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A SOCIO LEGAL STATUS OF ACID ATTACK VIS- A -VIS A GENDER BASED VIOLENCE IN INDIA

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ABSTRACT

India has become a serious victim of the heinous crime of acid attack, especially on women in the past decade. A brutal crime committed with the intention of killing, disfiguring or maiming the victim is an acid attack. An acid attack poses a serious threat to an individual's dignity and existence. Fundamental rights for Indian citizens are guaranteed by the Indian constitution. It gives its citizens the right to be free, live free, express themselves freely, and move freely. It also gives them the right to speak out against discrimination based on gender, race, sex, caste, or religion. However, the heinous act of acid attack is a form of violence and discrimination based on gender, particularly against women. Acid attacks are defined as "any act of throwing acid or using acid in any form on the victim with the intention of or with knowledge that such person is likely to cause permanent or partial damage, deformity or disfigurement to any part of such person's body". According to the National commission of India, the perpetrator's motivation to commit such a heinous crime is rejection of marriage proposal, rejection of love, property disputes and gender discrimination. Acid attacks on young women are increasing day by day. The stricter regulation of acid attacks imposed by the Criminal Law (Amendment) Act of 2013 and the guidelines of the Supreme court of India, the

total number of acid attacks in 2014 increased by 300%. This paper deals with the heinous crime of acid attack and gender-based violence against women in India.

Keywords: Acid Attack, Violence, Gender-Based Violence

Research Objective

The main objective of this research is to find out the provision related to the acid attack is not sufficient. The research is done online from various sources and objective of the research is to come to the conclusion of the research question

Research Questions

1. Whether provision related to acid attack is sufficient or not?
2. Whether the victims are getting justice adequately in the present criminal justice system or not?
3. Whether this offence is gender neutral or not?

Research Methodology

The methodology that is followed while writing this research paper is doctrinal research which is done through secondary sources and publish records such as magazines, articles, journals, reports, divorced reports, along with internet resources, and some important terms and concepts related to acid attack in India.

INTRODUCTION

The use of acid or any other corrosive substance in an attack or attempt to attack with the intent to disfigure, torture or kill is known as acid attack. In some instances, such an attack causes permanent physical disfigurement, damage to internal organs, and even death. In addition to complete disability and crippling depression, survivors of this attack

face a constant battle for survival throughout their lives. Every year, India records at least 300-500 cases because Indian criminal law did not recognize acid violence as a separate offence until the beginning of 2013, there were no separate statistics for cases of acid violence in India¹⁴³⁷. Acid attacks are now recorded as a separate offence under Section 326A and 326B of the Indian Penal code, which were amended in 2013 (The criminal Law amendment act, 2013). In spite of the foregoing the number of cases has significantly increased. Acid is still readily available over the counter, despite the guidelines established by the Supreme Court in the case of *Laxmi v. Union of India*¹⁴³⁸ (2013) regarding the regulation of the sale and procurement of acid. Over the course of time, the judiciary has taken the lead in setting the tone for the compensation and rehabilitation for acid attack survivors. The challenges that a survivor must overcome are endless, and they range from obtaining ongoing free medical care to receiving compensation. From providing the survivor and their families with psychological counselling and immediate medical care to following up on the trial, representing the victim in letter to state government and other relevant authorities and or filing writ petition for compensation and the enhancement of such compensation and rehabilitation as well as providing legal aid for relief.

BRIEF HISTORY OF ACID ATTACK

Prior to the case of *Laxmi v. Union of India*¹⁴³⁹, not many cases of acid attack came to light. This was primarily due to the fact that they were not being reported and that there was little awareness of this crime in the mainstream media, among legal practitioners, and in the machinery that delivers justice. It was for *Laxmi's* situation that a payment of rupees 3 lakhs was requested by the Supreme court of

India. This case established a precedent for free treatment, compensation, and the sale of acid, despite the fact that it is still insignificant in comparison to the costs incurred by survivors. The *Parivartan Kendra* case marked the next significant development in litigation. Where chanchal survivors required at least eight reconstruction surgeries for which a sum of three lakhs would not be sufficient. The supreme court made its decision to award compensation of Rs.13 lakhs is insufficient to compensate. Therefore, now is the ideal time for the anti-acid attack movement to unite and push the constitutional courts limits on compensation. If one were to compare the law in India and Bangladesh regarding acid attack trials and criminal proceedings, one would find that attack is a non-bailable offence in Bangladesh, whereas in India, accused people typically receive bail quickly.

REASONS OF ACID ATTACK IN INDIA

In India, it has been determined that the majority of attacks on women and young girls are attributed to their rejection of love and marriage or sexual advances and dowry disagreement. Land, property and any kind of business dispute could be another reason for such an attack. When it comes to respecting women's right to personal choice and opinion, internalisation of the "fact" that women are lower to men and the "property" of men has resulted in their devaluation. 18% of acid violence survivors admitted to hospitals and said that their husbands or in-laws punished them for speaking up about property division and disputes because women are "supposed" to get through whatever is given to them or decided for them.

1. Male Dominated Culture

Our culture has always been dominated by men, where women are taught to be submissive and men are encouraged to be dominant. In the past, it was thought that women did not have an identity of their own.

¹⁴³⁷ SLIC, Socio-Legal Information Centre, (Nov 22, 2022, 5:00 PM), <https://www.slic.org.in/initiative/campaign-against-acid-attack>

¹⁴³⁸ *Laxmi v. Union of India*, (2014) 4 SCC 427 (India)

¹⁴³⁹ *Supra* Note.2

In a society where women have traditionally been governed and ruled by men, Men are not used to hearing no from women. When a man is rejected by a woman, he is devastated which leads him to commit one of the most heinous crimes and the woman who rejected him or refused him will suffer for the rest of her life.

2. *Inexpensive And Easy Availability of Acid*

One of the main causes of acid attacks is that acids are easy to find on the market. It is readily available at pharmacies, open-air markets, goldsmith shops, auto repairing shops and other locations without much effort. It is also used by a lot of people to clean their homes because it costs so little, anyone can afford it.

3. *Domestic Violence*

One of the most common causes of acid attack is throwing acid by family members on vulnerable and browbeaten women. In this Male-dominated society, women's refusal to acknowledge anything has led to such tormenting and traumatic incidents. It could be anything like smaller dowry, not being able to have children, refusing to obey, refusing to have sex, property disputes and other smaller issues. In the case of Ram Chaittar v. State of U.P, case pertaining to property disputes where an acid was thrown on the wife and daughter of a brother which resulted in their death.

This shows how society views women. Women are still considered to be in 'possession' and men are expected to make all family decisions. And if the woman rejects him then it is seen as destroying the reputation of men and for restoring his reputation, he throws acid on her face.

ACID ATTACKS IS NOT A GENDER BASED VIOLENCE

Most of the time, acid attacks are considered a crime against women. The majority of victims are young women who are subjected to the victims and even law commissions have reported that this type of violence is gender-based. More than 30-40% of acid attack victims are men, according to the NCRB report¹⁴⁴⁰. We are discussing a few instances or facts that will help you in comprehending that acid attacks in India are not instances of gender-based violence.

On Thursday, a man died from severe burns after a woman he was dating allegedly threw acid on him while he was getting married to someone else.¹⁴⁴¹

Mishra, a resident of Meerut, was attacked on September 8, 2011, with an acid bucket by the son of his landlord, whom Mishra allegedly stopped from molesting a woman the day before.¹⁴⁴²

When Firoz attempted to put an end to a fight between his brother and his neighbour, he was attacked nearly 15 years ago. The despised neighbour came back with an acid bucket and began hurling mug after mug at him. Today, at 42, Firoz Khan is still recovering from his wounds and social stigma. But he refuses to give up hope and continues to live a regular life at his Delhi home.¹⁴⁴³

There has almost never been a report of a woman student using acid to attack a male professor in Andhra Pradesh in December, 2014. After the professor broke his promise to marry the student, she used acid to attack him.

¹⁴⁴⁰ Report of National Crime Report Bureau, NCRB, (Nov 22, 2022, 5:00 PM) https://ncrb.gov.in/sites/default/files/CII-2021/CIH_2021Volume%201.pdf

¹⁴⁴¹PTI, 'Man dies of burns as girlfriend throws acid on him in Agra, (Nov 22, 2022, 5:00 PM), <https://indianexpress.com/article/india/man-dies-of-burns-as-girlfriend-throws-acid-on-him-in-agra-7245970/>

¹⁴⁴²Harish V Nair, 'Supreme court to look into male acid attack victims' woes', (Nov 22, 2022, 5:00 PM), <https://www.indiatoday.in/mail-today/story/supreme-court-to-look-into-male-acid-attack-victims-woes-1166957-2018-02-10>

¹⁴⁴³Namita Bhandare, 'Acid violence knows no gender', (Nov 22, 2022, 5:00 PM)

<https://www.livemint.com/Politics/nsFOWQPFyWWVNoTMknCekK/Acid-violence-knows-no-gender.html>

In early 2008, I was coming home after dropping my granddaughter to school and I was attacked by an unknown person who threw acid on me. As soon as I was attacked, I was taken to Safdarjung Hospital, where I was told that my injury could have no treatment. Durjan Singh is the first male acid attack survivor in Delhi to receive compensation via an order of the Delhi High court.

LEGISLATIVE APPROACH TO ACID ATTACK

One of the foremost atrocious crimes is the use of acid on female victims. Even if Article 15¹⁴⁴⁴ The constitution stated that everybody ought to be protected and this article also deals with the prohibition of discrimination based on race, caste, sex or place of birth but the fact is that the state didn't protect its citizens, particularly women. This leads to the result that the majority of the heinous crimes are committed against women. The Indian penal code did not mention acid attacks before 2013 additionally the judiciary approach was also very callous and nonchalant. Section 320, 322, 325 and 326 of the Indian Penal Code dealt with the incidents of acid attack. In IPC grievous hurt is mentioned in Section 320¹⁴⁴⁵; Voluntarily causing grievous hurt is discussed in section 322¹⁴⁴⁶; Penalty for voluntarily causing grievous hurt with dangerous weapon is discussed in Section 326¹⁴⁴⁷. In addition, before the aforementioned change and Laxmi's case, there had been no special provision concerning the compensation and rehabilitation of acid attack victims. The Justice Verma committee which was established by the central government in response to the appealing case of Nirbhaya to suggest reforms within the criminal justice system, was itself aware of severity of acid attack on innocent victims and explicit that 'we understand that throwing of acid on women for a multitude of reasons together with alleged adultery, turning down advances. Women are

exposed to or given acids and different corrosive substances, leading to unimaginable damage to their physical and psychological state as well as death.

Justice J.S. The Verma committee reviewed and observed the acid incident and the report of the Verma committee which was commissioned by the India government in 2013 to make recommendations for the reform in the Criminal justice system. The report recommends making acid attack a crime under IPC. It should be noted that the gendered and discriminatory nature of this crime does not allow us to dismiss it as a simple crime against women. We recommend that throwing acid should be specially defined as an offence under IPC and the victim should be compensated by the accused. However, to establish a compensation fund for crimes against women, the central and state government must provide substantial funding. We note that the Criminal Law amendment act, 2012 includes a definition of Acid throwing but that is not sufficient. However, it was only with the Indian Penal code amendment of 2013 that several chapters were added to the Indian Penal Code, criminal procedure code and the Indian evidence act to deals with the increasing number of attacks with acid¹⁴⁴⁸. Further Section 326A, 326B, 100 Clause 7 and Crpc 357B, 357C have been added. Basically, Section 326A deals with the disfigurement caused by throwing or giving acid at a person, or any part of the body can be disfigured or disabled by an injury, which may be temporary and permanent. If these things happen then the person who commit these things will be sentenced to a minimum of ten years in prison and a maximum of life imprisonment¹⁴⁴⁹. These people will also be fined. The fines imposed are fair and reasonable to cover the victim's medical expenses related to the treatment. Victims must also receive fines. Under Section 326B of the Indian Penal Code, a person who intends to cause

¹⁴⁴⁴ INDIA CONST.art.15

¹⁴⁴⁵ The Indian Penal Code, 1860, s.322

¹⁴⁴⁶ Ibid, s.322

¹⁴⁴⁷ Ibid, s.326

¹⁴⁴⁸ The Indian Penal Code (Amendment), 2013

¹⁴⁴⁹ The Indian Penal Code, 1860, s.326, cl. a

permanent or partial injury, disfigurement, burns, disfigurement of any part of the body, incapacitation of any kind or serious injury to another person will be punished with a minimum sentence of five years, which may be increased to seven years and subject to a fine¹⁴⁵⁰.

The 2017 Prevention of Acid attacks and rehabilitation of Acid attack victims bill was enacted to prevent acid attacks by regulating the sale, supply and use of acid or by taking other measures as well as to aid in the rehabilitation of women who have been the victim of acid attacks and other issues associated with them. This bill says that no one can sell or deliver acid to anyone without recording his identity, the amount of acid, and the purpose for which it will be used. However, the Indian Parliament is still considering this bill and it hasn't passed yet.

JUDICIAL APPROACH TO ACID ATTACK

Before passing of the Criminal Amendment Act of 2013, individuals accused of acid attack did not receive severe punishment; rather, they were booked under hurt, which invited a minimum sentence of three years, and they were also quickly released on bail. The victims were also not compensated adequately. In the case of Ravinder Singh v. State of Haryana¹⁴⁵¹, a woman's husband poured acid on her for refusing to give her a divorce. The husband had an affair outside of marriage. The attack caused the victim to get multiple acid burns all over her body, which eventually led to her death. This case shows that the punishment that is frequently handed out does not take into account the deliberate and heinous nature of the attack and is based solely on the fact that the victim sustained injuries. This demonstrates the judicial system's arrogance and lack of empathy. However, After Laxmi Agarwal's PIL was filed with the Supreme Court, time has

changed. Judges play a huge role as well. He should make sure that the cases are settled quickly and that the victims get the right help. The Indian judiciary has made significant progress in combating acid attacks, but the issue persists. The people's mentality will change over time only.

In Parivartan Kendra v. Union of India¹⁴⁵², the members of NGOs worked together to get chanchal, one of the petitioners Rs. 10 lakhs in compensation for being the primary victim. The cap of Rs. 3 lakh was removed and directed to be considered the minimum amount of compensation, this was the first time an acid attack survivor

In the 2016 case Anju v. State of Haryana¹⁴⁵³, the Chandigarh high court awarded full reimbursement for medical care. In addition, she was given a fair price shop, a pension of Rs. 8000 per month, and an increase in compensation of Rs.6 lakhs. Additionally, the order mandated that victims of acid attacks be included in the disability category.

In a petition filed in February 2017 in the case of another survivor, Yashoda, the Indore High court instructed the DLSA to facilitate all victim treatment within an hour of the hearing. For the first time, the High court mandated that a survivor be employed by the government in Renu v. State of Delhi (NCT)¹⁴⁵⁴

In the case of Ramandeep, the state agreed to improve the Punjab Victim compensation scheme in the same way that the Haryana Relief and Rehabilitation Program for Acid attack women was improved.

The Delhi government has created permanent government positions and employed a number of survivors in the public sector as a result of SLIC s ongoing efforts. Victims can now get

¹⁴⁵² Parivartan Kendra v. Union of India (2016) 3 SCC 571 (India)

¹⁴⁵³ Anju v. State of Haryana, (2016) 2 RCR(Criminal)79 (India)

¹⁴⁵⁴ Renu Sharma v. GNCT of Delhi and ors, (2016) W.P. (C) 2229/2016 (India)

¹⁴⁵⁰ Ibid. s.326, cl. b

¹⁴⁵¹ Ravinder Singh v. State of Haryana SC 856 AIR (1975)

medical care a little bit easier and fight for compensation less often¹⁴⁵⁵.

CONCLUSION

The methodology used by the researcher is the Doctrinal method and the secondary data was the main source of the study. So today we simply cannot say that this offence is gender-based violence and we see a day-by-day increase in the number of crimes committed irrespective of the gender of the victim. After reading a research paper, it was discovered that men and women both suffered from acid attacks, so the violence is not gender-based in India. The primary causes of growing incidence rates of acid attacks are India's patriarchal culture and its inadequate legal system. Although the Supreme Court of India in *Laxmi v. UO* established new standards for restricting the sale of acids, they remain cheap and freely available because the guidelines set by the court are routinely violated.

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