

GTB231

Lecture 1: Overview

- community = group of people. / there are interactions b/w individuals
- laws & regulations are needed to control people w/in society
 - "Strict rules that people w/in society accept and agree to obey would create a "law".
- interaction : face-to-face or means of communication
- * law development processes.
 - based on possible problems found w/in society. Create a good norms for people to follow.
 - If not followed, there are certain punishment as defined by law for specific offences.
 - "Loopholes" happened b/c some couldn't thought during law legislation process or could not possible before.
 - If it's cannot happened before but now can, revise the law!
- Cyberspace has no geographical boundaries, Web presence is national & global simultaneously, also has potential liability exposure anywhere and cause many legal issue. ex e-commerce.

Classification of Law

- Civil law system vs. Common law system [กฎหมาย vs กฎหมาย]

- Public law vs Private law [กฎหมายสาธารณะ vs กฎหมายส่วนบุคคล]

* Substantive law vs Procedural law [กฎหมาย substantive vs กฎหมายวิธี]

↳ applied in court / govern proceedings & regulate how to proceeding cases.

↳ rights/obligation / govern relationship b/w persons.

- general law : C.C.C. / Criminal law code

- specific area of law : intellectual property / computer-related.

Juristic Acts.

C.C.C. Section 149 : Juristic Acts are lawful and voluntary acts,

the immediate purpose of which is to establish juristic relation b/w persons
(เชิงคุ้มครอง) (ด้าน) (ด้าน) (ด้าน) (ด้าน)
 to create, modify, transfer, preserve, or extinguish rights.

C.C.C. Section 168. : A declaration of intention made to a person in his presence

ex legal notice takes effect from the time when it becomes known to receiver of intention.

* In any means of communications. (e.g. telephone etc.)

* Thailand use civil law sys, but UK use common law sys

* C.C.C. Civil and Commercial Law Code.



C.C.C. Section 169 : A declaration of intention made to a person not in his presence, takes effect when it reaches the receiver of intention

* not effective if revocation reaches previously or simultaneously

* still effective if who made declaration of intention died or incompetent or quasi-incompetent by court's order

C.C.C. Section 188 : A juristic act is void if subject to

* Void * an unlawful condition or contrary to public order/good morals.

C.C.C. Section 420 : A person who willfully, negligently or unlawfully injures

* Torts * the life, body, health, liberty, property, or any right of another person, is said to commit a wrongful act and bound to make compensation.

► Legal Maxims

"nullum crimen, nulla poena, sine lege" → no crime, no punishment, w/o law

→ means that → no penalty w/o previous law w/o well-defined law
w/o written law w/o exact law

► Application of Criminal Law

Criminal Law Section 2 : A person shall be criminally punished

only when is provided to be an offence and

punishment is defined by the law at the time of doing and

the punishment to be inflicted upon the offender provided by the law

* If provided afterwards, such acts is no more an offence.

Criminal Law Section 59 : A person shall be criminally liable only when commit an act intentionally

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except committed by negligence or the law clearly provided that such person

commits an act unintentionally.

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Date :

Lecture 2 : Introduction

► Personality : Status of being a natural person.

(Section 15) * Begin : Birth → full completion of birth as a living person, out of mother womb

* Minor : - has limited capacity but to some extent

- Before doing juristic act, he/she must obtain consent from legal representative
- If w/o consent, such act shall be voidable.

(Section 19) * Jui Juris : - completion w/ 20 years of age

- Marriage (following C.C.C. section 1448 : age 17 or above / approved by court)

(Section 15) * End : Death

* Juristic (legal) person → have duties / rights.

(C.C.C. Section 65) : Juristic person can come into existence only by virtue of this Code or of other law. (e.g. Company, limited partnership, foundation etc.)

- Civil law is about Personality / Rights & duties / Compensation / Juristic relations)

Books : General Principle / Obligations / Specific Contracts / Properties / Family / Succession).

► Criminal law

► Punishment (Criminal law : Section 18 PG 1)

↳ Punishment for inflicting upon the offenders are as follows

Death > Imprisonment > Confinement > Fine > Forfeiture of properties.

- Criminal law code is about offences and punishment.

Law code : General Provision (Criminal liability etc) / Specific Offences (against life / money) / petty offences.

* Petty Offences : < 1 month of imprisonment and/or < 10,000 baht fine.

* Specific Offences : Counterfeit & alteration / Trade & fraud / life & body / liberty & reputation / properties

► Lawsuit

- involves 2 parties : one files against others. (can be either natural or juristic person).

► Court of law

- Judge : state official w/ authority to adjudicate brought before the courts for decision

- Jury : (* no Jury in Thailand *) finder of facts

* Lawyer : need to be licensed to conduct cases / public prosecutor conduct cases as suev.



► Witness & Evidence

↳ Witness : person

↳ Evidence : documentary / material

* Burden of proof is usually assigned to the accuser / plaintiff *

► Litigant : sver vs sued.

↳ Civil : Plaintiff vs Defendant

↳ Criminal : Accuser / Prosecutor vs Accused / Defendant

↳ Specific : Petitioner vs Respondent

► Prosecutor : who empowered to initiate criminal lawsuit

↳ Prosecutor → Public Prosecutor & Injured Party or Joint Prosecutor

► Jurisdiction : "Territorial"

↳ authority of a court to hear a case and resolve a dispute

↳ online legal environment has no geographical boundaries.

► Common law vs Civil law

	Common law	Civil law
Based On	Accepted Custom & Tradition	Written laws / law codes
Court Decision	Rely on previous decision of similar cases	Follow on Supreme court Decision
Country	US / UK	TH / FR

► Public law vs Private law

	Public law	Private law
Juristic Relation	related to state	related to persons
Litigants	States vs States / Persons	Persons vs Persons (Natural / Legal)
Court	Administrative Court	Court of First Instance / Appellate Court / Supreme Court
System use in court	Inquisitorial System	Accusatorial System

* Accusatorial System : one accuse another and bring evidence to support accusation

* Inquisitorial System : court call for evidence for the sake of justice

* States / State-owned Organization has more power and access to evidence is unequal.

Lecture 3 : Laws related to technology and vice versa.

- Technology is changing rapidly → leads to legal concern / issues
- Cultural anxieties surrounding certain tech can be seen as being channelled into the legal domain.
- Society - Culture - Technology are all related and can influence law development process.
- Some technology topics are regulated or prohibited by law in order to bring peace and good morals.

► Definitions

- Law : All government institutions that strive to regulate individual or business conduct, including court decisions, legislation, administrative rulings & government policies

- Technology : Human modification of the environment for a useful purpose.

► The needs of special laws

- There is a strong interdisciplinary of law and technology

- Traditional legal analysis is incomplete when it fails to consider policy w/in a broader context of technological changes. Therefore, special laws are needed.

► Three layers of the internet

* 1st Layer : Physical Infrastructure → domain name?

* 2nd Layer : Service Infrastructure ex ISP (Internet Service Provider)

- closer relation to users

- can be attacked/interrupted by 3rd Party

- lots of issue w/ legal issue *

* 3rd Layer : Electronic Commerce ex E-commerce / E-commerce sites

* formed juristic relation in transaction

ex of tech law : Copyright / Patent / Electronic Transaction / Computer-related Crime / Amending Com-related Crime Act

► Technology-related to law

- Use of computer : Word Processing / Spreadsheet / Text-retrieval System

- Computer Simulation : Imitation (real-world target) / Modelling (static / animated behaviour)

- Others : Forensic Science - AI Roles (Legal knowledge / Based System / Expert System)

► Law Vs Ethics : every one in society / profession should follow

* Social Sanction is the result of ethical breach.



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Lecture 4: Information Society

Information Society ↔ Economic Model

- Industrial Economic Model

- dominant in 19th - early 20th century

- measured by output at a national level

- valued by what can be produced (things)

- Post-Industrial Economic Model

- begin after WWII or post-war Europe.

- measured at a global level

- valued by what can be provided (services)

* Post-Industrial Economy marked by increasing of information which leads to "Information Age"

- Information Economic

- valued by what can enable people to do w/ it and what can be controlled?

* develop econ. upon system that allowed information

to be collected / stored / processed

* changed ownership of things to

ownership of information

* Information is valuable / almost infinitely scalable / nonrivalrous / intangible

Effects of moving

to Information Economics

1. shift from ownership or control of things to information

2. represents a new and revolutionary model to market.

3. move from rivalrousness to nonrivalrousness.

World of bits : bit is smallest unit of storage system in computer.

* maturity of information technology *

- move from economic value sited in physical goods (atoms) to information (bits)

a.k.a. bits in digital world = atoms in physical world.

Digitization

→ there's quality drop-off but we don't care

- Text (ASCII - 8 bits) / Music (from wave to voltage) / Photo (Pixel = number) / Video (meshing of photo and audio techniques)

Internet : public international networks of networks.

* laws and borders (1) The power of local gov. to assert control over online behaviour.

(2) The effect of online behaviour over individuals or things

(3) The legitimacy to enforce rules applicable to global phenomena

(4) The ability of physical location to give notice of which sets of rules apply

► Internet Protocol / 4 Ground Rules!

- 1. Each district network would have to stand on its own and no internal changes could be required to connect to the internet.
- 2. Communications would be on a best-effort basis. If a packet didn't reach final destination, it will be retransmitted from source again.
- 3. No information retained by black boxes. It would use to connect networks, no individual flows of packet passing through them being retained in black boxes.
- 4. No global control at the operation level.

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L5 8.6 : Electronic Commerce.

- E-Commerce : is the use of internet, the world wide web and mobile app to transact business

↳ Digitally-enabled commercial transactions b/w and among organizations and individuals.

• Traditional Commerce

- Consumers are viewed as passive targets
- Consumer cannot search for the best price & quality easily
- Some information could be hidden from the consumer

• Unique Features of E-commerce

- ubiquity : accessible anywhere & anytime
- Global Reach : reach for more customer
- social technology : mass communication
- Interactivity : allowed 2-way Comm. b/w consumer & merchant
- Richness : complexity of content & info
- Information density / Personalization / Universal Std.

• Technological Building Blocks

• Internet

worldwide network w/ common standard

• WWW

information system on infrastructure provide access to billion webs.

• Mobile Platform

provide ability to access internet from various device.

• Types of Ecommerce

- by nature of market relationship.

B2B / B2C / C2C

↓
wholesale
direct
trade

- by marketing campaign

social / mobile / local →

grow campaign online using mobile app. based on geographic locat.

★ ★ Contracts ★ ★ : binding

- Definitions: a legally enforceable agreement between 2 or more parties that create obligation to do/not to do particular things.

↳ party can be either natural person or juristic person

- Elements of contract:
 - Two parties : mutual / sui juris / competent (if not sui juris : legal rep.)
 - purpose: legally perform / not perform / abstain from performing act legally
 - formation : Offer / Acceptance.



• Informal Contracts

- eg.: contracts of sales w/ shop / services / carriage.

* contracts that have no legally defined form and which may be formed by a meeting of the mind

Rules: form a contract, All parties agree on the terms, bounded by agreed terms.

- offer is accepted w/ consideration

- effect in the time and place of formation of contract.

- prescribed certain conditions for the formation of a concluded contract

• Offer and Acceptance.

• Offer: expression by 1 to another of their willingness to agree w/o further negotiation.

• Acceptance: action done by the offeree to accept T&C in the offer w/o modification.

• A Contract is formed when acceptance of an offer has been communicated to offeror by the offeree.

► C.C.C. Section 355: A person who specifies a period for acceptance, makes an offer to another at a distance

cannot withdraw his offer w/ in time which notice of acceptance is expected.

► C.C.C. Section 356: An offer made to a person, who is present,

w/o specify period for acceptance, may be accepted only there and then

Also, applied to an offer made by one to another on phone.

• Formal Contracts & Contract forms

• Formal Contracts: required a document as in the form prescribed by law. Strictly follow

• Contract forms: writings required signature of both parties.

- written contracts is not required, for some, some required a written document.

Eg. contract of sale of immovable property.

- a form can be used as proof of existence of contract eg. written contract w/ competent off. reg.

• E-contract

• Importance: Ability to trade and make payment is the foundation for all modern society and Information Society is no different.

• Regulatory offer and acceptance for e-commerce

- no case of law to clarify / lack of human / lack of harmonization

↳ raised different approaches

e.g. vending machine. • **Standing offer**: The acceptance takes place in the instance → concluded at the time.

• **Invitation to treat**: Invite someone to enter into a contract eg. display goods

• **Study Case**: Amazon's Condition of sale.

- Order = Offer → Order Confirmation E-mail * only acknowledge but no of acceptance

- Accept & Conclude the contract when dispatched the product → Dispatch Confirmation E-mail

• Contract of Sale

• **G.G.C. Section 463**: Sale is a contract whereby a person, called seller, transfers to another person, called buyer, the ownership of property and buyer agrees to pay a price to the seller for it.

* property = subject of contract / contract = juristic acts / once deal, formed juristic relation,

• **G.G.C. Section 465**: A Sale of immovable property is void unless it is made in writing and registered by the competent official. Same applied to ship or vessels 5 T and over, floating house and beast of burden

An agreement to sell or to buy as mentioned of first paragraph is not

enforceable by action unless there be some written evidence signed by liable party

or deposited or paid a part of some debts.

The provisions of the foregoing paragraph shall be applied to a contract of

Sale of movable property where agreed price is 20k Baht and upward.

• Element in Contract of sale.: Mutual Obligation / No form except immovable prop. / Transfer ownership.

• Thai Electronic Transactions Act B.E. 2544

- intended to facilitate e-commerce by allowing some commercial acts, such as offers, acceptance made through email, EDI and other means to be conducted via internet networks.

- Included 6 Chapters (Transaction / Signatures / Service Business / E-trans in public sector / E-Trans. Commission / Penalties)



TETA'94 = Thai Electronics Transaction Act BE 2544

• T.E-Trans Act '94 : This act shall be apply to all civil and commercial transactions.

Section 3. pg. 1 performed by using a data message, except the transactions prescribed by a Royal Decree to be excluded from this act wholly or partly

Definitions

• TETA'94 : "Transaction" means any act relating to a civil and commercial activity
Section 4 or carrying out to the affairs of the State

"Electronics" mean application of an electron means, an electrical means, an electromagnetic means or other similar nature including, an optical means, a magnetic means or device in connection w/ an application of any of aforesaid means

"Electronic Transaction" means a transaction in which an electronic means used in whole or in part.

"Information" means an incident or fact regardless of whether expressed in the form of letter, number or any other form capable of compilation by itself or through any means

"Data message" means information generated, sent, received, stored, or processed by electronics means eg. EDI, E-mail etc.

"Electronic Signature" means any symbol created in electronic form and affixed to a data message in order to establish the association b/w person and a data message for the purpose of identify and approves the information contained.

"Information System" means a system of processing by using electronic device for generate/ etc. a data message.

"Electronics Data Interchange" = the dispatch of information by electronic from computer to computer using an agreed standard.

"Originator" - a person whom data message purports to have been sent prior to storage

"Addressee" - a person who is intended by the originator to receive the data message

"Intermediary" - a person on behalf of another send/etc. particular data message w/ respect to data message

Royal Decree = حکم شریعہ

- Signature. C.C.C Section 9 pg 1: Whenever writing is required by law, it is not necessary that it be written by person from whom is required but it must bear his signature.
- pg 2: A fingerprint, cross, seal or other such a mark affixed to document instead of signature is equivalent to signature if it is certified by the signature of two witnesses.
- pg 3: The provisions of paragraph 2 shall not be applied to finger print/ek. affixed to the document in front of the competent official/authorities.
- Primary function : "Authentication" - sub function 1) identity of signatory
2) signatory intend 'signature' to be his
3) signatory approved and adopt the content.
- E-Synature : signature - equivalent / allow to submit form online

Legal Effect of Data Message.

- TETA¹⁴⁴ Section 7: Information shall not be denied legal effect and enforceability solely on the ground that it is in form of a data message
- E-Transaction : 2 types (Physical / Digital)
- Offer & Acceptance • TETA¹⁴⁴ S13. • An offer/acceptance may be expressed by means of data message
A contract shall not be denied legal effect solely on its data message
- TETA¹⁴⁴ S14 • As b/w originator & addressee, declaration of will or notice may be made in form of a data message.
- TETA¹⁴⁴ S22. • The dispatch of data message is deemed to occur when such enter information system outside the control of originator
- TETA¹⁴⁴ S23 • The receipt of a data message is deemed to occur from the time when such data message enter an information system of addressee.
- If addressee has designated information system.
- receipt of data message occurs at when data enters system
- If not designated information system
- receipt of data message occurs at retrieved from system.