

## Children Maintenance: The Rights in Islamic Family Law and the Law of Thailand

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### Abstract

*Maintaining relationships in the family, parents are responsible for providing maintenance to children and provide them appropriate education. This responsibility to give until puberty or do have the capability to support themselves. This paper aims to discuss the position children maintenance in Islamic Family Law and the Law of Thailand. The discussion in this paper include provisions Islamic Family Law and the Law of Thailand, whether the Civil Law or Islamic Family Law that has been used in the four districts of the Southern of Thailand which are Patani, Narathiwat, Yala and Satul. The discussion started by providing the definition of children maintenance and the children rights, as well as the children maintenance in the Islamic Family Law. Subsequently, the discussion followed by the explanation on the protection of the Islamic Family law in the Southern of Thailand and the Law of Thailand regarding the children maintenance. The research it can be concluded that giving maintenance is compulsory to be settled as explained in the al-Qur'an and al-Sunnah. children maintenance is the parents' responsibility based on their capability. The rights and position of children maintenance is very precious to the community and laws as it is written in both laws to protect the children completely.*

**Keywords:** Children maintenance; parents; Islamic Family Law; The Law of Thailand.

### 1. Introduction

The Islamic law has stated that children maintenance is the ultimate right of a child. A father still needs to provide the children maintenance even though there are other people who can replace him to carry out the responsibility. The importance of providing the children maintenance is not merely to cater the children's needs, but it is also functioning as a medium to create a close relationship between the father and the children. This is also important to prove that the father still concerns on his children's welfare and needs even though he has divorced their mother.

### 2. Statement of the Problem and Research Methodology

It has been a very alarming issue concerning the laws of giving and receiving the maintenance in the community especially in Thailand as people always question the responsibility of providing the children and wife maintenance. There are also a lot of seminars and forums that discuss on this issue. Furthermore, the claim of this maintenance based on the statistics from Office of Juvenile Justice System Development has increased as the divorce cases have also increased. This suggests that the divorce cases are the cause for the child maintenance problems on responsibility to occur. Therefore, the failure to control the divorce cases will also increase the child maintenance claims. Besides it will also be a debatable issue in the social network or other mediums. Hence, this study will discuss the issue on providing the children maintenance and how the laws of Thailand defend this right.

Research methodology is very important in guiding the researchers on proper data collection. Explanation of the methodology will ease the researcher in effecting a systematic research. This research analyses the works related to the issue children maintenance produced by academicians. For this purpose, the research adopts the content analysis method, which focuses on the materials from the mass media such as journals, books, written reports and other materials. This method can be used in various fields including politics, social studies, management, education and others. It is very suitable in analysing the current issues and explanations of social curiosity related to the analysis.

### 3. The Definition of Children Maintenance

The discussion will be started by providing the definition of children maintenance and the children rights, as well as the children maintenance in the Islamic Family Law. Subsequently, the discussion will be followed by the explanation on the protection of the Islamic Family law in the Southern of Thailand and the Law of Thailand regarding the children maintenance. This study will focus on the claim cases in the civil Court and the Lower Court in the four districts of the Southern of Thailand (The Juvenile and Family Courts of Patani, Yala, Naratiwat and Satul) to get the information on the children maintenance claims, as well as the amount of the claims that has been filed by the Court or the Islamic Religious Council. The definition of children maintenance can be understood from the Arabic word *nafaqa*, *al-Nafaqah* which is a noun from the word *al-infaq* which means to spend something like money (al-Sharbini, n.d). Meanwhile, the term can be defined as to provide the needs of the wife and child such as food, drink, dress and shelter, (al-Sharbini, N.d.), and other relevant needs (al-Husayni, n.d). Osborne, J. W. defines maintenance as "Supply of the necessities of life for a person" (Osborne, J. W. 1993). In the other words, maintenance can be understood as to spend on someone who is obliged for a person to support him or her economically. Therefore, the maintenance includes the education, dress, food, drink, shelter, health and other needs. The word child is defined as someone who has not reached his or her puberty (al-Suyuti, n.d.). Based on the Law of Thailand, a child is a person below 20 years old as written in the Children Act Section 19 (Civil & Commercial Code, Section 19). Consequently, the definition of children for Thailand and Malaysia is different as Malaysia defines a child is a person who is below 18 years old (The Malaysian Laws, Act 611, Children Act: 2001). However, the definition of a child in the Islamic Family Law of the Southern of Thailand is a person below 15 years old for a boy while a person below 9 years old for a girl. This is based on the definition of puberty by *Imam As-Syafi'i* (The Laws and Heritage Act in the Southern of Thailand 1947 Section 2).

### 4. Discussion on the Rights of Children Maintenance Based on the Law

In the Islamic Family Law, children maintenance is under the responsibility of the father and the grandmother, and after that it falls under the responsibility of the mother and the grandmother. That means, it is compulsory to provide the maintenance for children and grandchildren from both the father and the mother sides regardless their religious and inheritance status. A father is obliged to provide the children maintenance to his children regardless their gender. If their father dies, the grandfather should take that responsibility. This is based on the words of Allah in Surah Al-Talaq 65:2. The obligation to provide the wives maintenance as they breastfeed the children and it is better for the maintenance to be provided directly. Moreover, in Surah Al-Baqarah 2:233, the family lineage of a child is to the father with the reference to the letter *Lamkhtishah* which means father is responsible to provide the child maintenance. Following that sentence is the sentence that emphasizes the obligation of a father to provide the maintenance for the child's mother as she breastfeeds the child. As a result, it can be seen that providing the children maintenance should be prioritized than others (Abi Khayr, n.d). The obligation of a father to provide the children maintenance is based on few conditions. Among the conditions are the father has the property, and a job.

Even though he does not have a job, but he is able to work, he is compulsory to find a job and provide the children maintenance. The words stress that if a father does not have any job or source of income, he is not compulsory to provide the maintenance. This is in accordance to the *Hadith* by Prophet Muhammad (P.B.U.H) which means "Start the maintenance from you".

Other than that, children maintenance is meant only for the children who have not reached their puberty yet and without any job. Therefore, children who have the capability to work and have reached their puberty, is not entitled to get the maintenance from the father even though they are not working. However, if the children are able to work but they are not working as they are studying *aqidah* or *ibadah*, they are entitled to receive the maintenance from their father. Nevertheless, if the children are studying *kifayah* such as medicine, technical, and other knowledge, the father can choose whether to continue giving the maintenance for the good deeds, or stop the maintenance until the children start to work (Al-Zuhayli, 2009).

For the poor children, it is compulsory for the father to provide the maintenance as they are not able to work. Hence, it is not compulsory for the father and grandfather to provide the children maintenance if their jobless children are able to work and they are not working because of their laziness. Apart from the conditions in giving the maintenance, the amount of maintenance that should be given is also important to be considered. In the book of "*Fiqh al-Manhaj*", it is stated that there is no fixed amount of maintenance that should be given, as it is based on the capability of the maintenance provider (al-Khin et. al, 2009). According to the words of Allah in *Surah al-Talaq* 65:7,

When a father or a grandfather could not provide the children maintenance at the specific time, it does not mean

that they are owing to the children. This is because; children maintenance is basically a form of help from the father, not a rightful giving or *tamlik* towards a specific right, but it is a form of help which is *tamkin* to the children because of the blood relationship. In the other words, if the father did not give maintenance to his children because they forgot to ask for it, or they do not really need it even though the father affords to give it, it should not be considered as debt. In contrast, if there is a conflict in the maintenance giving, the judge needs to determine the amount of the maintenance and give permission to the children to consider that case as debt between them and their father. By referring to this case, the father is considered to owe to his children if he cannot provide the maintenance at the determined time. This is because; it is the right of the children under the judge's permission. In brief, the maintenance giving is not settled even though the time allocation has passed (Ahmad Sharbini, 1996).

In reference to those facts, it can be concluded that giving maintenance is compulsory to be settled as explained in the *al-Qur'an* and *as-Sunnah*. It is also compulsory for a father to provide maintenance to his children or from *usul* to *furu'* based on the father's affordable amount or the customs and practices. There are a lot of benefits of providing maintenance to the children, such as bringing the relationship between the father and the children becomes closer, to fulfil the children's needs and wants in living on their lives, even though the father is no longer married to their mother. Children maintenance is compulsory for the father to fulfil it if the children are poor and do not have the capability to work. If the children are able to work, it is not compulsory for the father to provide the maintenance. Furthermore, it is not considered as debt if the father cannot provide the children maintenance right on time unless the court has decided on the certain amount and time for the maintenance to be provided by the father. The Law of Thailand and the Islamic Family Law of the Southern of Thailand have explained the rights of children maintenance. In order to have a clearer view on the management of Thailand's Law administration, the development history of the law will be discussed. The history starts with the process of preparing the laws by the government in combining the words 'family' and 'heritage' to a comprehensive laws on family and heritage by collecting the laws related to family registration in 1935 and the Islamic Family and Heritage Law which has been implemented in the four districts of the Southern of Thailand which are Patani, Narathiwat, Yala and Satul in 1946. However, the process did not involve the allocation of Civil and Commercial Code chapter 5 and 6. The growing process had gone through three parts;

The first part, which is the General part explains on the development of Family and Heritage Law and the relationship between the Family Law and the other laws such as the Civil and Commercial Code chapter 5 and 6, Laws on Adoption and the Development of Children and Family Court by stating the procedure in appealing for the children and family cases in 1992.

Secondly, the laws related to the family relationship in 1935 such as the marriage registration, divorce registration, children certification, adoption registration, adoption dismissal registration, family and wife's position details.

The third part, religion and the Family and Heritage Law, explains on the Islamic Law that has been used in the four districts of the Southern of Thailand which are Patani, Narathiwat, Yala and Satul such as the Family and Heritage Laws in 1946. The law was implemented in four districts only as those districts equipped with the most Muslims citizens. The regulations explained by that law was different from the Civil and Commercial Code chapter 5 and 6 which has been used all around Thailand, while the local citizens wanted to have the law which is based on the Islamic teaching, to allow them to practise the Islamic obligations in that society. Based on that, the Government of Thailand agreed to implement the law in the four districts of the Southern of Thailand. That agreement followed by the statement that if there are cases occurred related to family and heritage, the plaintive and defendant must be the Muslims and live in the four districts of the Southern of Thailand. The implementation of this Islamic Family Law has replaced the Civil and Commercial Code chapter 5 and 6 to allow Muslims to practise the Islamic teaching.

The development history of the Family and Heritage Laws in Thailand can be proven by the ruling of Thailand including the rulings of Sukhothai, Ayuthaya, Kerung Thon Burhi and Krung Ratana Kosin. This means, the Family and Heritage Law has existed since the reign of Pho Khun Ram Kham Henag. This can be proven by the discovery of *Batu Shila Charekh I*. Other than that, most of the archaeologists have tried to read and study about the Family Laws written on that stone, but it is not very comprehensive to be implemented for the Thais in that particular period. This is also because the laws only explained on the matters related to a family system such as the family relationship and the power of a father compared to the mother and other relatives. However, there was nothing related to marriage was thoroughly written on that stone (Shiriphan, 1996).

Furthermore, during the reign of *Ayuthaya*, the written Family Laws was lost due to the lost of *Ayuthaya* reign to Burma. In that case, Burma burnt down all the written Family Laws of *Ayuthaya* and that caused the laws failed to be implemented as Burma wanted *Ayuthaya* to follow their rules. In 1904, a Family Law has existed, and it was called "*Kodmaay Phua-mia*" (the laws between husband and wife) which covered 141 sections. The law was implemented when a divorce case occurred involving *Khun Krai Narai* and his wife (Direthreth. 1897), which had been decided based on that

law. That law was influenced by the Buddhist holy book Tritaka which was expanded to Cambodia, Myanmar, Laos and Thailand. Other than that, during the reign of *Krung Thonburhi*, the Family Law used was still the "*Kodmaay Phua-mia*" (the laws between husband and wife). This is because, the government had no time to revise the law as they were too busy handling the wars. Moreover, the reign did not take place for a long period as they were facing problems with the king's coronation, therefore, they did not have the opportunity to discuss on the Family Law (Meangwong, 1975).

In contrast to the reign of *Krung Ratana Kosin* led by King *Pra Phutta Yodfa Chulalok*, where he suggested to construct a new Family Law called "*Khod Mhay Tra Sam Duang*" in 1804 which stressed on the freedom of choosing the spouse. This can be seen in the Thai Family Law Act in 1804 which dismissing the forceful act in a marriage (Mhakhan, 1989). In 1908, King *Chullachom Kelau Chauyuhua* (R.5) had created a special board called "France Board of Directors" to check and compare between the Family Law of Thailand and the other countries such as the Family Law of Britain, France, Germany, Switzerland, Italy, Holland, America and Japan. The main objective is to make it as a complementary tool in the Civil and Commercial Code which will be implemented in Thailand during that period. After going through a long process, the Civil and Commercial Code had been completed and implemented in Thailand on the 1<sup>st</sup> December 1935 (Bundet, 1998). The rules in the Civil and Commercial Code consist of the matters related to marriage, maintenance and custody.

During the reign of *Pra Chullachom Kelau Chau Yuhua* (R.5), the Islamic Family Law had been implemented officially in 1946. Since that period, the use of Islamic Family Law can be implemented in the four districts of the Southern of Thailand which are Patani, Narathiwat, Yala and Satul. This law was called "*Lak Kodmai Islam Waduiau Krobkrua Law Morodok*" (The Islamic Law: Family and Heritage). The growing and development process of the Islamic Family Law in the Southern of Thailand had undergone a lot of risky situations, but finally it was successfully and officially drafted and implemented for the Muslims in the Southern of Thailand. The administration and implementation of the Islamic Family Law in the Southern of Thailand was the happiest and important moment to the Muslims. The government also built an institution for the Islamic matters administration with some listed roles of the implementation (Muhammad Kamal, 1996).

The Islamic Family Law Act 1945 in the Southern of Thailand is divided into three parts which are the introduction, Chapter 1, and Chapter 2. Chapter 1 is related to the family law consists of 5 parts. Chapter 2 is about the heritage consists of 5 parts, and it consists of 230 sections as a whole. The sections on children maintenance are explained in Chapter 1, the 5<sup>th</sup> part under the title children custody. This part consists of 4 categories, and the children maintenance category falls under the 4<sup>th</sup> category.

Thailand is a multi religious country; therefore, the system of law is about balancing the difference including the children maintenance. There are two laws are implemented in Thailand, which are the Civil and Commercial Code chapter 5 and 6, and the Islamic Family Law in the Southern of Thailand. The Islamic Family Law is only meant for the Muslims in the four districts of the Southern of Thailand which are Patani, Narathiwat, Yala and Satul even though there are few Civil Laws that could be applied generally to the Muslims too, if the plaintive and defendants are not from the four districts of the Southern of Thailand (The Islamic Family Law of the Southern of Thailand 1946). Thus, the discussion will focus on the children maintenance from the Civil and Commercial Code chapter 5 and 6, and the Islamic Family Law in the Southern of Thailand respectively.

Based on the Civil and Commercial Code chapter 5 and 6, children maintenance is the parents' responsibility towards their children. This is in line with the principal under the Civil Law (Bunchaleam, 2011). This is because, the Civil Law of Thailand is influenced by the Europe, after the ruling of *Kerung Ratana Kosin*, even though the laws were influenced by India and France earlier (Somboon, 1986). Based on the Act in the Civil and Commercial Code, Section 1564, it states that parents should give the maintenance and education to their children since they were young, until they reach their puberty if the children are handicapped or do not have the capability to support themselves (The Civil and Commercial Code, Section 1564).

In addition, children who have the rights to receive the maintenance and education are the children who are from the legal marriage of the parents, based on that particular law. A child of a legal marriage means the child who was born by the parents who have registered their marriage by following the Civil and Commercial Code, Section 1547. If the parents did not register their marriage, but they want to have the children legally, they can register it to the law later. The father can also make a confession to the court that the child is his child legally. Children from the legal marriage are entitled to receive the maintenance and education since they were young or when they are below 20 years old based on The Civil and Commercial Code, Section 1564. (248/2542).

However, if the wife did not register her marriage, but the father has made the confession about the child's legal status at the court, she can claim the child's maintenance from him if he ignores that responsibility. This can be seen in the court decision of case no 2971/2544 which ordered the father to provide the children maintenance when the ex-wife filed the case for it. Besides, the amount of maintenance should be based on the capability of the provider and the

situation of the receiver by referring to Section 1598/38. This can be proven by the High Court decision for the case no 1605/2534 and 4959/2552 which stated that the claim of a children maintenance should be based on the child's necessities and the capability of the provider.

The Civil and Commercial Code chapter 5 and 6 stated that, if a divorce case occurs, the husband and wife should make an agreement on who should provide the children maintenance, either the father or the mother, or both. The agreement should be made by the husband and wife themselves. If any party failed to fulfil the agreement, the other party can file the claim for the children maintenance at the court. This is line with the High Court decision for the case no 2697/2548 which stated that once the agreement on providing the children maintenance has been made and the husband could not fulfil the responsibility, the court decided that the husband should provide the children maintenance for the agreed period. Nevertheless, in the case of having more than one child, the amount of children maintenance will be decided by the court, based on the capability of the maintenance provider. The other option is the court can decide on the monthly amount of maintenance until the children reach their puberty as can be seen in case no 3596/2546.

If the husband failed to provide the children maintenance after the agreement has been made when they registered their divorce, it will turn into debt. Thus, any party should pay the debt in the determined period. However, if only the wife provides the children maintenance until they reach their puberty, she has the right to file for a claim at the court for the amount of maintenance starting from the divorce date or the court order until the children reach their puberty. The pending maintenance can be claimed as far as five years before the case is filed. The court can make the order based on Section 1522.

Next, the position of children maintenance in the Islamic Family Law of the Southern of Thailand that has been implemented in the four districts of the Southern of Thailand which are Patani, Yala, Naratiwat and Satul (The Islamic Family Law of the Southern of Thailand Act 1946). In that law, the issue of children maintenance is explained in the third category which is children breastfeeding and maintenance. The related section for that law is Section 184-187. Section 184 of the Islamic Family Law of the Southern of Thailand states that:

"By referring to this law, the guardian (*Usul*) is obliged to provide the maintenance for the heir (*furuk*), if the guardian (*Usul*) has provided the maintenance; the other related guardians are not obliged to provide it. In this situation, if the heir:

- a) is a boy, and if he:
  - i. has not reached his puberty, until he reached his puberty.
  - ii. has reached his puberty, but he is not able to support himself, or handicapped
- b) is a girl, the maintenance should be given to her starting from she was young until she got married

The above statements show that the Islamic Family Law of the Southern of Thailand is different from The Civil and Commercial Code chapter 5 and 6. In the above section, it stated that if the child is a boy, the maintenance should be given from he was young until he reached his puberty. In the Islamic Family Law of the Southern of Thailand, puberty age for a boy is at the age of 15 and 9 years old for a girl. The act is similar to the definition of puberty by the books of *fiqh* written by *Imam Syafi'i* (Abi Khayr, n.d.). Hence, the maintenance for a girl could end as soon as she gets married and has a husband as her guardian. In contrast to the Civil Law of Thailand, children maintenance is given only until the children reached their puberty which is at the age of 20 years old for both boy and girl (The Civil and Commercial Code chapter 5 and 6, Section 1564).

Therefore, it can be seen that it is still compulsory for the father to provide the children maintenance until they reached their puberty because it is the responsibility of a father be it from the Islamic Law, or the Civil Code. If the father refuses to provide the relevant amount of maintenance for his children, the court can take action on him based on Section 184. The court also has the power to order the responsible person to provide the maintenance based on the *syari'e* law. The payment of maintenance can be made to the person who holds the children custody or trust. Failure to fulfil the responsibility will cause the person to be charged as humiliating the court and he will be punished (The Criminal Law, Section 306). In the four districts of the Southern of Thailand which are Patani, Yala, Naratiwat and Satul, the community can file for the children maintenance claim at the Low Court which is appointed by the respective districts. This court will implement the Islamic Family Law of the Southern of Thailand "*Lak Kodmai Islam Waduaiu Krobkrua Law Morodok*" (The Islamic Law Method : Family and Heritage) with the condition that both plaintive and defendant must be Muslim and live in among those four districts only. Other than that, Datuk Yuitam is a *kadhi* appointed by the government to conduct the trial and make the decision for the cases based on that Islamic Family Law. The decision by Datuk Yutatim is a final decision, but if any of the party is not satisfied with it, they can proceed the case to the Civil Court (Bundet, 1994).

On the other hand, for the non-Muslims or Muslims who are not living in among those four districts of the Southern of Thailand, they have to file for the claim at the Civil Court. The trial of the cases will be based on the Civil and Commercial Code chapter 5 and 6. Thus, it is a problem for Muslims who are living outside the four districts of the

Southern of Thailand as they cannot be treated fairly using the Islamic Law (The Parliament Decision, 5<sup>th</sup> October 1982).

Apart from that, Section 1486 explains that it is not compulsory for a man to provide maintenance for his wife and children if he does not have the capability to support himself as the maintenance should be given based on his capability. This is similar to the book of *Fiqh* which states that it will be only compulsory for the father to provide the maintenance if he has the property or occupation. If he does not have the property but he has the capability to work, he has to find for a job. That means, if he has nothing to be given as the maintenance, it is not compulsory for him to provide the maintenance. The proof can be referred to *Hadith* by Rasulullah (P.B.U.H)) which means: "Starts the maintenance from yourself" (Al-Zuhayli, 2009).

a. The Report Case Statistics of Children Maintenance Claim were Filed at the Court of Thailand from 2004-2013

Years	Total
2004	186
2005	198
2006	284
2007	316
2008	202
2009	278
2010	249
2011	687
2012	792
2013	797
Total	3982

**Source:** Office of Juvenile Justice System Development, Department of Juvenile Observation and Protection, Annual Report 2010 : Case Statistics.

Based on the statistics endorsed by the Office of Juvenile Justice System Development, Department of Juvenile Observation and Protection 2010, it can be concluded that there are 3980 cases of children maintenance claim were filed at the court of Thailand from 2004-2013. The cases are only focusing on the children maintenance without involving other cases like custody, family and heritage. Overall, the cases of maintenance claim increased from 2004-2007. However, in 2008, the number decreased to only 202 cases. Following the years is 2009-2013 which the cases decreased again with the highest cases if compared to 2004-2007. The cases of children maintenance at the Civil Court of Thailand are gradually decreased might be due to few factors such as divorce. This is because, the Registration Department of Thailand has the evidence on the increasing number of divorce cases. The other evidence came from the report by the observation towards children and teenagers (Child Watch) by the Ramchit Institute where they found out that the cases of divorce among the Thai families are gradually increase. In 2005, the ratio of the couples to the divorce registered can be simplified as 4.27:1, in 2008 the ratio is 3.03:1. Furthermore, The Department of Local Administration, Department of The Interior also reported the increasing statistics of the divorce cases yearly.

b. The Report Case Statistics about Civil Case in the four districts of the Southern of Thailand

Wilayah	Jumlah
Patani	10
Yala	7
Naratiwat	5
Satul	8
Total	30

**Source:** Office of Juvenile Justice System Development, Department of Juvenile Observation and Protection, Annual Report 2010 : Case Statistics.

The report from the Department of Juvenile Observation and Protection states that in 2013, the civil case claim at the Low Court in the four districts of the Southern of Thailand is at a small amount with only 30 cases. The cases are not only on the children maintenance, but they consist of the cases on family, heritage, debt, custody and other civil cases. This is because, it is hard to get the exact amount of the children maintenance cases individually as the cases are usually related to other issues such as custody, controlling right and other related issues (Juvenile and Family Court of Patani,

Yala, Naratiwat and Satul).

The other issues that caused the difficulties in getting the exact number of children maintenance cases are the community in the Southern of Thailand refuse to file for the claim at the Islamic Religious Council or the District Low Court even though the problems have always occurred until the women and single mothers become the victim. Normally, the women only seek an advice from Religious Head of the village (*Imam*) of their respective districts regarding the children maintenance. If the *Imam* cannot solve their problems, they will not bring the case to the Islamic Council or the District Low Court. In the other situation, the *Imam* or the Low Court gave decision and took action on the irresponsible maintenance provider, but they still refuse to fulfil the responsibility, and the women did not report it again to the *Imam* or the Low Court. Therefore, the problem will prolong and the issue will never be settled. This situation is frequently occurred among the community of the Southern of Thailand in all matters including the children maintenance and family matters (Interview 7/January/2012).

The other factor that caused the community to remain silent when the problems repeat is they do not know the procedure in appealing to the court. Besides, the community also do not have high education that makes them having lack of knowledge in terms of the laws written in the Islamic Family Law and the Civil Law. As a result, they always make the decision by following their norms and traditional laws. The explanation by Otman Ishak can prove the situation which is "It is true that the Malays really take good care of their religious obligations, but they do not practise what has been written in the Islamic Family law as they are influenced by the local norms" (Ishak, 1997).

## 5. Conclusion

This research is an effort to study on the rights of the children maintenance from their parents, and the level of respect and implementation by the Civil Law of Thailand and the Islamic Law of the Southern of Thailand. The rights of maintenance in the Civil Law of Thailand is abide by the Civil and Commercial Code Chapter 5 and 6 that states it is a responsibility of the parents to provide their children the proper maintenance and education since they were young. On the other hand, they still need to provide the maintenance after the children reached their puberty if they are handicapped or they do not have the capability to support their lives. In contrast, the Islamic Family Law of the Southern of Thailand, Section 184 states that "the guardian (*Usul*) is obliged to provide the maintenance for the heir (*furuk*), if the guardian (*Usul*) has provided the maintenance; the other related guardians are not obliged to provide it". In brief, children maintenance is the parents' responsibility based on their capability. The rights and position of children maintenance is very precious to the community and laws as it is written in both laws to protect the children completely.

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