



HUMAN TRAFFICKING WORKING GROUP
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CASE REPORT

Current as on: October 15, 2009

Case Name	<i>DPP (Cth) v Cui Mian Xu</i>
Reported in	<i>DPP (Cth) v Cui Mian Xu</i> [2005] NSWDC unreported <i>DPP (Cth) v Xu</i> [2005] NSWSC 191; (2005) 154 A Crim R 173
Date(s)	Alleged Offence: 2002 Trial: 2005
Location	New South Wales
Charges	<i>Criminal Code (Cth) s 270.6(1)</i> , replaced by <i>Crimes Act 1900 (NSW) s 80D(1)</i> <i>Criminal Code (Cth) s 270,6(2)</i> , replaced by <i>Crimes Act 1900 (NSW) s 80E(1)</i> <i>Criminal Code (Cth) s 270.2(1)</i> <i>Crimes Act 1900 (NSW) s 86(2)(a)</i>
Co-accused	Ms Sally Cui Mian Xu Ms Ngoc Lan Tran Mr Lin Qi Ronnie Kim Ki Kok

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Case Summary

The case of Mr Kwok was followed by another unsuccessful prosecution involving Sydney brothel owners Ms Sally Ciu Mian Xu, Ms Ngoc Lan Tran, and their co-accused, brothel manager Mr Lin Qi.¹ This case involved charges of sexual servitude for bringing women from Thailand to Australia. Initial charges under federal law² were later retracted and replaced with their equivalent offences under the *Crimes Act 1900* (NSW).³

The case came to the attention of the authorities on January 5, 2003, after one of the victims, 22-year old Thai woman R Katchenchart (referred to as RK or Ms K), had called '000'. She later testified that she was a law student in Bangkok when she was promised waitressing work in Australia. When she arrived in Australia in 2002 she was forced to work in Ms Xu's and Ms Tran's Sydney brothels. She was initially kept at a boarding house in Surry Hills, Sydney, before taken to a brothel. Her passport was confiscated and Ms Katchenchart was then told that she owed a debt of AUD 200,000 to the brothel owners, which was to be worked off through the performance of twenty sex acts a day.⁴ A recent government document reports that:

There was evidence to corroborate Ms K's account that she was forced to crawl through a hole in the wall to sleep in accommodation adjacent to the brothel. Ms K also gave evidence that she was threatened with what she thought was a baseball bat, and forced to have sex with multiple men during her time at the brothel. The Crown case was that from 27 December 2002 until 5 January 2003, Ms K was kept locked up at a house whilst being transported to be used as a prostitute in three brothels operated by one of the defendants.⁵

In April 2005, the District Court of New South Wales found Ms Xu not guilty of trading a sex slave⁶ and the jury was not able to reach a verdict on the all other charges.⁷ Ms Katchenchart, the main witness, endured eleven days of testimony, including six days of vigorous cross-examination where she was portrayed by the defence as a willing sex worker, who was bringing the charges due to her anger at not earning more money.

After the trial, Ms Katchenchart returned to Thailand and indicated that she would not be willing to testify in a subsequent retrial given the trauma experienced in the first trial.⁸ Without her evidence, the prosecution is, however, unable to proceed to a retrial.

¹ *DPP (Cth) v Xu* [2005] NSWSC 191; (2005) 154 A Crim R 173.

² Sections 270.2(1), 270.6(1), (2) *Criminal Code* (Cth).

³ Section 80D(1) *Crimes Act 1900* (NSW) (replacing s 270.6(1) *Criminal Code* (Cth)); s 80E(1) *Crimes Act 1900* (NSW) (replacing s 270.6(s) *Criminal Code* (Cth)).

⁴ Lisa Davies, 'Prostitute supports Thai 'sex-slave' claims' (21 Apr 2005) *The Daily Telegraph* (Sydney), 22.

⁵ Australia, Anti-People Trafficking Interdepartmental Committee, *Trafficking in Persons: The Australian Government's Response January 2004–April 2009* (2009) 72–73, available at [www.ag.gov.au/www/agd/rwpattach.nsf/VAP/\(084A3429FD57AC0744737F8EA134BACB\)~IDC+Annual+Report_WEB.pdf/\\$file/IDC+Annual+Report_WEB.pdf](http://www.ag.gov.au/www/agd/rwpattach.nsf/VAP/(084A3429FD57AC0744737F8EA134BACB)~IDC+Annual+Report_WEB.pdf/$file/IDC+Annual+Report_WEB.pdf) (accessed 15 Oct 2009).

⁶ Section 80D(1) *Crimes Act 1900* (NSW).

⁷ Natasha Robinson, 'Second sex slave jury fails to deliver verdict' (28 May 2005) *The Australian* (Sydney), 8; *DPP (Cth) v Cui Mian Xu* [2005] ((10, 17 Mar 2005) Supreme Court of New South Wales, unreported, BC200501399); Fiona David, *Trafficking of Women for Sexual Purposes*, (2008) 49 (with reference to the unpublished court transcripts); 'Trio on trial accused of keeping student as sex slave' (22 Mar 2005) *Sydney Morning Herald*.

⁸ Fiona David, 'Prosecuting trafficking in persons: known issues, emerging responses' (2008) 358 *Trends and Issues in crime and criminal justice* 3.

Media Reports

There were a number of reports of the proceedings. Some reports sensationalised elements such as the deceptive promise of waitressing work,⁹ with extensive quoting from the transcript of the '000' recording that had been played in court.¹⁰

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⁹ Lisa Davies, 'Call home hides the truth - Girl afraid to say she's a sex slave' (31 Mar 2005) *The Courier Mail* (Brisbane) 14.

¹⁰ Lisa Davies, 'Frantic call from a "desperate sex slave"' (23 Mar 2005) *The Daily Telegraph* (Sydney) 15.