

**Physical Violence Against Women and
Compensatory Jurisprudence with Special
Reference to Acid Attack Victims Working in
Sheroes Cafés of Uttar Pradesh**

Abstract of

Thesis

**SUBMITTED TO THE
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY
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**BABASAHEB
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INTRODUCTION

Violence against women is a technical term used to collectively refer to violent acts that are primarily or exclusively committed against women. The United Nations General Assembly defines “*violence against women*” as *any act of gender based violence that results in, or is likely to result in, **physical**, sexual or mental harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.*”¹

Violence against women is partly a result of gender relations that assumes men to be superior to women. Given the subordinate status of women, much of gender violence is considered normal and enjoys social acceptance also. Women are facing several types of violence since time immemorial such as sati, Johar, Devadasi, etc., however the recent trend of violence has changed to rape, sexual harassment, domestic violence, dowry, etc. Further, Gender violence is linked to **other crimes against women** such as child maltreatment and gender selective abortion, infanticide, malnourishment and no proper attention unlike the male members of the family. Honor killings and **acid attacks** are also prevalent kind of gender violence.

Acid Attack is more painful and severe for the victim as it involves physical, psychological abuse, the threat of such abuse, inflicted against a woman by a person who has been rejected by her for marriage, love or sex etc. “Acid” attacks as per text involves, Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or **causes grievous hurt by throwing acid** on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt.²

¹ United Nations declaration, 1993 available at: <http://www.un.org> accessed on 13/7/18

²Sec 326 A Criminal Law Amendment Act, 2013 (Act No.14 of 2013)

Acid violence is prevalent mostly in Asian countries because of three related factors:

- A. Gender inequality and discrimination,
- B. The easy availability of acid, and
- C. Impunity for acid attack perpetrators.

Acid violence is gender-based violence that reflects and perpetuates the inequality of women in society and as such is prohibited by international law. Acid attacks occur throughout the world, including in the United States. However, India has some of the highest recorded incidence of acid violence. A research of **Chhanv Foundation** found many reported cases of acid violence from 2013 (203) to 2017 (283)³. Till 2015, no official statistics of acid attacks were available with the government. In the year 2016, for the first time data regarding acid attack was released by NCRB and there are likely many more deadly incidents than these figures reveal.

According to the National Crime Records Bureau, a total of 206 acid attacks and attempts to acid attack were reported in the country that claimed a total of 225 victims in the year 2016.⁴ The numbers went down from the previous years, i.e., 2014 and 2015 when there were 255 and 268 reported incidents of acid attacks and attempts to acid attack claiming 277 and 295 victims respectively. Out of the 206 incidents reported in 2016, the second highest numbers of cases were reported from Uttar Pradesh, amounting to a total number of 51 cases claiming 52 victims. West Bengal registered the highest number of acid attacks in the year 2016 with 54 reported incidents claiming 60 victims. In the year 2015, the number of reported incidents of acid attacks and attempts of acid attack amount to 66, claiming 72 victims in Uttar Pradesh. In 2014, the numbers in Uttar Pradesh for acid attack and attempts to acid attack were 55 claiming 56 victims. West Bengal came close to second in both these years. Uttar Pradesh has steadily been ranked among the states with the highest number of acid attack for the three years, 2014-2016⁵. Perpetrators of acid attacks intend to disfigure and cause extreme **physical** and mental suffering to victims. Perpetrators usually attack victims with

³Available at <https://www.chhanv.org> accessed on 13/7/18

⁴National Crime Records Bureau (2017), Crime in India Report, Ministry of Home Affairs.

⁵Available at www.aalilegal.org accessed on 13/7/18

hydrochloric, sulfuric, or nitric acid, which quickly burns through flesh and bone. It has been observed that Acid attacks occur in private and public places. Attackers throw acid through open home windows at night or from moving motorcycles in markets in broad daylight. Acid violence has devastating health repercussions for the victims. Short-term effects include immense physical pain, while long-term effects can include blindness, loss of facial features, and severe mental suffering. As a result of their **physical** deformities and accompanying disabilities, acid violence survivors are often marginalized in society. 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. In the case of acid attack it is not uncommon for the family to loan money, mortgage or sell assets or property or take up additional work to pay medical bills or bear the expenses of the lawyers.

The emergence of *compensatory jurisprudence* in the light of human rights philosophy is a positive signal indicating that the judiciary has undertaken the task of protecting the right to life and personal liberty of all, even though in absence of any express constitutional provision or judicial precedents.⁶ The idea behind providing compensation is legal as well as embodies of basic principal of restorative justice. Recently *Compensatory Jurisprudence* became an inseparable part of criminal justice system.

Principally the perpetrators of any offence should get the punishment for the offence committed however this universal principal goes into vain in case of Acid attack because of loose implementation mechanism and lethargic trial procedure. In addition to this these victims are not given adequate compensation to meet with their medical expenses and there is no proper mechanism to monitor or regulate the sale of acid in the market. The recent Criminal Amendment Act 2013 has done a lot for the prevention rape, acid attack, etc. but still is this not sufficient to curb the menace from the root itself.

⁶Dr. Sunita Arya, "Compensatory Judicial Jurisprudence Through Constitutional And Legal Provisions", 2 *Altius Shodh Journal of Management and Commerce*, 377-381(2015).

The present thesis identifies forms and magnitudes of violence, evolution and development of compensatory jurisprudence, causes and consequences of acid violence and suggests practical solutions to address them. With the aim of contributing to efforts to design effective laws and policies to combat acid violence, this thesis through empirical study in **Sheroes Cafés (UP)** provides a detailed appraisal of acid attack perpetrators, motives, victims, and the impact of attacks on victims.

STATEMENT OF THE PROBLEM

Acid attacks occur at high rates in India because the acids used by the attacker such as sulfuric acid and nitric acid are cheap and easily available. Acid attacks are on the rise in India.

Acid attacks have been made punishable in different parts of the world including Australia, Bangladesh, Cambodia, China, El Salvador, Ethiopia, Italy, Laos, Malaysia, Nepal, Pakistan, Sri Lanka, Thailand, Uganda, UK, USA, and Vietnam. However, the number of incidences in Bangladesh, India, Pakistan, Cambodia and Uganda are much higher and are on rise. Most states punish acid violence under the existing norms prescribed for violent crime or gender-based crime (e.g., attempted murder, grievous hurt, assault, domestic violence).⁷ 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.

Very little data is available on acid attacks in India some studies have reported an increasing trend in cases relating to acid attacks. While the statistics of the London-based Acid Survivors Trust International (ASTI) show such attacks worldwide come to about 1,500 a year. As per ASFI (Acid Survivors Foundation India) there could be 700 to 800 recorded cases across India in the past 6 years.⁸ In this regard it is pertinent to note, that in India crime against women mostly goes unreported with higher magnitude in rural areas. Due to this reason the

⁷Dexter Filkins, "Afghan Girls, Scarred by Acid, Defy Terror, Embracing, School," *Times* 1 January 2009 available at: http://www.nytimes.com/2009/01/14/world/asia/14kandahar.html?_r=0

⁸ Available at: www.acidsurvivors.org accessed on 16/08/19

abovementioned number may under-represents the true picture of acid violence in India and the plight of sufferer. Furthermore, it is also observed that acid attacks are mostly conventional against a specific gender, i.e. women. Women and girls constitute majority of the victims of the vitriolage. In most of the South Asian countries, it has been witnessed, that the victims of acid violence have a gender aspect attached to it whereby men generally throw acid on women as they cannot face the rejection by them and hence mutilate their face and body. Generally, victims of acid violence include young people under the age of 25. In India nearly in 34% of cases victims were between 18 to 29 years. It also alarming to note that the crime scene for most of such attacks are public places, and considering the nature of weapon, this also pose an eminent threat to the by-standers.⁹

International human rights law requires governments to act affirmatively and with due diligence to protect human rights and adequately respond to human rights violations. Due diligence imposes upon governments the obligations to enact legislation designed to combat acid violence, ensure effective implementation of laws, and provide redress to victims.

It is amply demonstrated that acid attacks occur at increased rates in areas where acid is widely used for industrial or other business purposes. Companies produce, distribute, sell, and use acid in manufacturing processes. As noted above, one of the reasons for the prevalence of acid attacks in India is the cheap and easy availability of acid. Even when governments fail to regulate the sale and use of acid such businesses should adhere to emerging international standards and exercise due diligence to minimize the negative human rights impacts of their business activities. Companies can contribute to combat with intentional acid attacks by adopting polices for the safekeeping and proper labeling of acid and by supporting government and industry efforts to regulate the proper use and disposal of acid.

A State's due diligence obligation includes providing redress to victims for the human rights violations they have suffered. Redress can include rehabilitation

⁹⁹Avon Global Centre for Women and Justice at Cornell Law School, the Committee on International Human Rights of the New York City Bar Association, The Cornell Law School International Human Rights Clinic, The Virtue foundation.(2011). Combating Acid Violence in Bangladesh, India and Cambodia available at www.ohchr.org/Documents/HRBodies/CEDAW/HarmfulPractices/AvonGlobalCentreforWomenandJustice.pdf. accessed on 08/05/16

of victims and monetary compensation. Many acid violence survivors must undergo numerous complicated surgical procedures. These medical procedures are very costly and require specialized expertise and facilities. Governments should provide adequate healthcare in government facilities to victims, and, where this is not available, the government should pay the expenses for necessary treatment at private health facilities. Few healthcare professionals in government facilities in India are trained in proper first aid response to acid burns, and few specialized facilities to adequately treat acid burns are available in government hospitals. Additionally, redress for acid attack victims should include compensation if they are unable to work. Most survivors in these countries do not receive adequate healthcare or monetary compensation from their governments.

It is completely clear that even if several amendments have been introduced in Cr.P.C. yet there is dearth of proper comprehensive laws related to **compensation** that can bring actual relief to the victims of crime. Apart from it, there are number of special laws which have proclaimed to award compensation for victims but these statutes have been made for different purposes and there is no clear cut direction available for legislature as well as judiciary. These laws are more to confuse rather than helping. These Acts are providing compensation to their own victims of crime only. The insertion of sections 357 A, 357 B, 357 C is only a step towards direction of recognizing a range of victim's rights in criminal justice.

OBJECTIVES OF THE RESEARCH

The specific objectives of the study are as following:

- To make a critical review of the different types of violence against women in the ancient India, and to study the new types of violence including Acid Attack and its physical, as well as psychological impact,
- To find out the reasons responsible for the violence against women in general and particularly for the acid attacks. Why acid attacks are increasing in our country?
- To trace the development of compensatory jurisprudence and its present status in India specially related to the women victims of acid attack.

- To discuss the national and international legal framework dealing with violence against women in general and in particular with acid attacks,
- To discuss the institutional mechanism for implementing the policies and regimes regarding the compensation to the women victims in general and acid attack victims in particular,
- To suggest the measures for improving the legal, administrative, medical, and organizational efficiency in ensuring fair, humane and effective handling of acid attack victims at various stages.

HYPOTHESIS OF RESEARCH

Taking into account the research problem and the objectives of the study, as stated above, the following hypothesis have been formulated for this research study:

- Violence against women has increased in present time in forms and magnitude. The cases of acid attacks are rising in India.
- Social, political and economic factors are responsible for the increased incidence of acid attacks.
- The concept of compensatory jurisprudence regarding violence against women in general and for acid attack victims in particular is evolving in India, slowly but steadily.
- Improper implementation of the existing laws, judicial guidelines and the recommendations by the committees are hindrances for ameliorating the condition of women victims of acid attack in India.

RESEARCH METHODOLOGY

The current study follows a phenomenological research design, a design specifically grounded in Qualitative Methodology. This design has allowed the researcher to accommodate the wide range of experiences that are associated with violence and justice by privileging the voices of women and reading through their stories. A conscious effort has been made to retain qualitative in depth engagement.

- A. Primary Data Collection-** the primary data collection was done using various methods such as semi-structured, in-depth interviews with key informants, quasi-participant observations, focused group discussions and documentary research. The researcher visited the **Sheroes Cafe** for short periods over 6 months and engaged the participants to obtain data.
- B. Secondary Data Collection-** Descriptive, analytical, informative and evaluative methods have been adopted to draw inferences and conclusions. Reliance has been placed on international Documents, National laws and judicial responses. Books, Articles, Journals, opinion pieces, survey reports and materials available on websites were consulted. This work reviews the literature on the problem of violence against women in general and acid attack victim in particular to its prevalence and magnitude. The research work analyzes the provisions in the constitution, in the criminal laws, in the civil laws and in other specific laws relating to the topic. It also critically analyzed the cases, judgments of the Supreme Court and the High Court and recommendations made by the various committees. Present Doctoral work is divided into seven chapters brief of which is as:-

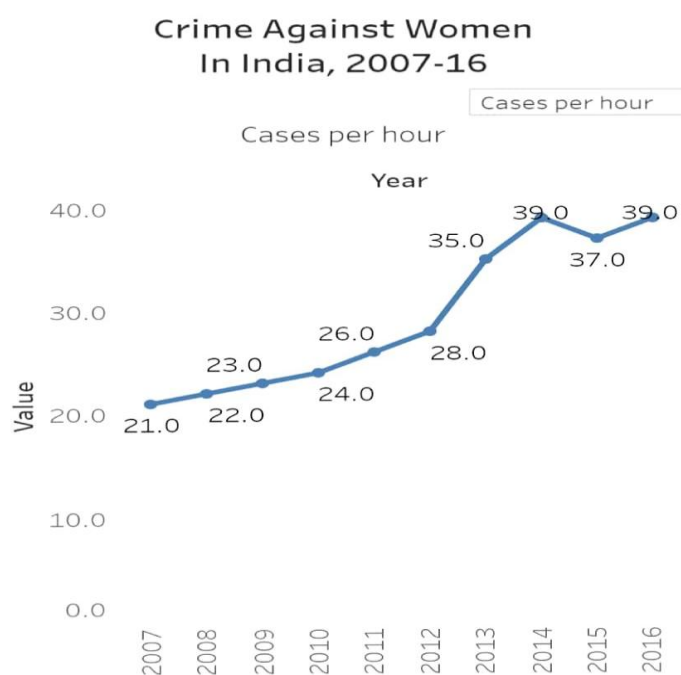
Chapter I comprises **introduction**, researcher introduced research work and outlined research problem, hypothesis, research methodology and hypothesis testing. Brief of the chapters is also included in this chapter.

Chapter II discusses **forms and magnitude of violence against women**. It discusses definition of violence, proposed by various jurists, United Nation's documents e.g. definition contained in United Nation Declaration 1993, different kinds of violence against women in the United Nation's special report, (1995) on Violence against Women, etc. Gender violence is divided into four major categories:

- 1) Overt physical abuse (Burn, battering sexual assault, at home and in the work place)
- 2) Psychological abuse (confinement, forced marriage)
- 3) Deprivation of resources for physical and psychological well being (health/nutrition, education, means of livelihood)
- 4) Commoditization of women (trafficking, prostitution)

Further, Gender violence is linked to **other crimes against women** such as child maltreatment and gender selective abortion, infanticide, malnourishment and no proper attention unlike the male members of the family. Honor killings and **acid attacks** etc are also prevalent kind of gender violence.

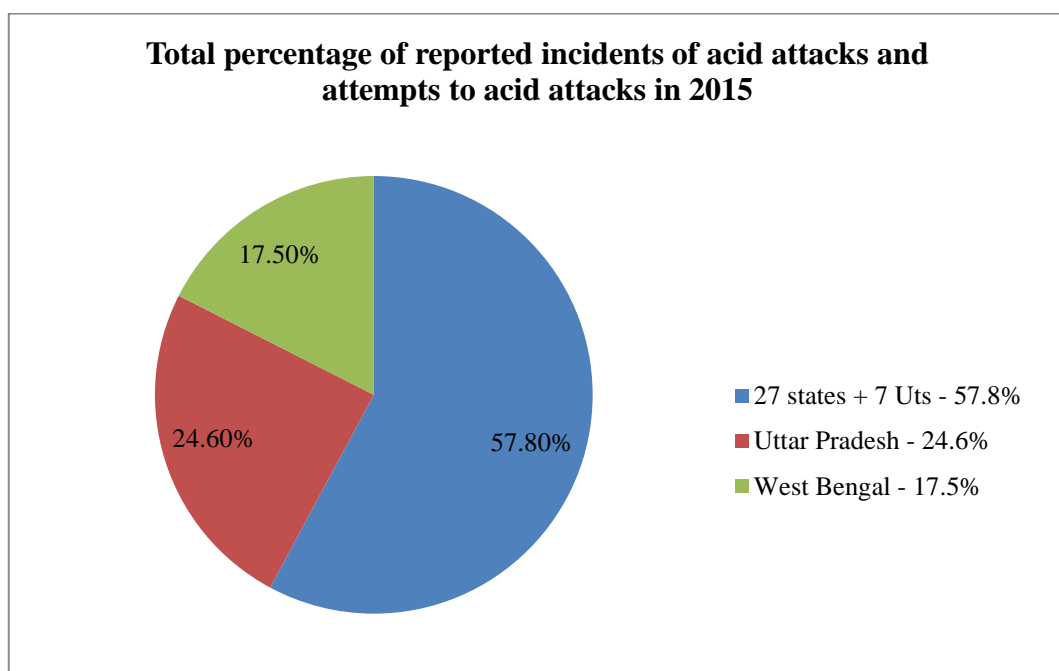
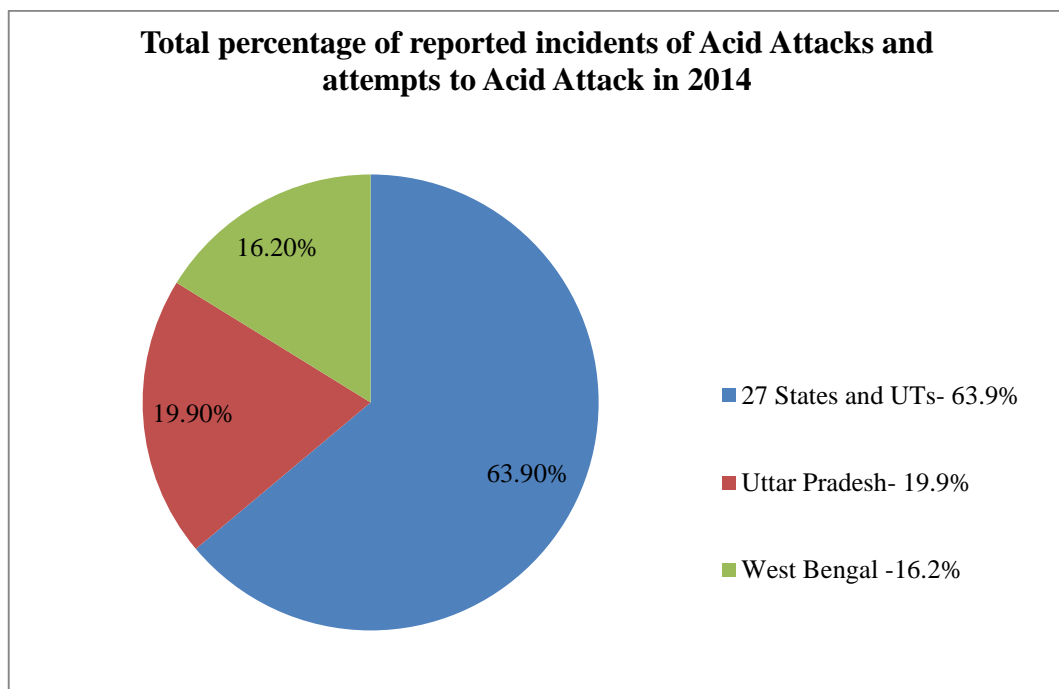
To further visualize what this means for the **magnitude of the violence/crime** against women, the statistics of National Crime Records Bureau 2016 is given below. Following data shows that over a period of time the crime against women has increased. There is a decline only in dowry deaths whereas virtually all types of crime against women have increased. As many as 39 crimes against women were reported every hour in India, up from 21 in 2007, according to Crime in India 2016 report by National Crime Records Bureau. The rate of crime against women—crimes per 100,000 female populations—was 55.2 in 2016, up from 41.7 in 2012.¹⁰



Source: National Crime Records Bureau 2016; Previous Publications

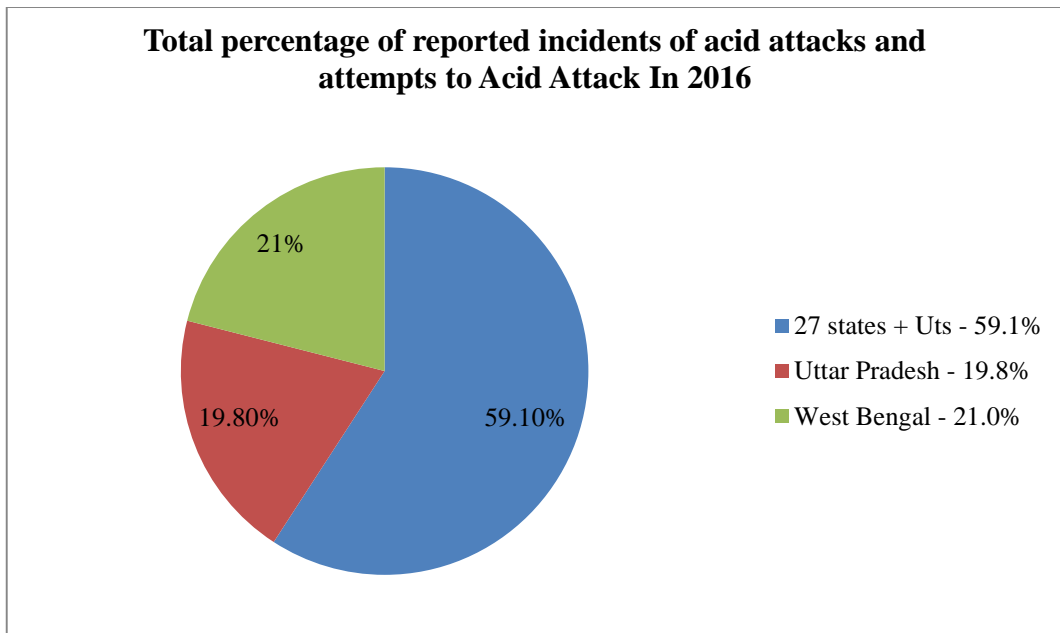
¹⁰Available at: <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20%202016%20Complete%20PDF%20291117.pdf> accessed on 13/7/2018.

For instance, the rate of growth of **acid attacks** has risen from 2013(203) to 2017(708)¹¹ Uttar Pradesh has steadily been ranked among the states with the highest number of acid attack for the three years, 2014-2016.¹² To visualize the magnitude of the Acid violence in the States, a graphical representation is given below:-



¹¹Available at: <https://www.chhanv.org> accessed on 13/7/18

¹² National Crime Records Bureau (2017), Crime in India Report, Ministry of Home Affairs.



Chapter III analyses causes and consequences of violence against women a theoretical explanation, of various types of violence against women and their varied patterns. These theories have been classified on the basis of four (theoretical) levels of analysis;

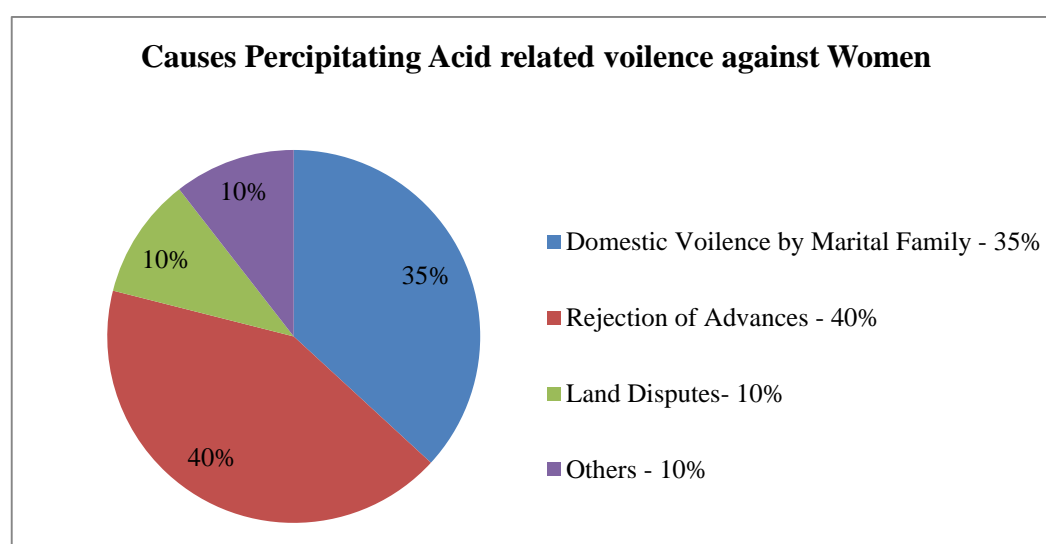
1. Feminist theory,
2. Psychiatric or psychopathological analysis,
3. Socio-psychological analysis, and
4. The social problem approach.

An analysis of various forms of crimes against women also reflects that this is such a complex phenomenon that a single theory does not and cannot explain all sorts of violence against women. There are numerous factors such as socio-cultural, structural, economic, pathological and psychological responsible for it. Changing social norms and values shape the evolution and typology of violence. Therefore, multifactor theory provides a comprehensive framework to understand the nature and causes of crime against women in India.

The reasons for crime against women have been analyzed, so that appropriate measures can be taken. This study also explains about acid attack and its causes in detail. There are many reasons for acid attacks. The most common and obvious reason is “**love rejection**”, in which the proposal of marriage, love or

sex is rejected by the victim.¹³ Study of Indian News Reports, from January 2002 to October 2012 uncovered that victim's rejection for love and marriage proposals motivated attacks in 35% of the 110 stories, providing a motive for the attack.¹⁴ Additionally, another report was published by a leading organization working for acid attack victims, '*The Campaign and Struggle against Acid Attacks on Women (CSAAAW)* which found that **sexual harassment or assault** in response to a woman or girl **refusing such advances or demanding that the violence stop** often precede such attacks.¹⁵ By deforming her face, man derives a sadistic pleasure and his male ego gets satisfied.

Other prominent reasons are **dowry problems or other marital problems**. The study of newspaper reports in India, exhibits that nearly 20% of the attacks occurred between unrelated people, due to business rivalry, sales disputes, land disputes or revenge between families.¹⁶ Therefore, the main reasons behind commission of this brutal act of acid throwing are many, namely rejection of love or marriage proposals, refusal to pay dowry, rejection of sexual advances, property or family dispute or marital disputes like refusal to give divorce. The pie-chart appended demonstrates the trend:



¹³Parvathi Menon, Sanjay Vashishtha, "Vitriolage and India- The Modern Weapon of Revenge" available at www.ijhssi.org Volume 4 issue 1 visited on Aug. 11, 2018.

¹⁴Sujoy Dhar, India's acid attack victim (2013, August 20) The Global Times, (Retrieved from <http://www.globaltimes.cn/DesktopModules/DnnForge%20%20NewsArticles/Print.aspx?tabid=99> and Tabmodulid =94&article id=805020&module id=405 and Portal Id=0)

¹⁵Campaign and struggle against Acid Attack on Women (CSAAAW), *Burnt not defeated* 21-22 (2017)

¹⁶Acid Survivors Foundation Bangladesh, Annual Report 2009 at 15(2009), available at http://www.acidsurvivors.org/AR_2009pdf

Acid attacks result into severe physical, psychological and socio-economic consequences and makes the life of the victim worse than death. Acid attack is a complex and multi-dimensional problem that makes it very difficult for the survivors back to normal routine. In this chapter the researcher describes how acid violence disproportionately affects survivors' body, mind, social and economic security and also highlight the medical facility available to the acid survivors.

Chapter IV is divided into two parts first part traces the **Chapter IV A concept, origin and development of compensatory jurisprudence** with regard to physical crimes against women victims. Through this chapter researcher has emphasized that it is equally important to provide adequate compensation to the victims and initiate a meaningful rehabilitation program. This chapter also analyses judicial responses against victims of crimes and *compensatory jurisprudence*.

The reactions to crime have been different at different stages of human civilization. There are number of theories available pertaining to 'Reaction to crime'. Important among these theories are retribution theory, reformative, deterrent theory etc. In common, every theory provides justification for punishment. The objects of punishment are:

1. Making example of the criminal;
2. Deterring the criminal from repeating the same act;
3. Reforming the criminal by eradicating the evil will; and
4. Satisfying society's feeling of vengeance which the act is supposed to evoke.

The law in the early stages of civilization was to compensate the victim and not to punish the offender. Narada was the first to recommend compensation to the victims by the offender in order to expiate his sins.

Earlier, it was assumed by the administration of criminal justice that the claim of the victim gets satisfied by the conviction and the sentence of the offender. There is a change in this traditional concept of conviction of offender and the State is resorting to every possible measure for correction and

rehabilitation of offender.¹⁷ The irony is that the offender is lodged, fed, clothed, warmed and entertained in model prison at the expenses of the State which may also include the taxes that the victim pays to the treasury. It is rightly observed by the Supreme Court that it is the weakness of our criminal jurisprudence that the victims of crime do not get proper attention.¹⁸ In order to overcome these lacunae, apex court in India started giving importance to the interest of the victims of crime by awarding compensation and paved way for the development of compensatory jurisprudence. Earlier, the question of liability of State to compensate the victim was posed before the Supreme Court of India in **Khatri v. State of Bihar**¹⁹ and in **Veena Sethi v. State of Bihar**.²⁰ In both these cases, the court refused to compensate the victims though in one of the cases, the court directed the State of Bihar to provide best treatment to the victim at the cost of the State. It was in the landmark verdict of the apex Court in **Rudal Shah**,²¹ that awarding compensation to the victims of crime originated which in turn resulted in the birth of **compensatory jurisprudence** in India. The court in this case observed that a person is entitled to compensation for the loss or injury caused by the offence, and it includes the wife, husband, parent and children of the deceased victim.²² The Court exercised its jurisdiction under Article 32.²³ Further to exercise its jurisdiction under article 32 in **Laxmi v UOI**,²⁴ The Supreme Court directed all states to pay acid attack victim Rs. 3 lakh towards medical treatment and aftercare rehabilitation and Rs. 1 lakh within 15 days of an incident and the balance within two months thereafter.

Second part of **Chapter IV** provides 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 of the sale of acid to latest compensation scheme of 2018. The Code of Criminal Procedure

¹⁷ R.D. Dubey, “how effective is the Indian Criminal Justice System in Protecting her Citizen? Some contemporary reflections”, 1 Indian Human Rights Law Review (2010), p.37.

¹⁸Rattan Singh v. State of Punjab, (1979) SCC 719

¹⁹A.I.R. 1981 SC 928.

²⁰A.I.R. 1983 SC 339

²¹Rudal Shah v. State of Bihar, A.I.R. 1983 SC 1086.

²²Ibid.

²³Article 32 of the Constitution of India 1950

²⁴Laxmi vs. union of India (2014) 4 SCC 427

(Amendment) Act of 2008 adopts aspects of the recommendations by the NCW and LCI report of 2008 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." The Criminal Law (Amendment) Act of 2013 comes into effect, 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"

To initiate this legal development in **Parivartan Kendra vs. Union of India & Ors.**,²⁵ the honorable Supreme Court stated that, the victim should be compensated to a tune of at least Rs. 10 Lakhs. Suffice it to say that the compensation must not only be awarded in terms of the physical injury, but should also take note of victim's inability to lead a full life and to enjoy those amenities which is being robbed of her as a result of the acid attack. Therefore, this Court found it proper to award a compensation of Rs. 10 lakhs and accordingly, directed the concerned Government to compensate the victim to a tune of Rs. 10 Lakhs. In the light of the Judgment given in Laxmi's case the court directed the concerned State Government of Bihar to compensate the main victim's sister, also to a tune of Rs. 3 Lakhs.

The Supreme Court of India in **Nipun Saxena v. Union of India**²⁶, had opined that "it would be appropriate if NALSA sets up a Committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and **acid attacks** taking into account the submissions made by the learned Amicus. The Supreme Court on May 11, 2018 approved the '**Compensation Scheme for Women Victims/Survivors of Sexual Assault/Other Crimes-2018**', a uniform compensation scheme for victims of sexual assault and **acid attacks**. The scheme was prepared by the National Legal Services Authority (NALSA) in consultation with the Union Government. **Chapter V Protection for the violence against women under international and national law** provides detailed account of contribution of international

²⁵(2016)3 SCC 371.

²⁶WP (C) No. 565 of 2012

organizations like United Nations and other various agencies regarding eradication of gender based discriminations (violence also Includes discrimination) against women and focuses on the legal development in India in relation to Acid Attack. The acid violence is a form of discrimination prohibited by international human rights law, and States have an obligation to act with due diligence to prevent and adequately respond to acid attacks. This chapter highlights the constitutional and legal provisions as well as incorporation of international provisions in relation to acid violence against women.

Chapter VI recounts experiences of live realities of women survivors of acid violence working in sheroes cafés and deals with the narratives that this study encountered during conversations with women survivors of acid related violence helps a number of themes emerge that further inform the discourse on women lived realities with the violence and its aftermath.

SHEROES CAFÉ OF LUCKNOW



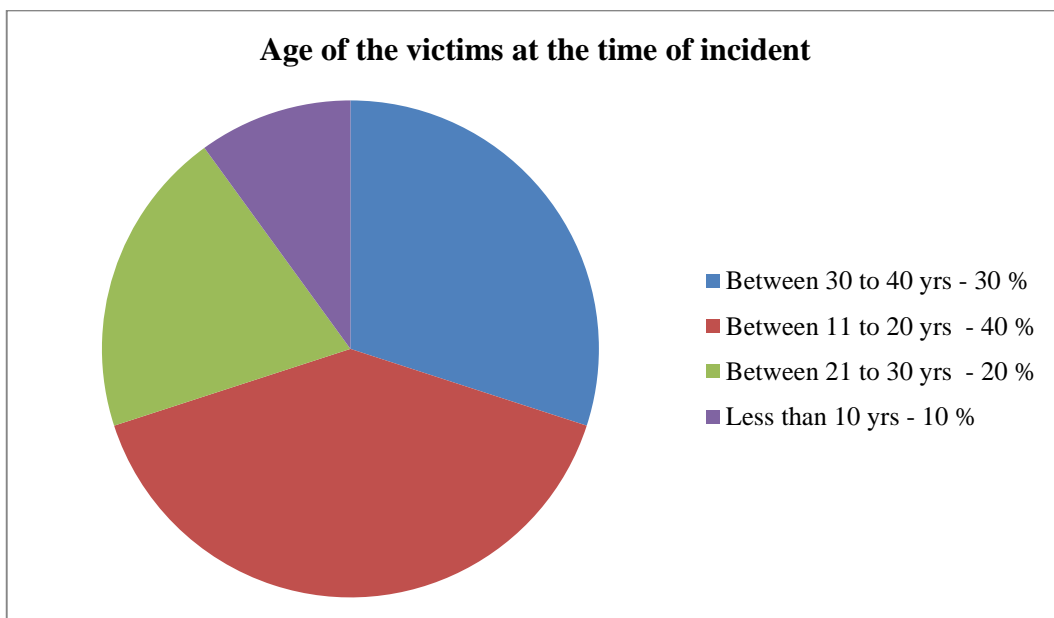
SHEROES CAFÉ OF AGRA



All the survivors whom researcher spoke to knew their violators well, most of them are related to the survivors through marriage, such as her husband or in laws. Other survivors knew their perpetrators as their employers or neighbours. While most survivors suggested that the acid violence came as a fatal finality in a series of violent incidents in the marital home owing to other forms of domestic violence, some survivors also spoke about how the acid violence was followed by them rejecting romantic advances of the perpetrators. Another revelation through the narratives was regarding how acid attacks are used as a weapon for revenge, in relation to land disputes, or for Caste-based violence.

The narratives shows that the burning have profound effects on the **physiology** of the victim following the attack. Thick burn scars have resulted

from stretched and contorted skin, formed around the burnt areas. Acid violence has been deeply traumatizing experience for the survivor because of the magnitude and nature of injuries as well as the understood long-term consequences of these injuries in their life. The trauma has transformed into neurotic and **psychotic** disabilities for the survivors. For survivors of acid attacks, the **economic** costs of the violence are heavy and far-reaching. As is evident from the narratives given by the survivors, the economic loss has been in terms of expenses related to treatment and trial, loss of financial support, and reduction of income opportunities. The extended period of specialized medical treatments has caused heavy expenses for the survivor's families. It is not uncommon for the family to loan money, mortgage or sell assets or property or take up additional work to pay medical bills or bear the expenses of the lawyers and other costs of the court, including those for filing and travel. The social relationships of the survivors often suffer in the aftermath of acid violence. Most of survivors belongs to poor families and are not well educated. Further it was found that nearly in 40% of cases victims were between 11 to 20 years. The overwhelming young age of the victims at the time of the incident perhaps indicates this analysis:



Chapter VII contains conclusion and suggestions. The foregoing discussion leads to conclude that over a period of time the crime against women has increased. Reported cases of acid attacks and attempts to acid attack have risen steadily over the past few years, requiring the dedicated involvement of state

institutions like the Police and Court in insuring survivors and victims' can seek rightful remedy as guaranteed by the Constitution. The data regarding disposal of acid attack and attempt to acid attack cases in the country for the year 2016, the only year for which such data is available, draws a worrying picture in terms of the gaps visible between the stages of investigation and prosecution. While the pendency rate for investigation by the Police remains fairly lower than average in comparison to other crimes against women at 31.5% the charge sheeting rate in cases of acid attack and attempt to acid attack are encouragingly high at 83.2%. In India, the criminal justice systems not only fail to adequately prosecute and punish perpetrators of all crimes, but acid attack victims in each of these countries also face unique challenges in accessing justice. Thus a serious need has been felt to examine these procedures in depth to understand where these lacunae continue to impair the system.

Legal framework governing the payment of compensation to victims of crime in India reveals that law in India was fragmentary and inadequate to compensate victims of crime. But on the recommendations²⁷ of Law Commission of India, the Code has been amended by the Criminal Amendment Act, 2008.²⁸ It further strengthens the scope of law relating to compensation. Through this amendment s.357A²⁹ has been introduced in the Code which is the need of the hour. In spite of that s.357A has also certain draw backs; it is not exhaustive in nature because the co-ordination between the centre and state is a pre- requisite for providing funds for the purpose of compensation scheme. Though there is lack

²⁷ 42nd Report, Law Commission of India, Forty first Report (the Code of Criminal Procedure, 1898) 356, admitted that our Courts are not particularly liberal in utilizing these provisions; they do not exercise their statutory powers, under this section as freely and liberally as could be desired. Supreme Court also carried the same impression and appealed to all Courts in India to exercise their powers liberally to meet the end of Justice in a better way. It may be noted that the power of Courts to award compensation is not ancillary to other sentences but is in addition thereto. This power was intended to do something to re-assure the victim that he is not forgotten the in criminal justice system. It is, to some extent, a constructive approach to crimes. In *152nd Report* (152nd report of Law Commission of India (Govt. of India) on Custodial Crime (1994)) the Commission has recommended the introduction of s. 357-A of Cr.P.C. prescribing that compensation be awarded at the time of sentencing to the victims of the crime Rs.25,000/- in the case of bodily injury not resulting in death, Rs. One Lac in the case of death. In *154th Report* (154th report of Law Commission of India (Govt. of India) on Cr.P.C (1996)) it went one more stage ahead and recommended for s. 357-A of Cr.P.C. to provide for a comprehensive scheme of payment of compensation for all victims fairly and adequately by the courts.

²⁸Received the assent of the President on 7th January, 2009, Act Published in the *Gazette of India* 9-1-2009, Part II Schedule I *Extraordinary* p. I (No. 6)

²⁹Sec, 357A, The Code of Criminal Procedure, 1973

of coordination due to the opposition of political parties at the centre and state level or for any other person and because of this the benevolent object of these provisions may be defeated. Ultimately the sufferer again is the victim of crime. Yet Government has adopted the concept of compensation to the victims but that is not sufficient for women victims.

The conscientious intervention of the Judiciary has enabled statutory gaps to be filled in a long journey propelled by the Civil Society. However, very little has been done there after to ensure that this robust statutory mechanism is actually implemented to produce the desired equality of outcomes. The findings of the study in **Sheroes Cafés (Uttar Pradesh)** speak volumes regarding the same. Acid attacks continue to be rampantly used as weapon to inflict punishment and exact Revenge from women for the choices they make or the rights they assert regarding their lives, especially in the private sphere. Acid violence evokes both sympathy and outrage among people in its aftermath and creates the semblance of will on behalf of the state to execute the myriad Laws it has put in place with respect to prevention, protection and redressal. However, there is hardly any **political will over this serious issue**. If ever complimented by infrastructural and resource support to be converted into beneficial opportunities for the survivors. The survivors themselves spoke of the kind of physiological injuries, psychological trauma, social isolation and financial losses they have to go through post violence and while the state has policies and scheme in place of medical treatment and compensatory support for them these system and processes have failed to deliver redressal. To that end, following recommendations have been given to ensure a multi- agency coordinated, rights based response to the violation:

1. The sheer disregard of women's human dignity and its manifestation in the form of violence, despite constitutional protections is reflective of how the objectives of rules of law and access to are yet to truly materialize at the grassroots. For this it is imperative that the competent state actors and human rights institutions proactively carry out rights-based awareness programs to ensure people, from a young age, has access to comprehensible knowledge on gender equality, constitutional guarantees

and information about legal remedies and processes for redressal, as preventative measure.

2. Identification of the underlying factors leading to violence against women.
3. Encouraging women to come forward to report atrocities and crime committed against them.
4. Mobilization of the masses to support victims and encouraging the masses to condemn the accused not the victim.
5. The principles of compensation to the victims of crime need to be reviewed and expanded to cover all cases of crime. The judicial discretion should not become a hindrance to award compensation to the victims and it is suggested that the provision should be mandatorily used with reasonableness and fairness by the courts relying on apex court directions. Also the State should try to recover it from the accused or any alternative measures need to be implemented so that the taxpayers money are not used for the same.
6. The State must capitalize on the existing system such as the one stop crises center to provide rights-based, survivor-centric counseling and psychological support to serve this purpose build capacity of Asha Jyoti Kendras.
7. Conduct sensitization programs and training with police and compulsory linkages with Asha Jyoti Kendra (AJKs), Rani Lakshmi Bai Mahila evam Bal Samman kosh (RLMBSK) and District Legal Services Authority (DLSA)
8. Already approved Fast Track courts in Uttar Pradesh to try cases of crimes against women must be prioritized. Setting up of special courts at the district level to expedite acid attack cases must take up.
9. For the purpose of speedy disposal of cases, vacant post of judges must be filled as soon as possible. The court's infrastructure should be suitable for the comfort and care of acid attack survivors. It must be avoided at all costs of survivors to be recalled multiple times.
10. Burn units in major government hospitals must be properly regulated with separate beds reserved for acid attack survivors that are in properly sterilized environment in insulated from infection exposure.

11. Monitor and make transparent the implementation of cashless medical treatment provisions under Rani Lakshmi Bai Mahila evam Bal Samman kosh.
12. Implement the provisions of the **Compensation Scheme for Women Victims / Survivor Of Sexual Assault Other Crimes 2018**. The latest scheme notified by NALSA for granting of compensation to women victims of crimes must be implemented in letter and spirit. The separate fund for women victims/survivors under the VCS must be set up expediently. District legal services authorities must take suo moto cognizance of cases of acid attack related violence and proactively intervene in not just granting compensation but also in facilitating emergency medical assistance. Portal for online application must be set up as soon as possible with transparent and easy status enquiry gateways.
13. The police and legal services authority must be sensitized and trained on the provision of the draft **Witness Protection Scheme** approved by the Supreme Court in December 2018.
14. Integrate acid attack survivors in education programs and implement the provision of 1% reservation for acid attack victims in government jobs. The rights of persons with disabilities act, 2016 lays down, every appropriate government shall reserve in every government establishment a minimum of 4% for persons with disabilities and 1% will be reserved for persons with benchmark disabilities, of which acid attack has been recognized as a part. Monitoring must be done to ensure that government establishments are not deny such positions to survivors of acid attack and are meeting the said requirements under the act.

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