

Report of community radio intervention during political conflict situation

Where thinking differently is a crime

Thailand



Investigation made by Suthep wilailert // Campaign for Popular Media Reform (CPMR) // 19.09.2010



This is deemed as a danger sign since the government that often claims democracy sees the people's expression of opposition as a crime.

The Declaration of the State of Emergency in Thailand by the Prime Minister on April 7, 2010 was broadcast live on every state radio and television station nationwide. The polite statements were addressed with the aim to control the political conflict situation that occurred during his government with tens of thousands of people demonstrating in Bangkok's Central Business District. Nevertheless, such declaration became the command for government officials, both military and civilian, to take action against political opinion that differs from the Government. As an example, since the State of Emergency was declared, more than 47 community radio stations, both within and outside the areas under the State of Emergency, have been shutdown and 49 related persons issued with an arrest warrant. This is deemed as a danger sign since the government that often claims democracy sees the people's expression of opposition as a

crime.

The Campaign for Popular Media Reform (CPMR) under the Community Radio Watch project has followed up cases of community radio stations being shutdown and the arrest of related persons. We have been visiting the areas to interview the operators of the community radio stations being shutdown and 19 related persons who are imprisoned. We also have monitored the movement and operations of government officials in both Bangkok and the regions. The report of the Community Radio Watch under the political conflict situation is an attempt to indicate the process and pattern of communication blocking, as well as the control of people's political opinion, being expressed through 'Community radio', under the State of Emergency declaration according to the Emergency Decree on Government Administration during States of Emergency B.E. 2548 (2005).

Before the “People’s Voice” became detrimental to national security....

The political conflict in Thailand that has endured for over four years between the government and anti-government parties has pushed some people to choose to support the demonstrating party that reflects their political view and goals. Each party has used every political opportunity to fight against each other until the conflict expanded widely. Laws and policies were used to build the advantage of the party that holds state power regardless of the rights and freedoms of citizens and human rights violations.

Before the declaration of the State of Emergency due to the gathering of the National United Front of Democracy Against Dictatorship (UDD) between January - March 2010, the Thai government, lead by the Democrat Party, had made various efforts to block the “Voice of the people” opposed to the government. The signal was given to independent organizations to control critics against the government through community radio in many areas. The government also alleged that community radio stations that criticized the government were political tools of the opposition. Additionally the arrest and prosecution of community radio station operators in some provinces was undertaken.

As a result from these efforts the Radio and Television Broadcasting Subcommittee under the National Telecommunications Commission (NTC), which is temporarily responsible for licensing and supervising Community radio, warned more than six thousand community radio operators countrywide not to present content that violates the terms and conditions of the trial broadcasting permission i.e. Community radio during the licensing procedure *shall not broadcast content that undermines the Constitutional Monarchy or affects State*

security, public order, or morality. Written warning notices were issued to the persons in charge of each station three times consecutively in a short period of time.

At the same time, government representatives continuously disseminated news attacking community radio and other opposition media. The news said that the opposition supporters used the media to distort the facts, to incite agitation and dissent as well as create conflicts that eventually led to the violent measures taken. However, it is noticeable that no government official was charged regarding the content detail or the allegations of personal privacy violations at all.

On the other hand, the government has asked some community radio operators in some provinces to receive and broadcast programs and news from Radio Thailand, which is a state agency, by stating that it is in response to the government’s policy aiming to publicize news and information during the situation that could lead to disorder and chaos and affect national security. A letter asking for such cooperation was sent to the persons in charge of community radio stations directly

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in the name the relevant provincial Governor.

Therefore, the initial work of the government before declaring the State of Emergency was to minimize criticism by opponents while increasing the voice of the government’s supporters. It was also a means to prepare people to accept the subsequent measures by using the ‘State Security’ issue to communicate and create general public awareness that the society was confronted with danger, instability and insecurity and to

remind people that the government has the legal right to exercise the power to conduct any action that will restore peace to the country.

Therefore it was not beyond expectation that the deprivation of some rights occurred, especially the control or blocking of opinions or views that are perilous according to the government. Even if the public should accept that it is lawful media intervention.

Community Radio in Thailand was born under the principles of Article 40 of the Constitution B.E. 2540 (1997) states that transmission frequencies for radio or television broadcasting and radio telecommunication are national communication resources for the public interest, which is an important objective for media reform, that wants to distribute ownership of transmission frequencies and communication rights from the state to the people. Thus the movement of the civil society sector shall create a learning process and fair access for the right to communicate.

The first community radio station was set up in Kanchanaburi province in 2001 and expanded to 145 stations across the country in the following year. However, during that time there was no independent broadcasting regulatory organization responsible for supervising and licensing. Therefore community radio at that time was facing problems of arrest and prosecution as well as shutting down of stations. Community radio was regarded as illegal radio because it was operated without supporting legislation.

Because of such cases, the Cabinet of Ministers came to the resolution (Cabinet resolution) on 16 July 2002 and appointed the Office of the Permanent Secretary, Prime Minister’s Office (OPM), to prepare temporary guidelines for control of transmission frequencies by community radio. In the next year, the resolution on 24 June 2003 appointed the Public Relations Department as the responsible agency. In 2004, a division of the National Broadcasting Commission , an agency under the Public Relations Department, passed a resolution to allow community radio to earn money from advertising for no longer than six minutes per hour. As a result, the number of small radio stations increased rapidly.

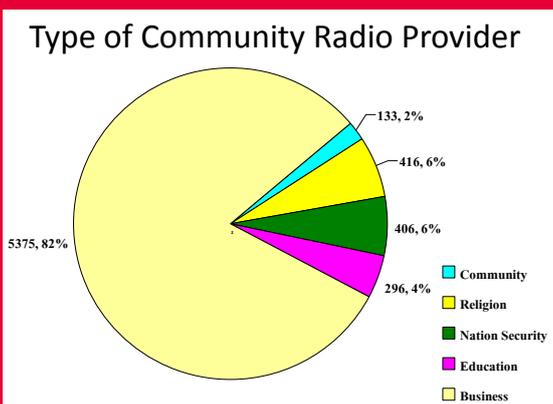
Within the first three months, there were more than 2,000 small commercial radio stations. It was anticipated that the amount of money from the buy-sale of radio transmitters for setting up community radio stations at that time was more than 2,000-3,000 million baht.

The enforcement (5 March 2008) of the Radio and Television Broadcasting Business Act B.E. 2551 (2008) had the intention to provide a mechanism to supervise community radio while there was no National Broadcasting Commission. It was specified in the Transitory Provisions, Sections 78 and 79, that the National Telecommunications Commission or NTC will be responsible for determining temporary license issuance not exceeding one year to a community radio station and the Radio and Television Broadcasting Subcommittee was appointed to work jointly.

When the NTC announced the Principles, Criteria, and Procedures for Issuing Temporary Licenses for Community Services (Community Radio) enforced on 25 July 2009, which requires all types of small radio operation, to apply for their intention to operate a community radio or register on behalf of community radio in order that the NTC will be able to thoroughly supervise all community radio stations. The registered stations will receive a 300-day trial broadcast period and in the meantime stations operating according to the Principe shall apply for a license with the NTC.

At present, there are 6,629 “Community radio stations” registered with NTC and with the right to trial broadcasting. 400-500 of them have applied for a license but up to now the NTC is unable to confirm a license to even one community radio station. Therefore the trial broadcast period was extended for another 300 days. However, there are 1,080 illegal community radio stations that broadcast without being within the licensing process.

Under the State of Emergency declaration by which the government wants to control the content of all small radio stations, the community radio licensing process has been used as a tool to control the “voice” of government critics that could come from anywhere in Thailand.



Shutdown of 47 community radio stations and 49 prosecutions

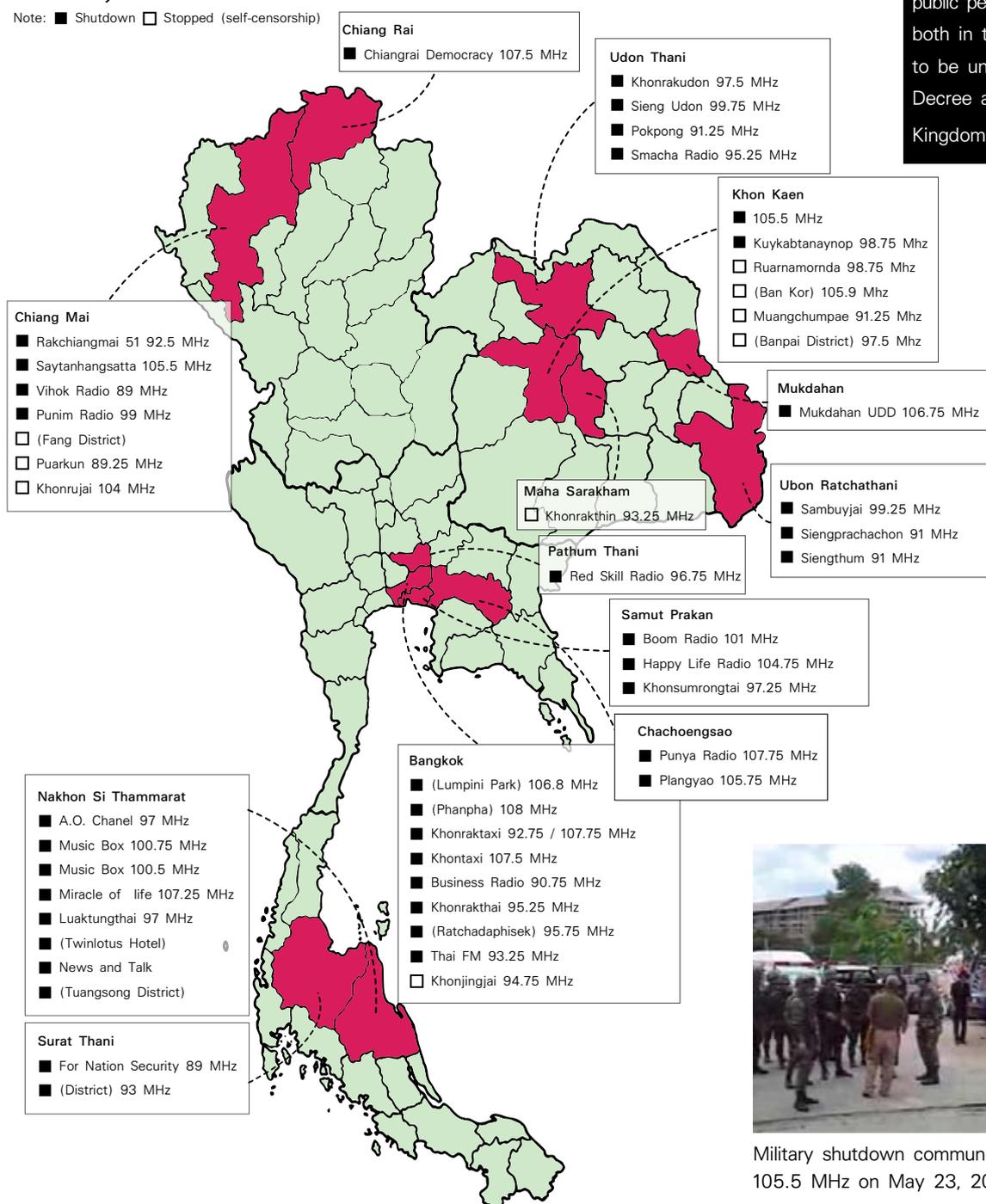
Since 7 April 2010, the Prime Minister of Thailand declared a State of Emergency in 24 provinces and transferred the law enforcement authority from the Minister responsible to himself for 18 laws as well as the authority to command or direct government agencies or related government services. There are two communication-related

laws under the authority of the Prime Minister or the established Centre for the Resolution of the Emergency Situation (CRES) i.e. The Radio Communications Act, B.E. 2498 (1955) and the Computer-related Crime Act B.E. 2550 (2007), including regulations pursuant to the Emergency Decree on Government Administration in States of

Emergency Decree on Government Administration during States of Emergency B.E. 2548 (2005). Article 9 (3) prohibits news presentations, sales, and distributions of books, printed matter, or any other media with text that may cause public fear or distorts the facts and news leading to misunderstanding of the emergency situation and affecting national security or public peace and good morals, both in the areas declared to be under the Emergency Decree and throughout the Kingdom.

Community List to Shutdown

Note: ■ Shutdown □ Stopped (self-censorship)



Military shutdown community radio stations 105.5 MHz on May 23, 2010

Although most stations are involved in the community radio licensing process and have the protection of broadcasting rights from the NTC, it cannot be claimed to protect them from being arrested and shut down.

Emergency B.E. 2548 (2005) Section 9 (3), that authorizes the power to control news and information.

Within four months (April 7 to August 7 2010) under the State of Emergency declaration, more than 47 community radio stations in 13 provinces were shutdown and 49 involved persons were arrested and subject to legal proceedings. All the shutdown community radio stations were in the list of stations to be examined for content presentation by the relevant government agency before they were investigated and raided. Their broadcasting equipment was seized and the involved persons were charged with violating the provisions of the Radio Communications Act B.E. 2498 (1955) with respect to a radio communication transmitter and setting up a radio station. Although most stations are involved in the community radio licensing process and have the protection of broadcasting rights from the NTC, it cannot

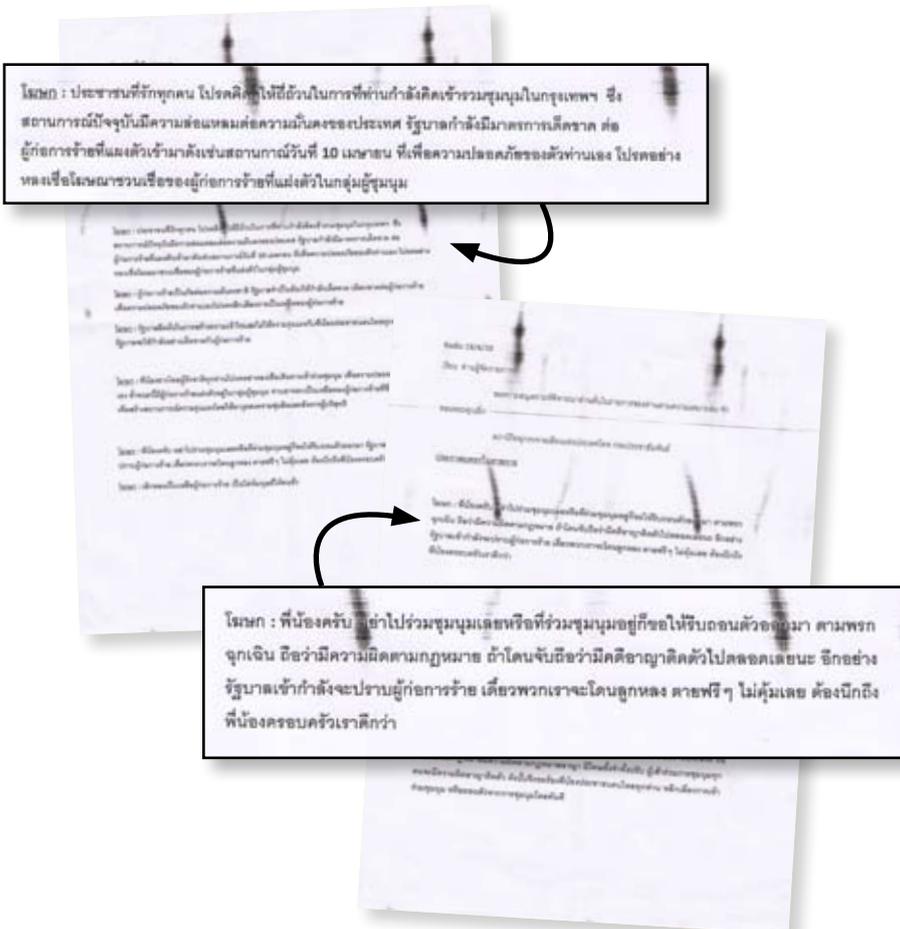
be claimed to protect them from being arrested and shut down.

Therefore, the shutdown of every community radio station under the State of Emergency is aiming to shutdown community radio stations that present contrary political content and criticize the government. The allegation made for arresting operators and seizing broadcasting equipment was the possession and use of a radio transmitter and the setting up of a radio station without a license pursuant to the provision of the Radio Communications Act B.E. 2498 (1955).

Signal from the National Security Agency

A week after the State of Emergency was declared, the Centre for the Resolution of the Emergency Situation (CRES), together with government representatives, called all media channels to a meeting to listen to the exposition of the situation and the Government's policy, at the 11th Infantry Regiment HQ. Those called were the operators and concessionaires of mainstream television and radio, Internet service providers, The Thailand Cable TV Association, The Thai Local Radio Vocation Association, The Federation of National Community Radio and the media. The government representatives and CRES explained that the gathering of UDD demonstrators was illegal and the situation was severe and that the threat level had escalated to terror and requested all media channels to stop reporting news from opposition demonstrations. In this regard the government was able to exercise its authority to close stations. It also assigned the NTC to monitor and list community radio stations, cable TV operators, and websites that present news and content from UDD demonstrations.

In the same week, CRES also called around hundred community radio station representatives in Bangkok and nearby provinces that are under the declaration of the State of Emergency to listen to the same exposition as well as asking them to present



The publication from Public Relations Department asking Community Radios for Cooperation to broadcast the message.

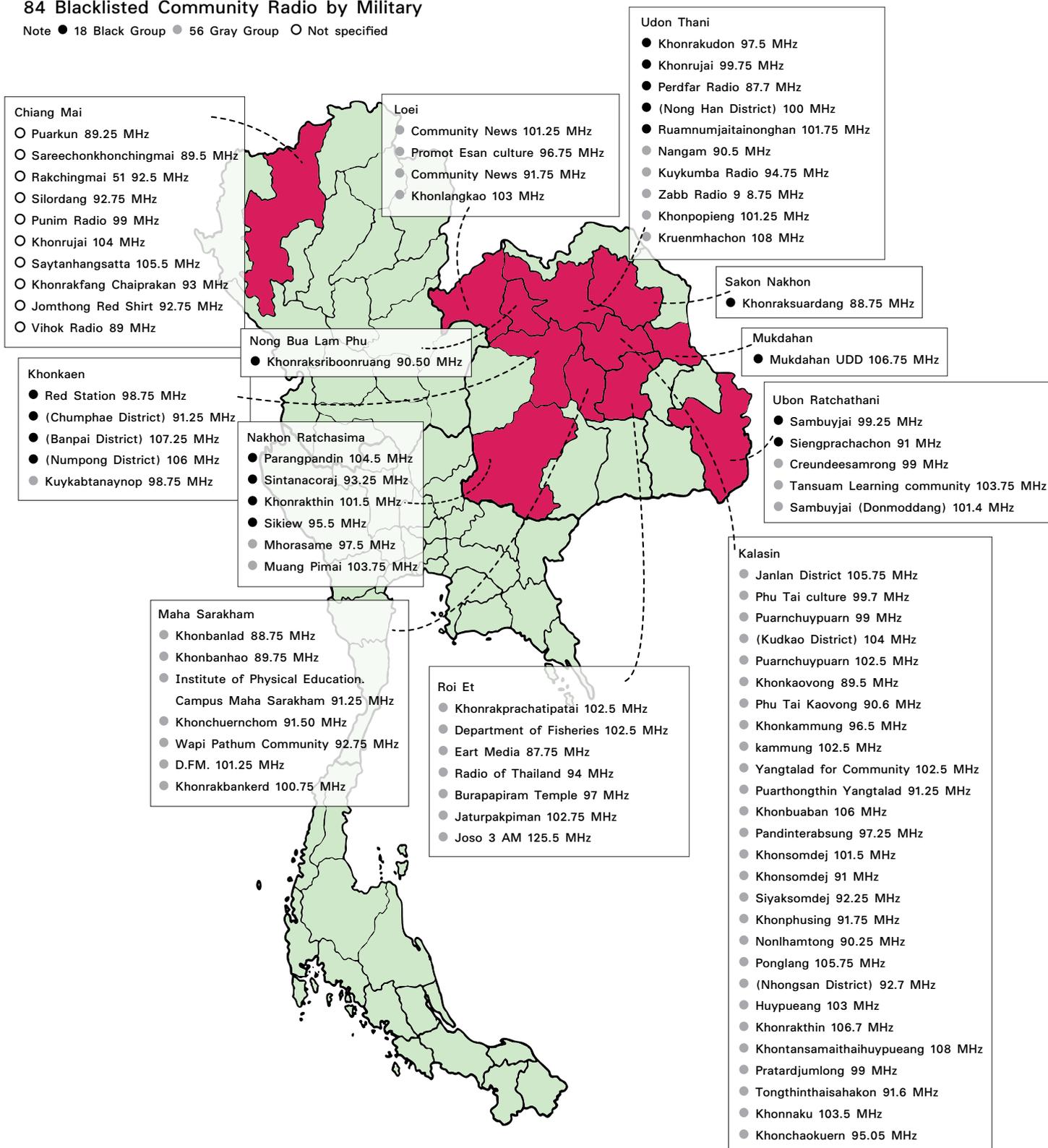
creative content and broadcast radio messages from the Public Relations Department and handed them government statements to read on air.

In addition to calling the central region's community radio representatives to listen to the government's direction, at

regional level community radio station leaders in the provinces under the State of Emergency were also called to listen to the same exposition by local national security agencies, for example in Chiangmai, the operation was led by the Chiangmai Governor, the Chiangmai Infantry Battalion and the

84 Blacklisted Community Radio by Military

Note ● 18 Black Group ● 56 Gray Group ○ Not specified



"In normal practice under normal circumstances, we will carefully examine the evidence and if it's beyond a warning step, then we need to propose the case to the NTC to suspend or revoke a station's license. However, under the State of Emergency, in the eyes of CRES, it may seem that our measures are not strong enough to rectify the situation. For the operation, CRES will coordinate with the NTC and ask for cooperation. The NTC's Secretariat is the responsible body, but in practice, an officer will be assigned to act on their behalf".



Dr. Surat Metheekul, Chairman of the Community Radio Working Group Seminar: Shutdown of community radio stations under the Emergency Decree

Director of the NTC, Region 9.

Moreover, it is anticipated that an order was given directly to local police in some demonstration areas to control the situation at a local level. The police station in the outer district of Chiangmai requested more than ten community radio station representatives within its control area to sign a Memorandum of Agreement prepared by the senior police officer to control the presentation of content.

Detect the Government's critics.

The monitoring by officials of any critical content broadcast against the government occurred prior to the declaration of the State of Emergency. The local national security agencies monitored the broadcasting content of community radio stations and reported directly to the government. After the State of Emergency declaration, CRES called the relevant agencies in all regions for

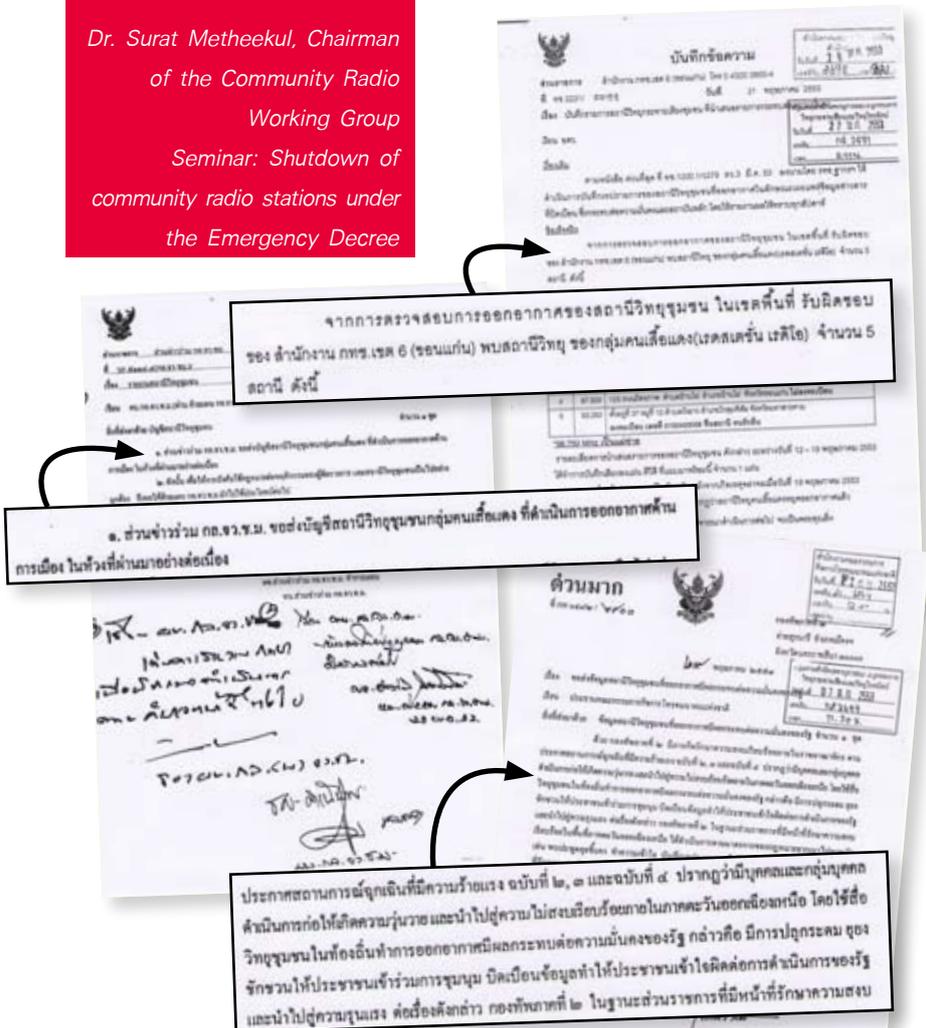
discussions and ordered them to establish a more systematic monitoring operation to examine which community radio stations were within the scope of criminal behavior during the State of Emergency. The community radio broadcasting content monitoring agencies are soldiers, policemen, and local administrative officers, including the relevant regional offices of the NTC.

Therefore the local community radio monitoring agencies were responsible for considering what content was against the State of Emergency declaration, or which stations were aiming to disseminate news and information that may cause public panic or intentionally distort the information that might create an adverse impact on state security, public order, or public morality. Later, lists of community radio stations were prepared and proposed to the NTC for revoking their licenses as follows;

- Chiangmai Infantry Battalion, 33rd Military Circle, Chiangmai province, submitted a list of 10 community radio stations in Chiangmai for revoking the license (25 May 2010).
- The Second Army Area, Suranaree Camp, Nakhon Ratchasima province, submitted a list of 74 community radio stations in the Northeast region for licensing consideration (29 May 2010).

The list of community radio stations in both reports were divided into two groups i.e. Black lists and Grey lists. The Black list is community radio stations identified as broadcasting live from the opposition demonstration and presenting content that fomented people to join the demonstration. The Grey list is community radio stations identified as inciting people and distorting news and information. In addition, there were reports from various agencies particularly identified as monitoring the opposition demonstrations.

However, monitoring the broadcasting content of community radio stations was



Official letters between Security Units and NTC to monitor on Red Shirt movement.

only a step as the shutting down of almost all community radio stations listed in the reports occurred before the NTC or the Radio and Television Broadcasting Subcommittee had considered the matter or taken any action. Thus most of the listed community radio stations were shutdown during the period from when the CRES assumed the authority to control the situation and suppress the protesters until the time when the protesters returned home, which was during the 19-28 May 2010.

Use of military force and weapons of war for seizing and destroying

Upon following up various cases of community radio station raids and confiscation, it was found that a force of 50 to 500 armed soldiers and policemen were used. Weapons of war were used such as M16 rifles, HK guns, long shotguns, bulletproof vests, etc. The agencies responsible for each area were in charge of the operations, such as the military from the 22nd Military Circle, Kawila Camp, Krit Siwara Camp, the Internal

Security Operations Command (ISOC), the Police Crime Suppression Division, the Riot Control Team, army commandos, and local administrative officers.

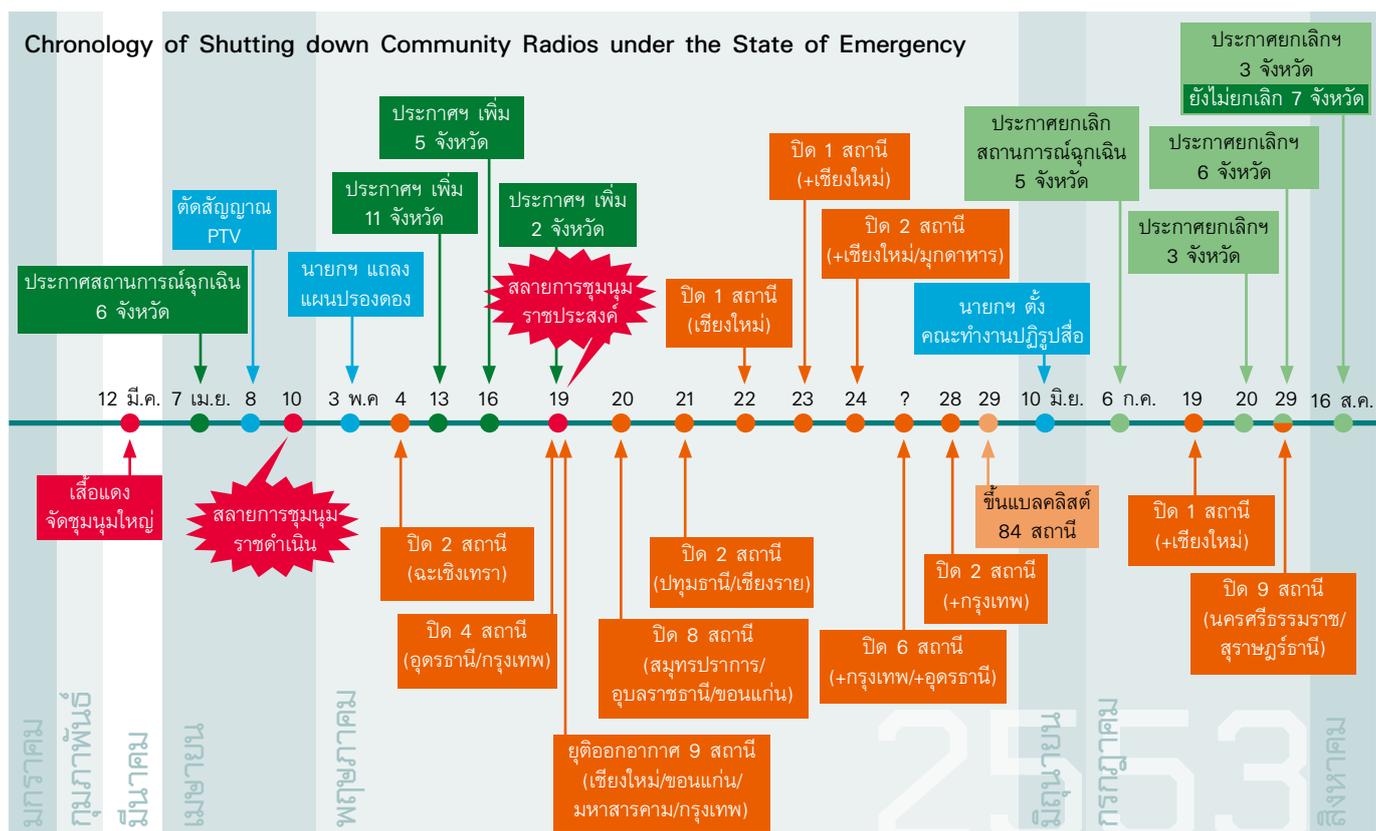
The raids in all cases led to the confiscation of small radio transmitters, broadcasting equipment and the removal of the antenna, which caused damage to some stations, as the soldiers or officers inappropriately pulled down the antenna. Irrelevant property such as air conditioners and motorcycles was confiscated as well.

If considering the operating agencies, number of forces, weapons used and the violent and outrageous operational approach, such operations for shutting down community radio stations reflect on the government and concerned state officials' attitude toward the people's expression of political opinions opposed to the government as a serious crime or terrorism. Therefore it was necessary to act seriously and resolutely no matter how unreasonable and excessive and how it may cause public fear.



"Article 9 (3) of the Emergency Decree does not allow an authorized person pursuant to the Decree to act arbitrarily without conditions. It means that if CRES or anyone wants to shutdown a media, clear accusation with evidence must be provided. But what happened to websites or community radio, there never was a good explanation about the allegation. This is the very problem of law enforcement. Besides inadequate explanation, there was no one to investigate the authority claimed by officers as well. Therefore, it is essential that the Judiciary must always investigate the Executives' use of power no matter in a normal or abnormal situation".

*Sawtree Suksri,
a lecturer of the Faculty of Law,
Thammasat University*



"The Constitution specified that we should not close a media as we have experienced in the past that it is not according an international standard.

In the past, we manacled printing presses but now we pull down the transmitting antenna. However, the people's knowledge has been subverted by the CRES. Now we fight to say that a shutdown of a media is not the solution, but there are other ways of media regulation".

*Assoc. Prof. Ubolrat Siriyuwajak,
President of the Campaign for
Popular Media Reform (CPMR)*

Guilt and accusation leading to shutting down stations

The main allegation for the arrests and shutting down of community radio stations was the possession of a radio transmitter and setting up of a radio station without a license, which violates the Radio Communications Act B.E. 2498 (1955), that states that those who intend to have or use a radio communication transmitter and set up a radio station must be permitted by the relevant authority. However, as reported by the media during that time, the government representative had publicized that the reason for arresting and shutting down the stations was because they reported and presented distorted information and inciting content.

Considering the legal status of community radio stations being shutdown, out of 47 stations, 29 had submitted a request to operate a community radio business with the NTC pursuant to the licensing procedure. They had the right to trial broadcasting according to the announcement of the National Telecommunications Commission regarding the Principles, Criteria, and Procedures for Issuing Temporary

Licenses for Community Services (Community Radio) enforced on 25 July 2009 where 6,629 registered community radio stations had filed their requests.

However, all 47 community radio stations, both those holding and not holding a legal status, were shut down. 38 of them were forcibly raided and shutdown by armed officers, while only nine stations were shutdown and stopped broadcasting before the raid.

This led to a suspicion that State officials have been unfair. If the offense was for presenting content that is against the law, then the crime is the content or a related person, but not because they possess a radio transmitter without a license, or because a station was set up unlawfully. The fact of the matter is that at present there is no community radio station receiving an operating license as they are under the process of the NTC. If every concerned party accepts and agrees with such operation that is obviously opposed to the policy, all community radio stations nationwide might have been unavoidably seized and shutdown because of the aforementioned fault.

During the declaration of the State of Emergency, CRES was authorized to enforce 18 laws including the Radio Communications Act, B.E. 2498 (1955). In addition to the authorization of the NTC, when any community radio broadcasts content that is criminal, CRES will take action by itself according to the Emergency Decree. While the process of NTC begins with complaint cases being examined by the Radio and Television Broadcasting Subcommittee with the offending station having a chance to explain. So the NTC has a different procedure from the CRES.

During the unsettled situation, many government services such as the Army, the Public Relations Department, and the Ministry of Culture have filed complaints with the NTC about controversial community radio stations. CRES also filed complaints, but when the process by NTC was slow and not in time with the situation, therefore the CRES by itself shutdown many community radio stations during this period.

An example of a mistake was when a community radio station in Plang Na Yao, Chachoengsao province was shutdown by CRES command. It turned to be that officers shut down the wrong station. However the operation was not terminated. In this case, the NTC later clarified with the CRES that such community radio station was rightfully granted the right to a trial broadcast period from the NTC. Nevertheless, the station and related person were still charged.

At present, there are more than 5,800 community radio stations that have been expanding trial broadcast periods while more than 700 stations have had their broadcast rights suspended due to several reasons such as, breach of conditions of the trial broadcast, not actually operating, or being prosecuted by the CRES. These stations need to clarify their status with the NTC before they may broadcast again.



*Thakorn Tantasit
Acting Secretary-General of the NTC
3 September 2010.*

Unheard Voices

Between 'democratic voice' and 'seditious words'

Thevee Chamnarnaasa, one of the owners of a community radio station in Chiangmai that had to stop broadcasting, confirms that she is a member of the 'Red shirt' alliance and has always been a member of this opposition movement. But she had to close down the station on May 24, because many community radio stations in Chiangmai that were supporting the the red shirts had been raid and shutdown by the military and government officers. So she had to stop broadcasting in order to prevent her arrest and confiscation of the radio transmitter. But afterwards, the police still alleged that her station had broadcasted content that incited people to burn the City Hall.

Thevee at the age of 60 said she is an ordinary person who loves democracy. When her community's eyes and ears were covered and they cried out for the other side of the news and information, she had to serve her duty as the radio station founder in this community. She also sees that the right to freedom of information is that people should receive and choose to follow the news about the demonstrations and she had occasionally relayed the live signal from the demonstrations in Bangkok.

"We are not a firebrand. We have the right to freedom to information. We can link to the signal or to broadcast to raise funds or food to support the demonstration. We did this independently. It is the right of each station. There were no strings attached. Personally, and with other radio stations in Chiangmai, I chose not to relay the live signal because the content was too aggressive. I don't want to get into trouble".

Regarding the borderline or criteria for content of community radio broadcasts, she views that it should be clearly defined and have a common understanding. Personally, she agrees that some community radio

stations broadcast emotional content that was too violent and verbally aggressive during the recent confrontation. But she disagrees that community radio or other media should be used as a tool for chasing or capturing anyone or to destroy the property of others.

If a person is guilty why shut down the station?

Aunty Noi, 50, one of the protesters in Ubon Ratchathani, commented that the reason why community radio stations in her area were shutdown was because they presented news and movement information about the demonstrations. However, such content was only part of the stations' programs. There were other interesting on-air programs such as dharma, the law, or local news. But closing the station has caused other programs to be terminated too.

"They should not shutdown the station. If the radio presenter or the mainstay did a wrong thing, then legal proceedings should be taken against them. It is not necessary to close the station. They also seized equipment and damaged the station's property".

She also said that action closest to the word "incite" that the government has charged the stations with was a persuasive statement inviting people who have the same opinion to participate in political activities, which she saw as the right of the people and not illegal and it should not be considered as a crime. If there is a fault with 'words' then action should be taken against the one who said such words, not to shutdown the entire station, as such action hinders audiences and other presenters to communicate with each other.

This opinion is consistent with an NGO officer in the area who sees that from monitoring the community radio programs of the red-shirt demonstrations in some areas, he found that some aired content that was too severe and aggressive. However, he also commented that the mainstream media, both state and private, was taking sides with the

"If we look from the democratic point of view holding human rights as a base, we need to affirm the principle no matter the benefit to any party. Shutting down community radio stations as aforementioned therefore is not righteous because they shutdown the entire station not just by considering the content. I think it is an abuse of power. We need to distinguish between which action violates or impacts human rights. If there is any radio station violating human rights then we can arrest the people responsible. But arresting without any charge is a violation of human rights. Shutting down media like this destroys diversified idea and opinion and the consciousness of solving problems together. It also causes more social disruption and there will be more anti-government people".

*Dr. Niran Pitakwatchara, M.D.,
Commissioner of the National
Human Rights Commission of
Thailand and
Chairman of the NHRC
subcommittee on Civil Rights*



Presenting political content via community radio is a fundamental right of people to use the media. The criteria to judge whether content is illegal is content that creates hatred, violates human dignity and the political beliefs of individuals. Therefore, broadcasts that invite people to join a demonstration is an applicable political right but it must not be inducing people to do harm to any person or property.

Subgroup discussion by community radio station representatives in Bangkok and perimeters

government and the media should not be biased or prejudiced for any party. Although personally he does not agree with the demonstrations, he thinks there should be separate offenses between content presenters and action resulting in closing a station.

Reforming the media but the people have no right of expression.

An anonymous community radio presenter gave information that although Chachoengsao province is not under the of State of Emergency declaration, however the heads of the community radio stations in the area were called to a meeting by the ISOC and were asked to complete a questionnaire whether they were protesters. Soldiers were instructed to monitor the broadcasting content. They were also asked to link to the signal and air the State’s media.

All community radio operators feel that they were intimidated and afraid to present political content especially about the

demonstrations because the station might be shutdown. Then people in the area did not have a chance to perceive different or other information besides messages from the Prime Minister or the government. There was no information from the opposition or anti-government parties.

“Thailand is a democratic country. The media must have freedom of expression and this right must be protected. Media reform is a subject that has been talked about and discussed for a long time and there must be an independent organization to supervise and there must be no media interference. But at present the public media do not have the right to speak or express different political opinions”.

He also reiterated that persuasive content broadcast on community radio inviting people to join a demonstration is not a crime but political activity. It is the political liberty of the people.

Suggestion and solution

1. The government should revoke the shutting down of community radio stations and the arrest of related person in order to allow space for people who have different political ideologies to express their opinion by way of democracy. The blocking of views and information does not help reduce political conflict and violates the people’s right to freedom of speech promulgated in the Constitution that is recognized as a fundamental human right for people and media under Article 19 of the Universal Declaration of Human Rights.
2. The NTC as the independent organization responsible for temporarily supervising the media should play a role in supporting an independent mechanism for determining cases where there are complaints of media

content presentation as well as establish definite criteria regarding the content of community radio and any allegations should not be obscure. The content regulation must be fair and transparent and open for public review and be practical and acceptable by all parties.

3. The public and every democratic activist must be aware of the people’s right to freedom of communication based on the same criteria and open to different opinions of all parties and accept opinion and political campaigning that may not be consistent with their political ideologies. They must guarantee the right to freedom of communication of the public sector, such as campaigning for repeal of the law used as the excuse to shutdown community radio stations.

Steps taken to control radio and television by the Public Relations Department in case of violation of the Rules on Radio and Television Broadcasting B.E. 2535 (Article 35)

- Ordering a station to clarify the situation in writing
- Issuing a warning notice
- Ordering broadcasting restraint of the violating program
- Withdrawing the license or certification issued under this regulation
- Order a station shutdown