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The Nature and Significance of Thailand's Adoption of Roman-Law Occupatio : Towards Ascertainment of Adaptation and Economic Impact

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Abstract : *Thailand's pramul-kotmai-paeng-laepanich (ประมวลกฎหมายแพ่งและพาณิชย์), Civil and Commercial Code (CCC) ,in its sections 1318-1322, has readily embraced the Roman private-law principle of occupatio to serve as the foundation stone of its counterpart in the form of karn-koa-tue-ow (การเข้าถือเอา) or appropriation , though, admittedly, the choice was not freely made but forced upon the country (known as Siam until approximately the first half of 1939) by the exigencies of her survival-oriented diplomacy. Incidentally, the gamble has paid off handsomely, as she has managed to retain her independence amid other South-East Asian countries' falling prey to colonization. While the scope of the principle has been curtailed to suit the country's peculiar circumstances, the hard fact remains that its adoption reflects the overwhelming Romanness of the Thai law of property. The quintessence of what could be termed the 'Roman-Thai' exercise lies in confining the scope of occupatio to movables as well as a relatively liberal judicial interpretation of what it connotes in practice. By contrast, the Roman overarching template applied to all manner of res nullius (ownerless property), immovables as well as movables being brought into the fold. It is argued that, for a number of institutional reasons, application of the principle in Thailand has led to an outcome quite unlike that which obtained in ancient Rome. It is also argued that the Romans gave a free rein to the principle since it was derived from the 'universal' ius gentium rather than ius civile accessible only to the Romans. Ownership rights grudgingly granted by the Roman state to people who, to Roman eyes, did not deserve treatment by ius civile were as easy to come by as the scope of their applicability was limited; for 'universal' ownership was so flimsy as to be coterminous with possession such that losing possession entailed concomitant disappearance of ownership. Moreover, if owning a thing meant enjoying its use (ius utendi), as was the case under the exclusive ius civile, apparently, its owner according to ius gentium could not expect to deal with such circumscribed ownership in the same way as Romans would under their much-coveted ius civile. It is the thrust of this paper not only to ascertain the exact nature of adjustment Thai jurists have brought to bear on the crucial Roman principle but also to assess its economic significance for Thai society. Of course, on paper the time-hallowed alleviation of the plight of the impoverished masses as well as the recent tremendous rates of growth the Thai economy could be attributed to the exploitation of occupatio but one needs to ask why the longer-standing transplant has begun to make itself felt on the Thai economy only recently. The actual causality thus needs to be further scrutinized, not least because there may have been other factors at work.*

I. Introduction

To begin with, comments on inter-system borrowing, post-transplantation adaptation and the wellspring are in order. That a legal system should thrive and develop by borrowing from others is to be expected; for no legal system taken in isolation is self-sufficient. Transplanting also avoids the need to reinvent the wheel. Adaptation of transplants is equally natural, as circumstances in the host society may not exactly match those of the role model, not least because of possible temporal and spatial disparities. In particular, the choice of the template system is crucial. Roman private law has for thousands of years passed the test of time in quasi-laboratory conditions and may therefore be said to have generated consistent economic growth in an area as far-flung as the European Union[1]. Recent research findings suggest that such a stable legal infrastructure as

1 The Roman Empire, like the European Union, was confronted with the constant need to have its boundary redrawn, not least because of assimilation of new *coloniae* acquired through conquests that helped to alleviate the population pressure on Rome.

had been derived from Roman law is crucial for vibrant economic growth.[2] Moreover, there is evidence that a society that adheres strictly to the rule of law is not only more egalitarian but also succeeds economically .[3] Of course, while the choice of Roman private law was not freely made but imposed on the country, its unintended consequence remains that the need to reinvent the wheel has thereby been averted—a veritable blessing in disguise.

This paper will start the ball rolling with tracing the evolution of Roman *occupatio* from the classical to the postclassical period and assessing its possible impact. Scrutiny of the Roman template is destined to deepen our understanding of its workings and point to possible erratic pathways to be avoided and possible success stories to be replicated. Assessment of its impact on the Roman society is meant to identify institutional and other forces at work that could be compared to the outcome of the subsequent Roman-Thai experiment. The account of the Roman template and its social consequence is then followed by treatment of adaptation of the role model by Thailand's CCC and other pieces of municipal legislation and judicial interpretation. The paper ends with an assessment of the probable economic impact of Thailand's adoption of the principle of *occupatio.* Of course, it cannot be categorically stated whether invocation of causality is the right thing to do, not least because economic phenomena are by their nature complex, and any cause-and-effect assessment inevitably involves the use of value judgements on which there can be no ready agreement.

No attention will, however, be given to the transboundary implications of *occupatio* that could perhaps be treated in a separate paper. In this connexion, it must be recognized that the Roman role model has had its powerful offshoots in international relations and law as well as municipal law. Quite apart from the white man's ostensibly disinterested accomplishment of the extra-legal , cultural burdensome *mission civilisatrice*, the legal principle of *occupatio* has had striking instances of application in the Europeans' frantic scramble for colonies in Asia and Africa as well as Australia and New Zealand where he has managed to exert his dominant power over the so-called *terrae nullius* (no-man's lands) . In a similar vein, at present China appears to bank on this in its claim to islands in the South China sea that is heatedly contested by her neighbours, and there seems to be no end in sight to the long-running dispute despite the International Court of Justice's having frowned upon it in its advisory pronouncement.

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II. Roman private-law *occupatio* in theory and practice

Roman private law was something of a bipartite entity, consisting, as it did, of *ius civile* and *ius gentium*. For its part, *ius civile* was reserved exclusively for Roman citizens (*cives*), while *ius gentium*, a law of nations (*gentes*) , a *Völkerrecht* of sorts, was invented by the Romans for use in transactions where aliens were involved, though one of the parties could have been Roman[4]. Nevertheless, *ius gentium* was a legal system considered inferior to that of *ius civile*[5] .

In ancient times, to decide who was eligible to avail themselves of a given system of law the 'personality' principle instead of the contemporary one of 'territoriality' was employed such that resident aliens in Rome who did not hail from states with proper treaties with Rome were naturally denied access to *ius-civile* devices. Incidentally, the Romans treated aliens who generally spoke neither Latin nor Greek or spoke them with an accent with disdain and regarded them as their cultural inferiors or barbarians (*barbari*).[6] In such extreme nationalist and racist circumstances, to grant aliens ownership rights according to *ius gentium* was a great concessionary gesture on the Romans' part. As *occupatio* was a *ius-gentium* mode of ownership acquisition, the outcome of the process seems accordingly to have been, as will be argued, qualitatively inferior to that of *ius civile*. In particular, when it came to adjudication of disputes, the choice of the applicable law thus

[2] Douglass C. North, *Institutions, Institutional Change and Economic Performance, Cambridge University Press,* 2019.

[3] The *Economist* ,January 25th-31st 2020, 'The lawless and injustice party', pp.12-14.

[4] Max Kaser*, Roman Private Law*, 2nd ed., Durban Butterworths, 1968, p.24.

[5] W.W.Buckland and Arnold D. McNair, *Roman Law and Common Law, A Comparison in Outline*, 2nd ed., Cambridge University Press,1965,pp. 20 and 25.

[6] Stephen P. Kershaw, *Barbarians, Rebellion and Resistance to the Roman Empire,* Robinson, 2019

rested, like the biological clock sticking steadfastly to jet travellers, on the above-mentioned personality principle. The ingenious invention of *ius gentium* for application to cases where aliens were involved averted the need to resolve a possible conflict of laws in a system banking on the personality principle.

According to *ius gentium*, the first taker of a *res nullius* (an ownerless piece of property) became instantaneously its owner[7]. By contrast, according to *ius civile*, such first taker could claim no more than possession on the basis of a legal cause (*causa possessionis*). Such cause was exemplified by abandonment by owners (*pro derelicto*)[8] and without it taking possession of *res* (a piece of property) would be illegal. Some authors go so far as to assert that the *ius-gentium* first-taker rule is part of the law of the jungle[9] . However, in the unregulated jungle there is no observation of the first-come-first-served practice and the most powerful, in spite of their being a latecomer, ultimately prevails. The same authors assert that the prior appropriation principle (*qui prior est tempore, potior est iure)* that underlies the first-taker rule is a no-nonsense rule of thumb that fits in well with common sense. However, its use has to be circumscribed in order to avoid unjust consequences. Thus it can by no means be accepted that an upper riparian state of a river that first appropriates its waters has the monopoly of its use without regard to the interests of lower riparian states that should have an equal right of access to it. In a similar vein, in the interests of intergenerational equity, the present generation cannot be allowed to squander the environment to the detriment of posterity that includes those who are yet to be born as well as those who are now alive and kicking.

The quintessence of *occupatio* is appropriation or, to use the *ius-civile* phraseology, *possessio*, of which the *locus classicus* is the pronouncement by Paulus (Paul), an eminent classical jurist. *'Apiscimur possessionem corpore et animo , neque per se animo aut per se corpore.'* (We acquire possession by physical and mental acts, neither by a mental act alone nor by a physical act alone).[10] The requisite mental act is that of an exclusive owner, that is *animus domini*, and its physical counterpart is effective factual control exercised over a property-object, to use common-law parlance[11]. In other words, in the Paulean scheme of things, for possession to obtain, neither element, though necessary, is sufficient; only the two elements combined together make up necessary and sufficient conditions. Of course, Paul did not define *possessio* but simply confined himself to prescribing how it was to be acquired, it being limited only to *res corporales* (corporeal things) or property-objects, at any rate during the classical period.

Res nullius that were susceptible of *occupatio* could be both immovables and movables that had no owners, examples being wild animals (*fera bestia)* or emerging islands (*insulae natae*) in the sea. This was made clear by Gaius, a more eminent classical jurist and possibly the sole authority with complete surviving works on the classical law: '*quae occupando ideo adquisierimus quia antea nullius essent, qualia sunt omnia quae terra mari caelo capiuntur'* [12] (What we have acquired by *occupatio* on account of an absence of owners such as all the things appropriated from land, the sea [and] the sky.) This was supplemented by '*Itaque, si feram bestiam aut uolucrem aut piscem ceperimus,quidquid ita captum fuerit statim nostrum fit, et eo usque nostrum esse intellegitur donec nostra custodia coerceatur'*[13] (Thus, if we capture wild animals or birds or fish, we are immediately their owners and are so deemed as long as they are under our control).

Fera bestia referred to by Gaius were naturally wild animals and had to be distinguished from such domesticated ones (*mansuetae naturae)* as dogs and cats. Of course, there might have been problems with similar varieties living at large and those kept at home as well as hybrid varieties that defy watertight classification. Whether a particular specimen belonged to one or the other depended, however, not on its own peculiar characteristics but on the species legally defined to which it belonged. Of course, wild animals and domestic ones came under different rules governing ownership. Once a bird, always legally considered a wild animal, flew away from its cage, possession was lost, and it became ownerless or *res nullius* susceptible of

[7] Joseph Kelley, 'Roman Law' in Charles Herbermann (ed.), *Catholic Encyclopedia*, Robert Appleby Company, 1910.
[8] Kaser (1968), p.109
[9] Andrew Borkowski and Paul du Plessis, *Textbook on Roman Law*, 3rd ed., Oxford University Press, 2005,p. 182
[10] D.[*Digesta*] 41.2.3.1
[11] Phil Harris, *An Introduction to Law,* 6th ed.,Cambridge University Press,2005, p.119.
[12] *GAI INSTITUTIONUM,II(DE REBUS)*,66
[13] *Ibid*.,67

occupatio under *ius gentium* again. On the other hand, when a dog or a cat that happened to stray away from its owner's house was detained by an outsider, this constituted theft (*furtum*), ownership under *ius civile* not being lost by such dispossession.

The *ius-gentium* regime is thus clear: ownership and possession were coterminous such that ownership was lost with the loss of possession. There existed, however, one exception of wild animals acquiring the habit of returning home (*animus revertendi*). Here anybody who captured it while it strayed from home or was sent on such a mission as carrying messages committed theft and its owner had the exceptional right of recuperation (*ius vindicandi*), thereby assimilating it to the *ius-civile* regime. Outstanding contemporary examples were homing pigeons (*columbae cum animo revertendi)* extensively used to carry messages during the Second World War by Nazi Germany as well as the Allies.[14] With this exception the Roman jurists may, however, be considered to have overreached themselves;[15] for, in a dispute, the burden of proof resting on the person claiming ownership would have to be discharged somehow in a law court. Moreover, unless it had duly been tagged, an outsider would have no means of telling whether a particular wild animal constituted the exception and, if they happened to decide to capture it, they could well unwittingly and unjustly be accused of theft.

Because of a relatively tardy legal development *res nullius* included, up to the classical period, as Gaius can be seen to have confirmed above, only things that never had owners. It was only in the post-classical period that abandoned things (*res derelictae)*[16] including land were brought into the fold as well—perhaps as an afterthought. This, however, may perhaps have been a blunder on the Romans' part when viewed both at the theoretical and public-policy levels. Ownership of *res derelictae*, before they were abandoned by their owners, had originally been under *ius civile*, while ownership of things that never had any owners came under *ius gentium.* In other words, it amounted probably to a shoddy effort to bundle together incomparables. One unintended consequence could be that, instead of having to wait for 30 years for longest-time prescription (*longissimi temporis praescriptio*) , the latest form of post-classical adverse possession, to mature into ownership under *ius civile,* a fast tract to instant ownership of a plot of land under *ius gentium* was now made available to Romans. Aliens who could not hope to profit from such *ius-civile* prescription were also given an opening, though ownership under *ius gentium*, as has been repeatedly argued, was a different kettle of fish from its counterpart in *ius civile*. Of course, this could have been just a theoretical possibility never realized in practice, as Roman sources have made no mention of it.

It appears that *ius-gentium* ownership implied holding a property-object merely for use(*ius utendi*) and Roman sources do not refer to abilities to alienate or destroy (*ius abutendi*) or recuperate *(ius vindicandi)* it in cases of loss of possession , as could be expected in the *ius-civile* bundle of ownership rights. In any case, where ownership coexisted with possession, *ius vidicandi* would have no meaning except where the straying wild animal had, as already noted, *animus revertendi*. Moreover, for aliens, apparently, no matter how long-lasting their possession was, it could in no case morph ultimately into proper *ius-civile* ownership of which they could not avail themselves.

If aliens could make use of *ius gentium*, Roman citizens were seemingly no less eligible and they could exploit it with greater effect. This applied in particular to abandoned things (*res derelictae*) subsumed, as noted, under the *res-nullius rubrique* in the post-classical period. The Roman citizens in question would be pampered initially with award of a 'bonitary' ownership[17] by the praetor (supreme administrator of laws) who would do his utmost to protect it against outsiders' interference until *ius-civile* ownership was eventually secured through *usucapio* (adverse possession) at the maturity of the possession period.

In practice, despite an impression to the contrary gathered especially from scenes of public slaughtering of wild animals, the ancient Romans appear to have made a relatively non-consumptive use of *occupatio* such that whatever environmental degradation there was could not properly be attributed to it.

[14] Gordon Corera, *Secret Pigeon Service, Operation Columba, Resistance and the Struggle to Liberate Europe*, William Collins, 2018.
[15] Borkowski and du Plessis (2005), p.183.
[16] L.B. Curzon, *Roman Law*, MacDonald & Evans, Ltd.,1966, p.73.
[17] W.W. Buckland, *A Manual of Roman Private Law*, 2nd ed., Cambridge University Press, 1957, p.114

Relatively austere woodland in Rome, unlike lush tropical rainforests in contemporary Thailand, was probably not looked to as a principal source of building material as well as food. Admittedly, as the poet Juvenal, in a memorable picture of life in the overcrowded apartment blocks *(insulae)*, the masses' typical residences, most Romans lived in a city propped up by 'flimsy boards'[18] which could have come from local as well as overseas forests. In any case, the principal source of foodstuffs for the impoverished masses lay elsewhere. At least 200,000 men and their families amounting to three-quarters of the population of Rome of one million, making it a uniquely sizeable ancient urban agglomeration, depended on free State handouts of grain which was the staple item of food. In fact, 400,000 tons of grain had to be imported into Rome annually, and if the home harvest happened to be inadequate and the grain ships from Egypt were delayed, the poor would become restless.[19] While such wild beasts required in vast numbers for the immensely popular public games as rhinoceros, camels and crocodiles were imported from Africa, wolves hailed from Ireland and bears from Scotland[20]. Of course, the whole empire was also scoured for other wild beasts such that substantial areas of the Empire were deprived of their native wildlife, though this could not be blamed on exploitation of *occupatio*. The economic impact of the application of *occupatio* on the Roman environment was constrained not only by legal circumscription of the concept and public policy on imports but also by the use of regulation through concessions practised in such resources-depleting activities as mining[21].

III. Thailand's reception of *occupatio*: legislation and judicial interpretation

Karn-koa-tue-ow (การเข้าถือเอา), occupation or appropriation, enshrined in sections 1318-1322 of the *pramul-kotmai-paeng-laepanich* (ประมวลกฎหมายแพ่งและพาณิชย์), Thailand's *Civil and Commercial Code* (CCC), as it is, constitutes the kernel of the Thai law of property, though, as noted, it has not been originally home-grown. Again, as already noted, Roman-Thai adaptation has confined the process only to movables.

For its part, section 1318 of the CCC laying down the principle of appropriation is hedged in by two constraining conditions, namely, legal prohibition and infringement of other people's rights. The former refers to restrictions imposed by specialized forestry and fishery legislation and its counterparts on such protected animals as wild elephants making it impossible for people to appropriate specific wild timber and animals and protected marine species without official authorization. The latter constraint that did not exist in Roman private law appears, according to section 1322 of the CCC, to be the prior right of the person who first incapacitates a wild animal as well as the owner of the plot of private land on which the animal is found dead.

Sections 1319 and 1320 of the CCC between them define counterparts to Roman *res nullius*, the former referring to movables that are *res derelictae* and the latter to wild animals remaining at large. Such wildlife includes wild animals escaping from their captors who fail to recuperate them and domesticated ones that have lost their *animus revertendi*, constituting a crucial Roman exception, as noted earlier, but relegated to the periphery in Thai jurists' hands. The scope of *res nullius*, is, however, further extended in section 1321 of the CCC to include wild animals captured not only in wastelands and public waterbodies but also in private lands and waterbodies provided that their owners do not prohibit such capture. This section of the CCC thereby assimilates wild animals captured on some private property into Thai counterparts to Roman *res derelictae*.

If Thai codified law construes ownerless movables in the broadest possible sense of the term, judicial interpretation extends it even further, possibly in line with the spirit of the Roman post-classical welfare-state [22] conceived in favour of the impoverished masses. Thus, in *deeka* (ฎีกา), decision of the Supreme Court, no. 1055/2481[1938], it was ruled that a bird's-nest in a cave, while it was, in principle, awarded to a concessionaire, remained ownerless pending actual appropriation by the concessionaire, thereby making a prior appropriator an owner in his own right and a non-committer of theft. In a similar vein, in *deeka* no.

[18] Charles Freeman, *The World of the Romans*, Oxford University Press, 1993, p.122

[19] *Ibid.*, pp.122 and 126.

[20] *Ibid*., p. 135.

[21] T.A. Rickard, 'The Mining of the Romans in Spain' in the *Journal of Roman Studies*,vol.18 (1928)

[22] Kaser (1968), p.5.

2727/2537[1994], it was decided by the Supreme Court that, when a bird's-nest harvested in such circumstances was offered for sale, a buyer could not be accused of receiving a stolen good. For their part, forest concessions have been treated in much the same way. Thus in *deeka* nos. 1046/2493[1950] and 1047/2493[1950] it was decided by the Supreme Court that a prior appropriator of a tree top in a concessionnaire's allotted part of a public forest, like a bird's-nest, remained in its ownerless state pending the concesionnaire's actual appropriation and was thus susceptible of prior appropriation by an outsider. It is significant that such a liberal construction is put on the term 'movables' that even parts forcibly extracted from trees that are immovables become movables in their own right, presumably as long as the stability of wild vegetation is kept intact in the process. Such decisions can be seen to be so momentous as to make much of the flora as well as fauna found in public forests amenable to appropriation; nor can a government concession granted to a private individual, unlike the Roman role model, be used as an effective bar to such action. In other words, their lordships may be said to have gone out of their way to push the notion of appropriation to its logical limit. It is to be expected that Roman-Thai law will undergo continuing adaptation through the Supreme Court's *jurisprudence*, as further cases come to it for its ultimate pronouncement.

IV. Possible impact of Thailand's exploitation of *occupatio*

Thailand, unlike Rome that nevertheless reeled, as already noted, under a tremendous pressure of the burgeoning population, appears to have made much more of the consumptive use of *occupatio* such that forest and marine resources have faced the danger of ultimate depletion, as population pressure and relentless large-scale commercial exploitation have not allowed them to renew themselves naturally. It is suspected that recent environmental degradation has come about not as a result of a legitimate reliance on the legal framework of *occupatio* but rather overstepping the legal boundaries and laxity in the enforcement of environmental law in the face of the vested interests of the commercial and industrial classes. These powerful, hard-nosed upper strata of society are believed not to have missed the opening afforded by the notorious 'government failures' to exploit bureaucrats' connivance. Ironically, such failures are unintended consequences of ostensibly well-meaning efforts to 'correct' the no less notorious 'market failures'.[23] For their part, the impoverished masses especially in the countryside have, for many past generations, learned to live off nature, certainly before the promulgation of the CCC initially in 1928. In defence of their action they generally invoke their ancestral right, that amounts to intergenerational vicarious appropriation, a concept more sophisticated than the comparatively simplistic Roman notion of *occupatio*. Thus the relatively late advent of the transplant that has in no way affected their day-to-day livelihood has not come to the masses as a surprise: they have naturally taken it in their stride. In any case, the negative impact of their action is unlikely to be as overwhelming as that resulting from large-scale commercial exploitation, not least because of the breathing space provided by migration of rural labour seeking employment abroad as well as in urban centres at home and rural masses' time-hallowed adoption of the green ideology as revealed in research findings.[24] Admittedly, there is nothing particularly remarkable about the phenomenon; for *ahinsa* (non-violence)[25] to others including Mother Nature, a central tenet of Buddhism clung to by the majority of the populace, has been found to be indispensable if their nature-dependent livelihood is to be sustainable. Cynics would claim that, in making a virtue of necessity, the rural poor have turned out to be 'enlightened realists' .Thus what the comparatively late advent of the *occupatio* transplant has done has been confined to legitimizing the practice of long standing tolerated in a regime that had no acceptable response to the grass roots' claim to an ancestral right—a regime that had, by default, become permissive. That living off nature has allowed the rural masses to eke out an existence and indeed to improve their levels of living can easily be seen in casual visits to morning markets and souvenir shops in towns bordering on public forests in the forested North and North-East together with the extensive seaboard : they depend on forest and marine produce not only for home consumption but also for market sales to supplement their meagre income. The extent to which their real as opposed to money income has been augmented cannot,

[23] IBRD*, World Development Report 1988,* p.49; Richard A.Musgrave and Peggy B. Musgrave, *Public Finance in Theory and Practice*, 5th ed.,1989,McGraw-Hill, pp.4-6.

[24] Prachoom Chomchai, *Environmental Governance: A Thai Perspective*, a research paper for the World Resources Institute's MREG project, Washington D.C.,2001

[25] en.wikipedia.org/wiki/Ahimsā, accessed 18 August 2020

however, be found in official statistics but can be ascertained in systematic sample surveys, thereby making their improved *modus vivendi* and the enabling *occupatio* transplant plus factors in the scenario.

The foregoing reasoning suggests that the rapid economic growth rates of the Thai economy experienced especially in the late 1950s and 1960s and consequential environmental degradation could not be put down to the exploitation of the *occupatio* transplant that had been put in place decades earlier. The sudden spike in demand for exports of forest- and sea-based products leading to the sudden emergence of a world-class fishing fleet, at any rate in its size, have perhaps conspired to generate illegal activities that would have been undertaken in any case—that is, even without the enabling legislation. A piece of telltale evidence is the authorities' unequivocal acceptance of the European Union's charge of illegal, unreported and unregulated (IUU) sea-based fisheries and ready agreement to take remedial measures. Scientifically, however, data on domestic as well as export demand for forest-and sea-based products need to be further scrutinized to arrive at the actual causality involved. As for the role of illegal activities perhaps discreet surveys and interviews may help to throw some light.

V. Summary and Conclusion

Because of possible temporal and spatial specificity, albeit duly watered down by the wellspring's adoption of a uniquely common-sense-dependent approach, transplanting a device evolved thousands of years ago in a European polity to meet the peculiar needs of a contemporary South-East Asian legal system cannot be expected to proceed without a hitch. It has also to be remembered that the device has been detached from its context of free handouts and other welfare-state institutions. Adaptation has thus been the order of the day and has fortunately been helped by a flair for adaptation enjoyed by Thailand (known as 'Siam' , as noted earlier, up to approximately the first half of 1939),an outstanding example being her fare—originally bland but reinvented with the centuries-old injection of common spices and chillies to make it more palatable--that has put the country on the world's gastronomic and culinary map .

The Roman private law of *occupatio* was particularly slow in its development, perhaps owing to its inherent conservatism also revealed in its retention of so-called 'fossils' perceptible also in other legal branches: up to the classical period, only things that never had owners like wildlife were contemplated. It was only in the post-classical period that *res derelictae*, things abandoned by their owners, were brought into the fold. The Thai Civil and Commercial Code has taken over Roman *res nullius* (ownerless property), without wasting time on any gestation, in the post-classical ready-made version, albeit without the exception of *animus revertendi*. Nevertheless, Roman-Thai law has introduced substantial changes into the Roman prototype. First, only movables are envisaged such that it looks *prima facie* as though much of wild vegetation might be beyond appropriation. Secondly, the scope of wildlife, fauna as well as flora, the crux of the Roman template, is so circumscribed by specialized legislation that much of forest-based animals and plants and marine species are in danger of being placed out of bounds. Fortunately, a liberal judicial interpretation of the written law has managed to save the day, at any rate as things have so far turned out. If the philosophy behind the Roman template appears to have been to avoid inertia-generating monopoly and to incentivize competition by giving *ius-gentium-occupatio*-derived ownership a mere semblance of *ius-civile*-derived true-blue ownership, such Roman legacy has not been lost on their lordships who have played a critical role in Roman-Thai adaptation. To their eyes, even concessions do not lead to instant ownership; for they leave elbow room for resourceful outsiders to become prior appropriators in their own right. If the *raison d'être* of concessions is conservationism, such interpretation may be said partly to nullify it, though it helps to eradicate a possible monopolistic mindset and afford the handicapped masses access to ownerless property, a staple indispensable to their livelihood. Again, their lordships have made it possible for the impoverished masses to avail themselves of all manner of wild vegetation: once a part of it is extracted, presumably without disrupting the stability of its system, it becomes, by a sagacious sleight of hand, a movable object-property amenable to appropriation.

With continuing adaptation of the Roman template to be expected in other areas as well as in *occupatio*, the consequential law of property may be characterized as Roman-Thai along similar lines to the world-class Roman-Dutch adaptation which has spread globally far and wide, South Africa, Indonesia and Sri Lanka, to name just a few outstanding examples, having imported it. Once Thailand has been through with its ongoing adjustment of the Roman prototype, it is, however, intriguing to speculate whether it will readily be

taken up by her neighbours, as has been the case with the *baht* (*ngern-bat* เงินบาท), her currency, that has been extensively used for cross-country transactions. Certainly, the fledging Roman-Thai version is merely a poor relation to its well-established Roman-Dutch counterpart and still has a long way to go in its further development, though a critical factor determining the choice of which of the two to import will perhaps be compatibility between the wellspring and the importing system that may happen to favour the Roman-Thai model.

The legal framework and economic activities being intertwined, it is natural to expect Roman-Thai *occupatio* to make itself felt economically. In fact, the Thai rural plebs have, on account of their indigenous claim to an ancestral right, traditionally depended on nature for their livelihood, and the relatively late arrival of the codified principle of *occupatio* in the late 1920s has done no more than legitimizing the time-hallowed practice. If the principle can claim to have alleviated the plight of the masses, its impact on the overall economy may have been a mixed bag. While the recent rapid growth of the Thai economy with the concomitant environmental degradation can be traced to the burgeoning world demand for forest- and sea- based products, it is difficult to determine the extent of the impact of a legitimate exploitation of the principle. After all, the transplant has been in force since the late 1920s without any appreciable effect, favourable or otherwise, on the economy. That it has remained dormant for some time and should have made itself felt only recently needs clarification in further research that should pinpoint the exact causality involved and determine, in particular, the extent of the underground economy involving illegal activities, perhaps along Colombian lines, as a crucial factor propelling economic growth.
