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THE INTERNET AND CORRUPTION
Transparency and accountability online



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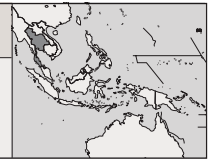
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THAILAND

THE INTERNET IN THAILAND: THE BATTLE FOR A TRANSPARENT AND ACCOUNTABLE MONARCHY



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Introduction

Thailand, in theory, is a democratic country with the king as the head of state. Under the Constitution of Thailand, the monarch has ceremonial duties only, and does not have executive powers (but rather has elected representatives act on his behalf).

In reality, however, Thai politics is far more messy and complicated, partly because of interference from the “invisible hands”, a popular term used by local media meaning unconstitutional power which cannot be examined and held accountable. This can be seen from the past 18 military coup d'états in the 80 years since the forced change from absolute to constitutional monarchy in 1932.

Although the king has no executive powers, the monarchy has a significant role in Thailand's public affairs, a role which is recognised by the government. For example, hundreds of development projects in rural areas across Thailand are patronised by royals, the national day has been changed to coincide with King Bhumibol's birthday, royals personally present diplomas to public university graduates, and, last but not least, it is law that everyone must stand while the royal anthem is played before any movie or performance.

This is largely a result of the revival of the monarchy's public role by former prime minister Field Marshall Sarit Thanarat, who seized power in a coup and promoted the monarchy to justify his dictatorship. With a harsh lèse majesté law and incessant one-sided positive-only publicity about the royals, the monarchy's popularity has risen to that of high reverence.

Policy and political background

In his paper “Network Monarchy and Legitimacy Crises in Thailand”,¹ Duncan McCargo, a leading academic on Thai politics, proposed that between 1973 and 2001 Thai politics is best understood in terms of a political network in which the leading network was “centred on the palace and is here termed

‘network monarchy’. Network monarchy involved active interventions in the political process by the Thai King and his proxies,” including the privy councillors and the military. McCargo illustrated this with the Black May crisis in 1992, in which the king told the leader of the protest against the military prime minister and the prime minister to meet with him after over 40 protesters were killed, instructing them to settle down. And in 2006, the 84-year-old king granted an audience to the coup makers just after they had overthrown popular premier Thaksin Shinawatra. Both events were televised on public channels and both generals escaped with impunity. However, with the lèse majesté law or Article 112 of the Criminal Code, under which the maximum sentence is 15 years in jail, criticism of the roles of the monarchy and the military is silenced and the law shields them from scrutiny and being held accountable. In effect, the Thai mainstream media practise self-censorship on stories related to the monarchy that do not fit the official narrative.

In 2006, the lawmakers appointed by the coup leaders enacted the 2007 Computer-Related Crimes Act (CCA), rushing it through the parliamentary process and without public participation. The law has severe jail terms of up to 20 years for people who post online content deemed lèse majesté (insulting to the monarchy) or a threat to national security. It also holds intermediaries at all levels liable over content published through them, and they face 20 years in jail for content deemed illegal.

The battle to hold the monarchy accountable under threat and suppression

As mentioned, the Thai mainstream media have neglected their duty to scrutinise the monarchy and the military, as well as the Crown Property Bureau.² Simultaneously, Thais are overwhelmed by a hunger for information and an eagerness to express their thoughts. The 2006 coup was the first coup that took place at a time when the internet was accessible by most of the Thai middle classes, with YouTube and online forums being particularly popular. With the power of the internet, Thailand will never be the same again.

1 www.polis.leeds.ac.uk/assets/files/Staff/mccargo-pacific-review-2005.pdf

2 The Crown Property Bureau (CPB) is a juristic person, established by law, responsible for managing the personal wealth of the King of Thailand. The CPB is exempt from taxes.

As the 2006 coup took place on 19 September, several video clips criticising the king and the coup were uploaded onto YouTube. This resulted in a five-month ban of the YouTube³ website in Thailand. There were also heated comments and discussions on online forums. Many of them were deemed *lèse majesté*.

The uncontrollable nature of the online space made the junta government draft and hastily pass the CCA. The war of censorship against online content criticising the king started during this period, and an unprecedented number of URLs were blocked by the government. Nonetheless, Thais were not discouraged from criticising the network monarchy.

One of the first influential online forums that attempted to hold the monarchy accountable was the Same Sky web forum (or Fah Diew Gan in Thai). This was created in 2006, shortly before the coup, as part of a website for the Fah Diew Gan (“under the same sky”) journal, a tri-monthly political academic journal which was very critical of the establishment.

Most progressives might consider the forum as the most liberal space allowing netizens to openly criticise the monarchy. However, royalists considered the forum unacceptable, and have called for the officials to block it. The royalist right-wing site Manager Online once referred to it as “the No. 1 site that insults the monarchy [among the anti-establishment sites].” This claim, ironically, made the forum more popular, as more right-wing, conservative royalists joined the forum. This resulted in a vibrant space of differing views debating the monarchy, but still dominated by anti-establishment voices.

Several academics and political activists were major contributors to the forum. One of them was Somsak Jeamteerasakul, a history lecturer at Bangkok’s leading Thammasat University. Somsak published several articles and think pieces on the forum, critical of the *lèse majesté* law as well as the monarchy. Many of them have become “classic” pieces as they are, still today, repeatedly referred to when there are debates on these issues. There was also a collective attempt to examine the Crown Property Bureau on the forum.

Because of the tireless contribution of Somsak to the forum, he became the centre of a network of active citizens who were critical of the monarchy, and later became well known to the public and media as a frank and brave critic on this issue.

Throughout the existence of the internet forum, it was subjected to both “official” and “unofficial”

blocking at regular intervals until the Same Sky Publishing House, owner of the forum, decided to move to a foreign hosting service, which cost them a lot more than local hosting. Because of the financial burden and legal burden, the publishing house then decided to shut down the forum in October 2008. Some of the communities created a new forum under the name “We Are All Human”, which still exists today, but is less popular than the original Same Sky forum.

Another website which became popular during the coup was the Prachatai online newspaper and web forum. While the Thai mainstream media kept silent, partly because of a fear of *lèse majesté*, Prachatai was one of very few media outlets that published news about the anti-coup movement and articles against the coup. Meanwhile, the Prachatai web forum was heated with comments criticising the network monarchy. Some of the comments posted at that time have almost landed Prachatai manager Chiranuch Premchaiporn in jail as an intermediary allowing illegal comments on her website. Even though Chiranuch has not had to live her life behind bars, the trauma experienced because of the court battle made her decide to shut down the web forum in 2010, arguing that it was too risky to host a forum for the free expression of political perspectives.

The Court of the First Instance sentenced Chiranuch in May 2012 to eight months in jail, but suspended the sentence for one year. The case is now before the Appeal Court. Chiranuch is still facing another case from a different comment also posted on her website.

In 2011, police charged regular Prachatai columnist Surapot Taweesak, who wrote under the pen name “The Philosopher on the Fringe”, with *lèse majesté* after comments published on Prachatai. His comments merely proposed the revision of the roles of the monarchy and suggested how to make the monarchy transparent and accountable. For example, he proposed that the king declare his assets to the parliament, that the budget given to projects under royal patronage be reviewed by the parliament, and that the *lèse majesté* law be abolished to allow the public to examine and criticise the monarchy.

A year later, another Prachatai columnist and respected journalist, Pravit Rojanaphruk, was summoned by the police to testify in a *lèse majesté* complaint against him for seven articles published on Prachatai. The articles that landed Pravit in trouble merely criticised the *lèse majesté* law and the discourse of “fatherly love”, analysing the power of comparing the king to the father of the people.

3 facthai.wordpress.com/2007/09/01/thailand-lifts-youtube-ban

As the aforementioned Same Sky forum was shut down in 2008, some active Same Sky members still cling to its replacement. Many, including the vocal academic Somsak, have moved to social networks such as Facebook.

Somsak created his Facebook account⁴ in 2010. As of October 2012, he had more than 23,000 subscribers and more than 5,300 friends. His Facebook timeline is very vibrant; it is filled with news, articles, photos and video clips, shared by people who share his ideology. Somsak produces up to three short articles, composed of three to ten paragraphs, posted on his Facebook account each day. Some of the articles have attracted more than 1,000 “likes” and comments. His Facebook account receives approximately 2,500 hits each day. He is arguably one of the most influential academics on Thai Facebook and the opinion leader of liberal Thais.

Somsak has long been subjected to online bullying by the royalists, as well as offline threats. He always presents arguments in a very careful way, so that they are not considered *lèse majesté*. However, in late 2011, Somsak was charged with *lèse majesté* nonetheless.⁵ The complaint, filed by army personnel, attacked his articles⁶ criticising a TV interview given by Princess Chulabhorn, who technically is not protected by Article 112. In the interview, the princess expressed her opinion on recent political conflict. She expressed sorrow over the shopping mall burnt during the 2010 crackdown on the anti-establishment “Red Shirt” supporters. “I would like to reiterate that the interview given by the princess, under this legal circumstance, is not fair at all. Would any media dare to publish conflicting opinions to her?” wrote Somsak in an article entitled “Question to the princess: How can the death of 91 people and 2,000 injuries not cause more sorrow than the burning of the city? Why do you not criticise the [Yellow Shirt royalist] People’s Alliance for Democracy?”⁷ The charges against him reiterated his concern.

When it comes to the analysis of Thailand’s monarchy, because of the *lèse majesté* law, unsourced or anonymous comments usually are the best that critics can do. However, the WikiLeaks cables from the US Embassy in Bangkok, released in

early 2011, intrigued many Thais as they contained several eye-opening remarks about the monarchy from high-profile people in Thai politics – such as the privy councillors and former prime minister. The cable also helped complete the jigsaw of Thai political conflict that had been inexplicable before. It shows how Thai politics is manipulated behind the scenes.

The anti-establishment camp used the cables to the full benefit of their movement – but many efforts to expose the monarchy were still subject to censorship. The complete cables including translations were published on many underground websites, run under false identities, and usually by Thais based overseas. However, as before, many websites run by Thais who lived in Thailand still resorted to self-censorship. They censored the content that might be deemed *lèse majesté*, especially names of royal family members. This, sometimes, made the story almost incomprehensible. In other cases, they used code names when referring to royal family members; but this is considered risky, as there was a *lèse majesté* case where a person was charged because of an account of Thai politics based on fictional figures. Many of these websites were subjected to constant official and unofficial government suppression. A Thai Red Shirt was charged with *lèse majesté* for selling copies of the WikiLeaks cables at a Red Shirt rally.

In October 2011, a lengthy report based on the cables called “Thailand’s Moment of Truth: A Secret History of 21st Century Siam”, written by ex-senior Reuters journalist Andrew MacGregor Marshall, was released. Marshall offered a thorough analysis of thousands of leaked diplomatic communications in an article which included a background of Thai history. His article also analysed the royal family members. In order to publish the story, Marshall had to leave Reuters and Thailand to avoid the draconian *lèse majesté* law. He published his story on the *zenjournalist.com* website, which, unsurprisingly, has been blocked by the Thai government.

Because of the vague Thai computer crime law, which allows a broad interpretation of what is considered the crime of transmitting illegal data via the internet network, simply sharing a link to Marshall’s website could be considered a crime. Marshall created “Thai Story” or #thaistory, as used on Twitter, as a code name for his story. The vague code name allows Thais to publicly discuss his story with less fear of suppression by the government and ultra-royalist internet users.

The online battle to hold the monarchy accountable after the coup has resulted in about 120,000

4 www.facebook.com/somsakjeam

5 www.nationmultimedia.com/home/Shock-cver-lese-majeste-charge-against-Thammasat-h-30153798.html and bit.ly/Rhn6IA

6 prachatai.com/journal/2011/04/33901

7 From May to December 2008, the royalist People’s Alliance for Democracy (PAD), popularly known as the “Yellow Shirts”, held demonstrations against the Thaksin-backed government. The protests included months of occupation of the Government House and a week-long seizure of the country’s main international airport.

URLs being blocked,⁸ as claimed by the government, due to content insulting the monarchy, and about 40 people have been charged with disseminating online content insulting the king.

Conclusion

In the absence of the mainstream media's role in holding the monarchy accountable, the internet helps to facilitate discussion and scrutiny of the monarchy by the general public. Under legal constraint, Thais need to exercise extreme caution when expressing opinions on the issue of the monarchy.

Access to information inconsistent with official narratives about the monarchy is suppressed by the authorities. However, many Thai netizens still manage to circumvent the Thai authorities' firewall, mainly because of the poor technology and inconsistent efforts of the authorities.

Action steps

- The Thai government should abolish Article 112 (the *lèse majesté* law) and amend the CCA to allow criticism of the monarchy.
- Civil society should learn to protect themselves from surveillance by using anonymisers such as The Onion Router (TOR), especially when posting messages.

- Civil society should learn to circumvent government censorship by using circumventing tools such as virtual private networks (VPNs) and TOR, or simply using Google translator and Google cache.
- The use of any law to suppress or censor criticism of the monarchy should be transparent and open for public scrutiny.
- Mainstream media should not leave it up to civil society to push the limits of what can be said about the “invisible hands” and the network monarchy, but should come out of the closet of their fear and end the practice of self-censorship on issues relating to the monarchy.
- Thai internet users should try to use real names to lend credibility and transparency to their criticism. This will also help push the limits of what can be said in public. ■

8 According to iLaw's 2010 Situational Report on Control and Censorship of Online Media, through the use of laws and the imposition of Thai state policies, 57,330 URLs were blocked due to their *lèse majesté*-related content. In 2011, the ICT minister reported that around 60,000 URLs were blocked due to the same reason. thainetizen.org/docs/thailand-online-media-control-en and thainetizen.org/docs/netizen-report-2011