

FAMILY LAW ENFORCEMENT PROBLEMS AND ISLAMIC HERITAGE IN THAILAND

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Abstract

The Islamic Law on Family and Inheritance of 1946 was enforced only in the four southern provinces of Thailand consisting of Pattani, Narathiwat, Yala and Setun Provinces. Islamic law applies only to the plaintiff, defendant or applicant who submits a request must be Muslim. The problem of law enforcement consists of the lack of clarity in the terms of membership of the Provincial Islamic Committee in the 1997 Law on the Administration of Islamic Organizations. The problem of setting the condition that requires Datok Qadi to be alone in deciding matters of Islamic law. Datok Qadi's decision is absolute and cannot be appealed. The problem of limiting the enforcement of Islamic law can only be enforced in court. Solving the problem in avoiding the legal inconsistency can be done by expanding the enforcement of family and inheritance law outside the court. In addition, there is also a need for legal reform, both the Islamic Law on Family and Inheritance of 1946 and the 1997 Law on Administration of Islamic Organizations which are clearer.

Keywords: Family Law, Inheritance.

Abstrak

Hukum Islam tentang Keluarga dan Warisan 1946 hanya diberlakukan di empat provinsi selatan Thailand yang terdiri dari Provinsi Pattani, Narathiwat, Yala dan Setun. Hukum Islam hanya berlaku bagi penggugat, tergugat atau pemohon yang mengajukan permohonan harus beragama Islam. Masalah penegakan hukum terdiri dari ketidakjelasan ketentuan keanggotaan Majelis Ulama Provinsi dalam Undang-Undang Tahun 1997 tentang Penyelenggaraan Ormas Islam. Masalah pengaturan kondisi yang mengharuskan Datok Qadi sendirian dalam memutuskan perkara hukum Islam. Keputusan Datok Qadi adalah mutlak dan tidak dapat diganggu gugat. Masalah pembatasan penegakan hukum Islam hanya bisa ditegakkan di pengadilan. Pemecahan masalah dalam menghindari inkonsistensi hukum dapat dilakukan dengan memperluas penegakan hukum keluarga dan waris di luar pengadilan. Selain itu, perlu juga dilakukan pembenahan hukum, baik UU Keluarga dan Kewarisan tahun 1946 maupun UU Administrasi Ormas tahun 1997 yang lebih jelas.

Kata Kunci : *Hukum Keluarga, Hukum Waris.*

INTRODUCTION

Before outlining the problem of enforcing Islamic family and inheritance laws

in Thailand, we first describe the general condition of the Thai state and the related

positions and institutions at a glance.¹ Thailand is divided into 77 provinces with a population of approximately 66,186,727 people.² A democratic form of government with a constitutional monarchy system. This system of government recognizes the king as head of state, but does not hold concurrent positions as head of government. The majority of Thailand's population is Buddhist, Muslim, Christian, and Hindu in order. Islam ranks second after Buddhism. The Muslim population mostly lives in the four southern border provinces of Thailand namely; Pattani, Narathiwat, Yala and Satun provinces.

In enforcing Islamic Family and Inheritance law in Thailand, there are related positions or institutions, such as the Mosque and the Mosque Islamic Committee consisting of imams, preachers and Bilal.³ In addition to the Provincial Islamic Committee, the Provincial Islamic Committee Office which is regulated in the 1997 Law on Administration of Islamic Organizations. In addition, the community also asks for scientific assistance from teachers at Islamic boarding schools, baba (KH) and ustadz in solving legal problems related to families and Islamic heritage.

DISCUSSION

Islam has always been synonymous with justice, especially in terms of justice. Since the prophet Adam (AS) was created by God as the first father of mankind, even until the last messenger of the prophet Muhammad (SAW) besides being the messenger of Allah, he is

also a judge who has principles of justice and fairness. According to the Qur'an Surah Yunus verse 47 means: Every prophet has a messenger; so when their messenger arrives, a judgment will be made between them with justice and they will not be wronged. And in Surah An-Nisa' verse 58, it means: and (ordering you) when setting the law between humans so that you judge fairly.

The history of Islamic law enforcement in Thailand dates back to the Sukhothai, Ayutthaya and early Rattanakosin eras. At that time the administrative policy of the area known as the southern border province was in the form of a district. Islamic law at that time had a position in determining community relations in the district.⁴ Where the federal government does not adopt the principles of civil law generally enforced in the district. During the reign of King Rama V, although the use of Islamic law remained, later the city planning guidelines were revised but the government continued to use Islamic law which later became the basis for the use of Islamic law to this day.⁵

History shows that Islamic family and inheritance law in Thailand was first enforced since 1901 under the rule of the seven district government, RE0 120,⁶ Chapter 32 states that "all laws must be enforced both criminally and civilly. But civil law related to Islam both regarding husband and wife and inheritance, where the person is the plaintiff, defendant or applicant who submits a request to use Islamic

¹ Feirul Maliq Intajalle et al., "Islamic Inheritance Law among Muslim Minority Countries in Southeast Asia," *Middle-East Journal of Scientific Research* 12, no. 1 (2012): 11–22.

² Lembaran Negara, "Statistik Penduduk Thailand Pada Tahun 2021," <https://www.thaipost.net/main/detail/95898> (diakses 1/11/2021), n.d.

³ James N D Anderson, "Recent Reforms in the Islamic Law of Inheritance," *International & Comparative Law Quarterly* 14, no. 2 (1965): 349–65.

⁴ Imaizumi Shinya, "The Application of Islamic Law in Thailand," *Institute of Developing Economies*. [Http://hdl.handle.net/2344/00048988](http://hdl.handle.net/2344/00048988), 2017.

⁵ Jaran Maluleem, "Penerapan Syariat Islam Di Thailand Dan Dunia Muslim," https://www.matichonweekly.com/special-report/article_424049 (diakses 1/11/2021), n.d.

⁶ The administration of the seven districts consists of the cities of Pattani, Nong Chik, Yaring, Saiburi, Yala, Raman and Rangae. Later, Pattani City, Nong Chik Yaring and Saiburi were merged into Pattani Province. Meanwhile Yala and Raman merged into Yala Province. While Rangae became part of Narathiwat . Province Maluleem.

law in judgment by using Datok Qodi⁷ who is knowledgeable and respected in Islam as a judge according to Islamic law.⁸ “The use of Islamic law in Thailand only applies to the four southern border provinces of Thailand. Islamic family and inheritance laws were implemented until 1943 between the Second World War period.⁹ After the replacement of the new prime minister by Marshal Plaek (Por.) Phibunsongkhram, who had a high degree of nationalism, so that everyone should share the same language, culture and territory. This situation caused the use of Islamic law in the four provinces to be canceled again. Since then all citizens, including Muslims, must be under civil and commercial law, using family and inheritance laws like people of other faiths.¹⁰

In 1946 there was a change in the new government, causing a policy change to reinstate Islamic law in four provinces by enacting the Islamic Law Act in the provinces of Pattani, Narathiwat, Yala and Satun.¹¹ The use of Islamic law only consists of seven articles where the essence is in article 3 and article 4 as follows: Article 3 “in civil decisions on Islamic family and inheritance in courts of first instance in the provinces of Pattani, Narathiwat, Yala and Satun which where the plaintiff, defendant or person who submits a

request to be Muslim can use Islamic law regarding family and inheritance as a substitute for the provisions of the Civil and Commercial Code.¹² Except for the provisions regarding the age of inheritance” and Article 4 “in the trial at the first instance according to Article 3 one of the Datok Qadi sits with a judge. Datok Qadi has the power and obligation to decide Islamic law and sign the sentence of decisions that are decided according to that decision.”

The use of the Islamic Law on Family and Inheritance in Thailand is limited to the four southern provinces. However, when compared with the Provincial Islamic Committee Offices throughout Thailand, there are 34 provinces. The existence of the Islamic Law on Family and Inheritance is to win the hearts of the Muslim community in the Provinces of Pattani, Narathiwat, Yala and Satun.¹³ The reality of the settlement of cases related to family and inheritance law is not yet complete and clear. People are more likely to come looking for scholars, master teachers and ustadz rather than going to court. In making a judgment there are four terms of judges in a court of law, namely; 1. Judge 2. Senior Judge 3. Assistant Judge, and 4. Datok Qadi.¹⁴ However, there are 2 terms that have direct authority in conducting courts related to Islamic family and inheritance law as follows;¹⁵

1. Judge: must be elected by the Judiciary Committee of the Court and appointed by His Majesty the King, in addition to having the

⁷ in Thai use the word Datok Yutitam (meaning Datok Justice), in this paper the author using the words Datok Qadi instead of the word Datok Yutitam. Maluleem.

⁸ Sulaiman Dorloh, “The Code of Muslim Family Law and Law of Inheritance (1941) As Applicable in the Provincial Courts of Southern Four Border Provinces of Thailand: Issues and Prospects,” *Jurnal Fiqh* 6 (2009): 125–48.

⁹ David S Powers, “The Islamic Inheritance System: A Socio-Historical Approach,” *Arab Law Quarterly* 8, no. 1 (1993): 13–29.

¹⁰ Mahamatyuding Samah, Raihanah Abdullah, and Nahid Ferdousi, “Muslim Family Law in Southern Thailand: A Historical Overview,” *Journal of Muslim Minority Affairs* 37, no. 3 (2017): 357–70.

¹¹ Sulaiman Dorloh, “The Position of Islamic Law in the Four Southern Border Provinces of Thailand,” *Jurnal Syariah* 14, no. 2 (2006): 1–21.

¹² Muhammadzakee Cheha, “The Administrative Problems of Islamic Family Law and Inheritance in Thailand,” 2005.

¹³ Sulaiman Dorloh et al., “MALAY-MUSLIM WOMEN RIGHT IN DEEP SOUTH OF THAILAND UNDER THE MUSLIM FAMILY LAW AND LAW OF INHERITANCE CODE, 1946,” 2021.

¹⁴ Rajeswary Ampalavanar Brown, *Islam in Modern Thailand: Faith, Philanthropy and Politics* (Routledge, 2013).

¹⁵ “Pengadilan Hukum, Hakim,” <https://www.coj.go.th/th/content/page/index/id/12> (diakses 1/11/2021), n.d.

required qualifications such as having Thai citizenship from birth. At least 25 years old, experience has been a Thai lawyer at least 2 years, work experience in the field of law, applicants must pass written exams and oral exams in accordance with the rules determined by the Judiciary Committee of the Court. After passing the qualification examination they will be appointed as assistant judges. after being trained as an assistant judge for at least 1 year, if approved by the Judicial Committee of the Court of Justice, he will be appointed as a court judge for not less than 3 years. Then he was appointed as a Court Judge of the first level, but before serving as a judge he had to pledge allegiance to the King first.

2. Datok Qadi: Laws on the Use of Islamic Law in the Provinces of Pattani, Narathiwat, Yala and Satun, 1946. Provided that Islamic law on family and inheritance can be applied instead of the Civil and Commercial Law. In Islamic family and inheritance trials in courts of first instance in the provinces of Pattani, Narathiwat, Yala and Satun. The plaintiff, defendant or applicant making a request in a non-dispute case must only be Muslim. In such a case the judge and Datok Qadi will sit together in the trial. Datok Qadi must be at least 30 years old and understand the Thai language at a predetermined level and have a good knowledge of religion and Islamic law.

Enforcement of Islamic Law about Family and Heirth in Thailand

The enforcement of Islamic law on family and inheritance in 1946, is a special characteristic of Islamic law.¹⁶ Whereas Islamic law is not only about family and inheritance, but includes all laws such as commercial law, civil law, commercial law, criminal law, and civil and criminal procedural law.¹⁷ Because the roots of Islamic culture come from a race or ethnic group from the Middle East who has talent in trade or business.¹⁸ The nature of the law is quite comprehensive and perfect. The application of other laws is very difficult compared to family and inheritance law which regulates legal relations originating in family ties such as marriage, guardianship in marriage, divorce, inheritance, heirs, and the amount of inheritance distribution.¹⁹

Before discussing the problems in the enforcement of Islamic law. Thailand has the 1997 Law on Administration of Islamic Organizations which regulates Islamic administration in relation to family and inheritance.²⁰ Starting from marriage, marriage contracts, issuing marriage certificates, etc. In the 1997 Law on Administration of Islamic Organizations, it regulates the membership, authority and duties of Islamic Committees starting from the local level, namely mosques where in chapter 5 on the "Islamic Mosque Committee" that;

¹⁶ Melissa Crouch, "Islamic Law and Society in Southeast Asia," 2016.

¹⁷ Munir Muhammad and Ash Shiddieqi Hasbi, "Pengantar Hukum Islam," *Bangkok: Pusat Buku Islam Bangkok*, 2008.

¹⁸ Noraini Noordin et al., "Review on Issues and Challenges in Islamic Inheritance Distribution in Malaysia," *OIDA International Journal of Sustainable Development* 3, no. 12 (2012): 27–38.

¹⁹ Alaa N Akkila and Samy S Abu-Naser, "Proposed Expert System for Calculating Inheritance in Islam," 2015.

²⁰ Jamila Hussain, "More than One Law for All: Legal Pluralism in Southeast Asia," *Democracy and Security* 7, no. 4 (2011): 374–89.

Article 35 The Mosque Islamic Committee has the following powers and duties; paragraph (7) Compromise of disputes between mosque congregations upon request.

In addition, in chapter 4 on the "Islamic Provincial Committee" that; Article 23 Every province with a Muslim population of not less than three mosques under article 13 of the "Central Islamic Committee of Thailand" shall declare that the province has a Islamic Provincial Committee whose members are not less than nine but not more than thirty members.²¹ The Election of the Islamic Provincial Committee, assigned that the Ministry of Home Affairs determine that the imam of the mosque in the province will be elected in accordance with the provisions and procedures set out in the Ministry Regulation.²² The board of directors will elect a co-director to serve as chairman of the board, vice-chairman, secretary, and other necessary positions. The Ministry of Home Affairs will announce the list of persons elected as chairman of the council, vice chair, secretary and Provincial Islamic Committee in the state gazette.²³

Article 24 Members of the Islamic Provincial Committee must have the qualifications and not have the following prohibited characteristics:

- (1) is not less than thirty years old;
- (2) be a Thai Muslim from birth;
- (3) have a good understanding of Islam;
- (4) strictly observe Islamic commands;
- (5) maintain good relations with all religions;
- (6) etc.

²¹ Thanet Aphornsuvan, "History and Politics of the Muslims in Thailand," *Bangkok: Thammasat University*, 2003.

²² W K Che Man, "The Thai Government and Islamic Institutions in the Four Southern Muslim Provinces of Thailand," *Sojourn: Journal of Social Issues in Southeast Asia*, 1990, 255–82.

²³ Ramizah Wan Muhammad, "Shari'ah Court Judges and Judicial Creativity (Ijtihad) in Malaysia and Thailand: A Comparative Study," *Journal of Muslim Minority Affairs* 29, no. 1 (2009): 127–39.

Article 26. In a province that has an Islamic Provincial Committee, it has the following powers and duties:

- (1) provide advice and opinions on Islam to provincial governors;
- (2) supervising and inspecting the operations of the Islamic Mosque Committee in other provinces and provinces assigned by the Central Islamic Committee of Thailand;
- (3) compromise or decide on the request for a complaint from the mosque congregation which considers it unfair from the Islamic Mosque Committee;
- (4) supervise the election of the Islamic Mosque Committee so that it is organized;
- (5) consider the appointment and dismissal of the Islamic Committee of the Mosque;
- (6) investigate and consider the dismissal of members of the Islamic Mosque Committee under article 40 (4);
- (7) ordered members of the Islamic Mosque Committee to suspend their duties while being interrogated;
- (8) consider the establishment, relocation, integration and dissolution of mosques;
- (9) appoint people who act in the positions of Imam, Khatib and Bilal when those positions are vacant;
- (10) issue marriage and divorce certificates according to Islamic provisions;
- (11) Compromise of family and inheritance disputes according to Islamic law upon request;
- (12) preparing for property registration, documents and income and expense accounts of the Islamic Provincial Committee Office must be accurate, complete and up-to-date. and reports on performance, financial status and assets to the annual Thailand Central Islamic Committee in March;
- (13) issue announcements and endorsements regarding Islamic affairs in the provinces.

From the authority and duties of both the Islamic Mosque Committee and the Islamic Provincial Committee, there is little clarity in carrying out related tasks such as paragraph (10) issuing marriage and divorce certificates according to Islamic provisions.²⁴

²⁴ Alessandro Stasi, "Law of Inheritance," in *General Principles of Thai Private Law* (Springer, 2016), 255–83.

Initially the task of issuing marriage and divorce certificates should have been carried out at the Islamic Provincial Committee level, but in practice the Mosque Islamic Committee was handled.²⁵ The implementation process is so easy both in terms of the marriage contract and getting a marriage certificate, as well as divorce and divorce certificates. If this is done according to the law that the Islamic Provincial Committee is handled, maybe the husband and wife have to go to the Islamic Provincial Committee Office in a more procedural manner or it may be in another form but on condition that it is through a representative from the Islamic Provincial Committee that handles it.

Islamic Law Enforcement Problems in Thailand

Problems related to the settlement of Islamic law regarding family and inheritance in Thailand are as follows;

1. The lack of clarity in the terms of membership of the Islamic Provincial Committee in the 1997 Law on Administration of Islamic Organizations, especially in article 24 that paragraph (3) is a person who has a good understanding of Islam. In this case, it is not clear which academic qualification or level of education in the field of religion, is it enough to have studied at an Islamic boarding school only or must pass a bachelor's degree. This issue has an impact on policy decisions and compromises on family and community inheritance disputes.
2. Limiting the number of representatives of the Islamic Provincial Committee who have knowledge and expertise in dispute

compromise. Article 26 in provinces that have a Islamic Provincial Committee, that the Islamic Provincial Committee has the authority and duties as; paragraph (11) Compromise of family and inheritance disputes according to Islamic law upon request. The Islamic Provincial Committee will appoint one of the members of the Islamic Committee to be the chair in the dispute compromise. However, for the election of a person as a representative in the dispute compromise, all members of the Islamic Committee have the right to do so. However, on that condition that must have a knowledge and expertise in compromising the dispute.

3. Stipulation of conditions that require Datok Qadi to be alone in deciding matters of Islamic law. Datok Qadi's decision is absolute and cannot be appealed. The decision is considered final as a comprehensive process without having to carry out re-examination.
4. Restrictions on the enforcement of Islamic law that can only be enforced in courts. The legal inconsistency arises from the law in article 3 of the Law on the Use of Islamic Law which states that the use of Islamic law in the provincial courts is only in the four southern border provinces. So there are legal inconsistencies arising from cases of marriage, divorce and inheritance.²⁶ The marriage of an Islamic husband and

²⁵ Sulaiman Dorloh, "Shari'ah Court in Thailand: Between Inspiration and Challenge," *International Journal of Humanities and Cultural Studies* 2, no. 3 (2015): 224.

²⁶ Muhammadzakee Cheha, "Tumpang Tindih Hukum : Studi Kasus UU Penggunaan Hukum Islam Di Provinsi Pattani, Narathiwat, Yala Dan Satun, 1946," *Jurnal AL-NUR* 5, no. 8 (2010).

wife who is married according to Islamic law and at the same time is registered at the district office under the Civil and Commercial Code. The inconsistency of the law arises when the couple is divorced according to Islamic law, but the two do not go to register the divorce under the Civil and Commercial Code, even though the couple is divorced according to Islamic law.

The problem of ambiguity in the requirements for membership of the Islamic Provincial Committee in the 1997 Law on Administration of Islamic Organizations, especially in article 24 that paragraph (3) is a person who has a good understanding of Islam. In addition, there is the problem of limiting the number of representatives of the Islamic Provincial Committee who have knowledge and expertise in dispute compromise. Article 26 in a province that has an Islamic Provincial Committee, that the Islamic Provincial Committee has the following powers and duties; paragraph (11) Compromise of family and inheritance disputes according to Islamic law upon request. The Islamic Provincial Committee will appoint one member of the Islamic Committee to be the chairman in the dispute compromise, but for the election of representatives in the dispute compromise all members of the Islamic Committee are entitled to do so. However, on condition that they must have knowledge and expertise in compromising the dispute. In solving this problem, the writer is of the opinion that if it is determined that the minimum educational level of academic qualifications for membership of the Provincial Islamic Committee in the 1997 Law on Administration of Islamic Organizations is very important. This is in accordance with the opinion of

Manoon Maneewit²⁷ that it is necessary to set a clear level of education, because in a dispute compromise it is absolutely necessary for people who have knowledge, especially in law in accordance with Islamic principles. This situation, when compared to the nature of the compromiser of family cases according to the Civil Code and Commerce which is regulated in article 1 that "education graduates must have no less than a bachelor's degree or equivalent and have experience in case mediation of not less than 3 years or graduate education of not less from Mathayom 6 or equivalent and have experience in case mediation of not less than 5 years." In addition, the minimum age also needs to be revised because Article 24 of the 1997 Law on the Administration of Islamic Organizations stipulates that the minimum age for the Islamic Provincial Committee is not less than 30 years. But for the compromise of family cases according to the Civil and Commercial Code, the age is not less than 40 years. Therefore, the authors suggest that it is time that the law needs to be revised so that limitations in terms of academic qualifications, especially for dispute compromise interpreters, need to be determined that they must pass education in the field of sharia or Islamic law. So that the Islamic Provincial Committee has a good understanding of Islam. Now many institutions are open to teach in the field of Sharia or Islamic law, both abroad such as the Middle East or ASEAN countries such as Malaysia, Brunie Darussalam, and Indonesia. Domestic institutions, especially in the south of Thailand, have 3 universities that have opened majors in Sharia or Islamic law, including Prince Songkla University, Pattani

²⁷ Manoon Maneewit, "Permasalahan Penegakan Hukum Islam Tentang Keluarga Dan Waris Di Provinsi Pattani, Narathiwat, Yala Dan Satun." (Bangkok: Fakultas Hukum Universitas Kasem Bundit, 2016).

Campus, Naradhiwat Rajanagarindra University and Fatoni University.²⁸

The problem of determining the conditions that require Datok Qadi to be alone in deciding matters of Islamic law. Datok Qadi's decision is absolute and cannot be appealed. Where the decision is considered final as a comprehensive process without having to do a re-examination. However, if there is an error in the decision will cause a unilateral loss. In this case, if the guilt is proven, then the suspect or the court cannot resolve the problem again. If we observe the principle of justice according to the Constitution of the Constitutional Court in article 25 it states that "in the court of first instance a single judge as a composition of judges has the authority to deal with cases under the jurisdiction of the court as follows"

- (1) *investigate and decide cases or requests submitted to the court in all cases;*
- (2) *investigate and order in order to be safe;*
- (3) *investigate the causes of action and order in criminal cases;*
- (4) *etc.*

From the court process and deciding cases according to the Constitution, the Constitutional Court is still determined the role must be investigated and the task is also limited. When compared with the judge's decision using Datok Qadi alone, if there is an error in the decision, it cannot resolve the problem again. In this case the author's view needs to be revised the law at least in terms of the minimum number of judges as many as 2 people, namely Datok Qadi accompanied by his deputy in deciding cases. If Datok Qadi decides a case that is not allowed, then Datok Qadi's assistant may have a different view.

Problems with restrictions on the enforcement of Islamic law which can only be enforced in courts and legal inconsistencies

arising from cases of marriage, divorce and inheritance.²⁹ The marriage of an Islamic married couple who is married according to Islamic law and at the same time is registered at the district office under the Civil and Commercial Code. The inconsistency of the law arises when the couple is divorced according to Islamic law, but the two do not go to register the divorce under the Civil and Commercial Code, even though the couple is divorced according to Islamic law. They are still considered husband and wife according to the Civil and Commercial Code. If the case is brought to court, it is certain that Datok Qadi will decide that the marriage has ended according to Islamic law. But the concern is whether Datok Qadi's power to break the marriage according to the Civil and Commercial Code has ended? The answer is that Datok Qadi does not have the power to do so. As long as the spouse has not been registered for divorce according to the Civil and Commercial Code.³⁰

Article 1501 of the Civil and Commercial Code stipulates that a marriage is terminated with a cause; death, divorce or court repeal. In addition, in filing a divorce suit in court, the couple must file a reason for divorce as stipulated in article 1516 of the Civil and Commercial Code. Datok Qadi's decision was not mentioned as one of the reasons for filing for divorce. Therefore, it can be said that the husband and wife cannot file for divorce by referring to Datok Qadi's decision. But it can be claimed for divorce for other reasons, for example husband or wife intentionally left the other party for more than one year, etc. Thus the case had to wait a full year before

²⁹ Cheha, "Tumpang Tindih Hukum: Studi Kasus UU Penggunaan Hukum Islam Di Provinsi Pattani, Naradhiwat, Yala Dan Satun, 1946," 79–80.

³⁰ Article 1514 of the Civil and Commercial Code states that "divorce can only be carried out with the consent of both parties. or by a judge's decision. The divorce agreement must be in writing and signed by at least two witnesses. Cheha, 80.

²⁸ Joseph Chinyong Liow, *Islam, Education, and Reform in Southern Thailand: Tradition & Transformation* (Institute of Southeast Asian Studies, 2009).

filing a lawsuit even though the marriage had long since ended according to Islamic law. This also has an impact on the distribution of inheritance and plans to remarry. The solution to the problem to avoid this legal inconsistency can be done by expanding the enforcement of family and inheritance law outside the court.

CONCLUSION

Islamic family and inheritance laws in Thailand were first enacted since 1901 under the rule of the seven district governments of R.E. 120. Now the Islamic law on family and inheritance of 1946 is enforced only in the four southern provinces of Thailand. Article 3 in civil decisions on family and Islamic inheritance in courts of first instance in Pattani, Narathiwat, Yala and Satun provinces. The plaintiff, defendant or applicant submitting the request must be Muslim. Can use Islamic law regarding family and

inheritance as a substitute for the provisions of the Civil and Commercial Code. However, there are the following problems; lack of clarity in terms of membership of the Islamic Provincial Committee in the 1997 Law on the Administration of Islamic Organizations. The problem of setting conditions that require Datok Qadi to be alone in deciding matters of Islamic law. Datok Qadi's decision is absolute and cannot be appealed. The problem of limiting the enforcement of Islamic law which can only apply in court. Therefore, there is no other way to solve this problem other than expanding law enforcement, especially Islamic law on family and inheritance outside the court as well. In addition, there is a need for legal reforms, both the Islamic Law on Family and Inheritance in 1946 and the 1997 Law on Administration of Islamic Organizations which are more perfect.

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