

# Thailand - Lèse majesté under King Rama X: six observations

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**Thailand saw its first lèse majesté case under King Rama X, only two days after the king's accession. Experts argue that this case is different from cases that occurred under King Rama IX.**

Jatuphat Boonpattaraksa, also known as Pai, was the first individual to be prosecuted for *lèse majesté* under the reign of King Maha Vajiralongkorn. He was arrested on 3 December, only two days after the king's accession. He was accused of violating Article 112 of the Criminal Code for sharing on his Facebook account a controversial biography of the new king published by BBC Thai. [The BBC biography contains controversial issues and rumours about King Maha Vajiralongkorn's personal life.]

Jatuphat was granted bail the day following his arrest, but the question remains: was sharing the biography illegal? This question is compounded by the fact that almost 3,000 others have shared the article online.

Here are six observations on the first lèse majesté case under King Rama X from a team of journalists, lawyers and human rights workers. These experts have chosen not to reveal their identities.

## 1. Online witch-hunting is in decline

Online witch-hunting and vigilantism has declined drastically under the new reign.

The BBC Thai biography became the talk of the town immediately after it was published, with its 'controversial' content making many royalists unhappy. Yet while some individuals revealed on Facebook the personal details of Nopporn Wong-Anan, the editor of BBC Thai, the post has not been widely shared — in contrast to similar posts about lèse majesté suspects in the aftermath of the late King Bhumibol's death. The right-wing media have attempted to attack BBC Thai for serving foreign interests by threatening the royal institution of Thailand but the attempts have been more or less ignored.

## 2. Public panic after arrest

The arrest of Jatuphat for sharing the biography on his Facebook account caused a public panic since the post was shared by over 2,700 users. The arrest prompts the question: is sharing the post illegal? Many users have subsequently deleted the article from their timeline, as shown in the post's share count dropping by hundreds after the arrest.

It remains unclear whether users who shared the article are liable. According to a report from the police, what warranted the lèse majesté charge was actually the caption that accompanied Jatuphat's post. Yet the caption was merely the last four paragraphs of the biography — does this

mean that the biography contains illegal content?

The Ministry of Digital for Economy and Society (MDE) currently bans access to the biography from Thailand.

### **3. Violation of due process**

The investigation of Jatuphat did not follow due process. It took place in a military camp instead of at a police station. Jatuphat was barred from contacting his family or lawyers. The authorities told him they had already prepared a lawyer for him.

This form of prosecution is permissible only under martial law or when invoked by Article 44 of the Interim Charter. Thanks to his prior experience of fighting against the junta, Jatuphat knew his legal rights and insisted on seeing his lawyer until the authorities acquiesced. After meeting with his lawyers, Jatuphat rejected the allegations made against him.

Jatuphat was detained for a night at Nam Phong Police Station although the charge against him was filed at Mueang Khon Kaen Police Station. Jatuphat's lawyer asked the police why his client was detained at another station, and was confusingly told that a commander had ordered the activist be detained at Nam Phong Police Station for 'peace and order' and 'security' reasons.

Although Jatuphat has been released, authorities confiscated his cell phone and still have not returned it to him. Jatuphat has subsequently filed a charge against the officers who detained him for violating his privacy on 6 December.

### **4. Local judgement or national policy?**

Some human right lawyers have observed that this case may reflect the personal judgement of local officers more than national policy. This is because the individual who accused Jatuphat of lèse majesté was Lt Gen Phithakphol Choosri, a local military officer known for aggressively pursuing pro-democracy activists in Khon Kaen Province. Most recent charges against local student activists and academics in this region were initiated by him. Jatuphat was certainly on Phithakphol's watch list, having been charged with five offenses over the past two years.

### **5. A rare case of bail for a lèse majesté suspect**

Khon Kaen Provincial Court granted Jatuphat bail a day after his arrest with 400,000 baht as surety, an extremely rare phenomena but a potential trend. After the late King's death on 13 October, many lèse majesté cases have been reported nationwide. But most of these reports were filed not by security officers but by ordinary people displeased by (sometimes vague) messages they read online. As a result, the courts have approved bail more frequently since the King's death

### **6. Will BBC Thai be prosecuted?**

Censoring the biography raises the question of whether BBC Thai will be prosecuted. Although it would be diplomatically difficult for the junta to prosecute a media outlet directly funded by the UK government, deputy junta head Prawit Wongsuwan has said that BBC Thai will not escape prosecution if the biography is found to contain false information.

"[Publishers of] illegal and defamatory content must be prosecuted. I've told the authorities to strictly follow the law. No privilege. No discrimination. The authorities are investigating the case because there is both true and false information [in the biography]," said Prawit.

Prayut Chan-o-cha, Thailand's junta head, has also confirmed that BBC Thai can still be prosecuted, despite its foreign ownership, if it is found to have violated Thai law.

*\* Note: Prachatai apologises for reporting earlier that the BBC Thai later removed the biography of King Rama X from its Facebook page.*

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**P.S.**

\* Prachatai. Thu, 08/12/2016 - 13:44:

<http://prachatai.org/english/node/6763>