



NORTHWESTERN UNIVERSITY SCHOOL OF LAW

**Behind the Thousand Smiles:
Criminal Procedure and Imprisonment in the Kingdom of Thailand**

Michelle Clark, Benjamin Feuer, James Harris, Anand Singh, & David Tahan
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I. INTRODUCTION AND METHODOLOGY

Almost 11.3 million foreign tourists visited the Kingdom of Thailand in 2003.¹ The number has only gone up since then, ballooning tourism into a \$10 billion dollar industry and making it one of Thailand's top revenue generators.² But along with beautiful beaches, affordable shopping, and magnificent temples (known as *wats*) comes a frightful risk: spending the rest of one's life in a Thai prison. "Most people know Thailand as the 'land of a thousand smiles,'" says Ben Parks of Bangkwang.net, a prisoner-advocacy website.³ "But those who really know it will tell you that behind the thousand smiles can lie a thousand cruelties."⁴

Nearly 6% of inmates incarcerated in Thai correctional facilities are foreigners.⁵ It is impossible to know how many were jailed for offenses they committed while unaware of the law or whether they were aware of their rights during the course of their trials. It is certain however that the travails of criminal process, particularly in a foreign country, can be confusing, frustrating, and cruelly intimidating.⁶

¹ Reuters Press Service, *Thailand Expects Tourists Arrivals up 6 Pct in '03* (June 14, 2002).

² Ambassador Ralph Boyce, Address to Northwestern Law School Students in Bangkok (Mar. 14, 2005).

³ Telephone Interview with Ben Parks, Human Rights Advocate and Webmaster, Bangkwang.net (March 03, 2005).

⁴ *Id.*

⁵ Americans do not make up a majority group of foreign prisoners in Thailand. Dept. of Corrections Website, Prisons and Correctional Institutions, at <http://www.correct.go.th> (last visited Mar. 09, 2005). This is because of the extensive extradition and prisoner transfer agreements in place between the countries. Interview with Ted Coley, Chief of American Citizen Services, & Brian Pearce, Resident Legal Advisor, U.S. Embassy, in Bangkok (Mar. 14, 2005). Top foreign prisoner populations by portion of the prison population are: Myanmar / Burmese; Laos, Cambodia, Nigeria, Malaysia, China, Singapore, Pakistan, Ghana & Hong Kong. Dept. of Corrections Website, *supra*.

⁶ Interview with Jody Aggette, Prisoner, Bang Kwang Maximum Security Prison, in Nonthaburi Province (Mar. 16, 2005). Jody is currently serving a life prison term for drug crimes. His case is pending appeal before the Supreme Court.

This paper serves a multifaceted responsive purpose. Most obviously, it is a practical guide to the Thai criminal justice and prison system, aimed at instructing those caught in its midst of their rights, obligations and strategic positions.⁷ But it is also intended to provide a unique look at a developing criminal justice framework and educate the unfamiliar with its tenants and practices. This is useful for any comprehensive understanding of Thailand's culture and society, and essential for comprehending its government and politics. While focused specifically on the rights of United States citizens incarcerated in Thailand, most of the content is relevant to any Western foreign national experiencing the Thai criminal system.

Research for this project was conducted through secondary source analysis, first person interviews, and direct participant observation of criminal process in Thailand. Specifically, the authors used background research from both official sources, such as the US Embassy website, and unofficial sources like prisoner websites and columns to frame their inquiry and analysis. Then primary source research was conducted in two ways: interviews and in-person observation. Interviews with key participants in all levels of the criminal process including prisoners, prisoner advocates, lawyers, and judges were conducted by email, telephone and in-person.⁸ The authors also visited correctional facilities and courtrooms seeking first-hand qualitative data.

⁷ Our search revealed no similar published work that covered the same scope of subject matter with a practical focus as this one. However, there are several useful publications for travelers-abroad referenced herein. In particular, our study built upon the pre-existing work published by Prisoners Abroad, *THE SURVIVAL GUIDE FOR BRITONS IN PRISON IN THAILAND* (2001). Through our research, and with the cooperation of Prisoners Abroad, we sought to update and expand the research contained in their guide and adapt it for American travelers.

⁸ The authors extend our greatest gratitude to the interview participants for their help, cooperation, and incredible supply of relevant information.



The result is a nuanced, in depth, and subjective look at legal process and prison conditions since the passage of Thailand’s seminal 1997 Constitution. The following analysis presents a conglomeration of factual knowledge gleaned from expert accounts and, where possible, verified with hard data and the subjective anecdotal stories of people intimately familiar with the country and its legal system. All participants were aware that they were cooperating in our venture and we extend our enormous gratitude for their assistance. Where confidentiality was requested, it is noted and respected.