

PROFESSIONAL ETHICS IN THE LEGAL PROFESSION.
AN EXAMINATION ON THE CONDUCT AND ETIQUETTE OF
LAWYERS WITH REFERENCE TO THE LEGAL PROFESSION
(PRACTICE AND ETIQUETTE) RULES 1978

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PREFACE

The scope of this project paper is to discuss the practice and etiquette of lawyers in performing his professional duties. In this context, the writer examines some of the unethical practices among members of the legal profession in this country that are widely in practice today.

In this dissertation the writer has restricted his area of research to the topics in which The Legal Profession (Practice and Etiquette) Rules 1978 form the crux of this research paper. However, the contents of the Legal Profession Act 1976 as the parent act, is also discussed where the provisions laid in the Act form the primary law to the regulations bodying the legal practice. The provisions of the subsidiary legislations of the Legal Profession Act 1976 is also discussed and attached in the appendix.

The writer also examined the practice of touting, misuse of client's funds and the rules against advertising as an example of the unethical practices among legal practitioners. This paper offers some explanations as to why they are so widely practised. The writer concludes with suggestions as to how they can be stopped.

TABLE OF CONTENTS

	Page
Preface	iii
Abstract	vi
Table of Contents	viii
List of Statutes	ix
Table of Cases	x
Chapter 1 : Introduction	1
Chapter 2 : Legal Profession Act 1972 and subsidiary legislation	12
Chapter 3 : Legal Profession (Practice and Etiquette) Rules 1978	22
Chapter 4 : Some unethical practices - Touting	28
Chapter 5 : Advertising - rules against it	37
Chapter 6 : Misuse of Client's Funds	47
Chapter 7 : Complaints made to the Bar Council - The Procedure	53
Chapter 8 : Explanations for the growth of the unethical practices and suggested steps to check them	57
Chapter 9 : Conclusion	62
Appendix	
Bibliography	

As a result of today's modern society's complexity, it is highly demanded that the legal profession play a major role in giving practical guidance to the public. This would include giving advice relating to life, property and other rights which extend beyond the strict interpretation of law. The complexity of the various transactions and services rendered by the lawyers to the public would make the role of lawyers in serving the community greatly felt particularly in a developing country like Malaysia today.

Due to that, a close interaction exists between lawyers and the general public. As lawyers exist to serve the public, he is the great saver of justice as

"Justice is the great interest of man on earth" ¹

Lawyers should be trained to pursue the law in a high spirit of public services.

Since law has become a great institution that greatly affects the life of the public, it is very important that a high standard of professionalism be maintained. As professionals, they have to live with a high standard of conduct and discipline to gain public confidence and as such, there is a need to have some form of prescribed conduct governing the conduct, discipline

and manners of the legal profession. Any deviation from the prescribed conduct will tend to erode public confidence and this will undermine the entire legal system and further weaken the administration of justice in the country.

The high standard of conduct and duty to safeguard the public from any means of exploitation cannot just be ignored. This is because, the legal profession has a fiduciary relationship with the public who are likely to be their potential clients and as such, there is an expectation that certain ethical rules are to be observed by the legal profession in order to maintain that confidence on the general public.

As the duty of a lawyer is to work for the good of the country, a more spiritual (honest) and less materialistic approach has to be taken by lawyers in the conduct of their profession. This would include even if it meant foregoing monetary gain :

"the first thing you must always bear in mind if you would spiritualise the practice of law, is not to make your profession subservient to the interest of your purse, as is unfortunate but too often the case at present, but to use your profession for the service of your country. There are instances of eminent lawyers in all countries who lead a life of self sacrifice, who devoted their brilliant legal talents entirely to the service of their country, although it spelt almost pauperism to them."²