

NATIONAL DEVELOPMENT AND THE SUPPLY OF LEGAL TALENT IN THAILAND

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As a society or an economy grows, it usually develops, that is, it becomes more complex. The two concepts, growth and development, are quite distinct-- growth means simply an increase in size, while development implies a change in structure. Thus, a Third World economy which grows at a high rate, such as the seven percent per year that Thailand has experienced in recent decades, is said to develop only as there is a shift in the labor force from agriculture to industry or services. Similarly, sociologists may note demographic growth but will consider that modernization is taking place only when they see an increase in the proportion of persons engaged in professional or managerial activities. The influential social theorist, Talcott Parsons, says (1968, p. 545), "It is my view that the professional complex . . . has already become the most important single component in the structure of modern societies. . . . The massive emergence of the professional complex, not the special status of capitalistic or socialistic modes of organization, is the crucial structural development in twentieth century society."

As grounding for a better understanding of Thailand's continuing modernization, then, it may be well to look at its development of the modern professions. That cadre which the census defines as "professional, technical, and related workers" stood at less than 180,000 in 1960 (Census Table # 16), grew to over 280,000 in 1970 (Table # 20), and more than doubled to about 650,000 by the 1980 preliminary count (Table # 10 and estimates). While their numbers are still small compared to the total population--there are only about sixteen lawyers for every 100,000 economically active persons, and about twenty medical doctors or forty accountants--the steady growth of the professional complex bears considerable import for the shape of the society to come.

A research group at Ramkhamhaeng University is undertaking a study of several professions : law, district administration, education, and accountancy.¹ This report presents some of the group's central findings from the pilot study of the legal profession.

THE RESEARCH CONTEXT

To set these findings in the context of the cumulative body of social science research on Thailand, we should explain their relationship to that masterful study of the higher reaches of the Thai civil service by Dr. Likhit Dhiravegin (1968), pointing out particularly the differences in focus and method. Likhit completed a massive survey of the whole of the Special Grade (C-7 and above) and a sample of the First Grade (C-5 and 6) of the civilian ministries by analyzing some 4,500 personnel files to provide a cross-sectional snapshot of the civil service as it was in 1973. He described the age, gender, and grade structure of the various ministries and compared the social class, regional, religious, and educational backgrounds of their incumbents. In addition, he set out the correlates of career advancement, and at the end sketched some trends in the interactions between bureaucrats and political elites.

Our focus is in some ways broader, and in others much narrower, and our method is less detailed. In this report we look at the whole legal profession as an elite group, paying special attention to the entry level. At the higher levels, our attention is directed to only those members of the profession who are in the civil service, in particular, judges and public prosecutors. The characteristics of individuals that we analyze are essentially two-- educational career and gender. Our method is to trace changes over time, trends of ten to fifteen year spans. Let us be more specific about each of these elements : scope, individual characteristics, and time.

1. Scope. Specifying the scope of a study of the legal profession presents no great problems of conceptual definition since one characteristic of a profession is that it defines its own membership. There are some problems of operational definition, however. The qualifications for practicing law in Thailand are simply graduation from a school of law with a four-year bachelor's degree or a three-year certificate. Those who wish to appear before courts must in addition be licensed by the Bar Council. Since not all of those who meet the educational qualifications do in fact obtain a license or actually practice law, we have a choice of defining our universe of study more broadly, as all those with legal training, or more narrowly, as all those who are licensed to practice before the courts.

The narrowest universe is defined operationally by the list of annually renewed license holders maintained by the Bar Council. Currently, there are 12, 279 names on the list. The somewhat broader universe of those who practice law in any fashion may be defined by the occupational reports of the census as those coming under the heading of "jurists, judges and related workers." We don't know the current size of this group as the 1980 census breakdowns are not yet available, but back in 1970 they numbered 2,689. The broadest universe, all those persons

possessing law degrees, may be defined operationally by the cumulation of graduation lists, though the current inventory of this educated resource is not readily counted.

Knowledge about the universe of all law graduates comes from several sources. One is the *DIRECTORY OF EXPERTS IN THE FIELD OF LAW IN THAILAND, 1975-76*, compiled by the Research Council of Thailand. In a large study of educated manpower, the Research Council sent questionnaires to government agencies, public corporations, and business organizations soliciting the names of all bachelors degree holders in their employ. Detailed questionnaires were then sent to this list of graduates, some 48,000 of whom were social scientists. Seventy percent of these questionnaires were returned, about 4,600 of them from law graduates. This two-stage questionnaire process then, must result in a considerable undercount of our broadest universe of lawyers, though we cannot be sure if the law graduates were more, or less, responsive than the other social scientists. Another measure of the broader universe would be the aggregate statistics of law school graduating classes from as far back as we care to count.

2. Individual Characteristics. One's educational career is an important attribute affecting his behavior in a profession. In some societies, such as Japan, the educational label and the personal associations that an individual brings out from his university education have a pervasive and enduring influence on what he does, with whom, and how successfully (Kubota, 1959). In addition to its explicit effects, the educational career label may be taken by social analysts as an indicator of other social background differences between, for instance, graduates from an open university and graduates from more selective universities.

Gender is of obvious import, both because of the distinctive role that it has played (or more precisely, the roles that women have not been permitted to play) in the profession in the past, and because in most educational or occupational analyses, gender has been used as an important control variable.

3. Time. Dr. Likhit's study is, for the most part, as are most elite studies, a multi-dimensional picture taken at one point in time. Such a portrait of a profession, however fulsome and erudite, suffers one limitation. It is bound to be dated even by the time the data have been collected and analyzed and the findings published. If society is undergoing large changes, the picture soon becomes seriously outdated. For a truer view of the immediate present and the likely future, one needs to delineate trends in the observable past and make some assumptions about their future directions. There are more, and also less, satisfactory ways to do this.

A convenient method begins with a description of all of the members of a particular group in one cross-section of time and then divides the group into older and younger cohorts. The older cohort is then taken to represent the whole group as it existed at an earlier point in time. Differences between the older and younger cohorts are consequently interpreted as indicators of a trend in group

characteristics. In this fashion Evers and Silcock (1961) undertook to cast trends in the family background and foreign educational experience of senior civil servants. They divided the group found in two ministries in 1963 into the cohort recruited before 1932 and the cohort recruited after 1932 and inferred a decline in the rate of social mobility. They did point out (p. 89) one of the weaknesses of this method, the possibility of a differential rate of upward mobility within the group studied. Another weakness is the possibility of "differential mortality." If individuals bearing one of the characteristics of interest to our study, say female gender, are less likely than others to remain members of the group for a long enough time to be counted among the older cohort when it is counted in the present, then their membership in that cohort at an earlier time will be understated.

For this reason we will use cross-sectional cohort analysis sparingly, relying for our analysis of trends primarily on observations that can be made by taking successive cuts at the same point in the pipeline of talent flowing into and through the ranks of the legal profession. For instance, we will compare the graduating class of one year as recorded in that year with the graduating class of a later year as recorded in that year.

TAKING STOCK

Before charting trends in the supply of legal talent, we should take stock of the overall characteristics of the profession as it existed at one time. First, consider size. As with any elite, the legal profession is small in numbers. But we are not sure precisely how small it is. At the beginning of the fourth quarter of the twentieth century the Research Council of Thailand's DIRECTORY listed an estimated 4,663 persons with one or more law degrees.² A correction for the presumed thirty percent non-response rate in the survey brings our estimate up to 6,660. This correction is probably insufficient, however, for even when it is applied to the number of Barristers in 1975-76, raising their total from 938 to 1,340, that final figure is too small to account for the over two thousand judges and public prosecutors (positions for which a Barrister's degree is a prerequisite) which Likhit studied in 1973.

Even though we are unsure of the absolute size of the legal profession, we can learn something about its composition from the DIRECTORY. Let us begin with the Barristers-at-Law. Within the legal elite the Barristers comprise a more exclusive and presumably more powerful sub-elite. There are two indications of this greater power. One is the fact, noted above, that a Barrister's degree is a requirement for those who wish to take the Assistant Judge or the Public Prosecutor examinations. The other is that up until shortly before the time the DIRECTORY was compiled, only those who passed the Bar examinations were designated "first class" lawyers, while those with at most a bachelor's degree were "second class" lawyers and were permitted to practice only in the province of their birth and four

contiguous provinces (Klausner, 1977, p. 178.) Now "second class" status is reserved for those who have earned only a higher certificate after three years of undergraduate study. In all, about one-fifth of the listed lawyers were Barristers. About half of the Barristers went on to gain other advanced degrees, something that only two percent of the total population of lawyers did.

Quite often elite status in Third World countries is associated with foreign education, especially education at the metropole in the case of former colonies. In Thailand, too, there is such a connection (Evers & Silcock). Likhit documents the more rapid rise to the higher ranks of the civil service of those with foreign degrees -- but points out that this dynamic operates much less in the case of the judiciary and the public prosecutors (pp. 162-180). All together, only 63 out of 2,309 (2.73%) of the judges and public prosecutors at the First Grade and above in 1973 had foreign training.³ For the legal profession at large, as represented in the Directory of 1975-76, the corresponding figure is 1.76 percent. Typically, the foreign degree is either a master's from the United States or a doctorate from France.

One characteristic which the legal profession does share with the rest of the higher civil service is dominance by Thammasat University. Almost half of the Special Grade officers and over a third of the First Grade officers who were locally trained received their degrees from Thammasat (Likhit, p. 125).⁴ In 1975-1976 Thammasat had provided 91.9 percent of all bachelor of law degrees given to members of the profession and 96.2 percent of those given to persons who subsequently obtained a Barrister's degree.

Another salient characteristic of the legal profession in Thailand is male dominance. This is a matter of both history and contemporary regulation (Klausner, 1977, p. 180). It may be grounded in a cultural predisposition to associate men with religious and governmental roles while women are relegated to economic activities (Kirsch, 1975). For whatever reason, the number of women that Likhit (pp. 98, 100) found holding high level posts in the Ministry of Justice was zero at the Special Grade and three percent of his sample of the First Grade. In the Interior Ministry there were three women out of some 600 special Grade officers, and another three women comprised one percent of the First Grade sample. In the DIRECTORY, the female ratio is about one in ten for all lawyers while among Barristers-at-Law it is nearer to three percent.

CHARTING TRENDS

In this world, everything, even the character of the legal profession, is transitory. The simple demographic analysis of recent transitions in the size, schools, and sex of the profession will be set out below. Ideally, we would do this by retaking the snapshot provided by the 1975-1976 DIRECTORY. Unfortunately, that effort

was not repeated in comparable form, since the focus of the resurveys has been on researchers rather than all the professionals in each field.

Instead, we will observe the trend in the size, schools and sex of successive increments to the existing stock of lawyers. If we can assume that the mortality rate from law school to active lawyering, and any differential in this rate between sexes or schools, stays the same over time, then changes in the size and character of the increments should be reflected, eventually, in changes in the size and character of the living stock of lawyers.

Size. A fourteen year series, from 1967 to 1981, shows a rapid increase in the annual number of new entrants to the profession of law. During the five year period, 1973-1978, the rate of growth was forty percent per year. This is evident in the top line of Figure I, a semi-log graph in which a straight line represents a constant rate of growth. The aggregate increase in the six years since the DIRECTORY was drawn up is 20,780, which suggests that whatever the actual size of the stock in 1975-1976, it is several times larger now. This great growth also means that any steady shift in the characteristics of the increment would be rapidly reflected in the stock on hand.

Schools. The great growth in the size of successive cohorts of new lawyers results primarily from the introduction of Ramkhamhaeng graduates into the pool of legal talent. (Other public and private schools do produce bachelor of law graduates now, but so far their numbers are few.) In recent years, between 83 and 85 percent of each increment comes from the Ramkhamhaeng stream. This dramatic shift in sources of supply appears in the three labelled segments of Figure I. Here the log scale permits us to see the relatively small Chulalongkorn contribution (a bit over three percent of the total in recent years) in the lower portion of the graph while still encompassing the massive Ramkhamhaeng input in the higher reaches of the scale. The cumulative effect of this shift over the fourteen year period is that two-thirds of the 28 thousand law graduates produced during that time come from Ramkhamhaeng, reducing the Thammasat dominance of the profession to something over a one-quarter share of this large, new cohort.

Sex. Trends in gender are more difficult to discern. If we divide the lawyers listed in the DIRECTORY into those who earned their degrees within the last ten years and those who entered the career earlier, the newer cohort is seventeen percent female compared to eight percent female (plus or minus three or four percentage points for sample error) among the older cohort. This difference in cohorts suggests a trend, though as we cautioned earlier, there is room for methodological error in such an inference. A study of the trend of annual increments to the profession, as set out in Table I, presents a clearer, if more complex, picture. During the 1967 through 1973 period, when Thammasat and Chulalongkorn were the only suppliers,

we see a significant increase in the percent female among graduating classes. This figure plummets in the mid 70's as an increasing stream of Ramkhamhaeng graduates, who are overwhelmingly male, comes to dominate the pool. In the later 70's the trend toward a greater portion of women, which is present in both the selective and the open university streams, reappears in the aggregate figures.

We can expect, then, that a current snapshot, taken in the same manner as was the one for the 1975-1976 DIRECTORY, would show a higher proportion than the nine percent female of that time. The fact that the trend toward greater participation by women appears in both streams strongly suggests that we are seeing here a pervasive social change.

DISCUSSION

Our findings, that over the last decade and a half there has been a massive increase in the supply of legal talent and at the same time a shift in character away from Thammasat dominance and near male exclusiveness, suggest several questions.

One is the economist's question of whether the increase in the number of lawyers produced is a supply-side or a demand-side effect. This is a matter of determining whether the supply curve has shifted to the right, in which case the price of lawyers should be falling, or whether the demand curve has shifted to the right with a consequent rise in price. There is also the possibility that both curves have shifted to the right in the manner of an arms race since law is an especially competitive profession and an increase in the use of lawyers on one side should provoke an increase in their use on the other side. In this case, the price would stay the same. Unfortunately, we have no information about prices in the legal field of the sort that would help us answer this question.

A different approach to an answer is to consider whether a change in technology could account for the increased production. Such a change in productive technology did take place with the advent of Ramkhamhaeng, an open university which removed some of the limits to the opportunity individuals had to become law graduates. Figure I shows that almost all of the increase in graduation rate during the last dozen years took place via the Ramkhamhaeng option. Further evidence that this increase is a supply-side phenomenon rather than the result of increasing demand is the fact that the same pattern and proportions among the three public universities in Bangkok appear in the fields of political science, economics, and, apparently, business administration.⁵ From 1969 on, Thammasat and Chulalongkorn have produced three hundred to four hundred bachelor's degrees in political science, four hundred to five hundred in economics, and eight hundred to a thousand in commerce and accountancy. By the late 1970's, Ramkhamhaeng was adding three

to four times this number to the annual outturn in each field. Since it seems unlikely that demand factors would have the equivalent impact on all four fields over this period, an explanation of the increase in terms of institutional change in productive technology appears most satisfactory. This does, of course, raise the further question of how this undemanded increase in supply may affect the problem of educated underemployment and unemployment in the future.

While the shifts from Thammasat dominance and male exclusiveness are impressive at the intake level of the legal profession, their effects higher up the career ladder are somewhat atrophied. The Ramkhamhaeng stream which provided four out of five new lawyers in the last few years, contributed two out of three Barristers-at-Law and one out of two judges or prosecutors passing into the higher civil service. Similarly, women have fared less well in the bar and legal services examinations. They constituted some fifteen percent of the bachelors of law graduates during 1978-81, yet their passing rates for the bar examination as late as 1980 and for the judge and prosecutor examinations in 1980 and 1981 hover around ten percent.

Another question raised by our findings is whether development is taking place within the legal profession at the same time as it grows in size. We began this report by stating the general proposition that growth does not imply development unless structural change also occurs. On this basis we identified the relative growth of the professions as a structural change that signals development in society at large. But what about development *within* the professions themselves? In the case of the legal profession in Thailand, the growth of the last decade and a half has been accompanied by structural change which seems reasonable to consider developmental. It appears to be developmental in several respects. First of all, the broadening in the variety of sources which feed the profession presumably makes for a more differentiated elite group. This is not something that we know by direct evidence, but rather by inference from the general differences in the student bodies and institutional styles of the three universities. And these differences may not be so great a change from past practices, since Thammasat, too, was once an open university and it has long had a part-time law program open to older, employed individuals with other bachelor's degrees. Still, on balance, we believe that differentiation on this dimension is increasing. The expanding participation of women in the profession represents yet another dimension of differentiation. We may reasonably assume that differentiation on both of these dimensions serves to integrate the legal elite more effectively with other elements of the larger society. (For the integrative effects of a change in women's roles, see Chira & Guyot, 1983.) Such a combination of differentiation and integration fits well with standard conceptions of development.

Still other questions, questions raising more precise issues of development, require for their answers systematic research into just what it is that various kinds of lawyers do in Thailand these days. In the political sphere, for instance, as of the mid-70's practicing lawyers formed about one-fifth of the membership of elected legislatures (Likhit, pp. 209, 215). If their numbers increase, might they develop a role as part of a "middle group" between the ruling bureaucrats and the citizen public? In the world of business, lawyers are said to be shifting from a preoccupation with litigation to the provision of advice (Vickery, pp. 17, 19). In the areas of both politics and business, then, the legal profession may be moving from the "continental" tradition, where it has long, established roots (the advisors to the Judicial Ministry in Chulalongkorn's time were principally from Germany and Japan: today's law faculties include a number of doctorates from France, Germany, and Japan), toward something more resembling American practice. Whether this is development or not is an important conceptual question. Whether it is in fact happening is an empirical question of the sort we hope this study will encourage others to answer.

NOTES

1. The members of the group are : from Ramkhamhaeng University Dr. Chaichana Ingarata of the Faculty of Political Science, Dr. Ruji Pusara of the Faculty of Education, Acharn Seree Weroha of the Faculty of Business Administration, and Dr. Teera Sitammarak of the Faculty of Law, with the assistance of Dr. James F. Guyot, JFK Foundation-Fulbright Visiting Professor at NIDA at the beginning of the project and now at Thammasat University
2. All figures from the DIRECTORY which are used here are drawn either from the list of twenty-three holders of doctor's degrees, the list of eighty-four holders of master's degrees, a systematic 7.97 percent sample of the holders of bachelor's degrees, or a combination of all three. The systematic sample was drawn by taking the top name on each of the 393 full pages of the alphabetical list. Population estimates were made by multiplying the sample figures by the average of 12.55 names per page. When the masters and doctors universes are added in, the effective sample size is over 370. This means that we can have 90 percent confidence that the sample error is less than five percentage points for proportions of 50%, four percentage points for proportions of 20-80%, three percentage points for proportions of 10-90% and two percentage points for portions of 5-95%.
3. Calculated from tables on pp. 172, 3. It is assumed that by "foreign trained" Likhit means a foreign degree earned at any level, which is the way we have defined the category in making our count.

4. These percentages are reversed between grades in the table on p. 126.
5. Different sources give different figures for the number of graduates from Ramkhamhaeng's Faculty of Business Administration. Consistent use of Ramkhamhaeng's published figures produces the proportions noted. Besides the reports of the Office of the National Educational Commission and Ramkhamhaeng University Faculties of brochure, figures were collected from the secretarial offices of the Law, Political Science, Economics, and Commerce & Accountancy or Business Administration at the three universities.

TABLE 1

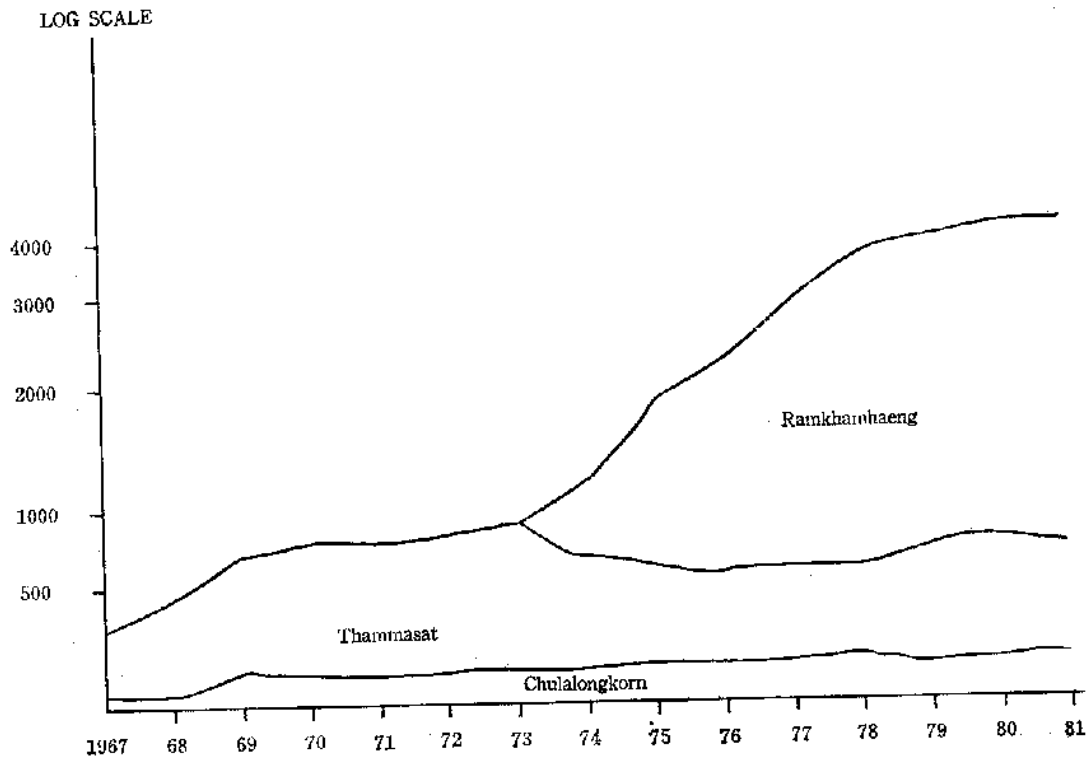
Trends in the Proportion of Law Graduates Who are Female,
1967-1981

Year	Thammasat & Chulalongkorn		Ramkhamhaeng		Three School Total	
	Graduates	Percent Female	Graduates	Percent Female	Graduates	Percent Female
1967	282	7%	-	-	282	7%
1968	407	4%	-	-	407	4%
1969	652	17%	-	-	652	17%
1970	734	14%	-	-	734	14%
1971	721	16%	-	-	721	16%
1972	793	20%	-	-	793	20%
1973	846	29%	-	-	846	29%
1974	636	30%	473	8%	1,109	21%
1975	583	22%	858	9%	1,441	14%
1976	637	16%	1,271	8%	1,908	11%
1977	565	22%	*	*	*	*
1978	556	27%	3,129	8%	3,685	12%
1979	658	30%	3,231	11%	3,889	14%
1980	690	35%	3,340	12%	4,030	16%
1981	622	38%	3,527	12%	4,149	16%

Sources : Office of the National Educational Commission (name varies) EDUCATIONAL REPORT, INSTITUTIONS OF HIGHER EDUCATION, THAILAND, (title varies), 1968...1977 (figures are for the previous academic year), Tables 3, 4. Secretarial Offices of the Faculty of Law at the three universities.

*A gender breakdown is not available for Ramkhamhaeng in this year.

FIGURES I
BACHELOR OF LAW GRADUATES



Sources : Same as Table I

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