



**MEDIA
HOUNDED
BY JUNTA
SINCE
2014 COUP**

**REPORTERS
WITHOUT BORDERS**
FOR FREEDOM OF INFORMATION

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MEDIA HOUNDED BY JUNTA SINCE 2014 COUP

B - Bangkok : The NCPO has imposed a reign of terror since seizing power on 22 May 2014. An unprecedented crackdown on the media that began in the first few days after the coup has included censorship orders, raids on news organizations, and interrogations and arrests of journalists and cyber-dissidents. The military have clamped down on the media and have tightened government control of the Internet.

A - PHUKET
A - Phuket : Alan Morison, the Australian editor of the Phuket-based news website Phuketwan, and his Thai reporter Chutima Sidasathian were tried before a Phuket provincial court from 14 to 16 July 2015 on charges of criminal libel and violating the Computer Crimes Act in a case brought by the Thai Royal Navy. Although acquitted in September, they fear that Phuketwan may have to close temporarily or even permanently because the website and the company that publishes it, Big Island Media, have suffered financially as a result of the case.



C - Sa Kaeo province : Somyot Prueksakasemsuk, a journalist arrested on 30 April 2011, is now serving a 10-year jail sentence on a lèse-majesté charges for publishing two articles deemed to have insulted the Thai monarchy.

D - Songkhla province: : Many Rohingya refugees from Burma concentrate in Thailand's far south, between Burma and Malaysia. After the discovery of mass graves in Songkhla province and allegations of Thai police and military involvement in the trafficking of Rohingya migrants, the authorities have reinforced efforts to suppress information about the Rohingya issue.

MEDIA FREEDOM

**134th OUT OF 180 COUNTRIES
IN THE 2015
PRESS FREEDOM INDEX**

INTRODUCTION

Reporters Without Borders (RSF) visited Thailand in July 2015 to evaluate the situation of media freedom and freedom of information after more than a year of military rule under Gen. Prayut Chan-o-cha, the head of the National Council for Peace and Order and self-proclaimed prime minister.

After seizing power in May 2014, Thailand's military effected the biggest clampdown on freedom of information since the dictatorship of the 1960s. Citizens were jailed for reading George Orwell's 1984 in public or eating a McDonalds sandwich in protest against the coup. As a result of the censorship it has imposed, its threats and harassment of both local and foreign media, a surge in prosecutions, especially for lèse-majesté (criticizing the monarchy), and its increasing use of repressive laws, the junta is now seen as one of the region's most authoritarian regimes as regards journalists and freedom of information.

Journalists have fled abroad to avoid being jailed on a charge of "insulting the monarchy." The staff of the news website Phuketwan has been prosecuted as a reprisal by the junta for their reporting. And the most critical journalists have been summoned by the military and sent to "behaviour readjustment" camps. The message is clear: either media outlets get used to censoring themselves carefully or they will be prosecuted on charges of threatening "national security" or disturbing "peace and order." Laws have reinforced online censorship and the junta is developing Internet surveillance tools that target bloggers, human rights defenders and students who voice opposition to the loss in fundamental freedoms.

Buffeted by these different kinds of pressure, exposed to the capricious Gen. Prayut's unpredictability and immersed in the deep political divisions within the population, which the military used to justify their takeover, Thailand's media are navigating in troubled waters, alternating between partisan positions, outright opposition to the junta and attempts to overcome the divisions.

Fifteen months after the coup and without any date for elections after which the military would restore civilian rule, what remains of the media freedom in Thailand that was regarded as a regional model just ten years ago?

1 OBSESSION WITH “PEACE AND ORDER”

When the military took power by declaring martial law on 20 May 2014 and removing the government two days later, they launched a series of operations to secure the capital and to bring state agencies and other key entities under their control. A spate of emergency measures were announced, of which many concerned the media and control of information. Ever since the first days, the junta has been clamping down on the media in an unprecedented manner. This has not let up. In fact, the military have been stepping up their pressure on online information and the foreign media for months.

1. BLITZKRIEG ON MEDIA

A week after the coup, Duncan McCargo, a university academic and expert on Thailand, wrote in an article for the *New York Times* : “There is a script for Thai coups: a day or two of shock and awe, seizure of television stations, token tanks on the streets – and then swift international reassurance, a plausible interim prime minister, an appointed national assembly, a committee to draft a new constitution and promises to hold elections within a year (...) The leaders of the May 22 coup are not sticking to the 1991 or 2006 scripts.”

The scale of the military intervention and the speed and thoroughness of the clampdown on information – on information provided by all local and international media and by civil society actors including NGOs, academics and government opponents – constituted a blitzkrieg aimed at achieving absolute control over the provision of news and information and the shaping of public opinion.

Junta's four strategies

The coordinated military actions taken in the first few days after the coup included prior censorship orders, raids on news organization, and summonses and arrests of journalists and cyber-dissidents. The aim of this offensive was the complete control of information about the coup and control of all those who might criticize the junta. It was combined with a major PR effort designed to legitimize the putsch and project the image, nationally and internationally, of an operation that had been carried out without violence in order to save the nation.



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Blanket censorship strategy – NCPO orders

On the day of the coup, the junta issued a string of announcements restricting media activities and preventing freely and independently reported news and information. More than ten announcements and as many orders targeted the media and online information in the following weeks and months (see box). Almost all of them cited the need “to prevent the false and distorted circulation of news and information to the general public, the impact of which can lead to misunderstanding and subsequent deepening of the conflict.”

A third of the military’s announcements on the day of the coup concerned freedom of information. The media were warned not to publish “news which might be threatening to the national security and defamatory to other persons,” “criticism of the operations of the NPOMC¹ or its officials and other relevant personnel” or “information and news which might cause confusion or provoke further conflict or divisions within the kingdom.” The general and his associates clearly did not believe in half measures.

Terror strategy – “behaviour readjustment” camps

To ensure that the announcements were having the required deterrent effect, the NCPO “invited” the news editors of 18 media outlets, including the main Thai-language dailies (*Thairath*, *Khaosod* and *Matichon*) and English-language dailies

†
Soldiers raid Thai PBS headquarters on the evening of 22 May 2014 after the TV station ignored instructions to suspend broadcasting.

1.
The NCPO was called the National Peace and Order Maintaining Council until 24 May 2014.

(*Bangkok Post* and *The Nation*) for a “talk” on 25 May 2014. Its aim was to intimidate them and dissuade them from publishing any criticism of the new regime.

The junta regarded a few journalists as posing a special danger for its image. They included Thanapol Eawsakul, the editor of *Fah Diew Gan* (Same Sky magazine), who was arrested on 23 May for participating in a demonstration in Bangkok, and Pravit Rojanaphruk, a well-known journalist with *The Nation*, who responded to a summons from the NCPO on 25 May, arriving with an escort of UN officials and a lawyer. He was detained alone for five hours and was then taken in a van to a military camp.

“On 21 May, the day before the coup, I wrote an article criticizing the imposition of martial law,” Pravit told RSF. “Then I received a summons from the NCPO, to which I responded. When I arrived, my phone was confiscated so I couldn’t tweet or post a message on Facebook. Then I was taken away. A few other critical journalists were also detained. Some were made to sign written pledges, called Memorandums of Understanding (MOU), not to join, participate in, or lead any anti-coup movement. This kind of pledge obliges you to stay away from any events, and therefore stops you from covering them. Those who signed also undertook not to leave the country without prior permission. I told them I would not sign any document that would prohibit me from expressing any criticism of the government or its policies. Nonetheless, I ended up signing a document that allows the military to freeze my bank account and allows me to be judged according to their laws.”

Pravit spent seven days in arbitrary detention in one of the “behavioural adjustment camps” before being released. “The military haven’t carried out detention without charge since the Sarit Thanarat dictatorship in the 1960s,” he pointed out. He later described what it was like in the camp in an article for *The Nation*. While the conditions were not extreme, the pressure was enough to break some of the detainees psychologically. A day after his release, Pravit received calls from army officers, who advised him to stop tweeting and stop criticizing the junta, and warned him that he was under close surveillance.

Blackout strategy – military censorship

One of the first official announcements targeting the media instructed all of the country’s TV and radio stations to suspend all programming at once.

On 20 May, soldiers stormed into the studios of at least ten TV channels – including *MV5*, *DNN*, *UDD TV*, *Asia Update*, *P&P Channel*, *4 Channel*, *Bluesky TV*, *FMTV*, *T News* and *ASTV* – and stopped them from broadcasting. The next day, four other channels joined the list. They were *Voice TV*, owned by the son of exiled former Prime Minister Thaksin Shinawatra, *Hot TV*, *Rescue Satellite TV* and a satellite TV station operated by a student network¹ affiliated to the anti-Shinawatra People’s Democratic Reform Committee (PDRC).

1. Soldiers were temporarily stationed outside some media outlets. The news service of *Thai PBS*, a national public service channel, decided to ignore the broadcast ban by using YouTube to broadcast its programming online. The military responded by raiding the station and briefly detaining deputy news director **Wanchai Tantiwitthayapithak**.
Network of Students and People for Reform of Thailand (NSPRT).



Access to the Prachatai website is blocked after Gen. Prayut Chan-o-cha seizes power.

As well as blanket censorship, the military also resorted to specific censorship, banning certain articles prior to publication. According to the Thai Journalists Association (TJA), army officers went to the headquarters of a daily newspaper on 24 June and ordered its staff not to publish an article about the creation by Thai exiles of an anti-coup group called Free Thais for Human Rights and Democracy (FTHD).

Unlicensed community radio stations were also ordered to suspend broadcasting and, at the end of May, nearly 3,000 "illegal" community radio stations were closed for good. On behalf of the military, the National Broadcasting and Telecommunications Commission confirmed their permanent closure a few days later.

Propaganda strategy – "NCPO TV"

The grounds given for closing TV stations after the coup was "afin que la population reçoive une information correcte sans un biais qui pourrait provoquer des malentendus, amplifier le conflit et influencer sur son action de maintien de la paix."

Soldiers were dispatched to stand guard at television stations. Broadcasters, including 10 satellite TV stations, were ordered to shut down "to ensure that information will be distributed rightly and to prevent any distortions which could lead to misunderstandings and it could lead to wide spread conflicts."

But instead of leaving the country's TV screens in the dark or showing test cards, the junta ordered all TV channels to broadcast NCPO announcements (and nothing but these announcements), partly to reassure the public that no other coup d'état was under way. For several days, Thais changed channels in vain because all they could find on their screens was the junta's logo or, from time to time, the announcements of the new interim prime minister, Gen. Prayut, and a junta spokesman trying his hand at been a news presenter.

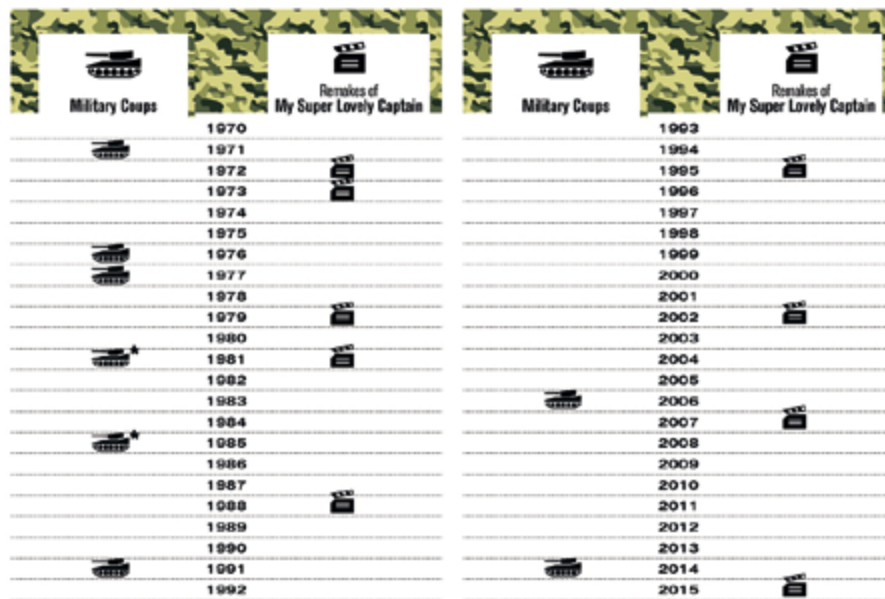
On the day they military imposed martial law, they took a step that would help to buttress their future monopoly of communication – they opened an NCPO Facebook page that continues to be one of the junta's central communication tools. They did not need to open a Twitter account because the Royal Thai Army's press relations department already had one.

On 30 May 2014, Gen. Prayut launched a weekly TV show called “Returning Happiness to Thailand” in which he is the star. In this show, which all TV and radio stations have to broadcast, he talks about what the junta did in the past week. The aim is to “clarifier certains points d'intérêt public;”

He will use the programme to discuss the work done by his administration over the previous week and clarify issues in the public interest, said Col Sirichan Ngathong, the deputy spokeswoman for the NCPO.

Col. Sirichan Ngathong, the junta's deputy spokesperson, told the media on 1 June 2014. In the first show, Gen. Prayut explained why the military toppled Yingluck Shinawatra's government on 22 May and then he quickly moved on to threatening those who disobeyed the NCPO's orders, participated in anti-coup protests or said negative things about the junta in the media. Obviously, no questions can be put to the general in these shows.

Remakes of My Super Lovely Captain occur in the same year as, or in the years following, both failed and successful coups. But then again, this could just be because we have so many damn coups.



* Failed "Young Turk" coups, which were suppressed by military forces

Propaganda designed to justify military rule took new forms in the following months. After Gen. Prayut ordered writers to come up with TV scripts promoting the country's image, a soap opera with a Thai army background began being broadcast in July 2015. It was the ninth remake of "My Super Lovely Captain," the story of a romance between a young recruit and his commanding medical officer, a woman with the rank of captain. As the independent online newspaper *Prachatai* explained, "The soap reinforces and naturalizes far-right ideals of how military power is not only natural but beneficial to the nation." All of the previous versions of the soap were also made immediately after one or other of Thailand's many military coups.

Long-planned coup?

In his already mentioned analysis for the *New York Times*, published on 30 May 2014, Duncan McCargo wondered whether the coup was carried out in a "fit of pique" after the declaration of martial law failed to have the desired effect or whether it was premeditated. When you consider the ruthlessness, speed and effectiveness with which information was muzzled, especially "Red Shirt" information, it is hard to imagine that the coup decision was taken between 20 and 22 May and that the military were able to carry out such a swift and complete clampdown without a long period of preparation.



←
The independent online newspaper *Prachatai* points out that remakes of "My Super Lovely Captain," a TV soap that idealizes the army and military rule, have often been produced in the immediate aftermath of Thailand's many military coups.

NCPO ANNOUNCEMENTS

After declaring martial law, the army issued a string of orders and official announcements designed to control the media. No fewer than seven of the 20 announcements broadcast by radio and TV stations on 22 May 2014 imposed drastic restrictions on the media and the flow of information, including online information. In the course of June 2014, the NCPO issued 184 orders and 122 official announcements, according to the NGO iLaw. Listed below are the announcements affecting freedom of information and media freedom that were broadcast on 22 May 2014.

Announcement 3b/2557, “Prohibition of news reporting, dissemination and selling of publications which undermine internal peace and order,” bans all distorted news and information that can cause social division and unrest or messages that may threaten or cause widespread fear, the impact of which can affect the task of maintaining peace and order.

Announcement 4/2557,

"Broadcasts of radio broadcasting stations, TV broadcasting services and community radio stations," orders all radio and all terrestrial, cable and satellite TV stations, both public and private, to suspend their programmes and to broadcast nothing but programmes provided by Royal Thai Army.

Announcement 12/2557,

"Request for Cooperation from Social Media Networks," asks operators of social media networks to censor messages inciting violence, violation of the law or opposition to the NPOMC or else face immediate termination of their services.

Announcement 14/2557,

"Prohibition of instigation of conflicts and opposition to the function of NPOMC," orders media outlets not to interview individuals or groups "not currently holding official positions," including former judges and those who worked in the judicial system, whose opinions might "lead to further violent conflict and create confusion." Non-compliance will result in immediate closure.

Announcement 15/2557,

"Request for cooperation in suspending broadcasting of satellite television channels, digital television channels, and community radio stations," announces that 14

TV channels and all unauthorized community radio stations are to suspend broadcasting immediately.

Announcement 17/2557,

"Dissemination of information and news through the Internet," instructs Internet Service Providers to "suspend transmission of any distorted and provocative information" and to report to the headquarters of the National Broadcasting and Telecommunications Commission.

Announcement 18/2557,

"Dissemination of information and news to the public," orders all media workers and online social network operators to refrain from transmitting "false or defamatory messages or messages causing hatred toward the monarchy, the heir-apparent, and all members of the royal family," "news which might be threatening to the national security and defamatory to other persons," "criticism of the operations of the NPOMC," "information (...) on the operations of government agencies," "persuasion to gather or assemble in order to oppose officials of the NPOMC and its relevant personnel," or "threats to attack or injure any person that might cause public panic or fear."

In July 2014, 18/2557 was replaced by 97/2557, empowering the authorities to close any

media outlets transmitting any information described in 18/2557 including information that is "defamatory or causes hatred towards the monarchy, the heir-apparent, and all members of the royal family." This is even vaguer than the notorious criminal code article 112 on lèse majesté. The Thai Journalists Association protested and, surprisingly, the junta issued an amendment two days later, 103/2557, limiting the ban to criticism that has "the dishonest intention to damage the credibility of the NCPO with false information" and lifting the threat of immediate closure for non-compliance.

Other announcements affecting freedom of information and media freedom include 23/2557, 26/2557, 27/2557, 32/2557, 33/2557, 37/2557, 41/2557, 45/2557, 65/2557, 66/2557 and 79/2557. The English-language versions of these announcements can be found at: www.thaicoup2014.wordpress.com

2. CENSORSHIP AND SURVEILLANCE – ANY SPACE LEFT FOR FREEDOM OF INFORMATION ONLINE?

Online censorship, URL blocking and account closures

When the junta took power, it didn't just try to control the traditional media. Aware of the importance of online social networks, the military authorities summoned Internet Service Providers and ordered them to watch out for content that was "provocative" or "distorted" reality. On 28 May 2014, the Ministry of Information and Communication Technology blocked 219 websites regarded as "menaces pour la sécurité nationale," while Facebook, YouTube and LINE (a chat service) were asked to close accounts with "illégaux" content.

The Ministry of Information and Communication Technology (MICT) has blocked 219 websites which are deemed threats to "national security" according to an order of the military junta and it will ask Facebook, YouTube and Line, a chat application, to ban some user accounts which disseminate "illegal" content, Surachai Srisakam, Permanent Secretary of the MICT, told media on Tuesday.

Facebook was "mysteriously" inaccessible throughout the country for about an hour the same day. In Bangkok, which has more Facebook users than any other city in the world, the junta initially announced that it had suspended the website but quickly retracted and blamed a technical problem. Telephone operator DATC nonetheless said Facebook's temporary inaccessibility was indeed due to an order from the government.

Other online sources of news and information such as the independent news website *Prachatai*, the blogs of journalists, the sites of human rights NGOs such as Human Rights Watch and Thai Lawyers for Human Rights, and individual news articles were also subsequently blocked.

Bulk surveillance and identity tracing

Many people decided to become citizen-journalists or bloggers after the coup, above all to help fill the news and information gaps and to offset the partisan behaviour of many media outlets (see 2.1). As the use of pseudonyms is common online, the junta decided within a few days of the coup to establish a system of bulk online surveillance. Order 26/2557 of 29 May 2014 provided for the creation of teams capable of intercepting and removing criminal content and of prosecuting the content owners. National police chief Gen. Somyos Pumpanmuang even proposed creating a "National Internet Gateway" with the aim of enhancing the junta's online censorship and surveillance capabilities. The project has yet to materialize.

The Department of Special Investigations (DSI), a thought police reporting to the justice ministry, is meanwhile pursuing an aggressive surveillance policy, joining private chat groups on the social messaging service LINE, creating Facebook accounts in order to identify the authors of "illegal" messages and even inciting some people to criticize the monarchy or the junta in order to arrest them. Once in detention, suspects are forced to surrender their usernames and passwords to the police. The musician and blogger Patchara Kerdsiri had to give the military access to his Facebook account and mobile phone after revealing that Gen. Prayut's wife was having fun at a party while the coup was being carried out.

Arthit Suriyawongkul, the coordinator of the Thai Netizen Network, a group that defends online freedoms and privacy, was one of the first people to voice concern about the Cybersecurity Bill and other proposed laws and amendments (eight in all) that were discreetly drafted by the Ministry of Information and Communication Technology, now renamed Ministry of Digital Economy and Society.

Dubbed the “Cyber-Martial Law” and unveiled in January 2015, the proposed Cybersecurity Law would legalize both bulk and individual online surveillance. It provides for the creation of a National Committee for Cyber Security which, under sections 33 and 34 of the bill, would be empowered to prevent the publication of online content. Data interception and website blocking would be possible without referring to a judge. The police units responsible for online surveillance would have a completely free hand.

The authorities also envisage ordering Internet Service Providers to install surveillance equipment, deploy bogus SSLs (protocols that are supposed to guarantee the security of online communications) and install spyware on the computers of their clients.

Technological arms race

According to a 2012 Thai senate report, the military have been trying to enhance their surveillance and censorship arsenal for years. Unconfirmed reports in September 2014 that the military had acquired new technology capable of detecting key words linked to lèse-majesté reportedly led to an increase in media self-censorship. After hearing the rumours, the editors of one unidentified Thai-language daily are said to have asked all their staff to stop carrying out searches on websites with content related to lèse-majesté and to take extra care with any story involving lèse-majesté.

But worse may be to come. Digital freedom defenders are very disturbed about revelations on WikiLeaks that the Thai authorities have acquired surveillance malware sold by the Italian company Hacking Team. More than 100 emails between Hacking Team and the Thai police and army indicate that at least half a million dollars were spent in 2014 on purchasing its Remote Control System (RCS) software. According to the *Bangkok Post*, other leaked emails posted on WikiLeaks show that Thai private-sector companies such as Netsurplus and Samart Comtech (which has 30-odd subsidiaries including the i-mobile phone manufacturer) are working with the government on the acquisition of Hacking Team software. It would give the junta the ability to intercept communications, remotely activate a mobile phone’s microphone and camera and access all of its content including contacts and messages.

Bloggers and cyber-activists continue fight

Ever since the coup, many citizen-journalists, cyber-activists and human rights defenders have responded with peaceful and determined resistance to the junta’s efforts to gag independent critics. After posting PDRC cartoons and criticism of the junta on Facebook, leading free speech champion Sombat Boonngam-anong was charged with violating article 116 of the criminal code (which penalizes seditious comments with up to seven years in prison) and article 112 (on lèse majesté). He was held for several weeks after refusing to respond to a summons from the junta and continues to be persecuted. By blocking his bank accounts, the junta forced him to stop being a presenter on *Peace TV*, an opposition TV station that was suspended immediately after the coup.

Some bloggers, cyber-activists and human rights activists have formed coalitions such as Resistant Citizen, Thai Student Centre for Democracy (TSCD) and Thai Lawyers for Human Rights (TLHR) in order to monitor the situation, post reports and analyses and denounce human rights violations by the junta, such as its use of military courts to try civilians. These groups may have varying aims but what they have in common is their ability to upset a regime that sees a threat in any public debate.

TLHR was created on 28 May 2014 with the aim of informing the Thai public of its rights under martial law. It publishes reports and statistics on its blog, which are quoted by the media, and it operates a telephone help line. Its lawyers include Anon Numpa, who has defended many people charged with lèse-majesté and who has himself been accused of posting anti-junta views online, especially on Facebook.

Internet – media refuge

Despite the close surveillance and censorship, journalists often use online social networks or personal websites to post information that could not be published by the media outlet they work for. Although they append disclaimers pointing out that their news organization is not responsible for what they post, the authorities pressure news media to “moderate” the content that their employees post online on a personal basis.

Some media outlets have meanwhile launched online platforms in order to continue or resume reporting. After being closed for eight years, the *BBC's* Thai service was restarted on a three-month trial basis on 10 July 2014 on YouTube and Facebook, where reports are streamed in English and Thai without being censored by the junta. At the end of the trial, the British Foreign and Commonwealth Office approved the operation, which is currently funded until the end of 2015.

Peace TV imitated the *BBC* by relaunching its TV news service on YouTube in May 2015, although the circumstances were very different. An opposition media outlet, *Peace TV* was closed by the junta in 2014 and its licence was withdrawn by the National Broadcasting and Telecommunication Commission. It is now broadcasting 15 hours a day online to viewers with a much younger average age. It hopes to gradually recover its former older viewers

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→ BBC Thai service's Facebook page
With reporting in both English and Thai, the BBC's Thai service is relaunched on 10 July 2014 after being closed for eight years.

3. FOREIGN MEDIA – THREAT TO THAILAND’S IMAGE?

Several foreign reporters told the Foreign Correspondents' Club of Thailand (FCCT) in June 2015 that they were having difficulty renewing their accreditation and work visas. Asked at news conference at the end of June if this was deliberate, a government spokesman told *Reuters*: “Absolutely not. There is no policy to stop foreign journalists from working in the kingdom.”

Speaking on condition of anonymity, because of fear of reprisals, a news agency journalist told *The Nation* that the authorities wanted to ensure that foreign correspondents were not too critical about two issues – “the military regime and the monarchy.” The reporter added that applicants were asked two questions during their work permit interview at the foreign ministry, one on their views of the monarchy and one on their views of the coup and the current government.

The *Nation* went on to describe the difficulties encountered by two foreign journalists, one of them a freelancer, and revealed that the editor of the news organization to which the freelancer contributed in his country of origin was invited by the Thai embassy for a chat.

“The foreign media are definitely regarded as a threat to Thailand’s image and to internal security because many opposition Thais are reading the foreign media and are translating their articles into Thai,” another journalist told RSF on condition of anonymity. Referring to Pavin Chachavalpongpun, an academic who fled to Japan after refusing to respond to a summons from the junta, he added: “Some prominent exiles such as Prof. Pavin are regularly writing articles in foreign publications.”

He said he thought the accreditation problem seemed to be random and not necessarily connected to the political views of the individual journalists. “Much of this is open to speculation and connected to the lack of transparency surrounding the junta’s decision-making in all areas,” he added.

The reception given to British freelance journalist Andrew MacGregor Marshall’s 2014 book about Thailand, “A Kingdom in Crisis,” is a good example of the junta’s attitude to foreign reporting. Its content was deemed to defame, insult, or threaten against the king, the queen, the heir to the throne or the Regent. Marshall resigned from *Reuters* in 2011 because it refused to publish the exclusive stories he was writing about the Thai monarchy.

FCCT targeted by NCPO

To prevent Thai NGOs and other independent information providers from increasing their international visibility or receiving international media coverage that would publicize their human rights reporting, the NCPO has maintained constant pressure on the Foreign Correspondents' Club of Thailand, which often organizes news conferences and debates in which Thai journalists, intellectuals, civil society representatives and government officials participate.

When, after keeping a relatively low profile for eight months, the FCCT announced that it was organizing its first event on Thai politics in March 2015, it was quickly warned by the NCPO that the junta should not be criticized during the event. A few weeks later, the FCCT issued a statement saying it supported the criticism voiced by four Thai media organizations of an order recently issued by the NCPO under article 44 of the interim constitution. This order “gives military officers sweeping powers to censor the media, with harsh punishments possible for journalists deemed not to be in compliance,” the FCCT said.

Harassment of the FCCT increased a few months later although it cannot be said with certainty that this was a direct result of its previous positions. No fewer than three of the FCCT's events in June were cancelled on the orders of the NCPO and police or as a result of pressure – a news conference by Thai Lawyers for Human Rights (a group formed after the coup), a discussion on "Article 112 and its role in Thai society," and a Human Rights Watch presentation on human rights violations in Vietnam. In a statement about the threats that led to the cancellation of the article 112 debate, the FCCT said: "The FCCT has now been told that if the event goes ahead, the military will come and seal off access to the Maneeya Centre, where the club is located."

"It is very difficult to assess the junta's policy towards the foreign media," a foreign correspondent said. "At times intimidation can be quite harsh, as seen in the various incidents with the FCCT, and at times things seem quite loose. They switch between intimidation and rather naïve appeals for understanding and cooperation."

Violence and death threats

There were threats against the media, especially foreign investigative reporters, before the military seized power, but they have been exacerbated by the tension created by the military. Foreign journalists do not just have to come to terms with the junta's unpredictable authoritarianism. They are also targeted by Thailand's rival political factions, which scrutinize their coverage closely and constantly accuse them of violating their much vaunted neutrality. Such accusations obviously often follow a failure to attract favourable coverage.

Nick Nostitz, a German photojournalist who has spent more than 20 years in Thailand and who covered the political protests and ensuing military crackdown in 2010 very closely, was physically attacked in November 2013 by demonstrators opposed to then Prime Minister Yingluck Shinawatra. This attack was followed by a massive smear campaign in which local media participated (see part 2.1), by repeated death threats, and by a kidnap attempt a few days before the coup. He continues to receive threats and his ability to work is now limited by his concern for his safety.

"This hate campaign has basically made it impossible for me to continue living and working in Thailand, and as soon as we can, I will have to move with my family to Europe to start a new life," Nostitz told RSF. "The ongoing threats mean that as long as I stay here I will continue to be a target. Both in terms of safety and financially, the rug has been pulled from under my feet."

The increased power that the government confers on local officials in an attempt to ensure stability is another factor that indirectly contributes to the threats to some journalists. Andrew Drummond, a British freelance journalist who had covered Thailand for 25 years and had investigated organized crime, was forced to leave the country in January 2015 because he and his three children had been threatened and because he "knew too much," as he wrote in his blog on 17 January.

Drummond could not expect any protection from the local authorities because he had been threatened by foreign criminals who were in cahoots with the Thai police. He had been getting threats for years and had even been repeatedly sued by the targets of his investigative reporting. In September 2004, a court in Pattaya (150 km south of the capital) gave Drummond a two-month suspended sentence as a result of a libel suit brought by a Scottish bar-owner over a report accusing the bar-owner illegal activity. The many lawsuits, which were very costly because of the Thai legal system, were another factor in Drummond's decision to leave.



→
After covering organized crime in Thailand for 25 years, investigative journalist Andrew Drummond is forced to leave the country in January 2015 after threats against him and his three children.



A crowd attacks German freelancer Nick Nostitz on 25 November 2013 after an opposition leader branded him as a “Red Shirt” government supporter.



PRAYUT CHAN-O-CHA,

PREDATOR OF PRESS FREEDOM

Former army chief and self-proclaimed prime minister, Gen. Prayut Chan-o-cha is an eccentric megalomaniac known for his verbal thunderbolts and caustic responses to anyone daring to pose a bold question. There are so many examples that, in September 2014, the online newspaper *Prachatai* compiled a list of comments by Prayut on various subjects in which it was unclear whether or not he was speaking in jest.

One would like to think that Prayut's threats against journalists are also jokes but the way he has suppressed free speech suggests that the worst is to be feared. He gave his view of journalism on 5 March 2015, celebrated as "Reporters Day" in Thailand. Journalists should "play a major role in supporting the government's affairs, practically creating the understanding of government's policies to the public, and reduce the conflicts in the society," he said.

His hostile comments about the media have drawn the entire world's attention to his contempt for freedom of information and its defenders, who he regards as a threat to the nation. Asked at a news conference on 25 March 2015 what the government would do to journalists who do not stick

to the official line, he replied grimly: "We'll probably just execute them." He gave no sign that he was making a joke.

At the same news conference, he accused Thapanee Iestsrichai, a well-known investigative reporter with *Channel 3*, of harming the Thai economy by exposing human trafficking in the fishing industry. During a visit to the Indonesian island of Benjina, Thapanee had discovered graves containing the remains of hundreds of Thai citizens. Instead of applauding investigative reporting in the public interest, Prayut attacked Thapanee. "What will happen if we report this in a big way, telling the world about our trafficking and illegal fishing problems? What if they stop buying fish worth 200 billion baht from us? Will you take the responsibility?"

Prayut also lashed out at the daily newspaper *Matichon*, accusing it of supporting Thaksin Shinawatra, the former prime minister deposed in 2006, and Thaksin's allies, who were back in power at the time of the 2014 coup. "Don't think I don't know that your writing is pro the previous administration," he told a *Matichon* reporter.

Prayut has cracked down on those who don't support his policies and defend the fundamental right to criticize. Since imposing martial

law in May 2014, he has gagged not only reporters, bloggers and news outlets, but also performers, intellectuals, academics, opposition politicians and anyone regarded as overly critical of himself and the junta. He has a weekly TV show that he uses to intimidate the media. Called "Returning Happiness to Thailand," it is broadcast nationwide and gets its name from a song he composed. On this show, he explains government policy, criticizes the latest media coverage, accuses news editors not paying him enough attention, and calls for more "cooperation."

Last spring, the junta announced that it wanted to teach journalists how to ask questions at news conferences although Prayut insists that he is not afraid of the media. «*I do not have control over the media, nor do they have power over me.*» He said in June 2015. In September 2014, he "ironically" threatened to create new laws that would result in "inconveniences to journalists, the press, radio channels, and television channels." Unfortunately, his record after 16 months as prime minister suggests that such threats must be taken very seriously.




→ Gen. Prayut Chan-o-cha, leader of the NCPO and all the government institutions that do the NCPO's bidding, tolerates no criticism or questioning of his rule.



THE JUNTA'S TABOOS

There is no shortage of taboos for the media in Thailand and, after Gen. Prayut seized power, subjects related to politics (even remotely so) became much more sensitive. More than ever, the issue of *lèse-majesté* (criticizing the monarchy) is the biggest headache for journalists, who even hesitate to cover *lèse-majesté* court cases or to do online searches for terms related to the subject. Here is a non-exhaustive list of taboos and other subjects that can lead to a “friendly” summons from the military or the Department of Special Investigations.

His Untouchable Majesty Pongsak Sriboonpeng, a 48-year-old Internet user, was sentenced to 30 years in prison on 7 August 2015 on a charge of insulting the monarchy in six Facebook posts. Hundreds of people, including journalists, intellectuals, academics and politicians, have been arrested on *lèse majesté* charges. As no more than an anonymous phone call suffices for the Department of Special Investigations to begin an investigation, strict self-censorship is the rule. Two journalists are currently serving a prison sentence on a *lèse majesté* charge. One of them is Somyot Prueksakasemsuk, the editor of the magazine *Voice of Thaksin*, who was sentenced



to 11 years in prison in 2013 in connection with two articles deemed to have been critical of King Bhumibol Adulyadej.

Gen. Prayut and the NCPO

As the NCPO is running the country, the taboo on criticizing the NCPO extends in practice to criticism of all branches of the state including the police, army and courts. And of course Gen. Prayut, the prime minister and dictator, who concentrates all powers in his hands under article 44 of the new constitution, tolerates no criticism and does not hesitate to threaten journalists whose questions are a little too audacious. But what the junta least tolerates is anyone questioning the legitimacy of its rule.

2010 bloodshed :

Major anti-government demonstrations led by the “Red Shirts” were brought to a bloody end in April 2010 when soldiers opened fire indiscriminately, killing political activists, civilians and journalists. The toll was nearly 100 dead (including two foreign journalists) and more than 2,000 wounded. The military claimed that non-lethal munitions were used to contain the rioting but everything suggests the contrary. Pressure was put on the former government to resist civil society attempts to hold the military responsible and continued impunity for the massacre is an ever-present

concern for the junta. Thanks to article 44 of the new constitution, the junta has been able to prevent this highly sensitive case from being reopened.

Trafficking in Rohingya refugees :

Members of Burma’s Rohingya community, regarded by the United Nations as one of the world’s most persecuted minorities, have long been fleeing to Thailand and other neighbouring countries. Tens of thousands of Rohingya refugees have been transported by Thai traffickers and many have been the victims of extortion by the Thai police and armed forces. The military have repeatedly prevented journalists from boarding boats in order to interview refugees. In December 2013, the Royal Thai Navy brought a libel suit against the Phuketwan news website for quoting a paragraph from a Reuters report claiming that the Thai military profit from the trafficking in Rohingya refugees.

Corruption :

The need to protect state secrets and prevent threats to national security is a useful pretext for covering up long-standing illegal practices and scandals, some of which have proved harder to expose than others. This is the case with Thailand’s “boiler rooms” – fraudulent international share trading centres involving foreign criminals, Thai organized crime and members of the Thai police and judicial system. British freelance

journalist Andrew Drummond received many death threats after getting too close to this milieu, one populated with every kind of corrupt official, policeman, army officer and judge. Drummond had to flee the country after the latest and most serious of these threats.

→
“Red Shirt” supporters display photos of Fabio Polenghi and Hiro Muramoto, two journalists who were killed when the military used force to disperse anti-government demonstrations in 2010. Nowadays, the junta is doing everything possible to suppress references to these clashes, in which about 100 people died.

2 IS THAILAND'S PRESS STILL CAPABLE OF FUNCTIONING AS WATCHDOG?

The junta puts a great deal of pressure on the traditional media and many are censored or forced to censor themselves. But journalists say the media are also the prisoners of Thai society's extreme polarization and the media's collusion in this polarization. In private, they say they are worried by the impossibility of removing the permanent threat of a lèse majesté prosecution and the impossibility of criticizing the various political factions without being systematically and irreparably branded by their peers or by public opinion. The Thai judicial system – ever ready to criminalize public statements and abuse the law, as in the Phuketwan trial – is one of the key terrains where combat must be engaged in order to rescue the media's "fourth estate" function and to promote freedom of information.

→
The Thai media are heavily polarized between those that support the "Red Shirts" and those that support the "Yellow Shirts." Few media outlets are non-aligned.



กีฬา-ปาซิฟิก 7 วัน

แม้ว่าเชอมีอธาเนีย
เตรียมตั้งรับขงเหียนเรือใบ
มากัธสนอตัว-เด็กกิสนด้วย
อ้อขุบNBA, NFL อก/น.11

ทำกับข้าวได้แก่
ที่แม่เหล็ก
จ่ายไปทั้งหมด

เอ็มสปอร์ต
EMSPORT

อ่าล่านีล

“ผมคงปรารถนาอยากจะทำกับข้าว
 ในครัวที่ได้กับข้าวเหมือนแม่หรือเหมือนพ่อ
 ที่แม่ผมชื่อ”
 นีลคือลูกสาวของ นีล แฮร์ริส
 ในวัยที่เด็กได้ใจการลอบลอบจากแม่ของ
 ผู้จัดการสโมสรฟุตบอล ยูนิเคิล

อ่านหน้า 8





1 . MEDIA – VICTIMS OF ITS OWN POLARIZATION

A bicoloured environment...

It took a Thai journalist just a few seconds to describe the media landscape. “The Thai media are pretty much divided along the colour fault line,” he said. “On the Red Shirt side you have *Matichon*, *Khaosod* and *Voice TV*, while on the Yellow Shirt side you have *Manager*, *Thai Post*, *The Nation*, *Naewna* and *Daily News*. *Thai Rath* is somewhat fickle, inasmuch as it tends to side with whoever has the upper hand. The *Bangkok Post* is kind of pro-Yellow, but I think it is more accurately described as pro-establishment.” With a few variations and sometimes more nuancing, the other journalists questioned by RSF offered a similar assessment.

The same goes for TV stations. Alongside the state-owned stations (*Channels 3, 7, 9 and 11*), which are closely censored by the government or army, there are the “propaganda stations of the colour groups.” On the red side, you have *TV 24* (*Asia Update* before the coup), *Peace TV* (*UDD TV* before the coup) and *Voice TV*. On the yellow side, you have *Fa Wan Mai* (*Blue Sky TV* before the coup), which supports the Democrat Party and the PDRC, and *ASTV*, which is owned by Sondhi Limthongkul, one of the main leaders of the former People’s Alliance for Democracy (PAD).

Thousands of community radio stations affiliated to either Red Shirts or Yellow Shirts complete the picture. Most of them have been forced to close or to censor themselves since the coup. Other media outlets, such as the non-profit news website *Prachatai*, nonetheless manage to stand apart from the polarization. Created in 2004 in response to harassment of the media under Thaksin Shinawatra, *Prachatai* has maintained a critical stance towards each successive government.

...that doesn't encourage freedom of information

Thai and foreign journalists agree that the media’s polarization is “harming press freedom in Thailand,” as one put it. It prevents Thai media and journalists from uniting in an effective struggle against government censorship and against pressure from the various political and financial interest groups. “The polarization also means that reporters from red-leaning media sometimes get attacked or intimidated by supporters of the yellow side at rallies, and vice versa,” a journalist with the *Matichon Publishing Group* said.

Mutual hostility is often evident among journalists themselves, resulting in grave violations of the most elementary professional ethics and even offences punishable by the law. During the (Yellow Shirt) PDRC demonstrations from October 2013 to May 2014, journalists often clashed in the press, on online social networks and sometimes even in the field, with reporters occasionally witnessing fisticuffs between photographers affiliated to rival camps.

“The Yellow Shirt-leaning media were mostly pro-coup,” the *Mathichon* journalist said. “They had actually been asking for a coup for some time in their editorials and op-eds. Yellow Shirt-leaning media also urge the junta to crack down on what they perceive to be Red Shirt networks and lèse majesté suspects.”

In late 2013, German photojournalist Nick Nostitz was the target of an unprecedented social network hate campaign backed by (the Yellow Shirt) *Blue Sky TV*, in which he



was accused of being an agent in the pay of the Red Shirts. After he was attacked by demonstrators and then narrowly escaped abduction on 7 May 2014, other foreign journalists reported these accusations on their own social networks and some went so far to suggest that his “biased coverage” was to blame for the attacks.

“It is almost impossible for Thai media not to be drawn into the conflict,” a foreign reporter said. “Even if a media outlet tries to be neutral in its reporting – meaning factual and observant of journalistic ethics – it will end up being seen as supporting one side or the other. *Khao Sod* and *Matichon*, for example, were heavily attacked in speeches at the Sai Loh Fah rallies that a Democrat Party-affiliated group (a predecessor of the PDRC) organized in mid-2012. The attacks were screened and repeated on their *Blue Sky* channel, making it very dangerous for the reporters of these papers to cover the rallies. They often resorted to using press cards from other outlets as ID. Things only got only worse during the PDRC demonstrations, of course. Incidents were also initiated at Red Shirt rallies and by Red Shirt media, especially in 2009 and 2010, but none as severe as during the PDRC rallies, especially those in 2013-14.”

Failure of press institutions

Journalists criticize the leading press institutions such as the Thai Journalists Association (TJA), the Press Council and the National Broadcasting and Telecommunications Commission (NBTC), which regulates the media. Many journalists boycott the TJA and other journalists’ associations, accusing their leaders of being too supportive of the government and not doing enough to defend the interests of those they are supposed to represent. Members of the various journalists’ associations also constitute the Media and Information Technology Reform Committee, which has been criticized for drafting draconian regulations for the media and failing to consult with them.

The NBTC has been the subject of similar criticism. Consisting mainly of army officers, its independence of the government its not guaranteed, it does not operate transparently and it has too much coercive power over the media. Under article 37 of the broadcast media law, it can remove any content that threatens “national security” and “la morale du peuple.” And it has abused this power to the point that, in July 2015, a court overturned an NBTC decision taken a few months before to close the pro-Red Shirt *Peace TV*, and allowed it to reopen. The FCCT, the nerve centre of the foreign media in Thailand, has also been the subject of controversy, above all in connection with its failure to condemn Somyot Prueksakasemsuk’s conviction on a lèse majesté charge and, in general, to voice concern about the lèse majesté problem.

Defending media freedom

“Both the Thai and foreign media can play a big role as defenders of civil rights in Thailand,” the *Matichon* press group journalist said. “The junta is not an outright dictatorship like North Korea or China. They are still sensitive to the opinion of the Thai public and the world community, and the press can keep challenging the junta on its poor rights records and other problems in Thailand.” He said international coverage of Rohingya trafficking and, above all, the coverage by both Thai and international media of the arrests of 14 students in June 2015 showed the scale of the impact that the media can have on the junta when they all acted together.



2. COMBATTING ABUSE OF THE LÈSE MAJESTÉ LAW

On 7 August 2015, travel agency employee Pongsak Sriboonpeng was sentenced to 30 years in prison under the lèse majesté law (article 112 of the criminal code) in connection with six posts on Facebook that were deemed to have defamed the monarchy. The court initially sentenced him to 10 years in prison for each post (60 years in all) but halved the total because he pleaded guilty. Pongsak will never be able to appeal against his sentence, the harshest ever passed in a lèse majesté case, his lawyer said, because he was tried by a military court in line with an NCPO announcement on 25 May 2014, three days after the coup, that military courts will henceforth handle all lèse majesté cases, a decision that is flagrant breach of the International Covenant on Civil and Political Rights.

Lèse majesté – weapon of mass detention

The number of lèse-majesté cases has grown steadily since the coup. Protecting the monarchy at all costs against its critics is a priority for the junta, which has strengthened its coercive and surveillance powers and has carried out a massive wave of arrests in which the targets have included intellectuals, political dissidents, human rights defenders, bloggers and journalists.

Many people who voluntarily responded to a summons from the junta found them being arrested and taken before a military judge on a lèse-majesté charge. Like the junta itself, the military courts are extremely authoritarian and rigid. Independent news and information providers have been tried and convicted behind closed doors, without anyone there to observe the proceedings. Defence rights have been violated, say lawyers who were refused copies of the indictment. The sentences have been harsher than those normally issued by civilian courts.

A military court sentenced Kathawuth Bunphithak, a citizen-journalist and online radio presenter to five years in prison on 18 November 2014 for hosting a web radio programme on political subjects that allegedly violated the lèse-majesté law. Six days later, *Thai E-News* website editor Somsak Pakdeedech was sentenced to four and a half years in prison for posting an article by Giles Ji Ungpakorn, a former Bangkok university professor who fled the country in February 2011 after being charged with lèse-majesté in connection with his book, *A Coup for the Rich*. Arrested three days after the May 2014 coup, Somsak had already been in the military's sights and *Thai E-News*, a political news aggregator, has often been censored by the authorities, especially during periods of political tension. In July 2010, it was one of the allegedly "pro-Red Shirt" online media outlets that were blocked in Thailand.

The work of Department of Special Investigations includes identifying the anonymous authors of content critical of the monarchy, especially when they form a network and coordinate their activity online. The DSI announced in February 2015 that it had broken up an "anti-monarchy" network that had distributed hundreds of podcasts with information and political comments critical of the royal family in the past three years. In all, eight members of this "Banpodj Network" were arrested, including its alleged founder, Hassadin "Banpodj" Uraipraiwan, 66. A reward of 200,000 bahts had been offered for informing leading to his arrest. In July 2015, a Bangkok military court sentenced the eight alleged members to five years in prison. Two other persons regarded as sympathizers got three-year sentences.

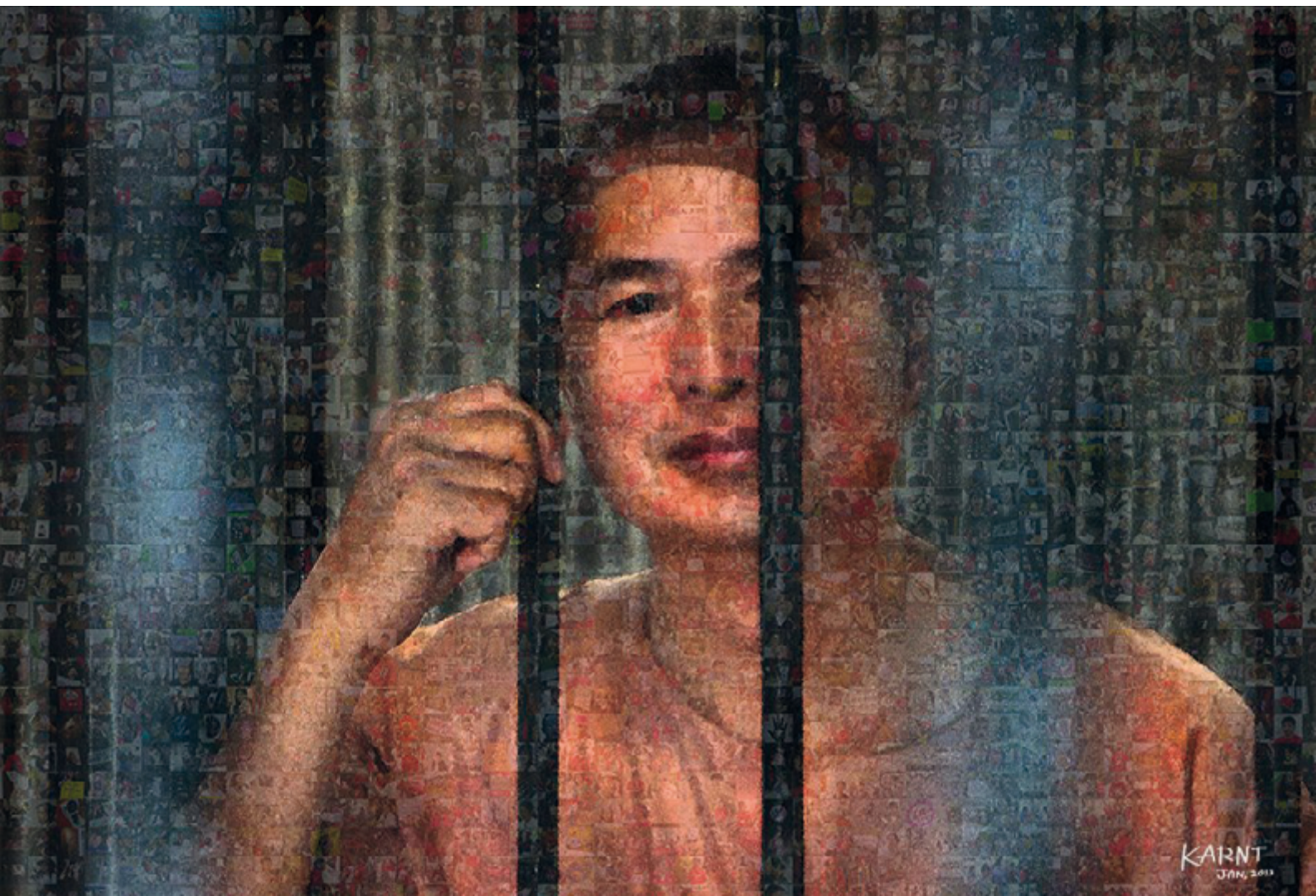
The Somyot Prueksakasemsuk case

On 19 September 2014, a Bangkok appeal court upheld the 11-year jail sentence that a criminal court passed on Somyot Prueksakasemsuk, the editor of a now defunct bimonthly called *Voice of Thaksin*, on 23 January 2013 on a lèse-majesté charge for publishing two articles deemed to have defamed the monarchy, neither of which he wrote himself. The court sentenced him to five years for each article, plus one year that was the suspended sentence he received for a previous conviction. Somyot was arrested in the southeastern province of Sa Kaeo on 30 April 2011, two days after helping to launch a campaign to collect 10,000 signatures for a petition for the lèse-majesté law's removal from the Thai criminal code. His lawyer was able to appeal to the supreme court because the case began before the junta introduced military courts for lèse-majesté cases. Despite international protests, the courts are still refusing to free Somyot on bail. Seventeen requests have been made since he was jailed.

Somyot Prueksakasemsuk, a journalist who edited the *Voice of Thaksin* bimonthly, is serving a 10-year jail sentence for publishing two articles that "insulted" the Thai monarchy.



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Somyot's wife, Sukanya, and their two children, aged 23 and 19, are the targets of close surveillance and intimidation by the authorities. On 25 May 2014, soldiers arrested them and held them in an army building in Bangkok for six hours.

International hunt for lèse-majesté suspects


The many arbitrary arrests and convictions handed down by the junta's courts have driven some critics of the monarchy (especially journalists, academics and cyber-activists) to flee the country (see box) or go underground. They include Saran Chuichai, an LGBT activist and outspoken junta critic, who is wanted for criticizing the monarchy's role in Thai politics in an interview for *13 Siam Thai Channel* in September 2013.

They also include Somsak Jeamteerasakul, a well-known University of Thammasat history lecturer and political commentator who posts on Facebook. He fled the country in 2014 after being threatened and receiving a summons from the junta. On 12 February 2014, gunmen opened fire on his home and his car. The authorities found fault with two articles in which he commented on an interview with Princess Chulabhorn that was published on websites in March and April 2011. He was also taken to task in February 2014 over some of his Facebook posts. His family has been harassed by the authorities since his departure.

Once abroad, most of these exiles resume their activities and step up their efforts to draw the international community's attention to Thailand's lèse majesté law and its dire impact on freedom of information. In response, the Thai government has pressured host countries to extradite Thai political refugees. During an official meeting with French ambassador Thierry Viteau on 13 July 2015, Thai justice minister Paiboon Koomchaya requested the extradition of three Thai citizens accused of insulting the monarchy. Other countries including the United Kingdom and New Zealand have received Thai extradition requests but all have refused.

Trash collectors

To help track down dissidents, the government uses the "Rubbish Collection Organization," a group of ultra-royalists that identifies and harasses people who criticize the monarchy. Led by Maj. Gen. Rientong Nan-nah and cooperating with the military and palace, it wages hostile campaigns on Facebook against lèse majesté suspects. At the very least, its targets are ostracized socially and lose their jobs. In many cases, the group's accusations of lèse majesté have led quickly to arrests. The organization also asks Thais based abroad to help track down "fugitives." When they are found, it posts their addresses online and urges its supporters to harass and threaten them.





→ Accused of lèse-majesté and under threat of death, university academic and political analyst Somsak Jeamteerasakul had to flee Thailand after the coup. The authorities have continued to threaten his family.

Just Shit



INTERVIEW

WITH A JOURNALIST WHO FLED

In June 2015, RSF was contacted by a Thai journalist who had just fled to Europe after narrowly escaping arrest by the Department of Special Investigations for criticizing the regime and the lèse-majesté law. Like this journalist, who we call Anton for the purposes of this interview, many Thais have had to flee the country since 2014

Anton was a researcher and fixer for foreign reporters working in Thailand. As such, he researched sensitive issues such as the lèse-majesté law for leading international news organizations such as the *New York Times*. But this wasn't why he had to flee. It was because of what he had been posting under a pseudonym on Facebook, LINE and Twitter. He posted criticism of the monarchy and army, and their negative impact on such aspects of Thai society as education, social class divisions and prostitution. He also condemned

the bullying of dissidents and the activities of ultra-royalist groups such as the Rubbish Collection Organization, which hounds lèse majesté suspects.

He had been about to interview a dissident at the start of June when DSI officers went to his parents' residence in his hometown and forced the family to contact him and tell him to go to the police. He eventually realized the police had identified him from his online activity despite his use of a pseudonym.

After talking to other journalists who had already had run-ins with the junta, and after consulting human rights lawyers, he decided to leave Thailand quickly. But the authorities still have him in their sights. They have told his family and friends he is a criminal, showing them what he has posted online, and they have been asking whether his family was involved in his activities. As a result, he has had to sever contacts with his family and friends in order not to put them in danger.

What would have happened if you had stayed in Thailand?

If I had stayed, I would probably now be in prison on charges of violating the lèse majesté law and the Computer Crimes Act. They would probably have given me a sentence of between 10 and 30 years in prison.

What are your biggest concerns as regards freedom of the media and freedom of information in Thailand?

The most disturbing problem is that although we – journalists and news media – have the power to influence the majority, we are afraid to speak the truth about the most important thing, which is the monarchy's influence on all aspects of Thai society. And we cannot talk about it because of article 112, the lèse majesté law. Both Thai and foreign media are afraid to say the truth, and this is the cause of all the free speech problems at every level of our society. It is the source of the obscurantism in the education system, in which we are taught that the monarchy is above us and cannot be touched. We are afraid of going to hell because we are taught that human beings who are born into the royal family are holy and are like God. We are taught to be loyal to the monarchy and to never dare criticize those above us.

What can be done about this?

Only the exile media and anti-royalist groups outside Thailand can openly criticize the monarchy and explain in clear terms why we must abolish the lèse majesté law. For those inside Thailand it is too dangerous, even using pseudonyms. The Internet is the only remaining space where ordinary people, students, activists, former politicians and foreign media are free. You cannot expect people to stage street demonstrations and marches against article 112. Everything must be done online.

3. PHUKETWAN TRIAL – 19-MONTH FIGHT OVER MEDIA FREEDOM

RSF was one of the observers at the trial of two English-language news website journalists, **Alan Morison** and **Chutima Sidasathian**, in the southern province of Phuket in July 2019. What follows is an evaluation of both the trial itself and their entire 19-month-long exposure to the Thai judicial system's extremely defective machinery. It was the first trial in Thailand to result from a military lawsuit against media personnel.

Morison, the 65-year-old Australian editor of the Phuket-based news website *Phuketwan*, and Chutima, 31, a Thai reporter who covers the Rohingya refugee issue for *Phuketwan*, were accused by the Royal Thai Navy on 18 December 2013 of criminal libel and of violating the Computer Crimes Act. The charges were prompted by a 41-word paragraph in a *Phuketwan* story published on 17 July 2013 that was headlined, "Thai military profiting from trade in boatpeople, says special report." The offending paragraph was a quote from a *Reuters* special report about Thai military participation in the trafficking of Rohingya refugees from Burma. *Reuters* itself has not been sued by the Thai military.

The quoted *Reuters* paragraph said: "The Thai naval forces usually earn about 2,000 baht (\$65) per Rohingya for spotting a boat or turning a blind eye, said the smuggler, who works in the southern Thai region of Phang Nga [the province immediately to the north of Phuket] and deals directly with the navy and police." Questioned twice by the police, on 18 and 23 December 2013, Morison and Chutima learned that they were facing the possibility of a five-year jail term and a fine of 100,000 bahts (2,000 euros).

"With the whole future of Thailand as a democracy up in the air, it is not a good time for the military to be suing media outlets using oppressive criminal defamation laws," said Morison, an award-winning journalist who also works for international media outlets such as *CNN* and the *South China Morning Post*. "The Computer Crimes Act is even more unsavoury. When a respected arm of the military chooses to wield bad laws rather than making a telephone call or issuing a media release, you have to wonder where Thailand is being taken."

Unavoidable trial?

The Royal Thai Navy brought its complaint against *Phuketwan* under sections 326, 328 and 332 of the Thai criminal code, concerning criminal defamation, and under section 14 (1) of the Computer Crimes Act (CCA), which penalizes the downloading of "forged (...) or false computer data, in a manner that is likely to cause damage to [a] third party or the public."

The CCA charge has proved to be the greater threat for the two journalists. The CCA provides for bigger jail terms and no negotiation is possible. Even if the Royal Thai Navy had decided to drop its case, Morison and Chutima would continue to be subject to proceedings under the CCA. With their lawyer's help, they submitted a complaint to the National Human Rights Commission arguing that the CCA was being used in an unintended manner, and that their dispute with the Royal Thai Navy was a purely a defamation matter. The complaint was unsuccessful.

On 17 April 2014, a judge issued an order for the Phuket provincial court to try the case in March 2015. (The date was subsequently changed to July 2015.) All ensuing mediation attempts failed, including one by the National Human Rights Commission. At one point Morison and Chutima were told that the libel case could be dropped if they issued a public apology. They refused partly on principle and partly because they feared that, far from leading to withdrawal of charges under section 14 of the CCA as well, the

apology could be interpreted as a confession for use in a trial on the CCA charge. Was the navy trying to trap them?

Neither the international coverage of the case nor the many protests by embassies, UN bodies and local, regional and international human rights and media freedom NGOs sufficed to prevent the trial being held from 14 to 16 July 2015.

The trial

Morison thought the facts of the case should suffice to prove his and Chutima's good faith and innocence. But his lawyers thought they should demonstrate that the prosecution had no way of proving that he and Chutima had actually posted the article online because, under the Computer Crimes Act, the prosecution has to prove that the defendants disseminated the offending material.

At the same, the offending paragraph posed problems for the prosecution case. Firstly, it was not written by the two *Phuketwan* journalists. It was the product of an investigation by *Reuters*. Secondly, as it referred only to "Thai naval forces" and not to the "Royal Thai Navy," the prosecution could not assert beyond any doubt that the Royal Thai Navy was in fact the article's target.

→
Many international
observers attended
the trial of journalists
Alan Morison and
Chutima Sidasathian
in the southern city
of Phuket in July
2015.



When Morison and Chutima arrived at the Phuket provincial court on 14 July, local journalists, journalists with Australian news organizations, and reporters working for *Agence France-Presse* and the *Associated Press* were waiting for them. But there was no one from *Reuters*, whose silence on this case was repeatedly criticized by Morison and Chutima and their supporters.

The trial was attended by international observers, who constituted most of the 30-odd people in the courtroom. Those present included representatives from the UNESCO office in Bangkok, an Australian embassy official, several Australian jurists, members of human rights organizations, (iLaw, ICJ, RSF and SEAPA) and journalists.

Prosecution witnesses

The first day of the trial was given over to testimony by prosecution witnesses. Royal Thai Navy Capt. Pallop Komalodaka, deputy director of the intelligence division of the third naval zone command, was presented as the prosecution's key witness. It was the reference to "2,000 baht per Rohingya" that prompted the lawsuit, he said. A naval linguistic expert (who was not called to testify) reportedly translated and analysed the paragraph and finally decided it was defamatory. A superior then ordered Capt. Pallop to sue *Phuketwan*.

When cross-examined by the defence, who pointed out that the offending paragraph did not mention the "Royal Thai Navy," Pallop replied that the term "Thai naval forces" could only refer to the Royal Thai Navy and that if the intention had been to use a non-specific, generic term, then "maritime forces" should have been used. Three policemen were also called to testify on the first day, but their testimony contributed nothing to the prosecution case.



←
Phuketwan
journalists Alan
Morison and
Chutima Sidasathian
on 14 July 2015,
after the first day
of their trial before
a provincial court in
Phuket.

Trial ends without prosecutor

A surprise awaiting defendants and observers on the second day. The prosecutor (who had faced eight defence lawyers alone on the first day) did not come to the courtroom. The defendants, first Morison and then Chutima, gave their testimony without cross-examination. During this relatively short four-hour hearing, they responded to the questions put to them by their defence lawyers and to the judge's occasional requests for clarification.

Much of Morison's testimony was given over to describing his journalistic career and *Phuketwan*, which he created in 2008. He also answered questions about *Phuketwan*'s coverage of the Thai military (of which it had presented a positive image on many occasions in the past) and about its coverage of the Rohingya issue. The defence also mentioned the awards that he and Chutima had received. On the third day, the defence presented just two witnesses – two legal experts who testified that the Computer Crimes Act did not apply to this case.

The judge acquitted Morison and Chutima on 1 September 2015. Responding to the verdict, Morison said I feel fantastic. The bad dream has ended. We're just so pleased that it's over. It's good news for Thailand and for media freedom as well».

Trial's impact

“This case is indicative of how the Thai judicial system actually works,” a foreign reporter said on condition of anonymity. “The apparent rule of law actually hides a highly corrupt system in which judges accept flimsy cases. In some cases money influences the outcome. Reparations are not automatic even if you are exonerated. And when you are sued, you are presumed guilty.”

The fact that *Reuters* was not sued (not until now, at least), the fact that the Royal Thai Navy said it was the target of the paragraph despite not being named, and the lack of any evidence proving an intention to cause harm should have sufficed for a judge to have rejected the suit on the grounds that it was illogical and lacked substance.

But Thai justice does not work like that. The case dragged on for 19 months and has taken a considerable toll on Morison, Chutima and the rest of the *Phuketwan* staff. The website was temporarily blocked. Chutima was blacklisted by the military from September 2014 to January 2015. And both Morison and Chutima were unable to spend time with their respective fathers (who both happened to die in June 2015) during the last days of their lives.

Although most of the legal expenses have been assumed by organizations such as Media Legal Defence Initiative or covered by various donations, the financial situation of *Phuketwan* and its publisher, Big Island Media, has been badly hit and *Phuketwan*'s journalists are now facing the possibility of the website's temporary or permanent closure.

Although Morison and Chutima were acquitted, the case's deterrent effect on both the local and national press is enormous, and this has grave consequences for freedom of information. There is no guarantee that the verdict will set a judicial precedent for journalists in similar circumstances in the future. Instead, many journalists will censor themselves when covering the Royal Thai Navy, increasing the lack of transparency surrounding its activities. The identity of the officer who ordered Capt. Pallop to sue Morison and Chutima is meanwhile still unknown.



CONCLUSION

Although Prime Minister Prayut Chan-o-cha and the army and police have clamped down on freedom of information in an unprecedented manner, Thailand continues to portray itself as a “tourist paradise” and as a country where it is good to be alive, exploiting a no longer justified contrast with neighbours such as Cambodia, Laos and Burma. Behind the beaches and Buddhist temples lies a harsh dictatorship that tolerates neither criticism and nor freely and independently reported news and information.

Gen. Prayut cannot be compared to North Korea’s ruthless Kim Jong-un, who demands a personality cult that knows no limits, or to the Chinese Communist Party, which is able to turn entire regions into “information black holes” and to abduct and jail hundreds of human rights defenders without eliciting expressions of outrage from the international community. And the Thai junta is not the Burmese junta either.

Nonetheless, the NCPO has been able to appropriate tactics and strategies from these three authoritarian regimes. Like the Chinese government, the junta has established permanent control over local and foreign media and has imposed prior censorship on reporting that is overly sensitive or critical of the military by dispatching soldiers to news organizations, by sending summonses or invitations to “have coffee” to journalists, and above all by using the threat of long jail sentences passed by a compliant judicial system to get them to censor themselves.

Like Pyongyang’s dictator, Gen. Prayut has cast himself as the nation’s saviour, he appears in his own weekly TV programme and he orders severe sanctions for those who dare to question his legitimacy or criticize his policies. Finally, Thais who know how the Burmese junta responded to the Saffron Revolution in 2007 are reluctant to issue calls for peaceful demonstrations on the streets of Bangkok and other major cities.

The obsession of the past 15 months with restoring “peace and order” (or its use as a pretext) has stripped journalists and independent civil society representatives of the media freedom and freedom of information that they had won at great cost during the previous decade. This theft of freedoms that are indispensable to democracy has been perpetrated by the military in full view of the international community, which has not, however, sufficiently decried it.

RECOMMENDATIONS

To Prime Minister Prayut Chan-o-cha and the NCPO:

- Quickly agree to a visit by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.
- Repeal draconian laws and articles, including the criminal defamation law, the Computer Crimes Act and article 112.
- Free the journalists Somyot Prueksakamseuk and Somsak Pakdeedech and free all the citizen-journalists, bloggers and cyber-activists who have also been imprisoned for lèse-majesté or on other charges linked to the provision of news and information.
- Stop threatening news and information providers, stop summoning them for questioning, stop intimidating them, stop harassing them and stop using repressive laws to prosecute them.
- Stop targeting the foreign media and the Foreign Correspondents' Club.
- Stop censoring media outlets, including news websites. The interim constitution that replaced martial law must not be used as grounds for imposing drastic restrictions on the free flow of information. Closing a media outlet or blocking a website should not be possible without a court hearing that respects the right of defence.
- Refrain from introducing a bulk online surveillance programme in Thailand and abandon or significantly change the proposed Cybersecurity Law in consultation with civil society organizations.
- Put a stop to the smear campaigns and intimidation campaigns waged by political groups against certain foreign journalists and news organizations.
- Stop the harassment of news and information providers who have had to flee the country or who reside abroad.
- Withdraw from media regulatory bodies such as the Press Council and the National Broadcasting and Telecommunications Commission.

To the media:

- Begin an internal debate about journalistic ethics and practices with the aim of moving beyond the current partisan behaviour, which is counter-productive.
- Commit fully to media reform by getting more involved in the organizations that represent the media.
- Systematically report all violations of media freedom and freedom of information to journalists' associations.
- Pool efforts to combat self-censorship and coordinate actions in defence of media freedom.
- Issue contracts to freelance journalists who cover dangerous situations.
- To Thai and foreign journalists:
 1. Report all violations and threats to media freedom and freedom of information to your editors and to media organizations.
 2. Pool efforts to combat self-censorship and coordinate actions in defence of media freedom.

To organizations that represent the media:

- Begin a thorough debate about how you function and about the mechanisms designed to ensure that the media are completely independent of the authorities, and ensure that your priority is defending media freedom and the interests of the media as a whole.
- Establish and/or strengthen relations with international media freedom organizations in order to receive more assistance from them.
- Work on recruiting more members in order to increase your representativeness and reinforce your advocacy capability.

To the international community:

- Condemn the Thai government's violations of media freedom and freedom of information and call for an end to the persecution and censorship of news and information providers.
- Make international cooperation and assistance conditional on a substantial improvement in respect for freedom of information.
- Help Thailand's media organisations (TJA, TBJA, NBCT and NPC) to ensure that they are independent.
- Provide moral and financial support to Thai Lawyers for Human Rights, Media Inside Out, iLaw, Thai Netizen Network, FCCT and all other civil society organizations that defend freedom of expression in Thailand.

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