

## Book Review

### *Thai Criminal Law*

Ronnakorn Bunmee

LexisNexis (2024)

478 pp., ISBN 978-981-5225-25-9

Reviewed by *Lasse Schuldt*\*

*Thai Criminal Law* by Ronnakorn Bunmee is the most recent addition to the growing number of English-language textbooks on Thai law.<sup>1</sup> The book covers the general rules and principles of criminal law as well as selected offenses. It therefore departs from the more traditional practice of publishing a book on the general part and a separate volume on specific offenses.<sup>2</sup> While it is not the first English book on the subject,<sup>3</sup> *Thai Criminal Law* provides the best English-language explanation and discussion so far and is likely to become the key resource for students in Thailand's English-language law programs.<sup>4</sup> In the acknowledgments, Ronnakorn expresses the hope that the book would serve “as a valuable tool for both students and practitioners of criminal law, and for anyone interested in the nuances of Thai and comparative criminal law.” The well-written textbook indeed appears most suitable for legal education on undergraduate and graduate levels. Its engaging style gives readers the feeling of attending one of Ronnakorn's popular criminal law lectures at Thammasat University.

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<sup>1</sup> Other recently published textbooks in English include Piti Eiamchamroonlarp, *Contract Law in Thailand* (Sweet & Maxwell 2023); Korrasut Khophungklang, *Juristic Acts, Contracts and Promises* (transl., Thammasat University Press 2024); Adam Reekie, *Introduction to Contract Drafting* (Thammasat University Press 2024); Sakda Thanitcul, *Tort Law in Thailand* (Sweet & Maxwell 2024).

<sup>2</sup> See, for example, Ronnakorn's co-authored works in Thai, ทวีเกียรติ มีนะกนิษฐ และรณกรณ์ บุญมี, คำอธิบายกฎหมายอาญา ภาคทั่วไป [Twekiat Menakanist and Ronnakorn Bunmee, *Criminal Law: General Part*] (24<sup>th</sup> edn, Winyuchon 2022) (Thai); ทวีเกียรติ มีนะกนิษฐ และรณกรณ์ บุญมี, คำอธิบายกฎหมายอาญา ภาคความผิด และลหุโทษ [Twekiat Menakanist and Ronnakorn Bunmee, *Criminal Law: Specific Offenses and Petty Offenses*] (20<sup>th</sup> ed, Winyuchon 2022) (Thai).

<sup>3</sup> Twekiat Menakanist, *General Principles of Criminal Law* (Amnart Netayasupha and Chanchai Arreewittayalard transl., Thammasat University Press 2014); Alessandro Stasi, *General Principles of Thai Criminal Law* (Springer 2021) <<https://doi.org/10.1007/978-981-15-8708-5>>.

<sup>4</sup> The author of this book review teaches Business Crime and International Criminal Law in the International LLB Program in Business Law at the Faculty of Law, Thammasat University, together with Ronnakorn Bunmee.

The book consists of a short introductory chapter on the context, history and sources of Thai criminal law (Chapter 1), ten in-depth chapters on general rules and principles (Chapters 2–11), and five chapters on selected offenses (Chapters 12–16). The table of contents is followed by a table of cases, whose remarkable length reflects not only the impressive amount of Thai Supreme Court decisions processed by the author, but also the continued relevance of court cases for the application and interpretation of Thai criminal law. As far as other domestic, foreign and international decisions are referenced throughout the book, they are listed here as well. A table of legislation facilitates retrieving specific sections and paragraphs of the Penal Code and other laws. A detailed index at the end of the book is particularly helpful to navigate the material. Ronnakorn's careful English translation of the Penal Code's entire First Book, as well as of various specific offenses from Books 2 and 3, deserves particular mention. Not only is the translation of high quality, it also closes an availability gap as the Office of the Council of State does not currently provide a translation of the Thai Penal Code;<sup>5</sup> most other online sources are of dubious quality, and previous published translations have become outdated.<sup>6</sup>

Chapter 1 provides a short introduction to the overall subject and discusses different views on the purposes of punishment, before it moves to a brief overview of the history of criminal law in Thailand.<sup>7</sup> These snapshots deserve to be expanded in future editions of the book. Some readers may be interested in more detailed accounts of how the subject of criminal law has been conceived of in Thailand from past to present, including more references to the views of Thai scholars in this regard. The compressed historical account of the pre-modern period sheds some light on criminal punishment in Ayutthaya, but Ronnakorn advances quickly to the making of the Three Seals Code in 1804. Here, a few more words about the concept and content of traditional Siamese criminal law and its legacy for the current Thai system would be welcome. The chapter then moves through the era of modernization that saw the introduction of foreign legal concepts and provisions under the Kings Rama IV and Rama V in the late 19<sup>th</sup> and early 20<sup>th</sup> century. But the fusion between Siamese, English and continental ideas, encapsulated in the 1908 Penal Code, and the continued reflection of such legal transfers in today's law, deserve additional space as readers might be unfamiliar with these historic developments. Chapter 1 then concludes with an overview of the sources of criminal law in Thailand and the classification of offenses.

Chapters 2–11 cover the general part of Thai criminal law: application, acts and omissions, causation, the mental elements, justification, excuse, mistake, attempt, participation, and mitigating circumstances. These chapters are a delightful read for

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<sup>5</sup> Office of the Council of State, "Translation of Law" <<https://www.ocs.go.th/council-of-state/#/public/translation-of-law>>.

<sup>6</sup> อำนาจ เนตยสุภา, ปิยาภรณ์ พิสิฐพิทย์ และเบญจพร วัชรวุฒิชัย, ประมวลกฎหมายอาญา (ฉบับไทย-อังกฤษ) [Amnart Netayasupha, Piyaphon Pisitpit, and Benjaporn Watcharavutthichai, *Criminal Code (Thai-English edition)*] (3<sup>rd</sup> ed, Winyuchon 2013).

<sup>7</sup> Ronnakorn Bunmee, *Thai Criminal Law* (LexisNexis 2024) 1–13.

every student of criminal law. They contain numerous illustrations and case scenarios, for example on Thai territorial jurisdiction,<sup>8</sup> tricky problems of causation,<sup>9</sup> or the conditions and limits of self-defense.<sup>10</sup> One of the book's strengths is clearly the skillful presentation and discussion of relevant Supreme Court cases. Rather than reproducing lengthy passages from key decisions, Ronnakorn briefly introduces the relevant facts and moves to the discussion and critique of the rulings. He presents alternative solutions without imposing them. Where necessary, he also points to decisions that "should be approached with caution and not be regarded as a precedent," such as, later in the book, in a case involving larceny of immovable property.<sup>11</sup> Comparative perspectives are included as well. For instance, regarding the classification of necessity as justification or excuse, Ronnakorn points to interesting differences between Thai, German and English law. Regarding the mental elements of offenses, a comparative view at jurisdictions that recognize conditional intent, or *dolus eventualis*, could be considered for future editions.<sup>12</sup>

Some readers might have been interested to learn Ronnakorn's opinion on recent controversies, such as the Penal Code provisions on limitation periods<sup>13</sup> and their application in cases involving suspects of the Tak Bai incident of 25 October 2004,<sup>14</sup> or the doctrinal limitations of duress<sup>15</sup> regarding forced offenders in so-called cyber scam centers.<sup>16</sup> Another recent development, in terms of legislation, was the enactment of the Act on Pinai Offenses B.E. 2565 (2022) that switched a large number of criminal provisions outside the Penal Code into regulatory offenses.<sup>17</sup> Not only law students but also legal practitioners might be eager to learn to what extent and how general concepts of criminal law continue to be relevant in the application of this new offense type. These issues and questions could be addressed in subsequent editions.

For Chapters 12–16, Ronnakorn decided to address selected offenses from the Penal Code's Book 2: homicide offenses, non-fatal offenses against the person, sexual offenses, non-violent and violent property offenses. While the choice of these offenses is not elucidated, the provisions selected for this book usually serve as the "material" to explain the general rules and principles of criminal law to first- and second-year

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<sup>8</sup> *ibid* 43–52.

<sup>9</sup> *ibid* 81–98.

<sup>10</sup> *ibid* 118–41.

<sup>11</sup> *ibid* 347.

<sup>12</sup> *ibid* 107–8.

<sup>13</sup> *ibid* 54.

<sup>14</sup> "Court Declares End of Tak Bai Massacre Case After Defendants' No-Show" *Bangkok Post* (28 October 2024) <<https://www.bangkokpost.com/thailand/general/2891616/court-declares-end-of-tak-bai-massacre-case-after-defendants-no-show>>.

<sup>15</sup> Ronnakorn, *Thai Criminal Law* (n 7) 164–65.

<sup>16</sup> "Thai Man Rescued from Captivity Abroad Now Faces Prison at Home" *Coconuts* (21 October 2022) <<https://coconuts.co/bangkok/features/thai-man-rescued-fromcaptivity-abroad-now-faces-prison-at-home>>.

<sup>17</sup> Wiriya Kongsiriwong, "An Overview of Problems with the Act on Imposition of Non-Criminal (Pinai) Regulatory Fines, B.E. 2565 (2022)" 3(1) *Thai Legal Studies* (2023) 109–13 <<https://doi.org/10.54157/tls.268430>>.

students. The focus on so-called street crime during early legal education certainly deserves reflection, and reform, as young legal minds risk growing up under the impression that white-collar and corporate offenses are not that serious:<sup>18</sup> They only qualify as *mala prohibita* (wrongs as prohibited) that are often described as not “inherently wrongful.”<sup>19</sup> Of course, the textbook market cannot ignore a reality where universities continue teaching particular sets of offenses. Be that as it may, Ronnakorn does an excellent job in explaining the elements and intricacies of all offenses selected for this book which, in fact, do include the more white-collar offenses of fraud and embezzlement. His expertise draws upon the extensive scope of his prior publications, including his works on abortion law and rape crimes.<sup>20</sup> The five chapters covering specific offenses are thus highly instructive, with an abundance of references to relevant Supreme Court cases. In addition, the book provides references to relevant literature in both Thai and English at the end of each chapter.

*Thai Criminal Law* therefore accomplishes much more than just closing a gap in Thailand’s legal literature. While the book can primarily be expected to find a large student audience, it offers important insights for anyone interested in the Thai criminal law system, as envisioned by the author. At the same time, the book continues a tradition of Thai legal scholarship that has consistently been merging the explanation of Thai law with references to and ideas from other jurisdictions, i.e., the jurisdictions where the authors received their postgraduate education. For instance, the seminal textbook on the general part of criminal law by Kanit Na Nakorn explains Thai law with reference to the German three-step test of criminal liability and introduces German legal terminology at various instances in the book.<sup>21</sup> Kanit had completed his doctoral studies at the University of Bonn in Germany. Kanaphon Chanhom, who received his PhD from the University of Washington in Seattle, includes various references to Anglo-American cases and materials in his widely used criminal law textbook.<sup>22</sup>

Ronnakorn holds LLB, LLM and LLD degrees from Thammasat University, an LLM from the London School of Economics, and a PhD from the National University of Singapore. His prior co-authored textbooks in Thai language explained and illustrated numerous concepts and principles with frequent references to foreign

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<sup>18</sup> See the classical critique by Edwin H. Sutherland, “White-Collar Criminality” 5(1) *American Sociological Review* (1940) 1, 7–8 <<https://doi.org/10.2307/2083937>>.

<sup>19</sup> See also the traditional distinction between *mala in se* and *mala prohibita* in Ronnakorn, *Thai Criminal Law* (n 7) 182.

<sup>20</sup> Ronnakorn Bunmee, “Abortion Law in Thailand: A Big Step Forward?” in Mary Ziegler (ed) *Research Handbook on International Abortion Law* (Edward Elgar Publishing 2023) <<https://doi.org/10.4337/9781839108150.00014>>; Ronnakorn Bunmee, “Examining Elements of Rape Offences in Thailand” 48(1) *Thammasat Law Journal* (2019) 200.

<sup>21</sup> คณิต ณ นคร, กฎหมายอาญาภาคทั่วไป [Kanit Na Nakorn, *Criminal Law: General Part*] (7<sup>th</sup> edn, Winyuchon 2020) (Thai).

<sup>22</sup> คณพล จันทน์หอม, หลักพื้นฐานกฎหมายอาญา เล่ม 1 [Kanaphon Chanhom, *Fundamental Principles of Criminal Law – Book 1*] (Winyuchon 2020) (Thai).

sources.<sup>23</sup> It is thus perhaps no accident that the very first footnote in *Thai Criminal Law* is a reference to *Simester and Sullivan's Criminal Law*, a seminal account of modern English criminal law. Other sources from the English-speaking world, and beyond, are used to elucidate legal concepts throughout the book. In common law fashion, Ronnakorn treats justification and excuse as “defenses,”<sup>24</sup> while some may consider the clear distinction between the two a rather distinct feature of the Civil Law world,<sup>25</sup> which arguably includes Thailand.

Yet, for better or worse, the criminal law of Thailand has been pulled back and forth between its Siamese roots, initial late 19<sup>th</sup> century English influences, and Civil Law-style codification since the 1908 Penal Code. English law was taught side-by-side with Siamese law at the country's first law school that was later integrated into Thammasat University.<sup>26</sup> Throughout the 20<sup>th</sup> century, the Supreme Court maintained English legal concepts and thus irritated a legal system whose main coordinates were increasingly continental.<sup>27</sup> Ronnakorn's *Thai Criminal Law* reflects these fascinating tectonic layers<sup>28</sup> of Thai law that are not only the result of legislative and judicial choices; they are also the product of Thailand's diverse legal scholarship that continues to actively shape legal concepts and doctrines with frequent inspiration from abroad.

#### Suggested Bibliographic Citation:

Schuldt, Lasse. “Book Review: Ronnakorn Bunmee, “Thai Criminal Law.”” *Thai Legal Studies*, vol. 4, no. 2, December 2024, pp. 255–259. <https://doi.org/10.54157/tls.277989>.

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<sup>23</sup> Tweekiat and Ronnakorn, *Criminal Law: General Part* (n 2); Tweekiat and Ronnakorn, *Criminal Law: Specific Offenses* (n 2).

<sup>24</sup> Ronnakorn, *Thai Criminal Law* (n 7) 115–18.

<sup>25</sup> Albin Eser, “Justification and Excuse” 24(4) *American Journal of Comparative Law* (1976) 621 <<https://doi.org/10.2307/839577>>.

<sup>26</sup> Munin Pongsapan, “Legal Education at Thammasat University: A Microcosm of the Development of Thai Legal Education,” in Andrew Harding, Jiaxiang Hu, and Maartje de Visser (eds) *Legal Education in Asia: From Imitation to Innovation* (Brill Nijhoff 2018) 299, 301–02 <<https://doi.org/10.1163/9789004349698>>.

<sup>27</sup> Lasse Schuldt, “Driving Irritation: Thailand's Supreme Court and the English Roots of Corporate Criminal Liability” 19(1) *Asian Journal of Comparative Law* (2024) 142 <<https://doi.org/10.1017/asjcl.2023.29>>.

<sup>28</sup> Andrew Harding, “Comparative Law and Legal Transplantation in South East Asia: Making Sense of the ‘Nomic Din,’” in David Nelken and Johannes Feest (eds) *Adapting Legal Cultures* (Hart 2001).