

DAWN OF DIGITAL DICTATORSHIP:  
WEAPONISING THE LAW AGAINST ONLINE SPEECH

THAILAND





# What is the ASEAN Regional Coalition to #StopDigitalDictatorship?

The ASEAN Regional Coalition to #StopDigitalDictatorship was established in 2020, by human rights and digital rights activists from Southeast Asia, on a mission to decolonize digital rights and restore our online democracies.

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We tell our realities from the ground, and we develop solutions together.

**Our truths. Our Stories. Our Solutions. Our Liberation.**

**Fighting back online authoritarianism in Southeast Asia is, and shall always be, decolonial, grounded on feminist values, centred on our voices and our collective power.**

Listed alphabetically, members of the Coalition include: ALTSEAN-Burma, Cambodian Center for Human Rights, ELSAM, Free Expression Myanmar, Foundation for Media Alternatives, ILGA Asia, Manushya Foundation, The Rohingya Maiyafuñor Collaborative Network, SAFEnet, Viet Tan, and Women's Peace Network.

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# List of Abbreviations

<b>APEC</b>	Asia Pacific Economic Cooperation
<b>ASEAN</b>	Association of Southeast Asian Nations
<b>BBC</b>	British Broadcasting Corporation
<b>CCA</b>	Computer Crime Act
<b>CDA</b>	Communicable Diseases Act
<b>CII</b>	Critical Information Infrastructure
<b>HRD</b>	Human rights defender
<b>IO</b>	Information Operations
<b>IP</b>	Indigenous people
<b>ISOC</b>	Internal Security and Operations Command
<b>ISP</b>	Internet service provider
<b>LGBTQI+</b>	Lesbain, Gay, Bisexual, Transexual, Queer/Questioning, Intersex
<b>MDES</b>	Ministry of Digital Economy and Society
<b>MFP</b>	Move Forward Party
<b>MP</b>	Member of Parliament
<b>NGO</b>	Non-governmental organisation
<b>NHRCT</b>	National Human Rights Commission Thailand
<b>OGBV</b>	Online Gender-based Violence
<b>OHCHR</b>	Office of the United Nations High Commissioner for Human Rights
<b>PM</b>	Prime Minister
<b>SAC</b>	State Administration Council
<b>SBP</b>	Southern Border Provinces
<b>SLAPP</b>	Strategic lawsuit against public participation
<b>TLHR</b>	Thai Lawyers for Human Rights
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UN</b>	United Nations
<b>UNSR</b>	United Nations Special Rapporteurs
<b>VPN</b>	Virtual Private Network

# Acknowledgements

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This project would not have been possible without the help of the authors below, as well as reviewers who asked to remain anonymous, in validating our desk-research and in some cases, contributing content that informed this report.

# Chapter I.

## Introduction

The digital space is quickly emerging as one of the key spaces in which human rights are threatened. In Southeast Asia, the internet is no longer a free, safe, and secure space for expression. Restrictive legislation, intimidation, and even the murder of human rights defenders, activists, and journalists tarnishes the commitment to freedom of expression of the countries in the region. In this light, the need for our rights to be respected, including online, becomes greater.

This report is the outcome of the collaborative work of the ASEAN Regional Coalition to #StopDigitalDictatorship (“the Coalition”). After its establishment in 2020, with the coordination of Manushya Foundation, virtual discussions were initiated to discuss challenges faced, while determining collaborative and inclusive efforts to assess, amend, and monitor implementation of legislations affecting digital rights. The Coalition has established itself as a leading regional expert voice on digital rights in the region and is now a key player, powering local and regional voices to speak their truth to power and to resist digital dictatorship.

A core group of members of the Coalition has collectively developed the research and analysis framework of a regional ASEAN Study, which is divided into three thematic reports. This report is part of the series of three thematic reports and focuses on the right to freedom of speech and expression in the digital space.

The aim of this report goes far beyond merely analysing the legal framework related to freedom of expression online and documenting rights violations in the nine Southeast Asian countries covered. The main goal is to increase public understanding of how important digital rights are to everyone’s lives and to strengthen netizens’ knowledge of those rights. But there is more to consider. As intersectional feminists, we recognise the internet is not equal for everyone. While the digital realm offers immense opportunities, it is far from being neutral or egalitarian, and it remains susceptible to persistent backlash against the rights of women and LGBTIQ+ people. Like other social spaces, it reflects and reproduces power relations and inequalities, including those related to gender.

Coalition members dedicate their work to make Asia a safe and peaceful place for all. While they have different goals and perspectives, the cultivation of an open, safe, and inclusive digital space for all is a key priority for them. At **Manushya Foundation**, we place “equality” at the core of our activities, apply a gender lens to all of our work, and focus on powering women activists and human rights defenders, youth, and LGBTIQ+ individuals to tell their very own stories in a powerful manner for their advocacy. Likewise, **ILGA**

**Asia**, a regional federation of more than 204 member organisations, works for the equality of all people regardless of sexual orientation, gender identity, and sex characteristic, as well as liberation from all forms of discrimination and stigmatisation. **Women’s Peace Network** has “equality” as one of its core visions and works to protect the rights and increase the inclusion of marginalised women, youth, and communities in the Rakhine state and across Myanmar. **The Foundation for Media Alternatives** focuses on the intersection between information and communication technology (ICT) and gender rights, including tech-related gender-based violence.

We also recognise that gender inequality intersects with other forms of oppression, such as race, class, sexuality, and disability, and women exposed to intersecting forms of discrimination are particularly vulnerable to violence in the digital world. Understanding the intricate ways in which power operates, we apply an intersectional feminist lens to explore and tackle the multifaceted dynamics within the digital realm. With this report, we shed light on this and the patriarchal power dynamics that hold our world back from fulfilling a society where everyone is treated with fairness and dignity.

However, that is not where our work ends. The ultimate objective is to call, as a strong and unified voice, on governments, policy-makers, and tech companies to move the needle forward from commitments on paper to concrete measures to respect their international human rights obligations—in order to restore our only democracy. Recommendations are also extended to civil society, which provides a critical foundation for holding governments and businesses accountable, and promoting human rights and democracy.

Following **Chapter II: Methodology**, which will clarify our research and compilation process, **Chapter III: Summary of International Human Rights Laws and Standards** will provide important context for the rest of the report with a table addressing the right to freedom of expression; the rights of human rights defenders; the right to privacy; and the right to effective remedy, and indicates the ratification status by country of each convention, where appropriate. Following, **Chapter IV: Country Overviews (Analysis)** is originally split into



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nine sections, each one focused on a specific country: **Cambodia, Indonesia, Lao PDR (Laos), Malaysia, Myanmar, Philippines, Singapore, Thailand, and Vietnam.** Each section explains how laws and legal frameworks are being used to target free expression and information online, censor or regulate content, and monitor online activities. Each section includes cases of individuals arrested and charged for their online activities, as well as instances of online censorship, monitoring, and surveillance.

However, in this booklet, the focus is solely on Thailand.

In this booklet, a section is dedicated to the impact of COVID-19 and democracy in Malaysia. Although the pandemic has brought the world grinding to a halt, Southeast Asian governments took it as an opportunity to tighten their grip over civic space and implemented self-serving laws and policies. Under the banner of safeguarding public health, governments exploited emergency powers and other legal tools, including “fake news” laws, in restrictive and repressive ways, to advance

their authoritarian agendas, suppress freedoms and critical speech, silence political opponents, control the flow of information, and attack media freedoms. While national circumstances differed in how the pandemic was governed, the states covered in this report had national circumstances differed in how the pandemic was governed, the states covered in this report had extensive repressive powers and used COVID-19 as a pretext to limit democratic space both offline and online.

Further, each country section draws particular attention to cases of online gender-based violence and harassment experienced by women, including those who are more susceptible to online violence because of their jobs, race, religion, or identity, such as women activists and human rights defenders, women journalists, women belonging to religious or ethnic minorities, young women, women with intersecting identities (Indigenous, ethnic and minority, migrant women; lesbian, bisexual, transgender and intersex women; women with disabilities).

The report concludes with a number of **recommendations** for the primary actors identified as holding key functions in enhancing the state of digital freedoms in Thailand, specifically that of online expression. Governments, members of Parliament, tech companies, and civil society have—each one to a different extent—a crucial role to play to uphold human rights and fundamental freedoms in the digital space. Since civil society civil groups are front and centre in representing the factual needs of the people and they can power citizens by providing civic education on human rights, a series of recommendations is likewise made to them. People are more likely to resist attempts to suppress their rights if they are aware of them.

Creating a safe internet space for everyone is crucial for promoting inclusivity, respect, and equal opportunities.

**Only together can we foster a more inclusive and respectful internet culture where everyone can engage, express themselves, and participate without fear of discrimination or harassment. None of us are free until we are all free.**

# Chapter II.

## Methodology

This Thematic Report is a culmination of four years of monitoring, research, writing, reviewing, and examining the digital rights space in nine ASEAN countries: Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, The Philippines, Singapore, Thailand, and Vietnam. Our research does not cover Brunei Darussalam and Timor-Leste due to the lack of coalition members in these countries. As mentioned previously, this booklet will, however, focus solely on Thailand.

The methodology used in this report encompasses both primary and secondary sources. Primary data was gathered by Manushya Foundation, together with organisation members of the ASEAN Regional Coalition to #StopDigitalDictatorship. We have entrusted our coalition members to write thorough country-specific analyses, based on their expertise in the digital rights landscapes of their respective countries. It must thus also be noted that as these coalition members are specialists in their own rights, with a wealth of information obtained through lived experiences and field research, not every source will be cited, as a lot of information was first-handedly provided by the author and not obtained from elsewhere. Please find a list of the organisations and/or network individuals who were responsible for the writing and reviewing of our different Chapter IV country-specific subchapters in **Fig. X (p. \_\_\_)**.

We included voices from the ground and experts' insight from panel discussions, including sessions we held as part of RightsCon, such as the 2022 "Thailand: Digital Authoritarianism Rising" session, the 2021 "Online Freedom Under Attack: Weaponising Misinformation, Disinformation, and 'Fake News' for Censorship in Southeast Asia" session, as well as a series of other webinars hosted by the Coalition. Participants of the webinars and discussions consisted of citizens, experts, representatives of academia, and civil society groups. For some countries, our Coalition members also conducted independent investigations and compiled data from open sources published by the relevant authorities, government agencies and the judiciary. The report's coverage

spans the years 2020 through 2023, except for the chapter on Laos (**Chapter IV, 3. Lao PDR**), where egregious human rights breaches instances prior to 2020 are also included. Similarly, for Myanmar (**Chapter IV, 5. Myanmar**) and Cambodia (**Chapter IV, 1. Cambodia**), countries for which we are also incorporating elements from 2024 due to the rapidly evolving events. We focused our inquiries on different target areas, which were ultimately synthesised into primary themes featured in the reports in this series: criminalisation of defamation and lack of human-centred cyber laws and policies; online monitoring and content moderation; threats to privacy and data protection; harassment of activists and human rights defenders (HRDs); and internet shutdowns.

This report is also composed on the basis of desk research, including a systematic literature review of relevant legislation and regulations; reports, studies, and recommendations by UN human rights mechanisms and NGOs; online news articles; policy and white papers; and independent publications. Data was also obtained from studies and external civil society organisations. We carried out interviews with a wide range of stakeholders to receive the most accurate insight on the state of digital rights on the ground relating to the target areas specified above. The study's ultimate objective is to provide a comprehensive analysis on the state of digital rights in the Southeast Asia region, including during the COVID-19 pandemic, by looking at existing national laws, policies and measures; recorded cases of violation; as well as previous recommendations or proposals made in line with international human rights laws and standards.

# Chapter III.

## Summary of International Human Rights Laws and Standards

Fig. G: Summary table of international human rights laws and standards.

FREEDOMS OF EXPRESSION AND TO HOLD OPINION		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	<b>Article 19:</b> “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law. as a matter of customary international law
ICCPR	<b>Article 19:</b> Upholds the right of every individual to freedom of expression, including the freedom to “seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media” without interference.	<b>Ratified</b> Cambodia (May 26, 1992)  Indonesia (Feb. 23, 2006)  Lao PDR (Sept. 25, 2009)  Philippines (Oct. 23, 1986)  Thailand (Oct. 29, 1996)
	<b>Article 19(3):</b> Articulates a three-part test, stipulating that any restrictions on expression must be “provided by law”, proportionate, and necessary for “respect of the rights and reputations of others,” “for the protection of national security or of public order, or of public health and morals.”	<b>General comment no. 34: Article 19</b> (freedoms of opinion and expression): States that criminalize defamation must decriminalize it given that “imprisonment is never an appropriate penalty” for, and is neither necessary nor proportionate to the aim of protecting others. <sup>2</sup>
UDHR	<b>Article 12:</b> “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law. Binding as a matter of customary international law

Fig. G: Summary table of international human rights laws and standards.(continuous)

<p style="text-align: center;"><b>ICCPR</b></p>	<p><b>Article 17:</b> “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” It also upholds the right of persons to receive legal protection from such interference or attacks.</p> <hr/> <p><b>General comment no. 16: Article 17 (right to privacy):</b> This Article is intended to protect against said infringements, both by states and private individuals. Further, “interference authorized by States can only take place on the basis of law, which itself must comply with the provisions, aims and objectives of the Covenant.” The principles of legality, necessity and proportionality also apply to privacy limitations.<sup>3</sup></p>	<p><b>Ratified</b>                  Cambodia                  (May 26, 1992)</p> <p>Indonesia                  (Feb. 23, 2006)</p> <p>Lao PDR                  (Sept. 25, 2009)</p> <p>Philippines                  (Oct. 23, 1986)</p> <p>Thailand                  (Oct. 29, 1996)</p> <p>Vietnam                  (Sept. 24, 1982)</p> <p><b>Not signed or ratified</b>                  Malaysia, Myanmar, Singapore</p>
<p>Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (2016) juncto Report of the OHCHR on the right to privacy in the digital age (2014)</p>	<p>Legitimate surveillance, where intended to limit the freedom of expression, requires states to demonstrate the risk that the expression “poses to a definite interest in national security or public order.”<sup>4</sup> All interference with the right to privacy must also be authorised by an independent oversight body through careful review, and be accompanied with an assurance of effective remedy in case of a breach.<sup>5</sup></p>	<p><b>Non-binding</b> (interpretive)</p>
RIGHTS OF HRDS		
<p><b>International Human Rights Instruments</b></p>	<p><b>Relevant Provisions and Interpretations</b></p>	<p><b>Ratification/Voting/Adoption Date and Status</b></p>
<p style="text-align: center;"><b>UN Declaration on Human Rights Defenders</b></p>	<p><b>Article 6:</b> Provides for the right of persons to seek, obtain, receive and hold information about all human rights and fundamental freedoms; freely publish or impart or disseminate information and knowledge on all human rights and fundamental freedoms; and to study, discuss and hold opinions on the observance of these rights.</p> <p><b>Article 7:</b> “Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.”</p> <p><b>Article 9:</b> Everyone whose rights or freedoms pursuant to the Declaration are allegedly violated must be able to access an effective remedy and have their complaint heard by an independent, impartial and competent authority.</p>	<p><b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law</p>

Fig. G: Summary table of international human rights laws and standards.(continuous)

RIGHT TO AN EFFECTIVE REMEDY		
International Human Rights Instruments	Relevant Provisions and Interpretations	Ratification/Voting/Adoption Date and Status
UDHR	<b>Article 8:</b> “Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.	<b>NOT Binding</b> but serves as a cornerstone for the development and evolution of international human rights law
ICCPR	<b>Article 2(3):</b> Provides for the obligation of states to ensure that those individuals whose rights have been violated have access to an effective remedy whether the violation(s) were committed by a person acting in their official capacity. Further, the effective remedy is to be determined by a competent judicial, administrative, legislative or other authority as mandated by the national legal system. The bottomline is that, regardless of the authority in charge, remedy must actually be granted.	<p><b>Ratified</b></p> <p>Cambodia (May 26, 1992)</p> <p>Indonesia (Feb. 23, 2006)</p> <p>Lao PDR (Sept. 25, 2009)</p>
	<b>General comment no. 31 (the nature of the general legal obligation imposed on States Parties to the Covenant):</b> Judicial and administrative mechanisms must be set in place to “investigate allegations of violations promptly, thoroughly and effectively through independent and impartial bodies.” Reparation to individuals can take the forms of “restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.” <sup>7</sup>	<p>Philippines (Oct. 23, 1986)</p> <p>Thailand (Oct. 29, 1996)</p> <p>Vietnam (Sept. 24, 1982)</p> <p><b>Not signed or ratified</b> Malaysia, Myanmar, Singapore</p>

# Chapter IV.

## Country Analysis



# 4. Thailand

YEAR	DEMOCRATIC STATUS OF THE COUNTRY <small>(according to the Freedom In The World index)</small>	DIGITAL SPACE & ONLINE FREEDOM STATUS OF THE COUNTRY <small>(Digital Space Status)</small>	PRESS & MEDIA FREEDOM STATUS OF THE COUNTRY <small>(according to the World's Press Freedom Index)</small>
2020	32/100 <small>NOT FREE</small>	35/100 <small>NOT FREE</small>	140/180 (55,06) <small>DIFFICULT</small>
2021	30/100 <small>NOT FREE</small>	36/100 <small>NOT FREE</small>	137/180 ( 54,78) <small>DIFFICULT</small>
2022	29/100 <small>NOT FREE</small>	39/100 <small>NOT FREE</small>	115/180 (50,15) <small>DIFFICULT</small>
2023	30/100 <small>NOT FREE</small>	39/100 <small>NOT FREE</small>	106/180 (55,24) <small>DIFFICULT</small>



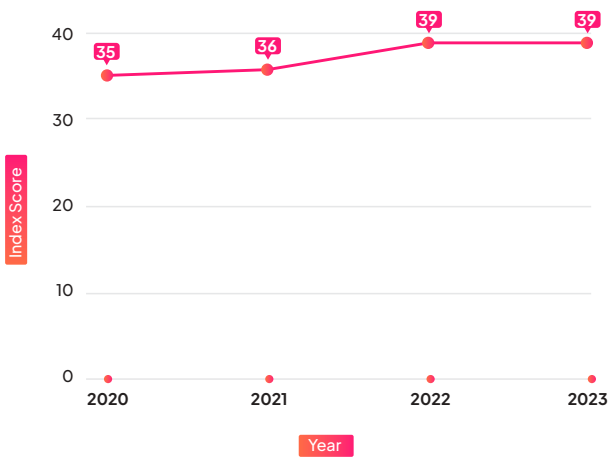
Fig. 4.1: Summary of freedom ratings for Thailand, 2020-2023.<sup>1</sup>

“

*Thailand’s digital democracy is under siege, with alarming weaponisation of digital platforms against political opponents and youth democracy activists. The continued abuse of COVID-19 and cyber laws to stifle dissent is distressing.<sup>2</sup>*

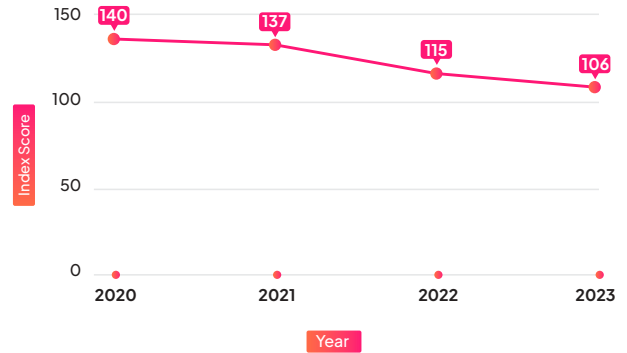
- Emilie Palamy Pradichit, Founder of Manushya Foundation and co-author of the Freedom on the Net: Thailand Country Report.

### Digital Space & Online Freedom Status (Freedom on The Net)



Freedom House, *Explore the Map*, (n.d.), available at: <https://freedomhouse.org/explore-the-map?type=fiw&year=2023>

### Media & Press Freedom (World Press Freedom Index)



Reporters sans frontières, *Classement*, (n.d.), available at: <https://rsf.org/fr/classement>

Fig. 4.2: Digital Space & Online Freedom Status (Freedom on The Net) and Media & Press Freedom (World Press Freedom Index) Ratings for Thailand over the years, 2020-2023.

## 4.1 Legal Framework

The 2017 Constitution protects the right to freedom of expression under Sections 34 and 36, with limitations relating to national security, public interest, and public health and order. The Constitution also guarantees media freedom without any censorship under Section 35 and only authorises restrictions if the country is at war. Further, access to information is recognized as a fundamental right under both Sections 41 and 59 of the Constitution.<sup>3</sup> However, the government imposes disproportionate and unnecessary restrictions on these rights in the digital space by using a number of repressive provisions and laws.

### Criminalization of Defamation: the Criminal Code

In Thailand, defamation is punishable under the Criminal Code, and the types of defamation offences and penalties are detailed in Sections 326 to 333. Section 326 defines defamation as an act which

damages another person’s reputation or exposes them to hatred or scorn. Those found guilty of this crime may face up to one year in prison or a THB 20,000 (\$560) fine, or both. It is important to note that this provision does not specify that defamation must be caused by false statements to be an offence. An individual may also be punished on the basis of truthful statements if those statements are proven to have caused harm to another party’s reputation. Additionally, Section 328 prohibits defamation via publication of documents, pictures, letters, or other types of media. Defamation committed through these means will result in more severe penalties: a prison sentence of up to two years and a maximum fine of THB 200,000 (\$5,600). A person may not bear the responsibility if the statement is made in self-defence (Section 329(1)), fair criticism (Section 329(3)), or as reports of court proceedings (Section 329(4)).<sup>4</sup>



*We are seeing the use of defamation cases as a tool to undermine the legitimate rights and freedoms of communities and rights holders, who are often from some of the most vulnerable groups in society. Criminal defamation charges against human rights defenders serve only to criminalise their legitimate human rights work and may violate their right to freedom of expression.<sup>5</sup>*

- A coalition of UN Human Rights Experts

## Royal Defamation Law as a State-Weapon to Silence Dissent

Much like Cambodia, Thailand has a special regime that governs defamation against the monarchy or lèse-majesté. It is found under Section 112 of the Criminal Code, which forbids any action that “defames, insults or threatens the King, the Queen, the Heir-apparent, or the Regent.” Offenders could be imprisoned for three to 15 years, the most severe for a crime of this nature.<sup>6</sup> Those who face multiple counts under Section 112 must also serve consecutive sentences. Thus, many have had to be imprisoned for long periods, sometimes decades, simply for expressing themselves. On top of that, enforcement of this provision can be problematic as the term “insult” is not clearly defined. A wide variety of acts and expressions can be penalised as a result. Section 112 also does not require for complaints to be submitted by an injured party or the authorities; anyone can file a lèse-majesté complaint.<sup>7</sup> As such, the law is open to politicisation and weaponization against expression. Since its inception, Section 112 has created an environment of fear around free speech in the digital space. In January 2023, ultraconservative political party Thai Pakdee revealed that it was seeking an amendment of the Thai constitution so that Section 112 covers royal families of the past and present, as well as “lower-ranking royals.”<sup>8</sup> His petition was approved by the Parliament on Feb. 7, 2023.<sup>9</sup>

## Sedition Law to Muzzle Critics

Section 116 of the Criminal Code, known as the sedition law, is also a provision frequently invoked by the state to prosecute pro-democracy activists and netizens. Under Section 116, an act is considered seditious where it is carried out to incite change in the country’s laws or the Constitution “by the use of force or violence”; raise “unrest and disaffection amongst the people”; or contribute to the people’s infringement of the laws.

The definition of “unrest or disaffection” in Section 116 is ambiguous, and the court’s sentencing may be arbitrary as a result of this extremely broad language. A sedition conviction may lead to a maximum of seven years’ imprisonment.<sup>10</sup>

### Computer Crime Act (CCA): Tightened Control over Online Expression

Paragraphs (1) and (2) of Section 12 of the 2017 CCA penalise the import of “false” or “distorted” information into a computer system, while Section 14(3) strictly bans the dissemination of any information that could threaten national security or is likely to negatively affect national security or give rise to panic among the public. The forwarding and sharing of the content prohibited under Section 14(1) through Section 14(3) can also be prosecuted. Moreover, according to Section 17, Thai citizens residing abroad who publish information that harms the Thai people or government could similarly be punished under the law.<sup>11</sup> Because of the ambiguity of wordings such as “false” and “distorted” as well as the broad nature of “national security” and “public panic” offences, the CCA charges and rulings largely depend on the interpretations of government officials and the court.<sup>12</sup> These provisions therefore back the authorities’ crusade against opponents of the regime who are vocal on digital platforms, potentially triggering a chilling effect and self-censorship. The Cybersecurity Act of 2019 fortifies the state’s online monitoring and mass surveillance powers, enabling the government to monitor and limit free speech.<sup>13</sup>

September 2020 saw the establishment of a committee based on the Prime Minister’s Order No. 32/2563 to investigate and prosecute any person who disseminates disinformation and misinformation regarding the then prime minister Prayuth Chan-o-Cha. Within less than a year, the committee claimed that it had initiated approximately 100 cases on behalf of the Prime

Minister under defamation and lèse-majesté provisions and the CCA.<sup>14</sup>

On Sept. 6, 2020, the Royal Thai Police’s Technology Crime Suppression Division created a Cyber Police Bureau tasked with combating cybercrimes and enforcing cyber laws including CCA and the Cybersecurity Act.<sup>15</sup> This Bureau gives more power to the police to control online speech and crackdown on dissenting voices.

### Increased State Surveillance: Cybersecurity Act and National Intelligence Act

The 2019 Cybersecurity Act fortifies the State’s online monitoring and mass surveillance powers. Brought into force to combat “cyber threats”, the Act provides for overbroad powers to executive authorities to monitor online information and search and seize electronic data and equipment where “national security” is compromised and to protect the country’s “Critical Information Infrastructure” (CII) – where both “national security” and CII are left undefined. The Act establishes insufficient independent monitoring mechanisms – where a threat is deemed “crisis” level, any search or seizure can be undertaken without a court warrant and without access to appeal before the courts. The Act also does not include remedy or accountability provisions for rights violations. Risks for unaccountable violations are imminent as the policy-making bodies determining “national security” or “threat” levels are led by the military and members appointed by the military-led Cabinet.<sup>16</sup>

The 2019 National Intelligence Act, which came into full effect in April 2019 grants the National Intelligence Agency (NIA) unrestricted powers in compelling ISPs to hand over sensitive personal information whenever the NIA considers the case to be a “national security” threat. The term “national security” still remains undefined and is subjectively interpreted as anything the NIA or

government sees fit can fall under this definition, and without adequate, independent or effective oversight mechanisms provided for under the Act. For instance, in situations where the information is not provided by a government agency or individual, the NIA has the authority to “use any means, including electronic telecommunication devices or other technologies” to obtain the particular information.<sup>17</sup>

### **Not-for-Profit Organizations Draft Act: Censorship on Expression**

The Draft Act on the Operations of Not-for-Profit Organizations, enacted to regulate the operations of not-for-profit organisations in the country, may have a wide-ranging impact on online freedoms. It was originally approved by the cabinet in February 2021 and the latest draft is dated January 2022. Under the bill, civil society groups must be registered in order to operate, otherwise they face criminal penalties. However, since there is no precise definition of a non-profit organisation in the bill, any group of persons, including online groups, carrying out any activities might be subject to its provisions.<sup>18</sup> The bill has not been submitted for cabinet consideration, thus it has not yet come into effect.

### **Media Ethics and Professional Standards Promotion Draft Act Risks Stifling Coverage of Sensitive Issues**

On Jan. 11, 2022, the Cabinet approved the Draft Media Ethics and Professional Standards Promotion Act. It requires media organisations to register with the Media Council responsible for overseeing their activities and setting ethical standards of reporting.<sup>19</sup> The registration requirement puts unregistered organisations and citizen journalists, who cannot register, at a risk of being banned from reporting, which further

impinges media freedom in the country, including in the digital space. The Council is authorised to develop a set of standardised media ethics and take action against those whose work do not conform to the standards. However, there are no clear bounds to how such non-conformity is assessed. Equally problematic is that the Draft Act requires news reporting to be compliant with social mores. Outlets who fail to align their activities with the “duties of Thai people or good morals of the public” could have their licences revoked. The bill was under debate by the Parliament in February 2023, but, due to a lack of quorum, the meeting was adjourned before a vote.<sup>20</sup>

### **Anti “Fake-News” Laws: Other Instruments to Curb Online Speech**

In February 2022, the Cabinet approved the Draft Regulation on Prevention, Suppression, and Solving Problems of Fake News Dissemination on Social Media.<sup>21</sup> Under the guise of combating disinformation on social media, the Draft Regulation proscribes “inappropriate content or fake news on social media or in computer systems that may cause damage to the public or affect the peace or cause chaos or damage in the country.”<sup>22</sup> It also broadly defines as “fake news” “any computer data on social media or in a computer system that is false information, whether wholly or partly,” without designating any particular authority to be responsible for making such a determination. In effect, the regulation’s restrictions could apply to any information or online content. The Draft Regulation also creates a coordination mechanism operating on three levels: central under the Ministry of Digital Economy and Society (MDES), ministerial under each ministry and provincial. Each is vested with the power to take legal action against fake news publishers and to notify the MDES of suspected misinformation for removal.

The government had previously established two other fake news-suppression bodies: one in 2019, set up by the MDES,<sup>23</sup> and another one in 2021, created under the Department of Special Investigation in the Ministry of Justice to investigate attempts to spread false news about the COVID-19.<sup>24</sup>

## Ramping up State Censorship Online by Controlling Service Providers

On Dec. 25, 2022, a ministerial decree entered into force, as part of Thailand's latest attempt to intensify state censorship online. Ministerial Notification of MDES re: Procedures for the Notification, Suppression and Dissemination and Removal of Computer Data from the Computer System B.E. 2565 replaces its 2017 predecessor<sup>25</sup> and requires service providers—intermediaries and social media providers—to comply with draconian time limits ranging from 24 hours to mere days to respond to content takedown orders by the general public and users.<sup>26</sup> The decree operates on the basis of loosely-defined provisions under the CCA and provides almost no avenue for independent oversight or checks-and-balances, thereby risking the overcriminalization of service providers and disproportionate removal of online content. Vague and overbroad offences under Section 14 of the CCA are used as a frame of reference for content which must be taken down. In addition, service providers must comply with any and all complaints it receives irrespective of their basis, necessity and proportionality.

## 4.2 Challenges and Cases

### #WhatsHappeningInThailand

Following nearly a decade of military-aligned rule, Thailand held a general election in May 2023. It was the first general election since the pro-democracy movement started, and voters delivered a clear

preference for pro-democracy parties.<sup>27</sup> However, on Aug. 22, 2023, Srettha Thavisin, a real estate tycoon affiliated with the Pheu Thai Party, assumed the role of Thailand's prime minister following a parliamentary session for the Prime Minister Voting. Srettha Thavisin secured a decisive victory, obtaining a substantial majority of votes from both the House of Representatives and the Senate. Notably, he emerged as the sole contender for the prime ministerial position, as Pita Limjaroenrat, the candidate from the winning Move Forward party, failed to garner sufficient support from the junta-appointed senate. Taking over from Prayuth Chan-ocha, the former military general who seized power through a coup d'état in 2014, Srettha Thavisin is now set to lead a coalition government that includes military parties involved in past coups, such as Palang Pracharath and Ruam Thai Sang Chart. This development sends a clear message that the voices of the over 25 million Thais who voted for a return to democracy may be overlooked.<sup>28</sup>

Additionally, although the Constitution recognises the fundamental rights to freedom of expression and access to information,<sup>29</sup> the country has seen a deterioration of democracy and a growing digital dictatorship in recent years. Freedom on the Net ranked Thailand "not free" for three consecutive years with an aggregate score of 36/100 in 2021 and 39/100 in 2022 and 2023.<sup>30</sup> The World Press Freedom Index by Reporters Without Borders ranked Thailand 115th out of 180 countries with a score of 50.15 in 2022.<sup>31</sup> In 2023, it moved up to the 106th position with a score of 55.24.<sup>32</sup> As far as the media's role is concerned, former PM Prayuth has notably stated that journalists "play a major role in supporting the government's affairs."<sup>33</sup>

## Struggles, Legislation, and Repression in Thailand (2020–2023)



**LEGEND:**

⚠️ : Alleged offense + (articles/provisions invoked against the individual)  
 - "Unknown": Either information is not available or no articles/provisions have been cited by the judiciary

👮 : Legal and extralegal consequences  
 - "Status Unknown": Current status of the individual is unknown (detained, convicted, deceased, etc).

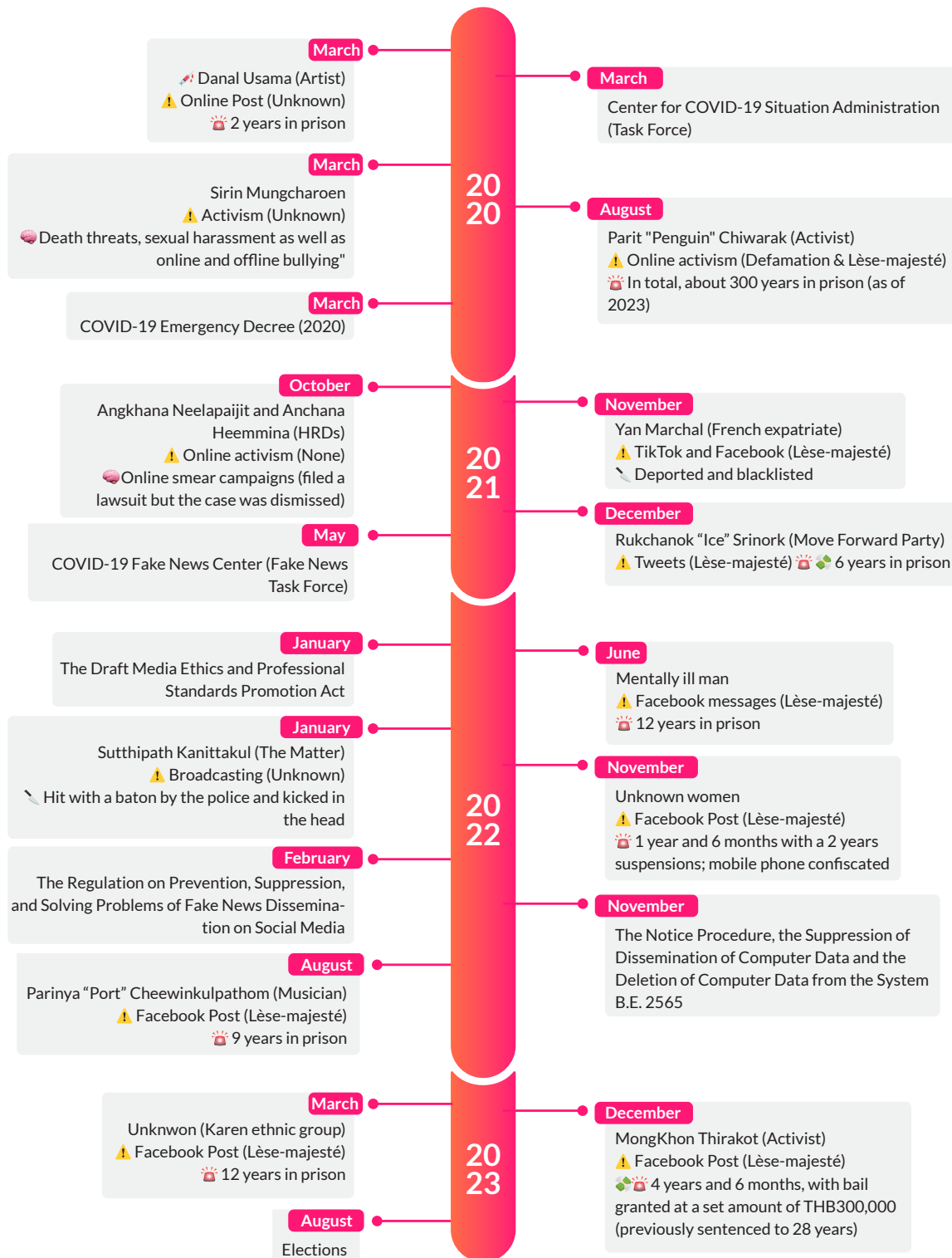


Fig. 4.2A: Summary timeline for Thailand, 2020-2023





Country	Event	Contextualisation
 <b>THAILAND</b>	 Regulation on Prevention, Suppression, and Solving Problems of Fake News Dissemination on Social Media (2022)	Many critics fear that this regulation could be used abusively by authorities to censor dissenting opinions and suppress freedom of expression. Some view this measure as an infringement on media freedom and democracy, as it grants authorities extensive powers to control and filter online content.
	 The Notice Procedure, the Suppression of Dissemination of Computer Data and the Deletion of Computer Data from the System B.E. 2565 (2022)	The law empowers authorities to issue notices to internet service providers (ISPs) and online platforms to remove or suppress content deemed illegal or harmful.
	 Elections (2023)	Progressive and pro-democracy opposition parties, notably the Move Forward Party led by Pita Limjaroenrat, secured a significant victory in Thailand's recent elections. This outcome challenges the long-standing dominance of military-backed incumbents, signaling a strong desire for change among Thai voters. The Move Forward Party is projected to win 151 seats, the highest in the House, while the populist Pheu Thai Party is expected to secure 141 seats. Together, they hold at least 292 seats in the 500-member House. However, challenges persist in forming a government due to the military's influence, particularly through the appointed Senate. Move Forward is currently 67 votes short of the majority needed for Pita Limjaroenrat to become prime minister, leaving uncertainties about potential government formation.

Fig. 4.2B: Contextualisation for Thailand's timeline, 2020-2023

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*During the past 8 years, the right to freedom of expression that belongs to us has been taken away. In the past, we may have been discriminated against by social norms, being stigmatised as “rebels who aim to overthrow the monarchy” or “nation haters.” In contrast, expressing your opinions today can be a matter of life and death.<sup>34</sup>*

- Sophon “Get” Suraritthamrong, founder of Mokeluang Rimnam activist group



## Speaking Out is Dangerous and Can Result in Lengthy Prison Sentences

Since the rise of the pro-democracy movement in 2020, Section 112 (lèse-majesté) of the Criminal Code and the CCA have been extensively invoked to target activists, HRDs, and internet users who turn to digital platforms to call for true democracy and reform of the monarchy. According to Thai Lawyers for Human Rights (TLHR), from the commencement of the “Free Youth” protest on July 18, 2020, until Dec. 31, 2023, at least 1,938 individuals have faced prosecution in 1,264 cases for their involvement in political assemblies and expressions. Among them, 286 are children and youth under 18 years old. Specifically concerning Section 112 and the CCA, there were at least 287 lèse-majesté lawsuits against 262 individuals and at least 214 charges targeting 195 individuals related to online expression.<sup>35</sup>

This phenomenon of legal abuse can be attributed to the announcement made by the then PM Prayuth Chan-o-cha on Nov. 19, 2020, stating that the government would use all necessary laws, including Section 112 of the Criminal Code, against protesters in order to maintain the country’s peace and order.<sup>36</sup> Consequently, after two years of moratorium on the use of Section 112, the draconian law was enforced again, especially to curb anti-royalty opinions online, and the number of cases started by this law has increased. Moreover, the lèse-majesté law has evolved since November 2021, when the Thai Constitutional Court ruled that activists’ calls for royal reform constitute an attempt to overthrow the monarchy.<sup>37</sup> The ruling set a dangerous legal precedent for Thailand that may have a devastating impact on the eventual verdicts on lèse-majesté cases. For example, on Aug. 16, 2022, dissident musician **Parinya “Port” Cheewinkulpathom** was sentenced to nine years on lèse-majesté and CCA charges over three Facebook posts he made in

2016 about the monarchy.<sup>38</sup> In November 2022, Nacha (pseudonym), was found guilty of violating Section 112 of the Criminal Code and the CCA, and sentenced to three years in prison for commenting on a picture of King Vajiralongkorn in the Royalist Marketplace Facebook group. Her sentence was reduced to one year and six months with a two-year suspension, and her mobile phone was confiscated by the court.<sup>39</sup>

Additionally, courts have also expanded the scope of lèse-majesté application to encompass any defamatory statements made about previous Kings and not just the current King, Queen, and Heir-apparent or Regent as the law intends. In November 2022, a court of appeal sentenced a student to one year and four months for violating Section 112 on the basis of a Facebook post he had made criticising the former King Rama IX,<sup>40</sup> setting a dangerous precedent for future Section 112 cases. Moreover, due to the persistent enforcement of Section 112 or lèse-majesté and the CCA, a multitude of cases and charges have emerged, alleging violations of Section 112 and the CCA. Consequently, a substantial number of individuals find themselves sentenced to imprisonment for durations exceeding a decade. For instance, in June 2022, **a mentally ill man was sentenced to 12 years** over four messages he had posted in the Facebook group Royalist Marketplace that were seen as defamatory of the King and Queen. The Court denied his defence’s request to provide psychiatric support for him at his trial as the man was “able to talk about himself.”<sup>41</sup> Moving to March 2023, **a member of the Karen ethnic group was sentenced to 12 years** for Facebook posts discussing the king’s neutrality and promoting a pro-democracy demonstration. His bail request was denied.<sup>42</sup> In May 2023, **a 34-year-old security officer received a 15-year prison sentence** (later reduced to 7 years and 6 months) for Facebook posts and TikTok videos regarding the former and current king of Thailand.<sup>43</sup>

In June 2023, a 60-year-old **man received a 18-year sentence** for online posts about the monarchy. His sentence was subsequently reduced to a two-year suspended sentence following his confession.<sup>44</sup> On Oct. 30, 2023, **Mongkhon ‘Bas’ Thirakot**, an activist and online clothing vendor based in Chiang Rai, faced charges under Section 112 and CCA for two Facebook posts from July 2022. One post featured an image of the King with a message on wearing black in mourning, while another showcased an edited picture of Mongkhon holding a picture frame. He received a cumulative sentence of four years and six months, with bail granted at a set amount of THB 300,000. Notably, Mongkhon had previously been charged with royal defamation for 27 Facebook posts. Found guilty on 14 counts, he was sentenced to 28 years in prison by the Chiang Rai Provincial Court. The court ruled for the sentences in both cases to be served consecutively. Currently, Mongkhon is in the process of filing an appeal.<sup>45</sup>

The imprisonment term can escalate significantly. Another instance involved in January 2023, **pro-democracy activist Mongkhon “Bas” Thirakot Bas was sentenced to 42 years in prison**, later reduced to 28 for being cooperative—for Facebook posts “defaming” the monarchy. According to the Thai Lawyer for Human Rights, the court ordered Mongkhon to be tried in secret, and initially the courtroom was off-limits to everyone not involved in the trial. Mongkhon was released on bail while his case is on appeal.<sup>46</sup> It is the second-longest term handed down in modern times after the sentence of Anchan Praelert in January 2021. **Anchan Praelert, a former civil servant, was sentenced to 87 years in prison** for uploading audio clips of “Banpot,” a radio host critical of the monarchy, to YouTube. Her sentence was reduced to 43 and a half years after pleading guilty.<sup>47</sup> She was previously detained pre-trial for nearly four years from January 2015, and released on bail in November 2018.

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*Anchan has been subjected to unfair judicial proceedings in a military court, lengthy detention before and during trial, and an unprecedented prison sentence. The Thai government must right the wrongs suffered by Anchan and immediately release her.*

- Yaowalak Anuphan, Thai Lawyers for Human Rights Head.<sup>48</sup>

# THAILAND



**Anchan Preelerd**

Former civil servant



## 2023 Political Overview

Parliamentary Constitutional monarchy with elected government in theory, authoritarian regime in practice.

**Head of State**

King Maha Vajiralongkorn

**Head of Government**

Prime Minister Srettha Thavisin

#FreeAnchan

#Section112

**CASE STUDY**

No-one is safe from Digital Dictatorship when authorities weaponise the law, exemplified by the case of this former civil servant..

**WHO**

♥ Anchan Preelerd, a former civil servant

**WHERE**

Bangkok, Thailand

**HOW**

⚠ How Digital Dictatorship has caused the violation of Anchan Preelerd's human rights:

**WHEN**

2014–2015 (audio clips shared);  
19 January 2021 (sentenced), remains in jail to this day.

**WHY/WHAT**

👑🙏 Anchan was accused of uploading audio clips onto social media that were deemed 'defamatory' against the monarchy, and that violated lèse-majesté laws.

👏🙏🙏🙏🙏🙏 In 2021, Anchan was given a guilty verdict and sentenced to 87 years in prison for these audio clips. Her sentence was only reduced to 43 years and 6 months after she pleaded guilty. This is considered one of Thailand's harshest lèse-majesté-related cases. Anchan and her lawyers have spoken out many times about the inhumane treatment she has experienced while in detention at the Central Women's Correctional Institution. As an elder and a woman, she experiences disproportionately dehumanising treatment.



FIDH, *UN body demands immediate release of woman jailed for record lèse-majesté sentence*, (29 December 2021), available at: <https://www.fidh.org/en/region/asia/thailand/un-body-demands-immediate-release-of-woman-jailed-for-record-lèse-majesté>.

Arrests, litigation, and the other forms of harassment mentioned in this case study are just some examples of how Digital Dictatorship has affected the individual(s) mentioned, as well as Southeast Asian society as a whole. HRDs and/or journalists, including the one(s) in this case study, are often perpetually targeted by Digital Dictatorship in numerous ways that go beyond just what is discussed here.

**Pro-democracy activist Parit “Penguin” Chiwarak has the highest number of Section 112 (lèse-majesté) cases** in Thai history. Among more than 20 lèse-majesté or royal defamation cases he is undergoing, several were brought against him over his online activism against the dictatorial regime, including his criticism of the royal family. On Dec. 9, 2020, “Penguin” was notified of his first case involving simultaneous lèse-majesté and CCA violations for posting a letter to King Vachiralongkorn on his Facebook which detailed the pro-democracy movement’s three-point demands for the resignation of the then PM, an amendment of the Constitution, and a monarchy reform.<sup>49</sup> However, this was not the only attempt by royal supporters and the government to persecute and intimidate him into silence, as he was later charged for a number of Facebook posts and comments. In a September 2020 case, he faced charges of royal defamation and Section 14(3) of the CCA for inviting people to join the campaign to boycott Siam Commercial Bank, where King Vachiralongkorn is reported to be the largest shareholder.<sup>50</sup> In March 2023, he was charged with Section 112, CCA, and sedition for his speech at a 2020 protest and for broadcasting it online. He was released on bail.<sup>51</sup> In May 2023, he was indicted for Section 112 and CCA for criticising online the court’s withdrawal of bail for political prisoners. He was released on bail.<sup>52</sup> However, if convicted on all charges, he could face up to 300 years in prison.

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*Dissenters deserve to be safe. This is how we build a new social structure and move forward as a society.*<sup>53</sup>

- Sophon “Get” Suraritthamrong, founder of Mokeluang Rimmam activist group

## Arrests and Arbitrary Detention of Activists

The weaponisation of the Section 112 and CCA to restrict online activities regularly leads to arrests and arbitrary detention of activists. Their requests for bail are usually rejected or granted with stringent conditions. In March 2022, **Tantawan “Tawan” Tuatulanon**, a 20-year-old activist and member of the pro-democracy group Thaluwang, was arrested while livestreaming at Ratchadamnoen Nok Avenue in Bangkok before a royal motorcade was scheduled to pass. During the broadcast, Tawan questioned why farmers protesting near the royal motorcade route had to be moved and discussed the results of the opinion poll she conducted in February on traffic closures caused by royal motorcades. She was charged under Sections 112 and 116 of the Criminal Code, and Section 14(2) and 14(3) of the CCA. Even though Tawan was released on bail two days after the arrest, it was on the condition that she must not “commit any act that may damage or denigrate the monarchy” while awaiting her trial. This condition enabled the police to imprison her again in April after she announced online her intention to appear near a motorcade route on March 17, 2022. Later, on May 26, 2022, she was granted another conditional bail after having her previous requests denied, and was detained for 37 days, during which she went on a hunger strike to protest the unjust treatment she was subjected to.<sup>54</sup>

On Jan. 16, 2023, **Tawan and Orawan “Bam” Phuphong** revoked their own bail to demand release of political prisoners, after the court revoked bail for fellow activists **Nutthanit “Bai Por” Duangmusit** and **Sophon “Get” Surariddhidhamron**, charged with lèse-majesté.<sup>55</sup> The couple went on hunger strike on Jan. 18, 2023 and other pro-democracy activists convicted of royal defamation followed suit nearly immediately after.<sup>56</sup> Following Tawan and Orawan strike, concerns over the necessity of bail reform

and calls for the release of political detainees were raised by a range of actors: opposition parties,<sup>57</sup> youth-led monarchy reform group Thulawang, law professors, and health workers.<sup>58</sup> After 20 days of a dry-hunger strike, they were granted bail due to the deteriorating health condition.<sup>59</sup> On March 11, 2023, they ended their hunger strike after 52 days in order to receive life-saving treatment so they could carry on their campaign for reform.<sup>60</sup>

In addition, **Warunee's** case serves as another prominent illustration of the intricate interplay between Thailand's royal defamation law and the CCA. It was initiated when Warunee shared a photo on Facebook in which King Rama 10's image was altered, along with the seasonal attire of the revered Emerald Buddha, provoking perceptions of disrespect towards both figures.<sup>61</sup> This led to a lawsuit in February 2022, alleging her intention to defame the King and insult religious symbols.<sup>62</sup> In May 2023, Warunee admitted to the Section 112 charges but contested the accusation of religious insult, citing her bipolar disorder. Her initial three-year sentence was subsequently reduced to one year and six months due to her guilty plea. Despite her legal situation, she was denied bail, prompting her to embark on a hunger strike in August 2023, which ultimately resulted in her hospitalisation. After more than a month of being hospitalised and 46 days of hunger strike, the bail has yet been granted despite her physical and medical health concerns.<sup>63</sup> All bail requests were consistently denied by the courts, who cited the severity of the charges and concerns about potential flight risk.<sup>64</sup>

Parallel to Warunee, "**Weha Sanchonchanasuk**," faces charges under Section 112 and CCA, is also seeking bail.<sup>65</sup> His allegations stem from his experience of temporary detention at the Bangkok Remand Prison in the Thawi Watthana district, which gained attention on Twitter in 2021. On May 18, 2023, Weha received a sentence of three years and 18 months without suspension<sup>66</sup> and has been in custody since. He initiated a concurrent

food strike with Warunee on Aug. 23, 2023. Unlike a complete hunger strike, Weha abstained from solid food while still consuming liquids like water, fruit juices, and milk.<sup>67</sup> The strike lasted for 49 days without being granted bail.<sup>68</sup> Furthermore, on Oct. 31, 2023, he faced additional charges under Article 112 and CCA for posts on the Facebook page "Free Youth Group," criticising the government's vaccine management and posting messages critical of the court on New Year's Day. He received a two-year and 12-month imprisonment sentence, to be served consecutively with the previous case, with no granted bail.<sup>69</sup> The case of Warunee and Weha underscore the ongoing complexities within Thailand's legal framework, where the delicate balance between preserving the monarchy and safeguarding individual rights remains a contentious issue.

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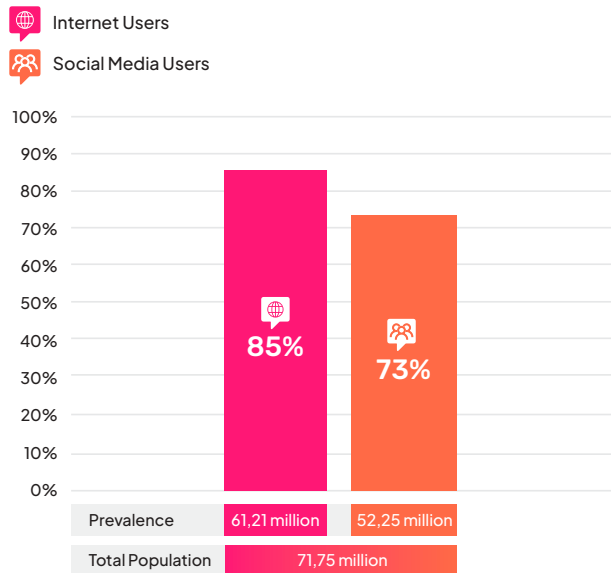
*Political interventions by the military seriously limit freedom of speech when it comes to politics. Because the military government is a dictatorship, they are empowered to enforce absurd laws, exploit the existing laws to their advantage, or suppress criticism.*<sup>70</sup>

- Kanyakorn "Jib" Suntornprug, member of the United Front of Thammasat and Demonstration

## Section 112’s Reach Extends Beyond Political Activists to Ordinary Internet Users

Due to Section 112’s extremely vague formulation, not only are political activists targeted, the provision has also been abused to infringe on the right to free speech of ordinary internet users who casually participates in critical discussions about the monarchy. For example, Pipat, a 20-year-old man, faces charges under Section 112 and CCA for posting a picture to the Royalist Marketplace, a satirical Facebook group that circulates otherwise forbidden information about royalty. In the post, a photograph of King Rama X and the Crown Prince Dipangkorn Rasmijoti was accompanied by a short text, allegedly defamatory and hostile to the two royal members.<sup>71</sup> In Sept. 2023, Samut Prakan Provincial Court dismissed the case on the ground that the evidence was not credible and may have been edited.<sup>72</sup>

### Thailand Percentage of Internet and Social Media Users



DataReportal, *Digital 2023, Thailand*, (9 february 2023), available at : <https://datareportal.com/reports/digital-2023-thailand>

Fig. 4.4A: Percentage of Internet and Social Media Users in Thailand, 2023.

On Oct. 19, 2022, a provincial court convicted “**Pakpinya**,” a former librarian in Bangkok, of lèse-majesté for her Facebook posts allegedly containing insults against King Rama X. She was sentenced to a total of nine years’ imprisonment.<sup>73</sup> In early November 2022, a 26-year-old single mother identified by the pseudonym “**Nacha**” was sentenced to three years for commenting on a picture of the King posted by a political exile in the Facebook group Royalist Marketplace. Her sentence was later reduced to one year and six months after she pled guilty to all charges.<sup>74</sup>

In addition to these charges, the past years have also seen chilling court verdicts on online criticism of the monarch. **Punyapat** (pseudonym) was sentenced to 12 years in prison for social media posts questioning the King’s stay in Germany and his popularity amongst Thai people. His sentence was reduced to six years for confessing.<sup>75</sup> In another worrying case, a former guard for the anti-government movement Red Shirts, **Sombat Thongyoi**, received a six-year prison sentence for violations of lèse-majesté and CCA. This sentencing resulted from the accusation that Thongyoi damaged the King’s reputation with a Facebook caption “#verybrave #verygood #thankyou,” which is quoted from the King’s comment to one of his supporters and was widely mocked by the royal reform movement at the time.<sup>76</sup> He was detained from April 2022 to February 2023, when he was released on bail with conditions, including wearing an EM tag, refraining from repeating the offences, and participating in demonstrations or activities that may damage the reputation of the monarchy.<sup>77</sup>

As Section 112 has become more politicised, its enforcement has also been extended to regulate expressions that allegedly paint the royal institution in a negative light. This abusive application is clearly seen in the arrest of influencer **Kittikhun “Mom Dew” Thammakitiraj**. Alongside two other influencers, Aniwat Pathumthin, known as “**Nara Crape Katoey**” and **Thidaporn “Nuu-rat”**

**Chaochuwieng**, she was charged with Section 112 violation in June 2022. The charges are related to their advertisement for e-commerce platform Lazada, which was believed by many royalists to be a mockery of the royal family. All three persons were granted bail,<sup>78</sup> and the prosecution against two of them started in May 2023.<sup>79</sup> Later, on Dec. 21, 2023, the Criminal Court dismissed charges against Aniwat, ruling that the videos in question, created as part of a marketing campaign, did not violate the royal defamation law. The court highlighted the absence of “anti-monarchy symbols,” normal speech usage, and the lack of personal coat of arms of a royal family member. Despite the prosecution’s claim of parody, the court concluded that the defendants were merely playing roles to promote their products, with the content deemed inappropriate by certain groups but not constituting defamation.<sup>80</sup>

**Wave (pseudonym)**, a 30-year-old individual from Nonthaburi, is facing charges under Section 112 and the Computer Crime Act (CCA). The charges arise from the dissemination of information via the Facebook website, involving the public sharing of images and text. The images depict King Rama 10 and include text raising questions about the production of COVID-19 vaccines by Siam Bioscience in May 2021. The prosecutor asserts that such actions amount to defamation and insult towards the King, with the intention of undermining the revered institution of the monarchy. This is seen as causing public disrespect and contempt towards the revered King, who is considered inviolable by the Thai people. Additionally, this information is deemed a computer-related offence against the stability of the Kingdom of Thailand under the criminal code. Consequently, he received one year and six months of imprisonment but was granted with the two-year suspension of sentence.<sup>81</sup>

Wave’s case illustrates the expansion of prosecution beyond online criticism of the

monarchy, particularly concerning the management of COVID-19 vaccines. In another instance, Jirawat, a 32-year-old online clothing vendor, has been handed a six-year prison sentence. This conviction is linked to Jirawat’s sharing of three Facebook posts in 2021 addressing the government’s Covid-19 vaccine policy, police corruption, and advocating for monarchy reform. On Dec. 6, 2023, Jirawat was sentenced to six years in prison, a reduction from the initially proposed nine years, and no bail has been granted thus far.<sup>82</sup>

In another instance, **Rukchanok “Ice” Srinork**, a Member of Parliament (MP) from the Move Forward Party (MFP), was convicted on Dec. 13, 2023, under Section 112 and the CCA. The conviction was related to two tweets in 2021 addressing the monarchy and criticising the government’s decision to grant a licence exclusively to one company for the production of the AstraZeneca COVID-19 vaccine. This decision resulted in a vaccine shortage, impacting people’s lives. Ice received a six-year prison sentence without suspension but was later granted provisional bail on the same day, with THB 500,000 as security. Fortunately, she will retain her seat in parliament and can continue fulfilling her parliamentary duties as an MP.<sup>83</sup>

Furthermore, the government has also taken retaliatory measures against both online and offline critics. In November 2021, Yan Marchal, a French expatriate was deported and blacklisted over his political parody of the government on Facebook and TikTok. His actions were deemed to potentially pose a threat to public order.<sup>84</sup> Another incident occurred on Aug. 7, 2023, where **Tanruthai “Pim” Thanrat**, a pro-democracy and indigenous rights activist from the Mokeluang Rimnam group, faced charges of “defaming the monarchy” following her speech at a July 14, 2023 protest. Originally centred on seeking parliamentary alignment with the people’s will in selecting the prime minister, Pim was charged with royal defamation. Her case reflects a pattern seen in numerous instances,

where ultra-royalists initiate charges. Thailand's lèse-majesté law permits anyone to report violations, and authorities, along with the courts, frequently entertain these cases, contributing to a broader trend of legal actions against activists expressing dissent.<sup>85</sup>

### **Sedition Law: Weaponized to Prosecute Demands for Democracy**

In March 2021, a 45-year-old farmer Tiwakorn Vithiton was accused of violating the sedition law for posts urging the royal institution to end Section 112 enforcement and calling for the release of four activists. He was also held liable for posting pictures of himself in a shirt that says "We have lost faith in the royal institution" on Facebook, as well as his reasons for wearing the shirt. Authorities claimed that his posts not only

defamed the monarchy, but also "convinced the audience to disrespect the king," "invited similar comments" and in turn "threatened the people's loyalty to the King."<sup>86</sup>

In September 2021, Panusaya "Rung" Sithijirawattanakul, an activist and student protest leader, was arrested and charged under Section 116 of the Criminal Code and Section 14 of the CCA for running the Facebook page of student-led pro-democracy group "United Front of Thammasat and Demonstration (UFTD)".<sup>87</sup> She was granted bail after eight weeks in prison, with strict bail conditions requiring her to refrain from offending the monarchy and to regularly attend court sessions.<sup>88</sup> Panusaya faces 24 criminal charges, ten of which are related to royal defamation, and could face a maximum sentence of 135 years in prison, if found guilty on all charges.<sup>89</sup>

“

*The government's goal is to truly put an end to the pro-democracy movement by exhausting activists physically and mentally in order to maintain the establishment in power. Now, more than ever, we must mobilise and join forces to resist Thailand's digital dictatorship and ensure pro-democracy activists remain strong and brave and can care for themselves as a priority.*

- Emilie Pradichit, Founder & Executive Director of Manushya Foundation



## Pro-Democracy Activists: Subjected to Harassment and Extralegal Intimidation

Individuals who criticise the monarchy are subject to harassment for their online content and face threats. For instance, Sirin Mungcharoen briefly withdrew from social media accounts due to “death threats, sexual harassment as well as online and offline bullying” for a popular video of her protest and several other posts that challenged the status quo.<sup>90</sup> Hundreds of critics of Thailand’s monarchy were also doxed by royalists in June 2021.<sup>91</sup> Not only individuals, but also human rights groups have faced attacks for their work, as in the case of Amnesty International.<sup>92</sup>

Many live in fear for their lives and have no choice but to leave the country, seeking refuge in other nations. However, even after fleeing, the harassment persists, with some activists falling victim to enforced disappearance. For example, in 2020, Wanchalearm Satsaksit, who had been a vocal critic of the military regime on Facebook and was wanted for violating the CCA, disappeared in Cambodia a day after he posted a video criticising the then prime minister.<sup>93</sup>

“

*A society that makes its people feel like a gun is constantly being pointed at their head is not considered a safe society. It is obvious that the situation we are currently facing is not at an individual level. It doesn’t mean that what happened to Wanchalearm Satsaksit can only happen to him. We live under the same system.*<sup>94</sup>

-Sophon “Get” Suraritthamrong, founder of Mokeluang Rimnam activist group

## Online Content Moderation and Restrictions

According to the Freedom on the Net Report 2022 and 2023,<sup>95</sup> the widespread blocking of content critical of the monarchy is evident. However, due to a lack of transparency, the complete scope of this blocking remains unclear. Websites encountered blocks for reasons such as national security concerns, the presence of gambling content, alleged violations of intellectual property rights, and the hosting of unauthorised virtual private network (VPN) services. The government consistently restricts critical content online by blocking web pages and online news outlets. In October 2020, the government issued an order to silence four independent media agencies—VoiceTV, The Standard, Prachatai and The Reporters, and youth-led group “Free Youth”, in an effort to prevent them from reporting on the pro-democracy protests and sharing with the world the truth about **#WhatsHappeningInThailand**.<sup>96</sup> Nevertheless, the government’s request was eventually rejected by the Criminal Court.<sup>97</sup>

## Government Requests to Remove or Restrict Content or Accounts

Court orders have also been sought by the MDES to block 8,440 URLs with content allegedly offensive to the monarchy—mostly on Facebook—between August and December 2020, of which 5,025 URLs were blocked by January 2021.<sup>98</sup> The Ministry of Digital Economy and Society (MDES) additionally revealed that 4,035 URLs were blocked for “insulting the monarchy and security” throughout 2022.<sup>99</sup> Additionally, petition websites have been blocked in recent years, particularly those concerning the royal family or royal reform. The website “change.org” was also blocked in October 2020, due to its hosting of a petition urging Germany to declare King Maha Vajiralongkorn persona non grata.<sup>100</sup> Website “no112.org”—an online petition platform to repeal the lèse-majesté law—was likewise blocked in February 2022 by the MDES.<sup>101</sup> Human rights lawyer and activist Anon Nampa, being one of the persons who has started the campaign to repeal Section 112, has challenged the decision before the court. He argued that making a petition to amend or repeal a law is permissible under the constitution. In March 2023, the court held there is no reason to change the decision.<sup>102</sup>

The breadth of censorship is constantly growing, and authorities requested tech companies to remove or restrict online content. In 2020, Meta restricted access to 1,961 items on Facebook, out of which 1,947 were in response to reports from the MDES alleging violations of lèse-majesté law, while throughout 2021, 705 items were restricted on Facebook and Instagram, on the same grounds out of a total of 2,634 restrictions. The numbers were higher in 2022 with 8,550 restrictions and 5,240 only for the first half of 2023.<sup>103</sup> According to Google’s Transparency Report, the government sent 184 requests from January to December 2020 to remove 3,250 items across various Google platforms, including YouTube, and 235 requests in 2021.<sup>104</sup>

Most requests are related to criticism of the monarchy and the government. By December 2022, there were 599 requests and 179 for the first half of 2023.<sup>105</sup> Twitter reported 107 requests to remove content in 2020, while only complying with 11.2% of them. In 2021, it logged 128 requests and complied with 13.2% of them.<sup>106</sup> TikTok received a small number of requests to restrict and/or remove content between 2020 and 2023.<sup>107</sup> According to data from the SurfShark website, Thailand has had a total of 1,435 account requests from Apple, Google, Meta, and Microsoft between 2013 and 2021.<sup>108</sup>

Moving forward to 2023, the Freedom On The Net Thailand’s report co-authored by Manushya Foundation summarises that internet freedom in Thailand still remains under attack,<sup>109</sup> while the ASEAN Regional Coalition to #StopDigitalDictatorship exposed a new decree, enforced in December 2022, that placed demands on Internet Service Providers (ISPs), requiring them to adhere to content removal requests within a tight timeframe of 24 hours.<sup>110</sup>

## Online Content Manipulation and Online Smear Campaigns

There is a prevalent occurrence of spreading online propaganda, disinformation, and manipulating content. Suspicions arise that state entities and specific political parties utilise diverse methods for such practices, often directing them towards the opposition, human rights defenders, and specific segments of the population. Government-led online smear and disinformation campaigns are specifically directed at activists and human rights defenders, intending to undermine their credibility and legitimacy. The Internal Security Operations Command (ISOC)—the political arm of the Thai military—has been carrying out Information Operations (IOs) to conduct cyber warfare against HRDs, journalists and academics by funding military-linked accounts publishing posts, stories, articles critical of activists who promote democracy, peace and human rights, as well as

manipulating information and disseminating hate speech.<sup>111</sup> In August 2021, a Move Forward Party MP shared documents detailing the structure of the Thai army's network of commentators, which includes soldiers designated to spread pro-government sentiments, respond to criticism of the government, and target political opposition figures online. The MP also criticised the ISOC's budget request for THB 7.88 billion (\$11.5 million) for information operations.<sup>112</sup> In 2021, the military allegedly signed contracts with public relations companies to enhance the quality of their information operations campaigns,<sup>113</sup> exacerbating the impact caused by the existing regime-backed cyber army. Two women HRDs, Angkhana Neelapaijit and Anchana Heemmina, have been subjected to online smear campaigns against them for years after exposing officials' wrongdoing.<sup>114</sup> However, they did not keep silent and filed a lawsuit against the Office of the Prime Minister in charge of the ISOC and the Royal Thai Army for their involvement in the campaign. On Feb. 16, 2023, the court dismissed the case for insufficient evidence to demonstrate that ISOC was responsible for the dissemination of information, citing the lack of evidence like web traffic data.<sup>115</sup>

Furthermore, during the 2023 general election, ISOC faced heavy criticism after it posted online hourly updates on Move Forward Party's (MFP) activity in the Prachinburi province. ISOC has been criticised for fulfilling the authoritarian regimes' demands and has been, allegedly, involved in the creation of far-right propaganda, with some people calling for its dissolution.<sup>116</sup>

### The 2023 Election Period: Surge of Manipulated, False, and Misleading Online Content

According to the Freedom on the Net Report 2023,<sup>117</sup> the 2023 general election period witnessed a surge in manipulated, false, or deceptive online content, predominantly designed to discredit opposition parties

and prominent political figures. Specific information operations spread misinformation alleging that the Move Forward Party (MFP) had introduced a proposal to eliminate the teacher pension system.<sup>118</sup> During a broadcasted pre-election debate, MDES Minister Chaiwut Thanakamanusorn, in relation to MFP's pledge to amend Section 112, argued that Section 112 cannot be amended due to a previous ruling by the Constitutional Court that an amendment is an attempt to overthrow the monarchy.<sup>119</sup> However, the Constitutional Court declared Section 112 to be constitutional.<sup>120</sup> In an online speech, a PM candidate from the royalist political party Thai Pakdee asserted that Section 112 has never been employed to harass individuals and is devoid of any problems.<sup>121</sup> After the elections, malicious rumours circulated, allegedly connected to ISOC, which claimed that the MFP has plans to allow the United States to establish a military base in Thailand.<sup>122</sup> Additionally, women and individuals from marginalised communities have become subjects of information operations (IO) targeting their political engagements. In 2022, Paetongtarn Shinawatra of the Pheu Thai party faced unfounded allegations of replicating a policy from a prior administration. This campaign sought to undermine her political competence and raise doubts about the leadership capabilities of women.<sup>123</sup>

In the predominantly Malay-Muslim southern region, these tactics were also employed to undermine local politicians, activists, and human rights defenders, and associate them with the insurgency leading up to the 2023 election. IOs' target was Romadon Panjor, a peace activist who later became an MFP MP candidate, falsely claiming that he held sympathies towards the insurgency.<sup>124</sup> During 2023, this misleading content continued to be circulated on social media accounts linked to a conservative Buddhist organisation. Their purported objective was to protest what they perceived as pro-Muslim policies by the junta government.<sup>125</sup>

“

*It is the state's duty to protect every citizen from any human rights violation, including smear or hate campaigns. These kinds of campaigns clearly violate human rights, and if the state has failed to stop them, it should constitute an act of negligence – No matter if the state was somehow implicated or not.... We are subject to constant surveillance. They keep commenting on Facebook posts with offensive and denigrating words that make me anguish. I started to get annoyed by their mockery. Instead of trying to understand what we do, some people tend to believe in manufactured content produced to attack us on social media. They use the images and the false claims to berate our work.*

—Angkhana Neelapaijit, WHRD and former  
National Human Rights Commissioner

## State Surveillance to Stifle Dissent

In addition to prosecutions, the government employs surveillance technologies to stifle online freedoms and intimidate pro-democracy activists and dissenting voices. A study on Pegasus Spyware Used against Thailand’s Pro-Democracy Movement in July 2022 revealed that the government deployed Pegasus spyware against at least 30 Thai pro-democracy activists, HRDs, and academics, among others.<sup>126</sup> Following this, MDES Minister admitted during the no-confidence debate that some Thai government departments have been using Pegasus spyware for “national security” and to combat drug trafficking.<sup>127</sup>

### #PeoplePower | How Are People Resisting #DigitalDictatorship?

#### Defending Democracy: Thai Activists’ Battle Against Pegasus Spyware and State Surveillance



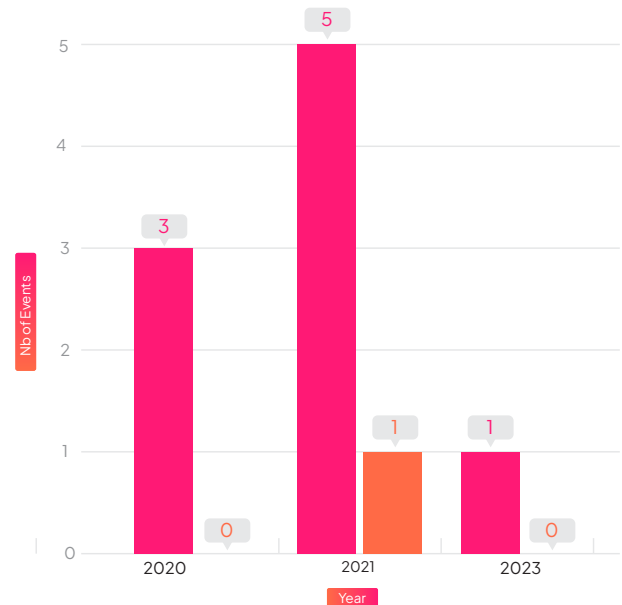
As a response to the State surveillance, eight Thai citizens jointly filed a civil lawsuit against the NSO group in November 2022, accusing them of violating their privacy rights. Nevertheless, their legal pursuit has encountered obstacles.<sup>128</sup> Consequently, in June 2023, Yingcheep Atchanont from iLaw and Arnon Nampa, a Thai human rights lawyer, lodged a lawsuit against nine state agencies. The Administrative Court dismissed the case in August 2023, citing vague claims lacking clear allegations of misconduct. The case is presently awaiting an appeal to the Supreme Administrative Court for reassessment.<sup>129</sup>

Furthermore, on the international scale, in April 2023, a correspondence conveying apprehensions about the utilisation of Pegasus was transmitted to the government by four United Nations Special Rapporteurs (UNSRs).<sup>130</sup> Presently, the government has not provided a response to this UN Communication.

## Freedom of the Press: Under Fire

The media faces increasing pressure over the broadcasting and publishing of content related to the pro-democracy movement or the monarchy. In November 2021, Commissioner of the National Broadcasting and Telecommunications Commission Lt Gen Perapong Manakit warned media outlets against reporting on the youth pro-democracy movement’s call for monarchy reform, citing the Constitutional Court’s ruling that the speeches demanding the reform constitute an attempt to overthrow the “democratic regime of government with the King as Head of State.”<sup>131</sup>

### Disorders involving the Media in Thailand



The Armed Conflict Location & Event Data Project (ACLED), *Disorder Involving the Media*, (10 February 2024), available at: <https://acleddata.com/data-export-tool/>

#### LEGEND

- Disorders involving the Media
- Disorders involving Fatalities

Fig. 4.4B: Disorders involving the Media in Thailand 2020-2023.



The information used to construct this infographic is sourced from the ACLED database, specifically the dataset titled “Disorders involving Media.” Within this database, we have exclusively selected relevant countries from the ASEAN region, namely Indonesia, Thailand, Myanmar, and the Philippines. However, this infographic only focuses on Thailand. The events were further filtered based on an additional criterion: date. As our report focuses on events from 2020 to 2023, only those occurring between January 1, 2020, and December 31, 2023, have been included

In May 2023, the broadcast of Move Forward Party's Pita Limjaroenrat's interview on True Visions cable TV, as part of BBC World's program, was momentarily interrupted, displaying a blank screen accompanied by the message: "Programming will return shortly."<sup>132</sup> The discussion revolved around the election results and the political agenda of the party, including the amendment of Section 112. This incident adds to a series of instances where international news media have faced censorship. In the past, various news broadcasts were abruptly cut off, with True Visions stating that they were merely adhering to state policy.<sup>133</sup> The police have also frequently assaulted and arrested journalists for reporting the protests.<sup>134</sup>

Police repressed with violence journalists covering the dispersal of a protest march that was heading towards the Asia-Pacific Economic Cooperation (APEC) meeting in Bangkok on Nov. 18, 2022. **Journalist Sutthipath Kanittakul** of the online news agency, The Matter, was hit with a baton by the police and kicked in the head as he was broadcasting scenes from the crowd dispersal. **Waranyu Khongsathittum** of The Isaan Record was likewise punched and kicked,<sup>135</sup> and a freelance photojournalist **Chaline Thirasupa** suffered an eye injury due to a glass bottle being thrown by the police towards a group of photographers.<sup>136</sup> The Matter filed a lawsuit against the national police force.<sup>137</sup>



## PANDEMIC POLITICS: COVID-19 IMPACT ON ONLINE FREEDOM

The authorities have restricted free expression online using non-human rights compliant laws and regulations, purportedly to respond to the COVID-19 pandemic. Section 5 and 9 of the 2005 Emergency Decree on Public Administration in Emergency Situation (Emergency Decree), which the government activated in March 2020, impeded free speech, including online, in relation to the pandemic. Violation of the Emergency Decree can be punished with two years' imprisonment and/or a fine of THB 40,000 (\$1136).<sup>138</sup> On July 13, 2021, Regulation no. 27 under the Emergency Decree came into force, punishing those who disseminate information or news that causes "fear" or "misunderstanding" or "affects national security or public order or the good morals of the people." The Regulation raised concerns about the prosecution of information sharing even if it is factually accurate.<sup>139</sup>

In June 2021, a "Fake News Center" was also set up under the Department of Special Investigation

(DSI, under the Ministry of Justice) to investigate attempts to spread false news online to mislead the public about the COVID-19 situation.<sup>145</sup>

The state of emergency lapsed in October 2022, and the regulations, announcements, and orders issued thereunder were repealed. Despite this, individuals however continue to face charges under the law with. At the end of December 2023, at least 1,469 people in 664 cases have been prosecuted since May 2020 when the first lawsuit against political activists was filed.<sup>146</sup> The amended Communicable Diseases Act (CDA) became the primary legislation governing Thailand's COVID-19 response on the expiration of the state of emergency.<sup>147</sup> Thai civil society groups and UN experts expressed their concern over the law's repressive provisions, which could similarly restrict freedom of expression, and the lack of transparency around amendments to the CDA approved by the cabinet in September 2021, which have not been made public as of June 2023.<sup>148</sup>

**#PeoplePower | How Are People Resisting #DigitalDictatorship?****Resisting Censorship: How Thai Civil Society and Media Companies****Protected Online and Media Freedoms by Defeating Prayuth's****Unlawful Regulation 29**

On July 29, 2021, former Prime Minister Prayuth Chan-o-cha wielded his decreed powers to enact Regulation 29<sup>140</sup>, authorising the suspension of internet services for those sharing content deemed to “instigate fear,” “mislead,” or affect security. The regulation also mandated internet service providers (ISPs) to identify and immediately suspend internet service to accused IP addresses. This move incited immediate opposition from civil society and journalists.<sup>141</sup>

On August 2 of the same year, The Human Rights Lawyers Alliance and 12 Thai media companies contested the regulation in civil court.<sup>142</sup> Just days later, on August 6, the Civil Court decisively ruled in favour of online freedoms. It criticised the regulation’s vague language, which could infringe upon constitutionally guaranteed freedom of expression and press freedoms. Additionally, the Court acknowledged the vital role of internet access during the COVID-19 pandemic, emphasising the undue burden the regulation placed on citizens.<sup>143</sup>

In response to the court’s ruling, an emergency order halted the former Prime Minister from enforcing Regulation 29, prompting the government to repeal it.<sup>144</sup> **This outcome represented a significant triumph for online freedom of expression and underscored the indispensable role of civil society in safeguarding digital rights.**

It is clear that an Emergency Decree has been used by officials to punish individuals who disseminated allegedly false information about the pandemic and suppress critical voices. In March 2020, artist **Danai Usama** was arrested and charged under Section 14 (2) of CCA for posting online criticism about the lack of screening measures for COVID-19 symptoms at Suvarnabhumi Airport. His case was initially dismissed but, in January 2023, an appeal court overturned the decision, giving him a suspended sentence of two years.<sup>149</sup> In another prominent case, **Thanathorn Juangroongruangkit**, leader of the Progressive Movement and dissolved Future Forward party, was accused by the MDES of violating Section 112 and the CCA for a Facebook live broadcasted in January 2021 in which he raised questions about the government’s COVID-19 vaccine

procurement with reference to Siam Biosciences, a Thai pharmaceutical company owned by the Crown Property Bureau. Following the MDES complaint, the Criminal Court ordered the records of his live broadcast to be taken down from Facebook and Youtube under Sections 14(3) and 20 of the CCA. He filed an appeal against the ban. The court overturned its earlier ruling and lifted the order, citing Thanatorn was critical of the government’s vaccine procurement plan but not of the royal institution itself. However, in June 2023, the Supreme Court upheld the Appeal Court’s decision to remove the clip, citing national security concerns. Thanatorn is still facing criminal prosecution on charges of lèse-majesté and the CCA for the content of his speech during the broadcast.<sup>150</sup>



## INTERSECTIONAL GENDER ANALYSIS: UTILISING SOCIAL MEDIA PLATFORMS AS A MEANS TO ARTICULATE PERSPECTIVES AND HIGHLIGHT PERCEIVED INJUSTICES

Social media platforms serve as a means to articulate perspectives and shed light on perceived injustices. To better comprehend this dynamic, three significant cases are examined. The first initial case revolves around Tanruthai “Pim” Thanrut, an unwavering lesbian human rights defender, a pro-democracy activist, and a dedicated indigenous rights activist, from Mokuang Rimnam.<sup>151</sup> Pim, amidst her fervent commitment, has become a victim of Online Gender-Based Violence (OGBV). The second case involves Nada Chaiyakit, where charges were brought forth by a businessman holding a political position within the renowned Move Forward Party (MFP). The third case of three women human rights defenders (WHRDs) was instigated by the state, often perceived as a manifestation of digital dictatorship.

**Tanruthai “Pim” Thanrut**, a Thai youth activist has experienced Online Gender Based Violence, including doxing. Commencing approximately in 2020, Pim

bravely shared her experiences of sexual assault on a post addressing feminism and gender-based violence. However, instead of empathy, people responded to her comments with vulgarities and insults, questioning whether Pim was dressed to deserve rape. Around the midpoint of 2023, someone (identified as he/him/his) posted pictures of Pim, and making sexually harassing remarks and threatening her. As a lesbian, Pim endured taunts and received disturbing visual messages depicting both male and female genitalia. This relentless onslaught, often accompanied by threats, left Pim in a vulnerable state. In reaction to the harrowing experience, Pim courageously proclaimed, Pim’s encounter with OGBV is multidimensional, reflective of her identity as part of the LGBTIQ+ community, a survivor of rape, a fervent youth activist, and a resolute proponent of pro-democracy and indigenous rights. Tragically, this relentless assault has deprived Pim of the fundamental rights to freedom of expression, digital security, and a safe online environment.

“

*I am one of those who have been subjected to Online Gender Based Violence. I hope I’m the last. But in reality there are still many people facing this violence. Stop sexual violence. With respect for each other’s personalities!*<sup>152</sup>

—Tanruthai Pim Thanrut



**#PeoplePower | How Are People Resisting #DigitalDictatorship?**

A noteworthy legal case regarding gender, harassment, and defamation involves **Nada Chaipayit**, an advocate for LGBTIQ+ rights who has been active on LGBTQI+ issues and corporate accountability for more than decades. She is also the Sexual Orientation, Gender Identity and Expression, Sex Characteristics (SOGIESC) advisor for the Thai Business and Human Rights Network.<sup>153</sup> Nada faced a defamation lawsuit filed by a businessman, who was not only a politician and an elected Bangkok councillor from MFP but also the employer involved in the case. This legal action was triggered by Nada's

condemnation, shared through multiple social media posts, of the alleged sexual harassment committed by the businessman against a transgender woman employee within his company.<sup>154</sup>

**On Dec. 21, 2022, the Ratchada Criminal Court dismissed the case, citing section 329(3) of the Criminal Code.** The court concluded that Nada's expression of opinion was made in good faith and constituted "fair comment on any person or thing subjected to public criticism." Furthermore, the court recognized Nada as a human rights defender, affirming her role in safeguarding the rights of the victim of sexual harassment in the workplace.<sup>155</sup>

**What is the significance of the Nada Chaipayit's case?**

Nada Chaipayit's case provides a profound understanding into the enduring challenges faced by the LGBTIQ+ individuals particularly concerning workplace discrimination and harassment. The legal obstacles underscore the potential difficulties that advocates for the rights of LGBTIQ+ individuals may encounter. However, the court's recognition of Nada as a human rights defender signifies a positive development, acknowledging the critical role activists play in upholding the rights of marginalised

communities, including the LGBTIQ+ groups. Further, the case also highlights the intersectionality of gender and transgender rights embedded within her advocacy, addressing challenges faced by transgender individuals, particularly within workplace contexts. The inclusion of a transgender woman as a victim of sexual harassment emphasizes the need to consider diverse gender identities in broader discussions surrounding workplace harassment.<sup>156</sup>

**#PeoplePower | How Are People Resisting #DigitalDictatorship?**

Concurrently, in a parallel legal episode, three Women Human Rights Defender (WHRDs) - **Angkhana Neelapaijit, Puttanee Kangkun, and Thanaporn Saleephol** faced legal action from Thammakaset Company Limited, for their support of other victims of the company's judicial harassment on Twitter. These tweets contained links to an open letter related to defamation cases filed by Thammakaset, which in turn contained a link to a video about labour rights, subject to a defamation suit.<sup>157</sup> Thammakaset's initiation of defamation proceedings against nearly 40 individuals over the past four years raises concerns about

corporate accountability and the potential suppression of voices critical of alleged misconduct.<sup>158</sup>

**Fortunately, on Aug. 29, 2023, the Bangkok South Criminal Court acquitted all three women human rights defenders of criminal defamation charges brought by Thammakaset Company Limited.** This ruling followed nearly four years of criminal complaints filed by Thammakaset against the women for their social media posts expressing solidarity with human rights defenders facing lawsuits from the company.<sup>159</sup>

**What is the significance of Women Human Rights Defender (WHRDs) cases?**

While Nada's case underscores the importance of advocacy for human rights and addressing issues like sexual harassment, the situation of the WHRDs raises concerns about the use of defamation lawsuits to stifle voices critical of corporate misconduct, suggesting a concerning pattern that could impede freedom of expression. In addressing judicial harassment and corporate accountability, the case involving the WHRDs spotlights corporations initiating legal actions against activists, potentially discouraging individuals from speaking out against corporate malpractices and human rights abuses. The recurrent use of defamation proceedings by Thammakaset Company Limited. prompts

reflection on corporate accountability and the need for mechanisms to prevent the misuse of legal processes to silence critics.

In conclusion, these cases intricately illustrate the dynamic interplay of gender, LGBTIQ+ rights, freedom of expression, digital security, digital rights and corporate accountability. They underscore the significance of acknowledging and addressing the multifaceted challenges faced by advocates striving for justice and equality. Simultaneously, the legal outcomes in the aforementioned cases carry the potential to set precedents for future activism and the protection of human rights in similar contexts.

# THAILAND



## 2023 Political Overview

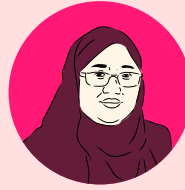
Parliamentary Constitutional monarchy with elected government in theory, authoritarian regime in practice.

### Head of State

King Maha Vajiralongkorn

### Head of Government

Prime Minister Srettha Thavisin



### Anchana Heemmina

Thai human rights defender, founder of Duay Jai group, and former NHRC subcommittee member for the Thai Southern Border Provinces (SBPs)



### Angkhana Neelapaijit

Thai human rights defender, founder of Justice for Peace Foundation, and former National Human Rights Commissioner of Thailand

#AngkhanaNeelapaijit #AnchanaHeemmina

#StopOnlineHateSpeech #WHRDs

## 📖 CASE STUDY

**WHRDs, and HRDs of other marginalised gender identities, suffer disproportionately** from state-enabled **Digital Dictatorship**, and rarely receive reparations or justice, such as in the case of these **two Thai WHRDs...**

### WHO

❤️❤️ Angkhana Neelapaijit, renowned Thai human rights defender, founder of Justice for Peace Foundation, and former National Human Rights Commissioner of Thailand

❤️❤️ Anchana Heemmina, renowned Thai human rights defender, founder of Duay Jai group, and former NHRC subcommittee member for the Thai Southern Border Provinces (SBPs)

### WHEN

4 November 2020 (Angkhana and Anchana file complaints); 16 February 2023 (complaint case dismissed)

### WHERE

Thailand

### WHY/WHAT

❤️❤️🗣️📢🌱 Angkhana and Anchana are both outspoken advocates for women's rights, religious freedom, corporate and government accountability, anti-torture, journalistic freedom, and other justice-related causes, with a particular focus on the Thai Southern Border Provinces (SBPs). Throughout their careers, Angkhana and Anchana have reported various instances of Digital Dictatorship being used against them.

### HOW

⚠️ How Digital Dictatorship has caused the violation of Angkhana and Anchana's human rights:

📖📰 In early 2020, during a debate and discussion in the Thai government House about the Draft Budget Act, evidence arose that the ISOC - supported by Thai taxpayer money - were enabling the spread of online disinformation and misinformation, namely about HRDs trying to hold the state accountable for things. In late 2020, Angkhana and Anchana submitted complaints to the Bangkok Civil Court, accusing Thai authority figures including the Office of the Prime Minister and the ISOC, as well as the Royal Thai Army, of involvement in the above examples of digital dictatorship.

❤️❤️🗣️📢🌱👁️🔴 Angkhana and Anchana cited that surveillance and smear campaigns have long been used against them. They noticed that every time they spoke out significantly about human rights issues, they would receive heightened online hate, and have disinformation spread about them, such as on the website <https://pulony.blogspot.com/>. These hate campaigns are very frequently full of misogyny and xenophobia directed towards Angkhana and Anchana. Unsurprisingly to Angkhana and Anchana, who are no strangers to injustice, the court dismissed their case, claiming there was insufficient evidence that the ISOC was complicit in the hate campaigns and disinformation being spread.

Protection International, *Angkhana Neelapaijit and Anchana Heemmina File Civil Case against PM's Office and Royal Thai Army for Their Involvement in a Disinformation and Smear Campaign*, (16 November 2020), available at:

<https://www.protectioninternational.org/news/thailand-angkhana-neelapaijit-and-anchana-heemmina-file-civil-case-against-pms-office-and-royal-thai-army-for-their-involvement-in-a-disinformation-and-smear-campaign>.

iLaw, *ศาลแพ่งยกฟ้องคดีนักสิทธิเรียกร้องค่าเสียหายสำนักนายกรัฐมนตรี 10 โฉมคดี*, (16 February 2023), available at: <https://www.ilaw.or.th/articles/5666>.

Arrests, litigation, and the other forms of harassment mentioned in this case study are just some examples of how Digital Dictatorship has affected the individual(s) mentioned, as well as Southeast Asian society as a whole. HRDs and/or journalists, including the one(s) in this case study, are often perpetually targeted by Digital Dictatorship in numerous ways that go beyond just what is discussed here.



## 4.3 Access to Effective Remedy: Guaranteed by Law but Hindered in Practice by the Politicised and Corrupt Judicial System

The law generally provides for access to courts and administrative bodies to redress human rights violations. Section 41 of the Constitution recognizes the right of people to present a petition to a state agency and be informed of the result of its consideration in due time. Moreover, Section 29 enshrines the principle of presumption of innocence and further provides that detention of the suspect should only be undertaken as necessary to prevent escape and that, in such a case, an application for bail must be considered. However, the reality in Thailand shows these rights have not been respected. Courts regularly deny bail requests submitted by pro-democracy activists and netizens who are charged under Section 112 of the Criminal Code, citing that their conduct leading to the allegations is serious which could prompt them to flee, or that offences might be repeated.<sup>160</sup>

The Thai judicial system suffers from politicisation and corruption. One of the many instances illustrating such was the Constitutional Court ruling that activists' royal reform call sought to overthrow the monarchy and activists were ordered to cease all further action.<sup>161</sup> Such a verdict sets a precedent for what is currently happening in Thailand, the politicisation and corruption of a supposedly impartial court of law, using its powers to suppress opposition and intimidate any future dissidents. Moreover, the high number of political cases filed against activists since the pro-democracy protests started in 2020 raises serious questions about the court's impartiality.

In most cases, protection against arbitrary applications of the laws is also absent. For instance, Section 330 of the Criminal Code creates barriers to justice for victims of legal harassment by setting a high

threshold to prove innocence. The Section stipulates that truth is a defence to a charge of defamation, but a defendant is not allowed to prove the truth of the statement if "such imputation concerns personal matters, and such proof will not be benefi[cial] to the public."<sup>162</sup> Citizens accused of defamation are thus systematically denied an impartial due process and remedy. When defamation laws are weaponized to silence critics of government officials by bringing charges against those who speak truth to power, those accused have only limited ways to prove innocence.

### Anti-SLAPP and Whistleblowers Protection

Thailand neither recognizes HRDs in its 2017 Constitution and national legislation nor has specific legislation comprehensively protecting whistleblowers and strengthening their rights. This aspect is partially covered by two relevant acts: Organic Act on Counter Corruption of 1999 amended in 2015<sup>163</sup> and the Witness Protection Act of 2003<sup>164</sup> prescribing measures for protecting the person giving testimony or for whistleblowers, although they do not define the term "whistleblower." Moreover, many provisions under the Witness Protection Act are vague and discretionary.

HRDs, journalists, and ordinary users who face SLAPP cases continuously encounter challenges in accessing judicial grievance mechanisms and defending themselves. Existing provisions within the Criminal Procedure Code to ensure domestic legal protections against SLAPP are inadequate to tackle SLAPP cases. Section 161/1 of the Criminal Procedure Code as an "anti-SLAPP provision" was amended in 2018,<sup>165</sup> which gives the court the power

to dismiss a lawsuit of a plaintiff that has been filed in bad faith or by distorting facts in order to intimidate or take advantage of the defendant. In addition, this Section prohibits the filing of a new lawsuit by the same private plaintiff on similar grounds against the defendants in cases where a final judgement has been reached in accordance with Section 39 (4) of the Criminal Procedure Code. However, this mechanism does not apply to public prosecutors, even when they are representing a plaintiff in the same case that has been filed in bad faith or by distorting facts. Section 165/2 of the Criminal Procedure Code was also added through the 2018 amendment, stating that a defendant may declare to the court a fact or a law, which the court could use to declare the absence of merit in the case in its preliminary stage.<sup>166</sup> The fact that the burden of proof is placed on the defendant or the person facing harassment—often HRDs with limited resources, finances, and access to information—makes this section extremely problematic. Sections 161/1 and 165/2 have been in force since 2019. Criminal law provisions are being used to protect against SLAPP cases, allowing for these criminal cases to be filed in the first place. Thus, instead of providing a criminal provision as protection against SLAPP laws, they should be struck down in their entirety.<sup>167</sup> In practice, these two Sections are rarely being used by the judges who instead would need to hear from both parties to decide on the merits of the case before it can be dismissed.

## Non-Judicial Grievance Mechanisms Available, but Not Sufficient

In terms of the state-based non-judicial grievance mechanism, individuals can file complaints to the National Human Rights Commission of Thailand (NHRCT). However, the NHRCT is unable to monitor and investigate human rights violations in a timely and effective manner, proven by little intervention in cases of HRDs. Moreover, the government rarely pays attention to the recommendations by the NHRCT. Rather, it has the power to pressure the NHRCT to “correct” reports on Thailand by international organisations and NGOs, forcing it to align its agenda with the government.<sup>168</sup> With the limited capacity of NHRCT, it is ineffective for victims of online freedom violations to get access to remedy through this channel. The NHRCT was downgraded from “A status” to “B status” by SCA in 2015 due to concerns over its deficiencies. However, it regained its “A status” in March 2022, and as of Nov. 29, 2023, NHRCT remains in status at A.<sup>170</sup>

# Chapter V.

## Recommendations

In this chapter, we will discuss recommendations regarding the governance of the digital space in Thailand. These recommendations are addressed to different stakeholders.

## Recommendations to Governments

- 1 Decriminalise defamation and libel, repealing Section 326, and 328 of the Criminal Code, the lese majeste libel under Section 112 of the Criminal Code, Section 14 to 17 of the Computer Crime Act (2007), and the Regulation on Prevention, Suppression, and Solving Problems of Fake News Dissemination on Social Media (2022) and bring any other relevant provisions into line with article 19 of the ICCPR;
- 2 Strike the Section 161/1 and Section 165/2 of the Criminal Procedure Code, and enact a stand-alone anti-SLAPP law to ensure legal protections against strategic lawsuits against public participation (SLAPP) aiming at silencing dissent, and protect individuals from judicial harassment by the state and corporations, and define whistleblowers in the Organic Act on Counter Corruption of 1999, and the Witness Protection Act of 2003.
- 3 Repeal or substantially amend the Cybersecurity Act (2019) and National Intelligence Act, so they are not unduly restricting freedom of expression, independent media, and access to information, to bring them in line with international human rights law. In particular, clarify or reform vague laws, so that they are written in ways that are comprehensible and accessible to all members of society, so that all society members are aware of their responsibilities, protections, and the consequences of not abiding. The repeal or amendment process should include effective public consultation (in particular, taking into account historically marginalised opinions)
  - a. Clarify legal responsibility under civil and administrative law for what constitutes
    - ‘online gender-based violence (OGBV),’ ‘hate speech,’ ‘hateful conduct,’ ‘harassment,’ ‘doxxing,’ and other key terms, while simultaneously upholding the right to freedom of expression and opinion. Enable people of marginalised groups (e.g. women, LGBTIQ+, disabled peoples, people marginalised based on ethnicity, Indigenous peoples, etc.) to guide and participate in the development of reasonable definitions for terms used in legislation that disproportionately affect them. Ensure that reports of online gender-based violence (OGBV) are subject to systematic and consistent investigation, and offer assistance to individuals or groups affected;
  - b. Expand any definitions of ‘personal information’ and/or ‘private information’ to protect (if not already protected) an individual’s full legal name; date of birth; age; gender/legal sex; LGBTIQ+ identity; places of residence, education and work; private personal information of family members and relatives; descriptions and pictures depicting an individual’s physical appearance; and screenshots of text messages or messages from other platforms. These should be considered when investigating cases of doxxing, smear campaigns, and other instances of online violence that weaponise an individual’s personal/private information against them. Ensure that reports of doxxing campaigns and other forms of violence on the digital space are subject to systematic and consistent investigation, and offer assistance to individuals or groups affected.

- 4 When punishing expression as a threat to national security under the Sedition Law in Section 116 of the Criminal Code, the scope of incitement should be specified, and the government must demonstrate, with evidence, that:
  - a. the expression is intended to incite imminent violence;
  - b. it is likely to incite such violence; and
  - c. there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence, in line with the Johannesburg principles;<sup>171</sup>
- 5 Guarantee transparency and access to information, both offline and online, particularly where such information relates to the public interest and impacts upon the individual's right to public participation, including by amending the Notice Procedure, the Suppression of Dissemination of Computer Data and the Deletion of Computer Data from the System B.E 2565 (2022)m and adopting a law to enable provision of such access. Implement measures to enhance transparency in political advertising, including clear disclosure of funding sources and target audiences to promote accountability and integrity, and combat disinformation;
- 6 Enable HRDs, journalists, civil society members, ordinary users, lawyers and academics to safely carry out their legitimate online activities to spread awareness for human rights violations without fear or undue hindrance, obstruction, judicial harassment, and/or online harassment (e.g. OGBV and general OBV, hate speech campaigns, or doxxing)
- 7 Working with responsible MPs and with tech companies, enforce social media policies to prevent harmful effects of doxxing, while considering applicable regulations in relevant countries. Establish a committee, if not already in place, to ensure compliance with these regulations, with a particular focus on moderating or removing illicit content.
- 8 Repeal or amend the Broadcasting and Television Business Act (2008), and the New Ministerial Regulation of MDES, which establish a licensing regime for the print and online media, replacing them with a system of self-regulation;
- 9 Cease the targeting and criminalisation of legitimate online speech by opposition activists, journalists, HRDs, and other dissenting voices solely in the exercise of their rights to free expression online, through the abuse of laws and administrative regulations;
- 10 Prevent acts of harassment and intimidation against, the placement of arbitrary restrictions on, or arrests of journalists, activists and human rights defenders who merely criticise public officials or government policies;
- 11 Recognise online and technology facilitated online gender-based violence (OGBV) as a human rights violation and include it in laws to criminalise and prohibit all forms of violence in digital contexts. Enhance the capabilities of law enforcement agencies to effectively investigate and prosecute such crimes;
- 12 Strengthen collaboration with the technology industry, feminist organisations, civil society, the National Human Rights Commission Thailand, and regional human rights bodies to bolster measures and policies aimed at promptly and effectively providing remedies to victims of online gender-based violence (OGBV);
- 13 Integrate subjects related to OGBV and healthy relationships, consent, bullying and online safety in school curricula.



- 14 Provide gender training for law enforcement officers for them to investigate OGBV cases and prosecute perpetrators.
- 15 Implement an immediate moratorium on the export, sale, transfer, servicing, and use of targeted digital surveillance technologies until rigorous human rights safeguards are put in place to regulate such practices. In cases where such technologies have been deployed, ensure both targeted individuals and non-targeted individuals whose data was accessed as a result of someone else's surveillance are notified, implement independent oversight, and ensure targets have access to meaningful legal remedies;
- 16 End all legal proceedings against individuals facing investigation, charges or prosecution initiated by state authorities for engaging in legitimate activities protected by international human rights law or for addressing violations. Cease all violence against independent media and journalists allowing them to freely report on the emerging situation in the country and stop all efforts to restrict independent information from reaching people;
- 17 Legally recognise human rights defenders and provide effective protection to journalists, HRDs and other civil society actors who are subjected to intimidation and attacks owing to their professional activities;
- 18 Ensure that all measures restricting human rights that may be taken in response to mass-destabilising events, including public health emergencies such as a global pandemic, are lawful, necessary, proportionate and non-discriminatory. Review the measures taken in response to the pandemic, including the Emergency Decree on Public Administration in Emergency Situations (2005), the COVID-19 Emergency Decree (2020), the Center for COVID-19 Situation Administration (Task Force, March 2020), the COVID-19 Fake News Center (Fake News Task Force, May 2021), and ThaiChana & MorChana (Tracking Devices May 2020) in order to ensure that a clear and sufficient legal framework exists for the response to any future pandemic, and take a cautious, progressive approach to emergency measures, adopting those that require derogation only as a last resort when strictly required because other, less restrictive options prove inadequate;
- 19 Take immediate steps to ensure and protect the full independence and impartiality of the judiciary and guarantee that it is free to operate without pressure and interference from the executive;
- 20 Facilitate the participation, leadership, and engagement of a diverse range of people of marginalised communities in government. Create task forces to take proactive initiatives to safeguard marginalised communities (e.g. women, LGBTIQA+, people marginalised based on ethnicity) from specific forms of abuse, (e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 21 Carry out routine assessments of the state of digital rights under the jurisdiction. Facilitate the creation of task forces, consisting of individuals trained in the safeguarding of digital rights, to investigate these affairs.
- 22 Strengthen enforcement of the National Human Rights Commission of Thailand, and provide, among the remedies, fair treatment, just compensation or satisfaction, and the establishment of sufficient grounds to avoid its repetition. Also, implement an evaluation system that regularly screens the existing mechanism.

## Recommendations to Members of Parliament

- 1 Propose amendments to the Criminal and Penal Codes and other laws to address all shortcomings in line with international human rights standards such as UDHR and the IC-CPR; and gather consensus among other MPs to ensure these amendments are adopted into the text of the law;
- 2 Hold the government accountable by ensuring that the steps taken by government bodies and agencies in the legal framework are evaluated and analysed on an individual as well as regular basis, applied only in cases where there is a risk of serious harm and cover both the enterprises in the public and private sector without discrimination, particularly when such a step could result in the violation of rights of individuals affected;
- 3 Build discussion and debate around digital rights with specific attention paid to the country context as well as good practices adopted regionally and internationally, with the general public actively involved in providing the grassroots perspective;
- 4 Adopt and enforce national laws to address and punish all forms of gender based-violence, including in the digital space. Legal and policy measures to eradicate online gender-based violence (OGBV) should be framed within the broader framework of human rights that addresses the structural discrimination, violence and inequalities that women and other communities marginalised based on gender (e.g. the LGBTIQ+ community) face. Policies should also highlight specific forms of abuse that people marginalised based on gender often face online (e.g. doxxing, non-consensual sharing of intimate pictures online, the spread of deep fakes);
- 5 Adopt specific laws and measures to prohibit new emerging forms of online gender-based violence (OGBV), as well as specialised mechanisms with trained and skilled personnel to confront and eliminate online gender-based violence;
- 6 Organise and take responsibility for task forces that will take proactive initiatives to safeguard marginalised communities (e.g. women, LGBTIQ+, people marginalised based on ethnicity) against specific forms of abuse (e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 7 Ensure that the opposition parties are allowed to fully participate in drafting and passing legislation to enable them to fully represent their constituents.

## Recommendations to Tech Companies

- 1 Ensure the companies' terms of services and policies are uniform and in compliance with international standards on freedom of expression, which are reviewed regularly to ensure all circumstances and situations that may arise have been addressed, while also addressing new legal, technological, and societal developments, in line with the obligation to respect human rights under the UNGPs;
- 2 Drop the for-profit business model that revolves around overcollection of data. Such business models are being utilised by the government and are violating data rights.
- 3 Adopt the Global Network Initiative Principles on Freedom of Expression and Privacy;
- 4 Clearly and completely explain in guidelines, community standards, and terms of services what speech is not permissible, what aims restrictions serve, and how content is assessed for violations;
  - a. Ensure tech companies recognise gendered hate speech as hate speech,
  - b. Ensure profanities and slang in Thai local languages directed against human rights defenders are considered hate speech, including less common words or phrases which convey the same threat of serious harm as "kill", "murder" or "rape".
- 5 Ensure the integrity of services by taking proactive steps to counteract manipulative tactics utilised in the dissemination of disinformation, including the creation of fake accounts, amplification through bots, impersonation, and the proliferation of harmful deep fakes.
- 6 Prioritise prediction of, preparation for, as well as protection against digital dictatorship and online-based violence when launching, revolutionising, or reforming products, services, and initiatives. The guidelines of the Center for Countering Digital Hate (CCDH) 'STAR Framework' should be urgently considered, which include: safety by design; transparency in algorithms, rules enforcement, and economics; accountability systems implementation; and corporate responsibility.<sup>172</sup> In addition, these predictive, preparative, and protective factors must take into account and implement the input of marginalised communities (e.g. LGBTIQ+ peoples, women, and those marginalised based on ethnicity) who often become targets of online violence that is often unregulated or even perpetuated by existing systems;
- 7 Products, services, and initiatives must have consumer safety in mind from the very beginning of conception. This means that product, service, and initiative developers, as well as high-level executives, must all take all possible measures to ensure that their products are safe, by design for all users, including marginalised communities (e.g. including LGBTIQ+ peoples, women, and those marginalised based on ethnicity). Not only does far-sighted consideration ensure user safety and the safeguarding of human rights, but it will also increase the longevity of these products, services, and initiatives in a rapidly changing economy where people are becoming increasingly aware and adamant about the protection of their human rights. Ensuring safety by design includes the practice of performing thorough risk assessments, and educating

developers as well as executives to recognise their responsibilities to uphold human rights standards during the development as well as execution processes;

**8** Promote transparency. CCDH specifically highlights the need for transparency in “algorithms; rules enforcement; and economics, specifically related to advertising.”<sup>173</sup> Though transparency is more of a ‘preparative’ factor rather than a ‘preventive’ one, it will make civic engagement and corporate accountability much more effective, ultimately amounting to increased ‘prevention’ efficacy;

a. Transparency in algorithmic development, for example, is essential; though algorithms are not responsible humans, they were created by responsible humans. This same logic can be applied to Artificial Intelligence (AI); though AI is not human, it was created by humans. If algorithms and AI are developed and/or trained by humans with harmful biases (e.g. misogynistic, anti-LGBTIQ+, ableist, racist biases), they are accordingly likely to cause and perpetuate harm (e.g. misogynistic, anti-LGBTIQ+, ableist, racist harm). Transparency in the development of algorithms, AI, and other technologies is essential so that any harm being perpetuated by these non-human systems can be flagged, and accordingly addressed.

b. The same logic can be applied to company regulation development processes, as well as advertising strategy. For example, if company regulations were formulated in a way that disproportionately excludes marginalised voices (e.g without any adopted input from a diverse range of people of intersectional identities, such as women, LGBTIQ+ people, disabled people, or people marginalised based

on ethnicity), those regulations are more likely to cause or perpetuate human rights violations. Companies should implement measures to enhance transparency in advertising, including clear disclosure of funding sources and target audiences to promote accountability and integrity, and combat disinformation;

**9** Transparency goes hand-in-hand with effective corporate regulatory and accountability systems. The people who run and work for tech companies, like consumers, are humans, who must be proportionately held accountable for their actions if they intend to create products, services, and initiatives for consumption by civil society. Companies and their stakeholders (particularly senior executives) must recognise they hold a lot of economic, political, and social power by virtue of being in their positions, and thus naturally hold more responsibility than the average consumer. This means that though consumers have their own responsibilities, companies cannot put responsibility disproportionately on the consumer to regulate their own use of the companies’ products, services, and initiatives, if these companies genuinely intend to safeguard human rights. Thus, companies must implement regulatory systems that put people above profit, in order to allow themselves to be held accountable, and in order to facilitate their self-regulation;

**10** Enable people of marginalised groups (e.g. women, girls, LGBTIQ+ people, disabled people, people marginalised based on ethnicity), to participate and lead in the technology sector to guide the design, implementation, and use of safe and secure digital tools and platforms.

**11** Commit to eradicating online gender-based violence (OGBV) and allocate resources to information and education campaigns aimed

at preventing ICT-facilitated gender-based violence. Additionally, invest in raising awareness for the intersection between human rights and digital security, demonstrating how human rights must be taken seriously in both the offline and online spaces. This can come in many forms, including working closely with local communities and human rights organisations (e.g. feminist groups, LGBTIQ+ groups) to facilitate dialogue and sensitivity training regarding the needs of people marginalised based on gender and/or other factors;

- 12 Implement and communicate stringent user codes of conduct across their platforms, ensuring their enforcement. Additionally, establish uniform content moderation standards that can effectively identify and address nuanced forms of online violence, while remaining sensitive to diverse cultural and linguistic contexts;
- 13 Improve the systems for reporting abuse so that victims of online gender-based violence (OGBV) and racial discrimination can easily report it and track the progress of the reports;
- 14 Publish regular information on official websites regarding the legal basis of requests made by governments and other third parties and regarding the content or accounts restricted or removed under the company's own policies and community guidelines, and establish clear, comprehensive grievance mechanisms that allow governing bodies and civil society members to dispute restrictions or removals of content and accounts. Aside from being clear and comprehensive, these mechanisms must have efficient, effective, and bias-trained systems of humans and/or electronic systems ready to receive and handle the grievances.;
- 15 When appropriate, consider less-invasive alternatives to content removal, such as demotion of content, labelling, fact-checking, promoting more authoritative sources, and implementing design changes that improve civic discussions;
- 16 Engage in continuous dialogue with civil society to understand the human rights impacts of current and potential sanctions, and avoid overcompliance in policy and practice;
- 17 Ensure that the results of human rights impact assessments and public consultations are made public;
- 18 Ensure that any requests, orders and commands to remove content must be based on validly enacted law, subject to external and independent oversight, and demonstrates a necessary as well as proportionate means to achieve one or more aims.
- 19 Organise task forces and initiate proactive initiatives to safeguard LGBTIQ+, women, girls and other concerned minorities against specific forms of abuse, (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence.
- 20 Carry out routine assessments of human rights impacts and provide comprehensive transparency reports on measures taken to address the against marginalised communities (e.g. e.g. hate crimes, smear campaigns, the sharing of intimate images online including revenge porn).
- 21 Conduct assessments and due diligence processes to determine the impact of business activities on users, with respect to online freedom. Ensure meaningful and inclusive stakeholder engagement, with no one left behind.

## Recommendations to Civil Society

- 1 Set up an independent multi-stakeholder body with the cooperation of various sectors to monitor and provide recommendations on trends in, and individual cases of digital rights abuses;
- 2 Work alongside governments and other stakeholders, to generate dialogue on issues and ensure accountability of government measures especially when it comes to issues related to democracy and human rights;
- 3 Support the independent evaluation and analysis of substantive aspects, including the use of the principles of necessity and proportionality through established global standards, and the impact of responses on society and economy;
- 4 Hold implementing authorities and officials liable for the misuse of their powers or information obtained, while carrying out their duties in the existing legal framework;
- 5 Strengthen understanding and solidarity among underprivileged people (e.g. class solidarity, solidarity among women and others marginalised based on gender, understanding among different ethnic groups within a jurisdiction);
- 6 Promote a safe and respectful environment for free online expression;
- 7 Continue to increase knowledge on digital security through training and capacity building programs, and actively carry out training on media literacy, including how to verify information to be true;
- 8 Continue to conduct awareness campaigns to educate individuals and communities about the various forms of gender-based violence, its impact on survivors, and the importance of promoting a safe and respectful online environment;
- 9 Advocate for the implementation and enforcement of robust laws and policies that criminalise all forms of gender-based violence, including online gender-based violence (OGBV);
- 10 Develop and implement digital literacy programs that equip individuals, especially women and marginalised communities, with skills to navigate online platforms safely, recognise and respond to online harassment, and protect their privacy;
- 11 Create and participate in grassroots, community-led initiatives to safeguard LGBTIQ+, women, girls and other concerned minorities against specific forms of abuse (e.g. the non-consensual sharing of intimate images, including revenge porn), doxxing, hate speech, and overall gender-based violence. Wherever possible, mobilise these initiatives to hold governments, MPs, and corporations accountable.
- 12 Have specialised support services and helplines for the survivors of OGBV, including counselling. Advocate for data collection and collect disaggregated data on OGBV when running prevention and response programmes.
- 13 Collaborate with social media platforms and technology companies to develop and enforce policies and mechanisms that effectively address online gender-based violence (OGBV).

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