

INTRODUCTION

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It is often intimated that tragedy *naturally* follows whoredom. In actuality, violence in the sex trade and related industries is usually indicative of power differentials—mainly structural sexism and racism—and legislation that seeks to impede sexual and pleasure-seeking behavior and monetary compensation for, or material consumption of, said *intimate labor*.¹ On March 16, 2021, eight East Asian massage-parlor workers and

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1. This Introduction uses the term "intimate labor" rather than "sex work" or "erotic labor." The use of this umbrella term is purposeful, because massage spa workers, like "sugar babies" and "professional cuddlers," tend to occupy an indeterminate space wherein they are sometimes, or often, assumed to be erotic laborers, particularly if they are nonwhite. This Introduction uses "sex worker" to mean "prostitute," and uses "erotic laborer" as an umbrella term for all professions in the sex trade/industry. For a discussion of this terminology, see moses moon (@thotscholar), TWITTER (Mar. 6, 2021, 11:32 PM), <https://twitter.com/thotscholar/status/1368419189711638531> (on file with the *Columbia Human Rights Law Review*).

In her book, *Unrepentant Whore: Collected Works of Scarlot Harlot*, Carol Leigh describes how she coined the term "sex work" at a 1978 conference originally titled "Sex Use Industry." CAROL LEIGH, *UNREPENTANT WHORE: COLLECTED WORKS OF SCARLOT HARLOT* 66–69 (2004). Leigh suggested the title be changed to "Sex Work Industry" to replace the objectifying original title. She publicly identified herself as a prostitute, which was unheard of at the time. From then on, the term "sex work" became interchangeable with "prostitute." *Id.* at 69. Somewhere down the line people both within and without the movement began to use "sex worker" as an umbrella term. Many felt it was politically expedient to do so, but some, including author Kathi Weeks, question whether part of the appeal of the term is its respectability and linkage to "regular" work. See Kathi Weeks, *THE PROBLEM WITH WORK: FEMINISM, MARXISM, ANTIWORK POLITICS, AND POSTWORK IMAGINARIES* 66–69 (2011). Others, the author included, also feel that subsuming all forms of erotic/intimate labor under the banner of "sex work" is fine for advancing our cause,

bystanders were murdered by a twenty-one-year-old white supremacist gunman named Robert Aaron Long.² Long targeted three different Atlanta-based spas—two of which were allegedly listed on an erotic review site as “illicit massage businesses.”³

but somewhat diminishes the centrality of prostitutes (people who perform sex acts for material compensation).

For a discussion of the concept of “intimate labor,” see Eileen Boris & Rhacel Salazar Parreñas, *Introduction* to *INTIMATE LABORERS: CULTURES TECHNOLOGIES AND THE POLITICS OF CARE* 1, 2–3 (Stanford Univ. Press 2010). Boris & Salazar Parreñas note:

Through the category of “intimate labor,” we consider various occupations—usually subsumed under the often discreetly examine categories of care, domestic, and sex work—as sharing common attributes. Each of these laborers forges interdependent relations, represents work assumed to be the unpaid responsibility of women, and, consequently, is usually considered to be a non-market activity or an activity of low economic value that should be done by lower classes or racial outsiders.... Intimate labor emerges as a mechanism that maintains and reflects socioeconomic inequalities... when intimacy becomes employment, it loses status as a labor of love and becomes regarded as unskilled work that anyone can perform because women have undertaken such activities without payment.... Those who have performed such paid jobs are of lower status, often men and women of color and/or recent immigrants.... Characteristics of the worker have continued to define the skill and value of the work.

Id. at 2.

2. Hanna Park, *He Shot at 'Everyone He Saw': Atlanta Spa Workers Recount Horrors of Shooting*, NBC NEWS (Apr. 2, 2021), <https://www.nbcnews.com/news/asian-america/he-shot-everyone-he-saw-atlanta-spa-workers-recount-horrors-n1262928> [<https://perma.cc/32PK-EZSC>]; see also Press Release, Rep. Maxine Waters, Waters on Atlanta Spa Shootings: The Only Promise of White Supremacy Is That None of Us Are Safe (Mar. 18, 2021), <https://waters.house.gov/media-center/press-releases/waters-atlanta-spa-shootings-only-promise-white-supremacy-none-us-are> [<https://perma.cc/7X8L-5ACW>] (“The racist attack in Georgia that killed eight people, including six women of Asian descent, was a horrid reminder of the white supremacist threat that has plagued our country for hundreds of years.... It is clear that the only promise of white supremacy is that none of us are safe.”).

3. Douglas MacMillan & Abha Bhattarai, *Police Crackdowns on Illicit Massage Businesses Pose Harms to the Women They Aim to Help*, WASH. POST (Apr. 3, 2021), <https://www.washingtonpost.com/business/2021/04/03/atlanta-massage-industry-police-tactics/> (on file with the *Columbia Human Rights Law Review*). MacMillan & Bhattarai report on a series of Georgia sting operations, describing police misconduct, sexual violence perpetrated by law enforcement, and incidents where plainclothes policemen visited the same massage businesses repeatedly. It states that in at least nine incidents, officers did not initiate arrest until after sexual contact began—even though Georgia law states that verbal agreement [to sexual acts for compensation] is enough to

Massage spas are stigmatized and criminalized throughout the United States based on the assumptions that they are places where one can receive sexual services from Asian women or where exploited immigrant women are held against their will.⁴ It was within this context that Long allegedly claimed that the killings were not racially motivated, but were instead a result of his desire to purge himself of a “sex addiction.”⁵ In *Discriminating Sex: White Leisure and the Making of the American Oriental*, Amy Sueyoshi wrote that in the nineteenth and twentieth centuries, “Public-health officials constructed the Chinese syphilitic prostitute as particularly dangerous only after they discovered that white men also visited Chinese women for sex—so much so, officials legislated the 1875 Page Law that barred the entry of ‘immoral women’ specifically for the Chinese.”⁶ Although one must be wary of labeling massage spa laborers as “sex workers,” the triadic connection between race, sex, and perceived occupation was almost certainly a factor in the violence at the Atlanta spas. Yves Nguyen of Red Canary Song, a New York City organization that supports Asian sex workers and allies, drew this connection in their statement on the violence.⁷ She stated that the violence at the Atlanta spas

arrest someone. In at least six of the nine cases, officers were reportedly haggling. *The Washington Post* found no evidence of legal action found in the records. *Id.*

4. Anne Anlin Cheng, *The Dehumanizing Logic of All the ‘Happy Ending’ Jokes*, THE ATLANTIC (Mar. 23, 2021), <https://www.theatlantic.com/culture/archive/2021/03/atlanta-shootings-racist-hatred-doesnt-preclude-desire/618361/> [https://perma.cc/2YTM-87PD] (noting that massage parlors are “deeply racialized and sexualized in the American and global consciousness”); see also Jessica Contrera, Tracy Jan & Douglas MacMillan, *Atlanta Spa Killings Lead to Questions About Sex Work and Exploitation*, WASH. POST (Mar. 19, 2021), <https://www.washingtonpost.com/dc-md-va/2021/03/19/asian-massage-business-women-atlanta/> (on file with the *Columbia Human Rights Law Review*) (discussing spas targeted by shooter, and history of sexual stereotypes about Asian massage parlors).

5. EJ Dickson, *The Atlanta Spa Shootings Are Fueling Far-Right Attacks on Porn and Sex Work*, ROLLING STONE (Mar. 25, 2021), <https://www.rollingstone.com/culture/culture-features/atlanta-spa-shootings-asian-women-sex-addiction-1146368/> [https://perma.cc/57NJ-LTYJ].

6. AMY SUEYOSHI, *DISCRIMINATING SEX: WHITE LEISURE AND THE MAKING OF THE AMERICAN “ORIENTAL”* 91 (2018). Sueyoshi continues, “the Chinese woman was almost ‘invisible’ and ‘absolutely voiceless’ during the nineteenth century. According to Lee, the Chinese prostitute could not be made a subject of popularity because such publicity would unveil the ‘forbidden and unspeakable’ alliance between Chinese and white men that facilitated the extremely profitable commodification of Chinese women.” *Id.*

7. Emma Bowman, *Atlanta Killings: Sex Worker Advocate Sees Deadly Consequences of Overlapping Hatreds*, NPR (Mar. 21, 2021), <https://www.npr.org/2021/03/21/979811779/atlanta-killings-sex-worker-advocate-sees-deadly-consequences-of-overlapping-hat> [https://perma.cc/N26W-NZY2] (quoting Yves Nguyen from Red Canary Song).

was “part of a history of race and gender-based violence against Asian women, immigrants and sex workers” and that “whether the women victims provided sex services is beside the point.”⁸ Racialized misogyny insists that East Asian women are demure, tempestuous, fetishistic objects of desire.⁹ Roslyn Talusan, a cultural critic, highlighted the insidious nature of racialized misogyny, saying “it’s both impossible and dishonest to ignore how Orientalist misogyny factors into the mass shooting in Atlanta. Asian women have historically been exoticized in America, portrayed as delicate, submissive ‘Lotus Flowers’ or hypersexual and manipulative ‘Dragon Ladies.’”¹⁰ Anti-Asian bigotry has spiked since the inception of the coronavirus pandemic, affecting both Asian Americans and Pacific Islanders nationwide.¹¹ Last year, former President Trump provoked sinophobia by repeatedly calling the coronavirus the “Chinese virus.”¹² Furthermore, racialized, gendered violence against sex workers is both historic and ongoing, heightened by the stigma caused by modern laws.

Reports show that prostitution stings had previously targeted at least one of the spas the gunman attacked.¹³ Over the past several years,

8. *Id.*

9. Roslyn Talusan, *Blaming the Atlanta Shooting on ‘Temptation’ Glosses Over Its Racism*, VICE MAG. (Mar. 23, 2021), <https://www.vice.com/en/article/xgzndw/blaming-the-atlanta-shooting-on-temptation-glosses-over-its-racism> [https://perma.cc/8T7L-CNWK]. The article noted:

According to NBC Asian America, nearly 70% of victims of reported anti-Asian hate crimes between February 2020 and March 2021 were women. . . . White American men in particular have been conditioned to see [Asian women] as objects to conquer and acquire as property, denying us agency, and therefore, our humanity. The violence in Atlanta must be a turning point in how the media, and our culture at large, talks about racist misogyny.

Id.

10. *Id.*

11. Tami Abdollah & Trevor Hughes, *Hate Crimes Against Asian Americans Are on the Rise. Here’s What Activists, Lawmakers and Police Are Doing to Stop the Violence*, USA TODAY (Feb. 27, 2021), <https://www.usatoday.com/story/news/nation/2021/02/27/asian-hate-crimes-attacks-fueled-covid-19-racism-threaten-asians/4566376001/> [https://perma.cc/ESJ5-3TGJ].

12. Dan Mangan, *Trump Defends Calling Coronavirus ‘Chinese Virus’—‘It’s Not Racist at All’*, CNBC (Mar. 18, 2021), <https://www.cnbc.com/2020/03/18/coronavirus-criticism-trump-defends-saying-chinese-virus.html> [https://perma.cc/M7ZF-TPD6].

13. Cara Kelly, Erin Mansfield, & Brenna Smith, *The Atlanta Shooting Put a Spotlight on the Vulnerability of Spa Workers. Many Are Still Routinely Arrested Across Georgia*, USA TODAY (Mar. 31, 2021), <https://www.usatoday.com/story/news/investigations/2021/03/31/georgia-spa-shootings-highlight-worker-vulnerability-threat-arrest/4802368001/> [https://perma.cc/YE4N-9NFC] (“[T]he Atlanta Police Department conducted nine undercover operations at [Gold and Aromatherapy spas]

multiple new federal policies have targeted sex workers and erotic laborers while purporting to be related to eradicating (child) sex trafficking.¹⁴ These changes have included an increase in “trafficking” stings at workplaces such as massage parlors, carried out to arrest and charge women with prostitution, while ultimately levying no trafficking charges.¹⁵ They have also included legislation such as FOSTA/SESTA, which supposedly rests on the rationale that shutting down offensive websites will prevent traffickers

between 2011 and 2014. Those stings led to 12 arrests, nine of them for prostitution. *USA Today* found no record of police activity at the third shooting location, Young’s Asian Massage, about 30 miles north of Atlanta.”).

14. October 6, 2016 marked a landmark date for erotic laborers, as Vice President Kamala Harris, then California Attorney General, announced plans to target the now-defunct free classified advertising website Backpage. After much media furor, the Department of Justice shut down Backpage in 2018. The Justice Department claimed that Backpage was knowingly facilitating child sex trafficking via its adult classified section, which saw a significant amount of growth subsequent to Craigslist shutting down its adult advertising section in 2010. This was a defining political moment for Harris. Harris, then a Senator, had been building a reputation of being “tough on crime,” and was also a co-sponsor for the Stop Enabling Sex Traffickers Act of 2017 (SESTA). SESTA followed another related bill, the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA). The enacted legislation, now often packaged as FOSTA-SESTA, has thrust sex workers into the media spotlight and spurred conversations about federal criminalization of sex work. See Merrit Kennedy, *Craigslist Shuts Down Personals Section After Congress Passes Bill on Trafficking*, NPR (Mar. 23, 2018), <https://www.npr.org/sections/thetwo-way/2018/03/23/596460672/craigslist-shuts-down-personals-section-after-congress-passes-bill-on-trafficking> [<https://perma.cc/VEG7-QTS2>]; see also April Glaser, *There Is No New Backpage*, SLATE (Feb. 13, 2019), <https://slate.com/technology/2019/02/backpage-sex-workers-fosta-sesta-swifter-tryst-trafficking.html> [<https://perma.cc/9CJB-4FX7>] (describing how a “government crackdown on online sex trafficking” has impacted the sex industry); Matt Hamilton, *Backpage Says Criminal Charges by Kamala Harris Are ‘Election Year Stunt,’* L.A. TIMES (Oct. 6, 2016), <https://www.latimes.com/local/lanow/la-me-ln-backpage-ceo-arrested-charged-20161006-snap-story.html> (on file with the *Columbia Human Rights Law Review*) (exploring claims that Harris and others targeted Backpage as an election stunt orchestrated to appear “tough on crime” while also appearing concerned about children and women’s welfare); Elizabeth Nolan Brown, *Secret Memos Show the Government Has Been Lying About Backpage All Along*, REASON (Aug. 26, 2019), <https://reason.com/2019/08/26/secret-memos-show-the-government-has-been-lying-about-backpage/> [<https://perma.cc/JM2H-FNQB>] (describing documents showing that federal officials continued to target Backpage despite their efforts consistently being hampered by Backpage’s efforts to address trafficking occurring on the site).

15. For an example of these massage parlor arrests, see Daniel Barunda, *Texas DPS Arrests 8 Women on Prostitution, License Violations at El Paso Massage Parlors*, EL PASO TIMES (Nov. 3, 2020), <https://www.elpasotimes.com/story/news/crime/2020/11/03/el-paso-massage-parlors-texas-dps-arrests-8-women-prostitution/6148331002/> [<https://perma.cc/KFV2-TC7W>].

from exploiting victims, including (white) children and youth.¹⁶ Such measures are often met with rightful skepticism because, historically, laws have criminalized, rather than protected, trafficking victims. The Trafficking Victims Protection Act of 2000 (TVPA) defines any and all commercial sex trading by minors as trafficking: “there is no requirement to prove that force, fraud, or coercion was used to secure the victim’s actions if the victim is a minor.”¹⁷ Despite this, “[o]nly four states—California, Connecticut, or Florida and Minnesota—have enacted non-criminalization laws that are designed to prevent the arrest and detention, as well as prosecution, of minors for prostitution offenses in addition to connecting child sex trafficking victims with holistic, specialized care and services.”¹⁸ This means that many youth in the sex trade—including minors—are not fully protected by the Trafficking Victims Protection Reauthorization Act (TVPRA) or Safe Harbor laws.

Women and girls of color, including the trafficking victims whom the criminalization of sex work purportedly “saves,” are disproportionately targeted by law enforcement and criminalization fails to protect them from the racist and gendered violence they commonly experience while engaging in “survival sex” or other forms of sex work. Minors, particularly Black girls, are still being arrested on charges of prostitution in certain states and criminalized when they defend themselves against sexual violence. An article by Cherice Hopkins for Campaign for Youth Justice states that “girls of color account for 22% of the youth population, but 66% of incarcerated girls In 2017, Black children accounted for 52% of juvenile prostitution arrests and girls accounted for 61% of prostitution arrests.”¹⁹ Many of these youths are homeless, former victims of abuse, or runaways engaging in

16. Laura Lammasniemi, *White Slavery: The Origins of the Anti-Trafficking Movement*, OPEN DEMOCRACY (Nov. 16, 2017), <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/white-slavery-origins-of-anti-trafficking-movement/> [https://perma.cc/GGM9-NH4B].

17. Geoff Dempsey, *Minor Sex Trafficking: How Well Illinois Protects Children*, PATCH (Jan. 22, 2019), <https://patch.com/illinois/across-il/minor-sex-trafficking-how-well-illinois-protects-children> [https://perma.cc/T3Q8-MHV7].

18. *Id.*

19. See Cherice Hopkins, *Girls of Color and the Criminalization of Trafficking Survivors*, CAMPAIGN FOR YOUTH JUST. (Oct. 12, 2019), <http://www.campaignforyouthjustice.org/2019/item/girls-of-color-and-the-criminalizing-of-trafficking-survivors> [https://perma.cc/E62V-5NWF]; see also Neena Satija, *Texas Couldn't Help This Sex-Trafficked Teen, So Authorities Sent Her to Jail*, TEX. TRIBUNE (Feb. 15, 2017), <https://www.texastribune.org/2017/02/15/texas-sex-trafficked-teens-often-end-jail/> [https://perma.cc/6VTP-U74Y] (detailing the cases of four “at-risk” young women who were arrested for prostitution as minors and how this practice feeds high rates of juvenile incarceration).

“survival sex,” i.e., trading sex for basic resources or other material goods.²⁰ For example, Chrystal Kizer was arrested at age seventeen after she confessed to killing Randy Volar, a thirty-four-year-old white man who had sexually abused her after responding to a website ad when she was sixteen.²¹ Volar had a record of past child sexual abuse, and had a record of abusing underage Black girls.²² Kizer was charged with first-degree intentional homicide, which carries a mandatory life sentence in Wisconsin. As of this writing, she is currently still awaiting trial.²³ Similarly, Cyntoia Brown, a homeless runaway described as a “teen prostitute,” was convicted in 2004 of killing a man who solicited her for sex. Brown was tried as an adult under Tennessee law, and sentenced to life imprisonment.²⁴ She was

20. The term “survival sex” was originally applied by academic researchers to runaways, homeless, and at-risk youth trading sex for basic needs (such as a place to sleep or food) or drugs. URBAN INSTITUTE, SURVIVING THE STREETS OF NEW YORK: EXPERIENCES OF LGBTQ YOUTH, YMSM, AND YSWW ENGAGED IN SURVIVAL SEX 4 (2015). Many studies include both minors and adults under the age of 26. *Id.* at 15. It is the author’s belief that, due to power differentials and the structural power that adults hold, this is an imposition on actual youth, specifically minors who lack a distinct voice in the mainstream sex worker rights movement. The term “survival sex” has recently been appropriated by adult sex workers/erotic laborers, usually those who are impoverished, housing insecure, or are drug users. I consider minors to be an oppressed class because they suffer from a distinct lack of economic, cultural, social, and civic rights. Due to their dependency on adults around them, their voices are often absent from various movements which purport to have their best interest in mind. Many adult sex workers are understandably extremely wary of getting involved with or assisting youth who are trading sex in any capacity. Even offering safety tips or allowing a child to crash at your home could result in a trafficking charge for whoever assists them. Chelsea Breakstone, “I Don’t Really Sleep”: Street-Based Sex Work, Public Housing Rights, and Harm Reduction, 18 CUNY L. REV. 349. Unfortunately, this puts “at-risk” youth in an extreme predicament, at the mercy of the State. Their alleged heightened involvement in the sex trade is a symptom of poverty, capitalism, and bigotry. See generally JULIET WATSON, YOUTH HOMELESSNESS AND SURVIVAL SEX: INTIMATE RELATIONSHIPS AND GENDERED SUBJECTIVITIES (2018). See also Sarah A. Moody & Shawn C. Marsh, *Youth at Greater Risk for Being Sex Trafficked If Homeless, LGBTQ, Minority*, JUV. JUST. INFO. EXCH. (Aug. 17, 2020), <https://jjie.org/2020/08/17/youth-at-greater-risk-for-being-sex-trafficked-if-homeless-lgbtq-minority/> [<https://perma.cc/TD8Y-TK7F>].

21. Jessica Contrera, *He Was Sexually Abusing Underage Girls. Then, Police Said, One of Them Killed Him*, WASH. POST (Dec. 17, 2019), <https://www.washingtonpost.com/graphics/2019/local/child-sex-trafficking-murder/> (on file with the *Columbia Human Rights Law Review*) (describing the case of Chrystal Kizer).

22. *Id.*

23. *Id.*

24. Jon Garcia, *A Timeline of the Cyntoia Brown Case, Conviction and Successful Bid for Clemency*, THE TENNESSEAN (Dec. 11, 2018), <https://www.tennessean.com/story/news/2018/12/11/cyntoia-brown-case-facts-story-timeline-2018/2276009002/> [<https://perma.cc/Z2NP-JCZZ>].

subsequently granted clemency after activists and celebrities rallied behind her.²⁵ The cases of Kizer and Brown are just two examples of countless ways that the policing of sex work hurts victims more than it helps them.

The precarious position of sex workers has only been exacerbated by the coronavirus pandemic, which has caused a national and global economic struggle for many. Erotic laborers, especially sex workers, typically have a difficult time accessing government aid. Women, LGBTQ+ people, poor people, and nonwhite/Black sex workers are particularly affected, because socioeconomic inequalities are compounded in this mostly underground industry.²⁶ Last year the United States government approved the \$2.2 trillion dollar CARES Act to provide assistance for small businesses, independent contractors, and sole proprietors via Small Business Administration (SBA) loans and the Paycheck Protection Program (PPP).²⁷ However, “businesses that provide services or live performances of a ‘prurient sexual nature’ are banned from receiving SBA loans under federal regulations.”²⁸ This move left many erotic laborers and other related business owners and independent workers bereft of financial resources. Many sex workers had to choose between continuing to work and risk contracting the virus, or struggle. But the pandemic did not only affect in-person workers: as people moved online, so did sex work.

25. See Leah Carroll, *How the Justice System Failed Cyntoia Brown*, REFINERY 29 (Feb. 21, 2018), <https://www.refinery29.com/en-us/2018/12/219015/cyntoia-brown-case-facts-real-story> [<https://perma.cc/TDY6-WHSN>]; see also Kate Hodal, *Cyntoia Brown: Trafficked, Enslaved, Jailed for Life at 16—and Fighting Back*, THE GUARDIAN (Oct. 23, 2019), <https://www.theguardian.com/global-development/2019/oct/23/cyntoia-brown-long-trafficked-enslaved-jailed-for-life-at-16-and-fighting-back> [<https://perma.cc/4E3G-DL3H>] (providing more detail on the Cyntoia Brown case).

26. Melissa Petro, *Cut off from the CARES Act, Sex Workers Struggle to Survive the Coronavirus Pandemic*, DAILY BEAST (Oct. 18, 2020), <https://www.thedailybeast.com/cut-off-from-the-cares-act-sex-workers-struggle-to-survive-the-coronavirus-pandemic> [<https://perma.cc/AHF4-DV85>] (noting that the CARES Act “shuts out businesses that provide products or performances of a ‘prurient sexual nature.’ The [SBA]’s Economic Injury Disaster Loan Program also requires applicants to check a box confirming they don’t put on ‘live performances of a prurient sexual nature’ or sell products or services of a ‘prurient sexual nature.’”).

27. Coronavirus Aid, Relief, and Economic Security Act, 116 Pub. L. 136, 134 Stat. 281 (2020).

28. Jacob Serebrin, *‘I Have a Mortgage to Pay’: Sex Workers Banned from Small-Business Loans Under CARES Act Due to ‘Prurient Sexual Nature,’* MARKETWATCH (May 1, 2020), <https://www.marketwatch.com/story/i-have-a-mortgage-to-pay-sex-workers-banned-from-small-business-loans-under-cares-act-due-to-prurient-sexual-nature-2020-05-01> [<https://perma.cc/75C8-K6BY>].

OnlyFans, a website made popular by erotic performers and cyber sex workers, experienced a steep rise in content creator signups following massive layoffs during the pandemic.²⁹ Earlier this year, a white, middle-aged mom was exposed as an erotic OnlyFans contributor by neighbors and parents, which resulted in the expulsion of her children from Sacred Heart Parish, a Catholic school in California. Said the principal: “your adult website is in direct conflict with what we hope to impart to our students and is directly opposed to the policies laid out in our Parent/Student Handbook.”³⁰ This is just one of multiple cases where people, usually cis women, have their erotic OnlyFans account exposed by coworkers, customers, or other “concerned” community members.³¹

In relation to this trend (of exposure), attorney Andrew J. Horowitz stated “it is perfectly legal for private employers to regulate employees’ activities outside of the workplace.”³² Horowitz’s comments showcase a steady encroachment of capitalist-class employers on laborer’s private lives.

He cites a case involving a female employee whose male coworkers “discovered” her OnlyFans account and proceeded to blame her for the fallout and suggests that employers surveil their employees’ social media accounts and add detailed clauses to their employment contract to prohibit their employees’ activities outside of work—whether they derive income

29. Canela López, *People Are Turning to OnlyFans to Earn Money After Losing Their Jobs During the Pandemic*, INSIDER (June 17, 2020), <https://www.insider.com/people-are-creating-onlyfans-accounts-after-losing-jobs-during-pandemic-2020-6> [<https://perma.cc/AU2Z-QMDL>]; see also Andrew J. Horowitz, *Don’t Get Caught with Your Employees’ Pants Down—Avoiding Exposure from Your Employees’ “Exposure”*, HR LEGALIST (Mar. 5, 2021), <https://www.hrlegalist.com/2021/03/dont-get-caught-with-your-employees-pants-down-avoiding-exposure-from-your-employees-exposure/> [<https://perma.cc/FTT8-96G9>] (“The popularity of websites like OnlyFans has exploded during the COVID-19 pandemic, as people have sought to replace lost income or earn additional income while stuck at home. This can have dire consequences when it bleeds into the workplace and create no-win scenarios for employers.”).

30. Ashley Reese, *Children Expelled After School Finds Out About Mom’s OnlyFans Account*, JEZEBEL (Feb. 23, 2021), <https://jezebel.com/children-expelled-after-school-finds-out-about-moms-onl-1846339475> (on file with the *Columbia Human Rights Law Review*). It is hard to imagine what a poor, nonwhite parent would do in a similar situation. Mrs. Jackson makes upwards of \$150,000 per month on OnlyFans, which is far from the typical earnings of the average erotic nonwhite erotic laborer. *See id.*

31. Jacob Bernstein, *How OnlyFans Changed Sex Work Forever*, N.Y. TIMES (Feb. 9, 2019), <https://www.nytimes.com/2019/02/09/style/onlyfans-porn-stars.html> (on file with the *Columbia Human Rights Law Review*) (describing how OnlyFans, which many sex workers use to provide erotic content to subscribers behind paywalls, works).

32. Horowitz, *supra* note 29.

from them or not.³³ This reveals the normalization of surveillance and employer's increasing control over worker's' lives.³⁴

In addition to private employers' pushes to regulate employees' online activity, the federal government has made moves to censor it. In December 2020, senators from both the Democratic and Republican parties introduced the "Stop Internet Sexual Exploitation Act," which directly targets Pornhub and similar sites that host pornography.³⁵ This in the midst of a global pandemic when women—mainly those who are nonwhite and work low-wage jobs—have been forced to drop out of the labor force in droves.³⁶ Such legislation shows a blatant lack of understanding of the many

33. *Id.*

34. Scott W. Stern, *Rethinking Complicity in the Surveillance of Sex Workers: Policing and Prostitution in America's Model City*, 31 *YALE J.L. & FEMINISM* 411, 411–12 (2020) (explaining that twentieth century sex workers were threatened primarily by federal agents, social workers, and public health officials, who collaborated with local police to surveil them).

35. Kate Cox, *Pornhub Squarely Targeted in Bipartisan Bill to Regulate Sex Work Online*, *ARS TECHNICA* (Dec. 21, 2020), <https://arstechnica.com/tech-policy/2020/12/pornhub-squarely-targeted-in-bipartisan-bill-to-regulate-sex-work-online/> [<https://perma.cc/2866-GBXC>].

36. "Wage slavery" is not even an overstatement. Data shows that "hours and weeks worked have increased" for both Black and white workers, with Black workers in the bottom 40% of the wage distribution reporting a larger increase for much lower wages. See Janelle Jones & Valerie Wilson, *Low-Wage African American Workers Have Increased Annual Work Hours Most Since 1979*, *ECON. POL'Y INST.* (Mar. 27, 2017), <https://www.epi.org/blog/low-wage-african-american-workers-have-increased-annual-work-hours-most-since-1979> [<https://perma.cc/M46G-WZ5Y>]; see also Jonathan Rothwell & Lydia Saad, *How Have U.S. Working Women Fared During the Pandemic?*, *GALLUP* (Mar. 8, 2021), <https://news.gallup.com/poll/330533/working-women-fared-during-pandemic.aspx> [<https://perma.cc/Q6VQ-GQ2Q>] (showing that most erotic laborers are women/non-men, and many are parents); Julie Moreau, *LGBTQ People Face Higher Unemployment Amid Coronavirus Pandemic, Survey Finds*, *NBC NEWS* (May 12, 2020), <https://www.nbcnews.com/feature/nbc-out/lgbtq-people-face-higher-unemployment-amid-coronavirus-pandemic-survey-finds-n1205296> [<https://perma.cc/KZT8-YTYV>] (noting that 17% of LGBTQ people polled lost their jobs because of COVID-19, compared to 13% of the general population, and that gay, bisexual, and transgender people are disproportionately represented in the sex worker community.); Thuy Lan Nguyen, *Gender Wage Gap Shrank Because of COVID-19, But That's Not a Good Thing*, *13WMAZ* (Mar. 14, 2021), <https://www.13wmaz.com/article/money/economy/gender-wage-gap-shrank-of-covid-19/67-4b6617b2-9d4c-4e21-b51a-67bd366b4105> [<https://perma.cc/65DG-8WCS>] (showing that more low-wage women were put out of work than men during the pandemic). See generally Armagan Gezici & Ozge Ozay, *An Intersectional Analysis of COVID-19 Unemployment*, *J. ECON., RACE, & POL'Y* (2020) (exploring the racialized and gendered effects of the COVID-19 pandemic on the probability of being unemployed).

ways that criminalizing sex work targets people who are already economically marginalized.

Turning now more profoundly to the intricacies of a theory for our liberation, issues of age, race, class, sex, gender, and disability are complicating a movement previously dominated by white, middle class, higher-end perspectives. First, erotic laborers are a broad mélange of libertarians, neoliberals, radical leftists, socialists/communists, conservatives, and anarchists.³⁷ Second, and relatedly, the juxtaposition of decriminalization and legalization and discriminatory “models” that criminalize certain aspects of sex work have yielded a wide range of imprecise terms such as “full decriminalization.”³⁸ Some high end escorts

37. Sex workers and erotic laborers are a broad collective, drawn from every political party, class, race, ethnicity, etc. Like the general population, they have varying political views. Some are feminists, some are womanists. There are various feminisms and womanisms, including “sex positive feminism,” queer and trans feminisms, and “proheaux womanism” (proheauxism). Some are drawn to libertarianism because of its anti-State views. The Libertarian Party is the only political party thus far to publicly announce their support for the decriminalization of sex work. See Elizabeth Nolan Brown, *Libertarian Party Adopts New Sex Work Plank, Becomes Only Notable U.S. Party to Endorse Prostitution Decriminalization*, REASON (July 2, 2018), <https://reason.com/2018/07/02/libertarians-call-for-sex-work-decrim/> [<https://perma.cc/T8TV-M3FK>]; see also Lara Gerassi, *A Heated Debate: Theoretical Perspectives of Sexual Exploitation and Sex Work*, 42 J. SOCIO. & SOC. WELFARE 79, 79 (2016) (providing a “comprehensive overview of the philosophical, legal, and political perspectives pertaining to sexual exploitation of women and girls while addressing the subsequent controversies in the field”); Peter Frase, *The Problem with (Sex) Work*, JACOBIN MAG. (Mar. 28, 2012), <https://jacobinmag.com/2012/03/the-problem-with-sex-work> [<https://perma.cc/M2B4-269F>] (discussing sex work as antiwork/nonwork, which literally means “against work,” and the degradation capitalism causes).

38. “Decriminalization” is already a precise enough legal term. It was coined by anthropology professor Jennifer James to directly challenge the criminalization of prostitution. Brooke Meredith Beloso, *Sex, Work, and the Feminist Erasure of Class*, 38 J. OF WOMEN IN CULTURE & SOCIETY 47, 47. It was coined directly in relation to sex work, with the goal of eliminating legislation that targets or criminalizes sex workers. Ronald Weitzer, *Prostitutes’ Rights in the United States: The Failure of a Movement*, 32 SOCIOLOGICAL QUARTERLY 25 (1991). It is also often applied to drug policy. See generally DRUG POLICY ALLIANCE, *IT’S TIME FOR THE U.S. TO DECRIMINALIZE DRUG USE AND POSSESSION* (2017). “Full decriminalization,” is often contrasted with what advocates call “partial decriminalization.” An example of this would be the Nordic model. WHY SEX WORK SHOULD BE DECRIMINALIZED, HUMAN RIGHTS WATCH (Aug. 7, 2019), <https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized#> [<https://perma.cc/WR9A-6NSL>]. However, models such as the Nordic Model, which criminalize the clients of sex workers, indirectly criminalize and directly marginalize and stigmatize sex workers by penalizing their clients and exposing them to police violence. Under the Nordic Model, sex work is still criminalized—even though sex workers are not prosecuted for it. Criminalization is criminalization, even if the state attempts to hide it

would prefer to remain independent contractors, while others, myself included, have advocated for accessing labor protections by forming cooperatives or unionizing—although formal unions are not available to independent contractors due to antitrust laws.³⁹ I have also discussed brothels at length, positing cooperatives as a solution to the problem of madams and cis-heterosexual male brothel owners. None of these solutions is even close to being perfect. And, of course, this is all being discussed under the guise of the continuation of capitalism. In the words of anarchist Pedro Ribiero, “only the oppressed can liberate themselves.”⁴⁰ This means that much of our work may have to be accomplished without appealing to the State. Defunding the police and waging class struggle, along with advancing racial and gender equity, are a huge part of our work.

When I say “our work,” I am distinctly referring to the work of poor, queer, trans, and disabled nonwhite peoples and our comrades. Many of us are multiply marginalized and engaging in deviant occupations, and thus we cannot disentangle one mode of oppression from another. Connecting various forms of erotic labor to other forms of labor has proven to be incredibly complex—laws governing erotic labor vary widely from legal pornography and erotic dancing (stripping), to quasilegal cyber erotic labor (including cammodeling and selling access to explicit videos on sites like OnlyFans and ManyVids), to illegal prostitution (sex work), to selling

by adopting new models. These models, which are not endorsed by sex worker advocates and organizations, are a perversion of the meaning of decriminalization. If anything, these models are a mode of partial criminalization. See Brooke M. Beloso, *Sex, Work, and the Feminist Erasure of Class*, 38 SIGNS: J. WOMEN CULTURE & SOC'Y 47, 47–70 (2012).

39. Heather Berg and the author recently discussed the possibility of unions and/or cooperatives for sex workers (prostitutes). Antitrust laws remain a barrier to this idea. Currently, sex workers are able to charge whatever they want, depending on the market, basing their charges on the identity of their main clientele, the region in which they work, their “look,” etc. Unfortunately, discrimination is completely acceptable in the sex industry, just as it is in other looks-based industries, such as modeling. This puts sex workers in a predicament. How would we come to an agreement on price ranges in an industry where racism, classism, and ableism are compounded? It does not seem feasible. Standardizing prices would likely cause resentment among higher earning workers who are used to earning a lot more money than low earning workers. It also would not stop low earning workers from charging under the table in times of need. I suggest a mutual aid arrangement, where higher earning sex workers agree to commit a certain percentage of their income to redistribute to other, poorer workers. Of course, this is basically an honor system, and this set-up could also possibly stoke racial and class tensions.

40. See Pedro Ribiero, *Senzala or Quilombo: Reflections on APOC and the Fate of Black Anarchism*, BLACK ROSE ANARCHIST FED'N (May 29, 2018), <https://blackrosefed.org/senzala-or-quilombo-black-anarchism/> [https://perma.cc/DH4J-3VMC].

erotic items such as underwear.⁴¹ Currently, the sex worker rights movement has stalled around the issues of decriminalization/legalization and stigma.⁴² During the pandemic, a debate arose about whether or not sex work is care work, or “essential work.”⁴³ More Black, Asian, Latine, queer and trans folks are involved, and more visible, in this current wave of the sex worker rights movement, than ever before.⁴⁴ Likely this is due to the ubiquity of social media, which increases the ability to connect and organize across borders.

With this connection comes tension. As a former street-based prostitute and current low end erotic laborer (of various modes), I have witnessed *lupephobia* from strippers/dommes complaining about dancers and fellow performers who do “extras.”⁴⁵ Extras could be anything from

41. For more on the term “erotic dance” and the history that led to the colonization/eroticization of “exotic,” see generally Jean-François Staszak, *Exotic Dance, Exotic Dance: Displaying the Other's Body from the 18th to the 20th Century*, 660–61 *ANNALES DE GÉOGRAPHIE* 129 (2008).

42. Adrienne D. Davis has described this internal political tension perfectly, stating: “First generation debates centered on whether feminists should support or oppose sex work. Second generation debates delve deeper into questions of how sex work should be regulated, or why it shouldn’t be regulated . . . [I]n the arena of sex work, the feminist regulatory imagination remains stuck, unable to recognize the latent tension between assimilation and erotic exceptionalism[.]” Adrienne D. Davis, *Regulating Sex Work: Erotic Assimilationism, Erotic Exceptionalism, and the Challenge of Intimate Labor*, 103 *CAL. L. REV.* 1195, 1202 (2015).

43. “The term essential labor has been adopted by governments worldwide to designate occupations without which the basic needs of citizens supposedly cannot be met. To date, no government has deemed the labor of sex workers to be essential, even in societies where sexual services are decriminalized or legalized.” ALEX J. NELSON ET AL., *SOC’Y FOR THE ANTHROPOLOGY OF WORK, SEX WORK DURING THE COVID-19 PANDEMIC* (2020), available at <https://saw.americananthro.org/pub/sex-work-during-the-covid-19-pandemic/release/1> [<https://perma.cc/7TG7-LWAT>].

44. For more on the rationale behind the usage of the gender neutral “Latine” over “Latinx,” see Terry Blas, “*Latinx*” Is Growing in Popularity. I Made a Comic to Help You Understand Why, *Vox* (Oct. 23, 2019), <https://www.vox.com/the-highlight/2019/10/15/20914347/latin-latina-latino-latinx-means> (on file with the *Columbia Human Rights Law Review*).

45. I coined the word “lupephobia” to replace “whorephobia” in my lexicon. *Lupephobia* (n.): (1) Dislike of or prejudice against people who are perceived to be promiscuous, or who have casual, transactional, or indiscriminate sex or erotic encounters. (2) Sexual stigma that is usually prescribed to sex workers, bisexuals, gay men, and transgender people based on their identity, occupation, or sexual orientation. From the Latin word *lupa*, which means “she-wolf,” slang for prostitute. It is not about “polite speech” or respectability, though “whore” from *hoor* may have “shifted by influence of Middle English homonym *hore* ‘physical filth, slime,’ also ‘moral corruption, sin,’ from Old English ‘*horh*’ and is a “general term of abuse for an unchaste or lewd woman (without regard to money).” *Whore*, *ONLINE ETYMOLOGY DICTIONARY*,

letting a customer palm your breasts where it is illegal to engaging in “illicit” activity with clients outside of the club.⁴⁶ Club owners often contractually prohibit dancing at parties outside of work. None of these restrictions are for the safety of the dancers; they are to protect the interests of the club and keep it from being targeted and shut down by law enforcement.

These tensions are inextricable from working conditions shaped by capitalism’s inherent exploitation of labor. For example, after erotic dancer Genea Sky fell from a two-story pole at XTC Cabaret in Dallas and fractured her jaw, she did not qualify for worker’s compensation because she was categorized as an independent contractor rather than an employee.⁴⁷ This is common for erotic dancers: club contracts often remove liability for club owners and place all responsibility for injury and assault on the dancers.⁴⁸ However, dancers are still required to behave as if they are employees, reporting to work for specific shifts and facing penalties should they not

<https://www.etymonline.com/word/whore> [<https://perma.cc/56GD-SZJS>]. My choice of *lupe*, rather than *lupa*, is deliberately gender neutral. “Porphobia” could be used to describe a specific distaste for those who have filmed transactional sex or otherwise publicly display erotic behavior, or for pornography specifically. “Greek *porne* ‘prostitute’ is related to *pernemi* ‘sell,’ with an original notion probably of a female slave sold for prostitution.” *Id.*; see also moose moon (@thotscholar), TWITTER (Apr. 3, 2021, 7:20 PM), <https://twitter.com/thotscholar/status/1378487665511780357> (using “lupephobia” for the first time) (on file with the *Columbia Human Rights Law Review*).

46. There is a point/counterpoint piece in the SPREAD anthology that illustrates this dynamic. Former stripper Mary Taylor claims that strippers used to make “an honest day’s pay for an honest day’s work” and that “legitimate” dancers are being displaced by prostitutes (full-service sex workers) or pressured into doing “dirty” dances by the over-sexed competition. See SPREAD: THE BEST OF THE MAGAZINE THAT ILLUMINATED THE SEX INDUSTRY AND STARTED A MEDIA REVOLUTION 66–68 (Rachel Aimee, Eliyanna Kaiser, & Audacia Ray eds. 2015) [hereinafter SPREAD ANTHOLOGY]. In addition to the removal of agency from the dancers “forced” to do “extras,” Taylor claims that it was prostitutes who caused club owners to start charging club/house fees. *Id.* at 66–67. Beyond that, blaming the prostitutes who wanted to get off the streets places the onus of men’s behavior and willingness to take advantage of women on other women. If strippers want prostitutes out of the club then they should support brothels instead of promoting lupephobia (which affects all erotic laborers, regardless of profession)..

47. EJ Dickson, *What’s Next for Genea Sky, the Exotic Dancer Whose Fall off a Pole Went Viral*, ROLLING STONE (Feb. 14, 2020), <https://www.rollingstone.com/culture/culture-news/genea-sky-stripper-gofundme-labor-rights-953208/> [<https://perma.cc/WH6S-F6UM>].

48. Erin Mulvaney & Andrew Wallender, *Strippers Winning Employee Status Challenges Gig Economy’s Norms*, BLOOMBERG L. (Oct. 21, 2019), <https://news.bloomberglaw.com/daily-labor-report/stippers-winning-employee-status-challenges-gig-economys-norms> [<https://perma.cc/L8JG-MQFJ>].

show up as scheduled. Yet they are still charged a “house fee” and they still have to tip out the staff.⁴⁹ This is the problem with sex work as “work.”

I prefer to approach sex work and erotic labor both as informal labor and as *nonwork*, or *antiwork*.⁵⁰ My initial rationale for trading sex was simple: I needed money. As I aged and got my first “real job,” I discovered something: I hated work. The longest I held a vanilla, or non-sexual, job was a year. Stripping, and various forms of prostitution (street-based, freestyle, hoeing, and sugaring), allowed me the flexibility I desired. Later, when I became a mother, camming, sugar dates, and amateur porn creation provided that same flexibility. Recently I was diagnosed with moderate-to-severe ADHD. After dropping out of college multiple times, quitting jobs, poor impulse control, social/productivity anxiety, and a second pregnancy, postpartum depression drove me to seek medical help. Disability makes it even more imperative that I not work. I am horrible at meeting deadlines, even self-imposed ones. Content creation (via ManyVids), phone sex, camming, and prostitution are my current modes of nonwork, along with writing, speaking engagements, and other gigs and informal labor. Thus, the phrase “sex work is work” is not very appealing to me, though I understand why some people are fans of it. As Kathi Weeks pointed out in *The Problem with Work: Feminism, Marxism, Antiwork Politics, and Postwork Imaginaries*, much of the utility of “sex work” comes from its relation to conventional work:

49. Valeeriya Safronova, *Strippers Are Doing It For Themselves*, N.Y. TIMES (July 24, 2019), <https://www.nytimes.com/2019/07/24/style/strip-clubs.html> (on file with the *Columbia Human Rights Law Review*).

50. Before I had internet access, and before I joined Black atheist, feminist, and sex worker communities, I referred to myself as a “hoe,” a “hustler,” or other playful monikers. The only time I saw the term “sex work” used was by white or academic women. Where many white, or younger, sex workers eschew the term “prostitute” in favor of the former term, it feels like an imposition. It feels like *work*. In her book, *Funk the Erotic: Transaesthetics and Black Sexual Cultures*, L.H. Stallings calls people like me:

[S]exual guerrillas, currently defined as sex workers... [who] represent a radical spirit of revolt against antierotic, sex-negative, and work[-]centric elements of society that get lost in the guise of survival rhetoric, individualism, moral and health panics, and... a Protestant work ethic... The decision to trade sex has to be seen as not only a survival tactic like no other, but a radical reading and position against the current order of work society as well.

L.H. STALLINGS, *FUNK THE EROTIC: TRANSAESTHETICS AND BLACK SEXUAL CULTURES* 20–21 (2015); see also *Anti-work*, ANARCHIST LIBR., <https://theanarchistlibrary.org/category/topic/anti-work> [<https://perma.cc/975Z-BE8F>] (collecting essays and excerpts on the philosophy of “antiwork,” which appears in both anarchist and socialist political theory).

As a replacement for the label prostitution, the category helps to shift the terms of discussion from the dilemmas posed by a social problem to questions of economic practice; rather than a character flaw that produces a moral crisis, sex work is reconceived as an employment option that can generate income and provide opportunity... The approach usefully demoralizes the debates about the nature, value, and legitimacy of sex for wages in one way, but it often does so by problematically remoralizing it in another; it shifts the discussion from one moral terrain to another, from that of a suspect sexual practice to that of a respectable employment relation.⁵¹

The conception of sex work in terms of work or antiwork may also usefully unsettle older narratives that have been both false and harmful. Empowerment and the related “sacred whore” mythos have roots in the first wave of the sex worker rights movement. During what many term the “sex wars,” sex workers basically had to choose between a binary of empowerment (to align with sex-positive feminists) or exploitation (the anti-prostitution/anti-porn “abolitionists”).⁵² This led to a general erasure of most nonwhite, poor, immigrant, and LGBTQ perspectives, and a silencing of those on the margins of the movement whose experiences within sex work had been less than positive, or downright violent.⁵³

Even though there are more Black, Asian, and Latine organizers and participants in the sex worker rights movement today, white-centricity is still somewhat of a problem within the movement. Nonprofit organizations and other public and private entities tend to function as (neo)liberal gatekeepers. The media tends to center or reach out to white cis sex workers first and foremost, and grants commonly contain specific requirements for how money must be used. Money is power in a capitalist economy, and white erotic laborers and anti-trafficking advocates simply have more access to it. By partnering with conservatives, radical feminists were able to advance the anti-prostitution cause with solid financial and social backing. Liberals and conservatives have united over trafficking, deemed “modern-day slavery,” ushering in (or perhaps benefitting from) a wave of social conservatism, concerned with:

[A] growing market economy commodifying more aspects of life, middle class concerns about race and immigration,

51. See KATHI WEEKS, *THE PROBLEM WITH WORK: FEMINISM, MARXISM, ANTIWORK POLITICS, AND POSTWORK IMAGINARIES* 67 (2011).

52. \$PREAD ANTHOLOGY, *supra* note 46 at 12–13.

53. *Id.* at 13.

feminist concerns about male sexual exploitation of women, conventional religious beliefs about proper gender roles, virtue, the family and sexual morality, and neoliberal ideologies which blame individuals rather than structures for social problems.⁵⁴

Even intracommunally, support from alleged sex positive Black feminists and academics is capricious. Current discourse is plagued by cis-heterosexual women's individual economic concerns (hypergammy, child support, cheating, etc.) and middle-class sentiments, blended with residual concerns from the second and third wave (marriage and motherhood as socially and economically oppressive, prostitution as a threat). Because the vast majority of sex worker clients are white, cisgender men, Black feminists' political history around prostitution is complicated.⁵⁵ Prostitution is a class, as well as a racial, sex, and gender issue, for Black people. Audre Lorde's renowned essay "Uses of the Erotic" is a shining example of the *lupephobia* embedded within our feminist lineage:

The erotic has often been misnamed by men and used against women. It has been made into the confused, the trivial, the psychotic, the plasticized sensation. For this reason, we have often turned away from the exploration and consideration of the erotic as a source of power and information, confusing it with its opposite, the

54. See Crystal A. Jackson et al., *Strange Confluences: Radical Feminism and Evangelical Christianity as Drivers of U.S. Neo-Abolitionism*, in *FEMINISM, PROSTITUTION AND THE STATE*, 66, 66–85 (Eilís Ward & Gillia Wylie eds., 2017); see also Melissa Gira Grant, *Beyond Strange Bedfellows: How the "War on Trafficking" Was Made to Unite the Left and Right*, *POL. EYE* (2018), <http://feature.politicalresearch.org/beyond-strange-bedfellows> [<https://perma.cc/8HB7-DFJU>] (providing a brief history of the alliance formed between liberals, conservatives, and anti-prostitution feminists).

55. From the introduction of the \$pread Magazine anthology:

As sex trafficking became recognized as an important problem in the United States, many "anti-sex work feminists" began to use the words "trafficking" and "prostitution" as synonyms, both in their rhetoric, and in their policy-making and lobbying To claim choice meant challenging institutional feminism. And to claim coercion meant being trapped in victim-status Sex workers have long been in the crossfire of warring feminists, and the rhetoric of empowerment was understandably more alluring than degradation . . . the alliance . . . was sometimes problematic because it led to a culture in which it was necessary to constantly assert one's autonomy, even if that meant not speaking up about experiencing violence, coercion, or personal difficulty with sexual shame, thus favoring those who were most empowered (or able to pass as empowered) by their work: mostly white, middle-class, non-immigrant, cisgender women.

\$SPREAD ANTHOLOGY, *supra* note 43, at 11–13.

pornographic. But pornography is a direct denial of the power of the erotic, for it represents the suppression of true feeling. Pornography emphasizes sensation without feeling.⁵⁶

This supposed dichotomy between the erotic and pornography gives me pause. This perception is reflective of the way that sex work, including porn performance, is viewed by the masses, regardless of their political inclinations. Reaching back to Eileen Boros and Rhacel Salazar Parreñas's conception of intimate labor and Amalia L. Cabezas's notion of sexual-affective relationships,⁵⁷ I take issue with the reductive, moralistic claim that sexual services, *erotic* services which we trade for material or other compensation, are necessarily, or inherently, degrading and devoid of emotional return. Lorde writes:

The aim of each thing which we do is to make our lives and the lives of our children richer and more possible The principal horror of any system which defines the good in terms of profit rather than in terms of human need, or which defines human need to the exclusion of the psychic and emotional components of that need – the principal horror of such a system is that it robs our work of its erotic value, its erotic power, and life appeal and fulfillment. Such a system reduces work to a travesty of necessities, a duty by which we learn bread or oblivion for ourselves and those we love There are frequent attempts to equate pornography and eroticism, two diametrically opposed uses of the sexual. Because of these attempts, it has become fashionable to separate the spiritual (psychic and

56. AUDRE LORDE, *SISTER OUTSIDER* 55 (1984).

57. Amalia L. Cabezas's discussion of "sex-affective" relationships in her book also informs this Introduction. Cabeza wrote:

I strive to challenge the notion of 'sex worker' that is often applied to racialized working-class women who participate in relationships with foreign born men by detailing the ways in which third-world women negotiate new economies and navigate the contact zones between the first and third worlds by using tactical sex. I explore the ways in which practices and identities are discursively inscribed to eroticize racialized, working-class subjects. My argument is that the exchange of goods and money for sexual services is not an unambiguous commercial endeavor but a discursive construction that is contested and in motion, changing across time and space.

AMALIA L. CABEZAS, *ECONOMIES OF DESIRE: SEX AND TOURISM IN CUBA AND THE DOMINICAN REPUBLIC* 4 (2009).

emotional) from the political, to see them as contradictory or antithetical.⁵⁸

Erotic labor and writing sex worker theory have fed and clothed my children. It is necessary to complicate our perspectives on what it means to engage eroticism, while steering clear of the simplistic divine feminine empowerment narratives that have dominated sex worker rhetoric.

In response to both Alice Walker's definition of womanism, and Audre Lorde's conception of the erotic, I fashioned a philosophy that centers my deviant perspective. By coining *proheauxism* (proheaux womanism) and elaborating on what it means to be "pro-hoe," I complicate these moral and social objections to whoredom with an anarcho-Black, community-centered, antiwork/anticapitalist, womanist stance:

proheauxism[:] 1. Proheaux womanism. Derived from the more colloquial "pro-hoe[]" ([s]pelling altered to reflect difference & refinement). A sex worker womanist, feminist, or hustler-heaux committed to collective and personal justice, not just sexually, but through recognition of labor and physical security. Radically thotty, and proud of it. Curious about their sexuality, about birth and rebirth, about challenge and change, about redemption and reparations, about the physical and the emotional. Loves the river in all its incarnations. A pro-sex, pro-pleasure politic that is specifically centered on the multiply marginalized. Might be: marvelous. One who owns oneself and one's own sexuality or gender expression, regardless of whether or not they are attached to a man or masculine person.

2. A womanist who rejects antiheaux sentiments as well as respectability, racial capitalism, and whore hierarchies. Rejects misogynoir and transmisogynoir—all forms of misogyny, period. Does not accept nor engage in active or passive transphobia, homophobia, colorism, xenophobia, classism, or anti Blackness. Doesn't juxtapose the erotic and pornography, and recognizes that non-exploitative pleasure comes in varied forms, is not always sex-centered, and is paramount to the human experience. Against all forms of erasure and systemic oppression. Recognizes that solidarity is impossible without

58. *Id.*

acknowledging difference and rejects the urge to homogenize experiences under the guise of inclusivity.⁵⁹

There are many things to consider when theorizing a practice of pro-sex worker, pro-pleasure politic. Under the current unjust system, we cannot appeal to non-sex workers' morality. In the face of overwhelming signs and discrimination, we must demand ethical treatment. We must demand humanity, and humane policy that reflects and balances the needs of the multiply marginalized. I too desire to make the lives of my children "richer and more possible."⁶⁰ Sex work has "erotic value" and, as (non)work, has bolstered my "life appeal and fulfillment."⁶¹ It is the empowerment/exploitation binary (choice vs. coercion), racism, classism, poverty, and ableist, prejudicial policy that have impeded me at every turn. The following pieces interrogate the reality of implementing a prosex politic in the arena of policy. Clarifying the effects of recent legislation on the lives and livelihood of erotic laborers, the following brilliant pieces expose the impact of discriminatory legislation, and tentative victories, from an anti-racist, intersectional lens.

INTRODUCTION TO THE SYMPOSIUM

FOSTA in Legal Context by Kendra Albert, Elizabeth Brundige, Lorelei Lee, et al., digs into the FOSTA-SESTA legislation, which shifted the landscape for current erotic laborers and third-party internet platforms. Originally produced for the sex worker-led collective Hacking//Hustling, it brings to light the fact that, despite claims that the new bills would be an improvement upon Section 230 and bring child traffickers to justice, only one prosecution has been brought since their passage. Furthermore, it appears that FOSTA-SESTA had the exact effect that sex worker activists feared: Many of the social media platforms, subscription sites, and third-party payment processors commonly used by erotic laborers for marketing purposes, screening clients, safety tips, and/or payment processing have altered their terms of service to exclude people involved in or adjacent to the sex trades. *FOSTA in Legal Context* gives us a detailed look at the legal aspect of these laws and what it means.

59. moses moon, *thotscholar: A Working Theory of Proheaux (Woman)ism [Revised 2019]*, PATREON (Sept. 9, 2019), <https://www.patreon.com/posts/thotscholar-of-1-29836133> (on file with the *Columbia Human Rights Law Review*) (internal citations omitted).

60. See LORDE, *supra* note 57, at 55.

61. See *id.*

Heather Berg, whose work typically focuses on the labor aspects of sex work, once again zeroes in on the complexities of legislating erotic labor—specifically porn performance—in the gig economy in her Article, *Porn Work, Independent Contractor Misclassification, and the Limits of the Law*. Berg highlights the fact that many porn performers would rather manage themselves and retain the maximum level of control over their environment and income than deal with being labeled employees and risk state interference, which would require them to comply with a new set of rules that may not work in their favor. She cautions against the notion that this would be an easy solution to the problem of independent contractor misclassification, and suggests we adopt a policy approach. Berg's Article draws on ethnographic research and interviews conducted for her book *Porn Work*, and critiques efforts to regulate this industry without input from current workers.

Lorelei Lee's *The Roots of Modern Day Slavery: The Page Act and the Mann Act* reveals and interrogates the appropriation of (Black) abolitionist language by anti-trafficking/anti-porn activists. It breaks down how the myth of "white slavery" (re)entered the minds of the public. The image of a cisgender (cis) white womanhood in danger and in need of protection drives much of the legislation around (cis and trans) women's bodies in America. White government officials often invoke an image of cis white women or (white) children in peril, combined with racist images of immigrants and Black men stealing American children, in order to stoke the xenophobic fears of a mostly white public imagination. Xenophobic language shaped historic "modern day slavery" rhetoric in two key ways—by telling stories of Italian, Jewish, and other immigrants "seducing" young white women, and by spreading Anti-Asian narratives of primarily Chinese male "enslavers" of Chinese women, who are described as submissive and vulnerable by 19th century white feminists or hyper-sexualized and contagious by white male politicians and labor activists. In revealing the history of anti-trafficking white feminism's origins in anti-vice religious movements and alignment with anti-immigration activism, we begin to see a picture of what is truly meant by the modern use of the phrase "modern day slavery."

S. Priya Morley's Article, *The Many Lives of a 'Win': Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*, moves our gaze away from the United States and towards the Canadian context. Before 2013, it was not illegal to engage in sex work in Canada, but many of the acts surrounding sex work, such as brothel-keeping ("bawdy houses") and living off the profits of prostitution, were prohibited under the *Criminal Code*. In 2013, the Supreme Court found

these laws to be unconstitutional, but the government responded by enacting new laws that had the effect of criminalizing sex workers again. As Morley outlines, criminalizing sex work particularly impacts street-based, low-end, and poor sex workers, including in Vancouver's Downtown Eastside neighborhood. Morley traces through this recent history of litigation challenging the criminalization of sex work in Canada, and argues that although the litigation did not achieve the substantive 'win' that sex workers had hoped for, it has made a significant contribution to access to justice in Canada. Morley's article echoes my sentiment that legal approaches and even decriminalization are not enough. Instead, we need policy changes beyond decriminalization to protect multiply-marginalized sex workers, like those in the Downtown Eastside.

FOSTA-SESTA reignited the sex worker rights movement and reintroduced the issue of decriminalization to the general public. However, attaining decriminalization and reducing harm is only the first of many steps to procure justice. Sex work legislation intersects with a wide variety of concerns that belie the political fallacy of the "single issue." This generation of sex intellectuals, sex working theorists, fourth wave feminists/womanists, and erotic academicians, is setting a new tone for the next generation. A new era of disinformation, technological surveillance, and corporate media control is upon us, with capitalist employers and moralizing politicians constantly lobbying for new legislation to impose upon the working public. The proliferation of sex work represents both a decline in economic security, as well as the increasing need for poor and working-class citizens to rely on informal labor and gig work to survive. Advocating for safe working conditions and reexamining the history of racialized, classist, discriminatory labor policy enables us to combat legislation that directly leads to the further marginalization of sex workers and the people who support them. This issue and its articles document the effects of recent legislation on the lives of sex workers and erotic laborers, tracking inconsistencies in how these laws are implemented and celebrating minor strategic victories, while deconstructing racialized terminology and highlighting the complexities of crafting proheaux policies in the face of deep-set stigma.