

TRANSNATIONAL ORGANIZED CRIME IN THAILAND

*Sittipong Tanyapongpruch**

I. INTRODUCTION

Crime is unwanted in every society, but it seems that crime inevitably exists in every country. No matter how hard we try to suppress, prevent or eliminate crime, we still hear reports of crimes every day everywhere in this modern world. Moreover, some of the criminals nowadays have changed their activities and taken advantage from the progress of easy communication and transportation. They organize and build up their networks and spread their activities across the borders of countries. Only minor crime seems to happen in individual countries while serious crime has become borderless and transnational in nature. Thus, the impact of their activities is greater than before and usually involves more than one country.

Organized criminal groups in Thailand exist in many forms and engage in many activities. Thai criminals join with foreign criminals and operate illegal activities in Thailand which have a impact in other countries. They are well organized and difficult to detect. The examples of such transnational organized crime activities in Thailand are as follows.

II. SPECIFIC CRIMES IN THAILAND

A. Drug Related Crimes

The most serious criminal problem in Thailand is illegal drugs trafficking. Thailand is one of the countries that

encounters the full scale of criminal activities in the illegal drug trade, from producing, trading, smuggling and the wide use of illegal drugs among Thai people. Illegal drugs and narcotics popularly used in Thailand are methamphetamine or “speed pills”, heroin, cannabis, opium, ecstasy and cocaine. Heroin is the most dangerous drug and is very popular. However, the Narcotic Suppression Office has tried very hard to arrest and prevent the trafficking and smuggling of heroin. In recent years we have seen the decreasing significance in the trafficking of heroin but we have seen an increase in producing and trafficking of methamphetamine or speed pills instead. The reasons are that speed pills are easier to produce and more difficult to catch. With a simple machine easily found in markets and a vehicle like a minivan which can be modified to be a mobile factory. To make the situation much worse, people tend to have a wrong attitude that speed pills are not as dangerous as heroin. All of these factors allow speed pills to penetrate schools and universities and every section of society. Students use speed pills, believing that they can stay up all night long preparing for examinations and they will never become addicted to them. Truck drivers use speed pills in order to be able to work all day long without exhaustion. Thus, there is news of methamphetamine traffickers having been arrested everyday with more than one hundred thousand pills seized at a time. The manufacturing plants for speed pills are located along the Thai-Burma border. The chemical, namely “Ephedrine” used as the

* Judge, Central Intellectual Property and International Trade Court, Thailand

precursor, is smuggled from the Southern border of China down to the Thai-Burma border. The Thai intelligence service estimates 600–700 million speed pills would be produced this year (2001) inside Burma. Forty million methamphetamine pills are ready for gradual smuggling into Thailand. On July 13, 2001 the Thai Army patrolling the border clashed with the smugglers, seizing about 2.6 million pills. One Thai soldier was killed in the clash. Meanwhile, the narcotics police seized 74 kilograms of heroin and seized nearly 90 million baht (\$2 million) in cash and bank deposits. The drugs were smuggled from laboratories in Pangsang, Burma's Northern Shan State, through Laos to Chiang Saen district in Chiang Rai, Thailand. The drugs were seized in Bangkok and were believed to be destined for the United States. The suspects were placed under police surveillance for some time before the arrest. They were also known by the Thai and US Drugs Enforcement Administration to have close ties with Wei Hsueh-kang, a fugitive drugs warlord, who heads methamphetamine production in the United Wa State Army in the Shan State.

B. Prostitution

The expansion of the city and changing of the Thai society from an agricultural to industrial society has accelerated the practice of prostitution. Many of the women and children have been lured to be prostitutes in the big city such as Chiangmai, Ubonrathchatanee, Hatyai, Pattaya and Bangkok. However, many foreign women from Eastern European countries are also coming voluntarily to work as prostitutes in Thailand.

On the other hand, there is also a gang supplying Thai women to foreign countries for prostitution. On July 18, 2001 three Thai men posing as parliamentary officials were arrested on

charges of falsifying and using official documents to smuggle Thai women to Hong Kong for prostitution.

C. Illegal CD Copying

Copyright infringement is also another practice that many people are involved in and can get very good rewards. The cost of producing an infringed CD is just only 20 baht or almost 50 cents but it can be sold at 150 baht or almost US\$3. Moreover, the machines and materials to produce the infringed CDs are not difficult to obtain while the CDs can be produced in a large number in a rather short period of time. The infringed CDs are sold not only in Thailand but also in the neighboring countries, such as Laos, Cambodia, Burma and Malaysia. Recently, the police and customs officers have seized the infringed CDs disguised as export goods to Mexico.

D. Money Laundering

The Office of Anti-Money Laundering has been set up after the Money Laundering Control Act B.E. 2542 (1999) came to effect. After only 9 months of operation, the amount of money it has confiscated is more than 240 million baht. It is believed that much more money is being laundered in Thailand.

E. Illegal Firearms Trafficking

Geographically, Thailand is located among the neighbor countries that have political unrest in their countries i.e. Burma and Cambodia. In the past 10 years, a number of firearms have been smuggled in and out of Thailand into those two countries. Firearms control in Thailand seems to fail. Many of the 400,000 handguns imported since 1995 were brought in on fake import licenses. Guns imported on fake licenses were mainly sold to third parties. This illicit but highly profitable business was a

119TH INTERNATIONAL TRAINING COURSE
PARTICIPANTS' PAPERS

major obstacle to the suppression of crimes.

F. Human Trafficking

The growth and development of Thailand in the past 10 years, compared to neighboring countries, have induced foreign people to make every effort to migrate to Thailand. Some of them, mostly Chinese, try further to make their way to a third country illegally with the help of organized crime gangs. Firstly, the criminal networks that help send people into a third country will send their people into Thailand to operate as a travel agency in order to disguise their operations. The travel agency, then, brings in foreign tourists, mostly Chinese who later on will jump their visa, stay in Thailand and wait for a new passport. The travel agency will get the real passports from many countries, e.g. Singapore, Japan, Thailand, Taiwan, etc. in the amount of 15,000–35,000 baht per passport. For someone who already has a visa the cost is about 100,000–200,000 baht. Then, the travel agent will change the photos in these passports into the photos of the immigrants. Each immigrant needs to study Japanese, English or the Korean language depending on what passport he shall get. Then, a group of immigrants is ready to travel to the destination country. Obviously, the proceeds in this activity are quite large.

G. Smuggling of Stolen Vehicles

Many vehicles, particularly pick-up vans and motorcycles, in Thailand are stolen everyday and have been smuggled to Cambodia, Burma and Laos. The stolen vehicles are sold at a very cheap price. The vehicles are stolen at night and are driven to the border the next morning with fake license plates and then they are taken across the border. However, there are reports that some vehicles stolen from

Malaysia and Singapore have been smuggled for sale in Thailand.

H. Financial and Securities Fraud

On July 26, 2001, a total of 85 foreigners and 17 Thais were arrested at the offices of the Brinton Group and Benson Dupont Capital Management, two companies accused by securities regulators of running unlicensed securities services and defrauding foreign investors. Total damages incurred by foreign investors were estimated at 300 million Australian dollars or 6.9 billion baht. The raids were led by the Securities and Exchange Commission, Anti-Money Laundering Office, economic crime suppression police, immigration and labor officials with the co-operation in investigation of the US Federal Bureau of Investigation and the Australian Federal Police. The foreign suspects included 30 Englishmen, 14 Americans, 10 Irish nationals, 10 Australians, 6 Filipinos, 5 Canadians, 2 Singaporeans, and one person each from Burma, Jamaica, Liberia, New Zealand, Malaysia, Spain, Scotland and India. This is the largest case of its kind in Thailand.

The criminal nowadays is getting more complex in terms of activity and organization. People involved in an organized criminal group are of many nationalities. They may plan in one state to take action in another state. However, every domestic law of every country is applicable within its jurisdiction only. It is almost impossible for one state alone to combat against such transnational organized crimes. In Thailand there are many laws and regulations which are outdated and have not been amended to deal with this new kind of organized criminal group. A lack of sharing information among law enforcement agencies has been seen as one obstacle

where our officers need to improve their performance.

II. MEASURES TAKEN TO STEP UP INTERNATIONAL COOPERATION

A. Cooperation in Criminal Matters Among States

A better way of combating organized crime is to prevent it from occurring instead of suppressing it. To guarantee successful crime prevention, the accuracy of information is a vital part of the operation. Since each law enforcement agency in every country still works independently within its jurisdiction, combating transnational organized crimes shall never be successful without co-operation between the states in sharing information and other matters needed to get the criminals brought to justice.

The Act on Mutual Assistance in Criminal Matters B.E. 2535 (1992) has been enacted in order for law enforcement to be able to co-operate with foreign authorities in these matters when requested. The "Assistance" means assistance regarding investigation, inquiry, prosecution, forfeiture of property and other proceedings relating to criminal matters. The Office of the Attorney General shall be the central authority that has the authority and function to be the coordinator in providing assistance to a foreign state or in seeking assistance from a foreign state under this Act.

The duties of the central authority are as follows:

1. To receive the request for assistance from the Requesting State and transmit it to the Competent Authority;

2. To receive the request seeking assistance presented by the agency of the Royal Thai Government and deliver to the Requested State;
3. To consider and determine whether to provide or seek assistance;
4. To follow and expedite the performance of the Competent Authorities in providing assistance to a foreign state for the purpose of expeditious conclusion;
5. To issue regulations or announcements for the implementation of this Act;
6. To carry out other acts necessary for the success of providing or seeking assistance under this Act.

The assistance that may be rendered is as follows:

1. Taking statements from persons, providing out of court documents, articles and evidence;
2. Serving documents, searching and seizing of documents or articles;
3. To locate a person;
4. Taking the testimony of witnesses;
5. Forfeiture or seizure of properties;
6. Transfer of persons in custody for testimonial purposes;
7. Request for initiating criminal proceedings.

B. Extradition

To prevent any criminal from escaping from justice, no matter how far the criminal runs, the law shall be able to get him brought back to justice. The most effective tool to get the runaway criminal from another state is to ask the authority in such state to send him back home for trial. This is known as extradition. Thailand has had an Extradition Act since B.E. 2472, since 1929. The person accused or convicted of crimes committed within the jurisdiction of other States may be sent to such States, provided that by the law of Thailand such crimes are

119TH INTERNATIONAL TRAINING COURSE
PARTICIPANTS' PAPERS

punishable with imprisonment of not less than 1 year. In addition, Thailand also has bilateral agreements with Belgium, the Philippines, Indonesia, the United Kingdom and the United States of America. Thailand has extradited one Thai politician alleged of sending tons of cannabis to the US. Recently, Thailand has requested the extradition of one executive of a financial company alleged to have committed financial fraud in Thailand from the UK but the result was not successful.

**III. MEASURES TAKEN TO
IMPROVE RELATED LAWS AND
REGULATIONS**

**A. Measures Against Drug
Trafficking**

The Act on Measures for the Suppression of Offenders in Offences Relating to Narcotics B.E. 2534 (1991) is enacted with the objective to cut the growing trade in narcotics by seizing any property related to the narcotic offences and any tools, machines, transportation vehicles and properties used for committing narcotics offences. Property related to narcotics offences means money, proceeds received in relation with the narcotic offences including any property derived from such proceeds or money. All of the seized properties and proceeds shall go to the Narcotic Suppression Fund for use in the suppression of such crimes.

B. Anti Money-Laundering Law

In 1999, the parliament enacted the "Money Laundering Control Act B.E. 2542 (1999)" in order to combat money laundering practices. The Act requires the financial institutions to report every transaction in the amount exceeding 2 million baht to the Office of the Money Laundering Control for investigation. The

Office also has the power to gather evidence for the purpose of taking legal proceedings against offenders of predicate offences, which is any offence:

1. relating to narcotics;
2. relating to sexuality in respect of procuring, seducing or taking away for an indecent act a woman and child for sexual gratification of others, offence of taking away a child and minor;
3. relating to public fraud;
4. relating to misappropriation or fraud or exertion of an act of violence against property or dishonest conduct under the law governing financial institutions;
5. of malfeasance in office or judicial office;
6. relating to extortion or blackmail committed by claiming an influence of a secret society or criminal association;
7. relating to smuggling under the customs law.

C. Capital Punishment

On July 26, 2001 the Criminal Court sentenced 19 drug traffickers to death and two others to life in five different cases involving over 2 million methamphetamine pills and 9 kilograms of heroin. Only 5 days later, the Criminal Court sentenced another 14 drug traffickers to death. They were charged with the possession of methamphetamine to the total of 450,000 pills and 30 kilograms of heroin. The death penalty has been a hot issue for debate among lawyers in Thailand about its justification for combating crime. It is not so long ago that the government amended the narcotics law by changing methamphetamine from a stimulant substance to a narcotic. The result is that the traffickers shall face capital punishment. It is submitted that the

death penalty is still useful in Thailand although it is argued by the human rights activity groups that there is no concrete evidence that the death penalty helps decrease crime.

D. Plea Bargaining

The concept of “Plea bargaining” is quite a new legal concept in Thailand. It is believed that one who commits the crime deserves to be punished at a certain level. However, since criminal activities are getting more complex as they are organized into groups and their activities go beyond the geographical border of the state, therefore, the defendant who has been arrested may hold some useful information from their groups which, once revealed, may be useful to law enforcement to be able to arrest the ring leader. Recently, there is a discussion of how we shall implement the plea bargaining concept into Thai laws. There are several studies and seminars about the appropriate solution to implement plea bargaining practices in criminal proceedings. It is felt that there are some difficulties, since the Thai criminal procedure allows an injured party to file criminal cases in court. The use of plea bargaining might have some affect on such injured parties. Therefore, it is felt that plea bargaining shall be used only in illegal drug cases where the state is the injured party.

E. Witness Protection Scheme

Witnesses in criminal cases normally try to refuse to testify in court against influential suspects, including organized criminal groups, in fear of danger to themselves and their families which result in the dismissal of cases. Every year, 20% of all criminal cases are thrown out of court because the prime witnesses are too afraid to take the stand. The Ministry of Justice has proposed the “Witness Protection Bill” in order to

overcome such fear. Under the draft bill, protection will be the responsibility of the police to carry out this task until the Witness Protection Office is established. There shall be general and special measures for witness protection. In general cases, the investigator or prosecutor, with the request of the witness, may ask the Witness Protection Office to order protection for up to 30 days subject to necessity in the case. However, in an emergency situation, the investigator or prosecutor would be empowered to order the police protection for their witness for up to 5 days at a time. The special measures are designed to apply to cases involving trading in narcotics, women and children. The Minister of Justice may order special measures for witness protection. The measures include relocation of a witness residence, changing of witness identity and records, as well as providing the living allowances job training for up to 2 years. Both general and special measures can be extended to the witness’s spouse, parent, children and person in close relationship with such witnesses. Although there is a worry about the shortage of budget, this witness protection programme is inevitably necessary to combat organized crime. Moreover, the use of modern technology in trials are also being introduced. To reduce the fear of witnesses taking the witness stand and confronting the defendant who may be an influential person or member of an organized crime gang, the use of video conferencing where witnesses testify in front of the video camera in a room separate from the trial room should be used instead of the ordinary method. This should make the witnesses feel more relaxed and comfortable to tell the whole truth. The proposed bill to amend the Thai Criminal Procedure Code for allowing the use of

119TH INTERNATIONAL TRAINING COURSE
PARTICIPANTS' PAPERS

video conferencing is at the scrutiny of the Office of the Council of State.

IV. CONCLUSION

Transnational organized crime has spread and done harm to many countries. The cooperation of every state to suppress such crime is important and needs to be established as soon as possible. Moreover, the need of harmonizing the domestic laws in order to make cooperation possible is also vital.