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**Workshop II**

**Legal Education in ASEAN in the 21<sup>st</sup> Century**

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## Legal Education in 21<sup>th</sup> Century

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(Justice Oliver Wendell Holmes Jr.)

### Introduction on legal Education in Thailand

Legal education began about one hundred years in Thailand, in the former time there was no law school. In the early Rattanakosin period, the civil officers learned law on the job training from the seniority officers. The inception of law school is derived from greater interest in the law due to such prime-movers as Prince Ratburi Direkrit. It was he who advocated that legal education was a prerequisite for those servicing the courts. The first law school was then established in 1897 (B.E.2440). Subsequently, during the reign of King Rama VI, Prince Charoonsak Kridakorn requested the King's permission to change the law school to a Royal law school at the ministry of justice under the auspices of the Thai Council on Legal Education, from August 7, 1924 (B.E.2467).

During the reign of King Rama VII, there were substantial changes in the country's administration. There was a suggestion to transfer legal education to Chulalongkorn University, which led to a royal decree to this effect in 1933 (B.E.2476). Law was then taught at Chulalongkorn University for a while until it was again transferred from the Faculty of Political Science of such university to Thammasat University in 1934 (B.E.2477). In effect, law was taught at Chulalongkorn University for only one year prior to transfer to Thammasat University. However law was revived again as a subject at Chulalongkorn University in 1958 (B.E.2501) leading to the establishment of a Faculty of law in 1972 (B.E.2515).

Evidently, legal education in Thailand is approximately 100 years, It may be wondered to what extent it has progressed over the years when compared with other disciplines, such as medicine, engineering, economics, political science and public administration. Some may claim that legal education has progressed slowly, compounded by conservative attitudes. Other comments may include the obsolescence of law and detachment of law from leaders of the community and the socio-economic development of the country, especially as there are fewer lawyers in executive and decision-making positions than those from disciplines such as economics, public administration and business administration.

Moreover, the general public is sceptical of lawyers, The traditional sentiment of the public towards lawyers is that they are fickle and even untrustworthy, especially as some lawyers are dishonest and indulge in unethical practices. It thus depends upon lawyers to change the negative image which the public has of their profession.

On the question of syllabus, the curriculum should not just concentrate upon pure law. It has to cater also for ethical conduct, morality, professional responsibility and social responsibility, concern for justice, sensitivity to injustice, and protection of the rights and interests of the poor are all crucial elements of a lawyer's education.

### **Legal Education in the 21<sup>st</sup> century**

Legal education has begun in the western world almost thousand years such as Bologna University in Italy, Oxford University in U.K, Paris University in France etc. The business of law school is not sufficiently described when you merely say that it is to teach law or to make lawyers. It is to teach lawyers to grand manner and to make great lawyers.

(Justice Oliver Wendell Holmes. Jr.) “ Law school today must be engaged not only with the law, but as also with ideas from discipline outside law. Someone says that the challenge for the legal professional is not to stay abreast of development in their fields, but also to appreciate in ramification of economic, political, trade, business, scientific and technological development in this dynamic region.”

Legal profession is the ethical profession and law has the great relations with moral. Lawyer must have good ethical conduct and good morality Moral and ethics are the most important character of a good lawyer. So an honest lawyer must be honest with his client. He must be honest with his opponent. He must be honest with the court, above all he must be honest with himself. (Lard Denning) moral is the foundation of justice.

A great law school there must be great law teachers to teach their students to be the good lawyers with grand manner. We need a good lawyer more than a clever lawyer.

1. No matter how good and complete the law of land is, law is meaningless if those who use it in the legal profession lack virtue and ethics. It will not attain its objectives or fulfil its intentions.

At times lawyers may cause inconvenience and damage to honest folks, or they may threaten and destroy the rights and freedoms of population. They may also cause hardship for well-intentioned citizens.

In reality, the law goes hand in hand with justice, and justice must uphold rectitude, legality and rationality. In this light, the law will be a blessing.

There will be beneficial results if those who use the Law and the Law itself are exemplary. Law teachers must, therefore, teach their students to perform well and maximize their ability. They should bear in mind and underline in teaching their students, the need to be

good persons and to abide by virtue, ethics and morality. Their hearts and minds should be committed to Justice in responding to the duties of lawyers. These will create benefits and peace for the country.

2. A key function of lawyers is to protect and promote justice for the population, especially the disadvantaged and those who are impoverished.

Lawyers must abide by the Rule of Law. They must use peaceful means to uphold justice and counter dictatorships and vested interests.

They should not look for personal rewards or other forms of self-gratification.

They should foster equality, equity, and human rights and freedom in order to enhance the honor and integrity of humanity.

Lawyers should embody ethical principles and a commitment to justice rather than mere adherence to the law. Ethical, professional conduct, honesty, and the duty to serve the people should be at the heart of the profession. Lawyers must build up a just society.

Those lawyers who abide by professional ethics and personal morality represent the true image of the profession-what the profession should project and practice in a dedicated manner. In responding to the call for peace, tranquility and development, the law should promote justice. Drafters of the law and legal practitioners are instrumental in promoting this aspiration. If they abuse the process and contravene the law themselves, it is not difficult to see that unethical behavior will arise and inhumanity will ensue. The latter is often the consequence of misdeeds on the part of those lawyers who serve dictators and vested interests by distorting their knowledge.

Such lawyers act as manipulative tools of crooked elements and are a threat to the population. They should be considered as traitors to the legal profession and to the people.

I, therefore invite you to condemn those lawyers who abuse their role and who fail to uphold the Rule of Law.

As power corrupts and as the search for unjust rewards and undue decoration corrodes, let us reject those lawyers who pollute their function.

Let us prove that integrity and the commitment to democracy and human rights find living proof among us, from our inner strength.

It is thus necessary for professional law teachers to change the misconception that may emanate from the above. It is incumbent upon them to set a good example, to personify ethics and to gain respect from students. Teachers should earn the admiration of their students through good deeds and commitment to upgrading the standard of education. If such academic elevation does come to pass, teachers would then be authorities in their fields, which may also lead to further influence in other domains. They would then be listened to by the judiciary and members of parliament when questions of law reform arise. In other countries,

such as the United States, a prominent lawyer is well-known and manifests itself in judicial decisions and legislation.

The above should, therefore, be an inspiration for law teachers. If they can genuinely commit themselves to attaining excellence in their profession, they will prove to be a paradigm for society. Their merit, once earned, will be a catalytic lesson for posterity.

3. A lawyers fundamental duty is to serve mankind to safeguard lives, property, freedom and liberty, to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence of disorder and to respect the legal rights of all people to liberty, equality, justice and human dignity.

Lawyers should be leaders of society. They should respect the law of their nation strictly and consistently so as to set a good example for other people to follow. Beyond respect for the law, lawyers should exemplify morality, integrity, virtue and ethics, as well as conduct themselves honestly in their profession. They should bear a sense of responsibility toward the public in upholding the pride and honor of the legal profession so as to earn public respect and trust. Moreover, lawyers should be audacious in their approach in the sense of being willing to express themselves and offer criticism with reason and impartiality. In particular, they should be polite, flexible and modest.

They should respect other people's opinions and be genuinely aware of their own rights and duties and should never accept bribes. They should not act to the detriment of others nor should they exploit others for their own benefit. They should thus make sacrifices for the benefit of others in keeping with the maxim that "the greatest happiness of the people is the highest good and prevails over all else"

Another important role for lawyers is the protection of the public interest to adhere to the greatest extent possible to the principle of "the supremacy of the public interest" This is due to the fact that lawyers are like the "technicians" of society who have to establish social rules and regulations to eliminate or alleviate conflicts between the interests of the population. They should promote justice for all and build an equitable society based upon peace and order.

In upholding justice, provisions of law are naturally important. However, they are less important than how the law is interpreted because normally law is man-made and is shaped by the intentions of the drafters in accordance with socio-economic conditions. Yet, society evolves and changes with the passing of time. To apply the law to correct the ills of society or to develop society thus depends upon the conscience and responsibility of those who enforce the law. As H.M. The King graciously advised the 33<sup>rd</sup> Class of Barristers:

"Some lawyers adhere to the law literally to uphold justice, but this may prove to be too narrow an approach. It may fall short of rendering justice. Therefore, those who protect justice and equity should be very circumspect. They should reach a clear understanding that the law should not cause injustices. It should merely be an means of protection and enhancing justice. Application of the law should thus aim to uphold justice; it should not merely uphold provisions of law per se. Upholding justice in this country is not solely based upon the

restricted confines of the law; it should also encompass morality, ethics, rationality, and the truth”

If lawyers behave in an exemplary manner, this will ensure the survival of our society. It will enhance happiness of all, well as provide a brighter future for the country’s development.

4. Lawyers must be aware that they are members of a very noble profession, and must therefore have a deep sense of profession ethics and social responsibility. The most important personal duty is to respect and to act consistently in accordance with the law. A proper and conscientious discharge of this duty, which they owe to the profession and to society, will not only serve as a good example to the general public, but also help to foster the sanctity of and respect for the law. Lawyers serve the law and are therefore under it; at no time must they abuse their training and professional position. Indeed, their professional position makes this duty particularly imperative. Without its regular and conscientious performance, the rule of law in a democratic society would collapse; and without its consistent performance, there would be no equality before the law and no equal protection under the law.

Over and beyond this personal duty, lawyers must uncompromisingly support and promote the high public aims of the profession; namely, social justice and the rule of law. Only through justice and the rule of law can the least advantaged in society live in dignity, for justice is as universal as it is natural; and the freedom it defends together with the rights it protects are the common ends of humanity: they are not exclusive to the rich, the politically powerful or to any other social group. The achievement of these ends is the lifetime public commitment of all lawyers. Nothing less than the stability of the state is at stake; for “[j] Justice is the foundation of a commonwealth; without its preservation, no government can survive”

These aspirations are indeed lofty; but without them, no lawyer is worthy of being a member of this noble profession. The fulfillment of these aspirations requires patience, perseverance and courage: patience and perseverance in continuously maintaining right principles and equity in executing their duties; and courage in expressing their own opinions and in making their own decisions.

Lawyers must have a high moral character; but that is not sufficient: they must also have “Dhamma.” They must strive to overcome their own whims, prejudices and personal interests: they must, in short, overcome themselves. Only when this has been done can they begin to promote social justice and equity. To this end, they must have self-respect, self-discipline, self-confidence and confidence in their own decisions as lawyers.

It is clear, consequently, that merely to be a “clever” is not enough. Unethical lawyers bring the profession into disrepute and undermine the very foundations of the state and society. The in prance of this noble profession makes it vital that it be guided by the highest principles. Knowledge must, at all times, be guided by awareness; and law must, for ever, be guided by morality and “Dhamma”

5. Good lawyer have the duty to be responsible in many ways for the society according to the principles of the legal profession. However, one important responsibility that I wish to mention here is that good lawyer must always observe and perform in accordance with the

laws of the county in order that they may set a good example for the public in general. Laws should be efficacious so that the public may be equally protected under them true to the democratic system consistent with the “Legal State” or the “Rule of Law” This is to ensure that the public shall be assured of the maximum of the justice and opportunity. Jurists must fight for, encourage and support this principle wholeheartedly so that social justice may prevail under the laws of the state and that the underprivileged in education, economic and social aspects and others may live in the society with grace and warmth as contained in the saying “Justitia Fundamentum Rei Publica” (Justice is the foundation of the republic; without its preservation no government can survive). This is because human rights, freedom and justice are coveted by every human being and they are not exclusive only to the rich, the politically-endowed or the privileged. There can be no denial that justice should be made universal and come naturally. Jurists, therefore are entrusted with the duty to unwaveringly solve and overcome the problems to reach these goals.

In this connection, jurists must be imbued with strong ideals: a high sense of honesty in their profession a keen sense of their duties, and an unwavering spirit in caring out their responsibilities. They must also uphold righteous principles in performing their duties. They must dare to express themselves to make decisions proceed. In order to accomplish the foregoing, they have to be righteous ethical jurists. In other words, they have to practice “Dhamma” (moral; good in conduct or character; ethics) because they will have to fight against, and win for themselves before they can fight against others.

Fighting against themselves is obviously arduous because they will be choosing between their vested interests for their own happiness and the need to sacrifice for others. Law students who are fully supported financially by their parents, will find it difficult will to prove such dedication. The time will come when the opportunity will arise and they can wield the power.

6. Good lawyer must always be the leaders of society and strictly and consistently observe the laws of the state in order to set good examples for others to follow. Besides, jurists have to be moralistic, true to their own words, virtuous and honest to their own profession, and responsible to the public. All these goals will enhance the honor and dignity of jurists and people will respect and have full faith in jurists. In addition, jurists have to be unwavering in their profession, daring express themselves and to offer commentary on what is righteous and lawful. Jurists have to be polite, modest, humble, and respect other people’s opinions. They should truly realize their own rights and responsibilities without savoring wealth and happiness for others like the saying: “There is no other form of happiness that is more blissful and important than the happiness obtained by the public.” Another major responsibility of jurists is to safeguard to the maximum extent the public interest consistent with the saying: “The supremacy of public interest” Jurists are just like social engineers entrusted with the hats of laying down rules for the society to eradicate or lessen conflicts of interest among the people bearing in mind the principle of righteousness, and of building a just society so that members of that society may live in harmony, peace and good order.

Incidentally, in safeguarding justice for the sake of the people, although the provisions of laws themselves are important, of even greater importance are those enforcing and interpreting the laws. This is because laws are enacted by human beings in accordance with their innermost intentions so that such laws will be suitable and in line with the social and economic structures then prevailing.

Social and economic structures keep changing. Therefore, making use of laws to solve problems connected with society or social development depends to a very large measure on the scruples and the responsibilities of those making use of them.

We need good law teachers to teach law students to build up a just and harmonized society in 21<sup>st</sup> century in ASEAN region.

### **Teaching is first priority**

The greatest satisfaction comes in working with students one-on-one or in small groups, where you can see the results of your work.

In an general view, it can be seen that the development of legal education comprises the following components:

- (I) law teachers;
- (II) students;
- (III) the curriculum;
- (IV) a well-stocked library and accessories;
- (V) places of learning and their environment;

Law teachers constitute one of the most important components in the development of legal education in the country, provide that they are well qualified, scrupulous, and steadfast in discharging their honourable duty despite tremendous hardship (the good ones). Law teachers must train, instil and impart their knowledge and experience to their students and set good examples for them in order that their students may follow suit and turn out to be law graduates with quality and scruples so that these graduates may administer justice which is the essential ingredient in bringing about peace and happiness to the society in general. the foregoing is the ultimate expectation and dream of all lawyers who only hope that it will not only be an empty dream.

In addition to their role and responsibility, law teachers must remain steadfast and emotionally stable. They must make sacrifices by principles and their standards. they must also realize that they must make sacrifices by devoting themselves in order that their students may succeed. In this contest, law teachers must devote their entire intellectual capacity and strength in order that their students may succeed. By nature, law teachers earn pathetically less than other members of the legal profession. Therefore, it is not surprising that several law teachers head for other employment in the legal profession. Law teachers earn just enough to live a decent life provide they are frugal. They will never be rich, but they can enjoy considerable liberty and academic freedom. They are supposed to behave themselves within ethical boundaries Great Law Teachers, past and present, are those who have been satisfied with their teaching careers and taken much pride in themselves. Besides their selfless devotion, law teachers must carry out their duties with perseverance and scruples, guiding their students toward becoming good citizens experienced scrupulous, ethical and well-behaved so that they can contribute to the well-being of society.

The above may well portray the ideal picture of law teachers. In return, they only receive praise and self-esteem once they learn that their former students have succeeded in their careers. But in order to become an accomplished law professor, one must earn the

respect, trust and confidence of his students that takes time to prove dedication performance and other positive traits related to a professor's moral obligation and the qualities can be summed up as follows:

1. Law teachers must be steadfast, unshaken, law-abiding, highly qualified and emotionally stable.

2. They must be kind and have compassion for their students. They must have good intentions and always seek the best for their students because their student's success is also theirs.

3. They must persevere and be patient and capable of containing their anger while dealing with their students.

4. They must be idealistic, have high principles and be truthful so that they can set good examples for their students.

5. They must possess academic leadership i.e. they must demonstrate their authority in the subjects they teach.

6. They must be independent and neutral to maintain their status as academicians and they must also show their own standpoints and principles.

7. They must be open-minded, ready to listen to the opinion of their students, far-sighted, and ready to take in new technologies.

8. They must adhere to the principle of taking the middle path and avoiding extremes. They must also be ready to compromise for the success and expectations of their students. They must learn how to forgive and forget.

9. They must search, and take initiative towards seeking, new frontiers of knowledge and technologies so that they can impart the same to their students to enable them to keep abreast of socio-economic changes especially in the era of globalization. To truly be well-rounded, they must also take initiative and be good in academic development.

10. They must be kind-hearted, humble, and readily accessible to their students. They must also be content with being solitary. They must not be too ambitious because their income is only enough for them to carry on a basic living. In this connection, they must be frugal and not expect to become wealthy as they are supposed to live within the ideal confines of good teachers.

11. They must maintain their integrity in their capacity as teachers. They must treasure their dignity and self-respect. Taking pride in being teachers.

12. They must always look at things on the bright side, be optimistic for their students so that they can render moral support to them. Students will in turn hold their teachers in high esteem.

13. In addition to being highly qualified, law teachers must have high virtues ethics and morals. To be dubbed as a living monument is indeed most appropriate. If law instructors are incapable of setting good examples for their students, the success of legal education appears dim.

In view of the foregoing, it can be seen that law schools and law teachers have a great responsibility. They are not simply there to teach law. Law teachers are supposed to be selflessly devoted to their students. This will result in turning out law graduates imbued with a keen sense of scruples, who have the potential of becoming great lawyers in future. Just as Justice Oliver Wendel Holmes Jr., once said: “The business of a law school is not sufficiently described when you merely say that it is to teach law or to make lawyers. It is to teach lawyers to grand manner and to make great lawyers. As teachers “We need good and perfect law graduates to be great lawyer in the future”

### **Conclusion**

From the above description, it is quite clear that the mission, roles, duties, and responsibilities shouldered by honorable lawyers are absolutely abundant; for instance, the responsibilities of lawyers towards society and the public in the process of the protection of people’s lives and freedom, towards society and the public in the process of the protection of people’s lives and freedom, the promotion and support of justice for society so that there would be what we call Just Society, to name just a few. At times it is to be expected that there will be an encounter against those with political or financial clout, which threatens the lives, well-being, or reputation. Most importantly, a good lawyer must possess excellent leadership qualities and can lead people into the right and appropriate direction as a social engineer. Excellent leadership in this case means the lawyer must have bravery or professional courage. All opinions, both for and against, must be fearlessly expressed without any apprehensiveness for corrupted power. And all of this must be done for the right reasons and lawfully based on purely public interests, not one’s own interests.

This process of producing good lawyers is not a simple matter. Such responsibility falls on law schools and teachers, who must be fully cognizant of the significance of the duty and make an unflinching effort to create an awareness, along with an understanding, which later forms an idealism together with a determination to join forces in leading one’s lives according to the established objectives, instilling and encouraging conscience among law school students.

On the other hand, given the social environment of the 21<sup>st</sup> Century under globalization of borderless world, especially in the case of Capitalism Society, it is the money that rules as materialism is predominant. Moral of virtue and ethics of lawyers are of utmost importance. As a matter of fact, virtue and ethics are even more important than the knowledge of laws. Lawyers who are virtuous and ethical will benefit the society and protect the people’s rights and freedom, promoting justice for society. Clever lawyers, however, might use their knowledge in the wrong way because of their lack of virtue and ethical standards, which will further lead to damage and injustice in society.

Law schools and law teachers represent an institution and an individual that can correct such faults by instilling or coaching lawyers so that they take interest in and respect their legal profession by applying the principle of ethics as their main guidance, and using their legal knowledge for their society at the same time.

It is important to note that in fact virtue and ethics have existed before all the laws. They are more important than laws themselves and they are above laws. A good lawyer must therefore have high virtue and ethical standards. In this 21<sup>st</sup> Century under globalization, it is imperative that law schools and law teachers must focus their efforts in the task already mentioned. The reason for this is that those who have both virtue and ethics, no matter where are in this world, will always be those who perform their duties efficiently and virtuously, leading to peace and happiness for peaceful civil society, just society, and peaceful co-existence.