REGIONAL ANALYSIS REPORT ON
OPTIMIZING SCREENING AND SUPPORT SERVICES FOR GENDER-BASED VIOLENCE AND TRAFFICKING IN PERSONS
INDIA, NEPAL, AND SRI LANKA
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1. INTRODUCTION

1.1 Background of the Project

The Research Project on ‘Optimizing Screening and Support Services for Gender-Based Violence and Trafficking in Persons,’ is supported by the Office to Monitor and Combat Trafficking in Persons (J/TIP), United States (US) Department of State, and implemented by The Asia Foundation (TAF). The research was carried out over a period of 18 months, between November 2019 and February 2021, with its geographic focus on India, Nepal, and Sri Lanka. TAF partnered with local organizations in the three countries - FXB India Suraksha (FXBIS) in India; Social Science Baha (SSB) in Nepal; and the Centre for Poverty Analysis (CEPA) in Sri Lanka.

The goal of this project is to improve the efficiency and effectiveness of screening and service provision to victims of trafficking in persons (TIP) and gender-based violence (GBV). By investigating how GBV and TIP victims are identified and access services from different stakeholders, the research contributes to the development of guidance to maximize the outcomes of scarce resources while providing services for TIP and GBV victims. This study is premised upon a deeper study of the intersections of TIP and GBV, its resultant impact on identification of victims; leading to a concluding exploration of effective service delivery to the victims, and whether these stand in need of integration or separation.

1.2 Overview of Research and Information Collection Process

This document is a synopsized version of the main Regional Analysis Report which is founded on an analysis of the three individual country reports from India, Nepal and Sri Lanka. The methodology of the three country studies encompassed three stages – secondary literature review, primary data collection, and data analysis. Primary research was done through in-depth Key Informant Interviews (KIIs) with diverse groups of stakeholders, and Focus Group Discussions (FGDs). The stakeholders identified for the field research were - Service Providers (including shelter homes and government/NGOs providing services); Law Enforcement Officials (including police, prosecutors, judicial officers, border and immigration officials); and TIP and GBV victims. ‘Victims’ for the purpose of this study were defined as those who were ‘legally identified’ through the criminal justice processes.

In India, the field research focused on the States of Delhi, Goa, Kerala, Madhya Pradesh, Maharashtra and Manipur, which were selected because of their regional coverage across the vast geography of the country, and because they are either emerging or existing hotspots for human trafficking.

In Nepal, data collection was carried out in Kathmandu as well as a few outlying districts of Morang and Sunsari in Province 1, and Banke in Lumbini, which were chosen mainly due to their proximity to the Indian border, a fact particularly relevant for collection of information on cross-border trafficking and responses by stakeholders.

In Sri Lanka, the districts of Colombo, Batticaloa, Jaffna, Matara and Nuwara Eliya were selected to maintain an ethno-linguistic balance, to capture data from high migration districts and due to the presence of shelters for gender-based violence victims in some of these districts.
2. MAJOR FINDINGS ON UNDERSTANDING OF TRAFFICKING IN PERSONS, GENDER-BASED VIOLENCE IN INDIA, NEPAL AND SRI LANKA

2.1  Situation of TIP and GBV

High prevalence – GBV and TIP are both highly prevalent in various forms in India and Nepal, whereas in Sri Lanka, GBV is highly prevalent, but there are comparatively fewer registered cases of TIP. Commercial sexual exploitation and forced labor are the two dominant forms of trafficking in India and Nepal; whereas trafficking for forced labor (especially of the outward-bound migrants) emerges as a more common form in Sri Lanka.

Data on TIP - There are challenges of data collection and its accuracy in all the three countries due to multiple reasons, ranging from lack of reporting to institutional and legal gaps in recording instances, especially of human trafficking. Whilst gender and age disaggregated data on TIP is available in India, there is an absence of such disaggregation in Nepal and Sri Lanka. There is however, no reliable data available on GBV faced by men and people of other genders in the three countries.

2.2  Impact of COVID-19 on Incidence of TIP and GBV

The ‘shadow’ pandemic - The imposition of nation-wide lockdowns, travel bans, enforced quarantine, limitations on economic activities in India, Nepal and Sri Lanka to flatten the infection curve and stop the spread of COVID-19, seemed to have had an opposite effect on GBV. All the three countries reported a surge in GBV cases during the lockdown periods, with further limitations on mobility and access to services. The interviewed stakeholders confirmed the possibilities of increase in trafficking due to existing and exacerbated vulnerabilities.

2.3  Understanding of TIP and GBV and their Intersections

Limited comprehension of GBV - In India, Nepal and Sri Lanka, the discourse on GBV narrowly focuses on the ‘physical’ violence against women, which restricts it to domestic violence - whilst overlooking the recognition that men and other genders can also be victims of GBV. A majority of the respondents fell short of comprehending the entire gender spectrum, including and beyond the traditional binary gender categories of man and woman.

Limited understanding of TIP - In India, respondents were divided in their understanding of TIP, with some recognizing all its forms, whilst others focused on TIP only for prostitution involving women and girls. In Nepal, human trafficking was earlier understood as the cross-border ‘selling’ of women or women getting trafficked into domestic work in the GCC region; but now there is an increased focus on internal sex trafficking. In Sri Lanka, field research suggests inadequate understanding of TIP among some Law Enforcement Officers and among a majority of the service providers; with more attention on TIP as a result of external labor migration vis-à-vis internal trafficking for sexual exploitation and forced labor.
Limited understanding of intersectionality of TIP and GBV - Field research in India and Nepal on the one hand revealed the unambiguous understanding among all the respondents that GBV creates increased vulnerability towards TIP; and on the other hand, revealed a lack of comprehension among some stakeholders, including a majority of the interviewed victims, of the prevalence of GBV within a TIP situation. KIIs in Sri Lanka suggest that linking GBV and trafficking or vice versa is not easy, and even among those who have a clear grasp of both concepts, recognition of the intersections is less forthcoming, mainly because of the lack of verifiable information or data of GBV leading to TIP or vice versa.

2.4 Conceptual clarity on different categories of TIP victims

Presumptions related to TIP victims - Even though there is no formal classification of TIP victims in the UN TIP Protocol, UN agencies categorise TIP victims as – actual, presumed, potential and at-risk populations. These categories are used more to denote that a person may be victimized during all the three stages of trafficking – recruitment, transit/transportation, and when trafficked for various purposes. The trafficking victim can thus, appear at any place on a victim “continuum” or pyramid – but it’s a moot question to ask “What are the identification mechanisms and responses in place?” Whilst trafficking of women and girls from Nepal into India and sometimes transiting through India or Sri Lanka onwards to the GCC countries and Southeast Asia is a reality – their ‘interception’/ ‘rescue’ on the basis of ‘suspicion’ and ‘presumption’ of victimhood, is a serious violation to their rights, as they are (mostly) adults, and hold valid travel documents.

Feminization of victimhood - In India, Nepal and Sri Lanka, this research confirms the ‘feminization of victimhood’ in TIP and GBV situations. Even though men and other genders are often severely exploited as a consequence of their trafficking or face violence and abuse in interpersonal relationships, they are often overlooked or sidelined in legal, policy and service delivery frameworks. Secondary literature and KIIs with diverse stakeholders suggest that the term “victim” frequently elicits connotations of stereotypical, passive femininity - especially when the crime entails trafficking, domestic violence or other forms of sexual violence.

Need for a comprehensive understanding of TIP and GBV - Perhaps the most important finding of this study is the most obvious – that there is a need to better understand and appreciate the gender dimensions of trafficking and violence. The common assumption that women and children (rather than people in general) are acutely vulnerable to trafficking needs to be challenged and the understanding of ‘gender’ needs to be amplified to include men and other genders. Assumptions about sex and gender influence how anti-trafficking measures are undertaken, including what services and assistance are offered or denied.
2.5 Screening and Identification of Victims

Screening by multiple agencies - Screening and identification of TIP victims is carried out by various agencies, namely, the police, government officials, NGOs, border and immigration; whilst GBV victims are identified through complaints received from the police, victims/ families, community members, and helplines. In India and Nepal, OSCCs are important intermediaries in identifying GBV victims; and in TIP, case collaboration between the police and NGOs in identifying, intercepting and rescuing victims, especially at the Indo-Nepal border, is the norm, rather than the exception.

Common challenges – The research identified common challenges in screening and identifying victims of TIP, namely – the lack of protocols and a specific set of indicators; the lack of awareness, appropriate training and capacity building among the first responders (police, border and immigration); the lack of understanding among victims and/ or their complicity; victim's (both TIP and GBV) perception of shame, stigma and societal pressure; and lesser priority and focus on internal trafficking in Nepal and Sri Lanka.

Training of responders - In India and Nepal, police had received some form of training – orientation and in-service – to carry out their roles and responsibilities vis-à-vis TIP and GBV cases; whilst border and immigration officials had not received any focused training on TIP. The local police received little or no training on TIP in Sri Lanka. Although training programs are conducted by government, national and international NGOs, and United Nations agencies on an ongoing basis, demands were made for more training by almost all stakeholders during the KIIs.

2.6 Recommendations for India, Nepal and Sri Lanka

Key Recommendations for India

- Preventive measures - to be prioritized by the government in collaboration with NGOs through vulnerability mapping to identify vulnerable areas and/or hotspots for trafficking. This will be useful in planning and executing area-specific solutions to the factors that create vulnerabilities in the first place within communities, especially in the vulnerable areas.

- Strong community-based monitoring – by the service providers with the participation of village leaders/ panchayats, and religious leaders to be effective first responders in preventing TIP at the village-level.

- Training programs – by the government, national and international organizations for police, border officials, prosecutors and judicial officers to focus on building a comprehensive understanding of gender which includes men and other genders; and a holistic understanding of TIP and GBV and their intersections with each other for efficient screening and identification of victims.
Key Recommendations for Nepal

- Streamline information – Doing so will make it easier to move ahead with identification and other processes.

- Provide timely training - The government, national and international organizations should provide training to government officials to enable them to understand changes in TIP.

- Conduct public awareness programs – The government and NGOs should carry out such programs for uninformed or misinformed and vulnerable people, especially in the rural areas to help them understand the crimes and laws of TIP and GBV, as well as inform the victims of their rights and justice.

- Ensure effective screening and identification of victims - In coordination with law enforcement agencies, follow proper protocol with the aid of indicators in order to identify victims as opposed to relying on hunches and visual cues.

- Not limiting screening and identification to official border crossings – They should also cover other points in the open border with India that allows for easy passage.

- Establish a system to report crimes - Such a system could be 24-hour hotline services for victims to easy access law enforcement agencies. The Khabar Garaun (Let’s Report) helpline for GBV victims being operated by the National Women’s Commission could provide the template on which a hotline to report both GBV and TIP could be set up.

- Implement and monitor standardized protocols – The government should do this for all operations relating to TIP and GBV, across all the bodies involved, both governmental and non-governmental.
Key Recommendations for Sri Lanka

- Making preventative efforts – The government and NGOs should make efforts to address the prevalence of GBV and TIP. Efforts at the grassroots level should be steered towards raising awareness about how TIP manifests and its interplay with GBV. Involve stakeholders at the community level and organizations that work with men and women engaged in the commercial sex trade, domestic workers’ unions and associations that represent the LGBTQ community, as well as NGOs supporting workers in the Export Processing Zones.

- Enhancing capacity – The government should enhance the capacity of its officials at the Divisional Secretariat level, such as Women Development Officer, Migration Development Officer, Social Services Officer, Economic Development Officer and Counsellor, who play a central role in identifying as well as linking presumed victims to services.

- Strengthening police capacity – This should be done by the government and other national and international organizations through the training of local police station officers.

- Building awareness – It is critical that the government builds awareness among its public health officials, especially the counsellors and Medical Officers of Health operating within the Mithuru Piyasa centers as well as the Public Health Midwives, to help screen and identify TIP as a form of violence.

- Placing Labor Officers in embassies - The Sri Lankan government’s decision to withdraw the Labor Officers attached to some of the Sri Lankan embassies in the GCC countries can deter efforts to support regular as well as irregular migrant workers, if they have experienced forced labor or sexual exploitation. This makes it imperative that any officer appointed by the Foreign Ministry to extend support to migrant workers also receive specialized training to help in the screening and identification process.

Additional recommendations for the three countries -

- Relevant Government agencies in India, Nepal and Sri Lanka should prepare and disseminate through a multi-stakeholder approach – detailed indicators/guidelines/screening tools for identification of victims of TIP and GBV of all genders. These tools should cater to the requirements of multiple stakeholders who may be involved in screening and identifying victims.

- Agencies that provide training need to seriously evaluate the efficacy and impact of their training programs, as the research currently highlights the anomaly of perhaps “too much training” with “too little impact”.

3. MAJOR FINDINGS ON SERVICE DELIVERY TO VICTIMS OF TIP AND GBV

3.1 Service Delivery Frameworks and Challenges to Service Delivery

Service delivery frameworks - Multiple ministries, departments, statutory authorities, international and national NGOs are crucial stakeholders in responding to TIP and GBV in India, Nepal and Sri Lanka, albeit with inadequate coordinated efforts. In terms of service delivery for GBV victims, there seem to be strong frameworks in place in all the three countries, but in terms of TIP, whilst India and Nepal have robust frameworks, it is not the same in Sri Lanka, although common public services can be tapped. Monitoring, evaluation and impact assessments of the existing service delivery frameworks to gauge their effectiveness is, however, the missing link in all countries, with this study suggesting that practical implementation is indeed, their Achilles heel.

Service providers - Government and NGOs, through shelter homes or stand-alone service centres (such as the One Stop Crisis Centres in India and Nepal) are primarily involved in providing an array of services. Yet, research in India and Nepal suggests that the bulk of the responsibility of service delivery is shouldered by NGOs; whilst in Sri Lanka it is largely government-driven efforts.

Exclusion of men and other genders - In all countries, service delivery frameworks are focused only on female victims of TIP and GBV, to the almost total exclusion of men and other genders. Different access to services not only on the basis of gender, but also due to geographical location, and types of trafficking are reported in all the three countries. It is recommended that the countries design service delivery plans for men and other genders who are victimized due to TIP and GBV.

Common barriers to accessing services in the three countries –

- Different access to services on the basis of gender, geographical location, and types of TIP - Services tend to be concentrated in the cities or urban areas rather than rural areas and small towns, making access difficult for victims; services are restricted for female victims to the exclusion of male victims and those from other genders (except in Sri Lanka where one shelter operates a separate unit for young men).

- Reasons why victims do not access services – Prominent reasons why some victims were reluctant to seek services include lack of knowledge about available services, fear of stigmatization or shame, lack of knowledge about ones’ rights, feelings of isolation and lack of social support, and fear of re-integrating into the family/community.

- Inadequate responses from law enforcement officials – KII suggested uneven responses prompted by gender prejudice amongst law enforcement officials which affects the identification of victims, further depriving them of access to services.
3.2 Integration or Separation of Services

An overwhelmingly large number of respondents in India believe that services should not be integrated for GBV and TIP victims; whilst half of these advocate for keeping them under one common location for ease of access to services. Services that could be integrated were identified as medical and legal aid.

A majority of the interviewed victims in Nepal advocate integration of services. Service providers from the NGO sector and law enforcement agencies are equally divided between integration and separation of service delivery. All the government officials interviewed as a part of the service providers group, believe in separating services. Services that could be integrated were identified as medical and health-care services.

Most of the service providers in Sri Lanka support separate services for TIP and GBV as an ideal situation. Law enforcement officers believe that access to a safe shelter is paramount over maintaining a separate shelter. Even with divergent opinions on separate or common shelters, almost all stakeholders believe that services can and should be integrated wherever possible.

Common challenges in service delivery -

Whilst each country has their own set of challenges in service delivery, constraints of financial and human resources emerged as the predominant reasons, especially impacting the economic rehabilitation of victims.

- Lack of funds – Shelters operating with government funds often face lack of or irregular disbursement of funds, and those dependent on funding by international organizations, face uncertainties regarding its continuance, which impacts service delivery.

- Limited number of shelters – Shelter homes are mostly concentrated in urban areas, making it difficult for service providers to provide services, or to continue with services for victims who have returned to their families in small towns or rural areas. There are no shelters for men and other genders who are victims of TIP/GBV.

- Lack of composite rehabilitation mechanisms - Rehabilitation services for victims of TIP and GBV are very limited and are narrowly understood as sending victims back to their families. They then lose access to service providers for their economic and other rehabilitation.

Accessibility of services during the COVID-19 pandemic – During the nationwide lockdowns and curfews, GBV victims faced challenges reporting cases and seeking services in the three countries. Due to restricted mobility and social distancing procedures Shelter Homes were not admitting any new victims. Some service providers were running emergency helpline services, seeing a surge in the number of distress calls from women reporting domestic violence during the lockdown. In cases of TIP victims, the interviewees could not provide any information on restricted access to services (perhaps due to no victims being rescued and brought to the shelter homes during the lockdown period).
In the three countries, perspectives on integration or separation of services are predominantly based on the existing service delivery frameworks 'in theory' vis-à-vis their implementation 'in reality'; (non)availability of financial and human resources; and the lived experiences of the victims and service providers.

### 3.3 Recommendations for India, Nepal and Sri Lanka

#### Key Recommendations for India

- Coordination at the government level to be strengthened between different Ministries and Departments relevant to TIP and GBV, and between the Central and State governments, for more coherent responses.
- Coordination between multiple stakeholders representing government and NGOs, and between the service providers and law enforcement agencies towards holistic responses to TIP and GBV cases, especially within the One Stop Crisis Centres.
- Ensuring reach and access of services by government and NGOs in smaller towns and rural areas, and especially for TIP cases at border areas in partnership with NGOs.
- Setting-up shelter homes by government and NGOs where currently not available, to ensure equitable geographical distribution depending on the scale of the problem.
- Individual care and exit plan to enable victims availing shelter home services towards rehabilitation (especially economic) and reintegration within the community, either with or without their families, based on their involved participation in the process.
- Separate shelter homes for GBV and TIP victims, especially those rescued from commercial sexual exploitation; but integrate services at a common location, similar to the One Stop Crisis Centre model, under one roof.
- Timely disbursement of funds by the government to shelter homes, and periodic monitoring and evaluation of the various schemes.
- Integration of possible services for GBV and TIP victims may be done for medical and legal aid services.

#### Key Recommendations for Nepal

- Government to monitor the functioning of various government and non-government institutions mandated to support GBV and TIP victims in terms of their adherence not only to the law but also various guidelines issued or adopted by the government.
- Government to specify functions, roles and duties of the federal, provincial and local governments towards meeting their obligations of effective service provision in the sector of GBV and TIP.
- Government and non-government service providers to develop effective referral mechanisms that allow victims to access services at the nearest location possible.
Key Recommendations for Sri Lanka

- Proactive role of NAHTTF to help make referrals as well as keep presumed TIP victims within the service framework. The reluctance on the part of some law enforcement officials to hand over the responsibility of the victims to an external entity must be considered in light of which entity or office is primarily responsible for the victims.

- Government and NGOs should design a more cohesive means of making referrals to services for TIP victims. As detailed in the SOPs, identified entities 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 these services. In turn, this may, in the long run, lead to a smoother transition to integration of services for GBV and TIP victims. Such an amalgamation of services, however, must not lead to a reduction in resources at the disposal of NGOs to support GBV victims.

- Comprehensive need assessment – should be done on the question of whether a separate shelter/services are required. The COVID-19 pandemic and the lessons learned so far can only increase the urgency of finding a solution that supports victims as well as law enforcement officials in ensuring that victims receive legal redress while receiving adequate protection. This assessment can focus on what form shelter services must take, including whether protection can be provided within a non-institutional setting, the geographical location of the shelter on the basis of need, the costs of setting
4. MAJOR FINDINGS ON LEGAL FRAMEWORK AND ITS ENFORCEMENT

All three countries have a wide array of laws dealing comprehensively with both TIP and GBV, and the legal framework has continuously evolved. Nepal has a stand-alone law on human trafficking; whilst different forms of trafficking are dealt within the Penal Code and several legislations in India and Sri Lanka.

National plans and policies exist in Nepal and Sri Lanka, but in India, there seems to be uncertainty on whether the plan of action on TIP was adopted and operationalized.

Although SOPs and Protocols are available on TIP and GBV, KIs reveal that stakeholders lack knowledge of their existence or they are not universally utilized, and many are in need of revision and updating. There is also no framework and mechanism for the monitoring, evaluation and impact assessment of the SOPs and Protocols, in the three countries.

Gaps and Challenges in Laws and Legal Procedures and their Implementation -

- Even though there is scope for improvement in the TIP and GBV laws in the three countries, the existing legal framework is quite effective, but is impaired by its weak and uneven implementation.

- Interpretations of legal provisions by legal responders, especially the definition of TIP, and ‘consent’ are problematic in the three countries, impacting the identification of victims, investigation of cases, and justice delivery to victims.

- Delayed legal processes in recording complaints, investigations and trials of TIP and GBV cases have been reported in the three countries - primarily due to the inherent systemic challenges associated with the broader justice delivery system, and deficiencies in the capacities of legal responders, beginning with the police and culminating with the courts.

- Cooperation of the victim/witness is found wanting in India, Nepal and Sri Lanka due to commonly attributable reasons of - societal and family pressures, fear for self and family due to threat by perpetrators, inability to navigate the criminal justice system, lengthy and complex legal processes – all of which directly impact the investigation and prosecution of their cases. The criminal justice delivery is heavily dependent on the victim-witness testimony; and in the event of them turning non-cooperative or hostile, the entire edifice of their case falls apart.
There is a robust judicial intervention in India, Nepal and Sri Lanka by Courts at various levels for protecting rights of victims of TIP and GBV. There is an abundance of judgments addressing very diverse aspects of these two crimes.

4.1 Recommendations for India, Nepal and Sri Lanka

Key Recommendations for India

- Comprehensive laws on TIP and GBV, which are holistic and stand-alone legislations on both TIP and GBV, need to be adopted to preclude the necessity of drawing upon different laws for investigating cases of TIP and/or GBV.
- Amendment to ITPA, 1956 with inclusion of a broader definition of human trafficking and removal of the section criminalizing the victims involved in prostitution.
- Fast track courts for GBV cases and Special Courts should be set-up under the ITPA, 1956 for speedy trials.
- Strict implementation of all laws on TIP and GBV should be enforced, such that successful convictions act as deterrence against perpetrators. Anti-Human Trafficking Units should be set-up in all districts and should be strengthened with adequate human and financial resources for making it functional and impactful.
- Training on the legal framework by the government and other agencies for police, prosecutors, and judicial officers, for building thorough understanding on the substantive and procedural aspects of the laws on TIP and GBV and their practical application.

Key Recommendations for Nepal

- Government should enforce existing laws to prevent TIP or GBV, including making provisions for protection of victims while the case is ongoing, but also supporting weaker victims in their quest for justice against powerful perpetrators.
- Government should amend existing laws accordingly to reflect new developments in the respective sectors as well as meet Nepal’s international commitments.
- Law enforcement agencies should ensure witness protection of victims during all stages of the trial, including before and after.
- Practice victim-centric investigation procedures and victim participative criminal justice processes to encourage reporting of crimes.

Key Recommendations for Sri Lanka

- Government to design a cohesive framework for access to services for victims of TIP and GBV.