



In this second part of our Thailand Criminal Case Proceedings Series - Rights of a Defendant, we delve into the fundamental legal protections and procedural safeguards that are crucial in ensuring justice for defendants within the Thai criminal justice system.

Right of the arrested or detained person to notify or request the officer to notify a relative or trusted person of the arrest and place of detention at the earliest opportunity

Upon being arrested or detained, an individual has the right to notify or ask the arresting officer to notify a relative or a trusted person about their arrest and place of detention as soon as possible.¹ This right ensures that someone close to the individual in custody is aware of their situation. Prompt notification helps to avoid unnecessary distress from the detainee and his family or friends, and further allows the detainee's family or friends to quickly take any necessary actions, such as arranging legal assistance.

Right to meet and consult privately with a lawyer

When a person is arrested or detained, they have the right to talk to their lawyer in private.² This means that no one else, including police officers, can listen in on their conversation. Having privacy and being in the confidence of a lawyer is important because the individual must be able to understand their rights, the charges against them, and the legal process they are facing, without fearing repercussions of saying something that can potentially be harmful for their legal position.

Right to have a lawyer or trusted person present during questioning

During questioning by the authorities, a detainee has the right to have their lawyer with them.³ The lawyer's role at the questioning is to provide legal advice, protect the detainee's rights, and to ensure that the authorities' questioning is fair and lawful. With the lawyer's presence, it may be a deterrence for the authorities from overstepping their bounds and abusing the authority in questioning. If the detainee does

¹ Criminal Procedure Code, Section 7/1, first paragraph

² Criminal Procedure Code, Section 7/1(1)

³ Criminal Procedure Code, Section 7/1(2)

not have a lawyer or wish to have one present at questioning, they can instead ask for a trusted person, such as a family member or a friend, to be there during questioning. Having a trusted person there with the detainee at the questioning can at least provide some support for what is usually an emotional and stressful time for the detainee and ensure that the detainee does not feel pressured or coerced.

Right to have the opportunity to refute charges and present facts beneficial to oneself during the investigation

This right allows the accused to challenge the allegations made against them.⁴ They can provide evidence, witness testimony, or any other relevant information that disputes the charges and support their defense. Only by presenting and considering the contradicting facts and the accused's perspective, the prosecution's case can be critically examined. The types of evidence the accused can provide include alibis, exculpatory evidence, or any context that may explain the facts of the case in a different light. By allowing the accused to participate actively in the investigation, this right helps to ensure that the investigation is thorough and unbiased. Furthermore, this right prevents one-sided narratives and encourages a more balanced view of the case. Often, this right is exercised with the assistance of a legal counsel, who can help the accused gather and present evidence effectively, ensuring that their defense is robust and well structured.

Right to remain silent during the investigation

If the accused chooses to make a statement during the investigation, that statement can be used as evidence in court.⁵ Therefore, it is important for individuals to understand the potential consequences of making any statement during investigation, whether as a response to questioning, or as an unsolicited statement. It is of utmost importance for the accused to understand that he/she is entitled to the right to remain silent and that he/she is not obliged to answer questions or make any statements. This right is crucial because it protects individuals from being forced to provide evidence or testimony that could be used against them in a criminal case. It also helps to ensure that any statement made by the accused is voluntary and not the result of coercion or pressure.

Conclusion

The rights of a defendants in Thailand are meticulously designed to ensure justice and fairness throughout the legal process.

This article is a part of a short series on the Considerations of Criminal Proceedings in Thailand, where we explore key elements for a successful trial strategy. To view the first part of our Thailand Criminal Case Proceedings Series - Rights of a Defendant, please click [here](#).

⁴ Criminal Procedure Code, Section 134, fourth paragraph

⁵ Criminal Procedure Code, Section 134/4(1)

Further information

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