



Tsunami Disaster Relief in Thailand: A Legal Response to an International Tragedy

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Introduction

On December 26, 2004 a tsunami ravaged Southeast Asia and parts of Africa, killing nearly 200,000 people and leaving over 100,000 people missing.¹⁹ In Thailand, where six Andaman coastal provinces were hit, more than 6,000 people were killed²⁰ and over 3,000 people are still missing.²¹ As a result of this tragic loss of life, between 1,000 and 1,500 Thai children were orphaned. This number may increase substantially once the full effects of the tragedy are known.²²

Survivors of the Tsunami continue to face difficulties as the tourist-dependent economy remains fragile in the wake of the widespread destruction of resorts.²³ In addition to economic concerns, survivors face multiple post-traumatic stress related issues. In its wake, the Tsunami disaster left many people, particularly orphans, severely

¹⁹ *Tsunami Death Toll* Feb. 22, 2005, CNN WEBSITE, available at

<http://edition.cnn.com/2004/WORLD/asiapcf/12/28/Tsunami.deaths/> (last visited Apr. 21, 2005).

²⁰ Kate McGeown, *Thailand's Tsunami-hit Tourism* Mar. 24, 2005, BBC NEWS WEBSITE, available at

<http://news.bbc.co.uk/1/hi/world/asia-pacific/4375815.stm> (last visited Apr. 21, 2005).

²¹ *Child Protection* Feb. 16, 2005, UNITED NATIONS WEBSITE, available at

http://www.un.or.th/tsunami/documents/AssessmentReports/UNICEF-Assessment_Child_Protection.pdf.

²² *Id.*

²³ McGeown, *supra* note 2.

emotionally scarred.²⁴ According to a survey conducted by the Mental Health Department, between nine and thirteen percent of survivors have developed clinical depression.²⁵

The first wave of the Thai government's response was fast and efficient, and many of the immediate needs of its people were successfully met.²⁶ Even more impressive, Thailand declined to rely on international aid, and instead, residents were provided sufficient relief with internal funds.²⁷ First, Thailand began a sophisticated process of identifying bodies of the deceased, a necessary process in allocating aid to families.²⁸ The government also built shelters, rehabilitation centers, and boarding schools for affected children in each province.²⁹ The Mental Health Department created a mental health center for children and organized a two-year program for children

²⁴ *More Wave Orphans Than First Thought*, BANGKOK POST, Mar. 1, 2005, available at 2005 WLNR 3119080.

²⁵ *Id.* The Deputy Chief of the Mental Health Department stated that children, particularly orphans, are at the highest risk for long-term psychological problems. *Id.*

²⁶ Interview with Jintana Nontapouraya, Holt Sahathai Foundation, in Bangkok, Thailand (Mar. 14, 2005); Interview with Brigitte DeLay, Pornthida Thongplengsri, and Kattiya Phornsadja, Unicef, in Bangkok, Thailand (Mar. 15, 2005).

²⁷ Rather than accepting debt relief like many other countries affected by the Tsunami, Thailand has instead proposed special tax breaks on Thai products in international markets allowing it to maintain its credit rating. *At a Glance: Tsunami Economic Impact* Mar. 22, 2005, BBC NEWS WEBSITE, available at <http://news.bbc.co.uk/1/hi/business/4154277.stm#Thailand> (last visited Apr. 21, 2005). Prime Minister, Thaksin Shinawatra, told the international community that Thailand did not need foreign aid. He called on them to instead provide aid to other affected countries since "others need more help than us." *India: Outside Aid Now Welcome* Jan. 14, 2005, CNN WEBSITE, available at <http://edition.cnn.com/2005/WORLD/asiapcf/01/14/asia.Tsunami/> (last visited Apr. 21, 2005).

²⁸ The unidentified bodies are being held in refrigerated containers and implanted with microchips. Some bodies have been exhumed from mass graves used immediately after the response. All these bodies will likely be sent to a single location and have their DNA tested to ensure correct identification. *Thais Dig Up Graves to Identify Bodies* Jan. 10, 2005, CNN WEBSITE, available at <http://edition.cnn.com/2005/WORLD/asiapcf/01/10/asia.Tsunami/> (last visited Apr. 21, 2005). While this process is technologically sophisticated, it very time consuming which poses a problem for orphans trying to get aid. *See supra* Part II.

²⁹ The King, Bhumibol Adulyadej, has personally donated money for the schools as well in honor of his grandson who was killed during the Tsunami. *King Gives, B10M More For Orphans*, BANGKOK POST, Jan. 10, 2005, available at 2005 WLNR 345719. Also, international organizations have donated money for these schools. *Id.*

psychologically affected by the Tsunami.³⁰ Finally, the government began to take measures to restore the tourist industry, critical to reviving the Thai economy. Many tourist destinations were quickly rebuilt and have since been reopened.³¹

As the country tackles the long-term relief needs of its citizens, particularly the orphans, it is unclear whether the second phase relief effort will be as successful as the first. On one hand, Thailand has a solid foundation for addressing children's needs through its Child Protection Act.³² Furthermore, the mental health programming and the new schools will help the orphans to adjust and move forward in their lives. Although extended family members have taken in most of the orphans, Thailand has a sophisticated adoption program for local and international adoptions.³³ On the other hand, Thailand is faced with at least three significant problems as the second wave of rehabilitation begins. First, there are problems with the distribution of aid to Tsunami victims. Next, due to inadequacies in land inheritance laws and inconsistencies with preservation of property rights, orphans may lose their rights to ancestral lands. Finally, there is a lack of coordination between the government and non-governmental organizations (NGOs). This lack of coordination makes efficient administration of relief difficult as services are either duplicated or areas are overlooked altogether.

Through careful research and analysis, we have identified gaps in Thailand's existing legal and political framework and identified changes that can be made to improve the ability to address the long-term needs of children orphaned by the Tsunami. This paper will first address the many factors that will contribute to the likelihood of

³⁰ *More Wave Orphans Than First Thought*, *supra* note 6.

³¹ McGeown, *supra* note 2. Interestingly, the areas that are still devastated by the Tsunami have themselves become tourist destinations for international tourists. *Id.*

³² The Child Protection Act of 2003 [hereinafter CPA].

³³ The Child Adoption Act of 1979 [hereinafter CAA].

success of Thailand's second phase relief efforts, particularly, existing laws to protect the rights of Thai children and newly created government initiatives to aid Tsunami orphans.³⁴ Next, barriers to the success of the long-term relief process will be addressed, including issues related to distribution of aid, land inheritance, and the role of NGOs in the second phase relief effort.³⁵ Lastly, by incorporating the strengths of Thailand's response to the Tsunami as well as its weaknesses, we propose a disaster relief model to serve as a guide to the international community in the future.³⁶

³⁴ *See infra* Part 1.

³⁵ *See infra* Part 2.

³⁶ *See infra* Part 3.