

# T D R I

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LEARNING ENVIRONMENT  
OF THE NEW GENERATION:  
CHALLENGES AND  
THE WAY FORWARD

REFORMING THAILAND:  
A DUAL CHALLENGE



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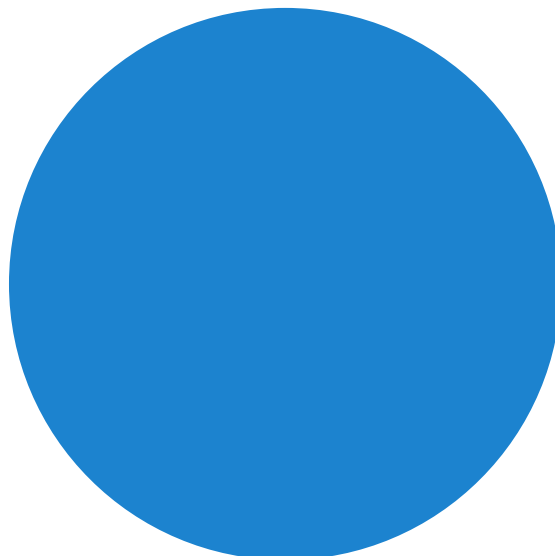
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*KANITP.*

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**REFORMING THAILAND:  
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# LEARNING ENVIRONMENT OF THE NEW GENERATION: CHALLENGES AND THE WAY FORWARD\*

*Charika Channuntapipat  
Pongtat Vanichanan  
Thunhavich Thitiratsakul  
Khajornphong Prasastranuvat\*\**

The aim of this article is to discuss the new learning environment for the new generation. When mentioning “the new generation,” this article does not try to break down persons by age, e.g., younger and older ones. The generation gap can cause conflict among different generations. However, values held by people from different generations can create different perspectives and social interactions that could lead to positive changes in society and help overcome forthcoming challenges. The rest of this article focuses on the new generation, which is made up

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*\* The article is summarized from the presentation, in Thai, by Dr. Charika Channuntapipat and Mr. Pongtat Vanichanan, at the TDRI Annual Public Virtual Conference 2022, held on November 29, 2022.*

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of individuals from different age groups who have different religious beliefs, ethnic background, preferences, and personal learning goals. The purpose of this article is to explore the learning spaces where the new generation can achieve personal learning goals and learn necessary skills, especially adaptation skills, to succeed in a rapidly changing world amid emerging challenges.

The article is divided into six parts. The first part addresses the challenges that the new generation is facing. The second part highlights information regarding the readiness of Thai people to address such challenges. This is followed by the third section, which discusses four characteristics of learning spaces: Accessibility, Modernity, Relevance, and Safety. The section also assesses learning spaces in Thailand against those four characteristics. The fourth section highlights examples of learning spaces from other countries, the good practices of which could enable Thailand to learn from their example. The final section provides policy recommendations for revamping learning spaces in Thailand.

## CHALLENGES FOR THE NEW GENERATION

The new generation is facing different challenges from those of former generations: among others, emerging diseases, technological disruption, and climate crisis; these are the ones that have and will continue to have significant impacts on everyone’s life.

## 1. Emerging diseases

The COVID-19 pandemic has affected everyone severely. For students, learning loss was caused by school closures. According to a survey by the Office of the Basic Education Commission (OBEC), after the lockdown was over, approximately 40 percent of schools in Thailand could not reopen for onsite learning, and even remote learning did not alleviate learning loss, especially for students from low-income families. Moreover, a survey by the Equitable Education Fund (EEF) revealed that students from families earning less than 1,200 baht per month increased from 760,000 to 1.2 million in 2021. Learning loss also affects the future earnings of the student so deprived. The World Bank, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Children's Fund (UNICEF) estimated that there will be a loss of \$US 17 trillion in future earnings as a result of the pandemic-related learning loss.<sup>1</sup>

For people in the labor market, the pandemic also adversely affected various dimensions of their work. First, according to the International Labour Organization (ILO), the working hours of Thai workers decreased by 7 percent. Moreover, there was a historical increase in the unemployment rate, especially for the youth group, reaching 9 percent of the total. Also, the income of people working

in severely affected sectors, including hospitality, logistics, and retail industries, decreased by 13, 10 and 9 percentage points respectively.<sup>2</sup> Second, there was a rapid transition toward working from home instead of working at an office. Lastly, working parents sustained more burdens compared with workers without children, as they needed to handle childcare duties during the daytime owing to school closures.

## 2. New technological disruption

Artificial Intelligence (AI) is among the new technologies that disrupt the way people work and their careers, as AI technologies are used to replace both unskilled and specific-skilled workers. For example, AI is being used in automated cars to replace human drivers. It is also used for approval of microfinance loans. Moreover, AI is used for settling small claim disputes, with valuations less than €7,000. Additionally, the generative language model AI, such as ChatGPT, has been used increasingly to help or replace some work previously done by humans.

However, the new technologies, including AI and automation, also create new job opportunities. A survey by the World Economic Forum in 2025, based on 15 industries in 26 countries, estimated that 85 million occupations will be destroyed by

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<sup>1</sup> The World Bank, UNESCO and UNICEF. (2021). *The State of the Global Education Crisis: A Path to Recovery*, <https://documents1.worldbank.org/curated/en/416991638768297704/pdf/The-State-of-the-Global-Education-Crisis-A-Path-to-Recovery.pdf>.

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<sup>2</sup> ILO Brief, (October 2021), *Thailand labour market update: Concern remains over the drawn out impact of COVID-19*, [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms\\_829228.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_829228.pdf)

new technologies, whereas 95 million new jobs will be simultaneously created by them (WEF, 2020: 29). Moreover, other research that surveyed leading firms in the United Kingdom showed that, although AI would replace 26.6 percent of jobs, it could generate 28.8 percent of new occupations (Hunt et al., 2022, cited in Warwick, 2022). However, the new occupations require highly skilled workers, so one of the challenges is to build labor capacity for these future jobs.

Besides disrupting the future of work, AI is also disrupting morality and creating ownership debates. For example, AI is used to create artwork; one such piece of art won the first prize in an art contest. This will lead to eligibility and ownership debates. Another similar example is how students use AI to do their homework. This also leads to discussions on the justified use of AI in such a context.

### 3. Climate crisis

The climate crisis has been caused by climate change, which adversely affects people and their daily lives. As a result, there are extremely negative effects caused by climate change both now and in the future; for instance, food insecurity, lack of clean water, and mass migration. Therefore, to enhance people's resilience, this new generation must be equipped with knowledge about environmental preservation and the importance of natural resources; they must also become increasingly adapted to new cultures and values in the future.

With regard to working conditions, climate change will reduce working capability. McKinsey & Company (2020: 9-10) highlighted that, if the world's temperature increases by up to 2.3 degrees Celsius in 2050, the working capability of outdoor workers will decrease by 7-12 percent due to their need for more frequent breaks due to the effects of extreme heat. Moreover, increasing temperatures also cause fluctuation in crop yields, which results in more volatile income for farmers (McKinsey & Company, 2020: 55-60).<sup>3</sup>

This situation is critical for Thailand and other developing countries as they heavily rely on their agricultural sector and outdoor work activities (World Bank, 2019).

Although climate change affects the work conditions as mentioned above, it is also the main driver for the world's transitioning toward a low carbon society. This transition will not only cause some jobs that intensively exploit natural resources to disappear, such as those in coal and mineral mining, but also create more jobs. ILO (2018) estimated that a green energy transition will create 24 million new jobs by 2030. Those jobs include but are not limited to electric vehicle mechanics and eco-architects.

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<sup>3</sup> The countries in the group include Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, and Thailand.

## READINESS OF THAI PEOPLE TO ADDRESS SUCH CHALLENGES

The previously mentioned challenges have effects on the livelihood of the new generation in many aspects, such as careers, working conditions, social norms, and living conditions. Thus, the crucial question is how to develop human capital by enhancing people's adaptability and resilience amid a world characterized by Volatility, Uncertainty, Complexity, and Ambiguity (VUCA).

There are concerns regarding human capital in Thailand. Based on data from the World Bank (2020), Thailand's human capital index is at 61 percent, meaning that an infant growing up to be a worker in the next 18 years can utilize only 61 percent of his or her full capacity. Additionally, Thai children's adaptability is also worrying in several aspects, as illustrated by the 2018 PISA Survey of Thai 15-year-old students, which revealed the following findings about Thai teenagers:

- 63.7 percent could not sufficiently adapt when change arises
- 53.7 percent could not sufficiently adapt when meeting people from different cultures
- 56.8 percent could not sufficiently solve complicated situations involving others
- 53.5 percent could not sufficiently handle pressure or face new circumstances
- 51.7 percent could not sufficiently adjust to new cultures
- 50.7 percent could not behave properly according to the situation

Compared with the PISA Survey of other countries, Thai teens were ranked near the bottom—60th out of 65 countries in terms of adaptability. Moreover, those from higher socio-economic backgrounds had significantly more adaptability skills than those from lower socio-economic backgrounds.

Three attributes are needed for the new generation to enhance adaptability skills. First, young people need to be open-minded so that obsolete knowledge is replaced with modern knowledge. Next, they need to be courageous to try new things so that they will be brave enough to ask questions, to experiment, and to gain new experience. Finally, they need to be embedded with a growth mindset so that they will believe that they have the ability to develop their own potential and become more resilient. In order to achieve these attributes, their learning spaces need to be a contributing factor and function properly.

## FOUR CHARACTERISTICS OF DESIRABLE LEARNING SPACES

Based on the status of Thailand's human capital mentioned above, the current learning spaces might not be functioning well. Thus, there is an urgent need to design new learning spaces that will increase adaptability skills for Thai people, especially younger ones. The new learning spaces should have the following four important characteristics.

1. Accessibility: Space that is non-exclusive.
2. Modernity: Space that is up-to-date in terms of knowledge and technology.

3. **Relevance:** The knowledge learned in the classroom or conventional learning spaces is bridged with real-life usage, and vice versa.
4. **Safety:** The space is safe for debating on controversial issues and experimenting with new ideas.

The four desirable characteristics of learning spaces mentioned above lead to the question, “Does Thailand have appropriate learning spaces to enhance adaptability skills and prepare its people to deal with new challenges?” To address the question, learning spaces in Thailand are assessed against the four above-mentioned characteristics but with current findings.

### **1. Accessibility: The space is not inclusive**

Almost half of the student population in Thailand cannot access upper secondary school, especially students from low-income families. The gap is even wider for higher education where only 3-4 percent of children from 10 percent of the poorest households can afford university education, while 58-63 percent of children from 10 percent of the richest household can do so.<sup>4</sup>

To some extent, the government has provided students with financial support to promote equality. For instance, the Equitable Education Fund provides financial assistance in the form of conditional cash transfers to the poorest students at the compulsory

education level. The Student Loan Fund offers loans for needy students to pursue upper-secondary and higher education. That Fund also has a plan to introduce a credit bank system, which would offer working-age people (15–59 years old) more flexibility to upskill and reskill. To enhance the effectiveness of the credit bank system, loans should be allowed for intensive reskilling or upskilling courses. Such courses must ensure that the skills can improve individuals’ job prospects or career advancement opportunities when applied in real-life situations.

With regard to non-conventional learning spaces, not everyone can easily access them. According to a survey conducted by Kid for Kids, almost 40 percent of youth aged 15-25 years old had never visited such outdoor learning centers as museums, art exhibitions, vocational training centers, and libraries due to the distance and the non-availability of those places in their area (Kid for Kids, 2022).

### **2. Modernity: The space is outdated in terms of knowledge and technology**

When facing new challenges, the new generation requires higher order thinking skills (HOTS), such as analysis, evaluation, and creativity skills. These skills need to be fostered at a young age. However, Thailand’s compulsory education system might not be able to appropriately provide all students with these skills. For example, History as a subject taught in Thai schools covers only 22 percent of the content relevant to such skills.

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<sup>4</sup> Source: *Equitable Education Fund (EEF)*.



Moreover, rote learning is emphasized in the way this subject is taught instead of emphasizing the use of historical evidence as a starting point for debating and discussing historical facts, for example potential debates on the origin of “Thainess.”

Besides the example of History, most other subjects are also taught in a way that encourages fixed answers instead of critical and flexible ones. On top of that, the teaching of desirable values in schools is interpreted in a very rigid way and does not address how the taught value could be used for the students’ self-development. According to how discipline is taught in school, this concept is interpreted only as enhancing physical discipline through enforcing of certain student hairstyles and dress codes rather than focusing on the development of self-discipline. The teaching method and the interpretation are outdated and need to be revised.

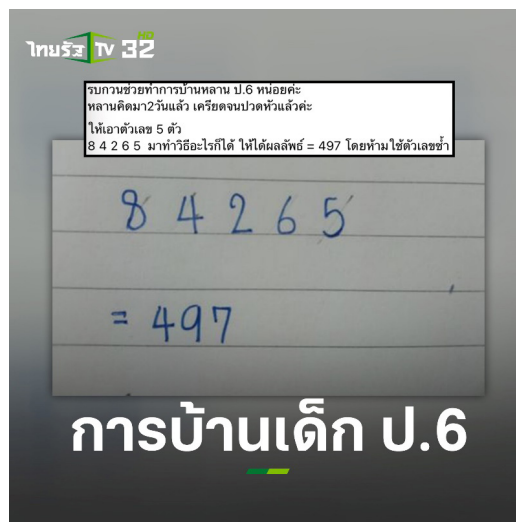
Furthermore, another important obstacle is prevailing regulations, such as procurement, which prevents teachers from purchasing new materials to deliver new and innovative teaching methods. According to research findings from the Education Reform Policy team at TDRI, evidence from schools in Rayong Province shows that the government’s inflexible procurement system prevents schools from collectively purchasing instructional materials online. Collective buying would enable cost-sharing which benefits both schools and the country. Thus, schools need to seek a private funding source instead of relying only on the allocated state budget.

### 3. Relevance: The gap between the knowledge learned in the classroom and its practical application in real-life situations is beginning to narrow but is still in the early stages of doing so

Teaching materials and approaches play an important role in making lessons from classrooms relevant to real-world situations. However, the majority of materials currently used in Thai schools, especially state-owned ones, could not fulfill such roles. For example, classroom math problems often lack real-world relevance, which disconnects students from the practical application of their learning (Sample 1). A couple of examples of such mathematical problems that are linked to real-life situations include assessing the good value for money of different sizes of pizza, or calculating a bill-splitting puzzle.

#### Sample 1: Math homework for Pratom 6 student, one sample from social media, which shows no real-world use.

Make 497 from 8, 4, 2, 6, 5 without repetition.



Source: Thairath TV, <https://www.thairath.co.th/tags/%E0%B9%80%E0%B8%94%E0%B9%87%E0%B8%81%20%E0%B8%9B.6>

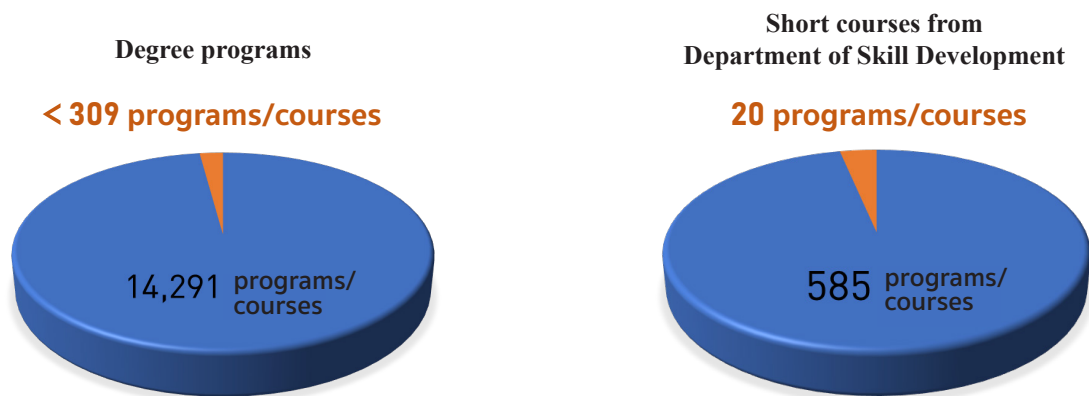
Besides teaching materials, teaching approaches also play a bridging role in making knowledge and learning from classrooms relevant to real-world situations. The Education Reform Policy research team at TDRI provided evidence from their fieldwork in Satun Province showing that problem-based or research-based learning can help students learn in a meaningful way. The teaching model adopted in that province is the so-called “Triple Teachers Model” (kru-sam-sao), which signifies that everyone can be a teacher. This model emphasizes sources of learning beyond the traditional teacher-led classroom because students may learn from peers, family, communities, or other sources outside the classroom. An example of this model is the electricity bill project. The students started the project by identifying the problem, which is “how to lower the community’s electricity bills.” The students used electricity bills as one of their learning tools. As a result of this learning model, the students could improve their mathematical and critical thinking skills as well as become aware of one of

their community’s issues. They also managed to successfully help reduce the community’s electricity bill by 200,000 baht within only one month.

Another example of an unconventional way of learning is a trekking school called “Outdoor Education” in Nan Province. The school uses both online and offline experience to teach international etiquette for forest trekking, as well as survival and adaptability skills. This learning activity also highlights for participants the importance of natural resources.

Besides teaching materials and approaches, connecting learning to the needs of the labor market is also crucial. Universities in Thailand have started to collaborate with the private sector to develop both short courses and degree programs which link industry knowledge with classroom learning. However, the number of available programs is still small. Thus, there is a need for state agencies and the private sector to further develop this kind of program to make the learning relevant to the needs of the labor market (Figure).

**Figure: Number of programs/courses relevant to the needs of the labor market**



Source: Ministry of Higher Education, Science, Research and Innovation; and CHECO Online [<http://202.28.55.154/checo/default.aspx>], November 15, 2022.

Source: Department of Skill Development.

#### 4. Safety: The space is not conducive to open discussion and exploration of controversial ideas and new perspectives

The fourth characteristic of a desirable learning space is safety. The space needs to be safe enough for learners to be able to ask sensitive questions and experiment with new ideas. Many examples illustrate the extent of safety in physical learning spaces in Thailand compared with other countries; they show that Thailand might not always provide a safe learning space. Controversial issues might be prohibited from being debated, or arguments that are not aligned with the conventional norms are not allowed to be discussed. For example,

Greta Thunberg, a young Swedish climate activist, came out four years ago to protest and question her government's lack of action to address climate change issues. Currently, she is an international symbol for climate action.

In Thailand, however, questioning authorities can be challenging and could lead to detrimental consequences. For example, Parit Chiwarak questioned the quality of Thai education and highlighted this issue by protesting and calling it a failure of the Thai government. Consequently, he was criticized as a rebellious and undisciplined student (Sample 2).

#### Sample 2:



*Left: Greta Thunberg, a young Swedish climate activist, came out four years ago to protest and question her government's lack of action to address climate change issues. Currently, she is an international symbol for climate action.*



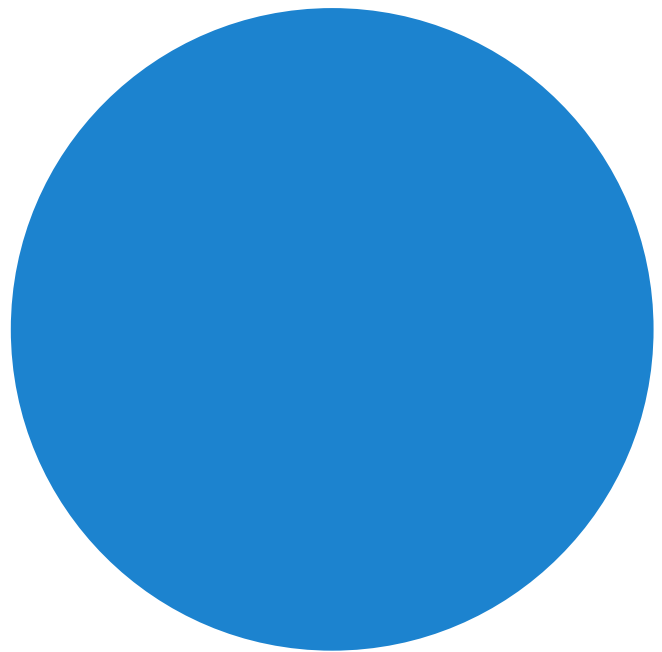
*Right: Parit Chiwarak, questioned the quality of Thai education and highlighted this issue by protesting and calling it a failure of the Thai government.*

Besides physical spaces, online spaces and forums are widely used for sharing different opinions. As a result, various debatable and controversial issues, such as those concerning religion and sexuality, have been increasingly discussed on social media platforms or online forums. Although such learning environments seem more open, there is rigid censorship in Thailand; a culture blaming those with unaligned opinions also reflects inadequate safety in what could be learning spaces.

From the four characteristics, we can see that current learning spaces in Thailand are not accessible for everyone due to different types of barriers. The spaces, including the materials and ways of teaching, are not up to date and might not be relevant to real-life situations. Also, the spaces might not be safe enough for the new generation to learn from controversial debates and experiment with new ideas. Thus, there is an urgent need to redesign the learning spaces having the previously described characteristics of Accessibility, Modernity, Relevance, and Safety.

## **GOOD EXAMPLES OF LEARNING SPACES**

We will use the concept of “a learning city” to exemplify good learning spaces which demonstrate a learning ecosystem having all four characteristics. Two examples include a case study of the “Whole City” project in Helsinki, Finland, and the learning city initiative in Suwon, South Korea.



### **1. Whole City project**

This project is aimed at expanding learning spaces throughout the entire city of Helsinki. The learning areas include parks, museums, historic and historical sites, libraries, and roads. Teachers can take their students to those places by using free public transport services that are provided during school hours. They play the role of facilitators, rather than instructors or “knowledge owners.” They design activities in the classroom so that they are aligned with various types of learning spaces and use technology as a learning tool. For example, students use computer tablets for taking pictures of unfamiliar things during the school trips; afterwards, they conduct research to gain more information about the things they observed.

This type of learning ecosystem is called phenomenon-based learning or problem-based



learning, in which a puzzle or problem is introduced to the students. The problems are related to the students' lives outside the classroom.

Besides the learners in the formal education system, the initiatives of the Whole City project cover the provision of learning spaces for other citizens too. For example, one of the city's libraries is designed for multi-purpose usage so that anyone can utilize the space based on his or her needs.

The Whole City project reflects the presence of key characteristics of desirable learning spaces, as the spaces are accessible, modern and involve the use of technologies; the learning is relevant to real-life situations; and the spaces are safe and allow experimentation.

## **2. Learning city initiative**

There are 600 outdoor learning spaces located in Suwon. Those include but are not limited to 42 community learning centers, 73 learning centers for children and youth, 20 arts and cultural centers, and 118 libraries. These learning facilities are easily accessible as they are located about a 10-minute walk from the residents' homes.

The learning centers in Suwon vary in terms of the purposes and designs of the centers. For example, Mwolado School is designed for elders to learn different skills. Nuguna School is an open learning space for everyone to share knowledge and learn from others. Another example is Haewoojae, or the Toilet Museum, which is a creative learning space designed to show how important bathrooms and excretion are in human life.

The key aspects of the learning ecosystem in Suwon illustrate the desirable characteristics of learning spaces. Citizens can conveniently access various learning spaces; the facilities are modern and offer relevant knowledge. On top of that, there is a process of public engagement in place concerning how those learning centers are developed. Initially, surveys of residents were launched to discover their needs. The residents were also invited to be a part of a committee deciding on the initiative. Then, they also promoted the availability of those learning spaces in order to reach the residents' attention so that they would come to use the spaces.

Based on these two cases, it may be observed that a city can be conceptualized as a learning ecosystem that would help create stronger links between the knowledge obtained from classrooms and real-life situations. Moreover, the development of learning cities could create cooperation between different stakeholders in those cities to call for supporting lifelong learning and for enhancing accessibility to public learning facilities.

## **POLICY RECOMMENDATIONS TO CREATE LEARNING SPACES FOR THE NEW GENERATION**

To create new learning spaces with desirable characteristics that support the new generation to enhance their adaptability and other necessary skills, such as critical thinking and creativity, there are at least three main actions that are needed: allocating appropriate budgets; adjusting learning goals; and allowing for new thinking.

### **1. Allocating budgets**

To enhance accessibility to various types of learning spaces, there is a need for more investment to increase the opportunities to enter learning spaces. Government agencies can also consider repurposing unused public spaces and land to create physical learning spaces. This would highly benefit people in the provinces where there are inadequate public learning spaces. Additionally, collaboration can be fostered with private sector organizations allowing the use of their land to create learning centers. The themes of the learning centers can be specific to business knowledge. The government needs to provide incentives for private sector organizations to invest in these kinds of learning centers.

In addition to new investments for developing physical learning spaces, there should be additional investment for encouraging more learning activities and environments that could lead to more collaborative learning of people of diverse age, background (e.g., religion, socio-economic background), and capability (e.g., people with different types of disabilities). This could lead to learning that empathizes with other people and could potentially create collaboration among the new generation to tackle future challenges. Such initiatives or programs could start as a sandbox in existing learning spaces, such as TK Park.

Besides the allocation of budgets, public procurement rules for teaching and learning materials need to be flexible enough for allowing new ways of procurement, such as paying for subscriptions or allowing cost-sharing, which would benefit students and would lead to cost savings.

## 2. Adjusting learning goals

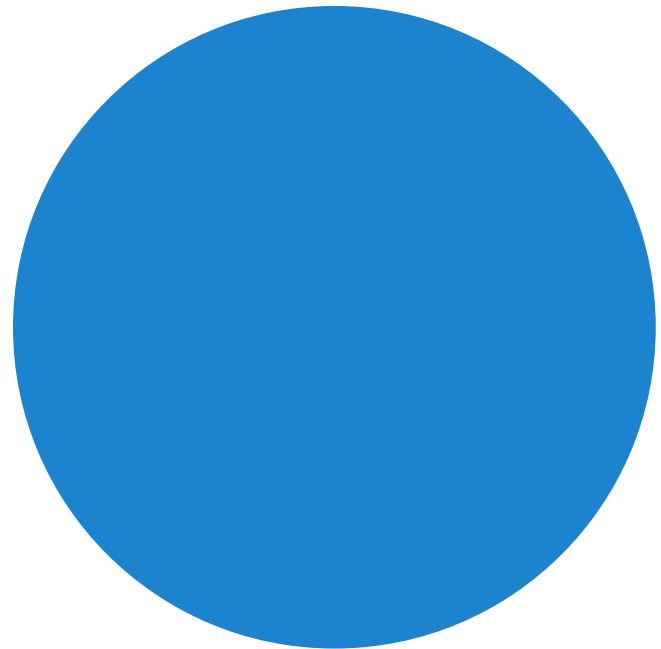
In Thailand, learning goals of every level of education need to shift toward enhancing adaptability skills and responding to the needs of the students' future careers. The core curriculum for basic education should be reviewed frequently and updated to maintain compatibility and relevance in a rapidly changing world. Moreover, university and vocational education should engage private sector organizations and employers in the curriculum development process so that learners would develop skills and knowledge that is aligned with the needs of the labor market.

Adjusting the learning goals to study more about applied knowledge rather than rote learning could also help bridge learning in the classroom with knowledge from real-world situations. For example, using social issues or community problems as learning topics could extend the learning goal from just passing exams to providing solutions for the community involved. Capacity-building for teachers is also crucial so that they can design curriculum and learning activities that lead to these kinds of new learning goals.

## 3. Allowing for new thinking

Thailand is stuck in an autocratic culture in which there is intolerance that prevents free and new thinking. The mass media can play a significant role by helping create a safe environment for open discussions to foster tolerance and respect for differences. If learning spaces are friendly and safe enough, such spaces could encourage new thinking.

Overall, if new learning spaces are successfully developed in such ways that make them accessible, modern, relevant, and safe, there will be learning spaces where the new generation can pursue their interests and skills, and enhance their adaptability amid a rapidly changing world. To make this happen, sufficient investment and a flexible public procurement system are needed; learning goals need to go beyond rote learning and passing exams; and the spaces need to allow new thinking and debates on controversial issues. As a result, learning spaces and opportunities will arise to then help close the education divide and promote more collaboration in the society.



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## REFORMING THAILAND: A DUAL CHALLENGE\*

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*Aekpaween Anuson*

*Pitchapon Jirawongsapan\*\**

### INCREASING DIVERSITY IN POLICYMAKING

Thailand is considered to be an aging country in terms of the descending rankings of its economic and digital competitiveness, and its ecosystem for supporting future business trends. Thailand currently is not agile enough to proactively develop its competitiveness in several dimensions in order to attract prospective investors. There are a number

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*\* The article was summarized by Ms. Aekpaween Anuson and Mr. Pitchapon Jirawongsapan, based on the presentation on “Increasing Diversity in Policymaking to Enhance Thailand’s Competitiveness and Overcoming the Struggle to Adapt: The Grand Challenge of the Thai Legal System,” in Thai, by Dr. Boonwara Sumano Chenphuengpaw and Dr. Saliltorn Thongmeensuk, at the TDRI Annual Public Virtual Conference 2022, held on November 29, 2022.*

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of reasons for this situation besides the country’s success in lowering its mortality rate and its total fertility rate (TFR) to below the replacement level, even though its TFR had once been among the highest in the world. Its population growth rate has declined dramatically since the 1960s. Thailand is now one of the fastest-aging countries in the world. The proportion of the population aged 60 and older is projected to increase to nearly one-third of the total by 2040. However, another cause of becoming an aging country in terms of competitiveness is not so obvious, such as the age requirements for Senators and the people’s trust in the high qualifications and long experience of Cabinet members and Parliamentary Representatives, which enables mostly elderly people to take these policy-making positions. Furthermore, an overwhelming number of outdated laws and regulations are on the books in Thailand; these have become obstacles to progress, chaining the country to the past and not allowing it to adjust to future challenges.

The COVID-19 pandemic exacerbated Thailand’s problems with competitiveness. According to the 2022 IMD World Competitiveness Ranking,<sup>1</sup> Thailand was ranked 33rd among 63 economies worldwide, plummeting from 28th position in the previous year. There are four factors in the IMD ranking, namely economic performance, government efficiency, business efficiency, and infrastructure. Government and business efficiency,

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<sup>1</sup> Institute of Management Development (IMD), “The IMD World Competitiveness Ranking,” <https://worldcompetitiveness.imd.org/rankings/wcy>.

and economic performance fell dramatically in Thailand. The 2022 IMD World Digital Competitiveness Ranking<sup>2</sup> revealed that the digital competitiveness of some other ASEAN countries, such as Singapore, Indonesia, and the Philippines, increased while that of Thailand decreased from 38th to 40th place. Of these four main factors, three dropped significantly—Thailand’s future readiness to: exploit digital transformation; gain the knowledge needed to do things smoothly and efficiently (know-how); and understand and build new technologies.

Moreover, Thailand’s business environment is not conducive to emerging business trends and startups. *The Global Startup Ecosystem Index Report 2022*<sup>3</sup> ranked Thailand in 53rd place, followed by Vietnam which rose five places to 54th place in 2022. Thailand’s first weakness is its quality score, i.e., the number of employees per startup, number of unicorns, and level of startup investment. The second weakness is the business environment score that measures Internet freedom, and Internet speed, level of English-language proficiency, and number of patents per capita, among others. The above-mentioned weaknesses cause Thailand to lag behind other countries in ASEAN, especially Singapore, Indonesia, and Malaysia, as well as hinder the country from being responsive to future economic and business trends.

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<sup>2</sup> IMD, “The IMD World Digital Competitiveness Ranking,” <https://worldcompetitiveness.imd.org/rankings/digital>.

<sup>3</sup> Produced and published by StartupBlink, the full report is available at <https://www.startupblink.com/startupeco-systemreport>.

As demonstrated above, the country’s economic performance, government, and business efficiencies are interrelated. Undeniably, the government sector plays an important role in enhancing Thailand’s competitiveness. This paper will discuss two major factors that impede Thailand from propelling its development in line with future trends and competing economically with other ASEAN countries. The two major factors in this regard are (a) the old generation involved in an unbalanced proportion of the policymaking processes, and (b) the country’s outdated legal system and laws.

### **Old generation involved in an unbalanced proportion of the policymaking processes**

Some assume that the majority of the Thai population is composed of elderly persons, but the median age of the population was only 38.8 years old in the period 2018–2022.<sup>4</sup> However, the proportion of policymakers is indeed composed mostly of “the elderly.” Policymakers do not come from a wide range of age groups. Therefore, policies are not diverse enough to address the emerging challenges the country faces and thus they impede its future development.

Thailand has three branches of government, namely executive, legislative, and judiciary. Each branch is composed of authorities as follows:

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<sup>4</sup> United Nations, “Data Portal Population Division: Median age of population,” <https://population.un.org/dataportal/data/indicators/67/locations/764/start/1990/end/2022/table/pivotbysex>.

1. **Executive:** Prime Minister, Cabinet ministers and their ministries, provincial government agencies, and local government agencies, such as Provincial Administrative Organizations (PAOs), Municipalities and Subdistrict Administrative Organizations (SAOs);
2. **Legislative:** Parliament consisting of the House of Representatives and the Senate;
3. **Judiciary:** Court of Justice, Administrative Court, Constitutional Court, and Military Court.

In addition to these, there are various other relevant agencies, such as independent organs.

#### ● Aging Cabinet members

Thailand's Cabinet members, including the Prime Minister, are more elderly than the Cabinet members of two ASEAN countries, Singapore and Vietnam. The median age of Thailand's Cabinet members is 65 years of age. While Singapore's population is aging more rapidly than Thailand's population, the median age of Cabinet members in Singapore is only 59 years, which is equal to that of Vietnam. Fifty-nine years old is six years younger than the median age of Thailand's Cabinet members.

#### ● Senate as an area for elderly Senators<sup>5</sup>

Although the minimum age requirement for senatorial candidates is 40 years of age, as specified

by law, more than one-third of appointed Senators are aged between 66 and 69 years (36.3%). The median age of Senators is 68 years and the minimum age is 45 years. Moreover, 40 percent of Senators are both retired and incumbent Generals from four branches of the military. Prior to being appointed to the position of General, they accumulated experience and were gradually promoted according to age. Thus, they can be appointed as a General and then a Senator only after achieving a certain age.

#### ● House of Representatives, including younger members<sup>6</sup>

The House of Representatives includes younger elected members than the Cabinet and Senate, where the members are appointed because the minimum age requirement for the lower House's candidates according to law is 25 years of age. However, the proportion of House of Representative members aged less than 40 years is only 10 percent, and members aged between 60 and 69 years old comprise the highest proportion. Their median age is 58 years, 10 years younger than the Senators' median age.

Presumably, members of the lower House are younger than members of the Cabinet, Senate, and independent organs because they are elected by the people. The election may integrate members of different age groups into the House of Representatives.

<sup>5</sup> Collected and analyzed by authors from various sources.

<sup>6</sup> *Ibid.*

## ● **Members of independent organs**

Independent organs' members are also mostly more than 60 years of age. This part only explores the members' ages in four agencies, i.e., the National Human Rights Commission of Thailand (NHRC), the Election Commission of Thailand (ECT), the National Anti-Corruption Commission (NACC), and judges of the Constitutional Court. The median ages of these independent organs' members are 61, 66, 68, and 69 years of age, respectively.

The members of the above-mentioned entities are older than Thailand's retirement age because the selection criteria for suitable persons for such positions are quite specific. Only the elderly then can be selected for those key positions. The requirements comprise minimum age, high qualifications, and long professional experience. For example, NHRC's members must be at least 45 years of age, and ECT's members must have held the position of Chief Justice or Director-General. These requirements undoubtedly favor government officials who have long tenure in public service and predictably are very senior. For the requirements of the Constitutional Court's judges, the candidates must currently hold or have held the highest professorship of a university in Thailand for a minimum of five years. It takes considerable time for a person to reach a full professor's position. Therefore, only people from a single generation can secure important positions in independent organs.

As observed, the appointed Cabinet members, Senators, and independent organs' members are likely to be elderly compared with members of the

House of Representatives who are elected to their position. Elections are an effective mechanism to potentially gain Representatives from diverse age groups based on people's needs.

## **Appointed vs. elected local executives<sup>7</sup>**

In comparing between appointed and elected Thai local executives, i.e., the Provincial Governor from the Ministry of Interior (MOI) and the President of the PAOs, respectively, 70.7 percent of the appointed Governors are between 56 and 59 years old while elected PAO Presidents are found to be almost equally aged in three cohorts: 50-55 years old (20.7%), 56-59 years old (20.7%), and 60-65 years old (22.4%). Provincial Governors are appointed during that age period due to the sufficient accumulation of power and experience in public service. Meanwhile, the PAO Presidents are elected by locals based on their contribution to the support of the locals' needs in their own province. Age is not a concern.

## **Five political parties and House of Representatives members from different age groups<sup>8</sup>**

The member proportion of the 25th House of Representatives (2019) from five major political parties, namely Palang Pracharath Party (PPRP), Democrat Party (DP), Bhumjaithai Party (BJT), Phue Thai Party (PT), and Move Forward Party (MFP), classified by age as of 2022, demonstrates

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<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

that the lowest median age of members of the House of Representatives is from MFP (44 years), whereas the members of the other political parties in the lower House have a much higher median age: 57 years (PPRP), 58 years (DP and BJT), and 60 years (PT).

Regarding MFP campaigns during the 2019 general election, there were several proposed policies for the purpose of structural/social changes, such as the marriage equality bill, the initiative process bill which allows eligible voters to submit a petition for introducing a law based on their needs, and the “progressive liquor” bill to bolster small entrepreneurs’ market access. Moreover, MFP proposed many more policies which are aimed at changing the social structure, e.g., a progressive “welfare package”<sup>9</sup> and power decentralization campaigns<sup>10</sup> for the upcoming general election in 2023.

In sum, elderly persons in key positions are critical for propelling the country’s development because of their accumulated knowledge and experience, and their valuable perspectives. However, increasing the number of policymakers from different age groups will enable Thailand to better address future challenges and support future trends. People from diverse age groups gain diverse experiences; thus, they can provide different solutions to a problem.

<sup>9</sup> For more information, see: <https://www.moveforwardparty.org/article/policies/15634/>.

<sup>10</sup> For more information, see: <https://www.moveforwardparty.org/article/14889/>.

## Recommendations to increase diversity in policy making

1) To reduce the threshold of key positions’ minimum age, qualifications and experience, which favor elderly senior government officials and full professors in all regulations. For example, the minimum age requirement for Senators (40 years) causes people over 60 years of age to be appointed instead.

2) To eliminate mechanisms in which the people’s voices have not been heard and reflected, i.e., the appointment of Senators, provincial Governors, and representatives of national independent organs, etc.

3) To initiate inclusive discussion platforms for people of different ages and from different sectors. The national policies and strategies can be enhanced by different generations’ various opinions.

4) To listen thoughtfully to the people’s voice and willingly try to understand each generation’s needs to improve the country’s future development.

## OVERCOMING THE STRUGGLE TO ADAPT: THE GRAND CHALLENGE OF THE THAI LEGAL SYSTEM

Among several factors that pose challenges to the development of the country, Thailand struggles to adapt to the constantly changing social and economic landscape. A legal system is essential for a nation-state to function, and its pertinence to the situation shapes the path of the country. However, the Thai legal system consists of a significant number of laws that do not reflect the current needs of the people and the contemporary reality of society, economy, and technology.

## Outdated legal system

The Thai legal system is known to be a complicated one. As a civil law jurisdiction, the country operates on written laws. They have impacts on all regulated activities, essentially prescribing guidelines for the society and economic actors. The collection of written laws is an essential toolbox for the government and for all activities within the country's borders. The government uses law to provide necessary regulations, guidelines, and sanctions, and at the same time, law can be an enabler for policy implementation. For example, the government can ensure that such a policy as business promotion is indeed implemented and is implemented correctly thanks to the relevant laws. In other words, law can be viewed as an institution that enables what is supposed to be promoted, and disables or limits activities that may have negative impacts on the society.

As the economy grows and the world changes over time, however, it is not unexpected that additional laws will be required, drafted, and enacted to suit the increasingly complicated nature of activities in the country. However, the increasing collection of those laws has become a plethora of more than 15,000 laws.<sup>11</sup> The exact number of laws currently in force is actually unclear, and it is not uncommon to stumble upon surprising laws never heard of before. This creates two challenges for the

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<sup>11</sup> Office of the Council of State, "Did You Know How Many Laws There Are in Thailand? [รู้หรือไม่ว่า... ประเทศไทยมีกฎหมายกี่ฉบับ?]," Office of the Council of State, October 31, 2022, [https://www.krisdika.go.th/data/statistics-law/statistics-law\\_31-10-65.png](https://www.krisdika.go.th/data/statistics-law/statistics-law_31-10-65.png).

legal system in Thailand. First, many laws have been enforced for an overly long period of time, but are no longer suitable for the current situation. Second, many laws pose puzzles of unnecessary legal difficulty due to their rigidity in adapting to change.

## • Outdated laws and the failure to achieve the purpose of a legal system

The collection of written laws consists of series of laws being enacted one after one another, mostly each is aimed at suiting the needs of governance and regulations at that moment. The legislative tradition in Thailand, however, follows this logic to the letter. Each time some new regulatory issue appears, it is highly likely that a brand-new act would be drafted, with only a limited consideration of integrating the legal solutions into existing laws. Over time, this results in an overly large collection of laws, inevitably resulting in the inability for anyone to grasp the comprehensive mechanism of law and, more importantly, difficulty in reviewing the existing laws. This causes outdated laws to still be enforced, regardless of their questionable relevance to the socio-economic situation that may have changed completely over time.

First, outdated laws fail to serve the purpose of the law in enabling and disabling certain economic activities. One example is the Gambling Act B.E. 2478 (1935), enforced almost ninety years ago, and last amended in 1962. The objective of the Act is to regulate gambling activities that may have negative impacts on the society. There are two annexes attached to the Act. The first annex lists the

types of gambling that are strongly discouraged and prohibited, such as fan-tan and hi-lo. The second annex lists types of gambling that are allowed with permission, such as Mah-jong and claw machines for grasping dolls or other trinkets. These were relevant at the moment of enactment and latest amendment, and still suit the need to regulate traditional gambling activities.

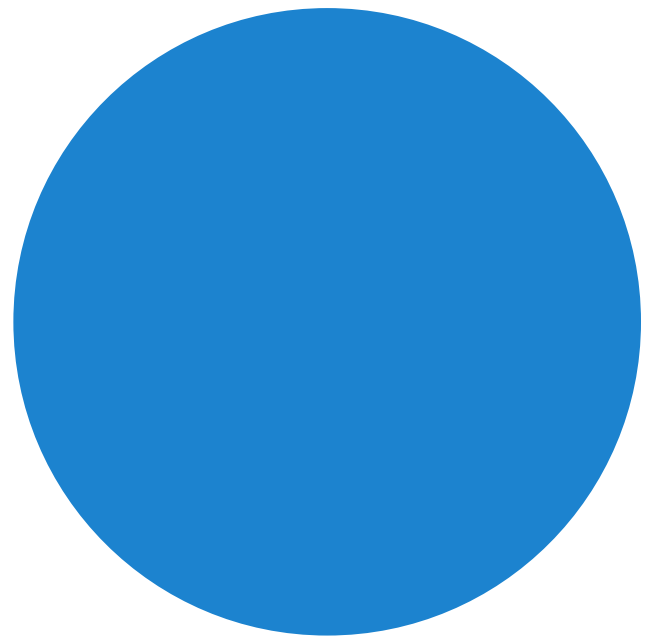
However, the society and businesses have changed over the past six decades. Online gambling has transformed the landscape of gambling activities. The Act from several decades ago understandably could not imagine such things as online gambling, and thus is unable to regulate the growing online gambling market.

Meanwhile, businesses in Thailand increasingly use lucky draws as a part of their marketing campaigns. Such campaigns are clearly different from gambling and do not harm the society. Section 8 of the Act provides that “Arrangements for premium gifts or prizes by means of taking a chance in any manner in the course of a business or an occupation must be permitted in advance by the licensing officer.”<sup>12</sup> It effectively requires all businesses to submit requests before launching any marketing campaigns with lucky draws or random prizes.

By being out of touch with the modern developments, the Act unintentionally is disabling harmless economic activities. Such an outdated law

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<sup>12</sup> See *Gambling Act, B.E. 2478 (1935)*, <http://report.dopa.go.th/laws/document/2/216.pdf>.



thus fails to regulate what should be regulated, and fails to be an enabler for harmless, value-generating activities.

Another example of outdated laws failing to accommodate timely regulatory needs is found in hotel businesses. In Thailand, hotel businesses are regulated under the Hotel Act, B.E. 2547 (2004). The Act provides for the Minister of Interior, with recommendation from Committee for Promotion and Supervision of Hotel Business, to enforce ministerial regulations prescribing categories and criteria for hotel business operation, which defines the categories of hotel business operations, and corresponding measures to control their standards. The latest ministerial regulations on this topic were enforced in 2008. This is, unlike the case of the Gambling Act, a relatively new law.

However, the landscape of the hotel business has evolved quickly within less than two decades.



Physical lodgings have become more diverse – ranging from rafts to tents, “bubbles,” and capsules to traditional hotel rooms. Moreover, the hotel business model also views innovations, such as Airbnb, as a shift to a sharing economy model never foreseen until recently. The Hotel Act and the previously mentioned ministerial regulations unfortunately do not yet recognize such businesses. For example, for physical lodgings, the smallest size of accommodation recognized in the ministerial regulations concerned is 8 square meters, putting the renting of tents and capsules in a difficult position. The regulations further require the facility to pass examination under the Building Control Act, which is likely to be impossible for unconventional physical lodgings. In 2021, more than 40,000 small-scale hotels and hotels with novel business models in the country were at risk of being permanently closed for not being legally recognized.<sup>13</sup>

Here, again, an outdated law made the striving people in the country, including the innovative and honest ones, inadvertent wrongdoers. At the same time, consumers are not protected as there is no regulatory mechanism to ensure standards for the significant number of such units falling under the description of hotels, or perhaps in current legal terms, hotel-like businesses.

Second, outdated laws with ambiguous scope of enforcement are left unsolved. An example is the Control of Sale by Auction and Trade of Antiques

Act, B.E. 2474 (1931), enacted in 1931 and last amended in 1992. The objective of the Act is to prevent trading of stolen goods and to prevent using such businesses as fronts for money laundering. It is also a tool to prevent the stealing and smuggling of antiquities, especially valuable relics that are deemed to be national treasures. Under the Act, any person seeking to start a business in trading antiquities must undergo qualification screening and receive formal permission to conduct the business.

The definition of antiquities is, however, overly broad. Section 3 of the Act defines antiques as “property that is offered for sale, exchange, or disposal in the same manner done to used property, including historic items.”<sup>14</sup> The definition covers any used property, and historic relics are only a part of the category, which is arguably the opposite of a required definition based on the objectives of the Act. This means that a person who trades any used or second-hand goods, no matter what is their value, such as used cardboard boxes and scrap iron, fall under the scope of enforcement. All transactions are required to be reported to the related authorities, including details on the source of the goods. Further, the process of application of permission incurs a minimum fee of 5,000 baht, which is a relatively large sum for small businesses. These requirements hinder one of the most common economic activities, and many who cannot afford the application fee and frequent reporting unintentionally become

<sup>13</sup> “Illegal Hotels Request State’s Protection, Fearing Seizure of Hundred Billion Baht [โรงแรมเถื่อน ขอรัฐคุ้มครอง หวั่น ถูกยึดทรัพย์แสนล้าน],” *Prachachat Turakij*, July 16, 2022, <https://www.prachachat.net/local-economy/news-981877>.

<sup>14</sup> See *Control of Sale by Auction and Trade of Antiques Act, B.E. 2474 (1931)*, <http://report.dopa.go.th/laws/document/2/202.pdf>.

wrongdoers under the Act. The issue will likely be amplified even more, as the world shifts toward a circular economy, for which the Thai government has announced its commitment.

### ● **Outdated laws as a series of barriers**

Businesses with new corporate models and which have adopted novel technologies face a series of legal barriers due to the inability of the laws to be updated in order to keep up with changes. Below, three examples are briefly discussed: the indoor swiftlet nest business, introduction of autonomous vehicles, and crowdfunding of small and medium-sized enterprises.

#### **(1) Indoor swiftlet nest business**

Swiftlet nests are a highly valuable food source, often coined the “caviar of the East.” In the past, swiftlet nests were collected from natural habitats, with permission in the form of government concessions under the Swiftlet Nest Duty Act, B.E. 2540 (1997). The trend recently shifted from conventional collection in nature to the indoor swiftlet nest business model, where swiftlets are kept in a building, often called a “swiftlet home,” and their nests are collected within that farmstead building. The indoor model reduces costs of production significantly, and enables potential scaling up much more easily when compared with the concession model. In 2021, about 17,800 businesses were using the indoor swiftlet nest model.

However, the indoor model is not yet allowed by law; there are a series of laws preventing

its use in many ways, including the Wild Animal Conservation and Protection Act, B.E. 2562 (2019), Building Control Act, B.E. 2522 (1979), Public Health Act B.E. 2535 (1992), and Town Planning Act B.E. 2562 (2019). With not one but four major laws as systemic barriers, the businesses lose economic opportunities, especially in trading, and the State cannot regulate the businesses. This poses the risk of a black market developing. Also at risk is consumer rights protection as the State does not have the legal tools needed to set and enforce standards for swiftlet homes and the nests produced within them.

#### **(2) Introduction of autonomous vehicles**

Lacking a legal mechanism to support complex, systemic changes makes introducing new technologies in Thailand challenging. This is particularly amplified in new technologies related to the infrastructure, for which a whole new series of laws needs to be enacted or old ones amended to allow smooth introduction of such technologies while ensuring public safety. While autonomous vehicles, also known as self-driving vehicles, are being developed around the world with immense opportunities to transform mobility, Thailand lags behind others in legislating for vehicle and equipment standards, testing, and certification. A regulatory sandbox, as implemented in Singapore where autonomous vehicles are allowed to conduct test-runs on public roads, could prove useful for Thai regulating authorities, industry, and most importantly it could ensure that the designed legal

infrastructure works as well as the technology. For a developing economy like Thailand, such a mechanism would not only reduce legal barriers, but also increase opportunities for the society and economy to benefit from the newest innovations.

### **(3) Crowdfunding of small and medium-sized enterprises**

The number of small and medium-sized enterprises (SMEs) in Thailand is growing, with more than 3 million startups. Crowdfunding is an important tool for SMEs, especially for startups. Unfortunately, they cannot legally do so in Thailand. Until 1978, Section 1102 of the Civil and Commercial Code allowed crowdfunding for limited companies (the equivalent of limited liability companies). However, the provision was amended in 1978, following the enactment of the Public Limited Companies Act, to forbid crowdfunding, with the objective of protecting members of the public from fraudulent schemes.<sup>15</sup>

With the growing need for funding, the Securities and Exchange Commission (SEC) has devised the Securities and Exchange Act to support these businesses through the SME Private Placement (SME-PP) mechanism. The mechanism enables companies to issue bonds and convertible bonds to limited groups of investors. An employee stock option program was also allowed for SMEs to create incentives for employees with high potential.

The SEC also created another mechanism, SME Public Offerings (SME-PO), which allows financing from a broader group of investors in the stock market. However, SME-PO is accessible only by medium-sized enterprises with at least 15 shareholders and by public limited companies. This is the point where Section 1102 of the Civil and Commercial Code cannot be circumvented. Although much effort has been put into devising other mechanisms, it is undeniable that the legal barriers must be resolved to allow a simple, accessible crowdfunding mechanism for SMEs and startups. Without legal adaptation, the potential economic contributions of SMEs and startups will remain untapped.

### **A way forward: regulatory review**

Having a legal system that reflects actual regulatory needs, the socio-economic situation, and technological changes will undoubtedly be an essential driver for Thailand's development. As discussed, the laws must serve the purpose of enabling, promoting, and disabling. No righteous citizens and economic activities must be wrongly deemed illegal; harmless activities in the market should not be hindered by various legal barriers.

To solve the issues caused by the large collection of outdated laws, the written laws must be comprehensively reviewed to confirm their relevance in a rapidly changing world. Regulatory review, also known as a "regulatory guillotine," is a process to review and analyze the laws currently enforced, for which the results are recommendations to repeal or amend laws to better suit contemporary

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<sup>15</sup> *Act amending the Civil and Commercial Code, No. 9, B.E. 2521 (1978), Explanatory Notes.*

needs and the current situation. The recommendations can be generally categorised into 5Cs<sup>16</sup> as follows:

**1. Cut:** repealing laws that are no longer required

**2. Change:** amending laws to better suit the current needs and situation

**3. Combine:** combining laws for more simplicity of the legal system and processes

**4. Continue:** taking no action on laws still pertinent and relevant

**5. Create:** drafting and enacting new laws necessary to adapt to changes

The existing cases of other countries that have adopted regulatory reviews show successful results, with significant positive economic spillovers. South Korea reviewed 11,125 laws within only 11 months and repealed 48.8 percent of them. The review had positive impacts on the economy by facilitating job creation for 1,066,200 people, and boosting the growth of the gross national product (GDP) by 4.4 percentage points.<sup>17</sup> Similarly, Vietnam reviewed 5,500 laws in two years, repealing 8.8 percent of them. The review resulted in cost

savings for businesses worth \$1.4 billion.<sup>18</sup>

In Thailand, the State has increased its emphasis on legal reforms, with the concept of evaluation of the law embedded in Section 77 of the Constitution of the Kingdom of Thailand, B.E. 2560 (2017). The government, led by the Strategic Transformation Office (STO) in cooperation with the Thailand Development Research Institute, planned to implement 1,094 tasks to revise and repeal laws in a project to promote and ease doing business in Thailand. The target of the project was to complete by 2021 at least 80 percent of the total tasks set, and they achieved it.

Despite the promising figures, the number of laws actually repealed or amended following the well-achieved tasks has been unclear, and no concrete plan to revise laws has ever been made again after the project was completed. This shows that Thailand, especially those in authority, needs a stronger driving force in terms of political view, awareness of the necessity of legal reform, and human capital for this large task to revise the existing plethora of laws, comprehensively and continually. With all these additional factors, it is possible for the legal system to become once again in touch with reality and adaptive to an ever-changing world.

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<sup>16</sup> Kitti Tangjitmaneesakda, Chayodom Sabhasri, Deunden Nikomborirak, and Ratchaporn Wongsaraj. "Regulatory Guillotine: Legal Reform, Increasing National Competitiveness [Regulatory Guillotine ปฎิรูปกฎหมาย เพิ่มขีดความสามารถในการแข่งขันของประเทศ]." *Bank of Thailand*, 2018. <https://www.bot.or.th/Thai/BOTMagazine/Pages/256204Knowledge03.aspx>.

<sup>17</sup> "The Regulatory Reform System and Policy Coordination in Korea: A Guillotine Rule of Regulatory Clearance for Economic Crisis Management." *K-developedia*. Sejong: KDI School of Public Policy and Management, 2014. <https://www.kdevelopedia.org/Resources/view/04201507290139166.do>.

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<sup>18</sup> Vo Tri Thanh, and Cuong Van Nguyen. "Regulatory Coherence: The Case of Viet Nam." *The Development of Regulatory Management Systems in East Asia: Country Studies ERIA Research Project Report*, 2016, Jakarta: ERIA.



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