



March 2023

Justice to Survivors of Trafficking in Persons:
Analysis of Legal and Institutional Barriers in Nepal

Submitted to Winrock/Hamro Samman

Research Team

Ghamber Nepali, Ranju Yadav, Krishna Kumar Sah

Topic 1. Justice to Survivors of Trafficking in Persons: Analysis of Legal and Institutional Barriers in Nepal

This research project was conducted under the John D. Rockefeller 3rd Scholars Program (JDR3) in partnership with the Hamro Samman Project and funded by the generous support of the American and British people through the United States Agency for International Development (USAID) and the United Kingdom's UK Aid.

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ABBREVIATIONS AND ACRONYMS

AHTB	Anti-Human Trafficking Bureau
CBO	Community-Based Organization
CIAA	Commission for the Investigation of Abuse of Authority
CSO	Civil Society Organization
DAO	District Administration Office
DoFE	Department of Foreign Employment
GoN	Government of Nepal
HT	Human Trafficking
HTTCA	Human Trafficking and Transportation (Control) Act 2007
IDI	In-Depth Interview
JDR3	John D. Rockefeller 3RD Scholars Program
KII	Key Informant Interview
LGBTQIA+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Plus
MoFA	Ministry of Foreign Affairs
MoLESS	Ministry of Labor, Employment, and Social Security
MoWCSC	Ministry of Women, Children, and Senior Citizens
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
OCMC	One-Stop Crisis Management Center
PNCC	Pravasi Nepali Coordination Committee
RAC	Research Advisory Committee
SaMI	Safer Migration
SP	Superintendent of Police
TIP	Trafficking in Persons
UAE	United Arab Emirates
USDOS	United States Department of State

EXECUTIVE SUMMARY

Nepal is one of the most highly affected countries regarding human trafficking (HT); however, the country *does not have a centralized* and updated database on HT. The estimated HT data was conducted in 2022 by the National Human Rights Commission (NHRC) with around 35,000 persons affected, which included a high number of women (15,000) and children (5,000), mainly for sexual and labor exploitation, as well as for marriage and organ harvest (United States Department of State [USDOS], 2021; NHRC, 2019). The majority of these were Janjati and Dalits. The existing evidence has shown a strong link between HT and labor migration.

Several laws and policies have been formulated in Nepal to address the issues of HT; for example, the Human Trafficking and Transportation (Control) Act (HTTCA) in 2007 was a specific law written to control and manage trafficking crimes. However, there were many limitations in the support provided by HTTCA, mainly in the investigation process and in covering different forms of trafficking issues—such as forced labor.

Based on the laws, several institutional arrangements have been working to attain justice for survivors. Even so, more than 35 percent of trafficking in persons (TIP) survivors do not enter into the legal process. Among the filed cases, only a small proportion are prosecuted and settled. Among the cases that have been decided, only a minimal number of victims have received compensation (Ministry of Women, Children, and Senior Citizens [MoWCSC], 2020). This research identifies the legal and institutional barriers for TIP survivors to access justice and puts forth recommendations to improve the legal and institutional systems in Nepal.

This qualitative study was designed in consultation with the John D. Rockefeller 3rd Scholars Program (JDR3), the JDR3 research advisory committee, and the Hamro Samman project team, along with the approval of NHRC. The study was conducted in three districts—Sindhupalchowk, Makawanpur, and Parsa—with survivors of TIP and key stakeholders associated with the sector. A total of 30 in-depth interviews were conducted with the TIP survivors to understand the legal and institutional barriers that affect their access to justice. Similarly, 27 key informant interviews (KIIs) were conducted to understand the services provided to TIP survivors and the challenges experienced by survivors in accessing justice. Key informants included government representatives, judiciaries, legal experts, and civil society organizations (CSOs).

Qualitative research tools—such as checklists for in-depth interviews (IDIs) and KIIs—were prepared and pre-tested. Data collection in all three districts was done by following the research ethics and policies of the NHRC and the Hamro Samman project. Collected data were analyzed based on research questions and by following the theoretical data analysis framework of Creswell (2007) and Marshall and Rossman (1999).

Findings

The HTTCA (2007) was formulated and then the Constitution of Nepal (2015) came into force, which prohibits acts of HT and provides compensation to crime victims. Four years later, the Palermo Protocol (2000) was ratified by the Nepal government. Provisions of the Act—including definitions—are to be amended to create support for TIP survivors. The government has several policies and an Action Plan in place to address the issue of TIP in certain conditions, but lacks a comprehensive policy on HT.

Since there is a lack of definition of justice for TIP survivors, it was developed based on the perceptions of TIP survivors. The logically interconnected six parameters of the ideal justice situation for survivors—spanning from the trafficking rescue to dignified reintegration into society—are designed.

Many survivors have faced multitudes of difficulties filing case reports to the police—such as low literacy about the legal process, lack of family support, temptation of traffickers, threats from traffickers, lengthy process, possible harassment, economic obstacles, and many more—all the way to a final decision from courts. Due to such barriers, survivors seldom enter into the legal process. Even if the case is filed, there is a high possibility of it failing, mainly because of the change in a victim's statement given to the police, public prosecutor, and court. Of the 30 survivors interviewed, only 11 (37 percent) entered into the legal process; around two-thirds did not go through the legal process, as per the data of this study.

Survivors returned to their home countries losing many things and wandering about searching for jobs, livelihood options, and legal justice. Some survivors were supported by development and government organizations to get a job and run small businesses for their livelihood. Most traffickers were connected with powerful people and had adequate resources to attempt to block survivors' filing of cases using financial temptation and physical threats. Survivors were also harassed by the institutions of the state during the process of police investigation and prosecution by public prosecutors. Most of the survivors have faced domestic violence, psychological humiliation, and livelihood crisis while reintegrating into society.

There are few NGOs working in the sector of HT to support survivors in shelters to get legal assistance. Interventions from the government have increased from different institutions—such as the Anti-Human Trafficking Bureau (AHTB), Office of Public Prosecutors, courts, and other authorities. Overcoming many ups and downs during the legal process, when (the few) survivors hear the court's verdict, they are relieved. Even so, none of the interviewed survivors have yet received compensation. Many survivors are not aware of the legal procedure of entering into the legal process to get compensation after the court verdict. Because many barriers exist in accessing substantive justice, they are again forced to go back into international labor. However, owing to family support, some female survivors who returned from sex trafficking have been able to reintegrate into society in their home country. Some were able to get married even after revealing their history to their future husband and family.

Due to the structural disadvantages, survivors of trafficking are unable to get justice in the real sense. The caste, gender, ethnicity, and cultural background in which the survivors lived affect their agency. Having weak status of control over cultural and social capitals, they are deprived of basic-level education. Most of them have no land or housing or have very small pieces of land and small huts in which to live. This obstructs them from fulfilling a basic livelihood. They do not have opportunities to attend life-skills or income-generating training. The indigenous knowledge and skills they have learned do not fit into the modern market. Their languages and past working experiences do not match the necessity of a destination labor market. On the other side, political instability and less livelihood options have remained the major challenges to the country. The unemployment rate is increasing daily because of poverty in the state and fragile situations; by pushing dreams of good education, employment, and prosperity in life, traffickers have tempted

and deceived survivors. Therefore, the substantive legal and institutional supports need to be arranged from the same context and perspective.

- MoWCSC needs to amend the HTTCA (2007) and its Regulation (2008) and adopt the changes in the Constitution of Nepal (2015), provisions of ratified Palermo Protocol (2000), and context of HT.
- MoWCSC needs to formulate a separate policy focusing on the cultural and social capitals of TIP survivors to combat HT. The policy can consolidate the existing National Plan of Action and other cross-cutting policies, plans, and programs.
- A standard definition of justice for TIP survivors needs to be specified in its laws and policy for the delivery of justice.
- MoWCSC should prepare a fast and easy procedure for compensation to the survivors after the court's decisions.

1. INTRODUCTION

In the four years between 2015 to 2018, over 1,700 cases of TIP were registered by the AHTB (AHTB, 2022). In actuality, the figures for TIP in Nepal (as estimated by NHRC) are much higher at around 35,000 persons; of these, 15,000 were women and 5,000 were children. In terms of caste and ethnicity, the majority of the TIP survivors were from Janjati groups (49 percent) followed by Brahmin/Chhetri (29 percent), Dalit (15 percent), and Madheshi (6 percent) (NHRC, 2018). Recently, the number of TIP survivors has reached 40,300 and 1.9 million Nepalis were estimated at risk of HT in Nepal (NHRC, 2022). Similarly, in the case of children as per the National Child Rights Council (2020), nearly one-fifth of the missing children, out of a total of 2,729 cases registered in fiscal year 2019/2020, were not found (MoWCSC, 2020). The reported cases of both internal and external HT were from about 70 districts across Nepal, as per the Office of Attorney General, fiscal years 2014/2015–2019/2020.

The apparent motive for trafficking is not specified in many cases filed with the police. However, in the specified cases, the majority were for sex trafficking and labor exploitation, as well as for marriage and organ harvest (USDOS, 2021; NHRC, 2019). Sex trafficking of girls from Nepal to India has significantly increased from 72 cases to 607 cases, i.e., more than 100 percent in five years from 2012 to 2017 (Chauhan, 2018); poverty has been assumed to be the root cause for such escalation but concrete evidence is still lacking.

HT from Nepal to India, the Middle East, East Asia, Sub-Saharan Africa, and other foreign countries, increasingly takes place under the guise of labor migration; those found working under oppressive conditions are approximately 1.5 million as estimated by the Government of Nepal (GoN) (USDOS, 2021). The relationship between HT and labor migration is also reflected in the number of fraud cases with an element of trafficking filed at the Department of Foreign Employment (DoFE). DoFE received a total of 12,090 complaints between fiscal year 2013/2014 and 2016/2017, and among them, 4,627 cases were filed against individuals while 7,463 cases were filed against recruitment agencies. Most of the complaints had more than one element of trafficking (NHRC, 2019).

The structural inequalities of Nepali society have exacerbated vulnerability to TIP. Men and women from historically marginalized caste and ethnic groups—such as Dalits—are at a higher risk of trafficking. The discrimination, exclusion, boycott, marginalization, and domination of cultural norms, particularly founded by the National Code of 1854, still prevail. The socio-economic and political domination of the Brahmin/Chhetri over the Dalits and unequal distribution of wealth, opportunity, education, etc., have resulted in the continuing marginalization of lower caste people (Aahuti, 2014; Lawoti, 2007) that renders them vulnerable to trafficking. The caste system and patriarchy play a crucial role in the exclusion and marginalization of Dalits, and women who aspire for better lives become the victims of this racket (Lepcha, 2016). Dalits are still concentrated in low-paid jobs of goldsmith, tailor, shoemaker, blacksmith, and street cleaner. Dalits are denied access to land and other livelihood opportunities and are subjected to social and economic exploitation. As argued by Mary Crawford (2010), three social systems, i.e., gender, caste system (deprive of fundamental human rights), and development establishment—such as poverty—are the root causes of trafficking. Through these systems, power and resources are controlled by certain elite groups who create the narratives of naïve, childlike victims. Most of the

Dalit children work for a landowner to pay off the debts of their parents. Recently, members of the Dalit community have begun to go to the Middle East (Gulf countries) and other countries for their livelihood. But such marginalized and disadvantaged groups remain highly vulnerable to exploitation in the destination countries (Nixon, 2018).

To control HT, Nepal ratified many international legal instruments and formulated laws accordingly. The law related to TIP under the United Nations Protocol to prevent, suppress, and punish Trafficking in Persons—Especially Women and Children (Palermo Protocol, 2000) was ratified June 27, 2019 by Nepal. Similarly, HTTCA (2007) came into force to control the acts of HT and transportation, and to protect and rehabilitate the victims. HTTCA (2007) is one of the progressive acts in terms of security and protection of the victims, since it extended the definition related to organ transplantation. Due to several limitations, however, HTTCA has lagged behind on supporting victims in the investigation process and on supporting different forms of trafficking—such as forced labor¹ (NHRC, 2019).

Available evidence has identified several other key barriers in preventing HT. Some of them are explained below:

- Changing the context within HT has overtly challenged the state’s legal and institutional mechanisms. The government has enacted several constitutional, legal, and policy provisions to control TIP, but issues—such as labor exploitation, child trafficking, changing routes/hotspots of HT, and changing sex trade practices—are widely overlooked in current policies and plans. For example, trafficked women are currently sold to work in apartments and luxurious mansions apart from the brothels-Bajracharya (2074 BS).
- Many cases of TIP go unreported. The unwillingness shown by the survivors to file complaints, narrow and confusing definitions of HT laws, lack of coordination/integrated state institutions, inadequate oversight in the foreign employment sector, and lack of cooperation/partnership with CSOs are key barriers (NHRC, 2019). The prosecution is hampered by the fact that local brokers are involved in organized gangs while maintaining fake relationships (Ghimire, 2021). Such weak implementation mechanisms of the state have contributed to the acceleration of TIP.
- A dearth of integrated policies and institutional mechanisms is another key barrier. Related ministries and departments have different policies and action plans and separate working mechanisms; for example, the Ministry of Labor, Employment, and Social Security (MoLESS) has a separate Department of Foreign Employment and Tribunal that deals with cases of trafficking and smuggling under foreign employment. This diffused implementation system has not properly responded to the victims/clients.
- The lack of participation of concerned stakeholders in the policy-making mechanism is another major gap, which avoids real issues to be reflected in the policies. In addition, the emerging issues of TIP by using cyberspace and recent technologies are not updated and incorporated into the existing system (NHRC, 2019).
- More than 35 percent of TIP survivors do not enter into the legal process; within the filed cases, only a small proportion are prosecuted and executed. The Office of Prosecutors can only prosecute 36 percent of cases, and three tiers of courts only settled 44 percent of cases in fiscal

¹ Palermo Protocol incorporates forced labor as trafficking.

year 2019/2020 (MoWCSC, 2020). Interestingly, of the decided cases, only a few survivors received their entitled compensation. Despite government interventions, many TIP survivors are often reported as not receiving justice and are living a traumatized life after repatriation and in the destination countries. Some death incidences were also reported as a result (Kaphle, 2014; Karki, 2022).

- In the area of accessing justice and legal action, the MoWCSC provided a recommendation to reform relevant existing laws. To take legal action, the AHTB of Nepal police was established. It simplified the complaint-receiving process and led to the registration of 1,766 cases of TIP out of 2,681 during fiscal years 2011/2012–2019/2020 (MoWCSC, 2020). Apart from this, the Ministry developed the accountability and responsibility of law-implementing agencies—such as the National Committee of Human Trafficking, a separate TIP section under the Ministry, rehabilitation centers, service centers, and the National Child Rights Council. The Office of Attorney General, Office of Chief Attorney, and Office of District Attorney executed 39,181 and 455 cases respectively out of a total of 201,326, and 1,351 TIP cases in fiscal year 2019/2020. Likewise, the Supreme Court, High Court, and District Court adjudicated 208,216 and 125 TIP cases respectively out of a total of 576,352, and 319 cases in fiscal year 2019/2020 (MoWCSC, 2020).

Purpose of the Research

Considering all the facts identified above, this research study aimed to identify the legal and institutional barriers for TIP survivors to access justice in Nepal and to recommend improving the legal and institutional system in Nepal. The research 1) critically reviewed all existing legal and institutional arrangements of the government; 2) attempted to bring the perspectives of TIP survivors to enhance the knowledge of policy stakeholders, CSOs, and civil society persons on survivors' access to justice and the related legal and institutional barriers; and 3) sought to understand the enablers and disablers for improving the existing legal/institutional mechanisms. These research insights will serve as a tool and source of evidence to formulate new laws or to amend existing laws related to HT for the policy stakeholders and will inform CSOs for advocating for TIP survivors' access to justice.

This study could be an addition to the portfolio of academia interested in HT and justice.

2. RESEARCH METHODOLOGY

The primary objective of this study was to identify existing legal and institutional obstacles for TIP victims in accessing justice. Thus, the study specifically explored the question “What legal and institutional barriers affect TIP survivors in accessing justice in Nepal?” The study adopted a qualitative research approach, which allowed it to obtain detailed information from individuals about their experiences and ideas. The study also involved a desk review of relevant documents and interviews with key stakeholders as discussed below.

2.1 Sampling Method

The study was conducted primarily with TIP survivors in three districts—Sindhupalchowk, Makawanpur, and Parsa—representing cultural, lingual, ethnic/caste diversity, and ecological regions (Mountain, hills, and Terai) across Nepal. The selection of the districts was also based on

the prevalence rate of HT cases. Of the sampled districts, Sindupalchowk and Makwanpur were also the working districts of the Hamro Samman project.

All the respondents were 18 years of age or older and were identified/selected in coordination with Winrock International and its partner organization and other government and non-governmental organizations (NGOs) working on TIP. Organizations—such as Maiti Nepal, Shakti Samuha, Pravasi Nepali Coordination Committee (PNCC), Shanti Foundation, Pourakhi Nepal, People Forum, Divya Jyoti Yuwa Club, SaMI (Safer Migration), a project of HELVETAS Nepal based at the District Administration office (DAO)—were approached to identify respondents; subsequently, participants were identified through the snowballing sampling method. Furthermore, four indicators were followed as much as possible for selecting respondents.

1. Nature of trafficking (sex trafficking, forced labor trafficking, or trafficking for organ harvesting)
2. Destination, e.g., international cross-border (India) or Asia, Gulf,² eastern, and African countries
3. Gender (male, female, and other)
4. Caste/ethnicity (marginalized groups—such as Muslim, Janajati, Dalit from both hill and Tarai, or Madheshi) and for the comparative analysis the TIP, survivors from dominant caste groups—such as Bahun and Chhetri—were also included in the study

2.1.1 Desk review

The study team reviewed the existing policies and laws of Nepal in relationship to the issue of TIP—including legal provisions related to sex trafficking, child trafficking, organ transplantation, forced labor, foreign employment laws, and etc. Along with this, periodic plans of the government, budget, and programs; reports of related government organizations and NGOs; and scholarly books, reports, and articles were also reviewed. The major objective of the desk review was to identify gaps in the existing legal framework that prevent TIP survivors' access to justice. The desk review also contributed to the development of research tools.

2.1.2 In-depth interviews

IDIs were conducted with TIP survivors to understand legal and institutional barriers that affected their access to justice. The stories of survivors at their time of trafficking and beyond to access justice were captured through the interviews; the data were analyzed to identify related factors.

A total of 30 in-depth interviews were conducted, 10 from each of the three districts covering at least one rural and one urban municipality based on the high concentration of HT and availability of rehabilitation/safe centers/shelters. All the interviews were conducted following research ethics and the consent of the TIP survivors. The research objectives and the process were well explained to the respondent prior to the interviews. The diversity among the researchers in the team enabled the research to be conducted in the local language wherever it was required, especially in the Madesh region. All the interviews were recorded with consent and notes were taken during the interviews.

² Union comprised Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates (UAE).

The checklist for in-depth interviews were developed and finalized through a consultation meeting with the Hamro Samman team, Research Advisory Committee (RAC), and research consultants hired by the Hamro Samman Project to support JDR3 researchers.

2.1.3 Key informant interviews

Altogether, 27 KIIs were conducted to understand about the services provided to TIP survivors and the challenges experienced by survivors in accessing justice. Also, the KIIs provided additional information about barriers in institutions and structures that hinder access to justice. Wards of the local government were the nearest authority for people for state service delivery whereas the federal government was the top-most body for policy (re)formation. Hence, local-, provincial-, and federal-level stakeholders were interviewed.

The KII participants were ward chairs, mayors, women development officers, and CSOs at the *local level*; representatives of Ministry of Social Development, High Court, and District Court at the *provincial level*; and representatives from MoWCSC, DoFE, AHTB of Nepal Police, Office of Attorney General, Supreme Court Judgment Implementation Directorate, NHRC, Maiti Nepal, Shakti Samuha, Paurakhi Nepal, PNCC, Shanti Foundation, People Forum, and a TIP specialized lawyer at the *federal level*. The details information on the KIIs is listed below.

Details of KIIs

Level of Government	Number of KIIs	Institutions of Informants
Local Level	12	3 Mayors, 3 Ward Chairs, 3 Women Development Officers, and 3 CSOs
Provincial Level	3	1 focal person from Ministry of Social Development of Bagmati and 1 focal person from MoWCSC of Madhesh Province, and 1 from High Court
Federal Level	12	Chief of HT section from MoWCSC, Chair of NHRC, Information Officer from DoFE, Superintendent of Police (SP) of AHTB of Nepal Police, Joint-Secretary from Office of Attorney General, Directorate General from Supreme Court Judgment Implementation Directorate, District Court of Kathmandu, Executive Director from Maiti Nepal, Chair from Shakti Samuha, Treasurer from Paurakhi, Chair from PNCC, HT Expert from People Forum, and Chief of District Attorney Office
Total	27	

Data collection tools based on the research questions and methods of research were drafted. The questionnaire was prepared in consultation with the Hamro Samman project team, RAC members, and research consultants and was finalized in accordance with the requirements specified by NHRC.

The checklists/guiding questions were pre-tested in Kathmandu. Six pilot interviews were conducted to finalize IDI and KII guidelines. Some relevant interviews conducted in the pilot test

were considered as the main interviews. Based on the pilot testing report, the interview guidelines were revised and finalized to roll out the fieldwork for data collection.

2.2 Data Analysis

The primary data and the data from the desk review, as described by Creswell (2007) and Marshall and Rossman (1999) and were modified in the research. For this, all the recorded interviews were transcribed and then translated from local languages—such as Nepali, Bhojpuri, Maithili, Hindi, etc.—to the English language. The data were coded using ATLAS ti., categorized as per the themes/variables of research, and analyzed following the theoretical framework. While analyzing the data, quotes of respondents/informants were contextualized with support from field notes. The data from IDIs and KIIs were also triangulated with data from secondary sources wherever it was practicable. In order to get deeper knowledge of the data from survivors and stakeholders, researchers systematically debriefed among themselves after collecting the data to understand it better, plan for any kind of modification needed in the data collection process, and adapt to any unforeseen situations that could arise.

2.3 Ethical Considerations

The research accounted for ethical concerns while collecting data from trafficking survivors. The researcher created a comfortable environment so survivors could freely tell their own stories. The researchers gathered consent for the interviews and ensured anonymity and data confidentiality at the field and reporting levels. Pseudonyms were used in the report wherever it was required. This attention to ethics developed trust between the interviewer and the interviewees. Also, throughout the research project, the research team followed the ethical policy of the National Health Research Council and the Hamro Samman project.

2.4 Limitations of the Study

1. HT was a very sensitive issue when conducting research. While interviewing survivors, there was always the possibility of re-traumatization. At times, the interview had to be stopped for a period of time and sensitive issues of the interview had to be skipped.
2. The research could not include the Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual Plus (LGBTIQ+) group in the study as they were not widely identified. Hence, the research lacks capturing the voice of this diverse population.
3. The research could not include the response from representatives of MoLESS nor judges of the Supreme Court, despite making many efforts. Instead, the Director General of Supreme Court Verdict Implementation Directorate, ex-Justice of Supreme Court, and existing Chair of NHRC were interviewed.

3. FINDINGS AND DISCUSSIONS

This chapter presents the findings of the study under five different major headings: 1) the first describes the status of legal and institutional interventions for TIP survivors, 2) the second illustrates the demographic profile of respondents, 3) the third analyzes the ideal parameters of justice for TIP survivors, 4) the fourth explains in detail the procedure from rescue to reintegration of TIP survivors, and 5) the fifth deals with institutional barriers for accessing justice.

3.1 Legal and Institutional Mechanism

One of the most important rights defined by the Constitution of Nepal (2015) on HT is the right against exploitation. Article 29 provisions declare the eradication of problems of HT, forced labor, and slave trade and declares them as punishable offenses. The next clause explains various forms of exploitation—such as labor trafficking, sex trafficking, organ transplantation, etc.—depriving persons of their basic human rights, which is considered exploitative.

There are several laws formulated to prevent and minimize HT offenses by following the spirit of the Constitution. The Act Relating to Children (2018), Labor Act (2017), Bonded Labor (Prohibition) Act (2002), Foreign Employment Act (2007), and Local Government Operation Act (2017) have also covered issues of HT to some extent. The National Criminal Code (2017) declares that no one should be forced to work against his/her will and keeps the offense punishable with imprisonment for three months or a fine of up to five thousand rupees—or both (Section 162). For selling or enslaving a person against his/her will, forcing a person into prostitution, torturing, or forcing him/her to do any forced work are included offenses. Such offenses will be punishable by seven to ten years of imprisonment and a fine of up to seventy to one hundred thousand rupees (Section 211, 212, 213).

HTTCA (2007) came into force as a leading law to control the acts of HT and transportation and to protect/rehabilitate victims in Nepal. The Act defines a number of provisions to provide stronger protection for trafficking victims—such as the victim's right to act in self-defense, provisions for rescue and rehabilitation of trafficking victims, etc. Its terms include a maximum of 20 years of imprisonment and a penalty of two hundred thousand rupees for the offense against trafficking. Although organ transplantation is included as a trafficking offense, the law has limitations for improvement.

There exist several policies—such as the National Policy against Women and Child Trafficking and Prostitution (1996), Gender Equality Policy (2020), Foreign Employment Policy (2068), and National Child Policy (2069—having provision against trafficking and include prevention programs. From the thirteenth periodic plan (2019/2020–2023/2024), GoN began to treat HT as a separate issue. Section 9.13 deals with controlling HT by highlighting the constitutional provisions for prohibition of forcing people to work against their will. Particularly, the National Action Plan against HT—Especially Trafficking of Women and Children (2068) and its Implementation Plan (2071) ensures the effective control of HT and transportation acts. MoWCSC conducts dozens of activities under prevention, protection, legal actions, and accessing justice. In addition, the ministry works to strengthen institutional capacity—including coordination, cooperation, and collaboration (MoWCSC, 2020). A National Coordination committee was formed at the national level to collaborate with related institutions and stakeholders.

As per the provisions of law, local-level policies and mechanisms have to be formed for the provinces. So far, regarding province-level policies, the Ministry of Social Development of Bagmati province has drafted a legal document and has yet to receive legal validity from the parliament. The Madhesh province has not yet initiated such a legal policy as of this date. Both the Melamchi Municipality and Hetauda Sub-Metropolitan City have developed legal procedures against HT. Ward-level committees of HT are formed in the Hetauda Sub-Metropolitan City, but Birgunj Metro-City lacks such policies.

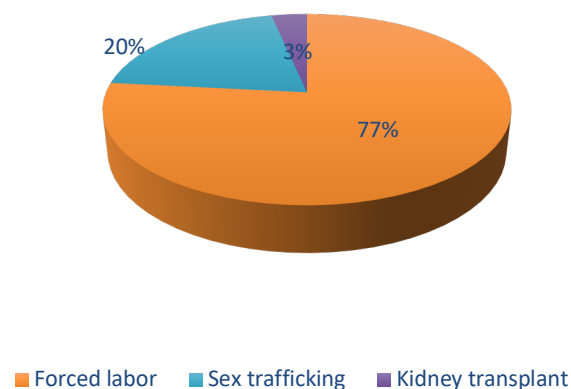
Looking at the latest status of trafficking cases, the AHTB of Police recorded 145 cases across the country in fiscal year 2021/2022 (AHTB, 2022). The annual report (2022) of the Office of the Attorney General records a total of 867 cases of trafficking. Out of the 349 cases that were executed, 518 cases remained to be executed in fiscal year 2020/2021. Likewise, out of the total 867 cases, the largest portion of 375 cases were registered at district-level offices of public attorneys, 291 cases in the office of the high court attorney, and 201 cases in the office of the attorney general. The annual report (2022) of the Supreme Court of Nepal records a total of 1,106 cases of TIP survivors in fiscal year 2020/2021. A total of 429 cases were executed out of the total cases and 677 cases remained to be executed. The executed status of cases by the office of attorney and courts indicates slow implementation processes of legal institutions.

While exploring data at the district level, the government attorney office of Parsa recorded five cases of TIP, with three cases executed in fiscal year 2020/2021. Only one case was recorded and executed in Sindhupalchowk district. In Makawanpur district, five cases were recorded, with four cases executed, and one case remained to be executed. So far, the district courts, Parsa district court recorded nine cases and only three were executed out of the total cases. In Sindhupalchowk, only two cases were recorded and all of them were executed. In Makawanpur district, only one case was recorded which was unexecuted as of this writing. Makawanpur and Parsa were put in the top ten ranking of trafficking cases registered by Nepal police in fiscal year 2016/2017. Eight and six trafficking cases of Makawanpur and Parsa were registered by the police (NHRC, 2018). There are many cases of HT which are not recorded statistically because the victims have no idea/information about legal remedy. The lengthy and hefty legal process also causes people not to pursue processing the case.

3.2 Demography of the Study Participants

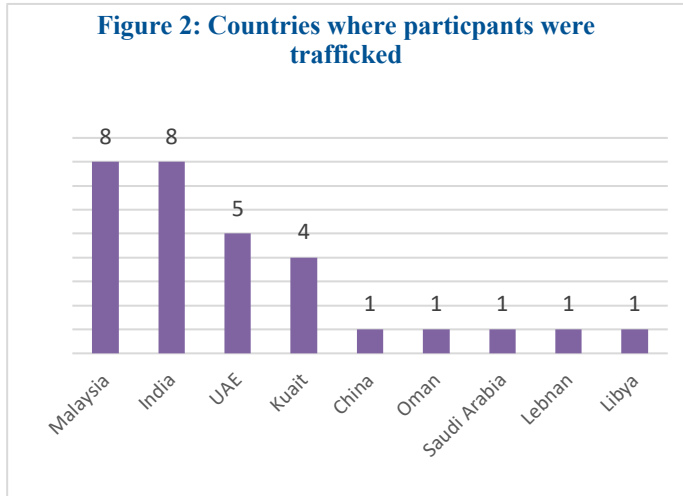
The study selected 30 survivors as research participants; all of them were 18 years of age and older. Since the research has adopted the qualitative approach, the analysis has been done with a small number of informants, but the research attempted to dig down further to explore facts in-depth. While categorizing the nature of trafficking among 30 survivors, 77 percent were found trafficked for forced labor, 20 percent for sex trafficking, and 3 percent for other forms of trafficking, such as organ transplantation. Figure 1 indicates the nature of trafficking as shown in the study.

Figure 1: Nature of trafficking of respondents



The trafficking cases were more in Malaysia and India, respectively, followed by UAE and Kuwait (Figure 2) while coming to the trafficking destination countries.

Figure 2: Countries where participants were trafficked

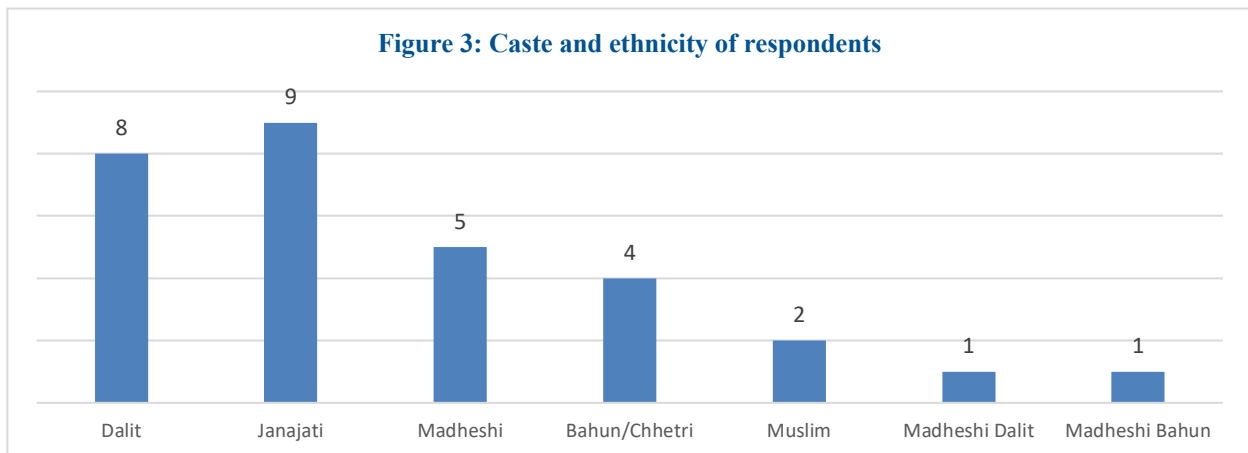


The focus of the research was mainly HT in international cross-border (India), Asian, Middle East (Gulf), eastern, Arabian, and African countries and has not captured trafficking inside the country. The study sought to ensure an equal proportion of gender representation. However, the research could not identify participants from the LGBTQIA+ group despite trying to make the study more gender inclusive.

In terms of caste/ethnicity, the research focused more on marginalized groups and

interviewed Muslim (1), Janajati from both hill and Tarai (9), Madheshi (5), and Dalits (8). Few participants were from dominant caste groups—such as Bahun and Chhetri (4) from hill and Madhesh—and were also included in the study for comparative analysis. The caste and ethnic details on identities of respondents in the research are presented in Figure 3. Since the NHRC (2018) records Janajati and Dalit as having the highest rank among trafficked people by community, the graph below is also very similar to it.

Figure 3: Caste and ethnicity of respondents



A total of 27 KIIs were conducted to understand the services provided to TIP survivors and to explore the challenges and their experiences in terms of accessing justice. The Ward of the local government was the nearest authority to people for state service delivery, whereas the federal government was the top-most body for policy (re)formation. Local- to provincial- and federal-level stakeholders were interviewed as key informants. Out of a total interviews, 41 percent was conducted each at both the federal level and local levels and 18 percent was conducted at the provincial level.

Out of the total key informants, 14 (52 percent) were from an executive level and were from MoWCSC to the Ward chair of Municipality, who are mainly policy makers, implementers, and monitors. Similarly, 6 (22 percent) were from legal institutions—such as Supreme Court Judgment Implementation Directorate to the District Court, including the Office of Attorney General. In NGOs, 7 (26 percent) of informants were interviewed (Figure 4).

3.3 Perception of Justice for TIP Survivors

Existing constitutional and legal provisions of Nepal lacks clear definition on the process or the influencing factors that hinder accessing justice for HT survivors. Hence, on the basis of response from TIP survivors, the research has identified some of the key parameters that can promote justice to TIP survivors.

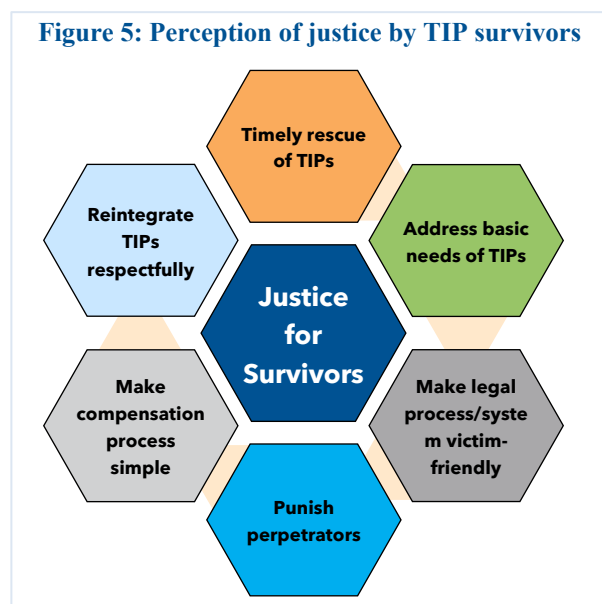
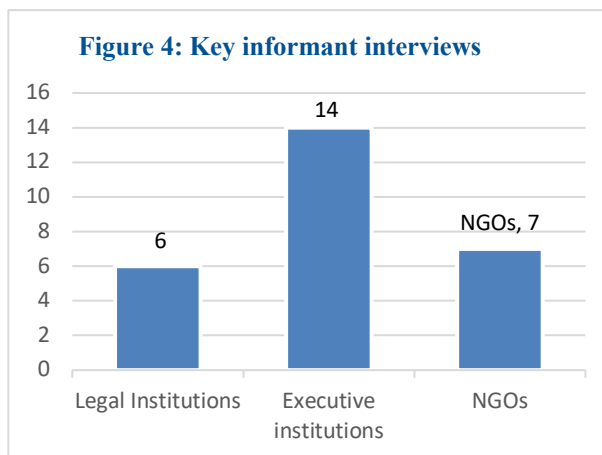
My family did not believe that I was alive because I did not have contact with my family for a long time. Police bought a ticket for me up to Birgunj when I reached KTM. —Rekha

As stated by the survivors, justice for them begins at getting rid of suffering in trafficked situations. Rescue is one of the most important factors that can remove them from a devastating trafficking condition; the government, non-government, and international actors could provide support for this. Also, at repatriation to their homeland, basic needs—such as food, shelter, clothes, health treatment, and psychosocial counseling—play a vital role for survivors’ justice. In addition, the education and livelihood options to sustain their lives in society, along with legal justice by punishing their perpetrators with legal support—including survivor-friendly investigation, and

prosecution/adjudication process from government and non-government actors—were also identified as crucial features that can contribute to the majority of justice. Article 20 (10) of the Constitution of Nepal also states, “Any indigent party shall have the right to free legal aid in accordance with law.”

Similarly, an appropriate amount of compensation from perpetrators and funds from the government could support the survivors, helping them to rebuild their network within their society. Most of the participants demanded an easy process to get compensation, as they felt the process and governance of law was complicated. In addition to this, other several other challenges were identified that they experienced during

reintegration. The social stigma that traumatized them time and again and the weak financial position that marginalized them in many social-political and economic practices in the society



were also additional important factors for accessing justice. All the above-mentioned parameters that could impact accessing justice is illustrated in Figure 5, above.

3.4 Rescue to Reintegration of TIP Survivors

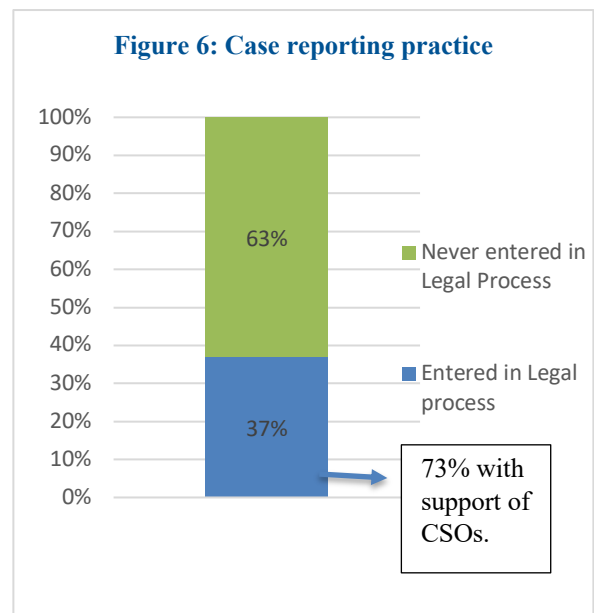
3.4.1 Practices of rescue

While looking at the data related to rescue of TIP survivors from the cross border and transnational borders, minimal cases were found reported or intervened by the state and other relevant organizations (NHRC, 2019). According to different source outlets, many survivors returned to Nepal through their own efforts and many other sex-trafficking survivors in India were helped by their customers to return to Nepal. Similarly, many survivors who returned to Nepal from other transnational countries through their own efforts faced many difficulties and obstacles. Regarding this, NGOs—like PNCC, Maiti Nepal, Shakti Samuha, and Nepal police—have played important roles in rescuing survivors and bringing them back to their home country. Similarly, international development organizations have contributed a great deal in rescuing survivors. However, the role of embassies and other Nepal diplomatic missions have not been highlighted to any extent in this regard, as per the field data.

Bishnu—31 years old from Sindhupalchowk—was rescued from a peace mission in Libya by the Nepal Army through the Embassy of Egypt. The survivor appreciated the support provided by the Nepali Army and organizations like the IOM and PNCC for returning him back to Nepal. He said, “IOM provided us food, shelter, and money in Libya after we were rescued and that was the most valuable thing for me.”

3.4.2 Case filing and reporting

Entering the legal process is not an easy task for the survivors since they face several challenges—such as lack of legal literacy, complex and lengthy procedures, lack of family support, temptation of traffickers, threats from traffickers, harassment and economic obstacles—that prevents them from entering the legal process. Reported data shows that out of the 30 cases, only 37 percent of the survivors entered into the legal process. Among them, 73 percent were supported by CSOs and 27 percent took their own initiative. Reporting cases on their own was a difficult task for the survivors. The president of PNCC added that rescue most often takes place in coordination with the police administration in cases where survivors are within the country and out of country, as they have a strong network with the different organizations, including the police. Some of the NGOs provide free legal expert assistance—such as legal advice and documenting evidence. Mina, 32 years from Sindhupalchowk, was trafficked to India at the age of 13 years and shared her experiences. She said it was impossible to file a case against her perpetrator without the help of an NGO; the



motivation and counseling she received made her strong enough to fight against the threat by the perpetrator. The NGO also supported her in getting police security.

I wouldn't have been able to report the case if I was not supported from NGO. I was trafficked as a sex slave in Punjab of India at the age of 22 and arrived in Nepal at the age of 41 and reached the rehabilitation center in 2067 BS. After coming to Nepal, I stayed at the Maitighar in Tistung for about four years. I took various trainings, like counseling, including legal aid. The NGO supported food and transportation while going to district headquarters for filing the case and follow-up processes. Finally, the case settled down by court in 2068 BS and I get back into my family in 2072 BS.—Nirmaya, 53 years from Hetauda sub-metro city

Why do survivors not report their cases? Many survivors and the actors working in this sector answered this question during this research. Some of the reasons mentioned have been highlighted below:

1. *Power dynamics in human trafficking.* Most traffickers have a strong nexus with the people with power, which creates a blockade in the case filing process by financial temptation and physical threats. A female survivor named Sanu, 28 years old from Sindhupalchowk, shares her experience while she was reporting a case against a trafficker in the police station. Her parents were threatened and they asked her to stop her reporting her case. However, she was determined and reached up to Chautara with the fear that traffickers were waiting to attack her with weapons. The local NGO played a vital role at this moment and supported her in providing police security, shelter, and for accessing legal procedures.
2. *Lengthy and complicated reporting process.* Many survivors have registered cases to AHTB that investigates cases related to HT and transportation but it lacks promptness and makes the procedure lengthy. “I have registered my case at AHTB with the support of their staff. Their behavior towards me was friendly and they documented every piece of evidence in a well-organized way. It's almost been three years since I filed the case and I do not know when my case will be finalized.” —Bishnu, 31 years old from Sindhupalchowk.
3. *Social stigma.* The research has highlighted social stigma as one of the key reasons for not reporting cases. The Information officer of DoFE also agreed that social stigma is the reason survivors do not want to reveal their HT and rescue history. Similarly, research conducted by Dhungel (2021) on unpacking HT in Nepal also showed that most of the cases of HT are not reported to the police to avoid stigmatization.
4. *Inadequate or lack of knowledge on the legal process.* This factor also deprived survivors from reporting. The research approached 11 survivors to understand their level of awareness on the legal process. The data showed that 9 out of 11 were completely unaware of the legal process and about the rights for survivors. The other 2 had some level of awareness but the language barrier was the major issue for them in keeping their voices out front. On the other side, it was comparatively easier to report cases for those who were aware of some legal processes, had registered other cases before, or had a connection with legal advisors. Also, reporting cases was felt to be easier by those who were in shelters and were supported by the shelter staff.
5. *Ineffective case investigation.* Chief of Women and Children Department of Birgunj metro city said that the city does not have a separate law on HT and also not on collaborating with NGOs. She further elaborated that there might be a large number of trafficked people in the city but

only 22 cases were filed in one year as per People's Forum FIR record. The main reason for not filing cases was because of ineffective investigation.

6. *Weak and inadequate government response.* The survivors showed dissatisfaction towards the support provided by the government while reporting their cases. Furthermore, those who had a labor permit received the least response. Neglecting the case, skipping the case, not responding to cases for several months, not providing enough clarifications on their queries, and referring the cases to several other departments are the practices repeatedly reported.
7. *Insufficient evidence.* As per authorities, the process of compiling prima facie evidence to prepare a strong police report was also not satisfactory, which is one of the strong grounds for public prosecutors to put forward an indictment of trafficking case in the court. According to them, most often the reports are prepared based on the statement of a survivor. Similarly, the legal expert mentioned that the legacy of focusing on the evidence on written documents also created problems in terms of maintaining the evidence in investigation reports and has been shown to act slowly. Furthermore, the process of arresting accused perpetrators was also a slow process.

The cases of fraud and exploitation that go to a foreign employment tribunal are offered high compensation as per the provision of foreign employment laws. But in the case of trafficking, low compensation is offered as per existing provision of laws. Moreover, it is mostly associated with the social prestige (stigma) of survivors, hence affecting reporting practices.

In response to the issues portrayed by the survivors, the government has taken some initiative to support them. According to Ms. Mina Poudel, Section Chief of HT and transportation control section of MoWCSW, the ministry has revised the National Action Plan against HT—Especially Trafficking of Women and Children (2011) that was developed by the Human Trafficking National Committee and has endorsed, via the parliament, addressing the many trafficking issues, including effective reporting cases.

Survivors of human trafficking are not ready to file a case against the perpetrators because of a long, complicated process. The long process of case settlement, the stigma associated with this, low sensitivity towards laws, lack of support from the family, livelihood crisis of survivors, negligence of police, and suspicion towards the legal system and so on, have kept survivors aloof from filing the case against perpetrators. —Ms. Mina Poudel

3.4.3 Prosecution and institutional support

There is a lengthy prosecution process and the institution is unaccountable. As per the National Criminal Procedure (Code) Act (2017) and legal provisions, the authority of indictment is enshrined to government prosecutors who have the power to provide direction for preparing an investigation report. Based on the investigation report of police, the government prosecutor creates a charge sheet and files it in the court, and also investigates the survivors to make the case stronger. Further, the reports are evaluated and analyzed to make the final decision for prosecuting the case by the public prosecutor of the relevant District Public Prosecutor's Office. If the case has to be prosecuted, the charge sheet is filed. Very few survivors showed satisfaction towards the response of government prosecutors while following this process because of the lengthy procedure and the institution's unaccountability. Also, survivors did not experience a survivor-friendly atmosphere within the institutions, especially for female survivors who most often felt uncomfortable sharing their statements with male police and prosecutors. Bribery actions were also reported by some of

the survivors. Sen and Nair (2005) also argue that poor governance and inadequate law enforcement are chronic problems in Nepal.

It was quite difficult to respond to the police and prosecutors about our trafficking incidents. They asked many uneasy questions such as, “how to believe that you are trafficked? What would happen there in the brothel?” —Mina (name changed), 26 years old, Sindhupalchowk

The police and public prosecutor asked uneasy questions like “how can you say that you are survivors? How many times did you have to have sex with the customer?” So that I felt re-traumatized by the prosecutors. —Sanu (name changed), 28 years old, Sindhupalchowk

The government lawyer tried a lot to make our case weak by taking bribes. My own brother helped me very much. My brother also gave bribe money by taking loan for which he put the land on mortgage. Then only we won the case. It took around a year for the case to conclude. Even legal-sector people give injustice to the people on money/bribe. —Sarawoti (name changed), 30 years old, Sindhupalchowk

3.4.4 Government service and support

On the other side, issues and gaps within the government were identified by the survivors. Police departments have taken some steps—such as identifying the needs of survivors—and as per the district attorney of Kathmandu, they have formed a survivor-friendly room for the inquiries.

The district attorney explained the logics behind the delay and said the step-by-step procedures—such as publishing the notice in the media, tracking the defendant, and hearings—are time-consuming tasks but are part of the continuous process. Similarly, the deputy attorney of Patan High Court assured that the court showed more sensitivity while prosecuting cases specific to rape and the cases related to children and HT and had made the utmost effort to take such cases to court faster (as much as possible), even with less evidence. The attorney also highlighted the current available legal provisions—such as a video conference; unfortunately, those are not highly practiced due to work pressure, lack of sufficient structure, and budget.

Again, the government³ responded by performing some work on safety and protection of the victims/survivors. Survivors have been well informed on the judicial process, and they were motivated for an appearance in due time, during this course. He further identified the need of an awareness program at the grassroots level, effective local government programs, support from the society, and support for the family in accessing justice for survivors. Also, survivors with financial burdens have been provided with pro bono lawyers by Nepal Bar Association and other organizations. Contradicting the response of the government, the survivors revealed that they were not informed about such government provisions. Most often they have been supported by the lawyers managed by NGOs.

The President of PNCC says, “We have arranged a lawyer to file a complaint and provide legal advice to those who have been trafficked to get fast and effective justice. Also, for this we also do

³ Section 23 of the Human Trafficking and Transportation (Control) Act (2007) and Rule 3 of the Regulations (2008) have assigned National and District Committees for the protection of witnesses or victims.

coordination with People Forum.” In this way, private lawyers arranged by the organizations have effectively guided and advocated in favor of the survivors.

3.4.5 Judicial process and system

The constitution of Nepal provides three tiers of Court, which include the Supreme Court, the High Court, and the District Courts. The cases related to HT are considered governmental criminal cases, as per the Muluki Criminal Procedure Code (2017); for such cases the District Public Prosecutor’s Office decides for prosecution in the relevant district court, which normally takes a longer time for decision-making as stated by the survivors. There were very few cases mentioned by the survivors that included prompt action; for example to the contrary was the case judged by Teknath Kuwar, which was resolved within four months and was also rewarded with the TIP award for making good judgment.

It took around two years to get final verdict from the court. At that time, I decided to sue case from Delhi but the challenge was I was totally unaware of all these processes. However, some NGO supported on this. The judicial process is a long process and there is no information-sharing system on the case to find out the case status and to other information related to this. How can common people like us know about the government compensation without any information? —Kabita, a survivor

Similarly, Bishnu, another survivor, shared a similar experience that led him to frustration. He noted that most of the agents are educated and are from a higher caste and can influence the justice system. He was well supported by a government attorney but at the same time was threatened with punishment in the case of withdrawal or on changing his statement. The lengthy legal process is also providing space for perpetrators to escape prosecutions. Many leave the county and change their identities (Dhungel, 2017).

According to the president of PNCC, the pandemic affected the justice system to a great extent. Hence, there was a delay on most of the hearings on cases related to HT, as most of the courts were not operating and were providing limited service.

3.4.6 Hostile situation

Another issue hindering survivors to enter the judicial process is the practice of survivors being treated in a hostile manner while providing their statement in the court. Most often survivors are given threats and their cases are mostly influenced by power and finance.

While fighting the case, the perpetrator threatened to kill me after releasing from the jail. Even now I am afraid to go out. There is still fear inside me that that something will happen. The support of the NGO has succeeded me in fighting the case. —Sanu (female survivor)

Similarly, as stated by the former justice of Supreme Court and Chairman of NHRC, offenders become more powerful with power politics and resources. Survivors do not disclose the reason if the offender is a family member; moreover, they receive intimidation and harassment during court procedures. Again, the practice of offering financial incentives from the offender, the honor and reputation associated with the family of the victims, the practice of changing a statement due to societal pressure, and case withdrawal prevents victims from going through the judicial process. The field coordinator of Shanti Foundation added that such challenges make the process lengthy and increase economic problems for further advocacy.

Sometimes the survivors say that my earlier statement was provoked by somebody. In some cases, the survivors are victimized by their own close relatives and fear of deportation, and retaliation by their abusers. If we want to have them stay at our shelter until the legal process and the institution got blamed that the survivors are kidnapped by the organizations. —Achyut Regmi, Executive Director of Maiti Nepal

According to Sub Attorney of High Court, continuous hearings could be one of the possible solutions for quick action and prevent absconding and threatening the survivors during court procedures. However, such provisions already exist, but lack effective implications. Research showed that the use of modern technology during court procedures could be effective to prevent hostile environments and for prompt decision-making. The camera hearing process protects survivors from public exposure. As per legal experts, some district courts are using such procedures in the case of HT, rape, etc. This has resulted in some improvements in changing statement practice Puri (2016).

3.4.7 Punishment to perpetrators

According to HTTCA (2007), Section 15, the standard punishment for different types of offences is stipulated. The maximum punishment is 20 years of imprisonment and a fine of two hundred thousand rupees. Many survivors expressed their gratitude towards the court for punishing their offender. However, there were many people dissatisfied with the practice of criminal sentencing. According to them, the degree(s) of punishment varied case-to-case and survivors showed dissatisfaction towards this discrepancy. There was evidence of a criminal sentence for up to 140 years for the offender from Sindhupalchowk district. In many cases, the prison sentence is reduced after some years of punishment. On a positive note, as stated by the director general of Verdict Implementation Directorate, the criminal sentencing period has increased than the earlier Muluki Act, and will now be in favor of the victims.

After taking legal action, the court sentenced two offenders for 12 and 16 years of imprisonment by the court. I fought the legal battle so that other sisters like me would not have to suffer such violence. But the sentence of 12 years completed in 10 years and the offender got released after paying some amount. Thereafter, I am living a life with a threat and fear I have heard that he paid money for early release. It is very sad for me that everything works on money in Nepal. —Female survivor

3.4.8 Compensation for survivors

Survivors are told by the court that they would be compensated with some amount of money, but the majority of survivors have not received it. The delay of service delivery from the government has raised questions about its governance. With the hope of getting compensation, survivors visit DAO offices and village/municipality offices but are discouraged with the outcome.

Article 21 of the Constitution of Nepal (2015) has guaranteed two types of compensation to crime victims. One is to pay compensation via the perpetrator and the other is to pay the compensation from a government fund to the victim, which can be considered a new milestone across the world. The Crime Victim Protection Act (2018) also has provisions from Sections 29–40 in Chapter 4 on the compensation of victims. As per the Act, the court is to determine the amount of compensation based on the damage and loss acquired by the victim. But the law does not mention specific provisions in terms of HT cases. For compensation to victims, the court blocks the offender's

property after getting property details from the police and public prosecutor's offices. It is the job of the police to investigate and confiscate the offender's property and arrest the criminal as per the law. Bedraj Uprety explains, "After the judgment, if the petition comes to the court, the court blocks the offender's property, but if no petition comes to the court, then the court cannot proceed for this. It has three years of limitation to sue. In case of payment of compensation to the victims, the perpetrator's property must be shown."

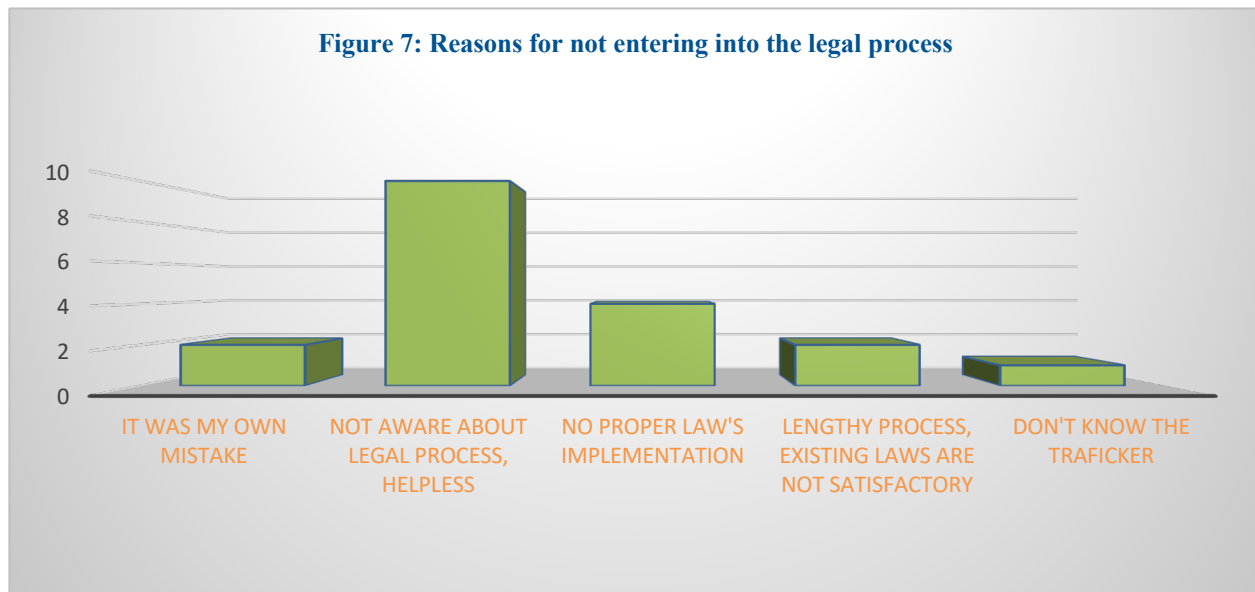
Currently, HTTCA (2007), Section 14, has provisions for compensation to victims of trafficking. Legal experts say the law has good provisions for investigation, prosecution, and adjudication—but the aspect of compensation is weak. When survivors want adequate compensation, they go to the Foreign Employment Tribunal for a quick hearing of the case and get an additional 50 percent of compensation. The Prosecutor of Dhanusha district explains, "There occurs a problem to provide a compensation to another person if there is no adequate document in the name of victim." Such types of complication demand the necessity of amendment in the act.

Social Activist and chair of Shakti Samuha says it is not good for the law to state that compensation to the victim must come from the perpetrator, because the offender may not have even a small piece of land, so cannot pay the money he owes; then the life of offender is ruined even more. She further says that the amount of compensation should also be less. Pointing out those cases that have not received timely compensation, Executive Director of Maiti Nepal explained that a lack of citizenship of survivors prevents them from opening a bank account and getting compensation accordingly. The President of Shakti Samuha also agrees with this statement and said that most of the survivors were trafficked at the ages of 10–12 and do not have citizenship. According to an information officer of DoFE, family members of the people who go abroad without having a labor permit, will not get any kind of compensation if the migrants die in the destination country. As a result, many survivors of trafficking missed out on receiving compensation provided by court decisions.

3.4.9 Withdrawal from the legal process

There are several things that pushed survivors away from the legal process. Of the 30 survivors for in-depth interviews, 19 of them did not enter into a legal process. Among 19 survivors, the majority (53 percent) shared that they were not aware about the legal process. Salima shared, "I didn't know about process of filing application. Nobody helped me to go to police station in Nepal. I didn't have any idea and information." Salima is but one example of survivors who did not reach out to the legal process because of unawareness. They did not know where to report their case and which documents needed to be prepared. For this, the survivors blame themselves for not being educated; concerned government authorities, however, said this is the problem embedded with state affairs and is the prime responsibility of the state to make survivors aware about the issue. Even the authorities were helpless regarding understanding the process and laws of filing cases.

Figure 7: Reasons for not entering into the legal process



A Joint-Secretary at MoWCSC of Madhesh Province says that police do not share information about a trafficking case being filed in the monthly meeting of the province. There is a requirement of an awareness program, but the budget allocation has not yet been done and the current program and budget have not been approved in the province. Similarly, a legal expert mentioned that due to the lack of resources, a victim-friendly structure at the international level has not been established in investigation, prosecution, and justice. With the lack of effectiveness in investigation, victims are not ready to file a complaint under the Human Trafficking Act. In fact, a lack of awareness, lack of compensation to victims, lengthy legal process, behavioral problems, social stigma, etc., causes the rate of crime reporting to be very low.

I did not get any legal justice and I say, there is no law in Nepal. If there is law and justice, why does the victim not get it? If a living person does not get justice, how can a dead body get justice? Are the women sold to India the only victims and not men? I have also told at the People's Forum and said to come to Kathmandu. Should I really not get justice? Now I have to go to the police station, I have already gone to others till now. —Mahesh (one of the survivors)

Twenty-one percent also mentioned that there is no proper implementation of existing laws. Survivors who are aware about the laws feel that the legal process will not provide justice for them. One of the survivors, Priti, says, “This type of case should be settled down within six months so that they can get justice in time. Sometimes I regret and think that no one should file the case against the agent because it’s too frustrating and lengthy. I am not satisfied with such a lengthy process.”

HT is very a sensitive issue but concerned authorities prolong the process, which makes survivors even more victimized. Chief of Dhanusha district court shares, “Victims feel injustice, but they may not have idea/information about legal remedy. I guess they may not be aware that there is legal provision to punish the oppressor through legal process.” Two survivors out of 19 who did

not enter into the legal process, reported that it was their own fault of being trafficked, so they did not seek a legal process. Another interesting reason for not entering into the legal process is that the survivor does not know about the trafficker, as stated by Sajana:

I was living in Kathmandu with uncle after my father and mother's death. I faced domestic violence and was also not provided foods properly. Then I ran away from uncle's clutch and trafficked to India from Kathmandu by unknown people. I was rescued but if I didn't know the trafficker then how can I go for legal process? Whom should I blame of trafficker?

The fact that the majority of the survivors not entering into a legal process is a big challenge for Nepal's legal system. By not bringing cases forward, survivors are bound to face injustice, which strengthens perpetrators and is a big threat to state security and peace.

3.4.10 Reintegration of survivors

As per the National Human Rights Commission Report (2019), there are two types of reintegration: the first focuses on reunifying victims with their families, while the second focuses on enhancing skills and seed-funding for earning a livelihood. As per the HTTCA (2007), Sections 13 and 14, there are provisions for rehabilitation shelters and funds for HT survivors during the reintegration process.

While looking into the reintegration records of the different organizations, there are mixed results on reintegration. Some of the survivors returned back to their society and are living a happy and dignified life. They have been accepted by their families with support to restore themselves. On the other side, the majority of the survivors, especially female survivors who have suffered a lot, are seeking a dignified reintegration. They have gone back into their society and among their family with the physical and mental trauma still intact. Those who got married faced domestic violence and trauma due to their history. They are not financially supported by their families and are left humiliated and ignored. Some survivors who were reintegrated into society were assaulted and threatened by the relatives of their perpetrators. Some were also forced to leave their home town and the families due to power dynamics.

When the family quarrels take place, my husband and other family member scold me using derogating words like prostitute, Bambaiwali, Kothiwali, Pataki, etc. Even the people in the society humiliates the children naming the same derogatory words. —Mina

One of the survivors from Sindhupalchowk shares her worrisome emotion “I got married in 2018 and the life was even more stressful onward. My husband re-married after having a son and a daughter. I was beaten a lot by my husband which I also reported to the police, but the police station never filed a case against polygamy.” Similarly, Sujita from Sindhupalchowk told her story: “My husband constructed a building using the money I earned. But he did not accept me as a wife thinking that I had relation with another person and so on.”

Some of the survivors are living by earning money for doing some work, but they are afraid to go back to their place of origin because of social stigma. There are other survivors who are struggling for a livelihood, bearing the burden of their debt amount, and are re-planning to migrate for labor.

Another key challenge for survivors is to get citizenship, especially those who were trafficked during their adolescence and later gave birth to children. Most often they encounter an issue on their identity and services of the state. In many cases, survivors return back to their home with

only their bare hands; hence, seeking livelihood options is a big challenge. They lack training, capital, networks, government support, and many other things to start up their own business.

Rekha of Parsa was rescued from Kuwait after six years and could not clear her debts, for which she had initially taken labor migration. Her husband was physically challenged and could not help to any extent. Currently she was working as a home maid but for her it was a challenge to meet the demands of that livelihood. An activist from Pourakhi Nepal added that Madhehsi Dalit women are comparatively more vulnerable to this situation as they lack resources and networks.

With regard to male survivors, the scenario is slightly different. They are more comfortable than females in reuniting with their families/societies after some quarantine and psychosocial/legal counseling. In fact, male survivors do not count themselves as survivors nor do the families/societies. The key problem for a majority of the male survivors after their return is the debt they have accrued, which they have to pay back after meeting the basic needs of their families and their livelihood. Mahesh shares his experiences: “During the lockdown time, I was on the relief food and shared the shelter with my sister. But after some time, the creditors started to torture me and put lots of pressure to clear the debts. I spent almost seven lakhs while going abroad with the loan amount.”

Similar to female survivors, male survivors also had the issue of citizenship. When they were rescued from trafficking, their family paid less attention to getting citizenship and legal ambivalences of the state. This also blocked compensation provided by court decisions.

NGOs have played significant roles to make reintegration of survivors successful. Based on the needs of survivors, support from NGOs is provided for only certain periods of time. Due to the lack of funding and other limitations, NGOs do not have sustainable ways to support the overall management and reintegration of survivors. The support of a few NGOs in psychosocial counseling, training for livelihoods, education, legal assistance, and so on empowers survivors to reintegrate back into society. To some extent, the local government also contributed to the reintegration of survivors by supporting different empowering and livelihood aspects.

As per a legal expert, the HTTCA (2007) was formulated to narrow down on sex trafficking to India. The Victim Protection Act deals with the physical, economic, and social protection of individuals. It seems that the reason for the low compensation is that only prostitution has been taken into consideration. The fact that money is also used for trafficking does not seem to have crossed the minds of the policy makers.

Looking at the situation from field observations, there is not any specific support for re-integration of survivors from the federal-, provincial-, or local-level governments. Local governments have still not recognized the survivors in order to support them. Some local Palikas have just begun to make legal and institutional policies for survivors and some of them are not oriented towards law-making. The Melamchi municipality encourages and supports survivors to practice collective farming, which helps to sustain them in the society. The Bagmati province has also done a lot of work together with NGOs for people who have been trafficked. They have run various campaigns and formed a team to work on HT. The metro-city of Birgunj has formed the inspection group along with a women’s group, which are working very well. Some of these mechanisms have also worked very well in dealing with HT and violence.

SP of AHTB Police said people are compelled to migrate for foreign labor because the unemployment rate is increasing daily in the country. According to him, if members of the federal parliament of the concerned district recommend it, there is a provision to provide 50,000 rupees immediately to survivors. However, the Treasurer of Pourakhi Nepal noted that some people were rescued by various organizations three to four times. The authorities of municipalities organized training and tried to invest for startup businesses, but the intent of the survivors was to get fast pay-back. Many such trainees were lost due to the fast-earning mentality. Authorities accepted the lingering processes of institutions, which also influenced the mindset of survivors.

3.5 Institutional Barriers in Accessing Justice

The institutional structure includes three tiers of the larger state apparatus in Nepal: legislature, executive, and judiciary. There are also NGOs that exist in the society. Due to the overlapping nature of these institutions, it is difficult to discuss them separately. They have to go beyond the institutional limitations since these institutions are embedded in society. As the judiciary and its interlinked parts are extensively discussed in the previous chapter, remaining institutions and their strengths and barriers are briefly discussed in this section.

MoWCSC is the focal ministry which coordinates all the institutions working in HT and has a separate section of HT that leads the national committee of HT. The structure of this committee was expanded up to the district level but due to the federal set-up of the country, the provincial- and local-level committees are not in place.

Formulating and amending the laws and policies is the key task of the National Committee. The Human Trafficking and Transportation (Control) Regulation (2008) was amended for the first time in 2019. But HTTCA (2007) is not yet amended, although Nepal endorsed the Palermo Protocol (2000) on June 27, 2019. The Act extended the definition of trafficking up to the offense of organ transplantation, but still lacks coverage for all forms of trafficking and the international standards set by the Palermo Protocol 2000 (NHRC, 2019). The Act is also unable to bring all the offenders into the justice system by recognizing HT as organized crime. In addition, the legal obscurity has resulted in restructuring the functionality of local committees established to work against HT. Also, the Act ignores child trafficking sensitivity and specificity. The limitation of the Act causes failure in identifying, documenting, and addressing a wide range and diversity of HT (Bhandari, 2021). Regarding this, the chief of the section said that a draft has been prepared for an amendment of the Act.

Another significant work of the National Committee was to formulate the National Action Plan against Human Trafficking—Especially Trafficking of Women and Children, 2068 and its Implementation Plan, 2071. Since there is not a separate policy for HT, this plan incorporates a comprehensive intervention plan by the government. MoWCSC has been implementing the Plan to ensure effective control of HT and transportation acts. Under the Action Plan, three major actions (preventive, protective, and accessing justice and legal actions) include all activities of interventions (MoWCSC, 2020). According to the chief of section, the next draft of the Action Plan has been prepared since the existing Plan is coming to an end. These drafts have been prepared in accordance with international standards. She further stated that the Ministry collaborated with NGOs for shelters at ten locations; only two of these locations are functional.

Section 13 of HTTCA (2007) states that it is necessary for the federal government to establish at least one victim rehabilitation center in each province in coordination with the state and local governments. However, there is not any shelter run by the government for survivors who are in a traumatized condition. Federal, provincial, and local governments are coordinating with NGOs for shelter. The Chief of Social Development Section of Hetauda Sub-Metropolitan City says, “We are coordinating with Maiti Nepal for shelter of the survivors.”

One of the most significant institutions for HT is AHTB of Police, which was established for the separate investigation of cases. As per the president of Shakti Samuha, the branches of AHTB need to expand into all seven provinces. According to a survivor, Mandip Nepal Embassy does not provide necessary support to Nepalese. Every Embassy has the responsibility of immediate security and to take care of their nationals. Shivahari also has negative perceptions with the response of GoN Consular Office Kathmandu, which called him, but was ultimately disappointed when he heard an irresponsible response from staff members about the issue of his salary in UAE. The President of PNCC mentioned that there is a Kafala System in gulf countries in which the sponsor has the power to exercise control over workers’ mobility and their visas. Due to this system, workers are exploited. However, to sort out the issues, Ministry of Foreign Affairs (MoFA), MoLESS, Nepali Embassies, and Consulates are less accountable as per the needs of survivors. However, the NHRC has also made an agreement with Human Rights Commissions in Malaysia and Korea. The Chair of NHRC says, “Now we are about to do it again with other countries. In case of violation of human rights there, we facilitate with human rights commission to take action.”

At the province-level structure, Bagmati province has just drafted a law against HT and is in the process of endorsement from the parliament. However, the Madhesh province has not yet initiated formulation of the laws. There is One-Stop Crisis Management Center (OCMC) at the district level, which is chaired by DAO. Ranjana Pandit says, “I am member secretary on behalf of the metropolitan city. Joint-Secretary of MoWCSC of Madhesh Province said there is not any institutional arrangement between the federal and provincial governments.”

Since federalism was implemented, no local committee has been formed for HT. Only some wards of various local governments have initiated ward-level committees to regulate trafficking issues. The Section Officer of Melamchi municipality said, “The guideline against human (women and children) trafficking has been endorsed in 2077 BS. At the municipality level, the committee has been formed by the coordination of the mayor. Until the date, the ward-level committees have been formed in 6 of 11 wards.” Since most of the victims of trafficking are children, few local-level governments have been giving awareness-training to 8th- and 9th-grade students in the school. Similarly, committees have also formed at the ward level for controlling HT activities in Hetauda Sub-Metro City. There are no separate guidelines formed in the Birgunj metropolitan city to regulate HT. The ward chair of Birgunj Metro City-16 said, “Human trafficking has been considered as the issue of high priority, but we have not formed any committee to work against human trafficking at the ward level.”

Another significant aspect is that victims also lack legal awareness of their rights. Even educated persons have faced the issue of legal awareness. A study conducted by Peoples’ Forum confirms this by showing that educated people are also at risk. Those studying from School Learning

Certificate to Bachelor of Arts were cheated during foreign employment. The report even documents the case of the police inspector being cheated. This proves that people who commit crimes are one step ahead. The information officer of DoFE also reiterated that educated people are cheated more than uneducated people by agents or manpower. But, due to institutional confusion, the activities of awareness, livelihood, and capacity building are not extended to targeted groups.

4. CONCLUSION AND RECOMMENDATIONS

Drawing from the evidence findings, Nepal is as a rich country in terms of legal and constitutional provisions on HT. The constitution of Nepal prohibits acts of HT and provides compensation to crime victims. The specific law, HTTCA (2007) and its Regulations (2008) exist to control, manage, and rehabilitate the survivors. After four years of the Constitution being enacted, the Palermo Protocol (2000) was ratified by Nepal June 27, 2019. However, many definitions and provisions of the Act are outdated; the Act is not yet amended by the authorities, which creates many hurdles to TIP survivors.

Based on the HTTCA (2007) and its Regulations (2008), the National Action Plan against Human Trafficking—Especially Trafficking of Women and Children (2011) was developed by the Human Trafficking National Committee. This Action Plan is drafted and in the process of endorsement. Several policies exist related to HT—such as the National Policy against Women and Child Trafficking and Prostitution (2052), Foreign Employment Policy (2068), National Child Policy (2069), and international conventions ratified by Nepal—but lack a comprehensive policy of HT.

The existing laws and practices show ambiguities in terms of definition and a clear difference among foreign employment, human smuggling, and HT cases. The cases of smuggling are executed either from HT or cheating and fraud of foreign employment. In the current laws, there is a lack of provision to make self-declaration of assets in advance, which has obstructed the confiscation of offenders' property. This has also affected the implementation of compensation adjudicated by the courts.

For appropriate interventions of the state for justice of TIP survivors, it becomes essential to be familiar with their meaning of justice. Parameters of ideal justice were developed based on the perceptions of survivors and key informants. Those parameters are: 1) rescue from trafficked situation; 2) delivery of basic needs; 3) legal support from GoN/CSOs; 4) supportive investigation, prosecution, and judicial procedure; 5) maximum punishment to criminals; 6) compensation to survivors; 7) easy procedure to get compensation; and 8) respectful reintegration into society.

Looking at the survivors who have entered into the legal process, most are females who are supported by NGOs. Due to social stigma and other problems, female survivors have faced big obstacles even after back in their homeland. Male survivors have also taken shelter provided by NGOs for getting out of a traumatized condition of trafficking. Since there is a larger migration of the population into destination countries, the number of trafficking cases are also escalating. According to Section 13 of HTTA (2007), it is necessary for the federal government to establish at least one victim rehabilitation center in each province. However, we did not find a single shelter owned by the government.

For survivors, there is a need for separate rooms, counseling, allowances, security for witnesses, security for survivors, and arrangements for food and living. The existing laws have provisions for continuous hearing and video conferencing, but the application of these is weak. Some female survivors have faced harassment from legal institutions—such as police and public prosecutors. A few of them have been compelled to pay a bribe in order to win their case. These factors reveal hidden, unpleasant parts of the legal system.

When survivors reached their trafficking location, they were prone to be easily abused and exploited by the owners and exploiters. They experienced mental and physical tortures, whether in prostitution or in forced labor. The evidence of this study also shows that survivors are exploited mercilessly, and food and treatment is frequently withheld. Women survivors are commonly sexually abused by the sponsor. There is almost zero possibility of getting paid back for the mental and physical exploitation. It is difficult to overcome all these traps, and few survivors get a chance to return back their homeland, even using their own efforts, NGO efforts, and a few government efforts.

To support TIP survivors, there are a number of legal and institutional endeavors done by the government and NGOs. The MoWCSC is a focal ministry for HT which has a separate section to lead the national committee of HT. The structure of this committee was expanded up to the district level, but due to the federal setup of the country, province- and local-level committees are not in place. The AHTB of Police was established for the separate investigation of cases. It coordinates with local police offices for cases of HT since there is no separate mechanism, excluding the federal level. The Office of Attorney General and its subordinate organizations work for the prosecution of cases. As in general cases, the district court adjudicates the cases of HT as first court. NGOs working in this sector provide food, shelter, education, counseling, trainings, and legal assistance.

On the one side, family and society discourages victims to file a case. On the other side, survivors face temptation and threats excessively from the traffickers. The cases of survivors we interviewed were fully and partially supported by NGOs. A very few cases were dealt with by survivors themselves. The consistent support of NGOs has been successful to win the few cases of trafficking. As the survivors become helpless and with less capital, they need the full support of institutions for legal aid. Even after the judgment of courts, they are not able to get their owed compensation due to many institutional hurdles.

Struggling with many legal, institutional, and structural barriers, some survivors have been able to continue their life in society. They have learned to develop coping strategies of life after stumbling with the many blocks in their paths. Very few of them have the supporting hands of government and non-government institutions. Many of survivors are struggling with innumerable obstacles using their own capacities. When accumulating many such experiences, survivors reach out to knock on the doors of courts, legal institutions, and executive institutions of state. Many of the survivors are fighting with the stereotyped mindsets of society in their home places. They can reach the destination of justice if the legal and institutional supports become instrumental for their respectful reintegration into society, ensuring their freedom and livelihoods.

4.1 Recommendations

- MoWCSC needs to amend the HTTCA (2007) and its Regulation (2008) by adopting the changes in Constitution of Nepal (2015), provisions of ratified Palermo Protocol (2000), and the context of HT.
- A separate law of human smuggling needs be formulated to avoid the ambiguities in HT laws.
- MoWCSC needs to formulate a separate policy on HT as it looks inevitable for addressing the overall issues of HT. The policy can consolidate the existing National Action and other cross-cutting policies, plans, and programs.
- Self-declaration provisions need to be made in the National Criminal Code (2017) to prove the additional property of perpetrators so that property will have to be confiscated easily after offense takes place.
- A standard meaning of justice of TIP survivors needs be defined in its laws and policies for delivery of justice.
- The state should facilitate identification and citizenship to children of women survivors who were trafficked, since these children are in a stateless condition and need the right to education, health facilities, employment, political participation, and so on.
- NHRC needs to provide full authority with sufficient human resources for overall monitoring and database management of HT issues.
- National Committee of Human Trafficking needs to be formed/expanded as per the federal set-up from the federal to the local level.
- AHTB of Police needs to expand its branches at the provincial level and a separate unit should be formed in each local government (palikas) with the enhancement of their capacity and sufficient resources.
- Along with women investigation officers, separate women cells need to be formed in AHTB and other branches of police where cases of HT are being investigated.
- A HT survivor-friendly investigation/prosecution room should be constructed with gender-responsive staffs, that is, separate rooms, female investigator/prosecutor, and necessary security, etc. for female survivors.
- At least a separate bench for hearing the cases of HT needs to be managed in the courts.
- Continuous hearing and fast-track law procedures should be implemented for cases of HT.
- Technology-friendly evidence collection and the judicial process needs to be maintained for the effective execution of HT cases.
- To control the irregularities within the institutions, regulatory bodies—like the Commission for the Investigation of Abuse of Authority (CIAA)—need to have an effective monitoring system.
- Rehabilitation shelters should be constructed, owned by the government, from the federal level to the local level.
- For the rescue and repatriation of survivors, Nepali Diplomatic mission needs to develop a rapid rescue mechanism and be accountable for them. MoFA and MoLESS should monitor and manage the necessary arrangements.
- MoWCSC should prepare a fast and easy procedure of compensation to the survivors after the decision of courts, including a provision of interim compensation for the survivors who go through the lengthy legal and judicial process for justice.
- From an institutional perspective, the focal ministry should be moved from the Women's Ministry to the Ministry of Home Affairs. Because of the work of the investigation, prosecution

has been done under the Home Ministry. The structure of the organization is expanded up to the local level.

- The local government should be mobilized to create a survivor-friendly environment so that they can build on their cultural and social capital in a respectful way. In building such an atmosphere, the whole state system should be involved. A separate local government unit can be established to monitor and control HT.
- NGOs should expand their working capacity for legal awareness of survivors and families—including shelter, psychosocial counseling, education, and other livelihood supports.
- Legal awareness and literacy on HT issues and its social stigma should be initiated by local governments in the school-level curriculum. Along with this, awareness on HT needs to be strengthened for police investigation officers, prosecutors, and TIP survivors.
- A case referral mechanism should be established in the Foreign Employment Department to refer foreign employment and trafficking cases.
- NGOs, CSOs, and community-based organization (CBOs) should create suitable environments for policy advocacy with government authorities.
- Donor agencies need to focus their interventions on the structural issues of HT. This will help get to the source of trafficking, and assist in the rescue and rehabilitation of survivors.

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ANNEX 1: CONSENT FORM

Before participating in this study, researchers must provide the following information sheet to participants. If the participant cannot read the following information by themselves, then it is required to be read by the researcher to him/her. In that case, the researcher must make sure that the participants are clear about the information given.

Namaste! I am _____. I am conducting research on “Justice to Survivors of Trafficking in Persons: Analysis of Legal and Institutional Barriers in Nepal” in partnership with the Winrock International/Hamro Samman project. For this purpose, the following information is provided, and you are requested to participate in this research. Some of the words may be difficult to understand, so please feel free to ask any questions at any time. I will try to make it as clear as possible. I will record your voice and your name will be kept confidential in this investigation. Do you agree to talk about these research questions and to be recorded? (If NO, the interview must end at this time).

☐ YES

☐ NO

The general objective is to explore and address the barriers to TIP survivors’ access to justice in Nepal. The specific objectives of the study are to 1) find out the status of access to justice of trafficking in persons in Nepal, 2) explore the legal barriers of accessing justice to survivors, and 3) identify the policy gap of survivors’ access to justice in Nepal.

I will conduct the interview in a conducive environment. Your participation in this research will be voluntary. You may decide not to continue participating in the study at any time without adversely affecting your relationship with the investigators. The information obtained and recorded during the research will be kept strictly confidential. Only authorized persons will get access to the obtained information. The information obtained in this study may be published in journals or presented at meetings, but the data will not contain any identifying information.

You are requested to participate in this discussion. It will take approximately two hours to complete.

There are no direct benefits to you as a subject, but the findings of the research may help form new policies or amend existing policies for TIP survivors. Similarly, this study will not pay for your participation.

Some of the questions may make you feel discomfort or stress during the interview.

You are voluntarily deciding to participate in this research. If you agree to participate, then this informed consent form will be provided. You are free to decide not to participate in this study or to withdraw at any time without revealing any reason.

The following clearances are to be read by the participant or by the researcher to the participant. The participant must show their agreement/disagreement with the following statements of consent.

☐ I understand the objectives of the study.

☐ I had the opportunity to ask more questions regarding this research.

- ☐ I have received satisfactory information about my questions.
- ☐ I agree to give approximately two hours for an interview.
- ☐ I understand that I am participating voluntarily.
- ☐ I understand that I am free to withdraw from the study without having to give a reason for withdrawing.
- ☐ I understand that I am free to withdraw from the study at any time.
- ☐ I understand that my information will be kept confidential.
- ☐ I agree to audio record this interview.
- ☐ I agree to participate in this study.

Participant's Signature:

Date:

Researcher's Name/Signature:

Date:

Enumerator's Name/Signature:

Date:

ANNEX 2: CHECKLIST FOR IN-DEPTH INTERVIEW FOR SURVIVORS

Namaste! We are conducting research on “Exploring Justice to Trafficking in Persons: Legal and Institutional Barriers for Survivors in Nepal” in partnership with the Winrock International/Hamro Samman project. For this purpose, we have adopted the snowball sampling method to identify the respondents and you have been recommended by _____ for this research. We would like to talk to you for about two hours in this regard. You are free to leave any time if you are not interested or have any issue, or we can continue at a different time that is more convenient.

Your name and information will be kept confidential in this investigation. We would also like to ensure that all the data and information will be disposed properly after completion of this research. Do you agree to participate in this research?

In order to avoid missing important information, we would like to record the conversation along with taking notes. Do you permit us to record?

Date of Interview _____ **Place of interview** _____

A. Introduction section

1. Interviewee ID
2. Gender
3. Caste/ethnicity
4. Educational qualification
5. Date of involvement in foreign country
6. Date of return to homeland
7. Date when reached the rehabilitation center
8. Date when reintegrated to family/society

B. How do the survivors experience the process of accessing justice?

1. How did you decide to migrate for foreign labor (motivating/forcing factors)?
2. Can you please share with us how you were pushed into a trafficking situation?
3. Do you know who was involved in pushing you into the trafficked situation?
4. How were you able to return back to your homeland?
5. What did you do after returning back to your homeland?
6. Did anyone/organization support you to reach a safe house/rehabilitation center?
 - If so, who and how did they help you?
7. Were there any problems reaching the safe house or normalizing your difficult conditions?
8. Do you remember any special supportive moments for getting back to a normalized situation?
9. Did you file a FIR against your perpetrator in the police?
 - If so, can you please describe that process and what happened?

- If not, why not?

10. What kind of responses did you get from the authorities?

11. Can you brief me on the case progress?

C. How do the legal barriers obstruct survivors from accessing justice in Nepal?

1. What motivated you to enter into the legal process?
2. What went well when you filed a complaint at the local level or police office?
3. How much are you informed about/or who informed you about the legal provisions and process to support the survivors of trafficking?
4. What are the processes you have gone through to get justice?
5. What do you think about the processes of getting justice?
6. Did you find ways to present your case to the local level government?
7. If not, where are you getting legal support for resolving your case?
8. How satisfied are you with the present mechanism of justice for the survivors of trafficking?
9. Are you satisfied with the existing legal provisions of trafficking to punish the perpetrators?
10. Are you satisfied with the existing legal provisions of trafficking to rehabilitate and reintegrate the survivors?
11. If not satisfied, what are your suggestions to make them survivor-friendly?
12. What kind of institutional support do survivors aspire to for their access to justice?

D. What legal and institutional barriers do TIP survivors face in accessing justice (only those who have faced it)?

1. Have you ever faced such legal cases before trafficked?
2. How would you describe legal provisions of survivors in Nepal?
3. Which organizations do you know that provide legal advice and assistance free of charge?
4. What kind of supports/obstructions did you find to advance your case of trafficking in court?
5. What type of financial/shelter/health/legal/counseling supports did you get from government agencies (local government, police, lawyer, board, etc.)?
6. Did you get any legal assistance or advice from the local government free of charge?
7. What kind of barriers (complexities and difficulties) did you face during the process of seeking justice?
 - How did you contact an attorney?
 - Did your attorney take your case seriously?
 - How frequently does your attorney communicate with you about your case and do you understand everything the attorney says?
 - Do you have any complaints with your attorney? If yes, what are they?

- How do you wish your attorney behaved differently?
- 8. How was your experience with polices, local authorities, and CSOs while seeking justice? Please explain.
- 9. Have you receive any remedies/compensation from the institution which made you a victim (concerned institutions/manpower made them upset)?

Thank you for your time and important information you provided for this research!

ANNEX 3: CHECKLIST FOR KEY INFORMANT INTERVIEWS (Local/Provincial/Federal)

A. Checklist for Key Informant Interviews (Local)

1. What legal mechanisms/policy provisions exist at the local level to support TIP/HT survivors accessing legal services (acts, guidelines, procedures, policies, laws)?
2. What institutional provisions exist at the local level to support TIP/HT survivors (action plan, budget/program, staffs, safe houses, rehabilitation centers)?
3. Are they adequate to support survivors to receive legal support and justice?
4. What are the major causes of TIP (structural, legal, institutional, personal)?
5. What is the status of TIP-friendly planning, budgeting, implementing, monitoring, and evaluation mechanisms?
6. Have you ever collaborated with any other institution/organization in order to support TIP/HT for accessing justice? If yes, what are they and how?
7. What changes/improvements should be done in the existing legal provisions/policies for better and effective responses to TIP/HT?
8. What types of institutional arrangement/improvement are needed for TIP/HT easy access to justice?
9. How can local governments/CSOs/NGOs/INGOs help TIP/HT survivors in accessing justice (if any missed to share)?
10. Do you want to add/discuss anything more that is important and that we are missing?

B. Checklist for Key Informants Interviews (Provincial)

1. What legal mechanisms and policy provisions exist at the provincial level to support TIP/HT survivors accessing justice?
2. What institutional provisions exist to support TIPs (Ministry of Social Development, Provincial Police, Action Plan, High Court, Office of the Chief Attorney)?
3. How does the provincial government support TIP/HT survivors institutionally?
4. What is the status of TIP-friendly planning, budgeting, implementing, monitoring, and evaluation mechanisms?
5. Have you ever collaborated with any other institution/organization in order to support TIP/HT for accessing justice? If yes, what are they and how?
6. What changes/improvements should be done in the existing legal provision/policies for better and effective responses to TIP/HT?
7. What types of institutional arrangements/improvements are needed at the provincial level for TIP/HT easy access to justice?
8. How can provincial governments/CSOs/NGOs/INGOs help TIP/HT survivors in accessing justice (if any missed to share)?
9. Why are brokers, in many cases, not being prosecuted?

10. Do you want to add/discuss anything more that is important and that we are missing?

C. Checklist for Key Informant Interviews (Federal)

1. What specific laws exist at the federal level to support TIP/HT survivors accessing justice?
2. Are the barriers to TIP/HT survivors for getting justice in Nepal unique or similar to surrounding countries in South Asia?
3. What is the status of TIP-friendly planning, budgeting, implementing, monitoring, and evaluation mechanisms?
4. How does the federal government support TIP/HT survivors institutionally?
5. Have you ever collaborated with any other institution/organization in order to support TIP/HT for accessing justice? If yes, what are they and how?
6. What mechanisms/provisions help/obstruct in collaboration?
7. Could you please share the roles of rehabilitation centers operated/collaborated by NGOs in order to support TIP/HT accessing justice legally and institutionally?
8. What changes/improvements should be done in the existing legal provision/policies for better and effective responses to TIP/HT?
9. What types of institutional arrangements/improvements are needed at the federal level for TIP/HT easy access to justice?
10. How can the federal government/CSOs/NGOs/INGOs/UN Agencies help TIP/HT survivors in accessing justice (if any missed to share)?
11. How can the investigator/prosecutor/adjudicator contribute to TIP/HT survivors accessing justice in Nepal?
12. How can your institution/organization support the process of justice to TIP/HT being fast and effective?
13. Do you want to add/discuss anything more that is important and that we are missing?

Thank you for your time and important information you provided for this research!