Acid attacks: mere legislation won’t do

What decides the success of a law is its implementation, which is lacking in cases of acid attacks

It’s rare to see women dancing on the lawns of the Supreme Court of India. But on that sultry day of 18 July 2013, a group of women broke into a spontaneous dance after the nation’s top court finally acknowledged their suffering as victims of acid attacks. They were celebrating the court’s decision to impose restrictions on the sale of acid and provide compensation to victims.

The group was cheering the fact that the nation’s highest court had in effect told them: No one should have to go through this pain again.

Newspaper headlines in India termed the judgement historic. But history was merely repeating itself. Nearly four years ago and about 700km away in Islamabad, similar enthusiasm had greeted a court order mandating stricter scrutiny of acid sales. Both the Pakistani and Indian Supreme Courts had been moved by acid attack survivors who sought justice: Naila Farhat in Pakistan and Laxmi (who uses only one name) in India.

In many ways, the protracted legal narrative of Laxmi’s case—19 orders passed by 15 different judges—exemplifies the sheer apathy of successive governments for the plight and gravity of acid attacks.

Filed by attorney Aparna Bhat in 2006, Laxmi’s case is now in its ninth year of litigation, and a final order is still awaited on free treatment of acid attack survivors. The remarkable journey of Carnival’s Shrikant Bhasi
survivors in government and private hospitals.

As state governments sought adjournments and time to file documents, the Supreme Court passed an order directing them to regulate acid sales and put in place rules under the Poisons Act that will license and regulate over-the-counter sale (http://mintne.ws/1rxJesV).

“The order came after much resistance,” says Bhat. “Even now sub-divisional magistrates (SDMs) are not doing their job in monitoring the sale of acid, and so, attacks continue.”

Until 2013, acid attacks were clubbed in a general category of offences that caused “grievous harm”.

The Criminal Amendment Act of 2013, passed in the aftermath of recommendations made by the Justice J.S. Verma commission following the gang-rape and murder of a 23-year-old physiotherapy student in December 2012, finally recognised acid violence as a separate offence that now carries a maximum punishment of life imprisonment and a fine.

“Acid violence is a horrendous crime and once it is committed there is no going back for the victim,” says Leila Seth, former chief justice of Himachal Pradesh and one of three members of the Verma commission (http://mintne.ws/1BBkvQ).

“There is not enough focus on prevention. Are logs being maintained? Are SDMs monitoring the sale of acid which continues to be easily available?” she asks.

A South Asian problem
Acid violence is a problem not unique to India, but one that haunts south Asia with a “significant number of attacks… in South and Southeast Asian countries”, notes a report on acid attacks by the Avon Global Center for Women and Justice at Cornell University Law School in the US.

Pakistan amended its laws in 2011, and acid attacks now carry a maximum punishment of life imprisonment and a fine of one million rupees.

But Bangladesh had already shown the way forward. In 2002, the country passed two separate laws, one that dealt with punishment and another to regulate the sale of acid in the open market. The first makes particularly heinous acid attacks punishable by death. The second requires purchasers of acid to procure a license. By some accounts, the two laws have succeeded in bringing down acid violence by 80%.

“In 2007 when we began our campaign, people did not think acid attacks were widespread and were surprised by its prevalence and horrified to see the impact,” says Valerie Khan, chairperson of Pakistan’s Acid Survivors Foundation (ASF). “We campaigned and communicated with local communities and with attack survivors, addressing them directly and getting survivors to lead these campaigns to build momentum.”

In Bangladesh, the year 2002 witnessed an unprecedented increase in the number of acid attacks, resulting in nearly 500 victims. In 1999, this figure had been 159. Women’s rights organisations got together to start a dialogue. “We advocated with the government, but, more importantly, we built a demand from the grassroots,” says Kashfia Feroz of ActionAid, an organization that works towards eliminating poverty and has a 250-member strong network of acid attack survivors.

“There was engagement at the local level. We held multiple workshops and seminars and developed advocacy strategies. After this we proceeded to negotiate with the government.”
It helps that "Bangladeshi society is more sensitive towards women’s rights because women are strong economic players in the country," says Sanjay Bhardwaj, an assistant professor for South Asian Studies at the Jawaharlal Nehru University in Delhi.

Significantly, the 2014 Global Gender Gap index—which maps relative gaps between women and men across four key areas of health, education, economy and politics—ranks Bangladesh at 68 out of 142 nations even as India figures at 114.

"Bangladesh is a smaller country with a much larger NGO movement," says noted feminist Kamla Bhasin. "The largest NGO there has 1.15 lakh employees. The largest in India has about 400. Bangladesh was able to fight acid attacks because the issue was taken up by some of the finest NGOs in the country."

Indian apathy
By recognizing acid attacks as a heinous crime, countries such as Bangladesh and Pakistan have been able to shake off a degree of insouciance earlier associated with the offence. It has signalled an attitudinal shift for survivors and offenders alike.

"Acid attack incidents decreased approximately 15-20% per year between 2002 and 2009," says Elizabeth Brundige, assistant clinical professor of law and executive director, Avon Global Center for Women and Justice.

The year 2013 saw 69 such attacks which reflects “the important impact of Bangladesh’s laws criminalizing acid violence and controlling its sale and distribution”, she says.

“There was serious involvement of the government through stringent regulation, control on sale of acid and fast-track prosecution and punishment,” says Rahul Varma, national director and chief executive of ASF India.

By his estimation, Bangladesh has brought down its incidence of acid violence by 80%.

But in India, the rise in the number of acid attacks seems to suggest a lack of political will to combat it. ASF India says acid violence claimed 80 victims in 2010, 106 each in 2011 and 2012, 122 in 2013 and 130—the most ever for a single year—up to November 2014. Even by the home ministry’s own admission, there were 98 incidents of acid violence against women in 2011, 101 in 2012 and 80 in 2013. Activists say the number is higher since it does not take into account attacks that go unreported for fear of reprisals or attacks against men—nearly 35% of all attacks(http://mintne.ws/1xz4HD0).

“Unless there is a particularly horrific incident and strong public outrage that threatens mainstream political parties, parties do not really make a noise," says Brinda Karat, member of the Communist Party of India (Marxist) politburo. “An acid attack is still seen as an individual issue. It is not seen as an erosion of democracy and erosion of democratic spaces for women. It is not an issue which is intrinsic to our political platforms.”

Not true, says Maneka Gandhi, minister for women and child development: “Acid attacks are taken very seriously.” Acknowledging that the “issue is of sale of acid”, she adds, “Acid sale should be checked thoroughly.”

Yet, despite the 2013 Supreme Court order, acid continues to be sold over the counter with no questions asked. A Mint investigation, part of this series on acid attacks, shows that just one week after a woman doctor was attacked, acid continued to be sold with almost no restrictions in most Delhi
markets (http://mintne.ws/1I2wVar).

The underlying factor that determines failure or success of a law, is its implementation. “We continue to engage with police personnel, medical professionals and lawyers—all stakeholders in the law,” says Zainad Qaiserani of ASF Pakistan. The effort is not to lose sight of lives at stake and the difference that a sensitized state machinery can make to a survivor, she says.

In Pakistan, the rate of prosecution—cases reaching trial stage—has increased to 55% in 2013 compared with only 35% in 2011. The conviction rate has also had a relative increase, say activists.

Responding to the 23 December acid attack on a woman doctor in Delhi, the ministry of home affairs (MHA) seems to have woken up to the gravity of the problem—18 months after the Supreme Court order.

In a press release dated 24 December, MHA said it would work out a system of cashless treatment for acid survivors. This expense, it elaborated, would be borne by a Central Victim Compensation Fund to be set up by MHA.

“A detailed plan for creating a full-fledged scheme has to be prepared,” said a senior MHA official on condition of anonymity.

The press release also mentions creating a category of “heinous crimes”, which will include all offences that attract a maximum punishment of life imprisonment or death “suitable amendments in the criminal procedure code will be made for time-bound investigation and trial”.

With the passage of less than a month, it appears that the MHA has begun the long-drawn process that will materialize in the promised changes. The protracted process of drafting concept notes, plans and multiple consultations is underway.

But for those who continue to become victims of acid violence—one every three days in this country—it could already be too late.

This is the concluding part of the series.
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