

Threats to Journalists: Thailand

Pavin Chachavalponpun

The critical turn for press freedom and the safety of journalists in Thailand occurred in the aftermath of the 2014 coup. Hundreds of people, mostly critics of the old establishment, were harassed. They included politicians, political activists, academics, civil society organisations as well as reporters and journalists. They were summoned to attend military-instructed sessions to “adjust” their attitudes. Some were detained in army camps while others were charged with *lèse-majesté*, the crime of insulting the monarchy. Article 112 of the Thai Criminal Code states that defamatory, insulting or threatening comments about the king, queen and regent are punishable by a mandatory sentence of three to fifteen years in prison per count, with sentences meted out being as high as 87 years (halved upon confession). Those who refused to be summoned faced severe consequences. The junta issued a warrant for their arrest and revoked their passports. Some journalists became victims of the state.

The case of Pravit Rojanaphruk, in 2014, an outspoken journalist from *The Nation* demonstrated that freedom of speech was no longer protected in Thailand, despite the state’s commitments under international law including the International Covenant on Civil and Political Rights. Pravit was ordered to attend attitude adjustment sessions conducted by military officers at local Thai army bases. Some time after he was released from detention at one of these military camps, Pravit was pressured to resign from his job at *The Nation*. Pravit’s attitude did not change, however, as he continued to criticise the National Council for Peace and Order (NCPO)—the governing body of the military junta—for undermining checks and balances, failing to abide by the rule of law, refusing to hold elections and suppressing dissent (La Croix 2018). The draconian *lèse-majesté* law and the Computer-Related Crime Act are powerful tools of the state in silencing journalists. They prescribe harsh sentences for anyone making critical comments of the country’s monarchy or the junta, and the latter also empowers the state to shut down offending sites and remove offending data on ostensible national security grounds.

Apart from Pravit, some other Thai and foreign journalists encountered similar harassment by the junta. The column of outspoken political commentator Voranai Vanijaka was abruptly dropped by the Bangkok Post following the 2014 coup. Scottish journalist Andrew MacGregor Marshall is on the wanted list for *lèse-majesté* charges. His book, ‘A Kingdom in Crisis: Thailand’s Struggle for Democracy in the Twenty-First Century’, which examined the interventionist role of the Thai monarchy in politics, was banned in Thailand. He was one of three individuals, alongside two academics-turned-exiles Somsak Jeamteerasakul and myself who were declared *persona non grata* online. Thais were warned not to follow us on Facebook, click like or share our posts or face serious consequences, including jail time (Holmes 2017). Recently, the editor of the *Bangkok Post*, Umesh Pandey, was allegedly forced to step down over what he claimed was his anti-junta stance. “When asked to tone down [the negative coverage of the regime] I did not budge and was blunt in letting those who make decisions know that I would rather lose my position than bow my head,” Pandey wrote in a statement (La Croix 2018). These cases exemplify how the space for press freedom has shrivelled and what the consequences are for critical journalists.

Harassment against Journalists

In addition to short-term measures of harassment against the media, including the detention of journalists or suspension of media operations, after the 2014 coup a tight grip on the media has been maintained more systematically via junta laws and decrees. The intensifying restriction against journalists in Thailand is a result of both regime change and the rise of militarism of politics. Authoritarian rule in itself does not permit public scrutiny and the role of journalists as a watchdog overseeing the government, vital to the functioning of democracy, is largely circumscribed. Furthermore, under authoritarian rule, differences of opinion with the government are forbidden. Thus, the only way journalists can escape harassment is by promoting the government’s policies rather than questioning them.

Harassment and “reform” of the media are both used by the junta to control the free flow of information and further backslide on Thailand’s free speech protections. Such “reforms” included new laws purportedly to promote ethical standards among media professionals and the introduction of restrictive laws such as the Computer-Related Crime Act. That law effectively silences online freedom of expression by defining computer crimes offenses and punishments for computer related and cybercrime, preventing Thais from criticising certain institutions deemed important to national security. Since the 2014 coup, the NCPO has issued more than 800 orders and announcements, later transforming these into laws, which significantly constrain media freedom and put the journalists at risk of prosecution (iLaw 2017).

Legal Instruments

The military government of Prayuth began its “lawfare” against critical journalists by issuing orders and announcements to curtail press freedom. Four of these decrees stand out as noteworthy (Kittipong 2018):

- NCPO Announcement No 97/2014 prohibits the media from presenting information that “threatens national security or instigates disorder or conflicts”.
- NCPO Announcement No 103/2014 bans criticism of the NCPO that is made in a “dishonest way or aims to discredit it”.
- NCPO Order No 3/2015 authorises military officers to enforce bans on media outlets if their content “instigates public fear or causes misunderstanding through distortion which could affect national security or lead to social disorder”.
- NCPO Order No 41/2016 empowers the National Broadcasting and Telecommunications Commission to enforce Announcements No 97/2014 and No 103/2014. It states that media outlets in violation risk fines of Bt50,000 to Bt500,000 (US\$1,600-US\$16,000), licence suspension or closure.

These orders and announcements were used to close TV stations critical of the junta and the government, either temporarily or permanently. Among those targeted were *Voice TV*, *Peace TV*, *TV24*, *DMC* and *Fah Hai TV* (Kittipong 2018). Some of these TV stations are linked to the pro-Thaksin Red Shirts, and are thus considered enemies of the state. *Voice TV*, is owned by Thaksin’s son, Panthongtae, and has remained a megaphone for Thaksin’s party. It has been subject to temporary suspensions several times. The junta has also censored news websites by blocking access to them (Macan-Markar 2017). To avoid being suspended or closed down, the mainstream media engages in self-censorship. For example, leading media newspapers, including Thai Rath and Daily News, never publish any report deemed critical of the army or the monarchy.

Another of the junta’s tactics has been the control of community radio stations that spread different political views and mobilise support against the coup makers. They have been closed down, forcing them to either go underground or to broadcast from outside the country. However, the military government finds it more difficult to deal with the urban-based news media, including online media outlets like the *Standard* and the *Matter*, as well as Thailand-based international media, such as the BBC, whose content is sometimes critical of both the junta and the monarchy. The BBC once published a critical biography of the new king, Vajiralongkorn, on the eve of his enthronement. Although the biography is based on facts, it was considered insulting to the king because it reported on his unconventional lifestyle. A young Thai political activist from Khon Kaen, Jatupat Boonpattaraksa, also known as Pai Daodin, was imprisoned for sharing the BBC article on his Facebook page (BBC 2016). Another Thai, a woman, Chanoknan Ruamsap, was also charged under the same crime. But she fled Thailand for South Korea to seek refuge. The charges conveyed a chilling message to the rest of society not to discuss issues related to the monarchy in public, and this has intimidated citizens into silence on this taboo.

More recently, in response to widespread public protests demanding democratic reforms and reforms to the monarchy, on 15 October 2020 the junta enacted a temporary emergency regulation which imposed even stricter restrictions on free speech and which applied for the duration of a period of significant protests, clearly intending to undermine them. That Regulation Issued to Promptly Resolve the Serious Emergency Situation outlawed online and offline communications which could purportedly “instigate fear amongst the people or [were] intended to distort information which misleads understanding of the emergency situation to the effect of affecting the security or state or public order or good morals of the people”.

In sum, the harassment of journalists has escalated and now includes making threats against the liberty of reporters with the deployment of laws to silence them. The regime often relies on “strategic lawsuits against public participation” (SLAPP). SLAPPs are lawsuits intended to silence critics by burdening them with the cost of a legal defense (Human Rights Watch 2018). The government also resorts to laws such as Article 116 of the Thai Criminal Code (a sedition-like offence), which prohibits inciting the public through speech, books, or other forms of media. Although cases rarely result in convictions, they are still useful to the government. Those involved in court are forbidden from giving public comment throughout their trial. This creates a vacuum of accountability, as journalists are unable to continue their work.

Mounting State Pressure on Foreign Journalists

In tandem with applying legal tools to limit press freedom, the military government has also placed immense pressure on the media through other means. Local journalists and reporters perceived to hold antagonistic

views towards the junta can be suspended or expelled due to state pressure on their companies, as in the case of Pravit and Umesh (Teeranai 2018). The situation for foreign journalists is no less threatening. Foreign media have faced great difficulty, not only in reporting the political role of the junta and the monarchy, but also in making any direct criticism of the gross human right violations perpetrated by the military government. In 2009, the entire board of the Foreign Correspondents Club of Thailand (FCCT) was accused of criticising the monarchy and hence threatened with charges under the *lèse-majesté* law. Threats against foreign journalists range from the possibility of their visas not being renewed to being charged with *lèse-majesté*. The author's discussions with a number of Thailand-based international journalists revealed that the process of visa renewal has become more difficult, strict and time-consuming. To be able to report from within Thailand, foreign journalists have to adopt a cautious approach and take into account the sensitivities of issues related to the monarchy, its defenders and the *lèse-majesté* law.

From 2009 to date, the situation has not greatly changed. In recent years, the FCCT has been forced to cancel a number of talks. In September 2018, the Thai authorities shut down an FCCT event on Myanmar, stating that it could be used by "third parties" to cause unrest and endanger national security (VOA 2018). Earlier, in February 2018, police summoned representatives of the FCCT after an activist was accused of planning an allegedly illegal assembly at the club demanding that a national election be held in November (The Nation 2018).

Harassment against the foreign press has reached an unprecedented level. In 2010, an Italian photographer, Fabio Polenghi, and a Japanese cameraman, Hiro Muramoto, were killed during the months of violent confrontations between the Red Shirts and the state's security forces. At least seven foreign or local reporters were wounded. Many reporters who covered the demonstrations told the author that they believed they were deliberately targeted. In the cases of Polenghi and Muramoto, the Thai state has never unravelled the mysteries surrounding their deaths. The lack of sufficient investigation strained Thai-Japanese relations, but Tokyo has refrained from public criticism for the sake of bilateral relations (AFP 2012). At a meeting at the FCCT in June 2010, foreign journalists expressed their anger at the government for the deaths of their colleagues and demanded an independent probe into the attacks on reporters. They also complained about the widespread allegation that the foreign press was biased. An illustrative incident took place in November 2013 when German journalist Nick Nostitz was assaulted as he reported from within the anti-Yingluck camp in the centre of Bangkok. The anti-Yingluck protesters demanded she step down owing to allegations of her committing corruption. Nick was accused of being sympathetic towards her and the Red Shirts, hence upsetting the pro-establishment protesters in the camp (Farrelly 2013).

Normalisation of Self-Censorship

Owing to the harsh legal measures, the enormous pressures from the state and the attacks on the lives of journalists, the press community has been compelled to practice self-censorship in order to survive in the era of military rule. Reports on the Thai monarchy, while extensively published in foreign media outside the Thai borders, are non-existent in Thailand. For example, reports on the current king, Vajiralongkorn, strolling in Munich wearing a skinny tank top and displaying temporary Yakuza-style tattoos on his torso, attracted international media attention, but was missing from the Thai press as a result of self-censorship. Other issues related to the monarchy were also buried from public view, including the king taking over the wealthy Crown Property Bureau and the mysterious deaths of three men who once worked for him.

Typically, cases of *lèse-majesté* have never been reported in the Thai mainstream media. In 2015, a female journalist Chiranuch Premchaiporn, the editor of *Prachatai*, a web-based alternative media outlet, was found guilty for failing to delete *lèse-majesté* comments on its now-defunct web forum. The editor was convicted under Article 12 of the 2007 Computer Crime Act for allowing an allegedly offensive comment about the monarchy to remain on the web board for 20 days. In the end, she was sentenced to eight-months imprisonment and a Bt20,000 (US\$630) fine with her jail term suspended for one year (Prachatai 2015). This case set a new standard for the editors of online media outlets, suggesting they must monitor their pages 24 hours a day. Should they find insulting comments about the monarchy, they must delete them immediately.

Self-censorship is mostly detected in cyberspace. The new digital landscape has both enlarged the space for political speech, but also transformed what might be defined as criminal speech, meaning self-censorship has taken on new importance for actors wishing to protect themselves. This explains how digital technologies have affected those wanting to voice criticism of the military government and shows how they must navigate through a weaponised digital landscape that provides the dictatorship with various mechanisms to silence their critics either directly or via self-censorship (Streckfuss 2019). In other words, digital technologies create

new spaces for discussion, but can also restrict the scope for criticism of the state by encouraging self-censorship.

Voluntary self-censorship represents another kind of compliance to state pressure. Some journalists have chosen to forge ties with the junta, not only for the sake of avoiding persecution or harassment, but also for personal or professional gain. As part of this practice, journalists avoid criticising the junta or the monarchy and refrain from reporting on administrative irregularities or corruption cases.

Impunity

Impunity has become a culture in the Thai political domain. State suppressions against disloyal oppositions have occurred throughout the Thai history, from 1973, 1976, 1992 and 2010. But no state officials have been brought to justice, thus creating this culture of impunity that reigns supreme. Also, the Thai state has its own way to whitewash itself, normally through self-amnesty even when they committed crimes, such as staging a coup overthrowing a legitimate government. Moreover, in the context of journalists, the existence of impunity in some way helps create a climate of fear among them since it convinces them that they will never get justice from state harassment.

The Royalists Marketplace

In April 2020, a private Facebook group, Royalists Marketplace, was set up as a venue for open discussion on the monarchy. The birth of Royalists Marketplace accelerated the erosion of the long-held taboo on discussing the monarchy. Therefore, it immediately received a hostile response from the government. The group, in a way, provided some much-needed legitimacy for the government to enforce its power over cyberspace. Four months after its inception, the group had become a popular online meeting place for critics of the monarchy, attracting over a million members. Indeed, in Thailand, online activism has become a particularly indispensable part of street activism, unfurling the influence of social media on political movements on the ground.

The government went ahead with filing a complaint against me, the founder of the group for cyber crime (Beech 2020). It then requested Facebook to geo-block the Royalists Marketplace, threatening to charge the provider under the Computer-Related Crime Act. On August 24, 2020, Facebook complied with the government's request and access to the Royalists Marketplace was blocked in Thailand. Facebook forewarned of the imminent blocking, stressing its obligation to comply with Thai laws (Guest 2020). Immediately, a new group under a similar name, Royalists Marketplace-Talad Luang (Talad Luang being the Thai translation of the English name) was founded. Overnight, the new group regained more than half a million of its original members. The next day, Facebook backtracked its position by announcing its plan to sue the Thai government for the forced blocking of the group. A Facebook spokesperson said, "After careful review, Facebook has determined that we are compelled to restrict access to content which the Thai government has deemed to be illegal. Requests like this are severe, contravene international human rights law, and have a chilling effect on people's ability to express themselves" (BBC 2020a). As of March 2021, the Royalists Marketplace-Talad Luang remains active and accessible in Thailand and has more than 2.2 million members.

Conclusion

Since the 2014 coup, the junta has issued a number of orders and decrees that restrict press freedom, on top of the existing draconian lèse-majesté law and the 2017 Computer-Related Crime Act. These legal measures range from prosecuting journalists critical of the military government or the monarchy to suspending or shutting down media companies on the pretext of national security. Today, the situation has changed little. In addition to such legal measures, the military government deploys other methods to pressure the press, in particular foreign journalists working in Thailand. These tactics include delays in granting and renewal of visas and even expulsion from the country. The situation has become so dangerous that the media has chosen to practice self-censorship in order to survive under the growing climate of fear.

References

- BBC. (2016) 'Profile: Thailand's New King Vajiralongkorn', *BBC News*, 1 December 2016
<<https://www.bbc.com/news/world-asia-38126928>> (accessed 5 April 2019).
- Beech, Hannah. 2020. "Facebook Plans Legal Action after Thailand tells it to Mute Critics." *New York Times*, September 24. <https://www.nytimes.com/2020/08/25/world/asia/thailand-facebook-monarchy.html> (December 28, 2020).

- Farrelly, N. (2013). "Assault on Nick Nostitz", *New Mandala*, 29 November <<http://asiapacific.anu.edu.au/newmandala/2013/11/29/assault-on-nick-nostitz/>> (accessed 26 February 2019).
- Guest, Peter. 2020. "The Anti-monarchist Professor who Became a Living Meme." *Rest of World*. October 2. <https://restofworld.org/2020/the-anti-monarchist-professor-who-became-a-living-meme/>. (accessed March 25, 2020).
- Holmes, O. (2018). 'Thailand Bans Online Contact with Three Critics of Regime', *The Guardian*, 13 April <<https://www.theguardian.com/world/2017/apr/13/thailand-bans-online-sharing-of-articles-by-three-critics-of-regime>> (accessed 26 February 2019).
- Kittipong, T. (2018). 'Media Freedom Takes Beating Under Junta', *The Nation*, 26 May <http://www.nationmultimedia.com/detail/big_read/30346296> (accessed 26 February 2019).
- Macan-Markar, Marwaan. (2017). "Thai Junta Steps up Internet Censorship Drive", *Nikkei Asian Review*. 1 September <<https://asia.nikkei.com/Politics/Thai-junta-steps-up-internet-censorship-drive> > (accessed 21 March 2019).
- "Police Pressure FCCT over #MBK39election Meeting", (2018) *The Nation*, Available HTTP: <<http://www.nationmultimedia.com/detail/politics/30338009>> (accessed 24 February 2019).
- Reporters sans Frontieres (2019) 'Thailand', Available HTTP: <<https://rsf.org/en/thailand>> (accessed 6 April 2019).
- Streckfuss, D. (2014). 'Freedom and Silencing under the Neo-Absolutist Monarchy Regime in Thailand, 2006-2011', in P. Chachavalpongpun (ed.) *'Good Coup' Gone Bad: Thailand's Political Developments since Thaksin's Downfall*, Singapore: Institute of Southeast Asian Studies.
- _____. (2019). 'Repression and Self-Censorship under Thailand's Military Dictatorship' in P. Chachavalpongpun (ed.) *Coup, King, Crisis: Time of a Dangerous Interregnum in Thailand*, Singapore: NUS Press.
- "Supreme Court Rules against Prachatai in Internet Intermediary Liability Case" (2015) *Prachatai*, Available HTTP: <<https://prachatai.com/english/node/5725> > (accessed 24 February 2019).
- Teeranai, C. (2018), "Editor Removed for Mismanagement—Not Junta Pressure: Bangkok Post", 15 May <<http://www.khaosodenglish.com/politics/2018/05/15/editor-removed-for-mismanagement-not-junta-pressure-bangkok-post/> > (accessed 21 March 2019).
- "Thai Reporters, Editors Axed as Press Freedom Declines" (2018) *La Croix*, Available HTTP: <<https://international.la-croix.com/news/thai-reporters-editors-axed-as-press-freedom-declines/7687#>> (accessed 26 February 2019).
- "Thailand to Offer Compensation for Slain Japanese" (2012) *AFP*, Available HTTP: <<http://www.google.com/hostednews/afp/article/ALeqM5iKayQxTk5cKkU0p59t3ODwd8l1Xw?docId=CNG.cb10f0d0d9e1040731189773f7f0cf95.761>> (accessed 26 February 2019).
- "Three Years of the NCPO and its Reinforcement of 'Stable, Prosperous and Sustainable' Powers" (2017) *iLaw*, Available HTTP: <<https://ilaw.or.th/node/4506>> (accessed 5 April 2019).