



BROWN

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May 22, 2023

Dear Members of the Commission:

I am a member of this study commission, representing the *Human Trafficking Research Cluster* through **Brown's Simmons Center for the Study of Slavery and Justice**. Beginning in 2019, our community-based research partnership with Red Canary Song (a grassroots coalition of migrant massage workers, sex workers, and allies organizing around massage worker rights) has focused on the *Policing of Asian Massage Work* as a form of human trafficking.

The enclosed research reports, and op-eds in *Providence Journal*, and *New York Times*, detail how, within the past decade, a new wave of laws has sought to target unlicensed massage, as a way to police fears of sex work within the massage industry. Recently, the New York Chapter of the *ACLU* found our research evidenced such compelling breach of civil rights—and of **anti-Asian violence**—that it partnered with us to launch the nation's first "***Massage License Decriminalization Act***," sponsored by Senator Julia Salazar and Assemblyperson Jessica Gonzalez-Rojas.

In light of these research findings, and the significant national momentum condemning the uneven policing of sex work, **we urge a reconsideration of Rhode Island's 2016 Body Work's** ordinance. H7007 established a new category of "body work," requiring a distinct license from that of a massage therapist. The law has disproportionately targeted Asian massage businesses, in particular, following "Operation Rub Down," initiated in 2003 due to fears of human trafficking. However, human trafficking has rarely been proven in these cases.

The most recent application of this law has had damning outcomes. In December 2019, during the last such raid before the COVID-19 pandemic, the Pawtucket Police Department and Department of Homeland Security raided three Asian massage businesses in Pawtucket and arrested 19 people. *Most of the Asian massage workers arrested were charged with not having a massage therapy license; only three employees were charged with prostitution.* After their arrest, workers' charges were dropped and only the business owners were indicted. **All arrested workers attested that they were NOT victims of trafficking**, instead asserting that they were low wage workers, of mixed immigration status, trying to earn a living. The experience of raid, arrest, and preliminary charges have a grave impact on the social, emotional, and financial well-being of migrant workers.

A recent 2021 ruling on the case mandated that Grace Kwon, 57, the owner of the spas, forfeit about **\$650,000** in cash proceeds and assets. **The proceeds were to be divided between the Pawtucket Police Department and the attorney general's office in an 80-20 split.** These consequences, which take money from Asian businesses and redistribute them to police and prosecutorial agencies, do nothing to support Asian massage workers.

In light of these findings, which dispatch the policing of sex work to new modes of policing racialized poverty, **we urge the commission's report also reconsider 2016 H7007.**

Sincerely,

Elena Shih, PhD

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Un-Licensed: Asian Migrant Massage Licensure and the Racialized Policing of Poverty



A Report by:
***Red Canary Song,
Massage Parlor Outreach Project,
Butterfly***, in collaboration with
***Bowen Public Affairs &
Brown University Center for the
Study of Slavery and Justice
Human Trafficking Research Cluster***

Massage Parlor
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Design by Sanya Hyland.

February 2022

Introduction

Asian massage work has become criminalized in a specific and racialized way in the last decade, attacked by multiple forms of state-sanctioned oppression. Whether via police raids; alleged zoning violations; or the state sanctioning of vigilantism among landlords, public health officials, and other members of the general public (e.g., anyone calling in a complaint via a non-emergency municipal “help” line, like New York City’s 311, or the National Human Trafficking Hotline), Asian massage work has become explicitly targeted across North America. These targeted attacks are inextricably linked to the misplaced advocacy of the anti-trafficking movement, which often claims it is *saving* Asian massage workers, when it is, in actuality, subjecting them to varied forms of state and state-sanctioned-if-privatized violence.

This report is a collaboration between Red Canary Song in New York City, Massage Parlor Outreach Project in the Seattle metropolitan area, Butterfly Asian and Migrant Sex Workers Support Network in Toronto, Canada, and Brown University’s Center for the Study of Slavery and Justice in Providence, Rhode Island. It is a distillation of work done by North America-based migrant workers, sex workers, and their allies. It presents data about the anti-Asian nature of state-sanctioned violence against massage workers, ways that different municipalities, states, and provinces have targeted Asian massage work, and different forms of political action--community action and policy change in turn--that massage workers are considering to end their oppression. Different communities and collectives have different visions on how to approach state violence, some groups approving of work with governments to end these violent practices, and others preferring to focus on purely community alternatives. This report respects all approaches as methods for respecting the self-determination of communities and their specific needs and visions for justice.

Structure of this report

This report outlines, in four metropolitan areas--New York, New York; Seattle, Washington; Toronto, Ontario; and Providence, Rhode Island--the methods, outcomes, and community reactions against policing of unlicensed massage, including:

- the legal history and tools used to attack massage workers,
- an overview of data about the racialized nature of the policing of massage, and;
- ways communities and allies in these locations are working to stop the racialized policing of unlicensed massage.

The survey of activity in these municipal areas builds upon research compiled by all of the organizations authoring this report showing that the laws specifically targeting Asian massage work--under the guise of combatting human trafficking--have been a specific historical formation of the early 21st century.¹ While there were laws targeting massage prior to the 21st century, there was focused action especially over the last decade, led by anti-trafficking organizations and professional massage associations, to place more legal strictures upon Asian massage work.² This report builds upon that research, as well as data collected on more recent forms of criminalization, and some of the strategies being contemplated and undertaken by organizations that advocate for Asian massage workers.

This report is geared for two audiences and basic goals:

- Massage workers, sex workers, and allies, who can use this report to *show the commonalities of this policing of unlicensed massage, and have a sense of the political action options available to counter such policing*, and;
- Policymakers and those interested in the policy around unlicensed massage, to *inspire an end to this racialized policing*.

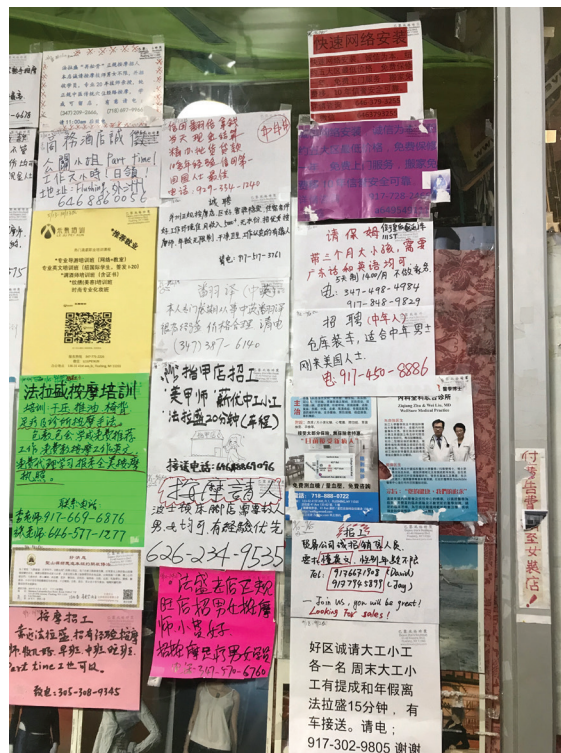
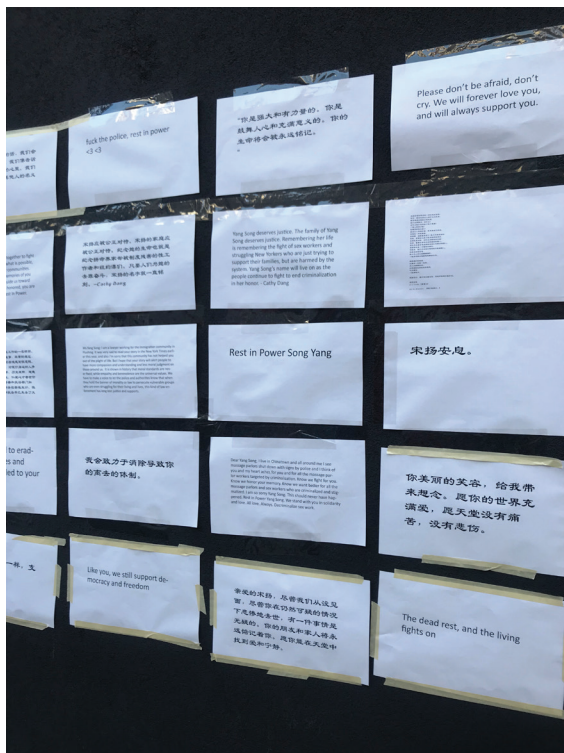
1 Elene Lam of Butterfly Project, Yves Tong Nguyen, Esther Kao, and Wu from Red Canary Song, Moderated by Kamala Kempadoo, Elena Shih, 2021, "Policing Asian Massage Work," *Brown Center for the Study of Slavery and Justice*.

2 Shih, Elena. 2021, "The Trafficking Deportation Pipeline: Asian Body Work and the Auxiliary Policing of Racialized Poverty," *Feminist Formations* 33.: 56-73.

In short, this report is a tool for political action, demonstrating the common struggle faced across the continent of massage workers, and the different ways communities can respond to that struggle.

Research Methodology

Data for this report has been collected through a combination of surveys, oral history interviews, and ethnographic participant observation by RCS, Butterfly, and MPOP outreach workers in New York, Toronto, Seattle, and Providence. In line with the outreach population of each organization, the report focuses mainly on the experiences of Chinese and Korean migrant workers, with outreach work conducted in Mandarin, Cantonese, and Korean. In each city, the experiences of migrant workers and organizers are supplemented by secondary data collected from laws, media reporting, and police records collected through Brown University's Center for the Study of Slavery and Justice Human Trafficking Research Cluster.



New York

Legal Structure

The laws that criminalize massage workers in New York City are varied, and include:

- State penal code (NY Penal Law Section 230.00 et seq) criminalizing “prostitution”;³
- State education law (NY State Education Law 6512) creating criminal penalties for engaging in what is considered “unlicensed” massage;⁴
- New York State “Human Trafficking Intervention Courts” (HTIC), where people assumed to be engaged in human trafficking, which includes the majority of “prostitution” cases, are diverted to engage in court-mandated services under threat of further criminal penalties⁵;
- City zoning laws that making it illegal to have any unpermitted establishment where there is physical (implicitly sexual) interaction between people (previously known as “Adult Physical Culture Establishment” in City Zoning, “Unlicensed Physical Treatment Establishments” as of late 2021);⁶
- New York City police enforcement, which uses a Vice Division (recently rebranded as “Vice Anti-Trafficking” to prioritize anti-trafficking action) to enforce State penal codes against those engaged in what is assumed to be unlicensed massage or other forms of sex work.

Law enforcement officers weaponize unlicensed massage statutes to raid massage businesses and arrest almost exclusively Asian women, many of whom are noncitizens or undocumented.⁷ Often, officers claim that they intend to save vic-

3 <https://casetext.com/statute/consolidated-laws-of-new-york/chapter-penal/part-3-specific-offenses/title-m-offenses-against-public-health-and-morals/article-230-prostitution-offenses/section-23000-prostitution>

4 <http://www.op.nysed.gov/title8/subart4.htm>

5 Global Health Justice Partnership of the Yale Law School and Yale School of Public Health, Sex Workers Project of the Urban Justice Center, 2018, *Un-Meetable Promises: Rhetoric and Reality and New York City’s Human Trafficking Intervention Courts*.

6 <https://www1.nyc.gov/assets/dcas/downloads/pdf/cityrecord/cityrecord-09-10-21.pdf>

7 Unlicensed massage can be prosecuted as a misdemeanor or a felony, pursuant to Edu. Law Sec. 6512 and Sec. 6513

tims of sex trafficking. They dehumanize all those that they arrest whether they are sex workers, people that are trafficked, or merely masseuses that do not trade sex. Workers have shared with RCS outreach teams that during raids, workers and survivors are almost always handcuffed, and their money and other assets are seized. Massage workers complain that officers fondle them, solicit sexual favors before arrest, and in some instances will not even let them dress before arresting them. Cashiers, receptionists, and others that simply work in massage businesses are often charged as well under felony unlicensed massage statutes. Some of those arrested are diverted to mandatory court services that are alleged to help them, but they risk jail or a criminal record if they fail to complete mandated services. Criminal records can have dire immigration consequences for noncitizens. Moreover, they can make it more difficult to access housing, and other resources. Notably, unlicensed massage records make it nearly impossible to get a license to practice massage in the future, only perpetuating these workers' reliance on criminalized work to survive. Unlicensed massage is one of the few professions in New York where workers are arrested for simply trying to make ends meet. Because those practicing are overwhelmingly women from marginalized groups, law enforcement uses the precarity of criminalization to harass and exploit these workers.

Summary of Data on Policing Activities

Despite the high profile 2017 death of Song Yang, a Chinese massage worker who fell to her death during a police raid on her workplace, massage workers continue to report harassment in their workplaces. Harassment includes police raids and police asking the workers to show their licenses. Most prostitution-related offenses have been under the part of the State Education Law prohibiting a person from practicing unlicensed massage therapies and from aiding three or more people to practice such work.

There are multiple reasons why this legal action is applied in a racist manner, including:

- English language requirements, such as raids conducted in English, which many workers do not speak, and/or scams that purport to provide licens-

es but do not and therefore discriminate against people who lack English proficiency;

- Financial pressures on low-income massage workers to attain licenses;
- The concentration of policing actions, which tend to disproportionately focus on Asian massage workers, or focus on the policing of Asian massage workers in either majority-white enclaves, or locations that have long been considered white enclaves.

RCS hosts bi-weekly street outreach work in Flushing, Queens, which throughout the pandemic has included mutual aid through the form of cash aid and grocery delivery. Workers have said that they were constantly pressured, due to policing activity, to attain massage licenses, leading many workers to have been frauded by scam massage license agencies that have popped up to capitalize on these licensure regulations.

This kind of action is not isolated to Flushing. Bensonhurst, Brooklyn, a neighborhood that became infamous in the 1980s when a white mob murdered Black youth Yusuf Hawkins, has, in recent years, increasingly become an enclave for Chinese immigrants.⁸ Bensonhurst West is home to the highest number of “adult establishment” complaints made to the Department of Buildings in New York City from 2015 to 2020, a location with (as of mid-2021) a Chinese population almost 40 points higher than the city average. And indeed, a spa or salon was frequently affiliated with the properties receiving the violations.⁹

In this context, it is relevant to mention the *threat* of a law: Between the NY State Assembly sessions of 2015-2016 and 2019-2020, Democratic State Assembly Member Mike Miller introduced an act (the most recent version, during the 2019-20 session, being A810), mandating that a landlord end a lease and evict a tenant if a government agent notifies the landlord that there is an unlicensed massage business on the premises. Miller also introduced, during the same legislative sessions, a similar act (the most recent version, during the 2019-20 session, being A1210), requiring landlords to verify licensure of massage therapist tenants

8 Liz Robbins, April 2015, “With an Influx of Newcomers, Little Chinatowns Dot a Changing Brooklyn,” *New York Times*.

9 Katherine Leitch and Jessica Katz, (2021), Custom Data Request from Citizens Housing and Planning Council (CHPC), provided under permission from CHPC.

before the signing of a rental agreement. These acts did not pass or get re-introduced in the subsequent legislative session, but they represent yet another flank of state action: forms of sanctioning what is effectively vigilante action, landlords versus tenants in a battle for an assumed moral fortitude.



2019 Vigil for Song Yang in Flushing, Queens

Community Responses

To remedy these injustices, Red Canary Song, along with civil rights organizations, immigration advocates, and directly impacted workers urge the legislature to pass A8281 (Gonzalez-Rojas). This act, drafted with Jared Trujillo, policy counsel at the New York Civil Liberties Union, will remove criminal penalties for those who practice unlicensed massage, which is charged as a misdemeanor, or often as an E Felony. Further, the act prevents law enforcement from seizing the property of massage workers, including cash. Removing criminal penalties will reduce instances of coercive conduct from law enforcement.

This act does not eliminate standards or requirements for practicing licensed massage therapy in New York. Further, it does not remove noncriminal

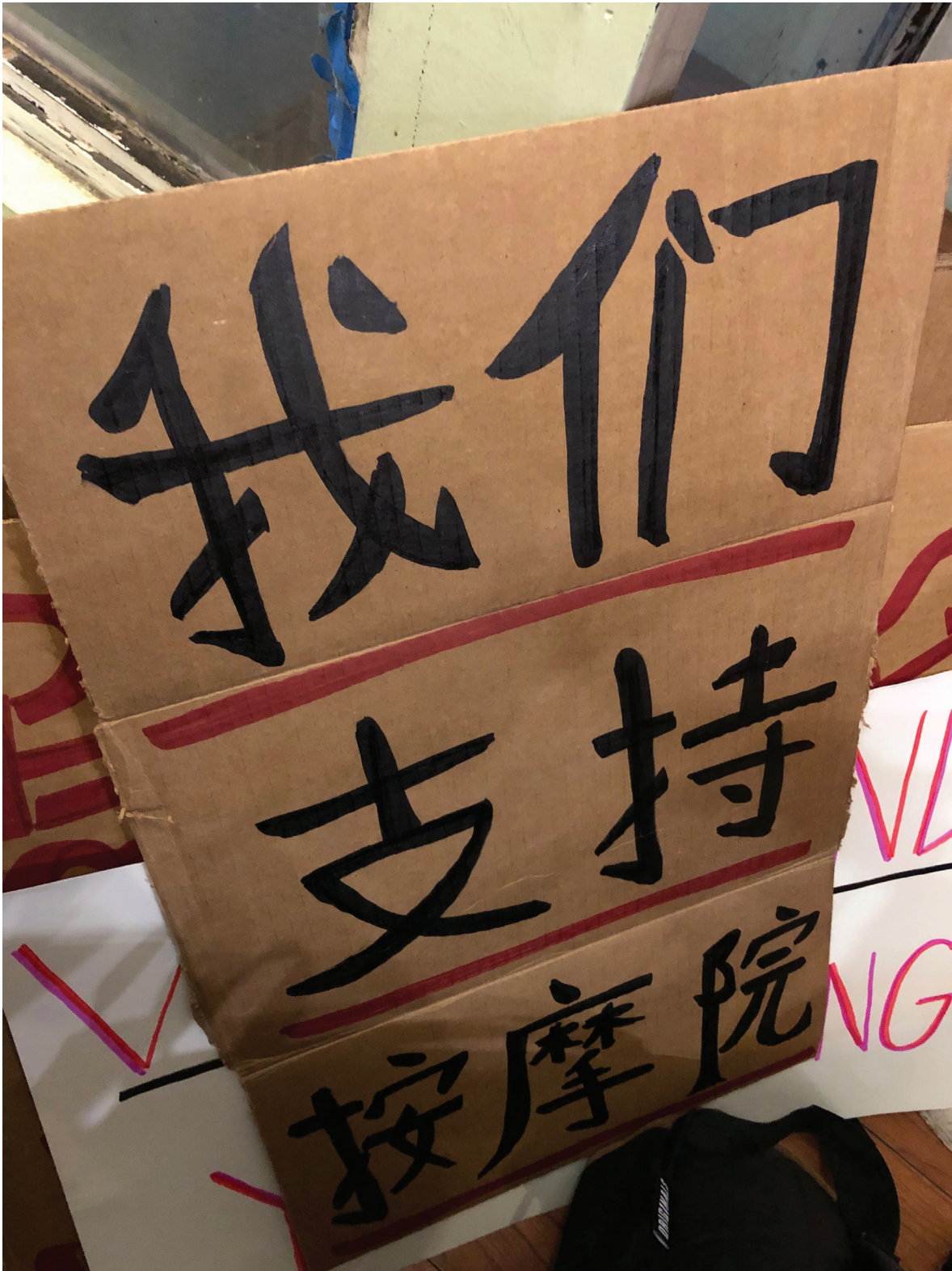
sanctions for practicing unlicensed massage. This act does not erase any distinctions between licensed massage work and unlicensed massage work. Rather, this act recognizes that massage is one of the only licensed professions in New York where the criminal law - including felony charges - is used to police unlicensed practitioners. In fact, massage is the only profession explicitly enumerated within the education law for prosecution. The vast majority of arrests in New York for practicing an unlicensed profession in New York are for unlicensed massage. The practical effect of this act is that it will bring unlicensed massage work to parity with other licensed professions, where criminal penalties are almost never levied, even though permitted by law.

Importantly, many of the same people criminalized for practicing unlicensed massage come from countries where their practice is not illegal. However, attaining a massage license is impossible for many of these workers due to expense, education, language access, and needing to earn money immediately, rather than wait until they can meet the numerous requirements for licensure. This act recognizes those barriers, as well as how unlicensed massage is unique in how it is criminalized, and how law enforcement weaponizes the statute to exploit workers. Passing A8281 will make New York more equitable for some of the most marginalized residents.

A8281 is one of many pieces of sex work decriminalization legislation that have either been passed into law or introduced into the State legislature. Thus far, the State legislature has:

- passed a repeal of the “Walking While Trans” ban (A3355/S1351), which repealed a part of State penal law allowing police to arrest people for “loitering for the purpose of prostitution”;
- passed the START Act (Survivors of Trafficking Attaining Relief Together Act, A459/S674), which creates a process for those forced to commit crimes while being trafficked to vacate those offenses (i.e., eliminate them from their criminal records);
- introduced the Stop Violence In the Sex Trades Act (A849/S3075), which would decriminalize sex work.

Advocates on the City level have also argued for eliminating the NYPD Vice Division entirely, via law and budgetary action.



Seattle

Legal Structure

The Seattle metropolitan area is subject to many laws that criminalize massage, with a combination of State laws and City and County laws all criminalizing “prostitution” and forms of massage, including but not limited to:

- State law (Chapter 9A.88 et seq Revised Code of Washington, or RCW)¹⁰ that criminalizes “prostitution” and “unlicensed practice of massage therapy” (Chapter 18.108 RCW);¹¹
- State Department of Health Reflexology Licensure Requirements, requiring passage of the American Reflexology Certification Board (ACRB) written exam (thus one of the ways that these laws targeting massage, with their emphasis on passing an English-language exam, create a barrier to migrant massage workers who lack English language proficiency);
- Municipal codes of Seattle (12A.10.160),¹² Renton (Chapter 15, 6-15-5),¹³ Kent (5.01.135 and 9.04)¹⁴ licensing and otherwise criminalizing “unlicensed” massage through a range of strategies;
- Municipal codes of King County (KCC 12.63),¹⁵ Seattle (12.A.09.20; 12.A.10.020 et seq);¹⁶
- Land use laws outlining what is a permitted adult establishment in Seattle (6.270¹⁷ and 23.47.A.005);¹⁸;
- Several Civil Forfeiture laws that have been shown to typically target Asian

10 <https://app.leg.wa.gov/RCW/default.aspx?cite=9A.88.030>

11 <https://app.leg.wa.gov/RCW/default.aspx?cite=18.108>

12 https://library.municode.com/wa/seattle/codes/municipal_code

13 <https://www.codepublishing.com/WA/Renton/html/Renton06/Renton0615.html>

14 <https://www.codepublishing.com/WA/Kent/>

15 https://aqua.kingcounty.gov/council/clerk/code/15_Title_12.htm#_Toc67657521

16 https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT12ACRCO

17 https://library.municode.com/wa/seattle/codes/municipal_code?nodeId=TIT6BURE_SUBTITLE_IVNELICO_CH6.270ADEN

18 https://library.municode.com/wa/seattle/codes/municipal_code/281112?nodeId=TIT23LAUSCO_SUBTITLE_IILAUSRE_CH23.47ACO

Americans.¹⁹

Prior to 2002, reflexologists required licensure as massage therapists under state law. In 2012, however, legislation was introduced for reflexologists to require licensure separate and distinct from massage therapists, resulting in two different kinds of body work. This law also allowed the Washington State Department of Health to inspect facilities. This new legal structure was undertaken with fearmongering from lawmakers about human trafficking.

Finding—Purpose—2012 c 137, : “The legislature finds that protecting the public health and safety from the harms of human trafficking has become more difficult and complex, with severe consequences for the victims and the public. The purpose of this legislation is to provide additional tools so that the regulatory agency has authority to make reasonable inspections of the premises in which services subject to this chapter are being provided in order to determine whether the services are being provided in compliance with this chapter and to support state investigations of human trafficking and other illicit activity.”²⁰

Summary of Data on Policing Activities

Massage Parlor Outreach Project (MPOP) has, in addition to exhaustive research of various forms of law criminalizing massage work, researched raids on Asian massage parlors , finding:

- a trend among the raids that they researched were that they were attacks in areas that, while perhaps not majority white, retained a white power structure and/or occurred in areas with changing economics. Raids were documented in several locations, including, but not limited to:
 - Lynnwood, WA: 53.1% white, Median income: \$63,743

¹⁹ Eric Scigliano, July 2021, “In WA, a ‘black box’ of practices hides civil forfeiture from oversight,” *Crosscut*; Eric Scigliano, July 2021, “WA civil forfeiture law turns minor drug offenses into major losses,” *Crosscut*.

²⁰ RCW 18.108.005. <https://app.leg.wa.gov/rcw/default.aspx?cite=18.108>

- 2011 raid of Chi Spa;²¹ 2016 raid of Happy Spa;²²
- Kennewick, WA: 64.9% white, Median income: \$59,533
 - 2016 raids of 99 Spa Salon, Dragonfly Massage, Holiday Massage;²³
- Yakima, WA: 47.9% white;
 - 2014 raids of Fair East Spa, Sunshine Massage, Oriental Spa, Asian Massage, Lavender Spa, Asian Foot Massage.²⁴ It is important to note that one of the articles trumpeting these raids was from the American Massage Therapy Association's Washington Chapter, illustrating the link between professional associations and this anti-Asian massage policing.
- Kent, WA: 42.7% white; Median income: \$72,062;
 - 2018 raids of 18 storefronts.²⁵

These raids, focused on licensure and ending in arrest, reveal bifurcated policing in areas with changing class dynamics. Preliminary data suggests the laws criminalizing massage in the Seattle metropolitan area predominantly focus on gentrifying areas, such as the Chinatown International District, not unlike the disproportionate number of complaints on Asian massage establishments in Bensonhurst West in New York City, or the focus on raiding massage parlors within a gentrifying wealthier Asian enclave (Flushing).

Furthermore, though the raids are frequently undertaken with the stated intent of ending human trafficking, the result is the opposite. To quote a press release from MPOP and the Chinatown-International District (CID) Coalition:

21 Lynwood Today, March 2011, "Prostitution Bust at Chi Health Spa," *Lynwood Today*.

22 Eric Stevick, September 2016, "Everett spa's license revoked amid prostitution allegations," *Herald-Net*.

23 John McKay, July 2016, "Unlicensed Kennewick Massage Parlors Busted, No Happy Ending For Customers," *NewsTalk KFLD*; Sean Bassinger, July 2016, "3 Kennewick massage parlors raided, closed after reports of injured clients," *Tri-City Herald*.

24 Mike Faulk, September 2014, "Yakima cops close 6 Asian massage parlors, arrest 6," *Yakima Herald*; 2014, "Yakima police close 6 Asian massage parlors, arrest 6," American Massage Therapy Association Washington Chapter; Mike Faulk, September 2014, "Yakima will pull licenses for massage parlors; some face prostitution charges," *Yakima Herald*.

25 Ted Land, January 2020, "City of Kent shuts down 18 illegal massage businesses," *News King 5*; Steve Hunter, November 2018, "Kent Police shut down 18 illegal massage parlors, 9 in the Valley," *Kent Reporter*.

Two years ago, Seattle Police raided 11 massage parlors, supposedly “rescuing” 26 Chinese women from so-called “sex trafficking operations.” In reality, the owners of these parlors were charged with promoting prostitution, not human trafficking. And the women who had been “rescued” were simply displaced. They lost both their means of living and their housing, as housing was connected to their workplace. Many had their meager cash savings and other belongings confiscated.²⁶

Research also revealed law enforcement in the Seattle area would conduct spontaneous inspections multiple times at the same parlor, as in the cases of Ai Spa and Green Tree in Kent, where police undertook multiple casings of the establishments to find reasons for bringing charges.²⁷ In the case of Green Tree, police noted that the license for the establishment was valid and no longer expired, but police continued to pursue expired licenses. The police report indicates both profiling of Asian people and what could be called a fishing expedition to find invalid licenses:

Given their facial expressions and that most owners/employees of massage parlors are typically of Asian descent, I found it reasonable to believe that these women were associated with Green Tree Spa....I was able to see that Green Tree had a current City of Kent business license, State of Washington Business License, and Washington State Department of Health Massage Practitioner’s License for [name redacted]²⁸ [one of the practitioners and owner of the establishment] only....While [name redacted] was walking the male to the room, I saw that her DOH Massage License had expired on 09/21/18. I advised [name redacted] it was illegal for her to provide massages with an expired massage license and that she could not provide

26 MPOP and CID, March 2021, “Solidarity with Massage Parlor Workers Means Ending Police Raids and Patrols in the CID.” Available at: <http://rightsandsafety.org/solidarity-with-massage-parlor-workers-means-ending-police-raids-and-patrols-in-the-cid>

27 This is detailed in Kent Police Department Case Reports 18-13464 and 18-14287, one of many law enforcement primary documents obtained by MPOP to understand trends in policing.

28 While the quoted police report lists the name of the worker, we have anonymized this for the purposes of this report. We consider this good practice to protect workers whose privacy concerns are commonly ignored.

the current customers with massages. [Name redacted] stated understanding but said she has a valid and current license at home that she would have [name redacted] [another practitioner] retrieve....On 09/28/18, I followed up with [name redacted] to see if she had found her updated license. As I walked in, I was greeted by a woman I had not met the day prior. The woman was later identified at [name redacted]. I asked [name redacted] if she worked at Green Tree. She said, “Yes.” she was able to provide me with a valid massage license. [Name redacted] met me in the lobby and showed me she had found her updated license (EXP: 09/2019) which was now posted.

Community Responses

MPOP addresses the harm inflicted upon massage workers by meeting regularly with massage workers, building community, undertaking political education with meetings and zines, and doing mutual aid work: “access to English lessons, legal and language support, COVID relief and vaccination support.”²⁹ MPOP is in relationship with other BIPOC-led and sex-worker led organizations that share similar values in addressing the structural discrimination that migrant massage parlor workers encounter. MPOP is a part of the Coalition for Rights and Safety for People in the Sex Trade in Seattle/King County, Washington, and has members who are involved in other formations. MPOP members have worked with community organizations for years to get Seattle City Council to pass bills repealing prostitution loitering and drug traffic loitering laws, and also have all outstanding prostitution cases in Seattle Municipal Court closed/dismissed/vacated.³⁰

At the same time, MPOP also engages with massage workers whose main goal is to make it easier to attain licensure. Asian massage workers have been systematically excluded from obtaining licenses due to racist laws that require higher education and English language proficiency in order to be licensed. MPOP is organizing with these workers to determine how to address this problem—there

29 Massage Parlor Outreach Project, “*Our Work*,” available at <https://mpopsea.org/our-work/>

30 Coalition for Rights and Safety, June 2020, “*Seattle Unanimously Repeals Prostitution Drug Traffic Loitering Laws*,”; Coalition for Rights and Safety, September 2021.

are workers whose demands were simply to get licenses more easily—and thus engages in its work by recognizing and acting toward the different needs and aims of its base, whether members of the base seek decriminalization or just the ability to pursue their work without police harassment.



RCS Korean team 2021 Mutual Aid Bento Box Distribution. These two photos by Eunbi Lee

Toronto

Legal Structure

The Toronto-based organization Butterfly Asian and Migrant Sex Workers Support Network has released several reports, most recently in 2021,³¹ as well as several articles,³² that very clearly explain the structure of laws criminalizing Asian massage and sex workers. The 2021 report explains (footnotes removed in all excerpts used below, but we encourage readers to read the entire original report):

In Canada, a complex and multiscalar web of laws has been constructed to target sex trafficking. These laws range from federal prohibitions against human trafficking in the Immigration and Refugee Protection Act and Criminal Code, to provincial laws that provide tools to raise awareness of the offence, to detect alleged traffickers and to provide victims with redress, to municipal by-laws that strictly regulate businesses such as massage parlours, body rub salons and holistic centres considered to be at risk of harbouring human trafficking. This tight web of repressive and restrictive laws is based upon two deeply rooted assumptions; the first, that immigrant women are especially vulnerable to trafficking for sexual exploitation, and the second, that the commercial sex sector is inseparable from trafficking. The express goals of this carceral and repressive approach to human trafficking are to protect immigrant women who are vulnerable to sex trafficking by prohibiting them from working in any aspect of the sex industry and to reduce demand by making it a crime to purchase, materially benefit from, procure or advertise sexual services.

31 Judy Fudge, Elene Lam, Sandra Ka Hon Chu, and Vincent Wong, 2021, *Caught In the Carceral Web: Anti-Trafficking Laws and Policies and Their Impact on Migrant Sex Workers*.

32 Elene Lam, Chanelle Gallant, & Vincent Wong, 2021, "One Thing We Can Do To Honour The Women Killed In Atlanta," *Chatelaine*; Elene Lam & Vincent Wong, 2021 "Punitive bylaw enforcement increases risk of violence for massage workers," *ricochet*; Elene Lam & Renee Dumaesque, 2019, "Human trafficking rhetoric is driving Toronto's review of holistic centre licensing," *ricochet*.

Butterfly's work exhaustively outlines the specific laws, from the federal to the municipal, over the period of a century. The Registered Massage Therapist is regulated by the Massage Therapy Act which is registered under the professional body. "No person other than a member can use the title massage therapist or registered massage therapist". Despite the fact that workers often identify themselves as massage workers, they are registered as body rub or holistic practitioner under the municipal bylaw in Toronto. Both the business and practitioner are required to obtain licenses.

They have advocated against this legal structure repeatedly, such as with their advocacy against what is known as "bylaw enforcement" from Toronto Municipal Licensing and Standards (MLS) division. With the advocacy for anti-trafficking (anti-sex work) organization, the city has increased the policing, investigation, and prosecution against the workers. The bylaws are a system of municipal legal enforcement, including a Licensing Standards Committee, which placed a "moratorium on the issuance of new licenses to holistic practitioners applications...until a comprehensive review of the current holistic bylaw policy" could be carried out "in consultation with affected holistic centres and practitioners."³³

As Butterfly found through its research and advocacy, in a survey of "holistic practitioners' encounters with bylaw enforcement and police officers, carried out from October 2015 to August 2017," bylaw enforcement and police used the pretext of fighting trafficking³⁴ to engage in:

- inspections or raids (impacting 65.5% of the survey respondents);
- arrests, issuance of tickets or receipt of fines (impacting half of respondents);
- physical or sexual assault by law enforcement officers (12% of respondents);

At the same time, Butterfly's "research did not uncover any instances of

³³ Butterfly, 2018, "Petition: Stop abuse and harassment by bylaw enforcement & police officers; Stop the misuse of bylaws against holistic practitioners."

³⁴ Butterfly, 2017, "Holistic Centres Factsheet."

forced labour or trafficking.”³⁵

The report on the bylaws notes further:

The bylaws themselves are problematic, and enable bylaw enforcement and police officers to use their broad discretion to abuse and harass practitioners who work in these locations. The majority of respondents reported that in the past few years, the approach of inspectors had changed from collaborative and respectful to abusive and provocative, and that the practitioners were being targeted. In particular, there is a perception among practitioners, the vast majority of whom are from Chinese and other Asian backgrounds, that the excessive practices of law enforcement officers are the result of racial profiling and discrimination, rather than to promote workplace health and safety. For example, some practitioners had been charged with bylaw infractions when they carried out measures necessary to protect their own safety, such as locking the door when they are alone, and protecting their (and their clients’) personal information.³⁶

In echoes of the vigilantism seen in other localities, Butterfly has also noted that law authorities enforcing bylaws can be accompanied by other people as per the law enforcement’s discretion, including other law enforcement officers who “would not otherwise be allowed to enter.”³⁷

Toronto, building upon other law in Canada, thus follows the trend also seen in New York City of encouraging deputizing vigilantes.

35 Elene Lam, 2018, *Survey on Toronto Holistic Practitioners’ Experiences with Bylaw Enforcement and Police*, Butterfly.

36 Ibid, 19.

37 Butterfly, 2018, *Caught In the Carceral Web: Anti-Trafficking Laws and Policies and Their Impact on Migrant Sex Workers*, 24-26.

Summary of Data on Policing Activities

Butterfly has undertaken extensive research through several years on the policing activities undertaken by law enforcement and police against migrant sex workers.³⁸ This included findings:

- In their 2018 survey report on *Holistic Practitioners' Experiences with Bylaw Enforcement and Police*, 34.4% reported having been abused or harassed by bylaw enforcement officers, and only 6.9% reported these incidents to police.
- For those who did not report incidents to police, 48.2% said it was due to the language barrier, 46.4% feared more inspections of losing clients or business, 30.3% noted “fear of being arrested, charged, fined” by police, and 32.1% reported fear of being “discriminated against by police or law enforcement.”³⁹

Data received from the Toronto City Clerk’s office found an increase in charges against holistic centers and holistic practitioners over a four year period totaling over 925 arrests over the four year period spanning 2013-2016.⁴⁰ Furthermore, between 2013 and 2016, the number of Municipal Licensing and Standards (MLS) visits to holistic centers increased by 212%, and visits to holistic practitioners increased by 323%.⁴¹ As Butterfly notes, “More than 2,200 practitioners, particularly those of Asian descent, have been disproportionately and unfairly targeted by excessive investigations, with individual bylaw visits conducted by as many as seven officers together, leading to neighbors and business disruption.”⁴²

Insofar as the policing of Asian massage has, through North America, exemplified neoliberal imperatives—e.g., increased and racialized policing combined

38 Ibid.

39 Elene Lam, 2018, *Survey on Toronto Holistic Practitioners' Experiences with Bylaw Enforcement and Police*. p. 11.

40 Ibid, p. 15.

41 Butterfly, 2018, “Petition: Stop abuse and harassment by bylaw enforcement & police officers; Stop the misuse of bylaws against holistic practitioners.”

42 Ibid.

with gentrification in New York City and the Seattle metropolitan area—Butterfly notes another aspect of neoliberal activity: an increase in racialized policing activity with attendant underfunding of the social safety net. Butterfly notes that while the City of Toronto “continues to underfund initiatives to address housing, safety and poverty issues, it will increase the MLS enforcement division budget by \$682,000 annually to cover the cost of hiring 5 new bylaw enforcement officers with a specific mandate of targeting 410 holistic centres and 25 body rub parlors,” with majority of holistic practitioners being “from Chinese and other Asian backgrounds,” amounting to “racial profiling and discrimination.”⁴³ Instead of protection, the bylaw and bylaw enforcement actually put the workers in danger, for example, the workers would be charged if they lock the door to screen the clients and protect their safety. In addition to Toronto, Butterfly also works with the workers in other cities, including Markham, New Market, and Hamilton to advocate for their rights.



Community Responses

Butterfly's research on both laws and their impacts on migrant workers, has identified several recommendations to address this violence:⁴⁴

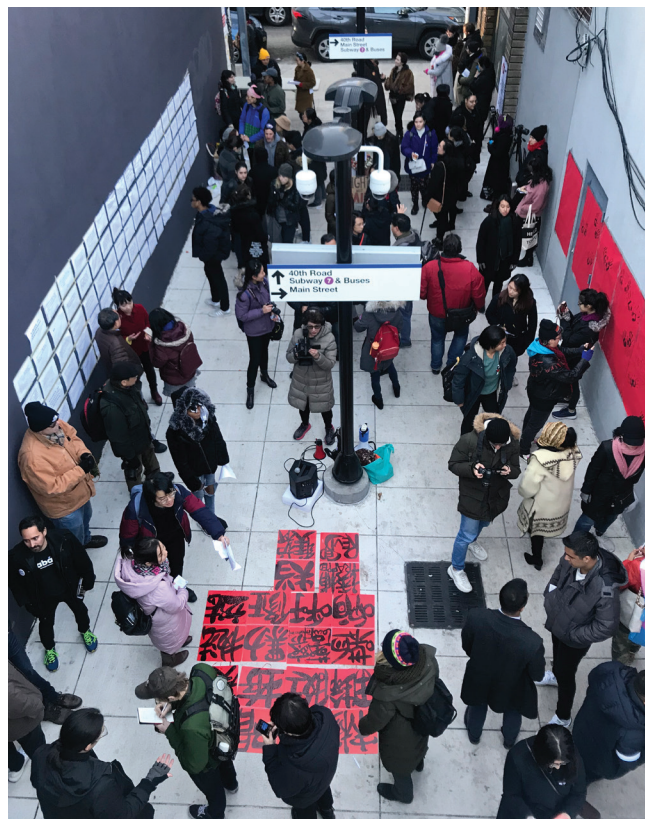
1. Repeal immigration regulations and ministerial orders pertaining to migrants without permanent status working in the sex industry and ease work permit restrictions for all temporary foreign workers.
2. Repeal all sex work-specific criminal offenses. To address violence and exploitation in the sex industry, use existing criminal laws of general application, including but not limited to criminal prohibitions against assault, sexual assault, theft, robbery, kidnapping and forceable confinement, extortion, intimidation, criminal harassment, uttering threats of death or physical harm.
3. The CBSA [Canada Border Services Agency] and IRCC [Immigration, Refugees and Citizenship Canada] should provide disaggregated data (e.g., by place of origin, gender, race and ethnicity) and publicize the numbers of migrants who are denied entry or deported as a result of the immigration prohibitions.
4. Repeal municipal bylaws and stop bylaw enforcement that target sex work or the adult entertainment industry, e.g., body rub parlours, strip clubs and holistic centres.⁴⁵
5. Immediately cease law enforcement raids (including anti-trafficking raid) and intrusions into sex workers' workplaces, and cease detention and deportation of migrant workers, including migrant sex workers.
6. Respect the agency and rights to work of the workers.
7. Reallocate human trafficking resources to settlement, health, legal and social services for migrant workers and other groups who are

⁴⁴ Excerpted from *Caught In the Carceral Web: Anti-Trafficking Laws and Policies and Their Impact on Migrant Sex Workers*, p. 61.

⁴⁵ Butterfly, "Safety for All, Respect for All: Protecting the Safety of Workers in Holistic Centres and Body Rub Parlors by Allowing them to Lock Their Doors,"

- most at risk of experiencing labour exploitation.
8. Stop conflating sex work, massage parlours and human trafficking and stop promoting the racism, anti-migrant and whorephobia.
 9. Provide migrants, irrespective of their immigration status, with access without fear to all municipal, provincial and federal services, rights and protections.
 10. Enact a single-tier immigration status that affords all immigrants with full and permanent status.

Butterfly has mobilized the workers and allies to advocate for their rights. They have organized know your rights training, community meetings and events to stop the over-policy, abuse of the law enforcement. Over 300 workers signed petitions, participated in the consultation and city meetings and spoke to the media to express their voices and concern. Base-building in the case of Toronto has led to very specific policy recommendations, showing again a different model—but one suited to the base and its organizers—for addressing the harms of specific laws.



Providence

Legal Structure

In early 2016, then Rhode Island Governor Gina Raimondo signed into law H 7007 (2016), which created a new category of “body works” and “body-works services” requiring a distinct license from that of a massage therapist.⁴⁶ The law allows cities and towns in Rhode Island to regulate the operation of any massage businesses in their jurisdiction and lays out the requirements for licensing, continued education, and renewal. In order to receive licenses, “body workers” must submit to certain licensing requirements, including criminal background checks, citizenship requirements, and technical certificates. This law has targeted Asian massage businesses in particular, following “Operation Rubdown,” first initiated in 2003, which has advocated the closure of Asian massage businesses down due to fears of their association with human trafficking.⁴⁷

The 2016 state law carefully lays out the terms and descriptions that licensed and non-licensed businesses may officially use in their advertisements and employee titles as a way to separate unlicensed “body work” parlors from legal operations within the massage industry. The law tried to draw a line between licensed massage and unlicensed massage and unlicensed Asian body-work, defining licensed massage as “the manual manipulation of soft tissues of the human body through the systematic application of massage techniques” and specifically noting that “massage shall not: include the touch of genitalia...[or] high-velocity thrust applied to the joints or spine.”⁴⁸

46 Rhode Island General Laws Title 23-20.8 et seq (2016).

47 Max Ehrenfreund, 2014, “When Rhode Island accidentally legalized prostitution, rape decreased sharply,” *Washington Post*.

48 Rhode Island General Laws Title 23-20.8-1 (2016).

Summary of Data on Policing Activities

Since the beginning of “Operation Rubdown” in 2003 Asian massage businesses have been subject to enormous public scrutiny, and since 2016, they have faced relentless policing and arrest under the bodyworks law. These efforts have targeted Asian massage businesses exclusively, which, according to research by sex worker rights organization COYOTE RI, has closed over 60 Asian massage businesses since 2003, predominantly due to fears of “human trafficking.”⁴⁹ The dozens of arrests for both prostitution and violations of the bodyworks law have been directed almost exclusively at Asian women workers. Such racialized targeting has been so pronounced, that in 2017, two spas in the city of Pawtucket sued the city, arguing that the law discriminates against Asian workers.⁵⁰ Noting the racially discriminatory undertones of massage licensure arrests, the New York Civil Liberties Union recently partnered with Red Canary Song in New York City to draft State Assembly Act 8281 (Gonzalez-Rojas).

Despite these protests, the policing of Asian massage work continues unabated in Rhode Island. In December 2019, the Pawtucket Police Department and Department of Homeland Security raided three Asian massage businesses in Pawtucket and arrested 19 people.⁵¹ Most of the Asian massage workers arrested were charged with not having a massage therapy license; only three employees were charged with prostitution. After their arrest, workers’ charges were dropped, and only the business owners were indicted. However, the experiences of raid, arrest, and preliminary charges have a grave impact on the social, emotional, and financial well-being of migrant workers.

Investigators in the Pawtucket raids claimed evidence of human trafficking, citing as evidence that women workers lived on site, or were transported to local apartments. The investigators in this arrest never proved trafficking, as the women arrested refused to take part in legal questioning. In the Pawtucket raids in 2019, investigators reported evidence of human trafficking including that wom-

49 <https://upriseri.com/coalition-condemns-cranston-police-spa-raids/>

50 Amanda Milkovits, January 2017, “Two crackdowns, two outcomes,” *Providence Journal*.

51 Paul Edward Parker, December 2019, “20 Face Charges After Prostitution Raids on 3 Pawtucket Spas,” *Providence Journal*.

en workers lived on site, or were transported to local apartments. Human traffickers may use such tactics, but these are also means that low-wage workers turn to when they cannot afford basic rent and transportation costs, or due to social distancing rules under COVID-19 public health protocols. Ultimately, investigators were unable to prove the presence of trafficking in this case, as all 16 women declined to participate in legal questioning.⁵² Reluctance to collaborate with law enforcement is often suggested as a “sign of fear from their traffickers,” but workers have also suggested that it is above all, evidence of entrapment in a system of coercion that includes both employers and law enforcement. It is possible that labor trafficking existed at those spas; but policing, under the bodyworks licensing pretense, has foreclosed our ability to understand the systemic dangers facing migrant massage workers. Rather, in this shuffle of raid, arrest, and charge (or dismissal), women are left traumatized, with a record, and certainly more fearful of police and law enforcement, than even their traffickers.

A recent ruling on the case mandated that Grace Kwon, 57, the owner of the spas, forfeit about \$650,000 in cash proceeds and assets. The proceeds will be divided between the Pawtucket Police Department and the Rhode Island Attorney General’s office in an 80-20 split.⁵³ These consequences, which take money from Asian businesses and redistribute them to police and prosecutorial agencies do nothing to support Asian massage workers. As was demonstrated in the February 2019 raid of the Orchids of Asia Spa in Palm Beach, Florida, prosecutors often applaud human trafficking efforts, while subjecting workers to enormous financial and criminal consequences. During the Palm Beach raid, while New England Patriots owner Robert Kraft was initially arrested for soliciting prostitution, prosecutors later determined that not a single case of human trafficking was present. Kraft’s charges have since been dropped, but several of the workers arrested in the raid faced deportation proceedings, and many of them had assets seized. The consequences of such raids always fall disproportionately on migrant women, who are especially vulnerable due to their economic and immigration status.⁵⁴

52 Amanda Milkovits, March 2021. “Following the Money: Police Shut Down 3 Pawtucket Massage Parlors.” *Boston Globe*.

53 Ibid.

54 May Jeong, October 2019, “You won’t believe what happened: The wild disturbing Saga of Robert Kraft’s Visit to a Strip Mall Sex SPA,” *Vanity Fair*.

Community Responses

Since 2015, the CSSJ Human Trafficking Research Cluster has engaged in community research partnerships with COYOTE RI, Red Canary Song, Ocean State Advocacy, and the Alliance to Mobilize Our Resistance (AMOR). Our collaborative research teams outreach efforts with massage workers have built relationships, allowing us to assemble an oral history archive of Asian migrant massage work in progress. Through this work we have learned that many workers in Rhode Island massage businesses are voluntary, consenting, adult workers in their 40s and 50s. Many of them have migrated to Rhode Island from Flushing, NY, because they have been priced out due to rising rent and living costs due to gentrification and the commercial development of Flushing. Most have worked jobs in restaurants, nail salons, or as domestic workers as a means of survival, and many choose massage work as the most lucrative of these jobs. Still, Asian massage workers in the US face wage theft, strenuous working conditions, unpaid overtime, and a tip-based wage system that makes them susceptible to different forms of violence. The criminalization of Asian bodywork reduces workers' ability to report wrongdoing at the workplace, violence experienced at the hands of clients or law enforcement, or the right to pursue massage work if they so choose. Furthermore, throughout the pandemic, workers have shared the dire economic prospects they continue to face during the pandemic. Our research cautions against the intervention of anti-trafficking projects that single out all Asian massage businesses as "illicit," echoing the well-argued and well-evidenced research and advocacy that has illustrated how anti-trafficking frameworks have detrimental consequences on the surveillance and policing of people at the margins. In light of these realities, Rhode Island should reconsider its 2016 bodyworks law. The racialized targeting of Asian massage work throughout Rhode Island belies aspirations of safer working conditions for all Rhode Island residents.

Conclusion

This report has shown that in four metropolitan areas through North America, there are similar tangles of laws and legal action that explicitly and implicitly target Asian massage work. Whether Bensonhurst, Flushing, the Seattle Metropolitan area, Toronto, or Pawtucket and Providence, there are other commonalities:

- These laws are scripted with language that both profiles Asians for illegal activity, and does so under the guise that the legal activity is trying to root out human trafficking;
- Asian massage workers and grassroots activists have all resisted legal actions taken against Asian massage workers, noting the racist intent, and the consistent falsehood that the workers are trafficked;
- Activists in these localities, which, again, include the massage workers themselves, are using a variety of methods to fight back against state oppression--policy advocacy for decriminalization of sex work and “un-licensed” massage; policy advocacy to make licensure more readily attainable; mutual aid; crowdsourced data collection to show the disparate impact of these laws upon Asian massage workers; methods to cleanse legal records by whatever means necessary (vactur, expungement, whichever is available to activists in their localities), and more.

There is no one way to counter the anti-Asian racism at the heart of these massage work laws, and this report exists as a tool to highlight how activists around North America, and perhaps any part of the world that has similar legal frameworks, can resist, win the ability to do their work, attain economic justice, and strengthen their communities against the inextricably-bound forces of racism, xenophobia, and capitalism.



For a very long time, we, the Asian massage workers in New York City,
have been experiencing the same old things, only too much.

We have seen no change. We have found no comfort.

We have been arrested simply for the fact that we practice massage.

First, an undercover agent comes into our parlors disguised as a client and pays money.

Next, a sea of police storm our workplace.

*All of a sudden, before we can even realize, the client
who we opened the door for is gone.*

And instead, we see 8 to 12 cops.

*They search everything in the parlor, and handcuff the person
who opened the door and all the workers.*

Then they take us to the police station. They check our fingerprints and take us to court.

It takes more or less 24 hours for them to finally send us back home.

We are now charged with more than one crime. No license. Prostitution.

Facilitation of prostitution.

From then on, we have to attend court for almost a year, for the cost of these crimes.

Same kinds of raids. Same kinds of charges. Same ways they handle us.

*During this time, every one of us is left with so much devastation and
destruction in our lives.*

We are left with massive economic costs, depression, and grief.

What happens after the raids is unimaginable.

So why, and for whom do you do these raids?

And what do you gain out of this, after all?

We are just workers. We are only human.

*I think the police have harassed too many people for too long,
replaying the same scenarios.*

What are the sins that you think we are committing?

We are full-grown adults. We are hard-working people and harm no one.

I want to ask, how long are you going to do this? Why is this necessary?

I also want to ask seriously, so what are you going to do about it in the future?

***Charlotte, Korean massage worker of 20 years, RCS Outreach organizer
Flushing, Queens
February 2022***

(translated from Korean by Yeonhoo Cho)

COLUMNS | Opinion *This piece expresses the views of its author(s), separate from those of this publication.*

Opinion/Shih: The racialized policing of human trafficking in RI

Elena Shih Guest columnist

Published 6:23 p.m. ET Jun. 24, 2021

Elena Shih is the Manning Assistant Professor of American Studies at Brown University, where she leads a human trafficking research cluster through the Center for the Study of Slavery and Justice.

Last Friday's arrest of 11 workers affiliated with three Asian massage spas in Cranston is the latest in the decades-long policing spree against Asian workers in the name of combating human trafficking.

The arrests charged workers with violations of a 2016 law that established a new category of "body work," requiring a distinct license from that of a massage therapist. The law has disproportionately targeted Asian massage businesses in particular, following "Operation Rub Down," which was initiated in 2003 due to fears of human trafficking. However, human trafficking has rarely been proven in these cases.

In December 2019, during the last such raid before the COVID-19 pandemic, the Pawtucket Police Department and Department of Homeland Security raided three Asian massage businesses in Pawtucket and arrested 19 people. Most of the Asian massage workers arrested were charged with not having a massage therapy license; only three employees were charged with prostitution. After their arrest, workers' charges were dropped, and only the business owners were indicted. However, the experience of raid, arrest, and preliminary charges have a grave impact on the social, emotional, and financial well-being of migrant workers.

A recent ruling on the case mandated that Grace Kwon, 57, the owner of the spas, forfeit about \$650,000 in cash proceeds and assets. The proceeds will be divided between the Pawtucket Police Department and the attorney general's office in an 80-20 split. These consequences, which take money from Asian businesses and redistribute them to police and prosecutorial agencies, do nothing to support Asian massage workers.

In the Pawtucket raids, investigators reported evidence of human trafficking including that women workers lived on site, or were transported to local apartments. While such tactics may be used by traffickers, they are also strategies that low-wage workers turn to when they are unable to afford rent, transportation, or to abide by social distancing during COVID-19. Investigators were unable to prove the presence of trafficking in this case, as reports indicate all 16 women declined to participate in legal

questioning. Their reluctance is further evidence of their entrapment in a system of coercion that includes employers and law enforcement alike.

As the director of a human trafficking research cluster through Brown University's Center for the Study of Slavery and Justice, I am part of a team that has conducted direct outreach efforts with massage workers, and have learned that many workers in Rhode Island massage businesses are voluntary, consenting adult workers in their 40s and 50s. Many have migrated to Rhode Island from Flushing, N.Y., because they have been priced out due to rising rent and living costs from gentrification and commercial development in New York City. Most have worked jobs in restaurants, nail salons, or as domestic workers as a means of survival, and many choose massage work as the most lucrative of these jobs.

Still, Asian massage workers in the U.S. face wage theft, strenuous working conditions, unpaid overtime, and a tip-based wage system that makes them susceptible to different forms of violence. The criminalization of Asian bodywork reduces workers' ability to report wrongdoing at the workplace, violence experienced at the hands of clients or law enforcement, or the right to pursue massage work if they so choose.

In light of these realities, Rhode Island should reconsider its 2016 bodyworks law. The racialized targeting of Asian massage work throughout the state belies our greater aspirations of safer working conditions for all Rhode Island residents.

How to Protect Massage Workers

Policing and criminalization of sex work hurts massage workers, even when they aren't sex workers.

March 26, 2021

By Elena Shih

Dr. Shih is a sociologist who studies human trafficking and sex work, and an outreach organizer with Red Canary Song.

The shootings of Asian massage workers in Georgia this month have been framed as part of a surge of anti-Asian violence during the Covid-19 pandemic. But they're also part of a longstanding problem: the violence against and the surveillance of migrant massage workers.

These women are vulnerable because of their race, their gender, their immigration status — and for the type of work they do. Asian massage parlors have long been a target of law enforcement and anti-trafficking organizations who see “illicit massage businesses” as loci of human trafficking.

Nearly all of these organizations have called for the increased surveillance and policing of massage businesses, and the result has been hundreds of raids across the country which have terrorized and criminalized massage workers. These systemic forms of violence cannot be divorced from the brutal killings of massage parlor workers in the Atlanta area on March 16.

Countless Asian massage workers in the United States are not victims of sex trafficking, and many of them aren't sex workers, even if they are often profiled as such by police agencies, anti-trafficking organizations, and civilian vigilante groups. To ensure their safety, we should turn instead to the work of grass-roots migrant, labor and sex worker rights organizations that focus on massage worker safety, organizing and mutual aid. One such organization is Red Canary Song, with which I have worked as an outreach organizer for the past two years.

When my colleagues and I talk to Asian massage workers, they often share stories of police officers entering their workplaces at random under the guise of stopping sex trafficking. When they don't find any evidence of wrongdoing, they demand to see massage licenses. Workers tell us they are frequently arrested if they don't produce a license, or are hit with building code or public health violations.

Those who are arrested are often funneled through special courts and programs where workers, seen as morally flawed and traumatized victims, are offered programming framed as rehabilitation. Yet those alternatives to incarceration subject these migrant workers to everything from religious proselytization to “recovery-focused yoga” to unpaid labor, when what they really need is economic security.

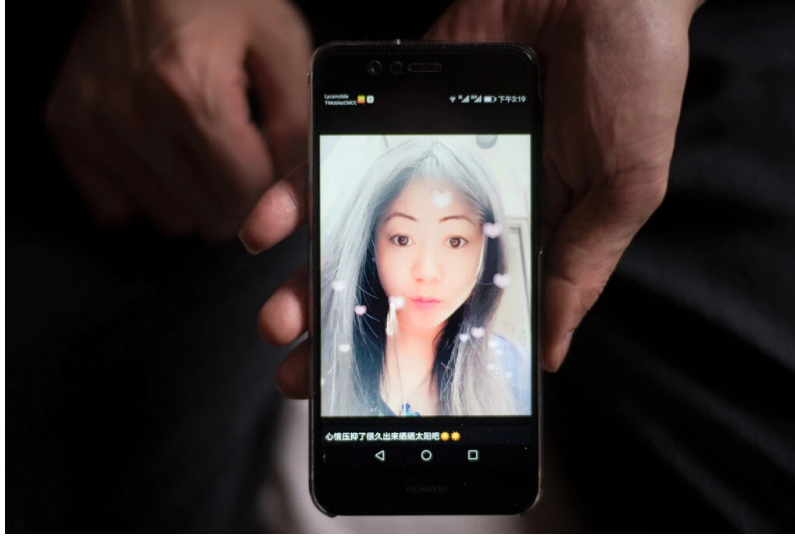
When conducting raids, local law enforcement agencies often team up with the Department of Homeland Security, which can initiate detention and deportation proceedings against undocumented workers unless they are determined to be victims of trafficking. That status allows them to avoid conviction and receive temporary immigration protection.

Yet, despite these obvious incentives, many massage workers refuse to take on the label of trafficking victim, largely to avoid a long legal process and taking part in the prosecution of their traffickers.

This everyday threat of policing also makes it far less likely that workers will feel comfortable reporting poor working conditions and threats to their safety. They cannot seek help because anti-trafficking raid and rescue efforts rely on the criminal legal system, which can lead to their own arrest and imprisonment.

People presenting badges have exploited massage workers for free services knowing that they have limited means of recourse. Workers have also said that they are coerced into being informants against their colleagues. Some migrant massage workers are undocumented and some engage in sex work. Both of these statuses make them more vulnerable.

Under the guise of combating sex trafficking, hundreds of massage businesses around the country have been raided; one of the most notorious was the 2019 raid on Orchids of Asia Day Spa in Florida, involving the owner of the New England Patriots, Robert Kraft. While misdemeanor prostitution solicitation charges against Mr. Kraft were dropped in September, at least one of the low-wage migrant Asian workers arrested in the raid on Orchids and other nearby massage parlors ended up in Immigration and Customs Enforcement custody; others had their assets seized; and some were jailed and released, only to find themselves out of a job because their old workplace had been shut down.



Song Yang, a Chinese massage worker, fell to her death during a police raid in Flushing, Queens, in 2017. Todd Heisler/The New York Times

It is fears of outcomes like these that caused Song Yang, a 38-year-old Chinese massage worker in Queens to plunge four stories to her death during a police raid on her workplace in Queens in 2017. Ms. Song had been arrested three times on prostitution-related charges and had confided in her lawyer that she would rather die than be arrested again. The raid came after Ms. Song told her lawyer in 2016 that a man claiming to be a police officer held a gun to her head and threatened to arrest her if she did not provide oral sex.

The same night that Song Yang died, another migrant worker hid on the fire escape all night long without a jacket in the late November cold to avoid arrest. In the wake of Ms. Song's death, police and anti-trafficking groups have urged a "crackdown" on Asian massage businesses.

Across North America, laws have introduced requirements that make the industry more visible and susceptible to violence. A regulation that forbids workers to lock doors leaves them open to assault and robbery. Harsher sentences for "promoting prostitution" can fall on the workers who open the main doors or work the front desk of businesses.

In Toronto, research found that the Chinese friend of a massage worker was charged with working without a license simply because she was sitting on a sofa in a massage business. Officers demanded to see the underwear of another worker, presumably as proof she was not offering sex.

The raid-and-rescue approach to regulating Asian massage work is understandably alluring. It promises an easy solution to the perceived problems of sex work and the massage industry without requiring sustained structural changes. But it hurts the workers it seeks to protect.

Instead, the most effective ways to support Asian massage workers is to support the campaigns of grass-roots migrant, labor and sex workers' rights organizations, in the United States and globally, that know what workers need. Asian massage workers need affordable housing, safe working conditions, a living wage, safe avenues to seek redress and the ability to organize when their rights are infringed.

Assistance must also be extended across the immigrant low-wage service sector, as many workers move to and from jobs in nail salons and in restaurants, as home care workers, as street-based sex workers, as hair stylists, as garment workers. They need to feel that they can apply for public assistance without jeopardizing their immigration status. This can happen only if we remove the threat of deportation for undocumented and temporary status workers.

The decriminalization of sex work is vital. Asian massage workers are universally policed and considered to be involved in the sex industry, regardless of whether they are a part of it. Whether the Atlanta victims were sex workers or victims of sex trafficking is irrelevant to the reality of mass surveillance, policing and constant fear unleashed on all Asian massage workers.

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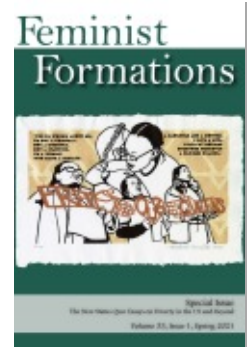
The Trafficking Deportation Pipeline: Asian Body Work and the Auxiliary Policing of Racialized Poverty

Elena Shih

Feminist Formations, Volume 33, Issue 1, Spring 2021, pp. 56-73 (Article)

Published by Johns Hopkins University Press

DOI: <https://doi.org/10.1353/ff.2021.0003>



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The Trafficking Deportation Pipeline: Asian Body Work and the Auxiliary Policing of Racialized Poverty

Elena Shih

In the past decade, a wave of municipal ordinances has swept through North America seeking to police Asian massage work in the name of combating human trafficking. These municipal ordinances have led to sensationalist sting operations that nearly universally subject massage workers to policing and, for those who are undocumented, deportation. This paper thinks through the enduring virility of the trafficking-deportation pipeline by considering forms of auxiliary policing that anti-trafficking responses have enacted on working-class immigrant communities. They justify increasingly diverse modes of criminalization while upholding notions of legitimate and illegitimate labor organized within racial capitalism. This paper extends Bill Ong Hing's concept of "vigilante racism" (Hing 2002) to understand how the neoliberal policing of poverty has collided with the anti-trafficking movement. This paper focuses on new municipal license regimes for Asian massage workers to reveal how these mechanisms configure hierarchies of labor predicated on markers of race, gender, poverty, and citizenship.

Keywords: Human trafficking / neoliberal policing / racial vigilantism / racialized poverty / sex work

Just two weeks after the New England Patriots finished their Super Bowl run to victory in February 2019, a scandal erupted that placed the team's general manager Robert Kraft in the middle of a sex trafficking sting on Orchids of Asia spa, an Asian massage business in Palm Beach, Florida. National news media reveled in narratives designed to agitate fears of sex trafficking. Reports reified perceptions of trafficking as ubiquitous, with the lead prosecutor of Palm Beach County State Attorney Dave Aronberg stating that "modern-day

slavery can happen anywhere, including in the peaceful community of Jupiter” (Markowicz 2019).

While the national hysteria centered concerns of sex trafficking and modern-day slavery, the initial sneak and peek warrant that broke the case was issued after a public health inspector arrived at Orchids to conduct a routine health investigation—the initial arrests were prompted by a citation unrelated to prostitution or trafficking. In the public records around the case, inspector Karen Herzog’s report noted that she had received training on how to identify human trafficking, which included the presence of suitcases, clothes, a fridge full of food, and condoms as evidence. At Orchids, she recorded that the signs of trafficking present included a young Asian woman who was “dressed provocatively,” spoke “little English,” appeared “nervous,” and avoided eye contact with her (Jeong 2019).

Despite the public health investigator’s suspicions, the Palm Beach District Attorney’s public assertions, and national hysteria around allegations of trafficking in the Kraft case, by April 2019, prosecutors conceded that there was not a single case of human trafficking among all the workers who had been arrested and interviewed that day. Speaking to the local news media, Florida Assistant State Attorney Greg Kridos reported, “We’ve vetted this case, we’ve done our due diligence, there is no human trafficking that arises out of this investigation” (Hohler 2019). He confirmed that all of the masseuses caught on camera engaging in sexual acts would be charged with felonies or misdemeanors.

While Robert Kraft’s legal team rejoiced at the news of no trafficking—with all of Kraft’s misdemeanor prostitution solicitation charges summarily dropped in September 2020 (Winston 2020)—several of the low-wage, migrant Chinese sex workers arrested in the raids were turned over to ICE custody because they were undocumented. One worker, Lei Chen, was held for months in ICE custody, awaiting deportation proceedings while being transferred to multiple immigration and detention facilities. During this time, the state seized \$2,900 from her personal bank account under civil forfeiture proceedings, while another worker, Yaping Ren, was held for five months before being released (Jeong 2019). Other workers with green cards, or citizenship status, were jailed, fined, and released, only to find their old workplace shut down, forcing them into the precarious position of looking for new options for work—massage work being one of a limited number of options for migrant, low-wage workers in the service and manufacturing sectors.

This troubling bait and switch, in which ostensible human trafficking “rescue” often ends in criminalization and deportation, reveals paradoxes that organizers, scholars, and policymakers have grappled with for years. They remain unabated nearly two decades after the passage of the 2000 United Nations Palermo Protocol and the 2000 US Trafficking Victims Protection Act, which together ushered the issue of human trafficking onto the global stage and brought unbridled funding and attention to the problem of human trafficking. This

paper thinks through the enduring virility of the trafficking-deportation pipeline by considering forms of auxiliary policing that anti-trafficking responses have enacted on working-class immigrant communities in the United States. Drawing on ethnographic participant observation as an outreach worker with two sex worker rights groups in Rhode Island and New York, I argue that new municipal license regimes for Asian massage workers configure hierarchies of labor predicated on markers of race, gender, poverty, and citizenship.

Building on an interest in vigilante racist anti-trafficking efforts (Shih 2016), this article examines the mechanisms of mundane and auxiliary policing that have dispatched the carceral state into the hands of new brokers of anti-trafficking work. In particular, this paper focuses on municipal massage ordinances that target working-class, immigrant communities of color under the guise of combating trafficking. Since 2010, a number of municipal license ordinances have popped up throughout North America and have been used to police Asian massage work, collapsing all Asian body work as potentially criminalized sex work.¹ These ordinances serve to justify increasingly diverse modes of criminalization while upholding notions of legitimate and illegitimate labor organized within racial capitalism. The dispatching of victim identification to new bureaucrats like public health officers and building code inspectors offers insight into how the anti-trafficking movement has ushered in new brokers of racialized policing via the rote and bureaucratic processes of municipal licensing ordinances. The work of these brokers and the determining logics they employ to execute their work index particular racial and class characteristics to the presence of trafficking without evidence of any such correlations. Such logics uphold the popular imaginaries of human trafficking and modern-day slavery that encourage neoliberal carceral interventions, inattentive to larger national, economic, and gendered structures of power.

Policing Trafficking; Policing Poverty

The policing of Asian massage parlor work as a site of trafficking is not new, but Robert Kraft's prominence made it slightly more apparent to the public. Writing about Asian body work in military camp towns in South Korea, Sealing Cheng (2011) warns that Asian women's sexual labor has become the facile lynchpin of what Laura Agustín (2007) has labeled the anti-trafficking "rescue industry" due to the combined moral panics of sex, gender, and migration. In recent years, the amplification of policing of Asian massage work has had deadly consequences. In 2017, a Chinese migrant worker Song Yang, working in Flushing, Queens, fell out of a window to her death while trying to avoid an NYPD raid on the massage business where she worked. Song Yang had previously been arrested three times for alleged prostitution and had confided in a fellow worker that she would rather die than be arrested again. The deadly November raid on her Flushing, New York workplace came after Song Yang's 2016 testimony that a

man claiming to be a police officer held a gun to her head and threatened to arrest her if she did not provide oral sex (Nolan Brown 2020). Organizers of Red Canary Song, a grassroots collective of migrant workers, sex workers, and allies that formed after her death, have amplified this troubling assertion that Song Yang would have rather fallen to her death than risk arrest and potential deportation. The same night that Yang died, another migrant worker hid on the fire escape all night long without a jacket in the brutal cold of late November to avoid arrest. In the wake of Yang's death, local politicians and police forces have turned to the two-pronged approach of amplifying police surveillance and crackdowns of Asian massage businesses, while offering civilian trainings in "how to spot human trafficking" in places like the Flushing library.

Over a decade ago, Elizabeth Bernstein (2007, 2012) warned of a prevalent carceral feminist commitment that underlies all efforts to combat trafficking, in which nearly every attempt to stop prostitution has been realized as surveillance and policing of these populations. Grace Chang and Kathleen Kim (2007) have further argued that policing of sex trafficking has had dangerous consequences including the deportation of immigrant sex workers. Their data have shown that the targeted raids of Asian massage businesses in the name of combating human trafficking, dating back to 2005, have resulted in the deportation of hundreds of Asian migrants from the United States. The specific targeting of Asian migrants has been further illustrated by Elizabeth Nolan Brown, whose media analysis of massage business raids between June and September 2019 yielded ninety-seven cases nationwide involving suspected sex trafficking and/or prostitution in massage businesses across the United States. Across thirty-one states, Nolan Brown found that the majority of those suspects listed—76 out of 102 suspects—were Asian, revealing the disproportionate targeting of Asian migrant businesses in the conflation of massage work and human trafficking (Nolan Brown 2020).

Telescoping out, Inderpal Grewal's book *Saving the Security State* posits rescue and policing work in tandem to construct "citizen-subjects of welfare and militarization in the context of American imperial power" (Grewal 2017, 1). As changing politics of race, class, gender, and sexuality stoke tensions and contradictions within the American empire, subjects on the margins are scrutinized as threats to national security, social cohesion, morality, and capitalist democracy. The security state is thus turned on these individuals through surveillance, policing, and humanitarian rescue efforts in order to resolve the contradictions they present to American empire. Anti-trafficking initiatives, which rely heavily on markers of race, class, gender, and sexuality to identify subjects for "rescue" and carceral interventions, exemplify this active governance of marginalized "citizen-subjects" who stoke moral panic. The "victims" targeted for the anti-trafficking interventions examined here in the crackdown on Asian massage businesses operate in the low-wage sector and informal margins of the economy, are heavily racialized as an ethnic "other," and often lack access to

rights, claims of citizenship, and national belonging due to their undocumented status. These “victims” additionally challenge conventions of care and labor, sexual politics, and distinctions between the formal and informal economy.

The racialized surveillance and policing in anti-trafficking initiatives are part of a much larger neoliberal effort to manage deviant populations and reassert moral authority, sovereign power, and legitimacy in the face of internal contradictions. As the focus on citizen victim identification of human trafficking has grown in the United States, a new brand of anti-trafficking racial vigilantism (Shih 2016) has marshaled everyday citizens into law enforcement efforts. These outreach projects mobilize the language of human trafficking rescue to justify civilian vigilantism and surveillance over predominantly working-class immigrants in cities throughout North America. These practices reflect an underlying pathology of what urban planners have called NIMBY-ism (NIMBY referring to “Not in My Backyard”), an effect that describes community aversion to undesirable elements—in this case, crimes associated with immigration, low-wage and informal work, and errant sexuality (Dear 1992; Tewdwr-Jones and McNeill 2000).

Outside of the United States context, Roxane Galusca has detailed how American investigative journalism has succeeded in targeting sex workers throughout the global South (Galusca 2012), while Gretchen Soderlund (2005) and the Thai sex worker rights organization Empower (2012) have reported nearly two decades of instances in which sex workers have “run from their rescuers” and demanded “rights not rescue.” Such transnational rescue optics have allowed trafficking to function time and time again in the service of anti-migrant policing in the United States and abroad (Chapkis 2003; Fukushima 2019; Hwang 2017; Kempadoo et al. 2015; Parreñas 2011; Shah 2008; Sharma 2005). But scholarship has yet to examine the full set of legal mechanisms that allow for these disparate forms of policing. While scholars of sex work have certainly pointed to the heightened policing of prostitution that has occurred in the name of combating human trafficking, this paper focuses particularly on a new set of auxiliary and proxy licensing laws that have emerged to allow the continuation of policing, albeit in a humanitarian and benevolent guise.

Auxiliary and Proxy Policing Functions Under Penal Welfare

Writing about pernicious interagency partnerships between state and civil society to combat the domestic sexual exploitation of children, Jennifer Musto (2016) has suggested that law enforcement uses carceral logics to justify protection. Musto’s case study of the new ways in which law enforcement agents, social service providers, and nongovernmental advocates have joined forces to foster “carceral protectionism” reveals how these collaborations consolidate state power and carceral control. The partnerships forged in the name of fighting domestic sex trafficking have blurred the boundaries between punishment

and protection, victim and offender, and state and non-state authority. Similarly focusing on such strange bedfellows as alliances and interagency commitments, Kimberly Hoang (2016) extends work on carceral feminism and carceral protectionism by highlighting key entanglements between nongovernmental organizations (NGOs) and the police in the case of sex workers in Vietnam. Building off Hoang, Musto, and Bernstein's insights, this article integrates a story of race, immigration, and deportation into the scholarly conversations on anti-trafficking's inherent carcerality. While these aforementioned works have discussed the varying ways in which prostitution has been criminalized, they have rarely taken immigration status into account. I argue that racial difference becomes the clear marker by which an entire industry—Asian massage work—has been policed in the wake of anti-trafficking. The focus on race and immigration, as understood through the threat and practice of deportation, is the focal contribution of this paper.

Methods

This paper is based on four years of ethnographic participant observation as an outreach worker between 2016 and 2020, coupled with insights gleaned from two distinct community action research projects with sex worker rights organizations that organize and advocate for Asian massage parlor and street-based sex workers. Since 2015, I have worked closely as a researcher with COYOTE Rhode Island, the state's only sex worker rights organization. (COYOTE stands for Call Off Your Old Tired Ethics.) A seed grant from the American Sociological Association Community Action Research Initiative Fellowship allowed us to conduct research, outreach, and advocacy with Rhode Island-based sex workers to examine the impact of the 2009 recriminalization of indoor prostitution in the state. In early 2016, the assault on Asian massage work in Providence and Pawtucket became the focus of a great deal of our research, advocacy, and biweekly outreach work. COYOTE's ongoing research and outreach to the Asian massage worker community includes distributing condoms and "know your rights" materials to Asian spas, sitting in on court hearings, pulling public arrest records, and connecting workers with local attorneys through a local network against state-sponsored violence.

The research also builds on ethnographic participant observation as a facilitator of an ongoing oral history project with Red Canary Song, the group founded in 2018 after Song Yang's death in 2017. This oral history project similarly seeks to understand the different consequences of policing Asian massage work in New York City. While the specific data drawn from each of the research projects for COYOTE Rhode Island and Red Canary Song—survey data and oral history research—are not discussed in this paper, the process of conducting monthly outreach and provisions assistance to migrant massage workers has been central to the ethnographic data herein.

Operation Rub Down: Rhode Island

Pulling up into an empty parking lot in Pawtucket, Rhode Island, our outreach team of three members of COYOTE was taken aback to find all the lights in a strip mall completely turned off. Though usually only sparsely lit by the establishment's sign hanging over the entryway and one bright red neon "OPEN" sign, we were surprised to find no activity in a business that we habitually visited twice a month to deliver harm reduction supplies and "know your rights" materials translated into Korean and Chinese. Familiar with the workers in the pizza shop next door, we walked in and asked what happened. The staff responded that the massage shop had been shut down the previous week in what appeared to be a swift sting operation by the police.

From reading journalistic accounts, we learned that in early December 2019, the Pawtucket Police Department and Department of Homeland Security raided three Asian massage businesses in Pawtucket and arrested nineteen people who were charged with violations ranging from solicitation and/or prostitution to offering massages without a license. Notably, most of the Asian massage parlor employees arrested in the raid were charged with not having a massage therapy license; only three employees were charged with prostitution. The criminalization of solicitation and prostitution are standard, but the massage license–related citations in these raids point to a new regime of racialized policing of migrant women's work, stoked by fears of human trafficking. Yet rather than rescue the purported victims, these interventions often result in the criminalization, incarceration, and deportation of the migrant Asian women employed at these establishments.

This most recent rash of raids that occurred in December 2019 was part of a statewide effort to crack down on massage parlors and spas, which have been cast as breeding grounds for illegitimate business and human trafficking. In early 2016, Rhode Island Governor Gina Raimondo signed into law a municipal ordinance that established a new category of "body work" requiring a distinct license from that of a massage therapist (State of Rhode Island 2016).² The law allows cities and towns in Rhode Island to regulate the operation of any massage businesses in their jurisdiction and lays out the requirements for licensing, continued education, and renewal. In order to receive licenses, "body workers" must submit to certain licensing requirements, including criminal background checks, citizenship requirements, and technical certificates. The municipal ordinance instigating this law sought to target Asian massage businesses in particular, following "Operation Rubdown," first initiated in 2003, which has sought to close Asian massage businesses down due to fears of association with human trafficking (Ehrenfreund 2015).³ The law was crafted to target specific kinds of Asian body work in Asian-owned businesses under the guise of cracking down on "brothels masquerading as legitimate businesses" (Milkovitz 2016). The law carefully lays out the terms and descriptions that licensed and non-licensed businesses may officially use in their advertisements and employee titles as a

way to separate unlicensed “body work” parlors from legal operations within the massage industry. The new municipal ordinance tried to draw a line between licensed massage and unlicensed Asian bodywork, defining licensed massage as “the manual manipulation of the soft tissues of the human body through the systematic application of massage techniques” and specifically noting that “massage shall not include the touch of genitalia . . . [or] high-velocity thrust applied to the joints or spine” (State of Rhode Island 2016).

As occurred in the Robert Kraft case, there has rarely been any distinct connection between Asian massage parlors in Rhode Island and human trafficking. As Scott Cunningham and Manisha Shah (2014) attest, cities such as Providence have seen demographic changes in the last two decades or so with an increase in Asian, especially Korean, immigrants. During years of weekly outreach to massage parlors, in which COYOTE distributed “know your rights” information and harm reduction supplies, we learned that in Rhode Island, these establishments are predominately run and operated by migrant women from South Korea. Many arrive in Rhode Island after spending several years working in New York City, relocating because they are priced out of living in New York. When Asian massage businesses are targeted, these migrant workers face dire legal and economic consequences—they are often working their way out of poverty, and the closure of Asian massage businesses subjects them to further economic precarity. While news media outlets are quick to herald these closures as efforts to stop human trafficking, not a single newspaper article discusses the dozens of women who, once arrested, are turned over to the Department of Homeland Security and Immigration and Customs Enforcement (ICE) in order to begin deportation proceedings.

In direct outreach efforts with massage parlor workers over the past three years, COYOTE has learned that most workers in these massage parlors are voluntary, consenting adults in their 40s and 50s. These demographic figures corroborate Nolan Brown’s aforementioned media research of ninety-seven cases of massage work in 2019, in which 80 percent of suspects were in their 40s and 50s (Nolan Brown 2020). Many have migrated to Rhode Island from Flushing seeking out different types of low-wage and service sector employment as a means of survival. Many choose massage work as the most lucrative of these jobs, and sometimes erotic sex acts happen during their massage sessions. To confound the situation further, even though the number of overall prostitution arrests continues to fall, the crackdown of Asian massage parlors (as sites of sex work) seems to be increasing.

Policing Poverty Through Licensure: New York City

Since Song Yang’s death in 2017, massage workers in Flushing have faced a nefarious collaboration between the police and local property developers hoping to revitalize the newly imagined “Flushing Commercial Business District.”

The recent crackdown on Asian massage work on 39th and 40th avenues in downtown Flushing conveniently folds anti-trafficking panics into the service of budding commercial real estate interests in downtown Flushing. Such evidence illustrates Nicola Mai's concept of "moral gentrification," where the capital interests of real estate development are amplified alongside the larger moral panics around "cleaning up the streets" and ridding it of vice (Mai 2018). The melding of gentrification with anti-trafficking policing has been highlighted through Red Canary Song's support of the Flushing Anti-Displacement Alliance (FADA), which aims to curb new efforts at real estate development and rezoning that threaten to hasten the ongoing displacement of working-class people from Flushing ("Fight for Flushing" 2020).

In the years since Yang's death, massage workers have reported to Red Canary Song weekly intrusions of their workplaces by police asking them to show massage licenses. Legal aid lawyers who are assigned to represent Asian massage workers have noted that the majority of prostitution-related arrests for Asian women in New York apply a violation of New York Education Law 6512, which prohibits a person from practicing unlicensed massage therapies and from knowingly aiding three or more unlicensed persons to practice.

The new licensing barriers are discriminatory on the basis of their English language requirements and anti-immigrant undertones, but they also subject workers to significant new financial pressures and administrative barriers to work. Since the fall of 2019, I have served as the facilitator of monthly outreach sessions with massage workers and street-based workers who are members of Red Canary Song. In monthly meetings over the past year, workers have consistently said that one of the most significant challenges they face has been the focus on acquiring licenses. Mimi, a worker in her 50s, shared that she recently spent \$7,000 on a licensing program that promised her a license in Massachusetts. After aggressively marketing the licensing opportunity in massage worker circles and chat rooms on WeChat, the popular Chinese social media platform, the business disappeared, absconding with thousands of dollars from workers. Others report that they spent \$1,000 to complete a program that earned them an aromatherapy certificate in New York, only to discover that the supposed certification would not protect them from arrest under New York laws. These workers' earnings are unpredictable—often under \$100 a day depending on tips—and these exorbitant fees create even more barriers for people living in poverty.

Building off the national trends in new municipal license ordinances, a roster of New York laws is slated for the 2020 legislative docket. These laws reflect urgent moves to dispatch the policing of massage work to citizens, landlords, and other extra-law enforcement entities. Sponsored by Democratic State Assemblyman Mike Miller, proposed Assembly Bill A810 mandates that a landlord end a lease and evict a tenant if a city or state agent notifies them that an unlicensed massage or prostitution business is operating on the premises (New York State Senate 2019a). Relatedly, New York Assembly Bill A1210, which

Miller introduced in January 2019 and is currently in the Judiciary Committee, requires landlords to verify that massage therapist tenants are licensed by the state before allowing them to sign a rental agreement (New York State Senate 2019b). The landlord of a tenant who is charged with promoting prostitution could face a civil penalty of one thousand dollars if substantial evidence shows they did not verify the tenant's massage therapy license. The bill's justification states that this law would "discourage landlords from renting their premises to a tenant who intends to practice illegal massage therapy" (New York State Senate 2019b). These new forays dispatch the policing of low-wage service industries to new brokers of legitimacy, enacting the effects of criminalization without needing a traditional police force. While policing and licensure have been relegated to landlords (who do so by way of tenant relationships and threats of eviction), they are under the umbrella of Representative Miller's broader platform to protect victims of sex trafficking. Their particular focus on landlord-tenant relationships and threats of eviction due to noncompliance further underscores the spurious relationship between anti-trafficking efforts and the rapid gentrification of Flushing's commercial business and luxury real estate districts.

Spectacle and Money—Nonprofit Collusion

The policing of Asian massage work via building code violations, public health violations, and massage licenses is a strategy that has gained enormous traction in the war against human trafficking. Supporters of this approach have taken their cue from a curious alliance of advocates that includes both anti-trafficking NGOs and professional massage agencies, like the American Massage Therapy Association (AMTA). The Polaris Project, one of the largest anti-trafficking organizations in the United States, which operates the nation's primary anti-trafficking hotline, has an entire project focusing on "illicit" massage businesses in relation to human trafficking. Their publications call attention to the dangers of Asian massage work and warn the public of visual signs of trafficking in massage parlors.

The vulnerability of Asian massage parlor work is central to the Polaris Project's founding story. Founder Katherine Chon said one of her primary motivations for starting the organization came as an undergraduate student at Brown University in Providence, Rhode Island, after reading a *Providence Journal* article from the late 1990s about a massage parlor in the downtown Providence area that subjected its female workers to slave-like conditions. "Just to acknowledge that slavery exists in the twenty-first century was shocking in itself, but to read an article about that happening in our own backyard—in Providence—was shocking," Chon said (Park 2007).

The Polaris Project's 2019 report on "illicit" massage businesses includes numerous suggestions to "shut down massage parlor trafficking" ("Reimagine" 2019). The report includes an emphasis on creating new laws that explicitly tie

the migrant massage industry to human trafficking and bolstering law enforcement. Reporting on Polaris's own inventory of national massage license laws, the report states that "while 46 states have some regulation of or industry standards for massage therapists, or state law acknowledging the massage profession, the key to ending trafficking is strong laws regulating the business operations" ("Human Trafficking" 2019, 9). The further onus on licensing is tied to "exposing anonymous shell companies," which they describe as "a staple of criminal enterprises seeking to disguise who really owns and therefore benefits from a company" ("Human Trafficking" 2019, 10). Efforts to seek out suspicious business owners also require the introduction of new registration and licensing requirements for immigrant businesses. The report asserts that "both state and federal law should require businesses to register official operators and primary owners (beneficial owner, partner, etc.) both of which should be required to provide a valid phone number and address." Polaris also recommends the "vetting [of massage parlors] on sites like Yelp and Groupon," giving a role to civilians in the authentication of massage businesses ("Human Trafficking" 2019, 10).

The well-documented challenges of vulnerability in the massage industry have been used to justify the deployment of law enforcement. Rather than focusing on a rights-based perspective of harm reduction or attending to workers' demands for increased occupational health and safety and police and client accountability, these advocates insist on the complete abolition of massage work. Examining the particular labor dynamics of the industry, a 2019 report titled *Illicit Massage Parlors in Los Angeles and New York City: Stories from Women Workers* found that since the provision of massages is a cash-based transaction, massage workers are particularly vulnerable not only to rape but also to robbery. However, massage workers' fear of arrest for prostitution almost always supersedes their fear of being robbed or assaulted by clients (Chin et al. 2019). Among respondents in New York City and Los Angeles, most women, when asked about threats to their safety, first answered in terms of their fear of being arrested. Refocusing on licensure has attempted to erase this structural precarity by framing massage work as inherently dangerous *because* it is a form of human trafficking.

In addition to partnering with law enforcement, in 2017, Polaris found a natural ally in the AMTA. Together, they advocated for the introduction of Senate Bill 548 in North Carolina (General Assembly of North Carolina 2017). This local ordinance required all massage therapists to display posters in their waiting rooms that showed the phone numbers for the human trafficking hotline. It also required that workers have a high school diploma and demonstrate satisfactory proficiency in the English language. Such blatantly xenophobic requirements underscore how labor is legitimated through national and class markers, creating a category of illegitimate laborers subject to carceral forces enacted by the state and further subordination in the labor market.

It is worth speculating why the Polaris Project, in conjunction with state actors, has shifted so decidedly towards the practice of licensing. By targeting

Asian massage businesses and offering a facile victim in the form of the Asian sex slave, Polaris taps into public anxieties about sex and crime, decreasing property values, and threats to “honest business,” and in so doing builds its own capital. The neoliberal policing of poverty is tremendously profitable. In the 2019 fiscal year, Polaris grossed an annual revenue of over \$13.4 million dollars, facilitated by the far-reaching impacts of their narratives against trafficking (“Reimagine” 2019). The incredible wealth amassed by the Polaris Project—deriving from a liberal cultural machine of moralized giving that subsists on sensationalist narratives around sex trafficking—underscores the larger dynamics of class relations at play within the auxiliary policing of trafficking. Polaris’s work exemplifies the kind of cooperation by state and non-state actors that is a defining feature of apparatuses of power in the neoliberal era, in this case to criminalize communities and laborers living within systems of poverty. It is this highly funded and well-oiled machine, referred to by sex worker rights activist Carol Leigh as the anti-trafficking industrial complex (2015), that has been mobilized in the service of recent Asian massage parlor raids across North America.

Paradoxes of Licensure and the False Promises of Vocational Training

The turn to massage licensure as a way of policing sex, poverty, and migration presents one additional paradox. The National Employment Law Project’s Fair Chance Licensing Campaign identified over forty industries that prohibit those with prior criminal offenses from receiving licenses, drastically limiting the upward mobility of those released from prison. Among the professions that prohibit the granting of licenses to those with criminal records are barbers, beauticians, nail technicians, security guards, athletic trainers, and massage therapists. Their national campaign reveals the spurious relationship between vocational training in prison and its benefits upon reentry by focusing on the discriminatory practice of occupational licensing. After enduring workforce development programs in prison, many people, upon release, discover new bureaucratic barriers to the low-wage industries they were “trained” for while incarcerated. Licensure, thus, has historically presented a dead-end for many working-class, undocumented, immigrant and hyperpoliced communities.

In the wake of the war on trafficking, “alternative sanctions” to jail time have become vastly popular among judges who rule on prostitution cases. In particular, New York City’s human trafficking intervention courts, introduced in 2014, propose rehabilitative alternatives to those arrested for prostitution (*Un-Meetable Promises* 2018). Exemplifying the interests of “penal welfare” (Gruber et al. 2016), they once again reveal how the humanitarian promises of anti-trafficking rescue justify carceral responses. Rather than jail time, sex workers report being “sentenced” to alternative sanctions that include six weeks of mandatory yoga classes, mental health counseling, and unpaid job training. If they refuse these alternative sanctions, they face harsher penal sentences. These

court-prescribed alternatives—which tout the label of being “trauma-informed” models of policing, rehabilitation, and jurisprudence—enact further shame and stigma, which troubles workers when they return to the sex industry, as many are compelled to do because of unmitigated financial circumstances. There are no options for long-term affordable housing or access to high-paying work for those without American university degrees or for those who have criminal records. For people who seek to exit the industry, nearly all anti-trafficking solutions lay out pathways towards mundane “redemptive” labor—like making handicrafts, jewelry, or silk pajamas or a myriad of other social enterprises that call on so-called ethical consumers to “Buy for Freedom” (Shih 2014). However, the administrative neutrality and “moral alternative” such programs propose are merely a false neoliberal facade because they fail to attend to the economic and material needs of low-wage workers around the world.

Popular discourses posit licensing and vocational training programs as responsible ways for society to respond to the changing technological workplace. These discourses imagine that women in particular can be empowered and uplifted as laborers in a shifting global market through licensing and certification, deemed alternative and accessible vehicles of career acceleration. Absent from this narrative is the way licensing programs are organized around criminalizing particular forms of low-wage and racialized labor, justifying carceral forms of intervention that ultimately inhibit social mobility. Licenses not only create the conditions for more widespread criminalization but also postulate a model of a particular moral, legitimate feminine laborer in the market. Further analyses might consider how licensure has always been used to police race and poverty and how it is related to other technocratic infrastructures, such as the explosion of new technological surveillance tools to stop sex trafficking.⁴ Licenses are not agnostic, despite the fact they are so often pitched as such. This is particularly the case when employed in efforts to see and stop slavery that center on racializing certain bodies as criminal offenders.

Conclusion

In the days after the Orchids raid, tourists flocked to the Palm Beach strip mall, disrupting business for other immigrant entrepreneurs, like a small Thai restaurant, crowding for selfies in front of the closed establishment, and posting them on social media with hashtags like #happyending, or #NewEnglandPatriots suck (Waller 2019). Curiously peeking inside the now banned establishment and eager to be part of the spectacle, their interest neatly captured American hysteria around modern-day slavery. Equally, it demonstrated that rescue serves the emotional needs and priorities of people doing the rescue, but at the expense of the rights of those such projects aim to serve, ultimately fortifying gendered and racialized economies of labor and morality. The Orchids of Asia case serves as an apt reminder of why sex workers around the world have continually

organized around demands of “rights not rescue”—though more often than not, this call has gone unheeded.

Within the anti-trafficking movement, licensure has already been weaponized as a mechanism to categorize certain types of low-wage immigrant work in order to facilitate its criminalization. While the standard raid and evict policing practices still undoubtedly prevail, the new legal category of Asian women’s “bodywork” is significant because it aims to distinguish this form of ethnic work from “licensed” massage. Such rote bureaucratic processes of licensure create new pathways to ethnicize and criminalize Asian low-wage workers. Most significantly, the threats of policing, eviction, and deportation, foreclose possibilities of worker organizing in favor of the more popular humanitarian raid and rescue approach.

These lessons about the virulence of new municipal licensing ordinances, and the way they police poverty and sexuality, may offer some suggestions for policymakers and those engaged in advocacy. Recent progressive organizing efforts and discourses, for instance, have focused on the elimination of ICE as a principal way of mitigating the violence enacted by the nation’s immigration system. While noble and fruitful in its aims, progressives must also consider the shifting practices of policing and criminalizing poor migrants and the ways these practices operate on logics of gendered labor. The diffusion of power to volunteers and citizen vigilantes has created an apparatus of criminalization that could ostensibly exist without the presence of ICE. Even in the absence of ICE, we would remain entrapped in a culture that upholds sensationalist and criminalizing narratives around particular forms of work.

In closing, the work of policing sex trafficking, dispatched to auxiliary entities and enforced through licensing, fortifies existing structures of racialized policing and anti-immigrant deportation, softened with the humanitarian gaze and guise of rescue. These new forms of control exemplify the combined policing of poverty, sexuality, and migration, facilitated through the widely acceptable humanitarian movement to combat human trafficking. As new instances of penal welfare, they dispatch state and law enforcement control over migrants, communities of color, sex workers, and low-wage workers to new brokers of policing, including public health officials and landlords. Such interventions cannot be separated from the neoliberal state’s active disciplinary management, governance, and policing of marginalized groups whose economic and cultural poverty present problems and insecurities for the nation.

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Acknowledgements

Funding for this research was provided by an American Sociological Association Community Action Research Initiative Spivak grant and a Luce/ACLS (American Council of Learned Societies) postdoctoral fellowship in China Studies. For their generous feedback, I thank the special issue editors Sarah Tobias and Nicole Fleetwood and the anonymous peer reviewers. For their collaborative insights into the outreach, research, and data analysis process, I thank Katherine Chin, Yanhoo Cho, prabhdeep singh kehal, Elene Lam, Kate Zen, Yin Quan, Wu, Yves Tong Nguyen, Esther Kao, Niko, Lorelei Lee, Ricardo Jaramillo, and migrant and sex worker organizers with Red Canary Song and COYOTE Rhode Island.

Notes

1. This article focuses on municipal license ordinances in the United States. For comprehensive research on the policing of Asian massage work in Canada, see the research and policy reports of Butterfly, a Toronto-based Asian and migrant sex workers network, which are available online at <https://www.butterflysw.org>.

2. In legal, media, and popular contexts, the terms *bodywork*, *body work*, and *body-work* are used interchangeably. When quoting particular laws or referencing the names of businesses, I use the same spelling as the original text, however, in my own formulations herein, I have chosen to refer to this new category of racialized massage work as “body work” as a gesture to historic advocacy around the platform of sex work, and to situate this scholarly intervention within the genealogy of work on intimate labor.

3. Operation Rubdown’s 2003 targeting of Asian massage businesses was so successful at stoking public fears around human trafficking that it eventually led to the recriminalization of indoor prostitution in the state in 2009. Scott Cunningham and Manisha Shah (2014) have found that during the period of decriminalization, rates of gonorrhea among women decreased by 39 percent and the number of reported rapes decreased by 31 percent.

4. See for example the *Anti-Trafficking Review*’s April 2020 special issue on “Technology, Anti-Trafficking, and Speculative Futures,” edited by Jennifer Musto, Mitali Thakor, and Borislav Gerasimov, available online at https://gaatw.org/ATR/antiTraffickingReview_issue14.pdf. See also Blunt and Wolf (2020); Grant (2015); “Hacking//Hustling” (2020); Musto and Boyd (2014); and Taylor and Shih (2019).

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