

Thailand: Journalists caught in crossfire, fallout from political crisis continues

The ongoing political conflict in Thailand inevitably spawned events that impacted free expression in the kingdom not only in 2010 but will likely spill over into 2011.

The prolonged protest rally of the Red Shirts—mainly made up of supporters of deposed PM Thaksin Shinawatra —from March to May 2010 found the media in the middle, as both the government and Thaksin's followers sought to impose their will on journalists.

When a military operation ended the three-month occupation of Ratchaprasong Intersection by the Red Shirts, official reports claimed that 91 people were killed and more than 2,000 were injured. Of these, two journalists were killed while almost a dozen other media workers were wounded.

The political crisis also saw a surge in the use of social media networks like Facebook and Twitter by opposing political camps. The downside, however, was the proliferation of hate speech and incitement to violence from elements of both sides.

One direct result of the political crisis in 2010 was the government's attempts to control the situation by imposing an emergency decree on 7 April 2010 in 24 provinces, including Bangkok. The emergency decree allows the military greater latitude in enforcing the law against what it perceived as enemies of the state. Its provisions were similar to the Internal Security Act (ISA), the only difference being that the latter allows only a shorter period of detention, while under the emergency decree, suspects can be held for 30 days and the detention can be extended upon court approval. The emergency decree was lifted only on 22 December, the Center for the Resolution of the Emergency Situation (CRES) was dissolved and ISA was back in force, with another organization, Situation Monitoring Center, established to monitor the security situation.

During the eight months that the emergency decree was in force, freedom of expression in Thailand suffered a setback. The Campaign for Popular Media Reform (CPMR) said more than 47 community radio stations and a number of satellite-broadcast television stations, deemed as either pro-Red Shirts or were critical of the government, were closed for “allegedly posing a threat to national security” from April to August 2010. For the same reason, thousands of political websites and web boards were blocked, not necessarily with a court order as required under the Computer Crime Act.

Constitutional challenge

Local and international media advocacy groups tried to contest the closure of these websites and some satellite broadcast television stations on the ground that it violated Article 45 of the 2007 Constitution which prohibits the closure of a newspaper or other mass media outlet.

The constitution allows for a reasonable restriction on media freedom and only with the enactment of specific law to maintain security and public order and good morals. But in reality it is hard to enforce this provision because current security laws being invoked to deal with emergency situations or crisis accord authorities with vast

powers. Security threats are broadly defined to the extent that any activity or comment could easily be interpreted as inimical to national security.

Casualties

The Red Shirts numbering in the thousands occupied the Democracy Monument and surrounding areas in March 2010 in support of ousted PM Thaksin Shinawatra. A clash between soldiers and protesters, including armed elements, on 10 April resulted in the death of Hiro Muramoto, a Reuters cameraman who sustained a gunshot wound in the chest.

Shortly after this clash, the protesters moved their camp to Ratchaprasong intersection, Bangkok's commercial and tourist district.

Throughout April and May, journalists increasingly found themselves being squeezed in the middle. They reported incidents of harassment and intimidation. Red Shirts, noticing that reporters and photographers were wearing green armbands issued by the Thai Journalists Association (TJA) to properly identify them, offered their own version of armbands but with a note stating "Dissolve Parliament", ostensibly an attempt to coopt journalist to their cause.

The TJA had to issue several statements calling on both sides of the conflict to respect the unique position of the journalists covering the event, observing that "the local media was held hostage to and was under pressure from the conflicting parties".

As shown by the fatal shooting of Muramoto, the safety of media workers while covering the conflict became a serious issue, especially when the government started its operations to disperse the huge crowd. Media owners had to provide their reporters and cameramen with safety gear like ballistic helmets and Kevlar vests while freelancers had to procure their own equipment.

Despite these, there were several casualties among the ranks of the Fourth Estate.

On 14 May, three journalists—Nelson Rand of France 24 TV, photographer Jo Subin from Thai newspaper "Matichon" and Supawat Wanchantha, cameraman of Thai Voice TV, were hit by bullets as they covered the troops' dispersal of Red Shirts near Lumpini Park. The following day, "The Nation" photographer Chaiwat Poompuang also sustained gunshot wounds during a news coverage of the clashes between the soldiers and protesters in the Din Daeng intersection. On May 16, the life of Phutthapong Chusaeng, a cameraman of PTV, was saved when the bulletproof vest he was wearing stopped a bullet while he was lying along Rama 4 Road.

On 19 May, when the main assault began, Italian photographer Fabio Polenghi died from a gunshot wound to his chest while he was covering the Red Shirts near the Ratchadamri area.

Later that day, Canadian journalist Chandler Vandegrift was seriously injured by grenade shrapnel when a 40mm grenade exploded near him and a group of soldiers on Rama 4 Road. Michel Maas of the Netherlands Radio Worldwide (NWR) was shot in the shoulder as troops stormed the protesters' barricade. An unidentified American documentary filmmaker was also wounded.

Towards the end of 2010, nobody has yet been arrested for the deaths of Muramoto and Polenghi. The government still has yet to release the autopsy findings of the two victims. The TJA, meanwhile, has created a committee to investigate these killings.

The violent dispersal of the protesters on 19 May triggered a riot, as diehard Red Shirts ransacked grocery stores, destroyed bank offices, set fire to cinemas and a shopping mall.

Rioters attacked Channel 3, a government TV station. News reports said protesters set fire to the station's building, and torched at least 10 news vehicles. The TV station suspended its operations by 4:30 p.m.

Meanwhile, both "The Bangkok Post" and "The Nation" newspapers - Thailand's leading English-language dailies - dismissed their staff by 3 p.m. on that day, fearing that the mobs would attack their respective compounds.

In its yearend report, the TJA noted that many media workers who covered the rallies, the dispersal and the riots still bore psychological trauma.

ISA and Emergency Decree

At the height of the Red Shirt protests, the administration of Prime Minister Abhisit Vejjajiva imposed an emergency decree (officially known as Emergency Decree on Government Administration in States of Emergency 2005) in Bangkok and 24 other provinces, known to be strongholds of Thaksin's supporters.

The emergency decree gave the military more sweeping powers to restore order than the ISA, under which Bangkok had been placed when the Red Shirts began their protest rallies in the capital in March.

With the state of emergency imposed on 7 April, the government was allowed to impose curfews, ban public gatherings of more than five people, and censor and ban media from disseminating news that 'causes panic.' Security officials were also allowed to detain suspects without charge for up to 30 days.

While the mainstream print media enjoyed a certain latitude of freedom, the broadcast and new media were the ones greatly affected by the imposition of the emergency decree.

The Red Shirts especially in the provinces relied heavily on community radios for news and communication. Under the emergency decree, the CRES shut down stations both in Bangkok and upcountry that were accused of broadcasting incendiary political messages.

According to research conducted by the Campaign for Popular Media Reform (CPMR), more than 47 stations were shut down by CRES during the period 7 April to 7 August.

CPMR in its report noted that a typical operation to close down a radio station involved the presence of scores of heavily armed soldiers, the padlocking of the

station, confiscation of the transmitter and other equipment, destruction of some equipment, and the arrest of the station owner or officials for violation of Radio Communication Act of 1955.

New battleground

Cyberspace has become the newest political battleground in Thailand. With the political crisis that can be traced back to the last year of Thaksin's government, both supporters of the ousted PM and his opponents waged battles in the Internet.

Prof Ubonrat Siriyuvasak of Chulalongkorn University observed that the Red Shirts took advantage of the reach not only of mainstream media but also new media like the Internet and satellite communications to orient and mobilize its supporters for mass demonstrations.

The Democrat-led government of PM Abhisit, armed with the emergency decree, responded with the blocking of websites and closures of publications, community radio stations and satellite TV station (PTV) run by or affiliated with the Red Shirts.

According to the Ministry of Information and Communication Technology (MICT), it blocked 2,200 pro-Red Shirt websites between April and June 2010. The figures since then have been varied, with conservative estimates placing the number of blocked websites at 10,000, according to TNN in a statement. Thousands of anti-monarchy websites were also shut down. However, not all of these banned websites were pro-Red Shirts or pornographic. Some of them were independent news websites that offered an alternative venue for dissenting views. One example was Prachatai.org (see below).

One unfortunate result also of these events was self-censorship. With the government armed with a plethora of laws with the support of the military to go after what it perceived as threats to national security, media workers felt a chilling effect.

In July, a private sector group produced a public service video entitled "Kor Thod, Prathet Thai" ("We're Sorry, Thailand"), an introspective piece on the political crisis.

However, the Thai Television Station Joint Censorship Committee, a self-regulating body made up of representatives from each TV station, declared that the ad violated Article 22 (4) of the 1979 Consumer Protection Act, which bans the dissemination of pictures that "cause rife among or undermine the unity of Thai people." The video was banned from public broadcast.

Cyber-crimes

The Computer Crime Act of 2007 has become controversial for its broadly-worded provisions and sweeping powers granted to authorities. It carries a five-year prison term and a fine of THB100,000 (approx. USD3,200) for anyone found guilty of online defamation, including lese majeste.

An analysis of the law by media lawyer Sinfah Tunsarawuth noted that the law has broad provisions and also granted a wide array of authority to agents.

Section 18 of the Computer Crime Act gives the authorities the power to investigate and gather evidence of an offense committed by or via computer. Data or traffic from any computer system suspected of being used for an offense can be copied, while computer data or computer systems can be accessed to gather evidence. Authorized officials can also demand for passwords and decode any person's computer data, and seize or attach any computer system for up to 90 days as part of their investigation and gathering of evidence. The law also empowers the authorities to shut down a web site through a court order.

The Computer Crime Act also provides harsher penalties compared to the Penal Code. For instance, a person convicted of defamation under the Computer Crime Act can be meted a prison term of three years, as compared to two years under the Penal Code for the same offense. Section 15, which broadens the definition of who is liable for online content to include Internet Service Providers (ISPs) and even webmasters themselves, also makes it too easy to cast the net of accusation too wide.

One example is Chiranuch Premchairporn, executive director of independent news website Prachatai.com. She was charged in 2009 with 10 counts of violating Sections 14 and 15 of the law. Authorities accused her of failing to remove immediately from the site's web board several comments deemed defamatory to the monarchy.

On 24 September 2010, she was again arrested, for another set of similar charges, this time filed before a Khon Kaen provincial court on 27 April 2009. The warrant was issued on 8 September 2009. She had to post a bail of THB200,000 (USD6,500).

Her trial for the first set of charges will start in February 2011.

The TNN issued a yearend statement in December, calling on the government to "uphold the rights and liberty of Internet users and online media", treat fairly cyberspace intermediaries like Internet service providers and web board webmasters and protect the privacy of Internet users.

Lese majeste

This year also saw the royal pardon and eventual release granted to Suwicha Thakor, the engineer who was convicted of lese majeste in 2009. He was released on 28 June, some 14 months after his conviction. Meanwhile, the petition of Daranee Chanchoengsilpakul (also known as "Da Torpedo"), who had been sentenced to 18 years' imprisonment after being convicted of lese majeste, was rejected.

That same month, the government announced the creation of the Bureau of Prevention and Eradication of Computer Crime for the protection of the royal family. In October, newly-appointed Army Chief, Gen. Prayuth Chan-Ocha said he would actively go after lese majeste offenders.

Insulting the King or members of the royal family is a criminal offense in Thailand, carrying a 15-year prison term. Article 112 of the country's Criminal Law allows anyone to file a lese majeste complaint against anyone seen as having defamed the Kingdom's highly-revered monarch and the royal family.

Outlook

As the year 2010 ended, another incident served to provide a glimpse of what's ahead in the coming year. On 30 December 2010, 10 activists, among them Supinya Klangnarong of the CPMR, were arrested on charges of entering Parliament grounds during a rally in 2006 and disrupting the legislative session. At the time, Supinya, along with 100 other members of civil society were protesting several bills filed before the junta-appointed legislature. One of these legislative bills was later passed as the Computer Crime Act of 2007.

As such, 2011 will see a series of court battles between the authorities and human rights and freedom of expression advocates as well as political activists over the issues of free expression, online defamation—including lese majeste—and freedom of assembly. This is the fallout mainly from the political crisis in 2010.

With the general elections most likely taking place within the second half of the year, free expression online and the right to assembly will remain provocative issues to be used by both sides in the ongoing political crisis.

It remains to be seen whether the media reform package the government promised to deliver as part of its national reconciliation efforts to bring an end to the current political crisis will in reality guarantee freedom of expression and promote the democratisation process in Thailand.

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