

**STUDY OF JUDICIAL LEGAL PERSON IN APPEAL  
PROCEDURE FROM DISTRICT COURT TO PROVINCIAL  
COURT IN THAILAND**

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**A THESIS SUBMITTED IN PARTIAL FULFILLMENT  
OF THE REQUIREMENTS FOR  
THE DEGREE OF DOCTOR OF PHOLOSOPHY  
(CRIMINOLOGY,JUSTICE ADMINISTRATION,SOCIETY)  
FACULTY OF GRADUATE STUDIES  
MAHIDOL UNIVERSITY  
2011**

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Thesis  
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**STUDY OF JUDICIAL LEGAL PERSON IN APPEAL  
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was submitted to Faculty of Graduate Studies, Mahidol University  
for the degree of Doctor of Philosophy  
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## ACKNOWLEDGEMENTS

The success of this thesis can be succeeded by the attentive support from my major adviser Assoc.Prof. Tunyatorn Insorn. I would like to thank my adviser who help and edit this thesis Assoc.Prof.Kamontip Khatikarn, Prof.Viraphong Boonyobhas and Lect.Chiranit Havanond. I want to thank Asst.Prof.Srisombat Chokprajakchat to be my chair committee and also support my extension of study. I would like to thank Lect. Chitruedee Weerawess to be my committee for this thesis.

For my Family I want to thank my sister Miss Hathairat Marpraneet who help me to find document and edit my translation. I want to thank my wife Mrs Phangarat Marpraneet for her support and give my strength to finish my thesis by taking care my children.

Finally I would like to thank the entire respondent who was the sampling in this study so that my thesis can complete smoothly and effectively.

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**STUDY OF JUDICIAL LEGAL PERSON IN APPEAL PROCEDURE FROM DISTRICT COURT TO PROVINCIAL COURT IN THAILAND**

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**ABSTRACT**

This research on the attitude of lawyers towards cases appealed from the District Court to the Provincial Court comes from a problem of the long-time adjudication timescale of cases in the Court of Appeal. This problem is inconsistent with the intention of establishing a District Court, aimed at adjudicating cases faster. This research employed a quantitative methodology in order to study the attitude of the lawyers, involved in the appeals to the District Court and on the appeal process of the Provincial Court. The sample group was 313 lawyers including judges, prosecutors, and attorneys. The instrument used in the study was a questionnaire. Descriptive and analytical statistics—means, standard deviation, maximum and minimum scores, t-Test, and ANOVA—were employed.

The research found that the appeal of cases from the District Court to the Provincial Court was a fast track in judging the cases with a small amount of capital and a low rate of criminal penalties. This result is in accordance with the Classical Theory of Criminology focusing on the severity and certainty of legal punishment and the Theory of Deterrence explaining that an individual will consider the consequences of the law violation and restrain himself from crime. If the process of adjudication takes too long, this reflects the principle that justice delayed is justice denied. Moreover, the study showed that about 55.9% did not agree on the possibility of employing the appeals system of the Provincial Court instead of the Court of Appeal. Another 44.1% of the sample are unhappy with the current appeal system. The appeal system of the Provincial Court does not conflict with the concepts of neutrality, fairness, and the checks and balances because groups of judges in the District Court and the Provincial Court are separated from each other. Additionally, the seniority of the judges of the Provincial Court is equivalent that of the judges of the Court of Appeal before retirement. It also guarantees the right to due process as declared in Section 27 and 40 on adjudication in the Constitution of the Kingdom of Thailand, B.E. 2550.

The researcher provided the following suggestions from the study: (1) to improve the appointment and tenure of provincial and district court judges based on their seniority; (2) to provide training or studying on the increasing potential of the judges in the Court of First Instance; and (3) to establish a pilot court or another appeal process for a clearer and better understanding of appealing cases from the District Court to the Provincial Court.

**KEY WORDS: APPEAL/ DISTRICT COURT/ PROVINCIAL COURT**

148 pages

การศึกษาทัศนคติของนักกฎหมายต่อการอุทธรณ์คดีศาลแขวงไปสู่ศาลจังหวัดในประเทศไทย

STUDY OF JUDICIAL LEGAL PERSON IN APPEAL PROCEDURE FROM DISTRICT COURT TO PROVINCIAL COURT IN THAILAND

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#### บทคัดย่อ

การศึกษาเรื่องทัศนคติของนักกฎหมายต่อการอุทธรณ์คดีศาลแขวงไปสู่ศาลจังหวัดในประเทศไทยนั้นมีปัญหาจากการพิจารณาพิพากษาคดีที่อุทธรณ์มาจากศาลแขวงไปยังศาลอุทธรณ์นั้นใช้ระยะเวลาอันยาวนานซึ่งไม่สอดคล้องกับเจตนารมณ์ในการจัดตั้งศาลแขวงที่ต้องการให้มีการพิจารณาพิพากษาคดีบางประเภทให้เป็นไปด้วยความรวดเร็ว จึงได้ทำการศึกษาวิจัยโดยมีระเบียบวิธีวิจัยเชิงปริมาณ โดยทำการศึกษาเกี่ยวกับนักกฎหมายที่เกี่ยวข้องกับการอุทธรณ์คดีของศาลแขวงซึ่งได้แก่ ผู้พิพากษา อัยการและทนายความ รวมทั้งสิ้นจำนวน 313 คน เครื่องมือที่ใช้ในการศึกษาวิจัยคือแบบสอบถามโดยใช้สถิติค่าเฉลี่ย ค่าเบี่ยงเบนมาตรฐาน ค่าสูงสุดและต่ำสุด การทดสอบหาค่าความแตกต่างของกลุ่มตัวอย่างที่มีคุณลักษณะทั่วไปแตกต่างกัน

ผลของการศึกษาพบว่าการอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดนั้นถือว่าเป็นช่องทางพิเศษ (Fast Track) ในการตัดสินคดีอุทธรณ์ที่มีทุนทรัพย์ไม่มากและโทษทางอาญาไม่สูง เพื่อให้กระบวนการพิจารณาพิพากษาเป็นไปด้วยความรวดเร็ว ทั้งนี้เป็นไปตามหลักทฤษฎีทางอาชญาวិทยาสำนักดั้งเดิม (Classical school) ที่ว่าการลงโทษตามกฎหมายจะต้องรวดเร็วรุนแรงและแน่นอน และทฤษฎีการป้องกัน (Deterrence) ที่ว่าบุคคลจะขังน้ำหนักถึงผลที่ตามมาจากการกระทำความผิดว่าเหมาะสมหรือไม่ หากผลที่ได้รับนั้นรุนแรงก็จะนำไปสู่การยับยั้งชั่งใจไม่ให้เกิดการกระทำความผิด ทั้งนี้การพิจารณาพิพากษาที่รวดเร็วนี้ย่อมทำให้เกิดความยุติธรรมเพราะเป็นไปตามหลักที่ว่าความยุติธรรมที่ล่าช้าคือการปฏิเสธความยุติธรรม (Justice delayed, Justice denied) ซึ่งถ้าหากการพิจารณาพิพากษาเป็นไปด้วยความรวดเร็วแล้วก็จะส่งผลต่อการลงโทษหรือการยับยั้งชั่งใจในการกระทำความผิด ทั้งนี้จากการศึกษาพบว่าความเป็นไปได้ของการใช้ระบบการอุทธรณ์คดีของศาลแขวงไปยังศาลจังหวัดกลุ่มตัวอย่างที่เห็นด้วยมีจำนวน ร้อยละ 44.1 ที่ไม่เห็นด้วยมีจำนวน ร้อยละ 55.9 โดยแนวความคิดของการอุทธรณ์คดีศาลจากแขวงไปยังศาลจังหวัดนั้นไม่ขัดกับหลักความเป็นกลาง (neutrality) หลักความยุติธรรม (fairness) หลักการตรวจสอบและถ่วงดุล (Check and Balance) เพราะผู้พิพากษาที่พิจารณาพิพากษาคดีในศาลจังหวัดเป็นคนละองค์คณะกับที่ตัดสินในศาลแขวงอีกทั้งตัวผู้พิพากษาที่พิจารณาพิพากษาในคดีที่อุทธรณ์จากศาลแขวงล้วนเป็นผู้พิพากษาศาลชั้นต้นที่มีอาวุโสสูงมีอายุการทำงานเทียบเท่ากับผู้พิพากษาศาลอุทธรณ์ก่อนที่จะมีการขยายอายุเกษียณราชการ อีกทั้งเป็นการรับรองสิทธิในกระบวนการยุติธรรมตามที่บัญญัติไว้ในรัฐธรรมนูญแห่งราชอาณาจักรไทยพุทธศักราช 2550. มาตรา 27 และมาตรา 140 ในการพิจารณาคดี

ผู้วิจัยจึงมีข้อเสนอแนะในการศึกษาว่า 1. ควรปรับปรุงการแต่งตั้งและการดำรงตำแหน่งของผู้พิพากษาศาลจังหวัดและศาลแขวงในลักษณะของการจัดเรียงลำดับอาวุโสในการพิจารณาอุทธรณ์ 2. ควรจัดให้มีการอบรมหรือศึกษาวิจัยเพิ่มเติมเกี่ยวกับการเพิ่มระดับศักยภาพของผู้พิพากษาศาลชั้นต้น 3. ควรจัดให้มีการทรอนศาลนำร่อง หรือกระบวนการพิจารณาพิเศษโดยช่องทางอื่น นอกเหนือจากการพิจารณาคดีที่อุทธรณ์จากศาลแขวงโดยศาลอุทธรณ์เพื่อให้เห็นถึงรูปแบบในทางปฏิบัติที่เป็นรูปธรรมอย่างชัดเจน อันจะนำไปสู่ความเข้าใจการพิจารณาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลจังหวัด

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## **CHAPTER I**

### **INTRODUCTION**

#### **1.1 Rationale and Significance of the Study**

The justice system of Thailand has three court levels: (1) Instant Court, (2) the Court of Appeal, and (3) Supreme Court (The Law for the Organization of Court of Justice, B.E. 2543 Section 1). Filing lawsuits must firstly start at the Instant Court. Then, the lawsuits are appealed in the Appeal Court and the Supreme Court, respectively. The First Instant Court is consisted of Southern Bangkok Civil Court, Thonburi Civil Court, Southern Bangkok Criminal Court, Thonburi Criminal Court, Provincial Court, District Court, and other Courts—Central Intellectual Property and International Trade Court, Central Tax Court, Central Bankruptcy Court, and Youth and Family Court—specified in the First Instant Court by Act on the Establishment of the Court (The Law for the Organization of Court of Justice, B.E. 2543 Section 2). For civil and criminal cases, there are more than one court in the First Instant Court level considering and adjudicating cases in each province. However, each court has different authorities. For example, the district courts can try and adjudicate civil cases not exceeding 300,000 baht and criminal cases not exceeding three years in prison or imprisoned and/or fined not exceeding 60,000 baht (The Law for the Organization of Court of Justice, B.E. 2543 Section 17 and Section 25 Paragraph 4 and 5). Appealing orders from the district and other courts of the First Instant Court level will be sent to the Court of Appeal in the central and the regional (The Law for the Organization of Court of Justice, B.E. 2543 Section 21 and Section 22). Consequently, there are increasing trial and adjudication of cases appealed from the district and provincial courts to the Court of Appeal, except cases appealed directly to the Supreme Court. As a result, trial and adjudicate every case of the Court of Appeal is time-consuming process and causes the increase number of cases in the Court.

The appeal system in Thailand is composed of three court levels: (1) the First Instant Court, (2) the Court of Appeal, and (3) the Supreme Court. The First

Instant Court is not divided into higher and lower levels like in other countries employing common and civil laws. In the Thai justice system, the provincial and other courts in the First Instant Court level have higher authorities in adjudicating cases than district courts. As indicated in Part 2 of the Law for the Organization of Court of Justice, B.E. 2543, district courts can adjudicate cases and have an authority in interrogation while the provincial and other courts in the First Instant Court level have an authority to trial and adjudication of cases which are out of the district courts' authority. To be more specific, the provincial courts are responsible for civil cases which have the capital not exceeding 300,000 baht. For criminal cases, the courts have an authority to trial and adjudication of cases exceeding three years in prison or imprisoned and/or fined exceeding 60,000 baht. Therefore, the status of the provincial and other courts in the First Instant Court level is higher than district courts. Head judges of the provincial and other courts in the First Instant Court level are more seniority than the head judges of the district courts.

Besides the court's authorities, the court procedure of the district courts differs from that of other courts. For example, civil cases having capitals not exceeding 3000,000 baht can orally be filed lawsuits and defended (Civil Procedure Code Section 191, Section 194). Criminal case procedure in the district courts is based on Criminal Code in District Court decreed in Act on the Establishment of and Criminal Procedure in District Court, B.E. 2499. According to Criminal Code in District Court Section 19, criminal cases can be filed in document and oral. Moreover, in Section 21, the district courts can orally trial and adjudication. The appeal system of the district courts is separated from Criminal Procedure Code.

The district courts are established for protecting rights to justice and freedom of people. Thus, the district courts have the trial and adjudication process different from other courts. However, all appealed cases are still sent the Court of Appeal for further the trial and adjudication process. This process is conflict to the aim of the establishment of the district courts. If comparing to the court level and the appeal system of the district courts in other countries with civil and common laws, the appeal system of the Court of Appeal is still time-consuming. Therefore, appealing cases from the district courts to the provincial courts is time-saving, benefits to plaintiffs, and does not recruit more personnel in the higher courts.

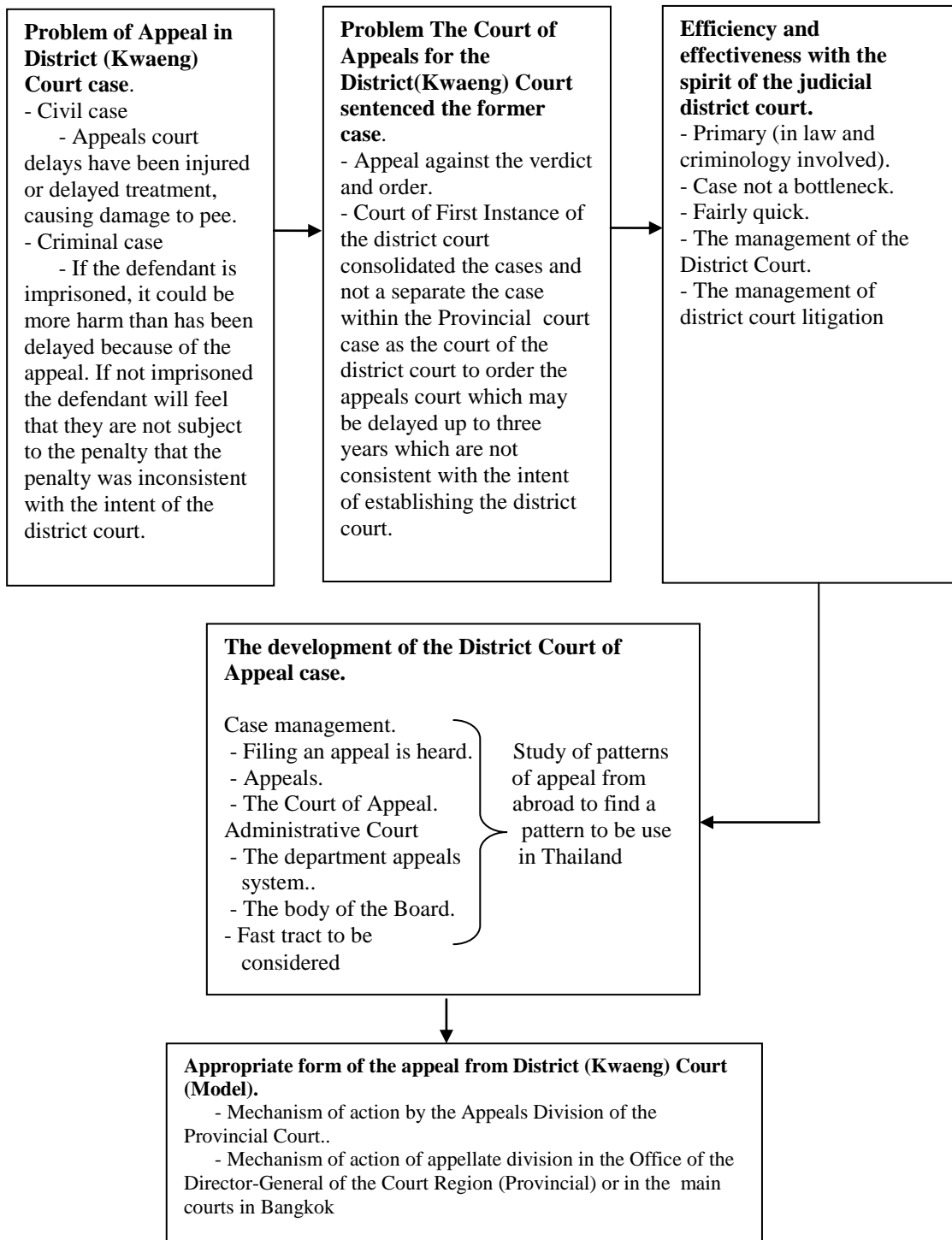
This research thus aims at studying and comparing the structure of the appeal system in the district courts in Thailand with that of other countries in order to seek an appropriate guideline for changing the appeal system from District Court as well as the structure of Thai Courts. Moreover, this research studies the attitude towards the possibility of employing the appealing system of the provincial courts and a quorum in courts from judges, prosecutors, and lawyers.

## **1.2 Objectives of the Study**

1. To study problems from appealing cases of district courts in Thailand;
2. To compare patterns of the appealing system of district courts between Thai and other countries' legal systems;
3. To study the possibility of using the appealing system of provincial courts; and
4. To seek a new guideline for changing the appeal system from district courts as well as the structure of Thai Court.

## **1.3 Concepts used in the research.**

The District Court of Appeal in the case of a problem that should be revised. Model system to study the appeal of the district court in a foreign country, compared with Thailand. Knowledge will be useful to improve the appeal of the district court cases in Thailand. The study analyzed the attitude of the Thai law on this subject. To determine the feasibility of using the appeals court of the district court by appeal to the Court in Thailand. And this study will make a way to change laws and systems of the appeal. Restructuring of the Thai court of appeal from a district court trial as well. That is the proper form to appeal the district court case. They may offer to develop a conceptual framework as follows



**Chart1.1Conceptual framework for research.**

## **1.4 Hypotheses**

1. The sample different demographic characteristics—sex, age, marital status, level of education, workplace, position, years of working, and personal income per month—have different attitudinal level of the appeal process of district courts.

2. The sample different demographic characteristics—sex, age, marital status, level of education, workplace, position, years of working, and personal income per month—have different attitudinal level of the appeal process of provincial courts

## **1.5 Methodology**

The scope of research is divided into three parts as follows,

### **1. Scope of content**

1.1 To study of the process of trying the appeal case from the district courts by other countries including the research related to appeal case from district court;

1.2 To study the process of appealing and the structure of appeal process of the district court in Thailand and in other countries;

1.3 To study the attitude of judge individuals related the Appeal process of district court including the current problems and the attitude on the possibility of the appeal process in provincial court in Thailand; and

1.4 To study the guideline on changing the appeal process and adjust the structure of Thai court in appealing cases of district court and related laws.

### **2. Scope of area of study and sample group**

#### **2.1 Scope of area of study**

The area of the study is composed of (1) Southern Bangkok Civil Court, (2) Southern Bangkok Criminal Court, (3) Southern Bangkok District Court, (4) Pathumwan District Court, (5) Dusit District Court, (6) law firms, (7) Thonburi Civil Court, (8) Thonburi Criminal Court, (9) Thonburi District Court, and (10) Talingchan Provincial Court. These courts are considered to trial and adjudication of many cases that under the jurisdiction of district courts by set up three district courts within the jurisdiction of Southern Bangkok Civil Court and Southern Bangkok Criminal Court.

## 2.2 Sample Group

Sample size of this research is referred to the calculating method of Taro Yamane at the confident level of 95%. According to the population of the study, there are 397 samples. However, by employing purposive and quota sampling, the total sample size of this research is 406 persons. This includes judges, prosecutors, and lawyers with the following distributions: 56 head judges of group, selected 100 judges, 100 prosecutors, and 150 lawyers.

## 2.3 Data Collection Process

The researcher sent and collected self-administered surveys to the samples from October 2010 to January 2011. The data collection process was divided into two periods. The first period was between October and November 2010. The second period was held from December 2010 to January 2011.

## **1.6 Definition of terms used in the research.**

The appeal means that the argument against the facts and the law on the issue of the decision of the Court. And review of the legislation on the decision of the court case. As well as to examine the decision of the Court by alleging the inaccuracy of the decision of the Court. The District Court of Appeal case, means the process of adjudication by the court, the second stage.

Attitude refers to a person's attitude. Of learning and experience is the readiness of individuals to respond to such behavior. Or any situation in any way support the opposition, as I hate to disagree with such an attitude is part of the personality. In this study was to study the attitude of the lawyers have appealed the District Court case.

Information in this research refers to information about the biological and social background of such groups such as sex, age, marital status, education level, workplace location, age and salary level.

### **1.7 Benefits of the Study**

1. To know the problem in appealing the cases from District Court in Thailand;
2. To understand the format of appealing cases from district court both in Thailand and abroad;
3. To know the perspective of legal personal on the possibility of appealing cases from District Court in the provincial court; and
4. To know the appropriate system for the appeal cases from the district courts in Thailand and developing the system of appealing cases from district courts in the provincial courts including related laws.

## **CHAPTER II**

### **LITERATURE REVIEW**

One law proverb says that “Justice delayed is Justice denied” meaning that the delay results in uncertainty. This uncertainty causes being unsure of getting justice. Moreover, the delay comes with expenses (กิตติพงษ์ กิตยารักษ์, 2543 หน้า 59). As a one unit of justice process, a judge must order judgment as fast as possible. “It is duty of a good judge to order judgment to be executed without delay” (ชานินทร์ ทรัพย์วิเชียร [www.library.coj.go.th](http://www.library.coj.go.th)). The delay of judgment in Thailand results from postponing cases and a long-time interrogation process. If the cases are appealed, the judgment process will delay further. While appealing, a defendant not on payroll will lose his freedom. A weakness of the judgment process is related to a weakness of a legal system and the rule of law in Thai society.

In democratic societies, the rule of law is the most important rule of national administration. The societies persisting in the rule of law is different from autocracy and anarchy societies. The rule of law has two meanings. The first meaning is that law has justice with clarity and fair individual interests. The second meaning is that law must be used with equity and non-discrimination. All people must be equally under the rule of law. In other words, the rule of law contributes to good governance which is an important element of the just society and leads to the growth of a country.

As the just society is based on the rule of law, it is seriously necessary to improve the administration of justice. That is because the administration of justice is an important mechanism of law enforcement. If the administration of justice can enforce laws equitably and justly, reinforcing respect for laws and the rule of law is directly enhanced. On the other hand, if the administration of justice enforces laws ineffectively and discriminately or infringes individual rights, people will inevitably lose their faith to laws and the rule of law. Therefore, the improvement of the administration of justice is not only the prevention and protection of crimes but also

the attempt of building the society believing in laws and the rule of law leading to the growth and the sustainable development of the country (กิตติพงษ์ กิตยารักษ์, 2544 หน้า 4-6).

## 2.1 Definition and Background of Appeal

Professor Dr. Kanit Na Nakorn explains that “appeal,” in academic sense, is a request of a higher court to review judgment of a lower court in both matters of fact and of law. Thus, an Appeal Court is the 2<sup>nd</sup> level Trial Court (กณิต ณ นคร, 2546 หน้า 460).

The appeal is a request in one of the law, which is made to the higher court to amend or cancel the revocation of a crucial court decision, especially to amend or cancel the revocation judgment or command. The appeal process thus will result in changes in judgments or casting instruction by the higher court and the delay of judgments and orders.

Therefore, the appeal means the dispute on problems of the matter of facts and the matter of laws based on the Court of First Instance’s decision and the review of the matter of facts of the Court, related to the inaccuracy of the Court’s decision.

In the past the administration of justice and diagnosis of a dispute was under power of the ruler and the King later. Due to social and population change and the King’s increasing duties, the King gave the lords an authority to dispose of the matter in dispute except crucial hearing sensitive cases with the death penalty. If people did not agree with the decision what was seen invalid or unjust, they had the right to appeal such decision to the King.

Appeal in that time aimed at controlling the lords which was a concept of feudalism (ชาญณรงค์ ปราณจิตต์ และคณะ 2544 หน้า 8-10). As social changes in the late 18th century and early 19th century, there was a new concept of a modern state with liberalism. This concept stressed on equality and human dignity and disliked a monopoly system which does not benefit to the whole. Moreover, there was creating the political conditions and the structure of the State. The Government has limited powers, expressed as the principle powers (Separation of power). The executive powers of legislative and judiciary were independent from each other by aims to

balance power among organizations using the state power. Ruling and administration were based on the Rule of Law. As a result, the modern law system guaranteed human dignity. For example, the French Revolution in 1789 led to the law supporting human rights and freedom as appeared in the Universal Declaration of Human Rights and the French Citizen in 1789. The section 8 of the Declaration prescribed that “everyone has the right to receive assistance from the Court with powers of the State as a result of actions violating the right according to the Constitution or by laws” (ชาบุญรงค์ ปราณิจิตต์ และคณะ, 2544 หน้า 8). Independent organizations or institutions had investigation authority to decide what was lawful and unlawful. Moreover, they allowed citizens not satisfied with the judgment or believing that the decision to arbitrate was not valid could dispute, protest, or review the judgment. This process was called the Dekka appeal for protection of rights and freedom of citizens.

Another party in a case requests the Court of Appeal to re-examine the judgment as he or she feels that the judgment is unjust and requires the Court to reduce penalties. As we are already known that the judge who is an ordinary man, the judge can make a mistake. In addition, the evidence that the judge used to diagnose the case may be incorrect and incomplete. As mentioned, this is the fault of the judge to decide the case at all, and the fault may be caused by using a legal wrong, for instance, punishing an individual with the canceled laws or obscure hearing the facts. Although the court independently makes the decision, there is no guarantee for the justice of the party in a case.

The important principle of the appeal is “Final Judgment Rule” which means that the partner can appeal after the final judgment as appeared in the civil procedure of the United States, German and English (section 223 Civil Procedure Code). Although all the Court’s decisions both the context of the case and in the process of considering, including orders of the Court, can be disputed, some judgment of the Court cannot be disputed due to benefits of the fast and economical prosecution process. However, if it is necessary to further the process and considerations of legal interest, there is an exception that the another party of the case can appeal orders during consideration. This is appeared in the Civil Procedure Code of France and Germany (ปวีณา มาศมุกทิก, 2533 หน้า 59). However, the Thai law has relaxed this

principle of the regulation in section 227 and 228 Civil Procedure Code in case of immediate appealing within one month after ruling orders.

For this reason, the aim of requesting the Appeal Court to reconsider the matter of facts in the judgment of the Court of First Instance is to have the judgment scrutinized by the experienced higher court for verifying correct errors or faults and building confidence to the people themselves.

### **2.1.1 Types of the Court of Appeal and the Supreme Court**

The Court of Appeal and the Supreme Court of each country are different to one another, depending on the need and background of each country. The Court of Appeal and the Supreme Court has five types:

Type 1: There are two levels: the Court of First Instance and Court of Appeal. The Court of Appeal acting as the Supreme Court is found in 27 States of the U.S. such as Alaska, Arkansas, Connecticut, Delaware, District of Columbia, Hawaii, and Iowa.

Type 2: There are three levels: the Court of First Instance, the Court of Appeal, and the Supreme Court—which are found in some states of the U.S. such as Colorado, Georgia, Indiana, Maryland, and Michigan. Due to increasing cases and population growth, the Court of Appeal is established for reducing burden of the Supreme Court. Only important cases are decided by the Supreme Court through Writ of Certiorari.

Type 3: Similar to Type 2, there are three levels: the Court of First Instance, the Court of Appeal, and the Supreme Court. The difference between Type 2 and 3 is that each region has its own the Court of Appeal which has jurisdiction separated and is under the Supreme Court. This includes the court system in Thailand, Germany, Japan and the courts of some states in the United States such as California, Illinois, Louisiana, Missouri, as well as the U.S. court system

Type 4: There are three levels: the Court of First Instance, the Court of Appeal, and the Supreme Court. The Court of Appeal is divided into two departments: Civil and Criminal. This system is found in England and some U.S. states such as Alabama and Texas.

Type 5: There are three levels: the Court of First Instance, the Court of Appeal, and the Supreme Court. However, the Court of Appeal is a part of the Court of First Instance, which has jurisdiction over the appeal. If the parties are not satisfied with the decision of the Appellate Department, they can appeal to the Supreme Court. This system can be found in the State of New York and New Jersey, etc. (H. Ted Rubin. 1976 pp. 128-129).

In addition, the Court of First Instance in some countries may have jurisdiction over the appeal, but some countries do not provide the authority. The Court of First Instance is separated into two systems. The first system is one-tier trial court system. The Court is divided into two levels: (1) the lower level which is the District Court with jurisdiction over the cases with less severe penalties or a small amount of capital. The higher level court is Provincial Court which has jurisdiction over the cases with severe penalties and not in the jurisdiction of the district court such as cases involving the rights of individuals and family. However, the Provincial Court has no jurisdiction over the appeal at all. The judgment of District Court or the Provincial Court of Appeal must be appealed to the Court of Appeal. This court system can be found in Thailand, Japan, and District of Columbia, USA. The second system is two-tier trial court which has the same characteristics as the first system. However, the difference is that the Provincial Court has jurisdiction over cases appealed from the District Court with less severe and severe penalties and over civil cases with a small amount of capital. The cases decided by the Provincial Court must be appealed in the Court of Appeal. This court system is found in England, Germany, and every state in the United States (Hideo Tanaka, 1976 pp. 468-469)

In conclusion, we can divide all five types into two types:

1. The court system is divided into two court levels: The Court of First Instance and the Supreme Court. Although some countries have the Supreme Court, such Court is not considered as the third-level court. The Supreme Court has not reconsidered the judgments of the lower court, but the Court has a role in the interpretation of the laws as found in France, Germany, and some states in the U.S. The appeal can be done once and only in the matter of facts and the matter of laws. The right to appeal is limited to the cases specified by the laws.

2. The court system is divided into three-court levels: the Court of First Instance, the Court of Appeal, and the Supreme Court. Each court in this system has an equally important role but different responsibility. The Court of First Instance has jurisdiction to receive and consider the various cases. The Court of Appeal has duties to check and correct errors of the Court of First Instance (Correcting Court). The Supreme Court acts to control the discretion of the court below (Supervisory) and important legal decision. The three-tier court system provides an opportunity to review the facts. The court two-level court system limits the role and functions of the Court of Appeal to consider only the facts decided by the Court of First Instance. The right to appeal is narrowed to the fact that there is no chance that the Court of Appeal to review the new facts. This is different from the role and function of the three-level court which prescribes the right to appeal broadly for solving cases overloaded (Case loads).

## **2.2 Concepts of the Appeal System**

The legal system in the Civil Law is the law of laws which are general principles of law. The court has the duty to respect the provisions of which include the principles and rationale of the law. However, since the laws cannot address to all problems, it is the duty of the court to "interpret" the law and to play a role in strengthening the rule of law. The judgment of the court of law is essential as a role of using the laws objectively. It expresses the existence of the criteria used to diagnose a case that behind the various laws applied. However, the judgment is not truly the source or sources of law or the law itself which cannot violate the provisions of the law. The Civil Law system considers that decision to be made in accordance with law and shall not be bound by the rules of court. The courts may decide cases based on previous cases. The judgment is the norm in the deployment of law. The judgment is not imperative character and not equivalent to the law. It is well recognized and regarded as among the lawyers because lawyers see that the judgment is the only appropriate criterion. The custom of not accepting the judgment is not a coincidence because the judgment is the doctrine of precedent and contrary to the Civil Law system since the Middle Age. Since the adoption of Roman law had held that

customary law or principle of law comes from the provisions of law or general principles of law only. The Civil Law system hold that the provisions of the law as a general rule cover all those cases. As the judgment applies to specific cases only, it is lack of certainty. In the Civil Law system, the judge must not act as a legislator theoretically and philosophically. However, the judgment is important in explaining the principles behind the laws. The lawyers in the Civil Law system may consider the judgment as a source of the law. In the end, it can be said only that the judgment of the court is not bound by the provisions of law in general (กิตติศักดิ์ ปกรทิ, 2553 หน้าที่ 34)

The appeal is a legal way of the private law which thinking or thought process of the lawyers stress on the public interest to protect the rights and freedoms of people (private). This means that the State has authority over the private sector. The legal way is intended to analyze the legal issues and can be reasonably consistent with the legal system to be used as a tool to reach a point as to the substance of the law and the use of the law systematically. The legal way of the private law means to do anything unless the law is forbidden by the principle of freedom of the spirit (Freedom of Contract). Therefore, the appeal is to recognize the rights of individuals in the judicial process by the state in order to determine individual's right in a form of the Procedure Code and to determine how the appeal process in case of a person, including restrictions on appeals as well.

Theories and concepts in the appeal is intended to protect the rights and liberties of the people. Therefore, the appeal is an opportunity to correct inaccuracies that may occur in the case and to control the discretion of the Court of First Instance (Supervisory Power). The Court of Appeal is empowered to revise (Judicial Review). The revision is to correct the inaccuracies in the content of the judgment and the decision about the correct procedure (Correcting Trial Mistake). Correcting the inaccuracies that occur in the trial would affect the sanctity of the judgment. If it does not fix the inaccuracies, justice may not be possible.

The Appeal to the correct inaccuracies in the content of the judgment can be summarized as follows:

1. The appeal is the objection of judgment of the Court of First Instance by claiming that the judgment is incorrect. The appeal aims to hearing the matter of facts

or the law. The ruling is not binding and final (Finally-binding). The judgment is modified by a higher court.

2. The decision of the Court of Appeal shall be binding in the lower courts to follow. There is no law that bound the lower court judgment of the High Court.

3. The appeal is delay (Stay) and transfers the case to the discretion of the Court of Appeal (devolution effect). The former court has no power to consider the cases again unless they have been transferred back from the Court of Appeal (remand). In addition, the Court of Appeal prevents the lower court not making a mistake (Institutional Review) resulting from their errors (Correctness). The lower courts recognize that when they make mistakes or even off the track, the High Court will resolve the error. This helps the lower courts do not make a mistake and decide cases fairly and judiciously. In countries with the common law legal system, the purpose of the appeal is clearer than in countries with the civil law legal system. the Common Law legal system has "the Rule of Precedent" meaning that the previous judgment are respected as the norm in the diagnosis of other cases occurred later or similar issues. Therefore, the judgment of the higher court binds the lower courts as the norm. The lower court must judge such cases in accordance with the decision of the higher court on the issue of the case and the same situation. The countries with the Civil Law system do not hold the judgment of the previous cases as the law. However, with the power of the higher court to monitor the lower court (Supervisory Power) will make the lower court to be careful not to cause any errors. We could say that the appeal aims to prevent (Being Preventive) the lower court from wrong doing (พศวัจน์ กนกนาก, 2548 หน้า 8)

### **2.3 The Concept of Justice Administration**

Administration of justice, a public service, will rely on the elements or factors referred as input in management in order to produce output. Therefore, the justice system is a working system that consists of several sub-tasks system, which differs from other systems and has different roles and responsibilities. Alan R. Coffey claims that a causal factor of the administration of justice is crime; the process includes police, lawyers, prosecutors, courts, probation and corrections. The output is reduction of social crimes. Thus, the administration of justice in connection with the

appeal process is judicial administration, which impacts on society. There are theories or concepts to support the administration of justice of the court as follows.

1. Legal philosophy includes two theories of law: the Natural Law Theory and the Positive Law Theory. The philosophy of natural law holds the law depending on reason which is embedded in nature and not subject to power or arbitrary will of a state leader. On the contrary, the philosophy of Positive Law Theory is a command of the highest authority in politics of a community.

Between the philosophy of Natural Law and of Positive Law, Natural Law will have more influence on lawyers than Positive Law because Positive Law can be seen and understood more easily than Natural Law. Natural Law is difficult to understand and has been attacked so often that it is just the thought of a philosopher.

The philosophy of natural law refers to the idea that laws should not be built for their own interests only. Law should be framed, not any private, but for the common good of all the citizens. The common good is the reason in human nature. In the attitude of the natural law theorists, law is a principle of reason, which makes justice to mankind and society.

Natural law theory is an important part in the founding principles of rights and liberties leading to the cause of democracy according to the principles of natural law theory. Montesquieu, a natural law theorist, was a French philosopher. He established a Theory of Separation of Powers and stated one of important discourses that "the power of law and the force of weapons are an important part of supporting the absolute monarchy and government oppression. But in the state of the people, virtue is more important." In addition, David Hume, a Scottish philosopher, stated that "principle of justice is created and not arbitrary. There is no other word to call it better than Law of Natural. Jean Jacques Rousseau, a French philosopher who established Social Contract Theory (The Sontract) said that "By public promise, a human is existent in politics as long as he shall live. We can move, and have free will by the law. This is the nature of things, and independence in terms of humanity." One of the greatest philosophers of natural law between the 18<sup>th</sup> and 19<sup>th</sup> century is Immanuel Kant, a German thinker. Kant tried to improve the natural law theory better. Kant separated the law into natural law and positive law. He explained that the rules which are not provided for external legislation or generally referred to as external laws. For

external laws, if the rules are enacted, they are called Natural Laws, If these laws are not enacted, they are called Positive Laws including Pure Natural Law. The Pure Natural Laws give the legislature a right to force any person acting in his own free will (วิชา มหาคุณ, 2534 หน้า22-25).

2. Sociology of law aims at studying law as a social fact and the rational relationship between law and the facts in society (Cause and Effect). Sociology tries to study ascertainment of facts by gathering data and statistics, which we called the Empirical Method to understand how these facts are related and what are the social rules (Cause and Effect).

Sociological method helps to the study of modern theories by employing empirical research. For example, criminology or the sociology of crime studies causes, types, remedies of deviant behavior, which has contributed significantly and effectively to improving the criminal penalties and laws that are more effective (ปรีดี เกษมทรัพย์, 2531 หน้า36-38)

### 3. The Concept of Classical School of Criminology

A founder of the concept of classical criminology is Cesar Bonesana Marchese de Beccaria. Beccaria's main philosophy is "Free Will" determines human behavior and philosophy that humans rationally seek to derive maximum benefits through material and decision to commit any wrong doing. Humans will consider various choices reasonably and calculate benefits and penalties of the actions. Beccaria believes that if we want to prevent humans from wrong actions, penalties of the law must be serious, certain, and quick in order to make people see the consequence of offense and refrain from committing it. Penalty of law must be severe, certain, and quick.

#### - On Proportionate Punishments

Need of the society is to prevent crimes and damage caused. Therefore, to prevent a person to commit offensive behavior must relate to the penalty rate.

#### - On the Severity of Punishments

The severity of punishment will prevent people from offending the laws. The appropriate penalty should not be torture or cruel punishment.

#### - On the Promptness of Punishment

Quick punishment is appropriate and useful as possible because the law is sacred. A general principle that a person knows when the offense is unable to avoid and must be punished is an effective way to prevent crime.

- On the Certainty of Punishment

What to prevent crime is the absolute maximum penalty, which refers to the arrest of the offender's conviction that others may fear and do not violate it.

Beccaria stressed that crime prevention is better than the punishment of criminals after they commit crimes. He proposed that laws should be clear, not complex. It is open to the general public. The law should not separate class, caste or color of people in society and should abolish cruel and barbaric penalty. The law also should stop investigation from guessing because it makes social growth decrease crime rate and severity. (พรชัย ชันดี และคณะ, 2543 หน้าที่ 16-18)

When considering the theory of Classic Criminology with judgment process, we will see that in order to prevent offensive behavior the process should be quick. For example, as the drunk driver has been arrested, the prosecution by the court quickly and make people aware of consequences of offensive behaviors. (พรชัย ชันดี และคณะ, 2543 หน้าที่ 16-18)

#### 4. Deterrence Theory

Theory of deterrence is based on the concept of Classic Criminology under an assumption about the effectiveness of sanctions under the law. The sanctions must be severe and fast and of course is a key of crime prevention. Criminology thus is the theory aimed at explaining the impact or influence of the law that governs the people in society rather than the causes of criminal behavior. The theory of crime is associated with the process of individual's decision whether to commit crimes or not by calculating the penalty after arrest and the expected gain from the offense. If a person thinks of penalties after arrested, the person chooses not to commit crimes. The person, who has been influenced by the experience of having been punished, will be aware of previous punishment and knowledge of punishment.

In describing the phenomenon of crime prevention and criminology theory, criminologists divide the phenomenon into two principle forms. The first form is prevention in general referring to the influence of law and justice process that make

people fear and afraid of committing crimes and severe punishment. If there is no law and justice, people will choose to commit crimes. The second one is protection referring to the influence of law and justice that make the convicted person avoid committing crimes because they fear of being punished again. (พรชัย ชันดี และคณะ, 2543 หน้าที่ 16-18)

From above theories and concepts of the administration of justice, although judgment of the court can even force the parties, the Natural Law offers the revision of the court's judgment for not making any mistake and giving an opportunity for the parties to correct errors. This legal way comes from the private law stressing that the due process in the appeal level must be in accordance with the theories of criminology, such as the theory of the Classical Criminology and Deterrence Theory. For instance, the relation between the appeal and the matter of facts is the cause and effect process. The delay of appeal process may cause damage to the economy or people in society because they do not see the consequences of the actions that they committed it. The appeal process must be adapted or developed for damage relief to any person effectively.

## **2.4 Concepts of Case Management**

Currently, as Thailand has faced economic development, the quantity of litigation is increasing, especially in the more complex civil case rates. This makes time to adjudicate cases longer in the past. Although there is the improvement the court procedure such as Civil Procedure, and petty cases, reduction of the prosecution process results in the proceeding of people more quickly and fairly. Nevertheless, it is not enough to solve the problem of increasing the quantity of the cases. Thus, the case management in the Court of First Instance is important.

The management of cases is one way to be used to optimize the cost of litigation in the courts, including the role of the courts in the supervision and prosecution at the beginning by separating channels for the prosecution of each category according to the complexity and duration of action and determining how each type of action is different from each other accordingly.

Thailand is a country that has been used the Code System. The principle of the Code stresses that the court assumes the above role of both parties in a hearing of

investigation. However, considering the structure and the Civil Procedure Law and the practice of Thai court finds that the practice of law is bias against the country's common law system, rather than the investigation system in the countries using the Code System. In the management of the case, the role of judges is an important part in the governance of its own leadership in the direction of the litigation of the parties fairly and quickly. For the management of a case, the study of the Thai justice system has taken into consideration, apply the following principles:

1. Classification of each case and the different proceedings might be roughly classified as follows: (1) petty case; (2) non-contentious case; (3) ordinary case; and (4) ordinary case which the defendant does not intend to fight the case or the plaintiff does not continue;

2. Prior to the meeting to set guidelines and litigation proceedings before the scheduled time; and

3. Support of conciliation for litigation which the parties can agree on the benefit of all parties, and conciliation of disputes that the parties have agreed on compromise and arbitrator. (เอกสารการสอนชุดวิชา การบริหารงานยุติธรรม สาขาวิชานิติศาสตร์ มหาวิทยาลัยสุโขทัยธรรมมาธิราช , 2550 หน้า 2-7)

Of the main theories of criminology, we can see that justice has to be severe and rapid in order to have people to see the consequences of commission of an offense. The justice of the court is required to handle cases in both the Court of First Instance and the Court of Appeal to the response of social control and crime prevention to be successful. For court proceedings in the Court of First Instance, the parties must be aware of the proceedings until the court hearing, which is mainly used for a short time. When the case is appealed to the Court of Appeal, the proceedings are different. The parties do not involve in the Court of Appeal's decision. The parties, therefore, may not know whether the case will be judged on. In the present circumstances of the case to the Court of Appeal, the appeal will take longer than in the Court of First Instance which is inconsistent with the theory of criminology in crime control or peace in society social justice.

The administration of cases in the appeal of District Court includes the Civil Procedure Law, the Code of Criminal Procedure, the Law for the Organization of Courts of Justice, the Establishment of District Court Act, and the Criminal Procedure in District Court. This administration of cases is a legal means of the private law

recognizing the individual right that any cases can be appealed in the higher court. If the administration of cases in the Court of First Instance is clearly separated that which case goes to the District Court or the Provincial Court. This reflects to the division of work on the proceedings of the court depending on the difficulty of the case. For example, the District Court can rule a case with capitals up to 300,000 baht. The Provincial Court can rule a case with capitals more than 300,000 baht. However, all appealed cases are under the jurisdiction of the Court of Appeal. This administration of cases is centered to the Court of Appeal although there are the Court of Appeal located regionally despite population growth and economic change. Thus, the administration of justice in the appeal should be adjusted to reflect current conditions.

## **2.5 Attitude**

The word "attitude" that many psychologists have provided the following meanings. Technical terminology is the study of attitudes, defined as "an attitude, a sense of power or a driving force behind the human mind and be willing to commit one."

Carter V. Good defines as "an attitude is expressed in a manner available to anyone and may be towards or against certain individual circumstances. Love me or something like what I do not like it ."

Frederick J. McDonald and Nancy Hill concludes that "the attitude is a tendency or state of readiness to behave in any way."

Mary Hart's Trendy West (Harry C. Traindis) says that "the attitude is very important for two reasons as to satisfy the consistency in the responses of others or social circumstances."

Of concepts that they have concluded that attitude results from learning and experience of the readiness of individuals to respond the behavior or circumstances such as love and hatred or support and protest.

Attitudes have three main components.

1. Cognitive component is a component about opinions and beliefs of a person. If someone has an idea in a good way to anything, he or she will have a good attitude towards it.

2. Feeling component means that a person who has emotions and feelings associated with anger, hatred, and etc.

3. Behavioral component is a component of the feelings he has for situations or the other persons.

Attitude will happen when the three factors are interrelated. The development of the attitude results from learning and experience of the individual, relationships with others, imitation to others, and self-adjustment to society. These together form the attitudes of individuals. Attitudes are related to important social psychological processes, including learning and perception.

Attitudes may change by four different reasons.

1. A change of attitude by the incentives.
2. A change of attitude by the appropriate techniques.
3. A change of attitude by the act or practice.
4. People will change their attitude by the principles of reason.

David E. Edwards has discussed the changing attitudes of the four factors.

1. Attitude will change when having a motivation.
2. The attitude will change as a result of learning and experience directly.
3. Attitude will change when new knowledge has been increased and recognition of qualifications or the circumstances of it.
4. Attitude will change when it has an action and participation in actual practice.

There are also many theories of attitudinal change.

1. Reinforcement Theory. Holvland Janis and Kelly studied the attitudinal change when a person changes opinion because of learning new ideas. Learning requires such reinforcement as interests and understanding and acceptance. Before the person has the new idea, he or she must have the new interest in the knowledge and then accept it.

2. Social Judgment Theory. Carolyn W. Sherif and Mazafer Sherif argue that the attitude is from learning as well which is related to various social criteria along with their own ideas about it. Changes in attitude will occur when there is a conflict between traditional attitudes to the new information received. People are comparing the same attitude with the new information received. If it is the same

attitude to group norm; and the new information is from sources that are representative of the group as well, it makes people wonder that our attitude may be deviate from the norms of the group. This will makes them turn to the new data or attitude changed.

3. Consistency Theory. This theory defines consistency that a burden that everything is blended together. There is no pressure on any one side. A process is occurred within individuals. If there are inconsistencies, attitude can be changed. Many psychologists have studied the changes in attitude based on the principle of this consistency. For example, Abertson J. Rosenberg mentions the consistency of the attitude that when a person has inconsistent feeling and understanding that cannot tolerate it, attitude will be changed. Moreover, Leon Festinger has discussed the conflict between the feelings, opinions, and actions. The conflict can occur in two cases. The person recognizes new situation or information, contradictory beliefs, opinions and attitudes. When a person gets unexpected new information, the person attempts to induce compliance or try to find support for the idea and their old habits.

4. Balance Theory. Usually, a person will generally try to maintain the balance of their attitude. When the person has a positive attitude towards one thing and gets information about that thing, it makes the attitude to what is in the balance; and no attitudinal changes in the opposite way. If the person receives the negative information about such thing, it will cause a conflict with existing attitudes and an effort to resolve the conflict. This may change in the attitude of accepting or rejecting any new information received in order to reduce the conflict as much as possible.

Although attitudes have changed, attitude and behavior of individuals can be determined. H. H. Remmerse studied the stability of attitude and found that attitude can be changed. However, in some cases, it is changed very little or hardly changed. (บัณจิต รัตนันทน, 2542 หน้า12-16)

From the above theories of attitude, individuals who have different features or elements of the learning experience will have different attitudes. The attitude of the lawyers, despite having the similar education of law, are different because of their different learning and experience as well as the status. They will have different attitude towards appealed cases in the present process of appeal.

## 2.6 District (Kwaeng) Court

### 2.6.1 History of the District Court

At the end of the reign of King Rama V, Thailand hastily prepared the Code of laws and commandments and Law for the Organization of Courts of Justice to give an excuse to negotiate the termination of diplomatic relations with foreign countries that restrict independent court authorities of Thailand in R.S. 127. These laws were the Civil Procedure Act and the Law for the Organization of Courts of Justice.

The Law for the Organization of Courts of Justice R.S. 127 with a Section 3 stipulated that Courts of Justice included the Court of Appeal, Royal Criminal Court, Civil Court, International Court, and Police Council Court. The peripheral court had three types: County Court, Provincial Court, and District Court.

Police Council Court, Organization Court, and Court of Justice R.S.127 were established in Bangkok and equivalent to the District Court. The Police Council Court, which was announced at R.S. 111 (B.E. 2434), was a Patrol Court for Bangkok. There were originally four Police Council Courts and were reduced three Courts in B.E. 2437.

A zone of the Police Council Court 1 was in the south, the Police Council Court 2 in the north, and the Police Council Court 3 in Thonburi area. The Police Council Court served both civil and criminal litigation and investigation of criminal acts whether they can be sued in the higher court. Later, when it served as a district court, hearing the criminal case was gone.

Later, with the promulgation of the Law of the Organization of the Court of Justice B.E. 2478, the Police Council Court was called the District Court instead Bangkok and the provinces. New names was called South Bangkok District Court, North Bangkok District Court, and Thonburi District Court (Siri was. Assumption of Medicine) Saloprispa Thailand. ([Www.library.coj.go.th](http://www.library.coj.go.th)) (Wara Wai Hong), History of the District Court. ([Www.library.co.go.th](http://www.library.co.go.th)). (ศิริ ว. อัสวานนท์) ศาลปรีศภของไทย([www.library.coj.go.th](http://www.library.coj.go.th)) (วรา ไวยหงส์) ประวัติศาลแขวง ([www.library.co.go.th](http://www.library.co.go.th))

## **2.6.2 Establishment of the District Court**

### **1. The philosophy of the district court**

District Court and Provincial Court have different jurisdiction over civil and criminal cases, but it is a distinction of work for fairness and legal protection of freedom of the peoples. As in the Court of First Instance, the District Court and Provincial Court is to establish the reasons for the adjudication of cases in the District Court to be completed as soon as possible in order to protect the rights and freedoms of citizens, according to the foreword of the Act established the District Court. The Intention of the District Court is to alleviate proceeding burdens of the Provincial Court for benefits of the people (เฉลิม สติตทอง, [www.library.coj.go.th](http://www.library.coj.go.th)).

### **2. The Intention of the District Court Establishment**

The Establishment District Court Act and the Court of Criminal Procedure, which was promulgated in the Government Gazette Volume 73 Section 78, on October 2, 2499, is the law to directly perform the criminal proceedings and criminal cases. This law results from the aim of improving judgment process for people. In criminal cases, the District Court will be established in every province and can be located in the district. In the province, there is more than one district court in the district. The District Court was formed with the desire of states to carry out justice and be faster for People in the exercise of the court. (สัญญา ธรรมศักดิ์, 2534 หน้าที่13)

### **3. The Judgment Authority of the District Court**

In addition to the legal procedure and the Law of Organization of the Court of Justice, the difference between the words, "Jurisdiction," under the procedure law and the Law of Organization of the Court of Justice, means as the legal principles that determine which case is brought to which court. The Law of Organization of the Court of Justice is a judgment principle of each court meaning that the authority in judgment of the Court covering administrative areas.

According to the Law of Organization of the Court of Justice B.E. 2543, the jurisdiction of the District Court and the Provincial Court is as follows:

Section 17 The District Court has jurisdiction over the case and has the power to investigate or have any queries. The judge alone has the power, as defined in Section 24 and Section 25 paragraph 1.

Section 24, the judge shall have the following powers:

(1) Warrant referred to bring a person from or to other provinces.

(2) Issuing any orders which are not to dispute the decision of the case.

Section 25 in District Court judge who alone has the authority on which the case under the jurisdiction of the court below.

(1) Investigation and determination of petition or application filed with the court in all cases.

(2) Investigation and orders about safety.

(3) Investigation of action and orders in criminal cases.

(4) Adjudication of civil cases which capitals are not exceeded 300,000 baht. The capitals can be extended by the enactment of the Royal Decree.

(5) Adjudication of criminal cases which the law requires a higher penalty. such as imprisonment not exceeding three years, a fine not exceeding 60,000 baht, or both. It will actually be imprisoned 6 months or a fine exceeding 10,000 baht or both.

Of Section 17, Section 24 and Section 259 of the Law for the Organization of the Court of Justice, District Court has jurisdiction in respect of civil and criminal cases as follows.

(1) The issuance of a summon or order of a person going to or coming from other provinces can be divided into two orders. The first order is, in civil case, a call of one person to be a party instead of the death according to the Code of Civil Procedure Section 22, and Section 57 (3), the summon for the defendant Section 177, a call for witnesses under Section 106.

The second order is, in criminal cases, the issuance of a summon under the Code of Criminal Procedure, Section 52 and Section 163. The issuance based on the Code of Criminal Procedure Section 58 includes arrest warrant, search warrant, detainment warrant, release warrant, and sending the defendant to another court.

(2) Issuing any orders other than a decision in the dispute of a case which may be the order issued before the prosecution, including the order of the receipt of the request, the order issued after the prosecution whether civil or criminal cases.

(3) Investigation and determination of the petition or application filed to the court in all cases are under Article 3, Section 25 (1) of the Law for the Organization the Court of Justice. The petition or request to the judge who originally has the power to investigate when heard the diagnosis or the petition request. The

petition or request may be filed before the case considered by the district court such as the request for the fees or litigation exemption, the petition in the court proceeding, and the request as a replacement for the death.

(4) Investigation and ordering about the safeness. Jurisdiction of the district court in investigating with instructions of the safeness according to Section 17 and Section 25 (2) of the Law for the Organization the Court of Justice. This separates from the authority to adjudicate cases that have been filed and allege that the defendant's guilty must be punished. The safeness is not the punishment, including detention, a ban from entering, held in the hospital and prohibition some professionals in accordance with Penal Code Section 39.

(5) Investigation of action and an order of a criminal case is a proceeding to investigate the case, although the investigation of action in a case which the prosecutor or the victim is the plaintiff in that case. In such case, the criminal case must be the case with the rate of imprisonment prescribed by law under the jurisdiction of the district court. When the district court investigates and dismisses the case, the court agrees that the cases filed are without merit.

(6) Adjudication of civil cases with the disputed capital or the amount of money sued is not 300,000 baht. The jurisdiction of the District Court to adjudicate a civil case which the capital in dispute or the amount of the lawsuit does not exceed 300,000 baht. According to Section 17 and Section 25 (4) of the Law for the Organization of the Court of Justice, the district court can consider civil cases with capital which is not money and not exceed 300,000 baht. These cases can be called the case requesting for amount of money. The case with no capital is not under the jurisdiction of the district court such as expulsion.

(7) Adjudication of criminal cases in which law penalty is high to imprisonment not exceeding three years in prison or a fine not exceeding 60,000 baht or both, and be sentenced to imprisonment for a term exceeding 6 months or a fine of 10,000 baht or both. The jurisdiction of the district court to adjudicate the case is highly restricted by the law to imprisonment not exceeding 3 years or a fine not exceeding 60,000 baht or both, whether as a prosecutor or a victim is a plaintiff. The high penalty is requested by the plaintiff; and the plaintiff does not ask for less punishment.

For the authority of one judge under Section 24 and Section 25, the law is declared that, based on Section 24, the judge of the Court of First Instance such as the District Court, the Civil Court and the Criminal Court, the Court of Appeal, and the Supreme Court has the same authority. The first paragraph in Section 25 is indicated that one judge in the Court of First Instance has the authority under the jurisdiction of the Court. Therefore, one judge of such Court has the authority only. Section does not declare the authority of one judge in the Court of Appeal and the Supreme Court. Therefore, the judge of the Court of Appeal and the Supreme Court has no authority as specified in Section 25 alone, which is different from Section 24.

### **2.6.3 Principles of Laws related to the appeal of the District Court in Thailand**

In the case of appeal of the District Court is divided into 2 parts: civil case and criminal case. The law applied in appealing civil or criminal cases comes from the Act of Establishment of the District Court and the Criminal Procedure B.E. 2499. Section 4 of the Act provides that the provisions of the Criminal Procedure Act shall apply in the District Court, but there is no provision in this Act shall remain in force the Law for the Organization of Court of Justice, Criminal Procedure and Civil Procedure.

#### **1. The Principle of the Appeal in the Civil Section the District Court**

From the Act of Establishment of the District Court and the Criminal Procedure B.E. 2499, Section 4 will not indicate a rule on the appeal of the district court in the civil case. Therefore, the principle of the Criminal Procedure shall be applied in accordance with Section 4 of the Act of Establishment of the District Court and the Criminal Procedure B.E. 2499. The Criminal Procedure Act declares the appeal in Section 223-224 and Section 226-228, as detailed below.

Section 223 under the provision of Section 138, 168, 188, and 222 and in this way, sentence or order of the Court of First Instance is sent to the Court of Appeal, except the sentence or order declared by other laws as the final.

Section 223 bis in the case of an appeal on a legal issue of the appellant may request permission to appeal directly to the Supreme Court as a petition with the appeal.

Section 224 cases, which property or capital disputed in the Court of Appeal, is not exceeded 50,000 baht, or less than the amount specified in the Royal Decree, prohibits the parties to appeal on the facts unless the judge of the Court of First Instance makes controversial opinion that there are reasonable grounds for appeal. If the judge has no comments, cases must be allowed to appeal in writing by the Chief Justice or Chief Judge of the Court authority.

Section 226 before the civil court judgments or orders shall have jurisdiction if the court has ordered that any one other than those specified in Section 227 and 228.

(1) No appeal is pending.

(2) If either party disputes any order, the court takes such arguments into a report. Parties that they would like to appeal such order within one month after the date on which the court has sentenced or make a decision or order it.

Section 227 order of the court does not accept pleadings or refund under section 18 or the initial decision by Section 21 of the cases completed the whole story, not to be considered as pending.

Section 228 before the court decision. If the court has one of the following orders:

(1) the detention or a fine or imprison any person under this Code.

(2) an order relating to the request to protect the interest of the parties under consideration or an order relating to a request by the court following the verdict.

(3) not accept or return the pleadings based on Section 18 or initial decision to complete the case Section 24, which does not make the case completed, but some issues under Section 227 and 228 can be immediately appealed.

Of law under the Code of Civil Procedure as mentioned above, we see that in cases where property or capitals of the dispute in the appeal does not exceed 50,000, baht is prohibited to appeal the issue of fact. The legal issues can be appealed at any time. And also to set about the appeal, if an appeal is pending, the defendant must appeal within one month from the date of the court's verdict or the court decision not be appealed the order under consideration. If a court order under Section 227 and 228 can be appealed immediately and not to wait for a court ruling or order in any way.

2. The rules of appealing case from the district court of criminal cases.

From the provisions of Section 4 of the Act of Establishment of the District Court and Criminal Procedure in District Court B.E. 2499 saw that under the provisions of the Criminal Procedure Code. Act will follows the act of Establishment of the District Court. Such legislation will be provided for in section 22 and Section 22 bis. detailed as followed.

Section 22 of the Criminal case shall not appeal the District Court verdict, unless in the following case, the defendant can appeal.

(1) The defendant must be sentenced to imprisonment or detention shall be punished with imprisonment.

(2) The defendant must be sentenced to imprisonment but the court is waiting for punishment.

(3) The court sentenced the defendant guilty. But the punishment awaiting them.

(4) the defendant shall be sentenced to fine more than one thousand Baht

Section 22 bis In cases where no appeal under section 22 if the judge who is considered the case ruling or opinion contrary to the district court consider that text to sign is an important issue which should be to appeal and allowed the appeal which the director of Department of the Attorney or the officer which assigned by the Department of the Attorney as a prosecutor to certify the appeal that there are reasonable grounds to appeal the decision is likely to appeal to them for further consideration.

From the provisions of Section 22 and 22 bis, the provisions concerning the appeal of the district court ruling in a criminal case, but on appeal the district court in a criminal case that the District Court Act and Criminal Procedure, the district court did not prescribed. Therefore, the Code of Criminal Procedure, which by virtue of Section 4 of the Federal Court Act and Criminal Procedure in District Court. Consider the provisions of the Code of Criminal Procedure will be seen that the Section 196 states that the order under consideration is not the case, the case shall not appeal until a sentence or any order of importance or appeal of judgment or order it.

The Court of Appeal rules in the law indicate that if a party can appeal that both the plaintiff and the defendant. But in fact, accordance with the provisions of Section 22 of the Act of establishment of the District Court and Criminal Procedure in

the District Court is set to allow the defendant to appeal in 4 situations by provisions of law mentioned above. But if the district court had already sentenced, the plaintiff is forbidden to appeal the case. However, with the exception of the provisions of Section 22 bis, which if carried out in accordance with Article 22 bis, the plaintiff and defendant in a criminal case are able to appeal.

For the appeal is pending, it can be appealed only when an appeal is allowed. Therefore, the appeal is pending alone can not be done as prescribed in the Code of Criminal Procedure, Section 196.

#### **2.6.4. Case Management, Court Management, Current conditions**

##### **1. District court.**

Management of the case is including the assortment of cases to the District Court to facilitate the consideration and classify them by separating the type criminal and civil cases. The civil case can be divided into general cases and special cases. Special cases can be a case of ordinary cases, no hassles cases or petty cases. There are also another type of special cases is law on procedure of consumer case. a criminal case does not classify the case like a civil case. There is only a common criminal.

Court Management in the District Court is divided into criminal and civil departments. Civil cases have been filed by a civil department of administrative tasks such as the financial implications. For the criminal cases will include the temporary detainment or the prosecution. In addition to managing the formatting of the by giving Judge both civil and criminal cases as well as consume cases.

Current conditions or problems. Because in the District Court, just one judge can manage trial consideration, the speed of the District Court to meet the rapid adjudication of the case. In each trial, the judge can take a variety of issues. In each case, if there is no appeal, Supreme Court as a judge is able to guide them in a short trial which also known simply as the judge verbally.

##### **2. Provincial Court or Civil Court, the Criminal Court or the court of instance in Bangkok.**

In the management of such cases can be classified into two types as civil and criminal cases in the Provincial Court. In civil cases, it is classified as general and special cases and special cases management that are claimed to have a high assess or a

case which is in the interest of the people. The special case will be handled as cases with no difficulties or petty case. In addition, consumer cases are also another type. The classification of such cases in order to facilitate the arrangement of Judge of the Provincial Court. In the Civil Court and Criminal Court in Bangkok are also divided similar to district court, even though they are classified as general case, petty case, no complicated cases and consumer cases. In criminal court, it will be the case is general case and drug offenses and sentenced to be useful to considering trail.

Administration of justice in the Provincial Court, or civil court or criminal court have similar characteristic as district court that has administrative department which is classified as receiving trail section, finance section, a case before the Court and the Court after the verdict. The Provincial Court might has the body of a pair of judges, and may be divided by types of cases to judges. But the Civil Court and Criminal Court might be held in the form of the body. Then it means that in most courts, whether civil or criminal court, judges will be provided to the Board in accordance with the resources being received. These are separate cases will be given to judges as civil cases which may be classified as a special case, deal with special cases or in criminal case which divided into categories such as general criminal and drug offenses. For the current conditions, Civil or Criminal Court or, as in the present, with the increasing human resources of the Court of Justice every year. It has continually campaigned for the inquest. Moreover, in the case law to the consumer which determine how the court separately from the trial of the Civil and the proceedings are also faster, so the cases were mostly in the provincial court or civil or criminal, then the proceedings until the completion date. The magistrate filed no later than one year, however, depending on the parties to the proceedings with a quick start. Currently, the number of court has increasingly to distributing cases and for the convenience of the parties to contact the court office. The delay in the trial in provincial Court or the civil Court Criminal Court is not present.

### 3. The Court of Appeal.

The administration of Court of Appeals is that the Court of Appeals is the establishment of several departments such as the Juvenile Department and drug offenses department. Thus, in the management of the case and upon appeal the case to the Court of First Instance not only The District Court or the provincial Court or other

types of court of first instance are divided into civil and criminal cases. If this is the case in the separation of the different departments, and regularly in the sort of case that the order came to the Court of Appeal or an appeal from the District Court and the provincial Court thus does not classify the case. District Court lawsuit that the case is the Court's case. The special case of the Court of Appeal is divided into different departments. Administration of the Court of Appeal is divided into faculties and departments and are providing cases according to the lawsuit, but the trial court and the department, each department. The problem of the Court of Appeals are the overloaded court cases. The Court of Appeal has to receive all of the case from the court of first instance such as the District Court Juvenile and Family Court, etc. Appeals court will consider and make a case for a long time which the average and the experiences of researchers working in the Court of first instance will take about three years to consider the appeal in a court case.

The idea for the Senior Judge of the Court of First Instance by the judges to adjudicate cases in the court of appeal in the Supreme Court to consider cases, It appears that the concept needs to be moderated in order to reduce the verdict of the Court of Appeals. However, the lower court judge in the Supreme Court of Appeals or the Supreme Court that the action in the Court of First Instance, despite the decision to the parties still able to appeal petition in case anyway because it is the right of the parties to the proceedings to the utmost. Parties regardless of whether the judge's decision will come from the Supreme Court or not. The majority party is to fight the case and the cases they have been fully considered. So the idea of bringing the judge in the Supreme Court of Appeals or the Supreme Court was whether a senior judge in the Court of First Instance, Case to the Supreme Court did not make it any less. So now it is modified by the Appellate Court or Supreme Court judges that Can be a senior High Court judges instead.

For the case of the district court of appeal to the court in this research will not affect the adjudication of court cases, including the provincial Court because the judge in the trial, the provincial Court to consider the appeal case from the District Court must be a clear separation of duties and without the complexity of the case, because in some provinces may not establish the district court and the judge in provincial court has to take the trial instead. There for in appealing would need a

different set of judges in the District Court or the provincial Court to avoid the complexity. The appeal of the case from the District Court to the provincial Court may be a division of the appeal. It is no different than an appeal to the Court of Appeals but the case could have been done to complete it within the area. It is also convenient to the parties intend to negotiate in the appeal will not need to travel to the region Court of Appeal or in Bangkok. Because such a case, the District Court had no difficulty or little money so able to mediate or evidence if it is done in the convenience of the parties. In addition, it is to make judge of the first instance ready for the court of appeal by practicing or training of judges of the court of the first instance on the appeals case of the district court which is the case with a little, no hassle, before entering the judges in the Court of Appeal to the optimization of the judge. With the other hand, the more effective for the people to uphold justice.

## **2.7 The Structure of the Court in the Common Law Country**

### **2.7.1 England**

The court structure in England. System, Court of Justice of England may be divided as follows:

#### 1. The First Instance Court

(1)The Magistrates Court shall have original jurisdiction in determining sentences for criminal fault. Non-critical errors (Summary offences), such as traffic laws which prosecute without charge as a book so call indictment. For this type of guilty the Court considers his case straight and failure to consider by way of substitution or to interrogate information to prosecute before the accusation with a book called, the victim of false, which is considered without jurisdiction to prosecute preparatory to consider verdict in civil litigation cases, such as family lawsuit about getting children as children. Certificates adopted and adopt family The judge in this Court as follows: 2 category.

1. Lay Magistrates (Justices of the Peace) for the Metropolitan Stipendiary Court outside of London and some big cities like Birmingham, Manchester and Liverpool are the Lay Magistrates Court, a position that does not pay the King graciously pleased. Appointed under the instructions of the Lord Chancellor

has advised that one of the Advisory Committee, local (local advisory committees), the Lord Chancellor to appoint a position for an indefinite time, but may have been Lord Chancellor to remove from his appointed (commission) when there is a reason. Or out of judicial functions in the elderly, disability, or fails to perform his duty, Lay Magistrates will retire at the age of 70 years. (ชาญณรงค์ ปราณจิตต์ (2544) หน้า20-22)

2. Stipendiary Magistrates Court for the Metropolitan Stipendiary Court of London, and in some big cities like Birmingham Manchester and Liverpool are the Stipendiary Magistrates Court, where judges work full-time salaried King graciously pleased. Appointed under the instructions of the Lord Chancellor, and may be removed from office in accordance with the instructions of the Lord Chancellor in the event there is any misconduct by the Stipendiary magistrates to retire at age 70 years, but the Lord Chancellor may extend government has so far at age 72.

Lord of Magistrates' Court. The court consists of Lay Magistrates at least two people (for the investigation of action Lay Magistrate alone as an investigation) Stipendiary Court (which is the Magistrates' Court) The court consists of a Stipendiary magistrate alone. (พศวัจน์ กนกนาก(2548) หน้า 26)

(2) County Courts as a court of competent jurisdiction and was widely used in the adjudication of civil cases in the adjudication of civil cases that have claimed over £ 2,000 by the adjudication of cases, about 90 percent of civil cases in the Magistrate's Circuit Judges which position. Full-time salaried professional judge the King graciously pleased. Appointed under the instructions of the Lord Chancellor, which may be Lord Chancellor to remove from office in case there is no capability or misconduct Circuit Judges to retire at age 72 years, but the Lord Chancellor may extend government to appropriate up to 3 years. Lords Justices of Appeal, High Court Judges and Recorders criminal authorities. I get paid on a daily basis by the seat of working part time appointment of a person who was a Barrister or Solicitor for not less than 10 years may sit as a judge in County Court if the consent and the Lord Chancellor. The County Court was the court deems appropriate, the judge alone. (ชาญณรงค์ ปราณจิตต์ (2544) หน้า51)

## 2. The Supreme Court and the middle class.

(1) Crown Court as the court of primary jurisdiction to adjudicate criminal cases which are indictable offences for crimes as serious as the offense is guilty of murder. For the need to investigate this type of action before the Magistrates. If a prima facie case against the Crown Court, it will send a written complaint with the Indictment, the person filing the Crown Court accused of crimes in brief Court clerk and signed by Magistrates have dismissed the lawsuit without merit, and Offences triable either way which is determined by the Indictment and Appeals has jurisdiction in appeals from Magistrates' Courts and Juvenile Courts.

The role of the Crown Court has 2 status is a civil court in the adjudication of criminal category Indictable offences and Offences triable either way which is determined by the Indictment, however, have jurisdiction Appeals in appeals from the Magistrates Courts and Juvenile Courts, therefore, there is role as a Supreme Court with the middle class. (พศวัจน์ กนกนาก, 2548, หน้า 27)

The judge in the Crown Court, there are 3 types.

A) High Court Judges for such serious criminal offense. Guilty of murder and the High Court Judges is a rebel from the Queen's Bench Division of the High Court will not consider

B) Circuit Judges for a criminal offense such as assault (Wounding or causing grievous bodily harm) Circuit Judges are not considered.

C) Recorders authorized to sit as a criminal Recorders Circuit Judges, however, differs from the Circuit Judges who are not full-time position (part-time) compensation (fee) on a daily basis by the seat. King. Appointed on the advice of Lord Chancellor is appointed by the specified period, but the Lord Chancellor may extend the tenure of Recorders for Recorders to be Lord Chancellor to remove from office in case there is any misconduct or performance. By day and time specified in the appointment of Recorders to retire at age 72 years, the Lord Chancellor has no power to extend the retirement age. (ไมตรี ดันเดิมทรัพย์ (2525) หน้า 14-15)

Lord of the Crown Court as the Court is composed of a judge alone. Except in appeals from Magistrates' Courts Judge of the High Courts Judge, Circuit Judge or Recorder, one must take into consideration in conjunction with the Lay Magistrates 2-4 people, a judge of the High Courts Judge, Circuit Judge or Recorder as

an arbiter of legal issues in The appeal from the Juvenile Courts, the Crown Court to serve as Juvenile Appeals Court and the Lord of the Circuit Judge 1, and Lay Magistrates of justice in the special (Juvenile Court Panel) 2 The Central Criminal Court (Old Bailey) is the Crown. Court for London.

(2) High Court of Justice is divided into three parties as follows.

1. Queen's Bench Division is the court of primary jurisdiction to adjudicate civil cases. Appeals to have jurisdiction in both civil and criminal appeals from the Magistrates' Courts and Crown Court by way of "Case stated" and appeals from Administrative Tribunals, the Committee hearing on the parents (Keith J. Eddey. (1987) p.26) The Lord Chief Justice of the court where the judge is a full-time salary, the King has graciously pleased. Appointed on the advice of the Prime Minister. He always behaved like, and may be removed from office by resolution of Parliament (Address of both Houses of Parliament) by the retirement at the age of 75 years as president, the high Court Judges<sup>44</sup> which High Court Judges (puisne judges) will be. a maximum of 75 full-time career as a judge with a salary of His Majesty the King graciously pleased. Appointed by the Lord Chancellor's office, and to behave like, and may be removed from office by resolution of Parliament, High Court Judges retire at age 75 years. (พศวัจน์ กนกนาก(2548) หน้า 29)

2. Chancery Division as a court of competent jurisdiction to both the primary and Appeals to adjudicate a case about trust, partnership, corporate, mortgage and inheritance, wills and bankruptcy, etc. The court said the Vice Chancellor as a judge, a full-time salary by High Court Judges appointed by the Lord Chancellor in the Chancery Division of the position and to behave like And may be removed from office. The Vice Chancellor of the National Assembly passed a resolution on the retirement age 75 years as president, High Court Judges 11 people.

3. Family Division is the court of primary jurisdiction to adjudicate the case on the family. Appeals to have jurisdiction of appeals from the Magistrates' Court in cases relating to marriage and child, the said court, the President is a full-time salaried position. Judge was ordered by King please and appointed on the advice of the Prime Minister. He always behaved like, and may be removed from office by resolution of Parliament (Address of both Houses of Parliament) President

will retire at the age of 75 years as president, High Court Judges 10 who was the court of the third party consists of. The judge said that two or more people.

(3) Restrictive Practices Court is High Court as a special court set up under the Restrictive Trade Practices Act, 1956 has civil jurisdiction to adjudicate on trade agreements that restrict competition are free. The pricing of goods or services under the Restrictive Trade Practices Act, 1976 and the Resale Prices Act, 1976 be registered with the Director General of Fair Trading and the Director General of Fair Trading that the agreement incorporated into a contract contrary to public interest (Public Interest) will request the court to adjudicate the contract is void, the judge has sentenced five people, the Lord Chancellor is selected by the High Court Judges 3 The President of the Court of Session of Scotland, which is selected by the judges of the Court of. 1st Session of the Scottish people and the Lord Chief Justice of Northern Ireland, which is selected by the judges of the Supreme Court of Justice in Northern Ireland one in five people will choose a chairman Lord Chancellor. Judges will be there to help the common man and not a lawyer who have knowledge or expertise in the industry commercial or public affairs, not more than 10 people, which the King graciously pleased. Appointed on the advice of Lord Chancellor is appointed by the specified period, but not less than three years, assistant to be paid, but the Lord Chancellor may remove the assistant from the office in case there is misconduct or a contractor or are at variance with the previous (Conflict of Interest).

Lord of the consideration consists of one judge and two assistants who are not considered. The judge will determine legal issues. In fact the judges and assistants will be jointly ruled by a majority of votes. But the case of legal proceedings issue a judge sitting alone to consider it. (พศวัจน์ กนกนาค, 2548, หน้า 30)

(4) The Court of Appeal (Court of Appeal) is divided into the civil and criminal sides.

The Court of Appeal (Civil Division) is the court of Appeals has jurisdiction in appeals from the High Court of Justice, County Courts and judges have the Restrictive Practices. Judges, Master of the Rolls was President and Lords Justices of Appeal 16 With the Lord. Chancellor, a former Lord Chancellors, Law Lords and the Master of the Rolls as a judge, a full-time salary, the King has graciously pleased. Appointed on the advice of the Prime Minister. He always behaved like But may be

removed from office by resolution of Parliament, Master of the Rolls to retire at age 75 years, Lords Justices of Appeal (at different positions with the Lords of Appeal in Ordinary, also known as Law Lords) is the position of judge a full-time salaried King graciously pleased. Appointed on the advice of the Prime Minister and the Master of the Rolls office with a behavior like But may be removed from office by resolution of Parliament, Lords Justice of Appeal will retire at the age of 75 years, President of the Family Division as a Judge of the Court of Appeals Division (Civil) with the Lord Chancellor may request the High Court Judges at the court in this The body of the Board. Typically, the Court of Appeal (Civil Division), consisting of three judges, including judges, but sometimes full of 5 or 7 persons.

The Court of Appeal (Criminal Division) is a court of competent jurisdiction Appeals in appeals from Crown Court judges have the Lord Chief Justice as Chairman, and Lords Justices of Appeal and 16, a judge in the Court of Appeals Division (Civil) with the Lord. Chancellor may request the High Court Judges sitting at his court by the Court of Appeal (Criminal Division) is comprised of three judges, including judges, but sometimes full of 5 or 7 persons. Sitting down to the Judicial Committee of the Privy Council is composed of three judges, but in the case of the five judges who sit to consider. (ทศวิจน์ กนกนาก.,2548 หน้า 31)

The case to the Supreme Court of Appeal proceedings.

1. The appeal of the criminal offenses under the Criminal Law Act 1971 to consider how the three types are: (ไมตรี ดันเต็มทรัพย์ (2525) หน้า10)

(1) Indictable Offences of such serious offenses is guilty of murder. Magistrate Court for failure to do this type of action before proceeding. If there is a prima facie case against the Crown Court to an indictment in writing to the indictment. Any person who filed the offenses alleged by the Crown Court brief. Court clerk and signed by The Magistrate Court will dismiss the case without merit.

(2) Summary Offences is not such serious offenses under the law, traffic offenses, which has sued the Magistrate Court without an indictment or accusation, this Magistrate Court has the power to consider and judge it.

(3) Offences triable by either way is wrong to consider how, as a Category 1 or 2 was as guilty of providing false The defendant's right to choose. In most cases,

defendants are often willing to waive the right to be considered by way of the wrong type of an order to be considered rapidly. And has been sentenced to lighter penalties.

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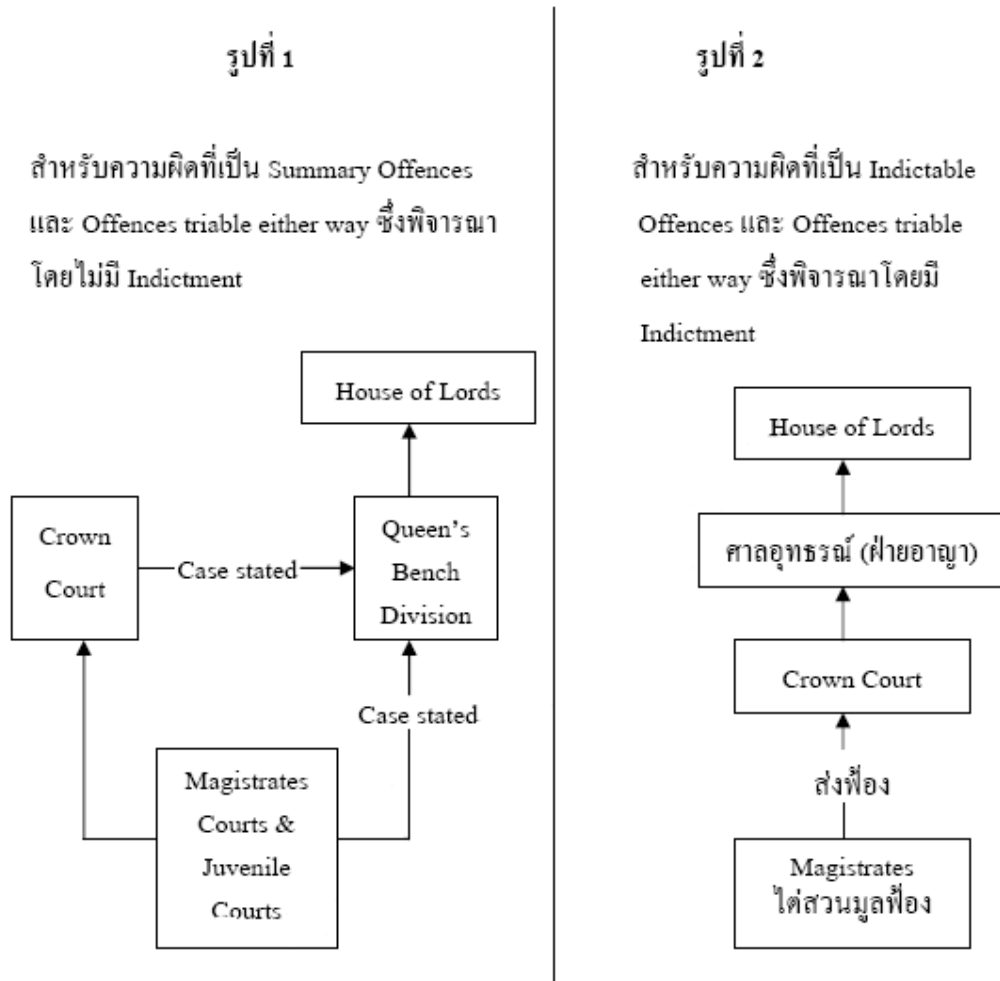


Chart 2.1 Appeal and Dekka in Criminal case

The case of the UK has been divided into two types of errors mentioned above.

A) If the Summary Offences and Offences triable either way which is determined by the start of the Indictment Magistrate Court (Figure 1, left) if the defendant was sentenced to punishment, and not the confession. The defendant may appeal to the Crown Court about conviction (conviction) or sentence (sentence), or

both penalties, and judicial time. However, if the defendant confessed to the appeal, but only in the case only.

The appeal by the Crown Court trial, all new (rehearing) witnesses will be called to the new There are no references to the proceedings in the Magistrate Court, unless the Crown Court that there is a conflict in the testimony of Magistrate Court. When brought against the Crown Court in the case of an appeal on the issue of law alone will usually be asked to Magistrate Court "state a case" to the Supreme Court (High court) getting in trouble, then (Richard Card,. (1980) p. 458.).

The appeal by the "case stated" the appeal from the Magistrate Court to the Queen's Bench Division (High Court of Justice) The appeal in this way is about the failure of the law or authority over the (wrong in law or. excess of jurisdiction), in this case, both the prosecution and the defendant and the plaintiff has the right to appeal when it is damaged from any conviction or order. In the proceedings of the Magistrate Court by filing a petition to the Magistrate Court to collect all of the cases (state a case) and then send it to Queen's Bench Division (High Court of Justice) opinion on the issue in the Magistrate Court is denied. Request the parties shall request the Queen's Bench Division (High Court of Justice) to issue an order to state a case to the Magistrate Court in the case of the right to appeal by this method. The petitioner would be entitled to appeal to the Crown Court on the issue, so if the right to appeal on the conviction to the Queen's Bench Division (High Court of Justice) and will be entitled to appeal to the Crown Court in regard to convicted. But it also has the right to appeal to the Court in relation to (Richard Card, (1980) p. 459.).

For an appeal by way of case stated from the Crown Court to the Queen's Bench Division (High Court of Justice) is similar to an appeal from the Magistrate Court to the Queen's Bench Division (High Court of Justice) by a Crown Court judge appeal. of the Magistrate Court against both the plaintiff and the defendant. If not satisfied with the decision of the Crown Court about the failure of the law or the authority beyond the jurisdiction (Jurisdiction) will invoke this method.

B) It is the Indictable Offences and Offences triable either way which is determined by the fault of this Indictment are case Magistrate Court (Figure 2 right), the court made inquiry of action. It is considered that the case is evidence enough to send to the Crown Court or (prime facie) investigation of action intended to prevent

the Supreme Court time to consider the case of non-trivial (SB Marsh., and J. Soulsby. (1972), p. 30 - 31.) Once a prima facie case that it will send the case to Crown Court for further consideration. Which is determined by a jury (jury) to consider their verdict. The jury made a factual determination. But a judge ruled that a law on the Court and Crown Court. The parties would appeal the verdict. Unless the court decision dismissing the release of the defendant (acquittal) the plaintiff has no power to prosecute the appeal.

The appeal will be separated into two cases.

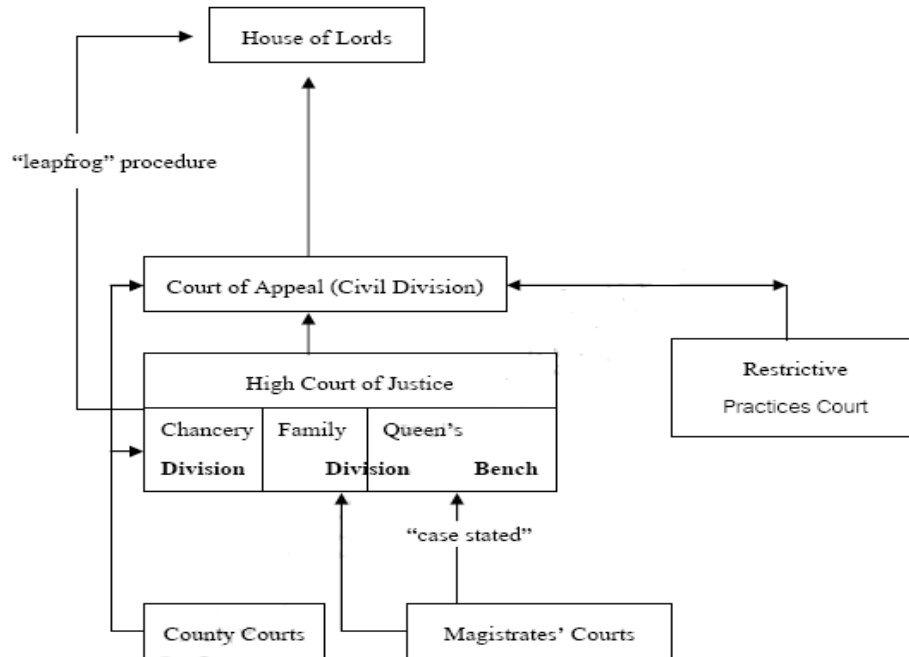
- To appeal the conviction. If an appeal on the issue of law does not require the permission of the court. But the appeal of the pure question of fact. Question of fact or mixed issues of law. Must be approved by the Court of Appeal Criminal Division or the trial judge. For other problems. If the Appeals Board may allow the appeal.

- To appeal the verdict. It has always been an appeal by the defendant without the permission of the Court of Appeal Criminal Division before Laws limiting the appeal, unless there is something else. For the offense of Offences triable either way to be considered in the Magistrate Court if the Magistrate Court agreed to imprisonment for a term exceeding six months, which exceeds the jurisdiction of the Magistrate Court is to send the case to the Crown Court judge, punish, then you can appeal. to the Court of Appeal Criminal Division by the permission of the court are the same (Richard Card. (1980) p. 462 - 463).

2. An appeal in civil cases. The basic principles include the right to appeal in the law of England, the principal said. To provide an opportunity to appeal to a court of higher order once in a question of fact and law. The appeal of the content of the case, the court ruled (Merits), with an appeal for the first time as the rights of the parties (One Chance to Appeal as of Right) The appeal for the second time (Further Appeals) must be based on that. The court will allow it (Being Dependent Upon Obtaining Leave) also. The appeal tribunal established by law to settle a case is (Tribunals) or the decision of the competent authority of the State (Public Authorities) will be limited to an appeal only on issues of law (Lend to be Limited to Points of Law. ), where the court system in England is quite complex, as is evident from the court, some courts, such as the High Court as the Court of First Instance ruling on the

first floor (Trial Court), and the court made the case that the appeal comes from lower-level courts, including County Court or Magistrate Court in the appeal, so it must be considered by the court of appeal to the Court any You can do to limit the right to appeal or petition on the issue for appeal in a civil law system.

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**Chart 2.2 Appeal and Deka in Civil Case**

From the chart above, there are two words to the "leapfrog" procedure is a way to appeal to the House of Lords of High directly to the Court of Appeal. Which all parties consent. And to appeal the legal issues that are important to the public hearing at which the judge has certified and House of Lords allowed the appeal.

"Case stated" the only way to appeal to the laws of the Magistrates' Courts or the Crown Court to the High Court.

An appeal in civil cases may be classified as follows.

- (1) An appeal from the Magistrate Court to the High Court in a lawsuit with the family (Appeals from Magistrates 'Courts to the High Court in Domestic Cases) case on the family under the rules of The Domestic Proceedings and

Magistrates' Courts Act 1987, as a word. court to appoint a guardian or legal representative. (Guardianship Orders) a court order for adoption (Adoption Orders) The appeals court said it can appeal to both the factual and legal issues to the Magistrate Court orders new trial or a new one.

(2) An appeal from the County Court to the Court of Appeals Division cases (Appeals from the County Court to the Court of Appeal (Civil Division)) The parties are not satisfied with the decision of the County Court shall have the right to appeal to the Court of Appeal has (. Country Courts Act 1984, section 77 (1)), except in bankruptcy cases, which require a direct appeal to the Chancery Division (High Court of Justice), so it will again appeal to the Appeal Court by the Court of Appeal for permission to allow or not. And the decision of the court of appeal in the bankruptcy case is considered final. Appeal from County Court to the Court of Appeal Civil Division, this limitation shall not appeal in the following cases.

- The appeal of the facts. In cases where land ownership is the plaintiff in that case (question of fact arising in certain action by a landlord for possession of the premises).

- The appeal period to appeal (an order extending the time for appealing).

- The appeal is made under the Act shall be deemed to be final (an order expressed by statute to be final).

- The command to divorce or to void the marriage (a decree absolute of divorce of nullity of marriage) which the parties did not appeal the court within the period it is entitled (by a party who, having. had time an opportunity to appeal from the decree nisi, has not done so).

- If the parties agree in writing that the Court's decision is final appeal to the Court of Appeal Civil Division, this Must obtain permission from a judge of the County Court without the consent of the parties or not, it is claimed in a civil case has a number of criteria stipulated by the law is. Amount of capital that calls for no less than half of the County Court limit for the case of contract violation lawsuit, the Equity Court or the Probate Court other than the foregoing is considered as the case may appeal from the County Court to the Appeal Division. The civil rights of appeal in this case is to appeal the question of fact. The problem with discretion and legal issues. (ปวีณา มาศมุนท์ทิค ,2533, หน้า 221-223)

(3) An appeal to the High Court of Civil Appeals Division (Appeals From the High Court to the Court of Appeal (Civil Division) on appeal from the High Court to the Court of Appeal Civil Division, in some cases. Appeals may be appealed directly to the House of Lord (Administration of Justice Act 1969, section12.) Typically appeal to the Appeal Division of the High Court in this civil case. The right to appeal under the law if the law prohibits such an appeal.

- If the appeals court order that allowed the extension of the appeal.
- If the appeal judges ruled that the Act provided that it is possible.
- The command to the divorce or the marriage is void, the parties have the opportunity to oppose it. It does not oppose within the prescribed period.
- The decision of the High Court in the High Court acting as Court of Appeal. Under the provisions of Section 1 of The Arbitration Act 1979 on the legal issues which are not raised in the arbitration decision. Or under Section 2 of this law, which made reference to in addition to those provided for under this law.
- If the appeal does not allow the parties to do so. The trouble is that in court proceedings to appeal to the Court of Appeal majority that a law has been in court. Unless the case is bound by the norms of law in a case before the Court. But there are still free to appeal the decision. And issues relating to the civil court proceedings can not be an issue raised by this appeal to determine. (ปริฉณา มาศนุ-ททิก ,2533, หน้า225)

### 2.7.2 United States of America

The Court of United States is a parallel regime. The U.S. court system is a dual court system. U.S. courts of each state and federal and state courts have their own court system.

1 **Federal Courts is a federal** court set up by the Constitution of the United States. Have jurisdiction over cases involving the Constitution and laws of the U.S. Copyright Law of the Sea Treaty and legal disputes between states. U.S. Federal courts have 3 level.

(1) **Federal District Court** has jurisdiction in civil cases filed under the provisions of the Constitution of the United States or treaties of the United States has claimed that the dispute is more than 10,000 and U.S. citizens and legal disputes between states or in case of dispute between citizens of the United States with an alien

which has claimed more than 10,000 U.S. dollars or more (Henry J. Abraham (1986), p163) In a criminal case. If it is a criminal offense under the laws of the State. The defendant may request that the Court has considered the case. When shown that the state has violated their rights under the Constitution of the United States. In the US magistrate Court acts as judge in District Court of the State. Without a separate court in a state court system. Court of the United States shall have jurisdiction in cases involving criminal law of the United States. If it is a criminal offense under the laws of the State. The defendant may request a hearing before the Court of the United States. Was shown that the state has violated their rights under the Constitution of the United States (จินานนท์ วงศ์วิระชัย, ( 2527), หน้า 20).

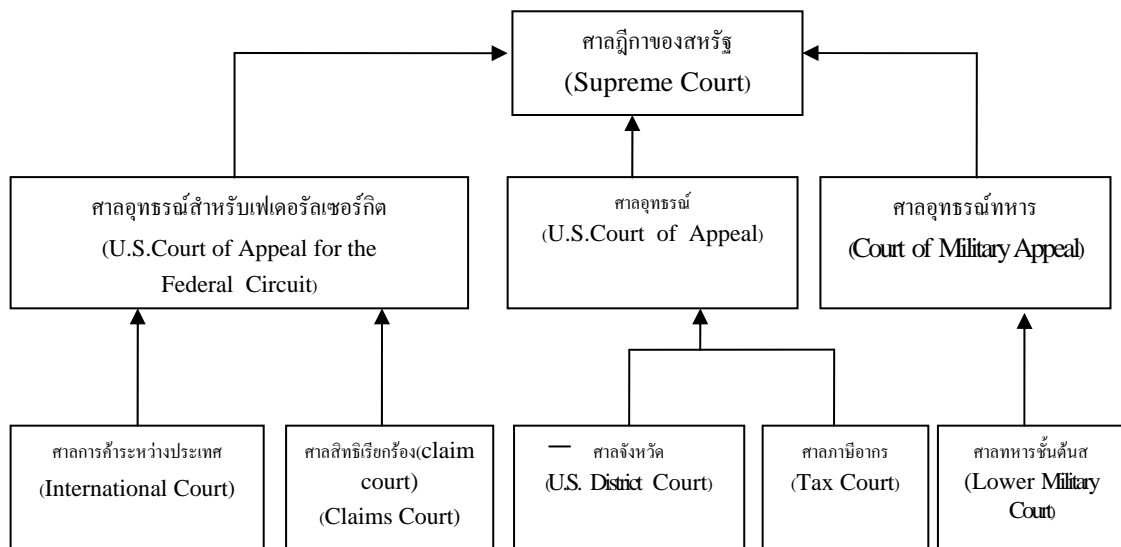
2) **US Court of Appeal** is an intermediate court of justice of the United States is divided into 12 districts (Circuits), U.S. Court of competent jurisdiction covers the 11 districts are classified according to the territory. Each area covering several states, such as the 4th Circuit covers Maryland, Virginia, West Virginia, North Carolina. and South Carolina, etc. Circuit 12, the Court of Appeals for the District of Columbia (District of Columbia, or DC) will cover only the District of Columbia (District of Columbia, or DC), a special district of Washington. the location of the center of the U.S. Court of Appeals for the District has jurisdiction over appeals from the Court in both civil and criminal cases. These courts also have jurisdiction to review orders of administrative agencies of the United States as well. Although in practice, the review of orders of administrative agencies of the United States by many to be dealt with by the Court of Appeal for District of Columbia it.

For the appeal in the special zone is US Court of Appeals for the Federal Circuit is the court of appeals of the United States is the only one who has not been classified by the territorial court with jurisdiction over the appeal from the Court, all 94 courts in cases arising under law, patents and lawsuits demanding compensation from the federal government also has jurisdiction over the appeal of the ruling authorities, administrative agencies and to appeal the Court of First Instance in two courts is the Court of International Trade (US Court of International Trade) and Court of Claims (Claims Court) (Daniel John Meador, (1991). p. 25 - 29).

Court of appeal from the District Court of the United States Court of Appeals of the United States, this is the right of the parties can appeal to both the facts

and legal issues, the U.S. Court of Appeals, the second act is a combination. The errors of the court below (Corrective) and to prevent mistakes (Preventive) (Paul D. Carrington & Barbara Allen Babcock. (1977), p. 266.) The Court of Appeals serves as the first level. of appeal. Appeals have been hearing all cases, no case of judicial discretion, as the Supreme Court of Appeals, however, may prescribe penalties for the parties to the court of appeals that are not material in the case (frivolous) to (Jack S. Emery. (2000). p. 23).

(3) The Supreme Court of the United States (US Supreme Court) the Supreme Court of the United States may not appeal to them (last resort)



**Chart 2.3 Federal Court**

Note: The chart shows a general appeal. Does not include the court with some special cases.

2. The Court of the State (State Court) has jurisdiction to adjudicate civil and criminal cases arising in that state. The courts of each state have different characteristics, however, that the court is divided into three.

(1) Magistrate court is the lowest level court of first instance district court which have limited jurisdiction. For criminal cases, there is a Misdemeanor offenses are not serious of action in a criminal investigation, and served as a felony offense which is an offense against the capital. Next to the district court is a court of competent jurisdiction to general (general jurisdiction) in each state, called various names such as Superior Court, Circuit Court, District Court and the Court of Common Plea to the jurisdiction of the Court in the offense is a felony also. It also served as a

Court of Appeal considered an appeal from the district court (Jack S. Emercy, (2000) p.25-26).

(2) Intermediate Court of Appeals is an appeal from a court of general jurisdiction to the Court of Appeal. The appeal is an appeal to the intermediate court of appeal first. In some states there is no intermediate court of appeal. Appeal to appeal to the Supreme Court of the State directly.

(3) The Supreme Court of the State ,Some states call Supreme Court is the last court level. For the place no court of appeal intermediate the Supreme Court, the Court of Appeal of the judges in court according to the laws of each state, ranging from 3 to 9 people to appeal to the Supreme Court of the State the discretion of the court to receive. The case for consideration or not.(Discretionary power).

แผนผังแสดงโครงสร้างของศาลมลรัฐ (State Courts)



**Chart 2.4 State Court of U.S.A.**

Judge of the United States are similar because the judges of England are the countries that use Common Law legal system, which differs from that in countries where the legal system is Civil law. In Civil law in the selection of judges selected by the examination is commonly used for who study the law. Because of the influence of Roman law, the judge considered the position and profession are different from those of a judge or attorney general in the Civil Law legal system, in large part to the

Department of Justice. The appointment of judges in the Common Law legal system, the method chosen by those who already practice law.

However, methods of selecting judges of England and the United States, it is different in the United States that is often associated with politically appointed judges. President appoints the judges of the Supreme Court of the United States, according to the advice and consent of the Senate. The selection of state judges are three ways to appointment (appointment) by the Governor of the State of the State Legislative Assembly or appointed. Another way is to elect a last resort, is the way to Missouri (Missouri Plan) is a method of appointment and election form by this method, the Governor of the State to appoint judges from a list that has been proposed by a selection committee. The appointee will hold office for one year to allow people to vote, that person shall be appointed to or for the tenure of judges. The Constitution stipulates that judges of the Supreme Court and lower courts are in place throughout the period with a good behaviors (during good behavior) is a term of life there. Unless they resign or be removed from office by the prosecution. (Impeachment) when there is inappropriate behavior.

The proceedings of the case to the United States Supreme Court. Since the U.S. courts and courts of the United States Court of the State of the foregoing. And the case to the Supreme Court proceedings are different and somewhat more detailed. This work will be analyzed with particular emphasis on the legal system to the proceedings of the United States Supreme Court is the only US Courts of Appeal.

#### The Appeal

1) A person who has the right to appeal. In general, the appeal is limited to persons who are parties in a lawsuit. Outsiders have no right to appeal the case, however, there is an exception. The non-ruling parties have an interest in it may be allowed to appeal. If the interest is an important and direct interest to the verdict.

2) The period of appeal (Federal Rule of Civil Procedure, Rules of Appellate Procedure. As amended to Feb. 1, 1995. Rule 4 (a). (b).).

A) Civil case to file a written appeal to the district court clerk within 30 days of the sentence or order. If the parties are the United States Government or an officer or agency of the United States. The appeal shall be filed within 60 days from the date such decision or order.

B) Criminal case to file the appeal must go to the district court clerk within 10 days of the sentence or order. However, if the appeal is to the government. The appeal shall be filed within 30 days from the date such decision or order.

C) Orders pending. If the appeal is a matter of right (matter of right) and the Government of the United States not parties to the case. The appeal shall be filed within 30 days of an order like that.

3) Types of cases that would appeal. In the United States the right to appeal the first floor is to appeal to the Court of Appeal, it is the right one. Regardless of whether an appeal on fact or law. The appeal is not restricted in any way (Delmar Karlen. (1967). P. 210 - 211), as already mentioned, that the Court of Appeals serves as the first level of appeal. Appeals have been hearing a case without the use of a judicial discretion, as the Supreme Court.

The case for a number of funds that would appeal to them. The Constitution has not provided that the number of funds in dispute is how much it will appeal to the Appeal Court of the United States has in some cases, the law of the funds to a minimum to bring the case to the Court of the United States, such as the Judiciary Act. 1789 of the 500 U.S. dollars. In 1887 has been changed to \$ 2,000 U.S. In 1911 was changed to \$ 3,000. Since 1985 has been changed to \$ 10,000 and then in 1988, has changed to \$ 50,000 U.S. dollar. (พศวัจน์ กนกนาก, (2548) หน้า52)

### **2.7.3 Comparison of the appeal of the district court in a lawsuit with the district court of appeal case law in common law countries as follows.**

#### **Thailand and the UK.**

In the case of the District Court of Appeal, it must appeal to the Court of Appeal in all cases, whether to appeal the decision or order. But in the case of the District Court of Appeal in England then. By the District Court or Magistrates Court, the appeal must be classified as civil or criminal. In criminal cases, will be segregation of the appeal court of the district court issued a second case, the first case, the appeal to the Crown Court by an appeal by the traditional method Crown Court will be hearing an entirely new and not on the proceedings in the Magistrates Court. The District Court of Appeal of the district court in criminal cases to the Crown Court to consider the facts and legal issues in the Crown Court, the Court considered a serious

criminal offense as well. The Lord of the judge in the Crown Court will judge the judges, Crown Court of a person and as a Judge of High court Queen's Bench 2 to 4, as the Lord of the appeals from the Magistrates Court or District Court.

In addition, the appeal in a criminal case, the District Court or Magistrates Court and can appeal to the High court Queen's Bench, but the appeal is to be an appeal by way of case stated to the appeal on errors of law or authority. overdue This is an appeal on the issue of law only, with a request to the Supreme Court of opinion on the matter by his board of appeals in the Magistrates Court will have three people to judge a person and an assistant judge, 2. People

As you can see the appeal of the district court in criminal cases in England will be divided into two parts: the usual approach to the Crown Court is one of the appeals court. But the appeal to the Supreme Court, it can be done by way of case stated, as mentioned above. The difference with Thailand, which Thailand does not have a separate appeal, any appeal, all must rise to the appeal of all it is not discrimination, that is an issue of fact or law or the laws that are supposed to appeal. up to the Supreme Court. This is about the body of the consideration of criminal charges made to the Crown Court will have a body of judges for at least 3 more people to consider the appeal and that that would appeal to the Crown Court or the High court Queen's Bench.

The appeal of the district court in a civil case in England is determined to appeal to the High court Queen's Bench judge the body of the third person, as in criminal cases without discrimination or on appeal to the court other than High court Queen's Bench of the High court Queen's Bench However, it is also a court that has jurisdiction over civil cases in general. The appeal of the district court in a civil case, or it could appeal to the Court of Appeal directly or requirements relating to the separation of powers, the court will consider is similar to the UK However, the UK, the Court will consider the appeal in a civil case. The Court of First Instance to have jurisdiction over a case from the district court, which is different in Thailand.

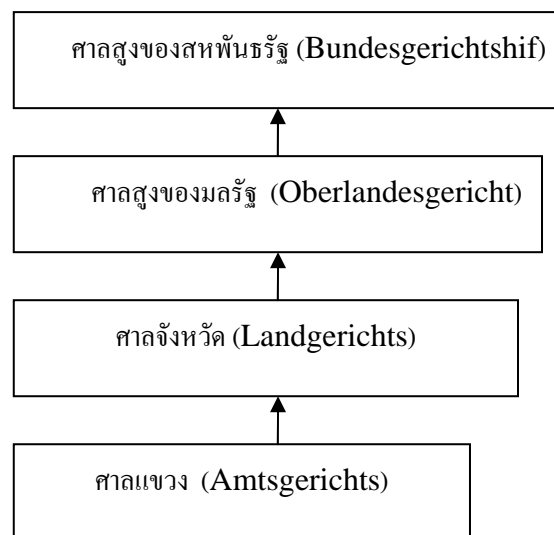
### **Thailand and the United States.**

System of the district court of appeal cases in the U.S. The appeal of the district court cases that Similar to that of Thailand is an appeal to the Court of Appeal. Despite the fact that they are not the same as in the case of the District Court of Appeal in England. In the hierarchy of the courts of the United States, it has divided the court in the District Court and Court 3. Court of Appeal and Supreme Court. It may be said that the appeals court of the District Court of the United States are essentially similar in most parts of the country except in some states, only to look like England.

## **2.8 The structure of the court system in countries where the legal system, Civil Law.**

### **2.8.1 Germany.**

The Court of Germany. A German court system has jurisdiction over civil cases.



### **Chart 2.5 Court of Germany**

Federal Republic of Germany is not a single state but it is composed of state, called the land between the 10 states, including West Berlin, which has been treated as a state, a total of 11 states, each state have their own court system to have

independence under the control of the organization in each state. It has a direct relationship with the federal court system. Structure is the basis of state court system is determined by federal law and uniformity throughout the country. That resulted in uniformity in the administration of justice in federal and state sesame rice variety, the effects vary with the country's judicial system as well as other states.

After Germany combine West Germany and East Germany the court system is based on the former West Germany as a template. The treaty also requires countries to include the layout of the courts and judges are already included in the same system. In the era before the whole country, Both West Germany and East Germany have a court system that is clearly different.

In East Germany, has placed the court system is characterized by a single court and the court is divided into three classes namely.

- Court of the District Court (Local Court) and the Provincial Court (Regional Court).
- The Court of Appeal has been admitted into an integrated system of Germany after an international appeal.
- Supreme Court (The Highest Court of Appeal), the Treaty shall be replaced by the Federal Supreme Court (The Highest Federal Courts), but during the process of updating the existing court system to comply with the new court system. Court of First Instance and Court of Appeal in a hearing before it will act as it was before. Until the establishment of a court of competent jurisdiction as a court system based on the expertise of western Germany (Nigel G. Foster, (1993). P. 43.).

While the courts of West Germany, which has been regarded as a model of the courts of Germany after the country overall. May be said to resemble the layout of the court system is quite complex. However, due to the basic concepts in the system, the two main power distribution system. And special expertise.

1) **The system of decentralization.** Has caused the division of jurisdiction between the federal and state courts in Germany, so if it is classified according to the jurisdiction of the country is divided into two groups.

(1) The Federal Courts or Bundesgerichte will act as Court of Appeal or the Supreme Court for an appeal or petition for a contested case the court ruling states or the federal courts themselves.

(2) State Courts (Regional Courts or Landesgerichte) Each State will have the power to establish courts of its own within the framework defined by the federal and has the power to manage the affairs of the court. The jurisdiction of the courts of the State establishes the procedure of its own. The state court will act as a court or a court of appeal for cases that occurred in each state.

2) **Expertise.** It can divide into six types.

1) A court or a court of general jurisdiction court (Courts of Ordinary or Regular Jurisdiction or Ordentliche Gerichte) a court or a court of general jurisdiction trial for acts of civil disputes between private sector and the private sector. Both cases there are no disputes, disputes and litigation. The court has jurisdiction over criminal cases concerning all types. In addition to civil and criminal cases. This Court has jurisdiction over the case is not in any other jurisdiction. It can be said that a court of competent jurisdiction to courts other than the most extensive court or court of general jurisdiction will feature.

A) District court (The Local Court or Amtsgericht) a court that has jurisdiction over civil cases that have claimed up to 5000 Euros, but if a divorce or legal proceedings relating to the lease would have jurisdiction in the capital increase to an agreement quickly. The criminal to the jurisdiction of the district court and criminal penalties, advanced no more than 4 years (ฐิติมา ภูสาร , (2547) หน้า70) The judge in the District Court to condemn the maximum not to exceed six months. If criminal to be sentenced to more than 6 months but not more than three years alone, the judge has no jurisdiction. It have to go to a special committee called Schoffengericht. It consists of a judge and two people who is an individual acting as a judge are the body of the adjudication, however, the district court be sentenced to imprisonment for a term exceeding three years or a way to secure it. (จินานนท์ วงศ์วีระชัย. (2527) หน้า 22).

B). Provincial Court (The Regional Court or the Landgericht) can be act as court of Appeal from a law suit of the District Court. It also serves as the court in a civil case, the disputed funds in excess of 5000 Euros (จรัญ กักดิธนากุล, (2546) หน้า20) Commercial and criminal cases are serious. The Court will divide the body of the acts considered criminal or civil litigation, commercial litigation and family for his young team will consist of a civil judge all professionals. The Chief

Justice, a Judge and 2 other people, including a body board. But during the trial, the judge may have to sit alone at the hearing (Nigel G. Foster, (1993) p. 39.) Legal commerce. The body consists of one professional judge and the judge, an individual who is knowledgeable in the field of commerce and people act as judges, only two cases. But the judge has the power and status equal to his career as a judge of the court. In the case of the criminal trial was an appeal from the District Court will be staffed by a professional judge to judge a person for 2 people, if the Court acts as court of first instance for criminal cases. The body consists of three professional judges and justices as individuals and as a serious criminal case, except two men guilty of killing others. Considered to have a jury hear the facts and the Court has also held the body of a special act of hearing about young people. And civil and commercial significance as well (พศวัจน์ กนกนาก,(2548) หน้า65)

C). Supreme Court of the State (Higher Regional Court of Appeal or Oberlandesgerichte) is acting as a court for certain appeal cases. The case is important and the most severe penalties, including case about a rebellion or treason but the Court will act as the final verdict of the Court of Appeal cases to the Court. Judgment of the Supreme Court and the High Court of the State, except for some cases where the parties have the right to petition a federal court again. As in the case at the start of the Court, A lawsuit is started against a lawsuit by the district court, but can leap frog (Leapfrog) of the Federal High Court. The Supreme Court of the State will only act as a Court of Appeal. (จินานนท์ วงศ์วิระชัย. (2527) หน้า 24).

D). Supreme Court of the Republic (The Federal Court of Justice or Bundesgerichtshof) a court of competent jurisdiction to consider the appeal only. The trial of Supreme Court of the State. Case into consideration, this court must have the consent of the Supreme Court of the State and the appeal must be raised or new legislation is different from the existing norms of the federal Supreme Court. Supreme Court of the Federation is divided into the board include Lord of the cases 12 of the body of the criminal case, 5 the body of the case in seven of each committee consists of judges, four people, and Chief Judge of a man in the High Court of the Commonwealth to The appeal from the special trial court of appeals such cases

the Federal Patent Court (Federal Patent Court or Bundespatentgericht. (พศวีจันท์ กนกนาก, (2548) หน้า66)

The case to the Supreme Court proceedings.

1. The right to appeal and the Supreme Court, there are considered separately in two value

(1) The right to appeal and a petition under the Code of Civil Procedure. Code of Civil Procedure of the German Classification of the appeals court's three types of appeals the verdict of the court below (Appeal or Berufung) to petition the law (Revision) and appeal to a court order (The Complain or Beschwerde). The appeal of the verdict or order them to follow the pattern. And within the time prescribed by law.

A) The Judgement of the Court of Appeal below (Appeal or Berufung) decision to appeal a ruling that has the effect of the court and the court then. The verdict of the District Court or the Court. And must be claimed up to 600 Euro for the appeal decision must be made within 1 month from the date of pronouncement, or within five months from the date of the verdict in the absence of a pronouncement (the Code of Civil Procedure, Germany, Section 516) also. a period of 1 month to submit the reasons against it.

Court of appeals may be referred to Court (Landgericht), the appeal of the district court. (Amtsgericht), or it may mean. State Supreme Court (Oberlandesgericht) of the Court of Appeal. (Landgericht) of the Court of Appeal will consider both the factual and legal issues the parties are able to claim and new evidence. If the lower court's verdict is against the law. Judgment of the Court of Appeal revoked the verdict and new However, it is sometimes the case, the Court of Appeals will reverse the lower court to consider it again.

B) The only problem is the supreme law (Revision or Appeal on points of law) to petition the Supreme Court of Appeals for the issue of law (Court of Appeal) only has to be claimed in the petition more than 60,000 Deutsche Mark, or about 24,000 Euros. The petition must be made by a lawyer, and must submit a petition within one month from the date of pronouncement of Appeals or within 5 months from the date of the Court of Appeals also has a duration of 1 month for the submission of the reason for the petition itself. (Statement of Grounds for Appeal or

Revisions Begründungsschrift) in a book that discusses the reason for the court must make clear that the Supreme Court of Appeals for the part. The decision violates any laws. Whether the substance or method prescribed by law. In the court determines the law. If the court considers that it needs to be further investigation. Supreme Court to reverse the court of appeals case to the Court of Appeals judge, but the error on the part of the law. Supreme Court judge sentenced them to lose it.

C) Disputing a court order (Complaint or Beschwerde) dispute the court did not have the effect of returning the verdict but as an appeal or petition, as discussed above, but also contested the order of the court as soon as you commit to it. The law grants the right to be manifest. And will be considered by the High Court in the next sequence (Court of next instance) the appeal is decided in a court order, but to the supreme command to the only legal if the parties have claimed. a new reason to support.

2) The right to appeal under the Code of Criminal Procedure. Criminal who has been ill-effects of the decision of the court have the right to appeal the verdict. Although there are no penalties whatsoever that the defendant in a lawsuit to dispute the verdict of the appeal in whole or part of it. To appeal to a court action in the police and prosecutor. The appeal does not specify the format, but must be in writing. They are classified into three types of appeal in criminal cases.

(1). The general appeal (Appeal on fact and law or Berufung) to appeal this case. The appeal of both the facts and legal arguments. Both the defendant and the prosecutor is right. The defendant's lawyer with the consent of the defendant and the plaintiff jointly (Anke Feeckmann and Thomas Wegerich. (1999), p. 212.).

The appeal must be in writing and filed with the Court that the trial court within one week from the date of the verdict. It also does not provide details or reasons for the appeal if the defendant is not going to hear the verdict. Time begins when submitting a case for appeal and the reasons for the contested decision must be filed within one week after the end of the appeal. Appeals court to reconsider the appeal of both the facts and legal issues to be considered in court. The parties also have the right to present facts. New evidence into consideration by the Court of

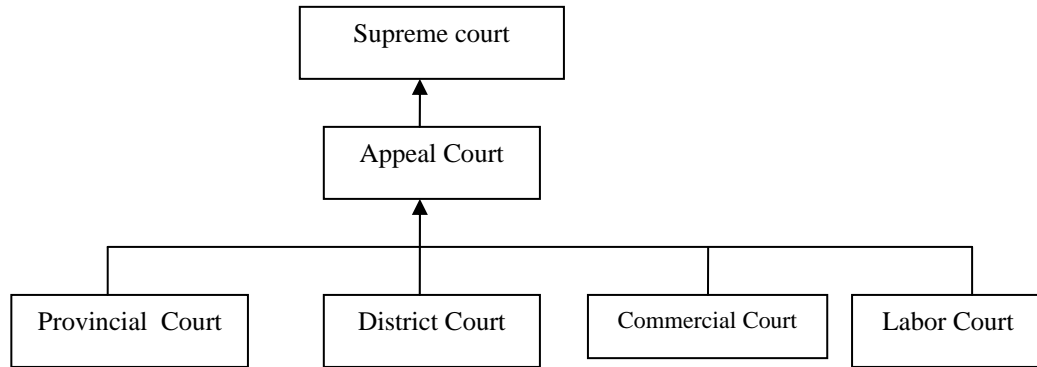
Appeal. If the Court of Appeal agreed with the judge to sentence an appeal with the Court of First Instance and Court of Appeals on behalf of itself.

(2). To petition the law (Appeal on points of law or Revision) that the Supreme Court in this category must come from a court hearing on the first floor is the Court.(Landgericht) or the Court of the State. (Oberlandesgericht) and the Judgement of the Court of Appeals (Appeals Judgments of the Landgericht) in a court of law only, may also result from the Supreme Court ruling. (Amtsgericht) directly to the Appeals (leap-frog appeal) the court shall issue regulations within 1 week after the Court of Appeals, in writing. However, if the defendant is not going to hear the verdict session begins when a verdict is delivered.

The trial in this class. Supreme Court will consider whether the lower court and the law of commandments and the law is correct or not. In a statement should refer to the error in the procedure and the law under which the lower court made a mistake too. If a fault in the law of commandments. The court can determine only the legal substance of the law was violated, and in this case, the court will review the entire case. Particularly in respect of the provisions of the law. The Supreme Court raised the legal issues. The law regulations. General principles of international law. Official rules and logic and science experiments. Prosecutor argued to the Supreme Court, the judge released the defendant from the accusation. However, the court may not use the full. By the court of law if the prosecutor has no reason If the Supreme Court decision by the Supreme Court's decision to lower the lift. It must be the case to the Appeal Court judges to consider new

3. Disputing a court order (Complaint or Beschwerde) is a controversial remedy the adverse effects received from the order of the court in various ways. Non-judgment.It must be presented to the court and the court issued an order that will be corrected, or the High Court issued an order to be served instead. The court argued that this would be considered the facts and the law . (พศวัจน์ กนกนาก,(2548) หน้า74)

### 2.8.2 France



**Chart 2.6 The French courts System**

The Courts in France is divided into two systems, which are (dualité de juridictions) the court system (judicial system) or the general civil and criminal adjudication and the Administrative Court. (Administrative. system). Justice system of France is divided into two classes. There are First Instance (Les Juridiction de première instance) and the Court of Appeal (Les Cours d'Appel). The Supreme Court (La Cour de Cassation) do not count as the third court because it supervise a court ruling that serves as the legally without consideration of the Court and Appeals Court Judge. (ธีรพันธุ์ รัชมิทัต (2541) ,หน้า 76)

The Court split into two types: the ordinary courts (Les Juridiction de droit commun) have jurisdiction over all cases that the law is not provided in any other jurisdiction by the courts and the Court comprehend (Les Juridictions d'exception) have competent judicial authority law that provided for under the jurisdiction of the Special Court, the specific (Christian Dadamo. Susan Farran, (1996), p50-52).

1) The court considered civil cases.

(1) An ordinary court and Court (Tribunaux de grande instance) a court having jurisdiction over cases relating to private law in general. It may be the case with special cases such as commercial or labor cases to the adjudication of cases by Special Court.

(2) Special Court and District Court (Tribunaux d'instance) have jurisdiction over cases concerning debt and chattel. The dispute about the property not under the jurisdiction of the Commercial Court (Tribunal de commerce) has jurisdiction over cases involving disputes between traders or commercial dealings. The dispute between the partners Labour Court (Conseil de prud'hommes) have jurisdiction over lawsuits between employers, employees, contract employees or contract workers, interns, regardless of their Social Security funds in the trial court (Tribunal des affaires de sécurité sociale) has the power. adjudication of legal disputes concerning social security, without the funds to a minimum and the land (Tribunal paritaire de baux ruraux) has jurisdiction over cases relating to land between land owners who rent or lease the land for agriculture (Christian. Dadamo. Susan Farran, (1996), p56-67).

2) The criminal court. Criminal Procedure Law of France. Common Criminal Court is divided into two parts: the court of inquiry (Jurisdiction d'instruction or Pretrial investigatory court) with the court decision (Jurisdiction de jugement).

(1) The trial court judges are divided into townships. (Juges d'instruction) the court hearing stage 2 (Chambre d'Accusation) trial court judges have the power to fork up the investigation and the judge in the investigation. The control of the accused. Investigate the evidence. When the investigation is completed, the defendants filed a court of competent jurisdiction or a court hearing is a division of the Court of Appeal Step 2. (Cour d'Appel) has jurisdiction over the petition of the parties to appeal the judge's judicial investigation and trial for offenses punishable as capital offenses (Crimes or serious crimes) is guilty of an offense punishable very severe. This case law does not allow judges the discretion of the court hearing alone. Against the accused before the court was required to submit a complaint to the investigation stage. Two considerations that are filed or not.

(2) The court is a court adjudication that the plaintiff sued the defendant guilty or not. If that does not fault the judge acquitted the defendants. The court's ruling, the court split into three general categories based on the nature of the offense.

A) Police court in the jurisdiction. (Arrondissement) has jurisdiction over criminal misdemeanor Cases that are punishable by a fine not exceeding 20,000 francs (contravention) and cases where the removal or restriction of rights under the law.

B) Court cases mean punishment. Located in the province. (Département) has jurisdiction over the case as an intermediate punishment (délits or major offences) is a case where the rate of imprisonment of six months or a fine of up to 20,000 francs criminal claims and the criminal economy as banking, securities and income taxes, customs duties must be considered by the Criminal Division, extra advertising.

C) Criminal Court (Cour d'assises) has jurisdiction over capital offense (crimes or serious crimes) is a case of imprisonment of 10 years to life imprisonment or death. It does not include the commission of a minor and guilty rebels (Christian Dadamo. Susan Farran, (1996), p 68-75).

Appeal the Court of Appeal is divided into departments, civil and criminal authorities in the civil and criminal jurisdiction by the Court. Currently there are 35 courts in each division of the Court of Appeal consists of three professional judges who have presided over by a judge and the Court of Appeal. (Conseillers) to the Prosecutor of the Court of Appeal, which is representative of the Attorney General and assistant.

1) The right to appeal, when any party that it has been damaged by the judges of the Court of First Instance may appeal to the Court of Appeal. This is in accordance with "The double degree jurisdiction" means any appeal against the decision. It can be done once by the right in both the facts and legal issues and include the appeal by the accused, the trial court's error.

The main parties can appeal the decision or order of the court at any time. Furthermore, in some cases, the law that is not appropriate to appeal. For example, in cases where there is very little money. The case law has just ended a civil court.

In the civil case, the cases can be appealed to depend on the nature of the claims adjudication and court cases. The lawsuit claimed that the dispute can appeal to an amount not less than 13,000 francs, except in cases of dispute to the Labor Court, which claimed more than 16,000 francs to appeal. For capital cases, the dispute over the legal limit, even impossible to appeal them. But it may appeal directly to the Supreme Court in the case of an appeal in the case law, however, in the amount of funds that may not always be able to appeal in a case such as divorce and separation to divorce. The intention to determine the nationality of the person. Actions are not helpful in the property. Including actions related to property, such as division of property. In the special case of movable property if the plaintiff cannot recover the

value of the property by the plaintiff cannot use the market as well. The value of claims may not be able to determine if they depend on future events.

In the civil case, the parties may waive the right to appeal in writing or follow the ruling, which deemed a waiver of the right to appeal by default. The parties may waive the right to appeal before a court in any criminal case to be sentenced. Appeal the decision of the court hearing, the trial court judge's decision can appeal to the Court of Inquiry Step 2 of the accused has the right to appeal the order of trial court judges with the authority to prosecute. The prosecution claim the extended release of the accused and the accused and the command is not temporary. The injured plaintiff is entitled to appeal the judge's court of inquiry concerning the authority to prosecute order not to sue (*Ordonnance de non-lieu*) or order the plaintiff to be damaged. But there is no appeal against the order or control the release of the accused, however, the Attorney General's court, police and court cases, intermediate punishment (*Procureur de République*) and the Prosecutor's Appeal (*Procureur général*) has the power to appeal the judge's court hearing in all cases . (ธีรพันธุ์ รัชมิทัต (2541) ,หน้า 60-61)

The Appeals for the appellate court decision can be appealed by the parties appeal to the Court of Appeal Criminal Division. The department, in the case of a case where the offender is a minor. Judgement of the Court in criminal cases except capital offenses to appeal directly to the Supreme Court.

2) the right to appeal. The appeal must be filed in court and the parties must be given the benefit of the party losing its appeal in the Court of Appeal to the Court of Appeal sentenced to win their cases. Prevailing party may not appeal to the Court of First Instance ruled that the lawsuit he won a lawsuit as a plaintiff in the lawsuit or a defendant. Plaintiff or defendant may appeal, but only in matters relating to their interests only. And appeals will not affect the other party that does not appeal too. Except in the case of a benefit which is not distinguishable to the appeal in respect of the others also. The heirs of the deceased as a party in a lawsuit and a creditor to a debtor can invoke the right to wear the same pair. And includes the case of a lawsuit related to the interests of the public prosecutor to appeal.although not a party in any court.

### 2.8.3 Japan

The Court of Japan. Japan's judiciary is divided into two layers together is the Supreme Court (Supreme Court) and the secondary (Subordinate Courts or Inferior courts), which consists of the Supreme Court Provincial Court Family Court and District Court with jurisdiction of the court is as follows.(สาขาวิชานิติศาสตร์ มหาวิทยาลัยสุโขทัยธรรมาธิราช, เอกสารการสอนชุดวิชาการระบบกฎหมายไทยและต่างประเทศ. (2535), หน้า 477 – 480.).

1) Supreme Court as a court of competent jurisdiction to order a third court same with the Supreme Court of Thailand.

2) High court is a court having jurisdiction in the second compared with the Appeal Court of Thailand. The main function of the court. Supreme Court, sitting as a trial court ruling on the appeal of all types. Supreme Court not only as a court of competent jurisdiction to order, second only to those judgments, the decision by the district court to appeal to the Court and will appeal to the Supreme Court, rather than appeal to the Supreme Court acts as court of first instance in the trial of offenses under the election and The Supreme Court case about the rebellion of the city of Tokyo has sole jurisdiction to investigate the decision of the quasi-judicial organization. (Quasi-judicial agencies), such as the Board of Trade Fair (The Fair Trade Commission) and the Patent Office (Patent Office) cases in the Supreme Court will not be considered by a judge three people, however, in the case of rebellion, and to verify the diagnosis. The Fair Trade Commission is a body of five judges.

3) District Court has jurisdiction over civil and criminal. Cases that are not under the jurisdiction of such Court such as cases must be prosecuted in the High Court or Summary Court. The District Court also acts like a appeal court to consider the appeal from the Summary Court. The appeal court after the reform of the Criminal Procedure Act 1984, then every criminal case will be appealed to the Supreme Court considered the case in provincial court judges to sit alone, or body of judges, three people (a collegiate. body of three judges), but in practice. Most cases will be sentenced by a judge alone. The process of adjudication by full panel judge in the case following the plenary session.

- In his case the judge said. "The adjudication should be done by the plenary of the judges."

- Against the death penalty, Life imprisonment, Imprisonment for life or imprisonment from one year to the robbery loot without trial or guilty of attempted robbery loot. Or if the loot is the legal profession and the suppression of loot and thievery.

- Court case that served as a Court of Appeal.

- Other case law. Act to require adjudication by a judge of the plenary session.

4) Summary Court is the lowest layer in the order of the court. If you look at it from the jurisdiction this court will be in the same order with the District Court and Family Court. The District Court will usually have the power to appeal the decision of the Summary Court. Summary Court is the court where proceedings are quick and easy. It is established to spread justice and to reach more people in a civil case. District Court has jurisdiction in a case that has claimed up to 900,000 yen. In Criminal Summary Court has jurisdiction over misdemeanor cases. However, in case the court may consider a case where a maximum penalty of imprisonment, with hard work under the conditions that the court is imprisonment exceeding three years to adjudicate all cases in the Court may be made by a judge alone, in addition to the proceedings. Typically, the summary court's dispute settlement process (Conciliation proceeding) with the objective of a civil settlement in the daily lives of the people. The judicial process as such are charged at a lower rate fee. And dispute settlement committee. (Conciliation. Committee) which consists of a judge and peacemaker (Conciliation Commissioner) will help the parties reach an agreement by the Board of Directors of both parties to listen to reason. When agreed, they will bring the agreement to a compromise agreement (protocol), which are binding, just like the verdict in the intend by written to be used to compromise the dispute by filing a complaint with the court. Filed the case may be made orally before the Court Clerk (Court Clerk), or by filling out a complaint form ready. (Readymade application form), which will be heard at the court of the dispute settlement process is open to the public. (<http://www.courts.go.jp>).

The case to the Supreme Court proceedings.

1) The appeal and a petition in court.

1. Appeals (Koso appeal the first appeal).

A) Type of appeal. Party who not satisfied. (District Court or Summary Court) may be appealed (koso) the Provincial Court or Supreme Court (High Court) case. In order to detect possible errors. The prosecutor has the right to appeal as the defendant (the Code of Criminal Procedure, Section 354) The Criminal Procedure Code of Japan Book III (Appeal), the appellant must file the appeal within 14 days from the date on which the Court read the verdict (Article 373 of the. with Section 358) if the appeal time limit. Court may order that does not appeal (Section 375) the appellant shall prepare a written appeal filed with the Court of First Instance (Article 374) by appeal to the Court of Appeals within the time specified in the terms of the court. Some cases may be appealed to indicate the reason for the appeal in the appeal, but must submit evidence or a statement of reasons in the letter of the prosecutors or defense attorneys, along with a statement of reasons as set forth in the Code. Criminal Procedure (Section 376) or the terms of the court.

Japanese Code of Criminal Procedure. Impose conditions on the statement of the reasons for the appeal (statement of reasons for the appeal) as it is.

1. If the appeal on the following reasons. Must submit evidence or certification of the prosecutor or defense lawyer to prove that these facts have caused (Section 377).

- Court not established by law.
- Judges who adjudicate cases in the court case with interest.
- Have violated the provisions governing the judicial disclosure.

2. If the appeal was the following statement must show why the evidence in the case of cases recorded, which shows the contents of the proceedings is made, and witnesses have been traced to the Court. sufficient to prove the reliability of the following (Section 378).

- Court without jurisdiction of the courts of law.
- With or without getting sued by the law.
- Court verdict or a judge at the request or the request.
- Judgment is not the reason or reasons for conflict.

3. If the Court of Appeal on grounds that it violated the law must provide a statement of reasons and evidence in the case of cases recorded, which shows the

contents of the proceedings is made, and the court has been traced to insufficient evidence. in the testament to the reliability of the above (Section 379).

4. If the appeal on grounds that the error in interpretation and implementation by the second law, which led to the Court of First Instance. Statement of reasons must be clearly pointed out the error which led to a magistrate (Section 380).

5. If the appeal on grounds that the punishment was inappropriate or unfair. Statement must show the reasons and evidence in the case of cases recorded, which shows the contents of the proceedings is made, and witnesses have been traced to the Court sufficient to prove the reliability of the above (section 381).

6. If the appeal on grounds that there were errors in the process of finding the facts leading to the verdict. Statement must show the reasons and evidence in the case of cases recorded, which shows the contents of the proceedings is made, and witnesses have been traced to the Court sufficient to prove the reliability of the above mentioned (Section 382).

7. If the appeal on the following grounds. Statement must include evidence that demonstrates the following reason (Section 383).

- The fact that the lawsuit will bring rethink
- After the Court of First Instance it has legal impunity. The sentence or pardon on the condition on the statement of the reasons for the appeal in detail, so the appeal is limited to the reasons stated in the Code of Criminal Procedure, Section 377 to Section 383 only (Section 384) was received. filed an appeal and a statement of reasons for the appeal, the Court may order the appeal is in the following cases (Article 385 and Article 386).

- It appears clear that the appeal is heard not in the form prescribed by law or regulation. Or filed after the due date.

- When it filed its statement of reasons for the appeal within the allotted time.

- The statement of reasons does not comply with the format prescribed in the Code of Criminal Procedure, subject to the court.

- It appears clear that the contents of the statement of the reason why there are no grounds for appeal as set forth in Section 377 to Section 383.

### B) Trial at the Court of Appeal.

Proceedings of the Court of Appeal are not a new trial. This has to be witnesses again. But a check of antitrust proceedings in the Court of Appeals is mainly limited to oral statements by prosecution and defense attorneys. The court will not go into evidence or other witnesses. As the Court of Appeals, however, the court may examine a person if it is necessary to investigate the facts are still unclear and has not been verified by the court in the hearing date. Prosecutors and defense attorneys to argue on the basis of the statement of the reasons why the appeal (Article 389) On examination, the defendant need not appear in court. But if this is the case with a fine of more than 5000 yen, the court may order the defendant to court if it considers necessary to protect the rights of the defendant (Article 390) the court will inquire into the evidence and the fact that the statement shows. reason And to cross-examine witnesses and other evidence. Specified in Section 377 to Section 383, even if it does not appear in the statement of reasons (Section 392) The court may also inquire into the facts at the request of prosecutors. Defendant or defendant's attorney or, if deemed necessary by the circumstances that may arise after the Court of First Instance to determine a penalty (Section 393) that the trial court was required to be made by the judge. The court heard how it is. Prosecutors and defense attorneys are relying on the fact that it is based on the argument. The evidence for the acceptance or use it in court. May be used as evidence in any court of appeal (Section 394).

3) An appeal pending (Kokoku appeal) the order pending appeal in a criminal case, the main will not have to wait for pending before the Court (Section 419 and Section 420), but with the following exceptions.

A) Court order relating to the detention. The provisional release by the insurance extended. And return of property seized.

B) For the case that the law determine that can appeal immediately (Immediate kokoku appeal), for example.

- Court orders that are not except appeal under Section 375.
- Appeals court orders which does not except appeal under Section 385.
- Appeals court orders which does not except appeal under Section 386.
- The order of the Court of Appeal which does not except the case under Section 402.

The law requires that once the pending appeal. Be appealed within three days from the date of the court (Section 422) The appeal is not limited to the prosecutor or the defendant. But others who are affected by the order, they can appeal (Section 352) of the pending appeal shall be made in writing to the court's order. The appeals court agreed that there is no reason to correct the errors in the instructions. But that all or part of the appeal, no reason to appeal, together with comments in writing to the Court of the above within three days from the date of receipt of the appeal (Section 423) may appeal the order between The result is a stay of enforcement of such order is a court order or the Court of Appeals may issue an order to suspend enforcement of the order until the appeal is completed (Section 424), but if Case law requires that immediate appeal would have the effect of abatement of the period required by law to appeal and the time after that (Section 425) Moreover, if there's a reason that appears in Section 405 who have been affected. from the order may appeal such order to the Supreme Court within five days from the date of the court (Section 433) if the Court of Appeal that the appeal of the view that the appeal is contrary to law or unreasonable. I was able to appeal an order to dismiss the appeal, but if there's a reason that it would appeal the order to cancel the order and, if necessary, may order a new one (section 426) the order of the Court of Appeals pending a possible appeal (Section 427 of the ban by the Supreme Court's order pending an appeal unless there is an exception (Section 428)

2) An appeal in civil cases.

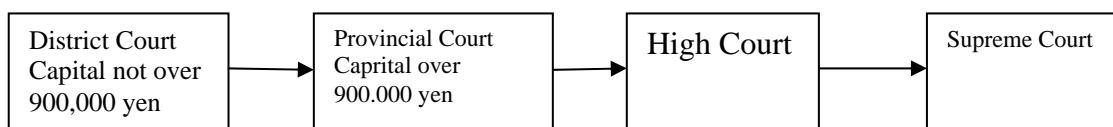
1. Appeals (Koso appeal).

A) type of appeal. The losing party may appeal to the Court of First Instance, which is higher than that having jurisdiction over that case. The appeal verdict of the Court (district court) must be filed with the Supreme Court. Judgement of the Court of Appeal (Summary court) filed with the Court. The Supreme Court or Court shall have jurisdiction in the appeal, it depends on the location of the Court of First Instance. Lord of the judges of the Court of Appeals consists of three judges who shall be in writing and must clearly identify the parties and the ruling on the dispute. The purpose of the appeal of the device. The Court must be filed with fee within 2 weeks from the date of the appellant's sentence. If the appellant does not fully comply with the above conditions may be cause for appeal. In contrast, the appellant must

show the reason for the decision on appeal. But they must file a statement of why the Court within 550 days after the verdict, the court was informed that Appeals to appeal. The reason for the appeal, not only errors of law in the decision to deploy only However, the errors in the facts with Because there is no other reason. The appeal is clearly in the Code of Civil Procedure and the Court of Appeals is still a court has been hearing. The defendant's appeal, the appeal must be filed within the time prescribed by court order.

B) Trial, the Court of Appeal. Proceedings in the Court of Appeal, as the proceedings continued from court proceedings in the Court of First Instance, however, be relevant to the issues disputed by the parties attempted to present claims and evidence relevant to that dispute. The proceedings of the Court of Appeal will mainly focus on the scope of what the appellant claims that the appeal should be raised or re-sentence the Court. The parties may offer evidence to support claims or as necessary. Court proceedings may be set to modify the issues and evidence in the case of system calls are used as normal. And additional evidence if necessary.

C) Judgment of the Court of Appeals. After completion of the proceedings. Appeals court ruling will have. After the court has considered the facts and Legislation or court ruling that would do justice to dismiss the appeal case in civil court judge returned the verdict. The court may refer the case to the Court or the Court to do so. Own decision for that reason that discovery of new facts.



**Chart 2.7 Step of Appealing in Civil Case**

2) Appeal pending (Kakoku appeal).

In the trial court. The trial court or judge may have ruled on the petition. Application and information statement. Submitted during the consideration of the decision in a statement. Order between these considerations need to be able to appeal it. The commands that are important to the Code of Civil Procedure would permit the appeal. This is called an appeal. The appeal against the order pending the appeal

proceedings in the pending proceedings in the Court of Appeal will be used, mutatis mutandis. Order during consideration of the Court as the Court of Appeal. May be appealed to the Supreme Court reasons that such orders violate the Constitution or in court proceedings under a legal error in any order. This is called an appeal pending, once again, or a court order between the (Re kokoku appeal) in the opposite order during consideration of the Supreme Court as the Court of Appeal may be appealed to the Supreme Court as well. The reason for the violation of such order. Constitution or statement is relevant to key issues in the interpretation of the law. In this case, the Supreme Court agreed with the need to appeal to them. In the first case, called an appeal pending in the special case of (Special kokoku appeal), but in the latter case, called an appeal pending with the consent (kikoku appeal with the Permission) an appeal pending in this particular case, including the appeal of the Court or District Court of Appeal, which is usually not as well. The proceedings will be given for the court proceedings shall apply mutatis mutandis (<http://www.courts.go.jp>).

#### **2.8.4 Singapore**

Singapore is the part of the country in South East Asia which is the colony of Commonwealth. It mean that the legal system in Singapore influenced by Common law system.

##### **The Structure of the Court in Singapore**

The Court of justice in Singapore covered by Constitution has two type

**1.Subordinate court** established by Subordinate court Act and it can be separate by the duty of the court. There are

**The district Court** has jurisdiction over criminal cases that the punishment to be imprison not over 10 year and over the civil cases that the capital not over 250,000 dollar Singapore.

**The Magistrate Court** has jurisdiction over the criminal cases that the punishment to be imprison not over 3 year and over the civil cases that the capital not over 3,000 dollar Singapore.

**The Juvenile Court** has jurisdiction over the case the defendants is the children not over 14 year old and the juvenile over 14 year old but not over 16 year old.

**The Coroner's Court** has jurisdiction over that case that involve unnatural death, the death derive from battering or the death that unknown cause.

**The Small Claims Tribunal** has jurisdiction over the cases that derive from dispute of contract, sale and service which is the capital not over 10,000 dollar Singapore. The small claims tribunal differ from The Magistrate Court about the hearing the evident. The procedure of hearing the evident of The Small Claim Tribunal is not complicate. It use the method same as the procedure in arbitration of smack claim in England.

**2. The Supreme Courts** the structure of the supreme court in Singapore consist of 2 part

**The High Court** has two positions. First it act as the first instance court to do over the civil case that has the capital over 250,000 dollar Singapore and the criminal cases that the punishment is to be imprison over 10 year. Second it act as the Appeal Court which has jurisdiction over the cases appeal from Subordinate Courts. It also has the power to control the all Subordinate court and summon the writ or the court order.

**The Court of Appeal** has jurisdiction over the cases that appeal the civil cases and criminal cases from the High Court. It is the highest Court in Singapore.

The process to bring the cases to High Court

1. The appeal is right and discretion. Generally the litigant in the law suit of criminal or civil cases has right to appeal when they do not agree with judgments. The appeal can not happen in every cases because it will cause a bun of number the cases in the High Court so that it is not suitable for the party because the fact and the problem in some case is ended at the Subordinate Court. It will bring the justice delay or the party will use the way to postpone the execution from judgment. The law of appeal will give right to the court to decide which cases can be hear and make the judgment

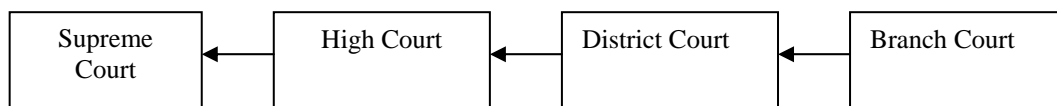
2. The appeal in civil and criminal cases in Singapore has to look both in the High Court and The Court of Appeal

The appeal in civil cases, the High Court has the power over the case that appeal from District Court, Magistrate Court and the Other Tribunals.

The capital of dispute that can appeal to the High Court must over 5,000 Dollar Singapore. If the capital is not over 5,000 Dollar Singapore the party must grant the permission from the High Court. For the cases that want to appeal the High Court decision if the capital is not over 30,000 Dollar Singapore the party must grant the permission from the High Court or the Court of Appeal and then the party can appeal their cases to the Appeal Court.

The appeal in criminal cases , if the District Court or the Magistrate Court has sentence to be punishment the defendant the defendant can appeal the judgment to the High Court. In the case that the High Court sustain the judgment the defendant can appeal the case only the legal issue which useful to the public for the permission of appeal to the Court of appeal. For the case that begin at the High Court it can be appeal by the law to the Court of Appeal.(Supreme Court Singapore, Supreme court Singapore, The reorganization of 1990s, spectrum press Pte Ltd, 1994)

### 2.8.5 South Korea



**Chart 2.8 The structure of judicial system of Korea**

There are six types of courts in Korea, which are the Supreme Court, High Court, District Court, Patent Court, Family Court, and Administrative Court. The Korean judicial system is based on the three instance trial system, which is composed of district courts, the high courts and the Supreme Court. Other courts exercise specialized functions with the Patent Court positioned on the same level as the high courts and the family court and the administrative court positioned on the same level as the district courts.

The Supreme Court is comprised of 14 Justices, including the Chief Justice. As the court of last resort, the Supreme Court hears appeals from judgments or rulings rendered by the High Courts, the Patent Court, and the appellate panels of the District Courts or the Family Court in civil, criminal, administrative, patent and domestic relations cases. Under special circumstances, the Supreme Court hears exceptional appeals from the first trial judgments. The jurisdiction of the Supreme

Court is exercised at the Grand Bench or the Petty Bench. The grand bench is convened with more than two-thirds of all the Justices with the Chief Justice presiding. A Petty bench is convened with four Justices.

The High Court consists of a chief judge and other judges. Currently, the high courts are located in five major cities of Korea - Seoul, Busan, Daegu, Gwangju and Daejeon. In each high court, there is an administration bureau for internal management and supervision of court officials. High courts hear appeals from judgments or rulings rendered either by a panel of three judges of the district courts or the family court, or by the administrative court. High courts also hear appeals from judgments or rulings in civil cases rendered by a single judge of the district courts or branch courts when the amount in controversy exceeds 50 million Korean won (approximately US\$53,902.00 as of June 2007). The jurisdiction of high courts is exercised by a panel of three judges

Each district court consists of a chief judge and a certain number of judges. Currently, there are 18 district courts throughout the nation. In each district court, there is an administration bureau to handle administrative affairs. Branch court(s), family branch court(s), and/or municipal court(s) may be established under the district court.

The district courts or branch courts retain original jurisdiction over civil and criminal cases. In general, a single judge presides over a trial whereas a panel of three judges is required to sit for cases deemed of greater importance, falling under the following:

#### **Civil cases**

Cases involving a controversial amount exceeding 100 million Korean won (approximately US\$ 107,875.00 as of June 2007) or incalculable amounts. There is an exception for cases involving the claim for payment of checks or bills, or the claim for repayment of loans, which are presided over by a single judge regardless of the amount in controversy.

#### **Criminal cases**

Sentences of death penalty, life imprisonment, or imprisonment for a minimum of one year. There is also an exception for cases such as check

counterfeiting, habitual use of violence, habitual larceny, etc. which are presided over by a single judge although they fall under the above mentioned penalties.

In addition, the district courts have jurisdiction over appeals from the judgments or rulings rendered by a single judge of the district courts, branch courts, or municipal courts, except for those which fall under the jurisdiction of the high courts. This appellate jurisdiction is exercised by a panel of three judges, which is called an appellate panel and different from a trial panel of three judges. The municipal courts exercise original jurisdiction over minor cases. Currently, there are 101 municipal courts across the nation. The municipal courts have jurisdiction over small claim cases in which the amount disputed does not exceed 20 million Korean won (approximately US\$ 21,561.00 as of June 2007) and misdemeanor cases in which the courts may impose penal detention for less than 30 days or a fine not exceeding 200,000 Korean won (approximately US\$ 205.00 as of June 2007).

### **Civil Procedure**

A small claim case is the case in which the plaintiff claims payment of money, fungibles, or securities not exceeding 20 million Korean won (approximately US\$ 20,522.00 as of May 2008). A district court, a branch court, and a municipal court take charge of small claim suits, which amount to over 70 percent of all civil suits. The trial for a small claim adopts various procedures to expedite the resolution of the cases. Here are some examples: When a complaint is filed and there seems no real dispute between the plaintiff and the defendant, the court may render a decision urging the defendant to discharge his/her obligation without asking the reaction of the defendant (a dissatisfied defendant may raise an objection). Some persons in intimate family relations with the parties may represent the parties without court's permission. Evidence may easily be taken. The reasons need not be stated in the judgment. The judgment may be rendered on the same day just after hearings are closed. The grounds for final appeal are strictly limited. The trial proceedings on a small claim, which feature expeditious and convenient processes for resolving disputes, contribute to the protection of the rights of the public. Only about two percent of the judgments rendered by the trial courts on small claim cases are appealed.

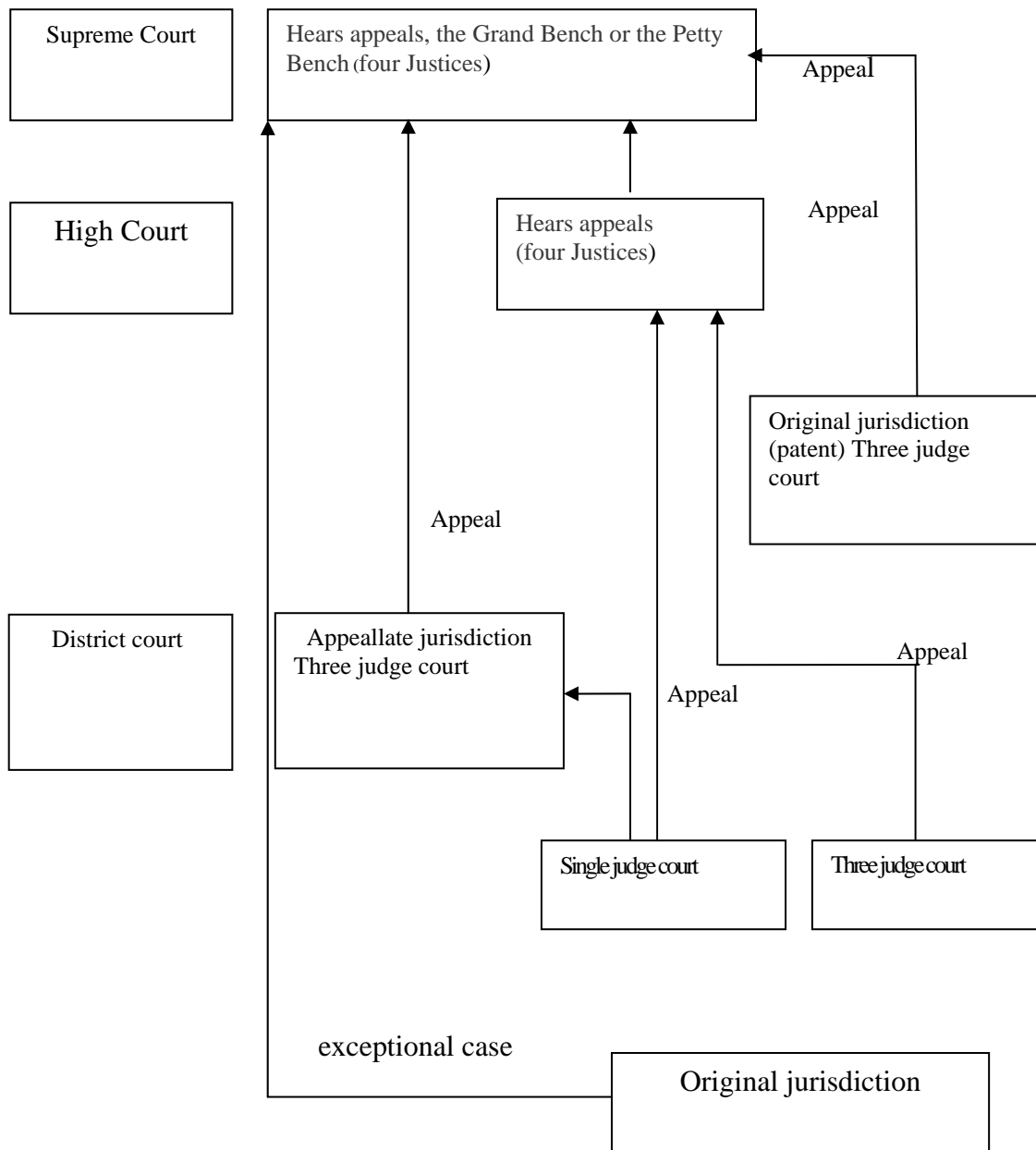
### **Appeal procedure**

The losing party who is dissatisfied with the findings of facts or conclusions of law by the trial court can appeal the judgment rendered by the trial court within two weeks from the date the judgment is served. In general, the high courts hear appeals with the exception that the appellate panels of the district courts hear appeals when the amount in controversy does not exceed 50 million Korean won (approximately US\$ 51,305.00 as of May 2008). The appeal proceedings are similar to the trial proceedings, and the party is granted an opportunity to make new allegations and to produce new evidence.

### **Criminal Procedure**

The judge of a district court, a branch court, or a municipal court may impose a fine not exceeding 200,000 Korean won (approximately US\$ 216.00 as of June 2007) or penal detention for less than 30 days under summary trial proceedings in misdemeanor cases such as violation of Road Traffic Act, a Punishment of Minor Offenses Act, etc. The chief of the competent police station, not the public prosecutor, is entitled to bring a case before the judge under summary trial proceedings. If the judge deems that the case is inadequate for summary trial proceedings, he/she is to dismiss the case. After the dismissal, the chief of the police station needs to take the case to the District Public Prosecutor's Office without delay. Either the accused or the chief of the police station, if dissatisfied with the judgment, may apply for regular trial proceedings within seven days from the date the judgment is rendered. When judgment under summary trial proceedings becomes final and conclusive, it has the same effect as the final and conclusive judgment under regular trial proceedings.

Not only the accused but also the public prosecutor can bring an appeal against the judgment rendered by the trial court within seven days from the date the judgment is rendered. There is little difference between the appeal and trial proceedings. In case an appeal has been lodged by the accused, the punishment cannot be severer than the original judgment. Appeals against the judgment of court of appeals may be filed with the Supreme Court within seven days from the date the judgment is rendered. Appeal to the Supreme Court must contain one or more of the grounds specifically prescribed in the Criminal Procedure Act.



**Chart 2.9 Appellate process in Korea**

## 2.9 System structure in the Court of Justice of Thailand.

### 2.9.1 The court reform in Rama 5 era

From the Court in the early Rattanakosin era with many firms move on the Court, according to the Department makes it necessary to place a new management both in court and in the settlement. King Chulalongkorn began publishing King named

Ministry of justice. On 25 March 2008, February. 110 (B.E. 2434) There is a reason by Royal Declaration(กระทรวงยุติธรรม,100ปีกระทรวงยุติธรรม หน้า26)

“ Our lawsuit today representatives of which are related to each other in court, altogether more every day because they rely on representatives of citizens are trade related agreement connected to each other more. The Court will consider the case of the representatives of the completely separate laikrathonwong judge determined it is in a different. Judge forces the casting decisions, based on deployment did not get, but even in the case of paper books. Do not agree with any it is considering the ocular box plot to corrupt of tralakan and dual. Even the least and it was that persuaded delay to slow as possible. The case therefore representatives of piled over the questions according to the Ministry of the courthouse more every day than it already has an individual subject, as long time earning of parliamentary. Have hardships this hugely ”

In this post, so 1, Ministry of Justice as Chief Minister is to regulate and correct the crash in the case and is responsible for judging and considering possible and Justice Department is separate from the verdict, and considering the case.

In 2 of the publish location, Ministry of Justice has determined that those cases, all considered in the Court according to the Ministry of the Civil Court of the municipal court is kasem. Central Civil Court Court Department Wang In addition to criminal court The Court of appeal of the Department of the Interior. Court Department of the Navy Court Central! Navy Court left Navy Court right Foreign court Royal Court family heritage Court Revenue court Thamkan Court, Supreme Court, by a court with the court party 16 Palace is the best in Bangkok and is providing the Director General, as well as those in tralakan judge of all courts, except it is included in the Court of Justice locations up to this large Ministry superiors as once.

In 3 is that the whole Court hearing came originally these too deserve to have separate cutting waste are together, but still have i 7 court .

1. The Supreme Court, called the appeal court case.
2. The Court of appeal of the Interior, called the appeal hearing of representatives of

3. The municipal courts with criminal court also referred to the Court of criminal.

4. Civil Court kasem Court Department Wang Court Department na combined civil court called civil kasem

5. The Central Criminal Court. Navy Federal Court. Navy Court left Navy Court right Thamkan Court and Court of the family together is called a central civil court.

6. The revenue court. Heritage Court Together called the revenue court.

7. The International Court

In 5 Department of receive case is part of the Ministry of Justice . For legal and parliamentary stories to stamp a stamp to indicate to the 7 Court according to the case of civil litigation or criminal, no a special stamp of people as it is, but old and not representatives of the anthodia filed story to Director General of the Ministry and other government officials unless a grievance or complaint with a story of itself.

In 6 has defined the following as the Supreme Court was changed to appeal the court case for hearing appeal and powers as ordinary appeal. Therefore, Portion of the following Court of appeals, third mind and appeals, but only the accusation of all Secretary of State officials. This type of genuine difficulties as the maximum receive Royal judge in the case and may set of Privy Councilor pays to interrogate or essay is a Toolbox of special offerings, or may, where Minister meeting consultant decision matter. An interesting note is that appeals of this type are independent of the Ministry of Justice.

In Rama 111era (B.E.2435) have statutes, administrative court into court of Justice on other Act,

(1) cancels the appeal cases in the capital, but the appeal court in which the total consideration in the appeal hearing of representatives of and, if the appeal from this Court, Court of appeals of third-party offerings.

(2) penalty imposed by court location, another special court. To help the Court of criminal lawsuit settled criminal cases pending or to be in court, both fall.

(3) Cancel Department receive legal Representatives of people with anthodia, to inform the Court directly, an employee ownership Court is to prosecute every court.

In Rama 114 era (B.E.2438) have declared cancellation penalty imposed by the Court, are included in the Special Court is a criminal of the same national. Called the Royal Court for criminal and civil court, which is to be divided into two courts as one court.

Only the courts of the Palace include affiliated with Ministry of Justice publishes when Rama 110 era then Rama114 era reestablished by Royal Rescript by King Rama 6 post June 8,Rama 114 era. Department of Wang powers superiors decide lawsuit regarding people in look and Royal Palace. Later, this limit the powers that

(1) The defendant is a settlement that prohibited people from Royal base.

(2) The cause happen in the Palace

In 1926 it has cancelled Department is a Department of the Court Palace.

The Court is part of the Ministry of Justice for the Court in Bangkok. The Court in the city are not affiliated with the Ministry of Justice Advocate General Court cities. Court in the cities is part of the Ministry of Interior and the municipal. Subsequent to organize Government in Bangkok into a well, in Rama 115 era began handling court cities to collect court cities become affiliated with the Ministry of Justice. By Bill statutes give special Governor was handling charges Court Justice cities altogether. Governor special powers page visit shrine cities and surveillance tasks. Managing Editor of court cities, as it is required by the Constitution Court cities. Governor has official court effect achieved throughout the Kingdom until the job continue to successfully. All necessary settings to extra high Therefore, in B.E. 2458, it canceled this position and appoint Governor of justice, instead, it has power consider judging civil and criminal enforcement anthodia and surveillance, Government and Court and guide the judge at all provinces.

It was the judge advocate General Court of Justice, February 20, 127 Act up. Advocate this approach to Court of justice the Court into three separate departments:

(1) Supreme Court responsible for his Majesty

(2) The Court of Justice, Bangkok

(3) The Court cities

The last 2 Court is in the Ministry of Justice.

In Rama 131 era (B.E. 2455) have announced Government Ministry of Justice organized in March 3, Rama 131 era, put the Supreme Court included in the Ministry of justice. The Court based in the Ministry of Justice is currently divided into 2 departments (ฐิติมา กุ่สาร , (2547) หน้า25)

(1) the Court of Justice, Bangkok:

- 1) Supreme Court (which is the highest grade appeal)
- 2) the Court of appeal (which is the first appeal)
- 3) Royal Court Criminal
4. Civil Court (which is the highest court Elementary)
- 5) Foreign court and the court case (which is the highest court Elementary)
- 6) Court police (which are low-floor Court and a court to interrogate).

(2) Court cities divided into 3 layers.

- 1) Territory Court
- 2.) City court
- 3) Municipal Court

In B.E.2460 has adopted a prisoner under court advocate, 2460, court security prisoner of increased Court Justice Court one as Minister of court powers throughout the Kingdom received superiors every case hold a prisoner, but this Court securities are considered to have a war occurs and when it deems this Court will sit to consider when publishing are commands, set the annual judge and court actions by the Constitution Court.

In B.E.2478 there was the judge advocate General Court of Justice of all. Act confirms that the Court of Justice and by the Constitution court, is in the Ministry of Justice. In addition, divide tasks to facilitate justice is 2 parts is the Administration and considered the case given by the Minister of Justice is responsible for the administration of all courts in the Member, by successfully. But to continue to consider cases, gross throughout to a command or legal Fiat, is forbidden, in the judgment of the Court, especially. In the current Court is an independent organization according to the Constitution since it was court B.E. 2540 separate from the Ministry of Justice and the Court of justice offices as administrative tasks of the Administrative Court (กระทรวงยุติธรรม,100ปี กระทรวงยุติธรรม,หน้า 26)

### **2.9.2 Classifications of Court of Justice**

From the Court Constitution B.E. 2543 section 1 divides the hierarchy of the Court of justice into three classes: (1) the First instance Court (2) the Court of appeal, and (3) the Supreme Court, but there are exceptions that unless the law otherwise, which is consistent with the Constitution of the Kingdom of Thailand. Buddhist 2550 section 219, Court of Justice has three layers of it unless the provisions specified in the Constitution or other legal means and therefore may have changed the number of layers of courts by the Constitution or other laws in this Act, the Court of Justice is less or more than three layers. But currently there is no.

Breaking the order of the Court into three classes, there are 2 purposes:

1. Case has been investigation by several Court carefully. The court below made errors, the highest court can make the corrections.
2. To counterbalance to lower court cases, they knew that the decision is up to the High Court's consideration would decide with prudence.

Normally, when a court judging the case, the party who is not satisfied may appeal against the Court of appeal to consider the appeal verdict once again. When the appeal verdict, it may be filed following to the Supreme Court. When the Supreme Court verdict it is the supreme jurisdiction. Party cannot appeal in this every matter. Some cases may be prohibited on appeal. Some may be prohibited appeals this legal way that civil law rules on the appeal or the Court of appeals.

The First Instance Court is a first court that is authorized to consider verdict in a lawsuit (Original Jurisdiction), the Court would have jurisdiction to prosecute and to consider any case verdict must satisfy the Civil Procedure Act. The plaintiff must submit pleadings with the Court over the case and the Court authorized to consider his case by case (Civil Procedure section 2)

The Court Constitution section 2 determine Court with 9 category: (1) civil court (2) Bangkok South Civil Court (3) Civil Thonburi court (4) Criminal Court (5) Bangkok South Criminal Court (6) Criminal Thonburi Court (7) Provincial court (8) Kweang Court and (9) the Court of Justice of other statutes establish the Court. Court 1 to 8 are the Court in accordance with the Constitution-Court of Justice.

The Court of 9 categories must have statutes, established the Court, a court in accordance with the Constitution Court of Justice, which currently has 5 Court is the Court of special expertise.

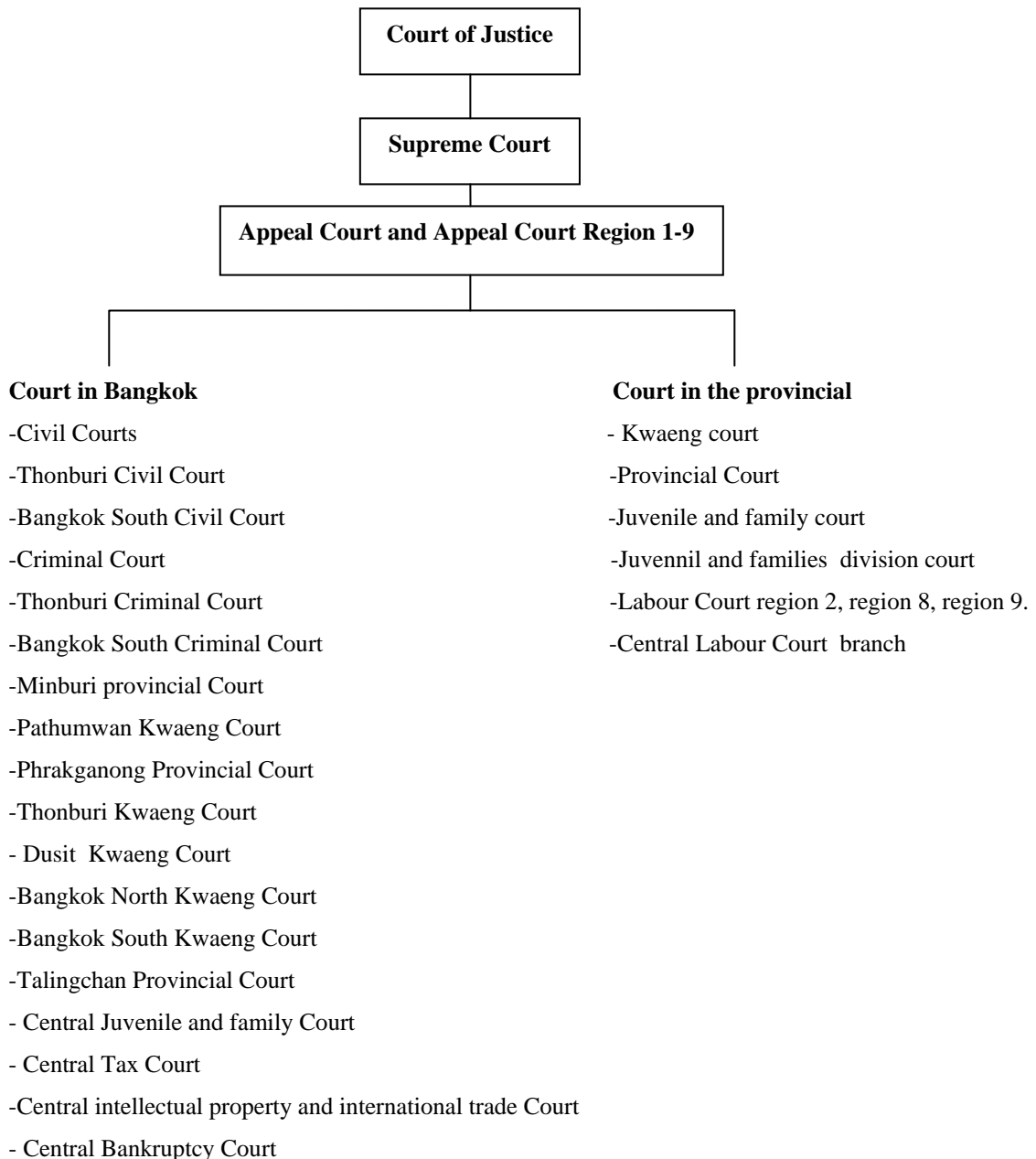
In province the courts have Provincial Court, Kweang Court and The juvenile and family provincial court. Typically, at least Provincial Court establish in one province . The Kweang Court and juvenile and family court will have in some province, such as a court in Samut songkhram, only one court. Tak has the Tak Court Court and the province Nakhon phanom has provincial court and juvenile and family court. the province Songkhla has province Songkhla. Songkhla Court and juvenile and family court. They plan in open court, youth and families in every province in the year B.E. 2551 or 2552

The Court of Appeals have 10 places. There is the Court of Appeal and Court of Appeal Region Region 1 and 9. Court of Appeal is located in Bangkok. Today the Court of Appeal Region plans to relocate from Bangkok to the region. The Court of Appeal Region move to Nakhon Ratchasima. The Court of Appeal Region4 will move on October 2554 at KhonKaen . The Court of Appeal Region 6 will move to Nakhon Sawan on April 2554. The Court of Appeal Region 7 will move to Nakhon Pathom on October 2555. The Court of Appeal Region 8 will move to Phuket on. April 2554. The Court of Appeal Region 9 will move to, Songkhla around April 2557. The Court of Appeal Region 2 is located in Rayong Province. The Court of Appeal Region 5 is located in Chiang Mai already.

Typically, an appeal hearing the appeal from the court cases, both civil and criminal cases, but completely subject to appeal to the Court of appeal? To enforce the law How the Civil Rights Act to appeal particularly The criminal penalty rate regardless of the maximum according to the law or pardon to true and the civil case, regardless of the financial dispute. Asset or a case with no financial but human condition of rights or rights in the family. Law, appeal on the facts.

Supreme Court, which is the highest court there is a single court located in Bangkok. Have jurisdiction throughout the Kingdom. Usually receive consideration over the verdict lawsuit verdict of the Court of appeal followed the steps but there may be some cases where the law specifically to appeal Supreme Court directly without going through the Court of appeal: cases, labour. Tax litigation and intellectual property litigation and international trade, as well as the General case that appeal only

legal. Users may also request permission on appeal, the Court of appeal to the Supreme Court directly. This is based on statute, how civil section 223 two disciplines (law, University of Sukhothai good Thi Kingdom. Teaching document management technical series justice. (2007)Organization of the Court of Justice will follow the map below.



**Chart 2.10 Court system in Thailand**

There are the Act raises the Dusit Kwaeng Court, Taling ChanKwaeng Court, Pathumwan Kwaeng Court and Phrakganon Kwaeng Court to be the Provincial

Court. The Act 2548 was announced on January 20, 2549 and will be opened to the decree issued by the Court was inaugurated, From now on only two court was open which are Talingchan Provincial Court and Phrakganong Provincial Court.

When considering the legal system in Thailand in the reign of the five that were originally in, we have established and the court system, the Court of the minimum and the Court of advanced and later discarded by the Statute of the Court, no court order. and minimum of court anymore. As a result of the court system, particularly in the case of appeals from the district court of the international legal system can be seen that most cases are appeals from the District Court to the Court that has jurisdiction. appeal Or court order, or in the case of a combination of appeal to a higher court. The Supreme Court case, if the system of appeal to the Court that the trial is higher than the district court was in Thailand, it must consider the guidelines were contained in the legal system, Common Law, and the Williamsburg Inn. This structure is appropriate for consideration next. Such a structure may need to consider the amount of financial penalty in the case until the judge's body structure that will appeal to the Court of Appeal which will require further studies to

### **2.9.3 Comparison the Appeal system in District Court between Common law and Civil Law**

The legal system of the Common Law of England is a country that is regarded as a template in the case of the district court of appeal. In Systems William Lawrence, if it is considered in France as a template of the laws of the United Civil Law is used as will be seen from a French law that took part in the draft. Civil and Criminal Procedure Code in the country. The Common Law legal system, especially in England, the appeal of the district court in civil and criminal cases, the separation pattern of the appeal. Systems in Civil Law of France is undivided all whether the case will be appealed to civil and criminal appeals. The method invocation of the common law will be how to separate due regard to the nature of the case is important. The foregoing is in the early stages. For the laws of the United Civil Law in some countries have a common law legal system used in the appeal of the district court as well. Such as Japan and South Korea. The appeal will be considered by taking into account the nature of the case is important so that appropriate action will result in the Hynix trial

as quickly as the distribution of cases to appeal to a court of competent jurisdiction. appropriate to consider the various cases that have to appeal not only to the Court of Appeal, but only one to have jurisdiction.

## **2.10 The differences of appeal cases from the Court and the Court of appeal to appeal the case to the Provincial court.**

The differences of the appeal court case to appeal to the Court of Justice on appeal to the Court, the only difference is in the Court shall have jurisdiction to consider the verdict and the judge considered. The steps how to appeal it can operate as a legal method of civil and legal way to consider the appeal in criminal cases and appeals.

Judicial District Court on appeal from the Court. Court ruled that a court of competent jurisdiction, it should be considered as a court of competent jurisdiction and district court judges, including Court cases higher than in other provinces or in the case of a district court in Bangkok, it will include a Civil Court. Southern Bangkok Criminal Court. Southern Bangkok Criminal Court. Thonburi Thonburi Civil Court and Criminal Court or the jurisdiction of the district court that the male judge to consider an appeal from a district court in the District Court. At this point, the level of the judges of the Court has on several levels, according to the class and the salary will be based on age, the judge in the District Court and a Judge of the Court all of the approximately 3069 people will be the judge. District Court and the Senior High in the Level 3 salary for two, about 1650 people, which the judges of those will last not less than 10 years, including the judge, the Court is prepared to take up the appeal with In the current age of the judges of the Court of First Instance is longer when compared to the magistrate court in the past because growth in the retirement age from 60 years to 70 years of age in the District Court. The judge is long even if it is comparable to the salary of judges of the Court, it will be a lot more work. Compared to the past now. Age of judges of lower courts to adjudicate a case. Salary equivalent to the Appeal Court judges in the past. For the sake of knowledge in the trial judge, Court of Appeal judges who are very active in the past it has sufficient ability to adjudicate the appeal. The same judge, Court of Appeal in the past. Currently, the Office of Justice had the

idea that a judge District Court that the position of Chief Justice to help the government in office, the Director General of the between to the case of the Court demonstrates the potential of the Justice Court that or senior high age are able to perform the inspection or review of any case to be made to the Office of the Director-General of Court Region.

For the consideration of the potential Court judges at the appeal hearing, and hearing statistics 2552 (2009) the Court were to consider the number of 1245992 the case the case remains pending in 2553 (2010). 178760 case is percent 14.34 percent of the cases into consideration in the year 2009 for appeal in the case that 2552 (2009) into consideration 107084 case were pending consideration in 2553 (2010). 47553 case 44.4 of the case to determine the 2552 (2009) seeing what judge court, the potential for verdict. That Court has jurisdiction to consider an appeal from the Court. It is the burden of this appeal in accordance with the objectives of the Court established by the Act in the statutes to establish Court and civil criminal in court 2499 (1956) that is intended to set up a court to consider the case judging cases faster and to protecting the rights of citizens. Both in statutes that it had identified more in the case of the Court should have considered the special criminal. In addition, the Court of Justice if it considers, by statute, the civil way would be to consider the procedure in the Court in a way that some other way determine 2 lawsuit extraordinary category 1 method for manosare which is the procedure considered different from simple consideration of the open court and general processes considered a fast but less court fee in the General case with manosare is different. It will see that intention, the Court set up to process duplicates and prosecution quickly and separately from the ordinary lawsuit pending in another court has also set up a separate court case from the ordinary General. Seen from the provisions in section 109 four legal methods a civil provision that in case manosare, the plaintiff paid litigate in court only with the court fee charged in a lawsuit in court with a request to liberation and suffering cannot be calculated as the price. Setting up the Court in appeal or appeals, they withdraw or Supreme waste of funds or financial assets price dispute in appeal or appeals, but if these provisions illustrate an special case considered by the Court, who must exercise the Court's ability to process quickly and fairly accurate depending on the case.

Considering the case on appeal, the Court in an appeal to the Court that there are differences about management budget because the judge in the Court of appeal court judges that these salary differences. By the judge of appeal with a higher salary step. If the quantity is added to a judge of the Court of appeal, it will surely make adding budget expenditure on the salaries of personnel. This currently. To the Court that an attempt was made to continue the process to consider multiple formats to reduce the process or the number of cases based on High Court. Both in its civil lawsuit, or a witness in the hearing process in the criminal case is harmony. Therefore, if there are more potential of judge in the Court covered in considering cases on appeal from the Court can reduce the quantity of cases based on appeal both to help benefit the pair to complete the process by considering how quickly. It also saves the budget to increase the rate of the judge in the High Court including budget savings in the teaching aids premises with prior needed to expand the size of the Court of appeal, in addition to the currently. Both the Court and the quantity of the judges, including the premises can be managed.

For appeal to the Court of appeal. Currently will need to consider the process of appeal collectively consider appeal from other courts in the jurisdiction of the Court of appeal or the Court of appeal, the Government, but if that appeal is not a process to extract that give up to appeal the case to court-based. Provincial court or other courts, but cases in any way to sort by the order of the cases that come to the Court of appeal, and if considered the case on appeal from the Court or the Court, he will surely burden of appeal as well as saving time and expense of moving the case and consider it processes by more quickly. Therefore, the Court of appeal in this case, the role of the Court, it may be a court hearing if the final appeal through the Court laeonok will appeal to the Court of appeal to consider once again, it could be the last. By the end, but this is not only to reach the Supreme Court. In addition, determined by the provisions of the Constitution. See that right to consider the case of the still existing, such as the original does not differ much and is supported by the Constitution to give the black bird routes and t consider it by very fast.

From a review of all literature listed above when considered together as all can see that in this research the frame concept derived from the issue of considering a lawsuit that delay in appeal that the review of the literature to see that justice is properly should not be delayed. By developing an update of the case on appeal, we can fast the way of justice to the people.

**Table 2.1 Comparison of the appeal of the district (Kwaeng) court in each country in a criminal case.**

Country \ Criteria	Criteria of appeal	Court to Consider
England (Magistrate Court)	<p>1. The defendant was sentenced to punishment and did not confess to the appeal of the conviction and / or sentence if the defendant confessed to the appeal, but the ruling.</p> <p>2. The appeal on errors of law or jurisdiction over the limit.</p>	<p>1. Crown Court to consider all the witnesses will be called to the Lord a new board of 4-5 people.</p> <p>2. Queen 's Bench (High Court Division of Justice). Queen's Bench, it will appeal to the Crown Court in that country.</p>
U.S.A. (Magistrate Court)	The right to appeal under the facts and the law.	General Court may be called in each state, such as Superior Court or Circuit Court.
Germany (Amtsgericht Court)	The appeal of both fact and law and the parties have proposed claim and new evidence	Provincial Court (Landgericht or The Regional Court)
Japan Summary Court	The appeal of both fact and law and order. The command is pending on appeal unless the judge is required by law to appeal immediately	Provincial Court( District Court) three judge court
Singapore Magistrate Court	The appeal of both fact and law.	High Court
South Korea Branch Court (one Judge court)	Appeal judgments in both fact and law.	Provincial court

**Table 2.2 Comparison of the appeal of the district (Kwaeng) court in each country in a civil case**

Country	Criteria of appeal	Court to Consider
England Magistrate Court	The appeal of both fact and law.	Crown Court consider the last
USA.	The appeal of both fact and law.	General Court may be called in each state, such as Superior Court or Circuit Court.
Germany The Local Court or Amtsgericht	Appeal to both the facts and the law have claimed up to 600 euros	Provincial Court (Landgericht)
France Tribunaux d'instance	Both facts and law by an appeal court to consider the appeal must be claimed at least 13,000 francs to fund the legislation, although it may appeal to the Supreme Court directly	Appeal Court
Japan Summary Court	Appeal to both the facts and the law	Provincial Court( District Court) three judge court
Singapore Magistrate Court	Appeal has claimed more than \$ 5,000 Singapore if less than that you get permission from the Supreme Court. The appeal of both fact and law.	High Court
South Korea Branch Court	The appeal of both fact and law and the parties can bring out new evidence or further proceedings	Provincial Court

## **CHAPTER III**

### **METHODOLOGY**

The research aims to study the matter. What is the attitude of lawyers to appeal the case to the District Court by appeal to the Court. The study was conducted to collect quantitative data from the sample. The research methodology: (1) Population and sample research (2) equipment used in research (3) data collection and (4) data analysis.

#### **3.1 Population and sample size**

**3.1.1 Population of the research** is individuals related the Appeal process, including judges, prosecutors, and lawyers. Of 64,269 individuals, there are 4,305 judges (Courts of Justice 2010, 1 April), 3,105 prosecutors (Attorney General Office 2010, 1 October), and 56,859 lawyers (Lawyers Council of Thailand Under Royal Patronage 2009, 15 October).

**3.1.2 Sample size of this research** is referred to the calculating method of Taro Yamane at the confident level of 95%. According to the population of the study, there are 397 samples. However, by employing purposive and quota sampling, the total sample size of this research is 406 persons. This includes 150 judges, 100 prosecutors, and 150 lawyers with the following distributions:

1) The judge group was selected from 56 chief judges and 249 judges working in South Bangkok Civil Court, South Bangkok Criminal Court, Dusit District Court, Pathumwan District Court, South Bangkok District Court, Thonburi Civil Court, Thonburi Criminal Court, Talingchan Provincial Court, and Thonburi District Court. The samples were composed of all 56 head judges of group and selected 100 judges as follows:

- 14 judges of South Bangkok Civil Court were systematically selected in every third name from the total list.

- All 16 judges of South Bangkok Criminal Court were included.

- All four judges of Pathumwan District Court were selected.

- All 10 judges of Dusit District Court were included.

- Six of 21 judges of South Bangkok District Court were systematically selected in every third name from the total list.

- Six of 38 judges of Thonburi Civil Court were systematically selected in every third name from the total list.

- Six of 33 judges of Thonburi Criminal Court were systematically selected in every third name from the total list.

- Six of 33 judges of Talingchan Provincial Court were systematically selected in every third name from the total list.

- All 15 judges of Thonburi District Court were included.

2) The prosecutor group is consisted of 100 persons. The researcher employed convenience sampling to obtain the samples included (1) 18 prosecutors of South Bangkok Civil Court, (2) 25 prosecutors of South Bangkok Criminal Court, (3) three prosecutors of Dusit District Court, (4) five prosecutors of South Bangkok District Court, (5) 24 prosecutors of Thonburi Civil and Criminal Courts, and (6) 25 prosecutors of Talingchan Provincial Court and Thonburi District Court.

3) The lawyer group is composed of 150 lawyers. The researcher employed accidental sampling to obtain the samples included (1) 20 lawyers from South Bangkok Civil Court, (2) 15 lawyers from South Bangkok Criminal Court, (3) 15 lawyers from Dusit District Court, (4) 15 lawyers from Pathumwan District Court, (5) 15 lawyers from South Bangkok District Court, (6) 20 lawyers from Thonburi Civil Court, (7) 15 lawyers from Thonburi Criminal Court, (8) 20 lawyers from Talingchan Provincial Court, and (9) 15 lawyers from Thonburi District Court.

Of the 406 surveys, 313 surveys were returned. The response rate was 77.09%. Of the respondents, 41.5% were judges, 19.5% were prosecutors, and 39% were lawyers.

## 3.2 Research Instrument

**3.2.1 Research used a questionnaire** of a research of วีระพงษ์ บุญโยภาส (2008) on the Raise of Kwaeng Court to Provincial Court and Query from the Rapee Pattanasak Research Institute of the Court of Justice in Supreme Court case delays (2551) and reviewed literature related to the appeal process of District courts in other countries. Moreover, the researcher reviewed Act for the Establishment of and Criminal Procedures in District Court, B.E. 2499 (1956) for survey questions which were revised by a major advisor for content validity who were not included in the sample for reliability test. There were 19 men and 11 women. The alpha reliability coefficient were .70 for the attitude to the appeal process of district court questionnaire after an 1-item deduction and .88 for the attitude to the appeal process of provincial court questionnaire after an 1-item deduction.

**3.2.2 Research instrument** is a self-administrative survey which is composed of four parts: (1) demographic background, (2) attitude towards the appeal process of district courts, (3) attitude towards the appeal process of provincial courts, and (4) opinions on the appeal process of provincial court.

### 1) Demographic background

Demographic questions include (1) sex, (2) age, (3) marital status, (4) level of education, (5) working place, (6) position, (7) years of working, and (8) personal income per month.

### 2) Attitude towards the Appeal Process of District Court Questionnaire

Attitude towards the appeal process of district courts was determined by a 11-item scale from a research of วีระพงษ์ บุญโยภาส (2008) on the Raise of Kwaeng Court to Provincial Court and Query from the Rapee Pattanasak Research Institute of the Court of Justice in Supreme Court case delays (2551) and the researchers' literature review. Based on Likert scale, there were 5 positive response categories:

highly agree = 5                      agree = 4                      neutral = 3

disagree = 2                      highly disagree = 1

There were 5 negative response categories:

highly agree = 1                      agree = 2                      neutral = 3

disagree = 4                      highly disagree = 5

A score range of attitude towards the appeal process of district courts is between 11 and 55. The higher scores mean the more likely agreement on the appeal process of district courts. The explanations of scores are as follows:

11-25 scores = disagree on the appeal process of district courts

26-40 scores = neutral on the appeal process of district courts

41-55 scores = agree on the appeal process of district courts

### 3) Attitude towards the Appeal Process of Provincial Court Questionnaire

Attitude towards the appeal process of provincial courts was determined by a 12-item scale from a research of วีระพงษ์ บุญโญภาส (2008) on the Raise of Kwaeng Court to Provincial Court and Query from the Rapee Pattanasak Research Institute of the Court of Justice in Supreme Court case delays (2551) and the researchers' literature review. Based on Likert scale, there were 5 positive response categories:

highly agree = 5                      agree = 4                      neutral = 3

disagree = 2                      highly disagree = 1

There were 5 negative response categories:

highly agree = 1                      agree = 2                      neutral = 3

disagree = 4                      highly disagree = 5

A score range of attitude towards the appeal process of provincial courts is between 12 and 60. The higher scores mean the more likely agreement on the appeal process of provincial courts. The explanations of scores are as follows:

11-25 scores = disagree on the appeal process of provincial courts

26-40 scores = neutral on the appeal process of provincial courts

41-55 scores = agree on the appeal process of provincial courts

### 4) Opinions on the Appeal Process of Provincial Court

Questions in this part reflect on opinions of the samples about the appeal process of provincial courts. The researcher will search for an appropriate pattern of the appeal process of provincial courts.

### **3.3 Data Collection Process**

The researcher sent and collected self-administered surveys to the samples from October 2010 to January 2011. The data collection process was divided into two periods. The first period was between October and November 2010. The researcher distributed the surveys at South Bangkok Civil Court, South Bangkok Criminal Court, Dusit District Court, Pathumwan District Court, and South Bangkok District Court. By the cut-off time, only judges returned the surveys. This made the researcher have to explain the purpose of the research to prosecutors and lawyers again. The researcher collected the surveys during the second week of November 2010.

The second period was held from December 2010 to January 2011. The researcher distributed the surveys to the samples working at Thonburi Civil Court, Thonburi Criminal Court, Talingchan Provincial Court, and Thonburi District Court in the fourth week of December 2010. The surveys were collected two times-the first and the last weeks of January 2011. Because of New Year's two-week holiday, the surveys were returned to the researcher in a small number. Moreover, while distributing the surveys, the researcher found that judges and prosecutors did not fully participate in answering questions. They thought that the appeal process of provincial courts would not be possible. However, some of them asked for keeping the surveys instead.

### **3.4 Data Analysis Procedures**

This research uses SPSS for quantitative analysis including:

3.4.1 Univariate analysis is undertaken as the first stage of data analysis. The distribution of all demographic variables and the attitude to the appealing process of district and provincial courts will be described.

3.4.2 The t-test for two independent samples is used for comparing means of attitude to the appealing process of district and provincial courts.

3.4.3 The F-test for three independent samples is employed for comparing the difference of means of the attitude to the appealing process of district and provincial courts based on the demographic variables.

## **CHAPTER IV**

### **RESULT**

The purpose of this research is to study the possibility of using the Appeal system in district courts in Thailand. The research tool is the self-administered survey. The samples group is composed of 313 judges, prosecutors, and lawyers.

The data analyses are divided into four following parts:

Part 1 is the demographic analysis of the samples group, the attitude to the appeal process of district courts, and the attitude towards the appeal process of provincial courts by using the descriptive analysis.

Part 2 is an attitude towards the system-level analysis of the district court of appeal ruling in use today. And attitudes to adjudicate the appeal from the District Court to Court. It is divided into two sub-sections.

1. Analysis of the average. Standard deviation. And the meaning of the attitude of the district court of appeal ruling in use today. And attitudes to adjudicate the appeal from the District Court to Court.

2. The analysis compared the average difference in the attitude of the district court sentenced the appellant to present. And attitudes to adjudicate the appeal from the District Court to Court. Between the scores measuring the attitudes of the sample and the threshold value of research using statistical t-test.

Part 3 is the means comparison in the attitude to the appeal process of district courts and the attitude towards the appeal process of provincial courts of the samples group the by using t-test and F-test.

Part 4 is the analysis of opinions of implementing the appeal process of provincial courts.

## Part 1 Characteristics of the Sample Group

This part will employ the descriptive statistics for the demographic background, the attitude to the appeal process of district courts, and the attitude towards the appeal process of provincial courts of the samples. Table 4.1 shows percentage distributions for the demographic characteristics of the samples

**Table4. 1 Summary of the Demographic Characteristics and the Attitude towards the Appeal Process of District and Provincial Courts**

Demographic characteristics	N	Percentage
<b>1. Sex</b>	<b>312</b>	<b>100.0</b>
1.1 Men	215	68.9
1.2 Women	97	31.1
<b>2. Age</b>	<b>308</b>	<b>100.0</b>
2.1 21-35 years old	106	34.4
2.2 36-45 years old	99	32.1
2.3 Over 46 years	103	33.5
<b>3. Marital status</b>	<b>310</b>	<b>100.0</b>
3.1 Single	123	42.6
3.2 Married	168	54.2
3.3 Divorced	8	2.6
3.4 Separated	1	0.3
3.5 Widowed	1	0.3
<b>4. Level of education</b>	<b>313</b>	<b>100.0</b>
4.1 Bachelor	74	23.6
4.2 Barrister-at-law	130	41.5
4.3 Master	108	34.5
4.4 Doctoral	1	0.3
<b>5. Workplace</b>	<b>313</b>	<b>100.0</b>
5.1 Southern Bangkok Civil Court	68	21.7
5.2 Southern Bangkok Criminal Court	40	12.7
5.3 Southern Bangkok District Court	13	4.1
5.4 Pathumwan District Court	11	3.5
5.5 Dusit District Court	4	1.2
5.6 Law firms	108	34.5
5.7 Thonburi Civil Court	17	5.4
5.8 Thonburi Criminal Court	11	3.5

Demographic characteristics	N	Percentage
5.9 Thonburi District Court	17	5.4
5.10 Talingchan Provincial Court	24	8.0
<b>6. Position</b>	<b>313</b>	<b>100.0</b>
6.1 Head judges of group	38	12.1
6.2 Judges	92	29.4
6.3 Prosecutors	61	19.5
6.4 Lawyers	122	39.0
<b>7. Working years</b>	<b>310</b>	<b>100.0</b>
7.1 1-5 years	113	34.4
7.2 6-12 years	104	32.1
7.3 Over 13 years	93	33.5
<b>8. Personal income per month</b>	<b>305</b>	<b>100.0</b>
8.1 10,000 – 30,000 baht	103	33.8
8.2 30,001 – 60,000 baht	71	23.8
8.3 60,001 – 90,000 baht	23	7.5
8.4 Over 90,001 baht	108	35.4
<b>9. Attitude to the appeal process of district court<sup>1</sup></b>	<b>304</b>	<b>100.0</b>
9.1 highly disagree	19	6.2
9.2 moderately disagree	276	90.8
9.3 lowly disagree	9	3.0
<b>10. Attitude to the appeal process of provincial court<sup>2</sup></b>	<b>309</b>	<b>100.0</b>
10.1 highly agree	14	4.5
10.2 moderately agree	219	70.9
10.3 lowly agreee	76	24.6

Note: <sup>1</sup> 11-25 scores = low level, 26-40 scores = moderate level, 41-55 scores = high level

<sup>2</sup> 12-28 scores = low level, 29-45 scores = moderate level, 46-60 scores = high level

### 1. Sex

As shown in Table 4.1, there are 215 men (68.9%) and 97 women (31.1%) in the samples group.

### 2. Age

The majority of respondents are between 21-35 years old (34.4%). Almost one-third of the respondents are between 36 and 45 years old (32.1%). About 33.5% of

the samples group is over 46 years old. The average age is 40.35 years old. The youngest is 21 years old and the oldest is 79 years old.

### 3. Marital Status

The majority (54.2%) are married. About 42.6% are single and 2.6% are divorced. There is one separated and widowed women.

### 4. Level of Education

About 41.5% of the samples group finished the barrister-at-law level. Another 34.5% completed a master's degree and 23.6% of respondents finished a bachelor's degree. Additionally, only one person had held a doctoral degree.

### 5. Workplace

The majority (34.5%) work at law firms. About 21.7% reported they work at Southern Civil Court and 21.7% works at Southern Criminal Court. Moreover, there are 14 people (8.0%) work at Talingchan Provincial Court. Additionally, 5.4% of respondents work at Thonburi Civil Court and Thonburi District Court. Other respondents reported that they work at Southern Bangkok District Court (4.1%), Pathumwan District Court and Thonburi Criminal Court (3.5%), and Dusit District Court (1.2%) respectively.

### 6. Position

Thirty-nine percent of respondents are lawyers. About 19.5% are prosecutors. Additionally, 12.1% are chief judges.

### 7. Years of Working

The majority (36.4%) report a range of working years from one to five years. There are 104 persons (33.5%) have been working between six and 12 years. About 30.1% have worked for more than 13 years. The average years of working are 9.98. The shortest is one year and the longest is 35 years.

### 8. Personal Income per Month

The majority (35.4%) have personal income over 90,001 baht. About 33.85 report they have personal income between 10,000 and 30,000 baht. Additionally, 23.8% report their income per month is between 30,001 – 60,000 baht, but 7.5% report having income between 60,001 and 90,000 baht.

### 9. Attitude towards the Appeal Process of District Court

The majority (90.8%) moderately disagree on the appeal process of district courts. About 6.3% highly disagree on the current process, but only 3.0% less likely disagree on the process.

### 10. Attitude towards the Appeal Process of Provincial Court

The majority (70.9%) moderately agree on the appeal process of provincial courts. About 24.6% less likely agree on this Appeal process, but 4.5 % highly agree on such process.

Table 4.1 shows details about the sample used for the study of physical and biological factors of the research is an important part in the study of attitudes, especially for lawyers on how to appeal the case to district court. the Court. (Department of the appeal), which is based on the theories of the attitude to the learning experience and the readiness of individuals to behave in response to any material that may be against or toward, or acceptance processes. as a social theory, social (Social Judgment Theory) by Karen Marie and Robert Moses Cherry's Ferry.

## **Part 2 The Analyses of the Attitudinal Levels towards the Appeal Process of District Courts and Provincial courts**

This part is composed of three data analyses including (1) the descriptive statistics of the appeal process of district courts, (2) the descriptive statistics of the appeal process of provincial courts, and (3) the t-test for two independent samples used to compare means differences between the means of the sample group and that specified by the researcher.

1. Means and standard deviations of the attitude towards the appeal process of district courts

As shown in Table 4.2, the samples somewhat agree on the appeal process of district courts

**Table 4.2 Means and Standard Deviations of the Attitude towards the Appeal Process of District Courts**

The Attitude towards the Appeal Process of District Courts	N	$\bar{X}$	S.D.	Meanings
1. Filing appeal from district court to Court of Appeal is time-consuming.	313	3.29	1.09	Somewhat agree
2. Filing appeal from district court to Court of Appeal may increase cases, impacting on other cases.	313	3.25	1.15	Somewhat agree
3. Trial and adjudication from district courts to Court of Appeal is fast.	310	2.72	0.98	Somewhat agree
4. Considering appealed cases of district court in other provinces may cause time-consuming.	312	3.04	1.04	Somewhat agree
5. Appealing civil case with capital over 50,000 baht to Court of Appeal is appropriate.	310	2.94	1.04	Somewhat agree
6. Rules of appealing criminal case according to Section 22 of Act for the Establishment of and Criminal Procedure in District Court, B.E. 2499 (1956) are appropriate.	313	3.02	1.96	Somewhat agree
7. Expenses in appealing cases and delivering case files from district courts to Court of Appeal are costly and unnecessary.	313	2.80	1.01	Somewhat agree
8. Trial and adjudication of Court of Appeal will quickly protect rights and freedom of people.	313	2.97	0.95	Somewhat agree
9. Judges of Court of Appeal should try and adjudicate appealed cases from district courts.	312	2.96	1.02	Somewhat agree
10. File Consideration Procedures of Court of Appeal, sent by Court of First Instance, is appropriate.	313	3.02	0.91	Somewhat agree
11. Trial and adjudication of appealed cases by Court of Appeal are appropriate.	311	3.11	0.91	Somewhat agree

Note: the lowest score = 1 , the highest score is 5.

1.0-1.7 scores = disagree, 1.8-2.5 scores = somewhat disagree, 2.6-3.3 scores = somewhat agree, 3.4-4.1 scores = agree, and 4.2-5.0 scores = highly agree

2. Means and standard deviations of the attitude towards the appeal process of provincial courts

As shown in Table 4.3, the samples group somewhat agree on the appeal process of provincial courts.

**Table 4.3 Means and Standard Deviations of the Attitude towards the Appeal Process of Provincial Courts**

The Attitude towards the Appeal Process of Provincial Courts	N	$\bar{X}$	S.D.	Meanings
1. Filing appeal from district court to provincial court may increase cases, impacting on other cases.	312	2.77	1.15	Somewhat agree
2. Filing appeal from district court to provincial court makes appealing faster.	313	2.93	1.13	Somewhat agree
3. Trial and adjudication from district courts to provincial courts is fast.	313	2.93	1.09	Somewhat agree
4. Trial and adjudication of provincial courts will reduce cases sent to Court of Appeal.	313	2.70	1.15	Somewhat agree
5. Trial and adjudication on appealed cases of provincial courts is beneficial to people.	312	2.90	1.11	Somewhat agree
6. Considering appealed cases of provincial courts may cause time-consuming.	312	2.83	1.02	Somewhat agree
7. Disputed capital in appealing civil cases of district courts should be separated from Civil Procedure Code.	313	3.13	1.11	Somewhat agree
8. Appealing cases and delivering case files of provincial courts will reduce expenses.	312	3.15	1.03	Somewhat agree
9. Trial and adjudication by provincial court will quickly protect rights and freedom of people.	313	2.95	1.11	Somewhat agree
10. Judges of provincial courts are able to try and adjudicate appealed cases from district courts.	312	2.82	1.13	Somewhat agree
11. Trial and adjudication on appealed cases by district courts provide justice and are possible.	312	2.82	1.08	Somewhat agree
12. Based on present social situation, the appealing process of provincial court is suitable.	312	2.73	1.13	Somewhat agree

Note: the lowest score = 1, the highest score is 5.

1.0-1.7 scores = disagree, 1.8-2.5 scores = somewhat disagree, 2.6-3.3 scores = somewhat agree, 3.4-4.1 scores = agree, and 4.2-5.0 scores = highly agree

### 3. Means differences in the Attitude towards the Appeal Process of District Courts and the Appeal Process of Provincial Courts

The t-test for two independent samples is used to compare means differences between the means of sample group and that specified by the researcher as shown in Table 4.

#### 1. The Attitude towards the Appeal Process of District Courts

Table 4.4 shows that the means of the attitude towards the appeal process of district courts is 33.26 at the statistically significant level of .01, with a range of 17-46. This indicates that the samples group moderately agrees on the process.

#### 2. The Attitude towards the Appeal Process of Provincial Courts

Table 4.4 shows that the means of the attitude towards the appeal process of provincial courts is 34.36 at the statistically significant level of .01, with a range of 12-50. This indicates that the samples group moderately agrees on the appeal process of provincial courts.

**Table 4.4 Means and Standard Deviations from t-Test of the Attitude towards the Appeal Process of District Courts and Provincial Courts**

Attitude	N	$\bar{X}$	S.D.	Meanings	t
1. The Appeal Process of District Courts <sup>1</sup>	304	33.26	4.51	Moderate agree	-26.04**
2. the Appeal Process of Provincial Courts <sup>2</sup>	309	34.36	7.40	Moderately agree	-25.25**

Note: <sup>1</sup>The researcher set the means score is 40 (moderate level)

<sup>2</sup> The researcher set the means score is 45 (moderate level)

\*\*p < .01

## Part 3 Means from t-test and F-TEST of the Attitude towards the Appeal Process of District Courts and Provincial Courts

### 1. Means from t-test and F-test of the Attitude towards the Appeal Process of District Courts Based on Demographic Background

I examine the means differences in the attitude towards the appeal process of district courts among seven following demographic variables: (1) sex, (2) age, (3)

marital status, (4) level of education, (5) position, (6) years of working, and (7) personal income per month.

**Table 4.5 Means from t-test and F-test of the Attitude towards the Appeal Process of District Courts, by Demographic Variables**

Demographic Variables	N	$\bar{X}$	S.D.	t	F
<b>1. Sex</b>	<b>303</b>			<b>0.72</b>	
1.1 Men	211	33.38	4.53		
1.2 Women	96	32.97	4.49		
<b>2. Age</b>	<b>304</b>				<b>3.88*</b>
2.1 21-35 years old	103	34.18	3.50		
2.2 36-45 years old	99	33.13	4.71		
2.3 over 46 years old	102	32.46	5.04		
<b>3. Marital Status<sup>1</sup></b>	<b>301</b>			<b>0.90</b>	
3.1 Single	137	33.54	4.15		
3.2 Married	164	33.07	4.76		
<b>4. Level of education<sup>2</sup></b>	<b>304</b>				<b>0.63</b>
4.1 Bachelor	72	33.67	4.81		
4.2 Barrister-at-law	127	33.33	4.32		
4.3 Master and above	105	32.90	4.53		
<b>5. Position<sup>3</sup></b>	<b>304</b>				<b>11.03*</b>
5.1 Judge	127	31.87	4.21		*
5.2 Prosecutor	57	34.26	4.29		
5.3 Lawyer	120	34.25	4.55		
<b>6. Years of working</b>	<b>304</b>				<b>5.18**</b>
6.1 1-5 years	110	34.33	3.78		
6.2 6-12 years	101	32.83	4.57		
6.3 over 13 years	93	32.46	4.99		
<b>7. Personal income per month<sup>4</sup></b>	<b>192</b>				<b>4.35**</b>
7.1 10,000 – 30,000 baht	101	34.24	4.14		
7.2 30,001 – 60,000 baht	68	34.41	4.36		
7.3 over 60,001 baht	23	31.56	3.91		

Note: <sup>1</sup>The researcher regrouped the marital status by including single, divorced, separated, and widowed as single.

<sup>2</sup> The researcher combined master and doctoral degrees in a master degree and above.

<sup>3</sup>The researcher combined head judges of group and judges into a judge group.

<sup>4</sup>The research grouped 60,001-90,000 baht and over 90,001 baht as over 60,001 baht.

\*p < .05 \*\*p < .01

### 1.1 Sex

As shown in Table 4.5, the t-test comparing the difference of the means of the appeal process of district courts between men and women is not statistically significant ( $t = 0.72$ ,  $N = 303$ ).

### 1.2 Age

As presented in Table 4.5, the results show that the samples with different ages have the different attitude to the appeal process of district courts at the statistically significant level of .01 ( $F = 3.88$ ,  $N = 304$ ). The samples with the age range of 21-35 years old have the highest scores of the attitude to the appeal process of district courts ( $\bar{x} = 34.18$ ), compared to the samples whose age are over 46 year old having the lowest scores ( $\bar{x} = 32.46$ ).

### 1.3 Marital Status

Table 4.5 shows that the samples different in marital status have no statistically significant difference in the attitude to the appeal process of district courts ( $t = 0.90$ ,  $N = 313$ ).

### 1.4 Level of education

The results from Table 4.5 shows that there is no statistically significant difference in the attitude to the appeal process of district courts based on level of education ( $F = 0.63$ ,  $N = 304$ ).

### 1.5 Position

As presented in Table 4.5, the results show that the samples with different positions have the different attitude to the appeal process of district courts at the statistically significant level of .01 ( $F = 11.03$ ,  $N = 304$ ). The prosecutor group has the highest scores ( $\bar{x} = 34.26$ ) while the judge group has the lowest scores ( $\bar{x} = 31.87$ ).

### 1.6 Years of working

As shown in Table 4.5, the samples with different years of working have the different attitude to the appeal process of district courts at the statistically significant level of .01 ( $F = 5.18$ ,  $N = 304$ ). The samples with the range of 1-5 years have the highest scores ( $\bar{x} = 34.33$ ), compared to the samples whose years of working are over 13 year having the lowest scores ( $\bar{x} = 32.46$ ).

1.7 Personal income per month

As shown in Table 4.5, the samples with different personal income per month have the different attitude to the appeal process of district courts at the statistically significant level of .01 (F = 4.35, N = 304). The samples whose income range from 30,001-60,000 baht have the highest scores ( $\bar{X}$  = 34.41) while to the samples whose income are over 60,001 baht have the lowest scores ( $\bar{X}$  = 31.56).

From Table 4.5, if the overall sample, the verdict of the Court of Appeal in the present system of variables that have a major effect on the attitude of the district court ruling in the appeal, the difference is 1. Age 2. Position 3. length of employment. 4. The level of salary. The four groups of variables that will last less than the salary level is not high and where the work is mainly on the operational level, a lawyer or attorney by the example of that. The appeal court in the district court is not appropriate should be improved by virtue of any such appeal the Court of the District Court to appeal the proceedings that the delay to appeal the case to the District Court to the Court of Appeal made the case more so. The sample is a sample of the proceedings as a result of the decision to enter into force quickly and fairly. The theory is based on the concept of the Department of Criminology and traditional management theory of the case and the attitude of the person's feeling (Feeling Component).

**2. Means from t-test and F-TEST of the Attitude towards the Appeal Process of Provincial Courts Based on Demographic Background**

I examine the means differences in the attitude towards the appeal process of provincial courts based on seven following demographic variables: (1) sex, (2) age, (3) marital status, (4) level of education, (5) position, (6) years of working, and (7) personal income per month.

**Table 4.6 Means from t-test and F-test of the Attitude towards the Appeal Process of Provincial Courts, by Demographic Variables**

Demographic variables	N	$\bar{X}$	S.D.	t	F
<b>1. Sex</b>	<b>308</b>			<b>0.89</b>	
1.1 Men	212	34.60	7.58		
1.2 Women	96	33.79	7.03		
<b>2. Age</b>	<b>309</b>				<b>5.38**</b>
2.1 21-35 years old	105	36.17	5.89		
2.2 36-45 years old	99	33.92	7.83		

Demographic variables	N	$\bar{X}$	S.D.	t	F
2.3 over 46 years old	105	32.96	8.02		
<b>3. Marital Status<sup>1</sup></b>	<b>306</b>			<b>2.22*</b>	
3.1 Single	139	35.38	6.71		
3.2 Married	167	33.52	7.85		
<b>4. Level of education<sup>2</sup></b>	<b>309</b>				<b>5.28**</b>
4.1 Bachelor	72	36.67	6.26		
4.2 Barrister-at-law	130	34.13	7.83		
4.3 Master and above	107	33.08	7.28		
<b>5. Position<sup>3</sup></b>	<b>309</b>				<b>26.29*</b>
5.1 Judge	128	31.11	7.78		*
5.2 Prosecutor	61	35.33	5.97		
5.3 Lawyer	120	37.34	6.21		
<b>6. Years of working</b>	<b>309</b>				<b>6.72**</b>
6.1 1-5 years	112	36.35	5.79		
6.2 6-12 years	103	32.94	8.26		
6.3 over 13 years	94	33.55	7.67		
<b>7. Personal income per month<sup>4</sup></b>	<b>196</b>				<b>11.23*</b>
7.1 10,000 – 30,000 baht	102	36.48	6.07		
7.2 30,001 – 60,000 baht	71	37.22	6.11		*
7.3 over 60,001 baht	23	30.13	8.48		

Note: <sup>1</sup>The researcher regrouped the marital status by including single, divorced, separated, and widowed as single.

<sup>2</sup>The researcher combined master and doctoral degrees in a master degree and above.

<sup>3</sup>The researcher combined head judges of group and judges into a judge group.

<sup>4</sup>The research grouped 60,001-90,000 baht and over 90,001 baht as over 60,001 baht.

\*p < .05 \*\*p < .01

### 1.1 Sex

As shown in Table 6, the t-test comparing the difference of the means of the appeal process of provincial courts between men and women is not statistically significant ( $t = 0.89$ ,  $N = 308$ ).

### 1.2 Age

As presented in Table 6, the results show that the samples with different ages have the different attitude to the appeal process of provincial courts at the statistically significant level of .01 ( $F = 5.38$ ,  $N = 309$ ). The samples with the age

range of 21-35 years old have the highest scores of the attitude to the appeal process of provincial courts ( $\bar{x} = 36.17$ ) compared to the samples whose age are over 46 year old having the lowest scores ( $\bar{x} = 32.96$ ).

### 1.3 Marital Status

Table 6 shows that the results show that the samples different in marital status have the statistically significant difference in the attitude to the appeal process of provincial courts at the .05 level ( $t = 2.22$ ,  $N = 306$ ). The single group has the highest scores ( $\bar{x} = 35.38$ ) while the married group has the lowest scores ( $\bar{x} = 33.52$ ).

### 1.4 Level of education

The results from Table 6 shows that the samples different in level of education have the statistically significant difference in the attitude to the appeal process of provincial courts at the level of .01 ( $F = 5.28$ ,  $N = 309$ ). The samples finishing the bachelor's degree have the highest scores ( $\bar{x} = 36.17$ ), but the samples obtaining the master and doctoral degrees have the lowest scores ( $\bar{x} = 33.08$ ).

### 1.5 Position

As presented in Table 6, the results show that the samples with different positions have the different attitude to the appeal process of provincial courts at the statistically significant level of .01 ( $F = 26.29$ ,  $N = 309$ ). The lawyer group has the highest scores ( $\bar{x} = 37.34$ ) while the judge group has the lowest scores ( $\bar{x} = 31.11$ ).

### 1.6 Years of working

As shown in Table 6, the samples with different years of working have the different attitude to the appeal process of provincial courts at the statistically significant level of .01 ( $F = 6.72$ ,  $N = 309$ ). The samples with the range of 1-5 years have the highest scores ( $\bar{x} = 36.35$ ), to the samples whose years of working range from 6-12 years having the lowest scores ( $\bar{x} = 32.94$ ).

### 1.7 Personal income per month

As shown in Table 6, the samples with different personal income per month have the different attitude to the appeal process of provincial courts at the statistically significant level of .01 ( $F = 11.23$ ,  $N = 196$ ). The samples whose income range from 30,001-60,000 baht have the highest scores ( $\bar{x} = 37.22$ ) while to the samples whose income are over 60,001 baht have the lowest scores ( $\bar{x} = 30.13$ ).

From Table 4.6 a summary of the overall sample, the system of appeals against judgments of the District Court to the Court by the variables that have a major effect on the attitude towards the appeal verdict of the court of the District Court to the Court today, the difference is 1. Age. 2. marital status. 3. Level 4. Position. 5 years of work. 6. The level of salary. The six groups of variables can be seen that the appeals court of the district court to the Court that a new group to get to know and influence attitudes to understand the appeal of the new system, making it more variable. parameters of the sample with a positive attitude towards the appeal of the district court in the present case. Such variables can be seen that younger people, most of which are Single and have been studying in the undergraduate and the minimum age and salary levels are especially high. Lawyers have agreed to appeal the case to the Court of the District Court was appropriate and it is possible to apply in the case in the appeal process. Because of the proceedings the judge in the appeal of the district court as quickly and as appropriate to the current situation, which is based on the theory of positive feelings of the person (Feeling Component) And Because of the need to respond. and the consistency of the responses of others or the environment, social justice and want to make a quick and fair response to any of the parties. The judge has to agree to the appeal of the District Court to the Court that most of the questionnaires were collected, and the opportunity for the judges. The judges commented that the majority of the judges of First Instance failed to consider the appeal and increase their own applications. Of opinions or attitudes such as attitude, learn from the experience of the person that is going to be a self-described as a charge against their cause. It may be noted that he has served on it or what determines the nature of the position of the (Red), only one will do just this, regardless of whether they are able to do something more than duty or his position. They have an attitude that is part of their personality (Cognitive Component).

#### **Part 4 The Analysis of Opinions of Implementing the Appeal Process of Provincial Courts**

This part shows frequencies of opinions of the samples on implementing the appeal process in provincial courts, which is divided into three areas: (1) the

appropriate court to try and adjudicate appeal cases of district courts, (2) trial and adjudication of case appealed from district courts to provincial courts, and (3) trial and adjudication of case appealed from district courts to provincial courts or the Court of Appeal.

**Table 4.7 Frequencies of Opinions of the Appeal Process from District Courts to Provincial Courts**

Opinions	N	Percentage
<b>1. The appropriate court to try and adjudicate appeal cases of district courts</b>	<b>313</b>	<b>100.0</b>
1.1 The Court of Appeal	175	55.9
1.2 The provincial court	90	28.8
1.3 The Court of Appeal or provincial court	48	15.3
<b>2. Trial and adjudication of cases appealed from district courts to provincial courts</b>		
<b>2.1 Number of quorum in court</b>	<b>91</b>	<b>100.0</b>
1) 1 person	6	6.6
2) 1 person and additional 1 person if increasing the punishment and reversing or amending a decision	8	8.8
3) 2 persons	52	57.1
4) 3 persons	25	27.5
<b>2.2 Quorum in court<sup>1</sup></b>	<b>172</b>	<b>100.0</b>
1) Chief judge	32	18.7
2) Judges who are former chief judges	59	34.3
3) Head judge of group in Court of First Instance	59	34.3
4) Judge in Court of First Instance (the third level)	16	9.3
5) Judge in Court of First Instance (the second level)	3	1.7
6) Judge in Court of First Instance (the first level)	3	1.7
<b>2.3 The responsible person in quorum</b>	<b>91</b>	<b>100.0</b>
1) Judge-in-charge of the provincial court	32	35.2
2) Chief judge	38	41.7
3) President of The Court of Appeal	21	23.1
<b>2.4 Question appealed</b>	<b>90</b>	<b>100.0</b>
1) Question of fact	6	6.7
2) Question of law	9	10.0
3) Question of fact and of law	75	83.3
<b>2.5 Appeal procedure</b>	<b>91</b>	<b>100.0</b>
1) Consider from a case file already taken evidence	34	37.4

Opinions	N	Percentage
2) Consider from a case file and take additional evidence or enquire witnesses in appealed issue	14	15.4
3) Consider from a case file and probably take evidence or enquire witnesses in appealed issue when the court deems advisable or requested by party in a case requests and granted by the court	43	47.2
<b>2.6 Amount of capital of civil case</b>	<b>90</b>	<b>100.0</b>
1) Over 50,000 บาท	83	83.0
2) Other amount	7	7.0
<b>2.7 Rate of penalty in criminal case</b>	<b>83</b>	<b>100.0</b>
1) Rules prescribed in Section 22 of Act for the Establishment of and Criminal Procedure in District Court, B.E. 2499 (1956)	78	94.0
2) Other rules	5	6.0
<b>2.8 Appeal Order considered by provincial court</b>	<b>86</b>	<b>100.0</b>
1) Interlocutory order	13	15.1
2) Other order which is not interlocutory order	11	12.8
3) Every order in proceedings	62	72.1
<b>3. Trial and adjudication of cases appealed from district courts to provincial courts or the Court of Appeal</b>	<b>50</b>	<b>100.0</b>
<b>3.1 Number of quorum in court</b>		
1) 1 person	--	--
2) 1 person and additional 1 person if increasing the punishment and reversing or amending a decision	7	14.0
3) 2 persons	17	34.0
4) 3 persons	26	52.0
<b>3.2 Quorum in court<sup>1</sup></b>	<b>97</b>	<b>100.0</b>
1) Chief judge	23	23.7
2) Judge who are former chief judges	29	29.9
3) Head judge of group in Court of First Instance	31	32.0
4) Judge in Court of First Instance (the third level)	12	12.4
5) Judge in Court of First Instance (the second level)	1	1.0
6) Judge in Court of First Instance (the first level)	1	1.0
<b>3.3 The responsible person in quorum</b>	<b>50</b>	<b>100.0</b>
1) Judge-in-charge of the provincial court	15	30.0
2) Chief judge	25	50.0
3) President of The Court of Appeal	10	20.0
<b>3.4 Question appealed to provincial court</b>	<b>50</b>	<b>100.0</b>
1) Question of fact	4	8.0

Opinions	N	Percentage
2) Question of law	4	8.0
3) Question of fact and of law	42	84.0
<b>3.5 Question appealed from district court to Court of Appeal</b>	<b>50</b>	<b>100.0</b>
1) Question of fact	--	--
2) Question of law	10	20.0
3) Question of fact and of law	40	80.0
<b>3.6 Appeal procedure from district court to provincial court</b>	<b>50</b>	<b>100.0</b>
1) Consider from a case file already taken evidence	16	32.0
2) Consider from a case file and take additional evidence or enquire witnesses in appealed issue	--	--
3) Consider from a case file and probably take evidence or enquire witnesses in appealed issue when the court deems advisable or requested by party in a case requests and granted by the court	34	68.0
<b>3.7 Appeal procedure from district court to Court of Appeal</b>	<b>50</b>	<b>100.0</b>
1) Consider from a case file already taken evidence	19	38.0
2) Consider from a case file and take additional evidence or enquire witnesses in appealed issue	2	4.0
3) Consider from a case file and probably take evidence or enquire witnesses in appealed issue when the court deems advisable or requested by party in a case requests and granted by the court	29	58.0
<b>3.8 Amount of capital of civil case to provincial courts and Court of Appeal<sup>2</sup></b>	<b>86</b>	<b>100.0</b>
1) Over 50,000 บาท	44	51.2
2) Other amount	42	48.8
<b>3.9 Provision of criminal case used in appeal from district court to provincial court or Court of Appeal</b>	<b>50</b>	<b>100.0</b>
1) Number of quorum according to Law for the Organization of Courts of Justice	5	10.0
2) Category of counts sued	5	10.0
3) Maximum punishment based on counts sued	28	56.0
4) Rules prescribed in Section 22 of Act for the Establishment of and Criminal Procedure in District Court, B.E. 2499 (1956)	11	22.0
5) Other rules	1	2.0
<b>3.10 Appeal Order considered by provincial court of Court of Appeal</b>	<b>50</b>	<b>100.0</b>
1) Interlocutory order	11	22.0
2) Other order which is not interlocutory order	9	18.0

Opinions	N	Percentage
3) Every order in proceedings	30	60.0

Note: <sup>1</sup>more than one answer <sup>2</sup>answer both

### **1. The Appropriate Court to Try and Adjudicate Appeal Cases of District Court**

From Table 4.7, the majority (55.9%) think that Court of appeal should try and adjudicate cases appealed from district courts. 28.8% and 15.3% of respondents also think that cases appealed from district courts should be tried and adjudicated by provincial courts and the Court of Appeal or provincial court respectively.

### **2. Trial and Adjudication of Cases Appealed from District Courts to Provincial Courts**

#### 2.1 Number of quorum in court

The majority (57.1%) think that a number of a quorum is two persons. About 27.5% of the samples agree on having three persons. Additionally, there are 8.8% and 6.6% of the respondents thinking of having one person and additional one person if increasing the punishment and reversing or amending a decision, and one person respectively.

#### 2.2 Quorum in court

The samples think of quorum in court from the most to the least as follows: (1) head judge of group in Court of First Instance and judge who is a former chief judge, (2) chief judge, (3) judge in Court of First Instance (the third level), (4) judge in Court of First Instance (the second level), and (5) judge in Court of First Instance (the first level).

#### 2.3 The responsible person in quorum

The majority (41.8%) think that chief judge should be a responsible person in the quorum. The next persons are judge-in-charge of the provincial court and President of The Court of Appeal respectively.

#### 2.4 Question appealed

83.3% of respondents think that question of fact and of law should be appealed in provincial courts. About 10% and 6.7% of the samples think that question of law and question of fact should be appealed in provincial courts respectively.

### 2.5 Appeal procedure

1) 47.3% of respondents consider from a case file and probably take evidence or enquire witnesses in appealed issue when the court deems advisable or requested by party in a case requests and granted by the court.

2) 37.4% of the samples consider from a case file already taken evidence.

3) 15.4% of the respondents think of considering from a case file and take additional evidence or enquire witnesses in appealed issue.

### 2.6 Amount of capital of civil case

83% of respondents think that an amount of capital of civil case should not exceed 50,000 baht. Six persons think of not exceeding 100,000 baht while one person thinks of not exceeding 200,000 baht.

### 2.7 Rate of penalty in criminal case

The respondents think that rate of penalty in criminal case should be rules prescribed in Section 22 of Act for the Establishment of and Criminal Procedure in District Court, B.E. 2499 (1956).

### 2.8 Appeal Order considered by provincial court

1) 72.1% of the respondents think that provincial courts are able to try and adjudicate on every order in proceedings.

2) 15.1% of the respondents think that provincial courts are able to try and adjudicate on interlocutory order.

3) 12.8% of the respondents think that provincial courts are able to try and adjudicate on other order which is not interlocutory order

From Table 4.7 in Article 2 of the process of adjudication of cases appealed from the District Court to the Court of the elements of paragraph 8, the sample is based on the experience and knowledge gained from working in the District Court for the element. various legal proceedings and judicial body such as the number of judges of which most will agree that there are two men and a judge who is the most senior judges in the Court of First Instance on. Chief Justice and judges of the Superior Court held that year in the District Court. The other components will be based on the Code of Civil Procedure. The Act established the District Court and the hearing in Criminal Court Act 2499 and other legislation that the Appeals Court of the District Court.

### **3. Trial and adjudication of cases appealed from district courts to provincial courts or the Court of Appeal**

#### 3.1 Number of quorum in court

The majority (52%) think that a number of a quorum is two persons. About 34% of the samples agree on having three persons. Additionally, there is 7% of the respondents thinking of having one person and additional one person if increasing the punishment and reversing or amending a decision.

#### 3.2 Quorum in court

The samples think of quorum in court from the most to the least as follows: (1) head judge of group in Court of First Instance, (2) judge who is a former chief judge, (3) chief judge, (4) judge in Court of First Instance (the third level), (5) judge in Court of First Instance (the second level), and (6) judge in Court of First Instance (the first level).

#### 3.3 The responsible person in quorum

The majority (50%) think that chief judge should be a responsible person in the quorum. The next persons are judge-in-charge of the provincial court and President of The Court of Appeal respectively.

#### 3.4 Question appealed to provincial courts

84% of respondents think that question of fact and of law should be appealed in provincial courts. About 8% of the samples think that question of law and question of fact should be appealed in provincial courts respectively.

#### 3.5 Question appealed to Court of Appeal

80% of respondents think that question of fact and of law should be appealed in provincial courts. About 10% of the samples think that question of law. Nobody thinks of appealing question of fact to provincial courts.

#### 3.6 Appeal procedure to provincial courts

1) 68% of respondents consider from a case file and probably take evidence or enquire witnesses in appealed issue when the court deems advisable or requested by party in a case requests and granted by the court.

2) 32% of the samples consider from a case file already taken evidence.

3) No respondents think of considering from a case file and take additional evidence or enquire witnesses in appealed issue.

### 3.7 Appeal procedure to Court of Appeal

1) 58% of respondents consider from a case file and probably take evidence or enquire witnesses in appealed issue when the court deems advisable or requested by party in a case requests and granted by the court.

2) 38% of the samples consider from a case file already taken evidence.

3) 4% of the respondents think of considering from a case file and take additional evidence or enquire witnesses in appealed issue.

### 3.8 Amount of capital of civil case to provincial courts and Court of Appeal

15 respondents think that an amount of capital of civil case to provincial courts should not exceed 100,000 baht. 12 persons think of not exceeding 200,000 baht while one person thinks of not exceeding 200,000 baht. Moreover, 18 persons think that an amount of capital of civil case to Court of Appeal should exceed 100,000 baht, but not over 300,000 baht. 11 persons think of not exceeding 200,000 baht.

### 3.9 Provision of criminal case used in appeal from district court to provincial court or Court of Appeal

1) 56% of respondents think of maximum punishment based on counts sued.

2) 22% of respondents think of rules prescribed in Section 22 of Act for the Establishment of and Criminal Procedure in District Court, B.E. 2499 (1956)

3) 10% of respondents think of number of quorum according to Law for the Organization of Courts of Justice and category of counts sued.

4) 2% of respondents think of other rules.

### 3.10 Appeal Order considered by provincial court

1) 60% of the respondents think that provincial courts are able to try and adjudicate on every order in proceedings.

2) 22% of the respondents think that provincial courts are able to try and adjudicate on interlocutory order.

3) 9% of the respondents think that provincial courts are able to try and adjudicate on other order which is not interlocutory order

Table 4.7 in Article 3 as the adjudication of cases appealed from the District Court to the Court or the Court of Appeal. Adjudication process, such as a new system that is used by many countries such as Japan. South Korea. The group is also very understanding as they should, thus completing the questionnaire of a sample that some are confusing, such as the composition of the judges of the body of the Court the issue of an appeal from the District Court to the Court and the scope of the problem. The appeal of the District Court to the Court of Appeal. Because the samples have no experience with cases in two courts of appeal, thus making it impossible to imagine the possibilities in the appeal proceedings in two courts will be like. However, the sample is based on laws current at the discretion of the appropriate person at the thought of hearing the appeal from the District Court to the Court or the Court of Appeal in any form. The decision is based on the theory of social (Social Judgment Theory) by the same attitude with the attitude that people will compare it with the new information received. If the norms of the old attitudes and new information from the data that is representative of the group as well. Which makes them turn to the new data. That attitude is changing.

## **CHAPTER V**

### **CONCLUSION AND RECOMMENDATION**

The research aims of the research are as follows.

1. The study of problems arising from the appeal of the district court cases in Thailand.
2. Comparison of the appeal of the district court in a foreign country.
3. To study the feasibility of using the appeals court of the district court by appeal to the Court in Thailand.
4. Suggested to change laws. And appeal. Restructuring of the Thai court in a hearing on the appeal from the District Court.

The study of the attitudes of lawyers. This research is a quantitative study using a questionnaire to gather information. (Questionnaires) to collect data from a sample of the lawyers involved in the process of the Court of Appeals of the District Court, namely, (1) Justice (2) prosecution and (3) lawyers total 313 people in the area of jurisdiction. Bangkok South Civil Court, Bangkok South Criminal Court, Dusit Kwaeng Court, Bangkok South Kwaeng Court, Pathumwan Kwaeng Court, Thonburi Civil Court, Thonburi Criminal Court and Thonburi Kwaeng Court.

#### **5.1 Summary of findings**

##### **5.1.1 Problems arising from the Appeal case of Kwaeng (District) Court in Thailand.**

The study found that the samples do not agree with the appeal in the district court system currently used in moderate. It showed that the samples had the opinion that the appeal of the verdict of the District Court today has some problems. The problems found are.

- 1The procedure to appeal the case from the District Court to the Appeal Court is delayed.

2. To appeal the case to the Court of Appeal increased the amount of litigation affecting the adjudication of other litigation.

3. The appeal from the District Court case in rural areas can cause problems with the time to consider the undue delay.

4. Costs of appeal the case from the District Court to the Court of Appeal to be cost-consuming than necessary.

### **5.1.2 Comparison of the Appeal System of the case from the District Court between the foreign country and Thailand**

#### **Thailand and the UK.**

In Thailand the case of Appeal from District Court, it must appeal to the Court of Appeal in all cases, whether to appeal the decision or order. But in the case of appeal from the District Court in England, the District Court or Magistrates Court the Appeal will have to separate the civil and criminal cases. In criminal cases, will be segregation of the appeal of the district court in two cases. First the appeal to the Crown Court by an appeal in regular. Crown Court will be hearing an entirely new and not rely on the proceedings in the Magistrates Court or District Court. In criminal cases the Crown Court will consider the facts and legal issues that come to the Crown Court. Besides the Crown Court still considered a serious criminal offense as the court first instance. The Lord of the judge in the Crown Court is a Crown Court judge, a judge of a person as a High court Queen's Bench 2 to 4, as the Lord of the appeals from the Magistrates Court or District Court.

In second, the appeal in a criminal case of the District Court or Magistrates Court and can appeal to the High court Queen's Bench, but the appeal is to be an appeal by way of case stated to the appeal on errors of law or authority overdue. In an appeal on the issue of law only, with a request to the High Court for opinion on the matter by his board of appeals from the Magistrates Court will have three people which compose of a judge and two assistant judge.

As you can see the appeal of the district court in criminal cases in England will be divided into two parts: the usual approach to the Crown Court is one of the appeals court. But the appeal to the High Court, it can be done by way of a case stated as mentioned already above. The difference with Thailand, which Thailand does not

have a separate appeal, all appeal must rise to the Appeal Court. It is not discrimination, that is an issue of fact or laws are supposed to appeal. This is about the body of the consideration of criminal charges made to the Crown Court will have a body of judges for at least 3 more people to consider the appeal and that that would appeal to the Crown Court or the High court Queen's Bench otherwise.

The appeal of the district court in a civil case in England is determined to appeal to the High court Queen's Bench and the body of judges have three people, as in criminal cases. Without discrimination on appeal to the court other than High court Queen's Bench. The High court Queen's Bench however, it is also a court that has jurisdiction over civil cases in general as the Court of First Instance. The rule of jurisdiction over a case of the district Court in U.K. is similar with Thailand but the appeal authority in the First Instance Court (Crown Court) is different in Thailand.

#### **Thailand and the United States.**

System of appeal cases in the United States District Court is similar to an appeal to the Court of Appeals in Thailand by appeal all the fact and the law. It has not defined exactly as in the appeal case of the District Court in England. In the hierarchy of the courts of the United States, it has divided the court in three parts the District Court, Court of Appeal and Supreme Court. It may be said that the appeals court of the District Court of the United States is essentially similar to those in most parts of the country except in some states, which look like England.

#### **Thailand and Germany.**

The appeal case from the District Court in Germany that District Court for the trial to be similar to that of Thailand is a body of judge has one man, but if it is imprisonment exceeding six months but not exceeding 3 years, the single judge has no authority. It must considers by the judge compose of a judge and a judge who is an individual acting as judge to sign the order to punish them. The appeal from the district court case in Germany that the Provincial Court is the Court to consider the appeal. The Provincial Court also serves as the lower courts in civil cases as well. The Court will have to divide the body of the act of civil litigation, commercial cases, or cases, youth and family by his committee to consider that the body of the head of a man and a judge for 2 people including a body of which in this case, unlike the Court

of Appeal in the District Court of Appeal, but Lord of all is to have the same number as the number three man in the case of an appeal from a district court judge.

#### **Thailand and France.**

The appeal of the district court system in France is similar to the case of the District Court in Thailand. It will appeal to the Court of Appeals for the District Court trial. Regularly, as if considering the history of Thai law, it will be seen that the drafting of the Code of Civil Procedure and the Code of Criminal Procedure that, is drafted by the French lawyer. So that the appeal system case in France has the same system used in Thailand.

#### **Thailand and Japan.**

The appeal of the district court case in Japan will separate between civil and criminal cases. The civil case will be made by the Provincial Court, which has the three judges, but in case it becomes necessary to appeal to the Supreme Court or Court of Appeals the body of three judges in the same with civil appeals can be presented new evidence and witnesses if necessary. For Criminal cases the court will consider the case and a statement of the parties. If the Appeal Court agreed to investigate the facts to be more defined. Which is based on criteria such that there are similarities and differences with Thailand in the criminal case. The appeal of the district court case that will appeal to the Court of Appeal, as well as in Japan. But in a civil case is different. The appeal of the district court in Japan to appeal to the Provincial Court, but in Thailand that case go to the Court of Appeal. The Court of Appeal in Thailand mainly consider only testimony and evidence in the case because of the provisions in the Civil Procedure Section 240, but with the exception of the court could have heard a statement made orally or, and the evidence until the court satisfied. In the criminal case may take measures in such cases is the same.

#### **Thailand and Singapore.**

The appeal of the district court case in Singapore will appeal to the Supreme Court. The Supreme Court, which is in two parts. The Supreme Court will act as both civil and criminal court which higher than district courts and it also have jurisdiction over civil and criminal appeals from the district court. This is different form Thailand to that in the appeal cases of the district court go to the Court of

Appeal. So that in Singapore the Supreme Court can be the First Instance court and the High Court as well.

### **Thailand and South Korea.**

The appeal of the district court case in South Korea. The appeal of the district court case in South Korea, it must be separated by a civil and criminal cases. In civil cases, if not more than 50 million won it appeals to the Provincial Court. If it over, then it must appeal to the Court of Appeal or the Supreme Court by the judge of the appeal is whether the Provincial Court or the Court of Appeal will have the body judge of three people. In criminal cases for the lawsuit that go with one judge it appeal to the Provincial Court. If the cases has been judged by three people in the District Court is an appeal to the Supreme Court, therefore, the system of appeal of the district court in South Korea is divided into two parts by the appeal to the Provincial Court. and another appeal to the Court of Appeal, however, will be subject to appeal by the amount of money and the rate of conviction in this case is different with Thailand that appeal to the Court of Appeal as well as civil and criminal cases and Whatever the case, they are not prohibited by law. The appeals board to determine who is the same in both South Korea and Thailand is the three judges

### **5.1.3 The possibility of using the appeal system for the appeal case of the District (Kwaeng) Court by the Provincial Court in Thailand.**

This will divide the discussion into two areas: (1) the differences in the biological and social backgrounds of the groups in attitude toward the adjudication of cases, the appeal from the District Court by the Provincial Court and (2) the reviews attitude toward the adjudication of appeal cases form the District Court to Provincial Court.

1) The different aspects of biological and social backgrounds in the attitude toward the adjudication of cases by the Appeal Division of the Provincial Court.

The results showed that Sample age, marital status, education level, position and salary level have different attitude toward the adjudication of cases by the appeal from District Court to the Provincial Court. The group aged 21-35 years, the sample is single. The sample has a Bachelor's degree. The sample was a lawyer. The group 1-5 years of work and a salary of between samples. 30001-60000 baht, with

somewhat agree attitude toward the adjudication of the appeal from the District Court to the Provincial Court than other groups to be compared.

2) The attitude to the adjudication of cases by the Court of Appeals of the District Court.

The results of the study showed that the samples with a positive attitude towards the adjudication of cases by appeals of the District Court to the Provincial Court at somewhat agree level of possibilities for the adjudication of cases by the Court of Appeal from the District Court level. It is the reason.

1. The process of the district court to appeal the case. Provincial Court makes a decision quickly.

2. Adjudication of cases appealed from the District Court to the Provincial Court is proceeding rapidly.

3. The adjudication of the appeal from the District Court to the Provincial Court of Appeal will lighten the load.

4. Claimed that the appeals of the District Court to Provincial Court in civil cases should be determined separately from those contained in the Code of Civil Procedure.

5. Adjudication of the appeal by Provincial Court can make savings in the expressions and movement of document.

6. Adjudicate appeals from district court cases to the Provincial Court to protect the rights and freedoms of people quickly.

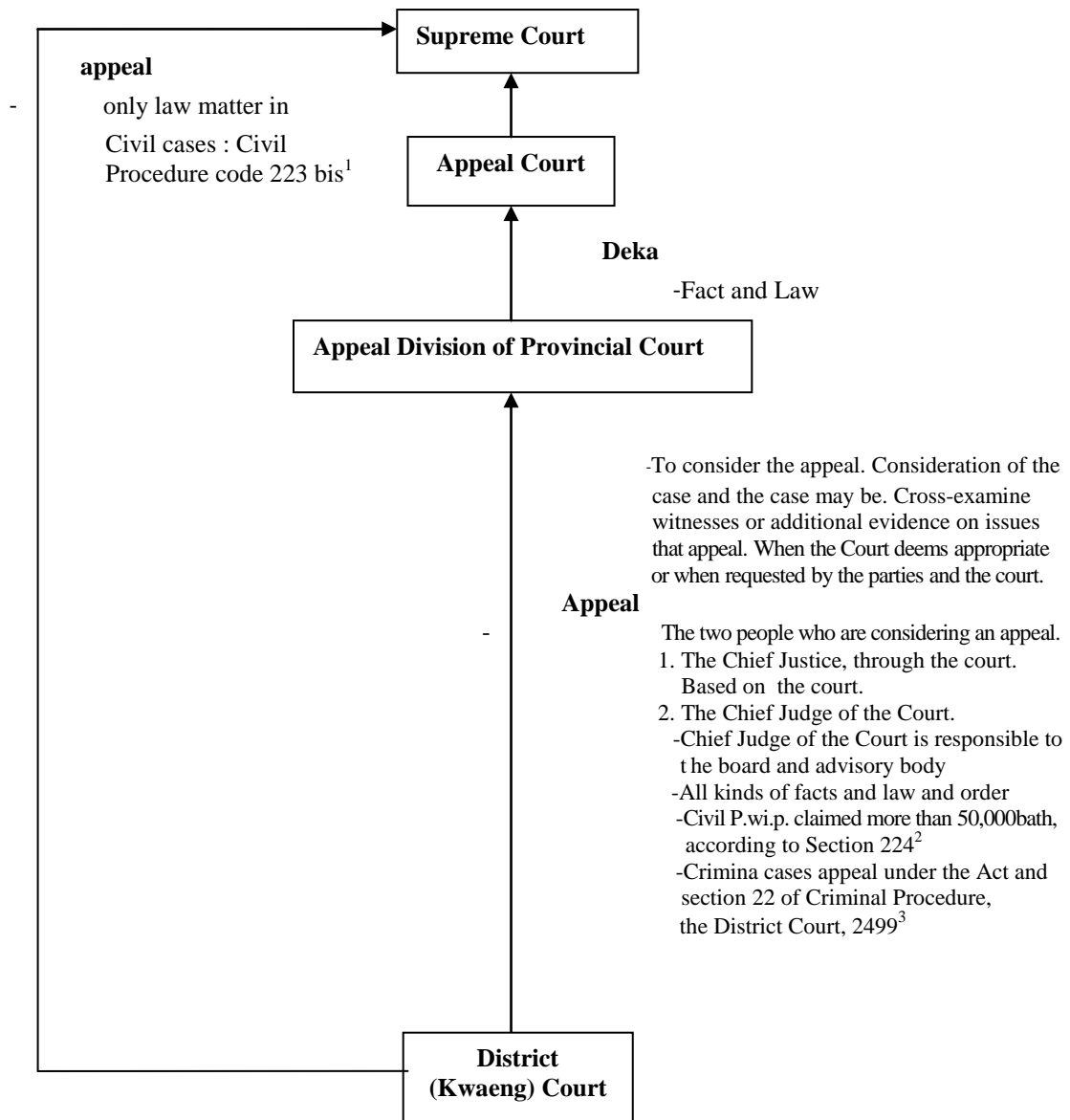
#### **5.1.4 Guidelines for amendment relating to the appeal system and the restructuring of the Thai court of appeal from the District Court trial.**

The results can improve the appeal of the district court case into two parts: (1) the Provincial Court can adjudicate the case on appeal from the District Court and (2) the adjudication of cases appealed from the District Court by the Provincial Court or the Court of Appeals in case. The petition, if the Provincial Court adjudicate the appeal the petition (Deka) will go to the Appeal Court. If the Appeal Court adjudicate the appeal the petition of appeal will go to Supreme Court. To consider a petition to the Supreme Court it is whether or not governed by the Code of Civil Procedure or Code of Criminal Procedure.

#### 5.1.4.1 Appeal from District Court to Appeal Division of the Provincial Court.

The results of the study.

- 1) The Lord of the judges should have two people.
- 2) The Lord of the judges in the adjudication of cases should consist of. The Chief Judge of the Provincial Court, that stationed in the First Instance Court and Chief Judge of the Chamber of the Court.
- 3) The administrative judge in charge of the Chief Justice in region.
- 4) The issues that should appeal to this Court are fact and law.
- 5) The procedure of appeal in the Provincial Court must consider evidence in the case and subject to cross-examine witnesses or to further the discussion on the appeal deems appropriate when the parties have requested and the court permit.
- 6) The scope of capital money to be able to appeal has claimed more than 50,000 Baht
- 7) In a criminal case to appeal to the rules provided for in Section 22 of the Act of the establishment of the District Court and the District Court criminal procedure BE. 2499.
- 8) In the appeal proceedings in the Provincial Court could consider all appeal the order of the District Court in the proceeding.



**Chart 5.1 The District court appeal system to the Appeal Division of Provincial Court**

1 Civil procedure code section. 223 bis stipulates that in case of an appeal, only issues of law. The appellant may request permission to appeal directly to the Supreme Court. To do so, a petition with the appeal is heard .....

2 Civil procedure code section 224 bis states that in cases where the disputed property or funds in the amount of Appeals, not exceeding 50,000 baht, or less than the amount specified in the decree. Prohibits the parties to appeal on the facts .....

3 Section 22 of the Criminal Court of the District Court of Appeal shall, unless the facts in issue in the case following an appeal by the defendant in a question of fact. (1) the defendant must be sentenced to imprisonment or detention shall be punished with imprisonment. (2) the defendant must be sentenced to imprisonment but the court is waiting for punishment. (3) The court sentenced the defendant guilty. But the punishment awaiting them. (4) the defendant shall be sentenced to more than one thousand Baht

The appeal of a lawsuit from the District Court to the Provincial Court in chart 5.1. is the rights of the parties to appeal the case as provided in the Code of Civil Procedure and The Act established the District Court and Criminal Procedure in District Court. By agreeing to the rights of the parties to request a judicial review of the district court decision in accordance with that law, private individuals have the freedom and equality, equal treatment by law restrictions, only a limited right to appeal. The case of parties which appeal to the Provincial Court is legal procedures in the manner of the rights of the persons mentioned above. The appeal to the Provincial Court consider as the case management of court administration in the form of a separate category of cases between the cases in the District Court and the other. In this way the jurisdiction of the Provincial Court will increase from only adjudicate the cases in addition to the General Court of First Instance of the court's role in reviewing the verdict from the court having jurisdiction over the case.

The appeal of the district court case to the Provincial Court can be solved the amount of outstanding cases in the Court of Appeals because there is no flow to the Court of Appeal, but it flow to the Court of First Instance or Provincial Court which is the administration of justice of the court to be fair and keep pace with current economic conditions without delay the judicial process to remedy the damage or the role of social control. The judicial process delay may not be good for parties or who get injured and need remedy.

5.1.4.2 The Appeal from the District Court to Appeal Division of Provincial Court or to the Appeal Court in cases.

The results of the study.

- 1) The Lord of the judges should have a three people.
- 2) The Lord of the judges in the adjudication of cases in the Provincial Court in appeal division includes: (1) Chief Justice (2) The Chief Judge of the Court. stationed in the First Instance Court (3) The Chief Judge of the Court chamber. Where appropriate, in each court.
- 3) The administrative judge in charge of the Lord Chief Justice in region.
- 4) The issues that should appeal to the Provincial Court are the question of fact and law.

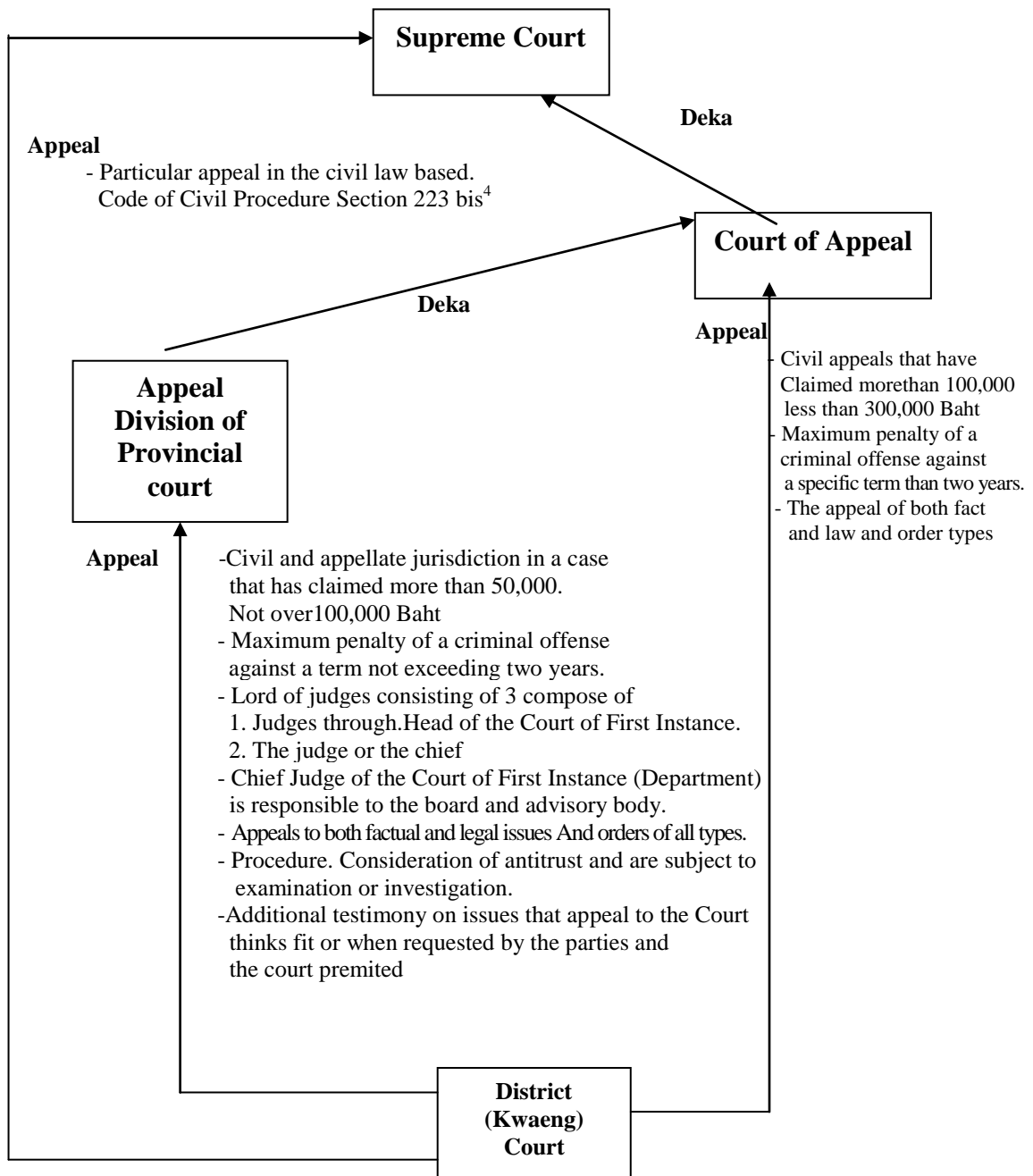
5) The issues that should appeal to the Court of Appeal from the District Court are question of fact and law.

6) To consider appeals from the District Court to Provincial Court or Court of Appeals shall be determined only the evident in the case. For hearing more evidents or more witnesses when the court deems appropriate or when the parties have requested and the court permit.

7) The capital of the funds of a civil case in the event for appeal from the District Court to the Provincial Court the appeal should have cost more than 50,000, according to the Code of Civil Procedure Section 224 but not exceeding 100,000 baht, and the capital of the funds of a civil suit in district court to the Court of Appeal should have claimed more than 100,000 but not exceeding 300,000 baht will be used if true, it probably needs to be reset to clear.

8) The criteria of the appeal in criminal case that should be applied to determine cases on appeal from the District Court to Provincial Court or Court of Appeals by mean of the maximum penalty of the offense was grant for penalty, how much should go into consideration for Provincial Court or Court of Appeals, the sample gave result that the rate of imprisonment has been divided only by a penalty on the offense if the rate of imprisonment not exceeding two years, the appeal go to Provincial Court. If the rate of offense to imprisonment for more than two years the appeal go to the Court of Appeal.

9) In the appeal proceedings in the District Court order the Provincial Court and the Court of Appeals should have the power to appeal to all orders in the proceedings.



**Chart 5.2 Appeals from District court to the Appeal Division of Provincial court or the Court of Appeals**

<sup>4</sup> Civil procedure code section. 223 bis stipulates that in case of an appeal, only issues of law. The appellant may request permission to appeal directly to the Supreme Court. To do so, a petition with the appeal is heard .....

In the form of an appeal from the District Court to the Provincial Court or the Court of Appeal in the form of the legal procedures under chart 5.2 the rights of private parties that will be covered by the review of the district court's ruling through the provision of the Code Procedure, which has some limitations, which are defined in the law. It means if no law to prohibit any act so any party can act upon it. The appeal followed a chart 5.2 is broken down into separate categories to make it appropriate to consider the appeal in a civil case, as is evident from the number of funds with which to distinguish between an appeal to the Court of Appeal and Provincial Court. In criminal cases, they are separate criminal offenses based on the results of punishment that indicates that the criminal has a maximum penalty of imprisonment for the offense against the more than two years appeal will go to Appeal Court which is the administrative litigation cases, according to a specific type of violence or money order to the proceedings accordingly.

The appeal system in accordance with chart 5.2 it is a semi-decentralized administration of justice by a judge in the appeal proceedings, the right to appeal in the District Court did not spread to all of case go to Provincial Court as in the chart 5.1 because some the case also needs Court of Appeal to be considered so that can be fair in their judgments on the adjudication of the case, the facts claimed a penalty is not serious or decentralized to the provincial court, which can be judged by. quickly and fairly as well as to the impact of law enforcement to be more concrete.

From the diagram above, the two images in chart 5.1 and chart 5.2 may be modified during the trial appeals from Provincial Court by appeal cases to the Office of the Chief Judge of the Court in region for the cases that appeal from the district court in the province beside Bangkok. In Bangkok, there are the large courts with the Chief Justice of the Court as the superior such as Civil Court, Criminal Court, Bangkok South Civil Court, Bangkok South Criminal Court, Thonburi Civil Court and Thonburi Criminal Court. Those courts have the power to adjudicate cases that are appealed from the district court. This is because some of the sample proposed Office of the Chief Justice as an alternative the appeal authority of the appeal from the District Court because now the judges who use to be the chief judge in the first instance court have been appointed to the position of to the office of the Chief Justice to review the case from a district court in the area. It is also can be the preparation of

the judge before move up to the Court of Appeal so that the judges have the expertise to adjudicate appeals from cases of the District Court which the case is not complicated. It will be beneficial to the people. The court may direct that the justice and fairness.

The researcher thinks that Thailand is appropriate to use a diagram in chart 5.1 for the appeal from the District Court by the Provincial Court because of

1. As a result, in Table 7, the one with more of a threat model diagrams in 5.2
2. It is a form that reduces the workload of the case to the Court of Appeals and to resolve outstanding cases in the Supreme Court.
3. It is a form of the proceedings in the appeal and provide justice to the public without delay.
4. It is a form that enhances the ability of the judge in the court of first instance in the work to be acceptable by the people.

In addition, the pattern in chart 5.1 is also consistent with the administration of justice in a manner that is distributed, not centralized authority in the case to the Court of Appeal, but also consistent with the establishment of the district court intention that it would like to have a special proceeding faster than normal because it is the case with not much money and no higher penalty. It is also consistent with the theory of criminology that the intense conviction of the law must strong, quick and clear. Of course, the people see the results that would have been out of action due to a better social control.

## **5.2 Recommendations.**

### **5.2.1 Recommendations for the Judiciary.**

The research has shown that there are problems that are related to the adjudication of cases appealed from the District Court by the Provincial Court. Most of sample think that 1. Judges of the Provincial Court has no capable to adjudicate the case on appeal from the District Court. 2. The appeal from the District Court to the Provincial Court will increase the number of the cases in Provincial Court and will the impact on the adjudication of cases, and 3. The adjudication of the appeal from the District Court by the Provincial Court cannot give justice and there is not possible to

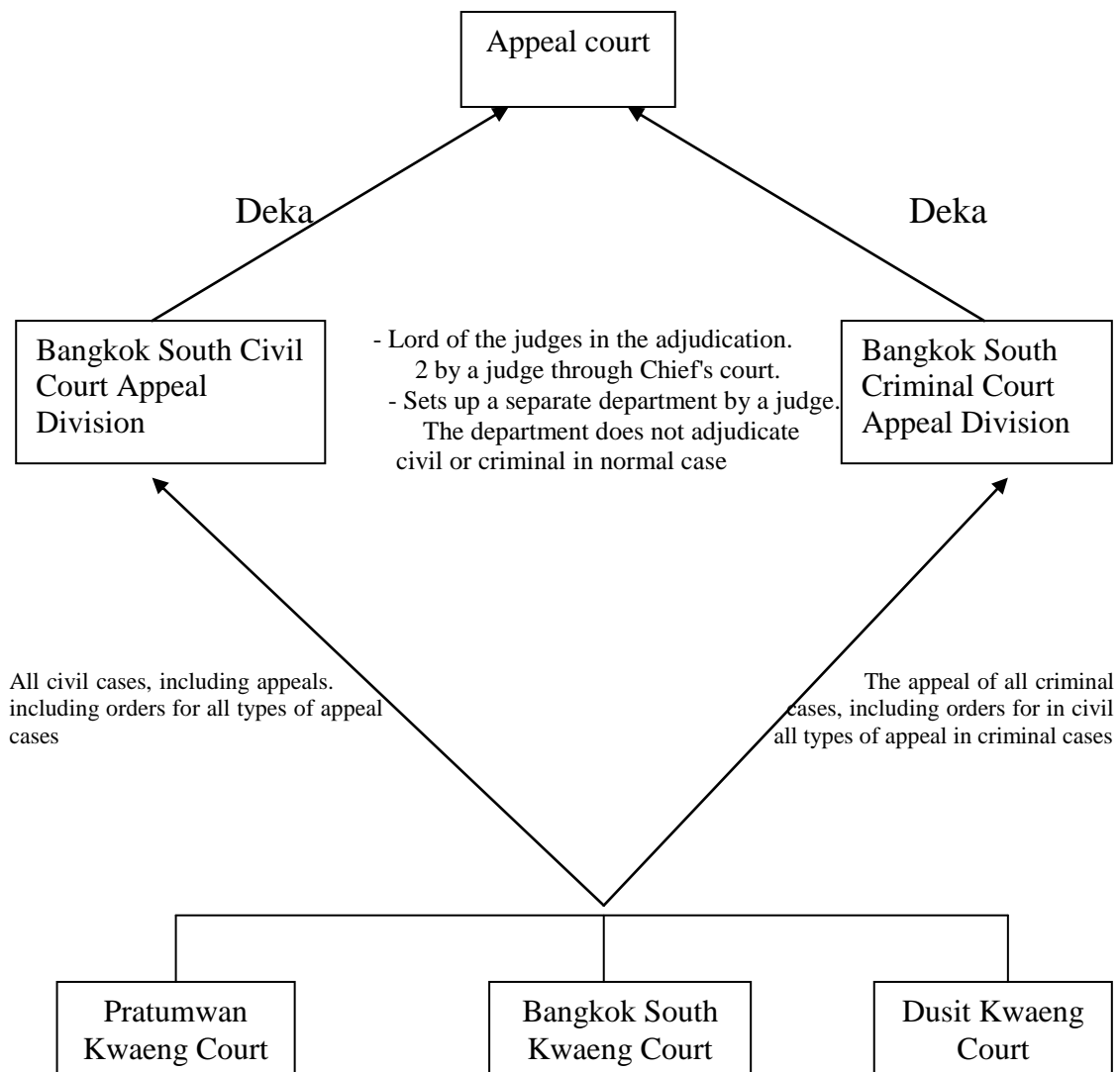
have that procedure. It is important issues because it is involve the credibility of the judiciary. By individual judges in lower courts, so if you want to reduce the case to the High Court it must develop the capacity of judges in lower courts by giving knowledgeable and reliable in the direction of justice otherwise the case will be up to the Supreme Court for adjudication. Despite the prohibition of appeal or petition, however, was unable to reduce the case actually, and in the future, the judge shall be served on the Court of First Instance was more due to an amendment to a retirement can increase with age and seniority. It would be beneficial to the parties that they can save time and expense of litigation will result in confidence and faith in the judiciary, especially in the lower courts is increasing as well. In this class, the researchers think the approach to developing the potential of the Provincial Court to have the ability to be reliable by to be able to consider an appeal from a district court such as.

1. Improve the appointment and tenure of provincial court judges and district court judge by solving the relevant legislation such as the Statute of the Court of Justice, B.E.2543, the Code of Civil Procedure, the Code of Criminal Procedure, The establishment District Court and the Criminal Procedure Act 2499, Judicial Act 2543, Regulations of committee of judges. on the basis of the appointment promoted migration and salaries emoluments and judicial officials. To provide confidence to the parties that the Provincial Court and sentenced by a judge or justice are reliable.

2. Provide training to enhance research on the Court of Justice to ensure that they are able to adjudicate in all cases and court forms available at fair and very fast. It also reduces the amount of work which, by the Court of Appeal, which is not required to extend the work of the Court of Appeal to increase to accommodate the increased volume of litigation in any way.

3. The establishment of the pilot court or the special appeal procedure from the district court to the provincial court or the Office of the Chief Justice of the Appellate Division. The trial of the appeal will be adjudicate by the judge appointed to Office of the Chief Justice. At present, it has been appointed the judges to the Office of the Chief Justice to investigate the case that the lower court in the region sent to the Office of the Chief Justice. This is similar to the review (Review) case by the Court of Appeal.

In Bangkok, the court of the first instance can establish appeal division to adjudicate a case which comes from the District Court because of the side of the court. The researcher will be proposed for the preparation of the pilot court in the adjudication of appeals from district court to do in Bangkok by using the Bangkok south Civil Court and Bangkok South Criminal Court model because those court have the district court in the jurisdiction of the three courts and there are the Chief Justice who came from the judges of the Supreme Court as the superior responsible for the court. The model can be describe as a chart below.



**Chart 5.3 The Model of Appeal case from the District court to Appeal Division of Provincial Court . Southern Bangkok Civil Court and Criminal Court cases study**  
 This chart is based on the chart 5.1 and the researcher sees fit to adopt in Thailand

4. Distributing information about the statistics about the Supreme Court upholds the ruling of the Court of First Instance, so that it can show the potential of the Provincial able to judge in accuracy and precision.

### **5.2.2 Recommendations for further research.**

1. It should be analyzed on the guidelines to modify the system to appeal the case to the Provincial Court by the position of the sample and present a model derived from this research to question the sampling in the provinces that do have a comment.

2. It should ask the parties about the appeal of the district court, proceedings about the appeal of the district court and appeal of the district court to Provincial Court.

3. It should be asking people involved in the appeal of the District Court in Appeal Court and Supreme Court to get the comments about the format of appeal from the District to the Provincial Court.

4. It should study the form of appeal to Supreme Court that should be in any format to suit the current conditions and speed of the process

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## **APPENDIX**

**แบบสอบถาม**

**เรื่อง “การศึกษาทัศนคติของนักกฎหมายต่อการให้อุทธรณ์ศาลแขวงไปสู่ศาลจังหวัดในประเทศไทย”**

**คำชี้แจง** แบบสอบถามแบ่งออกเป็น 4 ตอน ดังนี้

1. ข้อมูลทั่วไปของผู้ตอบแบบสอบถาม
2. ทัศนคติต่อระบบการอุทธรณ์ที่ใช้ในปัจจุบัน
3. ทัศนคติต่อการพิจารณาพิพากษาคดีที่อุทธรณ์มาจากศาลแขวงโดยศาลชั้นต้น
4. แบบวัดความคิดเห็นเกี่ยวกับระบบการอุทธรณ์คดีของศาลแขวง

**ข้อมูลที่ได้รับจะเก็บไว้เป็นความลับและไม่มีผลต่อบุคคลที่ตอบแบบสอบถามนี้แต่อย่างใด**



ตอนที่ 2 ทศนคติต่อระบบการอุทธรณ์คำพิพากษาของศาลแขวงที่ใช้ในปัจจุบัน  
 คำชี้แจง โปรดกาเครื่องหมาย ✓ ลงช่องที่ตรงกับความคิดของท่านมากที่สุด

ข้อความ	เห็นด้วย อย่างยิ่ง	เห็น ด้วย	ค่อนข้าง เห็นด้วย	ค่อนข้าง ไม่เห็น ด้วย	ไม่เห็น ด้วย
1.ท่านเห็นว่าขั้นตอนการยื่นอุทธรณ์คดีของศาลแขวงไปยังศาลอุทธรณ์ทำให้การอุทธรณ์ล่าช้า					
2.ท่านเห็นว่าการยื่นอุทธรณ์คดีของศาลแขวงไปยังศาลอุทธรณ์ทำให้ปริมาณคดีเพิ่มขึ้นมีผลกระทบต่อการศึกษาพิพากษาคดีอื่น					
3.ท่านเห็นว่าการศึกษาพิพากษาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลอุทธรณ์เป็นกระบวนการพิจารณาที่รวดเร็ว					
4.ท่านเห็นว่าการอุทธรณ์คดีของศาลแขวงในพื้นที่ต่างจังหวัดจะทำให้เกิดปัญหาเกี่ยวกับระยะเวลาในการพิจารณาที่ล่าช้าเกินควร					
5.ท่านเห็นว่าการอุทธรณ์คดีแพ่งที่มีทุนทรัพย์เกิน50,000บาทขึ้นไป ไปยังศาลอุทธรณ์เหมาะสมแล้ว					
6.ท่านเห็นว่าหลักเกณฑ์ในการอุทธรณ์คดีอาญาตามพ.ร.บ.จัดตั้งศาลแขวงและวิธีพิจารณาความอาญาในศาลแขวง มาตรา22(มาตรา22 ในคดีอาญาห้ามมิให้อุทธรณ์คำพิพากษาของศาลแขวงในปัญหาข้อเท็จจริงเว้นแต่ในกรณีต่อไปนี้ให้จำเลยอุทธรณ์ในปัญหาข้อเท็จจริงได้ (1)จำเลยต้องคำพิพากษาให้ลงโทษจำคุกหรือให้ลงโทษกักขังแทนโทษจำคุก (2)จำเลยต้องคำพิพากษาให้ลงโทษจำคุกแต่ศาลให้รอการลงโทษไว้ (3)ศาลพิพากษาว่าจำเลยมีความผิด แต่รอการกำหนดโทษไว้ (4)จำเลยต้องคำพิพากษาให้ลงโทษปรับเกินหนึ่งพันบาท)เหมาะสมแล้ว					

ข้อความ	เห็นด้วย อย่างยิ่ง	เห็น ด้วย	ค่อนข้าง เห็นด้วย	ค่อนข้าง ไม่เห็น ด้วย	ไม่เห็น ด้วย
7. ท่านเห็นว่าค่าใช้จ่ายในการยื่นอุทธรณ์คดี และค่าใช้จ่ายเกี่ยวกับการเดินสำนวนคดีจาก ศาลแขวงไปยังศาลอุทธรณ์มีค่าใช้จ่าย สิ้นเปลืองเกินความจำเป็น					
8. ท่านเห็นว่าการศึกษาพิพาทคดีโดยศาล อุทธรณ์จะให้ความคุ้มครองสิทธิและเสรีภาพ ของประชาชนได้อย่างรวดเร็ว					
9. ท่านเห็นว่าผู้พิพากษาศาลอุทธรณ์มีความ จำเป็นและเหมาะสมจะต้องเป็นผู้พิจารณา พิพาทคดีที่อุทธรณ์จากศาลแขวง					
10. ท่านเห็นว่าวิธีพิจารณาความของศาล อุทธรณ์ที่พิจารณาจากสำนวนที่ส่งมาจากศาล ชั้นต้นนั้นเหมาะสมดีแล้ว					
11. ท่านเห็นว่าการศึกษาพิพาทคดีที่ไต่สวน อุทธรณ์โดยศาลอุทธรณ์นั้นเหมาะสมดีแล้ว					

ตอนที่ 3 ทศนคติต่อการพิจารณาพิพากษาคดีที่อุทธรณ์มาจากศาลแขวงโดยศาลจังหวัด

คำชี้แจง โปรดกาเครื่องหมาย  ลงช่องที่ตรงกับกรณีของท่านมากที่สุด

ข้อความ	เห็นด้วย อย่างยิ่ง	เห็น ด้วย	ค่อนข้าง เห็นด้วย	ค่อนข้าง ไม่เห็นด้วย	ไม่เห็น ด้วย
1. ท่านเห็นว่าการยื่นอุทธรณ์คดี ของศาลแขวงไปยังศาลจังหวัดจะ ทำให้ปริมาณคดีในศาลเพิ่มมาก ขึ้นซึ่งมีผลกระทบต่อการศึกษา พิพากษาคดีอื่น					
2. ท่านเห็นว่าขั้นตอนการยื่น อุทธรณ์คดีของศาลแขวงไปยัง ศาลจังหวัดทำให้การอุทธรณ์ รวดเร็ว					
3. ท่านเห็นว่าการพิจารณา พิพากษาคดีที่อุทธรณ์จากศาล แขวงไปยังศาลจังหวัดเป็น กระบวนการพิจารณาที่รวดเร็ว					
4. ท่านเห็นว่าการพิจารณา พิพากษาคดีอุทธรณ์จากศาลแขวง ไปยังศาลจังหวัดจะเป็นการแบ่ง เบาภาระของศาลอุทธรณ์					
5. ท่านเห็นว่าการพิจารณา พิพากษาคดีที่อุทธรณ์จากศาล แขวงไปยังศาลจังหวัดจะเป็น ประโยชน์ต่อประชาชน					
6. ท่านเห็นว่าการอุทธรณ์ของศาล แขวงไปยังศาลจังหวัดจะทำให้ เกิดปัญหาเกี่ยวกับระยะเวลาใน การพิจารณาคดีที่ล่าช้าเกินควร					

ข้อความ	เห็นด้วย อย่างยิ่ง	เห็น ด้วย	ค่อนข้าง เห็นด้วย	ค่อนข้าง ไม่เห็นด้วย	ไม่เห็น ด้วย
7. ท่านเห็นว่าทุนทรัพย์ที่พิพาทในการอุทธรณ์คดีแพ่งของศาลแขวงควรมีการกำหนดแยกต่างหากจากที่ระบุในประมวลกฎหมายวิธีพิจารณาความแพ่ง					
8. ท่านเห็นว่าการศึกษาพิพาทษาอุทธรณ์ในศาลจังหวัดจะทำให้ประหยัดค่าใช้จ่ายในการยื่นและระบบการเดินสำนวน					
9. ท่านเห็นว่าการศึกษาพิพาทษาอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดจะให้ความคุ้มครองสิทธิและเสรีภาพของประชาชนได้อย่างรวดเร็ว					
10. ท่านเห็นว่าผู้พิพาทษาในศาลจังหวัดมีความเหมาะสมในการพิจารณาพิพาทษาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลจังหวัดได้					
11. ท่านเห็นว่าการศึกษาพิพาทษาอุทธรณ์คดีของศาลแขวงโดยศาลจังหวัดนั้นสามารถอำนวยความสะดวกยุติธรรมได้ และมีความเป็นไปได้					
12. ท่านเห็นว่าแนวคิดเกี่ยวกับหลักการที่จะให้มีการอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดมีความเหมาะสมและสอดคล้องกับสภาพสังคมในปัจจุบัน					

**ตอนที่ 4 แบบวัดความคิดเห็นเกี่ยวกับระบบอุทธรณ์คดีของศาลแขวง**

**1. ท่านเห็นวาระระบบใดที่เหมาะสมที่สุดในการพิจารณาพิพากษาคดีที่อุทธรณ์ของศาลแขวง**

- ( ) พิจารณาพิพากษาโดยศาลอุทธรณ์
- ( ) พิจารณาพิพากษาโดยศาลจังหวัด (หากท่านเลือกข้อนี้กรุณาตอบคำถามเฉพาะข้อ 2.)
- ( ) พิจารณาพิพากษาโดยศาลจังหวัดหรือศาลอุทธรณ์ (หากท่านเลือกข้อนี้กรุณาตอบคำถามเฉพาะข้อ 3.)

**2. การพิจารณาพิพากษาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลจังหวัด**

**2.1 ท่านคิดว่าองค์คณะผู้พิพากษาในการพิจารณาอุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรมีจำนวนเท่าใด**

- ( ) 1คน
- ( ) 1 คน หากจะพิพากษาเพิ่มโทษ หรือ กลับ แก้ไข ต้องปรึกษาเป็นองค์คณะอีก 1 คน
- ( ) 2คน
- ( ) 3คน

**2.2 ท่านคิดว่าผู้พิพากษาที่เป็นองค์คณะในการพิจารณาคดีอุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรจะประกอบด้วยใครบ้าง(สามารถตอบได้มากกว่า 1 ข้อ)**

- ( ) ผู้พิพากษาหัวหน้าศาล
- ( ) ผู้พิพากษาที่ผ่านการดำรงตำแหน่งหัวหน้าศาลแล้ว ที่ประจำอยู่ในศาลชั้นต้น
- ( ) ผู้พิพากษาหัวหน้าคณะในศาลชั้นต้น      ( ) ผู้พิพากษาศาลชั้นต้น (ชั้นที่3)
- ( ) ผู้พิพากษาศาลชั้นต้น (ชั้นที่ 2)      ( ) ผู้พิพากษาประจำศาล (ชั้นที่1)

**2.3 ท่านคิดว่าผู้พิพากษาที่เป็นองค์คณะในการพิจารณาคดีอุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรอยู่ในความรับผิดชอบของใคร**

- ( ) ผู้พิพากษาหัวหน้าศาลจังหวัด...    ( ) อธิบดีผู้พิพากษา....    ( ) ประธานศาลอุทธรณ์....

**2.4 ท่านคิดว่าขอบเขตการอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดควรอุทธรณ์ในปัญหาใดได้บ้าง**

- ( ) ปัญหาข้อเท็จจริง ( ) ปัญหาข้อกฎหมาย ( ) ปัญหาข้อเท็จจริงและปัญหาข้อกฎหมาย

**2.5 ท่านคิดว่าการพิจารณาอุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรมีวิธีพิจารณาอย่างไร**

- ( ) ต้องพิจารณาจากสำนวนคดีที่ได้มีการสืบพยานเสร็จสิ้นลงแล้วเท่านั้น
- ( ) พิจารณาจากสำนวนคดีและจะต้องมีการสืบพยานหรือไต่สวนพยานเพิ่มเติมในประเด็นที่ได้อุทธรณ์
- ( ) พิจารณาจากสำนวนคดีและอาจมีการสืบพยานหรือไต่สวนพยานเพิ่มเติมในประเด็นที่ได้อุทธรณ์เมื่อศาลเห็นสมควร หรือเมื่อคู่ความได้ร้องขอและศาลอนุญาต

**2.6 ขอบเขตทุนทรัพย์ของคดีแพ่งในกรณีที่มีการอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดควรมีทุนทรัพย์เท่าใด**

- ( ) เกิน50,000บาท(ตามป.วิ.พ. มาตรา224) ( ) จำนวนอื่นๆ(โปรดระบุ).....

**2.7 ระดับอัตราโทษในคดีอาญาที่จะอุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรมีเพียงใด**

- ( ) มีหลักเกณฑ์ตามที่บัญญัติในมาตรา22 แห่งพ.ร.บ.จัดตั้งศาลแขวงและวิธีพิจารณาฯ(มาตรา22 ในคดีอาญาห้ามมิให้อุทธรณ์คำพิพากษาของศาลแขวงในปัญหาข้อเท็จจริงเว้นแต่ในกรณีต่อไปนี้ให้จำเลยอุทธรณ์ในปัญหาข้อเท็จจริงได้  
 (1) จำเลยต้องคำพิพากษาให้ลงโทษจำคุกหรือให้ลงโทษกักขังแทนโทษจำคุก (2) จำเลยต้องคำพิพากษาให้ลงโทษจำคุกแต่ศาลให้การลงโทษไว้(3) ศาลพิพากษาว่าจำเลยมีความผิด แต่รอการกำหนดโทษไว้ (4) จำเลยต้องคำพิพากษาให้ลงโทษปรับเกินหนึ่งพันบาท)
- ( ) มีหลักเกณฑ์ (โปรดระบุ).....

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**2.8 ท่านคิดว่าการอุทธรณ์คำสั่งของศาลแขวงไปยังศาลจังหวัดนั้นศาลจังหวัดควรมีอำนาจสามารถพิจารณาอุทธรณ์คำสั่งประเภทใด**

- ( ) คำสั่งระหว่างพิจารณา ( ) คำสั่งอื่นที่มีโทษคำสั่งระหว่างพิจารณา ( ) ทุกคำสั่งในกระบวนการพิจารณา

**3.การพิจารณาพิพากษาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลจังหวัดหรือศาลอุทธรณ์**

**3.1ท่านคิดว่าองค์คณะผู้พิพากษาในการพิจารณาอุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรมีจำนวนเท่าใด**

- 1 คน
- 1คน หากจะพิพากษาเพิ่มโทษ หรือ กลับ แก้ไข ต้องปรึกษาเป็นองค์คณะอีก1 คน
- 2คน
- 3คน

**3.2ท่านคิดว่าผู้พิพากษาที่เป็นองค์คณะในการพิจารณาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรประกอบด้วยใครบ้าง(สามารถตอบได้มากกว่า1ข้อ)**

- ผู้พิพากษาหัวหน้าศาล
- ผู้พิพากษาที่ผ่านการดำรงตำแหน่งหัวหน้าศาลแล้ว
- ผู้พิพากษาหัวหน้าคณะในศาลชั้นต้น
- ผู้พิพากษาศาลชั้นต้น (ชั้นที่3)       ผู้พิพากษาศาลชั้นต้น (ชั้นที่ 2)
- ผู้พิพากษาประจำศาล (ชั้นที่1)

**3.3 ท่านคิดว่าผู้พิพากษาที่เป็นองค์คณะในการพิจารณาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรอยู่ในความรับผิดชอบของใคร**

- ผู้พิพากษาหัวหน้าศาลจังหวัด...     อธิบดีผู้พิพากษา....     ประธานศาลอุทธรณ์....

**3.4 ท่านคิดว่าขอบเขตการอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดควรรให้อุทธรณ์ในปัญหาใดได้บ้าง**

- ปัญหาข้อเท็จจริง     ปัญหาข้อกฎหมาย     ปัญหาข้อเท็จจริงและปัญหาข้อกฎหมาย

**3.5ท่านคิดว่าในการอุทธรณ์คดีจากศาลแขวงไปยังศาลอุทธรณ์เพื่อพิจารณาคดีนั้นควรรให้อุทธรณ์ในปัญหาใดได้บ้าง**

- ปัญหาข้อเท็จจริง     ปัญหาข้อกฎหมาย     ปัญหาข้อเท็จจริงและปัญหาข้อกฎหมาย

**3.6 ท่านคิดว่าการพิจารณาอุทธรณ์จากศาลแขวงไปยังศาลจังหวัดควรมีวิธีพิจารณาอย่างไร**

- ( ) ต้องพิจารณาจากสำนวนคดีที่ได้มีการสืบพยานเสร็จสิ้นลงแล้วเท่านั้น
- ( ) พิจารณาจากสำนวนคดีและจะต้องมีการสืบพยานหรือไต่สวนพยานเพิ่มเติมในประเด็นที่ได้อุทธรณ์
- ( ) พิจารณาจากสำนวนคดีและอาจมีการสืบพยานหรือไต่สวนพยานเพิ่มเติมในประเด็นที่ได้อุทธรณ์เมื่อศาลเห็นสมควร หรือเมื่อคู่ความได้ร้องขอและศาลอนุญาต

**3.7 ท่านคิดว่าการพิจารณาคดีที่อุทธรณ์จากศาลแขวงไปยังศาลอุทธรณ์ควรมีวิธีพิจารณาอย่างไร**

- ( ) ต้องพิจารณาจากสำนวนคดีที่ได้มีการสืบพยานเสร็จสิ้นลงแล้วเท่านั้น
- ( ) พิจารณาจากสำนวนคดีและจะต้องมีการสืบพยานหรือไต่สวนพยานเพิ่มเติมในประเด็นที่ได้อุทธรณ์
- ( ) พิจารณาจากสำนวนคดีและอาจมีการสืบพยานหรือไต่สวนพยานเพิ่มเติมในประเด็นที่ได้อุทธรณ์เมื่อศาลเห็นสมควร หรือเมื่อคู่ความได้ร้องขอและศาลอนุญาต

**3.8 ขอบเขตทุนทรัพย์ของคดีแพ่งในกรณีที่มีการอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดหรือศาลอุทธรณ์ควรมีจำนวนทุนทรัพย์เท่าใด**

ทุนทรัพย์ของคดีที่อุทธรณ์จากศาลแขวงไปยังศาลจังหวัดมีจำนวน เกิน50,000บาท(ตามป.วิ.พ. มาตรา 224)แต่ไม่เกินจำนวน(โปรดระบุ).....บาท

ทุนทรัพย์ของคดีที่อุทธรณ์จากศาลแขวงไปยังศาลอุทธรณ์มีจำนวนเกินกว่า (โปรดระบุ).....บาท แต่ไม่เกินจำนวน300,000บาท(ตามเขตอำนาจของศาลแขวงในพระราชบัญญัติศาลฯมาตรา17)

**3.9 ในคดีอาญาท่านคิดว่าข้อกำหนดใดควรนำมาใช้ในการแบ่งแยกในกรณีของการอุทธรณ์คดีจากศาลแขวงไปยังศาลจังหวัดหรือการอุทธรณ์คดีจากศาลแขวงไปยังศาลอุทธรณ์**

- ( ) ควรแบ่งแยกโดยพิจารณาจากจำนวนองค์คณะผู้พิพากษาที่ตัดสินคดีตามพระราชบัญญัติวิธีพิจารณาความอาญา
- ( ) ควรแบ่งแยกโดยพิจารณาจากประเภทฐานความผิดที่ถูกฟ้อง
- ( ) ควรแบ่งแยกโดยพิจารณาจากอัตราโทษสูงสุดจากฐานความผิดที่ถูกฟ้อง
- ( ) ควรแบ่งแยกโดยพิจารณาจากหลักเกณฑ์ตามที่บัญญัติไว้ในมาตรา 22 แห่งพ.ร.บ.จัดตั้งศาลแขวงและวิธีพิจารณาความอาญาในศาลแขวงว่าข้อใดควรอยู่ภายใต้อำนาจของศาลจังหวัดหรือควรอยู่ภายใต้อำนาจของศาลอุทธรณ์แล้วแต่กรณี

( ) ควรแบ่งแยกโดยพิจารณาจากหลักเกณฑ์อื่นๆ(โปรดระบุ).....

3.10 ท่านคิดว่าการอุทธรณ์คำสั่งของศาลแขวงไปยังศาลจังหวัดนั้นศาลจังหวัดควรมีอำนาจพิจารณาอุทธรณ์คำสั่งประเภทใด

( ) คำสั่งระหว่างพิจารณา ( ) คำสั่งอื่นที่มีใช้คำสั่งระหว่างพิจารณา ( ) ทุกคำสั่งในกระบวนการพิจารณา

ขอขอบพระคุณในการตอบแบบสอบถามนี้  
โปรดตรวจทานอีกครั้งว่าท่านได้ทำครบทุกข้อ

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