



King Bhumibol Adulyadej leaves hospital for a ceremony marking Coronation Day, May 2010

AP PHOTO

Thailand targets the foreign media

By Pavin Chachavalpongpun

In July 2009, the Foreign Correspondent's Club of Thailand (FCCT) was accused of lèse-majesté, a crime punishable in Thailand with a maximum prison term of 15 years. While the accuser, Laksana Kornsilpa, 57, a translator and a fierce critic of ousted former Prime Minister Thaksin Shinawatra, could have targeted certain individuals in the FCCT, she filed a lèse-majesté complaint against the club's entire 13-member board. With this, for the first time in its five-decade history, the FCCT was dragged into Thailand's internal political war. And the already narrow space for free expression of political views in Thailand diminished alarmingly.

Adding to the controversy, Laksana did not file her complaint against the FCCT until almost two years after the alleged violation. On Aug. 29, 2007, the FCCT invited Jakrapob Penkair, minister in the Prime Minister's Office and a known pro-Thaksin figure, to address the club on the Thai political situation. At the time, Jakrapob was serving in the Samak Sundaravej administration (January–September 2008). Painted as Thaksin's proxy, Samak faced constant challenges by the royalist People's Alliance for Democracy (PAD, aka the Yellow Shirts) which eventually unseated his government through a series of street protests.

As Jakrapob's speech at the FCCT that night was deemed to have insulted the monarchy, he was eventually forced to resign and charged with lèse-majesté. The content of his speech cannot be revealed here, as doing so would risk a charge of lèse-majesté.

In the aftermath of violent demonstrations by the Red Shirts in April 2009, Jakrapob managed to flee the country while charges against him were being investigated. Charges against the FCCT came not long after, undoubtedly surpris-

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ANIMOSITY TOWARD THE FOREIGN PRESS PROVIDED THE CONTEXT: TWO FOREIGN REPORTERS WERE KILLED, SEVEN REPORTERS WERE WOUNDED

ing the Club. But the context of that time was clear. In addition to violent demonstrations in Bangkok, the Red Shirts also forced the cancellation of an ASEAN summit by storming the venue in Pattaya. This severely embarrassed the Abhisit government.

Given the political climate at the time, many observers saw charges against the FCCT as one more act of revenge in the ongoing struggle between the pro- and anti-Thaksin camps. Others saw the charges, ostensibly aimed to protect the monarchy, as part of a plot to cover up the government's loss of legitimacy following the unrest.

For one FCCT vice president, BBC correspondent Jonathan Head – moderator of the Jakrapob event – charges against the board came as a second blow. In late 2008, Head was charged with lèse-majesté on the basis of a December 2008 article that appeared on the BBC website.

Head was clearly a key target, as one post on a royalist website asked that the BBC reporter's photo be posted so that anyone could attack him. Another post called for all FCCT members to be jailed for 99 years.

In response, Amnesty International and the Southeast Asian Press Alliance (SEAPA) voiced their concerns about the use of the lèse-majesté law to undermine political opponents.

Said SEAPA Director Lupe Arlumpé, "Thailand's lèse-majesté law must be reviewed as it has been used to block and intimidate mass media in the country." Similarly, Bob Dietz of the New York-

based Committee to Protect Journalists said: "It is time for prosecutors in Thailand to immediately drop these outrageous and punitive charges against our colleague Jonathan Head. Head's reporting has raised important questions about Thailand's deteriorating political situation, and he should be allowed to report without fear of official reprisals."

LESS FREEDOM, MORE MAJESTY

Thailand once drew praise as a role model of democracy and press freedom. But that was before the advent of Thaksin and the military coup which toppled him in September 2006. Thaksin was condemned for perceived disloyalty to the monarchy – not the first person in Thai history to be so accused. Some military leaders justified the coup as "necessary" in order to safeguard the royal institution from Thaksin's "arrogance of power."

Thaksin repeatedly denied any conflict with the king, saying at the height of the 2006 campaign to unseat him that he would happily step down "if the King whispered in my ear." But Thaksin's own controversial statements added fuel to accusations that he sought to usurp the monarch's power. In a November 2009 interview with Richard Lloyd Parry of *The Times*, Thaksin enraged traditional elites by calling for the reform of



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institutions around Thailand's monarchy. And Lloyd Parry was charged with *lèse-majesté*.

Although Thaksin's supposed threat to the monarchy gave his enemies a rationale to unseat him, the underlying issue was the threat he posed to the old power structure. Lately, *lèse-majesté* charges have been pressed against anyone, not necessarily Thaksin supporters, who express views different from the traditional elites, including foreign reporters.

Lèse-majesté, or the crime of injury to the monarchy, is defined by Article 112 of the Thai Criminal Code as defamatory, insulting or threatening comments about the king, queen or regent. Offenses are punishable by three to 15 years in prison. When Thais are charged with *lèse-majesté* the investigation/prosecution process is non-transparent. But because charges against foreigners are subject to foreign media scrutiny the murky process becomes a bit more open.

Foreigners convicted of *lèse-majesté* often receive a royal pardon. For example, Australian writer Harry Nicolaides, who received a three-year sentence for a book that contained text supposedly offensive to the royal family, was set free after serving six months in jail. But even such relative leniency is enough to deter foreign journalists from writing anything that could attract a charge. And so a new culture of "self-censorship" has emerged among foreign journalists based in Thailand.

As a result, there has not been a single report on the monarchy from Thailand-based foreign journalists in recent years. Instead, any reports on this sensitive issue are now "manufactured" by those outside Thailand.

In the wake of the Abhisit government's crackdown on the Red Shirts in May, room for dissenting views has been further diminished. To repair its damaged legitimacy, and maintain the elites' powers, the government has sanctified the monarchy to a level unprecedented in modern Thai history. In this environment, arbitrary use of the *lèse-majesté* law forces Thais and foreign journalists alike to comply with the orders of the ruling elites.

GOOD NEWS?

FCCT President Marwaan Macan-Markar may have delivered good news with a recent announcement that the complaint against the Club has not progressed, and that the procedure related to *lèse-majesté* complaints has been overhauled. But the state has not given up on its war against "disobedient foreign media." Throughout the recent crisis, the Abhisit government accused outlets such as CNN and BBC of bias in favor of the Red Shirts.



The bar at FCC Thailand

Dan Rivers of CNN, a particular target of the government and nationalists alike, was reproached for oversimplifying the crisis and portraying as the Red Shirts as oppressed protesters battling a dictatorship.

Thai nationalists called this a "discrepancy in sources of information" on the part of foreign journalists. Thailand's *The Nation* commented, "The point is not that CNN did not report that some of the red shirts were armed or show those armed men to the viewers. This they did. Where CNN and Rivers failed is in properly explaining the context of what was happening during the May 14-19 crackdown – and without proper context, understanding the story becomes impossible."

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This unprecedented animosity toward the foreign press provided the context for what happened as the violence peaked. Two foreign reporters were killed and at least seven foreign or local reporters were wounded.

At an FCCT meeting on June 2, foreign journalists expressed their anger against the government for the deaths of their colleagues and demanded an independent investigation. They also complained about the widespread allegations of foreign-media bias. Having lost their friends, they now faced the loss of their reputations and credibility in Thailand. Moreover, should they write anything deemed critical of the monarchy they still faced the threat of *lèse-majesté* charges.

Recently, the Abhisit government has worked hard to smother negative media coverage. According to Global Voices Advocacy, Thailand's Ministry of Information Communication Technology (MICT) and the Centre for the Resolution of the Emergency Situation (CRES) admitted to

having blocked at least 50,000 websites and was adding 500 more per day. Since May 2010, it is estimated that Thailand may have blocked up to 113,000 websites.

In June 2010, the Thai cabinet created a Bureau of Prevention and Eradication of Computer Crime, purportedly to protect the monarchy. The new office adds to the censors already at the MICT, the Royal Thai Police, CRES, the army "war room" and the Ministry of Culture. The Land of Smiles is today not really an ideal place to work for the foreign press.

What are the impacts of the excessive use of the *lèse-majesté* law? Notes social critic and *lèse-majesté* defendant Sulak Sivaraksa: "The problem of abusing *lèse-majesté* law is now utterly messy. The fact that leading world intellectuals like Noam Chomsky and others have petitioned to Abhisit to reform the law is a testimony to it."

Moreover, *lèse-majesté* charges have deepened the politicization of the monarchy and served to damage, not safeguard, the institution. Indeed, *lèse-majesté* has been exploited to hide the ugly reality of Thai politics: suppression of the opposition and press freedom, and obstructing Thailand's long-delayed democratization.

On July 6 the government extended the emergency decree in 18 provinces, claiming the situation had not returned to normal. The decree allows state agencies to curb media freedom for the sake of national security and protecting the monarchy. This likewise permits the government to keep postponing national elections, which now seem unlikely until sometime in 2011.

In the interim, it is clear that prosecuting any perceived instance of *lèse-majesté* remains a high priority for the government. For the first time since the end of the Cold War, the existence of the monarchy has been tied closely to national security. Former judge Pirapan Salirathavibhaga, made this explicitly clear in an interview: "In Thailand, the monarchy is not only a symbolic institution. It is the pillar of national security. Whatever is deemed as affecting the monarchy must be treated as a threat to national security."

This leaves FCCT journalists at a crossroads. They can opt to stay in Bangkok and file bland, self-censored reports to avoid being jailed on *lèse-majesté* charges – or even vigilante attacks by angry nationalists. Or else they can cover the kingdom from abroad, as they have done for decades with Burma, writing freely but with less insight into the complexity of Thai politics. Either way, the world can expect to understand less not more about Thailand. ❶