

## Thailand: The mysteries of the law

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The role of money in Thailand's judicial system is a subject that has been little studied. One exception was a large national survey of corruption, conducted about a decade ago, which had a short section about court cases. This survey found that in around one third of cases, money changed hands. The pattern of who paid what to whom was very varied. At one extreme, there were agents or fixers who were paid a lump sum which they then distributed around to various people involved in the case to get the desired result. The respondents to the survey who admitted making these payments reported that they were generally happy with the result. In short, money seemed to work.

One other aspect of this survey was interesting. The corporate bodies of the judicial service and legal profession applied some pressure to ensure the results were not splashed in the public media. That's not a big surprise. The judicial system relies for its legitimacy on a belief that the system delivers results which are just. The foundations of the judicial system in Thailand are not so strong, so those involved need to protect their image.

This judicial process has now been dragged into the political spotlight. In the last few days, all but one of the main political stories carried by the press have been partly about a court proceedings. On the day of writing, the main political page in two English and one Thai dailies mention a total of fifteen different court suits. This would not have been the case a year ago. It probably is not the case in any other country of the world.

This glare of political floodlighting is putting the judicial process under considerable strain. It's difficult to operate when it's not clear whether your task is to deliver justice or solve a political crisis. Any high-profile case now has three stages: a preamble of prediction by political journalists; the hearing and judgement itself; and a long post-mortem debate by warring teams of legal academics. Keen reporters no longer loiter around the houses of parliamentary faction heads, but huddle on the steps of the court houses.

The media glare brings matters to light. But the political world has a murkiness that can defy any amount of wattage. Nowhere is this better illustrated than in The Case of the Little Sweetener, the two million baht bribe encased in a confectionery box bound with duct tape, apparently delivered by Thaksin's legal team to officers of the court trying the Ratchada land deal case.

You might think that a lawyer caught red-handed delivering money to a court trying a major case against the lawyer's client ought to be a pretty straightforward matter to interpret. Nothing could be farther from the truth. From the start, this incident has been enveloped in mystery and murk.

To begin with, what could the money be for? In the defamation suits which have become part of the daily process of political competition, the starting price is half a billion baht. For the plaintiffs in the Ratchada suit, the value of the result is quite simply so large it is beyond computation. By comparison, two million is mere confetti. Was this a partial payment of some kind—either part of a series, or part of a wider distribution? It has been suggested that this was payment for some minor information concerning the case. When "gifts" are distributed to offices on a regular basis, often they are placed in a plain envelope or some similarly innocuous container.

Then there was the mystery and murk about what really happened and who was involved. In the first reports of the incidents, newspapers did not dare mention names. The culprits were only “the legal team of a certain ex-politician.” Only when the Supreme Court applied its procedure for contempt were the names of the lawyers and their client revealed. Even then, only one of the lawyers was paraded in full public view. The other one with a nice surname was shielded from the public gaze, and whisked into jail without the press apparently getting a single photo.

Next there was the mystery and murk about the likely consequences of this incident. The first lawyer initially seemed quite unconcerned about being caught in such a flagrant act. He sat through the contempt proceedings in apparently supreme confidence that he would escape retribution. The judgement, sending him to jail for six months, was a massive shock from which he took several days to recover. Even then, the second lawyer wriggled a bit, as if he still might get away. And a senior policeman seemed intent on squashing any assumption that there would be a strong case against the lawyers’ client. Why should he have done that? These mysteries hints at powerful forces working in the background.

The political career of Thaksin Shinawatra has many parallels with that of Alberto Fujimori who ruled Peru from 1990 to 2000. Both were outsiders to an old political establishment. Both became hugely popular populists. Both had utter contempt for parliament, law, and a free press. Both fell spectacularly. But there is one big difference between the two. Fujimori’s sidekick kept accounts of all his political pay-offs. After he fell these became available for analysis.

Fujimori paid off three groups: politicians, the media, and the judiciary. The politicians were the cheapest (per head) and easiest. The media took the largest amount of money and management time because Fujimori understood his fate was in the hands of public opinion. The judiciary fell in the middle. Unlike the parliamentarians and media-owners, most were not paid on a regular basis. Often judges could be intimidated in other ways, such as boosting or damaging their career prospects and public reputation. The money, estimated as averaging \$250,000 per month, was targeted in large amounts at a few influential judges, and at a few important court cases