

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



A Report by:
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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*.

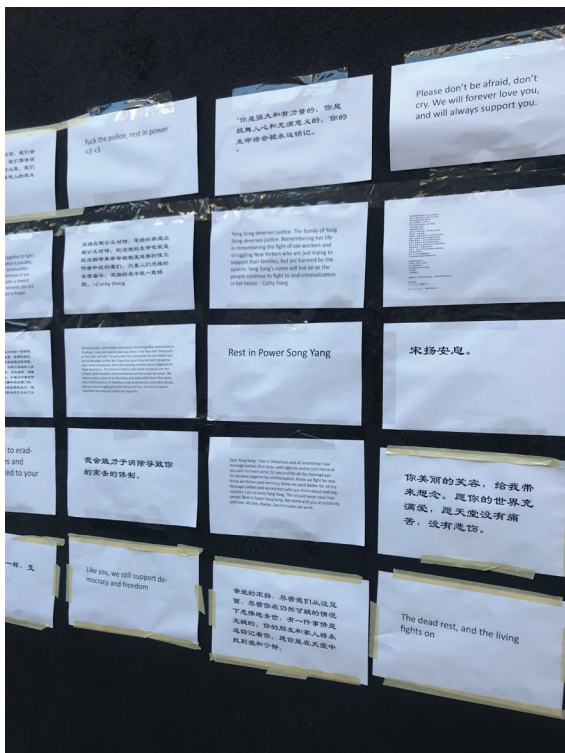
1 Elene Lam of Butterfly Project, Yves Tong Nguyen, Esther Kao, and Wu from Red Canary Song, Moderated by Kamala Kempadoo, Elena Shih, 2021, "Policing Asian Massage Work," *Brown Center for the Study of Slavery and Justice*.

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

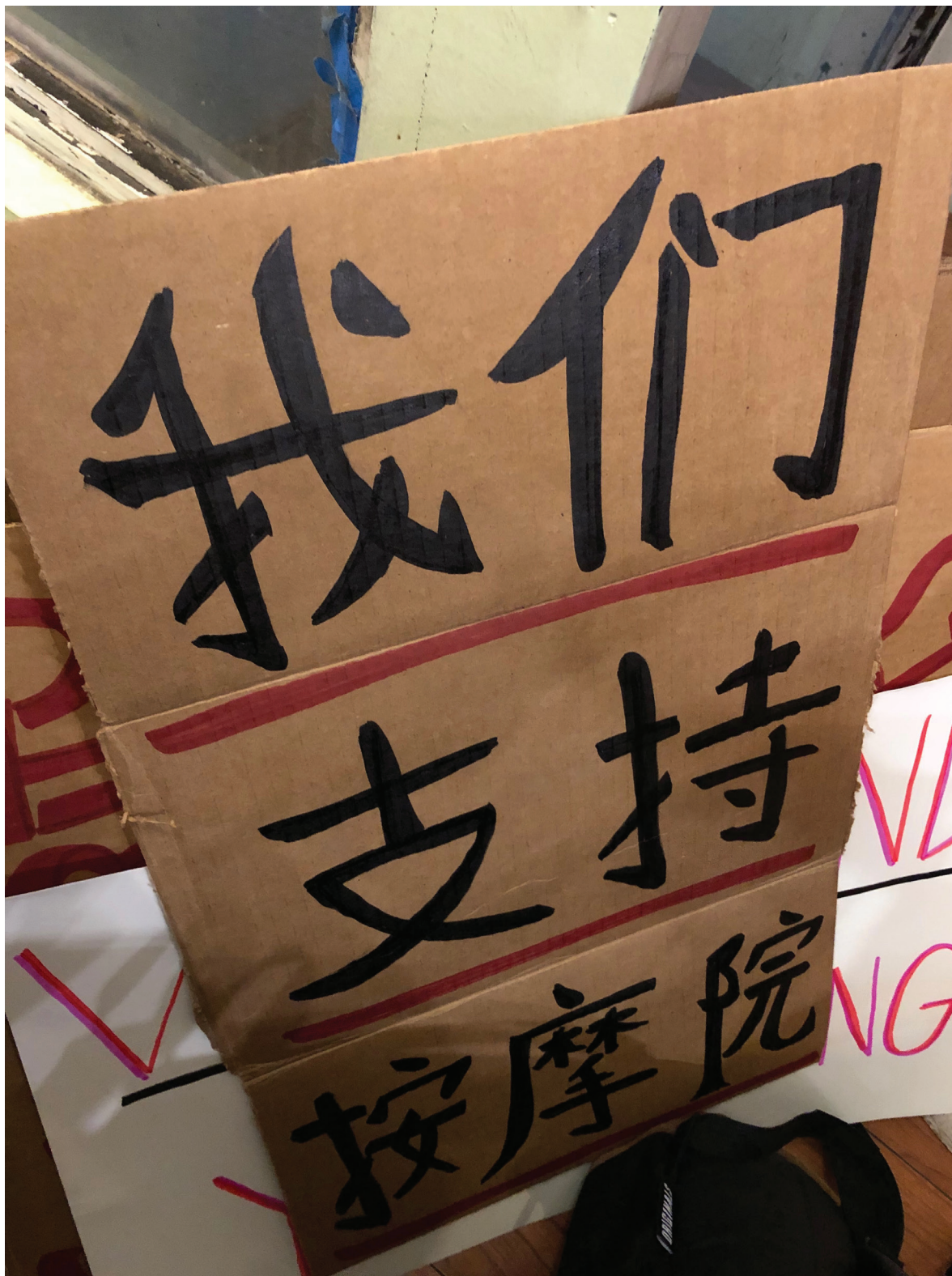
sanctions for practicing unlicensed massage. This act does not erase any distinctions between licensed massage work and unlicensed massage work. Rather, this act recognizes that massage is one of the only licensed professions in New York where the criminal law - including felony charges - is used to 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_IILLAUSRE_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 Dumaresque, 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

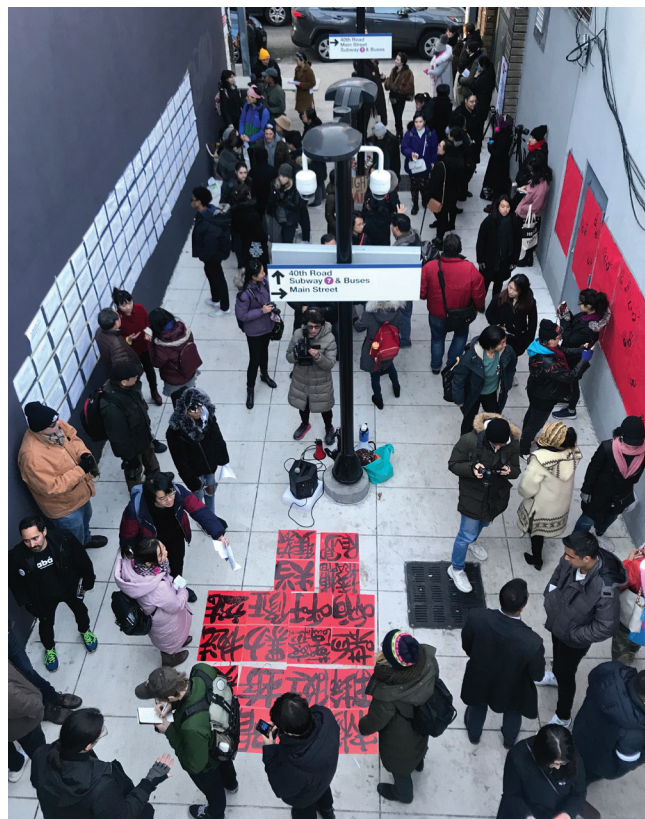
1. Repeal immigration regulations and ministerial orders pertaining to migrants without permanent status working in the sex industry and ease work permit restrictions for all temporary foreign workers.
2. Repeal all sex work-specific criminal offenses. To address violence and exploitation in the sex 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)