The Legal Fellowship Programme:

Securing Access to Justice for Women in South Asia
South Asia Women’s Fund is a regional women’s fund, committed to supporting women-led interventions to enhance and strengthen access to women’s human rights and countering violations thereof. In view of the increasing lack of resources for women's rights work, the organisation was founded in 2004, with the core mandate of supporting women’s rights groups and activists in the South Asian countries of Sri Lanka, Nepal, Pakistan, Bangladesh and India. Presently we are focused on creating a regional mandate, which is located in national realities. The following strategic principles underscore SAWF’s intervention strategy: (a) Advancing A Rights Based Approach; (b) Promoting Women’s Voices and Strengthening Leadership; and (c) Forging New Directions With Reinforced Networks.

Our current programme strategy has five key components (i) Building Feminist Voices; (ii) Right to safe and secure mobility; (iii) Physical Integrity and Decision Making – building young feminist voices; (iv) Access to Justice; and (v) Influencing Philanthropy and Resource Mobilisation. In a short period of time, SAWF has supported over 106 initiatives at the sub-national level in the region, ensuring human rights for a diverse cross-section of women.

In addition to making critical fiscal resources available, we have also brought technical resources, for both women’s rights groups and donors, to the table. The objective has been to enable fundamental shifts in perspectives and understanding on women’s issues as well as effective programme designing and process-oriented strategies, which not only nurtures the implementers but the constituencies (i.e. women at the community level) as well.

Head Office
16/6 A, Mohideen Terrace
Ward Place
Colombo 07
Sri Lanka

Liaison Office
No. 904, Empereur Building,
Dr. Bajjath Road, New Hyderabad
Lucknow – 226006, Uttar Pradesh
India
LEGAL FELLOWSHIP SUPPORT AND ADVISORY TEAM

Shikha Silliman Bhattacharjee

Shikha is a human rights lawyer with more than a decade of experience working with grassroots campaigns and civil society organisations in the U.S. and India using community organising, social work and legal approaches. Shikha holds a B.A. from Yale in English and Ethnicity, Race and Migration. At the University of Pennsylvania Law School, she completed a J.D. as a Toll Public Interest Scholar, held Foreign Language and Area Studies fellowships to study rights advocacy in India and completed an interdisciplinary certificate in Global Human Rights.

Niti Saxena

Niti is a qualified lawyer based in Lucknow with expertise on women rights, child rights and other human rights issues. She is an expert in qualitative and quantitative data analysis and management with considerable experience in education and other development issues. Niti is currently a senior researcher with Educational Resource Unit Consultants Pvt. Ltd. (ERU) and leads ERU’s field projects across Northern India. Niti is also the former Executive Director of AALI, a feminist legal advocacy and research group headquartered in Lucknow.

Sara Hossain

Sara is a lawyer practicing in the Supreme Court of Bangladesh in the areas of constitutional, public interest and family law. She is a member of the human rights organization Ain o Salish Kendra and heads the human rights organization Bangladesh Legal Aid and Service Trust (BLAST).

Geeta Ramaseshan

Geeta is a senior lawyer practicing in the Madras High Court in the areas of criminal law, constitutional law and family law, with specific emphasis on human rights and women’s human rights. Geeta is a specialist in international human rights law and has conducted workshops on international human rights for the Asia Forum for Human Rights and Development, Bangkok and the International Women’s Rights Action Watch, Asia Pacific.
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Special thanks to the SAWF Legal Fellows for their insights into the challenges women face in accessing justice at the district level across the region. It is their stories and dedication to promoting access to justice at the district level that bring this document to life.
ABBREVIATIONS

BLAST – Bangladesh Legal Aid Services Trust
FIR – First Information Report
INOWLAG - Indigenous Women Legal Awareness Group
KPK - Khyber Pakhtunkhwa
NCR – Non-Cognizable Report
NCRB – National Crime Records Bureau
MMDA - Muslim Marriage and Divorce Act
MWRAF - Muslim Women’s Research and Action Forum
SAWF - South Asia Women’s Fund
UNICEF – United Nations Children’s Fund
VAW – Violence against Women
ABOUT THE LEGAL FELLOWSHIP PROGRAMME

SAWF launched the Legal Fellowship Programme in 2013 to facilitate access to justice for women across South Asia. The Programme provides financial and technical support, as well as regional networking opportunities to women lawyers working at the primary courts in Bangladesh, India, Pakistan, Nepal and Sri Lanka. With this support, Legal Fellows provide pro-bono legal services to women in some of the region’s most challenging districts. This platform for regional action aims to advance women’s rights and conduct cutting-edge action research on barriers to accessing justice for women at the primary court level.

“Working as a SAWF Legal Fellow, I have a free mind. I have the financial freedom to take women’s cases that come to me—even if they cannot afford to pay me—spend time doing specific legal research and travel to conduct investigations.”

–Urmila, Chitrakoot, Uttar Pradesh, SAWF Legal Fellow (2014-present)
Context

Endemic violence against women and girls in South Asia has garnered extensive media and public attention across the globe. Violence against women persists with impunity in part because women survivors face nearly insurmountable obstacles to accessing the justice system. At the primary court level—the point of entry into the legal system—women lack knowledge about their rights and must surmount flawed police investigation procedures, social stigma for approaching the courts, hostile court environments and protracted court proceedings. The inability to access legal redress when facing rights violations forces women to accept injustice and continue living in violent relationships and environments.

Strong women lawyers are essential to support women survivors of violence. Designed to address the particular barriers women face to accessing justice across South Asia, the SAWF Legal Fellowship Programme invests in long term and transformative solutions: we address all forms of violence against women by strengthening the capacity of women lawyers to uphold the rule of law and facilitate access to justice.

Programme Objectives

1. Identify women lawyers practicing in primary courts and strengthen their capacity to litigate based on principles of human rights.

2. Support women survivors, especially of sexual violence, to access justice with the help of women lawyers.

3. Improve transparency and accountability within legal systems through action-research on access to justice for women at the primary court level.
Impact

In October 2013, SAWF launched the Legal Fellowship Programme with an inaugural cohort of 10 fellows from across the region. Fellows are selected for their dedication to providing pro-bono legal services to women seeking justice in primary court proceedings. By June 2015, the Programme grew to support 18 fellows.

Investing in the capacity of women lawyers at the primary court level to facilitate access to justice is cost effective and far-reaching. In just 15 months, between October 2013 and January 2015, Fellows made a profound impact on access to justice for women in some of the region’s most challenging districts (see Figure 1).

$ 45000
FELLOWS HONORARIUM

$ 11000
CAPACITY BUILDING SUPPORT

235
PRO-BONO CASES BY 13 LAWYERS IN 4 COUNTRIES IN 4 MONTHS

Our Approach

Our approach is innovative, transformative and forward-looking. We aim to transform access to justice for women, uphold human rights and strengthen the rule of law across the region by investing in the capacity of a cadre of women lawyers to provide high quality legal representation and conduct action research.
**Funding pro bono legal services:** SAWF Legal Fellows commit to providing pro bono legal services to women in family and violence against women cases. Each legal fellow works with the SAWF team to define a caseload that will best address the needs of women in the areas in which they practice.

**Investing in the professional development of women lawyers:** Through multi-dimensional skill development and on-call support, SAWF supports Legal Fellows to provide women with first-rate counsel in some of the most challenging environments in the region. Training opportunities include modules on fair legal processes, litigation skills and application of human rights standards in domestic contexts. Fellows also identify personalized areas for professional growth and work with the Programme Coordinator to reach these goals through guided reading, mentorship and outside training opportunities.

**Establishing a strong regional network of women practicing at the district level:** During national and regional meetings, fellows present their cases, share challenges and learn legal strategies from their cohort and legal advisors. This rigorous shared learning environment facilitates ongoing collaboration between fellows nationally and regionally.

**Research for action:** SAWF is committed to ensuring that women lawyers have a strong voice in local, regional and international discussions on access to justice for women. Accordingly, SAWF works with Fellows to develop critical analysis, research, writing and presentation skills. Fellows identify significant barriers to accessing justice in the areas where they work and select research topics that will deepen their understanding and capacity to respond to these challenges. Working either individually or in teams, Fellows learn research methods and undertake a self-designed research programme culminating in presentation of their findings at a regional colloquium on access to justice.
Our Values

SAWF Legal Fellows work together to develop an understanding of women’s human rights, equality and non-discrimination. They are committed to uphold the rule of law and integrity of the judicial process; and provide legal counsel informed by participatory decision-making, with particular attention to issues of contextual inequality, including: class, religion, race, caste, minority status, occupation, sexual orientation, rural-urban contexts and gender.

In March 2015, the Legal Fellows worked with the SAWF team to develop a code of conduct grounded in human rights and feminist principles.

SAWF Legal Fellowship Code of Conduct for Feminist Lawyers

A. Rule of law

1. Knowledge of legal framework

- Learn the facts of the case
- Identify the issue
- Determine the laws and precedents that are applicable in each case
- Identify the jurisdiction of the court
- Identify available remedies
- Identify gaps in the law. If the client’s rights cannot be restored under law pursue alternative resolutions.

2. Obligation to judicial process

- Ensure due process (ex: ensure that the rights of the accused are not violated)
- Inform and prepare your client for future legal implications. Prepare your client for the law, culture and structure of law (conditions in court)
- Maintain due diligence: (1) Ensure a high level of care in preparing and structuring the case (2) conduct reasonable investigation before requesting relief.
• Ensure that interests do not conflict.

• Do not facilitate or encourage fabrication of evidence.

• Do not press false charges or be a party to coercive compromises.

**B. Relation between lawyer and client**

• If the client's rights cannot be restored due to gaps in law and processes, inform the client and help her in considering alternative measures (e.g. counseling, safety planning).

• Identify what the woman wants (her best interest). Ensure that she is heard and participates in decision-making and agrees with all action taken.

• Ensure that your client is safe while pursuing legal remedies. Consider family and community backlash.

• Maintain confidential, client-lawyer privileged communication.

• Be conscious of unequal power relationships with your client.

• Do not hold out false hope. Orders cannot be promised.

• Ensure that you are capable of representing your client before taking up the case.

**C. Feminist perspective**

• Evolve a feminist ethic that acknowledges the historical disadvantage of women.

• Ensure conduct based on principles of equality and non-discrimination.

• Acknowledge and respect the context of our clients: class, religion, race, caste, minority, occupation, sexual orientation, rural-urban, gender, disability. Respect decision-making without judgment.

• Acknowledge unequal power dynamics.

• Develop an understanding of women's human rights.

• Facilitate access to justice for women by considering gender-based, social and cultural barriers.

• Use respectful and non-derogatory legal language in drafting and pleading for client and opposition.

• Pay attention to feminist principles in choosing language, arguments and positions. Consider how legal and other language influences the legal process and your client.

• Marriage cannot be considered a solution in cases of rape.
WHERE WE WORK

While we firmly believe that a transnational regional network of women lawyers will be essential to facilitating access to justice for women in South Asia, the Legal Fellows Programme is simultaneously committed to maintaining the flexibility needed to respond to uniquely national and local challenges. The following sections provide a glimpse of our Fellowship cohort and the issues they are undertaking in Bangladesh, India, Nepal, Pakistan and Sri Lanka.

OUR WORK IN BANGLADESH

Violence against women in Bangladesh is widespread, with particularly high rates of dowry related violence, rape, acid violence, stalking and sexual harassment. The VAW survey 2011 conducted by the Bangladesh Bureau of Statistics “identified that as many as 87% of currently married women have ever experienced any type of violence by current husband.” 1Similarly, UN Human Rights Council’s report (2013) shows that dowry-related violence remains prevalent across the country. During the first 8 months of 2013, civil society organizations reported 327 cases of dowry-related violence suffered by women and girls. On acid attacks, 31 cases of acid violence have been reported alone between January and August 2013. 2However, given the severe social stigma faced socially and by the police, the majority of women survivors choose to hide incidents of violence rather than seeking justice through the courts. Women are further deterred from accessing the legal system due to the high financial cost of legal proceedings. Moreover, due to systemic failures and poor implementation of laws to protect women—including flawed medical and post mortem investigation reports and protracted court proceedings—even in those cases where women do come forward to take legal action, perpetrators usually walk free.

Bangladesh’s constitution protects equal access to justice for all citizens and provision of legal aid is stipulated in the Codes of Civil and Criminal Procedure. The National Legal Aid Committee, moreover, is charged with providing legal aid and counsel to indigent people and the Legal Aid Services Act, 2000 establishes a formal legal framework for providing legal aid in Bangladesh. Despite these provisions, however, government legal aid remains difficult to access, especially for women.

Against this backdrop, in June 2015, SAWF welcomed our first 2 fellows from Faridpur and Dinajpur Districts in Bangladesh.


Research for action
After completing legal research training during their June 2015 orientation workshop, Legal Fellows from Bangladesh have begun conducting a self-designed and directed research initiative on Access to justice for women in cases of domestic violence under the Domestic Violence (Prevention and Protection) Act, 2010 (Location: Faridpur and Dinajpur Districts, Bangladesh)

Profiles of Bangladesh Legal Fellows

Sipra Goswami
(2015 - Present)

I am a lawyer and human rights activist working at the district court level in Faridpur, Bangladesh since 2000. In 2003, I joined Bangladesh Legal Aid and Services Trust (BLAST), a leading provider of free legal aid in Bangladesh. Within my legal practice, I represent women, people with disabilities and socially excluded groups including sex workers and transgendered people. My work with women focuses on family law cases, dowry and violence against women cases. I also work in collaboration with government and non-governmental initiatives on women’s rights, both within Bangladesh and internationally. I became a SAWF Legal Fellow to broaden the horizons of my work by learning with legal fellows from other South Asian countries.

Khurshida Parvin
(2015 - Present)

I am an advocate working for BLAST as a District Project Officer in Dinajpur District. I decided to become a lawyer because I noticed that there were very few women lawyers in the district where I work. As a result, women are reluctant to approach the courts because they do not feel that they will be supported. As a SAWF Legal Fellow, I look forward to sharing my experiences from Bangladesh and to learning from other regional contexts.
OUR WORK IN INDIA

Women in India suffer violence, inequality, exploitation and injustice, within their homes, workplaces and society at large. They are at risk of myriad forms of violence throughout their lives, beginning with sex selective abortion and infanticide and including sexual harassment, sexual abuse, acid attacks, rape, domestic violence, dowry related murders, trafficking, violence on the bases of their sexual orientation, custodial violence, murder in the name of ‘honour’ and rape during communal and caste-related conflicts. For instance, in 2012, according to the National Crime Records Bureau (NCRB), dowry deaths constituted 3.4% of all crimes against women. 3 Human Rights Watch’s recent report highlighted the systemic increase in violence against women. “In November 2014, more than a dozen women died and many others were critically ill after undergoing sterilization procedures in the central Indian state of Chhattisgarh.” 4 Reports of rape—including of Dalit women—also saw a marked increase despite legal reforms.

While India has many laws in place to protect women’s rights and end violence against women, perpetrators of violence are seldom held accountable due to significant challenges in accessing the justice system. For instance, the National Crime Records Bureau report released in 2012 shows that 85.1% of rape cases investigated in 2012 were still awaiting trial. 5

Although State and District Legal Service Authorities are entrusted with providing free legal aid services for women, legal aid services are currently neither effective nor accessible. Legal aid lawyers are most frequently underpaid and poorly qualified. Legal aid offices, moreover, are concentrated in urban centres and nearly entirely absent from remote rural and tribal areas.

Since October 2013, SAWF has supported 7 women lawyers in India working in a range of extremely challenging contexts. From Bundelkhand, Uttar Pradesh to Agartala, Tripura, SAWF Legal Fellows come from and provide legal services to some of India’s most marginalised communities. In particular, the Legal Fellowship Programme has prioritised supporting access to justice for women from Dalit and Adivasi communities.


Research for action
During the inaugural year of the Programme, Legal Fellows from India learned to integrate legal research and reflection into their practice by observing selected court proceedings and collecting judgments from district courts. Building upon this foundation, beginning in April 2015, Legal Fellows are conducting self-designed and directed research initiatives on the following topics:

- Access to justice in cases of domestic violence under the Protection of Women from Domestic Violence Act, 2005 (PWDVA) (Locations: Chitrakoot Distric, Uttar Pradesh and Kamrup District, Assam)
- Access to Justice for Women in Tripura During Dissolution of Marriage: Legal and Customary Practices (Location: Agartala District, Tripura)
- Access to justice for women in sexual violence cases (Location: East Singbhum, Jharkand)

Issue spotlight: litigating sexual violence cases in Chitrakoot District, Uttar Pradesh

Urmila works in Chitrakoot, Uttar Pradesh. Here, she explains, women face significant barriers in accessing justice: “usually women have no support from their families, there are no shelter homes where they can stay during court proceedings, police routinely refuse to register DIRs and FIRs and instead register NCRs. If they do make it to court, proceedings take an extremely long time, there are no free legal aid services and women face insensitive and even abuse behavior within the court room. Even the judges are disrespectful of women applicants,” Urmila explains. “I have even heard judges mock women—in one case, a judge said to one of my clients ‘why don’t you serve your husband like you are supposed to instead of trying to take maintenance.”’
While according to Urmila, women judges tend to be more supportive of women applicants, only two out of the eight judges in her area are women. Within this context, Urmila provides pro bono legal services to women on a wide range of issues—domestic violence, divorce, property related issues, criminal cases and sexual violence cases. In particular, she explains “I focus on caste-based violence against women. In general, women face violence, but caste-based violence increases the level of violence women face.” Urmila receives case referrals from women’s organizations, reporters, police and protection officers. Women also approach her directly for help.

According to Urmila, it is particularly challenging for women to access justice in sexual violence cases. “In cases related to sexual violence and harassment, women don’t feel comfortable talking to male advocates and male advocates do not feel comfortable really arguing these issues in court. I work hard to challenge this silence around sexual violence cases.” Urmila recounted the following case example: “I am currently litigating an incest case where the victim was raped, anally raped and made to perform oral sex. When I argued the case, I described the victims’ statement, explaining in a very lay-person manner exactly what happened.

Continued...
The judge stopped me. He checked the application, closed the file and said the hearing was finished. He asked me not to proceed and said that he had seen the case. ‘No,’ I said, ‘I request to complete my presentation.’ Then, I explained to the entire courtroom, in detail, that the father in this case would put his penis in the mouth of my client and ejaculate; that he would put his penis in her anus; that he also penetrated her vagina. The judge was uncomfortable. The men in the courtroom were staring at me—smiling, laughing, trying to make me nervous—but I continued my presentation, I was very professional, undisturbed. I was not shy.

“After the hearing, the judge left the courtroom but promised to decide the case by 3 pm. He returned at 3 pm and gave a judgment in favor of my client. He told the courtroom that his judgment was based upon my arguments. Then, he called me into his chamber. He told me that he admired my advocacy, that my explanation had been clear and direct—and that he admired my guts for making such a presentation in a courtroom full of men. He asked me where I got the courage to speak on behalf of my client. I explained that every detail I mentioned was to show the violation of my clients’ legal rights. My courage, I explained, comes from the law and from my understanding of sexual violence in local, national and regional contexts. In the end, he asked me where I was from—he said ‘I want to see the land that has given birth to such a strong woman who can take a stand on women’s issues with such a broad base of knowledge. I responded, proudly: “I am from here. I was born in Chitrakoot. This is my home.”

Profiles of India Legal Fellows

Bhuneshwari Devi
(2014 - Present)

I am a human rights lawyer practicing in Port Blair, Andaman and Nicobar Islands. Over the past fourteen years, I have worked for the rights of women and the underprivileged, particularly from the Ranchi community of tribals who were brought to the Andaman and Nicobar islands as labourers. These tribal communities have been denied tribal rights, land and property rights on the islands. The Asia tsunami of 2004 robbed them of the little they possessed. I began providing free legal aid to tsunami victims in Lok Adalats (alternative courts), District and High Courts—and even the Supreme Court of India. I also raise awareness among the Ranchi about their rights and how to access justice. I have successfully secured relief for women subjected to domestic violence and maintenance for women abandoned by their husbands. The SAWF Legal Fellowship provides me with the financial support I need to provide free legal services to those in need.
I am a practicing lawyer from Assam, India where I have been practicing in the district and high courts since 2010. I completed my B.A. with honors and LL.B from Guwahati University and became a lawyer because I believe that law can be a powerful tool to uphold human rights and access justice for some of India’s most vulnerable groups. In addition to my legal practice, I work with women’s rights organizations through the North East Network and have also been a ‘Lawyers for Change’ Fellow (2014). I am committed to working on women’s human rights and labour rights, including maternity leave and wage structure, domestic violence and other forms of violence against women. I have conducted primary research on witch hunting practices in Assam, domestic violence, sexual harassment of women at the workplace, maternity leave, discriminatory wage structures and gender focused budget tracking. My articles on women’s legal rights have been published in the Assamese Daily. I joined the SAWF Legal Fellowship Programme to further develop my capacity as a lawyer and human rights activist.

I am from Chitrakoot District, Uttar Pradesh where I have been practicing law in the primary court of Karvi for 9 years. I also work directly with nearly 1000 women (especially Dalit women) from 30 villages to recognize and exercise their rights. My personal struggle has been a critical influence in my choice to become a lawyer—I was married off as a child, had a child in my teenage years and now raise my daughter as a single mother. I completed my schooling and also earned a law degree while working with Mahila Samakhya and Vananagana. I strongly believe that women lawyers are essential to challenging patriarchal court environments that are hostile to women and ensuring that women’s rights are upheld. The SAWF Legal Fellowship Programme broadens my knowledge and perspective and supports me to take up pro-bono cases on behalf of women survivors of violence.

I am from Jammu and Kashmir, a state badly hit by conflict and natural calamities. Here, women are not only suppressed on the basis of gender, but also suffer the violence of living in a conflict zone. Witnessing the violence women face, largely silent and unreported, I decided to become a lawyer. After completing my law degree at Aligarh Muslim University, I completed my masters in Peace and Conflict studies. I have worked with a range of NGOs working to end violence against women. The SAWF Legal Fellowship has helped me to understand my work in context of the many issues facing women across India and South Asia.
Romita Reang
(2014 - Present)

I am from Tripura in the North East Region of India where I work as a Junior Advocate in the Agartala District Court. I was born and brought up in a very remote tribal village in Tripura. The discrimination and violence women face in Tripura influenced me to become a lawyer and complete my law degree from University of Calcutta in 2011. As a young lawyer, and one of only two lawyers from my community, the SAWF Legal Fellowship Programme provides me with the support I need to build my skills as a legal practitioner and ensure access to justice for marginalized women in Tripura. Through workshops, meetings and individual guidance, I am building my skills as an advocate.

Priti Murmu
(2015 - Present)

I am from Jamshedpur in East Shingbhum District, Jharkhand. I have been practicing as a lawyer at Jamshedpur Civil Court since 2004. I have also practiced in the Patna High and Civil Courts. I graduated in law in 2001 and then pursued an LLM from Patna University. As a woman lawyer, it is my duty to take cases for women who belong to the weakest sections of society. I represent women in civil and criminal cases. In East Shingbhum, District, I was responsible for filing the first case under the Protection of Women from Domestic Violence Act, 2005. I also raise legal awareness among women from Scheduled Castes and Scheduled Tribes in remote areas of the district. Through the SAWF Legal Fellowship, I have come to have better understanding of what it means to practice law with a feminist perspective.

Deorani Kumari
(2014 - 2015)

I am from Ramgarh in Jehanabad, Bihar. After completing my BA, LLB and a Human Rights Diploma Course, I joined the Jehanabad District Bar Association in 1997. I am from an oppressed community and I have witnessed violence against women, atrocities against Dalit women and exploitation of women labourers. Within this context, I provide legal support to women from remote rural areas who have limited resources, particularly in cases of sexual violence, rape and maintenance. I also run legal awareness programmes on violence against women, child marriage and domestic violence. These are all issues that deeply affect women from my community.
OUR WORK IN NEPAL

Within Nepal’s post-conflict environment, patriarchal values and gender bias are deeply entrenched and prevalent within social, political, cultural, economic and religious institutions. While women’s rights are recognized as fundamental rights within Nepal’s Interim Constitution (2007), the ongoing debate on the constitution remains regressive on women’s issues and does not specifically prohibit gender discrimination.

A 2013 country report⁶ pointed out the prevalence of violence against women in Nepal, taking the form of dowry-related deaths, sex trafficking, and domestic violence. According to data from Nepal Police Headquarters, the number of cases of domestic violence tripled from 1,800 between 2012 and 2013 to 6,835 between 2013 and 2014. ⁷Women in Nepal also face lack of education; low levels of economic and political participation; denial of citizenship rights passed through the mother; and early marriage and other forms of socially sanctioned violence such as witch-hunting (Deuki).

No doubt Nepal has made important strides in achieving legislative changes that protect women’s rights, but the women’s movement in Nepal continues to face significant challenges. Within these issues, those from socially marginalized groups such as Dalits and indigenous women are particularly affected. Women have become even more vulnerable and exposed to abuse and exploitation in the current post-disaster scenario.

The SAWF Legal Fellows Programme aims to strengthen the capacity of Nepali women lawyers to advance human rights and gender equality. In particular, SAWF aims to support positive and dynamic change in women’s rights in Nepal, especially in the sphere of physical and bodily integrity, leadership and civil liberties. To achieve these objectives, SAWF has invested in the leadership of women lawyers with an emphasis on identifying and supporting legal fellows from marginalized communities, rural areas and disadvantaged backgrounds. Our work with the Nepal Legal Fellows aims to enable a strong understanding of rights-based approaches and strengthen the women’s movement by fostering links between and among Nepali Legal Fellows and civil society partners.

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Research for action

During the inaugural year of the Programme, Legal Fellows from Nepal learned to integrate legal research and reflection into their practice by observing selected court proceedings and collecting judgments from district courts. Building upon this foundation, beginning in April 2015, Nepali Legal Fellows are conducting a self-designed and directed country-wide research initiative on Access to Justice for Women Survivors of Sexual Violence in Nepal. They seek to conduct primary research to inform current amendment of laws relating to rape and other forms of sexual violence in order to ensure that amendments are consistent with international human rights standards and adequate to facilitate access to justice for women at the district court levels.
Issue spotlight: Securing wholistic support for survivors of trafficking in Kathmandu, Nepal

As a Programme Coordinator for the Center for Legal Research and Resource Development in Kathmandu, Nepal, Sandhya Sitoula supervises legal aid lawyers and represents women survivors of trafficking and labour migrants facing a range of human rights abuses. In response to a recent referral from the Nepali Crime Investigation Bureau, Sandhya took the case of a 19-year-old Nepali girl who escaped from Harbin Province, China where she had traveled for an agency-arranged marriage and, upon arrival, faced ongoing sexual abuse from both her husband and numerous men from the community. “She was told by the agency that the marriage certificate was only a formality to enter China and that she would be placed by the agency in a company where she would earn well,” Sandhya explains. “She was also assured that within a few months she would earn enough to bring her family to join her. Instead, she faced ongoing sexual abuse: since there are so few women in Harbin Province, she was forced by her husband to have sex with numerous men from the community.”

According to a September 2014 report in China Daily, marriage between Chinese men and ‘non-native,’ including Nepali women is on the rise. “The particular agency that sent my client to China—jointly run by Nepalese and Korean nationals—has been found to be pairing girls as young as 17 with men who are twice their age from China and Korea,” Sandhya explains. “The girls agree to go with dreams of marriage, but all too often face abuse when they arrive.”

Sandhya’s client, one of six Nepali women sent by the same agency to arrive in Harbin Province on February 3, 2015, managed to escape: “She escaped by climbing through a window in her husband’s house. She walked for three hours in the snow before she came across a police officer who agreed to help her. She returned to Nepal on February 19.”

Sandhya is committed to holistic interventions to support survivors that include not only legal representation, but psycho-social support as well. “In cases of trafficking and other migration-related rights abuses, providing legal representation is just one part of my work—my clients need holistic support, including assurance that they will remain safe during legal proceedings.” She describes her involvement with the 19-year-old woman who escaped from Harbins Province: “I worked with the Central Intelligence Bureau team to draft and register an FIR, but before that I had to make sure my client felt safe and supported. In our first session, I spent three hours with my client and learned that she was facing threats from the perpetrators. Before she agreed to move forward with legal proceedings, we decided she needed a safe place to stay and arrangements for her security. I worked with her personally to arrange for a situation in which she felt safe to take legal action. I also went with her to seek psycho-social counseling to address the abuse she faced. These interventions helped her to regain her confidence. She was able to appear in court and deliver an attested statement on the abuse she faced in front of a judge—very strong evidence in a case like this and evidence that is often missing due to the reluctance of survivors to approach the court.”

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Profiles of Nepal Legal Fellows

I am from an indigenous community in the remote village of Banglung district. Growing up, I witnessed women from indigenous and marginalized communities suffering domestic violence, child marriage, polygamy and sexual violence. Their lack of knowledge about their rights and inability to file cases for relief called me to work on access to justice for women. I completed my Intermediary Law from Mahendra Bahumukhi Campus, Baglung and Bachelors in Law from Nepal Law Campus, Kathmandu. I am presently pursuing an LL.M on Human Rights and Gender Justice from Kathmandu School of Law, Bhaktapur. I am also a founder and the current Member Secretary of Indigenous Women Legal Awareness Group (INOWLAG), dedicated to securing access to justice for indigenous women in Nepal.

I am originally from Gulmi District in the Western part of Nepal and now live in Kathmandu. My core areas of litigation focus on defending the rights of women and marginalized groups. Growing up in Nepal, I witnessed gender-based discrimination, division of the roles and responsibilities of women and men and severe human rights violations including sexual and other forms of violence against women. These forces undermine women’s agency and self-respect. I decided to be a lawyer to secure access to justice for women in Nepal. The SAWF Legal Fellowship supports me to advocate on behalf of women at the trial court level and provides me with a national and regional-level platform to advance my work on access to justice for victims of gender based violence and ending structural discrimination against women.
I am from Pokhara Nepal where I have practiced law for the last six years. I am from an oppressed community myself, but I define myself instead as a feminist lawyer. I decided to practice law to advocate for women facing gender and caste based violence. Now, I provide legal services and conducts awareness campaigns in Pokhara and surrounding areas. My goal in life is to encourage women from my community to come forward and claim their rights, and to make their rights accessible. In this way, I want to break down social dogma that continues to make women a suppressed class. The SAWF Legal Fellowship is an opportunity to explore the reaches of my ability and learn from women lawyers across South Asia while I provide pro-bono legal services to women from my community.

I am an advocate working in the rural area of Kavre district in Nepal for the last seven years. Throughout my carrier, I have focused on litigating on behalf of rural women at the grassroots level, especially violence against women. I provide legal remedies for women and children and raise awareness regarding women's rights and legal protections. I am also a member of the National Alliance of Women Human Rights Defenders. In these ways, I advocate for gender equality and challenging discriminatory cultural and social practices that target women in the name of custom and tradition. Since childhood, I have encountered gender based violence and raised my voice against any discrimination. This passion led me to become a lawyer and ensure access to justice for women. The SAWF Legal Fellowship has made me part of a regional platform where I can update my practice and sharpen my knowledge on access to justice for women together with women from across the region. As a feminist lawyer, the SAWF platform has developed my understanding of feminist legal praxis.
I am an advocate in Kathmandu where I litigate cases of trafficking and other forms of violence against women, and advocate for the holistic rights of survivors. I did my LLB and LL.M in Human Rights and Gender Justice from Kathmandu School of Law. I was Fulbright Humphrey Fellow for the year 2013-14, focusing my studies on International Human Rights and Trafficking in Persons Prevention and Policy. In my society, gender discrimination permeates every sphere, habituating injustice in daily life. Coming from a family of all daughters, I regularly confront son preference. This hardened my resolve to become a lawyer like my father. I am committed to making access to justice a reality for women, grounded in my belief, "If there is violence, do not remain silent."

I am from Dang and practice law in the districts courts of Surkhet. I have been in the legal field for twelve years, litigating on women’s issues. I come from the mid-western region of Nepal where my family are farmers. Since childhood, I noticed discrimination between men and women. Women are limited to household work and childbearing. It is also common for Chaudhary indigenous groups to send their daughters to work in bonded labour as *Kalmaris* in the homes of others. In this context, I have been witness to sexual violence and human rights violations against women. I see women suffer and I watch perpetrators roam freely without consequences. This social context hardly acknowledges women’s concerns. These are the forces that drive me to fight for access to justice for women.
Women’s restricted access to justice in Pakistan results from the interplay between various social, cultural, structural and legal dimensions of the justice system. The World Economic Forum Global Gender Gap 2014 report places Pakistan as the second lowest performing country in the world in terms of gender equality. Although violence against women, including domestic violence and sexual abuse in the form of rape, molestation and harassment are rampant, they remain largely unreported due to widespread reluctance to disclose sexual violence and invite public scrutiny and shame onto women and their families. Even within this context of under reporting, Ministry of Interior statistics on violence against women paint a dismal picture: in 2013, 56 girls were murdered for giving birth to girl children; and in 2014 3, 243 women reported being raped across the country, 923 women and 82 minor girls were murdered in the name of ‘honour’ and 92 women and 13 minors were victims of acid attacks. Survivors who do report violence are often stigmatized for the violence they face.

In the face of these obstacles, the SAWF Legal Fellowship Programme has supported three women lawyers to represent women in family law and violence against women cases.

Research for action

After completing legal research training during their June 2015 orientation workshop, Legal Fellows from Pakistan have begun conducting a self-designed and directed research initiative on Access to justice for women in cases of domestic violence under the Domestic Violence (Prevention and Protection) Act, 2012 (Location: Hyderabad and Jacobabad Districts, Pakistan).
Zara works in Peshawar, the capital of Khyber Pakhtunkhwa (KPK) Province. She explains the context in which she works: “We are surrounded on one side by mountains. This tribal area shares a border with Afghanistan and is largely not under the directorate of the government. Instead they resolve disputes through the Jharga system [council of elders] according to Sharia principles within Pakistan, Peshawar represents Pashtun history and culture. There is a strong Taliban and extremist religious presence. As a result, women have few rights in these areas. Any progress is challenged—girls schools are bombed in this area, there is backlash against women who go out and work.”

These forces, Zara explains, create huge barriers for women trying to access justice through the courts. “The district and high courts in Peshawar have been attacked three or more times. Several lawyers have been targeted and killed. There are very few women lawyers here. Women work on family law cases. Rape cases are conducted by public prosecutors who are mostly male.”

Within this context, Zara advocates on behalf of women in family law cases and in instances in which constitutional rights are curtailed by local customs. “I frequently work on child marriage cases and badl-e-sulah cases—cases where women are given in marriage by their families in order to resolve a blood feud. This is a common response—in murder cases, a female member of the murderers’ family will be married to a man from the deceased persons’ family. There is no exception. If there are no women of an appropriate age, they may even give a young child to a man who is sixty years old. I also work with women in gahah cases—cases where a man can claim the right to marry a particular woman. If they do, no one is supposed to send a proposal to that woman. If a proposal is sent, it may result in a blood feud. Badl-e-sulahandghahcases prevent women from choosing the person she wants to marry. I work with women who reach out for help in these cases. It is not uncommon, though, for them to back out of court cases due to threats from their families.”

In addition to her litigation work, Zara also dedicates significant time to raising awareness on women’s rights. “This is a very important part of my role as a woman lawyer—explaining to women that they have rights is the first step in supporting them to access the legal system. I use many different forums to get this message across. I do shows on Radio Mirzan, the local radio channel in KPK that is aired by the Peshawar High Court. I have done programmes on child rights, women’s rights, religion and society, constitutional rights, explaining the Commission on the Status of Women, and encouraging women to enter the workforce by explaining the legal steps to set up a small business and the laws that protect them from harassment in the workplace.”

For Zara, another significant component of strengthening constitutional protections for women is increasing the number of women lawyers in Peshawar. “You can count the women on one hand who work on family law cases and have specialized knowledge. Young women need to see women lawyers who are working in this area. I try to do my part by giving lectures for law students and holding awareness programmes aimed at young women lawyers.”
Profiles of Pakistani Legal Fellows

Asiya Agha
(2015 - Present)

I have been a practicing lawyer in the District and High Courts of Jacobabad, Pakistan for the last 12 years. I focus on women’s issues, providing legal services and also raising legal awareness among women of their human rights guaranteed by the Constitution of Pakistan. In the area where I work, women and girls are mostly employed as daily wage labourers. They face violations of their rights in the workplace. The worst cases amount to bonded labour. I also represent women who faced discriminatory treatment within their homes and the community. Women are victims of ‘honour’ killings, sexual abuse and domestic violence. Most often, perpetrators of violence against women walk free. I became a lawyer in order to secure access to justice for women in my area.

I have been a practicing lawyer for five years in different areas of Sindh Province, Pakistan. I currently work with Legal Rights Forum and Dastageer Legal Aid Centre in Hyderabad District, Sindh where I provide legal aid to survivors of gender based violence, persons with disabilities and religious and ethnic minorities. In the rural areas in Pakistan where I work, there are high levels of illiteracy and women face sexual abuse, humiliation and other forms of abuse at the hands of the Waderas system. Access to justice for women is distorted by gender based discrimination, lack of good governance and persistent feudal customs that structure social and economic relations. In this context, I was encouraged by my father to become a lawyer and challenge discrimination by providing legal assistance to women. Even though I have support from my family, it is challenging to work as a woman lawyer in an area where there are few women lawyers. Linking me to a network of women lawyers from across the region, the SAWF Legal Fellowship provides me with support and an environment to learn and grow with other women lawyers.

Tabassum Rani
(2015 - Present)
I am from Peshawar, the capital of KPK Province which is a largely a rural tribal area that shares a border with Afghanistan. There is a strong Taliban and extremist presence here as well. Due to these influences, tribal areas are not under the directorate of the government—they have their own law and with few exceptions resolve disputes through the jharga system (council of elders). Dispute resolution is done according to Sharia principles. Women face extreme difficulties in this environment. Girls' schools have been bombed in nearby tribal areas. There are social prohibitions against women working or leaving the home without a complete veil. I am one of very few women lawyers here. I take family law cases focused on women whose rights have been violated in context of local customs. I also raise awareness on women's rights throughout the region by broadcasting programs on Radio Mirzan, a local radio channel aired by the Peshawar High Court.
OUR WORK IN SRI LANKA

Women who seek access to justice in Sri Lanka navigate a complex legal landscape. In addition to the formal legal system including law enforcement authority and courts of law, dispute resolution may also be carried out by religious leaders under personal law or informally mediated by family members or broader kinship networks. Women face practical challenges in accessing justice through the courts, including physical distance from service providers, restrictions on their mobility, poor infrastructure that inhibits travel, a low level of awareness about their rights, high costs and social stigma associated with engaging in a legal dispute.

Sexual and other forms of gender-based violence are prevalent in Sri Lanka, especially in conflict-affected Eastern and Northern parts of the country. Recent reports have suggested that most crimes of sexual violence against women are committed by armed forces personnel, police officers, army deserters, or members of militant groups. Similarly, a UNICEF study reported a progressive increase in abuse and violence against women and children across districts. These crimes, as in other countries in the region remain significantly underreported due to fear of retaliation and pressure from families to conceal violence. Due to lack of livelihood options and significant responsibilities—especially for widows and single mothers—women and girls who migrate for employment from war affected areas are particular vulnerable to unsafe migration practices including trafficking and various forms of violence.

Research for action

After completing legal research training during their June 2015 orientation workshop, Legal Fellows from Sri Lanka have begun conducting a self-designed and directed research initiative on Access to justice in divorce and related proceedings for women in Sri Lanka. The legal framework governing divorce is not uniform across Sri Lanka—a multi-ethnic country, comprised of Sinhalese, Tamils and Muslims. Sri Lanka’s legal system is divided into two parts: Common Law and Personal Law. With respect to divorce laws, Sri Lankan Muslims are governed by Muslim Personal Law and all other Sri Lankans are governed by Common Law. SAWF Legal Fellows from Sri Lanka will conduct a comparative study of legal processes at the district and Quazi court levels. They will evaluate first, whether Sri Lankan laws relating to divorce meet the standards for protection articulated by Article 12 of the Sri Lankan Constitution that establishes the right to equality of the Sri Lankan constitution; and second, whether women can access these protections in the District Courts and Quazi Courts in the areas of Colombo, Batticaloa and Kalmunai.


Safana has spent 14 years practicing law in Colombo. "I am primarily a civil lawyer but I also take domestic violence cases in the Magistrate's Courts," Safana explains. "The 50-60 cases I carry at any given time are comprised of divorce, maintenance and custody cases—but there are fewer domestic violence cases because most women don’t come forward to report domestic violence."

Sri Lankan Muslims are governed by the Muslim Marriage and Divorce Act, 1951 (MMDA) with regard to marriage, divorces and connected matters. Jurisdiction over these matters fall to Quazi Courts [Muslim Family Courts], then Boards of Quazis, then Courts of Appeal and finally, the Supreme Court of Sri Lanka. According to Section 47(1) of the MMDA, a wife is entitled to maintenance from her husband until a divorce. But if the wife is pregnant at the time of the divorce she is entitled to maintenance from the husband until she delivers the child. Thereafter the divorced wife should observe *Iddath* for 3 months and she is entitled to maintenance for the said 3 months. After these time windows expire, her right to seek any maintenance from her husband is seized. By contrast, women who are governed by General Law of Sri Lanka are entitled to alimony from their husband after the divorce.

According to the Quran, however, divorced women are also entitled to *Mathah*—maintenance to be provided on a reasonable scale or fair standard that may exceed the maintenance afforded under Sri Lankan Muslim Personal Law. "My argument is that *Mathah*, as a “matter connected with divorce,” falls within the scope of the MMDA and can therefore be granted by Quazi Courts even if it is not explicitly mentioned in the MMDA. First, I won one case in the Board of Quazis on this issue—the judgment in favour of the wife held that Quazis have jurisdiction to look into matters that involve Mathah. Then I also secured Mathah on behalf of five other women. I have twelve other Mathah cases pending before the court. Due to my experience with this issue, I am supporting a case in the Supreme Court to confirm the jurisdiction of Quazis in Mathah cases—since I appeared for the Quazi in the Court of Appeals case in this matter, I cannot appear in this case directly under the Code of Professional Ethics, but I am giving my full support to this case both in and outside the court room."
Profiles of Sri Lankan Legal Fellows

Jerusha Crosette-Thambia
(2015 - Present)

I am from Sri Lanka and practice law in Colombo and around the island. I litigate mainly in the areas of family law and women's rights. I have been in the practice for five years. I attribute becoming a lawyer mainly to the bullying I experienced and witnessed first-hand during my childhood and I wanted an opportunity to represent those who were not in a position to stand up for themselves. I chose to be a South Asia Women's Fund Legal Fellow in order to help more women in this respect and also to meet, share experiences and be mentored by lawyers working to enhance women's ability to access justice in the region.

Safana Gul Begum
(2014 - Present)

I am a civil lawyer, working on cases pertaining to women's issues, especially among the Muslim community. My work as the in-house lawyer from Muslim Women's Research and Action Forum (MWRAF) led me to look closely at the Muslim Personal Law of Sri Lanka, especially marriage, divorce and related issues. The fight for legal rights for women in Sri Lanka is an uphill task. As a result of my work, I was selected as a committee member of the Muslim Matrimonial Law Reforms Committee appointed by the Ministry of Justice. The SAWF Legal Fellowship has strengthened my resolve to work against sexual and domestic violence against women.

Diana Sujeewa Florington
(2014 - Present)

I am a legal practitioner in Batticaloa, Sri Lanka. I work with governmental and nongovernmental organizations and local women's groups focusing on rights development and ending violence against women. To become a lawyer was my childhood desire. I was firm in my decision to use the law to support vulnerable women and children, especially those affected by the war in Sri Lanka. The SAWF Legal Fellowship Programme supports me to provide pro bono legal services in my area that are guided by a feminist legal perspective on access to justice. I have also been given the training and strength to research legal issues facing women.
I practice family law and serve as a penal lawyer for the Legal Aid Commission in Kalmunai. Becoming a lawyer was my childhood ambition. I was selected to enter the University of Colombo, Faculty of Law and in 2008 I completed by LLB. Decree. I enrolled as a lawyer of the Supreme Court of Sri Lanka in 2009. For four years, I served as a Legal Advisor for Norwegian Refugee Council. The SAWF Legal Fellowship has supported me to sustain my legal practice as a free legal aid lawyer. The program has enhanced my capacity for courtroom advocacy, introduced me to legal research and deepened my understanding of women’s rights. As a SAWF Legal Fellow, I view my work in context of legal practices from across the region.
Looking Forward

CaseMap Regional Legal Data Collection

Portal

Documentation of legal processes and barriers to accessing justice for women at the primary court level is essential to develop an evidence-based foundation for ongoing advocacy. The SAWF Legal Fellow Advisory Team is designing the CaseMap Web Platform—a web-based case management system designed to systematically track access to justice at the primary court level across South Asia.

Key objectives

- Systematically collecting easily manipulated, digitized data on legal processes in primary courts across South Asia through a web-based portal that can be used by SAWF Legal Fellows and other partners;

- Create a closed online forum for SAWF Legal Fellows and partners that includes a discussion board to facilitate information sharing and collaborative problem solving; and

- Link digitized data on legal processes in primary courts—including district court judgments and other primary source documents—to a public website to inform research on women’s access to justice by lawyers, policy makers and scholars.
SAWF TEAM

Tulika Srivastava, Executive Director, is a human rights lawyer with extensive experience building and working with organizations and institutions dedicated to the realization of women’s human rights. She is the founding member of AALI (Lucknow) and former executive director of IWRAW AP. Tulika has worked as a technical resource person from the women’s movement and designed and implemented programmes to support social justice for women.

Anisha Chugh, Director of Programmes, has a Master’s Degree in History from the University of Delhi and in Governance and Development from the Institute of Development Studies, University of Sussex (UK). Prior to joining SAWF, Anisha worked with the Dalit Foundation, a philanthropic organization based in India.

Tehani Ariyaratne, Junior Programme Officer – Grant Making, has a BA in Psychology and Anthropology from Stonybrook University. Prior to joining SAWF, she worked as researcher at the Centre for Poverty Analysis in Sri Lanka.

Surbhi Mahajan, Communications and Documentation, has a master’s degree in History from JNU and in Development Studies from the Institute of Development Studies, University of Sussex (UK). Prior to joining SAWF, she worked with Make Every Woman Count (UK) and was a research consultant on a UNDP funded assessment study on Right to Information in India.

Vineeta Tewari, Administrator – Liaison Office, joined SAWF with experience as an Executive Assistant to the General Manager of Lupin Limited. Vineeta has a PGDBA in HR from SCDL, Pune, India and provides comprehensive administrative support at the SAWF Liaison office in Lucknow, India.

Dishani Malliyawadu, Finance and Accounts Manager, has a BSc. in Applied Accounting. She is a qualified Chartered Accountant and a finance professional with experience in corporate and non-profit finance management in both corporate and non-profit sector.

Ruvi Perera, Programme Administrator, is a graduate in Business and is currently pursuing a masters degree in Sociology at the University of Kelaniya (Sri Lanka). Over the last 10 years, she has gained experience in a range of sectors including banking, media and research.
HEAD OFFICE
16/6 A, Mohideen Terrace,
Ward Place,
Colombo 07, Sri Lanka

LIAISON OFFICE
No. 904, Empereur Building,
Dr. Bajnath Road, New Hyderabad Colony,
Lucknow - 226006,
Uttar Pradesh, India