



# Community justice as a conflict management mechanism in Thailand, Indonesia, the Philippines, and Myanmar

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## Abstract

Community justice has recently been brought to the public attention in Thailand due to its promising outcomes in resolving problems embedded in the mainstream justice system. Apart from Thailand, community justice has been implemented in other ASEAN member countries including Indonesia, the Philippines, and Myanmar. This article examines what Thailand and the studied countries have accomplished with regards to community justice. This research employed qualitative methods to obtain data through in-depth interviews and focus group. In-depth interviews were carried out with eight experts in community justice in the four target countries, namely, Thailand, Indonesia, the Philippines, and Myanmar. Additionally, focus group was also held with 20 experts involved in conflict management and reconciliation from the countries under study. The results revealed various community justice practices within the four countries. In Thailand, mediation as a community justice process was practiced by the village committee, the district governor/administrative sector/Damrongtham Center, the Community Justice Center, and the Community Dispute Mediation Center. In Indonesia, community justice took the form of community policing, while in the Philippines, it was performed under the Katarungang Pambarangay (KP) or Barangay Justice System (BJS). In Myanmar, alternative dispute resolution was practiced by Community elders, Village leaders, 10/100HH leaders, or Ward/Village Tract Administrator in Myanmar. This study provides suggestions to improve community justice in Thailand including making some part of community justice compulsory, promoting the role of community police and developing a training system for those involved in the conflict resolution process.

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## Introduction

The culture of peaceful reconciliation, including community justice is considered a new concept for Thai society. Currently, several countries in ASEAN are increasingly encountering problems related to different perspectives and attitudes on various issues such as

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politics, natural resources and environment, the economy, society and culture. Such differences lead to social conflicts and cultural, political and economic discords. These conflicts further transfer to varying levels and forms of violence between persons or among groups of people with similar ideologies to claim various rights from different stakeholders. The development of conflict management mechanisms and reconciliation in ASEAN countries is vital for strengthening public and social safety. In order to efficiently develop such mechanisms, it is necessary to have knowledge and understanding about community justice. In addition, a study of community justice practices will provide safety building standards in society for various ASEAN countries.

In order to develop more efficient models and mechanisms for community justice that meet international standards for Thailand, it is essential to perform in-depth analysis of successful experiences and best practices in managing conflict resolution under similar conditions to Thailand among the ASEAN countries. Consequently, this research aims to compare the community justice practices of the four ASEAN member countries (Thailand, Indonesia, the Philippines, and Myanmar) and to explore practical recommendations to improve community justice practices in Thailand.

## Literature Review

Community justice is a form of alternative justice focusing on the restorative process to increase community quality of life including crime prevention and justice activities (Administrative Office of the Courts, 2004). It is intended to address public safety problems occurring at the community level by including the community in the processes of related agencies including the police, the court, and the correction. The central focus of community justice is community-level outcomes that focus on restoring victims and communities, reintegrating offenders, short- and long-term problem solving, and strengthening normative standards. Community justice is normally comprised of five core elements including (1) problem solving, (2) neighborhoods, (3) decentralization of authority and accountability, (4) citizen participation, and (5) quality of community life. The community justice outcomes related to the quality of community and public safety that are generally measured include (1) restoration of crime victims and communities, (2) social integration of victims and offenders, (3) community capacity to solve the problem, and (4) satisfaction of community members. Currently, community justice practices have been widely implemented throughout the world, including community policing (Bennett, 1998; Bursik & Grasmick, 1993; Goldstein, 1990), community conflict resolution (Hudson,

Morris, Maxwell, & Galaway, 1996), community courts (Rottman, 1996), and community sanctioning systems (American Probation and Parole Association, 1996; Bazemore, 1998; Earle, 1996).

Community justice programs that have been found in Thailand are community conflict resolution mechanisms by the community leaders and some community policing activities. These mechanisms have been implemented in local communities throughout the country for many years. However, these alternative justice practices are not quite as favorable for the public compared to the mainstream justice process, particularly in urban areas. As a result, many criminal disputes have been brought to the local police stations instead of the local community justice centers.

Prior research on restorative/community justice has shown a number of countries implementing certain forms of restorative/community justice and certain promising solutions to the problems emerging from the mainstream criminal justice system (Center for Restorative Justice & Peacemaking, 2000; Sliva, 2017). The promising outcomes of restorative/community justice include the reduction of prisoners, decreased budgets in criminal justice system, higher satisfaction of victims, decreased recidivism rate, and decreased risks for offenders.

## Methodology

This research employed a qualitative method to collect data through the use of in-depth interviews and focus group. The key informants for the in-depth interview were eight experts with knowledge in community justice selected from the four target countries, namely, Thailand, Republic of Indonesia, Republic of the Philippines, and Republic of the Union of Myanmar. In addition, 20 experts in community justice, including 14 experts from Thailand, two experts from Republic of Indonesia, two experts from Republic of the Philippines, and two experts from Republic of the Union of Myanmar, were invited for the focus group. The data obtained were analyzed by employing content analysis in accordance with the research objectives. The research project was certified by the Human Research Ethics Committee, Faculty of Social Sciences, Royal Police Cadet Academy (Certificate No. SSRPCA-REC 2-004/2562).

## Results

### *Community Justice Practices in Local Communities*

#### *Thailand*

There were at least four community justice practices implemented within local communities throughout the

country. This included conflict management by the village committee, conflict management by the governor, conflict management by the Community Justice Center, and conflict management by the Community Dispute Mediation Center. Conflict management by the village committee consisted of a Village Headman, an Assistant Village Headman, and community representatives as the primary mechanism in the local community in dealing with minor civil disputes and compoundable offenses. Their actions were governed under the regulations of the Ministry of Interior in performing dispute mediation for the village committee in 1987. On the other hand, conflict management by the district governor was carried out under the Administrative Regulation Act (No. 7) B.E. 2550 (2007) which stipulated that the district has a duty to mediate the resolution of civil disputes concerning land inheritance, civil disputes with funds not exceeding 200,000 baht, and compoundable criminal offenses except sexual offenses. As for civil mediation, the process is stipulated under the Ministerial Regulations on Mediation and Conciliation of Civil Disputes 2010 and the mediation procedure of criminal disputes is in accordance with the Ministerial Regulations on criminal reconciliation with criminal penalties 2010 (B.E.2553).

In addition, governors were assigned to establish a Damrongtham District Center within each district in accordance to the cabinet resolution on 25 October 2016. Consequently, Damrongtham Centers were established in all 878 districts with the authority in accordance with the announcement of the NCPO No. 96/2014, dated 18 July 2014. It aimed to provide both quality and speed in response, to reduce work procedures, and to satisfy the people.

A third community justice practice is conflict management by the Community Justice Center carried out under the supervision of the Provincial Justice Office, administered by the Office of the Permanent Secretary of Ministry of Justice. It was established in accordance with the policy of the Ministry of Justice in view of promoting alternative justice processes. However, there is yet to be any specific law to support the operation. In addition, another conflict management mechanism is also being conducted by the Community Dispute Mediation Center, which is under the supervision of the Dispute Settlement Division, Department of Civil Liberties Protection, Ministry of Justice. The dispute resolution process is currently under the Dispute Mediation Act 2019, which allows the Center to mediate civil disputes not exceeding 500,000 baht, criminal cases that are compoundable offenses, and other petty offenses that do not affect the public. In addition, the Act allows the mediation center of government agency to mediate the civil disputes not exceeding 5 million baht.

### *Republic of Indonesia*

In Indonesia, the restorative justice process was adopted in the justice process for children according to Law No. 11, Year 2012. It was included in the National Strategy for Access to Justice, Medium Long Term Plan (RPJMN) and National Law and Human Rights Development Plan 2015-2019. It aimed to achieve Goal 16 on Peace, Justice and Strong Institutions under the Sustainable National Development Goals (SDGs) (Hilmy, 2013). Law enforcement agencies also use this approach to resolve conflict in local communities. For example, in the process of managing conflicts related to family violence, community police officers, village military officials, and the village headmen proceed to negotiate with the parties to resolve the conflict. A memorandum of agreement is signed by both parties. The relevant laws and regulations include 1) Indonesian State Law 2002 authorizing the Indonesian National Police on the role and duty of services and to oversee public safety and 2) Indonesian Police Agency Regulation No. 3/2015 on Community Police Operations, Role of Community Security Duty, which states that officers have to investigate problems early and proceed to negotiate and mediate to preserve peace in the community.

### *Republic of the Philippines*

Community justice in the Philippines takes the form of a village justice system (Katarungang Pambarangay-KP or Barangay Justice System-BJS), which promotes rapid justice administration at the community level. It is administered under the decentralization policy to the locality governed by a local government law called “Republic Act 7160” (1991 Local Government Code), which empowers local governments to make peace and maintain social order to support effective law enforcement in protecting human rights and justice. All kinds of offenses with imprisonment not exceeding one year or a fine not exceeding 5,000 pesos or about 3,000 baht must undergo the KP mediation process. The village justice system is compulsory whereby all citizens with designated conflicts must undergo the KP mediation process. If both sides are unable to reach any agreement, then the case will be handed over to the police for further action.

### *Republic of the Union of Myanmar*

Community justice is extensively practiced among local communities in Myanmar and is widely accepted by the majority of its people. The implementation is clearly certified by laws, including the Ward and Village Tract Administration Law of 2012 that authorizes the District Administrative Board (Village Tracts in suburban areas), or the Electoral Wards (City Wards), or the District (District Wards), which were all elected, to have various important

responsibilities. Such responsibilities consist of community security, safety, crime prevention, criminal investigation, wrong and right judgment, penalty determination, and dispute resolution. With regards to small conflict cases, the general public will bring the dispute to the public justice process and the ward/village tract administrator will be most informed. They are the most accepted among the people in giving justice or mediation. At this stage, if the ward or village tract administrator are unable to mediate or end the dispute, they will proceed to report the case to the police. In general, most people in the community will avoid bringing the dispute to government agencies (police), so they often introduce it to the public justice process. For small matters, some may choose to introduce the dispute for mediation with the village leader (10 / 100HH) or elders within the community. For cases involving very serious matters such as murder, drug abuse, rape or theft, such cases are often reported to the police for action (MyJustice, 2018).

From the data collected, community policing was found to be another form of community justice practiced in Myanmar. Criminal law in Myanmar has authorized police officers to mediate conflicts occurring in communities under their responsibilities. However, the police have not played a major role in managing conflicts in communities.

#### *Problems and Obstacles in The Implementation of The Community Justice Practices*

##### *Thailand*

Several problems and obstacles were found in the implementation of community justice practices in Thailand. First, underdevelopment of mediators' readiness in terms of knowledge and mediation skills resulted in a small number of mediators (approximately 2,000 trained mediators, which does not cover all areas in the country), and incomplete development of standardized mediation courses, which was endorsed by the National Justice Service Development Board. Second, there is a lack of publicity to educate the public on alternative justice options, especially in criminal cases. Third, effective coordination between the agencies involved in the conflict management zone is lacking. Fourth, there is ambiguity in budget management related to the mediators' payment since the drafted payment provision to pay 1,200 baht per case for the mediator is still under the approval process. Another problem is the lack of public trust in agencies or those involved in negotiation. This may be due to inadequacy of mediators' professional skills, as evident in cases where there may be coercion of a mediation which is against the voluntary approach. Moreover, mediators may fall short of ethical standards and integrity in mediation.

Another obstacle in the implementation of community justice in Thailand is the shortage of public mediation centers. There are only about 100 mediation centers under the control of Department of Rights and Liberties Protection concentrated in only about 20 provinces across Thailand. Lastly, the absence of standardized mediation process (SOP) for each responsible organization is another factor holding back implementation of community justice in Thailand.

##### *Republic of Indonesia*

Some problems and obstacles found in implementation of community justice practices in Indonesia include 1) lack of publicity to raise public awareness on options and benefits of the reconciliation processes; 2) inadequate funding, particularly in performing duties from both the Indonesian National Police and villages; 3) lack of clear operating manuals due to lack of legal mediation power provision law; and 4) lack of appropriate conflict management skills and knowledge of personnel involved in the mediation process.

##### *Republic of the Philippines*

Some problems and obstacles in the implementation of community justice practices in the Philippines include 1) lack of training in mediation and laws related to the dispute; 2) a lengthy period of 30 days is required for a dispute resolution process due to large numbers of disputes brought to the system; and 3) an outdated community mediation law since its enactment in 1991.

##### *Republic of the Union of Myanmar*

Problems and obstacles found in the implementation of the community justice practices in Myanmar include (1) lack of people's trust in the community police; (2) problems regarding the mediation by the W/VTAs and the public mediator by means of bringing disputes to the police to coerce the parties; and (3) inadequate conflict management skills and knowledge of justice in some personnel in the mediation process.

## **Discussion**

Several findings regarding community justice practices resulting from the studied countries were found to be promising and should be developed and adapted to improve community justice in Thailand as follows:

1. Community policing is an interesting model for managing conflicts in communities. Such modalities are evident in the case of Indonesia and Myanmar, where community police officers have the authority to mediate and resolve conflicts within their responsible communities.

The aim is to resolve conflicts before they are brought into the main judicial process. Despite the presence of police in various areas in Thailand, the law does not designate dispute mediation roles and authority at the community level. Moreover, the criminal law does not support community policing as it stipulates an offense of duty upon police officers who do not bring conflict cases into the criminal justice process. Inevitably, police officers are compelled to take disputes into the main judicial process. Under the Dispute Mediation Act of 2019, the offenses with imprisonment not exceeding three years can be voluntarily mediated by police, but the police officers who can mediate the offenses are the inquiry police officers, not community police officers.

2. Community justice practices implemented by community leaders in Thailand were generally well-accepted in the past. However, in the present day, people's beliefs and attitudes towards community leaders have changed, resulting in lowered trust towards community leaders. This makes conflict management by community leaders more difficult, even with minor conflicts. In fact, most people tend to rely on a more formal system, which is to report to the police. In the Philippines, the compulsory village justice system means that the slightest conflicts are first brought under this system. If the village justice system is unable to reach a solution, the matter is then taken up by the police. Likewise, in Myanmar, conflict management by local leaders is a widely accepted modality as opposed to the primary justice system. Therefore, in the absence of any law enforcing the people to bring conflicts to the community justice system in Thailand, creating trust in the community justice process is a crucial element in establishing greater confidence in such process.

3. Local leaders play a vital role in the community justice process. In Thailand, local leaders comprise of sub-district headman (Kamnan), village headman, chair of sub-district administration organization and district governor. Therefore, community leaders should be credible, knowledgeable and possess skills essential for managing conflicts to ensure effectiveness and quality of conflict management.

4. Problems in the community justice process in Thailand are somewhat similar to those found in Indonesia; particularly the lack of publicity to raise public awareness regarding alternative processes; lack of budgetary support; lack of effective cooperation between various involved agencies; lack of manuals and a shortage of personnel equipped with proficient legal knowledge, negotiation skills and integrity standards in conflict management operations. In comparison, community justice practices in the Philippines and Myanmar have faced a persistent problem in the lack of personnel development in a

systematic, continuous, and recurrent manner. Moreover, there may also be issues concerning the ethics of those handling conflicts.

## Conclusion and Recommendations

The results revealed some interesting mechanisms and problems of community justice found in the four ASEAN member countries, namely, Thailand, Indonesia, the Philippines and Myanmar. Thailand was found to have implemented various forms of community justice, namely, mediation by the village committee, by the district governor/administrative sector/Damrongtham Center, by the Community Justice Center, and by the Community Dispute Mediation Center. In Indonesia, community policing offers an interesting model for managing conflicts in the community. As for the Philippines, the Katarungang Pambarangay (KP) or a Barangay Justice System (BJS) is the basic justice system widely used in the local communities. In Myanmar, disputes are generally settled by Community elders, Village leaders, 10/100HH leaders, or Ward/Village Tract Administrator. Regarding problems of community justice implementation in Thailand, it was found that community justice practices were not widely adopted by the public due to the lack of confidence in the mediators and the process as well as the lack of acknowledgement of community justice mechanisms.

To improve community justice in Thailand, some recommendations are worth discussing as follows:

1. Government and related agencies, such as the Ministry of Justice and the Ministry of Interior should publicize knowledge and information to increase public awareness regarding existing community justice mechanisms in communities. To make alternative conflict management process in the community a more acceptable modality, it is necessary to create understanding among people about existing community justice mechanisms in their communities and the benefits they will receive in comparison to settling disputes through the judicial process.

2. The standard legal mediation courses have been developed and certified by the National Justice Service Development Board to train mediators from all over the country. However, although approximately 2,000 mediators were trained and registered, there are still not enough, and not covering all areas of the country. More mediators need to be trained and registered to increase effectiveness of community justice mediation and the training process must also be evaluated.

3. The mechanisms for mediation in communities are diverse and overlapping, specifically where local leaders have roles as the head of the Community Dispute Mediation



Center and the Community Justice Center as well as a village committee member. In other words, although various mechanisms have been created by different departments in the community, the duty of mediation in the community is often performed by the same person. Therefore, there should be a merging of, or synergies among the various mechanisms to mediate the people within the same community.

4. There should be more clarity in implementation guidelines to support each area, particularly a proper allocation of financial budgets for mediators at the village and sub-district level, clearly defined through ministerial regulations or orders that can fully support the mediation process.

5. The Ministry of Justice, as the main responsible agency for community justice, should create a standard operating procedure (SOP) for departments responsible for mediation, for both public mediation and other agencies that are authorized to mediate in communities. The SOP should consist of procedures and guidelines for managing each type of conflict under the new dispute mediation law.

6. Systematic training is essential for mediators and concerned persons to attain professional standards. Community leaders who play a major role in conflict management in communities should be continuously trained as it was found that they still have limited knowledge and interest in rigorously implementing community justice to solve conflicts in their communities. Therefore, the development of knowledge, competency and attitude of community leaders is necessary for improving community justice practices and to enhance its effectiveness.

7. Technology should be strengthened to support community justice practices in the community, especially in the area of public relations, to provide knowledge and build awareness to the public through the use of social media. Technology can also be used to increase access to the conflict management process in the community through a mobile application to communicate with the dispute resolution center in each location.

8. The Royal Thai Police should promote duties and responsibilities of community police in community conflict management as their current role on this matter within Thai communities is still unclear. Examples of community

police in Indonesia and Myanmar provide valuable insights on the importance of its role in community conflict management.

9. If possible, a legal provision requiring non-violent conflicts to be brought to the community justice process can be issued. If the conflict is still not resolved, it can later be brought into the mainstream judicial process as found in the Philippines and Myanmar.

## Conflict of Interest

There is no conflict of interest.

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