

FREEDOM IN THE WORLD 2017

Thailand

32
/100

NOT FREE

<u>Political Rights</u>	7/40
<u>Civil Liberties</u>	25/60

Global freedom statuses are calculated on a weighted scale. [See the methodology.](#)



Overview

Thailand is ruled by a military junta that launched a coup in 2014, claiming that it would put an end to a political crisis that had gripped the country for almost a decade. As the military government goes about remaking the political system, it has exercised unchecked powers granted through an article of the interim constitution to impose extensive restrictions on civil and political rights, and to suppress dissent.

Key Developments in 2016

- In August, voters approved a referendum on a draft constitution that would weaken political parties, strengthen unelected bodies, and entrench the military's presence in politics.
- Authorities placed severe restrictions on free expression ahead of the vote, including through the 2016 Referendum Act, which criminalized the expression of opinions "inconsistent with the truth." Over 100 people were arrested for offenses related to the referendum.
- In September, the government issued an order that halted the practice of trying civilians accused of national security, *lèse-majesté*, and certain other crimes in military courts. However, the order is not retroactive and does not cover cases that had already entered the military court system.
- Following the death of King Bhumibol Adulyadej in October, the military government intensified restrictions on speech deemed offensive to the monarchy as it worked to manage the period of transition.

Executive Summary

The National Council for Peace and Order (NCPO), the military junta that seized power in a 2014 coup, continued to impose extensive restrictions on political rights and civil liberties in 2016, including through the use of an article of the interim constitution that gives the head of the NCPO unchecked powers. Activists who express opposition to the government are monitored, summoned, arrested, and

detained on accusations of breaking a raft of laws that limit freedom of expression and assembly.

While the NCPO's road map for a return to civilian rule has shifted several times since 2014, a draft constitution was released in March 2016, and 61 percent of voters approved the draft in a national referendum held in August. The new charter aims to weaken political parties and elected representatives, strengthen unelected councils and bureaucrats, and entrench the military's presence in politics. The draft was developed without meaningful citizen input, and public discussions and debates to promote awareness and understanding of its content were not permitted. The 2016 Referendum Act banned campaigning on the charter or expressing opinions that were "inconsistent with the truth;" violations carried penalties of up to 10 years in jail. When students and other civil society activists tried to distribute flyers about the charter or advocate for voting against it, they were arrested; when academics tried to hold seminars to analyze its contents, security officials forced them to cancel the events.

The death of King Bhumibol Adulyadej in October ended a 70-year reign. His son, Crown Prince Maha Vajiralongkorn, in December accepted the invitation of the National Legislative Assembly (NLA) to succeed his late father. The junta intensified restrictions on speech deemed offensive to the monarchy as it worked to manage the period of transition.

In September, the government issued an order that halted the practice of trying civilians accused of national security and lèse-majesté crimes, and of violating NCPO orders, in military courts. However, the order is not retroactive and does not cover cases that already entered the military court system.

Political Rights

A. Electoral Process

Under the 2007 constitution that was drafted after the 2006 military coup, Thailand was governed through a bicameral parliamentary system. In late 2013, amid mass

antigovernment protests, elections were called in an attempt to end a persistent deadlock between Prime Minister Yingluck Shinawatra's Pheu Thai Party (PTP) and the opposition Democrat Party (DP) and People's Democratic Reform Committee (PDRC). Elections were held in early 2014, but protests disrupted the voting process in some constituencies, eventually prompting the Constitutional Court to call new national elections. Before the polls could take place, the Constitutional Court found Yingluck and nine cabinet members guilty of abuse of power for 2011 personnel changes that granted the post of national police chief to a relative of Yingluck's; she subsequently complied with the court's order to step down as caretaker prime minister. A military coup in May 2014 forestalled further electoral plans.

General Prayuth Chan-ocha, the army chief at the time of the coup, became both head of the NCPO and prime minister. An interim constitution promulgated by the NCPO in July 2014 created a 220-seat National Legislative Assembly (NLA)—which formally installed the prime minister and cabinet—and the 250-member National Reform Council (NRC). The NRC was designed to provide the leadership with recommendations for reform of all aspects of governance and the political process. Both the NRC and the NLA were comprised of members appointed by the NCPO, and were dominated by current and former military officers and individuals who had opposed the Yingluck government. However, the NRC was dissolved following its rejection of a draft constitution in September 2015. A National Reform Steering Assembly (NRSA) was then convened to replace it. The new body consisted of 200 members appointed by the head of the NCPO, and included academics, representatives of political parties, former members of the NRC, and a significant number of military and police members.

The effort to draft a new permanent constitution was a major component of the military's road map back to electoral democracy. Following the NRC's rejection of the first draft constitution, the military government in late 2015 appointed a new Constitutional Drafting Committee (CDC) tasked with producing another draft. The draft was developed without public comment and unveiled in March 2016, and then voted on in an August referendum.

While voting day proceeded peacefully, the period leading up to the referendum was marked by the suppression of dissent. The NLA passed the Referendum Act, which prohibited the expression of opinions and distribution of information about the charter that was “inconsistent with the truth,” and which carried a penalty of up to 10 years in prison. Authorities banned public seminars and debates on the contents of the draft constitution, and arrested those who campaigned against the charter or disseminated leaflets and booklets on the draft. Using a combination of the Referendum Act, limits on political gatherings, a 2015 law on public assemblies, and restrictions on media, authorities made over 100 arrests related to the referendum. While one regional Asian monitoring network was allowed to perform random polling station checks on election day, local civil society organizations were prohibited from conducting monitoring of the referendum process.

The turnout for the referendum was low, at roughly 55 percent of eligible voters; about 61 percent of them voted to approve the charter, paving the way, according to the junta’s timeline, for elections to be held in late 2017 after the development of various organic laws.

The charter contained features that critics across the spectrum of Thailand’s political factions claimed would weaken political parties and elected officials while strengthening unelected institutions. In the mixed-member apportionment system introduced in the charter, there will be 350 constituency seats and 150 party-list seats in the House of Representatives, the lower house of parliament, with lawmakers serving four-year terms. Citizens will cast only one vote, rather than two distinct votes, which counts for a candidate as well as for that candidate’s party for the party list seats. Experts anticipate that without separate votes for each type of seat, parties will have difficulty gaining a majority, which could lead to unstable coalition governments.

All 250 seats in the Senate, or upper house, will be appointed for the first five-year term by the junta and include six seats reserved for senior military officials. Subsequent Senates will be appointed by a selection committee whose members will be drawn from various professional groups. Unelected bodies, such as the Constitutional Court, will be strengthened to check elected governments.

The government also inserted a second question into the referendum ballot related to whether the Senate could join the lower house in appointing a prime minister; the question was approved by 58 percent of voters.

B. Political Pluralism and Participation

Since Thaksin Shinawatra, Yingluck's brother, and his Thai Rak Thai (TRT) party came to power in 2001, there have been two main political factions in Thailand's system: the DP, which is today associated with traditional elites, and the TRT and its successors (the People's Power Party and the PTP). The latter have won every election since 2001. While the actions of the NCPO have favored the interests of the DP's core supporters, leaders of both the DP and the PTP have been kept on the sidelines of the political process since the 2014 coup.

Following the coup, political parties continued to be regulated under a 2007 law. However, the NCPO enacted measures banning the formation of new political parties and prohibiting existing parties from meeting or conducting political activities, including any party-wide deliberations on the constitutional drafting process. State funding for political parties was also suspended. Following the completion of the final draft of the constitution, the CDC and Election Commission have been tasked with drafting organic laws, including one governing political parties, which are scheduled to be completed in 2017.

The sweeping scope of the military government's powers, facilitated by Article 44 of the interim constitution, continued to undermine citizens' ability to participate in the political process. Orders issued under Article 44 not only imposed restrictions on expression and assembly, but also granted the head of the NCPO absolute power beyond legislative or judicial oversight. In 2016, the NCPO used this article to remove government officials from office and fast-track various policies without public input.

The constitution approved in 2016 will institutionalize the military's influence in political processes, both through its presence in the upper house of parliament as

well as through its connections with allies placed in ostensibly independent agencies tasked with checking the powers of elected government.

Members of Thailand's ethnic and religious minority groups are poorly represented in national politics.

C. Functioning of Government

The NLA, which serves in place of an elected parliament, continued in 2016 to consider draft legislation and pass laws that were criticized for infringing on citizens' rights and for lacking public input. Additional military officials were appointed to the NLA in October, reportedly amid public concern about the new members' lack of legislative qualifications.

Corruption is widespread at all levels of Thai society. The National Anti-Corruption Commission (NACC) receives a high number of complaints each year. The NLA passed bills to establish a special court, which opened in October, to handle corruption cases in response to the backlog confronted by the NACC and the Public Anti-Corruption Commission.

A criminal negligence case that was lodged in 2015 against former prime minister Yingluck in connection with a rice-subsidy scheme was still ongoing at year's end. However, the government issued an administrative order in October imposing on her a \$1 billion fine for her role in the scheme, even before the case has been concluded.

In 2016, the NCPO had to address allegations of nepotism and cronyism against one of its members, General Preecha Chan-ocha, who is the brother of the head of the NCPO and had served as permanent secretary of the ministry of defense. Media reports in September revealed that a company owned by general's son was awarded military construction contracts by the army division where his father once held a post. General Preecha and other military officials denied that any improprieties had taken place, and the issue faded from public attention.

Civil Liberties

D. Freedom of Expression and Belief

Since taking power in 2014, the NCPO has systematically used censorship, intimidation, and legal action to suppress freedom of speech. Journalists and media outlets risk penalties for violating an NCPO ban on material that “maliciously” criticizes the government or is deemed divisive. Outlets face suspension and revocation of their operating licenses. In July 2016, the government invoked Article 44 to give legal immunity to the National Broadcasting and Telecommunications Commission (NBTC) when it imposes regulatory actions on television and radio outlets deemed to have violated national security. A proposed media regulation bill also provoked concern among Thai media associations, and six such groups in December 2016 submitted an open letter to the media reform committee saying the bill would permit interference by politicians in media outlets’ operations.

Defamation is a criminal offense, and charges are often used by politicians and companies to silence opponents, critics, and activists. Frequently paired with accusations of defamation and other offenses are charges under the 2007 Computer Crimes Act (CCA), which assigns significant prison terms for the online publication of false information deemed to endanger the public or national security, and allows the government to review the data of individual web users for a select number of preceding days. The CCA has been invoked against whistle-blowers and government critics. In a high-profile case, a British human rights activist was found guilty in September 2016 of defamation and of violating the CCA in connection with 2013 allegations that a Thai fruit wholesale company had committed labor rights violations. Additionally, three human rights advocates were accused by the Internal Security Operations Command (ISOC) in June of defamation and CCA violations for their report chronicling allegations that ISOC counterinsurgency agents had tortured people during operations in the southern part of the country in 2014 and 2015.

In December, the NLA passed amendments to the CCA that will intensify existing constraints on internet freedom. Ambiguous language related to the type of

information that could be deemed “false” or “distorted” grants authorities considerable discretion in judging whether an individual violates the law, making it vulnerable to abuse. Another component that provoked concern is the establishment of a computer data screening committee empowered to request court orders to delete content that is not illegal, but which it determines is contrary to public morals. Internet service providers will also continue to face punishment for objectionable content if they do not take action to follow government requests to remove offending information. The authorities continue to block sites that are critical of the government or deemed insulting to the monarchy.

The number of *lèse-majesté* cases, covered under Article 112 of the criminal code, has sharply increased under the NCPO. Cases have been used to target activists, scholars, students, journalists, and politicians, and accusations have also been lodged by citizens against one another. In addition to authorities’ monitoring of social media sites for such violations, this type of social surveillance has also been undertaken by citizens who, either with the backing of the government or on their own initiative, scan online postings and report them to authorities. In a 2016 case demonstrating the scope of what can be considered a *lèse-majesté* case, a student activist’s mother was accused in May of committing such an offence by acknowledging a private Facebook message that contained an alleged *lèse-majesté* violation. Authorities maintained that by replying with a single word, which Human Rights Watch characterized as a “non-committal, colloquial ‘yes’ in the Thai language,” she had failed to reject the comment.

During the sensitive period after King Bhumibol’s death in October 2016, the NCPO signaled that it would intensify restrictions on speech it deemed offensive to the monarchy. Within the first week after his death was announced, 12 cases of violations of Article 112 had already been reported to authorities. The NBTC asked internet service providers to monitor social media activity and block “inappropriate” content related to the monarchy. The companies’ failure to do so would be considered a crime. The internet service providers were also requested to issue instructions to their users on how to report violations found on messaging applications and platforms such as Facebook and YouTube. During the mourning period, there were a number of reports of citizens verbally and physically attacking individuals accused of

insulting the monarchy before police extracted the targets from the assaults and charged them with lèse-majesté violations. While the NCPO said it does not condone such attacks and encouraged the public to use legal reporting processes, the minister of justice was quoted as saying that this type of “social sanction” was useful in addressing lèse-majesté offenses. In December, a student activist became the first person to be charged under the reign of the new king for posting on Facebook a link to a controversial profile of the new monarch and an excerpt of the article.

While the 2007 constitution explicitly prohibited discrimination based on religious belief, the current interim constitution only states in general terms that rights and freedoms will be protected in line with “existing international obligations.” While there is no official state religion, speech considered insulting to Buddhism is prohibited by law. A long-running civil conflict in the south, which pits ethnic Malay Muslims against ethnic Thai Buddhists, continues to undermine citizens’ ability to practice their religions. Nevertheless, religious freedom in the majority of the country is generally respected, religious organizations operate freely, and there is no systemic or institutional discrimination based on religion. When concerns emerged over potential bias towards Buddhism in an article in the newly approved constitution, which stated that the government would promote and protect Theravada Buddhism, the head of the NCPO attempted to allay concerns by using his powers under Article 44 to issue an order clarifying that the state would protect all religions.

Academic freedom is constrained under the NCPO. University discussions and seminars on topics regarded as politically sensitive are subject to monitoring or outright cancelation by government authorities, who also require organizers to request permission to hold such events. Academics working on sensitive topics are subjected to oppressive tactics including summonses for questioning, home visits by security officials, and surveillance of their activities.

E. Associational and Organizational Rights

Prohibitions on political gatherings of five or more people continued to be enforced in 2016, and those who engaged in symbolic actions advocating for democracy and human rights and protests against military rule faced a spectrum of consequences, including being warned, fined, arrested, or charged with violating NCPO orders.

A public assembly law approved in 2015 requires protest organizers to notify the police 24 hours in advance of the event, and sets limits on where demonstrations can take place. Authorities cited the law throughout 2016 to disperse labor union rallies and various gatherings by activists.

Thailand has a vibrant civil society, but groups focused on defending human rights or freedom of expression faced restrictions. The NCPO often insisted that such activities break laws concerning political gatherings, or create “public disturbances.” When activities were allowed to move forward, authorities cautioned organizers against opposing NCPO policies ahead of time and heavily monitored the events. In 2016, restrictions contained within the Referendum Act and NCPO orders on political gatherings were invoked as reasons for canceling a number of seminars and public discussions on the draft constitution organized by universities and other civil society groups. In one notable case, authorities not only arrested the organizers of a public discussion on the charter, but also three people who identified themselves as only observers of the activity; two of them were human rights documentation officers from the legal assistance group Thai Lawyers for Human Rights.

Thai trade unions are independent and have the right to collectively bargain. However, civil servants and Thailand’s numerous temporary workers do not have the right to form unions, and less than 2 percent of the total workforce is unionized. Antiunion discrimination in the private sector is common, and legal protections for union members are weak and poorly enforced.

F. Rule of Law

Although the interim constitution grants independence to the judiciary, the military courts’ jurisdiction over certain types of civilian cases, including those related to lèse-majesté and national security offenses, effectively compromises judicial independence. Military court cases initiated during the martial-law period starting in

May 2014 feature no right to appeal, but convictions in cases tried after the revocation of martial law in April 2015 can be appealed. NCPO orders issued in 2015 under Article 44 of the interim constitution allow the detention of individuals without charge for up to seven days. The orders also expanded the authority of military officers in the area of law enforcement, permitting them to arrest, detain, and investigate crimes related to the monarchy and national security.

In September 2016, the government issued an order that halted the practice of trying civilians accused of national security and *lèse-majesté* crimes and of violating NCPO orders in military courts. However, the NCPO order is not retroactive and does not cover over 1,000 cases that have already entered the military court system. Furthermore, human rights activists contend that this move should not obscure the fact that laws criminalizing dissent, allowing arbitrary arrests, and broadening policing powers of the military remain in place.

A combination of martial law and emergency rule has been in effect for over a decade in the four southernmost provinces, where Malay Muslims form a majority and a separatist insurgency has been ongoing since the 1940s. Civilians are regularly targeted in shootings, bombings, and arson attacks, and insurgents have focused on schools and teachers as symbols of the Thai state. Counterinsurgency operations have involved the indiscriminate detention of thousands of suspected militants and sympathizers, and there are long-standing and credible reports of torture and other human rights violations, including extrajudicial killings, by both government forces and insurgents. The police and military often operate with impunity. Peace negotiations between the government and the dominant southern militant group, the National Revolutionary Front (BRN), were suspended in 2013. Although the NCPO had engaged in several rounds of informal talks in 2015 with the Mara Patani Consultative Council, a coalition of six armed groups, the official dialogue process stalled in 2016.

Other regions of the country have generally been free from terrorism or insurgencies. However, in August 2016, a series of bombings occurred across multiple provinces in the southern part of the country. The coordinated attacks differed from other attacks in that they took place in tourist cities considered to be outside the

theater of conflict. No group immediately claimed responsibility for the attacks, but security analysts noted that they shared characteristics with those conducted by southern insurgent groups. Authorities have been reluctant to confirm a connection to the insurgency.

In Thailand's north, so-called hill tribes are not fully integrated into society. Many lack formal citizenship, which renders them ineligible to vote, own land, attend state schools, or receive protection under labor laws.

Thailand is known for its tolerance of the LGBT (lesbian, gay, bisexual, and transgender) community, though societal acceptance is higher for tourists and expatriates than for nationals, and unequal treatment and stigmatization remain challenges.

Thailand has not ratified the UN convention on refugees, who risk detention as unauthorized migrants and often lack access to asylum procedures.

G. Personal Autonomy and Individual Rights

Except in areas affected by civil conflict, citizens have freedom of travel and choice of residence. Citizens also have freedom of employment and higher education. The rights to property and to establish businesses are protected by law, though in practice business activity is affected by some bureaucratic delays, and at times by the influence of security forces and organized crime.

While women have the same legal rights as men, they remain subject to economic discrimination in practice, and are vulnerable to domestic abuse, rape, and sex trafficking. Sex tourism has been a key part of the economy in some urban and resort areas.

Exploitation and trafficking of migrant workers from Myanmar, Cambodia, and Laos are serious and ongoing problems, as are child and sweatshop labor. Porous borders and government indifference, if not outright collusion, have helped to fuel migrant smuggling networks.





On Thailand

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Global Freedom Score

36/100 ● Partly Free

Internet Freedom Score

39/100 ● Not Free

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