

# THE RECEPTION OF BUDDHIST LAW IN S.E. ASIA 200 BCE-1860 CE

BY

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Since they mutated from the apes, human societies have spent the vast bulk of their history becoming more different from each other. But three thousand years ago the direction of human history began to change : with improvements in transport technology and other forms of communications, human societies began to become more like each other. The reception of legal systems is plainly part of this latter stage, and therefore depends ultimately on improvements in the technology of human mobility. This rather grandiose statement is meant to establish a link between my topic and the work of colleagues who are examining legal reception in the 19th century. The link lies in the history of maritime transport. The reception of Indian legal ideas by S.E. Asia was a by-product of the establishment, by 200 CE, of maritime trade linking the western, southern and eastern extremities of the Eurasian land mass. Thenceforth, objects and ideas could be shipped between the ports of southern China, southern India and the eastern Mediterranean. A communication network was established over half the world. When this network became truly global, the 19th century reception of law from Industrial Europe followed as a by-product. Navigators such as Columbus, Magellan and da Gama extended the existing Eurasian trade routes to include Africa, the Americas and the Pacific. The European flag followed trade, and the European law code followed the flag. The European powers enjoyed overwhelming technological superiority ; by demonstrating the military implications of this, they were able to impose a legal reception on the

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donee states<sup>1</sup>. In the nineteenth century the East India Companies of Britain and the Netherlands, the King of Belgium and the French Colonial Bureau could all join in Hilaire Belloc's song :

« ... for we have got the Gatling Gun, and they have not. »

Earlier receptions, like that imposed by the conquistadors on Latin America, and later receptions, like that imposed by the People's Republic of China on Tibet, plainly fit the same pattern.

The very first issue we discussed at Moncton was whether all receptions follow this model. Must the donor state always exercise political dominance over the donee state ? In this paper I suggest it need not. I describe a voluntary reception, the pace of which was dictated by the donee countries. Invasions, colonisation and the threat of military force are irrelevant to my story. It is remarkable that S.E. Asia, which at various times has been invaded by Chinese, Mongols, Europeans, Japanese and Americans, has never been invaded by Indians<sup>2</sup>. The reception I describe was driven not by the donor's thirst for political influence, but by the donee's thirst for the hardware of literacy and the software of written knowledge. The convention in S.E. Asian area studies is to bundle hardware and software into one package, which is then labelled 'religion'. Thus we speak of the 'Hinduisation' or 'Buddhisiation' of S.E. Asia. The first Indian books to appear in S.E. Asia were certainly religious texts, but 'religion' in India covers all forms of human knowledge. These religious texts dealt with Theology, Ontology and Myth, as we would expect, but also with Mathematics, Linguistics, History, Political Philosophy and Law. The reception of Indian law has usually been discussed as a subsidiary aspect of the much wider reception of Indian literacy and literature. The invitation to write this paper gave me the opportunity to shine the spotlight directly on law. I was surprised by the new configuration of shadows which resulted. For S.E. Asian specialists reading this, my argument is that the reception of Indian law is the last stage of 'Indianisation'. It starts in the ninth century CE, long after the adoption of Indian

<sup>1</sup> This description holds for late nineteenth century Japan and Thailand. They were never formally colonised, but their reception of European legal ideas was stimulated by the demonstration of European military superiority.

<sup>2</sup> The sum total of hostilities between the Indian subcontinent and S.E. Asia amounts to this : [1] a single Sri Lankan military raid on Lower Burma in 1153 [2] sporadic pirate raids on coastal Indian towns by the Arakanese navy in the seventeenth century [3] occasional raids across the land frontier between Burma and India in the 17th century [against Manipur] and the 20th century [against Bangla Desh]. I trust the US-Canadian border will be able to boast such a peaceful record in 1800 years' time.

alphabets, religions and theories of government. It then provides the efficient cause of that leap in state formation techniques which produces the Classic Empires of Angkor and Pagan.

But for my fellow contributors to the conference, I offer a different suggestion. By the end of our discussions at Moncton it had become clear to me that the S.E. Asian case was not unique. There is a class of legal receptions in which a pre-literate society borrows an alphabet and a classical literature from elsewhere, with long term effects on their legal system. One example would be the spread of Greek Orthodox Christianity and the Greek alphabet into the Slav lands of Central Europe. Another would be the spread of the Chinese writing system and the Chinese interpretation of Mahayana Buddhism into Japan. We can label this class 'the First Millenium Receptions' in contrast to 'the Nineteenth Century Receptions' imposed by European colonialism. Two clear differences stand out : in terms of power relationships, the 'First Millenium Receptions' are chosen by the donee, while the 'Nineteenth Century Receptions' are imposed by the donor ; in terms of timescale, the 'First Millenium Receptions' take centuries, while the 'Nineteenth Century Receptions' take decades.

The outline questionnaire to which we were asked to respond fits the 'Nineteenth Century Receptions', where the archives can usually provide statistical and biographical detail, rather better than the 'First Millenium Receptions', where we can only speculate about general historical trends. My material has forced me to deviate from the periodisation used by the outline. I divide this paper into three sections as follows :

[1] *The Period of Implantation* — Here I describe the endogenous pre-Indian law of S.E. Asia, and the first eight centuries of Indian legal influence. I discuss the issues raised by Questions A1 to A10 of the outline. The processes I describe apply equally to the importation of Buddhism and Hinduism, so I do not limit myself to discussing Buddhist examples. This section is headed '*The Indianisation of S.E. Asia 300 BCE — 900 CE*'

[2] *The Period of Fruition* — From the ninth century comes our first evidence of legalistic dispute settlement in S.E. Asia. The spread of literacy beyond the palace and the monastery raised expectations that the Indian derived law texts should be applied, rather than just displayed in the palace among the regalia and power-objects. A century later, the classical empires of Pagan and

Angkor are launched on their spectacular path. In extent and duration, these empires eclipsed the kingdoms that preceded them. We have a reasonably good knowledge of their legal systems from the extensive inscriptions that they have left. I discuss the issues raised by Questions A11 to A16 of the outline in relation to Pagan as the paradigm of 'Buddhist Law' and Angkor as the paradigm of 'Hindu Law'. This section is headed '*Hindu Law and Buddhist Law in Classical Pagan and Angkor 950-1300 CE*'

[3] *The Period of Destiny* — The fall of Angkor and Pagan coincides with Kublai Khan's attempted invasion, the emergence into political prominence of a new linguistic family — the Thai — and the religious conversion of virtually all mainland Hindus to Theravada Buddhism. From 1300 to 1860 CE the two transplanted Indian legal systems work out their destiny, largely unaffected by legal developments outside the region. Mainland S.E. Asia produces three different syntheses of Indian law. Both **the west** and **the north** develop from the Pagan model of Buddhist law, but the west, with its larger, more powerful and longer-lasting states, develops much more legal autonomy than does the north. **The east**, though Theravada Buddhist in religion, mixes elements of Pagan 'Buddhist law' and Angkor 'Hindu law' together to make its own distinctive destiny. I discuss the issues raised by Questions B1 to B21 of the outline in relation to these three variations of the transplantation of Indian law. This section is headed '*The Theravada Buddhist legal systems of Mainland S.E. Asia 1300 — 1860 CE*'

# 1. — THE INDIANISATION OF S.E. ASIA 300 BCE — 900 CE

My basic thesis, that the reception was driven by S.E. Asian donees rather than Indian donors, runs counter to the approach taken by European scholarship for most of this century. I owe an initial explanation of why my interpretation differs from the mainstream. The scientific study of early S.E. Asian history by Europeans has been going on for less than 100 years. We can take 1898 as a starting point, since that year saw the foundation of the 'Ecole Française d'Extrême-Orient' in Hanoi. The scholars employed by the EFEO, notably Louis Finot, Paul Pelliot, Henri Parmentier and Georges Coedès, were giants of men : they started

scientific archaeology in the region, they retrieved and translated the local inscriptions, and they combed Chinese literature for all relevant references. Out of these wholly laudable labours the French School produced an interpretative theory : they viewed the first millenium in S.E. Asia as the history of its 'Hinduisation'. At first sight this seems fair enough : no one can deny that Indian religion, scripts and languages played a crucial role in the development of S.E. Asia. But the 'Hinduisation' theory implied something more : the French School claimed that Indian colonists and traders imposed Hindu ideas on a local population with no culture of their own. They viewed pre-Hinduisation S.E. Asia as a *tabula rasa*, inhabited by indigenes who, if not actually swinging through the trees, were at a very low cultural level indeed. As Coedès puts it : « Thus one can say, without much exaggeration, that the populations of Further India were still in a fully Neolithic state of civilisation when the Brahmanical-Buddhist culture of India made contact with them. »<sup>3</sup>.

When Indians, with four hundred years of literacy and government behind them, meet 'Neolithic' S.E. Asians, the initiative clearly lies with the Indians. Coedès implies that the process is comparable with the Australian Aborigine's reception of English law in the nineteenth century. A group of Indian historians clustered round the 'Further India Society' took 'Hinduisation' theory a stage further. They talked of Indian 'campaigns of conquest' in S.E. Asia and of Indian 'colonial strategies'. The 'Further India' theories have little correspondence with the facts of S.E. Asian history, but they are important data for a sociology of the response of Indian academic circles to British colonialism.

In the last few years the Hinduisation theory has been challenged. Recent archaeological work suggests a new interpretation. Greatly to the credit of those involved, excavations continued in most parts of the region throughout the US-Vietnam War and its aftermath. The results of this work have just been made available outside the specialist archaeological journals<sup>4</sup>. It poses two problems for the Hinduisation theory. Firstly, it would now seem

<sup>3</sup> Coedès 1948 « Les états hindouisés d'Indochine et d'Indonesie » [Paris] p. 24. I use Stargardt's translation.

<sup>4</sup> For the period 500 BCE to 1000 CE in mainland S.E. Asia, see HIGHAM 1989 *The Archaeology of Mainland S.E. Asia* [Cambridge] and STARGARDT 1990 *The Ancient Pyu of Burma* [Cambridge]. Unless otherwise footnoted, these two works are the source for all the facts and nearly all the interpretation in the following section.

that indigenous S.E. Asian cities had developed on the back of an indigenous irrigated rice technology some three or four hundred years before the trickle of Indian influence turned into a stream. The technological disparity was not as great as Coedès claimed. Secondly, we now have a slightly clearer picture of the crucial years between the 2nd and 8th centuries CE. We encounter indigenous S.E. Asian rulers picking between the various streams of Indian influence. They consciously chose to adopt one Indian religion rather than another, one Indian script rather than another, one Indian legal tradition rather than another. The new archaeology points to the preferences of the donee population as being more important to the reception process than the wishes of the donors.

A further introductory word of warning : it is hard to exaggerate our ignorance of S.E. Asia during the First Millenium. If in 1970 we knew 1 % of the relevant facts, then the new archaeology has added another 4 % to our knowledge. Expressed optimistically, this has increased our previous knowledge by 400 %, but expressed pessimistically, we still know less than 10 % of what needs to be known in order to write a political history of the period. I might be accused of acting prematurely in presenting a synthesis and interpretation of this period to the Moncton Conference. 'Of that which we do not know, it is best to remain silent' says the sage of Vienna. In this paper I risk ignoring Wittgenstein's advice : it is only fair that I should preface it with a 'health-warning'. In what follows, I have tried to build plausible speculation on top of the meagre foundation of solid facts available. Obviously, my judgement of what is plausible will differ from everyone else's. But, far more seriously, my foundation of 'solid facts' is not as solid as I would wish. For example, a 2nd century BCE Chinese source, now lost, is quoted nine centuries later by a surviving Chinese source. Was it quoted accurately ? And did it accurately depict S.E. Asian facts in the first place ? Or again, a S.E. Asian inscription from the fourth century CE is discovered, transcribed and translated. We can be fairly confident of the modern transcription and translation, but can we trust the original author ? When he boasts of the wealth of Indian legal texts in his kingdom, was he exaggerating ? Or, indeed, is the inscription a fake <sup>5</sup> ? Prudence dictates that each sentence in

<sup>5</sup> A disturbing recent theme in S.E. Asian scholarship is the suggestion that some early inscriptions may be forgeries. Doubt has even been cast on King Ramakamhaeng's inscription of the late 13th century, the most important source for early Thailand on which whole chapters of modern textbooks are based.

the following twenty four pages should be qualified by the phrase 'It seems likely that ...' or the words 'perhaps ...' and 'probably ...'. But such humility suggests everything and asserts nothing. Eschewing prudence, I offer an unqualified statement of my interpretation, in the hope that it will provoke debate. If the ensuing debate forces me to admit I am wrong, I shall happily and shamelessly change my mind. At this stage in the study of early S.E. Asia, it is more useful to be wrong clearly than to be right by obscure nuance and qualified suggestion.

In order to focus on the questions of Indian influence, state formation and law, I divide the Period of Implantation into three overlapping periods :

A The rice plains and the pre-Indian cities 500 BCE — 200 CE

B The Mandala Kingdoms experiment 100 CE — 700 CE

C The Mandala Kingdoms consolidate 550 CE — 950 CE

The *first period* sees the development of 'endogenous S.E. Asian law'. Irrigated rice cultivation was increasingly adopted, and the regular agricultural surplus thus obtained made a move to larger fortified villages possible and desirable. In at least two cases the larger fortified villages became cities, but there was as yet no importation of Indian religion or scripts. 'Endogenous S.E. Asian law' as I define it was pre-literate, and limited to the paddy farmers, who constituted less than half of the local population. This was the stage before the reception of Indian legal ideas. In the *second period* Indian influence was at its strongest. Indian scripts, Indian deities and Indian ideas on kingship and law were received enthusiastically by those who ruled the paddy farmers. In terms of state formation, the characteristic result of this reception was the establishment of Indian influenced mandala kingdoms. I am using the Sanskrit term 'mandala' in one of its specialised meanings : a city, and the royal palace around which it is constructed, are long-lasting institutions, but the territory which it dominates is subject to constant ebb and flow. During the lifetime of an energetic king with military talents and a reputation for luck, a mandala kingdom can expand several hundred miles in each direction. In twenty years it can swell to the size of an empire and subsume its nearby rivals. But it lacks the political and legal institutions which will keep the conquered territory under its dominance. When the charismatically powerful king dies, the pseudo-empire dies with him. The briefly glorious capital city reverts to dominating its own rice plain, and

becomes in its turn a target for the expansionist ambitions of neighbouring cities. During the first millenium, Indian influence led to the foundation of up to a hundred of these 'mandala kingdoms'. The period is S.E. Asia's equivalent of the Warring States epoch in Northern China, or the competition between North Indian kingdoms during the sixth and fifth centuries BCE. But the 'mandala effect', by which I mean the rapid rise and equally rapid fall of temporarily powerful cities, seems more pronounced in S.E. Asia than in China or India.

Historians of S.E. Asia have struggled to find the right metaphor to express this difference. Higham adopts a musical analogy: the mandala kingdoms expand and contract as swiftly as the elbows of a concertina player. Others adopt astronomical similes: the mandala kingdoms are like pulsar star systems, or galaxies which alternately expand and contract. My own preference is to eschew metaphor in favour of straight historical comparison: we can see something very like this mandala effect in the pre-classic and classic Mayan cities of the Yucatan peninsula. There, too, the constant rivalry concerns trade and manpower. There, too, the agricultural centres on low lying ground demand certain prestige goods which can only be supplied by the nearby mountain ranges. There, too, the mandala effect follows immediately from the foundation of cities and the adoption of literacy from elsewhere<sup>6</sup>. During this second period Indian influence in S.E. Asia was at its height. The mandala kings experimented with any Indian technique which might give them a competitive advantage. The latest Indian ideas travelled to S.E. Asia as easily, and almost as quickly, as 'youth culture' today travels from America to the rest of the world. Indian legal ideas at a very general level, and probably a few Indian legal texts, were received at this stage. They were used by the king to enhance his ideology of rule. Beyond the palace walls ordinary dispute settlement practice remained very much as it was in the pre-Indian rice plains.

The *third period* is one of consolidation and local elaboration. During the first half of the First Millenium CE, the mandala kings treated the reception of things Indian in an eclectic, experimental and promiscuous fashion. Some of their experiments succeeded in enhancing their dominance. Some of the Indian transplants could

<sup>6</sup> My reading of Mayan history is taken from SCHELE and FREIDEL 1990 *A Forest of Kings* [New York], which incorporates the recent partial decipherment of the Mayan writing system.

work to increase the legitimacy of the king and his dynasty. Since 'dominance' and 'legitimation' describe acceptance by the ruled as well as promulgation by the rulers, we must expect the king's range of options to diminish as the experiment proceeds. To the extent that early mandala kings are successful in establishing their particular institutions, to that extent his subjects have agreed to accept them — for example to worship the Gods established in his temples, or to pay the royal 10 % tax without too much grumbling. Such hard-won legitimacy is not lightly to be thrown away by an incoming king. He can tamper with the established system, but would be unwise to discard it altogether. As the mandala kingdoms stabilised, distinct sub-regional traditions emerged, most of which survive as the nuclei of today's S.E. Asian nation states. In terms of religion, mainland S.E. Asia split between a Buddhist, predominantly Theravada, region to the west and a Hindu, particularly Siva worshipping, region to the east. Island S.E. Asia became interested in Mahayana Buddhism, though Vishnu worship and Tantric Buddhism also deeply impressed Java. By 800 CE the transition to the classic age of empire was plainly underway. Everywhere the scale of ceremonial architecture began to grow. In Java the land empire of Mataram appeared, while in Sumatra the maritime empire of Srivijaya extended across the Malacca Straits to encompass half the Malay Peninsula. On the mainland development was slower, but both Pagan and Angkor trace their historical roots to this period. From Java and from what will later become Angkor comes our first evidence of legalistic dispute settlement. The reception of Indian legal ideas has leapt over the palace wall and has begun to have effects on normal practice.

A. — *The rice plains*  
and the pre-Indian cities 500 BCE — 200 CE

Two definitional debates cast their shadows over any attempt to describe S.E. Asian culture before the onset of Indian influence. The first of these concerns chronology : when do we deem Indian influence to have started ? The second concerns urbanisation : whether pre-Indian cities existed or not depends entirely on how we define the term 'city'. Defensive walls, social stratification and the construction of ritual spaces in stone or brick architecture can be taken as minimum criteria. But those influenced by the French School tend to demand more. They adopt the assumption that in

S.E. Asia a city should have left an epigraphical legacy<sup>7</sup>. Since the putative pre-Indian cities were certainly pre-literate, they are not, on this view, proper cities. I am inviting a third definitional debate by my insistence that we should search for pre-Indian endogenous law among the people of the rice plains, rather than among the hoe-cultivators and hunter-gatherers of the mountains and forests. The last two debates are connected, and I shall discuss them first.

From the legal point of view, the question is not 'How do we define a city?' but 'What are we putting in opposition to the city?' Europeans tend to contrast the city with 'the village', meaning a rural life based on wheat and grazing. In this contrast, 'the city' is a shorthand for new legal problems based on specialisation and stratification, while 'the village' stands for an autonomous, isolated life whose problems of coexistence were solved long ago by the invention of customary solutions. The SE Asian equivalent of 'the village' existed, and continues to exist, but it is irrelevant to our story. It is the home of those whom Leach<sup>8</sup> calls 'the Hill people', the slash and burn cultivators of the forested highlands of the region. The ecological imperatives of their agriculture force the mountain people to live in small villages relatively isolated from each other. Inter-village cooperation is limited to trade, which takes place exclusively at markets held every five days in fixed locations. These conditions plainly inhibit urbanisation and state formation, but they do not rule it out altogether. I do not regard the mountain people as condemned by their means of production to an eternity of customary law and village life. Rather, I follow Leach's analysis: if mountain people wish to form states, they must reject their own culture and adopt that of the valley people. In S.E. Asia the culture of the mountain people defines itself by its rejection of Indian influence. The mountain people reject Buddhism, and reject literacy in either its Indian or Chinese form. Anyone who accepts Indian influence, and therefore anyone who forms states, has by definition ceased to regard themselves as a mountain person. Let us follow Leach a step further: movement between these cultural groups goes both ways. Valley people have sometimes been forced to adopt the lifestyle of mountain people. In the last five years this has hap-

<sup>7</sup> Cf SLAMET-VELSINK 1986 *Emerging Hierarchies* [Leiden] at p. 267: 'A simple and fairly sensible solution offered itself and was generally adopted, viz. to speak of states from the moment a local chief was able to proclaim himself *Maharaja* and confirm his new status by way of Sanskrit inscriptions.'

<sup>8</sup> LEACH 1960 'The Frontiers of 'Burma'' 3 *CSSH* p. 49.

pened to those urban Burmese students who have joined the armed struggle for democracy on the Thai-Burmese border. Yet such displaced valley people, armed with their knowledge of how state organisation works, are unable to impose such an organisation in the mountains. For a contemporary illustration of this, we can compare two narcotics-producing 'badlands'.

In the Golden Triangle, which lies at the heart of S.E. Asia's 'mountain people territory', rival opium warlords seem unable to agree a social contract like that of the Mafia 'Family of Families'. For the lack of such agreement, their trade is conducted amid a 'war of all against all'. Competitors' opium caravans are ambushed, solemn treaties are broken at whim and private armies, whatever their avowed ideology, are notoriously fissiparous and prone to mutiny. Compare the cocaine business in the northeastern foothills of the Andes. My impression is that some rudimentary form of social contract unites the cocaine industry into something much more like a 'robber state' with its capital in Cartagena. Spheres of influence are agreed, and most of the time, respected. A 'Foreign Office' type of institution has been constructed to negotiate with other states<sup>9</sup>. Enough trust exists between competing organisations to enable concentration on outwitting the external enemy rather than the internal rival. The lesson I draw from this comparison is that powerful constraints operate against any kind of state formation in the mountains of S.E. Asia, even today. Some, at least, of the Opium Warlords are from the valley culture, which has received Indian law and which knows about state institutions<sup>10</sup>. Even they are unable to impose a minimum of order. I assume that these constraints are mainly geographic: the area surrounding the Golden Triangle was described by a 19th century explorer as 'the roughest, most broken, country in the world.'

From the legal and state formation point of view, the European village compares with the mountain people's village, while the European city compares with the valley people's rice plain. I mean by this that the problem which Europeans associate with the city — how to handle inequality of wealth, while still retaining the capacity to cooperate collectively on construction and defence —

<sup>9</sup> I am thinking of the 'Committee to represent Extraditees' which emerged in Columbia in the late 1980's.

<sup>10</sup> And some, for example the Kuomintang Army remnants, are acquainted with Chinese traditions of the state.

arose in S.E. Asia before the invention of the city, when farmers first adopted irrigation. It has been obvious for at least a century that these 'rice plain communities' were a *sine qua non* of state formation in SE Asia. I suggest that they also form a highly important stage in legal development. The oral law of the rice plains was as different from the oral law of the mountain people as it was from the written law of India with which it later merged. I postulate a dramatic legal revolution in the last millenium BCE accompanying the adoption of wet rice cultivation. This produced 'the endogenous law of S.E. Asia', which I label 'Rice Plain law'. In the first millenium CE a second legal revolution took place : the reception of Indian ideas on law and kingship which is the subject of my paper. But the S.E. Asia which received Indian law was already the home of two separate types of law. The oral law of the rice plains avidly learnt from the Indian model. The oral law of the mountain people adamantly rejected it. If the 'endogenous law of S.E. Asia' is what receives and synthesises the 'exogenous law of India', then we must exclude further consideration of the mountain people. Furthermore, we can bypass debates about the definition of the city. Fortified villages associated with irrigation systems were well entrenched in S.E. Asia by the 5th century BCE. Two at least of these villages grew large enough in the days before Indian influence to be candidates for the term 'city'. But in legal terms, these two are no different from the fortified villages. The important vector of this stage of legal development in S.E. Asia is the adoption of wet rice agriculture, not the invention of the city.

The second definitional debate concerns the onset of Indian influence. When should we deem it to have started ? Any answer to this question will necessarily be arbitrary : Indian artefacts, particularly beads of glass and agate, have been trickling into S.E. Asia since 1000 BCE, and S.E. Asian luxury products, animal, vegetable and mineral, have doubtless moved in the other direction over the same period of time. The quantities involved in these early exchanges are so small that they could have been carried overland all the way. Alternatively, we can posit a network of coastal trading villages using small fishing boats which stretched from the mouth of the Ganges to the mouth of the Mekong. On this view, small items were traded locally between neighbouring villages, but could eventually travel from one end of the network to the other. But, at some point between 500 BCE and 100 CE, boat building and

navigation improved dramatically on both sides of the Bay of Bengal, and a direct international trade developed across the sea from southern India to the Malay peninsula powered by the monsoon winds. By convention the onset of Indian influence is dated to these developments in maritime technology, when the establishment of direct trade links between India and S.E. Asia turned the trickle of Indian influence into a steady stream <sup>11</sup>. But ascribing an accurate date to the start of the direct trade is difficult. By the second century CE the trade extended to the eastern mediterranean and to the Chinese ports known today as Hanoi and Canton. Roman and Chinese sources tell us this, and archaeology has confirmed it by plotting the distribution of Antonine coins. But perhaps the Bay of Bengal route was in place long before the extensions to Rome and China? There is a suggestive passage in the 'History of the Early Han' describing a journey in about 100 BCE from China to 'Huangzhi'. If, as seems probable, 'Huangzhi' is India, then the Bay of Bengal trade is described as follows :

« Officials and volunteers put out to sea to buy lustrous pearls, glass, rare stones and strange products in exchange for gold and various silks. It is a profitable business for the barbarians, who also loot and kill. » <sup>12</sup>

On the strength of this passage, we could date the start of Indian influence to some point before 100 BCE. The earliest date when we can be certain that the trade was flourishing is 150 CE. Unfortunately, it is precisely between these two dates that the first S.E. Asian cities developed. Our choice between the earliest possible and the latest possible date for the commencement of the trade depends not just on the scanty evidence, but also on theoretical assumptions about the speed with which foreign ideas can be assimilated. Do we need to allow for a couple of centuries of 'cooking time'? Is increased Indian influence the final ingredient, the addition of which completes the recipe, or does the mixture have to cook in the oven before we get results? A thousand years later, when Arab and

<sup>11</sup> This convention is sensible for S.E. Asia as a whole, but can be misleading when we turn our attention to the land border between India and S.E. Asia. Here Indian influence can spread on foot or by mule train. As early as 150 BCE a typically Indian Hindu dynasty was installed at Vesali in Arakan, just below the present Bangla Desh — Burma border. Both ruler and ruled were ethnically North Indian rather than S.E. Asian, so this looks more like a case of 'invasion' than 'reception'. But who were the invaders? The North Indians in 150 BCE, or the Tibeto-Burmans a thousand years later? On present knowledge the question is unanswerable. Unfortunately, it has acquired a contemporary resonance : periodically over the last twenty years, and especially in 1991-1992, the Burmese government has expelled thousands of North Indian 'illegal immigrants' from Arakan.

<sup>12</sup> Quoted in HIGHAM 1989 *op. cit.* at p. 269-70.

South Indian traders brought Islam to the region, we know that three or four centuries of 'cooking time' had to pass before Islamic influence took hold. Many scholars argue by analogy from this later event. It is permissible to extrapolate back from 'Islamicisation' to 'Indianisation', but we should remember that the recipes are different. The formation of early states need not follow the time scale necessary for the religious conversion of long established states. In this paper I shall adopt the latest possible date. My arbitrary starting point for Indian influence is 100 CE.

What does the new archaeology tell us about the spread of irrigated rice cultivation in S.E. Asia before 100 CE? The picture that emerges is as follows. In 1000 BCE irrigation techniques had not yet been developed. At that time the hoe-cultivators occupied the most favourable niches in S.E. Asia — the deltas of the great rivers and the flood plains of the tributary rivers far inland. In these niches, free from pressure from more technically advanced societies, they gradually developed their agricultural techniques. The gatherers of wild rice, by experimenting with selective transplantation, slowly become cultivators of rice. After mastering rice production of the flood plain with their hoes, they learned to cultivate the higher ground by canalising side streams and digging tanks. This move up from the valley floor is crucial: it involved harder work, but greater rewards:

« The elevated settlements incorporate more water control systems and more stages in their expansion. »<sup>13</sup>

We can only speculate about the immediate benefits of moving cultivation up from the flood plain. Perhaps, in a bad year, the floods were strong enough to uproot all the planted rice? Perhaps the higher terraces were nearer to resources like timber, salt and iron ore? The long term benefits, however, are clear. Mastery of tank and canal building techniques opened up hundreds more niches for irrigated rice cultivation. In the very highest cultivable ground the rice terraces are too small for a water buffalo and plough, but elsewhere this valuable combination comes into use. Different strains of domestic rice were created and compared. At some stage, probably earlier in S.E. Asia than elsewhere in the world, the early ripening strain was produced, allowing two harvests a year in the most favourable spots. By 500 BCE villages combining hoe cultivation with a little small scale irrigation appear

<sup>13</sup> E. Moore quoted in STARGARDT 1990 *op. cit.* at p. 218.

in the archaeological record. But by 200 BCE, centred on the Khorat plateau of N.E. Thailand, we find evidence of a great many fortified village sites relying primarily on irrigated rice cultivation. They are associated with tank reservoirs, iron work and the water buffalo. One of these, Ban Chiang Hian, is large enough to suggest that it was the site of a centralised chieftdom. By 50 BCE similar developments in central Burma have produced even larger concentrations of population — the Pyu 'cities' of Beikthano and Halin. By now the irrigators are permanently entrenched. Though particular communities may suffer disaster, the irrigation way of life will spread inexorably over the next two thousand years.

My claim is that, in order to understand the reception of Indian ideas, we must take the law and culture of these emerging rice plains as the endogenous law and culture of S.E. Asia. But are we talking about several, or a single, endogenous legal systems? Did the rice plains of S.E. Asia share common ideas on religion, social organisation and dispute settlement or were there several different sub-regional cultures? Let us start with a common negative characteristic shared by the rice plains: they did not use scripts, and hence archaeology can give us no certain information on the languages they used in daily life. Linguists have attempted to fill this gap by working backwards from the contemporary distribution of languages in the region. They claim that the earliest rice-cultivators spoke languages belonging to the Austronesian, Mon-Khmer and Tibeto-Burman language families, and possibly other language families now dead. Their methodology has not gone unchallenged<sup>14</sup>, but their conclusions seem plausible. *If* there was a single culture of the rice plains, it was almost certainly expressed in three or more unrelated languages. One aspect of culture on which archaeology can provide information is funerary practice. The evidence points to two different sub-regional traditions for the disposal of human corpses. In the rice plains of the central Vietnam coast<sup>15</sup> bodies were cremated, and the ashes buried in pottery jars. A similar practice existed in the Laotian uplands, where its remains were striking enough to have given a name to Laos' 'Plain of Jars'. But elsewhere in the region there is no trace of cremation before Indian influences popularised it, and inhumation burial was the norm.

<sup>14</sup> LEACH 1960 *op. cit.* at p. 50.

<sup>15</sup> Known after its type site as the 'Sa Huynh' culture.

Archaeology can also provide some information on the related questions of religion and ritual. The rice plains do not appear to have shared a single common religion. The achievement of near religious unity 2,000 years later was the result of long assimilation of Indian influence. On the other hand, some of the rice plains appear to have had an inter-linked complex of ideas about the ritual use of ceremonial drums. The best known examples of this complex are found at either end of the Red River, at Dong Son, near Hanoi, and by the side of Lake Tien in Yunnan. In both cases a bronze age confederation flourished over rice plains around 250 BCE. In both cases there is strong evidence of social stratification, and of a religion centering on the production, playing and burial of elaborately decorated bronze drums. Both cultures were conquered and destroyed by the expanding iron age armies of Han China in the last century BCE. This drum culture was not limited to the border region between China and Vietnam. Similar drums have been found all over island S.E. Asia, though whether they were treated as prestige objects, or as the focus of ritual, is unclear<sup>16</sup>. Stargardt has recently pushed the boundaries of the drum-complex further west: the pre-Buddhist phases of the Pyu cities in central Burma show a related complex linking decorated drums, burial of important persons and irrigated rice farming. The Pyu drums, however, are fired from clay rather than cast from bronze: the Pyu have plentiful early access to iron, but bronze was rare until the 5th century CE. Stargardt gives a very sensitive account of the ways in which the drum-complex might contribute to state formation, to which I refer interested readers<sup>17</sup>. I cite this evidence simply to show that some of the rice plains were in contact with each other, and adapted aspects of each other's culture. There is no single common religion shared by the rice plains (since no evidence of the drum-complex has been found in Thailand) but it looks as though they shared a common world to some extent. They did not evolve in splendid isolation from each other before the advent of Indian influence.

Archaeology's lesson in relation to the political organisation of the rice plains is that social stratification is found everywhere. Each site reveals that some corpses were disposed of with more

<sup>16</sup> Whatever our conclusions on the dating of the main East-West route of maritime trade, this distribution of drums shows that the 2nd century BCE saw regular sailings from the mainland to Java, Borneo and the spice islands.

<sup>17</sup> STARGARDT 1990, *op.cit.* pp. 306-311.

extravagance than others. But that is as far as the evidence goes. If we could say 'Corpse A was buried with three swords, therefore he was a king, but corpse B was buried with two swords, therefore he was only a chieftain.' we could unlock the secret of political organisation. But there are, alas!, no cross-cultural tables equating extravagance in burial with degree of centralised power.

Summing up the question of whether there were one or many endogenous cultures, it seems safer to postulate diversity in relation to language, religion and political organisation. Insofar as some areas of 'law broadly defined' concern these issues, we would expect much variation. But I suspect that 'law narrowly defined' (by which I mean rules about the ownership of land and water, rules of family law and rules about debt and slavery) would have varied only slightly between the rice plain cultures. No rice plain could survive without articulating such rules. There are certain basic attitudes common to the S.E. Asian valley people of today, such as a lack of interest in extended family relationships, and a willingness to make minute distinctions about relative status. If we can project today's attitudes back 2,500 years, if we can assume that the people of the rice plain before Indian influence shared these (un-Indian) attitudes, then it follows that they would have had to come up with similar answers to the problems posed by 'law narrowly defined'. Whatever the larger scale political organisation, the local level of rice production seems to have been organised like this: one or two wealthy families, let us call their representative 'Dives', have access to the best irrigated land. Kinship ties are important in defining these families, but kinship ties more than two generations distant are ill-defined. The poorer members of the local community, let us call their representative 'Lazarus', are bound to the wealthier by ties that are legal in nature. Lazarus may be a crop-sharer on Dives' land, or he may be a son-in-law with a rather different expectancy. Dives may have lent seed-rice to Lazarus, in which case Lazarus, until he pays it back, is either a debtor, a judgement-debtor or a debt-slave to Dives. If the latter, he will live and work in Lazarus' house, but so will many others who are neither slaves nor close kin: some of these will be adopted children, but 'adoption' here describes a group of statuses rather than a single status. These legally defined bonds are not mutually exclusive. Lazarus may simultaneously be Dives' second cousin, his son-in-law and his debtor. I envisage, in other words, a common pre-Indian approach

to 'law narrowly defined' which we might describe as 'a legalistic and highly status-conscious patron-client system'.

My argument relies on the proposition that no rice plain could survive without articulating rules about ownership, debt and the family. Archaeology cannot help me, since oral legal rules leave no trace in the soil, so I must pray aid from those legal anthropologists who have examined the links in twentieth century societies between irrigation, politics and law. It is the typologists of pre-industrial law in general rather than the ethnographers of particular societies who can help us; the typologists who follow Marx's lead in assigning primacy to the means of production can help us most of all. The comparison of laws in twentieth century irrigation societies does not prove anything about what happened 2,500 years ago in S.E. Asia, but it sets limits on our speculations. As Hoebel puts it :

«What we can do by comparative study and causal association with the known material remnants of early cultures is to generalise the broad characteristics of social institutions that probably were present, and we can negatively assert their absence if such institutions and forms are not found in directly observed hunting and collecting cultures.»<sup>18</sup>

What range of possible legal systems was open to the rice plains of S.E. Asia, just before Indian influence? Modern anthropology gives an interesting reply. Irrigation communities [otherwise 'wet-intensive agriculturists'] are more likely to develop elaborate legal and political systems than any other kind of pre-industrial society. The 19th century comparativists, in their ignorance of Asian history, tended to miss this. But so do modern authors, like Braudel, who lump the ploughers of wheat fields and rice paddy together as 'intensive farmers'. Hoebel is, I think, the first to consider the irrigators separately :

«An irrigation culture inevitably breeds law, for the control of water rights and the maintenance of the elaborate real-estate system that it entails, demand effective mechanisms of adjudication and protection.»<sup>19</sup>

Newman backs this insight up with a statistical analysis of her version of one of the standard anthropological data bases. Using a sample of 60 societies randomly scattered through time, space and means of subsistence, she correlates types of law with types of economic organisation. Her analysis of dry intensive agriculture reveals a connection between the degree of stratification and the

<sup>18</sup> HOEBEL 1954 *The Law of Primitive Man* [Harvard] at p. 291.

<sup>19</sup> HOEBEL 1954 *op. cit.* p. 101.

level of legal complexity. Turning to wet intensive agriculture, she says :

« Table 4.2 presents the same data for the irrigated-intensive agricultural societies in the sample. Here one sees a different picture. There is still variation in legal complexity, but the concentration is at the high end ; half the irrigated societies have state level systems. »<sup>20</sup>

Irrigation, in other words, is the form of agriculture most likely to produce complex forms of human organisation. But this outcome is not inevitable. Newman continues :

« Finally, there are three cases of irrigated agriculturalists at the lower end of the complexity scale. »

Prominent among these in the anthropological literature are the Ifugao rice growers of the Philippines, whose law was studied by Barton in the early years of this century. He described a fascinating combination of political weakness and legal strength. Politically, the Ifugao are organised into small kinship groups binding three generations only. Villages are also recognised, rather weakly, as corporate political entities, but beyond these simple institutions there is anarchy. There are no courts, no police and no forms of dispute procedure other than retaliation and negotiation. Rich and brave men have a well recognised role in the shuttle diplomacy of negotiation. Their role is defined in some detail by Ifugao secondary rules. But against this weak background of political and legal institutions, there flourished a detailed profusion of Ifugao primary rules. A well-developed land law knew the principles of mortgage and outright sale. The law of debt distinguished different rates of interest and different types of security. Subtle rules of priority governed access to water. The negotiators, just like modern lawyers, made themselves indispensable when assets changed hands for any reason : just like modern lawyers, their indispensability was rewarded. In Hoebel's words :

« The Ifugao reveal how wrong are the political theorists who hold that law and government are wholly indivisible. »<sup>21</sup>

This complexity of legal rules is achieved on rice terraces too small for the plough high up in the central Luzon mountains. Perhaps law and government are indivisible among the wheat growers of Europe and North China. Rice irrigation, it seems, imposes its own push towards legal complexity : however disputes

<sup>20</sup> NEWMAN 1983 *Law and Economic Organisation* [Cambridge] at p. 187.

<sup>21</sup> HOEBEL 1954 *op. cit.* p. 100.

are settled, rules about land use and debt must be explicitly formulated and known generally amongst the community.

Down in the valleys the irrigators have to face the further problem of organising collective self-defence. The Ifugao can shelter behind high mountains and their reputation for head-hunting, but the early rice plains of the S.E. Asian mainland lay astride the principle communication routes. They were open to new trade and new ideas, but they were also vulnerable to attack. Among several possible threats were [a] *Lone intruders* : the artificial environment of the rice plain is a tempting concentration of resources : for example fish will congregate in the deep water upstream of the dam, and in the rice fields themselves. The irrigation community will want to reserve exploitation of these fish to themselves, and therefore must be able to defend the fishing spots against 'foreign' fishermen. [b] *Robber bands* : especially after the harvest, the rice plain is hoarding large amounts of easily transportable rice, as well as, perhaps, bullion and precious stones. These assets must be defended against 'dacoits', which in this context means mountain villagers who are well enough armed and led, and desperate enough, to attempt a raid. [c] *Population raids* from neighbouring rice plains : since manpower is the key to increased production of rice, manpower raids against a neighbouring rice plain are the obvious path towards economic development. [d] Irrigation communities on the move who have been displaced from their own rice plain by attack, disease or draught. The Burmese chronicles tell of the wanderings of one such group during the eighth and ninth centuries. Expelled from Sri Kestra by war, they twice muscled in on existing irrigation systems, and were twice displaced by a counter-attack after sixty or so years. Ultimately they founded a new base in what became the city of Pagan.

More than a thousand years later, a S.E. Asian law text was composed which I believe comes near to codifying the early rice plain response to the first two of these problems. The 'Irrigation Laws of King Mangrai' were composed no earlier than the fourteenth century in Chiang Mai in northern Thailand. They are associated with the name of a post-classical Buddhist king, but state institutions are not a prominent feature of this text. The first six sections emphasise self-help against outsiders such as fishermen and boat crews. The last two sections deal with disputes between neighbouring rice-farmers, and are concerned to avoid recourse to self-help :

in such disputes, the *Chao Khun*'s decision is final, and anyone who uses force to try to overturn it is liable to be killed on the spot. A couple of sections will illustrate these twin aims :

« [6] If anyone drains off the water in order to get fish, whether he repairs the dyke or not, if the rice crop is damaged, let him pay for the amount of damage he has caused. But if the owner of the field asked the guilty one to restore the dike, and he became arrogant and bold and even used profane language, the owner of the field had a legal right to club the guilty party over the head.

[7] When conflicts about the sharing of water occurred, let the *Chao Khun* distribute water to both sides equally. Then if one person does not obey his decision and again steals water during the night, let him be fined 110 ngoen. If he forcibly steals water ...let him be killed on the spot or pay 330 ngoen. » <sup>22</sup>

Solving problems [c] and [d] requires more organisation of labour. The irrigators must know how to fight well together. They must also learn to cooperate in building a defensive rampart around their main tank which will protect the population, livestock and water supply in time of attack. During the last five centuries BCE, 400 circular or irregular earthworks were constructed in NE Thailand :

« All reveal some degree of irrigation activity. The increase in their fortified area correlates with the elaboration of their irrigation works. » <sup>23</sup>

It is estimated that the earthworks, moats and reservoirs of Ban Chiang Hian, the largest of these N.E. Thai sites, required the labour of 500 well fed adults for one whole year <sup>24</sup>. Organised labour of this magnitude brings the rice plain into Karl Wittfogel territory. Such large scale works, he argues <sup>25</sup>, can only be achieved by an Oriental Despot. Small scale irrigation, such as the exploitation by the Pueblo of New Mexico of the run off of mountain streams to grow maize, can be achieved by village council, or supra-village council. But large scale works demand an autocratic ruler. Wittfogel would envisage the endogenous political organisation of the S.E. Asian rice plains in 100 CE as that of Big Man, Chief or King. Their defensive needs demanded sophisticated control of manpower. This could only be met by submission to a single ruler. The second leg of this argument looks suspect. The great irrigation systems of S.E. Asia mostly grew from small village beginnings. In Burma's Kyaukse region, for example, these village systems have gradually joined up until today five or six separate tributories of

<sup>22</sup> Kraistri NIMMANAHAEMINDA 1965 'The Irrigation Laws of King Mengrai', pp. 3-4, from *Ethnographic Notes on N. Thailand* edited by Hanks, Hanks & Sharp [Cornell].

<sup>23</sup> STARGARDT 1990 *op. cit.* p. 370.

<sup>24</sup> HIGHAM 1989 *op. cit.*, p. 219.

<sup>25</sup> WITTFOGEL 1957 *Oriental Despotism* [Yale].

the Irrawaddy are linked together into one huge system. There is no doubt that autocratic Kings of Pagan and later dynasties sponsored bold improvements to the Kyaukse system. Equally, there is very little doubt that before the Pagan conquest, the Kyaukse contained independent towns of Pyu, Mon and Burmese speaking irrigators. In the absence of any indications that one language group ruled autocratically over the others for any length of time, it is likely that they achieved the cooperation necessary for sharing the same rice plain by inter-village council. In Java there are indications that the chairmen of such inter-village rice plain councils took several centuries to convert themselves into local lords. In Java, Bali and Burma the evidence points against Wittfogel's impressive irrigation systems based on the tank and canal can develop by inter-village cooperation alone.

My application of the anthropological evidence to pre-Indian S.E. Asia amounts to this : the rice plains must have had explicit rules on ownership, debt, slavery and rights within the family. We know of no irrigated rice society which has done without such rules. Though some irrigation societies have rules but no third party dispute settlement, it is likely that the S.E. Asian rice plains did have some kind of court. Their need for defensive cooperation against outsiders meant they could not enjoy the luxury of Ifugao style anarchy. But I make no claim about their likely form of government. The comparative evidence allows such a wide range of possibilities that further speculation is precluded. Consider the variety of forms of government which Llewellyn found among the Pueblo irrigators of New Mexico, who share a language, culture and religion :

« Of the nineteen New Mexican pueblos some sixteen represent established going concerns. But the same 'old way' of government 'uncontaminated' by American influence, has produced in one pueblo [Sia] a strong semi-democracy, relatively unbothered by faction as distinct from personal power ; in another [Santa Ana], a semi-democracy so factionalised that even individual power, leadership and vision are having a hard time reestablishing any semblance of unity. In a third [Santo Domingo], we find an entrenched oligarchy forcing its will upon a relatively passive population, but largely for the common good as seen by the leaders. In a fourth [Taos], an entrenched oligarchy exploits the population with the high hand of substantial tyranny. In a fifth [Isleta] factions have split government to the verge of anarchy — yet somehow the pueblo has managed to hold together. In a sixth [Santa Clara], a similar factional situation

led after twenty-five years to a 'modernisation' of government via compromise and a written constitution, which now, for fifteen years, has worked.»<sup>26</sup>

At least as much variation is to be expected in S.E. Asia, where the rice plains were established by different language groups with different cultures.

### B. — *The Mandala Kingdoms experiment* 100 CE — 700 CE

Having set the scene by sketching endogenous developments up to the start of the long distance maritime trade routes, I turn to the period of reception itself. Archaeology remains a prime source for this second period, but it can be supplemented by local inscriptions and by descriptions in Chinese manuscripts. The Chinese manuscripts have, I feel, had a distorting effect on attempts to write the political history of S.E. Asia during the first millenium. Their value lies in casting a brief and lurid light on events in particular kingdoms during the few years when a Chinese dignitary happened to be present. We learn, for example, that in 250 CE the king of Oc Eo in the Mekong Delta 'once more used troops to attack and subdue the neighbouring kingdoms, which all acknowledged themselves his vassals.'<sup>27</sup> No doubt this information is accurate, but we are given no clue as to whether these 'neighbouring kingdoms' were situated within a radius of fifty miles or five hundred miles. Is this conquest an event of local or regional importance? The information produces its distorting effect when archaeological evidence (for example, that similar exotic luxury trade goods are found at contemporary sites in Oc Eo and central Thailand) is interpreted as evidence that the King of Oc Eo conquered central Thailand in 250 CE. A further problem with over-reliance on the Chinese sources is that they focus attention exclusively on the long distance trade route from southern India to China, since they had no reason to describe the local trade between southern India and S.E. Asia across the Bay of Bengal. Proponents of 'Hinduisation' theory assume that the earliest Indian reception took place at important ports along the maritime route from India to China : Oc Eo, which was excavated in 1944, is the best known of these. It is the last landfall in the Gulf of Thailand before China-bound ships round Ca Mau Point and enter the South China Sea.

<sup>26</sup> Llewellyn, quoted in HOEBEL 1954 *op. cit.*, p. 325.

<sup>27</sup> *Annals of the Liang Dynasty*, quoted in HIGHAM 1989 *op. cit.*, at p. 247.

For this reason alone it is an obvious place for ships to rendezvous and trade. A further attraction is its access to the vast basin of the navigable portions of the Mekong. It was certainly an early adaptor of Indian culture. When the Chinese visitors arrived in Oc Eo in the mid third century, they met the local ambassador of the Indian king Murunda. They also recorded tales of Kaundinya, an Indian founder and ancestor « who gave his son authority over seven dependent territories. » This story was already, by 250 CE, encrusted with myth. It could easily, as Pelliot suggests<sup>28</sup>, refer to events around 90 CE. Oc Eo sends its first official embassy to China in about 225 CE. The earliest surviving inscriptions of its kings date from around 500 CE. Written in Sanskrit and early Khmer, they refer to Brahmans acting as ministers to the king, and mention the Hindu legal classification of 'the five great crimes'. Between 225 and 500 CE Oc Eo mobilises the construction of 200 kilometers of ship canal, linking it with the sea, the Mekong and several other cities emerging inland in the delta. There is evidence before 500 CE of experiments with the worship of Siva, Vishnu and the Buddha.

These dates suggest a possible time scale for the early reception process : a hundred and fifty years elapsed from the first serious contact with Indians to the emergence of a mandala kingdom engaged in diplomacy with China and India. Four hundred years on from the first contact, we find extremely impressive works of civil engineering, rather less impressive achievements in art and architecture and the adaption of Indian script to the local language. Oc Eo, it is assumed, was as early and as fast an Indianising kingdom as any in S.E. Asia. But was it uniquely early and uniquely fast ? Coedès would say so. He treats Oc Eo as if it singlehandedly mediated between India and S.E. Asia. But the uniqueness of Oc Eo, and the implied uniqueness of the India-China route as a vector of Indianisation, may be exaggerated. The new archaeology poses new problems, the first of which is that early Indianisation also took place several hundred miles inland from the maritime route. I shall shortly describe how and when the pre-Indian Pyu cities of central Burma adopted Indian religion. Compared with Oc Eo, the Pyu cities appear to follow a similar time scale of Indianisation, but to start the process a hundred years later. The comparison may not be valid : the Pyu cities are marching to a different drum. Their leaders had successfully solved some of the problems of forming an

<sup>28</sup> PELLIOU 1903 « Le Fou-Nan » 2 *BEFEO* p. 248.

early state before Indian influence arrived, and may have been content for several centuries to trade with the outside world without adopting its ideas. In the west of the central Thai plain, at the presumed Mon site of Chansen, a delightful little ivory comb decorated with Buddhist motifs turned up in association with radio carbon dates indicating the first two centuries CE. Around 650 CE Chansen blossoms into a city, acquiring a round moat, a large irrigation tank and an increased population. This suggests an exposure to India as early as Oc Eo, but a slower process of state formation. These two examples suggest that Coedès was correct in describing Oc Eo as the fastest, earliest pure example of an Indian inspired mandala kingdom, but they pose other questions. Though Chansen and the Pyu cities were inland ports, the boats that sailed so far upriver to visit them can hardly have been engaged in a trade between India and China. The Roman geographers have left us in no doubt that many parts of S.E. Asia were important trading partners in their own right, even as early as the second century. I would expect Roman sources, approaching from the west, to emphasise the Bay of Bengal coast of S.E. Asia, and Chinese sources, approaching from the east, to emphasise the Gulf of Thailand and the Islands. The view of early Indianisation would become much less 'Oc Eo-centric', if we put as much weight on the Roman *Periplus* as we do on the Chinese *Annals of the Liang Dynasty*. Both these sources yield information about the general state of international trade, but neither gives reliable information about specific S.E. Asian cities. There is no shortage of S.E. Asian toponyms in the Chinese sources — we are given the names of ten kingdoms in the Mekong and Menam basin alone — but there is an acute shortage of agreement amongst modern commentators about the precise location of these toponyms. 'Chin-lin', for example, has been variously identified with Martaban in Burma, with the region south-west of Bangkok in Thailand, and with the narrow neck of the Malay Peninsula. The Chinese sources lead us into a quagmire of geographical speculation which is immensely enjoyable, but ultimately unrewarding. Nor can we identify the Roman toponyms for these 'Golden Lands between India and China', but I presume they were sea or river ports trading the products of mineral deposits further inland. The Pyu cities would fit this description, as would the mouth of the Salween and the coastal stretch on the west side of the narrow neck of the Malay Peninsula from Phuket down to Kedah. There are persistent local traditions of pre-second century

Indian influence at the mouth of the Salween, but no archaeological collateral. Kedah, however, boasts early Buddhist sea-faring cult inscriptions dating to the 5th century CE and one of the earliest irrigation systems on the peninsula. Christie interprets these as exclusively to do with trade :

« None of these wealth-oriented Buddhist merchant cults of the 5th and 6th century AD appear to have had the intimate connections with political ritual that contemporary Hindu cults exhibited. »<sup>29</sup>

The second problem relates to an absence in the archaeological record, and may therefore be solved at any moment. The second century trade route needed another port city (or preferably two) to protect the transshipment of goods over the narrow neck of the Malay Peninsula<sup>30</sup>. A number of such port cities appear from the seventh century onwards, but nothing earlier has been found, either in the Phuket — Surat Thani region, or further north at the Burmese end of the Three Pagodas Pass. The third problem is that some people may have walked, rather than sailed, from India to China. The overland route via Assam, northern Burma and Yunnan was certainly in use by 600 CE. There is some evidence that it was used regularly in 100 CE, but this is far from conclusive. Nevertheless, there are nagging indications from S.E. Asia that north Indian influence was spreading overland via Assam and western Yunnan into the Upper Mekong at the same time as south Indian influence was penetrating inland from the ports. In the far north of Burma, a region as yet untouched by the archaeological spade, local and Chinese sources agree in describing Hindu cities ('The Territory of the Little Brahmans') as in existence by the sixth century CE. The Upper Mekong region, comprising modern Laos, Keng Tung, southern Yunnan and northern Thailand is the landlocked hinterland of continental S.E. Asia. The Mekong does not provide a continually navigable outlet to the sea, and mountain ranges in each direction prevent an easy walk to it. Yet Indianisation seems to have occurred earlier here than its isolation from the ports would predict, and there are scattered hints of a specifically North Indian religious influence.

<sup>29</sup> CHRISTIE 1984 « Trade and Early State Formation in Maritime S.E. Asia : Kedah and Srivijaya » 13 *Jebat* p. 43 at p. 54.

<sup>30</sup> The early trade route did not take the direct route through the Straits of Malacca. This was probably because it followed the path of the monsoons, but piracy in the straits may have been a deterrent even as early as this.

Indianisation, on the present evidence, seems to have been multi-causal rather than unicausal. Local maritime trade between India and S.E. Asia was as important as international maritime trade between India and China. And in the mountainous north of mainland S.E. Asia overland trade routes were an additional factor allowing the introduction of North Indian ideas. Whatever dispute there may be as to the causes of Indianisation, there can be no doubt about its immediate effects. The leitmotiv of this period is the foundation of cities. In the eight centuries following 100 CE, cities were founded over nearly all of S.E. Asia. The Philippines and the Far Eastern islands of Indonesia may have missed out on this urbanisation, but it took place everywhere else — even in areas like Laos and Borneo which earlier scholars had assumed to be too far away from the trade routes to benefit from Indian influence. When I speak of the foundation of cities, I am not, of course, envisaging something like the colonisation of Australia or Canada where cities such as Canberra and Vancouver were created *ex nihilo* in random locations. The cities of S.E. Asia sprang up where concentrations of population and efficient agriculture already existed. The city founders of the period were rice plain chiefs who saw that by adopting Indian religions and scripts they might gain an advantage in the perennial inter-village rivalry for manpower. If I emphasise the Indian contribution, it is because we cannot doubt the ultimate provenance of a 4th century Sanskrit inscription, or a 2nd century Buddha image. But the mastery of iron technology must also have played a crucial role, and here it is much harder to ascribe external influence. In northern Vietnam the Chinese must take the credit for introducing not only iron, but scripts and religions as well. I suspect that Chinese influence on iron working extended well beyond northern Vietnam.

Wheatley gives us an excellent summary of the modern French School's interpretation of these events :

« In short there had evolved the city-state, the *nagara*, focused on a new landscape feature, the ceremonial city, which was the outcome of a series of social and political transformations that replaced the tribal chieftain by a divine king, gerontocracy or patriarchalism by patrimonial domain, consensus by hereditary charismatic authority, shaman by brahman, tribesman as warrior by a *ksatriya*, and tribesman as cultivator by a peasant, at the same time as occupational specialisation hardened into something approaching *jati*, age-sets were transmuted into *asrama*, the tribal meeting was formalised as an assembly

on the model of the *sabha*, and custom broadened into law within the framework of the *dharmaśāstras*. »<sup>31</sup>

This is 'Hinduisation' theory with a vengeance! Buddhism is entirely ignored in this summary, and S.E. Asian political developments are described wholly in Sanskrit terminology. The assumptions underlying this position must be as follows: Firstly, that during the First Millennium CE India knew a mainstream, orthodox or canonical version of the Hindu religion. Secondly, that the degree of 'Hinduisation' of the S.E. Asian mandala kings is to be judged by how nearly they accept this Hindu orthodoxy. I disagree with both assumptions. Firstly, I believe that religion in First Millennium CE India should be viewed as containing several competing, and increasingly hostile, religious faiths. Under the generic name of Hinduism, we find the orthodox Brahman interest in caste purity, and the rituals for restoring it, challenged by the rise of Saivite devotionism. During our period, the devotional worship of Siva mutates into the Hindu version of Tantra, with its own traditions of sacred texts and sacred places. Under the generic name of Buddhism, different tendencies which existed by 200 BCE progressively diverged during the First Millennium. By 500 CE at the very latest, we can meaningfully speak of an opposition between Mahayana and Theravada Buddhism, each with its own traditions of sacred texts and enlightened pioneers. Simultaneously, the Buddhist version of Tantra develops in Bengal. It may well be that at some rarified level of spiritual attainment, all these separate doctrines become non-contradictory aspects of the Indian soul. But, as a legal historian rather than mystic, I must concentrate on the manifest differences between Indian religions rather than on their esoteric unity. This follows from my disagreement with the second assumption. When the Indian religions were received in S.E. Asia, orthodox ritual Brahminism proved to be the least popular option. It is primarily the heterodox Indian religions (Buddhism in all its forms, Tantra in all its forms, and Saivism) which appealed to the mandala kings. This fact poses interesting questions about the reception of Indian ideas: viewed from S.E. Asia, were the mandala kings fundamentally uninterested in the Indian caste system? Viewed from India, were the religious virtuosi who travelled eastward propelled from home by the persecution of the orthodox?

<sup>31</sup> WHEATLEY 1979 'Urban Genesis in Mainland S.E. Asia' at p. 296 of *Early S.E. Asia* edited by Smith and Watson [Oxford].

In order to answer these questions and in order to sketch the wider background within which the legal reception took place, let us examine some specific cases of religious reception in more detail.

### 1. *The Reception of Indian Religion*

I start with the Pyu of central Burma. When did these pre-Indian cities decide to adopt Indian religion? Which part of India was the source? Stargardt summarises the evidence:

«The Pyu adoption of Buddhism at Beikthano can now be seen as acquiring definite force in the early 4th century, probably with a royal conversion and the endowment of a royal religious foundation consisting of a monastery and a stupa. The conversion process, however, was protracted and involved successive stages of mutual adaptation and assimilation between Buddhism and the Pyu's original religion, which we have traced through the changing burial locations ... The Iksvaku capital, Nagarjunakonda, played an especially fruitful role in the transmission of Buddhism to the Pyus in the early 4th century ... The influence of Nagarjunakonda stands in inverse ratio to its short history. Not only was it heir and transmitter of the noble aesthetic traditions of Amaravati in the domains of sculpture and architecture, it was the crucible in which the great division of ideas between the [Theravada] and Mahayana schools of Buddhism became definitive.»<sup>32</sup>

Nagarjunakonda, I should explain, lay in the Krisna valley 150 miles upstream from the Bay of Bengal near modern Hyderabad. It flourished between 200 and 380 CE. Further south in the Pyu territories, but still dating to the early 5th century, we find the Maunggun gold plates, the earliest evidence of the Pali scriptures written in the distinctive Pyu script. That Buddhism was an important factor in Pyu state formation is shown by the foundation of Sri Kestra, the greatest of the Pyu cities, in 638 CE. Stargardt has shown that the ground plan of Sri Kestra represents a wheel, that earliest of Buddhist symbols, picked out by cunningly placed irrigation tanks and channels. The Pyu rice farmers, when mobilised to construct on a scale greater than ever before, are found constructing a giant Buddhist symbol.

Let us turn to pre-Angkorian Cambodia. Nagasena, one of the Chinese Buddhist pilgrims, tells us that a royal cult of Siva devotion was already in place here by 484 CE. By the 7th century, the local inscriptions speak for themselves about the way in which the cult operated to support the emerging kingdom. Wolters gives a sensitive interpretation of this epigraphy, and suggests:

<sup>32</sup> STARGARDT 1990 *op. cit.*, at p. 311 and p. 347.

« ... the hypothesis that, when the Khmer elite began to hear of Hindu devotionalism, they brought to it as much as they took from it. Indeed, they may even have been recognizing some primitive notions in Hinduism which Hinduism shared with many peoples. The implication of the hypothesis is that Hindu ascetic practices tended to throw into sharper relief Khmer assumptions about an uneven distribution of prowess and the religious *rapproch* that bound leaders and led ... The process was one of empathy, and because it was possible through the cultivation of mental aptitudes taught by devotional pedagogy, was essentially one of self-Hinduisation. It was a matter of imaginative intention, and the intention which supplied the underlying impulse was that of tapping cosmic power for personal ends. » <sup>33</sup>

Northern Sumatra provides an example of the S.E. Asian reception of Mahayana Buddhism. The late 7th century inscriptions from around Palembang, usually ascribed to the mandala kingdom of Srivijaya, show an old Buddhist sea trading cult mingling with an indigenous cult of royal magic to form what Christie memorably describes as 'an epigraphy of paranoia' <sup>34</sup>. In other cases, Indian religions appear to be received in a bundle. The Chams of the central Vietnam coast, for example, are said by Chinese sources to have adopted Indian script by 340 CE. There are extant Cham inscriptions from 60 years later showing the adoption of Siva devotion, and the establishment of a royal Sivalinga cult. We learn from them that in these early experimental days Hindu religious ideas could be counter-productive. King Gangaraja of the Chams is said to have abdicated in order to go on a pilgrimage to India, and thus sparked off a disputed succession. Soon afterwards the Chams show signs of acquaintance with (and confusion between) Tantra, Mahayana and Theravada Buddhism.

Can we identify what kind of Indian religious experts proselytised in S.E. Asia? In theory Buddhist monks should have been more willing to cross the Bay of Bengal than Hindu brahmans, who would incur serious pollution by the act of leaving Mother India. But in practice, for the religious reception to work, a Brahman presence in S.E. Asia was more necessary than the presence of a group of missionary Buddhist monks. Anyone can become a Buddhist monk, but becoming a Brahman depends on parentage. If, stimulated by lay Buddhist merchants from south India, the emergent Mandala kingdoms develop an interest in Buddhism, they could send ten young men to an Indian monastery. After five years

<sup>33</sup> WOLTERS 1979 « Khmer 'Hinduism' in the Seventh Century » at pp. 436 and 440 of *Early S.E. Asia* ed. Smith and Watson [Oxford].

<sup>34</sup> CHRISTIE 1984 *op. cit.*, at p. 55.

study abroad, these S.E. Asians would be qualified as monks, and could return home to found a local monastery. Crucially, they would then make a quorum sufficient to ordain local postulants themselves. We have abundant evidence from the post-classical period that different Buddhist ordination traditions spread to S.E. Asia in this way. But if a Mandala kingdom develops an interest in Hinduism, they cannot use such 'import substitution': they need a convincing simulacrum of a real-life Indian Brahman to reside with them long enough to father offspring and reveal the sacred mysteries. What kind of Indian Brahman would deliberately pollute himself by travelling to the ends of the earth to live among barbarians? Wolters' analysis of the early khmer inscriptions gives us an answer:

« Ascetics are referred to under several terms ... and among them are the Pasupatas, mentioned on two occasions. The Pasupatas were the ascetics par excellence in this period, and they were in the confidence of kings. Isnavarman I entrusted one of them with the care of a temple, and Bhavavarman employed another as a poet; he practised asceticism according to the Saiva rule. »<sup>35</sup>

He adds:

« Their willingness to cross the ocean may be another sign of their indifference to brahmanical conventions and of their zeal in incurring hardship for Siva's sake. These Indian representatives of Hinduism in Cambodia are unlikely to have insisted that some form of Brahmanical society should be reproduced there. »<sup>36</sup>

'Indifference' is too weak a word to describe the Pasupatas' attitude to brahmanical convention. A recent study portrays them as Hindu antinomians:

« Far from merely ignoring or operating at a tangent to caste purity rules ... the Tantras appear to meticulously observe these most Sanskritic of all rules but in reverse. »<sup>37</sup>

Mayer views the Pasupatas as Brahman practitioners of the left hand path seeking power, where the orthodox would seek purity. Such antinomianism causes definitional disputes — is the Devil a Christian? — but the Pasupatas cleverly used a legal fiction to make their continued status as Brahmans clear. The orthodox Hindu texts prescribe the following *kapalikavrata* rites of penance for the most serious offence of all — the murder of a brahman by a brahman:

<sup>35</sup> WOLTERS 1979 *op. cit.*, at p. 431.

<sup>36</sup> WOLTERS 1979 *op. cit.*, p. 433.

<sup>37</sup> MAYER 1990 « The Origins of the Esoteric Vajrayana » p. 13. Paper presented 17-10-1990 to the Buddhist Forum, SOAS, to be published in a forthcoming volume of *Buddhist Forum*.

« The murderer of a learned brahmana shall practice the following vow during twelve years : carrying a skull instead of a dish and a trident instead of a staff, dressed in the hide of an ass, staying in the forest, making the dead man's skull his flag, he shall cause a hut to be built in a cemetery, and shall reside there. Going to seven houses in order to beg food while proclaiming his deed, he shall support life with what he gets there, and shall fast if he gets nothing. »<sup>38</sup>

The Pasupatas adopted this penance (in some cases they may actually have committed bramanicide) so as to wallow in impurity, and yet retain their brahman status. Since one way of becoming defiled was to leave the shores of Mother India, their presence in Cambodia was a logical extension of their antinomianism. The khmers wanted brahmans to instruct them in religion : these particular brahmans needed to live among the khmers to reach new depths of impurity. From such peculiar cross-purposes a religious reception took place which would eventually lead to the glories of Angkor !

To what extent did the Mandala kings absorb the ideology of caste along with their Indian religion ? If my reconstruction of Rice Plain law is at all accurate, then they had already developed an indigenous social stratification based on wealth, as measured by access to the best irrigated land. The language of caste is used in some S.E. Asian Sanskrit inscriptions to describe these indigenous classes, presumably because the Sanskrit vocabulary offers no other terminology. But it would be an over-simplification to say that S.E. Asia ignored caste altogether. Though the post-classical Buddhist law texts talk about stratification in terms of wealth and profession, they have absorbed the concept of untouchability. We hear of a 'degraded class of elephant slaves' whose degradation is hereditary. Than Tun informs us that this small group of 'untouchables' continue to suffer discrimination in contemporary Burma :

« Even today (though statutorily no slave of any category would be recognised) people do not want anyone of their children married to a descendant of a religious slave. Local people would not readily forget that a certain family descended from former religious slaves. »<sup>39</sup>

Caste in S.E. Asia is only used to describe the hereditary classes of society at the extreme ends of the social scale. At the top is the royal family, who occasionally boast that they represent the top-

<sup>38</sup> The Baudhyana Sutra 2 :1 :1, as quoted in Mayer 1990 *op. cit.*, pp. 39-40.

<sup>39</sup> THAN TUN 1989 *The Royal Orders of Burma* vol. VII p. xxvi.

most caste of warriors <sup>40</sup>. At the bottom is a lumpenproletariat, who can only be classified by being swept into the dustbin of untouchability. Between these two extremes stratification is based on wealth rather than heredity.

## 2. *The Reception of Indian Scripts*

Literacy, religion and law were three inter-related aspects of 'Indianisation': Indian law was 'better' because it was written, and because it came as part of a package of written learning which answered questions about cosmology, ritual, science and history. When the mandala kings adopt Indian scripts, they are at least as interested in the imported software [*reading* this package] as the imported hardware [*using* the scripts to *write* their own praises and instructions]. This age-old confusion between message and medium, between content and form, bedevils our attempt to answer even the most obvious question about the Reception: why did the mandala kings look to India rather than China for their scripts and state building ideologies?

The usual answer — that the Indians made their presence felt in S.E. Asia before the Chinese — fits uncomfortably with the usual assumption that the start of Indianisation coincides with the establishment of the maritime trade routes linking India with China. Only if Chinese sailors played no part in the trade can these be reconciled. I prefer to assume that mandala kings from the first century CE onwards were exposed to both Chinese and Indian scripts and ideologies, and that they made an informed choice between them. In relation to Chinese script, this assumption looks very plausible. By 600 CE nearly all the mandala kings would have had an opportunity to examine Chinese script. Many of them sent occasional tribute missions to China, in the hope that this alliance might enhance their local status. They would have got 'thank you' letters back, written in Chinese, and doubtless would have put them on display with their other power objects. Chinese traders and pilgrims passing through would be glad to explain their writing system. Yet with all this exposure, only northern Vietnam adopted Chinese script, and that only by force of arms. This confirms the experience of Tibet and Central Asia: any of China's neighbours who have access to an alphabetic as well as an ideographic system

<sup>40</sup> In Brahmanic orthodoxy, of course, the Brahmins outrank the warriors.

will prefer the simplicity of the alphabet. The functional value of the ideographic system — that it obviates the need for translation in a polyglot society — might have appealed to the classic emperors of the early second millenium, but was irrelevant to the monoglot mandala kingdoms of the early reception period. This explanation of the preference for Indian script concentrates on the respective virtues of the media. But can we afford to ignore the respective attractions of the message ? In terms of sheer bulk, there was more Chinese than Indian written literature by 100 CE, and more of the Chinese corpus was devoted to the all important questions of statecraft and ethics. Korea, in the second century CE, and Japan, in the sixth century CE, show us that Chinese scripts and literature can play exactly the same role in the state formation process as did Indian scripts and literature in S.E. Asia. Given that the mandala kings preferred the Indian to the Chinese *medium* for functional reasons, did they have any reason for preferring the Indian to the Chinese *message* ? The history of Buddhism can help us answer this question. During the early centuries of the first millenium, China was undergoing its own religious reception. Buddhism, particularly in its Mahayana form, was adopted by many of the kingdoms of China as an aid in the struggle to reimpose political unity over China after the collapse of the Han dynasty. Between 400 and 800 CE China can sensibly be described as having a Buddhist inspired political culture, though admittedly the 'Buddhism' in question absorbed many local Chinese elements<sup>41</sup>. Though China's first exposure to Buddhism came via the silk route, China's subsequent attempts to acquire Buddhist texts and relics involved both the maritime and the overland route through S.E. Asia. From 100 CE onwards, the mandala kings were familiar with Chinese Buddhist monks passing through their domains on their way to and from India. This traffic must have affected the prestige of the Chinese message in the eyes of a mandala king, whether he personally tended to Buddhism or the worship of Siva. Why bother with Chinese learning, when the Chinese were apparently trying to learn from India ? Why learn from the student, when you can learn directly from the teacher ?

<sup>41</sup> Though Buddhism survives in China after 800 CE, this 'Buddhist political culture' does not. The triumph of neo-Confucianism in China coincides with the triumph of syncretic Hinduism in India. 'Buddhist states' and 'Buddhist kingdoms' in China and India disappear after the first millenium.

And so the mandala kings looked westwards to India for scripts and literature. But can we be more specific? Did they favour one particular Indian region? The history of scripts in S.E. Asia suggests strongly that they did. India has been as generous an inventor of scripts as of religions. When it came to transferring the technology of literacy, the city-founders were again offered a multiplicity of models. Typically, India does not even have one original script. The first surviving Indian writing, inscribed during Asoka's reign in the third century BCE, already comes in two flavours: the Kharosthi script in the west, from a presumed Aramaic model, and the Brahmi script elsewhere, from a presumed semitic model. In an earlier draft of this paper I confidently stated that Kharosthi was unknown in S.E. Asia. A week later the Times announced that pottery shards of south Indian provenance have been recovered in Bali, one of which was inscribed in Kharosthi script! As yet, however, there is no evidence that S.E. Asian scribes ever used the script. By the time Kharosthi died out in the 5th century CE, Brahmi has split into several radically different regional scripts. Between the second and first centuries BCE Asoka's Brahmi script developed distinctive northern and southern styles which continued to draw ever further apart. Northern Brahmi script need not detain us. It is the progenitor of the modern Devanagari, Bengali and Tibetan scripts, and has proved a great traveller along the silk route to China and the north east. But, with limited exceptions which I shall specify, scripts derived from Northern Brahmi found no favour in S.E. Asia. During the first century CE, Southern Brahmi spawned the related scripts of Telugu and Kannada, which did influence one part of S.E. Asia: they were adapted by the later Pyu kings of central Burma to form their Tirkul script. By the third century CE Southern Brahmi had produced another offspring: the Pallava Grantha script, which, by the sixth century, had been adopted as 'the common script of S.E. Asia'. We have surviving examples of several different Indian and S.E. Asian languages written in this script from Java, Borneo, Sumatra, Malaysia, Thailand, Burma, Cambodia and Vietnam. But already, within this earliest S.E. Asian epigraphy there lurks a division, which is presumably based on Indian variations in scribal styles of Pallava Grantha. The script on the west and east of the mainland [as written by the Mon and Cham city-founders] is rounder and less angular than the script as written in Cambodia [by the Oc Eo and Chenla city-founders]. By the time of the classic empires, this near-unity has turned to diversity.

Partly as a result of adapting the Pallava Grantha to suit their own languages, and partly because different local scribal traditions had different aesthetic values, radically different scripts emerged. The broad distinction between angular and round letters remains, but now as an organising principle for classifying the unruly chaos of contemporary scripts. The Kawi script of Java and Malaysia, and the standard scripts of Cambodia, Thailand and Laos are all *angular* derivatives of Pallava Grantha. The *round* derivatives are the Mon and Burmese scripts, the religious scripts used to transcribe the Pali Buddhist Canon in Cambodia, Thailand and Laos, and the script of Bali (which is a rounded version of Kawi). Across a wide crescent of mountains separating northern Burma from the Central Thai plains can be found an entire spectrum of *intermediate* forms : each mandala kingdom in each isolated valley has made its own mixture of the rounded forms to the west and the angular forms to the east.

We must be cautious in drawing wider historical lessons from this story. Arguments such as the following :

« Because the Pallava Brahma script of South India is found all over S.E. Asia, North India cannot have been involved in the trade across the Bay of Bengal. »

need to be backed by supporting evidence<sup>42</sup>. This argument would only be valid without further support if we assume that the mandala kings adopted the first Indian script with which they came in contact. There is evidence for the alternative premise : that they had the opportunity to shop around between different scripts, and made their choice on functional criteria. The Pyu have left us definite proof that they chose between two available alternative Indian scripts. Geographically, it is surprising that with one North Indian script in use 150 miles to their west in Arakan, and another North Indian script in use 200 miles to their north in Assam, the Pyu should have adopted a South Indian script from 1,000 miles away. That the North Indian script was known, but rejected, is revealed by some of the earliest Pyu epigraphs, which use North Indian consonants as a decorative motif between the lines of Tirkul. The Tirkul is meaningful, while the northern script yields a string of nonsense syllables. A Buddha image from Sri Kestra [7th century ?] is inscribed in two languages and scripts. The Pyu inscription is in Tirkul script while the Sanskrit inscription is in North

<sup>42</sup> Some weak supporting evidence does exist : the Roman sources tend to portray South India as more commercially oriented than North India.

Indian Gupta script <sup>43</sup>. Despite the lack of supporting evidence for the early first millenium, I would guess that city founders elsewhere had the opportunity to see North Indian script. Certainly they did so by the end of the first millenium : Yasovarman I of Angkor [around 900 CE] has left some inscriptions in the northern script, as has Ugrasena of Bali [about 914 CE]. Four inscriptions from central Java [778-792 CE] in a northern script closely linked to that of early Pala Bengal show that Java's interest in the Tantric Buddhism of Bengal extended to experimenting with the script of Bengal. In the unlikely event that North Indians stayed away from S.E. Asia before the eighth century, there would still be the regular traffic of Chinese pilgrims passing through on their way back from India. The Chinese monks sought relics and texts, and the texts they were after were written in the North Indian script they knew as 'siddham'. Surely the mandala kings and their scribes had a chance to examine these 'siddham' texts and to compare the pros and cons of North and South Indian scripts ?

I am suggesting that the mandala kings actively chose between Indian scripts on a basis of functionality, rather than passively adopting the first Indian script to which they were exposed. What would the relevant functional criteria have been ? In one sense all Indian scripts were equally disfunctional : they distinguished faithfully between such arcane Indian sounds as 'the retroflex labial' and 'the voiced dental fricative', but they did not cater for the peculiar needs of the predominately monosyllabic tonal languages of S.E. Asia. Letters could not drop out, as long as the script was to be used for Pali and Sanskrit as well as the vernacular, but some letters must be added, and some method for marking tones devised. Perhaps the mandala kings, from the very beginnings of literacy, were thinking about how to adapt the scripts for use with their own language ? Which of us, on learning a new alphabet, does not try to do the same by transliterating his own name ? And perhaps, if a non-palaeographer dare make the suggestion, North Indian script, with its characteristic 'wedge' or 'head' neatly closing off the characters at the top, left too little scope for tone marking ? The letters of Pallava Grantha, by contrast, leave room for development both above and below. But so do its fellow descendants from Southern Brahmi, such as Telugu, Malayalam and Sinhalese. As between these South Indian scripts, the informed choice of the city

<sup>43</sup> AUNG THAW 1972 *Historical Sites in Burma* [Rangoon] p. 26.

founders could have depended on two factors. Firstly, that of writing materials : of the South Indian scripts, Pallava Grantha is particular associated with writing on palm leaves. The Talipot palm, which provides the leaves, is found both in South India and S.E. Asia. The Pallava script was pre-adapted to the medium in which it would be most used <sup>44</sup>. Secondly, that of available literature : around the fifth century CE, the Grantha script was used equally by Buddhist monks and Brahmans for recording their own literature and the debates and polemics between them. This was also true of North Indian Gupta script, but not of the Sinhalese script of Sri Lanka, or the other South Indian scripts. As with the choice between Chinese and Indian writing systems, the choice between Indian alphabets depended on a mixture of arguments relating to form and content, hardware and software, adaptability of the script and the attractions of the literature written in that script.

Enough of highly tentative speculation. Let us retreat to more solid ground. What firm pointers to the nature of the Indianisation process can we derive from studying the S.E. Asian reception of South Indian scripts ? Firstly, that the area of southeastern India which the Pallava dynasty began to rule around 400 CE was in close contact with S.E. Asia through the first millenium. Second, that the relationship between southeastern India and S.E. Asia was unlikely to have been based on the dominance of the former, either through conquest or colonisation. Had this been the case, we would expect a closer similarity between the Pallava scripts on either side of the Bay of Bengal than in fact exists <sup>45</sup>. Restating this point, the scribes who wrote the early inscriptions of S.E. Asia were not Indians. They were S.E. Asians, who had acquired their literacy either by studying under a guru in India or by extrapolating (with help from visiting Indian traders) from books, inscribed plates and inscribed statues which the maritime trade had carried eastwards. Thirdly, that large numbers of manuscripts circulated around S.E. Asia and across the Bay of Bengal at least from the fifth century onwards. Such manuscripts could not possibly survive to the present day, but their presence can be inferred from certain parallel

<sup>44</sup> A tendency remains in S.E. Asia through to the sixteenth century to use different scripts for inscriptions and manuscripts.

<sup>45</sup> See the discussion at pp. 382-385 in DE CASPARIS 1979 'Palaeography as an Auxiliary Discipline in Research on Early South east Asia' from *Early S.E. Asia* edited by Smith and Watson [Oxford].

developments in scripts which appear (in the epigraphic record) to occur simultaneously throughout the region <sup>46</sup>. Royal libraries and temple libraries are likely to have appeared in S.E. Asia early on in the first millenium. If a mandala king tells us that he has a copy of an Indian dharmaśāstra text, we should not disbelieve him just because we think books were a rare occurrence at this time and place. The mandala kingdoms in their formative years had access to much more Indian literature in perishable formats than the surviving stone, pottery and copper epigraphy would lead one to believe. Further evidence of this is provided by the memoirs of the Chinese general Liu Fang, who sacked the Cham capital in central Vietnam in 605 CE. The city, he said, had 1,350 manuscripts of Buddhist works making 564 bundles, all written in a script he called *k'ouen-louen*, which must be Pallava Grantha <sup>47</sup>. There is no reason to think the Chams were uniquely devoted to books : other Chinese sources imply a similarly large library in the Palembang region of Sumatra at much the same time. The reception of Indian ideas was, in short, a literary affair.

### 3. *The Reception of Indian Law*

'Hinduisation' theory portrays the imposition on the mandala kings of a unitary, monolithic, Indian culture. I prefer to describe the eclecticism of the mandala kings in choosing between the various Indian models at their disposal. They chose whatever seemed most useful to them, and 'useful' in this context must relate to the ceaseless, seething struggle for political power above which the mandala kings emerge as temporary top dogs. The competitors in this struggle were the wealthy farmers of the rice plains. I have already described how Dives, their representative figure, established a dominance over his poorer neighbours by means of the legally defined tools of debt, land ownership and adoption. We must now think of the poorer neighbours as forming Dives' entourage, his bodyguard, and even his personal army. The rice plain village has been forged into a political unit, which is prepared not only to defend itself against attack, but to attack others in pursuance of Dives' ambitions. His ambitions included establishing dominance first over other wealthy families in the same village, second over the

<sup>46</sup> This argument is developed in detail in DE CASPARIS 1979, *op. cit.*, at p. 388.

<sup>47</sup> Quoted in PELLIOU 1904 'Deux itinéraires de Chine en Inde à la fin du huitième siècle', 4 *BEFEO* p. 143 at p. 220.

wealthy families in neighbouring villages, and finally over his local world — the area, say, over which he could travel in two days riding or boating. To fully achieve the final ambition would mean getting the better of thirty or so rivals, and establishing institutions and ideologies which work, *inter alia*, to maintain the dominance of Dives.

From 100 CE, when Indian religions, Indian scripts, Indian artefacts and Indian ideas about law and government were introduced into the various rice plains, we can be fairly confident that the kind of struggle I have outlined was already underway in the **Pyu** areas of central Burma, the [presumably] **Mon** areas at the mouth of the Salween and in the western Central Thai plain, the **Khmer** areas around the Tonle Sap and the mouth of the Mekong, and the **Cham** rice plains along the coast of central Vietnam. Whoever the ethnic groups were who farmed the rice plains of north east Thailand, central Laos and the Kyaukse region of Burma, they too were doubtless experiencing the same struggle. It is unnecessary to view Dives as cynically manipulating these Indian ideas to his own greater glory. The Indian ideas on offer were attractive then, and most of them are attractive to this day. The emergent mandala kings held their new convictions sincerely, but their subjects were at first more fickle. When a rival with different new convictions usurped the throne, the old king's ideology must have lost prestige. However sincere the mandala kings, they were unwittingly taking part in an 800 year experiment to discover what combination of Indian ideas was locally most effective to ensure the lasting dominance of a particular city over its neighbours, and of a particular family over their rivals.

Religion is obviously an important consideration for the mandala kings of this period. By building temples and lavishing gifts, the king becomes identified with 'his' group of religious virtuosi. A threat to the king can be portrayed as a blasphemous threat to revealed religion. Literacy is another obvious important consideration. If the king, or rather 'his' monks and scribes, has a local monopoly on literacy, he can plausibly portray himself as an essential link between his subjects and the world of universal knowledge. Literacy can be used to distinguish the population of the rice plain from the pre-literate hoe cultivators further inland. It can also be used as a measure of rivalry between mandala kingdoms. 'We've got more books than you, so we're better than you' sounds an odd

claim in our present post-literate *fin de siècle* times. But S.E. Asian culture has always taken such claims seriously, and the rich tradition of S.E. Asian chronicles are full of sentences like 'They invaded us and took our books away ; that is why we are now stupid.' But what about law ? Judging by the sparse references to Indian law which the inscriptions of this period reveal, it was not an important consideration to the mandala kings. From the western mainland we have no relevant evidence. From the eastern mainland, where Sanskrit and Siva were more popular than Pali and the Buddha, there are two items to consider. The 'History of the Liang Dynasty' tells of an Indian Brahmin named Kaundinya who arrived in Oc Eo in the 5th century CE and « changed the rules according to the customs of India »<sup>48</sup>. A slightly later inscription from Oc Eo refers to « the five great crimes », which are listed in the dharmasastric texts. This reference proves that the Oc Eo kings have *heard* an exposition of Hindu law, but not that they have *read* the texts. I interpret this paucity of evidence as meaning that only a few very general Indian ideas about law were of interest to the mandala kings of this period. The rules applied in disputes about land ownership or control of labour would continue to be the endogenous Rice Plain law. The mandala kings appear to have emphasised three Indian ideas about law, which are at such a level of generality that they are common to Hindu and Buddhist traditions alike. The first of these is the *danda* ideal — that the king is in charge of secular punishment, and by extension, that the king is personally in charge of the administration of justice and keeping the peace. Secondly, they emphasised the importance of *written legal sources*, and promulgated the notion that legal legitimacy lies in written texts which should be applied to a given dispute. This had become an important point of distinction by the 13th century, since Buddhist S.E. Asia had invented its own tradition of written legal texts, while Hindu S.E. Asia continued to use the Indian dharmaśāstra tradition. But in 500 CE this was not a problem. With literacy restricted to a small percentage of the king's entourage, the content of the written law texts hardly mattered. The king extolled the legitimacy of the written law texts, and put them on display among his power-objects. He may have arranged for portions of the text to be read out before judgement in sonorous but generally incomprehensible Sanskrit. But I can hardly envisage such a

<sup>48</sup> HIGHAM 1989 *op. cit.*, at p. 248.

mandala king obeying the rule of law. He would not decide a case by conscientiously trying to understand the law text and applying his interpretation to the facts at hand. For one thing, there was no pressure on him to do so, as long as he retained an effective monopoly on literacy. For another thing, he had far more important fish to fry. Deciding the dispute in a particularly way might help him do down a rival, or pocket a large fine, or, at the very least, add to his own prestige as an effective mediator. Thirdly, both Hindu and Buddhist kings knew an Indian tradition of *18 heads of litigation*, which they treated as a useful nugget of scientific knowledge. In geography, India gave them a global scheme (four continents, four rivers and Mt Meru at the centre of it all) in which to situate their local world. In phonetics, India gave them a list of possible vowels and consonants amongst which they could find analogs of their own. In law, India gave them a tradition that the various forms of dispute fall into 18 categories. The number is much more important than the content. To mention the 18 heads in an inscription is to show off your universal knowledge, but does not commit you to knowing what they are. In the same way, I might drop the phrase 'seven types of ambiguity' without being able to specify what they are. While references to the '18 heads' are found in Burma, Cambodia, Java and Champa, the only detailed listing of 18 categories comes from the post-classical Burmese law texts. None of these Burmese lists are identical with each other, and none of them is identical with any Indian dharmaśāstra<sup>49</sup>. In Angkor, inscriptions mention the '18 heads' as a collective unit, but, though all legal vocabulary is in Sanskrit, only one of the '18 heads' is mentioned by name. Significantly or not, this is *sahasa* (violence).

Indian legal ideas in 500 CE are nothing more than a loose intellectual wrapping around an endogenous content. The king will judge disputes in his own interests to the extent that he can get away with it. To the extent that he cannot, he is constrained not by the content of Indian dharmaśāstras, but by well known rules of ownership, debt and succession from the oral 'custom of the rice plain'.

<sup>49</sup> Though one, the Dhammavilāsa dhammathat, has fairly close parallels.

C. — *The Mandala Kingdoms consolidate*  
550 — 950 CE

Perhaps by 550 CE, and certainly by 700 CE, the rice farmers had been sufficiently indoctrinated by the mandala kings as to be a constraint on further experiment. By this time the surviving new ideologies were beginning to be hallowed by tradition : the rice farmers of the Thai central plain, for example, could now say with some conviction 'We have always been Buddhists in this city.' From 750 CE the common S.E. Asian script began to split into regional forms, which broadly coincide with the religious division. Within 500 years the common script had been replaced altogether by the alphabetic babel that is S.E. Asia today. This consolidation and localisation of Indian influence produced spectacular results in the sphere of architecture. Of the four great classic sites of S.E. Asia, the Mahayana temple at **Borobodur** was built during the 9th century, as was its near neighbour in Java, the Saivite temple of **Prambanan**. **Angkor Wat**, in praise of Vishnu, and the Theravada complex of **Pagan** are 12th century products of the classic age proper, but they were built on ambitious 9th century models<sup>50</sup>.

Further evidence of the quickening pace of developments in the late first millenium is that the classic age explicitly traced its origins back to these centuries. In Angkor of the high classic age, an inscription describes a ritual which Jayavarman II had performed on Mount Kulen 250 years earlier around 800 CE. It is clear that this ritual was of immense local and dynastic importance, but rather less clear as to what it entailed. Was this the ritual by which Jayavarman II became a God ? Is classic Angkor recollecting the precise moment at which their line of Siva devotee mandala kings became a line of imperial God-Kings ? The predominantly Theravada west recognised its own seventh century origins much more explicitly by adopting its own common Era. A brief look at S.E. Asian fashions in measuring the passage of years will reveal much about growing S.E. Asian self-confidence. The problem, of course, is to find a fixed point, preferably of more than local importance, which one can label as 'year Zero'. In early Europe we used political events as 'year Zero' (for example, the Roman system of

<sup>50</sup> Often in the most literal sense ! The Petlaik pagoda at Pagan, for example, is built on top of a substantial pre-Pagan period building.

counting years from the foundation of the city, *ab urbe condita*) before settling on an event of religious significance. Likewise India knew a political era, starting in 79 CE and commemorating the enthronement of the Saka kings in northwest India, as well as a religious era starting with the Buddha's paranibbana in 544 BCE<sup>51</sup>. Both the Saka and the Buddhist Eras were adopted in S.E. Asia — indeed in Bali and Thailand respectively both of them continue in use to the present day. Dates in the inscriptions of Angkor, Java and early Sukhothai were expressed in the Saka Era. Buddhist religious texts preferred the Buddhist Era. But Burma developed its own local political era — the Cula Era which takes 638 CE as 'year zero'. This betrays a certain self-confidence, but what is truly impressive is that the Burmese Cula Era was eventually adopted by Burma's Theravada neighbours to the east. Chiang Mai was already using it by the time of its first surviving inscriptions in the 14th century. Sukhothai adopted it at roughly the same time. By the sixteenth century the Cula Era had spread as far east as Cambodia. What happened in 638 CE? What political event is celebrated by the Cula Era? It is hard to resist Luce's conclusion that it was the foundation of the vast symbolic Pyu city of Sri Kestra<sup>52</sup>. However, oral accounts collected in central Thailand in the eighteenth century ascribe the Cula Era to a local culture hero, named Phaya Ruang, 'the Shining Lord'. 'To cancel the Saka Era' he is said to have 'called a major conference of kings, and invented the Thai Chiang, Mon, Burmese, Thai, Khom Chiang and Khom scripts.'<sup>53</sup> Either way, the widespread use of the Cula Era in Theravada S.E. Asia is associated with the local adoption of literacy and the real or imagined dominance of a particular Theravada king. '*Ab urbe condita*' for Buddhist S.E. Asia implies that their civilisation emerged in the seventh century CE<sup>54</sup>.

<sup>51</sup> Notice, in passing, the lack of a Hindu religious era: while Buddhism is tied to a historical event, the Hindu revelations form part of timeless truth.

<sup>52</sup> LUCE 1964 'The Advent of Buddhism to Burma' at p. 124 of *Buddhist Studies in honour of I.B. Horner* ed. Cousins, Kunst & Norman.

<sup>53</sup> PENTH 1989 'Difficulties with Inscription No. 1' 77 *JSS* p. 91 at p. 99.

<sup>54</sup> This reception and adaption of Indian Eras was superimposed on an endogenous system for counting years. In the northern Thai kingdoms like Laos and Chiang Mai, in classical Angkor, and in Burma we find a cycle of twelve named years, which can be repeated five times to give a great cycle of 60 years. The endogenous system coexisted with the imported system for several centuries. It is noteworthy that the Burmese alone partially Indianised their endogenous system. The other cultures of S.E. Asia retained the original animal names for each of the 12 year cycle, while the Burmese adopted the Sanskrit tradition of naming them after the months of the year. See ALLOTT, HERBERT & OKELL 1989 'Burma' p. 3 in *S.E. Asia — Languages and Literature: a Select Guide* ed. Herbert & Milner [Arran].

From this period of consolidation comes our first evidence that Indian legal traditions are affecting S.E. Asian dispute settlement. In Java and Angkor 'law-report inscriptions' have survived from this period. These are inscriptions on stone or metal plate which record the result of formal legal proceedings, usually in relation to a dispute over land. They give us details of the judges, the legal point at issue, the witnesses and the verdict. They are known in India as *Jayapattra* documents. The earliest surviving S.E. Asian example comes from central Java in 860 CE. There are two more extant Javanese examples from 907 and 922 CE. We learn from these that judgement is by a *samget* [which can be translated as 'notable, judge or arbitrator'] presiding over a council of elders. The documents are written in Javanese rather than Sanskrit, and are signed by the witnesses rather than the judge. They contain no reference to any written source of laws, from which Hoadley deduces that custom and local laws, rather than a dharmaśāstra type law text from India, were treated as normative<sup>55</sup>. The first Angkorian examples of the genre were written thirty or so years later, also in the local language rather than Sanskrit. One of these concerns an allegation that boundary markers have been moved in order to steal land. The local district chief is found guilty and sentenced to 102 lashes, and the inscription ends with a detailed description of the land adjudged to belong to a local temple. This is the typical type of dispute dealt with by the later inscriptions; the point of recording the decision in permanent form is presumably to avoid future arguments about the land in question. The other is more puzzling. The *Tuol Rolom Tim* inscription tells us in great detail of a dispute concerning the exchange of a female slave and a water buffalo. The vendors turn out not to have good title to the water buffalo, while the buyers are also at fault — the slave they provided keeps running away. We are told the names of four assistant judges, two high officials and the judicial investigator, all of whom combined to decide this weighty matter. The puzzle is why the successful parties went to the great expense of inscribing all this on a stele. Slaves and water buffalos are wasting assets compared with land. The fact that a temple was involved in the dispute, having some claims to the original female slave, may be a clue<sup>56</sup>. As

<sup>55</sup> HOOKER & HOADLEY 1981 *An Introduction to Javanese Law — The Agama* at p. 26.

<sup>56</sup> These inscriptions are described in full in ISHIZAWA 1986 «Remarks on the Epigraphy of Angkorian Cambodia» at pp. 218-221 of *The Laws of S.E. Asia vol 1* ed. M.B. Hooker [Singapore].

with the Javan inscriptions, there is no reference to the source of the laws applied. That the laws may have been written in a *dharmaśāstra* type document is suggested by a seventh century inscription from pre-Angkorian Cambodia :

« Thus, an inscription of A.D. 668 refers to two ministers educated in the *Dharmaśāstra* and *Arthaśāstra*. These are brahmanic treatises on law and politics, respectively. In the same century a school of study for the *Dharmaśāstra* was founded in Isanapura. »<sup>57</sup>

In the Buddhist west we have a great deal less evidence about law during this period. Chinese visitors to Sri Kestra in 802 CE described the Pyu legal system in these terms :

« Near the palace there is a statue of a large white elephant 100 feet high, in front of which all those who have grievances kneel, reflecting inwardly about the justice or injustice of their cause ... The inhabitants of the country profess a love of life and a horror of killing. Neither shackles, manacles nor any instruments of torture are used on accused persons, who are simply tied up ... only murder is punishable by death. »<sup>58</sup>

This is a charming vignette, but how much weight can it bear as a historical source ? I am reluctant to base a description of the Pyu legal system solely on this quotation. We know even less about law in the Mon kingdoms of southern Burma before 850 CE. The early European scholarship portrayed the Mons as brilliant legal innovators, who were alone responsible for the adaptation of the *dharmaśāstras* into a Buddhist form. But this view is based entirely on the claims of Burmese texts dating from the 17th century and after. There is absolutely no inscriptional evidence as collateral. All we learn from contemporary epigraphy is that in the Kyaukse the Mon word *samben* was applied to the official who kept the land register, and that the *samben* occasionally acted as a judge<sup>59</sup>. How much weight should we put on the testimony of these late Burmese texts ? We shall shortly see that classic Pagan has a highly developed legal system. Was this entirely their own work, or did they build on existing Mon foundations ? I return to this question in section 2[b].

We have convincing evidence from Angkor and Java, and equivocal evidence from Burma, that the effective reception of Indian

<sup>57</sup> HIGHAM 1989 *op. cit.*, at p. 260. This Isanapura reference is very striking : would such a school be more like to a modern Law Faculty, or a modern Theological College ?

<sup>58</sup> COEDÈS 1968 *The Indianized States of S.E. Asia* [Honolulu] at pp. 104-105.

<sup>59</sup> LUCE 1959 « Old Kyaukse and the Coming of the Burmans » 42 *JBRP* p. 75 at p. 99.

legal thought and procedure takes place between the 7th and 10th centuries. What mechanisms might have brought this about? One possibility is to focus on increased land utilisation and the increase of land disputes that accompanied it. Consolidation of the mandala states applies to their agricultural base as well as their ideology. Part of the king's job was to sponsor new dams and tanks, and, even if he failed in this, his subjects would make their own piecemeal extensions to existing irrigation systems. As the king's functionaries became more competent in writing, they began to control questions of land ownership and labour utilisation by way of a land register. This could have been the Trojan Horse by which the idea of the superiority of written law began to prevail. Setting up such registers benefitted the king rather than the farmers. If the king runs the register, he has ultimate authority over existing land utilisation. It becomes plausible to describe the king as 'Lord of all the Lands', not in the sense that feudal ideas of ownership prevail, but in the sense that he can decide any dispute about land utilisation.

We can in addition look at the spread of literacy beyond the palace walls. If ordinary litigants can read a text which they have been told contains the rules of substance and procedure, then they will base their arguments on the text. Dispute settlement will begin to depend on more legalistic arguments. One example of this is the ninth century 'law report inscriptions'. That the winning party thought it worth his while to record his victory in a land dispute shows that two new legalistic arguments were becoming relevant: the *non bis in idem* argument that a dispute once settled should not be reopened, and the *written documents of title* argument, that land ownership can be proved from written sources as well as by the acclaim of neighbours. The king as judge is now faced with a further constraint: as he and his courtiers lose their effective monopoly of literacy, he must pay more attention to the contents of the law texts whose merits he has been extolling in the abstract. A potential rival involved in a dispute with a third party might be able to quote so much written law and written evidence in his favour, that the king must find in his favour, or risk ridicule. Law is on its way to becoming a technical discipline, and the king will not relish the possibility of being publically outsmarted on technical issues. Better for him to delegate the public decision to technocrats.

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Legal specialisation begins, starting with the appointment of royal judges. Having appointed a bank of judges in his capital, the king can have it both ways : he can avoid the opprobrium of an unpopular decision, but still influence it privately with a word in the judge's ear. If necessary, he can intervene publicly : as king he is by definition the supreme judge, 'wielder of the rod of punishment' and 'lord of life'.

If we mean by 'the reception of Indian law' that a S.E. Asian king had a copy of an Indian or Indian inspired law text in his library, or on display in his throne room, then the reception probably took place in the first half of the first millenium. We can read the 'History of the Liang Dynasty' report that « In the 5th century an Indian brahmin named Kaudinya changed the rules of Oc Eo according to the customs of India » as indicating that Kaudinya called for the veneration of a particular Indian legal text. But if we mean by 'reception of law' that the Indian text should actually govern dispute settlement, then the reception appears to have begun in the ninth century in Java and Angkor, and up to two centuries later in the Buddhist west. If an Indian law text is to fit seamlessly into the prevailing ideology of a mandala kingdom, we would expect to find it where Hindu Gods have staked their claim. Buddhism's hostility to caste may have been exaggerated, but it certainly existed. A Buddhist mandala king may be impressed by the generic idea of the dharmaśāstra, by the notion that legal rules can be written down in a single document, but he would find much of the content of the dharmaśāstras irrelevant to his needs. By the thirteenth century at latest the kings of Pagan had acquired 'Buddhist' law texts, modelled in a very general sense on the dharmaśāstras, but containing a great deal of local content and Buddhist ethics. In areas like land ownership and regulation of labour these texts are clearly written codifications of the endogenous oral 'rice plain law'. In areas relating to court punctiliousness and the respect due to Brahmins they are clearly adaptations of dharmaśāstric models. The great unanswered question is whether the thirteenth century dhammathat texts were based on ninth century models. If so, we can confidently talk of a ninth century reception of Indian law applying to all the consolidating kingdoms of S.E. Asia. And if so, it is more plausible to argue that this legal reception was the last essential precondition of the rise of empire.