

Thai lottery no game for Burma's kids

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The Supreme Court of Thailand on Wednesday, 30 September 2009, found that a former deputy minister and two ex-officials had failed to comply with a number of laws when they set up a scheme to legalize two- and three-digit lotteries.

The politically motivated case has attracted a lot of media interest and online commentary. By contrast, the judgment this August of a court in Burma—also in a two-digit lottery case against three people who should never have been brought to trial—has not had any coverage at all.

The defendants in the latter case were not Bangkok bigwigs, but rural teenage girls. And unlike the group of accused who are in the news, they were not given suspended sentences but were immediately sent to prison for a period of one year with hard labor.

The two- and three-digit lottery is at least as popular in Burma as it is in Thailand, perhaps more so. It suits people with little disposable income. They can gamble small amounts on a small series of numbers. It also suits them that the digits are taken from the state lottery of Thailand, which is more trusted than their domestic equivalent.

The lottery is technically illegal, but in most places is played openly. Vendors sit in teashops and at roadside stalls with stubs of coupons and exercise books recording transactions. They stroll through marketplaces taking daily orders from shop holders and regular clients. Monks, soldiers, housewives and taxi drivers all play.

Dealers and their employees are easy targets for police looking to fill quotas. In fact, anyone is an easy target. The police only need to plant a few ticket stubs and a handful of cash and they have all the evidence they need. As the accused are usually poor, unfamiliar with the law and unable to afford lawyers, they get convicted and the police get the numbers for their crime control reports.

So it was that some officers this February came to the house of Daw Aye Myint in Daik U, northeast of Rangoon, and accused her and six people they found inside at the time of running a lottery. She and the others denied it, later telling the court that the police had fabricated the case and that they had signed documents out of fear.

Of the seven, four were teenage girls. Under the Child Law, which the government passed in 1993 in an attempt to comply with the UN Convention on the Rights of the Child, anyone under 16 must be tried as a juvenile.

When the police processed the case, they recorded the age of only one of the girls as less than 16. The others they said were aged either 16 or 17. But the girls' school records show that they are minors and that they should never have been held in custody as adults, let alone brought to trial in a regular court and then sentenced to prison.

The prosecutor and judge were both aware of these facts, but they went ahead with the case anyway, even though they have a special responsibility to confirm the ages of young people brought before them.

Where there is uncertainty over a young person's date of birth, the court has a duty to delay hearings long enough to get all the evidence it needs to make sure that it is not dealing with a minor, and if it is, to have that person transferred to a juvenile court.

In some cases this can prove difficult and judges skip the requirement. For instance, there are cases of children following the 2008 cyclone whose documents were washed away along with their houses and village offices. Defense lawyers for these kids have had to make requests to the courts that their clients be examined medically and dentally so as to estimate their ages.

In the Daik U case there was no such difficulty. All the judge had to do was to postpone it long enough to allow for both sides to bring more documents on the ages of the girls, and if necessary, verify these with the concerned officials. He didn't do this and today the three--Sanda Win, Amy Htun and Thuza Khaing—are behind bars.

To add insult to injury, two of them had to pay for the costs of their transfer to prison, including the meals of their police escorts.

The Child Law authorizes the social welfare minister to order the release of any child detained in Burma, no strings attached. This case needs to be reopened so that the correct ages of the girls are ascertained and the minister can make the order at once.

Aside from that, the law itself obviously needs to be changed so that the 16 and 17-year-old category is removed and anyone under the age of 18 is classified and treated as a juvenile.

This is a point that the UN Committee on the Rights of the Child has already made firmly and repeatedly, most recently in its concluding remarks on Burma in 2004. The government has since not given any sign that it intends to amend the law. Until it does, an unknown number of children like Sanda Win and her friends will languish in adult prisons, most with their cases unknown and their stories unheard.

(Full details of this case are available on the Asian Human Rights Commission website: <http://www.ahrchk.net>)

This article was originally published in on 1 October 2009 for a column entitled Rule of Lords at http://www.upiasia.com/Human_Rights/. The author's work can also be found at <http://ratchasima.net>.