

Legal ethics in Vietnamese legal education system

1. Brief background of legal education system in Vietnam

1.1 Undergraduate studies

1.2.1 Hanoi Law University

The Hanoi Law University is organised under the Ministry of Justice and is the principal institution for undergraduate legal training. The HLU offers a wide variety of courses and the total number of full-time students is approximately 5,000.

There are four faculties at the HLU: the Faculty of Civil and Criminal Law, the Faculty of Constitution and Administrative Law, the Faculty of Economic Law and the Faculty of International Law. These are divided into specialised sections. There are also supporting training departments which serve all faculties, e.g. the Department for Foreign Languages and the Department for Physical Training.

The HLU has a staff of about 430 employees, of whom 230 work as full-time teachers. About 190 of those teach law, while 40 teach subjects such as foreign languages and physical training. A number of faculty members received some form of training in the Soviet Union, East Germany or other Eastern European countries. There are almost 20 Doctors of Law, who all received their degrees (mostly "Candidate of Science") in the Soviet Union or East Germany.

The HLU offers a graduate programme consisting of two different stages. The first and second year are common for all students and consist of basic scientific courses, e.g. politics, philosophy, political economy, history of state and law, and languages. The curriculum further includes short introductory courses in administrative, economic, criminal, and international law to give the student a chance to decide the direction of further studies. The students may also choose between studies in English, French or Russian as a foreign language. One

foreign language is mandatory, but those who like may study two or even three languages.

The first two years are completed with an exam. The certificate entitles the students either to continue to the second stage of the programme, which virtually all students do, or apply to other colleges. The students at the second stage may choose between the four faculties. The Faculty of Economic Law and the Faculty of Civil and Criminal Law admit about 30 per cent each of the student body. The Faculty of Constitutional and Administrative Law and the Faculty of International Law admit about 20 per cent each. All four faculties teach the same subjects, but in different proportions. The second stage also ends with examinations, usually in three subjects, but the most successful students may choose to write an essay. More than 600 students graduate each year in Hanoi.

The HLU also has about 12,000 students who follow part-time programmes. Such programmes are offered in Hanoi and in almost all provincial capitals. Persons who already hold positions which require a law degree are given priority in the admission.

A "Judges Training Center" was established within the HLU in 1996 with the purpose to enhance the skills and expertise of judges. It offers short to middle term courses in various legal matters, mainly for judges from the people's courts. An intention for the future is to expand the range of participants to include other legal professionals such as court clerks, public notaries and prosecutors. The permanent staff of the Center is relatively small and the HLU hopes to invite visiting teachers to hold courses.

1.2.2 Law School of the National University in Ho Chi Minh City

The Law School of the National University in Ho Chi Minh City was established in March 1996. The National University and its faculties are organised under the Ministry of Education and Training.

About 165 teachers, of whom 65 are employed and 100 are contracted, work for the School. Most of them

received their training in the former Soviet Union, East Germany, or at the Hanoi Law University. Four teachers are Doctors of Law. The total number of teachers is considered too low and the School therefore often invites e.g. teachers from the HLU, judges and lawyers working within the administration, to assist in the teaching.

About 4,000 students take part in the full-time graduate programme and there are about 7,000 part-time students, most of them working within the administration. Those who graduate appear to find it relatively easy to find a job, e.g. within the administration, as judges, prosecutors, or in the private sector.

The School also runs special shorter part-time graduate programmes for government officials in the southern provinces. These courses are more specialised and do not contain any of the general subjects such as history, literature and economics. The participants study full-time one month out of three and the whole programme takes three and a half years.

1.2.3 Faculty of Law at the Hanoi National University

The Faculty of Law at the Hanoi National University is administered by the Ministry of Education and Training. This results in a slightly different, perhaps more "theoretical", training than that offered by the HLU which organised under the Ministry of Justice. Both institutions are nevertheless subject to the same national curriculum and their LL.B. exams are equal.

A little more than 100 students per year are admitted to the graduate programme. More than half of the students are female. The students must pay the tuition and living expenses themselves. Those who perform well (about 25 per cent the students) can be eligible for special scholarships from the State.

The Faculty has been able to offer a bigger variety of courses than the HLU, among them comparative law and history of political theory, but the difference is diminishing as the HLU gradually has amended its curriculum. The Faculty's emphasis on theory nevertheless visualises in that the graduating students mainly work as

researchers and lecturers. The Faculty has recently begun to offer LL.M. and J.D. programmes.

1.3 Postgraduate Studies and Research

The Institute of State and Law and the Department for State and Law at the National Political Academy were until recently the only domestic institutions that could supervise and examine master and doctoral candidates in law. Some of those who studied in Eastern European countries could also take a doctoral degree. Another opportunity for higher studies was opened in September 1993 when the Hanoi Law University was licensed by the Ministry of Education and Training to give LL.M and J.D. degrees. The Faculty of Law at the National University of Hanoi has also recently been allowed to offer LL.M. programme for three years. Both LL.M and J.D. students take 15 credit courses, but LL.M. students write an essay and J.D. candidates write a dissertation. Those who apply to the LL.M or J.D. programme must have a full-time LL.B. degree and pass an entry exam. The tuition for J.D. students is VND three million per year and for LL.M. students VND two million per year. Students who performed well in the exams may be granted a scholarship by the Ministry of Education and Training.

The Institute of State and Law, an institution especially designed for postgraduate studies and research, also offers a three year LL.M. programme for about 150 students and a four to five year J.D. programme for about 40 students. About 25 per cent of the currently enrolled students are female. Many of the participants are former civil servants. Both programmes use the same curricula, but the time for writing the final thesis is longer for those who attend the J.D. programme. The first mandatory part consists of courses in philosophy, informatics, scientific method, ect. The second part allows specialising in e.g. administrative law, economic law or criminal law. The time needed to complete both parts varies from two to three years. The master students have six months to complete their theses, while the doctoral students have two years to finish their dissertation. The first group of doctors graduated in

1996. The dissertations are usually published and many of the master these are made public, at least in summarised forms.

The universities may also define and carry out various research projects on their own initiative and independent of the curriculum for postgraduate training. For example, the Faculty of Law previously focused mainly on state and socialist law, but now emphasises research on market related subjects, state sovereignty, human rights, legal and administrative reforms and comparative law. Most of its projects are said to be based on domestic and foreign publications, legal texts and precedents. A dialogue is also held with domestic and foreign colleagues. However, all research efforts are constrained by scarce resources. There is a lack of both domestic and foreign literature, and none of the research libraries is an inspiring sight.

The Institute of State and Law organised under the National Center of Humanities and Social Sciences, is perhaps the most important research institution in the legal area. It has 44 full-time professional researchers, some administrative staff and another 30 part-time cooperating researchers from other institutions. Most of the researchers have been trained abroad, mainly in seldom involves drafting of laws or other technical efforts. The staff produce six to seven books on law related topics per year. The leading law journal of the country, "State and Law" is also published by the Institute.

The Institute maintains extensive contacts with other research institutions in e.g. Russia, Germany, USA, France, Japan and several ASEAN countries. A department for comparative law was recently founded within the Institute.

Ministries and other State agencies also carry out research. The Department of International Law and Treaties and the Institute of International Relations, both organised under the Ministry of Foreign Affairs, carry out research on international law. The National Political Academy, which trains Party cadres and teaches law and political science, also has a faculty of law. the Hanoi University of Foreign Trade has a law

section which is engaged in training and research in foreign trade and investment law.

1. Legal ethics in the Law School curriculum:

a. Methods of teaching:

As mentioned above, at present Vietnam has three main Law schools: Hanoi law University, Ho Chi Minh Law University and Law faculty of the National University based in Hanoi. Until now none of these three law education bases has legal ethics subject in their teaching curriculum. They merely teach basic laws. The only institute having this subject in their teaching curriculum is the Judicial Academy. Judicial Academy is a special training school for people who already have bachelor of law degree and want to become lawyers, judges, notary public officers.. In Vietnam all people having bachelor of law degrees and wishing to become lawyers, judges... have to pass a 6 month course in this Academy. But even in this Academy, legal ethics subject is not adequately paid attention to. During the whole period of 6 month training in this Academy, participants only have half a day to study legal ethics. And the method of teaching is still quite a traditional way, under which teachers introduce the main contents of the canons of legal ethics and participants only listen. There is no active participation from the participants as well as no case study due to time limit. In this course participants mainly learn professional skills such as skills of advice, representation, communication with clients, investigation of a case..

b. Problems/recommendation:

From the above part, it can be said that legal ethics education in Vietnam still needs to be improved in the future. It is apparent that half a day teaching of legal ethics in the Judicial Academy is not sufficient enough. I would recommend in the future all law Universities should have a part of legal ethics in their teaching curriculum. This part would be more focused on the theory. Then in the Judicial Academy law graduates will

be refreshed with this subject and at the same time be equipped further with more practical issues such as case study... The total duration for teaching this subject should at least be 3 or 4 days.

4. Inclusion of legal ethics in continuing legal education of lawyers.

In some countries it is compulsory that lawyers should have some hours of continuing legal education, including some hours of reminding of legal ethics. But in Vietnam lawyers are not bound to have continuing legal education. Therefore, it is up to the lawyers to decide if they want to have this training or not. Despite this provision, lawyers do still often update themselves with newly promulgated legal documents by way of reading documents by themselves or attending a training course organized by the Ministry of Justice. But this course often only covers the contents of the newly promulgated laws, not the contents of the legal ethics.

5. Canons of legal ethics (annex 1)

Annex 1

MINISTRY OF JUSTICE
Vietnam

Socialist republic of

Independence - Freedom - Happiness

Sample canons of legal ethics

(Issued according to Decision number 356b/2002/QĐ-BT dated 5 August 2002 of the Minister of Justice)

Preamble

The highest function of lawyers is to protect justice, ensure social justice, protect citizens' rights to freedom and democracy and other legitimate rights and interests of individuals and organizations, protect socialist legacy by ways of providing legal representation, legal advice and other legal services.

To fulfill the above mentioned functions, lawyers should not only be a mirror in respecting and obeying the law, but should also follow the legal ethics during their process of professional practice and social communication.

The canons of legal ethics provide for ethical standards and professional behaviors of lawyers in their practice of law and life style. These canons are instruments to measure ethical quality of lawyers. Each lawyer must take these ethics as a standard to train themselves, to keep professional prestige and reputation and to deserve the respect and credibility of the society.

Chapter I - General requirements of legal ethics

Canon 1. Preserving dignity and professional prestige

Lawyers should always preserve dignity and professional prestige; continuously improve morality and professional qualification in order to fulfill their professional functions and respect for the lawyers' career.

Canon 2. Independence, honesties and objectivity

Lawyers should be independent, honest and objective in professional practice; they should not distort the truth or violate the law for any material or spiritual benefits or under any pressure.

Canon 3. Behavior standards in practice and life style

Lawyers should behave themselves reasonably and literately in practice and life style in order to preserve credibility and respect of the society towards themselves and their career.

Canon 4. Legal aid obligation.

1. A lofty obligation of lawyers is to take part provision of legal aid to the poor and people enjoying preferential policy of the Government.
2. Lawyers should undertake legal aid cases as actively and enthusiastically as other fee paying cases.

Chapter II - Relationship with clients

Canon 5. Receiving and dealing with a case

1. Lawyers should respect for the clients' right to choose lawyers; they should only undertake cases within their capability and handle the cases according to the scope of requirements of clients.
2. When receiving a case, lawyers should inform clients of the rights, duties and professional responsibilities of lawyers when providing legal services to clients.
3. Lawyers are responsible for protecting their clients in the best way within the framework of the law and professional ethics.

4. Lawyers should not transfer a case they have undertaken to other lawyers unless they obtain an agreement of the clients or under the major force.
5. Lawyers should actively and quickly handle cases of clients and inform them of the progress of the work so they can have a timely decision.
6. When providing services to clients, lawyers should not only follow material benefit or consider it as the unique purpose of their practice.
7. Lawyers should not refuse to handle cases that they have undertaken, except where there is a conflict of interest or under force major as stated in Canon 6.

Canon 6. Lawyers' conduct in case of conflict of interest between clients.

1. Lawyers should not undertake to provide services to two or more clients in the same case if their interests are in conflict.
2. Lawyers should not undertake to provide services to a client if their relatives already undertake to help another client in the same case with opposite interest, unless the client agrees.

Canon 7. Refusing to provide services

Lawyers may refuse to provide services if the request of the client is unjustified or illegal or against the social morality.

Canon 8. Unilateral termination of services

1. Lawyers may unilaterally stop providing legal services to a client that he has already undertaken if there is sufficient ground to believe that the client intentionally uses the services of the lawyer to conduct unlawful acts or to seriously violate social ethics.
2. When terminating the services, lawyers should inform clients within reasonable time, so that he/she can hire another lawyer. At the same time, they should

promptly resolve all issues relating to the termination of the services.

Canon 9. Confidentiality

1. Lawyers should not release details on clients and their cases unless clients allow to do so.
2. Lawyers also have to make sure their staff do not release information on clients and their cases.

Canon 10. Things lawyers are not allowed to do

Lawyers are not allowed to:

1. take part in business activities that may affect lawyers' prestige and reputation.
2. conduct business activities together with clients or use clients' money and assets during the process of legal practice;
3. help clients draft a contract on property offering if lawyers themselves or their relatives are the subject of the offering.
4. receive money or any material benefits from others in order to handle or not handle their cases, if this may damage the benefit of the clients who they already undertake to assist.
5. use information of clients' cases for personal benefits.
6. hire somebody as a broker for their work.
7. promise the result of cases in order to attract clients or increase fee.
8. ask clients or people with related rights and interests for additional fee or gifts apart from those that have been agreed with clients..
9. When providing legal aid at the request of a legal aid organization, lawyers are not allowed to receive any money or material benefits from legal aid clients.

Chapter III - Relationship with legal proceeding agencies and other state agencies

Canon 11. Lawyers' behavior in relationship with legal proceeding agencies and other state agencies.

Lawyers should strictly observe regulations and rules relating to relationship with legal proceeding agencies and other state agencies; show a polite and respectful attitude towards legal proceeding officers and other civil servants when contacting with them for professional purpose.

Canon 12. Things not allowed to do in relationship with legal proceeding agencies and other state agencies

1. Lawyers should not indirectly or directly get in touch with legal proceeding officers, legal proceeding participants or other civil servants in order to embroil them in illegal acts when handling cases.
2. Lawyers should not provide information and evidence that they suspect to be wrong
3. Lawyers should not do or help their clients do illegal acts in order to delay or extend the process of handling of cases.
4. Lawyers should not express their opinion on mass media or in public places in order to create bad effects on the activities of legal proceeding agencies and other state agencies.

Chapter IV - Relationship with colleagues

Canon 13. To respect and cooperate with colleagues

1. Lawyers should show friendly and respectful attitude to their colleagues. Any comments or criticism of colleagues should be made objectively, at the right time, in the right place and in the spirit of mutual assistance.
2. Lawyers should have a sense of cooperation and assistance during their process of professional practice and life style.

Canon 14. Things not allowed to do in relationship with colleagues

1. Lawyers should not offend or lower their colleagues' prestige.
2. Lawyers should not impose pressure, threatening or use any other tricks towards their colleagues to gain advantage in the process of practice.
3. Lawyers of two different clients with two opposite interests should not collude with each other in order to seek illegal personal benefits.