Politics and Space C

Politics without principle: Potential borders and the ethics of anti-trafficking online

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Abstract
Anti-trafficking has been spreading in a novel way, with moral certitude (where human trafficking is deemed uniquely wrong, and this wrongness is taken as a founding principle for anti-trafficking action) accompanied by little or no accountability. This moral certitude drives anti-trafficking networks to spread across borders, just as it is assumed that trafficking will. The paper critiques this certitude and spread of anti-trafficking by developing ideas around borders, potential, and ethics. Massumi (2007) analyses the move to a potential politics, which prioritises what "[c]ould have, would have" happened and acts against this potential as if it is a ground for certitude. After Massumi, this paper argues that online anti-trafficking practice relies on potential borders: borders between legal and illegal, and the borders between states, are increasingly blurred by action against what might potentially be trafficking. Following Campbell (1993: 3-4) we critique the claims to "moral certitude" and principle in anti-trafficking and argue for deeper ethical engagement with the needs of others. Rather than the spread of anti-trafficking through potential borders, we argue that exploitation should be challenged through an ethical response to those marginalised by capitalism today. Against the unprincipled politics of the anti-trafficking industry, we advance a politics without principle that foregrounds our ethical obligation to respond to others.

Introduction

Anti-trafficking has been spreading in a novel way, combining claims of principle with a reliance on ideas of potential. The anti-trafficking industry uses claims to moral certitude, where trafficking is

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deemed uniquely wrong and this wrongness is mobilised as a founding principle for anti-trafficking action, to drive the spread of anti-trafficking activity (Mendel and Sharapov, 2016, 2021). When responding to concerns about online trafficking, the threat is conceptualised as a network with no boundaries, where a trafficking network "has the ability endlessly to generate investigative leads and because, ultimately, it has no outside. Security actions pursued through network calculations allow the pursuit of suspects increasingly further removed from acts of violence, loosely affiliated with plots and without clear causal roles in violent effects" (De Goede, 2012: 228). There is a combination of the flexibility and apparent boundlessness of a network form, which allows anti-trafficking actions to spread without clear limits, with claims of moral certitude that leave no space for critique or for accountability to the needs, experiences, and beliefs of others (see De Goede, 2012; Mendel and Sharapov, 2021, 2022). This combination of networked flexibility and foundationalist moral certainty enables the anti-trafficking industry to extend anti-trafficking networks across borders, just as it is assumed that trafficking spreads. This allows the rapid and extensive spread of anti-trafficking politics, which Agustin (2008) refers to as the 'Rescue Industry', leading to novel developments in what Graham (2013: 181) describes as the "complex spatialities" of the internet.

Claims of moral principle and certitude are often used to 'justify' unethical behaviour. This paper critiques the spread and certitude of anti-trafficking action and the anti-trafficking industry by developing ideas around potential, borders, and ethics. Massumi (2007) analyses the move to a potential politics which prioritises what "[c]ould have, would have" happened and then acts against this potential as if it is a ground for certitude. Building on Massumi's work, this paper argues that anti-trafficking practice online makes use of potential borders: borders between legal and illegal online, and the borders between states, are increasingly blurred by anti-trafficking action against what might potentially be human trafficking. Ideas of potential victims, potential criminals and potential success are also central to the expansion of the anti-trafficking industry. This paper challenges such spread of anti-trafficking and considers its implications. We also challenge the idea that a specific or unique evil of human trafficking (particularly sex trafficking) can provide a stable foundation for moral reasoning and action. Drawing on Campbell's work on war (1993: 3-4), we critique the claims to "moral certitude" in anti-trafficking – challenging the unethical behaviour 'justified' by these claims – and use Levinas' (1989) work to advocate for a fuller ethical engagement with the needs of others. The alleged unique wrongness of trafficking, used as the foundation for action, has led to a profoundly unethical politics of anti-trafficking. This article builds on a loosely Levinasian critique of the harms and suffering inflicted by foundationalist morality to critique a novel instance of such morality in anti-trafficking's combination of foundationalist morality and potential politics. It draws key examples from anti-sex trafficking and anti-sex work activities, where such issues are particularly evident.

This paper thus challenges the anti-trafficking industry's dangerous combination of potential politics and foundationalist morality, which facilitates what we describe elsewhere as "expanding circles of failure" (Mendel and Sharapov, 2021). Against the spread of anti-trafficking across potential borders, we argue that exploitation should be challenged through an ethical response to those marginalised by capitalism today and through political action against the structures that make people vulnerable to exploitation. An ethical response to exploitation is much more likely to be found outside the anti-trafficking industry. For example, one might consider sex workers' support organisations that offer harm reduction and mutual aid when workers are struggling,[1] and campaigns for workers' rights and welfare or to disrupt and abolish immigration controls that facilitate the exploitation of migrant workers.[2]

Potential politics, potential trafficking and potential borders

Potentiality, actuality, and ethics as first philosophy

Massumi (2007) discusses the shift towards a potential politics where a logic of pre-emption prioritises hypothetical scenarios – what "[c]ould have, would have" happened. Massumi (2007) is concerned that a "conditional statement cannot be wrong … because it only asserts a potential [and] because, especially in the case of something so slippery as a potential, you can't prove the negative". While Massumi writes about the 'war on terror', reliance on potential is evident in the politics of anti-trafficking. Massumi's concept of potential politics fits well with both anti-trafficking practice and our critique of its moral certainties. We outline our theoretical framework below, prior to discussing empirical aspects of anti-trafficking.

We draw on work on potential partly to respond to how anti-trafficking combines this with claims to moral certitude. For Campbell (1993: 7-8), the 1991 Gulf War was tied to an "epistemic realism" with a "narrativizing historiography in which things have a self-evident quality that allows them to speak for themselves". Campbell (1993: 17 and 22) argues that this led to a "discourse of moral certitude" and "[a]t the basis of this moral certitude and central to the United States-led military response was the invocation of a principle"; in his example, the principle was the wrongness of Iraq's invasion of Kuwait. Similarly, in anti-trafficking narratives, the wrongness of human trafficking or 'modern slavery' is presented as a foundational principle justifying a broad range of actions. This paper argues that anti-trafficking discourses move beyond the narratives of certainty seen in the Gulf War: claims of moral certainty are combined with a slippery focus on potential. Anti-trafficking discourses can still deploy the type of foundationalist politics that Campbell critiques but, by drawing on ideas of potential, are able to expand this more widely and quickly than might otherwise have been possible. State and non-governmental actors are now blending narratives of moral certainty with a destabilising focus on potential.

A diverse and significant body of work on potentiality, including contributions from Agamben, Negri and Virno, can be referred to as 'Italian Theory' (Treiber and Christiaens, 2021). This takes as its starting point Aristotle's (1933: 3.1003a) *Metaphysics*, where ontology comes prior to ethics and the potential is understood through its relationship to actuality. For Treiber and Christiaens (2021), "[c]ontemporary Italian Theory accepts Aristotle's vocabulary of potentiality and actuality but questions the primacy of actuality". For example, Agamben's work on potentiality and im-potentiality suggests that "today's society, in all of its injustice and atrocity, contains within it the means to transform itself into a more just, desirable world" (see Agamben, 1999: especially p. 75 and chapter 11; Balskus, 2010: 177). However, our critique of anti-trafficking draws on Levinas' challenge to Western metaphysics, where ethics and the demand of the Other have priority over being. As Campbell (1993: 92) writes, there is a "relationship with the Other that means one's being has to be affirmed in terms of *a right to be* in relation to the Other". For Levinas (1989: 82), "[o]ne has to speak, to say *I* … to be me …. But, from that point … one has to respond to one's right to be … not by referring to some abstract or anonymous law, but because of one's fear for the Other. My being-in-the-world or my 'place in the sun', my being at home, have these not also been the usurpation of spaces belonging to the other man [sic] whom I have already oppressed or starved or driven out into a third world". From a Levinasian perspective, the priority is what the world should be rather than the ontological question of whether the means exist. There is an ethical imperative to challenge the injustices and atrocities of the world today, regardless of the means to do so. While the critique of the primacy of actuality in Aristotle's work is significant, we also reject the primacy of ontology that this critique concedes: both actuality and potentiality are disrupted by the ethical demands of the Other before they assume their ontological status.

Massumi (2011: 44) also argues that potential is key to politics, but from a more contingent starting point: "[r]ather than going back to the failed project of finding a common language, purpose, or rationality, it would seem that the complexity of that dissensus should be the starting point for politics...an anti-capitalist politics begins by affirming the variability and potential for forms of life unleashed by capitalism itself". The grounding of Massumi's writing on potential in the dissensus and uncertainty of life within capitalism, rather than a prioritising of metaphysics, aligns better with our project. For Massumi, "[t]here is uncertainty because the threat has not only not yet fully formed but...it has not yet even emerged … the threat is still indeterminately in potential. This is an ontological premise: the nature of threat cannot be specified". Therefore, for Massumi (2007), in examples such as the 'war on terror's claimed 'unknown unknowns'", potentiality takes on an ontological and epistemological status that, while indeterminate, does not necessarily take priority, or come prior, in the way that it does for other thinkers: "[o]bjective uncertainty is as directly an ontological category as an epistemological one. The threat is known to have the ontological status of indeterminate potentiality". The indeterminate nature of potentiality is both caught within and disruptive of what there is in the world. In an ironic echo of the way potentiality and preemption focus on the future, Massumi's work also emphasises a relationship with the future rather than a prioritisation of ontology: he focuses on how "the preemptive adventure has yet to run its course". It is aspects of this "adventure running its course" in anti-trafficking that we discuss below.

Ideas related to potentiality have also been explored in works on migration and exploitation. Ngai's (2014) research on (im)possibility, 'illegal aliens', and the making of the modern US builds on discussion of the racialised history of immigration to the US. Ngai (2014: 268–9) argues that in the US, "[l]egal permanent residents now remain in a condition of permanent probation because they may be deported for certain offenses regardless of how long they have lived in the country". For Ngai (2014: 269), "legislation of the 1990s reconfigured the line between legal and illegal alienage, enlarging the grounds that turn legal immigrants into illegal aliens and making it nearly impossible for legal aliens to legalize their status". Ngai shows that this interplay between possibility and impossibility gives many immigrants to the US a precarious status: where 'legal' US residents live with the possibility of being made 'illegal'. Parrenas (2011: 7) discusses how migrant Filipina hostesses in Tokyo experience "indentured mobility", where their visas tie them to particular workplaces and render them more vulnerable to exploitation, but still this limited mobility – and the exploitative relationships to employers and agents that often accompany it – can also open up social, political, and financial potentials for hostesses. What we discuss here in terms of potential and preemption is, though, a move beyond the legal (im)possibility discussed by Ngai and the potential discussed by Parrenas: part of the problem with how potential has been used in the 'war on terror' (as discussed by Massumi) or in anti-trafficking (as discussed below) is that it often occurs through extra-juridical processes. This can make it harder to track what is taking place, and remove opportunities for legal challenges. For example, while a US company might bring a First Amendment lawsuit against the US government for criminalising online speech, finding legal recourse becomes much more challenging if a private company like Cloudflare withdraws services due to concerns about the potential impact of US legislation.

The above discussion of potentiality does not fully encompass all possible theoretical directions, nor capture all the nuances of the thinkers discussed. However, space is inevitably limited, and our approach here is influenced by Massumi's (1989: xi) loosely Deleuzian approach to theory, where "[t]he question is not: is it true? But: does it work? What new thoughts does it make it possible to think?" Similarly, our focus here is on what we can make these ideas do and how they might assist in formulating an ethical response to the Other and to anti-trafficking.

Potential trafficking and potential crime

This paper, drawing on Massumi's critique of potential politics in the context of the 'war on terror', focusses on critiquing the potential politics of anti-trafficking (particularly around sex work). This focus is contestable in two 'obvious' ways, which we will address at the start of this section before discussing potential trafficking and crime in more detail. Firstly, one might ask why we focus on sex work and related exploitation when other types of trafficking and exploitation are very likely to be more common.[3] Secondly, one might ask why we focus on critique rather than exploring positive aspects of potential politics.

Firstly, we focus on anti-sex trafficking and anti-sex work activities in part because of their prominent role within the broader anti-trafficking sector and their significant impact on sex workers (Mendel and Sharapov, 2022). However, this is also an important focus for research because novel uses of state power tend to be tested on sex workers before being extended to other populations (Snow, 2022). Understanding how a potential politics is used against sex workers will help us understand how it is applied to much larger populations (as discussed below) and how it may evolve.

Secondly, while our discussion of potential emphasises the problems of a potential politics, we acknowledge that potential can be used positively. However, this paper focuses on the negative aspects, driven by concerns about how anti-trafficking operates; *this* potential politics is over-whelmingly negative. Learning from the harms caused by the use of potential politics and its impact on sex workers is crucial, not only to oppose these harms but also to understand how state power is being, and will be, used against others.

The harms of a potential politics are particularly evident in discussions of online trafficking. Anti-trafficking activists use of the idea of potential crime to drive policy and practice: targeting behaviours that might be criminal and might be trafficking (even if there is no evidence), blurring the border between online crime and other activities. As we have discussed elsewhere, there are multiple examples of action being taken against potential trafficking in response to FOSTA-SESTA[4]:

> Craigslist has closed its Personals section due to FOSTA/SESTA – and, while this was used for sex work adverts, it was also used by people wanting to meet for unremunerated dating and (particularly because of its potential for anonymity) wanting to meet up for unremunerated but also casual, unconventional and/or stigmatized sex and play. Pounced.org – a dating site for furries – has been shuttered due to concerns that it might fall foul of the legislation, despite no evidence of a trafficking problem in the furry community. (Mendel and Sharapov, 2022)

Potential politics is important here. Craigslist Personals was used by sex workers offering services criminalised in most US states. However, this led to Craigslist Personals being shut down entirely because every advert could *potentially* be for criminalised services (and might fall under the provisions of FOSTA-SESTA), even though many adverts were for entirely legal activities that are constitutionally protected in the US. The mere potential for criminalised activities (and thus prosecution) was enough to justify closing Craigslist Personals.

This potential politics and these attacks on potential trafficking do not stop with actions against advertisements of criminalised services – and the spaces in which they are advertised – in the name of anti-trafficking. Indeed, the example of Pounced.org shows how far this potential politics can extend and how a politics of principles can spread to and across diverse online spaces. There was no evidence of any particular trafficking problem in the furry community or on Pounced.org, nor is there evidence that Pounced.org was used to advertise the labour of trafficked people or to advertise criminalised services (Mendel and Sharapov, 2022). In the context of a site serving a niche and sometimes-stigmatised community, potential misuse was enough to justify its closure.

As Albert (2022) notes, FOSTA-SESTA is having ongoing impacts. Albert (2022: 432) argues that while legal risk under FOSTA-SESTA "is often minimal" a perceived potential risk can be "articulated as the rationale for restricting sex worker speech or removing sexual content". For Albert (2022: 433), there is also the risk of expanding censorship in future: "as efforts to criminalize speech about abortion expand, and fears about transgender kids being 'groomed' are stoked … the consequences of chilling speech based on trace liability and moral panics may go beyond those in the sex trades". A community-based, sex worker-led survey conducted to evaluate the impact of FOSTA-SESTA demonstrated how the closures of online spaces perceived as potentially facilitating sex trafficking increased sex workers' exposure to violence and reduced their access to online spaces of support (Blunt and Wolf, 2020). The use of a 'principled' politics to justify action against potential trafficking can expose sex workers to greater harm.

In online spaces, the focus on potential illegal activity increasingly blurs or erases the border between criminalised and non-criminalised behaviour, even without evidence of actual illegality. Rather than the internet blurring boundaries, it is the combination of moral certitude with potential politics that blurs boundaries between different types of activity online. The anti-trafficking industry blurs the distinction between human trafficking, sex work, and unremunerated meet-ups and sex using the idea of potential trafficking. As a result, a potential border between criminalised and non-criminalised behaviour emerges, leading to action against behaviours and spaces as if they were illegal without considering if this *potential* illegality becomes actual. A claimed moral imperative to take action against this *potential* illegality allows actions against *potential* trafficking even when, as with Pounced.org, there is no good reason to think that any *actual* trafficking was occurring. To echo Massumi, it is enough that trafficking *could have* or *would have* happened.[5]

Potential borders between states

Anti-trafficking in online spaces – and the networks that constitute these spaces – also blurs borders between states. We have previously shown that online anti-trafficking activity spreads "to encompass an ever-broader range of increasingly networked activities" and leads to "expanding circles of failure" (Mendel and Sharapov, 2021, 2022). This paper moves beyond this to show how a potential politics disrupts borders, creating what we refer to as potential borders.

As noted above, De Goede (2012: 228) argues that "the network is problematic as a security technique … because, ultimately, it has no outside". Drawing on this work, we argue that "invocations of online trafficking networks allow … broader … interventions than might be justified by a focus on, for example, exploitative employers or labour rights" (Mendel and Sharapov, 2022). As discussed below, engagements with what are envisaged as networked threats often lack an outside, enabling their spread across jurisdictions. Writing about borders as mechanisms of exclusion and inclusion, Balibar (2002: 71) argues that "borders are dispersed a little everywhere, wherever the movement of information, people, and things is happening and is controlled". Beyond this dispersal of borders 'a little everywhere', in anti-trafficking we see a reliance on potential borders that always could be or would be everywhere, even if the border practices and infrastructure are not actually present. For Vaughan-Williams (2010: 1077 and 1082), we are seeing a new "thickness" to borders which are "permeating everyday life" and "increasingly offshored". Vaughan-Williams (2010: 1077) thinks the border as a firewall, while Amoore's (2021) work on changes to borders reflects on how "the deep border generates the racialized body in novel forms that extend the reach of state violence. The deep border is written through the machine learning models that make the world in their own image".

The potential borders that develop from anti-trafficking policies and discourses rely heavily on very human imaginaries about what might potentially happen. Despite frequent references to technology, these borders are shaped more by moralising, myths and ignorance about trafficking and

exploitation than by technical tools and products (see Mendel and Sharapov, 2016, 2022). As Musto (2020: 1150) argues, "human trafficking is understood as a technological problem that can be 'fixed' with technical solutions" but "the impact of tech-augmented efforts is mixed at best and questionable at worst". For Kjellgren (2022: 161), "any attempt to end human trafficking with technology is perhaps more akin to tilting at windmills than a serious attempt to understand the issue and contribute to improved responses to exploitation". Bhagat (2022) describes human trafficking as a "border producing discourse", conceptualising "trafficking borders as spaces of restriction and negotiation, contingently produced, encountered, and escaped along the mobility routes of prospective labour migrants". However, the potential borders of the anti-trafficking industry extend far beyond this, allowing coercive power to expand in the name of anti-trafficking, often far removed from any actual trafficking. These potential borders are novel in that mythology and folklore often outweigh technological tools that practitioners attempt to combat or deploy (Musto et al., 2020), or the discourses of migration and restriction seen in trafficking borders (Junior and O'Connell Davidson, 2022). The impacts of FOSTA-SESTA illustrate this further.

Although FOSTA-SESTA was US legislation, its potential politics have global impacts. Activities outside the US, which would be criminalised within the US, are treated as potentially occurring within the US. Sites and platforms based in jurisdictions where sex work is not criminalised can face action as if they were within the US where, under FOSTA-SESTA, adverts for consensual but criminalised sex work may not be differentiated from adverts for trafficked people. For example, in the aftermath of FOSTA-SESTA, sex workers and allies set up Switter to provide sex-worker friendly online space, as multiple sites and platforms introduced increasingly restrictive policies. Assembly Four, an Australia-based company, hosted their server in Australia, hoping that by being in a jurisdiction "where sex work is legal, the risk of being sued or otherwise punished via FOSTA is presumably diminished". Nevertheless, "the content delivery network provided by Cloudflare removed and blocked Switter" shortly after (Cole, 2018; O'Donovan, 2018). Assembly Four closed Switter 2022, saying that "recent anti-sex work and anti-LGBTQIA + legislative changes not only in Australia, but in the UK, US and other jurisdictions have made it impossible for us to appropriately and ethically maintain compliance" (Assembly Four, 2022).

People in the US could have accessed Switter and might have used it to find criminalised services, and the potential for this led to Cloudflare blocking Switter. In the process, the border between the US and the rest of the world is blurred by treating online activity outside the US as if it is bound by US laws because some of the activity potentially occurs within US jurisdiction. This use of potential online disrupts the (already problematic) idea that sovereign states have a monopoly on the legitimate use of force within their territories. US legislation impacts activities in other jurisdictions because those activities might potentially occur in the US, even if they do not, and there is a perceived principled reason to do so. Following Graham's (2013: 181) argument that "[t]he internet is characterised by complex spatialities", we can identify a novel complexity. When discussing the effects of laws like FOSTA-SESTA, one should consider how the spatial reach of US law incorporates a *potential internet:* an internet of activity that could be taking place within US jurisdiction, whether or not it is. Similar trends can be seen elsewhere: in the UK, FitzGerald (2016) argues that UK anti-trafficking policy has led to a "spatial reorganization of UK border and immigration control initiatives" extending beyond UK borders and into "'source' and 'transit' countries, meaning UK anti-trafficking border policy impacts undetermined areas well beyond the UK's immediate borders. Trafficking is perceived as potentially anywhere and everywhere, allowing enforcement far beyond the enforcing states' territories. It is also worth noting the slippery nature of some enforcement here: Cloudfare blocked Switter due to a claimed breach of its terms. Those wishing to challenge this kind of enforcement must struggle both with the slippery logic of potential and with the enforcement of potential borders through processes that do not offer the same scrutiny as courts. Therefore, rather than having an impact through international law or conventional

enforcement, US law acts outside its borders based on this slippery logic of potential and can be enforced outside of the 'conventional' criminal justice system. We see a *potential internet* where anti-trafficking action is taken outside conventional legal processes against activities that could have or would have been trafficking, even if no actual trafficking had occurred.

Contrary to insights from researchers such as Vaughan-Williams and Amoore, the blocking of Switter was not the result of a complex rethinking of border processes or novel data analytics and technology. Instead, it was based on crude assumptions about what activity might potentially be illegal and might potentially take place in jurisdictions where it is criminalised, along with a 'principled' reason to act against potential trafficking. Rather than focusing on complex simulations, depth, or sophisticated technologies in constructing potential borders through anti-trafficking, a better approach might be an agnotological one (see Mendel and Sharapov, 2016). This would involve shifting the type of questions asked about borders and border processes in the context of trafficking and anti-trafficking. Instead of being distracted by claims of novel anti-trafficking technologies and other anti-trafficking work, an agnotological approach would ask why – after so much effort and money being spent on trafficking and technology – we still know so little, and how this ignorance plays out in the cross-border expansion of anti-trafficking. Rather than the futuristic deployment of technology and data analytics, reading this potential politics alongside previous work on the production and productivity of ignorance in the anti-trafficking industry allows one to see anti-trafficking expanding through what can be described as the construction of *ignorant borders* (Mendel and Sharapov, 2016). An agnotological approach to the anti-trafficking industry – analysing how ignorance is constructed and its effects – could shift the focus from technology and innovation to how border processes are reshaped by ignorance.

Potential success

The anti-trafficking industry's focus on potential also redefines what 'success' means. In the UK, the All-Party Parliamentary Group (APPG) on Prostitution and the Global Sex Trade has hailed FOSTA-SESTA as a success and argues for the UK to target web services potentially linked to sex trafficking in a similar way. This APPG (2018) claims that "[s]ince the U.S. federal government adopted [FOSTA-SESTA], websites including Adultwork and Craigslist have stopped hosting prostitution adverts in the U.S.". They attribute a strange causal role to FOSTA-SESTA, particularly regarding Craigslist. Craigslist closed its 'erotic services' section in 2010, well before FOSTA-SESTA could have had an impact. Craigslist's Personals section *was*, as noted above, closed in response to FOSTA-SESTA. As discussed above, the Personals was used for a range of purposes (not just for sex work or trafficking). Nonetheless, FOSTA-SESTA is considered a success because Craigslist is seen as a platform for potential illegal activity and potential serious harm. Closing Craigslist Personals is viewed as successful action against illegal activity and harm that could have and would have taken place. However, this 'successful' action against potential illegality is very unlikely to prevent Craigslist from actually hosting sex work adverts: sex workers have moved to other parts of the site, as happened after the 'erotic services' section was previously closed. Nevertheless, action against potential can be presented as a success, regardless of whether it achieves the intended goals. Moreover, as with harms caused by closing online spaces designed explicitly for advertising sexual services, this 'successful' action can exacerbate existing problems. This is 'justified' by the anti-trafficking imperative of this politics of principle.

Based on potential, legislation can also be seen as a success too soon after its enactment for any extensive evaluation to be carried out, and where the actual success claimed for the action is frankly implausible (see Mendel and Sharapov, 2021). For example, while Craigslist may be compelled to do more to stop sex workers from advertising, the site is highly unlikely to ever block all such uses successfully. Sex workers have, predictably, found alternative online spaces for advertising. A focus

on potential success also means that legislation can even be presented as potentially achieving moral objectives despite their impossibility, such as a claimed impact on Craigslist before FOSTA-SESTA was even conceived. A potential politics allows legislation to be presented as having *potentially* succeeded, despite the evidence of its harms or the implausibly of claimed successes. This also highlights the importance of an agnotological approach: one should ask how an APPG can credit FOSTA-SESTA for changes that occurred years before its conception or believe in an implausible project to remove adverts for sexual services from broad swathes of the internet. The belief that FOSTA-SESTA might potentially achieve such goals helps maintain ignorance of the fact that it has not and is highly unlikely to ever do so. While claiming the moral high ground of a principled position, this potential politics constructs ignorance of the harms caused (Blunt and Wolf, 2020; Tichenor, 2020).

Potential victims and criminals

There is a moralising history of blurring the 'victim'/'criminal' boundary in the context of sex trafficking. Discussing domestic minor sex trafficking, Musto (2016: 89) describes how, "whether or not youth and especially girls at risk of being sex trafficked in the United States are ever arrested, charged, or placed in camp or juvenile detention on prostitution or other charges, some may nonetheless interface with police and other law-enforcement personnel who wield the power to 'switch up' whether they are to be treated as victims, offenders, or some combination of the two". Despite some moves in the US aimed at treating sex trafficked or otherwise exploited youth as victims or people needing support rather than criminals, "some youth may still be treated like criminals" (Musto, 2016: 90). For Musto (2016: 90), "some trafficked youth and teens fall … into a hybrid category that researchers have variously described as prostituted youth's and migrant sex workers' 'victim–offender' and 'victim–criminal' status, respectively". This also takes place in the context of unauthorised migration. In *Migrant Crossings*, Fukushima (2019: 5) discusses the construction of "dominant ideologies about 'perfect victimhood', citizenship, and legality, ideologies that become codified and reified in the courtroom, by social services, and in everyday interactions with trafficking subject". As Fukushima (2019: 5–7) argues, this means that migrants can be viewed as victims of trafficking in some cases (for example, if they are close to 'perfect victimhood'), while in other cases the focus shifts to treating them as criminals even if they were coerced into committing these crimes. Similarly, in the context of Filipina sex workers in Asia, Hwang (2018: 523) finds that "while emigration enforcement in the Philippines considers Filipino women as potential 'innocent victims' whom the state must protect, immigration control in receiving countries such as Hong Kong punishes them as transgressors of sexual norms and immigration law".[6]

Previous work shows how the anti-trafficking industry actively manufactures thresholds of suffering or transgression in relation to the trafficked or criminal 'other' (O'Connell Davidson, 2006; 2010). In addition, a focus on potential means that the question is no longer just whether people cross these thresholds of suffering or transgression at present or in their current location. Instead, the question of whether they might potentially cross these thresholds in the future increasingly guides anti-trafficking policy and practice. For example, someone might be viewed as a criminal based on their actions outside the US potentially breaking US law, even if their behaviour is legal in their jurisdiction. An online sex worker might be seen as a victim based on the potential for future exploitation – for example, through non-consensual reuse of content or poor treatment by a manager – even if their current working conditions are favourable compared to alternative jobs. This substantially expands the scope and freedom of action of the anti-trafficking industry. More people can be viewed as victims or criminals based on potential, and it will often be possible to view the same person as either a potential victim or a potential criminal.

A blurring of the victim/criminal boundary can also be seen in FOSTA-SESTA, but in this case, people are more directly pushed onto the criminal side of the boundary based on the potential for them to engage in criminalised activities. FOSTA-SESTA was often framed in terms of protecting victims of sex trafficking or 'prostituted women'. However, a potential politics was used to further blur the categories of 'victim' and 'criminal'. Much of the online content removed by FOSTA-SESTA was produced for (and often by) sex workers, ranging from material aimed directly at helping sex workers work more safely (for example, safety advice and 'bad-date' lists) to community spaces (for example, sex worker reddits). Online spaces and services are censored – and sex work is made riskier for those presented as victims – because of the potential that they might be criminalised under FOSTA-SESTA. For example, online safety advice for sex workers (which might include tips on reducing risk while still generating income) could potentially be viewed as promoting prostitution, which would violate FOSTA-SESTA and incur serious penalties. Some support resources are being forced offline by this logic (Musto et al., 2021). Sex workers also risk being criminalised for the 'promotion of prostitution', for example, for helping a friend post adverts or sharing information and tactics. Legislation passed in the name of protecting trafficked people and sex workers is thus used to frustrate their efforts to make their lives safer, based on the idea that they (or those running safety services for them) are potential criminals. Actual sex workers are being criminalised and exposed to both state and non-state violence in the name of protecting potential victims.[7]

Anti-trafficking, principle and ethics

The ethical failings of moral certitude

This potential politics of anti-trafficking is novel; it generates impact through drawing on long-standing geopolitical narratives of moral certainty while also using ideas of potential to expand its scope and reach. It is against this combination of a potential politics and a foundationalist morality that this article draws on an afoundationalist approach to ethics to be more responsive to the needs of the Other.

As Campbell (1993) argues in a different context, claims to moral certainty and stable moral principles can lead to unethical behaviour. Rather than beginning with an ethical openness to the needs of others, anti-trafficking discourses often start with the idea that trafficking (particularly sex trafficking and commercial sexual activity) is morally repugnant and should be condemned as abhorrent. By using this disgust at trafficking (and activities presented as potentially trafficking, particularly related to sex) as a moral foundation, opportunities for a more meaningful engagement with others and actions to support them are closed off. For example, instead of helping people working in exploitative conditions to challenge those conditions or challenging structural factors that make people vulnerable to exploitation, a focus on the moral wrongness of trafficking provides a foundation for a whole range of anti-trafficking responses. This moralising is used to justify actions from the unproductive (e.g. raising and spending money on awareness-raising with no evidence of benefit) to the harmful (e.g. anti-trafficking organisations campaigning for exploited workers to be criminalised or have their income reduced) (Mendel and Sharapov, 2021). This foundationalist morality also leads to a lack of curiosity towards what might or may not be effective practice: it casts anti-trafficking action as intrinsically good, closing off space for critical appraisal (see Mendel and Sharapov, 2021). A 'principled' politics allows many involved in anti-trafficking to be confident in their own moral rectitude: if action is grounded in opposing a unique evil, it becomes easier to overlook the complexity of how all of us living within capitalism are involved in different relations of exploitation. This moral certainty also closes off opportunities for an ethical response to the needs, demands, and suffering of others. Anti-trafficking activism becomes about opposing the

great moral evil of trafficking rather than, for example, pushing for political and economic reform to reduce exploitation.

The abuse of morality in the name of anti-trafficking has been a focal point for many critical scholars. Human trafficking, 're-discovered' at the start of the twenty-first century, exploded into the public consciousness as a racialised social panic about the "White Slave Trade" (see Kempadoo, 2005: x), severing the bodies of trafficked women (and men) from their materiality and, para-doxically, despite the emotive and strategically mobilised moniker of 'slavery', from their historical context. Scholars like Kempadoo (2005), Bernstein (2007), Brennan (2014), and others have drawn attention to gender, race, ethnicity, and nationality as the underlying currents behind the trade, exploitation, and disposability of labour (including sex work) under conditions of neoliberal co-ercion and force. In doing so and in critiquing the 'global apartheid' of differentiated rights and life outcomes (Sharma, 2020), they rejected violent manifestations of carceral approaches propagated in the name of defending the 'civilised world' from immoral 'dangerous brown men' (Bhattacharyya, 2009) advancing upon Europe and the rest of the 'civilised world', and in the name of conservative sexual morality (Kapur, 2005), which "attached prostitution and 'loose' sexual relations to notions of degraded migrant women's sexuality" (Kempadoo, 2005: 5). It is the type of principled, foundationalist morality critiqued here that can make an ethical response to others harder.

Foundationalist certainty about trafficking is ineffective in many ways: it leads to an overly rigid approach (for example, a decades-long focus on anti-trafficking awareness-raising despite no reason to believe most of this activity is useful), whereas the capitalist system that facilitates exploitation is highly adaptive (see Mendel and Sharapov, 2022). When trafficking and exploitation do not disappear (as they do not, even after all of the multi-million pound funding awards, programmes, directives, crackdowns and awareness-raising campaigns),[8] there is a re-ordering or marginal broadening (at the policy/legal level) of our understanding of what trafficking is, in order to fit the moral framework – to explain why the telos of anti-trafficking is never quite reached. We thus see a cycle where a particular idea of trafficking and anti-trafficking is constructed as the foundation to a moral framework. A narrowly constructed response to this idea fails to work, partly because of limitations in how the problem was framed initially. After this failure, the conceptualisation of the problem and response are shifted slightly, to explain why the telos was not reached, and the cycle repeats while the foundations of the discourse remain unquestioned, and borders are pushed.[9] A principled morality – a belief in the virtue of anti-trafficking and the fundamental wrongness of trafficking – persists and is linked to an unreachable telos, even when the consequences of this morality do not benefit those vulnerable to exploitation and can be actively harmful. The type of foundationalism at play here does not even allow the kind of personal reflection facilitated by some forms of types of foundationalist morality – for example, leaders in the anti-trafficking field often fail to show any meaningful reflection on whether their actions are effective. The idea of potential success (as discussed above) further worsens the situation: action can be seen as effectively stopping trafficking that could or would have taken place, even if there is no evidence of actual efficacy.

Operation Underground Railroad (OUR) is one prominent example of problems caused by a reliance on principle in anti-trafficking. The organisation is driven by a powerful conviction about the widespread and uniquely horrific nature of child sex trafficking, and this principle is used to justify the use of anti-trafficking raids in the global south as a "proven and successful model of rescuing children from sex trafficking and sexual exploitation" (OUR spokesperson quoted in Merlin, 2021). A first point to note is that even well-conducted raids like this are not an effective response to trafficking – they can be harmful to (or risk creating) 'victims' and can worsen structural conditions that lead to exploitation (see Mendel and Sharapov, 2021). Vulnerable people are harmed in the name of principle and may, for example, be 'rescued' into the hands of state agencies that detain, prosecute, or otherwise harm 'victims'. However, a principled opposition to the evils of child sex trafficking has helped efface important questions about the utility of raids as a general strategy

and of the specific tactics deployed, even where some aspects of the raids – such as reliance on a psychic for 'evidence' of where to raid – might seem to invite critical questions (see Mendel and Sharapov, 2021).

Combining a focus on principle with a potential politics can 'justify' complicity with ignorance, myths and rumours: there is the potential that myths might reflect some underlying reality (even if they do not) and the principled fight against anti-trafficking mandates action based on this potential. For example, responding to false rumours that the store Wayfair was conspiring to sell trafficked children, OUR founder and then president Tim Ballard posted an Instagram video saying, "Children are sold that way … No question about it, children are sold on social-media platforms, on websites, and so forth" (Tiffany, 2021).[10]

A foundationalist focus on the wrongness of trafficking can thus serve as a motivation and 'justification' for constructing myth and ignorance: using the unique wrongness of trafficking as a principle for action can lead some activists into an ill-informed and harmful politics of principle. The idea that people are potentially being trafficked combines with claims of moral principle to 'justify' implausible beliefs and ill-conceived actions.

Ethics and responsibility

There are thus significant problems with the way that moral certitude and a politics of principle is playing out in anti-trafficking. As discussed above, against such use of principle Campbell (1993) draws on Levinas' work to propose an afoundationalist ethics. For Levinas (1989: 82), as noted above, "One has to speak, to say I … to be me …. But, from that point … one has to respond to one's right to be … not by referring to some abstract or anonymous law, but because of one's fear for the Other … whom I have already oppressed or starved or driven out into a third world". Rather than morality being grounded in set principles – for example, anti-trafficking work being grounded the principle that trafficking is wrong – this is a radical call to meet the ethical demand of the Other. Even as the 'I' of our subjectivity is being constituted, we are called to justify our own existence and to respond to the needs and suffering of the Other who we have driven out through our existence. In the context of trafficking and exploitation, we are called to respond to those driven into exploitation by the capitalist system in which we live and which we participate in. Instead of being grounded in a principled insistence on the wrongness of trafficking (or sex trafficking, or sex work) or a focus on where potential trafficking might be taking place, this type of ethics is driven by a responsibility to those who are vulnerable, exploited, and excluded. This offers a better response to trafficking and anti-trafficking than a politics grounded in set principles or a focus on potential. We should move beyond the comfort and feeling of virtue that comes from principled opposition to the supposed unique wrongness of trafficking, and the continued expansion of the anti-trafficking industry that follows. Whole swathes of anti-trafficking activity – from downloading an app to 'raise awareness' to supporting a 'raids and rescue' model – may feel like a satisfying part of a principled politics and action against potential trafficking but will usually be ineffective and/or harmful (Mendel and Sharapov, 2021, 2022). Against this, we would advocate responsiveness to the needs of others and an ethical obligation to answer for our 'place in the sun' to those deprived of similar by the exploitative structures of capitalism. This may not feel so rewarding as a politics grounded in principle; rather than the comforting glow of doing the right thing by acting in accordance with principle, this afoundationalist ethics leaves us always aware that, while we can and should focus on responding to the needs of others, we will inevitably fail to respond to the needs of many others whom capitalism renders vulnerable to exploitation. This may also lead to more politically contested, smaller-scale and/or more localised actions than the continual expansions justified by a potential politics and a principled morality, and will not justify an anti-trafficking industry as large as what we see today.

Some of the distinction between 'principled' anti-trafficking and an ethical response to others can be seen in differing responses to the coronavirus pandemic. Many in the anti-trafficking movement used the pandemic to continue awareness-raising and fundraising, arguing that it created a greater need for the same type of (largely ineffective) work they usually do and seeing potential trafficking everywhere. Ballard, for example, "has regularly described this period as a 'pedophile's dream', and claimed that predators were thinking of it as 'harvest time'" (Tiffany, 2021). In contrast, multiple sex worker collectives and support organisations responded to the way that the pandemic was pushing many sex workers into (greater) poverty and making them more vulnerable to exploitation with mutual aid funds – providing those harmed by the pandemic and broader economic system with money and resources to support them (see Herrera, 2020). One organiser, Ashley Madness, reports seeing "donations come in from sex workers who themselves are completely out of work. 'I see people who have lost all of their income due to Covid donating $50'" (Herrera, 2020). The Global Network of Sex Work Projects offered a list of emergency funds and mutual aid initiatives on its website (see GNSWP, 2022). Most, if not all, of these initiatives are run by sex workers for sex workers as a reflection of an ethics (rather than a principle) of entangled interests and responsibility: where mutual aid both achieves practical goals through supporting others and builds solidarity (Shimei, 2022) and can form a kind of "radical care" (see Moraes et al., 2020). In contrast to the anti-trafficking industry claiming virtue through a principled response to trafficking as a unique evil, here we see workers who are struggling themselves still feeling an ethical obligation to respond to the needs of others while also acknowledging that, despite their efforts, people will continue to suffer.

Some of the complexities here can be seen in the response to refugees after Russia's invasion of Ukraine. Offering temporary protection to refugees and meeting – though very imperfectly – their need to migrate, find work and access services in Europe proved a much more effective way to reduce vulnerability to trafficking than 'conventional' anti-trafficking approaches founded in a belief in the wrongness of, for example, sex work or unauthorised migration (Mendel and Sharapov, 2024). Despite the large-scale forced displacement, such temporary protection meant that far fewer people than expected have been trafficked (Mendel and Sharapov, 2024). However, compared to mainstream anti-trafficking work such as awareness-raising, providing such rights to refugees will not provide the same moral satisfaction of having 'done the right thing'. Despite the achievements of this response to refugees, many people from Ukraine who have not been trafficked still live in poverty or work in exploitative conditions (Mendel and Sharapov, 2024). Large numbers have been displaced from or lost their homes and, even if they have avoided trafficking, this displacement is itself traumatic. A nuanced response to refugees does not let us escape the knowledge that our 'place in the sun' depends, at least in part, on exploitative labour within capitalism and on geopolitical structures that create refugees. It also does not allow us to simply discharge our responsibilities by doing something politically uncontroversial like raising awareness about trafficking. Instead, our responsibilities to the Other always remain, compelling us to address politically contested issues like migrants' rights and workers' rights (Mendel and Sharapov, 2024). After Ukraine, we must consider our ethical responsibility towards migrants from other parts of the world and how other (would-be) migrants could be protected from trafficking by giving them stronger rights to travel and to work.

Conclusions

In anti-trafficking narratives, there are claims of foundationalist moral certainty that will be familiar from critical work on foreign policy and conflict (see Campbell, 1993). However, what is particularly novel in the aftermath of FOSTA-SESTA is how borders between crime/non-crime and between states are being blurred using the "could have/would have" logic that Massumi (2007) describes as a potential politics: the fact that activity could potentially involve crime or be in a jurisdiction where it is criminalised is used to restrict what people can do online. The combination of

the certainty of a foundationalist morality with the slipperiness of a potential politics allows anti-trafficking action to spread, expand and reshape borders in striking, worrying, and harmful ways. These claims of virtue and principle combine with ideas of potential to create and to expand unethical, ignorant, and damaging anti-trafficking politics and practice. The anti-trafficking industry thus grows through what we critique as expanding circles of failure (Mendel and Sharapov, 2021). By combining the politics of principle and potential, this industry grows through claims of moral certainty and the capacity to act against potential trafficking.

It is challenging to respond to these claims of certainty alongside a slippery focus on potential. Analytically, an agnotological approach – a focus on why we do not know what we do not know – can help explain how the expansion of the anti-trafficking industry is possible despite, and often because of, the combination of a focus on potential with the uncertainties left open by considerable ignorance (Mendel and Sharapov, 2016, 2022). A lack of evaluation, accountability, and good quality evidence enables the anti-trafficking industry to expand based on a potential politics, without being held back by a need to seriously consider what is actually happening, what works, and what is harmful.

Our suggested analytical approach does not directly lead to any clear political tactics or strategies, but offers a critical lens for viewing anti-trafficking policy and practice: building a critique of the anti-trafficking industry in the Foucauldian sense of "making facile gestures difficult" (Foucault, 1998: 155). In terms of broader political approaches, we agree that exploitative labour is wrong; indeed, one of our criticisms of current anti-trafficking discourses is that they can make it harder to challenge exploitation (see Mendel and Sharapov, 2016, 2021, 2022, 2024). We also acknowledge that websites and online communities carrying adverts for sex work and helping people arrange to meet for dating or socialising can be used to cause harm (and we would support evidence-informed harm reduction strategies). However, as argued above, the combination of principle, potential, and ignorance enables far too much: actual workers are made less safe, and spaces for expression are closed down, to combat what could have been (but is not) happening. Online activities are stopped because they would potentially be criminalised if they were within US borders, even if based outside the US. Narratives of foundationalist moral certainty combined with this potential politics are particularly pernicious – they allow unethical action against groups and aspects of life not involved in trafficking, alongside causing harm to those at risk of exploitation and making more people more vulnerable. This also enables an increasing targeting of loosely non-normative behaviour, which risks spreading to include an ever-broader range of activities viewed as potential trafficking. Alongside our ethical obligation to sex workers, trafficked people and others, there is a broader political impetus to respond to this closing down of possibilities in the name of anti-trafficking: many people with no links to (anti)trafficking or sex work risk being affected by the continual growth of this principled potential politics and by similar strategies and tactics being applied to other areas of life.

Campbell (1993) draws on Levinas' work to offer a more ethical approach to international politics. We also see hope here for a more ethical response to (anti)trafficking and exploitation: moving from narratives of principled moral certitude (often linked to a personal disgust at particular activities) to a focus on responsibility for and responsiveness to the Other. Rather than the comforting certainty of the anti-trafficking industry's principled morality, working with people who are made vulnerable to exploitation to respond to their needs and reduce their vulnerability offers a more ethical approach. An ethical response to exploitation is much more likely to be seen, for example, in a sex workers' mutual aid fund or a workers' rights campaign – and their responsiveness to the needs of others – than in the anti-trafficking industry engaging in yet another round of awareness-raising. As in the example of Ukraine discussed above, a response to migration that recognises the need of people to travel, work and access services might offer a more ethical response that serves (albeit imperfectly) to make people less vulnerable to trafficking and exploitation.

Against the moral certainty of a principled anti-trafficking, this would open up more contested political questions around issues such as migrants' and workers' rights. While we recognise that the shift to an afoundationalist ethics is neither a complete nor a satisfying response to what we describe in this article, this move away from narratives of principled certainty and towards a focus on responding to the Other might allow a more positive response to (anti)trafficking and to its principled potential politics – and might let us build a different politics.

Acknowledgements

Declaration of conflicting interests

Funding

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Notes

1. See, for example, Moraes et al.'s (2020) and Shimei's (2022) discussion of this, Sage and Michaels' (2022) podcast or the initiatives at GNSWP (2022).
2. See, for example, the initiatives discussed in (Mendel and Sharapov, 2021, 2024), and the work discussed at https://www.labourexploitation.org/about-us
3. https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf p. xv
4. FOSTA (Allow States and Victims to Fight Online Sex Trafficking Act) and SESTA (Stop Enabling Sex Traffickers Act) became US law in 2018. They allowed the prosecution of websites claimed to engage "in the promotion or facilitation of prostitution" or "facilitate traffickers in advertising the sale of unlawful sex acts with sex trafficking victims" (see Mendel and Sharapov, 2022).
5. These concerns about potential criminality and trafficking cluster around online spaces focussed on loosely non-normative dating, meet-ups and sex: while sex workers also sometimes advertise on 'mainstream' dating sites, and heteronomative dating sometimes involves violence and criminalised behaviours, 'mainstream' sites are not targeted in the same way (see Mendel and Sharapov, 2016, 2022). Some activity blocked by crackdowns on potential trafficking was lower risk than much heteronormative sex and dating, but this principled targeting of potential is a long way from how risk is considered in approaches such as harm reduction.
6. Another relevant example is the police raids at Southern Florida suburban massage parlours, where Asian workers were seen as potential victims of trafficking. This the media covered this as successful 'rescue' of potential trafficking victims but "No traffickers could be identified, and the 'victims' were soon rebranded as offenders facing prostitution-related charges" (McAdam and Gerasimov, 2022: 1). The consequences of being seen as a potential criminal – including detention, arrest and charge – can be harmful.
7. See for example the English Collective of Prostitutes' argument that police are using 'bullying and intimidating tactics' in their response to 'modern slavery' https://prostitutescollective.net/independent-police-accused-of-breaking-law-to-target-sex-workers-with-bullying-and-intimidating-tactics/

8. See the recent issue of *Anti-Trafficking Review* on anti-trafficking funding: https://antitraffickingreview.
   org/index.php/atrjournal/issue/view/34
9. See Mendel and Sharapov (2021) for further discussion of what we describe as expanding circles of failure.
10. In Tiffany's (2021) article, an OUR spokesperson states that OUR "does not condone conspiracy theories".
    Ballard has since left OUR after an "investigation into claims of sexual misconduct": https://www.vice.
    com/en/article/tim-ballards-departure-from-operation-underground-railroad-followed-sexual-
    misconduct-investigation/

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