



Expat Counsel

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CRIMINAL LAW IN THAILAND
 Part LXIV: Sex crimes — wrong place, wrong time

Before we go to the examples, there's one more law to tell you about. It is Section 286 of the Thai Criminal Code, which provides that anyone over 16 years of age who is supported wholly or partially by the earnings of a prostitute faces punishment of a fine and seven to 20 years' imprisonment.

Why such harsh penalties? They are intended to prevent husbands from being supported by their wives in prostitution. It is, in addition to the laws mentioned over the last couple of weeks, yet another way of going after the pimp. You can see that Section 286 doesn't require that the public prosecutor prove that the pimp is actively in the business. All that is needed is to show that the money goes to the pimp, and prosecution can begin.

One point about Section 286. It can't be used on a one-shot basis. The public prosecutor must prove that the offender has no apparent means of making a living and that he is, in essence, living off or being supported by one or more prostitutes.

Now that we've talked at some length about the laws relating to prostitution, let's look at a few examples, starting this week. Here's the first one.

Let's say you and some other guys are out for the evening. You have dinner and then wander around bar street in the town where you live. How do we know your town has a bar street? Every town in Thailand does.

Finally you sit down in an outdoor place owned by a husband and wife team everybody in your group knows. To make things festive they send a few of the bar girls over to chat and keep you company. You are having a nice time, but you're thinking of going home alone in a few minutes, because you have to get up early for work. Right then a policeman happens by in the street.

The policeman has had a long-standing dispute with the owners of the bar about compliance with local ordinances.

The policeman orders you, your friends and all of the girls sitting with you down to the police station. He has you booked and writes a report while you are sitting there to the public prosecutor. The report says everybody in the group before him has been mingling in a prostitution establishment for the purpose of prostitution of others or themselves and is thus in violation of Section 6 of the Prevention and Suppression of Prostitution Act.

Of course, you feel something is grossly wrong here. You were just out with your friends and had no intention to do anything with the girls or anyone else. But will the charges stand up?

They could. Section 6 of the act applies to prostitution establishments. Although there are thousands of bars in Thailand that have bar girls, if they will go home with a customer for the payment of a small bar fine plus perhaps, though not necessarily, a fee, your friends' place would be considered a prostitution establishment.

As alluded to above, Section 6 imposes a punishment on those mingling in a prostitution establishment for the purpose of prostitution of others or themselves. Certainly on the face of it you and your friends were mingling. And though you didn't intend to take one of the girls home, it would be easy for a public official to infer that you did. The penalty for violating Section 6 is a fine not exceeding 1,000 baht and/or imprisonment of not more than a month.

Could the above fact pattern get you nailed for Section 6 of the Act? It could. As discussed in earlier columns, Thai law generally requires that in this context you would have to knowingly have entered a bar where

you knew there was prostitution going on. If you could convince a judge that you didn't, you'd be off the hook. But knowing what we all know, it would be pretty hard to convince a judge of this.

In practice it's unlikely you'll go to jail for this kind of crime.

You could, of course, hire a lawyer and fight it on the grounds discussed above. More likely than not, however, the public prosecutor's office will accept a guilty plea and a small fine and the whole thing will be over. In the past, we've discussed the consequences of having convictions on your record in Thailand, even small ones, and you might want to discuss these seriously with your lawyer before making the decision to plead guilty. ■

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