

The Arithmetic of Life in Pre-modern Siam: Ranking and Monetary Value in the Penal System

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Abstract

Penal systems are a reflection of a society and its governance. The laws of pre-modern Siam, as collected in the Three Seals Code, included a law on punishment called Phrommasak. Although this text is applicable to only a narrow range of offences, it seems to have served as a reference point or model for punishment of other offences which today would be labelled as “civil.” The Phrommasak has three striking features: first, it prescribed punishments in the form of money paid as fines and compensation; second, these amounts were calculated to vary greatly according to social status as measured by sakdina; and third, the calculation of these amounts was highly intricate involving several arithmetic formulas, multiple dimensions, and Buddhist concepts. Although the prominent use of fines and the grading by social status can be traced to Indian sources, such as the Arthashastra, the scope and

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intricacy of the system in the Phrommasak appears to be unique. The Phrommasak reflects the nature of Ayutthaya Siam as a commercial or market society, conscious of its low population, where hierarchies on public display were important in structuring the society.

Keywords: Ayutthaya — Three Seals Code — *Phrommasak* — Penal systems — Fines

Penal systems are a reflection of a society and its governance. Descriptions of the penal systems of pre-modern Siam by foreign visitors tended to highlight the exotic and violent aspects including ordeal by fire or water, summary execution, beatings, and mutilation.¹ While such practices clearly were used, they give a misleading impression of the penal system as a whole. We suggest that the dominant mode of punishment for crimes arising from disputes between people (civil offences in today's terminology) was the levy of money as fines and compensation. The methods for computing these penalties were set out in great detail in the *Phrommasak*,² one of the legal texts included in the collection known as the Three Seals Code, assembled in 1805. In this article, we summarise the methods for computing fines and compensation in the *Phrommasak*, review the use of punishments in other laws, and discuss the significance of the key features of the penal system.

The courts in pre-modern Siam handed out a wide range of punishments including execution, confiscation of property, fines, mutilation, corporal punishment, shaming, warnings, and pardons. The law codes often presented the officials in charge of sentencing with a hierarchy of punishments to choose from depending on the severity of the case. For example, to punish a war profiteer, the law instructed as follows:

. . . impose punishment of one of eight grades, namely: 1. execute the villain; 2. strip them of all property and demote to cutting grass for elephants; 3. call for the money due to that *phrai*, hang round their neck to shame, then give 25 strokes of the leather lash; 4. dismiss from royal service and give 25 strokes of the rattan cane; 5. fine at quadruple rate; 6. fine at double rate; 7. fine once; 8. pardon the punishment.³

Phrommasak, the title of the law on punishment in the Three Seals Code, derives from the Sanskrit *brahmadaṇḍa*, Brahma's rod, a mythical weapon that was adopted as a

¹ See the accounts by a French and a Persian visitor in the 1680s: Simon de la Loubère, *A New Historical Relation of the Kingdom of Siam*, trans. A. P. Gen (n.p., 1793) 81–88; John O'Kane, *The Ship of Sulaiman* (Columbia University Press 1972) 121–27.

² พระไอยการพรมศักดิ์, กฎหมายตราสามดวง เล่ม 2 (องค์การคำของคุรุสภา 2537) [*Phra aiyakan phrommasak, Code of Punishment, Three Seals Law* vol 2 (Khurusapha 1994)] (Thai) 197–218; กฎหมายตราสามดวง ฉบับราชบัณฑิตยสถาน เล่ม ๒ (ราชบัณฑิตยสถาน 2550) [*Three Seals Law Royal Society Edition* vol 2 (Royal Society 2007)] (Thai) 1042–72. Subsequent references to the Three Seals Code are to the Khurusapha edition, abbreviated as KTSD.

³ Law of Royal Authority cl. 4, KTSD 4: 8. This law, พระไอยการอาญาหลวง, *phra aiyakan aiya luang*, is often translated as Crimes Against Government.

symbol for punishment in Buddhist law texts.⁴ The Thai transcription of *brahmadāṇḍa* as พรหมทัณฑ์ *phrommathan* appears in the text as an alternative title. The ending of –*sak*, from śakti meaning power in Sanskrit and both power and rank in Thai, probably results from the prominent role of rank in the calculation of punishments.⁵ Like other texts in the Three Seals Code, the *Phrommasak* is an archive of legal rulings which originate from different eras. Dating is difficult as the dates given in the prefaces to the various laws have often been corrupted, and the clauses may have appeared before or after these prefaces.⁶

The *Phrommasak* from 1805 has two major components that have been transcribed into the same document. These two are: the calculation of body-price by gender and age, and its use for calculating compensation for causing death; and the *Phrommasak* proper on the calculation of punishments for causing injury by verbal or physical means. This code is regularly referenced in other parts of the Three Seals Code. The *Phrommasak* also prescribes scales for commuting other forms of punishment, including corporal punishment and shaming, into fines paid in money. We suggest that the penalties detailed in the *Phrommasak* were the normal practice for offences arising from disputes between people.

I. BODY-PRICE

Every person in Ayutthaya society had a body-price (ค่าตัว, *kha tua*) as a simple function of gender and age. This section of the *Phrommasak* text has a preface with a date that Prasert na Nagara reckoned might be equivalent to 1573 CE,⁷ but this date did not mark the origin of this system. The preface narrates how the king was called upon to update the rates because the existing figures, given in the everyday currency of cowries, had become too low. The new rates are given in the currency based on weight in silver,⁸ perhaps to isolate them from deflation of the value of cowries.

The level of the body-price was clearly based on the capacity for physical labor. The price for males rose with age to a peak in the age bracket of 31–40 and then declined. The rate for a female was 20–25 percent below that for a male and peaked at 21–25 years. Disabilities or poor health reduced the price. For example, a disabled

⁴ In the Indian *Manusastra*, the rod is gifted by the gods and sometimes held by Yama, the god of death; see Wendy Doniger and Brian K. Smith, *The Laws of Manu* (Penguin Books 1991) 128–29; Patrick Olivelle, *Manu's Code of Law: A Critical Edition and Translation of the Mānava-Dharmāsāstra* (Oxford University Press 2005) 154–55. In Pali literature, for instance in the Vinaya code of monastic discipline, the rod belongs to Brahma.

⁵ ศิริพร ดาบเพชร, “ค่าของคน และ บทปรับ ในกฎหมายตราสามดวง” (2548) วารสารประวัติศาสตร์ [Siriporn Dapphet, “Body-price and Fining in the Three Seals Law” (2005) *Warasan prawatisat*] (Thai) 3–4 <<http://ejournals.swu.ac.th/index.php/JOH/article/view/1281/1290>>.

⁶ Chris Baker and Pasuk Phongpaichit, “The Child is the Betel Tray: Making Law and Love in Ayutthaya Siam” (2021) 1 Thai Legal Studies 1–21 <<https://doi.org/10.54157/tls.245734>>.

⁷ Siriporn (n 5) 5.

⁸ The units were as follows: 1 *chang* = 20 *tamlueng*; 1 *tamlueng* = 4 *baht*; 1 *baht* = 4 *sahueng*.

hand reduced the price by a quarter, and “babbling madness” reduced it by two-thirds. Children had a price, even those below the age of 7 years, which appears as the minimum working age in several laws. Presumably this price reflected their potential rather than current value. Children in the womb are not mentioned in this text, but in other laws were given a body-price of half that of their mother.⁹ Members of the royal guard enjoyed special rates.¹⁰

Table 1. Body-price by gender and age

<i>male</i>		<i>female</i>		<i>In baht*</i>	
<i>age</i>	<i>price</i>	<i>age</i>	<i>price</i>	<i>M</i>	<i>F</i>
1, 2, 3 months	6 baht	1, 2, 3 months	1 tamlueng	6	4
4, 5, 6 months	2 tamlueng	4, 5, 6 months	6 baht	8	6
7, 8, 9 months	10 baht	7, 8, 9 months	2 tamlueng	10	8
10, 11 months	3 tamlueng	10, 11 months	10 baht	12	10
1, 2 years	4 tamlueng	1, 2 years	3 tamlueng	16	12
3, 4 years	5 tamlueng	3, 4 years	4 tamlueng	20	16
5, 6 years	6 tamlueng	5, 6 years	5 tamlueng	24	20
7, 8 years	8 tamlueng	7, 8 years	7 tamlueng	32	28
9–15 years	11 tamlueng	9–10 years	8 tamlueng	44	32
		11–15 years	9 tamlueng		36
16–20 years	12 tamlueng	16–20 years	10 tamlueng	48	40

⁹ In Miscellaneous Laws, cl. 166 and the Law on Quarreling cl. 18, KTSD 3: 178 and 192.

¹⁰ The *phrai luang*, which here probably meant the inner royal guard, were identified by tattoos on their arms and legs. These “patterns” (ลาย, *lai*) on arms were noticed by several visitors to Ayutthaya in the 16th and 17th centuries. The Portuguese dubbed these guards as “*Os Bracos Pintados*,” painted arms. In 1595 Jacques de Coutre watched a royal procession which included a thousand men whose “entire bodies were painted with many types of vermin and letters [*savandijas y letras*].” (Roopanjali Roy (tr), *The Memoirs and Memorials of Jacques de Coutre: Security, Trade and Society in 16th-Century Southeast Asia* (Peter Borschberg (ed), NUS Press 2014) 108–9.) Simon de la Loubère called them “*Kenlai ou Bras peints*” and noted that they rowed the royal barges (Simon de la Loubère, *Du royaume de Siam* (La Veuve de Jean-Baptiste Coignard et Jean-Baptiste Coignard 1691) 195). On the shins, according to the *Phrommasak*, the *phrai luang* were tattooed with images of “sword and sugar-palm trunk” (สักดาบสักลำตาล, *sak dap sak lamtan*, *Phrommasak* cl. 9, KTSD 1: 207). Tattoos of weaponry are common in military subcultures. The significance of the sugar-palm trunk is more difficult to divine. The body-price of a *phrai luang* was determined by the amount of decoration. A *phrai luang* with the full complement of patterns on both arms and symbols on both legs had a body price of “one *chang* six *tamlueng*,” equivalent to 86 baht, compared to the maximum of 56 baht in the regular scale for males, a roughly 50 percent premium. The body-price declined with the amount of tattooing, and a *phrai luang* with no tattoos had the same body-price as an ordinary *phrai*. This price does not seem to have altered with age.

<i>male</i>		<i>female</i>		<i>In baht*</i>	
21–25 years	13 <i>tamlueng</i>	21–30 years	12 <i>tamlueng</i>	52	48
26–32 years	14 <i>tamlueng</i>	31–35 years	11 <i>tamlueng</i>	56	44
33–40 years	14 <i>tamlueng</i>	36–40 years	10 <i>tamlueng</i>	56	40
		41–45 years	9 <i>tamlueng</i>		36
41–50 years	12 <i>tamlueng</i>	46–50 years	8 <i>tamlueng</i>	48	32
51–55 years	10 <i>tamlueng</i>	51–55 years	7 <i>tamlueng</i>	40	28
56–60 years	8 <i>tamlueng</i>	56–60 years	6 <i>tamlueng</i>	32	24
61–65 years	6 <i>tamlueng</i>	61–65 years	4 <i>tamlueng</i>	24	16
66–70 years	4 <i>tamlueng</i>	66–70 years	3 <i>tamlueng</i>	16	12
71–75 years	3 <i>tamlueng</i>	71–75 years	10 <i>baht</i>	12	10
76–80 years	10 <i>baht</i>	76–80 years	2 <i>tamlueng</i>	10	8
81–85 years	2 <i>tamlueng</i>	81–85 years	6 <i>baht</i>	8	6
86–90 years	6 <i>baht</i>	86–90 years	1 <i>tamlueng</i>	6	4
91–100 years	1 <i>tamlueng</i>	91–100 years	3 <i>baht</i>	4	3

* These two columns, which do not appear in the original, show the amounts in *baht* for easy comparison.

Figure 1. Body-price table from the manuscript

Source: กฎหมายตราสามดวง ฉบับราชบัณฑิตยสถาน เล่ม ๒, น. 1046

The body-price had a role in the market for slaves though the details are not clear. Anyone could sell themselves or their dependents, including wife and children, into slavery. The law distinguished between slaves sold “at full price” (ขาดค่า, *khat kha*), who became the property of the buyer, and those sold “below full price” who were more like mortgaged property that would eventually return to the former owner.¹¹ The laws on slavery use the terminology of “body-price” but make no explicit reference to this table in the *Phrommasak*. Some other laws refer to slaves being sold “by age,” which

¹¹ See the Law on Slavery, especially cl. 2, KTSD 2: 288; and R. Lingat, *L'Esclavage privé dans le vieux droit siamois* (Les Éditions Domat-Montchrestien, F. Loviton et Cie 1931).

seems to be a reference to the table,¹² but others suggest that pricing of slaves was determined by the market.¹³ Perhaps the table initially set indicative or control prices for transactions in slaves, but the market later overrode them.

The body-price was used for calculating compensation for causing a death, either accidental or deliberate murder. The level of compensation was a function of the body-price of the deceased and the *sakdina* of whoever caused the death. The formula is given as follows:

To calculate the base for death [for *sakdina*] from five to 400 *rai*, take [five for] the five aggregates,¹⁴ multiply by [seven for] the seven consequences,¹⁵ and multiply by 1,000 for the thousand angers,¹⁶ giving the base. Then take the base for death, for each level multiply by the *sakdina*, and divide this total by 700,000 to give the [multiplier of the] body price.¹⁷

The use of Buddhist vocabulary was perhaps intended to lend authority. The formula is:

$$5 \times 7 \times 1000 / 700,000 = 0.05 \times \textit{sakdina}$$

This formula appears to have been superseded in a later clause (cl. 15), which has a simpler calculation and gives higher rates for *sakdina* of 70 or below, but lower rates (roughly half) from there to 400 *sakdina*. Using this later version, Table 2 shows the compensation in *baht* for selected perpetrators by status and victims by gender and age.

Table 2. Compensation for death (*baht*)

Perpetrator	<i>sakdina</i>	Deceased					
		M 7–8	F 7–8	M 26–40	F 21–30	M 61–65	F 61–65
slave	5	48	42	84	72	36	24
<i>phrai</i>	15	72	63	126	108	54	36
junior <i>khun nang</i>	400	320	280	560	480	240	160
senior <i>khun nang</i>	5,000	1,056	924	1,848	1,584	792	528
minister	10,000	1,856	1,624	3,248	2,784	1,392	928

¹² See for example the Law on Quarrelling cl. 37, KTSD 3: 201–2, and Old Royal Decrees cl. 12, KTSD 4: 345.

¹³ For example, a clause in the Law on Theft specifies that “body-price” here means “whatever price the master paid to buy [the slave], from the master”; KTSD 3: 282–83.

¹⁴ เบญจขันธ์, *benjakhan*, pañca khandha, the five elements of existence: body, feeling, perception, volition, consciousness.

¹⁵ สัตตวิบาก, *sata wibak*, satta vipāka.

¹⁶ สหสโครธา, *sahat karotha*, sahasa kodha, Skt:sahasra krodha. This clause appears slightly later in the text but is moved here to simplify the explanation. The phrase *sahat karotha* is clearly a Thai adaptation of the Pali-Sanskrit thousand+anger, but we can find no other use of this phrase in Thai or Pali.

¹⁷ *Phrommasak* cl. 14, KTSD 1: 210–11.

The body-price was occasionally used in the calculation of punishments, for example, for using a curse such as “You are lovers with your mother,” when the statement was proved untrue;¹⁸ and for abducting a woman who then died during pregnancy.¹⁹ It was also used, rather curiously, to calculate how much had to be repaid as bridewealth when the woman’s family backed out of a marriage arrangement.²⁰

II. COMPUTING PUNISHMENT

The *Phrommasak* details the method for computing punishments for offences committed by one person on another, usually as the result of a dispute.²¹ All such offences could be calibrated into a value in cowries, which the guilty usually had to pay in two parts: half as compensation to the offended party, and half as a fine to the treasury.

In the law, three factors contributed to the calculation: the injury caused; the *sakdina* rank of the injured party; and the instrument used in the case of physical injury. A fourth factor operated during trial when, at sentencing, the judge might adjust the figure.

A. Injury

The first two factors map a look-up table (Table 3), which appears in the printed versions of the *Phrommasak* though is presented linearly in the original manuscripts.²² The injury appears on the horizontal axis and the *sakdina* level on the vertical axis. To establish the value in the top left cell, which anchors the table, there is again some Buddhist-infused arithmetic:

The holy teacher Manosara^[23] stated that, to make a phrommasak, take [ten for the] ten wholesome courses of action,^[24] add [one for] a single mind,^[25] multiply by [five

¹⁸ Law on Quarrelling cl. 37, KTSD 3: 201.

¹⁹ Law on Husband and Wife cl. 128, KTSD 2: 280.

²⁰ Law on Husband and Wife cl. 103, KTSD 2: 265–66.

²¹ This section of the *Phrommasak* has no date. There are clear signs that the calculations were updated from time to time. One clause describing one phase of the arithmetic was clearly superseded by the following clause in the text where the calculations give different rates. Another clause at the end of the text hints that the rates had to be increased by a factor of ten in the 18th century. These rates remained in cowries rather than silver, and may have been eroded by the deflation of the cowrie. See Bin Yang, *Cowrie Shells and Cowrie Money: A Global History* (Routledge 2019).

²² In the manuscript the rates for each injury at one level of *sakdina* are shown as a column of figures, taking up two folds of the *samut thai* for each level of *sakdina*, in total extending over 41 spreads. In the printed editions, each level of *sakdina* is converted into one row in a table with 67 rows and 12 columns.

²³ In many Theravada Buddhist texts, Manosara appears as the original finder of the laws, equivalent to Manu in Indian tradition.

²⁴ ทศกัศสลกรรมบท, *thotsa kusalakammabot*, dāsa kusala kammapatha; abstention from: killing; taking what is not given; sexual misconduct; lying; malice; harsh speech; mental action; greed; ill will; wrong views.

²⁵ เอกจิตฺต, *ekkajit*.

for] the five controlling faculties,^[26] and multiply by [a thousand for] the thousand angers, giving the base for wrongdoing of the mind.^[27] Inscribe that as the base for offence.

The formula is: $(10 + 1) \times 5 \times 1,000 = 55,000$. This gives the figure for *lamoet*, the commission of an offence without any accounting of its physical consequences, a “wrongdoing of the mind,” that we might call “intention.”²⁸ This figure is then divided by five for “wrongdoing by speech” or verbal abuse, in the second column. The remaining nine columns are for graded forms of physical injury: bruise; swelling; contusion (blood visible under the skin); drawing blood; minor wound; split skin; knocking down; breaking a limb or organ; and blinding. The figures are computed by first dividing the base figure of 55,000 by 11 to give 5,000 and then applying a series of multipliers from 5 for bruising to 21 for blinding.

B. Social Rank

The base rates in the computation described above apply to a *sakdina* of 5, the rate for a slave. Between 5 and 400 *sakdina*, the lowest level of *khun nang* rank, the text lays down a series of multipliers from 1 to 20. Above 400 *sakdina*, the increases are made by addition rather than multiplication. The rates for 10,000 *sakdina*, the level of a major minister, are around 125 times those of a slave. The original table has twelve columns and 67 rows. Table 3 shows a selection.

Table 3. Selected rows and columns from the *Phrommasak* table

	injury					
Perpetrator	offence	verbal abuse	bruising	drawing blood	breaking limb	blinding
multiplier:		1	5	8	14	21
slave	55,000	11,000	25,000	40,000	70,000	105,000
<i>phrai</i>	165,000	33,000	75,000	120,000	210,000	315,000
junior <i>khun nang</i>	1,100,000	220,000	500,000	800,000	1,400,000	2,100,000
senior <i>khun nang</i>	3,860,000	772,000	1,742,000	2,847,000	4,942,000	7,206,000
minister	6,860,000	1,372,000	3,092,000	5,072,000	8,792,000	12,756,000

Note: The multiplier row does not appear in the original table.

C. Weapon

The rates in Table 3 apply to offences committed “by hand.” They are multiplied by one-and-a-half for offences committed with a wooden instrument, and by two for a

²⁶ ปัญจอินทริย, *panja insi*, pañca indriya: confidence, effort, mindfulness, concentration, wisdom.

²⁷ มະโนเหตุจริต, *manuthutjarit*, manoduccarita.

²⁸ The threefold division here perhaps reflects the idea of ไตรทวาร, *traī thawan*, “three portals,” the three ways to commit an action that incurs karma—through body, speech, or mind.

metal instrument. This threefold classification of weapons was clearly inadequate. In the Law on Quarreling, there are several clauses which detail many other weapons. For example, clause 27 lists weapons which are rated the same as wood:

[If people] quarrel and beat one another, grasping back^[29] of knife, back of machete, back of pike, back of sword, lump of brick, clod of earth, tile, gravel, stone, laterite, horn, tusk, fang, bone, long shell,^[30] lump of dry rice, dry sweet, dry crisped rice, solid sugar, sugarcane cake, various eggs,^[31] rice plant, grass plant, rubbish, lump of dry meat or dry fish, whole fresh fish, cowries, dammar, hide, thread, ball of cotton, bunch of garlic, bunch of onions, galangal, ginger, banana, stick of sugarcane, dog dung, cattle dung, buffalo dung, elephant dung, tree fruit, leaves, whole branch, coconut shell, rope, vine, or cane, and beat, hit, throw, fling on another; or constrain another to die in a cangue or chains; or push another to fall on a pike, sword, knife, machete, axe, chisel, metal spear, metal javelin, trident, or goad, causing injury; or cause another to drown, shoot with a bullet, scratch with a fingernail, or bite with teeth; all of these, fine the same as for [injury by] wood.³²

A handful of clauses in the *Phrommasak* text prescribe rates for offences other than simple injury, such as locking someone up in chains or other restraints. These are calculated as multiples of the base rate for *lamoet* offence, with different formulae for different levels of *sakdina*. For example:

To calculate the fine for locking in chains, hitting the head with cloth or foot: take the rate for offence; for *sakdina* 20 and below, divide by 11 and multiply by 17; for *sakdina* from 25 up to 400 rai, take the rate for 20 rai and below and add one eleventh; if higher than 400 rai, add 40,000 for each 100 [rai of *sakdina*].³³

D. Judgment

At sentencing, the judge might reduce the figure by half in cases where extenuating circumstances suggested some leniency. Conversely, the judge might double, triple or quadruple the computed amount in three situations: where the accused had increased the burden on the court by cunning or obstruction; where the accused had used excessive violence; and where the incident had disturbed public order.

III. COMMUTING PUNISHMENT

The laws deployed various penalties other than monetary fines, including mutilation, shaming, and corporal punishment, but many of these could be commuted into a money payment.

²⁹ สัน, *san*; meaning the blunt edge.

³⁰ หอยเอน, *hoi en*.

³¹ สรรพฟอง, *sap fong*; translation speculative; *fong* is a classifier for eggs but may also mean “foam.”

³² Law on Quarreling cl. 27, KTSD 3: 195–96. See also the following clauses identifying weapons deemed equivalent to “wood” and “metal.”

³³ *Phrommasak* cl. 23, KTSD 1: 215.

Crimes of violence and major forms of theft might be punished by mutilation such as cutting off fingers, toes, or a whole hand or foot. For example, the sentence for a gang who injured someone in the course of a robbery was “cut all ten fingers of the thief and gang who took part, do not let them carry weapons.”³⁴ Most minor crimes were penalized by beating with a rattan cane or leather lash. Many social crimes, such as adultery, were punished by public shaming, parading around the city with evidence of guilt. For example, in the case of a serial adulteress,

. . . have the man and woman shamed with the plow: place a *chaleo* stigma³⁵ on the forehead of the woman at fault, a red hibiscus behind both her ears, a garland of red hibiscus round 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.³⁶

Other forms of shaming were permanent, such as tattooing evidence of theft or adultery on the guilty person’s body or face.

In most cases, these other punishments could be commuted into money, as described in two clauses at the end of the *Phrommasak*. The first clause deals only with punishments of a wife found guilty of adultery, and specifies rates for avoiding forms of public shaming. The second clause sets out rates for avoiding mutilation, public shaming and beatings.

Table 4. Scale for commutation of punishments

<i>Punishment commuted</i>	<i>cowries</i>
<i>for adultery</i>	
wearing fishnet lowercloth	200,000
tattoo on cheek	500,000
shave four-ways	250,000
stigma on forehead	150,000
red hibiscus behind both ears	150,000
<i>for other offences</i>	
cutting mouth	750,000
cutting wrist	750,000
cutting toe or finger ³⁷	150,000
tattoo on chest	150,000
tattoo on cheek or forehead	550,000
put up in tripod frame and shaming	according to age

³⁴ Law on Theft cl. 55, KTSD 3: 248.

³⁵ เฉลว, a device made with strips of fiber or flowers, folded and woven in the shape of a star with five or more points, used as a sign for shops, to mark boundaries, as part of traditional medicine, and for shaming.

³⁶ Law on Husband and Wife cl. 6, KTSD 2: 209–11.

³⁷ Original says “toe or toe,” presumably a copying error.

leather lash	100,000 per 3 strokes
cane ³⁸	100,000 for 5 strokes
	100,000 for 10 strokes

These two clauses in the *Phrommasak* are sketchy, but clauses in other laws specify commutation rates, using similar principles, and sometimes in more detail.³⁹ The principle of allowing commutation seems to have been rather general. In a trial scene in the epic poem *The Tale of Khun Chang Khun Phaen*, Khun Chang is found guilty of adultery and sentenced to a fine, his mother and other household members are sentenced to public shaming as accessories, and all are sentenced to being beaten. When handing down these sentences, the judge assumes they will all be commuted into money.⁴⁰ A few clauses in the Three Seals Code specifically ban any commutation for certain offences, suggesting it was otherwise standard procedure.⁴¹

IV. PUNISHMENTS IN GENERAL

The penalties in the *Phrommasak* apply specifically to cases of dispute among people which give rise to death or injury. Such cases are dealt with in detail in the Law on Quarrelling.⁴² Other laws often have instructions to “punish by the scale,” or “punish by the royal enactment,”⁴³ meaning the tables in the *Phrommasak*. The levying of money as fines and compensation seems to have been the dominant form of punishment for crimes other than the gravest and the pettiest.

In the Three Seals Code, there is a four-fold gradation of punishments using a Pali–Sanskrit vocabulary: มหันต์ ปถม มัธยม อะสาน; *mahan pathom mathayam awasan*; mahanta pathama majjhima avasāna; major, primary, medium or least penalty.⁴⁴ This classification served as the framework for assigning punishments in part of the Law on Theft, and was referenced more occasionally elsewhere.

The offences that incurred “major” punishment were of five main types: offences against the king, including revolt, associating with royal women, and stealing royal property; offences against the religion including theft or desecration of religious buildings and objects;⁴⁵ murder or arson committed in the course of theft or other

³⁸ The two rates are for *saen luang* and *saen ratsadon*, probably meaning *khun nang* and others.

³⁹ See for example the Law on Theft cl. 119, KTSD 3: 277.

⁴⁰ Chris Baker and Pasuk Phongpaichit, *The Tale of Khun Chang Khun Phaen* (Silkworm Books 2010) 445–47.

⁴¹ In the *Arthashastra*, there is a similar list of punishments with standard commutation rates; see Kautilya, *The Arthashastra*, edited, rearranged, translated and introduced by L. N. Rangarajan (Penguin Books 1992) 495–96.

⁴² In full, the Law on Quarrelling, Assault and Abuse, KTSD 3: 184–207.

⁴³ ตามโทษานุโทษ, *tam thotsanuthot* and โดยพระราชกฤษฎีกา, *doi phraratchakruesadika*.

⁴⁴ Law of Royal Authority preface, KTSD 4: 5–6; Acceptance of Cases, cl. 37, KTSD 2: 55.

⁴⁵ Law on Theft cl. 47–52, KTSD 3: 243–46.

means of personal gain;⁴⁶ violent actions that disturbed the peace of the realm; and abuse of royally bestowed office or privilege for personal gain. The offender was usually executed or stripped of all property, including wives and children, or both, but this penalty might be eased.⁴⁷

The offences that incurred the fourth grade of “least” punishment included various misdemeanours, and were punished by shaming or light corporal punishment.⁴⁸

The offences between these extremes, those labelled as “primary” or “medium,” were usually punished by levying money but possibly with additional physical measures as retribution for violence, cunning, or extreme disrespect. Cases of theft which did not involve murder or arson were punished with fines, but also by corporal punishment or mutilation if the thieves used excessive violence, causing injury or damage.⁴⁹ Injury caused by quarrelling incurred fines and compensation but also corporal punishment if the offender injured a monk, brahman, or their own parents.⁵⁰ A man committing adultery with a married women, or molesting a woman, was fined, but also beaten if he had exercised violence.⁵¹ In offences committed in the course of trading and other economic activities, the usual punishment was a fine based on the value of the property involved (or a multiple thereof) with the addition of physical punishment for exceptional cunning or dishonesty.⁵² For example, those found guilty of forging documents were punished by “cutting off two fingers up to the wrist, not letting them hold a chalk.”⁵³ Punishment for abducting or stealing slaves was similar.⁵⁴ Fines and compensation were also imposed for offences connected with agriculture such as ploughing another’s land, allowing livestock to graze on another’s crop, diverting water, stealing soil, or damaging a crop.⁵⁵

In some instances, the laws prescribed detailed calculation of these fines. For example, on crop damage, the law prescribed rates varying according to the animal and to the stage of the crop from seedling to full ripeness; rates for damage to trees varied according to the fruit and the maturity of the tree; rates for taking fish from another’s paddyfield varied according to the type of trap used;⁵⁶ and fines for stripping the lowercloth from a woman varied according to the age and marital status of the woman.⁵⁷

⁴⁶ Law on Theft cl. 53–58, 68–73, KTSD 3: 246–50, 254–56.

⁴⁷ See the punishments of eight grades in Law of Royal Authority cl. 1–10, KTSD 4: 6–14.

⁴⁸ Law on Theft cl. 116–46, KTSD 3: 275–90.

⁴⁹ See several clauses on theft incurring “medium” punishment, Law on Theft cl. 88–115, KTSD 3: 263–75.

⁵⁰ Law on Quarrelling, cl. 32, KTSD 3: 199.

⁵¹ Law on Husband and Wife cl. 1–4, 38, 71, 78–80, 106, KTSD 2: 208–9, 224, 243–44, 252–53, 267.

⁵² Miscellaneous Laws cl. 98, 113–16, 126–27, KTSD 2: 140–41, 148–50, 157.

⁵³ ดินสอ, *dinso*, a writing stick made from earth or clay with coloring as white or black. Law on Royal Authority cl. 90, KTSD 4: 67.

⁵⁴ Law on Abduction cl. 1–5, 14–16, KTSD 3: 3–6.

⁵⁵ Miscellaneous Laws cl. 1–45, KTSD 3: 94–111.

⁵⁶ Miscellaneous Laws cl. 1–4, 18, KTSD 3: 96–99, 103; Law on Theft cl. 120, KTSD 3: 277–78.

⁵⁷ Law on Quarrelling cl. 33, KTSD 3: 200.

V. DISCUSSION

The calculation of punishment in the *Phrommasak* and in other laws is distinctive in at least three ways: first, the punishment imposed for many offences committed between people was the levy of money as fines and compensation; second, the punishments varied greatly in severity according to social status; third, the calculation of these punishments was highly detailed, involving Buddhist concepts and arcane arithmetic, including a table with almost 800 cells.

To put the Siamese penal system's emphasis on fining into perspective it is worth drawing a brief comparison with the systems in England and Europe in the same era. In England, punishments seem to have been principally designed to remove the offender from society, either permanently or temporarily. Between the 14th and 18th centuries, there was a trend of imposing the death penalty on more and more crimes, including arson, varieties of theft, and offences against religion. With advances in shipping, transportation overseas became an alternative means to remove an offender from society. From the 17th century, judicial authorities increasingly preferred to seclude convicts in prisons, workhouses, and houses of correction. Gradually imprisonment came to dominate. The penal systems in the main countries of western Europe followed a similar pattern of removing offenders from society.⁵⁸

Siam was more reluctant to remove people from society. Execution was prescribed for "major" offences, especially against the king or religion, but the laws also provided alternatives. Execution was also prescribed for murder, often in a spirit of retribution —"let [the murderer] go the same way"—particularly if the killing was notably violent or was carried out in the course of robbery or some other project for personal gain. But the section of the *Phrommasak* calculating the rates of compensation for causing death suggests that levying money may have been more common than execution.

In Siam, imprisonment was little used prior to judicial reforms made under western influence from the late 19th century. In the Ayutthaya era, prison was mainly used for detaining and interrogating suspects before trial, and for isolating specific kinds of people such as those reckoned to be deranged and hence unpredictable,⁵⁹ and those who deployed magic in the course of theft and murder.⁶⁰ Exile appears in the Three Seals Law only as a punishment for revolt or incest.⁶¹

⁵⁸ There is a massive literature on crime and punishment in European history. For a summary, see David Rothman and Norval Morris (eds), *The Oxford History of the Prison: The Practice of Punishment in Western Society* (Oxford University Press 1995); and the classic, Douglas Hay (ed), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (Allen Lane 1975).

⁵⁹ Law on Quarrelling cl. 15, KTSD 3: 191.

⁶⁰ See Miscellaneous Laws cl. 163–67, KTSD 3: 177–79.

⁶¹ Law on Revolt and Warfare cl. 1, KTSD 4: 124–25; Law on Husband and Wife cl. 35–36, KTSD 2: 222–23.

This reluctance to remove people reflects a society which was conscious of the scarcity of people. As we have shown elsewhere,⁶² disease and warfare kept the population low. Ayutthaya's rulers were conscious of the scarcity. They welcomed immigrants and swept people back from successful military campaigns. People were not sacrificed lightly.

Social status as measured by *sakdina* was the weightiest factor in the calculation of fines in the *Phrommasak*. Table 5 shows the potential contribution of four factors to this calculation. A minister paid 125 times more than a slave for the same offence. In the laws themselves, there is no explanation of the logic behind this. In part, perhaps, it was simply a form of progressive taxation. Revenue from fines entered the royal treasury. *Sakdina* was perhaps simply a proxy for the ability of the offender to pay. Perhaps also this system was designed to induce senior nobles to be exemplars of good behavior.

Table 5. Potential contribution of factors in the calculation of financial penalty for causing injury

Factor	range
Nature of the injury	1–21
<i>sakdina</i>	1–125
weapon used	1–2
judicial discretion	0.5–4

Besides such considerations, the social gradations in the *Phrommasak* contributed to the multiple ways in which the people of Ayutthaya were arranged into visible hierarchies. Numerical systems of ranking were used for organizing society from early Ayutthaya. Officials had decimal ranks denoting the number of people theoretically under their command, such as *nai roi* (master of a hundred), *hua muen* (head of ten thousand), and so on. The *sakdina* system took this principle further by ranking all members of the society with a number ranging from 5 for a slave or pauper to 15 for a *phrai*, 400 for the lowest rank in the *khun nang* (official nobility), 10,000 for a senior minister, and royalty above that.⁶³ The body-price and the computation of punishment in the *Phrommasak* went beyond the principle of numerical ranking,

⁶² Chris Baker and Pasuk Phongpaichit, *A History of Ayutthaya: Siam in the Early Modern World* (Cambridge University Press 2017), 173–77 <<https://doi.org/10.1017/9781108120197>>.

⁶³ The system is sometimes said to have been invented by King Trailokanat at his accession in 1448 CE, but this source is simply the first mention of the system in the royal chronicles, and it shows the system being modified rather than invented. Although the units used, *rai* and *na*, are associated with land, there is no evidence of land grants associated with the system. Similar numerical ranking systems are known amongst other Tai groups and in the societies of southern China from which the Tai emerged. Perhaps those were the source of the land-associated vocabulary. 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) 161–63, 180–82; พระราชพงศาวดารกรุงศรีอยุธยา ฉบับพันจันทนุมาศ (สำนักพิมพ์ศรีปัญญา 2553) [*Royal Chronicles of Ayutthaya, Phan Chanthanumat Edition* (Sipanya 2010)] (Thai) 53.

denoting hierarchy, by using money, denoting value. Every person in society not only had a numerical rank, which denoted their relative position compared to others, but also had a monetary value which denoted their *worth*. These multiple hierarchies, constantly present in public view, were a means to structure a society which was light on institutions.

We have argued elsewhere,⁶⁴ following Yoneo Ishii and others, that Ayutthaya was predominantly an urban and commercial society rather than rural and agricultural. The penal system which makes large use of fines is a reflection of such a society. A system of levying money as punishment would not work in a society where many lived in a subsistence or near-subsistence economy.

The calculations in the *Phrommasak* are striking for their intricacy. The assignment of a body-price used a table with 50 cells⁶⁵ plus additional dimensions for mental and physical disability. The calculation of punishments used a table with 800-cells plus two additional dimensions for weapon used and judicial discretion. Several formulas were used to construct the second table. The main formulas had Buddhist concepts in place of the constants (“take [five for] the five aggregates, multiply by [seven for] the seven consequences”). The arithmetic echoed the calculations used in making a calendar or setting out a horoscope. Perhaps this intricacy was designed to claim that this determination of punishment was based on both morality and science. The penal code of ancient India, as described in the *Arthashastra*, relied heavily on fines and differentiated the punishment by social status and forms of injury, but had none of the intricate arithmetic found in the *Phrommasak*.⁶⁶

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⁶⁴ Baker and Pasuk, *A History of Ayutthaya* (n 62) 173–90.

⁶⁵ This count of 50 includes the rates for unborn children; see above.

⁶⁶ Kautilya, *The Arthashastra* 468–97.