



**HAL**  
open science

## **Anti-Trafficking in the Time of FOSTA/SESTA: Networked Moral Gentrification and Sexual Humanitarian Creep**

Jennifer Musto, Anne Fehrenbacher, Heidi Hoefinger, Nicola Mai, P. Maciotti,  
Calum Bennachie, Calogero Giametta, Kate D'adamo

► **To cite this version:**

Jennifer Musto, Anne Fehrenbacher, Heidi Hoefinger, Nicola Mai, P. Maciotti, et al.. Anti-Trafficking in the Time of FOSTA/SESTA: Networked Moral Gentrification and Sexual Humanitarian Creep. *Social Sciences*, 2021, 10 (2), pp.58. 10.3390/socsci10020058 . hal-03269574

**HAL Id: hal-03269574**

**<https://amu.hal.science/hal-03269574>**

Submitted on 30 Aug 2021

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.




Distributed under a Creative Commons Attribution 4.0 International License



## Article

# Anti-Trafficking in the Time of FOSTA/SESTA: Networked Moral Gentrification and Sexual Humanitarian Creep

Jennifer Musto <sup>1,\*</sup>, Anne E. Fehrenbacher <sup>2</sup>, Heidi Hoefinger <sup>3</sup>, Nicola Mai <sup>4</sup>, P. G. Maciotti <sup>5</sup>, Calum Bennachie <sup>5</sup> , Calogero Giametta <sup>6</sup> and Kate D'Adamo <sup>7</sup>

<sup>1</sup> Department of Women's and Gender Studies, Wellesley College, Wellesley, MA 02481, USA

<sup>2</sup> Department of Psychiatry and Biobehavioral Sciences, Semel Institute, University of California, Los Angeles, CA 90095, USA; afehrenbacher@mednet.ucla.edu

<sup>3</sup> Faculty of Social Sciences, Division of General Education, Berkeley College, New York, NY 10017, USA; hdh@berkeleycollege.edu

<sup>4</sup> School of Humanities and Social Sciences, University of Newcastle, Callaghan, NSW 2308, Australia; nick.mai@newcastle.edu.au

<sup>5</sup> Department of Criminology and Sociology, Kingston University, London KT1 2EE, UK; pg.maciotti@gmail.com (P.G.M.); ofcoursecalumis@gmail.com (C.B.)

<sup>6</sup> Department of Sociology, LAMES, Aix-Marseille University, 13007 Marseille, France; calogiame@googlemail.com

<sup>7</sup> Reframe Health and Justice, Washington, DC 20002, USA; kate@reframehealthandjustice.com

\* Correspondence: jmusto@wellesley.edu



**Citation:** Musto, Jennifer, Anne E. Fehrenbacher, Heidi Hoefinger, Nicola Mai, P. G. Maciotti, Calum Bennachie, Calogero Giametta, and Kate D'Adamo. 2021. Anti-Trafficking in the Time of FOSTA/SESTA: Networked Moral Gentrification and Sexual Humanitarian Creep. *Social Sciences* 10: 58. <https://doi.org/10.3390/socsci10020058>

Academic Editor: Nigel Parton

Received: 16 December 2020

Accepted: 27 January 2021

Published: 8 February 2021

**Publisher's Note:** MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



**Copyright:** © 2021 by the authors. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

**Abstract:** Globally, sex workers have highlighted the harms that accompany anti-prostitution efforts advanced via anti-trafficking policy, and there is a growing body of social science research that has emerged documenting how anti-trafficking efforts contribute to carceral and sexual humanitarian interventions. Yet mounting evidence on the harms of anti-trafficking policies has done little to quell the passage of more laws, including policies aimed at stopping sexual exploitation facilitated by technology. The 2018 passage of the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) in the U.S. House of Representatives, and the corresponding Senate bill, the Stop Enabling Sex Traffickers Act (SESTA), is a case study in how efforts to curb sexual exploitation online actually heighten vulnerabilities for the people they purport to protect. Drawing on 34 months of ethnographic fieldwork and interviews with sex workers and trafficked persons ( $n = 58$ ) and key informants ( $n = 20$ ) in New York and Los Angeles, we analyze FOSTA/SESTA and its harmful effects as a launchpad to more broadly explore how technology, criminalization, shifting governance arrangements, and conservative moralities cohere to exacerbate sex workers' vulnerability.

**Keywords:** sex work; technology; migration; FOSTA/SESTA; anti-trafficking; sexual humanitarianism; networked governance; moral gentrification; shadow carceral innovations; surveillance

## 1. Introduction

The 2018 passage of the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) in the U.S. House of Representatives, and the corresponding Senate bill, the Stop Enabling Sex Traffickers Act (SESTA), put trafficking for commercial sexual services and internet policy at the center of American political discourse on freedom of speech. FOSTA/SESTA upended part of Section 230 of the Communications Decency Act of 1996 that gave internet providers immunity from liability for criminal activity by third parties that occurs on their networks (Cunningham and Shah 2011). Prior to the passage of FOSTA/SESTA, Section 230 stated that internet providers who host or republish speech should not be treated as the publisher or speaker of any information provided by others, nor held liable on account of the publishing on the website by third parties (47 U.S. Code § 230 2021). When removing this provision, legislators specified:

“It is the sense of Congress that: (1) section 230 of the Communications Act of 1934 (47 U.S.C. 230; commonly known as the ‘Communications Decency Act of 1996’) was never intended to provide legal protection to websites that unlawfully promote and facilitate prostitution and websites that facilitate traffickers in advertising the sale of unlawful sex acts with sex trafficking victims; (2) websites that promote and facilitate prostitution have been reckless in allowing the sale of sex trafficking victims and have done nothing to prevent the trafficking of children and victims of force, fraud, and coercion; and (3) clarification of such section is warranted to ensure that such section does not provide such protection to such websites” (47 U.S.C. § 230 2018).

For anti-trafficking advocates who supported its passage, FOSTA/SESTA was framed as a way to help people in trafficking situations facilitated by technology and online classified ads sites, for instance, by holding websites like Backpage accountable (Smith 2018). Others suggested that FOSTA/SESTA simply “closed the loophole” (Rhodes et al. 2018) by providing a narrow legislative carve-out to curb sex trafficking online. Yet before and following its passage, sex workers in the United States and globally flipped the dominant anti-trafficking script of accountability on its head by tweeting, protesting, and calling attention to FOSTA/SESTA’s harmful effects (Siouxie Q 2018; Vice Staff 2018).

The “anti-FOSTA/SESTA” messaging was on clear display at protests commemorating International Whore’s Day in June 2018 (Clark-Flory 2018), and in reports that emphasized a few key themes: FOSTA/SESTA hurts sex workers by taking away the ability to screen clients, it forces people back to the streets and into more dangerous situations, it heightens risk of arrest, and it contributes to sex workers’ vulnerability to third-party market facilitators (e.g., traffickers or pimps) among other harms (Chapman-Schmidt 2019; Robertson 2018; Blunt and Wolf 2020). Others noted that the law imposes particular risks to groups already facing high levels of criminalization, including cisgender and transgender sex workers and migrants of color (Zimmerman 2018). Previous research has demonstrated the vital importance of online platforms in reducing violence against sex workers by eliminating the need to rush negotiations with clients in face to face interactions, a common aspect of street-based sex work within criminalized environments, such as the United States (Cunningham et al. 2019). Online platforms offer sex workers more flexibility and control over their work (Majic 2020, p. 84), and also support digital harm reduction strategies (Blunt and Wolf 2020, p. 119).

On one hand, it is unsurprising that disparate standpoints on the policy exist. Ideological disagreements have long vexed discussions about human trafficking policy in the United States, and concerns about online technologies have persistently amplified “longstanding disagreements about sex work, human trafficking, and the sexual exploitation of youth” (Thakor and boyd 2013, p. 279 as cited in (Majic 2020, p. 85)). Current global debates and policymaking efforts are characterized by the increasing appeal of neo-abolitionist anti-prostitution policies, such as the so-called Nordic model, aiming to eliminate all sex work—framed as sexual exploitation—by stopping the demand for sexual services through the criminalization of clients. This often translates into harmful policies exacerbating the exploitability of sex workers and the deportability of marginalized migrant groups. Anti-trafficking claims now also circulate in a post-truth, “alternative fact” U.S. political landscape that remains hostile to experts and impervious to science and data. As the political scientist Samantha Majic astutely points out, “facts are often contested in policy narratives, and human trafficking narratives are no exception” (Majic 2021). Though the denial of harms linked to anti-trafficking policy predates the Trump administration and the rise of a distinctive brand of pathological denialism fueled by misinformation, it is nonetheless revealing how far out of step the policy is from social science research documenting the punitive dimensions of anti-trafficking laws and activities. Put otherwise, policymakers neither heeded sex workers’ warnings nor considered social science research documenting the misguided assumptions and harms that undergird anti-trafficking policy and practice in the United States and globally.

Briefly, this body of research highlights that sex work and sex trafficking are distinct phenomena but commonly (and problematically) conflated (Mai 2018). Scholars also observe that anti-trafficking laws give rise to anti-prostitution policing strategies that harm the people they aim to help (Showden and Majic 2018; Lutnick 2016; Musto 2016). The United States' foundational anti-trafficking legislation, the Trafficking Victims Protection Act of 2000 (TVPA), focused considerable attention on trafficking situations involving cisgender women and girls in sexually exploitative situations (Showden and Majic 2018; Musto 2016). Yet not only did prostitution-related arrests go up in the decade following its passage (Lutnick 2016), the TVPA also reconfigured ideas about punishment. For example, in some jurisdictions, a person deemed "at risk" of trafficking may be arrested. An arrest in turn triggers placement in human trafficking courts, prostitution diversion programs, or other programs that require "victim-defendants" to complete court-mandated services (Musto 2016; Gruber et al. 2016). Though framed in assistive terms, the effects of this kind of "carceral protection" carries collateral consequences, such as a criminal record that limits employment, housing, and educational opportunities (Musto 2016). Notably, cisgender and transgender women and people of color endure the bluntest force of punitive efforts pitched as protective (Fehrenbacher et al. 2020).

In the twenty years following the passage of the TVPA, laws to address human trafficking, particularly situations involving sexual exploitation, continue to collapse sex work with trafficking and prioritize carceral responses over transformative community-based approaches (Musto 2020; Hoefinger et al. 2020, p. 2; Mai 2018; Bernstein 2012). Although FOSTA/SESTA is not the first policy to promote an anti-prostitution, neo-abolitionist agenda under the guise of fighting trafficking, what is distinct about it is the interpretation of its mandate to compel intermediaries to work *proactively* (Musto 2020; Musto et al. 2020). FOSTA/SESTA requires intermediaries to evaluate whether user-generated content contains evidence of actual or perceived criminal activity, a requirement that is further complicated by the fact that the law neither distinguishes trafficking from consensual adult sex work (Conlon 2019) nor assesses "the intent of the content host or the age of those involved [who need not] be below the age of 18" (Chapman-Schmidt 2019, pp. 178–79).

In the months following its passage, intermediaries got to work to comply with the law, introducing sweeping changes to curtail content linked to (or assumed to be linked to) commercial sex. To offer a few examples: websites shut down, companies changed their terms of service, certain platforms banned sex workers altogether, and still others removed content or made sexual content invisible (e.g., shadow banning) (Tierney 2018; Cook 2019). Contrary to FOSTA/SESTA's supporters, who framed the law as a narrow carve-out aimed at protecting victims of trafficking, the law opened the floodgates to broader efforts to curtail "sex-related" content, including "borderline" content produced by workers in legal markets, such as sex workers in adult entertainment (Steadman 2019). That FOSTA/SESTA has imposed restrictions in both criminalized and legal sexual service realms like pornography, for instance, is notable. Just as anti-trafficking laws persistently blur distinctions between sex work and sex trafficking, carceral orchestrated anti-trafficking efforts collapse distinctions between the voluntary and coerced provision of sexual services, resulting in what legal scholar Janie Chuang describes as a form of "exploitation creep" (2014).<sup>1</sup>

### 1.1. Brief History of Networked Anti-Trafficking Efforts

Anti-trafficking efforts focused on technology did not start with FOSTA/SESTA (Thakor and boyd 2013; Majic 2020). Rather, FOSTA/SESTA is but the latest legislative iteration of the U.S. anti-trafficking movement's enduring neo-abolitionist and sexual humanitarian approach refashioned in networked form. The antecedents of the United States' "networked neo-abolitionist" approach (Musto 2020, p. 1154; Musto et al. 2020; Chapman-Schmidt 2019) can be traced back more than a decade when "networked trafficking" efforts

<sup>1</sup> We credit Molly Dunn's dissertation research on anti-trafficking activities in Arizona for helping us make this connection to Chuang's work on exploitation creep.

first emerged (Thakor and boyd 2013). In the United States, networked anti-trafficking approaches leveraged the newfound visibility and accessibility of online sites presumed to promote trafficking (even though such claims were unsubstantiated) (Musto and boyd 2014, p. 3). Such efforts also relied on online measures and a narrative advanced by advocates who argued that particular technologies contribute to sexual exploitation and that companies must be held accountable for exploitation that occurs on their platforms (Musto et al. 2020; Thakor and boyd 2013). For example, in September 2010, Craigslist closed their adult services section following years of pressure from anti-trafficking advocates who argued that the site had a responsibility to fight sex trafficking, culminating in a letter from the attorney generals of 17 states demanding the closure (Miller 2010). Five years later, in August 2015, Rentboy.com, an advertising platform mostly for male and transgender escorts, which had been in operation for 18 years, was raided following an investigation carried out by the Department of Homeland Security and NYPD, who framed the website as a “global criminal enterprise” (Nolan Brown 2015; Richardson 2015). The CEO and six employees were required to forfeit over USD 1.4 million in assets and were arrested on charges of violating the Travel Act, a federal law which forbids the use of interstate or foreign travel for the purpose of engaging in certain criminal acts such as promoting prostitution (Richardson 2015). Then, in January 2017, Backpage closed its adult section after a United States Senate subcommittee accused the site of facilitating sex trafficking and the sexual exploitation of minors (Ferrer v. Senate Permanent Committee on Investigations 2016). Taken together, what these examples underscore is that FOSTA/SESTA is part of a longer social history of anti-sex trafficking efforts focused on shuttering sites and stamping out commercial sex online, even though the rationale for government raids and targeted platform takedowns have had distinct gendered and racialized effects (Majic 2020). They also provide context in accounting for the effects of targeted shutdowns and networked anti-trafficking efforts more broadly. Put in a slightly different way, the punitive effects of website closures and government and platform responses to anti-trafficking advocacy did not start with FOSTA/SESTA. Nonetheless, FOSTA/SESTA is distinct from anti-sex-work, networked, and neo-abolitionist trafficking efforts that precede it in a few ways.

First, FOSTA/SESTA enlists third-party platforms and non-state actors (e.g., website owners, moderators, and developers) to enforce it (Musto 2020). It uses the stick of criminal liability to compel intermediaries to proactively police their networks and scrub content linked (or perceived to be linked) to commercial sex. Second, FOSTA/SESTA’s twinned networked governance and networked policing approach produces harms that may include but are not limited to penalties linked to the criminal legal system (Chapman-Schmidt 2019). Harms also result from preemptive actions taken by companies in their attempt to avoid liability for exploitation presumed to occur on their platforms. Such moves limit sex workers’ ability to stay safe (e.g., through the use of client verification websites and/or “bad client” discussion forums), organize their labor, engage in harm reduction practices, and share information with peers, among other detrimental consequences (Blunt and Wolf 2020).

While some observers have focused on the implications of FOSTA/SESTA on free speech grounds (Electronic Frontier Foundation 2018a), its effects stretch well beyond legal questions about internet censorship and trafficking policy. Indeed, FOSTA/SESTA indexes a networked model of governance that contributes to heightened vulnerabilities for sex workers and trafficked persons in the United States (Musto et al. 2020). Yet crucially, the ramifications of such networked strategies and the harms they produce are not recognized by anti-trafficking stakeholders as injurious, an erasure that renders sex workers dually exposed to heightened criminal legal system involvement and a range of non-formal yet still punitive effects (Selman et al. 2019, p. 528; Musto et al. 2020).<sup>2</sup>

<sup>2</sup> Our argument here draws on research on decriminalization and the non-formal punishments it advances (Natapoff 2015) and “shadow carceral innovations” (Selman et al. 2019). This work traces the effects of non-formal punishments on criminalized groups and explores the challenges of remedying it when harms are not recognized as such (Natapoff 2015, p. 1060).

### 1.2. Criminal–Legal Harms + FOSTA/SESTA = Networked Moral Gentrification

An expansive body of research exists that documents the collateral consequences facing individuals entrapped by the criminal legal system in the United States (Chesney-Lind and Mauer 2003; Gottschalk 2016; Selman et al. 2019; Ben-Moshe 2020). This research traces the debilitating effects of punishment within and beyond carceral spaces like jails, prisons, etc. (Ben-Moshe 2020) while also highlighting a vast web of “invisible punishments” that ensnare people following an arrest or criminal conviction. The long-term consequences of an arrest or criminal record are extensive. Indeed, the known and lesser known invisible punishments that emanate from criminal legal system involvement are equal parts capacious and constraining, limiting people’s access to education, employment, housing, and the right to vote while more broadly sustaining racial capitalist arrangements and inequalities (Selman et al. 2019, p. 528; Alexander 2012; Pager 2007; Davis 1998).

Although the collateral consequences of carceral punishment are well documented, more recent work has focused on the effects of non-carceral systems (e.g., schools, the child welfare system, drug treatment centers, anti-violence programs, mental health care facilities, etc.), as well as non-formal punishments or reformist efforts framed as alternatives.<sup>3</sup> For instance, the concept “alternatives to incarceration” is suggestive of a loose commitment to divesting from carceral logics and moving away from systems that profit off of punishment. Yet as prison abolitionists and social scientists forewarn, moves to replace more typical forms of punishments with reforms billed as “alternatives” can and often do lead to enhanced mechanisms of control (Haney 2013).<sup>4</sup> This is where the scope-creeping effects of seemingly divergent phenomena come into play. For instance, the “exploitation creep” of trafficking “widens the anti-trafficking net to capture more forms of exploitation” (Chuang 2014, p. 611) and, in so doing, expands the network of state and non-state actors installed to address it, particularly non-state actors that embrace carceral approaches (Thakor and boyd 2013; Musto 2016). Efforts to reform established carceral practices—imprisonment, for example—have net-widening effects too and, as the legal scholar Alexandra Natapoff suggests, doing away with formal punishments does not reduce system involvement per se but rather magnifies the “system’s capacity to watch, label, direct, and derail the lives of a growing population subject to arrest, conviction, and nonprison punishments” (Natapoff 2015, p. 1056). Whether we are talking about policies like FOSTA/SESTA that deputize third-party actors as frontline platform enforcers of anti-trafficking policy or efforts to transform more typical forms of policing and punishment under the auspices of reform, a focus on their scope-creeping dimensions helps to illuminate how the “decentralization . . . of systems of control” across different sites and its enforcement by a diffuse range of actors enhances the reach of state systems and intensifies the power it wields over people’s lives (Haney 2013, p. 106).

For researchers Selman, Myers, and Goddard, the shadow cast by non-criminal measures is crucial to track because penalties can enhance a person’s risk of future criminal legal system involvement while constraining social and economic opportunities in the present (Selman et al. 2019, p. 528). As they explain, “while policymakers have begun to reform the most blatant forms of criminalization and exclusion, there are several ‘shadow measures’ that facilitate carceral entanglement in less obvious ways” (Selman et al. 2019, p. 531). They go on to describe the lasting impact of pervasive non-criminal punishments, noting:

<sup>3</sup> Tracking emerging sites and systems framed as alternatives to carceral punishment but which utilize surveillance techniques and strategies of social control is especially salient in the wake of the murders of George Floyd, Breonna Taylor, and many other Black Americans in the past year at the hands of police. The uprisings that followed their untimely deaths have drawn long overdue national attention to systemic anti-black racism and racialized violence foundational to the criminal legal system and every other facet of American life. Yet pleas by some groups to “defund the police,” abolish prisons, and structurally transform a criminal legal system deemed broken beyond repair are in tension with more reform-oriented approaches that center on alternatives to incarceration.

<sup>4</sup> For example, swapping pretrial detention with home confinement and electronic monitoring (Schenwar and Law 2020)—what Michelle Alexander describes as “e-carceration” (Alexander 2018)—“prisonizes” (Schenwar and Law 2020, p. 19) home, turning a person’s everyday life into a suspended state of punishment.

“the impact of these less obvious punishments runs deep and wide, with their effects lasting much longer—sometimes permanently—in the lives of criminalized peoples . . . [these] obscured practices have their own distinctive effects beyond priming particular individuals and groups for carceral-involvement, including forms of social constraint and control that may be non-criminal, which is to say, not result in criminal legal involvement but still impact people’s social and economic opportunities and access to college admissions, credit, driver’s and professional licenses, etc.” (Selman et al. 2019, pp. 528–29).

Emerging research also explores the enmeshment of carceral logics and racialized discrimination via technical innovation (Benjamin 2019; Alexander 2018).<sup>5</sup> Technology, including data-driven technologies equipped with surveillance capacities, plays a central role in augmenting existing carceral approaches (e.g., predictive policing) while fueling carceral incursions in daily life on and offline that may but do not necessarily lead to criminal legal system involvement or a more formal punishment—an arrest, for instance. Established surveillance practices are increasingly expanded through automated technologies, feminist scholars Kathryn Henne and Emily Troshynski argue, and these technologies create “new modes of monitoring and sorting subjects, extending into new domains and locations, and rendering more populations visible to the gaze of legal and regulatory authorities” (Henne and Troshynski 2019, p. 64).<sup>6</sup> A discussion of how platforms use automation and devise content moderation and community standard approaches to identify and respond to instances of trafficking and exploitation goes beyond the scope of this article. However, Henne and Troshynski’s work has purchase for our investigation of the effects of networked anti-trafficking efforts, namely in recognizing that behind every automated screening, scoring, filtering, and risk-assessing tool a platform uses to “mine for signs of human trafficking in real time” ((Myles and Shapiro 2018) as cited in (Musto 2020, p. 1165)) is a human (and likely a team of humans) making technical decisions and engaging in moral assessments about what content “counts” as legal, criminal, morally acceptable, and/or a violation of community standards. Our point here is simply that the sociotechnical and legal decisions surrounding a platform’s enforcement of FOSTA/SESTA and other anti-trafficking laws is directly tied to whether sex workers become more “visible to the gaze” of authorities, and whether and how such visibility places them at heightened risk of exposure to carceral control and sexual humanitarian interventions, now and in the future.

Yet despite the various ways that shadow measures, non-formal penalties, and automation subject criminalized groups to enhanced surveillance and social control, their effects often remain invisible. Our analysis of FOSTA/SESTA contributes to this literature by examining the policy’s effects. We argue that shifting governance arrangements and conservative moralities cohere in exacerbating structural vulnerabilities within and beyond the criminal legal system. Our data contribute to research on shadow carceral measures and non-formal punishments by analyzing the specific ways in which they impact the lives and rights of racialized and sex-gendered American citizens and migrants working in the sex industry. In addition to facing heightened surveillance after FOSTA/SESTA’s passage, which has impacted countless sex workers across legal and criminalized sectors (Chapman-Schmidt 2019), we describe how racialized cisgender and transgender sex workers, many of whom are migrants, endure particular vulnerabilities, including what we refer to as “networked moral gentrification.”

<sup>5</sup> For instance, a recent ballot initiative in California sought to replace cash bail with an algorithmic risk assessment system that would rely on automated systems to determine “who should be caged and who should be set ‘free’” (Alexander 2018). This and other technical innovations have raised pressing questions about how algorithms, drones, robots, and a range of new technologies entrench racialized inequality and extend punishment in troubling new directions. See also Benjamin (2019).

<sup>6</sup> Yet the effects of heightened surveillance are uneven and efforts to solve complex social problems through technical fixes often exacerbate racial discrimination and “replicate social divisions” (Benjamin 2019, pp. 4–5). In her brilliant mapping of the links between technical innovation and racialized oppressions within and beyond the criminal legal system, scholar Ruha Benjamin powerfully reminds us that “we do not all experience the dangers of exposure in equal measure . . . people are exposed differently to the dangers of surveillance” (Benjamin 2019, pp. 111–12).

The concept of “networked moral gentrification” builds on Nicola Mai’s (2018) analysis of the widespread processes of “moral gentrification” through which privileged, profitable, and conservative moralities grounded in neo-abolitionist and neoliberal ideologies are imposed on marginalized social groups and the spaces where they live and work. Moral gentrification is embedded in Mai’s definition of sexual humanitarianism: an affective mode of neoliberal governance constructing specific social groups as uniquely vulnerable in relation to their sexual behavior, identity, and the work they do according to neo-abolitionist understandings of victimhood, which conflate sex work with sexual exploitation and trafficking and do not reflect the realities, priorities, and needs of the people who are directly concerned (Mai 2018).

The fact that both the US Senate and House passed SESTA/FOSTA with nearly unanimous bipartisan support in 2018 (97 to 2 in the Senate, 388 to 25 in the House) in the context of extremely fractious inter-party relations highlights how, by criminalizing the livelihoods of sex workers, moral gentrification and the affective governance framing shaping it are deeply implicated in the renegotiation of a new “national sentimentality”, that is, a ‘rhetoric of promise’ that a ‘nation’ can be built ‘across fields of social difference through channels of affective identification and empathy” (Berlant 2001, p. 53). By constructing social alarms and deploying interventions that further marginalize racialized and sex-gendered target populations, FOSTA/SESTA relies on neo-abolitionist and sexual humanitarian approaches to trafficking and uses techniques of control under the guise of protection. We view this as an extension of affective governance in the domain of networked technologies. FOSTA/SESTA also carries collateral consequences that resemble shadow measures imposed on criminalized groups uninvolved in the sex trades. However, the sexual humanitarian ethos fueling networked anti-trafficking efforts produces distinctive empirical effects. These effects, we argue, signal important yet unexamined variations of shadow measures and non-criminal punishments that merit scholarly attention.

## 2. Methods

### 2.1. Overview

This analysis draws on qualitative data from NYC and LA from 34 months of ethnographic fieldwork and interviewing in the context of the multi-country SEXHUM Study. SEXHUM explores the relationship between migration, sex work, and trafficking in eight cities within four countries: Australia (Melbourne and Sydney), France (Paris and Marseille), New Zealand (Auckland and Wellington), and the US (NYC and LA). SEXHUM examines the impact of anti-trafficking initiatives on the governance of migration and the sex industry by analyzing sex workers’ own understandings and experiences of agency and exploitation in order to improve policies and social interventions to address their needs. SEXHUM aims to challenge the sexual humanitarian construction and targeting of social groups as specifically vulnerable in relation to their sexual behavior to examine the qualitative lived realities of sex workers and trafficked persons.

The first phase of data collection (involving both ethnographic observation and interviewing) was conducted for 34 months from March 2017 to December 2019. This was followed by a second phase of data collection (involving online interviewing) for 5 months from April to August 2020 to add supplementary interviews centered on the impact of the COVID-19 pandemic. In-depth, semi-structured interviews and ethnographic observations were conducted with self-identified sex workers and trafficked persons of all genders, along with key informants. Ethnographic fieldwork was conducted weekly throughout the first phase of data collection in sex work venues, community-led organizations, human trafficking intervention courts and prostitution diversion programs, anti-trafficking task forces and collaborative gatherings between non-governmental organizations and law enforcement agencies, as well as other strategic settings and events for sex workers and trafficked persons.

We interviewed a total of 58 sex workers and trafficked persons in NYC and LA who were purposively sampled from the ethnographic fieldwork sites described above



with recruitment flyers and via word-of-mouth referrals from other participants. The initial 50 interviews were conducted face-to-face during the first phase of data collection before the 2020 COVID-19 pandemic hit. We conducted 13 additional interviews remotely during the second phase of data collection by phone or online, of which 5 were repeat interviews with participants we had previously interviewed during the first phase of data collection. We also conducted 20 interviews with key informants face-to-face and by phone during the first phase of data collection. Key informants included legal and social service providers, police, prosecutors, and staff from anti-trafficking organizations. Interviews were conducted for 60–90 min each in English or with trained interpreters in Spanish, Thai, Mandarin, or Cantonese.

All data collection procedures were approved by the Institutional Review Boards of the City University of New York (CUNY) and Kingston University, London. Participants who self-identified as sex workers or trafficked persons were compensated in cash for their time. Key informants were not paid. All sex workers and trafficked persons were provided a pseudonym to protect their confidentiality. Participants are also identified in the results based on region rather than country of origin (e.g., Asian vs. Chinese, Central American vs. Mexican, etc.) to protect their identities because some migrant participants were the only individual in the sample from their country of origin. Key informants who elected to share their name or the name of their organizations are referred to by their real names.

Interview transcripts were iteratively coded, sorted, and analyzed using a combination of thematic analysis guided by the theory of sexual humanitarianism and the constant comparative method. Transcription and coding were conducted concurrently with interviews until saturation of themes was achieved. Coding, analysis of key themes, and selection of quotes was completed by postdoctoral researchers who conducted the interviews in Dedoose. The analysis for this paper focuses primarily on themes related to the criminalization of migrants, both documented and undocumented, and U.S.-born cisgender and transgender people of color in NYC and LA who are caught between the necessity to sell sex because of their structural exclusion from jobs outside of the sex industry and their subjection to anti-prostitution and anti-trafficking law enforcement operations. Such operations include undercover police activities designed to combat sex trafficking, which exacerbate sex workers' vulnerability to abuse, violence, and physical and mental health issues, and also include harms linked to policies like FOSTA/SESTA.

## 2.2. Sample Characteristics

Sex workers and trafficked persons in the sample included 30 transgender, 25 cisgender, and 3 non-binary/gender-non-conforming people between the ages of 19 and 70. Participants hailed from 16 countries of origin, including 21 participants who were born in the US and 37 migrants born outside of the US from Latin America, the Caribbean, Africa, or Asia. The largest number of migrants in the sample were from Latin America. The majority of participants reported criminalization experiences, including police violence, arrest, immigration enforcement, detention, and/or incarceration.

## 3. Results

An overarching critique of anti-trafficking efforts tied to the criminal legal system is that it transforms seemingly protective laws into a gendered and racialized pipeline to criminal legal system involvement, a trend that expands the criminalization of youth and adults who trade sex, irrespective of whether they self-identify as “trafficked” or not, while enhancing law enforcement authority to surveil and control groups deemed “at risk” (Musto 2016; Gruber et al. 2016, p. 15). Negative health outcomes and legal consequences also accompany these interventions (Hoefinger et al. 2020; Gruber et al. 2016). These trends preclude the passage of FOSTA/SESTA. However, FOSTA/SESTA has done little to mitigate existing harms. Instead, the law has magnified extant vulnerabilities and created new ones. As a key informant from the online, community-run, sex worker mutual care collective Lysistrata cogently put it:

“Shutting down clubs, taking away the internet, criminalising buyers, all of these things that people do to protect trafficking actually make it worse. It limits the ability of people to be independent, it limits the ability for them to have a voice, it limits the ability to transfer information from one person to another about the client and the people who are out there receiving our services . . . And at the end of the day and what’s really unfortunate is that we both have the same end goal. We don’t want people to be trafficked. That is the end goal. That is the end goal for decriminalization, that is the end goal for anti-trafficking. We don’t want people to be harmed in this process but we also acknowledge that there are some people who will choose to do this work regardless.”

The policing practices and platform changes authorized by FOSTA/SESTA placed considerable constraints on many participants’ safety, income, and health. For some participants, the passage of FOSTA/SESTA and the shifts that resulted from it were not the first time they experienced the disruption of sites and the loss of safety and income that occurred as a result. Nonetheless, the effects of the shuttering of sites before and after FOSTA/SESTA passed were immediate and often devastating. Vanessa, a 46-year-old trans woman from Central America, described the links between technology and safety and how the shutdown of sites—in this case, Backpage—translated immediately to her diminished sense of safety and heightened fears of arrest:

“Yes, it made things very difficult for me. Before they stopped Backpage I used to travel a lot for work. Now it’s very difficult. I do not know where to go, what to do . . . I am scared to sell sex in the street, it’s not for me. I really don’t know what to do at the moment . . . I don’t want any more problems by being arrested here. I will have an interview with a judge here in New York for my citizenship application here in New York soon . . . I have lots of friends who are going through difficult times. They are struggling to pay their rents and bills, they are feeling depressed.”

For Lily, a 53-year-old cisgender woman from Asia, the closure of Backpage resulted in a loss of income and diminished freedom.

“The boss of the hotel doesn’t hold you there, but it begins a routine in that circle for a very long time. You get stuck doing the same things day after day. Can’t go anywhere. Or do much of anything else. So I said now I’m gonna work for myself. And book myself. So I went online. I used Backpage to advertise. It was good! It was easy to find good clients. I was making good money! Suddenly, when it closed, you feel like nobody knows you. No clients after that. No way to meet them myself after that. I got completely broke! It was terrible. So then, I worked in the massage parlor after that—because customers could walk in . . . [But] I felt like I was in prison again. I couldn’t go out. I couldn’t turn on the light. I couldn’t do anything.”

Lily’s return to the more constrained and controlled environments of indoor venues and massage parlors puts into sharp relief how anti-trafficking efforts designed to ameliorate exploitation have instead exacerbated her risk to it, while at the same time restricting her mobility and confining her to “prison”-like working conditions.

Unfortunately, Vanessa and Lily’s experiences of economic precarity, fear of police, fear of abuse *by* police, a loss of independence, and the forced return to indoor, managed sex work after the closure of online advertising sites were not isolated experiences. What interviews and ethnographic observations with study participants revealed is that because of FOSTA/SESTA, numerous transgender African American U.S. citizens and trans Latina migrant women participants had to resort to selling sex in the street or move to other venues, exacerbating fears about their safety, contributing to socioeconomic instability, and leading to a diminished sense of autonomy. Elsewhere, we described how trans migrants and people of color in the sex industry are “intersectionally vulnerable to abuse and criminalization.” Trans migrants are also commonly viewed by law enforcement as

“less exploitable” than cisgender girls and women deemed “at risk” of trafficking and routinely excluded from anti-trafficking interventions (Fehrenbacher et al. 2020, p. 190). What interviews with study participants, most of whom are transgender, further reveal are the distinctive ways that trans migrants and sex workers of color experience criminalization from anti-trafficking policies like FOSTA/SESTA alongside heightened economic and labor precarity resulting from anti-trafficking efforts centered on technology.

Nayara, a 42-year-old trans Latina migrant, had experiences working on the streets as well as using Craigslist, Backpage, and Eros before they were shut down. For Nayara, the choice between working online and on the street was unambiguous. “It was better to work online than on the street,” she told us, and it was “difficult to work when they closed Backpage.” She went on to explain that past experiences with police violence left her feeling “too scared” to return to street-based work. Vanessa and Nayara’s past experiences of arrest and violence at the hands of the police, and Lily’s loss of independence, help to contextualize how each of them navigated platform shutdowns and the work, life, and safety constraints that followed. Their experiences also illuminate how the advancement of carceral and networked approaches to trafficking through policies like FOSTA/SESTA (though not limited to it) have exposed sex workers to a distinctive variant of shadow carceral vulnerability: networked moral gentrification. The effects of networked moral gentrification may include punishments linked to criminal legal system involvement, for instance, an arrest that compromises a pending immigration application, as Vanessa described. Yet a range of other harms have emerged since the passage of FOSTA/SESTA. Such harms, together with more than a decade’s worth of networked anti-trafficking efforts, may mean that sex workers endure a range of shadow effects—the closure of websites, deplatforming, and changes in platform rules that limit online advertising, measures that in turn contribute to economic losses, job and housing insecurity, safety and health risks, along with the heightened online policing of gender, sexuality, and sexual labor.

Sex workers of all genders, including cisgender men, described the impact of website shutdowns and constraints in advertising online, including some participants whose experiences date back to the raid and government takedown of Rentboy.com and the closure of adult sections on Craigslist and Backpage. Parco, a 31-year-old Filipino cisgender male migrant, explained that the shuttering of sites translated immediately to a decrease in safety as it hampered the screening of potentially dangerous clients:

“Yes, it did affect me when it closed down. I am looking for a job now. I was recently kicked out of the house again . . . Craigslist helped a lot to be safe, at least we were on a computer in a library and not in the street which is more dangerous . . . [online] I could screen clients.”

John, a 30-year-old Filipino-American cisgender male, described the far reaches of FOSTA/SESTA’s impact on gay dating and hook-up sites, such as Grindr, and the ways in which the changing of their guidelines resulted in a return to the street:

“Grindr was easy . . . as soon as I put my ad up, I’d get responses with money signs . . . [But] It’s not good—SESTA. [Back] in the street, you got crack heads, pimps, crazy johns—trying to rob you. It’s not safe.”

A number of interview participants who had experienced the harmful effects of FOSTA/SESTA firsthand were keen to situate their experiences within a broader context of structural vulnerabilities at the intersection of poverty, gender, race, and immigration status. For instance, Liss, a 32-year-old trans Latina migrant woman, described how FOSTA/SESTA intensified the infringement of sex workers’ rights and access to services:

“FOSTA/ SESTA has been a huge impact on me and on all sex workers. It is criminalising us even more, it is this door that the government leaves open to curb access to rights, health, unemployment and labour chances. Historically we have always been criminalized, now the government is reinforcing it, it has another door, another way to criminalise us.”

Liss's evocative description demonstrates the expansive reach of networked moral gentrification where FOSTA/SESTA figuratively functions as a one-way door leading to criminalization while indefinitely closing current and future access to work, healthcare, and employment.

For Ashley, a 30-year-old African American cisfemale, tremendous fear and panic occurred among sex workers she was connected to after FOSTA/SESTA passed and "many sites immediately either closed or changed their terms of service." She described her own experiences dealing with the closure of particular websites and changes to the terms of services, both of which impacted her income and stress level, and further described vulnerabilities to platforms' preemptive policing practices. As she explained:

"The closing of Backpage definitely affected my income and my stress level. I was thinking, 'Can I pay my bills and take another college course? What should I do? Am I going to meet my financial goals?' All of this was upended by all this SESTA bullshit . . . multiple sites shut down and removed themselves completely – preemptively . . . The Erotic Review [TER] took down their ad posting part; they had free advertising . . . we all posted ads there . . . a lot of people who couldn't afford Eros or Slixa . . . we need free advertising. So when they took TER down, that incited more fear. Eros [was a] bust, Backpage went down, then TER took away the ad section and SESTA passed somewhere in that timeframe. Mass panic. Then infighting . . . Reddit, Craigslist, Fetlife, Eros, Instagram, Twitter, they've all changed [their] Terms of Service."

After FOSTA/SESTA passed, Ashley observed and experienced firsthand various forms of censorship, including limits on suggestive but not explicitly sexual photos (e.g., putting a finger in your mouth) and banned words such as "sensual," "touch," and even "tired from a hard day." She also described the financial insecurity that accompanied FOSTA/SESTA and adjacent policies passed around the same time—the Clarifying Lawful Overseas Use of Data Act or CLOUD Act, for instance, which enhances the ability of law enforcement within and outside the U.S. to gain access to people's data irrespective of where it is geographically stored ([Electronic Frontier Foundation 2018b](#)).

"Yes, it's shit, CLOUD Act, SESTA, bank accounts. By the way, as soon as I found out, I took all my money out of the bank!"

Ashley's account underscores the financial discrimination that sex workers experienced before and after FOSTA/SESTA. Her experiences also highlight how the censoring of words on certain platforms and changes to terms of service reflect a post-FOSTA/SESTA, morally gentrified, networked landscape animated by sexual humanitarian impulses and categories. That FOSTA/SESTA places restrictions on both criminalized forms of sex work and legal sexual services like porn is notable. As feminist scholar Heather Berg argues, although FOSTA/SESTA formally targets in-person sex work that is already criminalized, sites offering a range of services responded to its overly broad language by restricting access to even legal sexual services ([Berg 2021](#), p. 123). Research conducted by community organizations also found that at least 29 pay apps and payment processors explicitly discriminated against sex workers in their terms of service of agreements ([#SurvivorsAgainstSESTA 2018](#); [Blunt and Wolf 2018](#)), a problem exacerbated by the legislation.

In an interview conducted shortly after the passage of FOSTA/SESTA, key informant Freddy Molano, Vice President of Infectious Diseases and LGBTQ Programs and Services for Community Healthcare Network in NYC, described the impact of platform changes and site closures on the health and financial situations of community members he works with, the majority of whom are migrant transgender women from Latin America:

"[They] were able to get the money before [through the websites] . . . Now there have been cases already when they have been abused, [and] they don't get paid after performing activities" due to the recent shutdowns of popular cash apps (interviewed 17 July 2018).

He also noted other immediate negative impacts that were “absolutely, no doubt” associated with the passing of FOSTA/SESTA, such as an increase in police raids and violence against trans Latina women working on the street in Jackson Heights, Queens (where many migrant populations work), less inclination to seek medical care or police assistance after violent experiences, and a resurgence of pimps and others seeking to exploit the newly precarious situation of migrant, non-white workers.

Our ethnographic data also reveal the existence of hierarchies, divisions, and positionalities within the sex industry, as, for a minority of relatively more established sex workers, the closure of web-based commercial sex sites meant benefiting from returning regular clients who could no longer resort to the internet to find new people. A small minority of respondents described positive aspects of the legislation. Like other participants we interviewed, Pina, a 37-year-old trans woman from Latin America, expressed fears about the closure of Craigslist and Backpage. Such concerns prompted her to avoid working online. Yet, she thought that the shuttering of sites had some benefits in terms of protecting youth and reducing encounters with police. As she explained:

“I think this is good because there won’t be minors prostituting and because it will avoid entrapment, which was my main reason for not using it. The bad is that it prevents people from earning their livelihoods. There needs to be more leniency and reform as far as the laws are concerned because we pay for people to cook for us, to take care of us, why should not people be allowed to pay for sex.”

Though Pina’s concerns about the sexual exploitation of youth online is laudable, her note about how the closure of sites limits people from earning a living and subjects them to punitive laws devoid of leniency points to the ways that FOSTA/SESTA and sexual humanitarian efforts more broadly render migrant sex workers vulnerable to carceral system involvement and expose them to non-criminal measures that are unambiguously punitive even if the penalties exist outside of the criminal legal system.

Significantly, the effects of FOSTA/SESTA not only exceed punishments that accompany criminal legal system involvement in the United States. The effects of the policy stretch beyond U.S. borders and, here, our data draw attention to the harmful effects of FOSTA/SESTA beyond the United States, including in other SEXHUM settings like New Zealand, where sex work is legal. As a Pasefika<sup>7</sup> regional coordinator for NZPC Aotearoa New Zealand Sex Workers’ Collective (NZPC) declared:

“It was horrible up here in Auckland. The day Crackr went down when Backpage was seized because of FOSTA/SESTA we had heaps of people come in wondering what to do. So many of them were so reliant about being able to advertise on there and didn’t want to go back to working on the street. One trans woman had just got a flat, after being homeless . . . and was really worried she would lose it as she may not be able to afford to pay rent. She was adamant she didn’t want to go back to working on the street as she says it was the drug use there that made her homeless in the first place. She didn’t want that to happen either. These bloody American politicians thinking they know what’s best for the world when it’s us, who work with these women and men who are most affected by it, even here in New Zealand, who have to pick up the pieces. They need to learn that US Law isn’t right and causes more problems.”

Of additional note, even among participants who unambiguously described FOSTA/SESTA’s harmful impact, interview participants across national contexts stressed how the policy contributed to activism, organizing efforts, and technical innovation. As US participant Ashley enthused:

<sup>7</sup> Pasifika/Pasefika peoples are Pacific Islanders who have made their home in New Zealand.

“Whores are adapting! I have never seen so many sex workers, trans, queers ... I have never seen so many strong people coming out and doing all this organizing!”

A key informant from Lysistrata, a mutual aid collective for sex workers, cited the Rentboy raid and the passage of FOSTA/SESTA as a generative force in sparking community efforts to raise funds and devise innovative strategies to mitigate the harms of criminalization:

“As community members, we knew that SESTA/FOSTA was happening. The thing with Rentboy had happened, so we had just got together. And it was like we really need, I’m thinking, some emergency funds in case people get arrested, in case like people need to feed their families. It really just came out of necessity because of criminalisation.”

Other interview participants noted how FOSTA/SESTA prompted them to build their own websites and find advertising workarounds. For instance, Roberta, an indigenous New Zealand Maori tangata ira tane<sup>8</sup> sex worker who works part time at NZPC, noted:

“When Backpage and Crackr closed down I was left with no income other than what I get from here, and that’s, only 30 hours a week so it was a struggle. There was no way I was going to advertise on newzealandgirls because of the way they treat people, so I had to find another way of advertising. I started my own website, and thankfully nzpleasures came online quicker than expected, and I also put adverts on tednz (The Escort Directory) but I had to be sure they wouldn’t be closed down as well first. I had to help others either build their own website or advertise on other sites as part of my job here. There weren’t really that many I suppose, more than 10 but less than 20.”

Sex workers’ use of technology to challenge the harms of FOSTA/SESTA and come up with innovative mutual aid strategies to support the needs of community members highlights the importance of in-person and online peer-facilitated efforts.

#### 4. Discussion

Interviews with transgender and cisgender migrants and women of color reveal that FOSTA/SESTA and the networked anti-trafficking efforts that predate it not only criminalize sex workers’ labor but also subject them to “networked moral gentrification”, which further exacerbates entrenched structural inequalities. In this respect, it is important to underline that the differential experiences of the impact of FOSTA/SESTA presented in the previous section do not undermine our analysis of the overall negative impact it had on the lives and rights of migrant and non-migrant sex workers. At the same time, they do allow a more nuanced, intersectional analysis of the racialized groups and individuals that were most negatively affected. Anti-trafficking policies like FOSTA/SESTA authorize networked policing strategies and governance arrangements based on sexual humanitarian and neo-abolitionist [anti-prostitution] approaches, and such approaches simultaneously produce shadow carceral surveillance entanglements and harms that exacerbate migrant sex workers’ vulnerability. Because of the central role that race, gender, and class play in the enforcement of anti-trafficking laws and interventions in general, groups that are already “intersectionally marginalized” (Hoefinger et al. 2020, p. 22), particularly transgender and cisgender migrant sex workers of color endure distinctive vulnerabilities indelibly tied to race, gender, and immigration status.

Post-FOSTA/SESTA, people seen as vulnerable to trafficking may still experience typical forms of street-based policing and vice operations orchestrated by the police. However, participants in our study, many of whom are cisgender and transgender migrants

<sup>8</sup> “Tangata ira tane” translates to transman in Māori. Roberta and a few other Māori trans participants that participated in our study in New Zealand were detrimentally impacted by FOSTA/SESTA, which is suggestive of the ways in which sexual humanitarian anti-trafficking efforts injuriously impact indigenous people across national borders and contexts.

of color, highlighted other harms too—for instance, being forced back to the street and into riskier situations (Hoefinger et al. 2020) and difficulties screening clients. Still others described difficulties engaging in harm reduction strategies like sharing information with peers online, a loss of earnings, and housing and food instability linked to the shuttering of particular sites including but not limited to Backpage (Chapman-Schmidt 2019, p. 185).

The excerpt from the interview with Roberta, which was undertaken in the context of the SEXHUM project in New Zealand, shows that as FOSTA/SESTA has moved across borders, it has also contributed to a sexual humanitarian scope creep whereby sex workers in legal settings are exposed to harms. Here, our data align with work and efforts by activists and community members that have tracked the impact of FOSTA/SESTA outside the United States. For instance, in Australia, sex worker activists from the Victorian peer support network Vixen Collective in Melbourne (Victoria), where sex work is legal but regulated, have detailed how the closure of U.S.-based websites such as Backpage forced sex workers to find work out of private business and into brothels. As a member of the collective explained in a media interview, “brothel owners are not motivated to treat that workforce as well as they should,” and comparable to concerns that circulated in the U.S. after FOSTA/SESTA passed, sex workers in Australia also expressed fears that sites where crucial information about dangerous clients is shared would shut down (Smiley and Lavoipierre 2018).

The data gathered by the SEXHUM project in Australia, France, and New Zealand and in the United States reveal that the impact of FOSTA/SESTA on the livelihoods of migrant and non-migrant sex workers goes well beyond the U.S. national context. This further demonstrates how networked moral gentrification is a strategic vector for the cross-border circulation of harmful sexual humanitarian discourses and interventions. Networked moral gentrification plays a role in the continued mainstreaming of neo-abolitionist and neoliberal values and policies across political divisions through the engendering of a new global sentimentality. The latter, paraphrasing Berlant, is defined as a rhetoric of promise that a global humanity can be built across fields of social difference, through the production and dissemination of moralized notions of victimhood that further exacerbate existing social inequalities and marginalizations in neoliberal times (Mai 2018).

Our data also demonstrate how the mainstreaming of neo-abolitionist ideas shapes governance arrangements and authorizes platform responses to exploitation that comport with such ideas. Just as networked anti-trafficking predates FOSTA/SESTA, the law presaged and created the ideological and sociotechnical blueprint for more recent platform and payment processor responses to sexual humanitarian efforts framed as anti-trafficking measures—anti-porn efforts, for instance. Consider the following: On 8 December 2020, the world’s largest porn aggregation site—Pornhub—removed 10 million videos from its platform (Jones 2020). Pornhub’s decision came on the heels of a New York Times report, “The Children of Pornhub” by Nicholas Kristoff, who decried the company’s monetization of abuse and sexual exploitation (Kristoff 2020). Kristoff’s reporting, coupled with pressure from individuals and groups which the sociologist Angela Jones has described as the “anti-porn religious lobby” (Jones 2020), appear to have shaped Pornhub’s decision. Like the FOSTA/SESTA platform shifts that preceded it, Pornhub’s decision, Jones argues, will invariably “compromise the economic lives of hundreds of thousands of performers—during a pandemic, no less” (Jones 2020). In both instances, anti-trafficking concerns have given rise to networked moral gentrification. As our data on the effects of FOSTA/SESTA make clear, incursions to sexual labor online, underwritten by anti-trafficking policy and executed via platform policing, payment processor prohibitions, and other networked responses, contribute to harms and economic losses and are likely to continue to do so in the future without meaningful policy change.

Our data also contribute to empirical research on harms related to FOSTA/SESTA and generally confirm legal scholar Ben Chapman-Schmidt’s finding that FOSTA/SESTA is punitive by design and has contributed to “epistemic violence” against all sex workers by “shuttering expressive and communicative spaces” that sex workers use (Chapman-

Schmidt 2019, p. 180). In this respect, this article and the data it draws on aim to counter the “post-truth” rhetorical and affective merging of factual and fictional representations. It also aspires to provide an empirical antidote to the epistemic violence characterizing our contemporary sexual–humanitarian moment and the globalized sentimentalities they produce. As Higgins (2016, p. 9) declares, one of the most important missions of social science is “to provide the best information possible as the basis for public policy.” We agree and the data and analysis we present here aim to fulfil that mission.

Findings from the SEXHUM project describe the racialized, targeted oppression inflicted by sexual humanitarian policies like FOSTA/SESTA on the lives and rights of sex workers, not only in the U.S. but across all of the project’s research sites. They also highlight the way that migrant sex workers have been able to respond to these challenges creatively and forcefully. Although the dynamics of “networked moral gentrification” engendered by FOSTA/SESTA contribute to marginalization, precarity and vulnerability to violence and abuse of migrant and non-migrant sex workers, their reactions to FOSTA/SESTA also elucidate their dynamic agency in responding to the increasing challenges they face in sexual humanitarian times. Indeed, sex workers have been at the forefront of documenting, theorizing, and organizing against FOSTA/SESTA’s punitive effects (Blunt and Wolf 2020; Blunt and Wolf 2018; #SurvivorsAgainstSESTA 2018), and our research tracing its networked moral and sexual humanitarian dimensions is indebted to their intellectual labor and generative organizing efforts. The importance of tech-augmented organizing efforts led by and for sex workers has become even more apparent during the global pandemic, which has laid bare the critical need for community-based responses to address the various crises wrought by COVID-19, including crises linked to government inaction. It is therefore striking and deeply troubling that some of the very tools and sociotechnical strategies with the capacity to support sex workers’ health, safety, rights, and financial security are constrained due to policies like FOSTA/SESTA (Musto et al. 2020).

## 5. Conclusions

An examination of the racialized, gendered, and networked dimensions of FOSTA/SESTA is crucial in mapping the effects of the policy on the people directly impacted. Our comparative data and analysis show that there is an inversely proportional relationship between the criminalization faced by migrant sex workers and their ability to access justice, assert their rights, and live their lives. The experiences we learned about and analyzed in the context of the SEXHUM project also demonstrate that racialization plays a key role in the subjection of migrant and U.S. sex workers to processes of “networked moral gentrification,” acting as embedding devices for anti-prostitution and anti-migration controls and policies.

Our overall findings strongly suggest that in order to minimize the harms that can be associated with sex work, it is important to decriminalize sex work by repealing laws criminalizing or limiting the sale and purchase of sexual services, both online and offline. Yet as our data and analysis further demonstrate, a sole focus on the collateral consequences of carceral systems, criminalizing laws, and harms from criminal legal system-involvement proves limited in capturing the vulnerabilities and range of non-formal punishments emanating from networked anti-trafficking efforts in general and networked moral gentrification in particular. That is because FOSTA/SESTA and the networked anti-trafficking efforts (Thakor and boyd 2013) that predate it rely on collaborations, governance arrangements, and platform enforcement that go beyond the criminal legal system (Musto 2016, 2020). Just as more typical remedies—expunging a criminal conviction, for instance—prove insufficient in remedying the punitive effects of networked moral gentrification (Musto 2020, pp. 1167–68), so too must discussions about decriminalizing sex work include but also look beyond the law to consider what a networked approach to decriminalization looks like, in sociolegal and sociotechnical terms. Doing so is crucial in addressing exploitation in the sex industry and adopting ethical and integrated approaches limiting repressive measures that target sex work (Östergren 2017, p. 15).



**Author Contributions:** J.M. wrote the first draft of this article. J.M., A.E.F., H.H., P.G.M. and N.M. conceived of, planned, and conducted the interviews and ethnographic data collection for this paper in the United States. J.M., A.E.F., H.H., N.M., P.G.M., C.B. and C.G. contributed to the theoretical and methodological framing of the article and edited its final version; N.M. led the SEXHUM project and secured funding for it. K.D. reviewed and edited the paper. All authors have read and agreed to the published version of the manuscript.

**Funding:** This study was supported by the SEXHUM (Sexual Humanitarianism: understanding agency and exploitation in the global sex industry) Consolidator Grant from the European Research Council (ERC CoG 682451). More information about the SEXHUM project is available in its website: [www.sexhum.org](http://www.sexhum.org) (accessed on 15 November 2020). Support for Dr. Fehrenbacher was also provided by a center grant at the UCLA Center for HIV Identification, Prevention, and Treatment Services (NIMH MH058107), a training grant at the UCLA Semel Institute for Neuroscience and Human Behavior (NIMH T32MH109205), and a training grant at the University of California Global Health Institute (UCGHI) from the NIH Fogarty International Center (FIC D43TW009343). The content is solely the responsibility of the authors and does not necessarily represent the official views of the ERC, NIH, FIC, or other funders.

**Institutional Review Board Statement:** The study procedures were approved by the Institutional Review Boards of Kingston University in London and the John Jay College of Criminal Justice at the City University of New York.

**Informed Consent Statement:** Informed consent was obtained from all subjects involved in the study.

**Data Availability Statement:** Due to confidentiality protections for study participants required by the Institutional Review Boards that approved this study, the data cannot be made publicly available.

**Acknowledgments:** We thank Dhara Patel and Whitney Akabike for their assistance with coding and data management. We also would like to thank all of our study participants, community partners, and advisory board members for contributing their time and insights and for supporting the project.

**Conflicts of Interest:** The authors declare no conflict of interest.

## References

- #SurvivorsAgainstSESTA. 2018. Platforms Which Discriminate Against Sex Workers. #SurvivorsAgainstSESTA. Available online: <https://survivorsagainstsesta.org/platforms-discriminate-against-sex-workers> (accessed on 15 November 2020).
- 47 U.S. Code § 230. 2021. Protection for Private Blocking and Screening of Offensive Material. Available online: [https://uscode.house.gov/view.xhtml?req=\(title:47%20section:230%20edition:prelim\)#230\\_1\\_target](https://uscode.house.gov/view.xhtml?req=(title:47%20section:230%20edition:prelim)#230_1_target) (accessed on 1 February 2021).
- 47 U.S.C. § 230. 2018. Public Law 115–164. Available online: <https://uscode.house.gov/statviewer.htm?volume=132&page=1253> (accessed on 20 December 2020).
- Alexander, Michelle. 2012. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press.
- Alexander, Michelle. 2018. The Newest Jim Crow. *The New York Times*. Available online: <https://www.nytimes.com/2018/11/08/opinion/sunday/criminal-justice-reforms-race-technology.html> (accessed on 15 November 2020).
- Benjamin, Ruha. 2019. *Race After Technology: Abolitionist Tools for the New Jim Code*. Cambridge: John Wiley & Sons.
- Ben-Moshe, Liat. 2020. *Decarcerating Disability: Deinstitutionalization and Prison Abolition*. Minneapolis and London: University of Minnesota Press.
- Berg, Heather. 2021. *Porn Work*. Chapel Hill: UNC Press.
- Berlant, Lauren. 2001. The Subject of True Feelings: Pain, Privacy and Politics. In *Cultural Pluralism, Identity Politics and the Law*. Edited by Austin Sarat and Thomas R. Kearns. Ann Arbor: University of Michigan Press, pp. 49–84.
- Bernstein, Elizabeth. 2012. Carceral Politics as Gender Justice? The “Traffic in Women” and Neoliberal Circuits of Crime, Sex, and Rights. *Theory and Society* 41: 233–59. [CrossRef]
- Blunt, Danielle, and Ariel Wolf. 2018. Erased: The Impact of FOSTA-SESTA. *Hacking//Hustling*. Available online: <https://hackinghustling.org/wp-content/uploads/2020/01/HackingHustling-Erased.pdf> (accessed on 15 November 2020).
- Blunt, Danielle, and Ariel Wolf. 2020. Erased: The Impact of FOSTA-SESTA and the removal of Backpage on Sex Workers. *Anti-Trafficking Review* 14: 117–21. [CrossRef]
- Chapman-Schmidt, Ben. 2019. Sex Trafficking as Epistemic Violence. *Anti-Trafficking Review* 12: 172–87. [CrossRef]
- Chesney-Lind, Meda, and Marc Mauer, eds. 2003. *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*. New York: New Press.
- Chuang, Janie. 2014. Exploitation Creep and the Unmaking of Human Trafficking Law. *American Journal of International Law* 108: 609–49. [CrossRef]
- Clark-Flory, Tracy. 2018. Hundreds of Sex Workers Rally for International Whores Day. Jezebel. Available online: <https://jezebel.com/hundreds-of-sex-workers-rally-for-international-whores-1826512163> (accessed on 15 November 2020).

- Conlon, Rose. 2019. Sex Workers Say Anti-Trafficking Law Fuels Inequality. Available online: <https://www.marketplace.org/2019/04/30/sex-workers-fosta-sesta-trafficking-law-inequality/> (accessed on 15 November 2020).
- Cook, Jesselyn. 2019. Instagram's Shadow Ban on Vaguely 'Inappropriate' Content is Plainly Sexist. The Huffington Post. Available online: [https://www.huffpost.com/entry/instagram-shadow-ban-sexist\\_n\\_5cc72935e4b0537911491a4f](https://www.huffpost.com/entry/instagram-shadow-ban-sexist_n_5cc72935e4b0537911491a4f) (accessed on 15 November 2020).
- Cunningham, Scott, and Manisha Shah. 2011. The Economics of Sex Markets: Regulation, Online Technology and Sex Trafficking. Available online: [http://www.scunning.com/files/cunningham\\_shah\\_chapter.pdf](http://www.scunning.com/files/cunningham_shah_chapter.pdf) (accessed on 15 November 2020).
- Cunningham, Scott, Gregory DeAngelo, and John Tripp. 2019. Craigslist Reduced Violence Against Women. Baylor University and Claremont Graduate University. Available online: <https://scunning.com/craigslist110.pdf> (accessed on 15 November 2020).
- Davis, Angela. 1998. Masked Racism: Reflections on the Prison Industrial Complex. Colorlines. Available online: <https://www.colorlines.com/articles/masked-racism-reflections-prison-industrial-complex> (accessed on 15 November 2020).
- Electronic Frontier Foundation. 2018a. House Vote on FOSTA is a Win for Censorship. Available online: <https://www.eff.org/deeplinks/2018/02/house-vote-fosta-win-censorship> (accessed on 20 December 2020).
- Electronic Frontier Foundation. 2018b. The CLOUD Act: A Dangerous Expansion of Police Snooping on Cross-Border Data. Available online: <https://www.eff.org/deeplinks/2018/02/cloud-act-dangerous-expansion-police-snooping-cross-border-data> (accessed on 20 January 2021).
- Fehrenbacher, Anne, Jennifer Musto, Hoefinger Heidi, Nicola Mai, P. G. Maciotti, and Calogero Giametta. 2020. Transgender People and Human Trafficking: Intersectional Exclusion of Transgender Migrants and People of Color from Anti-Trafficking Protection in the United States. *Journal of Human Trafficking* 6: 182–94. [CrossRef]
- Ferrer v. Senate Permanent Committee on Investigations. 137 S. Ct. 28 (U.S. 2016).
- Gottschalk, Marie. 2016. *Caught: The Prison State and the Lockdown of American Politics*. Princeton: Princeton University Press.
- Gruber, Aya, Amy J. Cohen, and Kate Mogulescu. 2016. Penal Welfare and the New Human Trafficking Intervention Courts. *Florida Law Review* 68: 1333. [CrossRef]
- Haney, Lynne. 2013. Motherhood as Punishment: The Case of Parenting in Prison. *Signs: Journal of Women in Culture and Society* 39: 105–30. [CrossRef]
- Henne, Kathryn, and Emily I. Troshynski. 2019. Intersectional Criminologies for the Contemporary Moment: Crucial Questions of Power, Praxis and Technologies of Control. *Critical Criminology* 27: 55–71. [CrossRef]
- Higgins, Kathleen. 2016. Post-Truth: A Guide for the Perplexed. *Nature* 540: 9. [CrossRef] [PubMed]
- Hoefinger, Heidi, Jennifer Musto, P. G. Maciotti, Anne E. Fehrenbacher, Nicola Mai, Calum Bennachie, and Calogero Giametta. 2020. Community-Based Responses to Negative Health Impacts of Sexual Humanitarian Anti-Trafficking Policies and the Criminalization of Sex Work and Migration in the US. *Social Sciences* 9: 1. [CrossRef]
- Jones, Angela. 2020. The Anti-Porn Religious Lobby Just Destroyed the Livelihoods of Thousands of Pornographers. Salon. Available online: <https://www.salon.com/2020/12/30/the-anti-porn-religious-lobby-just-destroyed-the-livelihoods-of-thousands-of-pornographers/> (accessed on 21 January 2021).
- Kristoff, Nicolas. 2020. The Children of Pornhub. *New York Times*. Available online: <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html> (accessed on 6 December 2020).
- Lutnick, Alexandra. 2016. *Domestic Minor Sex Trafficking: Beyond Victims and Villains*. New York: Columbia University Press.
- Mai, Nicola. 2018. *Mobile Orientations: An Intimate Autoethnography of Migration, Sex Work, and Humanitarian Borders*. Chicago and London: University of Chicago Press.
- Majic, Samantha. 2020. Same Same but Different? Gender, Sex Work, and Respectability Politics in the MyRedBook and Rentboy Closures. *Anti-Trafficking Review* 14: 82–98. [CrossRef]
- Majic, Samantha. 2021. 'It's Blue and It's Up to You! Policy Narratives and Anti-trafficking Awareness in the United States'. In *Citizenship on the Edge*. Edited by Nancy Hirschmann and Deborah Thomas. Philadelphia: University of Pennsylvania Press.
- Miller, Claire Cain. 2010. Craigslist Says It Has Shut Its Section for Sex Ads. *New York Times*. Available online: <https://www.nytimes.com/2010/09/16/business/16craigslist.html> (accessed on 23 December 2020).
- Musto, Jennifer Lynne, and danah boyd. 2014. The Trafficking-Technology Nexus. *Social Politics* 21: 461–83. [CrossRef]
- Musto, Jennifer, Mitali Thakor, and Borislav Gerasimov. 2020. Between Hope and Hype: Critical Evaluations of Technology's Role in Anti-Trafficking. *Anti-Trafficking Review* 14: 1–14. [CrossRef]
- Musto, Jennifer. 2016. *Control and Protect: Collaboration, Carceral Protection, and Domestic Sex Trafficking in the United States*. Oakland: University of California Press.
- Musto, Jennifer. 2020. The Limits and Possibilities of Data-Driven Anti-Trafficking Efforts. *Georgia State University Law Reform* 36: 1147.
- Myles, Bradley, and Nick Shapiro. 2018. Taking a Modern Approach to Combatting Modern Slavery. Medium. Available online: <https://medium.com/@AirbnbCitizen/taking-a-modern-approach-to-combating-modern-slavery-227db96d732b> (accessed on 10 May 2020).
- Natapoff, Alexandra. 2015. Misdemeanor Decriminalization. *Vanderbilt Law Review* 68: 1055.
- Nolan Brown, Elizabeth. 2015. Homeland Security Raids Rentboy.com. Reason. Available online: <https://reason.com/2015/08/25/homeland-security-raids-rentboycom/> (accessed on 23 December 2020).

- Östergren, Petra. 2017. From Zero-Tolerance to Full Integration: Rethinking Prostitution Policies. DemandAT Working Paper No. 10. Available online: <https://www.demandat.eu/publications/zero-tolerance-full-integration-rethinking-prostitution-policies> (accessed on 23 December 2020).
- Pager, Devah. 2007. *Marked: Race, Crime, and Finding Work in an Era of Mass Incarceration*. Chicago: University of Chicago Press.
- Rhodes, Shea, Jamie Pizzi, Sarah K. Robinson, and Opinion Contributors. 2018. SESTA/FOSTA Imposes Accountability on Internet Service Providers, Remains Misinterpreted by Many. The Hill. Available online: <https://thehill.com/blogs/congress-blog/judicial/388694-sesta-fosta-imposes-accountability-on-internet-service-providers> (accessed on 15 November 2020).
- Richardson, Kemberly. 2015. Rentboy.com Offices Raided, 7 Arrested in Prostitution Bust. ABC7 NY. Available online: <https://abc7ny.com/rentboycom-prostitution-rentboy-raid/956279/> (accessed on 15 November 2020).
- Robertson, Adi. 2018. Trump Signs Anti-Trafficking Law that Weakens Online Free Speech Protections. Available online: <https://www.theverge.com/2018/4/11/17223720/trump-signs-fosta-sesta-sex-trafficking-section-230-law> (accessed on 20 December 2020).
- Schenwar, Maya, and Victoria Law. 2020. *Prison by Any Other Name: The Harmful Consequences of Popular Reforms*. New York: The New Press.
- Selman, Kaitlyn, Randy Myers, and Tim Goddard. 2019. Young People, Shadow Carceral Innovations, and the Reproduction of Inequality. *Critical Criminology* 27: 527–42. [CrossRef]
- Showden, Carisa, and Samantha Majic. 2018. *Youth Who Trade Sex in the U.S.: Intersectionality, Agency, and Vulnerability*. Philadelphia: Temple University Press.
- Siouxie Q. 2018. Anti-Sex-Trafficking Advocates Say New Law Cripples Efforts to Save Victims. Rolling Stone. Available online: <https://www.rollingstone.com/culture/culture-features/anti-sex-trafficking-advocates-say-new-law-cripples-efforts-to-save-victims-629081/> (accessed on 15 November 2020).
- Smiley, Stephen, and Ange Lavoipierre. 2018. Australian Sex Workers Struggling to Survive After US Bans Online Advertising. Available online: <https://www.abc.net.au/news/2018-06-07/fosta-the-us-law-punishing-australian-sex-workers/9842722> (accessed on 20 January 2021).
- Smith, Linda. 2018. Shared Hope Statement Regarding FOSTA-SESTA and the Backpage Seizure. Shared Hope International. Available online: <https://sharedhope.org/2018/04/11/statement-regarding-fosta-sesta/> (accessed on 15 November 2020).
- Steadman, Otillia. 2019. Porn Stars Vs. Instagram: Inside the Battle to Remain on The Platform. BuzzFeed News. Available online: <https://www.buzzfeednews.com/article/otillisteadman/porn-stars-instagram-account-takedowns-jessica-jaymes> (accessed on 12 December 2020).
- Thakor, Mitali, and danah boyd. 2013. Networked Trafficking: Reflections on Technology and the Anti-Trafficking Movement. *Dialectical Anthropology* 37: 277–90. [CrossRef]
- Tierney, Allison. 2018. Sex Workers Say They're Being Pushed Off Social Media Platforms. Available online: <https://www.vice.com/en/article/3kjawb/sex-workers-say-theyre-being-pushed-off-social-media-platforms> (accessed on 12 December 2020).
- Vice Staff. 2018. Sex Workers Are Protesting FOSTA/SESTA Across the Country. Vice Media. Available online: <https://www.vice.com/en/article/a3ajqj/sex-workers-are-protesting-fostasesta-across-the-country> (accessed on 15 November 2020).
- Zimmerman, Amy. 2018. The New Law That Puts Transgender Sex Workers in Danger. Daily Beast. Available online: <https://www.thedailybeast.com/the-new-law-that-puts-transgender-sex-workers-in-danger> (accessed on 20 December 2020).