

QADZI IN SOUTHERN THAILAND
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A SYNOPSIS

INTRODUCTION

Muslims are found mostly in Southern part of Thailand, in Yala, Patani, Naratiwas and Setul. There is therefore a difference between laws in the South and the other parts of Thailand.

The Syariah laws are applied in South Thailand in several aspects, such as in matters pertaining to divorce, inheritance and its distribution etc. The Qadzi is charged with the responsibility to administer these laws in the 4 provinces in Southern Thailand. As such any matters associated with the implementation of these laws do not receive much attention from the populace in the other parts of the country.

ATTRIBUTES & RESPONSIBILITIES OF A QADZI

- 1 The Qadzi should be competent and understand the Quran, respected by the Muslims in the province, of a respectable age, loyal to the king and the Govt;
- 2 The Qadzi was called as such as he is of the same stature as the court judge in South Thailand. His responsibility is to administer and implement the Syariah Laws;
- 3 The Qadzi is empowered to administer and implement the Syariah Laws on matters pertaining to family and inheritance cases/disputes.

BRIEF HISTORY

The Syariah Laws on matters pertaining to family and inheritance were still applicable in the Southern provinces of Pattani, Naratiwas, Yala and Setul in 1935 even though the Civil Laws were enacted. In 1943, however, when Parts 5 & 6 of the Civil Laws were reviewed and additional clauses were made, the powers of the Qadzi in the provinces of Southern Thailand to hear and decide on cases were abolished. The powers of the Qadzi to hear and decide on cases under the Syariah Laws on family and inheritance matters were however re-installed in 1946.

PROCEDURE TO SELECT OR ELECT QADZI

Circular No 30/2353 of the Ministry of Justice dated 24 Sep 1917 state the following criteria to select and elect Qadzi:

- a Respected and trusted by Muslims in the respective provinces;
- 2 Have attained a certain acceptable age and be respected and trusted as a Senior citizen;
- 3 Knowledge in Syariah Laws;
- 4 Loyal to the King and the Government.

In 1935, the enactment of laws on govt servants in dept of justice stipulate the criteria upon which Qadzi is to be selected and elected as follows:

- 1 Should not be less than 25 years of age and should have satisfied the criteria in accordance with Part 23 sub-section 1 & 2-10 of the laws on general government servants 1933;
- 2 Knowledge and understand the Quran and be able to hear and decide on cases on family and inheritance matters.

The following is the method of selecting and electing Qadzi according to the law:

- 1 List of names is given to Director of Justice through a meeting with the respective Governors of the provinces. This will then be reported to the Minister of Justice;
- 2 The Minister of Justice will submit and recommend the person to be elected as Qadzi to Cabinet who will then recommend for the King's approval.

PROBLEMS FACED IN THE IMPLEMENTATION OF SYARIAH LAWS

The problem faced in the implementation of Syariah Laws is basically one in determining whether it should be based on the Syariah or the Civil Laws.

Synopsis by: Abdul Halim Aliman