

*PROPOSED MEDIA
LICENSING LAWS*

Looking at
• Our Neighbours' Oppressive •
Licensing Regimes



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Proposed Media Licensing laws

Looking at Our Neighbours' Oppressive Licensing Regimes

The [Bill on the Protection and Promotion of Media Rights, Freedom, Ethics and Professional Standards](#), if passed, would force all journalists to be licensed and establish a media ethics council (aptly named [The National Media Profession Council](#)). This Council would have the power to penalise news outlets for violating professional standards. This bill was proposed and later, endorsed by the junta-appointed National Reform Steering Assembly (NRSA).

While the government has stated that this bill is aimed to tackle false reporting and standardize the media ethics, more than 30 media organizations, including the Thai Journalist Association, the Thai Broadcast Journalists Association, the News Broadcasting Council of Thailand, the Online News Providers Association, and the Thailand Cable TV Association, have argued that this requirement would mean that journalists would be vetted and censored by the government. This would directly interfere with the crucial role of the media in acting as the fourth estate in holding the government accountable with their policies.

The proposed media ethics committee would consist of 15 members, including four government officials from the Prime Minister's Office and Culture Ministry. Its aim is to set standardised "codes of conduct" for journalists and have the power to fine and confiscate the licenses of newspapers and broadcasters that violate them. In addition, [journalists without a license, and their company, agency, or organization, are liable for imprisonment for up to 3 years and a maximum fine of 60,000 Baht, or both](#). The role of government officials in this regulatory committee ensures that it is not independent from the state and could be used as an additional tool to censor criticism of the government.

Since proposing the bill, the NRSA has made [two changes to its content](#). The first is that journalists would be required to obtain certificates from their respective media companies, instead of requiring licenses from the government. The second change is that state representatives will serve on the proposed media ethics committee during a five-year transitional period. This bill was then endorsed by the NRSA in a vote of 141 members for, 13 against and 17 abstentions.

Potential effects – Observing our neighbours

[Air Chief Marshall Kanit Suwannate](#), the head of the NRSA Media Reform Sub-Committee which produced this bill, stated that Thailand needed to follow the media regulation laws set by Malaysia and Singapore as best practice examples. Following his statement, this article will look at how similar media licensing and registration laws in Malaysia and Singapore are used as authoritarian tools to pressure and control the media. Additionally, this article looks at the use of media licensing in 2 countries with contradictory political systems: electoral democracy and authoritarian, to see how media licensing can be used in either political system as an oppressive tool. This will give us a clearer imagination of how the provisions of this new bill can be abused in Thailand.

Malaysia: Media Groups Frequently Harassed

A central law to the Malaysian media licensing regime is the [Printing Presses and Publications Act \(PPPA\) of 1984](#). Section 2 and 3 of the PPPA requires domestic and foreign publishers to apply to the Home Affairs Ministry for a permit to print, import, or circulate newspapers, and requires a permit for the possession of a printing press. Prior to act being amended in 2012, these licenses were needed to be renewed annually and the Home Minister had unlimited, unchecked power to approve these licenses. The printing or distribution of an unlicensed newspaper can be punished by imprisonment for up to 3 years and/or fines. The Malaysian government has, in the past, withheld and cancelled licenses to pressure journalists to self-censor from criticizing the government.

The licensing regime was altered when the act was [amended in April 2012](#) to cease the yearly renewal requirement for publication licenses. In addition, the amendments to the act provided that courts have power of judicial review of the Home Minister's power in arbitrarily approving or revoking publishing permits. However, the amendments provide no criteria or standards for which the Home Minister's decision to license journalists should be reviewed.

This licensing regime has been the foundation for the government's tight control of print, television and online news media in Malaysia. The government has abused licensing laws to stifle dissent. A high-profile example of this is the [rejection of Mini Dotcom's application](#) for a license to publish a print edition of the independent news portal Malaysiakini in 2002 and 2010 without any justification. (Under the single party ruling system in Malaysia, Mini Dotcom is the owner of Malaysiakini, and the news portal is well-known for publishing anti-government reporting. The offices of the newspaper have faced raids by the police, often instigated by branches of the ruling UMNO party. In addition, due to its anti-establishment stance, it has previously been sued for defamation by politicians).

When Mini Dotcom appealed the decision to the courts, the High Court ruled that publishing permits can be denied to protect national security, public order or morality. Further, even though the High Court rejected this basis, the Ministry of Home Affairs justified its decision by describing Malaysiakini as "not neutral" and "inclined towards inciting controversy." Thus, this shows that the licensing regime in Malaysia is abused to the extent that it violates the rule of law in Malaysia.

In another high-profile case, the government initially granted a permit for the Edge Communications to publish a print version of its online news portal FZ Daily in August 2013, but a week later, [deferred that permission](#) and did not take any action regarding the permit application. After Edge Communications filed for judicial review for the deferral and the High Court allowed the challenge of the decision of the Home Affairs Ministry, the government rejected the permit application. Home Affairs Minister Datuk Seri Ahmad Zahid Hamidi justified the denial of the permit to Edge Communications and Mini Dotcom on the grounds that both independent news portals would publish “sensational and controversial” news.

The government has used threats to revoke media licenses to suppress anti-government publications. The political cartoonist Zunar, who was charged with sedition by the government, stated that [authorities threatened 3 of his publishers](#) who were printing his books to revoke their printing press licenses.

In another case, [the Ministry of Home Affairs threatened to withdraw the licenses of the newspapers The Edge Weekly and The Edge Financial Daily](#). This was in response to published reports by these news outlets about allegations of government corruption involving the state-owned investment fund 1 Malaysia Development Berhad (1MDB). The government threatened The Edge Media Group (owner of these news outlets) that it would withdraw its publishing license if its newspapers did not suspend their publications. The result of this series of threats is that the Ministry of Home Affairs suspended both newspapers for 3 months.

The harassment and subsequent suspension by the government was based on 3 grounds:

1. The headings and reporting by the two publications has “raised questions and created negative public perceptions towards the 1Malaysia Development Berhad (1MDB) and also implicated government and national leaders;”
2. The published news reports were based on “doubtful and unverified information, which might alarm public opinion and could/might be prejudicial to public order and national interest;”
3. The corruption issue involving 1MDB was under investigation, and thus it was “inappropriate for the reporting to create negative perceptions.”

The language in this justification is found in Section 7(1) of the PPPA, which empowers the Home Affairs Minister to ban or restrict publications “which is in any manner prejudicial to or likely to be prejudicial to public order, morality, security, or which is likely to alarm public opinion, or which is or is likely to be contrary to any law or is otherwise prejudicial to or is likely to be prejudicial to public interest or national interest.”

[The publisher of the Edge Media Group, Ho Kay Tat](#), has responded to the harassment and suspension by stating that he does not understand how the investigative reports conducted by his media group on exposing large-scale government corruption is perceived to disrupt public order. He views this move by the government simply as another act of censorship.

Singapore: Overwhelming Bureaucratic Restrictions

Similar to Malaysia, the [Newspaper and Printing Presses Act \(NPPA\) \(1974\)](#) requires local newspapers to renew their registration annually. It also empowers the government to limit the circulation of foreign newspapers that it determines interferes with domestic politics. The act requires foreign publication with circulation of 300 or more copies per issue that report on politics and current events in Southeast Asia to register, post a bond of S\$200,000 (\$144,000), and name a person in the country to accept legal service.

The media licensing regime in Singapore is also prominent in internet news outlets.

Under the Broadcasting Act, [the Online News Licensing Scheme \(ONLS\)](#) requires certain internet news outlets to obtain a license. This requirement applies to outlets that publish on average at least one article per week over a two-month period that relates to domestic issues and receives at least 50,000 monthly site visits over a two-month period from the addresses of Singapore-based internet providers.

The license requires these sites to submit a bond of S\$50,000 (\$36,000) and to adhere to additional requirements to remove prohibited content within 24 hours of notification from the Info-Communications Media Development Authority (IMDA). The government also required news outlets to show that it receives no foreign funding.

These strict registration restrictions led to the [independent Breakfast Network news website](#) to shut down. In another high-profile case, [IMDA suspended the operating license of the news portal The Real Singapore](#) (and charged its co-editors with seven counts of sedition) for publishing articles that authorities claimed has a “tendency to promote feelings of ill-will and hostility between different groups of people in Singapore.” The articles included [quoting a Member of Parliament commenting on the haze problem in Singapore](#) (to which the MP stated she was falsely quoted). In addition, [the newspaper published a report by the States Times about a Singaporean teenager found guilty of growing cannabis at his home](#) (which was accused of having the false headline of “Indian national grew two pots of cannabis at Yishun home after learning it online.”). The newspaper was also accused of [targeting Filipino and Chinese nationals](#) in Singapore.

Myanmar: The Ghost of the Old Junta Haunts the Country

The Burmese counterpart to the Thai proposed law on media registration is the [2014 Printing and Publishing Law of Myanmar](#), which replaced the 1962 Printers and Publishers Registration Law. While the 1962 law (which was drafted and implemented when Myanmar was a military dictatorship) provided the legal basis for extensive censorship by the junta over the media, the new law does not contain provisions for outright censorship. In addition, the main oversight body over media groups is not the government, but the courts. Thus, it could be argued, in some circles, that the 2014 law represents a step forward for media freedom in Myanmar.

However, there are some drawbacks, which will sound familiar by the end of this section.

Article 4 of this law states that printers and publishers who wish to operate in the media industry, and organisations that intend to establish a news agency must apply for an “acknowledgement” from the Ministry of Information.

Once the registration process has been completed, the Ministry of Information shall issue business certificates for a specified length of time. This is where the threat of censorship comes in: these “certificates” could be withdrawn or temporarily suspended if the Ministry ascertains that false information was provided by the media organisation at the time of the application.

According to Article 15 and 16 of the law, printing, publishing or operating a media outlet without a certificate from the Ministry of Information, or while the ‘certificate’ is suspended, is an offence that carries a punishment by a fine of up to 5 million Kyats.

It is particularly striking that within the same law, there are provisions of censorship for content that, among other articles prohibiting ethnic-related hate speech and incitement to crime and terrorism, “endangers national security, the rule of law, public order or the rights of citizens, such as equality and freedom”.

In addition, the Ministry of Information placed itself at the centre as an institution that controls information through Article 11(a) of the law. This law states that any persons who import or export publications must submit a form to the Ministry which lists the names and quantities of publications. Article 11(b) provides further restrictions as it states that a copy of the publication being “imported” or “exported” to be sent to the Ministry for “registration and copyright procedures”.

It is no coincidence that private media groups such as The Voice, Myanmar Post, People Era Weekly, The Irrawaddy, Democracy Today, and the now-defunct Unity Weekly were [visited and interrogated by special branch police](#) about their funding and financial operations after the passing of this law. The proliferation of media groups that produced reporting critical of the government such as those listed after the lifting of media censorship as part of former President Thein Sein’s reforms were hailed as a success story of Myanmar’s democratic transition. However, the remains of the old junta still haunts Myanmar through avenues where the government is able to control the flow of information.

Vietnam: Total Control

The two main laws which govern local media regulation is the [Press Law and the Publication Law](#). For local press agencies, press activity permits are required to broadcast, print, or publish media content. If press organizations wish to publish or broadcast programs that are not prescribed in the press activity permit, they must obtain permission from the Ministry of Information Communications (MIC). Foreign press, on the other hand, must obtain written approval from the Ministry of Foreign Affairs, or the MIC. The publication of news and press announcements also require mandatory licenses from the MIC.

The Publication Law requires publishing companies to register their publication plans for each year and these plans must be certified by the MIC. For online publications, the publisher must register the publication plan with the Publication Authority.

Thus, as observed in the case of Vietnam, the control of the state over media and any publication is total and sweeping. The government is able to use these avenues to threaten the shutdown of media agencies. This could be a reason why activism is usually expressed in the blogosphere and social media.

The Existing Arsenal of Media Repression in Thailand

The new media licensing laws adds to the [arsenal of repressive instruments](#) available to the military government to censor and harass journalists. The main executive tool that the government uses to censor the media is a series of decrees. Chief among these is [NCPO Announcement 97/2014](#), which criminalizes any “criticism of the work of the NCPO” and the dissemination of “information that could harm national security, cause confusion, or incite conflict or divisions in the country.” In line with this decree, all media outlets are forced to distribute information issues by the NCPO.

The unacceptable restrictions under Announcement 97/2014 was amended by [NCPO Announcement 103/2014](#). The criteria then was adjusted to ban any publication that contains information which is considered to “intentionally distorted to cause public misunderstanding that affects national security or public order.” To enforce this decree, the junta has used the National Broadcasting and Telecommunications Commission (NBTC) to [suspend](#) the broadcast of TV and radio programs. Even though a clause in Announcement 103/2014 allows for ‘honest’ and ‘constructive’ criticism of the junta, the junta has used its broad and sweeping executive privilege to arbitrarily punish broadcast media.

In 2015, Peace TV was suspended for airing programs such as Mong Kai Khid Rob Dan (Having Wordly Visions), Doen Na To Pai (Keep Walking Ahead), Khaojai Trong Kan Na (We Share the Same Understanding) while TV 24 was suspended for airing Awakened, News Room and Clear. These two stations are affiliated with the anti-junta United Front for Democracy Against Dictatorship (UDD) group.

Most recently, for the first time, the [NBTC has suspended Voice TV's broadcasting license](#) for seven days due to [four programmes](#) that it aired:

1. programs covering the [junta's operations at Wat Dhammakaya](#),
2. a report by the "In Her View" programme on the circumstances of [the case of the red-shirt fugitive Wuttipong Kottammakhun](#) (alias Ko Tee) who displayed a weapon and made an assassination announcement,
3. the [extrajudicial killing of a teenage ethnic Lahu activist](#),
4. Veera Somkwankid's opinion piece that alleges that [police are involved in a controversial construction of the Ta Phraya casino](#) located in the disputed Thai-Cambodian border.

In addition, the junta has forced broadcast media stations to sign memorandum of understandings (MOU) to ensure that it would be cautious over the airing of critical reports against the junta.

Thus, the Thai public has already been a victim of the current oppressive censorship laws on journalism through arbitrary and sweeping executive decrees. The addition of media licensing laws to these instruments of censorship will only contribute to an environment where critical, important publications that have great social value in exposing government excesses are blocked and where increased self-censorship are practiced by journalists who are afraid of their licenses being revoked. The examples of our regional neighbours are proof of these effects.

Summary

Country	Law(s)	Description
Malaysia	Printing Presses and Publications Act (1984) (amended 2012)	Requires domestic and foreign publishers to apply to the Home Affairs Ministry for a permit to print, import, or circulate newspapers, and requires a permit for the possession of a printing press.
Singapore	Newspaper and Printing Presses Act (1974), Broadcasting Act (1994) (amended 2012)	Requires local newspapers to renew their registration annually. It also empowers the government to limit the circulation of foreign newspapers that it determines interferes with domestic politics.
Myanmar	Printing and Publishing Law (2014)	Media groups must apply for an "acknowledgement" from the Ministry of Information.
Vietnam	Press Law (1989) (amended 1999)	For local press agencies, press activity permits are required to broadcast, print, or publish media content. Foreign press must obtain written approval from the Ministry of Foreign Affairs, or the MIC.

Of broken promises and false claims: The Unique Case of the Indonesian Media Licensing Regime Suppressing Expressions of Regional Autonomy in Papua and West Papua



On March 19, 2017, two French journalists working in the easternmost Indonesian province of West Papua, were deported and banned from entering country for 6 months. Jesaya Samuel Enock, head of the local Immigration Office, stated that Jean Frank Pierre and Basille Marie Longhamp had not obtained reporting permits. This is despite, as Enock also acknowledged, that the journalists already possessed a permit from the Indonesian Tourism Ministry and that their activities were sponsored by Garuda Airways to conduct investigative journalism in Indonesia. This case has been the third time that groups of French journalists have been deported and banned from reporting on the restive Indonesian province.

On January 8, 2015, the Indonesian Embassy in Bangkok informed France 24 TV correspondent Cyril Payen that it had denied his application for a journalist's visa for a reporting trip to Papua. The denial was apparently due to Payen's previous reporting on pro-independence sentiments in the region, to which the Indonesian Ministry of Foreign Affairs branded it as "biased and unbalanced".

These restrictions and harassment of journalists reporting in the provinces of Papua and West Papua (hereafter, referred to as Papua) have been a constant theme in modern Indonesian history. Despite Indonesian President Joko Widodo's declaration on May 10, 2015, that the government would immediately remove restrictions on foreign journalists in reporting from Papua, those same restrictions have continued to be part of Indonesia's repression toward the province. These restrictions are fuelled by government suspicion about the motivations of foreign nationals working in a region that contains voices and movements calling for greater autonomy and self-government, and in some quarters, full independence.

Background to Repression

The provinces of Papua and West Papua is in the easternmost part of Indonesia. The region has considerable internal diversity, with more than 300 ethno-linguistic groups. After the fall of the authoritarian Suharto regime in 1997, the growing “pan-Papuan” identity manifested in demands for greater autonomy and in some sections, independence. The Indonesian government has responded harshly by criminalising and censoring any expressions for local autonomy and/or independence. In addition, the Indonesian government has maintained an active military presence in the region.

When the Netherlands transferred sovereignty to its liberated former colony Indonesia in 1949, the Dutch government refused to relinquish the territory of Papua, then known as West New Guinea. Dutch officials then argued that the populace were racially and ethnically different from the rest of Indonesia. They also argued that the state of Papua required the maintenance of Dutch control to better prepare the region for its self-determination. However, the Sukarno government of Indonesia opposed any moves by the Dutch that it viewed as the practice of colonialism.

After skirmishes between the Dutch and Indonesian militaries, the dispute was resolved with the US-mediated New York Agreement in 1962. This agreement transferred responsibility for the territory to Indonesia after an interim transitional rule by the UN. A significant point in this agreement was that the will of the Papuans on their future political status would be determined under UN supervision.

After a coup by General Suharto, the new Indonesian government announced that it planned to uphold its obligations in the New York Agreement. They intended to hold a referendum for the Papuans. However, the referendum was not open to the public, instead, the 1022 voters were delegates and community leaders who were handpicked by the government and threatened to vote to remain in Indonesia. Unsurprisingly, the results of the referendum were unanimous to remain in Indonesia. While Western governments controversially accepted the results.

A main grievance expressed by the Papuan populace over Suharto’s New Order rule is that the Indonesian government’s national transmigration policy led to the migration of hundreds of thousands of new migrants from other regions into Papua. This dramatically changed the demography of the Papua. This policy was opposed by local Papuan communities because its local system of land ownership conflicted with the Indonesian government’s system. In addition, the benefits from the development of the resource extraction industry did not spread evenly to the rest of the Papuan population. The military had an active presence in the region, resulting in widespread torture, arbitrary detention, rape and extrajudicial killings. This long list of grievances led to the formation of the Free Papua Movement (Organisasi Papua Merdeka, OPM), which frequently attacked resource extraction projects in Papua.

The collapse of the Suharto regime in May 1998 led to a change in the political environment in Papua. New President B.J. Habibie lifted repressive political control, which included relaxing control over the media, freeing political prisoners and reducing the military’s security presence. However, the Indonesian government (led by Abdurrahman Wahid) quickly closed down this democratic space. They prosecuted pro-independence leaders for subversion (over ceremonies involving the raising of a Papuan flag), [massacred 30 Papuans in a violent clash between security forces and local Papuans](#), and the [murder of a prominent Papuan pro-independence leader by special forces](#).

This persecution has continued throughout the presidency of Susilo Bambang Yudhoyono as the freedom to peacefully express Papuan nationalism is criminalised. Many local Papuan activists have been incarcerated

as political prisoners, while surveillance, censorship and intimidation tactics are actively used to silence Papuan activists. Article 6 of Government Regulation No. 77 (2007) prohibits the use of any flag or logo used by Papuan separatist movements. [Papuan activist leaders Filep Karma and Yusak Pakage were sentenced to 15 and 10 years in prison](#) respectively for organising peaceful pro-independence celebrations and for flying the Papuan Morning Star flag (image above).

Despite President Jokowi's commitment to reform, his promises have failed to materialise, especially with regard to lifting access restrictions on foreign media reporting in Papua.

Access Restrictions and Harassment of Foreign Journalists

[Before reforms were introduced by President Jokowi in 2015, Indonesia required that all Indonesia-based foreign correspondents seeking to conduct media reporting from Papua apply for a permit and be vetted in a "clearing house" process managed by the Ministry of Foreign Affairs.](#) Human Rights Watch reports that the process had been in effect since the Suharto regime, at least for 25 years.

The clearing house was an interagency committee of 18 working units from 12 ministries, and included representatives from agencies and ministries such as the National Police, the State Intelligence Agency (Badan Intelijen Negara, BIN) and military intelligence (Badan Intelijen Strategis, BAIS). The purported aim of the "clearing house" is national security. This is in line with Indonesian immigration laws which empowers the foreign ministry to prohibit foreign citizens from travelling to certain areas. The approval of a permit by this "clearing house" requires the approval of the Department of Foreign Affairs, BIN and the Indonesian police.

The application process from the clearing house required journalists seeking to travel to Papua to provide an extremely detailed account of their reporting plans. Former Australian correspondent Siam Powell stated that this requirement was intended to make it difficult for foreign correspondents to conduct reporting from Papua. In addition, reporting on "political and human rights issues" in Papua is banned. When journalists are granted permits to work in Papua, they are typically warned not to report on any issue relating to Papuan separatism. When permits are granted, journalists are also prohibited from visiting certain places in Papua, usually with no justification. The process of approving permits in the "clearing house" is often slow and not transparent. No justification is provided for applications that are delayed or rejected.

These restrictions on foreign media can be traced back to the presidency of Sukarno, who made it a mandatory requirement for all foreign media correspondents to acquire journalist visas before travelling to Indonesia. At the time, journalists were typically denied entry into Papua. Sukarno was known to have accused foreign journalists as being biased in their reporting of Papua, similar to the accusations levied at Cyril Payen 52 years later. In the same breadth, Indonesian officials were particularly wary of the intentions of Australian journalists reporting from Papua, with former Indonesian Foreign Minister Ali Alatas accusing the Australian media as favouring Papuan independence in their reporting of the region in the 1960s.

During Suharto's New Order regime, visas for foreign correspondents excluded any entry into the "outer regions" of Indonesia. Journalists are required to obtain a travel document (surat jalan) from a high-ranking government official or the Ministry of Information. It was during Suharto's government that the clearing house to vet journalists was established.

Under the regime of President Susilo Bambang Yudhoyono during 2004-2014, the restrictions for access to Papua and Aceh were made stricter. Under his regime, Minister of Defense, have justified such restrictions by stating that media reporting could be "used as a platform" by Papuans to publicise alleged abuses.

Current President Jokowi committed to completely lifting the restrictions on foreign media access to Papua. However, he has not provided any details of reform. While officials from the Ministry of Foreign Affairs have reported that the “clearing house” has been abolished, foreign journalists entering Papua are still screened for accreditation to report from Indonesia based on the requirements of Article 8 of the Indonesia’s Immigration Law. Journalists have still reported that they are still required to apply for permits to access Papua.

Moreover, his key ministers have at various times, even contradicted Jokowi’s commitment to reform. Then Coordinating Minister for Political, Legal and Security Affairs, Tedjo Edhy Purdijatno, National Police Spokesman and Senior Commander Agus Rianto, and commander of the Indonesian Armed Forces, General Moeldoko continued to assert that foreign correspondents would continue to require special access permits to Papua and that the government would continue to vet foreign journalists applying for access. Then Minister of Defense Ryamizard Ryacudu warned foreign journalists that access to Papua was conditional on an obligation to produce “good reports”.

The crucial factor that has allowed such non-compliance from key officials, ministries, and security forces has been the absence of an official presidential instruction. Key ministries have not just stopped at non-compliance, but have Jokowi’s reforms have even faced push back. This is exemplified by the announcement by the Ministry of Home Affairs of a new and even more restrictive regulation. This new law requires foreign journalists to obtain permission from local authorities and BIN before conducting any reporting from any region in the country. Thankfully, the new restrictions just lasted a day as President Jokowi revoked the rule. However, we should be wary of the political climate in Indonesia that favours media restriction measures.

Source picture: [AK Rockefeller](#)