

# **“Eliminating Temptation”: Anti-Asian Fetishization, Criminalization, and Violence in America**

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## ABSTRACT

This project seeks to examine the ways in which the unique history of fetishization and criminalization of the Asian American body has been and continues to be used to justify violence against the Asian American community, especially those groups most marginalized, such as women, migrants, and sex workers. From early-held Western ideas of Asia as an exotic land ripe for conquest and resource extraction, to notions of early Asian American laborers as machine-like “coolies” who drove down wages and threatened white livelihoods, to the Atlanta tragedy against female spa workers being justified through “eliminating temptation” rhetoric, the desire to consume the Asian American body through labor and sex has been and continues to be used to justify and perpetuate violence and exclusion against the Asian diaspora in the United States.

This paper will focus on how Asian and Asian American women exist at a unique intersection of labor and sex that leaves them particularly vulnerable to violence. In Part I, I will examine the development of the cultural and legal consciousness of the Asian woman in the United States and the impact of this construct upon the law. In Part II, I will explore non-carceral approaches to healing and forward movement for our communities.

## ABOUT THE AUTHOR

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## I. ATLANTA 2021

In March of 2021, Soon Chung Park, Hyun Jung Grant, Suncha Kim, Yong Ae Yue, Delaina Ashley Yaun, Paul Andre Michels, Xiaojie Tan, and Daoyou Feng were murdered in a shooting spree targeting spas and massage parlors in Atlanta, Georgia.<sup>1</sup> The perpetrator of the murders told investigators that he was motivated by “sexual addiction” and that the spas were “a temptation he needed to eliminate.”<sup>2</sup>

After these events, the first question that I heard many people ask about the victims, upon learning that they were mostly Asian women working in massage parlors, was whether the victims were sex workers and whether they were providing full-service sex work. The answer to this question was presumably to decide to what degree the victims deserved their deaths or to what degree blame could be assigned to them for their own deaths.

An imagined understanding of what these women’s lives were like based on a national and legal history of discrimination and objectification, combined with state-sanctioned racist whorephobia, has created a reality in which the most marginalized and vulnerable members of the Asian American community are less safe from both individual acts of violence as well as violence from the state.

## II. HISTORICAL AND LEGAL FOUNDATIONS OF ANTI-ASIAN VIOLENCE

Western ideas of Asia tied to gender and exploitation about “a masculine, conquering Europe and a feminized Asia ripe for conquest”<sup>3</sup> have been around since the days of the Silk Road. From the second century BCE to the eighteenth century CE, Europeans would journey to and from Asian countries in relative safety to feed the growing Western appetites for Eastern

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1. Giulia McDonnell Nieto del Rio, Edgar Sandoval, Anne Berryman, & Corina Knoll, *What We Know About the Victims in the Atlanta Shootings*, N.Y. TIMES (May 11, 2021), <https://www.nytimes.com/2021/03/19/us/atlanta-shooting-victims.html> [<https://perma.cc/E9QU-B7X9>].

2. Elisha Fieldstadt, *Suspect in Deadly Atlanta-Area Spa Shootings Charged with 8 Counts of Murder*, NBC (March 18, 2021, 2:03 AM), <https://www.nbcnews.com/news/us-news/suspect-deadly-atlanta-area-spa-shootings-says-he-was-motivated-n1261299> [<https://perma.cc/298Y-GY7V>].

3. ERIKA LEE, *THE MAKING OF ASIAN AMERICA: A HISTORY* 15 (2015).

spices, silks and sugar, bringing back stories of unicorns, exotic sexual customs, and mountain streams flowing with diamonds.<sup>4</sup>

During the 1800s, Asians in the United States were seen as either “an industrious labor force that would make slavery unnecessary or as another inferior race that was vulnerable to cruel exploitation.”<sup>5</sup> The idea that coolies, a derogatory term for Chinese and other Asian laborers, were driving down wages and taking away jobs led to violent anti-Asian movements and legislation.<sup>6</sup> Representative James A. Johnson of California declared that “[t]he Chinese empire is in extent nearly three thousand miles one way and fifteen hundred miles the other, and possesses, perhaps, four hundred million people. This *immense, teeming, swarming, seething hive of degraded humanity* turned loosed upon our country would *drown out and destroy* our institutions and our race.”<sup>7</sup> When Senator John F. Miller of California introduced the bill in Congress in 1882 that would later become the Chinese Exclusion Act, he said it was because Chinese immigrants were an economic danger to the United States because they competed with white workers with their “machine-like” ways and their “muscles of iron.”<sup>8</sup> Ironically, he also stated that Chinese immigrants came from a “degraded and inferior race,”<sup>9</sup> and other senators who supported the bill compared Chinese immigrants to “rats,” “beasts,” and “swine.”<sup>10</sup>

Arguments in favor of the Act also emphasized the sexual danger of Chinese immigrants. They asserted that Chinese female prostitutes brought “moral and racial pollution,” and Chinese men defiled pure and innocent white women through interracial relations.<sup>11</sup> Prevailing nineteenth century physiognomic pseudoscience claimed that Asians were inherently inferior to whites, while social Darwinist theories about Chinese “superbabies” somehow simultaneously portrayed them as a threat to whites; these theories claimed that Chinese infants possessed extraordinary stamina and would ultimately grow up and immigrate to the United States to compete with white workers.<sup>12</sup> Another prevailing theory was that the nerves of Chinese immigrant laborers were embedded deeper in their skin, allowing them to endure more pain and work harder than whites, thus threatening the jobs of white workers.<sup>13</sup>

Asian, Asian migrant, and Asian American women, who exist at the intersection of gender and American Orientalism, occupy a particularly precarious space in the collective American social and legal imagination that

4. *Id.* at 16.

5. *Id.* at 54.

6. *Id.* at 35.

7. Keith Aoki, “Foreign-ness” & Asian American Identities: *Yellowface, World War II Propaganda, and Bifurcated Racial Stereotypes*, 4 UCLA ASIAN PAC. AM. L.J. 1, 32 (1996).

8. LEE, *supra* note 3 at 89.

9. *Id.* at 32.

10. *Id.* at 89.

11. *Id.* at 91.

12. Aoki, *supra* note 7 at 24.

13. *Id.* at 25.

has pushed them further into societal margins. The first recorded Chinese woman to arrive in the United States, Afong Moy, was kept in an exhibit space designed to recreate a Chinese Saloon and advertised as a “beautiful Chinese Lady.”<sup>14</sup> Moy was on display for ticketholders who paid to see her following instructions to walk around the room and show her bound feet for eight hours a day.<sup>15</sup> Some of the first Chinese women to come to the United States had been kidnapped, lured under false pretenses, or purchased from poor parents in China and sold as sexual slaves to parlor houses in Chinatown catering to white men and well-to-do Chinese men.<sup>16</sup> Upon arrival in the United States, they were taken to barracoons where they were stripped, auctioned off, and forced to sign contracts they could not read.<sup>17</sup> Moralistic views about Chinese immigrant women as sex slaves contributed to growing anti-Chinese sentiment.<sup>18</sup>

In 1875, the United States passed the Page Act, which prevented prospective immigrants from emigrating if they were found to be undesirable.<sup>19</sup> The true purpose of the Act was to stop the emigration of Chinese women, many of whom sought to be reunited with their Chinese husbands working in the United States. Many Americans feared that their presence would promote permanent communities of Asians in the United States if Chinese men were able to marry Chinese women and start families. The backers of the bill therefore argued under the pretense that the Page Act would prevent an influx of prostitutes, rather than outright stating their goal of preventing permanent Chinese American communities. Thus, in order to prevent Chinese women from emigrating to the United States and starting families with Chinese men, Chinese women were codified in law as “lewd and immoral” prostitutes that would bring moral corruption to the country.<sup>20</sup> Following the passage of the Page Act, the female-to-male ratio in the Chinese American population fell to 47 per 1,000.<sup>21</sup>

A military-sexual complex also emerged during and after World War II as the United States expanded its military presence in the Asia Pacific region. In Japan, Korea, Vietnam, the Philippines, and elsewhere, visiting brothels was upheld by military culture as a necessary way for GIs to blow off steam. The bodies of working-class and poor women, whose homes had become sites of warfare, militarization, and devastation, were to accommodate and absorb the GIs fear and hatred of the enemy.<sup>22</sup> After World War II, the United States

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14. LEE, *supra* note 3 at 31–32.

15. *Id.*

16. *Id.* at 69–70.

17. JUDY YUNG, UNBOUND FEET: A SOCIAL HISTORY OF CHINESE WOMEN IN SAN FRANCISCO 27 (1995).

18. LEE, *supra* note 3 at 70.

19. Page Act of 1875, Pub. L. 43-141, 18 Stat. 477.

20. *Id.*

21. HUPING LING & ALLAN W. AUSTIN, ASIAN AMERICAN HISTORY AND CULTURE: AN ENCYCLOPEDIA 213 (2010).

22. Cady Lang & Paulina Cachero, *How A Long History of Intertwined Racism*

took control of many of Japan's military-run brothels in Korea and established its own camp towns in South Korea specifically to provide access to sex and entertainment using orphans and impoverished women.<sup>23</sup> This military-sexual complex indoctrinated a generation of American men into believing that Asian women's bodies existed for their pleasure, and that continuous and inexpensive access to Asian women's bodies was their right. As Khara Jabola-Carolus, executive director of the Hawaii State Commission on the Status of Women, wrote in a tweet following the mass shooting in Atlanta, "White men have been trained, peer pressured and hazed by the U.S. military to release their anxiety, self-loathing, and hatred of the enemy onto Asian women's bodies."

In his article *Invention, Inversion and Intervention: The Oriental Woman in The World of Suzie Wong, M. Butterfly, and The Adventures of Priscilla, Queen of the Desert*, Peter Kwan explains the mechanism by which the "Oriental Woman" has been constructed, which consists of a series of theoretical linkages between cultural instantiations of race, gender, sexuality, sexual orientation, and class, to create a figure that expresses unfettered and bizarre sexuality. The stereotype of the Oriental Woman is passive, submissive, and hyperfeminine, and, above all, infinitely willing and available to serve as a sexual object. As a result, the Oriental Woman stereotype is extremely sexually desirable, creating a racial-sexual fetish that is strengthened in its ability to satisfy a colonialist power fantasy.<sup>24</sup> In American visual culture and the collective national cultural imagination, "[i]n a thoroughly confused and indiscriminate fashion, sexually and racially charged representations of geishas, 'Opium,' belly dancing, kimonos, lotus blossoms, Suzie Wong, China Girl, Miss Saigon, Madame Butterfly, Mata Hari, Shogun, Year of the Dragon, Dragon Lady, Madame Mao, Imelda Marcos, Connie Chung, silk, bound feet, submission, dominance, eroticism, servitude, and treachery cluster and collide on the site of the female Asian body."<sup>25</sup> Demeaning quotes like those spoken by a Vietnamese sex worker in the Vietnam war movie *Full Metal Jacket* are parroted to Asian women in everyday life. Biola University professor of sociology Nancy Wang Yuen notes that the quotes are "horrible, and everyone knows them even though the movie is rather old. But it's now part of society or culture in general, like life imitating art and imitating kind of an imagined life."<sup>26</sup> In her article *Producing Asian/American Feminism in*

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*and Misogyny Leaves Asian Women in America Vulnerable to Violence*, TIME (Apr. 7, 2021, 12:51 PM), <https://time.com/5952819/history-anti-asian-racism-misogyny> [<https://perma.cc/A9QX-3N2V>].

23. *Id.*

24. Peter Kwan, *Invention, Inversion and Intervention: The Oriental Woman in The World of Suzie Wong, M. Butterfly, and The Adventures of Priscilla, Queen of the Desert*, 5 ASIAN AM. L.J. 99, 100 (1998).

25. Aoki, *supra* note 7 at 45.

26. *A Sociologist's View on the Hyper-Sexualization of Asian Women in American Society*, NPR (Mar. 19, 2021, 4:06 PM), <https://www.npr.org/2021/03/19/979340013/a-sociologists-view-on-the-hyper-sexualization-of-asian-women-in-american-society> [<https://>

*Pornography*, Celine Shimizu explains how Asian American women's racialized hypersexuality is a result of a specific race and gender ontology; "[w]hile the figure of the Black woman in pornography as animalistic and intrinsically available derives from her historical debasement in slavery, the Asian woman, presented as culturally prone to sexual adventure and exotic difference, emerges from the colonial encounter of war."<sup>27</sup> Shimizu also points out that Asian and Asian American women are absent from American history but are excessively overrepresented in violent pornography as victims of rape, an aftermath of colonialism and wartime atrocities in the twenty-first century.<sup>28</sup>

Although cultural perceptions are created through falsehoods and imaginings, they do not remain as theoretical constructs; rather, they shape and create reality. In 2000, three Japanese teenagers were kidnapped in Seattle, brutally raped, and told that if they told anybody what happened, videotapes of the rapes would be sent to their fathers. One of the perpetrators told prosecutors that the victims were targeted because they were Japanese, and that the perpetrators also believed the women would be too ashamed to report the rapes because they were Japanese.<sup>29</sup> The victims were targeted because of racial fetishism and because of stereotypes about passive, submissive Asian women. The reality such fetishism and stereotypes create is real, a reality where Asian women are more likely to be targeted for their assumed passivity and for their perceived ability to fulfill a fantasy.

Further, these ideas are consecrated in law. In her article *Politics of Race in Asian American Jurisprudence*, Sora Han says: "The cultural stereotype enables, legitimizes, and justifies legally-sanctioned violence against Asian women. Understanding how the Oriental Woman is constructed and operated is key . . . because of this powerful influence of culture on law."<sup>30</sup> In a 1989 Brooklyn Supreme Court case, *The People v. Dong Lu Chen*, defendant Chen received no jailtime for the murder of his wife, Jian Wan Chen, whose head he had smashed with a hammer. The defense's strategy was based on the testimony of "white anthropologist 'expert,' Burton Pasternak," who claimed that the prevalence of "yellow fever" among white males would allow a Chinese "adulteress" to easily establish a relationship with a white man, leading to a loss of the defendant's manhood that would drive him to kill his wife.<sup>31</sup> Jian Wan Chen was notably absent from all testimony except

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perma.cc/SUW3-5PWW].

27. Celine Parreñas Shimizu, *Queens of Anal, Double, Triple, and the Gang Bang: Producing Asian/American Feminism in Pornography*, 18 YALE J.L. & FEMINISM 235, 239 (2006).

28. *Id.* at 242–243.

29. Alex Tizon, *Rapists Bet on Victims' Silence - and Lose*, SEATTLE TIMES (May 31, 2001), <https://archive.seattletimes.com/archive/?date=20010531&slug=mukogawa31m> [<https://perma.cc/CT5L-475C>].

30. Sora Y. Han, *The Politics of Race in Asian American Jurisprudence*, 11 UCLA ASIAN PAC. AM. L.J. 1, 24 (2006).

31. Leti Volpp, *(Mis)Identifying Culture: Asian Women and the "Cultural Defense,"* 17 HARV. WOMEN'S L.J. 57, 64, 69–70 (1994).

as a dead body and a presumed adulteress, becoming a void in the court's imagination filled only with stereotypes about the sexual relationships of Asian women, rather than facts about the life of the individual who was Jian Wan Chen and the circumstances surrounding her death. The probationary sentencing sent the message that violence against Chinese women had the implicit approval of the state, a message received clearly among the women of the Chinese immigrant community.

The hand of the state continues to enact violence on Asian women today through surveillance and policing of migrant and sex worker bodies. On November 25, 2017, Yang Song, a Chinese migrant massage parlor worker, leapt to her death during a police raid on a massage parlor in Flushing, Queens.<sup>32</sup> Song was fearful of the New York Police Department due to months of harassment, rape, and trauma by police, who encouraged Song to act as an informant against her colleagues.<sup>33</sup> "Yang Song was more willing to jump out the window and maybe survive than to be in any kind of interface with NYPD. That's how traumatized she was by her experiences with NYPD criminalizing her only form of labor," says KK de La Vida of Walang Hiya, a multi-disciplinary Pilipinx artists collective in NYC.<sup>34</sup> At a rally in Flushing following Song's death, Nina, an organizer with VocalNY, a New York-based organization involved with HIV/AIDS activism and homeless advocacy, said: "A few weeks ago her brother asked me why, in a democracy, we cannot get a serious independent investigation of her killing where she was stalked and persecuted for her survival."<sup>35</sup>

### III. NON-CARCERAL APPROACHES TO HEALING AND PROTECTING ASIAN AMERICAN COMMUNITIES

An increased investment into police and carceral measures will not heal Asian American communities and will push the most marginalized in our communities into graver danger. It would be a much more effective use of resources to redirect such an investment directly into Asian American communities, with the caveat that any portion of such reinvestment which takes the form of social services must be accompanied by full decriminalization and rights for Asian American sex workers. This will ensure that social services, which have historically been used as another carceral measure, can actually be safely accessed by all members of the community. Asian American sex workers currently wishing to access social services are unable to come forward to do so without risking incarceration or deportation. Securing protections for the most vulnerable and marginalized members of our community will bring healing to our community as a whole.

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32. Kink Out, *Yang Song: Fly In Power (English Captions)*, YOUTUBE (Nov. 24, 2019), <https://www.youtube.com/watch?v=eTOE1pjdPME> [<https://perma.cc/NY7A-6M4V>].

33. *Id.*

34. *Id.*

35. *Id.*

In a talk on policing Asian massage work hosted by the Brown Center for the Study of Slavery and Justice on March 25, 2021, Yves Tong Nguyen, an organizer with Survived and Punished NY and Red Canary Song, said:

As social safety nets fall away [due to the COVID-19 pandemic] you see the expansion of carcerality . . . all of these carceral people, the police, these social services that eventually also lead to punitive measures and policing, are expanded . . . so our job, partially, and what massage workers have done for a long time for each other, is be the social safety net, is provide people with the things that they need so that they're not having to turn to the police or these social services that are going to turn them over or deport them.<sup>36</sup>

I spoke with Manjusha Kulkarni, co-founder of Stop AAPI Hate, about policy recommendations addressing anti-Asian violence on October 13, 2021. Kulkarni said:

It will take comprehensive solutions that look at safety in those terms, and not simply in terms of the interpersonal. If you want to look at the broader pieces – why do folks have mental health challenges, why do they have health challenges? It is precisely because there is so much unemployment, there have been threats to housing, there have been issues around small business closures. These are the things that cause strife in most people's lives. A lot of them are based on racism, on a lack of investment in AAPI communities.<sup>37</sup>

Policing does not help us before violence is enacted upon us nor does it provide for our material needs after the fact. In a statement to NBC Asian America, Jason Wu, co-chair of the Gay Asian & Pacific Islander Men of New York (GAPIMNY) said:

What the police do is that they show up afterwards, and they issue press releases. And they really take these horrific moments of pain and trauma, and they use it to demand more money for their budgets. When we know that more policing and prisons is not keeping us safer, why is it that we continue to ask for the same approaches to violence and crime? . . . [I]t's actually extracting resources from our communities...<sup>38</sup>

In New York City, members of our community have been victims of targeted attacks time and time again in recent months and nothing is being done to prevent further attacks. We've suffered through hearing about the deaths of Yao Pan Ma, Michelle Go, Christina Yuna Lee, and GuiYing Ma. Victims have to rely on crowdfunding efforts to cover medical costs after

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36. Watson Inst. for Int'l & Pub. Affs., *Policing Asian Massage Work*, YOUTUBE (Mar. 25, 2021), [https://www.youtube.com/watch?v=Mfr\\_GBA2P2I](https://www.youtube.com/watch?v=Mfr_GBA2P2I) [<https://perma.cc/6TD9-WYBA>].

37. Interview with Manjusha Kulkarni, Co-founder, Stop AAPI Hate (Oct. 13, 2021) (transcript available in Appendix A).

38. Kimmy Yam, *Why Over 85 Asian American, LGBTQ Groups Opposed the Anti-Asian Hate Crimes Bill*, NBC NEWS (May 14, 2021, 12:30 PM), <https://www.nbcnews.com/news/asian-america/why-over-85-asian-american-lgbtq-groups-opposed-anti-asian-n1267421> [<https://perma.cc/2Y58-9M3C>].



attacks.<sup>39</sup> The only meaningful community support has come from within, from community-funded programs like volunteer walking escort programs,<sup>40</sup> donation-subsidized rideshares,<sup>41</sup> and local businesses distributing free self-defense equipment<sup>42</sup> to help get community members around safely. These programs are community-funded and stretched thin far beyond capacity despite the tireless efforts of their volunteers. When it was active, Café Maddy Cab was regularly forced to close its submissions for requests for reimbursements for rideshares and constantly on the verge of shutting down due to daily high demand<sup>43</sup>. Yu and Me Books in Chinatown, NY held an event on March 13, 2022 giving away pepper spray to Asian American women, femmes, and seniors, drawing hundreds with lines around the block and some waiting hours for their pepper spray. The people taking these rideshares and waiting in these lines know that these incidents have continued to occur despite increased police activity and policing budgets.

We must recognize that violence against Asian sex workers and women does not consist of individual, discrete acts, but is born of a violence that is built into the fabric of our history, culture, and laws. When this is widely recognized, rather than extend carcerality, as they do in their current state, there might be more support for resources which benefit and protect the Asian American community by providing for material needs such as safe transportation and legal protections against abuse unfettered by criminalized status, immigration status, or cultural bias.

State-sanctioned violence against Asian American sex workers also comes in the form of business raids, arrests, and deportations. In our October 13, 2021 conversation, Kulkarni said:

Too often this conversation has been focused on interpersonal violence and hate. For example, if we look at the issue of community safety, a lot of people want to focus on what has happened to seniors who have been physically attacked. There’s no question that’s a concern. But . . . when we talk about community safety, there’s a lot of things that make Asian Americans and Pacific Islanders unsafe, and that includes widespread deportation of community members, that includes racial profiling and surveillance of communities, even police violence, immigration enforcement, family separation of community members, police acts against individuals . . . Simply looking at the one-off situations of individuals

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39. Fundraiser for Family of Yao Pan Ma Organized by Pam Yang, GoFundMe, <https://www.gofundme.com/f/help-yao-pan-ma-recover-from-brutal-assault> [<https://perma.cc/GRY2-ZHTX>].

40. Links to SAFEWALK Information, SAFEWALKS, <https://linktr.ee/safewalks> [<https://perma.cc/RT7D-TDHR>].

41. Café Maddy Cab (@cafemaddycab), INSTAGRAM, <https://www.instagram.com/cafemaddycab/?hl=en> [<https://perma.cc/W6NN-ZAJX>].

42. Anna Lucente Sterling, *Asian American Women and Seniors Line Up for Free Pepper Spray*, SPECTRUM NEWS NY1 (Mar. 22, 2022, 5:00 AM), <https://www.ny1.com/nyc/all-boroughs/news/2022/03/21/asian-american-women-and-seniors-line-up-for-free-pepper-spray> [<https://perma.cc/2NQR-2HYJ>].

43. Café Maddy Cab (@cafemaddycab), *supra* note 41.

being attacked is going to be a very limited context in which to see the hate and violence.<sup>44</sup>

In the March 25, 2021 CSSJ talk, Yves Tong Nguyen said:

[A]rresting people and incarcerating people, at the end of the day is still a death sentence. We know that so many people die while being incarcerated, we know so many people die in the process of deportation, and that is also violence . . . and it's not just the police... that we're also dealing with social services, we're also dealing with anti-sex work, anti-trafficking organizations that have a really big voice and have a lot of funding.<sup>45</sup>

Violence is also perpetrated against working-class Asian women through racist legislation that threatens their livelihoods and criminalizes their only sources of income. In 2016, Democratic Governor Gina Raimondo in Rhode Island passed a law introducing a new category of body work that requires a different license from that of a massage therapist.<sup>46</sup> This new category includes “body rubs, body stimulation, manipulation or conditioning of any part or parts of the body, spa services, and spa treatments performed by any person not licensed under title 23 of the Rhode Island general laws.”<sup>47</sup> In order to get this license, body workers must submit to criminal background checks, citizenship requirements, English language tests, high school diplomas, and extremely expensive technical certificates.<sup>48</sup>

This law was meant to target Asian massage businesses following an initiative first started in 2003 called “Operation Rub Down.” In the March 25, 2021 CSSJ talk, Elena Shih, Manning Assistant Professor of American Studies and Ethnic Studies at Brown University and faculty fellow at Brown’s Center for the Study of Slavery and Justice, said, “According to our research with COYOTE Rhode Island (Call Off Your Old Tired Ethics), [Operation Rub Down] has resulted in the closing of hundreds of Asian massage businesses in the past two decades.”<sup>49</sup> The vast majority of Asian massage workers arrested in conjunction with Operation Rub Down were charged not for prostitution but for not having a license<sup>50</sup>. The fines collected from business owners were then redistributed to police and prosecutorial agencies.<sup>51</sup>

These kinds of laws are everywhere. In her CSSJ talk, Elene Lam, the Executive Director of Butterfly Asian and Migrant Sex Workers Support Network in Toronto, said:

44. Interview with Manjusha Kulkarni, *supra* note 37.

45. Watson Inst. for Int’l & Pub. Affs., *supra* note 36.

46. Act of Jan. 6, 2016, LC003261/SUB A/4, Gen. Assemb., Jan. Sess. (R.I. 2016).

47. *Id.*

48. *Id.*

49. Watson Inst. for Int’l & Pub. Affs., *supra* note 36.

50. Elena Shih, *Opinion/Shih: The Racialized Policing of Human Trafficking in RI*, PROVIDENCE J. (June 24, 2021, 6:23 PM), <https://www.providencejournal.com/story/opinion/columns/2021/06/24/opinion-shih-racialized-policing-human-trafficking-ri/7774233002> [https://perma.cc/7HEF-37JF].

51. *Id.*

"In Toronto, they only allow twenty-five licenses, and then the cost is over thirteen thousand dollars in order to get the license. . . . We also see whites as sex workers or massage parlor workers operate, they do not experience the same level of policing. And then [police] will come in to find different excuse to give you tickets. . . . You have the rubbish in the rubbish bin, your place is not clean, and more ridiculous is they ask the people to take off the clothes to show their underwear; if they're 'sexy' they will say you have unprofessional clothing and give them tickets. . . . The racism payout is so powerful because the law makes it invisible.<sup>52</sup>

These laws project moralistic values over the lives and deaths of Asian massage and sex workers, bringing the force of law down upon working-class Asian women under the guise of humanitarianism. This so-called humanitarianism uses vague and unsatisfying definitions of trafficking to eradicate unsavory bodies through incarceration, deportation, and other forms of police violence. These measures do not truly have the best interests in mind of the small percentage of sex workers who are trafficked. Trafficked persons wishing to leave the sex industry are unable to come forward for intervention or support due to the risk of incarceration.

One must ask why we are not trying to "rescue" other laborers in the same way – workers who may also receive low wages for labor, be subject to horrible working conditions, be subject to domestic violence and forced to be the primary breadwinner in their household, or who may have to trade their bodies and physical health for their wages. On the other hand, why are we not concerned about the wage theft, unpaid overtime, tip-based wage system, and unsafe working conditions that criminalized status allows for? We do not project these moralistic views and bring the force of law onto other laborers because it's not truly about the workers' well-being, but about criminalizing Asian massage workers.

When we trust those in our community most vulnerable to violence to tell us what they need to be safe instead of policing and legislating them, and when we understand anti-Asian violence not as a series of individual actions but as a continuation of a history of dehumanization and criminalization, we can really begin the work of healing and protecting the community in a meaningful and legitimate way. I want to end this piece by lifting up a quote from Elene Lam from the March 25, 2021 CSSJ talk. Lam said:

Massage is very powerful resistance for many migrant women, Asian racialized people, to resist all kind of oppression. They can use massage to gain so much social connection, they can get so much economic power, they can use it to have their career advancement. So many benefits, but . . . politicians, society will not listen to the community. So that's why we also need the advocate, like human rights advocates, academic and other labor organizations to come together to support us.<sup>53</sup>

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52. Watson Inst. for Int'l & Pub. Affs., *supra* note 36.

53. *Id.*

## APPENDIX A

The following is a transcript of a phone conversation I had with Manjusha Kulkarni at Stop AAPI Hate on October 13, 2021. The transcript has been lightly edited for style and clarity.

**Anna Kim:** Is anti-hate crime legislation actually effective in preventing violence? Is increased policing in Asian American communities effective in preventing violence?

**Manjusha Kulkarni:** It's not our belief that policing is ultimately going to be the solution. The reason for this, and other policy recommendations that we make, is informed by our data, essentially.

What our data tells us is that less than 10 percent of all incidents reported to Stop AAPI Hate do not involve an underlying criminal element. Most of these are acts of verbal harassment—those are 60 percent—plus 10 percent or more are workplace discrimination, or discrimination in public accommodations in terms of refusal of service and so forth. Physical assaults have been anywhere from 12 to 14 percent. But what's important to remember is that most of these are very low-level incidents, not ones that involve criminal assault or would be prosecuted by any DA in the country; the throwing of a can or bottle, or light pushing or shoving that doesn't involve severe bodily injury or any bodily injury. When I cite these numbers or percentages, the categories themselves are not mutually exclusive, so they're not going to add up to 100 percent. In fact, they're going to add up to more, because people can check off more than one box.

But to what I was saying, back to your question: We don't think policing, for that reason, is the solution because even if you did prosecute every single one of those incidents, you'd only be addressing ten percent or so of those incidents. You really need more comprehensive solutions.

We also feel that policing has a lot of ramifications for immigrant communities. We know that our communities have been more policed. We're just observing the twentieth anniversary of 9/11, which was about very significant profiling and surveillance of Muslim communities. So no, we don't believe that policing will be the panacea that people imagine it to be.

**Kim:** What kind of policy would better address the root causes of hate incidents?

**Kulkarni:** We think they're going to involve a few different things. When we look at the civil side and potentially civil prosecution of discrimination—the types that we see in retail, the types we see in terms of workplace discrimination—we will need more widespread trainings of employees and other proactive, forward-looking steps that seek to prevent these types of incidents. I do think we have to look at this from a public health approach. What is this doing to individual health and mental health? We have to view the impact on women, given that they make up about sixty-three percent of all individuals who report to us. We know a lot of what they're experiencing is street harassment—by that I mean not literal streets, but what's happening

in parks, sidewalks, outside businesses. We have what’s ubiquitous in our country, which is harassment of women, all women —and now you have that added layer or racism to that equation.

**Kim:** There are concerns that data is going to be used to reinforce the narrative that we need more policing. What are the ways this data should be used instead?

**Kulkarni:** We need to look at ways in which, as a public health measure, [we can] empower our community members to see and understand institutional racism. Too often this conversation has been focused on interpersonal violence and hate. For example, if we look at the issue of community safety, a lot of people want to focus on what has happened to seniors who have been physically attacked. There’s no question that’s a concern. But when we draw on the harassment every single woman faces in her lifetime and now Asian American women are facing – a number of women on my staff have faced it in recent months – how do we, in public transit, in our parks, how do we make sure people are truly safe and free from that [harassment]?

And when we talk about community safety, there’s a lot of things that make Asian Americans and Pacific Islanders unsafe. That includes the widespread deportation of community members, racial profiling and surveillance of communities, even police violence, immigration enforcement, family separation of community members, and police acts against individuals. That’s what it’s going to take: comprehensive solutions that look at safety in *those* terms and not simply in terms of the interpersonal.

If you want to look at the broader pieces, why do folks have mental health challenges? Why do they have health challenges? It is precisely because there is so much unemployment, there have been threats to housing, there have been issues around small business closures. These are the things that cause strife in most people’s lives. A lot of them are based on racism, on a lack of investment in AAPI communities. Simply looking at the one-off situations of individuals being attacked is going to be a very limited context in which to see the hate and violence.

**Kim:** Was there anything else you wanted to add?

**Kulkarni:** The last thing is, I wanted to talk about two other points. When you talk about policing, I think you have to think of ways in which it raises the issues of anti-Blackness within the [Asian American] community. People have unfortunately embraced the model minority framework which we know to be so harmful and factually inaccurate. So how can we effectually address that component?

The second piece is around being seen as a perpetual foreigner. I think that really gets to what I understand your piece to be about, which is ways in which that’s operationalized to bring down the force of police on people. We’ve seen that with South Asian and Muslim communities. Recently, we’ve seen that against Pacific Islander bodies; they are often in the same boat as African Americans in terms of what they’ve experienced. We’ve seen it used in deporting Southeast Asians en masse. We have to be cautious about ways

in which policing really is the work of the nation against individuals who it sees as a threat, and most often that threat is against people of color.

The last thing I'll say is that one of the other ways to help solve the problem is to really incorporate, for lack of a better word, ethnic studies and knowing and understanding your history. Tomorrow for example, I'll be speaking on a panel about the Chinese Massacre of 1871. There are so many parts of our history that we don't know and have been essentially hidden from us. So we don't understand both the ways the United States has operated as a nation that has embraced white supremacy, and we also don't understand the resistance movement that we've been a part of.

In the last eighteen months, I've heard a lot of 'our culture tells us to be silent.' I don't think our cultures tell us that. I think we have come to understand how we've been silenced and how that's been operationalized against us. If you know where your bread is buttered, you're going to keep quiet, essentially, about the shit you experience. I don't accept when people say our culture tells us this or this or this. There are, within every culture, ways that everyone wants to maintain a status quo. I don't think the Asian culture is one that does that, other than through the model minority framing and others. We've been told that the good minorities are people who don't complain. Without understanding that nuance, people unfortunately embrace the other aspect of model minority, which is that we're somehow better. We don't have any superhero traits, as far as I'm aware, that other communities don't have. But we don't *not* have struggles. We do have the same struggles that other communities face, and we won't be used as a wedge against African American and Latino communities simply because some of us may have brought with us a certain amount of privilege that African Americans who have resided here for 400 years haven't had.