

URGENT MEDIA RELEASE
HIGH COURT TO DELIVER LANDMARK JUDGEMENT ON
SEXUAL SLAVERY LAWS ON THURSDAY (28/8)

The High Court will at 10 a.m this Thursday deliver its Judgment on
Australia's Criminal Laws against slavery.

'The case, *'The Queen v Wei Tang'* is the most crucial test of the effectiveness of our criminal laws against sexual and all other forms of slavery ever to come before an Australian court.'

The Appeal was heard over two days in Canberra on the 13th&14th May 2008.

'The full bench of the High Court will deliver judgments that will likely address issues determining the constitutionality of our criminal laws against slavery, the definition of slavery and what needs to be proven to make out the crime of slavery and the applicability of international human rights law on slavery to Australian criminal law.

'The outcome of the Appeal will have huge implications for the protection of people from sexual slavery and servitude and other forms of slavery and servitude as well as the effective prosecution of slavery, trafficking and servitude offences.'

The High Court Appeal is a consequence of an Australian Federal Police raid on a brothel in Fitzroy, Melbourne in May 2003. There has been a committal hearing, two trials and a successful appeal by Wei Tang of her slavery conviction in the Victorian Supreme Court of Appeal in the last five years. 'The five women who were the subjects of the alleged slavery and courageously testified in each case have remained in virtual limbo for all these years.'

'Our research and a decade of experience working at the coalface with trafficked and enslaved women indicates that 1000 women are trafficked into Australia for prostitution every year. There is also evidence that other forms of labour slavery and servitude are also proliferating.'

'Whatever the outcome of the High Court's judgement we urge the Rudd Government to continue to enhance our criminal law and human rights and victims protection regime to more effectively combat human trafficking and slavery.'

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All quotes can be attributed to Kathleen Maltzahn

The High Court's Judgment will be available soon after 10 a.m
at:

<http://www.austlii.edu.au/au/cases/cth/HCA/recent.html>

History and Key Legal Issues in the ‘*The Queen v Wei Tang*’ Appeal

Wei Tang was tried for ten charges relating to enslavement of women at the brothel she owned at 417 Brunswick Street, Fitzroy in Melbourne. She was convicted on all counts at the second trial on 3rd June 2006, after the first trial ended in a hung jury.

The five women were allegedly enslaved for between ten months and two weeks. The amount of the debt that each women had to repay through prostitution ranged from \$40, 000 to \$45, 000 per woman and required each women to have sex with an estimated 800-900 men at the brothel. The women were forced to do prostitution for at least six days per week without any pay.

Wei Tang successfully appealed her conviction in June 2007 in the Court of Appeal of the Victorian Supreme Court on the ground that the trial judge did not adequately direct the jury about the fault or intention elements of the slavery offences.

However, the Court of Appeal found that the evidence (encompassing the evidence given by the five victims) was capable of supporting the convictions, and ordered a re-trial. The Commonwealth Director of Public Prosecutions (Cth DPP) has appealed the quashing of convictions to the High Court. Wei Tang has lodged a cross appeal.

The key legal issues to be argued in the High Court are:

- Are the slavery offences in the 1999 Model Criminal Code constitutional?
- What is the definition of the crime of slavery in Australian law?
- What needs to be proved in relation to the ‘intention’ of persons accused of slavery in order to establish that the crime of slavery occurred?
- Should the crime of slavery in our law be interpreted consistently with Australia’s international human rights obligations in relation to the prohibition on slavery?

The decision of the High Court will impact directly on the investigation and prosecution of slavery offences in the States and Territories and may influence the interpretation and prosecution of slavery offences in other countries.

Background Facts on Trafficking, Sexual Slavery and Debt Contracts

Based on research conducted in 2004, Project Respect estimates that there are 1000 women trafficked to Australia for prostitution each year. Trafficking cases have also been documented in other sectors, such as hospitality and construction.

Victims of trafficking have come from Thailand, Indonesia, Malaysia, Vietnam, Burma, China, Hong Kong, the Philippines, Singapore, Albania, Colombia, South Africa, India and the former Soviet Republic. The majority of detected victims have come from Thailand, with women from South Korea being the next most commonly identified victims of trafficking.

Trafficked women are often referred to as “contract” workers. This “contract” is actually a unilateral, legally unenforceable debt bondage arrangement. It may be just a verbal agreement; it may be purposely stated in such a way that women are confused as to its terms (for eg. women think that the amount of the debt is given in local currency, when the trafficker actually means Australian dollars); or women may not even be aware of the existence of a “contract” until they arrive in Australia. Women do not know that their passports will be taken from them, that they will be deprived of their liberty, unable to refuse sex without a condom, beaten, and made to fear for their and their family’s safety.

The “contract” is expressed either as a number of jobs which must be done without payment (usually between 500 – 700 customers) or as a monetary sum to be paid back (usually between AUD 30-45,000). The debt amount is arbitrary as it does not reflect a real debt incurred by the victim, and it may be changed at the whim of the exploiter: they may increase the debt through fines to the women for being late, or for not satisfying a customer. They may also charge the women inflated prices for basic necessities such as food or accommodation, etc.

The “contract” and “debt” are not only illegal but are proven methods of control used by the traffickers to intimidate and exert power over their captives. The women involved are often afraid of what will happen to them and their families if they escape the situation before the “debt” is paid off. They may also hope that the “debt” can be repaid quickly or that they can get a customer to buy out the debt, to gain freedom and so soon start making money for themselves and their families.

Trafficking and sexual slavery has severe health impacts on women, as they are subject to physical, sexual, psychological and verbal abuse. Physical impacts include bruising, fractures, sexually transmitted infections, pelvic and vaginal pain, drug and/or alcohol dependency, malnutrition and fatigue. Psychological impacts include depression, low self-esteem and self-respect, anger, paranoia and fear of others (especially men). Victims of trafficking are often in a financial situation worse than prior to being trafficked, which causes extra anxiety as the women do not want to return home without any money to show for all the time they have been away.

Who is Project Respect ?

Project Respect is Australia's leading support and advocacy agency for victims of trafficking. We have worked with women in the sex industry and trafficked women since 1998.

Project Respect:

- Conducts daily outreach to brothels;
- Offers intensive counselling to women in the sex industry;
- Provides support to trafficked women in Victoria and New South Wales;
- Works closely with victim support, law enforcement and research agencies around Australia;
- Participates regularly in conferences and other forums;
- Publishes our own research on trafficking and;
- Assists media, government staff and academics with research, law reform and policy development.

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