

***Buddhism within the walls of Thai Juvenile Justice***

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From: Claudia Heinzemann and Erich Marks (Eds.):  
International Perspectives of Crime Prevention 9  
Contributions from the 10th Annual International Forum 2016  
within the German Congress on Crime Prevention  
Forum Verlag Godesberg GmbH 2017

978-3-942865-73-9 (Printausgabe)

978-3-942865-74-6 (eBook)

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## Buddhism within the walls of Thai Juvenile Justice

*Abstract:* This paper critically examines the application of Buddhist religious educational measures within the Thai juvenile justice system. The distinctive feature of Buddhist criminology is attention to the intellectual perceptions of the criminal mind. Buddhist criminology offers a distinct way of changing criminal attitudes. The main conclusion of this paper is that despite its value, the Buddhist treatment of the criminal mind has not yet found a careful and effective application within the walls of the Thai juvenile correction institutions. Most of the inmates encountered in a Thai juvenile correction institution did not display a radical change in their moral perceptions. They continued to look at the official justice system as oppressive and hostile. Quite contrary to the view of the Thai judges in their cases, the young offenders perceived their stay in the juvenile correction institution as a punishment rather than an educational measure. The whole justice system was viewed by the inmates as inhumane and mechanical, aimed at getting crime confessions as soon as possible and dealing with them in a machine-like manner.

This paper consists of four main parts. The first part outlines briefly the legal framework of the Thai juvenile criminal justice system. The second part describes the challenge of studying perceptions of juvenile offenders in a Thai institutional and cultural context. It also describes the method used by the author and found to be the most suitable to identify those perceptions. The third part contains a brief description of how researchers encountered juvenile offenders and their worldview in the Chiang Mai Juvenile Correction Institution. Finally, the paper describes the Buddhist educational methods used in the Thai juvenile justice system and their imperfections.

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- *Thai juvenile justice system*
- *The challenge of studying the perceptions of justice of juvenile offenders: finding the right method*
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## **Introduction**

This paper is a further reflection on the results of a field research project conducted by the author in the Chiang Mai Juvenile Correction Institution, Thailand together with a Thai law lecturer Boonchoo Na Pomphet in 2005 - 2007.<sup>2</sup> The researchers had intensive contact with Thai juvenile offenders, judges, youth rehabilitation workers, probation officers, correction institution officials, and the Buddhist monks involved in a rehabilitation work in order to understand their inner perceptions of criminal justice. Studying justice perceptions of a group of juvenile offenders was a priority. They were all convicted by Thai juvenile courts and sentenced to a period of detention in the Chiang Mai Juvenile Correction Institution. The research project was an attempt to examine the Thai juvenile justice system from inside; yet having presented the perceptions of juvenile offenders on the system of justice, it lacked a deeper analysis of those perceptions within their cultural context. The author continued to visit the same institution for a number of years afterwards as a volunteer teacher, gaining a better understanding of the system and the culture of the Thai juvenile criminal justice. This paper focuses not so much on the empirical data collected and published previously, as on the analysis of the Buddhist religious education in forming pro-social anti-delinquent perceptions among the inmates of a Thai juvenile correction institution.

Thai law in general and Thai law on juvenile criminal offences in particular bear the Western legal forms.<sup>3</sup> These forms, however, similar to a dress, cover the Eastern mind and the Eastern soul. Thai legal practice has a deeply penetrating Buddhist culture which has its own potential in working out a unique method of dealing with young offenders. The Buddhist culture is a very complex phenomenon. On its philosophical or spiritual level, the perceptions of mind were an object of attention from its very beginning. In the words of the Buddha: "The mind is the leader of its faculties

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<sup>2</sup> See: A. Shytov, B. Pomphet. *Thai Juvenile Delinquency Justice and Its Perception by Minor Offenders* (Chiang Mai University, 2007).

<sup>3</sup> Preedee Kasemsup, "Reception of Law in Thailand – A Buddhist Society" in: *Asian Indigenous Law*, Ed. By Masaji Chiba (Routledge, 1986), P.267, 289.

(dharma); the mind is swift; the mind is the ruler: if one has either spoken or acted with evil intent, he will experience suffering, as he whose head was cut off by a wheel. The mind is the leader of its faculties (dharma); the mind is swift; the mind is the ruler: if one has either spoken or acted with pure intent, he will find happiness (as surely) as one's shadow follows one's track."<sup>4</sup>

The peculiarity of the Buddhist concept of mind is that it is not the passions or desires or social conditions which in the end form the content of our intellectual perceptions. On the contrary, it is the intellectual perceptions (understanding) which give rise to certain desires and direct their flow in given social settings. It may be a surprise for many students of Western philosophy to see that a very similar idea has been reflected in the later writings of John Locke: "No man ever sets himself about anything but upon some view or other which serves him for a reason for what he does. And whatever faculties he employs, the understanding with such light as it has, well- or ill-informed, constantly leads, and by that light, true or false, all his operative powers are directed. The will itself, how absolute and uncontrollable soever it may be thought, never fails in its obedience to the dictates of understanding."<sup>5</sup> This view runs against the mainstream of modern criminology which presents the criminal mind as the product of social or biological forces.<sup>6</sup>

There is such a thing as Thai Buddhist criminology. It may not have found yet its clear academic articulation in the form of a book or an article.<sup>7</sup> It is, however, reflected in the practice, and is sometimes directing the course, of the Thai juvenile justice system. In Buddhist criminology, paying attention to the perceptions of young offenders is one of the primary conditions to achieving success in the desistance process among juvenile offenders along with addressing social and economic factors of crime.

<sup>4</sup> Dhammapada, 1.1-2, Udanavarga 31, 23-24. The authoritativeness and the antiquity of this text is certified by the fact that it is found in all major Buddhist canons: Pali, Sanskrit, Tibetan, and Chinese. Pali and Sanskrit texts can be found at: <http://www.ancient-buddhist-texts.net/Buddhist-Texts/C3-Comparative-Dhammapada/Comparative-Dhammapada.pdf> . English translations fail to communicate the beauty of this Buddhist piece of poetry.

manahpūrvaṅgamā dharmā  
manahśreṣṭhā manojavāḥ |  
manasā hi praduṣṭena  
bhāṣate vā karoti vā |  
tatas taṁ duḥkham anveti  
cakraṁ vā vahataḥ padam//  
manahpūrvaṅgamā dharmā  
manahśreṣṭhā manojavāḥ |  
manasā hi prasannena  
bhāṣate vā karoti vā |  
tatas taṁ sukham anveti  
cchāyā vā hy anugāminī

<sup>5</sup> John Locke, *The Conduct of the Understanding* (1703). Introduction.

<sup>6</sup> Yaling Yang et al., "Biosocial Bases of Antisocial Behaviour" in Matt DeLisi, Kevin M. Beaver (eds.) *Criminological Theory: A Life-Course Approach* (Jones & Bartlett Learning, 2011), p. 3.

<sup>7</sup> For an attempt to express it, see: Annop Choobamroong, *Buddhist Criminology: Ātyāwitthayā Nāo Phut* (Agricultural Cooperative Printing Office, 1997)

This paper has a much more modest task than attempting to present even in part the paradigm of a Buddhist approach in analysing and dealing with the perceptions of an offender. Buddhism is like an ocean, possessing an immense diversity of ideas and carrying contradictory currents of thoughts. It cannot be easily defined, and changes its colours depending on the context. It is an intuitive approach which defies precision and clarity. In this respect, this article is attempting simply to give a glimpse of how a Buddhist remedy to change the criminal mind struggles to find its way in the mechanics of the Thai juvenile justice system. More specifically, the paper presents the perceptions of Thai young offenders of the juvenile justice system within their Buddhist cultural background. This paper suffers from at least one inevitable weakness. The difficulty of studying perceptions is well expressed in the words of a great Russian poet:

“How can a heart expression find?  
 How should another know your mind?  
 Will he discern what quickens you?  
 A thought, once uttered, is untrue.  
 Dimmed is the fountainhead when stirred:  
 Drink at the source and speak no word.”<sup>8</sup>

### A Buddhist approach to the delinquent’s perceptions

The English word “perception” comes from a Latin word: “*perceptio*” which literally means “having a grasp of something”. The Buddhist concept of perception is more complex.<sup>9</sup> It is one of the key concepts of Buddhist phenomenology. In fact, there is not a single term in the Buddhist vocabulary which is analogous to “*perceptio*”. When one speaks about perception in Buddhist psychology, he may refer to *samjñā* (Pali: *sañña*),<sup>10</sup> or to *buddhi*,<sup>11</sup> or to a number of other terms.<sup>12</sup> All these terms, however, can be used to describe the perception of justice as a special individual and social experience.

<sup>8</sup> F. Tyutchev, *Silentium* (1830), transl. by Vladimir Nabokov. Russian text:

Как сердцу высказать себя?  
 Другому как понять тебя?  
 Поймет ли он, чем ты живешь?  
 Мысль изреченная есть ложь.  
 Взрывая, возмутишь ключи, –  
 Питайся ими – и молчи.

<sup>9</sup> Dan Lusthaus, *Buddhist Phenomenology* (Routledge, 2014), p. 96.

<sup>10</sup> Youxuan Wang, Wang Youxuan, *Buddhism and Deconstruction: Towards a Comparative Semiotics* (Routledge, 2014), p. 46. Frank Hoffman, Deegalle Mahinda, *Pali Buddhism* (Routledge, 2013), p.86.

<sup>11</sup> Charles Eliot, *Hinduism and Buddhism: An Historical Sketch* (Library of Alexandria, 1962)

<sup>12</sup> Jadunath Sinha, *Indian Psychology* (Routledge, 1934).

Consciously or unconsciously, every school of criminology pays attention to the perceptions of offenders. In the last century, perceptions were studied within social psychology with the view of the recipient of perceptions as a “passive subject”, rather than an active agent in the production of perceptions.<sup>13</sup> For a Buddhist criminologist, perceptions are the products of our mind, or at least, they are understood in terms similar to Malebranche’s theory of perception as a modification of mind (“*c’est une modification de mon esprit*”).<sup>14</sup>

There is another significant difference in the view of perceptions between a Western criminologist and a Buddhist criminologist. The former may study perception of criminal justice from a pragmatic point of view. A young offender who perceives justice in his own criminal case, is the one who has learnt a positive lesson. A juvenile who does not experience justice would be bitter and could carry negative attitudes towards the state and the society. Studying and changing the perceptions of an offender serves the wider goal of his reintegration into society. A Buddhist criminologist goes beyond the sociology of crime. For him, crime is the state of mind which is not necessarily conditioned by social factors.

There is a particularly significant difference between a Buddhist criminologist and a Western sociological criminologist. A vulgarized Western sociological view on deviant behaviour is well expressed by Friedrich Engels in his work *The Conditions of the Working Class in England*: “Immorality is fostered in every possible way by the conditions of working class life. The worker is poor; life has nothing to offer him; he is deprived of virtually all pleasures. Consequently he does not fear the penalties of the law. Why should he restrain his wicked impulses? Why should he leave the rich man in undisturbed possession of his property? Why should he not take at least a part of this property for himself? What reason has the worker for not stealing?”<sup>15</sup>

From a Marxist point of view, a Buddhist criminologist is a *Reactionist* who partakes, in the words of the Communist Manifesto, in “the holy shower of pious enthusiasm, the knightly ardour, the nostalgia of middle class,” against “the icy water of egoistical calculation”<sup>16</sup> of modern bourgeoisie law. It must be noted, however, that a Buddhist view of a Marxist criminologist is more tolerant. Indeed, the Engels’s thought quoted above, with its appeal to deprived pleasures and wicked impulses, may sound very

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<sup>13</sup> Jeff Ferrell, Clinton Sanders, *Cultural Criminology* (UPNE, 1995), p. 145.

<sup>14</sup> Nicolas Malebranche, *Entretiens sur la métaphysique et sur la religion, suivis d’extraits des entretiens sur la mort*, (1688) ix.

<sup>15</sup> An extract from an English translation is given in: David Greenberg (Ed.), *Crime in Capitalism: Reading in Marxist Criminology*, (Philadelphia: Temple University Press, 1993), p. 48.

<sup>16</sup> The German text runs as following: “Sie hat die heiligen Schauer der frommen Schwärmerei, der ritterlichen Begeisterung, der spießbürgerlichen Wehmut in dem eiskalten Wasser egoistischer Berechnung ertränkt.” Karl Marx, Friedrich Engels, *Manifest der Kommunistischen Partei*, 1847/1848. Published in: Karl Marx/Friedrich Engels - Werke. (Karl) Dietz Verlag, Berlin. Band 4, 6. Auflage 1972, S. 464-465.

Buddhist. The difference is that while Engels seems to justify poor delinquents under the present social conditions, a Buddhist criminologist offers them a remedy quite apart from an effort to change those conditions first. Even though the Buddhist criminological approach seems to differ from the Western approach, it can fit well into a legal framework based on Western laws.

### **Thai juvenile justice system**

Juvenile justice is more than a court system. The Thai juvenile justice system is as complex as anywhere in the world. Considering the scope of this paper, only a very brief description of it can be offered here. There are two important pieces of Thai legislation which define the juvenile delinquency justice process. These are *the Penal Code* and *the Statute on Establishing Juvenile and Family Court and the Process of Considering Juvenile and Family Cases*.<sup>17</sup> Both pieces of legislation are products which borrow Western legal forms. One can hardly find any traces of indigenous Buddhist culture in their text. *The Penal Code* was promulgated in 1956. As any penal code, it consists of general and specific provisions defining crimes and corresponding penalties. The second statute deals specifically with Thai juvenile courts. It was adopted in 1991.<sup>18</sup> This is not the first law establishing a special court for juvenile cases in the history of Thai law. The history of Thai juvenile courts can be traced back to 1951.<sup>19</sup> The importance of the second piece of legislation consists in the procedural rules which complete and amend the rules of the Thai Criminal Procedure Code in relation to juvenile cases. The new statute took into account the changes brought by the UN Convention on the Rights of the Child (1989).

One of the important provisions of the Convention in relation to juvenile delinquency is the recommendation that all criminal cases must be heard and adjudicated by a specialized juvenile court or tribunal.<sup>20</sup> Section 11 of the 1991 Statute meets this requirement by defining the jurisdiction of the special court established by the same act. The distinctive characteristic of this jurisdiction is that the court decides not only all criminal cases involving juveniles, but also family law cases in the meaning of Thai Civil and Commercial Code.

Before juvenile offenders face court proceedings, they are sent to so-called “Juvenile Observation and Protection Centres.”<sup>21</sup> Their most important role, apart from pre-trial detention, is providing courts with detailed information about juvenile defendants, as

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<sup>17</sup> Further referred as the Statute on the Establishment of Juvenile Court 1991.

<sup>18</sup> Thai text of the Act can be found at: <http://www.tak-ju.ago.go.th/images/download/law2.pdf>

<sup>19</sup> Duangporn Ukris, “Juvenile Justice System in Thailand”, (2008) UN Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, 118th International Training Course, Resource Material Serious, No. 59., p. 234. [http://www.unafei.or.jp/english/pdf/RS\\_No59/No59\\_22PA\\_Ukris.pdf](http://www.unafei.or.jp/english/pdf/RS_No59/No59_22PA_Ukris.pdf)

<sup>20</sup> UN Convention on the Rights of the Child (1989), Article 40 (3).

<sup>21</sup> Statute on the Establishment of Juvenile Court 1991 Part 3

well as recommendations on the best measures to be applied. The report is submitted to the court, which normally follows the advice of the Centre. In other words, unlike adult cases, a juvenile offender is interrogated not only by an investigation officer, but also, sometimes, by more than one official from a Juvenile Observation and Protection Centre. Further, the Centres have the additional task to educate the juveniles put under their care which can, according to law,<sup>22</sup> stretch beyond the pre-trial and trial periods.

Thus, the Juvenile Observation and Protection Centre is supposed to combine pre-trial and post-trial education, including corrective measures. In practice, there is very little involvement of the centre in the post-trial work. After the court proceedings, the juveniles are either released from the centre or are sent to a juvenile correction institution (sometimes called training centres).<sup>23</sup> In the past, these correction institutions were more closely associated with Juvenile Observation and Protection Centres than nowadays. Thailand does not have juvenile prisons as such, therefore sending an offender to a juvenile correction institution is the severest form of sanction carried out by a juvenile court. This institution performs the functions of correcting and educating young offenders who are kept in their custody.

In many respects, Thai criminal courts are not different from courts anywhere else. When offenders face a judge in court, they encounter the standard of justice embodied in the judge. The task of the judge is not only to find out whether the defendant has committed an offence, and if so, whether he must be punished or not; his task is also to condemn crime and the offender.<sup>24</sup> At this point, the judge represents the conscience of the society. In adult cases, the condemnation is based on the fact that the act of the offender violates the standards imposed by society and protected by the means of criminal law. Juvenile cases are different, since the judge has a much more difficult task than merely condemning the offender. The judge has also to determine, among other things, the suitable educational measures to be applied to the youth.<sup>25</sup> It is not enough for him to say that this is the law and, since the defendant broke it, he must bear responsibility.

In other words, one of the tasks of the juvenile justice system is the education of the offenders. The origin of the word *education* lies in the Latin word: *educere* which literally means *to lead out*. One has to lead the offender out to a state in which the offender gives up his criminal inclinations and accepts a way of living which conforms to the social standards protected by the means of criminal law. The Thai word for education: “*kārśikṣā*” comes from the Sanskrit term: “*śikṣā*”, which has some noteworthy

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<sup>22</sup> Statute on the Establishment of Juvenile Court 1991 Section 40

<sup>23</sup> Statute on the Establishment of Juvenile Court 1991 Section 54

<sup>24</sup> Jenny McEwan, “Ritual, Fairness and Truth: The Adversarial and Inquisitorial Models of Criminal Trial” in Anthony Duff et al., (eds) *The Trial on Trial* (Hart Publishing, 2004), Vol. 1, p. 53.

<sup>25</sup> G Bazemore, M Umbreit, “Rethinking the sanctioning function in juvenile court: Retributive or restorative responses to youth crime”, *Crime & Delinquency*, (Sage, 1995) Vol. 49, No 3, p. 300. For Thai legal provisions see: the Statute on the Establishment of Juvenile Court 1991. Section 86.



philological differences from the Latin word. The original meaning of the Sanskrit word is “a desire to accomplish” or “helping”. It also embraces a variety of meanings including “implanting knowledge.” In comparison with its Latin counterpart, the Sanskrit word emphasizes the mind and knowledge rather than a type of behavior. That fits well into the framework of Buddhist education which aims (in the context of criminal justice) at implanting a certain degree of reason into the mind of the offender. In this aspect, Buddhist education is not unique. The great Czech educator, the father of modern education, Comenius, expressed brilliantly the same idea:

“Pariter et subditi illuminandi sunt, ut sapienter imperantibus parere prudenter noverint: non coacte, obsequiō asininō; sed lubentes, ordinis amore. Non enim clamoribus, carcere, fustibus, sed ratione, ducenda est rationalis creatura.”

“Similarly, those in subordinate positions should be educated (literally: “should be illuminated”) that they may know how to obey their superiors wisely and prudently, not under compulsion, with the obedience of an ass, but of their own free will and from love of order. For a rational creature should be led, not by shouts, imprisonment, and blows, but by reason.”<sup>26</sup>

On the surface, one would look in vain for the “illumination” techniques in the Thai juvenile justice system. The Thai formal system of juvenile justice is trying to borrow various tools from Western criminology. Those tools were historically developed from various sociological theories. Reading a number of confidential reports prepared by the Juvenile Observation and Protection Centres for Thai juvenile courts can easily give the impression that the Thai youth workers, judges, etc. perceive juvenile crime mainly in sociological “objective” terms: as the result of poverty, broken families, unemployment and so forth. A deeper interaction with the Thai juvenile system is necessary to discover the presence of a “subjective” and more intimate handling of offending youths which often takes Buddhist cultural forms. This way of handling, however, is not sufficiently experienced in institutional care. It is often inconsistent and is not applied regularly enough to fall within the scope of traditional criminology so preoccupied with statistical data.

The challenge of studying the perceptions of justice of juvenile offenders: finding the right method

The influence of a Buddhist formal or informal education on the mind of young offenders in particular, and indeed on all participants in the Thai juvenile justice process in general, is a difficult object of study. The problem is that there is not a single Buddhist

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<sup>26</sup> Ioannes Amos Comenius, *Didactica Magna* (1633–1638), I.VI. Original Latin text is available at: [http://www.uni-mannheim.de/mateo/camenaref/comenius/comenius1/p1/Comenius\\_opera\\_1.html](http://www.uni-mannheim.de/mateo/camenaref/comenius/comenius1/p1/Comenius_opera_1.html) English translation is at: <http://studentzone.roehampton.ac.uk/library/digital-collection/froebel-archive/great-didactic/Chapter%206.pdf>

system of education. Buddhist education is a flow of communication of certain goals, attitudes, and values. This flow is not often logically structured. The first step is to start with the existing perceptions of juvenile offenders related to crime and criminal justice. In many respects, those perceptions will differ from person to person. The task is therefore to discover a deeper common cultural ground shared by Thai youth. This ground consists of certain beliefs, views, attitudes, etc., which are already shared in various degrees by Thai youth. We may call them Buddhist values if they reflect Buddhist teaching. The second step is to examine how Buddhist values are reaffirmed by the practices of the Thai juvenile justice system.

Understanding the perceptions of offenders of criminal justice requires a set of sophisticated tools and methods. Social psychology has developed a number of general techniques to study perceptions of justice.<sup>27</sup> Those techniques, however, can be applied only to a limited extent when approaching the perceptions of juvenile offenders in a Thai correction institution setting. A researcher who brings a set of well-thought-through questionnaires to a Thai juvenile correction institution will find hardly any willingness of the inmates even to look at them. Some of the inmates have serious difficulties to read and understand Thai written texts. An oral interview will help little, as the interviewed are not usually willing to talk to a stranger. In order to access the perception of justice among juvenile offenders, there must therefore be a sincere *conversation* (the original Latin meaning of this English word is *turning around together*) between the researcher and the study group participants.

The most important condition for a serious conversation is building trust. Building trust requires time, effort, and most importantly, relationship. In order to enter into a relationship, it is vital for a researcher to have a meaningful place in the life of the young men detained in the correction institution. In this research project, the relationship was built through offering them English language classes as a part of their educational program. The relationship was built, and it was real. The indication of the genuine nature of the relationship might be seen in the fact that the researcher could not stop teaching even after the research data had been collected.

The goal of building a friendly close relationship with the convicted young men determined the choice of teaching techniques, the size of the class, and its location. The researchers met with the young men for a 1 or 2 hour class twice a week for a period of around six months. The group was limited to 12 persons, in order to make interaction effective. The teaching was conducted in an informal way to create openness and trust between the teachers (researchers) and the students (the convicted). Thanks to the cooperation of the director of the correction institution, a small comfortable room was

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<sup>27</sup> There is a vast literature within social psychology related to the study of perceptions. See for example: Cobb, A., Vest, M., Hills, F. (1997) "Who delivers justice? Source perceptions of procedural fairness." *Journal of Applied Social Psychology*, Vol. 27, Issue 12, 1021-1040.

provided to conduct the interaction. After a closer relationship had been established, informal interviews were conducted.

There were many young men in the institution who applied for the course. Since many of them had a rather short term of detention (less than 1 year remaining), the priority was given to those who had to stay longer, which tended to include students with the most difficult background and serious crimes (murder, rape, and repeat-offending). The researchers also tried to include students with different family and social backgrounds. During the selection process, access was given to personal data collected by the Juvenile Observation and Protection Centres.

A set of informal interviews with juvenile offenders was the most important part of the research, since their perceptions of justice were revealed in a direct and sincere way. Most interviews were conducted within a small group of 3 or 4 students following a common meal. There was not a set of prepared questions identical for each person. Rather, the inquiry was conducted in the way of an informal conversation. The questions put before them avoided talking about the students' specific crimes; rather, they were focused on their thoughts and feelings about judges, officials, and the whole system of criminal justice they had been through. The students were willing to talk about their feelings. The interviews gave the researchers insights into the inner mechanisms of the system, revealing some interesting facts which had never before come to the attention of persons conducting documentary studies. For example, the very common practice of Thai judges requesting offenders to make religious oaths to desist from crime was mentioned neither in the text of the written records of the cases, nor in the interviews with the judges conducted by the researcher.

The interviews, however, are not enough to reveal the perceptions of justice among juvenile offenders. The perceptions of justice are complex phenomena. One may assume certain concepts of justice without much reasoning. A person may hold certain views on justice without giving any verbal explanation or justification for them. Further, a juvenile offender can pay lip service to the ideas of justice simply because of the moral and social authority these ideas bear. On the intellectual level, he may agree with the reason, that a person who committed a crime should face the consequences of it. But this reason can be "drowned" in the abyss of anger, frustration, and hatred towards the world around.

There can also be conflicting perceptions within the same person. He may try to find a justification or at least an excuse for his crime. Thus, the interviews may not reveal the true or complete state of those perceptions. Indeed, the interviewed can claim justice where they know there was none, and otherwise claim no justice even though they believe within themselves that justice has been rendered. Finally, the linguistic concepts of justice can mean different things for different people.

These difficulties may prevent getting adequate information concerning the complex interrelationship between the perceptions of justice by juvenile offenders and the juvenile justice system itself. In order to understand the meaning communicated during the interviews, the researcher must place it within the general moral worldview of the interviewed. In other words, an interview based on trusted relationship is not enough. The researcher must have an understanding of the moral views of the juvenile offenders. Indeed, each person is like a text with its own narrative requiring from a reader some hermeneutical skills to construct its meaning.<sup>28</sup> To meet this need, English language classes were structured in such a way as to help the researchers to access the moral worldviews of the students.

Thus, it is not enough to ask the young offenders about what they think about the justice process. It is necessary to also look at the whole environment they were brought up in, particularly their intellectual environment, since justice is an intellectual concept. This concept does not stand alone. It is closely related to the general worldview of the juveniles, particularly their religious beliefs understood in the broad meaning as their beliefs concerning the existential questions of human life. In other words, a researcher must look at the whole moral context in which the juvenile perception of justice is formed.

### **Encountering juvenile offenders and their worldview**

Many inmates of the Chiang Mai Correction Institution were applying to study English. As a result, the researchers had a unique opportunity with access to almost a hundred confidential reports prepared by the Juvenile Observation and Protection Centres for Thai juvenile courts. All these reports had a similar structure. The report drew a profile of the juvenile offenders outlining several characteristics.

The first characteristic was the offender's previous criminal record. Most of the offenders who had volunteered to learn the English language were recidivists. This agreed with the information provided by the interviewed judges who said that they normally did not send an offender to a juvenile correction institution if the offender had committed an offence for the first time. In fact, some judges affirmed that they were prepared to release an offender on probation even if the offender had committed up to three offences. Thus, the majority of the offenders who applied for the course were persistent recidivists. There were, however, exceptions. A few young men had committed very serious crimes for the first time, but because of the gravity of the crimes, they were judged by the judges as deserving a term of detention in the correction institution. Interviewed judges confessed that the main reason for sending offenders to the correction institution is a lack of effective parental control. Were such a control in place, the judges would not send young convicts to the correction institution.

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<sup>28</sup> On hermeneutics see: Palmer R. *Hermeneutics* (Northwestern University Press, 1969). Gadamer, H-G. *Wahrheit und Methode*. (Tuebingen: Mohr, 1993)

The second distinctive characteristic dealt with the circumstances of the crimes. Almost all of the reports emphasized that the offences were committed in a group. Some of the offenders acknowledged that they committed crimes because their friends did so. It is difficult to draw a general conclusion about whether all juvenile delinquency in Thailand possesses this same characteristic (although the interviews with the judges would support this conclusion). Nevertheless, it is clear that bad company contributes to repeated offending, and that the previous probation measures which usually involved general prohibitions on association with bad company did not work in the present cases.

Some reports went beyond a simple reference to the group influence as an explanation of delinquent behaviour. They explained this behaviour in terms of moral degradation. An example would be the case of one offender taught by the researchers. This young man committed crimes both in a group and individually when he was only 14 years old. At one point, he, being drunk and armed with a knife, caused serious injuries to another person. He committed this crime together with his friends. On other occasions, it was also reported that the boy stole money from his mother.<sup>29</sup> This latter type of delinquent behaviour rarely reaches the police or the courts unlike the crimes committed in a group, which are the most notable and dangerous.

The third distinctive characteristic highlighted in the reports was a common reference to family problems. Many offenders came from broken families. As with the issue of group behaviour, the reports did not necessarily imply that this is the major cause of offending in every juvenile delinquency case, although in the cases of the applicants, the lack of parental care and love was often referred to as the cause. This part of the report served as the basis for the judicial policy of Thai judges to detain offenders for longer periods who do not have parents able to control them.

The fourth distinctive characteristic of the applicants was their addiction to drugs or alcohol. The link between crime and addiction to intoxicants and being forsaken or neglected by parents appears clearly in many reports submitted by the juvenile correction institution to the juvenile court.<sup>30</sup>

Fifthly, the reports described most of the defendants who were sent to the juvenile correction institution as having educational problems. Many of them either did not study at all, or had serious difficulties in their schools. Some offenders went through intelligence tests in the juvenile correction institution and were reported to have poor concentration.<sup>31</sup> When the researchers taught English, there was a significant difference in learning capabilities between the juveniles. Some of them had an excellent memory, but others had a surprisingly poor ability to remember even simple expressions.

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<sup>29</sup> Lampang Juvenile Court. 29,30/2548.

<sup>30</sup> A typical example is the report submitted to Lamphun Juvenile Court. 103/2548.

<sup>31</sup> Chiang Mai Juvenile Court. 356/2548.

Only at the end did the reports pay attention to the state of mind of the offenders. The reports submitted to the juvenile court characterized many offenders as having a strong will or being capricious. They described the offenders as having strong desires and often being unable to control their temper. This final part of the reports, however, lacked details. For example, in one case, the report simply mentioned that an offender had an unusually strong attraction to a woman.<sup>32</sup> In many other cases, the passionate nature of the offenders' personality and the inability to control themselves was simply explained by the addiction to alcohol, drugs, or gambling. Many reports mentioned that the minors were addicted to computer games without analysing their state of mind.

Most offenders whom the researchers met had had exposure to a Buddhist education. From the reports prepared for the juvenile courts, one could see that a number of offenders had lived in Buddhist temples for some time as novices before committing crimes. For one of the selected offenders, the life in a Buddhist temple was "coloured" with drugs, alcohol, and computer games. This addiction caused him to commit acts of theft many times.<sup>33</sup> Another novice, who was also addicted to alcohol, committed an act of murder, killing a stranger with whom he had a quarrel while drunk.<sup>34</sup> These reports provided a grim image of Buddhist temples which failed to be places of virtue and education.<sup>35</sup>

One case of murder was particularly shocking.<sup>36</sup> One applicant for the English language course conducted by the researchers was involved in a murder of a monk within the walls of a Buddhist temple. The murdered monk was a practicing homosexual who was killed because he did not pay for the sex offered by the applicant. His homosexual activities were known to other monks of the temple. It was surprising to see that no disciplinary action had been taken against that monk which could have prevented the murder. It was regrettable to observe that the educational potential which Buddhist temples could offer to juveniles has been largely neglected, if not misused. Most of the young offenders grew up in a sort of moral vacuum without seeing or knowing anyone of a high moral character whom they could take as a model for their lives. What they saw in the Buddhist temples was moral hypocrisy.

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<sup>32</sup> Lampang Juvenile Court. 6/2548.

<sup>33</sup> Chiang Mai Juvenile Court. 457/2548.

<sup>34</sup> Chiang Mai Juvenile Court. 356/2548.

<sup>35</sup> For some interesting facts of alcohol abuse among former monks see: Sawitri Assanangkornchai et al., (2002) "Religious Beliefs and Practice, and Alcohol Use in Thai Men", *Alcohol and Alcoholism*, Vol. 37, No. 2, pp. 193-197. <http://alcalc.oxfordjournals.org/content/alcalc/37/2/193.full.pdf> Amy Proskow, "Trading Sex for Karma in Thailand: An Analysis of the Reciprocal Relationship Between Buddhist Monastics and Thai Prostitutes", Honors Theses, Western Michigan University, 4-23-2002, [http://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=2905&context=honors\\_theses](http://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=2905&context=honors_theses)

<sup>36</sup> Lamphun Juvenile Court. 14/2548.

To understand the perceptions of rebellious youth, one does not need to go to a juvenile prison. The interviews with a hundred youth when selecting a study group showed a remarkable similarity in world view and interests between the boys within the justice system and Thai youth in general. Among their interests, reading books was not a priority. If they read any books, it would be cartoon books about war, adventure or love affairs. They did read newspapers, but mainly the sections about entertainment and sports.

This limited interest in reading, however, cannot compete with the habit of watching TV. While visiting frequently in the juvenile correction institution, the researchers observed that the detainees spent most of their leisure time sleeping and watching TV entertainment programs, while no one was ever seen reading a book. Their moral worldview is largely influenced by movies which contain a strong element of violence. During the selection process for the English course, the applicants were asked about their heroes. Most of them came from movies. Their heroes were distinguished by supernatural power in overcoming enemies, obtaining success, and being able to attract the love of beautiful women. Some of those heroes were criminal gang leaders. The ideal woman was always a sexually attractive movie star.

The music which the applicants liked the most was rock, and the content of the songs, as well as the way they were sung, appeared to be violent. It was a German philosopher Schopenhauer, an admirer of Buddhism, who noticed that music is the purest expression of the will. This is very similar to the Buddhist concept of: *tr̥ṣṇā* (Pali: *taṇhā*).<sup>37</sup> Schopenhauer wrote: “Music is thus by no means like the other arts, the copy of the Ideas, but the copy of the will itself, whose objectivity the Ideas are. This is why the effect of music is so much more powerful and penetrating than that of the other arts, for they speak only of shadows, but it speaks of the thing itself.”<sup>38</sup>

It seems that Thai Buddhism, on a theoretical level at least, neglects the educational potential of music.<sup>39</sup> It does not appear, however, that listening to music in itself runs against Buddhist moral principles.<sup>40</sup> Music expresses not only the desires of the person who plays or who enjoys listening to it, it also can communicate certain emotions and attitudes to the listeners. The music which was heard within the walls of the juvenile correction institution would be unlikely to communicate harmony and peace.

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<sup>37</sup> Padmasiri De Silva, *Buddhist and Freudian Psychology* (NUS Press, 1992), p. 186.

<sup>38</sup> Arthur Schopenhauer, *Die Welt als Wille und Vorstellung* (vermehrten und verbesserten Auflage, Leipzig: Brockhaus, 1859), Band 1, 3.52 3. German text: “Die Musik ist also keineswegs, gleich den andern Künsten, das Abbild der Ideen, sondern Abbild des Willens selbst, dessen Objektivität auch die Ideen sind: deshalb eben ist die Wirkung der Musik so sehr viel mächtiger und eindringlicher, als die der andern Künste: denn diese reden nur vom Schatten, sie aber vom Wesen.”

<sup>39</sup> Anguttara Nikaya 3.70

<sup>40</sup> Beth Szczepanski, *The Instrumental Music of Wutaishan's Buddhist Monasteries: Social and Ritual Contexts* (Ashgate, 2012).

The qualities which the juveniles wanted to possess were largely about external things such as a good looking appearance, the ability to attract women sexually, wealth, social position, etc. In this respect, the Thai young offenders who applied for the educational course were not different from other Thai youth. There is a great cultural change which has occurred among the young generation, which consists in the rise of materialism, consumerism and changes in sexual behaviour. Some youth that were interviewed sincerely acknowledged that sensual pleasure has become the major focus of their lives.

One could wonder why there seemed to be such an insignificant impact of the Buddhist worldview on the mind of the interviewed young offenders. However, the influence of Buddhist ethics was sometimes apparent. When the applicants were asked what they liked the most and hated the most, a common answer was that they liked personal goodness, universal love (Buddhist word *mettā*<sup>41</sup>) and kindness. The things which they hated were the lack of freedom, the juvenile correction institution, betrayal and deceit. When asked who were the best people in human history, the applicants pointed at the Thai King Tak-sin who gave Thailand independence from Burma in the XVIII<sup>th</sup> century, or some other figures of Thai history who helped to preserve the independence of the Thai nation. When asked to comment on the worst people in human history, the juveniles pointed at a former king of Burma or the present-day Thai politicians who are greedy for power and money.

Even though many of the offenders who applied for the course had committed terrible crimes such as murder, rape, and robbery with the use of weapons, all appeared very human and shared characteristics common to ordinary Thai boys. They wanted to be good and to avoid evil. They did not like crime, and longed for freedom and a normal life of having things the majority of people want to have: money, a car, and a beautiful girlfriend. They had all had strong desires and very little opportunity to satisfy those desires without committing crimes. At the same time, they were all carrying the marks of the failure of moral education. They seemed to lack meaning in life, or that meaning had been reduced to sensual pleasures and fun, the chase after which led them to crime and punishment.

### **Discovering perceptions of justice of juvenile delinquents**

The perceptions of justice of juvenile delinquents were discovered largely by two means. The first was offering them a set of stories as a part of teaching the English language. The second means were informal interviews after the course had been completed.

During the language class, several stories in English were offered to the students with the purpose of discussing them. All stories were read or told in English language, after which translations were made. Some key English words and simple grammar

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<sup>41</sup> Sangharakshita, *Living with Kindness: The Buddha's Teaching on Mettā* (Windhorse Publications, 2004)



structures were explained, and then as soon as juveniles understood the story, a type of game was offered to them which involved a moral question they had to answer. Most of the answers were given in Thai. Some stories were taken from folktales influenced by Buddhist philosophy,<sup>42</sup> and some were taken from the Bible.<sup>43</sup> Some stories were taken from the history of England with the view that such stories would be interesting for the students.<sup>44</sup> The selection of stories was determined, first of all, by the fact that these stories contain the fundamental questions about the nature of crime, punishment, justice and mercy. Reading these stories was accompanied by discussions which helped the researchers to see more clearly what the students thought of those existential problems so close to their own life and experience. The stories were also chosen for educative purposes, since it was the fundamental principle of the research that the researchers must strive not only to understand the juveniles, but also to help them to see the meaning of what happened to them and to see some hope for their future. All stories contained an element of rehabilitation. The Biblical stories plus the story of John Howard contained a distinctly Christian concept of justice, and it was interesting for the researchers to see how these concepts relate to the Thai cultural experience.

From reading and discussing the stories, several conclusions can be drawn. The first is the perception of justice differed from student to student. The moral response to the stories was often not the same.<sup>45</sup> Nevertheless, all juvenile offenders expressed a strong support for the idea of forgiveness. The idea of forgiveness is present in Thai Buddhism as well as in the Christian thought.<sup>46</sup> It plays, however, different roles. In Thai Buddhism, the centre of forgiveness lies in the enlightened heart of the individual. Forgiveness is important for the individual to break the wheel of suffering.<sup>47</sup> Forgiveness itself does not free an offender from the consequence of karma.<sup>48</sup> This view may not be completely shared in Mahayana Buddhism, but there is some evidence that a cultural Buddhist is less willing to forgive than a Christian.<sup>49</sup> In contrast, for Christians, forgiveness is centred in God who is able to remove the consequences of

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<sup>42</sup> Folktales were taken from a Thai book: Wichian Getpratrum (Ed). *Nithaanphynbaan* (Bangkok: Samnak-phimpattanaasygsaa, 2000). For a brief description of their content, see: A. Shytov. *Thai Folktales and Law*. (Acts, 2004)

<sup>43</sup> The story of an adulteress woman. *John's Gospel*, Chapter 8. The story of the prodigal son. *Luke's Gospel*, Chapter 15, verses 11-30.

<sup>44</sup> Story of John Howard. For more details see: Dixon, W. *John Howard, and the Prison-world of Europe* (F. Charlton, 1852).

<sup>45</sup> For details see: A. Shytov, B. Pomphet, *Thai Juvenile Delinquency Justice and Its Perception by Minor Offenders* (Chiang Mai University, 2007), Ch. 12, pp. 143-153.

<sup>46</sup> Noah Levine, *The Heart of the Revolution: The Buddha's Radical Teachings of Forgiveness, Compassion, and Kindness* (Harper Collins, 2011)

<sup>47</sup> Dhammapada. 3-4. Udānavarga 14. 9-10.

<sup>48</sup> Lūang Suriyabongs, *Buddhism in Thailand* (Prae Bhitthaya, 1955), p. 17.

<sup>49</sup> Mark Leach, Stephanie Parazak, "Culture, Forgiveness, and Health" in Loren L. Toussaint, Everett L. Worthington, David R. Williams (eds), *Forgiveness and Health: Scientific Evidence and Theories Relating Forgiveness to Better Health* (Springer, 2015), p. 226.

the offence.<sup>50</sup> Forgiveness on the part of an individual follows as a grateful response to God's forgiveness. Interestingly enough, the Thai youth who took the course explicitly preferred the Christian idea of forgiveness rather than the Thai Buddhist one. All juvenile offenders agreed that a repentant offender must be spared and not punished. For them, the conflict between retributive justice and mercy should be reconciled by the fact of repentance. Only those who repent deserve pardon. They all accepted the Christian idea of repentance as *metanoia*: expressing regret and turning away from crime.

After several months of teaching English, meeting the offenders every week, having meals and informal conversations with them, the researchers eventually had personal private interviews with them. The time for the interviews came faster than the researchers planned because the policy of Thai juvenile courts at that time was to grant an early release to the offenders. However, the boys with whom the interviews were conducted,<sup>51</sup> were generally open and ready to talk. Most of the interviews were conducted in the juvenile correction institution. Some interviews took place in two Buddhist temples where the inmates were trained before their final release from the institution.

The interviewers first explained the purpose of the questions with the assurance that their answers would be kept confidential. The boys were told that the main purpose of the questions was to help judges in juvenile courts to better decide cases and to understand the accused better. For some of the boys who appeared ready to talk, the questions were put directly to them concerning what they thought about whether justice was done to them, and whether they experienced mercy in the Thai justice system. It must be noted here that the Thai concept of mercy – *mettā* is not identical to the English concept. It embraces the meanings of “loving-kindness, friendliness, goodwill, benevolence, fellowship, amity, concord, inoffensiveness and non-violence. The Pali commentators define *mettā* as a strong wish for the welfare and happiness of others (*parahita-parasukha-kamana*).”<sup>52</sup> Therefore, justice and mercy are not categories which are opposed to each other in their Thai linguistic, cultural and moral contexts.

Where the boys displayed some unwillingness to talk, more specific questions were asked first, such as how long they faced the judge in the courtroom, etc. The interviewed were usually uncomfortable to speak in the beginning, but as the interviews progressed, they opened their hearts and spoke more freely. The content of the questions pursued one final goal: to see whether a change in the moral perceptions of the young offenders had occurred. Such a change could be seen, particularly in the realization

<sup>50</sup> Psalm 32.1 (Septuagint Bible). (Psalm 31.1 in Masoretic Bible).

<sup>51</sup> For details see: A. Shytov, B. Pomphet, *Thai Juvenile Delinquency Justice and Its Perception by Minor Offenders* (Chiang Mai University, 2007), ch. 13.

<sup>52</sup> Acharya Buddhakkhita, *Mettā: The Philosophy and Practice of Universal Love* (Buddhist Publication Society, 1989).

that the lenient sentences they had received for their serious crimes were the result of a merciful attitude of the Thai society to minor offenders.

The questions were asked in English and then interpreted in the local dialect. Most of the boys answered in the local dialect. Much, however, was communicated in the way the boys spoke or reacted to the questions. The interviews were conducted informally without any recording devices. Only notes were made. These notes, however, cannot report all the words and the attitudes which the boys displayed.

The language characteristics were very important. The boys used informal Northern Thai expressions which carry a stronger sense than their English or official Thai interpretations can provide. Further, Thai languages and dialects themselves differ from the way the English language presents information. For example, when the juveniles spoke about the judges, it was not clear whether they spoke of the chief judge only or about the whole court, since the Thai language does not have a plural form of nouns. From the interviews, it became clear that the juveniles perceived the group of judges not as equals. They believed that the presiding professional judge made final decisions alone. Other judges recruited from the general public only gave their advice. This contradicts official legal texts which require an equal voice for all judges.<sup>53</sup> Thus, when perceiving justice, the juvenile offenders identified it with the presiding professional judge, while the lay judges appeared insignificant.

The interviews in the temple were interesting because the boys felt very comfortable to talk about their experiences since they were outside the correction institution and anticipating their final release. In the interviews within the juvenile correction institution, the boys were less revealing concerning their feelings. The information provided by the juveniles must be treated with a degree of caution. They were angry boys. In some matters, it was doubtful whether they gave an accurate assessment of what took place within the walls of criminal justice. However, one conclusion appeared clear: the goals of Buddhist educational measures were not achieved by the means of the juvenile court or juvenile correction institution. The offenders were indeed instilled with some sense of fear of punishment. None of them would like to go through the whole process again. Buddhist criminology emphasizes the inner transformation of mind. A true Buddhist abstains from crime because of good will to other beings.<sup>54</sup> Abstaining from crime because of the fear of punishment indicates the absence of the enlightenment.<sup>55</sup>

The whole judicial and correctional treatment was sensed by the offenders as oppression and punishment - very different perceptions of justice from those displayed by

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<sup>53</sup> Thai Statute on Establishment of Juvenile Court 1991, Section 24

<sup>54</sup> Dhammapada 368. Udānavarga 32.21.

<sup>55</sup> Dhammapada 39. Udānavarga 28.6.

the interviewed judges. The latter expressed the view that the juvenile correction institution is not a prison, that sentencing and treatment had been very mild and humane, and that the offenders were not punished but were re-educated. The interviewed juvenile offenders, however, had an opposite perception of what had happened to them in the court. Judges, according to their perception, are not teachers or educators. They are, according to the description of one student, “machines of inflicting punishment without any feeling or emotion.” Other descriptions are not less negative, some describing the judges as being angry and capricious.

Most Thai judges acknowledged that the Thai Buddhist ideas of mercy described above are very important to them in adjudicating the cases. One professional judge from the Lampun Juvenile Court was particularly active in incorporating Buddhist teachings in his dialogues (perhaps, rather monologues) in his courtroom. Thai judges believe that the whole Thai juvenile justice system is based on the principle of a mild and humane treatment of the offenders. Observing the conditions within the correction institution, one must agree that it looked more like a Thai school than a prison, except that it was surrounded by high walls and guards. The regime inside was very mild. Thus, there is a striking discrepancy in the perceptions of justice between the offenders and the judges. The reason for that might lie in the failure to rehabilitate many of the Thai offending youth. A few days after the release of the boys who took part in the class, some of them were again detained on the accusation of committing a new crime.<sup>56</sup>

The rate of reoffending among the former inmates of Thai juvenile correction institutions is difficult to assess precisely. One reason is that many of the reoffending inmates are detained within the institution after reaching the age of adulthood. If they commit an offence after their release, they then enter the criminal justice process for adults. No figures, apart from general rough estimates, are available.<sup>57</sup> “In Thailand, approximately 26.8 million of Thai children and youths are more than one quarter of the Thai population. Nearly 1% of these groups are juvenile delinquents; characteristically, more than 12% of the incarcerated juveniles committed repeated mistake[s] or recidivism; therefore, an indicator of [the] recidivism rate of Thai juveniles is higher than the universal standard. Moreover, from 1996 to 2006, juvenile recidivism increased by approximately 1.6 times, and youth recidivism with violence increased by 4.7 times.”<sup>58</sup> This increase was statistically recorded up to 2013, when the general percen-

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<sup>56</sup> Many interviewed officials in the Chiang Mai Juvenile Correction Institution acknowledged a high rate of reoffending. For general trends in reoffending in Thailand see: Somphop Rujjanavet, “Improving the Reintegration of Offenders into the Community: The Current Situation of Thai Corrections” in (2008) *UN-AFEI*, 135<sup>th</sup> International Senior Seminar Participants’ Papers, No. 74, p. 142. [www.unafei.or.jp/english/pdf/RS\\_No74/No74\\_15PA\\_Rujjanavet.pdf](http://www.unafei.or.jp/english/pdf/RS_No74/No74_15PA_Rujjanavet.pdf)

<sup>57</sup> The statistics for adult prisoners provided by the Department of Corrections of the Kingdom of Thailand is rather unsatisfactory. See: [http://www.correct.go.th/stat102/display/select\\_date\\_user.php](http://www.correct.go.th/stat102/display/select_date_user.php)

<sup>58</sup> Pimpan Silpasuwan et al. (2011) “Violence Recidivism among Thai Juvenile Delinquents” *2 Asia Journal*

tage of youth recidivism reached 20.37 % of all youth offences. The year 2014 saw some decline to 17.52%.<sup>59</sup> These figures, however, do not show how many recidivists went through the rehabilitation process of the juvenile correction institutions.

### **Buddhist educational measures in Thai juvenile correction institutions**

The failure of the Thai juvenile correction institution to change moral attitudes among the detained offenders was apparent in the group interviewed by the researchers. Further contact with other juvenile offenders during a prolonged period of being a volunteer teacher in the Chiang Mai Juvenile Correction Institution confirms this conclusion. One reason for this failure is that the educational potential which Buddhism can offer, was and is still largely neglected.

There are two established Buddhist educational practices in the Chiang Mai Juvenile Correction Institution. The first one is the visits of monks to the inmates of the institution. These visits, however, are not regular, and the meetings with the monks are attended only by those who wish to attend. At the time of writing (February 2016), rather contradictory information had been received. An interviewed official stated that there are no regular visits of monks at all. Some inmates stated that a monk meets a small group of the inmates once a week. The number of inmates has been said to be not very big. One such a meeting has been observed. 60 to 70 inmates (out of 400) were attending. There is, however, a strong incentive to attend: the term of detention will be reduced for attendees. The monk taught the inmates to chant sacred mantras. The author thought that they were chanted in the Pali language, but the Thai law students assisting him in his visits thought the chanting was done in the honorific Thai language which is difficult for even Thai university students to comprehend.

Chanting mantras can have a beneficial impact on enlightening the mind depending on the content of the mantras and providing that it is clearly understood.<sup>60</sup> However, the most ancient Buddhist texts disapprove of the practice of reciting religious texts without “forsaking lust, hatred, and delusion,” and without “true wisdom and emancipating mind.”<sup>61</sup> Chanting sacred mantras is done simply as a magical act to bring about good luck, with the chanted words unintelligible to the speaker. Such a practice is common in other Buddhist countries and, according to Sir Charles Eliot, is a striking degeneration of original Buddhism.<sup>62</sup> In other words, the simple act of chanting in the juvenile correction institution without informing conscience by means of moral education is but an example of degeneration of the noble religion.

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*of Public Health*, No. 1, p. 14. Available at [http://www.asiaph.org/admin/img\\_topic/6394Recidivism.pdf](http://www.asiaph.org/admin/img_topic/6394Recidivism.pdf)

<sup>59</sup> The general statistics for juvenile delinquency is available at the website of the Department of Juvenile Protection and Observation of the Kingdom of Thailand: <http://www.djop.go.th/stat/year>

<sup>60</sup> Jack Kornfield, *Modern Buddhist Masters* (Buddhist Publication Society, 2007), p. 311.

<sup>61</sup> Dhammapada 19-20, Udanavarga 4. 22-23.

<sup>62</sup> Charles Eliot, *Hinduism and Buddhism* (Routledge, 1921), vol. 1, p. 12.

The second educational practice is organizing a week of living as a monk in a temple before final release from the detention centre. It is not uncommon for Thai males to become a monk even for a single day. They believe that such an act brings good karma. This training is normally conducted in a specially prepared Buddhist temple with specially trained Buddhist monks. One such temple is situated next to the Chiang Mai Juvenile Correction Institution. The researchers went to this temple to observe the training course offered by the monks and to interview them. The short training courses in Buddhist temples offered for the soon-to-be released offenders are mainly about meditation techniques and the skills to control one's temper. Meditation, however, is auxiliary in Buddhist teaching, which emphasizes certain intelligible truths to be the foundation of all aspects of living, including meditation. When the monks were asked whether they offered any moral lessons, the monks said that they taught about hell and karma, so as to inspire fear among young men and convince them not to commit crime.

Even though these two educational practices are not sufficient to accomplish a change of moral attitudes among juvenile offenders, a Thai Buddhist approach to criminology is popular among many Thai judges. The chief judge in Lamphun Provincial Juvenile Court, who is a committed Buddhist, shared with the researchers that some influential judges in Bangkok are trying to encourage judges in juvenile courts around the country to draw on the great educational tenets of Buddhism in choosing an appropriate court measure against juvenile offenders. It appeared that such measures remain rather superficial. The only measure widely used with Buddhist youth released on probation is a religious oath. An offender is asked to swear by sacred Buddhist places or objects like Doi Suthep Mountain in Chiang Mai, that he will abstain from a particular type of behaviour. Failure to comply would result in a curse. This measure again falls short of original Buddhist teaching. The effectiveness of this measure is dependant mainly on the fear of a curse, which contradicts the spirit of the Buddha's teaching which taught emancipation from all fear.<sup>63</sup>

The monks involved in the rehabilitation work shared with the researchers that the official Thai justice system uses religion insufficiently. They maintained that the offenders need a positive model, or an example of a good Buddhist person with a kind heart and a sense of mercy, a person whom they can trust. They believe that staying in a temple under the supervision of a spiritual guide is better than staying in the correction institution. The biggest problem in their opinion is the sense of alienation between the offenders on the one hand and the judges, correction institution officials, and probation officers on the other. In order to reform moral character, one needs interaction. They said: "Young offenders would not interact with the judge or police because of fear. They would not dare to talk to them. If there is no mutual understanding, there is enmity."

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<sup>63</sup> Dhammapada 39. Udānavarga 28.6.

Importantly, the monks themselves were sceptical about the educational potential of most temples in Thailand to become centres for rehabilitation work. The analysis of this problem far exceeds the scope of this paper. One can briefly mention only a few inherent defects in Thai Buddhism which prevent a fuller application of Buddhist criminology to juvenile cases. The first is that Buddhism in Thailand remains largely a matter of ceremonies which often incorporate more animistic superstitions than the great psychological insights of its founder.<sup>64</sup> The second defect has deep historical roots. Thai Buddhism considers the ethical requirements of the Buddha in their completeness as achievable only by a chosen few rather than by every person. This elitism of Thai Buddhism poses the critical question of whether this religion is of any significant use for the judges of the juvenile courts who are ordinary people, and for the juvenile offenders who are extraordinary in terms of the degree of their moral imperfection! In this respect, Chinese Buddhism appears more democratic.<sup>65</sup> One of the most influential Chinese texts, Platform Sutra, states that through reading Buddhist scriptures everybody, including monks and laity, are able to become like the Buddha.<sup>66</sup> This is done not through a magical chanting, but through a realization of the truth. Buddhist moral requirements can potentially be achieved by everybody.

Finally, making Thai young offenders become monks for a week is not only contrary to the original Buddhist idea of a monk completely renouncing the world, it is based on the prevailing superstition in Thai Buddhism about making merit (Thai word: *tambun*, Pali: *Puñña*). The karmic consequence of sinful or criminal behaviour can be outweighed by a merit-making activity which is narrowly understood as offering food to monks, making donations to a temple, or becoming a monk for a short period of time.<sup>67</sup> This narrow understanding of making merit is harmful to the work of reforming delinquent attitudes. In a sense, the Buddha called his followers to renounce merit as well as sin (*punyapāpaphiṇa*), and Thai Buddhism would definitely do better without this fallacious superstition.<sup>68</sup>

Despite these significant limitations, Buddhist criminology struggles along. At the time of writing this paper, I met a teacher in the Chiang Mai Juvenile Correction Institution who, almost 10 years ago, was himself an inmate after committing several

<sup>64</sup> Alexandra R. Kapur-Fic, *Thailand: Buddhism, Society, and Women* (Abhinav Publications, 1998), p.228.

<sup>65</sup> Carsten Ancker, *Religion and Democracy: A Worldwide Comparison* (Routledge, 2012), p. 68. A famous Chinese Buddhist poem “Xinxin ming” 信心铭 starts with famous words: 至道无难唯嫌拣择 which literally translated as “Entering the Way is not difficult, but one has to refuse partiality” (the Way is the same Chinese character Dao - the key concept used by Taoism and also used by Chinese Christians to translate “logos”.) For Chinese text and some not literal translation in English see: <http://www.sacred-texts.com/bud/zen/fm/fm.htm>

<sup>66</sup> Platform Sutra, I, 2: 大师常劝僧俗 · 但持金刚经 · 即自见性 · 直了成佛 ·

<sup>67</sup> J. A. Niels Mulder, *Monks, merit and motivation: an exploratory study of the social functions of Buddhism in Thailand in processes of guided social change* (Center for Southeast Asian Studies, Northern Illinois University, 1969), p. 13.

<sup>68</sup> Dhammapada 3.39.

crimes. He introduced himself as Aan. The process of his desistance is remarkable. He ascribed the changes in his life to his personal religious faith in the Buddha. After his release from the institution, Aan took his studies seriously and went into the agricultural school of Chiang Mai University. After graduating, he decided to apply for a position of teacher in the correction institution, motivated by his desire to help other boys give up on crime. Aan shared that the Buddhist educational measures are not sufficiently applied to the juvenile delinquents.

## Conclusion

There is a need for Buddhist criminology to play a greater part in reforming and rehabilitating juvenile offenders within the Thai criminal justice system. Anyone who has had an opportunity to observe the rehabilitation work both in the West and in Thailand is surprised at the insufficiency of educational measures applied to Thai juvenile offenders. The Thai juvenile justice system simply does not possess the same economic and educational infrastructure as many developed countries have. In this respect, drawing on traditional educational and religious mechanisms appears useful.

In order to apply Buddhist educational measures as a part of the rehabilitation work, there must be a deep reform of Thai Buddhism itself. In its present form, it suffers from the serious defects described above which prevent Thai youth workers and criminal justice officials to apply the Buddhist educational measures efficiently. The necessity of the reform becomes even more evident if one can consider the contribution that Thai criminology can give to the world. Buddhist psychology has an enormous cultural power which wields its force in Thailand despite multiple corruptions of the original Buddhist teaching. In the age of globalization, Buddhist ethics has become part of our human heritage.<sup>69</sup> Buddhist thought contains important insights and methods which can be used to understand and reform the criminal mind. These insights and methods can be used not only in a Buddhist country, but also in countries with Christian cultural traditions. The strength of Buddhist criminology lies in its attention to the necessity of changing the intellectual perceptions of the criminal mind. In comparison, the strength of Christian criminology is the attention given to the emotional experience of repentance.<sup>70</sup>

Developing Buddhist criminology which is open to other religious and cultural traditions will require further significant theoretical and practical work. This paper has attempted merely to present the actuality and the potentiality of Buddhist criminology within the Thai juvenile justice system. The main conclusion of this paper is that despite its wealth, a Buddhist treatment of the criminal mind has not yet found a careful and effective application within the walls of the Thai juvenile correction institution.

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<sup>69</sup> Edward Conze, *Buddhism: Its Essence and Development* (Courier Corporation, 2012), p. 11.

<sup>70</sup> Pierre Allard, Wayne Northey, "Christianity: the Rediscovery of Restorative Justice", in Michael L. Hadley (Ed.) *The Spiritual Roots of Restorative Justice* (SUNY Press, 2001), p. 138.



Most of the encountered inmates did not experience a radical change in their moral perceptions. They continued to look at the official justice system as oppressive and hostile. Despite lenient sanctions, they thought that mercy (in the Buddhist meaning described above) had not been shown to them. Contrary to the Thai judges' opinions of their cases, young offenders perceived their stay in the juvenile correction institution as a punishment rather than an educational measure. The whole justice system was seen as inhumane and mechanical, aimed at getting crime confessions as soon as possible and disposing of them in a machine-like manner.

Most of the young offenders admitted that they had committed the crime they were convicted of, and that they deserved some sort of punishment. These young offenders expressed a distinct perception of justice which embraces the ideas of mercy, compassion and forgiveness. They did not deny that an offender deserves punishment, yet they firmly believed that a real opportunity for repentance and turning away from crime must be provided. The Thai juvenile justice system, according to them, lacks sympathy and care. Almost every offender encountered within the walls of a Thai correction institution displayed willingness for righteous living.

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