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Abstract

Early analysis indicates that the COVID-19 pandemic, the emergency public health measures, and the consequent socio-economic context¹ 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.

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 context² 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 vulnerabilities⁶, undocumented migrants' vulnerabilities⁷ 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.

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

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.

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 services²³, resulting in waiting times and backlogs²⁴. 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

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 Forty-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 situations³⁶, 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

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 beneficiaries⁴³ 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

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'.

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

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://techagainstrafficking.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

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

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

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 trafficking⁸¹ 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

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 this⁹⁰, 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

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

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

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,

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

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 NRM 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

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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