



THE PATTERNS AND PROCESSES OF THE SEVEN ADHIKARAṆASAMATHA FOR APPLYING TO FAMILY DISPUTES RESOLUTION WITH OUT OF COURT MEDIATION

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Abstract

Background and Objectives: Dispute resolution derived from conflicts in the present day can be settled in many methods depending on the appropriateness of each dispute in each case. The researcher has an interest in mediation by an intermediary to be used for family dispute resolution. This is one of the methods for resolving conflict that leads to the parties' mutual satisfaction by helping the litigants look for approaches, reconcile differences, and find guidelines and agreements that the parties mutually accept. If the method is applied to Buddhist principles, it will resolve family disputes to be executively successful. The objectives of this article are to study the problems of family disputes resolution with out of court mediation in the Kingdom of Thailand, study the seven Adhikaraṇasamatha appearing in the Theravada Buddhist scriptures, and adapt patterns and processes from the seven Adhikaraṇasamatha for applying to family disputes resolution with appropriate out of court mediation in the Kingdom of Thailand.

Methodology: The study employed a qualitative research method by collecting data from related documents and in-depth interviews.

Main Results: The research results indicated: 1) The problems of family disputes resolution with out of court mediation consisted of Central legislation to support the exercise of rights of the litigants; The litigant aspect, factors relating to the plaintiff/defendant that hindered the accomplishment of agreement on the negotiation in the dispute resolution; Qualifications for recruitment, selection, the appointment of mediators or conciliator; and Mandatory measures under the dispute resolution agreement; 2) The study of The seven Adhikaraṇasamatha appearing in the Theravada Buddhist scriptures included Sammukhā Vinaya, the settlement in a complete meeting; Sati Vinaya, the settlement by acknowledging that the Arahant was mindful; Amūlḥavinaya, the settlement by giving benefits of insanity; Patiññāta karaṇa, the settlement by truthful confession; Yebhuyyasika, the settlement by majority rule; Tassapāpiyasika, the settlement by punishment; and Tiṇavatthārakavinaya, the settlement by covering such issue as covering over as with grass; 3) The adaptation of patterns and processes in the seven Adhikaraṇasamatha for applying to family disputes resolution with appropriate out of court



mediation in the Kingdom of Thailand clarified understanding in the context of the problem, which made the mediation perform efficiently.

Involvement to Buddhadhamma: This research article is involved in Applied Buddhism within the group of Buddhism for social benefits. The adaptation of patterns and processes in the seven Adhikaraṇasamatha for applying to family disputes resolution has adopted the seven Adhikaraṇasamatha to mediate in which comprising of Sammukhā Vinaya, bringing the litigants for discussion, Sati Vinaya, pulling mindfulness to reduce attachment, Amūḷhavinaya, not causing harm to others, Patiññāta karaṇa, the practice within the framework of righteousness, Yebhuyyasika, the participation in consideration or meeting, Tassapāpiyasika, the method of guiding the right way of thinking, and Tiṇavattāra, the conflict management by trusting in principle based on reason.

Conclusions: The seven Adhikaraṇasamatha included contributing factors to the settlement of conflicts. Mediation by an intermediary was one of many methods to resolve disputes that led to the mutual satisfaction of the litigants by helping the litigants look for methods to coordinate differences to find guidelines and agreements mutually agreed upon by the litigants. The adaptation of the patterns and processes in the seven Adhikaraṇasamatha for applying to the settlement of family disputes with out of court mediation allowed the practitioners to treat others with respect for the rights and conditions of others' limitations. It concluded in a direction that favored individual limits and conditions by letting go of one's views, avoiding quarrels, and building united reconciliation.

Keywords: Application, The seven Adhikaraṇasamatha, Disputes Resolution, Family Case, Out of Court Mediation

Introduction

Thai society has changed economically, resulting in complex societies and causing problems in the family, which is the smallest unit in society and has been redirected into a different way of life. The impact of the change has also resulted in the unsettling of family institutions, especially in terms of the structure and relationships or bonds among each family member, both economically and socially. The unsettling may affect the security of society and the country. In particular, the problem of juvenile violence among young adults who are human resources should be given priority to be developed into quality citizens in the future for stepping into social responsibility in the future (Phromsittikan, 2000). As a result of such changes, it greatly affects the family. The transition from an agrarian society to an industrial society and then an information technology society affects family institutions that are forced to adapt to changing circumstances. This adaptation has disrupted the structure of the Thai family. It is the transition from an extended family to a single family. Love, which is the bond between parents and children, has become increasingly distant. This is the source of family problems, which are followed by mental health and social problems (Inprasit, 2012). Family institutions have undergone lifestyle



changes, especially in the rapidly changing capitalist economic system. As a result, the family structure changed from a large family to a small one.

When various problems within the family have to be faced on their own, there is no mediator for the problem, and there is a lack of emotional control and skills to resolve conflicts constructively (Wechayachai, 2003). In particular, family relationship problems cause incomprehension to each other, which results in a lack of proper problem-solving skills, which contributes to conflict and results in domestic violence (Sengpracha, 1998) which is the primary problem of social peace. Common violence problems include husbands abusing wives, wives abusing husbands, fathers abusing their children, child abuse, child labor, or the manner in which individuals in the same family abuse each other, even between siblings and close relatives in the same family, including divorce that affects the family, namely lack of relationships within the family, which has resulted in the loss of human resource in the country (Prabhap, 2014). Domestic violence is a phenomenon in every society, class, status, and educational level due to the attitude of people in society unequal in the power relations which is an unequal relationship (Ministry of Social Development and Human Security, Office of Women's Affairs and Family Institutions, 2009).

Therefore, resolving the mentioned issues requires legal processes that eliminate domestic violence, including mediation procedures, to protect the rights of children, youth, and family members. The aforementioned appearance provides an opportunity for domestic violence perpetrators or offenders to repent or correct themselves and prevent violence or reoffending. Settlement of disputes arising in the family is a sensitive matter. Therefore, mediation is an Alternative Dispute Resolution (ADR) method that is being used generally to resolve disputes that arise due to the fact that it is convenient, fast, and fair. It can settle conflicts that arise more efficiently than judicial proceedings because the effect of dispute resolution through dispute mediation makes the litigants more satisfied than the judgment of the court (Jiamthae, 2012). In the mediation process in the Central Juvenile and Family Court, an important mechanism is for the conciliator to apply theory and practice accordingly. In particular, the use of communication methods to connect negotiations between the litigants constructively and use in combination with theoretical concepts and conflict management models harmoniously and continuously to achieve success and satisfaction for all litigants to build up comprehension is in a way that will strengthen good relations between each other. According to the Juvenile and Family Court Act and Juvenile and Family Procedure Act B.E. 2553, it stipulates the conciliation process in Section 13. Adjudication of family cases to allow the litigants to agree or compromise in the dispute with regard to the peace and coexistence of the family consists of conflict resolution methods that include 1) Negotiation, 2) Mediation or Conciliation, 3) Arbitration, and 4) Prosecution. The Family Conciliation Center at the Central Juvenile and Family Court is responsible for organizing training for applicants in the registration of conciliators, as well as developing a family case mediation system to be in accordance throughout the country. Family mediation in juvenile and family court is divided into two stages: 1) Out of court dispute mediation and 2) In-court dispute mediation (Jiamthae, 2012).



In the judicial process for family cases, it is not just about filing a lawsuit to settle a dispute or conflict. However, there are many alternative judicial procedures that can help litigants choose dispute resolution. It is also maintaining good relations, agreeing amicably, and creating mutual understanding. Alternative dispute resolution begins with negotiation as the earliest process when a conflict arises between individuals. However, if the discussion between the two sides does not work, there may be a third party that both litigants agree to help mediate for both litigants to share their needs and seek a solution together. This dispute-resolution process is called mediation or conciliation. Disputes that arise in a family are considered a delicate matter because they involve the relationship of family members (Jiamthae, 2012). It is evident that out of court mediation for family disputes can be a costly judicial process and cause family relationships to deteriorate. The law recognizes family relationships as important and sensitive. Therefore, the researcher is interested in studying the patterns and process of the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) for applying it to the resolution of family disputes with out of court mediation in order to find mediation methods by intermediaries to resolve conflicts that lead to the mutual satisfaction of the litigants. This is to ensure that practitioners treat each other appropriately and respect each other's rights and conditions. Drawing conclusions in a way that favors individual constraints and conditions by letting go of the attitude is for the sake of united reconciliation.

Objectives

The objectives of this article are to study the problems of family disputes resolution with out of court mediation in the Kingdom of Thailand, study the seven Adhikaraṇasamatha appearing in the Theravada Buddhist scriptures, and adapt patterns and processes from the seven Adhikaraṇasamatha for applying to family disputes resolution with appropriate out of court mediation in the Kingdom of Thailand.

Methodology

This research had a methodology of research in the following sequences:

1. The research format was qualitative field research in the form of in-depth interviews with the study of analytical concepts from theoretical documents
2. Population and target groups included: 1) A group of individuals with judicial experience (Judges); 2) A group of individuals with experience in prosecution (Prosecutors); 3) A group of individuals with experience in investigation (Investigators); 4) A group of individuals with experience in public assistance and prosecution (Lawyers); 5) A group of relevant academics; 6) A group of relevant mediators from Right and Liberties Protection Department, Ministry of Justice. There was a total of eleven people from the purposive sampling.
3. Research tools included one set of In-depth Structured Interview forms, which the researcher created from reviews of documentation and related research in the form of open-ended questions to conduct in-depth interviews on the methods of settling family disputes with out of court mediation. The researcher studied the seven principles for the settling of legal issues



(The seven Adhikaraṇasamatha) that appeared in the Theravada Buddhist scriptures and the application of patterns and processes in the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) for the resolution of family disputes with out of court mediation that appropriate with the Kingdom of Thailand. The steps to create the research tool included: 1) Studying the problems of family dispute resolution with out of court mediation in the Kingdom of Thailand; 2) Studying and analyzing related theoretical concepts, which included an analysis of principles, concepts, theories, and findings related to the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) that appeared in the Theravada Buddhist scriptures. The primary source was the Thai Tipitaka of Mahachulalongkornrajavidyalaya University B.E. 2539. The secondary sources were books, textbooks, documents, journals, dissertations, articles, and other academic works, which included reliable electronic information related to the subject of the study; 3) Synthesizing the conclusions obtained from the analysis (Content synthesis) of various concepts related to the research to be used as a framework for creating structured interviews; 4) Generating structured interviews and testing content validity by the Index of Item-Objective Congruence (IOC) method (Cronbach, 1970), content validity checks could be performed by taking the interview form to the expert to determine whether each interview was consistent with the behavioral objective. If the expert deemed that the interview was consistent with the objective, the value would be "+1", if the expert deemed that the interview was inconsistent with the objective, the value would be "-1", and if the expert was unsure whether the interview was consistent with the objective, the value would be "0"; 5) Bringing the generated interview forms to interview legal and religious experts.

4. Data Collection: Qualitative data was collected with these sequences: 1) Studying problems of family disputes resolution by out of court mediation in the Kingdom of Thailand; 2) Documentary Analysis on the study of various information and knowledge related to the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) that appeared in the Theravada Buddhist scriptures; 3) Interviews for collecting insights from legal and religious experts. The overall process included:

Step 1: The researcher studied the problems of family disputes resolution by out of court mediation in the Kingdom of Thailand.

Step 2: The researcher conducted the study on method, principle, concept, and theories about the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) that appeared in the Theravada Buddhist scriptures.

Step 3: The researcher created a research tool that consisted of an in-depth interview based on the conceptual framework of the data obtained from the study document. The research instrument was then examined by three experts to ensure compliance with the content or to pass the IOC value.

Step 4: The researcher conducted a study of the data in the field to conduct in-depth interviews with eleven key informants. The researcher gathered documents and interview information about principles, methods, and procedures of the seven principles for the settling of



legal issues (The seven Adhikaraṇasamatha) and applied them to the resolution of family disputes with out of court mediation.

Step 5: The researcher analyzed and synthesized all data obtained from questionnaires, in-depth interviews, and all documents. The research results were summarized by content analysis based on the main conceptual frameworks of the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) that appeared in the Theravada Buddhist scriptures.

Step 6: The researcher proposed the patterns and processes of the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) to be applied for resolving family disputes with out of court mediation that was appropriate in the Kingdom of Thailand.

5. Data analysis: The researcher conducted an analysis of qualitative data as follows: 1) The analysis and synthesis of documents and related research included analysis of data and knowledge, which was the research of theoretical concepts, research that related to the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) that appeared in the Theravada Buddhist scriptures and the presentation of the patterns and processes of the seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) to be applied with the resolution of family disputes with out of court mediation that appropriate in the Kingdom of Thailand; 2) Data analysis from in-depth interviews with legal and religious experts used particular structured in-depth interviews, classified data from the number of people who answered interview questions, and then grouped data issues in each area to obtain data according to research objectives.

Results and Discussion

The research results indicated:

1. The problems of family disputes resolution with out of court mediation in the Kingdom of Thailand

1.1 Central legislation to support the exercise of rights of the litigants, mediation was a process in which the mediator focused on the process in which the litigants decided the substance of the disputed matter. This meant that the intermediary ensured that the negotiations of the litigants went smoothly and without interruption. The litigants themselves decided what the settlement could have been. The decision-making power, therefore, fell on both litigants. The intermediary was only an individual who did not act in the interest of any party. A party, which was essentially different from representation in negotiations and had a lesser role, was the one who exercised the power to determine the outcome of dispute resolution, such as arbitration. The main objective was to facilitate the litigants to negotiate and resolve the dispute well. In the dispute mediation process, the state was the director of justice, and the most familiar justice organizations for the people were the courts. When people had conflicts, they could not find a solution. The issue of court overflow in Thailand gave importance to the law related to dispute mediation, namely the Dispute Mediation Act. B.E. 2562. It was the general law for the mediation of disputes in accordance with the principles of law.



1.2 The litigant aspect, factors relating to the plaintiff/defendant included factors that hindered the settlement of the dispute mediation of rights under the code. If it were negotiated, it would have resulted in the withdrawal of the lawsuit or compromise. In the event that there was no negotiation or unsuccessful negotiation wishing to negotiate, the litigants should also be referred to the mediation center or conciliation center of the court. In the performance of their duties, judges, court officials, and conciliators should have considered that the process of protecting rights and freedoms with respect to educating the litigants should be done in parallel with mediation. Therefore, the mainstream justice system that people chose to use for resolving conflicts was based on the law, evidence, or information held by witnesses from each party to resolve the conflict. Such conflict could have been a conflict of interest, protection of rights, or legal claims because the cause of the conflict consisted of many factors.

1.3 Qualifications for recruitment, selection, the appointment of mediators or intermediaries, or the appointment of a conciliator must be the one who was ready, voluntary to act, impartial, not prejudiced, able to provide fairness to the litigants in accordance with their wishes, and able to help to resolve all disputes amicably. The main duty was to reach a compromise, but there was no duty to make a decision, which caused anxiety. Because if the dispute could not be resolved, the next way that the litigants usually chose was to bring the dispute to the court. In mediation, the litigants might use such information in a way that was hostile to the litigants. The disclosure could be made whenever the litigants were unsure or concerned that if they disclosed certain information or facts, they would not be able to disclose the information. The other party might take advantage and use it to win the case, but the litigants would not reveal it. As a result, the intermediary would have had incomplete information and made the mediation ineffective.

1.4 Mandatory measures under the Dispute Resolution Agreement: The law was a tool to regulate the behavior of people in society. The criminal justice system, which consisted of government organizations, namely the police, prosecutors, and courts of justice, was a mechanism for the implementation of justice according to the Criminal Procedure Law. Each organization had an obligation to follow the formalities, starting from the investigation, interrogation, prosecution, and so on, until the criminal dispute was considered and decided by a court of law and the judicial process by various organizations. There were procedural rules that must be followed according to the law whether mediation affected the litigants' decision to opt for mediation. At present, if the litigants could agree on mediation in which the case had not yet been litigated in court, then the litigants could form a "Compromise agreement," which was a type of contract defined in the Civil and Commercial Code.

It could be discussed that conflict had occurred from a struggle to gain control or possession of something based on selfishness inherent in one's identity. At the same time, on the other hand, it was seen that the economy or interests were the ones that triggered people to compete and cause conflict. Finally, one must seek power in order to gain absolute control or possession through the process of competition, struggle, and contention, both between one's



identity or a group that had a foundation with good interaction and transformed from harmony to conflict or from conflict to harmony. Mediation was, therefore, an option to counterbalance both litigants and could reduce the risk of society questioning the impartiality of the law. To find a solution to the dispute, compromise was the management of conflict at a normal level because conflict required individuals to be active in thinking and showing their abilities to find new ways to gain clarity among others. It conformed to the research of (Padungthaiti, 2019) who conducted research on "LEGAL MEASURES REGARDING MEDIATION OF CIVIL DISPUTES BEFORE PROSECUTION." The results of the research indicated the legal problems related to civil dispute settlement before prosecution. It was found that training should have been conducted to educate intermediaries in an appropriate manner. Dispute Mediation Act B.E. 2562 might affect the dispute mediation process of government agencies, private sector agencies, and the public sector that were required by law to conduct the duty and enforce authority to mediate special disputes, which included that the Dispute Mediation Act in 2019, did not indicate legal measures to support and encourage the private sector to participate in the provision of mediation services to citizens likewise foreign countries. In addition, there was no legal measure that regarded the application of an out of court compromise agreement to the court for a judgment, and recommendations on legal measures to promote the effectiveness of civil dispute mediation processes indicated that legal measures should have been put in place to promote the mediation of civil disputes before filing a lawsuit by providing an opportunity for private sector organizations to be registered as private sector dispute mediation agencies. Some legal measures should be put in place to encourage the litigants who enter into a compromise agreement or agreement contract to be able to request the court to render an immediate judgment according to the agreement without waiting for a breach of contract.

2. The seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) that appeared in the Theravada Buddhist scriptures.

The seven principles for the settling of legal issues (The seven Adhikaraṇasamatha) were tools for settling conflicts or the procedure for settling conflicts, which "Adhikarana" meant the matters that had already occurred. The Saṅgha order must take action and organize to make it good and right, which consisted of four elements: 1) Vivādādhikaraṇa was a dispute about what is Dhamma, what is not Dhamma, what is Vinaya, what is not Vinaya and the dispute over matters other than Dhamma or Vinaya were not classified as Vivādādhikaraṇa; 2) Anuvādādhikaraṇa was the accusation of other monks of an offense. For example, a monk accused another monk of an offense with the first Pārājika; 3) Apattādhikaraṇa implied that the monks who had committed or condemned offenses must recognize the offenses that were released from the offenses; 4) Kiccādhikaraṇa included the occurring procedures that the Saṅgha order must organize. However, the seven Adhikaraṇasamatha consisted of seven methods: 1) Sammukhā Vinaya was used to settle Vivādādhikaraṇa, Anuvādādhikaraṇa, Apattādhikaraṇa, and Kiccādhikaraṇa; 2) Sati Vinaya was used to settle Anuvādādhikaraṇa; 3) Amūlḥhavinaya was used to settle Anuvādādhikaraṇa; 4) Patiññāta karaṇa was used to settle Anuvādādhikaraṇa and Apattādhikaraṇa; 5) Yebhuyyasika



was used to settle Vivādādhikaraṇa; 6) Tassapāpiyasika was used to settle Anuvādādhikaraṇa; 7) Tiṇavatthāraṇa vinaya was used to settle Anuvādādhikaraṇa and Apattādhikaraṇa.

It could be discussed that Adhikaraṇasamatha included the methods of settling conflicts, which meant the methods for settling that in accordance with the Dhamma and Vinaya that consisted of seven methods: 1) Sammukhā Vinaya was the conflict settlement that was carried out face-to-face in a place with regulations to be made face-to-face. This face-to-face conflict settlement comprised: Settling conflicts face-to-face with the community (Sanghasammukta implied in the completed gathering of Saṅgha), Settling conflicts face-to-face with the individuals (Pukkalasammukta implied in the completed gathering of individuals), Settling conflicts face-to-face with the subject, (Vatthusammukta implied on the raising occurred conflict to be judged), Settling conflicts face-to-face with the Dhamma, and Vinaya (Dhammasammukta and Vinayasammukta implied application with the criteria prescribed by the Dhamma and Vinaya, which comprised correct judgment with Dhamma and correct Vinaya); Sammukhā Vinaya could be used to settle all kinds of conflicts; 2) Sati Vinaya was the conflict settlement by holding mindfulness as the main principle; Regulation for settling with raising mindfulness as the main principle consisted of the manner in which the monks announced to declare the Arahant as a fully conscious person in order to settle Anuvādādhikaraṇa that was caused by someone accusing the Arahant of wrongful conduct. It meant that the defendant was an Arhat. The Saṅgha order saw that the defendant was not in a position to commit offenses as the plaintiff alleged, so they verbally announced to declare this issue, which the method was called Sati Vinaya and then dismissed the case from the plaintiff. After that, if the defendant became subjected to another accusation from any plaintiff, it would be exempted from consideration and settled with Sati Vinaya; 3) Amūḷhavinaya was the conflict settlement for monks who recovered from insanity or regulations given to monks who recovered from insanity; The conflict settlement for monks who recovered from insanity included the manner in which the Saṅgha order announced to assume the monk who had recovered from insanity to settle Anuvādādhikaraṇa. The explanation indicated that the defendant was insane and committed an offense. Even if it was true, it was nonetheless exempted. When the defendant recovered from insanity, someone kept accusing him endlessly of the offense that he committed while he was insane. It indicated that the Saṅgha order had verbally announced to declare this verse. It was called Amūḷhavinaya for dismissing the plaintiff's case. Later on, if any plaintiff were accused of such an offense or such offense in the time of insanity, the conflict would have been settled with Amūḷhavinaya; 4) Patiññāta karaṇa was the act of "doing as accepted," which included condemnation of the offense according to the truthful declaration of the defendant. Acts of addressing offenses were also arranged in this verse; 5) Yebhuyyasika was the judgment by the decision of the majority of the manner of the majority, which included: The method to judge by taking the decision of the majority included the method of drawing a ballot to point out the right and wrong. The decision was taken on the side that had more monks to vote. It was the same method as voting. It was used for settling Vivādādhikaraṇa; 6) Tassapāpiyasika was the punishment of the guilty for not accepting monastic



deeds due to the fact that the monk was depraved; This deed was done to the monk who was the defendant in Anuvāḍādhikaraṇa had conducted himself by asserting things after denying them, denying things after asserting them, evading the issue, hiding the fact on brought up issue, and lying. The Saṅgha order did this deed to him as punishment for his offenses, even if he did not accept it, or to increase the punishment for the offense he had committed; 7) Tiṇavatthārakavinaya was the method of settling a conflict by covering the act with grass (Compromise).

The regulations for settling a conflict as covering the act with grass included the manner of compromise on both sides without settling the original case. It was a method for settling Apattādhikaraṇa that was used to settle minor offenses for a large number of monks who behaved inappropriately and blamed each other. However, other methods of settling would escalate the conflict because the investigation of addressing offense could only make conflicts more intense. Therefore, it was settled by Tiṇavatthārakavithi, which was covered with grass to be canceled without further investigation. It conformed with the research of Chiradej Ketprayoon (2013) who studied "Violence Prevention in Theravada Buddhist Concepts." The study indicated that violence in Buddhism was divided into two types: The violence on Dhamma and the violence on discipline, which were well known as "Adhikaraṇa or Adhikaraṇa-samatha" because they were violences that relied only on monks to manage or judge such cases, which included the legal issue that was caused by a monk. The Saṅgha order was required to be manager by whatever circumstances. In terms of Dhamma and Vinaya, violence was caused by two factors: External factors and internal factors that then produced important variables, which gave rise to both roots of good actions and roots of bad actions, as well as craving and false views that were the initial impetus for violence. Ultimately, The Buddha's method for getting rid of all violence was considered in Dhamma and Vinaya and focused on transparency, justice, and accountability. The method aimed to make the monastic society a society without distrust and disgust of moral conduct, which would have made the monastic society an ideal society to practice self-development in accordance with Tisikkhā (Threefold training) to reach the ultimate goal, which was "Nibbāna."

3. The patterns and processes of the seven Adhikaraṇasamatha to be applied in the resolution of family disputes with out of court mediation that was appropriate to the Kingdom of Thailand. Mediation or conciliation was the method that the litigants agreed to allow a third party who was an independent and impartial intermediary but had no jurisdiction to arbitrate disputes to assist in the negotiation of dispute resolution for both litigants to agree on reducing the conflict for each other until an agreement could be reached by entering into a compromise agreement for settling the dispute. In Buddhism, suffering was seen as a basic state of nature, encompassing all sentient beings and insentient beings, that both concrete and abstract matters were all under suffering (or characteristics of suffering). Mediation of conflicts was a matter of great importance to the Buddha. It was evident from the disciplines of the monks that there were many requirements or provisions regarding conflict resolution (Adhikaraṇa), which among the monks was called "Adhikaraṇa-samatha," as well as defining the qualifications of the intermediary; It consisted



of: 1) Sammukhā Vinaya was the method of bringing the disputed litigants face-to-face for discussion. It was a negotiation by an intermediary (Duḥkha was the pursuit for the cause of physical discomfort and mental discomfort); 2) Sati Vinaya was the method of pulling mindfulness to reduce attachment to what one had or wanted to have (Samudaya was about the cause of suffering); 3) Amūḷhavinaya was the method of not causing harm to others and society, knowing how to forgive without being malicious (Nirodha was the cessation of suffering or extinguishing of problems); 4) Patiññāta karaṇa was the method of practice within the framework of righteousness and goodness (Marga was a practice for releasing oneself from suffering or trouble); 5) Yebhuyyasika was the method of participation in consideration or meeting to find a solution (Majjhimāpaṭipadā); 6) Tassapāpiyasika was the method of guiding the right way of thinking, knowing how to consider and use for personal development (Yonisomanasikāra); 7) Tiṇavatthāraka was the method of conflict management by trusting in principle and understanding on the basis of reason (Marga is a practice for liberation from suffering or trouble). Therefore, Adhikaraṇasamatha had been characterized with high flexibility. When the method of settling the conflicts had gone through a well-thought-out process, Adhikaraṇasamatha could be applied to legal dispute resolution by concerning the principle of coexistence in society, not focusing on the outcome of the case.

It could be discussed that Adhikaraṇa was the cause, and Adhikaraṇa-samatha included the methods of conflict resolution that occurred. To apply the method for settling conflict in Buddhism to settle any conflict, conflict settlement must be concerned about the appropriate method in accordance with any method in the seven Adhikaraṇasamatha.

The cause of conflict must depend on comparing the nature of the cause to the characteristics of the root of conflict. The cause of these conflicts might be bad, good, or indeterminate. To know the cause depended on the intention to create such conflict and the expression due to the fact that the legal language indicated Karma as a sign of intent, even in the matter of conflict. It conformed to the research of Kittin Junsontima (2021) who conducted the study on "The Settlement of Legal Processes with the Solve Conflict Case out of the Court". It indicated that the application of the seven Adhikaraṇasamatha with negotiation appeared to be a process for settling conflicts with Sammukhā Vinaya.

There were three methods, which included agreement among litigants, setting up a legal diagnostic committee, and ecclesiastical consideration. Agreement among litigants consisted of four elements, which included considering face-to-face with the Saṅgha order that comprised monks who attended the meeting with a complete number of monks, which was not less than four persons who were assigned and in presence altogether for duties; considering before the Dharma included correctness, not bias for any reason, including knowing how to adopt the Buddhist teaching as a guideline for the consideration of conflict by adhering to the Tipitaka as the main source; considering the discipline included the customary rules, which were the framework for the behavior that the Buddha had prescribed; and considering before the litigants included the litigants who came together and were ready to clarify their own accusations. The process of settling the conflicts in Buddhism had its own characteristics due to the fact that it

was a method of resolving disputes with due consideration and different methods in accordance with the severity of the penalty that could be flexible in the manner of each situation. Therefore, the seven Adhikaraṇasamatha in Theravada Buddhist philosophy could be used as a guide to adapt to the dispute resolution process in both civil and criminal cases, even in cases that were permissible offenses both in and out of court by choosing negotiation method or mediation with an intermediary had also yielded satisfied results. It also helped to maintain the relationship of the litigants who were involved in the dispute as well.

Originality and Body of Knowledge

It is appropriate to conclude the patterns and process of the seven Adhikaraṇasamatha for applying to family disputes resolution with out of court mediation as depicting in Figure 1.

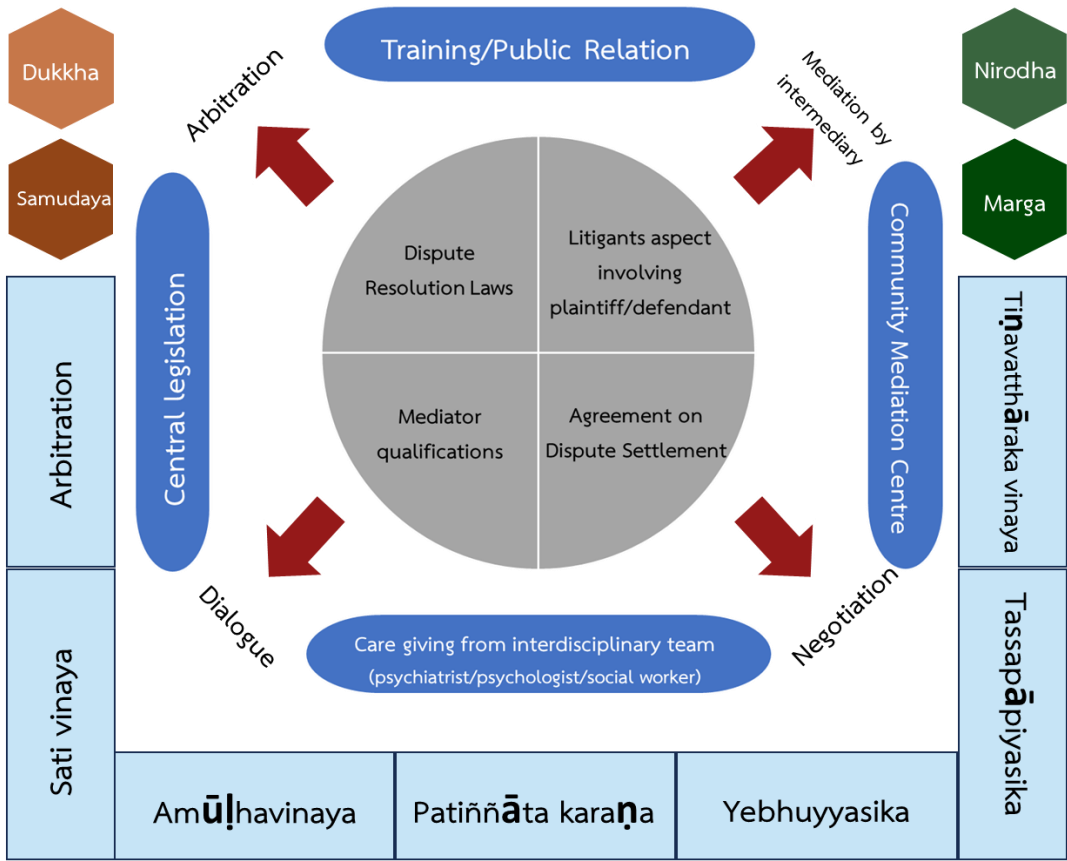


Figure 1 The patterns and process of the seven Adhikaraṇasamatha for applying to family disputes resolution with out of court mediation.

Conclusions and Recommendations

This research was concluded and indicated that: 1) The problems of family disputes resolution with out-of-court mediation included; 1.1) The aspect of central law for supporting the exercise of the rights of the litigants; 1.2) The aspect of litigant, factors relating to the plaintiff/defendant that hindered the settlement of the dispute; 1.3) The aspect of qualifications for recruitment, selection,



appointment of mediators or conciliators; 1.4) The aspect of enforcement measures under the Dispute Resolution Agreement. and 2) The application of the seven Adhikaraṇasamatha's patterns and process in mediation included; 2.1) Sammukhā Vinaya was the method of bringing the disputed litigants face-to-face for discussion. It was a negotiation by an intermediary (Duḥkha was the pursuit of the cause of physical discomfort and mental discomfort); 2.2) Sati Vinaya was the method of applying mindfulness to reduce attachment to what one had or wanted to have (Samudaya was about the cause of suffering); 2.3) Amūḥavinaya was the method of not causing harm to others and society, knowing how to forgive without being malicious (Nirodha was the cessation of suffering or extinguishing of problems); 2.4) Patiññāta karaṇa was the method of practice within the framework of righteousness and goodness (Marga was a practice that frees oneself from suffering or trouble); 2.5) Yebhuyyasika was the method of participation in consideration or meeting to find a solution (Majjhimāpaṭipadā); 2.6) Tassapāpiyasika was the method of guiding the right way of thinking, knowing how to consider and use for personal development (Yonisomanasikāra); and 2.7) Tiṇavatthāraka was the method of conflict management by trusting in principle and understanding on the basis of reason (Marga is a practice for liberation from suffering or trouble). Therefore, the seven Adhikaraṇasamatha included supporting factors for conflict resolution, which mediation by intermediary was one of the methods for conflict resolution that led to mutual satisfaction of the litigants. The application of the seven Adhikaraṇasamatha's patterns and process in the resolution of family disputes with out of court mediation allowed practitioners to treat each other appropriately with respect each other's rights and conditions by taking into account the principle of coexistence in society not focusing on the outcome of the case. The recommendations consisted of: 1) The dispute resolution process should have been adopted in a unique issue because it was a dispute resolution method that must take into account appropriateness and had different methods according to the severity of the penalty and could be flexible according to each situation; 2) Mediation by intermediaries should have been applied Adhikaraṇasamatha to negotiation and mediation to be more efficient, flexible, appropriate and in line with the culture and lifestyle of Thai society that adored peace and did not tolerate violence. It included the role of community leaders, elders, and monks who had been mediators in negotiating disputes in the community for a long time.

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