

A New Concept for Justice with the Protection of the Rights of the Child in the Survivors, Witnesses in Criminal Integration

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Abstract— Current Law on the Protection of Children's Rights There is a law in place to comply with the Constitution of the Kingdom of Thailand BE 2550 (2007), which provides for the protection of human rights. Protection of the rights, freedoms, equality, the right to justice To interrogate children in criminal cases where children are victims or witnesses. According to the Code of Criminal Procedure, Section 133bis and the Juvenile and Family Court Act, and the Judicial Procedure for Juveniles and Families, 2010. However, it is not possible for children to be protected internationally. The law requires multidisciplinary prosecutors. Investigators, psychologists, social workers and lawyers. Participate in the process of questioning children in criminal cases. But on the other hand, young and disadvantaged victims are not seriously protected. It causes many problems in practice. In spite of being a criminal victim. The criminal justice system seeks to find the truth from the victim, which reinforces psychological pain and is considered a repeat of child abuse. It should integrate the work of the judiciary in a consistent manner to protect the rights and freedoms of the child victim to be fair.

Keywords— Justice, integrated criminal justice, child protection, multidisciplinary

I. INTRODUCTION

The current constitution. 2007 was of great importance. Because there are provisions for the protection of human rights. Protection of the rights, freedoms, equality, the right to justice Freedom of expression Especially the protection of children's rights. It is considered as a human resource that is important to the development of the country.

So the way to prosecute children or young people is not a formal one like the typical criminal case. And the judge must have a mental understanding of the child or youth.

Because the basic concepts of criminal proceedings against children are different from those of adults who have complete responsibility. And the approach that applies to adult offenders is having an effect on the mentality of children who are young and still have to enter society.

However, Thai law has neglected the protection of victims or witnesses who have been children in criminal cases for a long time. For example, the law requires that children be

witnessed only in the absence of testimony before the testimony.

If the witness is not older than four years, in other matters, it will be the issue of the child's ability to work.

Witness and understand that. Victims or witnesses who are children or young people, if they have a duty to report to the investigation or in the court, may suffer mental or reputational damage. This is due to the criminal investigation process that is focused on finding the truth, but in some cases the offense involving sex or child abuse. As with criminal investigations, in general the criminal justice process has aggravated the damage and pain to the mind of the child.

Because of the interrogation in the investigation and the class of the court. To get the clarity of the facts. Make use of language And the question is, which is a formal legal language and tone to ask for details of the event. May affect the response of children. Or witnesses who are victims or sometimes face the accused in identifying. Or to testify in the presence of the defendant in court. The impact on the psyche of children who are victims or witnesses greatly.

The children are very protected. Because child rights are part of human rights and the people who need protection more than the people. Due to its ability Physical and mental health of children is not equal to adults. It must be specially protected for the development of adult growth as a valuable human resource for society. In the year 1924, the National League for Democracy adopted the Declaration on the Rights of the Child. Declaration of Geneva 1924 When the United Nations Organization was established, the Universal Declaration of Human Right was adopted in 1948, later in the year. In 1959, the United Nations developed and announced the Declaration on the Rights of the Child (1989)

The Convention on the Rights of the Child now is an international law that is of paramount importance in defining child protection standards. The Convention on the Rights of the Child There are 3 main principles: 1) Opportunity for children to participate, 2) Opportunity for children to develop, 3) Protection of children. The law has set up various agencies to supervise such as the juvenile and juvenile justice and juvenile justice law, BE 2555 has introduced special measures instead of criminal proceedings. To remedy the rehabilitation of juvenile offenders to return to society. But on the other hand, the protection of child victims in criminal cases. This is

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because of the crimes committed against children, especially physical, psychological, sexual and drug abuse.

To investigate children to obtain evidence or to find the truth. It is difficult and has obstacles to bullying children. Make the child panic. Not to say It is a problem that children who are victims do not dare to give a testimony. Or properly investigated to get justice. If the justice process does not provide effective coverage

Therefore, the judiciary should integrate the principle of integration into the interrogation of children in criminal cases in the investigation of the police and the prosecutor's class, with the prosecutor taking part in the investigation from the beginning to reduce the problem of misunderstanding. The public prosecutor and children must be questioned to raise children to suffer mental damage. And fill the gap of law in accordance with Section 133 bis, paragraph five, which facilitates and facilitates staff more than to protect the best interests of the child. In urgent matters, there is no definite definition of what is an urgent need not to wait for multidisciplinary collaboration in interrogation and there are no criteria for monitoring or balancing the law enforcement authority of other organizations. This may have an adverse effect on the rights of the child victim who should be appropriately operated for the benefit of the child.

II. RESEARCH OBJECTIVES

1. Study the criteria for finding truth from child witnesses in the criminal justice system. What are the criteria for maintaining the balance of the truthfulness of the child protection lawsuit?
2. Study the process and method of interviewing children. To study the powers and duties of persons with legal power to prosecute in juvenile justice such as court prosecutors, etc., according to the Juvenile and Family Court Act, 2010 and other relevant laws such as the law. Criminal investigation
3. Analyze the problems in the investigation stage of the victims of child trafficking. In case the prosecutor has no role in directing the investigation. In the case of urgent cases, it is more convenient for government officials to protect the rights of children under Section 133 bis and the hearing of audio and visual materials, witness statements of children under Section 172, paragraph four, and the role of prosecutors in interrogating children. In criminal cases

Study the ways in which the model and methodology of integrated criminal justice processes for children and youth can be developed in the context of the country. To bring the maximum benefit of the child and to maximize the effectiveness of criminal justice.

III. RESEARCH RESULT

Thailand's criminal justice system is a process that focuses on finding the truth and gathering evidence. To use to prove the fault of the accused. But the only defendant to neglect the protection provided to victims who have been children in criminal cases for a long time. Although there are currently

additional laws on the questioning of victims or witnesses who are children under the age of 18 years, the investigating officers shall act in the appropriate manner. However, there is a problem with the applicable legal measures to protect children's rights in the interrogation of criminal cases. The following can be considered.

1. The lack of clarity regarding the role and duty of the child. The study found that Section 133bis and Section 134/2 did not clearly define the roles of the investigating officers and the prosecutors. This may be interpreted for convenience of staff. The investigator will primarily ask questions from a psychologist or social worker because some questions may be unintentionally affecting the mind of a child, especially sexual offenses. The mental state of these children must be more cared for than in any other case if there is a criminal proceeding. From the entry into the justice system of the victim must reveal all. Details of the actions before the inquiry officer. Prosecutor Almoner Or psychologist If the officer acting as a man It is necessary to do so through a psychologist or social worker, who will help the child to do better. Because they are knowledgeable and have a technique to ask questions, they feel comfortable and have a language that is easy to understand and understand how to treat children so that they can make the words meet the wishes of the law. And if the process goes to court, if the judge does not understand what the investigator is doing. The judge called the child to give more evidence or sometimes the judge called the child to testify in front of the defendant. Sometimes judges often use the discretion to interrogate the child directly, rather than using the video obtained from the investigation.
2. The issue of legal interpretation. The responsible official must clearly interpret the meaning of the legal meaning, such as the word urgent. The exception is that the examiner does not have to strictly follow the law. In practice, the investigators often put these exceptions in place to facilitate their work, but the result is Children are not protected under the law. So there should be a way to consider. By the definition of the word. "Urgent urgent case" that any case deemed urgent and If not interrogated at that time will affect the case or interpretation of the word "place", according to the intent of the law is a place suitable for children. Not an investigation room or office. Because the place has no privacy. Make children feel insecure and fearful of the place. The child did not dare to testify in that place. But it does not give a clear definition, so in practice children may not be protected by law. In terms of audio and video recording equipment, children must be able to broadcast continuously as a reference witness in the case. Therefore, availability of equipment and facilities will affect the child's performance and the outcome of the case. Much And the law does not specify the exact meaning of where to place a child in the interrogation. The prosecutor can not take part in the management effectively or the

person requested by the child. Should be related to the child requested. It may be parents, guardians, relatives, foster parents, or children whom they trust and trust. This person is a person who is close and understand the real child. Consistent investigation of child victims or witnesses. And the interpretation of the word. "Child witnesses" for witnesses who are under the age of eighteen Including children who are victims. Witness the defendant And according to the Code of Criminal Procedure, Section 172th, paragraph four, paragraph four. Required to have "Needless to say," in the absence of court witnesses. Cause that interpretation. "Why is it necessary?" In each case, and it is often interpreted as strictly prohibited from listening to audio and visual recordings. As a supplement to the witness section apart from the Criminal Procedure Code, Section 226/3, in spite of the fact that the law is intended to be heard in the audio and visual recordings as witnesses, the children testify to the exception in Section 226/3, paragraph two.

3. The role of the prosecutor in the protection of the rights of the child victim in the investigation stage under the Criminal Procedure Code, Section 133 bis, but the law has no absolute mandatory for the prosecutor to investigate in the case of children. As a victim The prosecutor who participated in the investigation with the prosecutor who made the case was a different person, who sent the injured victim to be not protected under the law. Sometimes the prosecutor may not listen to the evidence produced or sought by the investigating officer. Include media, video and audio. The court's refusal to listen to testimony from the investigating officers may be due to the credibility of the evidence seeking process and the collection of testimony by the investigating officers. The court then called the child to give more or to face the defendant, or to point out the defendant who abused the child, causing children to affect the mental state.
4. Protection of victims from various media Currently, it is evident that victims, children and youth will be disseminated to the public. Sometimes it's just a fuzzy picture. Or partial shutdown Have an interview Narrative The public may recognize the names of children and youth as victims. This will aggravate. I do not know if it's a good idea, Listen to the voice of children or youth, who must find fault. Or advertising the message, which appears in the inquiry of the inquiry officer. In the court case, the person or persons may know the identity or history of the place or place of study of the child or youth. Under the Act on the Establishment of Juvenile Offices and Judicial Procedures for Children and Juveniles and Families, 2010, Section 10 provides only protection for juvenile and juvenile offenders. But victims of child and youth should also be protected.
5. The integration of goals and work processes of the judicial process is consistent in a multidisciplinary approach, and justice agencies, such as investigators and prosecutors and

other agencies, must be cooperative and involved. It is very important to contribute to the development of the justice system that is responsible for the protection of children's rights. Each remedy the rehabilitation of the children back into society.

Justice The criminal justice system in Thailand should focus on the protection of victims of juvenile delinquency, starting from the questioning process. the trial Rehabilitation therapy It also includes the remedies provided by government agencies or organizations dedicated to the protection of children.

IV. DISCUSSIONS

Based on the results of this research, the protection of child victims in the integrated criminal justice system is seriously and effectively protected. In line with the principle of equal protection of all children and youth. Should see the following.

The role of legal and government agencies. It should focus on protecting the rights of children and youth by raising the standard of protection for children and youth. Some laws have been enacted in the Juvenile and Family Court Act, 2010 and the Criminal Procedure Code, Section 1333 bis. Or a social worker participates in the child victim's interrogation. In practice, the past did not succeed as it should.

Because of the barriers and inadequacies in various fields, shortages of personnel. Duration of duty Should increase the rate of psychologists or social workers who are trained to understand the minds of children or youth. It is also possible for psychologists or social workers to be social workers in communities where children live. Explore the facts about children or youth. The time of duty of prosecutor, jurist, or social worker. The prosecutor involved in the investigation process to reduce problems and procedures for interrogating children in criminal cases and should investigate in office. To avoid problems and obstacles in performing duties.

The law is specific. And with the new, it confuses the lack of clarity and some people in the justice process are confused in the interpretation of the law. And understanding of the intent of the law. As a result, children who are victims of criminal cases are not properly protected.

It is not yet aware of the differences in the judicial process between children, young people and adults, while still adhering to the general principles of criminal law. It causes practical problems that the other parties have interpreted as not benefiting their organization and facilitating themselves. The role played by them is not in line with the intent of the law to protect the rights of children and young people.

However, even if the law is well-defined, when the practitioner wants to distort the will of the law, both intentionally and unintentionally. Child and juvenile delinquents are properly protected as children who must be protected in a special way. For Thailand, despite taking the lead from European countries, the prosecutor has no role in the investigation, as in Europe. The only authority to order investigators to investigate further. Or in other words. The prosecutor has the duty of a judge to weigh the evidence

before the case is brought to court. Therefore, the prosecutor's participation in the investigation from the beginning will cause discouragement and make mistakes in the case decreased. Although Thai law is likely to proceed with the judicial process of protecting the rights of the child victim. This is a new issue in the practice of the criminal justice system in Thailand.

There is a great deal of concern for the victims of child abuse, and the integration of parental agencies in the same way, with the focus on protecting children's rights, will help to ensure that the law is enforced. With the protection of children and youth by the criminal justice system is effective.

V. SUGGESTION

Protection of Child Victims' Rights in Integrated Criminal Investigation It should be amended to include special measures to interrogate children in Thai criminal cases in line with international standards with developed countries. But in practice of the criminal justice system in Thailand regarding the protection of child victims, there are many legal issues and limitations. The proposed amendment is as follows.

1. Amendments to the question of the child victim. The role of the prosecutor should be determined by the prosecutor to direct the investigation of the trafficked person directly because the prosecutor will know the facts or information directly, which will be useful in the court case. Since the Criminal Procedure Code currently in use separates the investigation and prosecution from the case. The inquiry officer is independent of the prosecutor. The prosecutor can not determine the direction of the investigation. The provision of the law is not conducive to the full protection of child victims in the investigation stage, leading to the enforcement of laws aimed at protecting children's rights against the objectives of the law.
2. The interpretation of the word urgent need in Section 133bis paragraph five can not wait for the multidisciplinary concerned in the interrogation. Because these people have a better understanding of the child's mind and, therefore, the necessity in Section 172th, paragraph four, it is clear that the case is within the meaning of the word. The judicial authorities shall consider the case as urgent and necessary in order not to favor the officials and their organizations. The place in the interrogation of children in criminal cases. Where is the right place for children?
3. The role of the prosecutor in protecting the rights of the injured child. The prosecutor's role in the interrogation of children together with the investigating officers to ensure the effectiveness of criminal proceedings and the continuation of criminal proceedings and reduce the process of interrogation children.
4. The hearing of media and recording in the investigation stage is used as evidence in the courtroom to protect children's rights to take additional examinations and to prevent children from facing the accused. Hurting Or abusive children in court And be considered as a reliable

testimony. In order to reduce the problem of recruiting children for repeated interviews, the call to the children to give additional information will seriously affect the children's mind and not comply with the spirit of the law to protect the rights of children in the international.

5. Integrating the justice agency will help the staff and the child's agencies have the same readiness and understanding to protect the rights of the child and to ensure that every agency directs the course of justice. In the same way, to help and restore children to society. Because child rights are a part of human rights that must be protected rather than the general public. Due to the physical and mental condition of the child is not equal to the adult.

However, the above suggestions are just one way to improve and develop the protection of the rights of victims of child abuse in criminal cases to better testify in criminal cases. It is aimed at protecting the victims of child abuse as well as the standards of the international community, and if such solutions are proposed, it will be effective and effective in Thailand's criminal justice system. As a result, it is acceptable and credible to continue.

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