

Lost in Translation: The Making of the Thai Civil and Commercial Code of 1925 through Translation

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The Thai Civil and Commercial Code of 1925 (“TCCC”), which has largely remained in place, emerged from a period in which Thailand was under threat from colonisation by Western powers. The French draftsmen’s repeated failed attempts in establishing an original code of law for Thailand, which rushed to regain full jurisdictional sovereignty, forced the new drafting committee dominated by English-educated Thai lawyers to adopt the Japanese method which was mistaken for a copying method. This resulted in the copying of the wording of English translations of provisions of foreign codes, especially the German and Japanese Civil Codes, without much concern about their conceptual foundations. The copying took place against a backdrop of traditional Thai law’s and the Thai language’s unfamiliarity with western legal principles and institutions. This paper seeks to explore the making of the TCCC, especially the translating of English translations of foreign legal texts into Thai, with a hypothesis that the original meanings of foreign rules may have lost in the process of translation and this may subsequently have caused difficulty in understanding and interpreting the rules.

Buddhist Law in Siam: Past and Present Implication

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What exactly was the Buddhist law of Buddhist kingdoms in mainland Southeast Asia? Buddha had never taught a legal code, but Buddhism is said to be highly legalistic. It contributed significantly to the concept of law in Thailand and its neighbours. Therefore, the relationship between Buddhism and law is not straightforward. This article examines the four meanings of Buddhist laws in ancient Siam. What did the four Buddhist laws mean to the legal and political arrangement in Siam. More importantly, when the service of Buddhist law officially came to an end in the early 20th Century, is there any residue of the idea left in the modern legal thought and culture of today Thailand. This article argues that, in Thailand, the past is very much alive in today's legal conscience.

In the Name of the Greatest Benefit of Siamese People: the Localisation of Utilitarianism and Legal Change in Siamese Absolutist State

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In pre-modern Siam, the localised version of the Law of Thammasat stood as a premise to justify the roles of King in law-making. At the age of western colonialism, as Siam was under crypto-colonial condition, the local rulers sought to consolidate their authority within their Kingdom, notwithstanding political and economic subjugation to the colonial powers. On one hand, the Siamese rulers who were the agency of Siamese/Thai modernity needed to mobilise resources to the centre and modernise the country in order to catch up 'the West'. On the other hand, they also preferred to preserve the status quo of benevolent Buddhist supreme King in his Siamese mandala domains. In this regard, the Thammasat was no longer efficient to serve the monarch's blueprint for the state reform. Instead, some western 'legal scaffolding' which was thought to be more well equipped to the master plan. On one hand, the rulers preferred the compatible concept to justify the roles in law-making as the old Thammasat. This presentation will begin by offering an observation on the concept of utilitarianism which was the prevalent subject of discussion in the nineteenth-century legal change phenomenon. Next, it will discuss how Siamese local elites understood, appropriated, and transculturalised the peculiar concept of being 'for the greatest benefit of people' into Siamese soil to serve their motives 'to hunt two hares with one dog'. Finally, the impacts of the localised utilitarianism on the legal change and formulation of Thai modern legal regime shall be underlined.