

# Erased

## The Impact of FOSTA-SESTA & the Removal of Backpage



A community report by:

Danielle Blunt and Ariel Wolf of **Hacking//Hustling**

Advised by Naomi Lauren of **Whose Corner Is It Anyway**

**Abstract:** A few days after Backpage was shut down by federal authorities, Public Law 115-164, better known as FOSTA-SESTA, became US law in 2017. The stated goal of this law was to reduce human trafficking by amending section 230 of the Communications Decency Act. 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 this sex worker-led study, Hacking//Hustling used a participatory action research model to gather quantitative and qualitative data regarding the impact of the removal of Backpage and the passage of FOSTA-SESTA on two groups of sex workers: those who work online, and primarily street-based sex workers who have limited access to technology. The results of our online survey (98 participants) and street-based survey (38 participants) indicate that the removal of Backpage and FOSTA-SESTA have had detrimental effects on online workers' financial stability, safety, access to community, and health outcomes.

**Key Words:** Trafficking, Sex Work, Prostitution, FOSTA-SESTA, Tech, Sex Trafficking, CDA 230, Internet, Content Moderation, Gig Economy, Public Health, Platform Policing

**This report was written by Danielle Blunt and Ariel Wolf of Hacking//Hustling with advisement by Naomi Lauren of Whose Corner Is It Anyway.**

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**Hacking//Hustling** is a collective of sex workers and allies working at the intersection of technology and social justice. It is a space for digital rights advocates, journalists, and allied communities to learn from sex workers and better understand the developing effects of “FOSTA-SESTA” on internet freedom for all. This organization was formed with the belief that sex workers are the experts of their own experience, and that an internet that is safer for sex workers is an internet that is safer for everyone.

**Whose Corner Is It Anyway** is a Western MA mutual aid, harm reduction, political education, and organizing group led by stimulant- and opioid-using low-income, survival, or street-based sex workers.

**Danielle Blunt** (she/her) is a NYC-based Dominatrix, a full-spectrum doula, and chronically-ill sex worker rights activist. She recently received her Masters of Public Health. Her research investigates the intersection of public health, sex work, and equitable access to technology in marginalized communities. She enjoys watching her community thrive and making men cry.

[DanielleBlunt@protonmail.ch](mailto:DanielleBlunt@protonmail.ch)

**Ariel Wolf** (she/her) is a writer, researcher, and former sex worker from New York City. She previously served as the community organizer for the Red Umbrella Project, a nonprofit organization that amplified the voices of those in the sex trades, and as a research assistant for the Center for Court Innovation, where she has worked on studies on sex work, human trafficking, gun violence, and procedural justice. Her first solo academic paper entitled “Stigma in the Sex Trades” was published earlier this year in the Journal of Sexuality and Relationship Therapy. [ArielHWolf@gmail.com](mailto:ArielHWolf@gmail.com)

**Naomi Lauren** (she/her) is a long time stripper and an organizer with Whose Corner Is It Anyway.

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# Introduction and Literature Review

## Sex Work and Labor Trafficking

We begin from this premise: under capitalism, all labor is vulnerable to hyper-exploitation. The risk of exploitation is increased in criminalized economies that lack labor protections, such as sex work. Many individuals who have traded sex live at the intersection of marginalized identities and may have limited access to other sources of income or employment due to stigma, discrimination, and lack of social support.<sup>1</sup> In this way, sex workers face a similar risk of exploitation, as do undocumented laborers who perform domestic and agricultural work.

1 (White Hughto, Reisner, and Pachankis 2015)

“Sex work” is a broad term used to describe exchanges of sex or sexual activity. Sex work is also used as a non-stigmatizing term for “prostitution,” but in this report we use the term in its broader meaning. Using the term “sex work” reinforces the idea that sex work is work and allows for greater discussion of labor rights and conditions. Not every person in the sex trade defines themselves as a sex worker or their sexual exchange as work. Some may not regard what they do as labor at all, but simply a means to get what they need. Others may be operating within legal working conditions, such as pornography or exotic dancing, and wish to avoid the negative associations with illegal or informal forms of sex work. In addition to the exchange of money for sexual services, a person may exchange sex or sexual activity, or things they need or want, such as food, housing, hormones, drugs, gifts, or other resources. “Survival sex” is a term used by many non-profit organizations and researchers to describe trading of sex for survival needs.

— *Meaningful Work: Transgender Experiences in the Sex Trades*

The United States government has attempted to protect individuals from sexual exploitation through anti-trafficking legislation. In the United States, the Federal Victims of Trafficking and Violence Protection Act (TVPA) of 2000 defines trafficking as “the recruitment, harboring, transportation,

provision, or obtaining of a person for the purpose of a commercial sex act.”<sup>2</sup> The TVPA does distinguish this from “severe forms of sex trafficking” by stating that it is “(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”<sup>3</sup> Under these two definitions, any and all persons who trade sex for money may be considered “trafficked,” irrespective of the circumstances under which they engage in this work. In addition, any individual under the age of 18 who is involved in commercial sexual activity is defined as a victim of sex trafficking,<sup>4</sup> regardless of how the individual defines their experience. Many individuals who have histories of trading sex as a minor do so to acquire needed resources and to escape abusive living situations, facing no explicit external force, fraud, or coercion, other than the need to survive.<sup>5</sup> LGBTQ youth, who often face housing insecurity due to familial rejection, are seven times more likely to have experiences of trading sex for a place to stay than their heterosexual counterparts.<sup>6</sup> These individuals are labeled trafficking victims by the state and processed through the criminal justice systems or family court systems under the “safe-harbor” laws.<sup>7</sup> The singular focus of the anti-trafficking lobby on sex trafficking has been criticized for ignoring the complex forms of labor trafficking that occur in other labor sectors that outnumber cases of sex trafficking.<sup>8</sup> The fact that those experiencing labor trafficking in any industry are also more vulnerable to sexual abuse, with no legal recourse, is also highly overlooked.<sup>9</sup>

Many sex workers have argued that, in practice, the impact of anti-trafficking laws is opposite to their stated intent (protecting vulnerable populations). Anti-trafficking rhetoric and policing tactics disproportionately affect migrants, the insecurely employed, trans women, and women of color. In Brooklyn, 89% of the arrests for loitering for the purposes of prostitution were of women of color, many of them trans women who were then processed in the Human Trafficking Intervention Courts (HTICs).<sup>10</sup> Sex workers who cross borders for employment are also at high risk for being arrested and labeled either traffickers<sup>11</sup> or victims of trafficking.

2 TVPA 2000, Sec. 103(8).

3 (Chapman-Schmidt 2019)

4 (Child Welfare Information Gateway. 2016)

5 (World Health Organization. 2015)

6 (Dank 2015)

7 **Safe Harbor Laws** is a provision of a statute that a specific action does not violate a rule or law. For example under Safe-Harbor laws prevent a young person trading sex for being arrested for prostitution and directs youth who trade sex to 'non-punitive' social services.

8 (Wolf 2019)

9 (Global Freedom Center n.d.)

10 (White et al. 2017)

11 (M. Smith and Mac 2018)

These arrests and legal proceedings disrupt these workers' ability to earn a living and thus lead to increased, rather than decreased, vulnerability.<sup>12</sup>

12 (M. Smith and Mac 2018)

There is a significant body of research that illustrates the harm caused by the policing of sex work on the street.<sup>13</sup> In addition, anti-trafficking laws criminalize the very people whom sex workers depend on for safety and support. When a partner or family member provides housing, transportation, safe calls, or financial support to someone trading sex, this person under current legal definitions can be considered a trafficker. At the same time, many people in the sex trade report on complexities of experience regarding exploitation, force, and coercion that are not adequately addressed in the federal definition of trafficking.<sup>14</sup> By defining all sex workers as victims of a criminal network, rather than as individuals attempting to survive under capitalism, the state claims power to intervene, surveil, and control rather than address the root causes of trafficking: poverty and vulnerability.

13 (Platt et al. 2018)

14 (M. Smith and Mac 2018)

For sex workers, one of the many benefits of a decriminalized market place is the ability to negotiate with clients. Due to fear of law enforcement, street based sex workers often have less than five minutes to discuss what services they offer, what the prices for those services are, set boundaries and vet potential clients.<sup>15</sup> An Internet-based model has allowed workers to be more forthright in their advertising, negotiate costs and services prior to meeting and establish boundaries. Still, online sex workers are hesitant to speak directly about the services they offer because of fear of stings by undercover police. Without the ability to speak freely and clearly about what services they are willing to provide, many sex workers reported that they risk miscommunication with clients that could lead to violence or lack of payment.

15 (Krüsi et al. 2012)

Sex workers who oppose this legislation also point out that it collapses a range of experiences within the sex trade into a monolithic vision of sex work as inherently exploitative. In American legal discourse, "sex trafficking" is often conflated with all forms of sex work.<sup>16</sup> Sex trafficking is singled out from other exploitative labor practices; despite trafficking occurring in all labor sectors, media coverage of trafficking focusing disproportionately on the sex industry.<sup>17</sup> These discourses reinforce the stigmatization of sex work and erase sex workers' lived experiences. In reality, individuals' motivations for trading sex exist within a complicated landscape of choice, circumstance, and coercion. However, in the mainstream media and legal system, the lives of those who trade sex are often reduced to a binary: victim or criminal. This study aims to explore beyond this binary and acknowledge how individuals

16 (Chapman-Schmidt 2019)

17 (Ashley 2015)

identify their experiences within the sex trades as subject to variation and change over time. Many of those who may meet the federal definition of human trafficking may choose not to define those experiences as such. By allowing our participants to present their own definitions of trafficking and to use their own words to describe their work in the sex trades, we hope to present data that more accurately reflect these nuances.

## **FOSTA-SESTA and Platform Policing**

Public Law 115-164, better known as FOSTA-SESTA, became US law in 2017. These bills were signed into law days after the federal authorities shut down Backpage, a popular website used by sex workers to connect with clients. Despite the bills being signed into law after Backpage was shut down, and at the time of this report's publication no one has ever been charged under this new law, supporters of the bills said that the removal of Backpage would not have been possible without FOSTA-SESTA. The stated goal of this law was to reduce human trafficking by amending section 230 of the Communications Decency Act. What the law has actually done is put increased pressure on Internet platforms to censor their users for fear of civil and criminal liability. 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 use to keep themselves safe.

This study examines the impact of this new legislation, the removal of Backpage and the myriad of ways that sex workers are denied access to technologies on two different, though sometimes overlapping, populations of sex workers: those who work online and a group of primarily street-based sex workers who have limited access to technology.

With the advent of the Internet and websites like Craigslist and Backpage, sex workers were able to gain more control over their work environment and avoid some of the dangers of outdoor and street-based work, such as violence and homicide by clients, police violence, and being forced to have sex in exchange for not being arrested. When Craigslist Erotic Services opened, a 17% reduction in all female homicide was reported in the following years.<sup>18</sup> Intimate partner violence is one of the most common forms of violence that threatens the health and safety of women. The internet can be a powerful tool for vulnerable populations

<sup>18</sup> (Cunningham, DeAngelo, and Tripp 2017)



to gain autonomy, financial security, and safety. For sex workers specifically, online platforms can allow them to advertise independently, screen clients more thoroughly, and build community with other sex workers.<sup>19,20</sup>

Unfortunately, recent legislation took away these invaluable tools by putting pressure on social media platforms to censor their users and bar sex workers from online spaces. The movements of sex workers are surveilled, policed, and restricted through both traditional law enforcement and online-platform policing. This policing is done in the streets,<sup>21,22,23,24</sup> through police using the carrying of condoms as evidence of prostitution;<sup>25,26</sup> it is done indoors, through brothel-keeping laws;<sup>27</sup> it is done through data collection, through gang databases<sup>28</sup> and predictive policing;<sup>29,30</sup> and more recently, it is done online through banishment from advertising and social media.

On March 21st, 2018, FOSTA-SESTA passed the Senate (97-2). President Trump signed FOSTA-SESTA into law on April 11th. FOSTA-SESTA was sold as “anti-human trafficking” legislation by lawmakers. However, what this legislation actually does is give online platforms the power and incentive to censor their users for fear of “facilitating” sex work, thereby pushing sex workers off reliable and trusted platforms and into less safe working environments. Street policing (including racist, sexist, and transphobic policing tactics) intended to “clean up the streets” pushed sex workers online, and now with legislation such as FOSTA-SESTA, this policing is extended to online platforms, effectively, squeezing workers from both sides. Faced with this policing and social stigma, sex workers’ own fears and self-censorship act as another form of policing within the community.

FOSTA-SESTA’s passage was followed with an immediate chilling effect,<sup>31</sup> as platforms shuttered in anticipation of bankrupting lawsuits and possible criminal charges. Platforms used by mainstream audiences—like Reddit and Craigslist—deleted content before the law had even been signed.<sup>32</sup> As a result, the already-marginalized communities who use the web to find work and build community around sex work were suddenly locked out.

## Methodology

This report consists of participatory action-based, sex worker-led research and data collected through two peer-led organizations: Hacking//Hustling and Whose Corner is it Anyway. Eighteen months after FOSTA-SESTA was

19 (Campbell and Sanders 2018); (Internet Governence Forum 2019)

20 (M. Smith 2018)

21 (Sei Young Pyo, 2016)

22 (Ritchie n.d.)

23 (Grant n.d.)

24 (“#NoLoiteringJustLiving” n.d.)

25 (Wurth et al. 2013)

26 (Grant 2014)

27 (ProCon.org n.d.)

28 (Gullapalli, 2019)

29 ( LAPD Stop Spying Coalition 2013)

30 (Stop 2013)

31 **Chilling effect** is a term in law and communication that describes a situation where speech or conduct is suppressed by fear of penalization at the interests of an individual or group. It can affect one’s free speech. (USLegal.com)

32 (Wired 2018)

signed into law, Hacking//Hustling conducted research through online surveys on how this legislation and the removal of Backpage were impacting marginalized communities' access to financial security, harm reduction working tools, and optimal health outcomes.

Hacking//Hustling began by gathering data on how people who trade sex utilize technology to stay connected to their communities. Hacking//Hustling created an online survey designed to gather both quantitative and qualitative data and distributed it via DecrimNY (a coalition of over 30+ organizations that work with the sex worker communities in New York City) and the broader online community of sex workers on Twitter. The survey was accessible and shared for a month. We received 98 responses from this initial outreach-based research effort. 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 like Twitter). We then partnered with Whose Corner is it Anyway,<sup>33</sup> an organization 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 into a verbal interview format for sex workers who face significant barriers to accessing online or digital technology, in order to gain insight into how their lives are affected by surveillance and technology on the streets. One month after our initial online data collection, we conducted interviews with 38 members of WCIIA, four of which were conducted in Spanish.

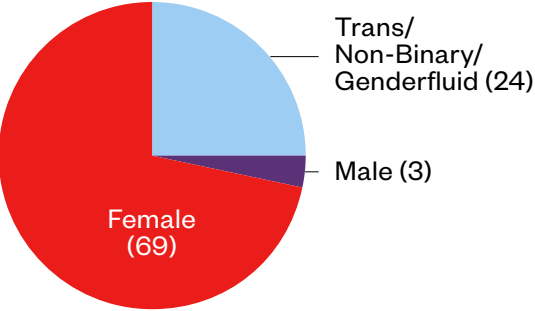
<sup>33</sup> Henceforth referred to as "WCIIA."

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 platforms preexisting policies around sex worker content, the questions were framed as and are presented as "before/after April 2018" to reflect the changes in internet infrastructure after the removal of Backpage and passage of FOSTA-SESTA.

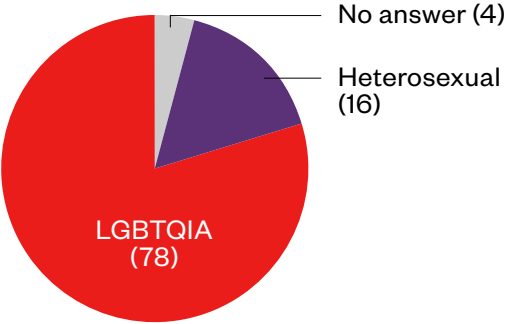
# Key Findings

## Survey Demographics

Of 98 internet-based workers



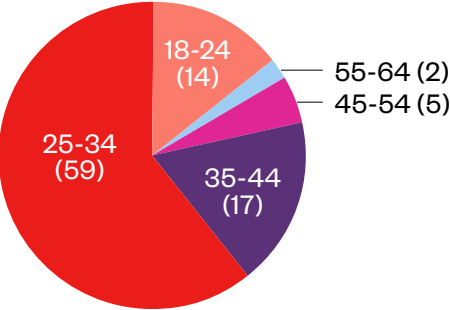
**Gender\***



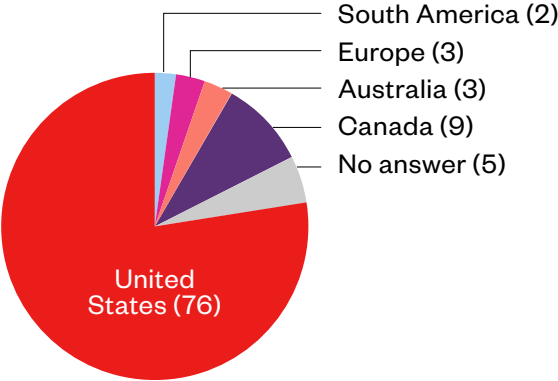
**Sexual Orientation**

\* It is worth noting that for online participants, some may have chosen to identify only as trans, and some trans women may choose to identify only as female.

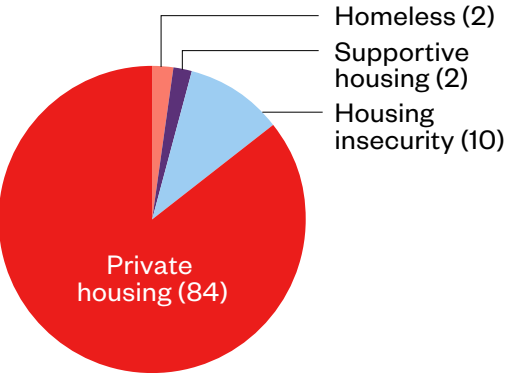
\*\* Includes mixed race participants



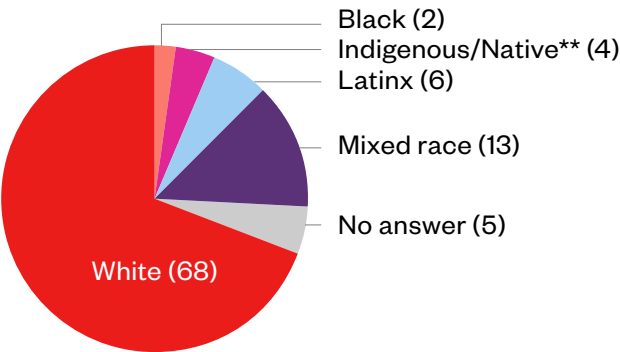
**Age**



**Location**



**Housing**



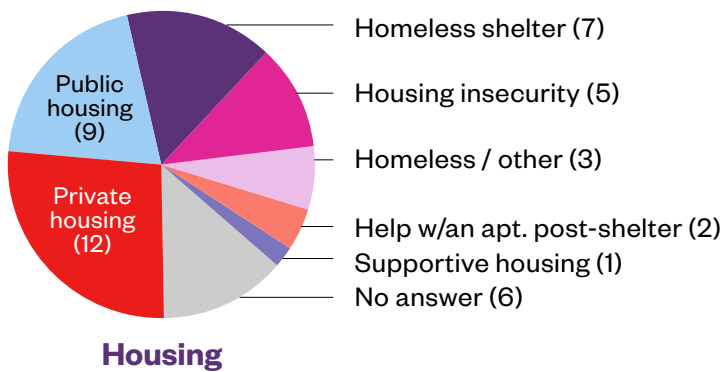
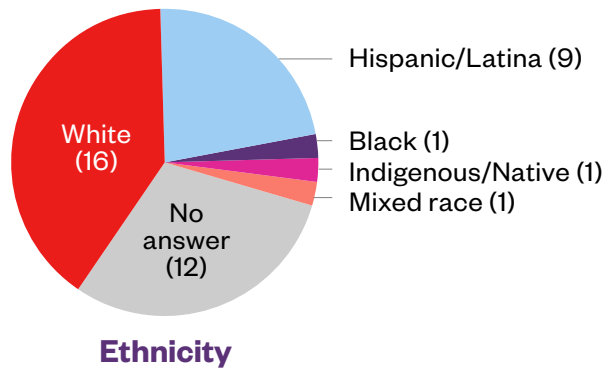
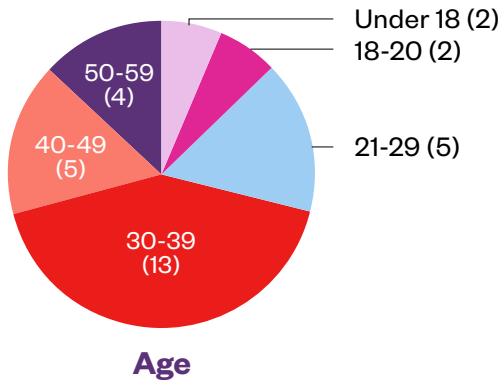
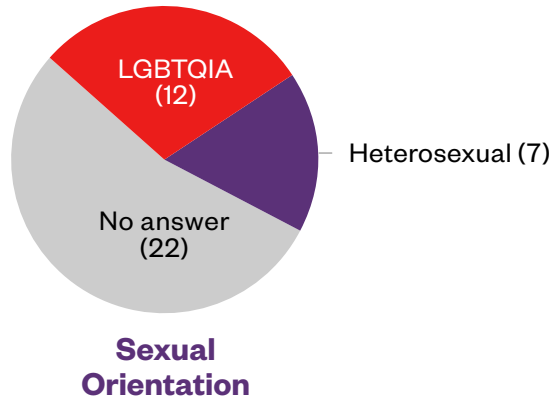
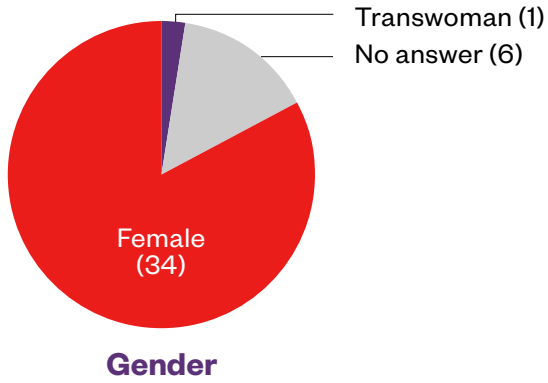
**Ethnicity**

# Survey Demographics

From Whose Corner is it Anyway

Sample size of 41

12% of surveys were completed in Spanish



# FOSTA-SESTA in Sex Workers' Own Words

The vagueness of the language and intent of FOSTA-SESTA adds to fear and the perception of violence, as well as an actual increase in exposure to physical violence. The fear surrounding FOSTA-SESTA is compounded by the obfuscation of the processes that online platforms use to discriminate against sex workers that may or may not be directly related to this law. General technological illiteracy and the opaque practices of platforms facilitate the spread of misinformation, feelings of paranoia, and lack of control in the sex working community. The fear and lack of adequate legal guides and resources surrounding FOSTA-SESTA has led to a chilling effect in the community as sex workers who work online have had to reassess their business models and still make ends meet.

It is important to gain an understanding of how sex workers interpret and understand this law. We asked sex workers to define, in their own words, how they understood FOSTA-SESTA.

The main patterns observed in how online sex workers defined FOSTA-SESTA was that they reported finding it to be an overbearing, paternalistic law that does nothing to actually fight sex trafficking—but instead would be used to censor sex worker presence online and create more dangerous situations. Many respondents suggested that this law represents a moralistic fight against sex work in general, regardless of whether or not labor trafficking is involved. Many respondents saw this as an extension of the prohibitionist anti-trafficking movement's attempt to eradicate all forms of the sex industry with no regard for the safety of people in the sex trades.

**Many respondents suggested that this law represents a moralistic fight against sex work in general.**

When asked to define FOSTA/SESTA, online participants' responses centered on three primary themes (some quotes have been edited for clarity):

## 1) It removes key safety measures used by sex workers

“ A bill that is aimed to stop sex trafficking but is making the sex work industry more dangerous.

“ It’s a law that is censoring sex workers and is making it difficult for us to conduct business with clients. It criminalizes sex workers even further.

“ 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.

“ A bunch of whorephobic bullshit law stuff making sex work even scarier.

“ Removal of section 230 from the Internet and a death sentence for me.

## 2) Its aim is to create moral panic and perpetuate whorephobia

“ An anti-sex trafficking bill that doesn’t actually work, and was designed to hurt sex workers.

“ The government controlling what women do with their bodies in a failed attempt to clean up the Internet by fearmongering.

“ Overreaching whorephobia and misguided fearmongering.

**Whorephobia** is the fear or hatred of sex workers that often leads to discrimination, stigma and violence. It is a term that was coined by sex worker rights activists.

—USLegal.com

“ 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.

“ A complete bullshit mountain.

### **3) It doesn't actually help to prosecute real traffickers or keep people safe**

“ It's supposed to be a bill that helps end sex trafficking. What it really does is harm sex workers, and victims of sex trafficking... This law makes it much harder to even find [traffickers] as it's pushed them underground to the dark web.

“ ...Claims to be about reducing child sex trafficking by making advertising my services much more challenging. This law actually does the opposite and just drives all sex work underground, where it's more difficult to find traffickers. It's interesting to note that Jeffrey Epstein didn't use a website to traffic young women and neither do the pimps I have met in my 17 years as a sex worker.

“ A poor attempt to appear to be concerned about issues of human trafficking.

**“ Holding websites liable for users’ speech involving anything sexually related which in turn specifically targets sex workers and not the victims of human trafficking.**

**“ [It’s] supposed to stop sex “trafficking” but willing sex workers are lumped into that definition.**

**“ The purpose is supposed to stop sex trafficking but it’s destroying rights of sex workers.**

**“ It’s a bill meant to punish human traffickers but mainly punishes consensual adult sex workers because laymen and law enforcement interpreting it are ignorant sadists.**

The overwhelming majority of WCIIA respondents did not demonstrate an understanding of what FOSTA-SESTA is, or any direct impact it had on their work or safety. Sex workers who work online however, did have a strong understanding of not only the parameters of the law, but how it affects their lives and livelihoods. WCIIA workers who were interviewed expressed that they were already dealing with traditional law enforcement-based criminalization and didn’t experience as direct an effect of a law regulating digital platforms.



# Trafficking in Sex Workers' Own Words

**“ Trafficking takes many forms. It’s not always someone being kidnapped and tied to a bed like a lot of people think. I was actually trafficked. It was an emotionally abusive situation where my only worth came from how much money I made. He found all of my clients and set up my appointments. I had no control and was not able to leave because he had control of all the money. It took me 3 years to escape. —Online respondent**

We also asked sex workers to define *trafficking* in their own words and where their experiences might have met or strayed from the legal definition of trafficking. A large majority of online respondents described trafficking as an act of “forced labor” where one party controlled another through violence or threats. In addition to “force,” respondents included these commonalities they understood to be a part of labor trafficking: the taking of some, or all of one’s money earned through sexual services, as well as transportation over state lines, underage sex work in any form, and kidnapping. Many online respondents noted that trafficking goes beyond the bounds of the sex industry and includes other forms of labor trafficking that are not mentioned or addressed within FOSTA-SESTA.

The most common theme from online respondents to this question was the lack of consent present in trafficking situations. Previous community research has noted that for some, economic hardship can be seen as a motivating factor in participation within the sex trades, constituting a type of force by capitalism.<sup>34</sup> This idea of financial desperation as a coercive force complicates the discussion around free will and coercion, but has never met any legal definition for trafficking resulting in leniency from prosecution.

34 (Wolf 2019)

Of the respondents from the WCIIA group, most defined trafficking in similar ways: primarily by the act of being forced into selling sexual services or performing that service while “someone else took all or most of the profit from it.” Other common themes mentioned were: kidnapping, forced labor, and financial abuse, as well as drug trafficking.

“ Trafficking was a word that I never heard when I first got into the business in 2002, back then it was called pimping. In my opinion, the terminology changed to conjure up images of white women being forced into sex work. Pimping is mostly associated with African-Americans and if I know anything to be true, it's that America is a deeply racist country that doesn't value black women as much as it should.

“ Nonconsensual work regardless of field.

“ Bringing someone into another country. Usually servitude is implied, but more often it's field, domestic, or sweatshop, less often sexual.

“ A too-wide term that don't say much about anything.

“ I think it's an ambiguous term. There is abusive management in every industry.

“ Forcing someone to perform sexual services where you keep the financial gain. Where the person does not have a choice, or is performing acts under duress or can't consent due to age, or intoxication.

“ Promise work for people, take them away from family and friends and then not deliver the work that was promised (different conditions, payment and/or type of work).

“ Humans who are transported from one place to another against their will for work and/or sex. Sex trafficking is rare, more human trafficking happens when there is a need for farm hands or needing low-paid workers.

# Trafficking Statistics

	<b>Online Group</b> (N=98)	<b>WCIIA</b> (N=36)
Has been trafficked by their own definition	10.2% (N=10)	22.8% (N=8)
Has been identified as a victim of trafficking by someone else	20.6 (N=20)	14.7 (N=5)
Entered the sex industry younger than 18	8.1% (N=8)	17.9% (N=7)
Identify as a victim or survivor in some way	28.1% (N=27)	Not asked
Has experienced violence before FOSTA-SESTA/April 2018	36% (N=35)	22.8% (N=8)
Has experienced violence after FOSTA-SESTA/April 2018*	33.8% (N=32)	13.9 (N=5)

\* It is important to note that statistics of experiencing violence after FOSTA-SESTA/April 2018 only represent a period of two years, while the previous numbers reflect violence experienced anytime before 2018.

Only 10% of the online respondents report experiences having been trafficked by their own definitions. These experiences primarily related to having a pimp. However, 20% say they have been identified as a victim of trafficking by someone else, and 4% say they have identified as a victim of trafficking in order to receive services from supportive services from the state or nonprofit. 8% of online respondents report having started working in the sex industry before the age of 18, which under the federal definition does not require explicit external force in order to be considered trafficking.

Of the WCIIA group, 18% reported entering the sex trades before the age of 18, and 20% self identify as victims of sex trafficking. Twentytwo percent of WCIIA respondents report that at some point they were either held against their will by someone, someone had sex with them against their will, or had someone controlling money earned through their sex work.

Forty percent of online workers report identifying as a victim or survivor in some way, the majority of which was unrelated to their experiences in sex work: mostly from sexual assaults (some while working, but most specify that their assaults were not related to sex work), domestic abuse, and childhood abuse.

## Barriers to Other Forms of Labor

**60.4%** of online respondents said they face barriers to accessing other forms of labor.

Those working within the sex trades do so for a variety of reasons that can usually be simplified into two factors: the need for income, and barriers that prevent them from earning enough through traditional means. We asked survey participants to describe barriers they face to other forms of employment.

In an open-ended question, the most common responses were mental illness, chronic illness, and disability, along with time constraints, such as single-parenthood and full time school enrollment. For some, systematic barriers such as previous criminal records, lack of education, and large gaps in resumes also prevented participants from getting other work. For many, sex work is seen as preferable labor due to significantly higher hourly rates. This reflected a need for flexibility and an inability or discomfort around sacrificing large amounts of their time for substandard wages.

Participation in formalized economies is often inaccessible to people living with disabilities. The flare-up periods that accompany many chronic illnesses, mental health issues, C-PTSD, PTSD, fibromyalgia, and other forms of non-specified somatized pain disorders create a barrier in an individual's ability to maintain stable employment within the rigid structure of traditional work.<sup>35</sup> Mental health diagnoses and invisible disabilities<sup>36</sup> are often more difficult to claim disability benefits for, especially when in order to claim those benefits you have to show up physically for appointments. Sex work is often one of the only ways that disabled people can support themselves and their families financially, especially when the state fails to provide adequate support and resources.

<sup>35</sup> (Tastrom 2019)

<sup>36</sup> **Invisible Disability** is an umbrella term that captures a spectrum of hidden disabilities. Invisible disabilities are disabilities that are not immediately apparent, they are often neurological in nature, difficult to diagnose and chronic. (definition taken from DisabledWorld.com)

While the majority of online participants reported that their experiences in sex work were positive and provided them with necessary financial resources, many did report that they are survivors of violence and live with PTSD and somatic pain disorders. Many report that sex work was the only form of labor that they were able to maintain while dealing with the aftermath of a traumatic event or PTSD due to the flexible schedule, higher hourly rate, and the ability to take time off when needed.

<p><b>50%</b> of online respondents reported having chronic health issues or disabilities (most common were chronic pain, autoimmune disorders, endometriosis, mental health disorders).</p>	<p><b>8.16%</b> of online respondents defined themselves as financially secure with an overwhelming majority saying that they had income coming in but were generally stressed about their financial security. 23% identified as insecure and didn't know where their next money was coming from.</p>
<p><b>68.4%</b> of online respondents have received a mental health diagnosis (depression, anxiety, ADHD, PTSD were most common).</p>	<p><b>73.5%</b> of online respondents say that their financial situation has changed since April 2018.</p>
<p><b>78.57%</b> of online respondents report that the majority of income was from sex work.</p>	<p><b>72.5%</b> of online respondents are facing increased economic instability after April 2018.</p>
<p><b>46.94%</b> of online respondents had no other form of income.</p>	<p><b>45.74%</b> of online respondents could not afford to place an ad for their services.</p>

These barriers to traditional forms of labor and subsequent poverty are exacerbated by lack of access to traditional banking and financial technology tools, many citing that with the closure of their financial technology accounts such as PayPal or Venmo came the seizure of the funds, some losing as much as \$500 in the process. Sex workers reported that their accounts were lost due to clients referencing 'suspicious' activity in the memo, clients trying to retroactively reverse payments or telling their bank it was a fraudulent charge, and being reported by an abusive partner or potential client.

Of the WCIIA respondents, 86% of WCIIA respondents reported having a mental health diagnosis. 19% of WCIIA reported increased economic instability after backpage was removed and FOSTA-SESTA was signed into law. Our research suggests that this number is lower than the online group because WCIIA did not have the same reliance on online spaces before FOSTA-SESTA. None of WCIIA members defined themselves as financially secure, with 38.2% saying that they didn't know when they'd be getting money next.

## Effects of FOSTA-SESTA

While FOSTA-SESTA's purported purpose is to aid in the reduction of human trafficking, what we've witnessed within the scope of this study is that this law is contributing to the poverty that makes an individual more susceptible to labor exploitation and trafficking.<sup>37</sup> By censoring the way that sex workers communicate with each other online, this law is also responsible for the dissolution of harm reduction tactics that allow workers to educate each other by sharing experiences with violent clients, exploitative management, and labor exploitation. This dismantling of an online-based sex work environment has played a role in the increased economic instability for **72.45%** of the online participants of this survey, with **33.8%** reporting an increase of violence from clients. **23.71%** of online workers reported that their housing situation has changed since April 2018.

37 (Chuang 2006)

While FOSTA-SESTA was presented as a law that increases the safety of those at risk of human trafficking, **99%** of online respondents reported that this law does not make them feel safer. The ability to work independently online has reduced the need for sex workers in dire financial situations to work on the streets or through an exploitative agency or third party. Working

online has given sex workers more autonomy over their labor and reduced the need to work under pimps and exploitative management. It has also provided more choices in client selection, by increasing the range of potential income sources as well as more possibilities to vet a client. **80.61%** of participants who took the online survey say they are now facing difficulties advertising their services.

Out of our online respondents with chronic illness, **26%** reported an increase in the exacerbation of their symptoms after April 2018. For people with chronic health issues an exacerbation of symptoms or flare up can make it more difficult to work and increase financial and housing insecurity.

FOSTA-SESTA has reduced the number of sites that sex workers use to find clients, community and share harm reduction working tips. The free and the niche websites used by sex workers were some of the first to be removed after FOSTA-SESTA or in anticipation of the law being signed. Post FOSTA-SESTA, sex workers are reliant on fewer platforms to advertise. These platforms now have monopolized the market, and have the ability to raise their prices for advertising as well as the cut they take for potential sales. Sites like Eros.com have increased their scrutiny for new members, requiring more forms of identification and higher advertising prices. Community trust in Eros.com has simultaneously dwindled, with many believing that that information is being handed over to law enforcement and being used to restrict immigration, after one of their call centers was raided.<sup>38</sup>

38 (Brown 2017)

Sex workers reported that after the removal of Backpage and post FOSTA-SESTA, they are having difficulties connecting with clients, and are reluctantly returning to working conditions where they have less autonomy (e.g., returning to work under a pimp or to a 9–5 that does not accommodate for their needs or disability). **40%** of online respondents reported that over half of their clients came from Backpage. The fact that it was free to advertise on Backpage was particularly important to low income workers who either did not have the financial means to establish and host a private URL or those who use sex work as supplementary income and were uninterested or unable to invest in a more costly internet presence.

## Online sex workers describe their experiences post-FOSTA-SESTA

“ Was bringing in plenty of income pre-FOSTA. When BP went down I didn’t have a single client for 2 months. My savings dwindled and are now completely gone.

“ I lost all my income, lost my clients and was forced to go back to working a 9 to 5 job that is ableist and doesn’t accommodate my disabilities/health issues. Sex work gave me freedom and flexibility before I lost it all.

“ I’m homeless and can’t pay the bills.

“ My income decreased by 58% in the year following FOSTA-SESTA.

“ I used to make enough to be comfortable now I’m always barely scraping by.

“ I feel totally erased.

## Digital Security and Harm Reduction

Sex workers are concerned with their health and safety. Digital security practices can be thought of as harm reduction, just as a worker might take PEP or PREP to mitigate harm, a worker might adopt online digital security methods to stay safer. That being said, tools such as “bad date” lists and digital security methods and techniques are not equally accessible to everyone. People who are working on the streets are often sharing phones, or do not have consistent access to technology or to these tools that many online workers do.



Of those who utilized web-based harm reduction techniques, the most common tools used were sites dedicated to reviewing clients in an effort to flag those that 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 criminalizes. 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.<sup>39</sup> In general, when sex work is criminalized, new clients are often hesitant to provide personal information used to verify their identities.

<sup>39</sup> [survivorsagainstsesta.org/documentation/](https://survivorsagainstsesta.org/documentation/) (visit this site to see a more complete list of websites that have been removed post-FOSTA-SESTA)

Sex workers also utilize several strategies to protect their anonymity from clients and law enforcement.

<p><b>41%</b> of online respondents used a separate phone for sex work.</p>	<p><b>21%</b> of online respondents said they are not able to access harm reduction online that they were in the past.</p>
<p><b>91%</b> of online respondents used some sort of digital security technology. The most common were encrypted email accounts (55%), separate Internet browsers (45%), VPN (33%), multi-factor authentication (41.5%) or encrypted messaging (39.33%)</p>	<p><b>94%</b> of online respondents said they advertise sex work related services using online public platforms and social media.</p>

FOSTA-SESTA has reduced access to online spaces for sex workers, this data illustrates how this increases financial insecurity among already vulnerable populations. This has pushed sex workers into more dangerous working conditions with less financial agency to turn down work.

An internet-based work model has been adopted by sex workers primarily due to the increased potential to create a safer work space. This work model has given sex workers the opportunity to utilize e-verification and create larger and more concise databases for black-listing of violent clients and potential undercover police. It also differs from street based work in terms of how meetings between clients and providers take place. Street based workers must identify clients and discuss logistics quickly to avoid the appearance of soliciting. This leaves little time for workers to assess their safety, discuss what will occur, and agree upon a price. A meeting made online can provide more time to negotiate terms, despite explicit communication about selling sex acts still being illegal.

The loss of income is the most immediate repercussion reported by online workers who now face barriers to working online. Of the online respondents surveyed **78.5%** said that sex work made up the majority of their income, while **47%** said it was their *only* form of income. Of this group **72.5%** reported that they are facing increased financial insecurity after the removal of Backpage and the passage of FOSTA-SESTA. The use of free advertising sites like Backpage, are especially important to those who are already financially insecure, as almost 46% of this group say that they cannot afford to place an ad on sites that charge for advertising.

Barriers that disrupt an online-based work model create an environment where harm reduction techniques that were previously in place become less accessible. Internet based workers still need the income that was lost due to the removal of their online platforms. Working with increased financial insecurity and increased criminalization leads to workers taking greater risks with clients that they previously were able to avoid.<sup>40, 41</sup>

40 (Reed et al. 2010)

41 (Mantsios et al. 2018)

It is worth noting that many clients of sex workers are also aware of the changes in how sex workers operate and may feel emboldened to act more violently knowing that fewer precautions are in place that would prevent their ability to harm or exploit sex work providers. The removal of bad-date lists and the inability for sex workers to communicate negative experiences with one another benefits those who intend to harm those who have little recourse in reporting violence against them.<sup>42</sup> An overwhelming **99%** of online respondents reported that they do not feel safer since FOSTA-SESTA was signed into law.

42 (Thukral and Ditmore 2001)

Of the WCIIA members who were surveyed, **40%** reported seeing an increase in the number of street based sex workers since the removal of Backpage and post FOSTA-SESTA. Since this change in the online landscape of the sex trades, **36%** of online respondents reported facing increased violence, with around **20%** of WCIIA reporting the same. Only **5.25%** of WCIIA respondents reported having consistent access to a personal cell phone over the past year.

Our research suggests that individuals who work online experienced a greater *increase* of violence than those who were already working on the streets after the removal of Backpage and the passage of FOSTA-SESTA. An online-based work model creates distance from the impact of criminalization and the violence of traditional policing. Now, many individuals who utilized the web as a harm reduction working tool no longer benefit from that buffer to violence.

## Police Interactions

**“ All of my worst experiences happened because of the police. [Sex work] is the highest paying job I’ve ever had and it allowed me to raise my children in a safe, middle-class neighborhood.**

**— Online respondent**

The reductive, binary discourse surrounding sex work and sex trafficking has created an environment in which the punitive treatment and surveillance of sex workers by the state is normalized and lauded. The lack of a nuanced conversation on labor has led to environment where the complexities of the lives of those who trade sex are erased. As poverty is one of the most prominent factors that makes an individual vulnerable to trafficking, laws that criminalize sex work increase sex worker’s exposure to violence and exploitative working conditions.

The inherent danger in police interaction has been reported on before. A recent study by the Center for Court Innovation (N=304) showed that **30%** of participants were threatened with violence from a police officer, **27%** were harassed for their gender presentation by police and **15%** were raped by a

police officer (the police did not arrest them in exchange for sex).<sup>43</sup> As the criminalization of sex work is one of the main sources of violence that sex workers encounter, legislative infrastructure that pushes sex workers into more dangerous and more heavily policed working environments is a significant public health risk. An online respondent describes their experience with arrest as,

**“ Severely traumatizing. I have had vice pull guns on me & have had sexual contact with me! I suffer from PTSD from excessive force & arrest.**

Another online respondent said,

**“ The hatred [the police] had for me was inexplicable, they seemed to really enjoy degrading me.”**

7% of online respondents reported having been arrested for sex work related offenses. This is considerably less than the 29% WCCIA respondents who reported having been arrested for sex work related offenses. The WCCIA group were arrested over three times as often while working on the streets. Having this level of increased surveillance greatly impacts how this demographic conducts themselves with customers, as well as increases their risk of violence from police and clients alike. A member of WCIIA describes her experiences of constant interactions with the police, “I’ve gotten into a car with an undercover officer. I’ve been arrested for Compton night walking. I’ve been pulled over after getting into a car. I’ve been arrested walking with a friend when they could not find another reason and was falsely accused.” Another member of WCIIA says, “I wasn’t even getting in a car. I was just walking and detectives walked up behind me and cuffed me. Another time I got in a car with a cop.”

**18.5%** of online respondents have had interactions with police that did not lead to their arrest. An online respondent says that the police “used to ‘verify’ that I wasn’t underage by pretending to be a client, showing up, going through my things and checking everywhere in the hotel room. Sometimes would tell the hotel staff what I did. I’d get kicked out. But would always ‘warn’ me.” Another respondent said, “I’ve provided oral service to a cop that said, ‘not to worry,’ they were not looking for girls like me. They were looking for

drugs, traffickers, pimps. Bittersweet.” A common theme of respondents who have had interactions with the police are fear, anxiety, panic attacks, violence, and PTSD.

Street-based workers and those who have lost access to online spaces are exposed to increased violence as they navigate more heavily policed economies. Our research suggests that an online model of sex work acts as a protective barrier to police violence. Legislation that reduces an individual’s ability to utilize online working tools and increases financial insecurity puts vulnerable workers in closer proximity with police and state violence.

## Community

“ Access to support groups and safety groups which 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.  
—Online respondent

Access to the Internet has been shown to increase mental health outcomes in marginalized and criminalized communities.<sup>44, 45</sup> 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 working tools may now find themselves isolated from their trusted networks and unable to find community members through regular searches. Access to community spaces (both online and offline) have been shown to reduce negative mental health outcomes, stigma, and rates of HIV transmission in sex workers.<sup>46</sup> **97%** of online respondents said that they use the Internet to access the sex worker community. **70%** of this group said that they’ve noticed a difference in how they can access the community online, the vast majority of which noted a decrease in access to sex worker community after FOSTA-SESTA. Those who noted a decrease in their ability to access online sex worker community talked about sex worker and activist organization accounts being shutdown and shadowbanning. Those who noted an increase in their ability to access sex worker community

44 (Lucassen et al. 2018)

45 (Cserni 2015)

46 (Platt et al. 2018);  
(Shannon et al. 2015;  
Deering et al. 2014)

talked about the increased visibility of the sex worker rights movement online.

Many workers describe their relationship with online sex worker community as vital to their safety and a way to stay connected to and financially support the sex worker rights movement.

**“ When I first started FSSW [full-service sex work] if it was not for Tumblr & other sites I would have had absolutely no idea how to screen & stay safe.**

The ability to access harm reduction resources online was a common theme from online respondents on their relationship to sex worker community. One worker summarizes this relationship concisely when they say,

**“ Everything I know about being safe in sex work is because I was able to speak to other sex workers online.**

Other workers mentioned the ability to connect with workers from similar backgrounds. One worker talks about their experience with finding and joining a collective for Indigenous 2 spirit trans sex workers and dancers. They say,

**“ I never knew others existed.**

**70%** of online respondents reported a noticeable difference in how they access sex worker communities online. Many describe the experience of losing access to their communities as chilling, depressing, and erasing. One online respondent says,

**“ Sex workers are disappearing from the Internet. Workers' sites have been taken down, ad sites are hard to comply with and are always changing their rules, Twitter and Instagram are deleting accounts just for being a sex worker.**

Another worker describes their experience after a Facebook support group for sex workers was shut down as depressing. They say,

**“ I was so down since I have zero friends in RL [real life] who do this type of work.**

A few workers talk about how they are noticing a lot of websites getting stricter, with more accounts being shut down, deplatformed, and banned.

One worker describes why they said that their contact with the sex worker community has increased post FOSTA-SESTA and explains that while,

**“ the accessibility might not be there, my need to take the initiative and make those connections sure has [increased].**

Many reported having their accounts deleted or disappeared or being unable to find and connect with their friends after their accounts were deleted. Despite this, **50.5%** of online workers surveyed say that their involvement in sex worker community has increased in some since the law was passed, with some stating that they're more determined than ever to seek out people with similar experiences in order to protect themselves, engage in activism, and look out for their fellow workers. This law has caused irreparable harm, but it has also galvanized online sex workers—many of whom are showing up in the streets to protest despite the risk of these laws. As a community that is in the process of being disappeared online, sex workers are shifting the narrative of sex work and continuing to organize.

Unsure over what is safe to post, many sex workers report a general sense of fear and paranoia around the consequences of their internet presence. The vagueness of this law, 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.

What we witnessed with the surveyed group from WCIIA is that the passing of this law has had very little effect on the lives of street-based sex workers. Even without a formal understanding of what the law does to online platforms, it was evident that for sex workers who don't use the internet there

is nothing within the legal reach of FOSTA-SESTA being done to decrease the vulnerability of street-based and survival sex workers. While this group does employ harm reduction techniques, like bad-date lists and safety calls, these are mostly done on paper, through word of mouth, and with other street workers. This model lacks the permanency and reach of internet based techniques, but has not been affected by FOSTA-SESTA.

**“ [The Internet] allows me to interact and network with other sex workers, to be a part of ugly mug lists, to get a better understanding of the difficulties faced by workers who work in different capacities to me and how I can help them and support them, how I can work to help dismantle whorephobia experienced at different levels in the industry.”**

**“ Whole entire sites have disappeared! Or been changed, or deleted! Forums for sex workers providing safety info, info for screening clients, escort ad sites, etc.**

**“ Less options to connect/access the community and a lot of censorship and accounts being wrongfully deleted from their platforms.**

**“ I'm too afraid to access community online now.**

**“ The Internet is barren of sex workers. Trying to search [for] any information or communities for sex workers results in just articles about busting prostitution.**



“ I feel like more and more sex workers’ accounts are being deleted on Instagram, plus shadowbanning on Twitter has made it harder to search for those who do sex work. They don’t show up directly in the query even if you type in their exact handle.

“ Paranoia about how to do things online is THROUGH THE ROOF and nobody seems to know what is and is not permissible online.

## Financial Technology

<p><b>72%</b> of online respondents reported using financial technologies in their sex work.</p>	<p><b>33%</b> of online respondents said they had been kicked off of a payment processor.</p>
<p><b>78%</b> of WCIIA respondents reported not having access to a bank account.</p>	<p><b>10%</b> of WCIIA respondents reported ever receiving payment from sex work through an online payment processor.</p>

Built into technological advances and financial infrastructure is legal liability. This creates a barrier to accessing technologies for people in heavily policed economies. The inaccessibility of financial technologies acts to further the income gap of folks who are pushed off of the platforms for vague violations of terms of service, for people who lack financial or technological literacy, and for people who may never have had access to these technologies to begin with.

Those who are not able to access common financial technologies or mainstream banking are left to using predatory financial services and payment processors that take between a 30-40% cut of earnings in order to sell their work. This process mirrors the practice of redlining,<sup>47</sup> which was outlawed in 1968.<sup>48</sup> This inequity also creates barriers to financial independence which is crucial to an individual's physical safety. Bardot Smith, a technologist, analyst, and dominatrix describes the impact of online discrimination as a loss of opportunity. She shows how this discrimination "disproportionately affects people at the margins: queer people, people of color, sex workers. It comes down to people they (the platforms) have determined do not deserve access to money."<sup>49</sup>

47 **Redlining** is an unethical practice that puts services (financial and otherwise) out of reach for residents of certain areas based on race or ethnicity. It can be seen in the systematic denial of mortgages, insurance, loans, and other financial services based on location, rather than an individual's qualifications. (definition taken from Investopedia)

When an online sex worker is kicked off of a financial or social platform, they are at risk of losing their means of making money and risk losing access to community. The lack of access to these technologies also creates a barrier between sex workers and civilians when the most recent technological innovations are not equitably accessible.<sup>50</sup>

48 (Blue 2015)

49 (Smith 2019)

50 (Lake & Roux 2018)

Sex workers aren't just at risk of losing accounts related to their sex work. Many sex workers report losing access to non-sex work related accounts and platforms, as they are often linked or share a credit card. Stigma, criminalization and the labeling of sex workers as 'high risk' mean that sex workers can't advertise on mainstream advertising platforms, like using Google Ads. This stigma can also mean that sex workers are blocked from using financial technologies for things unrelated to their sex work just because they have at one time been seen as having sold sex.

Community research found over 29 payment processors and pay apps that explicitly discriminate against sex workers using their platforms in their Terms of Service agreements.<sup>51</sup> **72%** of online respondents reported using an online payment processor. **33%** of online sex workers reported have been kicked off of a payment processor, many of whom said that the platform seized the funds in their account during the closure of their account. Many sex workers suggested that the reasons for their account closure were because of irresponsible memos in the payment app such as "nudes", the use of a public facing work e-mail that may be on a list, a client reporting an account or a chargeback after rendering services.

51 (Lake & Roux 2018)

“ [I was kicked off of] 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.

“ [I was kicked off of] Venmo, they said I was using it to ‘sell services or gambling’ but I was using it to accept donations when I was homeless the first time... It happened about December 2017.

“ PayPal booted me about 10 years ago, I was unable to recover ~\$400 from my account.

## Shadowbanning

While our research was not explicitly about shadowbanning, many online respondents brought up shadowbanning in their answers to qualitative questions. Many platforms explicitly ban adult content and sex worker use, some utilize what they refer to as algorithmic curation in a way that causes harm through more opaque practices. When this algorithmic curation is applied in a way that invisibilizes a community, this practice is colloquially referred to by users as “shadowbanning.”<sup>52</sup> Many people, sex workers included, use social media to build a brand and to create an income. Hashtags and viral posts have the power to shift discourse in the public,<sup>53</sup> but in many instances, these tools do not work the same for sex workers. The architecture of digital spaces dictates who can find whom, and shadowbanning ensures that sex workers are unable to find each other: If you are unable to find someone, you are unable to build community with them,<sup>54</sup> and if you are unable to build community, you are unable to organize and fight back against harmful laws. It is important to note here that shadowbanning was occurring before FOSTA-SESTA, while many online respondents reported increased shadowbanning, shadowbanning cannot not be directly attributed to FOSTA-SESTA, but rather should be seen as a part of an increasing and overarching whorephobic online landscape.

<sup>52</sup> **Shadowbanning** is an obfuscated, internal process that prevents certain accounts from showing up in a feed, or prevents their handle from being searchable, and is routinely used on sex worker accounts, or those thought to be sex workers, while simultaneously being denied by tech companies.

<sup>53</sup> (Lake & Roux 2018)

<sup>54</sup> (Tufekci 2017)

Shadowbanning can prevent sex workers from participating meaningfully on social media. The obfuscated nature of shadowbanning and the fact that the platforms deny that it is happening, though they do admit they do that they prioritize the visibility of certain content. This leads to an environment where sex workers are simultaneously being erased from public spaces and their experiences of erasure are being ignored. The invisibilized practice of shadowbanning allows for the active silencing of a community without the platform having to lose valuable ad revenue. Due to the denial and obfuscation of these practices, it is difficult to hold platforms responsible for the violence of erasing marginalized voices, whereas the outright banning of sex worker accounts creates a space for a more visible protest.

Sex workers who use social media to connect with community or share harm reduction working tools, may find themselves isolated from their trusted networks and unable to find community through regular searches. Sex workers at a porn conference reported an interruption in their ability to network and make connections as 90% of their colleagues were unsearchable due to shadowbanning.<sup>55</sup>

55 (Fitzgerald & Sage 2019)

## Quotes on Shadowbanning

**“ I feel like more and more sex workers’ accounts are being deleted on Instagram, plus shadowbanning on Twitter has made it harder to search for those who do sex work. They don’t show up directly in the query even if you type in their exact handle.**

**“ Accounts are being deleted so quickly and without warning that sometimes a friend just \*poof\* and I never hear from them again, sometimes the one place I know how to reach them goes silent and I am only left to assume what happened.**

**“ With people getting shadowbanned or deleted, a lot of who I followed are just GONE. Resources that were typed or infographic? GONE.**

# Discussion & Recommendations

FOSTA-SESTA led to a chilling effect in the community. This chilling effect acts as another form of violence. In a research study conducted by the Internet Policy Review, it was found that **75%** of respondents were “much less likely” to post after receiving a personal legal threat from a third party in regards to online activity. It is notable that female Internet users were significantly more likely to have their speech chilled online in response to legal notices being issued.<sup>56</sup> This indicates that those experiencing one or multiple intersecting forms of oppression are more likely to have their speech chilled online and be wary of sharing their experiences, connecting with community and sharing and receiving harm reduction tips. This means that the resources sex workers use to stay safe are not only disappearing from the Internet, but sex workers are deciding that sharing them may be too dangerous; and their speech is chilled. This is the work of the authoritarian state.

56 (Penney 2017)

**Chilling effect** is a term in law and communication that describes a situation where speech or conduct is suppressed by fear of penalization at the interests of an individual or group. It can affect one’s free speech.

—USLegal.com

This chilling effect parallels the ways in which sex work is policed on the streets and the violence that ensues, and the communities that are most affected by this criminalization. In some cities, condoms have been used as evidence of prostitution in transphobic and racist policing tactics that selectively use this strategy to arrest people.<sup>57</sup> This has led to sex workers choosing not to carry condoms because

57 (Wurth et al. 2013)

58 (Siouxie 2018)

59 (Romano 2018)

60 (Romano, et al. 2015)

having less access to safer sex tools was less risky than increased exposure to the police. Many individuals and harm reduction organizations feel a similar chilling effect when it comes to sharing harm-reduction working tips or providing safety and check-ins with fellow workers.<sup>58</sup> Sex workers and allies have faced jail time for assisting a sex worker under trafficking laws,<sup>59</sup> when 47% of black trans women have traded sex,<sup>60</sup> this punitive sentencing of queer survival creates unnecessary fear and self-censorship in community. Self-policing creates a barrier from harm reduction working tools and serves as another form of violence that sex workers face.

The criminalization of sex work remains a main catalyst of harm incurred against people in the sex trades. Repressive policing practices make sex workers more vulnerable to violence from the state, clients, and partners. There is no evidence that FOSTA-SESTA has curbed trafficking. Instead, our research suggests the opposite; that FOSTA-SESTA has created an environment where vulnerable populations are pushed into increased financial insecurity, making them more vulnerable to labor exploitation, and labor trafficking in the sex industry is pushed further underground. Just as sex workers warned, our research suggests that FOSTA-SESTA has increased sex workers exposure to violence while doing nothing to combat trafficking.

## Limitations

The primary survey consisted of largely open ended questions, and was disseminated online through sites frequented by sex workers. It was completed by predominantly white, female, LGBTQIA identifying people, with the central age group being between 24 and 35. This is a limitation of the convenience sampling strategy employed, given that this doesn't necessarily reflect the racial, ethnic, or gendered breakdown of the full range of people who trade sex. Participants were mainly located in the United States, though some travelled internationally for work. Those outside of the US reported still feeling the effects of FOSTA-SESTA, as many websites they used were hosted within the United States. In order to complete the survey or to find it via the web, individuals who wound up taking the survey had to have some sort of access to Internet infrastructure.

In order to fill some of the demographic gaps in the initial survey, we also employed a secondary survey to a group of street based sex workers at a meeting of WCIIA, a Holyoke, MA based outreach group. The data from these surveys is largely inconclusive due to smaller sample size, a lack of completed surveys, and a demonstrated lack of understanding on the part of many participants on what FOSTA-SESTA is. The questionnaire distributed to the WCIIA participants was similar to the one taken by the online participants, but with input from WCIIA organizers many questions were added or reworded to gain greater understanding of issues more relevant to this group. As suggested by WCIIA organizers who reviewed this data, it is highly possible that police and system interactions were under-reported and

usage of certain apps and internet based techniques may be exaggerated or misunderstood. It is for these reasons that this survey was not the subject of our primary analysis, but supplementary data used to illustrate gaps in the reach of FOSTA-SESTA.

One of the difficulties that we faced while analyzing this data was that it was difficult to distinguish what is a direct effect of FOSTA-SESTA and what is a response to a greater, overarching whorephobic landscape. While online sex workers show a decent understanding of FOSTA-SESTA, we also saw an over attribution of effects in the online landscape to this law. For example, many people, sex workers and policy makers included, believed that the take down of Backpage was related to FOSTA-SESTA, when it was in fact taken down days before FOSTA-SESTA was signed into law. Another example of this is the shadowbanning and deplatforming of sex workers which seems to be increasing post FOSTA-SESTA, but has been happening for years.<sup>61</sup>

We suggest that future research focuses on access to the internet from a holistic sense, as it becomes difficult to differentiate the harm caused by specific laws or the removal of websites when they are happening as part of a larger whorephobic online ecosystem.

61 (Beres 2016)

## **Recommendations and Relevancy**

Our research suggests that many sex workers use online platforms and technologies to work safer and build community. Any legislation or policy that hinders an individual's use of a certain technology they use to reduce harm will only exacerbate harm. There is no evidence that FOSTA-SESTA has done anything to prevent sexual labor exploitation. Our research shows that this law has actually put people in more precarious financial situations that actually make individuals more vulnerable to trafficking, as well as decreasing access to previously established channels of communication used to protect sex workers against violence.

# Platform Suggestions

Barring sex workers from financial technologies and social media is a form of structural violence. When a private company owns what operates like a public space that is larger than the largest country in the world, relying on content moderation alone is an insurmountable task, one that often relies on the exploited, underpaid, and incredible traumatizing labor of workers.<sup>62</sup>

62 (Newton 2019)

The restricted access to certain technologies and particular websites occurs alongside enhanced monitoring, surveillance, and dubious human trafficking trainings by corporations from Uber to PayPal. This restriction, surveillance, and inequitable access to technology contributes to sex worker harm and marginalization. Legislation like FOSTA-SESTA should be seen in context, in an ongoing history of laws and regulations that utilize technology to give rise to new kinds of public-private partnerships and police women. The collaboration between the state, private tech companies, and the use of community as the eyes and the ears of police fuels surveillance capitalism.<sup>63</sup> This is most apparent with the policing of migrant communities and sex workers.<sup>64, 65</sup>

63 **Surveillance capitalism**, a term popularized by Shoshana Zuboff, is used to describe the surveillance surrounding the capitalization of personal information.

64 (Khan, n.d.)

65 (Cyril, 2015)

66 (Gillespie 2018)

67 (Piper 2018)

Algorithmic curation is now largely an automated process based on image and content analysis as well as flagged and reported content.<sup>66</sup> Oftentimes, this curation means that the misogyny of the user is reflected back by the authority of the platform and its moderators. Hashtags like #woman, #curvy, and #breastfeeding have been shadowbanned, indicating that that which is perceived as the feminine form is inextricable from *sexual content*, therefore problematized and removed from visibility on the platform.<sup>67</sup> These practices harm an individual's ability to take up public space, advertise their services, and connect with community; in these instances woman becomes a proxy for *whore*. Shadowbanning also silences workers and contributes to an echo chamber of anti-trafficking propaganda when sex workers are disabled from sharing their experiences widely on public platforms.

Shadowbanning and content curation can drown out the visibility of activist messages in favor of advertiser-friendly content.<sup>68</sup> This creates echo chambers, increasing polarization, and the erasure of voices of the people who are harmed by the platform and by the state.

68 (Tufekci 2017)



Similar to how sex workers face myriad barriers if they decide to report violence to police,<sup>69</sup> social media and financial platform moderators are equally unresponsive to reports of violence against sex workers online and when sex workers lose their accounts.<sup>70</sup> Platforms are more responsive to banning sex workers than they are to responding to Nazis.<sup>71</sup> Typically, platforms only respond to, or do not ban, financially stable white women with large followings, oftentimes celebrities who can have a representative from the platform.<sup>72</sup><sup>73</sup> Often, a male photographer posting a suggestive photo of a woman won't be taken down, but if the subject posts the same image of herself, she may be banned or have her photo removed.<sup>74</sup> This is also how the Internet stays gentrified: sexuality is allowed if it's supported by privilege, mediated by a man, or directly making a platform money.<sup>75</sup>

69 (Young Women's Empowerment Project 2012)

70 (Gil n.d.)

71 (Farokhmanesh 2018)

72 (Cole 2019)

73 (Fitzsimmons 2019)

74 (@RienzoKennedy 2 May 2019. 2:52 PM)

75 (@RienzoKennedy)

Sex worker exclusive technologies, platform policing, and anti-sex work legislation push people into circumstances that make them more vulnerable to labor exploitation and labor trafficking. The silencing of sex worker opposition and the fearmongering surrounding trafficking push legislation that actually exacerbates the harms.

## More User Choice

Users should be able to curate their feed and be offered more choice in the process. Platforms shouldn't be the ones dictating what is indecent. The current rules and processes of content moderation are easily weaponized by trolls to harass marginalized communities. If Instagram can lock you out of a device, why can't a user block an IP Address or device that someone is using to make new accounts with to harass, stalk, or send death threats? Why are we leaving the decision of what people see up to the platform rather than the user? If an individual reports someone's post, the reported person should have the option to block that person (and their IP address) to avoid potential future harassment or viewing of unwanted materials. Likewise, if someone is harassing a user they should have the option to block a device, not just a handle.

## Sex Worker Inclusion

The inclusion of sex workers in the development of technology needs to be thought of as a diversity issue. Academics, journalists, legislators, and people who create technology should not build it without consulting the communities that are most affected by their creations.

Sex workers often live at the intersection of multiple marginalized identities and are the most immediately harmed by insecure and censored technology; if we create technology that is safe for sex workers, we've likely created technology that is safe for everyone.

By listening to these communities, we will be able to learn first-hand how they are impacted by emerging technologies and involve them in putting precautions in place to avoid negative social and health outcomes. The only way to ensure that new and emerging technologies don't harm vulnerable communities is by listening to the communities who are most impacted by poorly designed technology, legislation, and infrastructure.

**If we create technology that is safe for sex workers, we've likely created technology that is safe for everyone.**

## Policy Recommendations

The decriminalization of sex work and repeal of FOSTA-SESTA are our foremost recommendations. Without fear of prosecution, those who enter the sex trades within any part of the spectrum between choice and force, are more likely to report violence and exploitation. Currently seeking any legal recourse or aid after experiencing trafficking puts victims at risk of police violence, deportation, and incarceration, regardless of their choice to participate in the sex industry.<sup>76</sup> In order to identify and eradicate these complex and clandestine forms of exploitation we must first ensure that victims are willing and able to speak openly about their experiences without fear of punishment. Legislation pushing the sex industry further underground has not made sex trafficking any easier to stop, and has done nothing to even attempt to address the various forms of trafficking that do not happen on the internet.

76 (Marsh 2019)

Trafficking is more complex than the simplified narratives popular in our culture, and it has been estimated by some to happen more frequently outside

the sex industry than within it.<sup>77,78,79</sup> In order to responsibly and equitably address the loss of autonomy and exposure to various forms of violence that makes human trafficking so abhorant, we must include labor trafficking in the discussion around human trafficking as whole. This discussion should include that those being trafficked for their labor are also vulnerable to sexual and structural violence, and support policies that strengthen the agency of exploited people. The voices and experiences of those who have experienced violence and labor exploitation should be the ones dictating what protections should be in place to prevent trafficking.

77 (Lee 2019)

78 (Albright and D'Adamo 2017)

79 (Lind 2014)

Furthermore, additional and more easily accessible aid is needed for those living in poverty, domestic violence situations, and those with undocumented citizenship and chronic health issues.

## **Decriminalize. Decarcerate. Destigmatize.**

**Decriminalize** sex trade related offenses in New York that harm people who do sexual labor by choice, circumstance, or coercion, including sex workers and people profiled as sex workers, as well as people who purchase sexual services. Pass legislation and implement administrative policies that protect people in the sex trades from economic exploitation as well as interpersonal violence.

**Decarcerate** people who have been arrested on sex trade-related offenses so that people can move forward with their lives without lingering ties to the criminal legal system. Vacate criminal records related to prostitution and end the ongoing entanglement with the court system that the rescue industry produces.

**Destigmatize** the sex trade so that workers have access to housing, education, employment, health care, and other basic needs without restriction. Not everyone trading sex wants to continue doing so and we support evidence-based, harm reduction-rooted policies and funding that supports people's safety and empowers those seeking different work.

—Taken from *DecrimNY.com*

## Further Research

We encourage further research to explore the ways that sex work is mediated by technology and how technology is used both as a facilitator and disruptor of sex work. Tech alters the way that people work and organize in all labor sectors, yet in most research on how tech shapes labor, sex workers are left out of the conversation. In Data & Society's recent anthropological report, *Disruption: How Tech Shapes Labor Across Domestic Work & Ridehailing*, despite sex workers being some of the first to theorize about how tech shapes domestic labor,<sup>80</sup> they are very conspicuously left out of the report. Further research on the gig-economy needs to include and center sex worker voices.

80 (Smith 2015)

In December of 2019 Representative Ro Khanna introduced a bill along with Senator Elizabeth Warren to study the effects of FOSTA-SESTA, specifically on the sex working community. This bill was created with the input of the sex working community, including over 70 grassroots and non-profit LGBTQAI organizations. Kate D'Adamo, a sex worker rights activist and partner at Reframe Health and Justice says, "The bill was written intentionally to not just replicate what was happening on the ground, but to use a lens of public health and harm reduction to contribute and re-affirm the valuable, robust community knowledge which already exists." This work will undoubtedly be impactful if researchers take this expertise seriously, and incorporate people with lived experience in the design, research, analysis and advisory of this work. While more expansive information will be helpful moving forward, policy makers should not wait to include sex workers' voices and expertise in the development of policies and conversations on internet and surveillance technology regulation. Research on health and safety often confirms that communities know first, and listening sooner rather than waiting on everyone else to catch up will save lives.

Further research into the complexities of human trafficking should also be directed toward better understanding and codifying how trafficking happens, without the notion that all sex work is inherently trafficking. The attribution of explicit force on those who do not claim to experience that type of exploitation has wasted resources, endangered sex workers and trafficking victims alike, and only created confusion about how trafficking is happening and how frequently. The perception of trafficking should also be informed by

the knowledge that exploitation happens more frequently to those who live within complex situations of immigration, intimate partner violence, poverty, disability, and various other axes of oppression. Without providing recourse specific to these situations, those who face exploitation may find it safer to remain quiet about the various other abuses they suffer.

Those who have worked in the sex trades are the experts of their own experiences. Research into these communities should have a participatory approach, or at least employ a community advisory board of people with a variety of experiences in the sex trades. The simplest and most successful approach to understanding the complexities and nuances of these communities is to employ sex workers to do research on the sex industry, or as the long-standing advocacy slogan says; Nothing about us without us.

**Employ sex workers  
to do research.**

# Conclusion

Lawmakers said that this bill was about “protecting” those vulnerable to sex trafficking. But our research suggests just what sex workers warned; FOSTA-SESTA actually makes individuals more vulnerable to human trafficking and exploitation. This research has just begun to highlight the devastating impact of FOSTA-SESTA. These bills directly harm individuals engaging in sex work, many who live at the intersection of marginalized identities and may have limited access to other sources of income, while providing no concrete form of help to those already in exploitative or violent situations. FOSTA-SESTA has exacerbated poverty and increased exposure to violence in the already marginalized communities who use the internet as a tool to gain financial independence in a safer way.

**Denying access to technologies should be understood not only as censorship, but as a form of structural violence.**

The current legal changes of FOSTA-SESTA alter the structure of the web, disproportionately harming the physical safety and mental health of already vulnerable communities who have most benefited from using an internet based work model. The Internet is now being policed with tactics akin to those used for ‘cleaning up’ sex workers from public view. Creating barriers for sex workers to access resources is not something that is new; FOSTA-SESTA has just created an infrastructural precedent to expedite the process.

Comparing our initial data of online workers with that of WCIIA, shows that those who are already being heavily policed on the streets do not feel the same immediate effects of FOSTA-SESTA. The street-based respondents from WCIIA already exist in a more heavily criminalized and policed economy. What FOSTA-SESTA did was push workers who had access to harm reduction working tools into less safe work environments, increasing their financial insecurity and exposure to violence.

Denying access to technologies should be understood not only as censorship, but as a form of structural violence. FOSTA-SESTA’s fallout illustrates what happens when a fragile network meets the blunt force of the law. The result is stigma, isolation, poverty, and further entrenching inequality.

Technology has permitted some groups, particularly early adopters like sex workers, to move faster than the law; what we are seeing now is the violent backlash. Access to technology, Internet infrastructure, and social media platforms have allowed sex work to come out of more dangerous and exploitative labor environments. Sex workers use the Internet as a harm reduction working tool by negotiating and screening for potentially violent clients on their own terms. FOSTA-SESTA, the removal of Backpage's adult services sections, and an environment of Internet censorship threaten the protective elements offered by a model of sex work mediated by the Internet.

We are living in a society that is systematically silencing marginalized voices. Legislation like FOSTA-SESTA encourages platforms to contribute to this silencing through erasing sex worker existence from the Internet. There is tremendous fear in the community as sex workers try to comply with and work around rules that aren't always apparent, and rules that are often enforced differently for different people. People are losing access to work and are less able to support themselves and their families. Increased financial insecurity, increased exposure to violence, lack of access to community resources, inability to find work, and increased feelings of fear and anxiety are a few very visible effects of FOSTA-SESTA.

**For more information visit  
[HackingHustling.org](http://HackingHustling.org)**





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