



**TOPIC APPROVAL
PERFORMA**

School of Law

Program P4BE::LL.M.
:

COURSE CODE : LAW627 **REGULAR/BACKLOG** Regular **GROUP NUMBER** LawRGD0005
:

Supervisor Name : Shaifali Dixit **UID :** 19912 **Designation :** Assistant Professor

Qualification : _____ **Research Experience :** _____

SR.NO.	NAME OF STUDENT	REGISTRATION NO	BATCH	SECTION	CONTACT NUMBER
1	Ranjot Singh	11512388	2015	L1506	9876796404

SPECIALIZATION AREA Law **Supervisor Signature:** _____
:

PROPOSED TOPIC : "Expanding Horizons of Restorative Justice in Acid Attacks in India: An analytical Study"

Details are not entered

PAC Committee Members		
PAC Member 1 Name: Meenu Chopra	UID: 18500	Recommended (Y/N): NA
DAA Nominee Name: Sumit Goyal	UID: 14120	Recommended (Y/N): NA

Final Topic Approved by PAC: "Expanding Horizons of Restorative Justice in Acid Attacks in India: An analytical Study"

Overall Remarks: Approved

PAC CHAIRPERSON Name: 20889::Dr.Shailesh N Hadli **Approval Date:** 11 Mar 2017

Expanding Horizons of Restorative Justice in Acid Attacks in India: An analytical Study

Dissertation submitted to the Lovely Professional University

Impartial fulfillment of the academic requirement

For the award of the degree of

Master of Law (LL.M)

Submitted by
Ranjot Singh
(Reg No: 11512388)

Under the Supervision and Guidance of

Ms. Shaifali Dixit
Assistant Professor
School of Law



LOVELY PROFESSIONAL UNIVERSITY
PHAGWARA – 144411, INDIA

April 2017

CERTIFICATE

I hereby certify that this dissertation entitled “Expanding Horizons of Restorative Justice in Acid Attacks in India: An Analytical Study” submitted for the award of Degree of Master of Law (LL.M) is a record of research work done by the candidate “Ranjot Singh” during the period of his study under my guidance at School of Law, Lovely Professional University, Phagwara, Punjab, India, and that the dissertation has not formed the basis for the award of any Degree, Diploma, Associateship, Fellowship or other similar titles to the candidate. I further certify that this dissertation represents the independent work of the candidate.

Place:

Date:

Ms. Shaifali Dixit

Assistant Professor

Supervisor & Guide

Place:

Date:

Dr. Shailesh N. Hadli

Dean and Professor

School of Law

Lovely Professional University

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Place:

Date:

Name of Student

Ranjot Singh

Reg. No. 11512388

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Dr. Jane Eyre Mathew

Assistant Professor

Research Coordinator

School of Law

Acknowledgement

I am obliged and owe my sincere gratitude to my supervisor Asst. Prof. Shaifali Dixit, School of Law, Lovely Professional University, Phagwara, Punjab, India, who helped me to fine tune this research and made this entire journey a very useful and learning process. Without her support, constant guidance and inspiration, this study would have not been possible and the dissertation, on “Expanding Horizons of Restorative Justice in Acid Attacks in India: An analytical Study”, would not have seen the light of the day.

My heartfelt thanks also goes to the Head of the Department and Head of the School of Law and all faculty members of this department, for their constant support and encouragement during this study.

I am also thankful to all the office staff of the department for their cooperation. I would like to express my sincere gratitude towards my family members, especially my Father, and all my friends for their cooperation and encouragement for carrying out this work.

(.....)

Ranjot Singh

Registration No. 11512388

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List of Abbreviation

ABC - Association of the Blind in Cambodia
AIR – All India Reporters
AHRC - Asian Human Rights Commission
Art - Article
ASF - Acid Survivors Foundation Bangladesh
ASFP - Acid Survivors Foundation Pakistan
ASFU - Acid Survivors Foundation Uganda
ASFI – Acid Survivors Foundation India
ASTI - Acid Survivors Trust International
CASC- Cambodian Acid Survivors Charity
CL – Common Law
Cr.P.C. – The Code of Criminal Procedure, 1973
CSAAAW - Campaign to Stop Acid Attacks Against Women
CVCF – Central Victim Compensation Fund
GBV - Gender-based violence
GO - Government organisation
HC – High Court
HRCP - Human Rights Commission of Pakistan
HRW - Human Rights Watch
ICRW - International Centre for Research on Women
I.L.M. – International Legal Material
INGO - International non-government organisation
I.P.C. – The Indian Penal Code, 1860
IRIN - Integrated Regional Information Networks
LICADHO - Cambodian League for the Promotion and Defence of Human Rights
LNGO - Local non-government organisation
MHA- Ministry of Home Affairs
MoWA - Ministry of Women’s Affairs
NCRB - National Crimes Records Bureau
NCW – National Commission for Women
NGO - Non-government organisation
OAPA – The Offence Against the Person Act, 1861

PADV - Project Against Domestic Violence
PAHO - Pan America Health Organization
PAT - Project Against Torture
PSI - Population Services International
SACW - South Asia Citizens Wire
SC – Supreme Court of India
SCR – Supreme Court Reporter
VAW - Violence against women
VCS – Victim Compensation Scheme
UK - United Kingdom
UN - United Nations
UNFPA - United Nations Population Fund
UNICEF - United Nations Children's Fund
U.P. – Uttar Pradesh
USA - United States of America
UT – Union Territory
WHO - World Health Organization

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Chapter- 1: Introduction

Acid is a substance which is used for industrial or scientific purposes, but with the passage of time misuse of acid increased day by day. Nowadays acid has become a weapon which is easily available in the market and is used against the other individuals. 'Acid Violence' has become a problem for the whole world and no single country is left which is not facing this problem. Since acid attack is a newly emerged offence that's why at present no specific provision deals with acid in the penal laws of most of the nations. This offence is committed against both men and women, but generally women more likely become the victims of acid violence. Most of the cases of acid attack are recorded in South-Asian and African nations, because these nations are either developing nations or under-developed nations.

The offence of acid attack became popular in 17th and 18th century, when in France acid was thrown on woman by her husband or on man by his wife due to their second marriage and the reason of extra-marital relationship to other human being.¹ It became the easy source to take revenge from their partners who are cheated them in marriage or relations, by disfigure or maims the face or body of partner. Gradually there is increased in the cases, acid are used for taking revenge from enemy. Especially matter related to property dispute or any political rivalry and other reasons.

In India first case of acid attack came into picture in the year of 1969 after that in 1990's. But now acid attacks are increasing day by day. It became severe problem in India. In most of the cases, the reasons of acid attack are refusal of marriage proposal or love, dowry, extra-marital affairs etc. In India prior to 2013, there was no special provision dealing with acid attack and it was covered under the Sec. 326 or 324 of Penal Code of India. According to a report of NCRB in the year, 2015, 249 cases of acid attack were recorded in India.²

Bangladesh is a nation where maximum number of acid attack was committed; the crime is mostly done against the women. Pakistan and Cambodia are the other nations where large number of acid violence takes place. In Bangladesh, firstly it was considered that acid attack is a crime which is committed only against the women, but gradually it was realized that the government needs to change their penal laws as the crime is done against both men and women, if any person commits acid attack on

¹ J. Welsh thesis on "*It was like burning in hell*": A comparative exploration of acid attack violence, 2009 pp.21-22

² <http://ncrb.nic.in/>

other individual then he or she shall be punished up to death sentence. It became the first nation where death penalty is given for acid attack and is helpful in reduction of offence of acid attack. The nation like United Kingdom where any person commits the acid violence shall be punished, but the large amount of compensation given to victim in form of punishment included with imprisonment.

In India, recommendations are given by the 226th Law Commission report to amend penal laws and make acid attack a specific offence. In 2013 'Verma Committee' gave a report that suggested to amend the penal laws by addition of some new sections i.e. ; Section 326A and 326B in IPC which deals with the punishment of acid attack or attempt of it. India if any person done acid attack then he will be punished for ten years to imprisonment for life and also who attempts then he will be punished for five to seven years punishment. The main change brought by these provisions is the compensation provided to victim by the offender. The Central government give guidelines to state governments to provide minimum amount of Rs Three lakh compensation to the victim of acid attack.

Indian judiciary plays a vital role in development of restorative justice in cases of acid violence and also to provide appropriate compensation to victim. The honorable Supreme Court gave direction in Laxmi's case³ related to the sale or purchase of acid in markets of India. The directions were given by court minimum amount of three lakh compensation provided to victim of acid attack. Earlier the victim was merely treated as a witness in acid attack cases but now the position of victim has changed as is treated as a centre of whole case. Now days, courts tends to increase the compensation of victim of acid attack because huge amount of money is spent on medical treatment of sufferer.

The new emerging trend of judicial system in India that is restorative justice under it justice provide to victim and repair or reform the victim as well as offender. The main focus of judiciary to provide maximum justice to victim as early as possible, here justice is not only a mentally satisfaction but also an economic satisfaction provided to victim through the scheme of victim compensation. Due to acid attack victim faces problem or damages for whole life because he lost his job and need of huge amount of money for medical treatment, so it is necessary to provide compensation to victim

³ AIR (2014) SCC (4) 427

from the pocket of offender and court wants to realize the offender what he do wrong with the victim.

Due to acid attack the victim goes into the trauma where she/he do not wants to face the society and does not come outside from his home. It sometimes even leads him to commit suicide, but there is a need of help from society at large and NGO's to create self-confidence in victim. In India there is a need of public awareness related to acid attack and to provide first-aid to the victims.

- The term 'Acid' means: The burning or acidic nature of any substance which cause to injuries or damages to the body for life long or short period of time is known as acid.⁴
- 'Acid Attack' means : the intentional act of any individual to throw or pour acid on other with the knowledge of that it cause to life-long or short period of time injuries or damages to the face or body of the victim.⁵
- 'Victim' means that an individual or his heirs who faces the injuries or damages which caused by that particular act.⁶
- Medical treatment: Surgeries, operations, counselling by psychologist and other expenses related medical are all include in medical treatment.⁷
- Victim Compensation means that to repair or payment of losses to victim or sufferer, the losses occur to victim due to that particular act of crime.⁸

⁴ Acid: : "Acid" shall mean and includes any substance which has the character of acidic or corrosive or burning nature, that is capable of causing bodily injuries leading to scars or disfigurement or temporary or permanent disability, [S. 326B "The Indian Penal Code, 1860" Bare Act" Explanation 1, 128]

⁵ "Acid attack" means 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 to the other person Permanent or partial damage or deformity or disfiguration to any part of the body of such person, [Chapter-1 Short title, Application and Definitions, 3.Definitions (1) (b),"Prevention of offences (by Acid) Bill, 2008(National Commission for Women- Draft Bill)]

⁶ Victim means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir, [S. 2(wa) The Code of Criminal Procedure,1973" Bare Act, 7]

⁷ Medical treatment shall include corrective surgeries, psychological counselling and other medical expenses, [Chapter-1 Short title, Application and Definitions, 3.Definitions (1) (h),"Prevention of offences (by Acid) Bill, 2008(National Commission for Women- Draft Bill)"]

⁸ Victim compensation: It refers to payment or reparations made to a crime victim. Victims of violent crime may suffer financial stress that is as devastating as their physical injuries and emotional trauma. Victim compensation works as a monetary restitution by governmental entities to people injured by violent personal crimes. The compensation amount comes from the collection of fines and fees assessed in court cases. (<https://definitions.uslegal.com/v/victim-compensation/> last seen on 10/02/2017)

- Restorative Justice means that a victim is repaired from the harm in criminal justice system through the process of arbitration, conciliation, empowerment of victim and compensation is known as restorative justice.⁹ In other words a victim is repaired from the offence by providing him compensation or medical assistance from the pocket of offender and takes its responsibility.¹⁰

1.1. Problem Profile

Acid was firstly used for industrial purpose and for metal purification. With the passage of time, the use of acid changed into misuse and acid became a weapon. The incidents of acid attacks gradually increased. The victim as well as society suffers lots of problem and pain due to such incidences. The offence of acid attack was covered under the offence of grievous hurt in past, which proved to be insufficient to provide justice and to curb the attacks. The punitive method of justice is not sufficient now these days. Victim faces huge loss in acid attack and must be restored back to their previous position.

1.2. Research Objectives

1. To enquire the reasons, factors and consequences of increase in the cases of acid attack.
2. To understand the legislative framework on acid attack.
3. To understand the newly emerged concept of restorative justice and its efficacy in providing justice to the victims of acid attack.
4. To determine the suitability of Victim Compensation as a punishment to the offender along with the punitive punishment.
5. To analyze the judicial approach on keeping a check on the sale and purchase of acid.
6. To understand and critically examine the approach of judiciary applied in cases related to acid attack.

⁹ Restorative Justice: A philosophical framework and a series of programs for the criminal justice system that emphasize the need to repair the harm done to crime victim through a process of negotiation, victim empowerment, mediation and reparation. ([http:// legal-dictionary.thefreedictionary.com/restorative+justice](http://legal-dictionary.thefreedictionary.com/restorative+justice) last seen on 11/02/2017)

¹⁰ Restorative Justice: The parties that are affected by the omission of an offence should be restored by the offender and Government by providing them medical as well as financial assistance. It must include the reparation of victim and offender takes the responsibility of victim. (“R v.Proulx” AIR 2000, Justice Lamer of Canadian Supreme Court views)

1.3. Research Hypothesis

Punitive methods are incapable to console the trauma of an acid attack survivor until and unless the restorative methods are also adopted by law.

1.4. Research Methodology

The ‘Doctrinal method’ of research is applied in this work. Under the doctrinal method of research; Books, Journals, Thesis, Dissertations, Articles and other study materials are used for the analytical study of problem. Some data is also collected through newspapers like The Hindu, The Tribune and The Times of India. The problem of research is primarily focused on the pronouncements of honorable High Courts and Supreme Court of India

1.5. Scope of Study

The study is mainly emphasizing upon the expanding horizons of Restorative Justice in the cases related to acid attack. The scope of study is limited to Indian Penal system in relation to the incidents of acid attack. However a brief comparison is done with the administration of criminal justice system of other countries. The study confined to the provisions of victim compensation as an integral part of restorative justice provided to the victims of Acid Attack.. The methods of rehabilitation of victim in society are also discussed and analyzed.

1.6. Review of Literature

No research is complete without referring good Books, Commentaries and Articles. The foremost step for starting the study on the topic is the thoughtful analysis of the existing literature on the subject. The review of literature provides deep understanding and clarity of the subject. It also gives an idea about the problem areas which are still untouched and need to be analysis in more detail. Following sources have been reviewed to carry on the research work:

226th Law Commission of India report, on acid attack under which special section 326(A) and 326(B) are added in Indian Penal Code, 1860 by Criminal Law Amendment Act, 2013. Under sec 326(A) punishment of voluntary causes grievous hurt by use acid is 10 year extend to life imprisonment. Most important thing which is discussed in report that is to provide victim compensation cases related to acid attack.

Dr. Nair Ambika R, Research paper on “Acid Attack- Violence against Women, Need of the hour” In this paper mainly covered factors leading to the acid attack and consequences of acid attack either physical or socio and economic. Landmark

Judgments are discussed under which victim provide compensation for the restoration of their body or face.

Note on acid attack by Partners for Law in development, New Delhi, January, 2013 In this paper mainly concerned about the Criminal Amendment Act, 2013 under which lots of changes in Indian Penal Code, 1860 and Crpc, 1973. The sections which are amended and newly added in these acts are discussed widely and there scope also in criminal law.

Welsh Jane, "It was like burning in Hell": A comparative exploration of acid attack. This thesis explores the issue of acid attack in some countries like India, Bangladesh, Pakistan and Cambodia. This thesis work is totally comparative study related to acid attack of different nations on acid attack.

Ms. Nargis Yeasmeen, Acid attack in the back drop of India and Criminal Amendment Act, 2013. In this paper researcher mainly concerned around the lacuna in the Indian Penal Code, 1860 before 2013 amendment and which section are changed after that amendment. Which are the factor of acid attacked and consequence of it researched well.

Long road to justice for acid attack survivors in India by Dev Meher, published in The Wire, India. This article shows that what are the problems faced by acid attack victim in India for justice. This shows the attitude of Courts and long pendency of cases in Courts.

Agarwal Surbhi, Acid attack and the Law in India, Acid attack affects the whole life of victim and creates the problem in life of victim. It creates the terror in the mind of victim and create complex in between them to face the other which is harmful for society.

Singh, Paramvir "Acid attack in India" Law Commission of India report and amendment in IPC, 1860 and CrPC, 1973 are discussed in this article. One thing which is recommended by Law commission but not amended the Indian Evidence Act, 1872 under Sec 114(B) which tells us to presumption as to acid attack.

Kelkar's R.V. "Lectures on Criminal Procedure" fifth edition, In this book a chapter on victim compensation under Sec 357A, 357B and 357C under it victim is compensate in addition to fine. Medical expense is also paid by the accused to victim and state also compensates the victim.

Gaur K.D. "The Indian Penal Code" fourth edition, In this book special chapter on newly amendment added Sec 326A and 326B under Indian Penal Code, 1860. If a

person voluntarily causing grievous hurt by use of acid should be punished 10 years up to life imprisonment.

1.7. Plan of Study

The study is planned under following chapters:

Chapter- 1: This chapter deals with the introduction of research topic as well as meaning and definition of terms related to this research. Firstly researcher makes problem profile for research then starts other work. After that the objective of research are discussed and also the hypothesis under it whole research moves around it. The doctrinal method of research applied in this work. The scope of study limited up to acid attack and the restorative justice with special perspective of victim compensation.

Chapter- 2: The chapter deals with the history of acid attack and the evolution or growth of concept of restorative justice in India. In ancient time acid was used for the purification of gold or other metals but due to change in time it became a weapon which is used against to other human beings.

Firstly there is discussion about the origin of history, how acid came into use and for which it is used. Gradually increases in incidents of acid attack in society and also covered the reported cases or data according to the reports of NCRB and status of every State in India. The evolution of acid attack in society or what are the reasons for acid attack and history of laws which are sufficient or insufficient as comparative to suction at present. The concept of restorative justice then its evolution in India or whole world and what is the basic principles related to the restorative justice.

Chapter- 3: This chapter mainly deals with the international perspective of restorative justice with relation to acid attack. Cases related to acid attack where more cases are found and where less, researcher concentrated on it. The country like Bangladesh which is on top related to acid incidents and nation like Sri Lanka where is no authority or body, who can record the incidents of crime. The developed nation like U.K. is also suffered from heinous nature of crime and they develop their own methods to tackle the crisis of acid attack. The nations have adequate law to curb this heinous trouble or who has no law related to that crisis. Bangladesh is a nation where death punishment is given to offender of acid attack and successful to curb the acid attacks. The United Kingdom adopted the concept of restorative justice and provides compensation to victim. Pakistan and Cambodia countries are also provide the compensation but it is not such amount which is adequate for victim but these nations

tries their best for providing victim compensation. If compare with India, now India goes through the process or says that expanding the horizons of concept of restorative justice by providing harsh punishment to offender and also providing compensation to victim.

Chapter- 4: An act became offence which it is prescribed by the legislation otherwise it is an act. In India offence of acid attack is covered under the grievous hurt and sometimes attempt to murder, but not any specific provisions which deals with incident of acid. A bill is framed by women commission related to acid attack but till now it is not passed by our legislation. Law commission of India gives reports related to restorative justice and acid attack. The Verma committee gives its recommendation related to rape cases and acid attacks then specific provisions came into penal code specific related to acid attack. The Government of India banned acid in country except industrial and scientific purposes and makes rule regarding the sale or purchase of acid attack in India. A scheme is started by Centre Government under it State frame rule regarding provide compensation to victims and also decide the minimum limits of victim compensation.

Chapter- 5: Indian criminal justice system first provides punitive justice to victim gradually change in time it adopts the restorative methods also to provide justice to victim. Now the courts fully concentrated on victim and provide them compensation in criminal cases also. The acid attack cases compensation provided to victim additionally with the fine. In this chapter judicial pronouncements are discussed related to acid attack and the under compensation provided to victim. These pronouncements expands the horizons of restorative justice and in some cases guidelines given by honorable Supreme Court of India or High Courts which will be provide path to legislature to make law on it. Some cases provide justice to victim in real sense by providing him both punitive justice and restorative justice. Now these days, Indian judiciary have been adopted the method of punishment which is mixture of three theories of punishment.

Chapter- 6: Victim and offender at the end accommodate the society. Even a single act of any individual has huge impact on our society. If a victim not got proper justice then it has bad impact on our society. This chapter mainly deals with restorative justice and society.

The main discussion here is about consequences of acid attack and its effects on the body of victim in this chapter, also discuss the treatment or first aid given to victim.

The stories of victim which explain the life style of victim before or after acid attack and also the problem faced by them during their medical treatment. Some stories about how a victim overcome from their trauma with support of family or society and doing job work setting example for other victims. The methods used to curb acid attack and implementation of laws is also elaborated. The theories of punishment explain the method used by Indian judiciary to provide justice to victim and punish to offender. The new emerging trend of judicial system in India that is restorative justice under it justice provide to victim and repair or reform the victim as well as offender. The main focus of judiciary to provide maximum justice to victim as early as possible, here justice not only mentally satisfaction but also economic satisfaction provided to victim through the scheme of victim compensation.

Chapter- 7: This chapter is mainly deals with the conclusion of this research and the suggestion which will be helpful in to curb acid attack in India or providing compensation. The prevention is better than cure; there is need of better laws and stringent punishment. There is need of proper implementations of laws and create awareness in people regarding the acid attack. It is a wrong myth the acid attacks done in towns or villages but no city in our nations save from it. There is no doubt law is sufficient to curb the acid attack but there is lots of lacking in implementation of provisions of law. Manodhariya Scheme started by the Maharashtra govt. to provide compensation to the victims of acid attack and other severe offences. There is need amendment in the Evidence Act added to Sec. 114B under it court presume that offender will spray or pour acid in intention of acid attack. The law shall not presume offender as innocent until it is proved.

Chapter – 2: Historical Overview of Acid Attack and Restorative Justice

Vitriol is another term used for acid. Vitriol was used for purification of gold and other precious metal in ancient Greek period. ‘*Dioscorides*’ was a famous physician who was the first person, who recorded about the use of vitriol in first century AD. Romans, Indians, Persian and Arabs were also used vitriol from Second Century AD.¹¹

2.1. Origin of Acid Attack

In 17th century the first case of acid attack was recorded in France at that time of Louis XIV was the ruler in France. But in 1879 vitriol attacks increased in France and 16 cases were recorded in that year. After one decade in 1888 to 1890 there were 83 cases of acid attack that came before the court.¹²

The term “La Vitrioleuse” was a theatrical term, which became very popular and reported as ‘Crime of Passion’¹³ in a famous press. It depicted a crime of jealousy or disrespect against women by a women. The intention behind that was to disfigure the face and other parts of body of women due to some enmity. It became a practice among poor class and middle class families to take revenge from others for their lost love and business losses etc. At that time vitriol was easily available due to vast use in the industries.

In the famous Marie Couffin case, she attacked her husband and his mistresses in public during the presence of five hundred people. Marie was acquitted from her crime because the ‘Crime of Passion’ was taken as less condemned at that time.¹⁴

The New York Times in 1865 reported that police arrested a person who was attempted to disfigure her wife’s body by use of acid. In 19th and 20th century, many cases were reported in Europe and U.S.A. Girls attacked their boyfriends and husbands due to failure in love and vice versa. Many of cases were recorded as the

¹¹ Supra 1 at 21-22

¹² Supra 1 at 22

¹³ a defendant's excuse for committing a crime due to sudden anger or heartbreak, in order to eliminate the element of "premeditation." This usually arises in murder or attempted murder cases, when a spouse or sweetheart finds his/her "beloved" having sexual intercourse with another and shoots or stabs one or both of the coupled pair. To make this claim the defendant must have acted immediately upon the rise of passion, without the time for contemplation or allowing for "a cooling of the blood." It is sometimes called the "Law of Texas" since juries in that state are supposedly lenient to cuckolded lovers who wreak their own vengeance. The benefit of eliminating premeditation is to lessen the provable homicide to manslaughter with no death penalty and limited prison terms. An emotionally charged jury may even acquit the impassioned defendant.

¹⁴ Ibid 1 at 24

cases of acid attack and for which the main reason was business rivalry and other jealously reasons.¹⁵

The first recorded acid attack case in Bangladesh occurred in 1967 and in India, the first acid attack recorded case in 1969. After that acid attack cases of acid incident gradually increased.¹⁶

2.1.1. Gradual Increase in the Incidents of Acid Attack

Acid attack incidents were rarely found in 18th and 19th century but in 20th century there was a gradual increase in the incidents especially in South Asia. In 1980 and 1990 sudden increase in incidents of acid attack in India took place most of the cases were recorded in these two decades and increased day by day. The main reason behind this is that acid is easily available in India and there is no special law to regulate its sale.

According to the data of NCRB¹⁷ the number of acid attack incidents is 100 to 500 in every year. A data recorded by NCRB in year 2011 to 2015 were gradually increased. In the state of Andhra Pradesh 8 incidents were recorded in year 2011, but in year 2015 it increased up to 14 incidents and in these five years total 38 incidents were recorded.¹⁸

In the state of Assam no incident was recorded in year 2011, but in year 2015 it increased up to 3 incidents and in these five years total 17 incidents were recorded. In year 2013 in Assam 13 incidents of acid attack were recorded.¹⁹

In the state of Bihar 3 incidents were recorded in year 2011, but in year 2015 it increased up to 19 incidents and in these five years total 37 incidents were recorded.

In the state of Gujarat 2 incidents were recorded in year 2011, but in year 2015 it increased up to 4 incidents and in these five years total 21 incidents were recorded.²⁰

¹⁵ A.V.Anderson, Article:“*Throwing Vitriol*”
http://www.slate.com/articles/news_and_politics/explainer/2013/02/history_of_acid_violence_whe_n_did_people_start_throwing_vitriol.html, last seen on 14/02/2017.

¹⁶ Yakin Erturk “*Combating acid violence in Bangladesh, India and Cambodia*” Avon global centre for women and justice at Cornell Law School and The New York City Bar Association, 2011
<http://www.ohchr.org/Documents/HRBodies/CEDAW/HarmfulPractices/AvonGlobalCenterforWomenandJustice.pdf> last seen on 12/02/2017.

¹⁷ National Crime Record Bureau

¹⁸ Acid Survivor Foundation India,
http://www.asfi.in/webpage.php?title=statistics+&p_type=1&parent=76&catid=78 last seen on 03/03/2017

¹⁹ Ibid

In the state of Haryana 8 incidents were recorded in year 2011, but in year 2015 it increased up to 12 incidents and in these five years total 45 incidents were recorded.

In the state of Himachal Pradesh 0 incident was recorded in year 2011, but in year 2015 it increased up to 1 incident and in these five years total 3 incidents were recorded.²¹

In the state of Jammu and Kashmir 2 incidents were recorded in year 2011, but in year 2015 also 2 incidents were recorded and in these five years total 11 incidents were recorded.

In the state of Jharkhand no incident was recorded in year 2011, but in the year 2015 again no incident was recorded and in these five years total 4 incidents were recorded.

In year 201 in Assam 3 incidents of acid attack were recorded.²²

In the state of Karnataka 3 incidents were recorded in year 2011, but in the year 2015 it was only 2 incidents were recorded and in these five years total 14 incidents were recorded.

In the state of Kerala 1 incident was recorded in year 2011, but in year 2015 it increased up to 10 incidents and in these five years total 17 incidents were recorded.

In the state of Madhya Pradesh 5 incidents were recorded in year 2011, but in year 2015 it increased up to 19 incidents and in these five years total 61 incidents were recorded.

In the state of Maharashtra 6 incidents were recorded in year 2011, but in year 2015 it increased up to 8 incidents and in these five years total 31 incidents were recorded.²³

In the state of Manipur 0 incident was recorded in year 2011, but in year 2015 it increased up to 1 incident and in these five years total 1 incident was recorded.

In the state of Odisha 1 incident was recorded in year 2011, but in year 2015 it increased up to 8 incidents and in these five years total 24 incidents were recorded.

In the state of Punjab 9 incidents were recorded in year 2011, but in year 2015 it increased up to 7 incidents and in these five years total 42 incidents were recorded. In year 2014 in Punjab 17 incidents of acid attack were recorded.²⁴

²⁰ Acid Attack on Women and girls, <http://mha1.nic.in/par2013/par2015-pdfs/ls-210415/384.pdf> last seen on 15/03/2017

²¹ Ibid

²² Supra 18 at 1

²³ Supra 20, at 4

²⁴ Supra 18, at 1

In the state of Rajasthan 0 incident was recorded in year 2011, but in year 2015 it increased up to 1 incident and in these five years total 13 incidents were recorded. In the year 2012 and 2014, 6-6 incidents were recorded.²⁵

In the State of Sikkim only 2 incidents of acid attack were recorded in year 2014 out of these five years from 2011 to 2015.

In the state of Tamil Nadu 0 incident was recorded in year 2011, but in year 2015 it increased up to 10 incidents and in these five years total 30 incidents were recorded.

In the State of Telangana only two incidents were recorded in year 2014 and 2015 out of these five years.²⁶

In the state of Tripura 0 incident was recorded in year 2011, but in year 2015 it increased up to 4 incidents and in these five years total 9 incidents were recorded.²⁷

In the state of Uttar Pradesh 14 incidents were recorded in year 2011, but in year 2015 it increased up to 61 incidents and in these five years total 147 incidents were recorded. This was the highest incident which was recorded in one state in one year.²⁸

In the State of Uttarakhand total 5 incidents were recorded in these five years 2 incidents in the year 2011 and 3 incidents in the year 2012.

In the state of West Bengal 13 incidents were recorded in year 2011, but in the year 2015 it increased up to 41 incidents and in these five years total 125 incidents were recorded.²⁹

In the State of Arunachal Pradesh and Mizoram were two states where no incident of acid attack was recorded in these five years.³⁰

In the State of Chhattisgarh, Goa, Meghalaya and Nagaland only one-one incidents of acid attack was recorded in these five years.³¹

In the state of Delhi 28 incidents were recorded in year 2011, but in year 2015 it increased up to 21 incidents and in these five years total 96 incidents were recorded.³²

In the Union Territory of Chandigarh 1 incident was recorded in year 2011, but in year 2015 it increased up to 0 incidents and in these five years total 2 incidents were recorded.

²⁵ Ibid

²⁶ Supra 20, at 5

²⁷ Ibid

²⁸ Supra 18, at 1

²⁹ Ibid

³⁰ Supra 20, at 4

³¹ Supra 18, at 1

³² Ibid

In the Union Territory of Puducherry 0 incident was recorded in year 2011, but in year 2015 it increased up to 0 incidents and in these five years total 1 incident was recorded in the year 2012.

In the Union Territory of Andaman and Nicobar, Dadra and Nagar Haveli, Daman and Diu and Lakshadweep no incident of acid attack was recorded in year 2011 and not in these five years.³³

In the year 2011, total 106 incidents were recorded in India and 106 incidents were also recorded in year 2012. But in the year 2013, total 116 incidents were recorded and in the year 2014, total 225 incidents were recorded. In the year 2015, total 249 incidents were recorded in India. The five years of data shows that how gradually acid attack incidents increased in India from 116 incidents to 249 incidents within short period of time.³⁴

2.2 Historical Evolution of Law to Control Acid Attack

In ancient period and medieval period the cases of acid attack were very rare. But due to the changing notions of society, the number of acid attack cases started increasing. In 18th century the cases of acid attack increased and in 1980 acid attack became highly popular, it became a weapon to spoil the life of victim. Firstly acid attack was covered under Section 326 of penal code of India i.e. grievous, but law was insufficient to curb the problem of acid attack in India. The Verma Committee report suggested that to amend the laws related to acid attack. In the year 2013, through ‘Criminal Law Amendment Act’ acid attack was made a separate offence under penal code of India.

2.2.1. Changing Dimensions of Laws Related to Acid Attack

In most of the nations there is no proper law which is specially related to acid attack. In some nations like India, acid attack is covered under the offence of grievous hurt.

- **Ineffective penal laws to curb Acid Attacks:** Acid attack is newly emerged offence, so not proper laws in any penal code related to it.

In India: In the Indian Penal Code, acid attack is covered under the Sec. 320, 325, 322 and 326. Sec. 320 deals with grievous hurt: Two types of hurt are explained in penal code, one is simple hurt and other is grievous hurt. It is very complicated to differentiate these two but the eight conditions for grievous hurt are Emasculation, Injury to eyesight, Eternal deprive of ears

³³ Supra 20, at 5

³⁴ Supra 18, at 1

hearing, Loss of limb or joint, Impairing of limb, Eternal disfigure of head or face, Fracture of bone or teeth and Dangerous hurt.³⁵

The grievous hurt's definition has been condemned, because it does not cover the different classes of new type of premeditated wound namely on vital area of a women's body nor the numerous kinds of severe wound are appropriately covered by this definition.

The punishment provided for voluntarily causing grievous hurt under Sec. 322 and up to seven years punishment and also with fine for grievous hurt punishment provided under Sec. 325.³⁶

Conviction is given for whole life or up to ten years and also with fine for the crime of knowing causing severe hurt by any mordant matter under sec. 326. It is shown that the gravity of the offence never contests with the time period of sentence.³⁷ It is very difficult to prove the bad intention of other individual under sec. 307 the matter related to bail petition.

In other nations: In the countries like United Kingdom and other developed nation there is no sufficient law to deal with acid attack. Many nations try to amend their penal laws to recognize acid attack a separate offence.

- **Change and Revolution in Law to Control Acid Attack:** Due to increase in acid violence in society there was needed to change laws related to acid attack. Because the ineffective penal laws were existed in our society.

In Bangladesh: Bangladesh became the first country which enacted strict laws related to acid violence. Any individual by use of acid murder anyone shall be convicted by death sentence or sentence for whole life and also imposed fine which not more than one lakh taka. Any individual pours or attempt to spray acid on other individual and due to that attempt victim face any hurt or not the offender shall be convicted minimum three years up to seven years of sentence and also imposed fine on it which not more than fifty thousand taka.

In India: In the year 2013 after Delhi rape case an amendment done in penal laws under which two new sections 326A and 326B were added.³⁸ These

³⁵ S. 320, The Indian Penal Code, 1860

³⁶ Ss. 322 & 325, The Indian Penal Code, 1860

³⁷ S. 326, The Indian Penal Code, 1860

³⁸ Ss. 326A & 326B, The Criminal Amendment Act, 2013

sections deals with acid violence and increased the punishment of offence. It also provides further assistance to victim to easily punish the wrongdoer. This is the first attempt to curb acid attack in our society.

The amendment done in the year 2013 was recommended by Law commission of India under its 226th report. Many amendments were suggested to done in penal law and were published in July 2008 with the name of “The Inclusion of Acid Attacks as Specific Offences in the Penal Code of India and a Law for Compensation for Victims of Crime”.

The 226th report of Law commission of India suggested the amendment to add two new sections related with acid violence. It added a new provision related to provide compensation to sufferer and suggested that the sale or purchase of acidic substances shall be totally prohibited apart from for industrial and scientific purposes. It also suggested the need of awareness in public at large because if we want to fight with any problem, it is not possible without public support.³⁹

The National Commission for Women made and submit a draft bill on title of “Prevention of offences (by Acids), Bill 2008” (“NCW Bill”) to the ministry which work for development of child and women in India. This bill considers acid violence as a separate, brutal or heinous crime, where offenders do not get the bail easily or not compound that offence in court or outside the court. It also provides compensation to sufferers or provides medicinal, emotional or other type of necessary assistance which is needed to the victim after the aid attack. It recommended an authority which will control the sale or purchase of acid attack in India.⁴⁰

The objective of providing compensation to the sufferer who have faced damages or harm and who require rehabilitation, every responsible authority or local governments with the help of Union government shall make schemes under it Minimum financial assistance in form of compensation shall be provided to victim of acid attack. The Legal Service Authority which is at district level or at state level, on an order given by the honourable court shall

³⁹ 226th Law Commission of India Report, “*The Inclusion of Acid Attacks as Specific Offences in the Penal Code of India and a Law for Compensation for Victims of Crime*” 2008 available at <http://lawcommissionofindia.nic.in/reports/report226.pdf> last seen on 25/03/2017

⁴⁰ Prevention of Offences (by Acids) Act 2008, (National Commission for women- Draft Bill) http://ncw.nic.in/pdf/files/offences_by_acids.pdf, last seen on 13/03/2017

decide the compensation which is given to victim. If the Court thinks that the amount of compensation paid to victim is not sufficient then they may change the amount of compensation to provide an adequate compensation. Under Section 357A the compensation payable by the State Government shall be in addition to the payment of fine to the victim under Section 326A or Section 376D of the IPC, 1860.

All the hospitals either private or public run by any authority or individual shall instantly provide without any fee the medical treatment to the sufferers of any crime covered under Section 326A, 376, 376A, 376B, 376C, 376D and 376E of the IPC, 1860 and shall instantly inform the police of such happening. The Poisons Act, 1919 is the Indian law that deals with the trade in, control and sale of poisons. Section 2 of this Act grants rule-making powers to the States. In the case of *Laxmi Vs. Union of India*⁴¹, the Government of India informed the honorable Supreme Court that after meeting the representatives of all the States and Union Territories, it was granted that it would ratify rules under the Poisons Act, 1919 to control the control and sale of acid by classifying it as 'poison' under this Act. Union Government came out with the present Model Rules and submitted them to the Supreme Court. The Supreme Court directed all States and Union Territories to amend or alter and accept these Rules.⁴²

21st August 2015 Central Victim Compensation Fund Guidelines were come into force. Main objective of set up is to support and increase the existing Victim Compensation Schemes which is notified by States/UT Administrations.

2.3. Emergence and Growth of Restorative Justice

Crime has threaded the society since its inception and therefore, there is a need of various kinds of laws to maintain law and order in society. People's faith has decreased in our legal system with the passage of time, because of heavy backlog of cases in our courts. Our courts or criminal system mainly concerned about penalization of accused but now the scenario is changed in India from last two decades. A new thinking has developed in our nation about crime. Now the crime is seen from both the angles that are from accused point of view as well as from the

⁴¹ AIR (2014) SC (4) 427

⁴² S. 2, The Poisons Act, 1919

victim's point of view. New type of policies makes which is more effective and less destructive as a response to crime. This new type of advancement is known as justice provided by restorative method.

The scholar Johnstone and Van Ness rightly remarked that the restorative type of justice is not only a "persistently vague concept, it is in fact a deeply contested concept."⁴³ It is not expected to define the term restorative justice, in one single definition because its character is not unified.

It is a complicated scheme, the sense of which continues to develop with novel discoveries. A few definitions are centered on the essential elements like repair, restore, reconciliation, and reintegration of restorative processes. Others commence with the thought that offence causes damage, and justice should encourage remedial.⁴⁴ Some others are based on healing principles, for instance admiration for others. Few are concentrated on holistic approach to relationship and to life of restorative justice. A little of them thinks restorative justice has faraway special effects further than the offence.⁴⁵

2.3.1. Concept of Restorative Justice

The scheme of restorative justice is divided in the three basic concept that projected definitions of restorative justice i.e.

- Meeting Concept
- Injury Repaired Concept
- Concept of Transformation (transformations of personality and the public).
- **Meeting Concept:** Meeting concept is the first concept and is mainly focused on the meeting of stakeholder and the many profits arise as stakeholders⁴⁶ talk about the felony, contribution of it and its outcome. It should be helpful in identification of main difference between restorative justice process and criminal justice procedure.⁴⁷

⁴³ *Handbook of Restorative Justice*, 6 (G. Johnstone, and D. W. Van Ness, 1st ed., 2007)

⁴⁴ R. K. Handa, *Restorative Justice from Victimology Perspective and its Utility in India*, 87, Thesis Faculty of Law University of Delhi (2012)

⁴⁵ Ibid

⁴⁶ The word 'stakeholders' comprises direct as well as indirect stakeholders. The direct stakeholders include victim, offender, and family members of both victim and offender (including those who may be similarly affected). The neighbours and other important members of the society would come under the concept of "indirect stakeholders."

⁴⁷ *Restorative Justice and Criminal Justice: Competing or Reconcilable Paradigms*, 58 (A. V.Hirsch, J. V.Roberts and A. E. Bottoms, K. Roach, and M. Schiff, ed. 2nd, 2006)

In healing processes, the sufferer, criminal, and other concerned parties have freedom to speak and to make a decision that what to accomplish in a comparatively familiar setting and during that come in the direction of terms with what happened. In the criminal justice procedure the professionals are professional connection with the crime.⁴⁸ Decisions are given by judge not made by the parties. Even as the defendant usually has an advocate, the sufferer does not directly represent its interest in the court. Its interest is taken as interest of whole society instead, which is represented by public prosecutor in court.⁴⁹

This conception would not consider the remedial or restorative if the parties like sufferer, criminal and the other interested persons not do meeting together.⁵⁰

- **Injury Repair Concept:** Another concept is the injury repair concept. "Due to Crime harm caused to someone; it is the justice which must repair that particular harm."⁵¹

The injury will be happened at several levels and it will be frequently addressed fully when the all interested parties meet in a healing process to explore and take action on it. On the other hand, the incapability or refusal of the parties to assemble is not limited under this conception. The situation of the incapability or refusal would insist that the court has to take appropriate steps in judicial proceeding to repair the injury which is caused by the felony. In this conception, remedy is directly given to sufferers and the other interested parties or sufferer parties of the criminal are not got any type of compensation then we cannot consider it any kind of restorative under it.⁵²

- **Concept of Transformation:** This concept is more complicated as wrecked associations at numerous levels of the public are covered under this concept. It simplifies not only the personal suctions of injury but it goes beyond to matters of unfairness such as racial discrimination and sex base discrimination.⁵³ People live with strong relationship with each other and with

⁴⁸ Ibid

⁴⁹ Supra 44 at 88

⁵⁰ Supra 47

⁵¹ C. Harcarik, *Restorative Justice Is Changing the World*, 26 (2009)

⁵² A. L. Brophy, *Reparations Pro & Con*, 85 (2008)

⁵³ *Restorative Justice: Critical Issues*, 98 (E. McLaughlin, G. Hughes and L. Westmarland, ed. 1st, 2003).

brotherhood apart from these preventative things with their community and corporeal environments.

Restorative justice became the way of life under it way is offered for the reparation of broken relationship in society⁵⁴. The conception of transformation if would not address the structural impediments for stronger relationship, it will not taken as restorative.⁵⁵

On these three conceptions are closely related to each other, depending upon how to achieve the restorative justice. The conception explains the process of restorative measures easily available and provide to the victim in society at large.

2.3.2. Evolution of Concept of Restorative Justice

Restitution for violence offences required in '*The Code of Ur-Nammu*' in year 2060 BC at Sumer.⁵⁶ In ancient period there are some data which shows that the period is 'Golden Period of Victim' these period were '*The Code of Hammurabi*' specified the restitution for property offences. In Babylon in year 1700 BC and same type of restitution also found in Israel, the Pentateuch.⁵⁷ In Rome, under the Law of Twelve Tables in year 449 BC there were some provisions according to which the accused had to pay thrice the amount of stolen property in property and if property is found then paid double of that amount.⁵⁸

The period of Sutra's treated as noble time for victims in India and also the Law of Manu specially concentrated on compensatory measures in offences, he was fully described what type of amount paid by which group of society if he was doing any crime. He was also described amount paid due to stolen property.

The Brehon Laws in Ireland for most of the crimes mode of justice was compensation that was the first recorded laws in old Irish era. King Clovis I in

⁵⁴ E. Weitekamp and H. Kerner, *Restorative Justice: Theoretical Foundations*, 62 (2002)

⁵⁵ H. Strang and J. Braithwaite, *Restorative Justice and Civil Society*, 53 (2001)

⁵⁶ <https://umdrive.memphis.edu/jjsledge/public/Jewish%20Studies/2a%20-%20Ancient%20Near%20East%20Legal%20Codes.pdf>

⁵⁷ Mrs. S. S. Mangrulkar, *Compensation to crime victim in India- A tool of Restorative Justice*, 2 (2017) last seen on 07/04/2017(https://www.academia.edu/26974438/Compensation_to_Crime_Victims_in_India-A_Tool_of_Restorative_Justice)

⁵⁸ Ibid

year 496 AD in Gaul implemented the restitution ways for both non-violent and violent offences. In 600 AD at England detailed restitution schedules were included in the Laws of Ethelberht of Kent.⁵⁹

In England during the period of Anglo-Saxon Kentish law specified the large amount of compensation as according to their crimes. Before that period in England only four pound is given in compensation to victim if a murder is committed.⁶⁰

After some time due to growth of Religious and Royal power the justice system is divided into two parts one is criminal justice system and the other is civil justice system. Offences like rape and murder were not came under the law of tort; these are taken separated and taken against the society.⁶¹ The compensation is totally missing and authority plays a corrective role, give conviction for the wrong done against individual but also against the Emperor. These changes in justice system are helpful in improvement during the nineteenth century in European jails.⁶²

2.3.3. Emergence of Restorative Justice in India:

The period of 'Sutra' was treated as a noble time for victims in India. The law of 'Manu' specially concentrated on compensatory measures in offences, which says that compensation shall be paid to the sufferer by the wrongdoer and on the other hand the wrongdoer is also liable for fine which is paid to Emperor. *Manu* prescribed the system of sentence on the basis of caste system, the person who were higher in caste more will be punished and vice versa. If individual related to the *Shudra* category and doing the theft then he will be punished eight times more than the value of stolen property. If individual related to the *Vaishya* class then he do same offence of theft then he will be punished for fine which is sixteen (16) times more than the stolen property. If the individual related to the *Kshatrya* class then he do the same offence of theft then he will be punished for thirty two (32) times more than the stolen property and if person related to the *Brahmin* class for same offence he will be punished for fine which is more than sixty four (64) times from the stolen property or he is done will full knowledge or aware about penalty then he will

⁵⁹ P. J. Geary, *Reading in Medieval History*, 209-211, (1998).

⁶⁰ Supra 56

⁶¹ Ibid

⁶² 154th, Law Commission of India Report, *The Code of Criminal Procedure, 1973*, 56 (1996)

be punished for hundred and twenty-eight (128) times more than the stolen property. The main purpose of this type of punishment is to provide compensation or reform or restore the sufferer and also give conviction to wrongdoer. Most notably in Babylon the Code of Hammurabi, the Draconian Law of Greeks, Mosaic Law of the Hebrews, the Code of Gortyn in Crete, Roman's Twelve Tables.⁶³

In of period 606-647 AD of *Harshavardhan*, a person was murdered and offender will be punished as death sentence, but the time of execution window of deceased not wanted to execute the offender and she opposed its execution because according to her it not proper justice to their family. Then the King gave order to the offender to up bring the children of victim and also gave a piece of land in compensation.⁶⁴

In middle age, Muslim Law was common. The Prophet Mohammad had written Quran which is the beginning of the Muslim law. The concept of offence, moral or immoral, wrong or right, sin or socially obligated are mixture of responsibility in Mohammedan law. *Kisas, Hud, Tazeer* and *Diya* are main classification of punishment of the Mohammedan criminal law, *Kisas* is totally based on retaliation which means take revenge from offender, *Diya* or blood money- the price of blood homicide given to the victim's family; *Hud* are like punishments fixed under specific penalties for theft and robbery etc; *Tazeer* which are the discretionary or exemplary punishment. The philosophy of *Kazis* about offence were not permanent, it changed according to the financial conditions of wrongdoer. So, there was no uniformity in the justice system of Muslim rule and its shows that how bad organised the justice system of Muslims. In *Diya* or *Aql* if an individual commit a crime of murder then pay the compensation to victim or his family. If individual murder then their family demand for blood money the amount which is suitable or sufficient for heirs of killed person then offender pay money to family and free from his punishment. Sometimes a hundred she-camels were fixed by *Sunna* which was given to heirs of killed individual in form of compensation and the age of camels also defined in it.⁶⁵ The *Diya* or blood money of a Jew or a Christian

⁶³ Supra 57 at 5

⁶⁴ Supra 57 at 2

⁶⁵ Ibid

person was one-third in amount as comparative to a Muslim. Subsequently in 16th and 17th century, the criminologists determined their attention towards the rights of criminals, conditions of the prisoners and preached the doctrine of fair play and justice even to those who had earlier perpetrated injustice on other members of the society. It was the period of decline of sufferer's role in 'criminal justice system.' The sufferer lost his place in the entire procedure. It was 20th century when the assignment of understanding the significance of studying the criminal sufferer relationship began again. Due to expansion of new power where civil justice system is differ from criminal justice system in the end of period of middle ages the concept of compensation lost its importance. Now in criminal justice system not compensation is provided to victim only compensation provided under the civil wrongs under civil justice system.⁶⁶

For almost 200 years India was ruled by British Empire and laws were drafted according to Common Laws of England. The acts of the employees and its officials in England became the notion of state liability which is influenced by the doctrine of 'King can do no wrong'. Plea of sovereign immunity was existing. King escaped from the duty to reimburse by using sovereign immunity. In spite of it, notion of state liability is come forward to give some assistance to the sufferer of crime. Many areas of administrative functions for the actions of its employee's state became liable. State liability became complicated day by day for the acts of its employees with the great increase in the functions of state. In whole World now the concept of welfare state is highly popular every government wants to achieve it. This was the reason every state do lots of hard work to provide best administration to their citizens. The legal and fundamental rights of the persons are occasionally affected by administrative action and then the query of State liability arises under it. During the period of British Rule the concept of state liability is governed by common law in India and after the independence of India provisions related to state liability is governed under the provisions of Indian Constitution.⁶⁷

2.3.4. Inclusion of Victim Compensation as a Part of Restorative Justice:

⁶⁶ Ibid

⁶⁷ Ibid at 3

Jeremy Bentham gives their thought according to him a relationship of social agreement developed between the individuals and state due to that concept the loss occur by sufferer by crime then the victim shall be compensated. The main task of state is that to stop offence and guard the both public and property. If the state is falls to stop crime in state then state is liable to pay compensation to victim. The demand of reimbursement of all the sufferer of offence to the entire amount of it is not fully accepted the explanation. However that became the basis for providing reimbursement to the victim of crime as part of the state's response.⁶⁸

In the fifth International Prison Congress which will discussed the idea of State reimbursement in the mid of century. Jeremy Bentham who is great penologist also gives the recognition of the principles of reimbursement to the victims which remained disappointed. The troubles faced by the sufferers and the granting of efficient remedy to victims which is covered under the concept of state reimbursement is refocused by the Margery Fry in the 1950's who is English penal reformer. The Criminal Injuries Compensation Board administered the state reimbursement program which is non-statutory program in 1964 set up in England established it another nations of Europe and this whole program is funded by the Parliament of United Kingdom. The compensation given to the victim in this program on lump-sum basis under a fix amount of reimbursement given the victim of crime and also pay in the form of civil award. The progress of this program gradually increased and in the year 1995 it got its legal framed shape that was Criminal Injuries Compensation Act, this Act provide compensation to victim on the grounds of tariff plan for the extraordinary care and dependence.⁶⁹

California being the first state in the United States in 1965 it moves towards state reimbursement. In United States compensation given to the innocent sufferer or victim involved in severe crimes under the Victims of Crime Act 1984 which was enacted by the Congress and the funds are provided from the US Treasury.⁷⁰

⁶⁸ Supra 56 at 5

⁶⁹ Ibid

⁷⁰ Ibid

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power was mainly emphasized on the requirements of victim compensation provided by the state and the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law in the year of 2006 and Serious Violations of International Humanitarian Law. The first states about the sufferers of domestic crimes, while the other with sufferers of international crimes.

The international community give recognised the framework sufferer reimbursement. The Articles 6, 7 and 8 of the Universal Declaration of Human Rights, 1948 could infer that for the violation of the rights the sufferer is entitled to an “efficient solution” but in direct way this declaration is silent about the victim compensation.⁷¹

Moreover, the sufferer of illegal arrest or any type of detention shall have an enforceable right to reimbursement under the provisions of International Covenant on Civil and Political Rights states. The individual has right to compensation if he is the victim of miscarriage of justice due to mistake sentence given to them under the American Convention on Human Rights.⁷²

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of 1985 gives right to sufferer to get reimbursement and four types of rights are recognizes to sufferer of crime:

- Justice and fair treatment,
- Restitution,
- Support services and assistance provided personally,
- Compensation.⁷³

Before independence era the criminal justice system mainly concentrate to crime control in Indian society, because the British Rule wants to curve the movement of freedom and narrow emphasize on justice or providing compensation. However, after independence the criminal justice system expands its horizons then concerned about rehabilitation and reformation of offender and provide adequate justice to victim.

⁷¹ Universal Declaration of Human Rights, 1948

⁷² American Convention on Human Rights, 1969

⁷³ United Nations Declaration of Basic Principles of Justice for Victims of crimes and abuse of power.

The emerging trend of victim compensation still remains subordinate to the punitive role of the State. Justice V.N. Krishna Iyer, highlighted that: “It is the weakness of our jurisprudence that victims of crime and the distress of the dependents of the victim do not attract the attention of law. In fact, victim reparation is still the vanishing point of our criminal law. This is the deficiency in the system, which must be rectified by the legislature”⁷⁴

2.3.5. Principles of Restorative Justice

Acid attack results in huge damages occurred to the sufferer, criminal and society in different ways. To encourage curative, restorative justice must take action properly, considering the requirements and responsibilities of all parties.⁷⁵ It is based on three main principles which are helpful in bringing reforms in our society.

- **Sufferer’s approach:** sufferers are those persons or parties who have been wounded by the wrongdoer; this injury may be faced directly or indirectly.⁷⁶ Key sufferers are those against whom the offence was committed, may be bodily grievance, pecuniary loss, and mental pain. These may be short-term, life long, or may cause death of sufferer. Secondary sufferers are injured by the act of criminal by indirectly. These sufferers may be family, neighbours, and associates of main sufferers and criminal. So there is need of repair the sufferer from crime and their harms and requirements must be fulfilled.
- **Criminal’s approach:** The harms of wrongdoers must also be mentioned. These harms may be bodily, mentally (as when the criminal faces embarrassment),⁷⁷ or ethical and religious (because the wrongdoer has selected to injure another). Further, wrongdoer will likely be upset as a consequence of the criminal justice system's reaction, which further separate from them from the society, family members, may lead to continuing disadvantages, and may

⁷⁴ Rattan Singh v.State of Punjab, (1979)4 S.C.C. 719, 721

⁷⁵ A. Mestitz, A. Mestitz and S. Ghetti, *Victim-Offender Mediation with Youth Offenders in Europe: An Overview And Comparison Of 15 Countries*, 44 (2005)

⁷⁶ M. S. Umbreit, *The Handbook of Victim Offender Mediation: an Essential Guide to Practice and Research*, 89 (2000)

⁷⁷ E. E. Whitehead and J. D. Whitehead, *Transforming Our Painful Emotions: Spiritual Resources In: Anger, Shame, Grief, Fear and Loneliness*, 152 (2010)

avoid them from making reimbursement to their victims. These harms should be recognized and addressed in the reaction to offence to avoid recidivism.⁷⁸

- **Society approach:** In order to deem the harms and requirements of the society, the main thing is that we should be clear about the meaning of "society." This term is used in many ways. Occasionally it is used to a geographic area, the locality in which the sufferer or wrongdoer lives, or in which the felony took place a "local area." Each of types of society needs care and protection from crime, because all will be affected the sense of security and protection. Main thing is that main value of the society are affected and challenged.

In the justice process there should be chances for active participation of Sufferer, Criminal and Society. Every feature of our criminal justice system was done efforts to decrease the sufferer and criminal in society by participants.⁷⁹ Because the main sufferer is state considered in our system and all the things done on the name of state, it looks sentence of criminal is valid and legitimate.⁸⁰ Because sufferers are not parties of interest in penal cases and it is looks like a piece of evidence for conviction of offender.⁸¹ Sufferer has very limited control over it and involvement of members of society is also very limited, only they used as a witnesses.

In Restorative justice system has very high value of direct participation of sufferer, criminal and society. For sufferers who have faced helplessness, the chances to contribute repair an element of control. For a wrongdoer who has wounded another, the voluntary supposition of accountability is a significant action in not only helping those who were injuring by the felony, but also in building a pro-social value system. The efforts of society to refurbish the

⁷⁸ *Offender Profiling: Theory, Research and Practice*, 98 (E. Jackson, J. L. Jackson and Debra A. Bekerian, ed. 1st, 1998)

⁷⁹ *The Criminal Justice System: An Introduction*, 38 (B. Gibson and P. Cavadino, ed. 3rd, 2008)

⁸⁰ *Supra* 44 at 99 (The justification given for the exclusion of the victim from prosecution scene is stated that the crime by and large is directed against the society as a whole and the state which has taken upon itself to protect the life; liberty and property of individual exercise the police power and its justice delivery system. It is also bound to restrain the individual from taking law into his own hands. Another reason forwarded is that the intervention of victim in prosecution process may vitiate the fairness of trial and open the door-way to retributive and vengeful traits that may vitiate fair trial.)

⁸¹ *Victims of Crime: Policy and Practice in Criminal Justice*, 116 (M. Hall, ed.1st, 2009)

damages to sufferers and criminal serve to make stronger the society itself and to strengthen society values of respect and care for others.

2.4. Emergence of Restorative Justice as a Relief in Acid Violence

The offence of acid throwing came into the picture in 17th and 18th century, where in France, acid was thrown on women or men by their wives or husbands due to their second marriage or reason of extra-marital relationship to other human being.⁸² At that time it became the easy source to take revenge from other partners who are cheated them in marriage or relations by disfigure or maims the face or body of others. Gradually the cases increased, acid was used to take revenge from enemy matter related to property dispute or any political rivalry and other reasons. In India first case of acid attack came into knowledge in the year 1969⁸³ after that in 1990's acid attack increased day by day it became severe problem in India. The reasons of acid attack are refusal of marriage proposal or love, dowry, extra-marital affairs etc. in mostly cases of India. In India earlier there was no special provision dealing with the acid attack, it was covered under the Sec. 326 or 324 of Penal code of India. It was simply covered under the offence of grievous hurt, but the offender take benefit of it. According to report of NCRB in 2015 in India 249 cases of acid attack are recorded.⁸⁴ The new emerging trend of judicial system in India that is restorative justice under it justice provide to victim and repair or reform the victim as well as offender. The main focus of judiciary to provide maximum justice to victim as early as possible, here justice not only mentally satisfaction but also economic satisfaction provided to victim through the scheme of victim compensation. A victim is repaired from the harm in criminal justice system through the process of arbitration, conciliation, empowerment of victim and compensation is known as restorative justice. In other words a victim is repaired from the offence by providing him compensation or medical assistance from the pocket of offender and takes its responsibility.

⁸² Supra 1 at 21-22

⁸³ Delhi Administration versus Mewa Singh, 5(1969) DLT 506

⁸⁴ Supra 18

Chapter- 3: Acid Attack and the Law: International Perspective

Acid violence is a major problem not only in India but other nations are also facing this problem. Bangladesh, Cambodia, Sri Lanka, Uganda, Nepal, Pakistan, UK, Nigeria and Jamaica are facing the same problem. Numerous laws and policies are made by the nations to curb this problem. Many treaties on national and international level are signed to solve this problem. There are so many reasons which lead to an increase in this problem. Indian criminal system has also taken examples from the other nations to solve out this issue.

Bangladesh with its new laws on this issue is able to decrease the problem of acid attack in the country to some extent. Societal and cultural problem legally responsible for these assaults which includes “refusals of a relationship or marriage proposal, failures of a girl to bring a dowry to her husband, political rivalries, land disputes, marital disputes, family disputes and the accidental presence of the victims at the sight.”⁸⁵

3.1. Incidents of Acid Attack across the Globe:

In India it is presumed that acid attacks are one of the major gender based crimes. Most of the acid attacks are committed on females. Acid is used as a silent weapon to destroy the life of a female. The part of the body on which acid drops is starting melting within few seconds.

For curbing out this issue it is essential for all people to take steps. There are so many Ngo’s made on the national and international level for the stoppage on the acid attacks. It is essential then for any movement against acid attacks to activate public opinion at large towards recognizing acid attacks as an appearance of gendered sexual violence and more significantly to recognize the patriarchal thinking is basic of these attacks”.⁸⁶

There are number of cases related to this issue on global level. Bangladesh is the country where lots of cases of acid attack take place. Other countries situations are also discusses in this chapter in relation to the problem of acid attack. The countries with this issue are as follows:

⁸⁵ S. Khan ‘*The acid violence against women*’ (2005) Internet Edition Holiday, <https://indiankanoon.org/doc/87066215/> last seen on 18/03/2017

⁸⁶ *Burnt not destroyed: Women fight against acid attack in Karnataka*, CSAAAW(Campaign and Struggle Against Acid Attack on Women), (ed. 1st, 2007) available at <http://www.lawschool.cornell.edu/womenandjustice/upload/burnt-not-defeated.pdf> last seen on 19/03/2017

3.1.1 Bangladesh:

In the mid of 1990's the acid attack cases were increased in Bangladesh. In this time period it increased from 12 per year to 50 per year cases. In the end of 1990's the number of acid attack increased its figure. During this time period 250 cases within a year has been reported by an Ngo in Bangladesh only. Number of Ngo's established in Bangladesh to work for this issue. Acid attack survivor's foundation, 1999 in Dhaka and the other is women's encouragement organisation, 1995 established especially to work on this issue.⁸⁷

Such Ngo's works for activating people for such type of crime, so many efforts are taken by these Ngo's so that the problem of acid attack should be curbed. These Ngo's also works for the rehabilitation as well as assistance of the victims of acid attack.

In 2001, 2002 and 2003 acid attack cases are reported in Bangladesh is 340, 336 and 335 respectively.⁸⁸

Mostly such attacks are for the reason of refusing marriage proposal, refusing sexual relations, property disputes, jealousy for any reason etc. Women or the young girls become victim of such attacks mostly for the reason of refusal of marriage and sexual and marriage proposals. But the reason of man become victim of such attacks is property disputes etc.

In the beginning of these attacks the women or the young girls were become victim of this crime but later on this crime increased on men's also. The condition is much changed from the last years. Near about 30 % are men who become victim of this crime.⁸⁹ In the year 1999 only 10 accused go behind bar for the offence of acid attack and same suction in the years from 1999 to 2001 only 25 offenders were convicted out of 750 cases of acid violence.⁹⁰ This might be the major reason of increase of acid attacks in the country of Bangladesh.

3.1.2. Pakistan:

⁸⁷ J. Swanson, *Acid Attacks: Bangladesh's efforts to stop the violence*, Vol. 3, No. 1, Harvard Health Policy Review Archives, (2002)

⁸⁸ Supra 39 at 23

⁸⁹ Ibid

⁹⁰ Ibid at 24

“A woman burnt by acid is like a living dead body. Those who commit such vengeful acts seek to sentence their victims to a plight worse than death” A lawyer Uzma Saeed, she was working with a women's NGO at Lahore in Pakistan.

In Pakistan data related to violence's of acid was not accurate. In statistics reported only 33 cases was there where females were burned due to acid violence which was collected by the Human Rights Commission of Pakistan (HRCP), which suggests a huge decline in acid attacks from earlier years. 46 incidents of acidic attacks are recorded in the southern Punjab alone, according to the data given by HRCP in the 2004.⁹¹

The other organization which also work for providing assistance to victims of acid attack gives its different data in the same year that is 137 incidents are recorded, the of the organization is Acid Survivors Foundation Pakistan (ASFP).

However the Human Rights Watch (HRW) gives its surprising estimate that cites that “at least 280 females died and 750 suffered injuries in 2002 alone as a result of acid attacks”. Additionally, the State of Human Rights 2004 reported that 15,000 acid attacks are reported from last ten years and 400 attacks are reported in this year.

These HCRP collects the shocking date related to acid attacks from local newspapers, and sources of HCRP. It was not from a wide selection of spy sources. In dissimilarity, the data accessible for one year afterwards in the State of Human Rights 2005 report do not essentially associate with the aforementioned figures, as “according to HRCP data, seven cases (of acid attacks) were reported between November 1st 2004 and August 31st 2005”. Other data composed by a local NGO of Karachi, the Ansar Burney Trust, which estimates that “as of a few years ago that as many as four female were badly burnt in such cases weekly in Pakistan.” The difficulty of acid violence survivors has been highlighted in article ‘Terrorism that’s Personal’ in the New York Times by Nicholas Kristof in Pakistan. He argued the work of the Progressive Women’s Association who have “documented 7,800 cases of women who were intentionally burned, scalded or subjected to acid violence’s,

⁹¹ Supra 39 at 38

just in the Islamabad region. In only 2 percent of those cases the offenders get convicted”.

The enthusiasm for acid violence’s in Pakistan range from men attacking women over dismissal of marriage proposals and to assure soreness and suffering on the sufferer because she dishonored him by dismissal his proposal” to religious fundamentalists attacking unknown women “because they felt the women were too modern and westernized; even if all the women had done is wear jeans instead of the traditional Pakistani dress.”⁹²

This shows that there are not at all correct data’s available of acid attack because of the lack of organizations. The other reason here is also same as Bangladesh, India and the other countries i.e. joyously and refusal.

3.1.3. Cambodia:

A report is made on acid attacks in Cambodia in the year of 2003 in which data was collected from newspapers which reports 63 cases in the month of December of 1999 and November 2002. Cases of acid attack were 63 in between December 1999 and November 2002. Out of 63 victims 30 were female and 31 were males.⁹³

But in other report 29% victims were those who were not targeted by the offender they became victim by accidently. Mostly targeted victims were women but due to accident some family member of victims or friends of victim face injuries in that acid attack cases. Subsequently acid attack violence occurred in 2005 in Cambodia it has been reported that at least 60 cases⁹⁴. On the other hand, others believe that the annual incidence rate of acid attacks increased day by day. A newspaper reported that 111 cases of acid attack out of which 181 victims are recorded in Cambodia from October 1999 to December 2006.⁹⁵

Most of the acid attacks cases, acid were thrown on female and concerned husbands pouring acid on their wives or ex-wives, in some cases wives spraying acid on the second wives or mistresses of their husbands and in some

⁹² Ibid

⁹³ Supra 39 at 26

⁹⁴ Ibid

⁹⁵ Supra 16 at 10

cases women thrown acidic liquid on their husband because of husband's violence (beating and abusing) towards them.⁹⁶

3.1.4. Uganda:

In Uganda in accordance with the Acid Survivor's Foundation (ASFU) Acid violence affects both men and women in almost equal number. 48% were man and 52% were women. The motives behind the attacks are domestic arguments, land disputes and business competitions etc. There are also cases of sufferers that have been injured by fault for being there at the time of the acid attack as there were present at that place. These are frequently children who were being carried by the mother victims during the time of the acid attack. ASFU is also talking about numerous of cases where the sufferers have no idea why they have been attack.

Acid attack crosses the societal stratum in Uganda from the very poorest to some very prominent and rich people. ASFU also found that attacks are not only carried out by the person with the grievance. But in 15 % of cases, the acid is thrown by an assassin; hired on very low cost.⁹⁷

ASFU suspects under-reporting of acid violence cases occurred due to public stigma attached to sufferers, poor access to justice, police incompetence and the victim's lack of money to fight the case through the police system and then the courts.

Concentrated sulphuric acid, commonly used in Uganda for re-charging batteries is voluntarily obtainable at petrol pumps, street sides and from outlets in the industrialized areas of cities for acquire by any person without any queries being asked.

3.1.5. Nigeria:

First acid attack was reported in the city of Port Harcourt in the early 1990's. The reported cases of acid attacks on women were 21 in the year 2001 and 2004 and another 14 cases of acid attack between 1990 and 2000.⁹⁸ Even though acid attack is a gender based crime in Nigeria, it has also been reported

⁹⁶ Ibid

⁹⁷ Supra 39 at 29

⁹⁸ Ibid

cases of attacks against males more recently. Between 2003 and 2004 reported 7 attacks that were committed against men by women.⁹⁹

3.1.6 Jamaica:

Jamaica was the nation where moderate types of acid attacks are done. In Jamaica number of cases of acid attack is less as comparison to Bangladesh, India and other nations. Acid attacks are taken as other crimes. There are no separate laws related to acid attack in this country.¹⁰⁰

3.1.7. United Kingdom:

Although acid attack is not common in the UK, very hard punishment is provided by the courts. They have punished the perpetrators strictly, when there have been acid attacks. Attacks are charged under Section 29 of the Offences against the Person Act 1861 (OAPA). This section of the Act specially refers to “casting or applying any corrosive fluid with intent to burn maim disfigure or disable any person.” If not charged under this provision, the acid attack is considered as murder or attempted murder.¹⁰¹

3.1.8. Sri Lanka:

Similar to Pakistan, there are no nationally or consistent data accessible on acid attacks in Sri Lanka. There are at least three cases known which are of public figures that had being attacked or threatened by acid (Beach and Menon; Francis and Jayasiri).

One case of the acid attack was of investigative journalist, another case is of the National Democratic Party general secretary; fear were also made against the late President Ranasinghe Premadasa (Beach and Menon).

In another case, the Asian Human Rights Commission (AHRC) has reported a cruel assault of a Sri Lankan domestic worker in Saudi Arabia who had an acid drenched cloth tied to her head, shoulders and chest in 2004 (AHRC). Indeed, with several cases of acid attacks reported in the media, there is no doubt many other cases of acid attack are unreported in Sri Lanka; therefore this is another country within the region that needs to be flagged for further investigation on the issue of acid attack.¹⁰²

⁹⁹ Ibid at 30

¹⁰⁰ Supra 39 at 32

¹⁰¹ Supra 39 at 35

¹⁰² Ibid

3.2. Laws in Various Countries to Curb the Menace of Acid Attack

Different countries of the globe have different legislations and laws on the issue of acid attack. For occurrence, as numerous of cases of acid attack in Cambodia happen in the family circle, the crime has been planned to be addressed in their Prevention of Domestic Violence Act. The same approach was taken in Bangladesh in 1995 when the government primarily thinking acid violence to be a gender specific crime and passed the Cruelty to Women and Children Act.¹⁰³

In 2000 the Prevention of Oppression against Women and Children Act again dealt with acid violence on women and children. However the increase in cases of acid attack against men that ensued in the late 1900s made it essential for the Bangladeshi government to pass a bylaw that deals with the offence against both women and men in exact provisions. Therefore in 2002 two new bylaws, the Acid Offences Prevention Act 2002 and Acid Control Act were enacted in 2002 to address the problem of rise in acid attacks.

In this chapter nations with the laws in reference to the acid attacks are described. Some countries have less punishment of acid attack and some have very strict punishment for the acid attacks. But some of the nations have no law in regard to the acid attack. They are considered as same as other crimes.

3.2.1. Bangladesh:

Bangladesh was the first nation which gives very strict punishment for the offences related to acid attack. The maximum numbers of acid attacks were recorded in this country. The laws in relation to this issue are as follows.

The act made for the acid attack specifically is called as Acid Offences Prevention Act 2002¹⁰⁴ in Bangladesh. Some important sections of the mentioned act are as follows:

- Section 4: Punishment for killing of a person by acid: Whoever kills anybody by acid shall be punished with, death or rigorous imprisonment for life and also punished with fine not exceeding One Lac Taka.¹⁰⁵
- Section 5: Punishment for hurt by acid: Whoever causes such bodily injury to a person, by acid, by which: His or Her sight or ear is injured fully or partly or face or breast or sexual organ is damaged or disfigured, then that person shall

¹⁰³ Supra 16 at 10

¹⁰⁴ Unofficial translation of Act 2 of 2002, The Parliament of Bangladesh.

¹⁰⁵ Supra 39 at 24

be punished with, death or rigorous imprisonment for life and also a fine not exceeding One Lac Taka. Any part or joint of his/her body is injured or disfigured or damaged by the acid attack then he shall be punished with, imprisonment of either description which may extend to fourteen (14) years but not less than seven (7) years of rigorous imprisonment.¹⁰⁶

- Section 6: Punishment for acid throwing or attempt to throwing: Whosoever throws or attempts to throw acid on any other person even if such an act causes no injury or damage to that another person whether bodily, psychologically or otherwise, he shall be punished with, sentence of either description which may extend to seven (7) years but not less than three (3) years of rigorous imprisonment also punished with a fine not exceeding Fifty Thousand (50,000) Taka.¹⁰⁷

It is significant to point out that prior to 1983, all acid attack crimes in Bangladesh were prosecuted under the penal code. In 1983, the word “acid” was added in the penal code to provide some clearness, but there were still gaps in the provisions when considering the very exact nature of acid attack crimes. In 1995 the government of Bangladesh enacted the Cruelty to Women and Children Act and this Act addressed acid attacks particularly. At that time, acid violence crime was notion to be a gender specific matter and all acid attack crimes against women and children were prosecuted under this Act. On the other hand any acid attack committed against a man had to be prosecuted under the old penal code. From 1995 onwards the tendency of acid against men was raised and so a new provision of law was required to prosecute acid attack cases inflicted on men. When the law was revised and in 2002, the maximum punishment was raised from seven (7) years to death punishment.¹⁰⁸

- The law addresses the difficulty of delay in prosecuting acid attack cases by providing a fixed time for investigations. The investigating police officer must complete the investigation within 30 days following the reported attack or the Magistrate’s order for an investigation. Two extensions of 15 days each can be granted on application to the court. If after 60 days, the officer is unable to complete the investigation, a new officer must be assigned and action will be

¹⁰⁶ Ibid

¹⁰⁷ Supra 16 at 15

¹⁰⁸ Supra 39 at 25

taken against the first officer. The new officer has 15 days to complete the investigation.

- Trial Procedures: The total time allowed for investigations is 90 days. The trial then has to be completed and a conviction secured within 90 days of the end of the investigation period. The court is very practical in ensuring that the police investigate acid attack cases. Section 13 in this Act said that legal action will be taken against any officers who are negligent or corrupt during the time of investigating the acid attack crime.
- Medical Examination of the sufferer: This Section ensures that the acid attack sufferer's gets appropriate medical examination immediately after acid attack and obtain a certificate regarding the examination. The Section also lay down that action will be taken against the doctors, who do any negligence. All offences under the Act are non-compoundable, cognizable and non-bailable. Although the offence is regarded as non-bailable in Section 13 of the Act, Section 14 of the act is a specific provision that gives power to the Court and some discretion as to when it can grant bail.¹⁰⁹

This Section also states that a bail petition cannot be filed if the Court is persuaded that the complainant is not given the proper chance for hearing on the bail petition, or there are reasonable ground for conviction or He or she is not woman or child, or not physically impaired and the tribunal is not pleased that ends of justice will not be fraught if he is inflamed on bail. If the Court is satisfied that the person is not involved in the crime, only then the court can grant bail to that offender. Acid-offences Prevention Tribunals have been set up exclusively to try acid attack cases, headed by district or session judges. These topic-specific Tribunals are to ensure that members on the Tribunals are properly sensitized to acid violence cases.¹¹⁰

The Acid Control Act, deals with restricting and controlling the sale and deliver of acid in Bangladesh. This Act attempts to control the purchase and sale and delivery of acid in Bangladesh. National Acid Control Councils have been established across the Bangladesh with 15 members. Each council is headed by a District Commissioner. Members of the Councils are taken from

¹⁰⁹ Ibid at 26

¹¹⁰ Ibid

the government and also lawyers, business people, medical professionals, experts in women's issues and members of the media.

The councils make proposals to take strict action to impose and monitor the laws concerning acid sale in their particular area as well as to help in the appropriate reporting, medical treatment and rehabilitation of sufferers. The councils raise public consciousness about the consequences of acid violence crime. In spite of the passing of the new provisions the experience in Bangladesh has been that it is still very difficult to curb the sale of acid. It is first trouble to find the source of the acid used during the time of acid attack and to prosecute the supplier. It is also simple disguising the causes for requiring acid by proposing genuine excuses. Additionally, covering up the real supply of acid in their records is an easy task for suppliers and as corruption is common in Bangladesh, acid is effortless to obtain.¹¹¹

3.2.2 Pakistan:

Acid violence's are also at a high range in Pakistan, and is quickly rising day by day. Pakistan acid violence's are basically by the husbands against their wives who have "dishonored them."

In 2011, Pakistani Parliament made amendments to the existing legislation that criminalized such attacks, stipulating a minimum sentence of 14 years in prison, a maximum sentence of life sentence and fines up to 1 million Pakistani rupees (\$ 10,000). After the suicide of an acid attack sufferer last year, pressure mounted on the Government to introduce more strict legislation.

3.2.3 Cambodia:

Acid Violence is not particularly addressed in Cambodian criminal law. Offender can be charged with battery with injury, which is convicted up to ten (10) years of imprisonment and also with fine.

- Article 41: It mainly deals with assault and battery. Any person who is voluntary do any act which is harmful and provide permanent or temporary injuries to another is punished under the crime of battery and punished up to

¹¹¹ Ibid

five years. If the person uses the dangerous weapon which causes to a big injury he shall be punished up to ten years of imprisonment.¹¹²

- Article 31: It deals with the offence of murder. Any person who attempts to kill or kill the other person during the commission of rape, theft etc. is convicted for murder and shall be sentenced ten to twenty years.¹¹³
- Article 32: voluntary manslaughter: Anyone who voluntarily kills or attempts to kill another person without any of the annoying circumstances mentioned in Article 31¹¹⁴, whether or not a weapon is used, is convicted of the crime of voluntary manslaughter, and shall be liable to imprisonment for a term of eight to fifteen years.

However, punishments have been reported in only six cases and female have usually received less harsh punishments than men.¹¹⁵ A draft provision in Cambodia's domestic violence law is being approved by the National Assembly and Senate. It proposes a punishment for acid attacker of between five to ten years imprisonment. Activists are still agitation for the wording to be changed to apply to any person who throws acid, rather than just the recent request only to family members who throw acid on other family members. This would leave out person who throw acid at sufferers who are not related to them. Also, activists argue that the upper limit sentence for acid attack should be increased, especially if permanent defacement or disability, like loss of sight, has been caused. This would be the first time that Cambodian law particularly refers to acid attacks. However till date the Domestic Violence

¹¹² Article 41: assault and battery: 1. anyone who voluntarily strikes another resulting in injury leading to permanent disability or temporary disability lasting more than six months is guilty of battery and shall be liable to a punishment of one to five years in prison.

2. If the disability lasts less than six months, the offence shall be punished by a term of imprisonment of six months to two years.

3. If there is no disability, the punishment shall be a term of imprisonment of two months to one year.

4. If any weapon is used to strike the blows, the period of imprisonment shall be doubled.

If the victims dies or receives life-threatening injuries, more serious charges such as murder, attempted murder or manslaughter should be laid. They carry sentences of 10 years to life imprisonment.

¹¹³ Article 31: murder

1. Anyone who kills or attempts to kill another person after premeditating the crime, or by preparing an ambush, or who kills or attempts to kill another person in the course of theft or rape, is guilty of the murder, and shall be liable to a punishment of imprisonment for a term of ten to twenty years.

2. Premeditation is the process of conceiving and preparing an attack on another person before the actual execution of the attack. An ambush consists of lying in wait with the intention of committing an act of violence against another person.

¹¹⁴ Ibid

¹¹⁵ Supra 39 at 28

Law, which was approved in 2005 does not deal with acid attacks in specific terms.¹¹⁶

3.2.4. Nigeria:

There is no legislation at present in Nigeria that particularly deals with acid attacks. Offenders are prosecuted under the penal code for battery or for causing grievous harm. The appropriate sections of the Penal Code in Nigeria are reads as under:¹¹⁷

Offences Endangering Life or Health: Section 332 and 335 specially deals the offences relating to the danger of health and life under Sec. 332 if anyone with intention to do some grievous harm to another person and wants to disfigure his face or body by thrown any acidic or lethal liquid and the persons who provide acid or substance like acid to attacker, resist the legal arrest of any individual shall be liable for felony punished with imprisonment for life.¹¹⁸

Any individual under Sec. 335 who illegitimately does severe injury to another person is responsible of an offence and is legally responsible to imprisonment for seven years.¹¹⁹

In Nigeria a person can be convicted with sentence up to life imprisonment for putting an acidic solution in any place or for illegally casting any such liquid at or upon any person even if no grievance is caused.

3.2.5. Jamaica:

In Jamaica the offences against Persons Act (OAPA) provides for a life imprisonment for causing severe physical damage. There is no definite legislation concerned with acid violence although Jamaica is said to have the

¹¹⁶ Ibid

¹¹⁷ Ibid at 31

¹¹⁸ Offences Endangering Life or Health

332. Any person who, with intent to maim, disfigure or disable, any person, or to do some grievous harm to any person, or to resist or prevent the lawful arrest or detention of any person-

(1) unlawfully wounds or does any grievous harm to any person by any means whatever; or
(2) unlawfully attempts in any manner to strike any person with any kind of projectile or with a spear, sword, knife, or other dangerous or offensive weapon; or
(3) unlawfully causes any explosive substance to explode; or
(4) sends or delivers any explosive substance or other dangerous or noxious thing to any person; or
(5) causes any such substance or thing to be taken or received by any person; or
(6) puts any corrosive fluid or any destructive or explosive substance in any place; or
(7) unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person;
is guilty of a felony, and is liable to imprisonment for life.

¹¹⁹ 335. Any person who unlawfully does grievous harm to another is guilty of a felony, and is liable to imprisonment for seven years.

largest number of absolute acid attack sufferers. The relevant sections of the OAPA read as follows:

If a person committed murder shall be convicted for death sentence or life imprisonment, sentence not less than fifteen years.

Attempts to Murder: Sec. 13¹²⁰ deals with the offence attempt to murder under this Act. According to this section any person who manage any toxin or other vicious thing with intention of attempt to kill other person, convicted for that severe crime for life imprisonment included with or without hard labour.

Acts Causing or Tending to Cause Danger to Life or Bodily Harm: Sec. 20 states that any person who is illegally and nastily with intension by using any type of means by grievous physical harm or try to shoot or maims or disfigure any part of body of any person shall be life imprisonment, with or without hard labour.¹²¹

Sec. 22 states that any person illegally or cruelly injury or grievous injury to any person by use or without use of any weapon shall be guilty of a misdemeanor shall be punishable for sentence not more than three years¹²².

Sec.29 states that any person illegally or cruelly by the blast of gunpowder to burn or maims or disfigure the other person shall be convicted to life imprisonment.¹²³

3.2.6. United Kingdom:

¹²⁰ Sec.13: Attempts to Murder: Whosoever shall administer to, or cause to be administered to, or to be taken by any person, any poison or other destructive thing, or shall, by any means whatsoever, wound, or cause any grievous bodily harm to any person, with intent, in any of the cases aforesaid, to commit murder, shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for life, with or without hard labour.

¹²¹ Sec.20: Whosoever shall unlawfully and maliciously, by any means whatsoever, wound, or cause any grievous bodily harm to any person, or shoot at any person, or, by drawing a trigger, or in any other manner attempt to discharge any kind of loaded arms at any person, with intent in any of the cases aforesaid, to maim, disfigure or disable any person, or to do some other grievous bodily harm to any person, or with intent to resist or prevent the lawful apprehension or detainer of any person, shall be guilty of felony, and, being convicted thereof, shall be liable, to be imprisoned for life with or without hard labour.

¹²² Sec.22: Whosoever shall unlawfully and maliciously wound or inflict any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanour, and, being convicted thereof, shall be liable to be imprisoned for a term not exceeding three years, with or without hard labour.

¹²³ Sec.29: Whosoever shall unlawfully and maliciously by the explosion of gunpowder or other explosive substance, burn, maim, disfigure, disable, or do any grievous bodily harm to any person, shall be guilty of felony and, being convicted thereof, shall be liable to be imprisoned for life, with or without hard labour.

United Kingdom is the nation where laws on acid attack were stringent; moreover there were provisions for fine which was helpful for its effectiveness. Such offences are covered under the provisions of Offences Against the Person Act, 1861¹²⁴:

- Sec. 20: Inflicting bodily injury, with or without weapon: in this section it is given that whosoever shall illegitimately and spitefully wound or cause any grievous bodily harm upon any other person, either with or without any weapon or instrument, shall be guilty of a misdemeanour, and being convicted thereof shall be liable to be kept in penal servitude.
- Sec.29: Causing gunpowder to explode, or sending to any person an explosive substance, or throwing corrosive fluid on a person, with intent to do grievous bodily harm: According to this section Whosoever shall illegally and cruelly cause any gunpowder or other explosive substance to explode, or send or deliver to or cause to be taken or received by any person any explosive substance or any other dangerous or toxic thing, or put or lay at any place, or cast or throw at or upon or otherwise apply to any person, any corrosive fluid or any destructive or explosive substance, with intent in any of the cases aforesaid to burn, maim, disfigure, or disable any person, or to do some grievous bodily harm to any person, shall, whether any bodily injury be effected or not, be guilty of felony, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for life or to be imprisoned.
- The sentencing guidelines under Section 29 of OAPA 1861, state that there should always be a custodial sentence for this crime and the maximum conviction imprisonment for life. Hard imprisonment have been mostly been given by the courts in tune with the intentional nature of the offence. Sentences of 5 to 6 years imprisonment have been upheld in cases where there was no or slight wound to the sufferer. For cases of cruel deformity the sentences of fourteen to sixteen years imprisonment are given. The case of Radford upheld in 1986 where the victim lost eye sight of one eye and the Court give punishment of five years to criminal.¹²⁵

¹²⁴ Supra 39 at 35

¹²⁵ Ibid

3.2.7. Uganda:

Section 216(g) deals with the arrest, prosecution, convict and sentence perpetrators of acid violence under the Ugandan Penal and it carries life imprisonment and reads as under:¹²⁶

Any person, if commits an act with an intention to maim or disfigure any other person by using the acidic fluid and with some other liquid and inflicts some grievous harm to that person, illegally throws that acidic substance or fluid shall be convicted to imprisonment for life.¹²⁷

On the other hand, it has been reported that the above section is not functional constantly by the police or the courts. Many attackers have been charged under other sections of the Penal Code, for example, under Section 219 for “grievous harm” which carries a punishment of up to seven years. Another trouble that arises is that police officers have too much discretion in terms of the degree of charges that they are able to bring on. Additionally, the police are not constant in bringing charges, as charges that are filed often seem to be dependent on the individual decision of the police officer rather than one of policy.

A charge is also often levied according to the intensity of damage rather than by investigating the intention and motivation behind the acid attack. Therefore if the sufferer manages to avoid main injuries, the attacker is released or only charged with a crime of minor assault, even though the fact that the attacker had planned to disfigure or slaughter the victim. ASFU has recorded many cases where there had not been bodily harm and as a result no prosecution of the executor or only a minor sentence, consequential in the victim living in apprehension of a later acid attack. In Uganda only a few acid violence’s have been charged under attempted murder which seems iniquitous given the

¹²⁶ Supra 39 at 29

¹²⁷ Section 216(g) of Ugandan Penal Code :

“Any person who, with intention to maim, disfigure or disable any person, or to do some grievous harm to any person or to resist or prevent the lawful arrest or detention of any person :

(f) Puts any corrosive fluid or any destructive or explosive substance in any place; or

(g) Unlawfully casts or throws any such fluid or substance at or upon any person, or otherwise applies any such fluid or substance to the person of any person, commits a felony and is liable to imprisonment for life.”

intended nature of acid violence.¹²⁸ Apart from this in Uganda the police are often shady, the prosecutors incompetent and occasionally cases are dropped because the victims are either silenced by pressure or paid off.

So, there is no uniformity in sentencing, a fact confirmed normally in the conviction system of Uganda. Punishment varies from a few months to imprisonment for life. Police and judiciary discretion apply and since many do not realize the harshness of acid cases, often light charges and merciful sentences result. Generally punishments are too merciful given the eternal damage caused to the injured party in terms of health, job, family and social status.

Prior to ASFU intervention, in 62% of recognized acid cases in Uganda, attacker received custodial sentences of beneath ten years. Since the intervention of ASFU, the number has dropped to 46%.

Presently there is no sufficient legislation to manage and regulate the sale and deliver of acid and there are no provisions of any law to control businesses that use acid in their manufacturing practice, nor for those who transport, import and export such chemicals. There are no licensing laws controlling the sale and deliver of acid by vendors and no records are kept of those who purchase acid and the reasons for their procure.

On the other hand though it is hardly used Section 230¹²⁹ under it if any person does with any lethal substance any action in a manner so rash or careless as to put in danger human life or to be probable to cause hurt to any other person or intentionally omits to take such care with any lethal substance in his possession as is sufficient to guard against probable danger to human life from such lethal substance punishes that person with imprisonment for six months and a fine of two thousand shillings.

3.2.8. Sri Lanka:

¹²⁸ Supra 39 at 30, See ASFU (Acid Survivors Foundation of Uganda) Report 2004

¹²⁹ Section 230 of the Ugandan Penal Code: “Who does with any poisonous substance any act in a manner so rash or negligent as to endanger human life or to be likely to cause hurt or injury to any other person or knowingly or negligently omits to take such care with any poisonous substance in his or her possession as is sufficient to guard against probable danger to human life from such poisonous substance, shall be punished with imprisonment for six months and a fine of two thousand shillings.”

In Sri Lanka there's no proper law on acid attack. Because there is no such governing body to record the cases of acid attack. The number of cases actually occurred and the number of cases that were recorded is very less. However it's a right time to enact the laws instead of waiting for the rise in the incidents.

3.3. Restorative Justice as a means to provide relief to the Acid Attack Survivors

The concept of restorative justice was very famous in United States of America. India has recently adopted this concept. Restorative justice in acid attack cases is very necessary because the victim faces huge losses. In most of the cases of acid attack, the face of victim is the main target. For restoring the same condition, it needs of number of surgeries which are so expensive, so there is a need of compensation. Many provisions are made by different nations for victim compensation, which are helpful for victim's survival. Compensation system of United Kingdom is very helpful to provide compensation to victim.

3.3.1. United Kingdom:

The U.K Criminal Injuries Compensation Act 1995¹³⁰ makes the administration accountable for setting up a system and states as under:¹³¹

- The State through their Secretary shall make a scheme under which they pay compensation to that person who sustains injury or more than one injury.
- Such arrangements must include the making of a frame work providing for that particular person are: Firstly they will see or prescribe the circumstances under which award is given after that they will categorized the person under they will give compensation.
- The frame work is named as the Criminal Injuries Compensation Scheme.¹³²It states that a sum of compensation will be decided by reference of the nature of the injury and supplementary compensation given to special expenses and serious injuries can be provided for. The act states that the authority should prepare a new table showing the amount of compensation and the amount of compensation should be paid different in different cases or different for

¹³⁰ http://www.opsi.gov.uk/acts/acts1995/ukpga_19950053_en_#llgl

¹³¹ Supra 39 at 40

¹³² Sec. 1, The Criminal Injuries Compensation Act, 1995

different injuries. A claim is award by Claim officer and an appeal is hear by an adjudicator which specified under this act.

Financial Compensation for the victim in U.K. is given in large amount. The UK Criminal Injuries Compensation Board provided compensation to victim GBP £86,250 (approximately US \$140,000). The Assessment of damages read as under:-¹³³

“A woman when she was acid attacked her age was of 44 years old. 31 Due to acid attack she had faced the lots of injuries under it her face burns 8% and both the hands also the right arm, damage to both the eyes and also to the left upper chest. She was left with scarring to her whole face, loss of hair, severe scarring to the right arm and scarring to both hands. All scarring was permanent due that attack. She also faced the problems off headaches, dizziness and a loss of balance.

Earlier to the acid attack she had worked full time with her husband in a supermarket. Due to that attack she developed agoraphobic problems and faced the problem off sleep disturbance, nervousness, frequent flashbacks, and unnecessary sensitivity to heat and more distant in her relationship. Due to these injuries she was incapable to work again.¹³⁴

3.3.2. Pakistan:

The landmark case of Naila Farhat, gained massive publicity and the attacker was sentenced to 12 years imprisonment and was ordered to pay 1.2 million rupees as compensation. This was an exceptional decision of the Court in the history of acid attack in Pakistan. Later, a bill titled “Acid throwing and burn Crime Bill, 2012, was introduced in the Parliament in Pakistan.¹³⁵

In Pakistan a new law was introduced under which the offender shall be punished up to 14 years and fine will be 1 million Pakistan rupees. Compensation amount which is one million it should be very helpful for victim treatment and create terror in mind of offender a huge amount of compensation paid by him.

¹³³ Ibid at 41

¹³⁴ Ibid

¹³⁵ N. Yeasmeen, *Acid attack in the back drop of India and Criminal Amendment Act, 2013*, 6 available at <http://www.ijhssi.org>, last seen on 27/03/2017

3.3.3. Bangladesh:

In Bangladesh the punishment for acid attack is death or life imprisonment and the fine will be one lakh Taka. The imprisonment was so hard but the compensation is not up to mark and same in the case of attempt to acid attack punishment so hard but the compensation is 50,000 Taka.

The compensation scheme was not up to mark in Bangladesh, because the amount of fine not exceeding 1 lakh taka. If we calculate the loss which was faced by victim is much more than the amount of compensation, because huge amount was needed for surgeries or operation.

Between 1999 and 2002, acid attacks in Bangladesh raised at a rate of 50% per annum, culminating in 485 acid attacks in 2002. In 2003 there was a 15% decline in acid attack cases to 410 per annum.¹³⁶

3.3.4. Uganda:

There is presently no form of compensation existing to sufferers of acid attacks, in spite of the important costs incurred by sufferers and their families as a result of the acid attacks. No government fund exists to grant any form of compensation, fines are not imposed on attacker and ASFU has no records of any civil actions being brought against attackers.¹³⁷

3.3.5. Cambodia:

In Cambodia there was no specific provision related to acid attack and the offence covered under which section that only deal with punishment and fine. But the provisions related to fine are not suitable because nowhere in law explanation about the compensation.¹³⁸

3.3.6. Nigeria:

In Nigeria as such, no specific provisions for acid attack are incorporated in any statute. The offence of acid attack covered under offences endangering life or health, this section convicts the offender of acid attack but nowhere defines any type of punishment in any law. So there is a strong need of change the law related to compensation for the acid attack survivors.¹³⁹

¹³⁶ Ibid

¹³⁷ Supra 39 at 31

¹³⁸ Supra 16 at 41

¹³⁹ Supra 39 at 32

3.3.7. Jamaica:

In Jamaica a severe punishment was given for physical damage but no special provisions are there for acid attack. In this country number of cases of acid attack was recorded but still no specific provision is made till date. This shows that this nation was not serious about the victim compensation which was essential element of criminal justice system now these days in whole world.¹⁴⁰

3.3.8. Sri Lanka:

Sri Lanka was another nation where no special provision of law deals with the acid attack. There were very few numbers of cases reported and not any particular body which would record the cases of acid attack. No compensation was given to any victim in that nation. So it shows that what type of justice given to victim and how he was recovered from their injury.

3.4. Acid Attack and Restorative Justice: Indian Scenario

It is more serious problem for South-Asian nations because mostly these countries are developing or over populated nations. In India special provisions were added into the Penal Code of India in 2013. Bangladesh became a first country where death punishment is given to offender in this offence. In U.K. the amount of compensation given to sufferer is much more than India, but in under developed nations not such amount of compensation given to sufferer. In India as comparing to other nations the law related to victim compensation is appropriate but there is a need of enhancement in the prescribed amount. In Bangladesh 100,000 taka was given in compensation to victim and in India three lakh rupees given in compensation.¹⁴¹

Indian government has made rules regarding sale or purchase of acid attack for curbing the acid attack but in other countries like Pakistan laws are silent about the rules regarding sale or purchase and also poor implementation of regulation as comparative to India. Indian judiciary plays a very vital role to curb the acid attack and time to time give guidelines regarding the sale or purchase of acid and also for enhancement of victim compensation from three lakh rupees. In India there is a proper body which record the crime data in India.

After the amendment in penal laws of Bangladesh, death punishment is given to the offender of acid attack and also a fine is imposed on them, it proved successful to

¹⁴⁰ Ibid at 33

¹⁴¹ Ibid at 40

curb the violence of acid attack in their country. In India imprisonment for whole life is given to the offender of acid attack along with the fine which is given to the victim as a form of compensation, but the number of incidents recorded is more than previous years.

The law commission of India in his 226th report recommended the government to do amendments in penal code in 2008.¹⁴² But the changes were brought after a prolonged delay of five years i.e.; in 2013 when 'Verma Committee' has given its recommendations on the amendments to be done in criminal laws.

Chapter-4: Legislative Approach, Policies and Measures on the Offence of Acid Attack

The offence of acid attack is adequately defined by legislation of our country India. Legislature focused on the reason of acid attacks but ignores certain other things in relation to this offence. It penalizes the offender, even punishes those who abet or attempt the acid attack or provide any type of assistance to the offender. Moreover, the law does not accept any type of compromise after acid attack which leads to pay money or marriage etc. But the aspect of providing complete justice to the victim and the prospects of his/her rehabilitation are still ignored. Punishment provided by the legislation according to the gravity of offence, if victim dies due to acid attack then more severe punishment given to offender. Further there are rules for sale or purchase of acid attack in India, if anyone violates the provisions then he shall be fined under the violation of Poison Act, 1919.¹⁴³

In India there was no separate provision to specially deal with acid attack before Delhi rape case. But after the 2013 amendment two new sections namely; Section 326A and

¹⁴² Supra 39

¹⁴³ S. 2, The Poisons Act, 1919

section 326B were added in the penal code. It's for the first time that officially, the offence of acid attack was recorded as a distinct offence.

4.1 Provisions related to Acid Attack under Various Statutes and Enactments:

An acid violence has lifelong affects on the sufferer's life eternally¹⁴⁴ suffering, eternal harm plus some other problems for the life time. Sufferers due to their look always feel useless, frightened¹⁴⁵ and modified and become social leper¹⁴⁶. They became upset and humiliated even they do not want to come out from their homes, which causes severe. Societal effects also make them too week like nobody wants to marry them and also not got any job etc. If they are willing to chase an ordinary life, there is not any assurance¹⁴⁷ the world itself will treat them as ordinary individual like other human beings given their look and disabilities after an acid violence. The conditions make him not be capable to labour or not be competent to discover an occupation and leave him alone to survive.

4.1.1. Provisions under Indian Penal Code, 1860

- **Position before 2013:** In criminal laws the provisions deals with the acid violence are Section 320, 322, 325 and 326 of the Penal Code of India. But there is a need of special provisions for the issue of acid attack. Severe hurt is under Sec. 320¹⁴⁸ of the penal code. It includes two types of hurt are explained in penal code, one is simple hurt and other is grievous hurt. It is very complicated to difference these two but their eight conditions for grievous hurt where we can differentiate it from simple hurt. These are as follows:
 - Emasculation¹⁴⁹
 - Injury to eyesight
 - Eternal deprive of ears hearing
 - Loss of limb or joint

¹⁴⁴ Having infinite duration

¹⁴⁵ To make afraid

¹⁴⁶ One who cast out or rejected by society

¹⁴⁷ A state of mind in which one is free from doubt

¹⁴⁸ Sec. 320: Grievous hurt: The following kinds of hurt only are designated as "grievous":-
First- Emasculation.

Secondly- Permanent privation of the sight of either eye.

Thirdly- Permanent privation of the hearing of either ear,

Fourthly- Privation of any member or joint.

Fifthly- Destruction or permanent impairing of the powers of any member or joint.

Sixthly- Permanent disfiguration of the head or face.

Sevently- Fracture or dislocation of a bone or tooth.

Eighthly- Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain, or unable to follow his ordinary pursuits.

¹⁴⁹ Deprivation of masculine vigour of a male person

- Impairing of limb
- Eternal disfigure of head or face
- Fracture of bone or teeth
- Dangerous hurt

This definition is criticized on the basis of not including different type of new hurt. Premeditated hurt, which was neither inflicted on vital parts of a female's body nor appropriate to crimes like acid violence in different kinds of grievous hurt. This was the reason that's highly criticized.

Willingly causing severe hurt is covered under Sec. 322¹⁵⁰ and punishment for severe hurt is up to seven years and also fine which is imposed on offender and it's all covered under Sec. 325¹⁵¹ of penal code.

Causing severe hurt by means of any dangerous substance is convicted with imprisonment for ten years or extend to sentence for whole life and also fine imposed on offender. It is covered Sec. 326¹⁵² of this Code. The time period of conviction does not match the seriousness of the offence.

The offence of acid attack is also covered under the section 307 of this code. But the drawback is that offender got bail easily from the court because bad intention of offender is very difficult to prove in court otherwise court not grant bail easily to the offender.

Laxmi, the acid attack survivor files a Writ petition which states that the sufferers of acid violence require short term along with it long term medical treatments and also to

¹⁵⁰ 322. Voluntarily causing grievous hurt: Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation: A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

¹⁵¹325. Punishment for voluntarily causing grievous hurt: Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

¹⁵² 326. Voluntarily causing grievous hurt by dangerous weapons or means: Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with ¹⁵²[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

provide compensation to sufferers of acid violence is of vital¹⁵³ significance as vast¹⁵⁴ medical expenses are often concerned. The provisions existed in the law are inadequate to provide sufficient compensation to sufferer. In this petition she consequently prays that:

- The need of change into the laws which deals with acid attack either in penal code, Evidence Act or the Criminal Procedure Code of India.
- Suggestions are framed for the requirements of all the acid violence sufferers in our country and legislation passed on it.
- For the appropriate medical treatment or care after the attack and for rehabilitation of the sufferers of acid violence a committee have to be constituted.
- Every type of acid or acidic material which is easily available should be banned in our country. Strict laws must be there on easily availability of acid.

It is for that significant reason to evaluate the different provisions of the Indian criminal laws satisfactory to deal with the acid attacks which exist in nation. For punishing the offenders of acid attacks and for providing the financial assistance to the injured party of the acid attack and also provisions related to acid violence of other nations are examined by the Law Commission of India.

- **Provisions of IPC after Criminal Law Amendment Act, 2013**

In the year 2013 after the Delhi Rape Case amendment take place into penal law under it. Two new sections are 326A and 326B added into it. These sections separate the offence of acid attack from the offence of grievous hurt and also give punishment for acid attack or its attempt.

Sec. 326A¹⁵⁵ of Penal Code of India which deals with voluntary use of acid which causes to severe hurt to victim: Any individual by voluntary use of

¹⁵³ Essential

¹⁵⁴ Huge

¹⁵⁵ Voluntarily causing grievous hurt by use of acid, etc.:

326A. Whoever causes permanent or partial damage or deformity to, or bums 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, shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

acid or some acidic substance which causes eternal or partial damage or disfigurement or burns the skin of body or face due to that severe injuries faced by the sufferer that offender shall be punished minimum ten years which may extent to imprisonment for whole life and also imposed fine on offender.¹⁵⁶ The offence done by wrongdoer is non-bailable and non-compoundable in nature.

It is also given that such fine shall be immediately and realistic to meet the medical expenses of the treatment of the sufferer and any fine imposed under this section shall be paid to the victim.¹⁵⁷

Sec. 326B¹⁵⁸ of Penal Code of India which deals with willing throw or attempt to throw acid: Any individual voluntary throw or attempting to throw acid or some acidic substance which causes eternal or partial damage or disfigurement or burns the skin of body or face and because of such heinous act that offender get punished for minimum five years which may extent to seven years and also imposed fine on offender. The offence done by wrongdoer is non-bailable and non-compoundable in nature.¹⁵⁹

Victim's right to private defence under Sec. 100 of Penal Code of India: The limits mentioned in the Sec. 99¹⁶⁰, the right of personal protection of a body enlarges

¹⁵⁶ S. 326A, The Indian Penal Code, 1860

¹⁵⁷ K.D. Gaur, *The Indian Penal Code*, II (ed. 4th, 2013)

¹⁵⁸ Voluntarily causing grievous hurt by use of acid, etc.:

326B. Whoever 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 bums or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purposes of section 326A and this section, "acid" includes 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.

Explanation 2.— For the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.'

¹⁵⁹ R. Lal & D. Lal, *The Indian Penal Code*, 5 (ed. 34th, 2015)

¹⁶⁰ 99. Acts against which there is no right of private defence:

There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act, may not be strictly justifiable by law.

There is no right of private defence against an act which does not, reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law

There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised:

The right of private defence in no case extends to the inflicting. of more harm than it is necessary to inflict for the purpose of defence.

to willingly reasons of death or other injury to the attacker in any condition of felony these occasions the implement of the right be of any of the report specify in clauses of this section namely an assault:¹⁶¹

- Causing the fear of death;
- Causing the fear of severe hurt;
- By the purpose of entrusting rape;
- By the purpose of flattering aberrant lust;
- By the purpose of capture;
- By the purpose of wrongfully bind an individual under conditions which may give fear that he will be incapable to have option to the public authorities for his even out.
- If an action of discharging or managing acidic substance and a try to discharge which may logical ground the fear that grave injury will be the result of that particular act.¹⁶²

In 2013, Sec. 100¹⁶³ is amended and added a new clause in it.

Sec. 166A Penal Code deals with the Public servant disobeying direction under law:- Anyone who is the public servant,¹⁶⁴

Explanation 1- A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason to believe, that the person doing the act is such public servant.

Explanation 2- A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he produces such authority, if demanded.

¹⁶¹ G. V.Reddy, *The Indian Penal Code*, 74 (2013)

¹⁶² Ibid

¹⁶³ S. 100. When the right of private defence of the body extends to causing death:

The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:-

First- Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly- Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly- An assault with the intention of committing rape;

Fourthly- An assault with the intention of gratifying unnatural lust;

Fifthly- An assault with the intention of kidnapping or abducting;

Sixthly- An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

"Seventhly,- An act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act,"

¹⁶⁴ Supra 166 at 55

- which prohibits him from requiring the presence at any place of any individual intentionally violate any direction of the statute for the objective of enquiry into an felony or other matter,
- intentionally violate, to the unfairness of any individual or other direction of the edict variable the method in which enquiry conducted by him,
- If the public servant fails or not success to record any type of information given to him under the sub-section (1) of Sec. 154¹⁶⁵ of the Criminal Procedure, 1973, the matter or offences related to the Sec. 326A and Sec. 326B etc.

The officer shall be convicted under Section 166A¹⁶⁶ of IPC with sentence for a time period which may extend to two years or not less than the six months and fine will be imposed on it.¹⁶⁷

Conviction for non-treatment of victim covered under Sec. 166B¹⁶⁸ of Penal Code: If any hospital either it is public or private or run by any authority breach the

¹⁶⁵ In section 154 of the Code of Criminal Procedure, in sub-section (I), the following provisos shall be inserted, namely:—

"Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376D, section 376C, Section 45 of 1860. 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that—

- a. in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian 45 of 1860. Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be;
- b. the recording of such information shall be video graphed;
- c. the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible."

¹⁶⁶ "166A. Whoever, being a public servant:

- a. knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other, or
- b. knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation, or
- c. fails to record any information given to him under sub-section (I) of section 154 of the Code of Criminal Procedure, 1973, in relation to cognizable 2 of 1914. offence punishable under section 326A, section 326B, section 354, section 354B, section 370, section 370A, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509,

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

¹⁶⁷ Supra 167 at I

¹⁶⁸ 166B: Punishment for non treatment of victim: Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other

provisions Section 357C of criminal code under it every hospital is obliged to provide free of cost treatment to victim. But if they refuse to provide free legal aid, then that hospital shall be convicted with sentence for period of one year and imposed fine on it or both.¹⁶⁹

4.1.2. Provisions under Poisons Act, 1919:

The Poisons Act, 1919 mainly concerned with the sale or purchase or trade of poison in India. Rule-making powers were given to the States under the Sec.2¹⁷⁰ of this Act. In the landmark Laxmi case¹⁷¹, the Government provide information to the honourable Supreme Court of India that the acid is covered under the poison in India which is controlled under the Poisons Act, 1919. The Union Government make a model rules for sale or purchase of acid attack and submitted into honourable court then court directed to all States and U.T.'s to implement that rules.

The prominent features of Sale and Attainment of acid under Model Rules are:

- Licensing Authority according to the rules will be District Magistrate or other official who is nominated by the government.
- After the issue of valid license a person or body take possession of listed out poison for sale.
- At the place of commerce rules should be highly showed.
- The time period of a licence shall be 5 years.
- The discretion in the hands of Licensing Authority shall terminate or annul the licence of any holder. Before cancelling the licence of any license holder appropriate chances should be given to him.
- The time period of 3 months should be given to license holder who license cancelled or revoked to dispose the stock to another license holder.
- The authority of examination of the premise of the permit holder has given to an Executive Magistrate, Drug Inspector and a Medical officer.

person, contravenes the provisions of section 357C of the Code of Criminal Procedure, 1973, 2 of 1914. shall be punished with imprisonment for a term which may extend to one year or with fine or with both.",

¹⁶⁹ Ibid

¹⁷⁰ S. 2, The Poisons Act, 1919

¹⁷¹ AIR 2014 SCC (4) 427

- Those persons who are not incapable of performing business in poisons in the eye of granting authority they have got license from that license authority.
- The premises which are specified in the license only the poison sold on that place and under the supervision of licence holder.
- Licence holder has only right to sold the poison of knowing person after seeking their identity proof.
- No poison is sold to minor means below the age of 18 years or insane person.
- Licence holder always maintained a register where he records the details of purchaser and stock present in store.
- Warning symbol is compulsory printed on the labels of poison and the provisions are made for the protection and control of the poisons.
- Provisions are also made for the standard functional measures related to the safekeeping, storage and occasion managing of acids.
- All the acids that are normally used for acid attacks across the world now in are falls under the Schedule 1 of this Act where without a license lists of poisons that cannot be sold in the market.

4.1.3. Provisions under Criminal Procedure Code, 1973:

Section 357A, Section 357B and 357C of the Code of Criminal Procedure deal with the victim compensation and Section 154 of the Code of Criminal Procedure, 1973 is also deal with the rehabilitation of victim.

Sec. 357A¹⁷² of criminal code which deals with the Victim Compensation Scheme:

¹⁷² **357A: Victim compensation scheme:** (1) Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

(2) Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1).

(3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

(4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.

- For the objective of compensation to the sufferer who have faced damages or harm due to an offence and who require rehabilitation, every state regime in harmonization with Union regime shall arrange a proposal for providing finances to compensation.
- The Legal Service Authority's which is at district level or at state level on order made by the honourable Court shall decide the amount of compensation, which is awarded under upper sub-section.
- The Trial Court recommendation for adequate compensation if it thinks the compensation provided under scheme is not sufficient to provide adequate justice to victim.¹⁷³

Compensation provided to victim in addition to fine covered under Sec. 357B¹⁷⁴: The State government shall pay compensation to victim under Sec.357A in addition to the payment of fine under Sec. 326A or Sec. 376D of Penal Code, 1860.¹⁷⁵ In Mohd. Kaleem V.State of U.P.¹⁷⁶ appropriate compensation is provided to victim.

Medical treatment of Victims covered under Sec. 357C¹⁷⁷ of The Code of Criminal Procedure: Medical treatment provided to the sufferers of any crime without any fee offence covered under Section 326A, 376, 376A, 376B, 376C, 376D and 376E of the Indian Penal Code, 1860 by all the hospital which run by

(5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.

(6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit."

¹⁷³ A. k. Jain, *Law guide for judicial services exam Vol.- II*, 256 (ed. 1st, 2004 reprinted 2013)

¹⁷⁴ Sec. 357B: Compensation to be in addition to fine under Section 32M or Section 3760 of Indian Penal Code: The compensation payable by the State Government under section 357A shall be in addition to the payment of fine to the victim under section 326A or section 3760 of the Indian Penal Code.

¹⁷⁵ G. V.Reddy, *The Code of Criminal Procedure, 1973*, 196 (2013)

¹⁷⁶ Mohd. Kaleem V.State of U.P., Criminal Appeal No. 1726 of 2012, decided by High Court of Allahbad, Lucknow Bench, (24/11/2015)

¹⁷⁷ Sec. 357C: Treatment of victims: All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376,376A, 376B, 376C, 376D or section 376E of the Indian Penal Code, and shall immediately inform the police of such incident.

public or private authority and shall instantly give information to the police of such happening.¹⁷⁸

Information in cognizable cases covered under Sec. 154¹⁷⁹ of The Code of Criminal Procedure: Police officer recorded the information regarding the commission of offence nature of that offence is cognizable and this information also known as F.I.R. which first information report. According to the 2013 amendment, if the offence related to the rape or women modesty and related with acid attack under sec. 326A and 326B of penal code so that information is recorded by only woman police officer.¹⁸⁰

4.2 Reports of Commissions and Committees on Law related to Acid Attack

The Law Commission of India has time to time submitted several reports which directly or indirectly deal with the acid attack and victim compensation. Besides that, in 2003, Malimath Committee and in 2013 Verma Committee has submitted the reports to suggest certain recommendations and changes in the provisions of law dealing with the acid attack and victim compensation.

4.2.1 Reports and Recommendations of Law Commission of India:

- Law Commission gave its 14th Report on the ground of political, monetary and social institution of state in the year 1958. In this report for the first time, it was suggested that the State shall provide reimbursement to the victims.¹⁸¹
- In year 1969, the Law Commission suggested in its 41st report that preferred payment of reimbursement should be deducted from the amount of fine imposed on the wrongdoer and also added some new substantive provisions for the payment of reimbursement to the sufferer of felony. Our courts did not apply their legal powers as liberally as they could be wanted.¹⁸²
- In the year 1994, the Commission gave its 152nd report in which recommendations were given to the government for the insertion of Sec.357-A in procedural law that reimbursement shall be awarded at the time of

¹⁷⁸ Ibid at 197

¹⁷⁹ Supra 161 at 98

¹⁸⁰ R.V.Kelkar's, *Lecture on Criminal procedure*, 62 (K.N.C. Pillai, ed. 5th, 2013)

¹⁸¹ 14th Law Commission of India Report, *Reforms of the judicial administration*, (1958) available at <http://lawcommissionofindia.nic.in/1-50/Report14Vol1.pdf>, last seen on 26/03/2017

¹⁸² 41st Law Commission of India Report, *The Code of Criminal Procedure, 1898, Vol. I*, (1969) available at <http://lawcommissionofindia.nic.in/1-50/Report41.pdf>, last seen on 28/03/2017

punishing the sufferers of the felony Rs.25,000/- and in the case of bodily injury which is not causing the death of victim then Rs. 1,00,000/- is given to him.¹⁸³

- In the year 1996 Law Commission of India submitted its 154th report noticed that the 152nd report in which suggestion had not been implemented by the government of India. It takes another move and suggested that it was essential to incorporate “Section 357-A” in the Criminal Code to provide for a complete scheme about the payment of reimbursement for all sufferers fairly and satisfactorily by the courts. Reimbursement will be paid for any injury or any damage or loss to the property and in case of death.¹⁸⁴
- In the year 2008 Commission submitted its 226th report especially on offences related to acid attack. No special law dealt with the acid attack in India, it was only covered under the Sec. 326 of penal code which was an inadequate provision. So the acid attack is increased day by day there is need of amendment in penal laws related to acid attack. To whom the fine should be given is not specified by this section. If an individual throws or provides acid to be thrown on another individual, it shall be presumed that it was done intentionally. It gives suggestion about the sale or purchase of acid attack is totally prohibited in India except for industrial purposes.¹⁸⁵

4.2.2. Report of Malimath Committee:

This committee suggested lots of amendments in our criminal justice system. It suggested passing an Act which specially deals with victim compensation and states to provide fund for victim compensation. Indian Society of Victimology prepared a bill on name of The Victim Compensation Bill, 1995 and submitted to the Union Government.¹⁸⁶

4.2.3. Report of Verma Committee:

¹⁸³ 152nd Law Commission of India Report, *Custodial Crimes*, (1994) available at <http://lawcommissionofindia.nic.in/101-169/Report152.pdf>, last seen on 29/03/2017

¹⁸⁴ 154th Law Commission of India Report, *The Code of Criminal Procedure Act, 1973* (1996) available at <http://lawcommissionofindia.nic.in/101-169/Report154Vol2.pdf> last seen on 31/03/2017.

¹⁸⁵ Supra 39

¹⁸⁶ Ministry of Home Affairs, Government of India, *Committee on Reforms of Criminal Justice System*, (2003) available at http://www.mha.nic.in/hindi/sites/upload_files/mhahindi/files/pdf/criminal_justice_system.pdf, last seen on 02/04/2017

In its report, the committee has given the reference of Law Commission's 226th report in which the amendments in penal laws related to acid attack were suggested. This committee suggested that two new sections i.e.; Sec. 326A and 326B should be added in penal laws and to make acid attack a separate offence. It also suggested to amend Sec. 100 in which right to self-defence in fear of acid attack should be inserted. The most important thing which is suggested by this committee was that the criminals should pay the compensation to victims for their medical treatment and punishment shall be increased up to life imprisonment.¹⁸⁷

4.2.4. Suggestions and Recommendations of the National Commission for Women:¹⁸⁸

In most of the cases, acidic violence eternally¹⁸⁹ disfigures, incapacitate and ultimately, demolish¹⁹⁰ the sufferer, both bodily and emotionally. Whereas much violence's have resulted in sluggish¹⁹¹ and sore¹⁹² deaths, acid violence like that of Haseena in 1999. Some attacks also resulted in young female's life spoiled, maimed and limited to their houses for whole life. They prolong¹⁹³ to fight medicinal hitches¹⁹⁴ as acid seeps into the body and troubles inner organs in excess of a comprehensive stage of time. The sufferer requirements both long term as well as short term medicinal services in the form of particular plastic operations. But it is almost not possible for the sufferer's family to pay for the extensive operations required to reform the scratched face of the sufferer and thus most of the sufferers stay like a living dead body. As these operations are performed at diverse stages to provide an individual a close similarity to their previous looks, these operations charge the sufferer from least two lakh to numerous lakh of rupees.

It has also been experiential that there is no possibility for rehabilitation for acid attack survivors and there is no one to give them support. In spite of the information that in most cases the sufferer knows the attacker, the attacker frequently escape from

¹⁸⁷ Ministry of Home Affairs, Government of India, *Report of the Committee on Amendments to Criminal Law*, (2013) available at <http://www.firstpost.com/india/full-text-recommendations-of-the-justice-js-verma-committee-report-599874.html>, last seen on 03/04/2017

¹⁸⁸ National Commission for Women - Draft Bill, *Prevention of offences (by Acids) Bill 2008*. available at <http://www.ncw.nic.in> last seen on 29/03/2017

¹⁸⁹ Permanently

¹⁹⁰ destroy

¹⁹¹ Slow

¹⁹² Painful

¹⁹³ Continue

¹⁹⁴ Difficulties

the legislation and are infrequently brought to justice under Criminal Procedure of India.

Acid violence can be named as gender-based act of cruelty which causes to result in, bodily, psychosomatic injury and anguish¹⁹⁵ to female. The Declaration on the eradication of cruelty against Women in 1993 stipulates that nations must denounce the hostility against women and by all suitable means and without waste of time make legislation of eliminating hostility against female. Following steps shall be taken in this regard:

- To expand punitive, social, manual effort and governmental authorizes in local law to penalize or provide the remedy from the act hostility against to the females.
- To make sure that female subjected to hostility and where suitable, their kids have particular support such as remedy to the highest extent sufficient in the glow of their accessible resources and within the structure of worldwide cooperation,
- To adopt all suitable method to encourage their security and bodily and emotional remedy by way of providing aid in baby care and protection, healing, counselling, and healthiness and social services, amenities and programmes. Administrative budgets should have enough resources for their performance associated to the abolition of hostility against female;

Thus on the source of the above stated causes, the projected legislation seeks to centre on attaining the subsequent key objectives:-

- Categorization of acid attack as a different and most shocking form of crime.
- To support the sufferer of acid violence by way of providing for her medicinal cure services and also provides social and psychosomatic assistance.
- To make available legal assistance to the survivors.
- To set up rehabilitation machinery and taking into accounts the definite requirements of the sufferer.

¹⁹⁵ Extreme pain

- Bylaw and manage of acid and other mordant things.¹⁹⁶

Sec. 4: Victim Assistance Board at National level:¹⁹⁷

National Acid Attack Victim's Assistance Board is the body which is composed by The Union Government of India. The Board shall constitute of five members and a chairman and minimum three female members in it. Chairman and members are appointed by the centre government, who has special knowledge or experience related law and also works for women's empowerment in India.

The term of the members and the meeting of board shall be time to time prescribed by the authority.¹⁹⁸ Union government makes rule for appointment such other officials.¹⁹⁹

Sec. 8: Functions of the Board:

- The main function of this board is to provide medical assistance to sufferer of acid violence through the Monitoring authority

¹⁹⁶ Supra 187

¹⁹⁷ 4. Establishment of National Acid Attack Victim's Assistance Board

(1) The Central Government shall constitute a body to be known as National Acid Attack Victim's Assistance Board.

(2) The Board shall consist of -

(a) A Chairperson to be appointed by the Central Government;

(b) Such number of members, as the central government may nominate, that shall include persons having knowledge of or practical experience in matters relating to criminal Law. Representatives of NGOs or women Activists working in the field of empowerment of women and in particular providing assistance to victims of acid attack and any other interests which in the opinion of the central Government, ought to be represented on the Board.

Provided further that composition of committee shall be at least 5 members excluding the chairperson, of which at least 3 shall be women.

¹⁹⁸ 5. Procedure of business and Term of Office of the Members of the Board:

a) The chairperson and members to be appointed and their qualifications shall be such as may be prescribed under the rules

b) The Board shall regulate its own procedure

c) All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member Secretary or any other officer of the Board authorised in like manner in this behalf.

d) The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations: Save in exceptional and emergent situations the Board shall meet at least once in three months.

e) The term shall be for 3 years, Members of the Board who are government servants would work on honorary basis and would be entitled to TA/DA as per rules applicable to them from their regular head of account. Non official Members shall be entitled to on honorarium and travel as may be prescribed by the Board.

¹⁹⁹ 6. Appointment of officers and other employees of the Board:

For the purpose of enabling it efficiently to discharge its functions, the Central Government may, subject to such rules as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary.

- Second aim of that authority is to provide the lawyers or other legal assistance to victim of acid attack.
- Another main function of this board is to give recommendations to the union government or state governments to make a system which shall provide medical as well as other necessary help for the rehabilitation of victims of acid attack.
- Board gives an idea to government to keep a check on import or sale of acid in India.
- Another function of board is to create awareness in society and to provide help to NGO's related to awareness of acid attack.
- Board provides financial help to victim of acid attack and also takes help from monitoring authority for the implementation of this act at State level and to manage the National fund and insurance.
- Board gives the recommendation to government on the matters related to manufacturing of acid and imposing of taxes on it and also to perform other prescribed functions.²⁰⁰

²⁰⁰ 8. Functions of the National Acid Attack Victim's Assistance Board:

- a) Through the Monitoring authority or through any service provider, provide assistance to the victim of acid attack by way of ensuring medical treatment and other services, which shall include psychological counselling.
- b) Issue directions to the monitoring authority or any service provider to arrange for legal support services to the victim.
- c) To formulate and recommend to the appropriate Government rehabilitation mechanisms/schemes for the victim and her dependents such as medical services, employment, education, rehabilitation ,housing and other welfare measures taking into account the specific needs of the victim.
- d) To recommend to the Government strategies to regulate and control the import, production, transportation, hoarding, sale, distribution of Acids.
- e) Create awareness about the means by which public can notify the board of any acid attack, develop networking strategies in coordination with NGO's and other stakeholders towards strengthening the support systems, conduct advocacy work with police and other stakeholders.
- f) Recommend to the appropriate Government to notify the medical facilities and other services including provisions for shelter housing and other needs of the victim.
- g) Inquire into or constitute fact finding teams into incidents of acid violence.
- h) Provide financial support, to the victim, in accordance with the procedure prescribed under the Act.
- i) Take assistance of the Monitoring Authority at State level with respect to implementation of the provisions of the Act.
- j) Administer the National Fund and allocate such amounts to the monitoring authority as may be considered necessary
- k) Administer the Insurance scheme or group insurance and notify the agents as may be prescribed'
- l) Recommend to the government regarding applicability of any schemes.
- m) Recommend to the appropriate Government any fee, tax or charge to be levied from any person, body or association or manufacturer dealing in chemicals including acids including creating a Consortium of acid and chemical manufacturers from whom the appropriate Govt. may levy license or such other fee which would be used to form a corpus fund out of which, compensation could be given to the victim on an immediate basis.

Sec. 9: Functions of the Monitoring authority:

- The main function of the authority is to provide medical assistance as early as possible and other services to victim of acid attack.
- Second most important function of this authority is that to provide financial assistance to the sufferer of acid violence.
- Another function of board is that do inquiry at place of attack and give advice to National Board for making of scheme to provide compensation or rehabilitation to victim of acid attack.
- Some other functions are to create consciousness²⁰¹ in society and maintain records of acid violence in India.²⁰²

Sec. 11: Powers of the Board/monitoring authority: The Board which is at national level or the Monitoring authority, during investigation matter to in Section 8(g)²⁰³ and section 9(ii)²⁰⁴ are given the same power as equal to the civil court.²⁰⁵

n) Any other matter as may be prescribed.

²⁰¹ Awareness

²⁰² 9. Functions of the Monitoring authority:

(i) Either on its own or through any service provider, provide immediate assistance to the victim in the form of medical aid and other support services

(II) Provide financial support, to the victim, in accordance with the procedure prescribed under the Act

(iii) Undertake a field visit and spot inquiry and take suo-moto cognisance of any incident of acid attack

(iv) Assist and advise the National Board in formulating and recommending to the appropriate Government rehabilitation mechanisms/schemes for the victim and her dependents such as medical services, employment, education, rehabilitation and other welfare measures taking into account the specific needs of the victim.

(v) Assist the national Board in developing strategies to regulate and control the import, production, transportation, hoarding, sale, distribution of Acids.

(vi) Create awareness about the means by which public can notify the board of any acid attack, develop networking strategies in coordination with NGO's and other stakeholders towards strengthening the support systems, conduct advocacy work with police and other stakeholders .

(vii) Maintain records and statistics on acid attacks.

(vii) Any other matter as may be prescribed.

²⁰³ Sec. 8 (g) Inquire into or constitute fact finding teams into incidents of acid violence.

²⁰⁴ Sec. 9 (II) Provide financial support, to the victim, in accordance with the procedure prescribed under the Act.

²⁰⁵ 11. Powers of the Board/monitoring authority – The National Board or the Monitoring authority , while investigating any matter referred to in clause (g) of Section 8 and section 9(ii) have all the powers of a civil court trying a suit and also in particular in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) Requiring the discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office;

(e) Issuing commissions for the examination of witnesses and documents;

4.3. Central Victim Compensation Fund for the Victims of Acid Attack:²⁰⁶

Centre government as well as State governments make scheme to provide justice included compensation to victim. Because in acid attack victim face huge loss of money for their medical treatments or surgeries. Centre government of India make a scheme and issue guidelines under it state governments make scheme to provide compensation to victims of crimes.

On 21st August 2015 Central Victim Compensation Fund (CVCF) Guidelines will come into force with its effect.

4.3.1. Objective of the CVCF:

- Increasing the victim compensation scheme and provide support to the states that is main objective of set up of CVCF.
- Other thing is that huge difference between the compensations of states. So to reduce that difference the minimum amount decided under this scheme in India.
- To cheer the States/UTs for providing effective compensation to the sufferer of heinous crime like rape, acid attacks, crime against women and children, human trafficking under of Sec. 357A of Cr.P.C. through the Victim Compensation Schemes (VCS).²⁰⁷

4.3.2. Essential Requirements to access funds from CVCF:

The Central Victim Compensation Fund will be set up by the endorsement of Finance Ministry with an initial corpus of Rs.200.00 Crore. The main source is the “Nirbhaya Fund” of amount Rs. 200.00 crore as primary corpus which is meant for tackling crime against female, in this fund public also supports by way of donation.²⁰⁸

- The State/ UT must notify The Victim Compensation Scheme must be notified according the provisions of Section 357A by the State governments and UT’s administrations.

(f) Ordering costs in cases where there has been wilful disobedience to any order of the commission, issued under section 11

(g) Any other matter which may be prescribed.

²⁰⁶ Ministry of Home Affairs, Government of India, *Central Victim Compensation Fund Scheme (CVCF) Guidelines*, (2015) available at <http://vikaspedia.in/social-welfare/social-security/central-victim-compensation-fund-scheme-cvcf>, last seen on 05/04/2017

²⁰⁷ Ibid at 3

²⁰⁸ Ibid at 4

- The minimum amount of compensation is prescribed under it and no amount provide to victim less than that minimum compensation.
- State governments and UT's administrations pay compensation to sufferer of offence from its state compensation funds and then from other funds like CVCF.
- Firstly compensation provide to victim from non-budgetary funds of state government and the budgetary funds are used to given compensation to victims after the overwhelming of non-budgetary resource.
- In 'Victim Compensation Module' there shall be maintaining a detail of every victim in electronic form that got compensation from the State government.

4.3.3. Functions of CVCF:

- In MHA (Ministry of Home Affairs) the amount of funds attained under it.
- The donations got from corporate sector and the Public for the enhancement of amount of fund in MHA.
- To enrichment and support the sufferer reimbursement Schemes notified by the States government or UT Administrations on a same share basis.
- To provide particular monetary aid to the sufferers of Acid attack to meet treatment costs over up to five lakh rupees and exceeding the compensation paid by the particular States government or UT Administrations.²⁰⁹

4.3.4. Provision of Compensation under CVCF:

Centre government of India decide the minimum amount of compensation for victims and give guidelines to state government for providing victim compensation.

- In the case of "acid attack" union government gives guidelines to state governments to give minimum amount of compensation is Rs 3 lakh to victim and their heirs.
- In the case of "rape"²¹⁰ union government gives guidelines to state governments to give minimum amount of compensation is Rs 3 lakh to victim and their heirs.

²⁰⁹ Ibid at 5

²¹⁰ S. 375, The Indian Penal Code, 1860

- In the case of “physical abuse of minor” union government gives guidelines to state governments to give minimum amount of compensation is Rs 2 lakh to victim and their heirs.
- In the case of “sexual assault excluding rape” union government gives guidelines to state governments to give minimum amount of compensation are Rs 50,000 to victim and their heirs.
- In the case of “rehabilitation of victim of human trafficking” union government gives guidelines to state governments to give minimum amount of compensation is Rs 1 lakh to victim and their heirs.
- In the case of “permanent disability” (more than 80%) union government gives guidelines to state governments to give minimum amount of compensation is Rs 2 lakh to victim and their heirs.
- In the case of “partial disability” (40% to 80%) union government gives guidelines to state governments to give minimum amount of compensation is Rs 1 lakh to victim and their heirs.
- In the case of “death” union government gives guidelines to state governments to give minimum amount of compensation is Rs 2 lakh to victim and their heirs.
- In the case of “burning effect excluding acid attack” (more than 25%) union government gives guidelines to state governments to give minimum amount of compensation is Rs 2 lakh to victim and their heirs.
- In the case of “loss of fertility” union government gives guidelines to state governments to give minimum amount of compensation is Rs 1.5 lakh to victim and their heirs.
- In the case of “loss of foetus” union government gives guidelines to state governments to give minimum amount of compensation are Rs 50,000 to victim and their heirs.
- In the case of “women victims of cross border firing which causes death or permanent disability” union government gives guidelines to state governments to give minimum amount of compensation is Rs 2 lakh to victim and their heirs.

- In the case of “women victims of cross border firing which causes partial disability” union government gives guidelines to state governments to give minimum amount of compensation are Rs 1 lakh to victim and their heirs.²¹¹

Firstly no special provision which deal with acid attack the offender was charged under Sec. 324, 326 or 307 of penal code of India. Mainly the 152nd and the 154th report of the Indian Law Commission deals with victim compensation under these reports recommended to government to provide compensation to victim and need of amendments in penal laws. After that 226th report of law commission which gives suggestion related to amendment in penal code added new Sec. 326A and 326B which deals with acid. The appropriate compensation provided to victim in Sabana Khatun case.²¹²

Malimath Committee gives recommendations regarding the changes in criminal law and gives suggestion was related to victim compensation which deals with suitable compensation provided to victim. In 2013 on recommendation of Verma Committee report these amendments were done in Penal code of India or in Criminal Procedure Code and new Sec. 326A and 326B were added in penal code. Under these sections imprisonment of ten years which may even extend to life may be given if any one done acid attack and if any individual tries or attempt of it then he will be convicted five years which may extend to seven years of conviction. The other main change in this law is to provide compensation to victim by government or by offender from his pocket.

²¹¹ Supra 206 at 9

²¹² Sabana Khatun v. State of West Bengal & Ors., Writ Petition No. 34704 (W) of 2013, in the High Court of Calcutta (28/02/2014)

Chapter- 5: Judicial Perspective on Acid Attack

In the beginning of human life the individuals were fighting with each other for food, existence and sex. But gradually, with the development of society the criminal justice system established in society, if there was any severe injury to any individual it was treated as offence against whole community. Firstly justice was given by the king then gradually it's transferred to courts. Now the whole matters either criminal or civil are solved by the courts. Indian criminal justice system firstly provided by punitive justice to victim and with gradual change in time it adopted the restorative methods to provide justice to victim. Now the courts fully concentrate on victim and even to provide compensation in criminal cases also. In acid attack cases the compensation is provided to victim additionally with the fine.

In optimistic cases where the offender was charged with murder if victim died due to the reason of acid attack if that acid attack was done with intention to kill the victim. In these cases punishment is given to offender and also imposed fine on it, but the amount of fine is very less. In some cases compensation is given to the victim of acid attack which is helpful in medical treatment or financial assistance to the victim. The honorable Supreme Court of India gave guidelines regarding provisions related to sale or purchase of acid attack which ultimately lead to the amendment in criminal law in 2013. It mainly deals with the punishment for acid attack in India.

- **Delhi Administration v. Mewa Singh**²¹³

Facts of the case: In this case the accused splash acidic material on the sufferers face. The acidic liquid speckled on her face or body which produced the reddishness on the skin and also on her eye-lids which cause to the malformation of skin or disfigurement of face and also faces some severe consequences.

Charges: The accused was charged under the section 326, section 307, section 320 and section 324 of Indian Penal Code, 1860.

Held: The honorable court held that offender was liable for causing hurt under section of 323 of penal code and given the punishment of 15 days or imposed the fine of Rs. 300 on it.

This type of sentence for the heinous crime of acid attack is totally inadequate and here court has not considered the seriousness of the offence. It completely ignored the victim in this judgment, due to that she faces whole injuries without any mistake and

²¹³ Delhi Administration v. Mewa Singh, 5(1969) DLT 506

due to this shocking effects on her body. Just 15 days imprisonment and fine of 300, it's not considered as good judgment given by the court. It is nothing more than a mockery of justice i.e. imparted to the victim.

- **Smt. Bhagwan Kaur v. Krishna Maharaja** ²¹⁴

Facts: In this case a newly married girl was murdered by her in-laws by use of acid. They forcedly poured the acid in the mouth of Shanti Devi who is wife of Krishna. Shanti Devi died by severe injuries of sulphuric acid. Her husband, mother-in-law and two other members of in-laws family were charged under section 302 read with 34 of Indian penal code, 1860.

Held: In this case acid attack is done and court awarded life imprisonment to main offender with the rigorous imprisonment for the time period of one year and imposed a fine of Rs. 1,000. Non-payment of fine then accused would be further awarded simple imprisonment for a term of two months. Both sentences were to run simultaneously. An appeal was filed in the honorable High Court where the court set aside the punishment against the other two accused by stating that there was no evidence to show that they were involved in the crime or having any common intention. Therefore their existence with the offender on the sight of the crime was not enough.

The benefit of doubt was given to the two offenders because their common intension was not proved for the offence of murder. The court gives punishment for murder and not for the offence of acid attack. This judgments shows that a sulphuric acid which used for cleaning of toilets or washrooms was intentionally used to kill an innocent lady. In this case court does not consider any type of seriousness regarding the use of acid in our society. No guidelines given by court regarding the sale or purchase of acid. This judgment shows that our law- maker not aware about the misuse of acid in our society that why not any law or provision added in Indian penal code related to acid attack.

- **Barati v. State of Uttar Pradesh** ²¹⁵

Facts of the case: In this case, a dispute between the deceased and offender concerning encroachment of a piece of land then due to that reason the offender threw acidic liquid on the deceased. This caused severe acid burns due to the result of that

²¹⁴ Smt. Bhagwan Kaur v. Krishna Maharaja, AIR 1973 SC 1346

²¹⁵ Bharati v. State of Uttar Pradesh, AIR 1974 SC 839

deceased died. The offenders were charged under section 302 , section 109, sections 87 and 88 of the Indian Penal Code, 1860.

Held: The chief accused was charged under Section 302 of the Indian Penal Code, 1860 and the accused was convicted for life imprisonment and also a fine was imposed on him.

The sentence given in this case was adequate but nothing was provided in this case regarding the compensation to the victim. The main thing shown in this case is that offender throws acid on deceased because of dispute which also shows that acid was used as a weapon to kill the deceased. This means that now acid has become a weapon which is used like gun or pistol. In this case judiciary only given judgment in offence of murder, not take any action related to the seriousness of offence and regarding any ban over the sale or purchase of acid in India.

- **Revinder Singh v. State of Haryana**²¹⁶

Facts of the Case: In this case, sulphuric acid was thrown by a husband on the face of his wife because the wife refused to give divorce. The husband's behavior was not good with his wife and he was also involved in an extra-marital affair with another woman. The wife of accused suffered multiple acid burns on her face and other parts of her body due to the acid attack and which became the cause of death of his wife. The accused was charged under section 302 of Indian Penal Code, 1860.

Held: The accused husband was charged and punished under Sec. 302 of the Indian Penal Code, 1860. The honorable High court held him liable and awarded simple imprisonment for seven years. The honorable Supreme Court of India confirmed the punishment which was given by the High Court.

Even the death was caused because of the act of offender but the offender was given a very simple punishment. There was a need of giving exemplary imprisonment to the accused but was not done so. The court considered it murder and nothing else which was happened on the railway station. The trial court given acquittal to accused but High Court punished him and also confirmed by Supreme Court of India.

- **Devanand v. The State**²¹⁷

Facts of the case: In this case, the husband was not having good relationship with his wife. Both of them live separately from each other. Husband compelled her to cohabit

²¹⁶ Revindra Singh v. Mewa Singh, AIR 1975 SC 856

²¹⁷ Devanand v. State, 1987 (1) Cri 314

with him for fulfillment of his sexual desires, but the wife refused to cohabit with him. Then in an anger husband splashed acid on her face. The wife suffered lots of pain and burn on her body and lost the vision of one eye. The accused was charged under Sec. 307 of the Indian Penal Code, 1860.

Held: The honorable court held liable to accused under Sec. 307 and punished him with imprisonment of seven years.

Seven years of imprisonment is very less for this serious crime committed by offender. Nothing is done for the victim compensation in this judgment which shows that judiciary only concerned to provide punitive justice. Because in this case wife lost her eye sight and face lots of severe pain in his whole life. So the lady has no fault but she has faces lots of problem in real sense the court provide him inadequate justice to him.

- **Gulab Sahibalal Shaik v. The State of Maharashtra**²¹⁸

Facts: In this case, acidic substance was sprayed on a female, when she was holding her two and a half year old baby. An acid attack is done by her brother-in-law since she was denying giving money to them for maintaining her husband's second wife. The acid burns injured the left side of her face, breast and left hand. She and her baby daughter, both lost their eyesight due to acid attack. The women died due to the injuries of acidic attack. The accused was charged under Section 302, Section 326 and Section 307 of the Penal Code of India.

Held: In this case, the honorable court held the brother-in-law of deceased liable under Section 302 of Indian Penal Code, punished him life imprisonment and also imposed a fine of Rs. 1000. Under another section that is 326 of Indian penal code, 1860 he was punished for 5 years of imprisonment and an amount of fine is Rs. 2000 and also rigorous imprisonment for 3 months.

It's very shocking that the compensation was not even discussed in the judgment. In this case victim was totally ignored. Although the baby of the deceased became totally blind but judiciary done nothing and it shows that only punitive methods are used to provide justice in India.

- **State of U.P v. Smt. Aqueela and Others**²¹⁹

²¹⁸ Gulab Sahibalal Shaik v. State of Maharashtra, 1998 Bom. CR(Cri)

²¹⁹ State of U.P. v. Smt. Aqueela & Others, 1999 CriLJ 2754

Facts of the Case: In this case due to enmity between accused and victim, acidic liquid was thrown by a son and his mother over the sufferers. One victim sustained several burns on his skin and on his whole back. The other one sustained burns on the right side of his forehead, right eyebrow, arms and the other parts of body. The accused were charged under Sec. 304(II) and Sec. 323 read with Sec. 34 of the penal code of India.

Held: The honorable court held the offenders liable for the offences of ‘culpable homicide not amounting to murder’ under Sec. 304 and ‘voluntarily causing hurt with common intention’ under Sec. 323 read with Sec. 34 of penal code, and punished them for a sentence of one year of rigorous imprisonment.

One year imprisonment is nothing in such cases. Court here did not consider the need of compensation for the treatment of the victim. Victim faces lots of problem for recovery of such injuries. This shows that our criminal system not aware at that time about the need of victim compensation and taken acid attack as a light offence.

- **Syed Shafique Ahmed v. State of Maharashtra**²²⁰

Facts of the Case: In this case the husband has doubt about the character of his wife, because her wife was in an extra-marital relationship with another man. One day he will attack of his wife and the other person by acid which cause the acid burns on their body and face. Both of them lost the vision of their right eye. The offender was charged under Sec. 326 and Sec.324 of the penal code of India.

Held: The honorable court held the offender liable of offence under Sec. 326 and 324 of penal code and given punishment for imprisonment of three years and also imposed fine Rs 5000.

No adequate fine is imposed in this case. The expenses for healing burn injuries are very high but the amount of fine is very less and nothing was done for the rehabilitation of the offender. It puts a negative impact on the society negatively. The punishment provided was neither suitable nor sufficient for such a heinous offence.

- **Marepally Venkata Shree Nagesh v. State of Andhra Pradesh**²²¹

Facts of the case: In this case a doubt arises between husband and wife. The husband has doubt about the character of his wife, he thinks that she has extra-marital relationship with some other person due to that he inserted mercuric chloride into the

²²⁰ Syed Shafique Ahmed v. State of Maharashtra, 2002 Cri LJ 406

²²¹ Marepally Venkata Shree Nagesh v. State of Andhra Pardesh, 2002 Cri LJ 3625

vagina of his wife. Due to this brutal and inhumane act she died due to renal failure. The offender was charged under Sec. 302 of Indian Penal Code, 1860.

Held: The honorable court held liable to accused under Sec. 302 of Indian Penal Code, 1860. The court punished him for this inhumane act for life imprisonment and also with rigorous imprisonment.

The inhuman act done by the offender, it needs a death punishment because it set example in society. There is need of rehabilitation of offender, because this type of brutal acts not done by a normal man. This was the warning bell for our law-maker and judiciary to take some hard action against sale or purchase of acid attack but not do so in reality.

- **Mahesh and Parimaladevi v. State**²²²

Facts of the case: In this case, a doctor was alleged to rape a nurse after that nurse and the compounder did conspiracy to take revenge from the doctor. According to their conspiracy they made a mixture of acid and kerosene oil and poured that mixture on doctor, due to that doctor has undergone through severe pain and 100% burn injuries which ultimately resulted in his death. The offenders were charged under the Sec. 302 and Sec. 109 of the penal code of India.

Held: The honorable court has not held the offenders liable under Sec. 302 and Sec. 109 because of lack of evidence. However prosecution did not prove its case beyond reasonable doubt so the accused were acquitted by the court.

Re-investigation should be done to provide justice in such cases. It shows the non-seriousness of investigating authority or court. A person died due to 100% burn injuries but since no evidence was found against the accused. Therefore they were acquitted by the court. No justice was provided to victim and even no guidelines on sale or purchase of acid attack were given.

- **State of Karnataka v. Joseph Rodrigues**²²³

Facts: A B.Com. Student Haseena, joined a new job. Her previous boss wanted her to come back on the job but she refused to his job offer. Agitated by the refusal he threw acid on Haseena. She lost her eyes, suffered disfigurement of her face and lots of scars on her body. Which lead to change the appearance and colour of her face, she

²²² Mahesh & Parimaladevi v. State, C.A.No.551 of 2000 (Madras High Court, 10/04/2003)

²²³ State of Karnataka v. Joseph Rodrigues, (Crl.) 329 of 2006

could not walk without support and could not sit properly. The accused was charged under Section 307, 325, 326 of the penal code of India

Held: The honorable court held Joseph liable and also punished him under Sec. 307 of the Indian Penal Code and sentenced him for imprisonment for life. The trial court imposed fine/compensation of three lakh but the High Court imposed additional fine /compensation of two lakh to be paid to the parents of deceased.

In this case, a strict punishment was given to the offender and to set an example in the society. The fine imposed in this case was very good, these are the efforts which are done by the court to provide justice to victim and give some money in form of compensation to victim. These types of decision impose good impact on our society. But there is a strong need to give additional compensation for medical treatment of victim.

- **Balu v. State Represented Inspector of Police**²²⁴

Facts of the case: In this case a doubt arises between husband and wife. The husband has doubt about the character of his wife; he thinks that she has extra-marital relationship with his friends. In that suspension he sprays acid on his wife, she faces lots of acid burns and injuries which became the cause of death of his wife. The accused was charged under Sec. 302 and Sec. 313 of the penal code.

Held: The honorable court held liable to husband under Sec. 302 and Sec. 313 and punished him imprisonment for life also imposed on it Rs. 2000 on it.

Punishment given in this case is up to mark, because it is hard imprisonment. But no compensation is given to the victim and not any type of fine imposed on offender. In this case victim became only fact or witness and its impact on victim very bad. This judgment is nothing talks about the rehabilitation of victim, because court not feels the pain of victim and not gives any type of assistance to victim for their future.

- **Ram Charittar and Anr. etc. v. State of Uttar Pradesh**²²⁵

Facts of the case: In this case, the offender was having an eye on the property of victim and to obtain the property then there was a need to side line the daughters of the victim. With this motive did conspiracy against his wife and two daughters and

²²⁴ Balu v. State represented by Inspector of police, (Crl.) 329 of 2006 (Madras High Court, 26/10/2006)

²²⁵ Ran Charittar and Anr.etc. v. State of Uttar Pardesh, Appeal (Crl.) 329 of 2006 (Supreme Court 04/04/2007)

threw acid on them with an intention to kill them. Lots of injuries were on their faces and bodies. After these severe bodily injuries his wife died and the post-mortem report clarified that the death was caused due to acid attack. The offender was charged under Sec. 302, Sec. 120-B, Sec. 201, Sec. 364 and Sec. 386 of the Indian Penal Code.

Held: The honorable High Court held Ram Charittar and Kishori Lal liable under Sec. 302 and 34 of Indian Penal Code and convicted for imprisonment for life. The appeal was filed in the Supreme Court of India and court dismissed the appeal of release of accused but no compensation was given in this case.

Punishment given in this case is up to mark, because it is life imprisonment. But no compensation is given to the victim and no fine was imposed on the offender. In this case victim became merely a witness and its negative impact on society. This decision was nothing done about the rehabilitation of victim. Because the court not feels the pain of victim and not gives any type of assistance for him.

- **Ramesh Dey and Ors. v. State of West Bengal²²⁶**

Facts of the case: In this case, the enmity arises between accused and victim. Ramesh he was doing an unsuccessful attempt to throw acid on the victim. Due to enmity accused wants to take revenge from it due to that he tried his second attempt under it he goes to her home with his two friends and open the door throw the acid from on her face in front of her mother and son The causes to severe injuries to him or her mother and other members of family. Her son was 11% burned and the old lady was 25% burned. The accused was charged under Sec. 302 read with Sec. 34 and 307 of the penal code of India. She was died due to the result of acid burn injuries.

Held: The Honorable Court held liable to these three accused for offence committed under Sec 302 with Sec. 34 and accused was punished for life imprisonment and also impose the amount of Rs. 5000 on accused.

The amount of fine was low in this case and nothing is provided about the rehabilitation of the victims and the offender. On the medical treatment of victim money is spend in several lakh, which is not affordable for victim. Only sentence is not sufficient to provide justice to victim there is need of compensation also.

- **Jugal Kishore v. The State Govt. of NCT of Delhi²²⁷**

²²⁶ Ramesh Dey and Ors. v. State of West Bengal, 2007 (3) CHN 775

Facts of the case: The prosecution alleges that Meena used to work as a domestic help to sustain herself. The appellant Jugal Kishore was brother-in-law. It was supposed that Jugal Kishore objected Meena to working as a domestic help and he regularly had altercations with her as he asked her to stop working. The Meena on the other hand continued to work. When Meena was at the District Park, Nand Nagri, the Appellant went there and told her that since she did not stop working, he would teach her a lesson. He had a plastic can filled with acid. It was supposed by the prosecution that Jugal Kishore throw acid over Meena's head from a plastic can or container. She shouted for help and the appellant immediately fled the spot. It is further alleged that a Home guard constable who heard about the incident from someone, went to the spot and took Meena to the near hospital. On the way, she told him that Jugal Kishore was liable for the acid attack. It was supposed that the police had received intimation and reached the G.T.B. Hospital where Meena had been taken. Her statement of the accused was recorded this was treated during the trial as dying declaration. The prosecution further alleged that this dying declaration was witnessed by another policeman. In this case offender was charged for offence of Sec. 302 of penal code of India.

Held: Learned Additional Sessions Judge (ASJ) dated 26.05.2010 and the order on sentence dated 31.05.2010 by which he was convicted to undergo imprisonment for life which is punishable for the offence under Sec. 302 Indian Penal Code and sentenced along with other sentences.

In the upper case there is nothing about the compensation to the victim's family which is so necessary to be given. . This judgment is nothing talks about the rehabilitation of victim, because court not feels the pain of victim and not gives any type of assistance to victim for their future. The victim play a role of witness in this case instead of that there is need of victim became the centre of whole processing. Due to ignorant behavior of court victim goes into depression.

- **State v. Ajay Bharti**²²⁸

Facts of the case: On the mid- night of 20/21.1.2006, at about 9:00-9:15 pm one lady Bimla wife of Lal Singh was brought by some rickshaw puller at emergency gate of BSA Hospital . Head Constable Khiladi Ram, who was posted at there as duty he

²²⁷ Jugal Kishor v. State of Govt. of NCT of Delhi, Criminal Appeal No.68/2012 & CrI.M.B.119/2012, (31/05/2010)

²²⁸ State v. Ajay Bharti, CRL.A. 852/2014 (Delhi High Court, 24/09/2014)

found that she was having acid burn injuries as such she was admitted in the hospital. The accused was charged for Sec. 302 and 326 of the penal code of India.

Held: After considering the whole facts and situation of this case honorable Session Court held that Ajay Bharti alias Pandit was sentenced to Life Imprisonment along with fine of two thousand rupees. If in case of non-payment of fine then he shall undergo two months simple imprisonment. The honorable High Court confirmed the lower court punishment.

Punishment given in this case is not up to mark, because it is hard imprisonment. But no compensation is given to the victim and not any type of fine imposed on offender. In this case victim became only fact or witness and its impact on victim very bad. This judgment is nothing talks about the rehabilitation of victim, because court not feels the pain of victim and not gives any type of assistance to victim for their future.

- **State v. Parmod²²⁹**

Facts of the case: Victim in her statement said that on April 19, 2012 she was came back to her home from job near about the time of 7 pm, she reached near kudakhatta gali Telmill, Nabi Karim, accused Parmod was already standing there, to whom she knew previously. It was supposed that as soon as accused passed through her, he had thrown acid upon backside of her body. It was supposed that when she turned back, she saw that accused was running towards Laxman Puri chowk. Due to acid, she started feeling burn itching and her clothes were also burnt and she started weeping due to soreness. It was assumed that in the mean time her mother-in-law Rani Devi also reached there and brought her to RML hospital. The accused was charged under section of 326 of the penal code of India.

Held: The honorable Court held liable the accused after considering the frustrating and justifying factors and punished him for rigorous imprisonment for the time of five years and also imposed the fine of fifty thousand, addition punishment of six month is given for non-payment of fine.

It's a very low amount for the treatment of burns of acid attack and the imprisonment is also insufficient. Because acid violence is heinous offence and the victim faces severe pain for whole life and need huge amount of money for their medical treatment

²²⁹ State v. Parmod, Criminal Appeal No. 562-563 Of 2010

and also need assistance for whole life. So in this case not found any thing which we can say that it is became example or successful to stop acid attack or provide justice to victim in real sense in our nation.

- **Jogendra Singh v. The State of Madhya Pradesh**²³⁰

Facts of the case: Smt. Chandrakala is the grandmother of the deceased. She is an eye witness and injured in the occurrence as a result of acid attack. She sustained acid burn injuries in the occurrence. She deposed in her statement of evidence that she was sleeping along with the deceased and other family members. During the time of night, the accused entered their house and threw acid on the deceased. When she also tried to save the deceased the accused also threw acid on her and other witnesses Raju and Janu. She received acid burn injuries on her back and legs. The deceased received acid burn injuries on her whole body. She was taken to hospital at Porsa from where they were referred to District Hospital, Morena. Deceased died at District Hospital, Morena. It is further deposed by this witness that an electric bulb was on and there was enough light in the room and she identified the accused in the light of the bulb. The accused was charged under Sec. 302, Sec. 325 and Sec. 326 of penal code.

Held: The honorable Supreme Court in the case of Laxmi versus Union of India laid down principle's, Janki Prasad, whose face was disfigured, as mentioned by the lower court in the judgment, would be entitled to receive amount of compensation of Rs.3,00,000 and other two persons namely - Chandrakala and Raju, who received acid injuries, but there was no permanent disability or disfiguration of face, would be permitted to get compensation of Rupees One Lakh Fifty Thousand (1,50,000) each. The above mentioned reimbursement as ordered by this Court within three months shall pay to persons since the date of receipt of copy of the judgment by the Collector Morena. CJM Morena shall inform the above mentioned persons about the judgment of this court and make sure fulfillment of these directions within the time stipulated. Conviction given in this case is up to mark, because it is hard imprisonment. But no compensation is given to the victim and not any type of fine imposed on offender. In this case victim became only fact or witness and its impact on victim very bad. This

²³⁰ Jogendra Singh v. The State of Madhya Pradesh, Criminal Appeal No. 833/2014 (Madhya Pradesh High Court, 12/12/2014)

judgment is nothing talks about the rehabilitation of victim, because court not feels the pain of victim and not gives any type of assistance to victim for their future.

- **Laxmi v. Union of India**²³¹

Facts of the case: Laxmi was not major when she was acted by three persons and one person who was seventeenth years older than Laxmi, who was spurned lover of it and wants marry with her. When Laxmi refused his marriage proposal then he was in angry decide to take revenge from her and attacked on her by acid. It is the incident of Delhi which shocked the whole nation. Laxmi for amendment into penal laws or framing new laws related to acid attack filed a Public Interest Litigation and also demanding for compensation from the government. In his PIL also emphasis on total ban over sale or purchase of acid in markets and giving reference of cases where this offence mostly against women. The main issue in that case any compensation is provided to victim under the Sec. 357 of the Code of Criminal Procedure, 1973. The accused was charged under Sec. 302 and Sec. 34 of the Indian Penal Code, 1860.

Held: The honorable court held liable to all the accused and punished under Sec. 302 of Indian Penal Code, 1860 for rigorous imprisonment for life. Then the accused appealed in the honorable Supreme Court of India where they got the benefit of Exception 4 to Sec. 300 and charges of one accused changes under Sec. 304 and convicted him to the imprisonment of five years.

Guidelines given by Supreme Court to Prevent Acid Attack: In this case honorable Supreme Court give guidelines related to sale or purchase of acid in India for prevent of acid attack are:

- The Union and States Governments shall work towards making the offences cognizable and non-bailable under the Poison Act, 1919.
- The rules existing in the states to control the sale or purchase of acid are not sufficient until such rules implemented or framed effectively. The officers of the states shall ensures the conformity of directions:
 - Sale of acid attack is totally banned in the State unless maintain a register where he will record the sale of acid attack, which also include the person deals of buyer etc.
 - The buyer has shown these things then seller sell acid:

²³¹ Laxmi v. Union of India, AIR (2014) SCC (4) 427

- ❖ The address of the person on a photo ID which is issued by the government.
- ❖ Give details and the reason or purpose for buying acid.
- The concerned Sub-Divisional Magistrate (SDM) within 15 days acknowledged the all the stocks of seller.
- Who is minor or below the age of 18 years, the acid shall not be sold to that individual.
- The concerned SDM to take possession of the undeclared reserve stock of acid and duly impose fine on such seller up to Rs. 50,000/-
- Who commits contravene of any of the above directions the concerned SDM may impose fine up to Rs. 50,000/- on any person.
- The departments of Public Sector Undertakings, who are required to keep and store acid and the educational institutions, research laboratories, hospitals etc. shall follow the following guidelines:
 - The register shall be filed with the concerned SDM and the same record register of usage of acid is maintained.
 - A person for possession and safe keeping of acid in their premises shall be made responsible.
 - There shall be mandatory inspection of the students or personnel before leaving the laboratories place of storage where acid is used and the acid shall be stored under the administration of this person.
- For taking suitable action for infringe or evade or violation of the above directions responsibility vested to the concerned SDM.²³²

The guidelines given by the court is very excellent and suggested that make crime non-bailable under the penal laws and guidelines are provided by the Court in this case like limitations on sell purchase of acid.

The court was discussed the matter whether it is covered under the Sec. 357 of the Code of Criminal Procedure under it provide additional compensation to the victim of acid attack. The honorable court observed that punishment given to any offender is changed according to the nature of the offence and intensity of offence or use of weapons during the time of offence committed. The case is mainly on the evidences which are collected by the investigation officers and the witness's but lack of

²³² Ibid

evidence the nature of offence is changed. The honorable court said that it is not necessary every time mind to provide compensation to the victim. There is need of make rules regarding the victim compensation in the criminal justice system. It is the responsibility of court to provide adequate justice and provide compensation to victim. Court in India to provide compensation also to the heirs of sufferer and their parents.

- **Parivartan Kendra v. Union of India**²³³

Facts of the case: The petitioner has prayed to honorable Court to compensate Rs. 5 lakh to the victim's family which used for their treatment and also given 10 lakh rupees in form of compensation, which used for the treatment of victim's minor sister by issuance of writ of mandamus to the State of Bihar. The petitioner has also prayed for a good treatment in hospital and other major guidelines regarding the treatment of suffer of acid attack and also directed to all the hospitals either they are public or private to provide medical assistance to victim of acid attack. The treatment provided shall be free of cost and also made policy to educate the children from primary level education regarding the serious of offence like acid attack which is done against woman.

Held: The honorable Supreme Court held that the amount of compensation is 13 lakh rupees to victims out of which 10 lakh given to Chanchal and the 3 lakh given to the Sonam. The court ordered to Government of Bihar State within one month 5 lakh given to Chanchal and her family and the 8 lakh rupees remaining given in three months in form of victim compensation. The State Government take the responsibility of the medical treatment of victims of acid attack and as per guidelines of Laxmi case provide rehabilitation to the victims of acid attack.

This case became the landmark case of Indian history, because after this case lots of changes in our penal laws. This a huge amount of compensation provided to the victims of the acid attack. In this case real form of justice provided to the victim, both as emotional and financial satisfactions to them. It is case where victim became the centre of whole proceeding and justice given according to their needs.

- **Jithendra Begra and Others v. The State represented by Inspector of Police, Chennai**²³⁴

²³³ Parivarthan Kendra v. Union of India, Writ Petition (Civil) No. 867/2013 (Supreme Court, 07/12/2015)

Facts of the case: In this case acid thrown on two sisters, Nirmala had lost eye sight of her right eye and also suffered major acid burns on the face and body and so also younger sister, suffered major acid burns on her neck, shoulder and chest. The accused was charged under section 326 of penal code.

Held: The honourable Court is of the considered view that they are also permitted to get compensation, which is provided under section 357A of the Code of Criminal Procedure. Therefore court order to pay one lakh rupees to State Government given to Nirmala and a sum of Rupees Twenty Five Thousand Only (25,000) to her younger sister as compensation within a period of three months from the date of receiving of a copy of this judgment.

In this case I found that the compensation amount paid is not sufficient for treatment of the victim the amount should be like as the expenses of the treatment. This imposes bad impact on our society.

- **Anju v. State of Haryana and Others**²³⁵

Facts of the case: The petitioner, who has suffered 40% burn injuries upon her body, has filed this petition for reimbursement of medical expenses, financial assistance and rehabilitation. The respondents have filed reply dated 05.03.2016, in which it is categorically averred that though the petitioner is a sufferer of acid attack prior to the notification dated 02.05.2011 and has been availing the treatment from Sony Burn and Plastic Surgery Hospital, Hisar, which is not a government approved hospital, but relaxation has been granted by the Government by taking a sympathetic view, holding the petitioner eligible as an acid attack victim after 02.05.2011 and the hospital from where she has been taking treatment as a Government approved hospital.

Held: The honourable Court held that as the financial assistance is concerned, it is recorded in the order of the Secretary, District Legal Services Authority, Hisar that `50,000/- have already been paid to the petitioner besides `25,000/-. The petitioner has, thus, received `75,000/- towards reimbursement. As per the scheme dated

²³⁴ Jithendra Bagra & Others v. The State represented by Police of Chennai, Criminal Appeal No. 86/2013 (Madras High Court, 23/03/2016)

²³⁵ Anju v. State of Haryana and Others, CWP No.21842 of 2015 (Punjab and Haryana High Court, 04/04/2016)

16.01.2014, the persons like the petitioner would be entitled to 3,00,000/- as maximum compensation under the Haryana Victim Compensation Scheme of Home Department notified on 03.04.2013. Hence, in any case, the petitioner is entitled to the amount of 3,00,000/- because of defacement caused by the acid attack.

Even there are number of acid attacks are found in India but for what reason acid is not banned in real sense in our country. Because our government not serious about to ban the sale or purchase of acid at that time, now the time is changed totally ban on sale or purchase of it except industrial or scientific use. The accused charged under Sec. 326 and 307 under it justice is provide to victim. In this case tries to effort provide victim compensation up to that level which helpful for her medical treatment.

- **Simran @ Meena khan and others v. State & ORS.**²³⁶

Facts of the case: Annu Mukherjee (victim) a young girl aged 25 years, worked as a dancer in Rajdoot Hotel, Bhogal. Accused also worked there as a dancer with other girls. About one month earlier to the incident, a fight had taken place between victim and accused as latter was jealous of the former as the former was more beautiful and was a good dancer from them. During that fight accused threatened her that if she quarrelled with her she would get acid thrown at her and would get her murdered. The offenders were charged under Sec. 326 and 307 of the penal code of India.

Held: The honourable Court held liable all the offenders under the Sec. 307 and Sec. 326 of the Indian Penal Code and punished them. The term of punishment is five year of rigorous imprisonment and also imposed fine of one lakh rupees, if in condition of non-payment of fine then punished for six months addition to sentence. Further, it was directed that 80% of total fine that is Rs. 2 lakh be released to sufferer as compensation for her welfare.

The honorable High Court of Delhi held that in this case within the time period of fifteen days DSLSA (Delhi State Legal Service Authority) pay the amount of compensation to the victim. The court said after pay one lakh rupees then within two months pay the remaining amount of two lakh rupees paid to victim.

Money never matters to heal the sufferings of persons. But here as same in other cases no talk about the rehabilitation and restoration is provided. But here Court much

²³⁶ Simran @ Meena Khan and Others v. State and Ors, CRL. A. 179/2011 (Delhi High Court, 26/05/2016)

concerned about compensation as comparative to other cases and prescribes the time period of payment of amount of compensation to victim.

- **Sri Bijan Behari Maiti v. The State Of West Bengal & Ors**²³⁷

Facts: The petitioner is a victim of acid attack and had suffered serious injuries for which he was required to undergo medical treatment including skin grafting. The accused were charged under the Sec. 326, Sec. 307 and Sec. 120B.

Held: The honorable Court held that, Under such circumstances this writ petition directing the respondent authorities more particularly, the Chief Secretary of the State of West Bengal give a total amount of rupees 3,00,000/- to the writ petitioner, an acid attack victim, and out of the said amount within fifteen days a sum of Rs.1,00,000/- be paid from the date of communication of this order and subsequently the balance amount be paid within two months as prescribed by the Apex Court in its order passed in connection with Laxmi case. In the event the payment schedule is not adhered to by the respondent authorities the amount shall carry interest of 15 per cent accrual of liability from the date of payment.

In this case, I found there is nothing given by judiciary in regard to restorative justice or rehabilitation of offender. But compensation is provided for treatment of victim which is helpful in their future life and the amount is not such form which makes its life and stress free, here need of enhancement of increase in victim compensation.

- **Ankur Panwar v. The State**²³⁸

Facts of the case: Preeti Rathi was an intelligent girl and she wants a nursing job with the ministry of defence at the INHS Asvini Hospital. She was prepared for it secured that job in Colaba. Panwar wants to marry with her and he was not happy from the job of Rathi, because due to job she was shifting to Mumbai. Rathi wants makes her carrier that why she refusal his marriage proposal which makes Panwar angry and he wants to take revenge from it. In the end on date 1 May, 2013 Rathi shifts to Mumbai.

²³⁷ Sri Bijan Behari Maiti v. The State of West Bengal & Ors., W.P. 13906 (W) of 2016 (Calcutta High Court, 16/08/2016)

²³⁸ Ankur Panwar v. State, R. Samervall, *Ankur Panwar sentenced to death in Preeti Rathi acid attack and murder case*, The Times of India, (08/09/2016) available at <http://timesofindia.indiatimes.com/city/mumbai/Ankur-Panwar-sentenced-to-death-in-Preeti-Rathi-acid-attack-and-murder-case/articleshow/54170480.cms> last seen on 17/04/2017

Panwar wants take revenge from it he followed her from Delhi with a chemical material. When Rathi reached Bandra railway station then Parwar came with that acidic material and poured on the face of her on May 2, 2013. Due to that she faces major acid burns on face or body and three persons also injured in this incident. He also some few acid burns on his hand. Rathi was admitted to Madeena Hospital for first aid then referred to Gurunanak Hospital after initial treatment. Rathi conditions became worst gradually then she was shifted to Bombay Hospital where she succumbed to her injuries on June 1, 2013. Then she died sue organ failure.

Rathi's neighbour Pawankumar Gahalon firstly arrested by Mumbai Railway Police then relised in 2014 because no evidence was found to link him to the crime. Later, Mumbai crime branch arrested Panwar and The police have charged him under Section 302, 326A and 326B of Indian Penal Code, 1860.

Held: This case was prosecuted in the special women's court. The honourable court held the accused in the guilty of murder Preeti Rathi. The court convicted the Ankur Panwar for death sentence.

In this case researcher found that there is no proper victim compensation is given, even if the victim is died but the compensation should be provided to parents or dependents. The punishment should become more severe in such cases. The punitive punishment is an exemplary punishment but where is compensation nowhere mentioned, so there is need of change of attitude of criminal justice system towards victim.

- **Amritpal kaur and others v. The state of Punjab²³⁹**

Facts of the case: On December 7, 2013, Harpreet had gone to a beauty salon in Sarabha Nagar for her bridal make-up when one of the accused barged in and threw acid on her. Three women, including two beauticians working at the parlour, had sustained injuries in the attack. The victim's mother, who was outside the salon, had noted the number of the Zen car in which the accused had come.

²³⁹ Amritpal Kaur and Others v. The State of Punjab, Decided on 21/12/2016, *Ludhiana Salon Acid Attack: Court gives life imprisonment to Six*, Hindustan Times (22/12/016) available at <http://www.hindustantimes.com/punjab/ludhiana-salon-acid-attack-court-gives-life-term-to-six/story-nAxykl6hjMk3jckwhC4ZP.html> last seen on 19/04/2017

The victim was hurried to the DMC with 45% burns on her face, chest, eyes and abdomen. On December 12, 2013 she was shifted to National Burns Centre in Mumbai for treatment. However, Harpreet lost her battle of life on December 27. After this incident, the open sale of acid was banned in the Ludhiana city.

Held: The Court of additional district and session's judge sentenced six accused, in which one is women, to life imprisonment. The court said the two main conspirators Amritpal Kaur and Parvinder have been sentenced to life imprisonment of rigorous form and total punishment not less than 25 years each. The convicted Amritpal Kaur was the divorced wife of the groom's elder brother. The honourable court also imposed a fine of Rs 9.6 lakh on all accused and ordered a reimbursement of Rs 6 lakh to the parents of the victim Harpreet Kaur and another amount of compensation paid to saloon workers who are injured in this acid attack.

The offenders were charged under section 326, 302, of the penal code of India. This was the case where the amount of compensation was proper awarded by the court and it impact on society very good which sets example for society. In India, there is needs of this type of punishment where proper punishment given to the offenders and also huge amount of compensation given to the victim.

In history not any provision which deals with acid attack but now these days provision are in our penal law which specially deals with it. In history a case where only 30 days punishment given to the offender but now conditions are changed totally in Ankur Panwar case death sentence given by Session court. Now the conditions are changed in case of acid attack compensation given in several lakh to victim from the pocket of wrongdoer but not so happened in past no compensation given to victim only the court imposed fine in few thousands or hundreds on offender. Judiciary tries to rehabilitate the both victim and offender, it provide free legal assistance to victim and also other assistances. Like in Laxmi case judiciary give guidelines regarding sale and purchase need of gives more guidelines regarding their implementation and give direction to provide enhancement of compensation or medical treatment of victim.

Indian judiciary have been adopted the method of punishment which is mixture of three theories of punishment. Judiciary tries to adopt deterrent theory under it give harsh punishment like imprisonment for whole life and expiation theory under it

judiciary wants to give compensation to victim from the pocket of wrongdoer and also used the reformatory theory under it judiciary tries to reform the offender and rehabilitate the victim. The mixture of these theories is adopted by judiciary to punish the wrongdoer in acid attack cases. Restorative justice is highly successful and newly emerging concept under it judiciary restore, rebuilt or rehabilitate the both victim and offender and other thing are to provide compensation to victim, additionally offender takes the responsibility of sufferer.

Chapter- 6: Restorative Justice and Rehabilitation of Victim in the Society

Man is a social animal and it may be victim or offender in acid attack. Victim and offender at the end accommodate the society. Even a single act of any individual has huge impact on our society. If a victim not got proper justice then off course it has bad impact on our society. The new concept of victim compensation in matter related to acid attack in India became good way to provide justice to victim. In India courts only concentrate on offender's punishment nothing about the victim, but now time is changed everyone knows huge amount of money spend on medical treatment of victim. The new concept shows another way to rehabilitate the victim as well as offender also. Restorative justice system realizes the offender about their crime and give chance to him for recover from that sin to compensate the victim. This type of system reform both victim as well as offender.

6.1. Irreversible Nature of Harm Caused by Acid Attacks:

Acidic substances are used for the purpose to harm other individual. Mostly the victims of the acid attack are women and infants. Mostly face or head is mostly attacked by the offender. The shocking affects are seen of acid attack in our body that is blindness, disfigurement of face and other parts of body. Sometimes we see, due to acid attack few parts of body stop working like not stand without the help of other and don't without the support etc.²⁴⁰

Violence of acid rarely slaughter because brutal bodily, mental and societal scar and sufferers are repeatedly missing with no authorized alternative, partial admittance to health or mental support, and lacking to assist them. It's impossible to give support to that sufferer need during a solo intercession like a cleft palate operation or the building of a water-well. Victim of acid require long-term access to a holistic course of medical assistance, healing, and advocacy for the recreation of their life that will be provided by locals.

Acid violence's Attacks of acid are universal phenomenon's that are unlimited and not bound to a particular area, race or religion. They happen in lots of nations in Asia, African Continent, Europe and the Middle East, and in other regions of world.

The acid attack firstly recognised in Bangladesh offence against women gradually it became the offence against both men and women but mostly against women and

²⁴⁰ Supra 39 at 9

children. Many Asian nations reporting of acid attack is increased gradually which is another reason is that awareness in people.²⁴¹

6.1.1 Impact of acid attack on the survivors:

However, there appears to be a substantive enhance in the number of acid attacks that are being committed in recent years due to various reasons. Acid attacks are seen as one of the most inhuman crimes as it causes long-lasting suffering to the injured party. As acid melts fleshy tissue and even the bones of an individual, it causes an incomparable level of pain to the wounded and leaves her mutilated and scarred as well as giving everlasting injury at times such as blindness. Sufferers face lifetime bodily, social, mental and economic consequences. Some effects of acid are:

- Mordant things like acids are cause to observable necrosis of individual skin tissue and a metal in high concentration will even oxidize.
- Grave poisoning; flaming and grave injury are caused due to the result of contact with strong acids.
- Frequently accessible acids include Sulphuric acid, Hydrofluoric acid and Hydrochloric acid etc. are used in laboratories and factories.
- The attacks of acid skin became the first organ which came into the contact of acid that caused to reddishness or acid burns. In inhumane incidents victim sometimes die due to shock of acid attack. In some case hairs are lost, lungs infection and other severe injuries on human body.²⁴²
- **The grievances and bodily consequences of acid attack:**²⁴³
 - Acid effects the upper two layers of skin these are the fat and muscle beneath them and sometimes it also melts the bones of human body too.
 - The power of the acid and the time period of contact became the causing of severe wound, more strong acid more deep wound and contact with skin long time then deep wound. Acid burns gradually until it is not washed off with liquid like milk.
 - If spray on face of an individual then it burns mouth ,eyes, nose and ears which leads to permanent hair loss or lips burns and disfigurement of face etc.

²⁴¹ Ibid

²⁴² Ibid at 10

²⁴³ Ibid at 11

- Acid brutally damage the eyes which cause to blindness and bone or skull is melted in very way when acid attack on arms, legs, cheeks, chin and forehead.
 - Breathing failure became the key problem in acid attack which creates problem when sufferer inhale the vapour of acid their nature is poisonous that causes to lung's infection.
 - When repair started of acid attack's burns then their scar came on skin and cause to stretch the skin tissues or disfigurement of face. The problem faced by victim not to open his mouth to longer or not close eyes to longer etc.
- **Psychological Consequences:**

Sufferer's of attacks do not only go through the severe physical suffering but also go through the shocking changes in the mode they feel and think. Psychological shock is caused by both the fright sufferers suffer during the attack, as they feel their body burning away, and after the attack by the deformity or disabilities that they have to live with that trauma for the rest of their lives. Sufferers suffer psychosomatic symptoms such as sadness, sleeplessness, nightmares, terror about another attack and panic about facing the outer world, headaches, weakness and drowsiness, obscurity in focussed and remembering things, etc. They feel perpetually depressed, humiliated, nervous, and alone.²⁴⁴

Sufferers undergo harsh psychological symptoms for years, if not forever, because they are reminded every day of their bodily scars.²⁴⁵ The feeling of lack of expectation and significance may never go away them.²⁴⁶

- **Economic and social Consequences:**

Sufferers face a lifetime of biasness from the public and they become alone.²⁴⁷ They are embarrassed that people may look intently or laugh at them and may

²⁴⁴ Supra 39 at 13

²⁴⁵ P. Menon, S. Vashishtha, *Vitriolage & India- The Modern Weapon of Revenge*, 2, International Journal of Humanities and Social Science Invention, 1, 2, (2013) available at [http://www.ijhssi.org/papers/v2\(10\)/Version-2/A0210020109.pdf](http://www.ijhssi.org/papers/v2(10)/Version-2/A0210020109.pdf), last seen on 07/04/2017

²⁴⁶ Ms. N. Yeasmeen, *Acid Attack in the Back Drop of India and Criminal Amendment Act, 2013*, 4, International Journal of Humanities and Social Science Invention, 6, 8-9, (2015) available at [http://www.ijhssi.org/papers/v4\(1\)/Version-1/C0410106013.pdf](http://www.ijhssi.org/papers/v4(1)/Version-1/C0410106013.pdf), last seen on 05/04/2017

²⁴⁷ Supra 245 at 3

hesitate to leave their houses fearing an unpleasant reaction from the outer world.²⁴⁸

Sufferers those who are not married are not likely not to get married and those sufferers who have got grave disabilities because of an acid attack, like blindness, will not find jobs and not earned a single rupee. Discrimination from other people of society, or disabilities such as blindness, makes it very tricky for sufferers to fend for themselves and they become totally dependent on other people or family members for food and money.²⁴⁹

6.1.2. Stories of Acid attack Survivors:

‘Life after the Acid attack is like death every day’

- Mandeep Kaur :

A girl named Mandeep kaur faced an acid attack when she was pursuing her nursing graduation. She lost her eye in that attack. Her husband with whom she was seeking divorce from her done such a brutal act. She was undergone 10 reconstructive surgeries.

They were compensated with Rs. 3 lakh only which was not enough for the treatment of acid burns. She says during an interview with Hindustan times that, ‘I have stopped planning my life now; I am living day to day and hoping he will be hanged’.²⁵⁰

- Rajinder Kaur:

She was just 20 years old when she was attacked with acid. She was attacked for the reason that she had complaint about the misbehaviour from a colleague.

After attack she faces so many difficulties from the society prospective. Because of having fear from the comments of the society she mostly refused to go outside her home and always covered her face with dupatta.²⁵¹

²⁴⁸ Supra 39 at 14

²⁴⁹ Supra 246 at 9

²⁵⁰ D.Goyal, *A love marriage that ends into Acid Attack*, The Indian Express, (26/10/2016) available at <http://indianexpress.com/article/india/india-news-india/a-love-marriage-that-ended-in-acid-attack-man-jailed-for-life-woman-awaiting-10-more-surgeries-on-her-disfigured-face-3726906/> last seen on 10/04/2017

²⁵¹ *Acid Attack Survivor Series*, The Hindustan Times, 5 (24/09/2013)

- Annu Mukherjee:

A hotel dancer was attacked with acid by a jealous colleague. She lost her eye sight during the attack. She said that she can't even see but she still dances. She added that her only hope is that she wants to go on Amitabh Bachan's show KSC, same as another acid attack victim Sonali Mukherjee. So that she can win 20 lakh for her treatment.²⁵²

- Hassena Hussain:

It's the first acid attack in Karnatka. She got severe injuries on her body and lost her eye sight. After hurting physically and emotionally she thinks of dead.²⁵³

- Meena Soni:

Her Husband attack over her, she was very emotionally depressed with the attitude of the society after the acid attack. She said, ' people don't recognise her face anymore, those who spoil a girl's face, her whole life is spoiled'.²⁵⁴

- Sonali Mukherjee:

She was attacked with acid when she was just 18 years. She got very severe injuries. During an interview she said give me justice or let me die. Her words easily describe her situation in her life.²⁵⁵

- Lalita Benbani:²⁵⁶

²⁵² A. Mathur, *Acid Attack survivor Anu, Everyonesays we will help, but no one step forward.*(06/06/2016), The Indian Express, available at

<http://indianexpress.com/article/cities/delhi/acid-attack-survivor-anu-everyone-says-we-will-help-but-no-one-ever-steps-forward-2836683/> last seen on 11/04/2017

²⁵³ M. Ammembaa, *I was seen as a only Commodity: Acid Attack Survivor Hassena Hussain*, (30/06/2013) Hindustan Times, available at <http://www.hindustantimes.com/india/i-was-seen-only-as-a-commodity-acid-attack-survivor-haseena-hussain/story-OSJNGmLPWbzDZqQIKOcOGP.html> last seen on 12/04/2017

²⁵⁴ R. Srivastava, *My husband attacks me and committed suicide: Acid Attack Survivor Meena Soni*, (22/06/2013) Hindustan Times, available at <http://www.hindustantimes.com/india/my-husband-attacked-me-and-committed-suicide-acid-attack-survivor-meena-soni/story-CEJPAXLtr8wBuggGvgK9UJ.html> last seen on 15/04/2017

²⁵⁵ A. ST. Das, *Jharkand acid attack victim Sonali Mukarjee became mother, shared joy with husband, family*, The New Indian Express, (22/10/2016) available at <http://www.newindianexpress.com/nation/2016/dec/21/jharkhand-acid-attack-victim-sonali-mukherjee-becomes-mother-shares-joy-with-husband-family-1551689.html> last seen on 22/04/2017

She was just 23 years old when she was attacked with acid. Her condition was very miserable but with physiological treatment she recovered little bit. She says that before

Joining the Ngo of Alok dixit she was extremely very shy, but she don't have that luxury anymore.' She added that she feels the liquid seeping into her skin, causing it to be melt off. This shows that not even now her scars on her heart of acid attack goes.

- Rashma Qureshi

She was attacks with acid while she was going with her sister at railway station. Her sister said the burs of acid are like hell and burns hospital is like hell on the earth. Charred bodies would be rolls in.²⁵⁷

- Shaboo:

She faced an acid attack when she was just one month old resting on her mother's lap. She is still unaware of the reason the question "why?" remains unanswered. The attack killed her mother and sentenced her father to jail. Her brother was adopted by an aunt, who refused to take Shaboo in because of the stigma associated with victims of acid attacks. "It is very difficult to live in an orphanage," Shaboo says.²⁵⁸

- Dolly:

Fourteen year old Dolly survived an acid attack. Her attacker, 25 years old Pardeep, had been pressuring her to enter into a sexual relationship with him. Dolly lives with her parents and four siblings live in a rental home at Sultanganj Ki Pulia. Her mother works as a domestic help and her father is a house painter. Dolly has not yet received any relief or help from the administration and all the expenses in her treatment since the attack have been

²⁵⁶ H. Gill, K. Dias, *Indian Acid Attack Victims share their Stories*, Aljazeera, (10/03/2016) available at <http://www.aljazeera.com/indepth/features/2016/03/indian-acid-attack-victims-share-stories-160309074926141.html> last seen on 17/04/2017

²⁵⁷ H. Goel, *Reshma Qureshi's journey: From Acid Attack Survivor to a New York Fashion Week Model*, Indiatoday, (09/09/2016) available at <http://indiatoday.intoday.in/story/reshma-qureshi-acid-attack-survivor-life-story-new-york-fashion-week-model-lifest/1/760398.html> last seen on 18/04/2017

²⁵⁸ H. Gill, K. Dias, *Indian Acid Attack Victims share their Stories*, Aljazeera, (10/03/2016) available at <http://www.aljazeera.com/indepth/features/2016/03/indian-acid-attack-victims-share-stories-160309074926141.html> last seen on 17/04/2017

borne by her family. Despite treatment, her nostrils remains disfigures, causing her crippling problems with her breathing and many other medical problems are faced by her.

"You and your family say you want to marry me. You keep on giving false statements in court. Since the day of attack, I imprisoned myself. You don't have a clue how I coped. My elder sisters stopped going to school, got married early. I stopped studying. I kept thinking it was my entire fault. I forgive you. In the past, sometimes, I have wondered how it would be to empty a full bottle of acid on you. My hands would tremble. You burnt my face, but not my will to live. You can't throw acid on that. I will fight this case in court, not only for myself but for other girls, so they do not lose their courage before people like you," Dolly writes in a statement addressed to her attacker.²⁵⁹

- Harpreet Kaur:

She was attacked with acid on the day of her marriage. She was very severely injured and lost her life with these injuries. Her parents are warded with the compensation but the sufferings from which they are gone through are not tolerable. Her mother during an interview said money or compensation can't bring her daughter back.²⁶⁰

- Kangna's sister Rangoli:

Actress kangna's sister Rangoli was attack with acid when she was studying and engaged with army officer. She was passes through 57 surgeries lost her one ear and 90% vision of one eye. She said that she never see mirror for the time period of three months but when see the mirror then goes to mental trauma. After attack she married to that army officer and she said he became her inspiration, he always support me in all the works. Now at that time Rangoli manage the all film works of Kangna, she was set up example for

²⁵⁹ A. Dev, *14-yr-old writer to men who attacked her with acid*, The Times of India, (02/01/2015) available at <http://timesofindia.indiatimes.com/city/agra/14-yr-old-writes-to-man-who-attacked-her-with-acid/articleshow/45735331.cms> last seen on 18/04/217

²⁶⁰ *Ludhiana Salon Acid Attack: Court gives life imprisonment to Six*, Hindustan Times, (22/12/2016) available at <http://www.hindustantimes.com/punjab/ludhiana-salon-acid-attack-court-gives-life-term-to-six/story-nAxykl6hjMk3jckwhC4ZP.html> last seen on 19/04/2017

survivors of acid attack. Kangna wants makes film on life of Rangoli and also play the role of Rangoli in the movie.²⁶¹

6.1.3. Treatment of acid injuries:²⁶²

The burned skin was washed minimum 60 minutes with milk and to wash maximum possible to wash, this is the initial task is done during the time of acid attack. In emergency hospital first cure by cleaning and bandaging the acid burns and checks the breathing problem due to inhale of vapours of acid.

Due to dead tissue collected around the wounds and ruined the skin which may causes to infection that is the main hazard in treatment of acid attack. So the first thing is that to neat and clean the wounds because infection can attack on wounds any time after few months or weeks. The eyes are very sensitive parts of our face and maximum chances of infection is in eyes, so there is need of most cure of the eyes and the wounds are regularly cleaned. If there is any risk then not waste the time then do the surgery otherwise victim became blind due to infection.²⁶³

Eating adequate food is very important because sufferer bodies need a lot of energy To fight with infection and repair the wounds then there is need of eat healthy food which gives the energy to the sufferer body. If burns on mouth then it are very difficult to eat food because these wound repaired in three to twelve months. Doctor needs many operations or surgeries to repair from acid attack but there are many scars came on the face of the victim that will only removed by these surgeries. Particular elastic bandages can radically lessen the thickness and stiffness of scars and to minimize wounds lacking in movements from scarring needs physical therapy for the period of long time.²⁶⁴

The sufferer may need many surgeries over the time period of two to three years. The wounds have repaired fully as much as possible and doing treatment for attaining the same position which is before the acid attack.²⁶⁵

6.2. Methods adopted by Law to Control Acid Attack Incidents

Acid attacks increase day by day so there is need of appropriate methods adopted by courts and other authorities for the implementation of law and creates balance in our

²⁶¹ *Kangana's sister Rangoli on Acid Attack: I underwent 57 surgeries*, Hindustan Times, (09/03/2016) available at <http://www.hindustantimes.com/bollywood/kangana-s-sister-rangoli-opens-up-about-acid-attack/story-xaYMFm8ppfPh9CPJEx9KQJ.html> last seen on 21/04/2017

²⁶² Supra 39 at 11

²⁶³ Ibid at 12

²⁶⁴ Ibid at 13

²⁶⁵ Supra 244 at 8

society. Role of judiciary very important for tackling the victim as well as offender also, both are parts of society no one be ignored by judiciary. Punishment was the first method which was adopted by our courts under it offender was punished after that imposition of fine. New concept of compensation was also another method under it try to provide compensation to victim. Rehabilitation of victim as well as offender is very necessary for our society.

6.2.1. Punitive methods:

In the beginning of human civilization, individuals fought with each other for food, sex and existence. Gradually development of society court system developed where King do justice after that democracy came where judiciary became independent. When judiciary became independent court give punishment if any person do wrong in society. In simple words punishment means a court on name of state penalize the wrongdoer or punish an individual who done a wrongful act.

- **Purpose of punishment:** The main purpose of punishment is that to maintain peace in society, create deter in mind of individuals they never think about done the same offence, it also create apprehension in minds of law-abiding citizens and also try to reform the wrongdoer, because he was also a part of society.²⁶⁶
- **Theories of punishment:** For punishing the wrongdoer there are mainly five types of theories recognised by penologists. These theories are different methods to give punishment and reformation of criminals. These main five theories are:²⁶⁷

The Deterrent Theory

The Retributive Theory

The Expiatory Theory

The Preventative Theory

The Reformatory Theory

- **The Deterrent Theory:** Deter means “abstain from action.” This theory says to impose severe and strict punishment depending upon the nature of offences. Capital punishments, forfeiture of the property of the wrongdoer, imprisonment, etc. are the punishments suggested by this theory. Main

²⁶⁶ Supra 245 at 13

²⁶⁷ Supra 171 at 17

purpose of this theory to create fear in the mind of people and they never think or do that particular crime.²⁶⁸

- **The Retributive Theory:** Retributive means ‘punitive’ or to pay back. This theory says to return the same injury or harm or damages to the wrongdoer which he had committed against the victim. It says “a tooth for a tooth” and “an eye for an eye”. Most of the nations of world not adopt this theory but the Islamic nations this theory is existed in these days also. According to them victim will be satisfied psychological because the injury given to that wrongdoer.²⁶⁹
- **The Expiation Theory:** Expiation means “the act of expiating, reparation, compensation, amends.” This theory says that compensation is awarded to the victim from the pocket of wrongdoer. When wrongdoer pays the compensation to victim from his pocket then he punished and is prevented from doing such heinous offence in his remaining life. It became a lesson for society as well as wrongdoer.²⁷⁰
- **The Preventive Theory:** This theory based on the concept of prevention is better than cure. This theory says that to imprison all the criminal or wrongdoer and keep them at a long and for distance from the society by this method society protect from the crime. This theory says that state should take precautionary steps to protect the society and to prevent the crimes. But this theory not successful because through this method crime is not stopped in society.²⁷¹
- **The Reformatory Theory:** This theory based on the concept “hate the sin, but not sinner” which is said by Mahatma Gandhi. The criminal was also a human being so no one born criminal the suctions make a person criminal. So there is chance to reform the criminal by using various methods. This theory says that criminal is the product of society so he can be reformed by using liberal methods. This theory is highly popular now these days in our society. Because this theory give chances to a wrongdoer to start a new life with reformed way.²⁷²

²⁶⁸ Ibid at 18

²⁶⁹ Ibid at 19

²⁷⁰ Ibid at 20

²⁷¹ Ibid at 22

²⁷² Ibid at 22-23

- **Types of Punishment:** Section 53²⁷³ of the penal code of India deals with the types of punishment. In the beginning there were six types of punishment but due to time a third punishment “Penal Servitude” was removed from the penal code. Now mainly five punishments exist at that time are:²⁷⁴
 - Death
 - Imprisonment for life
 - Imprisonment of two types: Rigorous imprisonment and Simple imprisonment
 - Forfeiture of property
 - fine
- **Punishment in acid attack:** The punishment given in offence of acid attack is minimum ten years and which extends to the imprisonment for life. Now this punishment given under Sec. 326A was very hard and it’s suitable for this heinous offence. In this punishment mainly deterrent theory was applied that means to create terror in minds of wrongdoer and no other people done the same offence. In early days not such type of punishment given to offender of acid attack, but after amendment it was increased in punishment and chances to decreases inn number of cases of acid attack.²⁷⁵

6.2.2 Imposition of Fine on Offenders:

Fine is another type of punishment which is imposed on the offender for their wrongful act. In our penal code the amount of fine imposed is only in thousands, it is not sufficient according to their crime. But in the Section 326A a huge amount of fine imposed on the wrongdoer for their wrongful act. The court can impose fine with or without imprisonment. Fine is such type of punishment under which offender pays it from his pocket then he realize about his offence. In acid attack lots of money spent

²⁷³ S. 53: Punishments.—The punishments to which offenders are liable under the provisions of this Code are—

(First)— Death;

(Secondly)—Imprisonment for life;

(Fourth)—Imprisonment, which is of two descriptions, namely:—

(1) Rigorous, that is, with hard labour;

(2) Simple;

(Fifth)—Forfeiture of property;

(Sixth) —Fine.

²⁷⁴ Supra 171 at 25

²⁷⁵ S. 326A, The India Penal Code, 1860.

on medical treatment of victim, so the victim has need of money and help which was given from the pocket of offender also.²⁷⁶

6.2.3 New emerging concept of compensation and rehabilitation:

In our criminal justice system a new concept of compensation is emerged, this is very successful to provide assistance to the victim. Sec. 357A deals with the scheme of victim compensation under it state governments provide compensation to victims of acid attack and also provide free medical assistance during the time acid attack. The concept of compensation was helpful in rehabilitation of victim also.²⁷⁷

This is expanding the horizons of Indian criminal justice system particular in case related to acid attack, because they not only provide the compensation but also doing efforts for rehabilitation of victim in this concept. Prior criminal amendment of 2013 of no such provision for rehabilitation of victim as detailed manner but now the time is changed the fine imposed on offender is also pay to victim. Offender also pay for the medical treatment of victim and if the compensation not up to mark then the state government pay minimum three lakh to the victim of acid attack.²⁷⁸ This concept changes the meaning of justice because now victim became the centre of whole case prior he was only victim or witness of the offence. The expanding of the horizons of justice helpful in rehabilitation of victim is:

- Compensation provided to victim is helpful for medical treatment of victim, because in medical treatment need of huge amount of money.
- Compensation pay from the pocket of offender then it realise to offender about their sinful act.
- This type of assistance create confidence in victim and helpful to retain their face in prior condition.
- Acid attack creates trauma in the mind of victim and it is removed by giving hard punishment to offender and compensation it is helpful in rehabilitation of victim.
- This concept should be helpful when the basic necessity of victim was fulfilled by compensation then it create confidence in mind of victim to face the society.²⁷⁹

²⁷⁶ Ibid

²⁷⁷ Supra 44 at 101

²⁷⁸ Supra 205 at 8

²⁷⁹ Ibid

6.3. Expanding Horizons of Restorative Justice and Victim Compensation:

People's faith was decreased in our legal system day by day because of heavy backlog of cases in our courts. Our courts or criminal system mainly concerned about penalization of accused but now the scenario is changed in India from last two decades. A new thinking is developed in our nation about crime and seen the crime from both the angles that is from accused point of view and also seek from victim point of view. New type of policies makes which is more effective and less destructive response to crime. This new type of advancement is known as restorative justice. A few definitions centre on the essential elements (i.e., repair, restore, reconciliation, and reintegration) of restorative processes.²⁸⁰ Others commence with the thought that offence causes damage, and justice should encourage remedial. Some others make on healing principles, for instance admiration for others.²⁸¹ The scheme of restorative justice is divided in the three concepts are:

- Meeting
- Injury Repaired by compensation
- Transformation personality and the public.

6.3.1 Victim Compensation: Need of the Hour

General Assembly adopted the declaration of justice for victims of crime and abuse of power on 29 November 1985 at its 96th plenary composes a significant gratitude of the minimum principles in global law and to set rules security or safety of victims of offence. This declaration accepted four main components of the victims rights are compensation²⁸²; restitution²⁸³; justice and fair treatment²⁸⁴ and assistance²⁸⁵. The main

²⁸⁰ Ibid at 152

²⁸¹ Supra 76 at 89

²⁸² Under Clause 12 of the U.N. Declaration the onus is on the state to "endeavour to provide financial compensation to both victims who have suffered bodily injury or impairment of physical or mental health as a result of serious crimes as well as the family of those who have died as a result of victimization."

²⁸³ This contemplates deprivations both by State and non-State actors. Under Clause 8 of the U.N. Declaration, restitution includes "the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights." Clause 11 provides that "where the government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims."

²⁸⁴ Clauses 4 and 5 of the U.N. Declaration read thus:

"4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

thing is to check the existing laws regarding the victim compensation in India from last time of declaration.²⁸⁶ It examine that how Indian judiciary fellow the Declaration in their judgments and provide compensation to victim of crime.

Indian judiciary and legislature is expanding the horizons of victim compensation. The law making authority enacting laws in two classifications one is the Common Laws²⁸⁷ and Particular Laws.²⁸⁸ Indian judiciary expand the principle of victim compensation through judicial pronouncements and give compensation to victims where laws are silent.

6.3.2 Victim Compensation under Penal and other Laws:

- **Compensation under criminal procedure code:** The law related to providing victim compensation are covered under section 357²⁸⁹, 358²⁹⁰, 359²⁹¹, 357B and 357C of the criminal procedure code of India are:

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.”

²⁸⁵ This includes “the necessary material, medical, psychological and social assistance through governmental, voluntary, community based and indigenous means” (Clause 14) Part B of the U.N. Declaration concerns victims of abuse of power “that do not yet constitute violations of national criminal laws but of internationally recognised norms relating to human rights.”

²⁸⁶ Though the U.N. Declaration may not have the binding effect of a Covenant, its clauses serve as useful benchmarks.

²⁸⁷ Ss. 357, 357A, 357 B, 357 C, 358, 359 of *Code of Criminal Procedure, 1973*, Constitutional Remedies under Articles 32 and 226

²⁸⁸ The Probation of Offenders Act, 1958; Motor Vehicle Act, 1988; Workmen Compensation Act, 1923, Protection of Human Rights Act, 1993 etc.

²⁸⁹ S.357 Order to pay compensation:-

1) When a court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the court may when passing judgment, order the whole or any part of the fine recovered to be applied:

a) in defraying the expenses properly incurred in the prosecution;

b) in the payment to any person of compensation for any loss or injury caused by the offence when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

c) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under Fatal Accident Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;

d) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto

2) If the fine is imposed in a case, which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented before the decision of the appeal.

In *Sawarn Singh Case*²⁹² the honorable Supreme Court of India explains the scope and object of Section 357 are the provisions of this section enable the court to pay compensation to victim and the equivalent provision of the code of criminal procedure, 1898 under section 545²⁹³. The object of section 357 victim can be entitled to get compensation for losses occur due to the act of offender and apart from the fine,

3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused person to pay, by way of compensation, such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.

4) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

5) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under this section.

²⁹⁰ S.358 Compensation to Persons Groundlessly Arrested:

i) Whenever any person causes a police officer to arrest another person, if it appears to the Magistrate by whom the case is heard that there was no sufficient ground for causing such arrest, the Magistrate may award such compensation, not exceeding one hundred rupees, to be paid by the person so causing the arrest to the person so arrested, for his loss of time and expenses in the matter, as the Magistrate thinks fit.

ii) In such cases, if more persons than one are arrested, the Magistrate may, in like manner, award to each of them such compensation, not exceeding one thousand rupees, as such Magistrate thinks fit.

iii) All compensation, awarded under this section may be recovered as if it were a fine, and if it cannot be so recovered, the person by whom it is payable shall be sentenced to simple imprisonment for such term not exceeding thirty days as the Magistrate directs, unless such sum is sooner paid.

²⁹¹ S.359 Order to Pay Costs in Non-Cognizable Cases:

1) Whenever any complaint of non-cognizable offence is made to a Court, the Court, if it convicts the accused, may, in addition to the penalty imposed upon him, order him to pay, to the complainant, in whole or in part, the cost incurred by him in the prosecution, and may further order that in default of payment, the accused shall suffer simple imprisonment for a period not exceeding thirty days and such costs may include any expenses incurred in respect of process-fees, witness and pleader's fees which the Court may consider reasonable.

2) An order under this section may also be made by an Appellate Court or by the High Court or Court of Session when exercising its powers of revision.

²⁹² *Sawarn Singh v.State of Punjab*, AIR 1978 SC 1525

²⁹³ Sec.545 Power of court to pay expenses or compensation out of fine:

(1) Whenever under any law in force for the time being a Criminal Court imposes a fine or confirm in appeal, revision or otherwise a sentence of fine, or a sentence (including sentence of death) of which fine forms a part, the Court may, when passing judgment, order the whole or any part of the fine recovered to be applied-

(a) in defraying the expenses properly incurred in the prosecution;

(b) in the payment to any person of compensation for any loss or injury caused by the offence, when substantial compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;

(bb) when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under Fatal Accident Act, 1855 (XIII of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;

(c) when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen, in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

(2) If the fine is imposed in a case, which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented before the decision of the appeal.

but under section 545 only got compensation from the amount of fine. When the judge is awarded compensation to victim then he see that compensation awarded in this cases is deserving to give compensation and after that also see the that offender has capacity to give compensation to victim, when court find offender is not in such condition to pay fine then impose punishment on it.

- **Nature of victim's injury is factor of compensation:** The honourable Court held that if any victim's face disfigured due to the spray or pour of acid by offender then it is the reasonable ground to give compensation and court grand compensation to victim.²⁹⁴
- **Who will be entitled to compensation:** All persons who are victim in a crime are entitled to get compensation from offender. Victim includes the legal heirs or parents of main victim.²⁹⁵
- **State liable to pay compensation:** In the case of acid attack state is liable to pay compensation to victim under victim compensation scheme immediately pay one lakh rupees to victim when the F.I.R. registered and victim is admitted into hospital and other amount of compensation paid after some time.
- **Offender's capacity to pay victim compensation:** The capacity or ability of wrongdoer plays a significant role in victim compensation. This concept clear from Sawarn Singh Case and Balraj Case²⁹⁶ if wrongdoer has no capacity to the victim compensation then court only imposes fine on him and if not pay the fine impose punishment apart from other punishment.
- **Compensation limit:** In this section there is no limit prescribed to pay compensation in India.²⁹⁷ The honourable court can apply their mind they provided up to reasonable amount of compensation to victim.²⁹⁸
- **Compensation scheme:** For the objective of compensation to the sufferer who have faced damages or harm due to an offence and who require rehabilitation, every state shall prepare a scheme under which they provide compensation to victim. Centre government of India decide the minimum amount of compensation for victims and give guidelines to state government

²⁹⁴ Madan Lal v. State of H.P., 1990 CrLJ 310 (HP)

²⁹⁵ K.I. Vibhute, *Criminal Justice – A Human Rights Perspective of the Criminal Justice Process in India*, 365 (ed. 1st, 2004)

²⁹⁶ Balraj v. State of U.P. (1994) 4 SCC 29

²⁹⁷ Pankajbhai Nagjibhai Patel v. State of Gujarat, AIR 2001 SC 567

²⁹⁸ K. Bhaskaran v. Sankarm Vidhyan Balan, AIR 1999 SC 3762

for providing victim compensation. In the case of “acid attack” union government gives guidelines to state governments to give minimum amount of compensation is Rs 3 lakh to victim and their heirs.

- **Treatment and additional victim compensation:** In criminal procedure of code under Sec. 357B and 357C deals with additional compensation paid under to the victim of acid attack and treatment provided to the victim of rape or acid attack.

- **Compensation provided under The Constitution of India:** The honourable Courts provide compensation under Article 32 and 226 of constitution of India to victim. If any individual’s right to personal liberty or life is infringed by any authority then victim claim compensation for violation of Article 21 under Article 32 of constitution.

- **Compensation provided under other Statutes:** The prior part deals with the compensation provided to victim under common laws, it means that compensation given under criminal procedure code and the constitutional law. But this part deals with the other specific laws like Motor Vehicle Act of the year 1988, Dowry Prohibition Act of the year 1961 etc.

- **Acid Attack and Victim Compensation:** A victim is repaired from the harm in criminal justice system through the process of arbitration, conciliation, empowerment of victim and compensation is known as restorative justice. The new emerging trend of judicial system in India that is restorative justice under it justice provide to victim and repair or reform the victim as well as offender. The main focus of judiciary to provide maximum justice to victim as early as possible, here justice not only mentally satisfaction but also economic satisfaction provided to victim through the scheme of victim compensation.²⁹⁹ This perfect combination is to provide justice to victim of acid attack and this concept expands the horizons of restorative justice. Because victim compensation is a part of restorative justice which will be helpful to settlement of victim of acid attack or for their medical treatment.

²⁹⁹ Supra 205 at 6

Chapter- 7: Conclusion and suggestions

For the prevention of ghastly acid violence in India, there is need of better laws and stringent punishment. Indian criminal justice system takes example from our neighbor nation Bangladesh, which was successful in curbing the acid attacks by framing and implementing stringent laws. In India more than 1000 cases of acid attacks are committed but only near about 200 or 300 cases are recorded by police, these types of things shows that how cases are manipulated and compromised outside the court. There is a strong need of proper implementations of laws and to create awareness in people regarding the acid attack. It is a wrong myth that the acid attacks are only done in towns or villages as no single city in our nation is saved from it. In 2013, new stringent laws were framed but need of proper implementations of these laws at ground level is still there.

7.1. Conclusion

There is a gradual increase in acid violence in India. Therefore the nation needs to find out the reasons behinds the acid attack and to understand the methods adopted by the offender during the time of throwing acid on the victim.

Reasons of acid attack: It is commonly seen that main reason behind the acid attack is the rejection of marriage proposal and personal conflict related to affairs outside marriage etc.³⁰⁰

- **Extra-marital affairs:** One of the major reasons behind the acid attack in the whole world is extra-marital affairs. These relationships create a feeling of hatred between husband and wife, due to this many men or women take revenge form his/her partner by throwing acid on the partner or on the third person who is involved in extra-marital affair.³⁰¹
- **Rejection of marriage proposal:** Another reason behind acid attack is the rejection of marriage proposal. Sometimes, when women reject the proposal of men then it hurts their male ego's they take revenge. They think that if she is not mine then no one can achieve her.³⁰²
- **Dowry:** In India dowry is a social evil which is destroying our society day by day. Sometimes, it has been seen that if bride does not come with an appropriate dowry to meet the expectations of her in-laws dreams then she is punished by her in-law

³⁰⁰ Supra 244 at 2

³⁰¹ Supra 245 at 8

³⁰² Supra 39 at 3

family. In such cases husband throws acid on wife because he wanted a car in dowry etc.³⁰³

- **Gang wars:** Due to modernization the size of cities has increased day by day and some anti-social gang's are formed in cities. Some time rivalry between these gang's and thereby a feeling of revenge from each other leads them to throw acid on members of rival gang.³⁰⁴
- **Male ego:** In South Asia male dominant society existed, they did not want a woman to give order to them or to do work which is not suitable for women according to such society. Due to their ego's they attacked on women by acid to show their dominant position over them.³⁰⁵
- **Land and Property disputes:** Sometimes disputes related to land or any properties arise between the parties. Due to such reasons they throw acid on other party. In India a lady acid thrown on the wife and daughters of her deceased brother to become the legal heir of her brother's property and to take whole property into her possession.³⁰⁶
- **Conflict arises against sexual harassment:** In India there are many cases when a girl is sexually harassed by some men and if she raises voice against these persons to stop this violence, very often men throw acid on woman because they do not fulfil their desires and raise voice against them.³⁰⁷
- **Religious and Political motive behind attack:** Sometimes religious and political motive is also a reason behind acid throwing. In Pakistan, girls were attacked by acid because religious motivated people strongly believed that the girls have no right to study. In India ex-prime minister, Mr. H.D. Dev Gowda's wife was attacked by his nephew with acid.³⁰⁸
- **Personal Jealously:** Due to some reasons personal jealousy arise between two persons. In India a case came into the court where a boy thrown acid on a girl because he was jealous from the qualification of that girl.³⁰⁹

³⁰³ Ibid

³⁰⁴ Supra 245 at 8

³⁰⁵ Ibid

³⁰⁶ Supra 39 at 3

³⁰⁷ Supra 245 at 8

³⁰⁸ supra 244 at 2

³⁰⁹ Supra 39 at 3

Acid attack cases increased day by day so in penal laws no such provision specially deals with it. Victim faces lots of problems and not got adequate justice from courts. Every court have different views that why there is need of special provisions related to acid attack to curb the crime and provide justice to victim.

Due to acid attack lots of injuries are faced by the sufferer. His face or skin are totally burned for that reason face of sufferer burned and skin also burn which leads to disfigurement of face, it creates bodily, mentally or many other problems for him which leads to him in trauma and create fear in his mind or lost of self-confidence. So there is need have help or support of society and their family members to over-come these problems and again restart the same life which he life prior to the acid attack. Victim of acid attack needs lots of surgeries or operations for the re-attainment of same position of face or skin, so lots of money needed for surgeries and their regular medical treatment that's why need of victim compensation in India.

The horizons of restorative justice are expanding day by day in India. Indian judiciary play a very vital role in expansion of it, now these days the concept of criminal justice system is changed in India it concentrate on both victim as well as offender. Indian judiciary mainly focused on providing justice to victim or maximum compensation to victim in case of acid attack from the pocket of offender. Which shows that judiciary tries to realize the offender what he do wrong with victim and give chance to him to provide assistance to sufferer in form of compensation. This thing is very helpful for victim and tries to rehabilitate the both offender and victim.

Victim got compensation from government and also from the pocket of offender. This system tries to realize the offender what he do wrong with victim. Victim compensation should be helpful for victim to re-start their life after that horror incident. This system tries to change the offender from their wrongful acts and bad intension. Another big thing achieved by this system is that try rehabilitate the offender. Victim will be covered from the psychological trauma and also from bodily injuries. It creates awareness in society related to crime and the rehabilitation of victim as well as offender. These are some good effects of expansion of restorative justice.

Mostly cases offender was poor and he was not in suction to provide compensation to sufferer from his pocket. Some time it encourage the offender if he is rich then he pay for crime and also in future chances to do same crime or other crime because he is not serious about crime. The wrongdoer mostly in acid attack done such type of offence

in jealousy or some other reasons, so in these conditions there are fewer chances to reform the wrongdoer. An individual or sufferer who suffers lots of bodily or mentally damages due to the act of wrongdoer, how it is possible sufferer or his family agrees to talk with the wrongdoer who gives long term pain. This type of concept is leads to demoralize the sufferer and his family. In India, the victim compensation is not given in such amount which will be sufficient for their medical treatment.

In Indian history few cases of acid attack were recorded, it is not such famous offence or not frequently done, now these days acid attack cases are frequently done. In history not any provision which deals with acid attack but now these days provision are in our penal law which specially deals with it. In history a case where only 30 days punishment given to the offender but now conditions are changed totally in Ankur panwar case death sentence given by Session court. Now the conditions are changed in case of acid attack compensation given in several lakh to victim from the pocket of wrongdoer but not so happened in past no compensation given to victim only the court imposed fine in few thousands or hundreds on offender.

Acid attack became the international problem for whole world no country safe from it. It is more serious problem for South-Asian nations because mostly these countries are developing or over populated nations. Mostly in nations no specific law on it, but in India special provisions added into the penal code of India in 2013. Bangladesh became a first country where death punishment is given to offender in this offence. In U.K. the amount of compensation given to sufferer is much more than India, but in under developed nations not such amount of compensation given to sufferer. In India as comparative to other nations victim compensation is good but there is need of enhancement of it.

Man is social animal; both offender and victim are the part of society. In India also see that victim faces lots of problem and damages, because society not wanted to accept them. Day by day society increases problem for him, due to acid attack victim lost his job after no one wants to marry with him. Usually society not easily accept the victim and they made gap between them but it is wrong attitude of society due to that bad impact falls on victim, he lost its self-confidence and also goes to the dark of aloneness. Same in the case of wrongdoer also society give him tag of criminal not wanted any to relationship with him, which leads to create hate in mind of offender regarding the society. But there is need of assistance or help of society for rehabilitation of both victim and wrongdoer.

There are two types of impact of victim on society. First is that society thinks victim did something wrong that's why he faces that problem. Another impact is that if victim came in society became the role model of society like Laxmi and do job or doing some other works which is helpful to society or other victim, it leads to success of victim. It is also up to some point in the hand of victim what type of impact he wants to be fall on society either good or bad.

Now in the law in India is sufficient to provide justice to victim and curb the acid attack. Because conviction for life is sufficient to realize the offender what he did wrong with the victim. The concept of victim compensation is highly good and helpful in rehabilitation of victim.

There is no doubt law is sufficient to curb the acid attack but there is lots of lacking in implementation of provisions of law. Main reason of non-implementation of provisions is that corruption in judiciary and in our police system. Another main reason is over burden courts, sometimes offender got bail from court due to delay or poor implementation of law and other reason is that not proper investigation team. The rules regarding sale and purchase of acid in society not properly followed at ground level. Now these days easily availability of acid in market if you any link with seller. According to guidelines a register is maintained by seller but in reality not so.

Firstly no special provision which deal with acid attack the offender was charged under Sec. 324, 326 or 307 of penal code of India, but after the amendment new Sec. 326A and 326B added in it. Under these sections imprisonment of ten years to for life given if any one done acid attack and if any individual tries or attempt of it then he will be convicted five years which may extend to seven years of conviction. The other main changes in this law that is provide compensation to victim by government or by offender from his pocket. New amendment done in Sec. 100 under it a right to self defence is added if any individual attacks with acid.

Mainly the 152nd and the 154th report of the Indian Law Commission deals with victim compensation under these reports recommended to government to provide compensation to victim and need of amendments in penal laws. After that 226th report of law commission which gives suggestion related to amendment in penal code added new Sec. 326A and 326B with deals with acid attack and another suggestion related to amendment in Evidence Act and added new Sec. 114B in it, which specially deals with presumption of acid attack done by offender. Malimath Committee gives recommendations regarding lots of changes in criminal law in which one suggestion is

related to victim compensation under it suitable compensation provide to victim. In 2013 on recommendation of Verma Committee report these amendments done in Penal code of India or in Criminal Procedure code.

Now in existing law there is space left for further change. There is need amendment in the Evidence Act added to Sec. 114B under it court presume that offender will spray or pour acid in intention of acid attack. The law shall not presume offender as innocent until it is proved. There is need of change in rule regarding the purchase or sale of acid and also need of create awareness in society or enhance the victim compensation.³¹⁰

The judiciary shows the strict attitude against the offender, made fast track courts and do fast investigation related to acid attack. Judiciary take victim as a centre of case and provide justice as early as possible. It also takes the soft attitude regarding victim and provide maximum compensation to victim as much as possible.³¹¹

Indian judiciary have been adopted the method of punishment which is mixture of three theories of punishment. Judiciary tries to adopt deterrent theory under it give harsh punishment like imprisonment for whole life and expiation theory under it judiciary wants to give compensation to victim from the pocket of wrongdoer and also used the reformatory theory under it judiciary tries to reform the offender and rehabilitate the victim. The mixture of these theories is adopted by judiciary to punish the wrongdoer in acid attack cases, which is highly appreciable method.

Restorative justice is highly successful and newly emerging concept under it judiciary restore, rebuilt or rehabilitate the both victim and offender and other thing are to provide compensation to victim, additionally offender takes the responsibility of sufferer. The criminal justice system only concentrate to punish the offender these things not found prior to that restorative system.

Crime is done by offender then the main purpose of criminal justice system to realize him what he do wrong with victim for that reason he should be punishable but in reality he will no realization to him. Now the justice system concerned about repair or reform the victim or offender and provides compensation to victim and realizes the offender about their crime, he takes responsibility of victim. This types of things are showing the expanding the horizons of restorative justice in India.

³¹⁰ Supra 39 at 44

³¹¹ Supra 244 at 8

Restorative justice concept is highly effective in India because this concept has applied in India before British Rule, during the time of partition a Hindu person kill the Muslim family then Mahatama Gandhi stops riots in Bengal he said to that person if want reform himself then adopt a Muslim orphan child and up bring him according to the Muslim religion in your Hindu home, this thing is done by Gandhi ji to reform that wrongdoer. So it's effective because it provide compensation to victim, which is helpful for his future and medical treatment. We always see habitual offender who done crime again and again, because they have no hope or way to out came from crime then to stop this there is need of reformation of these habitual offenders or first time crime committed offender. This method is effective to restore or repair the offenders and successful in rehabilitate them in society.

Victim compensation is the new concept under it victim is compensated by the offender or the government. Before it victim was only play the role of witness in a trial, now the time is changed victim became the centre of trial of acid attack. The individual who suffer lots of damages or injuries but got nothing only mental satisfaction that is offender is punished but now under Sec. 357A of criminal procedure a victim scheme is provided under it compensation provided to the victim of any crime. Supreme Court time to time gives guidelines regarding the victim compensation.

Prior to the Laxmi case³¹² hardly found any case where compensation given to victim, but in this case honorable Indian Supreme Court give guidelines regarding the victim compensation after that in every case of acid attack compensation is given to victim. Now the Centre Government give guidelines to State Government in every acid attack case there is minimum amount of Rs 3 lakh in compensation given to victim. But in recent case court held that to pay Rs 10 lakh in form of compensation to victim of acid attack according to court Rs three lakh is not sufficient amount of compensation in this case.

Victim compensation is helpful for both victim and offender and also for society. Victim needs lots of financial assistance for medical treatment and surgeries. Due to acid attack whole life of victim is spoiled after that he has no source of income because in mostly cases victim lost their jobs then the compensation became a big hope for victim. Now victim got real justice in form of mental satisfaction and

³¹² Laxmi versus Union of India, AIR 2014 SCC (4) 427

financial satisfaction, because conviction helps him to providing mental satisfaction and compensation helps him to provide financial satisfaction.

Victim compensation is highly effective on society, because victim is part of society due to that people re-attain their faith in judiciary of reasons one is that victim got justice and another is that victim got compensation under it he will pay expenses of medical treatment. Society feel secure because that appreciable work of law.

Acid attack is further painful offence more than rape, because in rape not faces pain whole life except emotional pain but in acid attack victim faces severe pain every minute or every day both emotional as well as physical pain. A few seconds needed to spoil the whole life of victim. There is need of criminal justice system take it serious give stringent punishment to offender and set up examples in society which create terror in mind of criminal minded people.

Acid attack most heinous nature of offence, often chances to death of victim in that offence which causes victim faces pain for whole life. So there is need of change of laws instead of minimum imprisonment of ten years given life imprisonment to the accused. Also impose huge amount of fine on it which also recovered from their property or valuable things.

Manodhariya Scheme started by the Maharashtra govt. to provide compensation to the victims of acid attack and other severe offences. Under it minimum compensation provided that is three lakh rupees. The interesting thing is that 50% amount of compensation provided immediate when F.I.R. is registered in police station. The other motivating thing, which is very helpful for victim that is the outcome of trial, not became the standard of compensation.

Prevention of acid attack:

In fact acid is easily available in the market across the country the counter in medicinal and other stores which is not so expensive and crime committed always against the women. The Hindu newspaper in Karnataka in 2007, carried out a survey the researchers found that buying “Hydrochloric acid is as simple as inexpensive as buying a bar of soap.” A litre of acid goes at anywhere between Rs. 16 and Rs. 25 and can be bought at different locations in the city.³¹³

There is need of regular inspections and stockpile checking for acid sales as they are used as explosives. The controlling or regulating is an impossible task to regulate the

³¹³ Supra 39 at 14

acid sales, because it is used for a lot of belongings as well as in car batteries etc. Thus, the prevention should come in the form of strict laws and impose huge amount of fine, also laws punish the criminals.

Bangladesh is a country with the highest occurrence rate of acid violence's has conceded a law in 2002 to control acid sales. Under this Act government can work on both the ways one the harsh punishment then other is checks on sale or purchase of acid attack. This nation is highly successful in prevention of acid attack because they create terror in minds of criminal minded people.

In addition as a member CSAAAW rightly said, it is unconscionable "how any responsible democracy can cite difficulty in regulation as an excuse for not framing laws." International commerce of sulphuric acid is controlled under The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 is controlled the international commerce of sulphuric acid, under it sulphuric acid lists under Table II of the convention as the illicit manufacture of narcotic drugs or psychotropic substances used chemical frequently.³¹⁴

In *Laxmi versus Union of India*³¹⁵ case the honourable Supreme Court of India give guidelines under which acid is strictly ban on sale or purchase of acid in India except industrial and scientific purpose.

The Poisons Act, 1919 is the Indian law that deals with the sale or purchase of acid attack in India. Section 2³¹⁶ of this Act grants rule-making powers to the States. These rules are:

- Licensing Authority according to the rules will be District Magistrate or other official who is nominated by the government.

³¹⁴ Ibid

³¹⁵ AIR 2014 SCC (4) 427

³¹⁶ Section 2: Power of the State Government to regulate possession for sale and sale of any poison.—
(1)The State Government may by rule regulate within the whole or any part of the territories under its administration the possession for sale and the sale, whether wholesale or retail, of any specified poison.

- a) the grant of licences to possess any specified poison for sale, wholesale or retail, and fixing of the fee (if any) to be charged for such licences;
- b) the classes of persons to whom alone such licences may be granted;
- c) the classes of persons to whom alone any such poison may be sold;
- d) the maximum quantity of any such poison which may be sold to any one person;
- e) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;
- f) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and
- g) the inspection and examination of any such poison when possessed for sale by any such vendor.

- After the issue of valid license a person or body take possession of listed out poison for sale.
- At the place of commerce rules should be highly showed.
- The time period of a licence shall be 5 years.
- The discretion in the hands of Licensing Authority shall terminate or annul the licence of any holder. Before cancelling the licence of any license holder appropriate chances should be given to him.
- The time period of 3 months should be given to license holder who license cancelled or revoked to dispose the stock to another license holder.
- The authority of examination of the premise of the permit holder has given to an Executive Magistrate, Drug Inspector and a Medical officer.
- Those persons who are not incapable of performing business in poisons in the eye of granting authority they have got license from that license authority.
- The premises which are specified in the license only the poison sold on that place and under the supervision of licence holder.
- Licence holder has only right to sold the poison of knowing person after seeking their identity proof.
- No poison is sold to minor means below the age of 18 years or insane person.
- Licence holder always maintained a register where he records the details of purchaser and stock present in store.
- Warning symbol is compulsory printed on the labels of poison and the provisions are made for the protection and control of the poisons.
- Provisions are also made for the standard functional measures related to the safekeeping, storage and occasion managing of acids.
- All the acids that are normally used for acid attacks across the world now in are falls under the Schedule 1 of this Act where without a license lists of poisons that cannot be sold in the market.

7.2. Suggestions

Indian Penal Laws are not only concerned about conviction of offender but are also concerned about victim compensation. Government of India declare minimum amount of compensation given to victim and also make rule and regulations regarding the sale or purchase of acid in markets, but the acid attack not stopped so there is some lacking and need of improvements in that field for curbing of acid attack.

First of all laws are sufficient but victims do not get justice on time, so there is need to set up fast track courts in India which only deals with the cases related to acid attack. Everyone knows Indian courts are over burden there are 3 crore cases pending in courts, due to seriousness of offence need of these fast track courts where cases are completed within fixed time.

There is need of free legal aid and other legal services to the victim and their families. Police and courts must ensure the security of witness and victim or their family members. Many times we see that witnesses do not come on time, sometimes they get hostile. Such things must be taken care off. Indian criminal justice system presumes an offender innocent until he is proved guilty. In acid attack cases it is wrong because it is very difficult for victim to prove offender guilty sometimes he became blind, whole body burn, not seen the offender etc. but the 226th Law commission report give recommendation that need of amendment in Indian Evidence Act, 1872 added a new Sec. 114B under court presume guilty of offender that he will do acid attack with his intention. This amendment is highly helpful for victim and if any individual not do the attack then he will easily prove it in court.³¹⁷

There is demand of special agency which will lead the case from the victim side and also helps him to provide justice to victim. This is the suggestion which is given by the Supreme Court of India.

There is a need of proper training of investigation officers, we all are aware about our police system which works according to their old manners. A special investigation team shall be made to conduct investigation in acid attacks. Another important thing is to make people aware about acid attacks and its consequences, to aware the public at large about the first-aid after acid attack especially in remote areas of country. Government can take the help of NGO's to create awareness in public at large about acid attack and found the incidents which are not reported in police station.

³¹⁷ Supra 39 at 44

The provision in law not any hospital say no to give first aid in free of cost to victim, but there is need of amendment provide free of cost medical treatment to victim of acid attack. Because if medical assistance given to victim on time then we can save the life of victim and reduce the burn injuries of acid attack.

The amount of victim compensation is not mentioned in any law, which is provided by offender to victim and because victim needs medical assistance for the whole life so there is a need of enhancement of victim compensation up to that level where victim can easily get medical assistance for his remaining life.

Sometimes offenders are poor and is not able to provide adequate compensation to the victim, so there is a need to create a system in which the offender pays victim compensation by earning it through labour work in jail. The amount which he earns, 70% to 80% of that amount shall be given to the victim in form of compensation. In this way he will realize the gravity of his offence.

There is a need of proper implementation of rules regarding the sale or purchase of acid in the market. If any seller does not maintain the register properly then the license of the seller shall be cancelled immediately and fine as well as imprisonment shall be imposed on him.

There shall be a proper implementation of existing laws i.e.; Sec. 326A³¹⁸ and 326B³¹⁹ that mainly deal with the punishment related to acid attack and its attempt. Sec. 326A states that a person who is an offender of acid attack shall be punished minimum 10 years and up to life imprisonment. Sec. 326B states that a person who was attempting to commit acid attack on other individual, he shall be punished for minimum 5 years to 7 years of imprisonment. The Fine for the medical treatment of victim is also imposed under this section and it must be just and reasonable to meet the expenses of the victim. Compensation under Section 357B³²⁰ of the code of criminal procedure: compensation shall be paid to victim apart from fine. Many compensation schemes are regulated by Govt. of India and the State Governments for providing compensation to victim under Section 357A³²¹ of this code. The union government of India has made rules to provide compensation to victim and decided minimum amount of 3 lakh rupees for victim of acid attack.

³¹⁸ Supra 165 at 127

³¹⁹ Supra 168 at 128

³²⁰ Supra 159 at 201

³²¹ Supra 157 at 200

If in enquiry it becomes clear that acid was easily bought by any offender without producing any identity then strong action must be taken against the seller and he shall be charged for providing assistance to offender in acid attack.

There is need of find new alternative in industries or in other works where the acid is used, because if alternative are found than there would be a reduction in the use of acid in industries or other works.

The government shall endeavor to improve and enhance the rehabilitation of victim in society and educate the society that how to tackle the victims, to increase mutual assistance with victims and not to restrict their children or families members play with the victim. Due to the trauma of acid attack victim cannot come outside from his/her home. There is a need to provide medical assistance of psychologist, who will be helpful for victim, to come out from the trauma of acid attack.

There is a need to rehabilitate the victim as well as offender. Society and system can easily reform the offender. They must try to create awareness in youth or children from the school level if any girl or boy refuse the proposal of marriage or love then it will not be the end of life and it is not obligatory that the other one shall be having the same feeling, so to overcome from that ego's and not to spoil the life of other by throwing or pouring acid.

Encourage the victims of acid attack to overcome from that do job or work which they will do prior to the attack. It will be change the life of victim but due to disfigurement of face or injuries not stop the working, because they do for him then other will be help them to overcome. In many cases victim do suicide usually because of trauma of acid attack, so there is a need to encourage the victims and to make them interact with other victims like '*Lakshmi*,' who have overcome from the trauma of Acid Attack.

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Annexure



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