

INTERNATIONAL LAWYER

A Dialogue with Judicial Wisdom



Professor Dr. Ukrit Mongkolnavin

INTRODUCTION

The Journal of East Asia and International Law had the opportunity to interview Professor Dr. Ukrit Mongkolnavin, highly respected Thai legal scholar and politician, for <International Lawyer: A Dialogue with Judicial Wisdom>. Dr. Ukrit was born in 1933 in Thailand. He studied law at Thammasat University, Bangkok and thereafter enrolled in Paris University for his post-graduate program where he obtained his Docteur en Droit.

After returning to Thailand, Dr. Ukrit practiced law in Bangkok and joined Chulalongkorn University as a faculty member where he proceeded to implement radical changes to the Faculty of Political Science and turned into the Faculty of Law. Professor Ukrit served as the Dean of the Law Faculty of Chulalongkorn University for six years (1972-1978).

Dr. Ukrit was elected and appointed as a member of the Thai National Legislative Assembly for many years. During this period, he has served as the President of the Senate, the President of the National Legislative Assembly, and the President of the Parliament. Since 2012, he has been acting as the President of the Independent National Rule of Law Commission. As a political visionary, he has been always committed to promoting the “freedom of speech” as a core ground of Thai democracy. Dr. Ukrit has also carried out diplomatic missions representing Thailand. He has paid official visits to various countries including the former Soviet Union and North Korea. For these services, he has received many orders and decorations from both the domestic and the international society, including the Order of Diplomatic Service Grand Gwangwha Medal from the Republic of Korea and Commander of the Legion of Honour from the Republic of France. As a renowned scholar, Professor Ukrit has authored many pieces of academic literature including books and articles, and has taught at various universities.

Professor Ukrit remains respected by the Thai legal community as a role model of legal profession. He is also saluted and adored by the Thai people for his humility, compassion, and generosity. Over 2000 students have received scholarships from him. His contributions and personal figure embodied with high morality, charity and justice will be remembered by Thai people and others forever.

Professor Ukrit got married to Thanpuying Montinee and they have two sons. The following is an edited transcript of the interview conducted at his home in Bangkok with the generous support of Professor Patthara Limsira. A video of the interview may be viewed at <Great International Lawyer> available at <http://www.yiil.org>

QUESTIONS & ANSWERS

1. Hello, sir! Welcome to <International Lawyer>! We are very happy and deeply honored to interview such a highly renowned international law scholar as well as politician. Well, we'd like to begin our discussion with a few personal questions. I heard you are from a highly established family and well educated. Would you talk about your parents and introduce your family?

I was born in a big family. My parents had 11 children, I am number 9. My father was in the navy and wanted his boys to follow suit. Actually, some of my siblings became naval officers; my younger brother (number 10) was an admiral of Thai Royal Navy. However, I decided to study law and to be a lawyer, because, from my point of view, the legal profession is an occupation promoting 'liberty.' Unfortunately, we had never enjoyed real liberty in Thailand by then. Even now, freedom of speech is not fully guaranteed, either. I understood liberty, the core concept of constitutionalism and rule of law, along with fraternity and equality, while studying in France. I have never been afraid of outside influences. I have been trying to speak only the truth and I respect freedom of speech very much. During the two years, I have given my opinions for democracy based on the freedom of speech through the 116 interviews on the national broadcasting every Sunday. Ever since I was a law student at the university, I have always respected freedom and justice. It has always been my firm standpoint for a long time. It can never change.

2. You studied law and social science at the prestigious Thammasat University and obtained post-graduate degrees in law (Docteur en Droit) at Paris University, France. What brought you to France? Who was (were) your mentor(s) in Paris and what were their teachings?

When I began studying law at Thammasat University, I came to understand that Thai law basically came from the civil (European Continental) law system. And the origin of modern European law is the Code Napoléon. In order to be a good lawyer, I should study and prepare many things. Among them, language was an important precondition. At that time, Thammasat students could choose either English or French. I chose to learn French because I wanted to go to France to study European law. I struggled to master the language and law in France. Ironically, it was a good environment to study French because about 40 years ago French people did not

speak English at all and all the law courses were taught in French. After completing the undergraduate law degree equivalent to the license for practice, I continued to study further for post-graduate program and finally obtained the *Docteur un Droit* (Doctor of Laws) from Paris University. However, I did not even know French perfectly. Language is such a difficult thing to master in just five years. I was the first Thai lawyer to graduate from the doctorate program in France after World War II. Before 1945, there were four lawyers with *Docteur en Droit*. The last Thai lawyer had been awarded a doctorate in France about 30 years prior to me.

3. As a scholar, you founded the Chulalongkorn University's Law Faculty and served there as the first dean. Could you share the story of founding the Law Faculty?

All the previous lawyers from France had amazingly entered into politics; some of them became ministers or the prime minister of Thailand. However I decided to become scholar and was invited to Chulalongkorn University Faculty of Political Science. As a law professor of Faculty of Political Science, I then took the initiative to establish the Faculty of Law. It was a kind of a revolution. Forty one lecturers came in from outside, especially from Thammasat. But, I have completed my dream to set up the Faculty of Law at Chulalongkorn University and served there as the Dean for six years. I think six years was enough for me. My successors, the deans after me were former students of mine at the Faculty of Law.

3-1. Professor Patthara Limsira: Why did you try to set up a Faculty of Law at Chulanagkorn University? Instead, you could go back to Thammasat University to continue teaching.

At that time, there were already many professors at Thammasat University Faculty of law. The old, senior professors already existed. A new faculty member was nothing special. What could I do? The only thing I could do was to follow established customs. My professors at Thammarsat were old and senior professors. Conversely, nobody was at Chulalongkorn and I was the most senior professor.

3-2. Professor Patthara Limsira: Wasn't it very hard to set up a new Faculty of law at Chulalongkorn?

Oh! It was kind of a coup d'état. The professors even derided me for conducting a

coup against the Faculty of Political Science. But I was keeping very good relations personally with those colleagues. To set up a new faculty was very difficult; it was easier for me to be elected as the president of the Thai National Assembly.

4. Together, you have very distinguished political careers. It might not be easy to succeed in two different fields in human society. In Korea, “uniting knowledge and conduct” is an ideal type of intellectual. How have you been able realize your scholastic vision and ideas at the political forum?

Thailand is different from Korea. About 40 years ago, in Thailand, people had little knowledge and the military was not in control. Only lawyers could herald the country. I thought it might be a good chance to help my country. When I was the dean at the Faculty of Law, the military attempted to control the law. I could not accept the conduct of the military. Some activists invited me to speak against the government and hence, I addressed to a gathering of many people. The government then instituted a disciplinary committee to punish those who violated the law and the rights of the people. After then, I was appointed a member of the Thai Parliament. My action was against the government which was dominated by the military at that time. I wasn't wrong because the people's opinion was my opinion. Several times, I had to speak against the government. The former president of the Supreme Court, *e.g.*, interpreted the law against the judiciary itself. I didn't agree. I accepted to speak against this at Thammasat University before a large crowd. It was an action directly against the military government. Then, I was appointed as a member of the Parliament again. This just means that, if we do everything right, we must be respected both from the military and the people. It has been my principle at every given time in my life. I was appointed as a member of the Parliament at the age of 30. This was repeated at least 8-10 times over a period of 40 years. No one opposed to my appointments. It has always been unanimous.

5. Thai people are very proud of their diplomatic traditions. Thailand is the only country in South East Asia which was not occupied by the Western colonial powers. Was it due to diplomacy? Could you talk about the significance of diplomacy for Thailand?

It was in accordance with the policies of King Lamada the 5th. He said: “Thailand is not a big country. We are between superpowers. We keep the distance between the west and the east.” For example, at the time, England, France, Germany and Russia

wanted to be great powers. King Lamada the 5th sent his children to those countries to achieve balance between the powers. He sent every prince outside. When the prince became the King of Thailand, he was treated as a relative of the super powers. This policy was successful. Even in the Parliament, I followed this policy. When I visited first the Soviet Union in 1975, everybody was surprised because people knew I was pro-western! I was treated very well, however, by the Soviet leaders. I was also invited to North Korea after my visit to South Korea. North Koreans then commemorated the 40 years' anniversary of their communism. In Pyongyang, it was impressive to see over one million people at the square to celebrate the party. As the president of the Thai Parliament, I was seated in the first row with President Kim Il Sung and the President of China. To me, everyone is my friend.

5-1. Prof. Eric Lee: *What was your first impression of President Kim Il Sung? What kind of person was he from your eyes?*

Oh, he was certainly, 100 percent, a dictator. North Korea seemed an absolute monarchy. He was, in fact, the 'King,' not the 'President.' His photo could be seen everywhere. He was the 'father' of all North Koreans.

5-2. Prof. Eric Lee: *Do you think he was different from the king of a monarchy like Thailand?*

He was different from the king of monarchy like Thailand. In Thailand, every king has Buddhist principles and must follow the rule of law. It is totally different. King Lamada the 5th and the 6th, *e.g.*, lived to secure their people. They would never sacrifice their people. They could have done that, but never did it. I noticed in North Korea at the time, discipline was very strict. The parade by the military and the farmers could never be performed in other countries. I asked the Chinese president who was there: Would China do the same thing? He replied: No! China was less dictated.

6. *The ASEAN is getting more influential in the world economy as well as politics. Thailand is a leading country of the Association. What is the real value and vision of ASEAN? What kind of contribution could the Association make for the global society in the 21st century? Also, what do you expect Thailand to do for the development of the Association?*

I think Thai people are confused now. Since we used to be one of the leaders when we were under Prime Minister Thaksin's government. At that time, Thailand was developing very fast. However, we are not anymore now. This is because economy and politics must go together. Today, our goal is to recognize democracy. Some people would like to follow Burma. When I visited Burma five years ago, however, a foreigner whom I met there said Burma was 30 years behind Thailand. Burma has closed the door and the government was under 100 percent military regime for 40 years. It was Burma's mistake not to be democratic. They are now trying to be a democratic country.

7. You are now serving as the chairman of the Independent National Rule of Law Commission. Why did you accept the chairmanship? How could the Commission contribute to Thailand's rule of law? And what do you think of the rule of law at domestic and international levels for the present and the future?

For the past two years, as said before, I gave my opinions through TV interviews every Sunday. Whenever I had interviews I only spoke about 'freedom' as a core concept of democracy. Article 3 of the Thai Constitution provides that everybody and every organization shall obey the rule of law.

7-1. Prof. Patthara Limsira: What is the rule of law they have to obey?

People just talk about the rule of law, but they do not understand the true meaning of it. This independent commission is inspecting whether the government and people are respecting the rule of law of Thailand. You are teaching law. What do you talk about the rule of law to your students? The rule of law is now undergoing fragmentation. Today, we understand it in completely different meaning. The fundamental principle of the rule of law has not changed at all; current rule of law is the same with that of 20-30 years ago. To find the constitutional principle, this is the duty and responsibility of this independent commission.

7-2. Prof. Patthara Limsira: Why did you accept the chairmanship of this commission? This is not an easy job.

A good question! Somebody would ask me the same one. I was 80 years old... Also I was at the top for a long time and received everything. I accepted this post for no salary. I have never received profit for working as the chairman of the commission.

I am just contributing to my country because I would like to work for my people, not for power. Power brings the profit and profit brings the power; and power is destined to corrupt.

7-3. Prof. Patthara Limsira: *You had announced that you gave up the politics but you have never give up the people and the country. Is this the motive of doing this?*

Yes, twenty years ago, I said I gave up politics absolutely. But I could not give up my country.

8. *Thailand is a country of Buddhism. Buddha's teachings can be summarized as charity, harmony, forgiveness and generosity which should be highlighted in the wake of the 21st century. There was no religious war in which Buddhism was directly involved in human history. Do you think these holy lessons could be a firm ground for future international law?*

The main principle of Buddhism is to do goodness and to purify yourself, not to commit bad things. Buddhism is in the hearts of the Thai people. We would get along with people with kindness and goodness. It is very important for Thai people, although they don't go to temple every Sunday. Thai people always smile. When we stop it, however, people should be careful!

9. *As an eminent legal scholar and politician, your life has been a model of success and I believe it will be continuing. Have you ever experienced any frustration or hardship? If so, how did you overcome such difficulties?*

I think everyone has some problem because people's daily life is much dependent on situation and circumstances. If I do a good thing, I become happy, everybody becomes happy. If you do something that makes you unhappy, everybody else is not happy and it is not good thing. You cannot always be successful. It is very usual in your life. If I become upset, I wait for 2-3 days for control, then I could solve the problem and control my temper.

9-1. Prof. Patthara Limsira: *How do you manage your anger? How do you control it?*

For me, it is very simple. You must see the fact simply. If you get angry with your subordinate, *e.g.*, you have to recognize he could not do anything that you like. Why? He is not a doctor. He is just a driver. How could they always satisfy me? It's impossible. If they satisfy you 100 percent, they will represent you. Do you want a driver to represent you? Their background including their education are different from yours. Why shall we get angry?

10. Today more and more people of the younger generations of Asia are studying international law. Would you give a piece of advice for those young students?

If all people have kindness, compassion and would like to share happiness with other people, I think, that is real peace. Real peace is not outside, but inside. It is from our spirit. If you control your heart, you control your spirit. You can be the servant of yourself. You can then be peaceful, because, as the Buddha said, the most important thing is inside. You can obtain great victory. The more important you should keep in mind... (Prof. Patthara Limsira: *Our ownself is the great enemy*) is to win yourself. If you want to be a happy man, control your mind.

Interview by Eric Yong Joong Lee and Patthara Limsira

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My Beliefs and Convictions

I take great pride in being born a Thai. Being a Thai means loving freedom and independence; being brave and daring; having a spirit of kindness and thoughtfulness.

I have faith in the institutions of the nation, religion and monarchy which have enabled us to maintain our independence throughout time. Ours in a different history from many of our neighboring countries which lost their independence because of a breakdown in national unity and solidarity through internal power struggles and corruption as the interests of the nation and its people were sadly forgotten.

I firmly believe in the law of karma, i.e., those who do good will reap good; those that do evil will reap evil. Reaping good and evil does not only concern material possessions but also involves catastrophes, disasters and violent accidents which will, sooner or later, not only befall those who do evil but also may affect their families or others close to them.

I have faith in the Buddhist values of Buddhism, doing good and avoiding evil and making ones heart and mind pure. Thus, I try my utmost to do everything which will result in benefit and progress for those whom I love and cherish beginning with those in my family, in my office, my Thai friends and finally my international friends.

I firmly believe in the principle of gratitude. Thus, I do everything in my power to repay the merit and generosity of those who have been charitable and benevolent to me, especially my father and mother; my teachers; and others who have, in one way or another, been helpful to me with pure intention and pure heart. Almost everyone who has been helpful and useful to me has received appropriate benefits. This has applied to associates, staff and workers when I was their superior in government service, in private business, and in my home. I especially never forget or abandon those who have served me when they reach old age and their declining years or when they are in ill health and can no longer work. I provide care for them including defraying their hospital bills no matter what the cost may be. Despite the fact that such old or sick people may no longer be able to work, I always remember the good they have done in the past and follow the principle of humanness.

I firmly believe that all people, rich or poor, fit or disabled, fortunate or unfortunate are basically the same in terms of inherent individual worth. Thus, I behave towards all as they deserve, not fearing the rich and powerful nor taking advantage or oppressing those less fortunate and with fewer advantages than myself, whether it be in terms of qualifications, status, or social and economic opportunities. I act this way because I know

that there is not much difference in the number of years each of us lives. Thus, we should only do good and have compassion and tolerance towards our fellow human beings. In the final analysis, in acting this way, our fame, honor and prestige will be remembered by all. And we can take pride that such a good reputation was the result of our own good actions with no ulterior motives or hidden agendas and was achieved without using tricks or ruses to deceive others.

I truly believe that I am merely one Thai who has had more good fortune than others because I have been privileged to have the opportunity to serve the nation and the public in a variety of ways. I have always been firmly committed in all my work to using my knowledge, capability and experience blended together free from illusion. I have followed the principle that whatever one does, one must do one's best. Whatever the result, I accept it entirely. For whatever will arise, must arise. What is important is that one's actions are virtuous and do not interfere or inconvenience others. Following this principle, I have achieved quite acceptable and appropriate results in my different activities whether in academic work, government service, the legal profession, in business, in politics, in social welfare or in international relations etc. In all of these areas, I have been fortunate in reaching the highest positions of office and responsibility. However, I have not forgotten myself or inflated my own importance for I hold fast to the following principles: unexpected good fortune gained can later be easily lost; rank gained can later be easily lost; those praised can later be easily slandered; those who are happy can later easily suffer. Thus, I do not become too attached to fame and reputation, praise and approval at any one time. I remain always ready to receive advice and constructive criticism from those with good intentions. I remain prepared to consider such advice and correct and improve myself so as to better serve the nation and public. However, where criticism is ill-intentioned, unjust and destructive, I ignore it and view it of no importance because it will only cause me to become irritated, discouraged and disheartened. As long as mankind still craves, is greedy, and is inflamed with envy and jealousy, it will not be possible to curb and stop slander and abuse.

I have no craving or ambition for power or for high positions and responsibility in government service gained through playing politics at the present time. This is due to the fact that, in my considered opinion, playing politics today means buying votes or being elected through elections that are not clean; it just results in the destruction of the democratic system. However, I have never stopped being of service to the nation and society in line with my own abilities and philosophy.

I firmly believe that the youth of today are the firm foundations on which society will be built in the future. Thus, I always try to give education and training and advice to the young as to the proper direction of their lives. I also try to advise the nation's elders and leaders to act as role models for the younger generation by being good citizens, being moral and being honest towards the nation and the citizenry.

I firmly believe that Thai women have capabilities in no way inferior to men. Thus, I support women's rights in my actions as well as my words. When I had the duty to make an official appointment at the highest level of the National Assembly I did not allow myself to listen to objections against appointing a woman as Secretary-General. I felt I was acting in line with just and right principles not because of any desire to gain praise. I will continue to constantly support women's rights in the future.

I have a firm belief in the "rule of law" as I hold the "law" to be the most important regulator of behavior in the country. It follows that a nation must have laws which are right and just, and those who administer the law must do so with justice and equality. One must not allow any infringement, abuse or violation of the law which protects the rights of the majority of the citizenry against small groups with vested selfish interest often acting with the intentional support of some government officials. Those avoiding just application of the law because of monetary gain or because votes are being sought for an election have no respect for the law. All such actions can lead to a condition of the absence of law in society. I firmly believe that peace and happiness will not be born in a society which does not have respect for the law, which is corrupt; and which lacks rules and discipline.

I firmly believe that all people desire happiness and it is certainly not necessarily so that the rich will have greater happiness than the poor.

I firmly believe that no matter what the system, it is not possible to assure absolute material equality among all as the law of nature creates inequalities; the intelligent and the ignorant; the energetic and the lazy; the spendthrift and the thrifty; the good and the evil. Thus, people in society cannot be completely equal as long as the karma of each individual differs.

Thus, I try to give guidance as to the equitable and even distribution of happiness in society asking those who have greater advantages economically and socially to share opportunities with those less fortunate. One may start with those close to one and then go beyond to those in larger groups in society. It is most important that acting in this way must be voluntary with the intention of helping others with purity of heart. One must act with no thought of return except for the happiness one gains through such unselfish actions.

I firmly believe in the principles outlined above. These are the beliefs which I live by.

Prof. Dr. Ukrit Mongkolnavin