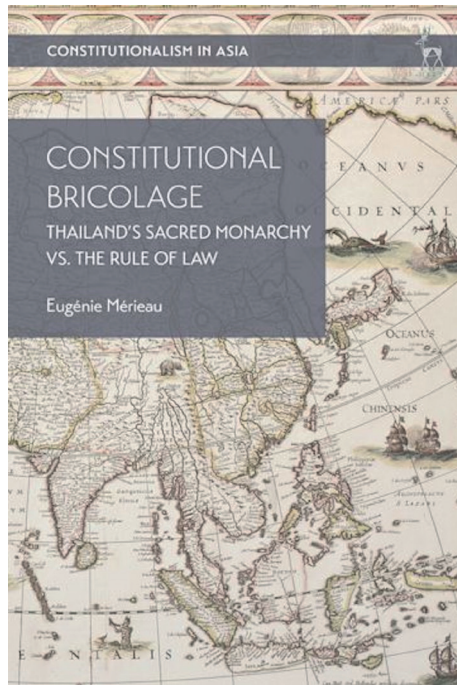


Constitutional Bricolage: Thailand's Sacred Monarchy vs. The Rule of Law by Eugénie Mérieau (Oxford: Bloomsbury Publishing, 2022). ISBN: 9781509927692 (hardback). £58.50.



Thai politics is sometimes described as hyper-royalistic.¹ The Chakri monarchs are incessantly and obsessively praised and celebrated as the indispensable part of ‘Thainess’ and the stabilising core of the country’s volatile politics. That celebration, which peaked towards the end of Bhumibol’s reign, inevitably leads to an accusation that the king, a supposedly apolitical figurehead, has always been meddling with politics and, therefore, is the cause of Thailand’s repeated failure to consolidate democracy.²

That peak of hyper-royalism and the following constitutional crisis (2006-present) drew scholarly attention to the role of the monarchy in politics. Led by Paul Handley’s controversial work,³ recently there have been several best-selling books delving into this topic, notably those of Same Sky Book,⁴ but also the Matichon book series⁵ focusing on how

the monarchy rebuilt its hegemony after the 1932 revolution and what the implication for this revival means for Thai politics. Eugénie Mérieau’s *Constitutional Bricolage* offers her view on this question through the medium of constitutions.

Eugénie Mérieau is one of the finest scholars on Thai constitutional law. Her previous work ranges widely from the deep state theory,⁶ to lese majesty,⁷ to Buddhist kingship.⁸ In her new book, she consolidates those previous works into one, arguing that

¹ Thongchai Winichakul, *Thailand's Hyper-royalism: Its Past Success and Present Predicament*, ISEAS-Yusof Ishak Institute, 2019.

² See Pavin Chachavalpongpun, “Introduction: A Timeless Thailand” in Pavin Chachavalpongpun (ed.), *Routledge Handbook of Contemporary Thailand*, Routledge, 2020.

³ Paul Handley, *The King Never Smiles: A Biography of Thailand's Bhumibol Adulyadej*, Yale University Press, 2006.

⁴ Nattapol Chaiching, ขุนศึก คักดินา และพญาอินทรี [Warlord, Royalist, and the Eagle]. Same Sky Book, 2020; Asa Kampa, กว่าจะครองอำนาจนำ, Same Sky Books, 2021.

⁵ Thep Boontanon, ทหารของพระราชากับการสร้างสำนักแห่งศรัทธาและภักดี [The King's Soldiers and the Making of Faith and Loyalty], Matichon Book 2022.

⁶ Eugénie Mérieau, Thailand's Deep State, Royal Power and the Constitutional Court (1997-2015), *Journal of Contemporary Asia*, 46 (2016), 445-466.

⁷ Eugénie Mérieau, “A History of the Thai Lèse-Majesté Law” in Andrew Harding and Munin Pongsapan (eds), *Thai Legal History: From Traditional to Modern Law*, Cambridge University Press, 2021, 77-88.

⁸ Eugénie Mérieau, “Buddhist Constitutionalism in Thailand: When Rājadharmā Supersedes the Constitution”

the monarchy has successfully adopted and adapted differing ideas in order to build a modern version of the traditional *dhammaraja*. She offers a very understanding view of Thai monarchy, addressing the uniqueness of Thai kings, who fall between a British-style figurehead and Middle Eastern dictators. The idea of a bricolage is particularly interesting because it seems to suit well the development of Thai constitutional law, often punctured by coups d'état, with hardly any continuity at all.

Rapid constitutional turnover is a nightmare for a constitutional law scholar trying to write about the latest charter, in effect before it has been replaced by another. However, for this ethnographic work, each change of the written law allows observers easily to track sociopolitical change. As the author demonstrates, Thailand's constitutional changes are full of twists and turns, from a hopeful democratic revolution to a chaotic cold war dictatorship punctuated by uprising, from the glorious people's reform of a constitution in 1997 to the long gradual decline since the turn of the 21st century.

The book covers the period lasting over a century, from King Chulalongkorn to King Vajiralongkorn. The author divides her study into three main periods where different ideas, of parliamentarianism, military authoritarianism and constitutional justice, were respectively introduced. Initially they had challenged the traditional concept of kingship, but eventually they would be integrated into Thai constitutionalism. Within each period, the author skilfully presents her work in three layers of textual changes, sociopolitical background, and debates among jurists. Each layer complements another to portray a complete picture of contemporary Thai politics.

Addressing almost a century of constitutional history in one book is challenging. A constitution may contain over 100 sections on numerous topics. Each section is rich in detail about what changed and why. The author has to be selective about what to include and brevity is essential. The book focuses on sacred kingship so the main discussion is about the king's constitutional prerogative. Each round of drafting, as Mérieau describes, must undergo intense negotiation between the palace and the drafters. A reader with no legal background may find the author's description of constitutional change puzzling, as he/she may not fully understand what significance these changes entail. What is the significance of the senate, the privy council, or the regent in constitutional debate? Some clarification on these topics would be welcome. Likewise, a reader familiar with modern Thai history may feel that her chapters on sociopolitical developments are too brief compared to other works, such as that of Chris Baker and Pasuk Phongpaichit.⁹

In contrast, the most exciting part of the book covers the debates of Thai jurists, which are meticulously identified and presented. Most of these materials are in Thai so non-Thai scholars have little access while most Thai legal scholars are not always even aware of their existence. Mérieau tracks constitutional debate from the early jurists, such as Yut Saeng-uthai, to contemporary jurists, such as Meechai Ruchupan and Borwornsak Uwanno. She offers a fascinating insight into Thai legal conscience in terms of what they think about power and the ideal form of governance. The only missing part might be where the author could identify, when these jurists claimed legal theories to support

in *Asian Journal of Comparative Law* (2018) 13, 283-305.

⁹ Chris Baker and Pasuk Phongpaichit, *A History of Thailand*, Cambridge University Press, 3rd edn, 2014.

their argument, where these lawyers got them wrong or where adaptation took place. The book seems to try its best to avoid accusing them of ‘abusing’ these concepts and theories. However, without flagging where the jurists got their concept wrong—for example, in the British theory of monarchy—ordinary readers might be easily confused.

The most important message from *Constitutional Bricolage* is the ability of the conservative faction to embrace new ideas, improvise and incorporate them to advance their interests. They have always managed to co-opt emerging, and sometimes even threatening, groups, e.g. the army, technocrats, the middle class, the liberals, from the entire political spectrum into their alliance. This ability has helped the monarchy not only survive, but also flourish in the ever-changing world. That leads to a question towards the end of the book. The project of sacred kingship has continued for over 100 years. Why, at its most successful moment, does it fail to adopt another bricolage of constitutional democracy into its ideology? Thailand’s royalist conservatism insists, stubbornly, that no change is allowed, except to entrench further the status quo. Why do they lose such incredible survival skills? The book ends at a critical point in Thai history, without any good answer.

Despite minor setbacks, *Constitutional Bricolage* is a fascinating book. Thai legal history is the river less travelled, and Eugénie Mérieau has marvellously filled this void. The book is packed with interesting detail, not only for constitutional lawyers, but anyone interested in the topic of the Thai monarchy and politics.

Khemthong Tonsakulrungruang