

***Constitutional Bricolage: Thailand's Sacred Monarchy vs. The Rule of Law.* By Eugénie Mérieau. Oxford, UK: Hart Publishing, 2022. Hardcover: 326pp.**

Thailand has long witnessed a succession of political struggles between the dominant royalist-military alliance and a progressive, pro-democracy movement. Despite the overthrow of royal absolutism in 1932, the royalist-conservative elites successfully managed to restore the political pre-eminence of the monarchy by launching a military coup in 1958. Since then, military takeovers have become a convenient means for the country's traditional elites to repress threats to the monarchy, including popular demands for the rule of law and political liberalization. However, it is misleading to conclude that the standing of the monarchy is exclusively maintained through brute force. Various legal techniques have also been exploited for this purpose—a phenomenon which is the central theme of Eugénie Mérieau's new book, *Constitutional Bricolage: Thailand's Sacred Monarchy vs. The Rule of Law*.

Mérieau positions the Thai monarchy in-between a “British-style” constitutional monarchy and a “Gulf-style” absolutist monarchy (p. 8). In her view, the Thai king's power to sanction, tacitly or otherwise, a succession of coups indicates that, unlike his British counterpart, he is not a mere figurehead. Nevertheless, the author notes that the royalist-conservative elites are reluctant to portray the country's most respected monarch, King Bhumibol, who gave his blessings to many coups during his reign between 1946 and 2016, as a “hands-on” ruler, preferring to depict him instead as a properly “constitutional” monarch (p. 8).

Given such oddities, the Thai constitutional apparatus can be best described as a Democratic Regime with the King as the Head of State (‘DRKH’), and one which imports and adapts notions about the rule of law and constitutionalism to consolidate elite rule (p. 9). Mérieau demonstrates how the royalist-conservative elites borrow, distort, re-interpret, improvise, indigenize and mix concepts and doctrines on constitutional monarchy and the rule of law from a variety of sources, whether they be civil law, common law or local traditions, to solidify the DRKH (pp. 9–10, 21, 260). As such, this technique of “constitutional bricolage” challenges the orthodox view that the cause of Thailand's unstable democracy is rooted in what Mérieau argues is the absence of an entrenched rule-of-law culture (pp. 12–13).

Fundamentally, the DRKH reflects the “creative assemblage” of two patrimonial concepts: the *Devaraja* (Hindu God-like king) and the *Dhammaraja* (Buddhist righteous king) (pp. 23, 58–63). Their assemblage buttresses the king’s status as the ultimate arbiter capable of intervening extra-constitutionally in times of crises (pp. 57, 167–73, 260). Mériéau goes on to show how the British essayist Walter Bagehot’s thoughts on royal conventional rights have also been appropriated by royalists to defend the compatibility of the king’s “extraconstitutional crisis power” and the rule of law. In particular, royalist scholars invoke Bagehot to reason that these royal discretionary powers during crises are rooted in the conventional rights of the constitutional monarch “to be consulted, to encourage, and to warn” (p. 144). Mériéau illustrates these assemblages in the context of King Bhumibol’s decision to replace a military dictator with a more liberal prime minister in 1973, as well as his initiation of a new democratic Constitution in 1974 (p. 200).

Additionally, Mériéau explores how the royalist-conservatives have reinterpreted various foreign legal doctrines—such as the concept of a “granted constitution”, John Austin’s command theory of law and Hans Kelsen’s concept of “revolutionary legality” (Chapters Two, Three and Six)—to justify the imposition of coups and authoritarian interim constitutions while repressing demands for a more robust rule of law, with the “monarchized” judiciary as their primary enforcer. Moreover, having branded the rule of law as an alien concept to Thailand which ignores the virtuality of morality, they also infuse it with *Dhamma* (righteousness) as embodied in the king (pp. 260–61).

Overall, Mériéau mainly examines how the royalist-conservative elites have localized foreign legal concepts—in other words, constitutional bricolage driven by an “elitist impulse”. However, such an analysis misses how and to what extent pro-democracy activists in Thailand are able to assemble, indigenize and even “Buddhinize” foreign legal concepts to challenge the royalist-conservative elites and discredit their authoritarianism. The pro-democracy movement and the royalist-conservative forces are akin to binary stars which share a centre of gravity, with each star subjected to the gravitational pull of the other. In Thailand today, the gravitational pull of these two stars is more intense than ever. The more the royalist-conservatives and the military vehemently repress emerging liberal forces, the greater their efforts stir, rather than mitigate, stronger anti-conservative resistance. To extend Mériéau’s thesis, other studies may assess how the progressive pro-democracy forces of Thailand

develop their own kind of “constitutional bricolage” from below—a technique that was, in fact, recognized as necessary from the very beginning of the democratic transition process in the 1930s.

Despite its shortcomings, the book is still an enjoyable read and represents the most comprehensive analysis to date of the impact that foreign legal conceptual transplants have had on Thailand’s constitutional topography. For those interested in Thai legal history, it offers detailed insights into the interplay between the monarchy, the rule of law and constitutionalism in Thailand.

RAWIN LEELAPATANA is Assistant Professor at the Faculty of Law, Chulalongkorn University, Bangkok. Postal address: Faculty of Law, Chulalongkorn University, Phayathai Road, Wang Mai, Patumwan, Bangkok 10330, Thailand; email: rawin.l@chula.ac.th.