

## URGENT MEDIA RELEASE

### SEX SLAVE VICTIMS VINDICATED BY HIGH COURT

‘The High Court today in a compelling 6-1 majority decision has vindicated the courage and integrity of five women in their long struggle for acknowledgement of and justice for the crimes that were perpetrated against them.’

In the Court’s judgements in **R. v. Wei Tang**, six of the seven judges have upheld Australia’s anti-slavery criminal laws and defined the crime of slavery in a way that addresses the reality of women trafficked into Australia.

‘The High Court in reinstating ten convictions for owning and possessing slaves has recognised that what happened to these women is one of the most serious crimes – a crime against humanity.’

‘The implications of the Court’s judgement are profound and wide-ranging. One, the Court has provided powerful clarity to investigators, prosecutors, and governments about what elements of slavery need to be proved in order to secure convictions. Two, the Court has embraced a modern understanding of how the crime of slavery operates. Three, the Court has found that consent to come to Australia for prostitution is not equal to consent to enslavement or the conditions of slavery.’

‘Today’s judgement refutes all of those who have argued that modern-day slavery is non-existent in this country. It recognises that the use of “contracts” that force women to have sex with 800-900 men are part of the operations of slavery, rather than an acceptable part of prostitution.’

‘The legal context is now crystal clear. The onus is on police and prosecutors to step up investigations and prosecutions against the entire spectrum of trafficking, slavery, servitude and debt bondage in this country.’

‘The Judgement must also act as a catalyst for the Rudd Government to enact the necessary measures to secure justice in the fight against traffickers. This includes access to visas for victims of trafficking, comprehensive support and rehabilitation, and crimes compensation.’

‘The case relied upon the evidence of five women who bravely endured a committal hearing, two trials, and two appeals, at extraordinary personal cost. The Government should also urgently implement additional protections to ensure that other trafficked women do not have to endure the ordeals these five women have been subjected to in repeated court hearings.’

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All quotes can be attributed to Kathleen Maltzahn

The High Court’s Judgement is available 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 3<sup>rd</sup> 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 are 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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