



OPTIMIZING SCREENING AND SUPPORT SERVICES FOR GENDER BASED VIOLENCE AND TRAFFICKING IN PERSONS NEPAL

CONTEXT

Violence against women in Nepal is pervasive, occurs in both the private and the public spheres, and is further compounded by the persistence of entrenched patriarchal attitudes, gender stereotypes, and harmful practices. While the issue of gender-based violence (GBV) covers a wide spectrum of issues, almost all the focus in Nepal is on physical violence against women. The available data suggests increased GBV cases over the last quarter-century, but challenges of under-reporting remain, due to the fear of both retaliation and stigma. Foreign employment has further compounded the situation by creating nexus between labor migration and human trafficking. The modus operandi for trafficking now involves hazardous domestic labor, forced prostitution, organ trafficking, and, more recently, using women in drug trafficking. The entertainment sector has also seen a rise in GBV-incidents and internal human trafficking.

METHODOLOGY

A survey of the available literature on TIP and GBV was conducted along with a review of the legal and policy frameworks governing the two sectors and the standards and protocols developed over the years. This was followed by primary research carried out in Kathmandu as well as Morang, Sunsari and Banke, three districts bordering India, primarily for information on victims of TIP. A total of 72 interviews and two focus groups were conducted with different groups of stakeholders consisting of service providers, law enforcement officials, judges, prosecutors, and other government officials.

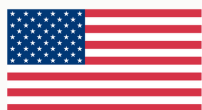
KEY FINDINGS

Understanding of concepts and prevalence of TIP and GBV

- There are discrepancies in available TIP and GBV data and under-reporting is a major concern. There is almost no data on violence faced by men and people of other genders.
- GBV is a leading cause of TIP in Nepal since trafficking perpetrators prey on victims of GBV who come from an unstable environment at home.
- Restrictions on women's migration have forced them to use irregular channels to migrate, rendering them all the more vulnerable to exploitation.
- There is mutually reinforcing intersection between migration, trafficking, and smuggling, with human smuggling and irregular migration often conflated with human trafficking.
- Covid-19 has seen a rise in GBV cases in the country during the lockdowns.

Screening and Identification of Victims

- NGOs actively assist law enforcement officials in the screening and identification of victims, particularly at checkpoints along the border with India.
- Checkpoint inspections at the border focus almost exclusively on female travelers but without any kind of operating procedure or protocol for the identification of victims of trafficking or GBV.
- Most victims and individuals facing potential risks are entirely dependent on the work of NGOs and most of the rescue and repatriation efforts take place outside the state system.



- Institutional gaps also hinder proper screening and identification of victims, with victims being forced to reconcile with perpetrators or accept payments.

Legal Framework Governing TIP and GBV

- Both GBV and TIP are covered by a number of laws, starting with the Constitution of Nepal (2015) and the National Penal (Code) Act (2017) besides various plans to combat TIP and GBV and landmark judgments from the higher courts. The Constitution also specifically refers to trafficking in persons and slavery under the right against exploitation, while the Article on rights of children prohibits the 'illegal trafficking' of children.
- Although Nepal is not a party to a number of international agreements, it acceded to the Palermo Trafficking Protocol in June 2020.
- There is no law dealing with the smuggling of migrants, leading to human smuggling being conflated with trafficking.
- There are also many contradictions among existing laws as well as in the provisions between the civil and criminal codes, leaving open the possibility of manipulation.
- Complex legal proceedings act as a barrier to victims when they seek legal redress. The prosecution is marked by poor investigations, a lack of trained investigators and prosecutors, and frequent turnover. The attitude and behavior of the police towards the victims are not always positive

Services and Service Delivery

- Various government institutions, NGOs, and INGOs are active in the GBV and TIP sectors. Government agencies have drawn up Guidelines and Standard Operating Procedures (SOPs) but not all are followed to the letter, and even remain unknown to relevant

actors.

- Services available to victims in shelter homes are psychosocial support, physical health care, vocational training, and economic security, legal and counseling, and life-skills and education-related to victims. But resource constraints pose significant challenges against effective long-term service provision to victims.
- Victims are mostly referred to the shelter homes by law enforcement officials, local governments, and NGOs.
- Services are concentrated in the cities and in border regions.

Integration or Separation of Services

- Most victims thought integrating services would be better, owing mainly to the emotional support the two kinds of victims are likely to provide each other when staying together, and also because parity would be ensured for both sets of victims.
- Some service providers believed integration is better primarily because of cost savings since most services provided to victims are similar. It would also allow for victims to bond with and support each other.
- Others felt the two groups have different needs and so services should be provided separately if possible.
- Government officials, including law enforcement officials, were divided in their view about the integration of services.

RECOMMENDATIONS

Government

- Enforce existing laws to protect victims while also revising them to reflect new developments.
- Implement and monitor standardized protocols for TIP and GBV operations.



- Streamline information and establish an information system, including specifying functions, roles, and duties of the federal, provincial, and local governments.
- Allocate an annual budget to support shelter homes and service providers and increase the number of shelter houses across Nepal.
- Conduct periodic monitoring of shelter homes and service providers
- Raise public awareness regarding what constitutes TIP and GBV, the related laws, and services available to victims.

Law enforcement agencies

- Expand screening and identification to locations beyond official border crossings and expand the focus from female victims to cover potential male victims and those from gender and sexual minorities
- Establish systems such as 24-hour hotlines to report GBV and TIP crimes
- Practise victim-centric investigation procedures and victim participative criminal justice processes, including provisions for witness protection.
- Provide intensive GBV- and TIP-specific training to all law enforcement personnel.

Shelter homes and service providers

- Ensure effective screening and identification of victims, including male victims and those of other genders.
- Avoid clustering of services in urban and border areas.

Advantages of Integration of Services

- Integrated services would require lesser financial and human resources
- Integrated services would provide a common platform for victims of both groups to support each other
- Encourages interactions between TIP and GBV victims which can help raise awareness of the types of violence women face in Nepal.

Main Advantages of Separation of Services

- Specialised services can be provided according to the victim's respective needs
- Separate services could avoid situations whereby one group of victims can humiliate/discriminate the other for slights known and unknown.

ABOUT THE STUDY

The Asia Foundation (TAF), with support from the Office to Monitor and Combat Trafficking in Persons (J/TIP), United States (US) Department of State conducted a multicountry qualitative research study to improve the efficiency and effectiveness of screening and service provision to victims of trafficking in persons (TIP) and gender-based violence (GBV) in diverse contexts. In India, TAF partnered with local research partner **Social Science Baha** to conduct the research and disseminate its findings. The study's primary objective is to identify promising practices and challenges in integrating or separating services for GBV and TIP victims in the three target countries of India, Nepal, and Sri Lanka. GBV and TIP victims often suffer similar and intersecting forms of abuse, however, at the screening process these multiple vulnerabilities are often not identified, and hence care is delayed. This study is premised upon a deeper study of these intersections; their resultant impact on the identification of victims; leading to a concluding exploration of effective service delivery to the victims, and whether these stand in need of integration. The qualitative data collection for the research was completed between 2020-2021.