



fesmedia **Asia** *series*

**Free Space of Expression:
New Media and Thailand's Politics**

By Isriya Paireepairit
2012

© 2012 Friedrich-Ebert-Stiftung (FES)

Published by *fesmedia Asia*
Friedrich-Ebert-Stiftung
Hiroshimastrasse 28
10874 Berlin, Germany
Tel: +49-30-26935-7403
Email: rolf.paasch@fes.de | marina.kramer@fes-asia.org.

All rights reserved.

The findings, interpretations and conclusions expressed in this volume do not necessarily reflect the views of the Friedrich-Ebert-Stiftung or *fesmedia Asia*. *fesmedia Asia* does not guarantee the accuracy of the data included in this work.

ISBN: 978-616-91344-0-4

fesmedia Asia

fesmedia Asia is the media project of the Friedrich-Ebert-Stiftung (FES) in Asia. We are working towards a political, legal and regulatory framework for the media which follows international Human Rights law and other international or regional standards as regards to Freedom of Expression and Media Freedom.

FES in Asia

The Friedrich-Ebert-Stiftung has been working in Asia for more than 40 years. With offices in 13 Asian countries, FES is supporting the process of self-determination democratisation and social development in cooperation with local partners in politics and society.

Friedrich-Ebert-Stiftung

The Friedrich-Ebert-Stiftung is a non-governmental and non-profit making Political Foundation based in almost 90 countries throughout the world. Established in 1925, it carries the name of Germany's first democratically elected president, Friedrich Ebert, and, continuing his legacy, promotes freedom, solidarity and social democracy.

Free Space of Expression: New Media and Thailand's Politics

By Isriya Paireepairit
2012

Content

ABSTRACT.....	5
ACRONYMS.....	6
1. THAILAND'S POLITICAL BACKGROUND.....	7
1.1. <i>A Brief History of Thailand's Democracy</i>	7
1.2. <i>Lèse-majesté</i>	8
1.3. <i>The Rise of Thaksin</i>	9
1.4. <i>2006 Coup d'Etat</i>	10
1.5. <i>The Yellows and Reds</i>	12
1.5.1. <i>The Yellows</i>	12
1.5.2. <i>The Reds</i>	12
1.5.3. <i>The Clashes</i>	13
2. THE MEDIA IN THAILAND.....	14
2.1. <i>Printed: Self-censorship by Large Corporates</i>	14
2.2. <i>Broadcasting: State-controlled & Anti-competitive</i>	16
2.2.1. <i>Terrestrial TV</i>	17
2.2.2. <i>Cable and Satellite TV</i>	18
2.2.3. <i>Community Radio</i>	19
3. THE INTERNET IN THAILAND.....	21
3.1. <i>Overview of Internet in Thailand</i>	21
3.1.1. <i>Internet Users</i>	21
3.1.2. <i>Popular Web Sites</i>	22
3.1.3. <i>Limitations: Penetration, Price and Literacy</i>	23
3.2. <i>Trends: The Rise of Mobile and Social Media</i>	24
3.3. <i>Regulation and Censorship</i>	25
3.4. <i>Computer Crime Act of 2007</i>	28
4. NEW MEDIA AND THAI POLITICS.....	33
4.1. <i>Discussion Forums</i>	34
4.2. <i>Yellow Media: Powerful Manager.co.th</i>	35
4.3. <i>Red Media: Organic and Fragmented</i>	36
4.4. <i>Social Network Era</i>	37

5.	CASE STUDIES	39
5.1.	<i>Case Study I: YouTube Censorship</i>	39
5.2.	<i>Case Study II: Prachatai.com</i>	40
5.3.	<i>Case Study III: @ThaksinLive and @PM_Abhisit</i>	41
5.4.	<i>Case Study IV: Citizen Journalism during 2010 Protests</i>	43
5.5.	<i>Case Study V: Facebook Witch Hunt</i>	45
5.6.	<i>Case Study VI: 2011 Election Campaign</i>	46
5.7.	<i>Interview I: Sombat Boonngamanong</i>	48
5.8.	<i>Interview II: Tul Sittisomwong</i>	49
6.	CONCLUSION	52
	REFERENCES	55
	ANNEX: <i>Computer Crimes Act of 2007 (Unofficial English Translation)</i>	59
	ABOUT THE AUTHOR	69

Abstract

The rise of new media in Thailand has occurred during one of the toughest periods in Thailand's recent political history. A political crisis since 2005 has created an increasingly divided society. Whilst Thailand's press freedom was previously considered "free," existing political challenges are immense and challenge directly Thailand's taboo topic - the monarchy. The state controlled and anti-competitive nature of Thailand's traditional media has meant a siding with the status quo. State censorship and even self-censorship in the media is common. New media seems to be the only way people can discuss freely their political beliefs. Or is that really so? This report is an investigation into the political usage of new media in Thailand from varying viewpoints of politicians, activists and Thai internet users.

Acronyms

ASTV	ASEAN Satellite TV
CAT	CAT Telecom, former Communication Authority of Thailand
CDR	Council for Democratic Reform
CNS	Council of National Security
DP	Democrat Party
MCOT	Mass Communications Organisation of Thailand
MICT	Ministry of Information and Communication Technology
NBC	National Broadcasting Commission (now NBTC)
NBT	National Broadcasting Services of Thailand
NBTC	National Broadcasting and Telecommunications Commission
NECTEC	National Electronics and Computer Technology Center
NLA	National Legislative Assembly
NTC	National Telecommunications Commission (now NBTC)
PAD	People's Alliance for Democracy
PPP	People Power Party
PTP	Pheu Thai Party
TOT	TOT Public Company, former Telephone Organisation of Thailand
TRT	Thai Rak Thai Party
UDD	National United Front of Democracy Against Dictatorship

Thailand's Political Background

An understanding of the background of Thailand's modern history is crucial for understanding Thailand's existing political context.

The current Thai Kingdom started with the founding of '*Ratthanakosin*' (Bangkok) near the *Chao Phraya* river delta by King Rama I in 1782. The Kingdom survived British and French colonisation during the 19th century and emerged as one of South East Asia's most modern nations.

The history of modern, democratised Thailand started with the 1932 revolution.¹

1.1. A Brief History of Thailand's Democracy

The republican revolution wave around the world after world war two also impacted on Thailand's absolute monarchy kingdom. In 1932, a group of young republican militarists and civilian officers called 'Khana Ratsadon' (People's Party) staged a bloodless coup against King Rama VII when he was away from Bangkok.

Republicans and monarchists jointly agreed on a new form of government and Thailand became a constitutional monarchy. King Rama VII abdicated his throne in 1935. Since he had no children, his nephew, the young *Prince Ananda Mahidol*, became King Rama VIII.

After the 1932 revolution, Thailand was governed by Khana Ratsadon. Thailand survived world war two by co-operating with Japanese invaders but also allied itself with Allied Forces through the *Free Thai Movement*. The Khana Ratsadon government started to collapse following the sudden death of King Rama VIII in 1946. (The throne was passed to his younger brother, *Prince Bhumibol*, or King Rama IX, in the same year). Two coup d'états in 1947 and 1957 ended Khana Ratsadon's power and the country entered a royalist-militarist era.

¹ Also known as Siamese Revolution of 1932.

Between 1957 and 1973 Thailand was ruled by the militarist, dictatorial regime led by Field Marshall Sarit Thanarat and later General Thanom Kittikachorn. Sarit made an alliance with the royal circle that had been suppressed since the 1932 coup. The *Sarit-Thanom* regime was ended by the 1973 democracy movement led by university students.

Instability ruled in Thailand following 1973 as the country was governed by *General Prem Tinasulanonda*, an army chief who was close to the Palace. Prem's government lasted for 8 years.² Thailand became fully democratic in 1988 but democracy was briefly interrupted by another coup in 1991. After the Black May incident in 1992, the military leader resigned and Thailand has entered a peaceful democratic period.

The development of Thailand's economy, starting in the Sarit era, was highly accelerated after the 1992 protests, riding along the wider regional East Asian wave. GDP growth at this time was double-digit and the dream of becoming *the Fifth Asian Tiger*³ emerged. However, the deceptive growth was a bubble in reality. The Thailand bubble crash was the starting point of the *Asian Financial Crisis* in 1997 which ended the dream of economic development for the general Thai public.

The democratic landscape in Thailand can be summarised as a fight between three large factions: the royalist circle, the pro-democracy Khana Ratsadorn and the military. Khana Ratsadorn has been forced out by the royalist-military alliance. The military also lost its power following the 1992 Black May incident. The royalists regained their influence from before the 1932 revolution as a result. After 1992, Thailand has continued as a constitutional monarchy with civilian governments.

1.2. Lèse-majesté

Lèse-majesté is a French term for "the crime violating majesty". Thailand introduced this charge in 1808 in the Criminal Code. The law survived the 1932 revolution and has developed in its degree of punishment over time. The latest amendment in 1976 increased the jail sentence for this crime to between 3 and 15 years. This offence is known in Thailand as *Article 112* of the Criminal Code.

2 After his premiership, Prem has served as the Head of the Privy Council of the King

3 The Four Asian Tigers include Hong Kong, Singapore, South Korea and Taiwan.

Article 112 states that “Whoever defames, insults or threatens the King, Queen, the Heir-apparent or the Regent shall be punished with imprisonment of three to fifteen years.”⁴⁵ There is however no concrete definitions of “defame” or “insult” as part of the law so Thai courts decide what action is deemed as defamatory or insulting.

Article 112 has not always been a problem in Thailand. From 1992 to 2004, the Thai court system only saw around 10 lese-majesty cases a year. From 2005 to 2009 however, more than 547 cases came to trial.⁶ The main reason for using Article 112 as an accusation has been to silent political dissent.

The King himself once said in a 2005 speech that he can and should be criticised.⁷ There have been several initiatives aimed at the amendment of Article 112. Thai scholars and activists formed a *Campaign Committee to Amend Article 112*⁸ in early 2012. This group received support from more than 200 international scholars including Noam Chomsky and Tariq Ali.⁹ However, the current Pheu Thai government continues to ignore attempts to amend this law to avoid political problems created by royalists¹⁰

1.3. The Rise of Thaksin

The financial crisis provided the setting for the rise of the most controversial political leader in Thailand’s modern history. *Thaksin Shinawatra* built his Shin Corporation empire from a telecommunication business, Advance Info Service (AIS), the first and largest mobile phone operator in Thailand.

-
- 4 The Office of Krisdika, Official Thai Criminal Code, <http://web.krisdika.go.th/data/law/law4/%BB06/%BB06-20-9999-update.pdf>, accessed 23 June 2012, page 36. Original text of the law in Thai from The Office of Krisdika (Council of State).
 - 5 Wikipedia, Lèse majesté in Thailand: http://en.wikipedia.org/wiki/L%C3%A8se_majest%C3%A9_in_Thailand, accessed 23 June 2012. For unofficial English translation.
 - 6 Article 112 Awareness Campaign http://article112.blogspot.com/2011/03/112_30.html, accessed 23 June 2012.
 - 7 The Nation, Royal Birthday Address: King Can Do Wrong, 5 December 2005 http://www.nationmultimedia.com/2005/12/05/headlines/data/headlines_19334288.html, accessed 23 June 2012.
 - 8 Campaign Committee to Amend Article 112, <http://www.ccaa112.org/web/>, accessed 23 June 2012.
 - 9 Over 200 international scholars, writers and activists support the call to reform Article 112, Prachatai, 1 February 2012, <http://prachatai.com/english/node/3025>, accessed 23 June 2012.
 - 10 The Economist, An inconvenient death, 12 May 2012, <http://www.economist.com/node/21554585>, accessed 23 June 2012.

Thaksin entered Thai politics in 1994 as an MP in Bangkok for the *Palang Dharma Party*. In the *Democrat Party's* coalition government, he got his seat in the cabinet as the Foreign Minister and later Deputy Prime Minister.

Shortly after the 1997 financial crisis, Thaksin resigned from Palang Dharma and formed the new *Thai Rak Thai Party* (TRT) with scholars and businessmen friends in 1998.

TRT's main policy platform included appealing to large numbers of people in rural areas who needed a better quality of life, reflected in policies to prioritise healthcare reform, education scholarship and local economic support and funding.

The affects of the 1997 Financial Crisis were too severe for the incumbent Democrat Party (DP) to be able to stay in power. Thaksin rode his billionaire image and took TRT's populism policies to win a landslide victory in a 2001 general election¹¹.

Thaksin's first administration implemented the populist policies they promised voters and created 'trust' from rural people in return. He became the new 'savior' for the poor. The shattered economy was starting to recover with the 'Thaksinomics'¹² economic policy, a dual-track growth plan from both export-led and internal consumption through populist policies.

The TRT government was the first of Thailand's elected governments to complete its 4-year term. Thaksin won his second election in 2005 with the majority of the seats in parliament (374 of 500 seats), a first in Thai history.

1.4. The 2006 Coup d'Etat

However, Thaksin's regime did not exist without criticism. His 'War on Drugs' policy with the 'license to kill' was accused of resulting in 'crimes against humanity'. Thaksin's administration failed to solve the Southern insurgency involving a clash between a Muslim minority and the Thai State. Thaksin was also accused of creating corruption within his closed circles.

11 In the 2001 general election, Thai Rak Thai won 248 seats while the Democrat Party won 128 seats from a total of 500 seats.

12 The term was coined by President Gloria Macapagal-Arroyo of the Philippines in 2003 in reference to Thaksin's economic policy.

The campaign against Thaksin started in late 2005. He was attacked by *Sondhi Limthongkul*, a media tycoon from the *Manager Group*, regarding corruption and a plot to move Thailand towards a republican country. The turning point for Thaksin's popularity was in early 2006 when he decided to sell the whole Shinawatra family shares in Shin Corporation to Temasek Holdings, Singapore's investment arm. The deal was tax-free under Thailand's stock market regulation but many people felt that Thaksin was trying to avoid tax and took to the streets to rally against him. Sondhi and his alliance formed the *People's Alliance for Democracy* (PAD) as a movement against TRT.

Thaksin dissolved Parliament in February 2006. The election that followed in April was declared invalid by the Constitution Court and a new election in October was announced. PAD called for a big rally on 20 September 2006 while Thaksin was traveling to the United Nations headquarters in New York.

During the night of 19 September 2006, a group of military officers calling themselves the *Council for Democratic Reform* (CDR), led by Army Chief *General Sonthi Boonyaratglin*¹³, staged a bloodless coup d'état. CDR's reasons for the coup were to prevent a great clash between the PAD rally and Thaksin's caretaker government the next day. The CDR appointed a civilian government led by *General Surayud Chulanont*, former Army Chief and Privy Councilor to the King as the new Prime Minister¹⁴. CDR also changed its name to the *Council of National Security* (CNS).

Surayud's government was in power from October 2006 to January 2008. CNS dissolved both houses of the Thai Parliament and appointed a unicameral *National Legislative Assembly* (NLA) as the country legislative branch. The NLA passed many laws in this period including the controversial *Computer Crime Act of 2006*. The new *2007 Constitution* was passed by a referendum with 59.3 per cent approval¹⁵ and 60 per cent turn out¹⁶. The Constitution was criticised by scholars as limiting politicians' powers and allowing non-elected members of the Senate¹⁷.

13 Sondhi Limthongkul and Sonthi Boonyaratglin's first names share the same spelling in Thai. They choose different spelling in English.

14 Since Surayud is a Privy Councilor and is close to Prem, CDR/CNS Coup was considered to adopt the a royal circle's agenda by many scholars.

15 Wikipedia, 2007 Constitution of Thailand, http://en.wikipedia.org/wiki/2007_Constitution_of_Thailand, accessed 23 June 2012.

16 Wikipedia, Thai constitutional referendum, 2007, http://en.wikipedia.org/wiki/Thai_constitutional_referendum,_2007, accessed 23 June 2012.

17 AsianLII, Unofficial translation of the Constitution of the Kingdom of Thailand 2007, <http://www.asianlii.org/th/legis/const/2007/1.html>, accessed 23 June 2012.

TRT was dissolved in May 2007 by a Constitutional Tribunal and the former 111 party board members (including Thaksin) were banned from Thai politics for 5 years.¹⁸ The remaining TRT members formed a new party called *People's Power Party* (PPP) in 2007 and later *Pheu Thai Party* (PTP) in 2008.

Surayud called for an election in late 2007 and Thailand resumed full democracy. However, the election was won by Thaksin's remnant PPP, led by veteran politician *Samak Sundaravej*.¹⁹ The political conflict continued.

1.5. The Yellows and the Reds

1.5.1. The Yellows

The radical anti-Thaksin PAD camp positioned itself as a 'royalist/nationalist' movement and proposed many conservative policies including asking for military interference, more seats for appointed MPs rather than elected MPs and more power for the Courts. They also allied themselves with the conservative Democrat Party (DP), the army, the court, some senior government officers, some scholars and most of the mainstream media.

PAD chose 'yellow,' the colour of King Bhumibhol's birthday, as its symbol. They have dressed in yellow shirts, hats, scarves and used yellow flags. In later years, the Palace avoided the use of yellow as a show of direct PAD support. The King himself changed his dress code to pink instead.

Beside their conservative and nationalist position, the Yellows are against TRT's populist policies. They also asked for a more transparency in Thailand and anti-corruption measures.

While there are still debates on the demographics of Yellow supporters, most consider the majority to be high-income urban citizens.

1.5.2. The Reds

The liberal camp and Thaksin supporters started their movement after the 2006 Coup as an anti-military movement. The movement has developed into the "red shirt movement" by using red as their symbolic colour (a subtle hint at

18 The ban lasted until 30th May 2012. Now some of the 111 members are again involved in politics.

19 PPP won by 233 seats, while the Democrat Part won 165 seats from a total of 480 seats.

the 'pro-left' movement but the Red Shirt movement cannot be called a pure socialist/marxist movement). They called themselves the *National United Front of Democracy Against Dictatorship* (UDD). However, there are some differences between the UDD and the whole Red Shirts movement. UDD received financial support from Thaksin and can be considered as a core group of the Red Shirts. Some Reds are pro-liberal or pro-republic but do not support Thaksin.

The Yellows can be categorised as a pro-royalist movement and the reds as a coalition of people who ask for a republic, people who ask for limited power of the monarchy (as in the United Kingdom or Japan) and people who just want Thaksin's return. The Reds are loosely allied by these fractions of people and many scholars predict the future break-up between these different red groups.

The Reds have mainly asked for parliamentary democracy and equality of economic income and opportunity.

1.5.3. The Clashes

Both Yellow and Red camps have organised street protests against their respective opposing governments at the time. In summary:

- Yellows against the Thaksin government (TRT) in 2005-2006
- Reds against the Surayud government in 2006-2007
- Yellows against the Samak government (PPP) in 2008 (led to the publicised airport occupation in late 2008)
- Reds against the Abhisit government (DP) in 2009-2010 (led to the publicised burning of Bangkok in 2010)

It is important to note that both Yellows and Reds are just radical fractions on opposing ideological sides and do not represent the majority opinion of Thai citizens. The largest group of Thai citizens is actually the silent majority who partially support either or both camps.

The Media in Thailand

The Thai Population in 2012 was 64 million and more than an estimated 60 million Thai citizens can read and write Thai language at least to a basic level.

Thai people, mostly in urban areas, can understand some English but it is not a language of everyday use. English-language media audiences are limited to foreigners and expatriates.

This section will give an overview of the media landscape in Thailand.

2.1. Printed: Self-censorship by Large Corporates

Major media tend to aim for nationwide audiences. There are regional newspapers and magazines in large cities with very limited readership.

There are only two nationwide English daily papers: *Bangkok Post* (founded in 1946) from Post Publishing Company and *The Nation* (founded in 1971) from Nation Multimedia Group.

The largest Thai daily newspaper is *Thai Rath*, which claims more than 1 million circulation and 12 million readers.²⁰ The other major newspapers are *Daily News*, *Matichon*, *Khao Sod*, *Kom Chad Luek* and *Thai Post*. The major business newspapers in Thailand are *Krungthep Turakij* (*Bangkok Business*), *Post Today*, *Prachachat Turakij*, *Poo Jad Karn* (*Manager*) and *Than Settakij*. There are also a few weekly news magazines published by the same companies as their daily counterparts.

The Thai print industry is dominated by conglomerates and cross-media ownership. The big publishing companies include: *Vacharaphol Company*, *Nation Media Group*, *Post Publishing Group*, *Matichon Plc*, *GMM Grammy* and *Manager Group*. These media conglomerates also own TV stations, radios, book and magazine publishing businesses.

20 Thai Rath, Thai Rath General Info, <http://www.thairath.co.th/corp?subMenu=info>, accessed 23 May 2012.

Thai print media usually have closer relationship with politics. The most obvious case is the Manager Group, whose founder *Sondhi Limthongkul* became the leader of the PAD movement. The Nation Media Group has been criticised for its relationship with the Democrat Party. Thaksin has close relationships with GMM Grammy and he was accused of media control when GMM Grammy bought Post Publishing and Matichon stakes in 2005.²¹

The media freedom of Thai newspapers had been suppressed in the past, especially during the Sarit-Thanom government and subsequent dictatorial regimes. However, in the more open atmosphere that followed after 1992 Thai media has been considered as one of the most “free” media in Asia.²²

However, the freedom of Thai media extends only to parliamentary politics. Similar to other countries in the world, Thai society has its own taboos such as Buddhism and the monarchy. While the *lèse-majesté* law protects only some core members of the royal family from being insulted, Thai society avoids discussion of royal issues in general. Thai media tend to self-censor on issues relating to the monarchy.

The emergence of the Red Shirts movement has been a challenging issue for the Thai mainstream media. Since the ideology of the Reds is in opposition to the royalist Yellows, the discussions of royal circles are a central topic for Reds in their debates. However, Thai mainstream media has attempted to ignore these stories to protect themselves from *lèse-majesté* charges.

The Reds want to express and discuss political issues using online media and publish their own newspapers and magazines. These publications are self funded by red supporters and distributed in limited outlets (e.g. not available from branded bookstores). Some publications ceased during Abhisit administration. Red Power magazine editor *Somyos Pruksakasemsuk* was arrested for alleged *lèse-majesté* and as of June 2012, he was still in jail.²³

21 The Nation, Matichon Takeover: Grammy faces boycott as social outrage grows, 15 September 2005, <http://www.nationmultimedia.com/specials/mediaupheaval/p12.php>, accessed 23 May 2012.

22 The Nation, Matichon Takeover: Grammy faces boycott as social outrage grows, 15 September 2005, <http://www.nationmultimedia.com/specials/mediaupheaval/p12.php>, accessed 23 May 2012.

23 Political Prisoners in Thailand, Somyos Pruksakasemsuk, <http://thaipoliticalprisoners.wordpress.com/pendingcases/somyos-pruksakasemsuk/>, accessed 25 June 2012.

2.2. Broadcasting: State-controlled & Anti-competitive

The Thai broadcasting industry has been dominated by government agencies which own spectrum frequency. Some of these agencies operate TV & radio stations on their own whilst others allow private companies to run the broadcasting business via concession contracts.

Major government agencies that control the spectrum frequency include: the Royal Thai Army, Royal Thai Air Forces, Mass Communications Organisation of Thailand (MCOT)²⁴ and the Government Public Relations Department (PRD).

The 1997 Constitution aimed to create formal broadcasting regulation by establishing the *National Broadcasting Commission (NBC)* as an independent regulator. However, due to political and legislative struggles, the NBC election process failed several times and the office of NBC has not been established. The 2007 Constitution merged NBC with the *National Telecommunications Commission (NTC)* as a unified *National Broadcasting and Telecommunications Commission (NBTC)*²⁵. The first 11 NBTC commissioners started their jobs in late 2011. NBTC allowed existing broadcast contracts to continue until the end of their concessions but new entrants must apply for 'broadcasting licenses'. The licensing procedure is planned for 2012-2013.

In summary, the Thai broadcasting industry is transforming from state controlled (via concessions) to full competition under NBTC licensing. The structural changes, along with new broadcasting technologies such as satellite and internet TV will reshape the Thai broadcasting industry to be more competitive and transparent. These changes have started taking place now but it will take at least 10 years for the complete transformation to be completed.

24 MCOT, Shareholdings <http://mcot.listedcompany.com/shareholdings.html>, accessed 23 June 2012. MCOT was a former state enterprise but is now a listed company in Stock Exchange of Thailand with 65.80 per cent ownership by the Ministry of Finance.

25 The National Broadcasting and Telecommunications Commission, <http://nbtc.go.th>, accessed 25 May 2012.

2.2.1. Terrestrial TV

As of June 2012, there are six terrestrial free-to-air nationwide television stations in Thailand:

- *TV3* - privately operated under MCOT concession till 2020
- *TV5* - owned by the Royal Thai Army
- *Channel 7* - privately operated under a Royal Thai Army concession until 2023
- *Channel 9 Modernine TV* - owned by MCOT
- *Channel 11 NBT* - owned by the PRD
- *Thai PBS* - owned by the Thai Public Broadcasting Service

The privately run *TV3* and *Channel 7* are two most popular TV stations in Thailand. With the anti-competitive concession process by MCOT and Royal Thai Army, their parent companies have become the two biggest TV conglomerates in the country.

TV5 and *NBT* are under full government control. *TV5* serves the Army's public relations goal while *NBT* is under direct control of the Prime Minister's Office.

Modernine is different to other channels since MCOT is a state enterprise registered with the Stock Exchange of Thailand as a public company which allows it to operate adopting a more commercial approach although still reporting to the Prime Minister's Office.

Thai PBS was founded in 2008 following a public broadcasting service model like the United States' PBS or the United Kingdom's BBC. However, *Thai PBS*'s financial model is different to these agencies as it gets its annual revenue as a percentage from 'sin taxes' in Thailand on tobacco and liqueur. *Thai PBS* is however an independent state agency and not a government agency.

All stations except *NBT* maintain their media freedom and can criticise government policy and performance. However, for more sensitive issues like *lèse-majesté* or royal activities are censored by the media itself to avoid conflict.

The anti-competitive and self-censored nature of Thai terrestrial TV is one of the main forces driving various organisations (both for-profit companies and political groups) to start their own TV channels via satellite networks. Yet another challenge for terrestrial TV stations results from many more TV

stations under NBTC digital broadcasting license that will join the TV industry by late 2012.

2.2.2. Cable and Satellite TV

True Visions is the only nationwide cable station in Thailand. It has operated under a concession with MCOT with validity until 2019²⁶. *True Visions* is part of the *Charoen Pokphand Group (CP)*, one of the largest business conglomerates in Thailand. The reported satellite and cable membership in Thailand is 1.6 million²⁷.

There are many regional cable companies operating in every part of Thailand. Most of them are members of the *Thailand Cable TV Association (TCTA)*. According to TCTA web site, there are more than 200 members with 500 stations, covering 12 million viewers.²⁸

Satellite TV has been an emerging platform in the past decade. The absence of NBC created a large vacuum in broadcast regulation space for nearly 15 years. Some TV networks exploited this situation by airing signals directly from satellites. In theory, all these satellite channels are unlicensed and illegal. As of June 2012 therefore, NBTC plans to start satellite TV licensing processes that will become effective in the near future. Latest statistics by AGB Nielsen Media Research exploring a de facto standard in the Thai broadcasting industry during January and February 2012 showed that all terrestrial stations were down in viewership and satellite stations were of rising importance.²⁹

Satellite TV in Thailand began as a service for those who wanted to watch foreign channels. The PAD movement in 2005 changed this landscape by using satellite TV for political mobilisation. To avoid government censorship, its *ASTV* sends broadcasting data to Hong Kong via fibre optics and airs programmes from a Hong Kong satellite instead of Shin Corporation's THAICOM satellites. The Red Shirt movement later started their own satellite channels including *D Channel*, which changed its name to *PTV* and then to *Asia Update*. The Democrat Party started their own channel *BlueSky* after a defeat in the 2011

26 True Corporation, True History, http://www.truecorp.co.th/eng/about/about_history_2006.jsp, accessed 23 June 2012. There are two contracts - satellite TV ends in 2014 and cable TV ends in 2019.

27 True Corporation, 2011 Annual Report, <http://true.listedcompany.com/misc/Form561/Form561-2011-TH-02.html>, accessed 23 June 2012, Section 4, page 20.

28 Thai Cable TV Association, <http://www.tcta.or.th/about.php?id=1>, accessed 23 June 2012.

29 Prachachat Online, Nielsen Changes TV Rating System, 17 April 2012, http://www.prachachat.net/news_detail.php?newsid=1334646861, accessed 25 June 2012.

general elections. These political channels have since 2005 played a crucial role during Thailand's political turmoil. Pheu Thai MPs and ministers now appear on Asia Update to talk directly with their supporters. Former Prime Minister Abhisit Vejjajiva has a daily morning programme for BlueSky channel. Both sides of the political spectrum use satellite TV for broadcasting live talks during rallies.

Some of the existing satellite and cable channels are expected to apply for NBTC digital broadcasting licenses. When the network is set up, these alternative channels will likely go mainstream and compete directly with the existing analog terrestrial TV stations, thus creating more competitive atmosphere in Thai television.

2.2.3. Community Radio

The vacuum of broadcasting regulation caused by NBC appointment challenges during 1997-2011 was the main factor driving community radio in Thailand. Community radio stations were allowed by the 1997 Constitution but the absence of NBC rendered all stations unlicensed. As of June 2012, community radio stations operate under temporary licenses issued by the NBTC. *The National Federation of Community Radios*³⁰ was founded as a self-governing body for some of these stations.

The political turmoil since 2008 and the anti-competitive behavior of the broadcasting industry accelerated the number of political related radio stations, mainly created by the Red Shirts. The Yellow Shirts also have community radios in the Bangkok area however, including *Manager Radio 97.75FM*.³¹

Red radios have become an effective communication tool amongst political communities after the 2006 coup d'état³². During the unrest in April 2009 and April-May 2010, Red Shirts used community radio to call for mobilisation on the streets. Many stations were seized at that time using powers under the State of Emergency Act and Internal Security Operations Command.³³

30 The National Federation of Community Radio, <http://thainfcr.org>, accessed 25 May 2012.

31 Manager Radio, <http://radio.manager.co.th>, accessed 25 May 2012.

32 Shawn W. Crispin, Thailand at a Crossroads: CPJ Special Report, <http://cpj.org/reports/2007/05/thailand.php>, accessed 25 May 2012.

33 Human Rights Watch, Thailand: Authorities Silence 'Red Shirt' Community Radios, <http://www.hrw.org/news/2011/04/27/thailand-authorities-silence-red-shirt-community-radios>, accessed 25 May 2012.

The popularity of satellite TVs and community radios during political turmoil reflects the lack of democratisation in Thailand's mass media industry. This media form is essentially free and has yet to be regulated by the NBTC. Political groups use these media to bypass government censorship during times of mass rallies and they have proved to be successful in creating political impact in certain situations.

The popularity of alternative broadcasting media over digital media is also a sign of low internet penetration rate in Thailand. However, the rise of mobile internet has improved the country's internet usage rapidly in recent years and is expected to have an increased impact on new media in the near future.

The Internet in Thailand

Similar to any other free-market countries, Thailand has adopted internet as a communication tool. The internet has now become a crucial factor in economic-development. Thailand's internet penetration rate is still quite low however but the recent adoption has been rapid due to an explosion in mobile data usage.

3.1. Overview of Internet in Thailand

The first recorded evidence of internet usage in Thailand was in 1987. Real internet connection started in 1990 however and the first commercial Internet Service Provider (ISP) started in 1995.³⁴

3.1.1. Internet Users

National Electronics and Computer Technology Center (NECTEC), a government technology agency, has monitored Thailand internet statistics since 1991. According to NECTEC, Internet use in Thailand has increased from 30 users in 1991 to 18,300,000 users in 2009, covering 27.4 per cent of population.³⁵

Unfortunately, the NECTEC has not released internet user statistics on its web site beyond 2009. From a recent NECTEC press conference in May 2011, the internet users as of 2010 are stated to be "21 million".³⁶

Other good sources of internet usage statistics come from the World Bank (reports 14,653,913.61 users in 2010)³⁷ and the National Statistical Office of Thailand (reports 13,844,400 users in 2010).³⁸

34 Thaweesak Koanantakool, A brief history of ICT in Thailand, Bangkok Post, 7 February 2007, http://www.bangkokpost.com/20th_database/07Feb2007_data00.php, accessed 27 May 2012.

35 NECTEC, Internet Users and Statistics in Thailand, <http://internet.nectec.or.th/webstats/internetuser.iir?Sec=internetuser>, accessed 27 May 2012.

36 NECTEC Show 21 Million Internet Users, Thai Rath, 21 December 2010, <http://www.thairath.co.th/content/tech/135832>, accessed 27 May 2012.

37 World Bank, Data: Thailand, <http://www.worldbank.org/en/country/thailand>, accessed 25 June 2012.

38 National Statistic Office, Key Statistics of Thailand 2012, http://service.nso.go.th/nso/nsopublish/download/files/Key55_T.pdf, accessed 27 May 2012, page 166

The NBTC also tracked the number of internet broadband subscribers in Thailand. As of June 2012, the latest report to date is Quarter 2/2011³⁹ which reports 3,484,736 subscribers.

3.1.2. Popular Web Sites

Determining the most popular websites in Thailand is difficult. One can refer to Alexa.com for international ranking but Alexa does not reveal its sampling size. There is also a local comprehensive ranking from TrueHits.com which is very popular among Thai online industry sources.

Thai internet users tend to use international online services as much as (if not more than) local sites. Google dominates almost all search engine traffic (99 per cent) in Thailand. Bing and Yahoo! cannot provide good search quality in Thai due to the language barrier and local search providers are too small to compete with Google. According to both Alexa and comScore⁴⁰, Google is the top visited website in Thailand. Facebook, YouTube, Twitter and MSN are also very popular and there are no significant local players in online services.

The most popular local web site in Thailand is www.sanook.com, a web portal site. Four of the top five web sites are portal or teen entertainment sites. The most popular internet forum (known in Thailand as “webboard”) is Pantip.com, one of the first websites established in Thailand when the internet was being introduced in the country. The top three search keywords are “games”, “horoscope” and “song”. Most visitors of Thailand web sites are domestic.⁴¹

39 NBTC, Telecom Market Report Q2/2011, http://www.nbtc.go.th/wps/portal/NTC/TDC/telecommunications_market, accessed 27 May 2012.

40 comScore Inc., comScore Announces Availability of Online Audience Measurement Services for Thailand, 3 April 2012 http://www.comscore.com/Press_Events/Press_Releases/2012/4/comScore_Announces_Availability_of_Online_Audience_Measurement_Services_for_Thailand, accessed 28 May 2012.

41 Thaweesak Koanantakool, Important Internet Statistics of Thailand, 24 August 2007, http://internet.nectec.or.th/document/pdf/20070824_Important_Intenet_Statistics_of_Thailand.pdf, accessed 27 May 2012.

42 TrueHits.net, Top 100 most visited sites in Thailand, http://truehits.net/index_ranking.php, accessed 4 June 2012.

Top Ten Web Sites in Thailand (as 4 June 2012)

Ranking ⁴²	TrueHits (local)	Alexa (local)	Alexa (local & international)
1	Sanook.com	Sanook.com	Google.co.th
2	Kapook.com	Pantip.com	Facebook.com
3	Mthai.com	Mthai.com	Google.com
4	Dek-D.com	Manager.co.th	Youtube.com
5	Manager.co.th	Kapook.com	Live.com
6	Bloggang.com	Thaiseoboard.com	Blogspot.com
7	Yengo.com	Weloveshopping.com	Yahoo!.com
8	Playpark.com	Truelife.com	Sanook.com
9	Weloveshopping.com	Bloggang.com	Pantip.com
10	Exteen.com	Thairath.co.th	Wikipedia.org

3.1.3. Limitations: Penetration, Price and Literacy

The 24.7 per cent internet penetration rate in Thailand is low if compared with other Asian neighbours. A developing country like Malaysia has a 61.7 per cent penetration rate. China, Philippines and Vietnam have better rates at 38.4 per cent, 29.2 per cent and 33.7 per cent respectively. Thailand only beats the archipelago country of Indonesia (22.4 per cent) and less-developed countries like Cambodia (3.1 per cent), Laos (8.1 per cent) and Sri Lanka (11.8 per cent).⁴⁴

The root challenges causing low penetration rates in Thailand can be described as cost, coverage and literacy.

- **Cost** - Thailand's internet cost is quite high compared with the standard cost of living, even though the broadband price war in recent years has driven the monthly fee down to 490 Baht (15 USD) for a 3 Mbps package.⁴⁵ The on-demand mobile data packages (per minute or per megabyte) from telecom operators also help to reduce the minimum costs.
- **Coverage** - Fixed-line telephone penetration rates in Thailand are very low. There were only 6.9 million fixed telephone subscribers in

43 Alexa, Top Sites in Thailand, <http://www.alexa.com/topsites/countries/TH>, accessed 4 June 2012.

44 Internet World Stats, Internet Usage in Asia, As 31 December 2011, <http://www.internetworldstats.com/stats3.htm>, accessed 2 June 2012.

45 TOT Public Company Limited, TOT Hi-Speed, <http://www.tothispeed.com/th/promotion-customer.php>, accessed 5 June 2012. Based on cheapest package from TOT, a government telecommunication state enterprise.

2010 (10 per cent penetration)⁴⁶. This factor limits the opportunity for internet access at home. The situation is getting better in recent years however given mobile internet technology. Many new internet users start using web based services from their mobile phones and skip out fixed broadband technology completely.

- **Literacy** - Since Thai people use Thai as their native language, access to online content mainly in foreign languages, especially in English, is limited. The English computer user interface also prevents IT beginners from easily accessing online service.

3.2. Trends: The Rise of Mobile and Social Media

Thailand follows global technology trends concerning mobile and social media. According to NBTC data, the latest number of mobile subscribers in Thailand is 74.59 million, or more than a 100 per cent penetration rate.⁴⁷ The “smart phone boom” has strongly encouraged Thai mobile phone consumers to purchase new smart phone models. All Thai major mobile operators have various special data packages for iPhone, iPad, Android and BlackBerry so as to increase non-voice revenue. There are no official statistics for mobile internet users separated from normal mobile subscribers but IDC predicts Thais will spend 968 million USD on mobile data services in 2012, a 15 per cent increase from 2011.⁴⁸

There are about 14.2 million Facebook users who have selected their location as “Thailand” (16th in the world).⁴⁹ Bangkok is even the top city in the world in terms of Facebook user numbers (8.68 millions)⁵⁰. According to *ZocialRank*, a local Thai company that tracks Thai social statistics, top Thai Facebook pages have more than 1.9 million “likes”⁵¹ and many Thai consumer brands now use Facebook as their online communication channel. Facebook, Twitter and YouTube are now common words in TV, radio and newspaper advertisements.

46 World Bank, Data: Thailand, <http://www.worldbank.org/en/country/thailand>, accessed 5 June 2012.

47 NBTC, Telecom Market Report Q2/2011, page 2.

48 Rajeev Singh-Molares, WEF Blog: Thailand braces for a data storm, Bangkok Post, 28 May 2012, <http://www.bangkokpost.com/business/wef-online/295412/wef-blog-thailand-braces-for-a-data-storm>, accessed 5 June 2012.

49 Facebook, Facebook Advertising Tools, <https://www.facebook.com/ads/manage/adcreator>, accessed on 6 June 2012. Using Location: Thailand filter with all ages and genders.

50 Socialbakers, <http://www.socialbakers.com/facebook-statistics/cities>, accessed 6 June 2012.

51 ZocialRank, <http://zocialrank.com>, accessed 6 June 2012.

The number of Thai Twitter users is harder to measure since Twitter does not require users to specify their location. However, indirect estimates from Thai Twitter users utilising the number of “followers” of top Thai Twitter users provide some evidence of usage. *Woody Milintachinda* (@woodytalk), a Thai TV host who tweets in Thai, has 747,661 followers.⁵² The top politician account is former PM *Abhisit Vejjajiva* (@PM_Abhisit) who has 429,603 followers.⁵³

This also uses YouTube heavily in terms of media consuming. The interesting usage scenario is TV archiving since YouTube has not achieved anti-piracy detection for non-English content yet and some Thai content owners use YouTube as their free digital archive. Major Thai internet portals such as Sanook, Kapook and MThai have their own online video platforms as well.

3.3. Regulation and Censorship

Telecommunications in Thailand were originally under control of the *Communications Authority of Thailand (CAT)*, a government corporation. After the establishment of the NTC by the 1997 Constitution, CAT diminished its regulator role to become a telecommunication operator only, becoming CAT Telecom Plc in 2003.

NTC came with the new and modern model of licensing. Telecommunication companies had to apply for an operating license from NTC instead of a CAT concession. NTC became NBTC in 2007.

The establishment of the *Ministry of Information and Communication Technology (MICT)*⁵⁴ in 2002 was a consolidation of ICT policy in Thailand. The content censorship process has since been controlled and operated by MICT officials.

In summary, NBTC regulates the telecommunication infrastructure including core network connection while MICT is responsible for content regulation.

Using a legal analysis model, the development of internet censorship in Thailand can be explained in three periods:

52 Twitter, Woody Milintachinda, <https://twitter.com/woodytalk>, accessed 23 June 2012.

53 Twitter, Abhisit Vejjajiva, https://twitter.com/pm_abhisit, accessed 23 June 2012.

54 Ministry of Information and Communication Technology, <http://www.mict.go.th>, accessed 23 June 2012.

- Before September 2006 - government censored web sites without a legal framework
- September 2006 to July 2007 - government censored web sites using the Order Number 5 of the *Council of National Security (CNS)*
- After July 2007 - government censored web sites using the *Computer Crime Act 2007*

Before 2006's coup d'état, the Thai government (mainly the Royal Thai Police and the Department of Special Investigation at the Ministry of Justice) asked Thai ISPs to take down web sites without any supporting law or court order. After the founding of MICT in 2002, the Thaksin government tried to shut down political websites citing "national security" reasons. In 2006, the web site of Yale University Press, the publisher of the controversial *The King Never Smiles* book, was banned using lèse-majesté law.⁵⁵

The day after the 2006 coup d'état the CNS gave an order (known as *Order Number 5*) which allowed MICT to restrict, control, stop or destroy information within any given communication network deemed to affect the constitutional monarchy.⁵⁶ In July 2007, a new computer law took effect. This law was called the *Computer Crime Act of 2007* and provided a new legal tool for online censorship.

Past evidence suggests there are 9 categories of website or content that have been blocked in Thailand.⁵⁷

- **Pornography** – Pornography is illegal in Thailand. Child pornography is a threat in the same way as adult pornography. High profile international porn sites like Playboy.com are filtered.
- **Royal Institution** – lèse-majesté law prohibits the discussions and criticism of the Thai monarch and members of the royal family. Most web sites discussing the royal institution are hosted outside of the country to avoid the effect from the lèse-majesté law. Content hosting services like Blogspot, Geocities, Google Pages and WordPress.com are occasionally blocked following accusations of the hosting of lèse-majesté content.

55 Robert Horn, What's Behind Thailand's Lèse Majesté Crackdown?, TIME, 2 June 2011, <http://www.time.com/time/world/article/0,8599,2075233,00.html>, accessed 23 June 2012.

56 The original Thai text is available on Thai Wikisource http://th.wikisource.org/wiki/%E0%B8%9B%E0%B8%A3%E0%B8%B0%E0%B8%81%E0%B8%B2%E0%B8%A8_%E0%B8%84%E0%B8%9B%E0%B8%84_%E0%B8%89%E0%B8%9A%E0%B8%B1%E0%B8%9A%E0%B8%97%E0%B8%B5%E0%B9%88_%E0%B9%95, accessed 23 June 2012.

57 Isriya Paireepairit, Internet Censorship in Thailand, University of Sheffield, 2006 <http://www.scribd.com/doc/6164567/Internet-Censorship-Thailand>, accessed 23 June 2012.

- **Politics** – The political situation in Thailand since 2005 has resulted in censorship of political opponents. The targets of the censorship depend on who controls the power base but the characteristic of the censorship is the same, consisting of blocking political enemies by citing the lèse-majesté law or national security. International news sites like CNN were occasionally blocked as a result of the political situation.
- **Gambling** – Most kinds of gambling are illegal in Thailand. The police have permission to seize servers of gambling sites using criminal law.
- **Religion** – The only disputed religion is Buddhism. The most common types of action are against foreign merchant sites selling Buddha images or the inappropriate use of the Buddha's head. These kinds of websites have unique characteristics that result in their blocking stemming from the government or public protesting or complaining rather than strict censorship.
- **Terrorists and Separatists** – This kind of website is low profile in censoring but the insurgency in Southern Thailand has increased such censorship.
- **Online Gaming** – The rise of multi-player online games, especially Ragnarok Online, raised the concern of video game addiction from parent networks. The result was the curfew of youth players for late night gaming.
- **Proxy and Anonymity Software** - After a YouTube incident in 2006, many well known free proxy services and web sites were banned. Related anonymity software such as 'Tor' was also banned to prevent access to filtered sites.
- **Unknown/Accidental** – Some blocked sites are likely the result of wrong or accidental blocking. Websites in this category include tech report Mashable.com and 2Bangkok.com.

Reporters Without Borders (RSF), an international non-governmental organisation advocating freedom of the press, placed Thailand in its *Countries Under Surveillance* list since 2008⁵⁸. While the countries in the Countries Under Surveillance list are not the top Internet Enemies by RSF standard, the ranking is a bad reflection on freedom of the press and freedom of expression in Thailand.

58 Reporters Without Borders, First Online Free Expression Day launched on Reporters Without Borders website, 12 March 2008, <http://en.rsf.org/first-online-free-expression-day-12-03-2008,26086.html>, accessed 23 June 2012.

In its 2011-2012 report, RSF stated that surveillance is becoming the norm in Thailand. As authorities view internet crime as including violating the lèse-majesté law which is an offence against national security, the army and police force are also implicated in this situation.⁵⁹

3.4. Computer Crime Act of 2007

The Computer Crime Act (CCA) is one of six electronics laws⁶⁰ proposed by the National Information Technology Committee (NITC)⁶¹ in 1998.

The proposed bills aimed to provide the foundations for a legal framework on Thailand's electronics and information technology industry (especially on e-commerce industry). The proposed bills were:

1. Electronic Transactions Law
2. Electronic Signatures Law
3. National Information Infrastructure Law
4. Data Protection Law
5. Computer Crime Law
6. Electronic Funds Transfer Law

The draft Electronic Signatures Law (2nd) was merged with the Electronic Transactions Law (1st) in 2001⁶² and the combined bill was passed by the parliament as *Electronic Transaction Act of 2001 (B.E. 2544)*.⁶³ This law was amended once in 2008.⁶⁴

59 Reporters Without Borders, Countries Under Surveillance – Thailand, <http://en.rsf.org/surveillance-thailand,39775.html>, accessed 23 June 2012.

60 Nutthakorn Songkram, Faculty of Agriculture Technology, King Mongkut's Institute of Technology Ladkrabang http://www.kmitl.ac.th/agritech/nutthakorn/04093009_2204/isweb/Lesson%2027.htm, accessed 23 June 2012.

61 National Information Technology Committee Secretariat, http://www.nectec.or.th/pld/weblink/weblink_nitc.html, accessed 23 June 2012.

62 NECTEC, Computer Crime Act of 2008, http://www.nectec.or.th/index.php?option=com_content&view=article&catid=40&Itemid=165&id=79, accessed 23 June 2012.

63 Electronic Transaction Act of 2001 (B.E. 2544), http://www.bot.or.th/English/PaymentSystems/BOT_ps/PSRegulation/Documents/et_act_2544_Eng.pdf, accessed 23 June 2012. The unofficial English translation.

64 Electronic Transaction Act, B.E. 2544 (2001), http://www.mict.go.th/download/article/article_20090903144852.pdf, accessed 23 June 2012. The full text of the amended Bill (in Thai) from MICT web site.

The draft of the Electronic Funds Transfer Law (6th) was reintroduced as a Royal Decree in 2008 as the Royal Decree Regulating Electronic Payment Service Business, B.E. 2551.⁶⁵

After the enactment of the *Electronic Transaction Act 2001*, the lack of co-operation between the Parliament and Thai ICT policy agencies caused a long delay in the passage of the remaining bills.

The National Legislative Assembly (NLA), whose members were appointed by CNS in 2006, then reintroduced the Computer Crime Act in early 2007. Since the other bills have been left untouched to date, the NLA was criticised for using the CCA as a censorship tool against online opposition to the 2006 Coup.

The law was passed in May 2007 and on 18 July 2007 it came into force. The law consists of 30 articles.⁶⁶ The main section is in *Section I: Computer-Related Offences* (Article 5-17) which defines what cyber crime is and its related punishment.

Offences in the Act can be grouped into two categories: (1) offences committed against computer systems or computer data (Article 5-13) and; (2) content offences committed via a computer, which are already crimes under the Criminal Code (Article 14-17). It is the second category of offences that have created most controversy as authorities have applied these provisions to block thousands of websites and to prosecute Internet users and ISPs.⁶⁷

The summary of Article 14-17 in Section I is as follows:

- **Article 14:** crime on
 - (1) inputting false computer data which cause damage to third party
 - (2) inputting false computer data which cause damage to national security or create a public panic

65 Bank of Thailand, Royal Decree Regulating Electronic Payment Service Business, B.E. 2551, http://www.bot.or.th/Thai/PaymentSystems/OversightOfEmoney/Pages/RoyalDecree_ePayment.aspx, accessed 23 June 2012. The English summary of the Royal Decree: Bank of Thailand, Payment System Report 2008, http://www.bot.or.th/English/PaymentSystems/Publication/ps_annually_report/Documents/Payment_2008_E.pdf , accessed 23 June 2012, page 36.

66 Campaign for Popular Media Reform (CPMR), An unofficial translation of the Computer Crime Act, 24 July 2007, <http://www.prachatai.com/english/node/117>, accessed 23 June 2012.

67 Sinfah Tunsarawuth and Toby Mendel, Analysis of Computer Crime Act of Thailand, May 2010, http://www.law-democracy.org/wp-content/uploads/2010/07/10.05.Thai_Computer-Act-Analysis.pdf, accessed 23 June 2012, page 7.

- (3) inputting false computer data related with an offence against the Kingdom's security under the Criminal Code
- (4) inputting computer data of a pornographic nature that is publicly accessible
- (5) dissemination or forwarding of computer data already known to be computer data under (1) (2) (3) or (4)
- **Article 15:** responsibility of "any service provider" intentionally supporting an offence under Article 14
- **Article 16:** crime on forging a third party's picture to impair his/her reputation
- **Article 17:** defining the punishment of Thai and non-Thai offender

The penalty in Article 14 is "not more than five years" imprisonment or a fine not more than 100, 000 Baht⁶⁸ or both. Article 15 defines the same level of penalty for service providers supporting an Article 14 offense.

Articles 14 and 15 deal with offences which are already crimes under Thailand's Criminal Code but are committed by using a computer. There are only four sections in this part of the Act but as they refer to provisions in the Criminal Code, they cover a large variety of offences. The most controversial offence falls under Article 14, which includes offences against national security and hence covers *lèse-majesté*. *Lèse-majesté* has been the single offence most frequently applied by the Thai authorities against Internet users.⁶⁹ It is not directly referred in Article 14 but charges may apply by virtue of sub-section (2) or (3) of Article 14.

In *Section II: Government Officials*, the requirements and power of government officials are outlined. Article 20 authorises officials to stop the dissemination of "computer data that might have an impact on the Kingdom's security" by means of a court order.

Article 20: If an offence under this Act is to disseminate computer data that might have an impact on the Kingdom's security as stipulated in Division 2 type 1 or type 1/1 of the Criminal Code, or it might be contradictory to the peace and concord or good morals of the people, the competent official appointed by the Minister may file a petition together with the evidence to a court with jurisdiction to restrain the dissemination of such computer data.

68 Approximately 2,500 Euro.

69 *Ibid.*, page 9.

If the court gives an instruction to restrain the dissemination of computer data according to paragraph one, the relevant competent official shall conduct the restraint either by himself or instruct the Service Provider to restrain the dissemination of such computer data.

Article 20 has become the legal framework for internet censorship since 2007, replacing CNS Order Number 5. The creators of 'computer data' in Article 20 also face penalties under Article 14.

It is quite difficult to track the number of blocked websites in Thailand. The latest data from *Reporters Without Borders* from January 2011 claims between 80,000 to 100,000 URLs are blocked.⁷⁰ There are many controversial cases of netizen imprisonment under Article 14. Most are related to the Red Shirt movement, for example:

- *Suvicha Thakhor*, the internet user who was serving a 10-year jail sentence on lèse-majesté charge for allegedly using software to modify photos of the royal family before posting them online, although he later received a royal pardon.⁷¹
- *Thanthawut Thaweewarodomkul*, editor of Red Shirt supporting site, NorporchosUSA, sentenced for 13 years in prison.⁷²
- *Joe Gordon*, American blogger who lives in Thailand, sentenced for 2 and a half years in prison but who later received a royal pardon.⁷³
- *Surapak Phuchaisaeng*, a Facebook user accused for lèse-majesté photos and who was arrested in September 2011.⁷⁴

The other controversial section of the law is Article 15 which allows officials to charge "any service provider" who intentionally supports or consents to the commission of an offence under Section 14. The term "service provider"

70 Reporters Without Borders, World Report - Thailand, <http://en.rsf.org/report-thailand,81.html>, accessed 23 June 2012.

71 Reporters Without Borders, Royal pardon for Internet user serving 10-year sentence for lèse majesté, 1 July 2010, <http://en.rsf.org/thailand-royal-pardon-for-internet-user-01-07-2010,37857.html>, accessed 23 June 2012.

72 Reporters Without Borders, 13 years in prison for posting three messages on website criticizing king, 17 March 2011, <http://en.rsf.org/thailande-13-years-in-prison-for-posting-17-03-2011,39819.html>, accessed 23 June 2012.

73 Reporters Without Borders, American netizen jailed in latest abuse of Thai lèse-majesté laws, 8 December 2011, <http://en.rsf.org/thailande-american-netizen-jailed-in-latest-08-12-2011,41536.html>, accessed 23 June 2012.

74 Reporters Without Borders, New cases suggest no change in lèse-majesté policy, 13 December 2011, <http://en.rsf.org/thailand-new-cases-suggest-no-change-in-13-09-2011,40978.html>, accessed 23 June 2012.

can be applied to any intermediary including ISP, data center provider, web hosting and web master. The most controversial case is the case of *Chiranuch Premchaiporn*, webmaster of Prachatai.com, which is outlined in detail below.

There are a few initiatives for CCA amendment including a working group from *The Senate's Committee of Science, Technology, Information and Communication*. As of June 2012, a legal amendment proposal is still being considered.

New Media and Thai Politics

The Thai political sphere can be summarised from earlier sections of this report as the foundations for analysis on “new media and Thai politics” in this section as follows:

1. While the general Thai public can discuss and criticise parliamentary politics, Thailand has a strong taboo for discussing issues relating to the monarchy. The infamous *lèse-majesté* law prevents ‘insults against the monarchy’.
2. Mass media in Thailand is indirectly controlled. Broadcasting media is monopolised by state agencies and print media by media conglomerates.
3. Most media (except the state-owned NBT) are free to criticise governments and political parties. However, mass media accept the taboo regarding the monarchy strictly.
4. This system of media has worked quite well in a modern Thai political context until the start of the Yellow Shirts rally in 2005. The Yellow Shirts aligned themselves with pro-royalists.
5. The state-controlled mass media prevented Yellow Shirts for using mass media as a political tool to channel frustrations against the Thaksin government. The Yellows then started their own communications and media channels using online sites and satellite TV. After the 2006 coup d’état, Thaksin supporters faced similar restrictions, particular given they were perceived to be against the palace circle, and these groups themselves then followed the Yellows’ strategy on alternative media utilising online sites, community radios and satellite TV.

Thailand’s alternative media usage regarding politics can be described as “a space for expression” however as alternative media can be used in a way in which traditional media cannot.

This report focuses only on “new media” or digital media. However, other “alternative media” such as community radios and satellite TVs are also highly influential with rural, elderly and low-income citizens who are still not connected to the internet.

4.1. Discussion Forums

The first and probably most important political discussion space in Thailand is the internet forum. *Pitch Pongsawat*, a political science scholar at Chulalongkorn University, studied the characteristics of internet forum as political discussion space in his “Virtual Democracy” during 1992 to 2001 period.⁷⁵

The first and largest internet discussion site in Thailand is Pantip.com, founded in 1997 by *Wanchat Padongrat*. Pantip.com is categorised into “cafes” (forums) covering topics including automobiles, fine arts, politics and libraries. The most popular cafes in Pantip.com are Rajadamnern (politics) and Chalermthai (entertainment).

Mainly by its users, Rajadamnern has developed a reputation of quality and variety of discussion. Opinions expressed on Pantip.com are often quoted by the mainstream press. Some newspapers even started a daily column summarizing the online debate from Pantip.com and other online communities. Pitch (2002) argued that political internet forums, especially in the case of Pantip.com, provide one example of “freedom of speech in practice” in Thailand. However, he also raises several challenges with political forums including: the anonymity of posters, self-censorship on sensitive topics, the silent majority and representation of only urban middle class.

Many smaller sites followed the Pantip.com model and there are several smaller forums that exist and talk about politics. The outstanding examples include Mthai.com, the third popular site in Thailand which also focus on political news and has a vibrant community in its comment section and Serithai.net, another self-organised forum for anti-Thaksin camps. A discussion of various Red Shirt sites can be found in more detail in Section 4.3.

The rise of blogging since around 2005 brought around more political bloggers to Thai online space. Notable blog providers include *Exteen.com*, *Bloggong.com* (owned by Pantip.com) and *OKNation.com* (owned by Nation Media Group). The OK Nation example is quite interesting for political blogging since many of the Nation’s popular editors and writers put their political opinions online here and this creates an active community amongst political bloggers.

75 Pitch Pongsawat, 2002. Virtual Democracy in Thailand: Information Technology, Internet Political Message Board, and the Politics of Representation in Thailand after 1992, in The 2nd National Thai Studies Conference, July 12-13, 2001, The Royal Melbourne Institute of Technology, Australia. <http://www.geocities.ws/madpitch/pitch-vd.pdf>, accessed 23 June 2012.

For example, Nation Group President *Sutthichai Yoon*⁷⁶ and Nation Weekend Editor-in-Chief *Can Thaimuang*⁷⁷ blog on this specific channel.

4.2. Yellow Media: Powerful Manager.co.th

While forums are places where Thai political followers can discuss their opinions, the conversations are just from observers in an outer ring of politics. The start of direct political-involvement in online media in Thailand can be credited to the Yellow Shirts camp. The first Yellow leader who started criticising Thaksin government was *Sondhi Limthongkul*, the founder of *Manager* daily newspaper and then the host of the political show “*Muang Thai Rai Supdah*” (Thailand Weekly⁷⁸) on free TV *Modernine*. When Sondhi used his program to criticise Thaksin in late 2005, his programme was dropped from *Modernine* following a government order.

As a media tycoon who understood power of new media quite well, Sondhi’s *Manager* group invested heavily in online newspaper *Manager.co.th* using a “digital first” strategy. In 2003, *Manager.co.th* was already the most popular Thai news site and its popularity rose from sixth in 2003⁷⁹ to third in 2004⁸⁰. While *Manager*’s best rank ever has been third, its unique visitors during 2003 to 2006 increased 558.42 per cent, the best in its class if compared with the first *Sanook.com* (portal site with 157.69 per cent growth in the same period) and the second *Kapook.com* (also portal with 246.72 per cent growth).⁸¹

Rank	Site	2003	2004	2005	2006	% change
1	Sanook.com	86767	81531	139179	223597	157.69
2	Kapook.com	40960	75889	105462	142020	246.72
3	Manager.co.th	19147	35621	80653	126069	558.42

When *Manager* Group started rallying against Thaksin, *Manager.co.th* became the best online source for political news, especially for the anti-Thaksin camp. Once *Muang Thai Rai Supdah* was dropped from TV, Sondhi continued his

76 OK Nation, *Sutthichai Yoon*, <http://www.oknation.net/blog/black>, accessed 13 July 2012.

77 OK Nation, *Can Thaimuang*, <http://www.oknation.net/blog/can thai>, accessed 13 July 2012.

78 *Manager Online*, *Thailand Weekly*, <http://www.manager.co.th/thailandweekly>, accessed 23 June 2012. The programme archives are accessible online.

79 TrueHits 2003, Web Awards, <http://truehits.net/awards2003/>, accessed 23 June 2012.

80 TrueHist 2004, Web Awards, <http://truehits.net/awards2004/>, accessed 23 June 2012.

81 TrueHist, Statistics Overview, http://truehits.net/index_stat.php, accessed 2 June 2012. Data are compiled from 2003-2006 period.

programmes at a public park in Bangkok and broadcasted livestream versions of the show through Manager.co.th (he later expanded the programmes reach via satellite TV station ASTV).

Manager Group utilised a multi-medium media strategy effectively. Viewers who missed live events could watch archived clips online with full transcription within hours. Most articles on Manager.co.th are opened for discussion via a commenting system which created a vibrant community among online politics followers.

The audience of Manager.co.th is generally middle class in urban areas. Most of these viewers are white-collar workers who can access the internet at workplaces. These people mainly consume news from the internet, some do not have time to read newspapers and many have also stopped watching TV. However, even after 2005, news companies had still did not invested seriously in online strategies. There were not many good quality news sites in Thailand and Manager.co.th was the single obvious choice for these connected people. This was the reason why Manager.co.th had become one of the most influential media during political unrest since 2005.

The situation changed soon after 2010s when competition in online media was getting more serious. Now Thai people have more choices for online news consuming. The influence of Manager.co.th has declined in recent years but it is still the most visited news site in the country.⁸²

4.3. Red Media: Organic and Fragmented

The Red camps started their online activities in the pre-coup period too (although the name and red colour scheme was invented much later after the coup d'état). In contrast with the yellow movements, early red movements were organic, fragmented and disorganised. Since the red netizen did not have a single site like Manager.co.th, their discussion started in online discussion forum "web boards" instead.

Pantip.com, the first and largest online forums in Thailand, was a natural choice for discussion of politics, especially in the *Rajadamnern* cafe. In 2005, Pantip's politics forum members were combined with both pro and anti Thaksin

82 As July 2012. The daily ranking can be found at TrueHits http://truehits.net/index_ranking.php.

groups. However, the development of the political situation in 2005 and 2006 (pre-coup period) made anti-Thaksin groups move away from Pantip and the forum became dominated by pro-Thaksin and liberal groups.⁸³

The coup d'état in September 2006 came with the Order Number 5 for 'censoring or taking down any inappropriate web sites'. This resulted in Pantip.com being temporarily shut down as a political forum to avoid the whole-site take down. Various anti-coup netizens then moved on to other smaller but independent sites. Some red-shirt sites founded at this time included *19Sep.net*, *Saturdayvoice.com*, *Thai Free News*⁸⁴ and *Thai E-news*⁸⁵. The notable examples of forums used by anti-coup and Thaksin supporters included *Prachatai Webboard*⁸⁶, *Midnight University*⁸⁷ and *Sameskybooks*.⁸⁸ There are many smaller red web sites which are not mentioned here however.

4.4. Social Network Era

Since 2008 and 2009, the rise of social networks, especially Facebook, has changed the online landscape in Thailand. Many webboards and community sites are gradually being abandoned and replaced by Facebook walls/groups/pages. Online politics communities have faced a similar fate.

However, people who joined such communities are the same and the discussions continue as ever. As both camps have adopted Facebook, the opinion clash and flame war have been moved to Facebook walls and pages instead of forums.

Politicians always come late in online politics. They ignored online media at first but quickly recognised its power as a direct communication and public relations tool, inspired by the success of Barack Obama in 2008.

83 Kan Yuenyong, Online Citizen's Migration, <http://www.slideshare.net/sikkha/cyber-citizens-migration>, accessed 7 June 2012, page 10.

84 <http://www.thaifreenews.net>.

85 <http://thaienews.blogspot.com/>.

86 Prachatai, Prachatai Webboard shut down itself on 31 July 2010 to avoid legal problem, 7 July 2010, <http://prachatai.com/journal/2010/07/30243>, accessed 7 June 2012.

87 <http://www.midnightuniv.org/>.

88 Kon Muan Kan, <http://www.konmuankan.com/~liberal/index.php?showtopic=51348>, accessed 7 June 2012. The forum was originally run by Sameskybooks Publishing as an extension to its web site. The forum switched to community-driven model in 2009 due to burden server cost while still use Sameskyname. It fully split itself into separated brand "We Are All Human" (<http://www.konmuankan.com>) in February 2010.

In 2009 and 2010, top national politicians started using Facebook and Twitter extensively. Facebook tends to be a first choice for politicians because of its media rich capacity. The politicians normally post thoughts and activity photos on their Facebook pages. Some post links for their articles from newspaper sites or YouTube links of their recorded TV interviews. *Korn Chatikavanij*, Former Minister of Finance from the Democrat Party, is a prominent figure who uses Facebook effectively. He had more than 260,000 fans as of July 2012⁸⁹ and much of his political discussions make news headlines.

Twitter also has received more attention from Thai politicians. The political usage of Twitter tends to be more dynamic and in real time fashion than Facebook. Former Deputy Prime Minister *Korbsak Sabhavas* (@korbsak) from the Democrat Party usually shares his thought on world economic situation and talk with his supporters. Sometimes live tweets and photos come from “the insiders” or politicians who are at the events in real time. For example, at the chaos in Thai parliament at 31 May 2012⁹⁰, an Pheu Thai MP, *Khattiya Sawatdiphol* (@Dear_Khattiya) posted her tweets just a few minutes denying news report that she was attacked during the chaos. Thai political reporters now use social media widely for news gathering from politicians’ posts.

The two latest Prime Ministers, Abhisit Vejjajiva and Yingluck Shinawatra, have both got channels managed by their staff. Abhisit has more than 900,000 fans on Facebook while Yingluck has more than 600,000 fans. We will discuss more on social network usage in Case Study III and Case Study VI.

89 Facebook, Korn Chatikavanij, <https://www.facebook.com/KornChatikavanijDP>, accessed 13 July 2012.

90 AsiaOne, Thai parliament chaos over reconciliation debate, 31 May 2012. <http://news.asiaone.com/News/AsiaOne%2BNews/Asia/Story/A1Story20120531-349734.html>, accessed 13 July 2012.

Case Studies

This section will discuss several interesting case studies of Thai online media with political usage. Case I and II are about two Thailand's famous internet censorship that has received international coverage. Case III to VI will discuss social networking during political turmoil years from both politicians and citizens' views. The study also outlines interviews with both Red and Yellow leaders regarding opinions of social media.

5.1. Case Study I: YouTube Censorship

The first large incident of internet censorship in Thailand happened in March 2007 during the Coup-appointed Surayud government. On 9th March 2007 some Thai internet users found the whole YouTube site was not accessible and the traffic was redirected to MICT site instead, with no reason given. At first the main reason seemed to be the video clip of Thaksin's interview with CNN but finally it was because of a mocking parody clip insulting King Bhumibol instead.

On 4 April 2007, *Sitthichai Pokai-udom*, then Minister of ICT of the Surayud government, admitted his order of YouTube censorship to a Reuters correspondent. He said the access to YouTube would be resumed when the allegedly offensive item was withdrawn. Within that day, the relevant page on YouTube said the video had "been removed by the user". *Julie Supun*, head of global communications for YouTube, gave a comment to The New York Times that "the company was disappointed that the site had been blocked in Thailand."⁹¹

The whole-site blocking seemed to be a technical incompetence of MICT personnel. After some discussion with Google headquarters, the ban on the YouTube main site was lifted in August 2007 while some pages were still blocked. However, the same video clip had been re-posted and blocked again several times.

91 Thomas Fuller, *Web crackdown blocks YouTube in Thailand*, The New York Times, 4 April 2007, <http://www.nytimes.com/2007/04/04/technology/04iht-thai.4.5146440.html>, accessed 13 July 2012.

This case was the first case where Thailand's online censorship initiative attempted to block the international-level famous web sites beyond Thai territory. The case was in spotlight of foreign media including CNN, BBC, the Financial Times, Fox, Voice of America, AFP, Reuters, Financial Times and the International Herald Tribune for a long period of time.

The YouTube clip was a big story in Thailand as lèse-majesté law was facing serious challenges from internet technology and public opinions were divided. On one hand, there were people who supported freedom of internet and freedom of expression. On the other hand, some people thought YouTube must comply with Thai law and MICT must be more aggressive on censoring lèse-majesté content.

This incident helped the process of re-introducing the draft Computer Crime Act to NLA as a "cyber legal tool" in May 2007. The incident also led to an extensive government censorship campaign in mid-2007.

5.2. Case Study II: Prachatai.com

Prachatai.com is an online-only newspaper. It was first launched in 2004 as an alternative news site presenting news and articles on issues rarely covered by the established media. It also offers web boards for readers to post their opinions without prior screening of the content. After the 2006 Coup, Prachatai became a famous community for the anti-coup movement which later has developed into the Red Shirts.

Prachatai.com says its policy is to comply with the law, particularly the Computer Crime Act, in relation to its news website and web boards. It has been warned by authorities about certain lèse-majesté content but said it complies with such warnings by taking the content down.

On 6 March 2009, police officers from the Crime Suppression Division in Bangkok came to Prachatai.com's office to arrest its director, *Chiranuch Premchaiporn*, charging her under Article 14 and 15 of the Computer Crime Act. The police claimed lèse-majesté statements were posted for 20 days on prachatai.com from 15 October to 3 November 2008.⁹²

Before arresting Chiranuch, the police interrogated prachatai.com staff on a few occasions regarding other material posted on its web boards. In late 2008,

92 Sinfah Tunsarawuth and Toby Mendel, 2010, page 14.

the police obtained the Internet protocol (IP) of one of the persons who posted the statements from prachatai.com (this is computer data that prachatai.com is required to retain under the law). The police have arrested and charged this individual, whose case is now pending before the courts.

On 31 March 2010, State prosecutors decided to file Chiranuch's case with the criminal court in Bangkok. Chiranuch faced 10 counts of offences of violating Article 15 of the Computer Crime Act, which together carry a maximum sentence of 50 years' imprisonment.⁹³

The case was in the spotlight of the international community since it is one of the outstanding cases on the 'responsibility of internet intermediary'. On 30 May 2012, after 3 years of justice process, Chiranuch was found guilty and sentenced to a fine of 20,000 Bahts and 8 months in prison. Since Chiranuch cooperated with the authorities and has no criminal record, the jail sentence was dropped for one year probation.⁹⁴ As of June 2012, she is considering to appeal.⁹⁵

Chiranuch's case raises the awareness of 'internet intermediary' among Thai internet entrepreneurs and users. There are some calls for CCA amendment but both Democrat and Pheu Thai governments still ignore these requests, avoiding conflict with the royalists.

5.3. Case Study III: @ThaksinLive and @PM_Abhisit

The success of Barack Obama's online campaign in 2008 inspired politicians all over the world to follow his strategy.

Thai politicians quickly recognized social media as a direct communication tool to his/her voters, which has not been available before in the world of traditional media. Thaksin Shinawatra, a prime minister-in-exile had no channel of communication in 2009, the time his party was an opposition party and the mass media was controlled by his opponents.

Thaksin's communication strategy to date involves "phoning in" to Red Shirts activities via Voice over IP such as Skype (he upgraded his channel to

93 Sinfah Tunsarawuth and Toby Mendel, 2010, page 14.

94 Ibid.

95 Reporters Without Borders, Website editor convicted of lèse-majesté but spared jail time, 30 May 2012, <http://en.rsf.org/thailand-website-editor-convicted-of-lese-30-05-2012,42698.html>.

“video calling” in later years). Other online media was also a good match for Thaksin’s communication strategy. Thaksin’s staffs set up his personal website *thaksinlive.com* in July 2009. The web site contained a few static pages of his letters, personal messages and some general news on Thailand.

The main focus was on Taksin’s Twitter account *@ThaksinLive* (registered on 15th July 2009). Thaksin has tweeted his opinions on politics and answered questions from his supporters. Sometimes he talks about international politics and foreign relations such as how to fix Thailand-Saudi Arabia relationships.⁹⁶ Most of his tweets are in Thai but a few tweets are in English as well. Some of his tweets become a national headline a day later since they are the only source to get his opinion.

Some pundits speculated that Thaksin he did not tweet by himself but let his staff run his account instead but this question has never been answered. Thaksin himself said on several occasions that the account was authentic. He stopped tweeting for long periods to “avoid conflict” but always returned to Twitter after a few months hiatus. His last tweet⁹⁷ occurred on 1 November 2011 when he talked about Thailand’s flood situation.

In 2009, Thaksin’s communication channel was very limited so his joining of Twitter became a national headline. Within weeks after the news spread, many Red Shirts and his supporters joined Twitter hoping to “talk with Thaksin”. Some users had not even used a computer before. Thaksin soon became the top Thai politicians on Twitter. As of 14 June 2012 he had 365,227 followers.⁹⁸

On the other hand, Abhisit Vejjajiva, then incumbent Prime Minister of Thailand, joined Twitter at the same time and also got much fanfare from his supporters. His *@PM_Abhisit* account has 426,420 followers. After his defeat in the 2011 general election, he switched to new account at *@Abhisit_DP* to reflect that he was not “Prime Minister” anymore. The new account has 59,494 followers.⁹⁹

Both prior prime ministers of Thailand talked to each other once on 26 July 2009, Thaksin’s birthday. Abhisit appeared on a TV programme and answered a question regarding Thaksin’s birthday saying he wished Thaksin to be

96 Voice TV, Thaksin Vows To Revive Thai-Saudi Ties, 7 June 2011, <http://news.voicetv.co.th/in-english/11786.html>, accessed 23 June 2012.

97 Twitter, Thaksin Shinawatra, 1 November 2011, <https://twitter.com/ThaksinLive/status/131327903358124034>, accessed 23 June 2012.

98 His Twitter statistics can be found on <http://twitaholic.com/ThaksinLive/>.

99 Twitter, Abhisit Vejjajiva, http://twitter.com/abhisit_dp, accessed 15 June 2012.

'enlightened' for the sake of a better life. Abhisit's staff put his words into Twitter and sent it directly to @Thaksinlive account which replied "Thanks for your blessing. Support your hard work and I will be glad if you ask for my help". This conversation created national headlines and raised a public awareness of Twitter.¹⁰⁰

Thaksin and Abhisit also started using Facebook a few months later. At present, most top politicians in Thailand have already joined social networks to use as their personal communication channels and increase a public image of 'modernity'.

Both Thaksin and Abhisit's actions show us how politicians start their own direct communication channels via online media. They can use these channels to set the news agenda directly without mass media journalism processes being involved. While internet penetration in Thailand is still limited, the exclusivity of comments on online media (e.g. Thaksin's latest opinion from abroad) forces mass media to report the stories as well. This media strategy is quite effective. Politicians can send direct messages to their supporters via online channel. The same message will be spread to wider audiences through mass media without 'editorial editing' since there are many people who receive the original message online.

5.4. Case Study IV: Citizen Journalism during 2010 Protests

The progress of mobile technology and social media helps the expansion of "citizen journalism" around the world. The Arab Springs movement since 2011 has provided a good example for citizen journalism with politics but Thailand's own experiences started before in 2010.

The political protests in central Bangkok by the Red Shirts during March to May 2010 were one of the largest protests in Thai history. The situation also provided a good example of citizen journalism and usage of mobile technology for reporting situations from the 'front line'.

As the protests progressed, the atmosphere became tenser and participants could feel that a crackdown was coming. Central Bangkok residents moved out of their homes for safety reason. The armed forces started an encirclement campaign against the protesters which made reporting from the protest area

100 Prachatai, Abhisit wish for Thaksin's Birthday, 26 July 2009, <http://prachatai.com/journal/2009/07/25213> accessed 23 June 2012.

very difficult. The traditional outside broadcasting van (OB Van) could not get through to make reports.

Mobile technology and social media became one solution for reporting current situations within the encirclement. Reporters started tweeting live photos using mobile broadband networks instead. There were a few outstanding usage cases:

- *Springnews.tv*¹⁰¹, a satellite news channel, put a video camera and laptop with mobile data modem dongle on a motorcycle. This “mobile broadcasting unit” could go through small roads and get the best live video from the closed area.¹⁰² Springnews call its mobile unit “Spring Thunder Bike” and later expanded its gear to Unmanned Aircraft Vehicle.¹⁰³
- *Noppatjak Attanon*, a reporter from The Nation newspaper, was a very good example of a “mobile reporter”. During the tension and crackdown periods, he went to the field, interviewed protesters and officers then live tweeted the stories and photos from the field. In the later stage of the crackdown, the mobile network within the area was shut down and he needed to go outside the area for tweeting. Now he is famous for his field reporting using mobile technology. Some archives of his photos and videos are available on his blog at <http://blog.noppatjak.com>.¹⁰⁴
- *Pakorn Poseangda (@iNattt)* - while Noppatjak is a professional reporter who adopts mobile technology, Pakorn is a professional designer who decided to survey the protest area in April 2010. His determination was to observe the real situation with his own eyes. He tweeted almost everything he saw including what Red Shirts said and the photos of protesters.¹⁰⁵ After the crackdown, he was invited for TV interview on his “citizen journalism”.

101 Spring News TV, <http://www.springnewstv.tv>, accessed 23 June 2012.

102 See example video from Springnews mobile unit at <http://www.youtube.com/watch?v=RmDQ-TSyNx4>.

103 Springnews Press Release, ThaiPR.NET, 16 December 2010 <http://www.ryt9.com/s/prg/1050073>, accessed 23 June 2012.

104 Noppatjak Attanon, noppatjak's blog, April-May 2010, http://blog.noppatjak.com/2010_04_01_archive.html and http://blog.noppatjak.com/2010_05_01_archive.html.

105 Lab Test Online, mention @iNattt, <http://www.lab.in.th/23/mention-inattt-2010-04-16>, accessed 23 June 2012. Some of @iNattt tweets are available in archive form.

The mobile live report during 2010 protests set a new standard for the Thai news industry. The big media events after that time such as floods, protests or press conferences have been reported live via mobile network and social media.

The case of online citizen journalism shows how social network involve 2-way communication. People do not want to consume news from politicians and news agencies only but they want to hear the voices and opinions from other 'normal people' as well. Messages from officials or major news agencies can be edited or censored.

People often use posts or photos from social networks to counter stories in the mass media. The 2011 Thailand's Flood was a good demonstration. Some people published flood levels at their houses to counter government messages. Flood maps and how-to clips also received widespread coverage during the flood time. This is a good sign for local administration driven from local people using social media as communication tools.

5.5. Case Study V: Facebook Witch Hunt

The early days in internet censorship in Thailand was about the government censorship. But in 2010, there was a new organic movement called "Social Sanction" against social network users.

Social Sanction (SS) is a right-wing group that started from a Facebook page¹⁰⁶ around February 2010. The aim of SS group was to expose the identity of Facebook users who posted against the monarchy. According to the investigation by Thai Netizen Network¹⁰⁷, SS group exposed photos and identified 30 people or more. The page was suspended once by the Facebook team.

Kasetsart University students were reported to the Dead by the SS group for lèse-majesté. The university then filed a lèse-majesté case against a student.

The activity of the SS group was compared to a Witch Hunt from the middle ages. There are a few counter-SS groups established to expose the identity of SS team members as well.

106 Facebook, Social Sanctions: SS, <https://www.facebook.com/SocialSanction>, accessed 23 June 2012.

107 Thai Netizen Network, 2011 Annual Report, <https://thainetizen.org/docs/netizen-report-2011>, accessed 23 June 2012.

The less-radical example of Facebook social sanctioning is the page “*Report Thailand*”¹⁰⁸ which aims to spread the know-how of reporting inappropriate (mainly *lèse-majesté*) pages to Facebook officers. Report Thailand occasionally organises a “Bomb Report” or massive inappropriate report from many users at the same period.

This case study shows Thai internet users can organise themselves for political agendas, whether in a positive or negative way. The organisation is organic and there is no evidence that it is the set up by any professional political organisation.

The Facebook Witch Hunt phenomenon shows how technologies can meet with Thai traditional belief in the monarchy. It also exposes the problem of online privacy and internet literacy, which many Thai internet users still lack.

5.6. Case Study VI: 2011 Election Campaign

The rise of social media in 2009 and 2010 forced all Thai political parties to engage with them during the 2011 general election.

While Twitter came early to the Thai political landscape in 2009, Facebook dominated the spotlight in 2010 (interestingly enough, in conjunction with the movie “*The Social Network*” and Mark Zuckerberg as TIME’s Person of the Year 2010). The popularity of Facebook made it the base requirement for cyber campaigns, alongside the standard party web site.

From the total 40 parties that entered the 2011 general election, 19 parties had an official web site and 12 parties had Facebook pages (some smaller parties only had Facebook pages without web sites). Every major party had a web site, Facebook page and Twitter account. The most active channel was Facebook, which gained instant feedback on political posts with likes and comments from party’s supporters. Some parties even used the livestream function on their Facebook pages.¹⁰⁹

The best party for online media strategy during the election campaign was the Democrat Party. The party created a special campaign sub-site¹¹⁰ to emphasise

108 Facebook, Report Thailand, <https://www.facebook.com/reportthailand>, accessed 23 June 2012.

109 Siam Intelligence Unit, Social Media and Thailand 2011 General Election, 21 June 2011, <http://www.siamintelligence.com/social-media-thai-election-2011>, accessed 23 June 2012.

110 Democrat Party Campaign Site, <http://campaign.democrat.or.th/th/>, accessed 23 June 2012.

its roadshows and on-ground events. The top party executives joined Twitter and Facebook in the usual manner. The party also created an iPhone App¹¹¹ and bought many advertisements on Google Search for relevant keywords. The other tools used by the Democrat Party included Facebook livestream¹¹², YouTube¹¹³ and Flickr.¹¹⁴

The opposing *Pheu Thai Party* ran a less effective online campaign. The party had an official web site¹¹⁵ with standard content (also with live streaming for campaign events). The interesting aspect of Pheu Thai campaign strategy was the focus on candidate Yingluck Shinawatra, Thaksin's youngest sister, throughout her entire campaign. This strategy also covered an online campaign. Pheu Thai's Facebook¹¹⁶ and Twitter¹¹⁷ accounts were less active in their focus on Yingluck's personal Facebook¹¹⁸ and Twitter¹¹⁹ accounts instead. Yingluck was praised by the media as "photogenic." Pheu Thai staff posted her activity photos on her social account extensively to create a widespread "viral" on the cyber world.



The other outstanding case is *Chuvit Kamolvisit*¹²⁰, a colorful politician who came from a nightlife business background. He used his "personal branding" as his selling point. All his party focus went on his personal Facebook page¹²¹ with a small party name on it. He also created a parody campaign video aimed at online generations.

The importance of online channels during the 2011 general election campaign was reflected into the offline world. Many campaign signs and

111 DemocratTH, Apple iTunes App Store, <http://itunes.apple.com/th/app/democrath/id434568385?mt=8>, accessed 23 June 2012.

112 Siam Intelligence Unit, Abhisit's First Speech on Facebook, 23 May 2011, <http://www.siamintelligence.com/abhisit-livestream-facebook/>, accessed 23 June 2012.

113 YouTube, Democrat Party, <http://www.youtube.com/user/MasterDMP001>, accessed 23 June 2012.

114 Flickr, Democrat Party, <http://www.flickr.com/photos/democratparty>, accessed 23 June 2012.

115 Pheu Thai Party, <http://www.ptp.or.th>, accessed 23 June 2012.

116 Facebook, Pheu Thai Party, <https://www.facebook.com/pheuthaiparty>, accessed 23 June 2012.

117 Twitter, Pheu Thai Party, <http://twitter.com/#!/pheuthaiparty>, accessed 23 June 2012.

118 Facebook, Yingluck Shinawatra, <http://www.facebook.com/Y.Shinawatra>, accessed 23 June 2012.

119 Twitter, Yingluck Shinawatra, <http://twitter.com/#!/pouyingluck>, accessed 23 June 2012.

120 Some English translations spell his name as Chuwit.

121 Chuvit I'm No.5, Facebook, <https://www.facebook.com/ChuvitOnline> accessed 23 June 2012.

banners at the time included Facebook logos or Facebook Like icons, engaging the viewers to follow them on Facebook.

Online campaigns during the 2011 general election were a good sign that political parties were already aware of online media as a new effective tool for public relations. The internet penetration in urban area is now enough for politicians to invest in internet campaigns. A heavier if not bigger online campaign in the next Bangkok Governor's election (late 2012 or early 2013) is likely since Bangkok citizens have the highest internet usage rate in the country.

5.7. Interview I: Sombat Boonngamanong

By Isriya Paireepairit, 18 June 2012 at Ubon Ratchathani University



Sombat Boonngamanong or “Nuling” is a NGO and Red activist.

Sombat joined the anti-coup movement the day after the 2006 coup d'état. He is currently the leader of Red Sunday, an outstanding wing of Reds after the May 2010 crackdown. Red Sunday used symbols and non-political activities like balloons, aerobic and cycling to express their political opinions during the time of the state emergency law. He was credited for reviving red movements after the crackdown.

As an activist who is fluent on ICT, he organised the Red Sunday movement on the internet. Now he has more than 15, 000 followers on both Facebook and Twitter. He is @nuling on Twitter and his Facebook page is at <http://www.facebook.com/redbuff>.

Q: What do you see from the online world in our political crisis?

A: Young people did not join the street rally on both sides, Reds and Yellows. Surely, there are a few youths who joined but the number is very low when compared with past incidents in Thailand.

But you can find many fierce conversations and debates by youth in social networks. The discussion space has already moved from physical area to virtual space.

We can say after the 1976 incident, university students and young people fled from cities to join the Communist Party in rural areas. Now after the May 2010 crackdown, young people of this era flee to Facebook instead.

Q: Why do you use social networks as your main communication tool?

A: After the May 2010 crackdown, Reds lost their momentum. I also had no other communication channels. Then I tried to create a 'snowball effect' within online communities and it worked very well.

Social networks become a new community for connecting people. "Webboard" is dead and now the mainstream media find original news sources from Facebook instead.

Q: Could you evaluate the use of social networks from each political group?

A: Democrat Party is much better on cyber tools than the Reds side. The Reds are very low-tech by nature and Pheu Thai Party has not got a sense of cyber activities. The cyber team of PM Yingluck only know how to promote her PR photos while the Democrat Party has developed its cyber supporters systematically. Now my team are trying to educate Reds on how to access these tools.

Q: What is the problem with social network in Thailand?

A: Internet access is still very limited to the urban middleclass. I hope the smartphone waves and 3G connectivity will help in the next few years.

5.8. Interview II: Tul Sittisomwong

Phone interview by Isriya Paireepairit, 22 June 2012

"Dr.Tul" is a professional obstetrician at Chulalongkorn University who is also a leader of the "Network of Citizen Volunteers Protecting the Land" (commonly known as Multicolor Shirts). The group was formed in April 2010 to show its disagreement to Reds gathering during the same period. It is not a part of PAD but is generally considered as an ally of PAD and the Democrat Party.

Tul uses Facebook (<https://www.facebook.com/DrTul>) as his online communication channel to his supporters. He also has Twitter @tullovethailand but it is not active anymore.



Q: What do you think about social network as political communication tools?

Social network is a very cheap tool for communicating with the masses. Organising rallies requires a lot of resources, both money and manpower. So we prefer online communications in normal situations and tend to organise a rally when really needed.

For a group that does not own mass media like us, social network is a viable alternative.

Q: How do you use social network?

I started with Facebook and use it as my main online channel. For Twitter, it was more difficult to understand and now I abandoned it.

The impact of Facebook is still limited in Thai society but it's better than my expectation. I see people who use visual graphics in Facebook get more interactions with their fans than people who use only text like me.

Q: Could you compare the use of social network between each political groups?

I think Democrat Party is the best for this. Reds social network activities are fewer because they have other means of communication like webboards and web sites.

For the media groups, I think Nation Group gets most followers. Manager Group prefers to centralise things at their web site instead.

Q: What is the problem of using social network in Thai politics?

Online trolls or vandals. False information is also a big problem.

While Case III and VI show how professional politicians can use online media, both interviews show how political activists from both sides of the political spectrum, who are not a member of any party, adopt online media for their activities and supporters.

In contrast with political parties, both interviewees are self-organised activists and do not own any media channels. The cheapest and easiest way for them to communicate with their supporters is online. While the spread of online media is still limited, the advantage of online media is direct communication and they can 'set the agenda' of the news once traditional mass media reported their activities as. Online media also gives the ability to create two-way communication i.e. questions and answers, which is very necessary for developing a political movement.

Conclusions

Thailand's media industry has several major challenges. The ownership of media is concentrated to a few organisations. Anti-competitive cultures such as state concessions and frequency controls prevent new players competing on a level playing field. The relationships between media conglomerates and politicians are important, as is the culture of self-censorship on sensitive issues.

Lawrence Lessig, a Harvard professor who is known for his research of internet law and regulations, proposed his 'general framework of regulation' in his book "Code is Law".¹²² His framework consists of four forces that regulate any given industry: law, markets, social norms and architecture (or 'code' for internet application).

His framework can be applied to analyse current regulation of the Thai mass media industry and categorize each force:

- **Law** – Thai media laws are more relaxed than in the past. However, governments still can use Internal Security Acts to censor the press in emergency situations. The lèse-majesté law creates indirect impact of self-censorship by the press.
- **Markets** – mass media is a capital intensive industry. The concentration of capital and media ownership creates status quo and prevents competition from newcomers.
- **Social norms** - lèse-majesté law and the culture of silence for discussion about issues regarding the royal circle are main reasons for self-censorship.

The fourth force, technical architecture, is the only way to pass through the regulation of Thai mass media. When new media technologies like satellite TV, community radio and online media emerged, they provided the opportunity for freer media ecosystems. The high popularity of these alternative media is a proof that Thailand has been with a shortage of media supply for a long time.

122 Lawrence Lessig, Code version 2.0 2nd ed., New York: Basic Books, 2006, <http://codev2.cc>, accessed 15 July 2012.

The limitations of Thai traditional media have been widely recognised during the political crisis since 2005. Each political interest group realised that they must have their own media channels which were not controlled by the state. The Yellows were the first group that started their own satellite channel and web site followed by the Reds and then the Democrat Party respectively.

The use of new media in Thailand is still lower than satellite TV and community radios as there continues to be low internet penetration in the country. However, since the main group of Thai online citizens belong to the urban middle classes, their voices are quite loud and now the online trends have come under the focus of mass media organisations.

While the number of people who can access the internet is still low in Thailand, there are many interesting online activities among those who are connected. The case studies from previous chapters show some examples from both sides of the conflict. The use of social media as a promoting outlet during the 2011 general election already set a new standard for the next election. Since Bangkok has the largest online population in the country, a bigger social network campaign for the next Bangkok Governor election in late 2012 or early 2013 is also expected.

Internet as a new kind of media is considered as a 'treat' by some officials. There have been many attempts to regulate the internet. Thailand faced a heavy degree of web site censorship, an "architectural" mean to regulate, during 2006 to 2010. Now such methods are widely considered as useless since people can avoid blocks easily with proxy software and the blocked web site can move or reopen. In recent years, government officials often used "law" (in Lessig's sense) to punish internet users or intermediaries instead. The Computer Crime Act of 2007 is the main tool for this.

Thailand needs to fix two major challenges to ensure the spread of usage of new media within politics. The first challenge is to improve internet penetration rates rapidly, for which the current mobile wave can be a big driver. Mobile devices such as smartphones and tablets are now common in urban areas and the usage in rural areas is getting better. Once the price of a smartphone goes down to 2,000 to 3,000 Baht and the 3G infrastructure is complete¹²³, a lot more people will be connected via this telecom infrastructure.

123 The auction of standard 2100MHz 3G spectrum is targeted for October 2012 by NBTC. The roll out deadline is one year after the auction is finished. As of June 2012, Thailand has limited 3G service by existing 850/900MHz 2G network.

The second challenge is to create a more open online environment. The obvious obstacle is the problematic Computer Crime Act, which needs to be amended. Moreover, if Thailand wants to have an improved participative democracy, a more open atmosphere for political discussion and debating without fear must be created and tolerated, whether online or offline.

Thailand's political activities are still very limited due to language and cultural barriers. International-level state activities are mainly for diplomats and government officials. However, the goal of the ASEAN Community in 2015 has raised the awareness of 'a regional' concept into the Thai political sphere. Thai political followers are now starting to watch issues or situations in neighbouring countries, especially Cambodia and Myanmar due to border conflicts. Online media can be a crucial tool for communicating between South East Asian countries. Now there are several English-based communities for political watchers in the region and it is likely more Thais will join these as well.

References:

Bank of Thailand, Royal Decree Regulating Electronic Payment Service Business, B.E. 2551, http://www.bot.or.th/Thai/PaymentSystems/OversightOfEmoney/Pages/RoyalDecree_ePayment.aspx, accessed 23 June 2012.

Bank of Thailand, Payment System Report 2008, http://www.bot.or.th/English/PaymentSystems/Publication/ps_annually_report/Documents/Payment_2008_E.pdf, accessed 23 June 2012. comScore Inc., comScore Announces Availability of Online Audience Measurement Services for Thailand, 3 April 2012 http://www.comscore.com/Press_Events/Press_Releases/2012/4/comScore_Announces_Availability_of_Online_Audience_Measurement_Services_for_Thailand, accessed 28 May 2012.

Crispin, S.W., Thailand at a Crossroads: CPJ Special Report, <http://cpj.org/reports/2007/05/thailand.php>, accessed 25 May 2012.

Economist, The, An inconvenient death, 12 May 2012, <http://www.economist.com/node/21554585>, accessed 23 June 2012.

Fuller, T., Web crackdown blocks YouTube in Thailand, The New York Times, 4 April 2007, <http://www.nytimes.com/2007/04/04/technology/04iht-thai.4.5146440.html>, accessed 13 July 2012.

Horn, R., What's Behind Thailand's Lese Majeste Crackdown?, TIME, 2 June 2011, <http://www.time.com/time/world/article/0,8599,2075233,00.html>, accessed 23 June 2012.

Koanantakool, T., A brief history of ICT in Thailand, Bangkok Post, 7 February 2007, http://www.bangkokpost.com/20th_database/07Feb2007_data00.php, accessed 27 May 2012.

Koanantakool, T., Important Internet Statistics of Thailand, 24 August 2007, http://internet.nectec.or.th/document/pdf/20070824_Important_Intenet_Statistics_of_Thailand.pdf, accessed 27 May 2012.

Lessig, L., Code version 2.0 2nd ed., New York: Basic Books, 2006, <http://codev2.cc>, accessed 15 July 2012.

MCOT, Shareholdings <http://mcot.listedcompany.com/shareholdings.html>, accessed 23 June 2012. Former state enterprise. Now listed company in Stock Exchange of Thailand with 65.80 per cent ownership by the Ministry of Finance.

Nation, The, Matichon Takeover: Grammy faces boycott as social outrage grows, 15 September 2005, <http://www.nationmultimedia.com/specials/mediaupheaval/p12.php>, accessed 23 May 2012.

Nation, The, Royal Birthday Address: King Can Do Wrong, 5 December 2005 http://www.nationmultimedia.com/2005/12/05/headlines/data/headlines_19334288.html, accessed 23 June 2012.

National Statistic Office, Key Statistics of Thailand 2012, http://service.nso.go.th/nso/nsopublish/download/files/Key55_T.pdf, accessed 27 May 2012.

NBTC, Telecom Market Report Q2/2011, http://www.nbtc.go.th/wps/portal/NTC/TDC/telecommunications_market.

Office of Krisdika, The, Official Thai Criminal Code, <http://web.krisdika.go.th/data/law/law4/%BB06/%BB06-20-9999-update.pdf>, accessed 23 June 2012.

Pairepairit, I., Internet Censorship in Thailand, University of Sheffield, 2006 <http://www.scribd.com/doc/6164567/Internet-Censorship-Thailand>, accessed 23 June 2012.

Pongsawat, P., 2002. Virtual Democracy in Thailand: Information Technology, Internet Political Message Board, and the Politics of Representation in Thailand after 1992, in The 2nd National Thai Studies Conference, July 12-13, 2001, The Royal Melbourne Institute of Technology, Australia. <http://www.geocities.ws/madpitch/pitch-vd.pdf>, accessed 23 June 2012.

Prachachat Online, Nielsen Changes TV Rating System, 17 April 2012, http://www.prachachat.net/news_detail.php?newsid=1334646861, accessed 25 June 2012.

Reporters Without Borders, Countries Under Surveillance – Thailand, <http://en.rsf.org/surveillance-thailand,39775.html>, accessed 23 June 2012.

Reporters Without Borders, First Online Free Expression Day launched on Reporters Without Borders website, 12 March 2008, <http://en.rsf.org/first-online>

free-expression-day-12-03-2008,26086.html, accessed 23 June 2012.

Reporters Without Borders, Royal pardon for Internet user serving 10-year sentence for l?semajest?, 1 July 2010, <http://en.rsf.org/thailand-royal-pardon-for-internet-user-01-07-2010,37857.html>, accessed 23 June 2012.

Reporters Without Borders, 13 years in prison for posting three messages on website criticizing king, 17 March 2011, <http://en.rsf.org/thailande-13-years-in-prison-for-posting-17-03-2011,39819.html>, accessed 23 June 2012.

Reporters Without Borders, American netizen jailed in latest abuse of Thai lese-majeste laws, 8 December 2011, <http://en.rsf.org/thailande-american-netizen-jailed-in-latest-08-12-2011,41536.html>, accessed 23 June 2012.

Reporters Without Borders, New cases suggest no change in lese-majeste policy, 13 December 2011, <http://en.rsf.org/thailand-new-cases-suggest-no-change-in-13-09-2011,40978.html>, accessed 23 June 2012.

Reporters Without Borders, Website editor convicted of lèse-majesté but spared jail time, 30 May 2012, <http://en.rsf.org/thailand-website-editor-convicted-of-lese-30-05-2012,42698.html>.

Siam Intelligence Unit, Abhisit's First Speech on Facebook, 23 May 2011, <http://www.siamintelligence.com/abhisit-livestream-facebook/>, accessed 23 June 2012.

Siam Intelligence Unit, Social Media and Thailand 2011 General Election, 21 June 2011, <http://www.siamintelligence.com/social-media-thai-election-2011>, accessed 23 June 2012.

Singh-Molares R., WEF Blog: Thailand braces for a data storm, Bangkok Post, 28 May 2012, <http://www.bangkokpost.com/business/wef-online/295412/wef-blog-thailand-braces-for-a-data-storm>, accessed 5 June 2012.

Thai Netizen Network, 2011 Annual Report, <https://thainetizen.org/docs/netizen-report-2011>, accessed 23 June 2012.

True Corporation, 2011 Annual Report, <http://true.listedcompany.com/misc/FORM561/FORM561-2011-TH-02.html>, accessed 23 June 2012, Section 4.

Tunsarawuth, S., Mendel, T., Analysis of Computer Crime Act of Thailand, May 2010, http://www.law-democracy.org/wp-content/uploads/2010/07/10.05.Thai_Computer-Act-Analysis.pdf, accessed 23 June 2012.

Yuenyong, K., Online Citizen's Migration, <http://www.slideshare.net/sikkha/cyber-citizens-migration>, accessed 7 June 2012.

Annex:

Computer Crimes Act of 2007 (Unofficial English Translation)

An unofficial translation of the Computer Crimes Act made by the Campaign for Popular Media Reform (CPMR)¹²⁴

Computer Crimes Act B.E 2550 (2007)

Bhumibol Adulyadej, Rex.

Given on this 10th day of June B.E. 2550 (2007)
Being the 62nd year of the present reign.

His Majesty King Bhumibol Adulyadej has been pleasantly pleased to proclaim that as it is deemed appropriate to enact a law governing the commission of a computer-related offence.

His Majesty, therefore, granted His Royal assent for the promulgation of the Computer Crimes Act in accord with the recommendation and consent of the National Legislative Assembly as follows:

Section 1 This Act shall be called the “Computer Crimes Act B.E 2550 (2007)”.

Section 2 This Act will come into force 30 days following the date of its publication in the Government Gazette.

Section 3 In this Act,

“Computer System” means a piece of equipment or sets of equipment units, whose function is integrated together, for which sets of instructions and working principles enable it or them to perform the duty of processing data automatically.

124 The original text is from <http://www.prachatai.com/english/node/117>.

“Computer Data” means data, statements or sets of instructions contained in a computer system, the output of which may be processed by a computer system including electronic data, according to the Law of Electronic Transactions.

“Computer Traffic Data” means data related to computer system-based communications showing sources of origin, starting points, destinations, routes, time, dates, volumes, time periods, types of services or others related to that computer system’s communications.

“Service Provider” shall mean:

(1) A person who provides service to the public with respect to access to the Internet or other mutual communication via a computer system, whether on their own behalf, or in the name of, or for the benefit of, another person

(2) A person who provides services with respect to the storage of computer data for the benefit of the other person

“Service User” means a person who uses the services provided by a service provider, with or without fee

“Competent Official” means a person appointed by a Minister to perform duties under this Act.

“Minister” means a Minister who has responsibility and control for the execution of this Act.

Section 4. The Minister of Information and Communications Technology shall have responsibility and control for the execution of this Act and shall have the authority to issue a Ministerial Rule for the purpose of the execution of this Act.

A Ministerial Rule shall be enforceable upon its publication in the Government Gazette.

Chapter 1

Computer-Related Offences

Section 5. Any person illegally accessing a computer system for which a specific access prevention measure that is not intended for their own use is available shall be subject to imprisonment for no longer than six months or a fine of not more than ten thousand baht or both.

Section 6. If any person knowing of a measure to prevent access to a computer system specifically created by a third party illegally discloses that measure in a manner that is likely to cause damage to the third party, they shall be subject to imprisonment for no longer than one year or a fine of not more than twenty thousand baht or both.

Section 7. If any person illegally accesses computer data, for which there is a specific access prevention measure not intended for their own use available, then he or she shall be subject to imprisonment for no longer than two years or a fine of not more than forty thousand baht or both.

Section 8. Any person who illegally commits any act by electronic means to eavesdrop a third party's computer data in process of being sent in a computer system and not intended for the public interest or general people's use shall be subject to imprisonment for no longer than three years or a fine of not more than sixty thousand baht or both.

Section 9. Any person who illegally damages, destroys, corrects, changes or amends a third party's computer data, either in whole or in part, shall be subject to imprisonment for no longer than five years or a fine of not more than one hundred thousand baht or both.

Section 10. Any person who illegally commits any act that causes the working of a third party's computer system to be suspended, delayed, hindered or disrupted to the extent that the computer system fails to operate normally shall be subject to imprisonment for no longer than five years or a fine of not more than one hundred thousand baht or both.

Section 11 Any person sending computer data or electronic mail to another person and covering up the source of such aforementioned data in a manner that disturbs the other person's normal operation of their computer system shall be subject to a fine of not more than one hundred thousand baht.

Section 12. The perpetration of an offence under Section 9 or Section 10 that:

(1) causes damage, whether it be immediate or subsequent and whether it be synchronous to the public shall be subject to imprisonment for no longer than ten years or a fine of not more than two hundred thousand baht.

(2) is an act that is likely to damage computer data or a computer system related to the country's security, public security and economic security or public services or is an act against computer data or a computer system available for public use shall be subject to imprisonment from three years up to fifteen years and a fine of sixty thousand baht up to three hundred thousand baht.

The commission of an offence under (2) that causes death to another person shall be subject to imprisonment from ten years up to twenty years.

Section 13. Any person who sells or disseminates sets of instructions developed as a tool used in committing an offence under Section 5, Section 6, Section 7, Section 8, Section 9, Section 10 and Section 11 shall be subject to imprisonment for not more than one year or a fine of not more than twenty thousand baht, or both.

Section 14. If any person commits any offence of the following acts shall be subject to imprisonment for not more than five years or a fine of not more than one hundred thousand baht or both:

(1) that involves 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 that third party or the public;

(2) that involves import to a computer system of false computer data in a manner that is likely to damage the country's security or cause a public panic;

(3) that involves import to a computer system of any computer data related with an offence against the Kingdom's security under the Criminal Code;

(4) that involves import to a computer system of any computer data of a pornographic nature that is publicly accessible;

(5) that involves the dissemination or forwarding of computer data already known to be computer data under (1) (2) (3) or (4);

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.

Section 16. Any person, who imports to a computer system that is publicly accessible, computer data where a third party's picture appears either created, edited, added or adapted by electronic means or otherwise in a manner that is likely to impair that third party's reputation or cause that third party to be isolated, disgusted or embarrassed, shall be subject to imprisonment for not longer than three years or a fine of not more than sixty thousand baht, or both.

If the commission under paragraph one is a trustworthy action the perpetrator is not guilty.

An offence under paragraph one shall be a compoundable offence.

If a party injured by an offence under paragraph one has died before filing a complaint, then their parents, spouse or children may file a complaint and shall be deemed to be the injured party.

Section 17. Any person committing an offence against this Act outside the Kingdom and;

(1) the offender is Thai and the government of the country where the offence has occurred or the injured party is required to be punished or;

(2) the offender is a non-citizen and the Thai government or Thai person who is an injured party or the injured party is required to be punished;

shall be penalized within the Kingdom.

Chapter 2

Competent Officials

Section 18. Within the power of Section 19 and for the benefit of an investigation, if there is reasonable cause to believe that there is the perpetration of an offence under this Act, then a relevant competent official shall have any of the following authorities only as necessary to identify a person who has committed an offence in order to:

- (1) issue an inquiry letter to any person related to the commission of an offence under this Act or summon them to give statements, forward written explanations or any other documents, data or evidence in an understandable form.
- (2) call for computer traffic data related to communications from a service user via a computer system or from other relevant persons.
- (3) instruct a service provider to deliver to a relevant competent official service users-related data that must be stored under Section 26 or that is in the possession or under the control of a service provider;
- (4) copy computer data, computer traffic data from a computer system, in which there is a reasonable cause to believe that offences under this Act have been committed if that computer is not yet in the possession of the competent official;
- (5) instruct a person who possesses or controls computer data or computer data storage equipment to deliver to the relevant competent official the computer data or the equipment pieces;
- (6) inspect or access a computer system, computer data, computer traffic data or computer data storage equipment belonging to any person that is evidence of, or may be used as evidence related to, the commission of an offence or used in identifying a person who has committed an offence, and instruct that person to send the relevant computer data to all necessary extent as well;
- (7) decode any person's computer data or instruct any person related to the encryption of computer data to decode the computer data or cooperate with a relevant competent official in such decoding;

(8) seize or attach the suspect computer system for the purpose of obtaining details of an offence and the person who has committed an offence under this Act;

Section 19. The power of authority of the relevant competent official under Section 18 (4), (5), (6), (7) and (8), is given when that competent official files a petition to a court with jurisdiction for an instruction to allow the relevant competent official to take action. However, the petition must identify a reasonable ground to believe that the offender is committing or going to commit an offence under the Act as well as the reason of requesting the authority, including the characteristics of the alleged offense, a description of the equipment used to commit the alleged offensive action and details of the offender, as much as this can be identified. The court should adjudicate urgently such aforementioned petition.

When the court approves permission, and before taking any action according to the court's instruction, the relevant competent official shall submit a copy of the reasonable ground memorandum to show that an authorization under Section 18 (4), (5), (6), (7) and (8), must be employed against the owner or possessor of the computer system, as evidence thereof. If there is no owner of such computer thereby, the relevant competent official should submit a copy of said memorandum as soon as possible.

In order to take action under Section 18 (4), (5), (6), (7) and (8), the senior officer of the relevant competent official shall submit a copy of the memorandum about the description and rationale of the operation to a court with jurisdiction within forty eight (48) hours after the action has been taken as evidence thereof.

When copying computer data under Section 18 (4), and given that it may be done only when there is a reasonable ground to believe that there is an offence against the Act, such action must not excessively interfere or obstruct the business operation of the computer data's owner or possessor.

Regarding seizure or attachment under Section 18 (8), a relevant competent official must issue a letter of seizure or attachment to the person who owns or possesses that computer system as evidence. This is provided, however, that the seizure or attachment shall not last longer than thirty days. If seizure or attachment requires a longer time period, a petition shall be filed at a court with jurisdiction for the extension of the seizure or attachment time period.

The court may allow only one or several time extensions, however altogether for no longer than sixty days. When that seizure or attachment is no longer necessary, or upon its expiry date, the competent official must immediately return the computer system that was seized or withdraw the attachment.

The letter of seizure or attachment under paragraph one shall be in accordance with a Ministerial Rule.

Section 20. If an offence under this Act is to disseminate computer data that might have an impact on the Kingdom's security as stipulated in Division 2 type 1 or type 1/1 of the Criminal Code, or that it might be contradictory to the peace and concord or good morals of the people, the competent official appointed by the Minister may file a petition together with the evidence to a court with jurisdiction to restrain the dissemination of such computer data.

If the court gives an instruction to restrain the dissemination of computer data according to paragraph one, the relevant competent official shall conduct the restraint either by himself or instruct the Service Provider to restrain the dissemination of such computer data.

Section 21. If a relevant competent official found that any computer data contains undesirable sets of instructions, a relevant competent official with the authority to prohibit the sale or dissemination of such, may instruct the person who owns or possesses the computer data to suspend the use of, destroy or correct the computer data therein, or to impose a condition with respect to the use, possession or dissemination of the undesirable sets of instructions.

The undesirable sets of instructions under paragraph one shall mean to include sets of instructions that cause computer data, a computer system or other instruction sets to be damaged, destroyed, corrected, changed, added, interrupted or, fail to perform according to pre-determined instructions or otherwise as required by a relevant Ministerial Rule, with the exception of sets of instructions aimed at preventing or correcting the foregoing sets of instructions as required by a Minister and published in the Government Gazette.

Section 22. A relevant competent official shall not disclose or deliver computer data, computer traffic data or service users' data acquired under Section 18 to any person.

The provisions under paragraph one shall not apply to any actions performed for the benefit of lodging a lawsuit against a person who has committed an offence under this Act or for the benefit of lodging a lawsuit against a relevant competent official on the grounds of their abuse of authority or for action taken according to a court's instruction or permission.

Any competent official who violates paragraph one must be subject to imprisonment for no longer than three years or a fine of not more than sixty thousand baht, or both.

Section 23. Any competent official who commits an act of negligence that causes a third party to know of computer data, computer traffic data or a service user's data acquired under Section 18 must be subject to imprisonment for no more than one year or a fine of not more than twenty thousand baht, or both.

Section 24. Any person knowing of computer data, computer traffic data or a service user's data acquired by a relevant competent official under Section 18 and disclosing it to any person shall be subject to imprisonment for no longer than two years or a fine of not more than forty thousand baht, or both.

Section 25. Data, computer data or computer traffic data that the competent official acquired under this Act shall be admissible as evidence under the provision of the Criminal Procedure Code or other relevant law related to the investigation, however, it must not be in the way of influencing, promising, deceiving or other wrongful ways.

Section 26. A service provider must store computer traffic data for at least ninety days from the date on which the data is input into a computer system. However, if necessary, a relevant competent official may instruct a service provider to store data for a period of longer than ninety days but not exceeding one year on a special case by case basis or on a temporary basis.

The service provider must keep the necessary information of the service user in order to be able to identify the service user from the beginning of the service provision, and such information must be kept for a further period not exceeding ninety days after the service agreement has been terminated.

The types of service provider to whom the provisions under paragraph one shall apply and the timing of this application shall be established by a Minister and published in the Government Gazette.

A service provider who fails to comply with this Section must be subject to a fine of not more than five hundred thousand baht.

Section 27. If any person fails to comply with the instructions of court or relevant competent official under Section 18 or Section 20 or fails to comply with the court's instruction under Section 21 shall be subject to a fine of not more than two hundred thousand baht and a further daily fine of not more than five thousand baht until the relevant corrective action has been taken.

Section 28. Regarding the appointment of a competent official under this Act, the Minister shall appoint persons with knowledge of, and expertise in, computer systems and having the qualifications as required by the Minister.

Section 29. In performance of the duties under this Act, the competent official appointed by the Minister shall be an administrative officer or a senior police officer under the Criminal Procedure Code competent to receive a petition or accusation and be authorized to investigate only on an offence under this Act.

In arresting, controlling, searching, investigating, and filing a lawsuit against a person who commits an offence under this Act, and for what is within the authority of an administrative officer or a senior police officer, such competent officer shall coordinate with the relevant investigating officer in charge to take action within their authorized duties.

The Prime Minister is in charge of the Royal Thai Police Headquarters and with a Minister shall have a joint authority to establish a regulation with respect to the means and action-related procedures under paragraph two.

Section 30. In the performance of duties, a relevant competent official must produce an identity card to a relevant person.

The identity card shall be as per the form required by a Minister and published in the Government Gazette.

Countersigned

General Surayud Chulanont

Prime Minister

About the Author

Isriya Paireepairit is a co-founder and research director at Siam Intelligence Unit (SIU), Thailand's private think tank on public policy. He graduated with a Master's of Science on Information Management from Sheffield University in the United Kingdom. His research interests are cyber-culture, new economy and new media. He is also a co-founder of Thai tech news site Blognone.



fesmedia **Asia** series

fesmedia Asia, Friedrich-Ebert-Stiftung
Division for international Cooperation
Department for Asia and the Pacific
Hiroshimastrasse 28
10874 Berlin, Germany
Tel: +49-30-26935-7403
Email: rolf.paasch@fes.de
marina.kramer@fes-asia.org.

Friedrich-Ebert-Stiftung
Thailand Office
Thanapoom Tower, 23rd Floor
1550 New Petchburi Road,
Makkasan Ratchathewi,
Bangkok 10400, Thailand
Tel: + 66 (0) 2652 7178
info@fes-thailand.org