



Expat Counsel

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CRIMINAL LAW IN THAILAND

Part LXIX: Underage sex — another example



ILLUSTRATION: NATTAYA SRISAWANG

As we discussed last time, Section 277 of the Thai Criminal Code proscribes sex with another person who is under 15 years of age. The law treats the sex like rape, because the person under 15 is deemed unable to consent. As also explained earlier, this provision of the code covers a wide variety of sex acts and it doesn't matter whether the other person is the same or opposite sex as the defendant.

This week we'll show you how Section 277 works with another example.

Suppose for a moment that on the last Friday of each month, your company's office in Bangkok has a cocktail party in a conference room. It's well attended because your company is a big, international operation. It has lots of departments in isolated locations and the only way to get a wide circle of friends in the company is via social networking during opportunities like this cocktail party.

One of your colleagues introduces you to a group from the bookkeeping department. You've never seen any of these women before, and this isn't surprising, as the bookkeeping department is off in another building somewhere.

You strike up a conversation with one of the ladies you've just met. Her English is terrific and, after a couple of glasses of wine, tells you her life story, which goes like this. She graduated from a prestigious university, class of 2009, as an international studies major. After graduation, she realised international studies wasn't much of a source of income, so she enrolled in a course of study to gain her CPA. She met a professor at school, had a whirlwind affair and married him. He turned out to be a terrible person and they got divorced. Now she's alone, 21, working and lonely.

At some point in the conversation you step back and look at her. She's beautiful and you have this desperate need to take care of her. "Let's get out of here," you find yourself saying.

The following Sunday night you say goodbye to her for the first time. You both swear this is the real thing, and she gives you her number and asks you to give her a call after work.

You make the call, but then you get a real surprise. A male voice on the line demands that you identify yourself. You do so, then the phone hangs up.

The next day you are in your office. Your assistant says there is a police sergeant who wants to see you. He comes in and through a translator requests that you visit the police station, saying something about Section 277 of the criminal code.

You go to the police station with your lawyer. The police say the father of a young girl has lodged a complaint against you. The girl is 14, went with her sister to a party at the sister's job, and then disappeared for two days.

Her parents were frantic because the girl, though a drama student at an international secondary school, is emotionally unstable and is prone to "flights of fancy". The police ask for your side of the story and you tell them. The duty officer prepares a report and sends it to the prosecutor.

Is this a nightmare? She told you she was 21 and that she graduated from university two years ago. She couldn't be 14. Could she?

If convicted, you are exposed to a fine of 8,000 to 40,000 baht and imprisonment of four to 20 years. But you honestly believed this young woman to have been 21. Do you have a defence?

You do. Section 59, paragraph one of the code provides that you are not guilty unless you know your partner is under 15. Of course, the difficulty is that any defendant

prosecuted under Section 277 will immediately claim he didn't know his partner was under 15. And it is the judge who decides if the defendant is telling the truth. If the judge believes you, you're in the clear.

If not, you face the penalty.

When it comes down to it, criminal law is a moral code, reflective of the moorings of the society that sets it in motion. Though Thailand is in many ways a tolerant international crossroads, its tradition of protecting youth from what may to some seem

an erosion of traditional values has remained implacable. Section 277 reflects these norms. ■

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