

Custom, Kinship and the Law: An Analysis of Thailand's Rural Northeastern Provinces (1946-1976)

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Abstract

The Siamese and Thai history of village level kinship ties and communalism in both Siamese and Lao culture contributed to the variegated evolution of Siamese and Thai traditions and customs. Legal frameworks for the Kingdom only began to take serious root in modernity when Western forms of administration and society began after World War II. This paper examines the customs, kinship relations, and relevant laws of the Kingdom's rural provinces in the northeast.

Keywords: Custom; Kinship; Law; Thailand; Northeastern rural provinces

Introduction

The history of law in Thailand dates back seven centuries to its very first kings in the 13th century. It is important for scholars and readers alike to note that Siam was the official name of the country till 1946 when it was changed a second time to Thailand, meaning the "land of the free". Thai law had evolved since then in incremental steps up till 1932. Thereafter, when the Constitutional framework of the new symbolically important, but executively weak monarch was in place, a series of legal contributions along the historical path to modernity began bearing fruit in meaningful legal ways. People were getting more used to having Western norms, values and similar laws as part of their lives.

For over seven hundred years, the basic rule of thumb about Siamese law involved the fact that Thai people had merely inherited the legal premise of monarchical absolutism. The king's word was final and absolute. The custom was so severe that an old story remains in Bangkok street life about a princess who had fallen into the Menam Chao Phraya during a festival. Because of the custom that prevented commoners from touching any royals, all they could do was to watch as she drowned into the murky brackish waters. It is also considered a grave insult to use one's feet to point someone towards a certain direction as many Westerners do as well as for anyone to touch the head of a Siamese person. Siamese funeral rites were very dependent on social and economic class. Wealthier people could afford elaborate funeral processions and prayers during the wake. However, the poor were simple left to fend for themselves when they lost their loved ones.

Village kinship ties and communalism in both Siamese and Lao culture afforded some grassroots level cooperation. The sick or aged who died without knowing anyone were disposed off in various ways without care or custom. One significant belief was that only the royals could be cremated and they were done in high fashion with ostentatious performances, Buddhist rites and rituals. This custom however has now been relegated to the past and ordinary folks are no longer bound to observe this custom. The primary consideration for cremation was the costs involved while it was significantly cheaper if not free to bury the dead. The fear that was held was those who were cremated were believed to have risen the heavens while those who were buried could return as *phi* (spirit or ghost) since they may have been denied a place in *suwan* (heaven). Cremations would ensure that a person would not return as a *phi* to the land of the living. So royal cremations while reserved for the king and his relatives contrasted with cremations of evil men and

women who had vouched revenge and hence were cremated to prevent such an eventual return. It is likely that the Siamese Buddhists acquired the custom of cremation from Hindu customs and devotions from which they had acquired Theravada Buddhism.

Funeral rites in Siam were the most significant event in a person's life and were even more elaborate and ostentatious than marriage and Buddhist baptisms. Unless one was a poor peasant, an aged person without relatives or friends, a slave or a criminal, one would ordinarily receive a fairly elaborate funeral. Another custom created out of the many centuries of wars with the Burmese and the Cambodians or Khmers was slavery. In fact, it was only during the 19th century reign of Rama V that slavery was abolished. Also known as Chulalongkorn the Great, Rama V had departed from a critical mode of economic corvée labour among the traditional kinship practices of feudal Siam. Therefore slavery and corvée labour were abolished in theory but not in practice. In reality, slavery continued for decades after it was abolished¹.

There was no *de facto* government in Thailand's rural northeastern villages soon after World War II. The Kingdom had a new name. It was changed from Siam to Thailand. The land of the free, no doubt inspired by some American advisors stationed in Plaek Phibun Songkhram's expansive villa in Bangkok. He was the dictator and as dictators go, the held power in the urban centres and cities where his troops could control the people as well as be entertained. The rural areas were difficult if not impossible to govern. Another marked event during the dictator's regime was his attitude to the French colonial government in Cambodia before, during and after World War II. He took Siam onto

¹ This was because there was no way that the Palace could control and monitor the activities of slave owners and their kind. Unlike the United States, the ethos for democratic values and norms never took deep root and this lack of rootedness resulted in a weak democratic ethos among leaders as well as citizens in the 21st century. See for example, Frank C. Darling, 1970. "The Evolution of Law in Thailand" *Review of Politics* 32, 2:197-218.

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the Japanese side during the war and hence was remarkable in making Siam the only state to remain non-colonized in Southeast Asia. After the war when the defeated French forces returned to Cambodia and Vietnam to regain the territories that they had lost to the Japanese, Marshall Phibun decided to rebuff them as their ancestors had rebuffed the French attacks during the Ayutthaya era [1-3].

Between the 1920s and 1940s, Siam was still a largely agricultural country with a monarchy made up of royals who were educated in temperate countries, with genteel society, while 90% of Siamese people lived off their farms or in cottage industries. Most people were poor and the war years made it worse. However those who were fortunate to have special connections or lived in places such as the United States or Switzerland would be able to weather the war years between 1914-1918 and 1939-1945. At the *fin-de-siècle*, French and British forces had won over 38% of Siamese territories but the Siamese refused to give into the European colonial system that ventured to control vast tracts of mainland and island Southeast Asia for its significant resources in oil, natural products, and marine life potential. The Japanese interregnum provided Bangkok with the window of opportunity to prevent further French and British incursions. The Europeans being what they were used gunboat diplomacy when normal diplomatic overtures did not go their way. Nevertheless, monarchs such as Rama VI were enamored of the British military and monarchy. Educated at Oxford and trained as an officer at the Royal Military Academy at Sandhurst, Rama VI attempted to mimic many of the British traditions as a result of which many traditions once lost to the dustbin of history and disappeared from the British naval and land forces, continue to exist in Thai military customs. While the anglophile King did not survive or leave an heir, his grandiose lifestyle, he had implemented many great plans that remain in place even today.

There were no clear land laws or rights to land, as the land was not merely owned by the King but also *perceived* to be owned by the King. The absence of specific land laws reified the status quo: the various people living in the rural provinces were dependent on a traditional kinship pattern of economic survival. They depended on what their ancestors had relied on to survive the ups and downs of agricultural life. While the nobility, military elite and economic elite continued to dance within their political circles, the ordinary peasants were left to fend for themselves. There was no real need to have a nationalist movement in the way that other Southeast Asian states had done as seen in the Philippines, Indonesia, Malaya and Singapore.

The spendthrift ways of Rama VI had left the Treasury bankrupt. Rama VII had implemented several austere plans but they were too little and too late to save the Kingdom. Indeed as luck would have it, the Japanese interregnum that virtually destroyed the local Southeast Asian economies was a boon for the financial health of the Kingdom². History had forgotten that with the oldest running monarchy in Southeast Asia, Siamese kings and the Siamese people had endured wars and famine and drought in every single decade of their civilization. Since Siam was basically an agricultural society, it did not depend heavily at that point in time on industry, global trade and capitalist world domination as the Western powers did and as it does today. So once again the Siamese succeeded to survive the worst vestiges of the Second World War and handed successive generations the pride of not having been colonized by the Western European powers. The official Siamese records of the Kingdom's economic history prove that the country's agricultural base and rice production as well as rice yields helped the Kingdom steer away from starvation and disaster.

²See for example, David Feeny, 1979. "Competing Hypotheses of Underdevelopment: A Thai Case Study" *Journal of Economic History* 39, 1:113-127.

Field Marshall Phibun who remained Prime Minister during the war years had worked with the Japanese to rebuff the French armies during World War II as well as after the War had ended in the defeat of the Sun-God King, Emperor Hirohito's utter defeat by the Americans³.

In 1966, Charles F. Keyes [4] pointed out that the Thai government and its American advisors were concerned with the probability of northeastern farmers being influenced by anti-statist elements. Apparently, the concerned involved the political mobilization of ethnically Lao communities by the Pathet Lao Communists to undermine Bangkok's influence over the rural provinces. However, Keyes did not explain why this probability had arisen. Two main reasons exist for Laotian influence. One was the fact that the assimilationist measures implemented by Rama I to Rama VII were insufficiently powerful to enlist strong rural support in the northeast rural provinces. A corollary to this situation was the old culture, tradition and language that the Laotian community in Siam and later, Thailand, was sufficiently autonomous and separate from Siamese *qua* Thai culture. The second reason was because of the large percentage of people living below the poverty line in the rural northeast. The poor farm workers were vulnerable to being influenced by Maoist literature that was being exported by Chinese Communists. The Maoists not only provided political advisors but were also competing for dominance and influence with the Soviet Communists in the 1950s and 1960s. Similar to the Cambodian Khmer Issarak, and the Viet Minh, the Pathet Lao began as the Lao People's Party. Their influence remained strong right up to the 1970s when Mao's political influence within the Chinese Communist Party as well as the Politburo had transferred to the "notorious" Gang of Four. But the Maoists were not the only players in the 1950s politics of Southeast Asia. In fact, the Soviets had already moved their own brand of Communism and became ideological bedfellows with the Vietnamese and some of the Laotian leaders. The Chinese threat would decline by the 1970s alongside the Soviet one because the former had internal problems while the Soviets were in the midst of a Cold War with the United States of America. Additionally, with internal fighting to distract them, Chinese influence over mainland Southeast Asia waned and so did their influence in Cambodia. In the 1950s, US military advisors fought clandestine battles in Laos against the North Vietnamese influenced troops while US forces also fought that war from the Thai-side of the border. Most military historians have neglected the fact that the Laotian civil war and the loss of influence in their Western provinces (known as the rural northeastern provinces of Thailand) perpetrated the rise of the Vietnam War.

By 1967, the intensity of military combat had resulted in over 467,000 US military troops stationed in South Vietnam as well as in Thailand. The US began building military bases as well as the famous one at U-Tapao near Pattaya. This was also when Pattaya, Saigon and Bangkok became known for their rest and relaxation attractions for US military and civilian troops. Phnom Penh and Vientiane fell to the Communists in 1975 with the Pathet Lao taking over the Laotian capital without a gunshot. Because of their collaboration with the US military and economic advisors in the 1950s and 1960s, the new Communist government in Vientiane implemented a pogrom of ethnic-cleansing of the Hmong rebels killing 25-30% of its entire population. Over 100,000 Hmong refugees escaped to the Thai border and attempted to seek political asylum. Inept and poorly trained American military advisors could not differentiate between the Hmong and the Pathet Lao communists (as they had erred with the South Vietnamese and the

³E. Thadeus Flood, 1969. "The 1940 Franco-Thai Border Dispute and Phibun Songkhrum's Commitment to Japan" *Journal of Southeast Asian History* 10, 2:304-325.

Vietcong), most of the Hmong were turned away only to face torture and death by the Pathet Lao and its successors. After the Vietnam War, the Vietnamese army was the most experienced and heavily armed military in Southeast Asia. People were afraid of what would happen if the Vietnamese military did not return to barracks. In an interview on national television, Thai generals raised the anxieties and dangers that were looming around their country. Further South, Lee Kuan Yew said in a televised interview that he had asked China's Deng Xiaoping how far he would tolerate Vietnamese aggression before China intervened. Deng replied that it would depend on how far the Vietnamese would be willing to go. But Lee believed that the line that would be crossed was the *Tonle Sap*. The Vietnamese army did not do that and there was no direct threat to Thailand or Malaysia. Village schools and government propaganda under Rama IX was designed to reduce Pathet Lao influence but they appeared to have been fighting a losing battle. However the "thing" that kept the Siamese and modern Thai to the cultural sticking place was the power of its customs and kinship bonds that were now about to face a new layer of bureaucratic controls.

Land Value and Ownership

Most of the peasants living off the land in the rural northeast provinces have only their own surplus value that waits for capitalist bourgeois extraction. The small parcels of land that the peasants squat on (and have done so for decades) are too small to reap any economies of scale. They depend on a neofeudal system of agriculture as they have done for years in order to make a barebones survival for themselves and their families.

It was only under the rule of democratically elected Prime Minister Thaksin Shinawatra, a self-made billionaire from Chiang Mai Chinese elite society, that a new system of land reform was introduced. Known as the land-titling policy or what Ganjanapan [5] refers to as the Land Titling Project, had the objective of maintaining the status quo of government control but with a twist. According to Ganjanapan's fieldwork in the 1980s revealed old tensions that existed between traditional forms of kinship and communalism within the muban or villages on one hand, and the modern method of legalizing land parcels to individuals who then possessed the rights under national laws⁴. An earlier work on the comparative view of land settlement issues and projects can be found in the detailed work of R. Ng published in *Geography* in April of 1968⁵. Some analysts blame Western-style economics for the problems in the rural areas:

For more than a century, social and power relationships in Thai society have been defined by the state-constructed idea of "Thainess". This is a coarse and obscure label, which hides the truth in Thai society. For example, we are told that we must protect "Thainess" and keep it secure, for example, by saying, "We have received Western influence to the point that we have forgotten Thainess. This has led to wrong behaviors." Even under the political regime of democracy, we believe that "Thai-style" democracy is a suitable form of political system for Thailand and that copying Western-style democracy causes Thai society to deteriorate⁶.

While the possibilities of the new model proposed by Sattayanurak⁶ and others are not overtly idealistic, there are obstacles that have been

put in the way of implementation. The most notable ones include bureaucratic corruption and policy resistance. The monarchical succession issue is another large problem on the near horizon that may introduce new and unforeseen circumstances to the kinship ties of the rural northeast.

Conclusion

This paper examined the customs, kinships and legal contradictions of life in the rural northeast of Thailand from 1946-1976 based on fieldwork done between 1986 and 2016. The first contradiction was that slavery and corvée labour remained significant means of feudal and political control in the rural northeastern provinces. A second contradiction was the existence of kinship bonds and village communalism alongside attempts to modernize these social relationships through Lao-inspired Maoism, some Soviet socialist forays as well as the US brand of liberal democracy as a countervailing force. Ultimately, we have seen that the laws of the land – parceling and village level projects – gave rise to greater controls by those individual landowners already in power. More individual rights were ironically accorded to the economic elite – backed by the local police and the national army – who had for generations controlled the people by controlling the land.

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⁴Anan Ganjanapan, 1994. "The Northern Thai Land Tenure System: Local Customs versus National Laws" *Law & Society Review* 28, 3:609-622.

⁵See R. Ng, 1968. "Land Settlement Projects in Thailand" *Geography* 53, 2:179-182.

⁶ Attachak Sattayanurak, 2010. "Changes in Perception of Rural Thai Society" Working Paper 455, Institute of Developing Economies, Tokyo, Japan.