

Thailand

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Freedom of the Press

Thailand endured another difficult year for press freedom, with political violence erupting in late 2013 after a proposed amnesty bill provoked a new round of street protests and related harassment of the media by both demonstrators and the authorities. The government of Prime Minister Yingluck Shinawatra and the parliament remained unwilling to address the chilling effects of Thailand's *lèse-majesté* law, which was used against traditional and online media throughout 2013. The government also filed several defamation suits against journalists, while authorities continued monitoring online media and threatened to shut down websites for carrying defamatory comments about the prime minister.

The 2007 constitution restored and extended freedom of expression guarantees, replacing an interim charter imposed by a military government in 2006. Also in 2007, the legislature replaced the 1941 Printing and Publishing Act, though various pieces of legislation enacted by the military government remain a threat to press freedom. For example, the 2007 Internal Security Act (ISA) grants the government sweeping powers in the event of vaguely defined security threats, including the authority to detain suspects for 30 days without charge. In response to protests in November 2013, Yingluck ordered the enforcement of the ISA in all districts of Bangkok and some surrounding provinces.

Other problematic legislation criminalizes defamation, which can be punished with fines and prison terms of up to two years. In December 2013, the navy filed criminal defamation and computer crime charges against journalists, allegedly for their reports tying military personnel to human trafficking. In May, Yingluck filed a suit against *Thai Rath* cartoonist Chai Rachawat for a comment he made about her on Facebook, marking the first time a prime minister has brought charges of defamation against an individual for a Facebook post. The minister of information and communication technology then announced that websites containing defamatory remarks against the prime minister would be shut down immediately, and urged citizens to report websites with offensive content.

The *lèse-majesté* law, Article 112 of the criminal code, assigns penalties of up to 15 years in prison for anyone who "defames, insults, or threatens the King, Queen, the Heir-apparent, or the Regent." Prosecutors have been able to increase sentences beyond this threshold using the 2007 Computer Crimes Act (CCA), which assigns prison terms of up to five years for the online publication of forged or false content that endangers individuals, the public, or national security, as well as for the use of proxy servers to access restricted material. Article 112 complaints can be brought by one citizen against another, and authorities are required to investigate such allegations, which have increased in recent years alongside the state's use of the law to stifle dissent. In 2012, a group of university academics and activists set up the Campaign Committee for the Amendment of Article 112, and were joined by international supporters in their effort to increase popular pressure for reform of the law. In response, both the parliament and the Yingluck administration vowed that they would not address concerns about Article 112 and expressed support for the protection of the monarchy. In October 2012, the Constitutional Court unanimously decided that criminal penalties for *lèse-majesté* offenses did not contradict constitutional protections for human rights, including freedom of expression, since *lèse-majesté* violations were considered national security threats. As a result of these roadblocks, the movement to amend Article 112 slowed considerably in 2013.

Several *lèse-majesté* cases resulted in harsh punishments for the defendants in 2013. In January, Somyot

Prueksakasemsuk, editor of the *Voice of Taksin* magazine, received an 11-year prison sentence for ostensibly defaming the monarchy in two articles published in 2010. His arrest came less than a week after he introduced a petition demanding a review of the *lèse-majesté* law. Somyot was held pretrial detention for 20 months. In March 2013, Ekachai Hongkangwan was sentenced to more than three years' imprisonment in a *lèse-majesté* case. He was arrested for selling copies of an Australian Broadcasting Corporation documentary about the Thai monarchy, along with copies of two monarchy-related U.S. diplomatic cables originally published by the antisecrecy organization WikiLeaks. And in November, a Bangkok appeals court upheld the May 2012 CCA conviction of *Prachatai* webmaster Chiranuch Premchaiporn for allowing 20 days to pass before the removal of a comment posted on the website's discussion forum that was deemed critical of the monarchy. The original judgment argued that 20 days was "too long" for the offensive post to have remained on the website, despite the lack of any specified time limit under the CCA. The verdict marked the first time the law was used to criminally convict a Thai journalist for an offense related to freedom of expression. It was widely criticized for making managers of user-generated-content platforms legally responsible for any material posted to their sites and thereby encouraging self-censorship.

Thailand's constitution has guaranteed freedom of information (FOI) since 1997, but with exceptions restricting access to information that might put the monarchy in jeopardy. Furthermore, historically the FOI law has been poorly understood and unevenly applied.

The National Broadcasting and Telecommunications Commission (NBTC) was established in 2010 as a single regulator for the telecommunications and broadcast sectors. It faced the challenging task of wresting control of the two industries from powerful businesses with close ties to the government and the military. The NBTC is composed of 11 commissioners, including a high-ranking police officer and five top military officials. Some critics have raised concerns regarding the body's independence, considering the significant military representation, as well as its efficacy, given the ongoing political impasse. Nevertheless, the NBTC has worked to establish regulatory control, and its master plans for spectrum, telecommunications, and broadcasting were approved and published in the *Royal Gazette* in 2012, making them legally binding. One of the commission's biggest challenges has been the reallocation of broadcast licenses. In late 2013, it held auctions for the 24 commercial digital television licenses; this was set to be followed by allocation of 12 public and 12 community licenses. While the process still favored the major players in the market with the resources to run a broadcast station, there was nevertheless hope for a broader choice of television programming in the country. The NBTC is also determining how many radio licenses there will be for commercial, public-service, and community-based outlets. In May 2012 the NBTC approved a draft regulation that would allow the issuing of one-year "trial" licenses to more than 7,000 community radio stations in anticipation of a more permanent licensing scheme, which by the end of 2013 was still to be developed.

The government in 2013 faced resistance in its efforts to amend the CCA to grant authorities more latitude to block websites without judicial permission, as did the NBTC in its attempts to draft new regulations on media content. The Thai Journalists' Association, Online News Providers, and other groups protested the proposed changes to the CCA and requested that the government refrain from interfering with media content.

Online activity remains under the control of the Cyber Security Operations Center (CSOC), founded in late 2011 and expanded in 2012 to enable the Ministry of Information and Communication Technology to shut down and block websites more quickly, without the need for a court order. Through extensive control and surveillance of online media, the CSOC has aided the large-scale shutdown of websites and individual webpages. The center works with internet service providers and website owners to block not only Thailand-based content, but also material that is available globally, affecting thousands of sites. Its efforts are particularly focused on social-media sites such as Twitter and Facebook, both of which have gained

significant usage in Thailand; as of February, there were 18 million Thai Facebook users, who can face jail time if they click “like” or “share” on any content deemed offensive to the monarchy. There has recently been a rise in governmental censorship of potentially disruptive online political messages and websites that are considered a threat to national security, including those of Muslim separatist groups in southern Thailand. Other forms of official censorship also took place in 2013. In April, the Ministry of Culture banned the documentary film *Fah Tam Pan Din Soon* (Boundary), which focuses on the Thai-Cambodia border conflict, on the grounds that it might “mislead and disrupt public order.” The ministry later reversed the ban following a public outcry.

Although self-censorship on topics involving the monarchy remains the norm, newspapers provide diverse news and opinion stories, and even spirited commentary and analysis of domestic politics. In addition to the state-mandated restrictions on content, owners of news outlets have become increasingly politically polarized in recent years. In an act of self-censorship in January 2013, Channel 3, which receives its broadcasting license from the state-controlled Mass Communications Organisation of Thailand (MCOT) and is directly under government observation, canceled its screening of the soap opera *Above the Clouds* just two hours before its scheduled final episode. Although the government denied it, the series finale was rumored to have been pulled after interference by a government minister because it dealt with corrupt politicians and was seen as critical of the current government. Debates on this topic flared in social media in response to the show’s cancellation.

The media in 2013 continued to show bias—including an increase in negative commentary and hate speech—in the enduring political conflict between the red-shirted backers of the United Front for Democracy against Dictatorship, which supports Yingluck and her exiled brother Thaksin Shinawatra, and the yellow-shirted supporters of the rival People’s Alliance for Democracy, now reconstituted as the People’s Democratic Reform Committee (PDRC). The year featured the rise of Blue Sky TV, an antigovernment satellite station, and Asia Update, a progovernment station, each of which has been accused of irresponsible references to political opponents, often including open insults.

The increased polarization also resulted in more physical intimidation, protests, and violence against journalists in 2013. In January, four cars belonging to ASTV were shot at outside the station’s headquarters. In November and December, PDRC supporters gathered at the Bangkok headquarters of Channels 3, 5, 7, 9, and 11 to pressure them to end “biased” reporting, stop airing government reports, and instead air a speech by opposition leader Suthep Thaugsuban. Five of the six free-to-air stations agreed to do this, carrying the Suthep statement as supplied by Blue Sky. At one mass rally in November, a former lawmaker singled out Nick Nostitz, a German freelance journalist, calling him a red-shirt supporter and encouraging the crowd to chase him out. His profile was later posted to Blue Sky’s Facebook page. Several other journalists were reportedly harassed or assaulted by demonstrators, who surrounded vehicles owned by Channel 3 and Channel 7. In December in Chiang Mai, a group of red-shirt supporters marched into the Thai Public Broadcasting Service (PBS) station to submit a letter requesting that it not air statements from Suthep.

Conditions for media in the restive south remain challenging. In October 2013, five journalists were injured by a bomb that detonated while they were covering the region’s Muslim separatist insurgency. An ongoing state of emergency in the four southernmost provinces restricts the media’s ability to operate. There is impunity for acts of violence against journalists nationwide, and lingering distrust between the public and the press. In May 2013, a court ruled that the security forces were responsible for the fatal 2010 shooting of Italian photojournalist Fabio Polenghi during street unrest, but the judgement stopped short of naming an individual perpetrator.

Large conglomerates and prominent families, some with political ties, own the majority of print outlets. Radio and television have remained under the direct or indirect control of the state, although this has

begun to change with the establishment of the NBTC, whose first team of commissioners began working on media regulation in 2011. If realized fully, the NBTC's reforms could both broaden competition and increase transparency in the broadcasting sector, with licensing set to replace the traditional state concessions for broadcasters. In addition to the development of licensing, there is an increasing availability of new technologies, especially satellite- and internet-based television. Currently, ownership of Thailand's six free-to-air television stations remains divided among four government bodies: the Public Relations Department and Thai PBS each administer one station, while the MCOT and the Thai Royal Army oversee two channels each. The government and security forces own more than 700 radio stations registered with the NBTC, and thousands of community stations also broadcast.

Although the advertising market in Thailand is fairly large, the state has established methods of interfering with editorial independence through manipulation of advertising. The state advertisement budget provides private outlets with incentives for the dissemination of progovernment information and viewpoints. Relationships between politically inclined media owners and government officials also facilitate the control of editorial content.

Internet penetration in Thailand was nearly 29 percent in 2013. The cost of internet service, which is relatively high, remains one of the factors hindering penetration, although more affordable mobile data plans help alleviate this problem. Mobile-telephone penetration is approximately 131 percent, meaning many Thais have more than one phone. Although the internet and social-networking sites contain a greater diversity of content and debate than traditional media, online self-censorship has continued to grow in response to the government and military's focused efforts to control commentary and information that is deemed incendiary, divisive, or subversive.

2014 Scores

Press Status

Not Free

Press Freedom Score

(0 = best, 100 = worst)

64

Legal Environment

(0 = best, 30 = worst)

21

Political Environment

(0 = best, 40 = worst)

27

Economic Environment

(0 = best, 30 = worst)

16