

PROTECTION AND ADOPTION OF ORPHAN UNDER THAI CHILD PROTECTION ACT 2003: WITH REFERENCE TO THE MALAY MUSLIMS IN THE DEEP SOUTH OF THAILAND

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Thailand is a democratic and Buddhist country with the king as Head of the State. There are many provisions in the revised Constitution of the Kingdom of Thailand, 1997(CKT 1997) and CKT 2007 provide the principles of democracy such as the protection of the interests of a child. By virtue of CKT 1997, the Thai Child Protection Act, 2003 (TCPA 2003) was promulgated and was subsequently enforced on 24 September 2003. The objectives of the study are to investigate legal provisions of TCPA, 2003 concerning the children's rights and orphans' right of living in orphanage centers, the current scenario on the status of the children at risk in Thailand. This is because the children in the southern provinces of Thailand are subjected to ongoing unrest. The data illustrated the presence of a high level of victims among the children aged 6 to 10 years old, about 4,304.00 children are orphans. Since the Act of 2003 is new, it faces many challenges and obstacles, the challenges facing the Thai government in relation to the issue of adoption and nationality for orphans and the conditions of living in the orphanage centers in the southern provinces. The study revealed that article 7 of TCPA 2003 concerning child protection committee members need to be revised, and children protection committee members may involve elected representatives from the central Muslim religious council and Muslim magistrates from the four southern border provinces of Thailand. The government, civil society, and communities need to complement each other and work towards creating a protective environment for children and orphans. Support systems must ensure the fulfilment of basic needs of the families of widows and orphans without any discrimination.

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INTRODUCTION

Knowing that there occurs violence in the southern region which causes the loss of life, the children, orphan, and widows are also among the victims of the unrest. The turmoil is creating loss of lives and causing significant damage to both private and public properties.¹ Many children became orphans overnight due to the trail of murders and killings. According to the government statistics, Pattani has seen the highest number of orphaned children -1,691; followed by Narathiwat with 1,586 and Yala with 1,027. The unrest in Songkhla has been responsible for 150 orphans, widowed up to 2,295 women over the past eight years. This is because, the southern region has a population of 9 million, 6 % of the national population are Muslims. They are the second largest minority next to the Chinese.² There are five provinces of which three have borders with Malaysia. The survey data indicate that Pattani population, as of 31 December 2001, is about 635,730.00 persons, female population is up to 330,665.00 whereas males' population is about 305,065.00 persons. And the total of the Narathiwat population is about 707,171.00 persons and 468,252.00 persons for Yala province.³

Table 1: Numbers of Children Victims affected by ongoing unrest in Pattani province

Age	Total
0 – 5 years	80 persons
6 – 10 years	135 persons
11 – 15 years	127 persons
16 – 25 years	201 persons
26 – 35 years	96 persons
> 36 years	40 persons

Source: Asian Social Science, Vol.5, No.9/ September 2009

As shown in table 1, the greatest proportion (135) of the victims in Pattani province is among children aged six years old to ten years old. A second larger proportion (127) of the victims aged eleven years old to fifteen years old. According to the Ministry of Education, at least 30 school students were killed and 92 injured due to violence in the affected provinces between January 2004

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and December 2007.⁴ Just like many child laws in other countries, the future of child protection in Thailand is very much depended on the governmental organizations. Support from institution such as Islamic organizations, mosques and Islamic centers are vital especially at the growth stage. Currently, there are about 6 private run orphanage care centers with approximately 800 orphans operating in the four southern border provinces, only Narathiwat province has two centers.

These private run orphanage centers should apply for license from the Director-General before operation.⁵ If a center which has been granted license under section 7 of TCPA, 1979 violates the conditions stipulated in the license or performs an act detrimental to the peace and order or good moral of the public or to the welfare of a child, the Director-General is authorized to revoke its license, and the provisions of paragraph one shall apply *mutatis mutadis*.⁶ In Pattani or Patani,⁷ the Southern Orphanage Centre estimates 90% of orphan are Muslims. The Provincial Orphanage Centre of Narathiwat or Bangnara,⁸ Yala, Pattani, and Songkhla have successfully collaborated with the four northern states in Malaysia. The success of this cross-border collaboration is attributed to having Islamic value in common. Figure 1: Map of Southern Thailand



A significant number of children who have lost parents due to causes other than those related to the ongoing conflict in Pattani, Yala and Narathiwat. Although the state claims to provide for some such “orphans,” the magnitude of the problem is so immense that only a small proportion of these children gain any substantial or meaningful state support to carry on with their lives.

According to Mr. Wsin Samoh, the Deputy Director of *Dar al-Aytam wa al-Masakin lil Banat* Sungai Pandang, Pattani province, 9 Kilometers southeast of Pattani city, said most center attendance are local Muslims. The situation in the centre is crowded. Presently, there are approximately 203 orphan residents in the orphanage.⁹ The children range from the very young to the late teens. The younger children have special wardens who ensure that each child is looked after, given due attention, and cared for from a young age. This gives the child the opportunity to develop in a secure environment. Healthy environment is of necessary. Most of them have had little or no formal education. Some of them are enrolled in local religious private schools — just to mention a few, for example- Amanasak school in Pattani province and Ma’had al-Tarqiyyah al-Islamiyyah in Narathiwat province. Their school fees are waived off¹⁰ and they are provided free boarding and lodging in the orphanage. At *Dar al-Barakah* school, known as “Pannya Lert Orphanage Foundation” which is located at Ban Bana of Pattani’s Muang district in Pattani province is currently occupied with more than 100 children.

Narathiwat *Abu Hurayrah Dar al-Aytam* located at Phijit Bamrong road whereas *Nida’ Al-Khair* is located at Jakan village, 10 Kilometers southeast of Narathiwat Municipality in Narathiwat province, are also private- run orphanage centers. These centers are more familiar with *rumah anak yatim* than with orphanage centre. This orphanage center was funded jointly by *Ihya’ al-Turath al-Islami* and local Muslim communities in the area. Presently, there are approximately 400 orphan residents in the orphanage.¹¹ Some private orphanage centers are run by NGOs or other private charities (both religious and secular). Examples of this type include the Thai Red Cross Children Home and the Friends for All

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Children Orphanage, both centers are in Bangkok city. Pattaya Orphanage in Chonburi, and the Agape Home in Chiang Mai. Some foster care programs exist, where children live with foster families until adoptive placement. Examples include the program, focused primarily on adoption of young/healthy children, and foster care for some children who are in the care of the “Friends for All Children Foundation”, particularly in the Chiang Mai province. Thus, it seems appropriate to study the relevant laws and regulations must be studied carefully to find ways and solutions to the current problems affecting victims especially the children and orphans in those areas.

CHILDREN’S RIGHTS IN THAILAND UNDER THAI CONSTITUTION AND OTHER RELEVANT LAWS

Rights which are recognized by Thai constitution include rights which have never mentioned by previous constitution, some of them are the right of the children and the youth to be protected from violence and unfair practice and right to receive are and education from the state if they have no guardians and child’s right to health services and care.¹² By virtue of section 50 CKT 2007, the Eighth Five-year National Health Development Plan (1997-2001) was formulated under the Ministry of Public Health (MOPH), the government agency responsible for national health development planning. The plan emphasizes decentralized health management and greater collaboration between the public and private sectors. Public participation and community involvement in all decision-making processes are sought, based on the determination of local administrative bodies.¹³ One of the mechanisms of the protection is through appointment of the permanent committee members. This committee is appointed since the introduction of the TCPA 2003. By virtue of CKT 1997 it provides, *inter alia* that: “The state must provide health services and care for every person as a constitutional right. This includes children and other vulnerable groups. To protect the interests of a child, a child protection committee was set up”.¹⁴

The committee consists of the Ministry of Social Development

and Human Security as a chairperson, the permanent secretary to the Ministry of Social Development and Human Security as a vice-chairperson. The members of Child Protection Committee comprise of the Permanent Secretary to the Ministry of Interior, the Permanent Secretary to the Ministry of Justice, the Permanent Secretary to the Ministry of Education, the Attorney General, the Chief of the Royal Thai Police, the Director-General of the Department of Provincial Administration, the Director-General of the Department of Mental Health, the Chief Judge of the Central Juvenile and Family Court, and the Director of the Office of Welfare Promotion and Protection and Empowerment of Vulnerable Groups and the distinguished members appointed by the Minister from experts who have seven years professional experiences in the fields of social welfare, education, psychology, law and medicine. The Child Protection Committee (CPC) consists of the Minister of Social Development and Human Security as the Chairperson, and a permanent secretary to the Ministry of Social Development and Human Security as the Vice-Chairperson. The committee members are as follows:

- 1 Permanent Secretary to the Ministry of Interior,
- 2 Permanent Secretary to the Ministry of Justice,
- 3 Permanent Secretary to the Ministry of Education,
- 4 Attorney General,
- 5 Chief of the Royal Thai Police,
- 6 Director-General of the Department of Provincial Administration,
- 7 Director-General of the Department of Mental Health,
- 8 Chief Judge of the Central Juvenile and Family Court,
- 9 Director of the Office of Welfare Promotion and Protection and Empowerment of Vulnerable Groups, and
- 10 Distinguished members appointed by the Minister from experts who have seven years professional experiences in the fields of social welfare, education, psychology, law, and medicine.¹⁵

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The purpose of protection under this Act, the appointed committees are obliged to advise the Minister on all aspects of child protection. A secretariat of the committee shall have the following duties:

- 1 To perform administrative tasks¹⁶
- 2 To coordinate and cooperate with the other government agencies, and public and private organizations ¹⁷
- 3 To develop system, modules, procedures, and to provide services in connection with child welfare, safety protection and behavioral promotion, and ¹⁸
- 4 To compile research results, and analysis in connection with the monitoring, and evaluating of the implementation of policies and plans for the provision of welfare, safety protection and behavioral promotion of children.¹⁹

The mission of the plan states that all Thai citizens, regardless of sex, age, occupation, religion, locality, race, education, and economic status should have the following:

- 1 Be born and grow up in a well-prepared and warm family environment,
- 2 Be adequately developed physically, and intellectually to be capable of adjusting to a rapidly changing world, and to be able to make rational consumer decisions, maintain good health behavior and live happily, with peace of mind,
- 3 Have health security, and access to appropriate health care services, which are rational, accessible, of good quality, equitably distributed, and provided at a reasonable cost,
- 4 Live in a well-organized community where resources are pooled and responsibilities are shared, particularly the health care of individuals, family, and communities, with an emphasis on children, the elderly, the underprivileged and the handicapped,
- 5 Maintain good and safe living and working conditions, and
- 6 Live a long, good quality life, free of preventable illnesses,

and dying

7 with dignity.²⁰

The committee members listed above are not representing the Muslim population. However, data illustrated above shown that Muslim children are the victims of the regional unrest. Moreover, Thailand is a multi-religious country and Islam is the second largest religion with over six million followers. Majority of them reside in the southern provinces of the country which is located at the Malaysian border. Therefore, special consideration must be given to the Muslims in the south to be appointed as a committee member of CPC.

CHILD PROTECTION LAW IN THAILAND: HISTORICAL BACKGROUND AND MODERN DEVELOPMENT

The history of child protection laws started with the introduction Thai Child Protection Act, 1979 (TCPA 1979) and TCPA 2003. As for TCPA 2003 it was enacted by King Bhumibol Adulyadej on 24 September 2003. This Act stipulated that *inter alia*, all legal provisions relating to the restriction of rights and liberties of individuals which contains in sections 29, 31, 34, 35, 36, 39, 48 and section 50 of the CKT 2007 are reaffirmed by this Act.²¹ This Act shall be called as the “Child Protection Act of 2003”.²² The rationale for the promulgating of this Act is to provide detail governing the procedures and measures for providing welfare assistance, protecting safety, and promoting behavior of child which previously are not relevant to the present social conditions. Thai government under the leadership of Pol. Lt. Col. Thaksin Shinawatra deemed appropriate to define procedures and amended methods in dealing with the child to enable them to be taken care of by appropriate organizations and institutions which in turn will promote the stability of the family institution and prevent the child from being abused or discriminated.

It is also deemed expedient to improve the ways and means to foster collaboration amongst the government agencies and private organizations in providing protection to the child so as it will be in line with the present constitution. As party to the convention

on the rights of the child, Thailand fully adheres to basic rights and principles for the best interests of the child. The National Economic and Social Development Plan also have given priority to human development, including child protection and participation. Indicators such as Social Indicators (Basic minimum needs), Indicators on child and youth development and indicators on child's rights are introduced as guidelines for the effective protection of children's right.²³

Contents of the TCPA 2003

The TCPA 2003 comprises 88 articles arranged in introduction and eight chapters. TCPA 2003 discusses on several aspects, which includes the right to live, survive, protect, and participate in children development. The first chapter is concerning with child protection committee.²⁴ The second chapter generally discusses about the treatment of the child.²⁵ The third chapter talks about social welfare and fourth chapter is discussing about safety protection.²⁶ In this chapter, it further divides into five titles viz., abused children, neglected children, paralyzed children, illegal children, children who are living in a poor family and children out of wedlock. Fifth chapter discusses about child's safety protectors.²⁷ Sixth chapter is about nursery, gatehouse, welfare center, safety protection centre and development and rehabilitation center.²⁸ This chapter divides into four titles. First chapter deals with legal issues, tribal and minority issues of the children and the third title deals with child exploitation and the last chapter is about the children who are in vulnerable conditions. In this chapter, it found that special attention is provided in the TCPA 2003. It deals with Muslim child in the southern five provinces Thailand. It includes Narathiwat, Pattani, Satul, Yala and Songkhla province. Seventh chapter discusses about behavior promotion of pupils and students.²⁹ Eighth chapter discusses about child protection fund and last chapter discusses about penalties.³⁰

According to the TCPA 2003, the term "Child" means "a person below 18 years of age."³¹ It does not include those who have attained majority through marriage. On the contrary, there

are several definitions given in Thai law currently in force in the country. In the Royal decree for the establishment of Child and Family Court B.E. 2534 defines child as a person below 7 years of age but not above than 18 years of age. The Royal Decree for the Promotion of Child B.E. 2521 defines child as “a person below 25 years”. A quite similar definition is given in the Thai Dictionary B.E. 2525 where child is defined as a person below 14 years of age where the age of criminal responsibility under Thai Criminal Code 1956 (TCC1956) is not more than 7 years³²

Analyzing the definition of child as stated in the Thai laws, it is observed that the Thai laws are inconsistent in determining the minimum age for a child. This is because each of Thai law has different purpose in term of its application. The question may arise as to what law is applicable. Therefore, it is suggested that a standardized the minimum age of child should be adopted. This would eliminate any doubt as to child minimum age. In relation to minimum age of child, it is necessary to follow the TCPA, 2003. This will prevent maltreatment towards a child.

Protection of Children under the TCPA 2003

It is provided in the TCPA 2003 that the guardians of a child are forbidden to abandon a child at a nursery or health care facility or with a person employed to look after the child or at the public place or any other place with intention of not taking him or her back.³³ Several articles relevant to the protection of abandoned children were mentioned in this Act. Before the introduction of the Act 2003, it was governed by Thai Criminal Code 1956.³⁴ Sections 306,307 and section 308 stating inter alia that it becomes a duty for the parent take care the children who are below eighteen years. The state takes initiative to help them by taking care of them.³⁵ This includes a person who is over 60 years of age and has insufficient incomes shall have the right to receive aid from the state.³⁶

A study conducted by sub-committee on child's right revealed that one of the most important preventive measures in child abandonment is to stop the pregnant out of wedlock and pregnant

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during the schooling. However, steps have been taken by the Department of Social Development and Welfare to encourage the public to lodge a police report of child abandonment by setting up telephone lines. This department also provides welfare services to needy and distressed people, including trafficked woman and children throughout the country. The welfare services offered are remedial, preventive, curative and developmental in nature.

Those services were (1) to provide assistance and welfare to the child and his or her family or any person providing care for the child so as to enable them to take care of the child in a manner pursuant to article 23.³⁷ (2) To submit the child into the care of an appropriate person who consents to provide care for the child for a period as deemed appropriate but not exceeding one month in the case where it is not possible to act according to clause 1.³⁸ (3) To facilitate the adoption of the child by accordance with the law on child adoption (4) To send the child to be cared for by an appropriate foster family.³⁹ To send the child to be cared for at a gatehouse.⁴⁰ and (6) To send the child to be cared for at a welfare center.⁴¹ The following children are warranting for welfare assistance under TCPA 2003, they are as follows:

- 1 Street children,
- 2 Abandoned or lost children,
- 3 Children whose guardian are unable to take care of, for example his or her being imprisonment, detained, disabled, and chronically ill,
- 4 Disabled children,
- 5 Children in difficult circumstances, and
- 6 Children in situations warranting welfare assistance as stipulated in the ministerial regulations.

From the provisions mentioned above, it is also observed that there is no single provision in the TCPA 2003 discusses specifically about the orphan children and their welfare. The TCPA 2003 may create negative implications in the sense that that it may leave some important aspects of the Act. Because of this weakness,

the contents of the TCPA 2003 are subjected to review.

ADOPTION AND ELIGIBILITY FOR ADOPTION UNDER THE THAI CHILD ADOPTION ACT 1979

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that it is expedient to have a law relating to child adoption. This Act shall be called the “ Child Adoption Act (CPA) B.E. 2522 (1979)”. The Board shall have the following powers and duties:

- 1 To issue regulations, rules and procedures relating to adoption of children to be observed by the adoption center, the licensed child welfare organizations, and other agencies,
- 2 To review the decision made the child welfare organizations,
- 3 To resolve problems concerning adoption of children,
- 4 To provide consultations concerning adoption of children to the adoption center, the licensed child welfare organizations, and other agencies.⁴²

The study reveals that most of Thai children who are waiting for adoption are living in orphanage centers. Many of these orphanage centers are government-run centers, such as “Pakkred” in the city of Bangkok and Viengping in Chiang Mai province, Babies’ homes and many other babies’ and children’s homes throughout the nation. According to TCAA,1979 it was provided that “No person shall take or send any child out of the kingdom for the purpose of arranging its adoption, directly or indirectly, unless with a permit from the minister in accordance with the principles, procedures and conditions stipulated in Ministerial Regulations.⁴³ The Child Adoption Board of Thailand (which includes key officials of the Thai Department of Social Development and Welfare(DSDW) must sign off on all adoptions of Thai children, including adoptions of children in care of the DSDW, children in care of designated NGOs, and children who are relatives or acquaintances of the prospective adoptive family. If birthparent(s) are known, children must have been legally

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relinquished under Thai law. If the child has been abandoned, Thai officials try to find genetic family before allowing the child to be adopted.

The slow speed of the investigational and sign off process is one main reason that infant adoption is virtually non-existent in Thailand, and even the youngest available children are usually 1 to 2 years old. Many children in Thai orphanages have one or both parents still living; parents may be impoverished, imprisoned, or otherwise unable to care for a child, but may never have signed relinquishment papers. Therefore, though thousands of children live in Thai orphanages, a high percentage of them are not eligible for adoption, either domestically or internationally.

As for family requirements, Thai law does not stipulate a long list of family requirements. Adoptive families must be legally qualified to adopt in their home states/countries. Married couples must consist of a man and woman who are both at least 25 years old. Single women (not men) can petition to adopt special-needs children only. However, the Thais' definition of "special needs" remains somewhat unclear. For instance, it is not clear whether the definition automatically includes waiting children who are basically healthy, but older. Consult your agency for the latest details. The upper age limit for parents is not codified by Thai law. Rules will vary depending on where your agency is going to submit your dossier (to DSDW or an NGO). NGOs and adoption agencies can both impose their own rules (beyond Thai federal law) defining what parent ages are considered "too young" or "too old." It is important to specify the age that you want and discuss it with your agency. All adoptions in Thailand must be processed through the child adoption center of the Department of Public Welfare (DPW), which is the sole governmental social welfare agency responsible for adoption of Thai children. Four non-governmental organizations (NGOs) are licensed to deal with DPW's Child Adoption Center in cases where a child is to be placed abroad, but only three of these NGOs process cases for prospective adoptive parents who reside in the United States.

In general, parents in their late 20s and in their 30s will

encounter no difficulty regarding their ages and should be eligible to adopt both young and older children. However, a minimum 15-year age gap between the younger parent and the child is required by Thai law. Parents in their early 40s may be asked to adopt a somewhat older child (older toddler or preschooler). Parents in their late 40s may be qualified to adopt school-aged children or (possibly) younger children with special needs. Couples where both parents are over 50 are much less likely to be allowed to adopt. It is very important to discuss your individual situation with each agency you are considering. The following should be taken as generalities based on agency experience and observed patterns of practice, rather than hard and fast rules. For instance, small families are generally preferred (two existing children or fewer), but this preference may be waived, particularly for waiting children. Some families with a handful of children at home have been denied requests to adopt; however, some other, larger families have been approved. The DSDW is apparently considering all requests from larger families on a case-by-case basis.

For a married couple, a total of two divorces (one per spouse, or two for one spouse) are apparently acceptable. Length of marriage, and length of remarriage after a divorce/s are not codified by the adoption law, but a family that's extremely newly married, especially after divorce, might encounter some difficulties, so you must consult your agency for opinions on your specific situation. Couples need not be infertile, though fertility documentation may be requested, and a pregnancy during the process will delay, and may derail, a Thai adoption. Thai officials may agree to put your application on hold for a while if you are seeking to adopt an unidentified child but will probably not approve a request to adopt an identified special needs child if you become pregnant during the process.

The Thai authorities scrutinize family income and seek evidence that a family can provide for cost of livings, detailed income documentation is also required to furnish to the authorities.⁴⁴

ISSUES OF ADOPTION AND NATIONALITY FOR ORPHANS

According to TCPA, 2003 the term “Orphan” means a child whose father or mother has died, or who has no evidence of parents or whose parents cannot be traced.⁴⁵ From this definition, there are two issues, first was the issue of a child whose father or mother has died, and the second issue was the issues of orphans whose are known to have been born in Thailand, but their parents are unknown. In the later case the orphan has a connection to Thailand under *ius soli*, but it was unknown whether the orphan has a connection to any state under *ius sanguinis*. In such a case, the orphan cannot get the right to Thai nationality automatically under *ius sanguinis* because of unknown of his parent nationality.

To protect the interests of the orphan, there are three possible legal presumptions must be made about the parent of the orphan. Firstly, assuming the parent had possessed the Thai nationality. In such a case the orphan shall require Thai nationality automatically by *ius sanguinis*. Secondly, assuming the parent was a permanent residence. In such a case the orphan will entitle to acquire Thai nationality automatically by *ius soli* and thirdly, the parent was not a permanent residence, in this case the orphan has a right to apply for Thai nationality by birth under *ius soli*⁴⁶ However, the orphan who was born in Thailand whose parent was unknown or his/her parent who are not granted either Thai nationality or residence, may still have a right of domicile in Thailand under private law of the child.

CHALLENGES FOR THE TCPA 2003

It is expected that TCPA 2003 able to provide protection and care not only to Buddhism but also to Muslim orphans. It is the hope of the Thai government that by allowing the TCPA 2003 to apply in Thailand, the following points must be taken into consideration. The TCPA 2003 shall meet the protections and cares of the Muslim population in Thailand, and it must be in conformity with the Malay⁴⁷ custom and beliefs,

- 1 To include in the steering committee members from the office of the Central Islamic Committee (Thai Royal Act concerning Muslim Mosque 1947) and the four Islamic magistrates (Dato' Yutitham),⁴⁸
- 2 To formulate legal measures along with social tools in preventing the act of abandonment,
- 3 To establish coordinating council in every province to take the interest of the orphan children,
- 4 Significant efforts will also be required to raise awareness among Muslim leaders of the new law on child protection,
- 5 Ad hoc committees must be set up to study and review some provisions in the TCPA 2003,
- 6 To improve the ways and means to further collaboration amongst the government agencies, and private-run orphanage center in the southern region in providing protection to orphan children.

CONCLUSION

From the discussion above it shows that Thailand has taken measures to ensure the interests of the child and orphans are protected, particularly the orphan's right to the nationality, life, residence, development, and well-being. Local and central government should be responsible for children and orphans, but the responsibility may be shared by different agencies of the law. Voluntary organizations should also be involved in their welfare. More orphanage centers should be established through local and central government to provide training and education to children and orphan victims. These institutions should be provided funds so that they are able to provide the required facilities to children and orphan victims. In term of study implications, the discussion of this study may provide an overview of the TCPA 2003. Nevertheless, this article is an eye-opener for practitioners and academicians about TCPA 2003. At least it provides guideline in promoting how does the Thai child law should be looked like. However, there are two main issues remaining unanswered, which

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need to investigate in the future study. These issues are about a limited evident of empirical results about the usability of Islamic ethics in orphanage center and the issue of the conditions of life of widows and orphans after the death of their husbands and fathers, respectively; to know the nature and amount of support provided by the local and central government to them; to make an assessment of their well-being and future prospects with regard to health, education, personality development, income and gender; and also to provide a platform for the government and non-government organizations for formulation of policy and program implementation. Therefore, this limitation can be overcome by pursuing a survey to the topic of study. It is the target of researcher to plan to survey the Islamic and private run orphanage centers in the deep south. All the preliminary stages, the study will be conducted in Pattani, Narathiwat, Yala, Satul and some areas of Songkhla province. Choosing these four provinces and some areas of Songkhla province are due to the fact there are so many Muslim populations in the area.

Notes

- 1 Government of Thailand, Annual Report, A Center for the Coordination of Assistance to Persons Affected by the Unrest in the Deep South. 2011.p.45
- 2 Aphornsuvan, Thanet. History and Politics of the Muslims in Thailand (Thammasat University Press:1997), p.2.
- 3 Melvin, Neil J. Conflict in Southern Thailand: Islamism, Violence, and the State in the Patani Insurgency (CM Gruppen publication: 2007), p.vi
- 4 Keenapan, N. Everyday Fears: Children's Problem of Living in the Southern Border Area of Thailand. <http://www.unicef.org/info country/Thailand>. (accessed on 18 December 2011)
- 5 Article 7, Thai Child Protection Act 1979 (TCPA,1979).
- 6 Article 8, Thai Child Protection Act 1979 (TCPA, 1979).
- 7 Che Man, W.K. Muslims Separatism: The Moros of Southern Philippines and the Malay of Southern Thailand (Oxford University Press:1990), p.45.

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- 8 Ibid., p.60.
- 9 Government of Thailand, Academic Report, Prince of Songkhla University Press: B.E. 2543, p.2.
- 10 Article 48(2) of Constitution of the Kingdom of Thailand 2007(CKT 2007).
- 11 Muhammad Radhi Dera-i, orphanage warden, interviewed on 10/12/2018.
- 12 Section 50, Child Protection Committee 2007 (CPC 2007).
- 13 Government of Thailand, Economic and Social Commission for Asia and the Pacific, The United Nations Building, Rajadamnern Nok Avenue, (Bangkok: 2000), p.58.
- 14 Article 7, Thai Child Protection Act 2003 (TCPA 2003).
- 15 Article 8 (1), Thai Child Protection Act 2003 (TCPA 2003). xvi Article 1, Thai Child Protection Act (TCPA 2003).
- 17 Article 8(2), Thai Child Protection Act 2003 (TCPA 2003).
- 18 Article 8(3), Thai Child Protection Act 2003 (TCPA 2003).
- 19 Article 8(4), Thai Child Protection Act 2003 (TCPA 2003).
- 20 Id, at p.59.
- 21 Preamble, Thai Child Protection Act 2003 (TCPA 2003).
- 22 Constitution of the Kingdom of Thailand, 1997(CKT 1997), Article 87.
- 23 Government of Thailand, Ministry of Foreign Affairs, 2004, p,34.
- 24 Starting from article 7 to article 21 of Constitution of the Kingdom of Thailand, 1997(CKT 1997)
- 25 From article 22 to article 31 of Constitution of the Kingdom of Thailand, 1997(CKT 1997)
- 26 From article 32 to article 39 of Constitution of the Kingdom of Thailand, 1997(CKT 1997)
- 27 Article 40 to article 47 of Constitution of the Kingdom of Thailand, 1997(CKT 1997)
- 28 From article 48 to article 50 of Constitution of the Kingdom of Thailand, 1997(CKT 1997)

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- 29 From article 63 to article 67 of Constitution of the Kingdom of Thailand, 1997(CKT 1997)
- 30 From article 78 to article 86 of Constitution of the Kingdom of Thailand, 1997(CKT 1997)
- 31 Article 1 of the Convention on the Rights of the Child.
- 32 Section 73, Thai Criminal Code, 1956 (TCC 1956).
- 33 Article 25(1), Thai Child Protection Act 2003 (TCPA 2003).
- 34 Thai Criminal Code, 1956 (TCC 1956).
- 35 Constitution of the Kingdom of Thailand, 2007 (CKT 2007), Article 51(2).
- 36 Constitution of the Kingdom of Thailand, 2007(CKT 2007), Article 52.
- 37 Thai Child Protection Act, 2003 (TCPA 2003), Article 33(1).
- 38 Thai Child Protection Act, 2003 (TCPA 2003), Article 33(2).
- 39 Thai Child Protection Act, 2003 (TCPA 2003), Article 33(4).
- 40 Thai Child Protection Act, 2003 (TCPA 2003), Article 4.
- 41 Thai Child Protection Act, 2003 (TCPA 2003), Article 33(5).
- 42 Article 14, Thai Child Protection Act, 1979 (TCPA 1979).
- 43 Article 18, Thai Child Protection Act, 1979 (TCAA 1979).
- 44 Thai Embassy, 2007.
- 45 Thai Child Protection Act, 2003 (TCPA 2003), Article 4.
- 46 Saisoonthon, P.K. "Children with Problems of Proving Rights to Thai Nationality," Thailand Human Rights Journal, 2001, V. 2(1), pp. 4-5.
- 47 Mudmarn, Seni. "Social Science Research in Thailand", The Case of the Muslim minority, in Omar Farouk Bajunid (eds), Muslim Social Science in ASEAN, (Yayasan Penataran Ilmu: 1994), p.32.
- 48 Dorloh, Sulaiman. "The Position of Islamic Law in the Four Southern Border Provinces of Thailand", Journal Shariah: Akademi Pengajian Islam (API), Universiti Malaya (UM), 2006, V.14, pp.6-17.



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