

An Integration of Buddhadharma in Performing Duties of Thai Lawyers

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Abstract

The objectives of this research are to study the roles and the professional duties of Thai lawyers, the Buddhadharma appropriate for such duties, the integration of Buddhadharma into the professional duties of Thai lawyers in order to solve problems related to their professions, and synthesize knowledge bases regarding the ways such integration takes place. The research methodology is mainly qualitative. It is found that the role and the professional duties of Thai lawyers is wide-ranging, covering both government and private sectors, with the most important duties being to assist people involved in litigation, to conduct cases in courts of law, and to undertake other duties along the judicial process. Based on reports of the Lawyers Council under the Royal Patronage, it is found that complaints against Thai lawyers are rooted in their failure to responsibly perform their duties as requested, their immorality, and their dishonesty while performing duties. The Buddhadharma suitable for solving these misconducts of Thai lawyers includes the virtues for a good household life, the five precepts and the five virtues, the good conducts, the four prejudices, and the moral shame and moral fear. An integration of Buddhadharma by Thai lawyers in performing their duties can be done by promoting truthfulness, humanitarianism, and righteousness so as to uphold justice and morality. The body of knowledge obtained from this study can be concluded in a model called “BSL Model” consisting of both the Buddhadharma principles and the legal principles. This would result in a standard for Thai lawyers, where lawyers shall perform duties according to both Buddhadharma and the rule of laws, so that problems with regards to the professional duties of Thai lawyers are sustainably resolved.

Keywords: Integration, Buddhadharma, Duties of Thai Lawyers

Introduction

Thailand's social situation in the past several years until now has been a source of anxiety for its fragility due to political conflicts and violence. Deteriorating morality is considered an emergency for which all sectors must work together to find solutions, particularly because deteriorating morality is a reason behind behaviors that has disrupted peace in the Thai society. In this connection, many sectors have paid attention and put emphasis on the role and the duties of lawyers. It shall be realized, however, that the rule of laws is simply a tool to maintain justice, but whether a perfect maintenance of justice in keeping with the rule of laws can be achieved depends on those who enforce the laws

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themselves. While many professions involve in the maintenance of justice and the enforcement of the laws, lawyers deserve a focus.

A theoretical analysis of history indicates that lawyers were originated from the speakers of Athens, who initially spoke for their own benefits. Later, they spoke in order to help friends, families, or clients without any compensation in return (Hazard and Dondi, 2004), where their inability to ask for compensation became a reason why speakers did not unite into a profession (Bonner, 1969). Later, the development of legal professionals led to compensation being requested in exchange for their practice, from which the evolution towards today's lawyers began.

Buddha said in *Aggaññasutta* (*Dighanikaya Pātigavagga*, 11/135/99) indicates that human are not measured by biological characteristics. Physical differences, such as skin tones and castes in Brahminism, are merely external and considered insignificant. This concept has evolved into legal principles in accordance with the principles of human rights that all men have dignities and are equal, despite their differences in wealth, skin colors, races, or ethnicities and, therefore, shall be treated equally under the rule of laws (Wadham and Mountfield, 1998). In order to assure human rights for all citizens, state must, therefore, provide lawyers to suspects and defendants in criminal cases.

Lawyer is the profession that can work independently because all other legal professionals are government legal professionals (Korsangrueng, 2013), such as inquiry officials who are responsible for bringing criminals to the judicial process, public prosecutors who argue for the state in criminal cases, courts who rule on cases based on the constitution and procedural codes. As such, among all legal professionals, only lawyers are not employed by the government, are free of the governmental chain of command, and are able to work independently for the people in lawsuits of any kind. This is why lawyer is an important profession.

The teaching of His Majesty the King Bhumibol Adulyadej given at the graduation ceremony of the Institute of Legal Education Thai Bar Association at Suan Amporn on July 19, 1977 suggests that "Whether or how well laws shall sustain justice and righteousness or maintain their authority and effectiveness depends upon its application. If the application truly conforms to the law's objectives and intention, then the authority and the effectiveness of the laws remain perfectly intact. However, if the laws are either abused without concerns of their true objectives or intentions, or twisted with prejudice or illicit intentions, then law will suddenly lose its authority and effectiveness, and instead present a grave danger to the people..." (Office of His Majesty's Principal Private Secretary, 1978).

The teaching of His Majesty the King Bhumibol Adulyadej reflects the essence of law enforcement that the country can remain peaceful not only by good laws but also by people who enforce the law. If the enforcers of the law uphold their righteousness, ideals, and ethics, then the laws can maintain their justice. On the contrary, if the enforcers of the law lack morality and use the law with prejudice without staying true to its objectives, then the law will lose its authority and may become a weapon that can gravely hurt people.

In addition, the teaching of His Majesty the King Bhumibol Adulyadej in the graduation ceremony of the Institute of Legal Education Thai Bar Association at Suan Amporn on November 6, 1975 suggests that:

"Work of legal professionals is vital and critical for the country's governance. The legal professionals are present in all sectors, both in the government and in the private sectors, because the administration of work, governmental or private, must be subject to restrictions and scopes as prescribed by law and must not breach the laws. Therefore, it is necessary to have legal professionals involved in those jobs." (Office of His Majesty's Principal Private Secretary, 1976)

According to the teaching of King Bhumibol Adulyadej, legal professionals play a very important role to the people, the society, and the country, thereby it is the job that requires people who are capable and uphold virtuous and moral values in their work. Lawyers who can work independently refer to those who have enough courage to present their ideas and opinions (Tingsapat et al, 1984).

Lawyers must be academically well-rounded and always willing to learn as the laws are subject to changes and amendments over time. They must also abide by moral values and have enough courage to pursue good deeds. These qualities constitute the basic values that will lead to transparency and trust on one another (Chukae, 2014). This is so that social justice can be maintained, though can be very difficult to achieve, because the lawyers may be faced with an individual or a group of individuals who believe that power is always right. However, such situation can serve as a testament or a proof for dignity and courage of any legal professionals. New law students should, therefore, practice Buddhist virtues physically and mentally (Pakornnimitrdee, 2009).

Lawyers must also work under Thailand Lawyers Act, 1985, the Lawyers Council's regulations on ethics of lawyers, 1986 as well as other legislations. Based on the report of the Office of Lawyers' Ethics Committee under the Lawyers Council under Royal Patronage, it is found that complaints have been filed to the Lawyers Council, which is the agency providing oversight of compliance with the said regulations on ethics of lawyers, 1986, against Thai lawyers who work under the laws and regulations. Statistics from 2008 to 2015 indicates that each year there are no less than 392 cases of complaints filed against lawyers, and each year there are no less than 215 lawyers getting charged and punished. Wrongdoings on which lawyers have been charged can be categorized into three groups.

1. Irresponsibility of assigned duties, including intentionally missing appointments, negligence of cases, failure to perform duties, concealing information from clients, disrespect of the court, refusal to serve as requested by the court in criminal cases, disclosure of client's information, and failure to comply with the regulations. These make lawyers look as if they are dishonest or untruthful.

2. Violation of moral codes, including scamming and embezzlement from clients. These make lawyers look as if they lack humanitarian values.

3. Dishonesty, including insincerity, deception, exaggeration, switching to the opposite side after accepting a case, seizing cases from other lawyers, making false documents, asking for benefits beyond what is agreed on, provoking conflicts to create lawsuits, propaganda, and accepting cases even when the lawyers have received imprisonment verdicts themselves (except for misdemeanors or wrongdoings deemed unintentional).

For these aforementioned misconducts of Thai lawyers, there are laws and regulations that mandate certain conducts and prohibit others. Violators of the laws and regulations are penalized as specified by law. However, legal enforcement can only take place after wrongdoings are already committed. It is, therefore, the belief of this author that a proper integration of Buddhadharma into, or an application of Buddhadharma to, each problem shall be employed along with the legal principles, which will solve the problems and create happiness for Thai lawyers themselves, their families, the society, and the nation.

Objectives

1. To study the role and duty of Thai lawyers
2. To study the appropriate Buddhadharma to be integrated into the work of Thai lawyers as they perform their duties

3. To integrate Buddhadharma in finding the solutions to problems of Thai lawyers in performing their duties
4. To synthesize the knowledge bases of the integration of Buddhadharma into the duties of Thai lawyers

Research Methodology

Scope of the Research

In this study, the author considers problems with Thai lawyers performing their duties, particularly the lawyers against whom complaints are filed to the Office of Lawyers' Ethics Committee, Lawyers Council under Royal Patronage from 2008 to 2015. In total, during that period, citing violations of the Thailand Lawyers Act, B.E. 2528 and the Lawyers Council Regulation, 1986, 3,136 cases have been filed, making up of 15 types of charges.

Sample

1. Eleven Individuals who are members of the Lawyers Council under Royal Patronage, have been in the lawyer profession for no less than ten years, and participate in the group discussion.
2. Participating in in-depth interviews are five monks who are Buddhism experts and six individuals who are experts in the lawyer profession.

Research Tools

1. A questionnaire is used to survey backgrounds of the interviewees and information regarding the Buddhadharma to be integrated into the practice of Thai lawyers in order to solve the legal practice problems, and other suggestions.
2. An in-depth interview is designed to address issues relating to the role and the duties of Thai lawyers, the Buddhadharma that may be employed to solve the problems in their legal practice, which includes the problems of irresponsibility, immorality, and dishonesty.

Data Analysis

Qualitative analysis is done on the transcription of group discussion and in-depth interviews. Information is grouped and analyzed to establish relations and connections between materials. Summary is also made of primary data, secondary data, group discussion, and in-depth interviews so as to develop the format of Buddhadharma to be integrated into the practice of Thai lawyers.

Research Results

The report of the Office of Lawyers' Ethics Committee indicates that from 2008 to 2015, lawyers have been accused and charged of ethical misconduct, and accordingly penalized. Severe misconducts result in 821 of the involved lawyers having been deregistered from the lawyer registration. This record reflects problems that persist among Thai lawyers in the past several years. Despite the existence of related laws and regulations, Thai lawyers continue to be accused of misconducts and there is no sign of reduction in the number of accusations.

An integration of Buddhadharma is one of the methods that may be able to effectively solve the problems with regards to the practice of Thai lawyers, to raise social acceptance in the Thai society of lawyers in terms of their morality, and to make lawyers reliable and trustworthy for the people involved in litigation. This research, therefore, emphasizes the

integration of Buddhadharma that is suitable as solutions to the problems among Thai lawyers in performing their duties, so that it can be applied to actual use.

The virtues for laypeople are the standard dharma regarding working and occupation, consisting of four items, including truth and honesty, taming and training oneself, tolerance, and generosity. This is taught by the Buddha in *Ālavakasutta* (*Saṃyuttanikaya* Sarayatanavagga, 15/246/354). This dharma shall help promote responsibilities among Thai lawyers in performing their duties. Upholding this dharma, the lawyers should dedicate themselves to and not neglect their duties, work hard, be in control of their desire, and be willing to sacrifice and share. In all, Thai lawyers should adjust their behaviors to achieve goodness.

The five precepts and the five virtues are standard dharma for humanity in *Jakkavattisutta* (*Dighanikaya* Pātigavagga, 11/87/64), which teaches people to practice the five precepts. If not, men often trouble one another and find it difficult to find peace in life. The five virtues are there to curb people from violate the five precepts and to encourage morality among Thai lawyers, so that they behave correctly and according to the dharma itself.

The good conduct is the standard dharma in terms of personal life which is said by the Buddha in *Lukkhaṇasutta* *Aṅguttaranikāya* Tikanibāta (20/3/141). It is the principle of honesty and trust. The honesty including physical honesty, verbal honesty, and mental honesty shall lead Thai lawyers to live an honest life and perform only good karmas.

The four prejudices are the standard dharma for caring of the society as taught by Buddha in *Agatisutta* (*Aṅguttaranikāya* Catukkanibāta, 21/17/29). Men shall not adopt any of the four prejudices which are prejudice out of love, prejudice out of hatred, prejudice out of ignorance, and prejudice out of fear. When the four prejudices occur, bad deeds may follow and lead to irresponsibility, immorality, and dishonesty. When abstaining from the four prejudices, Thai lawyers, who practice the laws, can practice with justice.

The moral shame and moral fear is the standard dharma for virtues as taught by Buddha in *Cariyasutta* (*Aṅguttaranikāya* dukkanibāta, 20/9/63) to be the dharma that protects the world. It means that if men have these virtues, any problem can be mitigated. This is because when we are ashamed and afraid of committing sins, we will also be afraid of doing any bad deeds.

These five Buddhadharmas shall trigger the follow three-step process.

1. The behaviors of Thai lawyers are transformed in a good way in accordance with the virtues for laypeople, with good conscience as a reminder to avoid prejudices.

2. The behaviors of Thai lawyers are developed towards correctness in accordance with the Buddhist dharma as the lawyers conform to the five precepts and the five virtues, with good conscience as a reminder to avoid prejudices.

3. The Thai lawyers shall practice to perform only good karmas by conforming to the good conduct physically, verbally, and mentally, with good conscience as a reminder to avoid prejudices.

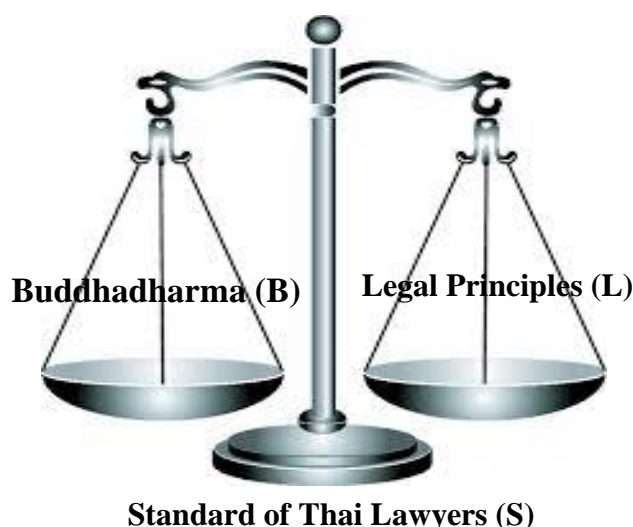
The three-step process results from an integration of Buddhadharma according to the teaching of Buddha, so the author shall name it “*MāravijayaTheory*”, which means that anyone who practices this theory shall be able to overcome the desires that act as disturbance. Not only can this theory be practiced by the Thai lawyers, but also by all men so that they may attain greatest benefits in life.

Discussion of Research Results

This synthesis of the body of knowledge with regards to an integration of Buddhadharma in the practice of Thai lawyers reflects the application of Buddhadharma in

solving the problems of Thai lawyers in their practice, so that the Thai lawyers attain the standard according to the legal-Buddhological principles, that is, the lawyers who incorporate Buddhadharma together with the legal principles. Lawyers who practice as such will be the example of how the problems arising in the practice of Thai lawyers can be solved in a sustainable manner as prescribed by the “BSL Model” shown in the chart below.

Standard of Thai Lawyers: Legal-Buddhology



With anti-corruption movements having gained steams in the current government, corruption suppression has become an important national agenda that receives one of the top priorities. In this connection, the author would like to propose the BSL Model as an alternative solution to the problems of the Lawyers Council, which currently comprise over eighty thousand members, whose profession has a direct impact on social peace.

The author is confident that if pertinent individuals seriously employ the BSL Model, such model that combines Buddhist dharma with legal principles will be able to solve problems with regards to the practice of the Thai lawyers in a sustainable manner, and this knowledge can also be passed along to the new generations of lawyers.

Recommendations

Research recommendations

Solving the problems in the practice of Thai lawyers requires cooperation from all sectors of the society, from the individual level to the Lawyers Council to the government, in

propelling the solution process. Plans and strategies from all sectors must, therefore, be consistent as well as properly coordinated and controlled.

The government sector by the Ministry of Education is an agency that can serve as the main force in propelling the solution, because the instillation of moral and ethical values shall begin since childhood.

The organization, such as the Lawyers Council under Royal Patronage, must adopt the solution, implement it, and make further suggestions, so that other related agencies know what is needed to solve the problems for Thai lawyers in performing their duties.

At the individual level, lawyers shall acquire knowledge while also undergoing self-development in terms of morality and ethics.

Recommendations for further studies

Given that it is found that Buddhadharma provides an important basis to solve many problems in life, the author believes that further studies shall be done on the incorporation of Buddhadharma in solving problems in the professional practice of other legal professionals, such as the integration of Buddhadharma in the practice of judges, the integration of Buddhadharma in the practice of public prosecutors, and the integration of Buddhadharma in the practice of inquiry officials.

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