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Helping or Hurting?: A Conversation on the Passing of FOSTA-SESTA

Like many other pre-teenage girls, I was extremely insecure about the changes my body was facing. Being an only child with no siblings to entertain me, I went on the internet looking for people to talk to. It started innocently, chatting with people on websites like Club Penguin and Webkinz and then I found myself making friends on sites like Omegle and Kik. My insecurity as a child was caused by my body, as it started changing before all the other girls. But when I went online, I met men and women who I considered very close friends and who would tell me how beautiful I was. I was particularly close to one guy named Cooper, who always listened to my problems and would give me endless compliments on my appearance. At the time I thought he was trying to help me feel more confident, but now I realize that this 27-year-old man was having intimate conversations with just another 12-year-old girl for his own personal satisfaction. We had such intimate conversations that it got to the point where I once believed that I loved him, and if my parents weren't so involved in my life, there's a good chance I would have met him face-to-face.

I'm lucky that this man and I never met, but that's not the case for many girls and boys in America. Human and sex trafficking are very serious issues and have been around for thousands of years, but the new technological advancements of the internet have made it easier for predators and sex traffickers to lure their victims. As a response to the utilization of the internet as a medium for sex traffickers, the United States Government passed a package bill called "Allow States and Victims to Fight Online Sex Trafficking Act and Stop Enabling Sex Traffickers Act" FOSTA-SESTA on 11 April 2018. This law was passed in the hope that it would prevent online sex traffickers from luring people and hold certain websites accountable

for knowingly allowing the sale of sex trafficking victims (Congress). Despite being created to help people in the United States, its poor composition leaves holes that cause the adverse effect of endangering many American citizens.

FOSTA-SESTA pokes a hole in Section 230 of the 1996 Communication Decency Act CDA, which has generally been seen as one of the most important pieces of internet legislature (Romano). It states, “No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider” (Romano). This means that just because something punishable by law was posted on a website, it is not the website’s fault that it was published. Because FOSTA-SESTA holds the provider accountable for content posted, many websites are forced to censor the content of their users. For example, Craigslist has taken “craigslist personals” offline to eliminate the possible liability for the posts of sex traffickers (Romano). As a response, many internet freedom advocates oppose this law because it threatens freedom of speech and, as Emma Llansó of the Century for Democracy and Technology once said, jeopardizes all services that host user-generated content like Tinder or even Club Penguin (Romano). Not only would these services be jeopardized but they may have similar responses to Craigslist and censor the content of their users, which in turn interferes with the users’ rights to access of information and freedom of speech. Law professor and blogger Eric Goldman also argued that the bill would expose Internet entrepreneurs to unclear criminal risk and would “chill socially beneficial entrepreneurship well outside the bill’s target zone” (Romano).

In a way Eric Goldman is right, internet freedom advocates are not the only people in opposition to the law, and although Goldman may not believe that sex workers are socially beneficial, they are struggling as entrepreneurs after FOSTA-SESTA’s passing. A 32-year-old

escort named Melissa says that it has been harder to put food on the table and live comfortably and safely after this law passed. Because a lot of websites are censoring the content that sex-workers advertise, Melissa is unable to advertise for her services at the cheap rates she used to and is now forced to work for her old pimp. Melissa suffers from PTSD as a result of her experience working the corners on dangerous streets before she was able to work from the comfort and safety of her home. Now, in order to try and make as much money as before, she has to go back to those corners and suffer through panic attacks before providing her services in random men's cars or motels.

Melissa is not the only consenting adult sex worker that is facing this issue; many other sex workers are suffering financially as well. Because websites are starting to censor their content, there have been protests such as rallies held on "International Whores' Day." Many of these workers are saying that the law doesn't make the people in our nation safer, but endangers the lives of consenting adult sex workers by forcing them to go on the streets. I would push to argue that FOSTA-SESTA, in fact, has the adverse repercussion of potentially helping sex traffickers lure more victims because more people are working on the street and susceptible to being forced into this system.

FOSTA-SESTA may have been created in hopes that it would inhibit sex traffickers from luring people, but I believe that its poor construction puts sex workers in these dangerous conditions. As someone who read the bill and has done research, I can say that I have a few problems with it. Along with creating a grey area in Section 230 of the CDA, there are some unclear and broad phrases which leave too much room for uncertainty. It makes sense that websites are shutting down and deleting entire columns in order to ensure that they're not

breaking any laws, but as Goldman said, this broad language leaves entrepreneurs in a grey area as well.

The bill also portrays prostitution negatively, even implying that it's in some way similar to sex trafficking because it should be monitored (Congress). According to the Merriam-Webster Dictionary, prostitution is the "act or practice of engaging in promiscuous sexual relations for money," meaning that sex workers are, by this definition, engaging in consensual prostitution. According to federal law, prostitution is not illegal, but there are laws in place to inhibit where, with who, and how it is practiced (US Federal and State Prostitution Laws). The way the bill addresses prostitution shows that the creators of the bill and those who passed it did not consider the effects it would have on sex workers. This is an issue because sex workers are now facing hardships when trying to advance in their career because the law leaves uncertainty about how websites should censor and how sex workers would be able to advertise.

But in order for the bill to have been passed in the first place, there had to have been supporters. Sex trafficking survivor and current political activist Melanie Thompson played a pivotal role in working to get FOSTA-SESTA passed. As a response to the claim that sex workers are being forced into more dangerous conditions on the street, Thompson says, "prostitution [is] dangerous on any level, and it's always been dangerous and it will continue to be dangerous as long as it is violating somebody's human rights" (Soffer 2:45). Although I do not want to disregard Thompson's experiences being sex trafficked online and in person, I personally have to disagree with this statement. Prostitution, as mentioned before, is not illegal and consensual prostitution does not violate any human rights, rather it allows sex workers to exercise their right to sexual freedom. Of course nonconsensual prostitution (sex trafficking) is dangerous on any level, but for those who are consenting adult sex workers, online prostitution

can be practiced safely because they are able to screen their clients and have more power in how their interactions occur. Thompson also recognizes that FOSTA-SESTA interferes with Section 230 of the CDA and views this as beneficial because it stops websites from “knowingly facilitating prostitution” (Soffer 1:47). And although there were websites like Backpage.com who knowingly allowed sex traffickers to advertise, many websites are not knowingly facilitating this criminal act, and by putting all this responsibility on websites for third party content, these sites could be blamed for the content posted that they didn’t know existed.

Additionally, there are many professionals, like a coalition of tech groups, who suggested that SESTA be removed from the bill before it was passed because of the level of uncertainty it causes (Greenfield). I agree that SESTA causes uncertainty today, but the bill could have had more specific diction or certain amendments that would allow it to address potential problems and not interfere with the livelihood of sex-workers and the lives of other internet workers.

Now that FOSTA-SESTA has been passed, many people’s lives are changing for the worse. Though one could argue that this law would have protected me from predators online because websites like Omegle have started to monitor video chatting, there is currently no way to tell whether progress has been made. Even if it actually would have protected me to some extent, it’s not worth it to put so many lives in danger. Though this law is meant to help people it is actually hurting people. So how do we fix this problem? We should work to create amendments to add to this law, or set in place programs to help protect sex workers. This law and the conversation around it also raises questions: Should the government help prostitution by helping sex workers? Should prostitution and sex work be illegal? If we make it illegal how will we help sex-workers find new jobs? The passing of this law gives our nation a lot to think about regarding sex-work and because there are so many ways in which people want to ensure the

safety of those in our nation, we should have people on all sides of the conversation sit down and come up with solutions to ensure everyone's safety regarding sex-work and trafficking.

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