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“REHABILITATION OF ACID ATTACK VICTIMS.”

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I. INTRODUCTION:

Almost half of the population in society constitutes of women but the harsh reality is that they are the most illtreated segment of the society. As a matter of fact, majority offences against women go un-reported because their families restrict them from complaining due to their fallacious reputation. In recent years there has been momentous Increase in the cases of acid attack. According to a survey conducted by “*Acid Survivor and Women Welfare Foundation*” (ASFI)¹, the majority of acid attack cases have taken place in India are in the following states *Uttar Pradesh (185), Madhya Pradesh (53) and Gujrat (11)*. The acid attack can be termed as a gender-based crime as majority cases that have been reported have taken place against women only.

It is not an exception that crime against women takes place only in India but many countries like *Bangladesh, Cambodia* and even developed nations like *America and United Kingdom*. Being a bailable offence in certain cases and lack of sufficient punishment gives an opportunity to an offender to go scot-free. It is observed that the primary target of the offender is the upper body part like the head or face of the women. The consequences of acid attack victims have a long-lasting effect on the life of the victims. It completely traumatises the victims and the perspective of the people changes as they see them. They become aliens

¹ http://www.asfi.in/webpage.php?title=Statistics+&p_type=1&parent=76&catid=78

in society and even their own relatives start ignoring them. Such victim feels embarrassed and worthless after the attack they are not able to secure any jobs as people get afraid of them. The damages caused by the acid attack are irreparable both physically and mentally. The physical consequence of the acid is that it penetrates through various layers of the skin and sometimes even dissolve the bones. The deepness of the injury depends upon the amount of acid used and its contact with the skin. Moreover, as soon as acid comes in contact with other body parts like hands, chest, neck, it burns wherever it touches. It further leads to many respiratory problems as the toxic fumes go through the respiratory pipes causing damages to lungs. The social and economic consequences of the victim who faces the heinous crime of acid attack have to face social as well as economic discrimination. People abnormally stare or laugh at them and due to this they become hesitant and prefer sitting at homes and sometimes commits suicides. Their chances of marriage decrease and reduce their opportunity to live in a society with dignity. They are not able to secure any decent and respectable jobs; they become dependent on other people for their survival. According to a survey conducted by *Avon Global Centre for Women Justice*² at *Cornell Law School*, there has been a radical increase altogether in the cases of acid attack in India between (2002 to 2010) followed by Cambodia between (1990 to 2009) and least in Bangladesh between (2002 to 2009). Due to such a diverse population, it is difficult to maintain accurate statistical data as many cases go unreported.

Many organisations like Chhanv – A support centre for acid attack survivors, Atijivan Foundation, Narayan Jivan Sansthan and acid survivor foundation these days are working towards the upliftment of the acid attack victims, they make them self-dependent by inculcating them with the knowledge of knitting, tailoring and many other hand craftworks. So, these victims can live the rest of their life with dignity and self-reliance. Psychological counselling for victims as well as the society is required so that people in the society don't see those victims as unacceptable. The primary reason for such a rapid increase in the percentage of acid attack victims is due to the strong male dominating society. If we go down

²<http://www.ohchr.org/Documents/HRBodies/CEDAW/HarmfulPractices/AvonGlobalCenterforWomenandJustice.pdf>

through the narrow lanes of the history women have been considered the most suppressed population in the society. A survey conducted by the *Thomson Reuters Foundation* stated that India is the fourth most dangerous nation for women to live. Irrespective of any caste and religion. In recent decades there has been an indicative increase in the cases of acid attacks and the magnitude of the damages depends upon the intensity of the acid which leads to catastrophic and irrecoverable damages.

Lack of empathy among people worsens the situation as they are often resistant in helping the victims or rushing them to the hospital after the incident. If the victim reaches the hospital on time the medical facilities are not evolved to that extent that it can deal with such problems immediately. The acid attack can be elucidated as a social phenomenon deeply enrooted in a gender order that has patriarchal control over the women and justified the use of violence. This calls for a change in the attitude of society.

Acid attack is a gendered based crime the main aim of such crime is to cause severe harm to the body of women. This problem can be curbed by mobilizing the public opinion towards making it a specific offence against women. Acid throwing is a medium by which the preparator seizes to cause physical as well as mental injuries to the victim. It is a deliberate action of cowardness a premeditated act. The primary requirement for the acid attack is the procurement of acid. After the acid is procured the perpetrator stocks the victims for an opportunity to throw acid on her face with the purpose of disfiguring it.

A survey was conducted by “UNICEF” which revealed that the problem of acid attack prevails not only in India but around the world. Aim of most acid attacks is not to kill but to disfigure the victim. It is the need of the hour that some concrete steps should be taken to curb this problem. Steps like making the acid attack a criminal offence or increasing the quantum of the punishment. Moreover, there should be total restraint on sale of acid, inexpensive medical treatment for the victims as well as rehabilitation of the victims and equal employment opportunities should be made necessary for the victim’s post-attack. Also, there should be a special reserved quota under the disabilities act for the victims.

II. NEED OF ACID ATTACK AS A SPECIFIC OFFENCE:

Laxmi's Case³ is considered as turning point in acid attack cases.

The facts of the case are:

On 22/04/2006 a minor girl of 16 years was attacked in Central Delhi by a 32-year-old man for rejecting the man's proposal to have a relationship with the girl. Who was half of his age. He committed the most heinous crime by throwing acid on her face. Thankfully she covered her eyes which saved her eyesight. She was rushed to the hospital where she was admitted for 10 weeks. And even after multiple surgeries, she lost her face, ears and her arms charred black. Laxmi had to undergo rejection by her friends and relatives who stopped seeing her. She stayed indoors for eight years and venture out only in a "ghunghat". She tried securing a job but failed to do so. As people stated they would get scared if they see her. A writ petition was filed in the Supreme Court of India by her lawyer Aparna Bhatt. The court held that minimum compensation of Rs.3,00,000 must be awarded to the victim. And an amendment was made in Indian Penal Code, 1860 which led to the emergence of Section 326(A) which specifically focuses on rehabilitation and compensation of acid attack victims.

Prior to 2013 Acid Attack was treated as grievous hurt under section 320 of the Indian penal code, 1860. Grievous hurt can be defined as first - emasculation, second- permanent privation of the sight of either eye, third- permanent privation of the hearing of either ear, fourth- privation of any member or joint, fifth- destruction or permanent impairing of the powers of any member of the joint, sixth- permanent disfiguration of head or face, seventh- fracture or dislocation of a bone or a tooth, eight-any hurt which endangers life or which causes the sufferer to be during the space of 20 days in severe body pain or unable to follow his ordinary pursuits.

The definition of grievous hurt has been highly criticized as it does not cover all the aspects of various injuries. It widens the discretion of the court in giving punishment, it does not emphasis on the intention or guilty mind of the offender. But post amendment it was made a

³ <http://www.advocatekhaj.com/library/judgments/announcement.php?WID=5975>
Laxmi vs Union of India writ petition (c) No. 129 of 2006

specific offence under Section 326 (A) of Indian Penal Code, 1860. Recently a bill was introduced on the prevention of the acid attack and rehabilitation of acid attack victims bill 2017 was introduced In Rajya Sabha on 4th august 2017. “This bill emphasis to provide for the prevention of acid attacks by regulation sale, supply and use of acid or other measures and rehabilitation of women victims of acid attack and matters connected therewith or incidental thereto”.

**III. ACID ATTACK SCENARIO AROUND THE WORLD AND A
BRIEF COMPARISON OF INDIA WITH OTHER COUNTRIES
FACING THE PROBLEM OF ACID ATTACK:**

India, Bangladesh and Cambodia as we all know are densely populated nations so it is practically impossible to maintain an accurate statistic of the acid attacks. If we compare the statistical data of India with Cambodia and Bangladesh there has been a rapid increase in the cases of acid attacks with India reporting the maximum number of cases every year followed by Cambodia and least in Bangladesh. The statistical data between the periods (2000-2009). From the following data, we can easily conclude that Bangladesh has taken some concrete steps to curb the problem of Acid Attack by enacting a specific legislation and increasing the quantum of punishment for the perpetrators. Due to this a decline in the cases of acid attack has been observed in Bangladesh whereas no such laws exist in India and Cambodia.

Even developed nations like the United Kingdom undergo the problem of acid attack but are not very common like India. The courts have punished the perpetrators harshly. A special act was formulated “Offences Against Person Act”,1861⁴. This act specifically focuses on casting or applying any corrosive fluid with the intention to disfigure the person. The guidelines are quoted under Section 29 of the “Offences Against Person Act”, 1861 which states that the minimum punishment should be a custodial sentence and the maximum

⁴<http://www.legislation.gov.uk/ukpga/Vict/24-25/100/crossheading/rape-abduction-and-defilement-of-women-abduction-of-a-woman-against-her-will-from-motives-of-lucre/enacted>

sentence is life imprisonment. Acid penetrates through the various layers of the skin and sometimes eat through the bones and even dissolve it. The penetration of the acid depends on its chemical composition and the duration of its contact with skin. The burning effect continues till the time acid is properly washed off the skin. Thrown on a person's face it rapidly eats through the eyes, ears, nose and mouth. Eyelids and lips may burn off completely. Forcing the nostrils to close and lips to shrivel up. Acid burns wherever it will drop but the biggest problem for the victims is a sufficient supply of oxygen as acid constricts the airway and strangles the victim. When the burns get healed they form thick scars which pull skin very tight and cause disfigurements.

This bill was introduced in Rajya Sabha⁵ on 4th august 2017. This bill provides the prevention of acid attacks by regulation of sale, supply and use of acid and rehabilitation of women victims of acid attack. It extends to the whole of India except the state of Jammu and Kashmir. It shall come into force on such date as the central government may by notification in the official gazette appoint This bill is bifurcated into seven chapters. Chapter 1 emphasises on the definition of Acid and Acid attack victims. Acid means any corrosive substance of burning nature which is capable of leading bodily injuries leading to scars and maybe permanent or temporary disability. Acid attack victim means a woman on whom acid has been sprinkled with the intention of causing grave injury.

Chapter 2 deals with regulation of sales, supply and use of acid according to which no person shall engage in the sale, supply and use of acid unless he obtains the licence issued by the government whosoever is engaged in the business of trade and sale of acid has to maintain an appropriate record regarding the same. No person shall deliver any acid of higher concentration. The government should notify the official gazette regarding the degree of concentration. Chapter 3 deals with the rehabilitation of acid attack victims. Where an acid attack leads to the disfigurement of the victim and such victim should be treated as a person of disability and should get the benefits provided by the government under the disability Act

⁵ <http://164.100.24.219/BillsTexts/RSBillTexts/AsIntroduced/Acid%20atak-4817-E.pdf>
Prevention of acid attacks and rehabilitation of acid attack victims bill, 2017

and allowances should be paid by the government to the victim and the amount of such allowances shall not be less than the four times of the old-age pension. Chapter 4 emphasize on the offences and penalties under this act the quantum of punishment has been increased to six months or with fine of Rupees five lakhs or both. Chapter 5 deals with the amendments in the Indian Penal Code, 1860. Under Section 326(A) whoever causes permanent deformity to any person or any part of the body with the knowledge that such act is likely to cause injury shall be punished with the imprisonment for a term which should not be less than 10 years but which may extend to life imprisonment. Under 326(B) same as section 326 (A) states that the word seven years shall be substituted with the world ten years of punishment. Chapter 6 provides amendments in the Code of Civil Procedure, 1973. Under 357(C) of Code of Civil Procedure 1973 following explanation has been inserted in the first schedule of Code of Civil Procedure and under the heading offences under Indian Penal Code, 1860 in the entry relating to 326 B, column 3. The punishment extended up to 10 years and the person committing the crime should be liable to a fine of Rs. 3,00,000. Chapter 7 deals with miscellaneous.

IV. CONSEQUENCES OF ACID ATTACK:

The acid attack has a long-lasting effect on the victim it completely traumatises the victim and the perspective of the people changes as they see them. They become aliens in society and even their own relatives start ignoring them. Such victims feel embarrassed and worthless after the attack they are not able to secure any jobs as people get afraid of them. The damages caused by acid attacks are irreparable both physically and mentally. The acid penetrates through various layers of the skin and sometimes even dissolves the bones.

The deepness of the injury depends upon the amount of acid used and the duration of its contact with the skin. Moreover, as soon as acid comes in contact with other body parts like hands, chest, neck it burns wherever it touches. It further leads to many respiratory problems as the toxic fumes of the acid go through the respiratory pipes causing damages to lungs. The social and economic consequences of the victim who faces heinous crime of acid attacks have to face social as well as economic discrimination. People abnormally stare or laugh at them

due to this they become resistant for living in their homes fearing adverse retaliation from the outside world. Their chances of marriage also decrease and reduce the opportunity to live their life with dignity. They are not able to secure any decent and reputable jobs and they become dependent on other people for their survival.

V. CHANGES AND RECOMMENDATION:

The acid in India is easily available on the counter at every general store which can be bought for a very nominal price. The most shocking thing is that a liquid which has a capability to completely erode the metal is easily available which can even be purchased by a child. The government only emphasizes on issues like tobacco and alcohol but there is no regulation on the sale of the acid. Even the media and various NGO's are creating awareness regarding the easy accessibility of the acid and constant use of acid as an inexpensive weapon.

Prior to 2013 section 320, section 322, and section 326 were applied to deal with the offence of acid attack. But the provisions suffered from major drawbacks which lead to amendment of Indian Penal Code, 1860.

V.I LACK SUFFICIENT PUNISHMENT:

The punishment awarded under the following provisions was comparatively very low. In the case of *Delhi v. Mewa Singh* accused threw acid on the victim's face which led to redness on the skin over a part of her face involving her upper eyelids. There was no corrosion of the skin. The accused was convicted with Rs.300 fine and 15 days imprisonment which is comparatively inadequate to act he committed.

V.II EASY ACCESS TO BAIL:

Section 322 is a bailable offence thereby giving an opportunity to any person charged under it to claim bail as a matter of right. In cases where the accused of acid violence were charged under this provisional bail was not a problem. Under section 307 the accused got bail within one month of the arrest.

V.III NOT ENOUGH FINES:

Earlier in the cases of an acid attack, the judiciary was unable to achieve any deterrent effect. The fine and the punishment imposed on the convicted persons were very low. Hence whosoever committed the heinous crime of the acid attack was aware of the fact that he can easily get away from it.

V.IV PUNISHMENT:

Section 326(A) was introduced into the Indian Penal Code in 2013 which made acid attack as uniform and provided specific punishment for the person who has committed the crime of acid attack. It states that “a person who commits an acid attack shall be punished with imprisonment which shall not be less than 10 years and may extend up to life imprisonment. The central government took note of the situation and formulated poisons possessions and sale rules act,2013. The main aim of the act is to regulate and the sale of acid in the country and various states.

VI. CONCLUSION:

In conclusion, it can be said that the amendment of 2013 has been dealing successfully with the offences of acid attack in putting the perpetrators to justice with providing imprisonment for a minimum of 10 years. The Act also provides fines but no amount has been fixed by the judiciary. Moreover, there has been no regulation regarding the sale of acid. Even though the law has changed but it hasn't changed completely. Thus, it can be said that the conjuncture which was lacking the ability to deal with the cases of acid attack was successfully amended in 2013 and has become more prevalent. However, the provisions regarding the compensation are not sufficient in many ways.

VII. SUGGESTIONS:

At the end of this case study, there are certain suggestions that should be implemented to make new laws which are more rigid so that this problem of acid attack can be dealt with

successfully. The law which has been introduced via 2013 amendment have been dealing successfully with the punishment of acid attack but it is silent on the quantum of compensation that should be awarded. The preparator should be imposed with a severe fine. He should be bearing all the medical expenses of the victim as well as a maintenance amount should be fixed by the court for the rehabilitation of the victim. There are many times that court order considerable compensation in one case and no compensation in the other. To overcome this problem a special act should be formulated specifically dealing with compensation.

There should also be regulation on the sale of acid. It should only be sold to a specific age group that is between 40 and 50 because it can be assumed that the people of this age group must have attained maturity and overcome the problem rejection by their female counterpart. The acid with a higher level of acidic content should be banned completely moreover if any person who is in the business of selling acid should get proper certification from a government that he is allowed to do so. One more thing that can be done is whoever purchase acid should submit his Aadhar card from where he is buying it and also mention the purpose for the same so that if the person commits the crime of acid attack he can be tracked easily.

Special quota under the disability quota should be created so that victims can also reap the benefit of various employment opportunities for the government as well as the private sector. Phycological counselling should be conducted for victims as well as society at large so that people can accept them for who they are and not avoid or ignore them.