

Woman as a Victim of Acid Attack and Pakistani legal discourse – A modern	
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Woman as a Victim of Acid Attack and Pakistani legal discourse - A modern Weapon of Revenge

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Abstract:

The purpose of this research paper is to enlighten people about the victims of the acid burns especially women as vulnerable segment of society. They are most often victims of the acid attacks. The act of Vitrioling/acid attack is not only dangerous but declares by the government of Pakistan as a crime under Acid Control and Acid Crime Prevention Act 2010. These studies explore the issue of acid attack and highlight the social, political and legal impediments in the way of eradication of this heinous and cruel act. Social and humanitarian implication is discussed to underpin this issue. After thoroughly study critical analysis of laws in Pakistan regarding crime of acid attack and its implementation it concludes with recommendations.

Keywords: *acid attack, women, victim, revenge, Pakistani laws*

Introduction:

With the rise of a dawn of new day, when she wake up and starts preparing herself for the college. It was her first day. Being enthusiastic about her bright academic career, her chest was bloomed with unseen joys. Her eyes were full of hope and expectations regarding her glorious future. Like a young seagull, she prepares herself for her first flight. After wearing graceful white college uniform, breakfast and farewell regards

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to her parents, she came out of her home. While going towards bus stop, her sixth sense informs her about someone who is chasing her in the street. Grape by the discordant feelings of hope and fears, she starts walking quickly in the street. As soon as she enters to another street, she saw two unknown persons on bike coming near to her, one with a black bottle in his hand, suddenly threw acid on her flowered face and flew away swiftly. “She feels like burning in a Hell”. It spares her soul and burns her face just like cheating burns man’s soul. Birds of hope of glorious future flew away. There was nothing, nothing except burning intolerable pain and only pain. There was no one to save her, to help her. She was alone burning tree in a desert

“Save women today, save generation tomorrow”

1. Introduction

Every picture has both sides. Same as the story of developed technology and chemicals. With the growth of technology and new products, one side it provide benefits while on other hand due to misuse of these products, our society suffers a lot. *Jabir bin Hayyan*, father of chemistry, is known for his innovative work in this field. He gave new idea to the world by producing chemicals. Acid is one of them having far reaching consequences. But unfortunately our society uses it as a weapon for taking revenge from others. Throwing acids is extremely violent and brutal attack by perpetrator of the crime which inflicts severe injuries on a person.¹ This sort of crime is committed against both segments of society, male and female and children as well but more often this violence is inflicted on women.² Acid attack is most cruel of all the forms of violence. This attack result in the composing and burning flesh and cartilage which in most of the cases due to attack on face results in complete destruction of eyes and nose of victim. The victim suffers scars on the area of attack which causes her to socially isolate from the society. This causes huge and devastating trauma throughout the life.

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It has been observed that acid attack is result of domestic issues like honor, denial of marriage, work at home etc.³ The primary object of attack is to target face of victim to make her look ugly so that she could not appear in public and nobody contract marriage with her.⁴ There are many cultural and racial reasons behind acid attack e.g. hereditary right of women in property, political dispute, regarding dowry etc. It has also been observed number of attack happen during in attempt for robbery. The offenders are easily access to buy high concentration acid and they preplanned their attacks and carry openly acid to place of occurrence and execute the attack.

1.1 Constitution of Islamic Republic Pakistan of Pakistan 1973

The constitution of the Islamic Republic of Pakistan 1973, which is the supreme statute of the state recognize the fundamental rights of the woman and children, security to life ,liberty and dignity of citizen.⁵ Throwing of acid on the faces or any other organs of the body by the perpetrator of the heinous crime is actually the blatant violation of the right to the life and security of a person. It would not be wrong if it will deal under the attempt to murder.

1.2International Conventions provides guidelines for the new Legislation in Pakistan regarding issue of woman protection

According to Declarations on the Elimination of Violence against Women 1993, violence perpetrated against women is defined as an act of violence purely directed against a woman with intention to cause sexual, physical or mental injury to the victim, this also includes threats, force or coercion or denial of liberty to any woman.⁶⁷This be the act of violence an occur both in private or public life.

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Acid attack also fall within the ambit of the violence against women and definition of discrimination. Pakistan ratified aforesaid convention in 1996 and article 5 call for the state parties to take all appropriate measures” to modify the social and cultural pattern of conduct of women and men with the view of achieving the elimination of prejudices....and practices which are based on the idea of inferiority and superiority of sexes. The idea actually perpetuate by acid attack is that of inferiority of women in Pakistan. State Party is obligated to takes measure to counter the acid crime. Committee on the Elimination of Discrimination against Women records, after submission of fourth periodic report by Pakistan states that “there is no effective mechanism aimed at ensuring transparent, coherent and consistent implementation of the said convention in the state party.”⁸

2. Pakistani Laws Condemned and Criminalize the Act of Acid attack

2.1 Punjab Protection of the woman against violence Act 2016

Another legal discourse towards the prevention of violations against women is the recent act named as “Punjab protection of the woman against violence act 2015” which elaborate the term “violence” inflicted against women in Punjab. Unfortunately this act applicability is only limited to the Punjab not to the whole country. It states that “any sort of violence or domestic violence inflicted against women by any person.” The term “*any person*” is elaborate one and covers any relationship like father, mother, sister, brother, brother in law, father in law, mother in law, sister in law etc. This Act covers acid attack under the definition of “DomesticViolance” but does not recognize it as a separate offence which is not enough to eradicate crime of acid attack. There is no comprehensive definition of crimes of acid attacks. It does not cover many dimensions of crime of acid and burns for example specificity

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of crime, medical, social, economic and psychological needs of survivor.

2.2 Criminal Law Second Amendment Act/Acid Control and acid Crime Prevention Act 2010

In the light of the supreme law of the state, National assembly takes the notice of the blatant violation of the right to life and security and pass a bill named as “The Acid Control and Acid Crime Prevention Act, 2010 (Criminal Law Second Amendment Act, 2010)” which made amendments in Pakistan Penal Code 1860, Criminal Procedure Code 1898, Poison Act 1919, for the sake of the protection, rehabilitation and prevention of the crimes of acid throwing. Pakistani government officially recognizes this horrified act of throwing acid as a crime by including it in the definition of “Hurt”. In December, 2011 Pakistan senate unanimously recognizes this act and president approved this act on December 26, 2011 which becomes the Criminal Law second Amendment act 2011.

In Pakistan Penal Code, to punish perpetrators of acid crimes by clearly including acid crimes in the definition of “Hurt” under section 332. The definition now includes “hurt by dangerous means or substance, including any corrosive substance or acid to be crimes”. The acid attack falls within the category of hurt as stated in Section 332 of Pakistan Penal Code 1860. Now hurt also includes injury cause by dangerous substances such as acid. With insertion of the 336A and 336 B sections in Pakistan Penal code, this heinous crime is prevented up to some level. Section 336A of Pakistan penal code 1860 states “ *whosoever voluntarily causing hurt by various means, or fire or by heated substances, or by means of poison or any coercive substance or acid.....which is deleterious to human body and come in contact with shall be called to have hurt by dangerous means or substance.*” Under section 336 B, Punishment of offenders under this Act can extend up to the whole of the life or may not be less than five hundred thousand

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rupees or both. Upon the directions of the court the relief may be monetary a remedy ask by aggrieved person from the court. Now the offender can be punishing for a fine not less than five hundred thousand rupees. The unauthorized dealer who sell acid will stand as abettor and will face criminal consequences. In case of first time offender the punishment is one year imprisonment or fine of hundred thousand rupees and on second time the punishment enhance to imprisonment of two years and two hundred thousand rupees. This act also calls for the award of the medical expenses by perpetrator.

2.3 Provincial Laws regarding the Crime of Acid Attacks

After passing of the Criminal law (Second Amendment Act 2010), a synergic and preparatory effort took by capital area and provinces of Pakistan.⁹ (2016) Islamabad Capital passed a bill named “Acid and Burns Crime Bill 2014” was submitted on April 8, 2014 by Ms. Marvi Memoon along with other women MNA’s in National Assembly aimed to specifically criminalize the act of acid attack and burns.¹⁰ This bill separately defines the crime of acid and crime of burns. The establishment of acid and burns monitoring board with the thirty three percent women representation is proposed for the better implementation of aforesaid act. Till yet this bill limited only to papers and remained unapproved from upper house.¹¹

3. Failure of Criminal Law Second Amendment Act

2010 to erase Barriers in prevention of Acid

Throwing

There are socio cultural, religious barriers, defects in drafting of the act and enforcement of the laws which are reasons for the failure of 2010 Act. Our society does not accept the doctrine of Violence against women actually. Even enforcement agencies do not take the case of violence against women because of political or any other influence. Their most common contention is that its woman who is the actual guilty party. This conservative thinking instead of proper investigation and

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process of witnesses lead to disparity from the judicial systems in pursuit of justice.

There is lack of proper drafting of the act of 2010 which declares in the objects and reasons portion that acid crime is becoming common because of the absence of the proper and exclusive legislation. However due to the non-acceptance of violence by the society and perpetrators the ratio of the crime get enhance day by day. Mandate is necessary prior taking any step. Criminal Law Amendment act does not actually includes the mandate for establishment of medical units for treatment of acid survivors. Mostly such sort of violence arises in district level. There are no such medical units which purely deal with treatment of acid burns.

4. Critical Analysis of Pakistani laws on the Status of Women

Loopholes in the legal system of Pakistan itself are a roadblock for the actual application of laws concerning position of women. The Act of 2010 declare that constitution recognize the fundamental rights and protection of women and children, their dignity and honor. But critically Pakistan does not recognize the actual position of woman in a legal system although it declares their protection only.

The existence of both systems one is secular law and another is Islamic Law known as Sharia'h Law. *Federal sharia't Court* has been given the authority to determine the secular procedural as well as substantive laws whether it is against the injunction of Islam or not. These courts have also the power to examine the new legislation of the state. But many times *Federal Shariat court* forward some reservation regarding some Acts which ensure protection of women, their status and its actual application such as Protection of woman Act 2006 and Punjab Woman Protection against domestic violence Act 2015.¹² Islamic Ideology Council itself forwards its reservations on the both acts. In KPK 1998, Woman Protection against violence act was forwarded and was rejected by the Islamic

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Ideology council to declare it as unislamic. The provision of 2006 act of was declared as ultra vires to the constitution of Pakistan by *Federal Shariat Court* of Pakistan and it was suggested that the *Hudood Ordinance* of 1979 will prevail in all the matters. The court reassures its mandate in procedure led down in *Hudood Ordinance* which requires production of four witnesses on testimony. It has been widely criticized by many scholars that Federal Shariat Court had no authority to nullify the act of parliament. Many NGOs and international human right bodies declared the judgment as a pure example of discrimination against women in Pakistan.

Furthermore judges of *Shariat courts* are not so well qualified and expert in Islamic law so their decisions are mostly biased and based on their own reasons. Often extremist and conservative interpretations of *Quranic* injunctions are adopted to justify male dominance rather than progressive interpretations which substantiate human rights. *Quranic verse* 4:34, Surah *An-Nisa* which provides, “(Husbands) are the protectors and maintainers of their (wives) because Allah has given the one more strength than the other, and because they support them from their means”.¹³¹⁴

5. Causes and Consequences of Acid attacks

5.1 Within System Barriers

I mostly heard from people who ask question about the implementation of laws. People are looking forward for the justice from courts and judicial system. Apart from the existence of heavy bulk of laws and regulations there are still lacunas either in laws or in implementation of laws which hinders road to attainment of justice in Pakistan. There are some political, social and legal impediments which hider’s roadmap to justice in society.

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5.2 Political Impediments

Politics is one wing reason in our society behind the lack of justice. Women victims of the acid attacks are barred from the help of state agencies like police departments. In case of high profile like Fakhra Younas Case, a dancing girl in Karachi, who get married with the former senator Mustafa khur's son. Acid was thrown on her face by her husband. After forty medical surgeries she committed suicide in Italy. In such cases due to high political power, even police do not file FIR against the perpetrators. Prosecution is very poor in high ranked cases and attackers get off Scott free.¹⁵

5.3 Social Impediments

Another canker of growing tendency towards crimes against women is non-acceptance of the status of women in a society. The notion of equality of men and women is only limited to words not in practice. In case of any sort of violence against women, even our society first blame women that she first did such an immoral act which agitate a male to commit a violence or assault upon her. Social blames renders her guilty without even hearing her.

5.4 Legal Impediments

Customary practices and tradition of Trimble areas like Jirga or *Panchaiat system* and settlement of disputes without court's interruption play its ulcer role in award of justice to victims. Pakistan constitution prevents Supreme Court and any other court from interruption in the tribal areas Jirga system. It is another mainstream of flaw in our judicial system. Political and social pressure upon the acid victim convince her to accept the decision of the Jirga and perpetrator get free by paying little amount to the women victim. It is worse because it does not even formulaically endorse gender justice.¹⁶

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6. Organizations Working against the Acid Attacks

Due to the growing trend of acid violence against women in Pakistan, attracts national as well as international organizations including NGO's to work for the women rights. They work under their mandate either exclusively on acid attacks or as general domestic violence against women as a part of their broader human right agenda. Some NGO's are working on awareness and support programs against acid attacks.

6.1 Aurat Foundation

Under Society Registration Act 1860 a non-profit NGO was established in 1986 named Aurat Foundation. The foundation is dedicated for awareness and development of just and fair society in Pakistan. (Aurat Foundation/AF) A society where men and women are equal in all walks of life and has rights to equal self-respect and honor. The foundation has organized many capacity building seminar and workshops throughout the Pakistan. It provides financial, medical and legal aid to women in distress. As world recognized organization working for the empowerment of women, under the area of "Ending Violence against Women and Girls" it prepare yearly report including many sort of violence perpetrated against women and publish it. Alongside with the dissemination of information and awareness, it counts for capacity building and advocacy among its parameters.¹⁷

AF existing projects include Gender Equity Program (2010-2017) with the key goals of women access to justice, combating gender based violence, capacity building of Pakistani citizens etc. The financial support of TROCAIRE another project for recording data and monitoring violence against women has been initiated. The project means policy at data monitor regarding violence against women. It worked from 2011 to 2016. The project collected data regarding incident of violence and works for betterment of women in political stream and pushing up higher role of women in decision making bodies in Pakistan.¹⁸ (ibid)

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6.2 Acid Survivors Foundation Pakistan

A charitable trust in England has established in International acid survivors trust in 2006 i.e. ASFP. This trust works in Pakistan to provide sociological gate to the acid attack survivors. ASFP is active in field of legal and medical aid to acid attack survivors. With collaboration of ASFP and other governing bodies a bill regarding domestically violence was floated in National Assembly in 2009. This trust works for capacity building by training health care workers to engage in data collection and other necessary activities for acid attack survivors.

6.3 Human Rights Commission

Human Right Commission of Pakistan also prepares reports on subject of crime of acid attacks and submits it to the federal government for further consideration. National Commission on the Status of women work on some projects like GBV's and acid attack violence against female. For the sake of awareness in the field of such sort of violence against women there is World Academy Winner award for the short title documentary "Save Faces" made by the Sharmeen Obaid Chenoy.

6.4 Diplex smile again Foundation

Another NGO dedicated for acid attack survivors is DSF. This foundation also provides awareness regarding crimes of acid attack and works for end of these violence. This foundation also provides implement opportunities to the acid attack survivors for their economic growth. Though it's various centers it facilitates legal process to survivors and provides mental and sociological assistance.¹⁹

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7. What more can be done?

- There is need of comprehensive federal as well as provincial legislation deal with the overgrowing acid attacks crimes against women in Pakistan.
- The witness protection Laws shall be made. In acid attack crimes witnesses, journalist and even investigation officer have threat to their lives.
- State should provide security and compensation to the acid survivors throughout their lives since the victim suffers from the consequences of acid attack.
- Acid burns centers should be established in every district of Pakistan. There are centers in the large cities and federal area like Wah-Cant in Taxila under supervision of army of Pakistan but no such burns centers at district level. The crime of acid attack is mostly committed in districts where there is neither first aid nor emergency treatment available.
- Woman Medical officer's posts shall be enhanced. Due to non-availability of the women Medical Officers, the body of deceased is shifted to the cities from remote areas for postmortem.
- A separate burns assessment form shall be created and doctors should begin treatment immediately instead of waiting for the police Report.
- Police immediate response to the acid attack victims carries full weightage. They should investigate the case without any pressure.
- There must be awareness sessions or programs conducted in the remote areas on the topic of the gender-based violence and woman as victim of acid attack. Reason behind it is that sometimes relatives or family of victim try to hide the incident because there is a social impression that a woman shall be guilty.
- There should be proper counseling of woman as a victim of the acid attacks because sometimes they lose hope and commit a suicide.

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- There should be separate Acid Crime tribunals to prosecute the perpetrators and those who report inaccurately or misguide the victim.
- There is no mandate provide in the Criminal Law Amendment act 2011 for establishment of medical centers for the treatment of acid survivors.

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