



EXPLORING THE LEGAL AID MECHANISMS FOR SURVIVORS OF SEXUAL VIOLENCE:

Lessons from South Asia

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Background

In South Asia, the prevalence of sexual violence is high.¹ The study *Sexual Violence in South Asia: Legal and Other Barriers to Justice for Survivors*² revealed that sexual violence laws in South Asian countries are insufficient in addressing sexual violence effectively, inconsistent with international human rights standards and treaty body recommendations, and most importantly, not systematically enforced, leading to extremely low conviction rates for rape/sexual violence. Long delays in medical examinations, police investigations, prosecutions, and trials were common problems identified throughout South Asian countries - contributing to the denial of justice for victims/survivors of sexual violence in Bangladesh, India, Maldives, Nepal, and Sri Lanka.

As a means to overcome some of the challenges mentioned above and ensure access to justice for victims/survivors of sexual violence, governments in South Asian countries, namely Bangladesh, India, Nepal, and Sri Lanka, have made legal assistance and support available to the poor, marginalised and disadvantaged, including victims/survivors of sexual violence through State-run legal aid programmes/mechanisms.

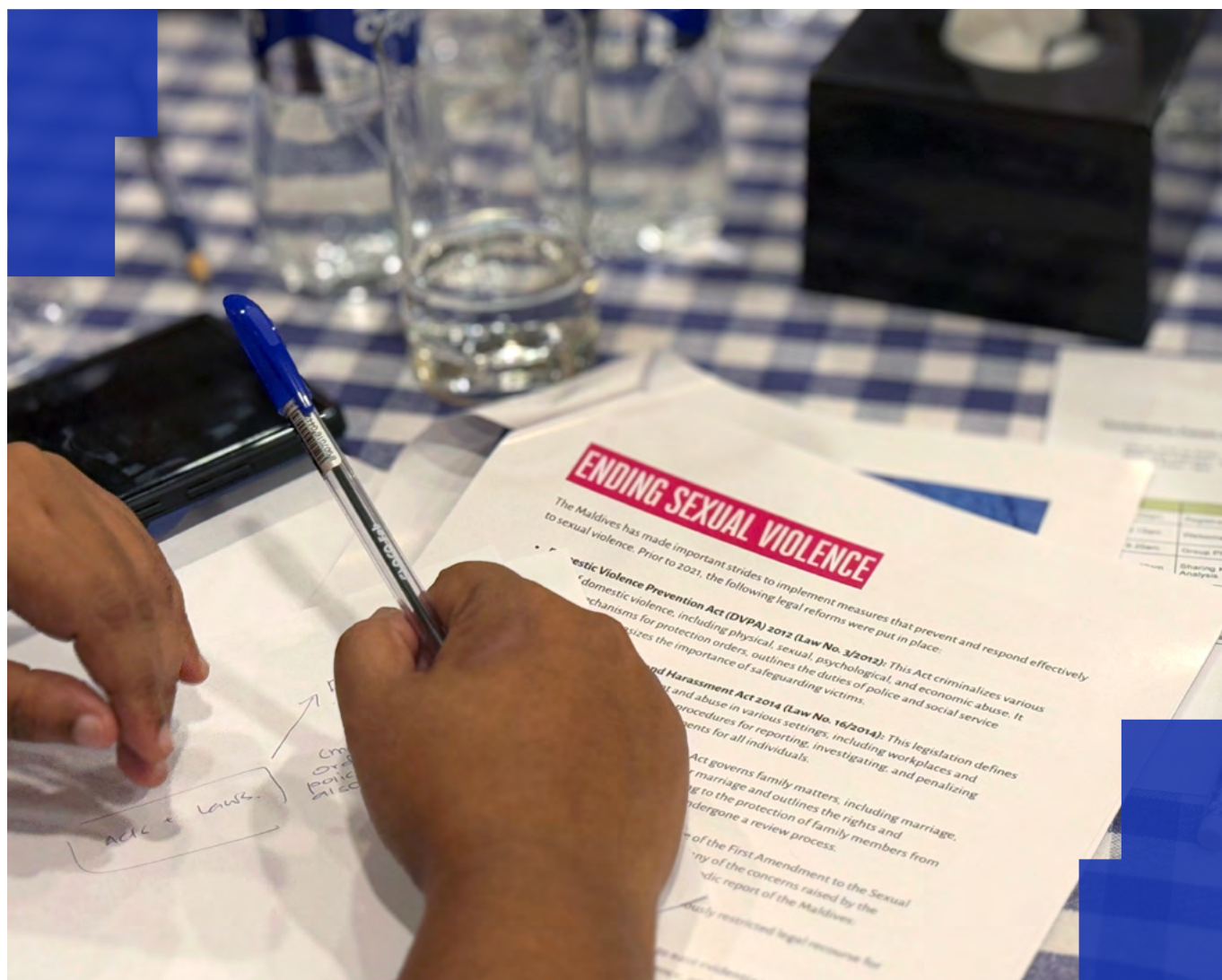
However, despite the promise of efficient service and information delivery to sexual violence victims/survivors through such State-run legal aid mechanisms, sexual violence victims/survivors continue to face barriers while trying to understand, access, and navigate the criminal justice system to get justice for sexual violence perpetrated against them.

Derived from experiences from Bangladesh, India, Nepal, Maldives, and Sri Lanka, this brief highlights gaps within legal aid mechanisms that affect access to justice rights of victims/survivors of sexual violence in these South Asian countries. It puts across recommendations to address those gaps.

This brief could inform and help States, legal aid service providers, members of law enforcement, justice sector actors, and civil society in each of the South Asian countries to ensure better quality and accessibility of the support/assistance being offered to victims/survivors of sexual violence under State-run legal aid mechanisms.

¹ Estimates published by WHO indicate that globally one in three women worldwide experience gender-based violence in their lifetime. World Health Organisation, 2024, Factsheet-Violence against women, <https://www.who.int/news-room/fact-sheets/detail/violence-against-women>

² Equality Now & Dignity Alliance International, 2021, *Sexual Violence in South Asia: Legal and Other Barriers to Justice for Survivors*, <https://equalitynow.org/ending-sexual-violence-in-south-asia/>



Credit: Aakansha Saxena/Equality Now

Guidelines and international human rights standards for access to justice

Key international human rights instruments, to which South Asian countries are party, cover the right to access justice for sexual violence victims/survivors. Critical rights - such as equality before the law and the right to effective legal remedy - are set out in the Universal Declaration of Human Rights.³ Additionally, *General Recommendation 33: Women's Access to Justice*⁴ from the Committee on the Elimination of Discrimination against Women (CEDAW Committee) in 2015 included

guidelines on strengthening access to justice rights for women. The CEDAW Committee highlighted six components — justiciability, availability, accessibility, good quality, provision of remedies for victims/survivors, and accountability of justice systems — as necessary to ensure access to justice.⁵ Paragraph 24 of the *CEDAW General Recommendation No. 19*⁶ provides that appropriate protective and support services should be provided for victims/survivors.

3 United Nations, 1948, Universal Declaration of Human Rights <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

4 United Nations, 2015, General recommendation No. 33 on women's access to justice, <https://digitallibrary.un.org/record/807253?ln=en&v=pdf>

5 Equality Now and Dignity Alliance International, 2021, Sexual Violence in South Asia: Legal and other barriers to justice for survivors, <https://equalitynow.org/resource/sexualviolencesouthasia/>

6 Division for Advancement of Women, 1992, CEDAW General Recommendation No. 19: Violence against Women, <https://www.legal-tools.org/doc/f8d998/pdf/&ved=2ahUKEwi4r8KY2dX>

Other instruments, such as the *Convention on the Rights of the Child (CRC)*⁷ and the *Convention on the Rights of Persons with Disabilities (CRPD)*, also include provisions for access to justice for the girl child and women with disabilities, respectively.⁸ Article 13(1) of the CRPD provides that “States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.”

Tools such as the *United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (Principles and Guidelines)*⁹ provide States

with valuable guidelines on ways to ensure access to justice for victims/survivors of sexual violence. The *UN Principles and Guidelines* recognise that certain groups are entitled to additional protection or are more vulnerable when involved with the criminal justice system. To ensure this, it urges States to introduce into their legal aid systems special provisions for women, children, and groups with special needs.”¹⁰ Guideline 9 of *The Principles and Guidelines*¹¹ calls on States to “take applicable and appropriate measures to ensure the right of women to access legal aid, including “providing legal aid, advice, and court support services in all legal proceedings to female victims of violence to ensure access to justice and avoid secondary victimisation and other such services, which may include translating legal documents where requested or required.”

 *The CEDAW Committee highlighted six components — justiciability, availability, accessibility, good quality, provision of remedies for victims, and accountability of justice systems — as necessary to ensure access to justice.* 

7 United Nations, 1989, Convention on the Rights of the Child, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

8 United Nations, 2006, Convention on the Rights of Persons with Disabilities, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

9 Adopted in 2012, is the first international instrument dedicated exclusively to providing legal aid United National, 2012, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, <https://digitallibrary.un.org/record/735513?ln=en&v=pdf>

10 Lawyers Rights Watch Canada, 2024, The Right to Legal Aid: A guide to international law rights to legal aid, <https://www.lrwc.org/ws/wp-content/uploads/2014/09/International-Rights-to-Legal-Aid-w-clean-covers.pdf>

11 United Nations Office on Drugs and Crime, 2013, United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guidelines_on_access_to_legal_aid.pdf

Support through legal aid mechanisms

In 2024, 31 legal experts from South Asian countries, including Bangladesh, India, Nepal, and Sri Lanka, joined a two-day meeting in Kathmandu to work towards establishing a regional *Criminal Justice Legal Aid Network*. Experts highlighted the importance of protecting those who do not have the means to exercise their rights in the criminal justice system, including victims/survivors and witnesses, and called for reforms such as “legislative reforms, fostering inclusive services for persons in vulnerable situations, promoting diversity and representation among legal aid service providers, monitoring of the quality of services, improving data collection and reporting and leveraging technology for improved access to justice.”¹²

In South Asia, Bangladesh, India, Nepal, and Sri Lanka have laws on legal aid covering aspects of access to justice rights for victims/survivors of sexual violence, the implementation of which is supported by various mechanisms and statutory entities. The Maldives has no legal aid provisions to support victims/survivors of sexual violence. In the country, law firms and clinics, such as the mobile legal aid clinic, do, however, provide *pro bono* legal aid for those in need.

Legal assistance, support, services, and information provided under legal aid laws and State-run legal aid programmes in Bangladesh, India, Nepal, and Sri Lanka cover the following components to ensure access to justice rights of victims/survivors of sexual violence:

- **Legal information/counseling or support**

- ◇ being aware of resources, legal rights, and remedies available to them
- ◇ being informed about the criminal justice process and what to expect at different stages of the investigative processes and court proceedings in sexual violence cases

- **Legal assistance in the form of advice and service delivery**

- ◇ being supported in writing and filing a complaint against the perpetrator
- ◇ being supported through legal counseling and having access to referral services and legal assistance as required
- ◇ being updated regularly on progress throughout the rape trial proceedings

- **Legal representation**

- ◇ being able to have representation by a lawyer in legal proceedings¹³
- ◇ being able to access support from an empaneled legal aid lawyer, who can assist in coordinating with the public prosecutor, court officials, and law enforcement personnel and also assist in the documentation required for legal proceedings (such as translation of legal documents)

12 United Nations Office on Drugs and Crime, 2024, Nepal: UNODC Facilitates Establishment of Regional Legal Aid Network in South Asia, https://www.unodc.org/southasia/en/frontpage/2024/April/nepal_unodc-facilitates-establishment-of-regional-legal-aid-network-in-south-asia.html

13 For example, under Section 12 of the Legal Services Authorities Act, 1987 of India (Available at: https://www.indiacode.nic.in/bitstream/123456789/19023/1/legal_service_authorities_act%2C_1987.pdf), free legal aid is provided to all eligible persons including victimised women for fighting cases of sexual assault, rape, dowry, domestic violence, etc. Provision of free legal aid includes representation by an Advocate in legal proceedings; preparation of pleadings, memo of appeal, paper book including printing and translation of documents in legal proceedings; drafting of legal documents, special leave petition etc; rendering of any service in the conduct of any case or other legal proceeding before any court or other Authority or tribunal, and giving of advice on any legal matter. Free Legal Services also include provision of aid and advice to the beneficiaries to access the benefits under the welfare statutes and schemes framed by the Central Government or the State Government. Legal services are provided by legal services institutions at all levels from taluk (a sub-district administrative unit) court to Supreme Court (national level) to all eligible persons including women under Section 12 of the Legal Services Authorities Act, 1987, <https://sansad.in/getFile/loksabhaquestions/annex/14/AU6128.pdf?source=pqals>. Also see Shivadekar, S., 2013, *Rape victims can pick lawyers at State cost: Maharashtra government*, The Times of India, <https://timesofindia.indiatimes.com/city/mumbai/rape-victims-can-pick-lawyers-at-state-cost-maharashtra-govt/articleshow/17931819.cms>

Not all of these aspects would be covered by State-funded legal aid programmes in every South Asian country. The scope and nature of the support/services/assistance available for victims/survivors of sexual violence under these programmes vary from country to country. The following table presents the current¹⁴ legal and institutional framework in four countries - Bangladesh, India, Nepal and Sri Lanka:



Credit: BLAST Communication

BANGLADESH	
Laws on Legal Aid	The Legal Aid Act 2000 and Legal Aid Services Principle 2014. Legal aid is also addressed in Bangladesh's criminal, civil and special laws, such as the Prevention of Repression against Women and Children Act (2000).
Does legal aid support/services extend to victims/survivors of sexual violence?	Yes. State-run legal aid mechanisms provide various forms of support ¹⁵ to victims/survivors of sexual violence - from providing free legal advice and engaging panel legal aid lawyers to assist the prosecutor ¹⁶ to bear the costs of DNA tests. However, none of this is on offer automatically, as eligibility for legal aid is subject to specific criteria. Applicants must belong to a low economic group or be part of a socially excluded group.
Infrastructural framework for legal aid support/services delivery	Legal aid in Bangladesh is overseen by a National Legal Aid Board (a policymaking body). Support/services through legal aid are provided by the National Legal Aid Services Organisation (NLASO), District, Upazilla, and union-level Legal Aid Committees. The Supreme Court Legal Aid Office (SCLAO) is entrusted with the duty of ensuring that legal aid is accessible to all. Additionally, the One-stop Crisis Centres (OCC) under the Ministry of Women and Children Affairs, Women Support and Investigation Division under the Bangladesh Police provide legal assistance to victims/survivors of sexual violence.

¹⁴ Updated as of December 2024.

¹⁵ National Legal Aid Services Organisation, under the Ministry of Law, Justice and Parliamentary Affairs, Bangladesh. (2024). <https://nlaso.gov.bd/>

¹⁶ Victims/Survivors of sexual violence can have/engage their own lawyers alongside the public prosecutor to fight their case in a criminal court. See the Bangladesh Code of Criminal Procedure, Section; 493, 495 and New Age, 2024, *Victims can engage lawyers in sexual assault cases: HC*, <https://www.newagebd.net/post/country/234933/victims-can-engage-lawyers-in-sexual-assault-%20cases-hc>

INDIA

Laws on Legal Aid	The Legal Services Authorities Act 1987
Does legal aid support/services extend to victims/survivors of sexual violence?	Yes. The legal assistance provided to victims/survivors of sexual violence is quite extensive and goes beyond providing legal information, referrals, and information. For example, under Section 12 ¹⁷ of the Legal Services Authorities Act, 1987 of India, free legal aid is provided to all eligible persons, including victimised women, for fighting cases of sexual assault, rape, etc., and this includes pleading on behalf of the victim/survivor of sexual violence. ¹⁸
Infrastructural framework for legal aid support/services delivery	The National Legal Services Authority (NALSA) was constituted under the Legal Services Authorities Act 1987 to monitor and evaluate the implementation of legal aid programmes and lay down policies and principles for making legal services available under the Act. Additionally, the State Legal Services Authorities (SLSAs) provide free legal aid to sexual violence survivors. Free Legal Services also include the provision of aid and advice to the beneficiaries to access the benefits under the welfare statutes and schemes framed by the Central Government or the State Government. Legal services are provided by legal services institutions at all levels, from taluk (a sub-district administrative unit) Court to Supreme Court (national level) to all eligible persons, including women, under Section 12 of the Legal Services Authorities Act, 1987.

¹⁷ The Legal Services Authority, 1987, https://www.indiacode.nic.in/bitstream/123456789/19023/1/legal_service_authorities_act%2C_1987.pdf

¹⁸ Shivadekar, S., 2013, *Rape victims can pick lawyers at State cost: Maharashtra government*, The Times of India, <https://timesofindia.indiatimes.com/city/mumbai/rape-victims-can-pick-lawyers-at-state-cost-maharashtra-govt/article-show/17931819.cms>

NEPAL

Laws on Legal Aid	The Legal Aid Act 2054 (1997) and The Legal Aid Rules (1998) provide state-funded legal aid.
Does legal aid support/services extend to victims/survivors of sexual violence?	Yes. Under the Legal Aid Act 1997, applicants can file for comprehensive legal assistance. Under the law, legal aid is available to witnesses and victims/survivors of crime. Female victims/survivors of violence (including victims/survivors of sexual and gender-based violence) receive dedicated legal assistance and court support services. This includes support from drafting the First Information Report (FIR) to providing information on the right to hire an additional lawyer at their own expense (i.e., not covered by legal aid).¹⁹ Furthermore, legal aid extends to follow-up actions to ensure the court's final decision is implemented. However, none of the above is offered automatically. Eligibility for legal aid is subject to specific criteria. Applicants must belong to a low economic group or be part of a socially excluded group.
Infrastructural framework for legal aid support/services delivery	State-funded legal aid is provided by courts through stipendiary ²⁰ lawyers and is administered under the Supreme Court Regulation 2017, the High Court Regulation 2016, and the District Court Regulation 2018. Legal assistance to victims/survivors of sexual violence (if they meet the eligibility criteria) is provided through the Legal Aid Committee established under the Legal Aid Act, 1997.



Credit: FWLD

¹⁹ Section 12 of the Crime Victim Protection Act of 2018 of Nepal. Under this provision victims/survivors of sexual violence can hire a lawyer other than government attorney but this is not covered by legal aid provisions. Survivors or families of victims of sexual violence may request reimbursement for these legal expenses as part of the compensation claim during the court proceedings. The decision to award such compensation rests with the presiding judge, who exercises discretion in determining as compensation.

²⁰ Provision on stipendiary lawyer can be found in Rule 143 of Supreme Court Regulation, 2074 B.S., Rule 157 of High Court Regulation 2073 B.S. and Rule 101(1) of District Court Regulation 2075 B.S. Stipendiary lawyer provides legal aid including counselling, preparation of legal documents and pleading before the bench.



Credit: CEJ Community Facilitators

SRI LANKA

Laws on Legal Aid	The Legal Aid Law No. 27 of 1978
Does legal aid support/services extend to victims/survivors of sexual violence?	Yes. State-run legal aid mechanisms provide various forms of support to victims/survivors of sexual violence, from providing free legal advice to engaging panel legal aid lawyers to assist victims/survivors of sexual violence in helping them stay updated on the progress of the case and liaise with the prosecutor. In Sri Lanka, government panel legal aid lawyers under the Legal Aid Commission (LAC) are permitted to handle cases of sexual violence alongside the prosecutor despite this area not being directly covered under the standard provisions of the legal aid law. This practice has been in place for some time, where a panel legal aid lawyer assisting a sexual violence survivor/victim provides support from the filing of the initial complaint with the police until the final resolution of the case. Supporting a sexual violence survivor/victim in this way allows the Legal Aid Commission (LAC) to address a broader spectrum of social issues beyond the strict limitations of the legal aid mandate. While no recent amendments or specific regulations appear to cover this explicitly, the Commission has established a customary practice of covering sexual violence cases (when needed) through the government legal aid mechanism under its broader social justice objectives.
Infrastructural framework for legal aid support/services delivery	The Legal Aid Commission (LAC) was established under the Act to ensure legal aid for disadvantaged and marginalised sections of the population. Legal Aid Centres are also located throughout Sri Lanka to further support access to justice rights for all.

Legal assistance, services and support under legal aid mechanisms

In Bangladesh, India, Nepal, and Sri Lanka, sexual violence victims/survivors face hurdles at every step, from filing the sexual violence complaint to the trial stage. The inefficiency of the police, prosecutors, and court officials at times compromises the quality of investigation, legal representation, and prosecution, especially in sensitive cases such as sexual violence, resulting in low convictions for rape cases in South Asian countries with a high prevalence of sexual violence offences.

For example, in Nepal, patterns of police negligence in the investigation, including the alleged mishandling of evidence, were cited as issues.²¹ In India, a study in 2016 in the city of Mumbai revealed that, on average, the police took about 9.2 months to file a charge sheet after registering a first information report (FIR) in rape cases as against the 90 days stipulated by the law. It took about 21.3 months for decisions to reach the Mumbai sessions court and another 1.3 months for the first hearing after the submission of charge sheets.²² News reports suggest that some accused are reported to have absconded²³ and that a September 2024 conviction of six men for the gang rape and blackmail of several girls in 1992 came a full 32 years after the original offence.

Failure of prosecutors to coordinate with the investigating officers to collect evidence or ensure witnesses appear in court when required²⁴ affects the prosecution and conviction in sexual violence cases. State-level funding in South Asian countries does not adequately incentivize²⁵ or support prosecutors. This means that the role may not be filled by dedicated, full-time professionals. The lack of a properly funded and resourced prosecution service in these countries often results in prosecutors running private practices alongside their role as public prosecutors. This dual role can create conflicts of interest, divided attention, and lack of attention towards State cases, including those of sexual violence, leading to delays in trials. For example, in Bangladesh, public prosecutors are often political appointees, and there is no accountability mechanism to ensure they do their duties diligently²⁶. In the absence of a recruitment process with minimum standards, qualifications, and experience and with no formal training requirements, many public prosecutors lack competency in the intersections of criminal law and human rights and, therefore, do not handle sexual violence cases with due sensitivity and efficiency. Civil society organisations' interactions with survivors seem to suggest that prosecutors fail to communicate effectively with the victim/survivor of sexual violence and keep them updated on case progress and other matters. This creates an extra layer of hurdle for Bangladeshi victims/survivors of sexual violence as they have to proactively stay involved in their cases to ensure they move forward.

21 International Commission of Jurists, 2021, Break the cycle of impunity for rape in Nepal, <https://www.icj.org/resource/break-the-cycle-of-impunity-for-rape-in-nepal/>

22 Praja, 2016, Report on state of policing and law and order in Mumbai, <https://www.praja.org/white-paper>

23 Parihar, R., 2024, 32 years and counting, Ajmer blackmail-rape case justice as good as denied?, India, Today, <https://www.indiatoday.in/india-today-insight/story/32-years-and-counting-ajmer-blackmail-rape-case-justice-as-good-as-denied-2588201-2024-08-26>

24 BRAC Advocacy for Social Change, 2022, Public Prosecution System in Bangladesh: The Issues of Justice for Violence against Women and Girls: <https://www.brac.net/program/wp-content/uploads/2024/02/Public-Prosecution-System-in-Bangladesh-The-Issues-of-Justice-for-Violence-against-Women-and-Girls.pdf>

25 The monthly remuneration for a Public Prosecutor in Bangladesh ranges from 100-125 USD a month.

26 Harun, M., Alam, A., Khandaker, M., Muhammed, F., & Haq, A. (n.d.). Reviews on Prosecution Service Framework in Bangladesh. https://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/research_corner/f7a2ed25_dbf7_4d8a_b4bc_cd3f8c3fcc48/Reviews%20on%20Prosecution%20Service%20Framework%20in%20Bangladesh.pdf

Lack of efficiency from justice sector actors, including court officials, affects the justice-seeking process of sexual violence victims/survivors and contributes to the problem of a backlog of sexual violence cases, which is an issue for every country in South Asia. As the cases stay pending for years, the lack of transparency and accessibility of case information creates issues for pending sexual violence cases and the victims/survivors pursuing those cases. Without a centralised filing system, such cases can get lost. Civil society partners working on access to justice rights have noted that victims/survivors of sexual violence often pay bribes to get court officials (including public prosecutors) to find their case information and move cases forward.²⁷ These complications discourage victims/survivors of sexual violence from seeking legal assistance for rape altogether for fear of being re-victimised/re-traumatised through cases that go on for years in courts.²⁸ As of 2023, there are 29,723 pending criminal cases in Magistrates' courts throughout Sri Lanka, out of which 4,312 cases involved rape, collectively amounting to a significant percentage of the total pending cases.²⁹ In Nepal, the annual report of the Supreme Court submitted to the President in 2023³⁰ stated that 1,546 rape cases and another 293 attempted rape cases were registered with the police, adding to the total number of sexual violence cases in the backlog.³¹

Facing negligence, neglect, and/or discrimination from the police, prosecutors, and court officials, victims/survivors of sexual violence with knowledge or awareness of State-run and NGO-run legal aid programmes heavily rely on legal aid lawyers (both governmental and non-governmental legal aid lawyers) for support and information. These lawyers help them file sexual violence complaints, help with medico-legal procedures and care, help navigate the complex criminal justice system and liaise with the prosecutor and court officials to inform them about the status of their cases and ensure the case progresses.

In the absence of information from the police and prosecutors to victims/survivors of sexual violence of their rights under the law, women and girls seeking justice for sexual violence either stay uninformed and tend to struggle to realise those rights unless and until they come into contact with government legal aid lawyers and/or lawyers from non-government legal aid organisations.³² Legal assistance, services, and support provided under government legal aid mechanisms, therefore, can play a crucial role in helping sexual violence victims/survivors progress through the various complex steps of the criminal justice system.

27 Ganguly, M., 2020, *Why is it so Difficult for Bangladeshi Women to Get Justice?* Human Rights Watch. <https://www.hrw.org/news/2020/11/25/why-it-so-difficult-bangladeshi-women-get-justice>

28 Prakash, M., 2024, *How Does Indian Law Now Treat Sexual Assault Victims — and the Accused?* Fair Observer. <https://www.fairobserver.com/politics/how-does-indian-law-now-treat-sexual-assault-victims-and-the-accused/#>

29 The Island Online, 2023, *Shocking number of child abuse and rape cases overwhelm Lanka's Magistrates' Courts*, <https://island.lk/shocking-number-of-child-abuse-and-rape-cases-overwhelm-lankas-magistrates-courts/>

30 The Rising Nepal, 2023, *Procedural hurdles deny justice to rape victims*. (n.d.), <https://risingnepaldaily.com/news/35886>

31 Bureau of Democracy, Human Rights and Labour, 2023, *Nepal 2023 Human Rights Report*, US Department of State, https://www.state.gov/wp-content/uploads/2024/02/528267_NEPAL-2023-HUMAN-RIGHTS-REPORT.pdf

32 Section 15A - The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, LAWGIST. (n.d.), <https://law-gist.in/scheduled-castes-and-the-scheduled-tribes-prevention-of-atrocities-act/15A>

Access to justice challenges with existing state-run legal aid mechanisms

Bangladesh, India, Nepal, and Sri Lanka have tried to address access to justice gaps discussed above by making services, information, and referrals available to victims/survivors of sexual violence through State-funded legal aid mechanisms. However, victims/survivors of sexual violence continue to face barriers to accessing justice due to several factors affecting the efficacy of the mechanisms that have been put in place:

Firstly, the main issue is that there is a lack of awareness about the legal assistance, support, and referral services available to sexual violence victims/survivors under existing legal aid mechanisms. In Bangladesh, India, Nepal, and Sri Lanka, studies done by legal aid-providing NGOs show that there is a general lack of awareness among community members about access to justice rights, which includes the right to have access to knowledge about legal rights, information about redress, remedies and also about the services, support, and information available to them from legal aid service providers. They are also unaware of the role and services provided by State-run legal aid programmes to victims/survivors of sexual violence.

A 2019 study in Sri Lanka³³ found that many women do not have an awareness and understanding of their rights and the remedies available to them for their

rights to be free from all kinds of abuse, violence, and discrimination. The study recommendations emphasised the need for programmes targeting women to inform them about the rights available for victims/survivors of violence as well as the available remedies. In India, the Nirbhaya case, where a young woman was brutally gang-raped in Delhi in December 2012, established the 'Justice Verma Committee Report' which reviewed and suggested amendments to India's rape laws to ensure faster justice and harsher penalties for sexual offences.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act (POA) Act 2015 was amended following the Nirbhaya³⁴ case. The Act enabled survivors or the families of victims/survivors of sexual violence to have the right to request an advocate/lawyer of their choice to deal with their case alongside the prosecutor.³⁵ This approach was meant to strengthen the representation of the case brought forward by a victim/survivor of sexual violence and complement the efforts of the government to address access to justice challenges faced by victims/survivors.

However, in practice, survivors/victims continued to be unaware of this helpful provision, and the government, realising so, undertook awareness-raising that led to more cases being filed under this Act as of 2024.³⁶ In Bangladesh, a research study³⁷ revealed that a large percentage of people do not seek legal information and advice when faced with a legal

There is a lack of awareness about the legal assistance, support, and referral services available to sexual violence victims/survivors under existing legal aid mechanisms.

33 Women in Need, 2019, Why Accessing Justice is Challenging for Victims of Sexual and Gender Based Violence, <https://asifoundation.org/wp-content/uploads/2024/08/Sri-Lanka-Inside-Justice-Summary-Report.pdf>

34 The Times of India, 2019, December 19, How Nirbhaya case changed rape laws in India. <https://timesofindia.indiatimes.com/india/how-nirbhaya-case-changed-rape-laws-in-india/articleshow/72868366.cms>

35 Section 15A - The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, LAWGIST. (n.d.), <https://law-gist.in/scheduled-castes-and-the-scheduled-tribes-prevention-of-atrocities-act/15A>

36 The Hindu Bureau, 2024, More cases filed under SC/ST Act due to awareness, says Social Justice Minister. The Hindu. <https://www.thehindu.com/news/national/more-atrocity-cases-registered-as-awareness-publicity-and-capacity-building-of-police-grows-social-justice-minister/article68942436.ece>

37 HiIL, 2018, Justice Needs and Satisfaction in Bangladesh, <https://www.hiil.org/wp-content/uploads/2018/07/HiIL-Bangladesh-JNS-report-web.pdf>

problem, and factors contributing to the problem include a lack of awareness of where to look for legal information and advice and when to seek such assistance.³⁸ The overall prevailing scenario indicates that information about the assistance, support, and services that are available to victims/survivors of sexual violence is not widely circulated/disseminated in places where women and girls would first be seeking such information, such as in police stations or as information shared by police personnel.³⁹ This becomes difficult when access to legal assistance, support, and services is not automatically offered (such as in Bangladesh and Nepal) to victims/survivors of sexual violence. This lack of awareness affects the uptake, implementation, and effectiveness of services and information available to victims/survivors of sexual violence through legal aid - which is essential to ensuring access to justice for victims/survivors of sexual violence.

Secondly, the lack of awareness around the availability of support provided through legal aid mechanisms is compounded by social factors that cause victims/survivors of sexual violence

to settle outside of court, preventing women, girls, and their families from seeking justice altogether. In South Asia, women and girls from socially excluded communities are often at higher risk of being subjected to sexual violence as compared to other communities due to the use of rape as a weapon of suppression and to perpetrators' awareness that they are unlikely to face justice. Instead of pursuing justice, the victims/survivors of rape more often opt for out-of-court settlement due to the stigma attached to rape and the desire to protect the "family honour." Families of rape victims/survivors may be more keen to pursue a solution that is quick,

economical, and discrete. Civil society partners have reported that in cases where perpetrators are better off financially and socially connected/placed, they frequently use bribes to get influential community members on their side and use threats, harassment, and violence to pressure/coerce victims/survivors of violence and their families to settle out of court. This affects Dalit women and girls,⁴⁰ women and girls with disabilities⁴¹ and women and girls from Indigenous communities the most, as systemic power inequalities and socio-economic inequalities (arising from classes, castes, or religions) put them in a weaker position *vis-a-vis* the perpetrators of sexual violence. As a result,

survivors often face difficulties filing sexual violence-related complaints with the police. In cases where they manage to file a case, they face community pressure to withdraw criminal complaints and accept informal mediation. Access to legal and rights-based awareness and comprehensive support services, including counseling and legal assistance, under legal aid mechanisms can help survivors feel more empowered to pursue legal action. Non-governmental organisations that provide legal assistance to victims/

survivors play a crucial role in preventing out-of-court settlements in rape cases by providing them with the necessary support and resources to navigate the legal system and guide them through the legal process.

Thirdly, in cases where victims/survivors of sexual violence approach State-run legal aid service providers, they face challenges due to several issues related to the skills and competency of State-funded legal aid lawyers and service providers in their handling of sexual violence cases. Experiences of women and girls in South Asia with

Lack of awareness affects the uptake, implementation, and effectiveness of services and information available to victims/survivors of sexual violence through legal aid.

38 Hiil, 2018, Justice Needs and Satisfaction in Bangladesh, <https://www.hiil.org/wp-content/uploads/2018/07/Hiil-Bangladesh-JNS-report-web.pdf>

39 National Human Rights Commission, 2024, Minutes of Meeting (n.d.), <https://nhrc.nic.in/sites/default/files/Draft%20Minutes%20of%20Open%20House%20Discussion%20on%20Access%20to%20Legal%20Aid%20to%20Victims.pdf>

40 Legal Aid Services Act, 2000. See Section 9, Reuters, 2020, <https://www.reuters.com/article/world/indias-low-caste-women-raped-to-keep-them-in-their-place-idUSKBN28509I/>

41 BRAC Advocacy for Social Change, 2022, <https://www.brac.net/program/wp-content/uploads/2024/02/Public-Prosecution-System-in-Bangladesh-The-Issues-of-Justice-for-Violence-against-Women-and-Girls.pdf>

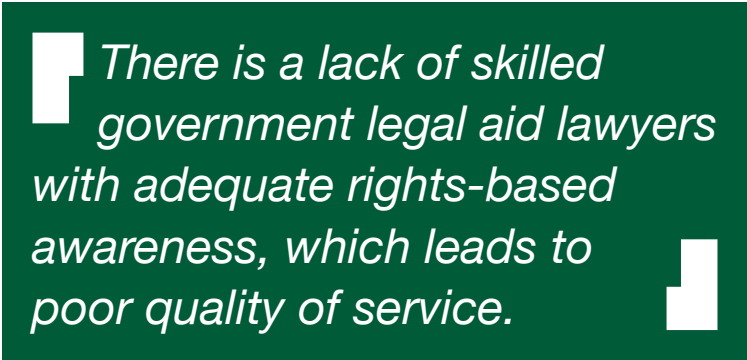
intersectional identities (disability, caste, religion, ethnicity, socio-economic status, etc.) seeking justice for sexual violence have shown that they can overcome difficulties navigating the criminal justice system and fully understand their rights as survivors with help and dedicated legal assistance from skilled legal aid lawyers and service providers. However, there is a lack of skilled government legal aid lawyers with adequate rights-based awareness, which leads to poor quality of service being provided by legal aid lawyers.

Absenteeism among government legal aid lawyers⁴² was also found to be a problem, particularly in countries such as Bangladesh and India, as absenteeism caused increased emotional and financial strain on survivors and a general sense of injustice and neglect felt by victims/survivors of sexual violence, in addition to their case not moving forward.

Specialised services such as sign-language interpretation are not often offered, referrals to counseling are not usually made, and victims/survivors of sexual violence are more than often not updated or, in the worst cases, misinformed on the status of proceedings.

The low number of women⁴³ in the panel of government legal aid lawyers was also identified as an issue, as women and girls seeking justice for sexual violence generally preferred to seek assistance from women legal aid lawyers and service providers. This was evident from studies in Bangladesh, India, and Nepal, showing that victims/survivors of rape found it difficult to confide in and share intimate information related to a case with legal aid providers, who are predominantly male.⁴⁴ In addition, the unequal geographical coverage of skilled legal aid lawyers adds to the problem. There are more skilled legal aid lawyers in urban areas compared to rural areas.⁴⁵ The lack of competency and availability of skilled government legal aid lawyers negatively affect the justice-seeking experiences of victims/survivors of sexual violence as their access to quality services and information delivery provided under existing State-funded legal aid mechanisms is significantly hindered.⁴⁶

Lastly, the lack of adequate funding for innovation and scaling up of components of legal aid aimed at sexual violence victims/survivors affects its accessibility and reach, leaving women and girls, especially those from marginalised communities and hard-to-reach areas, from availing legal assistance,



There is a lack of skilled government legal aid lawyers with adequate rights-based awareness, which leads to poor quality of service.

42 Jan Sahas, 2023, Barriers to legal aid for survivors of sexual violence in India: Report on challenges faced by survivors

43 In India, only 25 percent of the legal aid panel lawyers were women, with about 40 percent of paralegal volunteers being women. United Nations Development Programme (UNDP) and United Nations Office on Drug and Crime (UNODC), 2016, Global Study on Legal Aid: Global report, https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid_Report01.pdf

44 United Nations Development Programme (UNDP) and United Nations Office on Drug and Crime (UNODC), 2016, Global Study on Legal Aid: Global report, https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid_Report01.pdf

45 National Human Rights Commission, India, 2024, <https://nhrc.nic.in/media/press-release/nhrc-holds-open-house-discussion-%E2%80%98access-legal-aid-victims%E2%80%99>

46 United Nations Development Programme (UNDP) and United Nations Office on Drug and Crime (UNODC), 2016, Global Study on Legal Aid: Global report, Country Profiles, <https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/GSLA - Country Profiles.pdf>

The lack of adequate funding for innovation and scaling up of components of legal aid aimed at sexual violence victims/survivors affects its accessibility and reach.

services and support provided under legal aid mechanisms. One of the biggest challenges of legal aid in South Asian countries has been associated with the lack of State-level funding for scaling up services, information, and referral mechanisms to meet the needs of sexual violence victims/survivors trying to avail of legal assistance through State-run legal aid mechanisms.⁴⁷ The Global Study on Legal Aid⁴⁸ revealed that Least Developed Countries (LDCs) “remain substantially less likely to have a separate line item on legal aid in their country’s justice budget (only 14% do) when compared with higher-income countries (61%). For example, in Nepal, the annual expenditure under the legal aid budget in 2013 was less than US\$0.01 per capita, while the same for New Zealand was US\$21.50 per capita, indicating that the legal aid system is poorly funded in Nepal.

The lack of budget affects innovations in legal aid services, including tech-facilitated services and the availability of specialised services (psychological and social support) to victims/survivors of sexual violence in South Asian countries, including Bangladesh, India, Nepal and Sri Lanka.⁴⁹ It also affects the availability of legal support and services available to sexual violence victims/survivors with

disabilities, those situated in remote or hard-to-reach areas, and during emergencies such as during a natural disaster or a pandemic.

In at least three South Asian countries (Bangladesh, India, and Sri Lanka), non-governmental legal aid organisations played a crucial role in ensuring access to justice for sexual violence victims/survivors by complementing State-led legal aid programmes and initiatives. They did so by ensuring that legal assistance, support, and services were provided during times and or situations where the State-level legal aid mechanisms fell short of catering to the needs of sexual violence victims/survivors. For example, during the COVID-19 pandemic, non-governmental legal aid organisations were crucial in ensuring that hotlines/helplines function efficiently. They operationalised tech-facilitated legal assistance and referral services to sexual violence victims/survivors.

In other words, South Asian countries are significantly behind in enabling reform or sustaining innovation in State-funded legal aid services and information delivery and could do more to offer those services and information offline, online, and in crises.

47 South Asia Regional Micro Database, 2022, Poverty measures in South Asia, https://worldbank.github.io/SARMD_guide-lines/poverty-measures.html, accessed August 2024

48 United Nations Development Programme (UNDP) and United Nations Office on Drug and Crime (UNODC), 2016, Global Study on Legal Aid: Global report, https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid_Report01.pdf

49 United Nations Development Programme (UNDP) and United Nations Office on Drug and Crime (UNODC), 2016, Global Study on Legal Aid: Global report, https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global-Study-on-Legal-Aid_Report01.pdf



Credit: Aakansha Saxena/Equality Now

Recommendations

State-run legal aid systems/mechanisms in Bangladesh, India, Nepal, and Sri Lanka can learn from each other's good practices in ensuring access to justice for victims/survivors of sexual violence. South Asian countries (such as the Maldives) that do not extend legal assistance, support, services, and information to victims/survivors of sexual violence through legal aid mechanisms can learn from Bangladesh, India, Nepal, and Sri Lanka and consider offering more support to women and girls in their justice-seeking journey.

Each country can also learn from the good practices of non-governmental legal aid organisations in the way they reach and assist victims/survivors of sexual violence. For example, in Bangladesh, non-governmental legal aid organisations and their legal aid panel lawyers prioritise sexual violence cases through a case management system (particularly those involving women and girls with disabilities, minority groups, and Indigenous women and girls) and support courts in ensuring their timely

disposal.⁵⁰ State-run legal aid mechanisms can also either do the same or liaise with non-governmental organisations in the country to set up such strategies to reduce the backlog of sexual violence cases and ease the burden on victims/survivors of sexual violence and the government legal aid lawyers assisting them with the pendency of their sexual violence cases.

Based on the gaps/challenges discussed in this paper, legal aid mechanisms supporting sexual violence victims/survivors in Bangladesh, India, Nepal, and Sri Lanka can be strengthened further to ensure that the support, services, and information provided to victims/survivors of sexual violence holistically cater to the needs of women and girls and their families and enable them to easily navigate the complex criminal justice system in their pursuit of getting justice for sexual violence. South Asian States taking action on the following recommended steps is key to achieving this.

⁵⁰ United Nations Office on Drug and Crime (UNODC), 2019, Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes Practical Guidance and Promising Practices, https://www.unodc.org/documents/justice-and-prison-reform/HB_Ensuring_Quality_Legal_Aid_Services.pdf

1. Make adequate budgetary allocations to improve accessibility and outreach of support, services, and information provided to victims/survivors of sexual violence provided under State-run legal aid programmes by:

- a. Increasing sensitisation and awareness programmes** on the support, services, and information available to victims/survivors of sexual violence through legal aid by publishing information and communication materials such as posters and pamphlets in various accessible formats and disseminating them in key places such as police stations, by using broadcast and digital media to raise mass awareness and by organising legal aid fairs, seminars, discussions, workshops, etc. at local events to increase sensitisation and awareness around access to justice rights of sexual violence survivors/victims, including the support, services, and information available to them under State-funded legal aid mechanisms.
- b. Setting up free legal aid clinics/centres** close to communities. This could include setting up free legal aid clinics in hard-to-reach areas to reach out to disadvantaged or marginalised groups, in psychiatric hospitals to provide legal assistance to their patients, or in slum settings to make services and information available to poor urban victims/survivors of sexual violence.
- c. Supporting costs incurred by victims/survivors of sexual violence** by including the option to apply for reimbursement of costs, such as DNA testing, transportation costs, or any other incurred by victims/survivors to access legal assistance/support, services, and information being provided under legal aid.
- d. Funding innovations on services, information delivery, and referrals** to ease access to justice challenges faced by victims/survivors of sexual violence during crises such as long-drawn conflict and ethnic unrest, natural calamities such as drought and flooding, national emergencies, health pandemics, and economic crises. Helplines with easy-to-remember numbers must be resourced and accessible to work round the clock to address different needs during crisis/conflict, natural disaster, and health crises. All services must be impartial, and all ethnicities and religions should be able to access them equally.
- e. Ensuring that referral pathways are spelled out** in a way so that the justice system is easily accessible for victims/survivors of sexual violence, particularly in multilingual countries, and “mechanisms and procedures are established to ensure close cooperation and appropriate referral systems between State-funded legal aid providers and other professionals (e.g., health, social and child welfare providers) to obtain a comprehensive understanding of the victim, as well as an assessment of his or her legal, psychological, social, emotional, physical and cognitive situation and needs”⁵¹.
- f. Putting in place accessibility features** to support victims/survivors of sexual violence better so that marginalised groups, such as women with disabilities, can use the support, services, and information provided under legal aid mechanisms to access the criminal justice system at all levels, including through the deployment of technology and expertise (sign language, speech therapists, etc.).

⁵¹ According to UNODC's practical guidance on ensuring quality legal aid, a long-term strategy could involve setting up Case Coordination Committees or Case Management Committees that “can coordinate and expedite the backlog. Civil society oversight is as necessary as oversight from official government agencies. Establishing local committees of justice agencies and local community representatives who meet regularly is a helpful mechanism for managing the judicial caseload and reviewing the justice system in the locality.” https://www.unodc.org/documents/justice-and-prison-reform/UN_principles_and_guide-lines_on_access_to_legal_aid.pdf

2. Increase collaboration of State-run legal aid programmes with non-governmental legal aid organisations and civil society to improve the quality of support, services, and information delivery by:

- a. Increasing sensitisation of government legal aid panel lawyers (under State-run legal aid programmes),** using training manuals and tools used by non-governmental legal aid organisations and CSOs. High-quality training of these people is necessary to deal with sexual violence cases with greater sensitivity and efficiency and understanding of what constitutes sexism and gender bias and how such biases are perpetuated in practice and lead to secondary victimisation. A broader awareness of the overall rights of women and girls, their rights related to equality and equal protection of the law, the rights related to choice, autonomy in decision-making, and non-discrimination on the basis of sex will also help in dealing with sexual violence cases with care. Training and raising awareness must go hand in hand with giving the tools to operate and upgrade each of their roles to better meet the victim/survivor's needs. This could include training in sign language interpretation, using technology to offer services and information, understanding communities and their intersectionality, and encouraging representation of women from various backgrounds in the legal aid lawyers panel assisting victims/survivors of sexual violence.
- b. Including more paralegals to assist victims/survivors of sexual violence in State-run legal aid programmes** through training and incentives. Paralegals, in a volunteering capacity or otherwise, can help increase accessibility for survivors at the community level⁵² and take the helm on advocacy, awareness-raising, mediation, etc., to assist sexual violence victims/survivors in their pursuit of justice and advocate for change in the criminal justice system on their behalf.
- c. Setting up a monitoring and accountability mechanism of State-run legal aid programmes** to allow for better monitoring and evidence-gathering to identify gaps that need to be addressed to ensure the effectiveness of various State-level interventions, including State-funded legal aid mechanisms, employed in ensuring that the criminal justice response mechanism works for victims/survivors of sexual violence.
- d. Supporting/engaging the Bar Council** in monitoring the quality and delivery of services and information provided by empanelled lawyers in State-run legal aid mechanisms and in ensuring that good practices and training are also sustained. This can be achieved by linking these lawyers with non-governmental legal aid clinics in various legal and educational institutions and the National Human Rights Institutes to enable wider learning/sharing among lawyers and paralegals engaged in the clinics/institutions so that good practice standards are embedded in their work in line with international human rights obligations and standards.

⁵² Titir, A., & Huda, T. (2018). Why Rape Survivors Stay Out of Court: Lessons from Paralegal Interventions. See more at: <https://www.blast.org.bd/content/publications/Why-Rape-Survivors-Stay-Out-of-Court-2018.pdf>



Credit: Equality Now

About SAMAJ

The South Asian Movement for Accessing Justice (SAMAJ) is a regional coalition of 17 individuals and organisations from Bangladesh, India, Sri Lanka, Nepal, and the Maldives, united in their mission to end sexual violence and strengthen access to justice for survivors in the region. Formed in 2024, SAMAJ aims to respond to the legal and systemic barriers to justice in South Asia, by fostering collective, cross-border action to drive meaningful legal and policy change.

SAMAJ works to address deep-rooted legal inequalities by advocating for comprehensive legal reform, ensuring survivor-centred responses, and promoting the inclusion of marginalised communities in South Asia. Through collaborative research, shared advocacy, and strategic partnerships, SAMAJ is creating a unified platform for knowledge exchange, policy influence, and survivor-led change across the region.

The coalition's work includes a focus on women

and girls from disadvantaged communities such as Dalits, Adivasi/tribal or Indigenous, religious minority or minority language communities and those with physical and intellectual disabilities, who face more discrimination in accessing justice as a result of these intersections.



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