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# LOCALIZING JUSTICE: VERNACULAR LEGAL LANGUAGE AND SOCIAL ORDER IN PRE-MODERN CHAIYA CITY-STATES

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**Abstract**

This study examines the interplay of legal language, local adaptation, and social order in the Chaiya city-states of southern Thailand prior to the late 19th-century reforms. Employing documentary research, it analyzes vernacular legal texts ("books of law") and compares them to the central Siamese Three Seals Law. The research identifies four distinct styles of legal language in the Chaiya texts, including Thai, Southern Thai dialect, and mixed forms, which reflect the local language, customs, and moral principles integrated into legal interpretation and enforcement. Exploring how the vernacularization of legal language shaped local legal practices and maintained social order, the study underscores the significance of understanding the relationship between legal language, cultural context, and justice administration in pre-modern Southeast Asia. It challenges the concept of uniform legal application. It highlights the agency of local communities in adapting legal principles to their specific circumstances, contributing to a deeper understanding of legal pluralism and its role in shaping social order within a regional context.

**Keywords:** Legal Language, Vernacular Law, Chaiya City-States, Local Adaptation, Social Order

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## **Background and Significance of the Problem**

In a traditional society, norms are often inherited from one generation to the next. However, as societies advanced, written norms known as laws were established alongside the contemporary practice to maintain order in society in the present era (Hutangkura, 2023). The oldest legal evidence in Thailand is the Miscellaneous Laws (Phra Ayakan Laksana Betset), from the Ayothaya Sri Ramathibodi period, which features very ancient language styles. In addition, other legal evidence of the Sukhothai era has also been discovered, including the King Ramkhamhaeng Inscription and the Mangrai Code (Petkaew, 2014).

Many laws were passed during the Ayutthaya period, and one notable change was the move away from retaliation-based justice, such as “an eye for an eye,” to compensating victims for their losses. Therefore, one of the most important pieces of evidence highlighting the strength of Thai literature and language is the use of legal language. King Rama I ordered a significant overhaul of the laws during the Rattanakosin period since the previous ones were disjointed and defective. An eleven-member committee was established to examine, revise, and appropriately categorize the legislation (Wongthet, 2023).

On 31<sup>st</sup> January, 1805, the Three Seals Law was formally enacted as the nation’s law. It was regarded as a significant codification in Thai legal history, while being a reform of earlier laws (Royal Society of Thailand, 2007).

Because the content of the Three Seals Law reflects society and human behavior, it has significant linguistic value. One can gain a deeper understanding of Thailand’s historical legal system by studying this law. With its comprehensive substance and organization, the Three Seals Law is acknowledged as the first legal code of the Rattanakosin era. It was in effect for more than five hundred years. This statute is considered one of Thailand’s most significant historical records, demonstrating both artistic and cultural accomplishments, as well as developments in jurisprudence (Pramot, 2016).

A literature review indicates that ancient manuscripts known as “Bud Manuscripts” written in the Southern dialect contain literary works in the form of laws, governing principles, and municipal regulations in the southern region of Thailand (Weeraprachak & Thasukon, 2004). Central Thai and the Southern vernacular are mixed in these Bud books. The Bud Manuscripts, found in Surat Thani Province near Ban Don Bay, contain information about laws that serve as guidelines for judges, as well as laws that have been modified to match the local environment, with a special emphasis on resource management. Examples include laws on disputes and the Lak Chai Law 1720. These Bud Manuscripts show how local customs were incorporated into the central government’s legislation. The protection of economic property is also emphasized in the substance of these regulations, which classify sanctions according to the offender’s behavior and the extent of the harm (Prasithrathsint & Phutphitak, 2018). Despite being governed by the royal capital, the provincial towns had the autonomy to establish their own legal identities that suited their particular circumstances. The objective of this study is to examine the legal identity and linguistic dynamics of the laws in Chaiya City-States, in comparison with the Three Seals Law Code, and to investigate the interpretation and enforcement of criminal law in Chaiya. The knowledge gained from this study contributes to academic advancement in applying interpretations or enforcement of centralized criminal law in ways that are appropriate for the specific local context.

## **Review Literature**

### **Three Seals Law**

King Rama I (Phra Phutthayotfa Chulalok) kindly assigned 11 royal academics and academicians to examine and amend the ancient laws that were left over from the Ayutthaya period, according to the book “The Law of the Three Seals: A Window into Thai Society”

(Pongsripian, 2004). They were given the responsibility of creating a new legal code, which was enacted in 1805. The “Law of the Three Seals” (Royal Society of Thailand, 2007) is the name given to this body of rules. The promulgation to revise the entire legal code and the use of the three seals as a symbol of this royal law marked a significant overhaul, making it a distinct era in the history of Thai law. This legal code is also known as the “Rama I Code” (Pongsripian, 2004). The Law of the Three Seals is regarded as one of the most comprehensive legal codes in terms of structure and composition worldwide. This is because it codified royal decrees and statutes on various matters, including governance, state administration, and the establishment and enforcement of rules for interpersonal relationships, relationships between individuals and the state, or between the capital and regional towns. The provisions and articles within various laws that comprise the Law of the Three Seals also reflect the social conditions, culture, customs, traditions, political landscape, and key institutions that influenced ancient society. They reveal the mindset of those in power, the acceptance and respect from the governed, the prevention and suppression of crime, the punishment of lawbreakers, and the awarding of merits or rewards to those who complied or performed good deeds for the kingdom.

### **Cultural Deviance Theory**

One important sociological idea that surfaced in the 20<sup>th</sup> century is deviance. In contrast to society norms, standards, and expectations, it describes social behaviors, practices, activities, attitudes, and beliefs that deviate from them. According to this view, crime occurs when individuals adopt norms and beliefs that are at odds with the majority, particularly within subcultures. The statement is made on “Behavior judged inappropriate by mainstream society may be perceived as normal or acceptable in specific communities” (Cullen et al., 2011). Although some aberrant actions fully meet the legal requirements to be considered crimes, society often refrains from classifying them as such or referring to the offenders as criminals. This is because local values are thought to diverge from fundamental social ideals. Examples include crimes perpetrated by minors or those with mental conditions, as well as those who break moneylending or trading regulations (Spencer, 2011).

### **Social Control Theory**

This theory was proposed by Richard T. LaPiere, who defined social control as the process by which society regulates the behavior of its members to ensure conformity with accepted values and norms. This control can take both formal and informal forms. The main principle of the theory suggests that everyone tends to commit wrongdoing; however, what restrains people from committing such acts is social control, including family, schools, religion, and legal institutions. As the saying goes, “Crime occurs when an individual’s bond with society weakens.” The theory identifies four key elements that help prevent crime including 1) Attachment which refers to relationships with family and community, 2) Commitment which refers to the intention to maintain one’s reputation, education, or career, 3) Involvement which refers to participation in beneficial and constructive activities, and 4) Belief which refers to an individual’s belief in rules, laws, and morality.

### **The Application of Laws in Chaiya City-States**

The town governors were responsible for administration, command, and serving as judges in adjudicating legal cases by laws and municipal regulations issued by both the central government and local traditions. The governors copied the Three Seals Law for use in the provincial towns or used versions known as Yok Khabat editions for adjudicating various legal cases. Sometimes, the copies of the original laws were referred to as “Chaloey Copy”. However, when comparing the Three Seals Law from the original manuscripts to subsequent copies, discrepancies were found in both wording and orthography. This variation was because the Thai language historically developed through natural processes and was not subject to a standardized norm that dictated “how a particular word should be written or pronounced”. As

a result, a close relationship between spoken and written language can be observed, leading to written language being influenced by individual perception (Phoolwong, 2013). The central laws naturally influenced the legislation and legal enforcement in various provincial towns. This included Lak Chai and municipal regulations, which were adapted to align with local customs and cultures. Although the administration of provincial towns was under the authority of the capital and central laws, these towns were able to define their local laws in a manner consistent with their local contexts. These could be in both prose and verse, within the framework of the Three Seals Law (Pongsripian, 2004).

## Methodology

This research employs a qualitative study approach, utilizing the documentary research method. The research process is divided into three stages.

The first stage begins with the collection of books or ancient documents related to laws that have been discovered, cited, or believed to have originated in the Chaiya City-States, as recorded in the Bud Manuscripts. The sources of these original manuscripts were found around Ban Don Bay and collected by the Office of Arts and Culture at Suratthani University, as well as by educational institutions, temples, communities, or held in private collections. Once the original documents are obtained, copies will be made for further study.

The second stage involves categorizing the collected documents into three types: identical sections, similar sections, and differing sections, by comparing them with the Three Seals Law. Afterward, the documents will be categorized and an index compiled.

The third stage entails selecting one law that was enforced in Chaiya for detailed study. This selection will serve as the basis for analyzing the identity and dynamics of legal language usage in a way that corresponds to the customs, traditions, and governance culture of the Chaiya City-States.

The research will analyze the identity and dynamics of the laws in Chaiya City-States, including an examination of the words and meanings in the legal language found in these provincial laws, to assess their impact on interpretation and enforcement within the justice system. The study will also explore the relationship between linguistic identity and the law.

## Research Findings

**Linguistic Identity and Dynamics of Laws in Chaiya City-States:** From the study of Bud Manuscripts in the genre of legal literature found around Ban Don Bay in Surat Thani Province, totaling 14 volumes, the following linguistic identities and dynamics of the laws in Chaiya City-States were identified when compared with the Three Seals Law.

1) The laws written in standard Thai prose were incorporated into the Three Seals Law to serve as a fundamental framework for administering justice to the people. Emphasis was placed on the importance of the royal seals, asserting that any law finalized with these seals could be enforced and cited as reference. Without these three seals, obedience to the law was strictly prohibited.

2) The laws of Chaiya City-States, written in Southern Thai prose, were found to include the following. (1) Phra Ayakan on Filing Lawsuits: This section established the qualifications of those who could file lawsuits and listed 20 prohibited characteristics that would result in the dismissal of a case. If either party committed any of the forbidden actions during the trial, the case would be dismissed, and the violator would automatically lose. (2) Phra Ayakan on Witnesses: This part described the importance of witnesses in legal proceedings, identifying 33 types of individuals whose testimony would not be admissible unless both parties consented. (3) Characteristics of Witnesses: These provisions served as directives for use in City-States, and some were specific to particular towns. They are comparable to the Phra Ayakan on Disputes, Insults, and Assault in the Three Seals Law. As for the Phra Ayakan on Husbands

and Wives, it outlined three types of wives, five types of offenses against wives, adultery, punishments, and compensation. When compared to the Three Seals Law, it corresponds to the Phra Ayakan Bet Set (Miscellaneous Laws), which addressed matters such as the ownership of fields, orchards, and gardens, as well as theft, human trafficking, and laws on pledges.

3) The Laws of Chaiya City-States were composed in poetic verse using the Southern Thai dialect. This literary form made the content easily accessible and memorable for local people. The use of poetic verse in legal texts was a common practice during that period. When compared with the Three Seals Law, this corresponds to the Phra Ayakan on Theft. The content, written in verse, comprises 28 articles on Phra Ayakan Appeals and eight articles on Characteristics of Theft.

4) The Laws of Chaiya City-States were written in both poetic verse and prose in the Southern Thai dialect, serving as a communicative tool within the local community. This dual form of expression represents a significant aspect of the region's cultural identity. The content can be categorized into four main sections. (1) Phra Ayakan Lakshana Bed Set (General Provisions) has the beginning portion, written in poetic form, that deals with general legal provisions. At the same time, the latter part of the Bud Manuscript features medicinal recipes and treatments. (2) Phra Ayakan of Husband and Wife Law and Slavery has the initial content discussing the writing of yantras and sacred incantations, followed by legal provisions regarding court fees and the laws about marital relationships and slavery. (3) Lak Chai Law, Lakshana Uthan (Appeals), Bot Tat Phayan (Testimony Exclusion), Phra Ayakan Wiwat Da Ti (Insults and Assaults) have the text elaborating on 57 articles regarding appeals, six articles related to excluded testimony, and detailed provisions on defamation, assault, and bodily harm resulting in injury or danger. (4) Phra Ayakan Lakshana Tralakan (Judiciary Law), Lakshana Uthan (Appeals): This section explains judicial fees in poetic form. When compared to the Three Seals Law, it aligns with the Dhammasattha, Inthapasa Principles, and Phra Ayakan Lakshana Tralakan. The content is written in prose, detailing the qualifications of judges and the four types of prejudice (biases) that could disqualify a judge. The Phra Ayakan Lakshana Uthan in this section is composed in verse, covering 22 articles concerning appeals.

From the aforementioned discussion, it is evident that the identity and linguistic dynamics of the laws in Chaiya City-States, particularly concerning the issue of crime, reveal that the types of crimes recognized in Chaiya and the role of local laws, as reflected in the Bud Manuscripts, encompass various categories. These include; crimes against property such as theft (e.g., stealing sugarcane, digging up sugarcane roots, cutting down areca nut trees), crimes related to family such as adultery or infidelity, crimes against the person such as quarrels, insults, assaults, and physical violence, crimes against public order such as violating official orders or deliberate acts of rebellion against local rulers. The role of local laws was to classify the severity of crimes and prescribe punishments appropriate to the socio-economic and cultural context of the community. For instance, fines were differentiated based on the value of the stolen property (e.g., the “khum” or value of sugarcane). Generally, monetary penalties were preferred over severe punishments. When examining the differences between the enforcement and punishment of local laws in Chaiya and the central legal system represented by the Three Seals Law, it becomes clear that in local contexts, law enforcement and judicial proceedings were overseen by the local ruler or other local authorities who served as judges. These adjudications were conducted concerning both the central laws and local ordinances, with the Lak Chai serving as a guiding principle for legal decisions.

Judgments considered both legal principles and moral virtue. For example, individuals who demonstrated knowledge and moral integrity could improve their social standing through the justice process. Punishments ranged from fines and restitution to forms of public shaming, such as being labeled “Bad People” before the community. In some instances, mystical elements or incantations were incorporated into judicial procedures.

Interpretation and Enforcement of Laws in Chaiya City-States: The introduction of the Three Seals Law into the Chaiya context marked a significant structural and linguistic transformation in the realm of law, directly affecting both the interpretation and enforcement of legal provisions. The key aspects of this issue are as follows. 1) Evidence from Bud Khao Manuscripts, a form of literary legal documents, reveals that the legal language and usage in Chaiya exhibited distinct characteristics, differing from the centralized Three Seals Law. Notably, local legal terminology was heavily influenced by regional dialects and concepts derived from the Dhammasattha. The use of specific regional terms often led to differences in interpretation and enforcement of laws at the local level. 2) Regarding the impacts on legal interpretation, these linguistic differences frequently resulted in deviations from the central legal interpretations. The application of the Three Seals Law in Chaiya town could lead to interpretations that diverged from official standards due to the influence of local language and concepts. One illustrative example of this is found in the interpretation of the section on quarrels (Laksana Wiwat) in Bud Manuscripts from Chaiya, where the local term “Hai Mai” is used to indicate a clear mandate to impose a fine or demand compensation. This contrasts with the official legal terminology, which typically employs the terms “fine” or “compensation for damages”. Local magistrates (Yokkrabat) were thus required to interpret legal provisions through the lens of local contexts, making direct application of the central legal language impractical. Consequently, the interpretation of laws in this context necessitated familiarity with local language, customs, and community knowledge to ensure appropriate enforcement. An additional example of divergence from central legal principles can be seen in interpretations based on the Lak Chai (1720). While the Three Seals Law emphasized personal status based on birth and social rank, Lak Chai prioritized knowledge, intellect, and personal conduct as criteria for social advancement. Therefore, under Lak Chai, local rulers or judges might weigh a person’s virtue, knowledge, or personal character more heavily than rigid adherence to the letter of the Three Seals Law in judicial decisions or official appointments.

From the above, it is clear that the interpretation and enforcement of local laws differ significantly from those of the Three Seals Law or centralized law, particularly in the area of crime prevention, as seen in the following aspects. 1) Flexibility: Local laws were adaptable to community-specific contexts, whereas the Three Seals Law enforced a uniform legal standard throughout the kingdom. 2) Community Participation: Local laws fostered high levels of community engagement, aided by the use of familiar local dialects and literary forms such as rhymed verse. By contrast, the Three Seals Law was more challenging for the general populace to comprehend. 3) Effectiveness in Crime Prevention: Local laws were more effective within their respective contexts, whereas the Three Seals Law was designed primarily for the centralization of authority. 4) Risk of Inequality: Local laws carried a higher risk of inconsistent application due to the absence of universal standards, whereas the Three Seals Law provided clearer, standardized legal norms, reducing the risk of unequal treatment.

## **Conclusion and Discussion**

The study of identity and the dynamics of legal language usage in Chaiya City-States illustrates the relationship between language, law, and society, demonstrating how these elements have evolved in response to context and era. This relationship has played a crucial role in the development of Thailand’s legal system from its past to the present. The identity and dynamics of legal language in Chaiya City-States reveal that laws were recorded in both prose and verse, utilizing both Central Thai and Southern dialects. The characteristics of language usage can be divided into four types: laws written in Central Thai prose, laws written in Southern dialect prose, laws written in Southern dialect verse, and laws combining Southern dialect prose and verse. The key characteristic of legal documents in Chaiya City-States is this blending of

Central Thai with the Southern dialect, as well as the integration of central laws with local ones.

A comparison of the laws of Chaiya City-States and the Three Seals Law Code shows similarities in content in the following areas. 1) The Phra Ayakan Laksana Betset (Miscellaneous Laws) addresses matters such as farmland, theft, debt, human trafficking, and pawn-related laws. 2) Phra Ayakan Laksana Uthorn has 28 appellate provisions and eight provisions on robbery. 3) Provisions addressing officials who act with four types of prejudice and 22 provisions on appeals. From the points mentioned, it is clear that in terms of content, the laws of Chaiya City-States preserve the key principles and structure of the Three Seals Law Code. A study of the transformation of Thai legal language from its traditional to modern form reveals that laws are inherently structured, with little variability, despite the need for adaptation to changing times (Prasithrathsint & Phutphitak, 2018). Furthermore, in terms of the differences in identity and dynamics of legal language between the laws of Chaiya and the Three Seals Law Code, it was found that the laws of Chaiya, as recorded in the Bud Manuscripts, employed a variety of linguistic forms. This reflects a legal linguistic identity that blends Central Thai with the Southern dialect and occasionally uses Khmer script to transcribe Pali in certain sections. This differentiates it from the Three Seals Law Code. As noted in the study by Colón-Ríos (2013) on constitutional drafting in Latin American countries, the use of local dialects and poetic forms helps the public better understand and remember the law. Therefore, while the Three Seals Law Code used formal and standardized language, local adaptations translated these laws into dialect forms for more precise comprehension and administrative use. Thus, employing local dialects in legal texts or translating laws into regional dialects represents an adaptation to the social context of the Chaiya City-States. The study of the relationship between linguistic identity and legal systems in Chaiya helps elucidate how laws were utilized and how they evolved in response to social and cultural conditions (Hutangkura, 2023).

However, when examining the connection between the Law of Chaiya City-States, a local law, and behaviors considered criminal, including the punishments and enforcement of laws related to crime during that era, evidence found in the Bud Manuscripts indicates that the Lak Chai did not solely focus on punishment. Instead, they fostered values like “a good person will become a Phraya” to control behavior through morality. This encouraged community members to participate in understanding and adhering to the law, aligning with Social Control Theory. This theory posits that while everyone tends to commit offenses, what prevents them from doing so is social control from entities like family, schools, religion, and legal institutions. Studies on social control of crime in Asian countries reveal that crime control in these regions is shaped by unique traditions, morals, and the creation of shared values and norms, as seen in Confucianism and Islam (Zhong & Zhang, 2021). Similarly, Firmansyah and Saepuloh (2022) found in their study on social control and crime that individuals with strong ties to family and religion, and who are actively involved in society, are less likely to commit crimes. Therefore, promoting shared values and norms within communities is crucial.

Regarding the impact on legal interpretation and enforcement, when examining the adaptation of the Law of the Three Seals to the local Law of Chaiya City-States, the use of different languages led to discrepancies in legal interpretation and, in some cases, different outcomes. As studies have shown (Onwimol, 2021), using local language and specific terminology in legal documents can help the public understand and comply with laws more easily. However, it can also lead to inaccuracies when the law is applied in broader contexts. For example, the interpretation and enforcement of criminal law stemming from “deviations from central legal principles” was found in the Lak Chai (1720). In cases of sugarcane theft, if an offender burned an entire sugarcane field, they would be fined based on the “khum” of damaged cane, at a rate of 11,000 Baht per “khum”. If the sugarcane was “than”, the fine increased to a high of 70,000

Baht per “khum”. This punishment reflects a local valuation of property rather than strict adherence to central legal texts. The valuation of damages based on “khum of sugarcane” or “areca nut trees” highlights local values that prioritized the agricultural economy over the concept of property value as defined by central law. Another example from the Lak Chai states, “If anyone possesses wisdom, even if they are a commoner’s child, they can become a Phraya.” This interpretation emphasizes virtue over lineage. This concept deviates from the feudal system outlined in the Law of the Three Seals. Furthermore, in punishing offenders, the law did not rely solely on legal penalties, but also incorporated moralistic concepts. The Lak Chai, for instance, indicated that virtuous individuals could advance socially. Consequently, in interpreting the law according to the Lak Chai, rulers or local governors might have considered an individual’s virtue, knowledge, or character when determining their suitability for a position or the appropriate punishment, rather than strictly applying the literal text of the Three Seals Law.

From the examples above, it is evident that most criminal cases during that era arose from the perception of local values and norms that deviated from the mainstream societal values. This demonstrates that local values played a significant role in shaping criminal behavior, consistent with Cultural Deviance Theory. This theory, concerning the occurrence of crime, suggests that when individuals internalize deviant values and norms, especially within subcultures that hold values different from the mainstream, it creates conflict with dominant norms and increases the likelihood of criminal behavior (Downes et al., 2016). This finding is consistent with studies on cultural deviance in the United States, which have found higher crime rates in inner-city areas due to lower-class subcultures adhering to norms that differ from those of mainstream society (Cullen et al., 2011). Similarly, Petre (2013) investigated criminal behavior among disadvantaged youth in Romania, identifying parallels with Western Europe and North America, and concluded that subcultural deviation from mainstream societal values can contribute to social problems and crime.

### **Legal Recommendations**

1) To truly understand local legal language, it is crucial to consider the relationship between the law and its social and cultural environment. The use of local dialects and specific terminology in legal documents reflects an effort to adapt laws to the unique identity and way of life of a community. By examining the power structures and social relationships, we can gain a deeper understanding of the political dimensions of legal language.

2) We should develop alternative dispute resolution systems that incorporate mediation principles from the Lak Chai Law. Legal proceedings should also be reformed to be more mindful of social and cultural contexts. It is important to promote legal decentralization to local authorities, encourage community participation in the justice process, and preserve and revive local legal wisdom. In addition, new laws should be developed that align with the specific lifestyles and cultures of each locality.

### **Suggestions for Future Researches**

Future research should focus on the role of language in reflecting power structures and social relationships, as seen in the Lak Chaiya Law. This law, for instance, uses terms that indicate social hierarchy and the exercise of power. Understanding this aspect will illuminate the political dimensions of legal language and explain how language is used as a tool to maintain order or negotiate power.

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