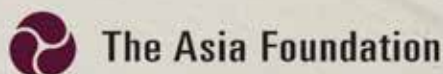


**Cases of Human Trafficking and Transportation:  
Provisions of Compensation and  
Access of Victims to Compensation**



Working for non-discrimination and equality

## Study Team •



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## Background to the Study

The legal framework against human trafficking, a modern form of slavery, has a relatively short history in Nepal<sup>1</sup> while the concept of providing compensation to the victims of crime is a recent development. The constitution has a broad scheme of protection and promotion of a series of fundamental rights associated in this regard. These include the right to victims of crimes<sup>2</sup>, the right to women<sup>3</sup> and the right to children.<sup>4</sup> Though the legal provisions to give effect to these constitutional promises are yet to be formulated in their full swing, some special laws used to have the provisions of compensation to the victims or survivors of crimes and the Human Trafficking and Transportation (Control) Act, 2008 (HTTA) is one of such Acts. The HTTA not only provides for punishment to the defendant but also requires for rescue and rehabilitation of victim and for paying compensation to victim. A court adjudicating such type of cases is required to order the defendant to pay reasonable amount of compensation but not less than 50% of the fines imposed on him or her. If the victim dies before getting payment of the compensation, such amount would be paid to his or her minor children or dependent parents. The amendment to the HTTA brought in the year 2015 provides that in case the compensation could not be paid to the victim due to low financial capacity of the defendant or for any other reason, court may order to pay reasonable amount of compensation from the rehabilitation fund established under the HTTA.<sup>5</sup>

1. The first law against human trafficking was a Chapter on Traffic in Human Beings in the Country Code, 1962. The first special law enacted to combat against this crime was the Women Trafficking (Control) Act, 1986 which was replaced by the Human Trafficking and Transportation (Control) Act, 2008.
2. Article 21. *Right of victim of crime:* (1) A victim of crime shall have the right to get information about the investigation and proceedings of a case in which he or she is the victim.  
(2) A victim of crime shall have the right to justice including social rehabilitation and compensation in accordance with law.
3. Article 38. *Rights of women:* (1) Every woman shall have equal lineage right without gender based discrimination.  
(2) Every woman shall have the right to safe motherhood and reproductive health.  
(3) No woman shall be subjected to physical, mental, sexual, psychological or other form of violence or exploitation on grounds of religion, social, cultural tradition, practice or on any other grounds. Such act shall be punishable by law, and the victim shall have the right to obtain compensation in accordance with law.  
(4) Women shall have the right to participate in all bodies of the State on the basis of the principle of proportional inclusion.  
(5) Women shall have the right to obtain special opportunity in education, health, employment and social security, on the basis of positive discrimination.  
(6) The spouse shall have the equal right to property and family affairs.
4. Article 39. *Rights of child:* (1) Every child shall have the right to name and birth registration along with his or her identity.  
(2) Every child shall have the right to education, health, maintenance, proper care, sports, entertainment and overall personality development from the families and the State.  
(3) Every child shall have the right to elementary child development and child participation.  
(4) No child shall be employed to work in any factory, mine or engaged in similar other hazardous work.  
(5) No child shall be subjected to child marriage, transported illegally, abducted/kidnapped or taken in hostage.  
(6) No child shall be recruited or used in army, police or any armed group, or be subjected, in the name of cultural or religious traditions, to abuse, exclusion or physical, mental, sexual or other form of exploitation or improper use by any means or in any manner.  
(7) No child shall be subjected to physical, mental or any other form of torture in home, school or other place and situation whatsoever.  
(8) Every child shall have the right to juvenile friendly justice.  
(9) The child who is helpless, orphan, with disabilities, conflict victim, displaced or vulnerable shall have the right to special protection and facilities from the State.  
(10) Any act contrary to in clauses (4), (5), (6) and (7) shall be punishable by law, and a child who is the victim of such act shall have the right to obtain compensation from the perpetrator, in accordance with law.
5. Section 17A of the HTTA.

Despite the constitutional guarantee and the aforesaid legal provisions, incidents of crimes are on the rise and there are a number of hurdles in providing the victims with compensation. It is in such context that this study has been conducted to recommend measures for improvement of laws, policies and institutional mechanism associated with combating human trafficking.

## Objective of the Study

The objective of this study is to identify the problems concerning providing compensation to victims of cases of human trafficking and transportation and to make recommendations for reform in the relevant policies, laws and procedures associated with key steps of the criminal justice administration : investigation, prosecution, adjudication and judgment execution.

## Methodology of the Study

The study applied doctrinal and non-doctrinal methods both. The doctrinal method included study of relevant international and regional instruments dealing with human trafficking and exploitation and compensation<sup>6</sup> and national laws and policies to combat the crime of human trafficking and transportation, and analysis of judgments issued by the Supreme Court, High Courts and District Courts. It also included a review of 125 cases<sup>7</sup> prosecuted by Government and decided by courts during the study period and also the status of execution of the judgments so passed. The non-doctrinal method applied was interviews conducted on the basis of structured questionnaire with victims of this crime and analysis of the responses they made.

## Limitation of the study

The study is confined to cases of human trafficking filed at six district courts, prosecuted after the enactment of the HTTA in 2008 and interviews conducted with 19 victims.

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6. Such as Para 1 of Article 14 of the Convention against Torture; Para 2 of Article 25 of the UN Convention on Transnational Organized Crimes; and various provisions of the Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Powers, 1985.

7. Kathmandu-14; Kabhrepalanchok- 2; Sindhupalchok- 5; Makwanpur -17; Banke 78 and Kanchanpur - 14.

## Summary of the Findings

The study finds a number of non-clarity and gaps in the course of providing compensation to victims. The amendment to the HTTA does provide for compensation to victim even if the defendant is not capable to pay but this Act does not provide anything as to payment of compensation if the defendant is not arrested or his or her identity is not clear or the defendant is acquitted on any technical ground.

There has been no uniform interpretation of the provision that the compensation shall not be less than 50% of the fine imposed on the defendant. The law clearly stipulates that the amount of compensation should be reasonable but not less than 50%. However, there is a trend of interpretation in such a manner that the upper limit of the compensation is 50% of the fine imposed. Moreover, it is to be noted that not all types of offences associated with human trafficking carry punishment with fines, as only the punishment of imprisonment is attached to those offences.<sup>8</sup> This approach of attaching compensation only to fine fails to provide compensation to the victims of the offence of transportation, which sometimes is far traumatizing to the victim than in a case of human trafficking as such. The courts are used to remain silent once the case is that of the offence of transportation or similar other offences.

Yet another drawback of the HTTA is absence of provision of freezing the assets of the defendant for the purpose of recovery of the compensation, which is made in some other cases such as rape. This provision has been made in law against rape because freezing of assets of the defendant is important to ensure payment of compensation. There are some other recent laws having elaborative provisions as to paying compensation to victims.<sup>9</sup> These laws require the court to award reasonable amount of compensation having regard to the nature and gravity of the offence committed, physical and mental harm caused to the victim and economic and social status of the defendant and victim. In case of domestic violence, the defendant has to pay all expenses of medical treatment if the victim has to be treated due to domestic violence. If the defendant could not pay the amount immediately, the law requires the District Women and Children Office to pay that amount and to recover it from the defendant as a government due. Even the costs incurred for seeking legal remedies has to be paid by the defendant of sexual harassment.

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8. Clauses (f) and (g) of sub-section (1) of section 15 of the HTTA provides that in case anyone takes any person away from his or her home for the purpose of exploitation or sex works (the offence of transportation), he or she shall be liable to a punishment with imprisonment from one year to 10 years of imprisonment, depending on the purpose of taking him or her and depending whether it is from one place to another within Nepal or from Nepal to another country.

9. These laws include the Domestic Violence (Offence and Punishment) Act, 2009 and Sexual Harassment at Workplace (Prevention) Act, 2014.

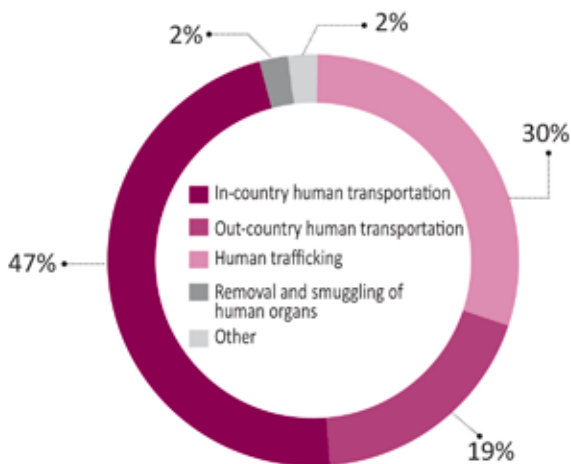
There is a Fund for providing immediate or interim relief, medical treatment, financial and legal assistance, psychological support to the victims of gender violence and to provide seed money for carrying out small entrepreneurship for them.<sup>10</sup> However, there seems no legal hurdle to move to district court to get order for immediate relief, support and compensation to the victims of human trafficking from this Fund, however, there is no clearly defined functional linkage established by these laws.

### Findings from the cases of human trafficking filed by the District Government Attorney Office (Government Prosecutor's Office)

As stated in the methodology above, 125 cases of human trafficking filed by the District Government Attorney Offices at six districts and pending at different levels of courts have been studied to identify the patterns and trends of claims for compensation and to know the status of the use and compliance of the provisions of compensation, and problems and complication involved. Only the cases prosecuted after the coming into force of the HTTA have been studied.

#### Trend of crime commission

There are different types of offences under the HTTA such as human transportation, human trafficking, exploitation including organ removal and the like. Out of the cases studied, 47% of cases are concerning in-country human transportation and 19% of the cases are concerned with out-country human transportation. The reason for increase of in-country transportation may be the enhanced level of awareness and stringent surveillance

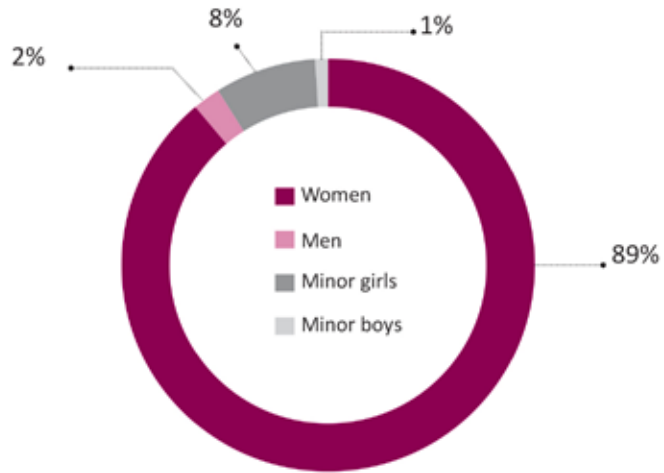


against human transportation across the border. The study finds a decrease of 30% in the commission of cases of human trafficking, 2% decrease in removal and smuggling of human organs, and one percent decrease in commission of sexual exploitation, child marriage and murder associated with human trafficking.

10. The Gender Violence Prevention Fund (Operations) Regulations, 2010.

### Age and sex of victims

Primarily, the victims of human trafficking and transportation are women but men and minor children are also susceptible for being victimized. An integrated picture of the data shows that 89% of the victims are women, 8% minor girls, 2% men and one percent minor boy. It shows that human trafficking and transportation are the offences being perpetrated predominantly against women.

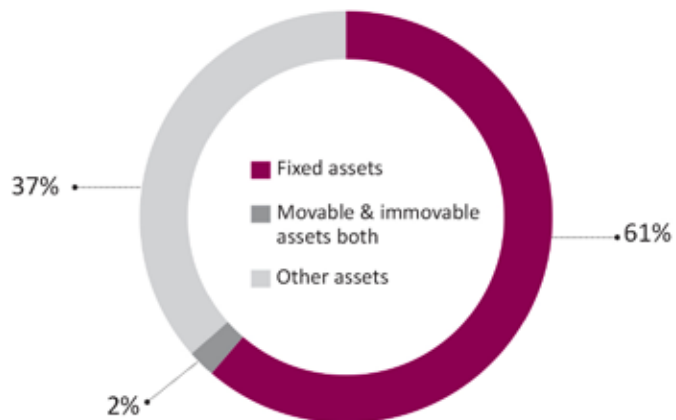


### Status of investigation of defendant's assets for compensation

As the law provides, the victim of human trafficking and transportation is paid compensation from the defendant and court also decides the issue accordingly. However, for that claim to sustain, there must be investigation of the assets of the defendant and all assets must be ascertained. However, out of the cases studied, the investigation was conducted only in 64% of the cases and there was no investigation in the remaining 36% cases.

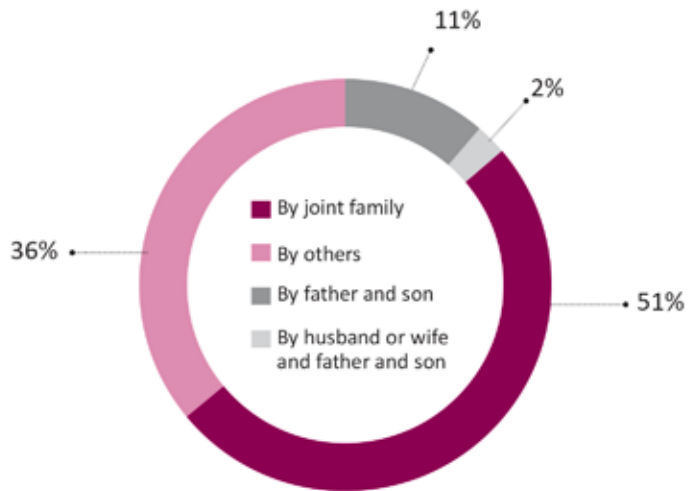
### Type of the assets investigated

In most of the times, compensation is paid in cash to the victims of human trafficking and transportation for which liquid assets are required. However, in our context, assets is understood to be fixed assets. So, in the studied cases as well, there has been no investigation in movable assets, in 61% cases, investigation has been conducted for fixed assets, in 37% cases, investigation has been conducted in other assets and only in 2% cases, investigation has been conducted in movable and immovable assets both.



### Ownership of Assets investigated

The social setting of Nepal is such that most of the assets are owned by family and not by any individual. As the defendants of the cases of human trafficking and transportation are living in a joint family, he or she may not have any assets. As a defendant uses to have a share in the joint assets of the family, it was necessary to see whether or not investigation of assets was focused on the assets of family as well. The status of the cases studied suggests that investigation was focused in the assets own by joint family in 51% cases, by father and son in 11% cases, by husband or wife and father and son in 2% cases and to by others in 36% cases.



### Claims for interim relief to victims

The HTTA requires that in case a court orders for interim relief of reasonable amount to the victim for his or her low financial status, such amount will be made available from the rehabilitation fund established under section 14 of the Act. Moreover, there are other Fund established. However, in the studied cases, there is no claim made for interim relief nor is order of such relief found to be made by court.

### Claims for compensation to victims

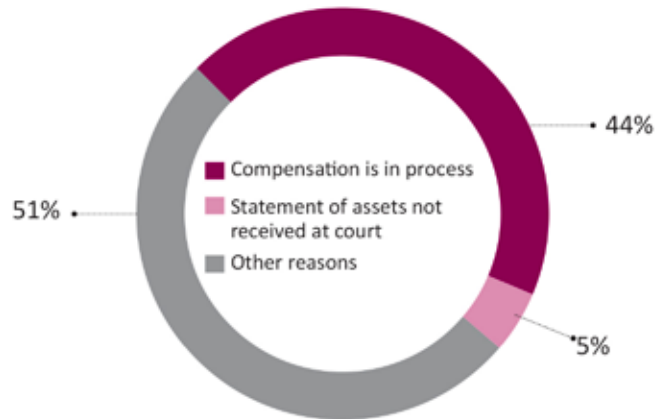
The criminal justice system of Nepal is close to accusatorial system in which the court is bound to confine its judgment only on the matters claimed and not beyond. If something very important is missed by the prosecution, the court could not intervene into it. In the studied cases, the claim for compensation to victims was found to be made.

### Claims for freezing assets of defendant

If assets of the defendant is freeze well in advance, there are higher chances for the victims to get compensation with ease. For freezing the assets, prosecution has to make the claim thereof. In 96% of the studied cases, such claim was not found to have been made and only in 4% of the cases, such claim was made. This has been identified as one of the serious flows in the present prosecution system.

### Status of enforcement of court judgment for compensation

Once the court decides for paying compensation to the victim, it must be enforced as the court decides. There may be several reasons that led to non-enforcement of the court judgment. Out of the cases studied, compensation is in process in 44% cases, statement of assets not received at court in 5% and there are other reasons for non-enforcement of judgments in 51% cases.

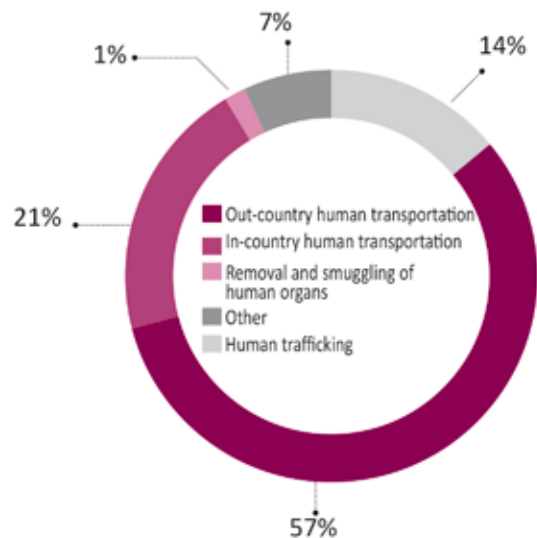


## Analysis of the cases decided by District Courts and High Courts

This part of the study analyzes 66 decisions of the district courts and High courts<sup>11</sup> which are under consideration at the Supreme Court at present. The focus of the study is the status of victims and payment of compensation. Moreover, analysis of decisions of district courts and High Courts to award compensation has been made.

### Trend of crime commission

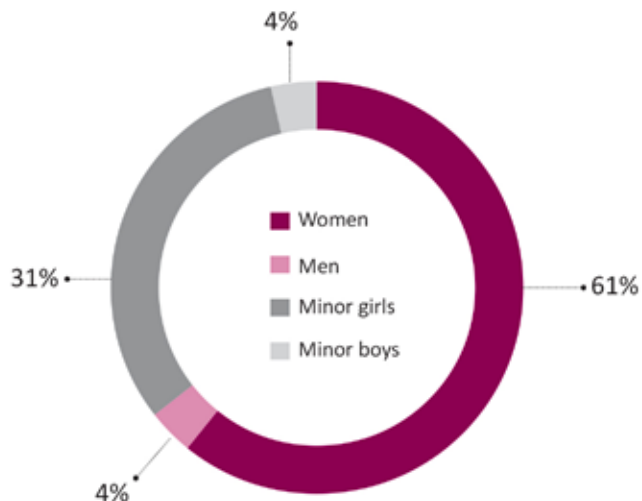
The trend of crime commission suggests that highest number of offences are out-country human transportation (57%), followed by in-country human transportation (21%), human trafficking (14%), removing and smuggling of human organ one percent and other (7%).



<sup>11</sup> Though the name "High Court" has been used in this study, most of the judgments studied are those of the then Appellate Courts, which were there in place of the current High Courts.

### Age and sex of victims

Of the cases studied, women were the victims in 61% of the cases, minors boys were victims in 4% of cases and minor girls were victims in 31% of cases and men were victims in 4% of the cases.



### Status of investigation of defendant's assets for compensation

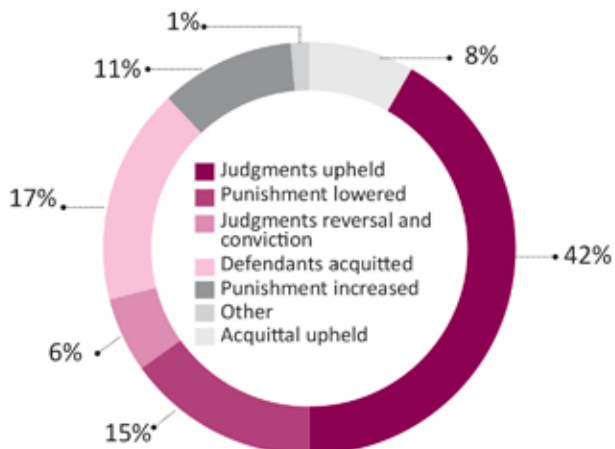
The importance of investigation into the defendant's assets is already dealt with. However, out of the cases studied, the investigation was conducted only in 2% of the cases and there was no investigation in the remaining 98% cases. This shows critical lapse of our prosecutorial system.

### Claims for compensation to victims and freezing of assets

Of the cases studied, claims for compensation to the victims were made in 90% and claims were not made in 10%. But it was surprising to find that the assets of the defendant were freeze only in one case.

### Status of upholding, acquitting or altering punishments of District Courts by High Courts

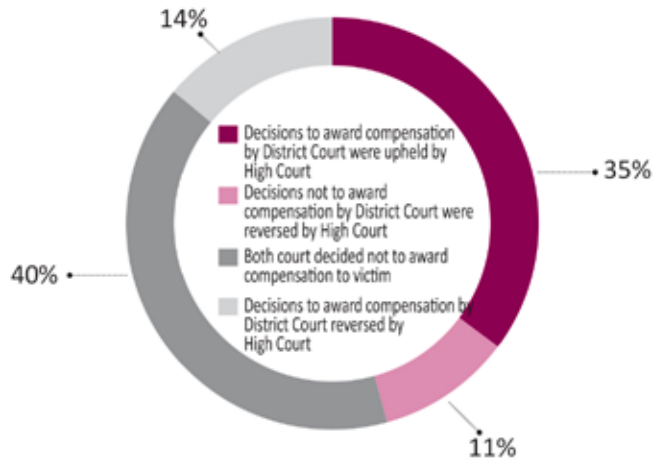
District Court is a trial court and appeal may be filed at the concerned High Court against any order or decision of the District court. The analysis of the studied cases found that 42% percent of the judgments were upheld by the High Court; the defendants were acquitted in 17% of the judgments, degree of punishment was lowered in 15%, degree of punishment was increased in 11%, judgment reversal and conviction made in 6%; judgment of acquittal made in 8% and punished in other offence as well in 1%.



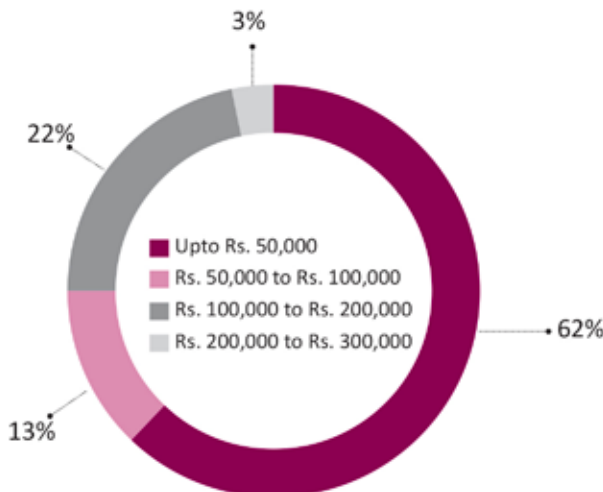
### Status of court decisions on compensation

A victim may be getting compensation only if court decides to that effect. For getting compensation, the prosecution must claim it first and the defendant must be convicted with an order to pay compensation. Out of the cases studied, decisions as to compensation was made only in 50% of the cases.

Out of the cases studied, District Court and High Court both decided not to award compensation to victim in 40%, decisions to award compensation by District Court were upheld by High Court in 35% cases; decisions to award compensation by District Court reversed denying compensation by High Court in 14 % cases; and decisions not to award compensation by District Court were reversed allowing compensation by High Court in 11 % cases.



### Methods of awarding compensation

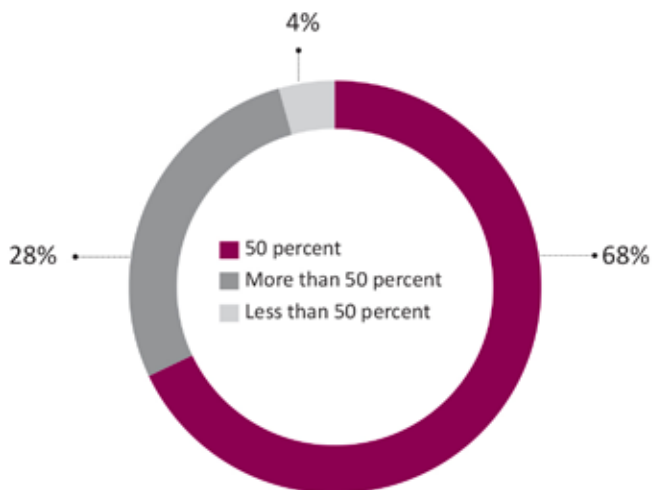


According to the HTTA, victims of human trafficking and transportation must be provided with compensation not less than 50% of the fine imposed on the defendant, however, there is no clear provision as to how this compensation would be made available. As the upper limit of the compensation is not fixed by the law, it is at discretion of court to order for reasonable amount of compensation. 62% of the cases studied were found to have awarded upto Rs. 50,000/- as

compensation to the victim; 13% of the cases were found to have awarded Rs. 50,000/- to Rs. 100,000/-; 22% of the cases were found to have awarded Rs. 100,000/- to Rs. 200,000/- and only 3% of the cases were found to have awarded Rs. 200,000/- to Rs. 300,000/- and no case is found to have awarded more than Rs. 300,000/-.

### Percentage of fine imposed as compensation

Though the law provides that the amount of compensation must not be less than 50% of the fine imposed on the defendant, however, it suggests from the study of the decided cases that 68% of those cases have only 50% of the fine imposed; 28% of those cases have more than 50% compensation and in 4% cases, the amount is less than 50%.



## Analysis of the cases decided by Supreme Court

This section covers a short overview of the cases of human trafficking filed after the HTTA and decided by the Supreme Court and of the cases relating to sexual violence dealing with the compensation. This overview offers general understanding of compensation to victims in cases involving women and children.

### Court to take initiative to award compensation

In one of the cases of rape<sup>12</sup>, the Supreme Court held that it is not the victim to take initiatives for getting compensation rather it is the court deciding the case which needs to take initiatives for providing compensation to the victim. The Supreme Court is of the view that not all victims of crimes are capable enough to take care of every legal provisions in their favour. The Supreme Court also held the view that general procedures of judgment execution do not apply in special cases of payment of compensation.

12. Rakesh K. Singh v. Government of Nepal: NKP 2064, Decision No. 7810, p 86.

### **Amount of compensation to be determined having regard to long-term impact in various aspects of victim's life**

In one of the celebrated cases of pedophile and sexual abuse of children<sup>13</sup>, the Supreme Court held the view that the amount of compensation should be determined having regard to long-term impact in various aspects of victim's life such as physical, social, psychological, professional aspects and not only to the immediate harm caused.

### **Exemption of criminal liability per se does not absolve civil liability**

In one of the cases of rape<sup>14</sup> involving the victim and the defendant both minors, the Supreme Court laid down the principle that though the defendant is exempted from criminal liability from the child right perspective, it does not per se absolve the defendant from the civil liability to pay compensation to the victim. The Supreme Court also viewed that if requirement to pay compensation to the victim is avoided in name of child right of the defendant, there would prevail a sense of impunity and the victim's right to compensation would be defeated.

### **Compensation not to be denied in any condition**

In one case of human trafficking<sup>15</sup>, the Supreme Court has examined all laws concerning compensation to victims and held the view that nature or severity of the pain suffered by the victim, and not the financial condition or capacity of the defendant, must be the very base of determining compensation. Otherwise, there would be several easy excuses to negate this very basic right of victim.

### **State machinery must cooperate in paying compensation to victims**

In one of the public interests litigations<sup>16</sup> requiring a directive order of the Supreme Court to direct the Government to cooperate in full realization by victims of crimes the right to compensation, the Supreme Court has viewed that if the state machinery does not cooperate in paying the victims the compensation they are entitled to, the right to compensation would not be realized. Accordingly, the Supreme Court has issued the Government of Nepal a six-point directives for immediate execution.

13. Triratna Chitrakar v. Government of Nepal : NKP 2066, Decision No. 8148, p. 784.

14. Government of Nepal v. Pawan Kuman Yadav: NKP 2067 Decision No. 8494 p. 1802 (Full Bench)

15. Lok B. Sarki v. Government of Nepal: NKP 2072 Decision NO. 9346 p. 263.

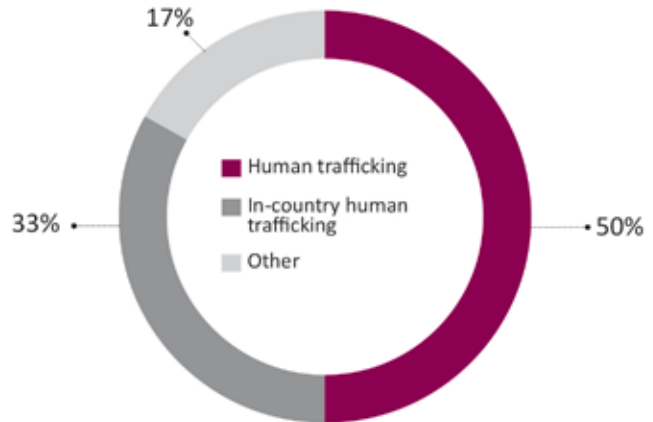
16. Meera Dhungana v. Government of Nepal : NKP 2070, Decision No. 8973, p. 326.

## Responses of Supreme Court in human trafficking and transportation cases filed after 2008

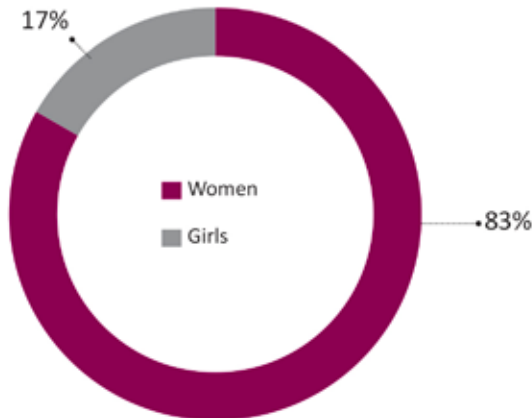
This part deals with responses of the Supreme Court having exercised its appellate jurisdiction with regard to the cases of human trafficking and transportation filed after enactment of the HTTA in 2008.

### Trend of crime commission

The study of the cases decided by the Supreme Court finds that 50% of the crimes committed are that of human trafficking, 33% of crimes committed are that of in-country human transportation and other 17% are others.



### Age and sex of victims



The study of the cases decided by the Supreme Court finds that all of the victims of human trafficking and transportation were women (83%) and girls (17%).

### Claims for compensation to victims

Since Nepal's criminal justice system is close to accusatorial system, court decisions are confined to the claims of the prosecutor. In 80% of the cases studied, claims for compensation to the victims

were made and in 20% of the cases, such claims were not made.

### Analysis of responses from victims

In this part of the report, responses of victims of human trafficking and transportation, who are the ultimate consumers of justice, are analyzed. It is thought that the level of understanding of the victims towards the legal framework and judicial proceedings relating to compensation to victims of crimes and their practical experiences in this connection are very important to have comprehensive analysis of the associated issues. In this connection, a questionnaire was developed to conduct interviews with the victims of human trafficking and transportation as to their financial condition, academic status,

information as to interim relief and compensation, whether or not claim of compensation was made in his or her case, whether or not case was decided to award compensation, and whether or not the actual victim got compensation and so on.

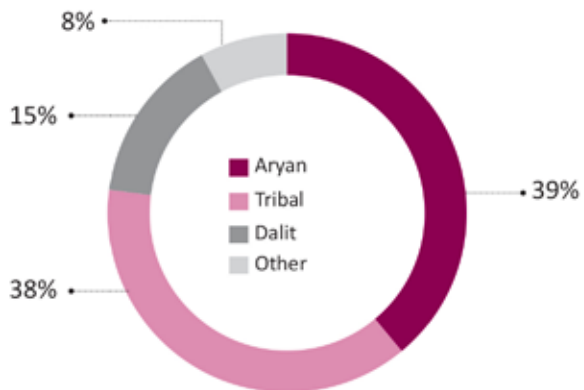
Their responses suggest that as their cases are under judicial consideration from District Court to Supreme Court and though the lower courts have decided to award compensation, the matter is yet to be settled by the Supreme Court and therefore, there has been no realization of being compensated. The following are the thematic analysis of the responses received:-

### Age of victims

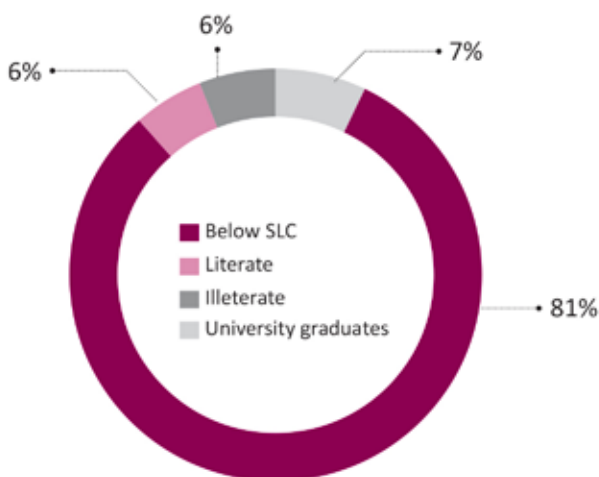
As most of the victims were victimized long back, their current age does not necessarily reflect the age component of the victims of human trafficking and transportation. However, their history of being victimized and the long fight for justice suggests that they were victimized before they attain the age of 20 years.

### Ethnic structure of victims

Analysis of responses from the victims reveals that the aryan community victims are 39%, tribal community victims are 38%, dalit community victims are 15% and other community victims are 8%.



### Educational background of victims



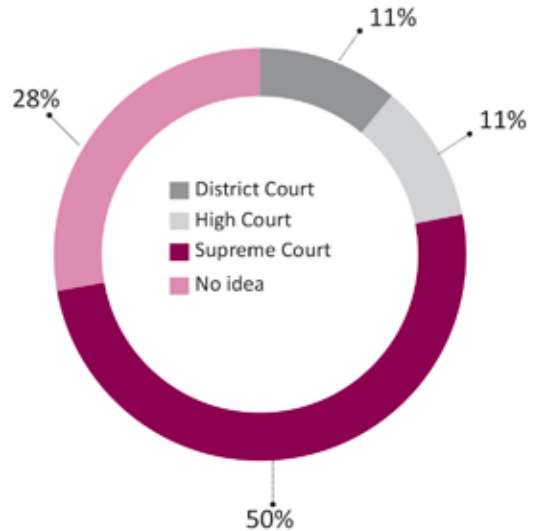
The responses of victims suggest that the number of victims with university graduation was 7%, the number of victims below the secondary level school education was 81%, number of literate victims was 6% and number of illiterate victims was 6%. This does suggest that persons having low level of education or no education are highly likely to be victimized than persons with higher education.

### Financial condition and marital status of victims

The responses show that the victims of human trafficking and transportation are not only the uneducated ones, but also those having poor or weak financial condition. No victim is found to belong to sound financial condition. Similarly, 88% of the victims are found to be unmarried when they were victimized.

### Stages of judicial hearing

One level appeal is a matter of right in judicial proceedings in Nepal. Since cases of human trafficking and transportation carry higher punishment, it is normal for such cases to be finally settled by the Supreme Court. As per the responses of the victims, the stages of judicial proceedings of their cases are : 50% under consideration at Supreme Court; 11% under consideration at High Court; and 11% under consideration at District Court. Far more significant point to be noted is that 28% victims have no idea as to where their cases are pending.



### Information as to immediate relief and compensation

The responses show that a whopping 79% of the victims did not know about immediate relief and compensation and only 16% of them did have information of compensation but none of them did have information as to the immediate relief.

### Claims for compensation in charge-sheet

The responses show that there was claim for compensation in 44% of the prosecutions made but 56% responded that they have no idea as to the claim of compensation. Since there is no knowledge as to the law providing for compensation to the victims, it is natural for them to remain uninformed whether or not there was claim for compensation in prosecution.

### Court decisions to award compensation

The respondents responded that award of compensation from a minimum of Rs. 50,000/- to a maximum of Rs. 100,000/- has been made but since the case has not become final, none of them has received that compensation amount. The data received in the course of the study show that the number of the victims having their cases decided with award of compensation is 53%, number of victims having no idea about it is 43% and remaining 6% were denied compensation.

## Filing of application for getting compensation

There is a legal compulsion that once decision is made to award compensation, the victim has to file an application for getting that compensation amount. There is no provision of suo moto action to be taken by the court itself. Among the respondents, 17% have filed application for compensation but 83% have not filed such application. Of those who have not filed application for compensation, 62% responded that it is due to their cases not being final; 19% due to having no idea of this process and 13% said that the meager amount of compensation was the cause for their unwillingness.

## Conclusion and suggestions

The major findings of the study have been stated below in short as conclusion of the study:

1. The Gender Violence Prevention Fund (Operations) Regulations aims to provide immediate relief and financial assistance to victims of crimes, but the victims are not found to have been benefitted from this Fund.
2. The country needs to enact new Act ensuring the right to justice including social rehabilitation and compensation in the light of the fundamental right to victims of crimes.
3. The current legal regime does not ensure compensation even if technical faults are occurred such as if the defendant is not arrested, or his or her address are erroneous, or he or she is acquitted. It is against the spirit of the right to compensation to deprive victims from compensation in such technicalities.
4. The law provides that amount of compensation must not be less than 50% of the fine imposed. However, it is understood as the standard to award only 50% of the fine as compensation. This has vitiated the very purpose of the law.
5. The law links payment of compensation only to fine imposed on defendant There are severe crimes in the HTTA that do not carry punishment with fines.
6. The coverage of compensation must be wide enough to cover social and psychological support, life support activities in addition just to rescue and interim relief.

Moreover, there are some facts found in the course of study of case-files at various courts:

1. The offences of human transportation and human trafficking are two major offences having high number of victims.
2. Case-files at all levels of courts do suggest that number of women and girls is significantly higher than their male counterparts.
3. Investigation into assets of the defendant targeting payment of compensation is not made in a large number of cases.
4. The practice of freezing the assets of the defendant targeting payment of compensation is very low that significantly hampers the realization of compensation.
5. Though the claims for compensation are made in significantly high number of cases, there is no realization amongst the victims of being compensated because the amount of compensation could not be paid until the case becomes final, which takes years.
6. In large number of cases, the amount of compensation is only up to Rs.50,000/- which is very low compared to the loss and harm caused.

## **Recommendations for reform**

### **For legal reforms**

1. The current law that links payment of compensation to victim only to fine imposed on defendant needs to be reviewed in the light of the new constitutional guarantee of the right to compensation to victims of crimes. There are severe crimes in the HTTA that do not carry punishment with fines.
2. All offences associated with human trafficking and transportation must carry punishment of fines as well.
3. Interim relief must be provided immediately after commission of the crime, no matter defendants are arrested or not, and compensation must be provided once the trial court decides the matter and it must not linger too long.
4. Compensation must be based on the actual physical and psychological harms suffered.

### **For reform in judicial proceedings**

1. Being a heinous crime against the person of a human being, there must be some standards developed by judiciary for developing uniformity in application of law on matters of discretion in determining punishment.
2. There must be some standards developed to award compensation to victims as the current trend of awarding only 50% of the fines is based on misplaced analogy.

### **Institutional reform**

1. Revitalize the concept of rehabilitation fund to make compensation available to victims based on decision of supreme court.
2. As payment of compensation to victim is a civil liability, there must be separate mechanism and procedures for paying compensation to victims.
3. Make provisions of paying compensation from the rehabilitation center if defendant is not found or is unable to pay it.
4. Since most of the victims of human trafficking are poor and uneducated rural women and girls, launch programs targeting to poverty alleviation, and income generating activities for women.
5. Launch focused programs on security, rehabilitation and socialization for victims.

### **Promotional activities**

1. As controlling human trafficking is not possible only by punitive approach, collaborative approach must be developed amongst governmental and non-governmental organizations through discussions, interactions and dialogue programs.
2. Law enforcement officials must be trained on trends of crimes, its impact and preventive and curative measures.

### **Miscellaneous**

1. Government attorneys to be reoriented to bring consistency in prosecution as to making claims of compensation, freezing of assets of defendants and so on.
2. Assets of defendant must be investigated well in advance so as to ensure payment of compensation effectively.
3. As this study is conducted in a short period of time and size of its sample and coverage of the areas of the study is also very small, there is a need to conduct deeper researches on human trafficking and transportation.



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