



Hidden from view: slavery in the home

Research Note by Anti-Slavery Australia

Introduction

A [recent case in the UK](#)¹ highlights the under-recognised problem of servitude, and provides a useful comparison with Australia's servitude laws. Servitude is sometimes likened to an aggravated form of forced labour, and involves significant curtailment of freedom. It often occurs in domestic situations, making it difficult to identify, as it happens in private.

UK case brings domestic servitude into the spotlight

In a UK case decided in April 2016, Safraz Ahmed was convicted of the offence of servitude.² It is a ground-breaking case, as it marks the first time a husband has been convicted under UK law for holding his wife in servitude. Evidence presented to the court included that Mr. Ahmed had treated his wife, Sumara Iram, as a domestic servant: he prevented her from leaving the house, and intimidated her through numerous beatings and verbal abuse. The couple had willingly entered into an arranged marriage in 2012, but according to the sentencing statement of Judge Christopher Hehir, Mr. Ahmed felt that the marriage was a "mismatch", and took out his frustrations on his wife. She was required to perform domestic chores for his family, and was humiliated or beaten if the work was not considered satisfactory. In her victim impact statement, she said that she was never allowed to socialise, and that she "felt like their prisoner".

The question is whether the facts of the UK case could come within [Australia's servitude provisions](#). Division 270.4 of the [Commonwealth Criminal Code](#) defines servitude as occurring when a reasonable person in the position of the victim would not consider themselves to be free to leave, or to stop providing 'labour or services'. The victim must also be significantly deprived of personal freedom in other aspects of life for servitude to be taking place. It appears that Mr. Ahmed threatened and coerced his wife into staying with him. In the circumstances, she would not have felt free to leave or to stop doing domestic work. She was significantly deprived of personal freedom by being kept in the house and not being allowed to interact normally with neighbours or other people.

One aspect for preliminary consideration is to what extent "labour or services" includes domestic work carried out in a person's own home. The UK servitude definition draws on Article 4 of the European Human Rights Convention, which prohibits servitude. A [guide to Article 4](#), published in 2014, provides that servitude means "an obligation to provide one's services that is imposed by the use of coercion". Given the outcome of the *Ahmed* case, it is clear that the court determined that Ms. Iram's domestic chores constituted "services", which she was forced to provide. But would the same apply in Australia? Our [servitude provisions](#) involve a situation where a reasonable person in the position of the victim would not consider themselves to be free to stop providing labour or services. The words "labour or services" could imply that the work being done would usually merit some kind of payment.

1 Peter Walker, 'Briton who made wife live like slave is first to be jailed for domestic servitude', *The Guardian* (2 April 2016).

2 Modern Slavery Act 2015 (UK) s 1(1).



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The difficulty here is that when domestic work is performed as part of home life, not as an outside contractor coming in to cook or clean, it may be difficult to characterise it as a “service” in the employment sense. Under normal conditions, it is unlikely that Ms. Iram would have expected payment for domestic chores that she performed in her own home. The International Labour Office (ILO) has recognised that “domestic work continues to be undervalued and invisible”,³ which aptly describes the situation in the *Ahmed* case. However, even though the [ILO’s Domestic Workers Convention](#) attempts to correct this, it is limited: it only applies to domestic workers in an “employment relationship”, and would not classify Ms. Iram’s domestic chores in her own house as “domestic work” that attracts employment protections. In an economic sense, “services” are broadly defined. The [OECD, for example](#), considers unpaid domestic work to be “the production of goods and services by household members that are not sold on the market” (emphasis added).⁴ This definition would allow the household chores Ms. Iram performed to fall clearly within the concept of “services”. For a case like the *Ahmed* case to be successful in Australia, a court would need to accept this general definition of the word “services”, and find that it included work that is outside a regular employment context. This is an aspect of the “servitude” definition that may prove important in future cases. The approach taken by the High Court in *R v Tang*,⁵ which concerned slavery offences, would be appropriate to apply to servitude cases as well. There, Justice Hayne considered that determining whether or not a person was “free” was “in each case a question of fact and degree”.⁶ This fact-based, case-by-case approach would allow courts to recognise that ordinary domestic chores can, in a specific set of circumstances, become part of a highly controlling and exploitative situation.

If servitude was not successful in court, it is also possible that Mr. Ahmed would be liable for the offence of [slavery in Australia](#). It is an offence under division 270.3 of the *Criminal Code* to reduce a person to slavery, that is, to exercise any of the powers of ownership over another person. In *R v Tang*,⁷ Australia’s landmark slavery case, Chief Justice Gleeson provided that “the exercise of powers of control over movement” could be a telling indicator of slavery taking place.⁸ In *Tang*, Gleeson went on to give several specific indicia of slavery, including powers of control which “extend well beyond powers exercised even in the most exploitative of employment circumstances”, and “absence or extreme inadequacy of payment for services”. Mr. Ahmed exercised a very high degree of control over his wife, as he prevented her from leaving the house, and she was not paid for providing domestic work. It is therefore possible that this would meet the high threshold of the offence of slavery.

One worrying aspect of the *Ahmed* case is that there were signs that may have enabled police to investigate much earlier.

3 Preamble to the Domestic Workers Convention (2011).

4 Veerle Miranda, ‘Cooking, Caring and Volunteering: Unpaid Work Around the World’ OECD Social, Employment and Migration Working Papers n. 116, accessed from: <[http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DELSA/ELSA/WD/SEM\(2011\)1&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DELSA/ELSA/WD/SEM(2011)1&doclanguage=en)>.

5 237 CLR 1.

6 Ibid 61[155].

7 237 CLR 1.

8 Ibid 23-24[44].



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In February 2014, concerned neighbours reported seeing Mr. Ahmed dragging his wife back into the house by her hair. He was arrested by police, but Ms. Iram signed a document asking for him to be released. She was likely under some kind of pressure to do this, but it highlights that a victim in a servitude situation may be so oppressed that they are unable to act, even when an inability to act will prolong their condition of servitude. It was not until 18 months later, in August 2015, that Ms. Iram eventually left the house and phoned the police. The investigation was then commenced. This delay shows that servitude suffers from similar problems as domestic violence when it comes to investigations: both tend to occur in private homes, making them difficult for authorities to uncover. Historically, there has also been a tendency to perceive cases of domestic violence as mere family disputes, best left as a private matter. It is heartening that attitudes to domestic violence have changed significantly in recent years, with increasing initiatives to make it easier for people to seek and access help. Recognising the similarity between domestic violence and servitude cases will be an opportunity for police and other services to take the knowledge we have accumulated about domestic violence and use it to better address the problem of servitude.

The case is a reminder of how important it is for frontline officers to be sensitive to the signs of possible servitude situations, so that they can identify indicators of servitude that may prevent a victim from coming forward.

Domestic violence cases can have similar difficulties in moving towards prosecution, when the victim feels under pressure to protect their partner or spouse from the authorities. Also, police investigating a domestic violence situation should be aware of the possibility that there may be a concealed case of domestic servitude occurring. At ASA, we will continue to raise awareness of cases like these, with the goal of ensuring that servitude and other slavery-like conditions are uncovered and survivors get the help and support that they need.

Anti-Slavery Australia thanks inTouch Multicultural Centre Against Family Violence in Melbourne for bringing this case to our attention. This is an ongoing area of research for Anti-Slavery Australia. Please contact us if you would like to be involved.

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