

Thailand

Status: Not Free

Legal Environment: 21

Political Environment: 25

Economic Environment: 16

Total Score: 62

Survey Edition	2008	2009	2010	2011	2012
Total Score, Status	56,PF	57,PF	58,PF	62,NF	60,PF

Status change explanation: Thailand moved from Partly Free to Not Free due to court rulings that the lèse-majesté law does not contradict constitutional provisions for freedom of expression and that third-party hosts are liable for lèse-majesté content posted online. In addition, both the government of Prime Minister Yingluck Shinawatra and the parliament explicitly indicated that they were unwilling to address the chilling effects of the lèse-majesté law. Thailand's online monitoring agency expanded its use of the lèse-majesté law to silence dissent, and journalists faced mounting difficulty in writing about lèse-majesté cases and press freedom issues, with self-censorship increasing as a result.

Against a backdrop of ongoing political conflict between the red-shirted backers of the United Front for Democracy Against Dictatorship and the yellow-shirted supporters of the People's Alliance for Democracy, the authorities enhanced their monitoring of electronic media and continued their crackdown on and harassment of journalists. Landmark prosecutions of lèse-majesté cases highlighted the courts' lack of independence, the government's unwillingness to address the sensitive issue of the monarchy, and the threat posed by the lèse-majesté law to freedom of expression in the country.

The 2007 constitution restored and extended freedom of expression guarantees, replacing an interim charter imposed by a military government in 2006. Also in 2007, the legislature replaced the 1941 Printing and Publishing Act, though various pieces of legislation enacted by the military government remain a threat to press freedom. For example, the 2007 Internal Security Act grants the government sweeping powers in the event of vaguely defined security threats, including the authority to detain suspects for 30 days without charge. Defamation is a criminal offense and can be punished with fines and prison terms of up to two years. On several occasions during 2012, journalists were threatened with defamation suits by government officials; the deputy prime minister threatened to sue four newspapers in February, while in August the army chief ordered that a defamation suit be filed against critics who accused the army of involvement in the political violence of 2010.

The lèse-majesté law, Article 112 of the criminal code, assigns penalties of up to 15 years in prison for anyone who "defames, insults or threatens the King, Queen, the Heir-apparent or the Regent." Prosecutors have been able to increase sentences beyond this threshold using the 2007 Computer Crimes Act (CCA), which assigns prison terms of up to five years for the online publication of forged or false content that endangers individuals, the public, or national security, as well as for the use of proxy servers to access restricted material. Article 112 complaints can be brought by one citizen against another, and authorities are required to investigate such allegations, which have increased in recent years alongside the state's use of the law to stifle

dissent. In early 2012, a group of university academics and activists set up the Campaign Committee for the Amendment of Article 112, and were joined by international supporters in their effort to increase popular pressure for reform of the law. In response, both the parliament and the Yingluck administration vowed that they would not address concerns about Article 112 and went out of their way to express support for the protection of the monarchy. Also during the year, two defendants petitioned the Constitutional Court to rule on whether Article 112 violated sections 3, 8, 29, and 45 of the constitution. In October, the court unanimously decided that criminal penalties for lèse-majesté offenses did not contradict constitutional protections for human rights, including freedom of expression, since lèse-majesté violations were considered national security threats.

Over the course of 2012, several high-profile lèse-majesté cases resulted in harsh punishments or consequences for the defendants. On April 11, police detained the editor of the now-defunct *Voice of Taksin* magazine, Somyot Pruksakasemsuk, ostensibly for defaming the monarchy in two articles published in 2010. His arrest came less than a week after he introduced a petition demanding a review of the lèse-majesté law. He remained behind bars at year's end. On May 10, Ampon Tangnoppakul, a 62-year-old man who had been sentenced to 20 years in prison in November 2011 for allegedly sending four text messages that insulted the monarchy, passed away in prison. On May 16, the police ordered online news site *Prachatai* to remove seven articles by journalist Pravit Rojanaphruk for possible infringement of lèse-majesté legislation. On May 30, after a lengthy trial with several delays, *Prachatai* webmaster Chiranuch Premchaiporn was found guilty under the CCA of allowing 20 days to pass before removing a comment posted on the website's discussion forum that was deemed critical of the monarchy. A Bangkok criminal court judge sentenced Chiranuch to a suspended eight-month jail term and a fine of 20,000 baht (\$700). The judge ruled that 20 days was "too long" for the offensive post to have remained on the website, despite the lack of any specified time limit under the CCA. The verdict represented the first time the law was used to criminally convict a Thai journalist for an offense related to freedom of expression. It was widely criticized for making managers of user-generated content platforms legally responsible for any material posted to their sites and thereby encouraging self-censorship. This and other lèse-majesté cases during the year prompted a renewed campaign against the CCA by groups such as the Thai Netizen Network. Major internet companies such as Google, Yahoo, and Microsoft, all part of the Asia Internet Coalition, also stood in support of Chiranuch, fearing that they and other "intermediaries" could be found criminally liable in similar cases in Thailand.

The National Broadcasting and Telecommunications Commission (NBTC), established in December 2010 as a single regulator for the telecommunications and broadcast sectors, continued to develop its work in 2012. This included the challenging task of wresting control of the two industries from powerful businesses with close ties to the government and the military. The NBTC is composed of 11 commissioners, including a high-ranking police officer and five top military officials. Some critics have raised concerns regarding the body's independence, considering the significant military representation, as well as its efficacy, given the current political impasse. Nevertheless, the NBTC is working to establish regulatory control as existing allocations of broadcast and telecommunications spectrum reach or approach their expiry dates. The NBTC's spectrum, telecommunications, and broadcasting master plans were approved and published in the *Royal Gazette*, making them legally binding. Unfortunately, the schedule set for the return of all media licenses (radio, television, and telecommunications) resulted in terms that extend beyond the current NBTC commissioners' mandates. Critics argue that this makes for a

lack of stability, as new commissioners with new agendas could take over before the current plan takes full effect. One of the biggest issues facing the NBTC is the reallocation of broadcast licenses in the next few years. New regulations have been drafted for radio, and the NBTC is determining how many licenses there will be for commercial, public-service, and community-based outlets. In May 2012 the commission approved a draft regulation that would allow the issuing of one-year “trial” licenses to more than 7,000 community radio stations in anticipation of a more permanent licensing scheme still to be developed.

Government censorship of the internet continued in 2012, and it is increasingly used against potentially disruptive political messages and sites that are considered a threat to national security, including those of Muslim separatist groups in southern Thailand. The founding of the Cyber Security Operations Center (CSOC) in late 2011 and the expansion of its work in 2012 enabled the Ministry of Information and Communication Technology to shut down and block online content more quickly, without the need for a court order. The CSOC extends control and surveillance over online media and has aided the large-scale shutdown of websites and individual webpages. The center works with internet service providers and website owners to block not only Thai-based content, but also material that is available globally, affecting thousands of sites. Their efforts are particularly focused on social-networking sites such as Twitter and Facebook, both of which have gained significant ground in Thailand recently; Facebook was used by approximately 20 percent of Thais in 2012. In January, the government was the first to express public approval of U.S.-based Twitter’s move to allow censorship of microblog postings. Users of social media in Thailand can face jail time if they click “like” or “share” for any content deemed offensive to the monarchy.

Although self-censorship on topics involving the monarchy remains the rule, newspapers provide a diversity of news and opinion, and even feisty commentary and analysis of domestic politics. In addition to some state limitations on what can or cannot be published, owners of news outlets have become increasingly polarized in recent years, advocating a hard line on their respective sides of the political divide. Few major cases of physical intimidation and violence against journalists were reported in 2012. However, freelance investigative journalist and red-shirt activist Wisut Tangwittayaporn was shot and killed in January by two men on a motorcycle on the southwestern resort island of Phuket, possibly due to his coverage of local land disputes. Arrest warrants were issued for three individuals. There is still a sense of impunity surrounding acts of violence against journalists, and lingering distrust between the public and the press. An ongoing state of emergency in the country’s four troubled southern provinces also continues to restrict the media’s ability to operate.

Large conglomerates and prominent families, some with political ties, own the majority of print outlets. Radio and television have remained under the direct or indirect control of the state, although this is now beginning to change with the establishment of the NBTC. Ownership of Thailand’s six free-to-air television stations is divided among four government bodies; the Public Relations Department and the Thai Public Broadcasting Service each administer one station, while the state-controlled Mass Communication Organization of Thailand (MCOT) and the Thai Royal Army oversee two channels apiece. Satellite television is also widely available. The government and security forces own more than 700 radio stations registered with the NBTC, and thousands of community stations also broadcast. Allegations that journalists accept bribes from politicians and business elites in exchange for favorable coverage persisted in 2012. The internet was accessed by approximately 24 percent of the Thai population during the year. Although the internet and social-networking sites contain a greater diversity of content and

debate than traditional media, the government and military have recently undertaken a much more focused effort to control commentary and information that is deemed incendiary, divisive, or subversive, leading to a greater degree of self-censorship online than in previous years.