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Buddhism and Constitutionalism in Precolonial Southeast Asia

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In Siam and, it seems, in all the Indianized kingdoms, one finds, alongside custom, another source of law, which is none other than *dharmaśāstra*, a specific contribution of Hindu civilization. The king does not legislate. His essential mission is to assure and maintain peace among his subjects. As such, he must ensure the proper administration of justice and fulfill the role of supreme judge in disputes that arise among his subjects. In this capacity, also, he can and must enact punishments against those who disturb the order. He may still lay down the rules for the organization of courts and the procedure to be followed before them; in sum, to take all measures so that his subjects live in peace. But all this constitutes only, so to speak, the outer casing of the law. As for the substance of law, that is, as for the rules for which it is a question of ensuring compliance, the king does not create them, because the law is entirely contained in immemorial custom and *dharmaśāstra*. The king is simply the defender and protector of custom and *dharmaśāstra*. This does not prevent the king from being an absolute sovereign and being able to do whatever he wants. He is therefore at liberty to make decisions contrary to *dharmaśāstra* and established custom. But such decisions have only the force of royal authority, they are not law. On the contrary, when the decisions of the king conform to equity, as understood by *dharmaśāstra*, they merge with it and are invested with the same authority.

(Lingat 1937, 21–22)

2.1 THE PROBLEM

The king does not make law. His sovereignty is absolute. Law, as dhamma, originates outside the king, who merely acts as the judge and enforcer of law. The commands of the king are not legal enactments. They form the "outer casing of the law" as "mere orders . . . personal and accidental injunctions" (Lingat 1950, 9).

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The authority of royal command is proportionate to the degree that it conforms to dhamma as an exogenous standard of justice.

This thesis on precolonial Southeast Asian law by Robert Lingat reflects a particularly entrenched perspective in the history of scholarship on Buddhist (and more broadly Indic) constitutionalism – even if scholars themselves have not always employed the phrase. It highlights a certain antinomy, if not an antinomianism, at the heart of reflection on Buddhist "law." On the one hand, the political function and legal authority of the king is thoroughly restrained, if not eclipsed, by dhamma (Sanskrit, dharma), envisaged as a sort of natural law. The pragmatics of this dhamma, seen to be embodied either in Tai, Mon, Khmer, or Burmese *dhammasattha*[1] texts, or in classical Pali sutras manifesting a buddha's speech, therefore furnish the skeleton of a constitutionalist doctrine purportedly realized in the historical practice of Buddhist communities.

The influence of this position, which locates law, as dhamma, outside kingship, is pervasive in Buddhist and Asian legal studies, but not always in the way our sources might anticipate, for the claim is not, simply, that there are forms of "natural" or "non-state" law. Indeed, to the extent that constitutional features have been considered at all by scholars of precolonial Buddhisms, we have hardly advanced beyond this perspective. It is brought to bear in nearly every analysis of Buddhist law or politics; for example, when the normative dimensions of Buddhist kingship are analyzed in relation to the *dasarājadhammā* ("ten laws for kings") and the related *dhammarājā* motif (Gokhale 1953; 1966; 1969; Collins 2006, 460ff.), the career of the primordial Buddhist king Mahāsammata (Tambiah 1989), or the beleaguered figure of the *cakravartin* ("'wheel-turner' king;" Tambiah 1976, 39ff.). It is there, also, in devaluations of royal authority that elevate the status, in dhamma/law, of monasticism (Collins 2006, 420). Such are the so-called ideologies of Buddhist kingship, Collins posits, which are "exemplified from any period and place in Southern Asia, across which Pali texts spread as the Theravāda form of Buddhism was adopted by monarchs, many of them would-be Wheel-turning Kings (*cakkavatti*-s) seeking what they hoped would be a universal empire, emblazoned with the universal truths of Buddhism" (Collins 2006, 415). Frank Reynolds, commenting upon the tropes of *dhammarājā*, *cakravartin*, and Mahāsammata as found in the early strata of Pali texts, remarks that "these elements are of crucial importance because they provided a commonly accepted, orthodox basis for the richer and

[1] I advise against Lingat's occasional habit of employing the Sanskrit term *dharmaśāstra* to name a corpus of texts that was never written in Sanskrit. In references to this genre of Buddhist legal literature, on which more below, I employ the usual Pali term *dhammasattha*. Some examples of attested vernacular forms across the region include: *dhammasāt* (Mon), *dhammasat* (Burmese), *thaṃmasat* (Shan), *dhammasatr* (Tai Khoen), *dharrmaśāstr* (central Thai), *dhammasātr* (Khmer). For a consideration of *dhammasattha*'s connection with what Lingat calls a "specific contribution of Hindu civilization," see Lammerts 2018, 13–17.

more complex patterns of royal symbolism and political involvement which were developed during the subsequent periods of Buddhist history" (Reynolds 1972, 23).

Accordingly, as Balkrishna Gokhale claimed, Buddhism would seem to offer many resources to scholars of constitutionalism. Dhamma, "a constitutional concept of great significance" (Gokhale 1953, 161), operates as the framework that enables and constrains the king and the organs of royal power. Dhamma, as the "king of the king who is a *cakravartin*, a righteous king who rules by dhamma"[2] serves as a check on tyranny. As William Koenig restates the formula in relation to eighteenth- and nineteenth-century Burma, "the ruler became but the servant and agency of dhamma and his righteous conduct or sinful behavior infected the whole universe" (Koenig 1990, 68). On this reading, political and legal institutions find their justification in dhamma (in its representative texts), and it is dhamma (its representative texts) that places limits upon them in the name of supreme justice.

Lingat's corollary however belies the puzzle. He adds that the king's sovereignty is absolute; an absolutism circumscribed by law. It is my suspicion that Lingat, who among all authors to have contributed to the debate on constitutionalism – again, without naming it as such – in precolonial Theravāda Buddhism was surely the most well acquainted with a relevant archive (viz., local legal texts produced by the historical contexts in question) is here hedging his bets. He wants to have it both ways. An absolutism, but a righteous, or dhamma-constrained, absolutism – an aporia.

In what follows I aim, firstly, to raise criticisms of this now standard presupposition. The analysis of precolonial Buddhist constitutionalism developed by the likes of Lingat, Gokhale, Tambiah, Reynolds, Collins, and many others – and still very much current in the scholarly literature – is rooted in a speculative theorization of Buddhist constitutionalist law-as-exogenous-dhamma. This theory resists, with remarkable tenacity, most actual domains of law or legislation themselves, if by these terms we signify those forms of historical evidence that pertain to formal dispute resolution by courts and judges, juristic institutions and processes, or the normative, enforceable distribution and organization of social, economic, and political power. The rhetoric of kingship encountered in classical Pali Buddhist texts, despite its occasional (likewise rhetorical) redeployment even in legal discourse,[3] is in tension with precolonial Southeast Asian laws, jurisprudence, and juridical practices, and, moreover, with what is knowable about the operation, transformation, and effect of classical Pali Buddhist discourses of kingship and politics in history. This is so in the first instance empirically because the rhetoric of kingship advanced in local Southeast Asian law texts is rarely, if ever, closely

[2] *rañño cakkavattissa dhammikassa dhammarañño rājā* (AN III, 149); referenced in Gokhale 1953, 162.

[3] See Lammerts 2018, 184–89 for examples of how the *dasarājadhamma* and *cakravartin* motifs have been deployed in Burmese legal texts.

parallel to classical figurations. Local Buddhist narratives of Mahāsammata and Manu, which I have written about at length elsewhere, are a perfect example: the jurisprudential significations of Thai and Burmese variants of *their* biographies bear only a "similar dissimilitude" to representations in the Pali sutras and commentaries (Lammerts 2013; Lammerts 2018, 48, 66–71). We have been misled, in my view, by work that has, by and large, taken a misplaced rhetoric of royal dhamma as proxy for law.[4]

This argument is not intended to diminish the significance of classical Pali figurations of dhamma (those related to kingship or otherwise), via their local translations and transformations, for the general history of Buddhism or law in precolonial Southeast Asia. The salience of these figurations is to be established on a case-by-case basis.[5] Here my aim is to demonstrate that standard scholarly conceits about precolonial or "traditional" Buddhist constitutionalism – conceits concerning "righteous" and "wheel-turning" monarchs, or the exogenous, abstract dhamma that, as a higher principle of justice, somehow itself "reigns" sovereign and thereby exerts a regulatory function – are not, in fact, operative *constitutional* or even *legal* concepts according to the attested vocabularies of the legal history itself. There are many thousands of extant legal manuscripts and inscriptions, in many languages, from across precolonial Southeast Asia. Fewer than 1 percent have received any competent hermeneutical scrutiny. If we want to understand the changing historical expressions of Buddhist constitutional thought and practice, we must learn to read them. In doing so, it quickly becomes apparent that the construction of Buddhist constitutionalism according to the academic field is woefully at odds with, and does not do justice to, the richness and nuance of the archive.

By turning to more prevalent, effective, and historically situated legal discourses, this essay confirms that constitutionalism is indeed a pervasive feature of Buddhist lawmaking in precolonial Southeast Asia, yet its form bears little resemblance to classical tropes of dhamma. It may even be broader than any narrow focus on kingship and politics would suggest. The surviving testimony readily shows that the constitution of political power was *not* a separate or higher sphere of law with a singular genesis or formal instantiation. This is to say, constitutional discourse, including the ordering of the offices of the king (*rājā*), and of the monastic community (sangha), was part of an all-embracing process of *constitutionalizing* that encompassed other social, economic, and familial arenas. Thus, attempts to characterize or criticize constitutionalism in precolonial Buddhist law require that

[4] Baker and Pasuk (2021) have recently voiced a similar criticism of claims by Lingat and Prince Dhani Nivat regarding the supposed legal restraints imposed by dhamma upon Siamese kings. Their analysis is additionally valuable for its engagement with Thai-language sources and scholarship, including Lingat's *Prawatisat kotmai thai* ("History of Thai Law").

[5] A highly effective example of such an approach is Patrick Jory's book (2016) examining the intellectual history of Thai kingship in light of the concept of Buddhist perfection (*pāramī*).

we respond to this more capacious scope of law-writing. It demands that we reimagine that thing we call "law," and to see the constitution of *rājā* or lordship in immediate relation to other, constituted, legal phenomena. This undoubtedly betrays a certain friction with modern conceptions of constitutionalism that envision it as a singular type of legal creature narrowly concerned with regulating the exercise of executive power.

2.2 THREE ENVIRONMENTS

There are three principal, occasionally intersecting or conflicting, environments[6] of "Buddhist law" in precolonial Southeast Asia: *vinaya*, *dhammasattha*, and *rājasattha* ("royal legislation" or "royal edict/command"). [7] Each entails a distinct relation between what may be called "Buddhism" and "law." Certain general features common to these environments include: (1) (usually) a form of material embodiment and circulation in writing, (2) an orientation toward the authority of a foundational, preternatural, text (the speech of a buddha, a cosmic treatise, or the speech of a king), and (3) a rationale or jurisprudential logic whereby the normative program of such legalism is imagined to have the capacity to enable or perpetuate, via different mechanics, the religion of Buddhism itself.

2.2.1 *Vinaya*

Broadly speaking, and eventually from such a distant perspective that the analysis begins to lose utility, the monastic *vinaya* – the paradigmatic though non-exhaustive subset of the broad category of monastic law (laws governing monks) – is the only environment of precolonial Southeast Asian law that is somewhat shared, in terms of a general repertoire and jurisprudence, among diverse Buddhist traditions across Asia. This apparent unity is also deceptive. There are multiple, more or less partial or complete, variant *vinaya*s transmitted in several different languages (Clarke 2015),

[6] I am indebted to Benjamin Schonthal for the image of "legal environments." The phrase calls attention to the "overlapping and nonexclusive nature of . . . legal contexts" that "interlace and impinge upon each other" and "cannot be viewed in isolation and are not always imagined as mutually compatible" (Schonthal 2016, 138).

[7] This way of drawing the picture excludes various genres of records of local legal practice, including judicial rulings, stone inscriptions, land and population registers, contracts, and so on, which often summon influences from multiple environments. On Burmese inscriptions as legal texts, see Lammerts (2022); for debt contracts, see Saito 2019, Htun Yee 1999a; for judicial rulings, see Htun Yee 2006. These documents are set aside here since they generally serve procedural, not legislative, ends as forms of written evidence. Scholars have unanimously mischaracterized the corpus of judicial rulings (*vinicchaya*), for example, as judicial "precedent." Nevertheless, the *vinicchaya* genre begins to shade into the domain of jurisprudence when it comes to certain compendia that served as exemplars of judicial reasoning to be emulated by judges. The *Decisions of Sudhammacārī* is a key text of the latter sort (see Latter 1850, 1–29; Sparks 1851).

whose employment and application by monastic communities in history is highly uneven across time and space. Nevertheless, the influence of this law in Southeast Asia is hardly slight: a lengthy excerpt of the Pali *vinaya*, the *bodhikathā* of *Vinaya-mahāvagga*, is attested in Pyu epigraphy (discovered in Kunzeik, modern-day Burma), from around the sixth to seventh centuries CE, making this legal treatise, or a section thereof, possibly the earliest documented transmission of Buddhist literature in the region (Skilling 1997, 95 n. 7).[8]

While *vinaya* texts were widely transmitted, copied, glossed, and kept in monastic libraries across Asia, perhaps unsurprisingly there is rather little direct evidence that *vinaya* law was in fact routinely observed in the everyday life of monks, and indeed in some cases, including in fairly recent times, there is considerable evidence that *vinaya* was wittingly transgressed or ignored. In many contexts, the classical *vinaya* texts and their commentaries are supplanted in practice by a preference for manuals, pamphlets, summaries, and rulebooks on monastic law and administration that comment upon, or occasionally depart from, that corpus (Blackburn 1999). In certain areas – though not prominently in Southeast Asia – what we tend to think of as *vinaya* "properly speaking" was supplemented, or displaced, through the issuance of local documents that may be classified as monastic "constitutions," "guidelines," or "charters" (Jansen 2015) – e.g., *katikāvata* in Sri Lanka (Ratnapala 1971; Schonthal 2021a), or *chayik* in the Tibetan sphere (Ellingson 1990; Jansen 2018; Sullivan 2021) – which established norms for the operation of one or more monastic communities and, sometimes, those laypersons who happened to interact with them (Jansen 2018, 19, 153–57). In Burma, moreover, certain dimensions of monastic law were, in the seventeenth century and perhaps earlier, at least partly imagined to fall under the jurisdiction of *dhammasattha*, which presented norms decidedly at odds with the Pali *vinaya* and its commentaries – a feature of the legal history that stimulated considerable debate among eighteenth- and nineteenth-century jurists (Lammerts 2018, 112–15, 164–68). And nearly everywhere throughout Buddhist Asia, kings regularly legislated rules for monks that often had no relationship whatsoever to *vinaya*.

Despite differences internal to, and in the application of, the various Buddhist *vinaya* literatures, this massive corpus tends toward a rather uniform jurisprudence concerning the sources and aims of law. Authoritative *vinaya* rules are understood to derive ultimately from the lawmaking efforts of a singular type of legislator: a buddha.[9] Gautama Buddha's first legislative act, some two decades after he attained

[8] For a recent edition of this inscription by Arlo Griffiths and D. Christian Lammerts, see http://hisoma.huma-num.fr/exist/apps/pyu/works/PYU040.xml.

[9] A basic interpretive framework of *vinaya* jurisprudence, the four "great standards" (*mahā-ā padesa*), stipulates that when a legal question is not explicitly answered by the preserved legislation of a buddha (*sutta*; i.e., the *vinaya* rules), its resolution must conform to that legislation by analogy (*suttānuloma*). If an answer remains elusive, only then is it permissible to defer to the teachings of the 500 *arahants* involved in the First Buddhist Council

omniscience, was the declaration of the first *pārājika* (an offense leading to loss of clerical status) forbidding sex, including with animals or nonhumans (*amanussa*), among his male monastic disciples. The *vinaya* presupposes that other buddhas also promulgated laws for monks and some of Gautama's own rules are attributed to them. The rationale of *vinaya* is routinely advocated in language that stresses its essential role in maintaining a functioning monastic system of lineage and discipleship, creating the possibility for rituals such as ordination, ensuring the survival of the Buddhist teachings, and even promoting the achievement of nirvana.[10]

Until very recently the category of "Buddhist law" has been understood, entirely incorrectly, yet more or less exclusively, in terms of *vinaya*. But *vinaya* is not, at least not according to its founding vision,[11] a universal body of norms regulating the entire Buddhist community including the laity. This circumscription around the monastic population thus insinuates the existence of a plural legal environment, as scholars such as Robert Lingat (1951, 164) and Andrew Huxley (1999, 325) have observed. While the overtly "religious" character of *vinaya* law is uncontroversial – the rules are attributed to an omniscient superhuman legislator and exist to facilitate the advancement of ritual and soteriological imperatives – the corpus is largely comprised of what we might call administrative law; much of its content pertains to the mundane organization and business of monastic institutions and the everyday comportment of monks and nuns. Nevertheless, *vinaya* was, and remains, a major body of law and litigation in Southeast Asia as elsewhere, and proceedings of *vinaya* courts, tried by monastic judges, survive from the early seventeenth century (Lammerts 2018, 37–43) and continue into the present across the Theravāda world (Schonthal 2017–2018; Schonthal 2021b; Janaka and Crosby 2017).

The constitutional dimensions of *vinaya*, as well as those genres of monastic regulations and guidelines mentioned above, are immediately suggestive. Yet these have been hardly explored, perhaps due partly to the relative absence of considerations of kingship and politics in much of monastic legal discourse, though perhaps more so due to bias and a lack of appetite on behalf of comparative constitutional law scholars (Mérieau 2020). Nevertheless, as Benjamin Schonthal (2021c) has recently argued, there are strong grounds to characterize *vinaya* and local genres of monastic law as manifesting constitutions, inasmuch as these documents aim not

(*ācariyavāda*), or, failing that, the legal opinions of later monastic jurists (*attanomāti*). See Kieffer-Pülz, 2016–2017, 111–15. On the *mahāpadesa* framework applied beyond the monastic context in *dhammasattha*, see Lammerts 2018, 161.

[10] Compare for example the summary treatment at Sp, 104–5; translated in Jayawickrama 1986, 92–93.

[11] *Vinaya* rules have moved beyond the monastery in various times and places, exerting a significant influence on aspects of lay jurisprudence. One among many examples of this phenomenon is the widespread adoption of the *vinaya* motif of the "twenty-five types of theft" (Kieffer-Pülz 2011) that is elaborated in Southeast Asian *dhammasattha* texts (Lammerts 2018, 72–73).

only to legislate rules for monks, but also to organize the institution, offices, and judicial processes of the monastic community.

2.2.2 *Dhammasattha*

Dhammasattha ("treatise on dhamma" or "instructions of dhamma") is the Pali name of a regional Southeast Asian genre of legal literature that has a documented history of transmission in Burma beginning in the mid-thirteenth century (Lammerts 2018, Ch. 2). Later references to and manuscript witnesses of the genre are attested in what is today Thailand, Laos, Yunnan, Cambodia, and Bangladesh. In Burma alone there are well over one hundred individual *dhammasattha* treatises surviving in thousands of palm-leaf and paper manuscripts. By the phrase *legal literature*, I mean firstly the generic sense of texts that present rules and sanctions related to matters such as inheritance, marriage, contract, theft, assault, etc., and also prescribe norms and procedures for adjudicating disputes (courts, ordeals, witnesses, evidence, judges, etc.). More specifically, however, I refer to the fact that these texts (like so many embodiments of law) are *literary* expressions. Some are written as poetry, and all *dhammasatthas* – quite unlike their Sanskrit *dharmaśāstra* cousins – repeatedly, even excessively, employ narrative (i.e., stories), such as the example from *The Responsa of Manurājā* discussed below, somewhat akin to the model of the Buddhist *vinayas*, in the characterization of a rule.

There are considerable limitations to our knowledge of *dhammsattha*. The scope and substantive content of any text called *dhammasattha* (or cognate vernacular terms) during the earliest historical phase – before the seventeenth century – are uncertain, since the textual traditions are difficult to date. There is also a question whether the word "*dhammasattha*" during this early phase indexed a perception of a legal genre or corpus, or if it simply referred to a single text. Nevertheless, some general contours of *dhammasattha* as a source of law are evident from the thirteenth to fifteenth centuries onward.

The first Burmese inscription to invoke *dhammasattha* does so in the context of a retelling of a trial pertaining to a complex dispute within the extended royal family over the inheritance of land and slaves to be donated to a monastery (Lammerts 2018, 21–22). During the trial, the king orders his officials to consult *dhammasāt* (= *dhammasattha*) to determine the legitimate line of succession. The officials carry out the king's command, and the inheritance is consequently awarded to the heir perceived to be sanctioned by the text. This heir then proceeds to donate the inherited property to a monastery in the year 1232.

In Thailand, the vernacular word *dharmaśāstra* first appears in an inscription dated to around 1400 as part of a compound with the term *rājaśāstra*.[12] According to

[12] On the problematic date of this inscription, see Baker and Pasuk 2021, 28 n. 27. I add that the history and transmission of the genre in Siam (central Thailand) between c. 1400, the

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this inscription, a king, presumably Rāmarājādhirāja, the ruler of Ayutthaya,[13] announces, "in the center of the city of Sukhothai," a series of royal pronouncements (*oṅkāra*)[14] dealing mainly with slavery and theft. Punishment (e.g., for stealing slaves) or reward (e.g., for facilitating the return of stolen property), the king says repeatedly, shall be "in accordance with the rule [or "measure"[15]] of *dharrmaśāstra* and *rājaśāstra*."[16]

In the Burmese inheritance dispute, we see that royal judgment defers to the authority of the text to determine the rule. The judgment of the king is to let the *dhammasāt* establish the verdict. His judgment is simply a deferral of judgment to the letter of the law text. The Thai evidence, by contrast, is not a trial context, but an account of lawmaking by the king. The inscription represents law as established by royal command. Rāmarājādhirāja refers to *dharrmaśāstra*, and also royal edicts (*rājaśāstra*), only as a source for determining legitimate fines and compensation.

In his discussion of Rāmarājādhirāja's inscription, Lingat (1951, 182–83) writes:

> "[The inscription] contains, a rare thing, if not unique in Asia, a series of legislative provisions. However, these provisions are placed under the double authority of *dhammasattham-rājasattham*. [. . .] So we have there, in a relatively early period, and in any case close to the foundation of Ayutthaya, evidence for the existence, in Tai country, of a *dhammasattham* already generally employed as a legal principle, which suggests its introduction dates back to an even earlier era."

A year earlier, Lingat (1950, 24) elaborated what is meant by this "double authority":

> "The Royal prescriptions engraved on [Rāmarājādhirāja's inscription] are said to have been enacted according to *dharmasāt-rājasat*, i.e. according to the system which derives authority of royal orders from the authority of a supreme Dharma."

Lingat appears to recognize the royal legislative features of the text as an exception, a "rare thing, if not unique in Asia," for sovereigns influenced by the Indic religions are, according to him, always dutiful servants of dhamma. Lingat could no doubt read the original inscription as well as anyone. Yet he fails to adequately explain, perhaps because it troubles his conception of the "supreme Dharma" governing all Buddhist law, that the laws for slavery and theft mentioned in the inscription are nowhere characterized, in fact, as deriving from the authority of *dharmaśāstra*. The force of the king's speech (*oṅkāra*) does not emanate from any source outside the king himself. While it is facile to argue that the legislative prerogative of the king

approximate date of this inscription, and 1805, the date of the recension of the *dhammasattha* in the *Three Seals Code* (Baker and Pasuk 2016), remains something of a mystery. See Baker and Pasuk 2021, 28–29 for an overview of the evidence.

[13] For the historical context see Griswold and Prasert 1975.

[14] On this term see Lammerts 2019–2020, 52 n. 61.

[15] The Thai/Khmer term *khanāt/knāt* implies the sense of measure, scale, rule, or model.

[16] For an edition and English translation of this inscription see Griswold and Prasert 1969; reprinted in Griswold and Prasert 1992, 109–44.

results, to some degree, from his capacious merit (*puñña*), and is thus not entirely disconnected from cosmological or ritual considerations,[17] this is rather different from claiming that dhamma *qua* dhamma is the only legitimate source of law, or that all law was necessarily derivative of an exogenous source, whether dhamma, *dhammasattha*, or custom.

The *Dhammavilāsa dhammasat* is the earliest surviving *dhammasattha* text from Burma, written in vernacular Burmese, including some scattered Pali verses and citations, sometime before 1638 (Lammerts 2018, 56). It was shortly followed by the vernacular *Responsa of Manurājā* (*Manurājā lhyok thuṃḥ*),[18] a series of jurisprudential questions and answers (*pucchā-vissajjanā*) between a legist and king, compiled sometime between 1638 and 1648. In 1651 or 1652 the *Manusāra dhammasattha* was composed by the monk Tipiṭakālaṅkāra and a lay jurist styled Manurājā, the "eater" of taxes of Kaing Village. *Manusāra* is a Pali verse legal text that was probably compiled on the basis of earlier, now apparently lost, vernacular law treatises, to which was appended an interphrasal Burmese gloss commentary (*nissaya*). The *Manusāra* verses were eventually reedited and glossed anew in a recension by Vaṇṇadhamma Kyaw Htin, also titled *Manusāra dhammasattha*, in 1769. Judging from surviving manuscript copies as well as citations and references in other legal texts, Vaṇṇadhamma's *Manusāra* was among the most popular and widely circulated law books in late precolonial Burma.

The *dhammasattha* corpus – which, in Burma, expands by more than a hundred additional treatises during the eighteenth to nineteenth centuries – is definable as a species of "Buddhist law" in at least three different senses, each of which are quite dissimilar from *vinaya* jurisprudence, since only very rarely are its rules directly attributed to any buddha (and when they are so-attributed, the buddha is usually Dīpaṅkara). In the earliest surviving texts, including those mentioned above, dhammasattha law is represented as an earthly instantiation of a cosmic treatise. The original text of the law is inscribed – in "letters as big as a cow" – on the boundary-wall of the universe, from which it is transcribed and transmitted to the human realm by the variously-named seer Manu, Manusāra, or Manosāra, who magically retrieves the alien text during the reign of the first king Mahāsammata.[19] In addition

[17] See, for example, the description of the king's merit in the epigraph's "preamble" delineating his majesty (Griswold and Prasert 1969, 116–17, 124–28).

[18] While this text is not strictly a *dhammasattha* treatise in terms of form and content, it is presented as a commentary on certain *dhammasattha* laws, often categorized by precolonial bibliographers as a *dhammasattha*, and remained influential in the development of the genre in the eighteenth to nineteenth centuries, for example by serving as the basis of Vaṇṇadhamma's *Vinicchayapakāsanī* of 1771. The *Responsa*, which circulated under several different titles, is conventionally attributed to the authors of the 1651/2 *Manusāra* (viz., Kaingza Manurājā and Tipiṭakālaṅkāra), although not unproblematically (Lammerts 2018, 130–31).

[19] For a translation of the origin story in *Dhammavilāsa*, see Lammerts 2005. A draft edition of the *nissaya* version of the tale in the 1651/2 *Manusāra* may be found in Lammerts 2010, 502–8, 554–95. For an analysis of the Burmese narratives and their relation to accounts of Mahāsammata and Manu in transregional Pali literature, see Lammerts 2018, 66–71, 107–10.

to its origins in outer space, accessible only to superhuman cosmonauts, *dhammasattha* texts are engaged in a complex relationship with Buddhist *vinaya* and sutra texts, which are frequently redeployed, although sometimes with substantial changes, to justify or illuminate certain laws. Finally, *dhammasattha* texts repeatedly remind their audience that the norms they prescribe are intended to preserve and perpetuate the *sāsana* ("teachings") of Gautama Buddha, and that observing *dhammasattha* law offers a range of worldly (*lokiya*) and supermundane (*lokuttara*) benefits for judges and litigants, not least including nirvana.[20]

Dhammasattha is neither a form of positive law nor "state" law – at least not prior to the mid-nineteenth century when functionaries of the British colonial state began to transfigure and redeploy the genre for use by the imperial judiciary. The laws are not attributed to any legislator; like stars they are a natural feature of the cosmos and will ultimately perish along with it. Over the course of the development of *dhammasattha* jurisprudence it is however certain that legists increasingly sought to align laws of the corpus with the provisions of *vinaya* and sutra. This entailed a self-conscious project of "purifying" aspects of the legal tradition and bringing them into putative alignment with a buddha's speech. This involved, among other things, attributing rules to various buddhas or to ancient kings and bodhisattvas depicted in the *jātaka* corpus. A certain trend in the direction of emergent positivity is clearly evident. These complex reformulations, still too poorly understood, were discrete projects by laymen and monks who focused their efforts on different legal treatises and topics, not an organized or centralized movement of religio-legal reform under the explicit banner of the palace (Lammerts 2018, 172–78). Nevertheless, during the full history of its transmission in precolonial Burma, *dhammasattha* texts were repeatedly justified in terms of their ability to extend the longevity of Buddhism in the world by establishing social, political, and economic norms that would, it was argued, increase human material wealth and thereby generate ever more resources for the support and expansion of Buddhist institutions.

Despite the circumscribed role of the *rājā* in the production or purification of *dhammasattha* law, if we are to understand constitutionalist norms in the "thin sense,"[21] as laws that regulate kingship or politics, *dhammasattha* provides no shortage of examples. Akin to Brāhmaṇical *dharmaśāstra*, there are laws about how a king should judge legal disputes, how he should urinate and brush his teeth, how he should worship the triple gem, about his prerogatives in assigning fines and punishment, about taxation, about royal property and insignia, about demarcating the extent of the realm's territorial boundaries, about transgressions against the throne (rebellion, treason), about the king's duties to investigate crimes, about the

For a central Thai example dated 1805 that is closely parallel with *Manusāra*, see Baker and Pasuk 2016, 33–39.

[20] For a fuller explication of these features, see Lammerts 2018, particularly Ch. 6.

[21] Raz 1998, 153.

qualifications and appointment of ministers, officers, and judges, and so forth. There are even laws that govern the exemption of royal animals from criminal prosecution for trespass, causing destruction, or committing murder. The history and variation of these or similar rules could easily be mined to furnish examples of constitutionalist dimensions of *dhammasattha* law.

2.2.2.1 An Example of a Plausibly Constitutional Provision

Dhammasattha treatises are usually organized around eighteen major "titles of law" (typically called "roots;" *mūla* in Pali or *amrac* in Burmese – a category clearly related to the *vyavahārapada* framework of Brāhmaṇical *dharmaśāstra*): debt, inheritance, assault, theft, slavery, gifts, gambling, marriage, and so on. Provisions dealing with procedure are sometimes grouped together in a prefatory section, or sometimes scattered throughout relevant discussions of substantive law. One of the more interesting procedural clauses in the corpus, which has bearing on the question of regulating the king, concerns what we shall refer to as the "statute of limitations" on bringing legal suits. Toward the end of its introductory section, after enumerating the eighteen "titles of law," *Dhammavilāsa* states:

> Among the eighteen foundational titles of law in the *dhammasat*, the following four titles of law may be litigated when the king, lord of water and earth, has changed: the law of taking loans, the law of inheritance,[22] the law of *saṅghika* monastic lands, and the law of hereditary slaves (*mi lā pha lā kyvan*). But the following four titles of law shall not be litigated when the king, lord of water and earth, has changed: the law of murder, the law of intentional physical assault and verbal abuse, the law of rape,[23] and the law of theft of property, gold, or silver. Thus has the seer Manu declared.[24]

The *Manusāra* of 1651/2 puts the same law this way:

> I cite these verses (*gāthā*) regarding the nine types of legal disputes (*amhu*) that should be dismissed upon the change of king:
>
> *Pasayhanaṃ abbhūtañ ca paradāraṅ ca vadhakaṃ |*
> *Vañcanaṃ gūhanaṃ lumpaṃ corakaṃ ghātakan ti 'me ||*
> *Aṭṭā nava viparito rājā*[25] *vinā vinicchayā |*
> *Na pana iṇakadāsaṃ pacchā passaṃ palāyanaṃ ||*

[22] Omitted, presumably by scribal error, in UCL 9926.

[23] *mayāḥ khuiḥ*, literally, "wife-stealing." This phrase is often best translated as "rape," although it also covers adulterous sexual relationships in which a married woman is a consensual accomplice.

[24] NL Kaṅḥ 18, kaṃ.r; UCL 9926, khī.r; BL 12248, khū.v; UBhS 163–582, khā.r.

[25] A majority of witnesses read *viparite rājā*, although with *viparite* (loc. sg.) we would expect *raññe* (loc. sg.), as emended by Vaṇṇadhamma in his later recension of the text. A minority of manuscripts have *viparito rājā* (nom. sg.). The Burmese gloss clearly indicates that the clause was taken as an absolute construction. For present purposes, therefore, I analyze *viparito rājā* as an elusive "nominative absolute," while noting that it is hardly beyond suspicion. On the

> Suppression [of uprisings/rebellion], gambling, [transgressions against] another's wife, murder,
>
> fraud, concealment [of another's property], armed robbery, theft, destruction. These nine legal suits (*aṭṭa*) are without a ruling (*vinicchaya*) when the king changes.
>
> But not suits [involving] a runaway debtor or runaway slave who is apprehended after [the change of reign].[26]

Provisions along similar lines are repeated, with minor variation, in most subsequent *dhammasattha* treatises compiled up to the colonial era. Their implication is that the period for initiating a legal proceeding in what we might call "criminal" cases – including murder, assault, rape, and theft – is limited to the reign of the king on the throne at the time the crime was committed. Following a change of reign, the ability to bring a suit lapses. This is not the case, however, when it comes to other titles of law, such as inheritance or monastic property. The window for litigating these domains does not expire.

As far as I am aware, this curious provision is unique to Burma, or minimally is not something echoed by Sanskrit *dharmaśāstra* rules or those of Thai or Cambodian *dhammasattha*. The only scholar to have commented upon it, the legal historian Shwe Baw, surmised that the logic underlying the formulation and persistence of the rule is uncertain, as is the question of whether it was ever observed in practice (1955, 538–39). Nevertheless, the law suggests that the reigning king has a special relationship to crimes committed during his tenure. Judges or kings themselves do not have legal authority (in *dhammasattha*'s field of view) to pass judgment over crimes perpetrated during the reign of former kings.

This, it seems to me, is one among many examples of a constitutionalist provision furnished by the *dhammasattha* corpus. The rule simultaneously enables and constrains the operation of courts in relation to certain categories of substantive law. Moreover, it imposes a limitation upon not only judges, but upon the king's judicial power, for he is unable to adjudicate crimes committed prior to his coronation. A likely explanation for the law may be found in the fact that personal status was a determining factor in deciding "criminal" cases such as murder, assault, rape, and theft. The appropriate punishment for such crimes is assigned as a function of the socioeconomic "class" (Burmese, *amyuiḥ*; Pali, *vaṇṇa*) of both victim and perpetrator. In cases of murder and rape, for example, penalties often involved fines linked to the variable "body-price" (*kuiy bhuiḥ*) of the victim, sometimes in addition to corporal punishment such as mutilation, the value of which was determined by socioeconomic status, such as being a poor person, rich

doubtfulness of the nominative absolute in Pali, see von Hinüber 1968, 28–31. I thank Petra Kieffer-Pülz and Aleix Ruiz-Falqés for a stimulating discussion about the syntax of these verses.

[26] UCL 105682, ñña.v; BL 12241, ṭū.r; NL Taṅ 10 jhī.r; UCL 5440, jau.r.

person, "Good Person," military officer, minister, relative of the king, and so on. Status identities were highly fluid, inasmuch as they were bestowed by or in light of a dependent relationship with the reigning king, his kinspeople, and clients. They were not fixed in perpetuity across reigns in the same way as certain other social identities – such as, for example, father and daughter, husband and wife, monk, or hereditary slave status – which were of essential concern in other domains of law.

It is worth reiterating that this brief example of one among very many constitutional provisions in *dhammasattha* has absolutely nothing to do with a representation of the king as a *dhammarājā*, *cakravartin*, or bodhisattva. Nor does it relate to conceptions of exogenous dhamma as higher justice. The law, or if you prefer, the "dhamma" (Burmese, *tarāḥ*), of the text is no doubt authorized by a justificatory narrative (like all law), which at times invokes certain complex figurations of cosmology and kingship, such as the story of Mahāsammata and Manu, but these figurations alone are woefully inadequate to the task of elucidating the substance and mechanics of individual constitutionalist rules such as this. This is to say, again, that if we want to understand the operation of Buddhist constitutionalism in precolonial Southeast Asia, there is simply no substitute for direct engagement with the evidence of the legal texts themselves.

2.2.3 *Royal Legislation*

The legal ecosystem inhabited by *dhammasattha* recognized multiple sites of authoritative law. *Dhammasattha* was not a purely self-referential normative environment, but one that sanctioned forms of legal-textual alterity that could, and sometimes did, conflict with its own norms, including both *vinaya* and royal legislation (*rājasattha*). These other environments or genres of legislation did not necessarily differ on cosmological or ritual grounds – for example, in the sense that one was "religious" and the other "secular" – but were nonetheless deferred to on certain occasions. Indeed, *dhammasattha* texts not only recognize a hierarchy of law but yield to royal command as legislation of the highest authority superseding all other legal rules.

For example, in the final section of its seventh chapter, *Responsa of Manurājā* states:

> Regarding the point that *rājasattha* has authority over *dhammasattha*, and an agreement (*gati*) annuls *rājasattha*: Despite whatever *dhammasattha* may authorize, the three spheres of life, wealth, and body shall be regulated by the command of the sovereign (*rājasattha*) prescribed by kings of great merit. Yet, despite whatever royal edicts might authorize, an agreement annuls royal legislation when the two litigants have reached mutual consensus. The following [tale] is evidence (*sakse*, lit. "a witness") for this norm (*thuṃḥ caṃ*):
>
> Once upon a time, two men entered into the service of the king. One day, the king asked them, "in what do you place your trust (*yuṃ*)?" One man replied, "only karma." The other replied, "only my lord the king." To the man who said that he

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trusted only karma, the king gave a bunch of bananas. To the man who said that he trusted only his lord, the king gave a coconut that had been filled with gold.

When the two men departed the palace and were out on the road, the one with the coconut said, "I have many children and grandchildren at home, whereas you have none, therefore let us exchange the coconut for the bananas."

When he reached his house, the man who trusted only the king distributed the bananas among his children and grandchildren. The man who trusted only karma, when he arrived home, split open the coconut, found it filled with gold, and became rich.

Later, when they returned to the palace, the king inquired, "which of you has become rich?" The man who had said he trusted only the king replied, "your servant is still poor." But the man who said he trusted only karma replied, "your servant is now rich."

The king then asked what they had done with the bananas and coconut he had given them.

"Because I have many children and grandchildren, I exchanged the coconut my lord had presented to me."

The king said, "I wanted *you* to have the gold-filled coconut. Because you exchanged it for the bananas, your colleague has received the gold and is now rich."

The man responded, "Before I exchanged the coconut, I did not know that it was filled with gold intended for me. If this is true, a legal ruling (*acī raṅ*) resolving this case should be issued in accordance with the original intention of your gift."

The king ruled that his original intention was irrelevant to the case. Since the two men mutually agreed to the exchange, their agreement must stand.

From that time onward, even when kings or other men may judge or command that someone receive something, the legal decision (*cī raṅ thuṃḥ*) has conformed to the mutual agreement of litigants. Thus, *rājasattha* has authority over *dhammasattha*, and an agreement annuls *rājasattha*.[27]

In this rule and its accompanying narrative, *dhammasattha* subordinates itself to the legislation of the sovereign, nullifying its own jurisdiction over all legal questions on which the king himself might wish to issue an edict. However, *rājasattha* is also limited by mutual consensus or contractual agreement as a higher standard that even *dhammasattha* or royal law cannot abrogate. This provision echoes a maxim frequently encountered in Burmese legal documents, according to which *dhammasattha* law and formal tribunals become necessary only when disputes cannot be settled through other, non-legal means. That is, when parties to a dispute reach consensus in the resolution of conflict, there is no cause to invoke the law, even if the terms of the agreement do not conform to established legal norms. Even when the law is invoked, a trial held, and a judge has issued a ruling, transcripts of precolonial Burmese trial

[27] UCL 4645, gū.r; UCL 8270, gau.r; UCL 105690, ṭha.v.

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proceedings often conclude by stating that the litigants faced each other and together ate pickled tea (*lak phak*), symbolizing their mutual acceptance of and submission to the decision.[28] This ultimate goal of conflict resolution, outstripping any formal "legal" remedies, is not limited to the *dhammasattha* corpus, but is frequently promoted in surviving texts of royal edicts themselves.

The sovereign power of the king to determine and inflict corporal punishment according to royal legislation is also something routinely granted by dhammasattha law. For example, *Dhammavilāsa* states, in relation to oath breakers:

> In fortified towns and large and small villages of the realm and in districts of the royal dominion that have been described [in the foregoing], whosoever makes an oath of truth in front of Good People, such as bhikkhus and *brāhmaṇa*s, or others, saying that they will not break the oath, and then at a later time breaks that oath, they should be mercilessly beaten with the cane so that in the future they do not do it again. If the oath breaker is a person of high social status, they should be dragged down from their residence, their head covering or face cloth removed, and with their head bent down in shame they must leave their relatives behind and go to work as a gravedigger (*dvanḥ caṇḍāla*). They should be confined in the elephant or horse stable under the house. Let them collect the elephant and horse shit for two days, or four or five days, or six or seven days, or eight days, nine days, ten days, or a fortnight. Such is the punishment they should receive. This type of punishment is known as *maṅḥ daṇ* ("punishment of the king," *rājadaṇḍa*). If they will not accept this sort of punishment once it has been given, let them pay a fine of 5 gold pieces or 100 silver coins. They should never again be trusted. They should suffer defeat in all legal affairs. However, if such a man is executed, or if his feet or hands are cut off, one should not invoke *dhammasattha*. In such cases one has invoked royal legislation (*rājasattha*). The judge who does this [i.e. invokes the *dhammasattha* as justification for corporal punishment] shall suffer punishment in the Four Hells.[29]

A representative (though inexhaustive) collection of hundreds of Burmese royal edicts (Pali *rājasattha*; Burmese, *amin. tau*, "royal speech") dated (not always unproblematically) between the late sixteenth and late nineteenth centuries has been edited by the historian Than Tun and published along with English-language summaries of each edict.[30] A cursory perusal of this remarkable corpus immediately reveals the legislative imperatives of Burmese kingship, a sort of paradigmatically Austinian archive of law as sovereign command, in which the king takes center stage in legislating the realm through the regulation of political institutions and identities. While the edicts are usually presented in the king's first-person voice, they were

[28] Such features obviously invite comparison with other contexts of dispute resolution, for example in medieval Europe or modern Tibet, which have preferred to avoid recourse to formal law, on which see Pirie 2013, 33–38; Keyser 2012.

[29] UCL 7490, gai.r; UCL 9926, go.v; DhV Kaṅḥ 18, khau.v; BL 12248, ga.v; UBhS 163–582, gī.r.

[30] Than Tun 1983–1990 (available online: https://repository.kulib.kyoto-u.ac.jp/dspace/handle/2433/173188). A related late precolonial genre of royal law is the *upade* legislation issued during the reigns of King Mindon and King Thibaw (1853–85), on which see Htun Yee 1999b.

often executed and proclaimed by his ministerial advisors at the palace. In one of the earliest such documents, for example, issued 29 April 1597, King Nyaungyan-min declares a lengthy list of dozens of duties for newly appointed ministers at the rank of *senapati*, including that they:

> … Ceaselessly work to regulate the affairs of the realm; … render legal judgments that diligently strive to diminish theft, murder, and arson; render legal judgments for all beings that are proportionate to the offense; investigate and record in writing for the palace archive the qualifications of all subordinate royal officers (*amhu thamḥ*); … support and exhibit *saṅgaha*[31] to the four social classes; … advise the king when disputes arise, presenting him with the legal norm (*thuṃḥ caṃ*), so he may properly adjudicate the case; … do not judge cases under the sway of anger, ignorance, or greed for money;[32]… do not maltreat or oppress the people; … observe the five precepts (*sīla*) every day; observe the *uposatha* [i.e., observe the eight precepts] four times a month; strive to perform meritorious deeds; send *mettā* to the lord who holds authority [= the reigning king]; for the sake of all beings, meditate '*sabbe sattā averā hontu*' [may all beings be free from evil];[33] … do not allow the royal finances in the palace treasury to become depleted; do not follow the desires of women; avoid the three kinds of judicial bribes (*uccā taṃ cuiḥ*);[34] … in the first watch of the night, confer with those who know the *dhammasattha* and tales of judicial decisions, those who know legal norms, those who know how to judge and understand how to investigate, those who know trading and buying and selling, those who know the scriptures (*kyamḥ gan*), and those who know about astrology.[35] …[36]

Many other edicts seek to regulate the conduct of tax officials, military servicemen, traders, monks, and slaves, and particularly the comportment of judges and the operation and fees of legal courts. Numerous examples demonstrate that the edicts of former kings may be regarded as settled law or established "precedent," or they

[31] *saṅgaha pru*. This suggests that the ministers should demonstrate the four *saṅgahavatthu* – *dāna*, *peyyavajja*, *atthacariyā*, *samānattatā* (generosity, kind speech, beneficial conduct, and impartiality) – frequently mentioned in Pali and Burmese literature.

[32] This is parallel with the provision frequently encountered in *dhammasattha* treatises that judges must avoid the four "bad courses" (*agati*) of desire, fear, anger, and ignorance, on which see Lammerts 2018, 35, 83–86, 189–90.

[33] Compare Jā II, 61, etc. This is a standard verbal formula offering protection (*anuggaṇha*). *Avera* is often translated as "without hatred," although this tends to miss the sense here, wherein *vera* is essentially synonymous with *pāpa*, *akusala*, *apuñña*, and so on.

[34] The precise referent is unspecified, and there are at least two different formulations of threefold bribery. The most common in Burmese judicial contexts refers to a fraudulent decision made by a judge out of consideration for: (1) personal enrichment (*dhanaggāha*), (2) love or affection (*pīyamitta*) for one of the litigants, or (3) a blood relative (*ñātilohita*) who is of one of the litigants.

[35] This clause reflects those sections in *dhammasattha* and *dharmaśāstra* texts where the nightly "routine" of a king is detailed.

[36] This order is reproduced in Than Tun 1983–1990, Vol. 2, although it is drawn by him from U Htun Yee n.d., 2–3. Htun Yee takes the order from a manuscript in the private collection of historian Toe Hla. There are some complexities relating to this text, not least that it appears to have been issued prior to Nyaungyan-min's formal consecration.

might be seen to be in conflict, nullified by the dictate of the reigning monarch. The orders also reveal the integration of *dhammasattha* law into royal law, in a sort of reversal of *dhammasattha*'s pluralist deference to *rājasattha* mentioned above: for example, an edict dated June 23, 1607, states that judges should follow *dhammasattha* norms in the conduct of trials and determination of punitive fines, or another dated August 11, 1692, that prescribes that the division of heritable property for military officers shall follow *dhammasattha* rules of succession.

Lingat would surely contend that "such decisions have only the force of royal authority, they do not make law" (Lingat 1937, 22). While such commands are not, in most cases, grounded in *dhammasattha*, nor in any "supreme Dharma," nor in the words of a buddha, it is rather difficult to conceptualize a definition of "law" with which the *rājā*'s edict, as lavishly depicted in these documents, is incongruous, especially given that the transgression of such edicts was met with "severe punishment," including bodily mutilation and execution (September 6, 1573). Likewise, Chris Baker and Pasuk Phongpaichit have recently demonstrated *contra* Lingat that in the neighboring context of precolonial Thailand "the evidence for kings making laws is very strong" (Baker and Pasuk 2021, 29).

2.3 THE OUTER CASING OF THE LAW

The study of constitutional aspects of Buddhist law is beleaguered by the faithfully monogamous marriage of constitution and "state" in theoretical discussions, as well as, relatedly, the dissociation of constitutional law from other types of law. Aristotle popularized the distinct status of constitutions in *Politics*. Yet this persistent decoupling, so influential in modern Europe and contemporary constitutionalist scholarship, fails to account for the fact that in many terrains of history, including precolonial Southeast Asia, the regulation of the action of the political sphere has not been conceived of as at all distinct from other forms of law and lawmaking. Here all law is "constitutive" or "constituting," and the *rājā*, for example, is merely another staged character in the legal performance.

If we are to try to engage constitutional aspects of precolonial Buddhist law, it is therefore necessary to expand the inherited parameters of the governing analysis, since a significant quantum of such law, until quite recently, has not been legislated under the aegis of a *rājā* (or "state"), much less by a *demos*, or "We the People," even if it occasionally sought to regulate the throne. It is an anthropological commonplace that all formations of community, including the most acephalous, entail a regulatory or normative dimension that seeks to negotiate or manage relations of power, and thus evince constitutionalist aspects or strategies (Amborn 2009). Recognizing such features of Buddhist legal discourse, however, at least those *actually* circulating in precolonial Southeast Asia, asks us to think about constitutionalism from a somewhat different angle, one more aligned with the contours of our archive.

If we would like to discover Buddhist constitutionalist norms, if by this we mean the "thin," non-Aristotelian sense of laws that order spheres of politics or institutional power (*the palace, the monastery*), we need not search very far at all. These are abundant across the several Southeast Asian legal environments discussed above, and I have offered only a handful of illustrative specimens, mostly from Burmese *dhammasattha*. There are extensive, readily accessible, examples elsewhere, too. Among these are the recently translated *Kot Monthianban* ("Palace Law of Ayutthaya;" Baker and Pasuk 2016), the long-ago translated "*lois constitutionnelles*" of precolonial Cambodia (Leclère 1898, I, 37–232), as well as the local varieties of monastic law treated in the work of Berthe Jansen (2018), Benjamin Schonthal (2021a; 2021c), and Brenton Sullivan (2021). It is nevertheless evident from the examples given above that the heretofore standard approach, fixated on the rhetorical tropes of Buddhist kingship spellbound by dhamma, fails to nominate even approximately viable candidates.

As Chris Baker and Pasuk Phongpaichit have recently observed, "the basis of kingship in Siam and neighboring states is often described solely in relation to sacredness and religious power through terms such as *devaraja* (god king), *thammaraja* (dhamma king), and *cakravartin* (wheel-turning emperor)" (Baker and Pasuk 2016, ix). This indefensible predicament needs to change. There is, in short, no sparsity of rich legal documentation from precolonial Buddhist Southeast Asia that offers scholars access to distinctive local forms of constitutionalist thought and practice. Classical Pali repertoires are no doubt variously relevant to the discussion, but often in oblique and surprising ways. Indeed, the foregoing analysis argues for precisely an inversion of Lingat's influential thesis. The integument or "outer casing of the law" is neither the king's command nor the complex historical substance of lawmaking in whichever of our three environments, but rather the conceit of dhamma as the "king of kings," which has received far too much attention in scholarship, at the expense of legal history itself.

ABBREVIATIONS

BL	British Library
NL	National Library of Myanmar, Yangon
UBhS	U Bho Thi Manuscript Library, Thaton
UCL	Universities' Central Library, Yangon

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