

# Thailand

	2013	2014		
<b>Internet Freedom Status</b>	<b>Partly Free</b>	<b>Not Free</b>	Population:	66.2 million
Obstacles to Access (0-25)	10	11	Internet Penetration 2013:	29 percent
Limits on Content (0-35)	21	21	Social Media/ICT Apps Blocked:	Yes
Violations of User Rights (0-40)	29	30	Political/Social Content Blocked:	Yes
<b>TOTAL* (0-100)</b>	<b>60</b>	<b>62</b>	Bloggers/ICT Users Arrested:	Yes
			Press Freedom 2014 Status:	Not Free

\* 0=most free, 100=least free

## Key Developments: May 2013 – May 2014

- Days after the May 2014 coup d'état, military authorities canceled the constitution and issued orders to censor online news, arrest critics, and prevent dissenters mobilizing on social media. Crimes related to lèse-majesté, national security and infringing orders issued since May 25 will be tried by a military court (see **Editor's Note**).
- Thousands of internet users lost access for an hour in November when protesters vandalized telecommunications infrastructure (see **Obstacles to Access**).
- In a first for Thailand, a court jailed an internet user for over six years for "attempting to commit lèse-majesté" via computer, a charge without legal basis (see **Violations of User Rights**).
- Though the number of censored URLs appeared to decline, court orders now authorize ICT officials to block similar content on other websites without seeking fresh permission, bypassing a legal requirement (see **Limits on Content**).

## Editor's note

*Internet freedom, though curtailed in 2014, remained comparable to the previous coverage period until May 20, when General Prayuth Chan-ocha, commander of the Royal Thai Army, declared martial law. Two days later, as head of the military junta calling itself the National Council for Peace and Order (NCPO), the general cancelled the constitution, annulled the House of Representatives, and announced that the junta will rule the country for at least a year and five months before arranging a general election. The coup d'état was announced via all media, including Facebook and Twitter.<sup>1</sup>*

*In the weeks following, the junta issued orders forbidding traditional media broadcasts, censored online news, and arrested or monitored hundreds of critics. Many of these measures were justified as part of a "returning happiness to Thai people" campaign, on grounds that controlling freedom of speech was necessary while the situation remained "abnormal." Yet the junta's plans, which include amending significant laws and passing a slew of new ones, will have a lasting impact.<sup>2</sup> Those that took effect before May 31, 2014, and immediately after, are outlined in special sections of Limits on Content and Violations of User Rights.*

## Introduction

In 2013 and 2014, as Thailand's intensifying political conflict spilled into virtually every aspect of life, internet freedom ebbed and flowed along with overall stability. Since the 2006 military coup, both the supporters of ousted Prime Minister Thaksin Shinawatra and their opponents have used online resources, particularly social media, to mobilize up to and beyond the 2011 election, when Thaksin's sister Yingluck Shinawatra, became prime minister. In late 2013, however, political dissent took the form of crippling antigovernment protests under a movement known as the People's Democratic Reform Committee (PDRC). Yingluck Shinawatra dissolved parliament on December 8, 2013, paving the way for new elections. The PDRC, which had called for a people's council instead, escalated the protests, fearing that the "Thaksin regime" would return to power. Thousands of protesters stormed key state agencies and vandalized telecommunications infrastructure, severing internet access for several hours.

For their part, the besieged authorities view the online space as rife with rumors and other content that threatens national security. The state has ample means to infringe users' online freedoms in the form of computer-related crimes laws enacted after the 2006 coup, criminal defamation charges, and oppressive *lèse-majesté* provisions in the penal code which punish criticism of the nation's revered monarchy. The state has blocked tens of thousands of individual websites and social media pages, and imprisoned several people for disseminating information and opinion online or via mobile phones under these laws. Anyone can lodge a *lèse-majesté* or defamation complaint based on any online content in Thailand, opening the door for various actors to use the charges against political opponents or to curb civic advocacy in the highly polarized political environment.

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1 Aim Sinpeng. "Thailand's Cybercoup," *Washington Post*, May 27, 2014, <http://www.washingtonpost.com/blogs/monkey-cage/wp/2014/05/27/thailands-cybercoup/>.

2 "NCPO Orders Ministries to have Speedy Overhaul of Regulations" *The Nation*, June 4, 2014, <http://www.nationmultimedia.com/politics/NCPO-orders-ministries-to-have-speedy-overhaul-of--30235409.html>.

On the surface, censorship appeared to decline in 2013, when 58 court orders blocked access to 5,369 URLs, down from 20,000 the year before. In practice, the orders offered information officials the power to independently assess other websites for related content violations and implement blocks without going through the courts, though this step is a legal requirement. This development further complicates the task of tracking government censorship, which already lacks transparency. The political upheaval also had an impact on online content, as rival political factions organized their supports to file mass complaints against their opponents' Facebook pages. As rumors of a possible coup spread online, officials and police reiterated 2011 threats that "liking" or sharing antigovernment content via social media would be punishable by law, sparking civil society criticism.

The risk of prosecution was keenly felt in 2013 and 2014, as Thai journalists, activists, and social media users faced criminal charges for defamation and insulting the monarchy in online communication. One judgment was of particular concern. In December 2013, an internet forum user with the online name Kenji was jailed for 13 years for "attempting" to commit lèse-majesté online—which has no foundation in Thai law—based on anti-royal content that was never distributed, but found on an electronic device in his home. The sentence was reduced after he confessed to the crime.

## Obstacles to Access

Internet access in Thailand continues to increase, thanks largely to the prevalence of smartphones. In 2013, a government source reported internet penetration at 37 percent.<sup>3</sup> Mobile penetration topped 120 percent in 2012, indicating some citizens own more than one device.<sup>4</sup> By 2013, the number of smartphone users in Thailand totaled 34 percent of mobile phone subscribers, a significant increase from 19 percent the year before.<sup>5</sup>

Thailand's international bandwidth usage amounted to 708 Gbps, and domestic bandwidth amounted to 1,492, 53 percent and 48 percent higher than the previous year respectively.<sup>6</sup> Thailand's transition from internet protocol (IP) version 4 (IPv4) to the updated IPv6 is making steady progress. On June 4, 2013, the Thai cabinet ordered every state agency to accommodate IPv6 by December 2015, and every internet service provider must be IPv6-compliant by December 2014. The Ministry of Information and Communication Technology (MICT) is tasked with administering the IPv4-to-IPv6 transition plan smoothly to minimize impact on existing internet users.<sup>7</sup>

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3 Internet Information Research Network Technology Lab, Internet Users, National Electronics and Computer Technology Center, <http://internet.nectec.or.th/webstats/internetuser.iir?Sec=internetuser>; International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2013," <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

4 International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2012." See also, National Broadcasting and Telecommunications Commission, "Thailand ICT Info," accessed January 13, 2013, [http://www2.nbtc.go.th/TTID/mobile\\_market/subscribers/](http://www2.nbtc.go.th/TTID/mobile_market/subscribers/).

5 Telecommunications Data and Research Center, "Report on the Survey of Thai People's Telecom Behavior 2012-2013," (in Thai) The National Broadcasting and Telecommunication Commission. [http://www.nbtc.go.th/wps/PA\\_WCMLocalRendering/jsp/html/NTC/download/NBTC-SurveyReport2556.pdf](http://www.nbtc.go.th/wps/PA_WCMLocalRendering/jsp/html/NTC/download/NBTC-SurveyReport2556.pdf).

6 Internet Information Research Network Technology Lab, Internet Bandwidth, National Electronics and Computer Technology Center, <http://internet.nectec.or.th/webstats/bandwidth.iir?Sec=bandwidth>.

7 Cabinet Resolution, The Secretariat of the Cabinet, June 4, 2013, <http://www.cabinet.soc.go.th/>.

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Most Thai internet and smartphone users reside in the Bangkok greater metropolitan and southern regions, which boast a higher average household income. The lowest penetration is in the northeast, in part due to lack of service.<sup>8</sup>

The government has tried to improve access to devices and hardware through projects like the MICT program One Tablet per Child, which aims to distribute free tablets loaded with education software to all first-year primary school students.<sup>9</sup> Critics argue the program distracted public attention away from other factors affecting education, such as poor teacher performance.<sup>10</sup> Thailand's Office of the Auditor General is investigating news reports that up to 30 percent of tablets involved could be broken.<sup>11</sup>

Two MICT programs to address the digital divide continued in 2013. The Smart Network program aims to expand high-speed internet or broadband coverage to 95 percent of the country by 2020.<sup>12</sup> The ICT Free Wifi program, funded by the Broadcasting and Telecommunications Research and Development Fund for the Public Interest, offers wireless connections in various government and private buildings, which allow up to 15 users at a time to register their national identification numbers for 20 minutes of free access per session, up to two hours per day. To date, this program has installed 120,000 access points countrywide in collaboration with select ISPs, and aims to install 150,000 more before it ends in 2015.<sup>13</sup> Thailand's media and telecom regulator, the National Broadcasting and Telecommunications Commission (NBTC), has its own Universal Service Obligation program, which aims to install high-speed internet and public telephones nationwide. In 2013, it launched pilot projects in northern Pitsanulok and northeastern Nong Kai provinces.<sup>14</sup>

Partly as a result of efforts like this, official 2013 figures state 39 percent of Thai users accessed the internet free of charge, while another 23 percent paid less than THB 200 (\$6.73) a month.<sup>15</sup> Connections reportedly function at speeds around 12 Mbps,<sup>16</sup> most reliably in the greater Bangkok area.

In recent years, the Thai telecommunications market has liberalized and diversified. Out of nine National Internet Exchanges that connect to international networks, the government-run Communication Authority of Thailand (CAT) Telecom operates two, including the country's largest.<sup>17</sup> As of

8 Telecommunications Data and Research Center, "Report on the Survey of Thai People's Telecom Behavior 2012-2013," (in Thai) The National Broadcasting and Telecommunication Commission, [http://www.nbtc.go.th/wps/PA\\_WCMLocalRendering/jsp/html/NTC/download/NBTC-SurveyReport2556.pdf](http://www.nbtc.go.th/wps/PA_WCMLocalRendering/jsp/html/NTC/download/NBTC-SurveyReport2556.pdf).

9 International Telecommunication Union, "One Tablet per Child Policy: Stepping Up Education Reform in Thailand," January 18, 2013, <http://bit.ly/1azRf3G>.

10 "Let Them Eat Tablets," *Economist*, July 16, 2012, <http://www.economist.com/node/21556940>.

11 "Reality check for Yingluck government's tablet program – is MICT really on top of it" (in Thai), October 8, 2013, <http://www.isranews.org/isranews-scoop/item/24277-tab.html>.

12 Asina Pornwasin, "'Smart Thailand' Project on Track," *The Nation*, February 28, 2012, <http://www.nationmultimedia.com/technology/SMART-THAILAND-PROJECT-ON-TRACK-30176841.html>.

13 "Ploughing ahead for 'ICT Free Wi-Fi' – additional 150,000 access points in 2014" (in Thai), ASTV, August 11, 2013, <http://www.manager.co.th/CBIZreview/ViewNews.aspx?NewsID=9560000099574>.

14 Siam Phone, "NBTC expanded universal telecom services to Pitsanulok, Nong Kai" (in Thai), November 12, 2013, <http://news.siamphone.com/news-14780.html>.

15 National Statistical Office, "The 2013 Information and Communication Technology Survey in Household," <http://service.nso.go.th/nso/nsopublish/themes/files/icthhRep56.pdf>.

16 "Download Index," Net Index, accessed June 21, 2012, <http://www.netindex.com/download/2,23/Thailand/>.

17 Internet Information Research Network Technology Lab [in Thai], National Electronics and Computer Technology, accessed July 2013, [http://internet.nectec.or.th/webstats/internetmap.current.iir?Sec=internetmap\\_current](http://internet.nectec.or.th/webstats/internetmap.current.iir?Sec=internetmap_current).

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mid-2014, there were over 100 ISPs with active licenses, though 10 provided most of the connection services for individual consumers and households.<sup>18</sup> Among them, True Internet—a subsidiary of the communications conglomerate True Corporation, which also controls Thailand’s third-largest mobile phone operator True Move—had a 40 percent share of the high-speed internet market by 2013;<sup>19</sup> the state-owned Telephone Organization of Thailand (TOT) controlled 33 percent in 2012,<sup>20</sup> while the private 3BB controlled 28 percent.<sup>21</sup> The three main mobile phone service providers are the Singaporean-owned Advanced Info Service, the Norwegian-controlled DTAC, and True Move. The first two operate under concessions from TOT and CAT, an allocation system that does not entirely enable free-market competition.

The government does not openly block or throttle internet and mobile connections for political or security reasons, though access was temporarily curtailed in 2013 because of political unrest. On November 30, PDRC protesters blocked the entrances of government buildings, broadcasters, and CAT Telecom.<sup>22</sup> A group vandalized circuits and backup generators at CAT’s Internet Data Center subsidiary, which provides servers and internet telephony services and oversees Thailand’s largest international and domestic gateway hubs; the company also hosts the system which connects every Thai telecom company’s fiber-optic networks.<sup>23</sup> The protesters severely disrupted communication channels, including internet connections.<sup>24</sup> Electricity was down for one hour, severing internet access for 750,000 users nationwide.<sup>25</sup>

The NBTC, which regulates the industry, is made up of 11 commissioners appointed by the senate in 2011. Five are from the military, reflecting the army’s deep interests in the communications sector. The remaining members are three former bureaucrats, two civil society representatives, and one police officer.<sup>26</sup>

Some observers have complained that the NBTC lacks commissioners with industry experience, that the regulatory structure is incapable of dealing with converging communications platforms, and that coordination across different parts of the commission is weak.<sup>27</sup> Others complain the body is difficult to monitor and slow to release information. The three largest operating expenses of the NBTC

18 NBTC, “List of Licensed Telecommunications Businesses” [in Thai], accessed July 2013, <http://apps.nbtc.go.th/license/>.

19 “TRUE Invest Ten Thousand Million to Increase Market Share” [in Thai], *Jasmine*, March 30, 2013, [http://www.jasmine.com/news\\_industry\\_detail\\_th.asp?ID=2805](http://www.jasmine.com/news_industry_detail_th.asp?ID=2805).

20 Both CAT Telecom and TOT are supervised by the MICT.

21 NBTC, “Telecommunication Market Report Q3 2012” [in Thai], <http://bit.ly/19NLMEi>.

22 “Suthep announced total takeover of Government Center, CAT Telecom, TOT – 1 December will be “Victory Day”” (in Thai), *Prachatai*, November 29, 2013, <http://www.prachatai.com/journal/2013/11/50077>.

23 Icez (pseudonym) “Why Internet countrywide was disrupted when electricity was cut at CAT Telecom building in Bangrak district” (in Thai), *Blognone*, December 2, 2013, <https://www.blognone.com/node/51287>.

24 “Update on the impact on Internet access from protestors cutting electricity at CAT building” (in Thai), *Prachatai*, November 30, 2013, <http://www.prachatai.com/journal/2013/11/50097>.

25 Lew (pseudonym), “Suthep does not want government to be able to issue orders via Internet network; TOT electricity is now also out”, *Blognone*, November 30, 2013, <https://www.blognone.com/node/51267>.

26 Usanee Mongkolporn, “Strong Military Role in NBTC,” *The Nation*, September 6, 2011, <http://www.nationmultimedia.com/home/Strong-military-role-in-NBTC-30164583.html>.

27 Don Sambandaraksa, “Thai Regulator Lacks Unity,” *Telecomasia* (blog), October 7, 2011, <http://www.telecomasia.net/blog/content/thai-regulator-lacks-unity>.

in 2012 were donations (to various foundations for philanthropic purposes), travel expenses abroad, and public relations; these three items totaled 40 percent of the annual operating budget.<sup>28</sup>

Despite these shortcomings, the NBTC's decisions have been broadly viewed as fair.<sup>29</sup> However, political and legal disputes delayed the NBTC's licensing process for 3G mobile phone service and wireless broadband until 2012.<sup>30</sup> Auctions for the faster 4G spectrum met similar hurdles in the past year. Instead of holding them on schedule in September 2013, the NBTC extended existing spectrum concessions in the 1800 MHz band which would be utilized for 4G for one more year. Dr. Duenden Nikomboriraks, researcher at the Thailand Development Research Institute and herself a member of the NBTC's telecom consumer protection subcommittee, publicly criticized this decision as against the public interest. In response, four commissioners on the National Telecom Commission (NTC), which is the sub-board of the NBTC (all commissioners sit on the NBTC board), sued her for defamation in late 2013. The criminal court accepted the case, and trial began in June,<sup>31</sup> but was reconciled and concluded in September.<sup>32</sup>

## Limits on Content

### May 2014

From the eve of the declaration of martial law on May 20, 2014 and onwards, digital content was particularly curtailed.<sup>33</sup> On May 21, the Peace and Order Maintaining Command (POMC) chaired by General Prayuth—which later became the NCPO—prohibited any “reporting of news in documents, pictures, publications, [and] broadcastings,” as well as “distorted online news reports” which could cause social division and unrest, or messages causing widespread fear.<sup>34</sup> On May 22, 2014, television and radio channels were ordered to cease all regular programming, including international satellite news. Television screens showed the logo of five army and police units against a blue background. Many news media ceased television and radio broadcasts, but continued to distribute news online. Thailand's sole public television operator ThaiPBS, which broadcasts mainly through terrestrial television, carried on live news reporting through its YouTube channel.

28 “NBTC Policy Watch reveals NBTC budget usage, compared with regulators in USA and England” (in Thai), *Prachatai*, November 5, 2013, <http://prachatai.com/journal/2013/11/49594>.

29 Komsan Tortermvasana, “NBTC Approves Spectrum, Broadcasting Master Plans,” *Bangkok Post*, March 22, 2012, <http://www.bangkokpost.com/business/telecom/285448/nbtc-approves-spectrum-broadcasting-master-plan>.

30 Sirivish Toomgum, “NBTC clears legal hurdle, ready to issue 3G licences,” *The Nation*, December 4, 2012, <http://www.nationmultimedia.com/business/NBTC-clears-legal-hurdle-ready-to-issue-3G-licence-30195554.html>.

31 “Court accepts libel case: NBTC sues Dr. Duenden, Nattha” (in Thai) *Thairath Online*, 18 March 2014, <http://www.thairath.co.th/content/410629>.

32 “NBTC filed a defamation lawsuit against Dr. Duenden and Nattha,” Freedom of Expression Documentation Center by iLaw, <http://freedom.ilaw.or.th/en/case/488#detail>.

33 Order of the Peace and Order Maintaining Command (POMC), Thairath, May 21, 2014, <http://www.thairath.co.th/content/424255>.

34 “POMC Order No. 3/2557 Order of the Peace and Order Maintaining Command No. 3/2557 Subject: Prohibition of news reporting, dissemination and selling of publications which undermine internal peace and order,” MFA, May 21, 2014, <http://www.mfa.go.th/main/en/media-center/3756/45785-Order-of-the-Peace-and-Order-Maintaining-Command-N.html>.

Such efforts were short lived. On the night of the coup, soldiers marched to ThaiPBS station and ordered broadcasting to cease, then escorted Vanchai Tantivitayapitak, the station's deputy managing director, to an army camp. He was released several hours later.<sup>35</sup>

On June 2, new orders instructed online media to stop propagating content that could cause social division or face immediate suspension.<sup>36</sup> The NCPO ordered ISPs to report to the NBTC.<sup>37</sup> Other orders cemented media control, barring journalists from inviting anyone other than tenured public officials to "express opinions that will cause social division" in interviews<sup>38</sup> and prohibiting all media from disseminating false news, slander, instigating antiroyal sentiment, or criticizing the NCPO.<sup>39</sup>

A number of free terrestrial television networks returned to broadcasting on May 23.<sup>40</sup> Digital television networks were allowed back on air the following day, but prohibited from screening call-in shows or viewer comments submitted via SMS.<sup>41</sup> Some subscription-only cable networks had to suspend foreign news channels because they could not control their content to comply with NCPO orders.<sup>42</sup> A handful of satellite television networks were allowed back on June 4,<sup>43</sup> while several channels that focus on political news and commentary, such as Voice TV and T-News, returned on June 14 on condition that they observe NCPO orders.<sup>44</sup>

At the same time, the junta censored websites reporting criticism of the new regime or documenting alleged human rights violations. The MICT's permanent secretary told journalists the ministry had blocked access to 219 websites in the week after the coup.<sup>45</sup> Some of these targeted specific web pages, like the Thailand page of Human Rights Watch, or a Reuters' article on Thai censorship. Entire domain names were also blocked, including the news site *Prachatai*, UK newspaper the *Daily Mail*, a collection of academic articles called Midnight University, and Enlightened Jurists, homepage

35 Thanyarat Dokson and Jocelyn Gecker, "Thai military seizes power in coup, imposes curfew," The Associated Press, May 22, 2014, <https://news.yahoo.com/thai-military-seizes-power-coup-imposes-curfew-130053106.html>.

36 "POMC Order No. 8/2557 and NCPO Order No. 12/2557. Announcement of the National Peace and Order Maintaining Council No. 12/2557 Subject: Request for Cooperation from Social Media Networks," MFA, June 2, 2014, <http://www.mfa.go.th/main/en/media-center/3756/46185-Announcement-of-the-National-Peace-and-Order-Maint.html>.

37 "NCPO Order No. 17/2557 Announcement of the National Peace and Order Maintaining Council No. 17/2557 Subject: Dissemination of Information and News through the Internet," MFA, June 2, 2014, <http://www.mfa.go.th/main/en/media-center/3756/46190-Announcement-of-the-National-Peace-and-Order-Maint.html>.

38 "POMC Order No. 9/2557 and NCPO Order No. 14/2557 Announcement of the National Peace and Order Maintaining Council No. 14/2557 Subject: Prohibition of Instigation of Conflicts and Opposition to the Function of NPOMC," MFA, June 2, 2014, <http://www.mfa.go.th/main/en/media-center/3756/46187-Announcement-of-the-National-Peace-and-Order-Maint.html>.

39 "NCPO Order No. 18/2557 Announcement of the National Peace and Order Maintaining Council No. 18/2557 Subject: Dissemination of Information and News to the Public," MFA, June 2, 2014, <http://www.mfa.go.th/main/en/media-center/3756/46191-Announcement-of-the-National-Peace-and-Order-Maint.html>.

40 "Five TV stations to resume broadcasts," *Bangkok Post*, May 23, 2014, <http://www.bangkokpost.com/most-recent/411410/channels-3-5-7-9-and-11-to-resume-normal-programming>.

41 "NCPO forbids TV from displaying opinions via SMS or phone-ins," (in Thai) ASTV, May 24, 2014, <http://www.manager.co.th/cyberbiz/viewnews.aspx?NewsID=9570000057945>.

42 "True Visions bans 14 international news broadcasts in fear of violating NCPO's orders," *Prachatai*, May 27, 2014, <http://www.prachatai.com/english/node/4035>.

43 Usanee Mongkolporn, "Military eases gag on TV and radio outlets," *The Nation*, June 4, 2014, <http://www.nationmultimedia.com/politics/Military-eases-gag-on-TV-and-radio-outlets-30235406.html>.

44 "Voice TV, T-News back on air," *Bangkok Post*, June 14, 2014, <http://www.bangkokpost.com/news/local/415343/voice-tv-t-news-back-on-air>.

45 "ICT plans national gateway to curb abuse of internet," *Bangkok Post*, May 28, 2014, <http://www.bangkokpost.com/print/412124/>.

of “Nitirat,” a group of legal experts who proposed amending Thailand’s lèse-majesté law. In some cases, the MICT did not block access but ordered ISPs to suspend a website’s service. This is what happened to political and social news website *Prachatham*, based in northern Chiang Mai. The censorship of political news was accompanied by a crackdown on illegal gambling, which resulted in the blocking of several sports websites,<sup>46</sup> including at least one that was blocked by mistake.<sup>47</sup>

Any political gathering of more than five people is illegal under martial law. In place of open demonstrations, activists embraced creative expressions of dissent. Some held up three middle fingers to evoke the anti-authoritarian protests depicted in the Hunger Games movie franchise.<sup>48</sup> Others met publicly to eat sandwiches or read.<sup>49</sup> Organizers of these symbolic activities relied on online channels like Facebook and the Japanese chat application Line.

On May 28, 2014, Facebook became inaccessible for approximately 40 minutes across Thailand, except for those using circumvention tools. In a media interview, the MICT permanent secretary said the NCPO temporarily suspended Facebook access to curb violence.<sup>50</sup> That secretary later retracted his account,<sup>51</sup> saying a journalist misunderstood, and that the outage was the result of a technical error.<sup>52</sup> An NCPO order ousted the secretary two weeks later.<sup>53</sup> Separately, however, a spokesman for the Telenor Group, owner of the DTAC mobile network operator, told the Norwegian *Aftenposten* newspaper that the telecommunications regulator NBTC had ordered mobile networks to block Facebook on May 28.<sup>54</sup> An NBTC official called the comment inappropriate, said foreign shareholder percentages in DTAC would be subject to scrutiny, and threatened to ban DTAC from the upcoming 4G spectrum auction.<sup>55</sup> Telenor issued a public apology for actions which “damaged the public image of the NBTC and the NCPO.”<sup>56</sup>

46 “Online media censorship report after 22 May 2014 coup” (in Thai), iLaw, May 31, 2014, <http://freedom.ilaw.or.th/blog/OnlineMedia2014>.

47 “TSCD Commander admitted mistake in ordering censorship of tennis website ATP” (in Thai), Thairath, June 18, 2014, <http://www.thairath.co.th/content/430471>.

48 “Thai military may crack down on ‘Hunger Games’ protests,” *Washington Post*, June 3, 2014, <http://www.washingtonpost.com/blogs/worldviews/wp/2014/06/02/watch-thais-make-hunger-games-salute-in-anti-coup-protest/>.

49 “Sandwiches, codes and salutes in Thailand,” June 14, 2014, <http://www.bbc.com/news/blogs-trending-27833824>; “Reading takes on a tone of defiance among coup critics in Thailand,” June 2, 2014, <http://www.scmp.com/news/asia/article/1523429/reading-takes-tone-defiance-among-coup-critics-thailand>.

50 “Thai ministry sparks alarm with brief block of Facebook,” Reuters, May 28, 2014, <http://in.reuters.com/article/2014/05/28/thailand-politics-facebook-idINKBN0E80U520140528>.

51 “Thai authorities block Facebook,” *Prachatai*, May 28, 2014, <http://prachatai.com/english/node/4050>.

52 “NBTC-MICT insisted no Facebook censorship order; MICT Permanent Secretary claimed “gateways down” (in Thai) *Prachachart*, May 28, 2014, [http://www.prachachat.net/news\\_detail.php?newsid=1401269666](http://www.prachachat.net/news_detail.php?newsid=1401269666).

53 “NCPO Order No. 62 – transfer of Parliament Secretary and MICT Permanent Secretary,” (in Thai) *Thairath*, June 11, 2014, <http://www.thairath.co.th/content/428900>.

54 “Telenor Blocked Facebook Access for Thai Junta: Report,” *Irrawaddy*, June 9, 2014, <http://www.irrawaddy.org/asia/telenor-blocked-facebook-access-thai-junta-report.html>.

55 “DTAC in hot seat after Telenor comment,” *Bangkok Post*, June 11, 2014, <http://www.bangkokpost.com/lite/topstories/414754/dtac-has-found-itself-in-the-hot-seat-after-its-parent-company-said-the-national-broadcasting-and-telecommunications-commission-nbtc-had-asked-its-thai-subsiary-to-block-access-to-facebook>.

56 “Telenor apologises to junta, as regulator mulls 4G cap,” *TeleGeography*, June 16, 2014, <http://www.telegeography.com/products/commsupdate/articles/2014/06/16/telenor-apologises-to-junta-as-regulator-mulls-4g-cap/>.

## May 2013—April 2014

*In 2013, Thai Criminal Courts issued 58 court orders to block access to 5,369 URLs. This marks a significant decline from 2012, which saw over 20,000 URLs blocked by court order. However, orders gave ICT officials authority to censor similar content on their own without seeking separate permission. Political groups rallied on Facebook to report their opponents for offensive conduct, effectively disabling rival pages.*

The Thai government has been blocking some internet content since 2007, though some controls on pornography, gaming, and other topics were announced even earlier.<sup>57</sup> Article 20 of the 2007 Computer-related Crimes Act (CCA) authorizes MICT officials to request court orders to block content that is deemed a threat to national security, or contravenes public morals or public order.<sup>58</sup> The Thai government can also censor by means of special laws, such as the State of Emergency Act and Internal Security Act, as they did in 2010.

Since the passage of the 2007 CCA, Thai courts are more likely to censor political opinion than other illegal content. Lèse-majesté or antiroyal content has accounted for 90 percent of censored URLs. Pornography, the next biggest category, accounted for less than 10 percent, while a remaining 0.5 percent of content included religion, violence in southern Thailand, and defamation of public figures [See category “other” in Figure A].<sup>59</sup> This remained consistent during the 2011 leadership change, even though the number of sites affected appeared to decline. After former Prime Minister Abhisit Vejjajiva came to power, a total of 78,072 URLs were blocked by 129 court orders. From 2011 to 2013 when Yingluck took over, the number of webpages blocked declined to 27,685 URLs based on 237 court orders.

Figure A. Statistics of Website Censorship in Thailand, from 2007-2013

Content	2007		2008		2009		2010		2011		2012		2013		Total	
	Court order	URL	Court order	URL	Court order	URL	Court order	URL	Court order	URL	Court order	URL	Court order	URL	Court order	URL
Insulting the king, queen, or heir	0	0	7	1,937	30	16,525	27	39,115	26	3,213	132	16,813	45	4,815	90	60,790
Obscene or pornographic	0	0	4	96	27	11,609	15	6,105	6	1,585	25	4,218	7	526	52	19,395
Abortion pills	0	0	1	37	3	320	0	0	0	0	0	0	0	0	4	357
Encourage gambling	0	0	0	0	2	246	0	0	0	0	0	0	0	0	2	246
Depreciate the religion	1	2	1	1	1	2	0	0	0	0	1	1	1	2	3	5
Other	0	0	0	0	1	3	3	137	1	280	8	216	5	26	5	420
<b>Total</b>	<b>1</b>	<b>2</b>	<b>13</b>	<b>2,071</b>	<b>64</b>	<b>28,705</b>	<b>45</b>	<b>45,357</b>	<b>33</b>	<b>5,078</b>	<b>166</b>	<b>21,248</b>	<b>58</b>	<b>5,369</b>	<b>380</b>	<b>107,830</b>

57 Karnjana Karnjanatawe, “Govt Forces ISPs to Block ‘Inappropriate’ Web Sites,” *Bangkok Post*, July 9, 2003, accessible at NARCHIVE Newsgroup Archive, <http://bit.ly/19eoIgS>.

58 Journalists sometimes refer to it as the “Computer Crime Act.”

59 Statistics of Website Censorship in Thailand, from 2007-2013 (in Thai), iLaw, <http://freedom.ilaw.or.th/node/97>.

## Thailand

The Technology Crime Suppression Division under the Royal Thai Police,<sup>60</sup> and the MICT's Cyber-Security Operation Center (CSOC) established under Shinawatra in December 2011, are tasked with monitoring and curbing the circulation of lèse-majesté content.<sup>61</sup> Media reports describe the police body as several dozen computer technicians scouring thousands of websites, manually and with automated crawlers, for insults to the royal family.<sup>62</sup> The CSOC is an upgrade of a 2010 entity called the Internet Security Operation Center, but its precise mandate and activities remain unclear.<sup>63</sup> The ministry has also set up a hotline to receive citizen complaints about possible content violations,<sup>64</sup> and operates a "Cyber Boy Scout" program, which trains school children to patrol the web for "inappropriate online content," particularly lèse-majesté.<sup>65</sup>

In addition to blocking websites, ICT officials must prosecute the party responsible for content violations under the CCA. ISPs and content hosts cooperate with court orders, and sometimes implement pre-emptive censorship, to avoid the legal liability more fully detailed in Violations of User Rights.<sup>66</sup> Bigger providers set up teams to monitor and screen users' posts, and many have removed forums or comment sections altogether, viewing the legal risk as too high.

International providers can be less compliant. Google complied with two requests to delete 14 items on YouTube for criticizing the government in 2012.<sup>67</sup> It received only one such request from the Thai government, pursuant to a court order, in the first half of 2013, but did not fulfil it.<sup>68</sup>

Since February 2012, a troubling proviso has appeared in court orders allowing ICT officials to block access to online content directly if it resembles content already covered in an existing court order, whether the same URL or not.<sup>69</sup> In addition to contravening the CCA, which requires a court to sanction every order, this will make it even harder to track the number and nature of URLs blocked in near future.

The process already lacked transparency. The precise list of inaccessible sites has never been available to the public, and officials may inflate the figures for political purposes.<sup>70</sup> Court orders are

60 Also called Office of Prevention and Suppression of Information Technology Crimes and referred to as a 'war room' for stopping lèse-majesté content. See, Thomas Fuller, "A High-Tech War Against Slightings to a Centuries-Old Monarchy," *New York Times*, October 2, 2011, <http://www.nytimes.com/2011/10/03/world/asia/03iht-thailand03.html?pagewanted=all>.

61 "MICT: More Cyber Offenders to be Arrested Soon," *Prachatai*, December 3, 2011, <http://www.prachatai.com/english/node/2930>.

62 Martin Petty and Natnicha Chuwiruch, "Thais Test Taboos as War on Royal Slurs Heats Up," Reuters, December 6, 2011, <http://www.reuters.com/article/2011/12/07/us-thailand-monarchy-idUUSTRE7B605920111207>.

63 "Centre Starts Monitoring Lèse-Majesté," *Bangkok Post*, December 24, 2011, <http://www.bangkokpost.com/lite/topstories/272260/centre-starts-monitoring-lese-majeste>.

64 MICT's 24/7 hotline "1212" for complaints regarding websites that infringes national security, good morals and Thai culture, or via email: [1212@mict.mail.go.th](mailto:1212@mict.mail.go.th).

65 Cyber Scout program, "Teacher's Handbook for Cyber Scout," (in Thai) MICT website. <http://www.kc.ac.th/8168.pdf> (accessed January 2014)

66 ISPs do not publicly acknowledge such cooperation, but it is widely accepted by freedom of expression advocates.

67 Google, "Thailand; "Removals,"" *Transparency Report*, July to December 2012, <http://www.google.com/transparencyreport/removals/government/TH/>.

68 Google, FAQ, [http://www.google.com/transparencyreport/removals/government/faq/#do\\_you\\_remove\\_content\\_without\\_a\\_request](http://www.google.com/transparencyreport/removals/government/faq/#do_you_remove_content_without_a_request).

69 Case database, Criminal Court (in Thai), <http://aryasearch.coj.go.th/aryaweb/>.

70 Some counted duplications, so that a single article shared by ten internet users would be counted eleven times. Interview with mid-ranking ICT ministry employee who requested anonymity, December 2011. In addition, iLaw researchers collecting details of blocked websites in 2012 found many government agencies unable or unwilling to provide data.

granted with minimal deliberation and do not serve as a check on the MICT's power to ban content. Nonetheless, their existence makes it harder in practical terms for content providers to appeal. The process for officials to petition courts for censorship orders is similar to that for arrest warrants, where the authority rests with a single lower court judge. Two defendants have asked courts to rescind arrest warrants in the past, but the Supreme Court refused, saying the law was not intended to allow pleas which would delay the judicial process, an argument experts believe would apply to censorship orders too.<sup>71</sup>

Other legal challenges have yet to yield results. In 2013, a group of law professors from Thammasat University asked the MICT for a copy of the court order that blocked their legal website *Nitirat* for publishing a historical treatise advocating a constitutional monarchy in Thailand.<sup>72</sup> The MICT complied, but the URL remained blocked in 2014, though the uncensored treatise is available on other websites. In an unrelated case, the political news platform *Prachatai* sued several government ministers and sought a court order to reverse a 2010 block on its website.<sup>73</sup> It was among thousands blacklisted under the emergency declaration in effect from April to December 2010.<sup>74</sup> Although some of those sites are now accessible again, others—including *Prachatai* and *Asia Sentinel*—remain at least partially blocked.<sup>75</sup> A civil court ruled that the censorship was a proper enforcement of law, and in March 2013 an appeals court declined to reconsider the decision on grounds that the state of emergency had long since been lifted.<sup>76</sup> However, the same court ruled that while a suit against individual ministers in the original complaint had no grounds, *Prachatai* was entitled to sue the MICT and the Ministry of Finance. As a result, this case bounced back to the lower courts during the coverage period of this report.

Social networks such as YouTube, Facebook, Twitter, and international blog-hosting services like Blogger are popular and freely available—though individual pages or videos may be blocked—and many political, social, and human rights issues are freely and passionately debated online in Thailand. Such sites have become important spaces for political expression and key channels for disseminating news, information, and demands for accountability. Social media has even facilitated some public discussion of *lèse-majesté* provisions. The government is also embracing social networks to promote policy. Top leaders update the public frequently on Facebook, especially during election campaigns, though digital tools do not yet have the reach of traditional media, particularly in rural areas.<sup>77</sup>

Political groups active on social networks have become adept at using companies' own terms and standards to censor their opponents, posting URLs containing content deemed to be *lèse-majesté*

71 Supreme Court decision 2060/2521 and Supreme Court decision 479/2555. Sarawut Benjakul. "Authority to revoke arrest warrant" (in Thai), Manager website, 11 July 2013, <http://www.manager.co.th/daily/ViewNews.aspx?NewsID=9550000085044&CommentReferID=21608746&CommentReferNo=2&>.

72 International Network of Engaged Buddhists, "How to Achieve our Democracy", accessed February 2013, <http://www.inebnetwork.org/news-and-media/6-articles/397-how-to-achieve-our-democracy>; "MICT Blocks Nitirat Page on 1st Declaration of the People's Party," *Prachatai*, December 15, 2012, <http://www.prachatai.com/english/node/3456>.

73 "Prachatai Blocked", Freedom of Expression Documentation Center by iLaw, <http://freedom.ilaw.or.th/en/case/116>.

74 C.J. Hinke, "Thailand Now Blocking 277,610 Websites," *Global Voices Advocacy*, November 8, 2010, <http://advocacy.globalvoicesonline.org/2010/11/08/thailand-now-blocking-256110-websites/>.

75 Freedom House tests on *Prachatai* and *Asia Sentinel* indicated that the sites loaded more slowly than others and that some pages were inaccessible, with the user redirected to a message stating that it had been blocked by the MICT, though other pages were available.

76 Case#116. Freedom of Expression Documentation Center, iLaw, <http://freedom.ilaw.or.th/en/case/116#detail>.

77 Jon Russell, "How Influential is Social Media in Thailand's Election?," *Asian Correspondent*, June 10, 2011, <http://asiancorrespondent.com/56997/how-influential-is-social-media-in-thailands-election/>.

for members to report to Facebook as hate speech.<sup>78</sup> One group, “Report Society,” was founded with a sole purpose of opposing other pages whose members have tried to adopt the tactic against them by reporting them to Facebook, like the “Coalition for Freedom Protection in Cyber World” page.<sup>79</sup>

Others used social media to broadcast hate speech and disclose others’ personal information to encourage real-world harassment. In mid-February 2014, Thailand’s Civil Court ruled on a lawsuit brought by the antigovernment PDRC against the prime minister and directors of the government’s Center for Maintaining Peace and Order (CMPO, high command set up under the emergency decree). The court ruled that the government has the authority to announce an emergency decree (which took effect between 22 January and 22 March 2014), but no authority to disperse peaceful protesters.<sup>80</sup> After the decision, the judges’ names, home addresses, phone numbers, and car license plate numbers were posted on Facebook. In March, the court’s secretariat office asked police to get the information removed to prevent violence against the judges. The page in question posted the court’s request letter addressed to the police, closed down, and opened another page displaying the same information.<sup>81</sup>

Online activists have proved resilient and creative in countering limits on content. Circumvention software to access blocked sites is readily available online, and content producers often republish information on alternate sites. In 2011, the former ICT minister warned users that “liking” *lèse-majesté* content on Facebook could result in prosecution for “indirectly distributing inappropriate content” under the CCA,<sup>82</sup> prompting civil society protests.<sup>83</sup> In 2013, police and government officials repeated the warning in relation to rumors of an upcoming coup that circulated on social media in summer 2013 (see Violations of User Rights), and the phrase “liking is not a crime” resurged in popularity online.<sup>84</sup>

On December 9, 2013, Thailand witnessed the largest turnout of anticorruption, antigovernment protesters in its history, a level of mobilization difficult to imagine without social media. Although the protests escalated and were marred by violent incidents, the turnout played a major role in Prime Minister Yingluck’s decision to dissolve parliament and call a snap election.<sup>85</sup>

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78 Thai No Red Facebook Page, June 6, 2013, [https://www.facebook.com/photo.php?fbid=476855662391086&set=a.155463437863645.40424.141656822577640&type=1&stream\\_ref=10](https://www.facebook.com/photo.php?fbid=476855662391086&set=a.155463437863645.40424.141656822577640&type=1&stream_ref=10).

79 “Resist Authoritarianism” Facebook page, referring to “ThaiNoRed” Facebook page, which lists a number of pages it recommend people to report to Facebook (in Thai), <https://www.facebook.com/photo.php?fbid=540514386008582&set=a.456114414448580.102339.455780181148670&type=1>, Facebook Page of Coalition for Freedom Protection in Cyber World, <https://www.facebook.com/ArmyAntiReport>.

80 “Court ruled no repeal of emergency decree, but forbids protest dispersal because the protest is peaceful” (in Thai), ASTV, February 19, 2014, <http://www.manager.co.th/Crime/ViewNews.aspx?NewsID=9570000019784>.

81 “I’m definitely gonna get 10 million from Thaksin” Facebook page (in Thai), [https://www.facebook.com/burntobeamillionaire2/posts/493293790796377?stream\\_ref=10](https://www.facebook.com/burntobeamillionaire2/posts/493293790796377?stream_ref=10).

82 Hana Stewart-Smith, “Thai Facebook Users Warned Over Anti-Monarchy ‘Likes,’” *ZDNet*, November 26, 2011, <http://www.zdnet.com/blog/asia/thai-facebook-users-warned-over-anti-monarchy-likes/286>.

83 “Clicking ‘Like’ is not a crime; MICT must reexamine how to deal with ‘*lèse majesté*’ websites” and recommendations for netizens who come across websites they don’t like” (in Thai), Thai Netizen Network, November 30, 2011 <https://thainetizen.org/2011/11/click-like-is-not-a-crime/>.

84 “Clicking ‘Like’ is not a crime” (in Thai), Kom Chad Leuk TV program, August 7, 2013, <http://bit.ly/MJM1MK>.

85 “Thai PM calls snap election, protesters want power now,” *Reuters*, December 9, 2013, <http://www.reuters.com/article/2013/12/09/us-thailand-protest-idUSBRE9B702920131209>.

## Violations of User Rights

### May 2014

After the coup, the NCPO made dozens of arrests, stepped up digital surveillance, infringed on online privacy, and created a climate of fear where internet users conducted on- and offline “witch hunts” against fellow citizens.

Within a month after seizing control, the NCPO had detained over 500 individuals, including politicians, activists, academics, and journalists. Over 150 of these had exercised freedom of speech in ways that displeased the junta.<sup>86</sup> Some were summoned via public announcements broadcast on every television channel, while others were subject to unofficial arrests made at homes or workplaces. Detainees were brought to designated military camps around Thailand, where personal communications devices were confiscated. Some were blindfolded to conceal the camp’s location. While in custody, individuals were interrogated on their political views. The NCPO said the detentions were carried out under martial law, which authorizes military detentions without legal counsel for up to seven days. Prior to release, the individual in custody would be forced to sign “conditions of release” papers, agreeing not to express political opinion in public, participate in political movements, or travel overseas without NCPO consent, and agreeing they had not been tortured during custody. Many were also ordered to surrender their Facebook account password to the army.<sup>87</sup>

A number of detainees faced criminal charges as soon as the seven day limit was reached. On June 2, NCPO orders stipulated that crimes related to *lèse-majesté*, national security, or infringing NCPO orders issued after May 25 would be tried by a military court, which lack appellate and higher courts. Three judges conduct military trials, but two are not required to have a law degree if their military ranking is higher than the defendants’.

In this environment, charges of *lèse-majesté* and computer-related crimes brought by internet users against fellow citizens increased along with political detentions. By June, a civil society group led by a military officer, styling itself the “Rubbish Collection Organization,” had filed charges of *lèse-majesté* against five internet users with the Technology Crime Suppression Division (TCSD).<sup>88</sup>

In the month after the coup, there were at least five cases of a *lèse-majesté* charge added when an individual was already in detention. Three notable ones involved digital content:

In May, police arrested a protester identified by the single name Apichat in Bangkok. After seven days in detention, he was charged with violating an NCPO order prohibiting protests. Citing content posted on his Facebook page, a witness separately accused him of *lèse-majesté*, substantially increasing the possible penalties he faces if convicted.<sup>89</sup>

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86 “Summons arrests, and releases statistics: third week of June 2014.” (in Thai) iLaw. June 18, 2014. <http://www.ilaw.or.th/node/3146>.

87 Direct interviews with some individuals who were summoned.

88 “Rubbish Collection Organization” filed charges against 5 individuals for violating Criminal Code Clause 112, 116,” (in Thai) *Prachatai*, June 19, 2014. <http://www.prachatai.com/journal/2014/06/54110>.

89 “Court denied bail to ‘man holding sign in front of art museum’, slapped *lese majeste* extra,” (in Thai) *Prachatai*, May 30, 2014. <http://www.prachatai.com/journal/2014/05/53667>.

Another telling case involved Sombat Boonngamanong, a prominent activist who has leveraged new media to address issues of missing persons, post-Tsunami recovery, and the 2011 floods. He also founded the “Red Sunday” meetings after the 2006 coup, which encouraged people to independently associate and mobilize without relying on a political party and initiated the pro-democracy red-shirt movement. Sombat refused to cooperate with an NCPO summons issued after the coup, but set up a “Catch me if you can” campaign on his Facebook page. A joint army and police operation arrested him on June 6, apparently having traced him via his IP address.<sup>90</sup> Although he was initially charged with violating an NCPO order by not responding to the summons, police added the charge of lèse-majesté while he was in custody, based on an earlier complaint against him. This prolonged his detention for three weeks before he was released on bail in July.

Chaturon Chaisang, former minister of education, also refused to answer an NCPO summons. Police arrested Chaturon in the middle of a press conference held at the Foreign Correspondents’ Club of Thailand. Shortly thereafter, he was charged with violating Thailand’s Computer Crimes Act for posting anti-coup statements on Facebook.<sup>91</sup>

Online anonymity is under threat since the coup. In late May, the MICT reportedly proposed to establish a single national gateway to the international internet to expedite monitoring and censorship of online content that is deemed illegal.<sup>92</sup> Reports in June 2014 said MICT officials were consulting with vendors to implement the plan, which would require every Thai citizen to authenticate their identity using a smart ID card before logging onto the internet.<sup>93</sup> At the end of June, there were no confirmed developments.

Officials from the Department of Special Investigation announced in May that they were requesting to join private chat groups on the messaging app Line in order to monitor group conversations for inappropriate content.<sup>94</sup> In early June, a senior police official said police have a duty to check Facebook accounts which share anti-coup messages or invitations to congregate. “Liking” illegal content is also considered a criminal offence, as an act of sharing.<sup>95</sup>

Police also used surveillance methods to capture personal data. In early July 2014, many Thai internet users found that visiting blocked websites prompted a screen with a TCSD logo and a message explaining it had been censored. Attempting to close the message triggered a request for consent to share the user’s personal data, apparently through a Facebook app titled Login. Clicking “Agree” automatically compromised users’ Facebook account details. After the Thai Netizen Network publicized this exposure, the “Close” button which launched the fake app disappeared from TCSD messages,

90 “Thai police arrest ‘taunting’ anti-coup activist,” BBC, June 6, 2014, <http://www.bbc.com/news/world-asia-27727510>.

91 “Former minister Chaturon faces Computer Crime charges,” *Prachatai*, June 20, 2014, <http://www.prachatai.com/english/node/4143>.

92 “ICT plans national gateway to curb abuse of internet,” *Bangkok Post*, May 28, 2014, <http://www.bangkokpost.com/news/politics/412124/ict-plans-national-gateway-to-curb-abuse-of-internet>.

93 Don Sambandaraksa, “Thai Junta Holding the mother of all garage sales,” *Telecomasia*, June 10, 2014, <http://www.telecomasia.net/blog/content/thai-junta-holding-mother-all-garage-sales>.

94 “Advisor to MICT Permanent Secretary discloses Line usage will be controlled at individual level.” (in Thai) ThaiPBS, May 30, 2014, <http://bit.ly/1sswaF7>.

95 “Amnuay says clicking “like” on anti-coup protests is illegal,” (in Thai) *Daily News*, June 9, 2014, <http://bit.ly/1nue6VG>.

and the TCS D website posted an invitation to “Friend” the division on Facebook in order to help them uncover suspicious activity online.<sup>96</sup>

## May 2013—April 2014

*As in past years, many Thai journalists, activists, and citizens were sued for defamation and insulting the monarchy in online communication during the coverage period of this report. In an unprecedented case, an internet user known as Kenji was jailed for 13 years for “attempting” to commit lèse-majesté online after police uncovered unpublished anti-royal comments on a device connected to the internet in his home. The sentence was reduced after he confessed to the crime, which has no legal basis. Inadequate technical evidence continues to mar proceedings, and one Prachatai commenter was sentenced to five years in prison for committing lèse-majesté based on misinformation about the computer where the post originated. As rumors of a coup spread online, police tried to persuade international social networks to supply them with user data to assist national security inquiries.*

Article 45 of the Constitution of the Kingdom of Thailand 2007 guarantees broad freedom of speech. However, other laws have been used to curtail free expression, including the Internal Security Act of 2007 and the Emergency Decree on Public Administration in Emergency Situations 2005. The 2007 Computer related Crime Act (CCA) groups online speech offenses—such as posting or allowing the dissemination of content considered harmful to national security or public order—with criminal activities like hacking or posting obscene material. Civil society groups and scholars say the CCA can be abused to launch personal or politicized attacks against content providers, webmasters, and other intermediaries.<sup>97</sup>

Many offences in this law already exist in the penal code, but the CCA carries harsher penalties. Article 14(1) provides for prison sentences up to five years, fines up to THB 100,000 (US\$ 3,330), or both for anyone who transfers damaging “forged” or “false” computer data,<sup>98</sup> and is often used simultaneously with Articles 326 and 328 of the penal code pertaining to defamation, which carries a maximum sentence of two years in prison or fines up to THB 200,000 (\$6,660).<sup>99</sup> Under the penal code, only the victim has the right to sue for defamation, which is considered a personal offence. In contrast, anyone can file criminal charges under the CCA, whether or not they are implicated in the disputed content. Moreover, Article 14(1) refers to the illegal tampering with electronic data, so its application to speech is a misinterpretation, according to Surangkana Wayupab, director of the MICT’s Electronic Transactions Development Agency, who is pushing to amend the CCA.<sup>100</sup>

Police, the attorney general, and the courts continued to pursue such cases during the coverage period of this report. One ongoing investigation dates from February 2013, when the owner of a

96 “Thai police create fake FB app to get Thai net users’ information, target users trying to open blocked sites,” June 20, 2014, <http://www.prachatai.com/english/node/4140>; TCS D, June 20, 2014, [tp://www.tcsd.in.th/news/detail/232](http://www.tcsd.in.th/news/detail/232).

97 Sarinee Achavanuntakul, “Danger! Computer Crimes Act” [in Thai], *Fringer Blog*, July 18, 2007, <http://www.fringer.org/?p=259>; “Freedom of Expression (Still) Under Attack,” *Political Prisoners of Thailand* (blog), June 12, 2012, <https://politicalprisonersofthailand.wordpress.com/2012/06/12/freedom-of-expression-still-under-attack/>.

98 Research has shown that Article 14(1) is the most-often used Article in this law. Between 2007 and 2011, there were 100 cases brought under Article 14(1), from the total of 325 cases. See, <http://ilaw.or.th/node/1798>.

99 In Thailand’s judicial system, when someone is charged for offences in more than one law, the court will mandate penalty according to the law in which the penalty is highest, not adding penalties together.

100 “Electronic Transactions Development Agency plans new Computer Crimes Act in 3 years” (in Thai), *Bangkokbiznews*, April 3, 2013, <http://bit.ly/1gB4ZSZ>.

canned pineapple factory sued researcher Andy Hall for defamation and CCA violations in a report alleging the company had violated labor rights.<sup>101</sup> Hall's findings, sponsored by the Finnish non-profit organization Finnwatch, were publicized on many websites. A few months later, in an April 2013 speech in Mongolia, Prime Minister Yingluck Shinawatra courted controversy at home when she characterized the 2006 coup d'état, when the military displaced the elected caretaker government headed by her brother Thaksin, as a backward step for the country.<sup>102</sup> In May 2013, she sued a prominent political cartoonist who uses the pseudonym Chai Ratchawatra for defamation and CCA violations, after he posted the response, "a whore sells her body, an evil woman sells her country," on his personal Facebook page.<sup>103</sup> That investigation is also ongoing. Finally, in December 2013 the Thai Navy sued Alan Morison and Chutima Sidasathian, journalists at the *Phuket Wan* news website in Phuket province, for defamation and violation of CCA Article 14 (1).<sup>104</sup> The previous July, they had cited a Reuters news agency investigation that accused the Thai military of profiting from the illegal smuggling of Rohingya refugees, a persecuted minority in neighboring Myanmar, into Thailand.<sup>105</sup> Police continue to investigate, though the original article can still be accessed. As of mid-2014, no lawsuit had been brought against Reuters.

Article 14(3) of the CCA prohibits the "import to a computer system of any computer data related with an offence against the Kingdom's security under the Criminal Code," and carries a penalty of five years' imprisonment, a fine of up to THB 100,000 (\$3,330), or both. It is often used in conjunction with Article 112 of the penal code, which pertains to *lèse-majesté*. The first case ever tried under the CCA in 2009 followed this pattern,<sup>106</sup> which persists to this day. Since Article 112 carries jail terms from 3 to 15 years, those charged under both laws face a 15-year maximum.

In September 2013, Porntipa Supatanakul, owner of a cable TV program, sued Saran C., a Thammasat University student pseudonymously known as Aum Neko, for committing *lèse-majesté* and violating the CCA in an interview that was never broadcast, as well as in personal Facebook posts. On March 24, 2014, police summoned the defendant to hear charges, and the investigation is ongoing.<sup>107</sup> In an unrelated case from September, dozens of police in Samut Prakan province raided the residence of a man using the online username Kenji in the online discussion forum "Internet to Freedom" for allegedly posting two *lèse-majesté* statements online.<sup>108</sup> After his arrest, police found photos with *lèse-majesté* remarks on a personal device that can connect to the internet and accused him of "attempting" to commit *lèse-majesté*—a charge with no legal basis. Nevertheless, in December 2013, a criminal court found him guilty of violating both Article 112 of the penal code and CCA Articles 14(2) and 14(3), sentencing him to a total of 13 years and 4 months in prison.<sup>109</sup> The same court reduced

101 "Thailand: Criminal lawsuit lodged against human rights defender Mr Andy Hall," Front Line Defenders, February 26, 2013, <http://www.frontlinedefenders.org/node/21806>.

102 "Weekly hot issues: PM speech in Mongolia and Chai Ratchawatra's online satire" (in Thai), *Thaipublica*, May 4, 2013, <http://thaipublica.org/2013/05/hot-issues-social-media-2013-20/>.

103 "Chai Ratchawatra" denies all charges of "Yingluck" libel" (in Thai), *Komchadluek*, June 24, 2013, <http://bit.ly/MJMdeV>.

104 Freedom of Expression Documentation Center, "Thai Navy VS Phuketwan", <http://freedom.ilaw.or.th/en/case/554>.

105 Alan Morison and Chutima Sidasathian, "Thai Military Profiting from Trade in Boatpeople, Says Special Report", July 17, 2013, <http://phuketwan.com/tourism/thai-military-profiting-trade-boatpeople-says-special-report-18454/>.

106 Case#26, Freedom of Expression Documentation Center, <http://freedom.ilaw.or.th/en/case/26#detail>.

107 "Police issued summon for "Aum Neko" on *lese majeste* charges" (in Thai), *Spring News*, March 20, 2014, <http://news.springnewstv.tv/45254/ข่าวรอดหมายเรียก-อุม-เนโกะ-รับทราบผิดกล่าวหาฐานหมิ่นเบื้องสูง>.

108 Kittithon: Kenji, Freedom of Expression Documentation Center by iLaw, <http://freedom.ilaw.or.th/en/case/490>.

109 "New *lèse majesté* precedence set by Thailand's public prosecutors and Court," Freedom of Expression Documentation Center, December 19, 2013, <http://freedom.ilaw.or.th/en/node/123>.

the sentence to just under seven years because he confessed.<sup>110</sup> The verdict marked the first time in Thailand that a defendant has been found guilty for attempting to commit lèse-majesté.

Internet users who post controversial content can face harassment outside the legal system, including physical violence. Somsak Jiemteerasakul, an outspoken Thammasat University historian, shares opinions on the monarchy and Thai politics with 80,000 Facebook followers, despite an ongoing lèse-majesté lawsuit the Thai army filed against him in 2011.<sup>111</sup> On February 6, 2014, the army announced that some of his Facebook posts may also violate lèse-majesté laws.<sup>112</sup> On February 12, unknown assailants fired multiple shots and hurled bricks at Somsak's car and house while he was inside. No one was injured, but the police investigation into the attack appears to have stalled.<sup>113</sup>

CCA Article 15 states that administrators who fail to stop internet users from posting banned content are "supporting or consenting to" the post and face the same penalties as if they had created it themselves.<sup>114</sup> This serves as a discouragement to service providers, since the constant monitoring it demands from website owners is time consuming and inefficient. Moreover, the law fails to establish a time frame for service providers to delete offending content. In 2012, a court sentenced *Prachatai's* Chiranuch Premchaiporn to a suspended eight months in jail and a THB 20,000 (\$673) fine for failing to delete 10 anti-royal comments,<sup>115 116</sup> though the site's administrator had removed them all within 20 days.<sup>117</sup> In April 2013, the ICT Ministry published the draft of an amendment to the CCA, including Article 15.<sup>118</sup> It stipulates that service providers who "know or should know" of computer data on their platforms that violates the law must "remedy the situation," whether by deleting it or informing the original poster to do so, in order to avoid liability. Like the current law, this puts blame on intermediaries rather than protecting them, and may even lead to more responsibility on grounds that they "should know" of infractions. While the ministry is soliciting public opinions on the draft via an official website, it is not clear if they will be incorporated into the final amendment.

CCA enforcement is inconsistent and lacking in due process. The executive authorities are left to decide what amounts to a violation under its vaguely defined terms, and criminal courts make the final judgments.<sup>119</sup> Many cases are tried without adequate evidence, and defendants who face attorney generals as plaintiffs often decide not to fight their case, because admitting guilt typically leads to reduced penalties and is the fastest way to end the often convoluted proceedings.

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110 The actual sentence was 5 years and 20 months.

111 "Case#141, Freedom of Expression Documentation Center," iLaw, <http://freedom.ilaw.or.th/en/case/141#detail>.

112 "Army displeased; 'Somsak Jiemteerasakul' criticisms of the monarchy on Facebook, may be liable under *lese majeste*" (in Thai), Prachatai, February 6, 2014, <http://prachatai.com/journal/2014/02/51646>.

113 "Anonymous shooter shot Somsak Jiemteerasakul's house and car" (in Thai), Post Today, February 12, 2014, <http://bit.ly/1bUVmua>.

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

115 James Hookway, "Conviction in Thailand Worries Web Users," *Wall Street Journal*, May 30, 2012, <http://online.wsj.com/article/SB10001424052702303674004577435373324265632.html>.

116 Suchit Leesa-nguansuk, "Don't Shoot the Messenger," *Bangkok Post*, June 27, 2012, <http://m.bangkokpost.com/business/299889>.

117 Danny O'Brien, "Computer Crime Laws Belie Thai Claim to Modern Society," *CPJ Internet Channel*, May 31, 2012, <https://cpj.org/internet/2012/05/computer-crime-laws-belie-thailands-claim-to-moder.php>.

118 Draft Computer Crimes Act amendment B.E. 2556: jail term for file copy, saving child pornography photos (in Thai), iLaw, April 14, 2013, <http://ilaw.or.th/node/2728>.

119 Suksri et al, *Impact of the Computer-related Crime Act*, 520.



announced that referring to such rumors or “liking” them on Facebook was tantamount to supporting them, and could be punishable under CCA Section 14(1).<sup>128</sup> Separately, Facebook disclosed that it had received two requests from the Thai government in the first half of 2013, seeking information on five Facebook users, but did not provide more details.<sup>129</sup> TCS D Director Pisit Pao-in also said that his team had requested Japan-based Naver Ltd., the owner and operator of the popular Line chat application, release chat logs and information on users for communication that affect national security.<sup>130</sup> Naver responded that it would only cooperate under a Japanese court order.<sup>131</sup>

Customers at cybercafes must present identification cards, though smaller businesses do not always comply with this rule. Mobile phone users are required to register their real names and national ID with their carrier upon purchasing a SIM card, whether prepaid or subscription. Although the rule is less strictly enforced for prepaid SIM cards, those who do not register are unable to receive certain services.<sup>132</sup>

There have been sporadic reports of hacking attacks on online news outlets in Thailand in the past. None were documented during the coverage period of this report, though hackers did target government sites. In May 2013, a group calling themselves “Unlimited Hack Team!!!” left pejoratives about Yingluck Shinawatra on the Prime Minister’s office website.<sup>133</sup> In February 2014, anonymous hackers disabled the Office of National Economic and Social Development Board website to prevent them from disclosing economic data, forcing them to release the information to the press via email.<sup>134</sup>

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128 “Netizens heap blame on MICT – clicking like is not a crime” (in Thai), *Mthai*, August 6, 2013, <http://news.mthai.com/hot-news/260376.html>; Pakorn Peungnet, “TCS D to get ‘Line’ data, after saying “Like” clickers may be considered criminals!” (in Thai), August 13, 2013, <http://www.oknation.net/blog/kobkab/2013/08/13/entry-1>.

129 Facebook, Global Government Requests Report, [https://www.facebook.com/about/government\\_requests](https://www.facebook.com/about/government_requests).

130 “TCS D prepares to control Line, claims affect national security” (in Thai), Voice TV, August 13, 2013, <http://news.voicetv.co.th/technology/78551.html>.

131 “Don Sambandaraksa, Naver denies collaborating with Thai govt,” *Telecomasia*, August 23, 2013, <http://www.telecomasia.net/content/naver-denies-collaborating-thai-govt>.

132 Happy, “Register SIM Card,” accessed January 2013, <http://bit.ly/1fRL5ji>.

133 “Hacker hacked Office of Prime Minister website, berates Yingluck, taunts MICT” (in Thai), ASTV, May 8, 2013, <http://www.manager.co.th/Politics/ViewNews.aspx?NewsID=956000055161>.

134 “NESDB website hacked” (in Thai), *Post Today*, February 17, 2014, <http://bit.ly/1juh21A>.