

THAILAND

	2012	2013
INTERNET FREEDOM STATUS	NOT FREE	PARTLY FREE
Obstacles to Access (0-25)	11	10
Limits on Content (0-35)	21	21
Violations of User Rights (0-40)	29	29
Total (0-100)	61	60

POPULATION: 70 million
INTERNET PENETRATION 2012: 27 percent
SOCIAL MEDIA/ICT APPS BLOCKED: No
POLITICAL/SOCIAL CONTENT BLOCKED: Yes
BLOGGERS/ICT USERS ARRESTED: No
PRESS FREEDOM 2013 STATUS: Not Free

* 0=most free, 100=least free

KEY DEVELOPMENTS: MAY 2012 – APRIL 2013

- Thai courts issued 161 orders to block 21,000 URLs in 2012, many for criticizing the monarchy (see **LIMITS ON CONTENT**).
- A court fined Chiranuch Premchaiporn and gave her a suspended jail term for failing to delete anti-royal user comments from her news website *Prachatai* (see **VIOLATIONS OF USER RIGHTS**).
- Sexagenarian Ampol Tangnopakul died in May 2012 while jailed for anti-royal texting after a court denied medical parole (see **VIOLATIONS OF USER RIGHTS**).
- A cabinet directive implemented in mid-2012 put Computer-related Crimes Act cases under the jurisdiction of the Department of Special Investigation, which can intercept electronic communications without a court order (see **VIOLATIONS OF USER RIGHTS**).
- Activists petitioned lawmakers to reform lèse-majesté laws via social media, sparking unprecedented public debate (see **LIMITS ON CONTENT**).
- Free government-sponsored Wi-Fi hotspots helped improve access nationwide (see **OBSTACLES TO ACCESS**).

INTRODUCTION

Thai citizens have been posting online commentary since the internet was commercialized in 1995,¹ but digital communication took on a particularly significant role after the 2006 military coup. Since then, both the red-shirt supporters of former Prime Minister Thaksin Shinawatra and their royalist, yellow-shirt opponents have utilized online resources to mobilize constituents, contributing to the democratic election of the Pheu Thai Party and Thaksin's sister, Yingluck Shinawatra, as prime minister in July 2011.

Thailand's worst limitations on content and violations of user rights occur under computer crimes laws enacted after the coup, and oppressive *lèse-majesté* provisions in the penal code, which criminalize criticism of the nation's revered monarchy. The state has blocked tens of thousands of individual websites and social media pages, and imprisoned several people for disseminating information and opinion online or via mobile phone under these laws. Anyone can lodge a *lèse-majesté* complaint against anyone else in Thailand, opening the door for various actors to use the charges against political opponents or to curb civic advocacy in a highly polarized political environment.

Those expecting that Shinawatra would loosen internet restrictions have been disappointed. Censorship has continued and even become more institutionalized since she took office. Vaguely worded legislation and lax adherence to due process has led to disproportionately harsh punishments given to ordinary users based on questionable evidence. In May 2012, news website administrator Chiranuch Premchaiporn was fined and given a suspended jail term for failing to delete comments left by readers in a verdict even the judge called unfair. She was luckier than Ampol Tangnopakul, who died in prison the same month. A court imprisoned him for 20 years in 2011 for sending anti-royal text messages from his mobile phone—though the 61-year-old denied knowing how to use SMS.

While content restrictions and legal harassment—particularly in these two widely-reported cases—increase self-censorship in online discussions, they also serve to further politicize the monarchy in the eyes of many Thais, and sparked serious civic efforts to promote *lèse-majesté* reform in 2012 and 2013. They have also inspired a burgeoning movement of politically conscious internet users, who favor greater protections for internet freedom.

OBSTACLES TO ACCESS

Declining prices, increased demand for alternative sources of information, and social networking tools are enticing Thais to spend more time online, and internet penetration was at 27 percent in

¹ Phansasiri Kularb, "Communicating to the Mass on Cyberspace: Freedom of Expression and Content Regulation on the Internet," in *State and Media in Thailand During Political Transition*, ed. Chavarong Limpattanapanee and Arnaud Leveau (Bangkok: Institute de Recherche sur l'Asie du Sud-Est Contemporaine, 2007).

2012.² Mobile telephony is more widespread, with penetration topping 120 percent, indicating some citizens own more than one device.³

In households with internet access, 56 percent used fixed broadband connections while 15 percent relied on a modem in 2012, official figures show. Thailand suffers from an urban-rural connectivity divide: nearly 40 percent of internet users are based in major cities, twice the percentage of users based in rural areas.⁴

The government has been slow to improve the fixed-line infrastructure and boost the development of ICTs, even though lessening the digital divide was a notable part of the Pheu Thai party's platform ahead of the July 2011 elections. This was due in part to the extensive flooding that struck Thailand in October 2011, the worst in decades. Internet penetration rose by only 2 percent in 2011 and 3 percent in 2012.⁵ This is expected to change in 2013 under the government's "Smart Network" policy, which aims to expand access to 95 percent of the population by 2020.⁶ The National Broadcasting and Telecommunications Commission (NBTC) has approved a THB 950 million (\$31,980,000) budget for a Ministry of Information and Communication Technology (MICT) project, "ICT Free Wi-Fi," to add 300,000 internet access points across Thailand in 2013 in cooperation with service providers.⁷ Northern Chiang Mai province is undergoing a similar pilot scheme sponsored by telecommunications giant TRUE.⁸ The government also plans to implement free hi-speed internet access in public places such as schools and hospitals. Internet users can get online for free at many public access points by registering for an account through a website run by government agencies in cooperation with telecommunications companies.⁹

Partly as a result of efforts like this, official 2012 figures state 44 percent of Thai internet users paid nothing for access, and another 25 percent paid less than THB 200 (\$6.73) a month.¹⁰ These figures counted individuals using free public access; in households paying for monthly service, most paid THB 600-799 (\$19-26). Connections reportedly function at speeds around 12 Mbps,¹¹ most reliably in the greater Bangkok area. In past years, users complained that connections were slower

² International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2012," <http://www.itu.int/en/ITU-D/Statistics/Pages/stat/default.aspx>.

³ International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2012." See also, National Broadcasting and Telecommunications Commission, "Thailand ICT Info," accessed January 13, 2013, http://www2.nbtc.go.th/TTID/mobile_market/subscribers/.

⁴ National Statistical Office, "Information and Communication Technology Survey in Household, 2012," http://web.nso.go.th/en/survey/ict/ict_house12.htm.

⁵ National Broadcasting and Telecommunications Commission, "Thailand ICT Info," accessed January 2013, http://www2.nbtc.go.th/TTID/mobile_market/subscribers/.

⁶ Asina Pornwasin, "Smart Thailand' Project on Track," *The Nation*, February 28, 2012, <http://www.nationmultimedia.com/technology/SMART-THAILAND-PROJECT-ON-TRACK-30176841.html>.

⁷ "NBTC Issues Funds for Free Wi-Fi," *Bangkok Post*, January 17, 2013, <http://www.bangkokpost.com/breakingnews/331263/nbtc-issues-funds-for-free-wifi>.

⁸ "ICT Free Wi-Fi by TRUE With Up to 15 Hours Usage per Month," Truemove, accessed January 2013, <http://truemoveh.truecorp.co.th/activity/entry/632?ln=en> <http://truemoveh.truecorp.co.th/activity/entry/632?ln=en>

⁹ "Register for Free Wi-Fi by TOT and MICT," accessed April, 2013, <http://vip.totwifi.com/ict-nakhonratchasima/regist.php>.

¹⁰ National Statistical Office, "Information and Communication Technology Survey." A second official survey of nearly 24,000 internet users found 35 percent of respondents using free service. See, "Thailand's Internet Users to Double," *Bangkok Post*, July 4, 2013, <http://www.bangkokpost.com/breakingnews/358289/thailand-internet-users-to-double-to-52-million-in-2013>.

¹¹ "Download Index," Net Index, accessed June 21, 2012, <http://www.netindex.com/download/2,23/Thailand/>.

than advertised. However, in late 2012 and early 2013, there was no official information about user complaints, and anecdotally, speeds appeared to have improved.

Mobile phone ownership is also more common in municipalities, with penetration higher in Bangkok and other cities than in rural areas.¹² The NBTC regulated maximum service rates for inland voice service via mobile phone in 2011. As of April 2012, service providers are not allowed to charge more than an average THB 0.99 (\$0.03) per minute; existing contracts had to be adjusted to match these rates by January 1, 2013.¹³ While SMS messaging is popular, the percentage of people accessing the internet via mobile phone is less than 10 percent.¹⁴

Smartphone use is expected to change this. By late 2011, sales of smartphones surpassed those of feature phones for the first time and an estimated four million people subscribed to internet-capable third-generation (3G) services. Declining costs—smartphones averaged THB 3,000 (\$100) each in early 2012—are accelerating this trend.¹⁵ While political and legal disputes have repeatedly delayed the licensing process for 3G mobile phone service and wireless broadband, the NBTC granted three corporations, Advanced Info Service, DTAC Network and Real Future, 15-year licenses to provide users with 2.1GHz and 3G service in December 2012,¹⁶ which is expected to drive mobile phone penetration to 130 percent in 2016.¹⁷ The licenses are conditional on providers reducing service costs by 15 percent, increasing geographical coverage to 80 percent in 4 years, maintaining connection speeds specified by the NBTC, and protecting the rights of consumers.¹⁸

The government has also tried to improve access to devices and hardware through projects like the MICT's "One Tablet per Child," which aims to distribute free tablets loaded with education software to all first-year primary school students.¹⁹ Critics argue the program distracted public attention away from other factors affecting education, such as poor teacher performance.²⁰

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

¹² National Statistical Office, "Information and Communication Technology Survey."

¹³ "How Will the Adjustment in Mobile Phone Service Fee in Thailand Affect the Service Provider?," Phoenix Capital Group, January 29, 2013, <http://www.thephoenixcapitalgroup.com/how-will-the-adjustment-in-mobile-phone-service-fee-in-thailand-affect-the-service-providers/>.

¹⁴ National Statistical Office, "Information and Communication Technology Survey."

¹⁵ Suchit Leesa-nguansuk, "Smartphones to Rule the Roost," *Bangkok Post*, May 15, 2012, <http://www.bangkokpost.com/business/telecom/293824/smartphones-to-rule-roost>.

¹⁶ Sirivish Toomgum, "NBTC clears legal hurdle, ready to issue 3G licences," *The Nation*, December 4, 2012, <http://www.nationmultimedia.com/business/NBTC-clears-legal-hurdle-ready-to-issue-3G-licence-30195554.html>.

¹⁷ Business Monitor International, "Thailand Telecommunications Report Q4 2012", <http://www.marketresearch.com/Business-Monitor-International-v304/Thailand-Telecommunications-Q4-7147954/>; and "Thailand Telecommunications Report Q3 2012," June 12, 2012, <http://www.marketresearch.com/Business-Monitor-International-v304/Thailand-Telecommunications-Q3-7027556/>.

¹⁸ Komsan Tortermvasana, "3G Rules Simplified, N-1 Rule Scrapped," *Bangkok Post*, April 11, 2012, <http://www.bangkokpost.com/lite/topstories/288345/3g-rules-simplified-n-1-rule-scrapped>

¹⁹ International Telecommunication Union, "One Tablet per Child Policy: Stepping Up Education Reform in Thailand," January 18, 2013, <http://bit.ly/1azRf3G>.

²⁰ "Let Them Eat Tablets," *Economist*, July 16, 2012, <http://www.economist.com/node/21556940>.

largest.²¹ As of mid-2012, there were over 100 ISPs with active licenses, though 10 provided most of the connection services for individual consumers and households.²² Among them, True Internet—a subsidiary of the communications conglomerate True Corporation, which also controls Thailand's third-largest mobile phone operator True Move—had a 40 percent share of the high-speed internet market by March 2013;²³ the state-owned Telephone Organization of Thailand controlled 33 percent in late 2012,²⁴ while the private 3BB controlled 28 percent.²⁵ The three main mobile phone service providers are the Singaporean-owned Advanced Info Service, the Norwegian-controlled DTAC, and True Corporation's True Move. The first two operate under concessions from TOT and CAT, an allocation system that does not entirely enable free-market competition.

Legislation creating a single regulatory body for both the broadcast and telecommunications sectors passed parliament in late 2010. After a long and dispute-filled selection process, the senate appointed the members of the new NBTC in September 2011. From among the 11 commissioners, 5 are from the military, reflecting the army's deep interests in the communications sector. The remaining members are three former bureaucrats, two civil society representatives, and one police officer.²⁶ Some observers have complained that the NBTC lacks commissioners with industry experience that the regulatory structure is incapable of dealing with converging communications platforms, and that coordination across different parts of the commission is weak.²⁷ Despite these shortcomings, the NBTC's decisions and proposed plans regarding the telecommunications sector thus far are largely viewed as fair.²⁸

LIMITS ON CONTENT

In 2012, Thai courts blocked almost 21,000 URLs, including thousands for anti-royal content. Just 5,000 URLs had been blocked the previous year. In a new development, however, activists effectively used digital tools to drive public debate on *lèse-majesté*. While petitions demanding reform have yet to see concrete results, the support and media coverage they attracted were unprecedented. Manipulation of online debate by paid commentators declined, a sign that the activity observed in 2011 was probably tied to the election campaigns.

Restrictions on content have expanded in recent years in both scale and scope, although the Thai government has been blocking some internet content since 2003, when it implemented controls on

²¹ Internet Information Research Network Technology Lab [in Thai], National Electronics and Computer Technology, accessed July 2013, http://internet.nectec.or.th/webstats/internetmap.current.iir?Sec=internetmap_current.

²² NBTC, "List of Licensed Telecommunications Businesses" [in Thai], accessed July 2013, <http://apps.nbtco.go.th/license/>.

²³ "TRUE Invest Ten Thousand Million to Increase Market Share" [in Thai], *Jasmine*, March 30, 2013, http://www.jasmine.com/news_industry_detail_th.asp?ID=2805.

²⁴ Both CAT Telecom and TOT are supervised by the MICT.

²⁵ NBTC, "Telecommunication Market Report Q3 2012" [in Thai], <http://bit.ly/19NLMEl>.

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

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

²⁸ Komsan Tortermvasana, "NBTC Approves Spectrum, Broadcasting Master Plans," *Bangkok Post*, March 22, 2012, <http://www.bangkokpost.com/business/telecom/285448/nbtco-approves-spectrum-broadcasting-master-plan>.

pornography and gaming, among other topics.²⁹ The new administration has maintained vigilant monitoring of anti-royal content and extended censorship to popular social media platforms.³⁰

Government bodies monitor online content and enforce censorship through court orders under the 2007 Computer-related Crime Act (CCA),³¹ and extrajudicial blocking decisions by the executive branch. Online censorship is also conducted through preemptive action by ISPs and content hosts, whose cooperation is ensured because they can be held legally responsible for comments posted by third parties.³² The 2012 conviction of the director and administrator of the *Prachatai* news website for failing to delete user comments in 2008 (see “Violations of User Rights”) is expected to increase intermediary compliance with official censorship orders, though this is difficult to measure in practice. Court orders are almost always granted with minimal deliberation and little indication of which content was deemed to violate the law. As a result, website blocking lacks transparency, since the precise list of inaccessible sites is not available to the public. In addition, officials may inflate the figures for political purposes, according to one MICT source.³³

Shinawatra’s government has bolstered its monitoring capabilities in relation to *lèse-majesté* crimes. An MICT committee in charge of official website censorship established in 2010 is now chaired by one of her former deputy prime ministers, Chalerm Yoobamrung.³⁴ In 2011, local news reports criticized Chalerm for seeking a THB 400 million (\$13.46 million) budget for the purchase of internet content filtering and monitoring equipment capable of censoring overseas websites without cooperation from foreign ICTs to help enforce *lèse-majesté* content restrictions.³⁵ The status of that budget is not known. The Technology Crime Suppression Division under the Royal Thai Police³⁶ and the MICT Cyber-Security Operation Center (CSOC) established under Shinawatra in December 2011 are also tasked with monitoring and curbing the circulation of *lèse-majesté* content.³⁷ Media reports describe the police body as several dozen computer technicians scouring thousands of websites, manually and with automated crawlers, for insults to the royal family.³⁸ The CSOC is an upgrade of a 2010 entity called the Internet Security Operation Center, but its precise mandate and activities remain unclear.³⁹

²⁹ Karnjana Karnjanatawe, “Govt Forces ISPs to Block ‘Inappropriate’ Web Sites,” *Bangkok Post*, July 9, 2003, accessible at NARCHIVE Newsgroup Archive, <http://bit.ly/19eolgS>.

³⁰ “MICT: More Cyber Offenders to be Arrested Soon,” *Prachatai*, December 3, 2011, <http://bit.ly/1fRKJt6>.

³¹ Journalists sometimes refer to it as the “Computer Crime Act.”

³² ISPs do not publicly acknowledge such cooperation, but it is widely accepted by freedom of expression advocates.

³³ Some counted duplications, so that a single article shared by ten internet users would be counted eleven times. Interview with mid-ranking MICT employee who requested anonymity, December 2011.

³⁴ Ministry of Information and Communication Technology, “ICT Policy Committee for Inappropriate Site Management” [in Thai], accessed February 2013, http://www.mict.go.th/ewt_news.php?nid=1683.

³⁵ “Chalerm Set to Crack Down on Websites,” *Prachatai*, accessed February 12, 2013, <http://bit.ly/1bRxZfF>.

³⁶ Also called Office of Prevention and Suppression of Information Technology Crimes and referred to as a ‘war room’ for stopping *lèse-majesté* content. See, Thomas Fuller, “A High-Tech War Against Sights to a Centuries-Old Monarchy,” *New York Times*, October 2, 2011, <http://www.nytimes.com/2011/10/03/world/asia/03iht-thailand03.html?pagewanted=all>.

³⁷ “MICT: More Cyber Offenders to be Arrested Soon,” *Prachatai*, December 3, 2011, <http://www.prachatai.com/english/node/2930>.

³⁸ Martin Petty and Natnicha Chuwiruch, “Thais Test Taboos as War on Royal Slurs Heats Up,” Reuters, December 6, 2011, <http://www.reuters.com/article/2011/12/07/us-thailand-monarchy-idUSTRE7B605920111207>.

³⁹ “Centre Starts Monitoring *Lèse-Majesté*,” *Bangkok Post*, December 24, 2011, <http://www.bangkokpost.com/lite/topstories/272260/centre-starts-monitoring-lese-majeste>.

Blocking tactics have evolved over time. Most of the websites filtered prior to 2007 involved pornography, online gambling, or circumvention tools, although some politically oriented websites were also found to be inaccessible.⁴⁰ Blocking increased exponentially under the 2007 CCA, particularly in relation to anti-royal content.⁴¹ One academic study shows that between 2007 and 2011, there were 156 court orders issued to block access to nearly 82,000 URLs,⁴² an average of 980 URLs a day. All told, five years after the enforcement of the act, criminal courts have authorized a total 317 orders preventing access to 102,191 URLs.⁴³

Thousands of these were blacklisted under the emergency declaration in effect from April to December 2010, when an extrajudicial mechanism granted top security officials unilateral powers to block websites.⁴⁴ While international news websites and human rights groups remained accessible, a number of domestic websites supporting the opposition red-shirt movement were blocked, as were less partisan online news outlets or human rights groups, such as Freedom Against Censorship Thailand, the online newspaper *Prachatai*, the Political Prisoners in Thailand blog, and *Asia Sentinel*.⁴⁵ Although this extrajudicial procedure was abolished with the end of the state of emergency, the censorship system in Thailand continues to lack transparency and accountability.⁴⁶

Hopes that the Shinawatra would loosen restrictions were dashed when Chalerm Yoobamrung vowed to curb *lèse-majesté* content a month after taking office, demonstrating the deeply-entrenched political resistance to reforming the law, even under a new administration.⁴⁷

While some sites blocked in 2010 are now accessible again,⁴⁸ others—including *Prachatai* and *Asia Sentinel*—remain at least partially blocked.⁴⁹ However, more are being added to the blacklist. The number of court orders authorizing website blocks rose in 2012, when courts granted 161 orders to block almost 21,000 URLs.⁵⁰ These included 5,000 URLs blocked between December and March for containing content critical of the royal family, according to police.⁵¹ This represents a

⁴⁰ OpenNet Initiative, “Country Profile: Thailand,” May 9, 2007, <http://opennet.net/research/profiles/thailand>.

⁴¹ Freedom Against Censorship Thailand, “Thai Website Censorship Jumps by More Than 500 percent Since Coup!” news release, January 1, 2007, <http://bit.ly/15BTWUd>.

⁴² Sawatree Suksri, Siriphon Kusonsinwut, and Orapin Yingyongpathana, *Impact of the Computer-related Crime Act 2007 and State Policies on the Right to Freedom of Expression* [in Thai and English] (Bangkok: Internet Dialogue on Law Reform (iLaw Project), 2012), 455. http://www.boell-southeastasia.org/downloads/computercrime_publication_thai.pdf.

⁴³ iLaw, “Statistics of Website Censorship in Thailand 2007 - 2012,” <http://bit.ly/13s5zHY>.

⁴⁴ C.J. Hinke, “Thailand Now Blocking 277,610 Websites,” *Global Voices Advocacy*, November 8, 2010, <http://advocacy.globalvoicesonline.org/2010/11/08/thailand-now-blocking-256110-websites/>

⁴⁵ Pavin Chachavalpongpun, “Thailand’s Massive Internet Censorship,” *Asia Sentinel*, July 22, 2010, http://asiacentinel.com/index.php?option=com_content&task=view&id=2601&Itemid=164.

⁴⁶ iLaw researchers collecting details of blocked websites found many government agencies unable or unwilling to provide data.

⁴⁷ “Chalerm Warns Lèse-Majesté Websites,” *Bangkok Post*, August 26, 2011,

<http://www.bangkokpost.com/news/politics/253608/chalerm-to-curb-lese-majeste-websites>. Joshua Kurlantzick, “Is Thailand Regressing on Lèse-Majesté?” *Asia Unbound* (blog), Council on Foreign Relations, September 12, 2011,

<http://blogs.cfr.org/asia/2011/09/12/is-thailand-regressing-on-lese-majeste/>

⁴⁸ FACT and the Political Prisoners in Thailand websites are now available, as are websites related to the red-shirt movement as a key constituency of the ruling Pheu Thai party.

⁴⁹ Freedom House tests on *Prachatai* and *Asia Sentinel* indicated that the sites loaded more slowly than others and that some pages were inaccessible, with the user redirected to a message stating that it had been blocked by the MICT, though other pages were available.

⁵⁰ iLaw, “Statistics of Website Censorship.”

⁵¹ “Thailand Blocks 5,000 ‘Royal Insult’ Web Pages,” *Agence France-Press*, May 14, 2012, <http://bit.ly/15BTYf0>.

marked increase over 2011, when a mere 33 orders relating to 5,000 URLs were approved, and was more than the sum of court orders authorized in 2009 and 2010 together, which amounted to 142.⁵² Despite this frenzy of activity, the number of individual sites affected by each order has actually declined, since the total 26,000 URLs censored in 2011 and 2012 under Prime Minister Shinawatra are considerably fewer than the number affected by orders placed during 2009 and 2010 under former Prime Minister Abhisit Vejjajiva, which was a period of significant political upheaval (28,705 and 45,357 URLs respectively).⁵³

Thai courts are now much more likely to censor political opinion than pornography or other illegal content. Since 2007 criminal courts have authorized 219 orders preventing access to 77,491 URLs containing pictures and contents against *lèse-majesté* law or article 112 of the criminal code,⁵⁴ compared to 76 orders censoring 23,456 URLs for pornographic content.⁵⁵

Website blocks are frequently excessive. A criminal court blocked the URL for legal website *Nitirat* based on the national-security related CCA article 20 for publishing the “First Declaration of the People’s Party”—a historical treatise advocating a constitutional monarchy in Thailand⁵⁶—even though it was available on several other uncensored websites.

In addition to blocking, the government employs administrative measures and political pressure to limit the spread of online information, especially on social media. Anecdotally, internet freedom activists report that before the 2007 Computer-related Crime Act, the government would approach service providers to cooperate in website censorship. Even after that process was formalized, the spirit of collaboration lingers, and some content is restricted without the need for a court order. The citizen journalist website *Thaiflood*—which hundreds of thousands of Thais were following for updates after 2011 floods—complained that the official relief agency sought the right to screen and potentially censor its content before publication.⁵⁷

Censors also request assistance from international providers. In 2011, journalists reported the MICT had asked Facebook to censor over 90,000 URLs suspected of violating *lèse-majesté* laws,⁵⁸ and that the company had removed 10,000 URLs and 50 user accounts. Facebook did not confirm this account in published reports.⁵⁹ Google reported that the Thai government—under two prime

⁵² iLaw, “Statistics of Website Censorship.”

⁵³ iLaw, “Statistics of Website Censorship.”

⁵⁴ Section 112: “Whoever, defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent, shall be punished with imprisonment of three to fifteen years.”

⁵⁵ iLaw, “Statistics of Website Censorship.”

⁵⁶ International Network of Engaged Buddhists, “How to Achieve our Democracy”, accessed February 2013, <http://www.inebnetwork.org/news-and-media/6-articles/397-how-to-achieve-our-democracy>; “MICT Blocks Nitirat Page on 1st Declaration of the People’s Party,” *Prachatai*, December 15, 2013, <http://www.prachatai.com/english/node/3456>.

⁵⁷ Committee to Protect Journalists, “Thailand Tries to Censor Site Devoted to Flood News,” news alert, October 25, 2011, <http://cpj.org/2011/10/thailand-tries-to-censor-site-devoted-to-flood-new.php>.

⁵⁸ Freedom Against Censorship Thailand, “Thailand blocks 96,000 Facebook pages - Bangkok Pundit” news release, December 28, 2011, <http://facthai.wordpress.com/2011/12/28/thailand-blocks-96000-facebook-pages-bangkok-pundit/>.

⁵⁹ Bangkok Pundit, “Thailand: Is a Lèse-Majesté Crackdown Around the Corner? UPDATE: ICT Asks FB to Block Thousands of Sites,” *Asian Correspondent*, November 25, 2011, <http://asiancorrespondent.com/70492/is-a-lese-majeste-crackdown-around-the-corner/>; “MICT has Requested Facebook to Delete Over 10,000 Pages Offensive to the Monarchy,” *Prachatai*, November 24, 2011, <http://www.prachatai.com/english/node/2913>.

ministers—sent six requests between January and December 2011 to remove a total of 374 clips from its YouTube video-sharing platform for allegedly insulting the monarchy—all without a court order. Google largely complied, restricting Thai users from accessing 80 percent of them.⁶⁰ Google reported no requests between June and December 2012, though it complied with two to delete 14 items on YouTube for criticizing the government in the first half of the year.⁶¹ And the Thai government was quick to welcome the microblogging service Twitter’s new feature enabling country-specific censorship of tweets in 2012, though it is not clear if the feature has been implemented.⁶²

Proactive state manipulation of online discussion happens occasionally but has not had a significant impact on online discourse. More prevalent is the use of volunteers to scrutinize suspicious websites and report their findings to the MICT. Ministry hotlines inviting users to report offensive websites were established in 2010, along with an equivalent Facebook group.⁶³ A joint MICT and ministry of justice “cyber scout” project to train students as web monitors was inaugurated the same year;⁶⁴ by 2011, several dozen were patrolling forums and social networks—without identifying themselves as working with the government—to warn users posting *lèse-majesté* content report them if they refused to delete it.⁶⁵ Such manipulation was less noticeable in 2012 and 2013, suggesting the 2011 spike may have been tied to the elections.

Not all such measures are government-sponsored. A network of users calling themselves the “Social Sanction” group has launched online campaigns to vilify individuals who express views deemed disrespectful of the monarchy, sometimes sparking official investigations of the targeted user.⁶⁶ Other internet users have launched their own countermeasures against “Social Sanction” and similar groups, posting online the personal information of individuals they believe belong to such communities.⁶⁷

These measures, along with prosecutions and other violations of internet users’ rights in recent years, has a chilling effect, and many people engage in self-censorship when communicating online, even among friends within a closed network. Official statements have encouraged this trend. In

⁶⁰ Google, “Thailand; “Removals,”” *Transparency Report*, January to June 2011 and July to December 2011, <http://www.google.com/transparencyreport/removals/government/TH/>.

⁶¹ Google, “Thailand; “Removals,”” *Transparency Report*, July to December 2012, <http://www.google.com/transparencyreport/removals/government/TH/>.

⁶² Jon Russel, “Thailand is the World’s First Government to Endorse Twitter’s Censorship Feature,” *The Next Web*, January 30, 2012, <http://tnw.co/xmXzx9>.

⁶³ Reporting Association of Thailand Facebook page, <https://www.facebook.com/reportthailand>. As of August 2013, the page had over 25,000 “likes.”

⁶⁴ Mong Palatino, “Cyber Scout: Thailand’s Internet Police?,” *Global Voices*, December 24, 2010, <http://globalvoicesonline.org/2010/12/24/cyber-scout-thailandpercentE2percent80percent99s-internet-police/>.

⁶⁵ Daniel Rook, “Thai ‘Cyber Scouts’ Patrol Web for Royal Insults,” *Agence France-Presse*, May 10, 2011, <http://bit.ly/jlUKfl>.

⁶⁶ Sawatree Suksri, Siriphon Kusonsinwut, and Orapin Yingyongpathana, *Situational Report on Control and Censorship of Online Media, Through the Use of Laws and the Imposition of Thai State Policies* (Bangkok: iLaw Project, 2010), 14, http://www.boell-southeastasia.org/downloads/ilaw_report_EN.pdf

⁶⁷ Thai Netizen Network, *Thailand Internet Freedom and Online Culture Report 2011* (Bangkok: Thai Netizen Network 2012): 54-76.

2011, the ICT minister warned users that “liking” lèse-majesté content on Facebook could result in prosecution for “indirectly distributing inappropriate content” under the CCA.⁶⁸

Online activists have proved resilient and creative in countering limits on content. Circumvention software to access blocked sites is readily available online, and content producers often republish information on alternate sites. The Thai Netizen Network advocacy group, which defends users’ rights to access, free expression, and privacy, was founded in 2009.⁶⁹

Despite constraints surrounding royal institutions, many political, social, and human rights issues are freely and passionately debated online in Thailand. Political parties mobilize supporters via ICT platforms, like a November 2012 ice-cream eating flash mob organized a red-shirt activist in protest against royalist Boonlert Kaewprasit. News reports had quoted Boonlert, a former general, advocating a five-year political “freeze,” substituting military leadership for democratic rule.⁷⁰ Both red- and yellow-shirt movements used social media to organize offline actions in the run-up to 2011 elections, contributing to an opposition victory which observers considered free and fair. Since then, media experts say government or corporate advertisements are distributed to online news outlets across the political spectrum, where before the partisan allocation of resources threatened their financial stability and the diversity of views available to internet users; some red-shirt supporters created their own advertising market.

Meanwhile, advanced web applications such as YouTube, Facebook, Twitter, and international blog-hosting services like Blogger are popular and freely available, though individual pages or videos may be blocked. One 2011 study reported a huge 85 percent of Thai internet users visiting a social media website at least once a week.⁷¹ Such sites have become important spaces for political expression and key channels for disseminating news, information, and demands for accountability. In December 2012, Facebook users prompted an airline to investigate one of its stewardesses who vented on her personal account about a passenger’s political affiliation.⁷²

Social media has even facilitated public discussion of lèse-majesté provisions. In the past year, a “Free Somyot” campaign was carried out on behalf of an editor imprisoned under the law,⁷³ and a Facebook group organized by academic Suda Rangkupan inspired some politicians to draft a bill to pardon political prisoners, including some convicted of lèse-majesté.⁷⁴ The Campaign Committee

⁶⁸ Hana Stewart-Smith, “Thai Facebook Users Warned Over Anti-Monarchy ‘Likes,’” *ZDNet*, November 26, 2011, <http://www.zdnet.com/blog/asia/thai-facebook-users-warned-over-anti-monarchy-likes/286>.

⁶⁹ Thai Netizen Network, accessed July 2013, <https://thainetizen.org>.

⁷⁰ “Ice-cream Protest Mocks Boonlert,” *Bangkok Post*, November 16, 2012, <http://www.bangkokpost.com/lite/news/321636/ice-cream-protest-mocks-pitak-siam>.

⁷¹ Simon Kemp, “Social Digital and Mobile in Thailand,” *we are social* (blog), January 3, 2012, <http://wearesocial.net/blog/2012/01/social-digital-mobile-thailand/>.

⁷² “Cathay Pacific Fires Flight Attendant in Paetongtarn Case,” *The Nation*, December 4, 2012, <http://www.nationmultimedia.com/politics/Cathay-Pacific-fires-flight-attendant-in-Paetongta-30195555.html>

⁷³ Free Somyot Facebook page, accessed July 2013, <https://www.facebook.com/pages/Free-Somyot/122999694453000>; Free Somyot Twitter page, accessed July 2013, <https://twitter.com/freesomyottrial>. See also, Atapoom Ongkulna and Pimnara Pradubwit, “Rally Over ‘Political Prisoners,’” *The Nation* (Bangkok), January 29, 2013, <http://www.nationmultimedia.com/politics/Rally-over-political-prisoners-30198912.html>.

⁷⁴ Atapoom Ongkulna and Pimnara Pradubwit, “Rally Over ‘Political Prisoners,’” <http://www.bangkokpost.com/news/politics/337297/critics-slam-blanket-amnesty-bill>.

for the Amendment of Article 112, a coalition of academics and civil society groups, attracted 30,000 signatures to a petition demanding *lèse-majesté* reforms, such as reducing punishments for violations and enabling only the king's private secretary to initiate charges.⁷⁵ Parliament rejected the petition on technical grounds, but the effort prompted an unprecedented level of coverage in the traditional media.

The government is also embracing social networks to promote policy. Top leaders update the public frequently on Facebook, especially during election campaigns. In March 2013 during the election of the governor of Bangkok, candidates used Facebook and Twitter alongside billboards and speeches, though digital tools do not yet have the reach of traditional media, particularly in rural areas.⁷⁶

VIOLATIONS OF USER RIGHTS

Under Yingluck Shinawatra, legal harassment of internet users under *lèse-majesté* provisions and the CCA has continued at the same rate as before the 2011 election, if not worsened. The most notorious conviction of 2012 involved Chiranuch Premchaiporn, the director and administrator of *Prachatai*, who was given a suspended jail term for failing to delete user comments in 2008. A tragic death highlighted the use of these charges to imprison citizens without known political connections, often following questionable legal proceedings. Ampol Tangnopakul died in May, just months into a 20-year sentence he was serving for allegedly sending anti-royal SMS messages. The court had rejected the elderly cancer-sufferer's defense that he couldn't use a mobile phone, along with multiple applications for bail and a medical appeal. Since a cabinet directive was implemented in May 2012, CCA investigations fall under the purview of the Department of Special Investigations who can intercept electronic communications without a court order.

The Constitution of the Kingdom of Thailand 2007, which replaced an interim charter imposed by the military government after the 2006 coup, guarantees freedom of expression in chapter three, section 45. However, other laws have been used to curtail free expression, including the Internal Security Act of 2007, the Emergency Decree on Public Administration in Emergency Situations 2005, and especially the 2007 CCA, which groups broad content violations with criminal activities like hacking, e-mail phishing, uploading personal content without consent, and posting obscene material. A range of civil society groups and scholars oppose the CCA for infringing on users' rights to privacy, information, and freedom of expression,⁷⁷ and allowing the prosecution of content providers or intermediaries—such as webmasters, administrators, and managers—accused of

⁷⁵ Under the constitution, lawmakers must consider citizen-initiated legislative changes if they receive at least 10,000 signatures. "Campaign Committee for the Amendment of Article 112" [in Thai], accessed July 2013, <http://www.ccaa112.org/>; Campaign Committee for the Amendment of Article 112 Facebook page, accessed July 2013, <https://www.facebook.com/ccaa112>.

⁷⁶ Jon Russell, "How Influential is Social Media in Thailand's Election?," *Asian Correspondent*, June 10, 2011, <http://asiancorrespondent.com/56997/how-influential-is-social-media-in-thailands-election/>.

⁷⁷ Sarinee Achavanuntakul, "Danger! Computer Crimes Act" [in Thai], *Fringer Blog*, July 18, 2007, <http://www.fringer.org/?p=259>; "Freedom of Expression (Still) Under Attack," *Political Prisoners of Thailand* (blog), June 12, 2012, <https://politicalprisonersofthailand.wordpress.com/2012/06/12/freedom-of-expression-still-under-attack/>.

posting or allowing the dissemination of content considered harmful to national security or public order.⁷⁸ The executive authorities are left to decide what amounts to a violation under these vaguely defined terms, and criminal courts make the final judgments.⁷⁹ In addition, harsh defamation and *lèse-majesté* provisions in the penal code that are generally applied to online expression, as well as traditional media, assign penalties of up to 15 years in prison for criticism of the king, the royal family, or Buddhism.⁸⁰ In 2010, 478 *lèse-majesté* cases were filed under Article 112.⁸¹

Thai authorities persistently pursue criminal prosecutions relating to online activity. A total of 325 defendants were charged under the CCA between 2007 and 2011.⁸² Among those, only 19 percent involved data and computer crimes; 66 percent stemmed from content violations under articles 14-16 of the act. The nature of the charges in a remaining 48 cases is unclear.⁸³ Of the cases involving content, 100 were defamation charges and 46 *lèse-majesté* violations; only 31 were for pornography.⁸⁴ These prosecutions have drawn local and international condemnation because of the harsh pre-trial treatment of detainees, the punishments imposed, and the judges' reliance on questionable evidence. Yingluck Shinawatra's administration, instead of checking this trend, has returned guilty verdicts in cases inherited from the previous government.

On May 31, 2012, a court sentenced *Prachatai's* Chiranuch Premchaiporn to eight months in jail and a THB 20,000 (\$673) fine for failing to delete reader comments in one of the most high-profile of these verdicts. While Thai authorities have prosecuted intermediaries for failing to delete content before,⁸⁵ Chiranuch—who the media sometimes refer to by her nickname, Jiew—was among first defendants prosecuted for computer crimes, the first accused solely on the basis of third-party content, and, as a 44-year-old journalist and human rights activist, represented a largely apolitical target.⁸⁶ First arrested in a raid on the site's premises in March 2009, Chiranuch was charged because the site's moderators—who, like administrators around the world, rely on the community to report offensive content posted to their dynamic discussion forums—were delinquent in deleting ten10 anti-royal remarks, although they removed them all within 20 days.⁸⁷

⁷⁸ Sections 14(1), 14(3), and 14(5) and Article 15 of the 2007 Computer Crimes Act pertain to crimes that “involve import to a computer system of forged computer data, either in whole or in part, or false computer data, in a manner that is likely to cause damage to a third party or the public; that involve import to a computer system of any computer data related to an offense against the kingdom’s security under the criminal code; that involve the dissemination or forwarding of computer data already known to be computer data [which are illegal].” The act states that “any service provider intentionally supporting or consenting to an offense...within a computer system under their control shall be subject to the same penalty as that imposed upon a person committing an offense.” See, “An unofficial translation of the Computer Crime Act,” *Prachatai*, July 24, 2007, <http://www.prachatai.com/english/node/117>.

⁷⁹ Suksri et al, *Impact of the Computer-related Crime Act*, 520.

⁸⁰ Karin Deutsch Karlekar, ed., “Thailand,” in *Freedom of the Press 2010* (New York: Freedom House, 2010), <http://www.freedomhouse.org/template.cfm?page=251&year=2010>.

⁸¹ “Freedom of Expression (Still) Under Attack,” *Political Prisoners of Thailand*.

⁸² Suksri et al, *Impact of the Computer-related Crime Act*, 467. Figures for 2012 are not yet available.

⁸³ Suksri et al, *Impact of the Computer-related Crime Act*.

⁸⁴ Suksri et al, *Impact of the Computer-related Crime Act*.

⁸⁵ “Nor Por Chor USA Web Designer Sentenced to 13 Years in Jail,” *Prachatai*, March 16, 2011, <http://www.prachatai.com/english/node/2366>.

⁸⁶ James Hookway, “Conviction in Thailand Worries Web Users,” *Wall Street Journal*, May 30, 2012, <http://online.wsj.com/article/SB10001424052702303674004577435373324265632.html>.

⁸⁷ Danny O’Brien, “Computer Crime Laws Belie Thai Claim to Modern Society,” *CPJ Internet Channel*, May 31, 2012,

Police arrested her again in September 2010 on fresh counts of “defaming the royal family,” violating Articles 14 and 15 of the CCA, and Article 112 of the penal code, in relation to the same handful of comments. Perhaps because of local and international attention to the case, Chiranuch, unlike many defendants in *lèse-majesté* cases, was granted bail of THB 200,000 (\$6,730),⁸⁸ and her suspended sentence was far less than the maximum, which would not have been allowed to exceed 20 years even if she had been convicted on all counts, though some of her supporters mistakenly believed she was facing as many as 80 years behind bars.⁸⁹ In an ironic acknowledgement that Chiranuch herself had not committed a crime, the sentence was suspended, and she did not serve time.⁹⁰ The judge described the system he was perpetuating as “unfair.”⁹¹

CCA Article 15 states that administrators who fail to stop internet users from posting banned content are “supporting or consenting to” the post and face the same penalties as if they had created it themselves.⁹² This serves as a discouragement to service providers, since the constant monitoring it demands from website owners is time consuming and inefficient. Moreover, the law fails to establish time frame for service providers to delete offending content. The court’s failure to clarify this omission in its interpretation of the law in Chiranuch’s case is particularly problematic, and many observers in the legal, IT, and free expression sectors fear the sentence, though suspended, could increase self-censorship by media outlets and service providers in Thailand for years to come. That fear was compounded by the January 2013 sentencing of Somyot Prueksakasemsuk, editor of the *Voice of Taksin* print magazine, to 10 years imprisonment for *lèse-majesté* involving two articles he published, but did not author;⁹³ the conviction followed 20 months in detention—despite 13 attempts to obtain bail—since Somyot’s 2010 arrest while campaigning to overturn *lèse-majesté* laws.⁹⁴

Other recent CCA and *lèse-majesté* prosecutions reveal further concerning implications about the wording of the laws, and the courts’ harsh interpretation of them.

- Though records compiled by lawyers and free expression groups are incomplete, most of the defendants appear to be ordinary Thais like Abhinya Sawatvarakorn, a 19-year-old university student nicknamed Kantoop, rather than well-known activists or government opponents. In February 2012, Kantoop became the youngest person to appear before a

<https://cpj.org/internet/2012/05/computer-crime-laws-belie-thailands-claim-to-modern.php>.

⁸⁸ Reporters Without Borders, “Prachatai Editor Released on Bail,” September 24, 2010, <http://en.rsf.org/thailand-news-website-editor-arrested-on-24-09-2010,38440.html>.

⁸⁹ Political Prisoners in Thailand, “Chiranuch Premchaiporn,” accessed July 2013, <http://thaipoliticalprisoners.wordpress.com/decidedcases/chiranuch-premchaiporn/>.

⁹⁰ Suchit Leesa-nguansuk, “Don’t Shoot the Messenger,” *Bangkok Post*, June 27, 2012, <http://m.bangkokpost.com/business/299889>.

⁹¹ O’Brien, “Computer Crime Laws Belie Thai Claim to Modern Society.”

⁹² Section 15: “Any service provider intentionally supporting or consenting to an offence under Section 14 within a computer system under their control shall be subject to the same penalty as that imposed upon a person committing an offence under Section 14.”

⁹³ Asian Human Rights Commission, “THAILAND: Verdict In Case Of Human Rights Defender Is A Serious Threat To Freedom Of Expression”, January 24, 2013, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-027-2013>.

⁹⁴ iLaw, “Case 61” [in Thai], accessed July 2013, <http://freedom.ilaw.or.th/case/61>.

judge on lèse-majesté charges for a comment she had posted to Facebook in 2009.⁹⁵ She had yet to be prosecuted in May 2013, but at least one news report said she was forced to change universities after one institution refused admission in connection with the allegations.⁹⁶

- Judges hearing the cases often display a limited understanding of the technical dimensions of digital communication, and convict users even when the evidence against them is inconclusive. Website designer Thanthawut Thaweewarodomkul was sentenced to 13 years in prison in 2011 despite discrepancies in the electronic evidence tying him to the offending content.⁹⁷
- Convictions for lèse-majesté carry significant social stigma that affects their treatment in prison. Thanthawut and others report guards and fellow prisoners targeting them for abuse in jail.⁹⁸
- Professional lawyers and IT experts can be reluctant to contribute to the defense of lèse-majesté and CCA crimes on grounds that it might hurt their careers. In November 2011, 61-year-old Ampol Tangnopakul was sentenced to 20 years in prison for allegedly sending text messages insulting the monarchy to a high-ranking government official.⁹⁹ The prosecutor failed to prove he had sent the offending content, and Ampol—who traditional media dubbed “Uncle SMS”¹⁰⁰—said he did not even know how to text. Yet his legal team could not find an expert willing to testify that IMEI numbers, which identify mobile handsets, can be counterfeited. The court denied eight separate applications for bail running up to Ampol’s trial,¹⁰¹ and he died in jail of liver cancer on May 8, 2012, three days after his application for appeal on medical grounds was rejected.¹⁰²
- Companies and individuals have also used the CCA and penal code provisions from personal motives.¹⁰³ Police interrogated two suspects reported collecting or disseminating

⁹⁵ Nirmal Ghosh, “Thai Divide Growing Over Lèse-Majesté Law,” *Jakarta Globe*, January 25, 2012, <http://www.thejakartaglobe.com/international/thai-divide-growing-over-lese-majeste-law/493508>.

Pavin Chachavalpongpun, “Kantooop and lese-majeste,” *New Mandala* (blog), February 3, 2012, <http://asiapacific.anu.edu.au/newmandala/2012/02/03/kantooop-and-lese-majeste/>.

⁹⁶ iLaw, “Case 236” [in Thai], accessed July 2013, <http://freedom.ilaw.or.th/case/236>; Ghosh, “Thai Divide Growing Over Lèse-Majesté Law.”

⁹⁷ “Nor Por Chor USA Web Designer Sentenced to 13 Years in Jail,” *Prachatai*.

⁹⁸ Apilaporn Vechakij, “Thai Royal Insult Inmates ‘Pariahs’ in Prison,” *Agence France-Presse*, August 23, 2012, http://www.google.com/hostednews/afp/article/ALeqM5jG1_z8WM3tNbwhxw5ceq177gIENA.

⁹⁹ Asian Human Rights Commission, “THAILAND: Twenty Years in Prison for Four SMS Messages,” November 24, 2011, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-180-2011>.

¹⁰⁰ Ampol’s case received more traditional media coverage than most lese majeste trials. iLaw, “Case 21” [in Thai], accessed July 2013, <http://freedom.ilaw.or.th/case/21>.

¹⁰¹ iLaw, “Case 21.”

¹⁰² “Thailand’s Lèse-Majesté Laws :An Inconvenient Death,” *Economist*, May 12, 2012, <http://www.economist.com/node/21554585>

¹⁰³ Thai Netizen Network, “Thailand: Cybercrime Acts vs. the Right to Freedom of Expression,” June 2, 2011, <https://thainetizen.org/docs/thailand-cybercrime-acts-vs-the-right-to-freedom-of-expression/>.

information detrimental to the monarchy in 2011.¹⁰⁴ Another 2011 case resulted in charges of defamation and importing “false computer data” against labor union activist Songkram Chimcherd over e-mails regarding a dispute with a company over unpaid worker compensation; a court dismissed the case in May 2012 because the prosecutor could not prove who sent the e-mail.¹⁰⁵

- So strong is the law’s emphasis on proof of innocence that only two computer crimes cases involving lèse-majesté law have been dismissed on these grounds since the 2006 coup. One involved Surapak Phuchaisaeng,¹⁰⁶ who was arrested in September 2010 for allegedly creating a Facebook page parodying a 1950 speech by King Bhumiphol Adulyadej. The court dismissed the case on October 31, 2012, yet Surapak was offered no compensation or redress for the two years he was held without bail.¹⁰⁷
- In February 2012, Human Rights Watch voiced concerns over Thai courts’ “politically motivated” refusal to grant bail to lèse-majesté defendants, particularly those affiliated with the red-shirt movement.¹⁰⁸
- Lengthy pre-trial detentions without bail also deplete defendants’ resources to fight unfair convictions. Joe Gordon (also known as Lerpong Wichaikhammat), a dual Thai-U.S. citizen,¹⁰⁹ was sentenced in December 2011 to two and a half years in prison for posting excerpts from the banned book *The King Never Smiles* on his blog while in the United States.¹¹⁰ He pled guilty after bail was denied nine times over 84 days of pretrial detention,¹¹¹ and was eventually pardoned and released in July 2012.¹¹² Legal experts believe he lacked effective legal counsel and confessed in hopes of early release, but the verdict cannot be overturned, and Gordon now lives permanently in the United States.
- Prosecutors, aware of international condemnation of Thai lèse-majesté laws, can prosecute cases under other charges, though the impetus for the investigation clearly stems from anti-royal content. On December 25, 2012, internet user Katha Pachariyaphong was sentenced to four years in prison for translating a Bloomberg news agency article about the health of

¹⁰⁴ “Recent Crackdown on Cyber Dissidents,” *Prachatai*, March 10, 2012, <http://www.prachatai.com/english/node/3096>.

¹⁰⁵ iLaw, “Case 177” [in Thai], accessed July 2013, <http://freedom.ilaw.or.th/en/case/177#detail>.

¹⁰⁶ iLaw, “Case 176” [in Thai], accessed July 2013, <http://freedom.ilaw.or.th/case/176>.

¹⁰⁷ “Netizen Freed for Lack of Evidence in Lèse-Majesté Case,” *Prachatai*, November 3, 2012, <http://www.prachatai.com/english/node/3418>

¹⁰⁸ Human Rights Watch, “Thailand: Courts Denying Bail in Lèse-Majesté Cases,” February 23, 2012, <http://www.hrw.org/news/2012/02/24/thailand-courts-denying-bail-lese-majeste-cases>.

¹⁰⁹ Human Rights Watch, “Thailand: Courts Denying Bail.”

¹¹⁰ “US Citizen Jailed for Insulting Thai Monarchy,” Reuters, December 8, 2011, <http://af.reuters.com/article/worldNews/idAFTRE7B709A20111208>.

¹¹¹ Kocho Olarm and Jethro Mullen, “Thai-American Jailed for Insulting Monarchy Receives Royal Pardon,” CNN, July 11, 2012, <http://edition.cnn.com/2012/07/11/world/asia/thailand-american-pardon/index.html>.

¹¹² “Thai King Pardons US Man Jailed for Royal Insult,” BBC News, July 11, 2012, <http://www.bbc.co.uk/news/world-asia-18792430>.

King Bhumiphol Adulyadej and posting it to a web forum.¹¹³ He was charged with spreading rumors under CCA article 14(2). Bloomberg, the original publisher, was not mentioned by the plaintiff.

The scale of ICT surveillance in lèse-majesté and other cases in Thailand is unclear, although the CCA requires ISPs and webmasters to retain data logs for up to 90 days and turn data over to investigators upon request. One police officer reported needing up to three days to trace the source of offensive online comments in 2009.¹¹⁴ Since then, the government has strengthened its capacity to intercept private communications. A cabinet directive effective since its publication in the Royal Gazette in May 2012 placed several types of cases, including violations of the CCA, under the jurisdiction of the Department of Special Investigation (DSI).¹¹⁵ Under rules regulating DSI operations, intercepting internet communications and collecting personal data in CCA cases no longer needs a court order.¹¹⁶ Even in cases where court orders are still required, Thai judges—as with censorship decisions—typically approve such requests without serious deliberation. And Chalerm Yoobamrung’s THB 400 million (\$13.46 million) “lawful interception” system proposed in December 2011, which would have monitoring and content filtering applications, could potentially bypass the need to go through ISP staff altogether, with or without the court’s sanction, by allowing law enforcement agencies direct access to user data files.¹¹⁷ Aware of this trend, some internet users and political activists already exercise caution when communicating online, and employ additional security and privacy tools to evade surveillance.

Customers at cybercafes must present identification cards, though smaller businesses do not always comply with this rule. Mobile phone users are required to register their real names and national ID with their carrier upon purchasing a SIM card, whether prepaid or for a long-term subscription. Although the rule is less strictly enforced for prepaid SIM cards, those who do not register are unable to receive certain services, including roaming or mobile phone reception, in the southern provinces of Pattani, Yala, and Narathiwat.¹¹⁸

Internet users who post controversial content can face harassment outside the legal system, including physical violence. In February 2012, two unidentified men on motorbikes assaulted Worachet Pakeerut, one of several academics leading a petition campaign to amend lèse-majesté provisions. The Asian Human Rights Commission advocacy group said the attack represented an “ominous escalation of the dangers” faced by those promoting critical discussion of Article 112.¹¹⁹

¹¹³ “Former Stock Broker Gets 4 Years for Posting Two Webboard Comments in 2009,” *Prachatai*, December 12, 2012, <http://www.prachatai.com/english/node/3468>; “Translation Posted After SET Fell,” *Prachatai*, November 3, 2009, <http://www.prachatai3.info/english/node/1474>.

¹¹⁴ Freedom House interview with a senior police officer specializing in ICT crimes who requested anonymity, March, 2009.

¹¹⁵ “Cabinet Approves Draft Directive for Setting Guidelines of DSI Cases,” *The Nation* (Bangkok), December 19, 2011, <http://www.nationmultimedia.com/breakingnews/Cabinet-approves-draft-directive-for-setting-guide-30172173.html>.

¹¹⁶ “DSI Added Special Case for 9 Offenses” [in Thai], VoiceTV, May 25, 2011, <http://news.voicetv.co.th/thailand/40014.html>.

¹¹⁷ “Web Censor System Hits Protest Firewall,” *Bangkok Post*, December 15, 2011, <http://www.bangkokpost.com/news/local/270812/web-censor-system-hits-protest-firewall>.

¹¹⁸ Happy, “Register SIM Card,” accessed January 2013, <http://bit.ly/1fRL5ji>.

¹¹⁹ “Thailand’s Struggle to Face its Future,” *Asia Sentinel*, April 27, 2012, http://www.asiasentinel.com/index.php?option=com_content&task=view&id=4459&Itemid=189.

There have been sporadic reports of hacking attacks on online news outlets. Prachatai repeatedly faced denial-of-service (DoS) attacks during periods of political turmoil in 2009 and 2010 before being blocked by the authorities. The attacks forced the outlet to change servers and set aside large sums to pay for extra bandwidth. A web administrator for the news outlet reported in February 2012 that the site continued to face attacks but was able to stay online thanks to the bandwidth upgrade.

Hackers are also increasingly targeting government websites, which have developed a reputation for inadequate security. In September 2012, police arrested a 16-year-old for hacking the ministry of education website and altering content in protest against strict school regulations.¹²⁰ Attackers accessed a Thai navy web forum and published user names and passwords online in December 2012.¹²¹ In January 2013, hackers added links to a gambling platform to the ministry of culture's website in order to boost traffic and search engine optimization for the illegal site;¹²² a day later, an apparently separate attack on the same website added an image from a controversial political television drama which broadcasters pulled off the air due to inappropriate content, stimulating public debate about whether authorities had pressured them to censor the show.¹²³

¹²⁰ "Young Student Hacked Ministry of Education Website Surrendering," *Thairath*, September 18, 2012, <http://www.thairath.co.th/content/edu/292058>.

¹²¹ "Web Forum Database of Royal Thai Navy is Hacked," *Blognone*, December 22, 2012, <http://bit.ly/YwxYNB>.

¹²² "Link to Football Bet Found on Website of Ministry of Culture," *Blognone*, 15 January, 2013, <http://www.blognone.com/node/39996>.

¹²³ "Website of Ministry of Culture is Repeatedly Hacked" [in Thai], *Spring News*, 16 January, 2013, <http://news.springnewstv.tv/24030/>.