Australian Aid | ASEAN-Australia Counter Trafficking

Vulnerability, Human Trafficking & COVID-19

Responses & Policy Ideas

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About the author

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01.

Introduction

It is clear to counter-trafficking actors that coronavirus disease 2019 (COVID-19) and the measures put in place to confront it will exacerbate vulnerability to trafficking. Though it is uncomfortable to say about something as abhorrent as human trafficking, this increased vulnerability must be put into perspective against other more urgent risks to livelihoods, homes, and lives. We are told that *'COVID-19 does not discriminate'*, but the obvious reality is that those most at risk of contracting COVID-19 are the world's most vulnerable people who do not have the means to protect themselves and are most ill-equipped to survive the measures taken to curtail its spread. It is through this lens of vulnerability that the intersection between human trafficking and COVID-19 must be understood.

"In this moment, widely seen as unprecedented, the anti-trafficking movement needs to take a step back and, for once, not make it about trafficking or 'modern slavery'."

Global Alliance Against Traffic in Women Secretariat

Vulnerability is a complex and imprecise science, with various models offered to explain it.[1] Work done by the United Nations Office on Drugs and Crime (UNODC) and a group of expert practitioners explained that the concept of 'vulnerability' as it relates to trafficking specifically can be personal (relating to an individual's characteristics), or situational (for instance, relating to a person being irregularly in a foreign country in which he or she is socially or linguistically isolated), or circumstantial (for instance, relating to a person's unemployment or economic destitution).[2]

Thus, it is evident that COVID-19, like other crises, exacerbates existing vulnerability factors, and creates new ones for millions of people across the globe. At the same time, the nature of the crisis – in this case, a global pandemic on an unprecedented scale – results in the breakdown of the systems in place that are needed to support victims, as resources are diverted to fighting the pandemic itself.

COVID-19 therefore highlights what we already knew to be true: that economic, social and structural inequalities render some people more vulnerable than others.

[1] See, for instance, the International Organization for Migration s (IOM's) determinants of vulnerability model for assessing migrant vulnerability to human trafficking and exploitation, in IOM guidance on response planning – for migrants vulnerable to violence, exploitation and abuse (IOM, 2019), https://publications.iom.int/books/iom-guidance_response-planning

[2] UNODC, 'Guidance note on 'abuse of a position of vulnerability' as a means of trafficking in persons in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime' (UNODC, 2012), paragraph 2.3, https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Guidance_Note_-_Abuse_of_a_Position_of_Vulnerability_E.pdf.

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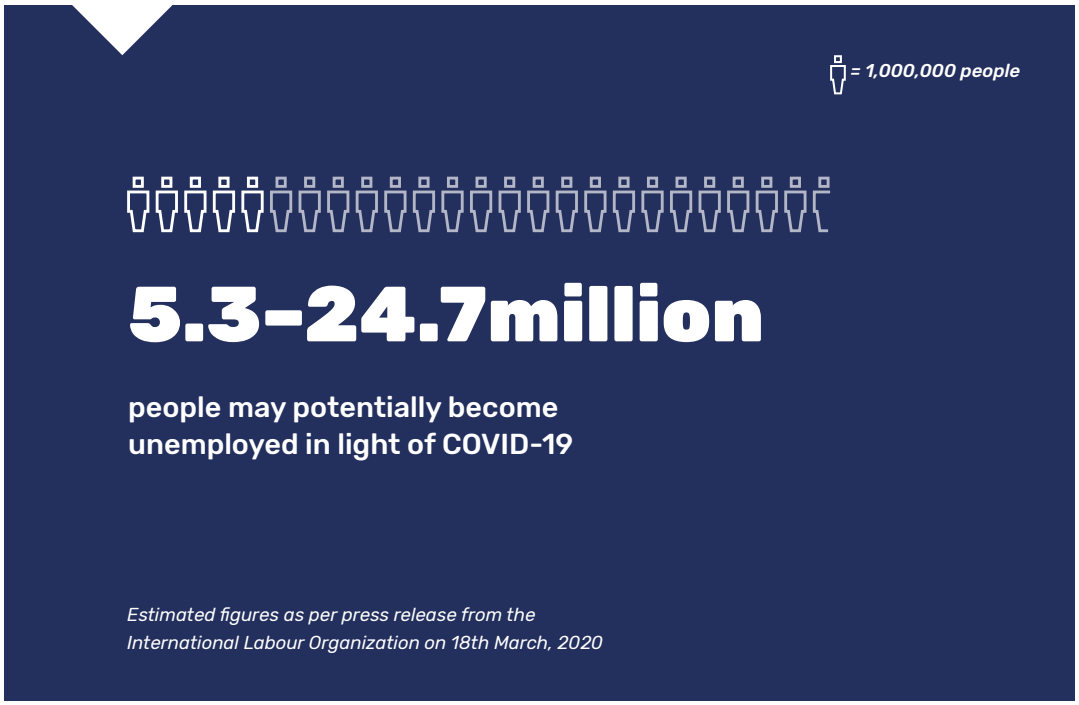
02.

Vulnerability to trafficking and other exploitation

Traffickers often select victims from among those who are vulnerable. Globally, vulnerability is rising faster than our Twitter feeds can track. The unemployment projections of the International Labour Organization (ILO) in light of COVID-19 paint a bleak picture, with between 5.3 and 24.7 million people potentially becoming unemployed – an estimate that seems conservative in light of the 9.95 million people who filed for unemployment benefits in the last two weeks of March in the United States alone.[3]

For people whose visas depend on their employment status, losing jobs can be tantamount to losing the right to remain in a country, with many migrants forced to either return to their home countries, or become trapped in destination countries as their status shifts from regular to irregular.

[3] ILO, COVID-19 and the world of work: Impact and policy responses (ILO Monitor, 1st edition, 18 March 2020), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_738753.pdf; Dominic Rushe and Lauren Aratani, 'Coronavirus batters US economy as 6.65m file for unemployment last week' (Guardian, 2 April 2020), https://www.theguardian.com/business/2020/apr/02/us-unemployment-coronavirus-economy



Policy response for governments

- Expand eligibility for unemployment benefits, social assistance and access to national health services for vulnerable populations, including migrants and irregular migrants working in informal sectors.
- Give access to emergency government funding for people in the informal sector, including through expanded social security schemes or cash transfer programs.[4]
- Support employers to introduce policies and practices to help stabilise labour markets, families and societies, including through employment and income protection, flexible working arrangements, paid leave to care for family members, and access to childcare.[5]
- Temporarily regularise the status of migrant workers who have become unemployed and are unable to return to their home countries, to protect them from becoming irregular, and susceptible to exploitation.

Good practice

Thailand has resolved to allow workers from Myanmar, Laos and Cambodia whose work permits have expired to remain in the country until 30 June 2020.

4 Patrick Belser, 'COVID-19 cruelly highlights inequalities and threatens to deepen them' (ILO, 30 March 2020); Shahra Razavi, 'COVID-19: Social protection systems failing vulnerable groups' (ILO, 25 March 2020).

5 UNICEF, ILO and UN Women, Family-friendly policies and other good workplace practices in the context of COVID-19: Key steps employers can take (UNICEF, 27 March 2020).

The number of people vulnerable to exploitation for want of economic security will only increase. Workers in the informal sector may lose their jobs without any access to paid leave, social security or healthcare insurance.[6] Indeed, many companies have simply terminated contracts of their employees without paid leave or any protection. The Business and Human Rights Resource Centre points to the particular vulnerability of those lower down in supply chains, many of whom are women and primary care givers, who are particularly vulnerable to losing their jobs,[7] with tens of thousands of garment workers facing destitution as factories close down. As Human Rights Watch notes:

If it was not clear before COVID-19, it is now: Businesses are connected through a world wide web of global supply chains, and the behaviour of large companies impacts those working at the bottom of these supply chains.[8]

6 Razavi, 'COVID-19: Social protection systems failing vulnerable groups'.

7 Business and Human Rights Resource Centre, 'COVID-19 (coronavirus) outbreak: Supply chain workers' (Business and Human Rights Resource Centre, 2020), https://www.business-humanrights.org/en/covid-19-coronavirus-outbreak/covid-19-coronavirus-outbreak-supply-chain-workers.

8 Juliane Kippenberg, 'COVID-19 puts millions of global supply chain workers at risk' (Human Rights Watch, 2 April 2020), https://www.hrw.org/news/2020/04/02/covid-19-puts-millions-global-supply-chain-workers-risk.

Policy response for global companies

- Pay suppliers in full for work in progress or completed to support them to find ways to pay their workers during lockdown.[9]

Policy response for employers

- Urgently review workplace standards and ensure that they are in line with international human rights and labour laws and international best practice, including the OHCHR Guiding Principles on Business and Human Rights.[10]

Good practice

Thai supplier of US clothing brand Patagonia reimbursed migrant workers for recruitment fees they were illegally charged by the supplier and agents to obtain work at the garment factory.

9 Office of the United Nations High Commissioner for Human Rights (OHCHR), Guiding principles on business and human rights (OHCHR, 2011), https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

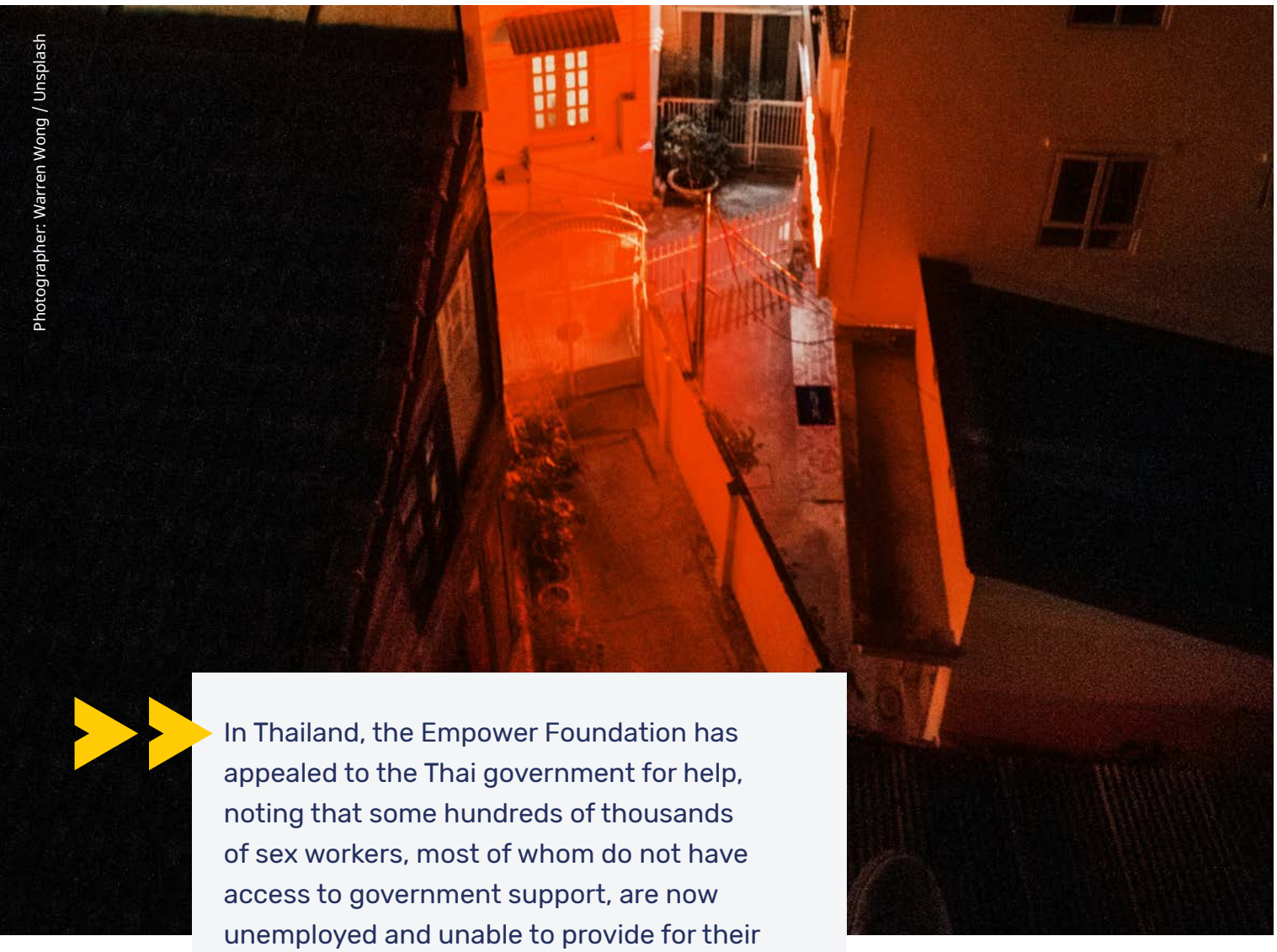
10 Nanchanok Wongsamuth, 'Thai clothing factory compensates exploited migrant workers' (Thomson Reuters Foundation, 3 April 2020), https://news.trust.org/item/20200403025723-v7fb1

Photographer: Soragrit Wongsa / Unsplash

In informal sectors, vulnerability to trafficking also increases; food and agriculture, domestic work, sex work, entertainment and hospitality, production, and construction. Where workers live in their places of work, they may also have lost their housing too, and have no income with which to afford alternative accommodation, resulting in debts that make them more vulnerable to exploitation.[11] Concerns have been raised about sex workers as establishments shut, pushing activities underground making the workers less safe, potentially even increasing risk of trafficking and other exploitation.[12]

[11] La Strada International, 'The impact of COVID-19 on the protection of rights of trafficked and exploited persons' (La Strada International, March 2020), http://lastradainternational.org/news-publications/la-strada-international-statement-on-coronavirus.

[12] Karolin Schaps, 'Dutch sex workers risk trafficking and abuse as coronavirus bites' (Thomson Reuters Foundation, 19 March 2020), https://news.trust.org/item/20200319170902-ova7i; Europol, 'Pandemic profiteering: How criminals exploit the COVID-19 crisis' (Europol, 27 March 2020), p. 12; https://www.europol.europa.eu/publications-documents/pandemic-profiteering-how-criminals-exploit-covid-19-crisis; La Strada International, 'The impact of COVID-19 on the protection of rights of trafficked and exploited persons'.



Photographer: Warren Wong / Unsplash

In Thailand, the Empower Foundation has appealed to the Thai government for help, noting that some hundreds of thousands of sex workers, most of whom do not have access to government support, are now unemployed and unable to provide for their families following the closure of entertainment establishments. They are asking for the 500 million baht that the government seized from human traffickers into the sex industry.[13]

Similarly, Cambodian workers in karaoke bars have returned or are returning from urban to rural areas, facing rising debts and grimmer options to survive, particularly in the absence of government support.[14] The same concerns have been echoed elsewhere around the world.[15]

[13] Pim Kemasingki, 'Sex workers first to be affected' (Chiang Mai Citylife, 27 March 2020), https://www.chiangmaicitylife.com/citynews/covid-19/sexworkers-first-to-be-affected.

[14] Matt Blomberg, 'Cambodia's coronavirus curbs leave karaoke workers in limbo' (Thomson Reuters Foundation, 27 March 2020), https://news.trust.org/item/20200327125640-r0cgh.

[15] For example, see Reuters, 'COVID-19: One of the world's largest brothels in Bangladesh appeals for funds' (New Straits Times, 24 March 2020), https://www.nst.com.my/world/world/2020/03/577659/covid-19-one-worlds-largest-brothels-bangladesh-appeals-funds.

Policy response for governments

- Expand eligibility for unemployment benefits, social assistance, and access to national health services for vulnerable populations, including migrants and irregular migrants working in informal sectors.
- Ensure access to emergency government funding for people in the informal sector, including through expanded social security schemes or cash transfer programs.[16]
- Support employers to introduce policies and practices to help stabilise labour markets, families and societies, including through employment and income protection, flexible working arrangements, paid leave to care for family members, and access to childcare.[17]

Yet, while demand for exploitative work or services decreases in some sectors, it increases elsewhere.[18] For already exploited people, trafficked persons among them, some may only be pushed further into exploitative circumstances, including debt bondage.[19] Many victims who are hidden from society by their traffickers may become more invisible as lockdowns reduce their exposure to people who could identify them.[20]

16 Belser, 'COVID-19 cruelly highlights inequalities and threatens to deepen them'; Razavi, 'Social protection systems failing vulnerable groups'.

17 UNICEF, ILO and UN Women, Family-friendly policies and other good workplace practices in the context of COVID-19.

18 Annie Kelly, 'Garment workers face destitution as Covid-19 closes factories' (Guardian, 19 March 2020), https://www.theguardian.com/global-development/2020/mar/19/garment-workers-face-destitution-as-covid-19-closes-factories.

19 Kieran Guilbert, 'Coronavirus feared delivering double blow to modern slaves in Britain' (Thomson Reuters Foundation, 24 March 2020), https://news.trust.org/item/20200324172148-kpw0e.

20 Global Initiative against Transnational Organized Crime, Crime and contagion: The impact of a pandemic on organized crime (Global Initiative against Transnational Organized Crime, March 2020), p. 11, https://globalinitiative.net/wp-content/uploads/2020/03/CovidPB1rev.04.04.v1.pdf.

For those who are particularly hidden, their situations may become more precarious.

The increased rates of domestic violence in light of COVID-19 are likely to have an impact on people trafficked into domestic settings, whether as domestic workers or into forced into child marriage. Yet trafficked victims are likely to have fewer pathways to protection than non-trafficked victims of violence have, owing to the hidden space they occupy and the lack of structures in place to support them.

Photographer: Isaac Quesada / Unsplash

Some demand for exploitative work or services is driven directly by the crisis; medical supplies have been provided by exploited migrant workers (e.g. in Thailand) or by prison labour (e.g. the US), while supply chain oversight retracts during the crisis.[21]

[21] Freedom United, 'Our executive director shares thoughts on coronavirus and modern slavery' (Freedom United, 13 March 2020), https://www.freedomunited.org/speak-free/coronavirus-modern-slavery; Angharad Smith and James Cockayne, 'The impact of COVID-19 on modern slavery' (Delta 8.7, United Nations University, 27 March 2020), https://delta87.org/2020/03/impact-covid-19-modern-slavery.

And exploitation of children is also predicted to grow. As crises push families into desperation and debt, negative coping mechanisms may be resorted to as a sole means of survival, including in the form of begging, the worst forms of child labour, forced or early marriage, crime, or other activities, which may amount to situations of trafficking.[22] That phenomenon is happening now, as burdens on families without income necessitate other means of surviving.[23]

[22] UNODC, Countering trafficking in persons in conflict situations (UNODC thematic paper, 2018), pp. 10, 12, 15, 43 and 65, https://www.unodc.org/documents/human-trafficking/2018/17-08776_ebook-Countering_Trafficking_in_Persons_in_Conflict_Situations.pdf.

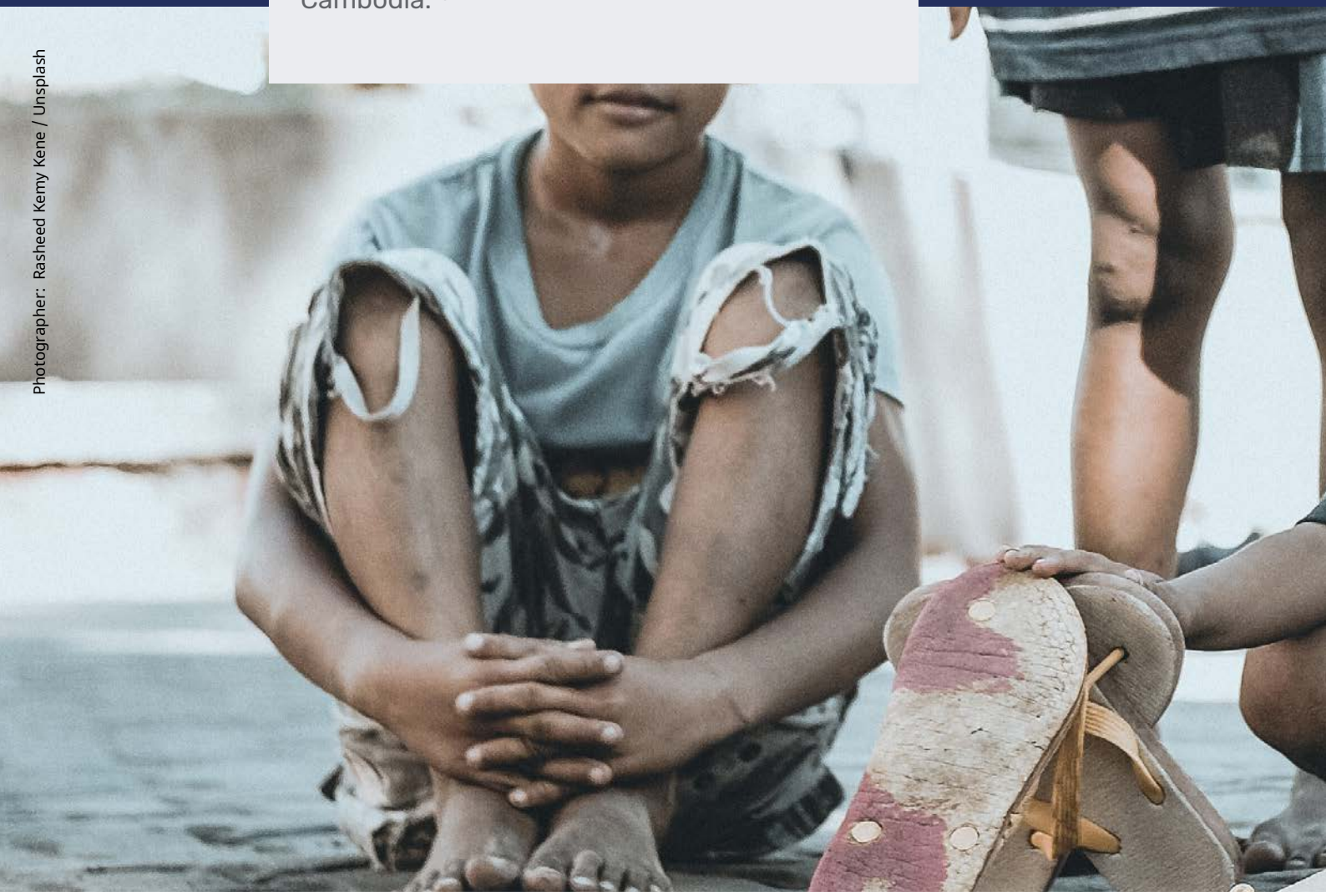
[23] Global Initiative against Transnational Organized Crime, Crime and contagion, p. 11.

Photographer: Rainier Ridao / Unsplash

As the world moves inside and online, law enforcers report increased consumption of child sexual abuse material, and increased activity of predators as both they and their prey are isolated and online.[24]

In the Philippines, where the sexual abuse of children online was thriving before COVID-19, there are concerns that school closures, lockdown and economic strain will exacerbate this issue. Similar concerns exist elsewhere in Southeast Asia, including in Thailand and Cambodia.[25]

Photographer: Tayyab Ejaz / Unsplash



Photographer: Rasheed Kemy Kene / Unsplash

[24] Europol, Pandemic profiteering, p. 4.

[25] Global Initiative against Transnational Organized Crime, Crime and contagion, p. 11; Nanchanok Wongsamuth and Matt Blomberg, 'Coronavirus fuels cybersex trafficking fears for children in Southeast Asia (Thomson Reuters Foundation, 26 March 2020), https://news.trust.org/item/20200326113159ye34m.

Perhaps no one is harder hit and less visible than those who work at sea.

On board commercial vessels, fishers and seafarers work throughout the crisis to keep the rest of the world supplied with things it needs to survive. There has been much media coverage of the plight of passengers on cruise ships unable to dock, with thousands left in limbo or disembarked and forced into quarantine in hotels.[26]

Far less coverage is given to the plight of fishers and seafarers trapped on board commercial ships. As restrictions on movement tighten, vessels are prevented from docking at port, meaning that fatigued crews cannot be changed over, making already arduous situations even more intolerable.

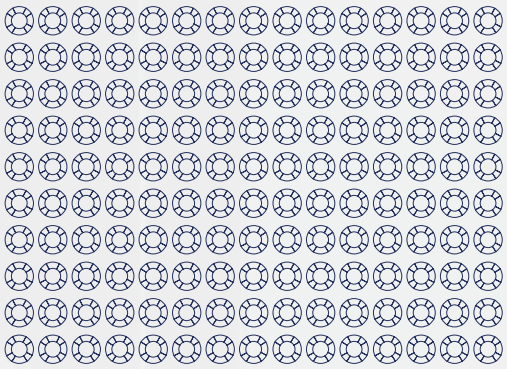
As at 25 March 2020, an estimated 150,000 people are trapped on board commercial vessels being forced to continue working to meet government demand for supplies, some without pay beyond the duration of their contracts.[27] Thousands of others are stranded on shore, unable to board ships on account of restrictions and abandoned by the companies that hired them, receiving no salary as they are left to eat into their own savings to survive in hotels, unable to return home to their families, nor to support them from afar.[28]

[26] Luke Henriques-Gomes, Coronavirus: thousands who left cruise ship in Sydney told to self-isolate after three people test positive' (Guardian, 20 March 2020), https://www.theguardian.com/world/2020/mar/20/coronavirus_thousands_who_left-cruise-ship-in-sydney_told-to-self-isolate-after_three-people-test-positive; Ben Doherty and Dom Phillips, Coronavirus: cruise passengers stranded as countries turn them away' (Guardian, 17 March 2020), https://www.theguardian.com/world/2020/mar/16/cruise_ships-scramble-to-find-safe_harbour_amid-covid-19-crisis_as_countries_turn-them-away.

[27] Matt Apuzzo and Selam Gebrekidan, 'Trapped at sea by Covid-19 lockdowns, crew members plead for help (New York Times, 25 March 2020), https://www.nytimes.com/2020/03/25/world/europe/coronavirus-ship-crews_trapped.html.

[28] Human Rights at Sea, COVID-19: Fact suppression or careless under-reporting of seafarer's struggles?' (Human Rights at Sea, 29 March 2020), https://www.humanrightsatsea.org/2020/03/29/covid-19_fact_suppression-or-careless-under_reporting-of-seafarers-struggles; Apuzzo and Gebrekidan, 'Trapped at sea by Covid-19 lockdowns.

Photographer: Anh Nguyen / Unsplash



= 1000 people

150,000 people

are estimated to be trapped on board commercial vessels, as at 25 March 2020, being forced to continue working

New York Times, 2020

Policy response for governments

- Adhere to the Maritime Labour Convention (2006) and the IMO Coronavirus (COVID-19) – Preliminary list of recommendations for Governments and relevant national authorities on the facilitation of maritime trade during the COVID-19 pandemic.[29] Treat maritime workers as essential/key workers to ensure that they are exempted from travel restrictions during the crisis.[30] Flag states should put measures in place to protect crew on board vessels flagged to them, and hold companies to account for their treatment of workers. Port states should allow safe disembarkation and crew exchanges and facilitate delivery of medical and other supplies to vessels.[31]

Good practice

The government of Canada has deemed marine crew to be 'essential' and exempted them from travel restrictions, so as to allow for crew exchanges.[32]

[29] International Maritime Organization (IMO), 'IMO Coronavirus (COVID-19) Preliminary list of recommendations for Governments and relevant national authorities on the facilitation of maritime trade during the COVID-19 pandemic' (IMO circular letter no. 4204/Add. 6, 27 March 2020), http://www.imo.org/en/MediaCentre/HotTopics/Documents/Circular%20Letter%20No.4204Add.6%20%20Coronavirus%20Covid-19%20Preliminary%20List%20Of%20Recommendations.pdf.

[30] See ILO, 'Statement of Officers of the Special Tripartite Committee [of the Maritime Labour Convention, 2006] on the coronavirus disease (COVID-19)' (ILO, 31 March 2020), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/statement/wcms_740130.pdf; IMO, 'IMO urges keyworker exemptions for crew changes and repatriations (IMO briefing, 1 April 2020), http://www.imo.org/en/MediaCentre/PressBriefings/Pages/09_seafarers-COVID19.aspx.

[31] See ILO, 'Statement of Officers of the Special Tripartite Committee.

[32] Transport Canada, 'Marine crew deemed essential' (Transport Canada, Ship Safety Bulletin no. 06/2020, 19 March 2020), https://www.tc.gc.ca/eng/marinesafety/bulletins_2020-06-eng.htm

Photographer: Ashkan Forouzani / Unsplash

03.

Vulnerability of trafficked and exploited people to COVID-19

We are told that "we're all in it together" to "flatten the curve." But the trouble with the curve is that we are not all equally equipped to take the measures required to protect each other and ourselves from contracting COVID-19. Social distancing implies the luxury of a home large enough to allow space. Self-isolation implies that home is safe to exist in, and that one has enough cash in hand or savings in the bank to remain there without needing to leave home in search of a daily wage. For many, even the requirement to frequently wash hands requires soap that many do not have access to, particularly in overcrowded, under-resourced refugee camps.[33] As the Global Alliance Against Traffic in Women (GAATW) puts it,

> **"the rich are weathering the storm in bunkers while the poor live in overcrowded slums and the rich get tested while the poor die in the streets." [34]**

Indeed, the 'social distancing' we are now being asked to practice has long been in play, with the haves keeping the have-nots at a comfortable distance.

[33] Yousef Eldin, 'Coronavirus: Protecting yourself in a migrant camp' (BBC, 31 March 2020), https://www.bbc.com/news/av/world-52095552/coronavirus-protecting-yourself-in-a-migrant-camp; Teoh Pei Ying, 'NGO highlights plight of refugees due to Covid-19' (New Straits Times, 27 March 2020), https://www.nst.com.my/news/nation/2020/03/578616/ngo-highlights-plight-refugees-due-covid-19.

[34] GAATW, 'A feast in time of COVID-19: The anti-trafficking movement needs to take a step back' (GAATW, 31 March 2020), https://gaatw.org/events-and-news-old/68-gaatw-news/1024-a-feast-in-time-of-covid-19-the-anti-trafficking-movement-needs-to-take-a-step-back.

The acute vulnerability of trafficked and other exploited people to COVID-19 manifests in different ways. That many trafficked people exist in hidden or marginalised spaces and informal sectors makes their access even to basic life-saving information challenging. Those among them who are migrants may not speak or read the language used to disseminate official information. Some may even be illiterate. For instance, service providers report that survivors of bonded labour in India in agriculture, brick kilns, and rice mills remain socially isolated even after being rescued, often lacking information and literacy about COVID-19.[35] But even when marginalised people receive accurate and accessible information about how to protect one's self and others, there is no certainty that they will be able to follow instructions.

[35] Anuradha Nagaraj, 'Indian ex-slaves unite to inform unaware survivors about coronavirus' (Thomas Reuters Foundation, 26 March 2020), https://news.trust.org/item/20200326140038-438ij.

Photographer: Taylor Vick; Etienne Girardet / Unsplash

Policy measure for states and non-state actors supporting them

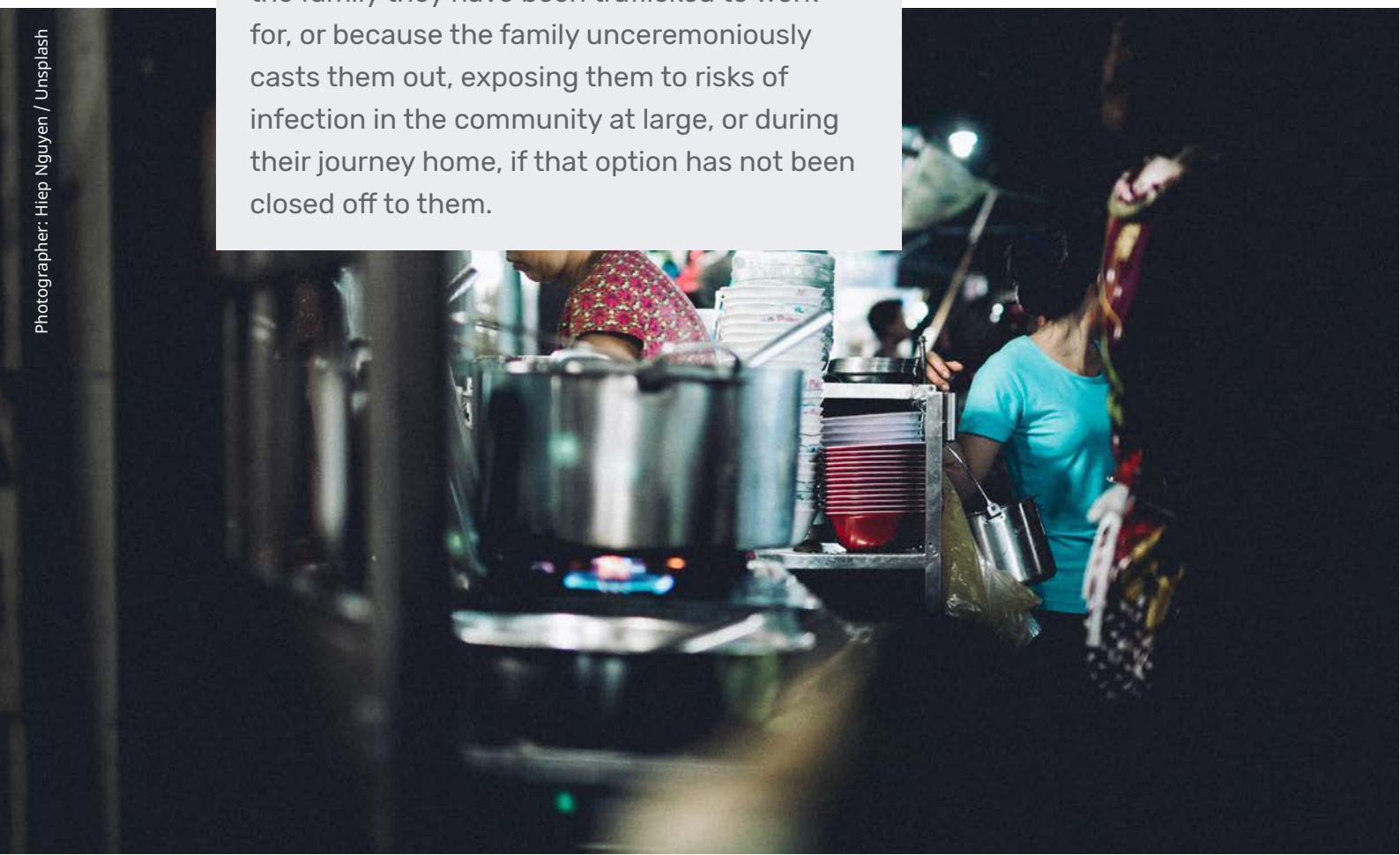
- Ensure accurate and timely information about COVID-19 is accessible in a range of languages and formats, including for those with low or no literacy, and for those who are children.[36] National human rights institutions and civil society can assist in identifying people who may be missed or excluded, and support the flow of information to them.[37]

Good practice

The United Nations High Commissioner for Refugees (UNHCR) is offering guidance and information on prevention measures and working with volunteers in Rohingya camps in Bangladesh to communicate prevention measures. UNICEF is making information available online to support accurate and child-friendly communication about COVID-19.[38] The Alliance for Child Protection in Humanitarian Action has released a technical note on protection of children during coronavirus.[39]

While legitimate places of work close down in a bid to halt the spread of the virus and potentially receive government subsidies to support their staff in the coming months, illegitimate businesses are unlikely to close down. For those trapped in forced labour, whether in agriculture, factories, or elsewhere, they may have no choice but to go to work, and the accommodation may anyway look like an overcrowded labour camp where the risk of transmission is high. People trafficked into sexual exploitation being made to continue working are highly vulnerable to being infected by clients, and clients by them.[40]

There have also been reports of domestic workers having contracted COVID-19 from the households they work in.[41] Their potential exposure to COVID-19 may come about as a result of not being able to socially isolate from the family they have been trafficked to work for, or because the family unceremoniously casts them out, exposing them to risks of infection in the community at large, or during their journey home, if that option has not been closed off to them.



Photographer: Hiep Nguyen / Unsplash

40 Rochelle Keyhan, 'Sex trafficking poses the risk of spreading COVID-19 to thousands of people' (Dallas Morning News, 28 March 2020), https://www.dallasnews.com/opinion/commentary/2020/03/28/sex-trafficking-poses-the-risk-of-spreading-covid-19-to-thousands-of-people.

41 Including Filipina workers in Hong Kong. See Rebecca Wright, 'Hong Kong asked domestic workers to stay in to stop the spread of coronavirus. But some got infected at home by their employers' (CNN, 30 March 2020), https://edition.cnn.com/2020/03/28/asia/domestic-helpers-coronavirus-hnk-intl/index.html.

Declining health combined with the inability to access healthcare, particularly for people in irregular situations who do not wish to risk being identified and detained or even charged and deported, is yet another factor making people vulnerable to exploitation, and also to contracting COVID-19.

[42] Juliane Kippenberg, 'COVID-19 puts millions of global supply chain workers at risk'.

[43] Available at https://www.unicef.org/media/66351/file/Family-friendly-policies-covid-19-guidance-2020.pdf.

Policy measures for industry leaders

- Disseminate comprehensive practical guidance on how to minimise exposure to COVID-19 in specific industries where work must continue during the crises.

Policy measures for employers

- Where factories or other places of work remain open, provide protective gear, and put in place measures to allow for social distancing and flexible working arrangements, including to allow paid leave for workers to support relatives.[42] Put in place clear and transparent measures to provide healthcare to those who fall ill.

Good practice resources

Family-friendly policies and other good workplace practices in the context of COVID-19: Key steps employers can take (*UNICEF, ILO and UN Women, 27 March 2020*).[43]

Policy response for governments of host states

- Remove barriers to accessing healthcare, including by regularising the status of trafficked persons, irregular migrants and asylum seekers to ensure they are treated as regular migrants during the coronavirus crises, and/or introduce firewalls to protect irregular migrants from risk of reprisals or deportation if they seek testing or treatment.[44]

Good practice

Malaysian officials have said that they will not punish people who come forward for COVID-19 testing, irrespective of their citizenship status.[45] Portugal granted residency status to all asylum seekers and migrants who applied for it, until 30 June 2020, to ensure their full access to healthcare during the crisis. This was done to both uphold the rights of migrants and protect public health, including by reducing the risk of infection between officials and migrants.[46]

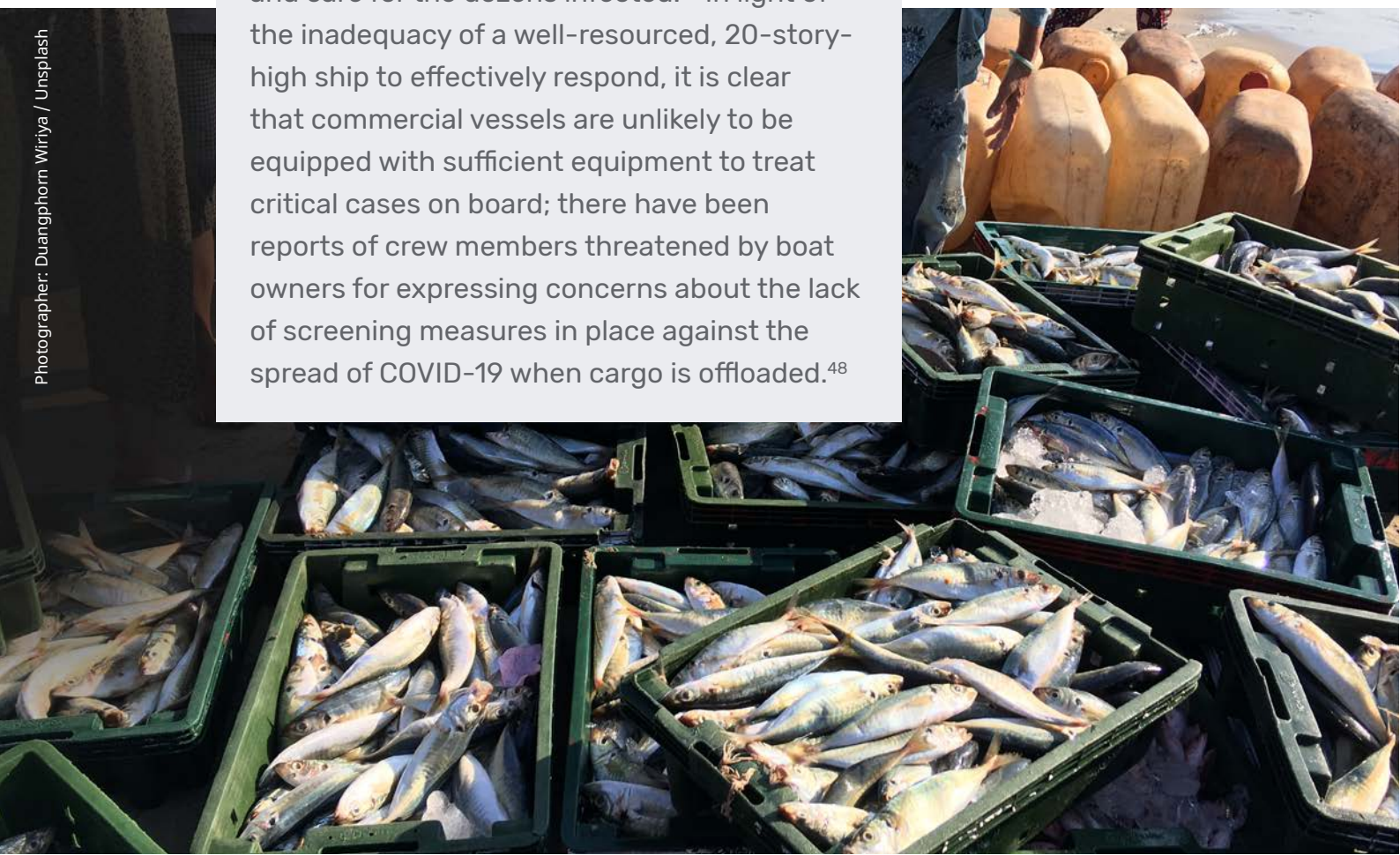
44 Human Rights Watch, 'Human rights dimensions of COVID-19 response'.

45 Tharanya Arumugam, 'Don't worry about being detained, just come forward for Covid-19 testing, please' (New Straits Times, 22 March 2020), https://www.nst.com.my/news/nation/2020/03/577004/dont-worry-about-being-detained-just-come-forward-covid-19-testing-please.

46 Mia Alberti and Vasco Cotovio, 'Portugal gives migrants and asylum-seekers full citizenship rights during coronavirus outbreak' (CNN, 31 March 2020), https://edition.cnn.com/2020/03/30/europe/portugal-migrants-citizenship-rights-coronavirus-intl/index.html?utm_content=2020-03-30T23%3A51%3A07&utm_source=twCNN&utm_term=link&utm_medium=social.

Again, among the most vulnerable group of trafficked or otherwise exploited persons are those currently at sea. Their risk of infection is rising, and yet their access to information is limited where captains control the information their crew has access to. Not being able to disembark at port (whether because exploitative employers or port restrictions prevent them) means they are also prevented from obtaining information and the means of staying connected and informed, such as SIM cards.

The captain of a US aircraft carrier, the USS Theodore Roosevelt, locked down in Guam, pleaded for help to protect his 4000-strong crew, with the virus rapidly spreading, and severely insufficient capacity to quarantine and care for the dozens infected.[47] In light of the inadequacy of a well-resourced, 20-story-high ship to effectively respond, it is clear that commercial vessels are unlikely to be equipped with sufficient equipment to treat critical cases on board; there have been reports of crew members threatened by boat owners for expressing concerns about the lack of screening measures in place against the spread of COVID-19 when cargo is offloaded.[48]



Photographer: Duangphorn Wiriya / Unsplash

47 Thomas Gibbons-Neff and Helene Cooper, 'Captain of aircraft carrier pleads for help as virus cases increase onboard' (New York Times, 31 March 2020), https://www.nytimes.com/2020/03/31/us/politics/coronavirus-aircraft-carrier-theodore-roosevelt.html?smtyp=cur&smid=tw-nytimes. The captain who made the plea was subsequently removed: see BBC, 'Coronavirus: US Navy removes Captain Brett Crozier who raised alarm' (BBC, 3 April 2020), https://www.bbc.com/news/world-us-canada-52145230.

48 Gabriella Twining and Tanya Blake, 'Crew allegedly threatened by owners for expressing fears over COVID-19 exposure' (Safety at Sea, 2 April 2020), https://safetyatsea.net/news/2020/crew-allegedly-threatened-by-owners-for-expressing-fears-over-covid-19-exposure.

As the NGO Human Rights at Sea says:

> **"Arguably, it is not going to be too long before yellow flags are flown on commercial vessels denoting the ship is under quarantine; but who will report this publicly preventing it being hidden behind corporate or flag State veils? Who will track the consequences for those it affects? "** [49]

For those persons who are working in poor conditions at sea, including those who have been trafficked into fishing or seafaring, their inhuman treatment at the best of times does not bode well for how they will be treated in the worst. The murders of trafficked victims who become injured at sea speak to what could happen to those who contract COVID-19.

[49] Human Rights at Sea, 'COVID-19: Fact suppression or careless under-reporting of seafarer's struggles?'.

Photographer: Zoe Gayah Jonker / Unsplash

Policy measures for states

- Adhere to the health protection, medical care, welfare, and social security protections set out in the Maritime Labour Convention (2006). Adhere to the World Health Organization's International Health Regulations (2005), to receive ships that are carrying persons who might be affected by COVID-19. Adhere to the international law of the sea, including with respect to the duty to render assistance to people in distress at sea. Flag states should ensure that adequate safety measures are taken on board vessels flagged to them.

Policy measures for corporates

- Guidance should be provided to all commercial vessels on measures to be taken on board to protect crew from infection, and to ensure they are taken care of in the event that they fall ill.

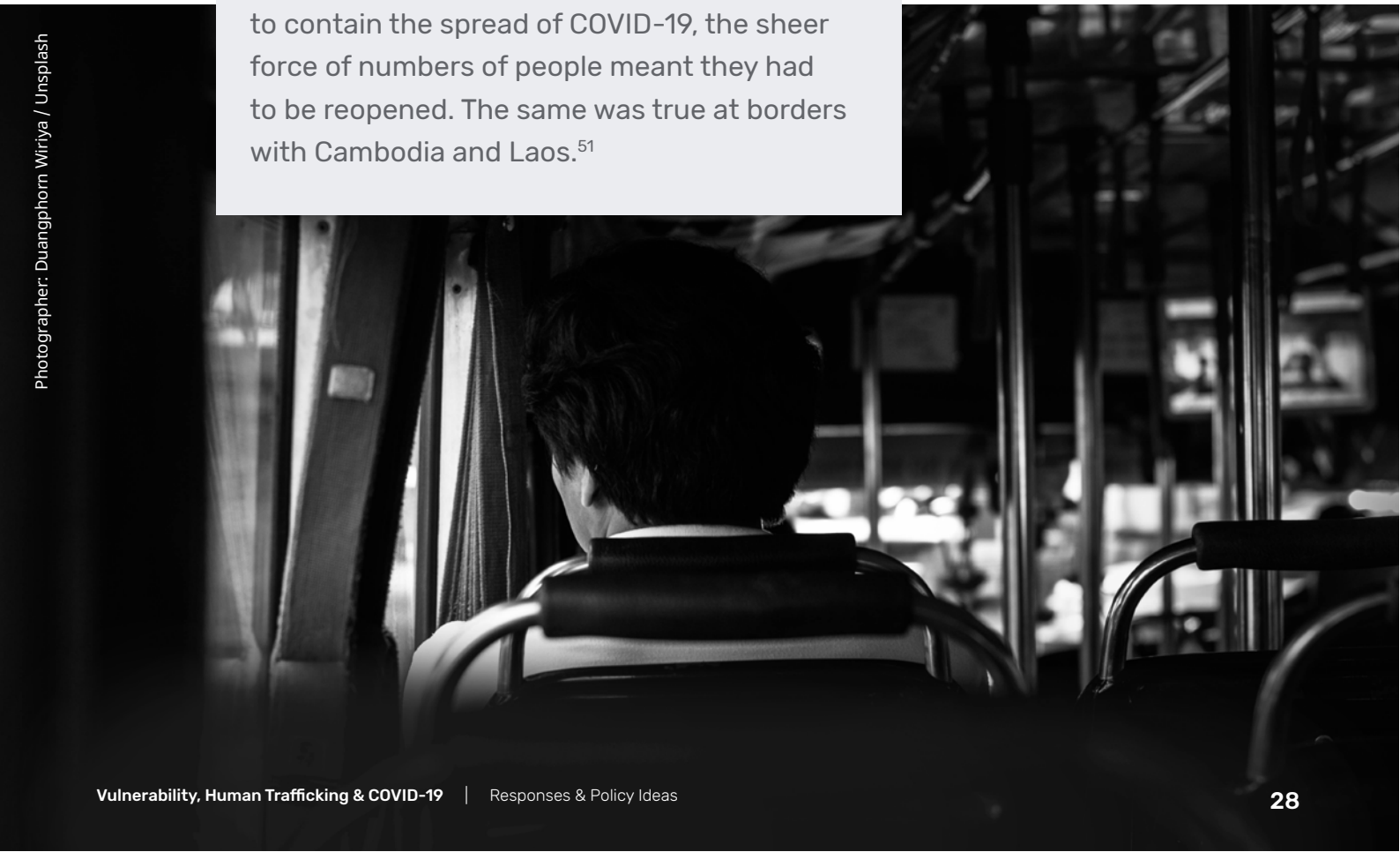
Photographer: Psk Slayer / Unsplash

04.

After trafficking and other exploitations

COVID-19 may mean a sudden end of trafficking for people who lose their jobs. But the ugly reality for many people is that their lives may be more precarious outside of trafficking than in it. Setting aside homelessness and destitution, the risk of contracting COVID-19 is acute. Throughout the world, including Southeast Asia, those who return home after losing their jobs do so in droves – on crowded buses, queuing at checkpoints as they make their way from one country to another. If they have not already contracted COVID-19, they may do so en route and bring it home with them. Social distancing in these situations is all but impossible.

On 24 March 2020, some 2000 migrant workers attempted to cross the Thai border at Mae Sot to return home to Myanmar. Though the borders had already been closed in a bid to contain the spread of COVID-19, the sheer force of numbers of people meant they had to be reopened. The same was true at borders with Cambodia and Laos.[51]



Photographer: Duangphorn Wiriya / Unsplash

[51] Bangkok Post reporters, 'Borders reopen for 2nd day' (Bangkok Post, 25 March 2020), https://www.bangkokpost.com/thailand/general/1885720/borders-reopen-for-2nd-day.

Photographer: Anh Nguyen / Unsplash

And many are not returning to safe or self-sufficient homes, but homes they initially had to leave for their own safety, or to support their families. Much has been written about the increased rates of domestic violence taking place when people are required to self-isolate together, as already volatile situations become more so. Such risks may be present for trafficked persons returning to situations that made them vulnerable to trafficking to begin with.

Even those who have left or been rescued from trafficking, and who are now receiving protection and assistance, may not be able to defend themselves from the virus, but may conversely be at heightened risk of exposure to it. Around the world, populations in closed and often crowded settings, from prisons to immigration detention centres and refugee camps, have the same right to health as non-detained people. And yet they very often are practically denied that right. Calls have been made for increased measures to be taken to reduce risk of infection to protect residents and staff who work in closed settings, and in some cases to release them so as to stop the spread of COVID-19 among people who are unable to practice social distancing. For many in immigration detention, the legal grounds on which many are detained also no longer apply, as Human Rights Watch has noted:

> **[i]f safe and legal deportations are suspended due to the virus, the legal justification for detaining people pending deportation may no longer exist. In these cases, authorities should release detainees and institute alternatives to detention.[52]**

52 Human Rights Watch, 'Human rights dimensions of COVID-19 response'

Photographer: Revolt; Sippakorn Yamkasikorn / Unsplash

The same concerns must be raised for victims of trafficking who are accommodated in closed shelters after fleeing or being removed from their trafficking situation. Several shelters, including many across Southeast Asia, do not allow the free movement of victims accommodated in them but effectively detain them in closed settings. Travel restrictions and border closures mean that their prospects of leaving their temporary shelters to return home are likely to have now been indefinitely delayed. Victims are often kept in shelters for the duration of their participation in criminal justice proceedings against traffickers. As those trials are also delayed by COVID-19, so too is victims' freedom. And the support they receive in the shelter is also likely to have reduced as social distancing may keep visiting service providers, including social workers and lawyers, away.

For those victims who need to be in shelters, social distancing measures require more resources, and may mean that fewer people can be accommodated. As was true before COVID-19, the barriers victims faced in closed settings in accessing services and finding their way in society highlight that some approaches to victim protection may serve to isolate and marginalise people rather than effectively reintegrate them into society.

Policy measures for governments

- Take measures inside detention centres where migrants are held, to reduce risk of COVID-19 contraction, and/or release of migrants from detention if social distancing cannot be sufficiently achieved, and where grounds of detention cease.[53]

Policy measures for government and non-state shelters

- Put in place safety measures against COVID-19, to protect residents and staff of trafficking shelters and other places where trafficked victims are accommodated, including by exploring options to accommodate them in the community.

Good practice

Member states of the Council of Europe are reviewing the detention of rejected asylum seekers and irregular migrants in detention, to release them to the maximum extent possible.[54]

[53] See Executive Board, Border Criminologies, 'Immigration detention and COVID-19: Why releasing those in detention keeps us all safer' (University of Oxford, 25 March 2020), https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2020/03/immigration; IOM, 'COVID-19 does not discriminate; nor should our response' (IOM press release, 20 March 2020), https://www.iom.int/news/covid-19-does-not-discriminate-nor-should-our-response.

[54] Commissioner for Human Rights, 'Commissioner calls for release of immigration detainees while Covid-19 crisis continues' (Council of Europe, 26 March 2020), https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-release-of-immigration-detainees-while-covid-19-crisis-continues.

Photographer: Paolo Nicolello / Unsplash

05.

After COVID-19

Taking action to stop the spread of COVID-19 has resulted in some positive policies, including those mentioned above to regularise migrants' status and to expand economic and health protections for them. Such policies were put in place both in the interests not only of vulnerable people, but also to protect society as a whole. That society can be measured by how it treats its most vulnerable has never been more true. Yet the flipside to these rapid and positive changes in law and policy is the fear that the measures that effectively reduce vulnerability will be undone just as quickly once the pandemic has passed, while those that are rights-reductive will have a longer legacy.

Many of the interferences with rights and freedoms that have been taken to "flatten the curve" are justified in international law, but if they remain after the crisis has passed, they will become unjustifiable. As was always the case, poorly managed restrictions on border control and migration fuels demand for smuggling services to circumvent them, rendering the migrants who use those services vulnerable to human trafficking and exploitation. The policing of people and their movement may continue the counterproductive trend of criminalising vulnerable people, including victims of trafficking, while powerful actors – individuals, state officials and companies – continue to profit from their exploitation.

The impact of COVID-19 and the measures that have been taken to confront it have shone a stark spotlight on the privilege of some and the vulnerability of others.

The uncomfortable reality is that many people are better off in trafficking situations than outside of them, because of the gaping absence of viable alternatives. The counter trafficking narrative has long fixated on the depravity of exploitation, rather than on the less spectacular realities that inevitably lead there. Many of us hope that some human lesson will be learnt from this global pandemic and its fallout so that we will emerge from our isolation to a kinder, fairer world. But for this to happen, we require more than hope. In the case of human trafficking, it requires actual commitment to ensuring that we do not revert back to the type of 'normal' that entrenches and monetises vulnerability, and positive action to confront the economic, social, and structural inequalities that create it in the first place.

Photographer: Adam Nieścioruk / Unsplash