ACID ATTACKS A RISING MALEVOLENCE IN INDIA AND ABROAD: TIME TO PONDER

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I. INTRODUCTION

Acid attacks have been documented in various parts of the world including Australia, Bangladesh, Cambodia, China, Ethiopia, Italy, Malaysia, Nepal, Pakistan, Sri Lanka, Thailand, Uganda, UK, USA and Vietnam. However, Bangladesh, Cambodia, and India have some of the highest recorded incidences of the acid violence. According to Acid Survivors Foundation (ASF) Bangladesh, there have been 3000 reported acid attack victims in the country since 1999. According to the data gathered by the Cambodian Acid Survivors charity on people treated in hospitals for acid attacks, there have been 271 acid violence victims 1985 and June 2010 in Cambodia. As per the data maintained by National Crime Records Bureau, the number of incidents of acid attacks reported in 2011 were 83, 85 in 2012 and 66 in 2013. Though according to Acid Survivors Foundation India (ASFI), at least 106 such attacks were reported in 2012, 122 in 2013 and 309 in 2014 and according to the activists, the figure rose to 500 in 2015. However, according to the National Crime Records Bureau, 222 cases of acid attacks were reported in 2015. The figures may vary but the number of acid attacks have been on rise. Governments in these countries do not keep official statistics of acid attacks, and there are likely many more attacks than there figures reveal. Acid violence involves intentional acts of violence in which perpetrators throw, spray or pore acids on to victim's face and bodies.

II. REASONS OF ACID ATTACKS

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i. Love failure or love rejection or revenge for refusal of marriage or sexual advances: First reported case in India is Laxmi case, Shruti case from Banglore, received a lots of media attention, making headlines .In a certain sense, the aggressor is conscious that self-worth and self-esteem of a woman often lies in her face, which is a part of her personality. The dismemberment of the face or the body is not merely an offence against the human body but will cause permanent psychological damage to the victim. In one of the case in Bangladesh on the refusal to marry, victim who was widow sleeping along with two kids, acid was thrown on her from window.
ii. Dowry problem and domestic violence
iii. Property or land disputes or family disputes- E.g. Reshma case, recently reported case on 4th July 2017, Uttar Pradesh, Lucknow where second time acid attack on a female who was in hostel.
iv. Revengeful attitude or desire for revenge.
v. Occasionally, acid attacks may occur due to social, political or religious beliefs.

III. IMPACT OF ACID ATTACK ON VICTIM

Physical impact: When acid is thrown on a person, the results can be horrifying. Nitric, hydrochloric or sulphuric acids all have a catastrophic effect on human flesh. It causes the skin tissue to melt, after exposing the bones below the skin, sometimes even dissolving the bone. When acid attacks the eyes, it damages these vital organs permanently. Many acid survivors have lost the use of one or both eyes. The victim is traumatized physically, psychologically and socially.An acid attack has long lasting consequences on the life of the victim who faces perpetual torture, permanent damage and other problems for the rest of her life.

Psychological impact: A women's right organization points out: "these crimes can never be spontaneous acts of passion because the offender has to arrange for acids and carry it in a safe container". She says the attacks are a favoured means of relation because they can totally break a women's spirit.Victims normally feels worthless, no self esteem, beauty is the confidence of a woman now feel no worth of life, sometime feel suicidal tendencies. Don't like to see their horrible face and even don't want to show to others.

Financial impact: Treatment and cost for surgery is always very expensive, one or two surgery does not serve the purpose. Sometimes require multiple surgeries.

Social impact: Victims feels afraid and modified and become social outcasts because of their appearance. They may become too traumatized and embarrassed to walk out of their house and carry out simple tasks let alone get married, have children, get a job, go to school, etc. Even if they are willing to pursue a normal life, there is no guarantee that society itself will treat them as normal human beings given their appearance and disabilities after an attack. They may not be able to work, or be able to find a job, and thus perpetually struggle to strive. Most survivors of an acid attack are forced to give up their education, their

occupation and other important activities in their lives like sports, dancing, singing and so many.

IV. INDIA: PROVISIONS FOR PROTECTION OF WOMEN

- **Constitutional Provisions**

Article 21:- The Constitution of India guarantees the right to life and liberty of every individual under **Article 21.** This has been interpreted to include the right to live with dignity and encompass the right to live with dignity of all including victims of acid attacks.

Article 41:- Article 41 of the Constitution lays down that the state shall within the limits of the economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness, disablement and in other cases of undeserved want.

- **Provisions in Indian Penal Code**

India does not have a separate law governing the crime of acid attack, cases have been registered under different sections of the Indian Penal Code (IPC). Particularly, the sections relating to hurt, grievous hurt, grievous hurt by corrosive substances and attempt to murder and murder. In some of the positive cases the accused have been charged with murder, as the intention of the attacker has been construed as an intention to kill the victim. Even in these positive cases, however the amount of fine which has been levied has often been an insignificant amount. The victim has also often not been given this fine by the court.

- **Justice Verma Committee**

- Justice Verma Committee constituted by the Central Government in 2013 in the aftermath of the Nirbhaya Case to suggest reforms in the criminal justice system dealt with the issue of acid attacks and observed; Justice Verma Committee recommended that acid attacks to be defined as an offence in the IPC and observed, The gender specificity and discriminatory nature of this offence does not allow us to ignore this offence as yet another crime against women.
- Committee recommended that acid attacks be specifically defined as an offence in the IPC, and that the victim be compensated by the accused. However, in relation to crimes against women, the Central and State Governments must contribute substantial corpus to frame a compensation fund. Thus a recommendation was made not only for the inclusion of a specific offence in respect of acid attacks but also for providing compensation to the victims of acid attacks.
- By virtue of Criminal Law (Amendment Act), 2013, sections 326A and 326B were inserted in the Indian Penal Code providing for punishment to anyone who 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 or who throws or attempts to throw acid on any person or attempts to administer acid to any person or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, 'Acid' was defined to include any substance which has acidic or corrosive character or burning nature that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

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- **Supreme Court**

The issue of acid attacks also came up before the Supreme Court in Laxmi v. Union of India in 2006. Supreme Court in its order on July 18, 2013, in the case, directed:-

1. That over the counter sale of acid would be completely prohibited unless the seller maintained a log/ register according to the sale of acid which would contain the details of the person(s) to whom acid(s) is/ are sold and the quantity sold.
2. Further the acid would be sold only after the buyer had shown a photo ID issues by the Government which also has the address of the person and the reason/ purpose for procuring acid was specified.
3. It was also directed that no acid shall be sold to any person who was below the 18 years of age.
4. Directions were also issued for educational institutions, research laboratories, hospitals, Government Departments and Departments of Public Sector Undertakings who were required to keep and store acid.
5. In the final order dated 10.4.2015, it was reiterated that an appropriate notification banning the sale of acid across the counter should be issued within three months from the date of the order.

Supreme Court in Parivartan Kendra & Anr. v. Union of India & Ors. 2013, decided on 07.12.2015, directed that stringent action be taken against those erring persons supplying acid without proper authorization and also the concerned authorities be made responsible for failure to keep a check on the distribution of the acid.

Regarding Proper Treatment after Care and Rehabilitation of the victims of acid attack, a direction was issued by the order dated 10.04.2015 to

the State Governments/Union Territories to keep up the matter with all the private hospitals to the effect that private hospitals should not refuse treatment to victims of acid attack and that full treatment should be provided to such victims including medicines, food, bedding and reconstructive surgeries.

- It has also been observed that action may be taken against hospital/ clinic for refusal to treat victims of acid attacks and other crimes in contravention of the provisions of section 375C of the Code of Criminal Procedure, 1973.
- A direction was also issued that the hospital, where the victim of an acid attack was first treated should give a certificate that the individual is a victim of an acid attack which may be utilized by the victim for treatment and reconstructive surgeries or any other scheme that the victim may be entitled to with the State Government or the Union Territories, as the case may be.

- Taking note of the fact that acid attack victims need to undergo a series of plastic surgeries and other corrective treatments, the Supreme Court in its order dated 18.07.2013 directed that the acid attack victims shall be paid compensation of at least rupees 3 lakhs by the concerned State Government/ Union Territory as the after care and rehabilitation cost, out of which a sum of rupees 1 lakh would be paid to victim within 15 days of the occurrence of such incident (or being brought to the notice of the State Government/Union Territory) to facilitate immediate medical attention and expenses in this regard.
- While disposing off the said writ petition on 10.04.2015, it was directed that the Member Secretary of the State Legal Services Authority take up the issue with the State Government so that the orders passed by the court were complied with a minimum of rupees 3,00,000/- was made available to each victim of acid attack. The Member Secretaries of the State Legal Services Authorities were also directed to give wide and adequate publicity in the State/Union Territory to the Victim Compensation Scheme so that each acid attack victim could take the benefit of the Victim Compensation Scheme.
- It was also directed that in the case of any compensation claim made by any acid attack victim, the matter would be taken up by the District Legal Services Authority, which would include the District Judge and such other co-opted persons who the District Judge felt would be of assistance, particularly the District Magistrate, the Superintendent of Police and Civil Surgeon or the Chief Medical Officer or that District or their nominee and the said body would function as the Criminal Injuries Compensation Board for all purposes. The matter also came up before the Supreme Court in Parivartan Kendra & Anr. v. Union of India & Ors., decided on 17.12.2015. Where it was observed, that the state and Union Territory concerned can give even more amount of compensation than rupees 3,00,000/- as was directed in Laxmi's case.
- An important direction was given in this case was that all the States and Union Territories should consider the plight of such victims and take appropriate steps with regard to inclusion of their names under the disability list.
- The Central Government has issued the Central Victim Compensation Fund Guidelines with an objective to support and supplement the Victim Compensation Schemes of the States and Union Territories. A corpus of rupees 200 crores has been fixed for the purpose. One of the admissible activities under the Central Victim Compensation Fund is "to promote special financial assistance upto rupees 5 lakhs to the victims of acid attack to meet treatment expenses over and above the compensation paid by the State/ Union Territory."

V. INTERNATIONAL INSTRUMENTS FOR THE PROTECTION OF WOMEN CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Acid violence constitutes gender based violence, a form of discrimination under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Bangladesh, India and Cambodia have ratified (CEDAW) and are thus obligated to combat all forms of discrimination against women, including acid violence. States have an obligation to act with due diligence to prevent and adequately respond to acid attacks. In Bangladesh, studies suggest that 68% to 90% of the acid burn victims are females. Our study of newspaper stories from India shows that 72% of reported victims are female. In Cambodia, a slight majority (52%) of the victims are women and girls.

International commerce of sulphuric acid is controlled under United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 which lists sulphuric acid under Table II of the Convention as comical frequency used in the illicit manufacture of narcotic drugs or psychotropic substances.

CONCLUSION

There is need for greater awareness about the availability of compensation for victims of acid attacks. Despite specific directions to the hospitals to provide treatment to victims of acid attacks, it is still not easy for them to get proper treatment. Public awareness and role of media is very important to check over the counter sale of acid which is still remains rampant. Liability has to be fixed on acid

producing industries in case of negligence regarding the improper acid discharge. It is thus felt by NALSA that Legal Services Institutions have a significant role to play and they can play a pivotal role in ensuring access to the benefits of the victim Compensation Scheme to the victims of acid attacks and to the medical and other facilities. In order to effectively implement laws, state must:

- Conduct appropriate investigation
- Protect victims from threats that could undermine those investigation; and
- Prosecute and punish perpetrators of acid attacks.

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