

Sex Laws in Thailand Part 2: Laws Regulating Commercial Sex and Entertainment Places

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This article is part two of a three-part series entitled Sex Laws in Thailand. This second installment explores Thai sex laws and their application to the local sex industry including go-go bars and saunas. Part One deals with US sex crime laws under the Protect Act and the prosecution of US citizens engaging in illegal sexual activities in Thailand. Part Three addresses the activities of civil society and international law enforcement in Thailand working to enhance and strengthen sex crime laws and bring offenders to justice.

[Sex Laws in Thailand](#) Part 1: US Laws Abroad: The Long Arm of Uncle Sam

[Sex Laws in Thailand](#) Part 3: Civil Society and Law Enforcement

There are a number of attractions that Thailand offers to residents and visitors alike: a booming medical tourism business, eco-tourism, friendly people and delicious food. Nevertheless, like many destinations, Thailand has an x-rated side that is—depending on whom you talk to—infamous or famous.

Some observers of Thai society have noted that it is simultaneously both promiscuous and conservative, tolerant and prejudice. This seeming contradiction is evident in Bangkok's nefarious Pat-Pong entertainment district: shady touts lurk in the corners selling illegal yet standard pornographic DVDs while wild sex-shows are openly advertised next door. Watching certain sex acts in the privacy of your home in Thailand is considered a social vice, but seeing them committed in flesh at a public venue is a standard, somewhat social event.

The tradition of married men keeping "*mia noi*" or "minor wives" has existed in Thai society for generations. Such practices have played an important part in the shaping of local attitudes towards prostitution, helping to create an ambiguous view towards extra-marital relations, as well as prostitution in its broadest terms.

While many imagine foreign men dominating the notorious Thai go-go bars and massive massage parlor complexes, that is not necessarily the case. According to surveys, the vast majority of those that frequent prostitutes are Thai men and that on any given day at least 450,000 Thai men partake in the services of prostitutes.¹ In Thailand, it is domestic "consumption" that drives and sustains the booming sex industry.

Over the years, the Kingdom's vibrant sex-industry has received varying levels of protection from its most loyal of customers, Thai men. Both the international and local media reported widely on the close relationships between brothel managers, local police, businessmen, and politicians.² Without going into the sordid and at times sensational details, it is sufficient to say that while technically illegal, prostitution in Thailand has thrived for a multitude of reasons, often under the protection of various state actors.

A rose by another name

Prostitution in Thailand is clearly illegal. However, there may be some sections of [Thai law](#) that are ambiguous, making it difficult to prosecute those charged under these laws. The *Prevention and Suppression of Prostitution Act, B.E. 2539 (1996)* (the “Prostitution Law”), is the central legal framework prohibiting prostitution. The law defines prostitution as any act done to gratify the sexual desire of another in exchange for money or any other benefit, but only if it is done “in a promiscuous manner”. The Prostitution Law does not define what exactly a “promiscuous manner” constitutes. The crime of solicitation is equally ill defined. A “Jon” soliciting the services of a prostitute is liable under the Prostitution Law only if the solicitation is done “openly and shamelessly or causes a nuisance to the public”, the penalty being a fine of up to 1,000 baht.

The Prostitution Law bars one person from associating with another in a “prostitution establishment” for the purpose of prostituting themselves or another. The penalty for violating this part of the law is up to one month imprisonment, a fine of up to 1,000 baht or both. For the purposes of the Prostitution Law, a prostitution “establishment” is a place established for the purpose of prostitution, and includes a place used to solicit an act of prostitution. These provisions are based on the definition of prostitution and thus the requirement that the activity be done in the vaguely termed “promiscuous” manner.

The second law regulating prostitution in Thailand is the *Act on Entertainment Places, B.E. 2509 (1966)* (the “Entertainment Act”). Massage parlors (excluding parlors providing legitimate massage services), go-go bars, karaoke bars and similar establishments are regulated and required to be licensed by the Entertainment Act. The Act regulates these businesses due to their influence on public morals and in order to ensure that minors are not allowed access to such businesses. While the Entertainment Act does not expressly permit prostitution, it does allow “service partners” and “bath service providers” and the like. The Entertainment Act distinguishes between those types of employees, who are required to wear red circular disks with their numbers, and non-sexual service staff, who are required to wear blue circular disks with their numbers. Employees of establishments regulated by the Entertainment Act are required to be at least 18 years old, and customers are required to be at least 20 years old. Given the close relationship of many of these businesses to the sex industry, the differences between massage parlors and go-go bars and prostitution establishments are not necessarily clear.

Thai law becomes harsh when the prostitute is under the age of 18. Any person who engages in an act gratifying their sexual desire, or that of another person, in a prostitution establishment with an underage minor above 15 years old is subject to imprisonment up to three years and a fine of 20,000 to 60,000 baht. If the minor is younger than 15 years old, the penalty is doubled to two to six years imprisonment and a fine of 40,000 to 120,000 baht. For purposes of this law, consent is not a defense and while the sexual acts do not have to be done in a “promiscuous” manner, they do have to take place in a prostitution establishment.

Yet even in these egregious circumstances, there appear to be gaps in Thai law because so much is predicated on the vague definition of prostitution. For example, it is not clear what the penalty is if the sexual act occurs in the client’s hotel room rather than a prostitution establishment. In such a case, if the Prostitution Law cannot be applied, then in the case of a minor under 15, the statutory rape laws would apply. But does that mean paying a prostitute

for sexual services, in a discreet and non-promiscuous manner, in a hotel room is permitted? That point remains unclear under current Thai law.

The penalties under the Prostitution Law become more significant for people who trade in prostitutes and the pimps who manage them. Any person who owns or manages a prostitution establishment or controls a prostitute is subject to imprisonment of three to 15 years and a fine of 60,000 to 300,000 baht. If the prostitution establishment employs underage minors 15 years old or older, the penalty increases to five to 15 years imprisonment and a fine of 100,000 to 300,000 baht. If the prostitution establishment employs underage minors below 15, the penalty increases to 10 to 20 years in prison and a fine of 200,000 to 400,000 baht.

A person advertising the availability of prostitution services is subject to a prison term of six months to two years, a fine of 10,000 to 40,000 baht, or both. Any person who procures another person for purposes of prostitution is subject to a prison term up to 10 years and a fine up to 200,000 baht, regardless of whether such other person consents or whether the acts relating to such procurement occurred within the borders of the Kingdom of Thailand.

If the victim of forced prostitution is a minor above 15 years old, the penalty increases to five to 15 years in prison and 100,000 to 300,000 baht and to 10 to 20 years and 200,000 to 400,000 baht if the victim is a minor under 15. The use of fraud, violence, or coercion increases the penalties of forced prostitution by a third. Thai law holds any person aiding a sex trafficker accountable in the same manner as the trafficker procuring persons for the sex trade. In addition, parents involved in the sale of their children into prostitution face a penalty of imprisonment of four to 20 years and a fine of 80,000 to 400,000 baht.

If detention, illegal confinement, violence or the threat of violence were used to force a person to engage in prostitution, the Prostitution Law calls for 10 to 20 years imprisonment and a fine of 200,000 to 400,000 baht. Furthermore, if the acts used to force a person to engage in prostitution led to serious bodily harm, then the penalty is increased to life imprisonment, and if such acts led to death, then the penalty can include a death sentence.

Big Business

Prostitution is found in every country and every society, to varying degrees of cultural acceptance. Thailand maintains a combination of a highly organized flesh industry, a cultural ambiguity towards the frequenting of prostitutes, and limited economic options for rural populations. In 2004 Dr. Nitet Tinnakul from Chulalongkorn University estimated that 2.8 million sex workers were active in Thailand, comprising roughly of two million women, 20,000 adult males and 800,000 minors under the age of 18.³ Another estimate published in 2003 valued the flesh trade at US\$ 4.3 billion per year, or about three percent of the total Thai economy.⁴

The Thai sex industry exists in the grey corners of the law. While clarification of the law is necessary, international experience has shown that targeting consumers of the sex-industry has a somewhat limited effect. Recently Udon Thani Industrial Council chairman Prayoon Homewong called for the legalization of prostitution. "We can never get rid of it. So, I think we should pass laws to regulate it," Prayoon said, adding that "If there were laws to regulate prostitution, sex workers would be eligible for legal protection and benefits, while the government would earn income from the tax." Legalization questions aside, what is required

in Thailand is more active protection of the rights of the individuals that enter into the industry.

[Sex Laws in Thailand](#) Part3: Civil Society and Law Enforcement

1. This figure does not take into account the number of males working as prostitutes for female customers. Shih J., *A plague in prostitution: HIV and AIDS in Thailand*, Rhode Island Medicine, 77(5): p.145-9, May 1994.

2. See for example The Nation, *Chuwit avoids conviction*, 14 Jul 2006; The Guardian, *The brothel king's revenge*, 21 Feb 2004; Asia Times, *Thai sex tycoon rubs cops the wrong way*, 23 Jul 2003.

3. TheNation, *Prostitution: More Thais selling sex, study finds*, 3 Jan 2004.

4. The Age, *Thailand mulls legal prostitution*, 26 Nov 2003.

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