

Roles and Functions of the Patani Muslim Religious Committee Council in Propagating and Preserving Islam as a Religion under Thai Constitution

Sulaiman Dorloh and Abdol Rauh Yaacob

Faculty of Shariah and Law, Sultan Sharif Ali Islamic University (UNISSA),
Brunei Darussalam

Abstract

This paper examines the roles and the functions that the Islamic committee members play at the Muslim Religious Committee Council in the Patani province in propagating and preserving Islam as a religion under the Thai Constitution. Other councils for example, Narathiwat Muslim Religious Committee Council (NMRCC), Yala Muslim Religious Committee Council (YMRCC) and Satul Muslim Religious Committee Council (SMRCC) also embarks upon their own roles besides solving the matrimonial disputes among the Muslims in the deep south. This is due to the fact that the sole purpose of the establishment of the Muslim Religious Committee Councils is to propagate the Islamic teachings and monitor the affair of Muslims in those four provinces. Unfortunately, in the recent year, there are some allegations and misunderstandings as to the roles played by the committee. Although there have been attempts to clarify such misconception, no attempt has been made to provide sufficient information and concrete solutions to the above problems. To a large extent those roles and functions are being carried out by the committee since the beginning of the establishment of the councils. Hence, this paper intends to investigate the roles and the functions of the committee in the Patani Muslim Religious Committee Council by exploring the current tasks and responsibilities of the Islamic committee members in the sphere of propagating and preserving the Islamic teachings as well as conducting the dispute resolution mechanism. Finally, the author will provide some possible solutions and suggestions to the current problems faced by PMRCC.

Keywords: Patani Islamic Religious Committee Council, Thai Constitution, Reconciliation in family matters, Deep south, Islamic family law disputes.

The Current Scenario of the PMRCC

Due to ongoing unrest in the Thailand's Malay Muslim speaking area, the office of the Muslim Religious Committee Councils in the four southern border provinces is being targeted by several allegations especially the PMRCC. Such pejorative image indeed, will tarnish reputation of the PMRCC and the office of Shayk al-Islam as symbols of Islamic religion in Thai contexts. Looking at the roles played by the office of the Muslim religious committee council in Patani province especially in the field of propagating and preserving the Islamic teachings are obvious.

Legally speaking, settling marital disputes among the Muslims in those four border provinces is considered as quasi-judicial task as far as the routine of work of the Thai Provincial courts is concerned. In fact, the PMRCC has helped the Provincial courts in minimizing the numbers the court case filed at the Patani provincial court. As such, the importance of family dispute resolution is being currently conducted by the PMRCC has been grown quite substantially in the recent years. The implementation of Islamic family and Islamic law of inheritance is another major role demonstrated by the PMRCC in matters involving the Islamic faith, marriage, *talaq*, and succession to estate of deceased Muslim persons.

Hence, the training of the religious counselors in the Majlis/council of the southern border provinces of Thailand, in both Islamic legal knowledge and skills in order to prepare them to solve and accommodate the problems accounted while carry out their counseling is indeed very important. The present administrative staff at the PMRCC is not trained purposely for that particular specific goal but rather embark upon on a very broad and general mission. There was no focus made as far as the implementation of the dispute resolution in the PMRCC was concerned

The Roles and Functions of the PMRCC

Before the establishment of the MRCC, the task of propagating Islamic teachings and making compromise were conducted by *tok gurus* (learned scholars), *imam*, and head villagers in their respective village. When the Act on the Islamic Organization Act B.E. 2540 (1997) has been implemented in those areas, and resulting the formation of the PMRCC and the task of propagating Islamic teaching subsequently, was transformed to the PMRCC. It might be said that the *tok gurus*' roles are less significant compared to the PMRCC's roles. However, generally speaking, the roles and the functions of the Muslim Religious Committee Councils in Thailand can be divided into two roles. There are as follows:

The Roles of PMRCC in Propagating and Preserving Islam as a Religion of the Thai Constitution

The oldest Muslim Religious Committee Council after the Siamese occupation is the Patani Muslim Religious Committee Council. This council was established in 1948. The first president

of PMRCC was Haji Sulong Bin Abdul Qadir.¹ His full's name was Tuan Guru Haji Mohammad Sulong Bin Abdul Qadir Bin Muhammad Bin Tuan Minal al-Fatani.

The newly appointed present president of the PMRCC is Haji Abdul Rahman Bin Dawud. The tenure office for the posts of the posts of the committee chairman, and vice-chairman and the committee members is a four-year term but they may seek re-elect if they so wish. Among the objectives of PMRCC in broader sense is to propagate the Islamic teachings. Moreover, the specific objectives have been formulated to suit with the present conditions they are as follows. Firstly; to act as *wali am* for Muslim couples , secondly; to promote and preserve the Islamic heritage and its teachings, thirdly to supervise and monitor the affairs of the mosque in their respective localities, fourthly, to solve the Muslim matrimonial problems and to monitor and take care of abandoned child, needy, orphanage, unfortunate and less fortunate persons. Those objectives are being interpreted into action plan which will be carried out by PMRCC under the new leadership of Haji Abdul Rahman Bin Dawud . There are as follows:

1. To supervise and monitor Ma'had Darul Ma'arif
2. To monitor kindergarten at the respective mosque with totaling of 623 schools
3. To conduct a seminar annually to the imam, khatib and bilal and its committee members. The total number of the participants in each year are approximately 1,869 persons
4. To produce a syllabus for kindergarten school at the respective mosque
5. To monitor and take care of orphanages and unfortunate persons
6. To take part in social services conducted by PMRCC
7. To conduct a free training for Muslims during the school vocation
8. To give a public lecture on radio and TV
9. To form a dakwah group for villagers when the request is made from the villagers
10. To form Ulama Council consisting of 30 persons for each village.
11. To prepare articles and Khutbah book to be distributed to the mosque in their respective mosque, and
12. To collect donation and provide scholarship for the Muslim students whose intent to pursue their studies locally or abroad²

The Roles and Functions of PMRCC According the Thai's law

The Thai Constitution is a supreme law, any law which is repugnant with the Thai Constitution is null and void. Although, Thailand is a Buddhist country, the freedom of religion as guaranteed by the Thai Constitution.³ Article 38 of the said constitution provides:

¹ The second president of PMRCC was Haji Abdul Aziz Bin Haji Abdul Wahab (1948-1974), the third president of PMRCC was Haji Muhammad Amin Bin Haji Muhammad Sulong (1975-1982), the fourth president of PMRCC was Haji Yusuf Bin Wan Musa (1982-1984), fifth president of MAIP was Haji Abdul Wahab Bin Abdul Wahab (1984-1999) See; Mina Jeh tae, Al-Tanzim al-Idari, ibid., p.55. Daily Matichon, 16 april, 2004, Matichon Press, Bangkok, p.34

² Those objectives are changeable from time to time to suit with the need of the villagers

A person shall enjoy full liberty to profess a religion, a religious sect or creed, and observe religious precepts or exercise a form of worship in accordance with his or her belief provided that it is not contrary to his or her civic duties, public order or good morals.

His Majesty, the King is the upholder and the patron of all religions. Moreover, His Majesty the King always takes part actively in promoting the understanding between the majority of Thais and minority groups especially peoples in the Malay speaking areas.⁴ His Majesty, the king graciously has allocated through the government the budget and land for the construction of the mosque, symbolizing the Thailand's commitment toward the Islamic affairs. Today there are four thousands mosques and a large number of prayer facilities all over Thailand.

According to the Islamic Organization Act B.E. 2540 (1997), under this act the Committee for the Provincial for Islamic Affairs were formed to advice and assist the provincial governor in all matters relating to Islam. Besides that by virtue of article 26 (11) of the Act 1997. The Act 1997 provides to the effect that:

“The Provincial Islamic Religious Committee has the power to compromise and reconcile disputes concerning family and inheritance according to Islamic rules when there is a request from the Muslims.”

But in practical, PMRCC most of the time play dual functions, reconcile and acting as arbitrator in matrimonial disputes. Though, other government institution such as Provincial court- presided by Dato Yuthitham (Muslim magistrate) is appointed for that particular purpose.

To respond the Act, PMRCC forms 30 administrative staff members. Besides that PMRCC have been employed 14 persons as permanent staff. The office of PMRCC is divided into 12 divisions. Each division is self- sponsored. They are as follows:

1. Operational Affairs Division Affairs. This division is comprising of one chairman whose is assisted by 3 vice-chairmen. The main task of this division is to administer, study and identify the internal as well as the external administrative policy of the ONMRCC. This includes to liaise with other organizations.

2. Secretariat Affairs Division Affairs. This division is headed by one Secretary with two secretarial assistants. This division mainly deals with the clerical works and conducting monthly meetings and workshops. The usual workshop conducted by this division is called “*khusus praperkahwinan*”

3. Bursar Affairs Division Affairs. It deals with financing, budgeting and auditing of the PMRCC's balance sheet.

³ It is to be noted that this constitution is accredited as the " Popular Constitution," for it is believed to be the product of rampant participation by the people in its drafting.

⁴ The National Identity Board, *Thailand in the 90s*,(Bangkok : The office of the Prime Minister, Kingdom of Thailand, 1995) 70.

4. Economic Division Affairs. This division is comprising of one official. Its main tasks are to generate the incomes of the PMRCC by making a connection with the co-operate body in the region.

5. Educational Affairs Division Affairs. This division is consisting of several religious teachers. This division seeks to promote religious education of every mosque. The class will be conducted in Malay language under the patronage of mosque educational committee. The class will begin on the school holiday, Saturday and Sunday on the mosque veranda.

6. Reconciliation Affairs Division Affairs. This division consists of one principal division whose is assisted by two assistants. Its main task is to reconcile the marital disputes between husband and wife. This includes to act as a mediator or counsellor on wills, bequests and dowry disputes.

7. Social welfare Affairs Division Affairs. This division is headed by one principal division with two assistants. The office is responsible to provide temporary relief and aid to those who are suffered from natural disastrous such as drought, and flood . The office also will provide financial assistant to the newly-converted Muslims. Distributing donation for the construction on the mosques, kindred garden schools and giving assist to the students who intended further their high education are held by this division.

8. Marriage, divorce and Islamic Division Affairs Affairs. This division is responsible to issue the marriage and divorce certificate, letter certification, issueing religious rulings on certain issues relating marriage, divorce and inheritance. This division is headed by several learned scholars or *tok gurus* in the province.

9. Hajj and Umrah Division Affairs Affairs. Consisting of one principal division with one assistant. This division is responsible to coordinate with the companies and the pilgrimage leaders. This includes to conduct a seminar and workshop to those who intended to go for hajj and umrah.

10. Mosque Administrative Division Affairs Affairs. This division consists of one principal head with one assistant whose main job is to survey and register the mosques and its committees in the area. This includes to conduct a seminar annually for imam, khatib, bilal and mosque's committee

11. Zakat Affairs Division Affairs. Consists of one principal head with one assistant whose main job is to educate the Muslims in the region to understand about alms giving (Zakat) and its requirements.

12. Halal Affairs Division Affairs, this division is headed by a principle and academic assistant. The main task is to issue halal certificate and monitoring product displayed in the market place.

13 Information Affairs Division Affairs. The division is consisting of one principal head with one assistantship whose main jobs are to promote the council's activities by producing pamphlets, brochers, booklets to be distributed the Muslims in the region.

Looking at the functions of PMRCC as discussed above, it is evident that the PMRCC is playing a major role in preserving the Islamic teachings.

Judicial Function

Besides the above mentioned functions, the PMRCC also acting as arbitration and reconciliation body whose major tasks are to conduct reconciliation. Below is the reconciliation process and types of cases decided by PMRCC

1. Conducting Reconciliation process and practicing order at the Patani Muslim Religious Committee Council(PMRCC)

By the virtue of the Islamic Organization Act B.E. 2540 (1997), the committee of the Muslim Religious Council is responsible to compromise and settle Muslims' marriage, divorce and inheritance disputes. However, before settling those problems, negotiation and reconciliation is conducted by the beginning with the presence of the parties in *sulh* or conciliation meeting until the end of negotiation. This principle has been stressed in the Holy Qur'an. Allah Almighty says: And if you a breach between the two (husband and wife), then appoint an arbiter from his (husband's) people and arbiter from her (wife's) people. If they desire agreement, Allah will affect harmony between them (An-Nisa: 35): If two parties among the believers fall into a quarrel. Make ye peace between them (al-Hujrat: 9)

In the light of the above Quranic verses, Allah has laid down procedures that should be followed when disagreement arises between husband and wife. The appointment of *hakam* or arbitrator from both parties is necessary. Secondly, an amicable settlement is permissible in all matters among Muslims except the amicable settlement which makes the unlawful as lawful and that which makes the lawful as unlawful. And thirdly, the reconciliation by way of arbitration should be made before any legal action takes place. Legally speaking, a reconciliation is a contract for amicable settlement when there are conflicts.

2. The PMRCC's Manual Order

Regarding the roles and the functions of the PMRCC in reconciliation is obvious. The reconciliation working procedures which have being practicing in the PMRCC are stated in PMRCC's manual order. It can be summarized as follows:

1. The applicant must bring the letter of marriage and letter of intention for entering a conciliation from *imam*
2. The Committee will consider whether the conflict is existing or not, if the conflict is present the committee will suggest the applicant to enter for the reconciliation by filling a complaint form⁵ at the PMRCC.
3. The conciliatory committee will open the remark by *ta'ruf*
4. The Committee will then explain the reconciliation process at the PMRCC according to both in Islamic law and Thai civil law
5. The committee will ask the applicant whether the applicants want to enter for the reconciliation process

⁵ See letter of Complaint for Reconciliation

6. If the applicants agree to enter for conciliation the committee will first consider the complaints of the aggravated party. If the conciliation is successful the committee shall issue a conciliation letter⁶
7. The conciliatory committee will be assisted by the PMRCC's Qadi Sharie as a head of the conciliatory committee.
8. If the party disagree with the conciliation committee, the committee will then send the report to the provincial court subject to the approval of the president of the PMRCC and the decision shall made based on the report prepared by the conciliatory committee

It might be noticed that from the practice order of the PMRCC. There are several points to be highlighted. The conciliation is an optional. The PMRCC's committee will be acting as an appointed mediator. However, the counseling given by the PMRCC's committee is not binding upon the other parties. The conciliatory committees were appointed to execute the duties as conciliators in accordance with the conciliation procedures consisting of 5 persons. They all were under the supervision of Qadi Shar'ie. This process is not an adversarial but it is rather a co-operative and consensus-oriented process. On these particular issues, the committee will advise the parties on their legal right or on how they should resolve the issues between them when they want to file a legal suit at the provincial court.

Several problems were accounted; among others were limitation of time, counselors, and atmosphere. In promoting reconciliation, the PMRCC requires an active role of the provincial court by asking the applicants to have recourse to the assistance and advice from the PMRCC from the purpose of effecting reconciliation.

Comparatively speaking, the reconciliation working procedures can be compared with the Practice Suggestions Concerning Conciliation for Settlement in the Thai Civil court. Those Practice suggestions were issued by the President of the Supreme Court on 7 March B.E.2539 (1996) by the virtue of section 1 of the Statute of the Court of Justice. It provides that

“whereby the President of the Supreme Court is empowered, in the capacity as a head of the Judiciary to lay down directions for the judges in conducting reconciliation in cases where the prising judges is of the opinion that there is a reasonable chance of amicable settlement between the parties, the court shall initiate the conciliation proceedings”.

From the above-quoted provision issued by the President of the Supreme Court, the followings steps have been practicing at the Provincial courts to ensure that the conciliation proceedings are running smoothly.

1. The court may designate a special room for conciliation process. The atmosphere shall be informal and the judge and lawyers will not be wearing their gowns.
2. The court, with the approval of the parties may appoint a neutral or expert arbitrator to rule on the matter given
3. The award rendered by the arbitrator, if approved by the court, shall be incorporated in the final judgment
4. Where a speedy settlement is achieved, the court may consider returning the court fees to the parties.⁷

⁶ See letter of Reconciliation

From the discussion above it shows that the reconciliation at the Thai civil court and at the PMRCC are optional, the presence of the judges, lawyers and *Qadhi syarie* are necessary for the purpose of reconciliation. The expert and neutral arbitrator are of requisite one.

3. Types of cases filed at PMRCC

The applications and claims for reconciliation can be made at the PMRCC's office in accordance with the act on the application of Islamic Family law and law of inheritance, 1941 and the Royal Act Concerning the Administration of Islamic Organization, 1997 and Islamic family law which is being applicable from time to time including matters relating to reconciliation in the matter of matrimonial problems, claiming for breach of promise to marry or betrothal, ancillary claims for divorce such as *'iddah* maintenance, arrears of maintenance, jointly acquired property and other reasonable claims, claiming for custody of children, claiming for maintenance of children, claiming for division property, and any other related issues concerning Islamic law and Islamic family law.

Looking at the types of application, it can be said that the PMRCC plays a major role in the implementation of Islamic Family and Islamic law of inheritance in the Thailand's Malay speaking areas though, the PMRCC's annual budget is lesser than other Muslim and government organization. Similarly, the salary for the PMRCC's staff is paid on the basis of mutual cooperation.

Possible Solutions to the Current Problems

Having discussed the roles and functions of the PMRCC, it is obvious that the PMRCC is moving towards propagating and preserving the teachings of Islam under the context of Thai Constitution. Regarding the nature of the work and the workload of administrative staff at the PMCC as prescribed in this article, it shows that the financial assistant must be provided for them. Thus it is suggested that the Thai government through the Interior Ministry must consider the MRCC administrative staff for the eligibility to obtain the monthly salary from the respective authority, the monthly salary for the PMRCC administrative must be paid to them. Thus, the allocation of the national annual budget for the purpose of payment of PMCC administrative must be borne by the central government. The entitlement for such payment should be in line with the Thai public servant salary scheme.

Some of the problems that have mentioned above has already been solved by the relevant authority. For example, the creation of the Islamic legal assistant post at the PMRCC is considered as proactive steps towards solving the current problems faced by the MRCC. This position is being recruited by Shari'ah law students whose have graduated from the Prince of Songkhla University, Patani campus. This initiative is indeed very beneficial not only for the

⁷ Vichai Ariyanuntaka, Jurisdiction and recognition and enforcement of foreign judgment and arbitration awards: A Thai perspective, Paper presented at the 8th Singapore Conference on International Business Law, Current Legal Issues in International Commercial Litigation' 30 October-1 November 1996 at Shangi-La Singapore

council but for the Thai authority as well. Taking part in administration of the Muslim affairs in the Malay speaking areas is indeed beneficial so that it may lessen the administrative burden of the PMRCC and narrow down the gap between the Muslims and the Thai authorities. It is hoped that this initiative would be the first step towards the creation of other new posts in the future for example, Thai civil legal assistant and Islamic counselors.

Conclusion

Being a government institution, the PMRCC is obliged to follow the rules and regulations which are provided by the Thai law. The propagation and preserving the Islamic teaching which carried by the PMRCC is in accordance provisions of the Thai Constitution.

References

- Bangoar Piyaparn 1995. *Prawatsat Thai (Thai History)* Bangkok: S. Printing House.
- Bukhori Bin Raman. 1978. *Khambanyai Krabuan Wicha Kotmai Islam (Islamic Law)* third edn., Bangkok: Ramkhamheang University Press.
- Haji Wan Ismail bin Wan Daud. 2001. *Panduan Pendaftar Nikah-Cerai (A Concise Handbook on Marriage and Divorce registration) Yala Muslim Religious Council: Yala*
- M.B. Hooker.1984. *Islamic Law in South East Asia*, New York: Oxford University Press.
- Prayunsak Jalaijanateja.1998. *Muslim in Thailand*, Bangkok: The Foundation of Islamic Centre of Thailand.
- Uthai Hirayanto. n.d., *Paendin Thai: Changwat Chai Daen Paktai (Thailand : Southern Border Provinces)* . n.pp., Bangkok: Local Administration Department of Interior.

Journal

- Publerng Kongchana. Chen : The last Chularajmontri of the Ayuthaya Period, Dhonburi Rajaphat University Journal , vol:2 , no 1 Apr-September 2007
- Intiyaz Yusuf, Islam and Democracy in Thailand: Reforming the office of Chularajmontri/Shaikh al-Islam, Journal of Islamic Studies 9:2(1998) pp.277-298
- Joseph Chiyong Liow, Religious Education and Reformist Islam in Thailand's Southern Border Provinces : The Role of Hj Sulong Abdul Kadir and Ismail Lutfi, Journal of Islamic studies, 2010 , vol 21(1), pp29-58

Working papers

- Ahmad Chapakia. “Peranan Ulama’ Fatani Dalam Politik : Kajian Kes Tuan Haji Sulong Abdul Qadir”, paper presented in the *Seminar Nadwah ‘Ulama’ Nusantara I*, Prince of Songkhla University, Patani Campus ,Thailand, 19-20 May 2001.
- Dato' Aziz Benhawan. “Qadi Di Selatan Thai”, The Education and Training of Shari’ah Judges and Lawyers, Paper presented at the 5th *SEAS Conference*, Singapore, 26-28 February, 1988.
- Sulaiman Dorloh 2010.“ Alternative Dispute Resolution(Sulh) and Arbitration Provisions in Family Cases: A Case Study of the Implementation of Mediation in the Muslim Religious Committee Councils in the Malay-Muslim Majority Area of Thailand”, Paper presented at Sultan Zainal Abidin University(UniSZA), Faculty of Law and International relations, KUZA Campus, Gong Badak 21300 Kuala Terengganu

Sinrat Dec-udom. 2010 “Religious Administrative Staff”, Annual Report, Office for Ethics Promotion, Religious Department, Ministry of Culture.

W.K. Che Man.1991. *The Administration of Islamic Institutions in Non-Muslim States : The Case of Singapore and Thailand*, Teaching and Research Exchange Fellowships Report No.10, Southeast Asia Program , pp.4

Useful internet

<http://www.deepsouthwatch.org/dsj/3114>

<http://www.maip.in.th>

<http://www.kantakji.com/fiqh/Files/Wakf/2019> doc, The status of waqf properties in the Malay-Muslim majority areas of Thailand: A legal survey. By Dr Sulaiman Dorloh