



ความสำเร็จในการนำไปปฏิบัติโดยผู้ปฏิบัติหน้าที่ในการจัดบริการสังคม
ตามพระราชบัญญัติคุ้มครองเด็ก พ.ศ. 2546 ในประเทศไทย
The Implementation Achievement by the Officials in Social
Services According to Child Protection Law, 2003 in Thailand

Areena Lertsanenporn*

บทคัดย่อ

วัตถุประสงค์หลักของบทความวิจัยนี้ เพื่อแสดงให้เห็นถึงการบังคับใช้กฎหมาย ที่เป็นเครื่องมือส่วนหนึ่งที่สำคัญสำหรับผู้ปฏิบัติหน้าที่ในการปกป้องเด็ก และเยาวชน ดังนั้น ผู้ปฏิบัติหน้าที่จำเป็นต้องมีความแม่นยำในความรู้ และความเข้าใจเกี่ยวกับกฎหมายที่เกี่ยวข้องที่จะช่วยให้ผู้ปฏิบัติหน้าที่เลือกตัวบทกฎหมายที่ถูกต้อง และการประยุกต์ใช้ที่เหมาะสม โดยเฉพาะอย่างยิ่งกรณีที่มีความพิเศษ ยิ่งไปกว่านั้น ผู้ปฏิบัติหน้าที่จำเป็นต้องมีคุณธรรมในใจ และการทำงานอย่างเคร่งครัด ด้วยความมั่นใจในจริยธรรมเชิงวิชาชีพ และหลักการต่าง ๆ เพื่อที่จะได้ระดับของความสำเร็จในการนำไปปฏิบัติเกี่ยวกับความสามารถต่าง ๆ ของผู้ปฏิบัติหน้าที่ และเพื่อที่จะได้รับผลลัพธ์ที่ดีที่สุด และการยอมรับทางสังคมในฐานะผู้ปฏิบัติงานที่เกี่ยวข้องกับการจัดบริการสังคมด้านการปกป้องเด็กและเยาวชน นอกเหนือจากความสำเร็จของตัวบทกฎหมาย คือผู้ปฏิบัติหน้าที่ต้องมีจิตสำนึก และภาระผูกพันของผู้ปฏิบัติหน้าที่ ที่จะนำไปสู่การนำกฎหมายไปปฏิบัติ เกี่ยวกับสภาพแวดล้อม และบริบททางสังคมของแต่ละกรณี การวิจัยครั้งนี้ เป็นการวิจัยทั้งเชิงปริมาณและการวิจัยเชิงคุณภาพ โดยมีจุดมุ่งหมายในการแสดงถึงปัจจัยต่าง ๆ ที่มีต่อความสำเร็จในการนำไปปฏิบัติของผู้ปฏิบัติหน้าที่ในการจัดบริการสวัสดิการสังคมสำหรับการปกป้องเด็ก และเยาวชนในประเทศไทย ข้อค้นพบที่สำคัญจากความคิดเห็นของผู้ปฏิบัติหน้าที่ในหน่วยงานต่าง ๆ ที่ใช้พระราชบัญญัติคุ้มครองเด็ก พ.ศ. 2546 เกี่ยวกับปัจจัยด้านคุณธรรม และจริยธรรม ด้านความรู้และความเข้าใจในระดับสูงมาก นอกจากนี้ ปัจจัยด้านคุณธรรม และจริยธรรม มีระดับความสัมพันธ์ที่สูงมากกับความสามารถของผู้ปฏิบัติหน้าที่ด้านทัศนคติ และระดับคุณธรรม จริยธรรมของผู้ปฏิบัติหน้าที่มีอิทธิพลเชิงบวกกับความสำเร็จในการนำไปปฏิบัติ เรียงตามลำดับได้ดังนี้ (1) ความสามารถด้านทัศนคติที่จำเป็นในการปฏิบัติหน้าที่ (2) ความสามารถด้านพฤติกรรมที่จำเป็นในการปฏิบัติหน้าที่

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* Assistant Professor Dr. at Faculty of Social Work and Social Welfare Huachiew Chalermprakiet University.

และ (3) ความสามารถด้านความรู้ และการมุ่งผลสัมฤทธิ์ ผลที่น่าสนใจของการวิจัยเชิงคุณภาพในการวิจัยครั้งนี้พบว่า การใช้ความเมตตาเป็นพื้นฐานในการปฏิบัติกับเด็กและเยาวชนเป็นสิ่งที่ดี หากผู้ใช้มีแต่ความเมตตาโดยขาดหลักวิชาชีพ หรือไม่มีความเข้าใจต่อเด็กตามพัฒนาการ หรือลักษณะเฉพาะของเด็กแต่ละคน ผลร้ายอาจเกิดขึ้นในทางตรงกันข้ามกับเด็กเสียเอง ดังนั้นจึงต้องใช้ความเมตตาอย่างพึงระวัง ปัจจุบันพระราชบัญญัติคุ้มครองเด็ก พ.ศ. 2546 ยังคงทันสมัยและเหมาะสม ในแง่มุมมองของสภาพแวดล้อมทางสังคม และยังคงสามารถใช้ได้ในการช่วยเหลือ และปกป้องสวัสดิการเด็ก ปัญหาต่าง ๆ ที่ปรากฏไม่ได้เกิดขึ้นการใช้ตัวบทกฎหมายเอง แต่เกิดจากการบังคับใช้กฎหมาย ที่ยังคงไม่ก้าวหน้า

คำสำคัญ : พระราชบัญญัติคุ้มครองเด็ก พ.ศ. 2546 การบังคับใช้กฎหมาย ความสามารถของผู้ปฏิบัติหน้าที่

Abstract

The main objective of this research article is to show the law enforcement as one of the most important tools for the officers to protect child and youth. Thus, the officers must have accurate knowledge and understanding about the laws concerned which will help them to select law sections correctly and suitably applied for such a particular case. Moreover, the officers must have virtue in their minds and strictly work with confidence in professional ethics and principles in order to obtain level of implementation achievement regarding the officer's competencies and to have the best outcome and to be socially accepted as a worker concerned with child and youth protection services. Apart of the importance of the law itself, they are the consciousness and the obligation of the officers which will lead to law implementation regarding each environmental and social context. The research based on both quantitative and qualitative methods aimed to show factors affecting the implementation achievement of officers who perform social services for child & youth protection in Thailand. The important findings were the officers' opinions in agencies who used Child Protection Law, 2003 concerning the factors of morals & ethics, knowledge & understanding in high ranking. Besides, the factors of morals & ethics had a highest correlation with attitude's competencies. Also, the level of morals & ethics of the officers had a positive result affecting the level of implementation achievement from high to low respectively (1) attitude's competencies, (2) behaviors' competencies, (3) knowledge and understanding competencies. The interesting result of the qualitative method was the basic using of kindness as the best proactive in working with child and youth. However, if the officers used kindness without professional code of ethics or didn't understand the stage of child development individually, the bad effect might happen in contradictory. Thus, kindness should be used carefully. Nowadays, Child Protection Law, 2003 is still up-to-date and suitable for all aspects of social



environments and can be used in helping and protecting child welfare. The problems occurred are not from using the law itself, but from the law enforcement which is still not in progress.

Keyword : Child Protection Law, 2003, Law enforcement, Officer's competencies

Introduction

This article concern the current trend of the population especially child and youth which affecting the change of the national child and youth development. Thus, the total population in Thailand was recorded at 69,625,581 people in 2019. The number of children & youth who were the persons under 25 years old, were recorded at 21,093,789 people as 28.1 % of the total population. Estimably, new born child until 4 years old population group was recorded at 3,647,917 ; while the child-age groups 5 - 9 years old as 3,960,579 ; 10 - 14 years old as 4,164,956 ; 15 - 19 years old as 4,464,515; 20 - 24 years old as 4,855,822.²

Moreover, the child-age and working-age population structure has been reduced continuously due to the effect of the decline in marital status and lower fertility in Thailand. The current birth rate for Thailand in 2020 is 10.090 births per 1000 people, a 1.81% decline from 2019. The birth rate for Thailand in 2019 was 10.276 births per 1000 people, a 1.78% decline from 2018. The birth rate

for Thailand in 2018 was 10.462 births per 1000 people, a 1.47% decline from 2017. The birth rate for Thailand in 2017 was 10.618 births per 1000 people, a 1.44% decline from 2016.³ Nowadays, Thailand is now facing labor force problems, which will not be enough in the near future, thus affecting the decrease of total productivity. It is absolutely essential that children & youth need warm attention and properly nourishment to grow up with quality in order to maximize the capacity to develop the countries, as a well-known saying "Today's children are tomorrow's adults and the future of the nation".

However, the Thai parents nowadays often give their children too much freedom especially to let their children be accustomed to modern internet devices to enjoy themselves such as mobile phone for playing games and nonsense chatting. Thai children & youth particularly those from the poor families have to face many problems, i.e. being neglected by their own parents who have to work hard for their survival, thus have less time to play role for their own children. The children of those families then mostly fall down easily into vicious

² PopulationPyramid.net, made available under a Creative Commons license CC BY 3.0, *Population Pyramids of the World from 1950 to 2100 : Thailand 2019* (24 Jan 2020) [populationpyramid.net/Thailand/2019/](https://www.populationpyramid.net/Thailand/2019/) <<https://www.populationpyramid.net/Thailand/2019/>>.

³ United Nations projections, *Chart and table of the Thailand birth rate from 1950 to 2020* (24 Jan 2020) [macrotrends.net/countries/THA/Thailand/birth-rate](https://www.macrotrends.net/countries/THA/Thailand/birth-rate) <<https://www.macrotrends.net/countries/THA/Thailand/birth-rate>>.

cycle such as dropping out of schooling, getting drug and alcohol addicted, becoming forced labor, being violent abused, being human trafficking or various types of deviant behavior etc. These crucial children & youth problems can be classified into two groups: 1) the problem of poverty and lack of opportunities coming from family poverty or social inequality, and 2) the problems of deviant behavior such as alcoholism, smoking, drug, gambling, impudent games and entertainment, internet access to pornography or sexual media show, risky speedster, etc. In order to protect and solve these problems, Child Protection Law, 2003 has been announced. However, before the year 2003, Thailand had ratified The Convention on the Rights of the Child since 1992. The Convention specified the fundamental rights to ensure those country members that all children in the country must have. 1) The right to life - to get basic health care, peace and security, 2) the right to development - a warm family, get a quality education and adequate nutrition, 3) the right to be protected - to escape the attack, abuse, neglect and exploitation in all forms, 4) the right to participate - in the comments expressed and to be listened, and participate in decisions that affect themselves. The following statements to protect children and defend their rights have been added in 2012 concerned with many areas. 1) Protect the rights of refugee children, 2) law enforcement, 3) supervision and retention, 4) operating budget of the children, 5) developing mechanisms to protect and assist victims of child

having reluctant assault and sexual exploitation, both inside and outside the family, 6) access to basic services for children of ethnic group who are the most disadvantageous, especially refugee children, children of poor migrant families, street children, child offenders, children trafficked, children with disabilities, children affected by violence in southern provinces, 7) the minimum age of children who have been punished by law, which is currently at 10 years old in Thailand. This is the age that is too low, 8) the rest of the state in society for supervising and monitoring the implementation of each country to guarantee their children rights. The child was stated in the Convention. Thus, Thailand also protected children & youth with special protection law, rules and regulations relating to children, which are addressed "Child Protection Law, 2003, which became effective on March 30th 2004,⁴ which was the turning point to protect children & youth accurately, especially to provide a base for supporting and promoting the networks to empower a multidisciplinary team composed of social worker, psychologist, NGO officer, teacher, policeman, probation officer, lawyer, health officer, children and family shelter officer. Resources have been allotted and distributed wisely for proactive strategies driving force in children & youth development under the Child Protection Law, 2003. These were the main points to study the factors affecting the implementation achievement of social service workers concerned.

⁴ Apinya Vachayachai, *The Development child protection system. The Thailand Research Fund* (Bangkok: Tripple A copy, 2008) 43-45.

The objectives of the study

This research “The Implementation Achievement by the Officials in Social Services According to Child Protection Law, 2003 in Thailand ” is carried out to learn with the following objectives,

- 1) to study the level of knowledge & understanding of the officers in the agencies using Child Protection Law, 2003,
- 2) to study the level of morals & ethics of the officers in the agencies who used Child Protection Law, 2003,
- 3) to study the level of implement achievement in social services according to Child Protection Law, 2003,
- 4) to study the factors affecting the implementation achievement of social services according to Child Protection Law, 2003.

The hypothesis of the study

There were two hypotheses in this study.

Hypothesis I:

Officers’ basic characteristics using Child Protection Law, 2003 (I.V.) → Implementation achievement (D.V.)

Hypothesis II:

Knowledge & understanding and morals & ethics of the officers using Child Protection Law, 2003 (I.V.) → Implementation achievement (D.V.)

Methods of the study

Both quantitative and qualitative methods were processed in this study.

Quantitative study: The questionnaires constructed from the concerned concepts extraction were used as quantitative tools to collect data from the sampling of 444 officers in agencies who used Child Protection Law, 2003 by mailing to the sampling group. Descriptive statistics such as frequency, percentage, mean and standard deviation were used while inferential statistics such as t-test, one-way ANOVA, Correlation and Multiple Regression were used for data analysis.

Qualitative study: The tools used in qualitative research were in-depth interview with semi guideline to twelve officers in the agencies who concerned with child & youth protections. Data from the sampling interviewees were then verified for reliability, comprehensibility and quality. After data reduction process, the essentials were then classified accordingly to draw into conclusion.

Concepts of the study:

1) The concept of Child Protection Law, 2003:

The aim of this law is to try to protect children & youth who are the persons under eighteen years of age, but not including the legal age of marriage that compose of; children, orphan children, children in difficult circumstances, children with disabilities, children at risk of offending. For

example, the sections mainly used to study in this research are;⁵

Section 23, we must provide parental care, teaching, and development of children in the care of their parents as worthy of local traditions and culture. However, it must not be lower than the minimum standards prescribed by the regulations and to protect the welfare of children in the care of their parents not to fall in a condition that is likely to cause physical or mental harm.,

Section 30, the following powers and duties of the officers such as

(1) To go into a dwelling place or any vehicle at any time between sunrise and sunset for the raid. In case there are grounds to suspect that the abused child are in detention or unlawful caring. But if there is no immediate action, child may be harmed physically or mentally, or be carried to another place which is difficult to track aid. It provides power to the time after sunset.

(2) To ask the child when there is reasonable suspicion that the child must have been a relief or protection. When it is necessary for the purpose of protecting the safety and welfare of children, they may bring their children to the office of the competent authority. To know more about children and family including children living person, it shall be done without delay. But there is no case that a child shall be detained for more than twelve hours. After such

period to comply the need to provide children in the care of foster care and medical treatment must be provided for those who are sick; etc,

Section 42, implementation of child welfare protection, the physical and psychological treatment must be provided immediately. If deemed competent to tracing and observation about children and families to find ways to protect the welfare of children, the child may be sent to a remand home before, or if it is considered necessary to provide relief to relief and if necessary for rehabilitation, the child would be sent for development and rehabilitation or any other places. Under the first paragraph of tracing and observation to find a proper welfare protection, it shall be made not later than seven days. However, in cases where it is necessary and appropriate for the benefit of children, the officer or prosecutor may apply to the court for an extension to include not more than thirty days time, etc.

2) The concept of social services and child welfare protection:

Apinya Vachayachai⁶ recommended two main concepts. The first concept was the model of “working with children & youth on the complex base” There were four bases as following; Child based, Functional based, Area based and Context based. The second concept was “Multi - disciplinary”. The explanations for the first concept were as following:

⁵ Ministry of Social Development and Human Security (Thailand), *Act. Protection of Children Act 2546 (2003)* (Bangkok: Thappenvanit Publishing Limited, 2003) 7-13.

⁶ Apinya Vachayachai, above n 4, 17-21.

(1) Child based: the officers must focus on child center, thinking of the child's benefits as the first priority. Thus, the officers must concern with the child rights, the family, relatives and social resource; etc.

(2) Functional based: the officers must concern with their target groups as well as the agencies' goals.

(3) Area based: the officers must understand the child's environments and areas; their values, cultures, vocational and historical background, etc.

(4) Context based: The basic understanding for the officers to concern with the environment in all aspects, especially the child welfare projects such as "Do not sell alcohol near schools at all levels". The second concept was "Multi - disciplinary" that referred to the workers who empower the team such as social workers, psychologists, lawyers, children and family shelter officers, etc. who implemented and enforced according to the intention of Child Protection Law, 2003.

3) The concept of knowledge and understanding:

Knowledge is an understanding on certain issues or something which may include the ability to use it for something or the ability to know something,

which is called epistemology knowledge that is practiced often. It is known among the people. According to this sense, knowledge is modified and manipulated in many different ways. Jurgen Habermas⁷ : The phenomenological description has meaning in methodological terms, which every phenomenologist is his/her own experimenter and varies the conditions of a situation through controlled fantasy. Then they would be able to understand the interpretive rules in accordance with which the actor defines his situation and his self-understanding as what they are-rules for action-related communication.

4) The concepts of morals and ethics:

As provided in the dictionary Academy of Letters 2554 (2011)⁸ the moral virtues which set condition for ethical conduct that is morally as a picture of mind is a good mind enhancing properties. Also, high spirit and such exquisite good. While, the ethics mean the general rules for people in the society and also professional code of ethics.

5) The concepts of competency:

Tate⁹ define competency as basic features of a person which is associated with a superior performance in a situation identified three features of competency including knowledge, skill and

⁷ Jurgen Habermas, *On the Logic of the Social Sciences* ; translated by Shierry Weber Nicholsen and Jerry A. Stark ; Originally appeared in Germany in 1967 (Massachusetts: Massachusetts Institute of Technology, the fourth printing, 1991) 110 -111.

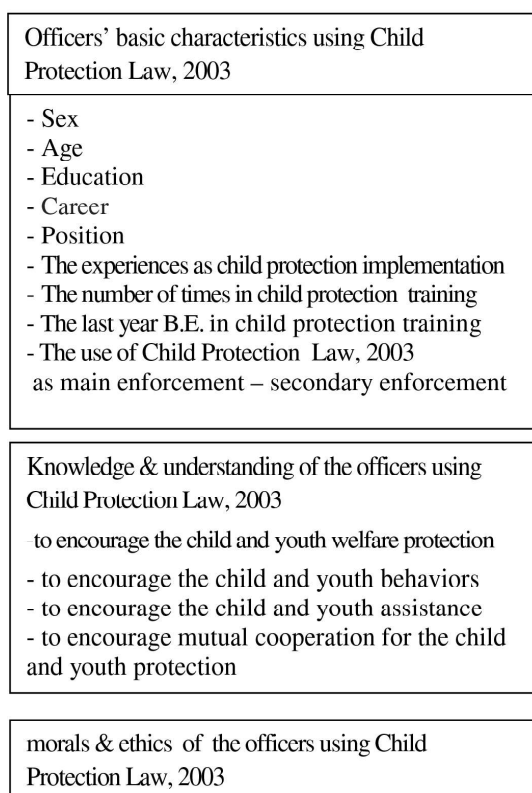
⁸ Office of the Royal Society, *morals and ethics* (24 Jan 2020) Office of the Royal Society <<http://www.royin.go.th/?knowledge-category=i-love-thai-languages&paged=35>>.

⁹ Tate William, *Developing Managerial Competence : A Critical Guide to Methods and Materials* (UK: Gower Publishing Limited Hampshire, 1995) 82 – 83.

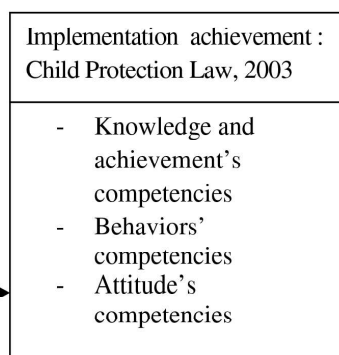
attitude. Knowledge includes information that a person has in the range of his own. Skill means know-how and also the ability to perform a specific mental or physical work as behavior. Thus, knowledge and skills competencies can focus on evident and superficial features and self-perception. Attitude concentrates on characteristics and deep or hidden features of individuals respectively.

The Conceptual framework

Independent Variable



Dependent Variable



findings of the study

The results of the **quantitative** study were as follows:

(1) It was found that the officers in the agencies who used Child Protection Law, 2003 had opinions that the levels of implementation achievement were affected from the factors ranking from the highest respectively (1) Behaviors' competencies

(2) Knowledge and achievement's competencies
(3) Attitude's competencies.

(2) It was found that the officers in agencies who used Child Protection Law, 2003 had opinions that the factors of morals & ethics and the factors of knowledge & understanding in law enforcement; ranking from the highest respectively (1) to encourage the child and youth behaviors (2)

to encourage mutual cooperation for the child and youth protection (3) to encourage the child and youth welfare protection (4) to encourage the child and youth assistance.

(3) The result of the first hypothesis test found that the factors of sex(female) , career (social worker, psychologist) and the use of Child Protection Law, 2003 as a main enforcement affected the level of implementation achievement by the officials.

(4) The result of the second hypothesis test found that the factors of morals & ethics had a highest correlation with attitude's competencies. Also the level of morals & ethics of the officers

had a positive effect on the level of implementation achievement in social services according to Child Protection Law, 2003 ranking from the highest respectively (1) Attitude's competencies (2) Behaviors' competencies and (3) Knowledge and achievement's competencies.

Besides the factors of morals & ethics effect on the level of implementation achievement with multiple regression ranking from the highest respectively (1) Behaviors' competencies (2) Attitude's competencies and (3) Knowledge and achievement's competencies.

Table summarizing the results


The opinions	Rankings of the variables			
	The first	The second	The third	The fourth
The opinions about the level of achievement regarding the officer's competencies (three variables)	Behaviors' competencies	Knowledge and achievement's competencies	Attitude's competencies	-
The opinions in the factors of morals & ethics and the factors of knowledge & understanding (four variables)	to encourage the child and youth behaviors	to encourage mutual cooperation for the child and youth protection	to encourage the child and youth welfare protection	to encourage the child and youth assistance.

Testing the hypothesis			
	<i>Independent variables</i>	<i>Dependent variables</i>	<i>Results</i>
the first hypothesis test: T-test and one-way ANOVA	the officers' basic characteristics	the level of implementation achievement by the officials (competencies)	the factors of sex(female) , career (social worker, psychologist) and the use of Child Protection Law, 2003 as a main enforcement affecting the level of implementation achievement by the officials.
The second hypothesis test : Correlation and Multiple Regression	The level of knowledge & understanding regarding the law enforcement and the level of morals & ethics of the officers	the level of implementation achievement by the officials	1) Morals & ethics affecting the competency <i>with Correlation</i> were as following: (1) Attitude's competencies ($r = .744$) (2) Behaviors' competencies ($r = .735$) (3) knowledge and achievement's competencies ($r = .714$) 2) Morals & ethics affecting the competency with Multiple Regression were as following: (1) Behaviors' competencies (Beta = .512 , t-value = 12.285) (2) Attitude's competencies (Beta = .494 , t-value = 12.262) (3) Knowledge and achievement's competencies (Beta = .455, t-value = 10.77) (all variables sig = 0.000***)

The results of the qualitative study were as follows:

Kindness is the best proactive use in working with child & youth protection. However, the officers who used kindness without professional code of ethic or did not understand the stage of child development individually, the bad effect might happen in contradictory. It should be warned that kindness should be used carefully; Thai people are

well-known with kindness in mind. Moreover, the family community and society should understand the problems altogether and should accept and also grant the opportunity for positive children behavior adjustment. The officers must be strict to professional code of ethics and work with confidence in order to have the best outcome and to be socially accepted. Apart of the importance of the law itself, they are the consciousness and the obligation of the officers



which will lead to law respect. Besides, the accurate law interpretation should be done conforming to fact finding and consideration on child impact as well. Nowadays, law enforcement is one of the important tools; therefore the officers must have knowledge about the laws concerned accurately which will cause them to select law sections to be used correctly and suitably for particular case of child & youth. Moreover, the basic principles in working with child & youth are fact findings concerning with their environments, for example, families, communities, schools and peer groups. One of the basic child rights and human rights is to listen to their voices. The ultimate goal must be focused on child & youth center. Nowadays, Child Protection Law, 2003 is still up-to-date and suitable for all social environments, and can be used effectively as well as definitely in helping and protecting children welfare. The problems occurred are not from the law itself, but from the law enforcement which is still not in progress.

Conclusion Discussion and recommendations

The research study based on both quantitative and qualitative methods aimed to show factors affecting the level of implementation achievement of the officers who perform social services in Thailand concerning Child Protection Law, 2003. The results


of the quantitative study showed that the most important variables were female officers, especially; social workers and psychologists who used the law as main enforcement. In accordance with Apinya Vachayachai¹⁰ are addressed Child Protection Law, 2003, which was the turning point to protect children & youth accurately, especially to provide a base for supporting and promoting the networks to empower a multidisciplinary team composed of social worker, psychologist, NGO officer, teacher, policeman, probation officer, lawyer, health officer, children and family shelter officer which also, clearly with the “Multi – disciplinary”¹¹ concept. In accordance with Thachai Sunthornanantachai¹² are addressed Social Support Partnership Promotion – SSPP. In particular, the concept of supporting social partners has played an increasingly important role in the organization of social welfare systems in Thailand. In order to reduce and fill the gaps of inequality, inequity in the provision of social welfare systems by the public sector and it can create Social Justice in the society.

Moreover, the research results showed that the most importance variable was the level of morals & ethics of the officers had the highest correlation with the level of implementation achievement in social services according to Child Protection Law, 2003.

¹⁰ Apinya Vachayachai, above n 4, 43 – 45.

¹¹ Apinya Vachayachai, Ibid 4, 17-21.

¹² Thachai Sunthornanantachai, “The Equality, Equity and Social Justice with the Social Welfare of Thailand” (2017) 7: 2 Huachiew Chalermprakiet Law Journal 52, 53.



As the result of the qualitative method showed that the most important factors were the kindness and professional code of ethics that should be used carefully regarding the context of Thai cultures and also the concept focused on child base. As the law enforcement should be concerned with all above factors; especially the interpretations in accordance with law enforcement that must carefully be concerned with the morals & ethics and knowledge & understanding regarding law enforcement which will lead to implementation achievement by the officials in social service according to Child Protection Law, 2003.

The recommendation from this research for national policy formation is firstly to promote morals & ethics as the National Agenda to push forward the officials' competencies. Secondly, it is to focus on the child & youth socialization by the families, communities and societies based on kindness in mind. There should be another research study in the near future to collect data from the officer's agencies using the same law as a replication research periodically in order to confirm the results.

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