

A Comparative Study of the Route for Lawyers to Access
the French and Thai Legal Systems
การศึกษาเปรียบเทียบภาพรวมของการเป็นทนายความในระบบกฎหมาย
ฝรั่งเศสและไทย

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Abstract

To become a lawyer, certain conditions must be fulfilled in all countries: a legal degree, citizenship, academic background, moral requirements, training, etc. Some similarities and differences can be highlighted depending on the country's legal and regulatory frameworks. The objective of this article is to analyze and compare how

to become a fully-qualified lawyer in both France and Thailand in order to provide observations to improve the access to legal professions in Thailand.

This article was written by using the literature review method from primary legal documents (such as legal provisions) and related regulations from France and Thailand.¹ Secondary legal documents (law books, official administrative reports, etc.) were also used in order to analyze and offer observations and recommendations concerning access to the legal profession in Thailand.

This study demonstrates that becoming a lawyer in Thailand is similar to the French legal system in many aspects though differences between the two countries' systems certainly exist. Today, the process of accessing legal professions in Thailand is subject to major concerns and Thai jurists request reform. This study is relevant because access to the profession is currently being discussed in Thailand.

Keywords: Lawyer, Avocat, Attorney, Barrister at Law, Legal Education

บทคัดย่อ

ในทุกประเทศ ผู้ที่ประสงค์ที่จะประกอบวิชาชีพทนายความต้องมีคุณสมบัติทั้งด้านปริญญา บัณฑิตทางการศึกษา ประวัติการศึกษา สัญชาติ การอบรมทางจริยธรรม การฝึกปฏิบัติ และคุณสมบัติอื่น ๆ เหล่านี้เป็นเงื่อนไขของผู้ที่ประสงค์ที่จะเป็นผู้ประกอบวิชาชีพทนายความซึ่งมีความเหมือนและความแตกต่างกัน ทั้งนี้ขึ้นอยู่กับกฎหมายและข้อบังคับของแต่ละประเทศ

บทความนี้มีวัตถุประสงค์ที่จะทำการวิเคราะห์และเปรียบเทียบการเป็นทนายความระหว่างประเทศฝรั่งเศสและประเทศไทยเพื่อนำไปสู่การให้ข้อเสนอในการพัฒนาความเป็นทนายความในประเทศไทยที่กำลังเป็นประเด็นถกเถียงกันในสังคมในปัจจุบัน

บทความนี้กระทำได้โดยวิธีการศึกษาเอกสารปฐมภูมิทางกฎหมาย ได้แก่ พระราชบัญญัติ และกฎหมายลำดับรองที่เกี่ยวข้องของทั้งสองประเทศ รวมถึงเอกสารทุติยภูมิทางกฎหมาย ได้แก่ หนังสือและตำราทางนิติศาสตร์และรายงานของหน่วยงานราชการ รวมถึงการสัมภาษณ์ทนายความ เพื่อวิเคราะห์และให้ข้อเสนอแนะเกี่ยวกับการปรับปรุงกฎหมายหรือระเบียบที่เกี่ยวข้องกับการสอบทนายความในประเทศไทย

¹ Due to the difference of dating systems in this article, the authors will indicate the year in the Anno Domini (A.D.) system in parentheses.

ผลการศึกษาพบว่า การเป็นทนายความของประเทศฝรั่งเศสมีความคล้ายคลึงกับระบบกฎหมายไทยในหลายประเด็น อย่างไรก็ตาม พบว่ามีความแตกต่างสำคัญระหว่างสองระบบเช่นกัน ขณะนี้ กระบวนการของการสอบเป็นทนายความในประเทศไทยกำลังเป็นประเด็นสำคัญในสังคม ซึ่งมีนักนิติศาสตร์หลายภาคส่วนกำลังเรียกร้องให้มีการปฏิรูป บทความนี้จึงอาจเป็นประโยชน์ต่อการปฏิรูปกระบวนการสอบทนายความของประเทศไทยที่กำลังเป็นที่ถกเถียงกันในขณะนี้

คำสำคัญ: ทนายความ, เนติบัณฑิต, การศึกษานิติศาสตร์

Introduction

Lawyer is one of the oldest and most honorable of all professions. The principle that a person has the right to choose another person to plead his case has long been recognized. Many of the great Greek and Roman orators, though in a manner different from that of modern times, performed the duties of advocates, and many of their most famous orations were composed for this purpose². According to the judge Sharswood³: “In all countries advanced in civilization, and where laws and manners have attained any degree of refinement, there has arisen an order of advocates devoted to prosecuting or defending the lawsuits of others”.

The legal profession has been developed from ancient Greece to the present day according to the legal requirements of each country. In modern times, lawyers have become part of a unique profession with a specific organization to supervise their activities. Becoming a lawyer is complex and depends on the legal provisions of each country.

In France, the origin of the current profession of lawyer dates back to the 13th century. At that time, the main activities of a lawyer were those of advice and defense. The profession was abolished in 1790 and re-established under Napoleon in 1810. It was not until 1900 that women could enter the profession. Then, in 1941, a certificate of aptitude for the profession of lawyer (C.A.P.A) was introduced in addition to a law degree to gain access to the profession. In 2022, a modern lawyer combines legal and

² E. W. Timberlake Jr., “Origin and Development of Advocacy as a Profession,” in *Virginia Law Review*, Vol. 9, No. 1 (Nov 1922), p.25.

³ G. Sharswood, *An Essay on Professional Ethics*, (Philadelphia: T. & J. W. Johnson & co., 1860), p. 80, cited in Ibid.

judicial activities, advises and defends individuals and companies⁴ and is now a liberal and independent profession.

In France, to become a lawyer, certain conditions must be met. Thus, applicants must be French nationals, never have been subject to criminal, administrative or judicial sanctions, have a minimum of a Master's 1 in law, have passed the entrance exam to one of the eleven regional centers for professional training in the legal profession (C.R.F.P.A.) and, at the end of this training, have passed the C.A.P.A. exam.

In Thailand, to become a lawyer, candidates must meet the requirements of the laws and regulations. Applicants must be Thai nationals⁵, be at least 20 years old at the inscription date⁶, hold a Bachelor of law or equivalent degree recognized by the Lawyers Council of Thailand⁷, be a member of the Barristers of Thailand⁸, and pass examinations on the deontology of the legal profession and its fundamental principles⁹. Lastly, they must complete an operational internship in a law firm¹⁰. The main authority responsible for the tenure of lawyers is not a government authority but a private authority, called the Lawyers Council.

Recently and concomitantly with the reform of the judicial system in Thailand¹¹, the path to becoming a lawyer in Thailand is now being debated for the following reasons: the diversity of the composition of the jurists and lawyers, the diversity of organizations charged with producing jurists as well as the quality of the current training. The development of lawyers requires reformation. Many academics are giving their opinions and suggesting reforms. For example, Associate Professor Dr. Munin Pongsapan, Former President of the Faculty of Law at Thammasat University, explained that the

⁴ Avocats Barreau de Paris, "Du Moyen-Âge à nos jours, découvrez l'histoire de notre barreau," [online]. Paris: Barreau de Paris, 2021. Available from: <https://www.avocatparis.org/qui-sommes-nous/un-peu-dhistoire#:~:text=D%20Moyen%2DAge%20%C3%A0%20la> [9 September 2022]

⁵ Section 35 of Lawyer Act B.E. 2528 (1985)

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Section 38 of Lawyer Act B.E. 2528

¹⁰ Ibid.

¹¹ Section 258 c. (2) of Constitution of the Kingdom of Thailand

legal education in Thailand is the only professional development that is distinct and non-uniform¹². Assistant Professor Sutthichai Ngamchuensuwan, the President of the Prince Songkla University's Faculty of Law, explained that¹³ the “Barrister-model” of legal education must be eliminated in order to establish the uniformity of legal education by fixing the minimum indicators of quality and by enhancing the professional education of the jurists so that legal students might acquire expertise(s) and professional skills.

One of the major actors of this reform is the “Sub-Committee of the National Council of Legal Education”, which is composed of the presidents of each faculty of law across the country¹⁴. This sub-committee is responsible for providing observations and suggestions for legal education reform. In this regard, the development of lawyers is at the center of discussion.

On the other hand, there are also objections raised by the Lawyers Council, for example, a headline from *Thairath Online*¹⁵ states, “Lawyers’ Council protests the fact that the Committee of the National Council of Legal Education would have the power to authorize lawyers” and a headline from *Matichon*¹⁶ alleges that “Lawyers Council protests the proposition of the National Council of Legal Education for authorizing the barristers to proceed with the lawsuit without training”.

The French legal system played an important role in the beginning of the legal reform in Thailand; therefore, this article compares the French and Thai systems regarding access to the legal profession and highlights the commonalities as well as the differences

¹² Munin Phongsapan, “Reform of the legal education in Thailand, Change ‘Deaf lawyer’ into ‘People’s rights protectors’,” [online] Available from: <https://www.the101.world/legal-education-reform/> [1 August 2022]

¹³ Sutthichai Ngamchuensuwan, “Preliminary recommendation for reforming national legal educations,” [online] Available from: <https://www.the101.world/legal-education-reform-recommendation/> [1 August 2022]

¹⁴ The Sub-Committee of the National Council of Legal Education, “Guideline of the National Council of Legal Education (public version),” p.2-3. [online] Available from: <http://law.tu.ac.th/news-11-feb-2022/> [1 August 2022]

¹⁵ Thairath, “Lawyers Council protests the fact that the Committee of the National Council of Legal Education would have the power to authorize lawyers,” [online] Available from: <https://www.thairath.co.th/news/local/2317965> [1 August 2022]

¹⁶ Matichon Online, “Lawyers Council protests the proposition of the National Council of Legal Education for authorizing the barristers to proceed with the lawsuit without training,” [online] Available from: https://www.matichon.co.th/politics/news_3186067 [1 August 2022]

between the systems. The results of this comparison may provide useful solutions for the current debate on legal education reform in Thailand. This article focuses primarily on the problems of access to the lawyer profession arising from Thai legal stipulations. Moreover, the objective of this article is to provide suggestions which could finalize some current discussions happening in Thailand.

1. How to become a lawyer in the French legal system

In France, the legal profession is regulated. It can only be exercised under certain conditions. The legal profession, in France, is governed by the following laws and regulations:

- Law no 71-1130 of 31 December 1971: reforming certain judicial and legal professions - (*Loi n° 71-1130 du 31 décembre 1971¹⁷ portant réforme de certaines professions judiciaires et juridiques*);
- The decree no. 91-1197 of 27 November 1991: organising the lawyer's profession - (*Le décret n°91-1197 du 27 novembre 1991¹⁸ organisant la profession d'avocat*);
- Decree no 2005-790 of 12 July 2005: on the rules of ethics of the lawyer's profession - (*Le décret n°2005-790 du 12 juillet 2005¹⁹ relatif aux règles de déontologie de la profession d'avocat*);
- The decision of a normative nature no 2005-003: adopting national internal regulations (RIN) of the lawyer's profession - (*La décision à caractère normatif n° 2005-003²⁰ portant adoption du règlement intérieur national (RIN) de la profession d'avocat*).
- The Related ethical rules of the bar association of Paris (*Règles déontologiques connexes du barreau de Paris*)

¹⁷ Loi n° 71-1130 du 31 décembre 1971, "Portant réforme de certaines professions judiciaires et juridiques," [online] Available from: <https://www.legifrance.gouv.fr/loda/id/LEGITEXT000006068396/> [1 August 2022]

¹⁸ Le Décret n°91-1197 du 27 novembre 1991, "Organisant la profession d'avocat," [online] Available from: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000356568/> [1 August 2022]

¹⁹ Le Décret n°2005-790 du 12 juillet 2005, "relatif aux règles de déontologie de la profession d'avocat," [online] Available from: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000633327/2022-07-24/> [1 August 2022]

²⁰ "La décision à caractère normatif n° 2005-003 portant adoption du règlement intérieur national (RIN) de la profession d'avocat," [online] Available from: <https://www.cnb.avocat.fr/fr/reglement-interieur-national-de-la-profession-davocat-rin> [1 August 2022]

1.1 Conditions of access to the lawyer profession in France

Access to the legal profession is only possible under certain conditions of ethics, character, degree, and training.

1.1.1 Personal qualifications of lawyer

1.1.1.1 Nationality requirements²¹

To be a lawyer in France, an applicant must be a French national. However, there are certain exceptions concerning nationals of a Member State of the European Union or the European Economic Area who may also enter the profession. The same applies to persons who are refugees or stateless persons recognized by the French Office for the Protection of Refugees and Stateless Persons.

Lawyers may also be nationals of a state or territorial unit that grants French nationals the right to practice under the same conditions of professional activity that the person concerned proposes to practice in France, subject to the decisions of the Council of the European Union concerning the association of overseas countries and territories with the European Union.

1.1.1.2 Morality requirements

In addition to the above nationality requirements, the following morality requirements must be met.²²

- The applicant must not have been convicted of acts contrary to honor, probity, or morality²³;
- The applicant must not have been the object of a disciplinary or administrative sanction of dismissal, striking, revocation, withdrawal of approval or authorization²⁴;

²¹ Article 11 1° de la loi n° 71-1130 du 31 décembre 1971

²² Conseil National des Barreaux, “Toutes les conditions d’accès à la profession, ” [online] Available from: [https://www.cnb.avocat.fr/fr/toutes-les-conditions-dacces-la-profession#:~:text=La%20profession%20d’avocat%20est%20en%20principe%20r%C3%A9serv%C3%A9e%20aux%20titulaires,d’avocats%20\(CRFP\) \[1 August 2022\]](https://www.cnb.avocat.fr/fr/toutes-les-conditions-dacces-la-profession#:~:text=La%20profession%20d’avocat%20est%20en%20principe%20r%C3%A9serv%C3%A9e%20aux%20titulaires,d’avocats%20(CRFP) [1 August 2022])

²³ Article 11 4° de la loi n° 71-1130 du 31 décembre 1971

²⁴ Article 11 5° de la loi n° 71-1130 du 31 décembre 1971

- Finally, the applicant must not have been subject to personal bankruptcy or the prohibition provided for in Article L. 653-8 of the Commercial Code²⁵.

1.1.1.3 Degree and training requirements

To practice as a lawyer, it is necessary to have at least a Master 1²⁶ in law as well as a certificate of aptitude for the profession of lawyer (CAPA) issued by a regional center for professional training of lawyers (CRFPA)²⁷.

Entry into a CRFPA is conditional upon passing an entrance exam, called “pré-CAPA” or “CRFPA”, which can be taken by all students who hold a Master 1 in law. The regional centers for professional training of lawyers provide compulsory initial training which takes place over a period of 18 months. It is a professional education program and is practical in nature. The current rules on the initial training of lawyers arise from implementing the Decree of 21 December 2004²⁸. The 18-month training is planned around courses and internships and is divided into three terms:

- Six months of training provided by one of the 11 bar schools which is devoted to acquiring the fundamentals, with particular emphasis on statutes, professional ethics, and the practical aspects of practicing law, this training is taken in common by all trainee lawyers.
- An internship from six to eight months which is devoted to carrying out an Individual Pedagogical Project (PPI), the purpose of this term is to encourage trainee lawyers to define their personal choices and prepare for their integration into professional life. This internship can be done in France or abroad.
- A six-month internship in a law office is required, with at least 3 months in a French law firm (3 months can be done in another European country)²⁹.

²⁵ Article 101 3° de la loi n° 71-1130 du 31 décembre 1971

²⁶ In the French Higher Education system, degrees can be classified as follows: *Licence*, Master I, Master II, and *Doctorat*. *Licence* in France is equivalent to Bachelor's Degree in Thailand.

²⁷ เนื้อหาของทั้งย่อหน้านี้มาจาก Article 52 du décret n° 91-1197 du 27 novembre 1991 organisant la profession d'avocat et Article 11 de la loi n° 71-1130 du 31 décembre 1971

²⁸ Décret n°2004-1386 du 21 décembre 2004, “relatif à la formation professionnelle des avocats (*Decree* n°2004-1386 of 21 December 2004 on the professional training of lawyers),” [online] Available from: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000805388/> [1 August 2022]

²⁹ Article 58 du décret n° 91-1197 du 27 novembre 1991 organisant la profession d'avocat

1.2 Access requirements to CRFPA

There are 11 regional centers for the professional training of lawyers³⁰, more commonly known as “**bar schools**”. These centers are located in the cities of Poitiers, Bordeaux, Montpellier, Bruz, Lyon, Marseille, Toulouse, Issy-les-Moulineaux (Paris), Strasbourg, Versailles and Lille. Access requirements to the regional professional training centers for lawyers are detailed below.

The end of the initial training at the bar school is sanctioned by the CAPA which includes various oral and written tests. This examination is organized in accordance with article 11 of the law of 31 December 1971³¹, articles 68 to 70 of the decree no. 91-1197 of 27 November 1991³² and the decree of 7 December 2005³³ fixing the program and the methods of the examination of aptitude for the profession of lawyer. The CAPA exam was recently reformed by an order of 9 May 2022³⁴ amending the order of 7 December 2005 and includes the following exams:

- continuous assessment during the first six months of training;
- a written test lasting 5 hours consisting of writing a legal consultation and a judicial act in either administrative, business, labor, or criminal law (at the candidate’s choice);
- a pleading (subject of your choice: administrative, business, labor, or criminal law) lasting 15 minutes with 3 hours of preparation;
- a 20-minute interview with the examination board, focusing on professional regulations and ethics with 1 hour of preparation;
- a 20 minutes oral examination in a foreign language with 20 minutes of preparation;

³⁰ “Directory of French bar’s schools,” [online] Available from: <https://www.cnb.avocat.fr/fr/annuaire-ecoles> [1 August 2022]

³¹ Supra note 17

³² Supra note 18

³³ Supra note 19

³⁴ Arrêté du 9 mai 2022, “modifiant l’arrêté du 7 décembre, 2005 fixant le programme et les modalités de l’examen d’aptitude à la profession d’avocat,” [online] Available from : <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000045780414> [1 August 2022]

- a discussion with the examination board lasting approximately 40 minutes, based on two reports drawn up by the candidate for the two internship periods with reference to his/her observations and reflections about professional practice.

Once trainee lawyers passed the Certificate of Aptitude for the Legal Profession (CAPA) examination, they then take an oath before the Court of Appeal and register in the bar association of their choice. Only then do they have the right to the title of *avocat* (a fully qualified lawyer).

The *Ordre des Avocats* is a professional, administrative and jurisdictional body that defends and regulates the legal profession, whereas the “*Barreau*” (*bar association*), collectively designates all lawyers who practice before a court of first instance. Indeed, in order to practice, a lawyer must be registered with a bar association. In France, there is a bar association for each court of first instance (*tribunal judiciaire*). Each bar association determines the amount of the registration fee (for instance, registration fee for the Metz bar is 1,500€³⁵ whereas it is free to register in the Bayonne bar except when the lawyer has less than one year of service, then it is 200€³⁶). In addition to these costs, there is a membership fee (*cotisation ordinale*), National Bar Council (*Conseil national des Barreaux*) contribution and CARPA contribution which must be paid every year.

1.3 Exceptional access routes

There are three exceptional access routes to the profession.

1.3.1 Professors and members of certain legal professions

Article 97 of the decree no. 91-1197 of 27 November 1991³⁷ provides that university professors and members of certain legal professions (such as magistrates) are exempt from the degree and training requirements, completing internship requirements and passing the CAPA exam.

³⁵ Please see an example: <https://www.avocats-metz.com/doc/inscription/formulaire-et-liste-avocat-ext.pdf> [1 August 2022]

³⁶ Please see an example: <https://www.avocats-bayonne.org/le-barreau/inscription.html> [1 August 2022]

³⁷ Supra note 17

Also, according to article 98 of the decree no. 91-1197 of 27 November 1991³⁸, legal counsel for companies or labor unions, law office employees, and certain other judicial professionals are exempt from theoretical and practical training and the CAPA, if they can prove that they have at least eight years of professional experience. They must take an examination assessing their knowledge of professional ethics.

1.3.2 European nationals

According to article 99 of the decree no. 91-1197 of 27 November 1991³⁹, European nationals are exempt from practical training and the CAPA if they meet certain conditions regarding education and professional practice, but they may, in certain situations, be required to take an aptitude test. Candidates must prove that they meet all the requirements to be a fully qualified lawyer in their country of origin, and that when required, they have completed a legal internship in addition to university studies and professional qualification or competency examinations.

France has also incorporated Directive 98/5/CE⁴⁰, which allows European community nationals who are fully qualified in their own countries to practice in France under their original titles and represent their clients in court. After three years of actual regular practice in France, they may apply for the title of *avocat* and be registered in a French bar association.

1.3.3 Non-European nationals

Non-European nationals are exempt from practical training and the CAPA if they meet the education and professional practice requirements, but they are required to take an examination assessing their knowledge of French law (article 100 of the decree no. 91-1197 of 27 November 1991⁴¹). The assessment exam consists of:

³⁸ Supra note 17

³⁹ Supra note 17

⁴⁰ “Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained,” [online] Available from : <https://eur-lex.europa.eu/legal-content/FR/ALL/?uri=celex%3A31998L0005> [1 August 2022]

⁴¹ Supra note 17

- Two written tests: a test on pleading in civil matters, and a written test on a legal consultation in a subject chosen by the candidate in either administrative, business, labor, or criminal law; and

- Two oral tests: a report on a subject drawn at random by the candidate on the French civil, criminal, or administrative procedures, or the French legal system, and an interview with the examination board, focusing on professional regulations and ethics.

In addition, by virtue of a Mutual Recognition Arrangement (ARM) lawyers registered with the Québec bar⁴² are required only to take an examination assessing their basic knowledge of French Law.

1.4 Toward a reform of the French system?

The duration of the training (18 months) raises both the issue of financing professional legal training, and the related issue of equal access to the profession. However, students receive an honorarium during their law office internships, and this may also be true of their “Projet Pédagogique Individuel (PPIs)”⁴³. The reform projects also want to make the training more practical⁴⁴.

The National Council of Bar Associations (Conseil national des barreaux) is now considering an in-depth reform of lawyer formation on various aspects⁴⁵: degree requirement, period of training and internship, modality of examination, obligation to be accompanied by a seasoned lawyer during the examination, etc. The proposition has already been sent to the Ministry of Justice and the Government. However, it also depends on the legislative process to make the reform proposition applicable.

⁴² Please see: <https://www.cnb.avocat.fr/fr/admission-dun-avocat-inscrit-au-barreau-du-quebec#:~:text=Le%20candidat%20doit%20avoir%20obtenu,profession%20d%27avocat%20au%20Qu%2C3%A9bec>. [1 August 2022]

⁴³ The Projet Pédagogique Individuel (PPIs) can be translated into English as “The Individual Pedagogical Project”, known as PPIs. It is an internship carried out for 6 months in a different setting from that of a law firm registered with a French Bar.

⁴⁴ Please see: <https://www.dalloz-actualite.fr/node/professionnaliser-formation-initiale-des-avocats#.YwNqAHZByUk> [1 August 2022]

⁴⁵ Please see: https://www.cnb.avocat.fr/sites/default/files/cnb-re2018-11-16_for_reforme_formation_initialefinal-p.pdf [1 August 2022]

2. Conditions of access to the lawyer profession in Thailand

Before discussing how to become a lawyer in Thailand, the history of legal education in Thailand needs to be detailed (2.1) because the development of the professional lawyer is part of this history. Then, we will discuss the history of lawyers in Thailand (2.2) and understand legal and regulatory conditions to become a lawyer in the current era (2.3).

2.1 Brief evolution of legal education in Thailand

As it is said in Latin, “*ubi societas ibi jus*” which means “where there is a society, there is a law”. Having laws implies having a legal education. Therefore, legal education in Thailand exists at the same time as the existence of Thai society. However, going back to the beginning of Thai society is a bit too far and off-topic. Thus, this article will start at the beginning of modern legal education in Thailand.

Modern legal education began during the reign of King Chulalongkorn, hereinafter referred to as “Rama V”. Due to the crisis of colonization, Siam became the center of the quarrel between two major colonizing countries: England, who colonized the territories on the left side of Siam (modern Burma), and France, who colonized the territories on the right side of Siam (modern Vietnam, Lao and Cambodia).

Moreover, other factors at the origin of the Rattanakosin Era⁴⁶ such as international trade and especially the loss of judicial power in case of the litigation of foreign citizens obliged Siam to reform its administration and especially the judicial system. Hence, the Thai government decided to reform its judicial system based on the European model. At the beginning, it seemed that the “Anglo Saxon-model” played an important role in the Thai judicial system as Prince Rapee Pattanasak⁴⁷, son of King Rama V, had graduated from Oxford University and upon his return to Thailand, was promoted to become the Minister of Justice, working hard to lay a firm foundation for a Thai legal system adhering to international standards⁴⁸. In 1897, he also took initiatives on the establishment of the

⁴⁶ The Rattanakosin Era is when Bangkok became the capital of Thailand from 1782 until the present.

⁴⁷ Translated by the Information and Public Relations Division, Court of Justice

⁴⁸ Information and Public Relations Division, Court of Justice, “7th August Rapee Day Podcast,” [online] Available from: <https://iprd.coj.go.th/th/content/category/detail/id/10/cid/10720/iid/205879> [1 August 2022]

first law school⁴⁹ in the country, writing up a syllabus and teaching the students himself while having Monsieur Gustave Rolin-Jacquemyns as his advisor⁵⁰.

However, the tendency changed in favor of a “European-model” with the creation of the “Penal Code R.E. 127 (A.D. 1908)⁵¹” which was written using European-style codification. Monsieur George Padoux, a French jurist, was hired as a Legislative Advisor and was nominated as head of the committee for the creation of the code. The code has been inspired by many European penal codes such as the French Penal Code of 1810, the German Penal Code of 1870 etc⁵². Since then, the Thai judicial system has become a “civil law system” where many codes and stipulations have been enacted, as and when required.

Even if the foreign countries were satisfied with the fact that Siam has as modern and civilized codes as most foreign nations, they could not be certain that the Thai jurists would live up to expectations⁵³. That was the reason why many foreign consulates did not accept the fact that their people and citizens were to be prosecuted and judged by the Thai judiciary. Hence, the Thai government must educate their jurists to be as professional as the European jurists.

For that purpose, Thai legal education has been reformed by establishing many legal educational institutions: the Thai Bar Under the Royal Patronage⁵⁴, the Faculty of Law and political science at Chulalongkorn University⁵⁵ and also the Lawyers Council of Thailand⁵⁶. Consequently, Thai legal education has been classified into two types of legal

⁴⁹ The First Law School of Thailand changed its name as “Thai Bar” in 1914

⁵⁰ Nikon Thatsaro, **Prince Rapee Pattanasak the Father of Thai Law**, 1st edition, (Bangkok: Nanmeebook, 2006), p.108.

⁵¹ R.E. represents “Rattanakosin Era”

⁵² Sawaeng Boonchalermvipas, **The Thai Legal History**, 19th edition (Bangkok: Winyuchon Publication House, 2020), p. 249.

⁵³ National Archives of Thailand, the Fine Arts Department, **Documents of Ministry of Justice in the reign of Rama VI No Ror 6 Yor 2/7 Padoux’s memo presented to the Minister of Justice**, cited in *Charnchai Sawangsagdi, France’s Influence in the Thai Legal Reform*, 2nd edition (Bangkok: Winyuchon Publication House, 2015), p.135.

⁵⁴ Established on 1915

⁵⁵ Established on 1933

⁵⁶ Established on 1958

education: 1) legal education in the university and 2) legal education in non-university organizations.

2.2 A Brief history of Thai lawyers and Lawyer Councils

After the reform of the Thai legal system, jurists must be trained professionally in order to meet international standards. A lawyer was one of the significant legal professions to develop concomitantly with legal reform. In the last century, laws concerning the issue of lawyer licensing and ethics had been changed, amended and reformed many times. Institutions charging lawyers' affairs had consequently been changed due to legal reforms.

Beginning with the reign of King Rama V, the Act on Judicial Administration of the Courts of Justice R.E. 111 (A.D. 1892)⁵⁷ was promulgated. Section 7 of this Act indicated that⁵⁸ “Citizens having legal problems could consult ‘**one who knows the laws**’ to prepare a legal lawsuit for him based on the cause of action that he believed with honesty and in accordance with the laws....”. This means that the lawyer profession officially existed in the Thai legal system since the enactment of this law. In other words, this is the first law that allows the parties to have a lawyer as a legal specialist to file a lawsuit on their behalf⁵⁹. The profession of lawyer became increasingly popular, consequently, more and more people were working as lawyers across the country because of the establishment of new courts in other provinces, and consequently, some lawyers acted in an inappropriate way⁶⁰. Thus, there was the promulgation of the Law of Civil Procedure R.E. 127 (A.D. 1908)⁶¹ to control lawyers' behavior. Section 127 of the law indicated that “If any **attorney** shall be guilty of improper conduct, the Court may forbid such attorney to plead in any one or more Courts and for any length of time, provided always such

⁵⁷ Translated by the authors by comparing to the translation of the Act on Judicial Administration of the Courts of Justice B.E. 2543

⁵⁸ Section 7 of the Act on Judicial Administration of the Courts of Justice R.E. 111 (A.D. 1892), translated by authors

⁵⁹ Thawee Kasiyapong, “Lawyer Act B.E. 1985: Act for Self-Governance among Lawyers,” in Bot Bundit Law Journal of the Thai Bar, 42nd Year, Vol. 1, March 1986, p.7, cited in the Law Practice Training Center of the Lawyers Councils, **Lawyers' Ethics and Manners**, (Bangkok: Borpit Printing Co., LTD, 2001), p.12.

⁶⁰ Ibid, p.13.

⁶¹ Translated by the Ministry of Justice, **the law of organization of the court of justice and the law of civil procedure of the year 127**, 2nd edition, (Bangkok: Bamrung Nukunkit Print Shop, 1908), p.N/A

prohibition shall be in writing⁶².” In brief, under the reign of Rama V, the profession of lawyer existed due to the Act on Judicial Administration of the Courts of Justice R.E. 111 (A.D. 1892) and it was controlled by the Law of Civil Procedure R.E. 127 (A.D. 1908).

Under the reign of King Vajiravudh (hereinafter referred to “King Rama VI”), laws current in that era were not sufficient to enforce lawyer ethics. So, the King promulgated the first “Lawyer Act” in Thailand called Lawyer Act B.E. 2457 (A.D. 1914). This act classified lawyers into two different types:⁶³ one who has graduated from the Thai Bar and the other who was authorized by the president of the Bangkok Court of Appeal. In terms of control, the president of the Bangkok Court of Appeal had the authority to enforce and investigate lawyer ethics by providing sanctions such as a prohibition from working for three years or revocation of licensure.⁶⁴ Thus, the reign of King Rama VI was the first time Thailand has had a specific law for lawyers’ affairs.

Under the reign of King Prajadhipok (hereinafter referred to “King Rama VII”), the Lawyer Act B.E. 2477 (A.D. 1934) was promulgated and replaced Lawyer Act B.E. 2457 (A.D. 1914). In general, the Lawyer Act B.E. 2477 (A.D. 1934) kept the main ideas of the replaced Act. The sole significant change was Article 4 of the text concerning lawyer qualifications⁶⁵:

“A lawyer is one who has a license issued by the president of the Court of Appeal to have the right to represent parties.

There are two types of lawyers;

The first types are:

(1) One who passed the Barrister examination or one who graduated with a bachelor’s degree and serves as a regular member of the Thai Bar;

(2) One who was a judge or prosecutor for at least 10 years and has been honored as a special member of the Thai Bar;

⁶² Ibid.

⁶³ Section 3 of Lawyer Act B.E. 2457 (A.D. 1914)

⁶⁴ Section 9 *ibid.*

⁶⁵ Section 4 *ibid.*

(3) A second type of lawyer who has worked as a lawyer for at least 10 years and has been honored as a special member of the Thai Bar;

(4) A special member of the Thai Bar who was accredited as a lawyer of the first type prior to the promulgation date of this act.

A ‘second-type’ lawyer is one who is authorized to work as a lawyer by the president of the Court of Appeal after investigating his qualifications and competencies, and he must be a special member of the Thai Bar.”

Under the reign of King Bhumibol (hereinafter referred to “King Rama IX”), the Association of Lawyers had been established on the 20th Feb B.E. 2500 (A.D. 1957). However, even with the establishment of the Association of Lawyers, the authority which issued the lawyer license was still in accordance with the Lawyer Act B.E. 2477 (A.D. 1934): the president of the Court of Appeals. There was even a new Lawyer Act B.E. 2508 (A.D. 1965), where the authority of issuing lawyer licenses was transferred from the president of the Court of Appeals to the Thai Bar instead of the Association of Lawyers. Hence, the Thai Bar became the “sole” authority to issue lawyer licenses and enforce lawyer ethics⁶⁶.

According to the Act of 2508 (A.D. 1965), there were still two types of lawyers: first- and second types. The difference is that the first type of lawyer can work all across the country but the second type of lawyer can work only in certain indicated areas. Moreover, the first type of lawyer was a lawyer who graduated from university and passed the bar exam. Hence, jurist students graduating only from university could not be the first type of lawyer. So, there were protests from university-educated lawyers⁶⁷ and consequently, a change in the law B.E. 2514 (A.D. 1971) so that lawyers who graduated from university can be classed among the first type of lawyers.

After a legislative amendment in B.E. 2514 (A.D. 1971), there was an idea of “self-governance among the lawyers” which meant they do not want to be controlled

⁶⁶ Section 4 of Lawyer Act B.E. 2508 (A.D. 1965)

⁶⁷ Law Practice Training Center of the Lawyers Councils, **Lawyers’ Ethics and Manners**, (Bangkok: Borpit Printing Co., LTD, 2001), p.17.

by the Thai Bar. Hence, the draft of the Lawyer Act which was proposed in B.E. 2517 finally became law in B.E. 2528 (A.D. 1985) and was named the “Lawyer Act B.E. 2528 (A.D. 1985)” which is the current law governing the lawyers’ affairs in Thailand. The Lawyer Act B.E. 2528 (A.D. 1985) establishes *in concreto* the Lawyers Council and provides the council powers to issue lawyer’s licenses and control lawyers’ ethics. Since then, the Lawyers Council of Thailand has become the major authority providing legal education and operational practice and the “sole” organization charged with authorizing a lawyer license.

Hence, the uniqueness of the lawyer profession in Thailand is not something that comes about by chance or happens by itself. But it was the evolution of legal provisions driven by an external factor - colonization - and internal factors - manifestation, development of legal education and enthusiasm for proper development.

Table 1: Table representing laws and regulations on Lawyers in Thailand

Reign	Terms	Laws and regulations	Vocabulary representing “Lawyer”	Types of lawyers	Institutions to issue the license	Institutions to enforce lawyer ethics
Rama V	Existence of lawyers	Act on Establishment of the Court of Justice R.E. 111 (A.D. 1892)	“One who knows the laws”	-	-	Judges
	Lawyers’ ethics	Law of Civil Procedure R.E. 127 (A.D. 1908)	“Attorney”			

Rama VI	Existence of lawyer and Lawyers' ethics	Lawyer Act B.E. 2457 (A.D. 1914)	“Lawyer”	1) First-type lawyers	Graduation from Thai Bar	The president of the Court of Appeal
				2) Second-typed lawyers	The president of the Court of Appeals	
Rama VII	Existence of lawyers and Lawyers' ethics	Lawyer Act B.E. 2477 (A.D. 1934)	“Lawyer”	1) First-type lawyers	The president of the Court of Appeal	The president of the Court of Appeal
				2) Second-type lawyers		
Rama IX	Existence of lawyers and Lawyers' Ethics	Lawyer Act B.E. 2508 (A.D. 1965)	“Lawyer”	1) First-typed lawyers	The Thai Bar	The Thai Bar
				2) Second-type lawyers		
	Existence of lawyers and Lawyers' Ethics	Lawyer Act B.E. 2528 (A.D. 1985)	“Lawyer”	“Lawyer”	Lawyers Council	Lawyers Council

2.3 Conditions of access to the Lawyer Profession in Thailand

The Lawyer Act B.E. 2528 (A.D. 1985) abolished the idea of different types of lawyers and presents the sole definition of “lawyer” as a person that the Lawyers Council has accepted at the end of his or her registration and has issued a license to be a lawyer. The Act also indicates the conditions of access to the profession of lawyer and establishes the Lawyers Council as an organization responsible for affairs related to lawyers including the examination. Hence, the following part concerns the conditions that must be met to become a lawyer in Thailand. The following developments explain this into two parts: 1) qualifications of lawyers, and 2) their training sessions and examinations.

2.3.1 Personal qualifications of lawyers

A person who requests the Lawyers Council to issue him a Lawyer's license must have met the qualifications required by the Lawyer Act B.E. 2528 (A.D. 1985). Section 35 of the Act states that⁶⁸ "a person applying for registration and receipt of a license shall possess the following qualifications:

- (1) having Thai nationality;
- (2) being not less than twenty years of age on the day of applying for registration and receipt of a license;
- (3) having graduated with a Bachelor's degree or diploma in law or certificate in law equivalent to Bachelor's degree or diploma from an educational institution accredited by the Lawyers Council and being a member of the Thai Bar;
- (4) not being a person with disgraceful behavior or moral turpitude and not being a person who has taken any action indicating dishonesty;
- (5) not being sentenced by a final judgment to imprisonment;
- (6) not having been sentenced by a final judgment to imprisonment in a case deemed by the committee as a case that brings disgrace to the honor of the profession;
- (7) not being sentenced by a final judgment to be bankrupt;
- (8) not being a person with social disapproval because of a contagious disease;
- (9) not being a person with physical or mental disability as a cause of incompetence for pursuing a legal profession;
- (10) not being a government official or an employee attached to a local administration with a salary and holding a permanent position except for political officials;
- (11) not being a person prohibited from applying for registration and receipt of a license under section 71".

These qualifications provide some of the details of being a lawyer in Thailand. Section 35 (3) requires that the lawyer applicant must "be a member of the Thai Bar". This requirement is to allow lawyers to wear Advocate's gowns in the Court because

⁶⁸ Section 35 of Lawyer Act B.E. 2528 (A.D. 1985), translated by the Office of the Council of State

only members of the Thai Bar Association can wear the gowns according to Thai Bar Regulations.⁶⁹ This represents the relationship between the Lawyer Council and the Thai Bar Association in terms of lawyer activity. However, to become a lawyer in Thailand, there is no need to be a barrister at law as in the French system, the applicant must only be a member of the Thai bar.

A Bachelor's degree in law in Thailand can be accessed after finishing the Mathayom 6 (equivalent of a *Baccalauréat* in France). The Bachelor of Law lasts four years in general.⁷⁰ Students must study all kinds of legal subjects, especially civil and penal laws. Some universities oblige their students to complete a summer legal internship. The student who successfully completes the four-year program will receive a Bachelor's degree in law.

2.3.2 Training session

A person who wishes to become a lawyer must pass training on lawyers' ethics, basic principles in advocacy and conduct in the legal profession.⁷¹ Details of the training and conduct of the legal profession are stipulated in a regulatory statute named "Rules of the Lawyers Council of Thailand regarding the Law Practice Training Center B.E. 2529 (A.D. 1986)"⁷².

Nandana Indananda and Manaswee Wongsuryrat explain that⁷³ there are two different routes of lawyer training in order to receive a lawyer's license: 1) a training route and 2) an internship route._

2.3.2.1. The Training Route

The Training Route is a training course organized by a subsidiary organization of the Lawyers Council named the "Law Practice Training Center". In order

⁶⁹ Clause 17 of Thai Bar Regulation B.E. 2507 (A.D. 1964)

⁷⁰ The French equivalent of the Bachelor of Law is the "*Licence en droit*" which is a three-year program.

⁷¹ Section 37 of Lawyer Act B.E. 2528 (A.D. 1985)

⁷² Translated by Nandana Indananda and Manaswee Wongsuryrat in "An Overview of the Legal Profession in Thailand," Taipei Bar Law Journal [Online] Available from: <https://www.tba.org.tw/media/1495/an-overview-of-the-legal-profession-in-thailand.pdf> [1 August, 2022]

⁷³ Ibid, p.8.

to apply for the course, applicants must fulfill five criteria according to the Rules of the Lawyers Council of Thailand regarding the Law Practice Training Center B.E. 2529 (A.D. 1986).⁷⁴ First, the applicant must have Thai nationality. Second, he or she must have a Bachelor of Law or equivalent diploma. Third, he or she must never have committed a legally dishonorable, immoral, or dishonest act. Fourth, he or she must never have served in prison after being sentenced by a final judgment. Fifth, he or she must not be infected by a contagious disease that is socially unacceptable.

This route can be classified into three steps: 1) **an academic section**, 2) **a practical session** and 3) **an oral examination**.

The academic session consists of 90 hours of seminars addressing various subjects such as Professional Ethics and Legal Etiquette, Methods of Court Procedure for Civil Cases, Methods of Court Procedure for Criminal Cases, Methods of Court Procedure for Other Types of Cases, and Principles of Legal Consultancy.⁷⁵

When an applicant has passed the academic section, he or she will be able to continue his or her **practical session**. This session lasts for 6 months and the applicant must complete a mandatory internship in a law firm and be mentored by a seasoned lawyer. After the internship, the applicant will be assessed by his or her mentor and, if he or she passes, he or she can continue his or her journey to the practical examination. If the applicant earns 50 percent or more, he or she will participate in the 3) **oral examination**.

2.3.2.2. The Internship Route

This route is different from the training route because applicants must complete **a one-year internship**. They must apply for this internship on their own, without assistance. After working during the internship period, applicants must attend **the final written examination** which combines both academic and practical examinations simultaneously and which is generally more difficult than the training route⁷⁶. If they

⁷⁴ Ibid.

⁷⁵ Clause 13 of Rules of the Lawyers Council of Thailand regarding the Law Practice Training Center B.E. 2529 (A.D. 1986)

⁷⁶ Nandana Indananda and Manaswee Wongsuryrat, op. cit., p. 11

pass, they can proceed with their **oral examination**.

2.3.2.3. Oral Examination

An oral examination will be organized by the Law Practice Training Center every year. After the applicant passes written examinations, they will attend the oral examination where they will be tested by experienced lawyers. If they pass, they will have to attend the Professional Ethics and Legal Ethics training session which is generally held two weeks after the oral examination.

When the applicant possesses all the qualifications, passes all the examinations, and participates in all training and internships, they can proceed with their Lawyer's registration process and become a fully-licensed lawyer.

3. A Comparison of the French and Thai legal systems on the process of lawyer education and training

After discussing the conditions of access to the legal profession in France and in Thailand, the following is a comparison of the two systems. The authors would like to present the commonalities and differences between the two systems as well as observations and recommendations for the future reform of the Thai system.

3.1 Commonalities and differences between the French and Thai system

There are commonalities between the French and Thai systems concerning the conditions of access to the legal profession: personal conditions, educational background, and the obligations of training and mandatory examinations. However, there are nuanced differences within each similar category.

Personal conditions: To become a lawyer in France and in Thailand, the applicant must have the nationality of the country. However, in the French legal system, there is an exception that allows a person from another European Union member state to become an authorized lawyer in France. In Thailand, even with the establishment of the Association of Southeast Asian Nations (ASEAN), people of other nationalities cannot become lawyers in Thailand yet.

Educational background: To become a lawyer in France and in Thailand, the applicant must generally have passed a degree of higher education in law. The difference is the details of the level of educational background. In France, it is necessary to have at least a Master's I in law. In addition, students must pass the CRFPA exam in order to matriculate at one of the eleven French bar schools. But, in Thailand, the applicant must have a Bachelor's degree in law in general and there is no entrance examination. Concerning this point, it may be observed that if one applies the "title" of the degree as an indicator, it could be said that to become a lawyer in France requires a higher educational qualification than in Thailand. However, if one applies "years of higher education" as an indicator, it could be said that to become a lawyer in France and in Thailand require the same level of educational background.

Obligations of training: To become a lawyer in France and in Thailand, laws, and regulations require the applicant to participate in, complete, and pass training sessions. **However, a training session in France is longer than a training session in Thailand.** The period of internship sessions is 12 months in total in France which is longer than the practical session which lasts for 6 months (explained in 2.3.2.1) and an internship session which lasts 12 months (explained in 2.3.2.2) in Thailand. Nonetheless, it is evident that to become a lawyer in both states, mandatory training is required in order to acquire professional skills.

Examinations: Even if there are some minor differences between the two systems, it is clear that examinations are applied in both countries in order to find well-trained and skillful lawyers for their country. In France, examinations to obtain the CAPA exam are as follows: continuous assessment during the first six months of training, a written test lasting (a legal consultation and a judicial act), a pleading, a 20-minute interview with the examination board focusing on professional regulations and ethics, a 20-minute oral examination in a foreign language, and a discussion with the examination board lasting approximately 40 minutes, based on two reports drawn up by the candidate on the two internship periods referred to his/her observations and reflections on professional practice.

In Thailand, an applicant taking the training route must consecutively pass three examinations: an academic examination, a practical examination and an oral examination

(explained in 2.3.2.1). One who chooses the internship route must consecutively pass two examinations: a final written examination and an oral examination. According to the statistics provided by the Lawyers Council of Thailand, only 1,051 people passed the academic examination in March 2022 out of 5,882 registered applicants⁷⁷ and only 945 people passed the practical examination in August 2022 out of 2,472 registered applicants.⁷⁸

3.2 Barrister at law: major differences between the French and Thai systems

It is clear that the significant differences between the two systems are institutional. In France, to become a lawyer, the processes are run by the National Barristers' Association (*Conseil National des Barreaux*). In Thailand, the examinations are operated by the Lawyers Council of Thailand.

In France, the legal profession is regulated by law and there is no separation of institutions charged with lawyer affairs as there is only one institution: the “*Conseil National des Barreaux*”.

In Thailand, the Thai Bar Association is responsible for providing advanced legal education for Thai jurists and issuing a certificate after the jurists pass all the examinations classified into four types of examinations: (1) Criminal Law, Tax Law, Labour Law and Labour Procedural Law, Constitutional Law and Administrative Law (2) Civil and Commercial Law, International Trade Law and Intellectual Property Law (3) Civil Procedural Law, Bankruptcy Law and Court System and the Law for the Organization of Courts of Justice (4) Criminal Procedural Law, Human Right in Justice Procedure, Evidence Law, Litigation, Interrogation of Witness, Legal Document Preparation and English for Lawyers. One who has passed all the examinations will be issued a certificate and can call him or herself a “Barrister at Law”. The Lawyers' Council is responsible for issuing a “lawyer license” and regulating lawyer behavior. The Council is independent from the Bar Association. The only liaison between the two institutions is the obligation for any lawyer to be a member of the Thai Bar in order to be legally authorized to wear the gowns

⁷⁷ Announcement of the Law Practice Training Center of the Lawyers Councils on Academic Examination of the applicant of the Law Practice Training Center Generation 58th, dated 12 April 2022.

⁷⁸ Announcement of the Law Practice Training Center of the Lawyers Councils on Practical Examination of the applicant of the Law Practice Training Center Generation 57th, dated 22 August 2022.

mentioned in 2.3.1. It can be said that in Thailand, there is a separation of the Bar and the Lawyers Council.

Table 2: the comparison of the two systems

Conditions/ Requirements	France	Thailand
Nationality	French citizenship, but European citizenship and non-European citizenship are possible for some conditions.	Thai citizenship
Educational background in law	In France, a lawyer must graduate with a Master I. Students must pass the CRFPA exam in order to matriculate into one of the eleven French Bar Schools (except for derogatory routes detailed in the developments above).	In Thailand, a lawyer generally graduates with a Bachelor's degree in law.
Academic and Practical Examinations	Yes	Yes
Oral Examination	Yes	Yes
Training Session / Internship	18 months of mandatory train- ing	6 months of internship for an applicant choosing the Training Route (Please see in 2.3.2.1) Or 6 months of internship for an applicant selecting the Internship Route (Please see in 2.3.2.2)

License and Registration	In France, one must register with a Barrister Association of the jurisdiction in which the lawyer wishes to practice.	In Thailand, registration will be offered through the Lawyers Council.
Lawyers Council		Yes
Barrister Association	Yes	Yes

3.3 Observations and Recommendations for future reform in Thailand

Clearly, there are similarities and differences between the French and Thai systems regarding access to the legal profession. The following developments provide observations regarding the current system in Thailand and propose three recommendations for future reform. It should be emphasized that in order to find the best solutions for the reform, more in-depth studies, research, and comparisons with other foreign systems are also needed, which are not the subject of this article.

3.3.1 The Separation of the Barrister Association and the Lawyers Council: an understandable peculiarity of the Thai legal education system

As discussed in 3.2, it is clear that, in the Thai legal system, there is a separation of the Barrister Association and the Lawyers Council. This results in a peculiarity of Thai legal education. However, this peculiarity is comprehensible for the following reasons:

Firstly, the peculiarity of legal education exists in every country. For example, the “Law School System” in the United States of America allows only one who has graduated with at least a bachelor’s degree to study in a law school. The “*Staatsexamen* System” in Germany requires that law students must study and pass specific examinations to become lawyers. In France, the *Étude Supérieure* is a parallel higher education system which can form legal specialists for the country. Thus, the existence of the Thai Bar Association and the Lawyers Council as separate institutions providing legal education is an understandable peculiarity.

Secondly, the Thai Bar Association and the Lawyers Council do not have the same purpose. The **Thai Bar** aims to form jurists after they graduate from universities to educate them in the law, while the certificate of the Thai Bar Association is a requirement for applying for a **judgeship and a prosecutor examination** in the future. On the other hand, the **Lawyers Council** has the objective to form a **professional lawyer** who can commit to their mission in any procedural incident in the courtroom. Thus, the objectives of the two institutions are different and there is no need to merge the institutions in the Thai legal system.

3.3.2 The possibility of expanding the training period

Learning from France shows that becoming a lawyer is not an easy course: 18 months of mandatory training is required. In the Thai system, the practical session lasts for only 6 months (explained in 2.3.2.1) and the internship session lasts 12 months (explained in 2.3.2.2). The authors think it may not be enough for forming proficient lawyers. In modern times, legal problems can be various and different. Institutionally, there are other types of cases outside of penal and civil cases, for example, constitutional, administrative, or disciplinary litigation. Today litigation seems to be more and more complicated due to globalization and internationalization. It seems that 6 months or even 1 year of training is not adequate for becoming a skillful lawyer in this era. However, the authors could not specify the proper period of time to fully educate and train a lawyer. If we learn from the French system, 18 months could be sufficient time for development. It must be the Lawyers Council to commit a further study to find the right answer for the proper development of Thai lawyers. Moreover, future studies must go deeper into related issues such as payments and social security systems for the trainees, etc.

In addition, it is shameful to raise this issue but there are incidences of training fraud. This can be explained by understanding Thai culture. After passing the Academic Examination, the applicant must generally participate in a 6-month practical session in a law firm. However, to prove to the Lawyers Council that one has participated in the session, it needs only paperwork signed by a lawyer.⁷⁹ There is the possibility that the

⁷⁹ Nandana Indananda and Manaswee Wongsuryra, *ibid*: 9.

mentoring lawyer would sign the document confirming that the applicant had already committed his/her training but, in reality, he/she hadn't. Unfortunately, an in-depth study on this theme remains unpublished and unstudied. The authors can only offer suggestions concerning this problem, and that is to establish a control system for the training session. For example, instead of training with only one law firm for 6 months, it could be divided into two different law firms for 3 months in each firm. To prevent this fraudulent incident, French lawyer training could be helpful to the Thai system by obligating the lawyer to provide an internship report. This way, students are obliged to carry out an internship since, in the report, they have to present the structure and write a whole section on a problem they faced during their internship.

If the period of training can be expanded and the control of training sessions can be established, it could help to develop lawyers in Thailand while keeping the peculiarities of Thai legal education. The Bar Association and the Lawyers Council will improve and develop all jurists in Thailand to be as professional as per the expectations of society.

4. Conclusion

Each country has legal and regulatory texts concerning access to the legal profession. This academic study presents a comparison between the French and Thai systems in this regard. It demonstrates that there are common points between the two systems such as nationality, educational background in law, academic and practical examinations, oral examinations, training sessions, licensing, and registration.

However, there are also differences between these two systems such as the separation of the Barrister Association and the Lawyers Council and the length of training. At the center of the discussion about the legal education reform in Thailand, is the reform of access to the legal profession, for this is part of the discussion as well. In comparison with the French system, this article suggests that the separation of the Barrister Association and the Lawyers Council in Thailand is understandable in terms of the peculiarity of the Thai legal education system, and there is no need to merge the institutions. However, the expansion of the period of training and the control of the training could be the answer for the reform of the legal profession in Thailand.