

New Media for Civil Society and Political Censorship in Thailand

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Introduction

This paper discusses how new media technology provides access to a wide range of civil society organizations and individuals in Thailand. This opening up came about with the proliferation of the Internet and the extension of cable and wireless infrastructure in the urban areas. Community radio, however, must be fought for by citizen groups. The signification of the broad access of these new media demonstrates that an era of openness and freedom of expression is seemingly emerging.

The second part of this paper looks at the tradition of political censorship which is deeply embedded in the political system and within the media industry. The ruling and practise of censorship especially on political expressions are exacerbated by the intensification of political confrontation between the Thai Rak Thai government and various political groups in 2006-2007. Subsequently, the military coup by the Council for Democratic Reform under Constitutional Monarchy (CDRM) and its interim government led by General Surayud Chulanond have forcefully suppress freedom of expression through various means of censorship.

The conflicting trends between the new political forum ushered in by the new media, on the one hand, and the restrictive mode of state censorship, on the other hand, becomes a critical issue whereby the rights and freedom of expressions are seriously implicated. It would seem that the basis on communication rights enshrined in the 1997 Thai Constitution, and the Universal Declaration of Human Rights are intrinsically at stake, if not already impaired.

The new media

This section looks briefly at two vibrant new media, the Internet and community radio. The Internet is popular among the business community, education institution and student, the media and active citizens. It is a medium largely accessed by the educated classes and young people. There are over 8.5 million regular users in 2006. On the contrary, community radio which mushroomed in the provinces since 2000 is an oral medium for rural people and the uneducated classes.

The Internet

Most mainstream newspapers have an on-line version of their papers. Some of the popular articles and columns invite discussion and feedback from their readers. In the

wider landscape there are popular websites such as Pantip (www.pantip.com), Sanook (www.sanook.com) which their political café or web board rapidly surpass other political forum. There are also a small number of alternative sites such as Midnightuniv (www.midnightuniv.org), and on-line press such as Prachatai (www.prachatai.com), among others, which create a kind of ‘*virtual democracy*’ for members of the civil society (Pitch Pongsawat, 2002). Weblog is also becoming highly popular of late. This adds a new dimension to the vibrant electronic public space for civil society (Phansasiri Kularb, 2007). The interactive mode of communication is fast growing and it entertains a wide spectrum of political views as opposed to the private mainstream media and the state electronic media.

After the military coup on 19 September 2006, however, CDRM or Council for Democratic Reform under Constitutional Monarchy abolished the 1997 Constitution, dissolved Parliament and seized all television stations in Bangkok. It abruptly disenfranchised Thai citizens and robbed them of their political and communication rights. The Internet was among the first casualty of censorship since this is the only space available for opposition expressions. The views circulated in the above websites primarily questioned the legitimacy of the coup d’état, or expressed outright dissent towards CDRM.¹ On the streets where tanks patrolled key government and media buildings people come to cheer and give flowers to the soldiers, thanking them for throwing out Thaksin Shinawatra and his elected government. Television and the mainstream print media splash on their front page how the coup was successfully staged. It was ‘*smooth as silk*’ and incurred no violent. The contradiction of the political views in the Internet and the mainstream media is tantamount. The Internet would have been ‘*the silent revolution in the Thai political world*’ as Pitch Pongsawat saw it if these websites, along with some new sites such as www.19Sept.org, www.saturdaynews.org, were not closed down by the Ministry of Information and Communications Technology (MICT).

Censorship of political discussion on the Internet has been deteriorating to the point that in the 2007 ranking of media freedom in Thailand on World Press Freedom Day came down to 127 (among 194 countries) and among the 10 most serious cases lacking freedom of expression (Thai Rath, 5 May, 2007). In an open letter to Mr.

¹ The term ‘Democratic Reform under Constitutional Monarchy’ was interpreted by most Western media that the monarchy supported the coup. Two weeks later CDRM was renamed CNS or the Council for National Security. See more detailed in Pakawadee Veerapasong’s “*Thai coup in the eye of international media*”, 2007.

Koichiro Matsuura, Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in May 2007 CJ Hinke of Freedom Against Censorship Thailand (FACT) expressed his concern on the worsening situation of book and Internet censorship which is against the Universal Declaration of Human Rights (Article 19).

“Thailand is now a country living under a heavy yoke of censorship. More than 1,500 books in many languages are banned here, some officially but far more are self-censored out of fear. Book publishers fear to publish books on any modern political subject. Even Master's degree theses and Doctoral dissertations are censored and their authors tried in criminal courts.

Internet links discussing or selling banned books are blocked by the Thai government in complete secrecy. More than 45,000 websites are currently blocked here. Even political discussions on Web fora are blocked or self-censored so we cannot discuss current affairs or give voice to any dissent or criticism. Our Muslim South has been silenced, our media self-censored.”

(<http://facthai.wordpress.com>)

Censorship is a horrific form of tyranny which the Thai society and the media are experiencing in the time of coup d'état. Wide spread self-censorship is being practised and politicization is exacerbated each day. In April 2007 the Ministry of Information and Communications Technology (MICT) blocked www.YouTube.com, the popular video website, stating that there were video clips offensive to the Thai monarchy. ICT Minister Sitthichai Pokaiyaudom threatened to sue Google unless the company remove the controversial video clips from its website (www.bangkokpost.com, 10 May, 2007). Thai criminal law and press law ban public discussion on the monarchy. In the eye of the authority and the military regime *lèse majesté* or defamation of the King and his family is the most sensitive issue and a taboo for all Thai.

But earlier on during the Thaksin government in 2001-2005 (first term) and 2005-2006 (second term) the media were already heavily politicized. There are media under government control and those strongly oppose to the policies of the Thaksin government. Many journalists, activists, academics were sued for criticizing the Prime Minister or his business empire. Most were charged with libel (Chaiyarit Yonpiem, 2005). However, some were charged with *lèse majesté* although the criticisms were lodged against the Prime Minister for his misbehavior or disrespect of the King. Despite harsh censorship and court cases staunch criticism ravaged the government. On the Internet the anti-Thaksin websites are predominantly business rivals or those who are not part of the Thai Rak Thai business circle such as www.thaiinsider.com. Some of these sites also

broadcast on-line radio which air simultaneously with their low-power radio station such as www.FM9225radio.net, www.managerradio.com. These sites and their radio broadcast continue to be highly influential among listeners and netizens who opposed to Thaksin and his Thai Rak Thai government even after they were ousted by the military coup in September 2006. The most militant anti-Thaksin media is the Manager Group which has under its umbrella the Manager Daily (Thai), Business Day (English), Manager Radio, Manager On-line, ThaiDay.com, AS TV and Manager Monthly, for instance. The owner, Sondhi Limthongkul, is a core member of the People's Alliance for Democracy (PAD) which staged the mass rally that aimed to oust Thaksin in 2006.

After the coup in September, however, the pro-Thaksin groups started many websites to distribute information about Thaksin in order to maintain political support for the Thai Rak Thai Party. These are www.ptvthai.com, www.shinawatradio.com for example. Thaksin himself launched his own website, www.hi-Thaksin.org, to communicate directly with his ex-constituents. But www.manusaya.com was considered the most insidious website of all since its political message is to fight the present regime with information that Thai authority branded as defaming the monarchy and threatening to national security.

Community radio

Community radio is the most popular citizens' media after the Frequency Allocation for Radio, Television and Telecommunications Act was enacted in 2000. Citizen groups in the provinces started their local, low-power radio stations without applying for a licence. Most of these stations produced current affairs, talk and feature programs for local development and cultural identity. They are extremely useful for disaster relief during storm and flood. Nonetheless, the Government and the Public Relations Department felt the new citizens' medium was a threat to the existing media structure for which the state monopolized. Legal, technical and political measures were used to either close down stations or control these independent voices.² The people, on the contrary, refer to their new rights enshrined in Article 40 of the 1997 Constitution that the "*air waves are public resources*". Together with the organic law on Frequency

² This happened during the governments of Prime Minister Chuan Leekpai (Democrat Party) and Prime Minister Thaksin Shinawatra (Thai Rak Thai Party). See a detailed analysis on the struggle for the rights and freedom of community radio in Ubonrat Siriyuvasak, "*A genealogy of media reform in Thailand and its discourses*", 2005.

Allocation (2000) which stipulated that 20% of the frequency must be allocated for community media the people were encouraged to move ahead and create their own channel of communication. This is a historic change from the structure established in the 1930s. In the provinces the rural peasantry could participate in their radio station rather than made into passive audience. These stations also broadcast in many local languages which make them more accessible than state radio or commercial stations. They become a real challenge to the centralization of state power when the community is better informed and gradually being empowered as citizen. But unlike the Internet community radio is an oral medium, a key communication tool, for the lower classes and uneducated masses. The media reform movement spear headed by community radio is seen by the state as a political move from the bottom. Community radio could inform, organize, and transform these people at the community level.

During this scuffle the Government charged that community radio was jeopardizing air traffic control. Several stations were closed down for this reason. In Angthong province a station was sued for criticizing the governor of Angthong province. Its transmitter was seized and the manager was arrested (Hyde Park, 2003). The state stepped in to control it in order to pre-empt broader future political repercussions. The strategic move by the Government was meant to round up community radio station and register them under the Public Relations Department. Hence, turn community radio into part of the state broadcast regime. This is a kind of total control that is much harsher than censorship. It means that the people based radio stations are rid of their independence when they come under the rubric of the Public Relations Department. They would end up being a mouth piece of the state or must compromise if they want to survive. But the majority of community radio resisted the government attempt to chain them.³ As Ruggiero asserts;

“...regaining control of communications at the local level represents a genuine revolution, a grassroots insurgency to advance our basic human freedoms and to place public access to communications at the heart of our everyday lives...”

(Greg Ruggiero, Festival of Resistance Speech, October 12, 1998)

³ By 2005, it is estimated that there are over 2,000 community radio stations. The number of community based station is approximately 200. The rest are set up by local media entrepreneur and politician, or national media corporation and politician.

The confrontation took another turn when several low-power radio stations came into operation in Bangkok in 2004. Local struggle for citizens' media around the country finally emerged in the capital city. A couple of the newly established stations in Bangkok are political voices opposed to the Thaksin government. These so called community radio are engaged in national politics and competing with the mainstream radio stations. In fact, 92.25 FM or "*Democracy Radio*" is broadcasting next to Radio Thailand, 92.50 FM on the dial. The Thai Rak Thai government threatened to close down the station but it resisted with a lot of public support. The station has been the vanguard of the anti-Thaksin movement along with the media in the Manager Group. This new type of radio station is able to provide the space for dissident voices at a time when most mainstream media work in a climate of fear under strict government control. At the same time, they are criticized for their partisan reporting and opinion biases.

Political censorship

Although the citizens and media in Thailand are familiar with the tradition of political censorship and control imposed upon them by the military and the authoritarian government in the 1950s and 1960s. They fight against such draconian control knowing the final consequences would be imprisonment or murder. This generation of die-hard journalists risk their lives to push the limits of state censorship and set an example as the guardian of freedom of speech.⁴ Today the situation of political censorship is equally stringent. Both media law and state political practices continue to censor free expression. Yet the transient nature of politics compels the state and the government to always seeking new tactics of control. This section compares the 2007 Internet Act and 1941 Press Act to understand the *modus operandi* of the Thai state on political censorship. Furthermore, this section will look at the culture of censorship during a democratically elected government of Thaksin Shinawatra compared with the censorship methods of a military regime and the government of General Surayud Chulanond.

The Cyber Crime Act (2007) and the Press Act (1941)

⁴ In 1952, the Newspapers Association of Thailand fought against Plak Pibunsongkram government on pre-censorship. They appealed to the government to lift the 1941 Press Act which suppresses press freedom. The resistance to censorship coincided with the Peace Rebellion or Kabot Santipab which a large number of progressive members of parliament, intellectual, and several journalists were arrested. It is a political move to suppress civil society and political opposition that has a real chilling effect (Wiwat Katithammanit, 1996).

The new Cyber Crime Act or Internet Crime Act will be effective on July 18, 2007. On May 9 the 247-member of the National Legislative Assembly (NLA) passed the bill with a 119 majority against 1 nay vote on its third reading (Supichaya Rakbua, Bangkok Post, 10 May 2007). The military appointed government pushed the new law by saying it hopes the bill will provide an effective legal tool to fight cyber crime, including theft of data and chat room contacts that lead to rape. The law gives officials the power to crackdown on hacking and internet-related crimes. The punishment could be as high as 20-year imprisonment. The law criminalizes against the distribution of false information or pornography because this would cause damage to the economy, society and security of the state. This kind of information is deemed harmful to the moral standard and peaceful existence of the Thai people. Official can seize the server or raid the suspected computer. But as a norm the Internet Service Provider (ISP) must retain a copy of the traffic of all users for 90 days for official inspection. Despite the claim to protect Internet user the real reason behind the speedy passage of this law is on censoring political expression. The Minister of Information and Communications Technology announced that it would revoke censorship Regulation No. 5 proclaimed by CDRM on September 19, 2006 as a trade-off.

Sixty six years ago the rights and freedom of expression is seen as a threat to national security and must be closely monitored and censored. In 1941, the government enacted the Press Act of 1941 in order to control press freedom. Hence, the Press Law came under the jurisdiction of the Police. Newspaper publisher must apply for a licence from the Police Registrar. Pre-censorship is imposed and newspaper might be banned if the publisher resists the order of the official to cease distributing certain information or opinion critical of the government. Official can raid the publishing house and lock up the printing press as an ultimate measure to ban opposition voice. The Press Act of 1941 is still in operation up to now.⁵

The similarity of the Cyber Crime Act and the Press Act is on the mode of thinking regarding the rights and freedom of citizens and the media. The state continues to impose restrictions on freedom of speech six decades on. Although the Internet as a technology permits the free flow of idea and information the legal culture of censorship remains intact. This kind of thinking is unhealthy to a democracy in the making. It

⁵ The Press Council of Thailand proposes a new Press Bill demanding a shift in the mode of press control. The draft calls for a system of publisher registration and lift all censorship measures in the 1941 Press Act. The draft is going through legislative process in the National Legislative Assembly.

already closes off constructive debates necessary for a participatory society. In addition, the media learn to practice self-censorship in a bid to accommodate to legal state control. Readers must read between the lines to draw his/her interpretation from the information available for them. As a result some columnists devise methods of writing such as gossip column, comic or poetry in order to convey some sense of truth.

Another interesting point of comparison is the political context when both laws are promulgated. The Press Act of 1941 was enacted during Plak Pibunsongkram government whose Fascist regime came under Japanese occupation when the Pacific War broke out. The Act is a convenient tool to suppress opposition voices and the underground anti-war movement, the Free Thai Movement, throughout the war and its aftermath. The Cyber Crime Act of 2007, on the other hand, is passed through a non-elected assembly appointed by the coup makers or the CNS. The Act is meant to seal off any criticism of the monarchy and the military. More importantly, it is focused on stamping out the voices of the ousted Prime Minister Thaksin Shinawatra. Both laws came into being during critical times for which political differences and power stakes between rival groups could not be resolved. The right and freedom of political expression is caught and lost in the crossfire.

Censorship under the Thaksin government versus the CNS government

Apart from restrictive media laws which censor and ban dissident voices there are a wide range of direct and indirect forms of media censorship. During the Thaksin Shinawatra government the major forms of censorship is through money politics (Pasuk Phongpaichit and Baker, 2004). Thaksin and his telecommunications and media empire, Shin Corporation, is the dominant business and political power during his premiership in 2001-2006. He strategically acquired several telecommunications and media companies to enlarge his empire and hence, strengthen his political power. ITV television station is a case in point. Thaksin bought ITV station, previously owned by 10 shareholders, for his political end (Thepchai Yong, 2007). But controlling one commercial and two state television stations is insufficient to manipulate public opinion. The key instrument lies with the printed press made up of approximately a dozen daily newspapers. His tactic is to make them obedient by feeding large sum of advertising money and government public relations budget. However, if the press refuses to be orderly and journalists remain critical of the government they then face severe censorship. These include removal of journalists and the programs, defamation court cases involving charges worth several

millions baht, or acquisition such as the case of Matichon and the Bangkok Post (Ubonrat Siriyuvasak, 2006).

Evidently, the Thaksin government rely less on media law but more on the Libel Law in the Criminal Code and Civil Code in its strategy to silence the media. On a day to day basis, the government prefers indirect censorship. It uses political and business power as its carrot and stick game before turning to the legal measure. This create serious problem for the press since they must learn how to deal with the extra-judicial methods of censorship. They blur the line of what could be published and what is off limit. Media law is somehow made meaningless. In a sense, they are weakened by the powerful authority of the government. But, of course, media law is the ultimate legal frame of reference that the government can always fall back on if it wishes to apply any direct censorship on the press.

While the Thaksin government uses money and political power as the means to censor the media the Council for National Security (CNS) uses sheer force. Supatra Bhumiprapas and Pravit Rojanapruk (The Nation, 12 January 2007) criticize Thaksin for tampering with press freedom during his tenure. But they are more critical of the Surayud government under CNS. Using soldiers to control television news room, both state and private stations, becomes a norm. They are dispatched on the night of the coup on 19 September 2006 to prevent Thaksin counter-coup effort. Troops remain at the Nation Channel for weeks after the coup. At ITV station they stay for 3 months.⁶ Over 300 community radio stations in the North are closed down by CNS fearing they might be the political voices of Thaksin. On 30 May 2007, the day the Constitutional Tribunal read the verdict on five political parties accused of electoral fraud, troops are sent to all television stations again. It is axiomatic that freedom dissipates at the barrel of a gun.

On the other hand, the CNS invited the press to join the National Legislative Assembly (NLA) turning the watchdog into powerful authority. The Press Council, the Thai Journalist and Newspaper Association (TJA), and the Thai Broadcast Journalist Association (TBJA) each sent one representative along with 20 other press and artists appointees. The media professional associations also sent 3 representatives to the 100-member Constitutional Convention, and Manit Suksomchit, one of the representatives sits in the inner circle of the 35-member Constitutional Drafting Committee (The National

⁶ ITV is nationalized by CNS in March 2007. The station has not paid the concession in 2005-2006. But the major reason is connected to the sale of Shin Corp to Singapore's Temasek Holding which triggers the downfall of Thaksin.

Press Council of Thailand, Dec 2006-Jan 2007). CNS's cooptation tactic is an effective tool to silence the press. On the other hand, it can be viewed as a kind of mutual power transaction. The press, thereby, duly assist in the legitimization of the military coup and the interim government.

Civil society is confronted with further censorship measures when the interim government initiated an overhaul of all media law. These are the 1941 Press Act, the 1930 Film Act, and the 1954 Broadcasting Act. On the surface the Government and the National Legislative Assembly argue that they are repealing out-dated laws for modern ones. But, in fact, they will be more draconian in terms of the rights and freedom of expression, especially on political expression. At present, Martial Law is proclaimed in 43 provinces. Next in line is the Internal Security Law which the Government proposed to the NLA in June 2007. It could be expected that the situation of the rights and freedom of expression will deteriorate further when these laws are put in place (Nidhi Eiewsiwong, 9 July 2007).

By comparison, Thaksin and his Thai Rak Thai government, as a telecom and media tycoon, expend money to censor criticism and compromise the media. Ultimately he uses legal measure to threaten and punish the media so to create a climate of fear and to silence them. Near the end of his term, the media openly criticize the government. Hence, breaking away from the psyche of submissiveness. The CNS, on the contrary, must legitimize its power to rule and the media are essential instruments to prop up the regime. CNS applies direct censorship and control by using force but hide it from public eye. It creates a façade of '*legalistic power*' instead of manifesting brute force. This is to show that the power of the coup is based on a legal state and lawful. For CNS the law together with the media are the main hegemonic apparatus to control subversive ideas and dissident voices. The mainstream media are drawn into this power process to help justify the coup legal set up. It is a web that would entangle and shut up the media nicely.

Civil society and the new media

The struggle for a democratic society continues to be an uphill task for civil society. Free expressions find little spaces in the mainstream media. Authors must either self-censored or shift to small, independent media such as www.prachatai.com or www.thaipeoplepress.com. As a result alternative media play a significant role in

countering the triad hegemonic ideology of '*Nation, Religion, and King*' and the ruling junta. But dissident voices like these constantly face the threat of closure. Websites of anti-coup groups, in particular, have been shut down. Without such a means it is difficult for them to organize and to voice their concern. The PTV group, for example, is not allowed to broadcast because they are suspected of their connection to Thaksin and the Thai Rak Thai Party. They and other anti-coup groups have to rally in public places to mobilize support and to challenge the censorship placed upon them. Although the new media are available for free and diverse expression the political context in Thailand is adverse to such technology. The new media will be beneficial in a climate whereby tolerance and fair debate is accepted as a norm. This means that people from various social classes should be able to have access to the small and big media and participate in self-determination. Differences of opinion and belief must be the corner stone of a political society if Thailand is to tread the path of democracy.

10 July 2007

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