

The Child is the Betel Tray: Making Law and Love in Ayutthaya Siam

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Abstract

This article investigates the process of making and applying law in Ayutthaya Siam through a close reading of one text from the Three Seals Code—the Law on Husband and Wife. Rather than a piece of legislation from a certain date, this law is an archive of judgements and decrees accumulated over a long period. The constituent clauses do not lay down rules, but give examples of disputes and advice on solving them. The courts' main role was to foster conciliation. The law seems to have been applied mainly to commoners. Many clauses have unusual features—editorial, graphic portrayal, poetic phrasing, word-play, homily—which suggest they had public use beyond a courtroom. The conclusion offers a speculative history of this law in the Ayutthaya era.

Keywords: Ayutthaya — Three Seals Code — Marriage — Archive — Conciliation

In the Ayutthaya era, how was law made and applied? That is a simple question, but difficult to answer. The Three Seals Code provides us with an exceptionally large and wide-ranging corpus of laws from the pre-modern era, but there is very little external evidence on legal practice. What then can we learn from a close reading of the

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law texts themselves? This article is an experiment using one law, พระไอยการลักษณะผ้าเมีย *phra aiyakan laksana phua mia*—the Law on Husband and Wife, often called the marriage law.¹ We will touch only lightly on the gender aspects of this law, which have been brilliantly analysed by Tamara Loos and others.² Our focus is on the process of making and applying law.

The argument proceeds as follows: The Three Seals laws are often interpreted as legislation—collections of rules enacted on a certain date—but this is an illusion. The social laws (meaning laws other than those on judicial procedure) are a cumulative archive of court judgements and decrees. The contents are not rules, but rather examples of disputes and advice on how to solve them. The clauses come in different formats, which may show a progression over time. Several clauses have unusual features—editorial commentary, graphic portrayal, poetic phrasing, word-play, homily—which suggest they had public use beyond a courtroom. On most issues, the courts advised conciliation. The exception was adultery, treated initially as a crime of violence, and later as damage to property. Any exercise of violence in a dispute was treated as an offence against the realm’s duty to uphold the peace. The law seems to have been applied mainly to commoners. Although the law lays down no rules about marital relations, the courts appear to be following a consistent set of principles, perhaps based on custom or public acceptance.

In the conclusion, we offer a speculative history of the Law on Husband and Wife in the Ayutthaya era.

I. THE ILLUSION OF LEGISLATION

The laws in the Three Seals Code are often treated as similar to modern legislation—meaning sets of rules brought into force at a certain time in an act or code. This impression arises because of the form of these laws, because they have been adopted into legal history as the precursors to a civil law system, and because scholars have attempted to make them easier to understand today. Below, we will examine the very different character of the Three Seals laws from the above impression, but first, let us look at the illusion of legislation.

The Three Seals Code is a collection of legal texts, mostly surviving from the Ayutthaya era, which were assembled in 1805 to serve as the legal code of the Bangkok kingdom. The constituent laws seem like legislation because most begin with a preface or preamble, followed by a series of clauses. Moreover, these prefaces, and sometimes supplementary prefaces midway through the law, have a date and the title of a king

¹ กฎหมายตราสามดวง เล่ม 2 (องค์การค้ำของครุสภา 2537) [*Three Seals Law* vol 2 (Khurusapha 1994)] (Thai) 205–84; กฎหมายตราสามดวง ฉบับราชบัณฑิตยสถาน เล่ม 1 (ราชบัณฑิตยสถาน 2550) [*Three Seals Law Royal Society Edition* vol 1 (Royal Society 2007)] (Thai) 497–589. All translations by the authors unless otherwise indicated. The numbering of clauses refers to the arabic numerals.

² Tamara Loos, “Gender Adjudicated: Translating Modern Legal Subjects in Siam” (PhD diss, Cornell University 1999); Tamara Loos, *Subject Siam: Family Law and Colonial Modernity in Thailand* (Silkworm Books 2006).

proclaiming the law.

As Michael Vickery has shown, the dates in these prefaces have become hopelessly corrupted, and the royal titles are also imprecise—so the prefaces offer no easy guide to when the law appeared.³ The Law on Husband and Wife has three prefaces, marked with the dates 1904, 1906, and 1166 respectively. If interpreted as the Buddhist Era, the first two would fall in the founding years of the Ayutthaya kingdom in the mid-14th century. The third date, if interpreted in the Lesser Era (*chula sakkarat*, CS), would correspond to 1804 CE—the year before the compilation of the Three Seals Code. This third date is also given in the 60-year animal cycle as “year of the rat, sixth of the decade,” which matches to 1804 CE. However, the royal title bears no resemblance to those used by King Rama I, and the titles of the city are in the form used in Ayutthaya, not Bangkok.⁴ Besides, the second and third prefaces, which appear to be dated around 450 years apart, both refer to problems arising from one specific court case. Clearly, these dates are problematic.

In addition, as we discuss below, the individual clauses in the law may have appeared before or after the date in the preface. Each law is more like a historical archive than a dated act of legislation.

The Three Seals laws have often been treated as akin to modern laws, namely as a “system of rules,” because of their recent history. In 1805, the Three Seals Code became the law of the land, superseded gradually by royal decrees through the 19th century and then comprehensively by law codes drafted between the 1890s and 1933. Early studies of the Code, including those on the Law on Husband and Wife, were attempts to interpret and adapt the old texts for use in the courts of the day. The authors thus tended to rephrase or paraphrase the text to approximate the form of a modern law.⁵

King Chulalongkorn decided that Siam would adopt a civil law system, meaning that law is made in the form of legislation and law codes through a process of drafting, approval by some form of authority, and proclamation. The Three Seals laws thus became viewed as the historical precursors of a civil law system. In his 1957 lecture on the Three Seals Code, MR Seni Pramoj said, “On the Ayutthaya Law on Husband and Wife, allow me to deal with it briefly, because it’s not really an old law, since we were using it until the Civil and Commercial Code Volume 4 Part 6 replaced it in 1935.” Seni claimed that much of the old law had been carried over into the new one, and limited

³ Michael Vickery, “Prolegomena to Methods for Using the Ayutthayan Laws as Historical Source Material” (1984) 72 *Journal of the Siam Society* 37; Michael Vickery, “The Constitution of Ayutthaya: An Investigation into the Three Seals Code” in A. Huxley (ed) *Thai Law: Buddhist Law. Essays on the Legal History of Thailand, Laos and Burma* (White Orchid 1996) 133.

⁴ The name of the city as it appears in clause 75 (กรุงเทพมหานครหรืออยุธยามหาดิลกพจนพรัตน์ราชธานีบุรีรม *Krunghthep thawarawadi si ayutthaya mahadilokphop ratanarat-thani burirrom*) is approximately the same as the name of Ayutthaya in the royal chronicles in the Prasat Thong reign, see พระราชพงศาวดารกรุงศรีอยุธยา ฉบับพันจันทนุมาศ (สำนักพิมพ์ศรีปัญญา 2553) [*Royal Chronicles of Ayutthaya, Phan Chanthanumat Edition* (Sipanya 2010)] (Thai) 271.

⁵ Since the Fourth Reign, certain topics had been supplanted by royal decrees, but many cases were still decided with reference to the old law, resulting in several legal manuals appearing to assist in the interpretation; Loos, “Gender Adjudicated” (n 2) 250–51; Loos, *Subject Siam* (n 2) 140.

his account to a handful of topics—the classification of three types of wife, the basic forms of adultery and divorce, and the division of property at divorce. He argued that the equivalent clauses in the new civil code were only slightly changed. He did not broach those parts of the law which are very different.⁶

Academic studies have also tended to adjust the original to make it easier for a modern reader to understand. In his classic review of the Three Seals Code,⁷ Yoneo Ishii presented the contents of the Law on Husband and Wife in a logical sequence: the conditions surrounding marriage; the status of husband and wife in marriage; adultery; divorce; matrimonial property; and inheritance. Under each topic, he presented the contents as rules—for example, that a woman could not marry without parental permission. Robert Lingat’s work on this law is similar, proceeding from the conditions surrounding marriage to the conditions and procedures for divorce.⁸ As we show below, these rules do not appear in the original text, and the sequence is very different (see Table 1), reflecting different underlying principles.

Scholars have also translated the original into modern English legalese, giving it the precise, formal, and impersonal feel of a modern law, and obscuring some unusual features of the original. Compare Ishii’s translation of clause 62 with our more literal rendering:

[Ishii:] Should a husband be gone for business to a province or a vassal state and not return home after one year, conjugal relations shall be deemed as terminated. Should he fail to send any gift or to give any news about his health to her for three years, then she shall no more be deemed as his wife and her co-habitation with another man shall be deemed flawless.⁹

[Our more literal translation:] A husband goes to trade in a district, provincial town, royal border territory, or dependent state of the king, and does not return beyond the designated time of one year; He orders: the woman and man are separated as husband and wife; if the man does not come, or send gifts to his wife, or send a letter informing her of his ups and downs, trials and tribulations beyond the designated time of three years, the royal decree states that the woman is no longer the man’s wife; if she has a lover or husband, there is no fault, nor is there fault on the part of the lover or husband.

Again, Lingat had a similar approach. He did not translate excerpts from the law, but presented summaries in legalistic French, importing modern legal concepts into his analysis. For example, in discussing the different types of property involved in

⁶ ม.ร.ว. เสนีย์ ปราโมช, ปาฐกถาเรื่องกฎหมายสมัยกรุงศรีอยุธยา แสดง ณ หอสมุดแห่งชาติ ท่าवासูกรี พระนคร วันเสาร์ที่ 8 เมษายน พ.ศ. 2510 (คณะกรรมการจัดงานอนุสรณ์อยุธยา, 2510) [MR Seni Pramoj, *A Lecture on Law in the Ayutthaya Era Delivered at the National Library, Tha Wasukri, Bangkok, Saturday April 8, 1957* (Committee for the Ayutthaya Memorial, 1957)] (Thai) 35–38.

⁷ Yoneo Ishii, “The Thai Thammasat (with a Note on the Lao Thammasat)” in M. B. Hooker (ed), *The Laws of South-East Asia*, vol 1 (Butterworths 1986) 43, 175–82.

⁸ Robert Lingat, “Le Régime des Biens entre Époux en Thaïlande” (1942) 3 *La Revue Indochinoise Juridique et Économique*, reprinted (Imprimerie d’Extrême-Orient 1943) (French) 6–11.

⁹ *ibid* 178.

a marriage, he wrote:

Il conviendrait alors de faire, entre les biens preuptiaux, une distinction voisine de celle que nous faisons, dans notre regime de communaute, entre les propres parfaits et les propres imparfaits. [It will be convenient, among the prenuptial properties, to make a distinction similar to that which we make, in our marriage regime, between perfect ownership and imperfect ownership.]¹⁰

Lingat, Ishii, Seni, and others begin their review of this law by highlighting the classification of three types of wives—major, minor, and slave—in the preface. Lingat also points to a classification of seven types of women and a list of five types of adultery which appear later in the law. Such lists are prominent in ancient Indian legal texts. Highlighting these lists supports the argument, introduced by Lingat, that the Three Seals law are descended from the Indian legal tradition conveyed via the Mon country into Siam.¹¹ But the threefold classification plays almost no role in the law, appearing in only one other clause (cl. 32), while a minor wife appears only twice more (in adjacent clauses), once using a different term (cls. 32, 33),¹² and only a handful of clauses apply specifically to a slave wife.¹³ In short, this threefold classification is not integral to the law. The list of seven types of women is found in the Vinaya and elsewhere, and has no application in this law. These lists stand out as being atypical, rather than typical of the law. We suspect they were incorporated into the law late in its history.¹⁴

¹⁰ Lingat, “Le Régime des Biens” (n 8) 24. Lingat’s study has another, unwitting effect. Because it focuses specifically on the division of property, and because it is by far the longest, most erudite, and most famous study of this law, it gives the impression that the division of property is a major part of the law, though it occupies only four of the 134 clauses. These clauses became the focus of debate in the late 19th and early 20th century because of the accumulation of wealth by noble families in this period. See Junko Koizumi, “Legal Reforms and Inheritance Disputes in Siam in the Late Nineteenth and Early Twentieth Centuries” in Yoko Hayami, Junko Koizumi, Chalidaporn Songsamphan, and Ratana Tosakul (eds), *The Family in Flux in Southeast Asia: Institution, Ideology, Practice* (Kyoto University Press 2012) 37.

¹¹ Robert Lingat, *L’Influence Indoue dans l’Ancien Droit Siamois* (1937) 25 *Etudes de Sociologie et d’Ethnologie Juridiques* (Paris: Ed. Domat-Montchrestien). Boondarika Boonyo shows there is no similarity between the inheritance laws in Indian texts and the version in the Three Seals Law; บุญตริกา บุญโย “กฎหมายมรดกในคัมภีร์ธรรมศาสตร์กับกฎหมายตราสามดวง” [Boondarika Boonyo “Inheritance Law in Dharmaśāstra and Three Seals Law”] (MA diss, Chulalongkorn University 2015) (Thai). Similarly, there is no similarity between this law and sections on women and marriage in the *Laws of Manu*; see Wendy Doniger, *The Laws of Manu* (Penguin 1991) 43–50, 197–218.

¹² Clause 74 reads: “some people who have two or three wives and [have property] . . . should give two parts to the old wife, one part to the central wife, and half a part to the last wife.” This clause became important in the debate on framing the modern law of inheritance in cases of polygamy. But in the original text, this is a homily (see below).

¹³ In the law on slavery (พระไอยการทาส (*phra aiyakan that*)), only two clauses (31 and 99) mention a slave wife, and do not use the term for a slave wife found in this law.

¹⁴ On the thinking behind this suspicion, see Chris Baker and Pasuk Phongpaichit, *The Palace Law of Ayutthaya and the Thammasat: Law and Kingship in Siam* (Cornell University SEAP 2016) 30–31.

In sum, studies on the Three Seals Code and on the Law on Husband and Wife in particular have tended to make these laws seem similar to modern legislation—namely an act of law-making at a specific time—and similar to the modern definition of law as a “system of rules.” We suggest that both these similarities are illusory.

II. ARCHIVE, NOT LEGISLATION

The clauses were not legislated at one particular point, but accumulated over time from rulings in court cases and decrees issued by the king.¹⁵ The clauses come in several different formats, which may reflect evolution over time.

A. Simple Format

The simplest format, which may also be the earliest, seems to derive directly from a single court judgement. In a handful of clauses, the case giving rise to the decision appears in some detail within the clause. For example:

Amdaeng Uu, wife of Phra Julaphai, who separated, took Luang Ratcharin as husband, then cheated on Luang Ratcharin, separated, and took Jao Chat as husband, then Phra Julaphai the old husband made a case to the king against Luang Ratcharin and Jao Chat. . . . (cl. 6, see also cl. 71)

More usually, the situation is summarised and anonymous, but the case behind the ruling is easy to imagine, for example:

A woman who already has a husband goes to the house of a man who makes love to her; the husband knows this man has been lovers with his wife, and the matter is proven; He orders: fine the lover and give it to the wife’s master; and have the woman shamed by royal command. (cl. 17)

On grounds of their language and style, most of the clauses of this first type seem relatively old. The language is strikingly simple. Most words are monosyllables. Most sentences are subject-verb-object with few dependent clauses or other complex constructions. There is little or no legal jargon, and few words that derive from Pali–Sanskrit. Indeed, the lack of a precise vocabulary, particularly for technical terms, often makes the meaning unusually unclear or ambiguous for a law code. For example, there is no standard term for intercourse; several terms are used, of varying clarity.¹⁶

¹⁵ Older law codes from the Tai world were similar; see Aroonrut Wichienkeo, “Lanna Customary Law” in Andrew Huxley (ed), *Thai Law: Buddhist Law. Essays on the Legal History of Thailand, Laos and Burma* (White Orchid 1996) 31.

¹⁶ These include: *ท่าชู้*, *tham chu*, be lovers; *สุ*, *su*, visit; *มัก*, *mak*, like; *สมจร*, *somjon*, join-go; *สมรัก*,

In these simple-format clauses, there are certain words and phrases that appear nowhere else in the Three Seals Code, and today can rarely be found in any dictionary. For example, the phrase ยุมแปลง *yum plaeng* appears seven times in this law, and only once elsewhere in the Three Seals Code. It clearly means a formal apology, but does not appear in any dictionary. A child born out of wedlock is described as พรมนาจารย์, *phrommanajan*, probably derived from *anācāra*, Pali for misconduct, but this is not found elsewhere in the Code, nor in dictionaries. Four clauses refer to a fine paid to the royal treasury as “cost of grass for royal elephants,”¹⁷ clearly alluding to the punishment of being sentenced to cut grass for feeding royal elephants, but in a form of words not found elsewhere in the Code. Clauses on public shaming refer to ฉะมอง *chamong*, a gong used to publicize the shaming, and กะต้อตากลวย *katro takluai*, a cone-shaped headpiece—both not found elsewhere in the Code. Some of these rare words have disappeared from mainstream Thai, but survive in local dialects.¹⁸ Some come from everyday Khmer, which was probably spoken alongside Thai in early Ayutthaya.¹⁹

B. The Law-Giver

In clauses of this style, the law-giver is usually present. A typical clause begins by summarizing a situation of wrongdoing, then delivers judgement and punishment beginning with the formula ท่านว่า or ท่านให้ *than wa* or *than hai*—“He orders.” For example (cl. 16): “A woman is unfaithful with a lover, and this male lover slashes and stabs the husband to death; He orders: execute the male lover and the woman. . . .”²⁰

Than (ท่าน) is a third (or second) person pronoun which conveys a high level of respect, and which can be used for a king. Since the authority behind the law ultimately stemmed from the king, here the pronoun may imply the king without being explicit. In older law texts from the Tai world, a similarly ambiguous lawgiver is present in the text.²¹ Many clauses also specify that the punishment is mandated โดยพระราชกฤษฎีกา

somrak, join-love; สมรสด้วยกัน, *somrot duai kan*, join taste together; สมัก, *samak*, join; สมักสังวาด, *samak sangwat*, join in love; หลับนอนด้วย, *lap non duai*, sleep with; เอาชายมานอน, *ao chai ma non*, take a man to bed; เสียประเวณี, ร่มประเวณี, ลักลวงประเวณี, *sia/ruam/lakluang praweni*.

¹⁷ In the preamble and clauses 34, 114, 126. Possibly this was an early term for a fine paid to the treasury, later replaced by *phinai*. Both terms appear in cl. 126.

¹⁸ สยาม ภัทรานุประวัตติ, “คำและสำนวนในกฎหมายตราสามดวง” ใน วินัย พงศ์ศรีเพียร, บรรณานิการ, ภาษาไทยในกฎหมายตราสามดวง (สำนักงานกองทุนสนับสนุนการวิจัย, 2550) [Sayam Phatranuprawat, “Words and Expressions in the Three Seals Code” in Winai Pongsripian (ed) *Language in the Three Seals Code* (Thailand Research Fund 2007)] (Thai).

¹⁹ Wilaiwan Khanittanan, “Khmero-Thai: The Great Change in the History of the Thai Language of the Chao Phraya Basin” (2001) 19(2) ภาษาและภาษาศาสตร์ [Journal of Language and Linguistics] 35; reprinted in S. Burusphat (ed), *Papers from the Eleventh Annual Meeting of the Southeast Asian Linguistics Society* (Arizona State University 2004).

²⁰ This form appears 98 times in the 134 clauses of the law.

²¹ Mayoury Ngaosyvathn, “An Introduction to the Laws of Khun Borom” in Andrew Huxley (ed), *Thai Law: Buddhist Law. Essays on the Legal History of Thailand, Laos and Burma* (White Orchid 1996) 73, 74–75.

doi phraratchakruesadika—“by royal command.”²²

In many, but not all clauses of this type, the sentences and punishments are vague and imprecise. For example, a clause on adultery with a runaway wife merely states “fine that man . . . and punish the woman, either severely or not severely” with no calibration of the fine, and no specification of the nature of the woman’s punishment (cl. 29). A clause on a miscreant lover rules “do not slash him to death, but tie his hands and bring charges according to the practice of the realm” (cl. 82). Many clauses hand down sentences of fines, compensation payments, or beatings, without indicating the amounts.

In a few cases, the rulings in two clauses conflict, perhaps because they were made at different times or by different judges.²³ On some subjects, there is a short and simple law and then longer and more complex versions which may have come later. For example, on divorce Clause 67 states simply: “A wife and husband do not like each other and wish to divorce because they have both run out of merit together; they cannot be forced to stay together.” A dozen much longer clauses prescribe procedures and conditions for separating under different circumstances. Similarly, Clause 120 rules that a runaway wife should be caned and sent back to her parents, but several other clauses discuss variant cases.

C. More Complex Formats

There are clauses in three other formats that may reflect a progression over time. In the second format, the clause still appears to originate from a single specific case, but also has a sub-clause relating a variant on the original case. For example, clause 26 imposes a fine on a man who beats his wife, and has a sub-clause specifying “if the man and woman separate, give the compensation to her parents, grandparents, uncles and aunts because they have the difficulty of keeping her.” Some clauses have two or three of these appended clauses, perhaps because they were updated after new rulings.

In the third format, the clause begins with a specific case, but adds sub-clauses covering all potential variations. In clause 46, a female slave sues for her freedom on grounds that her master raped her. If the rape is proved, she gets a 50 percent discount on her redemption price; if he molested her without penetration, the discount is only 25 percent; and if her charge of rape is disproved, she will have to pay the full amount.

Finally, there are a handful of clauses that begin to resemble modern legislation. These do not begin with a specific case, but by hypothesizing a situation and then mandating solutions. For example, clauses 49–51 address the situation where a man

²² On this term see วินัย พงศ์ศรีเพียร, “ภาษาไทยในกฎหมายตราสามดวง” ใน วินัย พงศ์ศรีเพียร, อาจารย์บุชา สรรพสาระ ประวัติศาสตร์ ภาษาและวรรณกรรมไทย (สำนักงานกองทุนสนับสนุนการวิจัย 2552) [Winai Pongsripian, “Thai Language in the Three Seals Law” in Winai, *Homage to a Teacher: Thai Etymology, History, Language, and Literature* (Thailand Research Fund 2009)] (Thai) 169–70.

²³ Junko Koizumi, “From a Water Buffalo to a Human Being: Women and the Family in Siamese History” in Barbara Watson Andaya (ed), *Other Pasts: Women, Gender and History in Early Modern Southeast Asia* (Center for Southeast Asian Studies, University of Hawai’i 2000) 254, 256–62. Compare, for example, clauses 88 and 126.

has abandoned his wife, and prescribe the conditions and procedures for separating their property and confirming their divorce, depending on various circumstances. Similarly, clauses 72–73 lay down conditions for separating different kinds of property in cases of divorce. These clauses probably date from the 17th or early 18th century, when Ayutthaya society had become significantly richer and when issues over property had increased, as indicated by extensions to the law on inheritance in this period. There is a hint that clauses 72–73 originate from the Narai reign (1656–1688).²⁴

In these more complex clauses, the language is marginally more complex too. There are more multi-syllable words, and a small number of technical terms derived from Pali–Sanskrit. For example, the clauses on the division of property at divorce refer to the *borikhon*—a document recording property, derived from the Pali word *pariggaha* meaning possessions—as well as Pali-derived terms for organic and inorganic property. These clauses use fewer lost words, make less use of the “He orders” phrasing, and tend to be more precise on punishments. However, they remain very different in style from the sections of the Three Seals Code which are clearly dated from the late 17th century onwards—these have more precise legal terminology, elaborate details on graded punishments, and almost no words that are rare or unknown today.²⁵

These archives had to be regularly recopied because the media for writing deteriorated over time, but there is no information on this procedure. Probably, on these occasions, the individual laws were sifted, edited, and sorted into categories. The prefaces record ceremonial events affirming or reaffirming the law, but not the creation of the laws themselves, which may have happened over a long span of years, both before and after the dates in the prefaces.

III. MATTERS OF DISPUTE, NOT RULES

As noted above, modern summaries and studies create an illusion that this law resembles the “system of rules” of modern law. But there are no rules in the Law on Husband and Wife, no clause of the form “A woman may not marry without the permission of her parents.” This law, and other social laws in the Three Seals Code, are descriptions of disputes and advice on how to solve them. This is explained in the *Thammasat*, the text which serves as an introduction and index to the entire Three

²⁴ These clauses are preceded by an intermediate preface which states that the king proclaimed these clauses in “the throne-[hall] in the great pond to the west.” This might mean the Banyong Rattanat throne-hall, situated in a pond on the western side of the Ayutthaya Grand Palace, built early in the reign of King Narai. See Chris Baker, “The Grand Palace in the *Description of Ayutthaya*: Translation and Commentary” (2013) 101 *Journal of the Siam Society* 69, 74–76, 98–99.

²⁵ See for example the laws in พระราชบัญญัติ, *phraratchabanyat*, and พระราชกำหนดเก่า, *phraratchakamnot kao*, which date from the late 17th century onwards; *Three Seals Law* vols iv and v. See also จรินทร์ สุวรรณโชติ, “การศึกษาเปรียบเทียบภาษากฎหมายในกฎหมายตราสามดวงกับกฎหมายปัจจุบัน” [Jarín Suwannachot, “Comparative Study of Legal Language in the Three Seals Law and Current Law”] (MA diss, Srinakharinwirot University 1994) (Thai).

Seals Code. This index uses a framework of “root matters” and “branch matters” inherited from Indian jurisprudence. Some of the “root matters” are about procedure—accepting cases, evaluating witnesses, and so on. Apart from that, the *Thammasat* lists 29 “root matters of dispute,” each with a title in Pali and short description in Thai. Each of these root matters is the subject of a law in the Code.²⁶ The purpose of the Code is to manage disputes.

According to this introduction and the law’s preface, the Law on Husband and Wife is *jāyampatīkassa vipattibhedā*, which translates as “about the various root causes of dispute which arise between husband and wife.” Rather than just being lists of rules, the Three Seals laws somewhat resemble the law reports used today in common-law legal regimes—a record of case law used by both lawyers and judges.

In the case of the Law on Husband and Wife (but not of most others in the Code), the types of disputes have been further classified into thirteen sections. This classification is made according to the cause of dispute, as well as the persons involved in or affected by the dispute (see Table 1).²⁷

Table 1. Subdivisions in the Law on Husband and Wife

	Title of subdivision in the law	Content (our definitions)	Clauses	Words
1	On the three types of wife and punishment for adultery	adultery	1–4	667
2	On not fining in cases of women who are prostitutes	prostitution	5–7	355
3	On disputes between husband and wife for various reasons	adultery, abandonment	8–41	2,909
4	On disputes over slave wives	slave wives	42–48	604
5	On men and women quarrelling and separating	abandonment, divorce, property	49–56	1,357
6	On husband and wife quarrelling, affecting the parents-in-law	quarrelling	57–61	609
7	On having a wife wait when the husband goes to trade or on royal business	abandonment	62–3	355
8	On disputes of husbands and wives over divorce	divorce, property	64–75	1,884

²⁶ Baker and Pasuk, *Palace Law* (n 14) 46–47. The contents of the Code do not quite match this index. There are 24 laws or part-laws.

²⁷ In the original, the sections are not numbered, and the titles appear at the end of the section rather than the beginning. The word-counts here, from our draft English translation, indicate the relative length of the sections.

	Title of subdivision in the law	Content (our definitions)	Clauses	Words
9	On seven types of women, and punishment for rape	rape	76–80	378
10	On men and women becoming lovers in secret without asking for hand and men tricking women	eloping	81–94	1,310
11	On a man asking for the hand of someone's daughter or granddaughter	asking hand, adultery, property	95–115	2,283
12	On a man and woman running away as lovers	eloping	116–28	1,430
13	On disputes between a woman's parents and a man	eloping, divorce	129–34	784

There are almost no sources that explain how these law texts were used. Simon de La Loubère, a French diplomat and lawyer by training who visited Siam in 1687–1688, left the most detailed account of court procedure from the era. After the case is heard and witnesses examined, perhaps through many sessions, the parties are called before the presiding judge—in this case a provincial governor. La Loubère describes the procedure twice:

Oc-Louang Peng keeps the Book of the Law and the Custom, according to which they judge; and when Judgment is passed, he reads the Article thereof, which serves for the Judgment of the Process; and in a word it is he that pronounces the sentence.

Then it belongs to Oc-Louang Peng to read with a loud voice the Article of the Law, which respects to the suit; but in that country, as in this, they dispute the sense of the Laws. They do there seek out some accommodation under the title of Equity; and under pretence that all the circumstances of the fact are not in the Law, they never follow the Law. The Governour alone decides these disputes. . . .²⁸

These two accounts are somewhat contradictory; the overall sense is that the written law was used to guide judgement, but that the judge retained discretion.

IV. OTHER DISTINCTIVE CHARACTERISTICS

The clauses in this law have features which are rare in a modern law, including editorial commentary, graphic detail, poetic phrasing, word-play, and homily. These

²⁸ Simon de La Loubère, *A New Historical Relation of the Kingdom of Siam* (A. P. Gen tr, London 1793) 84, 86.

features suggest that the laws had uses other than in a court.

A. Editorial

In several clauses, the judge's decision is followed by a comment or editorial on the case. In cases where a dispute has resulted in murder, the judgement runs "execute the culprits, let them go the same way"²⁹—a proverbial expression of eye-for-eye reciprocal justice (cl. 14, see also cl. 16). A man disrobing from the monkhood is allowed to reclaim his wife, children and property "because this is the house where he once lived, the room where he once slept on the pillow, the food that he once ate" (cl. 37). A clause on divorce advises those concerned to divide the property fairly "because possessions are something that people care about and are attached to" (cl. 61). A man is told he cannot claim any compensation from a slave wife who deserts him "because he has used her already" (cl. 33). Parents are advised to drive away an unpleasant suitor and not let him live with their daughter "as it will be disastrous" (cl. 57, see also 58).

B. Graphic Portrayal

Some clauses describe offences with a distinctive visual flourish. A husband who comes upon his wife *in flagrante delicto* is said to "catch the woman lying face-up and the lover face-down" (cl. 8). A clause specifying that a marriage is not dissolved by death until the body has been cremated begins "A man has died and been placed face-up in a coffin, and the body is still in the house; the wife, tearful and downhearted, takes a man to her bed while the corpse is still there face-up. . . ." (cl. 30). The law allowing a man to abandon an adulterous wife states "let her go with only one lowercloth and one uppercloth" (cl. 10). A husband and wife who quarrel violently are described as "grasping pike, sword, spear, bow, crossbow, or machete" (cl. 5 and others). In clauses on marital discord, the man does not simply leave the wife but "goes down from the house to leave the woman, and uses a machete or axe to slash the post of the house or her bridal chamber" (cl. 51). This image of slashing the post comes from storytelling and is probably a conventional metaphor for an irreconcilable quarrel.

C. Poetry and Word-Play

Several clauses have poetic wording and amusing word-play. A man who walks out on his wife in a fit of drunken anger then returns to apologize is described as สามาทโทโส มาแขก *samat thoso ma khaek*, burying the word for "apologize" in words meaning "drunk-angry-come-stranger" (cl. 50). A man who abandons a woman and sullies her reputation has นมบกอกพรอง *nom bok ok phrong*, a play on words that might be translated as "he has deflated the breasts on her chest" (cl. 84). The act of seizing and manhandling a woman is described with the phrase กุมเกาะเบาะฉะแลง *kum ko bo*

²⁹ ให้ตกไปตามกัน, *hai tok pai tam kan*, "let them fall following," also cls 12, 14, 16, 92, 94.

chalaeng, “catch-hold-drag-with-strength,” a rhythmic chain of syllables which captures the sound of the scuffle (cl. 90). A man and woman who play around are said to *สะมะเลก้น samale kan*—a languorous phrase, still used today to mean a drunken get-together, where you can almost hear them slurring the words of their pillow-talk (cl. 108).³⁰

Some of the editorial commentary also has poetic flourish. When parents who changed their mind about marrying their daughter are ordered to return the bridewealth, the clause comments that “a slip of the mouth can cause loss like feet that fall out of a tree,” riffing on a proverbial phrase with a triple alliteration that is hilarious in sound and meaning.³¹

D. Homily

Some clauses consist wholly or partially of homilies on good behavior. One suggests a man should “be respectful towards his wife’s parents, elders, and kin on par with his own parents, elders, and kin, and must do nothing uncouth and improper” (cl. 57). A couple who have somehow lost all their property are advised “they must not argue with one another” (cls. 71, 72). A man who is separated from his family in wartime is advised to reward another man who looked after them (cl. 31). Men are advised to look after their dependents fairly and generously:

People in the districts and territories should look after their children, wives, and siblings fairly and properly; some people who have two or three wives and by luck get paddyfield, upland, gardens, or other property, should give two parts to the old wife, one part to the central wife, and half a part to the last wife. (cl. 74)

The graphic detail, poetic phrasing, word-play, editorial and homily in these laws suggest that they were composed with some attention to their impact. As described by La Loubère, they were read “with a loud voice” in court. Perhaps the judgments were also proclaimed outside the courts as a form of public instruction.

V. THE ROLE OF THE COURTS AND THE LAW

The main role of the courts, particularly in the earlier years, seems to have been to urge conciliation in matters of dispute—with the striking exception of cases involving adultery. Here, the courts seem at first to have treated adultery as a crime of violence deserving a reciprocal, eye-for-eye punishment, but later to have treated it as a form of property damage resolved by fines and compensation. Any use of violence was treated as an offence against the duty of the realm to maintain peace and order, and was punished accordingly.

³⁰ Winai, “Thai Language” (n 22) 191, 201; Sayam, “Words and Expressions” (n 18).

³¹ เหตุพลั้งปากเสียสินพลาตดินตกต้นไม้, *het phlang pak sia sin phlat tin tok ton mai*.

A. Conciliation

Although the law classifies the disputes under thirteen headings, all but a handful concern disputes that arise in the formation or dissolution of marital partnerships.³² The courts' primary role is to advise those involved to attempt conciliation and to sort the matter out themselves.

Couples marry either by seeking parental consent, or by eloping and then returning to beg forgiveness. If, during the negotiation for parental consent to a marriage, the prospective husband is violent with the wife or disrespectful towards the parents, the court rules "that man is very rash; give him back his property and possessions, drive him away, and do not let him injure others likewise." If the wife decides to go with him, "that's up to her." Should he return and formally beg forgiveness "then have him live together with the daughter from then on" (cl. 57). If a man runs away with a woman then returns to apologize to the parents, but they have doubts about him, the law advises the parents to "call on the man to swear an oath, then have them live together as man and wife, because the man and woman have been willing lovers already, to stop their relationship is improper" (cl. 122). If a woman runs off with a man and abandons her parents, the law recognizes that "the parents are hurt and shamed, thinking of the costs of milk, rice, bringing her up, and taking care of her," but advises: "if the parents come and lay charges in the court, have it over quickly; do not fine her, because they are mother and child, father and child; if they have grandchildren in the future, they will make up" (cl. 132).

If a husband acts badly, the court urges the wife's "parents and elders" to have the husband swear an oath or write "a letter promising to desist," and then force him to keep his word; if he continues to misbehave, the court advises him to comply with his oath, but "if later he acts badly, drive him out . . . because he does wrong against the written oath he made himself" (cls. 69, 100, 111). In a case where a couple have eloped, and her parents are seeking to punish the man, the court rules: "there is no robbery; they ran away because they are in love together; they did not sully the parents' house and domicile; they went away themselves; He orders: have them apologize to her parents and grandparents" (cl. 127).

When a partnership breaks down, before or after the marriage, the court tries to unwind the property in a fair fashion by prescribing that all parties take back what they had earlier given.³³ This probably became more difficult over time, as Ayutthaya society became more prosperous. At some point, a system was introduced for documenting property at the time of marriage, but this did not work because the

³² The exceptions to this classification are the five clauses on rape in section 9, and a handful of clauses on miscellaneous subjects in the final "leftovers" section. The short section on prostitution is about adultery, defining when a woman seems to be acting as a prostitute and thus her lover is not guilty of adultery. It does not deal with any other aspect of prostitution.

³³ Inheritance is covered by a separate law (พระไอยการลักษณะมรดก (*phra aiyakanlaksanamoradok*)), which probably appeared in the seventeenth century as the preface mentions Wat Chai Watthanaram, built early in the reign of King Prasat Thong (r. 1629–1656).

documents were lost or falsified. The law reverted to advising judges to unwind the property “with truth and justice” (cls. 72, 73, 75).

B. Adultery

The main cause of dispute which is not susceptible to conciliation is adultery, largely because disputes over adultery tend to become violent. Some clauses, which on linguistic grounds appear to be old, hand down a rough form of justice seemingly based on principles of reciprocity. Perhaps the most extraordinary clause is one that licenses murder—under special conditions:

A woman is unfaithful to her husband; the husband catches the woman lying face-up and the lover face-down; if he wishes to kill the man, he must kill the woman as well, not kill the man alone; if he kills the woman alone, fine the husband according to rank as royal dues. (cl. 8; see also cl. 95)

Similar laws, licensing the husband’s act of murder, but not requiring him to kill both the wife and the lover, are found in old law codes from Lanna and Lanxang.³⁴ The next clause confirms that the husband may kill the adulterer with impunity, and adds “if the husband was not able to kill [the wife] in time” she is taken away as a palace servant (cl. 9). A wife who discovers that another woman is flirting or dallying with her husband is allowed to have the woman roughed up, as long as it does not cause serious injury (cl. 34). If a woman’s parents murder a man who has been making love to their daughter, the parents are punished with nothing more than a fine, while the daughter is sold into slavery to pay for the murdered lover’s cremation (cl. 93).

These clauses may stem from an early phase of the law. In other, possibly later clauses, adultery is treated as damage to the wife as a form of property.³⁵ The male adulterer is then required to pay compensation to the husband for the damage caused, based on her value as set out in the *Phrommasak*.³⁶ The woman is subject to public shaming, perhaps as a way of publicizing her damaged state. She is decorated with stigma and paraded for public view. In an extreme case, the wife and lover are shamed together in a richly metaphorical tableau:

have the man and woman shamed with the plow; place a stigma on the forehead of the woman at fault, a red hibiscus behind both her ears, a garland of red hibiscus round

³⁴ A. B. Griswold and Prasert na Nagara, “Epigraphic and Historical Studies, no. 17: The ‘Judgments of King Mǎñ Rāy’” (1977) 65(1) *Journal of the Siam Society* 137, 155; Mayoury, “Laws of Khun Borom” (n 21) 75.

³⁵ ร. แลงกาต, ประวัติศาสตร์กฎหมายไทย เล่ม 1 (ไทยวัฒนาพานิช 2526) [Robert Lingat, *History of Thai Law* vol 1 (Thai Watthanaphanit 1983)] (Thai) 137–42.

³⁶ The *Phrommasak* is a code that sets out the “body price” of people according to gender, age, and social rank (*sakdina*) for use in calculating fines and compensation. See ศิริพร ดาบเพชร, “‘ค่าของคน’ และ ‘บทปรับ’ ในกฎหมายตราสามดวง” (2547) วารสารประวัติศาสตร์ [Siriporn Dapphet, “Body Price and Fines in the Three Seals Law” 2003 *Warasan prawatisat*] (*SWU*) <<http://ejournals.swu.ac.th/index.php/JOH/article/view/1281>> (Thai).

her head or neck, put her in one side of a yoke, the male lover in the other side of the yoke, and shame them with the plow for three days. (cl. 6)

A woman who becomes lovers with a married man, insults his wife, and then argues with the husband, is subject to a demeaning variant: “rip her lowercloth to four fingers length worn tucked up, place a stigma on her forehead, place her in a tripod-frame, and have her beaten once with a triple cane” (cl. 27). If a man commits adultery with the wife of one of his own elder relatives, both are subjected to elaborate shaming:

have the villains placed in chains and cangue, tattoo both the man and the woman on the face with ink, tie them with leather straps, and parade them around the market beating a gong, then place them in tripod-frames, pelt them with pellets, and give 25 or 50 strokes with the leather lash; then make a raft and float them out of the city, as a warning to others. (cl. 35)

The raft is another poetic allusion. In practice, a raft floated from Ayutthaya would soon ground on a bank of the modestly broad and sinuous river. The image is taken from *jataka* tales where wronged princesses and unwanted sons are often condemned to this form of exile. The clause outlawing incest has a similar but more extreme punishment:

make a raft and float those people on the sea; have the parents and siblings make offerings of eight chickens at the four gates of their city; have monks and brahman teachers make prayers and ceremonies to ward off evil and bring thunder and rain which will be of benefit to all. (cl. 36)

The ceremonies prescribed are similar to those required to atone for bloodletting in the palace.³⁷ The use of chickens, and the added touch of rain-making, hint that these rites hark back to pre-Buddhist practices among Tai groups.

C. Fines as Punishment and Fee

Fines are levied both as a punishment and as recompense for the court’s involvement in the dispute. The disputes over contracting and dissolving a marriage may become complex as they involve emotions and property, the heart and the purse, and because other people become involved—rivals, parents, go-betweens. The court hands down rulings to resolve the dispute, and levies fines which serve the dual purpose of punishing the wrong-doers and compensating the court’s involvement in the dispute.

³⁷ Baker and Pasuk, *Palace Law* (n 14) 60, 108.

D. Violence Against the Realm

If a dispute has involved violence and disorder, then an offence has been committed “against the realm,” since the authorities have the duty to maintain peace and order. In such cases, the fines may be multiplied, and the guilty parties may also be subject to flogging or other physical punishment on the principle of reciprocity. A group of men who commit a gang-rape are punished severely “because they acted boldly and insolently towards the king’s realm” (cl. 90).

Cases where the parties have been excessively cunning or brazen are also considered offences against the realm, because they have unduly taxed the judicial process; they are punished accordingly. For example, a man who rejects the court’s attempt at conciliation, abducts a woman, and then sells her into slavery is punished with fines and flogging “because the bad woman and evil man create difficulty for the king’s realm” (cl. 122, see also 22, 49, 134).

VI. THE PRINCIPLES OF MARRIAGE

The law does not lay down the rules concerning marriage, or prescribe procedures for contracting or dissolving a marital partnership. However, the courts follow certain principles with fair consistency, perhaps aiming to make rulings in accordance with custom or the social will. The major principles surrounding marriage seem to be just three in number.

First, a woman is an item of property. She belongs initially to her parents, hence their assent is required for her marriage. The marriage is a transfer of ownership to the husband, who then has exclusive sexual rights. The vocabulary for this ownership is *pen itsara kae*, “is big towards [the dependent],” meaning “has authority over.” The key word *itsara* derives from Pali–Sanskrit *īśvara* *issara*, meaning “holding power”—often used for the supreme power of gods and kings.³⁸ Alternative phrasing uses the term *sitthi*, from Pali–Sanskrit *siddhi*, which today would mean a “right,” but here means being under the authority of someone—the flip side of *itsara*. A woman is described as being *mia sitthi kae chai*, wife under-authority to the man. In cases of dispute, the court allocates her under-authority-ness to either a husband or the parents (e.g. cl. 26). After divorce, the woman returns to the authority of the parents.

As Tamara Loos has described in detail, this “under-authority” status meant a woman was not an independent legal subject and hence was vulnerable in many ways.³⁹ Although polygamy is not directly addressed in the law—besides two references to a minor wife—it is implicit in the fact that no clause faults a husband for adultery against his wife.

³⁸ See Loos, *Subject Siam* (n 2) 68 and Tamara Loos, “ISSARAPHAP: Limits of Individual Liberty in Thai Jurisprudence” (1998) 12(1) *Crossroads: An Interdisciplinary Journal of Southeast Asian Studies* 35–75.

³⁹ Loos, “Gender Adjudicated” (n 2) chs 4 and 5.

Second, a marriage results in the pooling of property, which has to be unwound before the partnership is conclusively dissolved.

Third, a marriage is based on love:⁴⁰

A couple . . . are in love and go to live together; her parents find out and do not complain or lay charges; the couple builds a house . . . and they live together as husband and wife; even if she has no child, the status of the woman is as wife of the man (cl. 87).⁴¹

When parents find out their daughter had a lover only when they are marrying her to someone else and she runs away at the last moment, the court fines the parents heavily and confirms the marriage to the old lover “because that man and woman were already in love before” (cl. 123).

Just as the law sees love as the basis of marriage, it recognizes that couples can fall out of love, that a man or woman can “withdraw their heart.” If the desire for divorce is mutual, the law provides a simple and clean procedure: “the husband gives a letter to the wife, and the wife gives a letter to the husband, in the presence of elders. . . . [T]he husband and wife are divorced” (cl. 65).

A subsidiary principle that appears sporadically through the law is that marriage is the means to generate the future population, which is of political concern in a population-scarce society. Hence, child-bearing is the only waiver on the requirement for the approval from the wife’s parents. If a couple elope, and

are living together as husband and wife, and a child, male or female is born, to continue the line; He orders: the birth of a child is the betel-tray, the woman is the wife in the authority of the man (cl. 88, see also 86).⁴²

In witty language, this clause equates the arrival of a child with a marriage ceremony. Seemingly by the same logic, prolific child-bearing may override the rules on adultery. If a woman runs away from a husband with whom she had no children, marries again, and has one or two children, she and the new husband are deemed guilty of adultery; but “If the woman has three or more children with the new husband, do not punish or fine the man and woman. . . . [G]ive the authority over the woman to the new husband” (cl. 20). Perhaps, by the same logic, if a man buys a slave wife and she turns out to be infertile, he can hand her back and reclaim the price he paid (cls. 18 and 46). And perhaps the law requiring a cuckold to kill his wife as well as the adulterer (cls. 8, 95) is a device to deter such murder for the sake of manpower.

⁴⁰ The law uses two phrases for “being in love:” รักใคร่กัน, *rak khrai kan*, love-desire-together, and สมัก (สมัค) รักกัน, *samak rak kan*, join/unite-love-together.

⁴¹ See also cls. 108, 119, 122, 123, 127.

⁴² However, cl. 126 specifically contradicts this principle, describing a similar situation and ending, “He orders: the woman is not in the status of the man’s wife, only lovers.”

VII. THE AMBIT OF THE LAW

Were these laws applied only in the capital and only among the *khun nang* elite, or was their ambit wider?

We have argued elsewhere, based largely on a reading of the social panorama in *Khun Chang Khun Phaen*, that there were two models of gender relations and sexuality in Ayutthaya society.⁴³ The model within the *khun nang* elite was based on patriarchy, licensing male polygamy and severely constricting the sexuality of women. Among commoners, by contrast, women had a prominent role as providers of the family income and curators of the family wealth, while men were often loosely attached to the family because of military service, corvée, the monkhood, and long-distance trade.

Unsurprisingly, the laws handed down by the king and his official deputies were based on the patriarchal model, exemplified by the conception of the wife as property. However, the subjects to which this law was applied mostly seem to have been commoners. Many of the disputes covered by the law are created by the loose male of commoner society—through elopement, adultery with other men’s wives, absence for war, royal service, or trade, or summary abandonment. There are only seven references to using noble rank to calibrate punishments (cls. 8, 89, 90, 92, 108, 122, 126). The law does not restrict polygamy, but the practice is curiously absent. There are only two references to a minor wife, and no treatment of disputes between multiple wives, which are usually prominent in a polygamous society. Perhaps this segment of the law has been lost.⁴⁴

Despite the patriarchal conception of the family, the law has to make space for the dominant role of females in practice. Authority within the family is always assigned to *bida-manda*—father-mother, the parents, sometimes joined by the grandparents, making room for both genders. The clause on the division of common property at divorce favours the man in a 2:1 split—a ratio that Lingat argued was prevalent in Southeast Asia,⁴⁵ assuming that the husband would be largely responsible for accumulating this property—but immediately adds a proviso which probably reflected reality at Ayutthaya: “if the woman has old capital used for trading for profit, and the husband has no old capital, He orders: divide the marriage-property into three parts, give two to the woman and one to the man, because he had no capital and had to find it himself” (cl. 68).

The Three Seals laws seem to have been distributed beyond the capital in some form. La Loubère described the laws being read aloud in a provincial court, where the presiding judge was the governor or *chao mueang*. In 1847, James Low published a study of Thai law based on manuscripts collected in the provinces, including one sent

⁴³ Chris Baker and Pasuk Phongpaichit, “Gender, Sexuality and Family in Old Siam: Women and Men in *Khun Chang Khun Phaen*” in Rachel V. Harrison (ed), *Disturbing Conventions: Decentering Thai Literary Cultures* (Rowman and Littlefield 2014) 193.

⁴⁴ In the numbering of clauses in the manuscript version, clauses 91–99 are missing.

⁴⁵ Lingat, “Le régime des biens” (n 8) 11.

to Tenasserim in 1596 and another to Ligure in 1740, both with historical details that make these dates credible. The contents of the manuscripts are clearly digests of laws from the Three Seals collection.⁴⁶ La Loubère's account and Low's manuscripts suggest law texts were sent from Ayutthaya to serve as aids for local judges.

VIII. CONCLUSION: A SPECULATIVE HISTORY

To sum up the above arguments, we here propose a speculative history of the Ayutthaya Law on Husband and Wife. We stress that this exercise is an experiment based on a single law, and is designed to provoke debate.

This law originated in early Ayutthaya, possibly in the 15th century,⁴⁷ as an archive of court judgements on individual cases handed down by the king or his representative. The purpose of these judgements was to resolve disputes between people that arose in the course of contracting or dissolving partnerships. For the most part, the courts advised conciliation. Cases of adultery, which often entailed violence and defied conciliation, were settled using rough justice based on reciprocity and shaming. Perhaps the court judgments were published as proclamations, as they were written using imagery and poetic devices for impact, and often included editorial and homilies directed at a wider audience than the parties to the case. The practice of law in early Ayutthaya seems to have been intimate, personal and practical, with little or none of the formality designed to make law seem impersonal and abstract.

The settlement of disputes arising from marriages seems to have been based on a handful of principles: women were property, and marriage was transfer of this property from parent to husband, who thus had exclusive sexual rights; marriage entailed a pooling of property that had to be unwound on death or separation; and love was an emotion that demanded respect. A supplementary principle recognized the important role of the woman as begetter in a population-scarce society. The law seems to have been applied mostly to commoners.

Over time, there were changes. Adultery was treated as damage to the wife as a form of property, and thus managed through compensation rather than rough justice. Fines were more widely used, both as punishment and as a way to remunerate the court. Any use of violence in a dispute, or any cunning that increased the burden on the court, was conceived as an offence against the realm and was subject to heavier punishment. As the society prospered, probably from the early 17th century onwards, property became more important, and new laws and procedures were introduced to

⁴⁶ James Low, "On the Law of Mu'ung Thai or Siam" (1847) 1 *Journal of the Indian Archipelago and Eastern Asia* 327; facsimile in วินัย พงศ์ศรีเพียร, *นิติปรัชญาไทย: ประกาศพระราชปราชญ์ หลักอรรถศาสตร์ และ On the Laws of Mu'ung Thai or Siam (สำนักงานกองทุนสนับสนุนการวิจัย, 2549)* [Winai Pongsripian, *Thai Legal Philosophy: Preface, Tenets of Indra, Thammasat and On the Laws of Mu'ung Thai or Siam* (Thailand Research Fund, 2006)] (Thai); Baker and Pasuk, *Palace Law* (n 14) 11–12.

⁴⁷ See Chris Baker and Pasuk Phongpaichit, *A History of Ayutthaya: Siam in the Early Modern World* (Cambridge University Press 2017) 72.

handle the division of marital property.

The form of individual clauses became gradually more complex—first with the addition of sub-clauses representing slight variants on the case, possibly incorporated at the time of copying and editing the text, and later with more comprehensive versions, possibly handed down by decree, which hypothesised a situation of conflict and provided rulings on various outcomes. Legal process became more complex and more professionalised, visible in the many laws on procedure in the Three Seals Code. The role of law and of the court may have shifted its focus somewhat from conciliation to punishment.

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