

Thai Community Justice: From Ideas to Actions

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Abstract

This qualitative research emphasized an investigation of (1) the procedure for the prevention and resolution of conflicts, crime, and cases based on the application of the community justice procedure (communities, temples, schools, and families) and (2) sustainable resolution approaches in collaboration with the public sector. Carried out based on case studies in which community justice procedure were applied to conflicts, the research investigated the conflicts occurred in Krathum Baen District, Samut Sakon Province; Ban Siew District, Khon Kaen Province; and Trang Province. The data were collected through in-depth interviews with informants who were in the cycle of justice procedure and community leaders - judges, politicians, and monks - together with literature review and content analysis. The results showed that: 1) In collaboration with the private sector, the application of community justice procedures to the resolution of conflicts occurred in a community could promote justice, save time and budgets, and lessen the court's burden. That both parties could return to life as usual could lead to benefits for the society. 2) For sustainable resolution approaches, collaboration among all sectors including communities, temples, schools, and families is a necessity. Community justice procedure could not substitute the central justice procedures due to the existence of complexity in some conflicts requiring deeper investigation as well as the community's incapability. The combination of the central justice and community justice procedures is recommended.

Keywords: Procedure, Conflicts, Justice, Community Justice

Introduction

The "Community justice" is the allocation, sharing, and distribution of power not necessary for the state to exercise the justice power. Adopting the community justice system allows the community members to participate in the work and prevent crimes from occurring by the community. This aims at improving the well-being of the community in the way of decentralization to the community and believe that the community can do it by themselves. That the people own the country, take care of the country, feel ownership and participate in thinking and doing for the country as much as possible are in accordance with the principles of democracy. In addition, the justice system was partly held by the government and the other part was given to the community. In the past, Thailand was like this. The important issues interested the researcher were in using the community justice procedure to solve the problems and prevent crime. The lawsuit that occurred with the government should be the good and successful solution by considering the communities, temples, schools, and families to participate in the procedure for the community justice system procedure to be successful in solving problems together with the government truly. Regarding the crime solution, at present, the majority of the judicial process conducted by the government caused the lawsuit to enter the main judicial procedure. Using the

community justice procedure to solve problems altogether will reduce the number of cases entering the judicial procedure by the government sector.

Research Objectives

- 1) To study the procedure for the prevention and resolution of conflicts, crime, and cases based on the application of the community justice procedure (communities, temples, schools, and families)
- 2) To study the sustainable resolution approaches in collaboration with the public sector on the conflicts, crime, and cases based on the application of the community justice procedure (communities, temples, schools, and families).

Research Scope

1. The research on Thai Community Justice: From Ideas to Actions is the qualitative research that brings the community justice concepts including Democratic Principles, Norm Affirmation, Egalitarian Principles, Public Safety, Mutuality, Inclusive or Citizen Participation (Karpand & Clear, 2000).
2. For the scope of content, the case studies based on the application of the community justice procedure (communities, temples, schools, and families) were used with the conflicts. In studying the disputes occurring in Krathum Baen District, Samut Sakhon Province, and in Ban Siao District, Khon Kaen Province, and in Trang Province. The in-depth interview was used for those involved in the justice procedure and the community leaders including the judges, politicians, and monks to analyze the documents, academic textbooks, and books by analyzing the contents to support the research.
3. The period of data collection was from January 2016 to July 2018.

Literature Review

This research used the concepts and theories of community justice. The concept views that the "community justice" is the future justice system of Thai society that will enhance the work of the mainstream justice system. It is also considered as a way to return the justice forum to the community after the government has assigned the mainstream justice system to perform the operation completely over the past period by allowing the community to participate in facilitating justice with the government as a "partner". This includes reviving the traditional justice system following the local or traditional justice which is local wisdom in controlling the existing crime as appropriate and necessary. The important goals are public safety, community unification, and reconciliation of the society which will lead to the restoration of cultural preservation, values, and virtues in Thai society in respect of the senior system that consists of morals such as having natural leaders and community elders who will participate in community mediation lead to the basic principles of community justice including Democratic Principles, Norm Affirmation, Egalitarian Principles, Public Safety, Mutuality, Inclusive, or Citizen Participation (Karpand & Clear, 2000).

Anek Laothamatas (2015) described the "communityism" concept about 6 different ways in each community including 1. Participatory democracy, 2. Publicism democracy, 3. Focus on restoring traditional institutes similar to community justice concepts and in line with the concepts of Burger and Newhouse to empower people, 4. Consciousness-oriented approaches, 5. Approaches that emphasize the creation of religious communities, and 6. Existentialist community-oriented theory.

Anek Laothamatas also viewed that the world is left with two poles: one pole is the government and the other is the individual. The family, community, school, and association is neither the government nor the individual. It is an organization that communicates with the government and the individual which is the "civil society". It is believed that building a strong family is not destroying the individual but it is instead the base or context for family members in line with popular community concepts along the approaches in emphasizing the restoration of traditional institutes and the concept of community justice. This is a non-governmental group and not formally known as traditional institutions including families, temples, churches, neighborhoods and residential areas to become communities.

The social theoretical concepts which will lead to the development of the community justice concepts discuss the "cultural concepts and social control" consisting of norms (civil way or folk way, tradition or moral law, law, punishment measures or social sanction. When the concept of social control occurs, the "concept of crime control" has the characteristics of better prevention than solution, suppression, substitution, intimidation, deterrence, and remediation. The "social control theory" sees that criminal behaviors may be resolved by trying to increase the influence of family, school, temple, and friends.

In this regard, according to the study on the management theory in the community, it consists of theory of empowerment and community participation. Therefore, the researcher specified the hypothesis that "the community joining in crime prevention and demonstrating the good relationship among neighbors will help reducing crime and can control the society indirectly."

Research Methodology

This research is the qualitative research using the case studies that apply community justice procedure (communities, temples, schools, families) to conflicts studied in cases of disputes occurring in Krathum Baen District, Samut Sakhon Province, Ban Siao District, Khon Kaen Province, and Trang Province. The in-depth interview was conducted on those involved in the justice procedure and the community leaders including judges, politicians, and monks. In addition, the analysis was also conducted on documents, academic textbooks, and books by content analysis method to support the research.

Research Results

1. According to the research following the concept of community justice by applying the community justice procedure (communities, temples, schools, and families) to the conflicts occurring in the community and from the revision of concepts and document study, it was found that the community justice consisted of the participation of community unavoidably. The procedure is in the form of restorative justice. The 4 main missions consist of the process to be used with the conflicts are as follows:

1.1 Prevention and control mission on crime and offense: The concept in managing crime resolution by reinforcing behavior norms has made the community aware of the democratic principle of "respect the rules" by enforcing as "procedure" whether to be taught by the elders, monitoring and surveillance within the community, prevention and control of crime. This must start from a child in order to prevent criminals. The management concept to solve crime problems or any other problems arising in the community in which the community acts is to maintain the behavioral norms of the community, as the basic principle of the concept of community justice. Resolving disputes or conflicts in a community will not only cause that community be respected and trusted by members or people in the community but it also helps to

maintain the rules, regulations, behavior of people in the community, whether in terms of morality, ethics, and culture. The increase on the value of these even more every time reinforces the dispute resolution as a symbol to alert people in the community or anyone who does not violate community norms.

1.2 Conflict management mission: When studying from the concept of community justice searched since the past until now, it was found that in foreign countries and Thailand, there has been a system of conciliation among the community members for a long time. In the Thai society or community, there will be adults who are well-qualified or well-respected in the society or community to mediate the disputes or conflicts that occur between people in the community. The arising conflicts can be changed to return to peace and able to make brotherhood society without frustration.

1.3 Healing and strengthening mission: Regarding the modification, restoration, and rehabilitation of the nation, the restorative justice is applied as the tool for the remedy of delinquency with willingness. The ways and means are found to reduce the fear of the community to prevent offenders from committing other crimes and empowering by means of building the relationships between members of the community. The activities are organized for the community to take care of one another following the communityism concept. All sectors work altogether interrelated. The new environment is designed and changed such as a family group meeting, the use of probation committees for indemnity, etc.

1.4 Mission to return the offenders back to the community: Focusing on rehabilitating the offender from committing the offense or causing more incidents with the community members again, it's the public safety protection. This mission places great importance on crime victims and the community's fear-reducing procedure towards crime. When one of the offenders is found guilty by any court, regardless of any form of punishment, it will affect the feelings of the community members whether after receiving the punishment and returning to that community, the offender will harm the community again or not. In finding the measures to prevent, correct, control and not return to wrongdoing, the concept should be adopted for formal social control system and informal social control systems applied by using the concept of improving the living environment and dealing with social problems of that community by not leaving anyone behind in accordance with the community justice strategy. This aims to protect public safety for the community members in fixing, rehabilitating, and caring of offenders. The bound is tried to be built among all members no matter how serious one of those people would ever have made a mistake or not.

Approaches for sustainably resolving conflicts, crime and cases occurring in the society and community through community justice processes (communities, temples, schools, families) with the government

The community justice system requires the initiative of people together to form the "Community Justice Network" in order to carry out various activities according to the mission to achieve the goal or have the result of the activities that effect to people and the community. People feel secure and have the potential to reconciliation and access to justice at the same time. However, the implementation of the community justice system cannot be used to substitute the mainstream justice system because of the opposition of some sophisticated features that need to be searched. Moreover, as the community cannot handle it, the mainstream justice system must be linked with the community justice system by accepting some works from the mainstream justice system to be practiced in the community such as prevention, control on crime and offense, conflict management using reconciliation, healing and empowerment, and receiving of offenders back to

the community such as probation, parole, social service work. Sometimes the case will be forwarded from the community justice system to the mainstream justice system or from the mainstream justice back to the community justice. It is a coordination and linkage between missions of "Mainstream justice system" and "community justice system" which will yield benefits to all sectors.

Conclusion and Discussion

Application of community justice procedure with the cases of conflicts occurring in the society, community using the community justice procedure (communities, temples, schools, and families) together with the government

According to the research results, it is found that if bringing community justice into procedure or mechanisms for managing communities together with the government following the 4 main tasks of community justice, each mission has the procedure to apply to the conflicts with the following details:

1. Criminal defense and crime prevention mission is to prevent the wrongdoing by taking any action. There are 3 methods of prevention and control including;

The first approach is the prevention by eliminating social conditions using social control procedure at the official level of community by organizing communities to reduce conditions for risk factors, crimes, and delinquency such as the implementation of zoning in entertainment venues, taking care of isolated areas, etc. Using unofficial social control procedure will be done by defining compulsory responses to unwanted behavior by sanctions, denial to participate in community activities, or prevention by bringing a group of people at risk to have those behaviors to be refined by monks.

The second approach is Crime prevention using the punishment process which gives priority to the law and law enforcement of officers. This type of community justice procedure will focus on the efficiency of sub-departments in the community justice procedure that can be completed in one step or at single point.

The third approach is the prevention of crime by using the process to reduce the chances of wrongdoing. The reduction of opportunity to use various procedures is to create protection from the environment or to have a security system as well as building relationships in the community to help one another.

2. Conflict management mission: The researcher classifies lawsuits that can be brought to the community justice procedure. There are 4 forms of community justice management procedure which are; 1) Victim-offenders mediation or VOM by means of confrontation between the victim and the offender. There will be probation officers or social workers or volunteers to coordinate, 2) Family and community group conference (FCGC) in which the procedure will be conducted as well as Victim-offenders mediation but will use schools, temples, churches, or other social groups to participate in the meeting as well. 3) Sentencing circles, "peaceful mean". The participants of sentencing circles also encompass the community members who have worked as judges, police, and others in this form can proceed in various stages of the judicial process including after the court has issued a verdict, 4) community reparative boards consist of people in the community, offenders, victims, representatives from the mainstream judicial process by discussing it before the boards consider the punishment which in Thai society classifies the use of community justice in this form but using tradition local customs or of ethnic groups in the conflict management meeting.

But there are still restrictions on the types of lawsuits that can be used in the community justice process in the management, for example, the offense committed by a child or youth which can bring the community justice procedure in the form of group meetings of family and communities, The conflict management will have the rules and procedures for mediation in order from the invitation, acknowledgement of basic rules, description of feelings, summaries, and awareness to seek perfection in terms of agreement, conclude the agreement, congratulate, and follow up.

3. Healing and strengthening mission is a theory of empowerment and community participation as a process of action with the focus on crime victims that will continue to be safe, compensate for anger, and do not want revenge including returning to the previous status quo and healing.

4. The task of returning the offenders back to the community. This mission is considered the first phase of the community justice system in the world society. It is also the concept and mission that supports the concept of offender rehabilitation back to the community. The process used is to rehabilitate, visit, train the offenders to return to the community and be able to live their lives back to being good people with the help of the community, houses, temples, and schools.

Approaches for resolution methods on conflicts, crimes, and cases occurring in the society and community through community justice procedure sustainably in cooperation with the government

The research results reveal that the implementation of community justice procedure as the approaches for effective and sustainable resolution on conflicts, crime, and cases in cooperation with the government requires cooperation from all parties whether communities, temples, schools, families with the following approaches:

The first approach requires the initiative of people together to form the "Community Justice Network" in order to carry out various activities according to the mission to achieve the goal or have the result of the activities that effect to people and the community. People feel secure and have the potential to reconciliation and access to justice at the same time. However, the implementation of the community justice system cannot be used to substitute the mainstream justice system because of the opposition of some sophisticated features that need to be searched. Moreover, as the community cannot handle it, the mainstream justice system must be linked with the community justice system by accepting some works from the mainstream justice system to be practiced in the community such as prevention, control on crime and offense, conflict management using reconciliation, healing and empowerment, and receiving of offenders back to the community such as probation, parole, social service work. Sometimes the case will be forwarded from the community justice system to the mainstream justice system or from the mainstream justice back to the community justice. It is a coordination and linkage between missions of "Mainstream justice system" and "community justice system" which will yield benefits to all sectors.

The second approach requires the cooperation from all parties involved and must understand the process, mechanism, or mission of "community justice". The role that the Ministry of Justice allows people or communities to be able to "participate" with the agencies of the Ministry of Justice does not mean the community will be the sole worker of the Ministry of Justice but it means both the Ministry of Justice and community justice network members must work altogether in accordance with the principles of "community justice." If the agencies in the Ministry of Justice have to work altogether, they must understand people and the community in the area for the purpose that they must work altogether. On the other hand, people and communities working or co-working with the government must have the Orientation both

Readiness and Commitment. One component of readiness is "the faith and trust that communities have towards the government". As long as the agency of Ministry of Justice sees the community justice network as "burdens", such agency or official will not be able to build trust among citizens or communities at all. Building faith and trust requires weaving of relationship between government and the public through joint work. It also requires time and sincerity. Joining to work with the agencies of the Ministry of Justice is open to all citizens because everyone has the right to work for their community and has the right to work altogether with the government. They must acknowledge the fact that each person is different but has the basic rights under the constitution. Aside from that, all parties involved will understand the community justice. Communities themselves must also know one another. That is to recognize the problems occurring in their communities. The community members must accept what is happening in the community and have the same concept and direction in order to solve, prevent, treat and rehabilitate one's own community. The culture, identity, and way of life including the civil way must be recognized by all community members allowing the members to be unified.

The third approach to sustainably resolve conflicts through the justice system of the community together with the government is to work in team with people of similar expertise. It is a good way to benefit the community and society as a whole rather than working alone. There is a generally accepted confirmation that whenever community members do joint activities, it will create a relationship among the members altogether immediately. The more frequent the activity is, the more weaving the relationship can be. It is academically called "developing relationship horizontally". The more the horizontal relationship is, the stronger the community will be. This can stimulate the members who are still waiting to watch outside wanting to jump in to become members more. Therefore, having a powerful collection means group participation that affects the weaving of relationship among members. If the integration of community occurs until the "organization" can be established as the committee of Community Justice Center or the cooperation in various activities, the roles that the community justice network members done alone can be brought in to organize into various tasks or roles of the Community Justice Center by assigning a skilled team to take responsibility for each part and seeking members of the community with experience in that area to participate in additional responsibilities and diligence in training new members to be able to inherit continuously.

Recommendations

General recommendations

According to the study, the researcher found that the resolution procedure on conflicts, crime, and cases occurring in the society and communities using the community justice procedure (communities, temples, schools, families) still provide some recommendations for all parties to develop. The budgets and personnel should be allocated and the additional training should be provided to mediate dispute resolution in the community by creating more links between the Courts of Justice or agencies in the mediation process of the community. The dissemination should be arranged on the success or operational process of the mediator in the community for dispute resolution in order to make the parties interested and trust in the services.

Recommendations for further researches

1. There should be a study on various activities that create relationships in the community.
2. There should be a study of approaches for the development of the community justice procedure so that it can be implemented throughout the country with the same norms and standards.

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