

Thailand

Measures in preventing and combating online child pornography

1. Regarding current legislation on the issue of online child pornography:

a) Legislation on the definition of online child pornography (e.g. on the Internet, through mobile telephone system);

Thailand has become a State Party to the Convention on the Rights of the Child since 26 April 1992 and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography since 11 January 2006. Prior to 2001, the country has developed a number of pieces of legislation to protect children and adolescents from sexual exploitation in line with the Convention and the Optional Protocol.

The definitions of the sale of children, child prostitution and child pornography were endorsed in the Ministerial Resolution of 23 November 2005, which is in line with the definitions under the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

“**Child pornography**” means **any pornographic material representing** a child engaged in actual or stimulated sexual activities or any representation of the sexual parts of a child for sexual purposes.

“**Online child pornography**” means **any computer traffic data representing** a child engaged in actual or stimulated sexual activities or any representation of the sexual parts of a child for sexual purposes.

The Royal Thai Government takes seriously the growing availability of child pornography on the evolving technologies of telecommunication services such as the Internet. Therefore, the Royal Thai Government is tackling the spread of child pornography through the Internet through **the Computer Crime Act B.E. 2550 (2007)** among other legislation. (Please see also 2. b)

b) Legislation on producing, distributing, disseminating, importing, exporting, offering, selling or possessing pornographic images through any form of information system for purposes of child pornography;

The Penal Code Amendment Act (No.14), B.E. 2540 (1997) imposes heavier penalties to whoever committed a sexual offence against children. Section 287 stipulates : Whoever:

(1) for the purpose of trade or by trade, for public distribution or exhibition, makes, produces, possesses, brings or causes to be taken away, or circulate by any means whatever, any document, drawing, printing, paint, painting, printed matter, picture, poster, symbol, photograph, cinematograph file, noise tape, picture tape or any other thing which is obscene;

(2) carries on trade, or take 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 spread the news by any means whatever that there is a person committing the act which is an offense according to this section, or propagates or spread the news that the aforesaid obscene material or thing maybe obtained from any person or by any means,

shall be subject to imprisonment not exceeding 3 years or fine not exceeding 6,000 baht (approximately 180 USD), or both.

The Child Protection Act, B.E. 2546 (2003), aims to provide protection for children from all forms of abuses, exploitation, violence and gross negligence by clearly stipulating that any child below the age of 18 is protected by the State. The Act forbids any person to force, threaten, use, induce, instigate, encourage or allow a child to perform or act in a pornographic manner, regardless of whether the intention is to obtain remuneration or anything else; and advertise by means of the media or use any other means of information dissemination to disclose such pornographic picture regardless of a child's consent;

The Anti-Trafficking in Persons Act, B.E. 2551 (2008), provides a comprehensive approach in addressing the issue of human trafficking and making punishment of traffickers more severe and protection of victims, including regular and irregular migrants, more effective. The Act, which has just taken effect on 5 June 2008, is targeted at preventing, circumventing, and suppressing a wider range of activities related to human trafficking, including the procurement or trafficking of persons into or out of Thailand for prostitution, sexual exploitation, production/distribution of pornography, slavery, forced labour or services, begging, organ amputation for commercial purposes, or any other forms of exploitation. The victim protection under the Act will cover “all persons” regardless of their gender or nationality. Victims can claim compensation from the offenders for any damages caused by human trafficking and will be provided with shelter and other necessities including physical, psycho-social, legal, educational and healthcare assistance. The Act also ensures that all trafficked victims are considered and treated as victims, not criminals;

The Computer Crime Act B.E. 2550 (2007), stipulates measures aimed at preventing and suppressing the use of a computer system to disseminate pornographic computer data and criminalizes any person committing such an act. Section 14 stipulates that whoever enters any obscene computer data into computer system that may be accessed by the public or sends or forwards such obscene computer data shall be liable to imprisonment for a term of not exceeding 5 years or to a fine not exceeding 100,000 baht (approximately 2,900 USD) or both.

The Publishing Registration Act, B.E. 2550 (2007), empowers the Commander of the Royal Thai Police to prohibits the importation of ordering for distributing in the country any print materials which will affect the good morals of the people.

Furthermore, the Sub-Committee for the Amendment of Child-Related Legislation is responsible for reviewing and revising child-related law to be in line with the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), the Convention on the Rights of the Child and the Optional Protocols. There is a monthly meeting for the Sub-Committee with relevant agencies to discuss and share information on the current situation of children exploitation and the implementation of legislation, measures and plans to address the problem. The draft legislation aimed at suppressing pornographic materials and harmful media is being considered by the parliament.

c) Legislation on criminal sanctions of online child pornography, and reparations available for child victims;

Protection and rescue of child victims requires collaboration from state agencies, NGOs and media in all aspects, ranging from law enforcement, judicial process, and welfare and rehabilitation assistance. Action on child victims of sexual exploitations can be categorized into 4 steps as follows:

- 1) Rescue and provision of shelter and preliminary assistance;
- 2) Legal aid;
- 3) Psychological Rehabilitation; and
- 4) Monitoring and evaluation.

During the course of rescuing, as stipulated in **the Child Protection Act, B.E. 2546 (2003)**, there shall be restrictions on photographing, display or distribution of photographs or sound recording, or broadcasting any voice of individual, who is an injured party, or witness, or restriction on advertisement, or dissemination of content publishing or article, audio or visual materials regardless of type of media, restriction on disclose of personal data and history, place of residence, educational institution of any individual who is a witness or damaged party, unless it is deemed necessary to act in the best interest of such persons.

In pursuance of the Child Protection Act, B.E. 2546 (2003), the protection and assistance for child victims have been significantly strengthened in a number of areas. Besides the provision of basic necessities such as food, shelter, medical treatment and physical and mental rehabilitation, the state shall provide victims with education, training, legal aid, compensation claim, social reintegration and safety protection as well as permission to temporarily stay or work in the country, regardless of the sex, age, nationality, race and culture of the victims. Such measures have been implemented through various activities as follows :

1. Establishing 7 welfare homes to provide assistance to both Thai and non-Thai victims of trafficking. The most notable one is Baan Kredtrakarn Protection and Occupational Development Centre which has been widely recognized by anti-trafficking organizations as a model for victim assistance. It has recently been developed to be an exemplary learning centre in the region for its assistance to victims of trafficking in a holistic manner;

2. Establishing One-Stop Crisis Centres (OSCC) in several public hospitals and 24-hour Hotline 1300 Centre. Currently, the total number of OSCCs is 109 centres nationwide which provide physical and mental treatment, legal assistance, and recovery and rehabilitation with multidisciplinary teams to help women and children victims from all forms of sexual exploitations and abuses. The Hotline Centre is staffed by social workers and psychologists whose role is not only to provide consultation to victims but also to make a referral to concerned assistance agencies for further treatment and care;

3. Enhancing the capacity of Thai embassies and consulates when Thai women and children are found in conditions of exploitative labour and commercial sex abroad. In 2005, for instance, police officers and social workers were posted at the Royal Thai Embassy in Japan for 1 month to set up a system that would help protect and assist trafficking victims more effectively; and

4. In cases that child victims are non-Thai nationals, the Anti-trafficking Act 2551 (2008) will be enforced.

International co-operation regarding prevention and rehabilitation programmes, includes the following:

1. 5 projects concerning prevention of commercial sexual exploitation of children, targeting at-risk groups, including children from ethnic minorities, street children, children from broken families and children affected with HIV/AIDS, with technical support from ECPAT International and financial support from Group Development, the British Embassy and the European Union;

2. Child participation in the prevention of commercial sexual exploitation of children, including supporting youth radio and community gatherings, child and youth assemblies, child rights seminars and workshop, activities on Child Rights Days;

3. Rehabilitation and skill training for child and youth victims and other vulnerable group children in the Mekong sub-region with the collaboration of the International Organization for Migration (IOM) and the Australian Government Overseas Aid Programme (AUSAID).

4. Project implemented by Chiang Mai Coordination Centre for Child protection with financial support from International Labour Organization (ILO).

d) Measures for effective implementation of legislation (e.g. training in combating cybercrime, tools, etc.);

The Optional Protocol has been translated to Thai and disseminated to various agencies including governmental and non-governmental to promote awareness in child rights violation in producing and dissemination of child pornography. Sensitization and training on the CRC and its optional protocols have been conducted by agencies such as the Ministry of Education, Justice, Labour, Social Development and Human Security, the Royal Thai Police, Office of the Attorney-General, and NGOs. The sensitization training was initiated in 1997 for child rights practitioners in both governmental agencies and NGOs. Since 2003 the training for the trainers has been conducted regularly at the national and local levels to raise awareness of the current threats against child rights and to introduce remedial measures for such threats.

The Ministry of Information and Communication Technology has strengthened the enforcement of the Computer Control Act B.E. 2550 (2007) nationwide through the launching of the "Cyber Care Project", aimed at suppressing inappropriate dissemination of data via the Internet. The project consists of the following sub-projects:

1) Cyber Clean, a collaboration among relevant agencies to create a community watch on the Internet with the website www.cyberclean.org and www.ichousekeeper.com for notification of any inappropriate and harmful websites or messages on the Internet;

2) Gatekeeper Project, aimed at barring inappropriate websites from outside the country by

installing gateway filters to screen and authorize access to the websites; and

3) Housekeeper project 2008, aimed at providing tools for parents and school teachers to better monitor visited websites and used applications on the Internet, including:

- Kids Care, allowing parents to set time limits on both off-line and on-line computer games and screen inappropriate websites for their children; and
- Clean Internet, facilitating one-click notification of inappropriate website by internet users.

2. Initiatives aimed at preventing and combating online child pornography. Such initiatives may include:

a) Institutional and political measures (e.g. adoption of a plan of action, awareness-raising campaigns, training of relevant human resource in detecting violations);

The National Telecommunications Commission was established as an independent body to be responsible for management and regulate telecommunication services to make sure that services available in the country are conducted in a manner which takes into account the best interest of the public. Some of the projects and activities which aimed to prevent online child pornography include:

1. Ensuring that licensed telecommunication and internet services providers carry out their business according to the terms and conditions of their licenses;
2. Establishing channels for receiving complaints of any usages of telecommunication services in a manner which is deemed harmful to the peace and good moral of the public;
3. Conducting regular visits and information sharing meeting with telecommunications operators and internet service providers to establish common understanding on how to prevent child pornography via telecommunications and the internet; and
4. Collaborating with relevant agencies, such as the Ministry of Information and Communication Technology, the Office of the Prime Minister, the Ministry of Culture, and the Royal Thai Police, in formulating guideline to address and prevent the problem.

On 27 December 2005, the Cabinet passed a resolution approving the recommendation of the National Committee for the Promotion of Creative Media that the Ministry of Culture establish a rating system for all types of media which was subsequently translated into law and policy for development and enforcement of rating system.

The Ministry of Information and Communication Technology has organized a total of 7 seminars aimed at improving awareness and understanding of illegal and inappropriate use of the Internet. Among others are workshops and technical meetings at schools, aimed at disseminating knowledge on harm caused by the Internet and inappropriate use of it. The discs of the Cyber Clean software which can also be downloaded from the Internet from www.ichousekeeper.com/download.php were disseminated to all participants and other public and private institutions especially educational institutions and internet/cyber cafes. Participants were also provided with a demonstration of the application of the software.

b) Initiatives to detect violations and abusers, protection mechanisms for children using the internet, mechanisms to control internet cafes, chat rooms, etc);

The Computer Control Act B.E.2551 (2008) stipulates that “Any data, computer data or computer

traffic data shall be alleged and admissible as evidence in accordance with the provision of the Criminal Procedure Code or other laws in relation to evidence.”¹ Therefore, Section 26 of the Act provides that:

- Service providers² shall maintain computer traffic data³ no less than ninety days as from the date that data enter into computer system. If need be, the competent official may, in a particular case and situation, order the service provider to maintain computer traffic data for more than ninety days, but not exceeding 1 year;

- service providers shall maintain client data which is necessary for identifying a client since his/her first use of the service and shall maintain such data for no less that 90 days as from the ending date of the service; and

- Service providers who fail to comply with this section shall be liable to a fine of not exceeding 500,000 baht.

The Ministry of Culture and the Ministry of Information and Communication Technology have jointly developed a software programme called “Web Guard” to bar access to inappropriate websites. Approximately 20,000 copies of the software CDs were produced and disseminated to schools nation-wide. Another software called “Swing” was also developed to facilitate reporting of suspicious websites. In 2006, the Prime Minister’s Office established a 24-hour hotline 1111, the website www.thaicybercop.com, and F.M. 105 radio (aired between 3-5 pm everyday) to encourage the public to get involved and report incidences of pornographic materials. The Obscene and Pornographic Materials Elimination Centre was also established to take a leading role in arresting and prosecuting those involved in the trade. The Centre liaises with Internet service providers (ISPs) and serves to ensure that pornographic materials are removed from the Web.

c) Initiatives undertaken in cooperation with NGOs and other members of civil society;

There are several services for child victims of sexual abuse and exploitation provided by NGOs such as the Child Development Foundation (FACE), World Vision Foundation, Centre for the Protection of Children’s Rights and approximately 25 other non-governmental agencies working in rescuing and assisting children who are exploited and abused. Some of the activities include provision of safe shelters, dissemination of information of prevention and victim protection, legal aids, counseling, physical and psychological care and recreation for child victims.

d) Initiatives undertaken in cooperation with the private sector, particularly with internet service providers, mobile telephone companies, chat rooms providers, banks and credit card companies;

Joint efforts in the form of networks between the public and private sector to raise public awareness of the sale of children, child prostitution and child pornography, include:

1) “Internet Adeptness project” created by Girls Centre to improving awareness of associated social problem caused by the Internet and how to protect themselves from internet harm;

2) “Working together to Stop Violence against Children in East Asia Pacific Project” supported by UNICEF in 2005, providing a forum for children to share their view on violation against children with the United Nations Secretary-General;

3) Development of social mechanism for the protection of sexually abused children in the form of

¹ Section 25

² According to the Ministerial regulation B. E 2550 (2008) under the Computer Control Act B. E 2550 (2008), “service providers” shall include telecommunication and broadcast carrier such as fixed network telephony and mobile telephony, and e-mail servers.

³ According to the Ministerial regulation B. E 2550 (2008) under the Computer Control Act B. E 2550 (2008), “computer traffic data” shall include name and address of subscriber or registered users, cell ID, time and date of the initial activation of the service and location label, mobile communication equipment, access logs which is specific to authentication and authorization servers, time and date of connection of client to server, user ID, Assigned IP address, calling line identification, simple mail transfer protocol, message ID, sender e-mail address, receiver e-mail address, status indicator, IP address of the client connection server, time and date of connection of client connected to server, IP address of sending computer, path and filename of data object uploaded or downloaded, URI (uniform resource identifier), network news transfer protocol log, host name, post message ID, and etc.

networks of civilian volunteer for child protection. The network has established community centre for receiving complaints of sexual abuse cases in many communities;

4) Supporting youth group to take the lead in campaigning against the sale of children and child pornography with activities such as youth camps, training and radio broadcasting;

5) Training and capacity building of children and youth as leaders in the role of surveillance of the Internet; and

Co-operations between governmental agencies and the private sector can be seen from such project as "Partner in Learning", a five-year partnership between Microsoft Thailand and the Ministry of Education. Under this programme, an on-line community (www.pil.in.th) was established to promote information sharing on safe internet use as well as training targeted for 20,000 student users of the Internet.

Another joint effort between the public and private sector in preventing and combating child pornography is the development of programme classification system through the cooperation between the National Broadcasting Commission under the Public Relations Department and six television stations and the Federation of Broadcasters Association. On 1 December 2006, classification symbols were launched, introducing radio and television audiences to the concept of age-based classification. Television programmes are now classified into four categories, represented by 7 symbols indicating age-appropriateness of such contents. Those classifications include a programme suitable for viewers aged between 2-12 years; a generic programme suitable to all age groups; a programme which should be viewed with parental guidance; and a programme which is suitable only for viewers over 18 years.

The Ministry of Culture is in the process of applying a system of classification to the internet, print media and motion pictures.

e) Coordination between the different actors at the national and international level;

At the National Level

A number of agencies are involved at various levels in the implementation of the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, including governmental and non-governmental agencies and the civil society. The Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups under the Ministry of Social Development and Human Security is the main coordinating agency. There are mechanisms at both national and regional levels, as well as independent mechanisms for supporting and monitoring the implementation of the commitment under the Convention and the Optional Protocol including:

(1) The National Youth Commission chaired by the Prime Minister or designated Deputy Prime Minister. The Commission is responsible for the formulation of policies and guidelines supporting the implementation of the Convention, and to prepare periodical reports on the result of Thailand's implementation submitted to the United Nations Child Rights Committee. On 1 September 2004, the composition of the Sub-Committee and its jurisdiction were amended to cover the implementation of both optional protocols of the Convention. The Sub-Committee now comprises 36 members representing parliament, governmental agencies and non-governmental organizations, legal and academic institutions and representatives from UNICEF and youth volunteers;

(2) The National Child Protection Committee was established under **the Child Protection Act, B.E. 2546 (2003)**, aimed at promoting collaboration among governmental agencies and NGOs. The Committee supervises the 76 Provincial Child Protection Offices which act as implementation mechanism at the regional and local level. The Minister of the Social Development and Human Security acts as Secretary of the Committee and is responsible for formulating policies and coordinating plans on child protection with relevant agencies at both national and provincial levels.

(3) Pursuant to **the Constitution of the Kingdom of Thailand, B.E. 2550 (2007)**, the National Human Rights Commission was established as an independent body responsible for the promotion of human rights and monitoring practices that constitute human right violations. Under the Commission, the Sub-Committee on Child, Youth and Family was appointed to be responsible for the

implementation of the Convention and its optional protocols. The Sub-Committee has been holding periodic meetings with relevant agencies to keep abreast of the progress and constraints in such implementation. The Commission also conducts visits and registers complaints of child rights violations and coordinates with the concerned governmental agencies. In addition, the Commission is responsible for conducting research in order to give recommendations to relevant authorities.

At the International Level

The Ministry of Tourism and Sports has collaborated their efforts with End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) International, Child Wise and Accor Asia Hotel in the implementation of the “Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism”. Approximately 6,000 employees of Accor Asia Hotel have been trained on detection of signs of child-sex tourism and while hotel guests are informed of the hotel policy regarding child protection. Training has been organized for business operators on the prevention of sex tourism. Police officers under the Police Command for Elimination of Wrongdoing against Children, Youth, and Women, which was established to be directly responsible for human rights protection of children, youth and women, have been designated to carry out surveillance and investigation, and to notify the Tourist police, of any suspected cases of child-sex tourism.

Thailand in cooperation with UNICEF has strengthened capacity building and establishment of child protection systems to reduce poverty and vulnerability of children. The objective is to protect children from abuse, neglect and all forms of exploitation. Thailand and its neighbouring countries through the coordination of UNICEF have formulated measures and guidelines for child protection, particularly in relation to children who are at risk of being trafficked and exploited ranging from child beggars to involvement in pornography.

f) Good practices in the areas of prevention and care of children;

Please see 2. a) b), c), and d).

g) Partnerships or other forms of cooperation with Interpol, Europol and other such organizations;

As one of the Interpol member countries, Interpol Bangkok under the Royal Thai Police has jointly collaborated with Interpol International in hosting and participating in the Asia-South Pacific Working Party on Information Technology Crime. The 6th meeting was held in Bangkok, Thailand from 15-17 December 2004, with the 11th meeting to be held in Thailand in November/December 2009. The Interpol Working Party on IT Crimes – Asia South Pacific region was established in 1997 and annual meetings are held. The aims of this Working Party are to:

- 1) cooperate and to share knowledge and practical experiences;
- 2) promote standardization of methods such as investigation and training; and
- 3) establish good practice guidelines and practical activities.

Currently, the activities of the Working Parties encompass four ongoing projects, namely:

- 1) Intelligent Scoping Project, aimed at measuring and scoping the current situation of IT crime and the current law enforcement initiative against such crime;
- 2) Case Information Sharing Project, aimed at sharing the experience of IT crime investigations and study from the investigation strategies from other cases;
- 3) Training Project, created to update training manuals and provide training to member countries; and
- 4) Computer Forensic Project, created to share the experience of computer forensics for various types of digital devices.

Furthermore, in April 2009, Interpol Bangkok organized Cybercrime Workshops and gave presentations on cybercrime trends, offences and legislation on the issue in participating educational institutions in Bangkok. The activity was successful in raising awareness among university students.