

The Accomplishments of Siamese Deputy Kings in the Field of Legislation

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ABSTRACT

Between the foundation of the Chakri Dynasty in 1782 and the demise of its last incumbent in 1885, six deputy kings (*maha uparacha*) occupied the so called front palace (*wang na*) for almost 71 years.

Ever since research into the history of Siam began, the institution of deputy kingship received time and again the scholarly attention of foreign and Thai scholars alike and literary and military accomplishments of these deputy kings in particular became popular topics of investigation especially among members of the latter group. Only marginal consideration however was given to the fact that the deputy kings' establishment (*krom phra rachwang bowon*) also comprised a number of special courts to administer justice to the serfs and officials attached to the front palaces, and legal acts (laws and decrees) of these kings received even less attention. This paper therefore is meant to become an impulse to offset this imbalance.

In the course of this investigation some light will be shed on the background of the vice-regal authority to rule by the means of law. The particular role of the deputy kings in the kingdom's judicial administration is traced back to a number of royal decrees which essentially granted these deputies the right to investigate and judge lawsuits among their dependants and members of their establishment. Some evidence also suggests that Siamese kings usually sought the advice and consent of their deputies whenever legal actions were to affect their dependents as well.

A brief examination of a particular vice-regal law, promulgated by Maha Sakdiphonsep in 1825, considered in conjunction with similar texts will finally lead to a comprehensive list of constituent elements characteristic of such laws and decrees.

Keywords: Thai legal literature, legal history, deputy kingship, Maha Sakdiphonsep
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INTRODUCTION

During the 18th and 19th century, a time of ever closer contacts between European nations and Siam, diplomats, traders and savants were equally impressed by a peculiar form of indigenous government with apparently two heads of state. Due to numerous references in early descriptions of the country and its people, the incumbents of this office became widely known as “deputy kings” or “second kings”. Indigenous and foreign sources alike suggest that these princes wielded considerable influence over almost all affairs of state, received a third of state revenue, and maintained a separate, secondary royal court with its own administrative bodies, whose functioning was regulated by law. Part of this independent bureaucracy was a number of tribunals exclusively responsible for passing sentences on serfs and officials of these deputy kings.

The subject of the deputy kings' role in Siamese society and politics has enjoyed constant attention among Thai researchers ever since the times of Prince Damrong (นันทนา, 2539; วรคุณยุพา, 2546). The legal administration of the Siamese kingdom as practiced by the deputy kings however received but little space in scholarship (Rujaya, 1984: 52, 73; ศุภวัฒน์, 2539: 38) and their legal acts and laws were apparently consulted in order to ascertain the scope of vice regal prerogatives only (ประภัสสร, 2516: 104-106).

MATERIALS AND METHODS

The corpus of vice-regal legal acts available for a thorough investigation of structural and linguistic characteristics encompasses - to my knowledge - the rather limited number of five texts, four of which have been published already.

The eldest and shortest example (during the text's transmission it had been stripped of supposedly superfluous information) is an order issued in 1709 by the viceroy under king Thai Sa (the later king Borommakot), which had been preserved in the *kot samsip hok kho* of the Three Seals Law code (สถาบันปรีดี พนมยงค์ ed. 2548, vol. 3: 180). Further legal acts, two laws and one decree, date to the 1st, 3rd and 4th reign of the Chakri Dynasty respectively (สถาบันปรีดี พนมยงค์ ed. 2548, vol. 3: 307-308, 510-515; เสถียร 2478-2499, vol. 5: 65-71). At least one decree has survived from the reign of deputy king Bowon Wichaichan (หสข. จดหมายเหตุ ร. 5. 231: 13).

Based on information drawn from unpublished sources compiled recently in Thai archives this paper will address three issues in connection with the judicial branch of the deputy kings' establishment. The topics to be investigated include the legal framework which allowed deputy kings to perform their role as supreme arbiters and the legal foundation for the jurisdiction of certain law courts at the front palace (*wang na*) over different groups of people (1), as well as the scope of the vice-regal prerogative to issue laws and the process of legislation (2). The last step in this threefold approach is to identify characteristic features of structure and language of such documents of normative charac-

ter (laws and decrees) that had been issued by deputy kings (3). Because of its remarkable richness in constituent elements and overall completeness, the law promulgated in 1825 by Maha Sakdiphonsep (3rd reign) was chosen as the illustrative example for the following study.

The results will enable readers to recognize by method of comparison differences and similarities between laws enacted by major and deputy kings. The main intention and focus of this study is to value these legal texts as a particular type of literature worth studying beyond its unquestionable quality as a mine of “data and historical facts”.

RESULTS AND DISCUSSION

1. The judicature of the front palace

The existence of competing centres of political authority and manpower must over time have led to conflicts of legal responsibility and it is therefore no surprise to find records which confirm that at several occasions Siamese kings found it necessary to clarify the jurisdictional boundaries of the two royal courts' tribunals.

A law enacted in 1751 for example stipulated that only cases between dependants of the front palace alone were to be investigated and decided at front palace courts, unless they constituted serious crimes. According to the same law judges of the main palace (*wang luang*) retained their sole responsibility over cases in which at least one of the quarrelling parties, either plaintiff or accused, belonged to the main palace (สถาบันปริทัศน์ พจนมยงค์ ed. 2548, vol. 3: 180).

Soon after the exceptional investiture of Phra Pin Klao as “second king” at the side of King Rama IV the necessity arose to clarify the matter of judicial responsibility again (หสข. จดหมายเหตุ ร. 4. จ. ศ. 1213: 48). Already in 1851 the king had decided that in the capital region lawsuits between plaintiffs and accused of mixed affiliation were to be referred to the defendant's side (*wang na* or *wang luang*). The responsibility rested exclusively with the courts of either side when plaintiff and accused were members of the same *krom*. A couple of years later, in 1858, the king specified the rules to be followed in such cases that were to be decided outside the metropolis (ชาตวิทย์ ed. 2547: 215-216). The procedure to be applied then was essentially the same as described in the Ayutthaya era law of 1751.

Since group affiliations of the serfs did not cease after the demise of a deputy king and even during prolonged vacancies, the front palaces' courts must have continued to perform their duty throughout the period between 1782 and 1885. A proclamation of 1890 (เสถียร ed. 2478-2499, vol. 12: 153-156) confirms that these special courts must have carried on handing down judgments even after the final abolition of the deputy king's office. However, no files of such cases which had been settled at courts attached to the different front palaces have apparently been preserved.

2. The legislative process

Another issue, similar to the question about the jurisdiction of both palaces' tribunals, is the coverage of laws and decrees emanating from both kings. Laws of major kings usually mentioned officials of the front palace among its addressees, while at least one law of a deputy king (promulgated by Maha Surasinghanat in 1787) was particularly directed towards the main palace's servants (สถาบันปรีดี พนมยงค์ ed. 2548, vol. 3: 307-308), demonstrating that deputy kings at times had legitimate authority to issue directives to dependants of the major kings as well.

The knowledge about the actual process of legislation however is primarily based on the internal evidence contained in the preserved legal texts themselves. Since paper was a valuable resource, information of purely temporary importance about the drafting and approval process of legal acts were taken down by means of chalk pencils only, in order to be able to erase such notes easily. Those texts which had passed the entire legislative process and were intended for safekeeping were usually written down as a clean copy using a much more durable ink. Based on the very few preserved examples it seems likely that the scribes' notes were discarded and the black books then reused after a final copy of the text had been prepared.

It is therefore mostly by accident that information on certain legislative procedures at court were preserved, such as the following remarkable account from the 2nd reign about the process to seek both kings' approval for drafts of laws and decrees (หสข. กฎหมาย. 572):

....วัน ๕ ๆ ๕ คำปี่มเมียโตศก เพลาเขาเสจออกณะพระที่นั่งมหาจักรพรรดิพิมาร ไดเอาพระราชกำหนด ๒ ฉบับ พระบัญญัติ ฉบับ ๑ กราบทูลพระกัณรนา จันลินเรื่องความจึงทรงพระกัณรนาโปรดเกล้าฯ สั่งวาใเอาไวไซสืบราชการแผ่นดินต่อไป แลใแจกประกาศไปตามยงตามทำเนียมเทศ เมื่อทรงพระกัณรนาสั่งนั้น เจาพญา_รมา พญา_อสสุ พญามหาอมมาต พญาไพณฑุท พญาอนุชิตราชา พญาพิพัทโกษา พญา_มลเทียน แลข้าทูลฯ พระบาทเฝ้าอยู่ด้วย วัน ๖ ๆ ๕ คำปี่มเมโตศก เพลาเยน ลนเกล้าฯ กรมพระราชวังฯ เสด็จออกณพระที่นั่งคางประดู่พร้อมภักฝ่ายชาย__ ไดเอาพระราชกำหนด ๒ ฉบับ พระบัญญัติ ฉบับ ๑ กราบทูลพระกัณรนา จันลินเรื่องความ จึงมีพระบันทูล ไปรฎเกล้าฯ สั่งวาใเอาไวไซสำหรับแผ่นดินสืบไป แลใแจกประกาศตามยงตามทำเนียมเทศ เมื่อทรงฯ สั่งนั้น พญามนเทิรบาล พญาอัค_เรื่อง_เดช พญาวิเสทบุเสท พรพพรมธิบาล พระอินธิบาล ข้าทูลล้องฯ ใฝ่ายูดวย c~" [Underscores replace illegible characters.]

Obviously the same texts were presented at the morning and evening audiences at the two royal courts, and approved by both kings and their councillors in separate sessions. It would appear that laws which touched upon the vital interest of both palaces, such as for example manpower registration (as in the case of the law quoted above) or land survey missions intended for the redistribution of land titles, had to pass processes of consultation and bipartisan approval. This interpretation is also supported by the fact that such endeavours were finally carried out by mixed commissions of officials from both palaces (หอสมุดแห่งชาติ 2530; vol. 4: 100-103). Further archival research however will be necessary in order to broaden the very small evidential basis in support of this hypothesis.

3. The vice-regal law as a type of legal literature

The manuscript, which will be used in this study for demonstrative purposes, is now to be found among the collection of laws at the manuscript section of the National Library of Thailand (หอสมุดกฎหมาย. 589). The extant copy of the law is a black book of common shape and size. Carefully written down in yellow ink the text remains legible up to this day, while the text's orthography on the other hand is astonishingly corrupted. Unfortunately more than half of the original manuscript has been lost since it had been consulted for publication in 1935 (เสถียร ed. 2478-2499, vol. 4: 69-75; สถาบันปรีดี พนมยงค์ ed. 2548, vol. 3: 510-515). A comparison of the manuscript's remainder with the edited text however shows the latter to be quite faithful to the original, so that the published text was consulted in place of the now missing part of the manuscript.

The main body of the law's text starts off with a short description of the audience held on July 8th, 1825 at the front palace's Siwamok Phiman throne hall in Bangkok. Phraya Chasaenyakon, chief minister of the viceroy's *krom mahatthai*, introduced a lawsuit brought to the court's attention by Phraya Sattra Ritthirong about a brawl which had occurred on the previous 31st of May at the district of Krung Kao (Ayutthaya province). The initial case had started when a race between the buffaloes of two locals, Khwaeng Si Sanuk and Nai Mi, had turned into a violent clash between the involved parties and their supporters. Nai Mi, whose buffalo had won the race, suffered severe injuries at his head and died on the spot. Luang Maha Winitchai was sent to the old capital to examine the case, from where he returned with fifteen persons in his custody for further investigation. After closer scrutiny it became apparent that nine of these detainees were utterly innocent and the deputy king therefore ordered his legal officers not to collect any fees from those who were without guilt.

The circumstances of the particular case, the possibility of citizens being charged high fees at court despite their innocence, led the deputy king to reconsider the scale of fees and to order the new rates being announced to the officials of the front palace's courts through the major ministries. The law was duly promulgated on the same day, a Friday, 8th of July, 1825.

Apart from its inconsistent spellings of names and a ghastly orthography, the text distinguishes itself from ordinary administrative documents by the use of royal language as an expression of Maha Sakdiphonsep's exceptionally high status. A remarkable stylistic element of the law is the use of the so called "lion's roar" (*phra racha banthun surasinghanat*) in connection to the deputy king's order, which can be found in two of Maha Sakdiphonsep's *rachapucha* as well (หอพระสมุดวชิรญาณ 2455: 266, 308). Taken from Buddhist scriptures, where it is reported to have been uttered by Buddha Shakyamuni in order to support his own arguments against dissenting sages, the lion's roar long since had entered the standard vocabulary of royal language and can be found as a common feature

in almost all orders and laws issued by major kings too. The vice-regal order itself is to be found in the form of a “*racha banthun*” usually, like in the law analysed here. The only deviation from this otherwise consistent pattern occurred under the somewhat irregular arrangement of the 4th reign, when the deputy king was allowed to issue orders as “*bowon racha ongkan*” instead, a practice which however had no effect on the structural composition of Phra Pin Klao’s laws or their binding force at all.

The deputy king’s exceptional standing found its most obvious expression however in the vice-roy’s full title of “*phra bat somdet boromma nat borom bophit phra phutthi chao yu hua krom phra racha wang bowon*”. This comprehensive title does not only appear in the law discussed here, but also in a couple of ordinary administrative papers of the 3rd reign (หอสมุดแห่งชาติ ed. 2530; vol. 3: 117). As Supphawat had observed in passing (ศุภวัฒน์ 2539: 38) the same expression was, besides being applied to Maha Sakdiphonsep in all of this deputy king’s seven extant *rachapucha* (หอพระสมุดวชิรญาณ ed. 2455: 266-319), also used by the authors of the royal chronicles to refer to the first deputy king of the first reign, Maha Surasinghanat.

After abstracting their particular details and breaking down each specimen from among the corpus of five vice-regal legal acts to their constituting components it became possible to identify the following common structural elements:

- 1) A vice-regal order to officials of a certain department (usually *krom suratsawadi*) to proclaim and disseminate the annexed legal act to specified addressees (usually a detailed list thereof) is at the head of almost all preserved laws.
- 2) The word “*dua*” indicates the beginning of a short phrase or a longer passage which introduces the main body of the law. This introduction consists of either,
 - a) a description of the circumstances at the audience session when the original lawsuit had been presented, or
 - b) a short reference to the official who received the order to disseminate the adjoined law, or
 - c) the royal order which enacts the law only, without further details about to the process of legislation.
- 3) The introduction is usually followed by an account of the original lawsuit which reveals a legal or social deficiency, sometimes supplemented with a thorough analysis of causes and their harmful effects. This narrative part concludes with instructions given by the deputy king on how to deal with the particular case.

- 4) After the almost invariable expression of “*dae ni suep pai muea na*”, the decision in the aforementioned lawsuit is transformed into a set of general rules to be adhered to and applied in the future by the deputy king’s officials and dependants.
- 5) A responsible department from among the front palace’s ministries is once again instructed by vice-regal order to make the deed and its content known to a specified group of recipients; sometimes accompanied by technical details of procedure e.g. on particular departments/channels to be employed for dissemination.
- 6) The targeted recipients are then exhorted to follow these instructions meticulously.
- 7) A formulaic threat of sanctions is added in order to prevent violations of the new law.
- 8) The precise date of the law’s promulgation is indicated by the day of the week, phase of the moon and month, as well as the year in *chula* era, the animal year and the year’s position in the decade.

CONCLUSION

Based on an admittedly limited number of original manuscripts it was possible to draw the following preliminary conclusions: Extant law texts demonstrate that by sporadic intervention the jurisdictional responsibility of different royal courts in the capital city and the provinces was repeatedly divided and demarcated. By such measures the independence of front palace tribunals was reaffirmed from time to time. On the basis of preserved law texts and circumstantial evidence a hypothesis about the respective legislative authority of both kings was developed. According to this thesis procedures of consultation and joint enactment of laws might have been applied whenever vital interests of either side (*wang luang* or *wang na*) was touched upon (such as e.g. questions of taxation).

In a further step vice-regal legal acts were examined for common structural and stylistic characteristics. The structural analysis led to an enumeration of constituent elements which can be expected to be found in vice-regal laws and decrees. Since these vice-regal laws did barely differ in terms of structure from those which had emanated from major kings, the list of these elements might therefore be applied with some prospect for additional insight to ancient Siamese laws in general. Even a number of stylistic elements found in vice-regal laws which after the abolition of the vice-regal office had become the sole and unique prerogatives of Siamese monarchs had previously been shared by deputy and major kings. A review of ancient Siamese legal literature reveals that there existed only two centres of legitimate power in the kingdom and these two centres ruled the groups of people under their authority essentially by means of law. The very existence of the vice-regal laws which cover a period of time from at least the reign of king Thai Sa until almost the very end of Bowon Wichaichan’s tenure in office suggests that the practice of law-making at the front palace was a long-

standing and living tradition; a tradition which by far predated and outlasted the reign of the most famous Second King, Phra Pin Klao.

Documents from the front palace's scribal bureau unfortunately form but an almost negligible fraction of the manuscript holdings of the Thai national library and archive, and vice-regal laws, particular judgments and other documents of legal nature are no exception from this rule. The fact that more than half of the manuscript which once had contained Maha Sakdiphonsep's only preserved law has vanished in the course of the last century - and this is by no means a unique case - ought to remind us to increase our efforts to protect the already heavily depleted national heritage by producing editions which reproduce the sources faithfully and make their content more widely available.

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