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DATA BATTLES, PLATFORM SHUTDOWNS, AND DIGITAL RIGHTS IN SURVEILLANCE: LABOR POLITICS IN THE ONLINE SEX INDUSTRY

WINIFRED R. POSTER*

ABSTRACT

Sex workers are often portrayed as groups with little authority over their jobs. But lately they are making much use of online spaces, both large scale public-facing platforms and their own smaller websites. Taking a deeper ethnographic look into their online activities, I recount a story of highly adept, technologically proficient, and expert digital navigation by sex workers online.

The analysis follows the trajectory of platforms in the online sex industry over the last two decades. First it charts the rise of platforms for matching, reviewing, and identity verification, many of which developed roughly around the 2000s, and their impact in reconfiguring the online labor of sex workers. Then it outlines events unfolding in the mid-2010s, when the state responded to this trend with legislation like SESTA-FOSTA, the Stop Enabling Sex Traffickers Act, and the Fight Online Sex Trafficking Act.

Representing a departure from previous strategies regarding the sex industry, these state policies embark on a battle for control over data. They identify platforms as the main source of the problem and turn to solutions of simply taking them down. I will argue that this strategy fails to address the broader structural conditions which draw people into online sex work. It also fails to recognize the ways that workers and other groups use platforms, and the kinds of surveillance they practice through them.

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INTRODUCTION

A few years ago, if you clicked on the web link for “St. Louis Auto Specialists” or typed the acronym “STLASP” in your search engine, you would have been directed to a page that has nothing to do with cars. Instead, you would be bumped to a website for sex work called “St. Louis Adult Service Providers.” This would not be a mistake. It would be a deliberate strategy by sex workers. They do it—with the cooperation of their clients—to conceal the website from the wider public and especially the police. And it is not their only trick. This paper uncovers the many digital agencies that sex workers use to navigate their economic and even corporeal power online.

Sex workers are often portrayed as groups with little authority over their jobs. But lately they are making much use of online spaces, both large scale public-facing platforms, and their own smaller websites—like STLASP. Taking a deeper ethnographic look into their online activities, I recount a story of highly adept, technologically proficient, and expert digital navigation by sex workers online. Through sites like STLASP, they not only partake in trickery and concealment (as in the above example), but also in active surveillance.

Platformization of sex work is a key subcurrent for this trend. These sites provide forums for matching, reviewing, and identity verification specifically for the sex industry. Some have recognizable names like Craigslist, while others are specialized like STLASP. This growth in platforms has generated, among other things, a wider field for workers to have an online presence.

With an ethnographic lens on the micro-practices of online behavior, I show how surveillance is now a regular activity within the platforms. Rather than the expected top-down dynamic of surveillance exclusively in the hands of platform administrators, *many groups* are observing each other on these sites. They are doing so for the purposes of collecting information, but also for concealment and altering their identities. Workers, in particular, are gaining agency through vetting, reviewing, and partnering with others in the mutual surveillance of common adversaries.

Branching out from the case of STLASP, I use St. Louis, Missouri, as a context to study these dynamics. This region has a particularly active set of groups who are invested in sex workers and sex trafficking. It has also played a role in national legislation on these issues.

The analysis moves through the last two decades to provide a glimpse of the trajectory of platforms in the online sex industry. First it charts the rise of platforms, many of which developed roughly around the 2000s, and how they reconfigured the online labor of sex workers. Then it outlines events unfolding in the mid-2010s, when the state responded with legislation like SESTA-FOSTA, the Stop Enabling Sex Traffickers Act, and the Fight Online Sex Trafficking Act.

Here, platformization of sex work has reshaped state policy as well. In a shift from previous strategies regarding the sex industry, the state embarked on a battle for control over data. And because it posited that platforms are the main source of the problem, the solutions veered towards simply taking them down. I will argue that this strategy does little to address the underlying problems for sex workers and trafficking survivors. Nor does it acknowledge or take advantage of their digital agencies for empowerment—like the development of their own platforms, and the kinds of surveillance they practice through them.

I. THEORIZING PLATFORMS, SURVEILLANCE, AND LABOR

Platforms are third-party firms that provide a digital interface for groups to interact online. Through a website, app, etc., platforms provide the infrastructure for many kinds of digital service exchanges.¹ Plus, they do much more. They facilitate the economic transactions of other groups, and they mediate the relations between those groups. They often act as go-betweens in the labor process, connecting workers and employers. Much scholarship is documenting how platforms are regulating labor relationships for the digital economy—for drivers, housecleaners, food delivery workers, and many more.²

Here, I extend the scope to examine how this is happening with sex work as well. This analysis focuses on three types of platforms commonly used in the sex industry: *matching* sites, which connect workers and clients through classified ads and adult services postings; *reviewing* sites, which provide ratings and descriptions of the service; and *verification* sites, which do background checks, and confirm the identities of clients and workers. Some are run directly by the participants of sex work; others are run by third parties.

Yet while platforms are sites of economic exchange, they are also sites of surveillance. In the course of interacting on the site, users may be asked for private information (like email addresses, etc.) and evidence of their habits and tastes (through what they post, click, or “like”). Given the high price of data in the information economy,³ surveillance is often done by the owners in the interests of profit.

Murakami Wood and Monahan rightly merge the literatures on platforms and surveillance, in order to ground this practice beyond the logics of capitalism.⁴ They emphasize wider systems of informational control and data

1. NICK SRNICEK, PLATFORM CAPITALISM 43 (2016).

2. TREBOR SCHOLZ, UBERWORKED AND UNDERPAID: HOW WORKERS ARE DISRUPTING THE DIGITAL ECONOMY 15 (2017).

3. Tiziana Terranova, *New Economy, Financialization and Social Production in the Web 2.0*, in CRISIS IN THE GLOBAL ECONOMY 153–70, 155 (Andrea Fumagalli & Sandro Mezzadra eds., 2010).

4. David Wood & Torin Monahan, *Editorial: Platform Surveillance*, 17 SURVEILL. & SOC. 1, 1 (2019).

exploitation that are also at play. Kahn gives examples from the sex industry.⁵ When criminal justice institutions surveille workers, this can be refracted to clients as part of the punitive data regime against lower class and ethnic minority men.

If platforms spy on users, what about the ways people use these sites to spy on each other? Consumers, as I have shown elsewhere, monitor each other through many common platforms like Uber and Airbnb.⁶ They conduct racialized surveillance of names, accents, body types, and locations. Riders may discriminate against drivers based on the ethnicity of their names, and renters may discriminate against housing sites based on racialized notions of geography.

Platforms, it seems, do not only practice surveillance directly. They enable others to do it. This recasts our taken-for-granted meanings of platform surveillance. It is not only about the site and its administrators who surveille users, it is about the various groups of users who observe each other.

A. *Conceptualizing Multi-Surveillance*

Through my research in the digital service industry, I have been arguing for a better understanding of surveillances as a plurality, and how they are interconnected within particular contexts.⁷

I refer to this as multi-surveillance. Rather than singling out one group of observers in a particular ecosystem, this framework accounts for various watchers. In the online sex industry, this would include the clients (i.e., the “johns” or buyers of sex), the workers, and of course, the platforms. But it also includes the local police, FBI agents, state and national lawmakers, etc. And it includes citizen-activists, health care advocates, social workers, researchers, computer scientists, etc.

This framework considers surveillance as a *mobilizing strategy*. It is a social movement tactic used to influence and manage the behaviors of other groups. Different actors may adopt it as a tool, from many social positions and locations. This does not mean their actions are equally effective, or even nearly so. But it

5. Ummni Khan, *Antiprostitution Feminism and the Surveillance of Sex Industry Clients*, in *FEMINIST SURVEILLANCE STUDIES* 189–207, 189 (Rachel E. Dubrofsky & Shoshana Amielle Magnet eds., 2015).

6. Winifred R. Poster, *Racialized Surveillance in the Digital Service Economy*, in *CAPTIVATING TECHNOLOGY: RACE, TECHNOSCIENCE, AND THE CARCERAL IMAGINATION* 133–69 (Ruha Benjamin ed., 2019).

7. Winifred R. Poster, *Emotion Detectors, Answering Machines and E-Unions: Multisurveillances in the Global Interactive Services Industry*, 55 *AM. BEHAV. SCI.* 868, 878 (2011); Winifred R. Poster, *Close Watch of a Distant Manager: Multisurveillance by Transnational Clients in Indian Call Centres*, in *MACHINES AND HUMANS AT WORK: MONITORING, SURVEILLANCE AND AUTOMATION IN CONTEMPORARY CAPITALISM* 151–80, 153 (Phoebe Moore, Martin Upchurch, & Xanthe Whittaker eds., 2017).

also means that the surveillance activities by low status groups are not insignificant.

Surveillance in this conceptualization is more than just the act of spying. It involves several additional behaviors online that enable or extend the act of watching. These include: *monitoring activities* (observing what other groups say and do); *information gathering* (acquiring and collecting information, utilizing vetting and reviewing systems, storing the results in databases); *manipulating identity* (cloaking identities, or alternatively unmasking them, posing as others, and creating fake identities); and *partnering* with other groups to do surveillance, sometimes shifting the gazes in the process.

Many of these activities are done for obfuscation,⁸ and evasion.⁹ Marginalized groups manipulate online information for the purpose of refusal, noncompliance, interference, and protesting the data collection by elites. These are digital forms of what Scott called “weapons of the weak.”¹⁰ However, my analysis reflects on a wider and more complicated picture of how these strategies are used. It shows how *elites* in the online sex industry are adopting these techniques as well. Obfuscation tools are not *only* tools for the weak, which means we have to be vigilant of how various groups are using them.

In this model, therefore, surveillance is a *collective* activity by groups. This includes workers. So, while my analysis considers the activities of many stakeholders in the online sex industry, I am particularly concerned with implications for workers. The aim is to uncover their digital agencies in a context where they are said to be passive or have little power.

B. *St Louis, Missouri, as a Prism for Digital Politics of the Sex Industry*

The state of Missouri in the US has gained notoriety for its active sex industries. Missouri is listed 14th (among US states) for number of calls to the National Human Trafficking Hotline.¹¹ St. Louis has made the FBI’s top 20 list of major cities for trafficking.¹² It is also number one in the country for strip-

8. FINN BRUNTON & HELEN NISSENBAUM, OBFUSCATION: A USER’S GUIDE FOR PRIVACY AND PROTEST 46 (2015).

9. Janet Vertesi, *How Evasion Matters: Implications from Surfacing Data Tracking Online*, 1 INTERFACE 1, 10 (2015).

10. JAMES C. SCOTT, WEAPONS OF THE WEAK: EVERYDAY FORMS OF PEASANT RESISTANCE 350 (2008).

11. Alexandra Sharp, *From slavery to solace: One sex trafficking survivor shares her journey to freedom*, VOX MAG. (Apr. 9, 2020), https://www.voxmagazine.com/magazine/missouri-sex-trafficking/article_7632f5d8-76bc-11ea-a55a-fb126880c47b.html. [<https://perma.cc/AJ54-9ZSX>].

12. Nancy Cambria, *A New App Created in St. Louis Aims to Track Down Pimps and Victims of Sex Trafficking*, ST LOUIS POST-DISPATCH (June 22, 2016), https://www.stltoday.com/news/local/crime-and-courts/a-new-app-created-in-st-louis-aims-to-track-down-pimps-and-victims-of/article_984efb3b-8ee1-5f98-94d7-96afeefa5af0.html. [<https://perma.cc/F6UM-ZZ3B>].

clubs per capita.¹³ It has a ripe mixture of factors to make this conducive. Geography is one. Missouri's location in the middle of the country is convenient for traffickers. The Midwest is an "epicenter," as one observer describes, with an "intersection of federal interstates that easily transport victims through a circuit that can span all the major cities in just a week." And these "interstates and rail lines are optimum for traffickers to move victims to nearby cities for weekends."¹⁴ Along with this, much of the state and the city of St. Louis in particular is afflicted with high poverty rates, low wages, severe residential segregation, etc., all factors which enable traffickers to prey on vulnerable teenagers.¹⁵

At the same time, Missouri also has an especially active community *fighting* sex industries and trafficking. It is among a limited number of cities nationwide (42 total) with a sex trafficking task force.¹⁶ This is likely grounded in the state's unusually broad-based coalition of anti-trafficking groups. Take the politicians, for instance. Even though the state government is overwhelmingly conservative, policy-makers on the left and right converge over this issue. In addition, sex trafficking is a topic that has attracted religious groups from across the spectrum. St. Louis is a highly religious city, and the site of national conventions and headquarters for many groups. So while scholars have noted how the Christian right is often drawn to anti-trafficking politics as part of a "moral crusade,"¹⁷ the reach of this paradigm extends further here. Anti-trafficking events that I have attended included representatives from Jewish, Christian, Catholic, and Muslim communities. This issue has appeal across many faiths.

St. Louis is also marked by a fairly active tech scene, which is helping to launch various groups concerned about the sex industry to go online. It is the origin of a few tech celebrities, like Twitter co-founder Jack Dorsey, and Square payment app co-founder Jim McKelvey. St. Louis was on Forbes' list of "top ten rising cities for startups" in 2018.¹⁸ The Midwest and South, in fact, are named by some media sites as the fastest growing tech scenes in the country. This is for their low cost of living, but also for their network approach. Instead

13. Andrea J. Nichols & Erin C. Heil, *Challenges to Identifying and Prosecuting Sex Trafficking Cases in the Midwest United States*, 10 FEM. CRIMINOL. 1, 9 (2015).

14. Mark Guarino, *A Dark Business in the Heartland*, MEDIUM (Jan. 17, 2018), <https://medium.com/@markguarino10/human-trafficking-in-the-midwest-54ed9f8ea7a3>. [<https://perma.cc/LJ39-LJ38>].

15. ANDREA J. NICHOLS, *SEX TRAFFICKING IN THE UNITED STATES: THEORY, RESEARCH, POLICY, AND PRACTICE* 85 (2016).

16. Nichols and Heil, *supra* note 13, at 15.

17. Ronald Weitzer, *The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade*, 35 POL. & SOC'Y. 447, 461–68 (2007).

18. Kurt Badenhausen, *The Top 10 Rising Cities For Startups*, FORBES (Oct. 1, 2018), <https://www.forbes.com/sites/kurtbadenhausen/2018/10/01/the-top-10-rising-cities-for-startups/#4722f8dc6b37>. [<https://perma.cc/XJ5H-D55V>].

of decentralized entrepreneurial silos,¹⁹ St. Louis has a formative number of co-working spaces, tech incubators, venture capital firms, and partnerships between the state, private sector, and universities.

This has implications for expanding the online activities of regular people—including those who participate in the sex industry and those who are fighting it—as I will show. It has led to a plethora of home-grown apps, websites, and platforms by entrepreneurs and workers, as in the case of STLASP. Likewise, this tech culture has ushered many local anti-trafficking advocates online for surveilling and tracking down the participants (pimps, traffickers, survivors, etc.).

Thus, my research is anchored in this location as a way of grounding the discussion in local politics, while interconnecting it with national conversations on sex work. I draw from several years of ethnographic research in the region. This includes interviews with former sex workers, FBI agents, health advocates, social workers, researchers, and computer scientists. I also observed a variety of websites and platforms for the sex industry, like Craigslist, Backpage, The Erotic Review, and Preferred 411, as well as those for sex worker rights, like SWOP and SAAFE. And I attended events of local groups like the Human Trafficking Collaborative Network in St. Louis, and research conferences on Artificial Intelligence and Trafficking in Washington DC.

As a note on definitions, sex work typically involves performing sex acts for money. In online contexts, it may also include a range of visual activities like webcamming, pornography, etc. There are crossovers between sex work and sex trafficking, as their activities appear on the same online platforms at times. However, some of what I talk about in this article refers more to independent sex workers, than those working for a pimp or under explicitly coerced situations. These independent workers are able to advance their own interests on sites like reviewing and matching platforms. Trafficking, in contrast, is not only explicitly coerced by a third party, but often involves the movements of workers across state or national lines. It's important to note as well that while sex industries involve women, they also include men, transgender, and nonbinary individuals.

II. THREE PLATFORMS OF SURVEILLANCE

The sections below describe the three types of platforms—matching, reviewing, and verification—and what they reveal about surveillances in the online sex industry. This is followed by a discussion of the US state and legal responses, and what they show about the problems of easy solutions in a platform-driven industry. The final section discusses how workers resist, and the

19. Alexi Harding, *Austin and St. Louis Startups Show You Don't Need the Coasts to Succeed*, VENTURE BEAT (Aug. 25, 2017), <https://venturebeat.com/2017/08/25/austin-and-st-louis-startups-show-you-dont-need-the-coasts-to-succeed/>. [<https://perma.cc/7Y5N-PJGN>].

growing integration of data for their organizing activities and reconceiving labor rights.

A. *Matching Platforms: Facilitating Sex Industries, Hiding the Digital Traces*

Craigslist and Backpage are examples of matching platforms. They were developed, or else became nationally active, in the early 2000s. These are third-party businesses that have forums for sex workers and clients to find each other. Usually they are listed as posts or classified ads. While some platforms cater exclusively to the sex industry, others have special sections for these advertisements. Clients in sex industries like these sites “because they are free and promise anonymity.”²⁰

These platforms are powerful in their scale and profits. Backpage has operated in 93 countries and been valued at half a billion dollars. At their peaks, Craigslist was #1 worldwide and Backpage #2 in volume of ads for sex services. Even if not outwardly declared or publicized in this way, much of their business is driven by the sex industry. In 2014, 90% of the profits for Backpage were accrued through its adult services section.²¹

Aside from monetizing ads for sex, matching platforms have a significant digital role. These organizations create, control, and regulate the technology by which sex industry participants communicate. They provide infrastructures (via an interface, website, app, etc.) and mediate the relations. They keep an eye on workers and clients who use the site, and gather many kinds of data, to use themselves and / or to sell to other firms.

However, the power of multi-surveillance for the matching platforms is not only in observing users on the site. It is also in digitally managing the identities of the participants and the visibility of their data.

1. Hiding the Traces

Matching platforms spend considerable effort and resources on digital evasion. Under the watchful eye of the state, they use sophisticated digital methods to navigate the lines of criminality. For Backpage, a major activity has been concealing what it does, and hiding the traces of its main business, the sex industry.

This is evident in their practice of digital “scrubbing.” Scrubbing is a system that removes words suggestive of sex work or trafficking from the ads before they go into publication. The name for the technique is “Strip-Term-from-Ad Filter.” This software program flags hundreds of words like: “lolita,” “teenage,”

20. Guarino, *supra* note 14.

21. Timothy Williams, *Backpage's Sex Ads Are Gone. Child Trafficking? Hardly.*, N.Y. TIMES (Mar. 11, 2017), <https://www.nytimes.com/2017/03/11/us/backpage-ads-sex-trafficking.html>. [<https://perma.cc/Y8D8-V6GB>].

“rape,” “young,” “amber alert,” “little girl,” “teen,” “fresh,” “innocent,” and “schoolgirl.” Then it automatically filters out and rejects ads that have been flagged with the banned words.

In addition, there are non-algorithmic procedures for scrubbing. This method is manual. Backpage hired specialized workers to screen the ads one by one. Their job was “to edit the text” and “conceal the true nature of the underlying transaction”²² by cleaning them of traces of sex work. Called “content moderators,” these employees represent a new category of digital worker in the platform era. They are often low-status (and sometimes secret) employees who spend their days reviewing the most egregious, horrific, violent, and unethical text and video on the internet. Like similar jobs of data janitors²³ and e-waste workers,²⁴ Backpage content moderators would “act as digital gatekeepers ... deciding what content will make it to the platform and what content will remain there.”²⁵

The third method of scrubbing involves eliciting the labor of consumers. Backpage administrators asked users of the platform to do self-editing of the ads. They would “coach customers on how to post ‘clean’ ads for illegal transactions.”²⁶ This activity constitutes a form of free labor. Reflective of “prosumer” capitalism, users become both the “producers” and “consumers” of the platforms that they interact with.²⁷ Much of the prosumer work is done unknowingly by the public, by simply clicking buttons on an interface.²⁸ This generates data that is culled, analyzed, and sold to marketing firms. However, the case of Backpage provides a more direct form of prosumer labor. Here, users are doing explicit tasks—as trained by the firm—within the process of posting their ads. So even if consumers don’t realize it, their scrubbing is a form of labor that assists and contributes to the platform’s larger cloaking aims.

22. *Backpage.com’s Knowing Facilitation of Online Sex Trafficking: Hearing Before Perm. Subcomm. on Investigations of the Comm. on Homeland Sec. and Govtl Affs.*, 115th Cong. (1st Sess. 2017) (statement of Sen. Rob Porter, Chairman, Subcomm.).

23. Kevin Dai, “Justice for Data Janitors” - Lilly Irani, WORD PRESS (Nov. 27, 2017), <https://digitalmediafall2017.wordpress.com/2017/11/27/justice-for-data-janitors-lilly-irani/> [<https://perma.cc/67UG-67EC>].

24. Sarah T. Roberts, *Digital Refuse: Canadian Garbage, Commercial Content Moderation and the Global Circulation of Social Media’s Waste*, 10 J. OF MOBILE MEDIA 1, 1–13 (2016).

25. SARAH T. ROBERTS, *THE INTERSECTIONAL INTERNET: RACE, SEX, CLASS AND CULTURE ONLINE* 148 (Safiya Umoja Noble & Brendesha M. Tynes eds., 2016).

26. *Backpage.com’s Knowing Facilitation of Online Sex Trafficking: Hearing Before Perm. Subcomm. on Investigations of the Comm. on Homeland Sec. and Govtl Affs.*, 115th Cong. (1st Sess. 2017) (statement of Sen. Claire McCaskill).

27. DIGITAL LABOUR AND PROSUMER CAPITALISM: THE US MATRIX, (Olivier Fraysse & Mathieu O’Neil eds., 2015).

28. MIRIAM A. CHERRY, *INVISIBLE LABOR: HIDDEN WORK IN THE CONTEMPORARY WORLD* 77 (Marion G. Crain, Winifred R. Poster, & Miriam A. Cherry eds., 2016).

Scrubbing, in essence, is a tactic of digital identity management. With selective filtering of the ads, Backpage remains visible as a market for sex work, while concealing the criminal traces of their activities. These tactics mediate illicit and licit activities, allowing the matching platforms to do both at the same time.

2. Enabling Further Surveillance

The complex role of matching platforms in the online sex industry is apparent in that many *other* groups—perhaps unexpected ones—go to the adult services section as well. They are not the intended users, but they nonetheless visit platforms that are open to the web. These groups go to observe who's on the site and what they're doing.

The police, for instance, use the matching platforms for their labor in finding pimps and traffickers. They look for tips on trafficking crimes. They may use the ads as a form of evidence to catch traffickers, to prosecute crimes of trafficking, and to help find trafficking survivors. They use strategies of identity management to pose as sex workers and lure clients offline. Without platforms like Backpage, they say, it is “a lot more complicated for us to figure out what’s going on.”²⁹

Another group who uses the matching platforms for surveillance is the anti-trafficking advocates. An example from St. Louis is Kimberly Ritter. She developed her own digital strategy entirely based on the use of Craigslist and Backpage. She scoured online advertisements for escorts, looking at the images in the photos and especially the scenery in the background. Using her encyclopedic familiarity with hotels from her day job in conference planning, she was able to identify in the photos particular hotel chains and their rooms. She would forward this information to law enforcement officials in order to help them track down victims and ultimately their traffickers.

Collaborating with computer scientists at Washington University St. Louis, Ritter also worked with a team to scale up the process and recruit more people to assist in the data collection. They developed an app called Traffickcam.³⁰ It uses crowdsourcing to recruit members of the public who can upload photos of their hotel rooms. These are entered into a database that is linked to the justice department. Investigators match images to the ones on sites like Craigslist. With this, they try to identify locations where sex industries occur (like specific hotels) and find trafficking survivors. In 2012, Ritter was awarded a recognition for community leadership by the FBI office in St. Louis.

The tech companies are jumping on board as well. The well-known data collection company Palantir, subcontractor for the US military, has been directing its attention to the sex industry. It has teamed up with anti-child

29. Williams, *supra* note 21.

30. Cambria, *supra* note 12, at 1.

trafficking organization Thorn to search the open web for images and words about sex work and then scrape them into databases. Using tools from Amazon's Rekognition project, DetectText, and IndexFaces,³¹ the team has been collecting images of escorts from the ads as part of its broad sweep.³² In some cases, these images get passed on to law enforcement. So even if the posts don't have names (real or otherwise), independent sex workers can be identified by their faces or phone numbers. It's unclear what these databases will be used for in the future, given the ties of these organizations to the tech industry, the military, and the state.

In sum, Backpage and Craigslist represent large size platforms in the online sex industry and their control over technologies like searching and scrubbing algorithms. But embedded in their platforms is another set of surveillance interests and activities—those of civil society groups. They are doing their own monitoring, for their own reasons, which may be quite counter to those of the sex industries. This suggests that the multi-surveillance implications of these matching platforms may be more ambiguous, or at least multi-layered, than at first glance.

B. *Reviewing Platforms*

Reviewing platforms are sites that provide feedback on the sex services. These are typically run from within the sex industry itself (i.e., by participants rather than third-parties, like the previous case). They are also smaller than the matching platforms in user base and profits.

The format for these sites is often a series of reviews. Some are qualitative, as members post written accounts of their experiences with the services. Others are quantitative, as ratings that members choose on a scale. These reputational sources of information convey how good or bad the services are, and therefore help facilitate agreements between buyers and sellers.

In general, reviews and ratings are becoming more common for the operations of employment (hiring, recruiting, promoting, remunerating, etc.). They are especially important for service jobs that are performative, i.e., those with care-based interactions, emotional qualities, and bodily labor (like sex work). For these jobs, ratings help to signify amorphous features of the work that are difficult to explain and evaluate otherwise. Reviews like this have become ubiquitous in general business-searching apps like Yelp,³³ and also in

31. Natasha Frost, *Amazon's AI is being used to rescue children from sex trafficking*, QUARTZ (Jun. 13, 2019), <https://qz.com/1636498/thorn-uses-amazon-powered-ai-to-save-minors-from-sex-trafficking/>. [<https://perma.cc/36AZ-ECZJ>].

32. Violet Blue, *Sex, lies, and surveillance: Something's wrong with the war on sex trafficking*, ENGADGET (May 31, 2019), <https://www.engadget.com/2019-05-31-sex-lies-and-surveillance-fosta-privacy.html>. [<https://perma.cc/J6K9-MY33>].

33. Joshua Sperber, *Yelp and Labor Discipline: How the Internet Works for Capitalism*, 23 NEW LAB. F. 69, 69 (2014).

industry-specific platforms like Uber for drivers,³⁴ Care.com for babysitters,³⁵ and Pizza app delivery workers.³⁶

But where some may simply see a ranking of service, others see deeper (and somewhat hidden) digital agencies. Along these lines, I will show how these platforms actually do much more than just reviewing. They tell us much about how workers and clients—as the direct players in online sex industries—are also conducting surveillance. In fact, such groups use ratings to monitor each other.

1. Client Sites

Some reviewing platforms are run by and for the clients. The Erotic Review is one of the earliest. It was started by a “client” in 1999 and has yielded 1.5 million posts as well as over 300,000 visitors a day.³⁷ This includes workers as well. Through 2008 for example, 90,000 of the visitors were workers.³⁸

As a free member, clients have access to selected pieces of information about the workers. They can read some of the posts and submit their own reviews. With a fee, they can search the entire site and view more information about the workers such as their prices. Members also see detailed reviews including the “Juicy details” and “complete, blow by blow descriptions of their sessions.”³⁹

Clients use this platform for many purposes. One is locating workers in a context where they are not legally allowed to be visible. But more importantly, clients go to the site to collect and manage their own information in the form of a database. This is the tagline on their homepage, in fact: “The Erotic Review is the *most comprehensive database* featuring providers and escorts from all over the world.”⁴⁰ Another purpose is to rate the service. The founder says: “It’s like a consumer-reports magazine that has buyer reviews of car-stereo

34. Alex Rosenblat & Luke Stark, *Algorithmic Labor and Information Asymmetries: A Case Study of Uber’s Drivers*, 10 INT’L. J. COMM. 3758, 3772 (2016).

35. Julia Ticona & Alexandra Mateescu, *Trusted Strangers: Carework Platforms’ Cultural Entrepreneurship in the On-demand Economy*, 20 NEW MEDIA & SOC’Y 4384, 4388 (2018).

36. Luke Stark & Karen Levy, *The Surveillant Consumer*, 40 MEDIA, CULTURE & SOC’Y 1202, 1211 (2018).

37. Keegan Hamilton, *Oldest Profession 2.0: A New Generation of Local “Providers” and “Hobbyists” Create a Virtual Red-Light District*, RIVERFRONT TIMES (Jun. 4, 2008), <https://www.riverfronttimes.com/stlouis/oldestprofession20-a-new-generation-of-local-providers-and-hobbyists-create-a-virtual-red-light-district/Content?oid=2491669>.

38. Scott Cunningham & Todd D. Kendall, *Examining the Role of Client Reviews and Reputation within Online Prostitution*, in THE HANDBOOK OF THE ECONOMICS OF PROSTITUTION 9–31 (Scott Cunningham & Manisha Shah eds., 2016).

39. THE EROTIC REVIEW, <https://www.theeroticreview.com/main.asp> [https://perma.cc/6HMX-DGLL] (last visited Aug. 22, 2020).

40. *Id.*(emphasis added).

performance.”⁴¹ For him, the task of reviewing sex work is just the same as reviewing consumer electronics.

Another purpose of the site for clients is monitoring workers. They observe, document, and catalog features of the labor and its providers—especially the bad ones. Clients are most worried about the “Robs.”⁴² Some of these Robs, they say, are misleading and fake, creating false “profiles to post positive evaluations of themselves.”⁴³ Other Robs are more nefarious. They show up and blackmail the client (an experience that prompted the founder to create the site in the first place).

This leads to a final purpose of the platform for clients and a critical activity of surveillance: unclocking misbehaving workers. Clients use their personal experiences, as well as collective knowledge from other members on the site, to uncover identities of the Robs. They publicize this information online for clients to see and make use of, in the forums and posts. In this way, clients actively manage and even alter the outward-facing identities of the workers.

2. Worker Sites

Sex workers have their own platforms that they design, create, and run. These are smaller than those of clients but represent a crucial step towards independent agency for sex workers. Here, workers attempt to distance themselves from pimps, by going online to recruit and contact clients on their own.

“St. Louis Adult Service Providers” (“STLASP”) was one such platform. STLASP was founded in 2007 in Missouri. At its height, it had about 2,500 registered members and 19,000 posts.⁴⁴ But STLASP was in fact part of a national trend. This is according to Stacey Swimme, co-founder of the Sex Workers Outreach Project. She explains that around the mid-2000s, workers started turning to platforms, forums, and message boards like this in order to find supportive and self-managed online spaces. So even though the life cycle of STLASP ended a few years later, its story is informative as one of the first sites to represent sex workers.

Sex workers would go to sites like STLASP for many reasons. One is digital identity management. In this online environment, workers can use the sites to conceal their activities and protect their identities. This happens through simple things like the site’s name. “STLASP” was intentionally selected by the founder, Mac, as a cloaked acronym. When going to the homepage, a user would see a banner for “St. Louis Auto Specialists” and an offer of “information on St. Louis

41. Hamilton, *supra* note 37.

42. *Id.*

43. *Id.*

44. *Id.*

auto racing.”⁴⁵ Further in the site, however, s/he would learn the real name of the organization, “St. Louis Adult Service Providers,” and its description as a “a place where users can post fantasies or stories for other members to view.”⁴⁶

Scholars point out that this is not uncommon. It reflects a trend of “cloaked sites.” While this tactic has been used by ultra-right fringe groups like white supremacists to hide from the public,⁴⁷ cloaking is also a feature of many kinds of hidden businesses (both online and off) that mask their names and visibility for a range of reasons.⁴⁸

As Mac explains, this cloaking was done in attempt to conceal the organization (along with its members) from the police. In addition, some members want to conceal participation in this industry from their own families. Mac revealed that her personal interest was preventing her children from knowing about her job. Once inside the site, workers shield their identities further by using anonymous IDs and blurring their faces when posting pictures of themselves.

Workers, secondly, go to the platform for information sharing and collective support. They would use STLASP’s “woman to woman page” to exchange tips about particular jobs or give general advice. According to the founder, “[w]e talk amongst ourselves about any topic—it could be about the business or not. We’re just helping each other out. If we can stay together and inform each other, there’s a lot of power in that.”⁴⁹ Workers offer a range of support on these types of forums: from emergency assistance and “immediate survival needs, such as finding shelter or food,” to “check in[s] on their well-being” and how to find a “know-your-rights training.”⁵⁰

Monitoring clients is a third reason workers use the platform. They do this through a reviewing system that they can control. Within it, they circulate information about which clients to screen, avoid, or block. In their reviews, for example, they call out the “scammers,” the “nuisances,” and the “timewasters” (i.e., those who show up but don’t pay). Members alert others on which clients are unclean, which have bad hygiene habits, and which have sexually transmitted diseases. Most importantly, they post about unsafe clients: the ones who are stalkers, the ones who remove condoms during the encounter, and the

45. *Id.*

46. *Id.*

47. Jessie Daniels, *Cloaked Websites: Propaganda, Cyber-Racism and Epistemology in the Digital Era*, 11 *NEW MEDIA & SOC’Y* 659, 659–661 (2009).

48. CRAIG R. SCOTT, *ANONYMOUS AGENCIES, BACKSTREET BUSINESSES, AND COVERT COLLECTIVES: RETHINKING ORGANIZATIONS IN THE 21ST CENTURY* 209–10 (2013).

49. Hamilton, *supra* note 37.

50. Samantha Cole, *Pimps Are Preying on Sex Workers Pushed Off the Web Because of FOSTA-SESTA*, MOTHERBOARD (Apr. 30, 2018), https://www.vice.com/en_us/article/bjqvz/fosta-sesta-sex-work-and-trafficking. [<https://perma.cc/M9JW-E7ER>].

ones who are physically abusive. Reviewing platforms (like Rentboy and myRedbook) have a blacklist that calls out these dangerous clients.⁵¹

Through this practice, workers are creating what is essentially a retrievable database for labor in the sex industry. At times the data is culled in a clearly-defined list. Other times it is circulated in posts according to searchable subject lines. Either way, the platform becomes an information storage site for workers to access and use in their activities offline. It also serves as a networked and formalized means of surveilling the clients.

3. The Ups and Downs of Reviews

Of course, reviews can be highly problematic, like when clients post statements that are inaccurate or unfair. This is one reason why administrators screen their members. Mac from STLASP would select out users with the questionable identities at the outset, in order to head off potentially illegitimate reviews.

In the context of labor, furthermore, reviews and ratings may be used to bolster the control of firms over workers.⁵² They can function as a secondary manager, with the data used as a justification to speed up production and discipline workers. This is true in the online sex industry as well, even if there is no formal “boss.” In their research, Cunningham and Kendall found that client reviews can place pressure on workers to provide higher quality sex.⁵³ Mac learned this the hard way. It is yet another reason why Mac created a system she could run herself—because of personal experiences with the downsides of reviews. Clients on the mainstream matching platforms would attempt to manipulate her into exchanging sex for positive posts.

Instead, platforms like STLASP reveal how sex workers can take the process of service evaluation into their own hands. They create alternative systems which allow providers to exert their own informational capabilities. From a labor point of view, they do it to improve their own working conditions and safety. In a direct way, this online data can contribute to their offline health, and protection of their bodies.

It is also a critical tool for sex workers within the larger context of social movements, and marginalization within it. Sex workers are often overlooked by other social justice groups, like formal labor unions and mainstream women’s organizations. Such groups, in many cases, don’t want to be associated with the

51. Kitty Stryker, *What the FOSTA / SESTA Anti-Sex Trafficking Bill Means*, TEEN VOGUE (Mar. 27, 2018), <https://www.teenvogue.com/story/fosta-sesta-anti-sex-trafficking-bill>. [<https://perma.cc/9GW5-DLRC>.]

52. Alex Rosenblat et al., *Discriminating Tastes: Uber’s Customer Ratings as Vehicles for Workplace Discrimination*, 9 POL’Y & INTERNET 256, 258 (2017); Rosenblat & Stark, *supra* note 34, at 3772–75.

53. Cunningham & Kendall, *supra* note 38.

sex industry. Instead, sex workers can use the reviewing platforms as a means to take advantage of individual experiences for collective goals.

As a testament to this, social agencies and health advocates are using reviews as well. Their outreach to sex workers includes many of the same databasing strategies mentioned above. One advocate for disease and drug prevention explained to me that, during routine conversations with sex workers, they would ask a series of questions about experiences with clients. Then, they would make a sheet of “bad dates,” with physical descriptions of the clients, other identifying features, and what made the date bad. These would be gathered and saved for the benefit of other workers.

So just like STLASP and SAAFE, these advocates are collecting information on the clients, storing them in a database, and then making the database accessible to the wider group. Soliciting and synthesizing reviews of clients is a proactive health strategy: making special notes of the “bad dates” is a way of identifying the dangerous clients and steering workers away from them.

These practices say a lot about the dynamics of surveillance. The reviewing platforms for workers represent a flip side of those for clients. If *The Erotic Review* shows how clients are observing the workers, here we see how workers are monitoring the clients right back (albeit on a smaller scale). Both groups are doing so in a way that extends beyond just watching. They are developing databases, storing and cataloguing information, concealing and unclocking identities, etc. In this way, reviewing constitutes a form of digital agency—a tactic of power in multi-surveillance—in which workers and clients are surveilling *each other*, often at the same time.

C. *Verification Sites: Partnerships of Mutual Surveillance*

If workers and clients are surveilling each other on reviewing platforms, does it mean the two are always in opposition or conflict? Not entirely. In some instances, the two groups work together in quite deliberate and coordinated ways. In fact, they come together for certain kinds of observation and monitoring. Here, I examine how this alliance happens in a third set of platforms—the verification sites.

1. Sanctioned Mutual Surveillance

Sex workers and clients partner up to observe *each other*. They form alliances—through formalized mechanisms—to support and enable mutual surveillance. And they use shared platforms to carry it out.

“Preferred 411” is an example. It describes itself as “a screening service for those who seek only the most discreet experiences in upscale adult companionship.” Its name “411” is indicative of the role that data detective work plays in the online sex industry. Referring back to the early days of telephones, 411 is the dial code for “information”—what one would enter to reach a live operator and get names and addresses of people to call. That kind of information

service is what Preferred 411 offers to users of reviewing sites. It was the verification platform used by STLASP.⁵⁴ In 2017, it had 13,900 sex worker (or “provider”) members, and 38,700 client members.

For the price of a membership fee, this service will uncover the people behind the labels. It offers investigative work about the users of the reviewing platforms. And by doing it as a neutral third-party, it also provides “objectivity.” Staff members will contact a member’s external references and do background checks like a typical employer would. They also match images against types of biodata to confirm visual identities.

But most importantly, Preferred 411 does the unmasking of concealed identities. It is the answer to self-cloaking. Given that workers and clients often hide behind anonymous IDs and aliases, this service figures out who is really who. And they do full service investigating. Verifiers will analyze sex industry databases (including those on the reviewing sites) to collect reputational material about workers and clients. They do the work of reading, summarizing, and making assessments from the posts left by buyers and sellers of sex. They report things like: how well-respected clients and workers are within the online community, if they are in good standing, if they have good reviews, etc.

While both groups assent to this surveillance process, workers and clients have different things they want to be verified. This is why the homepage of Preferred 411 has separate, side-by-side buttons for entry. On the right side is the escort button. Here, workers can enter. They can check if clients are lying about things like being employed, or over-inflating the prestige of their jobs: “Please understand that we are going to confirm that you’re a legitimate client ... We will usually check your: employment info, provider references, [and if] you are a long-time member (in good standing) of a community.”⁵⁵ On the left side is the client button. Here, the clients can enter the site. They check if workers are lying about their age and physique, i.e., if they are as young and attractive as they say they are: “All escort applicants are required to submit... age verification images, good reviews posted by established reviewers, or a well-established client to vouch for her.”⁵⁶

These dual processes—within the same interface—reveal how workers and clients are inter-connected in the dynamics of identity verification. Verification is a tacit agreement for a digital economy in which identities are veiled and in which data is currency. Through this mutual surveillance and unguarding of personas, each group gains the informational resources that are specifically useful to them in the service exchange. In this way, verification is an act of partnership.

54. PREFERRED411, <https://www.preferred411.com> (last visited Aug. 28, 2020).

55. *Id.*

56. *Id.*

2. Re-Cloaking the Data

Verification is a delicate dance. While workers and clients agree to this mutual surveillance, they also agree on something else—hiding it from the public. Indeed, the data and identities are not meant to be completely unmasked. Attempts to re-conceal it provide a second example of how workers and clients partner through surveillance.

Verification sites have clearly-defined practices for protecting users' digital identities from public view. For instance, Preferred 411 promises that it will access only some information for verification, while keeping other kinds of information invisible. Their procedures are done in the background, in a process that neither the worker nor the client ever sees. Preferred 411 also has explicit stipulations for how they handle data. The website explains: "Your verification info will be confirmed, and then deleted and destroyed. Your client id and email address are the only pieces of info kept when your account is approved."⁵⁷ The digital resources are used briefly, and the traces left at the end are minimal. The verification system, in this way, confirms identity but still preserves worker and client personas from the outside world.

A similar practice of shielding and then unmasking identities is used on other sex worker websites, like Support and Advice for Escorts ("SAAFE"). Founded in the UK in 2003, SAAFE is a worker-run reviewing platform similar to STLASP. Administrators have explicit rules on what members can post and not post in the reviews about the clients. Some things are *not sharable* at all, like "full names, phone numbers, addresses, car registrations or email addresses which could identify them to others."⁵⁸

Other things, however, *are* sharable, "such as accent, ethnicity, scars and tattoos."⁵⁹ These are bodily-related markers that workers can personally verify without involving the public. And in fact, the site actually *encourages the sharing* of this kind of data. They say to "include as much information as possible that could help other people to identify the subject" or client, as this enhances a worker's ability to do unclocking.⁶⁰ The methods of dissemination are to be discrete though. Rules require workers to communicate details through non-public channels, like "a private message to another user."⁶¹

This juggling of private and nonprivate data becomes part of a sex worker's everyday labor online. Workers protect the digital information of clients, while at the same time managing their own. It is part of their bargain with clients in the verification regime and a means of their alliance.

57. *Id.*

58. SAAFE, https://saafe.info/main/warnings-wasters/***rules-for-posting-warnings***/ [<https://perma.cc/AED3-54K6>] (last visited Aug. 22, 2020).

59. *Id.*

60. *Id.*

61. *Id.*

3. Shifting gazes

Workers and clients partner in a third way—for mutual surveillance of *other* groups. There are certain groups whom they mutually oppose—like the police. At particular moments, they shift their surveillance gaze away from each other, and toward those third parties.

Both have a shared interest in evading the cops. As mentioned earlier, the police keep a gaze on workers, clients, or both, and may go on raids to round them up. To do this, police may use secret tactics—like going to sites like Craigslist, altering their identities, and posing as sex workers or clients, to lure them out to the offline world.

Workers and clients respond by checking on the police—in other words, by monitoring them. On their separate forums, they each surveil and report on police activities. “One of STLASP’s most popular forums,” in fact, was “devoted exclusively to discussing Craigslist’s ‘erotic services’ pages. Hundreds of posts come from users asking their peers to verify that a particular ad isn’t a fake.”⁶² Identifying these fake undercover police officers serves both communities. Workers and clients know that by working together they can uncover those hidden identities. So, each posts “warnings” and “alerts” of encounters with undercover cops and police stings on their sites. The two groups share information for exposing police operations.

These examples illustrate how the groups work together within online spaces. Workers and clients may be at odds in other aspects of their employment relation, but on the verification platforms they partner up for surveillance. They do so at the same time, with mutual permission. As we’ll see later in the discussion, these kinds of alliances can create strong webs of agency that are hard to disentangle.

It’s important to note, however, that these partnerships are also fluid. Workers and clients may shift their targets of observation, redirecting their gazes and re-partnering depending on their changing interests. For instance, even though workers may align with clients in contexts like these, they may switch and align with police if those clients are violent. Indeed, multi-surveillance is not static.

III. DATA BATTLES AND PLATFORM TAKEDOWNS

As the sex industry has gone online, the state has chased after them. This has led to some curious developments in the agendas for curbing sex work by legislative and legal officials. They are bypassing what one might presume to be their main targets—the buyers and sellers of sex—including pimps, traffickers, and even the clients. Instead, they are taking aim at the *platforms*, like the matching and review sites described above. In addition, they are becoming more

62. Hamilton, *supra* note 37.

and more concerned with the *information* contained in those sites. Fighting the sex industry has become a battle over the data.

A. *Uncloaking the Data*

The state responded directly to the data-scrubbing practices of Backpage (described earlier). If Backpage was concealing its data, the state would unhide it. Lawmakers waged a legal battle against the firm and its filtering process. This resulted in a series of cases in which officials have sought to acquire these digital artifacts from the matching platforms and then shut them down.

Missouri state officials have been at the forefront of this battle. In the mid-2010s, Senator Claire McCaskill, along with Senator Rob Portman from Ohio, lead a national level campaign to retrieve the data that Backpage removed from its site.⁶³ Reflecting bi-partisan political support for anti-trafficking issues, this team was led by a Democrat and a Republican, respectively. They took the case to the Supreme Court. It forced Backpage to hand over digital materials behind the ads—both what one can see directly (i.e., the ads themselves as “data”), and what one can no longer see (i.e., the “metadata” of stored information). This provided evidence of the content moderation process, the edits that Backpage made, and the things deleted. Along with this, the Senators requested company emails, corporate information, and detailed financial records. Included were multiple bank accounts that the company held, tax returns, company valuations, and much more.

Eventually, a million documents were handed over. Officials used it to show that, “[f]irst, Backpage has knowingly concealed evidence of criminality by systematically editing its adult ads.” And second, “Backpage executives knew their website facilitated illegal activity, including child sex trafficking.”⁶⁴ Through this requisitioning of data, officials were able to uncover a series of hidden infrastructures for this industry, including edits of ads, knowing criminality, and evasion of accountability through shell companies overseas.

B. *A Shutdown Cascade*

Their aim was to shut Backpage down, and by extension, other similar sites, forums, and platforms. McCaskill and Portman made their case to the Senate and were successful in convincing two-thirds of its members to close the sites. Their bill passed the Senate in March of 2018. At the same time another Missouri lawmaker, Representative Ann Wagner, introduced and passed a parallel version of the bill in the House of Representatives. By April 11th, the President signed

63. *Backpage.com's Knowing Facilitation of Online Sex Trafficking: Hearing Before Perm. Subcomm. on Investigations of the Comm. on Homeland Sec. and Govtl Affs.*, 115th Cong. (1st Sess. 2017) (statement of Sen. Rob Porter, Chairman, Subcomm.).

64. *Id.*

into law SESTA-FOSTA: the Stop Enabling Sex Traffickers Act, and the Fight Online Sex Trafficking Act.

Within days or weeks, other matching sites began to take down their adult ads as well. Craigslist was one. Craigslist had already eliminated its “Erotic Services” section in 2009. But shortly after SESTA-FOSTA, the company shut down its entire personal ads section. This may be because FOSTA’s coverage is retroactive. Or because its reach could extend informally to broad kinds of social media forums in the future—not just classified ad listings, but chat forums and other text-based online communities.

It may be that the legal cases against sex industry platforms had been mounting over time and had now accumulated to a tipping point (rather than the specific event of SESTA-FOSTA being particularly significant, as some argue). But whatever the ultimate source, this moment had a domino effect of shutdowns for a variety of sites and forums related to sex work.

C. *What Platform Removal Achieved and What it Didn’t*

Taking down websites is an easy answer to the platformization of sex work. But does it actually work? Does it help the intended beneficiaries, like workers?

On the surface level, the gains are straightforward. Removing the most visible evidence of the industry has made it harder for participants to meet and connect. In particular, it has (hopefully) blocked or reduced the use of such sites by sex traffickers. This is pressing because officials estimate that seventy percent of trafficked children were sold online through sites like Backpage.⁶⁵ However, in the aftermath of SESTA-FOSTA, there have been a number of unforeseen or else overlooked problems.

One is that matching platforms rebound. Although Backpage and Craigslist didn’t win this particular battle, the larger industry lives on. Many platforms have simply deleted the contentious sections of their sites and moved the ads to different pages. Craigslist, for instance, shifted “missed connections” into its “community” section.⁶⁶ Others moved sex-selling ads to “dating” and “massage” sections. Thus, despite the new policy, sex industry participants are *still* using the matching platforms to advertise services. They are cloaking themselves within the wording and doing so in more subtle ways. Human rights advocates have argued for a while that platforms can easily resurrect and recreate themselves. If the state takes down one page or site, another will appear somewhere else.⁶⁷ In this way, the internet is providing new resources for

65. Guarino, *supra* note 14.

66. Samantha Cole, *Craigslist Just Nuked Its Personal Ads Section Because of a Sex-Trafficking Bill*, MOTHERBOARD (Mar. 23, 2018), https://www.vice.com/en_us/article/wj75ab/craigslist-personal-ads-sesta-fosta. [<https://perma.cc/BA94-NAEC>].

67. Williams, *supra* note 21.

technological regeneration as well as evasion, enabling platforms like Backpage or Craigslist to navigate their way out of a shutdown.

As Danielle Citron and colleagues have pointed out so astutely, it hasn't changed the underlying relation between tech firms and the law.⁶⁸ Legal codes like § 230 of the Communications Decency Act have provided free reign to platforms for activities like selling sex. This decades-old provision gives immunity from liability for the unlawful activities that go on within their sites, under the pretense of facilitating innovation and expression.⁶⁹ It has enabled platforms to get away with speech online (about things like sex trafficking), that they would be responsible for removing offline. Although the platforms have a few more hoops to jump through now (discussed below), SESTA-FOSTA is basically a “piecemeal approach to a problem that should be handled more comprehensively.”

A second critique is that take-down as a strategy does little to address the root causes of entry into sex work and trafficking by vulnerable communities. With all the emphasis on the digital dynamics, we lose sight of the non-technological ones. Those sources are embedded in a myriad of “offline” social problems, including: youth homelessness, familial rejection of LGBTQ children, sexual violence, systemic poverty, a broken foster care system, and many others.⁷⁰ Sex workers have posted on social media that what they really need is access to housing and not to be treated like criminals.

Indeed, SESTA-FOSTA doesn't address societal level inequalities such as race, class, gender, sexuality, and immigration. It doesn't address the intermediaries who facilitate sex work and trafficking: the landlords and hotels,⁷¹ mass sporting events, businesses and their workplace trips to strip clubs, and even official agencies like military bases and United Nations peacekeeping forces which locate near brothels. Moreover, at a basic level, SESTA-FOSTA does not offer any direct aid to sex workers or trafficking survivors, in whose name the policy was supposedly enacted.

Some say that platform removal even creates new problems for sex workers. One is exposure to violence. Sex workers are losing access to their systems for

68. Danielle Citron & Quinta Jurecic, *FOSTA: The New Anti-Sex-Trafficking Legislation May Not End the Internet, But It's Not Good Law Either*, LAWFARE (Mar. 28, 2018), <https://www.lawfareblog.com/fosta-new-anti-sex-trafficking-legislation-may-not-end-internet-its-not-good-law-either>. [<https://perma.cc/N5SK-44L5>].

69. Danielle Keats Citron & Benjamin Wittes, *The Internet Will Not Break: Denying Bad Samaritans § 230 Immunity*, 86 FORDHAM L. REV. 401, 407 (2017).

70. Cole, *supra* note 50; Siouxsie Q, *Anti-Sex-Trafficking Advocates Say New Law Cripples Efforts to Save Victims*, ROLLING STONE (May 25, 2018), <https://www.rollingstone.com/culture/culture-features/anti-sex-trafficking-advocates-say-new-law-cripples-efforts-to-save-victims-629081/>.

71. Alan Feuer, Ashley Southall & Ali Winston, *The New Brothels: How Shady Landlords Play a Key Role in the Sex Trade*, N.Y. TIMES (Nov. 1, 2018), <https://www.nytimes.com/2018/11/14/nyregion/brooklyn-brothel-park-slope-police.html>. [<https://perma.cc/D2YU-WK8V>].

vetting and taking riskier clients. Without an online source to recruit clients themselves, workers are forced to turn to pimps as mediators of the exchange. Pimps can be abusive and take a cut of the income. Especially after SESTA-FOSTA, they are said to be “swooping in” to take the place of the platform. Laura LeMoon, a sex trafficking survivor-turned-advocate and co-founder of Safe Night Access Project Seattle, observed shortly after the law passed: “Pimps seem to be coming out of the woodwork since this all happened ... They’re taking advantage of the situation sex workers are in. This is why I say FOSTA/SESTA have actually increased trafficking. I’ve had pimps contacting me. They’re leeches. They make money off of [sex workers’] misfortune.”⁷²

There are also reports of sex workers turning to the streets. This happened to workers on platforms like Rentboy and myRedbook when authorities shut down their sites.⁷³ Street sex markets are notoriously dangerous for workers. One sex worker posted in a blog shortly after the Acts: “13 sex workers have gone missing, two have been confirmed dead, and countless others have been assaulted and raped, as a result of being pushed offline and into the streets to find work.”⁷⁴ Along the same lines, some research is showing that workers are safer when the matching platforms are in operation. Cunningham and his colleagues found that during the years of 2002–2010 when Craigslist “Erotic Services” section was running, the female homicide rate reduced by 17%.⁷⁵ However, when the section shut down in 2018, violent crimes against sex workers were on the rise.

Critics also say that the shutdown of online sites submerges the industry into risky parts of the web. As clients and workers search for other viable options, many turn to the dark net, an underground form of the internet that is not searchable in regular browsers. They go there for advertising, social media sites, and webcamming. Lotus Lain, a sex worker, explains: “All of this removal of us online, it’s only making things more shady for the way we have to eventually do business.”⁷⁶ Melody Kush, one of the camgirls, agrees: “Every place we become ostracized, it just forces us to go further underground. It’s not necessarily as safe and makes our businesses more difficult.”⁷⁷

Some are resorting to alternative or fringe digital payment systems. After financial agencies like Paypal banned sex industries, and Visa / Mastercard hit

72. Cole, *supra* note 50.

73. Stryker, *supra* note 51.

74. Cole, *supra* note 50.

75. Scott Cunningham, Gregory DeAngelo & John Tripp, *Craigslist’s Effect on Violence Against Women*, AMERICAN ECON. ASS’N (2017) <https://www.aeaweb.org/conference/2018/primary/powerpoint/AyGsNY5F> [<https://perma.cc/5JCZ-2Q42>].

76. Allison Tierney, *Sex Workers Say They’re Being Pushed Off Social Media Platforms*, VICE (Apr. 2, 2018), https://www.vice.com/en_us/article/3kjawb/sex-workers-say-theyre-being-pushed-off-social-media-platforms [<https://perma.cc/JU2M-F3U3>].

77. *Id.*

them with upfront registration fees and high annual renewals, some workers started using cryptocurrencies like Bitcoin or Globill. These financial systems are highly volatile and outside of the boundaries of the state.⁷⁸ This practice further attenuates the connection of workers to legitimate business circles—and regulatory oversight. It also distances workers from the reach and accessibility of advocates and health services. Overall, it makes the industry more invisible.

Central to my argument is a final issue: that the takedown wave directly or indirectly leads to a removal of workers' spaces where they share information. This was the case with STLASP, which became a victim of early stages of platform closures. By 2010, it had been shut down by authorities. Yet for many sex workers, these self-created forums were the first digital spaces where they could talk to each other. According to Stacey Swimme of SWOP, these sites represent a radical change from the years before the internet, when they had few places to express their voices.⁷⁹ A community organizer named Lola agrees: "SESTA has wiped clean essential spaces for all of that community, because it took away the online platforms and tools sex workers use to communicate. . . . Even aside from making it harder for them to work, . . . it's made workers an easier target for traffickers."⁸⁰

Indeed, the takedown trend quickly spread to many other types of content delivery networks—aside from Backpage. Several forums for sex workers were closed. "Switter" is an example.⁸¹ It was an online community of 49,000 members and 376,000 posts, largely comprised of sex workers and clients. It formed after Backpage shut down as a "sex work-friendly social space."⁸² Some of their members had also been kicked off of platforms like Craigslist and Twitter or sought safer online communities where they could screen clients. The group behind it, Assembly Four from Australia, chose Cloudflare as its network provider because of its openness to groups like theirs. Yet after SESTA-FOSTA, Cloudflare removed Switter due to a policy of blocking adult content. This represents a flip for online services like Cloudflare, which had previously been advocates for internet campaigns for privacy and net neutrality.

Along with these shutdowns, several social media platforms started applying filtering systems. These algorithmic methods—not unlike Backpage's scrubbing technique—search and then remove specific users, accounts, and content related to sex. Fearful that SESTA-FOSTA will come after them next, administrators

78. Lux Alptraum, *How Sex Workers Get Paid*, MOTHERBOARD (Jan. 29, 2016), https://www.vice.com/en_us/article/nz7b4k/how-sex-workers-get-paid. [<https://perma.cc/J7KJ-3EHQ>].

79. Hamilton, *supra* note 37.

80. Cole, *supra* note 50.

81. Samantha Cole, *Cloudflare Just Banned a Social Media Refuge for Thousands of Sex Workers*, MOTHERBOARD (Apr. 19, 2018), https://www.vice.com/en_us/article/8xk78x/switter-down-cloudflare-banned-sex-workers-sesta-fosta. [<https://perma.cc/22YH-FCF5>].

82. Tierney, *supra* note 76.

are viewing these algorithms as prudent means of evading the state. Some legal scholars point out how this was baked into the wording of SESTA-FOSTA. Its ambiguous language may incentivize self-regulation by the platforms, or avoidance of moderation, or else overly aggressive moderation which captures “activities that have nothing to do with illegal sex trafficking”⁸³

A particularly insidious practice used by sites like Instagram is “shadowbanning.” This is the act of blocking posts on a platform without the user being aware, until they check their account metrics.⁸⁴ This has become especially problematic for activists, workers of color, and queer workers, when using hashtags like #blackqueersexworkersmatter.⁸⁵

In the end, my point is actually *not* to debate platform shutdown as a strategy, or even sex work as an institution. These are highly complex questions which are better addressed elsewhere.⁸⁶ Rather, the aim of this analysis is to reveal the digital agencies workers use on these platforms (both third-party and worker-run) as a source of empowerment, and what happens when those social spaces are removed. Here are some of the major costs (intended or unintended) for workers.

First and most significantly, it undermines their capacities for multi-surveillance. It demobilizes sex workers’ informational strategies that may be hidden or less overt to the public because they happen through the platforms. In particular, it limits their abilities: to assess the safety of clients through observation and monitoring; to act as their own digital mediators; to collect information from each other; and to benefit from the partnership of other parties. Whether those parties are clients, advocates, or in some cases the police, workers have been leveraging those implicit or explicit alliances to promote their own well-being.

Second, shutdowns penalize workers for their organizing, as evident when the platforms target labor activists for these policies. And third, they make it harder for workers to have a voice in policy debates. They erase workers from the discussion by eliminating the space where they express their views. Kush says: “Rather than finding ways to work with us and having us work within

83. Citron & Jurecic, *supra* note 68.

84. Erin Taylor, *Sex Workers Are at the Forefront of the Fight Against Mass Surveillance and Big Tech*, OBSERVER (Nov. 12, 2019), <https://observer.com/2019/11/sex-workers-mass-surveillance-big-tech/> [<https://perma.cc/8VH3-V9U2>].

85. Erin Taylor, *The Vanilla Internet: How Instagram is Failing Queer Sex Workers*, BITCH MEDIA (Jul. 30, 2019), <https://www.bitchmedia.org/article/sex-workers-queer-meme-instagram-censorship> [<https://perma.cc/73ML-Z5SS>].

86. For more on the alternatives to shutdowns in the context of SESTA-FOSTA, from improving the policy’s language to full repeal, see Lura Chamberlain, *Fosta: A Hostile Law with a Human Cost*, 87 FORDHAM L. REV. 2171, 2171 (2019); JESSA LINGEL, AN INTERNET FOR THE PEOPLE (2020) provides more discussion on Craigslist as a platform, and its layered complexities in both supporting stigmatized communities like LGBT people and independent sex workers, but also the potential for brutal crimes like forced sex work and trafficking.

boundaries that I'm sure we can come to an agreement on, they'd rather just push us aside, block our voices, and not listen to what's safe or reasonable for us."⁸⁷

D. *Sex Workers Organize for Digital Rights*

Sex workers have not taken the shutdowns lightly. Survivors Against SESTA was formed for the purpose of rallying on this issue. It was active during the months leading to and shortly after the bill passed. They organized the largest mobilization of sex workers to date at the capital in June of 2018, with over 2,000 in attendance. They also initiated the first ever Lobby Day on the Hill where workers met with state officials. In turn, public support for sex workers jumped exponentially on social media at this time.⁸⁸

What's notable about the organizing strategy of such groups is the extent to which they incorporate digital tools. This is not just "online activism." Rather, it is a more fundamental practice of multi-surveillance that I've documented here. These sex workers aim their surveillance gaze at clients, large matching platforms, and other social media sites. Their goal is to document and expose (what the sex workers see as) unjust practices towards them. They monitor and track how the platforms are treating workers, in terms of shutting down their sites, removing their accounts, and deleting their content.

For example, Survivors Against SESTA created a database of "Documenting Tech Actions." It lists over 30 platforms and tech firms that have changed their terms of service, sent threatening notifications, and shut down forums of sex workers.⁸⁹ Another database compiles a list of "Platforms which Discriminate Against Sex Workers." It's 100+ entries are organized by sector: banking, payment processors, and crowdfunding sites; social media sites and online advertising tools; webhosts, content creation and distribution platforms; communication tools; dating websites; housing and transportation platforms; and more. Each entry has a detailed description of how workers were targeted by the platforms, and what affect it had on their accounts: permanent banning versus temporary suspension, content removed or lost, etc.

In addition, there is a 23-page database of "Technical Resources for Sex Workers," with everything from: Spyware protection and which apps to turn off; Websites and Hosting platforms; Video chat, messaging, and social media alternatives; Cloud storage, to "A DIY Guide to Feminist Cybersecurity." These resources teach sex workers how to protect their data online, how to navigate digital spaces safely, and how to mobilize for political action.⁹⁰

87. Tierney, *supra* note 76.

88. Taylor, *supra* note 85.

89. Survivors Against SESTA, *Documenting Tech Actions*, SURVIVORS AGAINST SESTA (Nov. 2, 2018), <https://survivorsagainstsesta.org/documentation> [<https://perma.cc/J8CR-WWLT>].

90. *See id.*

From a labor rights point of view, these activities may seem trivial, or else removed from traditional labor agendas regarding wages, benefits, workplace safety, etc. But as experiences of sex workers in this paper indicate, those rights are increasingly tied to digital relations. As platforms mediate economic activities (for even the lowest paid or skilled workers), capacities of managing online behavior and interactions are becoming more central for labor outcomes.

Labor organizations in many industries are increasingly moving in this direction as well. In particular, they are placing more emphasis on workers' capacities of collecting information and doing reviews. Indeed, the digital practices documented in this article are not unique to sex workers. The International Labour Organization has stated that workers on platforms should be guaranteed a way to *review clients* (or in other words, the customers who request or contract a service).⁹¹ Many labor groups are also emphasizing the right to *review employers*. Labor trafficking advocates have developed reviewing systems for migrant workers.⁹² With an app on their phone, migrants can get ratings about recruiters who are promising jobs across a state border, and whether they are legitimate or likely to trap them into coerced labor.

Computer scientists and labor activists are designing a range of tools for everyday platform workers. Lilly Irani and M. Six Silberman created a worker-based rating system in Amazon Mechanical Turk, a job-posting platform on Amazon.com. Their browser extension called TurkOpticon inserts a script in the wider platform so that workers can rate employers (or broadly speaking, the people who pay them for small jobs).⁹³ These ratings appear on the screen right where the job is posted and help inform workers about abuses like failing to pay for work. A similar concept is offered by FairCrowdWork.org for workers to use on other platforms.⁹⁴ And The Fairwork Foundation has a system for gig workers in India, South Africa, and other countries, to rate the quality and conditions of labor on the platforms they use.⁹⁵

91. Janine Berg et al., *Digital Labour Platforms and The Future of Work: Towards Decent Work in the Online World*, INT'L LAB. ORG. v, xix (2018), https://www.ilo.org/wcmsp5/groups/public/-dgreports/-dcomm/-publ/documents/publication/wcms_645337.pdf. [https://perma.cc/54PF-HERD].

92. Bassina Farbenblum, Laurie Berg & Angela Kintominas, *Transformative Technology for Migrant Workers: Opportunities, Challenges, and Risks*, OPEN SOCIETY FOUNDATIONS, 11–15 (2018), <https://www.opensocietyfoundations.org/uploads/dfe50370-e15a-4a78-99f9-3954c0e73bb3/transformative-technology-for-migrant-workers-20181107.pdf>. [https://perma.cc/Y2ZX-EQ9K].

93. Lilly Irani & M Six Silberman, *Turkopticon: Interrupting Worker Invisibility in Amazon Mechanical Turk*, 611, 616 (2013), <http://crowdsourcing-class.org/readings/downloads/ethics/turkopticon.pdf>. [https://perma.cc/5GVE-SYZC].

94. M. Six Silberman & Ellie Harmon, *Rating Working Conditions in Digital Labor Platforms*, 15 EUR. CONF. COMPUT. COOP. WORK 1, 2 (2017), http://wtf.tw/text/rating_labor_platform_working_conditions.pdf. [https://perma.cc/W4FG-HQGY].

95. *About Us*, FAIRWORK, <https://fair.work/>. (last visited Sept. 7, 2020).

All of these strategies are part of broader movement for “global data justice.”⁹⁶ This movement urges users of digital spaces—including workers—to come together around issues of informational access, control, and anti-discrimination. Online sex workers provide an example of a group that is pursuing global data justice—and from an unexpected or under-recognized source.

CONCLUSION

Through a lens of multi-surveillance, this analysis has shown how a growing number of actors are becoming informational agents on sex industry platforms. Starting with the large matching platforms, it recounts how sites like Backpage are not only surveilling users (and enabling others to do so) but using their digital agency to hide the traces from public view. They do this through scrubbing data from their ads and concealing evidence of sex work. This practice of “evasion” is done on a grand scale, and through a complex mix of algorithmic and hands-on methods.

At the same time, these platforms also have the power to make others invisible. Through filtering, shutdowns, and shadow banning, they are targeting sex workers. Big platforms, in this way, are manipulating their own digital identities (i.e., by cloaking themselves), while at the same time imposing those cloaking strategies forcefully on others.

Further complicating the story is that anti-trafficking advocates are conducting surveillance on the same sites as well—with the intention of undermining the platforms’ primary aims of selling sex. Indeed, platforms are sites where many different groups converge to watch digital dynamics of the sex industry. Their purposes are varying—to curb forced sex work and trafficking, to catch independent sex workers, to collect data for later use by the state or tech industry, etc. A multi-surveillance framework raises many uncomfortable questions: For whom is this data collection useful? What might be “good” kinds of data collection, versus “bad”? What happens when helpful and harmful forms of data collection for marginalized communities are happening at the same time, on the same digital spaces?

A second take-away from multi-surveillance framing is that the act of observing is not limited to elites. Groups who would be traditionally left out of the surveillance landscape—like workers—are wholesale participants. Even if on a smaller scale than elites, sex workers are now monitoring and gathering information on their adversaries, clients, and partners. They do it through digital tools of online tracking, data collection, and verification. We see this on platforms like STLASP, which provided workers with crucial abilities for reviewing that they used in their daily routines. This is more than just “vetting,”

96. Linnet Taylor, *What is Data Justice? The Case for Connecting Digital Rights and Freedoms Globally*, 4 *BIG DATA SOC’Y* 1, 6–9 (2017).

as many observers note about sex workers online. It is a strategic use of what I call mobilizing surveillances—for group empowerment and for influencing the behaviors of others in their ecosystem.

A third lesson of multi-surveillance is that observations are partnered. Within the sex industry, various groups are at times observing *each other*, and doing it simultaneously. In particular, workers and clients are practicing surveillance *together* and through networks. They go to verification sites in order to practice mutual surveillance. And they take deliberate steps to protect each other's identities from the public. They also work side by side to monitor *other groups*—like the police. Surveillance itself becomes a means of forging alliances: workers and clients come together for *the purpose of doing surveillance*. So, while the two groups are invested in online sex work as a digital economy, they are also invested in the interactive surveillance it enables.

Their partnership extends beyond these platforms—into policy. It has been formalized in organizational statements and manifestos. SWOP, for instance, follows Amnesty International's 2015 position on decriminalization of sex work — for *two groups* — not just the sellers (themselves), but the buyers as well (the clients).⁹⁷ Workers may take this stance of solidarity, in part, out of economic dependence on clients for income. But, as I show here, it may also reflect their interdependence of digital agencies on the platforms.

Their alliance foretells obstacles for law-makers in the future. Because the two direct participants in the sex industry (those *at its core*) are so closely aligned regarding their digital agencies, state policies of removing platforms and forums may face challenges in the long term. United and invested in their continuation, workers and clients will likely pursue ways to revive those forums or sustain them by other means.⁹⁸

Finally, events described in this analysis illustrate how the political struggles surrounding sex work and trafficking are changing. The state is targeting the *online mediators* of the sex industry, rather than just *its direct participants*. It is not only going after the traffickers or pimps (or even johns), but also the third-party matching platforms and their data.

Based on the accounts of actors within the industry presented here, efforts to curb the online sex industry by shutting down sites, forums, and content are failing to address the structural sources of sex work and failing to help survivors

97. *The Difference Between Sex Work and Sex Trafficking*, SWOP BEHIND BARS, <http://swopbehindbars.org/amnesty-international-policy-to-decriminalize-sex-work/the-difference-between-sex-work-and-sex-trafficking/> [<https://perma.cc/4L6C-Z6UB>] (last visited Aug. 26, 2020).

98. Indeed, after experiences of shutdown and lockout from many of the above platforms, sex workers are turning to virtual worlds and gaming communities like Minecraft and Second Life. See Daisy Schofield, *Lockdown sex workers are flocking to Animal Crossing and Second Life*, WIRED (Jun. 9, 2020), <https://www.wired.co.uk/article/video-games-sex-work>. [<https://perma.cc/W9Z6-NFLG>].

and workers in a meaningful way. Whether intentional or not, this policy also restricts their access to crucial forms of digital autonomy and authority.

In the future, solutions must include more effective ways of regulating the platforms, as well as the development of more empowering technologies from the grassroots level. We need to ask workers themselves what kinds of policies, and what kinds of technologies, serve their purposes.