

## How Environmental Legal Scholarship Contributes to the Legal Profession and Society at Large

*transcribed plenary speech of*

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When the Dutch conceded the maritime provinces of the country in 1796, the British occupied those areas and they installed their administration. As a principle they didn't do away with the existing legal systems as well as the administration of the legal system. So the legal profession as stood in 1796 latter part of the 18<sup>th</sup> century was administered by Dutch judges. They didn't want to incorporate with the British conquerors. So gradually the British rulers, after Federick North's rule they started administering English law and the English legal principles to this country especially after the entire country became a British colony in 1815 they introduced the English legal system. But, they did not do away with the Roman Dutch Law system. So as a result, even now you get a mixture of Roman Dutch Law as well as the English legal system in this country. About the professional ethics, if you go to the earliest part of the entry to the legal profession in this country that was a kind of apprenticeship system. British judges what they did was to select few candidates as prospective law students and then those students functioned as apprentices in the chambers of senior lawyers and trained by the British judges. Because in the earlier part of the 19<sup>th</sup> century almost all the judges were British people. So that was there for about in 56 years and in 1874 they started the present way of training lawyers mainly with the enactment of the Council of legal education. Supreme Court judges as well as the senior lawyers both were mainly from advocate profession. They appointed a committee of the Council of Legal Education to oversee the training of lawyers. When these lawyers were admitted to the Bar, according to the earlier Acts they had to undergo training in liberal arts. That means not only legal subjects, it's a spectrum of subjects called liberal arts including of the present humanities and social sciences. Whatever it is in the 19<sup>th</sup> century they started methodical training of lawyers and as a result Sri Lanka Law College (at that time Ceylon Law College) started functioning as the only training college for the lawyers. But there was a difference at that time, the English solicitors and English Barristers were allowed to practice without further examination or further registration. Gradually, the government with the attainment of independence did away with some of those concessions and the English Barristers were not

automatically admitted. They too had to sit for number of papers and the solicitors also. There is a landmark case in 1990s where it was held that English solicitor cannot be admitted as an Attorney-at-Law, because in 1974 in this country the two professions were fused ; proctors and advocates was abolished and one class of lawyers called Attorneys-at-Law were admitted. And now in this country the legal profession consists only of Attorneys-at-Law. Of course instead of Queen's Counsels, the Presidents Counsels are there. They are selected from and among the senior lawyers who have attained eminence in their profession. Now, about the professional ethics in the earlier period especially during the British era there were very few complaints against the lawyers and very few numbers and far between also. No one took any serious note of those complaints. But with the growth of the numbers of the profession, now today there are about 16,000 lawyers in this country. So like that gradually complaints against the lawyers' misconduct or whatever started and the authorities especially the Supreme Court had to deal with them. And of course the Supreme Court allowed the Bar Association disciplinary committees, professional purpose committee and the like to deal with some of the offences and more serious cases the Supreme Court itself issued notices and then after inquiry some of the members were dis-enrolled and the others were suspended. So like that punishment will have to be metered out to some of misbehaviors of this profession. The importance of professional ethics in the legal profession, it's very obvious now because, professional ethics are the standards of conducts, the desirable practices and to avoid the undesirable practices. Law relating to ethics regarding the legal profession generally contained in some of the provisions of the constitution, about the admission and suspension or the or the enrolled of lawyers, Judicature Act. And mainly the Supreme Court rules which were promulgated in 1988 under the provisions of the constitution which allowed the Supreme Court to make rules. So according to the rules touting is an offence. Advertisement in certain categories is an offence. So like that there are duties laid down for the courts, fellow members of the profession as well as for the general public. So like in any other profession, legal profession also a noble profession,

one of the noblest professions. But unfortunately recent times we have seen the deterioration of standards, both moral standards as well as the general standards. That is due to various other factors. Because we cannot single out legal profession. Because, deterioration of standards is common to all the other professions, medical, engineering or whatever you call it. So that way legal profession is not an exception to the general deterioration. Now at present time legal ethics, professional ethics is a subject in most of the university curriculum. As far as the law college is concerned where I'm the principal, I'm the lecturer in professional ethics, that's a subject for the final year. Various other universities they are still introducing this as a subject. Because, that was never a subject and that was not one of the six core subjects in the United Kingdom universities, professional ethics. That is a matter for the Bar training institutions like the wings court or the college of law regarding the admissions of the Barristers profession as well as the Solicitors profession in England. But in Sri Lanka during the early part of the legal education, it means the university education, the law faculty of Ceylon University that was started in 1947, professional ethics was not taught as a subject. But I think now the law faculty, even now I'm told that it's not being taught, but only at the Sri Lanka law college. But

every lawyer will have to undergo training in legal profession. For an example few months ago, the Supreme Court of this country has dealt with a lawyer who has accepted a fee, but never appeared in court. So what was the punishment metered out to him, to come back to law college and under my supervision to undergo another training course in professional ethics. One term he had to follow lectures in professional ethics which of course carried out and now he's again back in the practice. That's a right punishment for a lawyer who has neglected his professional duties. By having accepted a fee and failed to appear in courts. So three months he had to follow the professional ethics course at the law college. That was about six months ago. But there have been cases where the lawyers have been dis enrolled and suspended for years and years. And there are other cases where the suspended lawyers or the dis enrolled lawyers reapplied for admission and there again in the absence of any reparation or any improvement of his moral turpitude, the Supreme Court has refused. So any student studies in a profession, like law student or medical student or whatever profession, minimum standards must be maintained regarding the profession. As far as the law profession is concerned one has to strictly follow the Supreme Court rules and try to live up to the required standards of this profession.