

~~Un~~Compensate Victims

Status of Trafficked Survivors' Access
to State Victim Compensation Schemes, 2022



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FOREWORD AND ACKNOWLEDGMENTS

Justice delayed is justice denied – an oft repeated phrase. It is every person's right to have justice done unto them. It is every Indian's right to not be trafficked – it is our Constitutional Right. Every time a person is trafficked, injustice occurs. Trafficking is not only a crime against the State, it also causes irreparable harm to the individual, to the individual's family, and to their community itself.

What is justice? The answer depends on who you ask. In the Anti-Human Trafficking sector, definition of justice has often been based on legal provisions. Some activists assert that justice lies in convicting and punishing the traffickers, some say justice is about the survivor returning to the "mainstream" and integrating into their home community. For some, justice is about preventing trafficking from taking place completely. Debates remain alive between the legal lens and the socio-economic lens of defining justice.

Who gets to define what is justice? Whose justice is it, anyway? Sanjog believes that voices of the people who have been the victims of trafficking must take centrality in defining justice.

When survivors of trafficking are asked – there are no one single answer. When they were asked if they have found justice, the response has been unanimous – justice has been denied to them. By no one person but by the justice system that puts its entire focus on the criminal aspect of it, and not quite enough on the survivors' recovery and reclaiming their agency. A victim centric definition of justice is an intersectional one. Survivors of various forms of trafficking have unequivocally demanded for the justice system to be more accessible and friendly to them. One of the key factors that empowers survivors to work with the justice system is harm reparation and compensation. The monetary value of compensation allows a survivor and their family to rebuild their lives and home. Sometimes, the compensation amount enables a survivor to start their own micro-entrepreneurial initiatives, helping them to reclaim independence and agency. Everytime a survivor receives compensation, at its core it's an acknowledge that the survivor receives from the State that they indeed were victimized. It serves as a key anti-stigma intervention.



Sanjog's first started looking at trafficking survivors' access to state victim compensation fund in 2016. The journey started with Taftesh facilitating a survivor's application to the District Legal Services authority. With time, as more and more survivors came forward to claim compensation the systemic barriers started appearing. Very few stakeholders at that time seemed aware of the provision of compensation for trafficking survivors, data, information, experiences of applying for compensation were scattered and a holistic analyses of the systemic barriers was therefore important. In the first audit of survivors' access to state victim compensation schemes in 2019, we looked at data from RTI responses to understand what has been the pattern of trafficking survivors access to compensation in the 10 years since introduction of CrPC 357A. It was extremely low. Series of community consultations to understand the experiences of survivors, NGOs and lawyers helped us to identify several systemic barriers that hinder trafficking survivors' access to compensation.

Between 2019 till now, quite a lot has changed in the ecosystem. The question we explore through this report is between 2009 to 2022, what has changed in the landscape of trafficking survivors' access to justice? Unfortunately, not much. This report delves into data gathered through RTI applications, programmatic data and learning by CSOs, and experiences of survivors. Sanjog hopes that this report will enable stakeholders in the Anti-Human Trafficking sector to strengthen systems of justice, and support collaborative solution building – towards an accessible, victim centric system of intersectional justice in India. We look forward to continue these audits and studies to identify key shifts and systemic barriers to enable communities and stakeholders to collaborate towards strengthening the systems of justice.

The journey of completing this study wasn't a linear one – it was filled with ups and downs. The pandemic and the lockdowns had its toll on health of the study team members. Isolation and all communication being remote meant the study team had to experiment with and adapt to a different way of communicating. This journey couldn't have been possible without the valuable contributions of the Taftesh consortium members. The lawyers who developed the RTI questionnaires, filed and followed up - Advocates Atul Barthwal, Debayan Sen, Kaushik Gupta, Anirban Tarafdar enabled the study to have a strong base. Madhurima Sanyal's curiosity and continuous support to the team to communicate effectively, the sharpness and diligence in human rights lawyers Krithika Balu's understanding and analyses of the data and bringing out the insights using quantitative and qualitative analyses of the responses to the RTIs were extremely enriching. The meaning-making of the responses by presenting the data to survivors, social workers and other professionals who work with trafficked survivors has been an incredibly insightful process – making sense of the data together, as stakeholders supporting and building solutions together reaffirmed our conviction on community focused participatory meaning making of the issues. Sanjog feels deeply recognized that the survivors' collectives and NGOs we reached out to joined us with such energy in understanding a complex issue from different lenses. We thank each and everyone who joined us and continue to collaborate in deepening our understanding of the systemic barriers to access.

Pompi Banerjee,
Psychologist, Sanjog member.



HUMAN: TRAFFICKING



BACKGROUND TO RESEARCH

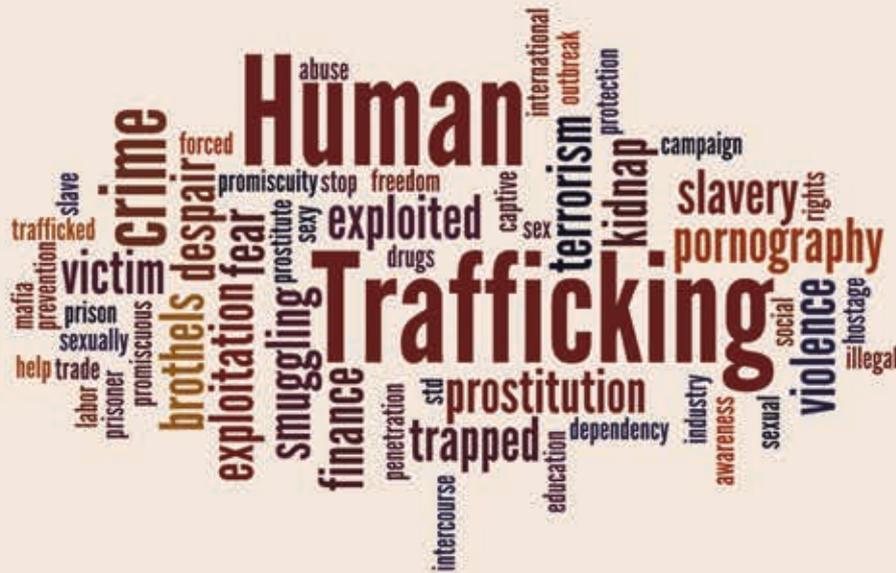
In 2019, Sanjog had carried out an RTI inquiry in 32 states/UTs to analyse the implementation of the Victim Compensation Schemes (VCS) in the respective states/UTs, along with an action research in West Bengal to provide a microanalysis of the systemic challenges in survivors applying for and receiving victim compensation, through case studies and lived experiences. The RTI enquiry had found that not a single state/UT has been properly utilising the victim compensation scheme in its jurisdiction for survivors of human trafficking.

The previous phase of research mapped trafficked survivors' access to the state Victim Compensation Schemes from 2010 to 2019. The next and current phase of research attempts to add to the previous phase of research from Financial Year 2018-19 to 2021-22, to understand the current status and changes, if any, in the funds allocation, utilisation and status of victim compensation for the same period.

The essential question that Sanjog would like to explore through these two-phased studies is "What has changed in trafficked survivors' access to justice via victim compensation?" Sanjog believes that the findings of these studies can enable stakeholders to come together and analyse what enables and deter survivors access to key provisions in the criminal justice system for rehabilitation, recovery, reintegration and prosecution. This system analyses will also support stakeholders to find solutions through engaging in dialogues and collaborative actions.



KEY DEVELOPMENTS IN THE ANTI-HUMAN TRAFFICKING ECOSYSTEM BETWEEN APRIL 2018 TO MARCH 2021



Incidence of Human Trafficking in Financial Years 2018-19 to 2020-21

During the pandemic in India, there was a reported 95 percent rise in online searches for Child Sexual Abuse Material (CSAM). In a global compilation of online CSAM reports in 2020, India topped the list, with a total of 11.6 percent of total reports coming from the country.¹ The Trafficking in Persons Report released by the US State Department in June 2021 stated that the Government of India has still not fully met the minimum standards for the elimination of trafficking but is making significant efforts to do so.²

Both state and central governments have allocated funding for the strengthening of victim compensation and making compensation accessible to women and child victims of violence and sexual assault.

Some states also made notable efforts to include issuing standard operating procedures (SOPs) for victim identification of bonded labour and granting the maximum amount of compensation outlined in policy to bonded labour victims. Many victims waited years to receive central-government mandated compensation, and often state and district legal offices did not proactively request the compensation or assist victims in filing applications.³

According to National Crime Records Bureau (NCRB) data for 2020, 1,714 cases of Human Trafficking have been registered by AHTUs of States/UTs during 2020. The highest number of the cases have been registered in Maharashtra (184 cases), Telangana (184 cases) and Andhra Pradesh (171 cases).

¹Department of State, United States of America, Trafficking in Persons Report (June 2021)

²Department of State, United States of America, Trafficking in Persons Report (June 2021)

³Department of State, United States of America, Trafficking in Persons Report (June 2021)

S. No.	State/UT	2018		2019		2020	
		Cases Reported	Conviction Rate	Cases Reported	Conviction Rate	Cases Reported	Conviction Rate
1	Andhra Pradesh	240	11.7	245	21.8	61	8.2
2	Arunachal Pradesh	3	-	0	-	0	-
3	Assam	308	9.5	201	0.0	10	0.0
4	Bihar	127	100.0	106	-	0	-
5	Chhattisgarh	51	29.4	50	33.3	2	0.0
6	Goa	55	12.5	38	9.1	2	0.0
7	Gujarat	13	-	11	-	0	-
8	Haryana	34	50.0	15	0.0	0	-
9	Himachal Pradesh	6	0.0	11	60.0	0	-
10	Jharkhand	140	66.7	177	26.4	172	19.2
11	Karnataka	27	0.0	32	-	0	-
12	Kerala	105	9.1	180	33.3	16	0.0
13	Madhya Pradesh	63	29.2	73	24.2	12	25.0
14	Maharashtra	311	10.5	282	14.3	5	0.0
15	Manipur	3	-	9	-	0	-
16	Meghalaya	24	-	22	-	0	-
17	Mizoram	2	-	7	-	0	-
18	Nagaland	0	-	3	-	0	-

S. No.	State/UT	2018		2019		2020	
		Cases Reported	Conviction Rate	Cases Reported	Conviction Rate	Cases Reported	Conviction Rate
19	Odisha	75	-	147	-	8	0.0
20	Punjab	17	66.7	19	0.0	3	0.0
21	Rajasthan	86	-	141	-	0	-
22	Sikkim	1	0.0	0	-	0	-
23	Tamil Nadu	8	8.3	16	50.0	3	66.7
24	Telangana	242	2.2	137	29.1	105	1.9
25	Tripura	2	-	1	-	0	-
26	Uttar Pradesh	35	100.0	48	100.0	0	-
27	Uttarakhand	29	50.0	20	14.3	5	20.0
28	West Bengal	172	10.9	120	0.9	54	1.9
29	A & N Islands	0	-	0	-	0	-
30	Chandigarh	0	-	2	-	0	-
31	D&N Haveli and Daman & Diu +	0	-	0	0.0	0	-
32	Delhi UT	98	0.0	93	66.7	5	40.0
33	Jammu & Kashmir *	1	100.0	0	0.0	0	-
34	Ladakh	-	-	-	-	0	-
35	Lakshadweep	0	-	0	-	0	-
36	Puducherry	0	-	2	-	0	-
TOTAL		2278	19.4	2208	22.5	463	10.6

This shows that even though there were more than 2000 cases reported in 2018 and 2019, the conviction rate was extremely low. In 2020, the number of cases was much less and even the conviction rate was very low. This shows that the COVID-19 pandemic really affected the reporting and effective prosecution of trafficking cases.

Victim Compensation Schemes (VCS)

Section 357-A of the Code of Criminal Procedure, 1973, inserted in 2009, mandated that every State Government, in coordination with the Central Government, shall prepare a scheme to provide funds to compensate victims or their dependents who have suffered loss or injury as a result of the crime and who require rehabilitation. After the above-mentioned provision was introduced, many states notified schemes for victim compensation.

The Supreme Court, in *Nipun Saxena v Union of India* W.P. (C) No. 565 of 2012 stated that “it would be appropriate if NALSA sets up a committee of about 4 or 5 persons who can prepare Model Rules for Victim Compensation for sexual offences and acid attacks taking into account the submissions made by the learned Amicus. The learned Amicus as well as the learned Solicitor General have offered to assist the Committee as and when required. The Chairperson or the nominee of the Chairperson of the National Commission for Women should be associated with the Committee.”

Thereafter, the National Legal Services Authority ('NALSA') set up a committee and prepared a Model Scheme for women

victims. The Supreme Court accepted the scheme in 2018 and directed all State Governments/UT ('Union Territory') Administrations to implement the same in their respective jurisdictions, with the option to add relevant provisions to already existing victim compensation schemes. This scheme, titled the 'Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes – 2018' outlined detailed provisions for the formation of a Women Victims Compensation Fund as well as eligibility for compensation, procedures for applying for compensation, grant and disbursement of compensation.

The Schedule to the NALSA Scheme did not have a specific category for human trafficking, but included offences such as rape, gang rape, unnatural sexual assault, grievous physical injury or mental injury requiring rehabilitation, loss of foetus/fertility as a result of assault and pregnancy on account of rape. These categories could potentially be applicable to women survivors of human trafficking, who could avail of the NALSA Scheme for compensation.





Apart from this policy development, there have been corresponding developments in the way trafficking victims are awarded compensation (both policy and implementation-wise) as captured by the TIP Report 2021.



Some states had SOPs to address bonded labour cases. For instance, Karnataka released a comprehensive SOP on human trafficking in collaboration with civil society organizations that covers sex trafficking, victim identification, forced child begging, bonded labour, and child labour. In July 2020, Tamil Nadu issued an SOP to address bonded labour among migrant workers.



Some states, as allowed in the central government's 2016 bonded labour scheme, controlled how victims could use this compensation, such as requiring them to put it into annuity schemes.



The Kolkata High Court ruled against West Bengal's policy of limiting victims to small, monthly withdrawals over 10 years.



The central government funds a program through which district officials identified bonded labour victims and provided them with release certificates that provided access to non-monetary assistance and, upon conviction of their trafficker, to compensation.



In 2016, the government amended the program to include female sex trafficking and child forced labour victims as recipients and mandated local district authorities to provide immediate monetary assistance up to INR 20,000/- to a victim within 24 hours of identification, regardless of the status of the related court case.



The release of the overall compensation amounts (between INR 100,000/- and INR 3,00,000/- based on the victim's demographics) remained contingent upon conviction of the trafficker or conclusion of magisterial processes, which could take several years.

Survivor Leaders' Collectivisation



Another key development in the domains of victim compensation is survivor leader collectivisation across the country. The Indian Leadership Forum Against Trafficking (ILFAT) consists of 11 survivor collectives from 8 states of India, consisting of more than 2,500 individual survivors who have emerged from situations of commercial sexual and labour-related exploitation.

ILFAT is a platform for survivors of trafficking, created by the survivors for the survivors. The forum acts as a catalyst and convener for sharing expertise, insights and evidence relevant to human trafficking in India, indicating systemic failures to combat these organized crimes. ILFAT engages in policy and law consultation processes as well as engagement with the media to share findings and experiences to strengthen the anti-trafficking system.

ILFAT was formally launched in New Delhi on 19 November 2019, with a roundtable event held with Members of Parliament as well as journalists. Members also held meetings with Central Government departments, including the National Commission for Women, the Ministry of Women and Child Development and Niti Aayog. Over the past three years, ILFAT has made demands to reform investigation systems, to further protection of survivors and adequately prosecute and punish traffickers. Further, ILFAT has also brought survivors together across the country to spread awareness of the existence of victim compensation schemes, as well as the eligibility of survivors of trafficking to avail of victim compensation under their respective State/Union Territory schemes.

SNAPSHOT OF RTI STUDY FINDINGS

Status of Trafficked Survivors' Access to Victim Compensation in India between April 2018 to March 2021



Over the 3 financial years, **INR 26,57,70,6000/-** (INR 265.77 Crores) was allocated in 8 states by state and central governments for victim compensation.

- Delhi had the highest allocation of funds for victim compensation, namely **INR 181.96 Crores**.
- Andhra Pradesh had the lowest allocation of funds for victim compensation, namely **INR 4.83 lakhs**.

83.7% of the funds were utilised by 8 states on average.



There were zero applications for victim compensation in **10 states** and UTs.

14 States and UTs reported zero court recommendations for victim compensation.



67 trafficked survivors applied for victim compensation in 4 States/UTs over the 3 years.

There was a total of **40 trafficked survivors** who received compensation in 3 states.

- 11 survivors in Assam.
- 24 survivors in Delhi.
- 5 survivors in West Bengal.



DLSAs reported funds shortage as the reason for their inability to disburse compensation to survivors.

Shifts and Changes in trafficked survivors' access to justice

2009 to 2018

- 1 10 years – 2009 to 2018
- 2 RTIs filed in 32 States and Uts, 30 states and UTs responded,
- 3 107 trafficked survivors had applied for VC from 8 states.
- 4 102 recommendations by courts to award compensation to trafficked survivors,
- 5 77 victims received compensation over 10 years,
- 6 Total fund allocated in 19 states and UTs Rs 619.53 Crores
- 7 Total fund utilization Rs 190.77 Crore (31%) by 19 states and UTs in 10 years.
- 8 In 3 states/UTs VC scheme has been notified in 2019.

2019 to 2021

- 1 3 years – 2019 to 2021.
- 2 RTIs filed in 34 states and UTs, 22 states and UTs responded (downward trend)
- 3 311 total applications by trafficked survivors in 5 states (upward growth)
- 4 Only 47 recommendations by courts in 3 states. (no change)
- 5 40 compensated trafficked survivors in 3 states.(Upward growth)
- 6 Total fund allocated in 8 states and UTs by state and central governments INR 26,57,70,6000 (265.77 Crores)
- 7 Total fund utilization Rs 222.46 Crores (83.7%) by 8 states.
- 8 0 applications by trafficked survivors in 10 states and UTs. 0 Court recommendations for compensating trafficked survivors in 14 States and UTs. (Downward trend)



1

VC funds have received high allocation from both state and central governments – it shows stronger prioritization.

2

Fund availability still remains an issue.

3

Utilisation across the responsive states are quite high (above 50%). So the funds are being accessed by victims and their families. There is high demand.

5

Yet, trafficked survivors' access to VC remains low.

4

Survivors of rape, POCSO, acid attack, family members of murder victims are receiving compensation.

6

There are confusion amongst CSOs, law enforcement and the judiciary about how court and DLSAs are to be linked with trafficked survivors, and how should such applications be investigated and processed by DLSAs – resulting into extreme differences in amounts of compensation being given to survivors in different states and UTs, as well as in identifying trafficked survivors for linkage with the VC scheme.



ACCESSING VICTIM COMPENSATION: EXPERIENCES FROM THE GROUND

Between FY 2018-19 and 2020-21, NGOs have experienced significant challenges in obtaining victim compensation for trafficking victims, particularly for victims of labour trafficking or bonded labour. The TIP Report 2021 outlined such experiences of NGOs at the grassroots level, along with some policy developments that would potentially affect access to compensation for specifically victims of bonded labour.



1. It was seen that while victims could obtain restitution from their traffickers in criminal cases, courts rarely awarded it in India. Judges could order compensation to trafficking victims through a variety of government schemes, usually funded by the central government and administered at the state level, but rarely did so.
2. NGOs reported that compensation schemes were too slow in providing victims with funding – survivors waited years to testify in court to determine how much they would be awarded, and state authorities at times delayed payment due to limited funds. During the pandemic, these shortcomings were exacerbated.
3. Among 38,503 trafficking victims identified between 2010 and 2018, judges proactively awarded compensation to 102 (less than one percent).
4. State and district legal offices did not regularly inform trafficking victims that they were eligible to receive compensation. When they did, payments were often delayed due to lack of state funds.



Tafteesh's Engagement with District Legal Services Authorities

Tafteesh is a coalition of survivors of human trafficking, lawyers, social workers, probation officers, psychologists, researchers and human rights activists who work together to strengthen the systems that facilitate survivors of human trafficking's access to justice.

In the last 4 years, Tafteesh has adopted the strategy of supporting survivors to claim legal aid from DLSA, in terms of accessing justice, both through victim compensation as well as transferring cases to AHTUs.

All applications for free legal aid of survivors are accepted and each survivor is provided with lawyers shows the functional side of the legal service authorities. As of 31 August 2022, 30 DLSA lawyers are supporting 55 survivors both in South and North 24 Parganas.

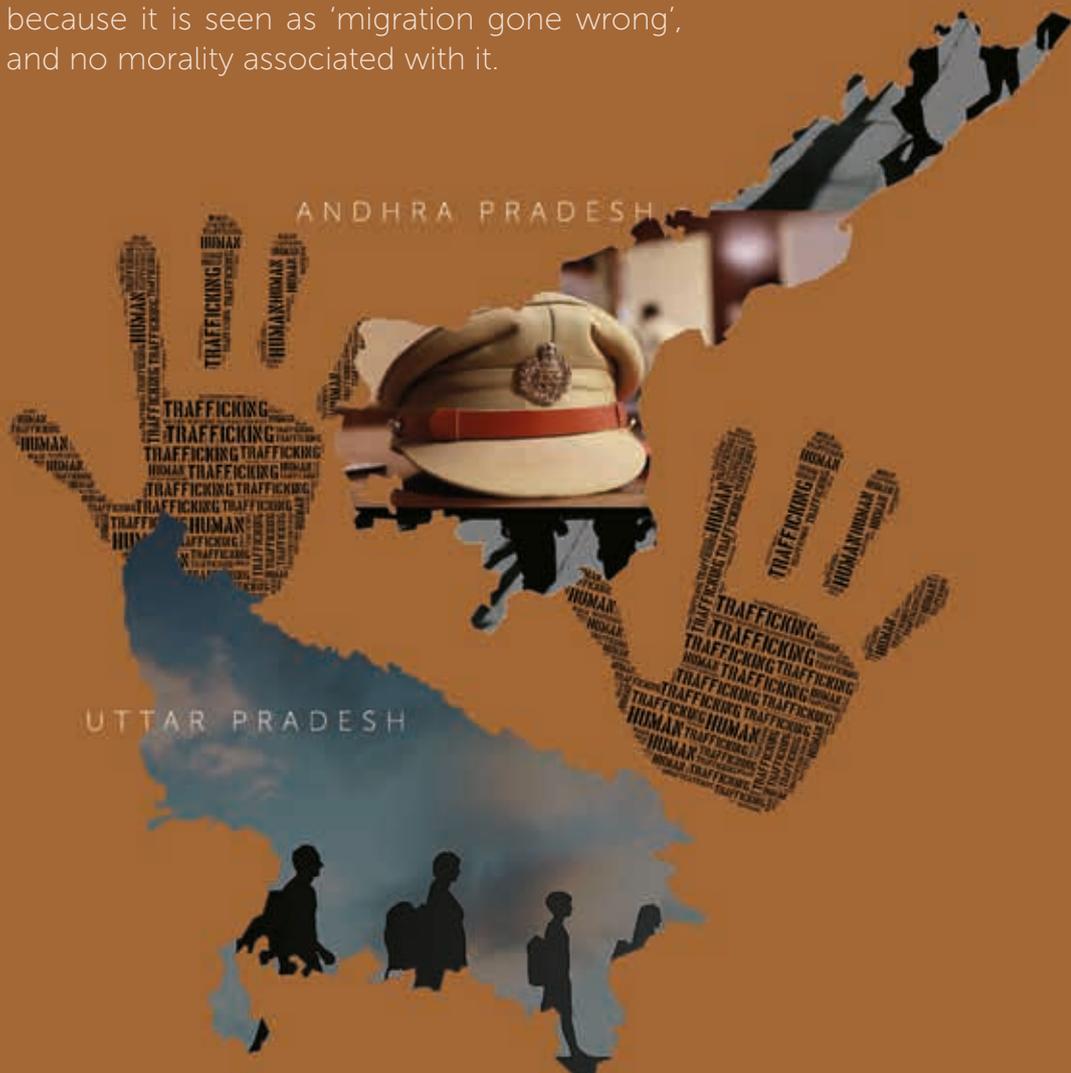
Tafteesh has had the following experiences with DLSA lawyers, in terms of applying for victim compensation and getting cases transferred to AHTUs. The same emerged in conversation with Tafteesh lawyers facilitated by Nisha Mehroon as of October 2022, regarding their experiences with DLSA lawyers in West Bengal.

1. Initially in 2019, DLSA lawyers showed resistance towards survivors' demands to file applications for victim compensation. However, this situation has improved and as of 31 August 2022, 30 DLSA lawyers are supporting 55 survivors in both South and North 24 Parganas districts in West Bengal.
2. Tafteesh members note significant improvement in the quality of their own engagement with DLSA lawyers as well as DLSA lawyers engagement with survivors. DLSA lawyers are keen to learn the computation process in VC applications, file protest petitions, hold meetings with survivors and spread awareness on legal issues within communities.
3. Survivors being supported by Tafteesh reported that they feel that DLSA lawyers engagement is part of leadership action as they do not need to depend on private lawyers and they can continue their legal cases without financial support from Tafteesh.

Experiences in Andhra Pradesh and Uttar Pradesh

One major issue experienced by CSOs in Andhra Pradesh is getting the Investigating Officer of local police stations and DLSAs to recognize cases of labour trafficking as trafficking.

In Uttar Pradesh, CSOs said that government authorities and duty bearers deprioritize victim compensation for survivors of labour trafficking, because it is seen as 'migration gone wrong', and no morality associated with it.

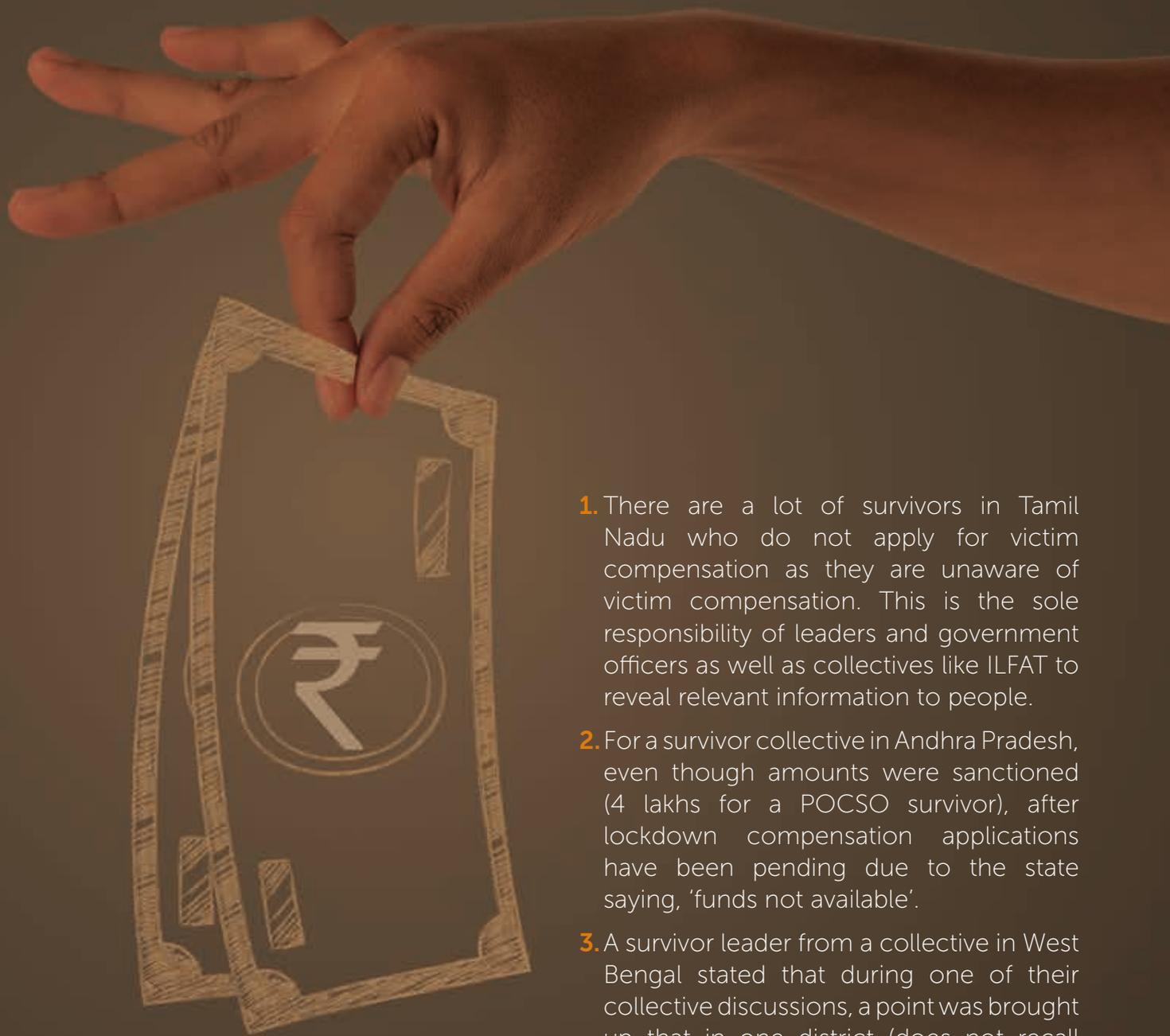


Experience with Victim Compensation Scheme in West Bengal



1. During the reporting period of the TIP Report 2021, the District Legal Services Authority (DLSA) in Kolkata awarded INR 8,76,410/- (Indian Rupees Eight Lakhs Seventy-Six Thousand Four Hundred and Ten only) to a survivor of human trafficking, the highest compensation awarded by a DLSA in West Bengal.
2. Authorities have only awarded 14 victims' compensation in West Bengal since 2012. However, 11 of those decisions were between September 2019 and March 2020, and the amounts awarded were significantly higher than in previous years.
3. Authorities issued an additional 90 compensation orders after March 2020, although payment was still pending at the end of the reporting period of the TIP Report 2021.
4. One of the major challenges in the process of obtaining compensation, as provided by an NGO is preparing the survivor for the ordeal and then helping them to sustain steam through the process until its conclusion. The process is long-winded, requiring survivors to compile appropriate documentation, attend hearings, give depositions and approach authorities to claim compensation. This results in it being demanding for the survivors, which is why additional support is needed to help them go through the entire process.
5. The difficulty in drafting applications for compensation, collecting relevant documents and the length of the victim compensation process results in social workers and NGOs playing a sustained and important role in preparing and standing by survivors. This shows challenges experienced by survivors in directly accessing VC schemes.

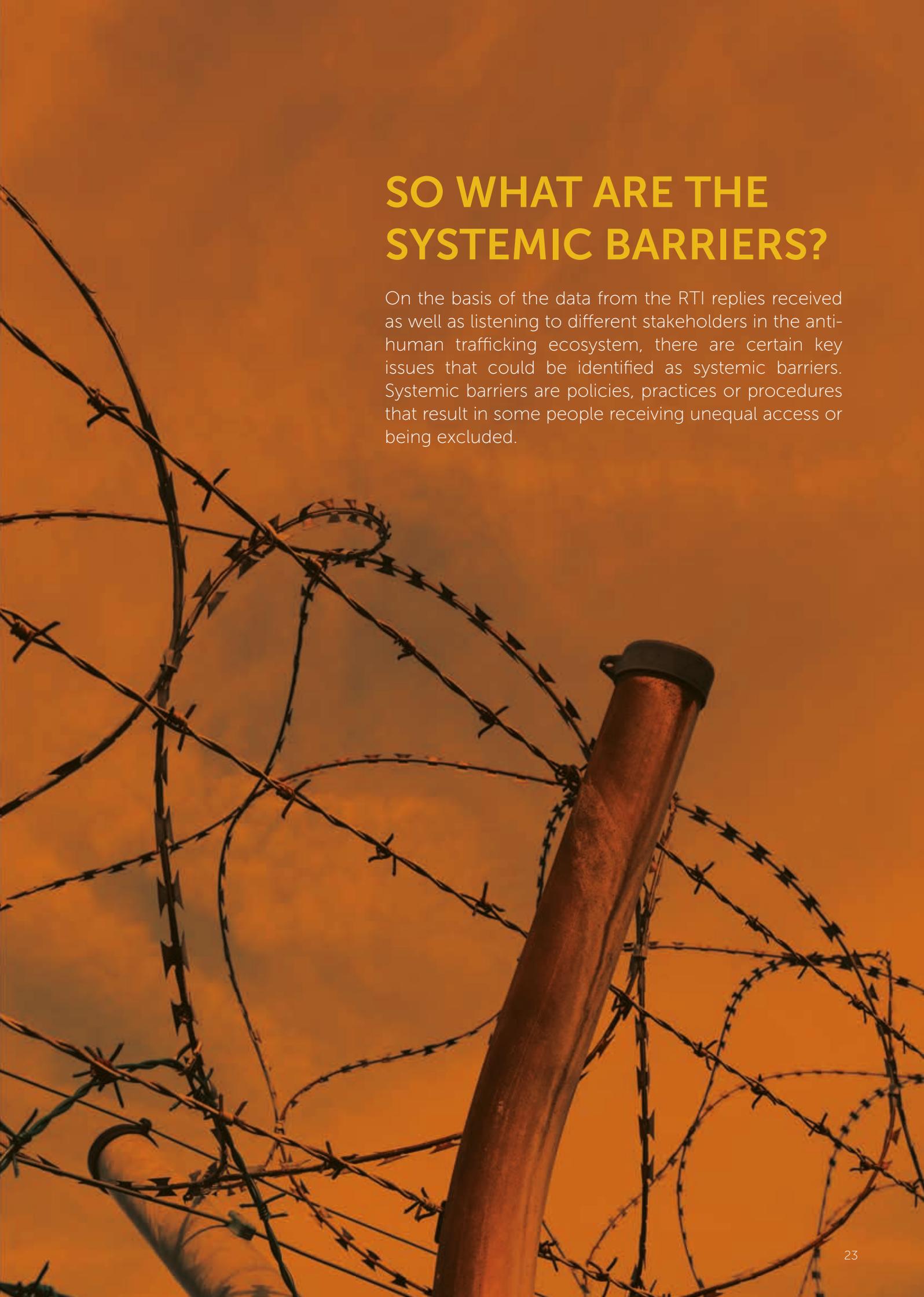
Experiences with Victim Compensation by Survivors



1. There are a lot of survivors in Tamil Nadu who do not apply for victim compensation as they are unaware of victim compensation. This is the sole responsibility of leaders and government officers as well as collectives like ILFAT to reveal relevant information to people.
2. For a survivor collective in Andhra Pradesh, even though amounts were sanctioned (4 lakhs for a POCSO survivor), after lockdown compensation applications have been pending due to the state saying, 'funds not available'.
3. A survivor leader from a collective in West Bengal stated that during one of their collective discussions, a point was brought up that in one district (does not recall which) it is a challenge to obtain victim compensation as the district authorities state that there is no 'victim' at all in the district who needs compensation.



4. A survivor leader from a collective in Jharkhand said that after the consultation, some documentation challenges came up with the Collector of the District not signing the rescue certificate. He stated that this ties directly into the district administration not wanting to admit that there is bonded labour in their jurisdiction.
 5. One survivor said that he was rescued from Jaipur, Rajasthan and his file, along with the FIR was done in Jaipur. Now, he is unsure of what is happening and thinks because of the lockdowns, the number of dates of hearing for the VC application is going on and on. He still has not received any amount by way of victim compensation.
 6. A survivor collective from West Bengal stated that a lot of survivors are sanctioned victim compensation but are not given the actual amount because of a lack of money, which is very disheartening. However, they are conducting advocacy efforts before both DLSA and SLSA, on a continuing basis to obtain compensation.
 7. A survivor leader from a collective in West Bengal said that approximately three (3) people from her organisation have applications under process. Two (2) of them have compensation sanctioned but have not received amounts. For one (1) person, the process is delayed even before sanction. In each area (with a total of 9 collectives), she estimates that there are 4-5 leaders whose applications are under process but delayed for some reason.
 8. An NGO in Jharkhand was unable to file victim compensation as the DLSA does not think bonded labour qualifies as trafficking. The survivors are therefore not eligible to receive victim compensation under the state scheme.
 9. An NGO in Tamil Nadu stated that in their experience, survivors only obtain the first instalment of compensation and there is a major challenge in getting the remaining compensation. Further, applying compensation involves a lot of documentation that is a big challenge for trafficked survivors to apply.
- An NGO in Tamil Nadu stated that the challenges to obtaining victim compensation include lack of awareness as well as strict documentation requirements for victim compensation that survivors often lack.



SO WHAT ARE THE SYSTEMIC BARRIERS?

On the basis of the data from the RTI replies received as well as listening to different stakeholders in the anti-human trafficking ecosystem, there are certain key issues that could be identified as systemic barriers. Systemic barriers are policies, practices or procedures that result in some people receiving unequal access or being excluded.



Why are survivors of human trafficking still not receiving Victim Compensation?

Survivors of rape, POCSO, acid attack, family members of murder victims are receiving compensation under state/UT victim compensation schemes, but trafficked survivors' access to VC remains low. There is a plethora of reasons for trafficked survivors to have the least access to compensation.



1. Firstly, there are no central guidelines on how to identify cases of trafficking and link them to compensations.
2. There is no dedicated fund for trafficked survivors at a national and state level.
3. The registration of trafficking cases remains low, as confirmed by NCRB data, which shows that the number of cases reported under trafficking-related sections has been on the decline.
4. The burden of proof and documentation is put on survivors to apply for compensation. NGOs working at the grassroots confirm that as marginalized people who have undergone trauma, providing such documentation is extremely difficult for trafficked survivors.
5. There are no witness protection measures under law, which hinder survivors' access to compensation.
6. Survivors are able to disclose the fullest extent of assault and abuse they survived when they are provided with a safe environment, and trusted, supportive, sensitive personnel. Currently there is no mechanism in place in the legislation that provides such services to survivors. This in turn impacts which sections are reported in the FIR and subsequently in the VC applications, based on which DLSA and law enforcement investigate and allow VC awards to the survivors.
7. There is confusion amongst CSOs, law enforcement and the judiciary about how courts and DLSAs are to be linked with trafficked survivors, and how VC applications should be investigated and processed by DLSAs. This results in extreme differences in amounts of compensation being given to survivors in states and UTs, as well as in identifying trafficked survivors for linkage with the VC scheme.
8. Data management systems that can support and strengthen inter-departmental communication and coordination to reduce gaps in implementation of the victim compensation schemes for trafficked survivors are absent. This reflects in mismatching and sometimes contradictory data from DLSAs and SLSAs. For example, In West Bengal, no survivors of labour trafficking made applications for victim compensation. However, the Kolkata DLSA has claimed that the most amount of compensation was awarded in a labour trafficking case.

IN CONCLUSION

Through out this study, what stands out starkly is the absence of the spirit in which CrPC 357A was intended in its implementation. CrPC 357A was developed based on analyses of India's policies for harm reparation of victims of violence. It is a beneficial piece of legislation, which acknowledges the government's role in the protection of its citizens and their rights, and in enabling reparation and reintegration of the victims and survivors after the violence has occurred. In that way this piece of the legislation is of power and importance for survivors of human trafficking – it's an accountability indicator for the governments. Between 2009 to 2021, the states' and union territories' compliance in formulation of the state victim compensation schemes have been increasing. Fund allocation has also seen drastic increase with funds from the Nirbhaya Fund being allocated to different states. The key barriers as of now lie in streamlining the processes, procedures and protocols, assigning responsibility to different dutybearers to improve survivors' information, awareness and access to compensation. While the data shows survivors of rape, acid attack, POCSO cases are receiving compensation more frequently than survivors of trafficking, experiences of civil society organization working on access to justice programmes tell us that survivors of gender based sexual violence also do not have easy access to compensation. Even when cases are filed with the police, and DLSA accepts the application for compensation, fuzziness around social

and legal understanding consent, choice and coercion among members of the committee who often decide on awarding of the compensation delay passing of orders.

Where the harm is physical, visible, or harm has been committed against a girl child, the social uproar as well as social, political and legal recognition of the harm and victimhood ensures a speedy processing of applications. In cases of trafficking, often the harm is less visible at a surface level, and therefore, survivors feel neglected by the justice system. At present, the responsibility to prove harm has occurred due to the incidence of trafficking also falls onto the survivor through furnishing proof and documentation. Survivors of trafficking have shared that not all trafficking survivors have the same access to compensation – due to existing schemes and policies, survivors of trafficking for sexual exploitation find higher recognition in the system to be considered for compensation, than labour trafficking survivors, especially boys and men. Girl survivors of labour trafficking, often from marginalized tribal communities, who were trafficked to industries in rural areas, or into domestic servitude find very little recognition and acknowledgement that a crime has been committed against them. These incidents often get treated as issues of wages being withheld, and the law enforcement focuses on getting the employer to pay the accumulated wages back to the victim and return the victims to their families. Applications by such survivors for compensation depend on registration of

FIRs. Given the lengthy process of law and justice, continued threats from traffickers and the burden of proof being on the victims, survivors and their family members do not find the resources to fight a long drawn legal battle. Keeping in mind that migration from these communities is often seasonal, and the family's sustenance depends on migration labour, prosecuting the traffickers become a hindrance to reintegration of the survivors and recovery from trauma in such instances. In other incidents, where there are no barriers experienced in survivors registering a complaint, often the fear of being stigmatized keeps survivors from applying for compensation. The internalized stigmatizing belief is that their immediate community members will think that applying for and receiving compensation mean that the crime actually did not happen, and all of it was manufactured to receive money. However, in practice in other communities survivors have clearly stated that in the absence of any other stigma mitigating services from the government, the compensation order works as an anti-stigma tool to prove that they were indeed victims of crime and are not to be blamed or stigmatized.

Consultations with organizations working of access to compensation by women and child survivors of different forms of violence brought up questions for deeper reflections for the ecosystem. Victim Compensation and access to compensation is an intersectional issue. What is considered harm, what harms

are more visible and therefore compensated, and what kind of harm and violence doesn't get acknowledged in the systemic process of granting compensation need to be understood to bring effective policy shifts. Changes in social attitudes and gendered beliefs around labour, migration, access to financial literacy and vulnerability all play a role in enabling trafficking survivors access to compensation.

The key shifts that have come up as being significant to move the needle towards increased access to justice for trafficked survivors are-

- 1. Changes in policies around compensation:** Survivors of trafficking and civil society organisations working on survivors rights agree that having a comprehensive definition of trafficking is extremely important to increase identification of survivors of trafficking, and linking them with existing schemes and policies. A comprehensive definition that takes cognizance of common elements in the crime of trafficking, and recognizes that persons of any gender can be trafficked for different forms of exploitation has been recommended the most.
- 2. Streamlining the schemes and procedures:** At present different states and Union Territories have schemes that vastly differ from one another. Not all states have a provision to compensate trafficked survivors specifically under the state VC schemes. Given the trend of reporting

of cases, it is important that each state and/or UT has dedicated provision and funds for compensating trafficked survivors at whichever point they come in contact with the survivor. There needs to be dedicated capacity building of the stakeholders with whom a trafficked survivor is likely to come in contact with to help survivors apply for services for their reparation and reintegration. District Legal Services Authorities' empaneled lawyers, Child Welfare Committee members, the law enforcement were identified as key stakeholders who can support survivors.

3. Assigning Accountability: survivors and NGOs have sought that the laws and policies on compensating a trafficking survivor be clear on chain of accountability. These schemes and policies need to specify what should a compensation granting committee consider when passing or declining an application for compensation. They have also sought for greater convergence and evidence sharing between the government bodies involved in a survivor's legal case and rehabilitation journey. Standard procedures to be followed and adopted to facilitate greater access to compensation for all survivors has been a strong suggestion from the civil society organisations. In ensuring accountability, it was also pointed out that in states that have adopted an online method of application for compensation, pendency exists at different stages of the application, and non-availability of appropriate documents with the officers uploading the documents on the portal is a key challenge.

4. Increasing visibility of good practices and collaboration: The challenges have not gone uncontested by the social development workers and survivors. In different contexts small scale experiments with innovative strategies to increase survivors' resilience in dealing with stigma, survivor led advocacy engagements, and legal strategies to increase trafficked survivors participation in their legal case management and access to compensation have yielded great results. There's a need to periodically identify and visibilise such practices and to institutionalise promising good practices through policy changes. With visibilising the good practices, there also needs to be concerted collaborative efforts amongst survivors and impacted community members, civil society organisations and the government dutybearers to strengthen the systems of justice.

5. Building Survivors' Leadership: One of the key factors for increase in applications by survivors in certain states may also be a result of survivors' collectivization. ILFAT, which has membership of collectives of survivors from 10 states of India, has been making concerted efforts to reach out to survivors who are returning home and informing them about their rights, and what services can be availed. Many civil society organisations have significantly prioritized collectivizing and enabling survivors' leadership and amplifying survivors' voices demanding for their own rights.

