



Expat Counsel

By James Finch and Nilobon Tangprasit

CRIMINAL LAW IN THAILAND Part XX: Weapons in Thailand

In a recent column we discussed an example that involved a member of the public carrying a long knife in a public place. This has triggered a number of queries from readers about who can and can't possess and carry deadly weapons, including guns, in Thailand. This week we're going to focus on weapons other than firearms.

Let's look at the basic law. Section 371 of the Thai Criminal Code prohibits openly carrying arms to a public place or carrying them to a gathering of people assembled for any purpose. One can be arrested and convicted with a small fine for this, and the weapon confiscated. The word "arms" in section 371 includes all weapons such as hunting knives, clubs, nightsticks, machetes and firearms. It also includes anything not necessarily intended to be used as a weapon, but that can be, such as a golf club or a rolling pin.

Let's look at an example involving items that aren't exclusively weapons. How about a baseball bat? Let's say some friends were trying to learn the game of baseball and you had a party at a local park to teach them. You showed up at the park carrying the bat, and 50 people had already arrived. Could you be arrested and the bat confiscated? -

No, because although a bat can be used as a weapon, the circumstances and your intention were that the bat was to be used in a game, not to hurt somebody.

Let's look at the flipside of the rule. Say after the game you and your friends went out for a few drinks in a rough part of town and you took the same bat along for protection. In this case, you could be arrested and the bat confiscated because the circumstances and your obvious intent suggest that you would use the bat as a weapon, not in a game.

Here's another example that takes place in the same rough part of town. Let's say you had broken your ankle and were using a cane to help you walk and went with friends to that part of town. The cane, because of the circumstances and your obvious intention is simply something to help you walk. Thus you couldn't be arrested or the cane confiscated.

What if, on the other hand, you didn't have anything wrong with your ankle and had taken the cane for protection? Again, you can see that sometimes it's difficult to be a police officer. Your intention would have to be decided from the circumstances and sometimes the police walk a pretty fine line. If you were brandishing it as a weapon or hit somebody with it, the police might decide the circumstances allowed them to arrest you and confiscate it.

So just to put things in perspective, what we've been talking about above are mostly items that can be used both as weapons and for other purposes. For items such as machetes, swords and hunting knives, tasers and pepper spray, since they are practically only used as weapons, if you show up at a public gathering with these, you can be arrested and the item confiscated.

Other than firearms, are any of the above weapons required to be licenced or illegal



ILLUSTRATION: NATTAYA SRSAMWANG

to be kept in the home for protection? There is no law that would prevent you from having them in the home and using them as protection from intruders. Please remember, though, that there are limits on how these weapons can be used, even in the home. In a later column we will discuss the circumstances under which the use of force is justified and when it is not. Section 371 does allow for carrying concealed arms in public places with "reasonable cause", which would be defined on a case-by-case basis. This is, however, a very limited exception. Examples of this reasonable cause would be:

- Transporting arms to be used for sport;

- keeping arms in the car while transporting large amounts of cash;
- arms transported along with other household goods as part of the process of moving.

Just as a footnote, chainsaws of more than two horsepower and with a chainplate exceeding 30.5cm are also required to be licensed with the Royal Forest Department, even for use in the home.

The legislative purpose for this is to prevent deforestation, not crimes in the vein of those portrayed in *The Texas Chain Saw Massacre*, but we thought you'd want to know.

Firearms are what lawyers call *sui generis*

— unique, in a class by themselves. Next time we will discuss the rules governing them. ■

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Comments? Questions? Contact us at the email addresses above.

A Word of Advice on July 4 was incorrectly numbered part XVII. It should have been numbered part XVIII. No installment has been missed, simply misnumbered.