



Expat Counsel

By James Finch and Nilobon Tangprasit

# CRIMINAL LAW IN THAILAND

## Part LXXIII: Adultery



**A**dultery is defined in Thai law as either a validly married woman having consensual sexual intercourse with a man who is not her husband or a validly married man having consensual sexual intercourse with a woman validly married to another. In some countries adultery is a crime, but in Thailand it is not.

There are legal ramifications of adultery, however. One of these is that adultery is grounds for divorce under Section 1516 of Thailand's Civil and Commercial Code. Remember that legal marriage in Thailand is when you are married at a district office in Bangkok or one of the amphur offices in the provinces. If you were married in a religious ceremony and not in a civil ceremony at one of these offices, you don't need to get divorced, you can just move on.

Most people who marry in Thailand are married in both religious and civil ceremonies. If you've been married in both,

and you want to dissolve the relationship, you have to get divorced. Just to put divorce in perspective, Thailand is very progressive about how it can be done. We wrote an earlier column in the *Bangkok Post* about divorcing by mutual consent, which is done without the need to go to court. Mutual consent divorce applies only if both parties want the divorce.

Other grounds for divorce are used in cases where one of the parties wants a divorce and the other doesn't. How exactly would you claim adultery as a ground for divorce? As you can see from the above definition, the definition of adultery as grounds for divorce under Section 1516 is different for men and women.

If a married woman has sexual intercourse — even once — with a man other than her husband, it is considered adultery and is a ground for divorce, whether that other man is married or single.

If a married man has sexual intercourse, say a one-night stand, with a woman who

is not his wife, the following rule applies: If the other woman is not married, it is not considered a ground for divorce — if the other woman is married, it is considered a ground for divorce. If the man mentioned above has sexual intercourse with another woman or women — with regularity — it would be a ground for divorce, even if the woman or women weren't married.

Here's another issue — damages. The injured party under Section 1516 can claim damages from the party who has had sexual relations with his or her spouse.

Let's look at an example. Say you and your husband are expatriates and are living in Thailand. Your husband takes up with another woman without your knowledge and you find out after the affair has been going on for several months. This would give you grounds for divorce and even grounds for a claim against the other woman.

Again, from the perspective of divorce, the court may also order your husband to

support you. But what if, instead of having a relationship behind your back, your husband does it with your consent?

Let's say in the above example you both knew you weren't getting along and he told you he was going to strike up a relationship with a woman he knew. You then told him you didn't care; the relationship was over anyway. In this case you would be considered as having condoned the adultery and wouldn't be able to claim adultery as a ground for divorce or make a claim against the other woman. ■

James Finch of Chavalit Finch and Partners ([finch@chavalitfinchlaw.com](mailto:finch@chavalitfinchlaw.com)) and Nilobon Tangprasit of Siam City Law Offices Ltd ([nilobon@siamcitylaw.com](mailto:nilobon@siamcitylaw.com)).

Researchers: Sutatip Raktiprakorn and Sitra Horsinchai.

For more information visit [www.chavalitfinchlaw.com](http://www.chavalitfinchlaw.com).

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