



# Thailand: Civic Space Legal Framework

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# Thailand: Civic Space Legal Framework

*Sayuri Umeda*  
*Foreign Law Specialist\**

**SUMMARY** The 2017 Constitution of the Kingdom of Thailand provides the legal framework of civic space in Thailand, including the rights to freedom of expression, assembly, association, and information. Despite a legal framework to protect rights and liberties, civic space is restricted, especially concerning discussion of monarchy reform. The constitutional court and the government consider laws attempting to reform the monarchy or amend or repeal lèse-majesté law illegal. A political party that won an election could not form a cabinet and was later dissolved by order of the constitutional court because it submitted a bill to amend lèse-majesté law.

Although there is a personal information protection law to protect personal data, the cybersecurity law allows the government to access personal information without judicial review or other forms of oversight. The Computer Crime Act makes posting false or distorted information, which the government interprets as including criticism of the government and monarchy, an online crime.

The National Human Rights Commission reports human rights violations and makes recommendations, but it appears to have little power.

## I. Introduction

Civic space is a fundamental component of democratic governance, enabling individuals and groups to engage in public affairs, express their opinions, and hold authorities accountable. The United Nations defines civic space as the “environment that enables civil society to play a role in the political, economic, and social life of a country.”<sup>1</sup> In Thailand, the 2017 Constitution serves as the primary legal framework governing civic space. Our research did not reveal many lower-level regulations that specify the constitutional rights. The constitution contains provisions that shape the legal framework of civic space in Thailand, including the rights to freedom of expression, assembly, association, and information.<sup>2</sup> A person whose right or liberty has been directly infringed and who has suffered a grievance or loss by an action committed by a state agency or state official has the right to submit an application to the Constitutional Court.<sup>3</sup>

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\* At present there are no Law Library of Congress research staff members versed in Thai. This report has been prepared by the author’s reliance on practiced legal research methods and on the basis of relevant resources currently available in the Law Library and online.

<sup>1</sup> OHCHR and Protecting and Expanding Civic Space, United Nations High Commissioner for Human Rights (UNHCHR), <https://www.ohchr.org/en/civic-space>.

<sup>2</sup> Constitution of the Kingdom of Thailand B.E. 2560 (2017) (Const.), <https://perma.cc/9JXU-EM88>.

<sup>3</sup> Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018) § 46, <https://perma.cc/6SCJ-GB7L>.

## II. Protection of Civic Freedoms

### A. Constitutional Framework

Thailand is a constitutional monarchy. “Thailand adopts a democratic regime of government with the King as Head of State.”<sup>4</sup> The constitution also states “[n]o person shall expose the King to any sort of accusation or action.”<sup>5</sup>

The Constitution of B.E. 2560 (2017) guarantees individual rights and liberties in Chapter III, Rights and Liberties of the Thai People. Sections 25 and 26 set forth the general principles on guarantee of rights and liberties.

Section 25. As regards the rights and liberties of the Thai people, in addition to the rights and liberties as guaranteed specifically by the provisions of the Constitution, a person shall enjoy the rights and liberties to perform any act which is not prohibited or restricted by the Constitution or other laws, and shall be protected by the Constitution, insofar as the exercise of such rights or liberties does not affect or endanger the security of the State or public order or good morals, and does not violate the rights or liberties of other persons.

Any right or liberty stipulated by the Constitution to be as provided by law, or to be in accordance with the rules and procedures prescribed by law, can be exercised by a person or community, despite the absence of such law, in accordance with the spirit of the Constitution.

Any person whose rights or liberties protected under the Constitution are violated, can invoke the provisions of the Constitution to exercise his or her right to bring a lawsuit or to defend himself or herself in the Court.

Any person injured from the violation of his or her rights or liberties or from the commission of a criminal offence by another person, shall have the right to remedy or assistance from the State, as prescribed by law.

Section 26. The enactment of a law resulting in the restriction of rights or liberties of a person shall be in accordance with the conditions provided by the Constitution. In the case where the Constitution does not provide the conditions thereon, such law shall not be contrary to the rule of law, shall not unreasonably impose burden on or restrict the rights or liberties of a person and shall not affect the human dignity of a person, and the justification and necessity for the restriction of the rights and liberties shall also be specified.

### B. Freedom of Expression

Section 34 of the Constitution guarantees the freedom to express opinions through speech, writing, and other means. However, it is subject to the restriction “by virtue of the provisions of law specifically enacted for the purpose of maintaining the security of the State, protecting the

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<sup>4</sup> Id. § 2.

<sup>5</sup> Id. § 6.

rights or liberties of other persons, maintaining public order or good morals, or protecting the health of the people.”<sup>6</sup>

Thailand is also a state party to the United Nations’ International Covenant on Civil and Political Rights (ICCPR), in which article 19 guarantees freedom of expression.<sup>7</sup>

### 1. *Lèse-Majesté*

Section 112 of the Criminal Code establishes the offense of criminalizing “(w)hoever, defames, insults or threatens the King, the Queen, the Heir-apparent or the Regent” with three to 15 years’ imprisonment.<sup>8</sup>

The government has used section 112 against protesters calling for reform of the monarchy.<sup>9</sup> According to the website of the International Federation for Human Rights, the Thai Lawyers for Human Rights (TLHR) stated “between 24 November 2020 and 16 June 2022, 201 individuals – including 16 children – have been charged under Article 112.”<sup>10</sup> Also according to the website, the “wave of lèse-majesté prosecutions and arrests began in late November 2020 after Thai Prime Minister Prayuth Chan-ocha pledged to enforce ‘all laws and articles’ against pro-democratic leaders and protesters.”<sup>11</sup>

In February 2021, the United Nations human rights experts “expressed grave concerns over Thailand’s increasingly severe use of lèse-majesté laws to curtail criticism of the monarchy, and said they were alarmed that a woman had been sentenced to over 43 years in prison” under the provision.<sup>12</sup> She reportedly had “posted audio clips that were critical of the monarchy on her Facebook page between 2014 and 2015.”<sup>13</sup> In the same month, four leading members of the pro-reform group were indicted for violation of the provision. The criminal court ordered them detained and denied bail.<sup>14</sup>

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<sup>6</sup> Const. § 34.

<sup>7</sup> International Covenant on Civil and Political Rights, adopted Dec. 16, 1966, 999 U.N.T.S. 171 (entered into force Mar. 23, 1976), <https://perma.cc/GBQ8-E2KH>.

<sup>8</sup> Criminal Code B.E. 2499 (1956), as amended in 2022, § 112, <https://www.chaninatandleeds.com/thailand-criminal-code-13.html> (translated by Chaninat and Leeds), <https://perma.cc/Y3E7-43UR> (in Thai).

<sup>9</sup> Atiya Achakulwisut, *Section 112’s Return Adds Fuel to Protest Fire*, Bangkok Post (Dec. 1, 2020), <https://perma.cc/7QFM-BXS4>.

<sup>10</sup> Press release, Int’l Fed. for Hum. Rts., Thailand: Number of Individuals Charged with Lèse-Majesté Passes 200 (June 17, 2022), <https://perma.cc/7T37-YDUF>.

<sup>11</sup> Id.

<sup>12</sup> Press release, UNHCHR, Thailand: UN Experts Alarmed by Rise in Use of Lèse-Majesté Laws (Feb. 8, 2021), <https://www.ohchr.org/en/press-releases/2021/02/thailand-un-experts-alarmed-rise-use-lese-majeste-laws>.

<sup>13</sup> Id.

<sup>14</sup> Veera Prateepchaikul, *Lese Majeste Law Takes Centre Stage*, Bangkok Post (Feb. 15, 2021), <https://perma.cc/6P8M-AVVE>.

In a 2021 opinion piece regarding Thailand's lack of civic space, a *Bangkok Post* columnist wrote

Amid a series of youth protests calling for monarchy reform, one thing I learnt is that what has been lacking is a space for a constructive discussion -- a platform where people, either royalists, proponents of monarchy reform or those with neutral ideas, can have a healthy debate, without being in fear of violating the lese majeste law, or being criticised by left or right political wings that seem to have become more radicalised and lacking in tolerance to differing views.<sup>15</sup>

On November 10, 2021, the Constitutional Court ruled that a leader of a protest rally at a university campus who read out a set of 10 demands, including reform of the monarchy, violated section 49 of the Constitution.<sup>16</sup> Section 49 states that “[n]o person shall exercise the rights or liberties to overthrow the democratic regime of government with the King as Head of State,” but it provides no penalty.

Thai pro-democracy and monarchy reform protests peaked during 2020-2021, but opposition to section 112 of the Criminal Code has not vanished.<sup>17</sup> According to TLHR, 137 people were prosecuted due to their political participation and expression in 2022. The numbers were 50 in 2023, and 22 in 2024.<sup>18</sup>

A progressive party, Move Forward, founded in 2020, ended up being dissolved by the Constitutional Court's order in 2024 because it drafted and submitted a bill to amend section 112.<sup>19</sup> The following is the timeline:

- In the May 2023 election, the Move Forward party became the largest party, winning 151 of the 500 seats in the House of Representatives. However, its leader, Pita Limjaroenrat, could not become prime minister and form the government in July 2023 because most of the senate members who were appointed by the military opposed his candidacy on the first vote, and, before the second vote, the Constitutional Court suspended him from the parliament when

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<sup>15</sup> Paritta Wangkiat, *Constructive Dialogue on S112 Needed*, *Bangkok Post* (Nov. 8, 2021), <https://perma.cc/S54B-F4SL>.

<sup>16</sup> King-oua Laohong et al., *Court Disputes 'Reform' Goal*, *Bangkok Post* (Nov. 11, 2021), <https://perma.cc/QQ77-R3QX>.

<sup>17</sup> Wichuta Teeratanabodee, *Thailand's 2020-2021 Pro-Democracy Protests: Diversity, Conflict, and Solidarity*, 55(1) *J. Contemp. Asia* 3 (2025), <https://www.tandfonline.com/doi/full/10.1080/00472336.2023.2258131#abstract> (by subscription).

<sup>18</sup> Human Rights Situation Report December 2021, TLHR (Jan. 19, 2022), <https://perma.cc/373Z-BJYP>; December 2022: A Total of 1,888 People Were Prosecuted in 1,165 Political Cases, TLHR (Jan. 19, 2023), <https://perma.cc/G5T3-9FVK>; December 2023: A Total of 1,938 People Have Been Politically Prosecuted in 1,264 Cases, TLHR (Jan. 17, 2024), <https://perma.cc/Y9ZU-DHZY>; December 2024: Arnon Convicted in Two Successive Cases Under Section 112 - Court of Appeals Overturning Verdict on Royal Portrait Pain [sic]-Throwing Case - More Verdicts Delivered in Five Public Assembly Cases, TLHR (Jan. 23, 2025), <https://perma.cc/425X-45Q3>.

<sup>19</sup> *Move Forward Dissolution Sought*, *Bangkok Post* (Feb. 2, 2021), <https://perma.cc/E63V-NVLR>.

opponents claimed he had violated a stockholding restriction. The court later cleared him of the charge.<sup>20</sup>

- On January 31, 2024, the Constitutional Court ordered the Move Forward party to cease all attempts to amend Section 112 of the Criminal Code in the case a lawyer filed a petition with the court to order so. The court decided that campaigning on the amendment of section 112 is considered an attempt to end the constitutional democracy with the king as head of state in violation of section 49 of the constitution.<sup>21</sup>
- In March 2024, Thailand’s Election Commission announced it was filing a complaint to the Constitutional Court seeking the dissolution of Move Forward, saying there was evidence the party “undermines the democratic system with the king as the head of state.”<sup>22</sup>
- On August 7, 2024, the Constitutional Court ordered that the Move Forward party be dissolved and banned 10 of its members, including former-leader Pita Limjaroenrat, from politics for 10 years. The court found that Move Forward’s campaign to amend the lèse-majesté law amounted to an attempt to overthrow Thailand’s constitutional monarchy.<sup>23</sup>
- In February 2025, the National Anti-Corruption Commission sent summonses to 44 former members of parliament from the dissolved Move Forward Party for breaching ethical standards over their sponsorship of a bill to amend Section 112. One of them stated to a news reporter that “proposing a legal amendment should not be considered a violation.”<sup>24</sup>

These facts demonstrate that freedom of expression can be restricted if it concerns criticism or reform of monarchy. In addition, according to the Constitutional Court, proposing repeal or lowering punishment of lèse-majesté law is prohibited.

## 2. *Sedition*

Section 116 of the Criminal Code states a person who “makes an appearance to the public by words, writings or any other means which is not an act within the purpose of the Constitution or for expressing an honest opinion or criticism in order” to

- bring about a change in the laws of the country or the government by the use of force or violence,
- raise unrest and disaffection among the people in a manner likely to cause disturbance in the country, or

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<sup>20</sup> John Curtis, HC Libr., Research Briefing, *Thailand: Political Developments 2023-24 and the Banning of the Move Forward Party* (Nov. 18, 2024), <https://commonslibrary.parliament.uk/research-briefings/cbp-10141/>.

<sup>21</sup> Mongkol Bangprapa & Aekarach Sattaburuth, *Ruling Strikes at MFP’s Heart*, Bangkok Post (Feb. 1, 2024), <https://perma.cc/9HYY-8NM9>.

<sup>22</sup> Curtis, *supra* note 20.

<sup>23</sup> Id.

<sup>24</sup> Mongkol Bangprapa, *Thai Corruption Body Indicts 44 Former MPs Over Lese Majeste*, Bangkok Post (Feb. 16, 2025), <https://perma.cc/H6P5-4MJP>.

- cause the people to transgress the laws of the country,

is punishable with imprisonment not exceeding seven years.

Some elements of section 116 are not very clear, especially “not an act . . . for expressing an honest opinion or criticism in order to raise unrest and disaffection amongst the people.”<sup>25</sup> According to one article, after the military coup in May 2014, the prosecutions under section 116 increased. The article analyzed 20 such cases and concluded that “the accused in some cases did not have the intentions to raise unrest and disaffection among people. It is only the expression towards the government works or government authorities.”<sup>26</sup> It also states “due to its ambiguity, this legislation becomes the government tools and causes the burden to the people. Since the offense under Section 116 is the offense relating to the security of the Kingdom, the security for bail is high.”<sup>27</sup> The report of the International Commission of Jurists also states, “[t]he Thai government has wielded sections 112 and/or 116 to target disfavoured comments of the institution of the monarchy online, together with the CCA [Computer Crime Act].”<sup>28</sup>

### 3. Defamation

The offense of defamation is punishable by up to one year of imprisonment, a fine of up to 20,000 Thai Baht (about US\$640), or both.<sup>29</sup> The punishment is heavier when it is “committed by means of publication of a document, drawing, painting, cinematography film . . . spreading picture, or by propagation by any other means,” with up to two years’ imprisonment and a fine of up to THB200,000 (about USD 6,400).<sup>30</sup> However, expressions of an opinion or statement in good faith, in the following ways or statuses, are not punishable:

- by way of self justification or defense, or for the protection of a legitimate interest,
- in the status of being an official in the exercise of his functions,
- by way of fair comment on any person or thing subjected to public criticism, or
- by way of fair report of the open proceeding of any court or meeting.<sup>31</sup>

A news article claims that defamation charges are used by companies and government officials to retaliate against critics. They are known as SLAPP (strategic lawsuits against public participation) cases. For example, a local elected official accused a journalist of defamation after

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<sup>25</sup> Section 116: *When ‘Sedition’ Is Used as the Obstruction of Freedom of Expression*, iLaw (Sept. 13, 2017), <https://perma.cc/2BK9-T3SC>.

<sup>26</sup> Id.

<sup>27</sup> Id.

<sup>28</sup> Int’l Comm’n Jurists, *Dictating the Internet: Curtailing Free Expression and Information Online in Thailand* 25 (Apr. 2021), <https://perma.cc/M5P3-VTUN>.

<sup>29</sup> Criminal Code § 326.

<sup>30</sup> Id. § 328.

<sup>31</sup> Id. § 329.

her investigation exposed a banking loans scandal.<sup>32</sup> According to Phil Robertson, the deputy director of Human Rights Watch’s Asia division, “[m]any nations in Southeast Asia have criminal defamation laws, but Thailand stands out. Citizens ‘are just much more aggressive’ in using the law to ‘drag people into judicial processes that are slow and expensive.’”<sup>33</sup>

#### 4. Academic Freedom

Section 34 of the constitution also protects academic freedom, provided it respects public morals and does not obstruct differing views. Academic institutions, under this provision, are required to foster an environment conducive to debate and inquiry.<sup>34</sup>

According to the United States State Department’s *2023 Country Reports on Human Rights Practices*, academic freedom is jeopardized. It states

University authorities, civil society groups, and media reported the occasional presence of security personnel on campuses, monitoring lectures and attending student political events or rallies. Authorities reportedly arrested students for exercising freedom of expression, although arrests resulted in few formal charges. Academics reported fear of security personnel monitoring their instruction, leading to greater self-censorship.<sup>35</sup>

### C. Freedom of Association

Section 42 of the Constitution guarantees the right to form associations, cooperatives, and other groups. Restrictions are permitted only “by virtue of a provision of law enacted for the purpose of protecting public interest, for maintaining public order or good morals, or for preventing or eliminating barriers or monopoly.”<sup>36</sup>

Section 121(3) of the Thai Labour Relations Act forbids an employer from preventing employees from becoming labor union members.<sup>37</sup> However, because Thailand has reportedly one of the lowest unionization rates in South East Asia, some authors conclude that this right might not be fully protected. The article notes that “Yet the Thai civil court interprets that an employee can only enjoy these protections after officially registering with a labor union.”<sup>38</sup>

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<sup>32</sup> Alan Morison, *Thai Defamation Law Fails Good People*, Bangkok Post (Dec. 7, 2024), <https://perma.cc/XJT9-G9XT>.

<sup>33</sup> Sui-Lee Wee, *They Spoke Up for Free Speech. Now They Are Being Sued for Defamation*, N.Y. Times (June 9, 2023), <https://www.nytimes.com/2023/06/09/world/asia/thailand-defamation-lawsuits.html> (by subscription).

<sup>34</sup> Const. § 34.

<sup>35</sup> US State Dep’t, *2023 Country Reports on Human Rights Practices: Thailand*, <https://perma.cc/X8AQ-LKJ3>.

<sup>36</sup> Const. § 42.

<sup>37</sup> Labour Relations Act B.E. 2518 (1975), <https://perma.cc/5QK3-PVJM>.

<sup>38</sup> Ng Yap Hwa, *Stopping Anti-Union Discrimination in Thailand*, New Mandala (May 20, 2021), <https://perma.cc/YGH2-SYG6>.

## D. Freedom of Assembly

Section 44 of the Constitution protects the right to peaceful assembly without arms.<sup>39</sup> Restrictions are allowed “by virtue of a provision of law enacted for the purpose of maintaining security of the State, public safety, public order or good morals, or for protecting the rights or liberties of other persons.”<sup>40</sup>

The Public Assembly Act B.E. 2558 (2015) provides a regulatory framework governing public assemblies to balance the constitutional right to peaceful assembly with public order and safety.<sup>41</sup> Organizers of assemblies must notify the appropriate police authority at least 24 hours before the assembly and obtain a permit.<sup>42</sup> The notification must identify the objective, date, time, and place of the assembly.<sup>43</sup>

Public assemblies are prohibited within the radius of 150 meters (about 492 feet) from the boundary of the royal palaces and residences and other royal-related places.<sup>44</sup> In addition, no public assembly is allowed to be held within the National Assembly, the government house, and the courts; except where a specific place for public assembly is provided therein.<sup>45</sup> Further, public assemblies must not obstruct the entrances of state agencies’ offices, airports or public transport stations, embassies or consulates of foreign states or offices of international organizations, hospitals, educational institutions or religious establishments, or other places as notified by the government.<sup>46</sup>

If the police believe the assembly plan may violate these restrictions, they must order the organizer to revise the plan in compliance therewith within a specific period. If the organizer fails to comply with the order, the police may prohibit the assembly and must so notify the organizer in writing. If the organizer does not agree with the order, he or she can appeal it to the police superintendent. The superintendent must notify the appellant of the decision on appeal within 24 hours. A decision on appeal is final. If a suspension order is given, no public assembly can be held during the appeal procedure.<sup>47</sup> The chief of police where the public assembly is held must ensure it is compliant with the act and notify the local authorities.<sup>48</sup>

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<sup>39</sup> Const. § 44.

<sup>40</sup> Id.

<sup>41</sup> Public Assembly Act B.E. 2558 (2015), <https://perma.cc/9XJK-JXL7> (in Thai). Int’l Ctr. for Not-for-Profit L., *Translation: Public Assembly Act B.E. 2558 by Pakorn Nilprapunt* (2015), <https://perma.cc/FX94-9TN8>.

<sup>42</sup> Public Assembly Act B.E. 2558 § 10. See also *New Thai Law Banning Protests Takes Effect*, Thailand Law. Blog (Aug. 14, 2015), <https://perma.cc/RS3B-KZ6X>.

<sup>43</sup> Public Assembly Act B.E. 2558 § 10.

<sup>44</sup> Id. § 7.

<sup>45</sup> Id.

<sup>46</sup> Id. § 8.

<sup>47</sup> Id. § 11.

<sup>48</sup> Id. § 19.

As discussed above, because protests against the monarchy are not allowed by the authorities, if the planned assembly is critical of the monarchy, the assembly is not permitted.

The government ordered nationwide enforcement of the Emergency Decree on Public Administration in Emergency Situations B.E. 2548 (2005)<sup>49</sup> in March 2020 to control the spread of COVID-19.

The declaration of emergency is meant to last no longer than 3 months; however, it can be extended endlessly, without limitation. When it is announced, the power and duties of all public sectors involved in prevention and resolution of emergency situations are transferred under the Prime Minister's authority. In an emergency, the Prime Minister has the power to issue further regulations for public sectors or citizens to follow. Section 9 further allows the government:

- To prohibit any person from departing from a dwelling place · To prohibit an assembly or gathering at any place
- To prohibit the press release, distribution or dissemination of publications or any means of communication which may instigate fear amongst the people or unrest
- To prohibit the use of routes or vehicles
- To prohibit the use of buildings, or entering or staying in any place, and to evacuate people out of a designated area

Section 18 imposes penalties for anyone violating the Emergency Decree, of up to two years' imprisonment and/or a fine not exceeding 40,000 baht (~\$1150 USD).<sup>50</sup>

The emergency decree restricted public assembly, and "authorities prosecuted at least 1,469 people, primarily for taking part in democracy protests" until October 2022 when the enforcement of the decree ceased.<sup>51</sup>

## **E. Right of Privacy and Data Protection**

Section 32 of Thailand's Constitution guarantees the rights of individuals to privacy, dignity, and reputation. Any violation of privacy or misuse of personal information is prohibited unless justified by law for the public interest.<sup>52</sup>

As explained in section V.1 below, the right to privacy is not protected under the Cybersecurity Act. It allows the government to access personal information without judicial review or other forms of oversight.

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<sup>49</sup> Emergency Decree on Public Administration in Emergency Situations B.E. 2548 (2005), <https://perma.cc/Y8SK-SL92>.

<sup>50</sup> iLaw, *Suppressing Dissent in the Name of Public Health: Thailand's Abuse of the Covid-19 Emergency Decree 2* (2024), <https://perma.cc/ND6W-ZFUB>.

<sup>51</sup> *World Report 2024: Thailand*, Hum. Rts. Watch (2023), <https://perma.cc/4J47-MPXK>.

<sup>52</sup> Const. § 32.

The Personal Data Protection Act B.E. 2562 (2019) sets standards for personal data collection and processing.<sup>53</sup> A person who controls personal data (personal data controller) must not collect, use, or disclose personal data, unless the data subject has given consent before or at the time of such collection, use, or disclosure, except where it is permitted by a law. In requesting consent from the data subject, a personal data controller must inform the subject of the purpose of the collection, use, or disclosure of the personal data.<sup>54</sup> A data controller must collect, use, or disclose personal data according to the purpose notified to the data subject before or at the time of such collection.<sup>55</sup> The collection of personal data must be limited to the extent necessary in relation to the lawful purpose of the data controller.<sup>56</sup> The data controller must only collect personal data directly from the data subject; however, exceptions are provided in the act.<sup>57</sup>

## F. Equality

Section 27 of the constitution guarantees equality before the law and prohibits discrimination based on origin, race, language, sex, age, disability, economic status, or other grounds.<sup>58</sup> The provision also obligates the state to eliminate obstacles that hinder the equal exercise of rights and liberties. Measures promoting equity for vulnerable groups are explicitly permitted and are not considered discriminatory.<sup>59</sup>

Several Constitutional Court decisions have held provisions in certain laws unconstitutional as violating equality. The following are examples:

### 1. *Same-Sex Marriage*

A petition was filed with the Constitutional Court in 2020, asserting that section 1448 of the Civil and Commercial Code (CCC), which only recognizes marriage between men and women, conflicts with or contradicts the Thai Constitution. The Constitutional Court held that section 1448 is consistent with the natural conditions and long-standing traditions that a marriage is between a man and a woman.<sup>60</sup> Nevertheless, in dicta, the court recommended that the Thai Parliament, cabinet, and relevant government agencies should consider enacting laws to appropriately recognize the rights and duties of lesbian, gay, bisexual, transgender, and queer (LGBTQ) individuals. The Marriage Equality Act allowing LGBTQ individuals in Thailand to

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<sup>53</sup> Personal Data Protection Act B.E. 2562 (2019), <https://perma.cc/6W6S-HJ6P>.

<sup>54</sup> Id. § 19

<sup>55</sup> Id. § 21.

<sup>56</sup> Id. § 22.

<sup>57</sup> Id. § 35.

<sup>58</sup> Const. § 27.

<sup>59</sup> Id. § 27, para. 4.

<sup>60</sup> Constitutional Court, Ruling No. 20/2564, Nov. 17, 2021. Specifically, the court ruled that CCC § 1448 does not violate the Thai Constitution §§ 25, 26, & 27, paras. 1-3.

receive the same rights as heterosexual couples or as legal spouses was passed in June 2024.<sup>61</sup> It entered into effect on January 23, 2025.<sup>62</sup>

## 2. *Disabled Person's Eligibility to Take an Exam to Be a Judge*

In 2002, the Constitutional Court held in ruling No. 16/2545 that section 26, paragraph 1(10) of the Act on the Regulations of the Judicial Officers of the Courts of Justice B.E. 2543 (2000) did not violate section 30 of the Constitution of the Kingdom of Thailand B.E. 2540 (1997). The 1997 constitution did not stipulate that disability was a characteristic that prohibits discrimination. Section 26 paragraph 1(10) of the act stipulates that applicants for selection exams to be judicial officers must have qualifications and not have characteristics such as having a body or mind that is not suitable to be a judicial officer. The court stated that requiring consideration of physical and mental health, in addition to considering knowledge and abilities, for appointments of judicial officers did not violate the constitution because the performance of a judge's duty sometimes required traveling outside the court. The subsequent Constitution of the Kingdom of Thailand B.E. 2550 (2007) added the wording "disability" to its equal protection section.<sup>63</sup>

When section 26 paragraph 1(10) of the act was brought up to the Constitutional Court again under the 2007 constitution, the court held in Ruling No. 15/2555 that section 26 paragraph 1(10) of the act violated the rights of disabled persons to work on an equal basis with the general public according to the Convention on the Rights of Persons with Disabilities and is unfair discrimination against individuals due to differences in disability under the 2007 constitution. In addition, it stated that disability is not an obstacle to the performance of judicial officers' duties.<sup>64</sup>

## G. Constitutional Court

The constitution provides for the constitutional court to have powers and duties in adjudicating and ruling constitutional cases.<sup>65</sup> The Organic Act on Procedures of the Constitutional Court B.E. 2561 (2018) states that a person whose right or liberty has been directly infringed and who has suffered a grievance or loss by an action committed by a state agency, state official or agency exercising state powers has the right to submit an application to the Constitutional Court. A complaint must first be lodged with the Ombudsman.<sup>66</sup> The constitution requires the establishment of the Office of the Ombudsman,<sup>67</sup> which aims to redress grievances or unfairness experienced by citizens arising from the performance of government agencies or government

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<sup>61</sup> Constitutional Court of the Kingdom of Thailand, Thai Constitutional Court and the Protection of the Rights and Liberties of the People, in Sixth Congress of the Association of Asian Constitutional Courts and Equivalent Institutions (ACC) 25-27 (Sept. 17-21, 2024), <https://perma.cc/V6L6-3296>.

<sup>62</sup> *Hundreds Wed as Thai Same-Sex Marriage Law Takes Effect*, Bangkok Post (Jan. 23, 2025), <https://perma.cc/2KEJ-79PU>. See also Panicha Rattanaboonsen & Sayuri Umeda, *Thailand: Law Recognizing Same-Sex Marriage Takes Effect*, Global Legal Monitor (Mar. 18, 2025), <https://perma.cc/UZD9-8Q4Y>.

<sup>63</sup> Constitutional Court, *supra* note 61, at 27-28.

<sup>64</sup> *Id.* at 28-29.

<sup>65</sup> Const. § 210.

<sup>66</sup> Organic Act on Procedures of the Constitutional Court § 46.

<sup>67</sup> Const. § 228.

officials.<sup>68</sup> The Organic Act also states a person whose right or liberty has been infringed as a result of a provision of law that is contrary to or inconsistent with the constitution may file an application to the Ombudsman for submission of the case to the Constitutional Court.<sup>69</sup>

### III. Access to Information

The constitution guarantees the people's right to access official information as follows:

Section 41. A person and a community shall have the right to: (1) be informed and have access to public data or information in the possession of a State agency as provided by law.

Section 59. The State shall disclose any public data or information in the possession of a State agency, which is not related to the security of the State or government confidentiality as provided by law and shall ensure that the public can conveniently access such data or information.

The Official Information Act B.E. 2540 (1997) mandates that state agencies publish specified official information, such as by-laws, resolutions of the Council of Ministers, regulations, orders, and circulars in the government gazette.<sup>70</sup> Further, the act requires state agencies to make available the following official information for public inspection unless it is prohibited by law:

- (1) a result of consideration or a decision which has a direct effect on a private individual including a dissenting opinion and an order relating thereto;
- (2) a policy or an interpretation which does not fall within the scope of the requirement of publication in the Government Gazette;
- (3) a work-plan, project and annual expenditure estimate of the year of its preparation;
- (4) a manual or order relating to work procedure of state officials which affects the rights and duties of private individuals;
- (5) the published material to which a reference is made in the government gazette;
- (6) a concession contract, agreement of a monopolistic nature or joint venture agreement with a private individual for the provision of public services;
- (7) a resolution of the Council of Ministers, board, tribunal, commission or committee as established by law or by a resolution of the Council of Ministers; provided that the titles of the technical reports, fact reports or information relied on in such consideration shall also be specified;
- (8) other information as determined by the Board.<sup>71</sup>

A person who believes the state has failed to disclose information is entitled to lodge a complaint with the Official Information Board.<sup>72</sup> The board consists of government officials.<sup>73</sup> Its authority

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<sup>68</sup> *Vision Mission*, Office of the Ombudsman, <https://perma.cc/9FFN-4WC5>.

<sup>69</sup> Organic Act on Procedures of the Constitutional Court. § 48.

<sup>70</sup> Official Information Act B.E. 2540 (1997) § 7, <https://perma.cc/XL3U-CJ8K>.

<sup>71</sup> *Id.* § 9.

<sup>72</sup> *Id.* § 13.

<sup>73</sup> *Id.* § 27.

includes supervising the performance of duties of state officials and state agencies for the implementation of the act and giving opinions on the complaints.<sup>74</sup>

#### IV. Media Freedom

Section 35 of the constitution states “[a] media professional shall enjoy the liberty to present news or express opinions in accordance with professional ethics.” It also prohibits censorship of any news or statements made by a media professional.<sup>75</sup>

Regarding protection of media freedom, the 2023 US State Department report noted, “[a]uthorities monitored the content of all media, including international media. Local practice leaned toward self-censorship, particularly regarding anything that might be seen as critical of the monarchy or members of the royal family.”<sup>76</sup>

In 2021, Thailand’s National Broadcasting and Telecommunications Commission (NBTC) “commissioner Lt. Gen. Perapong Manakit told media outlets to desist from interviewing protest leaders or anyone who agreed with their demands for a need to reform the monarchy.”<sup>77</sup>

A Freedom House report states, “[t]he government has retained a number of laws introduced by the 2014–19 military junta that restrict free and independent media, including criminal defamation laws and an expanded Computer Crime Act.”<sup>78</sup> According to the report

Several journalists covering antigovernment protests during 2022 faced police violence or criminal charges. . . . In February 2024, two journalists from the independent news outlet Prachatai were arrested for reporting on graffiti at a Buddhist temple that expressed opposition to the lèse-majesté law in 2023. The journalists were released on bail to await trial for allegedly collaborating in the vandalism.<sup>79</sup>

The US State Department report also reported harassment against journalists.<sup>80</sup>

#### V. Civic Space in the Digital Age

##### A. Cybersecurity Act

The Cybersecurity Act B.E. 2562 (2019) contains “provisions in relation to the restriction of rights and freedom of a person.”<sup>81</sup> Section 26 of the constitution states that laws restricting people’s

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<sup>74</sup> Id. § 28.

<sup>75</sup> Const. § 34.

<sup>76</sup> US State Dep’t, *supra* note 35, § 2A.

<sup>77</sup> *Thailand’s New Curbs Further Harm Press Freedom*, Union of Catholic Asian News (2021), <https://www.ucanews.com/news/thailands-new-curbs-further-harm-press-freedom/95152>.

<sup>78</sup> *Freedom in the World 2025: Thailand*, Freedom House (2025), <https://perma.cc/8YWU-HKLM>.

<sup>79</sup> Id.

<sup>80</sup> US State Dep’t, *supra* note 35, § 2A.

<sup>81</sup> Cybersecurity Act B.E. 2562 (2019) pmbll., <https://perma.cc/BX9Y-WZH4>.

rights or liberties “shall not unreasonably impose [a] burden on or restrict the rights or liberties of a person and shall not affect the human dignity of a person, and the justification and necessity for the restriction of the rights and liberties shall also be specified.”<sup>82</sup> Regarding the justification and necessity, the act explains “to efficiently protect cybersecurity and to establish approaches to protect, cope with, and mitigate the risk of Cyber Threats which affect the national security and public order.”<sup>83</sup>

The Cybersecurity Act created the National Cybersecurity Committee (NCSC)<sup>84</sup> and the Cybersecurity Regulating Committee (CRC).<sup>85</sup> The NCSC classed cyber threat into three levels: noncritical, critical, and crisis levels.<sup>86</sup> At the critical level of threat, CRC has broad powers over owners and users of computers or computer systems. Section 65 states

Section 65 In coping with and to remedy the damages from a Cyber Threat at a critical level, the CRC has the power to order, only as necessary to prevent the Cyber Threat, the owner, the person possessing the computer, or the user of a computer or a computer system or a person monitoring the computer system, which has a reasonable cause to believe that he/she is related to the Cyber Threat or is affected by the Cyber Threat to conduct the following acts:

- 1) monitor the computer or computer system during a certain period of time;
- 2) examine the computer or computer system to find an error that affects Maintaining Cybersecurity, analyze the situation, and evaluate the effects from the Cyber Threat;
- 3) conduct a measure rectifying the Cyber Threat to handle vulnerabilities or remove unwanted programs or terminate and remedy the Cyber Threat that are operating;
- 4) maintain the status of the computer data or computer system via any methods to operate the computer forensic science;
- 5) access relevant computer data or computer system or other information related to the computer system only to the extent it is necessary to prevent Cyber Threat.

To carry out the fifth action, the CRC submits the motion to the competent court to order the owner, the user of the computer or computer system etc. to comply with the motion, specifying the cause to believe that a person is performing or will perform an act that causes a cyber threat at a critical level.<sup>87</sup>

The Freedom House observed that “[n]o attempt is required to notify affected persons, and no privacy protections govern the handling of collected information.” It also states, “[t]he Cybersecurity Act fails to protect individual privacy and provides broad powers to the government to access personal information without judicial review or other forms of oversight.”<sup>88</sup>

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<sup>82</sup> Const. § 26.

<sup>83</sup> Cybersecurity Act B.E. 2562 (2019) pmbl.

<sup>84</sup> Id. § 5.

<sup>85</sup> Id. § 12.

<sup>86</sup> Id. § 60.

<sup>87</sup> Id.

<sup>88</sup> *Freedom on the Net 2024: Thailand*, Freedom House (2024), <https://perma.cc/MER8-M6N3>.

There are some privacy-related cases regarding personal freedoms and state surveillance under the Cybersecurity Act.<sup>89</sup> For instance, courts have ruled that Section 32 prohibits the unauthorized collection of personal data by private entities, emphasizing the responsibility of data controllers to comply with statutory obligations.<sup>90</sup>

## B. Computer Crime Act (CCA)

Because most communications are made via apps and email, and data and files are stored on computer systems, the impact of computer-related crimes can be severe and material. The Computer Crime Act (CCA) B.E. 2550 (2007) criminally punishes computer-related offenses.<sup>91</sup> Online commentaries often criticize the CCA “as written broadly to give authorities broad interpretation and enforcement powers.”<sup>92</sup> According to an article by a law firm in Thai, “[t]he CCA was often invoked as an added charge in defamation cases, as many defamation charges were based on internet postings or comments.”<sup>93</sup>

The relevant provisions are as follows:

**Section 14** Any person who commits any of the following offences shall be liable for imprisonment for a term not exceeding five years or to a fine not exceeding one hundred thousand Baht or to both:

- (1) dishonestly or by deceit, bringing into a computer system a computer data which is distorted or fake, whether in whole or in part, or a computer data which is false, in a manner likely to cause loss to the public, where it is not the commission of an offence of defamation under the Penal Code;
- (2) bringing into a computer system a computer data which is false in a manner likely to cause loss to the maintenance of national security, public security, national economic security or an infrastructure involving national public interest or in a manner causing public anxiety;
- (3) bringing into a computer system any computer data which constitutes an offence relating to security of the Kingdom or an offence relating to terrorism under the Penal Code;
- (4) bringing into a computer system any computer data of a pornographic nature, provided that such computer data is accessible by the general public;
- (5) disseminating or forwarding a computer data with the knowledge that it is a computer data under (1), (2), (3) or (4).

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<sup>89</sup> Cybersecurity Maintenance Act, B.E. 2562 (2019), <https://perma.cc/46GH-USXP>, <https://perma.cc/6A53-WPUM> (in Thai).

<sup>90</sup> Nop Chitranukroh et al., *First Fine Imposed Under Thailand's Personal Data Protection Act*, IAPP News (Nov. 7, 2022), available at <https://iapp.org/news/a/first-fine-imposed-under-thailand-s-personal-data-protection-act>.

<sup>91</sup> Computer Crime Act B.E. 2550 (2007), amended by Computer Crime Act (No. 2), B.E. 2560 (2017), <https://perma.cc/TS8N-VYDJ>.

<sup>92</sup> Formichella & Sritawat Attorneys at Law, *Computer Crime Act in Thailand - Supreme Court Application*, Lexology (July 11, 2024), <https://perma.cc/PY86-ZENV>.

<sup>93</sup> Id.

In case the offence under paragraph one (1) is not committed against the public but rather against a certain person, the offender, the disseminator or the forwarder of such computer data shall be liable to an imprisonment for a term not exceeding three years, a fine not exceeding sixty thousand Baht or both; and such offence shall be deemed a compoundable offence.

**Section 15** A service provider who cooperates, consents or supports the perpetration of the offences under Section 14 by using a computer system under his/her control, shall be liable to the same penalty as the offender under Section 14.

The Minister shall issue a Notification specifying the process of warning, as well as blocking the dissemination of such computer data and removal of such computer data from the computer system.

A service provider can prove that he/she has complied with the Notification of the Minister issued under Paragraph 2, shall not be subject to the penalty. . . .

**Section 20** In case of dissemination of computer data in the following manner, the competent official may, with the approval of the Minister, file a petition together with evidence with the court having jurisdiction requesting for an order to block the dissemination, or delete the computer data from the computer system

- (1) Computer data which constitutes an offence under this Act.
- (2) Computer data which may adversely affect the security of the Kingdom of Thailand as prescribed in Book II, Title 1 or Title 1/1 of the Criminal Code.
- (3) Computer data that constitutes a criminal offence under the law relating to intellectual property or any other laws under which such computer data in its character contrary to public order or good morals of the people of Thailand; and of which the officer under such law or the inquiry official under the Criminal Procedure Code has requested.

In the case of dissemination of computer data in the manner which is contrary to public order or good morals, the Minister, with an approval of the Computer Data Review Committee, may entrust a competent official to file a petition together with evidence with the court having jurisdiction requesting for an order to block the dissemination or to delete such computer data from the computer system. For such purpose, the provisions relating to the Computer Data Review Committee, which is empowered to proceed with the administrative procedures under the law on administrative procedure shall by implication apply to the meeting of the Computer Data Review Committee.<sup>94</sup>

A British human rights organization pointed out two concerns, among others.

- Most of the offenses do not stipulate any requirement for serious harm to occur before criminal liability attaches.

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<sup>94</sup> CCA §§ 14, 15 & 20.

- Virtually none of the offenses articulate a mens rea requirement before criminal liability attaches, requiring merely that conduct be done illegally.<sup>95</sup>

Section 14 of the CCA, quoted above, prohibits spreading false online information. The government established an anti-fake news center on November 2019. According to a news article, “Minister of Digital Economy and Society Puttipong Punnakanta broadly defined ‘fake news’ as any viral online content that misleads people or damages the country’s image. He made no distinction between non-malicious false information and deliberate disinformation.”<sup>96</sup> pRights advocates were concerned the center would be used for censorship because the center officials who are government officials would decide what is true.<sup>97</sup> According to the article, between 2014 and 2019, Thai government requests to Facebook to take down content or turn over information based on lèse-majesté law and to Google because of government criticism have increased.<sup>98</sup> Another article states, “[a]ccording to Thai Lawyers for Human Rights, more than 180 cases have been filed under the Computer Crime Act” for importing false information into the computer system between May 2020 and November 2023.<sup>99</sup> The 2022 Notification of the Ministry of Digital Economy and Society states that when a service provider or social media receives an order to suppress the dissemination and delete the online false information, the dissemination must be blocked as soon as possible, within 24 hours of receiving the complaint.<sup>100</sup> In addition, internet service providers and social media platforms must collect and keep traffic data and user data for 90 days for the government to access.<sup>101</sup>

## VI. Role of Independent Organizations in Civic Space Legal Framework

### A. National Human Rights Commission (NHRC)

The National Human Rights Commission (NHRC) was established based on the constitution and the Organic Act on National Human Rights Commission, B.E. 2560 (2017).<sup>102</sup> The NHRC “consists

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<sup>95</sup> Article 19, *Thailand: Computer Crime Act, 2017* 13 (Jan. 2017), <https://perma.cc/ZH2P-HSV6>.

<sup>96</sup> Patpicha Tanakasempipat, *Thailand Unveils ‘Anti-Fake News’ Center to Police the Internet*, Reuters (Nov. 1, 2019), available at <https://www.reuters.com/article/technology/thailand-unveils-anti-fake-news-center-to-police-the-internet-idUSKBN1XB48N/>.

<sup>97</sup> Id.

<sup>98</sup> Id.

<sup>99</sup> Tommy Walker, *Digital Rights in Thailand in ‘Free Fall’ Analysts Say*, Voice of America (Dec. 11, 2023), <https://perma.cc/ELQ3-KHY7>.

<sup>100</sup> The Notification of the Ministry of Digital Economy and Society Regarding the Notification Procedure, Suspension of Dissemination of Computer Data and Removal of Computer Data from Computer Systems B.E. 2565 (2022), cls. 7, 8, <https://perma.cc/4BT9-6D3L> (in Thai), <https://perma.cc/LV2S-Q48N> (unofficial English translation).

<sup>101</sup> CCA § 26.

<sup>102</sup> Const. § 246; Organic Act on National Human Rights Commission, B.E. 2560 (2017), <https://perma.cc/94UH-GZAJ>.

of seven commissioners appointed by the King upon the advice of the Senate from selected persons.”<sup>103</sup> Commissioners “must be politically impartial with evident integrity.”<sup>104</sup>

Among others, the NHRC has the following duties and powers:

(1) to examine and report the correct facts on violation of human rights in all cases without delay, and to suggest suitable measures or guidelines in order to prevent or redress human rights violation including the provision of remedy to the person affected by the violation of human rights to the relevant State agencies or private sector;

(2) to prepare a report on the result of evaluation of human rights situation of the country to submit to the National Assembly and the Council of Ministers, and to disseminate it to public;

(3) to render recommendation on measures or guideline for the promotion and protection of human rights to the National Assembly, the Council of Ministers and relevant agencies, including the revision of any law, rule, regulation or order to conform to the principles of human rights.<sup>105</sup>

The NHRC’s executive summary of the 2023 human rights situation criticized the Law on Public Assembly as posing “obstacles to the people in the exercise of their freedom to peaceful assembly.”<sup>106</sup> While the NHRC is politically impartial, it takes positions on issues considered by the government. For example, in October 2024, the NHRC “sent a letter to the Prime Minister expressing serious concerns about the plans for more hydropower projects to be built on the mainstream of the Mekong River.”<sup>107</sup> In December 2024, the government announced its intention to proceed with its plans.<sup>108</sup>

## B. Other Human Rights Organizations

There are 84 private human rights organizations and professional councils that have registered with the NHRC.<sup>109</sup>

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<sup>103</sup> Const § 246.

<sup>104</sup> Id.

<sup>105</sup> Id. § 247.

<sup>106</sup> NHRC, *Executive Summary of Human Rights Situation in the Years [sic] of 2023* § 1.2 (May 29, 2024), <https://perma.cc/93XR-6XRX>.

<sup>107</sup> Pai Deetes et al., *Despite Public Outcry, Thailand Appears Set to Give a Green Light to Sanakham Dam Development*, Int’l Rivers (Dec. 21, 2024) <https://perma.cc/AL3A-3FG2>.

<sup>108</sup> Id.

<sup>109</sup> NHRC, *Private Human Rights Organizations and Professional Councils Classified by Type*, <https://perma.cc/D5ST-BEZ3> (in Thai).