Laws and Policies Research on ICTs and Child Protection

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Content

Executive Summary

During a review of general situation on ICTs in Thailand, it was found that (1) Thailand's ICT infrastructures growth resulted in easy access to connect to ICT networks; (2) Usages are more complex. Most websites are equipped with online social networks or Web 2.0; (3) Technologies are less expensive and more accessible through integrations of technologies, it is now easier to buy computer or smart phones that can be used to connect to the Internet; and (4) A strong conviction in freedom and virtual man beliefs. These resulted in the ICT usages that negatively affected other people and the phenomenon is growing more severe.

On situations on children and ICTs, it was found that there are both risks and opportunities in accessing and using ICTs. (1) Children may be benefited from creative use of ICTs or face risks from accessing contents not appropriate for their age ranges, accessing or receiving illegal contents. (2) Behaviorally, children may potentially developed either useful opportunity or harmful behaviors from accessing and using of negative ICTs. (3) Culturally, children may use ICTs to develop themselves and the society of face cultural risks from using ICTs.

Interms of laws and policies that will affect the use of children in ICTs system management. The laws can be categorized into three phrases. The first phase is **before children and youth will access the ICTs**. This phase requires three part of protection (1) Rating of appropriate content (2) Filtering software to block inappropriate content (3) Building knowledge bases for fundamental rules to use ICTs within the home, schools and game cafe and (4) Developing and building sources to access ICTs to be ICTs learning centers to children, youth and community members.

The second phase is **during the connection to ICTs**. This phase requires (1) Enforcing laws against illegal contents and misbehaviours (2) Developing children's private data protection in ICTs network (3) Developing creative cultures, particularly media awareness to children, youth and families.

The third phase is **after the access to ICTs.** This phase requires solution to internet or game addiction and addressing cultural problems. It should place more

emphasise to promotion of creative culture through activities and community support.

It was found that the laws and policies in Thailand, especially from the past place more emphasis on suppression measures, particularly the content suppression and misbehaviors that leads to crimes suppression. Later after 2007, Thailand place more emphasis on protection, such as developing media awareness program, protection systems through ICTs usage culture, media awareness education and protection. Evidently, it could be found from the establishment of (Draft) Safe and Creative Media Fund Act B.E. ...., 10th National Economic and Social Development Plan, 2020 ICTs Policies, 2000 National Education Act that established Technologies for Education Fund.

However, interms of legal development to suppress contents that threaten the Thai society, Thailand had drafted Violence Behaviour Instigation Materials B.E..., that allows the suppression of violators who are guilty of possession, distribution, sale and dissemination of child pornography.

Additionally, in terms of management, Thailand has many enforcement agencies under the law, namely the Police Headquarters, Ministry of ICTs, Ministry of Public Health, Ministry of Education, Ministry of Cultures and the Office of the Prime Minister. To integrate the related agencies, the policy sector, the academicians, the civil and private sectors together, the Safe and Creative Media Commission has been set up under the Office of the Prime Minister to create media management in middle and local levels.

Recommendation on children and ICTs are 1) Increase law enforcement capacities to impose the suppression of risk factors; 2) Emphasise the measures to promote creative cultures in the new media such as media awareness, develop correct values and beliefs on ICTs for selves, communities and social development; 3) Enforce laws and policies reform on protection and promotion of children in the ICTs.

On practical level, the Safe and Creative Media Commission, the center to coordinate among related agencies, should work together with other agencies on seven areas.

Suppression system Firstly, the ICTs' children complaint databases should be linked together. Secondly, conduct training to officials, law enforcement

officers, public attorneys and the court to be aware of complicate technology investigation procedures. Thirdly, impose administrative measures against Internet providers that violate the law.

Protection and promotion system Fourthly, support the establishment of ICTs for learning and social development centers to support knowledge transfer and creative culture in new media. Fifthly, create common awareness of ICTS and media usage in the society. Sixthly, support ICT content development for education and learning purposes to be used by youth, teacher and community members and support their participation in management.

Legal reform Seventhly, initiate the following laws and bring them to enforcement. (1) the (draft) Violence Behaviour Instigation Materials B.E..., which is under the legislative process and should be implemented at the first occasion; (2) (draft) Film and Video Act B.E.... on rating of computer games; (3) (draft) Personal Information protection Act B.E.... and the draft Guideline on personal information collected by the state under the 2001 Electronic Transaction Law that will contribute to children and youth's personal information protection that were collected and processed by agencies and websites. (4) (draft) Safe and Creative Media B.E.... and to push forwards to the works of the Technology for Education Fund under the 2000 National Education Fund to support media development, media receptors development, researches and develop channels for creative and systematic communication and dissemination.

(1)

Introduction

Situation of Children and ICTs

Since 1991, Thailand had know the Internet, the numbers of users has swelled from only 30 users to over 8 million users. Internet game companies reported there were 10 million people online game players. Over 8 million people were members of online social networks, among them, over 4 million are Facebook users. (Source: Online Wellbeing Program, Thaihealt Promotion Foundation)

Data from the National Telecommunication Commission, found that there are 40 million mobile phone users, additionally 12 people used their phones to access the Internet.[1]

An online survey of Internet users in 2008, by National Electronics and Computers Technologies (NECTEC), indicated that Thai online users started to write blogs and use social networks. However there were another concerns on sexual and pornographic contents. Among 14,809 survey respondents, 69.7 percent of users own a blog, indicating that blogging was gaining popularity. Top three reasons for blogging are research for data (49.1%), Journaling and essay (23.4%) and to show identities (18.1%).

Online activities involved sharing information, photos, video clips (59.1%), online tutoring (36.7%), seeking friendship (35.6%). Most popular websites are Hi5 (36.7%), Wikipedia (14.4%), Youtube (12.6%), Myspace (3.8%). The use of social media were at the rate of 3.5 times per a week or 26.5% of all survey respondents.

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[1] http://mashingup.wordpress.com/2010/07/14/

A synthesis of researches in Thailand[2] indicated that the situations of the creative media to promote education and learning among children, youth and families in various media such as television programs, radio programs, print media, computer games and websites, are rather insufficient t0 23 million newborn to 25 years-old population, which accounted for 1/3 of the overall population in Thailand. The media for these people were insufficient and most of the information were tainted with violence, sexually and verbally inappropriate content.

On average, the children and youth spent at least 8 hours with a media and 3-5 hours were spent on the Internet, 5.7 hours were spent watching television and only 39 minutes on reading. The children and youth spent time on the Internet six times more than that on reading. Popular activities on the Internet were data researching and following up with current information. it could be said that the youth read a lot on the Internet but not so much on printed books.

Content of educational ICTs such as computer games to promote learning and education accounted for children were less available to children, comparing to computer game played in thailand. Ninety percent of the game were imported from foreign countries. Most of them are suitable to 13 years old and above that involved fighting, violence, sexual related content and inappropriate language.

The ratio of educational and learning promotion websites were outnumbered comparing to, 12 per cent of population who access the Internet in Thailand. Among them, 42 per cent were children. A comparison of top 40 popular websites, rated by popularity of users, 52.4 per cent had inappropriate sexual contents and inappropriate language (Gray group) and 17.5 per cent are Black website, and were often related to pornographic content, vulgar language and extreme violence,

In terms of ICTs behaviors, Assumption University survey indicated that during 2007, over 80 per cent of children in urban and rural areas who used the Internet had conversation with strangers they never met before and conversation partners can access children's personal information such as email address, telephone numbers. Finally 60 per cent of the online encounter led to person to person meeting in the real world.

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[2] Ithipol Pritiprasong, Wilasinee Piphitkul and Khemporn Virunrapan, *Summary of suggestions for the establishment of the Safe and Creative Media Fund.* Bangkok, 2009. 50 pp.

A study by NECTEC also pointed out that in under 20 year-old population, the males frequently read and commented on online web boards, they less frequently follow the news, download musics, search for information, play online games, watch TVs online and write blog respectively.

The female teenagers spent most of time writing blogs, search for information, download TV series, online chatting, online window shopping, downloading softwares, online phones, website building and online studying, respectively.

The situation of Thai children and youth's ICT usages are growing tremendously. The situation can be best summarized as follows.(1) The technological growth and the growth in ICTs structure such as 3G result in easier access to ICTs (2) The growth of devices and gadgets to access the connection made the computers and mobile phones become much cheaper. (3) The growth of method of access from Web 1.0 to Web 2.0 and the soon to be Web 3.0 made the online social networks become more complicated. (4) The change of concepts to use ICTs as the area of freedom and virtual world that cannot identify any person, which result in increasing risks. (5) The growth of supporting systems, such as promotion of creative content, creative culture and media awareness. The small participation from the communities in management, resulted in many obstacle to utilize ICTs,

In order to develop the effective management systems, the law and policies that affected children's protection in ICTs should be inspected to examine their content and effectiveness of the management. Finally, this would bring the suggestion for effective management in the future.

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(2)

Fundamental Knowledge on Children's Protection in ICTs

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Before examining the law and policies related to children and youth protection in ICTs, it is important to consider the fundamental knowledge to categorized children and ICTs and the concepts of the Thai law and ICTs to clarify the picture of the overall picture of the study on the law and policies on children and ICTs in Thailand.

2.1   Concepts on categorization of children and ICTs

From the research on girls and ICTs: Risks and Opportunities,[3] there were three concepts of fundamental situations that induced risks or opportunities when using ICTs.

(1)   Access and consumption of information from ICTs. There are opportunities to learn from creative contents or risks from accessing inappropriate contents, according to the viewers' ages, accessing illegal contents.

1.1   Opportunities from accessing creative and constructive contents allow children to fulfill a learning processes in six aspects, namely systematic thinking, academic knowledge, moral and ethic to conduct their lives, live and social skills, coexistence in pluralism society, cultures and family relation.

1.2   Risks from accessing in appropriate content resulted in unconstructive learning such as violence, sexual inappropriateness, inappropriate language usage. Children and youth may access contents that were not appropriate to their ages and illegal contents such as pornography.

(2)   Mode of ICTs usage Children can beneficially used the ICTs or faced ricks from using or accessing negative contents in ICTs

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[3] Ithipol Pritiprasong, *Research and Development report of Girls and ICTs: Risks or opportunities*. Bangkok: Plan Thailand, 2010

2.1   Creative and constructive opportunities from using ICTs can develop skills to use ICTs tools, use ICTs ti seek for knowledge and develop communication and foreign langage skills

2.2   Risky behavior involved (1) Risks and consequences on ICTs networks (2) Risks from ICTs usage on the real world, such as initiation children into sexual abuses through ICTs , rapes, online sexual commercialization through ICTs.

(3)   Cultural opportunities to use ICTs as a tool for self and social development or risks from negative culture from using ICTs, based on beliefs, values and ways to use ICTs.

3.1 Opportunities from creative culture resulted in common values and beliefs on ICTs as a tool to creatively drive the community forwards, such as using ICTs to build democratic force in the society and the use of quality online social networks to upgrade the quality of online community.

3.2   Cultural risks from negative use of ICTs based on beliefs and values towards ICTs that had an impact on the uncreative use of ICTs , such as not respecting the privacy of others., not respecting the intellectual property rights of the owner's rights by copying. Modified without permission from the owner's rights. It also includes the time spending too much time on ICTs for entertainment until it had an impact on normal life.

2.2   Basic concepts in the classification system of child protection and promotion of ICTs can be classified in 3 stages

First phase Before the children and young people will enter the ICTs network, it is necessary to have a protection system for child protection, prevention and promotion in three parts: (1) Enforcing the law when there is a violation on contents, and behavior of users; (2)Developing children's privacy protection system in ICT networks, including protection of privacy for children when using ICTs; (3) Developing internet cafes, game centers and ICT community that is safe and productive to learning and the use of information technology and communications services to serve children and people in the community.

Second phase During which children access to ICTs. it is necessary to have a system of protecting and promoting in the 3 parts (1) Law enforcement when

there are violations of the law, on the contents and behavior from the use of ICTs; (2) Development of protection of personal information of children in ICTs networked, which included the protection of privacy of information in ICTs network, and (3) Promotion cultural creative use of ICTs, as well as media awareness learning for children and youth, so that they can choose to receive and analysis the media. The culture of creative use of media and ICTs should be cultivated for self-development. and community and society development.

Third phase   After the children and youth accessed to the ICTs and faced with negative impacts, especially on Internet or game addiction. There should be a measure to resolve the problem of consuming media time for children and youth, focusing on processes of participation from parents, teachers and the communities in solving cultural problems. The weight should be added on promoting creative culture via an establishment of systems to promote creative culture through activities and community supports.

(3)

Laws, and policies in Thailand, regarding child protection system before entering the information technology and communications and their performance

In the Thai society, the laws relating to child protection in the ICTs can be determined by the basic concepts of the classification of child protection system in ICTs, coupled with the spirit and nature of the enforcement in the three groups:(1) The laws and policies that affected the protection of children before accessing the ICTs; (2) The laws and policies that affected the protection of children during an accessing to the ICTs; and (3) The laws and policies that affected the protection of children after accessing the ICTs.

3.1   The policies and the law affected the protection of children before accessing the ICTs can be divided into 3 parts.

3.1.1 Laws and policies that suppress illegal or unlawful content

(a) There are laws to suppress a content that violates or infringes the provisions of the law. Thailand has a general law on the provision of rating of computer games and traditional media in the Penal Code, which is generally applied to the media, that infringes or violates the legal provision, particularly pornography in Section 287[4] of the Penal code

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[4] Whoever:

(1)For the purpose of trade, or by trade, for public distributing or exhibition, makes, produces, possesses, brings or causes to be brought into the Kingdom, sends or causes to be sent out of the Kingdom, takes away or causes to be taken away, or circulates by any means whatever, any document, drawing, print, painting, printed matter, picture, poster, symbol, photograph, cinematograph film, noise tape, picture tape or any other thing which is obscene;

(2)Carries on trade, or takes part or participates in the trade concerning the aforesaid obscene material or thing, or distributes or exhibits to the public, or hires out such material or thing;

(3)In order to assist in the circulation or trading of the aforesaid obscene material or

Thing, propagates or spreads the news by any means whatever that there is a person committing the act which is an offence according to this Section, or propagates or spreads the news that the aforesaid obscene material or thing may be obtained from any person or by any means, shall by punished with imprisonment not exceeding three years or fined not exceeding six thousand Baht, or both.

(b)   Suppression of illegal or offensive contents on the Internet is a general provision in Section 14 (4) of the Computer Crimes Act 2007[5] which is applicable on pornography in Section 15 which enforced upon the service providers, proclaimed that, "Any service provider intentionally supporting or consenting to an offence under Section 14 within a computer system under thier control shall be subject to the same penalty as that imposed upon a person committing an offence under Section 14."

3.1.2 The law on rating of the media

(a) For rating of the appropriateness of computer games by the age of the players, the specific case of computer games in the Film and Video Act in the draft, pending revision, stipulated that the provision will classify the contents of the computer games by the age of the players. The rating of the computer games are classified by 6 age ranges: (1) games for players aged 3 and above (2) games for players aged 6 and above (3) games for players of all ages (4) games for players aged 13 and above (5) games for players aged 15 and above (6) games for players aged 18 and above (7) game for players aged 20 and above, which do not allow players under the age of 20.

(b)   The law providing the appropriate levels of Internet rating. The appropriateness of the Internet, in particular, has no specific laws in force. Nevertheless,   there is a policy under the Ministry of Culture in rating the appropriateness of the content   on the Internet,   appearing in the cabinet's resolution on creative media for the Thai   society, which was assigned to the

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[5] Section 14. If any person commits any offence of the following acts shall be subject to imprisonment for not more than five years or a fine of not more than one hundred thousand baht or both:

(1) that involves import to a computer system of forged computer data, either in whole or in part, or false computer data, in a manner that is likely to cause damage to that third party or the public;

(2) that involves import to a computer system of false computer data in a manner that is likely to damage the country's security or cause a public panic;

(3) that involves import to a computer system of any computer data related with an offence against the Kingdom's security under the Criminal Code;

(4) that involves import to a computer system of any computer data of a pornographic nature that is publicly accessible;

(5) that involves the dissemination or forwarding of computer data already known to be computer data under (1) (2) (3) or (4);

Ministry of Culture to conducta reasonable rating of all types of media, computer games, movies, television, printed media and Internet media.

3.1.3 The laws and policies affecting the management of access area and connect to ICTs, refers to the laws, affecting the management game cafe, which might be the area of child abuse or a creative space for learning ICTs services to children and youth. The Ministerial Regulations on Licensing and Operation of the Video Store Act, BE 2552 and The Film and Video Act 2008, which is divided into two main sections of content management and services in game cafe[6]and the period of time for children and youth to access games cafe. [7]

At the same time, there was a support for the policy in the game cafe management, in the form of safe and creative game cafes. It is a cooperation of the National Institute for Children and Family Development, Mahidol University, Thai Health Promotion Fund, Media Network for Children and the Office of National Culture, Ministry of Culture. The cooperation has basic concepts about supporting game cafe shops to be the area of ICT learning for the community and an emphasis on community participation in the management and developing support system for creative activities mainly in the community. The policy is supported by the Commission of Safe and Creative Media under the Prime Minister's Office.

In terms of an implementation, the Office of National Culture, Ministry of Culture prepared White Game Cafe Project, which is a measure of motivation to support the game cafe to conduct business in conformation with the laws governing the operation of video stores. Currently, there are more than 1,000 participating game cafe.

3.1.4 The laws and policies that affect the creation and development of the blocking and filtering systems, under the Penal Code Act and the Computer Crime Act 2008 stipulated that Thailand implemented policies to block and filter inappropriate content on the Internet, which work on two levels. The first level, is researching the program for blocking and filtering the online conversation, such as

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[6] Article (9) Supervise that a pornographic media shall not be in the video shop

[7] Article 12 A person seeking a permit to operate a vidoe shop with game services, must:
(1) Only allow children under 15 years old to enter from 14.00 hr but not over 20.00 hr on Monday - Friday and from 10.00 hr to not over 20.00 hr. on public holidays or during a school break, as the central registra prescribed.
(2)Only allow children from 15 to not over 18 years old to enter from 14.00 but not over 22.00 hr. on Monday - Friday and from 10.00 hr to not over 22.00 hr. on public holidays or during a school break, as the central registra prescribed.

Rajabhat Mahasarakham education programs to block online discussions called Camfrog. Also, there is a   the Swing program, developed by the Ministry of Culture,   Housekeeper, program developed by the Ministry of Information and Communication, and the Ladkrabang University. The second level, is to promote the use of blocking and filtering programs, by distributing the program in various forms   and made them downloadable from the website of the Ministry and the distribution of program through CDs in various public arena.

3.2   Effective management of laws and   policies, regarding to performance management under the existing law and policies can be considered as follows.

Topics	Laws and Policies	Management Agencies	Management and effectiveness
Protection system for children and youth before accessing the ICTs			
(1) Appropriateness rating	Computer games (Draft) Film and Video Act BE.... (Amendment)	The Office of National Culture, Ministry of Culture	No practical impact at the moment
	Internet The Computer Crime Act 2007	Minister of ICTs	Illegal website report call 1212 Minister of ICTs www.mict.go.th/main.php?filename=index_complaint 1765 Safe and Creative Media Operation Center, Ministry of Culture. Technology Crimes Investigation Division, The Police Headquarters http://htcc.ict.police.go.th/ People's Network www.thaihotline.org
	Section 287, the Penal Code	The Police Headquarters	Need to define "obscenity" in the Section clearly.
	(Draft) Suppression of Violence Behavior Instigation Materials BE ... that have an impact on suppression of child pornography. The Act stipulated that the producers, distributors, possessors and disseminators are guilty of violating the law.	Ministry of Social Development and Human Security	Safe and Creative Law and Policy Integration Commission under the Safe and Creative Media Commission pushed for the draft Act, with the Ministry of Social Development and Human Security as a major agency.
	Sex Commerce Prevention and suppression of Prostitution Act 2000	The Police Headquarters	It is more difficult to track people who committed the crimes in ICT setting.
(2) Creating mutual rules for appropriate media consumption	Fundamental rules in the families for appropriate Internet use.	Internet for Thailand Development Foundation	The knowledge was not disseminated evenly through out Thai families.

Topics	Laws and Policies	Management Agencies	Management and effectiveness
(3)Protection of children from areas of access and usage of unsafe media	Section 59 of the Film and Television Act 2008	The Office of National Culture, Ministry of Culture	The operation of a video store shall be made in days, hours and conditions stipulated in the ministerial regulations, for the purpose of protecting children and youth. The Minister of the first paragraph of the timing of access of which is under the age of eighteen years of age, but may not including those who reached maturity by marriages.
(4) Blocking and filtering unsafe content	Article 17 of the Convention of the Right of the Child (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.	Ministry of ICTs and Ministry of Culture	**Filtering programs** *Housekeeper*, by ICTs ministry, *Swing* by Ministry of Culture, Mahasarakan University blocking programs for inappropriate websites or programs *Parental Control* by Microsoft **Performance management**. Not widespread in society. Parents also cannot use these programs.

However, to integrated the works between relevant agencies, the establishment of Safe and Creative Media National Commission[8] has been established under the chairperson-ship   of the Prime Minister. The Commission acts in policies and strategy development and is the main agency for coordination between the relevant authorities. It also expand the work of the Commission to the local level. The commission has five sub-commission as follows: (1) Safe and creative media strategies sub-commission; (2) Safe and creative media fund sub-commission; (3) Unsafe media suppression guideline sub-commission;   (4) Safe and creative media operation center commission; and (5) Safe and Creative Law and Policy Integration Commission. There are also provincial commission on safe and creative media in 76 provinces.

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[8] Originally in 2004, it was known as "Media to Create Thai Society Commission" and in 2006,it was known as "Safe and Creative Media National Commission." An establishment of the Safe and Creative Media National Commission was enacted but virtue of the Office of the Prime Minister's regulation in 2008.

      The commission has five main strategies: (1) Support development of safe and creative media strategy; (2)Build immunity and culture of creative media use strategy; (3) Develop administration and management, initiate strategies, master plans, laws, policies, and integrative mechanisms strategy; (4)Campaign for public trend strategy to create and awareness of using safe and creative media; (5) Law enforcement strategy.

(4)

The Thai legal system and policies on ICTs and child protection

after consuming the media and an effectiveness of the laws and policies

In this chapter, the author examined two main parts (1) The Thai legal system and policies on ICTs and child protection after consuming the media and an effectiveness of the laws and policies and (2) The performance of the management.

4.1 The legal system and policies on ICTs and child protection after consuming the media can be classified to three parts.

 4.1.1 Identification of online gamers. To enable identification of the computer game players online will serve the fundamental concept to the protection of period of time spent playing computer games. Evidentially, studies of behavior of gamer that impacted learning capacities revealed that children and youth may fall into game addiction, when they often spent time playing games more than 3 hours a day. [9] Thus, in terms of policy in 2007, Mr. Thira Salak phet, Minister for Culture at that time had established a sub-commission to protect children in computer games under the Religion, Arts and Culture Committee of the Parliament. The sub-commission conducted researches and developed a system in which individuals who play computer games online and offline must be registered. The ideas was being prepared to be the draft ministerial regulations regarding the permits and the operations of the video store 2009, under the Film and Video Act, 2008. The regulation will to determine the duration of children and youth to play computer games. It will stipulate that children and youth under the age of 18 years can play up to 3 hours a day.

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[9] Interview, Phanpimol Lohtrakul, MD. Rajanukul Institution, October 2010.

The measures to identify users in the Internet are under virtue of Section 26 of the Computer Crimes Act 2007.[10] The Act stipulated that service providers must keep a log of computer traffic for 90 days to be used as an evidence to identify the wrongdoers.

4.1.2 The legal measures to suppress the offenses against children and youth on ICT network and the crimes of the ICTs related behaviors, which is the main problem on behavior of ICTs use are:

(1) Defamation, on the part regarding the fame in Section 326 of the Penal Code and Section 15 of the Computer Crime Act 2008;[11]

(2) Seduction a person into sexual abuses through the Internet is governed by Section ??? of the Penal Code on the sexual related offences; and

(3) Prostitution through the ICT networks is governed by the Prevention and Suppression of Prostitution Act 1996.[12] The law will impose actions against sex traders. It also defined "prostitution establishment" means a place established for prostitution or in which the prostitution is allowed, and shall include a place used for soliciting or procuring another person for prostitution. This resulted in any person who advertises or agrees to advertise, induces or introduces

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[10] Section 26. A service provider must store computer traffic data for at least ninety days from the date on which the data is input into a computer system. However, if necessary, a relevant competent official may instruct a service provider to store data for a period of longer than ninety days but not exceeding one year on a special case by case basis or on a temporary basis.

The service provider must keep the necessary information of the service user in order to be able to identify the service user from the beginning of the service provision, and such information must be kept for a further period not exceeding ninety days after the service agreement has been terminated.

The types of service provider to whom the provisions under paragraph one shall apply and the timing of this application shall be established by a Minister and published in the Government Gazette.

A service provider who fails to comply with this Section must be subject to a fine of not more than five hundred thousand baht.

[11] Section 15. Any service provider intentionally supporting or consenting to an offence under Section 14 within a computer system under their control shall be subject to the same penalty as that imposed upon a person committing an offence under Section 14.

[12] Section 7. Any person who advertises or agrees to advertise, induces or introduces by means of documents or printed matters, or by any means makes known to the public in a manner apparently indicative of importunity or solicitation for the prostitution of himself ,herself or another person shall be liable to imprisonment for a term of six months to two years or to a fine of ten thousand to forty thousand Baht or to both.

by means of documents or printed matters, or by any means makes known to the public in a manner apparently indicative of importunity or solicitation for the prostitution of himself ,herself or another person shall be liable to imprisonment for a term of six months to two years or to a fine of ten thousand to forty thousand Baht or to both. (Prevention and Suppression of Prostitution Act 1996)

The management system to suppress the offences in the ICT systems are as follows:

4.1.3 The laws and policies for protecting children and youth's privacy in ICT system in Thailand is still not available in written provisions, that directly addresses the privacy of children, however, Thailand has laws related to privacy of children and youth as follows.

(1) Section 27 of the Children Protection Act 2003 stipulated that any person is forbidden to advertise by means of the media or use any other means of information dissemination information related to a child or his or her guardians,   with an intention to cause damage to the mind, reputation, prestige or any other interests of the child, in order to seek benefit for oneself or others in an unlawful manner.

(2) The Domestic-Violence Victim Protection Act 2007, Section 9 stipulated that no person shall publish or make known to the public in any manner in relation to pictures, stories or any information which may cause damage to the person who committed domestic violence or the domestic violence victim.

(3) Notification of the National Telecommunication Commission   on Protection of the Rights of Telecommunication Users, on Private Information, the Right to Privacy and the Freedom to Communicate by means of Telecommunication 2006

(4) Draft Personal Information Protection Act BE.... and (4) Draft Policy to Protect Personal Information Collected by the State under the Electronic Transaction Decree 2001, which will impact the protection of children and youth's personal information that were collected and processed by agencies and websites.

4.1.4 **The laws and policies that promote creative content** As Thailand is a state party to te Convention on the Rights of the Child, Thailand has

an obligation to follow Article 17 of the Convention, which stipulated that " States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health." Thailand has conducted legal and policy measures to promote creative contents that contribute to education and learning promotion as follows:

(๑) <u>Legal measures</u> The Technologies for Education Fund has been established under the National Education Act 2009, to respond to life long learning within the formal, informal and voluntary systems. Under Chapter 9 on the Technologies for Education Fund, there are four supporting mechanisms that the Fund will support. (1)Infrastructure development for the purpose of using resources for more effective and equal communication to all sectors; (2) Supporting the development of media to promote quality and various means of education and learning; (3) Development of human resource media audiences and media producers to be aware of the knowledge in creative media, skills to use technology for education and lifelong learning and development of appropriate media consumption culture; (4) Promotion of research and development, production and development of technologies for education and develop monitoring and evaluation systems for effectiveness, appropriateness and suitability with the learning process of the Thai people.

However, formerly, there was a "Media Production Promotion Fund for Children" [13] established by the Cabinet Resolution under the National Promotion and Collaboration for Youth Act 1979 in June . Based on this Act, Promote and coordinate the National Youth Act in January 2522 to June 1994 to promote both public and private media production for children. Later the Fund was transferred to be under the supervision of   The Office of Youth Affairs Coordination and Promotion, and finally after the civil service reengineering, it was transferred to the Network Promotion and Development, under the Office of Welfare Promotion. Protection and Empowerment of Vulnerable Groups (OPP.), Ministry of Social Development and Human Security. The Fund was dissolved by the Cabilnet resolution in 2002, because of   problems and obstacles in fund management,

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[13] Ithipol Pritiprasong, Proposal for the Establishment of the Safe and Creative Media Fund, Office of Thai Health Promotion Fund, 1st Ed. Bangkok, pp. 145.

resulting from difficulties to operate under the rules of the government that cause limitations to provide grants. The fund was forced to provide loans but it took a long period of approval time. Thus   the production   were left behind and the programs were removed from the schedule. Also, some programs might not find a broadcasting channel, or can not find a sponsor even the programs could find a broadcasting channel. In the end, producers can not repay the loans, coupling with the fact that the support was not comprehensive such as the fund did not support the public relation activities or the production knowledge in the Fund appeared to be considered as an effective fund. It was finally dissolved.

At the moment the drafting process of the Safe and Creative Media Fund BE ...which was mobilized by Media for Kids Networks, Office of Thai Health Promotion Fund, the National Institution for Children and Family Development, Mahidol University, are on progress. The key agencies in the drafting process are the Ministry of Culture and the National Safe and Creative Media Commission. By virtue of the law, the fund will be established as "an independent boy with supports from the state" to provide overall supports to every media that will address every target groups, including the children and youth, which accounted for 1/3 of the overall population u the country and will be an important resources in the future.

The fund's mission is to support the development of safe and creative media to promote education and learning for the people, particularly children, youth and families, so that they will become quality human resource.

In terms of activities to meet the goal of the Safe and Creative Media Fund, there are 5 activities to meet the goals of the Fund as follows.

•To promote and encourage the development of innovative media production for children and families, with creative contents and values and to campaign about the production and development of safe and creative media.

• To promote and support the capacities to produce safe and creative media from professional and independent developers, including producers who are children, youth and people in the community, to enable diversities in contents and meet the requirements of communities.

• To promote and encourage the participation of the people, especially children, youth and community members to develop safe and creative media. To enhance capacities of the communities, NGOs,   charity organizations, civil

services, state enterprises, or other state agencies to public organizations or other government agencies in the production of safe and creative media. To create mechanisms to promote media awareness to audiences.

• To support and promote researches, training and conferences on media development for youth and families.

• To encourage and support diverse channels for safe and creative media. To enable expanded distribution of safe and creative media equally media and creative at all levels.

(2) Policy measures to encourage the media that promote education and learning for children, youth and families. The measures should be developed from various agencies, private sector and the academia.

(1)To support the development of online media for education/ For example, the Institute of the Promotion of Teaching Science and Technology (IPST) developed the site. www.thaigoodview.com, a support for the development of online media in the form of national archives under the sponsorship of the Thai Health Promotion Fund, or the National Software Industry's support content and software development that induced the content development.

(2) The Ministry of Culture, Ministry of Social Development and Human Security supported creative media contests.

4.1.5 Laws and policies that affect the media awareness literacy, and ICTs

Apart from the National Education Act 2000, which promoted lifelong learning of people in Thai society. Laws and policies can be divided into two parts: (1) to strengthen learning by ICTs (2) The creation of media awareness literacy.

(1) Enhance learning, using ICTs. In this respect, the policy involved: (1) the draft 2020 ICT master plan, developed under (2) the 10th Economic and Social Development National Plan (2007 to 2011), which identify the main directions of Thailand's social and economic development of Thailand. The philosophy of this plan is based on an application of the sufficiency economy philosophy and concept of "human centered" development.

To promote opportunities from the use of ICTs, Thailand also had the ICT master plan or ICT 2020 (for 2009 -2013), which was a development from ICT 2010 (for 2002-2006). [14]

The fundamental framework of the (draft) 2020 ICTs master plan was based on the 10th National Economic and Social Development Plan (Year 2007 to 2011), directing the overall   direction of social and economic development of Thailand. The philosophy of this plan is. an application of the sufficiency economy philosophy and concept of people-centered development. With the vision of the social development aims towards mutual peaceful society, strengthen Thai people to have moral wisdom and global awareness literacy, warm and strong families and communities, social peace, stable, fair an equal opportunity in the economy stability, environmental quality, fair and sustainable natural resources, good governance in administration of the country, and adherence to the democratic system with a constitutional monarchy to enable Thailand to stand among the international community with dignity.

The fundamental philosophy underpin the principles of ICTs master plan.

- · **Vision "Smart Thailand" by ICTs** The vision means the society uses and develop ICTs wisely. People have all levels of intelligence and awareness of ICTs and use of information in critical, moral and ethical manners to benefits themselves and the society. The management of ICTs is governed by good governance to support the development of economy and society based on knowledge and innovation for sustainability and security.

- · **Missions** (1) Develop human resources and personnel management in ICT sector to have sufficient quality and quantity; (2)Develop quality and sufficient information infrastructure and high-speed communication networks with equal opportunity to access and fair pricing; and(3) Develop ICT management systems   with good governance through regulatory mechanism, rules, administration and management structures and monitoring to unified integration and promote the participation of people in every sector of society.

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[14] On 11th September 2007, the Cabinet has approved the extension of time to enforce the first ICTs master plan to the year 2008. Then the Ministry of Information and Communication Technology has partnered with the National Electronics and Computer Technology, Ministry of Science and Technology to draft the second ICTs Master Plan.

· **Objectives** (1) To development ICTs human resources to meet the qualitative and quantitative demands of the market and to develop aware, critical, creative, capable and effective ICT users; (2) To create a good governance in the ICT under the guidance of the sufficiency economy philosophy, unity, integration and participation; (3) To support the restructuring towards value-added production, based on knowledge and innovation; (4) To strengthen the community and individuals, through accessing and using the ICTs for their benefits in the pursuit of knowledge, on household and community levels; and (5) To enhance capacities of the business and industry, by emphasising on value creation in the country. through research and development, from local wisdoms, Thai culture and uniqueness.

· **Goals** (1) Not less than 50 per cent of the population nationwide has access to knowledge, access and creative and critical use of ICTs, based on moral and ethical principles, to benefit their learning, career and life; (2) Expand availabilities of the ICTs, so that Thailand to reach the most developed country level or the upper 25 per cent of the countries, ranked in the Network Readiness Index; and (3) Increase the role and importance of ICT industries in the economic system of the country and increase the proportion of value-added ICT industries to not less than 15 per cent of GDP.

· Strategy to develop and drive the achievement of all six strategies

   ○ **First Strategy** Development of human resources in ICTs and the general public to produce creative and critical use of ICTs with proper awareness. The strategy is divided into Three categories: (1) Specific ICTs personnel development; (2) General and other profession's human resource development, such as student and the general public; and(3) Other measures to support the development of "human capital" nationwide.

   ○ **Second Strategy** Measures for good governance in national ICT management: (1) Improve the national ICT management structures; (2) Improve budget preparation processes/ presentation for approval for State's ICTs budget; (3) Develop and/ or revise the laws, relevant regulations, including a

mechanism for enforcing the law and regulations to facilitate the use of ICTs and electronic transactions;and (4) Update the indicators of ICTs development Information and Communication Technology Development in Thailand.

○ **Third Strategy** ICTs infrastructure development (1) Create a mechanism to coordinate works between agencies; (2) Expand the services, increase coverage and improve the efficiency of the networks; (3) Develop infrastructure for ICTs to upgrade the education and lifelong learning; (4) Develop infrastructure for society service; (5)Enhance the management network and resources; and (6)Expedite the strength of information systems security.

○ **Fourth Strategy** Using ICTs to support the good governance in the management and administration of the state sectors: (1) Strengthen the central agency, responsible for establishing guidelines and standards necessary for the development of electronic service sectors; (2)Develop electronic services in all ministries; and (3)Strengthen ICTs to government agencies at provincial and local administration organizations.

○ **Fourth Strategy** Upgrade the competency of the ICTs industries for economic values and income to the country.

○ **Sixth Strategy** ICTs for sustainable competitiveness

(1)   There was no main law specifically governing enhancing creative cultural in learning systems, using ICTs, nevertheless,   there are practices to foster creating medi a awareness for children and youth. The state sectors did not have policies to encourage media awareness, however the private sector introduced activities, such as training parents on ICT awareness by Internet for Thailand Development which was working with the Ministry of Science and Technology, Office of Thai Health Promotion Fund, under the Office of the Prime Minister, as well as the work of Media Strategies for children Program, under the Office of Thai Health Promotion Fund. The Media

Strategies for Children Program aims to educate children on media awareness.

There are also examples of the creation of media awareness in the school such as computer game awareness training, by the cooperation between the Office of Bangplad District, Bangkok working to educate students and teachers in Bangyikhan schools. The training conducted a workshop for children and teachers. It helped teachers to design activities in schools and mobilized student leaders to work in the school. The workshop also educated teacher leaders and students. The workshop has been supported by funded by Action on Smoking and Health Foundation, and funded by Office of Thai Health Promotion Fund.

4.2 Effectiveness of the Management under existing laws and policies

Topics	Laws and Policies	Management Agencies	Management and effectiveness
Protection system for children and youth during the access to the ICTs			
(1) Internet and Computer game user identification	· The Computer Crimes Act 2007 on keeping traffic log · Policy to identify identity of computer game users, under the Film and Video Act 2008	Ministry of ICTs and Ministry of Culture	To collect primary evidences to classify violations. There are problems to precisely identify violators. Game users provision is not yet in practice.
(2) Protection of Children from sexual abuses and seduction	the Penal Code, in defamation, seduction and prostitution The Prevention and Suppression of Prostitution Act 2000 The Prevention and Suppression of Human Trafficking Act 2008 The Child Protection Act 2003	The Police Headquarters Unsafe media suppression guideline sub-commission under the Safe and Creative Media Commission	Problems when identifying offenders

Topics	Laws and Policies	Management Agencies	Management and effectiveness
(3)Children's personal information protection	(Draft) Personal Information Protection Act BE .... Section 27 of the The Child Protection Act 2003	The Social Development and Human Security Ministry	Not directly involved with children's personal information protection but forbid the press to broadcast or publish children's information to the public, when it will cause harm to the mind, reputation, prestiges, or other right, or in any manner that seek any undue interest from oneself or other people
	the (draft) Guideline on personal information collected by the state under the 2001 Electronic Transaction Law	Electronic transaction commission	Not effective yet
	Notification of the National Telecommunication Commission on Protection of the Rights of Telecommunication Users, on Private Information, the Right to Privacy and the Freedom to Communicate by means of Telecommunication 2006	The National Telecommunication Commission	Not effectively implemented
(4)Promotion of access to creative media	Art. 17 and 29 of the CRC	Safe and Creative Media National Commission ICTs for Online Well-being (Office of Thai Health Promotion)	A legal system to promote the creative ICT media is not available systematically. The Safe and Creative Media Commission is mobilizing the Safe and Creative Media Act BE ...

Topics	Laws and Policies	Management Agencies	Management and effectiveness
(5) ICTs awareness	Focus on media awareness policies and media awareness curriculum by the Ministry of Education.	Media for Youth's Well-being Program and ICTs for Online Well-being (Office of Thai Health Promotion) Internet for Thai Development Foundation Ministry of Education	It was organized around the civil society sectors. The curriculum was not nationally implemented and the results were not extended locally. For integrated management,the Safe and creative media strategies sub-commission under the Safe and Creative Media National Commission, introduced a strategy to cultivate appropriate media consumption culture.
(๖) Protection of children on appropriate ICT exposure period	(Draft) Ministerial Regulation on Permission to Operate Video Shops BE..., which included a concept to have exposure time limitation for online computer gamers.	Office of National Culture, Ministry of Culture	Lack of technical support, resulting in ineffective practices

(5)

The Thai legal system and policies on ICTs and child protection after consuming the media and an effectiveness of the laws and policies.

The laws and policies affecting the protection of children after the consumption of technology related media governs the provisions on the protection of children and youth after the children and youth have accessed or consumed ICT media. In this part we will also examine the responsible authorities and the effectiveness of management.

5.1   The laws and policies affecting the protection and support after children and youth consumed the ICT media intends to solve the problem of game addiction. There was not a primarily a law in this regards, but it is mainly carried out under the policies and measures   for the promotion and protection of children after the ICT media consumption to resolve the problem of game addiction in two parts.

(1) Development of academic works such as   researches and actions to resolve the game addiction under the responsible of the Center for Prevention and Correction of Game Addiction, the Institute of Rajanakarintra Child and Adolescent Mental Health, [15] and Department of Mental Health, Ministry of Public Health. They aim to solve problems, introduce behavior modification and work together to   enable families to develop their capacities to live ICTs. The Siriraj Hospital, Mahidol University is another main agencies game addiction researches. it is also an academic organizations, participating in the development of assessments of children and youth game addiction.

(2) Mobilization of social force and social policy. There are action such as Good Games Exhibition, organized by the Safe and Creative Media Commission with an operation from the Ministry of Culture. Together, they road-showed the exhibition   at the regional level in   Khon Kaen, Chiang Mai, Songkhla and a national Good Games exhibition in Bangkok

5.2 The promotion of cultural creativity in new media. A policy is being formed and has been proposed as the master plan for safe and creative media under the Safe and Creative Media Commission, the Office of the Prime Minister. The main responsible agency is the Ministry of Culture, which was assigned to prepare policies on strengthening the creative culture of ICTs media use and consumption.

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[15] http://www.icamtalk.com/

Preliminarily, the National Institute for Child Development and Family Studies, Mahidol University had researched on the concept of promoting children and youth to use constructive and creative ICTs Information and communication technology in creative, which was funded by the Siam Commercial Foundation, to work on Smart Kids Use ICTs Wisely project. The practical results will be fulfilled through the Safe and Creative Media National Commission

The basic concepts of Smart Kids Use ICTs Wisely project aim encourage children to change behavioral values, belief and to use ICTs as a tool for self-development, community and social in five areas, (1) Children's websites and weblogs users networks, who use the ICTs to present economic and development issues; (2) Children and youth network that develop online media for education, digital learning media and E-Learning; (3) Children and youth network that use websites/ blogs to promote and drive social force; (4) Children and youth network that use ICTs as a channel to deliver news in the community; and (5) Children and youth network that use ICT as a channel, offerings news of software development

5.3 Effectiveness of the Management under existing laws and policies

Topics	Laws and Policies	Management Agencies	Management and effectiveness
Protection system for children and youth during the access to the ICTs			
(1) Solving game addiction problems	Policies are academic research and studies	Ministry of Public Health Mahidol University	The knowledge was not disseminated or trained to people locally
(2) New and creative media consumption culture	The master plan for safe and creative media has been proposed	Safe and Creative Media Commission	The master plan is being drafted and supported by researches

(6)

Conclusion and suggestion to develop child protection system in ICTs

The law and policy systems that impact child protection in ICTs in the previous five parts, it was found that situation involving children and ICTs have both risks and opportunities , when using the ICTs constructively. Thailand has laws and policy in consistent with problems in different situations and circumstances, based on content, behavior and culture.

However, when considering the weight of actions to address the problems, thailand has focused on   suppression in its existing measures, especially suppression of content and behavioral suppression, when it is found that any behavior may potentially be offensive. However, in the latter years, since 2010, Thailand began to focus on creating a culture of using creative ICTs and media awareness.

Overall, Thailand has to continue working on three legal and policy aspects

Law and Policy Overview in Thailand

TOPIC	Law	Policy
Game rating	Developing (Film and VCD Act BE 2550)	Yes
Internet Rating	No	Yes
Family Rule	Adapting to Child Protection Law B.E.2546	Yes
Filter Program	No	Yes
Data Protection in ICT	Developing (Data Protection Law BE ...) Adapting to Article 27 Child Protection Law B.E.2546	Yes
Traffic Data	Yes (Computer Misuse Act BE 2550)	
Creative Cyber Cafe	Yes (Film and VCD Act BE 2550)	Yes
Unsafety Media	Yes (Penal Code .Computer Misuse Act BE 2550	Yes
Child Pornography	Developing (Suppression the Media tobe Dangerous Behavior Act ....)	Yes
Deception on Net	Yes (Penal Code)	Yes
Defamation	Yes (Computer Misuse Act BE 2550)	Yes
ICT Literacy	No	Yes
ICT for Education	Yes (National Education Act BE 2542)	Yes
Creative Culture in ICT	No	Yes
Duration in Game Consume	No	Yes
Game Addiction	No	Yes
Creative Media Fund	Developing (Creative Media Fund Law BE ...)	Yes

First aspect Creating an effective law enforcement on suppression of risks, by working together with three main stakeholder agencies, involving in the database connection and cooperation, training to educate law enforcement agencies, and measures to enforce penalties.(1), Link databases to receive complaints for child who faced problems in ICTs from state's. (Ministry of ICT, The Police Headquarters, and Ministry of Culture) to public databases such as the Mirror Foundation the Internet of Thai Development Foundation; (2) Train and educate staffs and Law enforcement personnel, including public prosecutors and the court system on the complexity of technology cases investigation; (3) Implement administrative measures to Internet providers that violated the law.

The sub-commission to establish guidelines for the suppression of the unsafe media under the Safe and Creative Media National Commission should be the main unit to develop suppression systems. The Technology Related Offenses Division should be the main operation unit and work with relevant agencies from public, private and academic sectors, particularly the Ministry of Information and Communication Technology.

In addition, the sub-commission on safe and creative media law and policy integration should be the major body to draft proposals and lead legal reforms on the child and ICTs, thus it will enable a more systematic law reform.

Second Aspect Increasing focus on measures for new and creative culture such as media awareness, belief and value creation when using ICTs for self, community and social development in two parts.

The first part, supporting the establishment of ICTs for learning and social development centers to support knowledge transfer and creative culture in new media. Fifthly, create common awareness of ICTS and media usage in the society. Continuously creating awareness to the society through this center will develop the knowledge to create innovative new media culture, media awareness, and knowledge transfer to broader society, such as training for network members at the central and local level, including but not limited to Children, youth, the people, local policy communities, in order to foster systematic infrastructure development.

The second part, creating awareness in society through public communication to make society understand the knowledge and is aware of creative use of ICTs

the third part, supporting the development of media content and technologies for education technologies and learning among youth, teachers and children network, with the communities' participation in the management.

The Safe and Creative Media National Commission and the Ministry of Education are the main agencies to develop support systems and to work with relevant agencies from all sectors from the public, private and academic sectors. They should be working the National Youth Council particularly.

Third aspect, law and policy reforms on the protection and promotion of children in ICTs are divided into three parts.

In the first part, the (draft) Violence Behaviour Instigation Materials B.E..., which is under the legislative process and should be implemented at the first occasion to prevent contents that harm Thai society such as media that instigate violence behaviors, particularly, child pornography, or incest pornography.

The second part, the law governing rating of contents, should be mobilized and put into force. The (draft) Film and Video Act B.E.... on rating of computer games, should be effective, so that it will provide creations of tools to classify gamers's age ranges and rating contents appropriate for thier ages.

The third part, the laws and policies on children and youth's personal information in ICT system and other information system should be promulgated, particularly, the (draft) Personal Information protection Act B.E.... and the draft Guideline on personal information collected by the state under the 2001 Electronic Transaction Law will contribute to children and youth's personal information protection that were collected and processed by agencies and websites.

The fourth part, the law to increase capacities to use ICTs such as the (draft) Safe and Creative Media B.E.... should be promugated. A mobilization to establish the Technology for Education Fund under the 2000 National Education Fund is also encouraged, to support media development, media receptors development, researches and develop channels for creative and systematic communication and dissemination.

On operational level, it is proposed that the Safe and Creative Media Laws and Policies Integration Sub-commission should promptly mobilize law reforms by organizing academic seminars and civil society forum to generate an understanding on the principles of the draft laws and allow them to continuously participate in the process of legislation of the draft laws.