

## ARTICLE: RUBINA'S JUDICIAL INTERNSHIP IN KATHMANDU

This summer, Rubina Uprety, a Final Year student on the Bachelor of Laws Programme in International Law, was able to intern with the Honorable Mr. Justice Tek Narayan Kunwar in her home country of Nepal. The internship was arranged through Law School staff.



Rubina explained that Mr. Justice Kunwar is a distinguished High Court Judge, 'who is well known for his best practice judgments and orders to protect victims from violence and mitigate re-traumatisation'. In 2014, the US State Department declared him a Trafficking in Persons (TIP) Hero, and US Secretary of State John F. Kerry presented him with the Trafficking in Persons (TIP) Report Hero Award for that year. According to Rubina, Judge Kunwar has made 'bold decisions to hold the State accountable to its international obligations'. He has issued orders against the State to pay compensation to the victims of violence whom, in most of the cases, are women. The novelty is that he has done this despite the absence of concrete laws in Nepal to compensate victims. In one case, where human traffickers were not able to pay the fine imposed, he ordered the Government of Nepal's Rehabilitation Fund to pay half the sum.

Mr. Justice Kunwar initiated a Fast Track Court System to decrease the length of time that survivors have to wait for their matters to be adjudicated. He also took concrete and innovative steps to make Nepali courts victim-friendlier. Rubina stressed that 'Every court that he has worked at has witnessed this change'. She saw this at first hand at the Lalitpur District Court: 'A separate waiting room for the victim, in-camera hearing system, a gender-desk, breast-feeding room, a special calendar for case hearings to expedite justice delivery'. These were just some of the systems initiated and established by Judge Kunwar at that court. Judge Kunwar made the Lalitpur District Court a model of a best practice court. National and international observers have come to visit this court as well.



*Honorable Judge Kunwar carrying out an in-camera hearing at the Lalitpur District Court, Kathmandu, 2015*

The judge has now moved from the Chitwan District Court to the High Court of Janakpur. Nepal has a three-tier court system consisting of 75 District Courts, 16 High Courts, and the Supreme Court as the apex court. The Supreme Court's judgements are considered as precedent; they are binding unless Parliament nullifies its effect by enacting new Act or a later sitting of the Court overrules its previous judgment. While District Courts are trial courts that exercise both civil and criminal jurisdiction, the High Courts hear appeals against the decisions of District Courts and of quasi-judicial institutions. The Nepalese criminal justice system is influenced by the adversarial model developed in England although it has no jury system.

Rubina cherishes this priceless opportunity to intern with a judicial pioneer and a true role model. She saw his inspiring work at first hand, and is continuing to review his landmark decisions for a report. She was able to learn about Nepali laws and the Nepali justice system. She saw how, despite the lack of

concrete laws and a fair justice system, a good judge can develop and practice a pro-active approach to deliver justice to the victims of violence (who are usually women). The experience has 'most definitely' made Rubina reflect on her plans for the future. 'Looking at Judge Kunwar's incredible efforts to deliver justice to the victims of violence such as human trafficking, I am highly motivated to contribute to the justice system of Nepal, either through an international organization or by being a part of the legal system itself'. The experience was eye-opening: 'I realized that there are so many victims of violence whose basic human rights have been breached gravely'. Rubina says she is now 'more motivated to pursue my further education in the same field and contribute to the justice system of Nepal'.