

SCREENING AND IDENTIFICATION OF VICTIMS OF GENDER BASED VIOLENCE AND RISK FACTORS FOR TRAFFICKING IN PERSONS

Target Stakeholders

Law enforcement officials; non-government organisations, national and local networks, and service providers involved in the screening and identification of victims.

There exists no standard operating procedure (SOP) or protocol for the identification of either victims of GBV or TIP in Nepal. Although there are various documents currently in circulation purporting to serve the purpose, these have not been formally adopted either by the government and its agencies or by the different networks of non-government organisations, to set the standard. As a result, institutions and individuals active in preventing both GBV and TIP have to rely on visual and non-procedural approaches to identifying victims. Most importantly, there is no recognition at all of the fact that victims of GBV are likely to fall prey to trafficking or that victims of TIP are likely to face a higher incidence of GBV at home as well as in the society.

Research Findings

No protocol to identify GBV victims

None of the major institutional stakeholders, namely, law enforcement officials (mainly, the Nepal Police), NGOs and their national and local networks as well as shelter homes, which collectively serve as first responders to victims, have any guiding protocol or SOP that can help them in the screening and identification of GBV victims. NGOs generally collaborate with law enforcement officials to screen and identify victims and rely mainly on conversations with victims themselves. Shelter homes only occasionally play a role in screening and identifying victims of GBV, since they deal only with victims who have been referred to them.

Overview

This issue brief is based on the Nepal Country Report, 'Optimizing Screening and Support Services for Gender-Based Violence and Trafficking in Persons', produced as part of the regional research project covering India, Nepal and Sri Lanka. The project aimed to identify promising practices and challenges in integrating or separating services for victims of human trafficking and gender-based violence (GBV) with the ultimate goal of improving the efficiency and effectiveness of screening and service provision to victims of trafficking in persons (TIP) and GBV in a variety of contexts.

The purpose of the Brief is to highlight the challenges faced by first responders, most specifically by law enforcement officials as well as non-government organisations (NGOs), national and local networks, and service providers in screening and identifying victims of GBV and their potential to fall victim to trafficking. Specifically, it attempts to seek answers to the following questions:

- What are the major challenges to a timely and effective identification of GBV?
- What are the interlinkages between GBV and TIP?
 - o What are the specific vulnerabilities that place GBV victims at increased risk to being trafficked and vice versa?

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Research Approach

The study conducted a survey of available literature on GBV and TIP, mainly with reference to Nepal, along with a review of relevant legal and policy documents. Primary data was collected in the capital, Kathmandu, and three outlying districts bordering India—Morang and Sunsari in Province 1, and Banke in Lumbini Province. Key informant interviews and focus group discussions were conducted with different groups of stakeholders consisting of GBV and TIP victims, shelter homes, non-governmental organisations (NGOs), international non-governmental organisations (INGOs), governmental service providers, law enforcement and immigration officials, along with prosecutors and judges. Data collection was done between June and November 2020. Due to the onset of the Covid-19 pandemic, all interviews and focus groups were done remotely. In the case of victims, however, given the sensitivity of the issue, the interviews were conducted in person by individuals associated with the organisations running the shelters housing the victims.

Little understanding of what constitutes GBV

There is a lack of awareness among victims about what GBV is. The unwillingness of victims to report incidents since the perpetrators are mostly members of their own family, and the absence of complete accuracy and candour also hinder effective screening and identification of victims. There is also lack of resources—both financial and human—among NGOs and government agencies for effective and timely screening and identification of victims. The interrogation of victims by law enforcement officials also can be intimidating to victims, while insensitive remarks by them hamper proper screening and identification.

Interlinkage between GBV and TIP missing in discourse and action

It is by now quite well known that GBV is a leading cause of TIP in Nepal since GBV makes women more vulnerable to being trafficked. The sequence of events that takes a person from being a victim of GBV to a victim of TIP is a common one, with traffickers preying on victims of GBV who come from an unstable home environment. Factors such as domestic violence, dysfunctional family, separation from family, critical poverty, and traditional practices such as child and forced marriages place individuals at higher risk of being trafficked. Many Nepali women migrant workers also experience a continuum of GBV and harassment before, during, and after their migration. But there is no institutional mechanism to take into consideration such an interlinkage and to work towards supporting victims of GBV against the vulnerability to trafficking.

Existing frameworks inadequate

None of the existing SOPs and guidelines dealing with GBV and TIP already in force in Nepal make the connection between GBV and TIP. Of the six such documents reviewed for the study, which included two that dealt with GBV and the rest with TIP, there was not a single mention of GBV in the latter and of TIP in the former. This gap is all the more glaring since some of the individuals engaged in preventing TIP also have the mandate to work against GBV. The documents detailing their activities, however, fail to make the connection.

GBV's focus only on women

Since violence against women (VAW) and GBV are generally used interchangeably, GBV's focus has ended up being directed towards women only, with the problem being considered a 'women's issue'. The patriarchal nature of Nepali society has also ensured that women are perceived as more vulnerable to GBV. Legal procedures are more women-centred since the likelihood of a woman being a victim of GBV is much higher than for male or other genders.

Recommendations

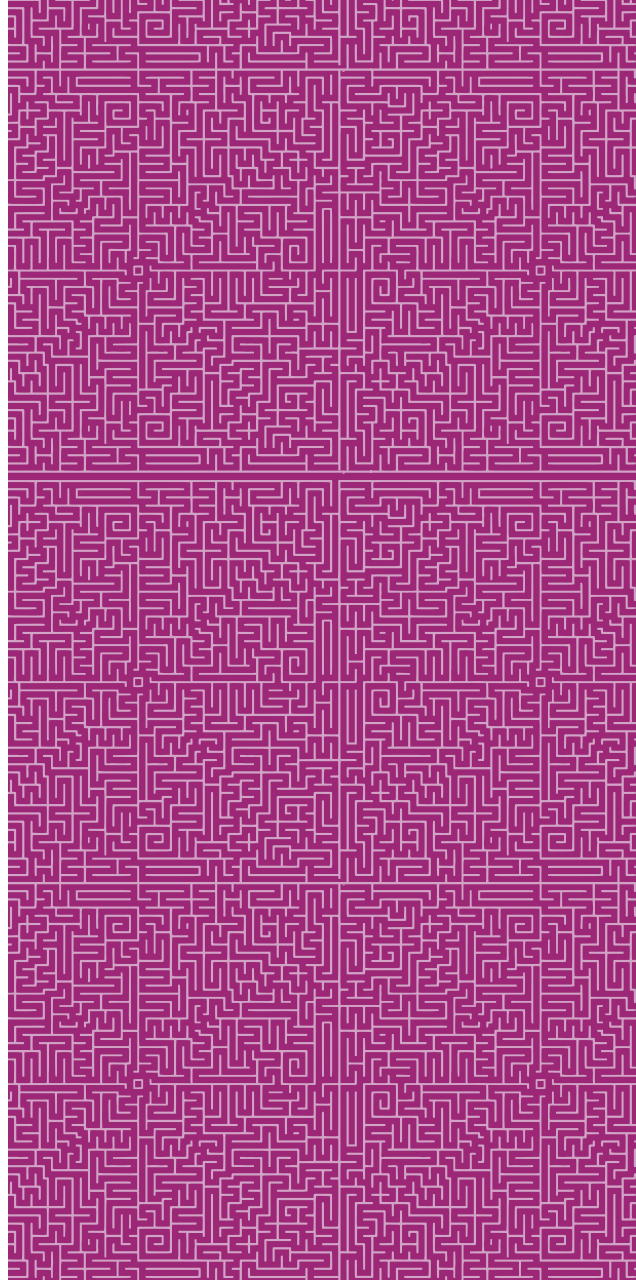
For government agencies

These recommendations can be adopted by different government agencies and at various levels. Among the most likely ones are the National Women's Commission, Women and Children Offices in all the districts, the Judicial Committees in all the municipalities, the district government attorney's office, and the police.

- Develop a comprehensive set of SOP for the screening and identification of GBV victims, including specific guidelines for determining the severity of cases while identifying risk factors for their vulnerability to trafficking. Provide training to all law enforcement officials and other stakeholders for the use of such a standardised protocol.
- Organise campaigns to raise public awareness to eliminate social stigma and discrimination against GBV victims and encourage reporting of cases.
- Ensure there is greater understanding on the specific vulnerabilities that place GBV victims at increased risk of TIP and vice versa.
- Ensure everyone working in these offices are trained on gender-sensitivity and the rights of women.
- Use trauma-informed language with the victims while interrogating them during the screening process in order to put them at ease and facilitate recalling and reporting of incidents more clearly.

For NGOs, shelter homes and other service providers

- Ensure effective screening and identification of victims by following proper protocols with the aid of indicators in order to identify victims as opposed to relying on hunches and visual cues.
- In screening victims, follow proper protocol to determine the severity of the case at hand and look out for specific vulnerabilities that can place GBV victims at increased risk of being trafficked and vice versa. Raise public awareness regarding interlinkages between GBV and TIP.
- Continue to raise public awareness to eliminate social stigma and discrimination against GBV victims and encourage reporting of cases.





Issues to consider during GBV victim identification

At present, there are three documents dealing with GBV and TIP that together, if adopted, would serve as the SOPs required in these two sectors: the Standard Operating Procedure (SOP) and Ethical Guideline for use by personnel providing services to victims and survivors of GBV; the Guidelines on the Identification of Human Trafficking and Trafficking Victims to complement the Human Trafficking and Transportation (Control) Act, 2007 and the Human Trafficking and Transportation (Control) Rules, 2008; and the Standard Operating Procedure for the Rescue and Repatriation of Victims of Human Trafficking.

It is noteworthy that the document on GBV does not mention trafficking even once and neither does the one on TIP have any reference to GBV. The need for all three documents to thus recognise the strong interlinkage between GBV and TIP is essential so that they can provide the kind of comprehensive protection to the vulnerable as would be their intent. The suggestions provided in order to achieve that objective are as follows:

- There should be explicit recognition that women and children who have faced domestic violence, sexual offence and child abuse are at heightened risk of being trafficked. As part of the services should be efforts to ensure they are aware of the kind of enticements they are likely to receive from potential traffickers and how they can counter them, both at the personal level and institutionally. The services should also focus on increasing their knowledge regarding services available for victims of GBV while also assessing the needs of victims who are particularly vulnerable to being trafficked and providing specialised services if and as needed.
- Women and children facing situations of violence should become aware that they fit the profile of people that traffickers prey on and to be constantly vigilant about approaches that are likely to be made to them, including through the medium of social media, which could lead to their being trafficked. Such information could be provided to them through educational materials as well as counselling.
- It will be essential to ensure that the victim is not likely to be subjected to any kind of physical or mental threat at home upon his or her return. Repatriating victims back to situations of violence at home can perpetuate the cycle of GBV leading to TIP leading to GBV and so on. Unless it can be ascertained with certainty that the victim will not be subjected to any such violence at home, she or he should not be handed over to the family.

- It is essential to enquire whether victims of TIP found themselves in a situation of being trafficked due to GBV, domestic violence or other forms of harassment, discrimination or exploitation at home or by the family.
- Questions should also be aimed at finding out whether they are being pressured by the family to go abroad, how they are financing their migration, and, in the case of labour migrants, if they have the full details of the company or individual providing them with employment.
- In the course of investigation, the police should also try to find out the reason the victim is in a foreign country and if it had anything to do with the situation at home, such as GBV, domestic violence or exploitation, including the possibility of the same recurring upon their return.
- Where there are aspects of GBV or conditions for other kinds of violence at home, the police should forward the matter for criminal prosecution to the relevant authorities.
- If the victim has been subjected to GBV at the hands of traffickers, it will be essential to ensure that they receive proper psycho-social rehabilitation both from the TIP and GBV perspective before reintegration into their family or community.
- There should be no discrimination between victims of GBV and victims of TIP given the likelihood of overlaps between the two categories.
- Care should be taken to ensure the safety of trafficked victims before reintegrating them into their families in order to ensure that they are not subjected to any form of GBV that forces them to re-enter the trafficking cycle.

