



Expat Counsel

By James Finch and Nilobon Tangpra

## CRIMINAL LAW IN THAILAND

### Part LXXXII: Drugs — marijuana



In the late 1960s the popular wisdom had it that, "Marijuana is the dry martini of this generation." In Thailand getting nostalgic for the '60s in the wrong way is a criminal offence.

Marijuana is in Category V of the drugs classified in section 7 of the Narcotics Act of 1979. Category V is a catch-all covering prohibited drugs that are not in categories I to V.

One side of marijuana that has flourished elsewhere in the world has been experimentation with its medical uses, for example in the treatment of glaucoma. Likewise, there is reliable evidence to support the contention that the drug can be used to combat the symptoms of chemotherapy, such as loss of appetite.

Many otherwise illegal drugs in Thailand are used for experimental or medicinal purposes.

If they are listed as Category I to Category V drugs they may be used — experimentally or medicinally — if the purpose has been recognised as such in the *Royal Thai Government Gazette*. Those conducting the experiment or prescribing one of these drugs must also obtain a licence from the minister of public health under the Narcotics Act.

For example, researchers and doctors may obtain licences to experiment with and prescribe cocaine, codeine,

medicinal opium and morphine. To date, however, no such medical or scientific use of marijuana has been allowed in Thailand.

Let's look at the legalities of recreational use of marijuana in Thailand.

If you're caught with a small amount of marijuana in your possession, you're exposed to a prison term of up to five years or a fine up to 100,000 baht or both.

What happens if you're at a party where somebody else is in possession of a bag of marijuana? Well, even if the other person is arrested, you've committed no crime unless you sold it or gave it to him.

But what if you're at a party busted by the police and everyone's smoking marijuana? Consuming drugs in Category V such as marijuana exposes you to a prison term of up to one year or a fine of up to 20,000 baht, or both. It would be hard, however, for the police to prove this. If there were a witness, a police informant perhaps, who saw you consume the drug, it could happen. Also, the police could take you to the police station and search you. If they find something you could then be charged with possession.

What about larger amounts? If you're arrested for disposing of or possessing for disposal a quantity of marijuana of less than 10kg, you're exposed to a penalty

of up to 10 years in jail or a fine of up to 200,000 baht or both.

As we discussed in earlier columns, disposal is a legal term that covers sale, distribution, gift or exchange. Thus if you have a small amount of marijuana in your possession and share it with someone, even for free, you're disposing of it and are exposed to the highest penalty mentioned above.

In larger quantities, the penalties are even larger. If you dispose or possess for disposal 10kg of marijuana or more, the potential penalty is up to 15 years in jail or a fine of up to 1.5 million baht, or both. The penalty for bringing any quantity into or out of Thailand is the same. Also, if you're simply in possession of marijuana in these amounts, there is presumption that you possess it for disposal. ■

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