

Thailand

Amidst lingering political uncertainty, Thailand's censorship of the Internet continues to be a contested and controversial policy because the legal basis for filtering and actual filtering practices are not transparent.



Background

In the aftermath of a military coup that followed years of heightened fear and self-censorship, the Internet community in Thailand continues to face uncertainties created by censorship policies, antiquated laws, regulatory reform, and the privatization of state-owned telecoms. Considered by many to have inaugurated Internet filtering in Thailand, former Prime Minister Thaksin Shinawatra pursued aggressive censorship policies and, through his family-owned Shin Corporation, orchestrated a series of defamation suits against his critics.¹ After Thaksin was deposed in a military coup on September 19, 2006, the interim government abrogated the 1997 Constitution, abolished the Constitutional Court, and imposed a series of restrictions on news reporting and political activity that threatened national solidarity.²

Internet in Thailand

Internet usage in Thailand began with a small base and has increased sixfold over the past five years.³ Initially, rather than encouraging growth of the Internet for all people, the government used and developed it only for state academic institutions and government agencies.⁴

The total number of Internet users in 2005 was estimated at 12,500,000, representing an Internet penetration rate of approximately 19 percent.⁵ However, homes and businesses in Bangkok and other major cities make up most of the penetration rate, and there is little Internet connectivity in surrounding areas.⁶ In 2004, about 15 percent of schools had access to the

RESULTS AT A GLANCE

Filtering	No evidence of filtering	Suspected filtering	Selective filtering	Substantial filtering	Pervasive filtering
Political			●		
Social				●	
Conflict/security	●				
Internet tools			●		

Other factors	Low	Medium	High	Not applicable
Transparency		●		
Consistency		●		

KEY INDICATORS

		worst	best
GDP per capita, PPP (constant 2000 international \$).....	7,649		
Life expectancy at birth (years)	71		
Literacy rate (% of people age 15+)	93		
Human development index (out of 177).....	74		
Rule of law (out of 208)	91		
Voice and accountability (out of 208)	106		
Digital opportunity index (out of 180)	80		
Internet users (% of population)	11.0		

Source (by indicator): World Bank 2005, 2006a, 2006a; UNDP 2006; World Bank 2006c, 2006c; ITU 2006, 2005

Internet.⁷ It is believed that more people may use the Internet as content becomes available in local languages rather than English.⁸ Although no significant gender divide has emerged, over half of Thai Internet users are between fifteen and twenty-four years old.⁹ Of this group nearly 27 percent use the Internet at cybercafés while 18 percent access from home.¹⁰ Broadband Internet access is available, but it is still undeveloped at less than 2 percent household penetration.¹¹

Internet connectivity in Thailand is built around education/research networks, commercial networks (Internet service providers, or ISPs), and government networks.¹² CAT Telecom (CAT, formerly the Communications Authority of Thailand) and the Telephone Organization of Thailand (TOT), the two big state-owned telecoms, each operate an international Internet Gateway (IIG) as well as one each of three domestic exchanges for twenty-one licensed ISPs and four noncommercial Internet hubs.¹³

Legal and regulatory frameworks

The Ministry of Information and Communications Technology (MICT) and its subordinate bodies, including the National Information Technology Committee (NITC), CAT, TOT, and the National

Electronics and Computer Technology Center (NECTEC), all regulate the Internet.¹⁴

Prior to the coup the constitution provided a nominal legal basis for censorship, although the precise authority for filtering Internet content remains unclear. Under the abrogated 1997 Constitution, Thai citizens were guaranteed the rights to express opinions; to communicate by “lawful” means; and to access information with certain limitations for state security, maintaining public order or morals, and safeguarding others’ right to privacy and reputation.¹⁵ It remains unconstitutional to criticize or level accusations against the king.¹⁶

Broad claims associating criticism of government with injury to the king, or *lèse majesté*, have also been used to enforce censorship. Thailand is one of the few remaining countries in the world to prosecute crimes of *lèse majesté*, where individuals who insult, defame, or threaten the Thai royal family can be sentenced to from three to fifteen years of imprisonment. Such allegations, in spite of King Bhumibol’s own sanction of public criticism of the Thai crown, are leveled infrequently but have targeted independent media voices¹⁷ and used as a “political tool to discredit opponents.”¹⁸ *Lèse majesté*,

which in Thailand involves a scope of expression far broader than the actions of the king himself, has begun to form the basis for the blocking and removal of Web sites.¹⁹

In July 2003 Thailand became the first country to impose a curfew on online gaming.²⁰ In March 2006 a regulation enforced by the Culture Ministry forbade persons under eighteen years of age from entering Internet cafés between the hours of 10pm and 2pm.²¹

The National Telecommunications Commission (NTC) was brought into operation in late 2004 as an independent telecom regulator and given the exclusive authority to grant licenses for telecom or IT services.²² Previously, an ISP could obtain a concession contract only by giving a free equity stake of about 35 percent to CAT Telecom (formerly the Communications Authority of Thailand) in exchange for a share of the profits from the networks these companies built and paid for.²³ In March 2005 the NTC announced that it would grant free licenses once permanent guidelines were in place.²⁴

In August 2003, Thaksin's government ordered ISPs to begin blocking a list of Web sites that were compiled by CAT and hosted on its server.²⁵ The MICT's Cyber Inspector team was also charged with rooting out gambling and sex sites.²⁶ In late 2005 the government announced its plans to block over 800,000 pornographic and violent Web sites; ISPs would be ordered to take down the sites, and those that did not follow the order would have their licenses revoked.²⁷ The prime minister also formed a nine-member Internet inspection committee, which met online each morning to compile a list of sites for ISPs to block.²⁸ Although citizens were encouraged to submit sites for blocking through various forums,²⁹ there has been a marked lack of transparency in the government's decision-making process and execution of filtering. As a new constitution is slated for 2007, the legal authority for Internet filtering continues to be contested.

In the first days of martial law after the coup, military leaders issued orders intended to restore "normalcy," demanding all political parties to stop their activities, banning new political parties, and requiring the cooperation of news media to discourage the reporting of public opinion.³⁰ The MICT followed suit, enforcing a temporary ban on political text-messaging and phone-ins, where ISPs and authors would be held responsible for offensive messages.³¹

Not yet enacted at the time of the coup, a revised law laying out the terms and penalties of computer crimes was approved in principle by the newly installed National Legislative Assembly on November 15, 2006. Sponsored by the MICT and the interim military government, this bill in its current form would punish the forwarding of a pornographic e-mail with up to three years imprisonment and the posting of online activity posing a threat to "national security" as an offense under the national security law.³²

ONI testing results

The stated goal of 800,000 pornographic and violent Web sites to be blocked as a result of Thaksin's policy is only one of many reported figures of blocked sites in Thailand. For example, in 2004 there were reportedly 1,247 blocked URLs, most of which were pornographic sites, along with a few sites devoted to online gaming and one site belonging to a separatist movement.³³ This proportion remained relatively intact in other accounts. Before it took down its public reports, the Police Bureau on High Tech Crime claimed to have blocked all of the over 34,000 "illicit" Web sites reported since April 2002, with Thai and foreign pornography sites at about 56 percent of the total, sites that sell sex equipment 12 percent, and sites with content posing a "threat to national security" at 11 percent.³⁴ From 2002 to 2005 the MICT also blocked over 2,000 sites, reportedly mostly pornography sites.³⁵ In addition, multiple alleged block lists containing a majority of pornography sites were "leaked." It was common for

prominent sites to be made inaccessible, only to be unblocked after a period of time.

ONI conducted testing after the coup on three major ISPs: KSC, LoxInfo, and True. Of the sites tested, only a small percentage were actually blocked. The Thai government does implement filtering and primarily blocks access to pornography, online gambling sites, and circumvention tools. Outside these categories, only a few sites were blocked by all three ISPs. Two of these sites were inaccessible and suspected to be blocked. One of these sites, the anti-coup Web site www.19sep.com received significant media coverage for being blocked six times over a period of three months.³⁶ The other, the Web site of the Patani United Liberation Organisation (www.puloinfo.net) considered by the government to be a Malay Muslim separatist group, appears to be a recent incarnation of the site www.pulo.org that was also blocked and has since been taken down.

Although it has long been declared a top priority of filtering in Thailand, a minority of the Thai-related pornography sites ONI tested were actually blocked by all three ISPs. Only one pornography site (www.sex.com) on the global list was blocked by all three ISPs.

Filtering is demonstrated by redirection to an MICT blockpage. Although it has been reported that ISPs are required to block a list of banned Web sites distributed by the NITC, ONI testing found that filtering varies across ISPs. LoxInfo and True showed significant overlap in sites filtered, blocking a substantial number of circumvention tools and anonymous proxies (www.guardster.com; www.stayinvisible.com), as well as pornography and gaming sites. A few sites promoting human rights, such as the Patani Malay Human Rights Organisation (www.pmhro.org), were also blocked by both ISPs.

Only KSC appeared to address the issue of *lèse majesté*, blocking a number of pages on Amazon.com and other commerce sites featuring biographies of the king. These present an

example of URL filtering in Thailand, as various Amazon.com URLs were blocked but the domain (www.amazon.com) remained available on all ISPs tested.

Conclusion

The current official approach toward filtering is in flux, especially in the face of questions about the legal authority and procedures for censorship after the abolishment of the 1997 Constitution. However, evidence from ONI testing suggests that targets for blocking have remained consistent, with a strong focus on pornography and lesser priorities made of gaming and circumvention tools. Only a small number of sites with sensitive political content, particularly about the Thai monarchy and insurgents in the south, continue to be inaccessible. It remains to be seen whether the harsh legacy of censorship of all media created by the former prime minister's government will be carried forward in post-coup Thailand.

NOTES

1. For example, the Shin Corporation sought four hundred million baht (USD10 million) in defamation suits from the Thai Post newspaper and the first defendant, Supinya Klangnarong, a media freedom activist with the NGO Campaign for Popular Media Reform. See also Reporters Without Borders, Thailand: Annual Report 2006, http://www.rsf.org/article.php3?id_article=17364.
2. Council for Democratic Reform, Announcement No. 3, September 19, 2006.
3. Paul Budde Communication Pty Ltd., Thailand-Internet, 2006, p. 1.
4. Steven Huter, Sirin Palasri, and Zita Wenzel, *The History of the Internet in Thailand*. Network Startup Resource Center: University of Oregon Books, <http://www.nsrc.org/case-studies/thailand/english/conclusion.html>.
5. Paul Budde Communication Pty Ltd., Thailand-Internet, 2006, p. 1.
6. National Statistical Office: Thailand, 2005 Information and Communication Technology Survey, http://web.nso.go.th/eng/en/stat/ict/ict05_rep.pdf.

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7. National Electronics and Computer Technology Center (NECTEC), Thailand MICT Indicators 2005, February 2005, pp. 28, 41, <http://iir.ngi.nectec.or.th/download/indicator2005.pdf>.
 8. Paul Budde Communication Pty Ltd., Thailand-Internet, 2006, p. 1.
 9. National Electronics and Computer Technology Center (NECTEC), Thailand MICT Indicators 2005, February 2005, <http://iir.ngi.nectec.or.th/download/indicator2005.pdf>.
 10. Ibid.
 11. Paul Budde Communication Pty Ltd., Telecommunication Sector Snapshot: Thailand, 2006.
 12. National Electronics and Computer Technology Center (NECTEC), Internet Network Infrastructure: Thailand's Perspective, January 10, 2002, <http://unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN012808.pdf>.
 13. Internet Connectivity in Thailand, December 2006, <http://iir.ngi.nectec.or.th/internet/map/current.html>.
 14. Reporters Without Borders, Internet Under Surveillance 2004: Thailand, http://www.rsf.org/article.php3?id_article=10777.
 15. Articles 37, 39, 58, 59. See Article 19, Freedom of Expression and the Media in Thailand, December 2005, p. 38.
 16. Article 8, Constitution of the Kingdom of Thailand, adopted October 11, 1997; Article 1, Constitution of the Kingdom of Thailand (Interim Edition), adopted October 1, 2006.
 17. Asia Human Rights Commission, Update on Urgent Appeal, April 10, 2006, <http://www.ahrchk.net/ua/mainfile.php/2006/1651/>.
 18. Article 19, Freedom of Expression and the Media in Thailand, December 2005, p. 75.
 19. For example, the Midnight University Web site and forum (www.midnightuniv.org) was blocked in July 2006 on claims of *lèse majesté*, although it was accessible at time of testing. See *Bangkok Post*, "Web board banned, claim of lese majesty," July 28, 2006, reprinted at <http://www.asiamedia.ucla.edu/06thailandcoup/article.asp?parentid=49971>. The site for discussing political and social issues was also blocked by the MICT on September 29, 2006, the day after scholars at Chiang Mai University affiliated with the Web site tore up mock copies of the interim military government's constitution. *Bangkok Post*, "Thai university website closed after protest over interim charter," October 1, 2006, reprinted at <http://www.asiamedia.ucla.edu/article.asp?parentid=54251>.
 20. Phermsak Lilakul, "Ragnarok curfew starts tonight," *The Nation*, July 17, 2003.
 21. Anchalee Kongrut, "16-hour Internet cafe curfew for under-18s," *Bangkok Post*, April 25, 2006.
 22. Telecommunications, IT and E-Commerce, <http://bia.co.th/027.html>.
 23. Paul Budde Communication Pty Ltd., Thailand-Internet, 2006, p. 5.
 24. Ibid.
 25. *Bangkok Post*, "Govt forces ISPs to block 'inappropriate' web sites," September 7, 2003.
 26. *Bangkok Post*, "PM wants tighter curbs on internet," December 18, 2003.
 27. *Agence France-Presse*, "Thailand to block over 800,000 sites," November 28, 2005.
 28. Ibid.
 29. See, for example, Thaisnews, "New program will be launched on Radio Thailand," January 31, 2006, http://www.thaisnews.com/news_detail.php?newsid=160479.
 30. Announcement by the Council for Democratic Reform No. 10: Request for Cooperation in News Reporting, September 20, 2006; Announcement by the Council for Democratic Reform No. 15: Ban on Meetings and other Political Activities by Political Parties, September 21, 2006, http://www.MICT.go.th/cdrc/read_all.asp?cid=1; *Bangkok Post*, "Coup leaders authorise press censorship," September 20, 2006.
 31. *Financial Times*, Thai Press Reports, "MICT imposes temporary ban on political text-messaging and phone-in," September 26, 2006.
 32. Thai Press Reports, "National Legislative Assembly approves computer crime bill in principle," November 20, 2006.
 33. Miles Ignotus, "Censoring the Web," *Bangkok Post*, February 15, 2004.
 34. *Bangkok Post*, "Censors busy on the Internet," November 24, 2006.
 35. Kavi Chongkittavorn, "Stop messing with Internet access and free debate," *The Nation*, November 20, 2006.
 36. *The Nation*, "Freedom of speech: Anti-coup website blocked again without notification," December 30, 2006, http://nationmultimedia.com/2006/12/30/politics/politics_30022916.php.