



LEGAL PROFESSION & ETHICS

LECTURE NOTE

BY: MULSA M (LL.B, LL.M)

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CHAPTER 2

LEGAL PROFESSION

- **Ethics** is the philosophical study of morality. It is also called **moral philosophy**.
- **legal ethics** –set of rules that regulate the conduct of members of the legal profession.
- Legal ethics is one branch of professional ethics, which comprises of set of rules of conduct for professionals including teachers, accountant, engineers, physicians etc.
- **Legal Ethics:** Professional ethics for lawyers.
- **Professional ethics** belongs to a wider discipline called applied ethics which form as one branch of ethics or moral philosophy.
- **Professional Ethics:** rule or standard governing the conduct of members of a profession—whether legal profession, accounting profession, etc.
- **What is Profession? Who are Legal Professionals?** Defining Profession is difficult task.
- **A vocation** requiring advanced education & training (Black's Law Dictionary)
- **Occupation** that involves extensive training—long period of time—(**must be in a particular field**) with significant intellectual component in the training and community services. **Is there any profession w/c could be attained without extensive training?**
- **What is the difference b/n profession and occupation?**
- An activity or pursuit in which a person is engaged esp. person's usual work or business [Black's Law Dictionary]
- **Legal Profession:** is an occupation that requires advanced training in law.



Cont'd

- ▮ There are features common to most profession: **Process of certification or licensing, organization of members and autonomy of the professional in his or her work.**
- ▮ But these features are not necessary for an occupation to be a profession.
- ▮ Legal profession is particularly profession of law.
- ▮ the standard of minimally acceptable conduct within the legal profession, involving the duties that its members owe one another, their client and the court.

Legal Profession vs Business

Legal Profession

- Legal profession is an occupation that requires advanced training in law.
- legal professionals can be a businessperson while business persons cannot practice law.
- Legal profession is related to administration of justice.
- The motive in legal profession is safeguarding liberty and attaining justice.
- Fees to the advocate or other legal professionals are incidental upon safeguarding liberty and attaining justice.
- There is cooperation, not competition in legal profession b/se the goal of all legal professionals attainment of justice and liberty. This cooperation should also exist between the bar and the bench.

Business

- Business is the activity of making buying, selling or supplying goods or services for money.
- Business does not require training.
- main motive of business is to obtain profit, and there is loss to it.
- Competition is basic feature of business—competition is another distinction between business and legal profession.

ADMISSION TO LEGAL PROFESSION: OTHER JURISDICTION EXPERIENCE AND PRACTICE IN ETHIOPIA

- Admission to legal profession differs from jurisdiction to jurisdiction.
- **South Africa:** a person should pass through four stages of education and qualification and pass bar examination to become an attorney.
- **1st Stage:** university education for four years leading to an L.L.B. degree.
- **2nd Stage:** attendance at a practical legal training school.
- **3rd Stage:** service of articles of clerkship under a practicing attorney.
- **4th Stage:** employment in a public interest law firm.
- **US:** Lawyers are not admitted to practice in US; admission to practice before federal courts and before state courts is according to the federal and state laws.
- **Ethiopia:** Admission to the legal profession in Ethiopia is similar with that of U.S. But admission to legal profession is handled by Ministry of Justice or Regional Justice bureaus.
- It is the jurisdiction of the state to determine the requirements to practice before state courts.
- To practice before federal courts, any Ethiopian should hold one of the three types of licenses **[at federal level, see proclamation No.1249/2021]**.
 - a) federal first instance court advocacy license;
 - b) federal courts advocacy license; and
 - c) federal court special advocacy license.

See articles 11-14 of Procl. No. 1249/2021

Requirements to obtain these licenses

- Graduation from legally recognized institution and experience
- suitable code of conduct for assisting in the proper administration of justice;
- pass mark in the advocacy entrance examination
- no conviction and sentence in an offense showing an improper conduct;
- documents evidencing entrance into a professional Indemnity Insurance Policy.
- **Exercising Legal Profession is Constitutional Right**
- Every Ethiopian has a right to choose his own profession (Art.41/2).
- It is the constitutional right of Ethiopian citizens to choose legal profession as their means of livelihood.



Dissatisfaction with Legal Profession

- There are causes dissatisfaction of legal profession:
- the abuse of adversary system**- This abuse lead to bullying[mistreatment] of witnesses and sensational cross examinations, impairment of administration of justice.
- Incivility among advocates** exacerbad the dislike of the public to the legal profession. Legal professional/Advocates usually do not address each other courteously i.e. insulting each other or incivility, which is unethical and this creates dissatisfaction of legal profession.
- Commercialization of legal profession** -- Advocates turned legal profession into business.
- problematic billing practices**-charges to more than one client for the same work or the same hours, surcharges on services contracted with outside vendors, and charges beyond reasonable costs for in-house services like photocopying and computer searches.

Bar Association & their Role in Legal Profession

- Bar associations play an important role in the legal profession. In some jurisdictions they are strong (US) whereas in other jurisdictions their role is minimal (Ethiopia).
- US Bar Association [ABA]:**
- Has a significant role in improving legal education.
- Set requirements that should be satisfied to gain admission to the bar.
- Facilitates exchanges of information among its members.
- establishment of formal education requirements for persons seeking to become attorneys.
- formulation of ethical principles that govern the [practice of law](#).
- creation of the American Law Institute (ALI).
- involved in the recommendation and selection of candidates for the federal judiciary.
- Involved in the accreditation of law schools.
- Involved in the refinement of rules of legal and judicial ethics.

Ethiopian Bar Association [EBA] and its roles
Also Known as Advocate's Association [Federal, Regional]

- The role of EBA is insignificant when compared with the role ABA plays:
- EBA conducts three activities:
- **Continuing Legal Education (CLE), Law Reform and Advocacy, and Legal Aid Services.**
- Continuing Legal Education is intended to improve legal knowledge and skills of advocates, and to create awareness of new laws among its members through workshops.
- **In its Law Reform and Advocacy Activity:**
- EBA proposes amendments and new laws to contribute to development in laws and in administration of justice in Ethiopia,
- Creates awareness of law and Human Rights through research and publications.
- EBA also provides legal aid services to indigent in cooperation with other associations.
- **Currently, Advocate's Association in Ethiopia governed by Federal Advocate's Licensing and Administration Proc. No.1249/2021 & Regional Advocate's Licensing & Adm. Procls.**

Unauthorized Practice in Legal Profession

- What is unauthorized Practice of law? & what is unauthorized practice in legal profession?
- Unauthorized Practice is the performance of professional services such as the rendering of legal assistance/service by a person who is not **licensed** to do so or **without renewing it**.
- **But a person may render advocacy services without having advocacy license as per art. 5 of Proc. No.1249/2021: any person handling his own case, person representing, without charge, his spouse, parent, child, grandparent, sister, brother, parents of his spouse, person who he is designated as tutor or guardian, Public Prosecutor related to his job.**
- Unauthorized practice of law is “the practice of law by a person, typically a non lawyer, who has not been licensed or admitted to practice law in a given jurisdiction [Black’s Law Dictionary].
- An unauthorized practice of law is engaging in the practice of law by persons or entities not authorized to practice law pursuant to state law or advocacy licensing and administration legislations [example Proc. No.1249/2021 in Ethiopia]
- It is a crime in Ethiopia [**see art.89 of proc. 1249/2021**] like other jurisdictions.
- Unauthorized practice of law has no universal acceptance among the public:
- Some believe that there should be no laws that prohibit those who practice without license.
- The legal professions and most legislatures believe that the public interest is best served by restricting the performance of advocacy services to the members of their professions.
- **Unauthorized practice of law vs Malpractice of law?**
- Malpractice: **An act or continuing conduct of a professional which does not meet the standard of professional competence** and results in provable damages to his/her client or patient.



Chapter Three

Judicial Ethics/Conduct

- ▮ **Ethical Duties of Judges in Judicial activities**

- ▮ **1. Independence**

