



EXECUTIVE SUMMARY

BACKGROUND

Globally, it is estimated that one in three women will experience physical and/or sexual violence by a partner or sexual violence by a non-partner. In South Asia, a significant proportion (35%) of such violence is carried out against women by an intimate partner. Since it is generally acknowledged that women are disproportionately impacted by gender-based violence (GBV) and trafficking in persons (TIP), the feminization of victimhood may impact who is deemed deserving of access to services. Given that services provided to victims are already limited, ensuring accessibility for victims of all forms of violence is important. To better understand the dynamics at the core of these issues and of access to services specifically for TIP and GBV victims, the Centre for Poverty Analysis (CEPA) conducted a study with the objective of optimizing screening and service provision for victims of TIP and GBV.

The study was conducted as part of an 18-month research initiative commissioned by the Asia Foundation (TAF), with the primary objective of identifying promising practices and challenges in integrating or separating services for victims of TIP and GBV, giving due consideration to the specific situation with access to services in Sri Lanka. It is expected that the findings will be applicable and relevant across South Asia given the significant challenges and resource constraints that typify service provision in the region. This Executive Summary highlights the methods adopted in data collection, as well as the key findings, and recommendations on how best to improve access to services for victims of GBV and TIP.

DATA COLLECTION

The research adopted a qualitative approach to data collection. In-depth and structured interviews were conducted with identified stakeholders, including government and non-governmental service-providers (54); law enforcement officials (13) and victims (4). Two focus group discussions were held – one with service providers and the other with immigration officers. In addition, 10 Key Person Interviews (KPIs) were conducted with identified stakeholders to ground the study in Sri Lanka's particular socio-economic context.

The districts of Colombo, Batticaloa, Jaffna, Matara and

Nuwara Eliya were selected to maintain an ethno-linguistic balance, capture data from high migration districts, and tap into the GBV shelters in some of them.

The imposition of a nation-wide curfew as a result of COVID-19 coincided with the data collection phase of this study, resulting in the postponement of field visits. Ultimately, a significant number of the interviews were conducted remotely; mostly over the phone, but interviews of victims were conducted in-person once inter-district travel was permitted. All interviews were conducted with verbal, and where available, written consent. All data sources have been anonymized and the confidentiality of all respondents have been assured. The data was analyzed using the NVivo software, which uses a common scheme of codes developed for all three countries.

UNDERSTANDING OF TIP AND GBV

GBV and TIP are understood as distinct forms of violence. Many service providers' understanding of possible victimization stems from conformity to the patriarchal ideology around gender relations and the socially attributed roles of men and women.

GBV is mostly viewed through the prism of domestic violence and hence, in most cases, violence is understood as physical violence perpetrated against women. In Sri Lanka, this may suggest that men as well as Lesbian Gay Bi-sexual Transgender and Queer (LGBTQ) individuals can find themselves overlooked as also victims needing support. Marginalized groups like sex workers also remain outside the domain of assistance because they are not necessarily recognized as a group of people who are vulnerable to experiencing violence.

In contrast, the understanding of TIP is quite weak among service providers, with a few marked exceptions. The exceptions are law enforcement officials, including Officers of the Criminal Investigations Department (CID) and Department of Immigration and Emigration, as well as the Judges and State Counsels. However, even among those who clearly understood trafficking, little to no attention is paid to trafficking that occurs within Sri Lanka's borders, especially for forced labor and sexual exploitation. Hence, internal migrant workers such as those working in the

export processing zones and as domestic workers are not adequately identified as at-risk populations. The inability to differentiate between human smuggling and human trafficking is also common. These in turn hamper service provision as proper screening and identification of victims may not take place.

Several other factors also negatively impact the process of identifying and helping victims, including the general lack of understanding of what TIP is; the incomplete or lack of information on how individuals can become trafficked, and how this process manifests both within and outside Sri Lankan borders. Similarly, societal pressure and the fear of stigmatization deter women and men from coming forward as potential victims. Family members and religious authorities can impose pressure on victims to withdraw their complaints, which are generally made against an intimate partner, including the husband. The culture of suffering silently also permeates the migration process. Shame of having been sexually exploited can have a devastating effect of marginalizing such victims in their own communities. Thus, social ostracism and the acceptance of such violence as a part of life keep potential victims from seeking justice. More worryingly, the existing gaps in the institutional structures can act as a strong deterrent. The lack of understanding and/or awareness of the complexities of GBV or trafficking and the inadequate number of female cadres in the police stations, and officers' incompetency in communicating in the language most used in the region are major drawbacks. Furthermore, the lack of faith in the justice system can also keep victims from reporting the crimes. For sex workers and LGBTQ individuals, the risks of coming forward far outweigh the benefits, given the punitive lens adopted by law enforcement against them.

PROTECTION AFFORDED THROUGH THE LEGAL FRAMEWORK

Among policy circles and government and non-governmental development stakeholders, there is general agreement that Sri Lanka has the ability to develop policies, action plans and even laws that seek to address any gaps in the existing legal and policy framework to protect victims of GBV and TIP. The problem lies in enforcement and/or implementation. Despite some shortfalls, in theory Sri Lanka's law pertaining to GBV and TIP provide adequate protection to victims of these crimes. For example, with regard to TIP, the amendment to the Penal Code has brought Sri Lankan law in line with the provision of the Palermo Protocol. However, in practice, the rate of convictions remains low – reflecting the overall low conviction rate for criminal cases in Sri Lanka.

In relation to TIP, immigration officials are bound by the duties spelled out in the Immigration and Emigration Act and hence, there is a tendency to track offenders of the Act rather than offenders and/or potential victims of TIP.

At the local level, police officers may lack a clear understanding of TIP and under-staffed and over-stretched police departments may also not have adequate time to investigate trafficking even when there is a suspected case. In addition, sometimes the transnational nature of TIP can prove to be challenging in the collection of evidence due to financial and human resource constraints placed on the Criminal Investigations Department. Even when investigations are successful, the victim may not be willing to cooperate with the investigators and may withhold crucial pieces of information, due to the social stigma of coming forward and victims' fear of court proceedings. That makes the filing of indictments challenging. The implications are far-reaching especially if, as the chief witness, the victims change their statements once an indictment has been filed. There could be delays and costs incurred in Courts, and an inability to migrate overseas without the express permission of the AG's Department.

ACCESS TO SERVICES FOR TIP AND GBV VICTIMS

The Sri Lankan government has adopted considerable measures in the provision of services for victims of violence, especially GBV, most often through the Family Health Bureau and the Ministry of Women's Affairs. Through several action plans and standard operating procedures, there are multiple pathways for victims to access services, including using hotlines and helplines, going to drop-in centers managed by the government as well as CSOs, and being referred at multiple locations, allowing victims to enter at any given time into the existing service framework and access services.

An ability to access services, however, also hinges on the capacity of the government institutions as well as the CSOs to respond effectively to the needs of the victims. In light of declining funding for services provided to GBV victims, many NGOs tend to offer advice and counselling to potential victims and make referrals to the public health and law enforcement structures. Among the services most commonly on offer by NGOs are professional counselling services and economic support. This is considered critical as economic dependence on an intimate partner is commonly identified as the main reason that prevents victims of GBV from leaving an abusive relationship.

Not as common but available is access to legal aid as well as support for documentation. None of the CSOs specialize in offering legal assistance, but they usually direct the victims to the relevant authorities and support them by filling in the necessary application forms.

Markedly, a more cohesive service provision framework is visible wherever a recognized shelter is operating. However, there is a shortage of accessible shelters for both TIP and GBV in Sri Lanka, with only a few which are

overseen by the Women's Bureau. In response to the demand, several unregulated shelters function on an ad-hoc basis. The lack of adequate shelters is a major shortcoming but even where such shelters are available, strict protocols regarding times of admission, the need to visit a police station to indicate the victim is voluntarily agreeing to seek shelter, and the security protocols that prevent children of victims from accessing education facilities can discourage victims from using shelter services.

However, once shelter services are accessed, case management becomes efficient, as counselling, legal aid and economic support are all addressed on the basis of a needs assessment carried out by the counsellor. Hence, during her period of stay, a victim is provided with a wide spectrum of services that have been deemed as necessary, rendering positive outcomes for the victim. Shelters also try to help victims reintegrate into their community, but the process of re-settling into society can prove to be daunting.

In terms of services for TIP victims, this degree of cohesiveness is absent as a majority of the service-providers do not offer any specific services to them. Under-reporting, coupled with the shortcomings of identifying victims correctly by law enforcement, can further marginalize presumed as well as actual victims of TIP from accessing this support network. In this context, marginalized groups like female sex workers and individuals identifying themselves as LGBTQ can face insurmountable hurdles in accessing services.

The lack of understanding of TIP, identification of TIP victims by the law enforcement sector and the lack of NGOs that focus attention primarily on supporting TIP victims combine to make access to services for such presumed victims much more challenging.

The closure of a dedicated TIP shelter at an unfortunate point in time has also worsened the inability to house presumed victims at a dedicated shelter, and overburdened existing GBV shelters. The complicated process of accessing a shelter for TIP victims also makes accessibility even more challenging. Confusion regarding at which point and who should refer the presumed victims to shelter services further exacerbates these problems.

There are also no provisions for compensating TIP victims, unless pursued through the Courts. Hence, unless government or non-governmental service-providers are able to help the presumed victim access an existing government program that provides livelihood assistance, access to any form of medium to long-term support for TIP victims is not possible.

When access to services is placed against the backdrop of national policy frameworks and plans of action, several shortcomings are apparent. These include a mismatch between the written documents and the actions/efforts

that take place at the community level, the lack of funds to provide sustained assistance to victims, the viability of skills taught by shelters for victims to become economically independent, and the changing priorities of the government.

In general, gender plays a critical role in accessing services, as victimhood is viewed through the narrow lens of women in domestic violence situations, excluding men, LGBTQ persons and also female sex workers. At the same time, while public health services is the primary route to accessing these groups, the lack of sensitization and awareness about how someone becomes a victim of GBV/TIP continues to be a problem.

INTEGRATION OF SERVICES AS A WAY FORWARD?

Services tend to be provided not systematically, as spelled out in the policy documents, but in an ad-hoc manner and where funds and resources allow for such services to be aligned. In this context, the question of integrating services can be considered a moot point as those targeting TIP and GBV victims are provided through the same service points. Even though maintaining separate services is desirable, integration is viewed by many as the pragmatic way forward, given challenges to accessing funding and human resources. The major concern is regarding shelter access. While many argue for the importance of securing safe shelter over maintaining separate shelter facilities, the disagreement for integration stems from concerns regarding the security threat TIP victims may experience, given the transnational nature of the crime committed against them. The argument for separation holds merit on the grounds that those providing services must be specially trained to deal with and provide the necessary services to the TIP victims.

Hence, rather than advocating for a separation of services completely, the evidence points to the possibility of a hybrid model where existing services can continue to be utilized by both TIP and GBV victims. However, the question of shelter warrants a closer examination. The limited number of shelters available, the resources required and the protocols that may deny access to specific sub-groups of TIP victims on the basis of their gender identity or the nature of their livelihood, must be first examined in detail to identify how best to respond.

As the findings indicate, more evidence-gathering is warranted especially to better understand how marginalized groups – the LGBTQ, sex workers as well as internal migrant workers – experience GBV and TIP, as well as accessing services. Given the punitive or gendered-colored lens that society and service providers hold, understanding how best to respond to these gaps can only be done by focusing attention on these vulnerable groups.

RECOMMENDATIONS

In light of these findings, these are some recommendations on how existing service providers as well as the government can improve their operations to address the gaps in services:

- **Focus on preventative measures:** Raising community level awareness is paramount especially in light of the socio-economic challenges at-risk populations experience as a result of the COVID-19 pandemic. It's urgent to include the few organizations that work with men and women engaged in the commercial sex trade, domestic workers' unions and associations, as well as the associations that represent the LGBTQ community and a selection of NGOs that support workers of the export processing zones.
- **Strengthen understanding among officers at the DS level:** Existing training targeting these officials must be strengthened and where possible, consultations held with the respective line-ministries to explore how understanding of TIP and GBV can be included in the training modules for the officers.
- **Strengthen capacity of police officers at the local stations:** As one of the first points of contact, police officers must be trained on how to screen and identify TIP victims.
- **Sensitize public health officials:** Counsellors and medical officers operating within the Mithuru Piyasa centers can assist to screen and identify TIP as a form of violence. This is imperative as marginalized groups such as sex workers and LGBTQ individuals have relatively easier access to public health services than TIP services.
- **Train consular staff of embassies:** As labor attaches are drawn from the embassies, training relevant embassy officials can help efforts to support migrant workers, especially in instances where they may experience forced labor or sexual exploitation. forced labor or sexual exploitation.
- **Strengthen the NAHTTF:** The task force must play a more proactive role to help make referrals as well as keep presumed TIP victims within the service framework. It must consider if a victim can be anchored to a state entity which can assume primary responsibility for him or her. Similarly, the Task Force must consider how best to engage with at least some identified NGOs to bridge the gaps in services for TIP victims.
- **Design a cohesive framework for access to services:** As detailed in the SOPs, identified entities – government and NGO - must be included within this framework and the necessary personnel trained and sensitized to offer legal, medical, documentation and counselling services. The fact that many of these services are ultimately linked to public services is helpful since a system is already in operation to provide them.
- **Incentivize existing service providers:** NGOs must be incentivized to provide more services, by giving them training as well as financial resources.
- **Conduct needs assessment on separate shelters for TIP victims:** Focus on what form shelter services must take, whether protection can be provided within a non-institutional setting, where the shelters should be located based on need, how much it would cost to set up this separate system, and under whose authority it should operate.