

ACID VIOLENCE: UNITING FOR THE SOLUTION

SRI LANKA, INDIA AND CAMBODIA



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**THE HONOURABLE SOCIETY OF THE MIDDLE TEMPLE
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¹ Image from: <http://www.acidviolence.org/index.php/news/support-asti-on-international-human-rights-day/>



'In the name of Allah the most Gracious, the most Merciful.'

I love you dad and pray Allah rewards you with *Jannah*. I love you mum, I pray Allah continues to give you patience and strength and by the grace of Allah you remain to be my guiding light in this life.

Ameen

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ABSTRACT

In 2010 I travelled to Bangladesh, as a professional legal volunteer and visited the Acid Survivors Foundation², a clinic which treats women, men and children who have been attacked by acid. They provide an extensive support service namely; immediate medical surgery, long term medical attention, psychological support and legal representation.

As I walked into the clinic, there was silence in the room, but as I looked around I could hear the horrific stories which screamed from the scar filled and disfigured faces of the survivors. I saw the devastating effect acid attacks had on the survivors, the physical pain which could not be described and the emotional scars which could not be explained. Although the experience was initially shocking, it was reassuring to know that in Bangladesh the required steps had been taken to deal with the crime and provide survivors the requisite support. I departed from Bangladesh knowing what I had witnessed changed me, as I returned home with lasting memories of the brave acid burns survivors and their struggles.

Media coverage in the UK suggested that there were sporadic cases of acid attacks in the UK and these came to my attention in 2010. Through my practical experience within the legal profession and the domestic violence sector I noticed an emerging trend of the threat of using acid and realised that the problem is in fact a growing one. In order to explore the issue further and adopt a mechanism to stunt the growth of this crime, I applied for the Winston Churchill Travel Fellowship in 2011 and this was awarded to me in 2012. This report provides the current position in relation to acid violence in the UK and depicts my journey to Sri Lanka, India and Cambodia in search for an adequate national response on the deterring mechanism.

² <http://www.acidsurvivors.org/> (26th February 2013)

DEFINITION OF ACID ATTACK

'Acid violence is the deliberate use of acid to attack another human being. The victims of acid violence are overwhelmingly women and children, and attackers often target the head and face in order to maim, disfigure and blind. The act rarely kills but causes severe physical, psychological and social scarring, and victims are often left with no legal recourse, limited access to medical or psychological assistance, and without the means to support themselves. Acid violence is a worldwide phenomenon that is not restricted to a particular race, religion or geographical location.'³

Chapter 1: UNITED KINGDOM

In the UK the horrific impact of acid violence was highlighted by the case of the courageous Katie Piper, the founder of the Katie Piper Foundation, a former model and TV presenter.

*'On March 31, 2008, the old Katie Piper disappeared forever. The acid, hurled into her face on a busy London street, disfigured her beyond recognition. Some slipped down her throat with further terrible consequences.'*⁴

Katie was inhumanely attacked with sulphuric acid, by Stephen Sylvester, who was hired by her ex-boyfriend Daniel Lynch. No words can encompass the true horror of her experience nor can anyone ever imagine what she lived through. But she came forward to the public eye in 2009, waiving her right to anonymity to share her story and battle. Not only did it leave the nation stunned, but anyone who has heard the level of bravery, courage and strength which she displayed, has united in feeling inspired.

Unfortunately, this was not a one-off story and there are many other acid burns survivors in the UK, who have fallen victim of this vicious crime for varying reasons and at various parts of the country.

In 2009 it was reported in the Daily Mail that acid was used as a weapon for honour based violence in East London.⁵ In March 2012 the Guardian reported a racially motivated acid attack in Salford.⁶ Sadly these attacks are a couple of examples too many, that have taken place in the UK. There are many other unreported cases and silent survivors.

³ <http://www.acidviolence.org/> (27th February 2013)

⁴ <http://www.dailymail.co.uk/femail/article-1221077/Katie-Piper-Acid-attack-victim-bravely-shows-face-disfigured-boyfriend-Daniel-Lynch.html#ixzz2GXvGVufq> (19th October 2009)

⁵ <http://www.dailymail.co.uk/news/article-1201625/Cheating-wife-face-honour-killing-acid-poured-lovers-throat.html> (24th July 2009)

⁶ <http://www.guardian.co.uk/uk/2012/mar/26/salford-acid-attack-racially-motivated> (26th March 2012)

1.1: Current statistics:

According to the NHS Information Centre, forty-four people were admitted to hospital, between 2006-07, after being 'assaulted with a corrosive substance'. This figure increased to sixty-seven within a year and it is evident from the table below that the numbers have continued to rise by almost threefold within five years.

Assaults by a corrosive substance⁷

| Year | Admissions |
|-----------|------------|
| 2006-2007 | 44 |
| 2007-2008 | 67 |
| 2008-2009 | 69 |
| 2009-2010 | 98 |
| 2010-2011 | 110 |

1.2: Increasing Threats:

'An attack is not intended to kill but to permanently disfigure so that the victims will always remember what they did. The practice is seeping into Britain, as part of so-called "honour violence", when individuals are punished by their families. The perpetrators are said to extract acid from car batteries or use contacts in laboratories or schools to obtain sulphuric and hydrochloric acid.'⁸ The anecdotal evidence in the UK suggests that the issue of acid violence is a far bigger problem than that which is nationally recognised, as many cases of acid attacks are unreported. In order to understand the real scope of the problem in the UK, it would be crucial to conduct an in-depth study to document the number of existing survivors.

In the UK there is no specific organisation that supports survivors of acid attacks; any such cases would usually be handled by the police or hospital. If the crime is committed in the context of a domestic relationship, the survivor would be referred onto a domestic violence organisation. There is an increasing threat of acid violence within the domestic violence remit, these stem from the perpetrators - usually husbands or partners, who in order to assert control threaten to throw acid on their female partners.⁹

⁷ <http://www.hesonline.nhs.uk/Ease/servlet/ContentServer?siteID=1937&categoryID=211> (7th August 2012)

⁸ <http://www.guardian.co.uk/commentisfree/2009/dec/24/acid-attack-victims-honour-violence> (24th December 2009)

⁹ This information was gathered from confidential case studies taken from Aanchal Women's Aid, Solace Women's Aid and Saheli Asian Women's Project

1.3: Legislation:

If acid is thrown at a survivor, then this attack is dealt with as a criminal offence, which is most likely to be considered under one of the following two offences ¹⁰:

- 1) Grievous Bodily Harm (GBH)¹¹: This offence is committed when a person unlawfully and maliciously, with intent to do some grievous bodily harm, or with intent to resist or prevent the lawful apprehension or detainer of any other person, either:
 - wounds another person; or
 - causes grievous bodily harm to another person.
- 2) Attempted Murder¹²: This offence is committed when a person does an act that is more than merely preparatory to the commission of an offence of murder, and at the time the person has the intention to kill.

1.4: Sentences:

Grievous Bodily Harm (GBH)

If the offence committed is GBH, then this will be dealt with in a Crown Court and can result in a maximum sentence of life imprisonment, although sentences of more than 10 years for this offence are rare.¹³

Attempted Murder

If acid is used in a further calculated manner and is poured down the survivor's throat, then this is deemed an attempted murder. The sentencing for this varies depending on the nature of the offence and the extent of damage caused to the survivor¹⁴:

¹⁰ As the issue being dealt is the crime of acid attacks where there is a survivor as a consequence, an attack leading to death, in effect 'murder' will not be discussed.

¹¹ Section 18 of the Offences Against Person Act 1861

¹² Section 4(1) of the Criminal Attempts Act 1981

¹³ <http://www.mybrief.com/generalcrime.asp?type=60> (27th February 2013)

¹⁴ The most serious offences including those which (if the charge had been murder) would come within para. 4 or para. 5 of schedule 21 to the Criminal Justice Act 2003

| Nature of Offence | Starting point | Sentencing range |
|--|------------------|-----------------------|
| Serious and long term physical or psychological harm | 30 years custody | 27 - 35 years custody |
| Some physical or psychological harm | 20 years custody | 17 - 25 years custody |
| Little or no physical or psychological harm | 15 years custody | 12 - 20 years custody |

(NB: These guidelines apply to a first time adult offender who has been convicted after a trial.)¹⁵

1.5: National Crime:

In the UK, although there is no specific legislation that deals with acid attacks, the current legislation appears to have stringent consequences for perpetrators who commit the offence.

The statistical data from the NHS suggests there is an increase of assaults by a corrosive substance and there is also a growing threat of this form of violence within the domestic violence sector. This begs the question; can the UK adequately protect potential victims, rehabilitate and empower existing survivors and prevent the crime from growing?

In order to explore these issues, this report explores the position of acid violence on an international scale, namely in Sri Lanka, Cambodia and India. The focus of this report is to use these international examples to determine whether the UK requires specific legislation to combat acid violence as a crime or if there is an alternate solution.

¹⁵ http://www.cps.gov.uk/legal/s_to_u/sentencing_manual/attempted_murder/ (28th February 2013)

Chapter 2: SRI LANKA

In Sri Lanka acid violence has not surfaced as a nationally recognised issue, this situation is akin to the UK. Due to the political instability in Sri Lanka, there seemed to be many criminal matters which were overlooked by the government, therefore the availability of resources and information on a specific crime such as acid violence was limited.

2.1: Current Statistics:

In Sri Lanka, there is no identified independent organisation which is dedicated to working with survivors of acid burns. Therefore in order to obtain some statistical background the National Hospital in Colombo was approached (data was not available for 2011 – 2012).

National Hospital of Colombo (records from May 2012)

| Date | In-Patients | Burns Patients (include burns from firearms and explosions) |
|-------------------------|--|---|
| January – December 2009 | 2066 (1718 men, 348 women), | 808 |
| January - December 2010 | 2,632 (gender breakdown not available) | 50 |

Notably the 2009 figures are reflective of the burns survivors who were predominantly injured during the civil war, which ended in 2009. However, the fact that there is still a figure of 50 survivors in 2010 suggests that there is a presence of acid crime in Sri Lanka post the war.

The Borella Crime Unit, Police Headquarter, Colombo (May 2012)

The Borella Crime Unit, were unable to provide any specific data on incidents of acid attacks, as they stated that such a crime fell under the category of ‘attacks by corrosive substances’, which included offences committed using acid, kerosene or petrol. Statistical data was provided from the whole of Sri Lanka, specifically in relation to crimes involving corrosive substances.

The information below sets out offences where an aggravating element was the use of corrosive substances as a weapon (the table of data provides figures from 2010, as the data for 2011 and 2012 were not available):

| Offence | Total | Corrosive Substances |
|-------------------------------------|-------|----------------------|
| Abduction/kidnapping | 877 | 03 |
| Homicide/Abetment to commit Suicide | 742 | 30 |
| Attempted Homicide | 308 | 11 |
| Rape/Incest | 1847 | 0 |
| Robbery | 6488 | 43 |
| Grave Sexual Abuse | 519 | 0 |

These statistics demonstrate how a corrosive substance such as acid can be used as a general form of weapon. Through this investigation a suggestion was made by a police officer to investigate the more rural parts of Sri Lanka, as through professional experience they could identify that acid attacks were more likely to take place in the rubber plantation areas. Thereafter much of the evidence collected in Sri Lanka on the issue became anecdotal.

2.2: The Presence of Acid Violence:

In the rubber plantation areas, acid is more readily available as it is required as an occupational tool in the rubber industry.¹⁶ Medical professionals who have worked with acid survivors in that area have come across three categories of burns:

- 1) Accidental
- 2) Suicidal
- 3) Homicidal/malicious

In order to obtain more insight in this area, discussions were held with Judicial Medical Officers, who are responsible for conducting the medical examinations on the bodies of the burnt survivors or corpses and subsequently produce a report when ordered to do so by the court. A Judicial Medical Officer from Kegalle¹⁷ stated that generally they have about two or three patients a month who have been affected by acid attacks, a majority of the cases are related to domestic issues. Thus providing a rough figure for the presence of such a crime and indicating that there is a need to tackle it more rigorously.

¹⁶ Data collected from medical and legal professionals who had worked in Avissawella, Kegalle and Mathugama. (May 2012)

¹⁷ Whose identity must remain anonymous for security purposes, he currently works as a Chief Judicial Medical Officer (JMO) and the District Officer. He has spent one year in this location, but has been in this field of work since 1996. He was a Forensic Consultant since 2004. (May 2012)

2.3: Support in Sri Lanka:

Due to there being no existing organisation that specifically supported acid burns survivors it was not possible to interview any survivors in Sri Lanka, it was however possible to interview professionals who worked with acid burns survivors. The research in Sri Lanka was heavily guided by Janakie Seneviratne,¹⁸ who suggested that in order to achieve the most effective results it would be useful to view acid violence as an umbrella of domestic violence. Therefore, apart from legal and medical professionals, women's rights activists were also approached, through which 'Women In Need' (WIN) were identified as an organisation that deal with domestic violence and have also supported survivors of acid attacks.

When asked about acid violence cases, WIN were under the impression that they had supported eight to ten survivors of acid attacks, over the period of one or two years and also provided a case study of one of the survivors they supported.

Case Study, (Anon)¹⁹ 2009:

A survivor was told to give away her child to her sister-in-law, as her sister-in-law was unable to have children. When the survivor refused to give her child away, her husband attacked her with acid. The matter went to court, but when the perpetrator was on bail the parties reconciled. The survivor had no family support in the matter so felt she had no other option, but to return to the perpetrator.

It should be noted that this case happened in Colombo, where acid attacks are believed not to be common, but this case study suggests there is a presence of the crime in Colombo. Therefore this creates a need for training nationally, within the domestic violence sector, in order to equip workers in this sector to adequately support and empower survivors of acid burns who may not want to return to the perpetrator.

2.4: Legal Support:

In Sri Lanka, domestic violence is dealt with as a gender based issue and within the police remit, the Children and Women's Bureau (CWB)²⁰ are responsible for dealing with any crimes that are reported as domestic violence. CWB generally deal with issues of domestic violence, rape, kidnapping, abduction and child labour, they also have reported cases of acid attacks, which manifest from domestic issues.

¹⁸ Independent Human Rights Activist, 15 years experience in development work as a researcher, project coordinator to various international donors focusing mainly on gender related issues and women rights issues in the social, economic and development sector. Volunteered for "Justice for Victims" facing sexual violence. Worked with UNICEF and ILO on child protection related issues.

¹⁹ The identity of the survivor could not be revealed due to confidentiality reasons.

²⁰ On 7th January 1998 – The Children and Women's Bureau (CWB), Headquarters was established. Now there is a CWB in every police station in Sri Lanka.

Cases of acid attacks would not be investigated by the CWB, any initial report would be referred on to the Crime Branch and the subsequent procedure would be followed:

1. The survivor is taken to the hospital
2. A statement is taken from the survivor
3. The suspect is arrested
4. According to the type of wound sustained by the survivor, the charge is determined
5. A court case can take 6-12 months and the police will collect all relevant evidence²¹

2.5: Legislation:

An acid attack would be categorised as a 'cruelty offence' and dealt with under the Penal Code of Sri Lanka 1885²² as 'grievous hurt' and would be punishable under the following sections:

1. Sections 310: Whoever causes bodily pain, disease, or infirmity to any person is said to "cause hurt".
2. Section 311: sets out the types of injuries which are considered to be 'grievous' as:
 - (a) emasculation;
 - (b) permanent privation or impairment of the sight of either eye;
 - (c) permanent privation or impairment of the hearing of either ear ;
 - (d) privation of any member or joint;
 - (e) destruction or permanent impairment of the powers of any member or joint;
 - (f) permanent disfiguration of the head or face;
 - (g) cut or fracture, of bone, cartilage or mouth or dislocation or sublimation, of bone, joint or tooth;
 - (h) any injury which endangers life or consequence of which an operation involving the opening of the thoracic, abdominal or cranial cavities is performed;
 - (i) any injury which causes the sufferer to be in severe bodily pain or unable to follow his ordinary pursuits, for a period of twenty days either because of the injury or any operation necessitated by the injury.

²¹ Information provide by SI Sai Mohinder, at The Children and Women's Bureau, Colombo, May 2012

²² Penal Code, An Ordinance To Provide A General Penal Code For Ceylon, 1st January , 1885

2.6: Sentences:

Section 317 of the Penal Code sets out that the punishment for committing a crime under sections 310 and 311 is 10 years imprisonment and/or a fine.

2.7: Need for Advancements:

Sri Lanka has a set of laws which deal with acid attacks, but it is questionable whether the sentencing equates to the severity of the crime. The overall observation was that there did not seem to be sufficient support for survivors of acid attacks.

Practical obstacles

There is a set procedure in place in pursuing legal action, but one of the practical issues is the cost of legal proceedings. There is a Legal Aid Commission in Sri Lanka and according to their 'Mission'²³ acid survivors should be entitled to funding through the Commission. But through discussions with various legal professionals it transpired that practically women who were suffering from domestic violence or had been a victim of an acid attack, were not able to access such funding, thus making it difficult for survivors to pursue legal actions.

Another practical issue is that of compensating a survivor, there are no existing guidelines on the compensation for acid violence.²⁴ Arguably such guidelines are crucially needed, as an acid attack usually leaves a survivor with large hospital bills and for those who were working would find themselves to be unemployed post the attack.

Legislative limitations

When the question was put to professionals on the issue of whether the current legislation was enough to cope with acid attacks as a crime in Sri Lanka, a number of mixed responses were received.

One of the suggestions was that an extra set of laws are needed to regulate the sale of acid, especially as it has been recognised as an occupationally linked violent act in some regions. It was proposed that some form of a licence should be issued, which needs to be produced every time someone wishes to purchase acid.²⁵

However, a contrasting opinion was that the current laws are sufficient to tackle acid violence. In cases where the crime is committed by a non-related perpetrator the current Penal Code sets out the punishment for the offence. In addition, the Domestic Violence Act 2005, can be used to punish perpetrators within the family set up, whereby the survivor can obtain a restraining order which can

²³ <http://www.legalaidcommission.com/litigation.php> (2nd March 2013)

²⁴ Ramani Jayasundara, Lawyer, who works in an International NGO on Policy Development, she is currently conducting law reform research (May 2012)

²⁵ Chandrani Panagodde, Lawyer and Founder of Samaj Sahana Padanama Foundation (a social welfare foundation). (May 2012)

exclude the perpetrator or any potential perpetrator who makes such a threat, from entering the family home. Therefore, it can be submitted that the Penal Code and the Domestic Violence Act can be jointly used to tackle the issue without proposing additional legislation.²⁶

Advancement

These mixed responses suggested that in Sri Lanka, the movement towards tackling acid violence is one which needs more discussion and more extensive research, but there is one apparent conclusion within Sri Lanka, which is that acid violence is surfacing as a crime.

2.8: Recommendations:

In order to curtail the crime and combat it at the core in Sri Lanka, there are some recommendations which have been devised as a result of the discussions with the professionals who have worked with survivors of acid attacks in Sri Lanka:

- The government needs to consider regulating the sale of acid in places where acid is used for occupational purposes.
- A National Survey needs to be done in every Province and data needs to be collected from the medical departments and police stations on how many cases of acid attacks are recorded every year. The International Centre for Ethic Studies or Centre for Women's Research are two possible organisations which could effectively conduct this research.
- An empowerment programme needs to be devised, so that current survivors can move forward and efforts needs to be made to socially integrate them.
- A perpetrator programme needs to be devised, in order to educate male perpetrators on domestic violence and acid violence. This would break the chain of abusing women and also make them realise the consequence of using such a weapon.

²⁶ Professor Jennifer Perera, University of Colombo, Faculty of Medicine (May 2012)

Chapter 3: INDIA

India has an uprising problem of acid attacks and with the vast population; this is not a surprising fact. Although acid attacks are not specifically recognised as a crime through legislation, a draft amendment was suggested by the Law Commission in 2009. This has been placed before Parliament and has compelled the government to discuss and consider legislation in this matter. This places India a step ahead of the UK in this battle against acid violence and a potential example for the UK to follow. India does deem acid violence as an issue, one that people want to talk about. There are notable movements in Bangalore, Calcutta and Chennai, which focus on providing support to acid burns survivors.

3.1: Current Situation:

There are no recorded statistical information on the number of acid attacks in India, as the crime is not nationally recognised as an offence; therefore it is difficult to quantify figures through any formal legal or medical database. However, existing research suggests that acid attacks have 'increased manifold since the 1980s. The victims profile is as follows: 20 per cent male, 80 per cent female, and of these 40 per cent are girls below eighteen years of age.'²⁷ The recent story of Sonali Mukherji has brought the issue to the world's attention, with her ultimatum "*give me justice or let me die.*"²⁸ This plea was made to the government of India in 2012, after her family could no longer afford to pay for her surgery and she could no longer bear the pain. As a response donors came forward to financially support Sonali and she also appeared on a popular gameshow in India (the equivalent of 'Who wants to be a Millionaire') on the show she won 25 Lac Rupees (£30,275.50).

²⁷ Keerthi Bollineni 'Gender-Based Violence in Public: Acid Throwing', Published by Cequin , pg 1

²⁸ <http://www.dailymail.co.uk/news/article-2174288/Sonali-Mukherjee-Acid-attack-victim-pleads-justice-let-die.html> (16th July 2012)

Case study: Sonali Mukherji (28 years of age), (November 2012)



Background: In 2002, three men started to harass Sonali, they used to harass her on her way to college and work, making inappropriate propositions and hurling insulting and derogatory abusive names at her. She used to candidly ignore them, as Sonali did not pay any attention to them they threatened her in the following terms, *“if you do not do what we want you to do, it will not be good for you.”* She completely ignored this and believed it to be an empty threat.

Incident: On 22nd April 2003 Sonali was sleeping on the roof, with her family members. At approximately 12am Sonali woke up to a burning sensation, she remembered hearing herself screaming and crying in pain, she could not understand what had happened. She was rushed to Dandwans Hospital for the initial treatment and then referred to the Vukaro General Hospital, where she was admitted for three months.

Sonali obtained 70% of burns to her face, head, neck, back and legs and she gradually lost her eye sight. Sonali has had 22 operations; she has two pending surgeries and requires nine more to complete her treatment.

Legal Process: The attack was reported to the police on the same night of the incident, a First Information Report (FIR) was made and the perpetrators were arrested. After three years of

investigation, a decision was made in Ranchi High Court, the perpetrators were given a nine year custodial sentence, they were however released prior to completing their sentences.²⁹

Sonali was required to give live evidence in open court a year after the incident; she was not given a screen as this option is only available to high profile personnel. The main evidence in the case was her live evidence, this was an extremely difficult task for Sonali, both psychologically and physically, as not only did she have to face the perpetrators, but she was unable to stand for too long as she was still in recovery mode.

Current position: Sonali is receiving medical treatment and post her plea to the world, feels empowered by all the support and encouragement she received, she also wants other survivors to come forward too, in this battle against acid violence.

Sonali's message: *"I am alone, I made a sound alone, if there are more of us then we can collectively make some noise and make a difference – we should not silently sit at home, we have nothing to lose."*

3.2: Support in India:

Sonali's story is one example of the plight faced by many in India who are attacked by acid. There currently are a few organisations in India which support acid burns survivors, namely Campaign and Struggle Against Acid Attacks on Women (CSAAAW)³⁰ based in Bangalore, International Foundation for Crime Prevention & Victim Care (PCVC)³¹ based in Chennai and Acid Survivors Foundation India (ASFI)³² based in Calcutta.

The remit of work undertaken by the various organisations differ, namely CSAAAW are more campaign focussed, PCVC deal with the medical and rehabilitative aspect and ASFI are a relatively new organisation, that aim to provide an extensive service this includes preventative work, awareness raising, care, treatment, rehabilitation and legal support. ASFI are currently very proactive in working towards this vision. Therefore in India the availability for support for survivors seems to be a formative process, as ASFI are willing to form partnerships with other existing organisations in order to ensure that they offer survivors a holistic raft of support. Their long term vision also includes covering other parts of the country to branch out this service and support.

²⁹ One of the perpetrators did not get a nine year custodial sentence, as he claimed to be a juvenile at the time of the attack, he was allegedly 16/17 years of age at the time.

³⁰ <http://hrln.org/hrln/womens-justice-/pils-a-cases/242-campaign-and-struggle-against-acid-attacks-on-women-csaaaw-vs-department-of-women-and-child-welfare-.html> (November 2012)

³¹ <http://www.pcvconline.org/> (November 2012)

³² http://www.asfi.in/webpage.php?title=Statistics+&p_type=1&parent=76&catid=78 (January 2013)

3.3: Legislation:

The current legislation that deals with acid violence is the Indian Penal Code 1860, where such an attack is considered a crime under the following sections:

1. Section 320: 'Causing grievous hurt' (grievous has the same examples as set out in the Penal Code of Sri Lanka³³.)
2. Section 307: Attempt to murder
3. Section 498A: Deals with a woman's husband or relative of a husband subjecting her to cruelty.

3.4: Sentences:

Causing grievous hurt

Under Section 324³⁴: voluntarily causing hurt by dangerous weapons or means (this includes corrosive substances), the offence is punishable by imprisonment for three years, or fine, or both.

Attempt to murder

Under Section 307³⁵: this offence is 'punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine'. The maximum sentence given is usually seven years.³⁶

Subject to cruelty at the hands of a woman's husband or relative of a husband

Under Section 498A³⁷: the maximum sentence for this offence is three years imprisonment and a fine.

(NB: A perpetrator can be granted bail even after he has attacked someone with acid. The usual bail conditions are for a financial security to be made, the perpetrator must remain in the city and he would be restricted from going near the survivor.)

3.5: Proposed Legislation:

Arguably the current legislation, does not provide harsh enough sentences for a perpetrator of an acid attack. This was recognised by India and in 2009 the Law Commission, headed by Justice A.R. Lakshmanan, proposed that a new section 326A be added to the Indian Penal Code.

³³ As set out on page 14 above.

³⁴ Indian Penal Code 1860

³⁵ Indian Penal Code 1860

³⁶ Indira Jaising (Human Rights Lawyer) telephone interview Delhi, 19th November 2012

³⁷ Indian Penal Code 1860

The proposed Section 326A will read as follows:

326A. (i) Hurt by acid attack - Whoever burns or maims or disfigures or disables any part or parts of the body of a person or causes grievous hurt by throwing acid on or administering acid to that person, with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punishable with imprisonment of either description which shall not be less than 10 years but which may extend to life and with [a] fine which may extend to rupees ten Lakhs [₹12,110.20] provided that any fine levied under this section shall be given to the person on whom acid has been thrown or administered.

Classification of offence : Minimum Imprisonment of 10 years extendable up to imprisonment for life and fine. It should be made a cognizable, non-bailable, non-compoundable offence and triable by court of session.

The Law Commission also proposed that a law known as 'Criminal Injuries Compensation Act' be enacted as a separate law by the government. This law should provide both interim and final monetary compensation to victims of certain acts of violence like rape, sexual assault, acid attacks, etc, and should provide for their medical and other expenses relating to rehabilitation, loss of earnings, etc. Any compensation already received by the victim can be taken into account while computing compensation under this Act.³⁸

3.6 Recommendations:

Although a legislative amendment has been placed before the government, this is yet to be enacted and implemented. This places India in a transition phase, where there has been a response to the screams of the scorching survivors, yet the practical effects and implementations will determine how powerful this tool will be in combating acid violence. Aside from the legislation there are a few other suggestions which India may want to consider to maximise support to survivors and reduce the impact and risk of acid violence:

- There is a need to conduct reviews on current issues and existing laws from a female perspective, as acid violence in India seems to be a gender based issue.
- The police should conduct the initial interview of survivors on their own; they should also give survivors an opportunity to change their declaration in stating the cause of the injury, as survivors will state at the first instant that an injury is accidental as they may fear the repercussions from the perpetrator or their families.
- Survivors should be given the option of giving live evidence in court via videolink or from behind a screen.
- The government needs to devise protective measures for NGO workers who support survivors of acid attacks.

³⁸ Law Commission of India, "The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and law for Compensation for Victims of Crime" Report No. 226, July 2009, page 43-44

- The strength in India is there are separate organisations in different cities, namely ASFI, CSAAAW and PCVC who have different programmes, but collectively they could draw on the existing initiatives to provide an extensive and holistic service for survivors of acid burns. They could use the 'WE CAN' campaign³⁹ as a way to promote the services, as it runs across 13 States in India.
- ASFI may want to consider creating a helpline so that if someone suspects the crime, they can report it and/or get advice.

³⁹ <http://www.wecancampaignindia.org/> (2nd March 2013)

Chapter 4: CAMBODIA

In December 2011, acid violence was nationally recognised In Cambodia, through the passing of legislation which increased penalties for acid violence significantly. The Cambodian Acid Survivors Charity (CASC)⁴⁰ was formed in March 2006 by its partner organization, the Children's Surgical Centre (CSC) and is the only organisation in Cambodia which works with survivors of acid attacks.

The research in Cambodia was drawn from interviews and interactions with acid survivors, CASC staff and other professionals who work in relation to the issue of acid violence.

4.1: Current Situation:

As of 31st March 2011, 297 acid burn attacks in 21 different provinces were recorded by CASC, all of which dated back to 1965. From this, 364 victims have been recorded amongst whom 51.6% are female and 48.4% are male, 14% of the survivors were found to have been burnt as children under the age of 13 years.⁴¹

Notably in Cambodia, the situation differs to Sri Lanka and India, as attacks cannot be categorised as gender based violence, but are more an alternative form of dispute resolution as statistically there is a small difference in the number of male and female survivors.

⁴⁰ <http://www.cambodianacidsurvivorscharity.org/> (May 2012)

⁴¹ Ziad Samman, CASC Visit to ASF Bangladesh (April 2012), CASC, 5th June 2012

Case Study: Khim Thoeun, (40 years of age) (May 2012)



Background: Khim Theoun was a police officer from 1990 – 2009, he was assigned to Kirivomg District Police Station in Takeo Province, he served at First Rank. He is married to Chan Chea and they have three children.

Incident: On 29th December 2009, Theoun's wife Chan, suspected him of having an affair. Chan was so enraged that she threw acid in his face. She immediately contacted the police and confessed her crime. The police promptly attended the property and questioned Chan as to whether she actually committed the crime, Chan admitted to her actions. The Police took Khim to the hospital where the staff referred Khim to CASC for treatment.

Legal Proceedings: The Police asked Khim if he wanted to press charges against his wife, he declined. Khim's explanation was *"I was blinded by the attack, if I sued her then there would be no one to take care of our children, I would rather have gone to prison, instead of my wife. I was also dependent on her to take care of me; I would have committed suicide if my wife was imprisoned."*



Background: Chiev Chenda has three children with her ex-partner Bun Chum; namely Bun Cheng You (male, 16 years of age), Bun Aom Ra (female 15 years of age) and Bun Cheata (female 7 years of age). Her ex-partner, Bun Chum resides in France since 2004; the move came as a result of an affair with his French business partner. In 2008, a week prior to the attack Bun Chum returned to Cambodia and stayed with Chiev Chenda and their children, he later returned to France. Chiev Chenda reports that while her ex-partner was staying with her, he received a phone call from his girlfriend who threatened that *“Chiev and her children should be careful as something may happen to her and her children.”*

Incident: On 5th February 2008 Chiev was riding a motorbike with her three children and during the motion a speeding motorbike suddenly tooted the horn for her attention. As Chiev turned her head, she felt a substance thrown at her and her children, unbeknownst to her that it was acid. Her youngest daughter, Bun Cheata, (4 years of age at the time), was seated in front of Chiev and was severely burned by the acid. They were both rushed to the hospital by a passing taxi. Chiev was heavily impacted by burns to her face, arms, and torso and furthermore, left blinded as a result of the incident. Bun Cheata received severe acid burns on her face, head, neck, and arms. Since the attack, Chiev’s two older children stay with her sister, however Bun Cheata has formed an inseparable attachment where she fears to leave her mother’s side.

Chiev discovered CASC approximately six months after the attack and has been supported by them since then.

Legal Proceedings: In this case there were two perpetrators. The actual attacker who threw the acid and the other perpetrator was Bun Chum’s girlfriend who planned the attack from France. After pressing charges, the attacker was arrested and received a custodial sentence of 15 years, but the girlfriend could not be punished as she was not in the country.

4.2: Support in Cambodia:

CASC plays a critical role in Cambodia, as its sole presence means that people who are attacked by acid and survivors who are brought to their attention are able to access the extensive service the charity has to offer. With a vision to provide a holistic service to acid burns survivors CASC focuses on the following four areas⁴² :

1. Surgical, medical, and psychological treatment
2. Vocational training and social reintegration projects
3. Legal assistance and advocacy for legal reform
4. Awareness raising, research, education and advocacy to eliminate acid violence

Surgical, medical, and psychological treatment

CASC has an ethos of working in partnership with local partners in order to deliver an effective service. CASC works closely with its partner organization CSC, which is one of the few health care facilities in Cambodia providing free medical care to acid burns patients.

Vocational training and social reintegration projects

CASC believes in empowering the survivors who access the service through its vocational training project which trains survivors to obtain confidence and life skills in order to secure employment. The social integration project brings together region wide survivors to provide support networks as a means of reassurance that they are not alone in their journey and to further strengthen their re-integration process in society.

Legal assistance and advocacy for legal reform

CASC has an internal legal team which provide the relevant advice and support to survivors to pursue legal action. In addition, the following organisations also have legal assistance and work in partnership with CASC:

- Cambodian Human Rights and Development Association (ADHOC)
- Cambodian League for the Promotion and Defense of Human Rights (LICADHO)
- Cambodian Defenders Project (CDP)

CASC also works very closely with the Cambodian Centre of Human Rights (CCHR) and their partnership has been hugely instrumental in the passing of the new acid violence legislation.

⁴² <http://www.cambodianacidsurvivorscharity.org/> (May 2012)

Awareness raising, research, education and advocacy to eliminate acid violence

One of CASC's strengths is their local media partners, who provide exposure to the cause of acid violence through the stories about acid attacks in order to provide coverage and to nationally raise awareness.

4.3: Legal Support:

Once a patient is referred to CASC, they are initially attended to by Dr Horng Lairapo⁴³ who conducts a medical assessment. The most common motivations for attacks which he has identified are hate/ jealousy, family disputes and/or business disputes.

After the medical assessment, survivors are then asked if they saw their attacker and where possible a description of the perpetrator is taken from the survivor. They are then offered legal assistance, according to Dr Lairapo, only two out of ten survivors utilise this service. When the survivors agree to receive legal advice, they are required to provide fingerprints on a confirmation document.

The document is retained by CASC in order to issue criminal proceedings with the police. The police take the perpetrator's name, age and description and once located, the police will proceed with the arrest of the perpetrator.

CASC make a full profile of the survivor's family members and neighbours in order to obtain a full profile of the survivor, such cases are usually more likely to be successful as there is a larger pool of evidence.

Following the arrest of the perpetrator, the police ask CASC for more details and the survivor on their decision to pursue the case. In the instance that the survivor is in an extremely bad physical and emotional state, the police are not required to approach the survivor. When it is possible, the police will request the survivor's finger print in order to start the legal proceedings. In cases where there is an initial interview with the survivor, the process takes approximately 3 weeks post the interview, to file the matter at court and to obtain a court hearing date. Once the matter has been reported to the police, Dr Lairapo will conduct follow ups with the police to track the progress of the report to reach the court.

Prior to the court proceedings Dr Lairapo appoints medical experts to meet with the survivor to identify different marks according to criminology standards. Once the case is due to be held in court, Dr Lairapo assists in assigning a lawyer for the survivor.⁴⁴

⁴³ Dr Horng Lairapo is dual qualified as a doctor and a lawyer, He studied to be a medical doctor for 8 years. He studied Law (BA) for 4 years. He also studied a Criminology Masters for 2 years (24th May 2012)

⁴⁴ One of the practical issues is that most lawyers will usually prioritise in taking on cases involving female and children survivors, it is always more difficult to find a lawyer for male survivors.

After proceedings are issued, the process is as follows:

1. Interview with prosecutor
2. Interview with the Judge
3. Call for a trial, the prosecutor makes this application
4. Final hearing

(If there are any dangers for the survivor, CASC are required to stop the proceedings at any point.)

After the final verdict is heard in the criminal proceedings, the civil process follows; this is the claim for compensation for the survivor.

4.4: Legislation:

This area was previously governed by the Cambodian Penal Code⁴⁵; the current legislation which tackles the issue of acid attacks in Cambodia was passed in December 2011 and the Sub Decree which supplements this legislation was passed on 31st January 2013. The legislation deals with the regulation of concentrated acid 'that can cause harm on health and life of other persons'.⁴⁶

The legislation deals with the following issues:

1. Regulation of the Sale of Acid (from Article 5 – 9)
2. Compensating Survivors (from Article 10-13)
3. Penalties for the Perpetrators (from Article 14-24)

4.5: Sentences:

Intentional Killing by Using Concentrated Acid

In cases where the Article 16 requirements are satisfied; there is a death due to an acid attack and an intention to kill is proven, the perpetrator can be sentenced from 15 to 30 years in prison. This can be extended to life time imprisonment if the above criminal offence has any:

1. Advanced plan or ambush.
2. Torture or cruel acts before or in the time of killing.

In cases where there are survivors, the sentences will be dealt with under Article 19 and 20.

⁴⁵ The Criminal Code of the Kingdom of Cambodia 2009 under Articles 201, 202, 203, 210 – 220, (<http://sithi.org/admin/upload/annex/4e7b051362af8.pdf> 27th February 2013) the new legislation has amended the use of these Articles.

⁴⁶ Draft Law on Regulating Concentrate Acid , Unofficial Translation done by CCHR, 2011

Torture and Cruel Acts Using Concentrated Acid

Under Article 19 it is an offence to perpetrate torture and cruel acts using concentrated acid against another individual. Anyone who commits this offence can be sentenced from 10 to 20 years in prison.

The sentence will be increased to the range of 15 to 25 years in prison if the above criminal offence causes a cut of any parts of the body or leads to permanent disability of the survivor.

If the attack leads to the death of the victim unintentionally or causes the victim to commit suicide, then the sentence will be increased to 20 to 30 years in prison.

Intentional Violence on Others by Using Concentrate Acid

Under Article 20 it is a criminal offence to perpetrate intentional violence on others by using concentrated acid. Such an offence will be sentenced with two to five years in prison and a fine will be imposed, the amount ranging from 4,000,000 (four millions) riel [£661.06] to 10,000,000 (ten millions) riel [£1652.64].

The sentence will be increased to range from five to ten years in prison if the attack cuts any parts of the body or leads to permanent disability of the survivor.

If the attack leads to the death of the victim unintentionally, the sentence will be increased to 10 to 20 years in prison.

4.6: Recommendations:

From this research, Cambodia appears to be leading in the progress to combat acid violence. The current existing model within CASC, provides an extensive support and empowering mechanism for survivors. The enactment of the new legislation is an avenue of hope for existing survivors and potentially a deterrent for any perpetrators. In order to produce a tighter model and reach the ultimate vision of eradicating acid violence the following suggestions have been made:

- The police and hospitals need training on the new legislation, so that they are aware of what their duties are towards survivors.
- Practitioners need to ensure that the new legislation and the Penal Code are working in conjunction (ie, the sentence for death resulting for acid attacks is 15 -30 years imprisonment, but under the Penal Code, the punishment for murder is a life sentence).
- As Cambodia has a large Buddhist population, Buddhist Monks could be trained up to teach their followers to prohibit acid attacks.

Chapter 5: PREVENTION OR LEGISLATION

In any country where acid violence is a growing crime, there needs to be one of two responses:

- 1) A preventative measure needs to be taken; or
- 2) Legislative change needs to be considered.

Legislative Movement: Cambodia and India

In countries where acid attacks have been branded a prominent issue legislative change appears to be the way forward.⁴⁷ Cambodia and India seem to be united in the stance of devising legislation, albeit they are at different stages as acid specific legislation has been enacted in Cambodia and a legislative amendment is being considered by the government of India. The legislations serve two purposes; first being to regulate the sale of acid and the second is making 'acid attacks' a specific crime, with sentences which correlate to the severity of the crime. The impact of such legislative motion can only be measured over time, but the national recognition should act as protection for potential victims and should highlight the severe consequences to potential perpetrators.

Combined Solution: Sri Lanka

In Sri Lanka, the solution maybe a combined one; both preventative and legislative change is required. The preventative work needs to be conducted in the remit of domestic violence, therefore if the cycle of abusive behaviour is broken, the issue of an extreme form of abuse such as acid violence can be countered at the core. In order to successfully execute any such work, Sri Lanka would need to strengthen its responses and resources within the domestic violence sector. One suggestion would be to have a multi-agency co-ordinated response, thus creating dialogue between Domestic Violence Organisations, the Children and Women's Bureaus, the National Police and the National Hospital. The legislative intervention would be required at regulating the sale of acid, as it is easily available and used as a cheap weapon; if the sale is regulated then this could potentially be an effective deterrent.

Preventative Measures in the UK

Upon examining the issue of acid violence in Sri Lanka, Cambodia and India, it is recommended that that the UK views acid violence from an international perspective. As previously mentioned, the UK stands closest to the situation in Sri Lanka, where no national recognition exists, but the problem of increasing numbers of acid attacks does. The main distinction between both countries however, is the UK's position in having a strong working response against domestic violence. If acid violence is viewed as an extension of domestic violence this would open up avenues to combating this heinous crime. For example, a training programme could be devised as well as an awareness raising scheme within the domestic violence sector to tackle acid violence as a preventative measure.

⁴⁷ Bangladesh was the first country to pass acid specific legislation in 2002, namely, The Acid Control Act and The Acid Crime Control Act and currently has the most progressive model, more details can be found on the following website: <http://www.acidsurvivors.org/index.html> (26th February 2013)

Legislative Stance in the UK

A good tool to measure the need for acid violence specific legislation is the current sentencing powers for when such a crime occurs. Notably the current maximum sentence in the UK for an acid attack (which does not lead to death) is 30 years. In Cambodia new legislation was passed to increase the maximum sentence to 20 years. For this reason legislation would not be needed in the UK for harsher sentencing. The need for legislation to regulate the sale of acid in the UK is not an issue, as the UK does not commonly operate industries which utilise acid for occupational purposes therefore acid is not so easily available.

5.1: Recommendations for the UK:

The purpose of this research was to determine whether the UK required acid specific legislation; from conducting the field research and also from following the anecdotal stories within the UK, it can be submitted that no specific legislation is required. However, there is a need for a preventative strategy to be devised in order to eradicate the issue at the surfacing point and on this basis the following recommendations have been made:

- An extensive national research needs to be conducted around the UK to identify the number of acid burns survivors via the Metropolitan Police, Domestic Violence Organisations and Victims of Crime Support Groups (ie Victim Support).
- Awareness needs to be raised amongst any sectors that may have to deal with acid attacks, such as medical professionals, legal professionals, the domestic violence sector and the Metropolitan Police - these are namely a few.

5.2: Conclusion:

In the UK linkages can be made between acid violence and domestic violence, however more research is required to substantiate this stance. The anecdotal evidence suggests that there is no common pattern of motivation behind the reported acid attacks, but the impact seems to be one - a devastating effect on the lives and identities of the survivors. The stages in Sri Lanka, India and Cambodia, portray the potential direction in which the crime could head and these come with potential solutions. The UK is at a stage where it can prevent the crime from growing; it should not make this scorching violence its new societal identity, but should act to eradicate the problem now. There are organisations based in the UK such as the Acid Survivors Trust International, Islamic Help⁴⁸ and The Katie Piper Foundation, who could collectively work closely with the Metropolitan Police, Domestic Violence Organisations and Victims of Crime Support Groups to raise awareness and devise methods to deter the crime.

⁴⁸ <http://www.islamichelp.org.uk/smilesbetter> (26th February 2013)

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APPENDIX: KEY INTERVIEWS

SRI LANKA

Colombo:

Ms Janakie Seneviratne, Independent Human Rights Activist

Ms Chulani Kodikara, Senior Research Associate - International Centre For Ethnic Studies (ICES)

SI Sai Mohinder, Sri Lanka Police - Children and Women's Bureau

Mr Jayantha Wikrandsinghe, SSP, Director of the Headquarters - Children and Women's Bureau

Ms Amberia Hanifa, Researcher - Muslim Women's Research & Action Point

Ms Sepali Kottegoda, Chairperson - Asia Pacific Women's Watch

Mr Kapila Vijaymana, Officer-in-Charge of Statistics - Borella Crime Unit, Police Headquarters

Burns Unit - The National Hospital of Sri Lanka

Dr Prasad Ariyawansa, Director of the Accident Service - The National Hospital of Sri Lanka

One Stop Shop, National Police - The National Hospital of Sri Lanka

Ms Anush Prera, Development Assistant, (maintains data), Trauma Surveillance Unit - The National Hospital of Sri Lanka

Professor Savithri Gunasekara, Former Committee Member of CEDAW - Centre for Women's Research (CENWOR)

Professor Jennifer Perera, University Professor - University of Colombo, Faculty of Medicine

Ms Dilrukshi de Alwis, Project Manager of Legal Project - Women In Need (WIN)

Ms Ramani Jayasundara, Policy Development & Conducting Law Reform Research - International NGO

Ms Marini De Livera, Independent Human Rights Lawyer

Avissawella:

Dr Panagodde, Chief Administrator - Base Hospital, Avissawella

Dr Praweena Dias, Judicial Medical Officer - Base Hospital, Avissawella

Dr Supun Mendis, Medical Doctor - Base Hospital, Avissawella

Mrs Chandrani Panagodde, Lawyer - Samaj Sahana Padanama Foundation.

Kegalle:

Judicial Medical Officer – Kegalle Hospital

Mathugama:

Ms Hema Mali, Mathugama, Police Station - Women and Children Bureau

CAMBODIA**Phnom Penh:**

Dr Kantry, Medical Doctor - Municipal Hospital

Att. SOK Sam Oeun, Executive Director - Cambodian Defenders Project (CPD)

Dr Kek Pung, President - Cambodian League for the Promotion and Defence of Human Rights (LICADHO)

Cambodian Acid Survivors Charity (CASC)

Mr Ziad Samman, Project Manager

Dr Horng Lairapo, Chief of Medical Unit & Chief of Legal Unit

Mr Visal Nob, Social Worker

Mr Marn Sokhon, Social Worker

Ms Theany Phal-Chalm, Legal Unit Manager

Mr Kong Sidoeun, Legal Officer

Mr Kim Theoun, Ex- Police Officer & Survivor

Ms Kong Touch, Gender Facilitator & Survivor

Ms Rith Savan, Survivor

Ms Kouy Srey Leak, Survivor

Cambodian Centre of Human Rights (CCHR)

Ms Sana Ghouse, Legal Consultant (Qualified Solicitor from England and Wales)

Ms Ramana Sourn, Project Co-Ordinator

INDIA

Ms Sonali Mukherji, Survivor

Haryana:

Ms Archana Kumari, Survivor

Delhi:

Ms Diya Nanda - UN Women India

Mr Alok Dixit, Journalist & Social Activist - Save Your Voice Campaign

Mr Manish Shukla, Volunteer & Healthcare Professional - Save your Voice Campaign

Ms Indira Jaising (telephone interview), Human Rights Lawyer - Supreme Court of India

Ms Liza Varma, CEO - Quintessential Events

Mumbai:

Ms Shirin Jewali, Founder & Survivor - Palash Foundation

Bangalore:

Ms Indhu Subramanian, Director - Hengsara Hakkin Sangha (HHS)

Ms Sushma Varma, Founder - Campaign & Struggle Against Acid Attacks on Women (CSAAAW)

Chennai:

Dr Prasana Poorvachandra, Director & Founder - PCVC, International Foundation for Crime Prevention & Victim Care

Calcutta:

Mr Rita Banerji, Founder, Author & Gender Activist - 50 Million Missing Campaign

Mr Arunava Basu, Counsellor - Pratyay Gender Trust

Dr Minakshi Ganguly, Doctor & Founder - Maya Foundation

Acid Survivors Foundation India (ASFI)

Mr Hari Prasad Kanoria, Chairman

Mr Mahesh K Varma, Vice Chairman

Ms Rita Paul, Survivor

Ms Moyna Pramanik, Survivor

ANNEX

SUPPLEMENTARY WORK:

A short documentary was produced using some of the interviews that were filmed during the course of this research.

“The Many Faces of Acid Violence”, by Shabina Begum – (this will be available for public viewing as of June 2013)