

Ethics of the Legal Profession of Thailand

Professor Vicha Mahakun*

Dean, Faculty of Law, Rangsit University

Former National Anti-Corruption Commissioner of Thailand

ABSTRACT

This research aims to 1) study the development of ethical principles of lawyers in the legal profession making a comparison between those in Thailand and of foreign countries, 2) analyze the ethical problems faced by lawyers and the impact on Thai society at the present time, 3) analyze the mechanism used in controlling unethical behaviors of those in the legal profession, and 4) find solutions to the problems relating to ethical principles of those in the legal profession.

Mixed methods consisting of qualitative and quantitative research methodology are used in this study by means of collecting and analyzing the data and information received from the research subjects. Findings from the research reveal that the development of ethical principles can be divided into two major categories: (1) unwritten ones, namely norms, beliefs, traditions, customs, the Royal Order etc. and (2) written ones, namely code of law, rules, regulations, and circulating memorandums, etc.

In the beginning, Thailand adopted the concept of ethics in the legal profession from India, as appeared in the Indapas Principles and the Law of the Judicial Procedures. This was a combination of good norms and Buddhist beliefs with a policy of political administration. Later, all of these were included as part of the Law of the Three Seals. When Thailand began to trade with Western countries, her administrative system, legal system, and culture were reformed along Western lines.

This was done in order to defend the country from Western colonization. Moreover, Thailand had to modernize the country in line with the west. Since that time, Thailand has gradually developed her legal system following that of western countries. At present, the concept of ethics in the legal profession is a combination of East and West. This concept has been developed into rules, regulations, ideology, quality, and features. Each legal profession has been regulated by law. The law determines the mechanism to investigate and dismiss a lawyer from their position in case of a failure to obey the law and to authorize the organizations or committee to control and/or investigate the person.

The Results of this comparative study concerning the concept, philosophy, and development of professional ethics between those of Thailand and Western countries reveal that the determination of the offence patterns and the judges' professional ethics regulation as appears in the Law of the Three Seals regarding bribery misconduct, one of the most serious misconducts in the professional ethics of lawyers, are similar between those of Thailand and Western countries. It is recognized by both Eastern and Western countries that bribery is a significant motivation and influences biased decision making of those who practice law.

*Professor Vicha Mahakun and the Research Group has researched this important work between 2011–2013 for reforming the Thai Legal Profession.

*Co-Authors – Mr.Utit Buasri , Ms.Karitta Darasorn and Mr.Pattanapong Chanpetpul.

Concerning the origin of the concept and its relations, we find that there is a difference. That is, the Law of the Three Seals seems to focus on elevating the mental level of the judges: to separate between personal and public feelings so as to become neutral in judging their cases. There are religious doctrines regarding merit accumulation, and the feeling of guilt and shame if committing bad deeds. There is also the idea of judges being representatives of the king who is “Devaraja” and whose significant duty is to bring about peace and prosperity for society. And finally, the idea of honor, dignity, value of work, and of judges being recognized by the people and society are used as motivations for the judges to work for the public benefit and for the fair performance of their duties. In the past, knowledge was centered around the temple (wat) and the palace (wang) both of which could be compared to those of universities at present.

They were the learning centers in the fields of religion, law, politics, and administration. Religious ideas and beliefs, the Divine Right of King (Devaraja) Concept, the Law of the Three Seals, the Thammasart and Rajasart Texts laid the foundation for the idea of professional ethics in the legal profession. They also enabled those in the legal profession to develop close relationships with the religious and the royal institutions. For, both institutions have played pivotal roles in the promotion and support of ethics in the legal profession from the past up to the present time.

This is different from the Western law which was originated by the philosophy of the natural law, particularly the concept of resisting and fighting against dictatorial rules, and the application of the philosophy of the natural law.

This, in turn, led to the main concept of professional ethics: The Rule of Law Theory, Principle of justice, and the idea of integrity related to the Separation of power Theory and the development of different disciplines into a standard, responsibility, and discipline of those who perform the legal profession with strict enforcement and were finally concluded into the code of ethics. Philosophers, educational institutions, and professional organizations also support and promote ethics in the legal profession. The major ideas to which Eastern and Western philosophers agree are the concept of justice, the division between goodness and badness, personal, and public ethics.

The values gained from the public if they behave ethically is honor and dignity. Their work aims at providing society with peace, freedom, and justice which are also their ideology, dream, and mission. All these led to the difference between their profession and those of the others.

The institutions and the control mechanism that implements the ideals of the legal progression of Thailand:

1. Thai Bar Association
2. The Judicial Commission of the Court Justice the Administrative Court
3. The Lawyers’ Council
4. Ombudsman
5. National Anti-Corruption Commission

Conclusion of the Analysis of the Interviews and Questionnaire

Findings reveal that the problems concerning the professional ethics of the legal profession to which people and those in the profession agree the most result from a lack of knowledge and understanding about the professional ethical principles. The second problem is the influx of globalization combined with present social values and culture giving priority to materials, money, and power rather than the preservation of professional ethics. This results in, first, the public having lost faith in the legal system and in lawyers. Second, Thai society has been divided into factions resulting in protests, unstable society, chaos, civil disobedience, corruption, people's thinking only of their own benefit rather than the national interest, people not receiving justice and thus paying less attention to ethics, people adopting materialistic values and doing everything for the sake of money, and people using the patronage system, etc.

These have given way to political, economic, and social problems in Thai society. With regard to the mechanism used to control lawyers' unethical behaviors, people and those in the legal profession agree that it is a suitable one. However, they suggest that the implementation of the law be strictly enforced, the patronage system be terminated, ethical consciousness be stimulated among all sectors in society, the teaching and learning system concentrate on the importance of professional ethics, knowledge about law should be promoted to the public, the acceptance process of public complaints be improved, persons with high ethical behaviors, who can be role models for the public, be promoted or rewarded, and the checks and balance system be strictly implemented, etc.

In conclusion, those who perform the legal profession in Thailand cannot avoid changes in the world and society which affect the performance of their profession. Particularly, the social value emphasizing on materialism and consumerism that has led to unethical behaviors of those in the legal profession. Findings from the field research reveal the problems of a lack of knowledge, ability, and understanding in the performance of the lawyers' duties, etc. Such problems as corruptions, lawyers using connections to change a judgment, their giving priority to consumerism, materialism, and power lead to unethical behaviors at a much higher level than in the past.

The results of the survey about public attitude point out that people still have confidence in the legal profession and there is a tendency of higher expectation towards lawyers. This will, hopefully, lead to an improvement in the legal profession, in the development of the legal system itself, in the improvement of the personnel administration of the legal professional organizations, and the indoctrination of the ideology, correct social values, the raising of consciousness, the improvement of the teaching and learning in the legal institution and the improvement of the investigation system of the independent organizations so that they become stronger than at the present time. These measures must be accomplished in order to raise the level of ethical consciousness among those in the legal profession so that they are able to cope with the global economic and social changes and that the legal profession can maintain its honor and dignity. This will, in turn, bring about public confidence and national security.

Finally, the role of the ethics of the legal profession in implementing the Millennium Development Goals are:

1. It can encourage trust of society and create a social standard of justice.
2. It can stop conflicts of interest and maintain social peace.
3. It can solve problems of social injustice and disrespect of the law.

Ethics of the Legal Profession of Thailand

Professor Vicha Mahakun*
Dean, Faculty of Law, Rangsit University
Former National Anti-Corruption Commissioner of Thailand.

Ethics is the ideology or supreme goal that must be reached by personnel in the legal profession. That is “justice”: maintaining peace in society and using reason more than doing something of their own free will. The work of personnel in the legal profession has the great mission of fighting for the righteousness, goodness, and morals of society. The personnel of the legal profession should have better ethics than common people so as to maintain honor and prestige, and to be loved, respected and trusted by public.

It is very difficult to make decisions based on value and perform the duty assigned by the public correctly. So, ethics become a compass and the light that leads personnel of the legal profession toward **the intentional goal** and professional ethics has a duty to separate “professional” from those who use knowledge of the law just to earn a living and to get benefits.

This research studied the development of ethics in the Thai and foreign legal professions and collected the opinions of people, judges, public prosecutors, and lawyers about problem conditions, affected results, and the mechanism of enforcing the law, to find suggestions on how to solve the problems related to ethics in the legal profession.

The result of the study concludes that the legal profession must be a group of persons whose ideology of work is to devote themselves to the service of people concerning the law and the specified characteristics are to work on offering justice to people by having an organization, education and discipline of each specified group of persons to maintain trust, honor and prestige from the public.

Concepts and theories concerning ethics of legal profession.

1. Concept of the rule of law

The rule of law or governance of law, not men. The essence of this concept is that: law is the system of principles or rules to be enforced equally to everyone. The ruler is also under this rule. It's different from personal satisfaction or free-will. A.V. Dicey explained that it was a basic concept with the principle: “No man is above the law” which is the basis and most important principle of the constitution certifying that everybody is equal under the law.

* Professor Vicha Mahakun and the Research Group has researched this important work between 2011 – 2013 for reforming the Thai Legal Profession

* Co-Authors – Mr.Utit Buasri , Ms.Karitta Darasorn and Mr.Pattanapong Chanpetpul.

This principle has two important parts:

1. Equality
2. Reasoning: the important principle is the determination that the state has to treat people under the government with equality, justice, and transparency.

The state procedure is for the public interest. This concept agrees with political philosophy that supports the concept of legal ethics by having a connection with justice and legitimacy.

Any procedure of state officers can be done when it is authorized by law and the authorized state officers have to treat people legally.

The concept of the rule of law puts importance on equality and reasoning that support and agree with the concept and philosophy of justice. This is an important part of ethics in the legal profession that every person in the legal profession has to respect. It is also the principle that relates to the independence of judges because the rule of law aims to protect the freedom of the under governed people so as to be equal and also accords the concept of the rule of power division of Montecquieu, the French philosopher who objected to the use of dictatorial authority of the ruler. State power is divided into & powers: legislative power, administrative power and judicial power. To form balanced power each power has to complement one another and not allow any power to become more powerful so as to affect the standard which is the assurance of the rights and freedom of the people under the state government. The concept of the rule of law is accepted in legal system both in Thailand and in foreign countries. It is an important basis in the drafting of constitution in many countries around the world and it is one of the core principles that international law and international organizations put importance on and consider as an international principle.

Concept of justice

This concept puts importance on not doing anything independently, not being partial, and maintaining equality which prevents conflict between personal and the public interest. The essence is that state officers must not have a private interest in trying a case or doing their duty. That is: They must not be interested in the case they have to try and must be independent from being interfered with by outside influences that will affect the independence and the impartiality of the decision power so as to maintain the confidence and trust of the public because if judges have an interest in the case they are trying, the contestant will suspect that they will not receive justice for the case trial.

Concept of standing firm to integrity.

This concept ensures real lawyers stand firm to integrity and dare to work with honesty both legally and ethically. This concept supports justice and the rule of law and is one of the principles that help maintain public confidence and trust in the legal profession by using this principle in fighting against misbehavior and promoting professional ethics. Moreover, it originates the prohibitions that are the model for drafting the ethical code of judges and persons in legal profession organizations of foreign countries.

Development of ethics in legal profession.

1. Development of ethical principles in the legal profession in Thailand can be divided into forms:

1.1 Non-written form such as moral precept, belief, custom, tradition, royal command etc.

1.2 Written form such as code of laws, edicts, rules, circulars, etc.

In ancient times, control of people's behavior in society was based on tradition, and religious beliefs. The center of beliefs was in temples, religions and families. People in previous times were taught stories of beliefs concerning the sphere of existence: birth _ death _ rebirth, rule of karma, and collection of merit so as to be reborn. Heaven, earth and hell were parts of **the three lanes** taught by clergymen or religious leaders.

Religious construction, for example, were the morals in the temples. The roles of persons in the legal profession in ancient times related to the roles of clergymen. They had the same objective: peace in society and of all human beings as the law related to morals. They promoted and supported each other. Sometimes, however, they are in conflict. A quantity of work of persons in the legal profession, seems to come from conflicts caused by people in society. From inequality caused by greed, anger, or delusion of the people in society that seems to be "spiritual illness." So, the role of the persons in the legal profession in each period is not only in preserving innocence and justice but also curing spiritual illness of the people in society just as a doctor might cure a patient at the same time, preserving ethics and morals of the society.

The study found that the development of law concerning ethics in the legal profession today in Thailand is influenced by the moral precept from India since at that time India was one of the centers of religious beliefs, culture and trade in the eastern world. When Thais began diplomatic communication with other countries the cultures of those countries were adopted. Moreover, Brahman who are from India and settled in Thailand had occasion to work in the royal court. This led to the handing down of moral precepts, tradition and "The Rules of judges" or "Lak Intapasa" which is the legal principles used in considering the cases to the state ruler.

Later, in the reign of King Rama I, the Great of Chakri Dynasty, the law was renovated by royal command and was stamped the "Three Seals of State." It is accepted as the old code of Thai law which has legal principles enforced continually from the Ayuthaya period to the commencement of Ratanakosindra period and in the important documents that lawyers and historians use as reference for studying the principles of ancient Thai law.

In this "Law of the Three Seals" concept and moral precept concerning ethics in the legal profession were recorded by combining religious belief: rule of karma, belief of sin and making merit, rebirth, and judicial ethics: prohibitions and punishment in cases being against the prohibition. This can be seen in "the Rules of Judges" under "Law of the Three Seals"

Those rules are the sources of judicial ethical principles with the determination of ethical principles of **behaving** without 4 prejudices as follow:

1. Without partiality because of love
2. Without partiality because of anger
3. Without partiality because of fear
4. Without partiality because of foolishness

Which means: clearing one's mind of greed, anger, vengefulness, fear, foolishness, not knowing suffering and cessation of suffering.

Judges who are without these 4 prejudices will obtain honor, prestige and auspiciousness. When they die, they will be born in heaven but if they decide the cases **partially**, have prejudices, accept bribes and corruption, they will get bad sin and the sin of their unjust decision cannot be wiped out even if they make much merit. In other words, when they die they will go to hell.

This concept indicates eastern philosophy that focuses on upgrading the spirit of the judges by revealing the delicate spiritual classification, screening emotional feelings and personal feelings from duty performing and indicating that love, greed, anger and delusion cause bias and provoke lack of independence in performing one's duty.

"The Law of the Judicial Procedures" is the law that specifies the characteristics of the judges: The judges must be kind to the contestant, take good care of them and must be careful in trying a case. This can be compared with having public mind according to international rule of the present world which in ethics of judicial responsibility: respecting jurisprudence and Royal Decrees in trying a case, following the precept of behaving, believing in truth, being honest, keeping truth, being ashamed and afraid of sin, being faithful and believing in the result of precepts and donation trust in the benevolence of the Three Gems, intending to donate, being grateful and loyal to the king who tries to attain Enlightenment, appreciating all the king's mercy. And they must study to be expert lawyers who have legal know how and be suitable to do their duty on behalf of the king. Moreover, in "the Law of the Judicial Procedures" there is the specification of false characteristics and the process for trying a case for the judges who try a case unjustly. There is also punishment in case of breaking professional ethics.

This moral precept indicates deeply the connection of doing the duty of the legal profession, state governors and religions. Persons in the legal profession are representatives of the state with the king as the state governor. The ancient people believed that the king was an apotheosis or "god to be" authorized by god to govern the earth and as such was the state center and spiritual center of the people in society.

The state ruler or the king has an important objective. That is to govern and maintain a state of peace as well as promote religion that ensures people in society respect moral precepts that will provide a peaceful society. Since peace is the objective of everyone in society, the state governing system agrees with the legal system. The king comes to have important roles in supporting religion. Temples are built because of the belief and trust in Buddhism especially the belief of rebirth and the rules of Karma. Moreover, it is an important strategy to ensure people in the state have moral precepts which will provide a peaceful society without chaos.

Persons in the legal profession in ancient times became authorized representatives of the king or the state ruler, in enforcing the law to stop conflicts among people in the society. Ethics of the legal profession which is in "The Rules of the Judges and the Judicial Law" is to combine moral precepts, religious beliefs and strategy to govern the country that is later collected and determined in the Three Scales of State Law that demonstrate the development of reforming non-written ethics of the legal profession into written form for the first time.

Later, Thailand began to trade with western countries. That caused a reformation of culture, political, governing, and legal systems to be equal to other civilized countries to prevent an invasion by the western countries that intended to colonize. This adaptation was suitable for new western states. In the reign of King Rama V a legal code system was used in

Thailand and the Old Penal Code was legislated determining the misdeeds of officers who do legal duty. This decree indicated ethical mistakes of judges according to western law for the first time. For legal development after that, there was the addition of legal principles, interdictions, and punishment according to western laws that were enforced more and more and used to determine the discipline of legal officials. The determination of the checking mechanism from outer departments was according to the constitution and the inner checking department which is the commission of the court personnel administration and the central professional department in the Bar Association.

For the prosecutors and attorneys, formerly, in the Three Seals of State Law, there was no development concerning ethics in the legal profession since at that time people could bring a case to the court by themselves, so there were no prosecutors or attorneys as in the present time.

A public prosecutor is a state attorney and a state officer so there should be criminal law determining mistakes in professional ethics. In this case, there is the determination of punishment and discipline of a state official. The determination of checking mechanism both of outer and inner departments according to the constitution: the committee of prosecutor personnel administration and a central professional department: The Bar Association, similar to the control of judges.

The public prosecutor is authorized to use state power in the process of justice. It is determined by law to have professional departments for controlling: The Lawyers' Council and central professional department: The Bar Association, and can be verified by people through their complaints.

It can be concluded that persons in legal profession: judges and public prosecutor at present are state officials, whose duty is to keep justice and social peace. Therefore, those who use judicial power are using state power as well.

In case of being against ethics, it can be verified by The Ombudsman and National Anti-Corruption Commission, the Senate, House of Representatives, and people. That is the verification by outer departments for inner verification department, the committee of personnel administration of each professional department under the control of the Bar Association.

Lawyers or attorneys are authorized by the state to use their power in offering justice to the people and helping them according to their rights guaranteed by the constitution. The profession is regulated by the Lawyers' Council which controls professional ethics

Nowadays, Thais have a much stronger concept of ethics of the legal profession in mixing style of non-written and written forms. Ethics of the legal profession has developed prohibitions and ideology qualification and disqualifications which are guaranteed by law for each professional department. The law sets a system of verifying and dismissing personnel from a position in cases of being against serious prohibitions decreed in law. To authorize the department or authorized committee to control and verify.

2. Development of ethics of legal profession in foreign countries.

In ancient times, about the 4th century C.E. In Greece, there was the happening of "Advocates": the duty was to represent a contestant in lawsuits, watching the case, giving legal suggestions and drafting law. "Advocate" was not yet considered to be a profession because there was no official ethical standard, no systematic education, and no process

controlled by discipline and it was forbidden to ask for money for a service. However, a present could be given instead of money.

Later, in the Roman Age, it became a legal profession. Legal duties were done professionally, both advocating and advising. From the 1st century to the 3rd century, in the courts of big cities, the legal profession was supported to be instructed and practiced and there was a standard of controlling discipline. However, when the Roman Empire was broken up, the principles of the legal profession began to fade and over time disappeared.

In England, during the Norman invasion, there were so many conflicts in society that a procedure for solving problems of conflicts both formal and informal was set up. This was the start of the development of professional culture by church courts both in European countries and in England where civil cases and religious cases took place. Proper rules and ways to try a case were set up, and the trial system was developed into “trial by jury”. With this the control of personnel in the legal profession was also further developed.

The study discovered that concepts of ethics of the legal profession began to follow the concepts and theories of western philosophers that were created to resist a dictatorial state governing system. That is to apply the philosophy of natural law so as to originate concepts and important theories of ethics of legal professions: theory of rule of law, rule of justice and the concept of adhering to legitimacy and to hand down systematically, connect and accord with the theory of power division. These concepts were handed down through the legal curriculum in the institutes of law, universities and professional departments to implant ideology so that the public could trust the legal profession to have the same objective which is to keep peace in society, eliminate inequality and injustice in society, and to determine principles as interdictions in the law of professional departments that control and verify.

Ethics of the legal profession are developed to be a standard for personnel in the legal profession, that is responsibility, and discipline of personnel in the legal profession with serious enforced conditions and decreed ethical codes.

Ethical codes of the U.S.A. and European countries focus on general ethics: conflicts of interest are conflicts of personal interest and public interest, confidentiality, competence, and independence. It is probably different in some cases such as confidence, confidentiality, fees and advertising. The structure and departments of the legal profession in the U.S.A. in comparison with European countries.

There are 2 important differences between American and European structures and departments of the legal profession:

Firstly: Persons in the legal profession, especially, attorneys in the U.S.A., are a unitary one but in most of European countries there are divisions of duty. In European civil law countries, there are at least 3 groups of duty performers:

1. Representatives of clients in the court (advocates in French system and rechtsanwalts in German.)
2. Advisers who guarantee used for transferring ownership of movable or immovable property. (“notaries” in French, Italian and Spanish system)
3. Advisers on business negotiation (avouces and juridique in French system)

Secondly: in the U.S.A; there is licensing in each state and there is no national licensing. In most European countries, local or regional courts issues the license for legal professions.

The rules of legal professions in these countries are different according to the differences in politics and administration between the usage of traditional law and code of law. (see complete edition of the research for details.)

In the U.S.A., rules are controlled by the court through the rules and ethical concepts set by the state Bar Association. But in Europe the states control and rule.

Ethics of legal profession: traditional law in comparison with code of law.

Lawyers, both in Europe and the U.S.A. accept the same ethical value: independence of professional judgment, confidentiality of client communication, loyalty, interdiction of conflict of interest. Moreover, there are some differences of lawyer's roles in each country that can be seen in the code of etiquette as follow:

1. The process of drafting the code of ethics is different
2. In the U.S.A. the jurisprudence is used to explain or interpret the code of ethics but in Europe they use an inquisitorial system so the judges come to have more roles in controlling witness investigation than in the U.S.A.
3. There are differences in managing problems concerning conflict of interest in the U.S.A. and in Europe.

In the U.S.A., the clients are allowed to cancel all conflicts after having complete information and must agree willingly. On the contrary, in the code of civil law, there is no provision to do that and believe that if the lawyers consider that it is not conflict, it is not necessary to stop being representatives. In other words, European lawyers intend to accept conflicts as a matter of personal ethics not legal matter. So, conflict is a matter of relation between lawyers and clients.

The managing of discipline in the U.S.A. and Europe are different. In the U.S.A, there are professional staffs that verify under the court control. The process of investigation and judgement if the behaviors break the ethics or not depends on the appropriate procedure according to the constitution in the Fourteenth Amendment that the court will take direct roles on keeping and being security of ethics of legal profession so as to be just and effective.

In European countries, the local Bar Association will investigate and consider the wrong behaviors of the lawyers. The Bar Association is a part of local judicial party and lawyers must be members of the Bar Association.

The result of studying the concept, philosophy and development of ethics of profession in comparison with those of western countries is to discover remarks and conclusions as follow:

1. The determination of what is wrong–doing:

It can be seen that the ethical prohibitions of the legal profession in “The Three Seals of State Law” concerning the guilt of taking bribes which is a very serious wrong–doing in both ancient and present law decrees the same and accepts that it motivates and influences the partial and unjust decision of the persons in the legal profession. In Thailand, it is the same determination of what is wrong–doing in the ethics of legal profession as that of western countries.

However, the source of the concept and the connection is different. The Three Seals State Law puts importance on upgrading a judicial mind. The judges must be impartial. They must put

their personal feelings aside when they judge. They should respect religious principles such as saving up merit, fearing and being ashamed of sin.

To judge on behalf of the King, who is believed to be apotheosis or god – to – be, for the social peace. To use honor, dignity, prestige, value of work, and acceptance from people and society as the motivation to work for the public and to do their duty correctly by having someone who transfers concept and connection among monks and clergymen: in the form of precept, religious beliefs, the King: in the form of royal command and law, Brahm: in the form of custom, tradition, etc. The central places of transferring the concepts are temples and palaces which are the same as universities where religion, law, politics and governing are taught. The origin of ethical concept of the legal profession in former times comes to have the relation and basis of concept and beliefs from religions, the King and The Three Seals State Law, Jurisprudence and Royal Decrees which are worked out by eastern philosophy.

This causes a deep connection between personnel of the legal profession both in the past and the present, and religious institutes, royal institutes and those that take important roles in promotion and supporting ethics of the legal profession to make it continue from the past to the present. It is different from western nations where the ethics of the legal profession come from the concept of philosophy and natural law. The basis of the concept is to be against and to fight a dictatorial governor. It is the philosophy that puts importance on human dignity, inequality, rules of law, etc. Philosophers, education institutes, and professional departments have important roles in promoting and supporting ethics in the legal profession.

The connecting point that eastern and western philosophers agree on is the concept of justice, the division between good and bad, individual ethics and public ethics. The value of work that the personnel of the legal profession will gain according to their behavior: respecting ethics of the legal profession, in honor and dignity of the personnel in the legal profession themselves. They will be accepted and trusted by the public that they work with the intention of promoting social peace and justice. It is an important part of the ideology, dreams and mandate that make the personnel of the legal profession need this specific characteristic, different from other professions.

Conclusion of data analysis from interviewing and questionnaires.

The researchers collected and analysed the field information by questionnaires and interviewing. Legal specialists and qualified persons were divided into 3 groups.

1. Specialists in ethics of legal profession which covers every legal profession: lawyers, public prosecutors, judges, administration court judges, constitutional court judges and legal scholars. Specified random is used to get a sample group of 28 persons specialized in ethics.

An intensive interview was used to get information to form questionnaires for the second and third group by emphasizing ethical problems in the legal profession, the effects of these problems on Thai society at present, the process to control the behavior deviating from ethics in the legal profession, suggestions and the process of solving concretely the problems of ethics of the legal profession. The information obtained from the knowledgeable and experienced persons on legal professional ethics would be intensive.

2. Lawyers and former lawyers, public prosecutors and former public prosecutors, judges and former judges, administration court judges, constitution court judges. To get 204 persons of sample group, the specified random is use.

Questions used in collecting data emphasized on ethical problems in the legal professions and the effects of these problems on Thai society at present, the process of controlling the behavior deviating from the ethics of the legal profession, advice and the **process** of solving concretely problems of ethics in the legal profession as well as the first group of population that the data is gained from the performers.

3. People going to the court as contestants or witnesses who should be serviced by the legal profession. A random sample group of 200 persons who answer the assigned questionnaires. The sample population is collected in Bangkok (Central part) Chiangmai (Northern part) Nakorn Rachasima (North eastern) Songkla (Southern part) Each province in each part represents the area used for collecting the information from the objective group for analysis by using descriptive statistics and reference statistics.

Conclusion of data analysis from the interview of legal specialists and well-qualified persons.

The problems concluded are:

1. Problems of a lack of implanting popularity, and knowledge in studying professional ethics. There is the excessively low standard of studying and teaching of professional ethics.
2. Problems with the efficiency of personnel administration in professional departments.
3. Problems with economic necessity and economic changes in society.
4. Problems with family and social basis of implanting popularity.
5. Problems with dishonesty or going against professional ethics in other cases.
6. Problems with a lack of policy for national administration of justice that connect to the existence and the competence in the sustainable development of the country.
7. Problems with a lack of host departments or organizations that are responsible but and no effective work or conflicts in the verifying organization.
8. Problems with a lack of role-models in personnel who can act as examples of good professional ethics.
9. Problems with a lack of legal specialists who know the whole system of professional ethics.
10. Most of the legal professions still lack knowledge and understanding of professional ethics or have some knowledge of ethical principles but take no interest in them.
11. Problems of having a lot of laws but not taking enforcement seriously.
12. Problems of complaints with the defense, and system of witness protection.
13. Problems of not having a central standard to verify the professions.
14. Problems of having no database of professional ethics or having incomplete information.
15. Problems of not enough budget: Lawyers, especially, tend to have limited support from the government and there are also problems of lack of budget to help people defend themselves against legal professionals who break professional ethics.
16. Problems of conflicts between private interest and public interest.
17. Problems with a lack of participation from mass media and people.
18. Problems with a lack of case specialists to help people fight legal professionals who break professional ethics and problems with a lack of case specialists in some independent departments to investigate state officers who breach professional ethics.

The interview of 28 specialists concluded that the first three problems that legal specialists agree on are:

1. Problems with a lack of implanting popularity and knowledge in studying professional ethics. There is the excessively low standard in the studying and teaching of professional ethics.
2. Problems of the efficiency of personnel administration in professional departments.
3. Problems of dishonesty or going against professional ethics in other cases.

The effects of professional ethics in the legal professions are important as these persons should be trusted by society and have the role of convincing society to create a social standard, stop conflicts and keep the peace. If legal professions have no ethics, this will cause partiality in the system of justice. Society will become confused. There will be no trust. People will have no benefactor, will be in trouble and will not get justice. They will no longer depend on the law, but depend on themselves. There will be no respect of the law.

Concept of the enforcement of law: the essence is as follow:

Most legal specialists agree that the mechanism of legal enforcement nowadays which consists of laws concerning the code of ethics or professional ethics and the council of punishment is determined but there is an imperfection in the enforcement or there is a gap and the process of ethical investigation takes a long time and focuses on the form more than careful consideration that is trusted.

Remarks and advice are divided into 3 aspects:

1. Implanting popularity, education, curriculum, Studying and teaching.
2. Personnel administration.
3. Improvement of promoting and supporting professional ethics. (See complete edition of the research for details)

Conclusion of data analysis from questionnaires.

From the survey of people to opinion, the analysis indicates that the ethical evaluation of the legal profession according to people's attitude, from high to low percentage, is that: Judges get 81.09, Public prosecution 74.99 and Attorneys 61.50

Problem condition:

It is concluded that every group agreed the most on the causes of problems of legal professional ethics. The first is lack of implanting the system of ideas, good consciousness, and lack of deeply giving knowledge of professional ethics and problems concerning the overflow of globalization, the popularity and culture of the present that focuses on material things, money and power more than preserving the value of professional ethics.

The second is the problem of an intervention in the decision of the case by influential people or a political group. Some personnel in the legal profession department refuse change and don't accept that there could be errors in the department. There is therefore a tendency to wrongly protect the department. The bad models or persons who break professional ethics are not punished. The departments that should defend professional ethics work ineffectively or slowly. Too much of which is essential concerning ethics is not in accordance with the present social situation that has changed.

Affected result.

Unfortunately, most people questioned agree that people no longer place their trust in the justice system or the legal profession. This has caused a break down in society, with inequality and a society which is unstable and confused. The law is not respected. Corruption is everywhere. People think of their own personal gain more than that of their country. They feel that they can never achieve justice and therefore they put less importance on personal ethics and more on materialism: doing everything for money and perpetuating the system of patronage. This causes economic, political, and social problems.

Mechanism to control behavior.

Every group questioned agrees that the mechanism determined to control behavior nowadays is suitable.

Suggestions from each group.

People think that there must be appropriate and decisive measures of punishment, with increased penalties, and these should be properly and strictly enforced.

The opinion of the judges of the court of justice.

The first suggestion is that the judges have to stop helping one another, by using power, influence, and the patronage system. Secondly, there should be more serious verification and control and a council or ministry should be formed to verify and help give knowledge of the law and complaints to the people. Legal personnel should not be allowed to participate in the verification. There should be suitable and decisive measures of punishment. The penalties should be increased and appropriate punishment ready to be used.

The opinion of the judges of the administrative court.

There should be more careful and more strict verification and control. A verification council should be formed. Knowledge of law and complaints should be given to the people. Law personnel in the department should not be allowed to participate in the verification. Offers of promotion, admiration, or reward to someone who is well-behaved and ethical would be a good sample for others and society. Legal professionals should stop helping one another in their own field, and stop using power, influence, and the patronage system. There should be suitable and decisive measures of punishment and increased penalties.

The opinion of the constitutional court judges.

New lawyers with professional ethics should be established. Ethics of the legal profession depends on the consciousness of each person, and their family basis. There should be a balanced verification system that can verify thoroughly and be more seriously enforced.

The opinion of the prosecutors.

The first opinion is to stop helping one another in their own field. Stop using power, influence and patronage to implant ethical consciousness, rules, discipline and ideals. The second is to have more careful control and verification. A verification council should be formed. Knowledge of the law should be taught. Accepting bribes, conflict of interest, and taking

advantage of the lesser learned should be eradicated. Members of the legal profession should stop behaving improperly, and preserve ethics. There should be courses of teaching, in order to spread Darma in the legal profession. Suitable and decisive measures of punishment should be available and penalties should be properly increased.

The opinions of lawyers.

The first opinion is that there should be suitable and decisive measures of punishment and properly increased penalties. Secondly, there should be courses of teaching, in order to spread Darma in the legal profession. There should be more careful control and verification. A council to verify, help and teach knowledge of law should be founded. Helping one another in their field, using power, influence, and the patronage system should be stopped. Moreover, in the complete edition of the research, the attitude of putting importance on the level of ethical problems of each profession is surveyed by classifying them into levels from the least terrible.

For the final conclusion, the researchers suggest the following:

1. A committee of specific case should be formed to draft a central ethical code for every group of legal professions to use as principles, to verify and follow any behavior that deviates from the ethical central standard, and to set suitable instruments of verification. There should be a central verifying department that The Ombudsman and National Anti-Corruption Commission can cooperate with.

2. A committee of specific cases should be found to draft a curriculum of study for teaching ethics of the legal profession in higher education and barristers-at-law should impart consciousness and education to reach behavioral standards for the legal profession according to the principles of professional ethics.

3. During the time of drafting an ethical code and curriculum for all legal profession as in 1 and 2, every department of the legal profession and the faculty of law in every university should improve the standard of studying and teaching in each branch to be up to date and suitable for a changing society. Most importantly, instruments to verify and control the ethical behavior more seriously and effectively should be put in place.

4. Since Thailand is a member of ASEAN, all Thai legal profession departments have to co-operate and set a strong system to study the standards of ethics of the legal profession in each country of ASEAN and then bring them to the acceptance of ASEAN which will set a single or at least accorded code for all ASEAN legal professions. ASEAN should set a standard of behavior for all ASEAN legal professions not lower than that of European countries and the U.S.A.

References

- Allan, T.R.S. (2001). *Constitutional Justice: A Liberal Theory of the Rule of Law*. Great Britain, Oxford University.
- American Bar Association (Center for Professional Responsibility). (2009). *Model Rules of Professional Conduct*. USA, ABA Publishing.
- American Bar Association (Center for Professional Responsibility). (2008). *Model Code of Judicial Conduct*. USA, ABA Publishing.
- Bolocam, Maya Goldstein. (2002). *Professional Legal Ethics: A Comparative Perspective*. Central European and Eurasian Law Initiative (CEELI) www. Abanet. Or.th/ceeli.
- Bambrough, Renfold. (1963). *The Philosophy of Aristotle*. New York, New American Library
- Dworkin. (1986). *Law's Empire*. London
- Hayden, Paul T. (2003). *Ethical Lawyering: Legal and Professional Responsibilities in the Practice of Law*. USA, American Casebook (Siries and Woot Group)
- Hockett, Robert. (2009). *Law*. London, Elwin Street Limited.
- House of Lords. (2007). *Relations between the Executive, the Judiciary and Parliament*. London, the Authority of the House of Lords.
- Levin, Leslie (2004) "The Ethical World of Solo and Small Law Firm Practitioners" *Houston Law Review* 41:309-392
- Levin, Leslie C & Mather, Lynn. (2012). *Lawyers in Practice: Ethical Decision Making in Context*. USA, The University & Chicago Press.
- Massachusetts Report on Lawyer Regulation System, Sponsored by ABA standing Committee on professional Discipline.
- Morris, Cearence. (1963). *The Great Legal Philosophers*. Philadelphia, University of Pennsylvania Press.
- Nelson Robert L. (2008). "Trends in the Legal Profession: Demographic, Economic and Early Careers", September 2008.
- Nicolson, Donald & Julian Well. (1999). *Professional Legal Ethics*. Great Britain, Oxford University press.
- Rhode, Deborah L & Hazard, Geoffrey C. (2007). *Professional Responsibility and Regulation*. USA., Foundation Press.
- Runer, Dagobert D. (1972). *Dictionary of Philosophy*. New Jersey, Sittlefield, Adams & co. Stuckey, Roy & Others.
- (2007). *Best Practices for Legal Education*. USA, The University of South California.
- The Bungalowore Principles of Judicial Conduct*. (2002). The Hague, November 25-26, 2002