

Thai Law: Buddhist Law. Essays on the Legal History of Thailand, Laos and Burma

Andrew Huxley (ed)

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This text brings together a leading group of Southeast Asian specialists, both historians and lawyers. While its principal focus is Thai legal history, it also provides insights into the legal history of Burma and Laos. At a theoretical level, the papers vary from being purely descriptive — an inevitable approach when the objective is to present a summary of legal texts recently discovered in Thailand — to being socio-legal within a broad political economy approach that seeks to situate these legal texts in the context of agrarian, migratory and mercantile transformation in Southeast Asia in the period prior to European colonial rule and influence in the case of Thailand.

Pitinaï Chaisaengsukkul presents a summary (of what in essence is an ongoing project) of recently discovered legal texts from central and southern Thailand. He tells us little about the texts, instead providing a catalogue of those discovered thus far and indicating that his future research will be directed towards an inquiry into what these texts tell us about the politics of the 'pre-modern' Siamese polity and the extent to which these texts reflect Chinese, Indian and European influences. In a similar vein, Sarup Ritchu summarises the contents of 26 legal texts from Southern Thailand, but Ritchu does go on to analyse their relationship (if only in terms of form and content) to the Three Seals Code, which Huxley describes as the 'hegemonic text' of Thai legal history, and which in turn is shown to have a similarity with the Cambodian legal literature from the eighteenth and nineteenth centuries (p 7). Similarly, Aroonrut Wichienkeo provides a summary of the legal literature of the Lanna Kingdom in Northern Thailand, which at its height included parts of Southern China, Burma and Laos. Central to Wichienkeo's analysis is the extent to which Lanna legal texts were created from the *Vinaya*, that part of the *Tipitaka* that provides a code of conduct for the *Sangha* (the collective monkhood).

The remaining articles provide three complementary, as opposed to absolutist, perspectives on the problem of the origin of Thai law. Mayoury Ngaosyvathn emphasises Thai law's customary origins. Ngaosyvathn links Thai law to the customs which the Thai brought with them from the China/Vietnam border at some point in the second millennium AD which, although pre-Buddist, are post-irrigation (ie developed once the Thai had established themselves as cultivators of irrigated rice). Much more importantly, she traces Thai custom to the Laotian laws of *Khun Borom* (which were recorded in the early sixteenth century), who ruled over the Thai world at some point between the seventh and eighth centuries and is believed to be an ancestral figure to both the Thai and the Lao of contemporary Thailand. Of equal importance, this article represents the first European language article on Laotian legal literature since 1905.

Andrew Huxley emphasises the Buddhist origins of Thai law. As such, this represents an ongoing challenge to the once-dominant view of Robert Lingat that much of the legal literature of Southeast Asia drew on Indian Hindu legal texts such as the *Manusmṛti* rather than on Buddhist sources. The dominant sources that Huxley identifies are the *Vinaya*, the *Jatakas* (stories of the Buddha's earlier incarnations) and the *Suttas* (the Buddha's discourses).

While Wichienkeo alludes to the relation between Thai law and the *Vinaya*, Huxley systematically develops this point. While the *Vinaya* represents a non-violent system of law, it was a group of monks specialising in the *Vinaya* who facilitated the development of written law in Southeast Asia as they constituted a body of highly literate men whose service the Thai kings could draw upon. Consequently, this argument calls for a reassessment of the influence of Hindu Brahmins on Thai legal literature. While Siamese legal texts such as the *Three Seals Code* have depended on Brahmin expertise (at least at the level of deciding the justiciability of each case), unlike the legal literature of Laos, Burma and Northern Thailand, Huxley's argument provides a powerful counter to the Indianisation thesis of Lingat.

Michael Vickery emphasises the extent to which Thai law was influenced by increased maritime trade with China and the arrival of Chinese migrants from the seventeenth century onwards. He suggests that a trace of this influence can be found in the *Three Seals Code*. It is most evident in the rules regulating the three-way relationship between international trade, national law and the trans-national law of traders. We do not know how trading expeditions between Siam and Malacca on the Malay Peninsula were financed, or how disagreements between investors were resolved, but Vickery points to a possible answer in the *Malacca Maritime Laws*, copies of which have been retrieved across the Malay world. Evidence suggests that these laws were not just the laws enforceable against the traders in Malacca, but were rules that South China Sea traders applied between themselves. This argument is reinforced by Vickery's argument that these rules were promulgated after consultation with sea captains. Furthermore, it may be — as Vickery suggests — that the Siamese kingdom centred on *Ayutthaya* turned its focus inland in the sixteenth century because by the end of the fifteenth century its customs duty was 22 per cent which, in comparison to Malacca's 6 per cent, made it increasingly uncompetitive.

As Huxley suggests, the perspectives contained in this collection must be regarded as complementary and not competing. However, by articulating an emphasis on Buddhism as constituting a source of Thai law, Huxley finds himself in good company, given that this was the central argument of Rebecca Redwood French in *The Golden Yoke: the Legal Cosmology of Buddhist Tibet* (Cornell University Press, 1995), a seminal work on Tibetan legal culture.

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