COVID-19
and
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COVID-19 and MODERN SLAVERY

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Introduction to the COVID-19 and MODERN SLAVERY Issue

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Almost 18-months on from the first official case of a novel coronavirus being reported to the World Health Organisation[1], COVID-19 remains of grave concern, affecting almost every country in the world.[2] As this special edition shows, the global pandemic has had significant consequences for people at risk of human trafficking; those involved in trafficking; those who have survived trafficking; and those seeking to end it. The pandemic is still on-going. On the day of writing, 638,247 new cases were reported in the last 24-hours across the globe, and almost 3.5 million people have died (13,247 in the last 24-hours)[3]. We are a long way from properly understanding the multiplicity of ways in which COVID-19 has, and will continue to, affect human trafficking and the global community's efforts to end it by 2030 in line with the Sustainable Development Goals. This special edition highlights some of these effects, in a range of countries and sectors.

Trafficking – like the pandemic – is a global issue, and the effects of COVID-19 in one country can have significant knock-on effects in a range of others. For instance, as researchers in this special edition show, the economic impact of "lockdowns" and resulting economic downturns in wealthier countries has significant impacts on employment in other countries which rely on exports, as well as on migrant labourers. Similarly, closing borders in one country may result in trafficking routes being re-directed to others, or changing to being domestic rather than transnational. NGOs and researchers working in several countries to further efforts to end trafficking have been impacted by travel bans, "stay-at-home" orders, and curfews, as well as – in many cases – a significant rise in demand for their services. As cases featured in this special edition show, practitioners, researchers, survivors, and people at risk have responded to the pandemic in a range of creative and innovative ways – as, sadly, have traffickers.

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[1] https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/novel-coronavirus-2019-ncov.

[2] To date, American Samoa, Cook Islands, Democratic People's Republic of North Korea, Kiribati, Micronesia, Nauru, Niue, Palau, Pitcairn Islands, Saint Helena, Tokelau, Tonga, Turkmenistan and Tuvalu have reported no cases of COVID-19. https://covid19.who.int/table. Last accessed 21.5.21.

[3] https://covid19.who.int/table. Last accessed 21.5.21.

As Hanley and Gauci note in their article in this special edition, "early analysis indicates that the COVID-19 pandemic, the emergency public health measures, and the consequent socio-economic context have increased individual vulnerability to human trafficking". As Thinyane and Gallo explain, "[a]n estimated 1.6 billion workers … had their earning capacity disrupted as a result of COVID-19, potentially pushing them into further precarity and vulnerability to abuse". Workers have taken on more debt, increasing the risk of debt-bondage and trafficking; school closures and the global economic downturn have put financial pressure on families and increased the risks of child labour; buyers – particularly of personal protective equipment and medicines – have reduced their scrutiny of supply chains, giving employers greater latitude for exploitation; in other areas, workers have been forced to work without pay to maintain the profitability and on-going existence of firms; and the opportunity for auditing and inspections has dramatically decreased. Many of the researchers included in this special edition conclude that existing vulnerabilities have been exacerbated, and new ones have been created. Several also highlight how this has particularly affected women. There have also been significant impacts on those working to end trafficking, and on survivors and those working to support them.

In this special edition, researchers and practitioners share their findings regarding this increased vulnerability to human trafficking, and other forms of labour exploitation, in a range of sectors and settings. Chazal and Raby look at the impact on identification of victims in Australia; Byrne et al explore the impact on workers in India; Hansen et al consider the effects on workers in the Ready-Made Garment Industry in India and Bangladesh; Sahai et al chart the impact on Overseas Labour Recruitment in Bangladesh, while Neizna et al consider migrant workers in Israel. Keaveney et al explore the impact on commercial sexual exploitation in Maharashtra, India, while Ewen takes a more global view of the effect on sex-workers, and Hanley and Gauci provide an excellent overview of all the issues.

Chazal and Raby note that reliance on police to identify victims of trafficking in Australia, and refer them to relevant statutory bodies meant that when police resources were diverted into the large-scale COVID-19 emergency response, police had much less capacity, resulting in under-identification of victims. (Which is already a significant problem in anti-trafficking efforts.) Relatedly, McGaughey looks at the extent to which the pandemic has provided a "get out of jail free" card to Australian companies regarding their obligations under the Modern Slavery Act, arguing that modern slavery risks have increased due to COVID-19 and its impact on supply-chains (and the urgent demand it caused for supplies of personal protective equipment), and that firms have widely reported reduced capacity to fully execute planned modern slavery risk assessments, training, and audit activities. Firms re-directed efforts from modern slavery mitigation to COVID-19 mitigation; responses to inquiries from suppliers who had been flagged as being a modern slavery risk were delayed or not made at all due to the pandemic; and planned training and audits were postponed. This means people at risk, who might have been spotted by measures undertaken by Australian organisations, have most likely not been spotted, even as their risks increased because of COVID-19, and future efforts to end modern slavery are being retarded, even as the problem has been exacerbated due to the global

pandemic. More broadly, Hanley and Gauci highlight the weaknesses the pandemic has revealed in existing legal frameworks for tackling trafficking and supporting survivors. They note that National Referral Mechanisms and law enforcement investigations have often "buckled" under the strain, showing they were not designed to cope with emergency situations, and remind us that they may not have been fit for purpose even before the pandemic. They urge states to encourage greater cooperation between relevant bodies, secure robust funding and resource allocation which will not be diverted in the case of future exogenous shocks, and to commit to prioritise anti-trafficking efforts, even in terms of national – and international – crisis.

Hansen et al note the rapidity with which firms moved to mitigate their financial liability for losses caused by COVID-19, leaving many garment-workers unemployed, not even paid for their most-recent labour, and extremely vulnerable to trafficking. Global supply chains, particularly those which involve informal factories, mean suppliers have very few options for enforcing payment from buyers; and workers have even less power to compel payment they are owed, or insist on their rights regarding severance or sick pay. Moreover, the cost of living has increased due to COVID-19 – not least the need to buy hand sanitiser, personal protective equipment like masks, pay for medicines and health treatment, and secure supplies of soap and water. (Byrne et al report similar findings in India.) Furthermore, workers who have been employed have been at increased risk of infection due to unsafe working conditions, and face further exploitation in the form of working longer hours for no, or little, extra pay. This is compromising workers' mental and physical health. Precarity, and the lack of work, means those who are working are putting up with unsafe conditions, harassment, lower wages and longer hours.

Relatedly, Ewen highlights the risks faced by sex-workers across the globe, even in countries where their work is not criminalised, through the closure of likely places of work, the move to working "online", unsafe working environments (which sex-workers may have little power to improve) leading to increased likelihood of infection by COVID-19, and taking loans from criminal gangs. Keaveney et al have some similar findings from India: demand for in-person sex has dropped, but demand for virtual sex has grown, though they think this change will be short-lived. However, web- and app-based mechanisms for recruitment, solicitation, and payments for in-person sex are likely to continue to increase, and the locus of in-person sexual engagements may move from centralised red-light districts to less visible locations. Both trends will make it more difficult to identify, investigate and shut-down commercial sexual exploitation. Vulnerability to commercial sexual exploitation has increased dramatically, an increase which is likely to continue post-pandemic. Price-deflation puts people at further risk of exploitation and physical harm in future. Byrne et al note the drop in demand for sex-work experienced by some sex-workers in Bangalore during the pandemic (with resultant repercussions on income, and therefore on vulnerability to exploitation and trafficking among other issues).

Sahai et al consider the impact on Overseas Labour Migration from Bangladesh, particularly to countries in the Gulf Cooperative Council. The pandemic has increased migrant workers' vulnerability to forced labour, human trafficking and modern slavery, as well as to

COVID-related health risks. Workers are less able to switch jobs or negotiate working conditions, leading many to be vulnerable to in-work exploitation. Many are unable to return home, given debt, unemployment, and restrictions on travel. Workers who are laid off, or forced to go part-time, therefore, have very few options for increasing employment, or repatriation, meaning they face destitution and are increasingly vulnerable to trafficking and other forms of exploitation. Female domestic workers, in particular, are also facing stringent limitations on their liberty, increased hours, and health risks associated with caring for those who are infected with COVID-19 (often without proper personal protective equipment). They face physical and psychological harm if they refuse to work longer, and in more dangerous conditions. The economic situation in Bangladesh which COVID-19 has caused, however, means even those who do manage to return are also vulnerable to health-risks, discrimination, and to exploitation including trafficking. This is particularly the case for returning female migrant workers, many of whom are stigmatised because of the assumption they must have been sex-workers when abroad.

Niezna et al highlight similar issues for non-citizen workers in Israel, particularly those working in care, construction, and agriculture. For instance, migrant care workers – who are already excluded from labour legislation around limits on working hours and overtime pay – have been forced to remain in their employers' homes even on their ostensible day(s) off because of "stay-at-home" restrictions, with their employers empowered by the government to "inspect" who they met, and what they did, on any "days off" outside their place of work. Workers in construction faced similar limitations on their freedom of movement and ability to leave their place of work, even out of working hours. They, and agricultural workers, were often therefore unable to leave poor-quality accommodation, increasing their health-risks. All three groups, however, appear to have continued to be able to work, unlike asylum seekers, who have faced mass unemployment and have no recourse to government support. This has left many asylum seekers in Israel destitute, which as well as being bad in itself, leaves them more vulnerable to exploitation and trafficking.

Byrne et al also highlight similar issues for garment- and domestic-workers in India, many of whom have moved to large cities from rural locations for work, and found themselves facing destitution as a result of unemployment, far from home with few to no support networks. People were also struggling to meet the cost of health-care (for COVID-19, and other issues), and risking ill-health through an inability to buy food, fuel, medicines or protective clothing, and to access clean water. Women, and particularly pregnant women, faced discrimination and increased risks of unemployment, leading to further health-risks as they could no longer afford vital pre- and post-natal care. Workers – again, mainly women – also faced age-discrimination (based on the view that older people were more likely to contract COVID-19). Participants reported increased violence in their homes; "quarrels" and "tension"; marriages and relationships breaking down; and other negative effects on mental health. As well as being bad in their own right, all of these issues can lead to people moving into areas of work where their vulnerability to trafficking is increased.

Ewen also considers the impact of traffickers, arguing that they exploit economic hardship, which COVID-19 (directly and indirectly) has caused a great deal of. This is particularly the case for sex-workers (the focus of her study) where their usual places of employment (e.g. hotels, bars, nightclubs) have been closed or affected by curfews as part of public-health measures; and/or where they have been deliberately denied access to government funds (or not included in government schemes for financial support during COVID-19, even where sex-work is legal). This has made people more vulnerable to predation by traffickers (and, we might add, particularly in online spaces, other criminals, such as blackmailers and identity-thieves). Responses to COVID-19 may also have increased the demand for some forms of sex-work (particularly on-line), creating new areas for traffickers to exploit in a variety of ways.

The pandemic has also affected survivors of human trafficking in various ways. Chazal and Raby chronicle the impact on access to support services in Australia; Cordisco-Tsai et al are concerned with the impact on survivors of human trafficking in the Philippines; and Brady et al report on their work with survivors in Kenya. Chazal and Raby note that public health measures in Australia led to the closure of many service-providers, leaving victims with nowhere to go to report abuse. They also report a dramatic decline in referrals made by the Australian Federal Police to the government-funded Support for Trafficked People Program, and relate this to the change in the focus of police resources, and increased demand on police capacity, during the pandemic. Furthermore, the pandemic negatively impacted the mental and physical health of victims, who were often in precarious positions even before the pandemic regarding physical and financial resources. Service-providers have had to try to provide more services (including emotional support), and have struggled to meet some basic needs (e.g. housing and food) because of pandemic-related restrictions. Cordisco-Tsai et al report on four main areas of concern for survivors: loss of employment, food insecurity, mental health concerns, and an escalation in crisis incidents (including violence in the home, and suicidal thoughts). Worries around meeting basic needs far outweighed their concern about catching COVID-19 itself. These findings highlight the precarious position of many survivors of trafficking, and their continuing vulnerability to exploitation and re-trafficking particularly in times of global (or even local) crisis. Similarly, survivors working with Brady et al in Kenya reported that they had lost their primary source of income during – and because of – the pandemic; significant physical and mental health concerns (including feeling isolated, anxious and depressed); and an increase in responsibilities.

Lastly, the pandemic has affected researchers and practitioners working to end human trafficking, and/or improve our understanding of this crime, its causes, and its effects. Not all these impacts have been negative – and this special edition ends with some consideration of positive findings from research during this pandemic on anti-trafficking efforts. Thinyane and Gallo report on their experiences of remotely gathering data on working conditions in a safe and robust fashion in East Africa and the Asia-Pacific, Brady et al share their findings regarding the possibilities of ethical research done remotely, and Byrne et al explain how they trained practitioners to record the testimony of community narrators through online workshops.

Thinyane and Gallo and Brady et al used apps and software on mobile phones, and Byrne et al and Brady et al used online workshops, exploring ways in which those at risk, and survivors, can meaningfully and ethically contribute to anti-trafficking efforts and research even when in-person meetings, and travel, are severely curtailed by a global pandemic.

This special edition brings together researchers and practitioners from, and working in, a wide range of countries across the world, and on a wide range of sectors. Their work shows how many different methods and disciplines are of use in helping us to understand, and effectively combat, human trafficking. Many have worked with in-country partners, often from local NGOs, and these articles highlight the importance of trusted, ethical partnerships between researchers and practitioners "on-the-ground" in order to conduct robust research and learn about efficacious, sustainable ways to end trafficking. Many, of course, have also worked with those at risk, and with survivors (some of whom are at significant risk of re-trafficking due to the pandemic). Much vital work in this area would be impossible without the participation, engagement, and support of those most intimately and directly affected by trafficking, and this introduction affords the opportunity, on behalf of all the research teams whose work is included here, to thank all the stakeholders – most importantly survivors and those at risk – for their support in helping us better-understand trafficking, and work together to end it. It is imperative that all anti-trafficking researchers continue to ensure we work in equitable, ethical and non-extractive ways.

As many researchers included in this special edition note, the effects of the COVID-19 pandemic may be very long-lasting. Employment sectors, for instance, which have been significantly hit by loss of orders will not necessarily re-open soon; workers who have moved to find work, or returned home because of unemployment, will not easily find the resources to move to where there is work (if there is work) again soon without becoming indebted or financially vulnerable in other ways; people (most frequently women) who have moved into sex-work as their other employment has dried up may not be able to move back into other forms of employment because of social stigma, ill-health caused by their new form of work, and/or pregnancy/parenthood. People who have moved into working in sectors which are illegal (e.g. sex-work in many countries); people who are homeless; and people who have become indebted as a result of COVID-19 and the connected economic downturn, may already be subject to trafficking, with long-term negative consequences. The research spotlighted in this special edition shows both what the increased risks are, and offers some helpful suggestions for all stakeholders as to how to combat them, though this will not be easy.

The pandemic is likely to have set back efforts to end human trafficking, forced labour, and other forms of exploitation by 2030 in line with the Sustainable Development Goals. Efforts will need re-doubling as the world emerges from the pandemic. It is imperative that whatever "new normal" we "return" to post-COVID is *not* one where trafficking and exploitation are "normal".

COVID-19's Impact on Anti-Trafficking Efforts: What do we know?

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Abstract

Early analysis indicates that the COVID-19 pandemic, the emergency public health measures, and the consequent socio-economic context[1] have increased individual vulnerability to human trafficking. It also indicates an impact on anti-trafficking efforts both in the short and the longer term. This article explores some of those impacts, identifies issues to look out for moving forward and examines the applicability and resilience of existing legal frameworks.

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[1] Maria Grazia Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons' (United Nations Human Rights Special Procedures, 6 August 2020), https://www.ohchr.org/Documents/Issues/Trafficking/COVID-19-Impact-trafficking.pdf; OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic' (OSCE/ODIHR, 2020), 152–57.

Introduction

Early analysis indicates that the COVID-19 pandemic, the emergency public health measures, and the consequent socio-economic context[2] have increased individual vulnerability to human trafficking.[3] This has particularly been shaped by increased economic instability, lack of employment opportunities, increased poverty and financial insecurity and the global response of closing borders.[4] Research highlights how the pandemic poses a risk of causing already vulnerable populations to become 'even more vulnerable to traffickers who are exploiting global uncertainties to gain profits'.[5] For example, children's vulnerabilities[6], undocumented migrants' vulnerabilities[7] and gender specific vulnerabilities have all been exacerbated by the pandemic.[8] The socio-economic consequences, such as increased poverty, unemployment and decreased remittances, have posed additional threats to those already in trafficking situations, as well as exacerbating individuals' vulnerabilities to trafficking.[9] Individuals who may face 'material, social and economic losses' as a result of the pandemic and the related measures, may become at risk of being trafficked.[10] Lockdown measures and restricted movement have further heightened such vulnerability, by reinforcing the invisibility of trafficked persons,[11] intensifying traffickers' control and further isolating trafficked persons. These impacts, as explored below, have occurred.

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[2] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons'; OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 152–57.

[3] Global Protection Cluster: Anti-Trafficking Task Team, 'COVID-19 Pandemic Trafficking in Persons (TIP) Considerations in Internal Displacement Contexts' (Global Protection Cluster, March 2020), https://www.globalprotectioncluster.org/wp-content/uploads/GPC-Task-Team-on-Anti-Trafficking_COVID-guidance_final_SM.pdf; OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic' (OSCE, ODIHR, UN Women, 2020), https://www.osce.org/files/f/documents/2/a/458434_1.pdf; United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons' (United Nations Office on Drugs and Crime, 2020), https://www.unodc.org/documents/Advocacy-Section/HTMSS_Thematic_Brief_on_COVID-19.pdf; Expert Interviews, 2021 2020.

[4] Expert Interviews.

[5] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 9.

[6] Expert Interviews.

[7] Expert Interviews.

[8] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic'.

[9] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 2.

[10] Giammarinaro, 9.

[11] Expert Interviews.

in parallel with the disrupted 'access to assistance including medical services, employment opportunities, access to psychological services and legal assistance'.[12]

Moreover, the pandemic has impacted manifestations of trafficking; including the means traffickers use and the types of exploitation occurring. Border closures have increased the risk of domestic trafficking. For example, without seasonal workers coming to Italy, there was an increased risk of exploitation of those who were already in the country.[13] The COVID-related restrictions (namely lockdown, school closures and border closures) have fuelled an increase in online sexual exploitation of children, to which there has been an inadequate response.[14] An increase in forced marriage has been noted in certain locations as a direct consequence of increased poverty.[15] The economic hardship has increased risks of sexual exploitation, which is reflective of evidence from previous pandemics, such as the 2014 Ebola outbreak.[16] Traffickers have taken advantage of and leveraged the shifting context. Trafficking has not stopped; rather traffickers have been agile in adapting to the new measures (such as lockdown and border closures) and taking advantage of governments' diverted attention.[17] The agility of traffickers is yet to be matched by governments.[18] There is of course a dearth of official data on these trends, and it is important not to draw premature conclusions of COVID-19 as the sole cause of these identified shifts.[19] The extent to which these changing dynamics will be sustained over time also remains to be seen. Nevertheless, such observations are important starting points for future research.

Although Public Health Emergencies of International Concern (PHEICs) are rare and, in many ways, the extent and scope of COVID-19 is indeed unprecedented, situations of emergency (whether linked to natural disasters, conflict or other instability) are known to increase

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[12] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 8.

[13] Expert Interviews.

[14] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 7; OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 153; EUROPOL, 'Exploiting Isolation: Offenders and Victims of Online Child Sexual Abuse during the COVID-19 Pandemic' (EUROPOL, June 2020), https://www.europol.europa.eu/publications-documents/exploiting-isolation-offenders-and-victims-of-online-child-sexual-abuse-during-covid-19-pandemic.

[15] Expert Interviews.

[16] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 8; Catherine Z Worsnop, 'The Disease Outbreak-Human Trafficking Connection: A Missed Opportunity', *Health Security* 17, no. 3 (2019): 181–92.

[17] Interviews; See also: Global Initiative against Transnational Organized Crime, 'Crime and Contagion: The Impact of a Pandemic on Organized' (Global Initiative against Transnational Organized Crime, 2020), 12, https://globalinitiative.net/wp-content/uploads/2020/03/CovidPB1rev.04.04.v1.pdf.

[18] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 24.

[19] Expert Interviews.

vulnerability to trafficking. Emergency situations therefore require a fervent anti-trafficking response. Whilst there is now a significant body of literature examining the impact on trafficking, the impact on anti-trafficking efforts remains under-explored. This is a gap that this paper and the surrounding research seeks to address.

This paper builds on this context, through asking what impact the pandemic has had on governments' anti-trafficking efforts. Early research indicates that the COVID-19 pandemic and the emergency measures introduced in response to the outbreak, have negatively impacted states' efforts to combat trafficking. In the short-term, the pandemic and related measures had an immediate impact on frontline support and prosecutorial systems. The impact is both direct and indirect, varying according to context and jurisdiction.[20] The pandemic has triggered governments to shift priorities and reallocate resources, hampering anti-trafficking efforts. However, whilst the pandemic has caused direct disruption, it has also exposed and exacerbated systemic flaws. The longer-term impact is starting to be identified and foreseen. This involves how governments have addressed the negative impacts so far, and how the economic downturn will impact on resourcing and funding for anti-trafficking work. This paper will draw some overall observations on what impacts have been identified thus far.

This paper is an early assessment of what we know now and aims to be a starting point for future research into the impact of the pandemic, as well as to contribute to the dialogue concerning anti-trafficking in situations of emergency. It is based on desk research and a series of expert interviews.. The desk research involved analysis of the research that has been conducted on the impact that COVID-19 has had on anti-trafficking efforts to date. This has involved examining and collating findings from international organisations, civil society and academic sources. Further, 10 semi-structured expert interviews were conducted with regional and international experts on human trafficking and anti-trafficking responses. They took place between September 2020 and January 2021. This was further supplemented by an expert discussion in the form of a webinar, which took place in July 2020.[21]

The paper is organised as follows: it firstly examines the impact that the pandemic and accompanying measures have had on anti-trafficking efforts; this will include examining gaps both directly triggered by the pandemic and the indirect impacts of shifting political priorities and diminished resourcing. Within this, the short- and longer-term impacts will be assessed. It then turns to question whether the current international legal frameworks are adequate to deal with sudden onset crises, and explore routes to strengthen existing frameworks to mitigate the impact of COVID-19 and future emergencies. It will finally conclude by asking what can be done to strengthen existing anti-trafficking frameworks.

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[20] Expert Interviews.

[21] 'Webinar: Human Trafficking and COVID-19: What Next?' (The British Institute of International and Comparative Law, 14 July 2020), https://www.biicl.org/events/11408/human-trafficking-and-covid-19-what-next; Idel Hanley, Jean-Pierre Gauci, and Iris Anastasiadou, 'Human Trafficking and COVID-19: What Next?', *Human Trafficking and COVID-19: What Next?* (blog), 2020, https://www.biicl.org/documents/121_blog_draft_human_trafficking_and_covid-19_forbiiclwebsite.pdf.

Short-Term Impact

The onset of the COVID-19 pandemic significantly disrupted the provision of, and access to, protection services for both potential and identified trafficked persons. The support provided by state and non-state services, including labour inspectors, social workers, healthcare staff and non-governmental organisations' (NGO) services, have been disrupted by the sudden imposition of lockdown measures, distancing requirements, and the diversion of governmental prioritisation and resourcing towards such public health measures.[22] The public health measures resulted in reductions and cancellations of in-person counseling and legal assistance services[23], resulting in waiting times and backlogs[24]. Within the support measures, the disruption to shelters for trafficked persons has been particularly noted.[25] These disruptions risk exacerbating existing vulnerabilities, triggering revictimisation and failing to ensure that trafficked persons are accessing the support to which they are entitled.[26] Underlying this is the shift in political priorities and resource allocation.[27]

Identification processes are integral to the functioning of support services. Yet, there are early indications that shifting political priorities have caused acute disruption to identification processes, namely National Referral Mechanisms (NRMs) and equivalent systems.[28] This has put an additional strain on the already difficult task of identification.[29] Around half of the countries surveyed by UN Women, Organisation for Security and Co-Operation in Europe (OSCE) and the

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[22] Livia Wagner and Thi Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', Policy Brief (Global Initiative Against Transnational Organised Crime, May 2020), 17, https://globalinitiative.net/wp-content/uploads/2020/06/Aggravating-circumstances-How-coronavirus-impacts-human-trafficking-GITOC-1.pdf.

[23] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking'; Expert Interviews, interview.

[24] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 2; Expert Interviews, interview.

[25] Expert Interviews. See also: OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 12.

[26] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic'; United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 2; Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 7.

[27] Expert Interviews.

[28] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 2; Expert Interviews, interview.

[29] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 1; See also Tomoya Obokata, 'Impact of the Coronavirus Disease Pandemic on Contemporary Forms of Slavery and Slavery-like Practices: Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences', Human Rights Council Fourty-Fifth Session (United Nations General Assembly, 4 August 2020), https://undocs.org/pdf?symbol=en/A/HRC/45/8.

Office for Democratic Institutions Human Rights (ODIHR) reported their NRM or equivalent system to be only 'partially operational' due to the pandemic-related measures,[30] whilst only 14% of respondents reported 'fully operational' NRMs.[31] Submissions to the report by the Special Rapporteur on Contemporary Forms of Slavery, Tomoya Obokata, highlighted a decrease in numbers reported to the NRM.[32] The pandemic has overwhelmed governments and thereby indirectly hampered the implementation of anti-trafficking efforts.[33]

Moreover, the COVID-related emergency measures have created additional barriers to accessing support services in particular identification procedures, sheltered accommodation, and social services.[34] There have been reported difficulties for trafficked persons accessing health-care, from hospital services for COVID-19 testing.[35] The border closures which were a cornerstone of most countries' pandemic response, had a profound impact on trafficked persons, trapping individuals in exploitative situations[36], exposing those undertaking irregular migration routes to trafficking and exploitation, and providing a pretext for governments to 'adopt harsher migration policies that could stay in place long after the COVID-19 outbreak'.[37] For example, the US was reportedly turning away or repatriating undocumented migrants, including asylum

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[30] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 22–23.

[31] OSCE, ODIHR, UN Women, 23.

[32] Obokata, 'Impact of the Coronavirus Disease Pandemic on Contemporary Forms of Slavery and Slavery-like Practices: Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences', 13.

[33] Obokata, 13.

[34] OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 154; OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic'; See also Obokata, 'Impact of the Coronavirus Disease Pandemic on Contemporary Forms of Slavery and Slavery-like Practices: Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences', 13; Inter-Agency Coordination Group against Trafficking in Persons (ICAT), 'COVID-19 Pandemic and Its Impact for Victims and Survivors of Trafficking in Persons' (Inter-Agency Coordination Group against Trafficking in Persons (ICAT)), accessed 16 September 2020, https://www.unodc.org/unodc/human-trafficking/Webstories2020/covid-19-pandemic-and-its-impact-for-victims-and-survivors-of-trafficking-in-persons.html; Expert Interviews, interview.

[35] OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 155.

[36] Expert Interviews.

[37] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 5; OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 153.

seekers and unaccompanied minors, without screening for indicators of human trafficking.[38] This has also hampered the repatriation of trafficked persons.[39]

However, whilst COVID-19 and the related measures have directly disrupted the provision of and access to protection measures, it has also exposed and exacerbated existing gaps in governments' protection systems, including health provisions to trafficked persons.[40] The necessity of a functioning NRM is an integral component of a state's anti-trafficking efforts as it facilitates protection and support to individuals, upon formal identification. For sudden onset emergencies to debilitate identification processes represents a systemic gap. This crucially raises the question of why such integral systems are not resilient to emergency situations and what can be done to ensure their continued workings, as further explored below.

Similarly, the pandemic has exposed governments' reliance on non-state actors to provide protection services. Although non-state actors are often best placed to provide support and shelter to trafficked persons, the disruption caused by the onset of the pandemic raises the question of where state responsibility falls. Government reliance has been highlighted by the fact that immediate response for handwashing facilities and protective gear has been primarily distributed by local community organisations.[41] The lack of formalisation may result in the exclusion of shelters from 'government support and health programmes designed to tackle the challenge of the virus'.[42] Indeed, rising infection rates have resulted in shelter closures, whilst social distancing and lockdown measures have caused some shelters to stop accepting new beneficiaries[43] or partially suspend their services.[44] La Strada International has reported shelter closures and capacity reductions amongst their partners due to infections and COVID-related measures. It called for more support 'to ensure sufficient access to shelter needs, including

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[38] Refugees International, 'COVID-19 and the Displaced: Addressing the Threat of the Novel Coronavirus in Humanitarian Emergencies' (Refugees International, 2020), 8–9, https://www.refugeesinternational.org/reports/2020/3/29/covid-19-and-the-displaced-addressing-the-threat-of-the-novel-coronavirus-in-humanitarian-emergencies.

[39] Obokata, 'Impact of the Coronavirus Disease Pandemic on Contemporary Forms of Slavery and Slavery-like Practices: Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences', 13.

[40] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', 21; Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 10; Obokata, 'Impact of the Coronavirus Disease Pandemic on Contemporary Forms of Slavery and Slavery-like Practices: Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences'.

[41] Expert Interviews.

[42] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', 17.

[43] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 25.

[44] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 2; Inter-Agency Coordination Group against Trafficking in Persons (ICAT), 'COVID-19 Pandemic and Its Impact for Victims and Survivors of Trafficking in Persons'.

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funding for the provision for self-isolation', pointing to the underlying issue of chronic underfunding of such support measures.[45] Although many civil society organisations have successfully adapted by providing services online and remotely, there were inherent difficulties with the transition.[46] Online services were found to be underutilised by organisations, and 'costly and inaccessible' for trafficked persons.[47] Such disruption and lack of robust government support for protection services exacerbates individual vulnerabilities; this is a structural weakness in protection measures. If there is a reliance on non-state to provide shelter and support services, where is the state accountability and responsibility when a crisis hits?

The pandemic has further exacerbated underlying problems of diminished and insufficient funding for frontline services.[48] Maria Grazia Giammarinaro highlighted in her Position Paper on the impact of COVID-19 that civil society organisations are integral to providing support to trafficked persons. Yet, she emphasises that they have been subject to funding cuts and have lost the support of individual and corporate donors.[49] A reduction in grants and donors has resulted in NGO and shelter closures, as well as a reduced capacity of early identification and support services in areas of high migration.[50] As stated above, reduced support services risks homelessness, increased vulnerabilities and re-victimisation. Whilst it is too early to know whether the reduced funding is a short-term response or represents 'a fundamental shift away from [such] financial support', funding sources are unreliable and fragile.[51] Indeed, as Giammarinaro underscores, such a 'lack of consistent, reliable funding may cause an irreparable negative effect in regions where these organizations are the only providers of these services'.[52]

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[45] La Strada International, 'The Impact of COVID-19 on the Protection of Rights of Trafficked and Exploited Persons' (La Strada International, 2020), 2, https://www.lastradainternational.org/wp-content/uploads/2020/09/3351-LSI-statement-Impact-of-COVID-19-on-the-protection-of-rights-of-trafficked-and-exploited-persons.pdf.

[46] Obokata, 'Impact of the Coronavirus Disease Pandemic on Contemporary Forms of Slavery and Slavery-like Practices: Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences', 13.

[47] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 24; See also United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons'.

[48] OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 154; OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic'; Expert Interviews, interview.

[49] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 6.

[50] Giammarinaro, 7.

[51] Tech Against Trafficking, 'The Effect of COVID-19: Five Impacts on Human Trafficking', *The Effect of COVID-19: Five Impacts on Human Trafficking* (blog), 2020, https://techagainsttrafficking.org/the-effect-of-covid-19-five-impacts-on-human-trafficking/.

[52] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 7.

The over-reliance on NGO services whilst lacking financial and other support by governments is a critical concern.

Law enforcement, policing and justice systems have also been impacted by COVID-19 and the shifting of resources to curb the pandemic.[53] With the enforcement of states' emergency measures relying on law enforcement agencies, the diversion of priorities and resourcing indirectly limits capacity for anti-trafficking work.[54] In some contexts, the legal systems have grounded to a halt due to a lack of bandwidth for identification, investigation and prosecution mechanisms to continue.[55] Law enforcement operations have been cut, and court cases have been delayed due to reduced capacities of police, investigation and justice system services.[56] For example, the operation of Brazil's mobile groups conducting raids on suspected use of forced labour was halted in response to the risk of spreading COVID-19.[57] More specifically, law enforcement officials have lacked the protective equipment to continue with their work and crime detection has become more challenging with increased invisibility of individuals in trafficking situations.[58] Interagency and cross-border cooperation has also been hampered by border closures with governmental attention being focused domestically, on public health responses.[59] These disruptions to law enforcement operations have impeded detection of trafficking situations, resulting in delays in providing statutory 'victim of trafficking' statuses and the associated support.[60]

The United Nations Office on Drugs and Crime (UNODC) highlights that delays and barriers to collecting evidence and adjudicating cases have resulted in delayed justice for

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[53] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking'; United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons'; Group of Experts on Action against Trafficking in Human Beings, 'In Time of Emergency the Rights and Safety of Trafficking Victims Must Be Respected and Protected' (Council of Europe, 2 April 2020), https://rm.coe.int/greta-statement-covid19-en/16809e126a; Expert Interviews, interview.

[54] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', 20; United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 3; Global Initiative against Transnational Organized Crime, 'Crime and Contagion: The Impact of a Pandemic on Organized', 12; Expert Interviews.

[55] Expert Interviews.

[56] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking'.

[57] Fabio Teixeira, 'Brazil Halts Mobile Group's Anti-Slavery Operations Due to Coronavirus', *Thomas Reuters Foundation*, 17 March 2020, https://news.trust.org/item/20200317170106-u1tz8; Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking'.

[58] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 3; Expert Interviews, interview.

[59] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 3.

[60] OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 155.

trafficked persons.[61] In turn, this has profoundly impacted trafficked persons' access to support and redress.[62] It is further noted that there are very low reporting rates of trafficking due to the increased invisibility of trafficked persons.[63] Visible trafficking indicators and trends, such as children trafficked in entertainment venues or in the streets, were obscured through lockdown measures.[64] This in turn was exacerbated by school closures and restrictions on movement.[65] With law enforcement only responding to severe cases, the identification, prosecution and protection systems have been severely disrupted, increasing the risk of heightening vulnerabilities and re-trafficking.[66]

Crucially, this is not to say that the law enforcement investigations were fully functioning prior to the impact of COVID-19, but rather, that the pandemic has exacerbated existing systemic gaps.[67]

Amongst the disruption and diversions that the pandemic has caused, there is evidence of promising practice. There have been some successful attempts of governments and NGOs providing support services online and over the phone. Many states have granted temporary residence permits and provisional access to services.[68] For example, Portugal granted temporary residence to those with pending residence permits, thus reducing vulnerability to trafficking.[69] Specific anti-trafficking policies have also been introduced in the UK, which extended 'public-funded safe accommodation for current victims and survivors for a further three months'.[70] Broader measures introduced to alleviate the socio-economic impact on workers may indirectly

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[61] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 3; See also Inter-Agency Coordination Group against Trafficking in Persons (ICAT), 'COVID-19 Pandemic and Its Impact for Victims and Survivors of Trafficking in Persons'.

[62] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', 21; Inter-Agency Coordination Group against Trafficking in Persons (ICAT), 'COVID-19 Pandemic and Its Impact for Victims and Survivors of Trafficking in Persons'.

[63] Expert Interviews.

[64] Expert Interviews.

[65] Expert Interviews.

[66] Expert Interviews.

[67] Podcast interview with Judie Kaberia from the Wayamo Foundation and Ioana Bauer from eLiberare, Human trafficking and Coronavirus, Global Initiative Against Transnational Organized Crime, 20 April 2020, https://globalinitiative.net/a-pandemic-and-organized-crime/ cited in Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', 20.See also: OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 24.

[68] OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 155.

[69] OSCE/ODIHR, 155 fn 812.

[70] Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', 22.

reduce vulnerabilities to trafficking.[71] At the inter-governmental level, there is evidence of rapid responses from the UNODC, OSCE and Council of Europe. For example, the United Nations Trust Fund for Victims of Human Trafficking, have increased their aid and efforts to support specialised NGOs working with trafficked persons.[72]

However, the question remains as to whether these policies are reaching those in most need of protection. Respondents to the UN Women, OSCE and ODIHR survey emphasise the need for more efforts 'to mitigate the consequences of the pandemic on at-risk groups vulnerable to THB [(trafficking in human beings)]…and those whose vulnerability has been exacerbated due to the subsequent economic downturn'.[73] They notably express a 'strong interest' in developing a national protocol on prevention and protection 'during states of emergency, including pandemics'.[74] Indeed, few governments have 'taken dedicated action focused on trafficking in human beings specifically, such as developing special protocols to ensure that NRMs can continue to function'.[75] The seemingly ad hoc nature of the examples of good practice points to the questions of why all states are not ensuring that their anti-trafficking measures are both maintained and adapting to situations of emergency.

Longer-Term Impact

The longer-term impact has started to be documented and foreseen. The research thus far indicates that COVID-19 has not only directly impacted the operationalisation of anti-trafficking efforts, it has forced governments to re-consider political priorities and divert resources to address the pandemic. Reductions in resourcing and funding has limited the capacity for anti-trafficking efforts by law enforcement, justice systems and non-governmental service providers.[76] Yet, the delays and disruptions have not necessarily amounted to abandonment of

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[71] Wagner and Hoang, 22.

[72] United Nations Office on Drugs and Crime, 'UN Trust Fund for Victims of Human Trafficking, Managed by UNODC, Responds to COVID-19 through Support to 10 NGOs', *UN Trust Fund for Victims of Human Trafficking, Managed by UNODC, Responds to COVID-19 through Support to 10 NGOs* (blog), 9 April 2020, https://www.unodc.org/unodc/en/frontpage/2020/April/un-trust-fund-for-victims-of-human-trafficking--managed-by-unodc--responds-to-covid-19-through-support-to-10-ngos.html.

[73] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 26.

[74] OSCE, ODIHR, UN Women, 27.

[75] OSCE/ODIHR, 'OSCE Human Dimension Commitments and State Responses to the Covid-19 Pandemic', 155.

[76] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons'; Group of Experts on Action against Trafficking in Human Beings, 'In Time of Emergency the Rights and Safety of Trafficking Victims Must Be Respected and Protected'; Tech Against Trafficking, 'The Effect of COVID-19: Five Impacts on Human Trafficking'; Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking'.

programmes.[77] Indeed, some programmatic responses, such as reintegration programs, have been sustained, albeit in a temporarily limited capacity.[78] Therefore, it is unknown how lasting the disruption will be and the extent to which programmes will be scaled back or up in the aftermath of the crisis.

However, there are important questions regarding the long-term impact of political reprioritisation and reallocation of resources. A long-term loss of income and resourcing for anti-trafficking efforts has been predicted.[79] Crucially, the UNODC highlights that 'there is a looming danger that investigating trafficking in persons will become a lower priority and that proactive inspections of suspect sites and cases are reduced', which may impact 'arrests, investigations, prosecutions and convictions, leading to a climate of practical impunity'.[80] This is particularly concerning given that this is happening in a context which already suffers a paucity of resources, investigations, prosecutions and convictions; to some extent there is already a climate of practical impunity. The diminished and disrupted funding patterns will further impact governments' abilities to mobilise sufficient resources to redress the negative impacts of the pandemic thus far, to adapt to the changing nature of trafficking, and to prepare for a sudden onset of future crises. The reduction in resources both in a context of already limited resources and at a time when additional and innovative responses are needed, is damaging anti-trafficking work.

Moreover, there are predictions that the broader economic downturn and the urgency of public health measures will have a prolonged impact on increasing vulnerabilities to trafficking[81] and is likely to increase the prevalence of trafficking.[82] This in turn, will have implications for how governments respond. Economic conditions are a root cause of vulnerability to trafficking, a key incentive for traffickers' to exploit and for the demand for trafficking. Indeed, 'the combination of a global economic downturn and intensified migration restrictions creates a tension between increased interest among potential migrants in labour migration and limited options for regular migration'.[83] The longer-term economic impact of the pandemic is therefore

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[77] Expert Interviews.

[78] Expert Interviews.

[79] Expert Interviews.

[80] United Nations Office on Drugs and Crime, 'Impact of the COVID-19 Pandemic on Trafficking in Persons', 3.

[81] Expert Interviews.

[82] Jean-Luc Lemahieu et al., 'How COVID-19 Restrictions and the Economic Consequences Are Likely to Impact Migrant Smuggling and Cross-Border Trafficking in Persons to Europe and North America' (United Nations Office on Drugs and Crime), accessed 22 September 2020, https://www.unodc.org/documents/data-and-analysis/covid/Covid-related-impact-on-SoM-TiP-web3.pdf; See also Wagner and Hoang, 'Aggravating Circumstances: How Coronavirus Impacts Human Trafficking', 18.

[83] Lemahieu et al., 'How COVID-19 Restrictions and the Economic Consequences Are Likely to Impact Migrant Smuggling and Cross-Border Trafficking in Persons to Europe and North America', 7.

predicted to fuel this.[84] Parallels can be drawn with the financial crisis of 2008 to predict the impact of increasing unemployment rates, poverty and economic downturn.[85] A further economic crisis is likely to follow the public health crisis.[86]

Moving forward, data and evidence will play an important role in determining the longer-term impacts. Thus far, difficulties in data collection and evidence have hampered governments' ability to understand and therefore respond in the immediate term.[87] Whilst there has been anecdotal evidence of the increased risk of trafficking, changing nature of the phenomenon, and increased vulnerabilities, there is lack of official data.[88] There is of course a danger of projecting the cause of spikes and trends on the pandemic; a broader picture must be maintained to recognise the longer trend of increasing numbers in online sexual exploitation.[89] There is a need to systemically collect and analyse data on this[90], whilst long term robust data collection is required to show whether and how new dynamics are evolving.

This raises the question of what international instruments and obligations are in place to ensure that emergency situations, such as a pandemic, do not derail anti-trafficking efforts; and indeed, whether the current international framework is fit for purpose in such situations. We turn to this next.

International legal anti-trafficking frameworks: are they fit for purpose to deal with emergency situations?

Beyond immediate disruptions and foreseen longer-term impacts at the national level, the COVID-19 pandemic has also tested the very foundational instruments on which global, regional and national anti-trafficking efforts are based. This section explores some concerns identified thus far (although it is worth noting that further issues, and opportunities, may become more apparent with time).

None of the international or regional anti-trafficking instruments make specific reference to public health emergencies, and they scarcely reference situations of emergencies more

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84 Expert Interviews.

85 Lemahieu et al., 'How COVID-19 Restrictions and the Economic Consequences Are Likely to Impact Migrant Smuggling and Cross-Border Trafficking in Persons to Europe and North America', 7, 17–25.

86 Global Alliance Against Traffic in Women, 'A Feast in Time of COVID-19: The Anti-Trafficking Movement Needs to Take a Step Back', *A Feast in Time of COVID-19: The Anti-Trafficking Movement Needs to Take a Step Back* (blog), 31 March 2020, https://gaatw.org/events-and-news/68-gaatw-news/1024-a-feast-in-time-of-covid-19-the-anti-trafficking-movement-needs-to-take-a-step-back.

87 Expert Interviews.

88 Expert Interviews.

89 Expert Interviews.

90 Lemahieu et al., 'How COVID-19 Restrictions and the Economic Consequences Are Likely to Impact Migrant Smuggling and Cross-Border Trafficking in Persons to Europe and North America', 26.

broadly. The 'Travaux Préparatoires of the United Nations Convention against Transnational Organised Crime and the Protocols thereto', as published by the UNODC, does make extremely limited reference to situations of emergency and crisis.[91] Here, the term emergency only arises in the context of proposed definitions of forced labour. In earlier proposed texts of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (the Palermo Protocol)[92], however, detailed definitions were dropped in favour of broader definitions. The reference in those drafts was to the exclusion of 'any service exacted in cases of emergency or calamity threatening the life or well-being of the community'[93] – text that parallels Article 8(3)(iii) of the International Covenant on Civil and Political Rights (ICCPR).[94] Even the Office of the United Nations High Commissioner for Human Rights (OHCHR) Recommended Principles and Guidelines on Human Rights and Human Trafficking fail to address situations of emergency.[95] The 2020 General Comment by the Committee on the Elimination of Discrimination Against Women (CEDAW) stands somewhat alone by making specific reference in noting that 'the obligations of States parties [to CEDAW] do not cease in the context of states of emergency resulting from conflict, political events, health crises or natural disasters'.[96]

That said, this failure to include specific reference to emergencies in anti-trafficking instruments is subject to a number of important qualifications. First, whilst the trafficking instruments do not make specific provisions requiring enhanced measures in times of emergency, neither do they make provision to allow for the limitation of efforts in response to such emergencies. The CEDAW statement on the obligations of State parties has particular resonance here. Article 3(1) of the International Health Regulations clearly stipulates that 'the implementation of these Regulations shall be with full respect for the dignity, human rights and

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[91] United Nations Office on Drugs and Crime, *Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Organized Crime and the Protocols Thereto.* (Vienna: United Nations, 2006), https://www.unodc.org/pdf/ctoccop_2006/04-60074_ebook-e.pdf.

[92] United Nations Office on Drugs and Crime, 'Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime' (2000), https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx. For more on the Protocol see: Anne Gallagher, *The International Law of Human Trafficking* (Cambridge University Press, 2010).

[93] United Nations Office on Drugs and Crime, *Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Organized Crime and the Protocols Thereto.*, 341.

[94] UN General Assembly, 'International Covenant on Civil and Political Rights' (1966), Article 8(3)(iii), https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx.

[95] United Nations Office of the High Commissioner for Human Rights (OHCHR), 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' (United Nations Office of the High Commissioner for Human Rights (OHCHR), 2003), https://www.ohchr.org/Documents/Publications/Traffickingen.pdf.

[96] Convention on the Elimination of All Forms of Discrimination Against Women, 'General Recommendation No. 38 (2020) on Trafficking in Women and Girls in the Context of Global Migration' (Convention on the Elimination of All Forms of Discrimination Against Women, 6 November 2020), 8 para 33, https://www.tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/38&Lang=en.

fundamental freedoms of persons'.[97] However, the discretionary nature of various provisions in the Palermo Protocol, for instance, means that finding a violation of legal obligation is difficult. Moreover, the wide ranging and deep impacts of emergencies like a PHEIC on trafficking call for specific measures to be put in place to explicitly provide for the obligations of States in responding to trafficking in contexts of emergency.

Second, the anti-trafficking framework must be read within the broader context, namely within the context of other international law instruments. This is in line with Article 31 of the Vienna Convention on the Law of Treaties.[98] This includes, at a minimum the prohibition of slavery, servitude and forced labour as set out in Article 8 of the International Covenant on Civil and Political Rights and parallel provisions in other human rights instruments at the international and regional level (example: European Convention on Human Rights and Inter-American Commission on Human Rights). As the European Court of Human Rights has contended, human trafficking, as defined in the Council of Europe Trafficking Convention and the Palermo Protocol, falls squarely within the prohibition established in Article 4 of the European Convention on Human Rights (Prohibition of slavery and forced labour).

This has a number of implications, not least that the framework for the application of human rights in contexts of emergencies should be part of the framework on the application of anti-trafficking instruments. It is worth noting that the prohibition of slavery and servitude allows neither limitations nor derogation under international or regional instruments. The prohibition of forced labour, on the other hand, does; the text of the ICCPR allow exceptions (as set out in Article 8(3)(c)). These include the exclusion from the definition of 'forced labour', 'any service exacted in cases of emergency or calamity threatening the life or well-being of the community'.[99]

Importantly, other human rights, including some that do allow for limitations and derogations, are also relevant to situations of trafficking. The possibility of derogation is set out in Article 4 of the ICCPR which provides that: 'In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin'.[100] The requirements around limitations and derogations in the human rights framework are further elaborated in the Siracusa Principles on the Limitation and Derogation of Provisions

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[97] World Health Organization, *International Health Regulations*, 3rd edn (World Health Organization, 2005), 10, https://www.who.int/publications/i/item/9789241580496.

[98] United Nations, 'Vienna Convention on the Law of Treaties 1969', Treaty Series, vol. 1155, p. 331 § (1969), Article 31, https://www.refworld.org/docid/3ae6b3a10.html.

[99] UN General Assembly, International Covenant on Civil and Political Rights, Article 8(3)(c).

[100] UN General Assembly, Article 4.

in the ICCPR and are subject to general principles of legality, necessity, proportionality and non-discrimination. Similar provisions can be read into regional human rights instruments.

Conversely, the European Court of Human Rights has, for instance, 'consistently reiterated that positive obligations under the European Convention on Human Rights arise when state authorities knew or ought to have known about risk of harm'.[101] Given what we know about the risk of trafficking emanating from situations of emergency then the implication is that States' positive obligations are further engaged by the knowledge of this additional risk, even in contexts where the awareness is of risk to different publics and not necessarily individuals. The work undertaken by Treaty Bodies and Special Rapporteurs alongside civil society and others are evidence of the need to undertake additional measures in times of crisis. As highlighted by Obokata:

> 'States must continue to investigate, prosecute and punish perpetrators of contemporary forms of slavery with due diligence, including during states of emergency imposed as a result of the COVID-19 pandemic, owing to the non-derogable nature of the prohibition of these practices. In practical terms, States must secure and maintain sufficient financial and human resources to implement their anti-slavery efforts during the pandemic so that the relevant law enforcement and other public authorities are able to bring perpetrators to justice'.[102]

Other related obligations including under CEDAW and the Convention on the Rights of the Child further strengthen this obligation.

Beyond addressing human trafficking in general, the international framework specifically concerning anti-trafficking (most notably but not exclusively, set out in the Palermo Protocol) is limited in its ability to address manifestations of trafficking that are increasingly commonplace, especially in the context of an emergency situation due to restrictions on movement. Of particular concern therefore is cyber trafficking – a term that captures both situations of 'traditional trafficking' that has a cyber element (e.g., exploitation in/through pornography or recruitment online) and trafficking that takes place entirely online. While it has been convincingly argued that these forms of trafficking fall squarely within the definition of trafficking as set out in the Palermo Protocol and other anti-trafficking instruments, the ability of these instruments to capture and address the nuances of these 'novel' forms of exploitation,

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[101] Vladislava Stoyanova, 'Fault, Knowledge and Risk within the Framework of Positive Obligations under the European Convention on Human Rights', *Leiden Journal of International Law* 33, no. 3 (2020): 601–20, https://doi.org/10.1017/S0922156520000163.

[102] Obokata, 'Impact of the Coronavirus Disease Pandemic on Contemporary Forms of Slavery and Slavery-like Practices: Report of the Special Rapporteur on Contemporary Forms of Slavery, Including Its Causes and Consequences', 14.

which are highlighted by the realities of a PHEIC, has been, rightly, called into question.[103] This is especially so when international instruments addressing cyber-crime, with the exception of the European context, are yet to be developed and adopted.

Beyond the legal provisions, measures to monitor and evaluate State practice have also been negatively affected by COVID-19 and its restrictions on travel and face-to-face contact. Country visits by treaty-monitoring bodies have had to be cut short, reduced in terms of monitors present, delayed or cancelled altogether. This, in turn, hinders the efficacy of such measures in shaping national anti-trafficking efforts. The development of monitoring mechanisms linked to regular and supported civil society monitoring and reporting could help reduce the impact of such measures. Conversely, any creative monitoring mechanisms that may have evolved out of the need created by the crisis could inform future monitoring mechanisms.

Effective anti-trafficking is, however, dependent on more than anti-trafficking instruments. The successful achievement of the obligations enshrined also requires adherence to and the use of other legal frameworks including, but not limited to, international labour law, provisions of social security and others. At the international level, the various obligations across different areas must be harmonised. At the core of all anti-trafficking efforts is the need for cooperation and coordination – whether within or between States. This is a foundational premise of the Palermo Protocol and other anti-trafficking instruments. It is also key to the successful implementation of anti-trafficking measures and effective responses to public health emergencies. Engaging States in such efforts is, however, a challenge in the best of times, and is only made worse in times of emergency and crisis.

As with other efforts, COVID-19 has shed light on some of the concerns about the existing legal frameworks. Arguably, these concerns were not created by COVID-19 but were exacerbated and highlighted as a result of the crisis. Whilst the political appetite is unlikely to be present for a while, as scholars, activists and commentators, we ought to be thinking of creative solutions for how we can strengthen the legal framework ensuring that it is resilient in the face of current and future crises.

Conclusion: Strengthening Existing Frameworks

The pandemic has had and is having a significant impact on governments' prioritisation of and capacity to implement anti-trafficking efforts. The immediate disruption is evident, as of the onset of the pandemic in early 2020. Although yet to be fully determined, some longer-term impacts have started to be identified and foreseen; the economic downturn, prolonged lockdown measures and reprioritisation of anti-trafficking measures will significantly impact implementation capacities. Moreover, delays and disruptions which have occurred thus far, as well as the changing vulnerabilities and trafficking patterns, will inevitably have to be addressed

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[103] Nula Frei, 'On "Cyber Trafficking" and the Protection of Its Victims', *Völkerrechtsblog,* 26 July 2017, https://doi.org/10.17176/20170731-180154.

in the longer-term. The impact of economic recessions is likely to be asymmetric globally and will therefore shape trafficking patterns.[104]

The pandemic and the emergency measures have further exposed and exacerbated underlying flaws in anti-trafficking frameworks. The existing frameworks are evidently not sufficiently resilient to shifting priorities of governments and funders. The NRMs and law enforcement investigations are buckling under strain of course highlights that they were not designed for situations of emergency. However, this is not to say that such systems were fit for purpose beforehand. As Giammarinaro has urged: 'States should take stock on what it has been done in the past to combat trafficking and adopt long-term sustained policies to mitigate and eliminate vulnerabilities to trafficking. Such policies must be human rights-centred'.[105]

Within the context of heightened vulnerabilities, the maintenance of robust protection and prosecution measures is as urgent as ever. The changing nature of individuals' vulnerabilities underscores the urgent need to interrogate how efforts to protect trafficked persons, prevent trafficking and prosecute traffickers have been impacted by the pandemic.[106] There is a resounding need to formulate 'additional measures to prevent THB (…) during times of emergency'.[107] This not only involves strengthening anti-trafficking responses in situations of emergency in the legal frameworks, but such additional measures should also ensure cooperation, robust funding and resource allocations, and a commitment to continued prioritisation.

More broadly, anti-trafficking work should not be detached from the wider context of working to dismantle the underlying causes of trafficking. Not only must the systemic flaws in anti-trafficking measures be strengthened, but the root causes must also be addressed. The pandemic has shed light on this, as exemplified by a labourer in Delhi, who states: 'I fear that hunger may kill many like us before coronavirus'.[108] Poverty, unemployment and economic instability are widely evidenced root causes of trafficking; the pandemic has merely exacerbated these root causes. The recommendations collated from our research echo this. These involve

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[104] Lemahieu et al., 'How COVID-19 Restrictions and the Economic Consequences Are Likely to Impact Migrant Smuggling and Cross-Border Trafficking in Persons to Europe and North America', 24.

[105] Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons', 10.

[106] For further information on impact of COVID-19 on trafficking, see Giammarinaro, 'COVID-19 Position Paper: The Impact and Consequences of the COVID-19 Pandemic on Trafficked and Exploited Persons'; OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic'; Guest Blogger for Women Around the World, 'The Evolution of Human Trafficking During the COVID-19 Pandemic', 13 August 2020, https://www.cfr.org/blog/evolution-human-trafficking-during-covid-19-pandemic.

[107] OSCE, ODIHR, UN Women, 'Guidance: Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic', 22.

[108] Vikas Pandey, 'India's Poorest "Fear Hunger May Kill Us before Coronavirus"', *BBC News*, 25 March 2020, sec. India, https://www.bbc.com/news/world-asia-india-52002734; See also Global Alliance Against Traffic in Women, 'A Feast in Time of COVID-19: The Anti-Trafficking Movement Needs to Take a Step Back'.

protection for workers, adequate social protection and regularisation of residence and worker permits, and a safeguarding of access to justice.[109] The COVID-19 pandemic has particularly emphasised that public health cannot exclude certain populations. Social protection must include access to healthcare. This of course has been widely evidenced and argued, however it is important to underscore how the pandemic adds to such urgency and the need to adopt this wider approach.

This paper is by no means conclusive; rather, it is an attempt to lay the groundwork for the dialogue around the impact of COVID-19 on anti-trafficking efforts, and to contribute to broadening and strengthening the anti-trafficking approach. Further research is necessary, particularly concerning if and how states are redressing the disruptions that occurred in the short term and mitigating the impact that the pandemic is having, both directly and indirectly. Robust data collection is necessary to understand the impact that the pandemic has had, is having and will have on trafficking, and thus to inform government responses. More broadly, there is a gap in the legal frameworks to ensure robust and sustained anti-trafficking efforts in situations of emergency. This is part of an ongoing dialogue, which needs urgent attention, of how anti-trafficking efforts can be strengthened and sustained in situations of emergency.

The issues raised in this paper are part of a research project considering the determinants of anti-trafficking efforts. Like other factors which shape, influence and hinder anti-trafficking law and policy, situations of emergency (such as pandemics) are also multi-faceted. They have a considerable direct impact on anti-trafficking efforts, but also interact with other factors, such as funding, international obligations and political will. These broader considerations will also be important moving forward in the consideration of how to improve anti-trafficking efforts in situations of emergency.

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[109] Expert Interviews; Global Alliance Against Traffic in Women, 'A Feast in Time of COVID-19: The Anti-Trafficking Movement Needs to Take a Step Back'; Lemahieu et al., 'How COVID-19 Restrictions and the Economic Consequences Are Likely to Impact Migrant Smuggling and Cross-Border Trafficking in Persons to Europe and North America'.

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The Impact of Covid-19 on the Identification of Victims of Modern Slavery and their Access to Support Services in Australia

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Abstract

This article examines how COVID-19 impacted the identification and access to support of modern slavery victims in Australia during 2020. It is the first comprehensive analysis of the pandemic's impact on modern slavery victimisation in Australia. The key finding of the research is that COVID-19 exacerbated existing barriers to identifying victims of modern slavery in Australia and referring them to government funded support, related to the linkage of the provision of support with criminal justice processes. The reliance on policing capacity to identify and refer victims meant that when police and other government resources were diverted into the large-scale COVID-19 emergency response, there was less capacity for police to undertake this vital function, resulting in the under-identification and referral to support of victims of modern slavery.

Keywords
Modern slavery, human trafficking, COVID-19, victim support, policing

Introduction

Modern slavery is a hidden phenomenon. Crimes such as human trafficking for sexual exploitation, forced marriage, and forced labour rely on the coercion and exploitation of vulnerable people and often occur behind closed doors[1]. As such, detecting modern slavery crimes and providing support to victims can be difficult[2]. This is evidenced by a 2019 Australian Institute of Criminology study which estimates that for every person identified as a victim of human trafficking and modern slavery, there are at least four other unidentified victims[3]. One of the main barriers to identifying and supporting victims in Australia is the linkage of the formal government funded victim support program to criminal justice processes[4]. This linkage has resulted in the Australian Federal Police (AFP) as the sole referring agency to the Support for Trafficked People Program (STPP), run by the Australian Red Cross (Red Cross) and funded by the Department of Social Services. Given that barriers victims may face in voluntarily engaging with policing agencies to disclose their experience of modern slavery are well acknowledged[5], the identification of victims is therefore often heavily dependent on pro-active policing practices or reactive police responses to information reported by government or community stakeholders. This over-reliance on policing agencies means that in times of emergencies or when political pressure diverts policing resources elsewhere, police are often under resourced to identify modern slavery victims and refer them to appropriate support[6].

This article explores this issue by examining how COVID-19 impacted the identification and access to support of modern slavery victims in Australia during 2020. It is the first comprehensive analysis of the pandemic's impact on modern slavery victims in Australia. The article uses data from the AFP and the Red Cross to trace the impact of COVID-19 on the identification of victims and their access to the STPP. The research finds that there was a drop in the number of reports the AFP received of suspected instances of modern slavery and also the number of victims the AFP consequently identified and referred to the STPP during the early

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[1] Deanna Davy, "Justice for Victims of Human Trafficking in Australia? Issues associated with Australia's Criminal Justice Responses to Trafficking in Persons," *Contemporary Justice Review* 20, no1 (2017): 115.

[2] Marie Segrave and Sanja Milivojević, "Auditing the Australian Response to Trafficking," *Current Issues in Criminal Justice* 22, no.1 (2010): 63.

[3] Samantha Lyneham, Christopher Dowling and Samantha Bricknell, "Estimating the Dark Figure of Human Trafficking and Slavery Victimisation in Australia," *Australian Institute of Criminology Statistical Bulletin* 16 (2019).

[4] Davy, "Justice for Victims of Human Trafficking," 115-131.

[5] The Joint Standing Committee on Foreign Affairs, Defence and Trade has previously identified that "many victims of modern slavery may be unwilling or unable to approach AFP officers". Joint Standing Committee on Foreign Affairs, Defence and Trade. Inquiry into establishing a Modern Slavery Act in Australia. *Hidden in Plain Sight Report*, December 2017. Par 6.70

[6] Yvon Dandurand, "Human Trafficking and Police Governance," Police, Practice & Research 18, no. 3 (2017): 322-336.

months of COVID-19 in Australia (April to June 2020). To better understand this decline, the research draws on data from semi-structured interviews with key service providers working in the modern slavery space in Australia.

This article begins by giving an overview of the methodology used in the study before exploring how reports of modern slavery made to the AFP were impacted by COVID-19. Although many individuals and groups can report suspected instances of modern slavery to the AFP, the designated policing agency responsible for investigating and prosecuting human trafficking and slavery offences in Australia, there is only one pathway to referring a reported victim to the official government funded support program, the STPP, and that is through the AFP. The AFP are the only agency who can determine if there is appropriate indicators and evidence of modern slavery to constitute status as a 'victim' and eligibility for referral. This paper then examines how the diversion of resources during COVID-19 impacted the number of victims the AFP referred to the STPP, highlighting that the ratio of reports (to AFP) to referred victims (by the AFP to the STPP) was significantly impacted by COVID-19.

Accordingly, the discrepancy between reports and referrals can be better understood by analysing the Australian government's framing of modern slavery victim support within a criminal justice response. As the AFP are the sole referrer to the STPP, referral of victims to official support is based on the AFP's capacity to assess and investigate reports of modern slavery made to them. Additionally, after an initial period of 45 days on the STPP (90 days in some circumstances), continuing victim support through the STPP (for all individuals except those referred for reasons related to forced marriage) is contingent on the victim's participation in criminal justice processes, that is their willingness and ability to be involved in the further investigation and prosecution of the modern slavery incident. The final section of the article examines the way that COVID-19 exposed the limitations of this linkage of victim support with criminal justice process by contextualising the data with the experience of service providers. The key finding is that COVID-19 exacerbated underlying barriers to identifying victims of modern slavery in Australia and referring them to government funded support. Specifically, the reliance on policing capacity to identify and refer victims meant that when policing resources were diverted into the large-scale COVID-19 response, there was less capacity for police to assess reports made to them, identify modern slavery victims and refer them to the STPP.

Methodology

The data for this project was obtained through data requests to the AFP and the Red Cross. The AFP data request asked for official data on the number of reports of suspected modern slavery crimes the AFP received between July 2019 and September 2020, broken down by month, state, and category of offence (i.e. human trafficking, forced marriage etc). Secondly, data from the Red Cross was requested for the number of referrals the AFP made to the STPP between July 2019 and September 2020, broken down by month, state, and category of offence. The data was analysed to show key trends across the quarterly periods of 2020.

To contextualise this data the project involved semi-structured interviews with seven key service providers working to support modern slavery victims in Australia. The governmental and non-governmental organisations interviewed were selected based on their roles in identifying victims and referring them to the AFP, working with victims whilst supported by the STPP, as well as their broader role in supporting victims of modern slavery outside of the STPP. The service providers remain anonymous in this paper, which helped enable open sharing of experiences. The interviews were conducted between November 2020 and January 2021. Interview participants were asked open-ended questions on the process of victim identification and support in Australia and the impact of COVID-19 on these processes. The researchers followed Charmaz's grounded theory approach[7] when conducting and analysing the interviews. During the analysis of the interview data the researchers identified codes inductively[8], with several overarching themes becoming apparent. For the purposes of this article, the key theme identified in the interview data was the role of the AFP in referring victims to the STPP with all interview participants discussing the linkage of victim support to criminal justice processes. As such, this is the core issue explored in this paper[9].

Reporting Instances of Modern Slavery in Australia: The Impact of COVID-19

Modern slavery in Australia remains an under identified issue and the information captured in official police-recorded statistics is just the 'tip of the iceberg'[10]. In Australia, official data is captured by the AFP and the Red Cross, as the service provider of the STPP. Other data captured by non-government organisations (NGOs) working to prevent and respond to modern slavery can give much needed further context to the police-recorded statistics, although this data can vary both in quantity and comparability due to a range of factors including, varying definitions of a 'victim' of modern slavery, the broad spectrum of work undertaken by NGOs[11] and a lack of consistent reporting mechanisms which capture this varied work. These insights do, however, act as vital qualitative data which can add depth to existing official statistics,[12] indicating that the number of victims interacting with support services outside of the STPP as the official support program, is much higher. This observation is supported by a 2019 study using multiple systems estimation (MSE) which suggested that the number of human trafficking and

[7] Kathy Charmaz, *Constructing Grounded Theory: A Practical Guide Through Qualitative Analysis* (London: Sage, 2006).

[8] Ryan Gery and Russel Bernard, "Techniques to Identify Themes," *Field Methods* 15, no. 1 (2003): 85-109.

[9] This project received ethics approval from the University of South Australian Human Research Ethics Committee.

[10] Jo Goodey, "Data on Human Trafficking: Challenges and Policy Context," in *Human Trafficking: Exploring the International Nature, Concerns, and Complexities*, ed. John Winterdyk, et al (Bocca Raton: CRC Press), 41.

[11] Jacqueline Joudo Larsen and Lauren Renshaw, "People Trafficking in Australia", *Trends & Issues in Crime and Criminal Justice* no 441 (2012) Australian Institute of Criminology.

[12] Jacqueline Joudo Larsen and Lauren Renshaw, "People Trafficking in Australia".

slavery victims in Australia in 2015-16 and 2016-17 was between 1,300 and 1,900[13], vastly outweighing the number of reports made to the police and the number of victims identified by police and referred to support. This finding matches a similar study in the United Kingdom which found that official data captured only 20-30% of potential modern slavery victims[14].

As this large 'dark figure' indicates, understanding the true extent of modern slavery victimisation is difficult[15]. Many victims of modern slavery crimes are reluctant to report perpetrators, who may be employers, family members or partners, for many reasons, including that they may be reliant on these individuals for support. Additionally, victims may be unable or unwilling to report due to distrust of people in positions of authority, fear of retaliation, or because of trauma they have experienced. These barriers can make it difficult for victims to come forward, meaning that frontline community stakeholders, NGOs and authorities play a crucial role in detecting instances of modern slavery. However, there are also numerous barriers that make modern slavery hard to detect for these groups and pose challenges for investigation by authorities. Poverty and a lack of economic opportunity are just some of many drivers of modern slavery and the intersection of racism, discrimination and disadvantage means that an individual's experience of slavery can be vastly different, depending on their particular circumstances, presenting challenges for 'categorising' situations of exploitation for the purposes of identification. Some forms of modern slavery occur in personal settings and can be intwined within complex cultural, religious, gender and generational power structures, posing challenges for understanding, identification, and investigation by actors not familiar with such dynamics. When in commercial settings, modern slavery is often deeply imbedded into complex supply chains which rely on a disconnect between tiers to avoid accountability for upholding workers' rights and entrench a degree of worker exploitation into profit models whilst making it challenging to detect and eliminate. Some even argue modern slavery is an endemic feature of the socio-economic systems which have been instituted by business[16], suggesting a degree of acceptance of exploitative practices as a normal part of the capitalist system. Finally, modern slavery practices commonly feature an international component which can mean that varying legislation, definitions of crimes and capacity of policing agencies across jurisdictions presents further challenges. The barriers to victims reporting and the challenges in detecting modern slavery mean that reliable figures on the true extent of victimisation are limited.

Reliable data on the number of suspected instances of modern slavery in Australia which are reported to the AFP by other actors is, however, recorded. This includes reports made by staff

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[13] Samantha Lyneham, Christopher Dowling and Samantha Bricknell, "Estimating the Dark Figure of Human Trafficking".

[14] Kevin, Bales, Olivia Hesketh, and Bernard Silverman. "Modern Slavery in the UK: How Many Victims?" Significance 12, no.3 (2015): 16-21.

[15] Samantha Lyneham, Christopher Dowling and Samantha Bricknell, "Estimating the Dark Figure of Human Trafficking and Slavery Victimisation in Australia".

[16] Steve New, "Modern Slavery and the Supply Chain: The Limits of corporate social responsibility?" *Supply Chain Management* 20, no. 6 (2015): 697-707.

in various government agencies, such as immigration officials, state and territory police agencies and the Fair Work Ombudsman, as well as representatives from various embassies and diplomatic missions located in Australia[17]. Hospital staff and medical practitioners, industry representatives, NGOs, and community members including concerned individuals or co-workers of suspected victims are also common sources of reports made to AFP in relation to suspected instances of modern slavery[18]. The number of reports made to the AFP have been steadily increasing over the last decade[19]. Within the 13-year period from 2004 when data was first recorded until 30 June 2017, the AFP received 841 reports[20]. Analysis of these figures shows that between 2014 and 2016, there was a notable increase in the number of reports, rising from 119 in the 2014/15 financial year to 169 in the 2015/16 financial year[21], indicating a growing awareness of these issues in the Australian community. Continuing this trend, the number of reports made to the AFP during the 2019/20 financial year reached a record high number of 223 in a 12-month period. It is important to note that when a report is made to the AFP of a suspected instance of modern slavery, it may involve circumstances that effect multiple people and therefore each report may result in numerous victims being identified.

While the number of reports of suspected instances of modern slavery made to the AFP had initially been increasing throughout the 2019/20 financial year, the outbreak of COVID-19 in 2020 impacted the quantity of reports. The first confirmed case of COVID-19 in Australia was reported on 25 January 2020 by the Victorian Health Authorities[22], and as of 1 March 2021, there had been 28,970 cases confirmed thereafter[23]. The presence of COVID-19 in each state and territory in Australia to-date has varied significantly, with the most densely populated cities, Sydney, and Melbourne, seeing the highest number of cases[24]. Late March and early August 2020 feature as key dates within the timeline of the number of new COVID-19 cases reported each day in Australia across each states and territory (see Figure 2). The former being the period

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[17] Interdepartmental Committee On Human Trafficking And Slavery, TRAFFICKING IN PERSONS The Australian Government Response 1 July 2014 – 30 June 2015, (2016) https://www.homeaffairs.gov.au/criminal-justice/files/report-anti-people-trafficking-interdepartmental-committee-july-2014-june-2015.pdf viewed 5th February 2021 (accessed April 14 2021).

[18] IDC Reports, 1 July 2014 – 30 June 2015, 1 July 2015 – 30 June 2016, 1 July 2016 – 30 June 2017

[19] Australian Red Cross, *Support for Trafficked People Program, Data Snapshot: 2009-2019*, https://www.redcross.org.au/getmedia/7a957782-a7a1-4b25-97c0-86930dbf0f53/ARC-Support-For-Trafficked-People-Program-Data-Snapshot-2009-to-2019-small.pdf.aspx, (accessed February 5 2021).

[20] Interdepartmental Committee on Human Trafficking and Slavery, " Report 1 July 2016 – 30 June 2017", 68.

[21] Interdepartmental Committee on Human Trafficking And Slavery, *1 July 2016 – 30 June 2017*.

[22] Greg Hunt, MP Minister for Health and Aged Care, *First confirmed case of novel coronavirus in Australia,* 2020, https://www.health.gov.au/ministers/the-hon-greg-hunt-mp/media/first-confirmed-case-of-novel-coronavirus-in-australia (accessed February 5 2021).

[23] Department of Health, *State and Territories Report*.

[24] Department of Health, *State and Territories Report.*

in which the country saw the presence of the virus in each jurisdiction simultaneously, and the latter being the period in which only one jurisdiction, the state of Victoria, saw the highest number of cases recorded per day[25]. In response to the presence of community transmission of the virus, each state and territory government instituted a range of measures designed to control its spread including the temporary closure of state borders and suspension of services including medical, educational, hospitality, retail, sporting and other businesses and community functions. From March to June 2020, all individuals in Australia experienced a degree of 'community lockdown', however by the end of June, restrictions in each jurisdiction had started to ease and continued to do so over the coming months in all areas except Victoria. Between August and October 2020, due to a large outbreak of the virus in that particular state, residents in Victoria's largest city, Melbourne, endured what has come to be known as one of the longest and strictest lockdowns in the world[26], whilst the remainder of the country adapted to 'COVID-normal'.

The impact of COVID-19 on the number of reports of suspected instances of modern slavery made to the AFP can be better understood by breaking down the data into quarters for the year of 2020. Analysis of this data, displayed in Figure 1, shows that the three-month period between April and June 2020, when Australia's national COVID-19 response was the most restrictive (in response to the peak in daily reported cases in late March 2020 visible in Figure 2), saw the lowest number of reports in the period recorded (n=43). However, although elements of community lockdown in place across the country may have impacted the number of reports made to AFP during this time, these reports continued at just over 70% of the average number in the three quarters prior. In the subsequent three-month period between July and September 2020, the number reports of suspected instances of modern slavery to the AFP increased to a rate higher than the previous 4 quarters (n=72). This was despite a second peak of daily reported COVID-19 cases in August 2020, however as described earlier, these cases, and therefore the associated restrictions, were contained to the state of Victoria. During this period the rest of the country saw low numbers of daily cases and lived with limited restrictions.

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[25] Department of Health, *State and Territories Report*.

[26] Gavin Fernando, "Is Melbourne's coronavirus lockdown really the longest in the world? Here's how other countries stack up", *SBS Australia*, September 9, 2020 (https://www.sbs.com.au/news/is-melbourne-s-coronavirus-lockdown-really-the-longest-in-the-world-here-s-how-other-countries-stack-up
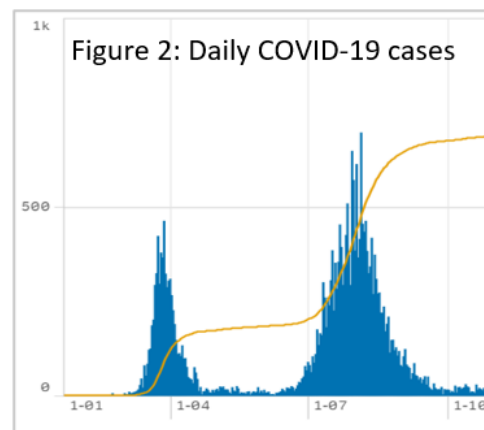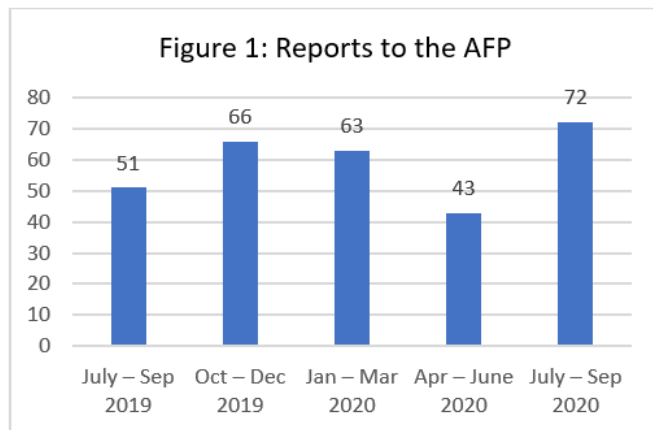
Figure 1: Reports of suspected instances of modern slavery made to the AFP between July 2019 and September 2020.

Figure 2: Daily reported COVID-19 cases in Australia between January and September 2020. Source - Australian Government, Department of Health.

Despite the impacts of the pandemic on the number of suspected instances of modern slavery reported to the AFP during April to June 2020, the total number of reports made to the AFP between July 2019 to June 2020 (the 2019/20 financial year) was also higher than any other 12-month period. Thus, while COVID-19 slightly impacted the number of reports made to AFP during the 2019/20 financial year during the period when COVID-19 restrictions were at their most widespread, there were still a steady number of reports being made. As indicated, despite restrictions affecting the major Australian city of Melbourne, data on the number of reports made to the AFP also continued to follow the general upward trend recorded in recent years during the subsequent quarter, July to September 2020.

The Department of Home Affairs (DHA)[27], the Commonwealth agency responsible for coordinating Australia's domestic response to modern slavery, commented on this drop in reports stating, 'victims of human trafficking and modern slavery have significantly decreased capacity to seek support and report crimes due to COVID-19. This has affected the capacity of law enforcement to directly engage with victims. During the period April-June 2020, the AFP observed a reduction in reports being received, as compared to the previous quarter (January-March 2020)'[28]. In part, this decline can be explained by less proactive work undertaken by police and government agencies which can often lead to the detection of victims, due to the

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[27] The Department of Home Affairs brings together Australia's federal law enforcement, national and transport security, criminal justice, emergency management, multicultural affairs, settlement services, and immigration and border related functions. See Department of Home Affairs website https://www.homeaffairs.gov.au/

[28] Department of Home Affairs, *Home Affairs Portfolio Submission to the Inquiry into Criminal Activity and Enforcement during the COVID-19 Pandemic Parliamentary Joint Committee on Law Enforcement*, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/COVID-19 (accessed 1 March 2021): np.

diversion of resources elsewhere. This is discussed in more depth in the next section of this article.

Another factor that limited the number of reports of suspected instances of modern slavery to the police during the peak of COVID-19 was the widespread closure of community services which often provide informal pathways for the identification of victims. One of the service providers interviewed for the project noted this, stating:

> *The closure of several services also meant that victims had no options or maybe very, very limited options to actually report what was happening for them. So as a result of that, identification was very limited, if anything, because they would not really have any ways of communication.*

Service closures particularly impacted the identification of forced marriage victims, with the DHA stating that for the April to June 2020 quarter 'reports of allegations of forced marriage dropped approximately 60 percent from the previous quarter'.[29] The DHA cites border closures and the restriction of international travel as a major reason for this drop in reports of forced marriage[30]. Service providers further contextualised this drop, highlighting that school closures and the limited ability to reach out to individuals at-risk of forced marriage also impacted the number of forced marriage reports made during the periods where states were most heavily impacted by COVID-19. For example, one service provider stated that this was an issue:

> *We haven't got the traditional reporting through the schooling system…particularly being located in Victoria where schools were closed for quite a long time. We run other programs in schools and it's where we get referrals inadvertently.*

This discussion demonstrates that many of the informal measures and support services that often identify modern slavery victims were impacted by COVID-19, thus limiting the number of reports made to the AFP. Accordingly, the drop in reports from April to June 2020 coincides with the period where the most stringent community restrictions were in place across the entire country and the most intensive diversion of police resources seen in response to escalating COVID-19 daily case numbers in each state and territory of Australia.

Diversion of Resources, Decline in Support: Identification and Referral of Victims to Support During COVID-19

In order to further understand the impact of the diversion of police resources on the identification and support of victims of modern slavery, this article will now analyse data related

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[29] Department of Home Affairs, *Home Affairs Portfolio Submission.*

[30] Department of Home Affairs, *Home Affairs Portfolio Submission.*

to the number of individuals referred to the official Australian government funded victim support service, the STPP. Since 2012, the Australian Red Cross has supported an increasingly higher number of individual victims of modern slavery referred to the STPP from the AFP each financial year, with this number more than doubling between 2016 and 2020 (as shown in Figure 3).
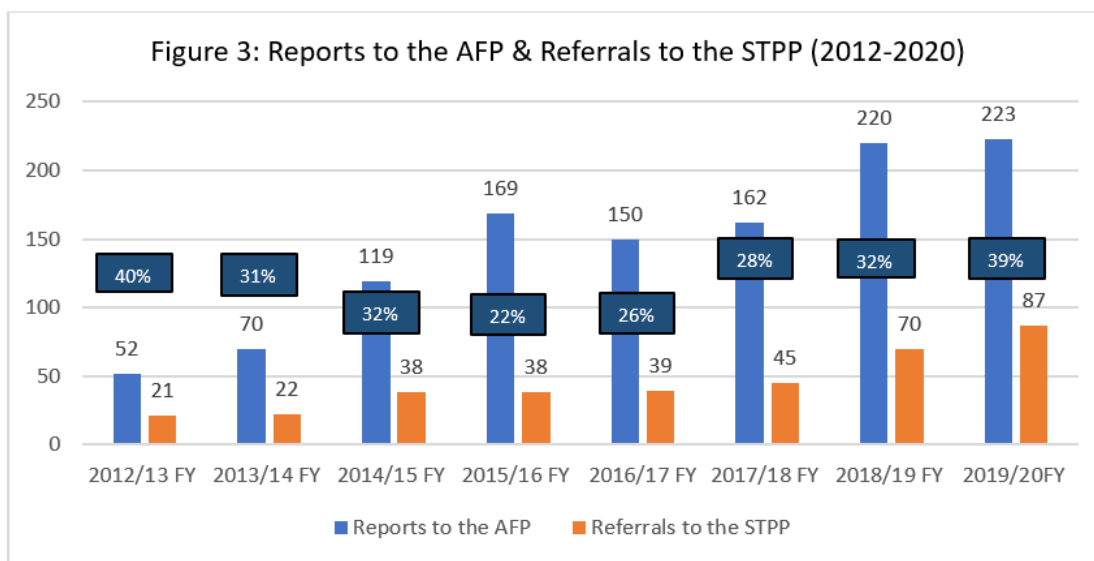
Figure 3: Comparison of reports to the AFP and referrals to the STPP between 2012 and 2020, with referrals to the STPP as a percentage of report to the AFP.

        Comparison of data on the number of reports of suspected instances of modern slavery made to the AFP, and the number of victims referred by the AFP to the STPP indicate that as the number of reports made to the AFP have progressively increased during the past 8 years, so too has the number of people referred into support. This correlation appears to follow the logic that as the AFP receive more reports of matters, they undertake a higher number of investigations which results in a higher number of people being identified as victims. However, the number of referrals to the STPP as a percentage of reports to the AFP over a financial year period has fluctuated between 22% and 40% from 2012 to 2020.

        As this data demonstrates, although reports to the police and referrals to the STPP have been on an upward trajectory since the 2012-2013 financial year, the percentage of referrals to the STPP resulting from the number of reports to AFP has remained at a relatively low percentage, consistently 40% or below, despite the fact that a single report may also involve multiple individuals. This highlights the central role the police play in shaping official statistics on modern slavery victimisation in Australia. Such a process of attrition in victim numbers as they progress through formal government response pathways, as seen in Figure 3, has been

described as the 'funnelling effect' of the criminal justice system[31]. The funnelling effect sees a small proportion of the estimated 1,300 modern slavery victims (estimated through conservative MSE studies) reported to police, and a significantly smaller number of people identified as victims (40% or below) and referred to government funded support. While attrition is a common issue in criminal justice systems[32], it is particularly problematic in modern slavery crimes where the process of providing support to victims is intricately linked with prosecutorial processes. In Australia, this linkage is evident as a policing agency is the only organisation able to assess and refer victims to the STPP. This can result in a narrow legislative/prosecutorial focus when assessing victimhood and consequently referring victims to support. Extended periods of support for those referred for sexual exploitation, labour exploitation or exit trafficking through the STPP is also only available to those victims who are willing and able to assist in further investigations and prosecutions.

  This discussion demonstrates that under the current structures, police act as 'gatekeepers' to the provision of support to people impacted by modern slavery in Australia. This poses problems when policing priorities change, which is demonstrated by the impact on police referrals to the STPP during COVID-19. The quarterly 2020 data measuring AFP referrals to the STPP corresponds with the drop in reports to the AFP within the three-month period between April and June 2020, as the same period also recorded the lowest number of referrals to the STPP. During this time only 6 individuals were identified as victims and referred to the STPP, compared to 36 individuals in the first quarter of the period from July to September 2019, 25 individuals between October to December 2019 and 20 individuals between January to March 2020. After this drop to only 6 individuals having been referred to the STPP between April to June 2020, the number of individuals referred increased again to 19 in the July-September 2020 period.

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[31] Satyanshu Mukhaerjee et al., *The Size of the Crime Problem in Australia*, Australian Institute of Criminology (1987).

[32] Kathleen Daly and Bridgitte Bouhours,"Rape and Attrition in the Legal Process: A Comparative Analysis of Five Countries", Crime and Justice 39 (2010).
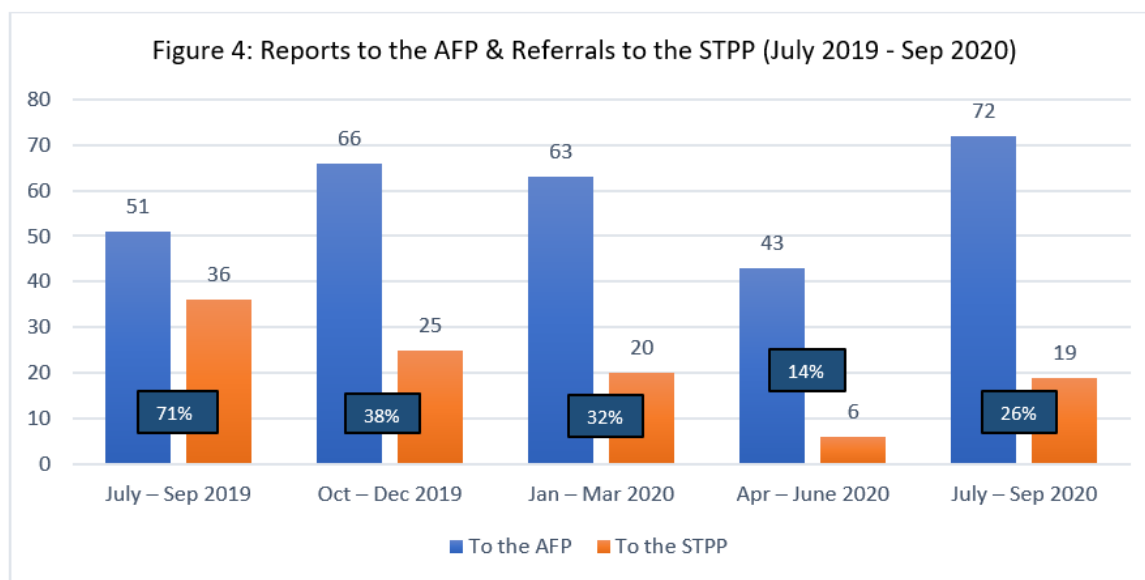
Figure 4: Comparison of reports to the AFP and referrals to the STPP from July 2019 to September 2020, with referrals to the STPP as a percentage of reports to the AFP.

However, the most substantial finding comes from comparing the number of reports of suspected instances of modern slavery made to the AFP with the number of referrals the AFP made to the support program for the COVID-19 impacted period. Comparison of quarterly figures from the 2019/20 financial year shows a significant drop in the number of referrals to the STPP as a percentage of reports to the AFP during the April to June 2020 quarter. During this period, the number of reports made to the AFP declined to 43 reports from 63 in the previous quarter, and the number of people identified as victims of modern slavery and referred to the STPP declined to only 6 individuals, from 20 in the previous quarter, meaning that only 14% of reports resulted in referrals of individuals to support, compared to the previous quarter where this was 32%. During the subsequent quarter from July to September 2020 however, the number of people identified as victims of modern slavery and referred to the STPP was 19, which is a rise back up to 26% of the 72 reports of suspected instances of modern slavery reported to the AFP. The significance of the decline in the number of referrals to the STPP as a percentage of reports to the AFP during April to June 2020 to only 14% is highlighted further when referring back to Figure 3 which shows that analysis of financial year data from 2012-2020 finds the same percentage has never dropped below 22% in this period.

This significant drop in the percentage of reports resulting in referrals during April to June 2020 coincides with the most prominent period of Australia's COVID-19 national response during which there was the most widespread restrictions in place across the country. The pandemic significantly changed the landscape of crime, justice and law enforcement in Australia. Reflecting this, the Australian Parliamentary Joint Committee on Law Enforcement established an inquiry into criminal activity and law enforcement during the COVID-19 pandemic, noting

'the pandemic and related social distancing measures…are likely to have affected the capacity of law enforcement to combat crime and enforce the law'[33]. Submissions to this inquiry by key policing bodies across Australia highlighted that the pandemic saw the rise of new types of crimes such as criminal profiteering (particularly in relation to PPE), fake medical supplies, fraud of government support initiatives, identity fraud, cyber security, and online child exploitation[34], all of which required increased police attention. As the Australian Institution of Policing (AiPol) noted 'illicit economies have changed, criminal actors have adapted and policing has been so focused on reacting to the pandemic and the subsequent public emergency, that there has been little time for policing agencies to analyse and adapt to the new criminal environment'.[35]

The pandemic meant that significant law enforcement attention and resources needed to be swiftly diverted from normal duties to support not only new criminal activities, but also the large-scale response to COVID-19. The DHA commented on this in their submission to the inquiry stating that they 'redirected resources, shifted priorities and created specialised task forces to swiftly respond to the changing threat environment'[36]. For the DHA, this response included activities such as the national coordination of non-health responses to COVID-19, preparedness planning as a result of social distancing measures, risk and safety measures associated with managing positive COVID-19 cases within correctional facilities, and supporting supermarkets and supply chains impacted by panic buying.

The AFP also played an essential role in the national emergency response, launching "Operation Protect" in March 2020 to help manage safety measures that were put in place to contain the spread of the virus. This included redeploying 102 staff[37] to COVID-19 related activities including the management of airport and cruise ship arrivals, quarantine of Australians returning from overseas, protecting remote and vulnerable Indigenous communities, the enforcement of state border checks, and patrols to monitor adherence to social distancing measures, public health orders and government instructions[38]. The AFP commented on this in

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[33] Parliamentary Joint Committee on Law Enforcement, "Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic", *Media Release*, June 24, 2020, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Law_Enforcement/COVID-19/Media_Releases (accessed 26 January 2021).

[34] Australasian Institute of Policing. *Parliamentary Joint Committee on Law Enforcement: Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic*. Submission 19.

[35] Australasian Institute of Policing. *Parliamentary Joint Committee on Law Enforcement Submission.*

[36] Department of Home Affairs, *Home Affairs Portfolio Submission.*

[37] Australian Federal Police, *AFP deploys members to NT to help protect vulnerable communities from COVID-19*, April 2 2020, https://www.afp.gov.au/news-media/media-releases/afp-deploys-members-nt-help-protect-vulnerable-communities-covid-19, (accessed January 15 2021).

[38] Australian Federal Police, *Annual Report 2019-2020*, https://www.afp.gov.au/sites/default/files/PDF/Reports/02112020-afp-annual-report-2019-20.pdf (accessed January 15 2021): 62-63.

their submission to the inquiry stating 'new demands have been placed on police, such as the requirement to enforce social distancing and quarantining directions'[39].

An integral part of Australia's response to COVID-19 has been border closures between states, with state borders often shutting with minimal notice due to localised outbreaks. In 2020, this meant constantly shifting priorities for both the AFP and state police and the redirection of significant operational resources from other core law enforcement activities'[40]. Policing the borders became a very resource intensive operation[41]. As state and territory police forces allocated considerable resources into policing state borders, enforcing quarantine measures, and undertaking COVID-19 compliance checks[42], they required the assistance of the AFP. For example, the AFP was deployed to 14 locations throughout the Northern Territory to implement biosecurity and border control checkpoints and assist in community policing measures[43]. The AFP also assisted key policing counterparts in Western Australia, South Australia, New South Wales, Victoria and Queensland[44]. As this highlights, COVID-19 impacted the capacity of law enforcement agencies to respond to the normal crime types as police were 'consumed with dealing with public order issues, state border controls, quarantine measures, pandemic outbreaks, and enforcing COVID-19 restrictions'[45].

The above challenges help to explain the drop in the number of victims of modern slavery identified and referred to the STPP by the AFP. The diversion of police and other government resources during COVID-19 impacted the AFP's capacity to undertake their vital function of investigating reports of suspected instances of modern slavery made to them, meeting with and assessing eligibility of individuals for referral to the STPP. This reduction in capacity was witnessed by service providers. For example, one interview participant stated:

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[39] Australian Federal Police. *Submission by the Australian Federal Police, Parliamentary Joint Committee on Law Enforcement: Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic*, (2020) file:/// C:/Users/langlenj/Downloads/Sub04_AFP%20(3).pdf (accessed January 15 2021).

[40] Australasian Institute of Policing, *Parliamentary Joint Committee on Law Enforcement Submission.*

[41] Police Federation of Australia, *Submission Inquiry into Criminal Activity and Law Enforcement During the COVID-19 Pandemic*, Submission 17, (2020), https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/ Law_Enforcement/COVID-19/Submissions (accessed January 15 2021).

[42] Nigel Hunt, 'Top Detective Appointed to Manage COVID-19 Police Operations,' *The Advertiser*, August 7, 2020.

[43] Australian Federal Police, *Submission by the Australian Federal Police, Parliamentary Joint Committee on Law Enforcement*.

[44] Australian Federal Police. *Submission by the Australian Federal Police, Parliamentary Joint Committee on Law Enforcement*.

[45] Australasian Institute of Policing. *Parliamentary Joint Committee on Law Enforcement Submission.*

> *Initially there was a drop in the referrals to the STPP, which obviously in itself was
> somewhat concerning because we're sure that the victims didn't just disappear. It was
> probably more to do with the fact that they're not being identified, which is obviously a
> concern for us….*

Another service provider offered observations that further contextualises the decline in the
number of individuals referred to the STPP:

> *The AFP was just responding to the pandemic needs so their focus was not necessarily on
> things like identifying and referring potential people that have faced a situation of
> exploitation.*

Service providers provided further comment on the reasoning for this reduction:

> *That it came through a reduction in activities from all preventative measures from
> authorities in one way, because they weren't doing as many investigations. Border Force
> weren't doing the proactive work, such as going out to agriculture farms and checking in
> with their operations and things like that.*

As these comments highlight, when policing and other government agencies' resources
were diverted into COVID-19 responses there was a reduced capacity for reporting suspected
instances of modern slavery, investigating reports and pursuing prosecutions, which meant fewer
victims were identified and referred to the STPP.

The Limiting Effect of the Criminal Justice Response to Modern Slavery Victims

As the above discussion shows, in Australia, as with many other jurisdictions globally,
the Commonwealth Government's framework for responding to the issue of modern slavery,
including the identification of victims and provision of support services, is closely linked to
criminal justice processes. The positioning of trafficking as an issue of criminal justice, and a
particular focus on sexual exploitation of women and children has meant that responses have
been dominated by crime control models, led by policing agencies[46]. Research from the United
States context has found that police are not always well placed to investigate modern slavery
crimes as they typically define human trafficking in a relatively narrow manner and are often
reactionary in their identification of victims[47].

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[46] Alicia Jurek and William King, "Structural Responses to Gendered Social Problems: Police Agency Adaptations
to Human Trafficking." *Police Quarterly* 23, no1 (2020): 25-54.

[47] Yvon Dandurand, "Human Trafficking and Police Governance," 322-336.

The limiting effect of the linkage of victim support with criminal justice processes, and in particular of the AFP as the sole referrer to the STPP, has been widely acknowledged both nationally and internationally including by Ms Joy Ngozi Ezeilo, previous Special Rapporteur on Trafficking in Persons, who noted the ongoing linkage between criminal processes and access to support services in Australia 'imposes an additional burden on victims of trafficking'[48]. Recognising that many victims of modern slavery may be unwilling or unable to approach AFP officers, the Parliament of Australia has also previously recommended that 'the Australian Government extend the ability to refer potential victims to the Support for Trafficked People Program and the Bridging F visas beyond the Australian Federal Police'[49]. All service providers interviewed for this research discussed the limiting effect of official victim support measures relying on police investigations and prosecutorial focused definitions of modern slavery. One aspect of this is the high threshold of indicators that individuals must meet to be labelled as a victim of modern slavery crimes and to have their case pursued by the AFP:

> *The standard of proof to make that criminal code in criminal offenses is very high and it can be difficult to meet and difficult to prove. It can mean that because it's under the criminal code, people don't necessarily recognize what a victim looks like or what their circumstances look like. So, they're not necessarily being recognized as a victim of modern slavery.*

Another service provider noted that linking support to criminal justice processes can leave victims subject to strategic and practical prosecutorial decisions without access to much needed ongoing support:

> *The support program is linked to the criminal justice process…. So, if the AFP decides that they don't have enough evidence or a victim is not going to be able to provide a statement or be a witness because of the impacts of what's happened to them it's likely that they won't pursue the case. And then the person will need to transition out of support.*

In addition to this, and as identified by the Parliament of Australia in their recommendation for an additional referral pathway to the STPP, stakeholders saw that the linkage of support with the criminal justice process presents a barrier for many victims to even engage with police in the first instance.

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[48] Joy Ngozi Ezeilo, *UN Human Rights Council, Report of the Special Rapporteur on trafficking in persons, especially women and children*, Addendum, Mission to Australia, 18 May 2012, A/HRC/20/18/Add. 1: 14.

[49] Parliament of Australia, Joint Standing Committee on Foreign Affairs, Defence and Trade. *Inquiry into establishing a Modern Slavery Act in Australia. Hidden in Plain Sight Report*, December 2017. Par 6.70https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Final_report (accessed April 14 2021).

*..needing to be assessed by the criminal justice lens is a barrier for engagement for a lot
of people. That's pretty well recognized as being around fear of authorities and people's
previous experiences with authorities in other countries or just community attitudes or
the fear of shame or stigma from community if they do make reports to authorities.*

The Australian Institute of Criminology has identified that fear of authority as a
significant factor in shaping help-seeking behaviour,[50] further evidencing the limiting impact that
a reliance on the AFP as the sole referrer to the STPP has on the access of support to victims of
modern slavery.

In Australia, despite the presence of several civil society stakeholders active in the anti-
slavery space, there is limited support for victims of modern slavery who are not part of the
official government funded victim support program. One service provider described victim
support outside the STPP as 'very fragmented and inadequate'. Another service provider said
that victims that fall outside the official support paradigm 'really do just fall through the gaps of
the social services system'. During COVID-19, the stakeholders who were providing services to
victims of modern slavery faced many challenging when forced to quickly adapt to the changing
social and economic conditions presented by lockdowns to try to ensure support services for
vulnerable individuals continued. One service provider explained the situation:

*...we were literally just putting together a patchwork of services to meet that person's
needs. And it's wholly inadequate. And it really leads to incredibly poor health and
wellbeing outcomes, including...severe mental health decline because of the stress and
not being safe. It puts people back into situations of risk to experience exploitation,*

Given the detrimental impact of the pandemic on individuals mental health, at the same
time as trying to meet basic needs with limited physical and financial resources, service
providers described having to extend their support to include increased emotional support for
victims in precarious situations:

[COVID-19] *required a lot of additional emotional support from workers just because
there was, of course, the need for covering that emotional gap.*

In addition, vulnerable individuals who fell outside of the STPP faced barriers in
accessing basic support from mainstream services, in particular for housing, as a service provider
describes:

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[50] Australian Institute of Criminology, *The nature and context of forced marriage in Australia and New Zealand.*
2018, p. 58 and 81.

*really, in those first few months, we escalated into crisis response because people were
just, you know, almost homeless, didn't have any money, no food, couldn't look after their
children. It became very dire.*

Housing shortages was a particular issue raised by many service providers who identified
this was linked to a sudden drop in employment for vulnerable individuals.

These discussions highlight the key role that service providers play to support those
individuals affected by modern slavery who are unable to access STPP as the official government
funded victim support program, however also the vulnerability of these services themselves
when under the pressures placed on them by a pandemic. The limiting effect the criminal justice
response to modern slavery victims in Australia has on their identification as victims and their
access to support is therefore clearly visible when analysing the COVID-19 emergency response.

Conclusion

This article has provided the first comprehensive study of the impact of COVID-19 on
the identification of victims of modern slavery and their access to support in Australia. The
difficulties associated with detecting victims of modern slavery in Australia and the numerous
barriers that prevent victims from accessing support services is widely acknowledged[51]. This
article found that these underlying issues were amplified during the COVID-19 pandemic,
resulting in the under-identification and referral to support of victims of modern slavery. The
positioning of support for modern slavery victims within a law and order framework is a
common feature of global responses to modern slavery. A sole reliance on a single policing
agency to identify victims and refer them to government funded support, however, is not. This
over-reliance on a policing agency meant that when Australia's large-scale nation-wide
emergency COVID-19 response led to policing and other government resources being diverted
elsewhere, police were under resourced to undertake this vital function. The impact of this is that
victims of modern slavery were either supported by other service providers who faced significant
challenges meeting basic needs due to the pandemic, were unsupported, or remained unidentified
in situations of exploitation.

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Fluid Vulnerabilities:
Narratives of Modern Slavery in India During Lockdown

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Introduction

Before and since the COVID-19 pandemic began, the impact of various forms of labour exploitation in India has been felt disproportionately among those who are marginalised or experience social discrimination, particularly on the basis of religion, caste, or gender (see e.g., Srivastava, 2019; Accountability Hub, 2021). Though this article considers how vulnerability to labour exploitation in general has changed due to COVID-19, the socio-economic and cultural context of India, a key characteristic of which is extreme gender inequality, means that to properly address this it is important to do so through a gendered lens (see Bradley, 2020) and using a woman-centred approach. As such, we focus mainly on the narratives of women who work (or had worked until recently) in two urban centres in India: Delhi and Bangalore.

It is important to note that people working in exploitative labour conditions in India are not necessarily confined against their will or forced to work. When asked, few will describe their work as slavery and many will say that they have chosen their work from the opportunities that are available to them, however limited these options may be (Mende, 2019). Much of the labour exploitation in India exists in the broad grey area between modern slavery and fair and dignified work. Though some definitions of slavery do acknowledge this gap, the modern slavery lens can, nonetheless, make it difficult to identify who is most vulnerable to being enslaved or severely exploited. For example, the UK Modern Slavery Act (2015) acknowledges that in the global supply chains on which India's economy depends there will be instances of "exploitation that, whilst being poor labour conditions, nevertheless do not meet the threshold for modern slavery"

(UK Gov, 2015, p. 18). This is the situation of many people in India, particularly migrant workers, who are in very low-income jobs where they are expected to work long or irregular hours, do unpaid overtime, or work in unsafe conditions (Hnatkovska & Lahiri, 2015). However, the extent to which this work can viewed as a "choice" is limited because fear of job loss, being unable to find work elsewhere and falling further into poverty, or becoming victims of harassment, mean there is little space for voicing safety concerns or asserting legal rights.

This article reflects on qualitative data collected in India over an eight-week period from April to June 2020, which included listening to the accounts of twenty 'community narrators.' The narratives offer a rich and nuanced picture of their experiences and what was happening in the daily lives of their families, friends, colleagues, and communities. The research was part of a rapid review of the national context in India on behalf of the UK Department for International Development (DFID) and the Global Fund to End Modern Slavery (GFEMS). The aim was to listen to and document the experiences of the people whose lives were being most affected in order to inform policy responses as quickly as possible. For this reason, we have included extensive quotations to ensure that the women's narratives are presented in their own words and to position their voices at the centre of our research. Incorporating these perspectives fully, without attempting to edit them for brevity, is vital to presenting the data effectively.

Our research, like all research at the time, was carried out amidst the chaotic circumstances of the initial international and national responses to the outbreak. That is to say, the very thing we were trying to understand made it extremely difficult to conduct research at all. We begin the article with a brief background to the context and then outline how we adapted the community narrator method to overcome the challenges this presented. We position our person-centred approach in contrast to the sectoral approach to understanding modern slavery as it allows for the narratives of individuals and groups – who may shift into and out of various sectors for a variety of reasons – to be tracked over time. Our research focusses on the longitudinal experience of the person, rather than on the industry in which they may happen to be working at any given time. This approach reveals how multiple intersecting factors, such as age, gender, or health status can lead to complex vulnerabilities that change as and when people (particularly women) shift between sectors or, as in the case of COVID-19 lockdowns, into no sector at all.

Similar vulnerability focussed approaches have been applied in the context of other types of humanitarian emergencies, most notably in considering the multifaceted impacts of and vulnerability to climate change (see e.g., Hermans, 2011; Tschakert, van Oort, St. Clair, & La Madrid, 2013; Williams & McDuie-Ra, 2018; Lizarralde et al., 2020) to diagnose the "inherent social and economic processes of marginalization and inequalities as the causes of climate vulnerability" and to identify ways to overcome them (O'Brien, Eriksen, Schjolden, & Nygaard, 2004, p. 5). By taking vulnerability as a starting point, we posit that it is also possible to better identify the marginalization inherent to specific contexts that allows certain people to be exploited, and that makes it profitable. COVID-19 has highlighted the fluid nature of vulnerability to exploitation in India, bringing into focus both the extent and complexity of the

risks people face. This in turn raises further questions, such as how can the experiences of domestic workers be followed and understood once their jobs have been lost? And how can interventions that focus on garment workers track and account for a person's shift into sex work? Approaching modern slavery using a vulnerabilities lens can help to address these questions by identifying those who might be most at risk, including when in the in-between spaces that could otherwise be overlooked by sectoral approaches to research, programming, and intervention.

Early Responses to COVID-19 in India

COVID-19 has (as of March 2021) been the dominant factor in international development decision making, planning, and implementation for over a year. Much has now been learnt regarding how the virus spreads, what governments, communities, and individuals can do to safeguard against it, and how we might prepare for a similar outbreak in future. But in the first few months of the pandemic so little was understood that decisionmakers at various levels were forced to make rapid and difficult choices based on limited information. Many mistakes were made – not just in India, but in most countries, regardless of their level of development. Many people who were already vulnerable found themselves in a more precarious position than ever, while others who may had previously been relatively safe were suddenly at risk (Trautrims, Schleper, Cakir, & Gold, 2020). It quickly became apparent that COVID-19 was going to have a major impact on global development in general, including on modern slavery, forced labour, and other forms of labour exploitation (Leach, MacGregor, Scoones, & Wilkinson, 2021). In light of this, various organisations rallied to begin documenting, analysing, and seeking to understand who might be at risk and what measures could be put in place to mitigate the potential fallout of the pandemic for international development. It has been estimated that the economic and political action taken to tackle COVID-19 is among the most substantial global responses to any single event in history (see e.g., Cassim, Handjiski, Schubert, & Zouaoui, 2020).

India, like most countries, took drastic steps to control the virus. The government announced a nationwide lockdown on March 24th, 2020, which, though necessary, threatened the livelihoods of approximately 475 million people (Breman, 2020). Closure of formal sector industries (including garment factories) coupled with the sudden drop in demand for informal services (such as domestic work, or sex work) meant many internal migrants found themselves stranded in destination cities with no work, no food, and no way of paying rent.

This triggered a sudden movement of migrant workers across the country whereby millions of people attempted to walk to their native villages, sometimes thousands of miles away (The Hindu, 2020). While many were able to reach their home states, shutdowns of transport systems and restrictions on movement meant many others were stranded en route without money or food. Some were quarantined for weeks at a time, either in camps along the way or once they arrived home (SWAN, 2020). On May12th, 2020, the Government of India responded to the emerging humanitarian crisis with a five-part stimulus package of over 20 Lakh Crore ($266 billion at the time of its announcement, equating to 10% of India's GDP), covering credit to

small businesses, support to shadow banks, free food for stranded migrant workers, and support for agricultural workers (Times of India, 2020).

Those who remained in or returned to urban centres after the first lockdown faced a rapid decline in demand for most types of labour, which contributed to an extreme labour surplus as the economy reopened (Kapoor, 2020). Livelihood options rapidly contracted and any collective or individual bargaining power workers once had was eroded. Legal provisions at the state level began to be rolled back and some labour laws were suspended, and the impact on informal and migrant workers led trade unions to call for nationwide strikes on May 22nd, 2020 (Mohan, 2020). In the months between the research being conducted and this paper being written, the number of COVID-19 infections drastically reduced across India and the country returned to a sense of relative normality[1]. The economy had expanded by 0.4% year-on-year in the October-December quarter (Reuters, 2021) and by January unemployment had fallen below 7 percent for the first time since the lockdown began, from a peak of 23.52 percent in April 2020 (CMIE, 2021). But despite the reopening of the apparent recovery, a survey by the Inter Press Service (IPS) found that conditions remained precarious and, for many workers, more exploitative than before, with the message from employers being "If you don't like it, you can leave" (Seth, 2021).

Methodology

Research in the Context of COVID-19

The outbreak of the virus meant that UK researchers conducting face-to-face data collection in India suddenly became impossible. Nonetheless, we were able to generate a snapshot of the impact of the pandemic among a small group of people, which could then be triangulated with other data in the DFID/GFEMS report to understand the immediate impact. The first step was to bring together a team of researchers in India who had existing networks that could reach into hard-to-reach communities. The team included representatives from activist organisations (the Marxist Labour Association [MLA] in Bangalore and the Community for Social Change and Development [CSCD] in Delhi) and a journalist and academic researcher based in Delhi. Under different conditions, the UK researchers would have travelled to India to conduct the research themselves and/or had more input into the selection of participants. However, the constraints meant that the value of local lived experience and existing networks became more apparent than ever. As such, the selection criteria were agreed upon by the team, but the participants were selected by the representatives of the activist organisations based on their perception of who among their networks might provide the most illustrative narratives of individual and community level vulnerability.

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[1] The situation has since changed again. A second wave of the virus has hit the country, and India is now the epicentre of the global pandemic. 249,992 deaths have been recorded (as of May 11th, 2021), though experts believe the real death toll could be far higher (BBC, 2021).

Nineteen female narrators (5 in Bangalore and 14 in Delhi) and two male narrators (both in Delhi) aged between 21 and 51 took part. All had worked until recently in the garment sector (12), domestic work (9), and/or sex work (2)[2]. These sectors and participants were chosen for three reasons. The first is that, in line with existing research on prevalence of forced labour, the garment and domestic sectors had been identified by the funding body as focus areas[3]. The second was that it is generally well understood that in India, especially in times of crisis, women face particularly extreme forms of exploitation and risk (Pulla, 2021). Finally, it is widely acknowledged that women working in the sex industry are among those most at risk of forced labour, trafficking, and modern slavery (Bettio, Giusta, & Di Tommaso, 2017). Narrowing our focus to these sectors and listening to the experiences of women acted as an initial filter that would then allow us to identify which additional intersecting factors leave some women more vulnerable than others. It was also the first step in applying a gendered lens (see Bradley, 2020) through which the data would be analysed.

It should be noted, however, that because the researchers in India chose participants from their existing networks (though this did include some snowball sampling), the most vulnerable people are almost certainly not represented in our findings. The participants were linked to activist networks, meaning that they were not entirely isolated and had some understanding of their rights, and a support network. Moreover, those that are most at risk within the selected sectors (especially sex work) may not have had the freedom or resources to use a mobile phone privately, even if they could usually have been identified and/or contacted face-to-face. Those who are working 'illegally', especially children or undocumented migrants, can be especially difficult to identify and reach, while those in the most extreme forms of modern slavery are practically invisible. We state this here in order to acknowledge that, although we were able to learn some important lessons during this work regarding how to research labour exploitation during a crisis, our general view is that this approach cannot, and should not, be seen as a replacement for long-term, in person, and in-depth ethnographic research.

Community Narration

The community narrator approach to researching modern slavery involves first using an intersectional lens (see Cho, Crenshaw, & McCall, 2013) to identify individuals who may be especially vulnerable to exploitation. Usually, the researchers would then conduct face-to-face, in-depth, monthly check-ins that allow changes to the situation of the narrator and their community to be better understood over time. The main difference between these check-ins and other qualitative interviews is that the narrators are encouraged to give perceptional insights into

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[2] One of the participants shifted from garment work to domestic work, and another had been undertaking both garment work and sex work.

[3] The GFEMS portfolio has since expanded to include focus areas of domestic work, apparel and manufacturing, construction, commercial sexual exploitation, ethical recruitment, and global finance in its (see www.gfems.org/portfolio).

the experiences of their community. They are offered the opportunity to share any observations or general accounts that they believe would help to illustrate their community's experience. Who and what they talk about, and where they place their focus, is left up to them. The narratives contribute to developing a longitudinal lens through which to trace the experience of the individual, but at the same time draw out insights into vulnerability and resilience at the community level. This includes revealing how communities and networks change and move over time. Broad prompt questions are used only to ensure a flow of conversation and to occasionally probe further.

Prompt questions for this research included:

> What do you know about the pandemic?
> How has it impacted upon your life or your community's life?
> Overall, what worries you most about the next few months?

Remote Community Narration During COVID-19

The context of COVID-19 and the international and collaborative nature of this research meant that certain adaptations and compromises had to be made. For example, to overcome the restrictions on travel and face-to-face contact, the check-ins were conducted by telephone by researchers who were already located in India. The effectiveness of this approach was aided by the relationship between local communities and the organisations facilitating the data collection; participants were not being contacted for the first time, meaning development of rapport was more streamlined. This approach also strengthened international cooperation between researchers, and it led to engagement with people who have expertise outside of academia. Through online workshops conducted by the UK based researchers, representatives from the organisations in India were trained to use the community narrator method and instructed on how to rigorously record the data, in particular ensuring that the narratives were transcribed in the words of the participants (or as closely as possible), rather than simply being interpreted and summarised by the interviewer. When possible, interviews were recorded, but connectivity issues meant that restarting recordings over multiple calls became impractical. In these instances, the primary (female) interviewer and the (male) assistant took notes simultaneously and compared them to develop an accurate transcript, which they then translated into English for the report.

The local researchers brought with them contextual knowledge and an ability to respond appropriately to the trauma and risks they would encounter. For example, when they encountered sex workers who had experienced violence or were without food, they had the necessary knowledge of and access to local services to intervene. Over half of the community narrators (11 out of 20) were interviewed at least twice during the different stages of lockdown. Ideally, all of the participants would have been interviewed multiple times, but the circumstances under which the research took place made this particularly difficult. As previously mentioned, our concern is

that the experiences of the most vulnerable are also the most likely to be missing from the data. The reality is that we do not know what happened to those who could not be contacted a second or third time, or why they became uncontactable. The researchers based in India offered some insights regarding why this might have happened:

> During the face-to face research the drop-off is comparatively low as there is a frequent interaction with the narrator built over a period of time. The researcher is in a position to visit their homes and explain the significance of the study. However, phone interviews are not the same and offer a number of challenges especially during the pandemic. Most migrants do not have a fixed mobile number and when they move to their villages, they often deactivate their phones. Secondly, the narrators find it challenging to talk at length over such issues over phone. They are used to normal, casual calls, and often there is a lot of disturbance at the receiver's end, leading to confusion and inconsistencies in responses.

These observations are an important reminder that, although remote community narration became a critical part of our research during India's lockdowns, it is best understood as a supplementary research method during times of crisis, rather than as a replacement for in-person community narration.

Narratives of Labour Exploitation in India During Lockdown

Below we share the recurring themes that our community narrators chose to discuss most frequently. The excerpts from the narratives across the three sectors (garments, domestic, and sex work) illustrate how multiple factors intersect, both within and across sectors, to leave particular people especially vulnerable to labour exploitation.

Garments Sector

> "…everyone is locked in and all of us are in the same situation. There are thousands of women like me who work as a pieceworker, so they are equally impacted. All of us are paid on a daily basis and where I live, people are worried. Why would they not be? They have all migrated here for work."
> Sh. (Female, 30, Delhi,)

> "All of us staying here came for work, and not one is able to work. We need the money to survive. So, many people have left for their villages. Now, only four families are still staying here in my compound."
> Re. (Female, 36, Delhi)

Like most of the community narrators, the two women quoted above had migrated from rural settlements. They were disconnected from family networks and, in addition to earning money to support themselves, they also had a responsibility to send money home. The ability to return to settlements of origin was an important factor in a person's resilience to the economic and personal impact of being unable to work. However, being able to do so was contingent on a number of factors. The narrators explained those who were in poor physical health or who had children were unable to make the journey, which could be hundreds of kilometres on foot, by bicycle, or on food trucks.

The Government of India recognised the need to support the internal migration and set up train services and busses to facilitate the return of urban workers to rural settlements, but for many these were too expensive. One participant (a male garment worker) was preparing to leave Delhi after his uncle had booked a '*Shramik*'[4] Train ticket for him (which cost Rs. 2200), and a bus to his village (costing another Rs. 500), without which it would have been impossible. At the time of the first check-in, he was already two months behind on rent, he did not have the money to travel to work, even if it became available, and he was borrowing money to buy food and other basic supplies. By the next check-in, he had arrived home and was in the middle of fourteen days quarantine. He said that everything was normal in his village, people were going to work, and shops were open.

For those who remained, reduced demand for labour was a major problem, and conditions of the work that was available had begun to change. Me., a pieceworker in the garment sector in Delhi, said that the company she worked for had resumed operations in early May, but on the day of her second check-in she had arrived at work only to be sent home. For the little work she had, the rate had gone down from between 2 and 2.5 paise to between 1.5 and 1.7 paise per piece. In eight hours, she could make 150-200 pieces, meaning of there was work she could now earn a maximum of Rs. 300 per day, providing there was work.

Location was also an important factor. Mj. (Female, 45), for example, explained in her second check-in that her workplace had not called her back after lockdown. She had been searching for work, but the closing of the border between Gurgaon (where she lived) and Delhi had made it difficult. She had spoken with a small factory not far from where she was staying and had been asked to start the next day (June 9th), but the new role was informal piecework. Mj. explained it is better to work nearby, even if it is piecework, because it was unclear how movement might be restricted in future. The changing context was narrowing options and causing a shift from formal to informal types of work, which in turn can potentially lead to new and more significant vulnerabilities to exploitation (Sengupta & Jha, 2020).

Re. (Female, 36, Delhi) shed light on how health issues, lack of work, and the cost of travel left certain people at greater risk, and how lack of money meant risk to her daughter's health was being weighed up against the risk of missing her education:

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[4] *Shramik* trains were put on by the Government of India to help relocate migrants who had become stranded.

"My elder daughter got sick, some kind of infection and pus came out from her back. I have to buy medicine, but I had no money at that time, so borrowed money from my neighbour [Rs. 1200 in total]. We will not be able to survive if we do not get money. If nothing happens, me and my family will go back home by foot. The train fare is Rs. 4700 to the village […] But my daughter's 12th exam is also nearing."

Re. had spoken with the "Master" of the factory where she had previously worked. He told her that he could not say when or if the facility would reopen, and it would be better for her to go back home.

Na. (Female, 28) travelled home, but came back to Bangalore hoping to return to work, but she explained that pregnant women and those with young children were facing particular hardship:

"They asked me not to come as I am pregnant. […] They asked me to apply for ESI leave and then they said they will call me when it's time to get back to work. […] They asked all the pregnant women not to come, and the women who have children are not supposed to take their children along. They have taken back the rest of the people."

When asked if she would be paid anything by the factory while they would not allow her to work Na. said:

"I enquired. They said they cannot give [...] 'If we give it to you, then we will have to give it to everyone who is pregnant. We have fourteen [pregnant women], if we give for one, then everyone will start asking'."

Na. was also worried about how she would pay for care when giving birth, especially if something went wrong:

"If caesarean operation is needed to be done even at the government hospital, we have to pay at least Rs. 20,000."

Ru. (Female, 50, Bangalore) explained how decreased demand for labour, combined with her age and health status gradually resulted in her losing formal piecework and instead shifting into informal piecework at home and potentially to domestic work. She described how this had begun with a "strange situation" of being made to work slowly at the factory:

"[I] don't even have 100 pieces now. If I finish all of that, then I have to go home. I am not sure when the next pieces would come, and in the case I finish this, then they ask me not to come for work. I am doing little by little…"

"We have to work for nine hours, and now there are no pieces to work upon. I work for ten minutes and then sit and rest and then start with the next. […] I am scared as I'm not sure when they will send us home …"

"…if they remove me from my job, then I have decided that I will go to work in some houses as domestic help. I am not sure if they will take me for that job since I am fifty years old."

At the next check-in, Ru.'s work at the factory had petered out. Work that was available was being given to younger workers due to the risk to older people posed by COVID-19:

"…they are asking the people who are above fifty years of age to bring their [worker identification] cards as they don't want them to work. […] Since we have aged more than fifty years, they say that corona may infect us soon. So, we have to stay at home safe. But none of us have taken the card back yet. I am fifty. I'll have to sit at home without work soon."

But the domestic work she had hoped for had not materialised, and instead Ru. had taken on informal piecework from a neighbour:

"Below my house, lives a tailor. She got it [piecework] on my behalf. I did about fifty pieces, then got back pain. Then I informed [my friend] about my back pain and she was kind enough to get me medicines…"

The issue of being forced to work extremely slowly in order to secure work, as opposed to being forced to work, does not fit within typical understandings of what constitutes forced labour or modern slavery. Nonetheless, the reduced piece rate and less pieces combine to push wages to a far lower level than before. When work became scarcer, women – especially those who were pregnant, had children, or who were older – were being disproportionately affected. Those who had been in the garment sector were seeking work elsewhere, either in informal home-based garment work or in domestic work. Little informal home-based work was available, and as shown below, many other issues were arising in the domestic sector.

Domestic Work Sector

The main concern among our narrators in this sector was that they did not know if or when their income would return to pre-COVID-19 levels. They were worried about how they would pay rent, buy food and medical supplies, and support their children. Most domestic workers are women, the work is typically informal, and this means that measures put in place to

assist workers during lockdown overlooked their lost income, which resulted in women being disproportionately affected (Jyotsnamayee, 2020).

Ja. (Female, 45, Delhi) explained how the pandemic had affected her:

"I am in deep trouble. I have been paid for March, but I have not been paid so far for April. I cannot meet my employers. The society [residential complex] is not letting us in. My employers are not picking up the call, only one madam picked up, but she asked me to come after the lockdown. All of us living here are here for work, and not one of us is able to work. We need the money to survive."

"We have no money and no food to eat. This has been particularly difficult at the time of Roja. We got 5 kilos of wheat from the caretaker of this place – he just gave it us because of Ramadan. Everyone is suffering. I rarely go out and do not know too many people, but everyone here has come from faraway places for work. The market is nearby, but it is very, very expensive and we are not able to afford it."

Another domestic worker, a young mother named Pa., explained that she too lost all work and was worried about feeding her child:

"… if the lockdown continues, I will not be able to work and have an income. Since I am not able to get any benefits from the government in the face of this hardship, it will be difficult to survive. Now, I and my family are not able to have vegetables and fruits for a healthy life. My child needs good food, I wanted to buy fruits, but the money which we got for the last month is almost gone and I am not able to buy milk or fruit for my baby. Eating roti or dal rice only is not sufficient. My husband who works in a private company, I am not sure if he will get his salary or not. He also does not have bank account and is paid by cash, so if the lockdown continues even if the company will pay him, how will he go to his company to collect his salary? […] If the government cannot help, they should lift the lockdown. Please tell me, how can I survive otherwise?"

One month later, Pa. was still not working, and by this point, her husband had also lost his job, all of their savings had been spent, and they had borrowed Rs. 500 from her brother to buy food.

Ra. (Female, 41, Delhi) was unsure of what support she could access, but had been unable to collect government rations or financial support:

"Everything is in a state of uncertainty. Now we have cut down on meals. We are eating less. We use more water in pulses, eat less chapatis. Things are heating up in the community. There are homes where they have no food to eat leading to disagreements and fights between husband and wife.

Since the lockdown, things have been very expensive. Gas is more expensive too. We will not be able to survive for more than twenty days. My husband, who works as a security guard has been asked not to come to work from May 1st. If he is not paid, it is going to have a massive impact in our lives.

[Is government help available?] Yes, but no one has approached us, and we do not have local ration cards. […] I do not have a bank account, but my husband has. We are not sure what we are entitled to […] We have not even received a glass of water. If the lockdown extends, we will need help with food."

Many of the community narrators either did not know what support was available to them or could not access it for various reasons including not having a bank account, having *Jandhan* Account[5] but not having a 'zero-balance', not having a ration card, or having one that was registered in their state of origin[6].

At the second interview, Ra. said her landlord had been pushing her for rent and had cut off the electricity, so they paid a part with what money they had. She said that the people staying in the building, mostly migrant workers, had been supporting one another with food. There was a lot of unity and support amongst people living in her community, and this was also reflected in the other narratives collected. People from her village who had decided to return home had asked Ra. if she wanted to go, but she said she could not, "I cannot walk back on foot with my children. Even if my family eats once a day." She and other narrators said that NGOs and CSOs had been serving food, but she also said that this was not enough: "I had to stand in the queue for nearly three hours in the heat, for about two spoonsful of food." She had decided she would not go again and instead continued to buy on credit from the local grocery shop.

Sa. (a man whose wife worked in the domestic sector in Delhi) explained that changing hygiene practices were putting extra pressure on their family:

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[5] This is a government scheme designed to ensure that everyone can open a bank account, even when they do not have money to deposit money. The accounts have savings and pension facilities.

[6] Ration cards were problematic even before COVID-19. Enrolment is electronic, which often requires people to make long journeys to a registration hub. This had prevented many from doing so (Ratcliffe, 2019), and when the pandemic hit those who had not already registered were left without the means to access welfare support. The various systems that were put in place to attempt to address this came with further issues. For example, the 'e-coupons' system required a smartphone, as well as the ability to use the internet, upload photos of the family, and download the e-coupon. This inevitably excluded some of the most vulnerable people (The Wire, 2020).

"They tell us to wash our hands. I can't afford to buy soap. We are a family of five. How can we buy soap all the time? We also share bath and toilets with fifteen households, so it is difficult. […] I am literally begging, and I am depending on free meals and rations. This year my children will not have new clothes. We are all in the same boat. Except one or two, everyone is in the same situation. I am not from Delhi. My ration card is registered in my village."

Mo. (Female, 34, Delhi) usually sent money to her family at home in her village. However, since lockdown began, she had been borrowing from them instead, but they had also begun to face financial difficultly and could no longer help her:

"I cannot ask anymore as my family members in West Bengal are having problems. In the neighbourhood where I am staying, I cannot ask to borrow money anymore as people are not able to give."

"For us no work means no payment. […] The people staying in my compound come from different places in search for work. Some have work here and there for few days. Some are not able to work. Everyone needs money to survive. I borrowed Rs. 5000 from back home. This has to be repaid."

The same was true for Be. (Female, 24, Delhi). She had wanted to travel home but could not afford the fare. While her main concern was how to pay rent, she was also worried about food and paying for her son's education. Her landlord was demanding rent, which was two months in arrears, and she was unable to access government financial support (she did not have a zero-balance account) or rations (her card was back home in her village):

"I used to send Rs. 3000 every month for my son's education and other expenses […] In April I was not able to send money for my son as there is no payment, and in May too as I have not worked.

[…] we survive by eating puffed rice and water. I once went to my neighbour to ask for some rice, my neighbour told me she had little rice herself, so how can she give?"

Individual and community resilience were being eroded because so many people were suffering at once. Families who usually depended on remittances from migrant workers were being asked to send support to the people who would usually support them. This means that the individual vulnerability was being extended outward, and longer-term needs, such as children's education, were being put off in order to meet immediate needs, such as food security and paying rent.

The general view was that it would be better to return to settlements of origin if possible because life was less dependent on earning money and, therefore, communities and individual livelihoods were more resilient. As Re. (Female, 30, Bangalore) explained:

"Back home, they can live somehow. They were working in garments too, but now they have left. They have not faced much difficulty. They don't have to pay any rent. Somehow, they will manage in the village. We have to pay by the 10th of this month for the last three months."

"The shopkeepers gave a loan for purchasing. But no, we have nothing [savings]. I had money, but my mother had cancer and we had to spend a lot on her hospital expenses."

Many of the narrators had had savings at some point, but if they had recently had an emergency, which usually meant having to pay for healthcare, savings had been spent. This left them without a safety net. As noted, this was exacerbated by multiple family members and much of the broader community losing work simultaneously.

In some instances, lockdown was reportedly being used to justify not paying wages. Va. (Female, 37, Bangalore), for example, explained that she would usually have been paid for the month of April while her employer was on holiday, but this year she was not. When work resumed and the other staff were asked to return Va. was no longer required. She said that this was because of a disagreement with her employer's daughter over the missing pay. Va. had also been working in two other houses before the first lockdown. She had returned to working in them but was doing the same work for half the pay:

"I kept calling them and was asking again and again regarding resuming the work. I told them that some people had started going to work already and now everyone is going on alternate days, so can I also come? And they replied by saying to wait and they would observe for a week and let me know. After that, they called me, and I went. At both places they asked me to come from 1st June, but none had paid salaries during the lockdown period. […] now the house owners are paying half salary […] in one house I was getting Rs. 3000, but now they pay Rs. 1500."

Va.'s earnings had fallen from Rs. 10,000/month to only Rs. 5500 in total over three months. She had stopped paying EMI (Equated Monthly Instalments of her loan) and had stopped contributing to 'chit funds'[7], meaning her situation was being compounded by growing debt. This was further exacerbated by "tension" at home and among her support network. In the narratives, terms like "tension" or "quarrelling" were used without identifying what this means; it could be verbal disagreements but could also mean verbal abuse, or physical violence:

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[7] A chit fund is both a savings and credit product. It bears a pre-determined value and is of a fixed duration, mostly two to three years (see Menon, 2020).

"During lockdown, quarrels happened between us [Va. and her husband], for money matters. Yes… 'There is no work, and you are simply at home?' I asked him and there was a quarrel.

[…] My husband drinks alcohol. During lockdown alcohol was not available, and at that time he was better. But then quarrels happened during lockdown, too. He was not drunk, but still he used to quarrel.

[…] What if schools start? About this matter most quarrels are happening at home, due to which children are sad [the narrator was crying while giving this information]."

By the second check-in, Va. had become increasingly distressed. She spoke repetitively about being unable to find work. The tension at home had resulted in her husband leaving, and her growing debt had led to issues with the Self-Help Group (SHG) she was part of:

"As husband and wife, we both used to adjust and manage everything. Now, it is me alone, so it's difficult. I have started going to work but there is a problem for money. My husband has not come home for many days now. He will be there at his mother's home."

"I have to pay Rs. 2700 as I have taken Rs. 50000 from them [the SHG]. I should pay it in a year or so. […] If one fails to pay, the entire group have to pay collectively. Later a quarrel will arise between those here and those who haven't paid, and they will scold each other, saying 'you did not pay' and it's problematic for all of us."

"…how can we get meals? I have not even thought of that madam. We don't think so much, madam. We go with the day how it goes. If we start thinking, we have to keep thinking."

"Everything is a problem for me. Looking at the situation, I am most distressed. Somehow, I'm managing to eat. They have given some rice, and now ration from the society."

"The Bank telephoned me and said if I don't pay now for three months, I need to pay Rs. 700 extra later, and there will be interest on it. They have asked me to pay now. I do not have money now […] Yesterday they telephoned again. When I said I will pay next month, they said no. It will be Rs. 700 per month interest extra. For three months it would be Rs. 2400. You should not say this or that and give excuses."

Va.'s situation is the result of multiple intersecting factors leaving her especially vulnerable. She is a woman with four children of school age, she lacks support from her husband and his family, and she owes money to both formal and informal lenders, both of which are subject to interest and charges. Her need to earn money meant that she was willing to do the same work as before for half the wages. The "quarrelling" and tension at home, coupled with the evident distress caused by being unable to find work, was clearly having a significant impact on Va.'s mental wellbeing and possibly her children's. This was being exacerbated by her financial situation and by the additional tension within her support networks, particularly the SHG. As is shown in the next section, women in circumstances like this can become more likely to take risks and shift into work that leaves them more vulnerable to exploitation.

Sex Work

Due to the informal and hidden nature of their work, the social stigma attached to it, and already being at high risk of violence, coercion, and exploitation, sex workers in India can be particularly difficult to contact. It is also possible that those working in other sectors may have supplemented their wages through sex work, but for the same reasons it is very difficult to draw out this information. Even among those who are willing to talk, "sex work" is sometimes described as "that work" or "the other work", and it is not always clear what is being spoken about. This is also evident when speaking about HIV status, which is sometimes referred to as "my illness" or just being "positive" without any reference to HIV/AIDS. All of this, according to the researchers based in India, was made more difficult to understand clearly due to the interviews with the narrators being conducted remotely, which made probing for information difficult. This was partly due to communication being hampered by poor connections, making it difficult to develop trust and rapport, and partly due to an inability to ensure that the participant was in a safe and secure space where they could speak freely, especially given the context of lockdown. It also removes the opportunity to pick up on non-verbal cues such as body language and facial expressions.

The narratives provided here are from two women in Bangalore who had been involved in sex work, both of whom are HIV positive. Ha. (Female, 45, Bangalore) did not say for how long she had been involved in sex work but indicated that it had been a source of income for her for some years. She felt she had no other option: "What can I do? I have to lead this life", she said. She had left her husband twenty years ago after contracting HIV from him:

> "I have to tell you about my health. I can't tell anyone else; I have to tell you, only you, this time. It has been twenty years that I have HIV. It's from my husband, I left the village, and I am surviving. It's been three years since I started taking tablets."

Ha. also had an ulcer on her head, suffered from headaches and fatigue, and had diabetes and high blood pressure. Five years earlier, her daughter had lost an eye after she became ill with

"brain fever" and since lockdown her other adult children had been unable to find work. The combination of all family members suddenly being without work, restrictions on movement, fear of COVID-19, and complex health problems meant that Ha.'s situation had become critical:

> "They are giving food near my home. Two times I took it, but it was a bit spicy and salty. I have BP [high blood pressure] so I can't have it. They are giving milk, but I didn't get it. Sometimes it was too difficult. One time MLA gave me ration. And one time I got rice from the ration card. We were not able to get anything at that time [during the first lockdown]. My children didn't get work, didn't have money, we're not able to go to the hospital. It was very difficult. I didn't even go out for tablets."

Ha. explained that her children had been worried about her going to the hospital in case she contracted the virus. She had been once to get treatment for her ulcer, and the hospital had suggested she be admitted, but her children had said 'no'. She understood that she was at a higher risk than most because of her health condition:

> "…we won't know what type of patients will be there in the hospital. It [COVID-19] may come to us. So, they gave me tablets for ten days and told me to come to the hospital if it did not cure. But I didn't go. […] If this disease comes, I will not be cured. If we have good health, only then will it be cured quickly."

Ha. was being forced to choose between two potential risks: the long-term risk of not receiving adequate treatment for her existing illnesses, or the acute risk of contracting COVID-19. When the first lockdown ended and businesses reopened, her children had returned to work, but she had worked very little. She explained that her type of work does not simply restart when lockdown ends:

> "I can't go because I am a *sex worker* [she whispered this], but yesterday I was able to go."

Ha. said she could not tell her family about the work she did. Instead, she would say she was going to "the office". She seemed relieved that her work had picked up again, but she was still very worried about working because it was impossible to take the necessary precautions to protect herself:

"There are issues with the work, I am a bit scared and careful as I don't know what kind people they are and if I too will get it [COVID-19].

[…]

If a person is a heart patient or sugar [diabetes] patient, then they will not survive. I am scared to go for work as if we inhale the infected persons breath then it will be difficult."

At the second check-in, Ha.'s health had begun to deteriorate and many of her co-workers had lost work, become sick, or died:

"Everything is problematic the last two/three days, I'm not feeling well. Severe headache. No sleep last two days. Little sore throat and cold. […] I thought consulting doctors and taking medicine would help. But it did not work.

[…]

After corona, many of my co-worker's died, many lost work, no cash in hand, food became scarce. If we stay at home, children pester us asking for money. All of us are in bad shape."

At the final check-in, Ha. was with her friend, Sh. (Female, 42, Bangalore) who also had HIV, high blood pressure, and diabetes and had reluctantly begun occasional sex work a year or so ago. Before doing so, Sh. had questioned the character of her friends who engaged in sex work:

"I used to scold them. I used to ask instead of keeping quiet 'why are you doing all this?' They used to reply saying if you want to just work in one place and be like *Harishchandra* who always tells the truth, then so be it…"

In the legend, Harishchandra was a king who never lied, and in order to keep a promise gave up everything he owned and offered himself up as a slave. In contrast to this, Ha. explained, she was able to choose what work she did and when:

"No one forces me to go for work. If I am fine, I go for work, and if unwell I take rest. In the night my body aches, so I take care of my health and not the job. Without the safety condom I won't go, even if they give me Rs. 1000 to 10,000. Whatever I have gone through, others need not go through the same."

Although Sh. had begun sex work to supplement her earnings from the garment sector, lockdown and COVID-19 had meant that she had become dependent upon it. She had worked at a factory for six years, and hoped that once the pandemic was over, she would be taken back. However, between lockdowns she had attempted to return, but when she arrived at the factory, they had told her there were no orders:

> "They are saying they will call the helpers and checkers when needed as there is no work now and have taken our phone numbers. They have not yet called, and our payments are also not given yet. They have paid for what we had worked but since the lockdown, we are at home."

For both Sh. and Ha., sex work was relatively reliable and flexible, and while garment work depended on the demands of the factory owners, sex work (even during the pandemic) was generally available. Many of their co-workers continued working throughout lockdowns, but Sh. said this came with a risk of harassment and clashes with the police or having to pay bribes. Working as part of a 'club' can mitigate this, but workers have to pay the owners.

Although sex work was available, Sh. felt that the risk – even after lockdown had ended – had increased:

> "I tried to go a couple of times, then I pulled back since I was scared. On the TV they were always saying that people who have sugar [diabetes], BP [high blood pressure] are at high risk, so I did not go out much at all. I thought, why take a risk? […] It depends on us. If I make up my mind and think that I will go, then it would happen."

These two narratives illustrate how particular circumstances can change individual perceptions on risk, resilience, and vulnerability. Although COVID-19 meant that factory work was almost impossible to secure, meaning higher risk choices were being made (including more secretive work, increased borrowing, and deciding not to seek medical support), sex work also became a crucial survival strategy, even if it meant risking exposure to the virus.

It is important to note, however, that Ha. and Sh. also had other potential sources of income, including from their families, and had connections to worker networks (such as the MLA). As worrying as their narratives are, they may have been relatively resilient in relation to other women who do not have these types of support systems or who are being coerced or forced into sex work (see e.g., Bahadur & Kaur Aulakh, 2020). They also both saw their situations as temporary and hoped to change their work in future, though the opportunities to do this had been limit by COVID-19:

"I applied for Rs. 25,000 and have to pay Rs. 1000 per month. But I haven't got it yet […] How much longer can do this work? […] I want to do some other business like having a small cloth stall or vegetable stall because this work is not permanent. So, I decided that, but I don't have any money."

Overall Risks and Resilience

Contrary to the views associated with the neoliberal humanitarian resilience paradigm, resilience is not simply a personal attribute or a characteristic of a community. Neither is it entirely dependent upon outside intervention. Narrow understandings of resilience can potentially shift responsibility from the state to the individual, fitting the narrative of particular forms of governance that seek to decentralize the state's functions in favour of non-state actors (Hilhorst, 2018). But conversely, placing the emphasis entirely on the state overlooks the crucial role of local and grassroots organising and the potential for 'entrepreneurship of resilience', which depends on a level of social-cultural embeddedness that "facilitates access to local resources and legitimacy, and creation of social value in the community" (Vlasov, Bonnedahl, & Vincze, 2018). The *lack* of resilience to these vulnerabilities is a result of a combination of factors relating to a person's individual characteristics, the social and cultural context, and structural inequalities: i.e., the social ecology. The social-ecological perspective (Heise, 1998) emphasises the collective nature of resilience, while simultaneously reaching beyond "place-based analysis of people bound to a specific resource" (Brown, 2015, p. 79). The community narratives above show how COVID-19 has exposed and worsened existing vulnerabilities among marginalised sectors of society, especially women working in the informal sector.

In April, May, and June 2020, when little or no work was available, workers faced such dire situations that those who were able to chose to borrow money and/or return to their settlement of origin, while those who stayed in urban centres survived mainly on relief given by civil society groups. Government support was patchy, and collecting rations was dependent on having a valid ration card that registered in the state of residence (as opposed to the state of origin), while financial support required recipients to have a bank account with a zero-balance. Many of the community narrators had neither of these. Throughout the research period, most were accruing debt, which was incurring interest, and almost all were behind on rent: some had not paid it for four months. Once work was officially allowed to restart, the lenience of landlords had quickly worn thin, and they had begun pressuring tenants for rent. Some had even cut off power supplies and threatened to evict tenants.

Between and after lockdowns certain types of work had recommenced, but not all and not at the same level as before. Though some garment workers had returned to work, most of the domestic workers had not. An existing preference to hire live-in domestic workers (Agarwala & Saha, 2018) was strengthened by new concerns about house staff mixing with others, which meant that some of those who previously worked part-time, in multiple houses, or had small children were unable to return to work. Those who have returned reported that their earning

capacity had been drastically cut, either through reduced hours or reduced pay for the same hours. This was the case for both domestic workers and for garment workers.

Many of our community narrators were looking for work outside of their usual sector. In particular, formal sector garment workers were seeking work in the informal sector doing piecework or domestic work, but over the course of the narration period, most had been working in no sector at all or their work had been very sporadic. There had also evidently been slippage toward higher risk behaviours, including increased borrowing (both formally and informal), depleting savings, and choosing between crucial resources like food, healthcare, and their children's education.

In general, women working in the garment sector had been unable to earn at the same level as before the pandemic began. The impact on women was disproportionate when work resumed for a number of reasons, particularly relating to childcare. For example, those with children of pre-school age were, in some cases, no longer able to bring their children to work, while those with school age children were sometimes no longer able to pay for school. Pregnant women were also concerned about how they would pay for emergency care if needed, but because they were seen as high risk, they were no longer being hired. Like the domestic workers, some of the garment workers interviewed in the first round had left for their hometown and had not returned. But single women and families without the means to return had remained, surviving as best they could in the hope that things would get better. This finding is in-line with existing literature on the gendered impact of crises ranging from climate change to conflict and epidemics (see e.g., Lafrenière, Sweetman, & Thylin, 2019), and it illustrates the importance of taking an intersectional and gendered approach to assessing the impact of COVID-19 on modern slavery.

The community narrators who had been engaged in sex work presented a particularly significant set of intersecting factors that highlighted the compounding nature of different risks and the fluidity of vulnerabilities. The added pressure of health concerns arising from HIV, high blood pressure, and diabetes, for example, meant they were unable to eat certain rations and had to find food elsewhere. They were also unable to secure their medications; medical needs were being neglected throughout the narratives, but these women had especially complex and overlapping health concerns. Though both said they had 'chosen' sex work, they also made it clear that few other options were available, and that this lack of choice had been exacerbated by COVID-19. What was clear, however, was that sex work was available if they opted to do it, while other types of work (such as garment or domestic work) depended on the decisions of others. Sex work, then, was evidently an important component of their resilience and survival, but at the same time it also represented a major risk factor in terms of vulnerability. When they went out to work, they did so secretly, hiding their activities and locations from their families. Both women also said that their relationship with the police (which was already problematic) had worsened because it had been made illegal to go out. This meant also hiding themselves from police and paying bribes if they were caught working. Thus, the type of work they were doing left them uniquely vulnerable to contracting COVID-19 and to potential violence or exploitation.

Conclusions: A Vulnerabilities Lens for Modern Slavery Intervention

Social intimacy, as opposed to social distancing, is at the heart of much qualitative research (Fine, Johnson, & Abramson, 2020), especially in anthropology of development. As such, understanding the impact of COVID-19 is hampered by the virus itself, meaning that confronting these limitations and overcoming them as best we can and as quickly as possible represents a critical step toward addressing the crisis and its long-term effects. This article provides limited but important insights into the varied impacts of COVID-19 on vulnerability and resilience to labour exploitation over a short but critical period in India. The initial findings of our eight-week rapid review have already been instrumental in informing policy responses, particularly as part of GFEMS, and they are now being used to guide the next stage of our longitudinal study as part of a Global Challenges Research Fund (GCRF) project, which will allow for the community narrators to be revisited up until July 2021. By positioning the person and their narrative at the front and centre of the study, the community narrator approach allows for qualitative research to continue over an extended period of time, regardless of whether narrators move into or out of particular industries or localities. As such, it contributes to a more robust analysis of the rapidly changing and highly complex challenges that are emerging. This is particularly important at a time when long-term ethnographic research may not be possible (or could potentially be unethical) for the foreseeable future.

Our analysis of the data collected so far has begun to provide insights into the changing landscape of vulnerability to labour exploitation in India, as well as the new challenges that the narrators and their communities face. The narratives show how a person's vulnerability and their resilience depend on where they are positioned within a web of interconnected and overlapping social, cultural, and economic factors at multiple levels from the individual to the global. Our researchers based in India are located within such networks, and, as such, are well positioned to not only connect with suitable community narrators, but to also help build their resilience through facilitating networking and advocating on their behalf. This observation was part of the lens through which our research was designed, and we found that the social-ecological context is changing rapidly due to COVID-19, with some narrators and other members of their community shifting between high-risk sectors, such as formal and informal garment work, domestic work, and sex work. Many more found themselves without work, dislocated from support networks in their settlements of origin, and with little hope of finding any work at all in the near future. This social and economic isolation can leave particular people highly vulnerable to exploitation in general by limiting their access to the various resources that might otherwise strengthen their resilience. Importantly, a global pandemic of this kind represents a particularly complex challenge because all levels of the social ecology are being affected simultaneously, and at the community level horizontal support is eroded because so many people have lost their incomes at once.

In order to address this more effectively and to better serve the most vulnerable groups and individuals in India and elsewhere, the sectoral approach of interventions that seek to end

modern slavery and labour exploitation will benefit from a shift towards programming through a vulnerabilities lens, including taking into consideration the fluid and intersectional nature of vulnerability and acknowledging that, now especially, those who are most at risk may not be easily identified as 'workers' at all. By detailing the lived experience of people and their friends, families, and co-workers, the community narrator approach has the potential to bring about a qualitative change by building relationships over time, thus strengthening and expanding networks, which is a critical step in shifting from vulnerability to resilience (see Pasteur, 2011). The openness of the lines of investigation, offering the narrator space to speak about what they feel is most significant, and leaving less space for the story being scripted by the researchers, helps to identify the problems and challenges narrators are encountering in the wake of COVID-19.

Taking an approach like community narration, even after COVID-19 restrictions have passed, could also allow for a more collaborative and mutually beneficial approach to research. These benefits could include data being collected by community narrators themselves or other local actors who have greater and more intuitive understandings of the local context and whose existing networks extend into "hard-to-reach" populations and most at-risk groups, which is a long-standing challenge in social research in general (see Abrams, 2010). Without the researchers from local activist organisations and the India-based academic researchers, it would not have been possible to conduct this research. The added benefit of this was that the voices of in-country researchers were amplified, which encouraged the UK based researchers to reflect on how this can continue to be facilitated in future. By decentralising participant selection and data collection, it is possible contribute to addressing the extant imbalances of power regarding how research into modern slavery and labour exploitation (and international development in general) is conducted, which is currently weighted heavily toward the preferences of governments, universities, and researchers in the Global North (Groves & Hinton, 2004; Naylor, 2011).

Building resilience and ending slavery in all its forms means addressing the structural inequalities that make it possible and profitable (see Stringer & Michailova, 2018; Christ & Burrit, 2021). This means acknowledging and seeking to better understand how and why people flow into, out of, and between different high-risk contexts, rather than simply seeking to address incidences of abuse and exploitation in specific sectors where and when they take place (see Machura et al., 2019). The community narrator approach seeks to contribute to filling this gap in knowledge while providing a channel through which the support networks of vulnerable people can be expanded and strengthened.

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Ripped at the Seams: RMG Sector Workers During a Global Pandemic

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Abstract

Authors from NORC at the University of Chicago conducted a five-month rapid assessment of COVID-19's impact on the Ready Made Garments industry (RMG) in Bangladesh and India with funding from the Global Fund to End Modern Slavery (GFEMS). The research presented here highlights the increased risk of forced labor among vulnerable working populations associated with the COVID-19 pandemic. The rapid assessment addresses descriptive and normative questions about the short- and long-term impact of the COVID-19 pandemic on Bangladesh and India's RMG industries. Qualitative data collection methods included 19 semi-structured key informant interviews (KIIs) with governmental and non-governmental stakeholders and actors across the RMG supply chain. KIIs were informed by a systematic review of recently published media articles, reports, white papers, and other online content. RMG sector stakeholders, including private sector supply chain actors, policy actors, and implementing partners, can use this research to adapt programs and address the multi-faceted challenges facing apparel workers during a global pandemic.

Key Words

Ready Made Garments industry; RMG; India; Bangladesh; forced labor; apparel

Introduction

The purpose of this rapid assessment is to understand how the coronavirus (COVID-19) pandemic is affecting vulnerable apparel workers in the Ready Made Garments (RMG) industry in Bangladesh and India. "Ripped at the Seams: RMG Sector Workers during a Global Pandemic" presents a wide range of insights that support the Global Fund to End Modern Slavery (GFEMS) in adapting future programming to new COVID-19 realities on the ground. To this end, the study was developed to address descriptive and normative questions about the COVID-19 pandemic's short and long-term impacts on Bangladesh and India's RMG industries. These questions included,

1. What are the impacts of the COVID-19 pandemic on RMG supply-chains and factory-level business?
2. How have RMG workers been affected by the COVID-19 pandemic? and
3. How do the COVID-19-related impacts on business and on workers affect vulnerability and possible forced labor?

This mixed-methods study was conducted in two phases. In the first phase, the authors conducted a desk review of recently published media articles, reports, white papers, and other online content to help address the research questions as well as inform the approach to primary qualitative data collection. Primary data collection was conducted in the second phase, including key informant interviews with sector stakeholders, such as government officials, non-governmental organizations (NGOs), and employers' representatives and workers' representatives in the formal and informal sectors. Overall findings and recommendations from the rapid assessment are summarized below.

Data Collection

To conduct this study, the authors conducted a rapid systematic review of grey literature tied to our research questions. The authors relied on credible newspaper articles, media reports, government and international organization COVID-19 response statements and policy briefs, white papers, and blogs from research institutions and reputed policy experts. In parallel to this evidence-gathering effort, the authors also gathered documents reflecting the larger context in both Bangladesh and India as it relates to the overall developments and issues in the RMG sector. These documents included country-specific forced labor assessments, legal briefs on specific force labor related laws, country profiles, and migrant worker statistics and databases.

Over the course of data collection, the authors conducted a total of 19 virtual key informant interviews (KIIs), of which 16 were individual KIIs and 3 were group KIIs. Conducted via Zoom, KIIs were approximately 60 minutes in length. The semi-structured interview guide was customized for different stakeholder groups, but broadly covered topics related to supply

chain impacts related to the COVID-19 pandemic, buyer practices, formal and informal sector conditions, experiences of vulnerable workers, and implications and recommendations.

Data Analysis

The authors gathered indexed documents and news reports from March 1 to July 20, 2020. The authors used a deductive thematic approach to develop a codebook, which was iteratively refined as new themes emerged during the document review process and imported into Dedoose (version 8.3.35), a qualitative analysis software. Overall 137 sources were reviewed using the final codebook, resulting in 1,043 code applications and 746 media excerpts. Some key themes identified during the analysis include the significant effects that rippled throughout the supply chain including buyer cancelation and non-payment of orders, non-payment of workers or closure of factories, government and private sector response (or lack thereof), and recommendations for how factories, governments, and buyers should proceed. Data gathered from interviews were captured by the authors in interview notes, coded using Dedoose, and analyzed using an inductive approach. The desk review codebook was updated and used to code the KIIs. A total of 19 KII notes were included in the coding process, resulting in 706 code applications and 343 excerpts. Emergent themes are detailed in the report and supported with relevant quotes.

Key Findings: Bangladesh

COVID-19 Pandemic Impacts on Formal Sector

The effects of COVID-19 in Bangladesh have rippled throughout the RMG supply chain. As clothing stores in the US and Europe have shut their doors and revenue falls, companies are looking to cut costs (Lalon, 2020). As a result, since the onset of the pandemic in March 2020, over 90% of factories in Bangladesh reported buyers canceling contracts and putting holds on ongoing work orders (The Daily Star, June 4 2020; Anner, 2020). A survey conducted by the Center for Global Workers Rights (CGWR) in March showed that 23.4% of suppliers indicated that "a lot" of in-process orders had been canceled, 22.3% had "most" of their in-process orders canceled, and 5.9% had all of their in-process orders canceled. As of April 2020, 1.5 billion dollars of revenue had been lost – by June, this number rose to 3.15 billion USD (Lalon, 2020; The Daily Star, June 4; Kelly & Ahmed, 2020, Quartz, 2020). As of July 20th 2020, according to the Bangladesh Garments Manufacturers and Exporters Association (BGMEA) 3.18 billion USD has been lost and 2.28 million workers have experienced some negative effects, such as lost wages (BGMEA, 2020). Mostafiz Uddin, managing director of Denim Expert in Chittagong and founder of the Sustainable Apparel Forum, stated,

Orders are being cancelled by buyers and retailers at a rate we've never seen before… It is crippling the entire industry. If the buyers do not pay the manufacturers, how will the manufacturers pay the salaries to their workers? Without orders, factories cannot remain operational and will go bust (Mastafiz Uddin, quoted in Sutherl, 2020).

Workers in the formal sector experienced a number of challenges, such as factory closures and termination. One KII respondent notes that 130 Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA) member factories and 398 BGMEA member factories closed their operations temporarily. These estimates primarily include small- and medium-sized factories that were not as prepared to absorb the financial loss as larger ones.

Though buyers have contracts with suppliers that require them to pay for orders, many buyers have asked to delay payments by up to 6 months (The Daily Star, June 22, 2020) while others have managed to cancel orders altogether or avoid payment for orders by invoking a little known "force majeure" clause in contracts (Hafiz, 2020). This clause is usually used in case of natural disasters or war as a justification for not paying suppliers, even if those suppliers have already paid for fabric and workers' labor (AP News, March 27). However, as the pandemic erupted a number of buyers investigated if their "force majeure" clauses also covered disease or "acts of god" that might allow them to sidestep their normal legal obligations (Quartz, 2020). Furthermore, when buyers did cancel orders, CGWR shows that 72.1% of buyers refused to pay for the raw material inputs, like fabrics, which suppliers had already purchased and paid for and 91.3% of buyers refused to pay for the cut-make-trim (CMT) costs already incurred to complete the orders (Anner, 2020). The government-mandated lockdown period, explained in more detail below, further halted business and possible income for suppliers.

Many buyers initially turned a blind eye to the human effects of the COVID-19 pandemic amidst their attempts to save money. In March, the Center for Global Workers Rights cites that 98.1% of suppliers surveyed said buyers did not help cover the cost of paying workers who were furloughed due to in-process order cancellations. Similarly, 97.3% of suppliers said that buyers also did not assist with severance costs for workers who were dismissed due to lack of orders. Given this, as of CGWR's March survey, 72.4% of factories said they could not provide workers with some income while furloughed, and over 80% said they could not provide severance pay when workers were dismissed (Anner, 2020).

COVID-19 Pandemic Impacts on Informal Sector

Though many studies, including those cited above, have been completed on the effects of the COVID-19 pandemic on the export-oriented RMG sector, comparatively less information is currently available about further trickle-down effects on the informal sector. However, several sources point to the precarious nature of informal work, including among smaller, unregulated

sub-contractors. Informal factories have even less reserves than formal factories, and do not receive government support that could have helped them pay workers during and after lockdown.

There are two types of informal factories in Bangladesh, both of which faced closures, declining orders, and difficulty paying workers as a result of the COVID-19 pandemic. The first type of informal factory produces for local markets, and the second type produces work under the table for formal sector factories that are suppliers to global brands. These informal factories typically act as back up when formal factories are past capacity. As part of the supply chain effect and the global impact of the pandemic in overseas garment markets like the US and Europe, the informal factories supplying formal factories began closing their businesses in March 2020 and remained closed until mid-May 2020. A leading national newspaper in Bangladesh noted that as of September 2020 more than 300 factories had permanently closed, representing a loss of $1 billion USD, while an estimated 50,000 workers had lost their jobs, most from subcontract factories. (The Daily Star, September 13, 2020).

The informal sector faced additional challenges resolving outstanding salary and severance pay during this period. Due to their informality, informal sector factories were ineligible for stimulus packages and bank loans as they are not exporting the product directly, not members of the BGMEA or BKMEA, and do not have an established relationship with banks. Thus, informal sector factories face significant pressures with little relief.

> We cannot sleep at night from the 1st to the 10th of each month, when payment for workers' salary appears before us. – Informal Sector Employer

Informal sector factories in Bangladesh began reopening in late May and early June of 2020; however, they continue to face special challenges and uncertainty. Operators of informal factories tend to be former workers themselves with little capital reserves. Therefore, informal sector factories' capacity to absorb shock is quite limited. Furthermore, one respondent estimated that about 30-40% of all informal sector factories run their businesses based on the availability of day-to-day work orders. So, even as they reopen, some informal sector may have to shutter quickly if steady work does not continue.

Effects on Employment

Workers are feeling the brunt of the failure of global apparel supply chains during the pandemic due to factories stopping production, lack of payment for hours worked, the government shutdown period, forced furlough, and improper termination processes. Estimates range dramatically, but between one and four million Bangladeshi garment sector workers have had their employment directly affected by the COVID-19 pandemic (Anner, 2020; Sultan et. al, 2020; Quartz, 2020), and up to 10 million people including workers themselves and their families, are affected by canceled contracts, unpaid orders, and factory closures (Hafiz, 2020).

While some estimates of employment termination are based on official factory data usually provided by BGMEA and BKMEA, other information is provided by workers unions and NGOs, based on their perception and personal knowledge of the situation. BGMEA data indicates closure of 113 factories and the loss of 51,529 workers due to retrenchment since the pandemic. However, most KII respondents indicate that actual numbers far exceed official reports. In many cases, respondents such as formal employers understated the magnitude of workers who lost jobs, likely because the RMG factories tend to be under public scrutiny. In addition, it is likely that the number of RMG sector workers who lost jobs is underestimated as workers who are employed in unregulated or informal factories are not counted in formal estimates.

Trade Union representatives further emphasize that many factories are terminating workers without providing compensation or providing service benefits; some factories forced workers to sign blank papers and return their ID cards to further evade their severance responsibilities (Sultan et al., 2020). Furthermore, another 18,000 workers – or more – have not been paid for their hours that they already worked (The Daily Star, June 4; Sultan et. al, 2020, RMG Bangladesh, 2020). KIIs with key stakeholders confirm that most workers are being terminated without following proper protocol. In most cases workers are forced to sign their resignation letters, fired without advance notice, and denied severance pay.

Workers who have retained their jobs are also facing an adverse situation due to a lack of timely wage payments or salary cuts. These workers are also in a vulnerable situation as they are working regular or over-time hours but are not paid wages.

> After Eid, we saw seven factories in Narayanganj recruited workers without giving preference to workers who served previously. This factory offers 8,600 BDT [101 USD] now from 9,000 BDT, [106 USD] the amount paid previously. – NGO Representative

Although the government introduced a stimulus package specifically for RMG factories to carry on operations, including paying workers, it appears the benefits are not reaching those who need them most. Several KII respondents highlighted that big factories (which comprise less than 10% of total RMG factories) were more likely to receive stimulus package benefits, therefore being able to pay worker wages. On the other hand, small, medium and informal factories (90% of total RMG factories) did not receive benefits and, as a result, it is likely the majority of their RMG workers were not paid outstanding or complete wages after the onset of the pandemic and government lockdown. The fact that many workers have been let go without following proper protocol, or called to work but not paid for that work, indicates that the full scale of the problem is likely hidden.

As a result of these layoffs, wage cuts, and lack of payment, Center for Policy and Dialogue found that 63% of respondent workers could not pay house rent, 39% had unpaid utility bills, and 36% had unpaid school fees (RMG Bangladesh, 2020). In addition to income loss,

workers have to battle rising prices and limited availability of essential commodities, putting them and their families in an even more vulnerable situation.

> Workers' salary had curtailed on the one hand, and essential commodity price went on high; house rent remained the same, and additional cost for soap, hand sanitizer, and other cost added into the regular costing on the other. Workers faced double challenges in income loss on the one hand and substantial financial pressure from the cost of living during the pandemic period. – Formal Workers' Representative

While the majority of workers are unable to negotiate with employers for their outstanding wages or fight against "illegal" termination, those who seek union support are more likely to receive relief from employers or get paid what they are due. Research shows that trade unions and local NGOs have taken a leadership role in negotiating with factory owners, employers' associations, and the government to help promote payment of wages and job security for workers, as well as working with the Directorate of Factories and Establishment (DIFE) to collect information on closed factories, layoffs and retrenchments, and unpaid wages (Sultan et al., 2020).

Return to Work

At the onset of the pandemic, RMG factories and workers were first affected by the government shutdown and required a factory closure period from March 26 to April 4, 2020. Many garment workers left cities to return to their home villages with the plan of returning by the factory reopening date. However, without prior notice, on April 4th the government shutdown was extended to April 12th. Due to the severe lack of coordination between stakeholders, and despite limited modes of transportation, hundreds of garment workers walked more than 100 km to Dhaka to get back before April 5th. Upon returning to Dhaka, they saw that factories were still closed. Factories remained shut until April 26th, with factory owners providing limited to no information to workers about when they could resume work. Further complicating matters, many landlords in Dhaka denied workers access to their homes fearing the spread of COVID-19.

Eventually, when factories did reopen, those workers who were not terminated returned to work at factories with an increased risk of being exposed to COVID-19 due to the lack of protective safety measures. While trade unions, ILO, BGMEA, and BKMEA are making efforts to provide information and safety training in formal factory establishments, workers believe these measures do not translate into appropriate precautions or social distancing in factories. Factory owners do not always choose to enforce regulations on the use of gloves and masks, and some facilities do not provide wash stations or hand sanitizers for workers. Overall, social distancing is not observed and workers continue to live and work in close quarters (Sultan et. al, 2020). One KII respondent noted that the weak enforcement mechanism by DIFE led to workers

being very prone to getting infected with COVID-19–once factories reopened, more than 150 garment workers contracted the virus in a very short span of time.

> Some factories follow some provisions of health guidelines instructed by the government —for example, temperature checks, masks, and hand sanitizers available in some workplaces. However, nowhere in any parts of the industrial hub testing facilities, home quarantine, and isolation facilities exist inside the factories. Social distancing is impossible inside the factories; they have witnessed no single factory reorganizing their work to maintain social distancing requirements. For workers, neither the workplace nor at home, they were able to maintain social distancing. – NGO Representative

Workers are returning to work in the face of COVD-19 related dangers to protect their income and continue providing for their families. However, employers are exploiting workers' financial vulnerabilities to make them work longer hours for less pay or paying them less for the same amount of work. Therefore, though some workers are retaining their jobs, they are working longer hours and are being exploited by their employers. The combination of financial insecurity, excessive work and limited pay is also compromising worker health and mental well-being.

> Now, the worker comes back to work, work-intensity has increased. That has further gone up while there is a shipment deadline. The management sets production targets too high for the workers they cannot meet even after putting their best effort. That has a severe negative impact on workers mental health. – Government Representative

Vulnerable Groups in the Garment Supply Chain

Among RMG workers severely impacted by the pandemic, certain sub-populations have been disproportionately affected. These include women workers, workers employed in the informal sector, and migrant workers. Women make up nearly 90% of RMG workers in Bangladesh and are therefore most directly affected by any event that impacts the sector. One trade unionist cites women may also be less likely to push back or speak out against problematic practices in factories given both their vulnerability and social status (The Guardian, July 9, 2020). According to the Bangladesh Labor Foundation, 40% of all informal workers are now unemployed and are facing immense financial insecurity, having taken on additional debt at a time with no steady income. Informal workers stranded in industrial belts and unable to return home are borrowing money from relatives and not through formal sources of credit (Workers' Representative Informal). Migrant workers constitute another group of RMG workers facing significant challenges during the pandemic. Having to leave major cities and quickly return to their homes in rural and remote areas at short notice, migrant workers took informal and dangerous transport home – like walking or informal trucks or cargo vans, since formal public transport had been shut down (Clean Clothes, April 4, 2020).

Increased Risk of Forced Labor

The power imbalance in the global garment supply chain between buyers and suppliers, severity and uncertainty of the COVID-19 situation, financial insecurity, and desperation of workers are key contributing factors putting workers at an increased risk of being trapped in forced labor situations.

The lack of support for the most vulnerable creates a potential for increased forced labor among RMG sector workers. Current wage cuts and lack of payment for hours worked are already putting workers in a precarious situation. While it is possible that some of these changes in wage payments will be remedied in the short term, it is also possible that such irregularities will continue – potentially spiraling workers into an even more destitute situation (RMG Bangladesh, 2020). The majority of KII respondents highlighted that instances of "illegal" termination, non-payment of wages, and labor rights violations (including excessive and forced overtime work), continue to increase during the pandemic, resulting in worker exploitation and forced labor.

After returning to work at the end of the government mandated COVID-19 shutdown, workers are facing increasingly stressful conditions on factory premises. In fear of being fired and losing their only source of income, workers are enduring harsh treatment and demanding employer expectations. KII respondents reported instances of workers not getting any leave, being harshly reprimanded for being late or absent, and not being allowed to go to the washroom or drink water while at work. In addition, employers are setting unrealistic production targets for workers to meet the same level of buyer demand. Consequently, RMG workers are working longer hours, accepting lower wages, and tolerating harassment and compromised occupational safety, in exchange for employment.

> All the factors put pressure on the work intensity; the owner forced workers to do more work within limited hours of work. Thus, the owner adopted a policy like 'with less workers, get done the more'. Unfortunately, workers are not getting more wages for more work. Workers do not speak because of the fear of losing their jobs. – Government Representative

Workers likely feel a greater burden because they believe they are easily replaceable in garment factories. Due to the large number of laid off workers, the current supply of garment workers exceeds the demand. Mounting evidence suggests that employers can potentially exploit this equilibrium gap and force workers to take on more work than they are paid for or accept lower wages. Underscoring the severity of the issue, one NGO leader and former child garment worker said, "Our workers are not scared about the disease, but they are scared about starving with their family and children….Our workers are vulnerable but nobody is taking responsibility. We need responsible business because that's not fair." (quote from NGO leader Atker, in Hafiz, 2020).

Given the stressful working environment, some workers may be forced to make difficult decisions about whether to continue working at a factory in the hopes of eventual back payments and/or return to their full salary, versus attempting to leave and find work elsewhere. Unfortunately, most RMG workers have few options in other formal sector jobs. Therefore, it is likely that workers who are unable to get their RMG sector jobs back or decide to leave their current positions will move toward the informal sector, despite lower wages and lack of social protection. (Fashion Revolution, 2020).

> The most important trend is a growing informalization of work. Among all other [alternate] occupations, agriculture is the main occupation most people engage themselves in. – NGO Representative

In addition, workers may be drawn to illegal or illicit income earning opportunities to provide for their families during these uncertain times. The Open Society Foundation cites that many women workers have had to consider other income sources like sex work, in order to provide for their dependents (Open Society Foundation, 2020). This is corroborated by KII findings indicating that workers, especially those who are stuck in Dhaka, are now seeking alternative income opportunities, such as selling fruits and vegetables and rickshaw pulling. Worker Akhi Akther, quoted in an article in The Guardian, highlights the exact risk of forced labor, saying: "We can't go back to our village because we don't have anything there, what will we do? Our jobs are our only source of earnings. Orders have shrunk, factories are getting rid of workers left and right. I am emotionally and mentally devastated." (Kelly & Ahmed, 2020). Due to exhaustion and in an attempt to simply sustain themselves, there is a risk that many vulnerable workers – including those that previously had formalized employment in registered factories – could be coerced into forced labor including involuntary work, forced overtime, or trafficking.

Key Findings: India

COVID-19 Pandemic Impacts on the Formal Sector

The formal RMG export sector in India is severely impacted by the coronavirus pandemic, particularly in the producing and exporting hubs of Tirupur and the Delhi NCR region. Prior to the pandemic, the apparel industry accounted for over 2% of India's GDP and employed an estimated 45 million workers (KPMG, May 2020). At the time, this industry was growing rapidly but unsustainably, with large brands transferring production risks to suppliers throughout Asia. The combination of unrealistic production targets, depreciation of local currencies relative to the dollar, and increased costs of importing raw materials compelled suppliers in the region to reduce their pricing to stay competitive (Asia Floor Wage, July, 2020). Exporters were hence forced by to lower wages to stay competitive.

As a result of the pandemic, companies suffered substantial revenue losses due to the cancellation of orders by buyers, amounting to nearly U.S. $4 billion (Reuters, April 20, 2020). According to a study by the Apparel Export Promotion Corporation (AEPC) in May 2020, 72% of exporters stated that buyers had not paid for materials that they had already purchased, and this had repercussions on the company and the employees. One formal sector employer noted, "Unlike hospitality and other sectors that were also drastically impacted, garment factories had products and materials that they could not do anything with. It was just lying in the factories. Buyers cancelled orders, and payments were deferred for at least 120 days." These cancellations have dangerous implications for garment workers, as the study also highlighted that 88% of exporters "felt challenged" in paying workers' wages, in turn rendering the workers highly vulnerable (Society for Labour & Development, June 21, 2020). This is representative of a larger pattern of retailers offloading risks in the global supply chain by cancelling orders, affecting businesses, and, to a greater degree, garment workers.

Following the government lockdown in March, work began resuming in May in some of the large, formal factories in the Delhi-NCR region. One employer of a formal export factory noted that even though operations began and the factory had resumed to almost 100% of its previous orders, "a month of production was lost. This erased any scope of profit for this year, and has made this year only about survival." Another representative of the formal sector attributed the slow recovery of the sector to its long production cycle. "The apparel supply chain functions on a cycle of 90-120 days. So even to re-start production, it took a month for this sector [to recover]."

COVID-19 Pandemic Impacts on the Informal Sector

In addition to effects on the formal sector, the COVID-19 pandemic and resulting lockdown in India have sharply affected the informal garment sector. The Clothing Manufacturers Association of India (CMAI) notes that 80% of the Indian garment industry is comprised of micro, small, and medium enterprises (MSME) that do not have the reserves to survive the lockdown (The Economic Times, April 14, 2020). A large portion of these businesses are home-based and informal, producing goods for the local (Indian and South Asian) markets as well as for export markets (Kara, January 31, 2019). Prior to the pandemic, MSMEs that chiefly operated on liquidity were facing risks due to schemes such as demonetization by the Indian government.

Importantly, the decrease in demand and cancellation of orders due to the COVID-19 pandemic adversely affects workers in the informal sector, who are primarily women and/or migrants and already considered high risk (Asia Floor Wage, July, 2020). Government bailouts for the textile industry are also not applicable to all MSMEs, as not every business is registered or meets the necessary requirements in terms of the number of workers or size. A large number of MSMEs face the risk of permanent closure in the coming months, unless preventative measures are implemented by the government (Times of India, April 14, 2020). Unlike larger

exporters in the formal sector, it is also nearly impossible for MSMEs to reopen, as they are not in the designated industrial areas that have state-authorized permission to remain open (Times of India, May 12, 2020). In interviews, respondents described how many informal factories have been closed down. According to one NGO representative, not more than 20% of the informal factories and production units had resumed production.

It is unclear to what extent informality will remain an integral part of the RMG sector in Delhi/NCR. One NGO respondent noted that before the pandemic, formal export sector factories preferred to have no more than a quarter of their workforce on steady payrolls. The rest of the work was subcontracted to a range of contract workers, informal units, and home-based workers. This was estimated by some respondents as likely to increase, especially in the wake of new compliance demands on formal factories for sanitation and distancing norms, allowing the informal sector to operate more agilely and with increased capacity due to a lack of regulation and oversight, and thus heralding the need for incentives for the formal sector to adhere to the new compliance demands.

Employment Status and Wage Payments

In the immediate aftermath of the lockdown, most workers lost work and associated wages. According to the Clothing Manufacturers Association of India (CMAI), the majority of its member firms were able to pay wages in March, but have not been able to ensure continued payment in the subsequent months. Additional reports suggest that many factory owners, traders, and shopkeepers have withheld or reduced wages since the onset of the pandemic. Similar to the analysis from Bangladesh, the discrepancy in reported wage payments can be attributed to the variation in month of publication, source of information, employers' cash flow, as well as government regulations. While some employers provided meals, accommodation, and advance payments during the lockdown, others have left their workers in destitution. Similarly, although government directives mandate employers to pay full wages during factory closures, this was not properly enforced and was only applicable for regular workers, excluding short-term contract or piece-rate workers who form a sizable majority of the textile workforce (Asia Floor Wage (AFW), May; Business of Fashion, April 30; Asia Floor Wage, April, 2020). Some terminated workers were asked to collect final wages in person, which was not always possible or advisable for workers due to mobility restrictions during the lockdown (AFWA).

Workers' unique experiences during the pandemic varies by geographic location. For example, New Delhi's Gandhi Nagar area is Asia's largest wholesale hosiery market, boasting approximately 15000 shops and 250,000 skilled workers within a purely indigenous supply chain. Reports suggest that the economic crisis in this garment hub began an entire month before the lockdown when riots broke out in Jafrabad, just 2.5 miles away from Gandhi Nagar. Riots were concentrated in areas where suppliers of Gandhi Nagar's garment stores lived, forcing skilled workers to flee from riot-affected neighborhoods. Importantly, a large proportion of garment industry workers are Muslims who were particularly targeted during the communal

violence (Business of Fashion, April 30, 2020). Another example is the state of Karnataka, Bengaluru, the 'Garment Capital of India', which is witnessing mass closure of garment units in the face of the pandemic. Findings from a survey jointly conducted by Alternative Law Forum and Garments Mahila Karmikara Munnade indicate that the majority of workers received no wages in April and only a few received half their wages in May. Elsewhere, a survey conducted by SLD of garment workers in Delhi NCR and Tirupur in Tamil Nadu found that only 1 out of 44 contractual workers received some payment from the employer; 15 of the 44 received subsidized food grains from the government. Several media reports indicate that contractual workers were abandoned by their contractors and factory owners, leaving many without wages for over 3 months (Business of Fashion, April 30, 2020).

Even as some factories reopened, workers continued to face widespread unemployment and wage insecurity. During the medium term, most informal units and home-based workers started to make personal protective equipment (PPE) such as masks. However, one informal workers' representative noted that for this work, workers earned 50% of their previous wages. Another NGO highlighted that in July and August many workers were asked by employers in Delhi NCR to return to work in order to complete pending orders. "However just after 15 -20 days of work they were left without work again. Now many of these workers are thinking of returning back to the villages." An informal sector worker interviewed in September who had resumed work noted "20-30 workers come asking for work at our factory every day. I have never seen such pervasive unemployment."

The long-term future of garment workers continues to be steeped in uncertainty. Respondents feel that workers are not only faced with unemployment but also with indebtedness and homelessness. For example, it was reported that, in order to survive the preceding months of lockdown and lack of work, workers in Tiruppur borrowed from a number of sources, including contractors and grocery stores in the neighborhood. "Workers don't have money to come back to the city. As a result, they might take money from a local lender or dominant caste person, and go back into the loop of indebtedness" said another NGO stakeholder. Furthermore, for workers who are based in the city or chose not to return to their home districts, continued rental payments have also created debt burdens. An informal employer noted that in towns like Kapas Hera in NCR, landlords did not waive rental payments despite government recommendations. As such, instability in employment is creating new risks of homelessness.

Unique Experiences of Vulnerable Groups in the Garment Supply Chain

Pandemic-induced lockdowns and factory closures have disproportionately impacted the most vulnerable groups of garment workers – daily wage earners, migrant workers, piece-rate workers, home-based workers, and women – who neither have a financial buffer nor adequate social protection to survive the crisis. India's apparel industry thrives on migrant and women workers. Yet, despite their pivotal role in keeping the industry alive and profitable, migrant and

women workers constitute vulnerable sub-populations among garment workers rarely protected by social security schemes. These experiences are described in further detail below.

Return to Work

As garment factories and businesses began reopening in June, migrant labor shortage forced employers to review their labor policies and lure workers back with incentives of free transportation, accommodation, and food (Times of India, April 12; Economic Times, June 7; Hindustan Times, June 7, 2020). Migrant workers reached home hungry and destitute after the government failed to provide due protection. Workers are unwilling to return to faraway garment clusters after the mistreatment and trauma; as such, they are seeking alternative employment opportunities in their state of origin despite the risk of reduced income (Society for Labour & Development, June 21, 2020). Some are staying back to care for their families who have also been affected by the pandemic. The latter may be especially true for women who often bear a disproportionate share of domestic and caregiving responsibilities (ILO, June, 2020).

While some workers were reluctant to return, others once again began migrating to urban cities due to lack of employment opportunities and significantly lower wages in their home state. Given that Delhi shares borders with multiple states, workers often travel across state borders to work. During the lockdowns, there was no clarity on the border closures. These borders were opened intermittently and then shut down again with little notice to those traveling and incurring additional travel related costs. In the case of workers living in Udyog Vihar/Kapas Hera, they were restricted in their ability to cross the Delhi border to work.

In an attempt to resume full capacity operations while ensuring minimal labor and social distancing measures, ten state governments passed orders that sanction an increase in working hours from 8 to 12 hours per day. Contrary to global norms mandating a 48 hour work-week, manufacturing units in select states are now enforcing 72 hour work-weeks. Responding to this directive, Rahul Menon, Assistant Professor at Tata Institute of Social Sciences, argues that while longer working hours can increase labor productivity and output growth, the new sanction disproportionately shifts the burden onto workers without a proportionate increase in wages. While some states like Rajasthan have mandated substantially higher overtime wages for increased work hours, states like Gujarat have yet to do so (The Wire, May 6, 2020).

For those workers who were able to resume work, respondents interviewed for this study were unaware of the standard of hygiene and safety that was made accessible to workers. One stakeholder observed that the safety of workers in their 'return to work' depended on whether there was an NGO or civil society organization in the neighborhood who could oversee compliance. For women workers, in addition to COVID-related sanitation measures, menstrual hygiene was also reported to have been severely impacted due to the pandemic, including restricted access to products and a lack of sanitary facilities. An informal worker said that, while there was access to masks and sanitizers in the factory, in the event that they fell ill, there was

not a single doctor in the neighborhood in NCR where they worked. The workers were forced to go to one of the large hospitals in Delhi to get treatment.

> Different kinds of awareness raising and educational work on washing hands, etc., are needed. There is also a need to be supported materially – say through the provision of affordable soap. Access to healthcare, in the form of logistical support to get to hospitals, and access to national health insurance scheme, are also requirements. – NGO Representative

Although most formal factories resumed operations in May, most informal units remained closed. Many workers returned to their home districts. One stakeholder noted that many workers who returned home did work provided by the state under the Mahatma Gandhi National Rural Employment Guarantee Act and then transitioned into agricultural work. "The usual trend is that industrial work is reduced during June and July, as it is peak agricultural work. It is only after August that we would see the real change as most of the sowing work is now completed, and workers usually return to cities around this time."

Increased Risk of Forced Labor

RMG workers of all types reported experiences of abject hardship due to extended unemployment and underemployment as a result of the COVID-19 pandemic (The New Indian Express, June 9, 2020; 223, 118, IJM, 2020, The Indian Express, April 20, 2020). As described above, workers across RMG sectors and regions reported reduced wages; irregular, inconsistent, and/or extended work schedules; and delays in payment. All of these factors demonstrate increased risk of forced labor.

Widespread unemployment is pushing workers to do any kind of work that is available to them. Two NGO representatives noted that, because of garment work being a low-skill trade, workers may be likely to change occupations. Except those who have reached the highly skilled rank of being a 'master' or skilled tailor for example, which is limited to 5% of the workforce, the others may take up small-scale construction work or street vending, even accepting to work for daily wages. This leaves workers in a precarious situation, balancing unfair labor situations with the need to survive in the face of unemployment. The large number of unemployed RMG workers, most looking for new and/or additional work, compounds the issues around unfair labor practices. Employers know that low wage workers have little recourse in choosing work and also have a deep labor pool to choose from if confronted with workers who are unwilling to accept unfair practices.

Most respondents felt the formal sector is increasingly depending on the informal sector to stay viable, passing down both the risks of an uncertain market as well as new compliance costs related to the COVID-19 pandemic. An informal sector employer who had to close down operations because of the pandemic noted that "Big companies do not want to take the risk/

pressure of safety norms. So, they will even pay 2 INR/ piece more to get the work done informally." This trend was traced by the trade union representative to the brands and their unwillingness to take responsibility for the entire supply chain.

> They have sent memos on hygiene and sanitation standards. But the problem is that brands don't pay for compliance costs even when they make these demands. They outsource these costs to supplier factories. As a result of this, suppliers lower workers' wages and increase their hours of work. – Formal Workers' Representative

The vulnerable groups mentioned above are similar to the three subgroups of workers that appear to be at especially high risk of increased forced labor—women and girls; migrant workers; and workers in rural settings. Several articles contained interviews that highlighted the COVID-19 pandemic's disparate impact on women and girls who bear disproportionate responsibility for child and family care responsibilities (The New Indian Express, June 24; IJM, Reuters, April 20; Ibid., March 30; Clean Clothes Campaign, July; The New Indian Express, July 5; WIEGO, 2020). As one article reported, "The vast majority of India's garment workers are women, who generally take responsibility for childcare…managements have targeted working mothers and left many with no choice but to quit" (Reuters, June 30, 2020). A report from IJM explained, "In many cases during COVID-19, garment workers have been trapped at factories and worksites...22 girls and young women from the state of Odisha who were trapped in a garment factory near the city. These young women were being forced to toil for long hours and deprived of their wages" (IJM, 2020).

Migrant workers are also at higher risk of forced labor (Reuters, March 30, Business Standard India, May 4; Clean Clothes Campaign, April & July; AFW, April; Economic Times, June 17, 2020), particularly given the already high risk of restrictions on movement that migrant workers living in dorms faced even before the pandemic. Those who stayed in workers' hostels during lockdown or returned thereafter reported unsanitary living conditions and overcrowding (Reuters, March 30; News Trust, April 22, 2020). Many migrant workers preferred to return home during the lockdown period. But, both leading up to and following the March lockdown, the federal government placed restrictions on inter-state travel to curb the spread of COVID-19. These restrictions had a disparate impact on migrant workers, who were forced to decide between the risks of returning to their home and families or staying on site in workers' hostels. A young worker from Odisha trapped in a garment factory said, "We are only waiting to go home and stay with our family. We are not interested in work. The company owner keeps us to meet his target. The rising number of COVID-19 cases creates anxiety and fear within us. If anything happens and we die, our bodies will be left unnoticed" (IJM, 2020). Many migrant workers who did leave and crossed borders for work during this period reported being brutalized by police (The Hindu, May 21; AFW, April; Business of Fashion, 2020).

Lastly, workers in rural settings—many of whom are women and girls and migrants— also appear to be at high risk of increased forced labor. Factories in rural settings were among the

earliest allowed by the government to reopen after the lockdown (Reuters, April 20; Economic Times, May 11, 2020). Due to their physical isolation, their conditions are less likely than those in urban areas to be monitored by government actors and/or international corporations."

Discussion

Our research finds that garment workers in both Bangladesh and India are vulnerable to forced labor due to high rates of poverty, the fragmented and informal nature of textile supply chains, and weak enforcement of legal protections for workers. Though the apparel sector has long come under criticism for poor working conditions, sexual harassment, forced labor, and workplace health and safety issues, the COVID-19 pandemic further exposed major, existing flaws in the global garment supply chain. Many global brands ("buyers") responded to the pandemic by cancelling orders, halting production, and refusing to pay factories ("suppliers") in developing countries. Refusal to pay left suppliers—many of which already operate on razor-thin margins—in debt and with excess inventory. As a result, many suppliers could not or did not pay workers, leaving already impoverished workers in an incredibly vulnerable position. Though these trends developed differently in Bangladesh and India, in both cases it lead to a heightened risk of workers being subject to forced labor conditions.

The first key finding from this study is that the COVID-19 pandemic is exposing and exacerbating the extant power imbalance between buyers and suppliers in both countries. By reinforcing the asymmetric power dynamics between buyers and suppliers in the global supply chain, the pandemic is putting suppliers in increasingly vulnerable positions and eroding trust between business partners.

The second key finding is that with increasing amounts of debt, no source of income, and uncertainty about their future employment and income prospects, RMG workers are in an extremely vulnerable situation. RMG workers, particularly women, migrants, and informal sector workers are especially vulnerable to global impacts to the supply chain. Most RMG workers lost wages as a result of closures and lockdowns associated with the pandemic and those already living at-risk were disproportionately impacted by these losses.

Thirdly, the COVID-19 pandemic has led to an increase in the risk of forced labor. The pandemic has increased the financial insecurity and desperation of workers, as there are fewer RMG sector jobs than before the pandemic and workers have less leverage. Those apparel workers returning to work face increased pressure to accept poor working conditions, including being subject to forced labor through both involuntariness and work under the menace of penalty, due to the generally uncertain outlook for factory employment and the large number of unemployed workers who could replace them.

Although there are major commonalities in how the pandemic impacted the RMG sector in Bangladesh and India, there are also important distinctions and nuances between the two countries. These nuances are described below as part of our country-specific recommendations.

Conclusion

RMG sector stakeholders, including private sector supply chain actors, policy actors, and GFEMS implementing partners, can use this research to adapt programs and address the multi-faceted challenges of apparel workers. Based on this report's findings, the authors put forth a total of 12 recommendations, including 4 general recommendations for both Bangladesh and India and 8 country-specific recommendations. As detailed in the report (Hansen et al. 2020), recommendations cover activities ranging from the short- to long-terms and involving varying levels of collaboration among RMG sector stakeholders.

General recommendations for Bangladesh and India RMG industries include the following:

- Expanding COVID-19-related occupational safety and health (OSH) training, including awareness campaigns and guidelines for maintaining a safe workplace;
- Increasing overall health awareness and primary health care support through mobile clinics or temporary health centers (provided through collaborative efforts of buyers, suppliers, government actors, and NGOs);
- Strengthening government programming in the RMG sector, including an increase in oversight of informal factories; and
- Establishing worker-focused policies and operations in the private sector that protect against the negative impacts on workers in the case of future crises.

With regard to the RMG sector in Bangladesh, the authors recommend advancing livelihoods programming for vulnerable workers as they may need additional training to enhance their ability to find alternate employment outside formal and informal factories. Other recommendations include broadening social protection programs for all RMG workers, including unemployment benefits and housing, to mitigate the long-term impacts of housing and food insecurity in times of crisis. The authors also recommend rebuilding trust between buyers, employers, and workers through programs that promote a culture of responsible leadership.

In India, the authors recommend the mediation of unpaid wages for workers through government mandate and advocating for the passage of long-term social protection and labor regulation legislation, such as the One Nation, One Ration card initiatives. Other recommendations include promoting workers' collectives as key vehicles for organizing, training, and information-sharing as well as supporting initiatives for home-based workers and children that connect workers to their entitlements and reduce student drop-out rates. Lastly, the authors identified a need for providing technology and data security support for implementing partner organizations whose work is now virtual due to physical distancing guidelines.

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Shattered Dreams:
Bangladeshi Migrant Workers during a Global Pandemic

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Abstract

Overseas labor migration (OLR) is currently one of the most important contributors to Bangladesh's economy and is a highly profitable form of labor for Gulf Cooperative Council (GCC) countries. Despite the high rate of migration between these countries, the OLR sector remains complex and often leaves migrants susceptible to human trafficking, forced labor, and modern slavery. The onset of the COVID-19 pandemic has exposed migrant workers to additional adverse situations, increasing their vulnerability to forced labor and COVID-19 related health risks. This rapid assessment addresses critical questions about the short- and long-term impacts of the pandemic on Bangladesh's OLR industry. Findings from this assessment will inform migrant rights protection policies and programs.

Keywords: overseas labor recruitment, labor migration, migrants, human trafficking, forced labor

Introduction

Overseas labor migration (OLR) is currently one of the most important contributors to the Bangladesh economy with remittance inflows estimated at 5.52% of the nation's GDP (Bangladesh Bank 2020). In 2019 alone, approximately 700,159 migrant workers from Bangladesh migrated overseas to engage in long and short-term employment in order to pursue better opportunities, with GCC countries being a major destination for Bangladeshi migrant workers who provide an inexpensive and lucrative labor pool for the GCC (BMET, 2020). Within GCC countries, Saudi Arabia has been the most common destination for Bangladeshi migrant workers since 2016. In 2019, 57% of Bangladeshi migrants departed for Saudi Arabia and 18% departed for Oman (BMET, 2020).

Despite the high rate of migration between these countries every year, the OLR sector remains complex and often leaves migrants susceptible to human trafficking, forced labor, and modern slavery. The onset of the COVID-19 pandemic is further compounding these adverse outcomes as Bangladeshi migrant workers across industries face significant wage cuts and longer working hours with little negotiating power for their employment rights. Existing labor systems in destination countries combined with poor living and working conditions, restricted access to information and health care services, and inadequate legal protection have amplified the vulnerabilities of migrant workers. Highlighting the vulnerability of the migrant worker population, Manuela Tomei, Director of ILO's Conditions of Work and Employment Program has described the situation as "a potential crisis within a crisis" (France-Presse, 2020).

The purpose of this rapid assessment is to understand how COVID-19 is affecting OLR from Bangladesh to the GCC and highlight Bangladeshi migrant worker vulnerabilities. This paper presents a wide range of insights and recommendations that can support and orient future programming to new realities on the ground. To this end, NORC at the University of Chicago

developed descriptive and normative research questions (RQs) addressing the pandemic's short and long term impact on migrants.

1. How has COVID-19 impacted migrant workers in GCC countries?
2. What is the situation of returnee migrants in Bangladesh? What economic and social discrimination is faced by returnee migrants because of the stigma that they may be carriers of COVID-19?
3. What policy measures or actions are the GCC government, Government of Bangladesh, international donors, local non-governmental organizations (NGOs)/ civil society organizations (CSOs) and recruiting agencies taking to protect, repatriate, reintegrate and support overseas migrants, and returnees and pre-departure migrants in Bangladesh?
4. What are the possible medium and long-term implications of COVID-19 on OLR and the willingness of Bangladeshi workers to migrate to GCC countries?

Data Collection

This primarily qualitative study was conducted in two phases between June and December, 2020. In the first phase, NORC conducted a rapid systematic desk review of recently published credible media articles, reports, white papers, and other online content to help address the research questions and inform qualitative data collection. To structure the search and ensure reliable information, the research team developed an extensive online search protocol focused on the repatriation of Bangladeshi migrant workers. In the second phase, the research team used a stakeholder mapping tool to identify key stakeholders working in the OLR sector, including government officials, international donor agencies, national and international NGOs, and recruiting agencies. Over the course of data collection, NORC conducted a total of 31 virtual key informant interviews (KIIs), of which 28 were individual KIIs and 3 were group KIIs.

Data Analysis

The research team gathered indexed documents and news reports published between March and July, 2020. The team then used a deductive thematic approach to develop a codebook, which was iteratively refined as new themes emerged during the document review process and imported into Dedoose (version 8.3.35), a qualitative analysis software. A total of 110 sources were analyzed, resulting in 817 code applications and 500 media excerpts. Additional background documents were also reviewed, but were not analyzed using Dedoose. Some key themes that emerged were COVID-19 trends in Bangladesh and GCC countries, short and long-term impacts on migrant workers, policy and regulatory response on repatriation and reintegration (or lack thereof), and forced labor vulnerabilities. The desk review informed the design of the KII instruments, provided important information on the emerging trends around migrant worker vulnerabilities, and was critical in developing the initial codebook for analysis.

Interview data was transcribed, translated, and analyzed using an inductive approach. KIIs were coded on Dedoose using an updated version of the desk review codebook. A total of 31 KII notes coded, resulting in 1,424 code applications and 1,095 excerpts. Emergent themes are detailed in the report and supported with relevant quotes.

Key Findings

COVID-19 Impacts on Migrant Workers in GCC Countries (RQ1)

COVID-19 has disproportionately affected migrant workers' economic and social well-being in destination countries. Although the health crisis in GCC countries is not as severe as other countries, plummeting oil prices and shrinking economies have prompted energy-rich GCC countries to deport migrant workers to their home countries (Palma 2020). Given the economic contraction, an overwhelming majority of Bangladeshi migrant workers in GCC countries are experiencing unemployment, wage theft, termination of lawful residence, food deprivation, and restricted access to health care services since the onset of the global pandemic (Bhuyan 2020; Ara 2020).

Impacts on Migrants (Bangladeshi and non-Bangladeshi) in GCC Countries

Triggered by pandemic related disruptions in oil-dependent industries such as manufacturing, transportation, construction and trade, the GCC is experiencing a negative demand shock severely impacting its oil-driven economy. Low and semi-skilled migrant workers who constitute a large proportion of the workforce in these sectors are facing direct consequences of the economic depression in the form of wage cuts and withholding, long working hours, compromised health and occupational safety, and lack of social protection. For example, in the UAE government recently passed a new law[1] allowing employers to arbitrarily revise employment contracts such as changing work status from fulltime to part-time and making salary reductions. The policy was enacted partially in an attempt to stabilize the market and the private sector, but is only applied to expatriate workers, highlighting the marginalization of migrant workers. By prioritizing employers' rights and economic interests, the decree has to some extent, legitimized forced labor conditions among migrants.

> *There are companies negotiating that they will not pay for migrant's settlement benefits, but will keep their immigration employment visa for another year so they could stay here looking for work and then switch to employment. This helps the employers to offset the cost of paying these migrant workers…but if you look across the board, workers are not in a strong position to negotiate full benefits. – (GCC Researcher KII)*

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[1] Ministerial Resolution No. (279) of 2020 on Employment Stability in Private-Sector for Non-UAE National

Due to COVID-19, there are limited opportunities to switch jobs in the GCC. Not only are workers forced to find a new job within a short time-frame and while maintaining legal status, but they are also competing with a large labor pool across industries and skill levels for limited job opportunities during a pandemic. This layer of complexity makes it unsafe for workers in unfavorable working situations to switch jobs and seek fair employment. Consequently, many choose to accept wage cuts and longer work hours in exchange for employment stability.

Migrants are also facing a dilemma of whether to return home or stay in the GCC during the COVID-19 crisis. Many workers are unemployed and/or carrying a heavy debt burden. This, in conjunction with uncertainty around flights and associated travel costs, makes returning home, to an uncertain and saturated job market, an increasingly challenging prospect.

> *The issue here is not COVID, but when the family calls there is nothing you can do about it to help with family rent, tuition, etc. Repatriation becomes tricky because they know the employment prospects back home and the unemployment rates here. In fact, for lower skilled workers, the ability to earn is higher in the informal market here (GCC) than formal market back home. – (GCC Researcher KII)*

There are three major subgroups of migrants who are most likely to return back to their country of origin because of COVID-19. First, there are migrants with expired *iqamas* or work permits who can't afford the high renewal costs, which are currently the responsibility of the worker rather than the employer. Second, migrants with families residing with them at the destination country who have lost their jobs and are facing immense difficulty in financially supporting the entire family. The third group consists of undocumented migrants who have pending legal trials and are currently living in prison, detention centers or embassy shelters.

Impacts on Bangladeshi Migrant Workers in GCC Countries

As macroeconomic conditions worsen in the Middle East, many Bangladeshi migrants are being laid-off arbitrarily, illegally, and at short-notice. Increasing financial burdens due to high *iqama* renewal costs, nonpayment of wages and sustaining family livelihoods amidst pay cuts are increasing migrant worker vulnerabilities, with undocumented migrants among the most vulnerable to unfair labor practices. This group may be returning to Bangladesh under general pardon or amnesty by the gulf government, but many others are being held for deportation and forced repatriation. Bangladeshi migrants working as freelancers under the *kafala* or free visa system constitute another significantly affected group. Without a legal contract, they are deprived of proper documentation, making them an easy target for detention. Although some freelancers migrated with valid iqamas, many hold illegal status after overstaying on their expired permits which makes them vulnerable to forced repatriation.

The relative impact of COVID-19 on Bangladeshi migrant workers also differs by employers. Better business owners, usually large multi-national firms, are still honoring employment contracts with workers and are waiting for the pandemic to end to resume operations. However, smaller and less financially resilient companies are unable to maintain contract terms during the economic crisis, forcing many migrants to return home.

Gender Considerations – Bangladeshi Migrants

Although a majority of women migrants employed in domestic service have retained their jobs during the pandemic, they are still vulnerable to exploitation. Mounting evidence suggests that women workers are not only exposed to greater risk of COVID-19 infection, but are facing increased risk of forced labor and workplace violence (Ara 2020). Due to stay-at-home policies in GCC countries, there has been additional housekeeping work and longer hours for women migrants, often with reduced, delayed or no wages. Women domestic workers are being burdened with additional household and caregiving duties, especially for COVID-19 positive members and often staying in close proximity with the patient. In refusing to work for fear of their health and well-being, some workers have also become victims of physical abuse and torture perpetrated by their employers.

> *Not many women return, they are stuck in the Middle East – workloads have greatly increased, especially among domestic workers, the reason being that more family members are not going out during the pandemic and thus, there is increased household burden. Their human rights are being violated, so are their contracts." – (International Donor KII)*

> *They (women domestic workers) were locked in the washroom for four days. Later, they were rescued. They were beaten badly, so badly that their legs were badly injured. – (National NGO KII)*

Situation of Returnee Migrants in Bangladesh (RQ2)

Forced and voluntary repatriation of Bangladeshi migrant workers since the onset of the pandemic has led to a mass exodus of migrants back to Bangladesh. After battling employment uncertainty and stressful working and living conditions in the GCC, migrants return to Bangladesh and have to deal with multi-faceted issues arising out of adjusting to life in their home country amidst a global pandemic. Bangladeshi returnee migrants are vulnerable to health and safety concerns due to poor implementation of quarantine and containment protocols at home combined with the mental stress and trauma associated with repatriation. They are also vulnerable to economic and social discrimination in their communities, compounding their vulnerability as they try and reintegrate in Bangladesh.

The Bangladesh Bureau of Manpower, Employment and Training (BMET) reports that a total of 111,111 workers returned to the Bangladesh between April to September 2020, while BRAC's migration program estimates this number to be closer to 275,000 considering the number of returnees in February and March as well (Star Online Report 2020). A report from the Bangladesh Wage Earners' Welfare Desk, stated that from 1 April to 03 October 2020, a total of 170,573 migrants returned to Bangladesh from different destination countries.[2] Although many workers are being forcefully repatriated due to the pandemic-induced economic crisis described earlier, there is a sizable number of migrants voluntarily returning to Bangladesh to spend time with their family during these unprecedented times.

Physical and Mental Health Concerns

Once migrants return to Bangladesh they are required to go through quarantine. However, there is limited information on the effectiveness of the local health authorities' implementation and monitoring of the quarantine protocols for migrants. Initially, the government containment protocol for returnee migrants involved screening at the airport, after which healthy migrants would be quarantined at Hajj camps for 14 days and only sick migrants would be sent to designated hospitals (Bhuyan 2020). However, due to poor implementation and mismanagement, there were reported increases in coronavirus cases among migrants returning to Bangladesh, leading to a move towards more stringent self-quarantine requirements (The Daily Star 2020).

Due to poor implementation of containment measures and lack of information and awareness, few migrants who returned home quarantined properly or were released by authorities with proper COVID-19 medical clearance certificates. According to the BRAC Migration Program's phone-based survey with returned migrants, 84% of migrants reported maintaining it, 14% reported not maintaining it, and 2% reported maintaining only a one-week quarantine (Dhaka Tribune 2020).

Refugee and Migratory Movements Research Unit (RMMRU) and other migrant rights organizations raised concerns on how government measures to reduce the spread of coronavirus creates a negative mindset against returnee migrants. Often these migrants are not allowed to stay in their villages, face harassment in accessing medical services, are physically attacked, and face extortion (RMMRU 2020). As a result of awareness campaigns and efforts by NGOs and CSOs, however, instances of migrant workers facing harassment in their communities has been decreasing since April 2020.

A combination of stress due to a pandemic-induced failed migration experience, financial insecurity, societal harassment, rejection by families and uncertainty about the future is impacting the psychosocial wellbeing of returnee migrant workers. Many migrants find it hard to cope with the uncertainty around their future and need emotional support and counseling to help them during this difficult time. Most KII respondents highlighted that returnees' mental health is

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[2] WEWB. 2020. Monthly Information of Workers Returning Abroad (1 April – 03 October, 2020). Dhaka: Wage Earners' Welfare Desk, Wage Earners Welfare Board (WEWB), Government of Bangladesh.

at risk, and there is a need for more psycho-social support programs especially for vulnerable groups such as women who are at a high risk of being abused or facing violence. The status of returnee migrant women is closely linked with the financial support they provided their family pre-pandemic. As returnees with little economic prospects, they are more vulnerable than ever.

Social and Economic Discrimination

Social discrimination of returnees, perceived to be carriers of coronavirus, presents challenges to successful social reintegration. According to the BRAC survey, 29% of returnees reported their relatives and neighbors were not accepting of their return and did not behave normally with them (Dhaka Tribune 2020). Another USAID-WINROCK survey reported that nearly half (48%) of returnee migrants are being treated worse or much worse than before by community leaders and members, and in some cases by friends or family.[3] This is supported through our KIIs, with one respondent stating:

> *When they returned at the very beginning of the COVID-19 situation, they were prohibited from entering all restaurants. In fact, many restaurants put a sign on their door stating that no foreigners or migrants were allowed inside. – (National NGO KII)*

At the onset of the crisis, due to a lack of awareness and government monitoring, some returnee migrants violated self-quarantine protocols causing risks to their families and community. Such instances led to stereotyping migrants and labeling them as carriers of the "foreign virus". Misinformation circulated by government representatives and citizens through social media reinforced this belief. As part of surveillance efforts to keep non-migrant citizens socially distanced from returnee migrants and their families, local security forces hoisted red flags on top of migrants' homes to mark them as virus-carrying households. Local youth also posted warning messages on social media about virus importers, monitored migrant activity, and informed law enforcement of migrants' arrival and movement which led to further stigmatization. Consequently, absence of returnee migrants or "foreigners" in a community was perceived as an indicator of safety in terms of proximity to the virus (Identities 2020).

As a result, returnee migrants are subjected to harassment, physical assaults, and discrimination while accessing medical care in Bangladesh. Returnee migrants who were unable to provide negative test results were considered the source of the spread of the infection in the country. Reports also indicate that the most marginalized and vulnerable group of migrant workers (e.g., low-skilled workers in construction or domestic sectors) are being stigmatized as carriers of the virus, while other returnees (e.g., businesspeople, students, visitors and other professionals) who failed to comply with quarantine rules are not facing similar stigma and suspicion. (RMMRU 2020).

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[3] Situational Assessment of Labor Migrants in Asia: Needs and Knowledge During COVID-19 Series Paper 2: Bangladesh, https://www.winrock.org/wp-content/uploads/2020/07/Bangladesh_migrant-study-.pdf

Pervasive social discrimination compounds returnee migrants' economic insecurity. Migrant workers are returning to Bangladesh with limited employment prospects, loss of wages and income, depleted savings and the stress of providing for themselves and their families. The BRAC Migration Program's survey of returnee migrants highlighted some critical trends in returnees' financial security – 87% of all returnees do not have any income opportunities amidst the pandemic and the remaining 13% are dependent on family members or a small income from farming activities (Dhaka Tribune 2020). Most migrants have limited savings, exhausting what savings they had while surviving in the destination countries before repatriation while also trying to sustain their families while Bangladesh was under a COVID-19 lockdown. The survey reported that 34% of respondents have already spent their savings, 33% could manage for the next three months with existing savings, and 19% could survive for one or two months, while about 14% did not share information to this end (Dhaka Tribune 2020). More than half of returnees are in dire need of financial assistance, only 10% reported getting support from the government and NGOs, and 10% stated taking loans from formal and informal sources, likely adding to their existing debt burden from the exorbitant costs associated with migrating to the GCC (Star Online Report 2020). According to Professor KAS Murshid, Director General of the Bangladesh Institute of Development Studies (BIDS), Bangladeshi migrants face more risks of slipping into poverty because they pay hefty amounts for migration (Palma 2020). Several KII respondents supported this finding and a National NGO representative stated that:

> *You know, the migration cost is high. They had to spend around 800,000 Taka (~ US $9,500) at a high interest rate. When they earned money, they repaid the loan and the interest. When they returned, they came with almost zero money and also have no job. As a result of this, they are facing an economic crisis. – (National NGO KII)*

The average migration cost highlighted by a national NGO representative is five times more than the per capita income of $1,855 in Bangladesh[4]. However, despite the exorbitant cost of migration largely borne by migrants, there is a steady influx of Bangladeshi workers to GCC countries, where they are offered significantly higher wages than what they would have received for local jobs. With large numbers of migrants returning to Bangladesh in a very short period, returnees are severely disadvantaged in the local job markets due to scarcity of jobs and limited self-employment opportunities. Social discrimination against migrants exacerbate these factors. As increasing numbers of migrants return home amidst the pandemic and an environment of economic uncertainty, tensions are rising in their communities because of the fear that returnees may take jobs away.

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[4] World Bank Bangladesh Database, https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=BD

From an economic perspective, in the local market there is unrest – local people are losing jobs while migrants are coming back. When returnee migrants want to start their own business, they are not getting support from the community or service providers. Local people see them as competitors, and (this unrest) will increase. – (International NGO KII)

The traditional perception in society is that migrants earn in foreign currencies and send large remittances back to their families. Therefore, during a crisis it is assumed that neither migrants nor their families need government support or any special consideration. In addition, there is a perception that migrants do not want to work locally, and yet the government provides support and benefits to them and their families. These factors lead to ill feelings towards migrants even when they receive required support from the government and NGOs.

When government provides migrants with stimulus support, it creates agony among local workers as well – how come we are not getting the support we've been here all along. Additionally, in the local Bangladesh job market the pay band is low so migrant workers sometime don't want to work locally either. Now that migrant families are included in the most vulnerable groups for government protection programs, there is also tension/agony because the local perception is that migrant families have money. – (International NGO KII)

Gender Considerations among Returnee Migrants

The experience of migrant women differs substantially from men. This also holds true in terms of repatriation. Robust data from KIIs highlighted that, relative to men, a smaller number of women migrants returned during the pandemic. This is tied to the sectors in which male and female migrants usually work in the GCC – men tend to be concentrated in the construction sector while women are engaged in domestic work (Ara 2020). As a result of the pandemic, most factories and construction sites shut down, forcing male migrants to return to Bangladesh. On the other hand, nationwide lockdowns led to an increased demand for female domestic workers to support households as most family members remained confined to their houses.

However, similar to their male counterparts, returnee migrant women also faced discrimination at home. They were not immune from the accusation of carrying and spreading the virus. Moreover, an additional vulnerability they face at the household level is increased exposure to gender-based violence. The treatment and status women migrants receive in their households are closely tied to the tangible financial benefit they bring to the family which, for returnee migrants, has significantly decreased. KIIs highlighted that this along with "victim blaming" in which returnee women are blamed for the worsening economic condition of the household, leads to an increased risk of abuse.

> *While women are migrants and still sending money back to the family, their family values them; the minute they want to come back and are not migrant workers, the family doesn't value them anymore – women are always looked down upon and the family treats them as a pariah. – (International Donor KII)*

Several KII respondents highlighted that women workers are often believed to migrate for sex work and "deserving" of any abuse they experience abroad or after returning home. The fact that some women chose to work abroad to escape domestic violence or harassment and are now forced to return home to an unsafe environment due to COVID-19, further complicates an already complex situation. Stigmatization and humiliation add another layer to the tension between women returnees and the family, fueling more domestic violence. This also creates hurdles for women to find employment locally since they are not treated equally to either men or non-migrant women. Therefore, women returnees encounter the double pressure of not being accepted by family and being unable to reintegrate economically.

> *The most vulnerable group – domestic workers, especially the less educated – they contribute significant amount of remittance but the narrative carries with them (even when they return) that they must be sex workers and must be abused. Society doesn't want to acknowledge women workers. Traditional social stigma for women workers makes it hard for them to get a job in the local market – (International NGO KII)*

Overall, returnee migrant workers experience multi-faceted challenges creating a need for concerted and coordinated efforts and policies from the government, international donors, NGOs and migrants rights organizations to address returnee migrants' needs. These challenges center around physical and mental health concerns and social and economic discrimination, both of which carry gendered implications that require targeted efforts for men and women to address their unique experiences.

Policy Responses around Repatriation, Reintegration and Current and Pre-Departure Migrant Protection (RQ3)

GCC's Migrant Protection & Repatriation Efforts

Many GCC countries are taking positive steps to procure necessary medical aid and establish COVID-19 testing and quarantine measures for migrant workers, although in some cases, pandemic-related healthcare expenses are only waived for legal migrants. Countries such as Saudi Arabia, UAE and Qatar also have policies allowing workers to access COVID-19 treatment, regardless of their immigration status. Although guaranteed by the GCC countries, the actual implementation of these policies remains unclear. For instance, in Saudi Arabia, the law requires public healthcare centers to serve undocumented migrant workers, but the same mandate

is not extended to private hospitals. In addition, fear of uncertain consequences like detention and deportation after treatment, is further discouraging illegal migrants from seeking COVID-19 medical assistance.

Given their heightened risk of contracting COVID-19 and the cost of incarceration, undocumented migrants in detention centers are prioritized by the GCC government for repatriation efforts. In terms of forced repatriation, the degree of enforcement varies by country, and given upcoming regional events like the World Cup and EXPO, GCC countries are cautiously striking a balance between migration diplomacy and national interest.

COVID-19 is also accelerating the enforcement of ongoing nationalization policies within GCC countries. For example, Kuwait's[5] renewal policy marginalizes older migrant workers seeking to renew work permits by making them ineligible to do so if they are 60 years old or above. UAE and Oman[6] are also considering policy changes by encouraging private sector employers to hire more local nationals than migrant workers. Stringent migration policies in the GCC countries are now accompanied by greater localization efforts as the COVID-19 situation intensifies, further threatening migrant rights and protection in destination countries.

Repatriation Efforts

Government of Bangladesh

Government entities such as the Ministry of Expatriate Welfare and Overseas Employment (MoEWOE), Ministry of Foreign Affairs (MoFA), BMET, Ministry of Disaster Management and Relief (MoDMR), Bangladesh Overseas Employment and Services Limited (BOESL), Wage Earners' Welfare Board (WEWB) are playing a critical role in repatriating and reintegrating Bangladeshi migrant workers. The government is implementing a multi-phase repatriation process to rescue stranded migrant workers from the GCC and safely transport them back to Bangladesh in stages. Specifically, they have mandated COVID-19 medical clearance certificates for migrants traveling back to Bangladesh which returnees can use to demonstrate they are not carriers after screening and self-quarantine mandates are met.

However, the general consensus emerging from local NGOs/CSOs and international donor KIIs is that the repatriation process is moving slower than expected due to the low number of flights dedicated to bringing back migrants. Consequently, migrants most in need of immediate rescue and repatriation are stranded in the GCC, many of whom are vulnerable to workplace abuse, especially women domestic workers. Moreover, resource constraints limit the government's ability to meet the needs of the large number of Bangladeshi migrants experiencing food and employment insecurity in the GCC.

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[5] https://gulfnews.com/world/gulf/kuwait/kuwait-bans-work-permits-for-expats-above-60-1.73243710

[6] https://intpolicydigest.org/2020/06/30/foreign-labour-in-the-gulf-amid-the-covid-pandemic/

<u>International Donors, Local NGOs and CSOs</u>

Although not directly involved in repatriation efforts, international donors are working with local organizations to provide technical support and facilitate the repatriation process. Donors are encouraging the Bangladeshi government to use international obligations such as the Abu Dhabi Dialogue to bargain and negotiate with destination countries when under the pressure of forced repatriation. In addition, they are leveraging existing migrant referral systems to support overseas migrants reaching out to report abuse or a desire to return home. In special cases like trauma and human trafficking, WINROCK has a Bangladesh Counter Trafficking in Person (BCTIP) program in place for victims to connect with Bangladesh law enforcement agencies or NGOs to prepare for safe repatriation. Local NGOs/CSOs are providing repatriation support by disseminating critical information on repatriation flights, COVID-19 updates and counseling services to GCC migrants, especially through social media.

Reintegration Efforts

<u>Government of Bangladesh</u>

In the initial stages of the pandemic, the government of Bangladesh implemented COVID-19 response activities to support the domestic economy, including the release of stimulus packages supporting health infrastructure, marginalized groups in the country, and export-oriented industries. Forced repatriation of migrant workers in large numbers and strong advocacy efforts by international donors and migrants rights organizations led the government to create a US $85 million (Taka 700 crore) fund to specifically support the reintegration of returnee migrants (Ara 2020).

The stimulus package provides loans to support migrant economic reintegration, access to training centers to re-skill or up-skill, and seed money to jump start employment-generating activities in Bangladesh.[7] The WEWB will supply the returnee migrant workers' fund to the Probashi Kallyan Bank (PKB), who will then disburse loans with a low 4% interest rate. Each worker is eligible to get an amount between Taka 100,000 ($1,180) to Taka 500,000 ($5,900) based on their project proposals of income-generating activities. In addition, immediate family members of those who died of COVID-19 while working in destination countries will also be eligible for these loans. However, many NGOs and donor KII respondents believe that the complex process of reintegration cannot be simplified by providing these loans, especially given the high interest rate, narrow eligibility criteria, and complicated application process. Moreover, this assistance is offered only to legal or documented migrants who can show proof of valid employment visas, excluding support for undocumented migrants who may be most vulnerable.

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[7] https://www.migrationpolicy.org/article/covid-19-pandemic-profoundly-affects-bangladeshi-workers-abroad-consequences-origin

> *COVID has only brought out the issue that's already there, it's only amplified the issue. There has to be a systematic and structured solution, not just some NGO solution like giving out money, by the government. – (International Donor KII)*

In addition to fund-supported training and seed money, the government is making positive strides in setting up and maintaining a database of returnee migrant workers to facilitate systematic reintegration and tracking. Various government ministries, including home affairs, civil aviation and MoEWOE, are working toward creating a database of all returnee migrants to maintain data that can be used to monitor the safety and health of returnees, document returnee migrant profiles, provide necessary support, and strengthen reintegration efforts (RMMRU 2020). Although government efforts are notable and deserve attention, they were drafted quickly and under a tight timeframe to meet the immediate needs of the population. Therefore, leading to vulnerable populations "falling through the cracks" and not receiving the attention they needed to deal with COVD-19 shocks.

International Donors and NGOs

KIIs and desk review reveal that International Donors, such as the International Labor Organization (ILO) and International Organization for Migration (IOM), are working closely with local NGOs and the government to provide technical support for migrant reintegration. Their efforts center on sharing knowledge about migrant experiences at the grass-roots level to inform policy design and implementation (IOM 2020). Through downstream partners, they help provide immediate necessities, such as food, money and short-term accommodations to migrants upon arrival at the airport. By connecting migrant workers with the local market, the ILO is not only upgrading and certifying migrants' skills, but also facilitating enterprise development and on-going sustainability of the value chain (ILO 2020). Other measures consist of credit facilities, rapid finance investment and general advisory programs focused on creating a strong referral platform to help returnee migrants identify places or points of contact to access specific services like loan applications and skills certifications.

> *Even if you are skilled or have entrepreneurship, you have to connect and engage with the market. If you only work with migrant workers alone, why would the market care? You certify them, you show these are the competencies they have so that the local factories would hire them. – (International Donor KII)*

Many international donors are also dedicating resources to social reintegration efforts, including psychosocial counseling for returnees and their families, and community programs to reduce stigma and discrimination toward returnee migrants. Through KIIs we found that organizations like ILO, PROKAS, and IOM, frequently hold dialogues that engage government entities, workers, CSOs and various stakeholders to communicate migrant concerns, share data-

based reports and discuss reintegration recommendations. WINROCK tries to identify human trafficking survivors/victims among returnees and link them to partner organizations for psychosocial counseling services. Given increasing vulnerabilities of migrant women described above, many donors are targeting this sub-population in their programs.

> *With the government, we are continuously doing advocacy to ensure their (women's) safe return so that they have the correct information in the quarantine syntax. The major issue that we are working for…is women should be put into the central point of COVID-19 response planning and designing. – (International Donor KII)*

However, given the scope of the impact of COVID-19, it is unclear whether focusing on one sub-group is as effective as programming for the community as a whole. Future research on the impact of system shocks such as COVID-19 should carefully analyze the costs and benefits of such approaches.

Local NGOs and CSOs

Local NGOs/CSOs in Bangladesh are playing a vital role in supporting returnee migrant workers throughout the reintegration process. Specifically, NGOs/CSOs provide critical advocacy support for migrant worker rights and government interventions, and insights to inform policy decisions around reintegrating migrants. KIIs reveal that organizations like BRAC, OKUP and RMMRU have set up centers around airports to provide food, accommodation, and counseling services for returnees close to the their port of entry. Other organizations are providing assistance at the airports for returnee women migrants who are survivors of abuse and trauma in their destination countries and are not accepted back by their families.

> *Within a month of COVID we changed our work plan; e.g. gender-based violence was not our program focus, but because of COVID and its impact on women and girls, we included gender-based violence in our program which include migrants and in general, we contact all support programs and we develop the referral support and build a channel to track violence cases. Another example: reintegration was not our focus but is now a key area, since (our original role) was more about regulating intermediaries. – (International NGO KII)*

Other organizations we interviewed are implementing economic reintegration interventions, with a focus on providing cash grants, trainings, skill-building activities, counseling on receiving government-provided loans from the PKB and planning for future remigration. Although the government has not explicitly prioritized vulnerable groups through their interventions, many local NGOs/CSOs are working to address the unique challenges that vulnerable groups such as women and undocumented workers are facing.

The first important step in the integration of migrant workers is to counsel them so that they are mentally prepared to return to the country and the different types of stress, so their mental stability is very important after their return. As part of our activities, we first identify them and then provide them with training which we call life skills training, through which we try to build their confidence and finally help them to create a business plan to make them interested in their opportunities. We make sure that the work is sustainable so that they will feel comfortable about it. – (National NGO KII)

Recruiting Agencies

The Bangladesh Association of International Recruiting Agencies (BAIRA)[8] is working with the MoEWOE to generate and make public self-reported data on returnee migrants as it relates to their post-return employment and medical history; which if successful, would provide an important dataset on longitudinally tracking the impact of COVID-19 on returnees. BAIRA also contributed 8,000,000 Taka (US $95,000) to various emergency funds to support safe and successful reintegration of returnees. Additionally, findings indicate that for each visa processed, recruiting agencies contribute 1,000 Taka (US $12) to the welfare fund which is now being used to support returnee migrants who are able to provide valid documents. BAIRA is also working with different arms of the Ministry to re-assess migration strategies based on workers' skills and healthcare needs.

Overall, when looking at government, NGOs/CSOs, international donors, and recruitment agency efforts –there are many positive contributions in reaction to the migrant crisis during COVID-19. However, a tension arises between programs focused on particular sub-communities of returnee migrants and the returnee migrant population as a whole. With limited funds and a quickly evolving landscape of needs, it is difficult for programmers to identify the best possible interventions. The pandemic should be seen as a learning experience in how to react to system shocks in the future. Increased coordination between government, NGOs, and the international community is warranted to ensure both migrant populations writ-large as well as smaller, often more vulnerable, sub-populations are both served during crisis. The next section (RQ4) details the short and long-term implications of recruitment agency operations.

Pre-departure Migrants

KIIs suggest that following travel restrictions and business closures, it is estimated that between 100,000 to 200,000 aspirant workers are now caught in different stages of the migration process. It is worth noting that there are several steps involved in the migration process starting with recruitment, medical tests, visa approval, training, immigration clearance, and finally the plane journey – all of which highlight the significant financial investment made by both migrants

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[8] BAIRA currently represents over 1,300 recruitment agencies in Bangladesh

and recruiting agencies. Further, it is common for potential migrants to take on substantial debt and leave their current jobs before departing. This is particularly concerning now when those who were ready to leave are facing heightened debt burden and are compelled to seek alternative local sources of income.

> *For the 100,000 people who are not able to go, they have to take a lot of preparation to go abroad, which means they have closed everything over here and it would be hard for him to survive and restart again. – (Recruiting Association KII)*

Another challenge highlighted in KIIs is that many pre-departure migrants have processed visas and employment contracts that will likely expire before the pandemic ends, meaning recruiting agencies will have to re-submit all necessary documentation for renewal. Since GCC governments have not given employers any directions about foreign workers, there is immense uncertainty about the fate of potential migrants.

> *We have a really tough time and it is a question of survival now. We are in problem with visas that are processed, that money has already been spent. If workers are not able to join the company, we don't know how we will get the money back. – (Recruiting Association KII)*

While government support for pre-departure migrants remains limited, international donors and NGOs, local NGOs/CSOs and recruiting agencies provide support to such migrants in different capacities.

International Donors

Many international donors continue to implement interventions targeting pre-departure migrants. For example, the IOM is working with recruiting agencies to develop guidelines on the recruitment process, as well as hosting webinars and discussion series to engage the government officials, workers, and NGOs on future migration strategies. Given the likelihood of illegal or irregular migration practices in response to the pandemic, IOM is raising awareness on ethical recruitment through an online program (IOM 2020). Specifically, KIs revealed that in coordination with BAIRA, IOM is selecting a sub-set of recruiting agencies and contacting employers in destination countries to conduct introductory training on the tools and standards regarding recruitment.

> *We design this plan because there are ill practices where migrant workers pay for the cost of migration. For example, when workers do medical checkup before joining the firm, companies should pay for it and they do for people with white collar jobs like you*

and me, but for migrants, workers pay for it themselves and that is not right. –
(International Donor KII)

Many pre-departure migrants are not able to work overseas due to expired visas and will need assistance if they want to migrate again, especially during this period of market uncertainty. KIIs revealed that another integral part of donors' effort to protect pre-departure migrants has been to collect international data and perform market research to identify near-term and even long-term in-demand job functions, helping both government and partner organizations with the design of more targeted training programs and learning materials. Additionally, international donors are disseminating relevant information and updates on travel and immigration policies, and providing psychosocial counseling to pre-departure migrants who have gone through all the steps in migration but could not immigrate overseas due to COVID-19 (ILO & IOM 2020). For those who are still in the process, donors are also encouraging re-skilling among the workers and introducing them to job opportunities locally.

> *We have project on skilling migrants before they depart. What we found is migrants don't want skills and they don't have time to invest in skills, even though those skills may come with higher remittance – their idea is how soon they can depart the country. SDC has expertise in skilling…so now we are trying to link those projects to training for potential migrants, at least those who are interested in taking the skills. – (International Donor KII)*

Local NGOs and CSOs

NGOs/CSOs KII respondents stated that they are now prioritizing providing COVID-19 and GCC updates and information to pre-departure migrants. Respondents highlighted that employment uncertainty and debt burden due to the costs of migration to the GCC might push pre-departure migrants to resort to unsafe channels, putting them at a greater risk of working in forced labor arrangements. Consequently, many NGOs/CSOs are working on raising awareness on illegal and unsafe channels of migration to deter potential migrants from seeking such channels.

Recruiting Agencies

Formal recruiting agencies are not in direct contact with all potential migrants, especially those who migrated through informal recruiters or middlemen. Aspirant migrant workers living outside of Dhaka tend to migrate through the informal recruitment network or middlemen known as *dalals*. Although sometimes this is because workers living in remote areas are unaware of formal recruiting agencies in Dhaka, it is more likely that they feel comfortable trusting someone in their immediate network with their migration experience, money and documents. Given this

scenario, formal recruiting agencies have not been in contact with pre-departure migrants during the pandemic, as they too are aware that migrants prefer speaking to informal agents.

> *No one can trust a (formal) recruiting agency. They (workers) are unaware of or do not have any connection with the (formal) recruiting agencies. The majority of the recruiting agencies are in Dhaka. Here, the workers know us or reach us via recommendations, so they feel that they are safe and that their money will be spent properly and safely and they also give us their passport. They have faith in us. – (Informal Recruiting Agency KII)*

Short, Medium and Long-Term Implications of COVID-19 on OLR from Bangladesh (RQ4)

The findings in this section highlight the emerging short, medium and long term implications for overseas, returnee, and pre-departure migrant workers.

Short and Medium-Term Implications

Both returnee and pre-departure migrants are facing several challenges as a result of the pandemic on their livelihoods, financial security, mental and physical health, and prospects of migration. The pandemic also affects the overall economic and social environment in Bangladesh, adding to the existing challenges that policy makers face in effectively supporting migrant workers.

Returnee Migrants

The large number of migrants returning to Bangladesh during the pandemic include workers who lost their jobs, those who traveled home for holidays and are now stuck, and those who voluntarily returned due to uncertainty around the pandemic. The majority of returnee migrants carry a heavy debt burden due to the costs of migration and risk being in a situation of debt bondage due to the impact of COVID-19 on their key source of income. At this point, having exhausted their savings, many migrants are borrowing money to make ends meet. Risks of debt bondage are compounded by migrant reliance on informal and non-institutional sources of borrowings, especially informal moneylenders who often charge very high interest rates and may exploit migrant vulnerabilities (GFEMS 2019). KII respondents reported that with increasing amounts of debt, no source of income, and uncertainty about their future employment and income prospects, returnees are in an extremely vulnerable situation.

> *People who took out loans to go abroad with interest, for them the pressure is building, which they share with us. The lender is regularly visiting their house and bothering them.*

> *People who came for a holiday brought a lot of money by borrowing which is creating a problem for them. They are saying, 'We came on vacation and spent all we had. Now, to survive, we are driving an auto rickshaw.' – (Informal Recruiting Agency KII)*

As GCC countries reopen their markets and international travel resumes, many returnees are hopeful about returning to their old jobs or finding new opportunities in these countries. KII respondents suggest that returnees in Bangladesh are becoming increasingly anxious about whether, due to a shortage of air tickets, they will be able to return to Saudi Arabia, a key destination country. The lack of credible sources of information regarding developments in GCC countries and the limitations of the government in disseminating correct information and handling migrants' stress and concerns will likely create further unrest among returnees hoping to resume work in destination countries.

Moreover, the experience of success or failure in the migration process determines migrant worker's propensity to reintegrate in Bangladesh or re-migrate to other destination countries. KIIs with researchers, NGOs, and donor agencies indicate that heavy debt burden combined with lack of structured reintegration programs in their home country is likely also forcing returnees to re-migrate, especially younger migrants. Gender discrimination could be further perpetuated in the skills development component of migrant reintegration, particularly in sectors where gender plays a role in the work function.

> *99% of women wanted to re-migrate because of the social stigma they are facing back home; for men in general they want to re-migrate for three or four times because they cannot recover the money they spent upfront on migration (if they just return) and then after three or four times they would probably come back and start their own business. Now because of COVID-19 they won't migrate anytime soon but they will definitely try to re-migrate when things get better because they want to earn money. – (International NGO KII)*

Pre-departure Migrants

Pre-departure migrants have incurred large amounts of debt from formal (bank and government loans) and informal lenders (family, friends, loan sharks) to meet their migration costs. Having lost the overseas jobs, and with no alternative source of income in Bangladesh or being eligible to receive assistance through the government's COVID-19 relief package, they have no way of recovering spent money and pay off their debt. Further exacerbating their financial vulnerability is the fact that many migrants had their visas revoked, compelling them to pay extra money to renew their visa, as well as complete additional COVID-19 related medical examinations, consequently increasing the overall cost of migration which is disproportionately borne by migrants.

> *On an average, migrant workers spend between 500-1000 dollars to migrate abroad. In most cases, they usually have no movable or immovable assets to use to finance themselves, no friends or family to support them. Therefore, making them easy prey for loan sharks, and more likely to fall into situations of debt bondage. – (Migration Researcher KII)*

Moreover, returnee and pre-departure migrants constitute the majority of the current supply of low-skilled labor from Bangladesh which far exceeds the current demand of such labor in GCC countries. When borders open, there will likely be a large number of migrants desperate to renew visas and complete medical tests, which will eventually drive up the total cost of migration, especially the fees charged by informal and formal recruiting agents.

Long-Term Implications

<u>Returnee and Pre-Departure Migrants</u>

The economic impact of COVID-19 will highly impact the resilience of migrants to cope with further shocks and stresses. A high debt burden coupled with job insecurity will have long-term implications on family structures and social dynamics. As KII respondents report, this situation is already creating problems between family members, particularly married couples, who are finding it difficult to balance a new family dynamic with COVID-19 stressors.

> *Three days ago, I went to a house in Tangail town. I couldn't do their application process and returned 50,000 Taka to them. I could not take the passport back. The person's wife was aggressive and rude, stating that the money had been stuck for a long time. 'We had to sell the auto bike. If we had the bike, we could have had a daily income.' They understand it's Covid-19 and we even do, but I had to face this behavior. This kind of situation is there from everyone's perspective. – (Informal Recruiting Agency KII)*

Capitalizing on returnees and pre-departure migrant's desperation to work in destination countries, informal middlemen who migrants trust and rely on give false hope and information about migration. Recruiting agencies often tend to be profit oriented and do not take any responsibility for the social protection and well-being of migrant workers. Recruiting agency KIIs highlighted that male migrants are more likely to embrace illicit means of migration since female workers are typically more cautious and well-informed about the risks of using illegal channels. However, most recruiting agencies warn that financial insecurity may force even female migrants to resort to illegal migration channels if they do not have any safe alternatives, exposing them to greater risks of being trafficked or forced into situations of modern slavery.

There will be a few people who will create problems, as migrant supply will exceed the demand, which will lead to some people promoting illegal means of migration among those people who would be left behind. For the past few months, a lot of recruiting agencies in Dhaka have been sitting idle so, to recover the loss, they will provide false hope and information and mislead ambitious, able workers. Here, we have to be cautious. – (Informal Recruiting Agency KII)

Illegal means of migration will also increase if fewer destination countries open borders, creating competition among workers and underscoring the need to secure potentially limited employment opportunities in the countries that do open their borders. Desperation to resume work and regain their source of income might compel migrants to seek illegal migration just to get to destination countries.

Limitations

Due to the rapid nature of the assessment, the study focused more on analyzing policy and programmatic actions for vulnerable migrant workers in Bangladesh rather than in GCC countries, under-representing the perspective of GCC stakeholders in the study. In addition, the research team was unable to interview embassy and labor wing officials working on migrant repatriation in the GCC countries, as well as policy actors in Bangladesh who were unavailable for interviews given the sudden influx of returnee migrants. In many cases, government officials were hesitant to give interviews as the lack of government support toward migrants is a sensitive topic in Bangladesh.

Conclusion, Future Implications and Recommendations

Despite conscious and concerted efforts, significant gaps remain in government-led reintegration policies. The reintegration process itself is complex, including economic, social, and psychological components. Although stimulus packages and loans offer some immediate financial assistance, it is challenging to find alternative employment opportunities that provide long-term financial stability, especially given the lack of structured programs for job integration, training or entrepreneurship. Moreover, Bangladesh was already suffering from a saturated labor market which has further complicated the prospects of employing returnee migrants in the local job market. Current government initiatives neither address social discrimination faced by returnee migrants nor prioritize vulnerable groups, such as returnee female domestic workers for whom traditional social stigma poses a hindrance in finding jobs in the local market. Therefore, government representatives and other policy actors in Bangladesh face the challenge of adapting programs to address the multi-faceted impacts of the pandemic on all categories of migrant workers.

Many organizations express concerns related to program adaption due to time-consuming donor approval processes, limited direction from donors, as well as severe funding cuts which limits their capacity to support the large number of vulnerable returnee migrant workers. Moreover, given the uncertainty around the current situation of migrants and the medium and long-term impacts on migration to the GCC, there are many areas where NGOs and CSOs are unable to make concrete decisions. Some challenges highlighted in the KIIs are problems estimating the number of returnees in need of support, how best to use resources to reintegrate migrants, determining the time frame to use while designing interventions (i.e. short or long term support), differentiating between the needs of migrants planning to re-migrate versus those planning to re-integrate, and deciding between entrepreneurship versus skills training.

These findings highlight the need for increased collaboration between governmental and non-governmental actors especially during a global crisis, without which, stakeholders run the risk of working at cross-purposes and focusing efforts indiscriminately. Moreover, through increased collaboration, the needs of especially vulnerable groups can be integrated into policies through multiple points in the system.

OLR sector stakeholders, including NGOs/CSOs, international donors, formal and informal recruitment agencies, private sector actors, and the government, can use this research to adapt programs and address the multi-faceted challenges of migrant workers. Based on study findings, the authors put forth the following short and long-term recommendations involving varying levels of stakeholder collaboration:

- *Government, NGOs, and donors should expand local awareness-raising activities,* via social media, local radio, and cable networks on the challenges that returnees face upon returning to their communities. Include specific messaging to minimize discrimination against returnee migrants and increase community awareness about experiences of and challenges faced by female returnee migrants.

- *Government, NGOs, and donors should establish accessible and effective psychosocial counseling* and support for returnee migrant workers.

- *Government should increase support for the refinement of a functional and effective centralized returnee migrant database* which can serve as a critical tool to design reintegration and training programs based on workers' employment history, skills, and foreign language proficiency.

- *Government should ensure timely disbursal of financial assistance* to returnee migrants.

- *Government should establish a reintegration policy framework,* which addresses the unique challenges faced by vulnerable groups such as female migrants.

- ***Government, NGOs, and recruitment agencies should expand safe migration training and awareness programs*** to highlight the risks and indicators of forced labor and provide transparency and knowledge around the real costs of migration.

- ***Ethical recruitment agencies should coordinate efforts*** with the government and businesses to expand the market for formal, safe migration channels.

- ***GCC businesses should prioritize partnerships with recruitment actors*** who have a proven track record of ethical practices and can demonstrate policies and procedures against forced labor[9].

- ***Government and NGOs should support skills and enterprise development activities*** reflective of existing and potential labor markets while considering the profile of returnee migrants. For example, increase the employability of migrants by reskilling and upskilling with expertise for work in the health sector, which has witnessed a sudden increase in labor needs ranging from highly-skilled nurses and doctors to hospital cleaners and security guards.

- ***Government should lead greater coordination among policy actors and NGO partners*** to design sustainable skill-building training and programs.

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Underlying Conditions: The Increased Vulnerability of Migrant Workers Under COVID-19 in Israel[1]

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The COVID-19 pandemic, and with it the introduction of closures, quarantines and social distancing regulations by governments, has had an immense impact on labour markets and working conditions around the world. In various countries, governments have attempted to mediate the harsh economic results of closures through providing direct benefits or by supporting employers to retain workers. However, such policies have generally not been extended to non-citizens, who, as a result, have found themselves either without income or working long hours in sectors designated 'essential', such as care, agriculture, and construction, often under new restrictions and in the face of health risks.

This article considers the impact of key policies introduced in response to the spread of COVID-19 on migrant workers' vulnerability through a specific case study: temporary migrant workers and other 'unskilled' non-citizen workers in the Israeli labour market. We explore the link between restrictive policies and measures resulting from COVID-19 and the increased risk of severe forms of labour market exploitation, in some cases amounting to forced labour, slavery and trafficking in persons. We argue that the impact of COVID-19 restrictions in the Israeli context has generally manifested not in the emergence of new forms of exploitation and coercion, but rather in the exacerbation and intensification of 'underlying conditions' that were already present, i.e., existing structural vulnerabilities to severe forms of labour market

exploitation. However, we also find that the intensification of vulnerabilities has presented new opportunities for solidarity and resistance.

The article maps and analyses what has occurred during the COVID-19 pandemic regarding key elements of vulnerability that characterise the employment of these three groups, across the largest sectors employing non-citizen workers in Israel: care, construction and agriculture.[2] All three sectors are part of a secondary labour market, characterised by low wages, substandard working conditions, and employment of mostly non-citizens. All three sectors were designated as 'essential' during the pandemic. While the Israeli case is unique in many ways, it also bears a similarity to other migrant-receiving countries in the Global North. Specifically, the Israeli temporary migrant-worker regime, like many others across OECD countries, is characterised by mobility restrictions, housing restrictions, and exclusion from labour laws.[3] We therefore believe that analysis of the impact of COVID-19 policies on the structural vulnerabilities to forced labour, slavery and trafficking in the Israeli context may be relevant to other migrant-receiving countries.

The Israeli case study offers a comparative look at the impact of COVID-19 policy on different groups of non-citizen workers that were subject to different regulations before and during the pandemic. Thus, alongside the case of temporary migrant workers, the pandemic policies posed significant challenges with respect to the entrance and employment of Palestinian workers in Israel – mostly daily labourers entering from the West Bank, in the Occupied Palestinian Territories (OPT) – whose entrance/exit regime is dictated by a permit regime. Asylum seekers, employed mostly in precarious jobs in the 'nonessential' hospitality and food sector, comprise the third group particularly harmed by the pandemic policies in Israel.[4]

The article proceeds as follows. Part One explores the notion of a continuum of vulnerability to severe forms of labour market exploitation. It further introduces the link between COVID-19 restrictions and the structural vulnerabilities of noncitizen workers to forced labour, slavery and trafficking. Part Two describes the methodology used for this research. Part Three turns to the Israeli case study and discusses the impact on non-citizen workers of three elements of policies geared towards reducing the risk of the spread of COVID-19: 1) increased government and employer control and surveillance, and severe mobility restrictions; 2) social

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[2] According to the Population and Immigration Authority (PIBA), as of April 2020, there were over 57,000 documented migrant workers in the care sector, over 22,000 in agriculture, and over 14,000 in construction. (PIBA, "Foreigners in Israel Report," April 2020) [Heb.]. In 2020, there were also over 60,000 Palestinian workers in the construction sector. In the agriculture sector there were over 4,700 workers with permanent permits and over 2,600 seasonal workers. Gilad Nathan, Annual Report International Migration—Israel 2019–2020, Submitted to the OECD Expert Group on Migration SOPEMI, (December 2020), 69.

[3] See Hila Shamir, The Paradox of 'Legality': Temporary Migrant Worker Programs and Vulnerability to Trafficking," in *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, Prabha Kotiswaran, (ed.) (Cambridge University Press, 2017), 471-474.

[4] As of April 2020, there were over 31,000 asylum seekers in Israel (PIBA, "Foreigners in Israel Report" (n. 2, 2020): 2). Of course, not all of them work. In the 'Deposit Law' case (discussed below), the State's data indicated about 17,787 working asylum seekers (HCJ 2293/17, *Gersagher v. The Knesset* (23 April 2020), para. 44).

distancing requirements, particularly their impact on non-citizen workers' living conditions; and 3) loss of income and exclusions from safety nets. Taken together, these three elements demonstrate how measures intended to reduce the spread of COVID-19 increased workers' vulnerability to exploitation amounting to forced labour, slavery and trafficking. Part Four considers the ways in which COVID-19 policies, by heightening and intensifying the structural vulnerabilities of non-citizen workers, created some new possibilities for change. We map what we believe the 'legacy' of COVID-19 will and can entail in relation to the rights and vulnerabilities of non-citizen workers. Finally, we offer some concluding remarks.

1. Continuum of vulnerability and exploitation

We approach the impact of COVID-19-related policies on non-citizen workers in Israel using a structural labour market approach that understands the work contract and workers' labour conditions as shaped by wider socioeconomic conditions and legal rules and institutions that impact workers' bargaining power and may place them in conditions of vulnerability.[5] Under this perspective, forced labour, slavery and trafficking result predominantly from structural conditions that enable workers' exploitation – including migration law, welfare and employment protections, workers' ability to unionize, etc. – rather than from criminal activity. Drawing on a Marxist understanding of labour conditions under capitalism,[6] we assume that most workers enter into a work contract under some form of economic compulsion, and that individual bargaining power is shaped by wider socioeconomic structures. Accordingly, to understand and prevent situations of severe forms of labour market exploitation, we need to address the structural causes that are the root causes of workers' vulnerability.

Shamir has called this understanding of the root causes of workers' vulnerability to severe forms of labour market exploitation, a 'labour approach' to human trafficking.[7] From this perspective, the difference between 'routine' exploitation of workers and forced labour, slavery and trafficking is a matter of degree and not kind. The structural power imbalance between the parties to the labour contract characterises the work experience of many workers.

A useful framing of vulnerability to exploitation that reflects this understanding is as a continuum. At one end of the continuum are the strongest workers with a work contract based on choice and consent that follows the classic liberal conception of contracts. Here, effective bargaining takes place and workers have alternatives and voice. At the other end of the continuum are the most deeply disempowered and vulnerable workers. Work relationships at this end of spectrum are often outside the reach of employment and labour laws. Here, workers' weak

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[5] Virginia Mantouvalou, "Structural Injustice and the Human Rights of Workers," *Current Legal Problems* 73, no. 1 (October 2020): 59-87.

[6] This view is based on the Marxist understanding of the commodification of all workers in capitalist systems. *See* Karl Marx, *"Economic and Philosophic Manuscripts of 1844"*, in *The Marx-Engels Reader,* (New York: W. W. Norton & Company, 2d ed. 1978): 66, 70.

[7] Hila Shamir, "A Labor Paradigm for Human Trafficking," *UCLA Law Review* 60 (2012): 76.

bargaining power – due to market dynamics as well as structural and legal elements, and often compounded by identity-based vulnerabilities – leads to substandard working conditions, rights violations and, in the extreme, forced labour, slavery and trafficking.[8] This conception of forced labour, slavery and trafficking as aggravated exploitation of workers' vulnerability looks to the pervasive labour market dynamics that enable the exploitation and objectification of trafficked workers. The notion of continuum allows us to disentangle different characteristics of the working conditions of vulnerable workers, including violation of labour and employment rights; denial of an adequate standard of living; intensive coercion and control over workers; and denial of workers' humanity and entitlement to social rights and recognition as members of their community. Understanding the background legal, economic, and social conditions that shape workers' vulnerability across the continuum is required in order to conceive of effective ways to combat the forms of exploitation on the more coercive end.[9]

In the following section we detail non-citizen workers' existing structural vulnerabilities in Israel, before the pandemic, and the ways COVID-19-related policy has intensified and heightened them, escalating non-citizen workers' vulnerability to exploitation and repositioning them at the more extreme end of the continuum of vulnerability. We also cautiously note that by drawing attention to these characteristic of noncitizen workers' living and working conditions, the COVID era has also created some, albeit narrow, opportunities to reinvigorate noncitizen workers' rights claims and create some options for new coalitions and solidarities.

2. Methodology

The article is based on socio-legal documentary analysis of legal documents, including primary legislation, secondary legislation, emergency-order regulations, decrees and court decisions. We further reviewed secondary sources such as reports, journalistic and academic writing, as well as data originating from our ongoing engagement, as researchers and activists, with various stakeholders who work closely with workers, including practitioners from civil society organisations, regulators and manpower agencies. Data was gathered between April 2020 and April 2021. We collected and reviewed all primary legal sources concerning non-citizen workers in Israel from this period. We identified the most significant and relevant documents,

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[8] The notion of a continuum of exploitation was introduced by Skrivankova (see Klara Skrivankova, "Between Decent Work and Forced Labour: Examining the Continuum of Exploitation," *York: Joseph Rowntree Foundation*, 2010): 17, 19). See also, Shamir, "A Labor Paradigm," 110; Judy Fudge, "Modern Slavery, Unfree Labour and the Labour Market: The Social Dynamics of Legal Characterization," *Social & Legal Studies* 27, no. 4 (2018): 414–34; Jonathan Davies, "From Severe to Routine Labour Exploitation: The Case of Migrant Workers in the UK Food Industry," *Criminology & Criminal Justice* 19, no. 3 (July 2019): 294–310; Bridie France, "Labour Compliance to Exploitation and the Abuses In-between," (London: Labour Exploitation Advisory Group, 2016). However, there is also criticism of the limitations of this notion; see Cathryn Costello, "Migrants and Forced Labour: A Labour Law Response," in *The Autonomy of Labour Law,* Alan Bogg, Cathryn Costello, ACL Davies, Jeremias Adams-Prassl, (eds.) (London: Hart Publishing, 2015): 199.

[9] Jens Lerche, "A Global Alliance Against Forced Labour? Unfree Labour, Neo-Liberal Globalization and the International Labour Organization," *Journal of Agrarian Change* 7, no. 4 (2007): 425, 430–31.

which were then analysed in-depth. Secondary sources were used to address specific developments or gaps in the data already gathered.

3. The impact of COVID-19 policies on workers' vulnerability

In order to explain the increased vulnerability of non-citizen workers resulting from COVID-19 policies, we first introduce the regulation of non-citizen workers in Israel prior to COVID-19, and then discuss the impact of COVID-19 and the combined effect of the underlying conditions together with COVID-19 policies along the three dimensions introduced above.

3.1 The regulation of non-citizen entry and work in Israel: Palestinian workers, temporary migrant workers and asylum seekers

A highly precarious group of workers in the Israeli labour market are non-citizens. Non-citizen workers were incorporated into the Israeli labour market in three waves: first came Palestinian day-labourers from the OPT, since 1967; second were migrant workers from various countries, primarily since the early 1990s; and since the late 2000s many asylum seekers have arrived, primarily from Eritrea and Sudan.

Palestinians have been a part of the Israeli labour market since the late 1960s, when workers from the newly occupied territories entered low-wage, precarious sectors, primarily agriculture and construction.[10] The day-labour entry of Palestinian workers from the OPT to Israel fluctuated due to changes in the political situation. It decreased following the outbreak of the first *Intifada* (uprising which began in December 1987) and, due to growing demands in Israel to rely instead on migrant workers, fell again after the second Intifada (especially in 2004-2008).[11] Over the last decade, policies regarding Palestinian work permits changed, with the numbers steadily increasing.[12] Currently, Palestinian workers are the largest group of non-citizen workers in Israel in several sectors, most notably construction.[13] Before the pandemic, most Palestinian workers were day labourers – returning to their homes, families and communities every day, or every week.[14]

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[10] State Comptroller Annual Report 65 I, "Ministry of Interior, Administration of Border Crossings, Population and Immigration, Employment of Palestinian Workers in the Construction Industry in Israel" (State Comptroller, 2014) [Heb.]: 491 (hereinafter: State Comptroller 2014).

[11] Yael Berda, *The Bureaucracy of the Occupation: The Permit Regime in the West Bank 2000-2006* (Jerusalem: Hakibbutz Hameuchad, 2012) [Heb.]: 94.

[12] Wifag Adnan and Haggay Etkes, "Illicit Trade in Work Permits for Palestinian Workers in Israel," *Bank of Israel's Selected Research and Policy Analysis Notes* (October 2019) [Heb.]: 79-95.

[13] International Labour Organisation, "The Situation of Workers of the Occupied Arab Territories" (Report of the Director-General, 109th Session, 2021): 20-24.

[14] Compare the definition of 'frontier worker' under the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 2(a).

Palestinian workers are particularly vulnerable in the Israeli labour market due to the occupation, which creates a combination of economic, legal and political precarity. The Israeli policies restricting the development of the Palestinian economy and labour market are key causes of the need for Palestinians to seek work in Israel. Their bargaining power in the Israeli labour market is significantly weakened by a security apparatus that seeks to control their entrance, exit and working conditions.[15] Moreover, the economic dependence of the OPT on Israel, the various restrictions on free movement, and the political power that Israeli employers have and Palestinian workers lack further limit their bargaining power.[16] National security concerns are an additional factor determining workers' rights and restrictions. Although the Israeli government deploys a permit regime, which allows Palestinian workers to obtain permits only following individual screening that excludes those considered potential threats to national security, the mere presence of Palestinian workers in Israel is considered a security risk. They are therefore subject to intense control and monitoring by their employers.[17] The political control of Israel over the territories shapes economic dependency, which in turn shapes the control of employers over their workers.

A second group of non-citizen workers are temporary migrant workers. Temporary labour migration was formally introduced into Israel in 1993. The 'sealing off' of the OPT, which was justified by security considerations, created a shortage in the Israeli secondary labour market.[18] In order to deal with the labour shortage, the Israeli government established a temporary worker visa program. To date, permits to employ migrant workers are limited to the construction, agriculture and care work sectors. While the demand for workers in construction and agriculture was the direct result of the sealing-off of the Occupied Territories, the same was not true for care work. Palestinians were not previously employed as in-home care-workers, nor was there, in fact, a thriving care market.[19] The temporary work regime in the care sector was developed in tandem with the developments in the Israeli welfare state in the late 1980s and early 1990s.[20]

Israel considers itself the national state of the Jewish people, an identity maintained despite the significant numbers of non-Jewish citizens (especially Arabs, comprising about 20%

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[15] Leila Farsakh, *Labour Migration and the Palestinian State: The Political Economy of Palestinian Labour Flows to Israel* (London: Routledge, 2005); Amir Paz-Fuchs and Yaël Ronen, "Occupational Hazards," *Berkeley J. Int'l L.* 30 (2012): 580.

[16] *Ibid.*

[17] Maayan Niezna and Michal Tadjer, "Situation Report: Developments and Reform in the Employment Conditions of Palestinians in Israel" (Kav LaOved, 2021).

[18] Adriana Kemp and Rebeca Raijman, *Migrants and Workers: The Political Economy of Labor Migration in Israel (Tel Aviv: Hakibbutz Hameuchad, 2008)* [Heb.].

[19] Moshe Semyonov, Rebecca Raijman and Anat Yom-Tov, "Labor Market Competition, Perceived Threat, and Endorsement of Economic Discrimination against Foreign Workers in Israel," *Social Problems* 49, no. 3 (August 2002): 416-431.

[20] Hila Shamir, "Migrant Care Workers in Israel: Between Family, Market, and State," *Israel Studies Review* 28, no. 2 (2013): 192–209.

of the population), and the steady and formal reliance on temporary labour migration since the early 1990s has not changed that. As a result, labour migration, like other forms of migration of non-Jews, is always perceived as temporary[21] – migrant workers, regardless of their social ties, skills, and length of stay, are not entitled to permanent residence or citizenship in Israel. The temporary stay of migrant workers is a policy compromise between economic interests and the need for cheap low-skilled labour on the one hand, and demographic considerations on the other – namely, the state's concern with maintaining a Jewish majority in the country, which has led to a strong objection to integrating migrants into the Israeli community.[22] This entrenched and institutionalised temporariness is a key element in explaining the structural vulnerability of migrant workers, and its intensification under COVID-19.

A third group of precarious non-citizen workers consists of asylum seekers who began entering Israel from the late 2000s, mostly in the early 2010s, predominantly from Eritrea and Sudan.[23] Asylum seekers are employed mostly in precarious jobs in the hospitality and food sectors. A key difference between asylum seekers and the two groups of non-citizen workers considered above is that migrant and Palestinian workers are mostly recruited to work in Israel in jobs that citizens reject. While they are not welcome as permanent members of society, their labour is desirable, and was considered essential before and during the pandemic. Asylum seekers, on the other hand, are deemed undesirable even as temporary workers by the Israeli government, which has adopted different policies geared towards preventing their settlement in Israel, and eventually facilitated their departure from Israel. As outright deportation of asylum seekers would violate international law and the *non-refoulement* principle, the government has adopted various measures, including detention, economic sanctions and pressure to facilitate what it has referred to as 'voluntary return'. Alternatively, this policy has been termed 'constructive expulsion' by its critics.[24] This continues the logic of temporariness that Israel deploys in relation to the other two groups of non-citizen workers discussed above.

The vulnerability of these three groups of non-citizens differs, as the regulation of stay and work of each group – which will be further discussed below – differs in important respects. These differences reflect both the needs of employers in the labour sector in which non-citizens work, and the means of settlement prevention tailored to their different legal status and mobility characteristics. Yet they all experience some exclusion (de jure or de facto) from protective labour and employment legislation and from the social safety-nets offered to citizens.

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[21] *Ibid*.

[22] Hila Shamir and Guy Mundlak, "Spheres of Migration: Separation and Infiltration of Political, Economic and Universal Imperatives in Structuring Israel's Migration Regime," *Middle East Law and Governance Journal* 5 (2013): 112-172.

[23] HCJ 7146/12, *Adam v. The Knesset,* Judge Arbel's central opinion, paras. 3-6.

[24] HCJ 7385/13, *Eitan – Israeli Immigration Policy Center v. The Government* of Israel, Judge Vogelman's opinion, paras. 109-112; Judge Arbel's opinion, para. 6.

3.2 COVID-19 policy and non-citizen workers in Israel

The COVID-19 pandemic reached Israel at the end of February 2020. In the early stages of the pandemic, Israel adopted swift and strict policies to contain it: three lockdowns were introduced during 2020 – in March, September and December 2020 – each lasting several weeks. At the height of the lockdowns, businesses deemed nonessential closed, the education system was shut down, gatherings were prohibited or restricted, and people were asked to stay at home. People could leave their homes for designated purposes (work, grocery shopping, exercise) but otherwise were required to stay within a 500-meter perimeter of their homes. At the same time, regulation was introduced to protect workers and the public in essential sectors, including requirements for personal protective equipment and social distancing. These measures were accompanied by border closures and a two-week quarantine requirement for entrants once borders were reopened.[25]

Due to the shutdown of businesses and resulting loss of income and high levels of unemployment, the government introduced measures such as the extension of unemployment benefits, one-time universal cash transfers, and various assistance packages to support small businesses and independent contractors.[26] Non-citizen workers were excluded from these measures, and were ineligible for the benefits and assistance packages that were provided only to citizens working in the formal economy.

Three elements that existed prior to COVID-19 intensified and became particularly harmful during the pandemic, due to steps taken to reduce the spread of COVID-19: first, mandatory control and surveillance of workers by employers and the government, and mobility restrictions; second, substandard living conditions and violations of basic health and safety requirements; and third, exclusion from social security and social rights. Control, restrictions of movement, inadequate housing, poor health and safety conditions and exclusion of migrants from welfare benefits and social rights are common in various temporary work migration programmes.[27] However, these three elements were exacerbated, to the detriment of non-citizen workers, by policies geared towards reducing the risk of the spread of COVID-19. This

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[25] Ittai Bar-Siman-Tov, "Covid-19 Meets Politics: The Novel Coronavirus as a Novel Challenge for Legislatures," *The Theory and Practice of Legislation* 8, no. 1-2 (July 2020): 11-48.

[26] Leah Achdut, "The Corona Crisis and the Israeli Labour Market," *Social Security* 110 (2020): 1-20 [Heb.]

[27] See, for example Martin Ruhs, *The Price of Rights: Regulating International Labor Migration* (Princeton University Press, 2013); Sally C. Moyce and Marc Schenker, "Migrant Workers and Their Occupational Health and Safety," *Annual Review of Public Health* 39 (April 2018): 351-365; Adriana Kemp and Rebeca Raijman, "Bringing in State Regulations, Private Brokers, and Local Employers: A Meso-Level Analysis of Labor Trafficking in Israel," *International Migration Review* 48, no. 3 (September 2014): 604–42; Virginia Mantouvalou, "'Am I Free Now?' Overseas Domestic Workers in Slavery," *Journal of Law and Society* 42, no. 3 (2015): 329–57; Shamir, "Paradox of Legality"; Sallie Yea and Stephanie Chok, "Unfreedom Unbound: Developing a Cumulative Approach to Understanding Unfree Labour in Singapore," *Work, Employment and Society* 32, no. 5 (October 2018): 925–41; Rebecca Raijman and Nonna Kushnirovich, *The Impact of Bilateral Agreements on Labor Migration to Israel: A Comparison between Migrant Workers Who Arrived Before and After the Implementation of Bilateral Agreements* (PIBA, Ruppin Academic Center and CIMI Research Report, 2019).

aggravated workers' vulnerability to severe forms of labour exploitation and treatment amounting to forced labour, slavery and trafficking. We turn next to these three elements. Under each element, we focus on the groups of non-citizen workers most affected by it.

a. Increased control, surveillance, and severe mobility restrictions

Non-citizen workers are often subject to strict measures of control regarding their entrance, exit, work and stay in the country. In Israel, such measures have been increasingly 'privatised' over recent decades and outsourced to private employers.[28] Some restrictions – such as binding workers to a single employer, restriction of movement, constant surveillance, exclusions from protective legislation, violation of rights with impunity, and withholding of identity documents – are implemented by private actors. Such employment situations, if not mandated by the state but rather initiated by private actors, arguably could, in some cases, amount to forced labour, slavery and trafficking.[29] Against this backdrop, various measures adopted to reduce the risk of the spread of COVID-19 through restricted mobility and increased surveillance have disproportionately impacted non-citizen workers who were already under intense surveillance and whose movement was already restricted. While many of these measures applied to the general population and led to heated public debate as to whether they were required to save lives or violated human rights,[30] the impact on non-citizen workers was particularly harsh. Moreover, due to their concentration in 'essential' sectors, many non-citizen workers continued working regularly, at times putting their health at great risk, while other workers were furloughed, laid-off, or began to work remotely from home. The newly introduced mobility restrictions and increased surveillance had a particularly harmful impact on two groups of workers: live-in migrant caregivers and Palestinian construction workers.

Migrant Care Workers

The care sector is the largest migrant-receiving sector in Israel, employing over 50,000 temporary migrant workers in in-home care.[31] Care workers are employed by disabled and elderly individuals who have been found to be in need of assistance in daily living activities and long-term care. Workers receive a visa for up to five years, that can be extended if it is

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[28] Kemp and Raijman, "Migrants and Workers".

[29] On indicators of coercion at the state of destination, see, for example, European Commission and International Labour Office, "Operational Indicators of Trafficking in Human Beings: Results from a Delphi Survey Implemented by the ILO and the European Commission," (2009); Shamir, "Paradox of Legality".

[30] See, e.g., Sarah Joseph, "International Human Rights Law and the Response to the Covid-19 Pandemic," *Journal of International Humanitarian Legal Studies* 11 (2020): 249-69; Alessandra Spadaro, "COVID-19: Testing the Limits of Human Rights," *European Journal of Risk Regulation* 11 (2020): 317–25.

[31] PIBA, "Foreigners in Israel Report" (2020).

determined that a special care relationship has been formed that requires visa extension.[32] As a result, approximately one-third of migrant care-workers reside in Israel for more than five years legally. Regardless of the length of their stay, when their visa expires or if their employer passes away, they are required to leave the country. Workers in the last months of their stay are similarly restricted.[33] Others can move between employers within the sector up to three times but are geographically bound to the area in which their first employer resides.

Workers are required to reside at the home of care recipients (their employers), which further limits their ability to establish friendships and create communities. The housing requirement can create difficulty in distinguishing between work and leisure or personal time.[34] Moreover, pursuant to a labour court ruling, these workers are excluded from labour laws granting rest time and overtime pay.[35] As a result, their working hours can be long, partially uncompensated, and dependent mostly on the needs of the care recipient. Employers can employ only one worker at any given time, and migrant care-workers similarly are allowed to work for only one employer, creating an intense dependency between care-workers and care recipients. Migrant care-workers are not permitted, by regulation, to migrate to Israel with family or to establish a romantic relationship or start a family in Israel.[36]

The requirement to live with the employer, the long hours of work, and the prohibition on family formation, coupled with the intense, demanding, and intimate nature of care work, lead to workers' isolation and detachment from a migrant community. To mitigate the isolation and detachment, many workers share 'community flats' – flats that several workers rent together, usually closer to city centres, which they use during their days off. As they cannot afford the costs of renting a place outside the employer's home individually, and by regulation are not allowed to live outside the employers' home, these shared weekend flats allow them community life, social interaction and rest. Their time in community flats therefore serves not just the great need for physical rest, but also as a form of leisure, human connection, and social, community existence.

During the pandemic, migrant care-workers, like the rest of the population, were under lockdown and required to stay at home. Yet care-workers' accommodation with their employers meant that they were in fact under lockdown within their place of work. Moreover, because the

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[32] PIBA, "Foreigners in Israel Report" (2018): 14 [Heb.].

[33] A noteworthy example is the case of a Filipina woman, deported from Israel after working legally for seventeen years - AdminC 494/07 (Jer.), *Amon v. Minister of Interior*; AdminA, 8947/08 *Amon v Minister of Interior* (1 July 2010).

[34] Hanny Ben Israel, "Protective Labor Legislation," in *An Alternative Anti-Trafficking Action Plan: A Proposed Model Based on a Labor Approach to Trafficking, TraffLab Research Group Policy Paper*, Hila Shamir and Maayan Niezna (eds.) (Tel Aviv University, 2020) (hereinafter: *TraffLab Alternative Plan*); Guy Mundlak and Hila Shamir, "Bringing Together or Drifting Apart? Targeting Domestic Work as 'Work Like No Other'," *Canadian Journal of Women and the Law* 23 (2011): 289-308.

[35] *Ibid.*

[36] Shahar Shoham and Hanny Ben Israel, "Family and Community," in *TraffLab Alternative Plan.*.

elderly were considered an at-risk population, many of them did not leave their homes at all and did not receive visits from families or others. As a result, many care-workers could not even take their day off or leave the workplace at all. Moreover, regulations and instructions of the Ministry of Health and the Population and Immigration Authority (PIBA) prohibited them from using 'community flats'. This prohibition was justified as a measure to prevent the spread of the virus. The regulation further clarified that workers could spend time in individual flats or vacation homes, yet this ignored the economic infeasibility of such alternatives for most of these workers, who earn below minimum wage.[37]

As a result, many workers remained for months as sole in-home care providers to disabled and elderly individuals, with no ability to exit their workplaces. The new regulation further restricted the limited rights migrant care workers had to leisure time and privacy, and significantly increased employer control and surveillance over them. Employers were empowered by the regulation to request that care workers not leave the house, and to inspect what they did and who they met during their days off, if they had any. Data collected by civil society organisations indicated that months after the beginning of the pandemic, many workers had no rest and simply stopped leaving their employers' homes altogether– some without even one free day outside the house in months.[38]

The inability to leave one's place of employment, where work and home are one and the same, or to socialise with anyone other than their employer meant that all aspects of rest, leisure, private and family life were suspended. Workers subject to these conditions were, for several months, denied the ability to exit their role as workers and live a fully human and multidimensional existence. Such a situation clearly objectifies workers, as key aspects of their humanity, other than labour power, are denied. COVID-19 regulation prioritised employers' interests over those of the workers, intensifying workers' objectification and their treatment as mere instruments for performing labour, as opposed to humans with needs beyond work and subsistence.[39]

Palestinian construction workers

A similar denial of workers' full humanity and limitation to their role as workers can be identified in the situation of Palestinian construction workers. To prevent potential spread of the virus, Palestinian workers' entrance into Israel changed almost overnight from daily commuting

[37] PIBA, "Guidelines for Care Sector Foreign Workers and Their Employers," (19 April 2020) [Heb.]; Ministry of Health, "Announcement to Foreign Workers Residing in the Employer's Home" (9 May 2020) [Heb.].

[38] Kav LaOved, "How Did the Coronavirus Pandemic Impact Migrant Workers in Israel?" (17 December 2020) [Heb.].

[39] Commissioner for Foreign Workers' Labor Rights, Ministry of Labor, Social Affairs and Social Services, "The COVID-19 Crisis: A Letter to Foreign Workers Providing At-home Care and Their Employers," (17 March 2020) [Heb.]; PIBA, "Guidelines for Care Sector Foreign Workers and Their Employers".

to de-facto seasonal migration, without proper safeguards to protect their rights under the new situation.[40]

Before the pandemic, most Palestinian workers would cross a checkpoint between the OPT and Israel every day or once a week. The movement between the West Bank and Israel is through crowded checkpoints, where workers stand in long lines and wait to cross for a significant time each day. The Israeli government perceived the crowded checkpoints and the movement between regions as risk factors for increased contagion and decided to adopt measures to minimise the risk. It announced that permits for Palestinian workers would be issued for 30 days in the agricultural sector or 60 days in the construction sector.[41] During the entire duration of their stay in Israel, the workers were to be under the constant supervision of their employers, or employers' representatives, thus preventing them from leaving the workplace. However, the requirement for constant monitoring predated the pandemic, and resulted from national security concerns. Under the pre-pandemic permit regime, employers were required to enforce control measures and restrictions of movement, and to monitor the whereabouts and behaviour of their workers. Regulations adopted following the COVID-19 outbreak intensified the level of surveillance of Palestinian workers, now applied day and night, for weeks on end.

Under the COVID-19 permit requirements, workers were restricted from leaving their place of residence (which was, for some, the construction site), and employers were instructed to report to the authorities any 'suspicious or irregular behaviour' – a vague term that was used in the regulations without clear explanation or example of what might constitute such behaviour.[42] While there is currently no evidence of misuse of these extreme measures to discipline or punish workers during the pandemic, there have been examples of such abuse in the past, such as fabricated claims by employers regarding security concerns aimed at preventing unionisation.[43]

The first version of the COVID-19 permit requirements for the entry of Palestinian workers to Israel included a requirement that employers retain the identity documents of their workers. Such a measure is tantamount to withholding documents, an extreme control measure recognised as an indicator of trafficking and forced labour.[44] Shortly after the new regulations were announced, Israeli NGOs petitioned the High Court of Justice (Israel's Supreme Court), arguing against several aspects of the new regulations, including the living arrangements (discussed below) and the requirement to retain documents. Following the petition, the

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[40] Maayan Niezna, "Under Control: Palestinian Workers in Israel During COVID-19," *Border Criminologies* (blog), (7 July 2020).

[41] Ministry of Construction and Housing, "An Outline for Return of Palestinian Workers to the Construction Sector" (2020) [Heb.]; Niezna "Under Control".

[42] *Ibid*.

[43] Maan-Workers Association, "Zarfati Garage Flings False Security Accusations Against Workers' Committee Chairperson", (28 July 2014).

[44] European Commission and International Labour Organization, "Operational Indicators of Trafficking in Human Beings"; Maayan Niezna, "The Occupation of Labor – Palestinian Employment in Israel," (2021).

requirement was revoked, with the authorities claiming that it had been mistakenly included in the regulation.[45] The other control measures – the constant supervision, the prohibition on leaving the premises, and the employers' reporting duties – all remained unchanged. According to recent publications, some employers rely on private security firms to monitor the whereabouts of Palestinian workers while they are in Israel.[46]

The situation of Palestinian construction workers under COVID-19 regulation, like that of migrant care-workers, demonstrates how the measures adopted to reduce the spread of the virus failed to address the complex realities of non-citizen workers and their existing living arrangements and mobility restrictions, and, as a result, increased workers' vulnerability. Moreover, it exemplifies not only the ways in which restrictions applied to the entire population played out differently with specific groups of workers due to structural causes, but also how the regulation applied to these workers extended well beyond the restrictions endured by citizens. As a result, non-citizens' working and living conditions under COVID-19 regulation reflected what the literature identifies as 'badges' of modern slavery – strict control and surveillance of workers in and outside the workplace, and intense limitations on physical mobility.[47]

Under the restrictions described above, workers' movement was framed as a risk to national security, to public health, or the health of their employers/patients. The combination of new limitations and existing regulation on work environments led to workers having no free or unsupervised time for weeks on end. Policymakers clearly prioritised employers' interests and the (perceived) public interest above the rights of workers in precarious employment, if the latter were even considered at all. We suggest that this neglect results from the perception of non-citizen workers in the so-called 'low-skilled' sectors first and foremost as 'working hands', labour power to be controlled and used efficiently, and not as human beings, right-bearing members of society with personal lives, relationships and an existence outside the workplace.

As a result of the pandemic, some restrictions of movement and increased surveillance applied to the population as a whole. Some might therefore dismiss the dire description offered here as 'life under COVID', rather than indicative of forced labour, slavery and trafficking. It is important to note, however, that "slavery is ultimately about control. Control which deprives a person, in a significant manner, of their individual liberty or autonomy; and ultimately, that this control is meant to allow for exploitation and is typically maintained through coercion or violence".[48] It is the control and objectification of workers that lies at the heart of such phenomena. Accordingly, we argue that such policies, implemented in disregard of their impact

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[45] HCJ 2730/20, *Kav LaOved v. Minister of Health*, "Primary Response of Respondents 1-4", 5 May 2020, para. 7 [Heb.].

[46] Niezna and Tadjer, "Situation Report".

[47] Amir Paz-Fuchs, "Badges of Modern Slavery," *The Modern Law Review* 79, no. 5 (2016): 757–85, 765, 783; see also Vladislava Stoyanova, *Human Trafficking and Slavery Reconsidered: Conceptual Limits and States' Positive Obligations in European Law* (New York: Cambridge University Press, 2017): 295.

[48] Jean Allain, *Slavery in International Law: Of Human Exploitation and Trafficking* (Leiden, Boston: Martinus Nijhoff Publishers, 2013): 120.

on workers' market position and bargaining power, and denying their humanity and right to life outside work, should be understood as root causes of forced labour, slavery and trafficking.

b. Deterioration of living conditions and violations of basic health and safety conditions in the workplace

Migrant workers' substandard living conditions and hazardous work environments have drawn world-wide attention during COVID-19. In Israel, non-citizens' harsh housing conditions and substandard occupational health and safety conditions were well known and documented before the pandemic.[49] Yet the pandemic created new challenges, and, at times, new solutions. These challenges had a particularly notable impact on Palestinian construction workers and migrant workers working in the agricultural sector.

Palestinian Construction Workers

Construction was designated an 'essential' sector, and work continued as usual during this period. The label shows that the distinction is not neutral and reflects political and economic agendas, as construction is not an urgent service (as opposed to, for example, care or food production). Rather, it serves primarily the private and public interests of fast building and continued profits, while prioritising these benefits over workers' safety and protection from infection.

Palestinians are the largest group of non-citizen workers in the construction sector.[50] As noted above, prior to COVID-19, Palestinian workers were daily labourers, and most of them did not require accommodation in Israel. The minority of workers that received overnight permits did not draw much policy attention and often slept in construction sites. The regulations concerning their accommodations were laconic, as compared to the detailed regulation of the accommodation required for migrant workers, referring to "bed etc. in residence", "toilets in sanitary conditions", and "a corner for personal needs such as eating and drinking".[51] Moreover, Palestinian workers were the only group of workers that while working in Israel, did not have health insurance in Israel, and were expected to receive all medical services in the West Bank. This raised, and continues to raise, practical obstacles to workers receiving necessary treatment, including following work accidents.[52]

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[49] BBC News, "Who Cares About Israel's Thai Workers?" (25 November 2018).

[50] There are over 60,000 permit-holding Palestinian construction workers, as compared to approximately 14,000 migrant workers. See PIBA, "Foreigners in Israel Report" 4 (2020).

[51] District Coordination and Liaison and PIBA, "Request and Commitment to Let Worker Residents of Judea, Samaria and Gaza into Israel" (undated; revised as explained below).

[52] HCJ 2730/20, *Kav LaOved v. Minister of Health*, Petition of 28 April 2020; Niezna and Tadjer, "Situation Report".

On 18 March 2020, Israel decided to prevent entrance from the OPT generally but made special arrangements for the continued entry of Palestinian workers, who overnight became de-facto seasonal workers who could not return home and were required to stay in Israel for months. The poor accommodation standards and improvised solutions for workers who had never been required previously to sleep in Israel meant that some workers slept in construction sites, without beds, toilets or running water, and in dangerous conditions.[53] The lack of health insurance in Israel, the closures that prevented their return to the West Bank, and the prohibitive high costs of private medical insurance left workers with no access to basic medical services, in the middle of a pandemic.[54]

The precarious situation led Israeli NGOs to petition the High Court of Justice in April 2020, citing the conditions explained above.[55] The petition resulted in some immediate improvements in early May, including a change in the requirement to withhold identity documents, discussed above. In addition, Palestinian workers received health insurance coverage, and clear standards for accommodation were introduced, generally reflecting the legal standards for accommodation of migrant workers. There was a clear indication of improvement in the accommodation of construction workers in the later months of the pandemic, with a survey by the Bank of Israel reporting that, "About half of all workers noted that their employers provided them with reasonable or good sleeping and hygiene arrangements, and only a few noted that they had bad sleeping and hygiene arrangements."[56]

The impact of the pandemic on Palestinian workers demonstrates the neglect of workers' basic needs – such as housing, health and safety – and the need for civil society to intervene reflects the extreme vulnerability of these workers. Recent data collected by civil society organisations suggests that the situation of most Palestinian workers worsened as a result of the pandemic.[57] Workers reported fewer employment opportunities and non-payment for the days that they were unable to work during COVID, demonstrating their dependency on employers and their limited bargaining power.

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[53] *Ibid.*

[54] HCJ 2730/20, *Kav LaOved v. Minister of Health*.

[55] *Ibid*.

[56] Bank of Israel, "Palestinian Employment in the Israeli Economy During the COVID-19 Crisis," 29 December 2020 [Heb.].

[57] Niezna and Tadjer, "Situation Report".

Migrant workers in the agriculture sector

Like construction and care, the agriculture sector was also designated as essential during the COVID pandemic.[58] As a result, the 32,000 non-citizen workers in this sector, most of them migrant workers from Thailand,[59] continued working throughout this period.

Israel's Foreign Workers' Law (1991) requires employers of migrant workers to provide them with "suitable accommodation". In the agriculture sector, most employers house workers on farms. Due to land-use regulation,[60] however, structures on farms can be built solely for agricultural use, such as sheds, haylofts, etc.[61] As a result, migrant workers usually reside in temporary structures not well-suited for long-term housing, such as mobile homes, converted sheds, and shipping containers. The result is a routinized sectoral practice of substandard accommodations and crowded makeshift structures without proper sanitation or ventilation and no cooling and heating devices, needed especially in the Israeli desert, where many of the workers reside.[62]

In the following paragraphs, we will discuss the ways in which the pandemic disclosed the 'underlying conditions' of workers' living and working conditions, as crowded and unsanitary accommodations posed a particular problem for quarantine requirements. The solutions adopted also demonstrate migrant workers' vulnerability.

In mid-March 2020, PIBA closed off Israel's borders to anyone without Israeli citizenship or a residence permit.[63] As a result, migrant workers who were outside the country at the time (e.g., visiting their families in the country of origin) as well as new workers who were supposed to begin working in Israel could not enter Israel until August 2020. At that time, all persons permitted to enter the country were required to quarantine for two weeks, in order to guarantee they were not infected with COVID-19. One could quarantine either in his or her place of residence, or in hotels and other facilities converted to quarantine dorms and provided by the State.

Employers complained that the border closure led to severe labour shortages in the sector. The agricultural lobby pushed for allowing returning migrant workers and new arrivals to enter

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[58] See Emergency Regulations of 22 March 2020 (limiting the number of workers to curb the spread of the novel coronavirus) [Heb.].

[59] PIBA, "Foreigners in Israel Report" (2020). See also, Adi Maoz, *Annual Report 2019*, (Kav LaOved, 2020) [Heb.].

[60] PIBA, Procedure 37.07B, "Permission to Use Land for Housing Foreign Workers" (24 May 2020) [Heb.].

[61] Aricha Fromm et al., "Policies, Guidelines, and Criteria for Agricultural Structure Planning," The Authority for Rural and Agricultural Planning and Settlement Development, Division of Regional Rural Planning, (2013) [Heb.].

[62] See Raijman and Kushnirovich, "The Impact of Bilateral Agreements"; Kav LaOved "We live here . . . Violation of the 'Suitable Accommodation' Law for Agriculture Migrant Workers" (June 2020) [Heb.].

[63] See PIBA, "Population and Migration Authority Update: Only Tourists and Foreign Nationals Whose Lives are Not Based in Israel to be Denied Entry" (4 April 2021) [Heb.].

Israel. The authorities were reluctant to open the borders, a decision further complicated by the question of the cost and arrangements required for migrant workers to quarantine. In late July, just before Israel relaxed its border closure, PIBA published a regulation,[64] which prohibited the quarantine of migrant workers in farms and instead required them to quarantine in hotels, apartments, or housing with no more than eight workers, with a maximum of two per room. The regulation further required posting a security guard – like those deployed in quarantine hotels – tasked with preventing quarantined individuals from leaving the facility or otherwise violating quarantine regulations.[65] Migrant farm workers, unlike other entrants into the country, could not quarantine in their own residences. Presumably, this was due to policymakers' awareness of workers' substandard and crowded living conditions, which could not guarantee effective quarantine.

The issue of funding the workers' quarantine further complicated the proposed arrangement. Neither employers nor the government were willing to provide or fund the workers' quarantine arrangements. The cost of the hotels repurposed as quarantine facilities was considerable, and the outraged farmers demanded a less expensive solution.[66] Several options were considered, including quarantining workers at a defunct immigration detention facility, deep in the Israeli desert[67] – an option to be pursued only if found to be cheaper than the alternatives. The need to remove the formal designation of the facility as a 'prison' was also mentioned.[68] Ultimately, this proposal was abandoned after it was leaked to the press.[69]

In late August, before the first workers arrived in Israel from Thailand, Thailand was re-categorised as 'green', meaning entrants from Thailand were no longer required to quarantine upon arrival.[70] The Israeli Ministry of Agriculture presented the decision to classify Thailand as 'green' as an achievement that represented the interests of Israeli farmers.[71] In December, as the number of COVID cases rose again in Israel and a third lockdown was announced, the 'green

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[64] PIBA, "Notice Regarding the Eligibility Criteria for Re-entry Visa (Inter-Visa) Applications for Foreign AgricultureWorkers Returning to Israel After Being on Leave in Their Home Countries (23 July 2020) [Heb.]; PIBA, "Notice Regarding the Eligibility Criteria for Inviting Foreign Workers to Work in the Agriculture Sector (2 August 2020) [Heb.].

[65] Guards were also posted in quarantine of Israeli citizens returning from abroad.

[66] Yael Kurlander and Idit Zimmerman, "'Suitable Accommodation' for Agricultural and Care Migrants Before and After Covid-19," *Hagira* (forthcoming) [Heb.].

[67] The facility, 'Holot', was used for the detention of asylum seekers until March 2018.

[68] The idea of using Holot for quarantine was also raised by MK Amir Ohana, the Minister of Public Security, in early August, in answer to a question about the facility's fate. Jonathan Lis, "Israel Weighs Using Empty Detention Facility to Quarantine Returning Foreign Workers," Ha'aretz, (12 August 2020).

[69] *Ibid*.

[70] Ministry of Agriculture: "Pressure from the Ministry of Agriculture Proved Effective: Thailand Added to the Green List" (1 September 2020) [Heb.].

[71] *Ibid*.

list' policy was revoked, and PIBA announced reinstatement of the previously proposed hotel quarantine policy.[72] The estimated cost of the hotels discussed in August turned out to be inflated, however, and employers agreed to pay the lower cost. While the cost was eventually born by employers, there is reason for concern that it will subsequently be passed on to the workers themselves.

The impact of COVID-19 policies on migrant farm workers' housing reveals the instrumental treatment of workers by employers and the State alike. While the State has formally acknowledged for the first time the workers' poor accommodations, the decision whether to invest additional funding in creating better, less-crowded housing solutions for workers remains with the employers, and the accommodation requirements remain unenforced. Moreover, despite having been dropped, even considering the idea of quarantining workers in a remote detention facility reveals that workers are yet again arguably being treated purely as labour power – abstracted from their humanity. Migrant workers' physical wellbeing was considered only in order to protect their labour power, when it was threatened by the virus or in high demand (due to labour shortages, as further discussed below), or when their bodies posed risks to the public as a whole.

c. Loss of income and exclusion from social security safety nets

The groups of workers discussed thus far were made vulnerable to exploitation by COVID-19-related policies because their work was deemed 'essential', and the new restrictive conditions further increased their vulnerability. Some workers experienced weakened bargaining power, for others working and living conditions worsened, and for many risk levels were heightened, but they were all able to continue to earn income. The vulnerability of another group of non-citizens – asylum seekers – increased not as a result of instrumentalisation and objectification, but rather stemmed from their being deemed both non-essential and non-deserving of any measures adopted by the government to support citizens and permanent residents who lost their income.

Since the entry of asylum seekers (referred to as "infiltrators" under Israeli law) to Israel, and especially with the larger numbers who entered Israel in 2010-2012, they have been treated by the State as an undesirable presence. Despite many having resided in Israel for more than a decade, the needs and possible rights stemming from their long-term presence have been ignored by policymakers, and arrangements concerning their presence in Israel have reflected the notion of a short-term stay. Indeed, the main declared policy goal was their removal. Due to the principle of *non-refoulement*, Israel has usually refrained from outright deportations. However, turning asylum seekers back to Egypt at the border, prohibitions on residing in the centre of Israel or its large cities, prolonged, even indefinite, detentions, 'voluntary return' (or 'constructive expulsion') to third countries, and various coercive means were all components of

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[72] PIBA, Letter to placement agencies: "Urgent Notice Regarding the Need for Self-Quarantine for Foreign Workers Entering Israel from Thailand—COVID-19 Pandemic" (22 December 2020) [Heb.].

the State's pre-Covid policy – until rejected by the Supreme Court following civil society organisations' petitions.[73]

All of these measures reflect the insistence on temporary stay and prevention of the settlement of asylum seekers. Another key tool adopted by Israel was the introduction of economic incentives for departure, foremost the arrangement known as the 'Deposit Law'.[74] The law required employers to deduct 20% of asylum seekers' monthly salary to a special fund, which served as a 'deposit' that asylum seekers would receive only upon departure from Israel. It was deemed particularly cruel because of asylum seekers' meagre incomes. Asylum seekers work mainly in the cleaning and hospitality sectors, which are prone to workers' rights violations and informality. According to the State's data, as of 2019, about 40% of the working asylum seekers made less than minimum wage.[75] Moreover, asylum seekers are excluded from the social security scheme, and, as a result, are not entitled to benefits, welfare services or national healthcare.[76]

The sectors where most asylum seekers work were deemed 'non-essential.' As a result, when lockdown was introduced many of their workplaces closed, leaving families without any income and struggling to survive. From the second lockdown, in autumn 2020, Israeli NGOs working with asylum seekers estimated that 80% were unemployed.[77] Moreover, because they are ordinarily excluded from the universal healthcare applicable to citizens and permanent residents in Israel, their healthcare depends upon employment. When asylum seekers lost their jobs, they were therefore stripped not only of income but also of health insurance.[78] Without work or access to social security, asylum seekers had no alternative means of obtaining basic subsistence – to pay for food, shelter or medical services. NGOs reported increasing concerns of hunger and homelessness among asylum seekers, with a severe impact on women and children.[79] Attempts by civil society to include asylum seekers in any of the benefit packages the

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[73] Rivka Weill and Tally Kritzman-Amir, "Between Institutional Survival and Human Rights Protection: Adjudicating Landmark Cases of African Undocumented Entrants in Israel in a Comparative and International Context," *University of Pennsylvania Journal of International Law* 41 (2019): 43.

[74] HCJ 2293/17, *Gersagher v. The Knesset* (23 April 2020) ("Deposit Law Case"). The case concerned the 'Prevention of Infiltration and Ensuring the Departure of Infiltrators from Israel Law 5775-2014 (Legislative Amendments and Temporary Provisions) 5775-2014'. In references to this case, we rely on an unofficial translation by UNHCR: https://www.refworld.org/docid/5f6b194c4.html

[75] Deposit Law Case, President Hayut's opinion, para. 43.

[76] *Ibid*, Judge Hendel's opinion, para. 3.

[77] Physicians for Human Rights - Israel, Hotline for Refugees and Migrants, ASSAF-Aid Organization for Refugees and Asylum Seekers in Israel, The Association for Civil Rights in Israel, Worker's Hotline and ARDC - African Refugee Development Center, "Asylum Seekers in Israel Left Destitute During Covid 19 Crisis - October 2020" (2021).

[78] *Ibid,* p. 2.

[79] *Ibid*, pp. 2-3.

government introduced have failed, leaving them with no income.[80] Israeli civil society organized to get food and other assistance to the most needy families, but the need was greater than what philanthropic efforts could provide, leaving many without support.[81] Some asylum seekers have resorted to taking exploitative informal and illegal jobs to support their families,[82] though due to its underground nature, it is premature to estimate and analyse the extent and scope of this phenomenon.

Prior to the pandemic, several civil society organisations petitioned the High Court of Justice to void the Deposit Law, citing the violation of asylum seekers' fundamental rights – their right to property, the right to live in dignity and have an adequate standard of living, and the right to equality. They criticised what they referred to as 'constructive expulsion', the true objective of the law and presented data on the impact of the arrangement on asylum seekers. The State argued that the Deposit Law did not violate asylum seekers' right to live in dignity, the infringement of the right to property was proportionate, and the objectives of the law were legitimate.[83] The court ruled during the pandemic and found the Deposit Law to be unconstitutional (see discussion in part 4, below).

Asylum seekers' increased vulnerability under COVID-19 resulted, therefore. not from excessive use of their labour power but from their exclusion from all protective measures when the labour market was brought to a stop, which, in turn, led to destitution. This exclusion represented, and during COVID further entrenched, the State's refusal to acknowledge their long-term presence and any State responsibility for their wellbeing, highlighting two aspects of non-citizen workers' vulnerability. First, economic destitution and exclusion from social security can push workers to turn into undesirable and exploitative jobs, their lack of alternatives rendering them vulnerable to severe forms of labour market exploitation. Second, noncitizens' exclusion from social security also strongly reflects their exclusion from the host society, which persists despite their lengthy residence in the host country, raising families in the host country, participating in its labour market, and contributing to its social and cultural life.

Taken together, these three key elements demonstrate how measures intended to reduce the spread of COVID-19 increased the vulnerability of non-citizen workers, their objectification and instrumental treatment, and the denial of their humanity, intensifying their vulnerability to exploitation, forced labour, slavery and trafficking. This resulted not necessarily from an intention to weaken these workers, but more often from indifference or neglect to take into account their pre-existing vulnerability or their interests, beyond their labour power.

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[80] Or Kashti, "86 Percent of Tel Aviv Asylum Seekers Lack Food Security, First Official Survey Finds," Ha'aretz (5 March 2020).

[81] ASSAF, "ASSAF's Work During COVID-19 Lockdown March-May 2020" (2020).

[82] Lee Yaron, "Some 80 Percent of Asylum Seekers in Israel Are Out of Work, Lack Health Insurance," Ha'aretz (26 October 2020); Lee Yaron, "Asylum Seekers in Israel Forced to Fend for Themselves During Coronavirus Crisis," Ha'aretz, (24 March 2020).

[83] Deposit Law Case, paras. 12, 13, 16.

We now turn to examining some of the cracks that opened up in Israeli policies towards noncitizen workers to improve their working and living conditions during COVID-19. Some have been noted already in this section – the extension of health insurance and housing regulations to Palestinian workers; land-use decisions regarding accommodation for workers on farms; and the High Court of Justice's decision annulling the Deposit Law (discussed below), accompanied by civil society's reaction to the plight of asylum seekers. In the next section, we will analyse these and additional developments, exploring whether they are temporary and superficial or represent deeper policy changes and a willingness to include non-citizen workers.

4. Openings, possibilities, and the potential legacy of COVID-19

The impact of the COVID-19 outbreak, with the closures and restrictions that followed, was mostly negative. As demonstrated above, the situation of many non-citizen workers deteriorated, and vulnerability to exploitation increased, with the conditions of some akin to forced labour, slavery and trafficking. Nonetheless, COVID-19 policies, by heightening and intensifying the structural vulnerabilities of non-citizen workers, have also drawn attention to their humanity, essential role in the Israeli economy, and socioeconomic rights, and have created some (albeit limited) opportunities to re-examine policies and improve workers' working and living conditions. Through heightened attention to vulnerability, but also through new coalitions and solidarities, some limited opportunities for change by non-citizen workers and civil society actors that support them have emerged.

While some changes are temporary and likely to be considered unusual measures taken in a time of emergency – such as the temporary increase in bargaining power, or visa extensions for workers already present in Israel – we suggest that other changes may prove more persistent. Short-term policy changes may linger, due to inertia or change in the reference point. Thus, any attempt to reinstate the previous arrangement is expected to be very visible, require justification, and likely to result in criticism and objection from civil society and even from state officials. It should be clear, though, that many of the tentative 'wins' are still limited, possibly only cracks in the system that can perhaps be strategically widened by non-citizen workers and their advocates. We believe that most of these cracks and openings will most likely close swiftly in the face of the persistent patterns of control and vulnerability non-citizen workers encounter. Below, we will identify and discuss key openings.

Extension of stay in Israel

Perhaps the most striking changes have been the extension of temporary migrant workers' visas, the transition to seasonal work for Palestinian workers, and the opening up of labour sectors to asylum seekers. Various countries, including, for example, Portugal and Canada, extended stay for and even provided residency to some immigrants and asylum seekers. In Israel, no such sweeping move was taken, yet migrant workers' visas have been extended as a result of

the pandemic,[84] Palestinian workers are no longer required to exit Israel on a daily basis,[85] and asylum seekers and undocumented migrant workers have been granted permits to work in the care sector in nursing homes.[86] While all are temporary changes, possibly reflecting no more than government responsiveness to the needs of the market rather than humane treatment of workers, they have opened cracks in the strict temporary-stay regime, showing that what was perceived as an impossibility – due to security reasons, skill levels, or fear of settlement – is, in fact, possible. Policymakers' awareness of the contribution and labour power of those already in Israel, rather than the constant push to add new temporary hands, may be used by advocates in the future to push for better, less restrictive migration policy.

Increased bargaining power

When the borders closed and new migrant workers could not enter Israel, the demand for workers in migrant-receiving sectors increased. As discussed above, COVID-19 brought with it increased control and vulnerability to exploitation, but, in some cases, workers were also able to utilize the increased demand for workers in the sector to improve their working conditions. Perhaps the best example in the Israeli case is in the agriculture sector, where the shortage led to significant change in migrant workers' ability to move between employers, as well as to some increase in their market power, as many employers were left with visas they could not exercise and in need of workers.

In the agriculture sector in Israel – before and during COVID – private placement agencies were responsible for placing workers with employers and facilitating workers' movement between employers, if the workers or the employer desired a transfer. Placement agencies are paid relatively small sums for their services by workers and much more significant sums by employers.[87] As a result, they tend to be more 'loyal' to employers than to workers and are usually reluctant to facilitate workers' movement to another employer, particularly where a worker has requested transfer to an employer contracted with a different agency. Hence, workers' mobility is de facto severely limited.[88] However, during COVID, due to the great demand for labour and the shortage of workers, workers could more easily find an employer independently, because many employers were left with 'vacant visas' and could use the high demand for

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[84] PIBA, "Notification Regarding the Extension of Permits for the Employment of Foreign Workers, and of B/1 Foreign Workers' Visas in Different Sectors" (29 March 2020).

[85] See note 62 and accompanying text.

[86] Lee Yaron, "Following the Corona Crisis: Foreign Workers without a Permit will be Allowed to Work in Nursing Homes," Ha'aretz (12 April 2020).

[87] Yahel Kurlander, "Placement and Manpower Agencies" in *TraffLab Alternative Plan.*

[88] Raijman and Kushnirovich, *"The Impact of Bilateral Agreements on Labor Migration to Israel".*

workers to pressure agencies to service them more diligently.[89] Though at present we do not have complete data concerning migrant workers' mobility to demonstrate that workers enjoyed freer movement within the labour market, anecdotal data suggests that this was the case.[90]

Although short-lived, this shortage demonstrated the impact of employment structures and migration policies on workers' bargaining power and the potential for non-citizen workers and their advocates to call for structural reforms in the incentive structure of placement agencies as a way to increase workers' employment and exit options.

Social Rights

In many countries, including Israel, the pandemic revived demands for a wider and more generous welfare state, which also impacted non-citizen workers. The willingness to offer health insurance coverage to Palestinian workers is illustrative. This was a policy that civil society had pushed for in the past and seemed relatively unlikely to be realized. COVID and the new sensitivities to the fragility of the body and the embeddedness of non-citizens in Israeli society may have hastened its introduction.

In the case of asylum seekers, their desperate situation, without jobs or welfare benefits, demonstrated the real and devastating cost of the Deposit Law. In April 2020, a month into the first lockdown and the humanitarian crisis in the asylum seekers' community brought on by COVID-19 policy, the High Court of Justice published its decision in the Deposit Law case. The Court held that the Deposit Law violated the right to property, though it analysed it through a social lens, considering notions of exploitation, withholding wages, and the ability to afford basic necessities.[91] The Court stated that though its conclusion was valid irrespective of the crisis, the crisis and its effects reaffirmed the conclusion.[92] Previous interventions by the Court in similar aspects of Israel's migration policy had resulted in backlash and the introduction of new measures.[93] Yet, a year has passed since the ruling was issued, and no new law or policy has been proposed or promoted. While still too early to determine, it is possible that without the sense of urgency that characterised previous such legislative amendments, due to the 'distraction' of the pandemic and perhaps even public attention to the destitution of asylum seekers, the introduction of new coercive measures is less likely.

Another social right impacted by COVID-19 is the right to health, in particular the issue of access to the vaccine. The vaccine rollout in Israel began quickly, with the ambitious goal of

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[89] Informal conversations with agricultural placement agencies' representatives (30 March; 15 April; 22 May 2020).

[90] PIBA: "Additional Supports to Farmers Regarding Foreign Workers during COVID-19" (25 March 2020). [Heb].

[91] Deposit Law Case, Judge Hayut's opinion, paras. 43-44.

[92] *Ibid*, para. 61.

[93] Weill and Kritzman-Amir, "Between Institutional Survival and Human Rights Protection".

becoming the first country to vaccinate the majority of its population.[94] Initially, it was unclear whether migrant workers' private health insurance would cover the vaccine. Following some civil society pushback, the government decided to vaccinate non-citizens and citizens alike. However, it was abundantly clear that the vaccination of non-citizens was first and foremost a measure to protect Israeli citizens from the continued spread of the pandemic.

The first to be vaccinated among non-citizens were migrant care-workers,[95] whose work with the most vulnerable population prioritized their vaccination. Regarding asylum seekers, there were several policy shifts until their path to the vaccine was granted.[96] Most telling was the instrumental treatment of Palestinian workers. In a heavily criticized decision, the Israeli government opted not to provide vaccines to the OPT,[97] excepting only Palestinian workers who entered Israel, who were provided an opportunity to receive the vaccine at the checkpoints upon their entry to Israel. However, such workers may be the only ones in their families or neighborhoods vaccinated, given the sustained shortages of vaccine in the OPT - to which Israeli policy contributed.

Another troubling manifestation of Israel's instrumental treatment of workers is the exclusion of migrant workers from the 'perks' accompanying the status of being vaccinated. Migrant workers have been denied access to a 'green passport' that allows Israelis to enter public spaces and travel more readily upon vaccination.[98] The Ministry of Health claims it has not issued green passports to non-citizens because of a bureaucratic problem, but the problem has persisted for months and, as of this writing, has not yet been resolved.[99]

Perhaps the most significant impact on migrant workers' social rights is in relation to housing. This may not be surprising, given that the lockdowns led to an increase in the time the population as a whole spent indoors, at home. In the case of migrant workers, lockdowns and social distancing regulations presented both some significant opportunities and some dangers. For migrant workers in agriculture, the regulation that served to address the spread of the pandemic also led to some positive policy developments. As discussed above, prior to COVID, workers' inhumane living conditions had been well documented, yet thoroughly ignored.[100] With

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[94] Isabel Kershner, "How Israel Became a World Leader in Vaccinating Against Covid-19," NY Times (1 January 2021).

[95] PIBA, Important Notice Concerning Coronavirus Vaccinations for Foreign Caregivers (24 December 2020).

[96] Alon Bernstein, "Foreign Nationals, Asylum Seekers Get COVID-19 Vaccines in Tel Aviv," Times of Israel (9 February 2021).

[97] Einat Albin et al., Israel: Legal Responses to COVID-19, The Oxford Compendium of National Legal Responses to Covid-19, par. 114 (2021).

[98] *Ibid*, par. 110.

[99] Adv. Irit Ulman (Workers' Rights Clinic, TAU), Pre HCJ petition: Refusal to Grant a Green Passport to Foreign Workers and Others (12 April 2021).

[100] Kurlander and Zimmerman, "Suitable Accommodation".

COVID, it became clear that farm workers' crowded accommodations had the potential to increase infection and therefore could not be used for quarantine. To reduce the chances of transmission, the Israel Land Authority allowed landowners to build additional temporary structures on farmland without the usual bureaucracy and fees.[101] This decision was adopted as a temporary COVID-related measure, valid until July 2020.

Similarly, for Palestinian workers, the improved housing regulation adopted during COVID will most likely prove 'sticky' and positively impact workers who continue to stay in Israel overnight. In general, one could make the case that the improved living conditions may now enable Palestinian workers to rely more on consecutive stay in Israel than in pre- pandemic 'regular' times. However, it should be noted that for the workers themselves, the change to longer consecutive stays in Israel, even under adequate housing conditions, is unappealing. Workers interviewed by an NGO during the pandemic indicated that after the pandemic, they would prefer to commute daily and return to their families and homes.[102]
For caregivers, the pandemic may leave a very troubling legacy. The state's ability to require workers to avoid staying in community apartments, de facto leading to unbroken stays at their employers' homes and under their control, with fewer days and time off, may be an attractive option for some employers, who may continue such requirements in the future. It is too early to predict the lingering impact of such change, but the slow relaxation of COVID regulation in relation to migrant care-workers and existing patterns of around-the-clock care in the sector may lend themselves to intensification of demands for workers' availability.

Conclusion

In this article we have discussed the ways in which COVID-19 restrictions have meshed into and exacerbated the existing vulnerabilities of non-citizen workers in Israel. The emergency measures adopted pushed asylum seekers far below the poverty line and migrant workers into completely unacceptable living conditions, resulting in intensive control of over every aspect of their time and movement, and amounting to forced labour, slavery and trafficking. We have shown that non-citizen workers in Israel were pushed so quickly into extreme precarity because in the pre-COVID routine, they were already in a highly vulnerable situation. The 'regular' order keeps non-citizen workers controlled and vulnerable to severe exploitation, but in a way that usually falls just outside the scope of the prohibitions on forced labour, slavery and trafficking. For many of them, we argue, COVID-related policies tipped the scales, intensifying non-citizen workers' vulnerability and exploitation.

Our analysis shows that employers' control and workers' dependency are shaped, in large part, by government policies and restrictions, and intervention is often required to address the

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[101] Israel Land Authority, "Placing Portable Structures for Foreign Workers - Temporary Order for the Corona Pandemic Crisis" Decision 4787 (25 March 2020) [Heb.].

[102] Niezna and Tadjer, "Situation Report".

vulnerability created by the same government charged with preventing forced labour, slavery and trafficking. Extreme and draconian measures that, if deployed by individual employers, are indicators of forced labour, slavery and trafficking, are regularly part of the temporary migration policy toolbox. Subjecting workers to employers' control day and night, wilfully neglecting their health and safety, and severely restricting their mobility were policies readily available when the pandemic hit because they were, in fact, already in place well before the spread of COVID. However, just as the existing harsh policies enable draconian measures in times of emergency, changes introduced during the crisis may inform the imagination in the future, demonstrating that the interests served by labour migration can be promoted while maintaining workers' dignity. Here we have attempted to sketch the positive and negative alternatives opened up by the pandemic and to highlight some of them, the promising as well as the troubling. Policymakers, state officials, civil society and workers and their organisations will be the ones who create COVID's legacy and will have to choose which possibilities to pursue.

The Finance of Sex Trafficking and Impact of COVID-19

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This paper examines how COVID-19 has impacted the lives of sex workers and how changing circumstances may make them and others even more vulnerable to exploitation into sex trafficking. It explores the perceptions and policies that keep sex workers from receiving the financial support needed to keep them safe at this time. It considers how sex work may be driven further underground, and the implications of this on the security of the workers involved. It also considers how the behaviour of clients may change as a result of the virus, examining the supply and demand drivers of online sexual exploitation of adults and children. This paper also outlines the fluidity of criminal nature, how criminals are adapting to changing circumstances and finding new ways to identify, groom, and exploit victims into sexual slavery. Finally, it analyses the implications that COVID-19 has had on the nature of money laundering and the related effects on the ability of financial institutions to operate as the 'eyes and ears' in the fight against global sex trafficking. It concludes with recommendations that can be made to financial institutions and related agencies, to respond rapidly to emerging risks and new trends in sexual exploitation and money laundering.

The global outbreak of COVID-19 in 2020 led to the shutdown of industries, shrinking economies, border closures, and national laws and curfews put in place to minimise social contact. As the world continues to grapple with containing the virus, we examine the effects of COVID-19 on a criminal world that often goes underreported: the world of modern slavery in the commercial sex industry. This article examines how COVID-19 has impacted the lives of sex workers and how continually changing circumstances may heighten their vulnerability of exploitation into sex trafficking, otherwise referred to as modern day slavery. It explores the perceptions and policies that keep sex workers and vulnerable communities from receiving the financial support needed to keep them safe. It considers how sex work may be driven further underground, and the implications of this on the security of the workers involved. It also considers how the behaviour of clients may change as a result of the virus, examining the supply and demand drivers of online sexual exploitation of adults and children. This article also outlines the fluidity of criminal nature, how criminals are adapting to changing circumstances and finding new ways to identify, groom, and exploit victims into sexual slavery. Finally, it analyses the implications that COVID-19 has had on the nature of money laundering and the related effects on the ability of financial institutions to operate as the "eyes and ears" in the fight against global sex trafficking.

One of the main drivers for modern slavery across all industries and exploitation types is financial desperation. COVID-19 has had a devastating impact on economies globally, with millions of people losing their jobs.[1] People who are heavily reliant on daily wages to support themselves and their families have been impacted particularly by this crisis. People continue to need money to survive, and yet the financial income is simply not available. In 2009, then Secretary of State Hillary Clinton said of the then global financial crisis, "Economic pressure, especially in this global economic crisis, makes more people susceptible to the false promises of traffickers."[2] Forbes states, "In times of emergency – be it a flood, a drought, or a famine, a declaration of war or a recession – support structures shift and collapse. Communities are challenged as people grapple with losing their families, their homes, and their jobs. For traffickers each disaster signals a newly emerging availability of new prey."[3] Sex traffickers exploit economic hardship and thrive on uncertainty. In many cases, their primary targets are those seeking employment, as they trick their victims by offering jobs that do not exist or mislead their victims on the nature of the work and pay. This capitalisation on desperation means that a higher degree of joblessness and related economic hardship can make a community more vulnerable to traffickers.[4]

Sex work, by its very nature, involves intimate human interaction. In a time where lockdown measures to fight COVID-19 enforce total isolation, or where interaction is limited to close family and friends, some challenges arise. Typical venues for sex workers to operate, such as bars, nightclubs, and massage parlours, have been closed in many countries to prevent the further spread of the virus. Likewise, many hotels and motels shut down or temporarily closed for business. Sex workers who relied on frequenting these establishments to meet their clients have found themselves needing to explore alternative options. In many cases, even if clients could be solicited over the internet, it would be unsafe and even illegal to meet them in person. Therefore, many sex workers have found a severe depletion in their income streams due to being physically unable to carry out the work that they rely on.[5] Debt is a key driver of modern slavery and is one of the most consistent elements of victims' stories across all industries where modern

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[1] Rymer, Andrew, '*What impact is COVID-19 having on global economies and markets?',* Schroders Wealth Management, 26 March 2020, accessed June 2020. URL: https://www.schroders.com/en/hk/wealth-management/insights/strategy-and-economics/what-impact-is-COVID-19-having-on-global-economies-and-markets/

[2] International Labour Office, '*The Cost of Coercion: Global Report on Forced Labour 2009',* International Labour Conference 98th Session 2009, accessed June 2020. URL: https://www.ilo.org/global/topics/forced-labour/news/WCMS_112326/lang--en/index.htm

[3] Redfern, Corrine *'The Pandemic's Hidden Human Trafficking Crisis',* Foreign Policy, 30 April 2020, accessed June 2020. URL: https://foreignpolicy.com/2020/04/30/coronavirus-pandemic-human-trafficking-crisis/

[4] Mahmoud, Toman & Trebesch, Christoph, '*The economic drivers of human trafficking: micro-evidence from five Eastern European countries',* Kiel Working Paper No. 1480, Kiel Institute for the World Economy, February 2009.

[5] Breslin, Susannah, '*A Sex Worker Reveals How the COVID-19 Pandemic Has Changed Sex Work',* Forbes, 14 May 2020, accessed June 2020. URL: https://www.forbes.com/sites/susannahbreslin/2020/05/14/a-sex-worker-reveals-how-COVID-19-has-changed-sex-work/#5a674e6c3a81

slavery occurs. When people take on debt, especially when it comes from an illicit or unregulated money lender, a part of their autonomy is lost. In many cases, sex workers are excluded from more traditional financial institutions due to the nature of their work and banks' risk policies, and as such they may be more vulnerable to seeking financial support from money lenders, pimps, or criminal gangs. This debt can be used to leverage control over individuals, they may be subject to excruciatingly high interest rates, deception and fraud, and they may be forced to take on work in order to settle their debts if they are unable to pay. Human traffickers prey on these vulnerabilities, and as a result it is clear to see the risk of sex workers being forced into risky financial and personal situations as a result of the economic impact of COVID-19.

In some countries, government handouts have been crucial to support low-income households and to ensure that the population is able to survive and continue to cover basic expenses during the pandemic. However, there are many recorded cases of sex workers either being deliberately excluded from this government support or being too afraid to disclose the nature of their work in order to claim it. One sex worker in Hong Kong stated, "Every sector can ask for stipends and allowances, but sex workers can't have the same demand, because sex workers are not willing to come out."[6] In many countries, sex work is criminalised, which means they are unable to access vital funds. To claim government handouts, people may be required to provide proof that employment has been lost or income substantially reduced as a result of COVID-19. In places where sex work is illegal, it is not possible to provide this proof for fear of retribution. A survey conducted by the Global Network of Sex Worker Projects found that many sex workers find themselves excluded from financial support even in countries where sex work is legalised in part. For example, in Germany, it was found that many sex workers were unable to access the financial support as they were not fully integrated into the required systems, alienating thousands of people and putting more at risk of debt and exploitation. The survey found, "While the government has provided a package for (registered) freelance workers, sex workers have not been in any way addressed in particular, and there is no potential for anyone living here illegally to access money from them."[7] This lack of access to handouts leads to a greater risk of sex workers falling into debt traps by reaching out to unregulated and unscrupulous money lenders to bail them out while they are unable to make an income, or pursuing risky ways to continue their sex work during the pandemic. These options increase risks related to sex trafficking and exploitation for these individuals.

Sex workers in some cases may feel that they have no viable option but to continue their sex work despite the lockdown measures being imposed, thus operating illegally. In order to achieve this, they may more easily be recruited into underground networks, criminal gangs that

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[6] Carvalho, Raquel, '*Coronavirus: I don't want to infect my children says Hong Kong sex worker',* South China Morning Post, 18 April 2020, accessed July 2020. URL: https://www.scmp.com/week-asia/people/article/3080490/coronavirus-i-dont-want-infect-my-children-says-hong-kong-sex

[7] UNAIDS, '*COVID-19 responses must uphold and protect the rights of sex workers',* UNAIDS Resources*,* 24 April 2020, accessed June 2020. URL: https://www.unaids.org/en/resources/presscentre/featurestories/2020/april/20200424_sex-work

seek to exploit their desperation and bring them into their sphere of control. Such desperation can be found in the United States, where it is increasingly challenging to advertise sexual services online due to legislation referred to as the Allow States and Victims to Fight Online Sex Trafficking Act[8] and the Stop Enabling Sex Traffickers Act.[9] These laws were enacted to shut down websites found or alleged to be facilitating sex trafficking. These laws have prompted a debate on the ethics and potential risk associated with closing down access to online solicitation for all sex workers, to protect the subset of sex workers who had been trafficked into their situation.[10] With bars, nightclubs, and red-light districts closed due to COVID-19 restrictions, some sex workers have chosen to move their advertising online. However, as one anonymous sex worker explains, "Immediately after the sites went down, it was a scramble to figure out how to advertise. There's an assumption that sex work is really easy, and you just find another site and go back to normal, but that's so far from the case. Every time you post in a new place, there's risks. You have to figure out where your clients are looking, you have to send personal information into a black hole of people you hope don't extort you."[11] As there are fewer legal ways for sex workers to solicit clients, sex workers find themselves more vulnerable as they may resort to illegal underground sites where traffickers mine personal information and prey on potential new victims.

In other cases, sex trafficking victims or high-risk individuals are already confined to brothels or kept in domestic servitude. They may be therefore finding their situation even more perilous due to COVID-19. Studies indicate that lockdown laws have led to an increase in domestic violence.[12] This is correlated with the further deterioration of living conditions faced by many victims, including those in domestic servitude or sex slavery who are all too often also victims of domestic violence.[13] In other cases, shelters or temporary accommodations such as cheap motels and hotels have been closed down temporarily due to virus restrictions. This heightens vulnerabilities to sex trafficking and other forms of violence as people who are already

[8] HR 1865, 115th Congress (2017-2018), *'Allow States & Victims to Fight Online Trafficking Act of 2017',* Public Law No. 115- 164.

[9] S 1693, 115th Congress (2017-2018), '*Stop Enabling Sex Traffickers Act of 2017',* Reported to Senate with amendments 1 December 2018.

[10] HR 5448, 116th Congress (2019-2020), *'SAFE SEX Workers Study Act',* Introduced to House 17 December 2019. URL: https://www.congress.gov/bill/116th-congress/house-bill/5448/text?format=txt

[11] Breslin, Susannah, '*A Sex Worker Reveals How the COVID-19 Pandemic Has Changed Sex Work',* Forbes, 14 May 2020, accessed June 2020. URL: https://www.forbes.com/sites/susannahbreslin/2020/05/14/a-sex-worker-reveals-how-COVID-19-has-changed-sex-work/#136de4b93a81

[12] Taub, Amanda, '*A New COVID-19 Crisis: Domestic Abuse Rises Worldwide',* New York Times, 6 April 2020, accessed June 2020. URL: https://chescocf.org/wp-content/uploads/2020/04/Domestic-Abuse-Rises-Worldwide-New-York-Times.pdf

[13] Ochab, Ewelina, '*The Hidden Victims of COVID-19 Human Trafficking and Modern Slavery',* Forbes, 11 May 2020, accessed June 2020. URL: https://www.forbes.com/sites/ewelinaochab/2020/05/11/the-hidden-victims-of-COVID19-human-trafficking-and-modern-day-slavery/#4dbc70281d2b

in vulnerable situations find themselves homeless and targeted by criminals who lure victims into dangerous and exploitative situations. Research by Covenant House found that there is a relationship between homelessness and human trafficking. They interviewed hundreds of homeless youth and found that 92% had been approached at some point with an offer of income deemed too good to be true, with 14% of the respondents confirmed to have been trafficked into sex work as a result of being homeless.[14] Polaris, a human trafficking charity in the US, stated that calls to its hotline for people seeking shelter to avoid human trafficking situations doubled between March and April 2020 and was expected to increase as the pandemic continues.[15]

Transactional sex also increases in times of financial hardship, where people in increasingly desperate situations choose to exchange sex for food or shelter. Once people fall into this world of transactional sex, they may become reliant on traffickers for their survival. Sex workers and others who become reliant on other people through debt find themselves vulnerable to exploitation as a result, as debt is one of the fundamental drivers of modern slavery situations. Tinku Khanna, director of Apne Aap Women Worldwide India Trust, states, "The communities we work with, who have minimum or no social security, will fall prey to the traffickers as there will be no food, no jobs and huge debts…Children, especially young girls who are daughters of prostituted women; girls and young women living on footpaths and under the bridges; the children and women from nomadic and semi-nomadic communities will be the worst affected."[16] Research on the impact of the Ebola disease outbreak on the lives of women and girls in Sierra Leone supports this view. In an examination of the impact that the outbreak had on vulnerability to sexual and gender-based violence, a United Nations Development Programme report stated, "Female participants…raised serious concerns about the increasing prevalence of teenage pregnancy, especially related to economic hardships of adolescents and their parents leading to transactional sex."[17] This research indicated that instances of child sexual abuse, teenage pregnancy, harbouring and related sexual exploitation and violence were directly increased due to the outbreak of the Ebola virus and related economic impacts that draw clear parallels with the outbreak of COVID-19.

As every industry and economy is impacted by COVID-19, so is the criminal economy. Human traffickers operate for profits. They exploit people in many ways, from forced

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[14] Murphy, Laura, '*Labour & Sex Trafficking Among Homeless Youth',* Loyola University New Orleans, 2016, accessed June 2020. URL: https://www.covenanthouse.org/sites/default/files/inline-files/Loyola%20Multi-City%20Executive%20Summary%20FINAL.pdf

[15] Aljazeera, '*Coronavirus Lockdowns Conducive to Human Trafficking',* 17 June 2020, accessed June 2020. URL: https://www.aljazeera.com/news/2020/06/coronavirus-lockdowns-conducive-human-trafficking-200616141741912.html

[16] Carvalho, Raquel, '*Coronavirus: I don't want to infect my children says Hong Kong sex worker',* South China Morning Post, 18 April 2020, accessed July 2020. URL: https://www.scmp.com/week-asia/people/article/3080490/coronavirus-i-dont-want-infect-my-children-says-hong-kong-sex

[17] See*, Rapid Assessment of Ebola Impact on Reproductive Health Services and Service Seeking Behaviour in Sierra Leone,* UNFPA, March 2015.

prostitution to forced and child labour in industries across the world. As the world locks down, these people are adapting and finding new nefarious ways to exploit others for their own gain. We are seeing evidence of this already, with soaring increases in online fraud, cybercrime, and scams to generate new proceeds where other forms of criminal income have diminished.[18] Research into online exploitation suggests that the measures imposed against COVID-19 may have an impact on both the supply and demand sides of online sexual slavery. A recent typological example of how such online exploitation occurs can be seen in South Korea, referred to as the "Nth Room" case. This case revolved around the online sexual exploitation of women and girls on the Telegram messaging app. People from all over the world were able to make payments to access the Telegram chatrooms and make requests for the women and girls involved to provide explicit material and carry out violent sexual acts upon themselves. At least 260,000 people paid to access the chat rooms in this case.[19] These transactions involved a combination of cryptocurrencies and funds processed through fiat bank accounts. The women and girls were coerced into this situation through blackmail and fear. Non-compliance could mean that their addresses would be posted online and they were threatened with violence and exposure to their families and friends, psychologically tortured by their traffickers. The Nth Room case is sadly not an isolated incident – in fact, many consider the use of technology to present a new frontier in combatting sex trafficking.[20] As the spread of COVID-19 has stopped people being able to find their victims and buy services in the streets, it is hypothesised that many more will turn to the internet to fuel their desires. Sex trafficking is driven by the wider demand for sex work and sexual content. If there was not a demand for commercial sex, traffickers would not wish to exploit this market and force people into it for their own financial gain. If demand for online sex work increases, then it is logical that traffickers will identify this market as a lucrative opportunity and pivot their efforts to meet this demand.

Mama Fatima Singhateh, special rapporteur on the sale and sexual exploitation of children appointed by the UN Human Rights Council in Geneva, states that travel restrictions have spawned new ways to sexually exploit and abuse children, such as attempts to establish "delivery" or "drive-thru" services.[21] She added, "Producing and accessing child sexual abuse material and live-stream child sexual abuse online has now become an easy alternative to groom and lure children into sexual activities and to trade images in online communities."[22] Research

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[18] Council of Europe, '*Cybercrime & COVID-19',* Council of Europe Cybercrime News, March 27 2020, accessed July 2020. URL: https://www.coe.int/en/web/cybercrime/-/cybercrime-and-COVID-19

[19] De Souza, Nicole, '*The Nth Room Case & modern slavery in the digital space',* The Interpreter, 20 April 2020, accessed June 2020. URL: https://www.lowyinstitute.org/the-interpreter/nth-room-case-and-modern-slavery-digital-space

[20] Ibid.

[21] United Nations, *'COVID-19 crisis putting human trafficking victims at risk of further exploitation – experts warn',* UN News, 6 May 2020, accessed June 2020. URL: https://news.un.org/en/story/2020/05/1063342

[22] Ibid.

already suggests that online sexual exploitation of children is increasing as a result of the COVID-19 pandemic. For one, children are spending substantially more time online, in many cases their entire schooling has moved to online lessons, and they are engaged in more online activity such as chat rooms, online games, and forums, leaving them vulnerable to online predators. In addition, lockdown laws mean that many children are confined to their homes. Europol warns that isolation and loneliness are emotions that sex traffickers prey on. They groom their victims online and offer them friendship, encouraging them to share personal information and intimate content that will ultimately be used to force them into sex trafficking.[23] Evidence shows that those directly responsible for online sex trafficking of children are often family members and other caregivers with easy and private physical access to children. Data from the National Centre for Missing and Exploited Children revealed that in the most actively traded child sexual abuse material, where the child's identity and the identity of the abuser were both known, 32% of the cases depicted a neighbour(s)/family friend(s), 21% depicted a parent/ guardian, 11% depicted various other relative(s), 7% depicted the babysitter/coach, and 3% depicted the guardian's partner(s). In total, 74% of the child sex offenders portrayed belonged to the child's "circle of trust".[24] During the COVID-19 pandemic, children are in many cases legally confined to stay within this "circle of trust", a problem likely exacerbated further by increasing financial pressures and a growing demand for online abuse material. In the Philippines, for example, arrests were made in April against a woman in Luzon who was producing home-made online sexual exploitation content involving multiple children. This arrest prompted the International Justice Mission's Philippines director to state, "We recognize lockdowns as an important step to contain the coronavirus, but we also acknowledge that one unintended consequence of this is that vulnerable children are being trapped with abusers and traffickers in their homes."[25]

Sex trafficking is driven by profit. Traffickers seek to exploit others into commercial sex work because they see it as a lucrative opportunity to make money. Sex trafficking is a multi-billion dollar crime; in fact, Siddharth Kara estimates that 52 billion US dollars a year is generated by commercial sex trafficking.[26] Sex trafficking is a profitable activity because traffickers are often able to exploit their victims repeatedly. The sale of commodities such as drugs or counterfeit goods can generate a one-off profit – the sale is made and then the criminal must source additional produce to make another sale. Sex trafficking is different: one victim can be used to facilitate multiple sales over the course of their exploitation. As with any illegal

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[23] EUROPOL, ' *COVID-19 Child Sexual Exploitation',* accessed June 2020. URL: https://www.europol.europa.eu/COVID-19/COVID-19-child-sexual-exploitation

[24] National Center for Missing and Exploited Children, *'Child Pornography Offending: Analysis of Data from NCMEC'* (presentation delivered at 27th Annual Crimes against Children Conference, Dallas, Texas, USA, 10-13 August 2015).

[25] '*Trapped with abusers: 7 kids rescued from traffickers in Luzon',* Rappler, 25 April 2020, accessed June 2020. URL: https://www.rappler.com/nation/258987-trapped-with-abusers-children-rescued-from-sex-trafficker-luzon

[26] Kara, Siddharth, '*Sex Trafficking: Inside the Business of Modern Slavery',* Columbia University Press, 2017.

profits, these funds are then laundered through legitimate financial institutions in order to "clean" the money and allow the criminals to spend the proceeds as they desire. The financial services industry is therefore heavily impacted by this crime and has a key role to play in identifying and reporting illicit activity. Sexual exploitation and human trafficking is a notoriously challenging crime to detect, and it continues to impact millions of people around the world with significantly low prosecution rates. Financial service providers are at the frontline of this detection and reporting. They may unwittingly hold bank accounts for victims and traffickers. They may facilitate payments and remittances made for illicit services, and they may hold accounts for illegitimate businesses that are established to launder the criminal proceeds of exploitation.

The methods that traffickers use to collect and launder funds may be changing as a result of COVID-19 and there are challenges to financial institutions around how to detect and report these new forms of activity. Prior to COVID-19, much of the commercial sexual exploitation was carried out in establishments such as bars, massage parlours, and nightclubs. Transactions were paid for in cash directly, rather than through banking systems. While still challenging to detect, there are a number of mitigating measures that could be put in place and a risk-based approach could be applied to such establishments where this activity is known or suspected to take place. The changing nature of the commercial sexual economy means that such risk has shifted, and so new threats may emerge and previous risk profiles may become out of date. As exploitation methods shift, so may methods to launder funds and move cash proceeds of criminal activities. New forms of money laundering may include the use of online platforms that continue to be accessible during COVID-19 lockdowns. In many online games, it is possible to convert money from the real world into virtual goods services or cash that can later be converted back into the real-world currency of choice.[27] There has also been a marked increase in online scams during the COVID-19 pandemic, such as money muling, where the target's bank account is used wittingly or unwittingly to launder funds by acting as a transfer service for a small fee.[28] Such scams thrive on financial crisis as they exploit people's need for quick cash, and money launderers prosper as a result.

There are a number of immediate effects of the COVID-19 virus on the ability of financial services providers to conduct their usual anti-money laundering (AML) regimes and safeguarding practices, and thus prevent and detect sex trafficking activity. In many countries, social lockdowns mean that it is physically impossible to carry out routine customer visits and conduct in-person AML checks. Visiting a customer premises usually allows a banking relationship manager to better gauge whether the nature of the customers' business in reality reflects their stated purpose and nature of their bank account. Without being able to see the business in operation first-hand, there is a greater chance for illicit activity to go undetected, and

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[27] IGI Global, '*Digital Currency: Breakthroughs In Research & Practise',* IGI Global, 2018.

[28] FBI National Press Office, '*FBI warns of money muling schemes exploiting the COVID-19 pandemic',* 6 April 2020, accessed June 2020. URL: https://www.fbi.gov/news/pressrel/press-releases/fbi-warns-of-money-mule-schemes-exploiting-the-COVID-19-pandemic

for accounts used for money laundering purposes to thrive without outside scrutiny.[29] Likewise, without being able to witness customers and interact with them in branches, some key behavioural indicators for suspicious activity will also not be detected, as financial service professionals must rely on remote means to identify illicit behaviour. The ability for financial service providers to act as the "eyes and ears" for law enforcement is therefore severely hindered if in-person interactions are limited, as they have been during COVID-19. The Financial Action Task Force refers to anecdotal reports of impact on the ability to properly escalate suspicious behaviour and therefore investigate and combat criminal activity such as human trafficking and modern slavery.[30] Furthermore, this ability to identify and monitor risk of money laundering, including cases related to sex trafficking, is further compounded by industry-wide movements towards simplified due diligence processes when onboarding and monitoring customer risk. As customers are not able to visit branches to open bank accounts due to lockdown restrictions, alternative measures such as online "know your customer" or virtual verification are being offered, which increase access to financial services but also may leave the system further open to abuses by criminals.

In the financial services industry, suspicious behaviour is reported from within a bank to law enforcement using a reporting mechanism. The Financial Intelligence Units and related law enforcement bodies that are responsible for processing and responding to Suspicious Activity Reports (SARs) are in many cases operating at a reduced capacity, and backlogs of SARs to process are further building.[31] This is largely due to the closure of offices and reduced government operations across the board. In April 2020, the Hong Kong Monetary Authority published an open letter to the financial services industry, highlighting the fact that usual anti-money laundering and counter-terrorist financing regimes would be impacted by COVID-19, and urging a risk-based approach to due diligence, recording of short-term impacted issues, as well as the sharing of typologies between organisations for a more effective collective response.[32] Another potential vulnerability during a financial crisis is severe budget cuts in both the public service and the private sector. Public service budget cuts affect the quality of financial investigations conducted by the police, as well as the capacity for effective financial supervision by regulators. In such times, focus is naturally given to public safety, allowing financial crime to

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[29] FATF, '*COVID-19 related money laundering & terrorist financing risks and policy responses',* FATF, May 2020, accessed July 2020. URL: https://www.fatf-gafi.org/publications/fatfgeneral/documents/COVID-19-ml-tf.html

[30] Ibid.

[31] Crowell Moring, *'Anti money laundering program contingency planning during COVID-19: Recent guidance from FINCEN & FFIEC',* 26 March 2020, accessed June 2020. URL: https://www.crowell.com/NewsEvents/AlertsNewsletters/all/Anti-Money-Laundering-Program-Contingency-Planning-during-COVID-19-Recent-Guidance-from-FinCEN-and-FFIEC

[32] Chu, Carmen, '*Coronavirus disease (COVID-19) and anti-money laundering counter-financing of terrorism (AML/CFT) measures',* Hong Kong Monetary Authority, 7 April 2020, accessed June 2020. URL: https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2020/20200407e1.pdf

thrive. With regard to the private sector, budget cuts are bound to hit compliance.[33] The impact of this is clear: without the ability to properly mitigate suspicious activity, criminal behaviour will be allowed to continue for longer than usual, and the criminals themselves will remain undetected. Likewise, without proper escalations and investigations taking place, victims will continue to suffer and more will fall into the trap of modern slavery.

Overall, the impact of COVID-19 has been far-reaching and deeply challenging to manage and mitigate. Sex workers, already a vulnerable strata of society who are often forced to work outside of the support systems provided by governments, have undoubtedly been affected. Unable to operate on the streets, or in venues such as bars and clubs, many have been forced to find new ways to find clients. Cut off from government financial support schemes, many have also found that they are reliant on others to support with food and shelter, turning to unregulated lenders and criminal gangs for loans and support. Victims of exploitation also find themselves homeless or even confined to the homes of abusers, further compounding the severity of their situation. This economic hardship is also a driver for exploitation outside of the sex worker community, as families struggle to make ends meet, and creeping desperation creates a new pool of prey for unscrupulous traffickers to pick from. The traffickers themselves have also undoubtedly been impacted in some way, with their regular income streams drying up and consequent moves to new platforms through which to exploit their victims and launder the spoils. Finally, the ability for financial institutions to detect, report, and prevent this morally depraved yet profitable crime has been eroded to concerning levels. This perfect storm of vulnerability, greed, opportunism, and restriction ultimately means that sex trafficking is likely to thrive during the COVID-19 pandemic and long into the period of global recovery. It is vital that institutions with a responsibility for responding to the financial elements of sex trafficking take these changing trends and new threats into account as they work to play their role in fighting this crime.

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[33] Shaffer, Yehuda, *'COVID-19: new and old money laundering risks',* ACAMS Today, 21 April 2020, accessed June 2020. URL: https://www.acamstoday.org/COVID-19-new-and-old-money-laundering-risks/

Red Light Refracted: Impacts of COVID-19 on Commercial Sexual Exploitation in Maharashtra, India

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Abstract

NORC conducted a mixed-methods rapid assessment of the impacts of COVID-19 on commercial sexual exploitation (CSE) in Maharashtra, India, with funding from the Global Fund to End Modern Slavery (GFEMS). Findings show that while demand for commercial sex has dropped since the start of the pandemic, vulnerability to CSE has increased and there is early evidence that this supply-demand gap is leading to deflation in the price of sex. With a larger pool of potential victims and low demand, price deflation may lead to poorer living conditions and heightened abuse of victims. Furthermore, the pandemic is accelerating shifts in the channels through which people buy and sell sex, making CSE harder to identify and shut down over the longer-term.

Keywords

CSE/C, COVID-19, Maharashtra, India, Sexual Exploitation

Introduction

In the wake of the 2020 COVID-19 pandemic, persons in India's commercial sex industry have faced social and economic upheaval. On March 24, the government of India announced a nationwide lockdown to mitigate the spread of COVID-19, leaving those who depend on commercial sex work for survival vulnerable to food insecurity, eviction/homelessness, and debilitating indebtedness. In addition, existing social protections for victims of sexual exploitation have been interrupted, including emergency rescue operations and prosecution of perpetrators of CSE in the court system. While the economic desperation of families has expanded CSE supply channels, demand for commercial sex in its traditional form has dropped sharply due to lockdown restrictions, income loss, mass migration, and international travel restrictions. As those currently in the sex industry struggle to survive, vulnerability to CSE has simultaneously increased for first-time victims and reintegrated survivors.

The purpose of this rapid assessment is to understand how the COVID-19 pandemic is affecting CSE in Maharashtra, India in order to support frontline agencies and organizations in adapting their prosecution, protection, and prevention programming to new realities on the ground. It is important to note that while the purpose of this study is to understand the relationship between the pandemic and CSE—particularly of children (CSEC)[1]—focusing on the commercial sex industry more broadly allows for better understanding of the typical

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[1] The ILO automatically defines any person under 18 engaged in commercial sex acts as a CSEC victim, thus the dimensions of force, fraud, and/or coercion are not factors in classifying children as CSE victims as they are for adults. For the purpose of this paper, we adopt the ILO's definition of CSEC.

environments within which exploitation occurs.[2] To this end, three research questions (RQs) were developed to shed light on the pandemic's short- and long-term impact on India's sex industry as well as CSE and CSEC (CSE/C):

> (1) Has COVID-19 led to any shifts in the mechanisms for buying and selling sexual services in Maharashtra?;
> (2) Is COVID-19 likely to lead to any changes to supply and demand for sexual services in Maharashtra?; and
> (3) What are the possible long-term implications of COVID-19 for persons in the commercial sex industry, and the CSE/C population in particular?

This mixed-methods study was conducted in two phases. In the first phase, NORC conducted a desk review of recently published media articles, reports, white papers, and other online content to help address the research questions as well as inform the approach to primary quantitative and qualitative data collection. Primary data collection was conducted in the second phase, including key informant interviews with sector stakeholders, scraping of public data on Indian websites used to discuss or advertise sex work, and a web survey of self-reported adult male buyers of commercial sexual services.

Three key findings emerged from this rapid assessment. First, we find that since the start of the pandemic, demand for in-person sex has dropped while demand for virtual sex has grown; however, these trends are likely temporary. Multiple data sources reveal that face-to-face engagement has declined substantially due to a decrease in demand and pandemic-related movement restrictions. At the same time, virtual sex (including phone sex and video live streams) has grown in popularity. However, virtual sex appears unlikely to displace in-person, physical sex over the longer-term. Overall, assessment findings suggest that trends in demand for both in-person and virtual sex are likely to return to pre-COVID levels once the pandemic has ended.

Second, we find that while spikes in virtual sex may be temporary, there is consensus that web- and app-based mechanisms for recruitment, solicitation, and payments for in-person sex will continue to trend upward, and the pandemic has likely accelerated this trend. In addition, the focal points for in-person engagements may shift from centralized red light areas to more diffuse —and therefore less visible—locations and venues. The government's designation of red light areas as "containment zones" coupled with the large drop in customer demand precipitated widespread dispersion of red light workers. Some stakeholders believe this marks the beginning of a long-term shift away from red light areas to more private, decentralized settings which will make CSE/C more difficult to identify, investigate, and shut down.

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[2] It is important to emphasize that all CSE/C victims are members of the commercial sex industry; as such, discussions of the effects of COVID-19 on both CSE/C victims and commercial sex workers are threaded throughout this paper. However, the authors wish to stress that not all members of the commercial sex industry are considered CSE/C victims by most statistical definitions.

Third, we find that vulnerability to CSE/C has increased dramatically and will likely remain long after the pandemic ends. While demand for commercial sex has dropped since the pandemic began, more people are at risk of falling into the sex trade and there is early evidence that this supply-demand gap is leading to deflation in the price of sex. With a larger pool of potential victims and low demand, price deflation may lead to poorer living conditions and heightened abuse of victims. Stakeholders argue that this may lead to expectations of a whole "new range of sexual services" from victims of CSE/C.

Background and Context

India is a source, transit, and destination country for CSE/C, yet there is little data on the exact number of victims in the country. CSE/C in India is highly mobile, with 89 percent of trafficking for CSE/C occurring across state borders.[3] Women and girls in source locations are often lured into exploitation on the promise of work, marriage, or alleviation of debt. Recruiters then sell victims to brothels or other public and private sex trafficking establishments in destination cities.

Sex work in India is governed by the Immoral Traffic (Prevention) Act, 1956 (ITPA). Under ITPA, sex work is not explicitly illegal; however, public solicitation, trafficking, managing brothels, and other activities tangentially related to sex work are punishable by law. In India, the age of consent is 18 for both boys and girls and any sexual activity with or among children below this age is forbidden. Both ITPA and the Indian Penal Code, 1860 (IPC) include provisions that specifically address CSEC. In addition to, and often as a result of convictions under IPTA, IPC, and other interventions by the justice sector, CSEC has increasingly moved from traditional venues to more concealed locations such as mobile brothels, bars, hotels, and private residences.

While the qualitative literature illuminates vulnerability factors, geographic hotspots, and dire conditions of CSEC victims in India, CSEC prevalence is challenging to estimate by traditional methodologies due to its clandestine nature. In 2008, the Ministry of Women and Child Development and the United Nations Office on Drugs and Crime (UNODC) estimated that of the three million individuals in the country engaged in sex work, 40 percent were minors.[4] A review of literature on CSEC in India by the Population Council found that estimates varied widely based on methodology and location: approximately 4 to 20 percent of females engaged in

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[3] Joffres, Christine, Edward Mills, Michel Joffres, Tinku Khanna, Harleen Walia, and Darrin Grund. "Sexual slavery without borders: trafficking for commercial sexual exploitation in India." *International Journal for Equity in Health* 7, no. 1 (2008): 1-11.

[4] Ministry of Women & Child Development, Government of India (MWCD). (2008). India Country Report: To Prevent and Combat Trafficking and Commercial Sexual Exploitation of Children and Women. New Delhi, India: World Congress III.

commercial sex work were minors, while 30 to 60 percent of adult sex workers reported entering the sector as minors.[5]

Data Collection and Analysis

To address the three research questions, we employed a mixed-methods, multi-stage approach. This included using both qualitative and quantitative methods to gain a more holistic and deeper understanding of the research topic as well as mitigate potential bias in the data and findings through triangulation. For the first step of the rapid assessment, NORC conducted a desk review of recently published media articles, reports, white papers, and other online content to help address the research questions as well as inform the approach to primary data collection. For the second step, primary quantitative and qualitative data were gathered to augment and expand upon the desk research. This included key informant interviews (KIIs) with sector stakeholders, scraping of data on Indian websites used to discuss or advertise sex work, and a web survey with self-reported adult male buyers of commercial sexual services in Maharashtra. Data sources and activities are further elaborated below.

Rapid Systematic Desk Research. In order to inform this study and gather relevant information in an efficient and timely manner, we conducted a rapid systematic review of grey literature tied to the research questions. To structure the search and ensure reliability of information gathered, the research team developed an online search methodology and internal databases of relevant sources in consultation with subject-matter experts. The team conducted searches using Google and Google Scholar to identify relevant online content including newspaper articles, white papers, media reports, and policy blogs; non-governmental organization (NGO) and service provider websites; websites of local and international research organizations focusing on human trafficking policy issues; websites of key government agencies and international multilateral organizations working in the CSE/C space; and reliable local news sources and country-specific media reports.

Using the aforementioned search strategy, the research team indexed documents and news reports from March 15 to July 10, 2020. We used a deductive thematic approach to develop a codebook, which was imported into Dedoose v.8.3.35, a qualitative analysis software. Overall, 83 sources were reviewed, coded, and registered to the media bank, resulting in 314 code applications and 288 media excerpts. Additional documents were also reviewed during the desk research process, but were not analyzed using Dedoose. Some key themes identified during the analysis include national and state-specific COVID-19 trends within the commercial sex industry, COVID-19 implications for commercial sex workers and those vulnerable to CSE/C, and recommendations for social protection.

Key Informant Interviews (KIIs). The research team used a stakeholder mapping tool to identify key stakeholders working in the CSE/C space in Maharashtra, including donor

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[5] Santhya, K. G., Shireen J. Jejeebhoy, and Sharmistha Basu. "Trafficking of minor girls for commercial sexual exploitation in India: A synthesis of available evidence." (2014).

agencies, international NGOs, and national NGOs. Respondents for the stakeholder interviews were then purposively selected from this list to maximize variation of the sample. NORC conducted a total of 13 virtual KIIs, of which eight were individual KIIs and five were group KIIs. In total, 20 informants were interviewed. KIIs were approximately 60 minutes in length and conducted via Zoom.

Qualitative data was captured via detailed field notes recorded during the KIIs. Where possible, KIIs were conducted using two researchers so that one could facilitate the discussion and the other could serve as notetaker. Notetakers typed complete notes in English, listening to audio recordings as needed to supplement or clarify field notes. KII data was coded using Dedoose, and analyzed using an inductive approach. A total of 13 KII notes were included in the coding process, resulting in 324 code applications and 255 excerpts. Emergent themes are detailed in this paper and supported with relevant field note segments.

Web Survey. To help triangulate research questions related to shifting mechanisms and supply/demand patterns, we partnered with IST Research to launch an online survey of Facebook users who responded to ads for a survey on nightlife in Maharashtra. The Facebook ads and ad budgets were targeted proportional to the underlying distribution of age groups and districts of residence for men in Maharashtra. The campaign ran from September 12 to September 29, 2020 and had an overall reach of 5.3 million users, resulting in 200,000 click-throughs and 3,194 successful survey form submissions. Participants had the option to complete the survey in Marathi, Hindi, or English. While the ad campaign was managed by IST, survey data were collected using the web collection function of SurveyCTO which was managed by NORC.

Prior to analysis, web survey data were carefully reviewed to identify and remove ineligible and/or unreliable submissions, which resulted in dropping 449 submissions.[6] Of the remaining 2,745 eligible submissions, 150 (or five percent) were with men who reported having purchased sex in the past 12 months. These 150 submissions thus formed the basis of our analysis, which was conducted using the Stata/SE 15.1 statistical software package.

Web Scraping. In partnership with IST Research, we conducted web scraping to gather data from 11 popular websites used to discuss or advertise sex work in Maharashtra. These included International Sex Guide, Massage Planet, Oklute, Locan.to, PhotoCall, DropMyAds, CosmoHotties, PornHub, Ladys.One, NikitaBansal.net, and VivaStreet. Of the 11 websites scraped, four produced data useful for assessing COVID-19-related shifts in commercial sex work (see Table 1).

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[6] Ineligible respondents include those who did not consent, reported being under 18, or reported living outside of Maharashtra. Entries were tagged as unreliable if they contained extreme outliers or logically inconsistent response patterns.

Table 1: Websites Scraped to Assess COVID-19 Related Shifts in Commercial Sex Work

Name of Website	Description	Number of comments/ads scraped	Time range of comments/ads scraped	Type of data collected	Notes/Features
International Sex Guide (ISG)	Web forum that includes a large review thread featuring posts by buyers of commercial sex in Mumbai	4,275 comments	May 13, 2019–October 5, 2020	Text and titles of comments and the dates they were posted	N/A
Massage Planet (MP)	Web forum featuring an India section, with several threads referring to locales in Maharashtra	112,650 comments	February 24, 2012–October 9, 2020	Text and titles of comments and the dates they were posted	Few comments prior to 2016; removed to help demonstrate COVID-19 related changes (or lack of) in analysis
Oklute	Site that publishes ads for commercial sex work	100,219 ads	December 8, 2019–June 29, 2020	Text and titles of ads, the types of service offered, and ages and locations of commercial sex workers	Website fragility after June 2020 prevented scraping from late June – October 2020
Locan.to	Site featuring both ads and solicitations for commercial sex work	3,188 ads	September 1–9, 2020	Text of the ad, the length of time the person who posted the ad had been registered with the site, and the ages, genders, and locations of the commercial sex workers being offered	N/A

All analyses were conducted in the R statistical software package. Because the International Sex Guide (ISG) and Massage Planet (MP) data sets had the same variables and represented the same types of data, the team merged the data sets for analysis. To assess the change in supply and demand of commercial sex work, monthly counts of all posts were obtained from the combined ISG + MP data set and the Oklute data set. To assess changes in the mechanisms by which commercial sex work was conducted, the team identified key words to search for within the post/ad text and titles, based on the themes identified in the desk review and KIIs. The number of ads and posts containing each of these word groups was then calculated for the ISG + MP and Oklute data sets, separately. Since all ads were posted in September 2020 for Locan.to users, the team categorized users who registered five or fewer months ago as "new"

users and users who registered more than five months ago as "old" users. The team then calculated the percent of all users who were newly registered since lockdown.

Strengths and Limitations

The research methodology and implementation resulted in valid, reliable data. The data collection tools and analyses were sufficient for answering the research questions, however several important limitations should be taken into consideration when interpreting the findings. The rapid and remote nature of this assessment presented a number of challenges and limitations. The short period of performance for the assessment limited the intensity and duration of stakeholder outreach efforts for KIIs. In particular, we were unable to conduct interviews with government stakeholders due to non-response. As such, the views of NGO and government stakeholders are not fully captured in this assessment.

While the web survey was specifically designed to provide a snapshot of consumption patterns of men who purchased sex in both digital and analog formats, it is important to note several limitations to the survey. First, the web survey targeted a specific segment of the adult male population in Maharashtra, namely those that have social media access, are literate, and can read one of the three target languages. Second, there was a gap between the click-through rate and survey form submission rate, likely owing to the sensitive and illicit nature of the survey content as outlined in the initial consent form. This gap suggests a high degree of selection bias among survey respondents thereby limiting the external validity of the findings. Similarly, survey results may be subject to social desirability bias and recall bias. Finally, the small sample of the web survey limits the utility of statistical hypothesis testing. As such, readers should note that the lack of a statistical difference between tested variables does not mean that a difference does not exist.

Key Findings

Shifts in the mechanisms for buying and selling sexual services (RQ 1). There are widespread media reports across India that commercial sex workers (CSWs) are responding to the pandemic by shifting the mechanisms through which they offer sexual services. For instance,

many CSWs are shifting to phone (voice) and live broadcasts through videotelephony services like Facebook and WhatsApp, usually relying on existing clients as their customer base.[7]

A web survey of men in Maharashtra who report purchasing sex over the past 12 months suggests growing demand for virtual modes of sexual services, with 43 percent of respondents reporting paying for live phone sex, sex chat, or sex video over the past 12 months (see Table 2). Furthermore, web survey data provides tangential evidence for an increase in demand for live, remote sexual encounters since the pandemic began: among men who report having purchased sex in the past year, the average number of remote sexual encounters bought increased from 1.83 in the six months pre-COVID to 2.35 in the six months post-COVID (however the difference is not statistically significant).

Table 2: Popularity of Paid Content among Confirmed Buyers of Sexual Services in Maharashtra

Sexual content paid for in past 12 months	Percentage who bought
Phone sex chat	19%
Online sex chat	17%
Live online sex video	18%
WhatsApp sex video	19%
Paid pornography	11%

Web scrapes of posts on International Sex Guide and Massage Planet show that the number of video-related posts reached an all-time high after lockdown. In April and May, buyers on International Sex Guide and Massage Planet posted 237 messages with the terms "video" or "cam." This represents a 42 percent increase from the previous 2-month period. However, as

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[7] The Times of India, "With zero income and no relief, sex workers struggle to survive," May 17, 2020, https://timesofindia.indiatimes.com/city/mysuru/with-zero-income-and-no-relief-sex-workers-struggle-to-survive/articleshow/75781380.cms; Ajay Kanth, "COVID-19: Sex workers in Kerala take the virtual sex route to stay afloat", *The New Indian Express*, June 6, 2020, https://www.newindianexpress.com/states/kerala/2020/jun/06/covid-19-sex-workers-in-kerala-take-the-virtual-sex-route-to-stay-afloat-2153130.html; Chayannika Nigam, "Delhi: City's narco and sex rings back in business," *India Today*, May 28, 2020, https://www.indiatoday.in/mail-today/story/delhi-city-narco-and-sex-rings-back-in-business-1682672-2020-05-28; PTI, "Coronavirus | Delhi HC declines to entertain PIL on protection, welfare of sex workers, LGBT members," *The Hindu*, May 11, 2020, https://www.thehindu.com/news/cities/Delhi/coronavirus-delhi-hc-declines-to-entertain-pil-on-protection-welfare-of-sex-workers-lgbt-members/article31556384.ece#; Omkar Khandekar, "How sex workers are using technology to service clients during the lockdown," Livemint, May 22, 2020, https://www.livemint.com/mint-lounge/features/how-sex-workers-are-using-technology-to-service-clients-during-the-lockdown-11590152476385.html; Jayanthi Pawar, "Pandemic brings a slew of uncertain days for sex workers," *The New Indian Express*, July 13, 2020, https://www.newindianexpress.com/states/tamil-nadu/2020/jun/28/pandemic-brings-a-slew-of-uncertain-days-for-sex-workers-2162506.html; Sushant Kulkarni, "Sex workers in Budhwar Peth apply to return to native place, say they want to go home," *The Indian Express*, June 23, 2020, https://indianexpress.com/article/cities/pune/sex-workers-in-budhwar-peth-apply-to-return-to-native-place-say-they-want-to-go-home-6399121/.

shown in Figure 1, the number of video-related posts on these sites tapered off from June through September.

Figure 1: Number of Video-Related Posts per Month on International Sex Guide and Massage Planet
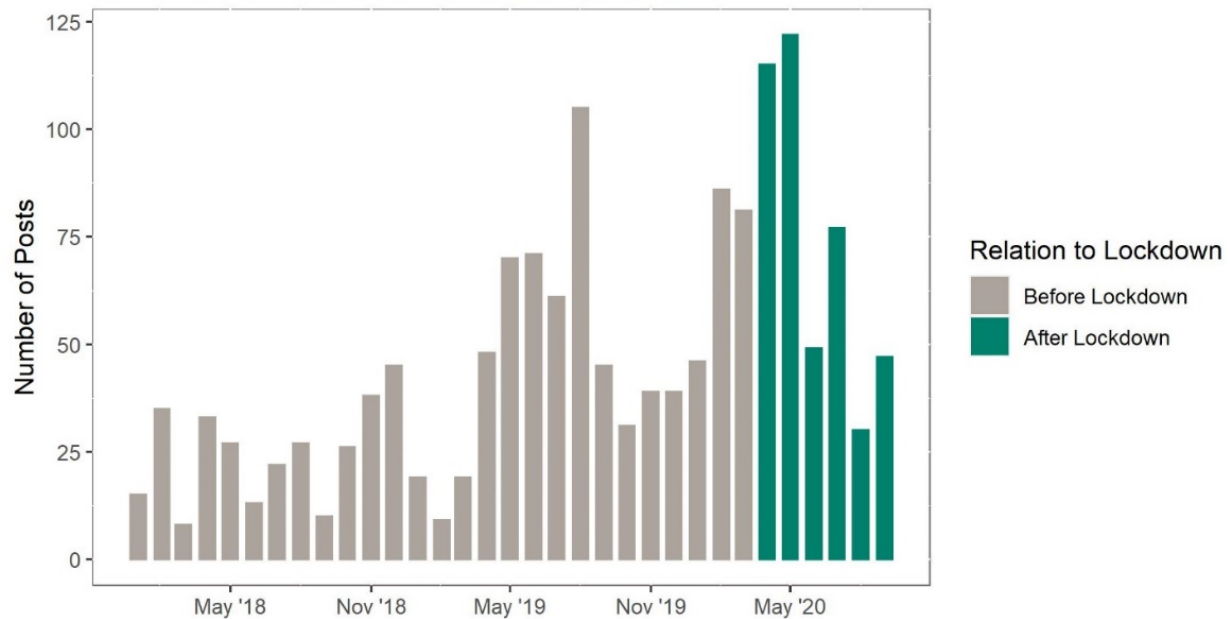
Similarly, the number of video-related sex work ads from sellers on Oklute grew exponentially from March through June 2020. In March, there were only 217 ads including the terms "video" or "cam." But in April, there were more than six times as many video-related ads (1,333), and in May the number of video-related ads more than doubled again (3,585). During the same time period, there was an increase in the total number of ads per month on Oklute, but it was not nearly as dramatic as the growth seen for video-related ads (see Figure 2).[8]

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[8] Unfortunately, due to the fragility of the website, we were unable to scrape data from July through September. But in the first seven days of October, there were only 26 video-related ads on Oklute, suggesting that the amount of interest in virtual sex may be decreasing from sellers as well as from buyers.

Figure 2: Number of ads and video-related ads on Oklute

Number of Ads per Month on Oklute
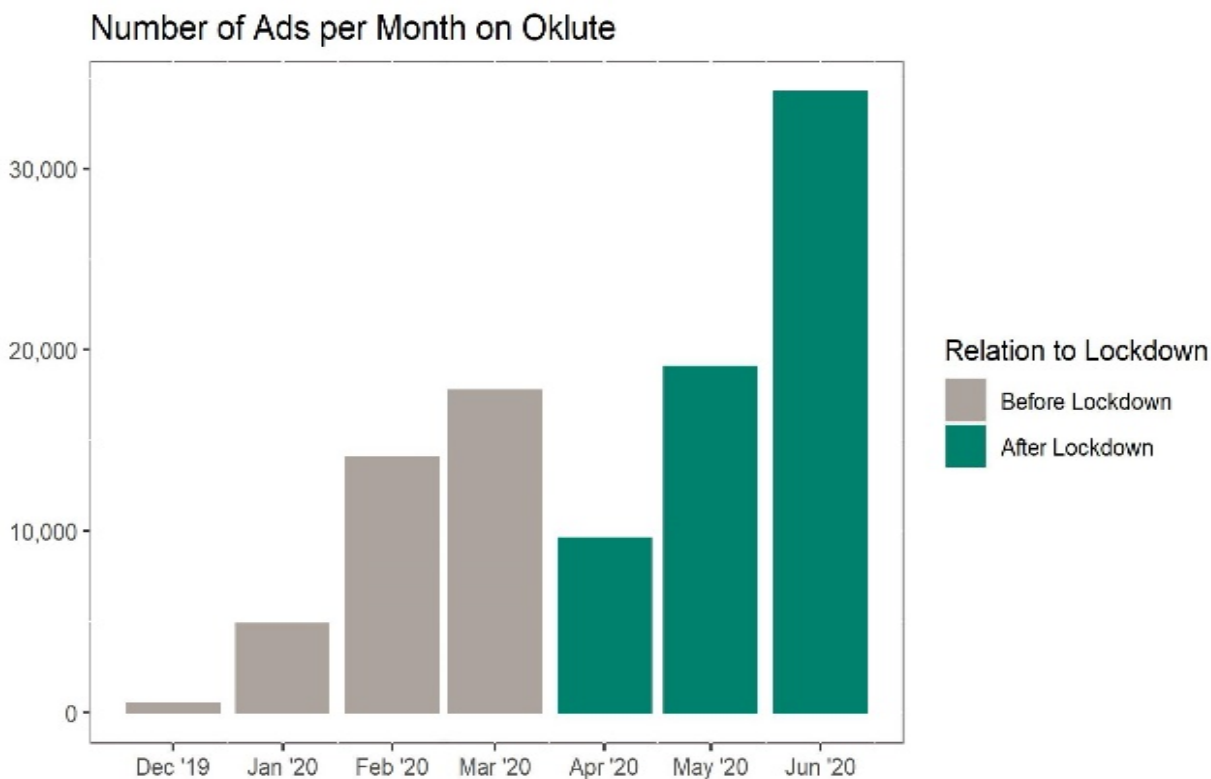
Among those who have shifted to offering virtual sex, media reports note the use of bank transfers or mobile wallet services such as Paytm and Google Pay to facilitate payment.[9] Several KII respondents second this shift towards digital payments as well as web- and app-based solicitation of clients; however, some note that these were already trending pre-COVID-19 and have merely been accelerated by the pandemic.

CSWs in India report advantages to virtual sex work, including no physical contact as well as the ability to accept and confirm payments up front, stream to multiple clients simultaneously, and maintain their client base during lockdown. Yet they also report disadvantages. Notably, virtual sex pays less than traditional face-to-face transactions—rates for a 30-minute video call vary, with reports ranging from Rs. 100-500 or about US$1-7—and with

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[9] Petlee Peter, "Sex work goes online as new norms ban touch," *The Times of India*, May 27, 2020, https://timesofindia.indiatimes.com/city/bengaluru/bengaluru-sex-work-goes-online-as-new-norms-ban-touch/articleshow/76029985.cms; The Times of India, "With zero income and no relief, sex workers struggle to survive;" Kanth, "Sex workers in Kerala;" Pawar, "Pandemic uncertain days."

few virtual clients, many are still struggling to cover basic living expenses.[10] Several KII respondents postulate that virtual sex will not replace in-person sex over the long run due to client preferences and the fact that online sex work is unable to command the same price-point as in-person.

Furthermore, media reports and KII respondents indicate that CSWs are fearful of going virtual.[11] Home-based sex workers—who comprise up to a third of CSWs in parts of India[12]—lack sufficient privacy under lockdown to offer virtual services. Other CSWs are afraid of being recorded in general, though some report covering their faces during video streams to avoid being identifiable.[13] Most significant, however, is the general lack of access to smartphones and/or the technical know-how to make the switch. Shubha Chacko of Solidarity Foundation notes that these tech-savvy sex workers are "a very small percentage and mostly from the higher strata,"[14] a finding supported by KII data.

Views on just how widespread this "new normal" is are mixed. Bishakha Laskar of DMSC offered an anecdotal report that around 95 percent of girls in a portion of the Sonagachhi red light area of Kolkata are engaging in phone sex.[15] However many NGO workers maintain that technology-based sex work is limited to very few people due to illiteracy and lack of access to smartphones.[16] One KII respondent notes that phone sex is not widely accepted, and both customers and clients prefer physical contact.

While virtual sex may largely be a temporary response to COVID-19, there is general consensus that web- and app-based brokering—including recruitment, solicitation, and payments—will continue to trend upward post-COVID. Accordingly, KII respondents note that India currently lacks a good system for tracking such growth as well as identifying and intervening in cases involving technology-enabled illicit sexual exploitation—something traffickers are aware of and continue to use to their advantage.

Findings from the KIIs, desk review, and web scraping suggest that face-to-face engagement has declined substantially post-COVID. This is due to both a decrease in the

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[10] Priyanka Dasgupta, "Covid times: Online sex replaces Kolkata's Sonagachhi bustle," The Times of India, June 28, 2020, https://timesofindia.indiatimes.com/city/kolkata/covid-times-online-sex-replaces-sonagachhi-bustle/articleshow/76667277.cms; Kanth, "Sex workers in Kerala;" Khandekar, "Sex workers technology;" Peter, "Sex work goes online as new norms ban touch."

[11] Pawar, "Pandemic uncertain days."

[12] Snigdhendu Bhattacharya and Joydeep Thakur, "Kolkata sex workers: Real threat lies after the lockdown is lifted," Hindustan Times, April 13, 2020, https://www.hindustantimes.com/india-news/kolkata-sex-workers-real-threat-lies-after-the-lockdown-is-lifted/story-04hma6KgoCjPZrGXHjDN7O.html.

[13] Khandekar, "Sex workers technology;" Pawar, "Pandemic uncertain days;" Peter, "Sex work goes online as new norms ban touch."

[14] Peter, "Sex work goes online as new norms ban touch."

[15] Dasgupta, "Covid times: online sex."

[16] PTI, "Coronavirus: Delhi HC;" Khandekar, "Sex workers technology."

customer base as well as pandemic-related travel and movement restrictions. Web scrapes of popular online forums about sex work show a precipitous drop in Maharashtra-related postings following India's lockdown in March 2020. Since 2017, International Sex Guide and Massage Planet had typically seen between 2,000 and 3,500 posts per month. But in April 2020, the number of posts dropped to 790, and the sites have continued to see less than 1,500 posts per month since then. This represents a four-year low for these sites (see Figure 3). Data from the web survey likewise show that live, in-person sexual encounters have declined post-COVID, with the average number of encounters dropping from five in the six months pre-COVID to 3.15 in the six months post-COVID.

Figure 3: Number of Posts per Month on International Sex Guide and Massage Planet
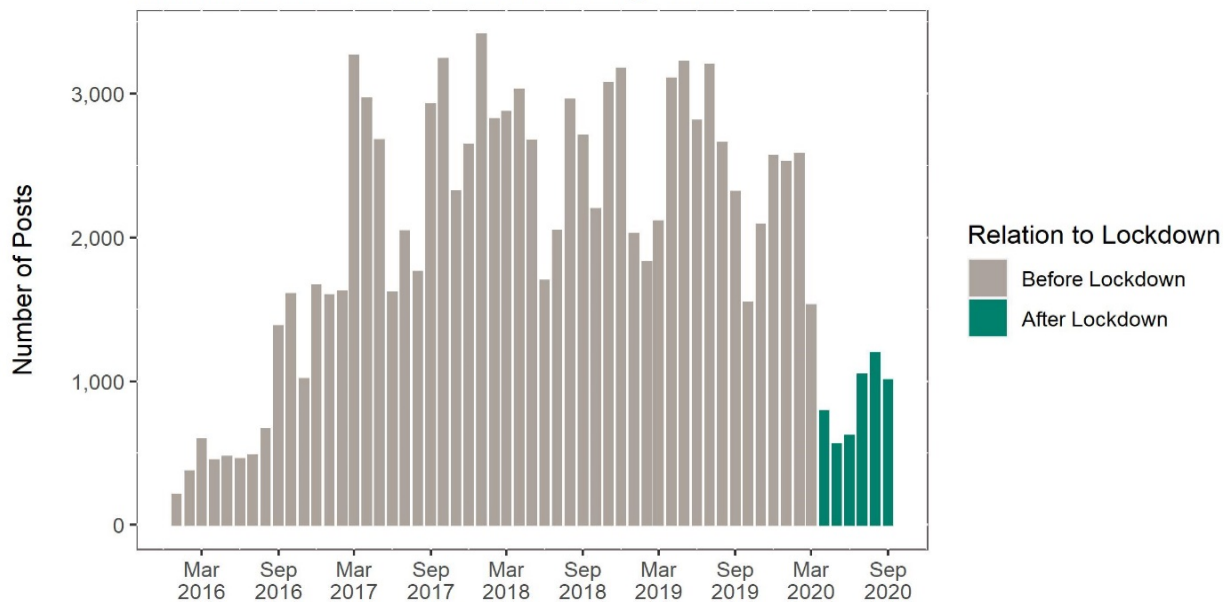
Despite this, face-to-face transactions have continued during lockdown, albeit largely driven underground. According to an article published in India Today, pimps and escort agencies in Delhi are significantly upcharging clients to facilitate "safe" arrangements by offering facilities that are both "sanitized" to lower transmission risk and hidden from law enforcement.[17] The article goes on to note that brokers/agents have also found ways to take advantage of the issuance of "essential service" passes that lift movement restrictions and are even using the government's Aarogya Setu mobile app to identify (and avoid) COVID-19 hotspots when arranging meet-up locations.

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[17] Nigam, "Delhi: narco and sex rings."

KII respondents share that the closure of red light areas (RLAs) and their presumed status as hotbeds for COVID-19[18] have shifted face-to-face engagements from RLAs to private residences, hotels, and massage parlors. And while there is general agreement that the demand for physical sex will eventually return to pre-COVID levels, the focal points for these face-to-face engagements may remain diffuse—and therefore less visible—than they were before the pandemic.

Several media reports note an increase in the Online Sexual Exploitation of Children (OSEC)[19] in India post-lockdown. A recent report released by the India Child Protection Fund (ICPF), for example, notes a dramatic spike in demand for online pornography in India, a significant portion of which is driven by demand for Child Sexual Abuse Material (CSAM).[20] Evidence also shows that the post-lockdown period has led to an increase in child pornography groups operating over WhatsApp and the encrypted app Telegram.[21] In Maharashtra, 46 people were arrested in April 2020 in connection with CSAM circulation as part of 'Operation Blackface,' an effort initiated by State Home Minister Anil Deshmukh with the Maharashtra Cyber Cell.[22] One KII respondent shared, however, that OSEC had already been increasing over the past 4-5 years due to the growing availability of the internet in India. Furthermore, the OSEC trend has been towards CSAM produced for mass consumption rather than live sex acts involving children, which are rare in India, according to one informant. Another KII informant shared that their experience with virtual CSEC is limited to cases where children were lured online, and the reality encountered by the organization is very different from the current discussions happening around OSEC.

On the supply side, children have become more vulnerable to online sexual predators due to their being online more under lockdown (including for virtual classes), often unsupervised. In addition, the isolation and physical confinement of children in their homes has made them targets

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[18] According to a study conducted by researchers at Yale University and the Harvard Medical School, the closure of red light areas in India would reduce the number of projected new COVID-19 cases by an estimated 72 percent nationwide, with the number of deaths in Mumbai estimated to decrease by 28 percent. See e.g., PTI, "India can avoid 72 per cent of projected COVID-19 cases by closing red light areas: Report," May 16, 2020, https://economictimes.indiatimes.com/news/science/india-can-avoid-72-per-cent-of-projected-covid-19-cases-by-closing-red-light-areas-report/articleshow/75772505.cms.

[19] Online sexual exploitation of children (OSEC) refers to child sexual exploitation which is facilitated or takes place through the Internet and other related media.

[20] Per the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, child sexual abuse material (CSAM) refers to any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

[21] India Today, "Kerala police busts online child pornography, arrests 47," June 28, 2020, https://www.indiatoday.in/india/story/kerala-police-busts-online-child-pornography-arrests-47-1694738-2020-06-28.

[22] Somendranath Sharma, "133 child porn cases in state during lockdown," Mumbai Mirror, April 21, 2020, https://mumbaimirror.indiatimes.com/coronavirus/news/133-child-porn-cases-in-state-during-lockdown/articleshow/75261191.cms?prtpage=1.

of household members in the production of CSAM.[23] As described by Siddhartha Sarkar, Director at Centre for Human Trafficking Research, in his article *Sex Trafficking in India: The Politics and Effects of COVID 19 Pandemic*, "technology, in particular the internet, has enabled sex trafficking to become the fastest growing criminal enterprise under the present situation."[24]

India's National Crime Records Bureau (NCBR) is working with the US-based National Centre for Missing & Exploited Children to track the IP addresses of CSAM users which has led to successful crack downs on child pornographers throughout India.[25] To address the proliferation of CSAM, the government of Kerala also partnered with the US-based Project Vic to help identify OSEC victims using facial identification technology and artificial intelligence.[26] Beyond concerns for OSEC victims, there are concerns that the increased consumption of CSAM may "normalise and fetishise child rape and sexual violence" which may in turn "translate into offline sexual violence."[27] Indeed, "crossover" between CSAM consumption and contact abuse has been established in descriptive studies and supported by behavioral research conducted by one of our informants, however the direction of any causal relationship remains unclear.[28]

Post-pandemic changes to supply and demand for sexual services (RQ 2). There are widespread reports across India that demand for commercial sex is significantly down, particularly in RLAs that are heavily-policed containment zones. In the immediate aftermath of the lockdown, clients and CSWs alike feared getting sick, with few protections available to lower their COVID-19 transmission risk.[29] Even in areas where lockdown orders have been lifted and

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[23] Ritwik Ghosh et al, "Impact of COVID-19 on children: Special focus on psychosocial aspect," June 2020, Minerva Pediatr, 72:226-35.

[24] Siddhartha Sarkar, "Sex Trafficking in India: The Politics and Effects of COVID 19 Pandemic," April 3, 2020, Center for Human Trafficking Research.

[25] Sharma, "Child Porn in Lockdown."

[26] Shan AS, "Police join hands with US NGO to identify child sex abuse victims," The New Indian Express, July 4, 2020, https://www.newindianexpress.com/cities/thiruvananthapuram/2020/jul/04/police-join-hands-with-us-ngo-to-identify-child-sex-abuse-victims-2165131.html.

[27] Niharika Chopra, "The Cost of COVID-19 Lockdown: Rise In Bonded Labour And Human Trafficking In India," Outlook, April 13, 2020, https://www.outlookindia.com/website/story/opinion-covid19-lockdown-and-the-rise-of-bonded-labour-and-human-trafficking-in-india/350662.

[28] JN Owens et al, "Investigative aspects of crossover offending from a sample of FBI online child sexual exploitation cases," Aggression and Violent Behavior, 30, 2016, 3-14.

[29] HT Correspondent, "Covid-19 worry empties 'Asia's largest red-light district' in Kolkata," Hindustan Times, March 16, 2020, https://www.hindustantimes.com/kolkata/covid-19-scare-empties-asia-s-largest-red-light-district-in-kolkata/story-Kzi1Sfyq8XVROm4KkplZFI.html; Rashme Sehgal, "Sex Workers Look for Other Jobs, Few Succeed," Newsclick, July 12, 2020, https://www.newsclick.in/Sex-workers-look-for-jobs; Sarkar, "Sex Trafficking in India;" Neeraja Seshadri and Prathiksha Chandrasekhar, "Indian Government Fails to protect Sex Workers during Covid-19 Crisis," Oxford Human Rights Hub, June 12, 2020, http://ohrh.law.ox.ac.uk/indian-government-fails-to-protect-sex-workers-during-covid-19-crisis/.

RLAs have re-opened, demand remains "tepid,"[30] though KII respondents report that the industry has started to normalize to some extent.

Beyond the fears of COVID-19 spread, demand has been negatively impacted by the economic fallout of the lockdown which has left millions of Indians without work. According to media reports and KIIs, demand in urban areas has been further impacted by the exodus of migrant workers in the wake of COVID-19, who comprise a large base of CSW clients in cities like Mumbai yet have now largely returned to their home villages.[31] Of the migrants who remain, their purchase capacity has been markedly diminished. To the extent that India serves as a "destination for child sex tourism,"[32] global travel restrictions are likewise going to lead to short-run decreases in CSEC demand from international sex predators.

Despite this clear drop in demand for traditional commercial sexual services, demand for other forms of sexual services is on the rise—particularly pornography and online CSAM. As described under RQ 1, people being at home has increased both supply and demand for child pornography. According to the ICPF report, searches for child porn on the open web have increased by 100 percent post-COVID, with a disturbing rise in the demand for violent forms of CSAM.[33] In response, the National Commission for Protection of Child Rights (NCPCR) launched an independent inquiry and subsequently issued notices on CSAM availability and access to several online platforms, including Google, Apple, and WhatsApp.[34]

Whether COVID-19 has led to an increase or decrease in the supply of sexual services remains unclear. Supply of commercial sexual services has visibly decreased for obvious reasons including lockdown restrictions in RLAs and general lack of buyers. With the change of seasons, many sex workers also experienced COVID-like symptoms such as fever, cough, and sneezing which has further impacted their ability to work. In a related drawdown on supply, many CSWs

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[30] Tanmay Chatterjee, "HT Salutes: Braving Covid-19 to help Kolkata's sex workers," Hindustan Times, July 1, 2020, https://www.hindustantimes.com/india-news/braving-covid-19-to-help-kolkata-s-sex-workers/story-3vcUbMRFvnAmEadsXkPFmK.html.

[31] Khandekar, "Sex workers technology."

[32] Neeraj Chauhan, "Children as young as 14 are being used by terrorists in J&K: US state dept," Hindustan Times, June 26, 2020, https://www.hindustantimes.com/india-news/children-as-young-as-14-used-by-terrorists-in-j-k-us-state-dept/story-1bQurtzlq1zofMqfsFUBdO.html.

[33] Ambika Pandit, "ICPF report warns of sharp rise in demand for online child pornography during lockdown," The Times of India, June 14, 2020, https://timesofindia.indiatimes.com/india/icpf-report-warns-of-sharp-rise-in-demand-for-online-child-pornography-during-lockdown/articleshow/75127399.cms#:~:text=NEW%20DELHI%3A%20Indicating%20a%20sharp,India%2C%20now%20this%20demand%20may.

[34] Ambika Pandit, "NCPCR issues notice to online platforms over child sexual abuse material," The Times of India, April 25, 2020, https://timesofindia.indiatimes.com/india/ncpcr-issues-notice-to-online-platforms-over-child-sexual-abuse-material/articleshow/75382041.cms.

are refusing to service unfamiliar clients or existing clients who are symptomatic for fear of contracting COVID-19.[35]

Yet even in the face of declining demand, the economic desperation facing many women and children has increased their vulnerability to CSE. Notably, there have been reports in 115 districts across India of "middlemen" who are proactively identifying and preying upon jobless and destitute families, offering advance payments for taking children away for work or marriage.[36] This is consistent with broad national reports of girls being increasingly forced into marriages, another growing form of child exploitation linked to the pandemic and an important area for further research.[37] Some argue that while trafficking has come to a standstill under COVID-19, traffickers are likely "counting on the easing of lockdown restrictions to renew their activities" as well as recover their losses for the past several months.[38] More broadly, private sector actors are expected to try and recover their lockdown-related financial losses by drawing upon a desperate, inexpensive labor pool of child workers who "will be paid meagre to no wages and will most likely face extreme physical, mental and sexual violence."[39]

Among the NGO stakeholders interviewed, there were mixed and even diametrically opposed views on the effect that COVID-19 is having on the supply of sexual services. Some respondents report a decrease in supply, citing reports of CSWs exiting the trade to return to low-paying domestic work because of a lack of customers willing to pay their going rates. One respondent notes that their NGO has not seen any change in the number of CSWs enrolling in their rehabilitation program, offering cursory evidence that women are choosing to remain in CSW. Others report an increase in supply, citing the large number of women (over 9,000) displaced from Bangladesh's garment sector that have been intercepted at the Indian border.

Overall, while there is general agreement that the typical vulnerabilities associated with CSE/C have increased, there remains uncertainty as to whether this translates into an actual increase in the number of minors who have entered the commercial sex industry. Ultimately, it may be the case that the drop in supply due to CSWs exiting has created a demand gap that those newly vulnerable to exploitation are filling or are likely to fill.

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[35] HT Correspondent, "Covid-19 Worries;" Kapil Kajal, "Sex Workers, High-Risk For COVID-19, Seek Government Help," India Spend, April 16, 2020, https://www.indiaspend.com/sex-workers-high-risk-for-covid-19-seek-government-help/.

[36] Dhananjay Mahapatra, "Post-lockdown, lakhs of kids face trafficking risk, SC told," The Times of India, July 9, 2020, https://timesofindia.indiatimes.com/india/post-lockdown-lakhs-of-kids-face-trafficking-risk-sc-told/articleshow/76273331.cms.

[37] Debraj Mitra, "Child marriages spike in lockdown around Bengal," The Telegraph, June 13, 2020, https://www.telegraphindia.com/west-bengal/calcutta/child-marriages-spike-in-lockdown-around-bengal/cid/1780730; Mahapatra, "Post-lockdown trafficking."

[38] Satyajit Das Gupta, "Crime in the time of a virus: Human trafficking," The Telegraph, June 26, 2020, https://www.telegraphindia.com/opinion/trafficking-forced-prostitution-and-chosen-sex-work-are-going-to-acquire-a-new-momentum-in-the-post-covid-19-world/cid/1783748.

[39] Chopra, "The Cost of COVID-19 Lockdown."

In terms of "push" and "pull" factors influencing supply, extreme poverty and lack of alternative livelihoods for families are the main push factors, as having one less mouth to feed and/or payments from brokers in exchange for child marriage or child labor can provide immediate relief to families in need.[40] Sector experts argue that welfare support for such families is urgently needed—according to Anup Sinha, a former professor of economics at the Indian Institute of Management Calcutta, "mere prevention would not work."[41]

KII informants point to the multi-dimensional root causes of poverty, including landlessness, lack of education, and limited economic opportunities, noting that under such circumstances it takes just one event to tip a child over, be it a natural disaster, sickness, or the death of a caregiver. Several respondents agree that the amount of debt families have had to take on to weather the lockdown period—in many cases avoid "literal starvation"—will have negative long-term effects on families' economic well-being, thus increasing the vulnerability of children to exploitation once debts come due. Socio-demographic characteristics cited by KII respondents as increasing vulnerability include membership in minority groups such as Muslims, Scheduled Castes, Scheduled Tribes, and Other Backwards Classes (SC/ST/OBCs) as well as persons from Bangladesh, who are said to comprise approximately 30 percent of the girls coming into Mumbai and other sites in Maharashtra.

Pull factors include the increasing isolation of children and their growing, unrestricted use of the internet, which increases the likelihood that children will encounter sexual predators online. Likewise, one KII informant reported an increase in cold-calling from traffickers who are getting numbers for girls from phone recharge centers. In the words of the Siddhartha Sarkar of the Centre for Human Trafficking Research:

> Online resources such as open and classified advertisement sites, adult websites, social media platforms, chartrooms, extending into the dark web enable traffickers to interact locally with an increasing number of potential victims especially targeting children on the assumption that the children are at minimal risk of spreading this pandemic. Children are out of school for social distancing, and are now likely spending more time on the Internet or gaming than during a normal school time. With everyone being encouraged to stay indoors and children are home from school due to COVID-19, traffickers are using social networking sites for luring intended children.[42]

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[40] The Editorial Board, "Untimely disasters: Child rights during Covid-19 and Amphan," The Telegraph Online, June 15, 2020, https://www.telegraphindia.com/opinion/untimely-disasters-child-rights-during-covid-19-and-amphan/cid/1781179.

[41] Subhankar Chowdhury, "Helpline to fight child trafficking," The Telegraph, June 10, 2020, https://www.telegraphindia.com/west-bengal/bengal-launches-helpline-to-fight-child-trafficking-following-cyclone-amphan-and-coronavirus-outbreak/cid/1780061.

[42] Sarkar, "Sex Trafficking in India."

On top of a general lack of awareness of safe practices online, being out of school has cut children off from an important safety net, as schools typically serve as a places where exploited children can seek help from teachers and social workers. Further, one informant reports that only seven percent of children have been able to engage in online schooling, underscoring the need for strong back-to-school campaigns once schools re-open.

Other pull factors through which children are groomed and lured into online pornography include promises of friendship or gifts or via more nefarious means such as sextortion. More broadly, the increased volume of online sexual predators and pedophiles post-COVID is a major pull factor.[43] It is important to note, however, that such pull factors are *prima facie* applicable for only a subset of the child population in India, as around one half of all Indians still lack access to the internet. As such, the demographic vulnerable to OSEC may look very different than the demographic vulnerable to more traditional or "analog" forms of CSEC. As noted by KII respondents, the economic and caste divide typically associated with vulnerability to exploitation does not apply in the boundary-less space of the internet, and urban and economically advantaged children may be more at risk of OSEC while the rural poor are more vulnerable to CSEC. One KII respondent shared that educated girls are being lured online into commercial sex work in order to make fast money, showing how the nature of push/pull factors is changing and growing. Another KII respondent notes that girls are now using Facebook and Instagram to post pictures of themselves and are volunteering for sexually-oriented relations with paying customers, without the involvement of middlemen or deception from buyers.

Geographically, areas hit by Cyclone Amphan in mid-May such as South 24-Parganas, North 24-Parganas, Nadia, Malda, and Murshidabad in West Bengal[44] have been subjected to a "two-pronged assault" according to the Editorial Board of The Telegraph Online. In addition to economic loss and poverty, many people in the Cyclone-affected areas have been left homeless making their situations all the more urgent and dire.[45] Amphan has exacerbated the myriad effects of lockdown and significantly increased vulnerabilities to exploitation, especially in South 24-Parganas district which has been long-considered a hotbed for child trafficking and child marriage.[46]

Key informants report that CSWs have been forced by the drop in demand to either lower their prices or exit the industry all together. Multiple stakeholders described cases of CSWs lowering their prices by half or even more. According to one anecdote, some CSWs have dropped their rates from 100 INR per transaction to as low as 50 INR—less than US$0.70—in order to get their clients to come back. According to one NGO representative:

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[43] Express News Service, "Spike in child pornography cases: 46 held, over 130 FIRs registered during lockdown, says Maharashtra Home Minister," The Indian Express, April 21, 2020, https://indianexpress.com/article/india/maharashtra-home-minister-child-pornography-cases-46-held-130-fir-6371554/; Sehgal, "Sex Workers Other Jobs."

[44] Chowdhury, "Helpline Child Trafficking."

[45] Telegraph Online, "Untimely Disasters: Child Rights."

[46] Mitra, "Child Marriages Spike;" Chowdhury, "Helpline Child Trafficking."

Due to financial difficulties and realities, customers who would normally pay the going amount would stop coming on a regular basis. We've been getting reports of calls – sex workers will ask their clients if they're coming, and the clients will respond saying they don't have the money. So the sex workers will then accept whatever money the client has.

Other stakeholders report that lowering prices is leading some CSWs to leave the industry all together, taking jobs as domestic workers where they now earn in one month what they used to earn in one hour. One KII informant expressed concern that the children of CSWs who remain in RLAs are highly vulnerable to being exploited in order to fill the demand gap left by those exiting the trade or by migrant CSWs returning to their home villages. At the same time, the theoretical supply is increasing because of economic desperation, leading stakeholders to express concern that a "new range of sexual services may become popularized."

Ultimately, informants describe the situation as "pure economics," in which price is dropping due to less expendable income among buyers. With a larger pool of potential sex trade entrants and low demand, price deflation may lead to a proverbial race to the bottom in terms of living conditions and vulnerability to abuse by buyers and middlemen.

Long-term implications of COVID-19 for persons in the commercial sex industry and the CSE/C population in particular (RQ 3). Overall, most KII informants feel the long-term effects on the commercial sex industry remain uncertain. While there are more "unknowns" than "knowns" given the unprecedented nature of the pandemic, a few key themes emerge with respect to the anticipated long-term effects of COVID-19 on CSWs and those vulnerable to CSE/C. First, the poverty stemming from a long-term economic recession is likely to make more and more people—of all ages and genders—vulnerable to CSE, forced marriage, and other forms of exploitation.[47] Likewise, CSWs who have taken on debt to cover basic living expenses may be forced to work off the debt, rendering them unable to exit the sex industry.[48] Over the longer term, there is also concern that CSE/C survivors who were previously able to exit the sex trade through alterative occupations or livelihoods, often with the assistance of NGOs, may be driven back into the sex trade due to the recession.

There are mixed views on the extent to which supply patterns in the commercial sex industry will normalize post-COVID. While a few KII respondents anticipate a return to the status quo, several others believe there will be a notable shift away from RLAs to more private, decentralized settings which will make commercial sexual exploitation more difficult to identify, investigate, and crack down upon. Similarly, most informants feel that there will continue to be a growing, long-term shift towards web- and app-based brokering of sexual transactions.

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[47] Chopra, "The Cost of COVID-19 Lockdown;" Ghosh, "Impact of COVID-19 on Children."

[48] Team Herald, "Pandemic putting human trafficking victims at higher risk," Herald Goa, May 28, 2020, https://www.heraldgoa.in/Goa/Pandemic-putting-human-trafficking-victims-at-higher-risk/161119.

While KII informants agree that demand will normalize post-COVID, there is currently not much by way of a "demand gap" for commercial sex traffickers to fill. Other forms of child trafficking including for labor, marriage, and OSEC may therefore displace CSEC over the shorter-term. However on the latter, it is not clear what demand for OSEC displacing demand for CSEC will mean for victims. First, multiple informants note that the profile of OSEC victims differs from the profile of analog CSEC victims, owing primarily to socio-economic factors that drive internet access and use. Second, in contrast to traditional CSEC, there is not a one-to-one relationship between supply and demand when it comes to CSAM designed for mass consumption. It is therefore theoretically possible for OSEC demand to overwhelmingly eclipse pre-COVID CSEC demand without a corresponding increase in the number of victims. To the extent the demand for analog CSEC will return to pre-COVID levels, it is therefore important that OSEC-related interventions not come at the cost of CSEC interventions writ large.

KII informants ultimately agree that the pandemic affords a unique opportunity to adapt programming as well as reassess and improve upon the landscape of social protections and safety nets for CSWs and CSE/C survivors. Respondents feel it is important to lower vulnerability at the source through tailored prevention and social protection activities, careful monitoring of inflows and outflows of migrants, and information campaigns or "blitzes" through various media channels. In addition, livelihood programs need to adapt to new realities to ensure CSE/C survivors are able to both weather the economic downturn and make a viable living outside of the sex industry. Some argue that it is important to invest in survivor monitoring and support over the longer-term to lower the risk of re-victimization. Finally, the shift toward virtual brokering platforms as well as the growth in OSEC, suggest a strong need to strengthen cyber laws in India, including holding site owners, web hosts, and ISPs accountable for illicit activities occurring through their platforms.

Conclusion

This paper presents findings from a rapid assessment conducted to assess the multi-faceted impacts of the COVID-19 pandemic on commercial sexual exploitation in Maharashtra, India. We find that while demand for commercial sex has dropped since the start of the pandemic, vulnerability to CSE has increased and there is early evidence that this supply-demand gap is leading to deflation in the price of sex. With a larger pool of potential victims and low demand, price deflation may lead to poorer living conditions and heightened abuse of victims. Furthermore, the pandemic is accelerating shifts in the channels through which people buy and sell sex, making CSE harder to identify and shut down over the longer-term.

Donor agencies, international NGOs, national NGOs, and government stakeholders can use this research to inform post-pandemic adaptations of prosecution, protection, and prevention programming. Based on this report's findings, we put forth five recommendations for stakeholders working in the CSE/C space in Maharashtra:

1. Expand prevention activities in source communities most vulnerable to CSE/C, including social protection programs tailored to the realities of local populations; information campaigns through radio, print, and other media channels; and research on the inflows and outflows of migrants in source communities.
2. Push for better enforcement of cyber laws in India, including holding site owners, web hosts, and internet service providers (ISPs) accountable for illicit activities occurring through their platforms.
3. Implement web-based public service announcements (PSAs) targeting both buyers and sellers of sexual services on common brokering platforms. Messaging could be targeted to focus on CSE/C laws and penalties, channels for reporting CSE/C to law enforcement, and emergency services for victims/survivors. Consider integrating web scraping methodologies to extract phone numbers for SMS campaigns to better reach buyers and sellers without regular internet access.
4. Ensure alternative livelihood programs are aligned to economic realities so CSE/C survivors do not face meager job prospects upon graduation. Even pre-pandemic, many livelihood programs offered training in occupations that offer poverty wages and thus may not suffice in keeping participants out of the sex industry.
5. Expand OSEC-related prevention and protection programming including running web- and social media-based PSAs on cyber safety for children and parents. However, given that the children most vulnerable to trafficking are still offline, ensure that this expansion does not come at the expense of CSEC interventions writ large.

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Pivoting technology: understanding working conditions in the time of COVID-19

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Abstract

State lockdowns and travel restrictions introduced in response to COVID-19 have limited the ability of frontline responders to conduct on-site visits and inhibited their efforts to assess working conditions and monitor for labour exploitation within global supply chains. These challenges have increased multinational corporations' reliance on remote technologies to assist in their supply chain due diligence processes. Our research investigates the use of one such example, Apprise Audit, which is a digital solution used for worker interviews in social compliance auditing that was modified to enable remote data collection. Based on a series of interviews with implementing partners and industry experts, our research finds that Apprise Audit Remote helps to overcome the difficulties of gathering worker feedback in the presence of COVID related constraints. Using this work as a case study, we then further elaborate on the practical opportunities and limitations associated with ICT-enabled remote auditing.

Keywords

Digital technology; remote auditing; forced labour; supply chains; worker interviews

Introduction

The COVID-19 crisis has created and exacerbated multidimensional social and economic risks for vulnerable individuals throughout the world, increasing their susceptibility to forced labour and human trafficking. It has been speculated that the massive increases in unemployment rates seen over the past year fueled an increase in trafficking in persons, particularly in countries and sectors where social protections are limited and job seekers are more willing to take risks to secure employment[1]. An estimated 1.6 billion workers in the informal economy had their earning capacity disrupted as a result of COVID-19, potentially pushing them into further precarity and

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vulnerability to abuse[2]. Migrant workers who were already in debt from recruitment costs reported having to borrow even more money to cover the cost of necessities as they lost wages, further their risk of debt bondage to agencies and employers[3]. The combination of prolonged school closures and the economic downturn put pressure on families to have children work to support household income, intensifying the risk of child labour[4]. The global demand for medical supplies gave employers greater incentives and perhaps even greater latitude for exploitation as buyers reduced scrutiny of supply chains when procuring personal protective equipment to meet their immediate domestic needs[5]. As factories faced shortages of raw materials, difficulties in obtaining other components of production, and order cancellations, workforces were slashed, often resulting in employees being forced to work without pay to maintain profitability[6]. These are but a few examples of the knock-on effects the pandemic has had for those already at risk of exploitation.

The COVID-19 pandemic has also caused unprecedented disruptions to the established operational paradigms of labour inspection and social compliance auditing. These processes are considered to be crucial pathways for identifying and preventing forced labour[7]. Restrictions on mobility and the diversion of human and financial resources within governments and companies have either curtailed inspections or stopped them altogether[8]. Movement and gathering restrictions have in many cases made it very difficult to conduct human rights due diligence and auditing activities[9]. Specialized mobile inspection groups that support workers to exit exploitative situations have in some cases been halted, over fears of infection risk to victims and officials[10]. Although such services are key mechanisms for the proactive identification of victims by frontline responders, in many national and local contexts they were considered "non-essential" and therefore adversely impacted by government COVID-19 pandemic response

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policies[11]. Under normal circumstances, reduced levels of oversight alone would leave workers more vulnerable to exploitation. However, the broad impacts of the pandemic have heightened the root causes and risks of forced labour and human trafficking making this lack of scrutiny a much greater policy priority[12].

In response to these challenges, our research investigates the opportunities and limitations of using remote technologies to support ongoing supply chain compliance initiatives against the backdrop of the COVID-19 pandemic. Specifically, we share findings on the implementation of Apprise Audit, an innovative mobile solution used by several multinational corporations in their social audits that was modified to allow for remote data collection. We provide insights on the operational usage of Apprise Audit Remote that were gathered through interviews with brand representatives, as well as general feedback on the future role of remote auditing from other industry experts.

Technology Enhanced Monitoring and Detection of Forced Labour

The practical concerns that caused many assessment activities to be postponed or cancelled also created a sense of urgency for finding solutions to continue carrying out the processes that prevent, identify, and address serious labour violations. In some cases, private sector compliance departments, national labour inspectorates, and independent certification bodies resultantly sought to modify their policies and innovate their operations accordingly. Preliminary guidance released early in the pandemic recommended that businesses and employers adopt new due diligence mechanisms that make use of information and communications technologies (ICTs) to overcome constraints[13]. Leveraging technology to conduct research on forced labour during COVID-19 was identified as a priority to developing evidence-based action and an opportunity to test new ideas, potentially leading to emerging practices that supplement traditional approaches[14]. Adapting to the rapidly changing realities over the past year, institutional actors with mandates for evaluating working conditions sought to capitalize on the transformative potential of ICTs to facilitate remote monitoring where possible.

Prior to the pandemic, digital technologies were already increasingly being employed in researching, identifying, and monitoring for risks of labour exploitation. The digitalization of inspection and auditing services has the potential to enhance efficiency, transparency and accountability between parties and revolutionize the way information is collected, analyzed, and

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stored[15]. Advances in new technologies and the innovative applications of existing technologies further enable novel methods of gathering information to support decision making and action against exploitative employment practices[16]. COVID-19 has broadly accelerated the transition towards utilizing digital technologies across every aspect of life and the detection of indicators of forced labour in workplaces has been no exception to this trend. Without the ability to be physically present, inspectors and auditors alike have integrated ICTs as a means to continue their operations and to document, share, and examine information that would traditionally be collected in person. However, the use of ICTs in auditing and inspection processes, particularly for the purpose of worker interviews presents a range of challenges and opportunities that require further examination.

Proponents of applying technology to inspection and social auditing often cite its ability to overcome constraints in human and financial resources by offering new capabilities for collecting data in a more cost-effective, scalable and efficient manner. Digital tools can further support larger and more integrated datasets, empower workers through greater levels of engagement, and help to evaluate outcomes meant to improve working conditions[17]. Combining traditional methods of labour inspection with innovative technological solutions can increase institutional capacity for compliance and respect for labour standards[18]. ICTs can extend service provision to new facilities and enable better communication and coordination between central and local authorities. Innovative examples applying new technologies and techniques can be found across a number of sectors and geographies, either deployed directly by relevant agencies or companies, or by researchers to support frontline responders to take evidence-based action.

For example, in the aftermath of the Rana Plaza incident which killed more than 1,100 garment factory workers in a building collapse, Bangladesh's Ministry of Labour created a computerized information management portal for labour inspectors to more effectively access information before site visits and carry out their day-to-day functions as part of the subsequent reform measures to improve working conditions[19]. Similarly, Sri Lankan authorities have developed a 'Labour Inspection System Application' which digitizes and centralizes inspection procedures, reducing the administrative work of inspectors and enabling them to instantly upload

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[19] http://lima.dife.gov.bd/

photo evidence of violations to higher authorities[20]. The Ministries of Labour in the United Arab Emirates and Brazil have both reported utilizing drone technology to detect rights violations and instances of forced labour on construction sites and in rural areas[21]. Satellite data and imagery has been used to model forced labour risk on deep-sea fishing vessels[22], helped to estimate the extent of bonded labour in the South Asian brick belt[23], and explored the relationship between deforestation and slavery[24]. Private companies have also developed an array of due diligence technology solutions that gather and aggregate different forms of primary data, providing multinational corporations with information to support ethical supply chain decision making[25]. Tools that utilize blockchain to store copies of employment contracts or identity documents on a transparent and immutable ledger can enable workers and brands to eliminate the risk of contract substitution and document retention[26]. Satellite monitoring and blockchain technology can also be used to provide end-to-end traceability monitoring for raw materials (e.g. minerals) or products (e.g. seafood) that are associated with illegal labour and environmental practices[27].

Although ICTs and frontier technologies offer new ways to collect data, conduct analysis and promote transparency and accountability, such tools may also be narrowly conceptualized as techno-managerial solutions that avoid probing more fundamental questions of power dynamics, unionization and workers' rights[28]. In addition to raising practical and ethical concerns about privacy and data security, there is also a risk that a reliance on technology becomes seen as the

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solution itself, rather than a means by which to solve the problem of trafficking and forced labour in a broader context[29].

Remote Technologies & Social Compliance Auditing

Social compliance auditing (often interchangeably referred to as as ethical auditing or social auditng) can be described as the processes by which corporations monitor the application of and adherence to social standards throughout their supply chains[30]. Although individual companies and standard setting bodies may vary widely in specific operational aspects, there are generally three phases within a social compliance audit: onboarding, on-site inspections, and corrective action. The first step in the process involves the onboarding of new facilities, including processes for a review of procedures for hiring (i.e. non-discrimination), licenses or certificates (e.g. fire safety), a walkthrough of the premises and interviews with factory management. As part of the onboarding process, factories agree to adhere to brand-specific, non-negotiable workplace health and safety standards, allowing brands (or their representatives) to regularly inspect their premises to ensure that they comply. These regular inspections can be announced or unannounced, and consists of the site inspection itself, interviews with factory management, and interviews with workers. Lastly, based on the findings of the audits, if any issues were identified, a corrective action plan is developed, listing steps that a facility must take if it wishes to continue to do business with the brand. This plan lists minimum steps that are required to show progress towards compliance with health and safety standards. In subsequent audits or additional site visits, factories must demonstrate that they have adhered to their plan and have addressed issues that were non-compliant.

Note must be made of the differences between announced and unannounced site inspections. With announced inspections, factories are given time to prepare for an auditor's visit (for example in order to assemble documentation that is required). Researchers[31] and practitioners[32] often highlight weaknesses in the announced audit methodology, because as well as assembling documentation, it has also been shown to provide factories with: time to rectify access to health and safety equipment (e.g. toilets, drinking water, soap, face masks, first aid kits

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and gloves); and to coach workers on how to respond to questions about work conditions[33]. Research has also illustrated how these working conditions change over time and in response to personal, situational and circumstantial factors faced by workers[34]; as well as systemic factors, including buyers' business practices. Workplace inspections have been described as providing a snapshot of current conditions, or a "picture in time"[35], so by including multiple snapshots, there is greater chance to uncover changing practices of work.

In 2019, researchers undertook a survey of 185 auditors from 27 multinational corporations in Asia Pacific region, to understand the problems faced in on-site worker interviews[36]. Auditors described facing language barriers due to the high number of migrant workers in factories. They also described facing time constraints in undertaking worker interviews due to large factory sizes, meaning that they were either unable to interview a representative sample, or were forced to interview workers in groups. Respondents also described a lack of privacy during interviews (both in group interviews and individual interviews), with workers often appearing coached and not willing to speak out.

Technology has been increasingly integrated over time to augment in-person aspects of this auditing process, but the applications and implications of using remote technologies to replicate the steps outlined above have come into particular focus under the circumstances of COVID-19. Remote auditing, also known as virtual auditing, can be defined as "an audit that uses electronic means to remotely obtain audit evidence in order to determine the extent of conformity to the audit criteria"[37]. Recent research suggests that following the onset of COVID-19 there has been a significant uptake in remote auditing and the use of ICTs to execute assessments of social and environmental conditions throughout supply chains[38]. Remote auditing can take a wide variety of forms: sharing and reviewing electronically secured relevant documentation such as employment contracts, license certificates, payment slips, and records of

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working hours in advance of an audit/inspection; interviewing management personnel via videoconferencing platforms (Zoom, Skype); capturing information with remote sensors and technology (satellite imagery, drones, sensors); snapshots or virtual facility tours (smartphones, 360 cameras, smart glasses); and obtaining survey responses from workers (mobile phone apps, SMS, interactive calls).

One of the most widespread technology applications in supply chain due diligence is a category of digital tool that collects feedback from workers about facility-level working conditions. Many social audits either do not collect this information directly from workers or do so in a manner that is not conducive to uncovering sensitive issues and can potentially further expose workers to security risks like retaliation[39]. The exclusion of worker insights and perspectives, particularly at the lower tiers of global supply chains, ultimately undermines the legitimacy of private compliance initiatives and inhibits social dialogue that can improve working conditions[40]. The widespread use of mobile phones by workers and the failings of traditional social compliance auditing mechanisms have prompted the design and exploration of mobile solutions to capture worker feedback and enhance the detection of serious labour risks[41]. Through the creation of data-driven, technology-enabled feedback loops between businesses and employees, self-reported insights on working conditions can help identify abuses, driving change that improves the realization of social and labour rights.

Commonly referred to as "worker voice tools", these technologies can help companies proactively identify compliance issues in their supply chains by gathering data from workers in real-time and on an ongoing basis[42]. Worker voice tools are effective in capturing user-generated data that may be missed or difficult to uncover in standard protocols and can also extend to tiers of the supply chains that are typically not reached by social auditing[43]. Worker voice platforms have been adapted in the COVID-19 context to ask more questions related to health and safety and to help companies decide if conditions are safe enough for workers to return[44]. As buyers became increasingly reliant on digital methods for auditing during the pandemic, there is much

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[39] Lisa Rende Taylor and Mark Latonero, "Updated Guide to Ethics & Human Rights in Anti-Human Trafficking" (Issara Institute, 2018).

[40] ILO, "Workplace Compliance in Global Supply Chains," 2016, https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_540914.pdf.

[41] Lisa Rende Taylor and Elena Shih, "Worker Feedback Technologies and Combatting Modern Slavery in Global Supply Chains," *Journal of the British Academy* 7 (2019): 131–65, https://doi.org/10.5871/jba/007s1.131.

[42] OECD, "Monitoring Labor Risks Through Technology," 2020, https://mneguidelines.oecd.org/OECD-Garment-Forum-2020-Session-Note-Monitoring-Labour-Risks-Through-Technology.pdf.

[43] Human Rights Center, "Technology Solutions for Advancing Human Rights in Global Supply Chains: A Landscape Assessment," 2019.

[44] BSR, "Digital Technology and Data in the Garment Supply Chain during COVID-19," 2021.

greater use of worker voice platforms to provide insight and transparency on working conditions[45].

Apprise Audit

Over the past four years, we have been working with civil society, auditors, corporate social responsibility experts, and private sector representatives to understand the role that technology can play to support them to uncover exploitative work practices[46]. Worker interviews have always been notoriously difficult, with communication, training and trust barriers impacting the traditional face-to-face interviews that occur. Through our engagement, we co-developed and released Apprise Audit in 2018, an innovative solution used by multinational corporations to detect indications of labour exploitation in their supply chains. This tool has been actively used by large multinational corporations to assess labour conditions in their supply chains for the past three years, in factories across Asia-Pacific and East Africa.

Apprise Audit is a screening tool that utilizes an audio questionnaire, to capture feedback in response to yes/no worded questions (currently supporting 15 South Asian and South East Asian languages and dialects, plus Amharic and English). When the app is installed on the frontline responders' phone, and when used in conjunction with a set of headphones, this provides workers with the ability to privately listen to questions and disclose conditions of work to auditors. As illustrated in Figure 1, a worker begins an interview by selecting their language from a list (Figure 1(a)). When a flag is clicked, the name of the language is played along with instructions to click on a green button to continue. The worker is then provided with an introductory video, stating the purpose of the interview, demonstrating how to use the interface, and asking for consent to continue (Figure 1(b)). If consent is given, a series of yes/no worded questions are played (Figure 1(c)), with each question aligned to ILO forced labour indicators and weighted to show the severity of the violation. After all worker interviews are complete, Apprise Audit shows an overview of the violations that have been indicated, summarizing violations across all respondents in the interview session. Figure 1(d) shows all responses that indicated 'Deception' (in particular, responses to two questions about the conditions of work, and the amount of pay received). This screen enables auditors to obtain an overview of key issues in order to inform their follow up actions, yet also provides the ability to drill down to each response if full details are required.

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[45] BSR.

[46] Sassetti, Francisca, Mera, Silvia and Thinyane, Hannah (2019). Apprise Audit Impact Assessment: Detecting labour exploitation in supply chains. United Nations University. https://collections.unu.edu/view/UNU:7548

Figure 1: Apprise Audit (a) language selection (b) introductory video (c) questions (d) summary of responses and (e) Apprise Audit Remote from QR code

Based on a series of stakeholder consultations and extensive field evaluations, Apprise Audit's original functionality was designed to support in person audits. With an in-person audit, the tool is introduced by a trusted or external third-party actor (i.e. the auditor). Workers are also selected by the auditor themselves, helping to overcome coercion or skewed sampling by factory management. As the interview is undertaken using offline audio files stored on the auditor's mobile device, this also overcomes device access and network connectivity issues. Most importantly, with an on-site inspection, auditors are present and able to provide immediate support to workers if zero tolerance issues are raised, as well as use the findings to inform their further on-site investigations. However, because of the circumstances brought about by COVID-19, we decided to investigate what role remote audits could play in giving workers an opportunity to voice concerns, and for private sector partners to understand what is happening on the ground.

Research Method

This research aimed to understand opportunities and limitations for ICTs to support auditors to assess working conditions in supply chains under COVID-19 conditions. The paper draws specifically on evidence first collected in a working group in April 2020. Based on the recommendations from the working group, we undertook a series of refinements to Apprise Audit to enable it to be used under COVID-19 conditions for remote monitoring of working conditions in global supply chains. These refinements will be presented in the next section, along with findings from evaluation sessions held in December 2020 and January 2021 to assess the system.

In the April working group, corporate social responsibility experts, and private sector representatives who were already using Apprise Audit self-selected to attend a workshop to brainstorm how we could pivot the way that ICTs were being used to support them to assess working conditions. In total, seven brand experts representing five multinational corporations, two labour rights / human trafficking experts, and two researchers took part in this working group. Participants were invited from existing partners who were using Apprise Audit in their supply chains, who in turn invited their counterparts from other multinational corporations. Due to COVID-19 movement restrictions, this meeting was held online. Brand representatives requested that no audio recordings were made of the session, as they felt more confident in openly expressing their concerns regarding their ability to assess working conditions under COVID-19 conditions. Instead they consented to the research team transcribing the meeting proceedings as they took place.

The December evaluation session was undertaken with five multinational corporations, some of which were involved in the initial working group meeting. Note that not all multinational corporations from the April working group participated in the pilot study. Instead, several participants from the April working group represented a parent group for a number of the multinational corporations who chose to use Apprise Audit Remote across their supply chains. Thirteen participants including auditors and brand experts participated in this evaluation session. We used a semi-structured interview schedule to obtain specific feedback about the auditors' and workers' perceptions of the tool. We also left time for a more natural discussion between participants afterwards. As with the April working group, participants requested that no audio recording was made of the session. Again, they consented to the research team transcribing the meeting proceedings as they took place. In late January 2021, we held another evaluation session with three brand representatives from one multinational corporation, following the same interview schedule and documentation process as in December 2020.

Immediately after each session, meeting notes were circulated between the research team members and the labour rights / human trafficking experts to enable a comparison to be made and ensure respondents' points were collected as accurately as possible. These notes were analyzed using a bottom-up thematic analysis method, and the results of are presented in a subsequent section. An obvious limitation of this study is that audio recordings were not taken of the meetings, but the use of multiple note takers and immediate discussion and circulation of notes between the research team aimed to overcome this lack of an objective record of the process.

COVID-19 and Apprise Audit Remote

In the April 2020 working group, participants brainstormed opportunities and limitations of using ICTs to support them to assess working conditions under COVID-19 conditions. The working group came up with two needs. Firstly, auditors that did not face travel restrictions requested support to gather data on factories' response to COVID-19. For auditors who were

unable to travel due to movement restrictions, they sought a way to still gather information from workers while they were unable to undertake in-person interviews. In response to the first request, we extended the original question list to include new questions specifically targeted towards understanding current conditions in factories related to COVID-19 measures. In response to the latter, we extended the functionality of Apprise Audit, to enable self-reporting direct worker feedback as a data collection method. Using this method, a brand sends a QR code (with instructions for use in the form of a text-free comic, and a URL) to each factory that will participate in remote audits. Factory staff are required to post the printed sheet in a surveillance-free environment, where workers have direct access to their personal mobile devices. Workers then scan the QR code (or enter the link provided on the page- Figure 1(e)) and navigate directly to a web-based frontend to the Apprise Audit questioning system. This enables workers to undertake the interview themselves, on their own mobile device, and uploads responses to the brand's existing Apprise Audit account.

In October 2020, Apprise Audit Remote was launched for use by our partners. Between 1 October 2020 and 15 April 2021, 5,403 workers started an interview using Apprise Audit Remote. Of these workers, 1,539 did not provide consent to continue with the interview at the end of the introductory video (see Figure 1(b)) and the process ended. This means that 3,864 interviews were completed using Apprise Audit Remote over the period of time under review, and an additional 1,470 interviews were completed using in person interviews with Apprise Audit.

Key Findings & Discussion

Thematic analysis of these discussions revealed several important themes, describing the practical insights and challenges partners experienced when adopting Apprise Audit Remote. Respondents also provided feedback more generally about the shortcomings and opportunities of remote auditing, which we summarize in the following section.

Effective channels of communication

Brand representatives shared that Apprise Audit Remote was an effective channel to support communication between factory management, workers, and brands. They noted that by using the tool, workers were able to provide information that could be used as a starting point for social dialogue between employers and employees. Some auditors described undertaking site inspections to view how Apprise Audit Remote was being used. In these cases, they indicated that workers were pleased to be in control of the interview process, by selecting their own language, and listening to and responding to questions by themselves. In cases where responses indicated a minor issue, auditors described arranging follow-up meetings with factory management to seek clarification and further evidence of workplace issues. When responding to health and safety questions related to COVID-19, some workers indicated that their movements

were being unfairly restricted. To better understand the situation that led to these responses, worker groups were invited to a meeting with factory management and audit teams to provide an opportunity to voice their concerns. In this instance, the discussion resulted in a clarification for workers that movement restrictions were mandated by the government, and the factory was simply implementing restrictions as they had been ordered.

Rather than exclusively being used to uncover zero tolerance issues such as forced labour or child labour, the responses helped to reveal the way factories were operating in the time of pandemic and uncover key concerns that may have otherwise not been brought to attention. However, brands described that in cases where indicators of zero tolerance issues were in fact raised by workers, this information was used to justify and prioritize an in-person inspection as soon as possible. The data captured through Apprise Audit Remote also helped to contextualize other findings from the virtual audits by offering insights into any changes that had occurred in worker well-being and management practices since the pandemic began. The feedback provided by workers via Apprise Audit Remote encouraged focused communication around specific issues and helped to foster mutual understanding between brands and factory management.

Access to Network & Data Privacy

As we had anticipated, workers in factories in countries that have poor internet infrastructure reported having trouble connecting to the internet because of a weak signal. Due to the slow speed, auditors reported that occasionally workers would select an answer (Figure 1(c)), experience a delay, and then click the screen multiple times to try and cycle forward to the next question. This resulted in the next few questions being answered before they could be heard and potentially giving false positives/negatives about exploitation or lack thereof. This points to a critical design decision made in the development of Apprise Audit Remote, in providing a web interface to what was already a mobile phone app. App-based worker voice tools (such as Apprise Audit) are designed to take different levels of connectivity into account, providing a local repository of all media files and worker responses on the device that can be synchronized when connectivity is available. However, mobile apps are required to be downloaded and installed on the mobile device prior to use, a burden that many researchers have discovered hinders workers' uptake of mobile-app based screening tools[47]. Considering that workers rarely take part in interviews, mobile apps take valuable storage space on a workers' personal devices, and they require internet connectivity for synchronization, workers may be dissuaded from using a separate app for remote interviews. While targeting a web interface for Apprise Audit Remote was an obvious tradeoff, we believe that the advantages of low barrier of use, portability and cross-platform support outweighed the disadvantages of potential issues with connectivity.

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[47] Bassina Farbenblum, Laurie Berg, and Angela Kintominas, "Transformative Technology for Migrant Workers: Opportunities, Challenges, and Risks" (New York: Open Society Foundations, 2018), https://www.opensocietyfoundations.org/uploads/dfe50370-e15a-4a78-99f9-3954c0e73bb3/transformative-technology-for-migrant-workers-20181107.pdf.

Some auditors shared that in their follow-up discussions with workers, there were indications that despite assurances of confidentiality in reporting, workers still feared that their responses were not secure and may be shared. The fear of retaliation made at least some workers hesitant to provide negative feedback about factory management that was reflective of conditions they faced. Although technology offers new and innovative ways to collect data and to do so at greater scale, it simultaneously runs the risk of simply collecting a greater volume of low-quality data because digital technology alone cannot disrupt/overcome existing power imbalances.

In the April 2020 working group, brand representatives had described fears that factory management would complete surveys by scanning the QR code and answering questions themselves. There was discussion between the different brands about how advantageous this behavior would be to a factory as "they don't get bonus points for compliance"[48]. Nevertheless, we agreed to investigate different techniques that could be used to understand if a respondent is a worker, without exposing their actual identity. In our initial version of the system, we began capturing the IP address of the device that was used to undertake a survey, to monitor if one device had been used to answer the questionnaire multiple times. The use case was that if a factory manager was repeatedly scanning and generating responses, tracking the IP address may have been a way of detecting and signaling suspicious activity to the brand. When analyzing feedback from auditors, they described a number of occasions where they observed workers sharing a device, with a worker passing their phone to their friends after completing the questionnaire. As these two cases would have generated identical logs, we realized that capturing and storing IP addresses did not provide any actionable information. As such we removed this data collection point, in order to ensure data minimization.

Announced and unannounced audits

While Apprise Audit Remote was re-designed as a stop gap, rather than as a replacement for on-site inspections, brands described the potential for the tool to allow them to assess labour conditions more frequently, when used in conjunction with announced and unannounced site inspection. In our research, respondents shared that virtual audits could translate to cost savings in direct travel expenses and allow for ongoing monitoring of a factory's situation rather than an once-off audit providing a single snapshot in time. Gathering information at more frequent intervals of time could help give a more accurate portrayal of working conditions.

As briefly mentioned above, a known limitation of announced inspections is that it provides factories with a chance to change working conditions (at least temporarily) in order to show compliance with health and safety requirements. To overcome these limitations, many teams also undertake unannounced site inspections. Some multinational corporations have even reported carrying out unannounced remote audits to as part of their compliance measures during

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[48] Quotation from brand representative, 29 April, 2020. Online working group.

COVID-19[49]. However, without the physical presence of an auditor, it is impossible to provide an immediate referral where indications of zero-tolerance issues (e.g. forced labour or child labour) are identified. Practitioners note the importance of rapid response to these cases, citing the first four hours after identification as the critical window to ensure child labour victims have access to assistance[50]. Other experts shared that one of the most important parts of an unannounced audit is when an auditor first enters the premises to conduct a rapid site inspection. Since this may catch management by surprise and they try to hide evidence of violations such as child labour, another member of the audit team will wait outside to see if anyone tries to run out of the premises[51]. Any person who exits the facilities as the announced auditor enters, would be of most interest to the audit team. Of course, without the audit team on-site, this same practice cannot be conducted.

Limitations of Remote Monitoring & Worker Interviews

Even though there are potentially many benefits to using ICTs for remote monitoring, there are also significant barriers and challenges to implementation. As illustrated earlier in this section, the effectiveness of digitally mediated interactions is dependent upon factors like a stable network connection, adequate bandwidth, and compatible software and hardware. Ensuring these basics of technological infrastructure may prove challenging in certain supply chain contexts, like remote geographical areas with poor internet access or facilities that lack financial or technical capacity for supporting digitally integrated management systems. For systems that require direct engagement, workers may be intimidated by or mistrustful of technology, particularly when they have limited voice and participation in the design of these solutions. Although mobile phones are becoming increasingly ubiquitous, simply having access to technology may still be a barrier for low-income or marginalized populations. If workers do own a smartphone or basic-feature phone, their access may be restricted when they are in the workplace. With Apprise Audit Remote, factories are required to post QR codes / URLs for accessing questionnaires in a position where workers have free access to their mobile phones and are not surveilled. In feedback sessions, brand representatives described undertaking spot checks with factories, by undertaking unannounced video calls with them, and asking them to do an on-the-spot site tour so they could demonstrate where QR codes were posted, proving that workers could access the code and that it was posted away from video and in-person surveillance.

A discussion of the impact of remote auditing cannot be complete without turning to the use of worker voice information. While ICTs can enable workers to overcome communication

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[49] Intertek Group, "Intertek's Modern Slavery Act Statement 2020," 2021.

[50] Canaria Gaffar, Ines Kaempfer, and Enosh Jinan Kurz, "Best Response: Auditors' Insights on Child Labor in Asia" (Hong Kong: Centre for Child Rights and Corporate Social Responsibility, 2016).

[51] Quotation from brand representative, 29 April, 2020. Online working group

barriers, training deficits and privacy concerns[52], there are other significant hurdles that also need to be addressed. Firstly, without effective standard operating procedures in place, worker feedback may not lead to successful outcomes or redress for workers. Amongst other factors, these procedures need to enforce accountability for follow up of issues that have been identified (whether this identification occurs in-person or online). This process itself needs to provide feedback to workers, to ensure that workers accrue benefit from participating, and any issues that are raised are dealt with. If instead this becomes an extractive process with no benefit to workers, researchers have described how workers soon avoid participating in it[53].

Beyond issues of technical feasibility and motivation, another important consideration is the suitability of remote auditing for replicating tasks undertaken as part of an in-person audit. According to a recent review by the ISEAL Alliance[54], "the most commonly raised issue with remote auditing practice has been the inherent limitation of these approaches to replicate on-site worker interviews or the broader ability to see and engage with workers that comes with on-site audits"[55]. Although employees could be interviewed via videoconferencing platforms, there are numerous concerns about the reliability of the information provided and risks this approach presents to the workers. Similar to challenges with worker voice tools, it may be practically difficult to ensure that factory management does not interfere with the interview process itself, by listening in to responses and carrying out retaliation against workers. This process does not adequately address issues of privacy, a lack of training, communication barriers, or trust that were identified with face-to-face interviews. Instead, video conferencing interviews may exacerbate these issues, as workers may not feel comfortable disclosing highly sensitive information virtually for fear that the conversation is recorded and may be used against them. Additionally, common practice during audits is to select a random group of workers in an attempt to get representative sample of voices, but this randomization may be impossible to enforce when done remotely or it may increase the risk of workers being coached and threatened.

Conclusion

Although technology may offer a partial solution, many critical social issues cannot be assessed remotely[56]. One company that was interviewed by ISEAL shared a frank outlook, warning "COVID had a timeline and that there was a risk of investing too much effort into

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[52] Hannah Thinyane and Karthik Bhat, "Supporting the Critical-Agency of Victims of Human Trafficking in Thailand" (ACM CHI Conference on Human Factors in Computing Systems, Glasgow, Scotland: ACM, 2019).

[53] Farbenblum, Berg, and Kintominas, "Transformative Technology for Migrant Workers: Opportunities, Challenges, and Risks."

[54] ISEAL is a global membership alliance that supports transparent sustainability systems

[55] ISEAL, "Remote Audit Practices and Alignment: Findings from Interviews with Sustainability Standards - October 2020," 2020.

[56] ISEAL.

technology to carry out remote worker interviews and for which results may ultimately be deceptive"[57]. Moreover, because gaining the trust of vulnerable individuals and uncovering highly sensitive information in a short amount of time is very difficult, social audits and digital worker voice tools are increasingly effective at gathering worker feedback but have yet to prove successful at uncovering hidden abuses like forced labour and trafficking in persons[58]. Due to concerns over feasibility and suitability of remote monitoring, a combination of both digital and in-person monitoring may be most beneficial. These hybrid approaches could leverage technology to expedite certain aspects of audits (e.g., conducting remote documentation review before a factory visit), while freeing up auditors to spend more time on other assessment activities that cannot be adequately replicated virtually (e.g. devoting more time in-person to worker interviews).

In the midst of a crisis situation that heightened the risks of labour exploitation, the priority concern described in this paper has been adapting technology to be able to obtain firsthand insights into the circumstances faced by vulnerable workers. As one of our focus group participants aptly put it, "There are no better choices as of now, it's a necessary compromise we have to afford"[59]. What remains unclear at this point in time is whether remote auditing practices will become standard operational practice under "normal conditions" in a post-COVID world or will only be deployed in specific responses to circumstances where in-person audits cannot be conducted[60].

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[59] Quote from interview with brand representatives, 4 December 2020. Online working group.

[60] Castka, Searcy, and Fischer, "Technology-Enhanced Auditing in Voluntary Sustainability Standards."

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Australia's Modern Slavery Act and COVID-19:
a get out of jail free card?

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Abstract

The COVID-19 pandemic increased modern slavery risk around the world, including in the operations and supply chains of Australian businesses. This article thematically analyses a sample of available business statements under Australia's Modern Slavery Act to assess how they engaged with modern slavery risks due to COVID-19. Overall, the statements acknowledged that COVID-19 had increased risks through rapidly altered supply chain profiles, urgent demand for items such as PPE, and yet there were widespread reports of reduced capacity to fully execute planned modern slavery risk assessment, training, and audit activities.

Keywords: Modern slavery, Australian Modern Slavery Act, COVID-19, supply chains, reporting

Introduction

It is widely understood and acknowledged that COVID-19 increases risks of modern slavery. The United Nations ('UN') Special Rapporteur on contemporary forms of slavery's report on the impact of COVID-19 on modern slavery identifies a number of new risks as well as impacts on those already in forms of modern slavery.[1] He notes the multifaceted social and economic impacts of the pandemic and the exacerbated risks of slavery and impacts on specific groups. The shifts in labour demand provided strong incentives for some businesses to exploit workers, including in industries that produce, process and provide essential items such as food, medicines and medical equipment, which have seen a sudden surge in the demand for workers as a result of COVID-19.[2] Migrant workers are particularly vulnerable to exploitation and decline in

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[1] Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, *Impact of the coronavirus disease pandemic on contemporary forms of slavery and slavery-like practices*. UN Doc: A/HRC/45/8, 4 August 2020, Human Rights Council Forty-fifth session 14 September–2 October 2020 ('Report of the Special Rapporteur').

[2] Ibid, p.12.

migrant remittances is predicted to increase poverty, child labour and child marriage.[3] The Special Rapporteur recommends that States ensure implementation of the UN Guiding Principles on Business and Human Rights ('UNGPs') and increase awareness of contemporary forms of slavery and the risks faced by the vulnerable workers among businesses.[4] Global anti-slavery NGO Walk Free reports that widespread job losses, the shutdown of regular migration pathways, and reduced scrutiny of labour standards, increases vulnerability to forced labour, human trafficking and modern slavery.[5]

In Australia, awareness of modern slavery risk in the operations and supply chains of large businesses is growing since the introduction of the *Modern Slavery Act 2018 (Cth)* ('MSA').[6] From 2020, businesses, not-for-profits and Australian Commonwealth government entities with an annual turnover of $100 million or more were expected to publish their first statements under the MSA. COVID-19 not only impacts on modern slavery risks in these entities' operations and supply chains but may affect the entities' ability to engage with their obligations under the MSA. In light of this, Australian Border Force - the Government agency responsible for supporting the implementation of the MSA - firstly extended the deadlines for reporting, and secondly, issued an information sheet on COVID-19 and the MSA.[7] The information sheet notes that as a result of COVID-19, entities may be unable to undertake planned activities to address modern slavery risks, may have limited capacity to prepare statements, and their normal supply chains may have been altered.[8] Australian Border Force therefore encouraged reporting entities affected by COVID-19 to clearly explain in their statements under the MSA how COVID-19 has impacted their capacity to assess and address modern slavery risks.

One risk of this approach is that the extended deadline, and acknowledgment that COVID-19 may have impacted the reporting entities' capacity to tackle and report on modern slavery risks, could be used to avoid in-depth engagement with the obligations of the MSA. It has already been identified that the MSA lacks enforcement mechanisms, such as penalties for non-compliance.[9] Rather than penalties, the Minister's view in the second reading speech when introducing the Modern Slavery Bill was: 'Businesses that fail to take action will be penalised by

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[3] Ibid, para 50.

[4] Ibid, para 100.

[5] Walk Free, 'Protecting People in a Pandemic', https://cdn.walkfree.org/content/uploads/2020/10/06154059/Walk-Free-Foundation-COVID-19-Report.pdf .

[6] Modern Slavery Act 2018 (Cth), https://www.legislation.gov.au/Details/C2018A00153

[7] Australian Border Force, 'Modern Slavery Act Information Sheet: Coronavirus', https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-covid-19.pdf

[8] Ibid, 1.

[9] See, eg, Justine Nolan and Nana Frishling, "Australia's Modern Slavery Act: Towards Meaningful Compliance" *C&SLG* 37 (2019) 104-126.

the market and consumers and severely tarnish their reputations'.[10] The MSA then is based on a form of non-state regulation wherein regulatory arrangements are carried out by other actors, including consumers and civil society.[11]

Drawing on publicly available statements at time of writing, this article analyses whether reporting entities appeared to grapple with COVID-19 related-risks, or, whether there are indications that COVID-19 challenges are being used as something of a 'get out of jail free card'. It begins with an overview of the Australian MSA and COVID-19 related guidance on the MSA, the method is presented, and the findings on the analysis of MSA statements is first presented, and then discussed. The concluding comments note that future years' statements may provide more comprehensive analysis.

Australia's Modern Slavery Act and COVID-19

Business reporting and due diligence laws on modern slavery, or broader human rights and environmental risks, are becoming more prevalent across jurisdictions.[12] Influenced by the UK's MSA,[13] Australia's MSA was introduced in 2018, taking effect in January 2019 and with the first modern slavery statements due in 2020 or 2021 depending on the entity's reporting period. Australian businesses with operations in the UK have already published statements under the UK MSA,[14] and some Australian companies already reporting under the UK MSA had begun to prepare a statement intended to meet the requirements of both Acts.[15]

Section 16 of the MSA specifies the mandatory criteria for modern slavery statements, these are as follows:

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[10] Commonwealth of Australia, 'Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia' (December 2017) 5.152.

[11] Natasha Tusikov, 'Transnational non-state regulatory regimes', in Drahos, P. (Ed.). (2017). *Regulatory theory: Foundations and applications* 339-354.

[12] Fiona McGaughey, "Australia's proposed Modern Slavery Act for business reporting - part of an international trend in business and human rights" 36 no. 3 *Australian Resources and Energy Law Journal* (2018) 29-35.

[13] Parliament of the Commonwealth of Australia, Joint Standing Committee on Foreign Affairs, Inquiry into establishing a Modern Slavery Act in Australia, 'Terms of Reference', https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/ModernSlavery/Interim_Report/section?id=committees%2freportjnt%2f024092%2f24997 (accessed 4 June 2019).

[14] See, e.g. Rio Tinto, 'Slavery and Human Trafficking Statement 2016', http://www.riotinto.com/documents/RT_Slavery_and_human_trafficking_statement.pdf (accessed 3 January 2021); Wesfarmers, 'Wesfarmers Human Rights And Modern Slavery Statement', https://sustainability.wesfarmers.com.au/our-principles/sourcing/ethical-sourcing-and-human-rights/wesfarmers-human-rights-and-modern-slavery-statement/ (accessed 3 January 2021).

[15] See, eg, Wesfarmers, '2019 Modern Slavery Act for Wesfarmers', https://sustainability.wesfarmers.com.au/media/3118/wesfarmers-modern-slavery-statement-2019.pdf.

(1) A modern slavery statement must, in relation to each reporting entity covered by the statement:
(a) identify the reporting entity; and
(b) describe the structure, operations and supply chains of the reporting entity; and
(c) describe the risks of modern slavery practices in the operations and supply chains of the reporting entity, and any entities that the reporting entity owns or controls; and
(d) describe the actions taken by the reporting entity and any entity that the reporting entity owns or controls, to assess and address those risks, including due diligence and remediation processes; and
(e) describe how the reporting entity assesses the effectiveness of such actions; and
(f) describe the process of consultation with:
(i) any entities that the reporting entity owns or controls; and
(ii) in the case of a reporting entity covered by a statement under section 14—the entity giving the statement;

Despite criticisms of the MSA such as the lack of enforcement mechanisms and absence of provision for an Anti-slavery Commissioner role, interviews with Australian businesses, civil society and other stakeholders identified a number of strengths in the MSA.[16] These included its overt attempts to drive best practice and create a level playing field; requiring engagement from Directors; raising awareness of modern slavery; the inclusion of mandatory criteria (unlike the UK Act); and driving awareness of the need for businesses to have some level of responsibility for their suppliers' practices.[17]

To facilitate oversight by civil society and others, the Australian MSA differs from that of the UK and other comparable laws, such as the French Duty of Vigilance Law,[18] in that Australia is the first jurisdiction with a Government repository (register) for MSA statements. The register is now open for reporting entities to submit their statements,[19] and the first batch of statements was made available in November 2020.[20] Available MSA statements provide some early indications of engagement with the challenges of COVID-19 regarding modern slavery.

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[16] Justine Nolan, Jolyon Ford, M. Azizul Islam, 'Regulating Transparency and Disclosures on Modern Slavery in Global Supply Chains: a "Conversation Starter" or a "tick-box Exercise"?' (Report for CPA Australia, March 2019).

[17] Ibid, 17.

[18] *Modern Slavery Act 2015 (United Kingdom);* Loi no. 2017-399 du 27 Mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre.

[19] https://modernslaveryregister.gov.au/.

[20] Fiona McGaughey, Holly Cullen, Rebecca Faugno, 'Australia's world-first repository of 'modern slavery statements' a step in the right direction' (The Conversation, November 30, 2020), https://theconversation.com/australias-world-first-repository-of-modern-slavery-statements-a-step-in-the-right-direction-151029 .

Method

The primary data source for this paper is a qualitative analysis of available Australian MSA statements to determine: a) whether COVID-19 is acknowledged, b) whether the entity reported reduced capacity to engage with their MSA obligations as a result, c) whether the entity identified specific, increased modern slavery risks as a result of COVID-19 and d) if so, how they responded. There are an anticipated 3,000 reporting entities under the MSA,[21] and at time of writing, there were 391 statements in the modern slavery register. Using a simple keyword search of the register for "COVID", there are 144 statements that refer to COVID in their text. From these 144 statements, 25 per cent (n=36) of the statements were selected randomly, but ensuring variety in terms of industry.[22] All statements discussed here are available on the public register. Extracts of the statements discussing COVID-19 were subjected to qualitative analysis, and thematically coded using NVivo software. Thematic coding is a well-established method used to identify themes in various types of qualitative datasets.[23] The thematic coding was first carried out using a deductive approach – looking for answers to the research questions on whether and how COVID-19 was acknowledged, was reported to have increased modern slavery risks, and had impacted on reporting capacity. However, this was followed with an inductive approach to uncover themes the researcher may not have anticipated,[24] (in this study, 'positive outcomes or actions related to COVID responses' was one such theme). The themes are discussed below.

Modern Slavery Statements and COVID-19

Overall, there was widespread acknowledgement of COVID-19 and modern slavery risks in the selected sample. The extent of the impact though, varied. Some reporting entities appeared to indicate that COVID-19 had *significantly impacted on their entire modern slavery risk and reporting project*, for example:

> Progress on most of the planned activities have been significantly impacted by the effects of Covid-19 on the business, leading to a delay in the completion. We have reviewed these priorities and reaffirm our commitment to deliver these outcomes progressively as the Group progresses through it's [sic] Strategic Covid-19 Recovery plan over the next 3 years.[25]

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[21] Australian Government, *Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities,* https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-reporting-entities.pdf.

[22] https://modernslaveryregister.gov.au/.

[23] Carol Rivas, 'Coding and Analysing Qualitative Data' in Clive Seale (ed.) *Researching Society and Culture* (SAGE, 3rd ed. 2012) 366.

[24] Ibid, 368.

[25] Qantas Airways Limited.

With the onset of the COVID-19 pandemic during 2020, business resources had to be unexpectedly directed towards the formation of COVID safety plans and actions to ensure the continuity of the business in this new challenging environment. This impacted our capacity to make progress on building the modern slavery framework during the second half of the reporting period.[26]

The development of our modern slavery program has been slowed by the affects [sic] of COVID-19 throughout 2020. A substantial portion of CDC's internal resources were directed toward minimising the impact of the pandemic on our day-to-day operations, which in turn has disrupted efforts to fully establish our supply chain risk assessment processes.[27]

For other reporting entities, only one aspect of their activities was reported to be impacted. In some cases, the delays were at the supplier end, rather than with the reporting entity itself. For example:

…we had identified 65 suppliers who were deemed to present an elevated risk of slavery and human trafficking. We distributed a Slavery and Human Trafficking Questionnaire to these suppliers, in order to seek additional assurance. Of these 65 suppliers: - 15 provided a satisfactory initial response to the questionnaire; - 17 required further follow-up and we are working with these suppliers to obtain relevant assurances; - 15 are no longer JLR suppliers; and - In 18 cases no response has been received to date, which is in part due to the COVID-19 situation.[28]

Table 1: Most prevalent themes (sorted in order of frequency)

1. Postponed (training, event, audit, other)
2. Hygiene and employee safety
3. Targeted COVID response
4. Identified a specific COVID-related risk
5. Impact on employees (e.g. reduced workforce, reduced income)
6. Deemed existing structures, processes suffice

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[26] Emerald Grain Pty Ltd.

[27] Canberra Data Centres Proprietary Limited.

[28] Jaguar Land Rover Australia Pty Ltd.

7. Acknowledgement of COVID
8. Alternative ways of working
9. Costs (e.g. reduced expenditure, consideration of payment terms etc.)
10. Little or no impact due to COVID identified
11. To be considered in next year's statement
12. Altered supply chain due to COVID
13. Collaboration to tackle COVID risks
14. Positive outcomes / actions related to COVID response

Table 1 presents the list of themes from the thematic coding, sorted in order of frequency of the theme in modern slavery statements. Although the same theme could arise more than once in any particular statement, due to the overall brevity of discussion of COVID-19 in the statements, this was rarely the case. As Table 1 indicates, postponement was the most common theme and incorporates three sub-themes: postponements of actions related to modern slavery risk assessment in general, postponement of modern slavery training or related events, and postponement of audits.

Several references to postponed training initiatives and events (such as supplier conferences) were noted in the statements (Table 1, no.1).[29] Some of these had potential to raise awareness among staff who would be well positioned to identify potential modern slavery 'victims',[30] such as the training of airline staff.[31] However, the very significant travel restrictions into and around Australia may have reduced trafficking into the country during the pandemic. Given the common transition to online working, including online training and education during COVID-19, there was surprisingly little transition to online training on modern slavery, with a few exceptions.[32]

Some reporting entities noted that factory and/or supplier audits had continued even during COVID-19,[33] but more commonly, postponing audits and factory visits due to COVID-19 was a common theme. Globally, audits have been described as 'the main strategy that companies

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[29] For example, South 32; Jaguar Land Rover Australia Pty Ltd.

[30] Brisbane Airport Corporation Pty Limited.

[31] Including Brisbane Airport Corporation Pty Limited; Qantas Airways Limited.

[32] See, eg, ANA Holding Inc..

[33] Group Zara Australia Pty Limited.

use to detect and address labour exploitation in their supply chains'.[34] Audits of this kind (also known as 'social audits') involve a process for monitoring labour conditions in operations and supply chains. They are sometimes carried out internally but often by third-party auditors. Targeted audits can be effective in detecting modern slavery,[35] but are only one tool in identifying risks.[36]

In some cases, audits were paused only temporarily and had resumed by the time the statement was being finalised.[37] Whereas some reporting entities noted a widespread postponement of all audit activities, for others the impact was more constrained, for example:

> A portion of our FY20 planned responsible sourcing audits (21%) were impacted by the pandemic with 10% of audits postponed to FY21.[38]

One reporting entity attempted to put a positive spin on the postponement of audits, noting that:

> As a result of the recent crisis, we paused physical supplier audits until they were safe to resume. This global pause on audits initially created a weakness in our control process. However, we consequently identified an opportunity to broaden our approach, including developing our anonymous grievance hotline.[39]

Of course, audits and a grievance hotline are not mutually exclusive so without further context, this assertion appears somewhat tenuous.

As noted in Table 1 (no. 2), COVID-19 related concerns for employee safety and a focus on hygiene measures introduced featured heavily in the statements with many reporting entities describing at length the measures they had put in place. Many reporting entities also identified one or more *specific* COVID-19 related modern slavery risks in their operations and/or supply chains (Table 1, no.4). This relates to several other themes including 'targeted responses', discussed further below. It also relates to the concern for hygiene, as several entities reported that cleaning (often subcontracted) had already been identified as a risk pre-COVID-19 and then the

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[34] Genevieve LeBaron and Andreas Ruhmkorf, "The domestic politics of corporate accountability legislation: struggles over the 2015 UK Modern Slavery Act" 17 no. 3 *Socio-Economic Review* (2019) 709–743, 720.

[35] Amy V. Benstead, Linda C. Hendry and Mark Stevenson, 'Detecting And Remediating Modern Slavery in Supply Chains: A Targeted Audit Approach' *Production Planning & Control* (2020).

[36] Justine Nolan and Jolyon Ford, 'Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The Discrepancy Between Human Rights Due Diligence And The Social Audit' vol 26 no.1 *Australian Journal of Human Rights* (2020) 27-45.

[37] See, eg, Retail Apparel Group.

[38] Microsoft Pty Ltd.

[39] Retail Apparel Group.

services were more under pressure due to increased demand for cleaning during the pandemic. One referenced the Cleaning Accountability Framework as a useful resource for risk mitigation,[40] and another included a case study on 'Addressing Risks in our Cleaning Services'.[41] Case studies in general were not prevalent in the sample.

Another common theme was 'targeted COVID response' (Table 1 no. 3) with regard to modern slavery risks. For example:

> To respond to these emerging risks, we have incorporated questions about the impact of COVID-19 into our engagement with portfolio companies and externally appointed investment managers. From an investment perspective we perceive the risks are higher for certain industries such as hospitality, medical supplies and the garment industry.[42]

In general, there was little differentiation of modern slavery risks due to COVID-19 across different countries of a reporting entities' operations or supply chain. However, a few entities did discuss suppliers in China. For example,

> The COVID-19 outbreak posed unique challenges for our supply chain. From the start of the outbreak in early 2020, we worked with our China-based supplier factories to ensure the safety of their workers and continued compliance with our human rights and labor standards.[43]

Consistent with other findings on modern slavery reporting, disclosures were rare in the sample, but one reporting entity did refer to grievances raised in China as a result of COVID-19:

> Our Workers' Voice Hotline was a valuable tool for monitoring worker concerns attributed to COVID-19. During the outbreak in China, we received four grievances related to excessive working hours and pay. We applied robust processes to investigate and remedy these grievances and we put corrective actions in place at the impacted factories.[44]

In terms of specific risks with products or services identified related to COVID-19 (Table 1, no.4), the most common themes were procurement of personal protective equipment (PPE) and sanitisation products, increased use of subcontracted cleaning services, and shipping (with

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[40] QIC Limited.

[41] Australian Postal Corporation.

[42] QIC Limited.

[43] Microsoft Pty Ltd.

[44] Microsoft Pty Ltd.

regard to the situation of crew). Of these, the most common risk identified was the procurement of PPE. Reporting entities noted that the market for these products was generally disrupted,[45] that the market pressure could lead to worker exploitation, that some new suppliers were required to be contracted with at short notice, and that businesses' capacity to undertake standard risk assessments was constrained in the circumstances.[46] Despite widespread media and NGO reports of modern slavery in PPE manufacturing, most entities did not directly engage with this, with one exception. They reported:

> Analysis has identified that some of the gloves purchased were manufactured in a country where migrant labour exploitation has been alleged. At the time of publishing this Statement, our inquiries had not identified any of the glove manufacturers to be associated with forced labour claims. We will continue to consider avenues to gain further information.[47]

Others reported trying to purchase predominantly from existing suppliers, or where possible, only used Australian suppliers, or reinforced the steps they had taken to ensure suppliers were aware of modern slavery risks such as through their existing 'Supplier Code of Conduct'.[48] Some referred to 'tailored human rights due diligence' in response to high demand for PPE and medical supplies, to identify risks and drive responsible decision-making for rapid sourcing of these items.[49] There were reports of engaging with existing suppliers about any changes to their supply chain that could pose additional risks and where new suppliers were brought on board quickly to meet demand, that 'rapid vendor onboarding checks', including UN Security Council Sanction checks were performed.[50]

With regard to shipping, one entity reported worked closely with shipping suppliers as travel restrictions were creating additional risks for seafarers such as impacting the ability for crew changes and repatriation, resulting in physical and mental exhaustion.[51] The company report that they are continuing to work in partnership with ship-owners to address these impacts, reviewing fatigue and safety controls, crew change protocols and providing safe and accessible ways for seafarers to communicate grievances. Although COVID-19 has created specific risks in relation to travel restrictions for shipping suppliers, it is noteworthy that grievance mechanisms

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[45] Lendlease Corporation Limited.

[46] Regis Group.

[47] Australian Postal Corporation.

[48] Lendlease Corporation Limited.

[49] South 32.

[50] See, eg, Cadia Holdings Pty Limited (Newcrest).

[51] South 32.

do not appear to have been in place and so the pandemic may have expedited this process. Grievance mechanisms are recommended in the government guidance on the MSA, drawing on Principle 31 of the UNGPs.[52]

The other general theme on increased COVID-19 risks of modern slavery related to the altered profile of global supply chains (Table 1, no. 12) and the widespread economic impacts of the pandemic and resultant effects on employees (Table 1, no. 5), including redundancies, reduced hours, increased demand for some products (such as PPE) leading to risk of exploitation, and reduced procurement leading to financial pressure on suppliers and potential inability to pay their staff (Table 1, no. 9). With regard to dealing with suppliers, several reporting identities discussed revisiting their payment terms with suppliers and opting to pay early where appropriate to avoid hardship on workers (Table 1, no. 9).[53]

Others called on stakeholders more broadly to take appropriate action. For example, with regard to the global garment industry, governments and financial institutions were called on to accelerate access to credit, unemployment benefits and income-support.[54] Less common in the statements was reporting on COVID-19 related collaboration (Table 1, no. 13), with a few exceptions, for example:

> Inditex has been proactive from the very beginning, joining forces with the main organizations that advocate workers' rights. The Group collaborates with IndustriALL Global Union, the International Labour Organization, Ethical Trading Initiative and ACT (Action, Collaboration, Transformation), among others.[55]

There were also some examples of positive outcomes or actions to respond to COVID-19 (Table 1, no. 14), for example:

> The reduction in the number of flights from the effect of COVID-19 had given rise to unused in-flight meals. Through Save the Children Japan, the ANA Group donated rice crackers, apple juice, etc. to children from single-parent households in May 2020. To keep children's spirits up while they had to stay out of school due to COVID-19, the ANA Group also donated some 20,000 chocolates to municipalities in the environs of Narita Airport.[56]

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[52] Australian Government, *Commonwealth Modern Slavery Act 2018: Guidance for Reporting Entities*, <https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-reporting-entities.pdf>.

[53] Australian Postal Corporation.

[54] Group Zara Australia Pty Limited.

[55] Group Zara Australia Pty Limited.

[56] ANA Holding Inc.

Conversely, a few reporting entities stated that increased risk of modern slavery in their operations and supply chains due to COVID-19 were minimal or that they had not noticed increased risks (Table 1, no. 10).[57] Finally, several entities acknowledged the increased risk due to COVID-19 but provided no detail on what the *specific* risks are in their operations and supply chains and the steps being taken to address them (Table 1, no. 7).[58]

Discussion

Australian MSA statements as of February 2021 reveal a number of tensions. The first is that despite the increased risks posed by COVID and the guidance provided by Australian Border Force encouraging reporting entities to clearly explain in their MSA statements how COVID-19 has impacted their capacity to assess and address modern slavery risks, only 37 per cent of statements had addressed the topic of COVID-19. Secondly, COVID-19 did not impact on all businesses – and industries – equally. Some entities, such as those in the aviation sector, described the devastating effect of the pandemic on their operations; others reported minor changes and little to no perceived increased risk of modern slavery.

Further, a sample of MSA statements analysed show that of those which discussed COVID-19, many of them acknowledge the heightened risk of modern slavery in operations and supply chains; yet also report delays to risk assessment, training, audit and other activities that could have identified such risks and provided a baseline for action. Nonetheless, the imprimatur for this approach came from Australian Border Force whose COVID-19 information sheet noted that as a result of COVID-19, entities may be unable to undertake planned activities to address modern slavery risks, may have limited capacity to prepare statements, and their normal supply chains may have been altered.[59] Similarly, failure to use online systems for training and events related to modern slavery indicates that these were given a lower priority than other business activities during the period.

This aligns with the light-touch approach taken with regard to the MSA so far, which is one of 'carrot' rather than 'stick' and risks limiting the effectiveness of an already somewhat weak law. As Nolan and Frishling point out,

> Superficial compliance with the Act is of course entirely possible. Given that the Act mandates reporting and not the act of due diligence itself, a company could technically fulfill its reporting obligations while having undertaken only cosmetic changes, or without having implemented any measures at all.[60]

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[57] See, eg, Fuji Xerox Document Management Solutions.

[58] See, eg, KPMG.

[59] Ibid, 1.

[60] Nolan and Frishling (n 9), 116.

In this analysis, statements tended to take a broad approach to modern slavery with regard to COVID-19, reporting more commonly on employee wellbeing initiatives, and relatively little on high risk modern slavery situations *per se.* Preliminary indications are that COVID-19 appeared to raise awareness of employee wellbeing, with a particular focus on hygiene, health and flexible working. Concomitantly though, COVID-19 and government responses resulted in widespread job losses in certain industries such as aviation. Much of the statements' content with regard to employees and workers in supply chains is not evidently related to specific types of modern slavery, such as bonded or forced labour. However, it is well established that various types of labour exploitation can 'tip over' into modern slavery and that abuse of workers can escalate over time or change in its severity from day to day.[61] Hsin, Marshall, Nolan and others have posited that labour exploitation and modern slavery exist on a continuum.[62] Therefore, taking a broad approach is appropriate as long as specific high risk activities are also scrutinised in more detail.

In terms of specific COVID-19 related risks, some of the risks identified in the statements, such as procurement of PPE, have been widely reported on elsewhere. For example, the Special Rapporteur's report on the impact of COVID-19 on modern slavery notes several alleged labour rights violations in the rubber glove manufacturing sector in Malaysia regarding non-compliance with social distancing, occupational safety and health, excessive overtime with no pay, forced labour, as well as inadequate living conditions.[63] He notes that the South African Government reported that in a factory producing medical masks, workers were prevented from leaving the premises and forced to work to meet the increased demand. The Special Rapporteur also raises concerns that COVID-19 adversely affected the ability to ensure due diligence in supply chains with some Governments purchasing PPE produced by companies that are allegedly associated with forced labour.[64]

Similarly, some statements identified risks in the garment industry supply chain and it has been reported elsewhere that millions of garment workers faced destitution due to cancelled orders during the pandemic.[65] A commendable feature of a few of the statements is some of the specificity that is provided with regard to the modern slavery risks. Providing specific details on emerging risks in this rapidly changing time could be of significant benefit in building the

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[61] Lisa K.E. Hsin, "Modern slavery in law: towards continuums of exploitation" *Australian Journal of Human Rights* 26 no. 1 (2020) 165-175.

[62] Hsin, n 65; Justine Nolan and Martijn Boersma, *Addressing Modern Slavery.* (UNSW Press 2019); Shelley Marshall, *Living Wage: Regulatory Solutions to Informal and Precarious Work in Global Supply Chains* (Oxford University Press 2019).

[63] Report of the Special Rapporteur (n 1), 12.

[64] Ibid.

[65] Business and Human Rights Resource Centre, 'Millions of garment workers face destitution as fashion brands cancel orders', https://www.business-humanrights.org/en/blog/millions-of-garment-workers-face-destitution-as-fashion-brands-cancel-orders/.

knowledge-base regarding manifestations of modern slavery so that other businesses, governments and civil society can act accordingly. For example, an identified COVID-19 related risk is unilateral cancellations and suspensions of orders from overseas suppliers which, with economies in lockdown and few alternative employment possibilities, leaves workers at risk of exploitation and modern slavery.[66] Knowledge of such cancellations would provide valuable information to international aid agencies, civil society, governments and others about where labour inspections, humanitarian support and other measures may be required.

Overall, reporting entities undoubtedly 'put their best foot forward' in their modern slavery statements, while more critical analysis of their modern slavery related responses to COVID-19 may be publicly available elsewhere. For example, Inditex's (Group Zara Australia Pty Limited) statement addressed COVID-19 risks and was part of the sample discussed here. They reported on their proactive stance and collaboration with regard to the global garment industry. This can be supplemented with Business and Human Rights Resource Centre's *COVID-19 Apparel Action Tracker* which provides further analysis of Inditex's performance during the pandemic.[67] It presents a good 'scorecard' overall but raises concerns with regard to extended payment times and Inditex's pandemic policy on price reductions. The Business and Human Rights Resource Centre also reports on historical allegations against Inditex of worker abuse in China, not referenced in the modern slavery statement.[68]

Conclusion

The COVID-19 pandemic increased modern slavery risks around the world, including in the operations and supply chains of Australian businesses. In response to COVID-19, the Government agency responsible for supporting the implementation of the MSA extended the deadlines for reporting and noted that entities may be unable to undertake planned activities to address modern slavery risks, may have limited capacity to prepare statements, and their normal supply chains may have been altered. To assess how reporting entities responded to this, I analysed a sample of statements from the public register.

Overall, the statements acknowledged that COVID-19 had increased risks through rapidly altered supply chain profiles, urgent demand for items such as PPE, and yet reports of reduced capacity to fully execute planned modern slavery risk assessment, training, and audit activities. Several entities reported implementing COVID-19 related risk assessments or otherwise indicated that they would return to the question of COVID-19 risks in next year's

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[66] Hinrich Voss, "Implications of the COVID-19 pandemic for human rights and modern slavery vulnerabilities in global value chains" *Transnational Corporations* 27 no.2 (2020) 113 - 126, 114.

[67] Business and Human Rights Resource Centre, 'Inditex', https://www.business-humanrights.org/en/companies/inditex/?issue=332.

[68] Business and Human Rights Resource Centre, 'Reality behind brands CSR hypocrisy: an investigative report on China suppliers of Zara, H&M and Gap', https://www.business-humanrights.org/en/latest-news/reality-behind-brands-csr-hypocrisy-an-investigative-report-on-china-suppliers-of-zara-hm-and-gap/ .

statement. These statements will likely provide a more comprehensive engagement with the topic, but given the reporting rather than due diligence nature of the MSA, whether workers have experienced forms of modern slavery may not always be known, or if known, not revealed.

Impact of the COVID-19 pandemic on survivors of human trafficking in the Philippines

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Abstract

Pandemics disproportionately devastate those who are most vulnerable, including people who have experienced human trafficking. While numerous stakeholders have raised concerns regarding the potential effects of the Covid-19 pandemic on trafficked persons, very limited research exists documenting the effects of Covid-19 upon survivors. To understand the cross-cutting impacts of the Covid-19 pandemic upon human trafficking survivors, we must first listen to survivors themselves about how their basic safety, security, and health have been affected. We present findings from a rapid assessment conducted with human trafficking survivors in the Philippines regarding their experiences, needs, and priorities during the Covid-19 pandemic (n=233). Results of the rapid assessment revealed four primary concerns and priorities from the perspectives of survivors: food insecurity, loss of employment, mental health concerns, and an escalation in crisis incidents, with greater impact reported among those trafficked for sexual exploitation. Findings reinforce the need to broaden definitions of safety and facilitate emergency interventions that prioritize the most urgent needs articulated by survivors themselves.

Introduction

The Covid-19 pandemic has exposed and deepened inequalities throughout the world, particularly for already marginalized and vulnerable populations. The crisis has heightened risk factors for human trafficking, including family maltreatment, homelessness, disruption in education, loss of employment, and financial insecurity. Preliminary evidence suggests that the

Covid-19 pandemic has worsened working conditions for trafficked persons, created additional barriers to identification of trafficked persons, and harmfully disrupted services for survivors of human trafficking.[1] While there is widespread concern among scholars and practitioners regarding the devastating consequences of the crisis upon human trafficking survivors, limited primary research has been conducted with survivors assessing the effects of the crisis from their perspectives. In this manuscript, we explore the impacts of the Covid-19 crisis upon survivors of human trafficking in the Philippines, drawing upon data collected directly from survivors themselves.

The Philippines is second only to Indonesia for the most officially reported number of Covid-19 cases in Southeast Asia.[2] Despite a strict lockdown in place for much of 2020, the country continues to suffer from the Covid-19 pandemic, with an economy in recession[3] and a population struggling to combat the pandemic's prolonged disruptions on their lives. The economic impact of the pandemic in the Philippines includes widespread job loss and unemployment, leading to sustained income loss. Economic devastation has left many individuals unable to pay rent and afford sufficient food to support themselves and their families. For survivors of human trafficking, many of whom already fall below the poverty line, this challenge is especially dire. Despite some moratoriums on evictions,[4] many low-income individuals are fearful of being forced out of their homes. Out of desperation, these individuals may be vulnerable to predatory lenders – a challenge that has been documented among survivors in nearby countries like Cambodia[5] and has been a concern for vulnerable, low-income populations in the Philippines during past emergencies like Typhoon Haiyan.[6] However, with no means to repay the loans, such arrangements can trap vulnerable individuals in exploitative

[1] Todres, Jonathan, and Angela Diaz. "COVID-19 and Human Trafficking—the Amplified Impact on Vulnerable Populations." JAMA Pediatrics 175, no. 2 (2021): 123. https://doi.org/10.1001/jamapediatrics.2020.3610.

[2] "Southeast Asia Covid-19 Tracker." Southeast Asia Covid-19 Tracker | Center for Strategic and International Studies, March 4, 2021. https://www.csis.org/programs/southeast-asia-program/southeast-asia-covid-19-tracker-0.

[3] Enrico Dela Cruz Morales Neil Jerome, "Philippines Suffers First Recession in 29 Years, Braces for Grim Year on Virus Woes," Reuters, August 6, 2020, https://www.reuters.com/article/us-philippines-economy-gdp-idUSKCN25208X.

[4] Postponement of all Administrative Demolition and Eviction Activities during the Enhanced Community Quarantine and State of National Emergency § (2020). https://dilg.gov.ph/issuances/mc/Postponement-of-all-Administrative-Demolition-and-Eviction-Activities-during-the-Enhanced-Community-Quarantine-and-State-of-National-Emergency/3191.

[5] Office to Monitor and Combat Trafficking in Persons, 2020 Trafficking in Persons Report: Cambodia § (2020). https://www.state.gov/reports/2020-trafficking-in-persons-report/cambodia/.

[6] Sherwood, Angela, Megan Bradley, Lorenza Rossi, Rufa Guiam, and Bradley Mellicker. "Resolving Post-Disaster Displacement: Insights from the Philippines after Typhoon Haiyan (Yolanda)." Brookings, July 29, 2016. https://www.brookings.edu/research/resolving-post-disaster-displacement-insights-from-the-philippines-after-typhoon-haiyan-yolanda/.

situations.[7] For migrant workers, the pandemic has led to increased exploitation by employers who force them to work for minimal to no pay with the threat of dismissal in cases of non-compliance.[8]

        The mental health consequences of the pandemic are likewise grave. Many human trafficking survivors already suffer from mental health conditions, such as post-traumatic stress disorder (PTSD), depression, anxiety, and self-harm, among others.[9] In addition to facing economic uncertainty, some survivors have been forced to isolate with their abusers, leading to a rise in domestic violence.[10] With the lockdown triggering memories of past isolation and constrained freedom of movement, evidence suggests a further deterioration of pre-existing psychological conditions. A survey administered by OSCE Office for Democratic Institutions and Human Rights (ODIHR) and United Nations Women (UN Women) in May 2020 to 94 survivors of human trafficking across 40 countries, including the Philippines, found that 70% of female respondents and 60% of male respondents said their psychological state had somewhat or significantly worsened due to the uncertainty and isolation resulting from the pandemic. Some reported a re-triggering of depression, anxiety, and PTSD.[11]

        Simultaneously, significant concerns have been raised regarding the response of the Filipino government to the Covid-19 crisis, especially for vulnerable populations. In April 2020, the Philippines' unemployment rate rose to 17.7%, leaving 7.3 million Filipinos jobless.[12] In response, the Filipino Government passed the Social Amelioration Program (SAP) in April 2020, an emergency subsidy program for more than 20 million low-income Filipino families and those in the most vulnerable sectors. The program, implemented by the Department of Social Welfare and Development (DSWD), distributed a subsidy of between Php 5,000–8,000 ($104.12 - $166.59 USD) per month for two months to qualified households toward basic food, medicine, and toiletries. With a loan from the World Bank, DSWD expanded existing cash transfer programs, like the Pantawid Pamilyang Pilipino Program, to distribute emergency cash to

[7] "Updated Estimates of the Impact of COVID-19 on Global Poverty," World Bank Blogs. Accessed October 29, 2020. https://blogs.worldbank.org/opendata/updated-estimates-impact-covid-19-global-poverty.

[8] Jimenez, Alethia and Tatiana Kotlyarenko. ODIHR and UN Women. Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic. 2020.

[9] Rani, A., & Manglam, M.K. Depression, Anxiety, Stress and Suicidal Ideas in Adolescent Victims of Human Trafficking and Sexual Abuse in a Sheltered Home at Ranchi, India. *Indian Journal of Health and Wellbeing, no. 7 (2016):* 687-690; Oram, Siân, Melanie Abas, Debra Bick, Adrian Boyle, Rebecca French, Sharon Jakobowitz, Mizanur Khondoker, et al. "Human Trafficking and Health: A Survey of Male and Female Survivors in England." American Journal of Public Health 106, no. 6 (2016): 1073–78. https://doi.org/10.2105/ajph.2016.303095.

[10] "Supporting the Health and Economic Needs of Domestic Violence/Sexual Assault and Trafficking Survivors during the COVID-19 Public Health Emergency." Futures Without Violence, September 8, 2020. https://www.futureswithoutviolence.org/healtheconomicneedssurvivors.

[11] Jimenez, Alethia and Tatiana Kotlyarenko.

[12] "Highlights of the April 2020 Labor Force Survey," June 5, 2020. The Philippines Statistics Authority. https://psa.gov.ph/content/employment-situation-april-2020.

beneficiaries of the program—those considered the poorest of the poor.[13] However, many vulnerable and low-income populations have reported significant barriers to accessing funds, as they do not have the documentation needed for registration. In fact, five million households are believed to have not received aid during the initial phase of the SAP program. Some families believe they were selectively excluded by local government officials due to being non-registered voters.[14]

Further, the pandemic has considerably decreased the capacity of civil society actors to support survivors of human trafficking.[15] A survey conducted by UN Women and ODIHR found that anti-trafficking response organizations were concerned about their ability to survive the crisis. With the pandemic diverting attention and money away from anti-trafficking responses toward Covid-19 response, organizations feared they would be forced to close their emergency shelters for survivors, leading to risk of homelessness and further exploitation of survivors.[16] Moreover, social distancing regulations have compelled many shelters, including those in the Philippines, to turn survivors away despite having sufficient space available.[17] With healthcare workers overburdened with Covid-19 cases, services such as counseling have been deprioritized, precluding survivors from accessing urgent mental health support. Given law enforcement preoccupation with Covid-19 priorities, few have been able to address the rise in intimate partner violence (IPV) cases, raising concerns about survivors experiencing greater violence given the connection between human trafficking and IPV.[18]

While recent months have shown growing research and interest in better understanding the impact of Covid-19 on survivors of human trafficking, there is a paucity of data that speaks to this subject in the Filipino context. Moreover, most existing literature has largely neglected to capture the experiences of survivors who were previously trafficked and have since escaped. This manuscript addresses the cross-cutting impacts of the Covid-19 pandemic upon survivors of human trafficking in the Philippines. We implemented a rapid assessment within a non-profit organization in Cebu, Philippines that serves survivors of human trafficking. First, we present the

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[13] "World Bank Approves $600-Million Loan to Help Modernize Social Protection Delivery in PH." ABS-CBN News, September 30, 2020. https://news.abs-cbn.com/business/09/30/20/world-bank-approves-600-million-loan-to-help-modernize-social-protection-delivery-in-ph. h.

[14] DSWD Resolving Issues in Distribution of Subsidies (2020). https://www.pna.gov.ph/articles/1099695.

[15] UN Women,"Brief: COVID-19 and Essential Services Provision for Survivors of Violence against Women and Girls | Digital Library: Publications," Accessed October 25, 2020, https://www.unwomen.org/digital-library/publications/2020/04/brief-covid-19-and-essential-services-provision-for-survivors-of-violence-against-women-and-girls.

[16] "As the Global Economy Melts Down, Human Trafficking Is Booming."

[17] Bain, Christina, and Louise Shelley. "The Evolution of Human Trafficking During the COVID-19 Pandemic," Council on Foreign Relations, August 13, 2020. https://www.cfr.org/blog/evolution-human-trafficking-during-covid-19-pandemic.

[18] "Supporting the Health and Economic Needs of Domestic Violence/Sexual Assault and Trafficking Survivors during the COVID-19 Public Health Emergency."

rapid assessment methods, followed by key findings and implications for providing services for survivors impacted by the Covid-19 crisis.

Methods

In March and April 2020, we conducted a rapid assessment to understand the impact of the Covid-19 pandemic upon survivors of human trafficking in Cebu, Philippines. The rapid assessment was implemented by 10ThousandWindows, a non-governmental organization in Cebu, Philippines providing economic empowerment programming for survivors of violence and exploitation. The purpose of the assessment was to understand the impacts of the crisis upon the nonprofit organization's clients, thereby enabling the organization to adapt services to match emerging needs and priorities identified by survivors.

A rapid assessment is a systematic process of collecting and analyzing information regarding the type, depth, and scope of a problem.[19] Rapid assessments are generally conducted as a prelude to designing an intervention or as a means to refine or supplement existing data on a particular problem. The goal is to provide an assessment of a particular issue swiftly and therefore allow for preliminary decision-making regarding the design and implementation of a new intervention or to refine an existing strategy.[20] Since rapid assessments are conducted over a short period of time, they are often appropriate in escalating crises or conflicts. In emergency contexts wherein people's lives are at risk (e.g., armed conflicts, epidemics, famine, natural disasters, etc.), it is critical to first understand the needs of the at-risk population and design a prioritized intervention plan to meet those needs. Because emergency situations necessitate urgent yet informed response, the purpose of this first step should be to perform a broad review of the crisis at-hand and not to conduct an exhaustive evaluation.[21] As such, a rapid assessment is a valuable tool for providing quick and accurate data for planning an initial response strategy in a crisis situation such as the Covid-19 crisis.

Most recently, in response to the growing impact of the Covid-19 pandemic globally, rapid assessments have emerged as a popular tool for developing emergency assistance programs. Humanitarian organizations, governments, and other actors have designed and implemented rapid assessments to understand the pandemic's impact on specific populations. For example, in July 2020, the International Labor Organization (ILO) conducted a rapid assessment to highlight the immediate effects of Covid-19 on vulnerable workers and small-scale enterprises

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[19] A Rapid Needs Assessment Guide: For Education in Countries Affected By Crisis & Conflict (2014). https://www.usaid.gov/what-we-do/education/educating-children-and-youth-crisis-and-conflict-situations/Rapid-Needs-Assessment-Guide-Education.

[20] "Rapid Assessment - Save the Children DME." Save the Children. Accessed February 3, 2021. https://sites.google.com/site/savethechildrendme/Home/rapid-assessment.

[21] Arii, Maya. "Rapid Assessment in Disasters." Japan Medical Association 56, no. 1 (2013): 19–24.

in Iraq.[22] The ILO also conducted a similar assessment in late 2020 to understand the pandemic's impact on unemployment rates in South Korea.[23] Additionally, the International Organization for Migration (IOM) implemented a rapid assessment to understand how the pandemic had affected temporary and seasonal labor migrant workers in the Pacific island countries.[24] Within the anti-trafficking movement, the United Nations Office on Drugs and Crime (UNODC) developed a set of rapid assessment tools for countries to evaluate the impact of the pandemic on essential services for victims of human trafficking. Further, UN Women conducted a rapid assessment to understand the pandemic's impact on women's civil society organizations in Asia and the Pacific, many of whom are engaged in anti-trafficking response.[25] The current study's rapid assessment makes an important contribution to this literature by collecting data directly from survivors of human trafficking, gathering critical insights from survivors themselves.

Data collection and analysis

Eligibility criteria for the study included being a survivor of trafficking for sexual exploitation, online commercial sexual exploitation (OSEC), labor trafficking, and/or child labor and currently participating in services with the implementing nonprofit organization. Human trafficking was defined by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons.[26] Online sexual exploitation of children (OSEC) includes the "production, dissemination and possession of child sexual abuse material (CSAM: which are known in many jurisdictions as 'child pornography'); online grooming or active sexual solicitation of children; sexting; sexual extortion of children (also known as 'sextortion'); revenge pornography; exploitation of children through online prostitution, and live streaming of sexual abuse."[27] Child labor is defined as work that is harmful to children's mental and physical development and deprives children of their childhood, dignity, and potential. While child labor

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[22] Rapid Assessment of the Impact of COVID-19 on Vulnerable Populations and Small-Scale Enterprises in Iraq, July 16, 2020. http://www.ilo.org/beirut/publications/WCMS_751209/lang--en/index.htm.

[23] Republic of Korea: A Rapid Assessment of the Employment Impacts of COVID-19, November 5, 2020. http://www.ilo.org/emppolicy/pubs/WCMS_760063/lang--en/index.htm.

[24] Rapid Assessment of the Socioeconomic Impacts of COVID-19 on Labour Mobility in the Pacific Region, 2020. https://publications.iom.int/books/rapid-assessment-socioeconomic-impacts-covid-19-labour-mobility-pacific-region.

[25] "Rapid Assessment: Impact of COVID-19 on Women's Civil Society Organizations - World." ReliefWeb. Accessed February 3, 2021. https://reliefweb.int/report/world/rapid-assessment-impact-covid-19-women-s-civil-society-organizations.

[26] United Nations. 2000. United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children. Supplementing the United Nations Convention against Transnational Organized Crime: Article 3 (a-d), G.A. res. 55/25, annex II, 55 U.S. (GAOR Supp. (No. 49) at 60, U.N. Doc.A/45/49 (Vol. I)).

[27] Trends in Online Child Sexual Abuse Material. ECPAT International, 2018. https://www.ecpat.org/wp-content/uploads/2016/05/Emerging-Issues-an-Global-Threats-Children-online-2017-1.pdf.

can exist in many forms, it includes all forms of slavery, the trafficking and prostitution of children, and work which harms the safety, health or morals of children.[28]

A team of 10 staff from the implementing nonprofit organization collected study data. In March and April 2020, staff conducted a total of 233 phone or virtual interviews with survivors (n=233). A semi-structured guide was used to ask about the effects of Covid-19 on: survivors' physical and mental health, survivors' financial status, the wellbeing of family members, and sources of support available during the pandemic. All surveys were conducted in Cebuano, with notes recorded in a centralized data management system in Excel. The goal of data collection was to elucidate service adaptation and implementation needs due to the Covid-19 crisis.

Interview guides were intentionally broadly open-ended to maximize opportunities for survivors to outline their priorities on their own terms. Understanding the priorities of survivors, defined by survivors themselves, is essential to ensuring that any intervention matches the goals of those directly affected and to fulfilling a client-centered, rights-based approach to research and practice.[29] Interviews were conducted in a manner consistent with WHO's safety and ethical recommendations for interviewing trafficked persons. Questions were framed in a supportive, non-judgmental manner with survivors guiding the pace and direction of the conversation.[30] Pre-screened referral information was available for relevant services as needed, including medical, psychological, legal, shelter, and other services.[31] Survivor safety and privacy were prioritized in all engagement.[32] Since interviews were conducted virtually, interviewers screened with participants whether it was safe for them to speak and the interview halted if participants' privacy was interrupted or if survivors signaled a concern. Written information regarding referrals was only provided to survivors after a discussion regarding the privacy of said information and control over devices upon which referral information was held. Information was immediately deleted following transfer, if needed. All interviews were closed in a positive manner, affirming the strengths of survivors.[33]

Consistent with the overall objective of achieving expedient, immediately actionable findings to inform emergency response, a simplified form of thematic analysis was conducted.

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[28] International Labour Organization (ILO). *Worst Forms of Child Labor*, 1999, https://www.refworld.org/docid/3ddb6e0c4.html.

[29] Cordisco Tsai, Laura, Vanntheary Lim, Elizabeth Hentschel, and Channtha Nhanh. Strengthening services for survivors of human trafficking: Recommendations from survivors in Cambodia. Journal of Human Trafficking. 2021. Advance online publication.

[30] Zimmerman, Cathy and Charlotte Watts. *WHO Ethical and Safety Recommendations for Interviewing Trafficked Women*. 2003. World Health Organization, https://www.who.int/mip/2003/other_documents/en/Ethical_Safety-GWH.pdf.

[31] Cordisco Tsai, Laura, Conducting research with survivors of sex trafficking: Lessons from a financial diaries study in the Philippines. *B*ritish Journal of Social Work, 48(1), 2018: 158-175.

[32] Kelly, Liz and Maddy Coy. Ethics as process, ethics in practice: Researching the sex industry and trafficking. In *Ethical concerns in research on human trafficking* (pp. 33-50). 2018. Springer, Cham.

[33] Zimmerman, C. & Watts, C. (2003).

Qualitative analytic approaches often take a considerable amount of time, delaying the generation of findings relevant to an urgent concern. Adapted analytic approaches can produce time savings while nonetheless generating valid findings appropriate when timely reporting is needed.[34] First, we specified key research foci reflecting the core aspects in which rapid feedback was needed.[35] We familiarized ourselves with study data through active, repeated review of study data and discussion among team members.[36] We developed a preliminary analysis codebook with inclusion and exclusion criteria. A member of the research team coded for the presence or absence of themes in a matrix in Microsoft Excel.[37] The study team calculated simple frequencies and percentages and performed Chi-square tests to ascertain differential patterns per gender and exploitation type.

Findings

Socio-demographic characteristics of study participants are presented in Table 2. Men comprised over 20% of survivors in the study. Over 75% of the sample had experienced trafficking for sexual exploitation only, including over 10% who had experienced online sexual exploitation of children (OSEC) and over 65% who had experienced other forms of trafficking for sexual exploitation. A total of 22.3% of participants had experienced labor exploitation, including over 20% who were survivors of labor trafficking and approximately 2% who had experienced child labor. Three study participants had experienced both trafficking for sexual exploitation and child labor (1.3%). Over 70% of the sample were between the ages of 21 and 30 at the time of the survey. The majority of survivors (65.2%) had completed secondary school/high school, in part due to educational support provided by the implementing nonprofit organization (see Table 1).

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[34] Taylor, Beck, Catherine Henshall, Sara Kenyon, Ian Litchfield, and Sheila Greenfield. "Can Rapid Approaches to Qualitative Analysis Deliver Timely, Valid Findings to Clinical Leaders? A Mixed Methods Study Comparing Rapid and Thematic Analysis." BMJ Open 8, no. 10 (2018). https://doi.org/10.1136/bmjopen-2017-019993.

[35] Neal, Jennifer Watling, Zachary P. Neal, Erika VanDyke, and Mariah Kornbluh. "Expediting the Analysis of Qualitative Data in Evaluation." American Journal of Evaluation 36, no. 1 (2014): 118–32. https://doi.org/10.1177/1098214014536601.

[36] Braun, Virginia, and Victoria Clarke. "Using Thematic Analysis in Psychology." Qualitative Research in Psychology 3, no. 2 (2006): 77–101. https://doi.org/10.1191/1478088706qp063oa.

[37] Neal, J. W., Neal, Z. P., VanDyke, E., & Kornbluh, M. (2015).

Table 1: Characteristics of study participants (n=233)

	Female n=185 n(%)	Male n=48 n(%)	Total n=233 n(%)
Form of Exploitation			
Sexual exploitation			
Online sexual exploitation of children (OSEC)	20(10.8)	5(10.4)	25(10.7)
Trafficking for sexual exploitation (not OSEC)	141(76.2)	12(25.0)	153(65.7)
Labor exploitation			
Labor trafficking	21(11.4)	26(54.2)	47(20.2)
Child labor	3(1.6)	2(4.2)	5(2.1)
Sexual and labor exploitation			
Trafficking for sexual exploitation and child labor	-	3(6.3)	3(1.3)
Age			
17-20	30(16.2)	9(18.8)	39(16.7)
21-25	60(32.4)	23(47.9)	83(35.6)
26-30	70(37.8)	13(27.1)	83(35.6)
31-35	19(10.3)	3(6.3)	22(9.4)
36+	6(3.2)	-	6(2.6)
Highest Level of Education Completed			
Primary/elementary	60(32.4)	10(20.8)	70(30.0)
Secondary/high school	119(64.3)	33(68.8)	152(65.2)
College/university	6(3.2)	5(10.4)	11(4.7)

Results of the rapid assessment revealed four primary concerns and priorities from the perspectives of survivors: loss of employment, food insecurity, mental health concerns, and an escalation in crisis incidents. Descriptive survey results are reflected in Table 2, stratified per gender and type of exploitation experienced. The primary impact of Covid-19 reported by survivors was a loss of employment and/or income source for themselves and/or their household members. As shown in Table 2, over 70% of survivors reported loss of employment and/or income. Disruptions in income and employment led to experiences of food insecurity among survivors. A total of 58.4% of survivors reported food insecurity, reflecting inability to meet basic needs in their household. Qualitatively, survivors reported being considerably more concerned about feeding themselves and their families than about contracting Covid-19. Additionally, 38% of survivors reported mental health concerns, particularly anxiety pertaining to their capacity to meet their basic needs.

Table 2: Frequencies and percentages of Covid-19 impacts upon survivors per gender and type of exploitation (n=233)

	Female	Male	Sexual exploitation	Labor exploitation	Sexual and labor exploitation	Total
	n=185	n=48	n=178	n=52	n=3	n=233
	n(%)	n(%)	n(%)	n(%)	n(%)	n(%)
Employment/ income concerns	129(69.7)	35(72.9)	131(73.6)	32(61.5)	1(33.3)	164(70.4)
Food insecurity concerns	109(58.9)	27(56.3)	111(62.4)	24(46.2)	1(33.3)	136(58.4)
Mental health concerns	82(44.3)	7(14.6)	80(44.9)	9(17.3)	-	89(38.0)

During discussion of survivors' mental health concerns, implementing staff observed heightened disclosure of crisis incidents. Survivors revealed an escalation in crises, specifically a sharp increase in suicidality and reports of violence within the home. Suicidal incidents during Covid-19 were triggered by loss of income, fear regarding inability to provide for family members, familial conflict, uncertainty about future plans, and experiences of family violence. Covid-related financial stressors coupled with isolation inside the home with violent partners and family members led to an increase in reports of violence during quarantine. Moreover, survivors

reported heightened difficulties escaping family violence due to financial dependence upon perpetrators, further complicated by widespread Covid-related economic insecurity and disruptions in community service provision, particularly the closure of shelter programs to new clients.

Results of chi-square tests for independence demonstrated that female survivors were significantly more likely to report mental health concerns than male survivors ($\chi^2 = 14.28$, $p < 0.001$). No significant differences were found between male and female survivors in relation to employment or food insecurity concerns (see Table 3).

Table 3: Percentages of respondents reporting Covid-19 impacts and chi-square results per gender (n=233)

	Female (%)	Male (%)	Chi-square test	*p* value
Employment/income concerns	69.73	72.92	0.19	0.67
Food insecurity concerns	58.92	56.25	0.11	0.74
Mental health concerns	44.32	14.58	14.28	<0.001

Survivors of trafficking for sexual exploitation were significantly more likely to report mental health concerns than those who experienced labor exploitation ($\chi^2 = 12.96$, $p < 0.001$). Survivors of sexual exploitation also reported significantly more concerns related to food insecurity than survivors of labor exploitation ($\chi^2 = 4.36$, $p = 0.04$), as reflected in Table 4.

Table 4: Percentages of respondents reporting Covid-19 impacts and chi-square results per exploitation type (n=230)

	Sexual exploitation (%)	Labor exploitation (%)	Chi-square test	*p* value
Employment/income concerns	73.60	61.54	2.83	0.09
Food insecurity concerns	62.36	46.15	4.36	0.04
Mental health concerns	44.94	17.31	12.96	<0.001

Pertinent to the concerns survivors articulated in regard to disrupted income and food insecurity, 69 out of 233 survivors (29.6%) reported receiving government aid during the pandemic. Government assistance consisted of food packs including rice, canned goods, and noodles, distributed once in the entire duration of community lockdown. Survivors overwhelmingly reported that these food packs were consumed within a short time period. No survivors reported receiving the aforementioned DSWD Social Amelioration Program funds, and a total of 2 participants (0.86%) reported receiving financial assistance from the Department of Labor and Employment (DOLE). Only 18 survivors (7.7%) indicated that they received sufficient government assistance. Many human trafficking survivors are informal dwellers within their communities and/or unregistered voters. Survivors attributed the lack of government assistance received to their lacking registration/voting status in their communities, leading barangay (local government) officials not to include survivors in government relief distribution even though they were technically eligible.

Discussion

The Covid-19 pandemic has had a devastating impact upon survivors of human trafficking. Findings from this rapid assessment in the Philippines reveal that survivors' primary priority was not their physical health during the Covid-19 crisis; rather, survivors articulated that economic and mental health issues were of prominent importance from their perspectives. The current study reinforces the need to broaden definitions of survivor safety to holistic conceptions of safety that reinforce the wellbeing of survivors as whole persons, centering issues vocalized by survivors themselves. Listening to survivors' perspectives is vital to ensuring that interventions match the priorities and needs of those directly affected.[38]

While this rapid assessment identified economic and mental health issues as the highest priorities of survivors themselves, different patterns were observed for sub-groups of survivors, reinforcing the importance of service specialization for sub-populations. Survivors of trafficking for sexual exploitation reported significantly more economic difficulties due to Covid-19 than survivors of labor trafficking. The disproportionate economic impact of the crisis upon those trafficked for sexual exploitation could be due to lower levels of education among this population in comparison to survivors of labor trafficking, [39] leading to more unstable employment and heightened food insecurity when any income source is disrupted. Food

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[38] Cordisco Tsai, Laura, Vanntheary Lim, Channtha Nhanh, and Sophie Namy. "'They Did Not Pay Attention or Want to Listen When We Spoke': Women's Experiences in a Trafficking-Specific Shelter in Cambodia." Affilia, Journal of Women and Social Work. https://doi.org/10.1177/0886109920984839

[39] Schilling Debra and Johanna Greeson, Sarah Walson, Daniel Treglia. Human Trafficking Prevalence and Child Welfare Risk Factors Among Homeless Youth: A Multi-City Study, 2018. Accessed March 20, 2021. https://rhyclearinghouse.acf.hhs.gov/library/2018/human-trafficking-prevalence-and-child-welfare-risk-factors-among-homeless-youth-multi

insecurity has also been linked to IPV.[40] Survivors of trafficking for sexual exploitation may experience economic abuse from partners[41] who prevent them from seeking outside employment as a form of control in the abusive relationship. Any disruption in their partners' income could lead to heightened food insecurity in the household due to fewer income sources in the household.

Male survivors of human trafficking were less likely to report pandemic-related mental health concerns. There is strong cultural stigma associated with discussion of mental health in the Philippines,[42] and men may be more reluctant to discuss mental health issues due concerns about undermining their masculinity. Globally, services addressing the psychosocial and mental health needs of male survivors have been under-prioritized in the anti-trafficking movement. This gender bias in service provision reflects harmful patriarchal norms in the anti-trafficking sector in which women and girls are characterized as defenseless victims while men and boys are portrayed as active agents with less need for help or support.[43] Future research should address whether male survivors actually experienced fewer mental health concerns, or were simply less comfortable discussing mental health issues with service providers.

Findings from this study reinforce concerns regarding pandemic-related disruptions in essential services for survivors,[44] particularly emergency/drop-in and long-term shelters and mental health services. Prior to the Covid-19 pandemic, mental health services were already limited in the Filipino context due to lack of government funding and stigma associated with mental illness.[45] Disruptions in access to psychological and psychiatric services during the pandemic further deepens the vulnerabilities of human trafficking survivors whose pre-existing mental health conditions were exacerbated by the Covid-19 crisis. When coupled with survivors being widely excluded from government-funded Covid-19 relief in the Philippines, the systematic lack of support for survivors during this crisis further marginalizes an already vulnerable population. These service disruptions occur simultaneous to projected funding losses

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[40] Ricks, Joni L, Susan D Cochran, Onyebuchi A Arah, John K Williams, and Teresa E Seeman. "Food Insecurity and Intimate Partner Violence against Women: Results from the California Women's Health Survey." Public Health Nutrition 19, no. 5 (2015): 914–23. https://doi.org/10.1017/s1368980015001986.

[41] Koegler, Erica, Whitney Howland, Patric Gibbons, Michelle Teti, and Hanni Stoklosa. "'When Her Visa Expired, the Family Refused to Renew It,' Intersections of Human Trafficking and Domestic Violence: Qualitative Document Analysis of Case Examples from a Major Midwest City." *Journal of Interpersonal Violence*, 2020, 088626052095797. https://doi.org/10.1177/0886260520957978.

[42] Martinez, Andrea B., Melissa Co, Jennifer Lau, and June S. Brown. "Filipino Help-Seeking for Mental Health Problems and Associated Barriers and Facilitators: a Systematic Review." Social Psychiatry and Psychiatric Epidemiology 55, no. 11 (2020): 1397–1413. https://doi.org/10.1007/s00127-020-01937-2.

[43] Hacker, Daphna, Yaara Levine-Fraiman, and Idan Halili. "Ungendering and Regendering Shelters for Survivors of Human Trafficking." Social Inclusion 3, no. 1 (2015): 35–51. https://doi.org/10.17645/si.v3i1.173.

[44] UN Women.

[45] Martinez, et al.

for anti-trafficking organizations due to the pandemic.[46] Findings highlight the critical importance of continued funding for trafficking-specific services so that survivors can maintain access to much-needed support.

Further, the findings from this rapid assessment suggest several critical priorities for intervention with survivors impacted by Covid-19: emergency food assistance, enhanced employment services, access to psychosocial support and mental health services, and crisis intervention support. In light of these assessment results, the nonprofit organization implementing this rapid assessment structured its Covid-19 relief for survivors around these four priority areas, putting rapid assessment findings immediately into practice. Findings underscore the critical need to provide emergency food assistance to survivors of human trafficking in light of food insecurity being identified as the highest priority by survivors. Due to these findings, the nonprofit launched an emergency cash transfer program for survivors experiencing food insecurity. Survivors' financial needs were continually assessed to determine ongoing eligibility for cash transfers while simultaneously pursuing additional sources of financial support from other governmental and non-governmental institutions.

Given widespread disruptions in employment among survivors and their family members, employment assistance is another critical intervention priority for survivors during the Covid-19 crisis. Outside the Covid-19 pandemic, prior research has demonstrated that the number one need identified by survivors of human trafficking in Southeast Asia is safe employment.[47] When financial vulnerability goes unaddressed, this heightens survivors' risk for re-trafficking or experiencing other forms of abuse and exploitation.[48] In response to the widespread displacement from employment due to Covid-19, the implementing nonprofit significantly scaled its work immersion program (WIP), which provides survivors who are in crisis or in school with a part-time, paid work immersion experience in a safe environment. Along with substantially increasing enrollment, WIP was adapted to include remote work-from-home options for survivors in quarantine and enrollment was prioritized for survivors with the greatest financial needs and those in crisis states. Such emergency employment services provide immediate relief while supporting survivors in working toward longer-term employment goals, filling an essential gap in the anti-trafficking space.[49]

In response to emerging mental health concerns during the Covid-19 pandemic, many practitioners have shifted mental health support to telehealth or other online platforms, providing

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[46] Bain, Christina, and Louise Shelley.

[47] Lisborg, Anders. *Towards demand-driven, empowering assistance for trafficked persons: Making the case for freedom of choice over protection at the expense of empowerment.* Bangkok: Issara Institute.

[48] Laura Cordisco Tsai. "Family financial roles assumed by sex trafficking survivors upon community re-entry: Findings from a financial diaries study in the Philippines," Journal of Human Behavior in the Social Environment, 2017. 27:4, 334-345, https://doi.org/10.1080/10911359.2017.1288193.

[49] Bain, Christina, and Louise Shelley.

virtual counseling, case management, and psychosocial support for survivors.[50] To address mental health concerns and an escalation in crisis incidents, each survivor participating in the rapid assessment was assigned a counselor to conduct virtual or phone sessions with them at least once every two weeks throughout quarantine. In addition to continually acquiring new information regarding survivors' ongoing concerns and priorities, counselors provided psychosocial support, facilitated referrals to outside services, and ensured that survivors were connected to the appropriate programs internally to meet their emerging needs.

When crises such as suicidality or IPV emerged, counselors provided crisis intervention services to survivors. Crisis intervention refers to immediate, short-term counseling and psychosocial support to people experiencing significant emotional, mental, and physical distress. Crisis intervention focuses on establishing safety, encouraging exploration of emotions, identifying alternative and new coping strategies, and increasing access to additional supports, ultimately aiming to stabilize the crisis and improve functioning.[51] Despite the significant mental health impacts of human trafficking[52] and poly-victimization experienced by many survivors,[53] very minimal research has been conducted regarding crisis intervention services for survivors, revealing a significant gap in the current evidence base. Findings from this study reinforce the critical need to ensure the quality and availability of crisis intervention systems within anti-trafficking organizations during the Covid-19 pandemic and beyond.

It is vital that we listen to the lived experiences of survivors about how they have been impacted and how their rights can be protected during the Covid-19 pandemic. Survivors must be engaged as active partners in identifying the best approaches.[54] Through our rapid assessment and the process of providing Covid-19 relief services, we have systematically engaged with survivors affected by Covid-19 – first listening and understanding their concerns, priorities, and suggestions. It is recommended that anti-trafficking stakeholders prioritize the safety of the survivor as a whole person, including attention to their basic needs, physical safety, financial needs, and mental and emotional wellbeing. Desperation arising from seemingly impossible circumstances deepens vulnerability to human trafficking, re-trafficking, and other forms of

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[50] United Nations: Office on Drugs and Crime. Covid-19 Counselling for Trafficking Victims Goes Online in Colombia. Accessed March 2, 2021, http://www.unodc.org/unodc/en/frontpage/2020/May/covid-19_-counselling-for-trafficking-victims-goes-online-in-colombia.html.

[51] Roberts, Albert R., and Allen J. Ottens. "The Seven-Stage Crisis Intervention Model: A Road Map to Goal Attainment, Problem Solving, and Crisis Resolution." Brief Treatment and Crisis Intervention 5, no. 4 (2005): 329–39. https://doi.org/10.1093/brief-treatment/mhi030.

[52] Rani, A., & Manglam, M.K., Oram, Sian, et al.

[53] Cordisco Tsai, Laura, Vanntheary Lim, and Channtha Nhanh. "'I feel like we are people who have never known each other before' : The experiences of survivors of human trafficking and sexual exploitation transitioning from shelters to life in the community." *Forum: Qualitative Social Research*, *21*(1), no 16. https://doi/10.17169/fqs-21.1.3259

[54] Cordisco Tsai, Laura, Vanntheary Lim, Elizabeth Hentschel, and Channtha Nhanh. "Strengthening Services for Survivors of Human Trafficking: Recommendations from Survivors in Cambodia." Journal of Human Trafficking, 2021, 1–17. https://doi.org/10.1080/23322705.2021.1899526.

exploitation. It is essential that service providers expand services for survivors affected by the Covid-19 pandemic to prevent further exploitation. Survivors' voices and priorities must be at the center of all such efforts.

The Impact of COVID-19 on Survivors of Human Trafficking in Kenya: A Participatory Approach

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Researchers and practitioners are increasingly calling for the involvement of survivors of human trafficking at all levels of, and in all areas of, anti-trafficking research, policy, work and legislation.[1] Although it is now quite common for survivors to be called on to share their stories, if not done sensitively, this risks re-traumatising survivors, impeding or undoing progress in their recovery and side-lining them away from decision-making and the opportunity to exercise

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[1] See: "Vision & Mission," *Survivor Alliance*, https://www.survivoralliance.org/vision-mission, Accessed 19 February 2021; Sue Lockyer, "Beyond Inclusion: Survivor-Leader Voice in Anti-Human Trafficking Organisations," *Journal of Human Trafficking* (2020): 1-22.; Karen Countryman-Roswurm, "Rise, Unite, Support: Doing 'No Harm' in the Anti-Trafficking Movement," *Slavery Today Journal: A Multidisciplinary Journal of Human Trafficking Solutions* 2, no. 1 (January 2015): 26-47.

agency in the anti-trafficking sphere.[2] Survivors may be used (a term we employ deliberately) by a third party to engage emotionally with policymakers, funders and members of the general public, and their narratives are often shaped into expected contours – especially of innocence and victimhood – and sometimes even re-purposed without their consent. To counter this, NGOs and practitioners are increasingly engaging with participatory research methods in order to platform survivors.[3] As an emerging field of research and practice, there are nonetheless power dynamics within these collaborations, as well as expectations from survivor narratives which impact how survivors are engaged with and the roles they are allowed to perform.

More equitable, collaborative and inclusive methodologies have already been developed in the Arts, notably ethical storytelling and participatory photography.[4] Our project makes a meaningful intervention in anti-trafficking work by combining these two methodologies: through a series of workshops, 16 survivors were invited to produce complementary stories and photographs that resonated with their lived experience.[5] To our knowledge, this is the first time both methodologies have been employed together in anti-trafficking work. Providing participants with a platform through which to produce both images and stories empowered them with multiple creative means to tell their own stories.

We sought to employ these methodologies to help understand the experience of survivors of human trafficking in Kenya, engage them more meaningfully in anti-trafficking work and, ultimately, provide an evidence base for questions around whether ethically-sourced narratives which may or may not fit the expected arc or trope could engage the general public. This project can justifiably claim to be truly trauma-informed and survivor-led, as the project was suspended until survivors independently requested it resume. Our project started in October 2019, running until December 2020. Concerns about ethical practice were paramount, and exacerbated by the pressures of the COVID-19 pandemic. Delays to our project caused by COVID-19 mean we have not yet been able to form conclusions regarding the final aim of our research, but we have been able to address the first two.

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[2] See: Karen Countryman-Roawurm and Bailey Patton Brackin, "Awareness Without Re-Exploitation: Empowering Approaches to Sharing the Message About Human Trafficking," *Journal of Human Trafficking* 2, no. 3 (August 2017): 327-334.

[3] One example is the Belgian shelter PAG-ASA, who have developed their own Photo Voice project: https://pag-asa.be. Further examples are detailed in Emily Brady, *Photographing Modern Slavery: Recommendations for Responsible Practice* (Rights Lab, 2019).

[4] These concepts are explored further in the Methodology section of this paper. However, to introduce them briefly, participatory photography dates from Paulo Freire and his team using cameras in their literacy project in a *barrio* in Lima, Peru in 1973. Ethical storytelling encapsulates a more contemporary focus on "a new standard of storytelling" that adopts a do-no-harm approach to grant subjects agency in attempts to represent their experiences. See: https://photovoice.org and http://ethicalstorytelling.com.

[5] Of these 16 participants, 15 chose to share and disseminate their stories and images from this project. As such, the analytical focus of all subsequent work will focus only on the work of the 15 participants who have consented to sharing it. All participants were compensated for their participation, regardless of whether or not they chose to share their final outputs.

We found that using these approaches did empower survivors. One interesting finding is how these Arts-based methodologies, and engaging in research, gave survivors a way of escaping the pandemic and its effects on their lives, providing them with meaningful activity and a community. Our project shows that it is possible to conduct participatory, ethical work remotely, even during a pandemic, though this entails a considerable commitment of time from both participants and researchers.

In this article, we first describe the context in which this research was conducted, define the methodological framework used, and outline the methods used within the project. We then explore the impact that COVID-19 had on both the project participants (through consideration of their stories, images and project evaluation feedback forms) and the project itself – as both the participants and practitioners adapted the intended project methodologies and methods. Lastly we share some reflections on what we learned about the use of these methodologies, and recommendations for future work, particularly working remotely in an equitable, ethical, and participatory way with survivors of human trafficking.

Context

Our original team comprised researchers at the University of Nottingham's Rights Lab (RL), survivors of human trafficking, service providers working with Awareness Against Human Trafficking (HAART) in Kenya, experts in ethical storytelling and participatory photography, and staff at Worldreader (WR) and Worldreader Kenya (WRK) (who agreed to publish any stories participants created on their free, digital e-reader platform[6]). The project was co-designed by Kenyan and UK researchers, a relationship initially facilitated by Minh Dang of the RL and Survivor Alliance (SA). Survivors in Kenya were the focus, not because human trafficking is a problem unique to Kenya (or absent from the UK), but because Kenyan members of the team were already working with survivors who could be ethically approached to participate, and are experts in the relevant methodologies.

Human Trafficking in Kenya

According to the United States Department of State Trafficking in Persons Report (TIP Report 2020), Kenya is classed as being in 'Tier 2'.[7] Kenya was praised for "significantly increasing the number of victims identified," but concerns were raised over a "decrease in investigations, prosecutions, and convictions," and the prosecution of cases as immigration or labour law violations rather than crimes under anti-trafficking law; the fact that victims were still

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[6] This element of the research is still on-going, due to delays caused by COVID-19.

[7] Tier 2 countries are those whose governments do not fully comply with all of TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards. Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, *2020 Trafficking in Persons Report: Kenya,* 16 June 2020, https://www.state.gov/reports/2020-trafficking-in-persons-report/kenya/, Accessed 19 February 2021.

often treated as criminals; and a lack of "availability of protective services for adult and foreign victims."[8] Some of these issues were raised in earlier reports, which particularly emphasised the need for the Kenyan government to improve support and protection for adult victims, potential victims and survivors.

The Global Slavery Index (GSI) gives the Kenyan government a 5/10 response rating.[9] In particular, it highlights a lack of national campaigns to provide information to the public about how to report and identify victims; concerns over the accessibility of reporting mechanisms; gaps in the provision of support services for all victims of human trafficking, particularly in terms of providing long-term support; a lack of training for all staff providing direct victim assistance, and a more general lack of guidance for relevant officials and first-responders, or evaluation of responses; that foreign victims are detained or deported for immigration violations; and some questions over the proportionality of criminal penalties. More positively, the report also highlights that Kenya has a national reporting mechanism and referral system, which does guide survivors to relevant support; that training is given to likely first-responders, such as the judiciary and prosecutors; that support (including free legal support) is available for victims, which the government helps fund; that NGOs and government are both involved in a national coordination body; and that there is a National Action Plan. Within this context, HAART works to support those who have survived human trafficking through a programme designed to advocate for prevention, protection, prosecution and partnerships.

COVID-19 in Kenya

The novel coronavirus COVID-19 was confirmed to have reached Kenya on 13 March 2020.[10] The first death was recorded on 26 March, when a man who had recently returned to Kenya from Eswatini via Johannesburg passed away. In response, the government brought in a range of restrictions and regulations. These included recommending hand-washing; social distancing; suspension of public gatherings; travel restrictions; closure of bars, nightclubs and shopping malls; restricting restaurants to take-away only; closure of schools and places of worship; a ban on weddings and limiting attendance at funerals; directing public officials and businesspeople to work at home unless employed in essential services; imposing a dusk-till-dawn

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[8] *Ibid*.

[9] Global Slavery Index, Walk Free Foundation, *Country Data 2019: Kenya,* https://www.globalslaveryindex.org/2019/data/country-data/kenya/, Accessed 3 February 2021.

[10] Ministry of Health, "First Case of Coronavirus Disease Confirmed in Kenya," *Ministry of Health,* 13 March 2020, https://www.health.go.ke/first-case-of-coronavirus-disease-confirmed-in-kenya/ Accessed 19 February 2021.

curfew; and dislodging people from informal settlements.[11] Restrictions began to ease, slowly, from July 2020 as the peak in cases dramatically dropped (before rising again in November 2020).

According to the Kenyan Ministry of Health, by 23 February 2021, Kenya had a total of 104,500 confirmed cases of COVID-19, with 85,665 confirmed recoveries and 1,837 confirmed deaths[12]. According to the World Health Organisation (WHO), Kenya had 103,993 cumulative cases as of 21 February 2021 (a rate of 193.4 per 100 thousand population) and 1,817 cumulative deaths (a rate of 3.3 per 100 thousand population).[13]

Country (Alphabetical Order)	Cumulative cases	Cumulative cases per 100 thousand population	Cumulative deaths	Cumulative deaths per 100 thousand population
Ethiopia	151,857	132.1	2,271	2.0
Kenya	103,993	193.4	1,817	3.3
Somalia	5,589	37.1	194	1.2
South Sudan	6,417	57.3	85	0.8
Tanzania	509	0.9	21	0.0
Uganda	40,199	87.9	333	0.7

Fig 1. COVID-19 confirmed cases and deaths (Source: WHO data).

Table 1 shows Kenya's COVID-19 statistics (according to the WHO) in the context of those countries which border it. Of these countries, Kenya has fared the worst in terms of cumulative deaths per 100 thousand and cumulative cases per 100 thousand. However, Ethiopia has seen a higher count of both cumulative cases and cumulative deaths. The WHO calculates

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[11] VOA News, "Kenya Taking Drastic Measures to Curb Coronavirus Spread," *VOA News,* 28 March 2020, https://www.voanews.com/science-health/coronavirus-outbreak/kenya-taking-drastic-measures-curb-coronavirus-spread, Accessed 20 April 2021; Human Rights Watch, "Kenya: Quarantine Conditions Undermine Rights," *Human Rights Watch,* 28 May 2020, https://www.hrw.org/news/2020/05/28/kenya-quarantine-conditions-undermine-rights, Accessed 20 April 2021.

[12] Ministry of Health, "COVID-19 Update," *Ministry of Health,* https://www.health.go.ke/, Accessed 25 February 2021.

[13] At the time of submission, the WHO had not updated this data to reflect the Kenyan Ministry of Health's statistics. However, this data is still useful for providing a comparative framework for other countries. "COVID-19 Weekly Epidemiological Update 28", *World Health Organisation,* 21 February 2021, https://www.who.int/publications/m/item/weekly-epidemiological-update---23-february-2021, Accessed 1 March 2020.

there have been 2,789,965 total cases in Africa, with 71,204 deaths.[14] In the Africa region, only Kenya, South Africa, Nigeria, Ethiopia and Algeria report more than 100,000 total cases.[15] Kenya's director general of public health announced on 7 January 2021 that Kenya would start receiving 24 million doses of the Oxford-AstraZeneca vaccine in February.[16] In February 2021, the Kenyan Ministry of Health said that it would vaccinate 1.25 million people between February and July, entering a second phase of vaccinations from July 2021 to June 2022.[17]

The COVID-19 pandemic had a significant impact on the lives of the participants involved in this project. The project was suspended in March 2020, before resuming with an intent to focus on COVID-19 in May 2020. At this time, eight of the participants were interviewed regarding their current situation and the pressures that they faced in daily life. Their responses highlight the direct consequences of the pandemic on survivors of human trafficking in Kenya. Of the participants questioned, all of them stated that COVID-19 had damaged them economically or financially. Seven surveyed participants had lost their primary source of income due to the pandemic. There were also physical and mental health concerns – many of the survivors were concerned about their physical health, and most of them experienced poor mental health because of the pandemic. Several of them repeated feeling isolated, anxious and/or depressed. All the participants also acknowledged that their responsibilities had changed during the pandemic, with most of them stating that they had increased.

The research team, too, were affected as individuals by the pandemic, both in Kenya and the UK. As such, we entered into the Arts-based part of the project with an understanding of the intense pressures of the COVID-19 pandemic on the participants, and were prepared to be led by them in how best to support them during this project.

Methodological Framework

Our methodology is a survivor-led participatory research practice, which combines participatory photography with ethical storytelling. Although the two methodologies are inherently complementary, this project makes a significant intervention in the field of participatory research practice by consciously using both techniques. The participants were trained through two complementary series of workshops with two practitioners - one focussing on participatory photography and one focussing on ethical storytelling – with the aim of

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[14] World Health Organisation Africa, "Coronavirus (COVID-19)," *WHO Africa,* https://www.afro.who.int/health-topics/coronavirus-covid-19 Accessed 21 February 2021.

[15] *Ibid.*

[16] Reuters Staff, "Kenya expects 24 million COVID-19 vaccine doses to start arriving next month," *Reuters,* 7 January 2021, https://www.reuters.com/article/uk-health-coronavirus-kenya-idUSKBN29C1GS, Accessed 20 April 2021.

[17] APO Group, "Coronavirus – Kenya: COVID-19 update (12 February 2021)," *Africanews.,* https://www.africanews.com/2021/02/13/coronavirus-kenya-covid-19-update-12-february-2021//, Accessed 30 February 2021.

producing a narrative with images alongside it. Participatory photography combines taking photographs, subsequent discussion with practitioners and participants and distribution of imagery to empower participants, as "the photograph's narrative becomes a participatory site for wider storytelling, community discussion, and action."[18] Collaborative workshops, wherein participants learn the skills of the camera, take photographs, discuss their meaning and then share them with the wider public, are of fundamental importance to this approach. Of course, this approach is not without its potential limitations. For one, there are inherent power dynamics when institutional funding is involved, which may limit the participants' "right to fail."[19] In other words, a survivor may feel pressured to produce work that they are unhappy with in order to satisfy external requirements, such as funder expectations. Yet when practitioners are sensitive to these potential issues, participatory photography nevertheless poses a challenge to exploitative image cultures that continue to dominate depictions of human trafficking.[20]

Ethical storytelling naturally complements this, as it grants the survivors who choose to tell their stories ultimate agency over them. For this project, this took the form of text-based stories. Indeed, Singhal et al acknowledge the potential of participatory photography as a storytelling tool, noting that, "in essence, by placing cameras in the hands of people, a facilitator or researcher can gain insights into people's lived experiences, which were previously overlooked, rejected, or silenced."[21] Yet this methodology does not just benefit the researcher, it also empowers the participants. Whilst ethical storytelling is a newer concept, and hence more difficult to define, Paul Gready summarises this idea: "the 'responsibility to the story' is not a one-off event, but a process spanning the telling and the representation and the reception of the telling".[22] As such, ethical storytelling privileges a survivor voice that is actively participating throughout the entire process, evoking ideas of dynamic consent that may shift and change. Hence, we felt that bringing these methodologies together had the power to create a new mode of ethical, survivor-orientated representation. This is still our primary concern, though COVID-19 has revealed new challenges (technical and theoretical) for both.

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[18] A. Singhal, L.M. Harter, K. Chitnis, and D. Sharma, "Participatory Photography as Theory, Method and Praxis: Analyzing an Entertainment-Education Project in India," *Critical Arts* 21, no. 1 (2007): 212-227, 217.

[19] John Fleetwood interviewed by Jacklynne Hobbs, "Ethical riddles, linear agendas and assumed positions: A perspective on participatory photography projects from the Market Photo Workshop," in *Wide Angle: Photography as Public Practice,* ed. Terry Kurgan (Johannesburg: Fourthwall Books, 2015).

[20] Whilst a survey of problematic image culture as it pertains to human trafficking is beyond the scope of this paper, an overview of this issue and of the efforts of NGO's employing participatory methodologies to counter this can be seen: Emily Brady, *Photographing Modern Slavery: Recommendations for Responsible Practice* (Rights Lab, 2019).

[21] Singhal et al, "Participatory Photography as Theory, Method and Praxis," 217.

[22] Paul Gready, "Introduction: 'Responsibility to the Story,'" *Journal of Human Rights Practice* 2, no. 2 (July 2010): 177–190, 184.

Project Method

Our approach was survivor-informed, so our processes were always subject to change depending on the feedback of participants. Pre-pandemic, we had planned to hold in-person workshops, the exact content and structure of which would be participant-led. This planned flexibility, integral to our method, meant we were well-placed to conduct our research once we had negotiated the difficulties of moving the workshops online. After careful discussion around the ethics of online workshops and participant safety, we planned a 'remote', online-only approach. Yasmin Manji secured participant consent remotely via Google Meet and WhatsApp, following our pre-existing protocols for ensuring consent was free and fully informed. Sophie Otiende, Rehema Baya and Aisha Ali Haji conducted a series of remote workshops with 16 female survivors of human trafficking aged between 22 and 45 and living in either Nairobi or Mombasa from August 2020 to December 2020. These took place via smartphones, on Zoom, and were supported by WhatsApp groups. These were supplemented with individual, one-to-one meetings, which also took place across Zoom and WhatsApp according to the preference of the participant.

The 16 participants were divided into three smaller groups (two of five and one of six), according to geographic proximity to each other. This kept the communal spirit of participatory methodology, whilst ensuring that participants would not be overwhelmed or struggle to participate in an online space. These groups served as the primary forum for discussion amongst participants, which allowed them to reflect on and share their experiences adapting the "subsequent discussion" of participatory photography. It also provided a written record via WhatsApp messages for participants to reflect on their own changing attitudes to the project.

Participants were already known to, and working with, Manji and Otiende at HAART. Survivors volunteered, with the final group of participants being selected using a trauma-informed approach. We as practitioners decided that it was important to select survivors who had already received support and had graduated from HAART's program. We understood that it was possible for survivors to choose the stories of their experience and we wanted to reduce harm by ensuring we selected survivors who were not actively processing trauma. In turn, workshops in Kenya were overseen by Otiende, who is herself both an expert and a survivor, strengthening our survivor-led approach at every level of the project. Additionally, other key members of the research team, including the Photographic Consultant (Baya) and the Storytelling Consultant (Ali Haji) had experience of working with survivors before, confirming our do-no-harm approach. Workshops were also held in both Swahili and English, as the practitioners were able to communicate in either language to suit the needs of participants.

Participants had previously been equipped with smartphones as part of HAART's partnership with SA and the Walk Free Foundation. We were able to supply data bundles and phone credit to researchers and participants, as well as building in time for Baya to learn about the phone's camera so she could teach the participants how to use it to the best advantage. The

phone model was Opal A1-12, and all devices were pre-installed with Google Meet, Zoom, WPS Reader, Google Drive, Gmail and WhatsApp.

Through the workshops, participants were invited to engage thematically with the impact of COVID-19 on their lived experience as a survivor of human trafficking. Workshops were planned for the whole group, alongside the three WhatsApp groups. Alongside this communication, the HAART team was also able to host training sessions and meetings over Google Meet and Zoom, as well as keeping in touch with UK-based team members via Microsoft Teams. There were also many one-to-one conversations via WhatsApp between individual participants, Ali Haji and Baya – indeed, many more than we had anticipated, which reflects the need to adjust in 'remote' working to the needs of participants. Overall, practitioners judged that technology failed approximately three percent of the time (including connection issues or power outages), which indicates minimal interruption. Indeed, holding in-person meetings would have most likely also had at least minimal disruption due to external factors such as transport issues, and therefore these technological disruptions can be understood as negligible.

Final copies of the images and stories ("finality" being determined by the participants) were shared with the RL team via Microsoft Teams, Google Drive and Microsoft OneDrive. Workshops included discussions over the potential implications of image creation and image sharing, and all files were anonymised or pseudonymised, with some participants choosing different pseudonyms for different creative tasks. Relatedly, Zoom proved to have a useful advantage for working with survivors in that participants could change their own names – we adopted a practice of everyone using initials of their own choosing. Upon finalising their materials, participants were invited to provide feedback on the project through both one-to-one meetings and a Project Evaluation form, excerpts from which are used in this paper. Of the 16 project participants, 15 chose to share their stories and images after the project concluded. Of the 15 prose-pieces, 12 were written in English and three were written in Swahili.

Findings

Our findings from this project are two-fold. Firstly, we have findings regarding the impact of COVID-19 on survivors of human trafficking in Kenya. In illustrating these impacts, we will analyse the materials produced by the participants. Although we had independently ascertained that the impact of the pandemic on the survivors was severe, for the majority of participants the project instead functioned as a space within which to escape this reality, and most participants did not directly or overtly chronicle, or mention, the impact of COVID-19 on their lives.

Secondly, we have findings regarding the use of these methods with survivors of human trafficking, and the potential for their wider use in future. These include the survivor-led alterations of this project; the use of participatory research methods during a global pandemic; and how the participants moulded the methods to accommodate both their artistic visions and their lived realities of working within the limitations of COVID-19.

Impact of COVID-19 on Survivors of Human Trafficking in Kenya

In this section we explore five elements of the impact of COVID-19 on survivors of human trafficking in Kenya as revealed in our research project: the impetus it gave survivors to prompt a re-start of the project; the topic of the prose pieces produced; the contrast between these and the participant's experience of COVID-19; and the impact on the photographs taken by participants (including who was included, and in what roles). Through these elements, we demonstrate how the research project ultimately provided an outlet during the pandemic, demonstrating the need for dynamic survivor engagement in times of international crisis and for flexibility on the part of researchers when engaging in participatory methods.

First, it is worth noting that one impact of the COVID-19 pandemic on survivors was the suspension of the project, and direct calls from participants for it to resume. One participant stated, "During COVID, being idle was really difficult on my family life and mental wellbeing. This project has given me something to do and not be idle." We had been concerned that running this project during the pandemic risked re-traumatising survivors. However, it transpired that what survivors were finding re-traumatising was being at home, and that writing really helped them cope. As many in-person support networks had been removed by the pandemic, survivors were actively seeking a means of engaging with the HAART community and seeking out new support networks. With the instability of the pandemic, the project therefore offered a consistent, albeit virtual, space wherein survivors could engage with a wider community in an empowering manner.

Following the resumption of the project in May 2020, we expected participants to tell narratives about the direct impact of COVID-19 on their lives and to take photographs that evidenced it. Interviews with participants demonstrated that the pandemic severely impacted their economic, mental and social wellbeing. A somewhat surprising outcome of our research is that most of them did not mention COVID-19 – the majority instead choosing to set their written work in settings which either pre-date pandemic-times or simply do not reference it.[23] Whether they actively stated that they did not want to address the pandemic, or merely chose to omit without discussion, the practitioners were led by the desires of the participants and did not pressure them to include the pandemic.

One way of interpreting this is that although COVID-19 appeared to dominate many elements of our lives in 2020, it is clear that it did not entirely dominate most of our participants' imaginations or distract their attention from the messages and stories they wanted to share. Another way of interpreting this absence of the pandemic is as a deliberate attempt to "escape" the dominating reality of COVID-19. As one participant noted, "for a few hours, I get to stop thinking about all the problems I have and focus on something interesting." Within this project, absent the demand to recount *their* story, many participants chose to create fictional works. By enabling the project to become what the participants wanted it to be, rather than sticking rigidly

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[23] Of the material printed in English, only one of 12 stories overtly references COVID-19.

to our earlier hypothesis, we witnessed the survivors take the lead on the development of their own materials and ideas.

One participant did choose to engage with COVID-19 in their work, which contains the following paragraph, near the culmination of a story:

In January 2020, HAART financially empowered me to start my own business as a mobile make-up artist. My business was picking up well, and I had slowly started to support myself. I started dreaming about bringing my son to Kenya. Unfortunately due to the COVID-19 pandemic, it is extremely difficult for me to continue operating my mobile make-up services. This covid [sic] situation has also affected my healing since I am home 24/7 sometimes with nothing to eat, worrying about my son back home and wondering why life is doing this to me. It has been so hard that at some point I even thought of being an actual sex worker because what's left to protect really? Covid [sic] has brought back so much anger, bitterness and I feel like the reopened wounds are turning into self hate because I can't even date, not to talk of considering being an actual sex worker after everything that happened to me. – Shivan, My Hustle.

Within this passage, Shivan powerfully highlights the individual hardships faced as a direct consequence of COVID-19. The character within her story has faced economic uncertainty, food insecurity, mental health concerns and isolation as a result of the pandemic. From being described as "empowered" in January 2020, by December 2020 the main character struggles with "self hate." As such, Shivan provides a window into how the COVID-19 pandemic risks undermining the work done by NGOs in supporting survivors and that further support is needed.
Furthermore, this direct confrontation of the hardships of COVID-19, when contrasted with other participants' omissions, demonstrates the importance of not considering participatory outputs as a uniform, monolithic set of work. Rather, the work produced mirrors the diversity of experience of the participants themselves. Indeed, Shivan does not give in to despair in her narrative, ending on an empowering note:

But deep down I know that I have survived the worst, I know I survived death itself and I know that I am stronger than my trauma, so I will survive till I start living again. – Shivan, My Hustle.

From the initial participant interviews, conducted before the workshops, it is possible to see consistencies between the experiences described in Shivan's story and those of the other participants. All of the participants had reported being severely economically affected by COVID-19, with nearly all of them losing any regular employment or income. The mental health

concerns raised by Shivan also resonate with the experiences of survivors raised in interviews, who also reported loneliness, sadness, and anxiety.

However, most participants did not choose to engage with the pandemic directly. This serves as a reminder that whilst the impact of COVID-19 on the participants was universally severe, when utilising participatory methodologies researchers cannot – and should not – dictate the content of any final outputs. As people react to trauma in different ways, a truly trauma-informed and survivor-led project should not force or coerce participants to confront topics they wish to temporarily "escape" (such as the COVID-19 pandemic).

Fig. 2. Photography by Bigeni, 2020.

The photographs were created to complement the stories produced by the participants. The photography also demonstrates the impact of COVID-19 on the participants in this pandemic. In these images, we see the participants moulding their immediate surroundings into scenes from their stories, and casting those around them as characters. Unable to travel or gather groups of people to help, instead the women in this project moulded their close relationships into their photography. In some images, the women play themselves. In others, they use their children

to represent a person of a younger age (see Figure 2). This has the unintended consequence of incorporating a familial, community-orientated aspect to the project, as the participant shares their experiences with those around them and invites them to participate in the recreation of their stories – but on their own terms, with the participant in control. One participant reported that the project benefited her "family life and mental wellbeing." As such, although COVID-19 had limited the scope of what images these women could take, this project demonstrates how the participants used their personal, intimate networks to shape their participation in this project.

Taking a Participatory Approach in a Pandemic

Prior to the COVID-19 pandemic, we intended to conduct this project in a survivor-led manner, utilising the methodologies of participatory photography and ethical storytelling. Once the COVID-19 pandemic effectively made in-person meetings impossible, the project was adapted online at the behest of the participants. In so doing, the participants themselves altered the project methods to not just suit their lived realities of the pandemic, but to empower them in ways that would have had relevance even if the sessions were run in-person. Notable methodological adaptations include: (1) using technology to facilitate remote working, (2) the development of fictitious narratives, (3) attaining consent remotely, (4) increased number of one-on-one sessions, (5) changes to group size, (6) language, and (7) further use of skills gained outside the project. These adaptations were tracked throughout the process and demonstrate how an adaptable and survivor-led approach to research can be accommodated without conflicting with the project aims or objectives.

Technology

All participants were provided with an Opal A1-12 phone, which was chosen on account of its high-quality camera and ability to use all of the required apps for the projects. The software was chosen after discussion and experimentation with participants, who ultimately favoured the technology that they were already familiar with and used in their daily lives. As such, the project utilised such software as Google Meet, Zoom, WPS Reader, Google Drive, email and WhatsApp. We decided to use Zoom in preference to Microsoft Teams due to its easy interface and – crucially – its function to allow participants to easily change their own name. This allowed the participants an active role in the protection of their real identities, adding another survivor-led element to our project.

Remote working during the project was met with varied responses from participants, according to their final feedback forms.[24] Whilst all agreed to take part in the digital workshops, as to do so in person would have been impossible, preferences for the format of future

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[24] In their feedback interviews, participants were asked to reflect on both what they thought worked well in the project, and what could be improved in future. Of the 16 participants, four stated a preference for online workshops in future, whilst another three praised the online format.

workshops vary. Some participants found the online workshops preferable, noting that it made childcare and work easier. In the final feedback session, one survivor noted that the online format enabled them "to learn and make a living at the same time." However, others felt that they missed out on an increased sense of community that would have come from face-to-face interactions, because they could "share a lot and build each other up, and could do away with fear and do a lot of things together." The potential benefits and drawbacks of both physical and online workshops should be factored in to subsequent research projects.

Employing fictional techniques

Initially the project was conceived to allow participants the opportunity to tell their own stories and convey their own personal experiences of human trafficking. However, it emerged early in the project that some participants would have found the act of retelling their own story retraumatising. It quickly became apparent to the practitioners that just because participants did not want to tell their own story did not mean that they had nothing to say about human trafficking. Rather than removing them from the project, therefore, the boundaries of the project were shifted to encapsulate a fictitious element, allowing for participants to create characters and events outside of their lived realities that nonetheless conveyed their emotional reaction to the issue.

It was noted that some participants did not yet feel ready to share their personal stories. However, it seems these fictional stories were still rooted in their own experiences, and our expert storyteller deliberately tried to nurture the participants' ability to tell a fictional story which was also their own. Instead of forcing a research agenda, the practitioners respected the participant's right to assert themselves through fiction. Indeed, this incorporation of fictitious elements can be understood as part of this project's intended outcome of providing a respite or escape from daily life during the COVID-19 pandemic.

Securing Informed Consent

Gaining the informed consent of participants posed particular challenges in an online environment, as many participants did not have access to technology that would allow them to physically sign paperwork (e.g., a printer and scanner). Therefore, we adapted our usual procedures for securing informed consent to online/"on-phone" working, via one-to-one phone, Google Meet and WhatsApp conversations with Manji (a trained counsellor who is experienced with working with survivors) – hence adding to our trauma-informed approach. We also facilitated WhatsApp group discussions among participants and researchers. Multiple approaches were taken, including participants typing "I consent" in chat boxes after being informed about the project, and participating in phone calls where they are recorded stating their name and consent. In this way, the practitioners were able to inform the participants about the project and

record their consent without compromising either the ethics of the project or the wellbeing of the participants during the pandemic.

Group size

In the original conception of this project, in which workshops would be held in-person, it was originally conceived that five or six participants would be involved in this project. The participants were to be compensated for their time, expertise and travel expenses. However, with the reduction in costs as a result of the pandemic (e.g., no travel costs, no room hire) it became apparent that the project could not only redistribute those additional costs to pay participants more, but also recruit a much wider pool of participants. We increased the number of participants to 16, which also allowed us to encompass a broader geographic reach than physical workshops would have accommodated.

One-to-One Sessions

The methodology of participatory photography relies on using both group and individual sessions with participants. Group sessions facilitate group discussions and a sense of community, whilst one-on-one sessions create a confidential space for reflection and allow for discussion of individual wellbeing. This project always intended to cultivate both of these spaces, however the shift to online workshops cultivated slightly different dynamics to those originally envisioned. The group lessons provided a space for participants to learn new skills and to share their work, which did indeed cultivate a space for community and connection. However, the survivor-led demand for individual sessions and feedback became higher than originally intended, which was likely due to both the isolation of the pandemic and the added desire to not appear to not understand material raised in group discussion – something which was perhaps due to working digitally, where there is less ability to have a private conversation with a session convenor than in in-person workshops.

Often these queries took on technical dimensions, and reflected to some extent differences in existing familiarity with the devices being used. There were occasions where participants did not understand – and/or did not want to admit they did not understand – the specific task or concept they were to work on offline (e.g., a particular photography or writing exercise). In particular, when engaged in group meetings, individuals were less likely to express uncertainty about a task. This led to the need for many more individual sessions, and to giving more individualised feedback, than we had originally expected. This need should be reflected in future projects working remotely with participants.

Language

One of the strengths, as we saw it, of partnering with WR is that they host reading material in a wide range of languages on their platform. We had discussed how to facilitate in-person workshops where participants might speak more than one language, and particularly where they might prefer not to speak in English (the common language of all the research team). We had some concern that, if all the narratives produced with in Swahili, this would cause complications for the UK members of the team when they came to analyse them.

In the workshops, it quickly became apparent that some of the participants felt more comfortable using Swahili, and as the practitioners were able to speak both languages, they were able to use both in the workshops. This emphasised the importance of using local networks of people who not only understood the language, but cultural aspects unique to localised contexts such as social cues. However, not all participants could speak Swahili, and so we also incorporated a translator into the workshops to help facilitate them. This was somewhat easier to do using online platforms rather than being in-person – as additional costs such as transportation were kept to a minimum, and travel time for a translator did not need to be factored into planning – but it still meant that everything had to be explained twice. This impacted the length of the workshops and the design of the syllabus for the photographic and storytelling learning activities. However, it was also noted that this willingness to be flexible in terms of language, and that the practitioners and researchers leading the workshop could switch between English and Swahili was improving communication between participants and researchers, as it reflected a willingness and ability to respond to their needs, increasing trust and a sense of egalitarian participation and community. From this, we are led to conclude that future projects of a similar nature should incorporate conversations about language and translation at the outset, determining which languages will be utilised (or not) from project conception. Ideally, funding should be allocated to allow for flexibility within this approach.

Further Use of Skills Gained

We found that the skills gained by participants were useful and transferable in ways we had not initially envisaged. For instance, some participants reported that the writing element was in itself therapeutic. Some have also been exploring how to use their new writing skills in entrepreneurial ways, for instance working as journalists or writing reports and other outputs for NGOs. Furthermore, some participants used their photographic skills in their everyday lives, for instance to help promote their own businesses on social media. This became an even more valuable skill during the economic precarity of COVID-19, and navigating keeping a small business going in a period of restrictions on movement and gatherings. Again, this highlighted the importance of a survivor-led approach which did not put limits on the use – for instance – of equipment, and highlights another advantage of working remotely with mobile phones (rather than digital cameras from which pictures can only be downloaded via a laptop, or traditional film

cameras, which need even more specialist equipment for processing pictures) which should be borne in mine for future research.

Conclusion

Through the success of our project, we demonstrate the potential of participatory Arts methodologies that privilege participant wellbeing, particularly during periods of national and international crisis. The participants created a powerful archive of images and stories that conveyed their lived experiences of human trafficking, and their strength in overcoming it. By calling for the resumption of this project themselves in May 2020; leading the design of the structure of workshops; creating an online community via WhatsApp groups and Zoom workshops; and using the skills they gained in a variety of ways within and outside the project, participants asserted their right to express themselves, cultivate communities and develop skills to assist in survivor leadership.

In the act of producing prose and photographs, the participants adapted the methodological approaches adopted by this project, transforming them from the hypothetical and academic to the practical and realistic. Whilst we had initially envisioned that survivors would want to tell their own trafficking stories, some instead chose to shift to the fictional realm. Similarly, while we assumed they would want to tell stories about the impact of COVID-19 on their lives, most chose not to do so. Therefore, whilst participatory research practices can undoubtedly be empowering for survivors, successful implementation of these methods can only be achieved if practitioners and researchers are willing to cede control of the project. As such, future projects of this nature should allocate costs to allow for unexpected adjustments, and funding bodies should move towards a more sensitive understanding of the flexible nature of truly ground-breaking research.

Our research shows that working in these ways is possible – even in a pandemic. Much can be achieved – in terms of building a community and producing new tools – to further anti-trafficking work, even in these difficult and isolating circumstances. This is an important lesson in a world which continues to feel the impact of COVID-19, and may face similar events that would disrupt in-person work in the future. Although we often feel digital working is "second-best" to in-person work, where it feels easier to forge communities and engage in robust ethical research, our work shows that with the right kinds of support (and where there is sufficient will from all involved, including funders), remote working need not be inferior. Rather, remote working can empower participants to tell their own stories in their own words for all the world to see. As Caroline states in the final words of her story:

> No one knew the things she had endured like her, her flaws told her story and had been her badge for a long time but now all she was hoping was to rewrite the script, accept her flaws and appreciate her gifts and most of all be proud of how well the two fit together. – Caroline, The Contempt in Her Crooked Smile.

Acknowledgements

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