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Special Issue – Technology, Anti-Trafficking, and Speculative Futures

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ANTI-TRAFFICKING REVIEW

Special Issue
TECHNOLOGY, ANTI-TRAFFICKING, AND SPECULATIVE FUTURES

ANTI-TRAFFICKING REVIEW

Issue 14, April 2020

Editorial: Between Hope and Hype: Critical evaluations of technology's role in anti-trafficking

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Introduction

The year 2020 may well be remembered as the year of COVID-19, an unprecedented moment when a pandemic upended myriad facets of political, social, and economic life. Speculative forecasts aside, at the time of writing, this much is clear: in a relatively short period of time, a novel coronavirus has sealed off borders, restricted travel, and curtailed in-person gatherings at school, workplaces, and conference venues. Whatever meaning, however fraught, was attached to the notion of '*business* (and we would add politics and life) *as usual*' before the spread of the virus has been indefinitely suspended, and global public attention daily trained to tracking confirmed cases, tallying death counts, and taking stock of the virus's disruptive social, political, and economic effects.

The links between technology and anti-trafficking—the focus of this Special Issue of *Anti-Trafficking Review*—and COVID-19 may seem topically distant and their analytical connections not readily apparent. However, by situating COVID-19 as an analytical launch pad into the Special Issue, our aim is to spark creative interdisciplinary approaches in tracking how distinctive global phenomena constitutively overlap in moments of social and economic disruption. And, more pointedly, we hope to better understand how issues framed as exceptional give rise to solutions,[1] including state and non-governmental solutions augmented by technology, which may further contribute to structural vulnerabilities.

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[1]   J Musto, *Control and Protect: Collaboration, carceral protection, and domestic sex trafficking in the United States*, University of California Press, Oakland, 2016; J Quirk, *The Anti-Slavery Project: From the slave trade to human trafficking*, University of Pennsylvania Press, Philadelphia, 2011.

Consider one COVID-19 example that dovetails with sex work, technology, and anti-trafficking politics. As travel bans, border containment efforts, and a mix of mandatory and voluntary quarantines continue apace, the upending of various industries and businesses have left many workers reeling. Workers ineligible for paid leave and lacking worker protections are especially vulnerable, including (though not limited to) people in the sex trades. In the absence of meaningful state assistance, some groups have taken to crowdfunding and found other ways to help sex workers impacted by the pandemic, for instance by raising money and sharing advice and resources.[2]

The use of technology in these instances reveals the resiliency of sex workers organising to help people access critically important resources and ease financial losses. However, the bitter irony is that sex workers' use of technology—to advertise services, screen clients, share information with peers, and bank online—has come under intense scrutiny, not to mention criminal sanction, on the heels of a decade's worth of legislative and advocacy efforts to disrupt trafficking online by shuttering sites and holding platforms liable for activities presumed to facilitate trafficking. The passage of the *Allow States and Victims to Fight Online Sex Trafficking Act* (FOSTA) in the United States in 2018 amplified extant anti-prostitution efforts posturing as anti-trafficking protection with sweeping, censorious, and harmful effects on sex workers in the US and beyond.[3]

In our current moment, widely viewed as unprecedented, we also wonder: might an already constrained situation worsen for people in the sex trade as well as for workers in the gig economy, manufacturing, or service industries such as tourism and hospitality? How might technology exacerbate already precarious labour arrangements? And what analytical insights from past research to document anti-trafficking and technology might be brought to bear in mitigating current and future vulnerabilities?

These questions are not completely speculative. They draw on more than a decade's worth of critical trafficking studies highlighting how anti-trafficking/anti-slavery 'cures' produce injurious and sometimes worse effects than the 'epidemic' itself— to use, albeit critically, the language of media outlets that frequently characterise

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[2] The Red Umbrella Fund has published a list of such efforts as of 31 March 2020: Red Umbrella Fund, 'Sex-workers' resilience to the COVID crisis: a list of initiatives', 31 March 2020, https://www.redumbrellafund.org/covid-initiatives.

[3] J Musto *et al.*, 'FOSTA-SESTA, Networked Neo-Abolition, and Sexual Humanitarian Scope Creep', Presentation Paper, Law and Society Association, Washington D.C., June 2019; B Chapman-Schmidt, '"Sex Trafficking" as Epistemic Violence', *Anti-Trafficking Review*, issue 12, 2019, pp. 172-187, https://doi.org/10.14197/atr.2012191211.

human trafficking as an 'epidemic'.[4] Human trafficking is also commonly analogised as a form of slavery, a discursive move that elevates its exceptional status.[5] Framing a complex phenomenon like trafficking as exceptional authorises 'uncompromising [calls to] action'[6] to address it, such as rigid border controls, and innovative solutions, including technological ones, that heighten state and humanitarian surveillance efforts.[7] What this research also draws our attention to is that efforts to stave off a crisis—whether the threat of human trafficking or a virus-induced public health emergency—can obscure structural factors that shape vulnerability and contribute to inequalities. People who endure structural vulnerabilities during more *typical* moments—for instance, migrants, refugees, ethnic and racial minorities, sex workers, and incarcerated, homeless, and working-class people—often face intensified conditions of constraint and economic precarity in the face of extraordinary situations.[8] Moreover, exceptional state and non-state actions generated in response to crises in general[9] and human trafficking in particular can contribute to intensified forms of surveillance for groups deemed 'at risk'.[10] Such surveillance is made possible through data and technology—themes this Special Issue takes up.

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[4]   See, for example: J Galucci, 'Human Trafficking Is an Epidemic in the U.S. It's also big business', *Fortune*, 14 April 2019, https://fortune.com/2019/04/14/human-sex-trafficking-us-slavery.

[5]   Quirk; see also: I Grewal, *Saving the Security State: Exceptional citizens in twenty-first-century America*, Duke University Press, Durham, 2017.

[6]   Quirk.

[7]   Musto, 2016.

[8]   Consider another example linking COVID-19 to forced labour practices. Amid consumers' panic buying of hand sanitiser and face masks, state officials in Hong Kong and New York conscripted incarcerated people to produce these high-demand items. Some commentators have framed prison labour as akin to slave labour, see: H Grant, 'Vulnerable Prisoners "Exploited" to Make Coronavirus Masks and Hand Gel', *The Guardian*, 12 March 2020, https://www.theguardian.com/global-development/2020/mar/12/vulnerable-prisoners-exploited-to-make-coronavirus-masks-and-hand-gel, and J McKinley, 'Cuomo's Fix for Sanitizer Shortage: 100,000 Gallons Made by Prisoners', *New York Times*, 9 March 2020, https://www.nytimes.com/2020/03/09/nyregion/coronavirus-newyork-sanitizer.html.

[9]   Concerns about COVID-19 have informed state surveillance efforts, including the rise of biometric surveillance. See Y N Harari, 'The World After Coronavirus', *Financial Times*, 20 March 2020, https://www.ft.com/content/19d90308-6858-11ea-a3c9-1fe6fedcca75.

[10] Musto, 2016; Grewal; Chapman-Schmidt.

Technology and Anti-Trafficking

Over the past decade, scholars, activists, and policymakers have repeatedly called for an examination of the role of technology as a contributing force to human trafficking and exploitation. Attention has focused on a range of issues from adult services websites and the use of social media to recruit victims and facilitate trafficking[11] to the utilisation of data analytics software to understand trafficking and identify 'hotspots of risk'.[12] For many anti-trafficking stakeholders, technology, assumed to be a contributing force to exploitation, can be reworked, and 'transformed from a liability into an asset'.[13] Yet the idea that technology can be harnessed to address human trafficking relies on limited data and a number of assumptions.[14]

Just as facts are contested in human trafficking policy and research,[15] there is added contestation where technology is concerned. In contrast to anti-trafficking stakeholders' unscrutinised optimism about technology, pitching its benefits in unilaterally positive terms, researchers have begun to seriously grapple with the assumptions that underlie discussions about technology and anti-trafficking, for instance whether anti-trafficking efforts augmented by technology are effective, or if instead such efforts do more harm than good.[16] Moreover, as critical scholars have pointed out, assumptions that vex the understanding of trafficking are mirrored and magnified in the understanding of technology-facilitated trafficking

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[11] See: M Latonero *et al.*, *The Rise of Mobile and the Diffusion of Technology-Facilitated Trafficking*, University of Southern Carolina, 2012; M Latonero *et al.*, *Human Trafficking Online: The role of social networking sites and online classifieds*, University of Southern Carolina, 2011; V Greiman and C Bain, 'The Emergence of Cyber Activity as a Gateway to Human Trafficking', *Journal of Information Warfare*, vol. 12, no. 2, 2013, pp. 41-49.

[12] M Latonero *et al.*, *Technology and Labor Trafficking Project: Framing document*, University of Southern Carolina, 2014.

[13] Organization for Security and Co-Operation in Europe, 'Using Technology to Combat Trafficking in Human Beings: OSCE Alliance against Trafficking conference explores how to turn a liability into an asset', OSCE, 9 April 2018, https://www.osce.org/secretariat/416744.

[14] J Musto, 'The Limits and Possibilities of Data-Driven Anti-Trafficking Efforts', *Georgia State University Law Review*, forthcoming, 2020; J Musto and d boyd, 'The Trafficking-Technology Nexus', *Social Politics*, vol. 21, no. 3, 2014, pp. 461-483, https://doi.org/10.1093/sp/jxu018; see also the contributions of Milivojevic *et al.* and Limoncelli in this Special Issue.

[15] S Majic, 'It's Blue and It's Up to You! Policy narratives and anti-trafficking awareness in the United States', forthcoming, 2020.

[16] Musto, 2020; see also the contribution of Milivojevic *et al.* in this Special Issue.

too.[17] These include uninterrogated claims that trafficking occurs mainly in the sex industry, that women in the sex trades are especially vulnerable while men are empowered, and that the general public has a central role to play in identifying victim-survivors.

Less understood are the ways in which power and technology cohere in anti-trafficking policy and practice and to what effect. Investigating these questions is further complicated by the fact that definitions of technology vary widely. We understand technology as a range of techniques that structure and *are structured by* power and expertise.[18] We also understand technology as 'co-produced',[19] which is to say, its practical form and ultimate meaning is indelibly tied to discourses, institutions, and arrangements of power that authorise its development and use. Understanding technology as equal parts technical, political, and social is instructive in demonstrating how an uncritical embrace of deploying technological solutions for complex social problems can increase the repressive, controlling arm of the state, as several of the contributions to this Special Issue illuminate. It further helps to map the uneven benefits of technology on different actors, for instance, when tech solutions benefit corporations more than workers, or where technical fixes hailed as innovative fail to address poor working conditions, bad labour migration regimes, and business demand for profits.

Platform Regulation and Tech Solutionism

Politicians, law enforcement, and users of social media like Facebook and Instagram have issued urgent calls for technology companies to take actions toward 'cleaning up' their platforms.[20] These demands are premised on the notion that technology companies bear responsibility to monitor activities and content deemed illicit. The current default is that companies are not doing enough to regulate platforms but ought to. Though there are mounting demands for non-state actors

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[17]   Musto and boyd, p. 15.

[18]   This perspective has a long tradition in Science and Technology Studies, where scholars have argued that technological artifacts are not neutral or objective, but political (L Winner, 'Do Artifacts Have Politics?', *Daedalus*, vol. 109, no. 1, 1980, pp. 121-136) and intimately shaped by social relations.

[19]   S Jasanoff, *States of Knowledge: The co-production of science and social order*, Routledge, New York, 2004.

[20]   Most recently, journalistic coverage has focused on the traffic in child pornography and abuse images, with a callout of companies' apparent failure to properly remove such images. See, for example: M H Keller and G J X Dance, 'The Internet Is Overrun With Images of Child Sexual Abuse. What went wrong?', *New York Times*, 29 September 2019, https://www.nytimes.com/interactive/2019/09/28/us/child-sex-abuse.html.

and entities to regulate their platforms, as Tarleton Gillespie has pointed out, technology companies have actively promoted the political and discursive framing of their sites as 'platforms' in order to skirt regulatory obligations required of telecommunications providers, while ensuring many of the protections of free speech legislation.[21] In fact, companies' profit motive directs them *not* to regulate their platforms, protect user privacy or to be meaningfully accountable to them. Yet such critiques have done little to squelch a tide of data entrepreneurs who have gotten in on the business of digital disruption, presenting technologies like apps as capable of 'solving' slavery/trafficking.

Notable too is that data-driven 'disruption' leverages ideas of moral entrepreneurship. Kelly Gates has argued that tech solutionist 'moral entrepreneurs' present themselves as rescuers to humanitarian problems by reframing those problems as technological ones.[22] Tech solutionism is driven by moral appeals that technology will cleanly and uncomplicatedly solve all of the problems wrought by complex issues like human trafficking. In this regard, tech solutionism echoes other findings from critical anti-trafficking scholarship that suggests anti-trafficking has become a 'rescue industry'.[23]

One of the key modes of data entrepreneurship we see regarding trafficking is the proposal to harness 'big data'.[24] Recent work in Science and Technology Studies has turned a critical eye toward data science and data collection techniques,[25]

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[21] T Gillespie, 'The Politics of "Platforms"', *New Media & Society*, vol. 12, issue 3, 2010, pp. 347-364, https://doi.org/10.1177/1461444809342738.

[22] K Gates, *Our Biometric Future: Facial recognition technology and the culture of surveillance,* NYU Press, New York, 2010*;* see also K Gates, 'Identifying the 9/11 "Faces of Terror": The promise and problem of facial recognition technology', *Cultural Studies*, vol. 20, no. 4-5, 2006, pp. 417-440, https://doi.org/10.1080/09502380600708820.

[23] L M Agustín, *Sex at the Margins: Migration, labour markets and the rescue industry*, Zed Books, London, 2007; see also G Soderlund, 'Running from the Rescuers: New U.S. crusades against sex trafficking and the rhetoric of abolition', *NWSA Journal*, vol. 17, no. 3, 2005, pp. 64-87, https://doi.org/10.1353/nwsa.2005.0071, and the contribution of Milivojevic *et al.* in this Special Issue.

[24] See, for example: D Thorpe, 'The New Sheriff in Human Trafficking Is Wielding Big Data', *Forbes*, 11 October 2018, https://www.forbes.com/sites/devinthorpe/2018/10/11/the-new-sheriff-in-human-trafficking-is-wielding-big-data/#6b70e5857520.

[25] See, for example: T Boellstorff, 'Making Big Data, in Theory', *First Monday,* vol. 18, no. 10, 2013, https://doi.org/10.5210/fm.v18i10.4869; M Andrejevic, 'The Big Data Divide', *International Journal of Communication,* vol. 8, 2014, pp. 1673-1689; L Gitelman (ed.), *Raw Data is an Oxymoron*, MIT Press, Cambridge, 2013.

insights that hold important lessons for researchers and advocates whose work explores trafficking and exploitation. While state-sponsored data classification schemes, such as racial categorisations, have come under intense scrutiny in the sociological and historical scholarship,[26] scholars have recently called attention to the ways non-governmental organisations and corporations also harvest 'big data' from users.[27] Mark Andrejevic and Kelly Gates argue that today's state policing agencies hold a prevailing attitude of 'collect-everything' in their approaches to data collection.[28] This attitude assumes that problems can best be solved with the aggregation of maximum information. We see this collect-all approach to big data presented in proposed solutions to trafficking. These new forms of data collection involve subtle and sometimes intimate forms of surveillance,[29] collecting user information to generate algorithmic identity profiles.

In the anti-trafficking field, digital worker reporting apps perpetuate the illusion that the collection of more worker data will present self-evident solutions to labour exploitation.[30] But, as Andrejevic and Gates caution, large-scale databases 'can generate patterns that have predictive power but not necessarily explanatory power'.[31] Data generated by apps, worker reporting tools, and automation are also laundered through a human rights 'indicator culture' that gives it the veneer of accuracy and objectivity[32] despite sizable gaps in data that may also be taken out of context.

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[26] G Bowker and S L Star, *Sorting Things Out: Classification and its consequences*, MIT Press, Cambridge, 1999.

[27] See, for example: d boyd and K Crawford, 'Critical Questions for Big Data: Provocations for a cultural, technological, and scholarly phenomenon', *Information, Communication & Society*, vol. 15, no. 5, 2012, pp. 662-679, https://doi.org/10.1080/1369118X.2012.678878; J Cheney-Lippold, *We Are Data: Algorithms and the making of our digital selves,* NYU Press, New York, 2017; D Lyon, 'Surveillance, Snowden, and Big Data: Capacities, consequences, critique', *Big Data & Society*, 2014, pp. 1-13, https://doi.org/10.1177/2053951714541861; J van Dijck, 'Datafication, Dataism and Dataveillance: Big data between scientific paradigm and ideology', *Surveillance & Society*, vol. 12, no. 2, 2014, pp. 197-208, https://doi.org/10.24908/ss.v12i2.4776.

[28] M Andrejevic and K Gates, 'Big Data Surveillance: Introduction', *Surveillance and Society*, vol. 12, no. 2, 2014, pp. 185-196, https://doi.org/10.24908/ss.v12i2.5242.

[29] K E C Levy, 'Intimate Surveillance', *Idaho Law Review*, vol. 51, no. 3, 2015, pp. 679-693.

[30] See the contribution by Berg *et al.* in this Special Issue.

[31] Andrejevic and Gates, p. 186.

[32] S E Merry, 'Measuring the World: Indicators, human rights, and global governance: with CA comment by John M. Conley', *Current Anthropology*, vol. 52, no. S3, 2011, pp. S83-S95, https://doi.org/10.1086/657241.

It is also critical to note that the big data collection proposed by data entrepreneurs requires a massive expansion of surveillance infrastructure. That the creation of a data-oriented infrastructure has been lauded by figures in the anti-trafficking/anti-slavery movement[33] puts into sharp focus how visions of slaves' 'liberation' may end up authorising the creation of a surveillance humanitarianism infrastructure to address trafficking,[34] all the more notable in an environment where little if any regulation exists to oversee it. Ironically, for tech solutionist data entrepreneurs, the 'freedom' of some will require the unfreedom—through the removal of privacy safeguards—of others. Furthermore, the tech 'solutions' to trafficking are to be developed by corporate actors and implemented by individual consumers, not through state-level policies, thus enacting a classic neoliberal attitude toward the management of socio-economic issues. In this way, neoliberal capitalism, although sometimes acknowledged as creating the inequalities leading to trafficking, is also positioned as the means to solving it.[35]

Networked Governance

Anti-trafficking efforts augmented by technology and backed by anti-trafficking policies also draw attention to shifting governance norms.[36] Prior to the 2018 passage of FOSTA, numerous attempts occurred to raid and shutter sites like Craigslist, Backpage, MyRedbook, and others, which were presumed to support the facilitation of sexual exploitation online.[37] By upending part of Section 230 of the *Communications Decency Act* of 1996,[38] FOSTA has advanced a model of governance that makes the enforcement of anti-trafficking laws not only the job

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[33] For instance, at the launch of the Global Human Trafficking Hotline Network by Google Ideas in April 2013, researcher Kevin Bales noted that the hotline may help to get a better quantitative handle on the modern slavery problem, observing 'Every image, every second of film is data, that we can use to find and root out to reach into those hidden places, open them up, find the people in slavery, help them to step up to their own liberation.' (Jennifer Musto, fieldnotes, April 2013).

[34] M Latonero, 'Stop Surveillance Humanitarianism', *New York Times*, 11 July 2019, https://www.nytimes.com/2019/07/11/opinion/data-humanitarian-aid.html.

[35] K Kempadoo, 'The Modern-Day White (Wo)Man's Burden: Trends in anti-trafficking and anti-slavery campaigns', *Journal of Human Trafficking*, vol. 1, issue 1, 2015, pp. 8-20, https://doi.org/10.1080/23322705.2015.1006120.

[36] Musto, 2016.

[37] *Ibid.*; see also: M Thakor and d boyd, 'Networked Trafficking: Reflections on technology and the anti-trafficking movement', *Dialectical Anthropology*, issue 37, 2013, pp. 277-290, https://doi.org/10.1007/s10624-012-9286-6, and the contribution of Limoncelli in this Special Issue.

[38] A provision that gave internet providers and publishers immunity from being held liable for content posted by users linked to criminal activity occurring on their networks.

of law enforcement but of a diffuse network of platforms and websites.[39]

An anti-prostitution strategy camouflaged as anti-trafficking protection, FOSTA illuminates two networked effects that were in development before its passage but which have been further extended following it: first, the rise of networked neo-abolition policy and practice across borders. Secondly, the advancement of a networked policing strategy reliant on third-party actors to anticipatorily police networks, pre-emptively analyse, filter, and scrub content presumed to be linked to commercial sex, and cooperate with law enforcement.[40] This has led to heightened vulnerabilities for sex workers and trafficked persons in the United States but also beyond, as two of the contributions in this Special Issue demonstrate.

More broadly, the anti-trafficking movement itself has become a counter-network to the trafficking it seeks to address, with the way it has united a diverse group of actors, including state and municipal authorities, international organisations, philanthropies, women's rights groups, trade unions, celebrities, religious leaders, and corporations. As Thakor and boyd have argued, technology-facilitated trafficking is *destabilising*, and anti-trafficking agencies deploy new technologies in attempts to stabilise networks.[41] Yet, while this anti-trafficking network demands the transparency and accountability of technology for its potential involvement in trafficking, it has continued to operate in its own 'accountability vacuum'[42] and remained surprisingly immune to calls for transparency and accountability for the rights violations of migrants, sex workers, and other marginalised groups that it has promoted. As many of the articles in this Special Issue show, this is just as necessary in technology-facilitated anti-trafficking measures.

This Special Issue

The articles featured in this Special Issue offer sharp analyses of the ideologies of intervention and governance that have bolstered tech solutionism in anti-trafficking efforts. The issue opens with an article by Sanja Milivojevic, Heather Moore, and Marie Segrave who trace the development of the discourse surrounding technology and (anti-)trafficking from the early 2000s to the present day, where technology is framed as part of both the cause of and solution to trafficking. They analyse and critique four main assumptions about the role of technology in anti-

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[39]   Musto, 2020.

[40]   Musto *et al.*, 2019.

[41]   Thakor and boyd.

[42]   A T Gallagher, 'Editorial', *Anti-Trafficking Review*, issue 1, 2012, pp. 2-9, p. 3, https://doi.org/10.14197/atr.2012111.

trafficking efforts. The authors conclude with a call to anti-trafficking stakeholders to look past technology and re-focus their efforts on advocating for humane migration policies, and decent work and economic opportunities for all.

The next three articles examine different types of apps developed with the goal of preventing or combating exploitation. Stephanie Limoncelli analyses three apps aimed at encouraging ethical consumption by providing information to consumers about the risks of trafficking, exploitation, and child labour associated with various everyday products. Limoncelli notes the multiple problems with these apps, such as the obscure methodology used to rank them, limited or outdated sources, and contradictory information about the companies or products consumers are advised to choose or avoid. Furthermore, these apps, the author argues, reinforce neoliberal ideologies about the limited role governments should play in regulating businesses by locating the responsibility for the eradication of exploitation with individual consumers instead of collective action by workers

Apps concerned with the views of workers are the subject of the next article, by Laurie Berg, Bassina Farbenblum, and Angela Kintominas. On the basis of literature review and expert consultations, the authors present the limitations of so-called 'digital worker reporting' tools—apps through which global brands aim to collect information from hard-to-reach workers about their working and living conditions. While these are often touted as an efficient and cost-effective way to gather data directly from workers, the authors note a number of limitations, some of which are the same that have been plaguing traditional social audits for decades. These include that digital tools may not capture data from a representative cohort of workers and that data may be vague or superficial. A challenge specific to digital tools is that the collection of data creates new risks for workers' wellbeing and safety. On the whole, the authors conclude, digital worker reporting tools have limited or no benefits for workers. They also emphasise that technological tools cannot address the structural causes of worker exploitation, such as the drive for business and shareholder profit and consumer demand for cheap goods and services.

As a counterpoint to these business-driven apps, in the next article, Annie Isabel Fukushima highlights how an app *can be* useful when it is developed by, for and with migrant workers. She showcases the app Contratados (Contracted), developed by a migrant rights organisation in the US, which allows migrant workers to find work, rate employers, share resources, and seek support. She conceptualises the app as an example of a 'migrant futurity'—a vision of the future as imagined and enacted by migrants—as opposed to the 'homeland futurity' of surveillance and border control currently enacted by the US and many other governments. Using primary data collected from migrant workers and survivors of violence and trafficking in the 'tech city' of San Francisco, Fukushima argues that technology can be used to both help and harm migrant workers.

The next two articles analyse the impact of a relatively new, and highly controversial, measure to reduce human trafficking in the sex industry—the closure of websites hosting sex work advertisements. Samantha Majic analyses the closure of two such websites—MyRedbook, used by female sex workers and their clients, and Rentboy, used by male sex workers and their clients. Her analysis reveals that while concerns about human trafficking were cited as a reason for the closure of the former, such discourse was absent in the latter case. This reflects long-standing stereotypes about female sex workers as helpless and vulnerable victims and male sex workers as free and empowered agents. Furthermore, while only sex workers and their allies expressed outrage at the closure of MyRedbook, not only sex workers, but also LGBT people, their advocates, and civil liberties groups reacted to the closure of Rentboy. Majic critiques the LGBT movement's 'respectability politics' and urges it to show greater solidarity with sex workers and other marginalised groups, given the fragile gains of the movement and the opportunities and constraints that technological developments offer in the pursuit of gender, racial, and sexual justice.

The final thematic article, by Erin Tichenor, examines the impact of the closure of another adult advertisements website, Backpage, on sex workers in New Zealand following the passage of FOSTA. Drawing on twenty interviews with sex workers in Auckland, Tichenor shows how the closure of Backpage allowed a local platform, NewZealandGirls, to hike up its prices and force unfavourable conditions on sex workers who had little choice but to accept them. These findings further demonstrate how technology allows the overzealous US 'anti-trafficking' policy to extend far beyond its borders. Tichenor concludes by calling for anti-trafficking measures that prioritise community well-being and empowerment rather than those that strengthen the carceral state's stronghold on people's lives.

The first of the three short articles that conclude the issue also examines the impact of FOSTA. Danielle Blunt and Ariel Wolf present the findings of a community-based, sex worker-led survey that asked sex workers about their experiences since the closure of Backpage and adoption of FOSTA. The vast majority of research participants stated that their financial situation has deteriorated, as has their ability to access community and screen clients. The authors conclude that FOSTA is just the latest example of the US government using anti-trafficking policy and restrictions on technology to police already marginalised people.

In the next short article, Isabella Chen and Celeste Tortosa reflect on their experience providing legal and social support to twenty Venezuelan women who were trafficked to Austria. In particular, Chen and Tortosa describe how the women were trafficked through the use of social media and chat apps. They also share how the digital evidence from online interactions between the women and their traffickers was used in the investigation and successful prosecution of the case. They warn, however, that this does not apply to all women their NGO

supports, and thus digital evidence, and technology, have only limited application in anti-trafficking efforts.

The final article, by Kate Mogulescu and Leigh Goodmark, describes how some victims of human trafficking in the sex industry in the US are prosecuted alongside traffickers and put on sex offender registries. The result? Both a criminal record and an indefinite digital mark that limits their ability to find a job, settle in a new community, and see their children. The authors conclude with a call for a careful, critical look at the system of sex offender registries and, more broadly, policing and prosecution strategies, including in cases of human trafficking, in the United States.

Conclusion

Although the articles in this Special Issue examine different aspects of the 'trafficking-technology nexus', they ultimately converge around several main points. First, the role of technology as either a facilitator or disruptor of human trafficking remains poorly understood and largely based on ideology, political agendas, and limited evidence: more often than not, it simply repeats long-standing erroneous assumptions about sex work, migration, and precarious labour. Secondly, the currently available technological 'solutions' have limited, if any, benefit for the trafficked persons, migrants, and low-wage workers they purport to help; rather, they benefit technology corporations, reinforcing the very neoliberal capitalism that creates and exacerbates people's vulnerability to trafficking. Finally, anti-traffickers' obsession with technology is a smoke-screen that obscures the role of gender discrimination, labour market deregulation, restrictive migration policies, *and* crucially, the rise of networked responses that pass as humanitarian yet are inextricably tied to a surveillance capitalist system[43] that exploits people's personal data for profit. Not only do these systems and approaches create the conditions—including *networked* vulnerabilities—that exacerbate inequalities and expose people to the risks of trafficking. They also draw precious attention and limited resources away from measures capable of preventing trafficking and exploitation: decent work, gender, economic and racial justice, the free movement of people, and social protections grounded in transparency and accountability. Such prevention and protection efforts demand political will, not tech solutionist cures.

These insights also hold some lessons, even if speculative, in accounting for the effects of technology in response to COVID-19. First, community-based actions, tech or otherwise, are uniquely positioned to prevent exploitation. Relatedly, a

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[43]   S Zuboff, *The Age of Surveillance Capitalism: The fight for a human future at the new frontier of power*, Public Affairs, New York, 2019.

robust public health response is needed to contain the spread of the virus and to mitigate its widespread effects. Yet in the absence of a coordinated global response, we see a surfacing of philanthrocapitalist-backed techno-solutionist fixes[44] and calls to enlist 'big tech companies' for support.[45] Placing trust in tech firms whose platforms have provided the technical blueprint for state surveillance efforts,[46] cloud-supported immigration enforcement,[47] and that have compromised users' privacy in exchange for advancing facial recognition technologies proves limited.[48] It is likewise short-sighted to assume that tech companies are equipped to fill in the slack of an otherwise unresponsive state if such efforts are not accompanied by meaningful efforts to address the social, political, and economic barriers that make it hard for people to avoid the virus in the first place but also to survive its devastating financial effects.

As the articles in this Special Issue show, reliance on technological solutions does not necessarily translate into improved conditions for trafficking victims and other vulnerable communities. Indeed, if unaccompanied by wider socio-political shifts to address structural vulnerabilities, tech interventions may limit ameliorative efforts or, worse, create barriers to obtaining meaningful relief.

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44 W Knight and L Matsakis, 'Jack Ma Offers to Supply the US with Covid-19 Tests and Masks', *Wired*, 13 March 2020, https://www.wired.com/story/jack-ma-supply-us-covid-19-tests-masks.

45 D A Kessler, 'How to Fix the Coronavirus Testing Mess in 7 Days', *New York Times*, 13 March 2020, https://www.nytimes.com/2020/03/13/opinion/coronavirus-testing.html.

46 A Mitchell and L Diamond, 'China's Surveillance State Should Scare Everyone', *The Atlantic*, 2 February 2018, https://www.theatlantic.com/international/archive/2018/02/china-surveillance/552203.

47 K Ferrari, 'How Marc Benioff and Salesforce Profit from ICE Camps', *East Bay Majority*, 11 October 2019, https://eastbaymajority.com/marc-benioff-salesforce-ice-homeland-security.

48 M Murgia, 'Microsoft Quietly Deletes Largest Public Face Recognition Data Set', *Financial Times*, 6 June 2019, https://www.ft.com/content/7d3e0d6a-87a0-11e9-a028-86cea8523dc2.

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Thematic Articles:
Technology, Anti-Trafficking, and Speculative Futures

Freeing the Modern Slaves, One Click at a Time: Theorising human trafficking, modern slavery, and technology

Sanja Milivojevic, Heather Moore, and Marie Segrave

Abstract

This paper analyses relations between human trafficking, modern slavery, and information communication technology. It looks at the history of the technology-trafficking nexus and flags some key advances in the counter-trafficking discourse in the last two decades. It provides an overview of how technology has been framed as both a part of the problem and part of the solution in the trafficking/slavery context and emphasises the impact of such developments on a range of actors, in particular, potential victims, NGOs, and the nation state. We suggest that the technology-slavery/trafficking connections, while often elusive, act as potent narrative and policy setters that can advance existing challenges and create new points of tension in the counter-trafficking context. We critically analyse these points of tension and destabilise some of their underpinning assumptions. In the conclusion, we highlight the need for rigorous empirical evidence, arguing that a more robust scholarly engagement with the role of technology in enabling and disrupting exploitation is essential. We also point to the importance of ensuring that technology is not a distraction from addressing the root causes of exploitation and abuse.

The Issue

Digital frontier technologies, also referred to as innovative and emerging technologies, have radically transformed contemporary societies, economies and the environment.[1] Importantly, as Castells noted almost two decades ago, for the first time in history the entire planet is capitalist,[2] and technology is both an essential source of progress and development, as well as profit. In this über-capitalist world, the Information Communication Technologies (ICTs) have been identified as 'roots of new productivity sources'[3]—critical drivers for the greater good, but also factors that increase the risk of crime and victimisation of women and young people in particular.[4]

The emergence of populist narratives and broad, unsubstantiated claims about the role of the Internet was first chronicled in relation to trafficking for the purpose of sexual exploitation.[5] The prominent American abolitionist Donna Hughes warned two decades ago that the sexual exploitation of women and children is so widespread that it should be defined as a global human rights crisis and that this crisis is further escalated and promoted by the use of new technologies.[6] The assertion that the Internet has changed the nature of trafficking by enabling traffickers to reach and exercise control over victims has been consistent across academia and policy domains over the past decade.

In the absence of evidence of a causal relationship between trafficking and ICTs, we have seen the framing of technology as a platform that increases 'risk' for (mostly sexual) exploitation of (mostly women) victims. The fusion of trafficking

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[1]   United Nations, *World Economic and Social Survey 2018: Frontier technologies for sustainable development,* Department of Economic and Social Affairs, New York, 2018.

[2]   M Castells, *Information Technology, Globalization and Social Development,* United Nations Research Institute for Social Development Discussion Paper 114, Geneva, 1999.

[3]   *Ibid.*, p. 2.

[4]   Some of these issues are sexting, revenge pornography or image-based sexual abuse, stalking, family violence, and the like.

[5]   D Hughes, *Pimps and Predators at the Internet: Globalizing the sexual exploitation of women and children,* University of Rhode Island, 1999.

[6]   D Hughes, 'The Use of New Communications and Information Technologies for Sexual Exploitation of Women and Children', *Hastings Women's Law Journal*, vol. 13, no. 1, 2002, pp. 129-148.

with sex work[7] has resulted in online monitoring that cites the number of online advertisements for female escort services as evidence for Internet-facilitated or Internet-enabled cases of human trafficking.[8] Similar efforts have not been channelled into identifying false advertising in the Global South of legal job opportunities in the Global North in horticulture or other industries. Indeed, instead of identifying victims, what we see is a concerted effort to look for unlawful or irregular migrant workers and deport them with no questions asked about labour conditions.[9] Yet, in the absence of credible evidence, authors often simply reiterate the claim that the relationship between sex trafficking and technology, however uncertain, is likely:

> Although there is limited information on the use of new information technologies for sexual exploitation purposes by traffickers, **there is no reason to doubt** that they are using the latest technologies for trafficking purposes too.[10]

> **It is not unheard of** that a young girl dreaming about being a supermodel would be attracted by a false advertisement online … Via the Internet, after choosing the right venue to place bait (i.e., false advertisement) human traffickers can practically wait for preys to come to them as opposed to physically hunting them down. The Internet **certainly widens the net** for human traffickers.[11]

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[7]   M Farley, K Franzblau, and M A Kennedy, 'Online Prostitution and Trafficking', *Albany Law Review*, vol. 77, issue 3, 2013, pp. 1039–1094. See also Musto's critique of the development of the trafficking/sex work conflation in J Musto, *Control and Protect: Collaboration, carceral protection, and domestic sex trafficking in the United States*, University of California Press, Oakland, 2016.

[8]   M Latonero *et al., 'Human Trafficking Online: The role of social networking sites and online classifieds',* University of Southern Carolina, 2011, retrieved 25 March 2019, https://technologyandtrafficking.usc.edu/files/2011/09/HumanTrafficking_FINAL.pdf. See also: S Milivojevic and M Segrave, 'Gendered Exploitation in the Digital Border Crossing? An analysis of the human trafficking and information technology nexus', in M Segrave and L Vitis (eds.), *Gender, Technology and Violence*, Routledge, Abingdon Oxon, 2017, pp. 28–44.

[9]   M Segrave, S Milivojevic, and S Pickering, *Sex Trafficking and Modern Slavery: The absence of evidence*, Routledge, London and New York, 2018.

[10]   S Sarkar, 'Use of Technology in Human Trafficking Networks and Sexual Exploitation: A cross-sectional multi-country study', *Transnational Social Review*, vol. 5, no. 1, 2015, pp. 55–68 (p. 59; our emphasis), https://doi.org/10.1080/21931674.2014.991184.

[11]   S Yu, 'Human Trafficking and the Internet', in M Palmiotto (ed), *Combating Human Trafficking: A multidisciplinary approach*, CRC Press, Boca Raton, 2015, pp. 61–74 (p. 66; our emphasis).

Claims that the Internet and smartphones have contributed to the rise of trafficking[12] and that the pseudo-anonymity and sheer volume of data makes the Internet 'a new playground' for traffickers[13] have been since injected into national and international counter-trafficking frameworks.[14] As Latonero *et al.*[15] suggest, the rise of mobile technology is likely to fundamentally transform the practice of trafficking as traffickers take advantage of technology to reach broader audiences and bypass geographical distances. Similarly, as social media platforms such as Facebook, Twitter, Instagram, Snapchat, and others gained traction, so were the assumed links between social media and trafficking. The role of social media in recruiting victims has been increasingly explored,[16] with Facebook being frequently identified by counter-trafficking actors as a critical forum for traffickers to lure susceptible and vulnerable victims into the sex trade.[17]

This narrative has arguably proliferated with a recent amalgamation of human trafficking within the broader, legally undefined concept of modern slavery.[18] In a 2015 UK Centre for Social Justice report, it was suggested that:

> [w]hen slavery was prevalent over two hundred years ago, there was no Internet. Nor were many slave traders able to purchase low-cost international travel. So slavery as we know it today is modern. **It thrives on modern technology** and modern forms of travel.[19]

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[12] A Sykiotou, *Trafficking in Human Beings: Internet recruitment*, Council of Europe, 2007, p. 22. See also: Sarkar, 2015.

[13] Yu, 2015, p. 62.

[14] For a detailed development of the international policy, see Milivojevic and Segrave, 2017.

[15] Latonero *et al.*, p. iv.

[16] D Barney, 'Trafficking Technology: A look at different approaches to ending technology-facilitated human trafficking', *Pepperdine Law Review*, vol. 45, issue 4, 2018, pp. 747– 784.

[17] K Guilbert, 'Chasing Shadows: Can technology save the slaves it snared?', *Reuters*, 21 June 2018, https://www.reuters.com/article/us-technology-trafficking-fight-insight/chasing-shadows-can-technology-save-the-slaves-it-snared-idUSKBN1JH005.

[18] M Segrave, N Piper, and R Napier-Moore, 'What's in a Name? Distinguishing forced labour, trafficking and slavery', *Anti-Trafficking Review*, issue 5, 2015, pp. 1–9, https://doi.org/10.14197/atr.20121551.

[19] F Cunningham, 'A Modern Response to Modern Slavery', The Centre for Social Justice, 2015, retrieved 25 March 2019, https://www.europol.europa.eu/publications-documents/modern-response-to-modern-slavery (p. 10; our emphasis).

In the production of these discourses, and the responses they give rise to, technology is constructed as enabling exploitation and violence. This narrative lends itself to a logic of policy response, whereby international agencies and governments react to the 'threats' of technology.[20] The notion that technology is fuelling modern slavery[21] is readily embraced. However, technology has simultaneously come to the fore as a formidable tool to combat both trafficking and slavery. What is achieved in this instance, though, is the whitewashing of this complexity, and the silencing of the importance of safe and fair migration and labour opportunities.

In this review paper that draws on anti-trafficking scholarship and our own contributions to the field, we seek to destabilise these assumptions by illuminating the logic that underpins them. In so doing, we point to a major concern of anti-trafficking efforts: that shifts in focus (regarding forms of trafficking or the breadth of exploitation) and shifts in processes or tools to identify and address trafficking ensure that the underlying inequalities of access to safe mobility and safe and fair working conditions continue to remain unaddressed.

We first focus on the claims that technology assists traffickers in recruiting victims. Following that is an analysis of technology as a crime prevention tool and an emerging counter-trafficking platform. Next, we look at the impact such developments have on a range of actors: potential victims, businesses, NGOs, counter-trafficking/slavery advocates, and the nation-state. We contextualise the 'trafficking-technology nexus'[22] having in mind a merger of human trafficking with the concept of modern slavery that has recently consumed the trafficking debate. Our main argument is that the technology-trafficking/slavery connections are often elusive and yet act as a potent narrative that is as challenging to destabilise as the early efforts to protect women via border control.[23] In the final section of the paper, we call for a different paradigm, a much-needed re-thinking of the debate on the role technology plays in both enabling and countering trafficking/slavery.

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[20]   Milivojevic and Segrave, p. 30.

[21]   Guilbert.

[22]   J Musto and d boyd, 'The Trafficking-Technology Nexus', *Social Politics*, vol. 21, no. 3, 2014, pp. 461–483, https://doi.org/10.1093/sp/jxu018.

[23]   Segrave, Milivojevic, and Pickering.

The Solution

The notion that technology can offer new tools in combating crime has been explored at length in academia, policy, and public discourse. Claims that 'old fashioned police and detective work is no longer sufficient to fight criminals who are using smartphones and bitcoins'[24] quickly became mainstream. Thus, it comes as no surprise that technology has been identified as a potent counter-trafficking tool. This narrative has particularly gained traction in the United States[25] and United Kingdom.[26] The Internet and social media have been pointed out as platforms for possible detection of trafficking and identification and rescue of victims.[27] NGOs, anti-trafficking organisations, and governments have been increasingly using social media to warn potential victims—mostly would-be migrants—of the dangers of trafficking and exploitation that can happen if they embark on their mobility projects.[28] Finally, technology-mediated surveillance has been increasingly used to 'protect' prospective victims and 'rescue' those identified as victims of trafficking.[29]

This narrative has bourgeoned with the expansionist purview of modern slavery which attempts to be a 'catch-all' term for a range of exploitative practices.[30] The promise of technology as a mechanism to identify and free 'modern slaves' is appealing. Proposals for drones to be used to combat slavery in agriculture and

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[24] C Maza, 'How Technology is Turning the Tables on Human Traffickers', *Mic*, 25 December 2013, https://mic.com/articles/77303/how-technology-is-turning-the-tables-on-human-traffickers#.v7nqGfPNc.

[25] See: Musto, 2016.

[26] S George, 'BT, Microsoft and Nokia Team Up to Combat Human Trafficking in Supply Chains', *Edie*, 3 July 2018, https://www.edie.net/news/7/BT--Microsoft-and-Nokia-team-up-to-combat-human-trafficking-in-supply-chains.

[27] Latonero *et al.*; US Department of State, *Trafficking in Persons Report*, USDS, Washington, 2011.

[28] S Milivojevic, 'The State, Virtual Borders and E-trafficking: Between fact and fiction', in J McCulloch and S Pickering (eds), *Borders and Crime. Transnational crime, crime control and security*, Palgrave Macmillan, London, 2012; R Gong, 'Indignation, Inspiration, and Interaction on the Internet: Emotion work online in the anti-human trafficking movement', *Journal of Technology in Human Services*, vol. 33, no. 1, 2015, pp. 87–103, https://doi.org/10.1080/15228835.2014.998988; S Voronova and A Radjenovic, *The Gender Dimension of Human Trafficking*, European Parliamentary Research Service, 2016, http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/577950/EPRS_BRI(2016)577950_EN.pdf.

[29] Musto, 2016; see also: Milivojevic and Segrave.

[30] J Chuang, 'Exploitation Creep and the Unmaking of Human Trafficking Law', *The American Journal of International Law*, vol. 108, no. 4, 2014, pp. 609–649, https://doi.org/10.5305/amerjintelaw.108.4.0609.

fishing industry are mounting.[31] It is said that 'drones can be used to hover above a farm, tracking every person's movement'[32] and that they will give a much-needed transparency to a range of business practices where slaves might be found. For example, the project 'Slavery from Space' provides an opportunity to website visitors to help researchers identify potential brick kilns and other suspicious sites for labour exploitation.[33] The rhetoric of the benevolent victim-rescue has mass appeal.[34] Yet, such appeal drowns out considered and empirically-based criticism,[35] and perpetuates the denial and silencing of those who experience exploitation. We return to this important point later in the article.

Alongside the latest version of raid and rescue, we have also seen the rise in facial recognition flagged as a technology that can assist in the identification of victims of trafficking and slavery.[36] Concerns about the limits and consequences of such technology are silenced by the overwhelmingly moral imperative to 'protect and rescue'. The power of this moralising discourse is such that it is untroubled by the absence of evidence to support this position (or indeed, the mounting evidence that casts doubt on the accuracy of this position). As we demonstrate in the following section, our decades of research with men and women who have been trafficked, exploited and largely ignored has consistently highlighted that recognition is rarely in the interests of those who have experienced exploitation.[37]

Technology, it is argued, can also make all citizens rescuers, with apps for reporting

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[31] A Brasilero, 'Brazil will use drones to fight slave labour in rural areas', *Reuters*, 28 July 2015, https://www.reuters.com/article/us-brazil-slavery-drones/brazil-will-use-drones-to-fight-slave-labor-in-rural-areas-idUSKCN0Q226F20150728; C Wilkens, 'Using Drones to Fight Slavery in the Fields: An examination of the practicality and constitutionality of applying 21st century technology to a 21st century problem', *Hastings Environmental Law Journal*, vol. 24, no. 1, 2018, pp. 157–178; The Global Slavery Index - Fishing, 2018, retrieved 29 March 2019, https://www.globalslaveryindex.org/2018/findings/importing-risk/fishing.

[32] Wilkens, p. 164.

[33] Slavery from Space, Research, 2019, https://www.zooniverse.org/projects/ezzjcw/rights-lab-slavery-from-space/about/research. Kevin Bales supervised this project.

[34] J O'Connell Davidson, *Modern Slavery: The margins of freedom*, Palgrave Macmillan, Basingstoke, 2015; see also Segrave, Milivojevic, and Pickering.

[35] P Agarwal, 'Can we Really Spot Slavery from Space?', *Open Democracy*, 3 June 2019, https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/can-we-really-spot-slavery-space.

[36] L Lacy, 'This Startup is Using Facial Recognition to Fight Human Trafficking', *Adweek*, 31 May 2018, https://www.adweek.com/digital/this-startup-is-using-facial-recognition-to-fight-human-trafficking.

[37] Segrave, Milivojevic, and Pickering.

the incidents of potential cases of slavery recently launched in the UK.[38] Experts and government agencies have welcomed these avenues for citizen-reporting of slavery: 'The public have always had a key role to play in being the eyes and ears for law enforcement in the UK and creating another mechanism for them to do this through the creation of an app makes a lot of sense.'[39] Such examples of behavioural modification, led by technological innovations, suggest that slavery is a micro problem that should be fought on a micro-level—through mobile phone apps of individual consumers' behaviour, businesses' regulation of supply chains in the Global South, and by individual efforts of morally conscious everyday people of the Global North (and to some extent the Global South). Moreover, such an approach suggests that consumer-based tech-capitalism of neoliberal provenance is the source we need to tap into in our quest to end modern slavery. Within this 'we rally together' movement[40] that has united feminists, religious and business leaders, politicians, and celebrities, the complex reality of contemporary exploitative practices is simplified and streamlined, with clearly identifiable perpetrators, victims, 'rescuers' and the rest of us that can do 'our bit' to combat trafficking/slavery, via technology.

Rhetoric over Evidence: Key impacts

Many critics have pointed out that the risk of technology-facilitated trafficking or cyber-slavery has been exaggerated in the counter-trafficking/slavery discourse.[41] Mendel and Sharapov note that 'pseudo-research' in this area abounds.[42] Much like research on its terrestrial counterpart, the research related to e-trafficking often violates the standard canons of the social science inquiry.[43] As Gozdziak points out, peer-reviewed journals have frequently published non-empirical research on trafficking, making the knowledge base on the topic somewhat

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[38] Unseen, 'Unseen launches app to report modern slavery', 2018, https://www.unseenuk.org/news/55.

[39] Roger Bannister, interim chief executive of the Gangmasters and Labour Abuse Authority, cited in Unseen, 2018.

[40] O'Connell Davidson.

[41] Musto and boyd; see also: J Mendel and K Sharapov, 'Human Trafficking and Online Networks: Policy, analysis, and ignorance', *Antipode*, vol. 48, no. 3, 2016, pp. 665–684, https://doi.org/10.1111/anti.12213.

[42] Mendel and Sharapov, p. 669.

[43] R Weitzer, 'Sex Trafficking and the Sex Industry: The need for evidence-based theory and legislation', *Journal of Criminal Law and Criminology*, vol. 101, no. 4, 2012, pp. 1337–1370, p. 1339.

skewed.[44] This 'construction of ignorance'[45] has resulted in a field in which knowledge is often based on anecdotal case studies and speculations.[46] Importantly, as we have argued elsewhere,[47] such accounts have been very effective in informing policy and have successfully infiltrated both the media and public spaces. Dismantling the spurious logic, founded on dominant, simplistic narratives of victimisation, remains as challenging in this context as it did at the turn of the century when the focus was on 'sex slaves' who needed rescuing and liberating from servitude and to be returned home to heal.

Technology in counter-trafficking has been used to scrutinise and often dismiss (mostly women's) entrepreneurial mobility projects. Surveillance of potential victims and offenders, state interventions in the digital sphere, and unconditional cooperation with law enforcement in investigating these crimes are perceived as necessary measures to 'protect' people (in particular, women) from becoming victims.[48] Global surveillance, thus, is needed to further or enable individual security and freedom.[49] Yet, in the absence of evidence, there is a gendered and moralising argument that advocates for the rescue of 'innocent victims' at all costs, including their own agency. Indeed, as Ham *et al.* have pointed out, technology is also utilised to scrutinise women's behaviour and to identify those who are suspicious at the point of border entry—'sexy' clothes and underwear and questionable phone messages are grounds to refuse entry into Australia.[50] Within the broader context, what these debates enable is a re-emergence of various trafficking conundrums, not least of which is the privileging of the ideal victim. In what follows we explore the re-emergence of these critical points of tension, as identified in our previous research on the topic.

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[44] E Gozdziak, 'Data Matters: Issues and challenges for research on trafficking', in M Dragiewicz (ed.), *Global Human Trafficking*, Taylor and Francis, London, 2014, pp. 23–38.

[45] Mendel and Sharapov, p. 668.

[46] See: Hughes, 2002; E Kunze, 'Sex Trafficking via the Internet: How international agreements address the problem and fail to go far enough', *The Journal of High Technology Law*, vol. 10, no. 2, 2010, pp. 241–289; D Hughes, 'Trafficking in Human Beings in the European Union: Gender, sexual exploitation, and digital communication Technologies', *Sage Open*, October-December, 2014, pp. 1-8, https://doi.org/10.1177/2158244014553585.

[47] Milivojevic and Segrave.

[48] Musto and boyd; Milivojevic and Segrave.

[49] A Ahuja, 'Surveillance from the Skies May Help the Fight against Modern Slavery', *Financial Times*, 27 February 2019, https://www.ft.com/content/e16ea530-39b5-11e9-9988-28303f70fcff.

[50] J Ham, M Segrave, and S Pickering, 'In the Eyes of the Beholder: Border enforcement, suspect travellers and trafficking victims', *Anti-Trafficking Review*, issue 2, 2013, pp. 51-66, https://doi.org/10.14197/atr.20121323.

Point of Tension 1. E-trafficking and cyber-modern slavery are committed by organised criminals

As is the case with its terrestrial version, the discourse around e-trafficking is premised on an assumed link between organised crime and trafficking that needs to be combated via collaborative, multinational law enforcement mechanisms:

> The internet offers the opportunity for trafficking to be an organized crime. There are trafficking rings where girls are moved from Brussels to Athens to London. They are advertised on sites and moved around Europe with the pimp organising the website. Sometimes the girls are so well controlled the pimp doesn't even need to travel with them in order to make them do what he wants. This makes it even more difficult to investigate as if the crime is taking place in various countries, who will investigate the case?[51]

In framing the 'trafficking-technology nexus' in this way, narrative setters shift the trafficking/slavery debate back to the hyper-simplified bad vs. good framework, in which evil perpetrators have to be punished, innocent victims 'rescued', while stakeholders such as nation-states and businesses that contribute to or sustain conditions in which exploitation occurs are absolved of any responsibility. What is more, the suggestion that businesses should employ technologies such as biometrics or facial recognition to address risks under new and emerging modern slavery legislation also distracts from standard business operating practices which contribute to exploitation.

Clamping down on the narrowly defined organised crime problem, as our research on terrestrial and e-trafficking demonstrates, often results in immobilising both offenders and potential victims.[52] Technology, thus, assists in furthering the creation of binaries out of the trafficking/slavery complexity.[53] By focusing on (however few or many) 'bad apples', loosely defined as organised criminals, structural causes of exploitation, limited mobility, and restricted labour rights are likely to remain ignored.

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[51]   European Police Chief, cited in Cunningham, p. 12.

[52]   M Segrave and S Milivojevic, 'Human Trafficking: Examining global responses', in G Barak (ed), *The Routledge International Handbook of the Crimes of the Powerful*, Routledge, Abingdon and Oxon, 2015, pp. 132–143; Milivojevic and Segrave, 2017; Segrave, Milivojevic, and Pickering, 2018.

[53]   H Lewis and L Waite, 'Migrant Illegality, Slavery and Exploitative Work', in C Craig, A Balch, H Lewis, and L Waite (eds), *The Modern Slavery Agenda: Policy, politics and practice in the UK*, Polity Press, Bristol and Chicago, 2019, pp. 219–242.

Point of Tension 2. E-trafficking and cyber-modern slavery mostly happen in sex industry

Concerns about technology initially emerged around the sites linked to the sex industry. These anxieties pertaining to new technologies were linked to anti-prostitution, abolitionist and law enforcement agendas.[54] Critically, as Musto and boyd argue, technology-mediated interventions further blur the boundaries between trafficking and sex work and subject those perceived to be at risk to surveillance and monitoring.[55] We will return to this critical point in a moment.

Conflating trafficking and/or modern slavery with sex work contributes to the confusion around e-trafficking or cyber-slavery, as is evident in the following comments by European law enforcement officers:

> Modern slavery victims are being duped and/or advertised online … We were told of one website alone which offers over 6,500 women per day for sexual services, including approximately 500 in each of two London boroughs. This is cyber slavery.[56]

> You need to focus on the fact that this is modern slavery and obviously when you see the online profile of these escort girls you can normally tell where something is wrong. You do need to tell citizens that if they are going to see a prostitute there will be a bad guy involved in this. You have to make people aware and they need a good disincentive.[57]

Thus, the burgeoning dominance of the concept of modern slavery is arguably bringing us back to the very beginning of counter-trafficking efforts, when, as we argue elsewhere, the blurred boundaries between sex work and trafficking and the focus on organised crime shaped the interventions, yet yielded modest results at best.[58]

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[54]   M Thakor and d boyd, 'Networked Trafficking: Reflections on technology and the anti-trafficking movement', *Dialectical Anthropology*, issue 37, 2013, pp. 277-290, https://doi.org/10.1007/s10624-012-9286-6.

[55]   Musto and boyd, p. 464.

[56]   Cunningham, p. 33.

[57]   *Ibid.*, p. 36.

[58]   Segrave and Milivojevic, 2015; Milivojevic and Segrave, 2017; Segrave, Milivojevic, and Pickering, 2018.

Point of Tension 3. Trafficking/slavery perpetrators could be successfully identified/located by technology

Suggestions that technology can play a vital role in identifying, counting, and countering trafficking/slavery are growing.[59] We argue that such suggestions should be taken with caution, not only because of the limitations of technology but also because trafficking and modern slavery should not be framed solely as individual deviance, or organised crime. Focusing on individual perpetrators/transnational organised criminal networks and looking for them in the digital realm or with the help of technology in border crossings and fish farms is going to produce some results (as specific perpetrators and victims are likely to be uncovered). Yet, the issues pertinent to the social context in which such exploitative practices occur cannot be captured by retina scans or drones.

As such, the notion that surveillance of putative perpetrators and victims might somehow unpack the complexity of trafficking and slavery practices is unrealistic. We had earlier flagged the negative impact of surveillance on victims of trafficking, and how such surveillance easily translates into gendered border practices.[60] Looking for suspicious content or calls for more regulatory mechanisms online are easy 'solutions' that do not tackle the root causes of the problem.[61] More significantly, the danger that surveillance or other technological advancements might assist in furthering state control over human mobility and people's access to labour markets is genuine. The 'humanitarian' element of such interventions is often used to justify border-hardening practices, or the removal of non-citizens and workers in low-paid, low-skilled industries (agriculture, mining, fishing, and the like). Under the slogan of 'rescuing the slaves', such interventions mask the fact that they can be (and often are) used to regain control over mobility and ensure that only 'good' (authorised, 'regular') mobility is permitted.[62] As Lyon notes, surveillance was and always will be used for social sorting, for the taxonomy of populations as a foundation for differential treatment.[63] In countering

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[59]   See, for example, Cunningham; B Jackson *et al.*, 'Analysing Slavery Through Satellite Technology: How remote sensing could revolutionise data collection to help end modern slavery', *Journal of Modern Slavery*, vol. 4, no. 2, 2018, pp. 169–199.

[60]   Milivojevic and Segrave, 2017.

[61]   Thakor and boyd.

[62]   F Gerry, J Muraszkiewicz and N Vavoula, 'The Role of Technology in the Fight against Human Trafficking: Reflections on privacy and data protection concerns', *Computer Law and Security Review*, vol. 32, issue 2, 2016, pp. 205–217, https://doi.org/10.1016/j.clsr.2015.12.015.

[63]   D Lyon, 'Surveillance as Social Sorting: Computer codes and mobile bodies', in D Lyon (ed.), *Surveillance as Social Sorting: Privacy, risk and digital discrimination*, Routledge, London, 2003, pp. 13–30.

trafficking and slavery, surveillance-based efforts are likely to result in strategies that actively prevent (mostly women) migrants from seeking opportunities abroad.

Point of Tension 4. Victims need to be rescued and perpetrators punished, with the help of technology

The 'rescue industry',[64] it is often argued, should use technology to free the modern slaves. Claims that aerial surveillance (from satellites and drones) and other technological innovations can be used to 'spot' the victims and rescue them from slavery[65] are a continuation of a discourse outlined above.

With the emergence of modern slavery legislation requiring large businesses to take action on slavery in their supply chains, corporate-developed and led tech solutions may be used as substitutes for more effective anti-slavery efforts, including freedom of association and collective bargaining. For example, various groups assert that modern slavery can be addressed through artificial intelligence, big data and tech-based risk assessment by identifying global risks and violations.[66] However, identifying risks and violations is not a guarantee of remediation. A recent seven-country study by the British Academy found that whilst 'due-diligence-oriented technology tools … help[ed] control risk in supply-chain hot spots, [they] rarely identified modern slavery due to gaining little trust from workers, and business clients not being ready to expose or address modern slavery'.[67] Conversely, empowerment-oriented worker feedback tools were found to regularly identify modern slavery, forced labour, and human trafficking and to assist exploited workers. Despite their demonstrated effectiveness, the researchers found that most of these tools had no connection to a business's due diligence.

It is time to remind ourselves that researchers for some time now have been documenting how purportedly humanitarian interventions often backfire and create more harm rather than fight trafficking. Works of Rutvica Andrijasevic, Claudia Aradau, Karina Horsti, Céline Nieuwenhuys, Antoine Pécoud, Gretchen Soderlund and many others should be the starting point in questioning

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64   L M Agustin, *Sex at the Margins: Migration, labour markets and the rescue industry*, Zed Books, London, 2006.

65   Jackson *et al*.

66   G Markovitz, 'How AI and Satellite Imaging Can Stamp Out Modern Slavery', *World Economic Forum*, 22 January 2020, https://www.weforum.org/agenda/2020/01/how-ai-and-satellite-imaging-tech-can-put-an-end-to-modern-slavery.

67   L Rende Taylor and E Shih, 'Worker Feedback Technologies and Combatting Modern Slavery in Global Supply Chains: Examining the effectiveness of remediation-oriented and due-diligence-oriented technologies in identifying and addressing forced labour and human trafficking', *Journal of the British Academy*, vol. 7, no. 1, 2019, pp. 131–165, p. 131, https://doi.org/10.5871/jba/007s1.131.

humanitarian interventions supplemented by technology. While technology can certainly be an essential factor in addressing trafficking and slavery, its use to 'locate and rescue' victims, and 'locate and bring to justice' perpetrators obfuscates the complex and non-linear nature of these exploitative practices.

Conclusion: Moving towards a different paradigm

In this paper, we do not advocate that researchers, activists, NGOs, and government agencies abstain from investigating the role of technology within the context of trafficking/slavery and exploitation more broadly. Quite the opposite: as researchers and social scientists concerned with technology's role in contemporary society, we ought to engage in the conversation about how the power of technological advancements can be harnessed in better understanding and addressing conditions in which exploitative practices occur and thrive. But before that we need to recalibrate some key premises in the conversation.

Firstly, we need to acknowledge that the Internet 'doesn't steal our humanity; it reflects it. The Internet doesn't get inside us; it shows what's inside us.'[68] Technology is not a ruse, nor a saviour; this starting point is critical if we wish to avoid traps of technological determinism. Technology does not have the capacity (yet) to determine the development of our social structure and our values. It does not have the power to shift the paradigm, for better or for worse. However, the Internet, social media, and digital frontier technologies such as artificial intelligence and blockchain do reflect our views and values, and their impact on our lives is palpable.

Secondly, technology as a solution must be held up to scrutiny as should conceptions of slavery facilitated by technology. As it stands, the preoccupation of a range of actors (government agencies, businesses, NGOs) with 'ending' trafficking/slavery is a distraction. Not least because after almost two decades of this work, there is no indication that counter-trafficking efforts have had any demonstrable impact on reducing this form of exploitation. In place of accountability, we see again the shifting gaze and focus to lay accountability with individuals/consumers, businesses, and the like. Our gaze and attention are consistently away from the complexities of contemporary exploitative practices, policies that restrict migration and mobility opportunities, and regulations and policies that only on paper enable fundamental labour rights and legal migration opportunities for non-citizens. We, as individuals, are thus told to fix the problem: we should pay attention to what we buy, we should donate to counter-trafficking/

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[68]   Josh Rose, the digital creative director of ad agency Deutsch LA, cited in Z Bauman and D Lyon, *Liquid Surveillance*, Polity Press, Cambridge and Malden, 2013, p. 25.

slavery agencies to 'offset our slavery footprint', and ultimately report suspicious practices and potential victims/offenders through a mobile app. Similarly, businesses should invest in developing technology that will provide them with the equivalent of a 'slavery-free' stamp they can safely imprint on their products, even if those efforts have had little or no impact on the problem.

A robust evidence base is critical here, as is evidence within the local context. We should not build a grand theory of e-trafficking or cyber-slavery that is applicable to all contexts and all forms of exploitation. We suggest this notwithstanding the fact that evidence-based initiatives occasionally do little to reveal, if not obscure, the complex realities of trafficking experiences.[69] Thus, we should start from the local context, and connect with practitioners, IT experts, activists, unions, workers' representatives, and victims to start building the research profile that can help us better understand what is going on, and what we can do about it. Why not, for example, invest in technological innovation that will empower migrant workers and enable them to share, map, and document exploitation, while also navigating a complex maze of the criminal justice, labour, and immigration systems? This is an argument for the disruption of the rescue mentality that has dominated the agenda thus far, towards bringing workers to the fore and asking them what they need and how we can help them. The key question we should be asking is what technology has to offer when it comes to sharing information, creating safety, and building strategy and effective remedies for exploitation. We should use technology to further contextualise the issue, rather than to streamline it. There will be no simple solutions to this problem, and we should give up on that idea before we waste too much energy and resources on potentially exciting and saleable but futile recommendations.

Thirdly, we need to understand how the language of modern slavery shapes our ideas, and consequently, our solutions to disrupt and prevent slavery and exploitation. As we have discussed, the anti-slavery movement and its predecessor, the anti-trafficking movement, have cast workers as victims, which has fundamentally shaped global responses as top-down, rather than worker-informed and worker-led. What is needed is an inversion of this so that solutions are built on what has been demonstrated to work rather than on what gives the appearance of what works. Technological innovations should not be framed as neoliberal instruments that can once and forever rid us from trafficking, poverty, exploitation, or inequality. To do this, we suggest that the disproportionate focus on large scale or corporate-led technological solutions to 'rescue victims' should be re-balanced with greater attention to building on existing work for understanding how workers

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69   L Beutin, 'How "Evidence-Based" Anti-Trafficking Campaigns Make Facts and Mismeasure Freedom', *Open Democracy*, 20 June 2019, retrieved 14 October 2019, https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/rotten-core-of-evidence-based-anti-trafficking-campaigns.

are using technology to navigate migration pathways to find decent work.[70]

We also recommend caution when theorising that a crisis effectively generated by neoliberal capitalism can somehow help the further development of the same neoliberal capitalism. There is some danger in theorising that the moral issue of solving the slavery crisis has a clear monetary value attached: that the freed slaves will eventually become consumers. Liberation, as Kevin Bales suggests, leads to economic growth and can ultimately assist in transforming developing nations into successful neoliberal capitalist societies.[71] Yet, where in this analysis is the recognition of the impact of limitations on mobility, restricted access to labour markets in countries of origin and destination, and the vested interest of global capitalism in low-skilled, low-paid labour in creating conditions for trafficking/slavery-like exploitation? So too, where is the recognition that those who experience exploitation use technology to monitor opportunities, to share knowledge, to leave exploitative contexts and seek other less-exploitative opportunities elsewhere? In many cases, they are seeking opportunities to keep working, to survive, to thrive and to ensure their families in countries of origin can be supported.[72] Where is the technological innovation to support and enable this?

We agree with O'Connell Davidson and many others in their claim that technology, as it is framed in contemporary anti-trafficking/slavery discourse, represents an extension of neocolonial and interventionist approaches to trafficking. In it, the rescuers—a range of mostly white, privileged counter-trafficking actors—aim to: 1) save those in danger: racially and ethnically different 'Others' from the Global South, either in their countries of origin or when they are 'imported' to western liberal democracies, and 2) punish the evil traffickers/slaveholders, who are also the 'Other': organised criminal groups from developing nations. Individual freedom, thus, is something that can be stolen but also re-gifted[73] and is ultimately isolated and disconnected from social forces of neoliberal capitalism, racism, and political, economic and labour rights. In so doing, we ultimately objectify and remove any agency from those we consider enslaved. The primary beneficiary of such an approach to the trafficking/slavery-technology conundrum is the security state, but also agencies and actors absolved of

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[70]   M Segrave, *Exploited and Illegal: Unlawful migrant workers in Australia*, Monash University, Melbourne, 2017; B Farbenblum, L Berg, and A Kintominas, *Transformative Technology for Migrant Workers: Opportunities, challenges, and risks*, Open Society Foundations, New York, 2018, https://www.opensocietyfoundations.org/sites/default/files/transformative-technology-formigrant-workers-20181107.pdf; Rende Taylor and Shih, 2019.

[71]   Paraphrased in O'Connell Davidson, 2015.

[72]   M Segrave, 'Theorizing Sites and Strategies of Differential Inclusion: Unlawful migrant workers in Australia', *Theoretical Criminology*, vol. 23, no. 2, 2019, pp. 194–210, https://doi.org/10.1177/1362480619827527.

[73]   *Ibid.*

accountability for lack of results when it comes to countering trafficking/slavery.

The different paradigm we advocate needs to assess the risks and vulnerabilities for migrants linked to national/regional labour and migration frameworks. Technology has a lot to offer in this context. It should be harnessed to give us a better understanding of how people find themselves in exploitative situations, but also to return agency and leverage to workers who may be vulnerable to trafficking. But first, we need to explore how technology can help us in understanding the complexities of contemporary exploitative practices. Evidence is critical here. After this, we need to ask how do we know that counter-trafficking/slavery interventions are having an impact. In doing so, we should rely on rigorous research and evidence, and avoid the path we have witnessed in some 20 years of engagement with 'terrestrial' trafficking. Finally, we must not accept technology as a replacement for strategies that empower workers to improve their own labour conditions rather than wait passively to be rescued.

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There's an App for That? Ethical consumption in the fight against trafficking for labour exploitation

Stephanie A. Limoncelli

Abstract

Among the market-based strategies being used to fight trafficking for labour exploitation are apps aimed at encouraging ethical consumption. Such apps have surfaced in tandem with the increased involvement of businesses in anti-trafficking efforts and the promotion of social entrepreneurism. In this article, I describe and critically analyse three apps aimed at individual consumers, arguing that they do little to actually address labour exploitation. They rest on questionable assumptions about consumption, employ problematic assessment methodologies, and rely on business models that do more to provide opportunities for social entrepreneurs in the burgeoning anti-trafficking field than solutions for labour exploitation in the global economy.

Introduction

As technology has become increasingly prominent in anti-human trafficking efforts,[1] mobile applications, or apps, designed to run on phones and tablets have

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[1]   M Thakor and d boyd, 'Networked Trafficking: Reflections on technology and the anti-trafficking movement', *Dialectical Anthropology*, vol. 37, no. 2, 2013, pp. 277–290, https://doi.org/10.1007/s10624-012-9286-6. See also, J L Musto and d boyd, 'The Trafficking-Technology Nexus', *Social Politics: International studies in gender, state & society*, vol. 21, no. 3, 2014, pp. 461–483, https://doi.org/10.1093/sp/jxu018.

surfaced as one tool by which to address exploitation in the global economy.[2] Many such apps are aimed at increasing surveillance and reporting of trafficking cases or facilitating public awareness about it, but as concern with labour exploitation in global supply chains has become a bigger focus of anti-trafficking efforts, a new crop of apps has emerged: ethical consumption apps. These are apps that provide consumers with information and/or ratings of major brands with the hope that buyers will make conscientious purchases to reward 'good' companies and/or avoid those that are benefiting from labour exploitation. Ethical consumption apps are one tangible aspect of market-led approaches to anti-trafficking work and the social entrepreneurism that is increasingly prominent in the field.[3]

In this article, I ask whether ethical consumption apps are well positioned to fight trafficking for labour exploitation and forced labour in supply chains; this is part of a broader project interrogating the role of businesses and market-based strategies in anti-trafficking work. After providing some background information on ethical consumption strategies and their use in anti-trafficking efforts, I describe the apps; critically analyse some of their underlying assumptions; outline problems in their assessment methodologies; and raise questions about the business of activism. I argue that the apps do little to address the limitations of consumption-based strategies for fighting labour exploitation.

Background

The language and goals of ethical consumption have become increasingly popular in wealthy capitalist societies and have engendered debate among academics in a variety of disciplines.[4] Proponents see ethical consumption as an intriguing form of activism, one that turns markets into venues for political action, broadens political participation among those who might not otherwise become involved in electoral politics, and forces companies to address a variety of social and

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[2]   For a recent list of technological initiatives that includes examples of different apps, see: BSR, 'List of Technology Tools and Initiatives Identified by Tech against Trafficking – January 15, 2019', retrieved 7 January 2020, https://www.bsr.org/files/BSR_list_of_technology_tools_identified_by_tech_against_trafficking.

[3]   On the increasing role of businesses in anti-trafficking work, see, e.g., E Bernstein, 'Redemptive Capitalism and Sexual Investability', in A Shola Orloff *et al.* (eds.), *Perverse Politics? Feminism, anti-imperialism, multiplicity*, Emerald Group Publishing Limited, Bingley, 2016, pp. 45–80. See also, S Henriksen, 'Consuming Life after Anti-Trafficking', *Anti-Trafficking Review*, issue 10, 2018, pp. 14–33, https://doi.org/10.14197/atr.201218102.

[4]   T Lewis and E Potter, *Ethical Consumption: A critical introduction*, Routledge, New York, 2011.

environmental problems.[5] Critics not only question the efficacy of ethical consumption, but also raise concerns about the ways in which it reinforces neoliberalism. They argue that ethical consumption individualises responsibility for addressing social problems, reinforces corporate self-regulation and a diminished role for states, diverts attention away from structural processes contributing to labour exploitation, and provides cover for corporations to market themselves as 'ethical' while actually doing little to change existing business practices that contribute to the problems they purport to help solve.[6] Other scholars fall somewhere in between, noting that companies sometimes respond to consumer pressure under certain conditions and that cultural shifts towards expectations of corporate accountability are in themselves a form of progress.[7]

Despite concerns about ethical consumption raised by academics, stakeholders in all three domains of anti-trafficking work—government, civil society, and business—have found agreement in focussing on consumption-based strategies. Accordingly, governments in Western Europe and the United States have been implementing transparency legislation intended to allow consumers to gain information about companies' anti-trafficking efforts,[8] and businesses and entrepreneurs have been partnering with NGOs or striking out on their own to promote consumption-based initiatives. Underlying these efforts are two main assumptions: that consumers lack information by which to make decisions and take action, and that markets are a powerful force for fighting labour exploitation.

Digital technology is being employed in many consumption-based initiatives, offering the means to centralise and share information as well as potentially build

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[5] M Micheletti, *Political Virtue and Shopping: Individuals, consumerism, and collective action,* Palgrave Macmillan, New York, 2003. See also, M Micheletti and D Stolle, 'Mobilizing Consumers to Take Responsibility for Global Social Justice', *The ANNALS of the American Academy of Political and Social Science*, vol. 611, no. 157, 2007, pp. 157–175, https://doi.org/10.1177/0002716206298712.

[6] J Littler, 'What's Wrong with Ethical Consumption?', in T Lewis and E Potter (eds.), *Ethical Consumption: A critical introduction*, Routledge, New York, 2011.

[7] T Bartley *et al.*, *Looking Behind the Label: Global industries and the conscientious consumer,* Indiana University Press, Bloomington, 2015.

[8] For a critical analysis of these efforts, see: N Phillips, 'Private Governance and the Problem of Trafficking and Slavery in Global Supply Chains', in Louise Waite *et al.* (eds.), *Vulnerability, Exploitation and Migrants*, Palgrave Macmillan, Basingstoke, 2015, pp. 15–27. See also, S A Limoncelli, 'Legal Limits: Ending human trafficking in supply chains', *World Policy Journal*, vol. 34, no. 1, 2017, pp. 119–123, https://doi.org/10.1215/07402775-3903628.

communities of interest or activism.[9] This is very much in keeping with trends in other advocacy fields. As sociologists Dale and Kyle note 'market-led business models…celebrate the challenge of solving a variety of social problems, including many relating to inequality and injustice, by means of digital technology—with a heavy emphasis on smart technology, cloud-based computing, and IT infrastructure development'.[10] Social problems, in this view, are problems of the market and can best be solved with digital technology.

Scholars who study anti-trafficking efforts are just beginning to catch up to the role that technology can play in consumption-based strategies, in part because many initiatives are relatively recent,[11] and perhaps in part because of the transient nature of some of the earliest experiments. For example, Free2Work, an app ranking companies based on their labour practices, premiered in 2011, but is no longer available.[12] Likewise, the Made in a Free World App debuted in 2011, allowing users to scan products to get a score indicating the 'likely number of forced laborers that have been involved in creating the product at some stage of the process of production', but those who search for it online today will not find it. Instead, a donation button on an old version of the organisation's website links to a software platform aimed at mapping out supply-chain risks for buyers in Fortune 500 companies.[13]

Some scholars, however, are already casting a sceptical eye at digital initiatives aimed at educating consumers. For example, they have raised concerns about the interactive online 'slavery footprint' survey created by Made in a Free World that asks about people's consumer spending habits and then reveals how many 'slaves'

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[9]   K Humphery and T Jordan, 'Mobile Moralities: Ethical consumption in the digital realm', *Journal of Consumer Culture*, vol. 18, no. 4, 2018, pp. 520-538, https://doi.org/10.1177/1469540516684188.

[10]   J Dale and D Kyle, 'Smart Humanitarianism: Re-Imagining human rights in the age of enterprise', *Critical Sociology*, vol. 42, no. 6, 2016, pp. 783–797, https://doi.org/10.1177/0896920516640041.

[11]   Humphery and Jordan.

[12]   Free2Work *et al.*, 'Free2work Launches Barcode Scanning App 2.0, Increasing Consumer Power', International Labor Rights Forum, retrieved 20 January 2020, https://laborrights.org/releases/free2work-launches-barcode-scanning-app-20-increasing-consumer-power.

[13]   Slavery Footprint, 'Made in a Free World App', retrieved 15 January 2020, http://slaveryfootprint.org/about/#getapp.

work for them.[14] They have pointed out its binary narrative of heroes and villains, its uncritical distinction between free and forced labour, and the implication that wealthy western consumers are heroes 'saving' distant racialised others from villainous producers or suppliers in countries with developing economies.[15] They have also noted that corporations, in contrast, are given the benefit of the doubt, cast as innocent victims that do not know what happens further up supply chains and/or potential heroes deserving of sales when they press suppliers for transparency.[16] Thus far, these scholars suggest, the use of digital technology simply reproduces many of the problems of anti-trafficking campaigns more generally.[17]

I share the concerns raised by these scholars and seek to add to the critiques via an analysis of ethical consumption apps being used to fight trafficking for labour exploitation. Given that two of the main assumptions of ethical consumption apps are that consumers lack information by which to make decisions and that markets are a powerful means for fighting labour exploitation, I consider the ways in which the apps are framing consumption and providing information to users. I examine both the structure and assessment methodologies of the apps, as well as the organisational actors who promote them. Doing so allows consideration of the implications for anti-trafficking advocacy, including whether the apps are well placed to achieve their intended purpose and whether or not they reproduce the problems highlighted by critics of ethical consumption.

The Apps

The three examples considered here, Buycott, Good On You, and Shop Ethical!, are all ethical consumption apps that provide rankings or recommendations to assist users in making purchasing decisions based, at least in part, on issues of labour exploitation. The apps were identified via Google Play and the Apple App Store, and while these platforms do include other ethical consumption apps, they were excluded from this analysis because they did not address labour exploitation explicitly (i.e., they were focussed only on other problems).

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[14] See: A Page, 'How Many Slaves Work for You? Race, new media, and neoliberal consumer activism', *Journal of Consumer Culture*, vol. 17, no. 1, 2017, pp. 46–61, https://doi.org/10.1177/1469540514553716, and E O'Brien, 'Human Trafficking and Heroic Consumerism', *International Journal for Crime, Justice and Social Democracy*, vol. 7, no. 2, 2018, pp. 51-66, https://doi.org/10.5204/ijcjsd.v7i4.430.

[15] *Ibid*.

[16] O'Brien.

[17] E O'Brien and H Berents, 'Virtual Saviours: Digital games and anti-trafficking awareness-raising', *Anti-Trafficking Review*, issue 13, 2019, pp. 82–99, https://doi.org/10.14197/atr.201219136.

As with other recent analyses of digital technology in anti-trafficking advocacy, I qualitatively examined the structure and content of the apps, as well as supportive information about the apps from the developers.[18] The emphasis is on their structure and content rather than their actual use; this is not meant to downplay the agency of users, but rather to highlight the importance of the social construction of the apps.[19] In keeping with the call for broader sociological and political critiques of the turn to business and market approaches in advocacy efforts more generally, I proceeded inductively to identify common characteristics of the apps and their implications.[20]

Buycott, a free app with over a million downloads, was developed by the founder of a small privately-held company based in the United States.[21] The app allows users to scan the barcodes of a wide array of products and provides information on whether brands are in conflict with user-generated campaigns that may be joined on the site. The campaigns cover a variety of issues but have included some that specifically target human trafficking (103,615 members); child labour in the cocoa industry (172,292 members); child labour more generally (73,648 members); slavery in fishing supply chains (52,128 members); and sweatshop labour (28,611 members).[22] In addition to joining campaigns and looking up or scanning particular products, users can set up a profile and post comments about particular companies, categorise companies to support or avoid, provide links to relevant online information about companies, or use the app to notify companies about the user's intention to support or boycott them. The app also encourages users to connect via Facebook and/or invite people from their contact lists to join and to follow and be followed by other users.

Good On You, a privately held company that markets itself as a 'commercial social impact business' jointly owned by the non-profit Ethical Consumers Australia and its founding staff, has a free app focussed on brands selling clothing, footwear and accessories.[23] Users can search for products by category or browse brands to find company profiles with links to relevant online information and brand rankings: 1 (we avoid); 2 (not good enough); 3 (it's a start); 4 (good) and 5 (great).

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[18]   *Ibid.*

[19]   Humphery and Jordan, pp. 528–529. See also, N Grant, 'The Antiracism App: Methodological reflections for theory and practice', *Critical Literacy: Theories and practices*, vol. 8, no. 1, 2014, pp. 20–35.

[20]   Dale and Kyle, p. 786

[21]   Buycott Inc., 'Buycott – Barcode Scanner (Version 3.1.2) [Mobile Application Software] Retrieved from Google Play Store', accessed 17 January 2020.

[22]   *Ibid.*

[23]   Good On You, 'Good On You (Version 4.0.11) [Mobile Application Software] Retrieved from Google Play Store', accessed 17 January 2020.

The rating on labour considers child labour, forced labour, freedom of association, and the payment of a living wage.[24] The rating also includes consideration of a brand's supplier relationship and auditing practices, though specific details about how these factors are evaluated and weighted are lacking. The app, which has 100,000+ downloads, provides links to the company's website so that users can purchase items directly; it also uses an algorithm to suggest similar brands for users to consider; showcases ethical fashion news articles; and provides offers from highly rated brands that users can use to obtain a discount should they choose to purchase items from them.[25]

Shop Ethical! is a paid app and pocket guide that provides information on the social and environmental records of companies. It is a project of the Ethical Consumer Group, a community-based non-profit organisation and network based in Australia and has 5,000+ downloads.[26] Like Buycott, the app provides a barcode scanner to search for products across a broad range of industries (approximately 67,000 products at the time of this analysis), but rather than relying on user-provided assessments, the app provides brand grades from A to F based on staff assessments.[27] Users who purchase the app can browse by product category to find particular companies and view a company profile with ownership and contact information and links to articles and reports detailing positive and negative aspects of environment, animal welfare, social, and business practices. Various forms of labour exploitation can be cited in their ratings, such as the use of sweatshops, lack of worker rights, low wages, wage theft, practices or conditions involving workplace hazards, and child labour. Some product categories provide links to the websites of alternative brands, not typically rated in the app, but presumably evaluated by staff as preferable.

Assumptions about Consumption and Their Implications

The apps are unified in their portrayal of consumers as a powerful force for change and markets as the venue by which to accomplish it. Buycott 'helps you use your dollars to create change'[28] and encourages individuals to 'vote with your wallet'.[29] Shop Ethical! states that 'the power consumers have to change the conduct and

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[24]   *Ibid.* See the 'About Us' and 'How We Rate Brands' sections of the app.

[25]   *Ibid.*

[26]   Outware Mobile, 'Shop Ethical! (Version 1.9.5) [Mobile Application Software] Retrieved from Google Play Store', accessed 17 January 2020.

[27]   *Ibid.* See the 'Introduction' and 'About Our Assessments' sections of the app.

[28]   Buycott Inc.

[29]   'Buycott | Vote with Your Wallet – Upc Lookup Database, Find Barcode Scanner, Boycott', https://www.buycott.com, accessed 24 January 2020.

actions of companies comes from their dollars and the choices they make as consumers'.[30] Good On You advises the consumer to 'wear the change you want to see', because 'there's an app for that'. The overt message is that 'by choosing ethically, you become the solution'.[31] However, there is no discussion of the mechanisms by which users' purchasing decisions translate into company action. The act of purchasing itself is what is stressed, decontextualised from broader issues of when, how, and under what conditions ethical purchases are effective or when they might have unintended consequences for workers.

The overall emphasis in all three apps is on encouraging more consumption rather than simply boycotting brands; this is something that appeals to businesses and workers alike since boycotts can harm both groups when there is a drop in demand. The apps provide no acknowledgement, however, of a central contradiction of this approach: that consumption itself can be a driving factor contributing to labour exploitation.[32] The very phones and tablets being used to access the apps provide a good example: they are known to have highly exploitive labour practices in their supply chains, something that is exacerbated by high demand and short timeframes for production.[33]

Furthermore, in privileging the consumer as the locus of action and power, the apps implicitly and explicitly reinforce neoliberal tenets advocating reduced government involvement in social and economic life. Shop Ethical!, for example, directly promotes the narrative that governments are not the answer to social problems. The app states, 'We look beyond government control of the way we live and how companies act, believing that real power should lie in the hands of individuals and communities.'[34] The other two apps are not as direct, but nonetheless omit any discussion of the role of governments in addressing the worst forms of labour exploitation in supply chains. For example, in noting several companies that fail to provide information about what, if anything, they do to address labour issues, Good On You simply hopes that naming them and urging them to 'start thinking about doing the right thing' will be enough.[35]

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30   Outware Mobile. See the 'Get Informed' and 'Using Consumer Power' sections.

31   Good On You.

32   J O'Connell Davidson, 'Absolving the State: The trafficking-slavery metaphor', *Global Dialogue*, vol. 12, issue 2, 2012, pp. 31–41, p. 38.

33   See: Humphery and Jordan, p. 533 on this point.

34   Outware Mobile.

35   Good On You. See 'The 2019 Ethical Fashion Naughty and Nice List'.

The apps also reinforce individualised responsibility for addressing trafficking in ways that can channel dissent away from collective action.[36] For example, Shop Ethical! makes a point of telling users that 'there is no right way to be an ethical consumer' and 'what you value will determine the criteria you see as most important'.[37] It is left to individuals to determine not only what constitutes labour exploitation, but also whether it even warrants action. The user-generated campaigns to address labour exploitation on Buycott also reinforce this tendency. Initiated by separate individual users without coordination, users must peruse campaigns addressing different aspects of trafficking and forced labour, deciding whether or not to support or boycott particular companies for different reasons.

This emphasis on individual action is complicated by contradictory or limited information that can make it difficult for users to determine what to do. For example, commenting on the 'Avoid Sweatshop Labour' campaign on Buycott, a user stated, 'I thought it was ok to shop for Nike, new Balance and Hanes because they are part of the Fair Labour Association…That having been said, maybe the standards for FLA aren't as good as what this campaign wants, I don't know.'[38] Furthermore, in individualising both the interpretation of exploitation and action to address trafficking, the apps provide an avenue for counter-narratives to thrive. Buycott provides a particularly ironic example: it has an anti-union campaign calling on people to avoid a number of companies that are unionised or advertise their products as 'union-made'.[39]

In their assumptions about consumption, the apps reinforce the concerns that critics of ethical consumption have raised. Individual consumer choice does not provide concrete mechanisms, government-led or otherwise, to shift the responsibility for trafficking and forced labour back to companies and their suppliers. It does even less to ensure that workers' voices are included or that they are empowered to organise and address working conditions. Nor does it question and challenge the systematic causes of these problems that have persisted despite decades of pressure for corporate social responsibility.[40]

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[36]   P Dauvergne and G Lebaron, *Protest Inc.: The corporatization of activism,* Polity Press, Cambridge, 2014.

[37]   Buycott Inc.

[38]   *Ibid.*

[39]   *Ibid.*

[40]   Bartley *et al.*

The Quandaries of Quantification

The apps use digital technology to centralise information about companies and help users gather and make available information that they might not otherwise know or seek out on their own. All three of the apps aim to show connections between various products and parent companies, helping to map out the maze-like brand portfolios of large corporations. This type of information is currently very limited, however, and though all of the apps rely on users to identify new products that are not already included, it is a huge challenge to keep track of thousands of products and their associated companies.[41] For example, on Buycott, one can find advice to avoid Kraft Foods (now Mondelez) for sourcing cocoa from areas with child slavery and to support Cadbury because they are doing a better job. However, the first company is actually the parent of the second company.[42]

More problematic is that the apps attempt to provide a seemingly objective assessment of companies when the reality is much more complicated. All of the apps rely on publicly available information and reports by NGOs, media, certification schemes and initiatives, other ranking apps, and statements by the companies themselves. These are ad hoc, scattershot, and constrained by time lags, making it inevitable that information will be incorrect, incomplete, or out-of-date. For example, Shop Ethical! and Buycott include sources that are more than five years old and both have links to reports that are no longer available. Shop Ethical! provides the most sources for the user to access, but they are neither comprehensive nor contextualised; rather, they are listed under columns of 'praise' and 'criticism', with the user left to make sense of the masses of information on their own.[43]

Users must also determine the credibility of sources themselves. For example, the apps sometimes cite sources that have been criticised for being too business-friendly without referencing that fact.[44] Good On You has in the past relied on the Baptist World Aid Australia's *Ethical Fashion Report* in their profiles of companies' labour practices, but that report relies on company-provided data that is not augmented by site inspections. The organisation itself therefore cautions that, 'It is important to note that a high grade does not mean that a company has a supply chain that

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[41]   Humphery and Jordan.

[42]   Buycott Inc. See the list entitled 'Boycott chocolate produced by child slaves campaign'.

[43]   Outware Mobile.

[44]   One of these is the Fair Labor Association. See: J Esbenshade, *Monitoring Sweatshops: Workers, consumers and the global apparel industry,* Temple University Press, Philadelphia, 2004, pp. 165–197.

is free from exploitation.'[45]

The apps not only rely on problematic sources, they also use different methodologies to determine their rankings, resulting in varying assessments. For example, Good On You gives the clothing company Wrangler a middle grade (3 out of 5 points or 'it's a start'), noting its code of conduct and that it traces its supply chain.[46] Shop Ethical!, meanwhile, gives the same company an F, citing its role in perpetuating low wages and long working hours in Bangladesh, wage theft in Haiti, and accusations of child labour.[47] Likewise, the two apps differed in their assessment of Gap, a well-known clothing company, with Good On You again providing a medium grade, favourably noting the brand's code of conduct and progress tracing its supply chain.[48] Citing numerous reports of the company's continued sourcing from countries and suppliers with low wages, long working hours and child labour; complicity in wage theft, and their refusal to sign the Accord on Fire and Building Safety in Bangladesh, Shop Ethical! gave the company an F.[49] One can find inconsistencies even within a single app: because Buycott allows users to determine their own criteria in making assessments, one may find examples of companies that users are told both to support and to avoid if they are concerned about trafficking for labour exploitation and forced labour in supply chains. For example, Coca-Cola is listed as a beverage company to support because of its compliance with transparency legislation, but also categorised as one to avoid because of the problem of child labour in its sugar supply chains.[50]

Scholars across disciplines have repeatedly called attention to the political and social implications of quantification and classification in anti-trafficking efforts, and ethical consumption apps need to be considered in this light as well.[51] Their effort to neatly categorise the companies and their labour practices obscures and

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[45] Baptist World Aid Australia, 'Ethical Fashion Report Faqs', retrieved 17 January 2020, https://baptistworldaid.org.au/ethical-fashion-report-faqs.

[46] Good On You.

[47] Outware Mobile.

[48] Good On You.

[49] Outware Mobile.

[50] Buycott Inc.

[51] See, e.g., P Andreas and K M Greenhill (eds.), *Sex, Drugs, and Body Counts: The politics of numbers in global crime and conflict*, Cornell University Press, Ithaca, 2010; S Molland, 'In Search of the Perfect Method: Reflections on knowing, seeing, measuring and estimating human trafficking', in S Yea (ed.), *Human Trafficking in Asia: Forcing issues*, Routledge, London, 2014, pp. 101–117; S E Merry, *The Seduction of Quantification: Measuring human rights, gender violence, and sex trafficking*, University of Chicago Press, Chicago, 2016; F P Bernat and T Zhilina, 'Trafficking in Humans: The TIP Report', *Sociology Compass*, vol. 5, no. 6, 2011, pp. 452–462, https://doi.org/10.1111/j.1751-9020.2011.00380.x.

confuses more than enlightens.[52] The rankings may be intended to provide a shorthand way for individual consumers to assess a company's labour practices, but in the process, they take the locus of attention away from the workers themselves and instead make the consumer's experience the prime consideration.[53] Workers are represented only indirectly in this process, and their experiences, thoughts and opinions on how companies might be assessed or what consumers should know or do are not addressed.

Technology and the Business of Activism

Technology is not simply being used as a tool in anti-trafficking efforts; it is a means of generating income and livelihoods for individual entrepreneurs and businesses finding their way into anti-trafficking work. Good On You, for example, is privately held, financed at first by its two founders as well as crowdfunding campaigns, grants, and social investors, but its ongoing income is now from affiliate marketing links.[54] The links direct users to companies' websites so that they can purchase items directly, even from companies that they rate as two out of five or 'not good enough'. Good On You then receives a commission for purchases made within a thirty-day period. The app also generates income by connecting its users to well-rated brands via special offers, sponsored blog articles and other advertising. A third source of revenue for the company is access to their brand database and 'expertise on ethical sourcing' which they market to retailers worldwide 'who are looking to monitor the performance of their brand portfolio, stock more ethical brands in their stores, and communicate the ethics of brands to their customers'.[55]

Buycott, too, has a similar trajectory, developed by a freelance programmer who initially self-funded the project, registered as a privately held company, received money from investors, and according to its website, now sells subscriptions to its universal product code (UPC) database.[56] Only Shop Ethical!, owned by a non-profit, takes a different approach, charging five dollars for the app. The app developer that partners with Shop Ethical! receives 35 per cent of the amount;

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[52]   Merry.

[53]   O'Brien. See also: Esbenshade, pp. 201–207.

[54]   Good On You, 'Good On You Faqs', retrieved 24 January 2020, https://goodonyou. eco/faqs.

[55]   *Ibid.*

[56]   K Eli *et al.*, 'Digital Food Activism: Values, expertise and modes of action', in T Schneider *et al.* (eds.), *Digital Food Activism*, Routledge, Abingdon, 2017, pp. 1-24, http://doi.org/10.31235/osf.io/nx27d. See also: Buycott, retrieved 22 February 2020, https://www.buycott.com/api.

Apple/Google receive 30 per cent and the non-profit receives 35 per cent.[57] Along with the hard copy of the report, the app is the main source of income for the organisation.[58]

Both for-profit companies collect information about users that can be used for market research and targeted advertising, and sold to interested third parties. They both also, in part, rely on consumers to contribute to the products and goods they are selling, helping to crowdsource information and share and market brands. This is what social scientists have termed 'collaborative coproduction' involving both the 'capture and market exploitation of information about individuals and their marketing "profiles"' and 'managerial functions, such as marketing and innovation'.[59] The users of the apps create value for the owners. It is not surprising, then, to find the apps more centrally concerned with user-consumers rather than the workers the apps are theoretically intended to help. The focus on consumers takes the locus of power away from the workers, effectively sidelining them as objects to be used in the promotion of particular brands rather than as partners in the fight against labour trafficking and forced labour.[60]

Conclusion

In this article, I highlight a number of problems with ethical consumption apps in the fight against trafficking for labour exploitation. They rest on questionable assumptions about the efficacy of consumption in ameliorating social problems; they are plagued by difficulties of assessment methodologies that conceal more than they reveal; and they create new markets for social entrepreneurs but lack accountability for consumers or for the workers they purport to help. The apps, as well as other consumption-based strategies, may have a place in the fight against labour exploitation. However, as social scientists have noted, in order to be successful, consumer pressure cannot be left to individuals.[61] In organised campaigns, groups can marshal the time and expertise needed to successfully research, plan, and strategise action rather than passing these tasks onto 'consumer experts'. They can also press for action by mobilising larger buyers, such as

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[57] Ethical Consumer Group, 'Faq', retrieved 24 January 2020, https://www.ethical.org. au/about/faq.

[58] *Ibid.*

[59] M-A Dujarier, 'The Three Sociological Types of Consumer Work', *Journal of Consumer Culture*, vol. 16, no. 2, 2014, pp. 555-571, https://doi.org/10.1177/ 1469540514528198.

[60] Esbenshade.

[61] G Seidman, *Beyond the Boycott,* Russell Sage Foundation, New York, 2007. See also, T Bartley *et al.*

governmental and non-profit organisations, that could take part in campaigns by checking their own supply chains and working towards avoiding purchases from companies with ongoing exploitation.

Against continued calls for ethical consumption to combat trafficking for labour exploitation,[62] I have argued that this approach is limited and that the apps do little to change exploitative labour practices. The apps are constrained by their divorce from broader structural mechanisms that are helping to create labour exploitation. They do little to promote collective action and even less to ensure development and implementation of labour laws, the regulation of suppliers, due diligence by companies, or real penalties for businesses that eschew their responsibilities to observe labour legislation. Technological initiatives are tools, not solutions, and they cannot be a substitute for the hard work of partnering with and supporting worker organising, regulating corporate malfeasance, and addressing supply-side factors driving the most extreme forms of labour exploitation in the global economy.

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[62]   A A Aronowitz, 'Regulating Business Involvement in Labor Exploitation and Human Trafficking', *Labor and Society*, vol. 22, no. 1, 2019, pp. 145-164, https://doi.org/10.1111/lands.12372.

Addressing Exploitation in Supply Chains: Is technology a game changer for worker voice?

Laurie Berg, Bassina Farbenblum, and Angela Kintominas

Abstract

Multinational businesses are facing mounting pressure to identify and address risks of exploitation, trafficking and modern slavery in their supply chains. Digital worker reporting tools present unprecedented opportunities for lead firms to reach out directly to hard-to-reach workers for feedback on their working conditions via their mobile phone. These new technologies promise an efficient and cost-effective way to cut through the complexity of global production, gathering unmediated data on working conditions directly from workers at scale. As the market for these tools grows, this paper contextualises their emergence within the broader political economy of supply chain governance. It presents three sets of concerns about their use that must be addressed by businesses, investors, donors and governments that develop or utilise these tools. First, the quality of data gathered by these tools may be inadequate to reliably inform decision-making. Second, global brands may gather large quantities of worker data to identify legal, reputational and financial risks without addressing structural causes of exploitation or delivering outcomes for workers. Third, large scale collection of data from workers creates new risks for workers' wellbeing and safety.

Introduction

Businesses across the globe profit from exploitative working and recruitment conditions within their supply chains, often deep within a web of subcontracted suppliers and outsourced labour in distant countries. Downward cost pressures and short production lead times have amplified demands for cheap labour. Migrant workers are especially vulnerable to abuse, including forced labour and trafficking, where they have accumulated debts to recruiters that compel them to work under whatever conditions are imposed by the employer. In many countries where production occurs, worker organising and advocacy are suppressed, and labour law protection and access to justice are limited, leaving workers with little power to change their circumstances.

Multinational businesses are facing mounting pressure to address these conditions in response to increased consumer, investor and shareholder scrutiny, alongside new regulatory obligations requiring businesses to identify forced labour, human trafficking, and modern slavery within their supply chains.[1] Historically, these businesses have operated at arm's length from their suppliers, certainly those beyond the first tier. They increasingly confront the challenging task of assessing, reporting on, and addressing labour and recruitment conditions among all subcontracted entities. Most of these supply chains are transnational, complex, diffuse and opaque, with many layers that were not previously visible to lead firms, let alone consumers and investors.

The limited success of social auditing, inspections and other traditional methods of gathering information on working conditions among suppliers has demonstrated that data-gathering is practically difficult, costly and corruptible.[2] Factories are dispersed, and resources for this exercise are limited, especially in the context of fierce global price pressures for many goods and services. Because of complex sub-contracting arrangements, most workers in factories, farms and fishing vessels are below the level of first-tier suppliers. Worksites at the third, fourth or fifth tier in a supply chain often host the poorest working conditions, but frequently remain out of reach of traditional inspections or audits commissioned by buyers.[3] Accessing vulnerable workers in sufficient numbers, targeting a representative group of workers, asking the right questions, eliciting truthful information on

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[1] See e.g., *Modern Slavery Act 2015* (UK); *California Transparency in Supply Chains Act*, CAL. Crv. Code § 1714.43 (California, USA); Law No. 2017-399 on the Corporate Duty of Vigilance for Parent and Instructing Companies (France); *Modern Slavery Act 2018* (Australia).

[2] G LeBaron, J Lister and P Dauvergne, 'Governing Global Supply Chain Sustainability through the Ethical Audit Regime', *Globalizations*, vol. 14, no. 6, 2017, pp. 958-975, p. 958, https://doi.org/10.1080/14747731.2017.1304008.

[3] *Ibid.*

sensitive issues, and gathering data regularly across worksites in a timely manner, each present challenges.[4]

In the face of these practical challenges to data collection through social auditing, businesses are looking to technology for solutions. Technology-based initiatives promise a way to cut through the complexity of global production by reaching out directly to individual hard-to-reach workers in apparel, agriculture, seafood and other supply chains, and enabling them to provide feedback on their working conditions via their mobile phone. The lure of technology for lead firms is that it could present a quicker, easier and more cost-effective method of gathering accurate, unmediated data directly from workers at scale. Unlike traditional social audits, these tools offer the potential to rapidly and continuously collect and transmit information that can influence in real-time business decisions regarding suppliers and subcontractors.[5] Digital tools also offer new capabilities that could overcome other limitations of social audits: larger datasets to produce a more rigorous and sophisticated understanding of problems; empowerment of workers through greater and unmediated engagement; more nuanced capacity to evaluate or measure outcomes to improve conditions for workers; and enhanced worker security through end-to-end digitisation of the process.

However, the promise of digital worker reporting tools can only be fully realised when they are deployed by businesses that have a genuine interest and leverage to address worker exploitation. Corporate responsibility initiatives in supply chains are often criticised for failing to meaningfully improve working conditions because they are primarily geared towards risk management rather than human rights protection. In this context, social audits may not seek to truly understand problems with working conditions or their drivers, or to direct resources to improve them. When deployed within the same political economy as superficial social audits, the same criticisms can be levelled against digital worker reporting tools. Indeed, like traditional business-led social audits, digital tools are often marketed as a new means of managing global brands' legal, reputational and financial risks and meeting reporting obligations. In doing so, they promise to provide businesses with visibility of their supply chain, thereby 'de-risk[ing] operations', offering 'effective diagnostic tools' and 'early warning systems' and helping to avoid 'damaging PR scandals'.[6]

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[4]   G LeBaron, J Lister and P Dauvergne, 'The New Gatekeeper: Ethical audits as a mechanism of global value chain governance', in A C Cutler and T Dietz (eds.), *The Politics of Private Transnational Governance by Contract*, Routledge, Oxon/New York, 2017, p. 97.

[5]   Interview, L Nicholls, Marks & Spencer PLC, July 2018.

[6]   Websites of three companies that provide worker reporting tools to business.

This paper seeks to connect the growing interest in the potential of new *technology*-powered worker reporting tools with longer-standing and critical engagements about the capacity and limits of due diligence and social auditing processes to detect and remediate the structural causes of worker exploitation and labour abuses in supply chains. With the exception of a very recently published expert study of worker voice technologies to identify and address situations of forced labour and trafficking,[7] much of the current literature is in the form of short, op-ed style pieces or briefings,[8] guides directed towards practitioners,[9] or industry principles.[10] This paper seeks to address the paucity of empirical, critical, worker-centred analyses of these new tools. In doing so, it draws on and extends earlier academic investigations into the ambivalent relationship between technology and human rights,[11] as well as the interconnections between trafficking and technology.[12]

As the market for digital worker reporting tools grows, this paper presents three sets of concerns about the use of these tools that undermine fulfilment of their potential: the quality of data, quantity of data, and data protection. Some of these concerns echo apprehensions about social auditing more broadly. Others reflect new dangers that are particular to the digital context or specific technologies.

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[7]   A foundational contribution to efforts towards a worker-centred and critical scholarship has recently been made by the Issara Institute and a group of US-based academics. See L Rende Taylor and E Shih, 'Worker Feedback Technologies and Combatting Modern Slavery in Global Supply Chains: Examining the effectiveness of remediation-oriented and due-diligence-oriented technologies in identifying and addressing forced labour and human trafficking', *Journal of British Academy*, vol. 7, no. s1, 2019, pp. 131-165, https://doi.org/10.5871/jba/007s1.131.

[8]   For example, an early consolidation of recent trends was made in a brief report summarising the proceedings of an expert conference hosted by Wilton Park on the role of digital technology in tackling modern slavery: Wilton Park, 'Report: The Role of Digital Technology in Tackling Modern Slavery: Monday 12 - Wednesday 14 June 2017', WP1546, July 2017, https://www.wiltonpark.org.uk/wp-content/uploads/WP1546-Report.pdf.

[9]   See L Rende Taylor and M Latonero, *Updated Guide to Ethics and Human Rights in Anti-Human Trafficking: Ethical standards and approaches for working with migrant workers and trafficked persons in the digital age,* Issara Institute, 2018, http://www.antislaverycommissioner.co.uk/media/1207/guide-to-ethics-and-human-rights-in-anti-human-trafficking.pdf.

[10] See, for example, WEST Principles, https://westprinciples.org/about/.

[11] See, for example, M Latonero and Z Gold, 'Data, Human Rights & Human Security', Data & Society, 22 June 2015, https://datasociety.net/pubs/dhr/Data-HumanRights-primer2015.pdf.

[12] See M Latonero, B Wex and M Dank (with S Poucki), *Technology and Labor Trafficking in a Network Society: General overview, emerging innovations, and Philippines case study*, University of Southern California, February 2015, https://communication-leadership.usc.edu/files/2015/10/USC_Tech-and-Labor-Trafficking_Feb2015.pdf.

Each area of concern is generally invisible and difficult for outsiders to evaluate.

Methods

This paper is informed by literature review, a series of discussions and interviews with experts, and discussions within a multi-stakeholder convening. The authors initially conducted an extensive review of materials on the development of technology-based initiatives for migrant workers. This included peer-reviewed academic literature, legal materials and grey literature such as reports, policy and briefing notes, and other materials published by businesses and other stakeholders, media articles and blog posts. The authors simultaneously conducted a mapping exercise to identify emerging tools and technology-based initiatives and, where possible, downloaded the app, reviewed features and identified the developer or affiliated organisation.[13]

This literature review helped to elucidate nascent themes and gaps as well as to identify key stakeholders to approach for further information. This subsequently informed the authors' approach to a series of preliminary conversations (conducted via Skype/Zoom) followed by detailed interviews and email exchanges with a range of individuals with expertise and experience in the design, use, funding, regulation or research of technology for migrant worker engagement.[14] In total, background discussions, interviews and/or email exchanges were conducted with 55 individuals. These included representatives from digital developers and other businesses supplying digital tools (n=16), multinational businesses that have used digital tools for worker engagement (n=4), migrant rights organisations and legal advocates (n=5), trade unions and other worker organisations (n=9), a multi-stakeholder initiative with business (n=1), government agencies and regulators

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[13] This paper focuses only on a subset of migrant worker engagement tools, namely worker reporting tools to address trafficking and exploitation in supply chains, excluding, for example, mobile money, blockchain, e-recruitment and anti-corruption and fraud prevention initiatives. For analysis of other types of worker engagement tools, and broader issues relating to other types of tools, please see B Farbenblum, L Berg and A Kintominas, *Transformative Technology for Migrant Workers: Opportunities, challenges, and risks*, Open Society Foundations, New York, 2018.

[14] Research was conducted in accordance with HC180181 approved by the Human Research Ethics Office of the University of New South Wales, Sydney, and funded by the Open Society Foundations.

(n=3), researchers/consultants (n=8), and donors/investors (n=9).[15] These were identified through the literature review and mapping exercise, as set out above, followed by snowball sampling on recommendations for other experts until data saturation was achieved. Interviews were semi-structured and participants were asked to explain the functions and mechanisms of the tools they had developed, funded or implemented (if relevant), and to reflect on their challenges in implementing, funding and managing risks including worker safety, data privacy, and share their general reflections on the state of the emerging field. Interviews were recorded (with consent) to enable the authors to engage in multiple rounds of thematic analysis.

In addition, UNSW Sydney, University of Technology Sydney and the Open Society Foundations co-hosted a two-day global convening of experts (n=73) in February 2018 to discuss the use of technology for migrant worker engagement, comprising plenary panels, small group discussions and anonymous reflections. The discussions assisted the authors to test their ideas and refine their thinking.

The authors sought to incorporate the experiences of migrant workers via interviews with migrant rights organisations, legal service providers, trade unions and other worker organisations. However, unfortunately, the time and funds available did not permit the authors to undertake fieldwork with workers directly or to conduct user testing.

The Landscape and Functions of Worker Reporting Tools

This paper focuses on tools that solicit data directly from workers through their mobile devices in a supply chain context.[16] Typically, they seek workers' responses to a limited number of closed questions about working conditions, using IVR (interactive voice response), USSD (unstructured supplementary data services)[17] or SMS. These have the benefit of not requiring workers to have a smartphone or pay for use, and can accommodate lower levels of literacy.

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[15] There is some overlap among these categories, for example, some donors have also developed their own app or commissioned or conducted research. The number of interviewees in some instances exceeds the number of organisations interviewed per category, for example, where group interviews were conducted or multiple people from one organisation were interviewed separately.

[16] Other emerging technologies in supply chains include data collation and visualisation tools that integrate multiple sources of information and big data to improve supply chain transparency and blockchain technology that traces and verifies the provenance of goods.

[17] A connection made through a mobile network operator's computers that tends to be more responsive than SMS.

The market for worker reporting tools generally comprises of for-profit businesses and social enterprises that sell their platform services or data to lead firms in supply chains. These companies do not typically have a migrant worker or anti-trafficking background but have expertise in technology project management and development. Some platforms, such as &Wider, Laborlink and Ulula, survey workers at the level of their worksite on behalf of a client. Others, such as LaborVoices, first engage with workers directly in a community and then collect and market aggregate data to clients to provide insights on market conditions across businesses or worksites.

Although the market is dominated by for-profit entities, some tools are operated by unions or non-profits (such as the IM@Sea pilot by the International Labor Rights Forum or Issara Institute's Inclusive Labour Monitoring System). Others operate as a public and private sector partnerships (e.g. Apprise Audit) and hybrid models (e.g. Worker Connect, funded by Humanity United and designed by private developer Caravan Studios for use by a construction management company).

The form of data collection may depend on context-specific factors such as connectivity, literacy, smartphone penetration, and factory and worker preference.[18] Laborlink has generally preferred IVR although it is beginning to offer smartphone options, especially in China where smartphone penetration is higher. The Issara Institute has noted that whilst 90 per cent of contact with migrant workers was through their toll-free helpline in 2015-16, by 2017-18 the portion of smartphone-enabled contact increased to 50 per cent.[19] Some platforms are app-based, such as Apprise Audit which presents an audio questionnaire to workers in their own language, and then prompts them to tap yes or no.[20] As smartphone ownership and digital literacy continue to rise, more complex technologies (raising further privacy and security concerns) can be expected.[21]

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[18] Interview, H Canon, ELEVATE, July 2018.

[19] L Rende Taylor and O Ei Ei Chaw, 'Driving Behaviour Change of Recruiters, Suppliers, and Job Seekers Toward Ethical Recruitment: Critical roles of global buyers & grassroots actors', Series Paper 2, Issara Institute, September 2018, p. 7, https://docs.wixstatic.com/ugd/5bf36e_4620b33fdea7485382683dd927a97378.pdf.

[20] WEST Principles, 'Realizing the Benefits of Worker Reporting Digital Tools', White Paper, March 2019, p. 15, https://westprinciples.org/wp-content/uploads/2019/03/west_principles_white_paper-realizing_the_benefits_of_worker_reporting_digital_tools.pdf. See also 'Apprise: Tools for screening vulnerable populations', *UNU Computing and Society*, 20 April 2018, retrieved 14 June 2019, https://cs.unu.edu/research/migrant-tech-apprise/.

[21] Interview, H Canon, ELEVATE, July 2018.

In most tools, workers' feedback is anonymous, although demographic information such as language, nationality, gender, age or length of employment is sometimes collected. A small number of tools (e.g. Amader Kotha Helpline) allow the worker to choose whether they would like to be identified to management.[22]

In order to promote uptake, worker participation is often incentivised by a promise of phone credit or other monetary rewards.[23] The roll-out of tools is also sometimes accompanied by physical outreach, including building local capacity of partners such as unions,[24] engaging closely with worker welfare staff at the worksite, and conducting face-to-face workshops in workers' languages.[25] Some companies conduct follow-up surveys with workers to measure improvements.[26]

A range of tools integrate worker data collection with other functions. For example, some tools seek to establish ongoing two-way communication channels with workers to provide information on safety or project updates,[27] push out educational content[28] or enable workers to register grievances.[29] An emerging model, used by companies such as Ganaz, MicroBenefits and Workplace Options' WOVO tool, integrates worker engagement into platforms used for human resource purposes such as employee training or the provision of employment records. Others, such as the Responsible Business Alliance's initiative, are framed as a health and wellbeing intervention.[30] Some non-profit initiatives seek to integrate data collection with other services such as access to justice[31] or facilitating direct recruitment of workers by employers.[32]

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[22] WEST Principles, p. 12.

[23] E.g. LaborVoices and Laborlink.

[24] WEST Principles, p. 17.

[25] Interview, S Lee, Caravan Studios, July 2018.

[26] Interview, H Canon, ELEVATE, July 2018.

[27] E.g. Workplace Options.

[28] E.g. 'QuizRR', retrieved 14 June 2019, https://www.quizrr.se.

[29] E.g. Ulula.

[30] 'Workplace Well-Being', Responsible Business Alliance, retrieved 14 June 2019, http://www.responsiblebusiness.org/issues-management/workplace-well-being.

[31] The Issara Institute also allows migrants to seek immediate assistance from their team.

[32] Ganaz, a workforce management platform for agricultural workers in Mexico and the US, allows employers to contact experienced workers while they are in their home villages to reduce dependence on recruiters. Just Good Work, an app to provide multilingual information to Kenyan jobseekers seeking work in Qatar, aims to eventually help ethical employers contact jobseekers directly: WEST Principles, pp. 18–19.

Digital Tools in the Context of Long-Standing Critiques of Social Auditing

Since the 1980s, retailers and brand companies in the global north have increasingly sourced goods from the global south, giving rise to decentralised transnational supply chains dependent on cheap labour in developing countries. During that time, to manage the business risks of this outsourcing, many companies implemented in-house compliance auditing regimes.[33] More recently, social (or 'ethical' or 'multi-stakeholder') auditing has emerged as multinational businesses seek to curb exploitation in their supply chains in response to mounting consumer, investor and shareholder pressure. This generally involves an independent firm verifying a supplier's compliance with the brand or retailer's human rights standards or codes of conduct. This may take the form of a physical inspection of factory, farm, mine or vessel, documentary review of records, and/or interviews with management and occasionally also with workers, generally over a few days in yearly or bi-annual intervals.[34] Social auditing has since expanded into an immense and lucrative industry worth an estimated USD 50 billion.[35]

A large body of literature has emerged which critiques social auditing for being shallow or directed at compliance box-ticking and risk management with potential for co-option and corruption. Due to their tendency to define problems in 'technical and managerial terms', social audits have likewise been critiqued for being unable to identify underlying and structural drivers behind exploitative working conditions, as opposed to their mere symptoms.[36]

Social auditing likewise emerged as part of growingly complex regulatory landscape including the emergence of national-level modern slavery legislation (implementing due diligence and mandatory reporting regimes),[37] as well as international

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[33] LeBaron, Lister and Dauvergne, 'Governing Global Supply Chain Sustainability', p. 959.

[34] J Ford and J Nolan, 'Regulating Transparency on Human Rights and Modern Slavery in Corporate Supply Chains: The discrepancy between human rights due diligence and the social audit', *Australian Journal of Human Rights,* vol. 26, no. 1, 2020 (forthcoming).

[35] LeBaron, Lister and Dauvergne, 'Governing Global Supply Chain Sustainability', p. 965.

[36] *Ibid.*, p. 962.

[37] See above, n 1.

commitments,[38] voluntary industry-led guidelines,[39] and codes of conduct.[40] However, many of the codes of conduct and modern slavery regulations that animate due diligence initiatives lack clear benchmarks for evaluating and remediating problematic working conditions.[41] This risks reinforcing tendencies towards risk management, rather than the systemic improvement of working conditions which would require a far greater investment of resources and structural reforms. Whilst social auditing regimes 'generally fail to detect or correct labor and environment problems in global supply chains', their ubiquity both reflects and reinforces broader shifts in the political economy of neoliberal economic governance.[42]

In general, digital worker reporting tools have emerged within the same political economy as other corporate responsibility-oriented forms of social auditing. As a result, some of these more limited business objectives appear to have shaped the design and operation of business-led, technology-based worker reporting tools. The following sections identify key areas in which this is the case, along with new concerns that have emerged in the technology-based worker reporting context.

Data May Not Accurately Reflect the Core Problems

Worker reporting tools have emerged in a broader socio-cultural moment of a booming global 'indicator culture' defined by faith in the rationality of numerical

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38   Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, A/HRC/17/31, 21 March 2011. See also Sustainable Development Agenda, SDG 8.8: United Nations General Assembly, *Transforming Our World: The 2030 agenda for sustainable development*, Seventieth session, A/RES/70/1, 25 September 2015.

39   E.g. K Skrivankova, *Base Code Guidance: Modern slavery, ethical trading initiative*, Ethical Trading Initiative, 3 July 2017, https://www.ethicaltrade.org/sites/default/files/shared_resources/eti_base_code_guidance_modern_slavery_web.pdf.

40   E.g. Responsible Business Alliance, RBA Code of Conduct 6.0, 1 January 2018, http://www.responsiblebusiness.org/code-of-conduct.

41   I Landau and S Marshall, 'Should Australia Be Embracing the Modern Slavery Model of Regulation?', *Federal Law Review,* vol. 46, no. 2, 2018, pp. 313-339, https://doi.org/10.1177/0067205X1804600206.

42   LeBaron, Lister and Dauvergne, 'Governing Global Supply Chain Sustainability', p. 958.

data as systems of meaning and accurate depictions of the world.[43] In reality, all data is created and is not just objectively 'out there' waiting to be collected and reported upon.

Worker reporting tools present unprecedented opportunities to collect first-hand data directly from workers. However, the extent to which that data accurately reflects working conditions (especially for the most vulnerable workers) depends on a range of choices made by the data collector. These include the topics on which workers' input is sought, how those topics are framed, which workers are approached for input, the design and implementation of the digital tool, and how the data is analysed and presented. The impact of these choices is compounded by the fact that they are generally invisible to consumers of the data, who may form views or base their decisions on unfounded assumptions about the quality of the data.

Digital Tools May Not Collect the Right Data

Businesses generally determine the scope of the issues on which worker data is collected, whether in their own business or in the businesses of suppliers. Some may not want to collect information that reveals the true depth and extent of problematic recruitment practices and poor working conditions, and may therefore frame questions to elicit benign responses or avoid directing questions to the most sensitive areas. This reluctance may stem from perceived financial, legal and/or reputational risks of possessing this knowledge and placing the business on notice of serious problems. It may also reflect an unwillingness to invest effort and resources in changing business practices and remediating problems identified by the information collected, or a perceived lack of leverage to generate change.

As a result, companies may present positive worker feedback on a limited set of questions which either misleadingly suggests generally satisfactory working conditions, or indicates the existence of lesser problems that the company can demonstrate it is addressing (e.g. poor quality of food provided to workers). Data gathering on less serious issues that do not reflect workers' primary concerns can have further flow-on effects on the quality of data collected. For example, workers may 'conclude that the exercise is not important or relevant to their lives, and therefore not worth investing effort and making a leap of faith to divulge more sensitive truths'.[44]

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[43] S E Merry, *The Seductions of Quantification: Measuring human rights, gender violence, and sex trafficking*, University of Chicago Press, Chicago, 2016; S E Merry, 'Counting the Uncountable: Constructing trafficking through measurement', in P Kotiswaran (ed.), *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, Cambridge University Press, Cambridge, 2017, p. 273.

[44] Rende Taylor and Shih.

Digital Tools May Not Capture Data from a Representative Cohort of Workers

Rapid growth in smartphone ownership undoubtedly opens new opportunities to engage hard-to-reach populations such as migrant workers. Nevertheless, more vulnerable workers face a range of barriers to using digital tools and may be harder to access. This, in turn, may distort the sample of workers within a supply chain from whom data is gathered and exclude those most vulnerable to serious problems. For example, tools may only be deployed to engage workers in the first or second tiers of suppliers who are easier for a lead firm to identify and reach, failing to capture working conditions at lower levels of the supply chain where oversight is weakest and the most serious abuses often occur. Other contextual factors such as age, income level, education, gender, IT environment and migration status continue to limit access to digital tools.[45] Migrant workers are less likely to be able to afford regular data access[46] and may have limited literacy in their own language or the language of their country of employment.[47] For example, one company noted that response rates to their IVR-enabled tool were low largely due to the lack of a mechanism to reimburse workers for their mobile costs.[48] Access can also be severely inhibited when businesses (and states) do not establish legal and practical safeguards to guarantee workers' access to their phone and other technology at a worksite, such as a fishing vessel.[49]

These barriers often intersect with cultural and gender norms. Tools may fail to reach significant cohorts of workers where specific efforts are not made to engage

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45   The Economist Intelligence Unit, *The Inclusive Internet Index 2019: Executive Summary*, 2019, p. 15, https://theinclusiveinternet.eiu.com/assets/external/downloads/3i-executive-summary.pdf; Pew Research Centre: Internet & Technology, *Demographics of Internet and Home Broadband Usage in the United States*, 5 February 2018, https://www.pewinternet.org/fact-sheet/internet-broadband/.

46   J Ticona, 'New Apps like Jornalero Aim to Protect Low-Income Workers. Here's How They Could Backfire', *Slate*, 21 March 2016, https://slate.com/technology/2016/03/new-apps-like-jornalero-aim-to-protect-low-income-workers-here-s-how-they-could-backfire.html.

47   S Jue, 'Her Voice in the Making: ICTs and the empowerment of migrant women in Pearl River Delta, China', *Asian Journal of Women's Studies*, vol. 22, no. 4, 2016, pp. 507-516, p. 509, https://doi.org/10.1080/12259276.2016.1242947, citing J L Qiu, '"Power to the People!" Mobiles, Migrants, and Social Movements in Asia', *International Journal of Communication*, vol. 8, no. 1, 2014, pp. 376-391.

48   WEST Principles, p. 16.

49   A Shen and A McGill, *Taking Stock: Labor exploitation, illegal fishing and brand responsibility in the seafood industry*, International Labor Rights Forum, May 2018, p. 50, https://laborrights.org/sites/default/files/publications/Taking%20Stock%20final.pdf.

women or non-dominant groups.[50] As noted by Laborlink in relation to its Bangladesh Collaborative, women's 'lack of confidence with technology and general deference to men' may explain their underrepresentation in worker surveys.[51] Accessibility and uptake may be compromised when design processes do not include workers, or are not iteratively improved with input from workers, unions and other worker representatives.

Experts have advised companies and technologists to address these barriers to workers' engagement and ensure accessibility of digital tools.[52] This includes, where appropriate, minimising the amount of data required to use the tools and compensating workers for their time and data usage, configuring tools in all users' languages and dialects, and giving the option of voice-based technology.

Data May Be Superficial, Vague or Conceal Problems

The need for large-scale data that is easily captured, compared and generalisable comes with trade-offs. On the one hand, reducing workers' experiences to numeric data, rather than individual narrative data, enables swift and low-resource analysis of large datasets. However, without contextualisation, data drawn from workers' choices between limited pre-selected responses may fail to capture workers' true perceptions and experiences. It can also mask the subjectivity of responses where workers do not interpret the pre-selected responses in the same way. For example, ratings systems ('On a scale of 1-5 how would you rate the safety of your work environment?') are highly subjective: one worker may rate safety '2' while another worker rates the same conditions '4' based on different expectations, understanding of risk or personal attitude to ratings.

In the case of particularly sensitive issues, a lack of context for the question or trust-building with workers may result in misleading data. For example, if a reporting tool asks women, 'Have you experienced sexual harassment in your workplace?', high rates of the answer 'No' may reflect a lack of this experience, but just as plausibly may suggest a lack of trust to report its occurrence, or a lack of understanding about what this means. These challenges especially arise when survey questions are not designed or tested with worker input, or without extensive interpersonal engagement and support for workers around data collection to establish trust. As worker-engagement digital tool providers compete to sell their services to multinational companies in a market characterised by a 'pricing race to the bottom', there is a danger that 'support is vacuumed out of the way digital

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50 Interview, H Canon, ELEVATE, July 2018.

51 WEST Principles, p. 21.

52 L Kalbag, *Accessibility for Everyone*, A Book Apart, 2017, https://abookapart.com/products/accessibility-for-everyone.

worker engagement is delivered'.[53] At the extreme end of the exploitation continuum, identifying individual instances of forced labour, modern slavery and/or trafficking through worker reporting tools is particularly fraught since it raises not only issues of worker trust and awareness, but also requires complex and individualised legal determinations that are context-specific and generally require data gathering through individual interviews.

It is impossible for an outside observer to interpret the extent to which the data truly reflects workers' experience without a deep understanding of many aspects of the context in which it was gathered, including how the questions were framed and the conditions under which the data was collected (e.g. level of in-person support for workers, incentives and consequences for workers of providing data or revealing problems, workers' relationships with management and each other, pre-existing fears, level of understanding and socialisation of the tool, etc.).

Problems can also arise in relation to how the data is analysed and used, particularly when the data is owned by the business. The extent to which workplace issues reflected in the data can be identified and understood will also depend on the level of aggregation of that data, since a higher level of aggregation may conceal problems encountered by particular groups of workers or under particular conditions.[54] For example, averaging out poor experiences of one group and good experiences of another will indicate decent conditions overall.

As other technologies, such as blockchain,[55] are developed to identify and track the provenance of goods in complex supply chains, digital worker engagement tools may be used to provide an 'objective' quantified measure or score of working conditions at particular worksites, which is then captured in the blockchain. There is a real risk that perceptions of the incontrovertibility and integrity of blockchain technology may be attributed to the underlying worker data itself, further diminishing outside scrutiny of the quality or reliability of that data. As commentators have noted, blockchain does not solve the old computer science problem of 'garbage in, garbage out',[56] and there is a risk of digital tools 'enabling and accelerating the scale-up of more bad audit data'.[57]

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[53]   Interview, L Esterhuizen, &Wider, July 2018.

[54]   Interview, S Lee, Caravan Studios, July 2018.

[55]   Blockchain is a technology that verifies and stores transactions, including the recording of data, in a de-centralised and secure system.

[56]   J Nolan and M Boersma, 'Blockchain can help break the chains of modern slavery, but it is not a complete solution', *The Conversation*, 2 May 2019, http://theconversation.com/blockchain-can-help-break-the-chains-of-modern-slavery-but-it-is-not-a-complete-solution-115358.

[57]   Rende Taylor and Shih, p. 29.

Lack of Adequate Outcomes for Workers

Worker reporting tools are often described as 'worker voice' initiatives. However, in many cases, the tools neither yield outcomes for workers nor transform power relations within the structures in which they work to give workers a meaningful voice.[58] This is a result of the tools being primarily directed at identifying risk rather than a broader worker-centred theory of change that links obtaining information from workers to outcomes that benefit those workers.

By recasting the problem of exploitation in supply chains as a lack of information on exploitation, acquiring large datasets can be given undue weight as evidence of addressing risk and taking steps to address exploitation itself.[59] Meanwhile, individual harms and systemic poor conditions may remain broadly unchanged and unremedied. Indeed, the data gathering exercise can divert attention from *known* drivers of migrant workers' precarity, such as the global 'race to the bottom' pricing of goods and services, lack of freedom of association, and weak government enforcement, and ensure that these drivers remain unaddressed.

A worker-centred approach requires suppliers and brands to take specific measures in response to feedback, independently evaluate those measures, and set deadlines or timeframes for that implementation.[60] This may involve gathering further data from workers on whether their grievances were addressed or working conditions improved after using a reporting tool.[61] This assessment takes time and requires ongoing evaluations,[62] which many businesses do not undertake. There is also the risk that businesses frame questions to allow them to demonstrate action on a much narrower scale than the problem demands. Alternatively, when squarely in a risk minimisation framework, global brands may 'cut and run' in response to

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[58]   Issara Institute, *What Is 'Worker Voice' in the Context of Global Supply Chains?*, November 2017, https://docs.wixstatic.com/ugd/5bf36e_29160d3cfe05485e835b-14c4d3dc43de.pdf; L Esterhuizen, 'Are Worker Voice Tools Really About Workers' Voices?', *Ulula*, 3 May 2016, https://ulula.com/are-worker-voice-tools-really-about-workers-voices/; K Jones with D Nuriyati, *Increasing Transparency in International Recruitment: An evaluation of "PantauPJTKI" (Recruitment Watch)*, Centre for Trust Peace & Social Relations, Coventry University, n/d, on file with authors.

[59]   D Gibson, 'SeaWeb 2019: Technology not enough to guarantee migrant fisher safety, group fears', *Undercurrent News*, 10 June 2019, https://www.undercurrentnews.com/2019/06/10/seaweb-2019-international-stakeholder-group-takes-small-scale-asian-shrimp-farmers-global.

[60]   Ensuring workers' access to justice and the provision of timely and adequate remedies for their grievances lies at the heart of a worker-centred approach: 'Worker-Driven Social Responsibility Network', retrieved 14 June 2019, https://wsr-network.org.

[61]   Interview, H Canon, ELEVATE, July 2018.

[62]   Interview, C Rojas, The Workers Lab, July 2018.

poor worker feedback, terminating contracts with those suppliers in favour of others. This either leaves those workers in poor conditions with recruitment debt, or causes them to lose their job, further undermining their wellbeing and potentially resulting in their deportation.[63]

In general, it may be unethical to collect sensitive data from vulnerable populations, and to ask (or demand) a worker's time and contribution, without using the data to meaningfully improve workers' circumstances in the longer-term.[64] This also presents a challenge for companies selling digital worker engagement tools, in considering whether and to what extent they should evaluate a potential client's willingness to identify serious problems through the data they collect from workers, and capacity to address those problems.[65] As a practical matter, when workers feel that data collection wastes their time and energy by failing to meet their expectations of improved conditions, this may also discourage their future engagement and damage rapport, which takes time to establish.[66] As one digital platform notes, 'Research that lacks a purpose or meaningful follow-up will create problems for others that want to interact with the same population.'[67]

More fundamentally, the use of digital worker reporting tools may actually diminish worker power. Although they are billed as 'worker voice', these tools seek to passively gather data from workers in ways that do not enable workers to amplify their voices through collective organising. Indeed, companies may seek to justify avoidance of collective bargaining and engagement with unions on the basis that they have already invited and heard 'worker voice' through the digital platform.[68] However, in reality, these tools reflect workers' aggregated individual 'voice' rather than the empowered collective voice. In most cases, workers do not determine the issues on which data is sought, nor from whom or in which ways the data is collected. Workers and worker organisations face acute challenges when seeking to expose gaps or distortions in polished-looking data where they are not

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[63]   Interview, L Esterhuizen, &Wider, July 2018; Rende Taylor and Shih, p. 4.

[64]   Rende Taylor and Shih, p. 35.

[65]   Interview, S Lee, Caravan Studios, July 2018.

[66]   Interview, Z Rahman, The Engine Room, July 2018.

[67]   WEST Principles, p. 21.

[68]   P Kyritsis, G LeBaron and M Anner, 'New Buzzword, Same Problem: How "worker voice" initiatives are perpetuating the shortcomings of traditional social auditing', Business & Human Rights Resource Centre, 12 March 2019, https://www.business-humanrights.org/en/new-buzzword-same-problem-how-worker-voice-initiatives-are-perpetuating-the-shortcomings-of-traditional-social-auditing; Rende Taylor and Shih.

provided full access to its contents[69] or lack the resources or training to conduct a probing analysis of the data.

Potential Harms to Workers' Safety and Wellbeing

Platforms that collect data about migrant workers, their activities or their experiences can create risks to individuals or groups of workers.[70] These risks may arise whether the platform is collecting personal data intentionally, or as a by-product of collecting other data. For example, a third party could gain unauthorised access to a worker's information by accessing the worker's device (e.g., taking their phone), or a centralised database could be hacked or unintentionally leak data related to many workers (e.g., through a security mistake). Government or private parties may also access information by subpoenaing it through legal processes.[71] The harms that could flow from third-party access to workers' data include alerting migration officials to a breach of workers' visa conditions, or sharing data with an employer or recruiter who may retaliate against workers for providing unfavourable information about them. This could result in personal security threats to the worker or her family, job loss, or prosecution for criminal defamation. There are also risks that the tools are misused for greater worker surveillance. For example, tools designed to ensure accurate piece-rate payment can also be 'used to punish low performing workers, monitor bathroom breaks, or discriminate against those with conditions impacting their work outputs'.[72]

Clearly, initiatives intended to benefit workers should protect workers' privacy and security by ensuring that workers' data is collected, stored and used

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[69] To address this barrier, some have proposed that Global Framework Agreements could ensure unions and workers' access to survey results, grievance mechanisms and protective measures for whistle blowers: Shen and McGill, pp. 30–31.

[70] Gibson. More broadly, concerns about the surveillance of vulnerable populations and the use of data for various purposes have been raised about 'surveillance humanitarianism' (M Latonero, 'Stop Surveillance Humanitarianism', *New York Times*, 11 July 2019) and 'surveillance capitalism' (S Zuboff, *The Age of Surveillance Capitalism: The fight for a human future at the new frontier of power*, Barnes and Noble, New York, 2019).

[71] Interview, R Micah-Jones, Centro de los Derechos del Migrante, Inc., July 2018.

[72] E Marcum, 'Opportunities and Tradeoffs: Our commitment to empower workers through responsible supply chain tech', *Working Capital*, 1 November 2018, https://workingcapitalfund.com/opportunities-and-tradeoffs-our-commitment-to-empower-workers-through-responsible-supply-chain-tech/.

responsibly,[73] and in accordance with legal data protection frameworks and best practice. This is especially the case when security risks are not visible or understood by workers,[74] and when data is collected in countries with weak security and rule of law. It is unclear whether businesses using digital worker engagement tools are obtaining the workers' informed consent to the use of their data, with knowledge of why the data is being collected, what it will be used for, with whom it will be shared, potential risks, and expected impacts. Indeed, in a competitive commercial market for worker reporting tools, there remain strong disincentives against honest appraisals of actual or possible risks in soliciting data, or the development of frameworks for accountability to workers if their security or safety is compromised.

One way for all technology developers is to systematically address these risks and formulate a 'theory of harm' establishing a taxonomy of the worst possible harms to workers, along with mitigation strategies.[75] This requires consideration of potential harms associated with data collection, and the organisation's ongoing capacity to monitor and respond to later risks to workers when their data is used or shared. Minimisation of risks to workers may not be straightforward and may require trade-offs between other worker and business priorities. For example, collecting anonymised data or less data can better protect workers,[76] but lack of information about a worker's identity may compromise an organisation's capacity to verify or contextualise that data or provide remedies to that individual. In addition, addressing risks at each stage of the data life cycle requires an investment of resources and time on the part of the business.

Further and different risks and considerations arise in relation to the sharing of worker data beyond the business. For example, some have called for integration of worker data for corporate compliance across different platforms to better inform law enforcement efforts to address trafficking or deregister recruitment agencies. As one commentator noted, 'It makes what we do morally questionable if we are not collaborating to build a bigger picture to drive resources where they are needed

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73 'WEST Principles: Manage security & risk', retrieved 14 June 2019, https://westprinciples.org/manage-security-and-risk/. A guide published by the Issara Institute considers risks associated with technology for migrant workers and trafficked persons: see L Rende Taylor and M Latonero.

74 Z Rahman, 'RD 101: Responsible Data Principles', *Responsible Data*, 24 January 2018, https://responsibledata.io/2018/01/24/rd-101-responsible-data-principles/.

75 L Chambers, 'Utopian and Dystopian Theories of Change: A template', *Responsible Data*, 6 March 2015, https://responsibledata.io/2015/03/16/utopian-and-dystopian-theories-of-change-a-template/; Interview, M Latonero, Data & Society, July 2018.

76 Data minimisation is considered best practice for responsible data: The Engine Room, Benetech and Amnesty International, *DATNAV: How to navigate digital data for human rights research*, June 2016, https://www.theengineroom.org/wp-content/uploads/2016/09/datnav.pdf.

most, to workers who need them most.'[77] However, sharing even aggregated data may enable government or private parties to use that data to the detriment of workers, for example by identifying cohorts of 'troublemakers' or geographically locating groups of workers who may be targeted by law enforcement (e.g. unauthorised workers).

Conclusion

Within complex global supply chains, worker reporting tools present new opportunities to gather information directly from workers on their labour and recruitment conditions, at scale, and across many worksites and countries. But gathering high-quality data remains difficult. With a few notable exceptions, most worker engagement tools are still in development, pilot or early stages and the market is largely driven by public and private donors.[78] Investors, donors, governments and consumers have a significant opportunity to shape the way in which these tools are developed and deployed. In particular, they can demand greater transparency regarding how worker data was collected and analysed, the extent to which that data accurately reflects working and recruitment conditions across a worksite or supply chain, and measures taken to identify and address risks to worker privacy and security in the collection and use of the data.

Where data is collected effectively, this is only the first step. Deeper efforts to meaningfully address labour exploitation, trafficking and modern slavery can be expensive, time consuming and require greater organisational commitment and leverage to change incentive structures. Technology can substantially increase efficiency and reduce the costs of engagement with workers at scale. However, digital tools generally do not improve the commercial viability of addressing the problems identified.

Nor does technology address macro-structural drivers of worker exploitation. Within business and shareholder drive for profit and consumer demand for cheap goods and services across global markets, reducing labour costs is often the easiest way to reduce overall costs and increase profit margins. Vulnerable workers accept these reduced costs (and resulting exploitation) for a range of reasons, including a fundamental power imbalance between individual workers and their employers

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[77] Interview, L Esterhuizen, &Wider, July 2018.

[78] S Goswami, *Technology to Address Human Trafficking & Forced Labour in Supply Chains: A landscape analysis and recommendations for brands, developers and investors*, Technology Brief, Issara Institute, October 2016, p. 1, https://media.wix.com/ugd/5bf36e_df5b1c84cb0641759d3275ed034439aa.pdf; Interview, D Viederman, Humanity United, July 2018; 'Working Capital: The supply chain innovation fund', *Working Capital,* retrieved 14 June 2019, https://workingcapitalfund.com/.

and recruiters. The aggregation of worker data through digital reporting tools does not rebalance the power asymmetry that renders workers vulnerable to exploitation: this requires genuine worker voice through freedom of association and collective action. Digital reporting tools are therefore embedded in—and have evolved from—the same political economy dominated by industry-led and privatised modes of supply chain global governance which tend to 'perform … a stabilizing and legitimizing role' for the continuation of the business status quo.[79] In contexts where genuine worker voice, freedom of association and collective action are absent, digital worker reporting tools may still assist businesses to reduce exploitation, but only if the business is committed to investing resources to ensure the data collection is robust and informed by workers' concerns and safety, and to meaningfully address the problems identified.

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[79] LeBaron, Lister and Dauvergne, 'Governing Global Supply Chain Sustainability', p. 972.

Witnessing in a Time of Homeland Futurities

Annie Isabel Fukushima

Abstract

Current US rhetorical strategies of imagining a future of the homeland have led to the creation and utilisation of new technologies to contain and manage the border. These responses to the US border and immigration impact anti-trafficking efforts, sustaining a 'homeland futurity'. Homeland futurity draws on and extends discourses of emergency that solidify borders as dangerous and risky. This article traces how homeland futurities emerged in US anti-trafficking efforts. Drawing upon interviews and focus group discussions with service providers and survivors of violence in San Francisco, the article demonstrates how migrant labourers are impacted by a discourse of threat and containment of the border. However, migrant labourers and their allies are innovating to secure a life that mitigates risk through migrant labourers' use of technology. This article illustrates through the example of Contratados.org how technology may facilitate opportunities of future visioning by migrant labourers beyond a homeland futurity, to enact practices that bring to the centre migrants and their experiences through social networking and information sharing on job prospects.

Keywords: homeland futurity, border and immigration, human trafficking, migrant labour, technology

Introduction

Although separate issues, migration and human trafficking, and the responses to both, are also interconnected. This article takes on the question of how surveillance and the technologies profiling migrants at borders impact trafficked people. The 1990s presented seemingly contradictory images in the United States' approach

to border control and migration: one gestured towards creating free trade throughout North America under the North American Free Trade Agreement (1994), and the other created a rhetoric of war in which migration from the southern US border was presented as an 'invasion'. Such imaginings of the border supported state arguments for policing and the building of physical structures that collectively ensured a very specific goal: controlling migration.[1] Immigrants experienced the consequence of such responses in which migration was made more difficult.[2] In an effort to lobby public support for border surveillance and control, advocates promoting tighter border control policies portrayed the border region as a 'dangerous, out-of-control place, putting residents of the interior at mortal risk'.[3]

The control of immigration as a means to construct what and who counts as human in the US has meant billions of dollars are invested into surveillance equipment such as night-vision goggles, seismic sensors, low-light CCTV cameras, high-tech aircraft for nocturnal detection, helicopters, fixed-wing aircrafts, and electronic systems. As stated by Eithne Lubhéid, 'Immigration control is not just a powerful symbol of nationhood and people but also a means to literally construct the nation and the people in particular ways.'[4] Although physical walls re-emerged in US discourse during the 2016 presidential debates, there was prior investment in a 'virtual wall' through the Secure Border Initiative Network (SBInet), an effort that was discontinued in 2010.[5] In spite of SBInet being in hiatus, Jeh Johnson, former US Secretary of Homeland Security, framed it as: 'Surveillance technology is the wave of the future.'[6]

The advancements in technologies have resulted in increased policing, where border enforcement agents are spending less time tracking and watching and more time on law enforcement activities.[7] These technologies of surveillance and security

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[1] J M Heyman, '"Illegality" and the US-Mexico Border: How it is produced and resisted', in C Menjívar and D Kanstroom (eds.), *Constructing Immigrant 'Illegality': Critiques, experiences, and responses,* Cambridge University Press, 2014, pp. 124–125.

[2] A S Camacho, *Migrant Imaginaries: Latino cultural politics in the US-Mexico borderlands,* New York University Press, New York, 2008, p. 289.

[3] Heyman, 2014, p. 115.

[4] E Lubhéid, *Entry Denied: Controlling sexuality at the border,* University of Minnesota Press, Minneapolis, 2002, p. xx.

[5] Heyman, 2014, p. 112.

[6] J Tanfani, 'Fewer immigrants are being caught crossing US-Mexico border', *Los Angeles Times,* 25 April 2015, http://www.latimes.com/nation/immigration/la-na-border-security-20150425-story.html.

[7] E Blum, 'Further Reflection', US Customs and Border Protection, retrieved 25 April 2019, https://www.cbp.gov/frontline/frontline-june-az-technology.

have further constructed and reinforced migrant 'illegality'.[8] Although some technology and immigration control measures are put in place to prevent human trafficking, research shows that restrictive immigration practices actually create the conditions that make migrants vulnerable to being trafficked,[9] especially when relying on smuggling networks, or refraining from reporting crimes like human trafficking due to their irregular status or fear of deportation.[10]

State anxieties about national security, migration and human trafficking have authorised enhanced surveillance practices that utilise ubiquitous technologies[11]— not unlike in the 'War on Terror'[12]—wiretaps, Global Positioning Systems (GPS) tracking devices, state issued identification (i.e., the US REAL ID Act of 2005 created new federal standards for identification that also led to tighter policies making it more difficult for asylum seekers), and monitoring records such as travel, telephone, money and financial transactions.[13] These practices reproduce state-based monitoring through systems of evidence gathering, carceral enforcement, and militarised response. In 2015, the US military's Defense Advanced Research Projects Agency (DARPA) used Memex, in collaboration with seventeen contractors, to monitor the Dark Web.[14] Memex investigates the Deep Web, also referred to as 'Dark Web' or 'Undernet',[15] for criminalised activities,

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[8]   C Menjívar and D Kanstroom (eds.), *Constructing Immigrant 'Illegality': Critiques, experiences, and responses,* Cambridge University Press, 2014, p. 5.

[9]   W Chapkis, 'Trafficking Migration and Law: Protecting innocents, punishing immigrants', *Gender & Society,* vol. 17, no. 6, 2003, pp. 923–937, https://doi.org/10.1177/0891243203257477.

[10]   J M Chacón, 'Tensions and Trade-Offs: Protecting trafficking victims in the era of immigration enforcement', *University of Pennsylvania Law Review,* vol. 157, no. 6, 2010, pp. 1609–1653.

[11]   *Ibid.*; M. Latonero *et al.*, *The Rise of Mobile and the Diffusion of Technology-Facilitated Trafficking*, University of Southern Carolina, 2012.

[12]   P Mahdavi, *From Trafficking to Terror: Constructing a global social problem,* Routledge, New York and London, 2013.

[13]   *Ibid.*

[14]   A I Fukushima, *Migrant Crossings: Witnessing human trafficking in the US,* Stanford University Press, Stanford, 2019, p. 143.

[15]   The Dark Web requires special software to access, whereas the Deep Web is any web material that commercial engines are unable to access. R W Gehl, 'Power/Freedom on the Dark Web: A digital ethnography of the Dark Web social network', *New Media & Society,* vol. 18, no. 7, 2016, pp. 1219–1235, https://doi.org/10.1177/1461444814554900.

including human trafficking.[16]

The rhetorical strategies and policy implications of policing borders and migration have turned the border into a '"zone of indistinction" in which undocumented entrants are rendered exposed and expendable "bare life"'.[17] Although the increased technologies and militarisation of the US-Mexico border have been ongoing since the 1990s, migrants continue to cross risking violence, trafficking and even death.[18] Through advanced technologies and public discourse on the border, it is apparent that US law enforcement, policymakers, social services, and anti-trafficking stakeholders are imagining a 'homeland' where 'border security is the responsibility of Customs and Border Protection. And that national security is everyone's responsibility.'[19] These imaginings of the homeland have propagated 'discourses of emergency' which are part of a 'risk management program designed to extract profit from projections of an ever-susceptible border'.[20]

The securitisation of borders through technological advancements and surveillance of migrants in carceral anti-trafficking strategies problematically re-reinforce whose body is encoded as innocent (whiteness as innocent).[21] Therefore, there is a need to deepen the analysis of technology and human trafficking and how technological responses to immigration are impacting human trafficking survivors and anti-trafficking response. As aptly stated by Jennifer Musto and danah boyd, 'A close examination of the trafficking-technology nexus and the sociotechnical interventions initiated on behalf of victims of trafficking in the United States also gestures toward broader tensions that undergird anti-trafficking politics, especially the tenuous lines and perpetually contested boundaries that exist between security

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[16]　J Stone, 'What is Memex? How DARPA's secret search engine trawls the dark web for sex trafficking', *International Business Times,* 11 February 2015, https://www.ibtimes.com/what-memex-how-darpas-secret-search-engine-trawls-dark-web-sex-trafficking-1812958.

[17]　Walsh cites Giorgio Agamben's notion of bare life. J Walsh, 'Remapping the Border: Geospatial technologies and border activism', *Environmental and Planning D: Society and Space,* vol. 31, issue 6, 2013, pp. 969–987, p. 973, https://doi.org/10.1068/d18112.

[18]　*Ibid.*

[19]　R Leonard, 'Connecting the Dots on National Security', Department of Homeland Security, https://www.cbp.gov/frontline/frontline-june-az-technology.

[20]　A Bahng, *Migrant Futures: Decolonizing speculation in financial times,* Duke University Press, Durham, 2018, p. 78.

[21]　M Thakor, 'Digital Apprehensions: Policing, child pornography, and the algorithmic management of innocence', *Catalyst: Feminism, Theory and Technoscience,* vol. 4, no. 1, 2018, pp. 1–16, https://doi.org/10.28968/cftt.v4i1.29639.

and surveillance, protection and punishment, and safety and social control.'[22]

In this paper, I build upon the dynamic discussions regarding the technology-human trafficking nexus to show, through a multi-part analysis,[23] how migrant labourers are experiencing this nexus through what Aimee Bahng refers to as a 'homeland futurity'. A homeland futurity encompasses policies, practices, and rhetorical strategies deployed by the state that furthers the belief of an 'alien invasion' to garner support for the militarisation of the border. Consequently, citizens, the state, migrants, and trafficked migrants alike, make decisions about their material present based on the narratives they have constructed about the future.[24]

The consequences of homeland futurities are not abstract. Following the theoretical framing, I offer an analysis of how a homeland futurity has material consequence for trafficked migrant labourers caused by migrant policing. This is accomplished through thematic analysis of qualitative data collected during interviews and focus groups conducted in San Francisco. I show how this global city furthers rhetorical strategies of danger and risk management, which are complicated by the fact that it serves as the epicentre of technological advancements for a homeland futurity that consequently displaces trafficked people and marginalised communities. However, migrant labourers and collaborators are resisting homeland futurities by enacting migrant futures through the use of technology. Following the discussion of San Francisco, I examine Contratados.org as an exemplar for how anti-traffickers are using technology to counter a homeland futurity by facilitating opportunities by and for migrant labourers.

Homeland Futurities

Anti-trafficking responses often further a homeland futurity. Nation-states implement policies, practices, and rhetorical strategies to further beliefs of danger at the border; these endeavours include the use of technology, which for the trafficking survivor is not without consequence. Within state-sponsored anti-trafficking efforts, the border is remade and actions authorised through discursive—yet empirically questionable—heightened state authority. For example, in his 2019 remarks on the control of the southern US border, President Trump offered a particular kind of speculation with regard to the absence of a

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[22] J L Musto and d boyd, 'The Trafficking-Technology Nexus', *Social Politics,* vol. 21, no. 3, 2014, pp. 461-483, p. 476, https://doi.org/10.1093/sp/jxu018.

[23] N K Denzin and Y S Lincoln, 'Transforming Qualitative Research Methods: Is it a revolution?', *Journal of Contemporary Ethnography,* vol. 24, issue 3, 1995, pp 349–358, https://doi.org/10.1177/089124195024003006.

[24] Bahng, pp. 2–3.

wall: 'They say walls don't work. Walls work 100 percent… you can't take human traffic—women and girls—you can't take them through ports of entry. You can't have them tied up in the back seat of a car or a truck or a van. They open the door, they look. If they can't see three women with tape on their mouth or three women whose hands are tied. They go through areas where you have no wall. Everybody knows that.'[25]

The Trump administration exemplifies how US discourse on human trafficking remakes the border as an imagined terrain where criminality and criminalised activities like human trafficking occur, and which, in turn, legitimises its containment. Trump's remarks painted a picture of the US-Mexico border as defined by invasion and threat that simultaneously erases indigeneity. Therefore, a homeland futurity is an imperial one that furthers a capitalist agenda that contains 'risk'[26] through militarised responses. In the human trafficking, technology, and immigration nexus, trafficking is used to authorise state-based efforts to further a homeland futurity. Notions of homeland futurities are not limited to the United States. Speculations of risk at a country's borders are delineated in studies and news coverage regarding the risks at borders in regions such as Eastern Europe,[27] or country-specific sites such as Venezuela.[28] Furthermore, homeland futurities are not limited to the leadership of a country, but necessitate the participation of citizens and non-citizens alike. US anti-trafficking responses have furthered a hegemony of a homeland futurity that has implications for social and legal responses to trafficking in localised contexts. In the next section, I offer a discussion based on interviews with migrant labourers, survivors, service providers, and lawyers that highlights the everyday implications of a homeland futurity on trafficked people in a global city like San Francisco.

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[25] D Trump, 'Presidential Memorandum for the Secretary of Defense, the Attorney General, and the Secretary of Homeland Security', White House, 4 April 2018, https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-defense-attorney-general-secretary-homeland-security. Multiple news outlets and reporter interviews with anti-traffickers have challenged reductive imaginings of human trafficking at the border. See: J Krajeski, 'The Hypocrisy of Trump's Anti-Trafficking Argument for a Border Wall', The New Yorker, 5 February 2019, https://www.newyorker.com/news/news-desk/the-hypocrisy-of-trumps-anti-trafficking-argument-for-a-border-wall.

[26] Bahng, p. 12.

[27] FRONTEX, 'Eastern European Borders Annual Risk Analysis', FRONTEX, Warsaw, 2015, https://frontex.europa.eu/assets/Publications/Risk_Analysis/EB_ARA_2015.pdf.

[28] W Spindler, 'Swollen rivers, mass crowding, add to risks at Venezuela borders', UNHCR, 5 April 2019, https://www.unhcr.org/news/briefing/2019/4/5ca70ee74/swollen-rivers-mass-crowding-add-risks-venezuela-borders.html.

Implications of Homeland Futurities in Anti-Trafficking Response

In 2018, I led a study on the needs of survivors of violence in San Francisco, California, with a particular focus on human trafficking, intimate partner violence and sexual assault.[29] Another central story cohered through the interviews with migrant survivors was how homeland futurities had real-life ramifications for them and organisations supporting them. A homeland futurity manifests in localised contexts in the form of anti-migrant policing and structures that protect businesses developing homeland futurity technologies, consequently creating conditions of precarity for migrants, trafficked survivors, and vulnerable communities.

San Francisco is a hub for many technology companies and the workers who support those industries. Yet, gross income inequality impacting migrant labourers and the working poor perseveres. San Francisco is considered one of the most important cities for new technology.[30] In 2017, a year before the study commenced, there were 673 human trafficking survivors identified by 22 different agencies in San Francisco.[31] Migrants in San Francisco are viewed as welcome, comprising 35 per cent of the population,[32] and the city is recognised as providing sanctuary to undocumented migrants. Nevertheless, technological advancements in the city could not be separated from the tools needed to secure borders, enact surveillance, and control and contain people that, in effect, also displaced the most marginalised—trafficked migrants, the working poor, and the marginally housed.

The raw data for this article was obtained through citywide needs assessment of survivors of violence, including twelve focus groups (n=93) and thirty-nine individual interviews that were audio recorded (53.5 hours) and transcribed verbatim. Participants were recruited from thirty-six organisations, with 40 per cent of the participants identifying as survivors of human trafficking, sexual assault and intimate partner violence. In addition to survivors, participants included professionals who were social service providers, medical providers, attorneys, community-based organisation workers, and government workers. Interviews and focus groups were conducted in Spanish, Mandarin, Cantonese, and English. To examine how homeland futurities emerged, thematic analysis was applied to the

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[29]   A I Fukushima, L Gezinski, and E Boley, *Violence Against Women Community Needs Assessment: Report,* Department on the Status of Women, San Francisco, 2018.

[30]   D McNeill, 'Governing a City of Unicorns: Technology capital and the urban politics of San Francisco', *Urban Geography,* vol. 37, issue 4, 2016, pp 494–513, https://doi.org/10.1080/02723638.2016.1139868.

[31]   M Kandel, K Peterson, and R Chambers, 'Human Trafficking in San Francisco: 2017 Data', City and County of San Francisco Department on the Status of Women, 2019.

[32]   Fukushima, Gezinski, and Boley.

interviews where survivors spoke explicitly about human trafficking. The qualitative data was coded for themes reflecting migration and homeland futurities, in particular key words representing danger, displacement, immigration climate, and risk management.

Two seemingly contrasting imaginings of migrants were furthered in San Francisco: the perception of migrants as dangerous and the danger migrants face. As an immigration attorney conveyed,

> Regardless of all the protections and laws and regulations that make us a sanctuary jurisdiction, people are telling us they're afraid to send their children to school… They're afraid to go to work. They're afraid to seek medical care. They're afraid to go to court. So that has been another overarching theme that's been really difficult.

The discourse of danger described by the migrants and service providers was not only a mechanism of containment at the border, but a means to contain migrants even within the places they call home. As Sara,[33] a Latina migrant survivor said, 'The only thing I know is that people have been telling me that if somebody knocks on the door, do not open the door. And if somebody is asking questions, not to answer.' She shared with me a pocket card that she kept in her wallet. The pocket card stated the following:

> I do not wish to speak with you, answer your questions, or sign or hand you any documents based on my 5th Amendment rights under the United States Constitution.
>
> I do not give you permission to enter my home based on my 4th Amendment rights under the United States Constitution unless you have a warrant to enter, signed by a judge or magistrate with my name on it and that you slide under the door. I do not give you permission to search any of my belongings based on my 5th Amendment rights.
>
> I choose to exercise my constitutional rights.
>
> *These Cards are available to citizens and noncitizens alike.*[34]

Sara chose not to disclose who gave her the card. Her pocket card illuminated

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[33] Interview participants' names are replaced with pseudonyms to protect their anonymity.

[34] Graphics Communications Conference / International Brotherhood of Teamsters 1324-M.

how even trafficked migrants live with a particular homeland futurity that comprises of everyday surveillance. However, facing restrictive migration policy and practice was also met with resistance: instead of opening her front door and drawing back the window curtains, migrants like Sara were keeping them closed to minimise neighbourly suspicion. Like Sara, other migrant labourers were holding the pocket cards on their bodies and were shutting themselves in, asserting constitutional rights. The migrant survivors highlighted how they were defined by a homeland futurity where notions of danger were part of their everyday reality. Their descriptions included fears about reporting violence and a lack of trust in the police. For some trafficked migrants, this also meant the enhanced risk of deportation.

Technological innovations furthering a nation state's vision of a homeland futurity are masked by a narrative of wealth. San Francisco's 2018 annual budget was approximately USD 11 billion. However, despite the economic growth from technological innovation, migrant labourers, US citizen-survivors of human trafficking, and the working poor experience material consequences of displacement. In spite of the city's wealth, homelessness grew approximately 30 per cent between 2017 and 2019.[35] As Q, a queer youth of colour survivor conveyed:

> The main problem is mental health and housing, especially in the city. Money is the problem here. That's why so many people are homeless… The root issue is housing and money for a lot of us for being black, brown, trans, queer, disabled. We have all of these intersections and what the city cares about is what? Money, white people, and tech.

What Q's reflection helps to underscore is that technological advancements have occurred alongside migrant and vulnerable communities' heightened displacement and economic precarity. The contradictions are apparent: the technological advancements in San Francisco and Silicon Valley mean that the wealthy companies create the tools needed to secure borders, enact surveillance, and control and contain people. As these aspects of a homeland futurity are furthered, the risks for migrants who seek work and refuge in the United States are also increased, effectively preventing them and other marginalised communities from accessing basic needs such as housing. While there is 'so much money'[36] in San Francisco, the future of the city is foreclosed to migrants whose legality, means of employment,

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[35]   City and County of San Francisco, 'Homeless Population', 2019, retrieved 19 February 2020, https://sfgov.org/scorecards/safety-net/homeless-population.

[36]   J C Wong, '"We all suffer": Why San Francisco techies hate the city they transformed', *The Guardian,* 1 July 2019, https://www.theguardian.com/cities/2019/jul/01/san-francisco-big-tech-workers-industry.

racialisation, and national origins are perceived as a risk in a context that seeks to manage risk. The consequence of a homeland futurity is that migrants remain silent about everyday exploitation[37] when they are cheated out of their wages, work in dangerous conditions, and are trafficked.

In spite of the city's wealth, narratives of uncertainty and scarcity proliferate for trafficked migrants and the service providers working to support them. As one Asian survivor, Amy, conveyed, 'There is a perception that there's a limited amount of benefits… If there's a limited amount of benefits, then the more people you have to share it amongst, you might get a smaller cut of it.' In this scarcity, migrant survivors are pushed to the margins, living in parts of cities that are under-resourced. In living on the margins, the wealth of a city like San Francisco cannot be separated from processes that manage risk.

Risk management in a homeland futurity is fostered through systems of bureaucracy. Mechanisms of bureaucracy create an image of a structure that is organised, orderly, and hierarchically determined. For migrant survivors this means lengthy wait times while navigating legal systems and accessing social services. Migrant labourers, in spite of experiencing trafficking and abuse, are compelled to participate in systems that reduce their own identities into data through participation in a system of biometrics. Take, for example, an Asian migrant survivor, Jennifer, who, in order to apply for immigration relief, was required to have her fingerprints taken as part of the mechanisms of biometrics, an automated recognition system of identity management facilitated by the Department of Homeland Security. Jennifer described her frustration of working with bureaucracies:

> I found out the most important is legal aid… And sometimes my lawyer does not reply to me for three to four months… I don't know what happened... I feel so, so helpless. I don't know what to do and I don't know what is my next step. And I need to do the fingerprint [biometrics].

These bureaucracies extend beyond the legal realm into social services. Sofia, a Latina migrant survivor, stated, 'It's hard because you have to repeat everything, you have to tell them over, and then you feel like it's a waste of time… I feel like it should be faster, it should be immediate.' This expectation of immediacy is at odds with immigration bureaucracies which are not mechanisms for access, but for regulation.[38] The advancements of technology and systems of bureaucracy in

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37 D Brennan, *Life Interrupted: Trafficking into forced labor in the United States,* Duke University Press, Durham, 2014, p. 40.

38 E Codó, *Immigration and Bureaucratic Control: Language practices in public administration,* Mouton de Gruyter, Berlin, 2008, p. 52.

immigration control have created a kind of 'homeland futurity' that furthers a different type of violence. The violence of such systems is not simply that migrants wait long hours, but that the bureaucratic system itself is a mechanism of homeland futurity that relegates migrants to a bare life—waiting for extended periods to work legally, to connect with family, and to receive any benefits in a system that for some may take years to come. Without having their basic needs met—housing, food, medicines, and resources—migrants are relegated to subsisting on very little, or surviving through informal work. Migrant survivors regularly described the arduous process of trying to find shelter in San Francisco and living in sub-par, even outright inhumane conditions (i.e., rat-infested or bedbugs-infested homes), as they waited on a long waitlist for housing. The consequence of a risk management society has meant that migrant survivors are unable to afford living in a costly place like San Francisco, and are regularly viewed with suspicion when looking for housing.

The effect of scarcity and fear in current US national policy responses to the border have created an imagined 'perfect victim'[39] at the 'dangerous border'. This is facilitated through 'immigration fear' where the 'immigration situation' impacts migrants' access to resources. As described by Sue, an immigration attorney, the US political climate and Trump administration are impacting survivors: 'Five years ago … our clients [were] not as stressed about public benefits. You know, and they [did] not, I believe, have to wait as long for the pieces to be approved as compared to now because of new federal immigration policies. The [current] political landscape is very different.' Additionally, the strict visa policies mean that migrants are unable to work, earn an income, receive services, and access housing, creating conditions of vulnerability to trafficking.

Through discussing a homeland futurity, organisations, individuals, and anti-trafficking responders are also resisting such determinations through speculations of a future that centre a migrant futurity. Such practices that utilised technology to create a counter speculation are illuminated in the organisation called Contratados (Contracted). Contratados is a US-based organisation created in 2013 which exemplifies how anti-traffickers can use technology to counter homeland futurity. In the next section, I analyse a particular venture where migrants use mobile and web technology to enact migrant futures as a means to prevent exploitation and empower survivors.

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[39] J Srikantiah, 'Perfect Victims and Real Survivors: The iconic victim in domestic human trafficking law', *Boston University Law Review*, vol. 87, 2007, pp. 157–211.

Migrant Futurity through Contratados

In October 2014, Centro de Los Derechos Del Migrante Inc. (Center for the Rights of Migrants—CDM) launched Contratados.org, which allows migrant labourers to anonymously rate employers.[40] CDM had found that migrant workers often do not have access to computer-based Internet at home but were accessing the web through mobile phones and Internet cafes.[41] In an interview with *She Innovates*, Rachel Micah-Jones, Executive Director of CDM, illuminates a kind of migrant futurity through the platform, when she states: 'Contratados.org, our Yelp++ for migrant workers, is changing the balance of power for migrants. Contratados pools collective worker knowledge and displays it alongside publicly available data culled from various sources. This transparency gives workers unprecedented power to make informed lifechanging decisions.'[42] This means that migrants can use the platform to make decisions regarding work opportunities. In 2018, Contratados was selected as one of the Massachusetts Institute of Technology 'Work of the Future Solver' teams, where the platform was described as 'allow[ing] workers to share anonymous information on workplace and recruitment abuses, access rights education materials, and view job opportunities through specific job boards'.[43] Contratados is envisioned as being Yelp, plus Glassdoor and Indeed, with 'information and resources'.[44]

The website is in Spanish and can be translated into English for English-preferred language users. Posts by users are like a bulletin and the organisation does not alter them for legal reasons, or it would be responsible for what goes on the

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[40] E Ericson Jr., 'A "Yelp" for Migrant Workers: Local nonprofit's tool spreads the word about abusive and deceitful employers and recruiters', *City Paper,* 10 February 2015, https://www.citypaper.com/news/mobtownbeat/bcp-a-yelp-for-migrant-workers-local-companys-tool-spreads-the-word-about-abusive-and-deceitful-employer-20150210-story.html.

[41] S Melendez, 'Contratados: A Yelp to help migrant workers fight fraud', *Fast Company,* 9 October 2014, https://www.fastcompany.com/3036812/contratados-is-a-yelp-that-fights-fraud-for-migrant-workers.

[42] Interview, Rachel Micah-Jones: Founder and Executive Director, Centro de los Derechos del Migrante, Inc., and Team Lead for Contratados.org, *She Innovates,* n.d., https://www.sheinnovatesstories.com/rachel-micah-jones-founder-and-executive-director-centro-de-los-derechos-del-migrante-inc.

[43] F Montejo, 'Meet the Solver Teams: Announcing our work of the future innovators', *MIT Solve,* 23 September 2018, https://solve.mit.edu/articles/meet-the-solver-teams-announcing-our-work-of-the-future-innovators.

[44] R M Micah-Jones, 'Contratados.org', *Solve,* Massachusetts Institute of Technology, 2017, retrieved 28 April 2019, https://solve.mit.edu/articles/meet-the-solver-teams-announcing-our-work-of-the-future-innovators.

website.[45] Contratados user posts are publicly accessible, where one can find employers (text coded in blue) and employment agencies (text coded in pink). Data from migrant labourers is supplemented by publicly available data. At its creation, the web platform was piloted with 280,000 workers in the US.[46] By 2018, Contratados had provided resources and information to more than 500,000 migrants, leading to the organisation aiding 6,780 migrant workers with their legal and social needs.[47]

Contratados is unique in that it was co-created by migrant workers and allows them to generate content. As a homeland futurity contains 'threats' through surveillance technologies, organisations like Contratados are utilising technology to resist the relegation of migrant labourers to social death and prevent migrants from entering conditions that may lead to trafficking, by creating information sharing on work and rights across the United States. While this alone is not sufficient to resist a homeland futurity, it is an exemplar of an endeavour in which migrant futurities are possible. Recalling Amy who described scarcity of resources, Contratados provides a contrasting image of a range of jobs across the country.

Through platforms like Contratados, migrants are able to find work, resources and information through user and community generated input. It is this type of technology that makes possible migrant futurity—type of future visioning that shapes present conditions and allows one to imagine a future beyond homeland futurities. The website enables migrants to make decisions to not utilise a company that has a poor review. In one of the 194 jobs posted to the website, one worker describes their experience with an au pair company in San Francisco as follows:

> They promised me that I was going to live a total American experience with the family and I am a maid in the house ... I worked for the first three weeks without … rest ... I worked 16 hours a day. The agency did not help me at all ... The family promised me to use a car and when I arrived they restricted me ... It is a form of modern slavery. Very dangerous.[48]

This au pair company received one star; by contrast, a bakery in San Francisco received an anonymous perfect score of 5 stars.[49]

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[45] Ericson Jr., 2015.

[46] Micah-Jones, 2017.

[47] *Ibid.*

[48] See: https://contratados.org/es/content/aupaircare-inc.

[49] See: https://contratados.org/es/content/capital-cookery-inc.

Contratados allows workers to have information at their fingertips, whereas bureaucracies and state-based agencies may be slow, as Sofia had pointed out. The website includes know your rights information, information on visas, work conditions, sexual harassment, and retaliation. Additionally, the website's resources for workplace and recruitment problems are made readily available and workers can contact CDM for direct legal representation and litigation support.

Conclusion

I have illuminated in this article why it is essential for critical anti-trafficking scholars and activists to understand how surveillance technologies and nation-state responses to borders and human trafficking cohere to further a 'homeland futurity'. Understanding how homeland futurities seek to present a vision and practices about the future of a country through frames of danger, risk management, datafication, and displacement, is central to imagining and articulating new modalities of response to violence including human trafficking. At the same time, it is incorrect to suggest that all technological creations negatively impact trafficked migrants. This article is an invitation to the reader to understand how technological creations can enable responses to human trafficking that do not further a homeland futurity.

It is incumbent on anti-traffickers to take into account the real-life implications of a country's rhetorical and policy decisions regarding immigration. The responses to contain 'threats' and focus on 'danger' have implications for trafficked migrants. As seen in the context of San Francisco, migrant labourers are impacted by responses to further a nation's interest to protect its borders. Homeland futurities are not unique to the United States. Countries around the world are ramping up their immigration policies and practices to regulate and control an imagined future through surveillance, securitisation, and bureaucracy. Italy's former Interior Minister Matteo Salvini enacted policies to fine the owners of migrant rescue ships through a 'security decree';[50] Mexico enacted raids of migrants to avoid US tariffs;[51] and the Australian government sought to pass legislation that would expand character test provisions, in effect, setting up policy that would increase the number of people facing deportation.[52]

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[50] Associated Press, 'UN refugee agency says new Italian law could endanger lives', *USNews.com*, 6 August 2019, https://www.usnews.com/news/world/articles/2019-08-06/un-refugee-agency-says-new-italian-law-could-endanger-lives.

[51] D Agren, 'Mexico tightens southern border security as another day passes with no tariff deal', *The Guardian,* 6 June 2019, https://www.theguardian.com/world/2019/jun/06/mexico-migrants-border-guatemala-tariffs.

[52] S Martin, 'Visa character test change "could mean fivefold rise in deportation"', *The Guardian,* 5 August 2019, https://www.theguardian.com/australia-news/2019/aug/06/visa-character-test-change-could-mean-fivefold-rise-in-deportations.

While not all migrants are trafficked, it is pressing for critical anti-trafficking scholars and activists to pay attention and be responsive to national narratives on migration that further a homeland futurity as it impacts trafficked people, who are the most vulnerable. As delineated in the case example of San Francisco, technologies that create everyday surveillance further a discourse of danger. The technologies of homeland futurities impact all migrants, including those who experience exploitation during or after crossing a national border. Additionally, it is essential for critical human trafficking scholars to contend with homeland futurities and the intersection of migration and trafficking in these precarious times. For if the future is imagined as bleak, dangerous, to be contained, securitised, and controlled, trafficked migrants, regardless of the conditions that led to their abuse, will also be impacted along with their family and community. However, the goal is not to be anti-technology when examining the human trafficking-technology nexus. Technologies created by and for migrant labourers, and in collaboration with leaders and organisers, make possible a migrant futurity. Contratados is an example of how anti-traffickers can create technologies that counter a homeland futurity by collaborating with migrant survivors.

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Same Same but Different? Gender, sex work, and respectability politics in the MyRedBook and Rentboy closures

Samantha Majic

Abstract

Among the many policies implemented to eradicate trafficking in the sex industry, US government agencies have targeted online platforms that market and facilitate sex work. In this paper, I consider two instances of this activity: the Federal Bureau of Investigation's 2014 raid and subsequent closing of MyRedbook.com, and the Department of Homeland Security's 2015 raid and closing of Rentboy.com. Drawing from a qualitative-interpretive analysis of the media coverage of these raids, I show that the responses to them emphasised how the sites' closures increased both men's and women's economic vulnerability, but the similarities largely ended there. Instead, I argue broadly that public responses to these events reflected and reinforced gendered notions of women's vulnerability and men's agency in the sex industry. While these responses may seem unsurprising, they are also potentially productive, calling into question the limits of respectability politics and signalling new solidarities in the struggle for sex worker rights.

> When law enforcement came for MyRedBook for sex work ads—and before that, Craigslist and Backpage—there was criticism, but not like this. … Where the attacks on Rentboy were understood by activists and organizations as attacks on the LGBTQ community, attacks on MyRedBook were met with comparative silence from feminists, along with cursory reporting and little editorial support from mainstream media.
>
> Melissa Gira Grant[1]

The sex industry has long been at the forefront of technological change and adaptation: an extensive body of research indicates that both women and men increasingly arrange commercial sexual exchanges online using various websites and mobile technologies.[2] Yet as the sex industry has modernised, concerns about trafficking in the industry have intensified, especially since 2000, when the US federal government passed the *Trafficking Victims Protection Act* (TVPA). Among the many policies and procedures implemented to eradicate human trafficking, government agencies have endeavoured to end the *availability* of commercial sexual services by targeting online platforms, namely websites that operate as intermediaries between sex workers and clients to market and facilitate sex work.[3]

In this article I consider two recent instances of this activity: the Federal Bureau of Investigation's (FBI) 2014 raid and subsequent closing of MyRedbook.com (MyRedbook), and the Department of Homeland Security's (DHS) 2015 raid and closing of Rentboy.com (Rentboy). MyRedbook was founded in 1999 in California, by Eric 'Red' Omuro and Annemarie Lanoce, and like Rentboy, it hosted ads, but from women escorts and massage parlours targeting male clients. The site was notoriously low-tech—posting an ad was free, but one could pay a fee to display their ad more prominently on the site. Clients could browse the site for free, but they had to pay to access escort reviews, enhanced search options, and 'VIP forums'. MyRedbook also offered a chat room for sex workers and clients, where each group could share information with the other about services, risks, etc. Founded by Jeffrey Hurant, Rentboy opened for business in 1997 as an 'ad listing' service where male escorts paid a monthly fee to place ads so that

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1   M Gira Grant, 'How Sex Workers' Rights Made the Mainstream', *Rewire News,* 11 September 2015, retrieved 7 December 2019, https://rewire.news/article/2015/09/11/sex-workers-rights-made-mainstream.

2   S Cunningham and T D Kendall, 'Prostitution 2.0: The changing face of sex work', *Journal of Urban Economics,* vol. 69, no. 3, 2011, pp. 273–87, https://doi.org/10.1016/j.jue.2010.12.001; I Vanwesenbeeck, 'Prostitution Push and Pull: Male and female perspectives', *J Sex Res,* vol. 50, no. 1, 2013, pp. 11–16, https://doi.org/10.1080/00224499.2012.696285.

3   H Rand, 'Challenging the Invisibility of Sex Work in Digital Labour Politics', *Feminist Review,* vol. 123, no. 1, 2019, pp. 40–55, https://doi.org/10.1177/0141778919879749.

clients could contact them directly. Additionally, the site offered a message board where clients posted escort reviews. Although comprehensive data about the site's use is not available, there is evidence that it was popular: in 2009, Rentboy hosted 40,000 escort profiles in dozens of countries[4] and, at the time of its seizure, had 500,000 unique visitors per day.[5]

Even as MyRedbook and Rentboy were similar sites, Gira Grant's epigraph above indicates that their respective raids generated very different responses, thereby raising questions relevant to this special issue regarding the consequences of restricting technologies in the service of anti-trafficking efforts. In this paper, I consider the discursive consequences of these varied responses. Drawing from a qualitative-interpretive analysis of the media coverage of these raids, I show that the responses to them emphasised how they would increase both men's and women's economic vulnerability, but the similarities largely ended there. Instead, I argue that public responses to these events reflected and reinforced gendered notions of women's vulnerability and men's agency in the sex industry. But while these responses may seem unsurprising, they are also potentially productive, raising questions about the limits of respectability politics and signalling new solidarities in the struggle for sex worker rights.

Technology and Sex Work

Technological developments such as the invention of the motor vehicle and the telephone have long shifted the structure of the sex industry, but among these, the internet has had the most significant impact.[6] Through it, the creation of online platforms such as Rentboy and MyRedbook (among many others) have afforded sex workers more flexibility and choice in how they work, and have also expanded opportunities for advertising and booking clients independently. Furthermore, internet technologies have also enhanced sex workers' safety by shifting work indoors and providing them with tools to screen their clients through background checks and consultations with other sex workers. Clients also may use these technologies to review and research sex workers.[7] Furthermore, these

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[4]   S Weinstein, 'The Queer Issue: The rise of Rentboys', *Village Voice*, 24 June 2009, retrieved 12 February 2020, https://www.villagevoice.com/2009/06/24/the-queer-issue-the-rise-of-rentboys.

[5]   J Vincent, 'Seven arrested over multimillion-dollar "internet brothel" Rentboy.com', *The Verge*, 26 August 2015, https://www.theverge.com/2015/8/26/9209623/rentboy-arrests-escort-service.

[6]   Cunningham and Kendall, p. 273; C MacPhail, J Scott, and V Minichiello, 'Technology, Normalisation and Male Sex Work', *Cult Health Sex,* vol. 17, no. 4, 2015, pp. 483–95, https://doi.org/10.1080/13691058.2014.951396.

[7]   Cunningham and Kendall, p. 277.

developments have enhanced sex workers' solidarity and security by increasing peer contact and opportunities to reach out to, network, and organise with other sex workers.[8]

Of course, internet technologies are not accessible to everyone and they also come with risks. Internet access is costly, and thus affluent sex workers are more able to access and benefit from online technologies than their less affluent peers.[9] Alongside and linked to class disadvantages, as Helen Rand summarises, there is growing evidence of racial stratification in online sex work, as those with white bodies are often more privileged and profitable, particularly in emerging sub-sectors of the industry like webcam modelling.[10] Additionally, the internet has expanded law enforcement's capacity to investigate and arrest persons engaging in prostitution.[11] But among these risks, human trafficking has raised the most alarm—a so-called 'pink scare'. According to anti-prostitution advocate Melissa Farley and her colleagues, 'Adapted by traffickers, pimps, and pornographers, the global reach of the internet has facilitated sex buyers' access to prostituted women and children, thereby increasing sex trafficking.'[12]

Although such claims have never been systematically verified, online technologies have 'become the new battleground spaces upon which longstanding disagreements about sex work, human trafficking, and the sexual exploitation of youth are enacted'.[13] These battles are most apparent in public and political discussions about platforms like Craigslist and Backpage, which have been 'cited by attorneys general, journalists, and anti-trafficking advocates as key facilitators of trafficking online'.[14] But even as these platforms raise concerns about human trafficking,

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[8]   R Weitzer, 'Researching Sex Work in the Twenty-First Century', *Contemporary Sociology*, vol. 42, no. 5, 2013, pp. 713–22, https://doi.org/10.1177/0094306113499536b.

[9]   For example, in 2015, the Bureau of Statistics found that the mean annual cost of cellular phone service was USD 1,023 per household, up from USD 963 in 2014. See https://www.bls.gov/cex/2015/combined/age.pdf

[10] Rand, p. 8.

[11] S Cunningham and T D Kendall, 'Prostitution, Technology, and the Law: New data and directions', in L R Cohen and J D Wright (eds.), *Research Handbooks in Law and Economics*, Edward Elgar, Cheltenham, UK and Northampton, MA, 2011, pp. 221–70.

[12] M Farley, K Franzblau, and A Kennedy, 'Online Prostitution and Trafficking', *Albany Law Review*, vol. 77, no. 3, 2014, pp. 1039–94.

[13] M Thakor and d boyd, 'Networked Trafficking: Reflections on technology and the anti-trafficking movement', *Dialectical Anthropology*, vol. 37, no. 2, 2013, pp. 277–90, p. 279, https://doi.org/10.1007/s10624-012-9286-6.

[14] J L Musto and d boyd, 'The Trafficking-Technology Nexus', *Social Politics: International Studies in Gender, State & Society*, vol. 21, no. 3, 2014, pp. 461–83, p. 466, https://doi.org/10.1093/sp/jxu018.

they also may disrupt it by helping law enforcement investigate trafficking cases with face recognition software, predictive analytics, and mapping techniques to identify traffickers. As well, connective technologies allow anti-trafficking advocates to mobilise their networks, spread anti-trafficking messages, and fundraise. And companies like Google and Yahoo (among others) see anti-trafficking efforts as making good philanthropic and business sense. In December 2011, for example, Google donated USD 11.5 million to help anti-trafficking organisations support new technology initiatives.[15]

While existing scholarship has considered technology's possibilities and limits for facilitating and combatting coerced or consensual sex work, it has not considered the MyRedbook and Rentboy raids and how, if at all, the responses to these raids reflected and reinforced certain gender and other political ideologies. Examining the different responses to these raids thus provides an intriguing case for understanding the intersection of anti-trafficking efforts and the struggle for sex worker rights in the internet age.

Methods

Following Deva Woodly's work on political persuasion, I analysed media coverage of MyRedbook and Rentboy as a means for gauging public discourse about their raids and closures.[16] Here I defined and counted as media coverage any related pieces in newspapers, newswires, news networks (e.g. abc.com), and online news sources (e.g. *Huffington Post*), which my research assistants, B Stone and Lauren Moton, found through the databases EBSCOHost, Gannet Newsstand (ProQuest), Google News, and Lexis Nexis by using the terms 'MyRedbook' and 'Rentboy'. They included any and all articles that discussed the sites published before and after the raids to provide a benchmark for how and in what context these sites were discussed before they were shut down. In total, they collected 217 articles: 68 articles about MyRedbook and 149 articles about Rentboy.

Next, I organised these articles in Atlas.ti for coding, which I understand as primarily an interpretive act.[17] To this end, I first grouped the articles for each site into two categories—before and after the raid—and coded each article to

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15   *Ibid.*, pp. 463–475; see also H Dixon, 'Human Trafficking and the Internet* (*and Other Technologies, Too)', *The Judges' Journal*, vol. 52, no. 1, 2013, pp. 36–39.

16   D Woodly, 'The Importance of Public Meaning for Political Persuasion', *Perspectives on Politics*, vol. 16, issue 1, 2018, pp. 22–35, https://doi.org/10.1017/S1537592717003127.

17   J Saldaña, *The Coding Manual for Qualitative Researchers,* 3rd Edition, SAGE, Los Angeles & London, 2016.

capture its year, outlet, and the centrality of the site to the article (e.g. main focus [headline] of the article) and whether it contained photos. Second, I conducted 'descriptive' or 'topic' coding by assigning 'a word or short phrase that symbolically assigns a summative, salient, essence capturing, and/or evocative attribute' to each article.[18] Altogether, the articles fell into the following topical categories: the sites' raids and related events (such as the owners' sentencing), adult sex work, youth sex work, LGBT rights, online sex, sex scandals, and trafficking in the sex industry.

Third, I conducted in-depth, qualitative coding for each article to capture how public discourse about the raids characterised sex work, sex trafficking and sex workers. Here I understood discourse as the interactive process of conveying ideologies through both images and verbal text.[19] In particular, I was interested in the gendered ideologies conveyed through the articles, and to discern these, I employed a critical feminist approach that considered how 'frequently taken-for-granted gendered assumptions and hegemonic power relations are discursively produced, sustained, negotiated, and challenged in different contexts and communities'.[20] Working within an intersectional paradigm, I attended to how discussions of the websites and sex work/ers in the media considered multiple categories of social identity, including race, class, sexuality, etc.[21]

My discursive codes came from the literature regarding technology and sex work, noted previously and, following Woodly, from inductively reading the news articles to draw codes from them that captured portions of text related to various topics.[22] These codes are presented in Table 1 below.

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[18]   *Ibid.*, p. 4

[19]   G Rose, *Visual Methodologies: An introduction to researching with visual materials*, 3rd Edition, SAGE, London & Thousand Oaks, CA, 2012.

[20]   M Lazar, 'Feminist Critical Discourse Analysis: Articulating a feminist discursive practice', *Critical Discourse Studies,* vol. 4, no. 2, 2007, pp. 141–64, p. 142, https://doi.org/10.1080/17405900701464816.

[21]   A M Hancock, 'When Multiplication Doesn't Equal Quick Addition: Examining intersectionality as a research paradigm', *Perspectives on Politics,* vol. 5, no. 1, 2007, pp. 63–79, https://doi.org/10.1017/S1537592707070065.

[22]   Woodly, p. 25.

Topic (Code Group)	Codes
Descriptions/pictures of sex workers featured in articles	Race (white, black, Asian, Latinx, none specified), age (child, teen, adult), gender (men, women, transgender)
Motivations for engaging in sex work	Third-party coercion Economic Psychopathology Sexual exploration/enjoyment Sexual victimisation as a child Other
General characterisation of sex work	As victimisation As work As sexual freedom (should be left alone)
Internet sex work – Advantages	For clients – opportunity (e.g. screening and reviewing sex workers) For sex workers – opportunity (e.g. advertising, screening clients) For law enforcement (e.g. to search for traffickers) For corporations and non-profits (e.g. to help anti-trafficking efforts) Safety (shifts sex workers off streets)
Internet sex work – Disadvantages	Expands sex industry General dangers (of sex work) Facilitates human trafficking
Other internet and other sex work related issues	LGBT rights Amnesty International Decriminalisation of prostitution Legal issues

Table 1: Codes for MyRedbook and Rentboy articles.

In analysing the material, if I found, for example, that articles about MyRedbook were mainly coded regarding how the website facilitates human trafficking and characterised sex work as victimisation, I would interpret that as a public response promoting a more traditional gender ideology about women sex workers as victims.

Findings

Raids in Context

On 24 June 2014, the FBI arrested Omuro and Lanoce on charges of facilitating prostitution through MyRedbook, and on multiple counts of money laundering. And the next year, on 25 August 2015, the DHS and members of the New York Police Department raided Rentboy's offices in New York, arresting Hurant and six others on his staff on charges of conspiring to violate the *Travel Act* by promoting prostitution. Even as both sites provided nearly identical services to sex workers and their clients, the Rentboy raid and its aftermath received much more coverage (120 articles) than did the progression of the MyRedbook case (56 articles). Both of these appeared mainly in regional papers (the *NY Daily News*

provided the most coverage of the Rentboy case details, while the *San Francisco Chronicle* did the same for MyRedbook). Furthermore, a wider range of groups responded to Rentboy's closure. With the exception of the Electronic Frontier Foundation, only sex worker rights groups spoke against MyRedbook's closing, most notably the Sex Workers Outreach Project (SWOP), 'a national social justice network dedicated to the fundamental human rights of people involved in the sex trade and their communities', and other Bay Area-based sex worker rights groups such as the Erotic Service Providers Union.[23] In contrast, *both* sex worker rights groups *and* LGBT/civil rights groups such as Lambda Legal and the GLBTQ Legal Advocates & Defenders responded to the Rentboy raid. The remainder of this section considers what these responses to the raids, as captured through media coverage, discursively indicate about sex work, trafficking, and sex workers.

Same Same but Different?

The consensus in existing research is that economic considerations motivate a person's engagement in sex work,[24] and the public response across groups and articles emphasised that both sites' closures would increase men and women's economic vulnerabilities. At least twenty of 56 articles about the MyRedbook raid and its aftermath highlighted women's economic motivations for sex work, such as an article in *The Atlantic*, where a woman sex worker explained that 'Most people, I think, go into sex work because it fits their current needs. Maybe they can't work a 9-to-5 job because they're in school, or they have young children so they need a really flexible job. That's why I started doing sex work. I was in school, and I had a child, and I needed something that I could work nights.'[25] Given this, at least 30 articles indicated that MyRedbook's *closure* would reduce women sex workers' economic opportunities by, for example, limiting their capacity to advertise their services.[26] Similarly, at least 49 articles in response to the Rentboy raid emphasised men's economic vulnerability such as an op-ed in *The Guardian,* which noted, 'The federal prosecution of third-party advertisers like Rentboy and myRedBook … will destroy an informal economy that includes many of us whom are undocumented, or don't have a degree or other means to surmount the high barriers of entry to an occupation in the formal economy.'[27] And these economic losses would be particularly acute for gay and transgender men, as indicated in

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[23] See http://www.new.swopusa.org.

[24] Venwesenbeeck, p. 12.

[25] C Hall, 'Is One of the Most-Cited Statistics About Sex Work Wrong?', *The Atlantic*, 6 September 2014.

[26] See, for example, S Q, 'Red Alert: The feds shut down an escort site', *SF Weekly,* 9 July 2014.

[27] Anonymous, 'Rentboy Wasn't My "Brothel". It was a tool to stay alive in this economy of violence', *The Guardian*, 1 September 2015.

at least 29 of the 120 post-raid articles. As the *New York Times* editorial board wrote, 'In New York, where homeless shelters for gay and transgender youths have lengthy waiting lists, sex work can mean the difference between sleeping on a bed and sleeping on the street. For others, it is a way to afford a degree. The Rentboy. com bust may spook clients and sex workers for a while, but it would be naïve to think it will do much more.'[28]

However, the similarities in the responses to these raids largely ended here. Articles about the MyRedbook closure largely provided much more traditional gendered discourse about women's victimisation in sex work, with all 56 post-raid articles discussing to some degree how the site's closure would increase risks and decrease the safety for women sex workers. In fact, numerous articles noted that the site helped women *protect* themselves, stating here that its closure would send more sex workers back to the streets, where they are at a heightened risk for violence from clients and the police. For example, as one article noted, 'The elimination of online advertising would send many sex workers back to the dark ages of street work. To avoid attracting the attention of law enforcement, workers would jump too quickly into the cars of customers they haven't screened, with no time to negotiate payment or services before finding themselves in a small space equipped with child-safety locks in the company of a strange man.'[29] Furthermore, the site's closure would diminish sex workers' capacity to screen clients and determine if they are safe. As an op-ed in *San Francisco Weekly* pointed out, 'MyRedbook was not just an advertising platform, but also a resource for sex workers to screen potential clients. Without resources for adequate screening and safety procedures, I fear my community will be forced to make riskier choices in order to feed their families and pay their bills.'[30]

This emphasis on women sex workers' potential victimisation was particularly apparent in the eleven articles that discussed the relationship between internet sex work and trafficking, featuring here quotations or perspectives that raised the spectre of the 'pink scare'. For example, an article in the *San Francisco Chronicle* quoted an Assistant District Attorney who stated, 'In my experience prosecuting these types of cases, [MyRedbook] is associated with the setting up of dates that often involve women who are being exploited or are victims of human trafficking … I view it as a positive development that the federal authorities were able to take such strong action against it.'[31] But numerous articles also indicated that

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28   Editorial Board, 'Homeland Security's Peculiar Prosecution of Rentboy', *New York Times*, 28 August 2015, p. A18.

29   T Burns, 'The War on Sex Workers Escalates with FBI Shutdown of Myredbook', *Vice*, 17 July 2014.

30   S Q.

31   V Ho and H Aleaziz, 'Bay Area Prostitution Site Myredbook.Com Seized by Feds', *San Francisco Chronicle*, 25 June 2014.

closing MyRedbook would *not* help to fight trafficking and may instead increase sex workers' risks for it. As one article stated, '[MyRedbook] has previously been used as a law enforcement resource for investigators targeting pimps and human traffickers. Officers have posed as clients or offering services in order to arrange meetings and make arrests.'[32] This led some to wonder, 'How are the cops going to find trafficking victims now that there's nowhere for them to advertise?'[33]

In contrast, the public response to the Rentboy raid emphasised men's (non-economic) victimisation to a much lesser extent than it did for women. At least 61 post-raid articles noted these issues, such as a *New York Times* editorial that said the shutdown was not justified, as it was 'a company that provided sex workers with a safer alternative to street walking or relying on pimps'.[34] As performer Andy Boyce stated in an article, 'By taking away a consensual platform for sex workers to conduct business, many are forced to resort to more unsafe methods of obtaining clients.'[35] Yet even as media coverage raised these issues, only two articles about Rentboy noted human trafficking in relation to male sex work, and just eight raised the issue more generally. In fact, unlike the articles about MyRedbook, the individuals quoted and/or the authors emphasised that trafficking was *not* an issue for Rentboy users. As advocates claimed in an article in *New York Magazine*, 'the site had nothing to do with human trafficking and doubt[ed] whether there are any victims in this criminal activity'.[36] Consequently, there were no discussions in the Rentboy articles about how the site would help protect male sex workers by, for example, helping the police find traffickers.

Instead, the public response to Rentboy's closure highlighted men's *agency* in sex work, as indicated by the fact that 117 post-raid articles emphasised that the site's raid and closure compromised gay men's sexual pleasures and freedoms. As one male sex worker noted, sex work 'is preferable to a 9-to-5 job because of the "freedom and flexibility" it provides … Plus it's something I like to do anyway'.[37] For many, then, the closure of Rentboy was seen as a 'war on sex' that would

32   KCRA, 'MyRedBook Seized by FBI, IRS; Alleged Owners Indicted', *KCRA News,* 26 June 2014.

33   Burns.

34   Editorial Board, p. A18.

35   J M Nichols, 'The Unexpected and Powerful Story of a Sex Worker Affected by the Rentboy Raid', *Huffington Post*, 28 July 2015.

36   T Murphy, 'What Did Busting Rentboy.Com Do to the Hustler Economy? 6 Rent boys tell all', *New York Magazine*, 25 September 2015.

37   N Tempey, 'After Rentboy Crackdown, Angry Sex Worker Condemns "Growing Moral Panic"', *Gothamist*, 26 August 2015.

compromise these freedoms,[38] especially since Rentboy was able to operate as 'an unabashed celebration of gay sex and intimacy … something of an institution in the gay world since it was launched in 1997'.[39] Since 1998 it sponsored a float in New York City's annual gay pride parade, and it founded the annual International Escort Awards (the 'Hookies') in 2006. It also hosted the 'Hustlaball', a sex cabaret and dance party, in London, Berlin, and Las Vegas to raise money for charities such as Gay Men's Health Crisis. Since the site had existed for so long and so publicly, with little known harm to anyone in particular, the raid seemed of another era: as Justin Bond, a performer and activist told the *New York Times*, 'To many in our community this feels like a throwback to when the police raided gay bars in the '50s and '60s.'[40] Therefore, at least seven articles about the Rentboy raid included some version of the phrase 'Why now?' For example, an article in the *Gothamist* was titled 'Why Is Homeland Security Going After Male Escort Website Rentboy After 18 Years?' and numerous articles variously speculated about the reasons for Rentboy's raid, ranging from claims that it was a 'political act' to a possible expression and exercise of homophobia on the part of government agencies.[41] There were no similar 'why now' articles for the MyRedbook raid.

Respectability Politics and Solidarity in the Struggle for Rights

These different responses to the raids are unsurprising to a degree: they reflect how male sex workers have, somewhat paradoxically, benefitted from being almost completely ignored by social service providers and administrative bodies, and from the media and popular culture's reinforcement of archetypes of agentic male *buyers* and vulnerable women *sellers*. Since male sex workers have largely been unburdened by associations with and assumptions about trafficking and victimisation in the sex industry and thus not subject to related service and policy interventions, they have not had to prove that they are agentic individuals who

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[38]   DE Nahmod, 'Rentboy.Com CEO, Employees Arrested in New York', *Bay Area Reporter,* 26 August 2015.

[39]   N DiDomizio, 'A Huge Gay Escort Website Was Shut Down. Here's Why We Need to Care', *Mic*, 26 August 2015.

[40]   S Clifford, 'Raid of Rentboy, an Escort Website, Angers Gay Activists', *New York Times*, 26 August 2015, p. A20.

[41]   *Ibid.*; see also S Weinstein, 'Why Did the Feds Bust Rentboy?', *Vice*, 4 September 2015, and M E O'Hara, 'DHS, DOJ Silent on Congressman's Questions About Anti-LGBT Agenda in Rentboy Case', *The Daily Dot*, 9 March 2016.

can speak in their own interests as women sex workers have struggled to do.[42] The different responses to these raids therefore reflect longstanding gender ideologies about men and women's capacities to engage and exercise agency in sex work.

Yet at the same time, these different responses are potentially productive for illuminating the limits and possibilities of LGBT and sex worker rights organising. Since the 1970s, 'according to that conventional narrative, lesbians and gay men have slowly but surely gained ever-greater access to full citizenship in many spheres of life' including marriage and access to the military, among others.[43] The mainstream LGBT movement made these gains, in large part, through respectability politics. Coined by Evelyn Brooks Higginbotham to describe black women's efforts to resist and dissolve white Americans' negative stereotypes about them, respectability politics involves enacting the rhetorical and behavioural norms modelled in straight white men, based on the belief that equal treatment will follow.[44] Among the many groups to deploy these politics are those in the mainstream LGBT movement like GLAD and Lambda Legal, as indicated by their devotion of considerable efforts and resources to issues that advance the interests of their predominantly white and affluent (read: 'respectable') constituents. By focusing on issues like marriage equality and access to the military, critics contend that this respectability strategy has benefitted 'those whose sexual lives have fit comfortably within widely accepted canons of propriety, privacy,

[42] R Andrijasevic and N Mai, 'Editorial: Trafficking (in) Representations: Understanding the recurring appeal of victimhood and slavery in neoliberal times', *Anti-Trafficking Review*, issue 7, 2016, pp. 1–10, https://doi.org/10.14197/atr.20121771; D S Bimbi, 'Male Prostitution: Pathology, paradigms and progress in research', *J Homosex,* vol. 53, no. 1–2, 2007, pp. 7–35, https://doi.org/10.1300/J082v53n01_02; JP Dennis, 'Women Are Victims, Men Make Choices: The invisibility of men and boys in the global sex trade', *Gender Issues*, vol. 25, no. 1, 2008, pp. 11–25, https://doi.org/10.1007/s12147-008-9051-y; V Minichiello, J S Victor and D Callander, 'A New Public Health Context to Understand Male Sex Work', *BMC Public Health,* vol. 15, no. 282, 2015, pp. 1–11, https://doi.org/10.1186/s12889-015-1498-7; A Schloenhardt, P Astill-Torchia, and J Jolly, 'Be Careful What You Pay For: Awareness raising on trafficking in persons', *Washington University Global Studies Law Review,* vol. 11, issue 2, 2012, pp. 415–35.

[43] S De Orio, 'The Invention of Bad Gay Sex: Texas and the creation of a criminal underclass of gay people', *Journal of the History of Sexuality*, vol. 26, no. 1, 2017, pp. 53–87, p. 53, https://doi.org/10.7560/JHS26103.

[44] E Brooks Higginbotham, *Righteous Discontent: The women's movement in the black Baptist Church, 1880–1920,* Harvard University Press, Cambridge, 1993. See also: A I Khan, 'Michael Sam, Jackie Robinson, and the Politics of Respectability', *Communication & Sport,* vol. 5, no. 3, 2015, pp. 331–51, https://doi.org/10.1177/2167479515616407; and M Lamont Hill, 'Thank You, Black Twitter – State violence and pedagogies of resistance', *Urban Education,* vol. 53, no. 2, 2018, pp. 286–302, https://doi.org/10.1177/0042085917747124.

domesticity, and coupledom …'[45]

The response to the Rentboy raid indicates the limits of respectability politics in the pursuit of LGBT rights, particularly for members of racial minority groups. Scholars have written that respectability politics' neoliberal emphasis on propriety and individual uplift ignores social and structural inequalities, which are not changed by ascending class status.[46] As Jane Ward's work on LGBT activist organisations demonstrates, these neoliberal claims to participation—that individuals must change themselves first—has often led the mainstream LGBT movement to discard or leave behind its members who do not fit market needs.[47] In this way, even as many members of the LGBT community have benefitted from the movement's gains, it is not news that many others remain extremely disadvantaged by, among other things, poverty, employment discrimination, harassment and violence, and this socio-economic marginalisation is compounded for LGBT persons of colour.[48] Therefore, it is entirely unsurprising that some LGBT persons may engage in sex work for economic survival. As one article about the Rentboy raid noted, 'They are the people left behind by the advances in LGBT equality, and they have often paid the price for our community's overall success, in the form of backlash, violence, or government action like the Rentboy bust.'[49]

The precarity of LGBT rights gains, particularly through the frame of white respectability politics, was especially apparent when Rentboy was raided and shut down. In the media coverage, numerous articles featured pictures of Hurant—a white, affluent man—while others featured pictures of scantily clad white men in clubs or on computer screens posing as escorts. In a highly visible and public way, these pictures indicated that sex work is not solely the purview of those on the racialised margins of the gay community, nor are these individuals the only

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[45] De Orio, p. 54.

[46] F C Harris, 'The Rise of Respectability Politics', *Dissent,* vol. 61, no. 1, 2014, pp. 33–37.

[47] E J Ward, *Respectably Queer: Diversity culture in LGBT activist organizations*, Vanderbilt University Press, Nashville, 2008.

[48] E A Edelman, '"This Area Has Been Declared a Prostitution Free Zone": Discursive formations of space, the state, and trans "sex worker" bodies', *J Homosex*, vol. 58, no. 6–7, 2011, pp. 848–64, https://doi.org/10.1080/00918369.2011.581928; A Hollibaugh and M Weiss, 'Queer Precarity and the Myth of Gay Affluence', *New Labor Forum,* vol. 24, no. 3, 2015, pp. 18–27, https://doi.org/10.1177/1095796015599414; J Jones *et al.*, 'The Experiences of African American Male Commercial Sex Workers at-Risk for HIV: Accessing outreach services', *Journal of Gay & Lesbian Social Services,* vol. 21, no. 2–3, 2009, pp. 282–93, https://doi.org/10.1080/10538720902772238.

[49] J Michaelson, 'Will the Rentboy.Com Bust Be the "Stonewall" of Sex Work?' *The Daily Beast*, 26 August 2015.

persons at risk for arrest and punishment. Now that this punishment has turned to websites like Rentboy, it was 'a harsh reminder that even male privilege does not protect you from the vice squad'.[50] More specifically, not even *white* male privilege provides this protection.

But in signalling the fragility of the gains made for LGBT people through respectability politics, the response to the Rentboy raid also drew attention to the struggle for sex workers' rights and indicated the potential for new solidarities. In 2015, just two weeks before the Rentboy raid, Amnesty International resolved to develop and adopt a policy on the decriminalisation of prostitution.[51] To many advocates, this was not a controversial proposal: a vast body of evidence indicates that criminalising and stigmatising sex work has done little to keep sex workers safe and healthy.[52] Yet, responses to Amnesty's decision were deeply gendered: while sex worker rights groups cheered, numerous feminists openly *opposed* Amnesty's proposal, particularly for *women* sex workers. Opponents claimed decriminalisation would promote *sex trafficking* and other exploitation of women.[53] However, advocates for and against Amnesty's proposal were largely silent about its potential impact on *male* sex workers, which arguably left open a discursive gap. When Rentboy was raided and advocates responded, they cited the Amnesty decision to *support* their opposition to the site's raid and closure. In fact, at least 30 post-raid articles about Rentboy variously mentioned the Amnesty decision's importance for and relevance to (male) sex workers' opposition to the raid.[54]

In effect, even though LGBT rights groups were largely silent in the debates leading up to Amnesty's decision,[55] they used it to *support* sex worker *and* LGBT rights after the Rentboy raid. In fact, 61 post-raid articles about Rentboy mentioned sex worker rights and the need to decriminalise prostitution— something that was not discussed in response to the MyRedbook raid. As an article in *Mic* noted, 'The raid ultimately adds to the case for decriminalizing sex work. Earlier this month, the sex worker rights movement took a huge step forward when the human rights organization Amnesty International recommended that sex work be decriminalized, as current laws criminalizing prostitution put sex

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50 M Ludwig, 'Beyond Rentboy: Will the LGBT movement really fight for sex worker rights?', *Truthout*, 1 September 2015.

51 Murphy.

52 See, for a comprehensive example, research published in *The Lancet's* series 'HIV and Sex Workers', 23 July 2014, retrieved 7 January 2020, https://www.thelancet.com/series/hiv-and-sex-workers.

53 Coalition Against Trafficking in Women, *Letter to Amnesty International: Opposition to Decriminalization*, 2015.

54 See, for example, Editorial Board, p. A18.

55 Ludwig.

workers' lives at risk. Yet with the shuttering of Rentboy, many sex workers and gay rights activists are concerned that both movements are taking one step back. …In other words, there is still much work to be done to de-stigmatize both sex work and gay sex.'[56]

And so, as others went on to claim, 'This thoroughly unnecessary bust should be the impetus to legalize and regulate consensual sex work. It should become the "Stonewall" of sex workers, the moment in which they and their allies say: Enough.'[57] In line with this sentiment, the LGBT rights movement has taken steps to support sex workers. In March 2019, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World), the world federation of over 1,600 national and local LGBT non-government organisations, called for the decriminalisation of consensual adult sex work.[58] While it is too early to tell whether the LGBT and sex worker rights movements will join forces in a sustained manner and to what effect, the Rentboy raid has certainly put sex worker rights on the mainstream LGBT movement's radar.

Conclusion

In closing, I will turn briefly to this special issue's theme of speculative futures, particularly regarding the role of technology and sex work. In theory, in the broader context of growing economic inequality, platforms like MyRedbook and Rentboy offered many individuals—especially those on the margins of society—an opportunity to engage in sex work independently, flexibly, and off the streets. In so doing, these platforms represented the 'future' of work under neoliberal late capitalism; however, they also created what Mark Lamont Hill terms a 'digital counter-public',[59] where members of a marginalised and stigmatised group could both arrange sexual exchanges with their clients and communicate with each other to enhance their safety and foster solidarity. MyRedbook and Rentboy indicate how digital technologies may offer a means for resisting hegemonic norms, including those regarding gendered and sexual behaviour.[60]

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[56]   DiDomizio.

[57]   Michaelson.

[58]   ILGA World, 'LGBTI organisations from across the world call for decriminalisation of sex work', 23 March 2019, retrieved 26 November 2019, https://ilga.org/sex-work-lgbti-organisations-call-for-decriminalisation.

[59]   Lamont Hill, p. 286.

[60]   M Pitcan, A E Mikaela, and d boyd, 'Performing a Vanilla Self: Respectability politics, social class, and the digital world', *Journal of Computer-Mediated Communication,* vol. 23, no. 3, 2018, pp. 163–79, https://doi.org/10.1093/jcmc/zmy008.

Yet the US federal government's raids on and closures of MyRedbook and Rentboy also indicate the limits of technological advancement for furthering sex workers' and other marginalised groups' economic wellbeing and social inclusion more broadly. The 'pink scare' has increased the state's surveillance of online platforms where individuals arrange commercial sexual exchanges. As a result, while platforms like MyRedbook and Rentboy may have fostered sexual and economic freedom for men and women, they could not exist independently from and resist the dominant discourses and state practices regarding sex work and trafficking. Certainly, their closures may direct men and women sex workers to other platforms, but one may reasonably speculate that it is only a matter of time before these are subject to MyRedbook and Rentboy's fate.

Taken together, the findings in this article indicate directions for future research and offer important political insights. Regarding the former, given law enforcement's power to access technology in pursuit of anti-trafficking efforts (for example, they may now demand that sex workers show them their phones to expose clients[61]), researchers must consider the gendered and racialised outcomes of these law enforcement efforts, and how men and women sex workers respond to them. Regarding the latter, the findings in this article signal the importance of formulating new solidarities and political strategies that eschew neoliberal respectability politics. The Rentboy raid was, arguably, a paradoxical outgrowth of the mainstream LGBT movement's efforts and success with these politics. As critics have argued, by focusing on marriage, access to the military, and criminal punishment as means to combat violence against gay people, the movement has adopted a carceral focus that has led to a 'queer investment in punishment'[62] that has 'work[ed] to authorise, invoke and legitimise a particular criminological vision and promise for the future'.[63] To reshape this vision of the future, sex workers, the LGBT community, and their allies must work with their intersecting concerns in mind and consider both the opportunities and constraints that technological developments offer in the pursuit of gender, racial, and sexual justice.

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[61]   Musto and boyd, p. 471.

[62]   J L Mogul, A J Ritchie, and K Whitlock. *Queer (in)Justice: The criminalization of LGBT people in the United States*, Beacon Press, Boston, 2011.

[63]   S Lamble, 'Queer Necropolitics and the Expanding Carceral State: Interrogating sexual investments in punishment', *Law and Critique,* vol. 24, no. 3, 2013, pp. 229–53, p. 232, https://doi.org/10.1007/s10978-013-9125-1.

three books: *Sex Work Politics: From protest to service provision* (University of Pennsylvania Press, 2014), *Negotiating Sex Work: Unintended consequences of policy and activism* (University of Minnesota Press, 2014, co-edited with Carisa Showden), and *Youth Who Trade Sex in the US: Agency, intersectionality, and vulnerability* (Temple University Press, 2018, co-authored with Carisa Showden). Email: smajic@jjay.cuny.edu

'I've Never Been So Exploited': The consequences of FOSTA-SESTA in Aotearoa New Zealand[1]

Erin Tichenor

Abstract

Aotearoa New Zealand's 2003 decriminalisation of sex work has reduced the exploitation of sex workers, as well as the health and safety risks in the industry. Nevertheless, United States-driven criminalising policies still influence sex workers abroad. The *Fight Online Sex Trafficking* and *Stop Enabling Sex Traffickers Act*s (FOSTA-SESTA) effectively criminalised websites where sex workers advertise. Shortly before that, the FBI shut down the internationally used Backpage.com, leading many sex workers in both countries to return to the streets or brothels. These events contributed to the rising dominance of one advertising website. Drawing on twenty semi-structured interviews and four observation cases with sex workers in Auckland, in this paper, I explore the international consequences of FOSTA-SESTA and the closure of Backpage on my participants. I show that this punitive approach to segments of the online sex industry has not only placed sex workers in greater financial insecurity, but has reduced their ability to control their working conditions. These outcomes, I conclude, have undermined the positive impacts of decriminalisation, while exacerbating socioeconomic, racial, gender, and legal inequalities in Auckland's sex industry.

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[1]   This article has been modified after publication at the request of the author.

Introduction

In Aotearoa New Zealand,[2] citizen-resident sex workers have greater access to justice and labour rights due to the *Prostitution Reform Act*'s (PRA) 2003 decriminalisation of sex work, accomplished by the activism of the New Zealand Prostitutes' Collective (NZPC).[3] The number of sex workers in Aotearoa New Zealand has not changed significantly since decriminalisation, and there is no evidence of trafficking; in fact, the legal recourse granted to sex workers in the country has improved their ability to combat exploitation, violence, and health risks without facing the threat of a soliciting offence.[4] In 2006, Abel *et al.* surveyed 772 sex workers across five cities, gleaning significant insight into the realities of the sex industry. About one-third of participants had tertiary degrees, and most were involved in other activities like volunteering, caregiving, or jobs outside of sex work.[5] Although decriminalisation has reduced the disproportionate incarceration of transgender Māori street workers, who were frequently targeted by police raids but are now more able to work indoors, the street sector still has a much higher percentage of Māori, Pacific Islander, transgender, and/or people who began sex working before turning eighteen.[6]

In Auckland, about 57 per cent of the 1,513 estimated sex workers were working in 76 brothels or parlours, 23 per cent privately indoors, and 7 per cent on the

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[2] Aotearoa New Zealand has adopted the stance of biculturalism, combining the *te reo* Māori name, Aotearoa, with New Zealand, established later during British colonisation.

[3] Since 1987, NZPC has been providing a wide array of support services for sex workers, ranging from condom distribution to legal aid. NZPC also works with the police, the Human Rights Commission, the City Council, and a plethora of other state and non-state bodies to promote sex workers' rights and reduce violence.

[4] Sex work remains illegal for migrants, even those who have legal status and can work in other industries, under the provisions of Section 19 of PRA. G Abel, L Fitzgerald and C Brunton, *The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers,* Report to the Prostitution Law Review Committee, Wellington, New Zealand, 2007, pp. 13, 16; G Abel, L Fitzgerald, C Healy, and A Taylor, *Taking the Crime out of Sex Work: New Zealand sex workers' fight for decriminalisation*, The Policy Press, Bristol, 2010.

[5] Abel, Fitzgerald, and Brunton, 2007; G Abel, L Fitzgerald, and C Brunton, 'The Impact of Decriminalisation on the Number of Sex Workers in New Zealand', *Journal of Social Policy*, vol. 8, no. 3, 2009, pp. 515–531, https://doi.org/10.1017/S0047279409003080; L Armstrong, 'New Zealand', in Global Alliance Against Traffic in Women, *Sex Workers Organising for Change: Self-representation, community mobilisation and working conditions*, GAATW, Bangkok, 2018, p. 95.

[6] C Healy, A Wi-Hongi, and C Hati, 'Reflection from the Field. It's Work, It's Working: The integration of sex workers and sex work in Aotearoa/New Zealand', *Women's Studies Journal*, vol. 31, no. 2, 2017, p. 51.

street. The indoor managed and private sector sex workers are older in age, and many are able to save money—often towards higher education. Street workers are more likely to be working because of an inability to receive a government benefit or parental support, because they have no other income, or to support a drug or alcohol habit. The vast majority of respondents had access to a doctor and felt able to refuse clients, though street workers more often experienced theft and threats of violence; managed workers were more likely to be punished if they refused to see a client.[7]

Internationally, the online expansion of the sex industry has overwhelmingly improved conditions for sex workers even in criminalised environments, by enabling more to work independently and communicate with peers about safety.[8] However, US anti-trafficking policies that conflate consensual sex work with trafficking influence other nations' sex work laws, encouraging the criminalisation of migrant and street-based sex workers, clients, and most recently, their online platforms.[9] The 2018 *Fight Online Sex Trafficking* and *Stop Enabling Sex Traffickers Act*s (FOSTA-SESTA) and the FBI's closure of the advertising site Backpage.com, affected sex workers who legally advertise online in Aotearoa New Zealand.[10]

In this article, I explore the material and emotional consequences of the loss of free US-based sites like Backpage.com for twenty-four sex workers in Auckland, posing questions about the wide reach of US anti-trafficking laws and the efficacy of punitive interventions that use technology to crosscut political borders. I argue that NZPC's model of sex worker-led advocacy and legislative guidance could be extended to advertising, where strategies of community empowerment and harm reduction could ensure that sex work advertised online is consensual, safe, and equitable.

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[7]   Abel, Fitzgerald, and Brunton, pp. 72, 77, 80, 113, 116, 143.

[8]   B MacDonald, 'How the FBI has Disrupted NZ's Sex Work Industry', *Radio New Zealand*, 2018, retrieved 7 May 2019, https://www.rnz.co.nz/news/the-wire-less/375230/how-the-fbi-has-disrupted-the-nz-sex-work-industry; L Chamberlain, 'FOSTA: A hostile law with a human cost', *Fordham Law Review*, vol. 87, issue 5, 2019, pp. 2171-2211; C Jackson and J Heineman, 'Repeal FOSTA and Decriminalise Sex Work', *Contexts*, vol. 17, issue 3, 2018, pp. 74-75, https://doi.org/10.1177/1536504218792534.

[9]   P Mahdavi and C Sargent, 'Questioning the Discursive Construction of Trafficking and Forced Labor in the United Arab Emirates', *Journal of Middle East Women's Studies*, vol. 7, no. 3, 2011, pp. 6–35, https://doi.org/10.2979/jmiddeastwomstud.7.3.6; A Tierney, 'The Effects of the Trump-signed SESTA/FOSTA are much more far-reaching than you would expect', *Vice,* 12 April 2018, https://www.vice.com/en_us/article/9kggwe/how-the-us-sex-trafficking-crackdown-is-hurting-sex-workers-in-canada; E Bernstein, *Temporarily Yours: Intimacy, authenticity, and the commerce of sex*, University of Chicago Press, Chicago, 2007.

[10]   MacDonald, 2018.

FOSTA-SESTA in Aotearoa New Zealand

FOSTA-SESTA established a criminal liability for websites that operate a 'facility or means of interstate or foreign commerce … with the intent to promote or facilitate the prostitution of another person', leading many websites like Instagram and Tumblr to remove all adult content to avoid prosecution.[11] Prior to the enactment of FOSTA-SESTA, the FBI seized Backpage.com, a free advertising site used internationally by sex workers and their clients.[12] Backpage's executives were charged on 93 counts, including money laundering and facilitating prostitution.[13] However, the closure of Backpage and the removal of several adult content platforms remains controversial among sex workers and their advocates; suppressing an entire platform pushes sex workers to the streets or exploitative managers, where there is a higher risk of violence.[14] Within one month of FOSTA-SESTA's passage, thirteen sex workers were reported missing, and two had committed suicide.[15] The law also placed many independent online workers at risk of exposure to law enforcement due to technology companies' use of facial recognition and other tools for taking punitive anti-trafficking measures aiming to abolish prostitution.[16]

Cracker.com, a subsidiary of Backpage, remained live for a few days in Aotearoa New Zealand, before the FBI seized it as well. Website1 has been another popular site for years, and now dominates 90 per cent of the industry. Website1 has an exclusivity clause, which bars sex workers from advertising on other websites. Nevertheless, some sex workers at NZPC advertise on Website1, while others use sites like Website2, Website3, and the *New Zealand Herald* classified section. Sex worker-run sites like Website3 worked avidly to support sex workers affected by Backpage's closure, but Website1 still proved to be the most reliable source of clientele for many sex workers—at least in the first few months following FOSTA-SESTA.

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[11] Chamberlain, p. 2174; A Romano, 'A new law intended to curb sex trafficking threatens the future of the internet as we know it', *Vox,* 2 July 2018, https://www.vox.com/culture/2018/4/13/17172762/fosta-sesta-backpage-230-internet-freedom.

[12] Tierney, 2018.

[13] D Oberhaus, 'The FBI just seized Backpage.com', *Vice,* 7 April 2018, https://www.vice.com/en_us/article/j5avp3/fbi-seized-backpage-sex-trafficking.

[14] Chamberlain, p. 2172; Mitchell, 2018; MacDonald, 2018; E Taylor, 'Sex Workers are at the Forefront of the Fight Against Mass Surveillance and Big Tech', *Observer*, 12 November 2019, https://observer.com/2019/11/sex-workers-mass-surveillance-big-tech.

[15] Chamberlain, p. 2174.

[16] Taylor, 2019.

Trafficking Policy and Transnational Inequalities

A large body of research has discussed how the social and economic positionality of sex workers, and the criminalisation and stigmatisation of sex work, rather than sex work itself, affects people's vulnerability to violence and exploitation.[17] Elizabeth Bernstein has argued that varying legal regimes have little impact on socially patterned outcomes in the sex industry resulting from broader macroeconomic inequalities, 'whether sex work is decriminalised, legalized, or criminalised', migrant workers, sex workers of colour, street-based, and transgender sex workers still face greater discrimination, economic insecurity, and exposure to violence across multiple legal contexts.[18] In Aotearoa New Zealand, the rollback of social welfare programmes and racial discrimination maintain underlying inequalities in the sex industry.[19] For example, the racialised policing of Asian migrant sex workers often leads to their deportation, *and* encourages operators to take advantage of their illegal working status under the guise of 'protection' from law enforcement.[20]

While Bernstein compares outcomes between individual nations and their social structures, other feminist sociologists argue that persistent social and economic inequalities are products of global corporate and state power

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[17]   L Agustin, *Sex at the Margins: Migration, labour markets and the rescue industry*, Zed Books, London, 2006; J Hagen, 'Compounding Risk for Sex Workers in the United States: Latinx queer and trans women will suffer disproportionally from a set of new laws restricting sex workers from seeking clients online', *NACLA Report on the Americas*, vol. 50, no. 4, 2018, p. 395–397, https://doi.org/10.1080/10714839.2018.155 0984; J Ham, *Sex Work, Immigration, and Social Difference*, Routledge, New York, 2017.

[18]   Bernstein, p. 164. See also: L Armstrong, 'Decriminalisation and the Rights of Migrant Sex Workers in Aotearoa/New Zealand: Making a case for change', *Women's Studies Journal*, vol. 31, no. 2, 2017, pp. 69–76; L Armstrong, 'Stigma, Decriminalisation, and Violence Against Street-Based Sex Workers: Changing the narrative', *Sexualities*, vol. 22, issue 7-8, 2019, pp. 1288-1308, https://doi.org/10.1177/1363460718780216; T Lyons *et al.*, 'The Impact of Construction and Gentrification on an Outdoor Trans Sex Work Environment: Violence, displacement, and policing', *Sexualities,* vol. 20, no. 8, 2017*,* pp. 881-903, https://doi.org/10.1177/1363460716676990; D Ting, 'Understanding the Experiences of Migrant Asian Sex Workers in New Zealand: An exploratory study', Master's Thesis, Faculty of Sociology, University of Auckland, New Zealand, 2018, p. 113.

[19]   L Tan, 'Immigration NZ Admits Sex Industry Investigation Targets "Particular Nationality Groups"', *New Zealand Herald,* 9 September 2018, https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12120192. See also: L Humpage, *Policy Change, Public Attitudes and Social Citizenship: Does neoliberalism matter?,* The Policy Press, Bristol, 2015.

[20]   Armstrong, 'New Zealand'; Ting, 2018, p. 88.

relations that extend beyond 'naturalized geopolitical boundaries'.[21] In line with this logic, the wide scope of US anti-trafficking laws exposes the transnational effects of criminalisation in countries like Aotearoa New Zealand. The US Department of State's annual *Trafficking in Persons Report* (TIP Report) ranks countries based on their compliance with the 2000 *Trafficking Victims Protection Act* (TVPA) and states that 'prostitution and related activities encourage growth of modern day slavery by providing a facade behind which traffickers for sexual exploitation operate'.[22] The TVPA and TIP Report encourage countries to focus on abolishing sex work through criminalisation, rather than prevent trafficking with equitable labour and migration policies.[23] In Aotearoa New Zealand, scholars have argued that the TIP Report's abolitionist stance has driven border profiling and deportation of mostly Asian migrant sex workers.[24] Notably, the New Zealand government is considering revising Section 19 to reduce its negative impact on migrant women.[25]

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[21] H Kim-Puri, p. 139; see also: N Sharma, 'Anti-Trafficking Rhetoric and the Making of a Global Apartheid', *NWSA Journal,* vol. 17, no. 3, 2005, pp. 88–111.

[22] United States Department of State, *Trafficking in Persons Report*, Washington, D.C., 2017; see also: J L Musto, 'What's in a Name? Conflations and contradictions in contemporary US discourses of human trafficking', *Women's Studies International Forum,* vol. 32, no. 4, 2009, pp. 281–287, https://doi.org/10.1016/j.wsif.2009.05.016; W Chapkis, 'Soft Glove, Punishing Fist: The *Trafficking Victims Protection Act* of 2000', in E Bernstein and L Schaffner (eds.), *Regulating Sex: The politics of intimacy and identity*, Routledge, New York, pp. 51–66.

[23] J Chuang, 'The United States as Global Sheriff: Using unilateral sanctions to combat human trafficking', *Michigan Journal of International Law*, vol. 27, no. 2, 2006, pp. 437–494; G Soderlund, 'Running from the Rescuers: New US crusades against sex trafficking and the rhetoric of abolition', *NWSA Journal,* vol. 17, no. 3, 2005, pp. 64–87; E Bernstein, 'Militarized Humanitarianism Meets Carceral Feminism: The politics of sex, rights, and freedom in contemporary antitrafficking campaigns', *Signs*, vol. 36, no. 1, 2010, pp. 45–71, https://doi.org/10.1086/652918; Mahdavi, 'Questioning the Discursive Construction'; J Musto and d boyd, 'The Trafficking-Technology Nexus', *Social Politics: International Studies in Gender, State & Society*, vol. 21, no. 3, 2014, pp. 461–483, https://doi.org/10.1093/sp/jxu018.

[24] C Showden, 'From Human Rights to Law and Order: The changing relationship between trafficking and prostitution in Aotearoa/New Zealand policy discourse', *Women's Studies Journal*, vol. 31, no. 2, 2017, pp. 5–21. See also: Ting, 2018.

[25] Committee on the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of New Zealand, 25 July 2018, https://undocs. org/CEDAW/C/NZL/CO/8, para. 28 (a); K Nicol-Williams, 'Calls for Foreigners to be able to Legally Operate in New Zealand's Sex Work Industry', *TVNZ*, 25 September 2018, https://www.tvnz.co.nz/one-news/new-zealand/calls-foreigners-able-legally-operate-in-new-zealands-sex-work-industry.

Technology accelerates these transnational policy convergences by drawing on growing 'collaboration between state, non-profit, and corporate actors'.[26] FOSTA-SESTA's policing of websites infiltrates settings well beyond its jurisdiction, like Aotearoa New Zealand's decriminalised and predominantly peer-regulated industry.[27] Like the TIP Report, FOSTA-SESTA affects even sex workers supported by their local laws, because of the nearly borderless impact of online prohibitionist efforts.[28] Advocates and scholars in the US have criticised FOSTA-SESTA for further criminalising sex workers, infringing upon their freedom of speech, and limiting law enforcement's tools for identifying victims of forced labour, all without targeting people who force others into sex work and hurt sex workers.[29] Ben Chapman-Schmidt describes the way FOSTA-SESTA's anti-trafficking language silences sex workers' platforms for communication, advocacy, and security as 'epistemic violence' because of its exacerbation of risk in the whole industry.[30]

Data and Methodology

I studied abroad in Auckland during my third year of undergraduate studies in sociology and I interned at NZPC. Prior to arriving in Auckland, I had received approval from Boston University's Institutional Review Board to conduct ethnography, interviews, and focus groups, with NZPC's support. After beginning as an intern, I determined interviews to be the most appropriate method for the community.

I conducted two interviews with sex workers while I was an intern; the rest occurred after the internship ended. Snowball recruitment was particularly useful; two participants connected me with their private and managed peers who do not necessarily frequent NZPC.

Although my sample has limitations, including the lack of male sex workers, it does, to an extent, represent the diversity of Auckland's sex industry. All twenty-four participants were current sex workers affiliated with NZPC, and nearly

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26   Musto and boyd, p. 465.

27   Tierney, 2018.

28   Mahdavi and Sargent, 2011; Musto and boyd, p. 464; Showden, 2017.

29   Chamberlain, p. 2209; B Chapman-Schmidt, '"Sex Trafficking" as Epistemic Violence', *Anti-Trafficking Review*, issue 12, 2019, pp. 178–179, https://doi.org/10.14197/atr.2012191211; Hagen, 2018; E Witt, 'After the Closure of Backpage, Increasingly Vulnerable Sex Workers Are Demanding Their Rights', *The New Yorker,* 8 June 2018, https://www.newyorker.com/news/dispatch/after-the-closure-of-backpage-increasingly-vulnerable-sex-workers-are-demanding-their-rights.

30   Chapman-Schmidt, p. 178.

evenly distributed between the age groups of 20–29 (n=8), 30–39 (n=9), and 40–50 (n=7). I interviewed 19 cisgender and 5 transgender women. Participants' ethnicities were described as the following: Pākehā or White (n=6), Māori (n=2), Māori-Pākehā (n=3), Asian (n=7), Pacific Islander (n=2), African (n=2), and Other (n=2).[31] Seventeen participants were citizens (n=15) or residents (n=2) working legally, and seven were working illegally on the temporary tourist, student, and work visas. Four have always worked on the street, nine have always worked in managed brothels or parlours, and three have always worked privately. Eight have worked in multiple venues. The majority have been sex working for at least one year, but less than ten years (n=16); four had only recently entered the industry when I interviewed them, and four had been working on and off for over twenty years. Two participants worked in Aotearoa New Zealand prior to decriminalisation, and nine have worked abroad in both decriminalised and criminalised settings.

For each interview, I described the broad research interest upon recruitment, and gave each participant time to read over and ask questions before providing written consent. Drawing from the internship, as well as previous research with NZPC, I created a semi-structured interview protocol to guide my questions.[32] I followed a loose categorical guideline to address each participant's career history, experiences with law enforcement, advertising and/or managers, clients, the public, and peers. I had follow-ups about access to health services, use of NZPC, and experiences of discrimination. Interviews lasted between thirty minutes and two hours, and the majority took place in a private meeting room at NZPC. I interviewed two participants at their homes, one in a nearby coffee shop, and one over the phone, as per their requests. Participants were compensated NZD 40, based on discussions with NZPC about previous research with sex workers and the income potentially lost by interviewing rather than working for an hour.[33]

I audio recorded all but two interviews, and transcribed them by hand before conducting several rounds of coding using Nvivo Qualitative Analysis software. Topics like income, deportation, and sexual health comprised the major themes in my interview notes, and were reflected in the most referenced codes: 'money', 'business practices', 'health', 'migration', 'peers', and 'clients'. The three emergent themes were the ways in which race, gender, and legal status shaped participants' economic security, health outcomes, and criminalisation. Twenty-one participants voiced their frustrations with marketing, whether through online advertising sites, managers' practices, or other instances where they had little agency over advertising their services, gender, and ethnicity. This paper focuses on their marketing concerns

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[31]   Categories have been slightly modified and condensed for the sake of confidentiality.

[32]   M Roguski, 'Occupational Health and Safety of Migrant Sex Workers in New Zealand', Kaitiaki Research and Evaluation, 2013; Ting, 2018.

[33]   All monetary values in the paper are in New Zealand Dollars (NZD). On 1 June 2018, USD 1 was equal to NZD 1.4319.

and strategies within the context of FOSTA-SESTA. Each participant has been assigned a pseudonym, and all passages have been edited for clarity, but without changing the meaning of participants' responses.

Findings

The loss of advertising abilities on Backpage and other sites pushed many sex workers back to the streets or brothels, an immediate complaint voiced by many American sex workers[34] and echoed by my participants. Those who remained independent confronted the challenging business practices of Website1, the dominant alternative to Backpage in Aotearoa New Zealand. Although Website3, Website2, and other sites tried to fill the Backpage void and protect sex workers' identities, they did not immediately provide enough clientele traffic compared to Website1, necessitating my participants' reliance on the streets, brothels, and Website1. Website1's high prices and surveillance practices compared to other sites are not new, but the scope of the discrepancy between sex workers' income and their ability to use a variety of websites amplified their financial distress. Second, these income constraints made some participants more likely to work with clients or provide services they would usually refuse. These constraints disproportionately affected transgender, migrant, and racial minority participants.

The Material and Emotional Consequences of Income Insecurity

The economic hardships following FOSTA-SESTA were related to participants' difficulty in finding clients, including the need to pay to access Website1 clientele. The day after Backpage shut down, workers visited NZPC, 'scrambling' for websites that would work with their unique services, but charge less than Website1's exorbitant fees. Irene (private, citizen, ciswoman, Asian) described the increasingly precarious nature of her work and the international reach of FOSTA-SESTA:

> It's just made everything a lot more exploitative. I think people don't really look at what [FOSTA-SESTA]'s done here and go like 'holy fuck, what can it be doing in places that don't have'— like we pretty much have the best decrim around if I'm not mistaken. But even here it's created an environment where people are having to crawl back to brothels.

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34   T Mitchell, 'If Lawmakers Want to Protect Sex Workers, They Must Listen to Us', *Huffpost*, 8 March 2018, https://www.huffpost.com/entry/sex-workers-bill-fosta-sesta_n_5aa1924fe4b04c33cb6cecb2.

Irene pointed out how a law, thousands of miles away, was hurting sex workers who have been relatively incorporated into New Zealand's mainstream workforce for sixteen years. Having heard about skyrocketing violence against sex workers in the US, she expressed sympathy for them, as well as fear that FOSTA-SESTA was having quasi-criminalising consequences in Auckland. Irene was acutely attuned to the symbolic consequences of this transnational policy flow, particularly when her clients discontinued bookings out of their own 'fear of the US police', or threatening her with 'the eyes of the US police'.

Most interview participants did not have another job like Irene did, and the immediate threat to their livelihood overpowered broader questions about the resurgence of criminalisation. Unfortunately, no one quite knew what was going to be the user-friendly, affordable 'new Backpage'. Sex workers coming to NZPC did not know 'where clients were going to flock to', and were stressed about having to spread their ads across multiple sites or to choose Website1. Knowing sex workers were struggling, Website1 raised their subscription prices from NZD 100 to 160 per week. Finding clients in Auckland meant paying more—even up to NZD 1000 per week for the perks of 'Diamond status'. Libby (private, citizen, ciswoman, African) explained how she failed to generate income if she did not pay the high rates for the Gold Tier: 'I always go with Gold, just because if you're not on those at least first two pages, then you don't get much work at all. There was one week where I slid to like third page. I think I got maybe like two clients that entire week.' Many participants still conceded to Website1's high fees since clients *were* flocking to it. Still, Irene and Olivia (private, citizen, ciswoman, Pacific Islander) had difficulty with Website1's strict enforcement of their exclusivity clause when they tried to use different sites for different services or wanted to advertise elsewhere for a weekend. Olivia felt 'scared of going on another site for the weekend cause they'll punish you', and Website1 threatened to remove Irene from their site when she advertised different services elsewhere:

> I had posted a Backpage ad—under a different name, with a different phone number, exclusively advertising [specific service]. Which is clearly a different service than I ever offer at a brothel, and they just identified me based on like race and body type and rang up the agency being like 'hey this breaches our non-competition rule'.

Unable to spread themselves over multiple sites, but reliant on Website1's reach, participants found themselves spending more money on advertising or simply abandoning their independent work, at least until promising alternatives to Backpage emerged. Website1's privileging of 'mainstream' services (full service and girlfriend experience) particularly harmed niche and fetish workers' ability to work privately. Pepper (private and managed, citizen, ciswoman, Asian) said, 'Other sites are a lot less search engine friendly than Backpage was, which is why I'm having a lot of trouble connecting with clients. Private work has been

real shit since Backpage shut down.' Pepper then explained how she has had to return to brothels because of the more reliable income and her manager's ability to pay the Website1 fees. Despite having to work hours that made balancing her university schedule and health condition difficult, her income relied on the business perks of Website1, like the ability to defend herself from a defamatory review. This rendered managed work Pepper's only immediate option.

Unlike Pepper's managers, others could not afford Website1's fees for businesses, pushing many to take more cuts from sex workers:

> The way that you show that you're a good, ethical brothel owner was to advertise 'no fees' … when I interviewed about a year ago, they didn't have any set shifts. They were real flexible with hours. No ad fees. A year later, they had set shifts, which are real rigid … they increased the fee for not showing up from $30 or working without ads to a straight up $55 fee (Pepper).

The loss of Backpage did not only affect private sex workers who advertised online, but had reverberating consequences throughout the industry, placing hardship on managers and managed workers. Managers in Auckland, both burdened by rising prices and knowledgeable about many sex workers' desperation for work, moved to increasingly exploitative practices within their establishments. The next section discusses the consequences of this income precarity on participants' safety and choices at work.

Consequences on Agency and Working Conditions

Decriminalisation and the expansion of online advertising mitigated poor working conditions for sex workers, but FOSTA-SESTA has re-enabled these conditions, especially for low-income, racial and gender minorities, and migrant workers. Participants felt the need to change venues, accept clients they might otherwise avoid, provide extra services (e.g. anal sex), or enter unsafe situations because they could not afford to turn away clients. Some of the workers who could neither afford Website1's rates nor to only see a few clients per week returned to the street or brothels, despite the amplified safety risks:

> It hit my business pretty hard cause I don't have an advertisement hub anymore, so what I would get from doing jobs off [of Backpage] was about four or five times more than I do working on the street. And also, it was in a safe place. I would rent a room out at a brothel, and working on the street is mostly in people's cars and stuff like that, and you always get ripped off (Celia, street and private, citizen, transwoman, Pākehā[35]).

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[35] Pākehā is the Māori word for white or European New Zealander.

Celia's need to work where she feels less safe and earns less money directly contradicts not only the aims of decriminalisation, but FOSTA-SESTA's stated goal to reduce coercion. Celia enjoys the ability to 'roam up and down' on the streets, and has excellent skills to prevent violence; however, this reduction in her choice over venue exposes the counterproductivity of criminalising efforts that attempt to abolish the sex industry.

FOSTA-SESTA also made private work less safe for New Zealanders who could afford to stay online. Independent participants were concerned about rising *perceptions* of sex workers' economic and legal precarity: 'why should we have to rely on pimps to make money when we could be working privately? It's so much more dangerous' (Irene). Previously, participants were able to screen clients on Backpage; being able to write their own advertisements and manage their own bookings helped them avoid people who would not respect their identity or services. After Backpage closed, many clients were 'clueless about where to turn', but others used the 'chaos' to test the boundaries of what services they could ask for:

> What struck me as soon as it happened, was that I was getting a lot more emails ... like 'now that Backpage is down, how about you become my live-in slave?' 'Now that Backpage is down, how about you get me to protect you?' 'Now that Backpage is down, I'm offering my screening services.' … Conversely, a lot of fetish and fantasy friends started getting like the opposite. Like people who were into the most extreme shit, like 'I'm not paying you unless you drug me and kidnap me' (Irene).

Similarly, Website1's knowledge of its popularity and of sex workers' economic distress allowed them to control more of sex workers' marketing practices, which only heightened participants' concerns about loss of control over their working environment and safety: 'I cried! I was gutted that I had to go back to [Website1]. Just that feeling that somebody's like got their hand on top of your head' (Olivia). Olivia and Irene described how Website1 was 'making money left and right' by hiring new 'trolls', i.e. Website1 staff that search the internet for workers advertising elsewhere: 'your account manager spends much less time actually helping you and much more time trolling everywhere else on your ads and being like "you're not allowed to do this; you're not allowed to do that"' (Irene). She added, 'Honestly, I've never been so exploited in my work by anyone, like by any agency, than I have been by [Website1]. And I think a lot of people would tell you the same thing—that they basically are a pimp.' Irene's reference to Website1 as a 'pimp' points to how punitive responses to trafficking actually result in more exploitative alternatives. Website1 enforced their 'hand on the top of your head' by making it harder for sex workers to control their hours and services—a norm that was prioritised by the PRA and NZPC's advocacy:

> To put your ad back on, you need to ring your account manager. So if you needed to put your ad up on Saturday, it won't be going back up until Monday until they open. So everything is governed by an account manager. Whereas Backpage, they made it easy—user-friendly. And you had complete control over it all (Olivia).

Website1 and other sites also make it harder for sex workers to 'go offline' when they were not working. Backpage allowed workers to pay a few dollars to boost their ads when they were working and remove them when they were not, but 'now you don't have a choice in the matter, so I'm not at all impressed. The others don't have the function to boost the ad when you're working. So if your ad is up at the top, it just stays at the top. So they all call you at three in the morning, two in the morning, I don't work those hours' (Joslyn, private, citizen, ciswoman, African).

These restrictions particularly harmed 'less mainstream' sex workers' businesses. Backpage allowed workers to thrive off of their unique skills and preferences, but Website1 is 'geared towards GFE [girlfriend experience] full service'—the most mainstream product. Pepper could attain sufficient business through focused advertisements for fetish, domination, and other niche services on Backpage, whereas remaining sites like Website1 prioritise sex workers' physical features like measurements and age. New platforms' focus on physical traits make it increasingly difficult for people to find clients and advertise their services in the manner they choose.

Joslyn summarised how websites' actions also reinforce racial hierarchies because other sites' marketing blurb constraints amplify the disconnect between who they are and what they are allowed to say to clients. For example, one site only has a space for nationality, but not ethnicity: 'they just need to give us a blank page. And then we can figure out what we like. [Website3] actually does have a space where you can put a paragraph, like natural, or extras. [Website1] on the other hand, they make the profile for you' (Joslyn). Website1 also requires expensive photographs: 'they would pick so many shots to put on your ad, and you don't actually get to pick the shots that they use. Which really pisses me off' (Celia). Being able to decide their individual marketing strategies grants sex workers dignified work, but also reduces the risk of having to interact with violent, retaliatory, or otherwise problematic clients:

> They tried to say 'you don't need to write your blurb! We know how to market Asian sex workers! You're going to drive away men with this content you've written!' And it's like 'shut the fuck up.' They nearly didn't let me put my own blurbs up. They kept trying to get me to Photoshop my photos, to lighten my skin, and so of course I'd have everyone be like 'oh you don't look like that!' (Irene)

'Whitening' and photoshopping of photos contribute to Website1's profit, but can lead to dangerous situations if clients describe online workers' skin tone or other characteristics as 'misleading' in their reviews. When managers advertise them as a different race or ethnicity over the phone or Website1 distorts their pictures, clients sometimes respond aggressively or demand refunds. Sex workers described how their independent advertisements would weed out discriminatory clients because 'they know what they are getting': 'with my pictures, you can see that I'm black. I guess if I worked in a more public place, then people would see me and maybe have something to say. Now, the person that's already coming to see me knows I'm black, so chances are they're comfortable with that' (Joslyn). Website1's constraints limit access to clients, disproportionately for racial and gender minorities, who more often have to combat stereotypes about beauty, deception, and submissiveness.

Similarly, transgender participants disclosed their gender identity as a safety precaution. The loss of a free website made Celia feel less safe and able to screen clients on the street:

> About 90% of them don't realise that I'm trans, so there's always like a bit of a fear of what their reaction's gonna be. In the motels, it was like mostly people who were respectful … And with the streets, they treat me like garbage really, some of them. There's the withholding money, just like trying to force you to do things (Celia).

Being upfront about being transgender is crucial online as well: 'on [another website], there's no column for transwomen. They've said that we can advertise in the female section. I make sure everyone knows I'm trans' (Esther, private, citizen, transwoman, Māori). Esther feels safer if she can advertise as a transwoman, while other women might face challenges choosing to advertise as female, even if they have undergone a vaginoplasty.

Finally, Website1's blatant segmentation of Asian and non-Asian sex workers facilitates racialised assumptions linked to migrant sex workers' illegality. There exist well-documented stereotypes about Asian sex workers, who Kimberly Hoang describes as being depicted either as beacons of 'modern cosmopolitan Asian ascendency' that are illegally working and 'taking natives' jobs', or as 'Third World victims in need of rescue'. Expectations of services, prices, and norms are based on these categorisations that are sought out by clients of differing backgrounds (i.e., Western backpackers, expatriates, elite businessmen, or middle-class locals).[36] In Website1's sector of the market, Pepper ridiculed

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[36]   Hoang, 2015.

how Asian migrant sex workers were discussed by clients as 'deceptive, rip offs, not worth the money, all the photos are fake, the ages are fake', and that 'you're not going to get the girl in the ad that you actually wanted'. When clients say, 'I went to this real cheap Asian place and got horribly ripped off and I got terrible service', other clients reply, 'well what did you expect?'

In contrast to this 'lucky-dip-possibly-get-a-real-bargain-possibly-get-ripped-off' section, the 'non-Asian site is the reputable one'—a stereotype that Pepper believes the website creator intended to replicate. Website1's coded language such as 'here on tour', or 'exclusives for one week' hints at migrant sex workers' illegality, the consequences of which are compounded for Asian women who already face assumed illegality and scrutiny on the website. Some peers have taken advantage of these stereotypes, going so far as to call Immigration to report their online advertisements.[37] The culture created by Website1's categories and marketing language amplify Asian migrants' increased risk of exposure to Immigration, exploitation, and violence due to perceptions of them as 'deceptive' among peers, managers, and clients.

Conclusion

FOSTA-SESTA exemplifies the tensions between punitive anti-trafficking initiatives' stated goals to reduce harm in the sex industry, and the consequences of criminalisation that ultimately profit border security and tech corporations like Website1. Alongside the closure of Backpage, FOSTA-SESTA rendered New Zealander sex workers more vulnerable to exploitation and disempowerment because they had to turn to Website1, the streets, or managed workplaces for adequate income. Further, participants who were able to experiment with alternative websites, switch to well-run brothels, or who could reasonably afford Website1, were those advantaged by their race, age, gender, citizenship and/or socioeconomic status. National policies like decriminalisation go a long way towards guaranteeing better conditions in the sex industry; however, the long punitive arm of the US is felt around the world, and disproportionately by marginalised populations.

Rather than resorting to laws that silence sex workers' expertise and dignity, efforts to address violence and coercion should prioritise social equity and community empowerment. NZPC, for example, provides a community space where sex workers can share health and safety information. In April 2018, many sex workers came into NZPC, informing each other about their experiences with

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37   L Armstrong, 'New Zealand', p. 96; L Tan, 'NZ Sex Workers Lodge Complaints over Foreign Prostitute Website Advertisements', *The New Zealand Herald*, 22 April 2018, https://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12037429.

alternative sites that were more inclusive of a diversity of marketing practices. On street outreach, we learnt about how Website2 better accommodates transgender workers. NZPC National Coordinator Dame Catherine Healy has even suggested that despite this hardship, the industry could adapt to better accommodate independent workers into agencies, who would then provide more jobs for staff members.[38] Dame Catherine's optimism about the industry's adaptability suggests that sex worker-led interventions across sectors are best-suited for adapting to macroeconomic and policy changes that are out of their control.

Among the 772 respondents that Abel *et al.* surveyed, 65 per cent visited NZPC and 88 per cent received safety information from peers—staggering in comparison to the 10 per cent that did so from the police. Over 84 per cent of respondents in each sector learnt about their rights from NZPC and feel confident in them.[39] NZPC's improvement of sex workers' well-being suggests that supporting more community-led efforts would help sex workers safely adapt to FOSTA-SESTA. For example, the New Zealand government could consult NZPC on policies relevant to sex workers and fund outreach and education about safe advertising practices. Further research should examine innovative post-FOSTA-SESTA advertising adaptations among peer sex workers in New Zealand.

Perhaps decriminalisation in Aotearoa New Zealand allows more room for peer-based solutions that prioritise sex workers' safety mechanisms, particularly due to their governmental support and the legality of alternatives to Backpage. Sex worker-led organisations who understand the realms of online advertising and online sex work (i.e. camming, pornography) are in the position to inform law enforcement and legislators on how to properly identify coercion online, without subjecting sex workers to surveillance, income insecurity, and more dangerous circumstances. Across legal settings, further attention should be given to peer-based technologies like online safety forums that have shown how technology is used to resist exploitation.[40]

More broadly, sex workers are in a knowledgeable insider position to assist one another.[41] Sex workers have long been experts in preventing police harassment,

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[38]   MacDonald, 2018.

[39]   Able, Fitzgerald and Brunton, p. 143.

[40]   Chapman-Schmidt, p. 185.

[41]   M Stacey and B Gerasimov, 'Introduction', in GAATW, 2018, pp. 5–41. See also: W Vollbehr, 'Sex Workers against Human Trafficking: Strategies and challenges of sex worker-led organisations in the fight against human trafficking', Master's Thesis, Vrije Universiteit Amsterdam, 2016.

violence, and theft, yet nearly all anti-trafficking efforts have excluded them.[42] Sex worker-led organisations should guide local interventions, inform legislation, and prevent harmful policies from emerging in the first place. Solutions may look different in specific contexts, but sex worker-led organisations are able to respond to local needs. For example, the Durbar Mahila Samanwaya Committee (DMSC) in West Bengal, India, not only addresses interstate trafficking, but implements peer health education, literacy programmes, and other supports for sex workers. Rather than 'dumping' trafficking victims and sex workers alike into state-run rehabilitation centres, DMSC has forged a working partnership with several agencies to ensure continuity of care, with a focus on the socioeconomic barriers to safe and consensual work.[43]

From Thailand to Canada and South Africa to Mexico, sex worker-led organisations pave a path for peer-based screening practices, and collaboration with multiple stakeholders in order to ensure sex workers' privacy and economic well-being, while assisting those who are forced into sex work.[44] These community-based approaches to trafficking and exploitation prioritise harm reduction, social equity, empowerment, and dignity and they should be supported and replicated. Profit- and tech-motivated approaches organised around policing and surveillance will neither reduce harm nor promote justice, but will instead strengthen the carceral state's stronghold over people's bodies and work.

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[42]   Musto and boyd, p. 477.

[43]   S Jana *et al.*, 'Combating Human Trafficking in the Sex Trade: Can sex workers do it better?', *Journal of Public Health*, vol. 36, issue 4, 2014, pp. 622–628, https://doi.org/10.1093/pubmed/fdt095; S Gayen, 'Innovative Approaches to Combat Trafficking of Women in the Sex Trade', *Inter-Asia Cultural Studies*, vol. 7, issue 2, 2006, pp. 331–337, https://doi.org/10.1080/14649370600674134.

[44]   M Stacey and B Gerasimov, 2018.

Short Articles

Erased: The impact of FOSTA-SESTA and the removal of Backpage on sex workers

Danielle Blunt and Ariel Wolf

A few days after Backpage was shut down by US federal authorities in April 2018, Public Law 115-164, better known as FOSTA-SESTA, became US law. Its stated goal was to reduce human trafficking by amending Section 230 of the *Communications Decency Act* and holding Internet platforms accountable for the content their users post. What the law has actually done is put increased pressure on Internet platforms to censor their users. While the law has been lauded by its supporters, the communities that it directly impacts claim that it has increased their exposure to violence and left those who rely on sex work as their primary form of income without many of the tools they had used to keep themselves safe.

In order to better understand the impacts of losing Backpage and the passage of FOSTA-SESTA on sex workers, Hacking//Hustling undertook a participatory action-based, sex worker-led research to collect quantitative and qualitative data from sex worker online communities through an online survey. Over the period of one month, we received 98 responses from this initial outreach. As this round of data collection was conducted via an online survey, the results reflect the experiences of sex workers who still have access to the Internet (including social media platforms) and are thus not representative of all sex workers. We then partnered with Whose Corner is it Anyway (WCIIA), an organisation in western Massachusetts of drug-using, low-income, survival-based, and/or street-based sex workers that provides mutual aid, harm reduction, and political education to its members. WCIIA assisted us in adapting the survey to better fit the experiences of its members. This survey was then distributed to 38 street-based sex workers.

Two-thirds of the respondents to the online survey identified as female, almost one-third as trans/non-binary/gender fluid, and around 3 per cent identified as male. Gender identification was left open-ended, so it is worth noting that trans women may have elected to identify only as female. Three-quarters identified as

LGBTQIA and approximately the same number were based in the United States (other locations included Canada, Australia, Europe, and South America). Around two-thirds were white and the rest were mixed-race, black, indigenous/native and Latinx. The most common age group was 25–34. Among the participants in the WCIIA research, the largest share were cis women, white and Latina, and in the age group of 30–39.[1]

As it is difficult to tell what are the effects of the removal of Backpage, implementation of FOSTA-SESTA, the anticipation of its passage, or each platform's pre-existing policies around sex worker content, the questions were framed as 'before/after April 2018'. This short paper presents some of the main findings of the research.

FOSTA-SESTA in Sex Workers' Own Words

We asked sex workers to define, in their own words, how they understood FOSTA-SESTA. Many said it was an overbearing, paternalistic law that does nothing to actually fight sex trafficking but, instead, is used to censor sex worker presence online and create more dangerous situations. Many respondents saw this as an extension of the prohibitionist anti-trafficking movement's attempt to eradicate all forms of sex work with no regard for the safety of the people doing it. One sex worker described it as: 'Making online platforms used by sex workers responsible for "sex trafficking" that happens on their site, leading to the shutting down of important online sites used for safety and information.' Another commented, 'It was written to remind whores that our lives are dispensable, we are not protected, our work is unseen and irrelevant, to destabilize our ability to live with any degree of agency, to flaunt the murders and negligent deaths of our loved ones as a daily reminder that the world does not mind at all watching us die and forgetting our names.'

Effects of FOSTA-SESTA

Income

The ability to work independently online had reduced the need for sex workers in dire financial situations to work on the streets or through an exploitative agency or third party. Not only did working online previously allow sex workers to

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[1]   For more information on the methodology, profile of the participants and the complete research findings, see: D Blunt and A Wolf, *Erased: The impact of FOSTA-SESTA & the removal of Backpage*, Hacking Hustling, New York, 2020, https://hackinghustling. org/erased-the-impact-of-fosta-sesta-2020.

mitigate harms, it provided some degree of financial security. After FOSTA-SESTA passed, most online respondents reported feeling less safe and financially secure. For most of the online respondents (78.57 per cent), sex work was the main source of income, and for almost half (46.94 per cent) it provided the only income. Almost three-quarters (73.5 per cent) reported that their financial situation had changed since April 2018 and that they are now facing increased economic instability (72.5 per cent). Only a minority (8.16 per cent) said they were financially secure, while the rest said they had income coming in but were generally stressed about their financial situation. Almost a quarter (23 per cent) said they were financially insecure and did not know where their next income was coming from. Almost half (45.74 per cent) said they could not afford to advertise their services online anymore, while a large majority (80.61 per cent) said they faced difficulties advertising.

Harm Reduction

Sex workers are concerned about their health and safety. Digital security practices are a form of harm reduction and many sex workers adopt online digital security methods to stay safer. Of those who utilised web-based harm reduction techniques, the most common tools used were sites dedicated to reviewing clients in order to flag clients with a history of violence, non-payment, or potential connections to law enforcement. Commonly known as 'bad-date lists', sites such as these can fall within the vague parameters of what FOSTA-SESTA criminalises. Another tool used by sex workers is a system of verification in which a new client gives the contact information of past providers to vouch for themselves. VerifyHim is just one example of the harm reduction tools that have been taken down after FOSTA-SESTA passed.

Community

Access to the Internet has been shown to improve mental health outcomes in marginalised and criminalised communities.[2] The Internet provided a space for sex workers to share resources, build community, and advertise their services. Sex workers who use social media to connect with community or share harm-reduction practices may now find themselves isolated from their trusted networks and unable to find community members through regular searches.

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[2]   M Lucassen *et al.*, 'How LGBT+ Young People Use the Internet in Relation to Their Mental Health and Envisage the Use of e-Therapy: Exploratory study', *JMIR Serious Games*, vol. 6, issue 4, 2018, https://doi.org/10.2196/11249; R Cserni and I Talmud, 'To Know that you are Not Alone: The effect of Internet usage on LGBT youth's social capital', *Communication and Information Technologies Annual* (*Studies in Media and Communications),* vol. 9, 2015, pp. 161–182, https://doi.org/10.1108/S2050-206020150000009007.

Asked about the importance of having an online community, one sex worker said, 'Access to support groups and safety groups … are essential for my screening and networking with others. I like to also keep up to date with what's happening in the sex workers rights movement across the globe and Twitter has been great for that. I follow a lot of outreach organizations and activists.' Another one added, 'Everything I know about being safe in sex work is because I was able to speak to other sex workers online.'

A majority (70 per cent) of online respondents reported a noticeable difference in how they access sex worker communities online since April 2018. Unsure over what is safe to post, many sex workers reported a general sense of fear and paranoia around the consequences of their internet presence. The vagueness of FOSTA-SESTA, and what qualifies as the facilitation of human trafficking has left sex workers unable to assess the severity of the legal action that could be taken against them. At the same time, it seemed that FOSTA-SESTA has increased some sex workers' engagement in rights activism: half of online respondents said that their involvement in sex worker community had increased since the law was passed, with some stating that they are more determined than ever to seek out people with similar experiences in order to protect themselves. As one worker described, '[While] the accessibility might not be there, my need to take the initiative and make those connections sure has [increased].'

Financial Technologies

The inaccessibility of financial technologies acts to further the income precarity— of people who are pushed off platforms for vague violations of terms of service, people who lack financial or technological literacy, and people who may never have had access to these technologies to begin with. When an online sex worker is kicked off a financial or social platform, they are at risk of losing their means of making money and risk losing access to the community. The lack of access to these technologies also creates a barrier between sex workers and non-sex workers when the most recent technological innovations are not equitably accessible.[3]

One sex worker shared, '(I was kicked off) PayPal, years ago, around 2015. A client put my work email in the memo! Idiot! I was kicked off and could never retrieve the $500 balance. I'm lucky—they've stolen thousands from other women.'

Almost three quarters (72 per cent) of online respondents reported using financial technologies in their sex work and a third (33 per cent) said they had been kicked off a payment processor. The majority (78 per cent) of WCIIA respondents

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[3]   A Lake and L Roux, 'Platforms Which Discriminate Against Sex Workers', Survivors against SESTA, 2018, retrieved 2 March 2020, https://survivorsagainstsesta.org/platforms-discriminate-against-sex-workers.

reported not having access to a bank account and only 10 per cent reported ever receiving payment from sex work through an online payment processor.

Conclusion

Comparing our initial data of online workers with that of WCIIA demonstrates that sex workers who are already heavily policed on the streets do not feel the same immediate effects of FOSTA-SESTA and the removal of Backpage. However, for online workers, the removal of Backpage and FOSTA-SESTA has had detrimental effects on their financial stability, safety, access to community, and health outcomes.

There is no evidence that FOSTA-SESTA has curbed trafficking. Instead, our research suggests the opposite: that it has created an environment where marginalised populations are pushed into increased financial insecurity, which, in turn, makes them more vulnerable to labour exploitation and trafficking in the sex industry. Just as sex workers had warned,[4] our research shows that FOSTA-SESTA and the removal of Backpage has increased sex workers' exposure to violence while doing nothing to combat trafficking.

FOSTA-SESTA is just one example of the ways in which sex workers are denied equitable access to technologies. This restriction and the ubiquitous surveillance contribute to the harm and marginalisation that sex workers already experience. Legislation like FOSTA-SESTA should be seen in context, in an ongoing history of laws and regulations that utilise technology and public-private partnerships to police women and marginalised communities.

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4   S Cole, 'Pimps Are Preying on Sex Workers Pushed Off the Web Because of FOSTA-SESTA', *Vice*, 1 May 2018, https://motherboard.vice.com/en_us/article/bjpqvz/fosta-sesta-sex-work-and-trafficking.

The Use of Digital Evidence in Human Trafficking Investigations

Isabella Chen and Celeste Tortosa

In 2018, a woman from Venezuela claimed asylum in Austria on the grounds of being a victim of human trafficking. Her claim led to an extensive criminal investigation and seventeen women pressed charges against six defendants. The non-governmental organisation LEFÖ—Intervention Centre for Trafficked Women and Girls (LEFÖ-IBF)—provided psychosocial and legal assistance to the women. This case was exceptional both in terms of the volume of digital evidence gathered and the testimonies of the women. The investigation ultimately led to the convictions of the perpetrators and the awarding of EUR 280,000 (approx. USD 310,000) as compensation to the victims.

As LEFÖ-IBF staff who supported the women, we observed first-hand how technology in general and evidence gathered from digital technologies in particular can open up new possibilities in criminal proceedings. However, we also witnessed the negative impact of the use of digital evidence on the women. This calls for a critical assessment of the use of digital evidence in human trafficking investigations and its consequences for trafficked persons.

The women in this case migrated from Venezuela to Austria and were subsequently sexually exploited in private apartments and hotels. Instagram had played a substantial role in their recruitment. The strategy of the traffickers was to attract the attention of young Venezuelans by displaying a luxurious life in Europe. They also advertised high-paying jobs either in the sex-industry as 'VIP Escort Services' or as hostesses in restaurants. Instagram photos were curated to great aspirational effect and presented the illusion of a lush European lifestyle, which, in turn, established a foundation of trust between the women and the traffickers. Once the women accepted the job offer, communication switched to WhatsApp, e-mail and direct messages on Facebook and Instagram. The women had to send a picture of their passports via WhatsApp and eventually nude photos too. The traffickers then sent them their plane tickets to Austria.

Once in Austria, the traffickers took pictures to advertise the women on local sexual service websites, and the ads included a short description of the services

offered. In an attempt to mitigate concerns about revealing their actual identity, the women were told that these websites were not accessible in Venezuela and their families would never see the websites and pictures.

The traffickers managed the clients by phone and informed the women accordingly. The profit arrangement between the women and the traffickers was a 50-50 share of the income. Since the women had to bear the costs for rent, online advertisement and work necessities, in reality, they received around 20 per cent of the money the clients paid. The women had no freedom to refuse clients or sexual practices and the sexual exploitation was aggravated by constant humiliation and degradation. When they informed the traffickers about sexualised violence and humiliation from clients, the traffickers laughed it off.

The traffickers messaged the women constantly and they had to be available round the clock. In addition, traffickers exerted control through threats that they would publish the pictures on Instagram, or tell the women's families via Facebook that they were working as prostitutes, or physically harm them. Due to their lack of proficiency in the German language and accumulated debts, as well as the pressure to send money to their families in Venezuela, the women found themselves in a state of dependence.

Immediately upon receiving the first testimony in 2018, the Austrian police started following the phone calls from the traffickers, tracking the apartments where they exploited the women and mapping the scope and dimension of the criminal group. They recorded over 50,000 telephone calls, WhatsApp messages and Facebook private messages. From the traffickers' Facebook profiles, as well as from the sexual services websites, the police were able to draw conclusive evidence of human trafficking and sexual exploitation. In the process, they identified more trafficked women. Eventually, twenty women received assistance from LEFÖ-IBF, according to their individual needs. Services offered ranged from assisting with secure accommodation to psychosocial and legal assistance. Seventeen of them participated in trial and gave testimonies.

With the help of digital evidence, law enforcement was able to trace the working hours, working conditions, threats and logistics of transport, as well as the daily income and the constant control and abuse of the women. Despite the amount of data gathered, the digital evidence—social media messages and posts, and audio recordings—were only used to strengthen the women's testimonies but not replace them. In Austria, the system of criminal proceedings still relies heavily on the victim's testimony.

This case was exceptional in the sense that digital evidence was used in order to support the credibility of the exploited women. Too often, however, we have seen cases based entirely on women's testimonies. On one hand, we welcome the fact that digital evidence was gathered and incorporated into the case and it validated

the women's stories. However, the burden remained on them to 'prove' their exploitation, and thus their 'victimhood'. In their case, the digital evidence was consistent with what they conveyed to law enforcement. But what about victims who have experienced exploitation but whose digital traces appear to law enforcement as inconsistent?

Using digital technologies and social media to recruit people into forced labour situations and to exploit them through heightened surveillance and control opens the door for novel legal strategies to prosecute traffickers. Indeed, as evidenced by this case, the digital traces gathered by law enforcement proved indispensable in building the case against the perpetrators. At the same time, we are convinced that anti-trafficking stakeholders' obsession with the role of technology in human trafficking does not live up to its hype.

Addressing human trafficking as a technological challenge presents a limited understanding of exploitation and does not offer a holistic approach to the protection of trafficked persons. Instead of focussing on how technology can be used in criminal prosecutions, we need to determine how technology can enable trafficked persons to exercise their rights. A myopic focus on technology to address exploitation draws attention away from the role of labour markets and restrictive migration policies in creating the conditions that allow traffickers to exploit their victims—through technology or otherwise. The anti-trafficking community must continuously keep trafficked persons at the centre of any intervention.

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Surveillance and Entanglement: How mandatory sex offender registration impacts criminalised survivors of human trafficking

Kate Mogulescu and Leigh Goodmark

In June 2019, Pennsylvania State Police warned of a scam targeting people convicted of sex offences.[1] Masquerading as law enforcement officers, scammers were calling affected individuals and telling them that they were not complying with sex offender registry requirements, sometimes claiming that warrants existed for the person's arrest, and suggesting the problem could be eliminated by buying a cash card or transferring money to the scammer. How were the scammers getting the information needed to target these individuals? Online sex offender registry databases provide sufficient information to enable scammers to identify and find individuals to defraud. A central feature of required sex offender registration and reporting has been a publicly available notice to the community of the presence of individuals on the registry.[2]

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[1]   M Gamiz, 'State police warn of new phone scam targeting sex offenders', *The Morning Call*, 10 June 2019, https://www.mcall.com/news/police/mc-nws-sex-offender-scam-state-police-warn-20190610-gpiqm4qihbahbi3dyt5vy6dywa-story.html.

[2]   See, for example: E J Letourneau *et al.*, *Evaluating the Effectiveness of Sex Offender Registration and Notification Policies for Reducing Sexual Violence against Women*, Medical University of South Carolina, 2010: 'Registration is the practice of requiring convicted sex offenders to register with law enforcement and periodically update information about their residence, employment, and other details. The original aim of registration laws was to provide law enforcement with a database of information to help monitor known sex offenders and to aid in the investigation of new allegations. Community notification is the practice of releasing some registration information to citizens... All fifty states now operate publicly accessible registry websites that communicate information about registered sex offenders to citizens.' (p. 5).

While this example makes plain one of the troubling consequences of publicly available registry information, the ways in which technology impacts people convicted of sex offences run far deeper. People on registries are subject to levels of ongoing surveillance that often fail to meet stated public safety or deterrence goals and raise significant due process and privacy concerns. For example, individuals convicted of sex offences in New York State, once paroled from prison, face an inordinate series of regulations governing their existence. In addition to restrictions on where they can live, work, and socialise, registered individuals are prohibited from possessing a cell phone without the express prior approval of a parole officer. The regulations make clear that, even if given permission, under no circumstance will an individual under supervision be allowed a cell phone with a camera or video capability.[3] The special conditions prohibit possessing an answering machine, cross dressing (although that remains undefined), having pets, and hitchhiking. The conditions also mandate that before engaging in intimate sexual acts with anyone, a person subject to registration must provide their parole officer with the name and contact information of that person for approval and must disclose to the person with whom they intend to be intimate the nature of their offence of conviction *in front of their parole officer*.

At first glance, it might be difficult to see why the potential scam in Pennsylvania, the availability of sex offender registration information online, or the numerous and onerous conditions placed on individuals convicted of sex offences would be relevant to victims of human trafficking. But the pool of those required to register as sex offenders includes a significant number of people who have been trafficked and who have been convicted of crimes related to their own trafficking situations.

Over the last several years, the pressure to increase investigation and prosecution of trafficking has been intense; it is one of the few issues in American politics with bipartisan support. In 2018, the United States Department of Justice made USD 77 million in discretionary grants available to combat trafficking, much of which went to law enforcement.[4] Advocacy groups, decrying law enforcement's failure to take trafficking seriously, have developed reports, protocols, and guidance for police and prosecutors designed to facilitate their investigation and prosecution of sex trafficking cases.[5]

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[3]   New York State Department of Corrections & Community Supervision, *Special Conditions of Release to Community Supervision for Sex Offenders*, on file with authors.

[4]   See Matrix of OVC/BJA-Funded Human Trafficking Services Grantees and Task Forces, https://ovc.ncjrs.gov/humantrafficking/traffickingmatrix.html.

[5]   While we agree that the term 'sex trafficking' is problematic (see B Chapman-Schmidt, '"Sex Trafficking" as Epistemic Violence', *Anti-Trafficking Review,* issue 12, 2019, https://doi.org/10.14197/atr.2012191211), we have used this language here because that is the name of the crime with which victims of trafficking are being charged.

This zealous prosecution of human trafficking has had serious unintended consequences for a subset of victims, who are often prosecuted alongside their traffickers. They are found guilty of violations of federal and state trafficking laws despite their own victimisation. Frequently, victims facing prosecution plead guilty rather than defend against the charges in order to avoid draconian sentences. Yet, because the sentencing ranges on these offences begin so high, victims still end up with lengthy sentences that include years of imprisonment. For example, many trafficking charges carry a statutory minimum of 25 years to life. With the threat of these sentences hanging over their heads, individuals facing charges agree to plea bargains and sentences in the 10-15-year range. Perversely, prosecutors consider these sentences favourable outcomes.

These cases arise in a number of ways. Sometimes the women are minimally involved in a trafficking operation. Some are acting under orders from their own traffickers, who may be trying to distance themselves from illegal activity. Some are trying to protect other victims by minimising their interactions with or punishment from traffickers. Some have been abused in intimate relationships with their traffickers, who use violence and control to keep them entrapped and compel them to engage in illegal activity. The contexts for these victims' actions are rarely explored during prosecution and have a minimal, if any, impact on sentencing. And at sentencing, victims often learn that not only will they face long periods of incarceration, but that federal judges must order them to register as sex offenders when they are released. Being found guilty of human trafficking at the federal level, and in most US states, comes with mandatory registration as a sex offender.

That sex offender registries have been used to further marginalise vulnerable individuals and control sexual behaviour deemed undesirable or deviant is not new.[6] But the more recent emphasis on the policing of commercial sex to combat human trafficking has brought with it an increased number of people subject to the monitoring and punishment of the registration system. Not surprisingly, this group overwhelmingly includes women in the commercial sex industry, many of whom have themselves faced exploitation and coercion but are charged as the ultimate bad actors.

When considering the registration scheme, and the technological surveillance it entails, with respect to this group of women, the hypocritical nature of the policing that lead to their registration becomes clear. In the United States, the discourse around human trafficking focuses on trafficking for the purposes of sexual exploitation and pays lip-service to supporting victims and being victim-centred.

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[6] See, for example: E Meiners, 'Awful Acts and the Trouble with Normal', in E Stanley and N Smith (eds.), *Captive Genders: Trans embodiment and the prison industrial complex*, Second Edition, AK Press, Oakland, 2015.

Yet a careful look at who is prosecuted for sex trafficking and other sex offences exposes the ways in which rhetoric and reality fail to align. When mandated sex offender registration is added to the already suffocating burdens of criminalisation, the harm done to victims of trafficking makes moving forward nearly impossible.

The Human Trafficking Clemency Initiative (HTCI), a consortium of law school clinical programmes and legal services providers, represents clients all over the country who are seeking clemency after being convicted of federal crimes related to their own trafficking. One HTCI client was prosecuted as a trafficker after being forced to drive women who she did not know were underage to places where they engaged in prostitution. Another was convicted of sex trafficking and sentenced to fourteen years in prison a few months after her eighteenth birthday because she engaged in prostitution alongside two younger teenagers. HTCI clients all face lengthy terms of registration as sex offenders as a result of their convictions for such crimes. And because technology makes it possible for anyone to access an online sex offender registry, these clients are vulnerable to further abuse and exploitation as a result of the registration requirement.

Additionally, survivors of trafficking who have been prosecuted as traffickers must navigate complicated technological surveillance and limitations that exacerbate the burden of their punishment.[7] When survivors return to their communities from prison, but are not allowed to own a cell phone, they are unable to secure employment, housing or communicate with family.

In almost every instance, people on parole convicted of a sex offence have to waive any privacy rights to electronic communications, social media, or even simple word processing documents on their computers. Accordingly, law enforcement can search contacts and communications without a warrant or judicial subpoena. For survivors of trafficking who have been convicted of sex offences, this compromised privacy means living under the spectre of involuntary involvement in investigations. Taken as a whole, the message to survivors who are made to comply with sex offender registration requirements is clear—you are a criminal, you have no privacy, and you cannot utilise technology in the way that this modern world demands.

For the survivor prosecuted in New York State in her early 20s for sex trafficking because she was engaging in prostitution alongside minors, release from state prison came with all the restrictions described above. Coupled with the stigma of having to register, and the barriers that brings, she struggled to find employment.

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[7] L Adkins, 'Labels, Supervision, and Surveillance: Motherhood and sex offender status', *The Scholar & Feminist Online*, issue 15.3, 2019, http://sfonline.barnard.edu/unraveling-criminalizing-webs-building-police-free-futures/labels-supervision-surveillance-motherhood-sex-offender-status.

Her first parole violation, approximately 30 days after her release, was for possessing a cell phone, accessing the Internet, and engaging in sex work. In any other instance, mere possession of a phone or using social media would not be deemed criminal. In any other instance, her alleged continued sex work would likely not have come to the attention of law enforcement and, even if it had, at most she would have faced prosecution for a low-level misdemeanour that carried no actual risk of jail time. But as someone who had been convicted of a sex offence, she was subject to surveillance and reporting that kept her entangled in the legal system. This surveillance failed to take into account the acute struggle for survival that accompanied her re-entry into society. After her parole violation, the state returned her to prison and incarcerated her for an additional six months. After serving that sentence, she was released to parole again with another cycle of barriers, monitoring and control.

In other cases, the pressure on law enforcement and prosecuting agencies to investigate human trafficking leads to harmful and unsafe situations for survivors who are made to register as sex offenders. The personal information of survivors on the registry is available to the public, and their communications, documents and belongings are not private. Parole officers can demand access to any information without probable cause. The consistent risk of forced disclosure means that survivors can be made to participate in law enforcement investigations against their will. Their information can be used in ways that place them in danger. Witnesses and victims have rights in criminal investigations; survivors marked as sex offenders do not.

The whole system of sex offender registries deserves a careful, critical look. For survivors of human trafficking in particular, criminalisation and being designated a sex offender cause specific and distinct harm. One way to counteract this troubling trend is to allow sentencing courts the ability to decline to impose sex offender registration requirements in appropriate circumstances. Pending legislation in Kansas would be the first of its kind to allow judges to do precisely that.[8] People currently on registries must have a way to demonstrate that registration is unjust and unnecessary. As it stands, there are few if any mechanisms that allow survivors to do so. At the very least, courts should be able to consider prior victimisation as a mitigating factor when sentencing trafficking survivors and use that evidence to justify imposing the least intrusive possible sentences. Finally, as is often the case, we must interrogate our policing and prosecution strategies that support outcomes that are harmful to trafficking survivors and other vulnerable populations. Pursuing survivors as human traffickers has been an easy way for the government to inflate statistics on trafficking prosecutions. As in so many other contexts, the true solution to preventing the harms of over-

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[8]   Kansas Senate Bill 227, introduced 14 March 2019, available at http://www. kslegislature.org/li/b2019_20/measures/sb227.

criminalisation, including those harms made possible by technology, may simply be fewer arrests and prosecutions.

Criminal punishment is often presented as a binary—a person 'does their time', then returns to society punishment-free. The literature on collateral consequences makes it clear that this notion of punishment as a binary is misguided. But few collateral consequences pose as significant a burden to those convicted of crimes as the requirement that they register as sex offenders. Required registration, sometimes for an entire lifetime, precludes trafficking victims convicted of crimes resulting from their own victimisation from ever being free of punishment. When trafficking survivors' registration information is publicly available, technology makes their ongoing punishment exponentially harsher and renders their existence significantly more dangerous.

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