

**THE BREACH OF PROFESSIONAL CODE OF ETHICS UNDER THE LEGAL  
PROFESSION ACT 1976 WITH SPECIFIC REFERENCE TO CRIMINAL  
BREACH OF TRUST (CBT)**

By

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The students/authors confirm that the work submitted is their own and that appropriate credit has been given where references had been made to the work of others.

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## **ABSTRACT**

This research is conducted in order to study the breach of professional code of ethics in relation to criminal breach of trust (CBT) by legal practitioners. The research looks into the Legal Profession Act 1976 specifically Section 94 which is about professional misconduct. Other than that, this research will also look into the Solicitor Account Rules 1990 (SAR) which governs the lawyers in handling and managing the client's money. Apart from that, this research will also include the reason why lawyers committed CBT although being governed by LPA 1976 and SAR 1990 and also determine comprehensiveness of the Act to govern legal practitioners from committing CBT. In addition, comparison was made between the legal practice in United Kingdom and Singapore in handling CBT committed by legal practitioners. Thus, recommendations were made to deter the legal practitioners from committing CBT.

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# CHAPTER ONE: INTRODUCTION

## 1.0 Introduction

Law is a system of rules which is commonly enforced through several institutions. The basic rule of law is that no one is immune of the law. Thus, everyone shall have the same responsibility which is to obey the set of rules that was created. Everyone should be treated equally and fair. The main purpose of having law is to safeguard peace and the fundamental liberties of a person. Hence any act of depriving one's fundamental liberties is an act that contradict with the general principles of law.

“.....law grows with the growth and strengthens with the strength of the people and finally dies away as the nation loss it nationality....”<sup>1</sup>- Carl Von Savigny

Generally, what is meant by Savigny is that law has a fixed character peculiar to the people. Law develops together with the language or manner of the people. Thus in order for the people to obey rules, the law shall be consistent and connected to the people<sup>2</sup>. Besides that, the law also must uphold justice and fairness. Justice is the concept of moral rightness based on ethics, rationality, law, natural law, religion, fairness or equality. Hence, the concept of justice need to be enforced side by side with fairness so as to ensure that people or the society would obey the law. Justice is the critical ingredient for an effective law. In other words, the law would only be enforceable if the society has faith in the law and with the proper channel of enforcement.

## 1.1 Background of Research

Lawyers are specialist or practitioners of law. Lawyers or legal practitioners could be addressed as attorney, counselor, solicitors, barrister or advocates. In Malaysia, advocates and solicitors are obliged to obey the Legal Profession Act 1976

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<sup>1</sup>(Chand, 2009) p.124.

<sup>2</sup>(Chand, 2009) p.125.