex criminal justice system. The following table outlines the myriad consequences of acid violence and the steps the state must take to ensure rehabilitation.

Consequence	Outcome	Rehabilitation Requirements
Medical	<ul style="list-style-type: none"> <li>• Severe injuries to face and body</li> <li>• Contractures of skin and muscle</li> </ul>	<ul style="list-style-type: none"> <li>• Emergency Care</li> <li>• Medicines and supplies</li> <li>• Surgeries</li> <li>• Physiotherapy</li> </ul>
Psychological	<ul style="list-style-type: none"> <li>• Trauma from attack</li> <li>• Trauma from living with a disfigurement or from the social consequences of the attack</li> <li>• Trauma associated with domestic violence</li> </ul>	<ul style="list-style-type: none"> <li>• Psychological care</li> </ul>
Social	<ul style="list-style-type: none"> <li>• Familial or marital disruption</li> <li>• Stigmatization and withdrawal from society</li> </ul>	<ul style="list-style-type: none"> <li>• Social reintegration assistance</li> <li>• Psychological care</li> </ul>
Economic	<ul style="list-style-type: none"> <li>• Loss of financial support</li> <li>• Reduced earning potential</li> </ul>	<ul style="list-style-type: none"> <li>• Assistance with education or occupational training</li> <li>• Housing assistance</li> </ul>
Legal	<ul style="list-style-type: none"> <li>• Criminal and/or Civil case filed</li> </ul>	<ul style="list-style-type: none"> <li>• Free top-quality legal assistance</li> </ul>



It is important that judges, the media, and advocates do not focus exclusively on financial compensation. Equal emphasis must be placed on providing survivors the full network of rehabilitative services.

## Recommendations

- To ensure survivors' physical rehabilitation, the judiciary should focus on the long-term medical treatment required by survivors. While the physiological effects of acid violence are well documented, there is less academic, media, or legal understanding of the precise long-term surgical and other medical needs of acid attack survivors. Of particular significance in terms of compensation is a greater understanding of the complexity and length of surgical rehabilitation. Surgery is one of the most important and expensive aspects of recovery, and any compensation awarded to the survivor is likely to be spent on this type of treatment. Another essential and often neglected aspect of rehabilitation is physiotherapy. Scarring in areas such as the neck or upper arms can significantly reduce mobility, and the medical community has long agreed that intensive physiotherapy is critical to combating this. Compensation awards must be sufficient to cover all of a survivor's long-term physical medical needs, including surgery and physiotherapy.
- To ensure survivors' psychological rehabilitation, the judiciary should work to understand the psychological impact of acid violence and identify the specific therapeutic needs of survivors. In general, the psychological consequences of acid violence receive less coverage by the media, academics, and the courts than do the medical and social consequences. Many survivors report feelings of extreme shame, self-consciousness, anxiety, and shock. Survivors often experience severe depression in the wake of an attack, and suicide is not an uncommon outcome of acid violence. In acid attack cases, the judiciary should ensure a programme of counselling or psychiatric care specific to each survivor. Compensation should take into account the type, length, and probable cost of such treatment. Research into appropriate and beneficial forms of therapy, such as CBT, should be carried out.
- To ensure survivors' social and economic rehabilitation, the judiciary should investigate the social and economic ramifications of acid violence. For many survivors, the medical and psychological trauma caused by an acid attack is compounded by a sense of isolation and financial insecurity. Overcoming these concerns can be the most devastating aspect of recovery, and there is as yet little support available to survivors. A programme of social rehabilitation, encompassing legal, educational, employment, and housing assistance, is strongly recommended. Compensation should take into consideration the fact that while many survivors of acid violence struggle to gain employment due to their injuries, this does not mean that they do not want to earn a living, live in their own house, and provide for their family.
- An appreciation of the interconnected nature of physical, psychological, social, and economic consequences is vital to secure justice for survivors. Breaking down the consequences of acid violence into these three broad categories allows the specific treatments required by survivors to be recognised and discussed. In reality, however, the survivor is not likely to make a distinction

between the medical, psychological, social, and economic impacts of the attack, and many of the repercussions experienced by the survivor will traverse a range of consequences. For example, while the nature and extent of a survivor's physical injuries can be seen as a medical consequence of acid violence, facial disfigurement caused by these injuries can have a significant psychological impact on a survivor. In turn, these psychological consequences are likely to have social and economic implications, including the common outcomes of the survivor's withdrawal from society and dependence on others for financial support.

- Every aspect of rehabilitation must be addressed in order to secure justice for acid attack survivors. It is recommended that the courts conceptualise the aftermath of acid violence as an interconnected web of medical, psychological, social, and economic consequences, which requires a holistic and equally interconnected course of treatment. Justice cannot be served until all the consequences of acid violence have been acknowledged and redressed.





*Photo: Varsha Jawalgekar*

# Criminalization of Acid Attacks

## Gayatri Singh

—*Bombay High Court Senior Advocate Gayatri Singh is a co-founder of HRLN. She is a leading labour law lawyer. Since 1984, she has worked on fundamental rights cases pertaining to adivasis, dalits, discrimination and violence against women, displacement, the environment, illegal detention, implementation of government entitlement schemes for food and health.*

## CONSTITUTIONAL PROVISIONS

**Article 14:** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Article 14 is not mere formal equality, it also encompasses substantive equality. This means that equality cannot simply exist on paper. The State has to take positive action including special measures to ensure equality. As women in India are disproportionately the victims of acid attacks, and acid attacks largely constitute gendered violence, women require special protection from acid violence under law.

**Article 21:** No person shall be deprived of his life or personal liberty except according to procedure established by law.

The Supreme Court in a catena of judgments has recognised that the right to life includes the right to be free from inhuman and degrading treatment. As pronounced in *Francis Coralie Mullin Vs. Union Territory of Delhi & Ors* [1981 SCR (2) 516], the Supreme Court held as under: “It is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights (ICCPR).” The Supreme Court has held that Article 21 includes the right to health and the right to health services.

## Statutory Provisions

The Indian Penal Code was amended by the Criminal Law (Amendment) Act, 2013, to include the offence of acid attack within its ambit.

Before the amendment, the laws governing acid attack included:

**Section 320 – Grievous hurt:** Acid attacks are considered grievous hurt as any permanent disfigurement, disability, or destruction of a body part is included in this section.

**Section 325** – The punishment for voluntarily causing grievous hurt is a maximum of seven years. No minimum punishment is prescribed.

**Section 326** – Voluntarily causing grievous hurt through a dangerous weapon or another means: A “corrosive substance” is specified as being a dangerous means, hence acid attacks will be covered.

The punishment under this Section is for a maximum period of life imprisonment, or a period up to ten years. There is no minimum punishment prescribed.

The Criminal Law (Amendment) Act, 2013, made the following changes:

**Section 100** – When the right to private defence of the body extends to causing death: An act of throwing acid or administering acid, or an attempt to throw or administer acid which reasonably causes the apprehension that grievous hurt will be the consequence of such an attack.

Thus acid, attack has been included under the list of grievous crimes under which the right to private defence extends to causing death. This means that an acid attack is so grave that a survivor may be justified in killing the perpetrator to defend herself from the attack.

**Section 326A** – Whoever causes permanent or partial damage, deformity, burns, maims, disfigures or disables any part or parts of the body of a person with the intention or knowing that it is likely to cause such injury or hurt, shall be punished with either simple or rigorous imprisonment for a term of at least 10 years, which may extend to imprisonment for life, and a fine.

The fine shall be paid to the victim, and shall be just and reasonable to meet the medical expenses of the victim.

**Section 326B** – Attempting to throw or administer acid with the intention of causing permanent or partial damage, deformity, burns, maim, disfigure, disable, grievous hurt shall be imprisoned with either simple or rigorous imprisonment for at least five years, up to seven years, and a fine.

Acid includes any substance of acidic, corrosive or burning character that is capable of causing bodily injury which leads to scars, disfigurement, temporary or permanent disability.

For the purposes of both these sections, the damage or deformity need not have to be irreversible.

**Section 166A** – A public servant who refuses to record any information in relation to an offence under Section 326 A and 326 B (as well as some other sections), shall be imprisoned with rigorous imprisonment for a term of at least six months which may extend up to two years, and be liable to pay a fine.

**Section 166B** – Whoever is in charge of any hospital, whether public or private, run by the Central or State Government, a local body, or any person, and who contravenes Section 357A of the Code of Criminal Procedure, shall be imprisoned for a term which may extend to one year, or with fine, or both. Section 357A governs payment of fines to victims of crimes.

The Code of Criminal Procedure was similarly amended by the same Criminal Law (Amendment) Act, 2013:

**Section 154** – When the information is given by the woman victim of a crime

under Section 326A, 326B which are the sections dealing with acid attacks (and other sections of the IPC), the information will be recorded by a woman police officer or any woman officer.

**Section 154(a)** provides for special provisions for survivors of offences under Sections 354, 354A, 354B, 354C, 354D, 376, 376A, 376B, 376C, 376D, 376E, or Section 509 of the IPC (sexual harassment, criminal force to a woman with intent to disrobe, watching a woman in a private act, stalking, rape, and aggravated rape). When an offence under the Sections has been committed and the victim has been permanently or temporarily mentally or physically disabled, then the police officer shall, in the presence of a special educator or interpreter record information from the victim at the victim's residence or any place of the victim's choosing. The recording of such information may be videographed if needed.

Section 154(a) seems to have overlooked acid attack victims as Section 326A and 326B has not been included. This might be particularly problematic as in most cases acid attack victims suffer from significant physical disability following the attack.

**Section 164 (5A)(a)** makes similar provisions as Section 154(a), for a Judicial Magistrate to record the statement taking the assistance of a special educator or interpreter in cases wherein the victim is temporarily or permanently mentally or physically disabled, and for the statement to be videographed. This statement shall be considered in lieu of examination in chief under the Indian Evidence Act.

Again, acid attacks under Section 326A and 326B have not been included within this section.



*Photo: Greeshma Rai*





# Landmark Cases

**Kerry McBroom | Jubli Momalia | Aparna Bhatt**

**Campaign and Struggle Against Acid Attacks on Women (CSAAAW) vs. State of Karnataka and ors. WP (C) 11523/2006**

## Synopsis

To support acid attack survivors, CSAAAW followed dozens of acid attack trial court cases and worked closely with survivors in Karnataka. As a part of its advocacy strategy, CSAAAW organized a public hearing to solicit suggestions for acid attack treatment, compensation, and judicial procedures. Their research and networking culminated in a Public Interest Litigation at the High Court of Karnataka. The PIL demanded access to speedy justice, medical treatment, and compensation for acid attack survivors. In 2006 the High Court issued orders guaranteeing compensation, funds for medical care, treatment at specified private facilities, alternate employment opportunities, and education and housing assistance for survivors.

## Context

The PIL emerged after CSAAAW experienced myriad obstacles in obtaining justice for survivors like Haseena in Karnataka. On 20.4.99 Haseena left home for work. When she reached the gate, her former employer, Bindu, sped by on a motorbike and poured a jug of acid on Haseena. She suffered from severe injuries on her face, eyes, neck, chest, hands, and legs and had to go to three hospitals for treatment. She eventually lost her eyesight. In May 2004 a trial court acquitted the accused for an offence under Section 307 of the IPC (attempted murder).<sup>1</sup> The trial court sentenced the accused to five years and three months of rigorous imprisonment (R.I.) and a fine of Rs. 3 lakhs under Section 326 of the IPC (causing grievous hurt) and to two years R.I. and a fine of Rs. 2000 under Section 201 of the IPC (tampering with evidence).<sup>2</sup> Both Haseena and the accused filed appeals in the High Court of Karnataka to challenge these decisions.<sup>3</sup>

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1. See Additional Sessions, Bangalore City, S.C. No. 443/199

2. Section 326: Voluntarily causing grievous hurt by dangerous weapons or means; Section 201: Causing disappearance of evidence of offence, or giving false information to screen offender.

3. High Court of Karnataka at Bangalore, State of Karnataka vs. Joseph Rodrigues (Criminal

In 2006, the High Court ultimately agreed with the the trial court's conclusion that the prosecution proved beyond a reasonable doubt that the accused poured acid on Haseena. The High Court determined that a charge under Section 307 (attempted murder) was justified given the perpetrator's preparation, the obvious likelihood that "pouring large quantity of sulphuric acid on the head is likely to cause death," and the severity of Haseena's injuries. The High Court sentenced the accused to life imprisonment under section 307 of the IPC and issued a fee of Rs. 2 lakh.

While this judgment from the High Court creates a strong precedent on acid attacks, the State still lacked comprehensive compensation schemes, adequate medical care, or rehabilitation services for survivors. CSAAAW filed a PIL to encourage the Court to ensure fundamental rights for acid attack survivors.

## Facts

The petition includes a systematic review of acid violence in the state and outlines major barriers to justice, medical treatment, and rehabilitation.

The petition argues that acid attack cases languish for years in lower courts and the final judgments fail to acknowledge the full range of medical, economic, social, and financial issues acid attack survivors face. At the same time, the police and judiciary often make moral judgments about survivors and use language that perpetuates discriminatory and patriarchal gender norms. Haseena waited five years for justice. She had to appear in court several times despite her medical condition and threats to her life.

The petition also underscores the gendered nature of acid violence:

Acid was used specifically as a weapon against women to silence their voices of dissent and erase their independence. It was a way for the perpetrators (i.e. men) to exercise their control over women. When women chose to exercise their freedom of choice, they were punished by acid attacks. This was, in effect, a manner of negating the women's rights to refuse sexual advances. In this, acid attacks were no different from existing crimes on women such as rape, dowry deaths, sexual harassment at work place, domestic violence, etc. (para 7)

Furthermore, the petition demonstrates how acid violence crosses income, caste, and religious barriers.

At CSAAAW's 4 January 2004 public hearing the Police Commissioner stated that all acid attack cases will be booked under IPC sections 307 (attempted murder), 320 (grievous hurt), or 326 (voluntarily causing grievous hurt by dangerous weapons or means) and that investigations should be carried out by someone at the Inspector rank. The public hearing also generated suggestions for improvements in medical treatment and services for survivors. Those outcomes provide the backdrop for the prayers in this PIL.

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Appeal Nos. 1065, 1066, and 1239/2004) (final judgment, 2006).

## Relevant Law Cited

- Constitution of India Articles 14 (Equal protection of the law), 15(3) (special provisions for women and children), 19 (freedom of movement), 51, 51A(e), 253 (provisions regarding the application of international law), and 21 (especially the Right to a speedy trial, Right to Health and the Right to Life)
- Vishaka & Ors.vs. State of Rajasthan &Ors.: Judiciary can direct and give guidelines to the state and other agencies of the state for the preservation and enforcement of the right to gender equality and to curb violence against women.
- Bodhisathva Goutham vs. Shubhra Chakraborty: “Women gave the right to livery they also have right to be respected and treated as equal citizens.”
- Delhi Domestic Working Women’s Forum vs. Union of India &Ors.: Establishing a Criminal Injuries Compensation Board for rape victims.
- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Articles 3 (states shall ensure the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men), 12 (eliminate discrimination in the field of health care), 14 (end discrimination against rural women), General Recommendation 19 (gender-based violence is discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on the basis of equality with men), and General Recommendation 24 (women’s health is an issue that is central to promoting the well-being of women).

## Prayers

1. Issue a writ of mandamus or any other appropriate writ or order directing the chief secretaries and the director general of police to:
  - a. Ensure that no police officer less than the post of sub inspector of police to investigate into the crime. That the SP of the Police Station will be answerable to any kind of lapse in the investigation.
  - b. Issue instructions to the effect that the SP should go to the spot immediately and personally collect evidence and that the place should be cordoned off from public access.
  - c. Issue directions to all police stations that in instances of acid attack on women, cases should be primarily booked under IPC section 320, 236 and other relevant provisions under the Indian Penal Code.
  - d. Make arrangements for deploying mobile forensic service to be pressed by the state to gauge and collect the details of the crime especially in rural areas where services are difficult to access.
  - e. Appoint Special Police sensitive to gender to be deployed for investigating acid attack cases on women.
2. Issue a writ, order or direction directing the Respondent to provide
  - a. Immediate and emergent medical facilities to be made available to victims irrespective of religion, caste or financial status of the victim.

- b. If facilities are not available in public health institutions, the same should be made available through private medical institutions.
  - c. Public hospitals should be equipped with all the facilities required to treat acid attack cases. Doctors and medical staff should also be trained to deal with these cases adequately.
  - d. Awareness programmes to be arranged widely through various mediums on the methods and modes of first aid and medical treatments for acid victims.
  - e. Medical reimbursement of expenses incurred to be given to the victims by the State, retrospectively keeping in view the seriousness and intensity of the injury. The reimbursement should be given irrespective of whether treatment takes place in public or private health facilities.
  - f. Directions to private hospitals to compulsorily provide treatment for acid attack cases irrespective of the victims' financial condition.
  - g. Rehabilitation schemes to be envisaged for the victims keeping in mind their livelihood and employment.
  - h. Arrangements for the care and protection Compensation to be awarded similar to the motor vehicles act or as per accident claims.
3. Issue a Writ, Order or Direction to the Respondent State
- a. To form a consortium of chemical manufacturers who will take up the compensation of the injured (like insurance)
  - b. Control over production, distribution and storage of toxic acids and regulation of the concentration level must be strictly taken up by the state.
4. Issue a Writ of Mandamus or any other appropriate Writ or Order Directing
- a. The judiciary for speedy trials
  - b. To issue directions to process compensation for the victims
  - c. Punishment to be proportionate to the injury caused
  - d. A minimum punishment to be awarded irrespective of the injury in similar lines to SC-ST atrocities act.

## Outcome

In 2006, the High Court ordered a comprehensive compensation package for acid attack survivors. The Department of Women and Child Welfare and State Women's Commission have to pay acid attack survivors Rs. 30,000 and the Disabled and Senior Citizen's Department will sanction Rs. 15,000 for those who have become disabled due to an acid attack. One crore rupees has been released to assist with medical treatment up to two lakhs per victim. The state must ensure medical treatment and free ambulance services to survivors. The state is also obligated to identify private hospitals that can provide treatment to survivors.

The Court also included orders regarding employment and rehabilitation including alternate employment to the victims in case of inability to continue with previous employment due to injuries, loans under existing schemes for self employment ventures, and education and other facilities to dependents and

children of survivors.

The language we use to describe acid attacks and acid attack survivors has important implications on survivors' lives. By labeling all survivors "victims" and by over emphasizing survivors' facial injuries and lost beauty, media coverage, court documents, and research on acid violence bolsters the patriarchal norms that perpetuate gender-based discrimination.

## **Victimization**

For decades, activists, scholars, and survivors of gender-based violence have had intense debate about the discourse used to describe women who experience gender-based violence.

For many survivors of gender-based violence, the term "victim" marks survivors as passive vessels and erases steps survivors take to move forward and to achieve justice. As Carol Mosley, of We End Violence, a gender-based violence prevention organization articulates,

While this term (victim) is technically accurate, it contributes to a feeling of powerlessness for those who have been assaulted. For people around them – friends, family, and classmates – the word victim contributes to the feeling that their friend is irreparably damaged, which can become, at least temporarily, an image that replaces their true image of their friend. And for the general population, the word victim contributes to a feeling of horror about rape that interferes with thinking about why it happens and how it can be prevented. It contributes to keeping the focus on the person who has been assaulted rather than the person who is committing the crime.<sup>4</sup>

While "victim" may be the accurate legal term, many women prefer the word survivor because it reflects their post-attack reality of undergoing surgeries, attending court hearings, speaking at awareness meetings, and moving forward with their lives.

This manual uses both victim and survivor to describe women who have experienced acid attacks. There may not be an absolute correct term for acid attack survivors; for advocates, activists, and women working on this issue, the important thing is to be aware of the language you employ in your advocacy and to maintain a constant dialogue about language and representation with your clients and partner NGOs.

## **Perpetuating Patriarchal Norms**

Common discourse around acid violence furthers the notion that a woman's worth, self-image, and ability to contribute to society are fundamentally linked to her beauty. Media reports consistently reference survivors' pre-attack beauty and question the victim's ability to show their new "mangled" faces in public. This is closely linked to victimization discussed above, which relegates acid attack

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4. Carol Mosley, *The Language We Use: Victim and Survivor*, We End Violence, 4 June 2013, available at <http://www.weendviolence.com/blog/2013/06/04/the-language-we-use-victim-and-survivor/>.

survivors to hopeless cases whose lives have no value post-attack. The High Court in Karnataka epitomized this rhetoric in Haseena’s appeal:<sup>5</sup>

As can be seen from the photographs of the unfortunate victim (which we are reproducing here as a part of the judgment), she was a young girl of hardly 20 years of age with a pretty face and by one stroke the accused/appellant has made her face hideous and also blind in both eyes...She cannot come out of the house and walk in the streets with blind eyes, nose, lips, forehead reduced to mangled flesh and thus has become a prisoner in her own house, for a lifetime. One has to consider the poor parents who named their beautiful daughter Haseena (which literally means beautiful) and now every day they have to look at the mangled face and cry in silence. We can imagine what they may be feeling and wishing that their daughter be rather dead than live with such a ghostly face.”<sup>6</sup>

Shockingly, the Court calls her face “hideous” and goes so far as to assume that her parents would rather have a dead daughter than a daughter with a “ghostly” face. This is problematic for a number of reasons. First, the High Court perpetuates the victimization rhetoric discussed above and concludes that the acid attack essentially ended Haseena’s life. Acid attack survivors from across India have started jobs, pursued advanced degrees, married, and become activists. Haseena had to leave the house to appear in Court and fight for justice. The assumption that acid attacks trap survivors for life perpetuates the idea that an acid attack survivor’s life has no value. In fact, against the High Court’s assumptions, Haseena has gone on to lead a successful life as an IT professional.

Secondly, this language assumes that Haseena cannot contribute to society or to her family without a beautiful face. The Court declares that a woman with “... blind eyes, nose, lips, forehead reduced to mangled flesh” cannot leave her home. This is the exact sentiment that fuels acid violence. An attacker targets his victim’s face in an attempt to make her unattractive – operating under the assumption that her face represents her most valuable qualities. As the CSAAW Karnataka High Court PIL argues, “Detailed interviews with sociologists and women’s rights activists revealed that women are objectified and devalued by limiting their identity and worth to their physical looks and their bodies.”<sup>7</sup> The Court does just that; according to the judgment, Haseena’s parents might wish “rather dead” than be faced with an ugly daughter. The Court effectively echoes the perpetrator who views disfiguring a woman’s face as the most effective way of destroying her.

Finally, this language speaks for the acid attack survivor. Haseena has experienced an immense trauma, but it is clear that her life has meaning and importance. In 2013 she told a journalist from the Hindustan Times,

After years of fighting the ghosts within, I realised my life wasn’t about punishing one man. I had to fight for all girls and women going through hell because of acid attacks. I subsequently joined hands with the Campaign and Struggle Against Acid Attacks on Women...I cannot be my beautiful

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5. State of Karnataka vs. Joseph Rodrigues, Criminal Appeal No. 1065, 1066, and 1239/2004 (judgment, 22 August 2006).

6. Ibid., para. 54.

7. CSAAW vs. The Principal Secretary, Department of Women and Child Welfare & Ors., WP (C) ???/2006 (High Court of Karnataka).

self again, but that has not kept me from dreaming. In 2009, I underwent a computer course for the visually impaired. That boosted my confidence and helped me get a job at the Yelahanka airbase, where I work from 9am to 5pm. But I work 24 hours a day to ensure no one goes through what I did.<sup>8</sup>

Unlike the High Court, Haseena does not define herself or her value by the beauty of her face. Haseena's own narrative about her post-attack reality differs immensely from the Court's. It is crucial to allow survivors to tell their own stories. Lawyers and activists working on acid attacks should monitor their language for discourse that prizes a woman's beauty above all else and should maintain a constant dialogue with clients or advocacy groups to ensure that language in petitions and publications does not perpetuate patriarchy or victimization.

## **Laxmi vs. Union Of India and Ors. (WP (CRIM) 129/2006)**

(This section was contributed by Adv. Aparna Bhat)

### **Synopsis**

Laxmi, an acid attack survivor from New Delhi, filed this Supreme Court PIL to control the sale of acid, to ensure compensation for survivors, and to guarantee access to medical care for survivors. The PIL has resulted in several groundbreaking orders regulating acid and setting minimum compensation for survivors. The petition also inspired a comprehensive Law Commission of India report, *The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code* and a law for Compensation for Victims of Crime. All activists working on acid violence should study this report and the proceedings in this groundbreaking case.

### **Facts**

A young girl with big dreams, chirpy, confident, beautiful is walking to her workplace from her home which is a mile away. As she reaches halfway, she hears her name being called out, and turns to see who the caller was. She looks at two people on a motorbike and walks towards them. The girl on the pillion is familiar and the man riding the bike is known to her. He wanted to marry her and she had declined. As she reaches them, the girl hurls some liquid on her. She experiences excruciating pain, a burning sensation and falls on the street. She experienced a gruesome acid attack. Her face, her chest and arms were burnt beyond recognition and she was in tremendous pain. It has taken many painful corrective surgeries for her to partially heal and she would never look the same again. This is Laxmi.

A criminal case of attempt to murder was registered and those two persons on the bike have been convicted by a Court in Delhi. When the man went in appeal in the Delhi High Court, the High Court ordered that she should be ordered a compensation of Rs.3 lakhs which has now been paid to her.

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8. Naveen Ammembala, "I was seen only as a commodity: acid attack survivor Haseena Hussain," *The Hindustan Times* (22 July 2013), available at: <http://www.hindustantimes.com/india-news/stopacidattacks/i-was-seen-only-as-a-commodity-acid-attack-survivor-haseena-hussain/article1-1096561.aspx>.



The battle with the law was anything but smooth. While Laxmi had the support both legally and financially through her battle, the way the case panned out drew one's attention to the glaring deficiencies in the law. The first shock came when Naheem Khan, who was one of the main persons in the attack easily got bail from the Court. It was then that it became clear that as long as acid attack is not classified as a separate offence, persons attacking with acid would easily make bail as the judge who is hearing the application for bail would not be aware of the gruesome nature of the crime. The easy availability of acid and the huge costs associated with the corrective surgeries that become necessary are other huge problems that a victim faces.

In 2006, Laxmi with the help of her parents, her father's employer Shireen Jeejeebhoy (who has fully paid for the treatment) and her lawyer filed a petition in the Supreme Court of India.

### Relevant Law Cited

- Constitution of India, Articles 21 (Right to Life); 14 (Equality); 38(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life)
- Delhi Domestic Working Women's Forum vs. Union of India ((1995) 1 SCC 14): Establishing a Criminal Injuries Compensation Board for rape victims.
- High Court at Andhra Pradesh, 1997 (1) ALT 547: Awarding an acid attack survivor 5 lakhs compensation and ensuring speedy access to compensation.
- Juvenile Justice (Care and Protection of Children) Act, Section 31: Laying out the obligations of Child Welfare Committees as follows:
  - (1) The Committee shall have the final authority to dispose of cases for the care, protection, treatment, development and rehabilitation of the children as well as to provide for their basic needs and protection of human rights.
  - (2) Where a Committee has been constituted for any area, such Committee shall, notwithstanding anything contained in any other law for the time being in force but save as otherwise expressly provided in this Act, have the power to deal exclusively with all proceedings under this Act relating to children in need of care and protection.
- Bangladesh's Acid Crime Control Act (2002): Preventing the sale of acid and establishing a framework for compensation and punishment (See Chapter on International Law)
- Declaration on the Elimination of All Forms of Violence Against Women, Provisions:
  - (d) Develop penal, civil, labour and administrative sanctions in legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for harm that they have suffered; States should also inform women of rights in seeking redress through such mechanisms;
  - (f) Develop, in a comprehensive way, preventive approaches and all those

measures of a legal, political, administrative and cultural that promote the protection of women against any form of violence, and ensure that the re-victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;

(h) Include in government budgets adequate resources for their activities related to the elimination of violence against women;

(i) Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to them to the needs of women;

( j) Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;

## Prayers

The Petition asked for:

- a. An amendment to the penal code wherein a section is introduced which would specifically deal with acid attack;
- b. A complete ban on sale of acid;
- c. A rehabilitation scheme for victims of acid;
- d. Free medical treatment for survivors.

## Outcome

The court battle in a case of this nature ought to have been simple since cases of acid attack are gruesome, and the easy availability of acid is a known fact. It was also accepted that corrective surgeries are extremely expensive. The first material order came only in 2011 when the Supreme Court passed an order directing all the State Governments to indicate what steps they had taken to allocate resources for providing compensation to victims of acid attack under the amendment made to the Criminal Procedure Code by way of insertion of section 357A in 2009. The same order also asked the State Governments to file their responses about banning of sale of acid. Even though this order was passed in 2011, as it would be seen below, it took over three years for the governments to finally come up with a proposal on the manner in which acid sale could be banned.

In the meantime, in early 2012, the government of India filed in the Supreme Court an amendment to the Penal Code that was proposed but could not be passed in the Parliament since the opposition parties were not allowing the parliament to function. This proposed amendment which had been approved by the Cabinet but to be passed by the Parliament, had introduced two sections 326A and 326B to the Penal Code specifically dealing with acid attack. This was the first success in the case. This section eventually came to be passed in 2013 in the Criminal Law Amendment Act 2013, following the gruesome sexual assault in Delhi on December 16, 2012.

The tougher battle was the fight on ensuring that acid is not available so easily. The biggest hurdle in this battle, surprisingly, was the Government of India. The Government first sought an opinion from the Ministry of Chemicals and Fertilizers which opined that it was not possible for acid to be banned as it would affect the industries. The Ministry of Home Affairs, which is responsible for the law and order, was asked by the Supreme Court repeatedly to come out with a proposal for banning - or at least regulating - sale of acid, but this was to no avail. There was a request made by the Court to the Home Secretary to take this matter seriously. However, this was not done when the Court granted a last opportunity to the Government of India to either come up with a proposal or the Court would pass an appropriate order. Around this time, there was another brutal acid attack in a busy railway station in Mumbai which resulted in the young girl's death. This incident and the Government's apathy compelled the Supreme Court to pass an order directing the Government to take immediate action.

While the Central Government seemed extremely casual on this subject, certain State Governments had passed notifications/legislations in their own States banning sale of acid. These are the States of Sikkim, Karnataka and Punjab. When the lawyer for Laxmi drew the attention of the Court to the action taken by these States, the Supreme Court directed the Government of India to take these instances and come out with their own proposal. The Government of India found the action taken by the State of Punjab most suitable and accordingly suggested that "acid" would be declared as a "poison" under the Poisons Act and regulate the stocking and sale of acid. These guidelines, which the Supreme Court would pass pending formal amendments in the law, were drafted in the office of then Solicitor General Mohan Parasaran by the officers of the Ministry of Home Affairs, Joint Secretary Suresh Kumar, Director Dr. Praveen Kumari and Laxmi's lawyer, Aparna Bhat. These directions became an order of the Supreme Court and have to be followed in the entire Country as if it is the law. The same order also directed that all victims of acid attack should be given cash compensation of Rs. 3 lakhs out of which one lakh would be released within 15 days of passing the order. This was a milestone in the case. The State Governments in the meanwhile have carried out the necessary amendments in their States in the Poisons Act and have declared "acid" a poison that would not be easily available.

The last part of the case relates to medical treatment. The State of Haryana had filed an affidavit in 2009 that the Government of Haryana was considering a proposal to provide for 100% costs for treatment of acid victims. This proposal eventually became a scheme of the State of Haryana. The Supreme Court directed all the State governments to look into the scheme of the State of Haryana and take a decision on taking the responsibility of providing for the complete treatment costs of the acid attack victims. At the time of writing this, more than 10 State Governments have responded favourably. The Government of India is yet to respond.

## **Selected Orders**

**28 April 2008 (Court orders an investigation and action on the issue):**

ITEM NO.43 COURT NO.1 SECTION PIL  
SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO(s). 129 OF 2006

LAXMI (MINOR) THR. HER FATHER Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(With office report )

Date: 28/04/2008 This Petition was called on for hearing today.

CORAM :

HON<sup>BLE</sup> THE CHIEF JUSTICE

HON<sup>BLE</sup> MR. JUSTICE R.V. RAVEENDRAN

HON<sup>BLE</sup> DR. JUSTICE MUKUNDAKAM SHARMA

For Petitioner(s) Ms. Aparna Bhat,Adv.

Mr. P.RameshKumar,Adv.

For Respondent(s) Mr. Mohan Parasaran,ASG.

Mr. D.L.Chidananda,Adv.

Mr. P. Parmeswaran,Adv.

Mr. B.K. Prasad,Adv.

For R.No.3 Mr. Ajay Sharma,Adv.

UPON hearing counsel the Court made the following

ORDER

The petitioner's counsel submitted that to combat acid attacks the Government of Bangladesh has introduced a specific provision in the IPC (sec.326A) relating to acid attacks apart from framing an Acid (Control) Order to regulate and restrict the sale of acid. She stated that it has also formulated a scheme for treatment and rehabilitation. She may make available the said material to the Learned Additional Solicitor General appearing for Union of India. We are informed that the National Commission of Women and Law Commission of India are in the process of preparing proposals schemes/drafts legislation to save innocents from acid attacks.

Learned Additional Solicitor General submitted that the Government of India will look into several aspects of the problem, consider the suggestion and formulate procedures to curtail and regulate sale of acid/corrosive substances across the country. He also submitted that feasibility of making appropriate amendments to existing laws will be considered.

List in the third week of July, 2008.

**11 February 2011 (Ordering the Union of India to develop schemes for survivors, to limit the sale of acid, and to give effect to Section 357 of the IPC):**

ITEM NO.201 COURT NO.3 SECTION PIL

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO(s). 129 OF 2006

LAXMI Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date: 11/02/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

HON'BLE MR. JUSTICE A.K. PATNAIK

UPON hearing counsel the Court made the following

O R D E R

One of the prayers in this writ petition is to issue a direction to the respondents to make appropriate amendment in the Indian Penal Code and Criminal Procedure Code for dealing with acid attacks. A direction to frame in regard to prosecutions of acid throwers and rehabilitation of acid attack victims (by providing proper treatment, after care and rehabilitation of victims of acid attacks).

Union of India, Law commission of India and National Commission for Women were the three respondents in the writ petition. On 30.10.2009, notices were issued to six States namely, Maharashtra, Karnataka, Tamil Nadu, Andhra Pradesh, Haryana and NCT of Delhi where there are considerable number of acid attacks.

During the pendency of this writ petition, the code of Criminal Procedure, 1973 has been amended and Section 357A has been inserted by Act 5 of 2009 which requires every State Government, in coordination with the Central government, to prepare a scheme for providing funds for the purpose of compensation to the victims or their dependants who have suffered loss or injury as a

Though the said section has come into effect on 31.12.2009 and more than a year has elapsed, we are informed that no schemes have been formulated by any of the State Governments.

In these circumstances, we issue the following directions:

- (i) Let notice be issued to other remaining States and Union Territories.
- (ii) The State Governments, in co-ordination with the Central Government shall prepare schemes as provided in Section 357A for the purpose of providing compensation to victims of crimes, in particular, acid attack victims.
- (iii) The Home Ministry, Government of India shall coordinate with the States/U. Ts to give effect to Section 357A, in particular, with reference to acid attack victims.
- (iv) As one of the matters of concern in regard to acid attacks is the free availability of acids, the Central Government and State Governments may also consider making appropriate provision for regulation of sale of acids so that it is not easily or readily available to offenders.

**31 August 2012 (Order to the Secretary of Home Affairs to meet with Chief Secretaries of States to regulate the sale of acid):**

ITEM NO.202 COURT NO.7 SECTION PIL

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

WRIT PETITION (CRL.) NO(s). 129 OF 2006

LAXMI Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date: 31/08/2012 This Petition was called on for hearing today.

CORAM :

HON<sup>BLE</sup> MR. JUSTICE R.M. LODHA

HON<sup>BLE</sup> MR. JUSTICE ANIL R. DAVE

UPON hearing counsel the Court made the following

O R D E R

On behalf of Union of India, an affidavit has been filed by Shri J.L. Chugh, Joint Secretary (Judicial) in the Ministry of Home Affairs.

1. In the above affidavit, it is stated that Criminal Law Amendment Bill, 2012 has been approved by the Cabinet on July 19, 2012 which has the proposal for insertion of Sections 326A and 326B in the Indian Penal Code for making the acid attack a specific offence.
2. Mr. Mohan Parasaran, learned Additional Solicitor General appearing for the Union of India submits that since the present Parliament Session shall expire on September 7, 2012, it is unlikely that the above bill is introduced in the Parliament in this Session. However, he submits that the above bill will be introduced in the Parliament in the ensuing Winter Session.
3. Ms. Aparna Bhat, learned counsel for the petitioner is satisfied with the above statement of the learned Additional Solicitor General
4. In the order dated February 11, 2011, this Court, inter alia, observed that as one of the matters of concern in regard to acid attacks is the free availability of acids, the Central Government and State Governments may also consider making appropriate provision for regulation of sale of acid so that it is not easily or readily available to offenders.
5. Mr. Mohan Parasaran submits that regulation of sale of acid is the State subject and the appropriate provision for regulation of sale of acid has to be made by the State Governments. He, however, submits that the Ministry of Home Affairs shall convene a meeting of the Chief Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories for evolving a consensus in regard to the regulation of sale of acid in the States/ Union Territories.
7. Learned counsel for the petitioner invited our attention to the Notification issued by the State of Sikkim amending Sikkim Trade Licence and Miscellaneous Provision Rules, 2011 by inserting sub-rule 17A in the said Rules.
8. In our view, the suggestion of Mr. Mohan Parasaran, learned Additional Solicitor General appears to be proper.
9. Let the Home Secretary, Ministry of Home Affairs, Government of India convene a meeting of the Chief Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories to discuss the enactment of appropriate provision for effective regulation of sale of acid in the States/Union Territories.
10. Let the matter come up for consideration on November 9, 2012.
11. In the meanwhile, the Chief Secretaries of the States of Maharashtra, Karnataka, Andhra Pradesh, Himachal Pradesh, Uttarakhand, Arunachal Pradesh, Meghalaya, Nagaland, Goa, Punjab, Gujarat, Jammu & Kashmir, Madhya Pradesh, Chhattisgarh, Kerala, West Bengal, Tamil Nadu, Jharkhand

and Administrators of Union Territories of Dadra, Nagar Haveli, Andaman & Nicobar and Chandigarh shall ensure that the responses/affidavits of compliance are filed on behalf of the respective State Governments/Union Territories within eight weeks from today.

**9 July 2013 (Admonishing the states and Union of India for failure to act):**

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S  
W R I T P E T I T I O N ( C R L . ) N O ( s ) . 1 2 9 O F 2 0 0 6  
L A X M I      P e t i t i o n e r ( s )

V E R S U S  
U N I O N O F I N D I A & O R S .      R e s p o n d e n t ( s )

Date: 09/07/2013 This Petition was called on for hearing today.

C O R A M :

H O N ' B L E M R . J U S T I C E R . M . L O D H A

H O N ' B L E M R . J U S T I C E S U D H A N S U J Y O T I M U K H O P A D H A Y A

U P O N h e a r i n g c o u n s e l t h e C o u r t m a d e t h e f o l l o w i n g

O R D E R

In the order dated April 16, 2013, the Court expressed its concern as tragic incidents of acid attacks continue to happen. One of the main reasons for these incidents is easy availability of acid in retail across the counter. The Court further expressed its concern as neither the Central Government nor the State Governments/Union Territories have been able to address this grave issue.

2. In that order the Court indicated that the suggestion of the learned counsel for the petitioner to ban retail sale of acid may be considered on the next date if the State Governments/Union Territories were not able to come out with some adequate scheme that restricted the sale of acid in retails.
3. Having regard to the concern of the Court on that day, Mr. Mohan Parasaran, learned Solicitor General, assured the Court that the Central Government would take up the matter with the State Governments/Union Territories and come out with a draft scheme acceptable to all the State Governments/Union Territories or for consideration of such scheme by this Court.
4. More than two months and three weeks have passed since then but the Court has not been informed of the progress made with regard to the above. No report of the compliance of the order dated April 16, 2013 has been placed by the Central Government nor any draft scheme is available before the Court.
5. Ms. AparnaBhat, learned counsel for the petitioner, submits that after April 16, 2013 more incidents of acid attacks have taken place and in one of such incidents, which happened in Mumbai, the victim girl has died.
6. In various orders passed by this Court from time to time, this Court has indicated the seriousness of the issue. But we find that no effective steps have been taken to address this serious issue either by the Central Government or by the State Governments/Union Territories. Time has been sought by the Central Government on various dates on one ground or the other, but the solution to this grave problem is not forth-coming.
7. List this matter on July 16, 2013. If on that date the Central Government

is not able to come out with the draft scheme acceptable to all the State Governments/Union Territories or for consideration of appropriate scheme by this Court, the Court will pass appropriate order concerning easy availability of acid in retail.

**16 July 2013 (Progress on regulating sale of acid; ):**

ITEM NO.6 COURT NO.4 SECTION PIL  
S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
WRIT PETITION (CRL.) NO(s). 129 OF 2006  
LAXMI Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

Date: 16/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

UPON hearing counsel the Court made the following

O R D E R

Pursuant to our orders dated April 16, 2013 and July 9, 2013, an affidavit has been filed by the Union of India through Mr. S.Suresh Kumar, Joint Secretary, Ministry of Home Affairs, Government of India. In the affidavit it is stated that after the order was passed by this Court on April 16, 2013 a meeting was convened on April 18, 2013 by the Union Home Secretary with the representatives from the Ministry of Health and Family Welfare, Department of Chemicals and Department of Legislative Affairs. In the meeting, inter alia, the options for regulation of retail sale of acid were discussed and it was felt that due to the recurrence of acid attacks, regulation of retail sale was necessary. It was further felt that a new set of Rules under the Poisons Act, 1919 be drafted by Ministry of Home Affairs in consultation with the Ministry of Chemicals and Fertilizers, Department of Chemicals and Petrochemical as well as the Department of Legislative Affairs to ensure that major acids such as hydrochloric acid, sulphuric acid, nitric acid etc. are sold in retail of strength that it would not cause damage to humans. The meeting of April 18, 2013 was followed by another meeting on April 22, 2013 with representatives of various State Governments and Union Territories wherein it was pointed out by States of Maharashtra, Punjab, Haryana, Karnataka and Kerala that they have already framed statutory rules to regulate sale of acids and other corrosive substances under the Poisons Act, 1919 by classifying acids and other corrosive substances as 'poison'.

Following our order dated July 9, 2013, another meeting was held on July 10, 2013 to pursue the issue with States/Union Territories. Along with the affidavit, draft model Rules entitled 'The Poisons Possession and Sale Rules, 2013' have been placed on record. Before draft model Rules take the shape of law in consultation with the States/Union Territories, we are of the considered view that, as the frequency of acid attacks has increased, it is necessary to issue certain interim directions, particularly with regard to retail sale of acid and the persons to whom acid may be sold. Mr. Mohan Parasaran, learned Solicitor General, and



Mr. AparnaBhat, learned counsel for the petitioner, submit that a couple of days may be given to them to discuss the matter amongst themselves and come out with draft directions.

List the matter on July 18, 2013.

**18 July 2013 (Guaranteeing a minimum compensation of Rs. 3 lakh, and establishing minimum controls for the sale of acid):**

IN THE SUPREME COURT OF INDIA CRIMINAL ORIGINAL  
JURISDICTION WRIT PETITION (CRL.) NO. 129 OF 2006

LAXMI ...PETITIONER(s)

Versus

UNION OF INDIA AND OTHERS ...RESPONDENT(s)

O R D E R

On 6.2.2013, a direction was given to the Home Secretary, Ministry of Home Affairs associating the Secretary, Ministry of Chemical & Fertilizers to convene a meeting of the Chief Secretaries/concerned Secretaries of the State Governments and the Administrators of the Union Territories, inter alia, to discuss the following aspects:

- i) Enactment of appropriate provision for effective regulation of sale of acid in the States/Union Territories.
  - (ii) Measures for the proper treatment, after care and rehabilitation of the victims of acid attack and needs of acid attack victims.
  - (iii) Compensation payable to acid victims by the State/or creation of some separate fund for payment of compensation to the acid attack victims.
2. Following the order of 6.2.2013, three subsequent orders on 16.4.2013, 9.7.2013 and 16.7.2013 were passed by this Court.
  3. Various State Governments/Union Territories have filed their affidavits. The Union of India filed its last affidavit on 17.7.2013. Along with that affidavit, draft Model Rules entitled “The Poisons Possession and Sale Rules, 2013” (for short “Model Rules”) have been placed on record. Mr. Mohan Parasaran, learned Solicitor General states that the Central Government will circulate the Model Rules to regulate sale of acid and other corrosive substances framed under the Poisons Act, 1919 to all the State Governments and Union Territories within a week from today. He also states that Model Rules will include, inter alia, the form of acids (liquids or crystalline and its concentration) that can be stored and sold, issue of licenses, procurement by individuals, educational and research institutions, hospitals, industries, Government Departments and departments of Public Sector Undertakings. We accept the statement made by the learned Solicitor General as noted above.
  4. Insofar as the States and Union Territories are concerned, we are informed that the States of Maharashtra, Karnataka, Kerala, Haryana, Punjab, Madhya Pradesh, Sikkim and Arunachal Pradesh have framed rules to regulate sale of acid and other corrosive substances. As regards state of Meghalaya, we find from the available record that draft rules have been prepared, a copy of which has been made available to the Court.

5. Learned counsel for the State of Tamil Nadu has stated before us that within two months from today, appropriate rules to regularise sale of acid and other corrosive substances shall be framed.
6. In our opinion, all the States and Union Territories which have not yet framed rules will do well to make rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government. The States, which have framed rules but these rules are not as stringent as the Model Rules framed by the Central Government will make necessary amendments in their rules to bring them in line with the Model Rules. The Chief Secretaries of the respective States and the Administrators of the Union Territories shall ensure compliance of the above expeditiously and in no case later than three months from the receipt of the draft Model Rules from the Central Government.
7. The Centre and States/Union Territories shall work towards making the offences under the Poison Act, 1919 cognizable and non-bailable.
8. In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:
  - i) Over the counter, sale of acid is completely prohibited unless the seller maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.
  - (ii) All sellers shall sell acid only after the buyer has shown:
    - a) a photo ID issued by the Government which also has the address of the person:
    - b) specifies the reason/purpose for procuring acid.
  - (iii) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days.
  - (iv) No acid shall be sold to any person who is below 18 years of age.
  - (v) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/-
  - (vi) The concerned SDM may impose fine up to Rs. 50,000/- on any person who commits breach of any of the above directions.
9. The educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid, shall follow the following guidelines:
  - (i) A register of usage of acid shall be maintained and the same shall be filed with the concerned SDM.
  - (ii) A person shall be made accountable for possession and safe keeping of acid in their premises.
  - (iii) The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/

place of storage where acid is used.

10. The concerned SDM shall be vested with the responsibility of taking appropriate action for the breach/default/ violation of the above directions.
11. Section 357A came to inserted in the Code of Criminal Procedure, 1973 by Act 5 of 2009 w.e.f. 31.12.2009. Inter alia, this Section provides for preparation of a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.
12. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared 'Victim Compensation Scheme' (for short "Scheme"). As regards the victims of acid attacks the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs. 25,000/- in such scheme, the State of Rajasthan has provided for Rs. 2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, learned Solicitor General suggested to us that the compensation by the States/Union Territories for acid attack victims must be enhanced to at least Rs. 3 lakhs as the after care and rehabilitation cost. The suggestion of learned Solicitor General is very fair.
13. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.
14. The Chief Secretaries of the States and Administrators of the Union Territories shall take necessary steps in getting this order translated into vernacular and publicise the same appropriately for the information of public at large.
15. List the matter on December 3, 2013.

**3 December 2013 (directing the states to enact the rules on the sale of acid, and ordering the states to file affidavits on medical care, and ordering states to ensure police action on acid attacks):**

ITEM NO.3 COURT NO.2 SECTION PIL  
S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S  
WRIT PETITION (CRL.) NO(s). 129 OF 2006  
LAXMI Petitioner(s)  
VERSUS  
UNION OF INDIA & ORS. Respondent(s)

Date: 03/12/2013 This Petition was called on for hearing today.  
UPON hearing counsel the Court made the following

O R D E R

It was observed in the order dated 18.07.2013 that the States and Union Territories which have not yet framed rules to regulate sale of acid and other corrosive substances in line with the Model Rules framed by the Central Government shall do the same within three months from the receipt of the draft Model Rules from the Central Government.

2. The three or four States have sought response from the public with regard to the proposed rules to regulate sale of acid and other corrosive substances, but the progress made by other States in this regard is not yet known.
3. The framing of rules to regulate sale of acid and other corrosive substances is one of the necessary steps for minimising the acid attacks which, of late, is on the rise. It was after series of hearing and orders passed by this Court that finally the Central Government came out with the Model Rules in consultation with the State Governments/Union Territories. The Court hoped, when it passed the order on 18.07.2013, that within three months therefrom, all the States and Union Territories shall comply with the directions and put in place the rules to regulate sale of acid and other corrosive substances. It appears that in none of the States and Union Territories such rules are operational. In the circumstances, we direct the Chief Secretaries of the States and the Administrators of the Union Territories to comply with the directions given in the order dated 18.07.2013 and put in place the rules in line with the Model Rules framed by the Central Government to regulate sale of acid and other corrosive substances at the earliest and positively before March 31, 2014.
4. In the order dated 18.07.2013, the Court has given certain directions, by way of interim arrangement, with regard to payment of compensation to the acid victims by the States/Union Territories. The Court has to finally take a call on the measures for the proper treatment, after care and rehabilitation of the acid attack victims and the States' responsibility in making payment of compensation to them.
5. Ms. AparnaBhat, learned counsel for the petitioner, has brought to our notice an affidavit filed on behalf of the State of Haryana through Smt. Sarita Malik, Under Secretary, Women & Child Development Department wherein it is stated that the Government of Haryana is in the process of framing a scheme for the medical treatment, short term as well as long term for specialised plastic surgery, corrective surgeries, providing specialised psychological treatment to the acid victims to help them to come out of the horror and trauma of the acid attack and their rehabilitation. It further transpires from that affidavit that a decision has been taken by the State Government to bear 100% cost of treatment on the above account.

The Government resolution/order which incorporates the decision of the Government of Haryana to bear 100% cost of treatment of the acid victims is not available on record nor the entire scheme for the medical treatment of the acid victims by the Government of Haryana has been placed. We direct the advocate-on-record for the State of Haryana to place on record within four weeks the State Government's decision to bear 100% cost of treatment of acid

victims and also the scheme for medical treatment for the acid victims. The copy of such decision and the scheme shall be also given to the advocate-on-record for the Union of India.

6. The advocate-on-record for the Union of India shall then circulate to all the Chief Secretaries of the States (other than Haryana) and the Administrators of the Union Territories, the copy of the scheme framed by the Government of Haryana for medical treatment of acid victims and the copy of the Government resolution/order issued by the Government of Haryana with regard to the State Government bearing 100% cost of treatment of the acid victims.
7. We direct the Chief Secretaries of the States (other than Haryana) and the administrators of the Union Territories to file affidavit and indicate to this Court, the State's view in bearing 100% cost of treatment of the acid victims in line with the decision taken by the Government of Haryana and also with regard to framing of scheme on the lines of Haryana Government for the medical treatment at specialised hospitals having facility for plastic surgery, corrective surgery and psychological as well as other treatment to the acid victims.
8. If any other State or Union Territory has taken a decision to provide free medical treatment to acid attack victims, the advocate-on-record for such State/Union Territory shall also supply copy thereof to the advocate-on-record for the Union of India. The advocate-on-record for the Union of India shall forward the decision of such State/Union Territory to the Chief Secretaries of other States and Administrators of Union Territories as well.
9. In addition to the directions already issued on 18.07.2013 and the above directions, the Chief Secretaries of the States and Administrators of the Union Territories are directed to issue necessary instructions to the Police Stations within their respective State/Union Territory that as and when an FIR is lodged with the police relating to acid attack, the concerned Police Station will send a communication to the jurisdictional S.D.M. about receipt of such information. Upon receipt of such information, the jurisdictional S.D.M. shall then make inquiry into the procurement of acid by the wrong doer and take appropriate action in the matter.
10. List the matter on April 15, 2014.

**Parivartan Kendra vs. Union of India & Ors.**  
**(WP (C) 867/2013)**

### **Synopsis**

After working closely with acid attack survivor Chanchal Paswan, Parivartan Kendra, an NGO working with people from marginalized communities in Bihar, filed this petition in the Supreme Court to ensure complete rehabilitative services and compensation for acid attack survivors.

### **Facts**

Chanchal Paswan, a young Dalit woman from Bihar wanted to become a

computer engineer. She attended college and helped support her family as a daily waged worker. Men from her village constantly harassed both Chanchal and her sister taunting them and frequently telling Chanchal, “you are Dalits, you are powerless. Whatever we do, we will be able to get away with it.” They told Chanchal that if she did not give into their demands for sexual favors, they would retaliate by destroying her face.

On 21 October 2012, four men from the village climbed on to the roof of Chanchal’s home where she and her sister slept. They held her down and poured a litre of sulphuric acid on her face and body. Acid also spilled onto Chanchal’s sister’s arm. Upon hearing their daughters’ screams, Chanchal’s parents rushed both girls to the Patna Medical College Hospital. Chanchal waited for hours before receiving treatment. The staff at the hospital forced Chanchal’s family to purchase their own medicines and told them that Dalits did not belong in the hospital. Chanchal’s parents borrowed Rs. 5 lakh for treatment. Even with this massive expenditure, Chanchal waited six months before receiving proper treatment at Safdarjung Hospital in Delhi at the family’s expense.

As a result of the attack, Chanchal has burns on 90% of her face and 28% of her body. She has no lips, no eyelids, very little vision, and the skin on her neck fused with her chest. Acid burnt off her left breast. Doctors at Safdarjung report that Chanchal will require at least 15 operations to function and that she will need lifelong treatment to recover.

The government of Bihar gave Chanchal and her sister just Rs. 2 lakh 42 thousand in compensation. The police arrested the perpetrators a month after the attack and have failed to record a statement from Chanchal and the criminal case has not progressed despite promises by the authorities.

The petition argues that states in India do not have adequate Victim Compensation Schemes, acid attack medical treatment guidelines, procedures for fast-tracking acid attack cases, rehabilitation schemes or guarantees for free medical care.

## Prayers

1. Free medical care for Chanchal and her sister for life.
2. Reimburse the family for medical expenses incurred.
3. Pay Rs. 10 lakh to Chanchal for pain and suffering at Patna Medical College Hospital.
4. Fast track the criminal case.
5. Develop standard treatment and management guidelines with a panel of qualified doctors for all facility levels.
6. Direct all private hospitals to provide emergency care for acid attack survivors regardless of the survivor’s financial condition.
7. Issue a directive to appoint the district civil surgeon as the principal responsible in acid attack survivor cases. The district civil surgeon will coordinate with the District Collector and Superintendent of Police on the case.
8. Increase the Victim Compensation Scheme payment to Rs. 10 lakh.
9. Create a comprehensive rehabilitation scheme including housing, education,

and employment.

10. Include programs on violence against women as a component of the national curriculum.
11. Include acid attacks in the Prevention of Atrocities Act.

### Relevant Law Cited

- Constitution of India Articles 21, (Right to Life, Right to Movement, Right to Health, Right to be free from Inhuman and Degrading Treatment); 15, 15(a) (Discrimination based on sex, caste); 14 (Equality before the law)
- Laxmi vs. Union of India & Ors. (WP (C) 129/2006) guaranteeing minimum 3 lakh compensation to acid attack survivors.
- Francis Coralie Mullin vs. Administrator, Union Territory of Delhi & Ors. (1981 SCR (2) 516), holding that Article 21 also includes the right to be free from inhuman or degrading treatment.
- Bangladesh's Acid Crime Control Act (2002)
- Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) Articles 2 (State obligation to take appropriate legislative actions or sanctions to prohibit discrimination against women, 5 (States must take action to modify social and cultural patterns that perpetuate discrimination against women), and 24 (Commitment of State Parties to adopt necessary measures to achieve the rights recognized in the Convention).
- International Covenant on Civil and Political Rights (ICCPR) Articles 3 (equal protection), 7 (Right to be free from inhuman or degrading treatment), and 12 (Freedom of Movement).

### Outcome

The Supreme Court issued notices to the Respondents in July 2013. In summer 2014 the Court asked the States and Union Territories for information on victim compensation and CSAAAW became a co-petitioner. This case is pending in the Supreme Court as of September 2014.

### Orders

#### •25 July 2014: (CSAAAW becomes a Petitioner)

ITEM NO.10 COURT NO.1 SECTION PIL  
S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 867/2013

PARIVARTAN KENDRA Petitioner(s)

VERSUS

U.O.I & ORS Respondent(s)

(withappln. (s) for exemption from filing O.T. and impleadment and office report)

Date : 25/07/2014 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE KURIAN JOSEPH  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.

Ms. JubliMomalia, Adv.

Ms. JyotiMendiratta ,Adv.

For Respondent(s) Mr. MukulRohatgi, AG

Ms. Pinky Anand, ASG

Ms. Meenakshi Grover, Adv.

Mr. D.L. Chidanand, Adv.

Mr. DevanshiPopat, Adv.

Mr. Rohitash Nagar, Adv.

Ms. Natasha Sahrawat, Adv. for

Ms. SushmaSuri, Adv.

State of Bihar Mr. GopalSingh,Adv.

UPON hearing counsel the Court made the following

O R D E R

In view of no objection by the petitioner,

Signature Not Verified I.A. No.1 of 2014 is allowed and applicant in I.A.

Digitally signed by

Pardeep Kumar

Date: 2014.07.25

09:08:38 IST

Reason: No. 1 of 2014 is permitted to be impleaded as petitioner No. 2 in the Writ Petition. Amended cause-title shall be filed by the advocate-on-record for the petitioners within two weeks from today. Notice be also issued to all the States and Union Territories, returnable in six weeks. Dasti, in addition to the ordinary process.

(PARDEEP KUMAR) (RENU DIWAN)

AR-cum-PS COURT MASTER

• **11 August 2014:**

SUPREME COURT OF RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 867/2013 PARIVARTAN KENDRA & ANR  
VERSUS

U.O.I & ORS

Date : 11/08/2014 This petition was mentioned today. CORAM :

HON'BLE THE CHIEF JUSTICE HON'BLE MR. JUSTICE KURIAN  
JOSEPH HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN

For Petitioner(s) Ms. JubliMomalia, Adv. (mentioned by) Ms. JyotiMendiratta  
,Adv.

For Respondent(s)



Ms. SushmaSuri, Adv. (not present) Mr. Gopal Singh, Adv. (not present)

UPON being mentioned the Court made the following ORDE R

In continuation of order dated 25.07.2014, advocate-on-record for the petitioners is permitted to serve the notice on the standing counsel of the respective States and Union Territories.

(RAJESH DHAM) (RENU DIWAN) COURT MASTER COURT MASTER

#### **4. Sapna vs. Government of NCT of Delhi (WP (C) 684/2014**

##### **Synopsis**

In 2014, the Human Rights Law Network filed a petition to ensure compensation and free treatment for Sapna, an acid attack survivor in Delhi.

##### **Facts**

Sapna, age 20 worked in a manufacturing company at the time of the attack. On 7 August 2013 when she was traveling home from work, the accused perpetrators, Bharat and Mohinder threw acid on her, burning 10% of her face, neck, hand, and back. After the attack, Sapna received initial treatment at GTB Hospital where doctors cleaned her wounds. She has returned to the hospital multiple times for follow up treatment and medicine. However, to this day she has not had corrective surgery. GTB Hospital does not provide corrective surgery. Sapna has had corrective surgeries including skin grafting at a private hospital where she had to pay Rs. 33,021 for treatment.

Although the Supreme Court directed all the State Governments and Union Territories to pay Rs. 3 lakh to acid attack survivors in Laxmi, Sapna never received compensation or financial assistance for corrective surgeries and treatment.

##### **Prayers**

1. Compensation of Rs. 10 lakhs.
2. For interim compensation of Rs. 3 lakhs immediately per the Laxmi Supreme Court directions.
3. To reimburse Sapna for medical expenses.
4. To cover future medical expenses.
5. To develop standard treatment and management guidelines by a panel of experts at all levels of care.
6. To ensure that all private and public hospitals provide care and treatment to acid attack survivors.
7. To publicize protocols for emergency acid attack treatment.
8. To ensure coordination between doctors and the police following an acid attack.
9. For a comprehensive rehabilitation scheme for survivors including housing,

education, and employment.

## Relevant Law Cited

- Orders in *Laxmi vs. Union of India & Ors.* (WP (C) 129/2006) guaranteeing minimum 3 lakh compensation to acid attack survivors.
- Article 21 of the Constitution of India guaranteeing the right to life and health.
- Article 14 of the Constitution of India guaranteeing the right to gender equality.

## Outcome

On 29 January 2014 the Delhi High Court ordered the state to provide Sapna with Rs. 1 lakh within 15 days and the remaining Rs. 2 lakhs compensation within two months per the Supreme Court's *Laxmi* orders. The case is pending as the Court examines the additional issues raised in the petition and prayers.

## Orders

**29 January 2014**

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 684/2014

SAPNA ..... Petitioner

Through: Mr. Divya Jyoti Jaipurkar, Advocate with

Ms. Jubli Momalia, Advocate.

versus

GOVT. OF NCT OF DELHI ..... Respondent

Through: Mr. V.K. Tandon, Advocate.

29.01.2014

CM Appl. 1368/2014 in W.P.(C) 684/2014

Present petition has been filed by an acid attack victim primarily claiming compensation. Keeping in view the averments in the petition, Registry is directed to mask the name and details of the petitioner/victim. In all future filings and listings, the petitioner/victim shall be referred to as Ms. X. Even the Press is directed not to reveal the identity of the petitioner/victim. Consequently, present application stands disposed of. W.P.(C) 684/2014 and CM Appl. 1367/2014

Learned counsel for petitioner draws this Court's attention to the order dated 18th July, 2013 passed by the Supreme Court in *Laxmi vs. Union of India and Others*, 2013 (9) Scale 291, wherein it has been held as under:- 12. We, accordingly, direct that the acid attack victims shall be paid compensation of at least ` 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of ` 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of ` 2 lakhs shall be paid as expeditiously as may be possible and positively within two

months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction. Learned counsel for petitioner states that petitioner has only been paid Rs.50,000/- and that too yesterday.

Issue notice.

Mr. V.K. Tandon, learned counsel, who appears for the State Government is requested to accept notice on behalf of respondent. He prays for and is granted four weeks to file a counter affidavit. Rejoinder affidavit, if any, be filed before the next date of hearing. List the matter on 25th March, 2014.

MANMOHAN, J

JANUARY 29, 2014

Interim Relief As court has order for the immediate compensation of three lakhs as per Hon'ble Supreme Court guidelines.

**March 25 2014**

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 684/2014 and CM APPL. 1367/2014

MS. X ..... Petitioner

Through: Ms. Jubli Momalia, Advocate.

versus

GOVT. OF NCT OF DELHI ..... Respondent

Through: Mr. Yogesh Saini, Advocate for

Mr. V.K. Tandon, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

Order

25.03.2014

Learned counsel for petitioner states that after the last date of hearing, respondent-State Government has paid the balance amount of Rs.2.5 lacs as directed by the Supreme Court in Laxmi vs. Union of India and Others, W.P.(Crl.) 129/2006 decided on 18th July, 2013. She, however, states that some further directions are required in the present case. Consequently, respondent is directed to file its counter affidavit within a period of six weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.

List the matter on 29th September, 2014.

## **5. Ayushi Dubey & Ors. vs. State of U.P. & Ors. WP(C) No. 68901/13**

### **Synopsis**

HRLN's Allahabad unit filed this writ petition on behalf of Madhuri Prajapati, an acid attack survivor. The team visited Machli's home and filed the petition after interviewing Machli and her family.

### **Facts**

HRLN filed this petition after news broke of an acid attack on 9 November

2013. Legal interns from the Allahabad HRLN office conducted a fact-finding to submit to the court. Machli Gao slept in her Kaccha house (Mud House) with her mother when the accused, Vimal Maurya threw acid on Madhuri Prajapati and her mother Champa Prajapati. Before the attack Vimal Maurya stalked Madhuri and proposed to her. The attack came as a result of her refusal to marry him. The acid attack completely destroyed the left side of Madhuri's face. She also sustained injuries on her neck and face. Her mother has severe burn patches on the same side of the face and body. Initially, Madhuri went to the Community Health Centre (CHC) for treatment. The CHC did not have adequate facilities, so Madhuri went to the Jaunpur District Hospital for care. Again, because of inadequate facilities the District Hospital referred Madhuri to the Pragma Nursing Home Hospital at Varanasi.

## Prayers

1. For the Chief Medical Officer to constitute a team of doctors and experts to examine Madhuri and to provide free treatment and plastic surgery.
2. For compensation for survivor and her mother.
3. To reimburse the survivors for medical expenses.
4. To ensure that the First Information Report is lodged under Section 326(a) and 326(b) of the Criminal Law Amendment Act, 2013.
5. To fast track the criminal trial.

## Relevant Law Cited

- Orders in Laxmi vs. Union of India & Ors. (WP (C) 129/2006) guaranteeing minimum 3 lakh compensation to acid attack survivors.
- Paschim Bang Khet Majdoor Samiti and Anr. vs. State of West Bengal & Ors. JT 1996 VI, SC43, including the Right to Health under the Right to Life guaranteed in Article 21 of the Constitution.
- Criminal Procedure Code, Section 326-A and 326-B, Section 357-A.
- Constitution of India, Article 21 (right to life and health).
- Constitution of India, Article 226 (giving High Courts the power to hear writ petitions and issue orders).

## Outcome

This petition resulted in sweeping orders. The High Court ordered the state to establish a medical team of doctors and experts to examine the condition of the survivor and her mother and to make an assessment of the necessary steps for her treatment and rehabilitation. The Court also ordered the Respondents to provide treatment for Madhuri and to provide an ambulance to transport Madhuri and her mother to and from the hospital. At the same time, the Court ordered the Respondents to reimburse Madhuri and her mother for their medical expenses. Additionally, the Court ordered the district judge to monitor the trial court and to make reports to the High Court on the progress.

Finally, the Court ordered the State Government to frame a victim compensation scheme under provisions 357A of the Criminal Procedure Code.

## Orders

**16 December 2013**

Chief Justice's Court Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 68901 of 2013 Petitioner :- Ayushi Dubey & 9 Others Respondent :- Union Of India Thru' Secy. & 5 Others Counsel for Petitioner :- Amogh Srivastava, Alankrita Singh, Aviral Agarwal, Ayushi Dubey, Pulkita Sharma, Rohan Gupta, Shruti Nagvanshi, Siddharth Shukla, Smriti Kartikey, Varsha Msj Counsel for Respondent :- C.S.C., A.S.G.I./2013/8412 Hon'ble Dr. Dhananjaya Yeshwant Chandrachud, Chief Justice Hon'ble Sanjay Misra, J. Sri Anil Kumar Srivastava has filed his power on behalf of the first respondent, Union of India. Let the same be taken on record.

This petition, which has been filed in public interest, is by ten students who are students of law or, as the case may be, undergraduate students. The petitioners acted upon news reports in regard to an acid attack on a young girl and her mother in village Machhli Gaon under Police Station Badlapur, District Jaunpur. A fact finding team of the students was formed from various law colleges in the State of Uttar Pradesh and other States of the country. The team inquired into various aspects and has prepared a report under the aegis of the Human Rights Law Network. The subject matter of the inquiry was on the following issues:- 1. Whether the victim received proper medical care; 2. The financial status of the victims' family; 3. Whether the police had taken any action against the accused; 4. The total cost incurred in the treatment, and 5. Whether they had been assisted with any financial aid from the -2-government.

In the present case, the team of students found that the victim is a member of a family of eleven members of which nine are residing in the family home. It has been alleged that the accused used to stalk the victim for nearly 11 months and proposed that she should marry him. When the victim refused, she was stopped and attacked with acid in which she and her mother have suffered acute injuries. Bills for treatment were shown to the team of the students. The victim was first taken to the local Community Health Centre and then shifted to District Hospital, Jaunpur and due to inadequate facilities in the District Hospital, she was referred to the Pragya Nursing Home Hospital at Varanasi for treatment where she has been finally admitted for treatment. The students have, in the course of enquiry, prepared an exhaustive list of recommendations both in relation to the victim in the present case and for dealing with the issues which arise out of acid attacks on women which have become a frequent occurrence.

The students have done commendable work and their efforts need to be appreciated. At the initial stage, steps must be taken to ensure that due medical care is provided to the victim and to her mother. For this purpose, we direct the Chief Medical Officer, Jaunpur who is the sixth respondent to constitute a medical team of doctors and experts to examine the condition of the victim and her mother and to make an assessment of what steps are required to be taken to ensure their treatment and rehabilitation. We direct that all the necessary measures

shall be taken forthwith at the cost and expense of the State. From the report of the students, it is clear that the family is in indigent circumstances and is unable to meet the expenses of medical care. The sixth respondent shall take necessary steps to provide due treatment and shall ensure that an ambulance is made available to transport the victim and her mother from their place of residence to the concerned hospital and for their due examination. A medical report shall be prepared and should be placed before this court on 6 January 2014. However, we direct that the sixth respondent shall not wait for further directions of the court and shall, subject to the consent of the victim and her family, take necessary steps to provide rehabilitation and other medical treatment as required in the interest of the victim and her mother.

The court has been informed by the learned Standing Counsel that an FIR was registered in the present case and a charge-sheet has been submitted to the competent court. The court should be apprised, on the next date of hearing, of the further progress in the matter. We direct the District Judge, Jaunpur to monitor the progress in the matter and to submit his report before the Court on the status of the case by the next date of hearing. A copy of this order shall be made available by the Registrar General of this court to the District Judge, Jaunpur by facsimile immediately. We also direct the State Government to inform the court as to whether it has framed any scheme in accordance with the provisions of Section 357A of the CrPC. If a scheme is not framed till date, the State Government shall ensure that a scheme is framed at an early date. We also direct that the District Magistrate, Jaunpur (respondent no.4) shall collect, through a responsible officer, copies of the medical bills in respect of the line of treatment which has been administered to the victim and her mother, by their family. Before the next date of hearing, the fourth respondent shall, after due consideration of the expenses which have been incurred, take a final decision in regard to the reimbursement of the expenses and payment shall be made immediately without waiting for further directions of the court. The matter shall stand over for further hearing to 6 January 2014.

Order Date :- 16.12.2013

Lbm/-

(Dr. D. Y. Chandrachud, C.J.)

(Sanjay Misra, J.)

**Sabana Khatun vs. The State of West Bengal & Ors.**  
**(W.P. No. 34704 (W) of 2013)**

### **Synopsis**

HRLN filed this petition on behalf of acid attack survivor Sabana Khatun after her boyfriend's family poured acid down her throat. The petition resulted in compensation for Sabana and Pious Ahuja, an HRLN legal intern started an online campaign to raise funds for Sabana's rehabilitation and treatment.

### **Facts**

For three years, Sabana had a relationship with Isha Rinku Mandal. On 23 June 2012, Rinku told Sabana that he wanted to marry her and asked her to come to his house to meet his family. Sabana was wary of meeting Rinku's family

members late at night without informing her own family of the engagement, but he persisted. When she reached his house, the couple told the family about their plans and Rinku's family became furious. They pulled at her hair, held her arms and feet tightly, and forcefully opened her mouth to pour a bottle of corrosive carbolic acid down her throat. Sabana struggled to loosen the grip and eventually vomited up some acid. Rinku's family also removed Sabana's clothing and poured acid on her body. Rinku did nothing to help his girlfriend during this attack.

At the hospital, the doctors inserted a pipe into Sabana's throat to cleanse her stomach. For 18 days, Sabana could not speak or eat. She was artificially fed with saline water for 20 days. She requires surgery, but her family cannot afford the expensive procedure. In the aftermath of the brutal attack, Sabana and her family live in a state of perpetual fear. They cannot leave the house and Rinku's family continues to threaten them. Sabana had to stop attending school. Her family has spent Rs. 25,000 on legal expenses and at least Rs. 50,000 on medical care.

## Prayers

1. For the State to take action regarding the threats to Sabana and her family.
2. To provide Rs. 3 lakh to Sabana per the Supreme Court orders in Laxmi.
3. For free medical treatment for Sabana including free testing and medicines.
4. To ensure complete rehabilitation for Sabana and her family – especially to ensure Sabana's education.

## Relevant Law Cited

- Francis Coralie Mullin vs. Union Territory of Delhi and Others [1981 SCR (2) 516] (guaranteeing the Right to Health);
- Supreme Court orders in Laxmi;
- Article 226 Constitution of India (Granting High Courts the power to hear writ petitions and issue orders);
- Article 21 Constitution of India (Right to Life, Right to be free from cruel, inhumane, degrading treatment);
- Article 15 Constitution of India (Equality);
- Sections 375(A), 438, and 439, Criminal Procedure Code (1973) (Regarding Victim Compensation Scheme, non-bailable offences);
- Article 7 of the International Covenant on Civil and Political rights (ICCPR) (Right to free from cruel, inhuman, degrading treatment);
- Article 2 of the Convention on Elimination of all forms of Discrimination Against Women (CEDAW) (State obligation to create policies that eliminate gender discrimination).

## Outcome

The High Court ordered the State Government to provide Rs. 3 lakh compensation to Sabana per the Laxmi Supreme Court orders.

## Orders

**21 February 2014**

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

Present: Hon'ble Justice Ashim Kumar Roy.

W.P. No. 34704 (w) of 2013

Sabana Khatun

-vs-

The State of West Bengal & Ors.

For the petitioner: Mr. Debasish Banerjee,

Mr. Debrup Bhattacharyya

For the State : Mr. Sumon Sengupta,

Heard on : 21.02.2014

Judgement on: 28.02.2014

Ashim Kumar Roy,J.:

Invoking its writ jurisdiction an acid attacked victim, approached this court against State inaction to consider her prayer for compensation in terms of the decision of the Hon'ble Supreme Court in the case of Laxmi -vs- Union of India [Writ Petition (Crl) 129 of 2006].

It is her case that in an incident took place on 23rd of June, 2012, the respondent no. 5 with whom she had a love affair and his family members, the respondent nos. 6 to 8 forcibly poured acid in her mouth, which caused severe burn injuries in her person both internally and externally and she has to remain hospitalised for about 18 days. After her release from hospital, sometime in the 1st week of August 2013 she reported the incident to the Chief Secretary, Government of West Bengal with a prayer for awarding compensation, but till date her case has not been considered and no compensation has been paid. The learned Counsel for the writ petitioner in this regard referred the decision of the Hon'ble Supreme Court in the case of Laxmi -vs- Union of India and Ors. (Writ Petition(Crl.) 129 of 2006) and contended according to the direction issued in connection therewith on 18th July, 2013, she is now entitled to a minimum of compensation of Rs. 3 lakhs from the State, that too within 15 days from the date of reporting the incident. He then added although the Chief Secretary, Government of West Bengal was informed on August 21, 2013 but still, her prayer has not been considered by him. It is further submitted that this inaction on the part of the State respondent is not only contemptuous violation of the order of the Hon'ble Apex Court but is wholly illegal. He, therefore, submitted immediate intervention of this court is necessary for ends of justice.

On the other hand, the learned Counsel for the State produced a written instruction, received from the Joint Secretary to the Government of West Bengal, Department of Home and submitted that the State Government never intended to disobey the Apex Court's order and further submitted that in this State already a scheme being the West Bengal Victim Compensation Scheme, 2012 is existing covering compensation for Acid Attacked victim and now in terms of the decision of the Hon'ble Apex Court in the case of Laxmi -vs- Union of India & Ors.



(supra), the State Government is going to amend the existing scheme so far as the quantum of compensation for acid attacked victims are concerned. In this regard, he also handed over an order issued by the State Government of West Bengal, notified in Extraordinary Kolkata Gazette on November 30, 2013. It is contended according to the Sub-Section (2) of Section 357A Cr.P.C., a victim is entitled to compensation only when her case is recommended by a Court of Compensation or Legal Services Authority and not by approaching the State Government straight way and only entitled to that much of compensation as has been prescribed in the schedule of the scheme and here in this case, the victim not being referred either by a Court of Compensation or by the Legal Services Authority her claim can not be sustained. He heavily insisted that no order be passed for payment of compensation to the writ petitioner till the existing scheme that is the West Bengal Victim Compensation Scheme, 2012 is suitably amended in terms of the order of the Hon'ble Supreme Court. He lastly, contended the direction of the Apex Court being interim in nature is not binding on the State.

This is a case, where the prayer for compensation of the writ petitioner, an acid attacked victim received no response from the State authorities for last seven months, although she approached the Chief Secretary of the State of West Bengal, in writing. The writ petitioner prayed for compensation in the light of the directions of the Apex Court in the case of Laxmi -vs- Union of India (supra). In this regard, the directions of the Apex Court delineated in Paragraph 12 and 13 of the said case are relevant and are quoted below:-

“12. We are informed that pursuant to this provision, 17 States and 7 Union Territories have prepared ‘Victim Compensation Scheme’ (for short “Scheme”). As regards the victims of acid attacks the compensation mentioned in the Scheme framed by these States and Union Territories is un-uniform. While the State of Bihar has provided for compensation of Rs.25,000/- in such scheme, the State of Rajasthan has provided for Rs.2 lakhs of compensation. In our view, the compensation provided in the Scheme by most of the States/ Union Territories is inadequate. It cannot be overlooked that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments. Having regard to this problem, learned Solicitor General suggested to us that the compensation by the States/ Union Territories for acid attack victims must be enhanced to at least Rs.3 lakhs as the after care and rehabilitation cost. The suggestion of learned Solicitor General is very fair.

13. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs.1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs. 2 lakhs shall be paid as expeditiously, as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.”

It is manifest from the observations of the Apex Court as above that the Apex Court was grossly dissatisfied with the lack of uniformities in the “Victim Compensation Scheme” of the different States Governments and the Union Territories and inadequacy of the amount of compensation. The Apex Court held

that the minimum compensation would be at least Rs. 3 lakhs as the after care and rehabilitation cost and directed out the said amount a sum of Rs. 1 lakh to be paid to the Acid attacked victim within fifteen days of occurrence of such incident or being brought to the notice of the State Government or Union Territories and the balance Rs. 2 lakhs positively be paid within two months. The Chief Secretaries of different State Governments and the Administrator of the Union Territories were directed to ensure compliance.

On the question of binding effect of the said order of the Apex Court so far as the State Government and Union Territories are concerned, there cannot be any scope of debate that same is not only binding on them, but if there is any non-compliance that would entail serious legal consequences against the concerned authority. After 18th July, 2013, the aforesaid writ petition once again listed on 3rd December, 2013, when the Apex Court issued further direction. It is expressly clear from the face of the order, the directions issued on 3rd December, 2013 was in addition to directions which were earlier issued on 18th July, 2013. The mandate of the court was against the Chief Secretaries of the States and the Administrators of the Union Territories and they were to ensure the directions of the court given on July 18, 2013 are complied with. In this regard, observation of the Apex Court in Paragraph 3 of its order passed on 3rd of December, 2013 be referred. The relevant portions of the said order is extracted below:-

“In the circumstances, we direct the Chief Secretaries of the States and the Administrators of the Union Territories to comply with the directions given in the order dated 18.07.2013 and put in place the rules in line with the Model Rules framed by the Central Government to regulate sale of acid and other corrosive substances at the earliest and positively before March 31, 2014.”

The submissions of the learned Counsel for the State that since the writ application before the Apex Court is still pending, the interim order passed therein is not binding on the State is totally unsound and without any substance. The order so passed by the Apex Court is mandatory in nature and that mandate cannot be disobeyed by the persons against whom such direction was made. Moreover, it may be noted pursuant to the order passed by the Apex Court on 18th July, 2013 in the above matter, the State of West Bengal issued a Gazette Notification on 30th November, 2013 regulating the sale of acid and corrosive substance. Therefore, a part of the order has been complied with the order. Now, in view of the order of the Apex Court, where the Apex Court fixed Rs. 3 lakhs be the compensation amount for an acid attacked victim as after care and rehabilitation cost, the amount of compensation fixed by the State Government under the West Bengal Victim Compensation Scheme, 2012 stands completely superseded and now the State Government is bound to pay each acid attack victim a sum of Rs. 3 lakhs unless the order is modified. Since the Apex Court, categorically, directed that the acid attacked victim be paid a total sum of Rs. 3 lakhs out of which a sum of Rs. 1 lakh within fifteen days from occurrence or being brought to the State Government/Union Territories, the respondent authorities cannot take a plea that the prayer for compensation cannot be processed or considered without same being forwarded to it by the Court of Compensation or by the Legal Aid Authorities. In any event, after the Apex Court directed the payment of Rs.3 lakhs to an acid attacked victim as an interim measures, it cannot be urged by the State respondent until the scheme is finally formulated, no order for

compensation be made. The submissions of the learned Counsel for the State are far from satisfactory and without any merit. In the result, this writ application stands allowed.

The respondent authorities more particularly, the Chief Secretary of the State of West Bengal is directed to pay a total sum of Rs. 3 lakhs to the writ petitioner, an acid attacked victim and out of the said amount a sum of Rs. 1 lakh be paid within fifteen days from the date of communication of this order and thereafter the balance amount be paid within two months thereafter as prescribed by the Hon'ble Apex Court in its order passed in connection with Laxmi -vs- Union of India(supra).

This order be communicated to the Chief Secretary of the State of West Bengal through the learned Registrar General of this Court at once for taking necessary steps.

At the same time, the petitioner shall have the liberty to communicate this order.

Urgent photostat certified copy of this order, if applied for, be given to the learned Counsel for the parties on usual undertaking.

(Ashim Kumar Roy,J.)

## **7. Shaheen vs State of Haryana through its Chief Minister and SP, Panipat and Bala and Yaswinder W.P. (C) 4046/2014**

### **Synopsis**

HRLN filed this petition on behalf Shaheen, an acid attack survivor from Haryana. This case would be ground-breaking as it asks the High Court to find that the victim compensation scheme be applied retroactively.

### **Facts**

Shaheen was 26 at the time of her attack on November 20 2009. Shaheen refused the sexual advances of a colleague and soon after, Shaheen was crossing the street when a boy suddenly threw the contents of a glass onto her face. The boy then ran away. Shaheen turned to go back to the office and met the owner Roopak who helped her by calling for a car and taking her to Prem Hospital. Her husband arrived at the hospital just as they reached and took her to PGI Rohtak from Prem Hospital. She remained in Rohtak for treatment before getting admitted in Apollo Hospital in Delhi.

As a result of the attack, Shaheen lost her eyes and her face is severely scared. She has spent at least Rs. 7 lakhs on treatment and requires an additional Rs. 13 lakhs for further treatment. She approached the Department of Women and Child Development for relief under the state's victim compensation scheme. The Department denied her compensation and medical assistance because her attack occurred before the scheme was finalized.

## **Prayers**

1. To modify the victim compensation scheme to provide retroactive free medical and surgical treatment for acid attack survivors, rehabilitation, and compensation to survivors.
2. To reimburse Shaheen's medical expenses.
3. To provide Rs. 5 lakh to Shaheen for rehabilitation.
4. To provide immediate free treatment for Shaheen.

## **Relevant Law Cited**

- Constitution of India, Article 21 (Right to life);
- Constitution of India, Articles 14 and 15 (Equality before the law and right to be free from non-discrimination);
- Delhi Transport Corporation vs. Sh. Harpal Singh sc. Security Guard & Ors (LPA 503/2006). Holding that welfare schemes for "weaker sections" should be retroactive.;
- Supreme Court orders in Laxmi.

## **Outcome**

The case has been admitted for hearing and is pending hearing.



*Photo: Varsha Jawalgekar*



# Compensation for Acid Attack Survivors

**Salina Wilson | Andrew Kirtley**

*—Salina Wilson works with the Women’s Justice Initiative (WJI) of Human Rights Law Network. The Women’s Justice Initiative uses the law to counter all forms of gender based discrimination and violence. The WJI strives to expand access to justice for women and has worked elaborately on issues of domestic violence, rape, sexual harassment at the workplace, acid attacks, trafficking, matrimonial disputes, dowry harassment, ‘honour’ killings and women’s property and inheritance rights among others. Salina has a Master’s degree in Social Work from Tata Institute of Social Sciences, Mumbai and a Bachelors (Hons.) degree in Sociology from Jesus and Mary College of Delhi University.*

*—Andrew Kirtley is an American lawyer and activist. He graduated from Northeastern University School of Law in May 2014, and he also holds a Master of Environmental Law and Policy from Vermont Law School. In the spring of 2014, Andrew was a legal fellow at HRLN’s Reproductive Rights Initiative in New Delhi, where much of his work focused on HRLN’s litigation strategy in acid attack cases. He currently lives and works in Washington, DC, USA.*

One of the most agonizing impacts of an acid attack is the economic ramifications on the survivor. Economic impacts include loss of financial support from the survivor’s family and community, inability to work or attend school during a prolonged course of treatment, sharp reduction in future earning potential, extreme difficulty in finding employment due to negative responses to the survivor’s disfigurement, and the costs of social stigma.<sup>1</sup> As a result, survivors “become dependent on others for food and money.”<sup>2</sup> For survivors without a consistent source of such support, the result is a life of destitution and a struggle to survive.

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1. Law Commission of India, Report No. 226, “The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Victims of Crime” (July 2008) [hereinafter referred to as LCI 2008 report], P. 8.

2. *Ibid.*, 13.

## 1. Timeline of Legal Developments

In order to secure adequate relief for survivors, it is imperative to understand the sources and scope of the Centre, State, and Union Territory Governments' legal obligations to rehabilitate and compensate survivors. It would be pertinent, thus, to provide a chronological list of key events of the important legal developments concerning acid attack survivor compensation since 2006 when Advocate Aparna Bhat filed the Public Interest Litigation *Laxmi vs. Union of India & Ors.* in the Supreme Court, praying for regulation in the sale of acid.

TIMELINE OF LEGAL DEVELOPMENTS CONCERNING ACID ATTACK SURVIVOR COMPENSATION	
2006.05	<i>Laxmi v. Union of India &amp; Ors.</i> , Cvl. Pet. 129 of 2006, is filed in the Supreme Court as a PIL.
2008	The National Commission for Women (“NCW”) releases its draft Scheme for Relief and Rehabilitation of Offences (by Acids) on Women. The NCW Scheme proposes a federalized system of compensation and rehabilitation committees, with committees at the district level hearing survivors’ applications for compensation (up to Rs. 30 lakhs) and providing affirmative assistance to survivors in seeking rehabilitation services. The NCW Scheme also proposes specific amendments to the Indian Penal Code and Code of Criminal Procedure for punishing perpetrators and compensating victims.
2008.07	The Law Commission of India (“LCI”) submits a report to the Laxmi Court entitled <i>The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime</i> . The report, inter alia, criticizes the Indian courts’ past treatment of acid violence cases; provides an expansive view of the survivors’ physical, psychological, social, and economic injuries that are eligible for compensation; recommends specific legislative reforms, including providing compensation for survivors. Echoing the NCW, the LCI recommends specific amendments to the Indian Penal Code and Code of Criminal Procedure.
2009.12.31	The Code of Criminal Procedure (Amendment) Act of 2008 comes into effect. The Act adopts aspects of the recommendations by the NCW and LCI by adding section 357A to the Code of Criminal Procedure, which requires the States to prepare victim compensation schemes for survivors of crimes “who require rehabilitation.”



2011.02.11	The Laxmi Court rebukes the State and UT Governments for failing to prepare any survivor compensation schemes under Section 357A and directs the Home Ministry, in coordination with the States and UTs, “to prepare schemes as provided in Section 357A for the purpose of providing compensation to victims of crimes, in particular acid attack victims.”
2013.04.03	The Criminal Law (Amendment) Act of 2013 comes into effect, thereby overhauling the Indian Penal Code and Code of Criminal Procedure to address issues of gender-based violence, including provisions imposing more severe criminal sanctions for perpetrators of acid violence and a provision requiring that public and private hospitals provide survivors with free “first-aid or medical treatment.”
2013.04.16	The Laxmi Court notes, with palpable frustration, that “tragic incidents of acid attacks continue to happen” in the face of Government inaction and “easy availability of acid in retail across the counter.” The Court directs the Governments to turn their attention to three key areas: (1) the need for laws regulating the sale and storage of acid, (2) treatment and rehabilitation of survivors, and (3) the preparation of victim compensation schemes under Section 357A.
2013.07.18	The Laxmi Court declares virtually all the States’ 357A compensation schemes, which provide compensation of between Rs. 50, 000 and Rs. 2 lakhs, to be “inadequate” and directs that 357A schemes “must be enhanced to at least Rs. 3 lakhs.” The Laxmi Court also states, “of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard.”
2013.08.21	After Chanchal Paswan is attacked in Bihar, HRLN files <i>Parivartan Kendra v. Union of India &amp; Ors.</i> , (WP (C) 867 of 2013), in the Supreme Court as a PIL praying for better compensation, medical treatment, and rehabilitation of acid attack survivors.

2013.12.03	The Laxmi Court clarifies that the Rs. 3 lakhs minimum compensation established in its Order of 18 July 2013 was an “interim arrangement” pending the submission of new Section 357A compensation schemes by the States and UTs. The Court discusses an affidavit in which the State of Haryana reveals that its Section 357A scheme will cover 100% of survivors’ long-term treatment costs, including plastic surgery and psychological care. The Court directs the other States and UTs to submit affidavits stating their views on the Haryana Scheme prior to the next scheduled hearing on 15 April 2014.
2014.04.22	The Laxmi Court directs the defaulting states to ensure “that compliance of the order dated 3.12.2013 is positively made within ten weeks from today and affidavit of compliance is filed in this Court on or before 15.7.2014 failing which the Court may have to initiate contempt proceedings against the defaulting states.”

## 2. Landmark Government Reports

### a. National Commission for Women Report, 2008

In its Annual Report of 2008-09, the NCW announced that it had drafted a Scheme for Relief and Rehabilitation of Offences (by Acids) on Women (“NCW Scheme”).<sup>3</sup> The NCW Scheme aims to provide survivors with “medical treatment services” and “social and psychological support” calibrated to the individual needs of each survivor. It observed: “Acid attacks permanently disfigure, debilitate and eventually destroy the victim, both physically and psychologically.” It acknowledged that the victim needs both “short term and long term medical facilities in the form of specialized plastic surgery.”

The NCW Scheme proposes to establish a federalized system of “Criminal Injuries Compensation Boards” at the national, state, and district levels that would only deal with cases of acid attack. The six-member National Board would, inter alia, administer a pool of compensation funds (a proposed Rs. 33 crore to be funded by taxes on acid manufacturers, fines levied by criminal courts, and contributions from the Centre Government), issue rehabilitation scheme guidelines in consultation with the Centre and State governments, and monitor the activities of State Boards. The seven-member State Boards would hear appeals from the District Boards, and otherwise oversee the District Boards’ activities. The five-member District Boards would have “exclusive jurisdiction” to hear applications for compensation and authority to issue up to Rs. 25 lakhs to survivors (inclusive of interim compensation up to Rs. 5 lakhs to pay hospitals for a survivor’s early treatment). Under the Scheme, Boards at all three levels of government would have the authority to “issue directions to the appropriate authorities under the Scheme for ensuring proper medical, psychological and legal assistance to the victim,” and

3. See NCW, Annual Report 2008–09, Annexure IV. On 29 January 2009, the NCW issued a revised version of the Scheme, which is the version analyzed here.

compensation and rehabilitation services are to be provided irrespective of the outcome of any related criminal legal proceedings.

The final body established by the NCW Scheme is the District Monitoring Committee (“DMC”), which would perform most of the day-to-day work of providing survivors with individualized rehabilitation and assistance, under the oversight of the District Board. With regard to rehabilitation, the DMC would arrange for “psychological and medical aid and counseling,” arrange for shelter as appropriate, provide “other support services,” and generally “facilitate the victims’ rehabilitation.” For “young victims,” the DMC would oversee their education and occupational training, and help them to secure employment. The DMC would also participate in legal proceedings, including arranging for “legal aid to the victim in filing the FIR till the conclusion of the trial”; monitoring and expediting investigations; and assisting “in opposing bails, filing appeals and making application for protection of the victim.” Finally, the DMC would be charged with maintaining records of acid attacks and educating the public, law enforcement officers, and other stakeholders about acid violence.

While the compensation portion of the NCW Scheme did not get much traction in the legislature, the second portion, which proposes amending the Indian Penal Code (“IPC”) and Code of Criminal Procedure (“CrPC”), closely resembles recommendations made by the Law Commission of India in a 2008 Report,<sup>4</sup> and the recommendations in the Justice Verma Committee report of 2013, which in turn spurred actual amendments to the CrPC and IPC in 2008 (amendments to CrPC Section 357A, as discussed in the following section) and 2013 (amendments to IPC section 326A and 326B).<sup>5</sup>

## **b. Law Commission of India Report, 2008**

In July 2008, the LCI submitted a report to the Laxmi Court entitled *The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a law for Compensation for Victims of Crime* (“2008 LCI Report”). Although not required to submit a report, the LCI “decided to take up the matter suo moto in view of the gravity of the offence of acid attacks.”<sup>6</sup> In many ways, the report is a boon to advocates seeking compensation for survivors. It is divided into six chapters, including the following: a comprehensive overview of physical harms of acid attacks and acknowledgement that attacks cause significant psychological, social, and economic harms (Chapter II); a critical review of approximately 15 acid violence court cases in India between 1969 and 2007 (Chapter III); a discussion about past Supreme Court decisions and other countries’ laws (focusing on Canada and the UK) that require compensation for survivors of certain crimes (Chapter V); and conclusions and recommendations (Chapter VI). For the purpose of this chapter, we shall be discussing only chapter III and VI in detail.

In Chapter III, the LCI reviews past acid attack cases in Indian courts from 1969–2007. The chapter is noteworthy for its critical tone. For example, the report refers to one judge’s sentence of a convicted attacker as a “mockery” and

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4. Discussed below.

5. See Code of Criminal Procedure (Amendment) Act of 2008 (amending the CrPC at Section 357A to address compensation for survivors); Criminal Law (Amendment) Act of 2013 (amending the IPC at Section 326 to criminalize acid attacks as a separate offense).

6. LCI 2008 Report, supra note 1, at 3.

frequently criticizes the fines levied by judges as “insignificant” and “meager.”<sup>7</sup> Even in discussing a “landmark case” where the judge levied a fine of Rs. 5 lakhs “to meet the [survivors’] medical expenses including that of plastic surgeries,” the report still criticizes the decision because “no compensation was awarded for the after effects of the attack such as loss of income etc.”<sup>8</sup> The LCI also noted that the “victims suffer a great deal due to a slow judicial process, inadequate compensation and obviously from the after effect of the attack itself.”<sup>9</sup>

After reviewing all 15 cases, the LCI offers the following conclusion:

In most of the cases no compensation has been awarded. In those in which compensation has been awarded the sum is minimal and is totally inadequate to meet even the medical expenses. Normally courts just levy fines without even giving these to the victims. The section on Compensation in the CrPC [that this report proposes be enacted] should therefore clearly spell out that the fines levied should be given to the victim or their dependents. . . . [T]here is an urgent need . . . to setup a Criminal Injuries Compensation Board in India to deal with such cases in an effective and efficient manner, to help the victims of acid attack to get compensation for medical expenses and rehabilitation apart from making Section 357 CrPC mandatory in certain respects.<sup>10</sup>

Second, in Chapter VI, the Law Commission gives its final conclusions and recommends three major legislative reforms: increased criminal sanctions for perpetrators of acid violence, increased regulation of acid sales, and a new law for compensating survivors.<sup>11</sup> Most importantly, the LCI points out that Section 326 of the IPC, which previously dealt with causing grievous hurt by throwing of a corrosive substance, was “insufficient/ inadequate to deal with the issue”<sup>12</sup>:

Firstly, the definition of grievous hurt is not broad enough to cover the various kinds of injuries which are inflicted during acid attacks. Secondly, the section does not cover the act of administering acid. Thirdly, the section gives a wide discretion to the courts as far as punishment is concerned. The cases on acid attacks in India show that normally, inadequate punishment is awarded in these cases. Fourthly, the section in the IPC does not punish the intentional act of throwing of acid if no injuries occur. Lastly, the section also does not specify who the fine be awarded to.<sup>13</sup>

While the LCI proposes specific language for reforming the criminal law (similar in many respects to the language in the 2008 NCW Scheme),<sup>14</sup> its recommendation regarding compensation is framed in much more general terms:

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7. *Ibid.*, 16, 17, 20.

8. *Ibid.*, 20 (discussing *State of Karnataka by Jalahalli Police Station vs. Joseph Rodrigues S/o V.Z. Rodrigues*, High Court of Kerala, decided 22 August 2006).

9. *Ibid.*, 21.

10. *Ibid.*, 21.

11. *Ibid.*, 42-44.

12. *Ibid.*, 42.

13. *Ibid.*, 42.

14. It should be noted, however, that the LCI had been advocating for similarly reforms at least since 1994, when it first proposed adding a provision for compensating survivors of crime at CrPC Section 357A. See S. Muralidhan, *Rights of Victims in the Indian Criminal Justice System*, Nat’l Human Rights Comm’n J. 3-4 & notes 49-50 (2004), available at <http://www.ihrc.org/content/a0402.pdf>.

We propose that a law known as “Criminal Injuries Compensation Act” be enacted as a separate Law by the government. This law should provide both interim and final monetary compensation to victims of certain acts of violence like Rape, Sexual Assault, Acid Attacks etc. and should provide for their medical and other expenses relating to rehabilitation, loss of earnings etc. Any compensation already received by the victim can be taken into account while computing compensation under this Act.<sup>15</sup>

In summary, the Law Commission’s 2008 Report is useful to advocates for at least three reasons. First, it provides a reputable Indian Government source that explains the severity of the physical, psychological, social, and economic harms caused by acid attacks. Second, it endorses a relatively expansive view of the kinds of injuries and needs for which survivors are entitled to receive compensation and rehabilitation. These include medical rehabilitation (including surgical and psychological),<sup>16</sup> various forms of economic loss,<sup>17</sup> and the somewhat imprecise (though expansive) category of the “after effects” of an attack.<sup>18</sup> And third, the report seems to implicitly endorse the proposition that Articles 21 and 38(1) of the Constitution of India (as interpreted by two Supreme Court judgments from the 1990s which direct the Government to provide rape survivors with rehabilitation) provide a viable constitutional grounds for requiring the Government to compensate survivors of acid violence.

### **3. Constitutional and Statutory Provisions for Seeking Compensation**

#### **a. Constitutional provisions**

In 1995 and 1996, a pair of Supreme Court judgments established an obligation under Articles 21 and 38(1) of the Constitution for the Government to provide rape survivors with compensation.<sup>19</sup> One remarkable aspect of these decisions is that their underlying reasons and rationales are even more convincing when applied to survivors of acid violence, thus providing a readymade constitutional argument for extending these two cases to those who have survived acid attacks.<sup>20</sup>

In the 1995 case of *Delhi Domestic Working Women’s Forum v. Union of*

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15. *Ibid.*, 44.

16. See, e.g., *ibid.*, 6 (“proper treatment, aftercare and rehabilitation”); *ibid.*, 21 (“medical expenses and rehabilitation”); *ibid.*, 8 (referring to “compensation to cover vital surgeries for victims who can no longer support themselves” as “imperative”).

17. See *ibid.*, 6 (“economic rehabilitation”); *ibid.*, 20 (“loss of income”); *ibid.*, 44 (“loss of earnings”).

18. See *ibid.*, 16 (referring to “after effects” that “are distinct and scar the victim”); *ibid.*, 20 (offering two examples of “after effects” as “loss of income etc.” and “trauma which affects the victim throughout her life”).

19. Cf. Const. of India, Art. 38(1) (““The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.”).

20. Moreover, practical considerations should not decrease the appeal of this arguments appeal vis-à-vis judges concerned about separation of powers issues, as the relatively low number of acid attack survivors in India means that the Government could implement such a decision with negligible impact on its budget.

India,<sup>21</sup> the Supreme Court declared it “necessary” under Article 38(1) for the government to establish a “Criminal Injuries Compensation Board” that would compensate rape survivors for their “pain, suffering and shocks as well as loss of earnings,” regardless of whether a conviction takes place.<sup>22</sup> The Court then directed the NCW, a respondent in the case, to develop a compensation scheme consistent with the judgment, which would be implemented by the Union of India.<sup>23</sup>

The Delhi Domestic Court justified its decision by remarking, “in recent times, there has been an increase in violence against women causing serious concern,” and by characterizing rape as a “trauma” and “an experience which shakes the foundations of the lives of the victims. For many, its effect is a long-term one, impairing their capacity for personal relationships, altering their behaviour and values and generating endless fear.”<sup>24</sup> The Court also quotes the following passage from O’Reilly with approbation:

We are now victim-oriented and have taken an active role in getting the entire helping network lawyers, doctors, nurses, social workers, rape crises centre workers to talk and to interact together . . . . We are then in a position to concentrate fully on the primary goal that unites us all helping victims of sexual assault to get their lives back together.<sup>25</sup>

In the 1996 case of *Bodhisattwa Gautam v. Shubhra Chakraborty*,<sup>26</sup> the Supreme Court extended the reach of its Delhi Domestic judgment by finding that courts have jurisdiction to award not only final compensation upon conviction, but interim compensation as well:

This decision recognises the right of the victim for compensation by providing that it shall be awarded by the Court on conviction of the offender subject to the finalisation of Scheme by the Central Government. If the Court trying an offence of rape has jurisdiction to award the compensation at the final stage, there is no reason to deny to the Court the right to award interim compensation which should also be provided in the Scheme. On the basis of principles set out in the aforesaid decision in Delhi Domestic Working

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21. 1995 SCC (1) 14, JT 1994 (7) 183 (19 Oct. 1994), available at <http://indiankanoon.org/doc/1765970/>.

22. *Ibid.*, para. 15 (“(7) It is necessary, having regard to the Directive Principles contained under Article 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too dramatized to continue in employment. (8) Compensation for victims shall be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of the child but if this occurred as a result of the rape.”).

23. *Ibid.*, para. 18 (“Having regard to the above provisions, the third respondent [i.e., the NCW] will have to evolve such [compensation] scheme as to wipe out the tears of such unfortunate victims. [S]uch a scheme shall be prepared within six months from the date of this judgment. Thereupon, the Union of India, will examine the same and shall [take] necessary steps for the implementation of the scheme at the earliest.”).

24. *Ibid.*, para. 13.

25. *Ibid.*, para. 14.

26. 1996 AIR 922, 1996 SCC (1) 490 (15 December 1995), available at <http://indiankanoon.org/doc/642436/>.

Women's Forum, the jurisdiction to pay interim compensation shall be treated to be part of the overall jurisdiction of the Courts trying the offences of rape which, as pointed out above is an offence against basic human rights as also the Fundamental Right of Personal Liberty and Life.<sup>27</sup>

The Court spoke at length and with eloquence about the nature of Fundamental Rights (inclusive of Article 21) and the Directive Principles (inclusive of Article 38) under the Constitution:

This Court through its various decisions has already given new dimensions, meaning and purpose to many of the fundamental rights especially the Right to Freedom and Liberty and Right to Life. The Directive Principles of the State Policy have also been raised by this Court from their static and unenforceable concept to a level as high as that of the fundamental rights.

This Court has, innumerable times, declared that "Right to Life" does not merely mean animal existence but means something more, namely, the right to live with human dignity. [Citations omitted]. Right to Life would, therefore, include all those aspects of life which go to make a life meaningful, complete and worth-living. Unfortunately, a woman, in our country, belongs to a class or group of society who is in a disadvantaged position on account of several social barriers and impediments and has, therefore, been the victim of tyranny at the hands of men with whom they, fortunately, under the Constitution enjoy equal status. Women also have the right to life and liberty; they also have the right to be respected and treated as equal citizens. Their honour and dignity cannot be touched or violated. They also have the right to lead an honourable and peaceful life. Women, in them, have many personalities combined. They are Mother, Daughter, Sister and Wife and not play things for centre spreads in various magazines, periodicals or newspapers nor can they be exploited for obscene purposes. They must have the liberty, the freedom and, of course, independence to live the roles assigned to them by Nature so that the society may flourish as they alone have the talents and capacity to shape the destiny and character of men anywhere and in every part of the world.

Rape is thus not only a crime against the person of a woman (victim), it is a crime against the entire society. It destroys the entire psychology of a woman and pushed her into deep emotional crises. It is only by her sheer will power that she rehabilitates herself in the society which, on coming to know of the rape, looks down upon her in derision and contempt. Rape is, therefore, the most hated crime. It is a crime against basic human rights and is also violative of the victim's most cherished of the Fundamental Rights, namely, the Right to Life contained in Article 21. To many feminists and psychiatrists, rape

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27. Ibid. ("This decision recognises the right of the victim for compensation by providing that it shall be awarded by the Court on conviction of the offender subject to the finalisation of Scheme by the Central Government. If the Court trying an offence of rape has jurisdiction to award the compensation at the final stage, there is no reason to deny to the Court the right to award interim compensation which should also be provided in the Scheme. On the basis of principles set out in the aforesaid decision in Delhi Domestic Working Women's Forum, the jurisdiction to pay interim compensation shall be treated to be part of the overall jurisdiction of the Courts trying the offences of rape which, as pointed out above is an offence against basic human rights as also the Fundamental Right of Personal Liberty and Life."); see also LCI 2008 Report, 39 (discussing Bodhisattva Gautam).



is less a sexual offence than an act of aggression aimed at degra[d]ing and humiliating women. The rape laws do not, unfortunately, take care of the social aspect of the matter and are inept in many respects.<sup>28</sup>

Although written with rape survivors in mind, the above excerpt—and the final paragraph in particular—clearly applies with equal (or even greater) cogency to survivors of acid violence.

It view of all this, it is particularly interesting that the LCI opens Chapter V (“Compensation for the Victim”) of its 2008 Report to the Laxmi Court with a discussion of the Delhi Domestic and Bodhisattwa Gautam judgments. In doing so, the LCI seems to advance an implicit argument that, since the nature of acid attack survivors’ injuries and needs are no less severe than those of rape survivors, logic would seem to require that the Delhi Domestic and Bodhisattwa Gautam interpretation of Articles 21 and 38(1) be extended to cover survivors of acid violence as well.<sup>29</sup> Notwithstanding the unassailable logic of this position, however, the Commission seems reluctant to make this argument directly to the Laxmi Court. Rather, the Commission avoids the constitutional question pivoting to a review of the 2008 NCW Scheme and compensation legislation in Canada and the UK, and then ultimately recommending that compensation for acid attack survivors be provided through legislative reform.<sup>30</sup> Notwithstanding this recommendation, the LCI makes a compelling, if unspoken, case for extending the Delhi Domestic and Bodhisattwa Gautam judgments to cover acid attack survivors. This argument may provide the most promising constitutional basis for winning compensation for survivors.<sup>31</sup>

## 2. CrPCSection 357

CrPC section 357 was the main provision under which compensation for acid attack survivors was derived from before the Code of Criminal Procedure

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28. Ibid.

29. See LCI 2008 Report, 38-39; see also *ibid.*, 39 (criticizing the NCW’s proposed legislation for “restricting the function of the board [i.e., the NCW’s proposed National Acid Attack Victims Assistance Board] to only acid attack cases,” presumably because it would be more efficient to have a single scheme for assisting survivors of both rape and acid attacks, thus implicitly buttressing the argument for extending Delhi Domestic Working Women’s Forum and Bodhisattwa Gautam to acid attack survivors).

30. *Ibid.*, 41 (“After looking at the various legislations we feel that a separate act should be proposed for dealing with compensation to victims of acid attacks, rape, sexual assault, kidnapping etc. We are suggesting a broader legislation so that it can deal with the problems of victims of different crimes who need rehabilitation and compensation for survival.”).

31. One counterargument to this position is that Delhi Domestic and Bodhisattwa Gautam were decided in a pre-Section 357A world, where the Constitution required that judicial remedies be fashioned as ad hoc placeholders until such time as the executive or legislature got its act together to provide a suitable permanent remedial scheme. Now that legislature has exercised its inherent police powers to provide such a scheme in CrPC Section 357A, so the argument might go, the judicial remedy no longer serves a valid purpose and should exit the stage. The problem with this argument, however, is that Delhi Domestic and Bodhisattwa Gautam are constitutional decisions—i.e., they establish a non-derogable constitutional floor for judging the adequacy of any government scheme concerning compensation of rape survivors. If these cases could be extended to cover survivors of acid violence, the same would be true there.



(Amendment) Act, 2008. Section 357(1)(b) gives courts discretion to order “payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court.” Historically, however, judges have only used Section 357 to impose token fines on those convicted of perpetrating acid violence.<sup>32</sup> An important aspect of Section 357 is that constitutional limitations on sentencing require that any fines imposed under 357 for providing restitution to the victim must be balanced against imprisonment imposed on the perpetrator. A judge has to make a decision on whether they want to order a big fine or a greater prison sentence, because usually they cannot order both. Secondly, there are constitutional limitations on a judge’s ability to use 357 irrespective of any imprisonment imposed. Namely, restitution ordered under 357 must be rationally related to a perpetrator’s ability to pay. In other words, a judge cannot order a destitute perpetrator to pay the victim a vast sum of money, regardless of the extent of the harm caused by the perpetrator which, in the case of an acid attack is likely to be great.

### **3. CrPC Section 357A**

Because CrPC Section 357, which leaves the subject of compensation entirely to the judge’s discretion, has proven to be grossly inadequate in compensating survivors, the Code of Criminal Procedure (Amendment) Act, 2008 (Act. No. 5 of 2009) introduced Section 357A. The core provision of Section 357A provides that “every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and who require rehabilitation.”<sup>33</sup> In other words, Section 357A requires the State/UT Governments to develop comprehensive compensation schemes for compensating victims of crime, including survivors of acid violence.

In its order dated 11.02.2011, the Laxmi Court rebuked the State and UT Governments for failing to prepare any survivor compensation schemes under Section 357A and directed the Home Ministry, in coordination with the States and UTs, “to prepare schemes as provided in Section 357A for the purpose of providing compensation to victims of crimes, in particular acid attack victims.”

### **4. CrPC Section 357B**

The compensation payable by the State Government is in addition to the fine payable to the victim under Section 326A and 376D of the IPC.

### **5. CrPC Section 357C**

Introduced by Criminal Law (Amendment) Act, 2013, CrPC Section 357C states, “All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately provide

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32. LCI 2008 Report, 17.

33. CrPC Section 357A(1).

first-aid or medical treatment free of cost, to the victims of any offence covered under Section 326A, 326B, 367A, 376B, 376C, 376 D or Section 376E of the Indian Penal Code and shall immediately inform the police of such incident.” This provision clearly states that hospitals, whether public or private, are statutorily required to provide medical treatment free of cost in cases of acid attacks (Sections 326A, 326B). Chanchal Paswan, an acid violence survivor from Bihar, was brought to Delhi’s Safdarjung Hospital for treatment. Chanchal is a dalit girl who was attacked by four youths in October 2012. Even nine months after she was attacked, her statement was not recorded. In Chanchal’s case, it was the Scheduled Castes Commission that stepped up and gave Chanchal and her sister a compensation of Rs. 2 lakhs 42 thousand; but even this amount, according to the family, did not suffice for her treatment as she had 90% burns on her face. As per the circular from the Health and Family Welfare Department on “Immediate and free medical treatment to the victims of acid attack,” dated 19 December 2013, “duty is cast on every hospital management that no victims of acid attack (vitriolage) will be returned without providing the victim first aid or immediate medical treatment, free of cost.”<sup>34</sup> Chanchal’s testimony quoted below brings out her plight in Bihar and how she got transferred to Safdarjung hospital in Delhi.

“I went to hospital, there were no senior doctors, only junior doctors, I reached there at around 2 AM, they were not starting my treatment; my treatment was started around 10am. I was writhing in pain. My sister and I were made to sleep on the same bed in the same room as dead corpses. My treatment was started only because media people came to cover the incident. The treatment and behaviour of the hospital staff was very bad, they used to taunt us saying that we don’t own the hospital. After a fight with doctor and nurses we came to Safdarjung Hospital in Delhi (a distance of over 1,000 kms) where I had four surgeries.”<sup>35</sup>

Chanchal’s experience is not an exception. In the Machlipatnam case (see testimonies of Hajida and Asma), Hajida and her mother were taken to a Government Hospital in Vijaywada (they were initially admitted to Machilipatnam Government Hospital). There they had the most humiliating experience due to the behaviour of the hospital staff and doctors. Neither was given proper medical treatment or care. Zareena, Hajida’s mother, succumbed to her injuries and the close family members attributed her death to medical negligence.

## **4. Public Interest Litigations with respect to compensation for acid attack survivors**

### **a. Laxmi vs. Union of India and others**

This section discusses the relevance of Laxmi vs. Union of India and others to CrPC Section 357A, as this PIL interpreted 357A to require Rs. 3 lakhs as minimum compensation for survivors of acid attacks. After seven years of litigation in the case, the Laxmi Court’s Order of April 16, 2013 sounded an exasperated tone. The Court noted, “tragic incidents of acid attacks continue to happen” and cited Government inaction as the primary cause. To stem the flow

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34. Circular from Government of National Capital Territory of Delhi, Health and Family Welfare Department, dated 19/12/2013, signed by Special Secretary (Health), S.B Shashank.

35. Ibid., from Chanchal’s testimony.

of acid attacks and provide justice to survivors, the Court directed the Centre and State/UT Governments to turn their attention to three key areas: (1) the need for laws regulating the sale and storage of acid, (2) treatment and rehabilitation of survivors, and (3) the preparation of victim compensation schemes under Section 357A.

In its order dated 18.07.2013, the Laxmi Court declared virtually all the States' 357A compensation schemes, which provided compensation of between Rs. 50,000 – Rs. 2 lakhs, to be “inadequate” and directed that 357A schemes “must be enhanced to at least Rs. 3 lakhs.” The Laxmi Court also stated, “of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard.”

On 03.12.2013, the Laxmi Court clarified that the Rs. 3 lakhs minimum compensation established in its Order of 18 July 2013 was an “interim arrangement” pending the submission of new Section 357A compensation schemes by the States and UTs. The Court also discussed an affidavit in which the State of Haryana revealed that its forthcoming Section 357A scheme would cover 100% of survivors' long-term treatment costs, including plastic surgery and psychological care. The Court directed the other States and UTs to submit affidavits stating their views on the Haryana Scheme prior to the next scheduled hearing, which occurred on 22 April 2014.

On 22.04.2014, the Laxmi Court directed the defaulting states to ensure “that compliance of the order dated 3.12.2013 is positively made within ten weeks from today and affidavit of compliance is filed in this Court on or before 15.7.2014, failing which the Court may have to initiate contempt proceedings against the defaulting states.”

### **b. Campaign and Struggle against acid attacks on women (CSAAAW) vs. Department of Women and Child Welfare, State of Karnataka and others**

In the CSAAAW PIL, the Court considered three appeals together for consideration on 22.08.2006: (1) the appeal (No. 1239/2004) filed by the accused as he was aggrieved by the judgment of 06.05.2005 sentencing him to 5 years and 3 months of imprisonment and fine; (2) the appeal (No.1065/2004) filed by the State as it was aggrieved by the acquittal of the accused for offence under Section 307 of IPC; and (3) the State's appeal (No. 1066/2004) under section 377 of CrPC praying for enhancement of the sentence under Section 326 of IPC, on the ground that the sentence was inadequate. The CSAAAW Court lamented that Trial Court had “committed grave and serious error in not taking into consideration the discrepancies in material particulars”, “made an error in acquitting for the said charge of attempt to murder” and that the “punishment imposed namely rigorous imprisonment for 5 years” under Section 326 of IPC, in the “light of the grievous nature of injuries especially like losing both the eyesight, disintegration of the entire face of a beautiful girl, is very lenient one.” The CSAAAW Court not only sentenced the accused, Joseph Rodrigues to imprisonment for life under Section 307 of the IPC, but also awarded a compensation of Rs. 2,00,000 in addition to the fine awarded by the Trial Court (Rs. 3,20,000).

## Special Note on Compensation for Families of Victims of Fatal Acid Attacks

One aspect of compensation that has yet to be addressed in depth is the remuneration awarded to families of acid attack victims who have succumbed to their injuries. Quantifying the level of compensation is complex. Traditionally, courts consider whether or not the victim had a job, whether they had future potential through employment, and whether unpaid work at home facilitated economic activity for other family members.

In Gujarat, the Victim Compensation Scheme clearly states the compensation will be paid either to the victim or to the family (in case of death).<sup>36</sup> In 2013, the Punjab Government decided to bear the full costs of an acid attack survivor's medical treatment and agreed to award Rs. 5 lakhs as compensation for death due to acid attack.<sup>37</sup> A jealous neighbor attacked Preeti Rathi in May 2013, and she sadly succumbed to her injuries some months later.<sup>38</sup> Her family refused to accept the Rs. 2 lakhs compensation offered by the State government.<sup>39</sup> Although the reasons for their refusal are not apparent in media reports, activists speculate that they considered Rs. 2 lakhs too meager an amount to be offered as compensation for the death of Preethi, whose income would have contributed substantially to her family.

In a recent case of acid attack in Machlipatnam, Andhra Pradesh, Hajida and her mother, Zareena, both suffered severe burns.<sup>40</sup> Due to inadequate medical care, Zareena succumbed to her injuries (see also testimonies of Asma and Hajida). Till date, the family has not received compensation for the loss of Zareena's life.

[TESTIMONIES BELOW WILL APPEAR IN BOXES WHEN WE LAY OUT THE CHAPTER]

### Hajida's statement

My parents were of late very worried about my marriage. I was previously engaged to someone who was married and I was very scared that he would beat me up. Just like how my sister Asma's husband beats her up. I refused to marry him and since then, my ammi has been trying to find me a suitable match. We were staying in a rented house in Maggala Colony, Rajupet, Machlipatnam. Our neighbour, Subhani, proposed to marry me. We knew him for almost six months. We also knew that he was married with two children. So, my parents decided not to accept this proposal as he was married already. I was also very scared of marrying an older man. He seemed to be a very soft spoken person and I had no ill will towards him. But my parents were against this right from the beginning. My sister and

36. [http://home.gujarat.gov.in/Upload/Notification\\_dated\\_15\\_may\\_2014.pdf](http://home.gujarat.gov.in/Upload/Notification_dated_15_may_2014.pdf).

37. <http://timesofindia.indiatimes.com/city/chandigarh/Punjab-to-bear-total-cost-of-treatment-for-acid-attack-victims/articleshow/27698312.cms>.

38. <http://www.hindustantimes.com/india-news/stopacidattacks/till-death-she-just-kept-asking-why-acid-attack-victim-preeti-rathi-s-mother/article1-1098356.aspx>.

39. <http://www.hindustantimes.com/india-news/mumbai/acid-victim-s-kin-reject-state-compensation/article1-1071228.aspx>.

40. <http://www.ndtv.com/article/south/arrest-made-for-acid-attack-on-two-women-in-andhra-pradesh-501864>.

my parents were quarrelling a lot about this and after one such quarrel at Asma's residence, my mother and I were returning to our residence. This was around 10 PM. Just as we were unlatching the gate to enter, we saw Subhani standing a few meters away from the gate. Before we could talk to him, he picked up a bucket and flung some liquid on me. I didn't realise what it was but I started shrieking. My mother immediately put her arms around me protectively and turned me away from him. Undeterred, he flung the liquid at us again and this resulted in the liquid falling on my mother's body too. After a few minutes, it started burning and hearing our shrieks, our neighbours came to our rescue. They told us that the liquid that has been flung on us is acid and seeing us scream, poured water on us. My mother, not able to tolerate the pain, fainted. An ambulance arrived in 20 minutes and we were taken to Machilipatnam Government Hospital. I was too much in pain and I lost consciousness soon after. I don't remember much after this. I remember waking up in another room and I was told I am in Vijaywada. After 20 days from the day I was attacked, I saw my mother for the first time. Though I was in pain myself, I couldn't understand why my mother seemed worse. When I last saw her, which is after getting admitted to Machilipatnam Government Hospital, her wounds appeared smaller. Now they looked so bad that I couldn't stop crying. She was in pain and my sister told me that she hasn't been eating anything at all. My mother was the only person who has been taking care of me since I was small. I never went to school or to work. I was always in the house, with my mother. She understood my fear of marriage and didn't force me to marry anyone. I don't know why this happened to us. When I looked at myself in the mirror for the first time, I couldn't recognise myself. On one side I was praying that my mother gets better, but on the other side I was disgusted at my own face. Even the nurses would come in front of me with their noses covered and refused to even touch me. They said I smelled bad. There was nobody to talk to me about my injuries. My sister supported me and helped me day in and day out. I was experiencing difficulty in seeing and breathing. It was getting better but was taking time. My sister also kept telling me that after the doctors operate on me, my face will look like before. I was feeling little hopeful. But before any of this could happen, my mother died. Everybody told me that she couldn't be saved because her injuries were very bad. But all the time that my mother was at the hospital, she hardly ate anything. The nurses weren't even touching her. The doctor was just giving tablets. Nobody tried to save her. How can anybody say that she died only because of her injuries? My mother was the only person who was with me all this while. My sister is married, my brother is married, and my father never speaks to me much. I am not married. Who do I have?

### **Asma's statement**

After both of them were admitted to Machilipatnam Government Hospital, we were told to take them to Vijaywada. We admitted them to Government General Hospital in Vijaywada with the hope that they'll be treated well here. But that's not what happened. The doctors would come for check up, look at them from a distance and prescribe medicines. The nurses wouldn't touch my mother or my sister. They would enter the room covering their nose, throw the medicines at me and leave. I was the one who cleaned their wounds, applied ointment and dressed the wounds, cleaned them from time to time. My father and brother helped me

occasionally but the nurses never did. If I requested them to help, they would abuse me. We didn't have any money or any moral support. Luckily, Haseena (acid attack survivor from Bangalore) spoke to the Collector of Machlipatnam after which few representatives of the Mahila Mandal visited us. After a few days, they visited us again and gave us two cheques of Rs. 50,000 each. Following this, we didn't have much difficulty in procuring medicines. But my mother's situation seemed to be worsening as the days progressed. She was complaining of more pain and the tablets weren't helping her. Her wounds looked worse than before and we kept telling the doctors to do something about it. But the doctor said that all he can do is to prescribe medicine.. My mother hardly ate anything at all. Whenever we tried to feed her, she couldn't eat anything. I didn't know how to help her. She died on 06.05.14. Her last few days were painful. She could hardly eat or sleep. My mother had always taken care of our family and kept us together. I don't know who'll keep us all together like she did anymore. Now, my sister lives with me and is still suffering from the attack. My husband keeps abusing me and beating me all the time because I am always taking care of Hajida. He doesn't care that my mother is dead and that I have to take care of my sister. Hajida keeps asking me when her face will look like before again. Though we are talking to a doctor from Andhra Hospital, we don't know whether we'll be able to afford it. Hajida and my mother were given only Rs. 50,000 each. Hajida has been told to take many tablets every day and the money will run out soon. I don't know how Hajida will look like she used to without money.

## **Commentary on Victim Compensation Schemes**

The recent order by the Supreme Court in Laxmi vs. Union of India dated 16.04.2013, mandated all states to enact acid attack victim compensation schemes. While many states have enacted schemes in compliance, only the Haryana compensation scheme provides a realistic appraisal of the issues survivors face, whereas other states have not allocated sufficient funds for survivor welfare and full rehabilitation.

The Bihar scheme offers a meager sum of Rs. 25,000 to survivors of acid attacks; Goa and Himachal Pradesh offer Rs. 50,000; Gujarat and Arunchal Pradesh offer Rs. 1,00,000; Uttar Pradesh offers Rs. 1,50,000; Jammu and Kashmir and Maharashtra schemes offer compensation to acid survivors between Rs. 2,00,000 to Rs. 3,00,000. These amounts would not cover even one corrective surgery, leave alone addressing the acid attack survivor's psychological trauma, economic insecurity and rehabilitation-related issues. (Refer to Appendix 2 for VCS in other states.)

Most of the states that implement a victim compensation scheme tend to compensate between Rs. 1 and 3 lakhs in the case of loss of life. The Union Territory of Puducherry is at a high end of the current range in this regard, with a payment for loss of life between Rs. 3 and 5 lakhs. All the states with a victim compensation scheme take into consideration the physical trauma of the victim, and compensate according to the degree of the injury. The amount payable for permanent injury or injuries that render the victim at greater than 80% handicap, ranges between Rs. 50,000 to 300,000 with the Union Territory of Puducherry at the most generous end of the spectrum. The figures for injuries that result in a

handicap of between 40% and 80%, as well as below 20%, also vary. These figures tend to be in the region of Rs. 50,000 and 30,000 respectively, as a national average. However, these numbers vary greatly from state to state. Most states also offer rehabilitation compensation of between Rs. 10,000 and 20,000, and many offer to cover the costs of immediate first-aid, medical benefits, or any other interim relief, as deemed fit.

Whereas most states offer a comprehensive system of compensation with regards to physical injury, nearly all states lack compensation for the mental, psychological and emotional trauma of the victim. Often the victim will need the professional assistance of a specialized social worker, for example, to help them with the social issues that they may face post-attack. Such assistance could extend to finding new housing and establishing new social networks if family and friends abandon or abuse them; assistance in relocating if there is a reasonable fear of reprisal from their attacker or his family (e.g., for filing a FIR, testifying, seeking restitution or fines, speaking out publicly); assistance restarting education or occupational training; and assistance finding employment. As covered in the Chapter on Social and Economic Consequences, it is pertinent to emphasize that such aid is required as it would be unreasonable to expect survivors who are physically and psychologically traumatized, often socially isolated, and who routinely face discrimination—to do all of this on their own. The victim compensation schemes should regard the social and psychological aspects of the victims' requirements as highly as they regard the compensation for physical injury.

The most comprehensive and inclusive compensation scheme, appears to be the Haryana Victim Compensation Scheme. The state of Haryana offers between Rs. 1 and 3 lakhs for the loss of life, between Rs. 50,000 and 2,00,000 for a loss of any limb or part of the body that causes greater than 80% disability as a result of acid attack. The scheme offers Rs. 1 lakh to be paid within 15 days of the attack and remaining Rs. 2 lakhs within 2 months. In case of the victim's death, the state will pay Rs. 5 lakhs to her legal heirs. (Refer to ANNEXURE1 for salient features of the Haryana scheme.)

The state compensates between Rs. 25,000 and 1,00,000 in the case of a loss of any limb which renders a 50% disability, and Rs. 50,000 for mental agony to a woman or a child – thus recognizing the mental and psychological impacts of an acid attack, as well as the physical injury. Haryana also offers immediate first-aid facilities or medical benefits, available free of charge.

Based on the information given in state government websites, information on victim compensation schemes is tabulated below.<sup>41</sup>

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41. DISCLAIMER: This table is completely based on the information on government websites as on 31 July 2014 and this table may be amended based on States' compliance with the Supreme Court orders to develop and publicise Victim Compensation Schemes.



Name of State/UT	Name of the Scheme	Year of Inception of the Scheme	Amount of Compensation	Time Frame of Compensation Fund Release	Other Benefits
Andhra Pradesh	N.A.				
Arunachal Pradesh	Arunachal Pradesh Victim Compensation Scheme	2012	<ul style="list-style-type: none"> <li>- Acid Attack Rs. 1 Lakh</li> <li>- Loss of any limb or part of body resulting in 80% or above handicap Rs. 50,000</li> <li>- Loss of any limb or part of body resulting in 40% and below 80% handicap Rs. 20,000</li> <li>- Loss of any limb or part of body resulting in below 40% handicap Rs. 10,000</li> <li>- Loss of injury causing severe mental agony to women and child victims Rs. 10,000</li> </ul>	30 days and may be increased in extreme situations	Free immediate medical aid on recommendation of the Deputy Commissioner of District Legal Service Authority
Assam	N.A.				
Bihar	Bihar Victim Compensation Scheme	2011	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 1,00,000</li> <li>- Injuries after an acid attack Rs. 25,000</li> <li>- Loss of injury causing severe mental agony to women and child victims Rs. 25,000</li> <li>- Grievous Hurt as defined in Section 320 of the IPC 1860 Rs. 25,000</li> </ul>	Within 2 months from the date of filing the complaint	Free immediate medical aid on recommendation of the Deputy Commissioner of District Legal Service Authority
Chattisgarh	N.A.				



Goa	Goa Victim Compensation Scheme	2012	<ul style="list-style-type: none"> <li>- In case of death of the sole earning member of the family where children are minor and or unemployed up to Rs. 2,00,000</li> <li>- In case of death of non-earning Member upto Rs. 25,000</li> <li>- Loss of any limb or part of the body resulting 80% or above disability including acid attack up to Rs. 50,000</li> <li>- Loss of any limb or part of the body resulting in 40% and below 80% disability including acid attack up to Rs. 25,000</li> <li>- Loss of any limb or part of the body resulting below 40% disability including acid Attack upto Rs. 10,000</li> <li>- In case of injury causing severe mental agony to women and children up to Rs. 10,00,000</li> </ul>		Immediate first-aid facility or medical benefits to be made available free of cost
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Gujarat	Gujarat Victim Compensation Scheme	2013	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 1,50,000</li> <li>- Loss of any limb or part of body resulting in 80% or above handicap Rs. 1,00,000</li> <li>- Loss of any limb or part of body resulting in 40% and below 80% handicap Rs. 50,000</li> <li>- Permanent disfigurement of head or face by acid (in case of acid attack on women) Rs. 1,00,000</li> <li>- Assault on women disfiguring her face or any part of body by acid or any other weapon Rs. 50,000</li> <li>- In case of injury causing, severe mental agony to women and children Rs. 25,000</li> <li>- Rehabilitation Rs. 50,000</li> </ul>	Within two months	Immediate first-aid facility or medical benefits to be made available free of cost
Haryana	Haryana Victim Compensation Scheme	2013	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 1-3 lakhs</li> <li>- Loss of any limb or part of body (80%) including loss due to acid attack Rs. 50,000 to 2,00,000</li> <li>- Loss of any limb of part of body (50%) including loss due to acid attack Rs. 25,000 to 1,00,000</li> <li>- Loss or injury causing severe mental agony to women and child victims Rs. 50,000</li> </ul>	Within two months	Immediate first-aid facility or medical benefits to be made available free of cost
Himachal Pradesh	Himachal Pradesh (Victim of Crime) Compensation Scheme	2012	<ul style="list-style-type: none"> <li>- In case of death or disability equal to or more than 80% Rs. 1,00,000</li> <li>- In case of acid attack Rs. 50,000</li> <li>- In case of loss of limb etc. where the permanent disablement is equal to or more than 40% but less than 80% Rs. 50,000</li> <li>- In case of grievous hurt Rs. 25,000</li> </ul>	Within 60 Days	Immediate interim aid facility or medical benefit to be made available free of cost

Jammu & Kashmir	Jammu & Kashmir Victim Compensation Scheme	2013	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 2,00,000</li> <li>- Acid victims Rs. 2,00,000 to 3,00,000</li> <li>- Loss of any limb or part of body resulting in 80% of above handicap Rs. 2,00,000</li> <li>- Loss of any limb or part of body resulting in 40% and below 80% handicap Rs. 1,50,000</li> <li>- Injury causing severe mental agony to women and children Rs. 1,00,000</li> </ul>	Within 2 months	Immediate first aid facility or medical benefits to be made available free of cost or any other interim relief as it may deem fit
Jharkhand	Jharkhand Victim Compensation Scheme	2012	<ul style="list-style-type: none"> <li>- Loss of life Rs. 2 lakhs</li> <li>- Loss of any limb or part of body resulting in 80% or above handicap Rs. 50,000</li> <li>- Loss of any limb or any part of the body resulting in above 40% and below 80% handicap Rs. 20,000</li> <li>- Rape Rs. 20,000</li> <li>- Rehabilitation Rs. 20,000</li> <li>- Loss of any limb or any part of the body resulting in below 40% handicap Rs. 10,000</li> <li>- Loss of injury causing severe mental agony to women and children Rs. 10,000</li> <li>- Simple loss or injury to children Rs. 10,000</li> </ul>	Within six months	
Karnataka	Karnataka Victim Compensation Scheme	2011	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 2,00,000</li> <li>- Loss of any limb or part of body resulting 80% or above handicap Rs. 1,00,000</li> <li>- Loss of any limb or part of body resulting 40% and below 80% handicap Rs. 50,000</li> <li>- Loss of any limb or part of body resulting below 40% handicap Rs. 20,000</li> <li>- Grievous injuries Rs. 10,000</li> <li>- Rehabilitation Rs. 20,000</li> </ul>	Within 2 months	Immediate first aid facility or medical benefits to be made available free of cost

Kerala	Kerala Victim Compensation Scheme	Proposed			
Madhya Pradesh					
Maharashtra	Manodhairya	2013	<ul style="list-style-type: none"> <li>- Acid Attack Rs. 2,00,000 to 3,00,000</li> <li>- Complete disfigurement of face or physical handicap in acid attack Rs. 50,000 to 3,00,000</li> <li>- Women and child victims emergency expense upto Rs. 50,000</li> </ul>	Within 2 months	
Manipur	Manipur Victim Compensation Scheme	2011	<ul style="list-style-type: none"> <li>- Loss of life Rs. 1,00,000</li> <li>- Loss of any limb or part of body resulting in 80% or above disability Rs. 50,000</li> <li>- Acid Attack Rs. 50,000</li> <li>- Rehabilitation Rs. 20,000</li> <li>- Loss of any limb or part of body resulting in below 40% disability Rs. 10,000</li> <li>- Loss or injury causing severe mental agony to women and child victims Rs. 10,000</li> </ul>	Within two months	
Meghalaya	Meghalaya Victim Compensation Scheme	2011	<ul style="list-style-type: none"> <li>- Loss or injury causing severe mental agony to women and child victims Rs. 25,000</li> </ul>	Within 2 months	Immediate interim aid facility or medical benefit to be made available free of cost
Mizoram	N.A.				
Nagaland	N.A.				

Odisha	Odisha Victim Compensation Scheme	2012	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 75,000 to 1,50,000</li> <li>- Loss of any limb or part of body resulting in 80% or above disability (including acid attack) Rs. 50,000 to 1,00,000</li> <li>- Loss of any limb or part of body resulting in 40% or above but below 80% disability (including acid attack) Rs. 40,000</li> <li>- Loss of any limb or part of body resulting in 40% or below disability (including acid attack) Rs. 10,000</li> <li>- Loss or injury causing severe mental agony to women and child victims Rs. 10,000</li> </ul>	Within 2 months	Immediate interim aid facility or medical benefit to be made available free of cost
Punjab	See "Haryana Victim Compensation Scheme"	2013	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 1 to 3 lakhs</li> <li>- Loss of any limb or part of body (80%) including loss due to acid attack Rs. 50,000 to 2,00,000</li> <li>- Loss of any limb or part of body (50%) including loss due to acid attack Rs. 25,000 to 1,00,000</li> <li>- Loss or injury causing severe mental agony to women and child victims Rs. 50,000</li> <li>- Loss of two limbs or two eyes Rs. 50,000</li> <li>- Loss of one limb or one eye Rs. 25,000</li> </ul>	Within two months	Immediate first-aid facility or medical benefits to be made available free of cost
Rajasthan	Rajasthan Victim Compensation Scheme	2011			
Sikkim	Sikkim Compensation to Victim or His Dependents Scheme	2011	<ul style="list-style-type: none"> <li>- Physical disfigurement due to attack by acid or other weapon up to Rs. 3,00,000</li> <li>- Ex-gratia for loss of life up to Rs. 2,00,000</li> <li>- Loss of body function resulting in handicap Rs. 30,000 to 1,00,000</li> </ul>		

Tamil Nadu	Tamil Nadu Victim Compensation Scheme	2013	<ul style="list-style-type: none"> <li>- Loss of Life (due to acid attack) up to Rs. 3,00,000</li> <li>- Loss of any limb or part of body (more than 80%) up to Rs. 2,00,000</li> <li>- Loss of any limb or part of body (more than 50%) up to Rs. 1,00,000</li> <li>- Loss or injury causing severe mental agony to women and children up to Rs. 1,00,000</li> </ul>	Within two months	State or the District Legal Service Authority shall award an interim relief of Rs. 3 lakhs to the acid attack victim under sub-section (6) of Section 357(A) of the code, as the after care and rehabilitation cost
Tripura	Tripura Victim Compensation Scheme	2012	<ul style="list-style-type: none"> <li>- Loss of life up to Rs. 1,00,000</li> <li>- Loss of limb or other permanent disability up to Rs. 75,000</li> </ul>	Within two months	Immediate first aid facility or medical treatment to be made available free of cost
Uttar Pradesh	Uttar Pradesh Victim Compensation Scheme		<ul style="list-style-type: none"> <li>- Acid Attack Rs. 1,50,000</li> <li>- Severe trauma caused by physical disability Rs. 1,00,000</li> </ul>		
Uttarakhand	N.A.				

West Bengal	West Bengal Victim Compensation Scheme	2012	<ul style="list-style-type: none"> <li>- Loss of life Rs. 2 lakhs</li> <li>- Loss of limb or any part of the body resulting in above 80% handicap Rs. 50,000</li> <li>- Loss of limb or any part of the body resulting in above 40% and below 80% handicap Rs. 20,000</li> <li>- Rehabilitation Rs. 20,000</li> <li>- Loss of limb or any part of the body resulting in less than 40% handicap Rs. 10,000</li> <li>- Loss or injury to child victims Rs. 10,000</li> </ul>	Within six months	Immediate first aid facility or medical treatment to be made available free of cost
UNION TERRITORY					
A & N Island	N.A				
Chandigarh	Chandigarh Victim Compensation Scheme	2010*			
D & N Haveli					
Daman & Diu					

Delhi NCT	Delhi Victim Compensation Scheme	2011	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 3 to 5 lakhs</li> <li>- Victims of Acid Attack Rs. 50,000 to 3,00,000</li> <li>- Loss of any Limb or part of body resulting in 80% permanent disability or above Rs. 2 to 3 lakhs</li> <li>- Loss of any limb or part of body resulting in above 40% and below 80% permanent disability Rs. 1,00,000 to 1,50,000</li> <li>- Loss of any limb or part of body resulting in above 20% and below 40% permanent disability Rs. 60,000 to 1,00,000</li> <li>- Loss of any limb or part of body resulting in below 20% permanent disability Rs. 50,000</li> <li>- Rehabilitation Rs. 20,000</li> </ul>	<p>- 75% of the compensation shall be put in a fixed deposit for a minimum period of three years and the remaining - 25% shall be available for utilization and initial expenses by the victim. In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit</p>	<p>Immediate first-aid facility or medical benefits or any other interim relief, as deemed appropriate, to be made available free of cost</p>
Lakshadweep					



Puducherry	Puducherry Victim Assistance Scheme	2012	<ul style="list-style-type: none"> <li>- Loss of Life Rs. 3 to 5 lakhs</li> <li>- Victims of Acid Attacks Rs. 50,000 to 3,00,000</li> <li>- Loss of any limb or part of body resulting in 80% permanent disability or above Rs. 2 to 3 lakhs</li> <li>- Loss of any limb or part of body resulting in above 40% and below 80% permanent disability Rs. 1 to 1.5 lakhs</li> <li>- Loss of any limb or part of body resulting in above 20% and below 40% permanent disability Rs. 60,000 to 1,00,000</li> <li>- Loss of any limb or part of body resulting in below 20% permanent disability Rs. 50,000</li> <li>- Rehabilitation Rs. 20,000</li> </ul>	<ul style="list-style-type: none"> <li>- 75% of the compensation shall be put in a fixed deposit for a minimum period of three years, and the remaining 25% shall be available for utilization and initial expenses by the victim.</li> <li>- In the case of a minor, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit.</li> </ul>	<p>Immediate first-aid facility or medical benefits or any other interim relief, to be made available free of cost to the victim</p>
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*Photo: Varsha Jawalgekar*



# Activism And Campaigning

## Suneet Shukla

*—Suneet Shukla worked as a journalist before he moved to New Delhi to work with the Stop Acid Attacks campaign as a communications associate. He now freelances as a communication & media consultant, apart from writing plays, scripts, and essays.*

### Campaigning & activism on acid attacks

Campaigning and activism was the need of the hour to bring to light the numerous cases of acid attacks happening across the sub-continent. Though the country gained a concern towards rampant violence against women post December 16, 2013, because of the ‘Nirbhaya’ gang-rape shame, little has changed for the survivors of acid attacks who continue to live completely isolated lives, despite numerous cases reported.

Two reasons that pushed the start of an aggressive campaign to drive attention of the society towards such brutal abuse were:

1. Disfigurement being such a curse that even families failed to stand by their daughters. Sons still find some support from immediate social circles, but girls fight a greater psychological battle, given the value appearance holds in our ideas of beauty, and beyond.
2. Acid attacks are one form of burns this country’s women are living with. The burn wards of government hospitals across the country are filled with women fighting burns that were aimed at killing them, or disfiguring them beyond recognition, in order to snatch their freedom and confine them. It wouldn’t be wrong to argue that most of these cases where women are being burnt in domestic set-up over estranged relationships and greed are reported ‘accidents’, or even ‘self-immolation’.

Over 136 cases of acid attacks were reported by the print, electronic and new media between January 2013 and February 2013, as per the records of the Stop Acid Attacks campaign. There could be more cases that appeared in vernacular news mediums that do not have an online presence. Many old cases are reaching us through journalists, volunteers and acid attack fighters. Acid attacks are not only turning out to be a crime committed in the intent of disfiguring the victim beyond recognition, but also unfold some of the most bizarre episodes of criminal planning and execution. It is this nature of every acid attack case that makes it necessary to highlight that the act of pouring such harmful chemical on someone

is inhuman, brutal and a grave fundamental rights violation.

Acid attacks are being used to disfigure girls and women, but are also thrown on men, children, and even animals. In some cases, women have been perpetrators. As a civilization, this entire sub-continent needs to slow down and reflect on the way women are being treated in this region, as far as understanding the stories behind acid attacks is considered.

The government's efforts towards curbing such heinous crimes and rehabilitating the victims have been almost nil, except for a few compensation packages distributed with the intervention of state governments, recently. This country's insensitive approach towards saving girls needs to be widely condemned, more so, because the girls who suffer such hate-crimes are the ones who stand for their rights in a relationship and learn to say 'NO'. Delhi, NCR, UP, Haryana, Punjab, West Bengal, MP witness more cases of acid attacks than other states.

Coming out and talking about their ordeal still remains out of thought among most victims; reasons being personal discomfort with disfigurement, absence of families' consent and support, and insensitive response from people around, government and the police authorities.

And if at all, one believes regulating a substance could make things better, acid distribution should be checked at the point of production, instead of regulating its over the counter sale; the sole responsibility of which comes on the seller. In most of the cases, acid is not procured from a shop, but from a confidante source, batteries, or is already within the reach of the perpetrator.

Campaigning and activism to bring the horrific truth of acid attacks in public are important because every society needs to face its evil and get rid of it. It is important because there are just too many cases that have gone unnoticed, leaving scores of women to isolate, confine themselves, or to live on with the men who scarred them. The responsible authority must bring out a method or scheme that helps acid attack survivors come forth for recognition. Even then, several of them would choose to live their lives in complete privacy, given the psychological discomfort disfigurement can cause.

Campaigning for acid attack survivors is necessary, because how we behave with a woman should be taught at home, but how not to behave with her must be shouted out in public.

At Stop Acid Attacks, the source of campaigning has been young survivors of acid attacks fighting the odds thrown at them by the society, who have uncovered their scars and embraced them. They take charge of their lives as 'Newborns'. When we began this campaign in 2013, some of the editors objected to acid attack survivors facing the camera without covering their faces. The only argument was, "The society needs to acknowledge what it allows to happen."

At SAA, the medium of campaigning has been journalism and digital media. The support gathered on social media was tested and utilised on ground at several occasions. The campaign went from city to city marking places where acid attacks happened as a 'Spot of Shame'.

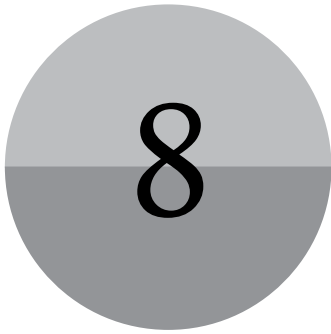
To remain independent on its ideas, values and culture, the campaign practices crowd-sourcing. It has not only raised funds, gathered volunteers and artists for the cause, but has also sourced second hand phones, laptops, and other help

through social media and internet. Many of the young followers of Stop Acid Attacks have helped it sustain at different times in their capacity. Campaigning, and not a developmental organization, is necessary because it is an effort at raising awareness. Awareness leads to introspection, and 'change' finds its place in each of us.

We have realized that there are many among us who wish the well-being of the world.



*Photo: Greeshma Rai*





# International Law

## Kerry McBroom

*—Kerry McBroom is the Director of HRLN's Reproductive Rights Initiative (RRI). The RRI conducts fact-findings, leads trainings, and works to increase access to justice for marginalized women in over 50 high court and Supreme Court cases on maternal mortality, access to safe abortion services, and unsafe and unethical sterilization. Kerry has a BA in international human rights from Cornell University, a JD from American University, and Masters Degrees in International and European Law and Human Rights Law from Université Paris X Nanterre.*

**T**o ensure a comprehensive legal response to acid violence, activists, lawyers, and survivors should examine comparative law for best practices and international law for state obligations. While comparative law provides lessons for Indian activists and legislators, international norms create legal mandates for state actors. This section surveys acid attack legislation from around the world and outlines India's international obligations regarding acid attacks.

## Comparative Law

Acid attacks have been reported in every region of the world, with particularly high incidence in south Asia and in south Asian communities. Most states punish acid violence under the existing norms prescribed for violent crime or gender-based crime (e.g., attempted murder, assault, domestic violence.).<sup>1</sup> Increasingly, countries with higher acid attack rates have enacted specific legislation on acid violence and/or the sale of acid. Bangladesh, the state with the highest rate of acid attacks, has the most comprehensive acid attack legislation in the world. This section outlines a few sample laws and provides a more comprehensive overview of Bangladesh's Acid Crime Control Act (2002) and Acid Crime Prevention Act (2002).

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1. 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), available at: <http://indiankanoon.org/doc/87066215/>.

## Afghanistan

In Afghanistan, perpetrators of acid violence target women and girls who dress “immodestly” or fail to wear a hijab. Religious extremists have also used acid as a weapon to terrorize girls who attend school.<sup>2</sup> Afghanistan’s Elimination of Violence against Women Law (EVAW 2009) specifically criminalizes acid attacks and includes a 10-year to life sentence for convicted attackers.<sup>3</sup> Implementation of the EVAW has stalled and in 2013 the United Nations found that “Afghan authorities need to do more to build on the gains made so far in implementing the EVAW law.”<sup>4</sup>

## Pakistan

A large percentage of acid attacks in Pakistan occur in the context of domestic violence between married couples or when women and girls have “shamed” their families.<sup>5</sup> The Lower House of Parliament unanimously passed the 2011 Acid Throwing Crime Bill which includes a sentence of 14 years to life in prison and a fine of one crore Pakistani Rupees.<sup>6</sup> Under the new law, the conviction rate has increased from 6 percent to 18 percent.<sup>7</sup> In addition to the Bill, the Supreme Court of Pakistan has been a strong force in combatting acid attacks and ensuring justice. As advocate Sikander Naeem reports, “It has become much easier to get a conviction because the Supreme Court has also taken a special interest in such matters. The statement of a victim alone is sufficient for the conviction of an accused.”<sup>8</sup> At the same time, critics have noted that the Bill does not ensure compensation to survivors and that patriarchal norms in the police and judiciary create barriers to justice for survivors.

## Uganda

Perpetrators of acid violence in African countries target both men and women. In Uganda, for example, women comprise 57% of acid attack victims.<sup>9</sup> The

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2. See Dexter Filkins, “Afghan Girls, Scarred by Acid, Defy Terror, Embracing School,” *New York Times*, 1 January 2009 available at: [http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html?\\_r=0](http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html?_r=0).

3. Law on the Elimination of Violence against Women, Islamic Republic of Afghanistan, 1 August 2009 (Article 5).

4. *A Way to Go: An Update on Implementation of the Law on Elimination of Violence against Women in Afghanistan*, United Nations Mission in Afghanistan and United Nations Office of the High Commissioner for Human Rights, December 2013, page 4.

5. Asian Human Rights Commission, *Acid Attacks a Serious Concern in Pakistan* (2010) available at: <http://www.humanrights.asia/resources/journals-magazines/eia/eiav4a1/3-acid-attacks-a-serious-concern-in-pakistan>.

6. Act No. XXV of 2011, An Act further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898, *The Gazette of Pakistan*, Reg. No. M-302, page 497 (28 December 2011).

7. *Agence France-Presse*, *Tough Law Sees Acid Conviction Rate Triple in Pakistan*, (5 March 2013).

8. *Ibid.*

9. Acid Survivors’ Foundation Uganda, *Acid Violence in Uganda: A Situational Analysis* (November 2011), page 7, available at: [http://www.acidviolence.org/uploads/files/Uganda\\_](http://www.acidviolence.org/uploads/files/Uganda_)

primary reported reason for attacks, - “relationship conflicts” – mirrors the Asian context.<sup>10</sup> Property and business disputes also motivate acid violence in Uganda.<sup>11</sup> A number of laws including The National Environment Act, Cap 153, the Control of Agricultural Chemicals Act, No. 1 of 2007, and the East African Community Customs Management Act No 1 of 2005 regulate the sale of acid and chemicals in Uganda. According to Acid Survivors’ Foundation Uganda, “these laws are a ‘framework,’ designed to deal with the general subject of chemical management. Explicit, detailed and specific legislation for hazardous industrial chemicals, including acids, is needed too.”<sup>12</sup>

In Uganda, the Penal Code Cap 120 makes acid violence a specific offense and includes a potential sentence of life imprisonment.<sup>13</sup> Acid attacks that result in the death of the victim can be punished with a death sentence.<sup>14</sup> Acid Survivors’ Foundation Uganda reports that prosecutors routinely struggle to prove intent for a charge of murder or attempted murder and perpetrators ultimately receive sentences for the crime of grievous harm (7 year sentence) or actual bodily harm (5 year sentence).<sup>15</sup> The law in Uganda also includes sentences for individuals who may be involved in an acid attack by procuring acid, hiring an assailant or planning the attack.<sup>16</sup> Poor implementation of the law persists and many cases languish without investigations or court hearings. Uganda’s law does not have a compensation or rehabilitation scheme for survivors.

## Cambodia

In Cambodia, men comprise about 50 percent of acid attack survivors.<sup>17</sup> In December 2011, Cambodia enacted the Law on Regulation of Concentrated Acid, which includes maximum sentences of 30 years.<sup>18</sup> The Acid Attack Law limits the sale of acid, but like other laws on acid violence, Cambodia’s Acid Attack Law fails to provide adequate guarantees for medical or rehabilitative services for survivors. Cambodia sentenced the first person under the law in January 2013 – two years after enacting the law – illustrating a need for greater implementation and state action.<sup>19</sup> Moreover, the limits on the sale/transport of acid have not been finalized

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ASFU\_Situational\_Analysis\_Report\_FINAL\_Nov2011\_1.pdf.

10. Ibid.

11. Ibid.

12. Ibid., 11.

13. Ibid., 11.

14. Ibid., 8.

15. Ibid., 12.

16. Ibid., 12.

17. Cambodian Acid Survivors Charity, *Breaking the Silence: Addressing Acid Attacks in Cambodia* (May 2010), page 3.

18. Cambodian Center for Human Rights, *Unofficial Translation of Draft Law on Regulating Concentrate Acid* (November 2011), available at: [http://sithi.org/admin/upload/law/2-11-11\\_Draft%20Acid%20Law\\_ENG\\_Update.pdf](http://sithi.org/admin/upload/law/2-11-11_Draft%20Acid%20Law_ENG_Update.pdf); Subdecree on the Formalities and Conditions for Strong Acid Control, The Kingdom of Cambodia No. 48 S.E., Year 13, No. 13 (19 February 2013) Gazette page 1487.

19. IRIN, *Acid Attack Perpetrator Sentenced Under New Cambodian Law*, (30 January 2013), available at: <http://www.irinnews.org/report/97370/acid-attack-perpetrator-sentenced-under-new-cambodian-law>.

and activists have called for issuing the sub-decree on the sale and transportation of acid. The Cambodian Acid Survivors Charity (CASC) reports that a litre of battery acid still sells for Rs. 50 on the streets.<sup>20</sup> Finally, while the Acid Attack Law includes measures for free medical treatment at government health facilities and free legal assistance from the state, acid attack survivors have not yet benefited from these guarantees.<sup>21</sup> Even with the shortcomings in the law, CASC reports a “60% drop in the number of acid burn cases (from 25 cases in 2011 to only 15 cases in 2012),” showing the impact of strong acid violence legislation.<sup>22</sup>

## Bangladesh

Bangladesh consistently reports the highest incidence of acid attacks in the world. Acid violence in Bangladesh disproportionately impacts women, who comprise 82 percent of survivors and victims.<sup>23</sup> Like in India, most perpetrators in Bangladesh attack as a result of refused marriage proposals or sexual advances.<sup>24</sup> Dowry disputes also contribute to Bangladesh’s high incidence of acid attacks. In 2002, the government of Bangladesh enacted two laws to curb acid violence, the Acid Crime Control Act and the Acid Crime Prevention Act. These laws represent the most comprehensive legislative action on acid attacks in the world. Both laws leave room for improvement and stronger implementation, but acid violence has decreased steadily in Bangladesh since the passage of these laws.<sup>25</sup>

The Acid Crime Prevention Act (ACA) primarily governs the sale, transport, storage, and disposal of acid. At the national and district level, the law establishes councils to ensure implementation of the Act. The mandated members of the National Council illustrate the comprehensive scope of the law. The National Council is comprised of representatives from the Home Ministry, Ministry of Women and Children Affairs, Industry Ministry, Ministry of Commerce, Health Ministry, women members of parliament, the president of the Federation of Bangladesh Chamber of Commerce and Industries, a chemistry professor, experts, and representatives from NGOs.<sup>26</sup> At the district level, councils should include: lawyers, commercial users of acid, medical professionals, and members of the women’s movement to monitor and report on compliance with the ACA. The National Acid Control Council’s specific duties include:

- (a) To make recommendations for formulating policy for the controlling of production, transportation, storing, selling and using of Acid and controlling of the import of the same.

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20. Ibid.

21. Ibid.

22. Cambodian Acid Survivors Charity, Programs/Legal Support, <http://www.cambodianacidsurvivorscharity.org/programs-legal.html> (accessed 23 August 2014).

23. Naripokkho and Bangladesh Mahila Parishad, Baseline Report: Violence Against Women in Bangladesh (2005), page 15.

24. Acid Survivors’ Foundation Bangladesh, Acid Violence (2014), available at: <http://www.acidsurvivors.org/Acid-Violence>.

25. IRIN, Acid Attacks Continue Despite New Laws, (5 January 2009), available at: <http://www.irinnews.org/report/82194/bangladesh-acid-attacks-continue-despite-new-laws>.

26. Acid Crime Prevention Act (17 March 2002), Chapter II (4)(ii).

- (b) To formulate necessary policy – with a view to preventing possible damaging reaction and misuse of acid and for taking action for implementation of the same.
- (c) To formulate policy regarding for providing medical treatment, rehabilitation and legal aid to the victims of acid and to take steps for the implementation and supervision of the same.
- (d) To take up necessary educational and publicity programmes for making the public aware of the negative and devastating effect of misuse of acid.
- (e) To conduct any research or survey to collect information regarding use and abuse of action.
- (f) To maintain contact with all Ministries and organizations relating to acid and to coordinate all activities relating to the same.
- (g) To formulate policy for efficient management of effluent for the prevention of possible damage the caused by acid or acid mixture discharged as effluent by industrial units in the process of production and to take steps for the implementation and supervision of the same.
- (h) To take all such necessary steps for the execution of the aforesaid duties and responsibilities.<sup>27</sup>

Before 2002, the government would regularly take ten years to prosecute acid attack cases.<sup>28</sup> Today, the Acid Crime Control Act (ACCA) provides that all investigations must be completed by the “concerned Police Officer within 30 days.” Special acid crime tribunals at the district level must be complete all cases within 90 days from the date of receipt of the case.<sup>29</sup> The ACCA provides severe sentences based on the body part injured in the attack. An acid injury to the face, breasts, or reproductive organs calls for a life sentence or the death penalty and a fine of about Indian Rs. 60,000. Other acid attack injuries come with a 7-14 year sentence and a fine of about Rs. 35,000. The fine is to be paid to the heirs of the dead victim “or to the person who has suffered physical and mental damage as the case may be.”<sup>30</sup>

While acid violence has consistently declined in Bangladesh since 2002, it is important to note that harsh penalties including the death penalty have probably not contributed to the drop in attacks. In 1984 Bangladesh passed a law making the death penalty an option in crimes where the perpetrator blinds or disfigures the victim.<sup>31</sup> In the 18 years that the death penalty presented a possible sentence for acid violence, the rate of attacks actually increased until 2002 with the ACA

27. *Ibid.*, Chapter II (5).

28. 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), 23.

29. Acid Survivors’ Foundation Bangladesh, *The Acid Crime Control Act (2002)*, (2014), available at: <http://www.acidsurvivors.org/Legal>.

30. *Ibid.*

31. Roger Hood and Surya Deva, eds., *Confronting Capital Punishment in Asia: Human Rights, Politics and Public Opinion* (Oxford University Press, 2013), 83-85; 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), 22.

and ACCA, comprehensive laws that inter alia fast-track trials, limit the sale of acid, and increase public awareness.<sup>32</sup>

Despite the legislative progress, implementation of both the ACA and ACCA remains minimal. Sultana Kamal, of human rights group Ain o Salish Kendra reports, “The conviction rate is less than 10 percent as most of the perpetrators are more powerful than the victims or survivors.”<sup>33</sup> The two laws represent an important first step in the government of Bangladesh’s commitment to ending acid violence.

## International Law

Article 51 of the Constitution of India provides: “The state shall endeavor to (a) promote international peace and security...(c) to foster respect for international law and treaty obligations in the dealings of organized peoples with one another...”<sup>34</sup> The Supreme Court has relied on Article 51 when affirming India’s obligations under international human rights conventions and treaties. In *Vishaka vs. State of Rajasthan* the Supreme Court held, “It is now an accepted rule of judicial construction that regard must be had to international conventions and norms construing domestic law when there is no inconsistency between them and there is a void in the domestic law.”<sup>35</sup> Accordingly, India’s international human rights convention obligations create binding legal norms unless Parliament has created directly conflicting law.

The most useful human rights conventions and treaties for activists, advocates, and survivors working on acid attacks are:

- ICCPR: International Covenant on Civil and Political Rights, ratified by India in 1968
- ICESCR: International Covenant on Economic, Cultural, and Social Rights, ratified by India in 1968
- CEDAW: Convention on the Elimination of all forms of Discrimination Against Women, ratified by India in 1993

Specific facts in each case may also invoke the fundamental rights protections enshrined in the following conventions:

- CERD: Convention on the Elimination of Racial Discrimination, ratified by India in 1968
- CRC Convention on the Rights of the Child, ratified by India in 1992

Finally, an acid attack survivor’s injuries may result in a disability and trigger the protections in the:

- CRPD: Convention on the Rights of Persons with Disabilities, ratified by

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32. Ibid.

33. Ranjita Biswas, Inter Press Service, Stronger Laws to Deter Acid Attacks on Women (16 July 2013), available at: <http://www.ipsnews.net/2013/07/stronger-laws-to-deter-acid-attacks-on-women/>.

34. Constitution of India (1950) Article 51.

35. *Vishaka and others v. State of Rajasthan and others* (1997) 6 SCC 241, AIR 1997; see also *Apparel Export Promotion Council vs. Chopra* (1999) 625 SC 634, AIR 1999.

India in 2007.

These human rights conventions provide wide protections and guarantees across a spectrum of fundamental rights. This section briefly outlines treaty provisions that obligate the government of India to take immediate steps to eliminate acid attacks and to ensure justice for survivors.

## 1. Right to life

Under Article 21 of the Constitution of India and all international obligations, India must protect the right to life. Article 6(1) of the ICCPR guarantees, “Every human being has the inherent right to life. This right shall be protected by law.”<sup>36</sup> Similarly, Article 6(1) of the CRC guarantees “every child...the inherent right to life.”<sup>37</sup>

Acid attacks constitute a grave assault to the right to life. In many cases the initial attack proves to be fatal. In other cases, acid attack survivors die as a result of infections, botched surgeries or suicide.<sup>38</sup> As a result of these impacts, some states routinely prosecute acid violence as attempted murder.<sup>39</sup> To ensure the right to life, the Government of India must take immediate steps to end acid attacks.

## 2. Right to health

The right to health becomes an essential advocacy issue for survivors who require a lifetime of surgeries, physiotherapy, and psychological care. At the same time, ensuring fundamental services including improved emergency care, ambulances, trained staff, and infrastructure will strengthen public health systems and guarantee survivors the urgent care they require post-attack.

Article 12(1) of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) guarantees the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”<sup>40</sup> Article 12(2)(d) obligates States Parties to the Covenant to take steps to “achieve the full realization of this right...necessary for: ... (d) the creation of conditions which would assure to all medical service and medical attention in the event of sickness.”<sup>41</sup> Likewise, Article 12 of CEDAW states, “State Parties shall take all appropriate measures

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36. International Covenant on Civil Political Rights, New York, 16 December 1966, United Nations Treaty Series, vol. 999, p. 171 (Article 6).

37. Convention on the Rights of the Child, New York, 20 November 1989, United Nations Treaty Series vol. 1577, p. 3 (Article 6).

38. Syed Emdadul Haque, Habibul Ahsan, Human Rights Violations Against Women: Acid Violence in Bangladesh, 46 *Am. J. Prev. Med.* 216 (2014) (citing C. Garcia-Moreno et al., Prevalence of intimate partner violence: Findings from the WHO multi-country study on women’s health and domestic violence, 368 *The Lancet* (2006): 260–269).

39. See 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), available at: <http://indiankanoon.org/doc/87066215/> (citing prosecutions for attempted murder in the United Kingdom at page 34, and Jamaica at page 32).

40. International Covenant on Economic, Social, and Cultural Rights, New York, 3 January 1976, United Nations Treaty Series, vol. 993, p.3.

41. *Ibid.*

to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services...<sup>42</sup> The CRC (Article 24), CRPD (Article 25), and CERD (Article 5) also guarantee the right to health.

To ensure the right to health, all services must meet the minimum standards established by the Available, Accessible, Acceptable, Quality (AAAQ) framework. Availability means that public health facilities function and have adequate supplies of medicine and equipment. In the context of acid attacks, survivors must be able to reach facilities in time to treat their burns, the facilities must have equipment and staff who can effectively treat acid burns, and the Government of India must create programs that guarantee acid attack survivors the rehabilitative services they require.

Accessibility requires that everyone in the state can physically reach health facilities and that all people can avail health services regardless of race, class, ability to pay for services, ethnicity, caste, sex or background. The accessibility requirement is especially crucial for acid attack survivors who may not be able to pay for treatment or who may live at great distances from the specialized care they require. In certain cases, compounded discrimination based on caste may also render health facilities inaccessible to acid attack survivors. For example, in 2012 hospital workers at the Patna Medical College Hospital in Bihar told acid attack survivor Chanchal Paswan that the hospital did not treat Dalits.<sup>43</sup> Acid attack survivors should be able to access care, including surgery and physiotherapy, throughout their lives.

Acceptability demands that health facilities and services respect medical ethics and create a gender and cultural sensitive space for care. For acid attack survivors, medical facility staff must be sensitive to the particular trauma that results from acid attacks and the social exclusion that survivors often experience. Health care providers should understand that acid violence is a form of gender-based violence and may be a form of domestic violence and respond accordingly.

Quality measures whether services are scientifically and medically appropriate. Acid attack survivors have a right to receive the latest treatment with up-to-date equipment and procedures.

At a July 2014 consultation on violence against women acid attack survivor Anu described the unacceptable and poor quality care she received after her attack:

I was taken to AIIMS (All India Institute of Medical Science), there the doctor treating me came at me with pliers to remove my nose piercing and was grabbing my chest, to which I complained. He threatened not to treat me, he did that again, I complained twice to no avail and then kicked him, then nurses gathered, I told the nurses what the doctor was doing and asked for a different doctor.<sup>44</sup>

At the same consultation, Chanchal Paswan remembered the unavailable, inaccessible, unacceptable, poor quality treatment she received in Patna:

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42. Convention on the Elimination of all forms of Discrimination Against Women, New York, 3 September 1981 United Nations Treaty Series, vol. 1249, p. 13.

43. Parivartan Kendra vs. Union of India &Ors. (WP (C) 867/2013), Supreme Court of India.

44. Quote from Anu's testimony presented at national consultation, Using the Law to Combat Violence Against Women, New Delhi, 12 July 2014 (Transl. by Salina Wilson).



I went to hospital, there were no senior doctors, only junior doctors, I reached there at around 2 AM, they were not starting my treatment; my treatment was started around 10am. I was writhing in pain. My sister and I were made to sleep on the same bed in the same room as dead corpses. My treatment was started only because media people came to cover the incident. The treatment and behaviour of the hospital staff was very bad, they used to taunt us saying that we don't own the hospital. After a fight with doctor and nurses we came to Safdarjang Hospital in Delhi (a distance of over 1,000 kms) where I had four surgeries.<sup>45</sup>

Both testimonies illustrate the importance of health care that fulfills each component of the AAAQ framework. To ensure the right to health, the Government of India must take immediate steps to ensure Available, Accessible, Acceptable, Quality medical services.

### **3. Right not to be subjected to Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment**

The right to be free from torture and cruel, inhuman or degrading treatment is a non-derogable right, meaning that states must ensure this right under all circumstances; it is an absolute right in international law. Article 7 of the ICCPR states, “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>46</sup> Moreover, Article 37 of the CRC prohibits subjecting children to cruel, inhuman or degrading treatment or punishment. In international law, gender-based violence, including acid attacks can be considered a form of torture or cruel, inhuman, degrading treatment. In fact, to assess state compliance with Article 7 of the ICCPR, the Human Rights Committee, “needs to be provided with information on national laws and practices with regard to domestic and other types of violence against women including rape.”<sup>47</sup>

Manfred Nowak, the former United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment found, “Certain types of gender-specific violence, either perpetrated by State actors or in the private sphere, might amount to torture or inhuman and degrading treatment.”<sup>48</sup> Regarding acid attacks, the Special Rapporteur found:

In the case of women victims of acid attacks, they are faced both by physical challenges, that may require long term surgical treatment, as well as by psychological challenges, which require long-term intervention from counsellors

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45. Ibid., from Chanchal's testimony.

46. ICCPR, Article 7.

47. Human Rights Committee General Comment No. 28, Equality of Rights Between Men and Women (Article 3), U.N. Doc. CCPR/C/21/Rev/1/Add/10 (29 March 2000), available from [http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1\\_Global/CCPR\\_C\\_21\\_Rev-1\\_Add-10\\_6619\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_21_Rev-1_Add-10_6619_E.pdf).

48. “Acid Burning Attacks – Victimization, Survivors, Support” Statement by Manfred Nowak Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (Side event sponsored by Women's UN Report Network, Worldwide Organization for Women and NGO Committee on the Status of Women, Strengthening the protection of women from torture and ill-treatment, Geneva 15 September 2010) <http://www.womenenabled.org/pdfs/Nowak-torture-2010.pdf>. (page 2)

at each stage of the physical recovery. It is crucial to interpret the torture protection framework in the light of a wide range of human rights guarantees, in particular the set of rules that has developed to combat violence against women, which can provide valuable insights into the particular challenges posed by such type of violence as well as the specific needs of the victims.<sup>49</sup>

To ensure the right to be free from torture, cruel, inhuman, and degrading treatment, the Government of India must take meaningful steps to end gender based violence and act to create adequate legislation to prevent acid attacks, to guarantee just sentences for perpetrators, and to rehabilitate survivors.

#### **4. The right to equality and non-discrimination**

The ICCPR, ICESCR, CEDAW, CRC, CRPD, and CERD all guarantee the right to equality and non-discrimination. As a gender-based crime, acid violence constitutes a violation of the right to equality and non-discrimination.

##### **ICCPR and ICESCR**

Both the ICCPR (Article 3) and ICESCR (Article 3) guarantee that the rights enshrined in each Covenant will be enforced free of discrimination based on sex. In General comment No. 16 (2005), the Committee on Economic, Social, and Cultural Rights states, “Gender-based violence is a form of discrimination that inhibits the ability to enjoy rights and freedoms, including economic, social and cultural rights, on a basis of equality.”<sup>50</sup>

Because acid attacks disproportionately impact women, the Government of India has to take action to prevent acid attacks so that women can enjoy their fundamental rights on an equal basis to men. The Government therefore has an obligation to take special measures “in order to attenuate or suppress conditions that perpetuate discrimination.”<sup>51</sup> The Committee on Economic, Social, and Cultural Rights underscores States Parties’ obligation to respect, protect, and fulfill the right to be free from discrimination.

To respect this right, India must “take steps aimed directly at the elimination of prejudices, customary and all other practices that perpetuate the notion of inferiority or superiority of either of the sexes, and stereotyped roles for men and women.”<sup>52</sup> To protect the right to non-discrimination, India must adopt legislation, develop administrative measures and programmes for training and awareness, and create public institutions to safeguard “women against discrimination.”<sup>53</sup>

Finally, to meet its obligation to fulfill women’s right to enjoy their rights on the basis of equality, the government of India should take steps to ensure, “available

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49. *Ibid.*, 5.

50. Committee for Economic, Social, and Cultural Rights, General Comment No. 16, The equal right of men and women to the enjoyment of all economic, social, and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights, E/C.12/2005/4 (11 August 2005), available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2005%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2005%2f4&Lang=en).

51. *Ibid.*, para 15.

52. *Ibid.*, para. 19.

53. *Ibid.*

and accessible appropriate remedies, such as compensation, reparation, restitution, rehabilitation, guarantees of non-repetition...design and implement policies and programmes to give long-term effect to the economic, social, and cultural rights of both men and women on the basis of equality...”<sup>54</sup>

The obligation to respect, protect, and fulfill the right to be free from discrimination regarding gender-based acid violence requires the Government of India to take steps to end cultural norms that limit women’s rights to autonomy, to pass laws and empower institutions that prevent acid violence, and to provide access to just compensation, rehabilitation services (medical, psychological, economic, and social).

## **CEDAW**

Although CEDAW does not outright define violence against women as sex discrimination, Articles 2 and 5 obligate States Parties to:

Article 2: Pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake: (b) to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

Article 5: Modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

In General Recommendation No. 19, the CEDAW Committee states, “Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men.”<sup>55</sup> In commenting on Article 5 the Committee finds, “Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women.”<sup>56</sup> In light of its comments, the CEDAW Committee ultimately recommends:

- a. States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act;
- b. States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention;

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54. *Ibid.*, para 21.

55. CEDAW Committee, General Recommendation No. 19, Violence Against Women (1992), para. 1, available at: <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>.

56. *Ibid.*, para. 11.

- c. States parties should encourage the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence;
- d. Effective measures should be taken to ensure that the media respect and promote respect for women;
- e. States parties in their report should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women, and the kinds of violence that result. They should report the measures that they have undertaken to overcome violence, and the effect of those measures;
- f. Effective measures should be taken to overcome these attitudes and practices. States should introduce education and public information programmes to help eliminate prejudices which hinder women's equality;
- i. i. Effective complaints procedures and remedies, including compensation, should be provided
- k. States parties should establish or support services for victims of family violence, rape, sex assault and other forms of gender-based violence, including refuges, specially trained health workers, rehabilitation and counselling;
- o. States parties should ensure that services for victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;
- t. That States parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence, including, inter alia:
  - i. Effective legal measures, including penal sanctions, civil remedies and compensatory provisions to protect women against all kinds of violence, including, inter alia, violence and abuse in the family, sexual assault and sexual harassment in the workplace;
  - ii. Preventive measures, including public information and education programmes to change attitudes concerning the roles and status of men and women;
  - iii. Protective measures, including refuges, counseling, rehabilitation and support services for women who are the victims of violence or who are at risk of violence;
- u. That States parties should report on all forms of gender-based violence, and that such reports should include all available data on the incidence of each form of violence, and on the effects of such violence on the women who are victims;
- v. That the reports of States parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.

For acid violence, CEDAW obligates the Government of India to enact specific laws and ensure their implementation, to train the police and judiciary on gender-based violence and acid violence response, to compile data on acid violence, to

introduce education programs on the issue, to create an effective compensation and rehabilitation scheme, and to evaluate the actions taken to prevent and address acid violence.

## **CERD and CRPD**

The facts in certain cases may also trigger the protection of the rights enshrined in the Convention on the Elimination of Racial Discrimination and/or the Convention on the Rights of Persons with Disabilities. If survivors face discrimination as a result of their caste or as a result of injury-related disabilities, the Government of India's obligations to end this discrimination will be triggered.<sup>57</sup> For example, CERD prohibits the caste-based discrimination Chanchal Paswan experienced in Patna. CRPD reaffirms disabled people's right to be free from discrimination. This would include acid attack survivors who become disabled after an attack. Article 6(1) of the CRPD acknowledges the compound discrimination women and girls with disabilities may experience and obligates states to ensure "the full and equal enjoyment by them of all human rights and fundamental freedoms."<sup>58</sup>

To ensure the right to non-discrimination and equality, the Government of India must inter alia take immediate steps to address gender discrimination, cultural norms that allow for acid attacks, and survivors' access to services.

## **5. The Right to be Free from Sexual and Gender-based Violence**

In India acid violence manifests as a grave form of gender-based violence or "violence directed against a woman because she is a woman or that affects women disproportionately."<sup>59</sup> Women comprise the majority of survivors and men comprise the majority of assailants. Many survivors have been attacked because their behavior and decisions challenge norms governing the way women should behave. The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) does not contain specific articles prohibiting violence against women. However, CEDAW does obligate States,

5(a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.<sup>60</sup>

In April 2014, the United Nations Special Rapporteur on Violence Against Women, its Causes and Consequences, expressed concern about India's "high incidence of acid attacks on women...despite the development of new legislative measures."<sup>61</sup> She noted, "Victims of acid attacks are predominantly

57. See, e.g., CERD, Article 1(1).

58. CRPD, Article 6(1).

59. CEDAW Committee, General Recommendation No. 19, Violence Against Women (1992), para. 6.

60. CEDAW, Article 5(a).

61. Human Rights Council, Report of the United Nations Special Rapporteur on Violence Against Women its Causes and Consequences, RashidaManjoo, Mission to India (April 2014), para. 14, available at: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/CountryVisits.aspx>.

women who challenge patriarchal norms, including by opposing marriage or partner proposal.<sup>62</sup> The Special Rapporteur also underscored the wider societal implications of acid violence: “It creates a climate of fear for other women as regards the consequences of failing to abide by and respect traditional practices and roles.”<sup>63</sup>

At the same time, the Human Rights Committee has found that to comply with Article 3 of the ICCPR (equality of rights between men and women), States Parties must take measures “with regard to domestic and other types of violence against women, including rape.”<sup>64</sup>

In this context, India has an obligation to create legislation, policies, and appropriate measures to eliminate the cultural norms that maintain discrimination and violence against women. Until women can turn down suitors without fear of violence or retribution, violence against women will persist.

## 6. Right to Education and to Work

Like the Indian Constitution, the ICESCR guarantees the right to education<sup>65</sup> and the right to work.<sup>66</sup> CEDAW obligates states to eliminate discrimination against women in both education<sup>67</sup> and employment<sup>68</sup> while CERD obligates states to end discrimination based on caste descent, or national or ethnic origin in employment.<sup>69</sup> Finally, the CRPD outlines extensive protections and obligations regarding states’ duties to people with disabilities in employment and education.

Acid attack survivors may become blind, deaf or suffer from physical disabilities as a result of an attack. Under the CRPD, disabled acid attack survivors have a right to access education and any support they may need to complete their education. Article 24 of the Convention on the Rights of Persons with Disabilities obligates the Government of India to ensure:

- a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- c. Reasonable accommodation of the individual’s requirements is provided;
- d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- e. Effective individualized support measures are provided in environments

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62. Ibid.

63. Ibid.

64. Human Rights Committee General Comment No. 28, para. 11.

65. ICESCR, Article 13.

66. ICESCR, Article 6.

67. CEDAW, Article 10.

68. CEDAW, Article 11.

69. CERD, Article 1.

that maximize academic and social development, consistent with the goal of full inclusion.<sup>70</sup>

Moreover, disabled acid attack survivors have a right “to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others.”<sup>71</sup> Activists and advocates should ensure that acid violence survivors have access to employment and education after attacks in line with international obligations.

Article 27 of the CRPD guarantees the right to work and outlines 11 specific legislative steps the Government of India should take to ensure that disabled acid attack survivors realize this right including:

- a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;  
.....
- g. Employ persons with disabilities in the public sector;  
.....
- i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace.,,<sup>72</sup>

The CRPD provides wide protections for acid attack survivors and guarantees access to the rehabilitative, educational, and occupational services they require.

## Conclusion

While comparative law provides guidance and lessons learned for activists, survivors, and policy makers in India, international law provides a rich tapestry of guarantees, obligations, and protections regarding acid attack prevention, justice, and rehabilitation for survivors. Although some courts in India have resisted international law, protections arising from international treaties and covenants strengthen any acid attack advocacy strategy. To make international law meaningful, acid attack activists, advocates, and survivors must hold the Government of India accountable to its treaty obligations.

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70. CRPD, Article 24(2)(a-e).

71. CRPD, Article 24(5).

72. CRPD, Article 27.

# ANNEXURES



**Annexure I:** Model Petition And Applications

**Annexure II:** Haryana Scheme Features

# Haryana Victim Compensation Scheme features

While many states have enacted schemes in compliance to *Laxmi V. UoI*, none have been as successful as the Haryana compensation scheme. Below are the basic guidelines of the scheme for other states to replicate and enact a similar scheme.

## Creation and Functions of Committees

### State Level Committee (SLC)

- The committee must be commissioned by a judge
- Members can be drawn from the from a number of departments including, but not limited to:
  - Women and child development, Health, Social Justice and Empowerment
- Create and supervise District Level Committee and provide guidelines to the proper actors to provide medical, psychological and legal aid
- Ensure funds are allocated to victims through the District Level Committee
- Approve medical reimbursement before distributing funds

### District Level Committee (DLC)

- Exclusive jurisdiction over all application submitted in that district
- Commissioned by deputy commissioner and comprise of:
  - At least 2 women and 2 members with criminal law background, a doctor
- Examine and allocate awards under the prescribed procedures
- Collaborate with governmental organizations and NGOs to provide aid to victims

### Application Procedure

- Compensation application must be submitted with 15 days
  - For unmarried girls: by their parents/guardians/legal heirs, for married women their husbands may also apply
- Required documents: medical report and copy of FIR/complaint

## **DLC**

- After making out a prima facie case of an acid attack, interim compensation to be paid within 15 days by State Legal Services Authority and conduct a home study to determine additional needs
- Medical costs to be provided free of cost at Government Hospital with claims to be sent to DLC and reimbursed by the Women and Child Department
  - This scheme will continue to govern even with changes to Government hospitals
  - A list of government hospitals will be provided on the Health Department website
- Compensation given within 15 days of evidence submission or within a month of application submission – whichever is earlier
- Committee must review application within 15 days or provide adequate reasons for delay
- Reasons for rejecting an application include:
  - Applicant did not provide the authorities with a reason for the attack, no cooperation in prosecuting, or did not assist the Committee
- Committee must hold hearings at a specific time and location and inform the applicant
- The decision must be based on evidence presented at the hearing
- The WCD must deposit the compensation into the hospital's bank account

## **Rehabilitation**

- Upon Medical Board certification, the victim will be included in the “disabled” persons category
- May seek rehabilitation services from the shelter homes in the state

## **Financial Assistance**

- Excluding medical costs, a maximum compensation of Rs. 3 lakh for injuries including defacement, loss or limb or body part and plastic surgery and Rs. 50,000 without such injuries
  - 1 lakh to be paid within 15 days of attack or upon informing the Government for immediate medical care
  - The remaining 2 lakh to be paid as soon as possible within 2 months
- In the case of the victim's death, in addition to medical expenses, 5 lakh to be paid to her legal heirs

# Before the Concerned Court at the Concerned State or Union Territory

(Civil Writ Jurisdiction)

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC

.....Petitioner

Versus

-----

.....Respondent<sup>1</sup>

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1. The respondents can be the Union of India, the concerned government of the concerned state or union territory, Law Commission, the concerned government hospital etc.

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Filed by

Concerned State or Union Territory:-

Date:-

( \_\_\_\_\_ )  
Advocate(s) for Petitioner  
(Contact Details)

## Before the Concerned Court at the Concerned State or Union Territory

(Civil Writ Jurisdiction)

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC

.....Petitioner

Versus

-----

.....Respondent\_

### NOTICE OF MOTION

To

The Concerned Respondent

Sir,

Please find enclosed petition and accompanying application filed on behalf of the Petitioner before the Hon'ble Concerned Court which is likely to be listed on \_\_\_/\_\_\_/20\_\_ or on any day thereafter before the Hon'ble Court.

Please take notice accordingly.

Concerned State or Union Territory:-

Date:

( \_\_\_\_\_ )  
Advocate(s) for Petitioner  
(Contact Details)

## Before the Concerned Court at the Concerned State or Union Territory

(Civil Writ Jurisdiction)

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC

.....Petitioner

Versus

-----

.....Respondent

### URGENT APPLICATION

To,

The Registrar

Concerned Court

Sir/Ma'am,

Kindly treat the matter on the file on urgent basis. The ground for urgency is that the Petitioner is a victim of Acid Attack and she is seeking intervention of this Hon'ble court, inter alia, for payment of compensation and for her treatment. Hence the urgent direction of the Hon'ble Court in the nature of writ is prayed for.

Filed By

Concerned State or Union Territory:-

Date:

( \_\_\_\_\_ )  
Advocate(s) for Petitioner  
(Contact Details)

### SYNOPSIS

By way of this petition, Petitioner herein, who is a victim of Acid Attack, is seeking intervention of this Hon'ble Court for a direction to the Respondent herein, inter alia, for payment of compensation as mandated by Hon'ble Supreme Court of India and direction to the Respondent to provide treatment to the Victim free of cost.

The Petitioner<sup>2</sup> and victim herein is a 20 years old girl, who comes from a poor family. She was working in a manufacturing company at the time of the incident. On \_\_.\_\_.20\_\_, the victim was going to her home from her workplace and at approximately around 7:30 pm, the Accused \_\_\_\_ and \_\_\_\_ threw Acid on her that caused grievous injuries to the Petitioner/ Victim and defaced her face and a part of her body. In this connection, an FIR was lodged vide FIR no. \_\_\_\_ dated \_\_\_\_\_ at PS \_\_\_\_\_ under section 326A/34 IPC against the Accused persons. It is also believed that the Police have already filed the charge sheet against the Accused persons before the Court of concerned Ld. Metropolitan Magistrate of the concerned court.

The grievance of the Petitioner herein is that she has neither been provided any compensation nor any arrangements have been done for her treatment and corrective surgeries on her injuries. In this context, it is pertinent to mention here that in Laxmi versus Union of India and other [2013 (9) SCALE 291] Hon'ble Supreme Court has directed to all State Governments/ Union Territories to pay a sum of Rs 3 Lakhs to the victims of Acid Attack forthwith as after care and rehabilitation cost. This compensation is to be paid within two months of the Acid Attack and is in addition to the statutory compensation payable under section 326A IPC.

After the incident, the Petitioner/ Victim was admitted to the XY Hospital where it was found that she had sustained 30% burn injuries on her face, neck, hand and back. Petitioner/Victim was initially taken to the XY Hospital for her treatment. After the initial treatment, the Petitioner/ Victim was discharged from the \_\_\_\_ hospital on \_\_/\_\_/20\_\_. During her stay at XY Hospital, the wounds of the Petitioner patient were cleaned and treatment was given to her. The Petitioner came back to the XY hospital for follow up treatment several times and she was treated with medicines and her wounds were cleaned as well. However, no corrective surgeries were conducted on her injuries. As a matter of fact, it was orally said to the Petitioner/ Victim that corrective surgery facility is not available at the XY Hospital and she is required to go to any private hospital for such a surgery.

The Petitioner/ Victim thereafter approached a private hospital namely NM Hospital and Heart Centre for her further treatment and corrective surgeries. She was admitted in NM Hospital and Heart Centre on \_\_/\_\_/20\_\_, where initial procedure of skin grafting was done on her. She was discharged from NM Hospital on \_\_/\_\_/20\_\_. The Petitioner/ Victim was charged Rs. 33021.00 (Rupees Thirty Three Thousand Twenty One Only) for her treatment. As the Petitioner/ Victim come from a poor family and her parents are not able to bear such expensive treatment, they sought help from general public. Thereafter, fortunately “\_\_\_\_\_” came forward and the bills of the Petitioner/ Victim were cleared by them. The Petitioner is not in a financial condition to undergo further treatment and corrective surgeries without any financial help.

While dealing with the issue of acid attacks in different parts of the country, Hon'ble Supreme Court of India has passed an order in Laxmi vs Union of India

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2. The story has been used as an example to draft this model petition and to assist the reader in understanding how to file a petition for seeking compensation for an acid attack survivor/ victim.

[2013 (9) SCALE 291] and directed all State Governments/ Union Territories to pay a compensation of at least Rs 3 Lakhs to the acid attack victim as after care and rehabilitation cost. Hon'ble Court made following direction in this regard:

“13. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/ Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/ Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs.2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.”

In this context, it is also important to mention here that the Advocate of the Petitioner made a representation dated \_\_/\_\_/20\_\_ to the Minister, Department of Health and Family Welfare, Government of \_\_\_\_\_ with a copy to the Chief Secretary and sought immediate intervention for the payment of the compensation to the Petitioner/ Victim herein immediately as mandated and directed by the Hon'ble Supreme Court of India. However, there is no response from any of the functionaries of the Government of \_\_\_\_\_ till date.

In view of these facts and circumstances, the Petitioner/ Victim is left with no other option than to approach this Hon'ble Court seeking immediate intervention of this Hon'ble Court for a direction to the Respondent to pay the compensation to the Petitioner/ Victim.

#### LIST OF DATES AND EVENTS

Date	:	Event
__..__.20__	:	Acid was thrown on the face of the Petitioner/ Victim by the Accused _____ and _____ at around 7:30 pm. The Accused/ Victim was admitted to the XY Hospital immediately, where she received preliminary treatment and dressing of the wound. An FIR No. _____ was registered with PS XY Enclave, _____ under section 326A/34 IPC against the Accused persons on the statement received from the Petitioner/ Victim.
__..__.20__	:	The Petitioner/ Victim was discharged from XY Hospital. She was, however, required to come to the hospital for follow up treatment and dressing of her wounds.
__..__.20__	:	Petitioner/ Victim was admitted to NM Hospital and Heart Centre, _____ for her further treatment and corrective surgeries. In the hospital, initial process of skin grafting was done on her.



___.__.20__	:	Petitioner was discharged from the NM Hospital, _____ . Her medical bills were cleared by one "_____".
___.__.20__	:	Advocate of the Petitioner wrote to the Minister of Health, Government _____ and also to the Chief Secretary and Secretary of the Department of Health, Govt. of _____ requesting them to immediately pay the compensation to the Petitioner in view of the Supreme Court judgment in Luxmi vs Union of Undia (reported in 2013 (9) SCALE 291).
	:	As there is no response from the Respondent and Authorities, the Petitioner is left with no other efficacious remedy than to approach this Hon'ble Court. Hence this Writ Petition.

**Before the Concerned Court at the Concerned State or Union Territory**

(Civil Writ Jurisdiction)  
Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC .....Petitioner  
Versus  
----- .....Respondent

**MEMO OF PARTIES**

ABC .....Petitioner  
VERSUS  
----- .....Respondent

Filed by  
Concerned State or Union Territory  
Date:

(\_\_\_\_\_) Advocate(s) for Petitioner  
(Contact Details)

**Before the Concerned Court at the Concerned State or Union Territory**

(Civil Writ Jurisdiction)  
Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC

.....Petitioner

Versus

-----

.....Respondent

### COURT FEE ANNEXATION

Filed by

Concerned State or Union Territory

Date:

( \_\_\_\_\_ )  
Advocate(s) for Petitioner  
(Contact Details)

### Before the Concerned Court at the Concerned State or Union Territory

(Civil Writ Jurisdiction)

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC

.....Petitioner

Versus

-----

.....Respondent

And

In the matter of Article 226/ 227 of the Constitution of India

And

In the matter of payment of compensation to the families of the acid attack victim

And

In the matter of payment of medical and surgical expenses to the acid attack victim

And

In the matter of providing free medical and surgical treatment to the acid attack victim

To

The Hon'ble Chief Justice and his Companion Hon'ble Justices

Hon'ble Court Concerned State or Union Territory Humble Petition of the Petitioners above-named

#### Most respectfully showeth:

1. Petitioner/ Victim herein is filing this writ petition seeking intervention of this Hon'ble Court and direction to the Respondent for, inter alia, payment of compensation to the families of the victims who received injuries because of acid attack. The Petitioner/ Victim herein is a victim of Acid Attack and is entitled to receive a sum of Rs. 3 Lakhs from the Government of \_\_\_\_\_ in view of the recent Supreme Court Judgment in Laxmi vs Union of India and others (reported in 2013 (9) SCALE 291). She has not received any compensation so far.

2. The Respondent herein is the State of \_\_\_\_\_ represented by its \_\_\_\_\_, who is responsible to implement the above order passed by Hon'ble Supreme Court of India and is also the head of the administration of Government of \_\_\_\_\_.
3. The Petitioner and victim herein is a 20 years old girl, who comes from a poor family. She was working in a manufacturing company at the time of the incident. On \_\_.\_\_.20\_\_, the victim was going to her home from her workplace and at approximately around 7:30 pm, the Accused \_\_\_\_ and \_\_\_\_\_ threw Acid on her that caused grievous injuries to the Petitioner/ Victim and defaced her face and part of her body. In this connection, an FIR was lodged vide FIR no. \_\_\_\_\_ dated \_\_.\_\_.20\_\_ at PS XY Enclave, Concerned State or Union Territory under section 326A/34 IPC against the Accused persons. It is also believed that the Police have already filed the charge sheet against the Accused persons before the Court of Concerned Magistrate, Concerned Court, Concerned State or Union Territory. It is also believed that a charge sheet has also been filed against the Accused in the instant case by the Police before Concerned Magistrate.
4. The Petitioner/ Victim belongs to a Below Poverty Line Family and a BPL Family card has been issued in the name of her father. A copy of the details of BPL Family Consumer Card no. \_\_\_\_\_ as obtained from the website of the Respondent is annexed herewith and marked as Annexure P-1.
5. The grievance of the Petitioner herein is that the Respondents have failed to provide compensation for her loss, injury, or rehabilitation. The Respondents have not arranged to ensure free treatment and corrective surgeries. In this context, it is pertinent to mention here that in Laxmi versus Union of India and other [2013 (9) SCALE 291] Hon'ble Supreme Court has directed to all State Governments/ Union Territories to pay a sum of Rs 3 Lakhs to the victims of Acid Attack forthwith as after care and rehabilitation cost. This compensation is to be paid within two months of the Acid Attack and is in addition to the statutory compensation payable under section 326A IPC.
6. After the incident, the Petitioner/ Victim was admitted to the XY Hospital where it was found that she had sustained 30% burn injuries on her face, neck, hand and back. Petitioner/Victim was initially taken to the XY Hospital, Concerned State or Union Territory for her treatment. After the initial treatment, the Petitioner/ Victim was discharged from the XY hospital on \_\_/\_\_/20\_\_. During her stay at XY Hospital, the wounds of the Petitioner patient were cleaned and treatment was given to her. The Petitioner came back to the XY hospital for follow up treatment several times and she was treated with medicines and her wounds were cleaned as well. However, no corrective surgeries were conducted on her injuries. As a matter of fact, it was orally said to the Petitioner/ Victim that corrective surgery facility is not available at the XY Hospital and she is required to go to any private hospital for such surgery. A copy of the discharge slip dated \_\_.\_\_.20\_\_ of the Petitioner/ Victim issued by XY Hospital, Concerned State or Union Territory is annexed herewith and marked as Annexure P-2.
7. The Petitioner/ Victim/Survivor thereafter approached a private hospital namely NM Hospital and Heart Centr for her further treatment and

corrective surgeries. She was admitted in NM Hospital and Heart Centre on \_\_\_/\_\_\_/20\_\_\_, where initial procedure of skin grafting was done on her. She was discharged from NM Hospital on \_\_\_/\_\_\_/20\_\_\_. The Petitioner/ Victim was charged Rs. 33021.00 (Rupees Thirty Three Thousand Twenty One Only) for her treatment. As the Petitioner/ Victim comes from a poor family and her parents are not able to bear such expensive treatment, they sought help of from general public. Thereafter, fortunately “\_\_\_\_\_” came forward and the bills of the Petitioner/ Victim were cleared by them. The Petitioner is not in a financial condition to undergo further treatment and corrective surgeries without any financial help. A copy of the Final Detail Bill and the Discharge Slip both dated \_\_\_/\_\_\_/20\_\_\_ issued by NM Hospital and Heart Centre is annexed herewith and marked as Annexure P-3 (Colly).

8. While dealing with the issue of acid attacks in different parts of the country, Hon’ble Supreme Court of India has passed an order in Laxmi vs Union of India [2013 (9) SCALE 291] and directed all State Governments/ Union Territories to pay a compensation of at least Rs 3 Lakhs to the acid attack victim as after care and rehabilitation cost. Hon’ble Court made following direction in this regard:

“13. We, accordingly, direct that the acid attack victims shall be paid compensation of at least Rs. 3 lakhs by the concerned State Government/ Union Territory as the after care and rehabilitation cost. Of this amount, a sum of Rs. 1 lakh shall be paid to such victim within 15 days of occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard. The balance sum of Rs.2 lakhs shall be paid as expeditiously as may be possible and positively within two months thereafter. The Chief Secretaries of the States and the Administrators of the Union Territories shall ensure compliance of the above direction.”

9. In this context, it is also important to mention here that the Advocate of the Petitioner made a representation dated \_\_\_/\_\_\_/20\_\_\_ to the Minister, Department of Health and Family Welfare, Government of \_\_\_\_\_ with a copy to the Chief Secretary and sought immediate intervention in the instant case for payment of the compensation to the Petitioner/ Victim herein immediately as mandated and directed by the Hon’ble Supreme Court of India. However, there is no response from any of the functionaries of the Government of \_\_\_\_\_ till date. A copy of the representation dated \_\_\_/\_\_\_/20\_\_\_ by the Advocate of the Petitioner to the Respondent is annexed herewith and marked as **Annexure P-4**.
- 10 Another very important aspect with respect to the Acid Attack victims is the issue of rehabilitation and adequate and free medical treatment facility. To this day, acid attack survivors have no legal guarantee to a complete range of free medical care, rehabilitative services or adequate compensation under Survivor Compensation Schemes. Before the Hon’ble Court passed the order in Laxmi vs Union of India and others (supra) for the Union of India and the states to implement compensation payable to acid victims by the State/ or creation of some separate fund for payment of compensation to the acid attack victims, there was no scheme by the Government of \_\_\_\_\_ for rehabilitation, free medical care and compensation of the acid attack victims.

11. A public hearing on plight of acid attack survivors in the on 24.07.2008. Campaign and Struggle against Acid Attacks on Women organised a public hearing and released recommendations pertaining to the acid attack survivors' right to health. The hearing resulted in the following recommendations.
- a. India does not have a standard treatment or management guidelines for medical treatment of acid attacks. "This causes confusion in the medical professionals and unnecessary delay even in the first-aid to be given, due to which the damage/trauma increases and quite a few victims succumb to the injuries. The acid burns are treated in line with the general fire burns and it has adverse effects e.g. in the fire burns case, the drying of the skin is waited for to stop dehydration and loss of fluids. But in acid burns case the entire acid should be cleared, affected tissues needs to be scooped out etc." Standard treatment and management guidelines (STM) should be developed by a panel consisting of experts/specialists in forensic medicine and toxicology, plastic surgery, general medicine and psychiatry.
  - b. Medical experts do not have adequate information to treat survivors. Moreover, district hospitals "are not equipped with technical know – how and skills and with necessary equipments."With the passing of each hour and delay, the corrosive substance does irreversible damage to the human body, and the psychological trauma is so much more. Hence the earliest treatment and care is of utmost importance. Therefore, "the first aid and primary care protocols/guidelines (to neutralize the acid and stabilize the victim) should be displayed in all the health centres in the state." Additionally, all public hospitals should have the facilities to treat acid attack survivors and private and charitable hospitals should also have an arrangement to provide survivors with free treatment."At least 5 hospitals in the state should have upgraded special units equipped with expertise, equipment and facilities to treat the acid burns cases. The principal secretary to health and principal secretary to women and child development should allocate budget for this in time bound manner."
  - c. To ensure justice for acid attack survivors, states need to ensure coordination between medical and legal authorities. "The district civil surgeon should be the principally responsible person to take charge of the acid attack victim's case which includes admission, guiding the appropriate health staff, to refer and to follow up. The district civil surgeon should be in coordination with the District Collector, Superintendent of Police and the Director of the relevant Santwana Kendra."
  - d. Witness protection should be given to the victim and witnesses and to engage a special public prosecutor at the cost of the government.
- True copy of recommendations following observations recorded at the public hearing organised by Campaign and Struggle against Acid Attacks on Women at Bangalore dated 24 July 2008 is annexed herewith and marked as Annexure P-5.
12. Further, there is no mechanism of speedy trial and early disposal of cases of acid attack victims. This not only adds to the plight of the acid attack victims, but also adds to their trauma.

## Rehabilitating Acid Attack Survivors

13. Section 357A of the Code of Criminal Procedure requires States “to prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.”
14. The Criminal Law (Amendment) Act of 2013 criminalizes acid throwing, and attempted acid throwing (Sections 326A and 326B). It also includes CrPC Section 357C stating:  

All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident.
15. The law therefore guarantees survivors more than financial compensation and covers a wide range of medical treatment. Survivors require significant assistance, which only a dedicated, full-time professional (e.g., a social worker with specialized training and experience in helping acid attack survivors) is capable of providing. This would include assistance initiating and coordinating a complicated rehabilitation regimen including specialists (e.g., surgical, psychological, physiotherapeutic) and health facilities that may be geographically distant.
16. Section 357A of the Code of Criminal Procedure also requires States to restore survivors to their pre-attack quality of life. Accordingly, survivors have a right to assistance finding legal representation; assistance finding new housing and establishing new social networks if family and friends abandon or abuse them, as often occurs; assistance relocating if there is a reasonable fear of reprisal from their attacker or his family (e.g., for filing a FIR, testifying, seeking restitution or fines, speaking out publicly); assistance restarting education or occupational training; and assistance finding employment. It would be both unreasonable and inhumane to expect that survivors—who are physically and psychologically traumatized, often socially isolated, and routinely face discrimination—could do all of this on their own.
17. Acid attack survivors require a wide array of rehabilitative services outlined in the table below:

Consequence	Outcome	Rehabilitation Requirements
Medical	<ul style="list-style-type: none"> <li>• Severe injuries to face and body</li> <li>• Contractures of skin and muscle</li> </ul>	<ul style="list-style-type: none"> <li>• Emergency Care</li> <li>• Medicines and supplies</li> <li>• Surgeries</li> <li>• Physiotherapy</li> </ul>

Psychological	<ul style="list-style-type: none"> <li>•Trauma from attack</li> <li>•Trauma from living with a disfigurement or from the social consequences of the attack</li> <li>•Trauma associated with domestic violence</li> </ul>	<ul style="list-style-type: none"> <li>•Psychological care</li> </ul>
Social	<ul style="list-style-type: none"> <li>•Familial or marital disruption</li> <li>•Stigmatization and withdrawal from society</li> </ul>	<ul style="list-style-type: none"> <li>•Social reintegration assistance</li> <li>•Psychological care</li> </ul>
Economic	<ul style="list-style-type: none"> <li>•Loss of financial support</li> <li>•Reduced earning potential</li> </ul>	<ul style="list-style-type: none"> <li>•Assistance with education or occupational training</li> <li>•Housing assistance</li> </ul>
Legal	<ul style="list-style-type: none"> <li>•Criminal and/or Civil case filed</li> </ul>	<ul style="list-style-type: none"> <li>•Free top-quality legal assistance</li> </ul>

### Comparative and International Law

19. In this context, it is mentioned here that other countries have passed laws to curtail the repetition of such horrific attacks. The Petitioner would like to highlight that this crime is mainly committed in four countries in the world, namely Bangladesh, Pakistan, Cambodia, and India. All three other countries have engaged in paving the way to an effective remedy for these survivors before India.
20. Bangladesh passed a law in 2002, which is a much stronger law than the Indian law. Bangladesh has passed two laws to curb acid attacks, the Acid Control Act 2002 and the Suppression of Offense by Acid Attack 2002. A copy of the Acid Control Act 2002 and the Suppression of Offense by Acid Attack 2002 is annexed herewith and marked as Annexure P-6.
21. These laws in Bangladesh have established the following to curb acid attacks:
  - a. Acid Prevention Tribunals to deal with Acid attack cases.
  - b. Completely banned acid sale.
  - c. Established a National Acid Control Council consisting of the Home Ministry, Ministry of Charge of Women and Children and other leaders that meets once every three months to make policy recommendations on the sale of acid, policy recommendations for medical, legal, and rehabilitation for the acid survivors, provides awareness activities of the negative and devastating effects of the misuse of acid and conducts other activities to curb the acid attacks.
  - d. Enforced that the investigation of the offense must be done within 30 days with possible extension of 30 days with special reason given, and if

the investigation is not complete within that time period, then another police officer has to conduct the investigation and there has to be action taken against the initial officer.

- e. Holds officers responsible for negligent behaviour where direct action is to be taken against the negligent officer.
  - f. Enforces that a trial of an offense must be completed within 90 days of the offense and if a judge retires or transfers midway then the second judge cannot ask to retry the trial.
  - g. If the accused is not present, the trial can be conducted in absentia.
22. In India, the offence of acid attack is added in Indian Penal Code by way of an amendment in 2013. In comparison to Bangladeshi law, India law pales, as it does not effectively address the gravity of acid attacks nor does it adequately help the acid attack survivors. The Indian Law is lacking in many respects:
- a. It does not address speedy investigation procedures for the survivor,
  - b. It does not address any methods to expedite the trials for acid survivors whose lives have essentially stopped since the attacks,
  - c. It does not adequately compensate the survivors of acid attacks as most surgeries can cost up to Rs. 3 lakh per surgery and acid attack survivors require surgery and physiotherapy throughout their lives in addition to psychological help,
  - d. The law has not included inputs from survivors or advocacy groups.
23. Hon'ble Supreme Court and this Hon'ble Court as well, in a catena of judgments, have recognised that the right to life includes the right to be free from inhuman and degrading treatment. As pronounced in Francis Coralie Mullin Vs. Union Territory of Delhi &Ors [1981 SCR (2) 516], Hon'ble Supreme Court held as under:
- “There is implicit in Article 21 the right to protection against torture or cruel, inhuman or degrading treatment which is enunciated in Article 5 of the Universal Declaration of Human Rights and guaranteed by Article 7 of the International Covenant on Civil and Political Rights (ICCPR). . . .”
24. International Human Rights conventions, committees, and tribunals routinely underscore the importance of the right to health, and the right to be free from inhuman, cruel, or degrading treatment.
- i. International Covenant on Civil and Political Rights, ratified by the Union of India on 10 April 1979, entered into force in India on 10 July 1979:
    - I. **Article 3.** The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.
    - II. **Article 12. 1.** Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement.
37. As a signatory to the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Government of India is obligated to take measures to take appropriate measures where legislative



and other measures, including sanctions where appropriate prohibiting all discrimination against women.

- i. Article 2: States Parties (...) agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and to this end, undertake :
    - (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women.
  - ii. Article 5: States Parties shall take all appropriate measures:
    - (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.
  - iii. Article 16:1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
    - (a) The same right to enter into marriage;
    - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
  - iv. Article 24: States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realisation of the rights recognized in the present Convention.
26. It is also important to mention in the context of this petition that although Hon'ble Supreme Court of India has directed the Union of India and the State Governments to ensure regulation of sale of acids in the states, there is no mechanism in place for regulation of sale of acids in the state of NCT of Delhi. The sale of acids in Delhi is still unregulated.
27. In view of these facts and circumstances, the Petitioner/ Victim is left with no other option than to approach this Hon'ble Court seeking immediate intervention of this Hon'ble Court for a direction to the Respondent to pay the compensation to the Petitioner/ Victim.
28. The copies of the annexures annexed hereto in this petition are true and correct copies of their respective originals.
29. The petitioner has exhausted all possible remedies and there is no efficacious and alternative remedy available to the Petitioners than to approach this Hon'ble Court and file this petition. Hence the Petitioners are filing this petition.

## GROUNDS

29. Based on the facts and circumstances innumerate above, this petition is filed, inter alia, on following grounds:
- a. Because the Respondent have failed to fulfil their obligations under the existing laws and schemes.
  - b. Because the right to life and the liberty of movement is protected by article 21 of the Constitution.

- c. Because the right to life and the liberty of movement is protected by article 21 of the Constitution.
- d. Because this Hon'ble Court has also recognized that the right to life includes the right to be free from inhuman and degrading treatment.
- e. Because it is clear that the State of \_\_\_\_\_ has not taken adequate steps to ensure justice for acid attack survivors with speedy investigations and trials, adequate medical care or just compensation.
- f. Because acid attacks are a blatant discrimination on the grounds of sex prohibited by article 15 of the Constitution which provides that "(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them".
- g. Because the publicity of such heinous acts and the failure of the State to provide adequate compensation under Survivor Compensation Schemes have caused the survivors to be isolated from all sectors of society because they are unable to leave their house because of their severe disfigurements.
- h. Because the Respondent herein have failed to fulfil the obligations as mandated by Hon'ble Supreme Court of India in Laxmi vs Union of India as reported in 2013 (9) SCALE 291.
- i. Because the Respondents herein have failed to compensate the victim appropriately for the loss that she has suffered by way of Acid Attack.
- j. Because the family of the Petitioner/ Victim being under the BPL category are entitled for welfare schemes meant for the families of BPL category.
- k. Because the Petitioner/ Victim belonging to a BPL family is not able to meet the expensed of her medical treatment and corrective surgeries.
- l. Because the Petitioner/ Victim is not able to get any corrective surgeries without any external financial support of the state.
- m. Because the Petitioner/ Victim has lost her employment because of the accident and cannot go out in open because of scar on her face. The scars on her face and her body are not only making her looks distorted, but is also susceptible for infections and further damages.
- n. Because the Respondent herein have failed to respond to the letter written by the Advocate of the petitioner/ Victim for payment of the compensation in view of the Supreme Court judgment.
- o. Because the Respondents herein have failed to fulfil their obligations towards the families of the victims.
- p. Because the family of the Petitioner/ Victim are living below poverty line and after this accident, they are unable to make their ends meet in view of high expenditure and continuous care of the petitioner/ Victim, which also is causing loss to the earning of the family.
- q. Because the State of \_\_\_\_\_ has no policy for effectively address all of the grievances of acid attack survivors including their medical treatment, legal support, housing needs, employment needs, psychological welfare

etc..

- r. Because the Petitioners have not filed any other writ Petition before this Hon'ble Court or before any other High Court or before the Supreme Court of India on the same matter, which is the subject matter of this Petition
- s. Because there is no other efficacious remedy available to the Petitioner, therefore the Petitioners are left with no other option than to approach before this Hon'ble Court and file this petition.

### **PRAYER**

30. In view of the facts and circumstances of this petition, the Petitioner prays before this Hon'ble Court, inter alia, as under:
- a. For a writ of mandamus or any other appropriate writ, order or direction to the Respondents No \_\_\_\_, No\_\_\_\_, and No\_\_\_\_\_ to pay interim compensation to the Petitioner in accordance the Hon'ble Supreme Court's *Laxmi* order (paragraph 8). For an order and direction declaring the Respondent herein liable to repay the compensation for injury and loss of at least a sum of Rupees 10 Lakhs to the Petitioner.
  - b. For an order to the Respondents to rehabilitate the Petitioner regardless of cost or duration in accordance with paragraphs 13-16 of the petition.
  - c. For an order and direction to the Respondent herein to pay the Petitioner/ Victim the expenses of her medical treatment that she has already made so far.
    - i. For an order to the Respondents to ensure that the Petitioner has access to the highest quality care at a private facility or government facility at the Respondents' expense in accordance with the Criminal Law (Amendment) Act of 2013 IPC Section 326A and 357C (para 14).
    - ii. For an order to the Respondents to provide free physical therapy for the Petitioner.
    - iii. For an order to the Respondents to provide free psychological treatment for the Petitioner.
    - iv. For an order to the Respondents to ensure employment, education, and housing assistance to the Petitioner.
    - v. For an order or direction to Respondents to fact-track the Petitioner's criminal trial and to provide free legal assistance to the Petitioner if necessary.
  - d. For an order or direction to Respondents to develop a standard treatment and management guidelines by a panel consisting of experts/ specialists in forensic medicine and toxicology, plastic surgery, general medicine and psychiatry. The guidelines should include treatment/ care at the Primary Health Centre level, Community Health Centre level, the district hospital level and the tertiary care hospitals level. It should also include training to all medical and public health staff.

- e. For an order or direction to Respondent to direct all private hospitals to provide free treatment for acid attack cases irrespective of the survivors' financial condition and to create an arrangement for the care and protection compensation to awarded.
- f. For an order or direction to Respondent to have pictorial displays with the first aid and primary care protocols/ guidelines to neutralise the acid and stabilise the survivor in all PHCS, sub-centres, health centres, and government hospitals in the states.
- g. For an order or direction to Respondent to issue a directive to the Chief Medical Officers of every hospital/ dispensary in the concerned state or union territory as the principal responsible person to take charge of the acid attack survivor's case which includes admission, guiding the appropriate health staff, to refer and to follow up in coordination with the Deputy Commissioner, Commissioner of Police and the Director of the relevant Santwana Kendra.
- h. For an order or direction to Respondent to increase the amount of compensation to Rs. 10 Lakhs minimum as compensation to survivors of acid attacks.
- i. For an order or direction to direct Respondent to develop a comprehensive rehabilitation scheme for acid attack survivors for housing, education, and employment.
- j. For an order and direction to the Respondents to pay the cost of this petition as quantified by this Hon'ble Court.
- k. For any other order or direction that this Hon'ble Court may deem fit and appropriate under the circumstances of the instant case and in the interest of justice

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL EVERY AS IN DUTY BOUND EVER PRAY.

Petitioner/ Victim

Filed By

Concerned State or Union Territory

Date:

( \_\_\_\_\_ )  
 Advocate(s) for Petitioner  
 (Contact Details)

**Before the Concerned Court at the Concerned  
 State or Union Territory**

(Civil Writ Jurisdiction)

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_

(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC

.....Petitioner

Versus

-----

.....Respondent

**Affidavit**

I, ABC, D/o DEF aged about 21 years, R/o \_\_\_\_\_, do hereby solemnly affirm and state as under:

1. That I am the Petitioner in the above captioned Petition and I am well conversant with the facts and circumstances of this case and hence competent to swear this affidavit in such capacity.
2. The contents of the affidavit have been read over to me and explained in simple Hindi and I state that I have understood the contents of this writ petition and I also say that the contents thereof are true and correct to the best of my knowledge and belief.
3. I further state that no petition/ application have been filed before any other Court or tribunal seeking similar relief by the Petitioner.
4. That the Annexures attached to the petition/ application are true and correct copies of the respective originals.

DEPONENT

Verification

Verified at \_\_\_\_\_ on \_\_\_\_ day of \_\_\_\_ of 20\_\_ that the contents of the Affidavit are true and correct to the best of my knowledge and nothing material has been concealed thereupon.

DEPONENT

**Before the Concerned Court at the Concerned State or Union Territory**

(Civil Writ Jurisdiction)

Civil Miscellaneous Application No. \_\_\_\_\_ of 20\_\_ -01-20

IN

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_

(Under Article 226/227 of the Constitution of India)

In the matter of:-

ABC

.....Petitioner

Versus

-----

.....Respondent

To

The Chief Justice and his Companion Justices

Hon'ble Concerned Court Concerned

State or Union Territory

**APPLICATION UNDER SECTION 151 OF CODE OF CIVIL PROCEDURE, 1908 FOR INTERIM RELIEF**

Humble Petition of the Petitioner abovenamed

Most respectfully showeth:

1. Petitioners herein, who is a victim of acid attack, has filed the accompanying writ petition seeking intervention of this Hon'ble Court for an order and direction to the Respondent herein, inter alia, to pay the compensation

and other legitimate entitlement of the Petitioner/ Victim as mandated by Hon'ble Supreme Court of India in Laxmi vs Union of India. The facts of the accompanying petition are not repeated herein for the sake of brevity.

2. In view of the pronouncements in abovementioned case, the Petitioner/ Victim is entitled for the compensation from the Respondent to the tune of at least Rupees Three Lakhs.
3. The family of the Petitioner/ Victim belongs to BPL category and the family is facing very difficult times after the unfortunate attack on her. The families are living in very poor condition and have no means of to carry out the treatment of the Petitioner/ Victim. The family has been identified as BPL as well.
4. It is also the responsibility of the State to maintain and keep its citizens and extend the benefits of the welfare schemes and measures to the needy.
5. In view of the facts and circumstances of the case, it will be in the interest of justice, if the Respondent is directed to pay the interim relief of Rupees Three Lakhs as directed by the Hon'ble Supreme Court of India to the families of the victims immediately.
6. The Petitioner has not filed any other application before this Hon'ble Court or before any other Court seeking similar relief.
7. In view of the facts and circumstances of the instant application, it is therefore prayed as under:
  - a. For an order directing the Respondent to pay forthwith the interim compensation of Rupees Three Lakhs to the Petitioner/ Victims.
  - b. For an order directing the Respondent State to forthwith pay the expenses met by her in her treatment so far.
  - c. For any other order or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL EVERY AS IN DUTY BOUND EVER PRAY.

Petitioner/ Victim

Filed By

Concerned State or Union Territory

Date:

(\_\_\_\_\_)

Advocate(s) for Petitioner

(Contact Details)

**Before the Concerned Court at the Concerned  
State or Union Territory**

(Civil Writ Jurisdiction)

Civil Miscellaneous Application No. \_\_\_\_\_ of 20\_\_

IN  
Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

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.....Respondent

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1. That I am the Petitioner in the above captioned Petition and I am well conversant with the facts and circumstances of this case and hence competent to swear this affidavit in such capacity.
2. The contents of the affidavit have been read over to me and explained in simple Hindi and I state that I have understood the contents of this writ petition and I also say that the contents thereof are true and correct to the best of my knowledge and belief.
3. I further state that no petition/ application have been filed before any other Court or tribunal seeking similar relief by the Petitioner.
4. That the Annexures attached to the petition/ application are true and correct copies of the respective originals.

DEPONENT

Verification

Verified at \_\_\_\_\_ on \_\_\_\_\_ day of \_\_\_\_\_ of 20\_\_ that the contents of the Affidavit are true and correct to the best of my knowledge and nothing material has been concealed thereupon.

DEPONENT

**Before the Concerned Court at the Concerned  
State or Union Territory**

(Civil Writ Jurisdiction)

Civil Miscellaneous Application No. \_\_\_\_\_ of 20\_\_-01-20

IN

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
(Under Article 226/227 of the Constitution of India)

In the matter of:-  
ABC

.....Petitioner

Versus

-----

.....Respondent

To

The Chief Justice and his Companion Justices Hon'ble Concerned Court  
Concerned State or Union Territory

**APPLICATION UNDER SECTION 151 OF CODE OF CIVIL  
PROCEDURE, 1908 FOR MASKING THE NAME AND OTHER  
DETAILS OF THE PETITIONER**

Humble Petition of the Petitioner abovenamed

Most respectfully showeth:

1. Petitioners herein, who is a victim of acid attack, has filed the accompanying writ petition seeking intervention of this Hon'ble Court for an order and direction to the Respondent herein, inter alia, to pay the compensation and other legitimate entitlement of the Petitioner/ Victim as mandated by Hon'ble Supreme Court of India in Laxmi vs Union of India. The facts of the accompanying petition are not repeated herein for the sake of brevity.
2. It is stated that the Petitioner is a victim of acid attack and because of the sensitivity of the case and also because of the reason to protect the identity of the Petitioner/ Victim, it is paramount to mask the name and other details of the Petitioner from being published.
3. That the Petitioner/ Victim does not want her name and other details be published and discussed in public for the sake of protecting her identity, safety and security.
4. The Petitioner has not filed any other application before this Hon'ble Court or before any other Court seeking similar relief.
5. In view of the facts and circumstances of the instant application, it is therefore prayed as under:
  - a. For an order directing to mask the name and other details of the Petitioner/ Victim.
  - b. For an order and direction to protect the identity and other details of the Petitioner/ Victim from being published in any manner.
  - c. For an order and direction to replace the name of the Petitioner in all future filings and proceedings of the Hon'ble Court with any letter and not by her name
  - d. For any other order or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS SHALL EVERY  
AS IN DUTY BOUND EVER PRAY.

Petitioner/ Victim

Filed By

Concerned State or Union Territory

Date:

( \_\_\_\_\_ )  
Advocate(s) for Petitioner  
(Contact Details)



**Before the Concerned Court at the Concerned  
State or Union Territory**

(Civil Writ Jurisdiction)

Civil Miscellaneous Application No. \_\_\_\_\_ of 20\_\_  
IN

Writ Petition (Civil) No. \_\_\_\_\_ of 20\_\_  
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3. I further state that no petition/ application have been filed before any other Court or tribunal seeking similar relief by the Petitioner.
4. That the Annexures attached to the petition/ application are true and correct copies of the respective originals.

DEPONENT

Verification

Verified at \_\_\_ on \_\_\_ day of \_\_\_\_\_ of 20\_\_ that the contents of the Affidavit are true and correct to the best of my knowledge and nothing material has been concealed thereupon.

DEPONENT

**Endnote:**

1. The medical bills, the medical certificates, the BPL card of the concerned family etc can be annexed in such a petition. Also, special reports on acid attacks by various organizations and law commission can be annexed with the petition.



**BURNING INJUSTICE** is our attempt to create awareness around the legal, social, economic and medical ramifications of acid violence in India. The manual looks at the legal developments with respect to the criminalization and compensation in cases of acid attacks in India and also gives a comparative analysis of international laws on acid attacks. The manual critically analyzes judgments from courts across the country, fishing out misogynistic biases in orders that ultimately further stigmatizes and bolsters patriarchy. Survivor testimonies throughout the manual illustrate the full range of alienation, apathy, and physical trauma that survivors experience.

Human Rights Law Network is a collective of lawyers and social activists dedicated to the use of the legal system to advance human rights in India and the sub-continent. HRLN provides pro bono legal services, conducts public interest litigation, engages in advocacy, conducts legal awareness programmes, investigates violations, publishes 'know your rights' materials on the issues of caste, gender, disability, age, religion, language, ethnic group, sexual orientation, and health, economic or social status.



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