Mandatory Mediation in the United States: Should It Be A Process in Thailand?

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การระงับข้อพิพาททางเลือก หรือ ADR เป็นกลไกที่สร้างขึ้นเพื่อลดปัญหาคดีล้นศาลและเพื่อปลดเปลื้องภาระค่าใช้จ่ายและเวลาในการดำเนินคดีให้แก่คู่พิพาท การไกล่เกลี่ยเป็นหนึ่งในวิธีการระงับข้อพิพาททางเลือกที่มีบทบาทสำคัญ ทั้งนี้ เพราะการไกล่เกลี่ยเป็นกระบวนการโดยสมัครใจที่คู่พิพาทมีบทบาทอย่างมากในการควบคุมกระบวนการและสร้างข้อตกลงที่เห็นชอบร่วมกันระหว่างคู่พิพาทโดยมีนักไกล่เกลี่ย (Mediator) เป็นคนกลางในการให้ความช่วยเหลือ ในประเทศสหรัฐอเมริกา แม้ว่าคู่พิพาทส่วนใหญ่ในกระบวนการไกล่เกลี่ยจะพอใจกับผลของการเจรจาไกล่เกลี่ย แต่อัตราการใช้การไกล่เกลี่ยข้อพิพาทยังอยู่ในระดับต่ำ ทั้งนี้ เนื่องมาจากอุปสรรคบางประการ ตัวอย่างเช่น คู่พิพาทไม่คุ้นเคยกับระบบการไกล่เกลี่ยข้อพิพาท ดังนั้น แนวคิดในเรื่องการไกล่เกลี่ยเชิงบังคับจึงได้มีการพัฒนาขึ้นเพื่อสนับสนุนให้เกิดการใช้การไกล่เกลี่ยข้อพิพาทรวมทั้งเพื่อขจัดปัญหาต่างๆที่เป็นอุปสรรคต่อการใช้การไกล่เกลี่ยข้อพิพาท ถึงแม้ว่าการไกล่เกลี่ยข้อพิพาทเชิงบังคับจะมีประโยชน์ในหลายๆด้าน แต่ก็มีปัญหาเช่นเดียวกัน ด้วยเหตุนี้ นักวิชาการในประเทศสหรัฐอเมริกาจึงได้นำเสนอหลักเกณฑ์ให้แก่ผู้เกี่ยวข้องทุกฝ่ายได้พิจารณาเมื่อจะมีการบังคับให้ประชาชนเข้าสู่ระบบการไกล่เกลี่ย บทความนี้มีขึ้นเพื่อศึกษาและวิเคราะห์ข้อดีข้อเสียและบทเรียนจากระบบการไกล่เกลี่ยเชิงบังคับของประเทศอเมริกา โดยผลที่ได้การศึกษาในครั้งนี้จะนำมาซึ่งแนวคิดและข้อเสนอแนะในการนำระบบการไกล่เกลี่ยเชิงบังคับมาใช้ในประเทศไทย

Abstract

Alternative Dispute Resolution or ADR is the mechanism which has been established to reduce the caseloads problem in court and to release the burden of costs and time for the parties that result from litigation. Mediation is one of ADR

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system that has significant role because it is the voluntary process that parties have a greater role in controlling the process and settling the consensual agreements by themselves with the assistance of neutral party. Even though most of parties in mediation process are satisfied with the outcome, the numbers of the cases that are mediated are not outstanding. In the United States, the low rate of the use of mediation came from many barriers for example, the parties' lack of familiarity with the mediation. Therefore, the concept of mandatory mediation has developed to promote the massive use of mediation and to eliminate the barriers to mediation. Although, there are many benefits for mandating mediation there are many concerns about mandatory mediation. Consequently, many researchers in the United States have proposed the criteria for involved people to rely on before mandating mediation. This article is to study and analysis advantages, disadvantages and lessons learn from mandatory mediation system in the United States. The output of this study will be the ideas for Thailand to the introduction of mandatory mediation.

Keyword: Mediation, Mandatory Mediation

คำสำคัญ: การไกล่เกลี่ย, การไกล่เกลี่ยเชิงบังคับ

Overview

Mediation is one of Alternative Dispute Resolution or ADR process with the assistance of a neutral person or persons who brings the parties together by systematically dividing the disputed issues in order to develop options, consider alternatives, and reach a consensual settlement to accommodate their needs,[1] rather than by applying the rules of law in order to make a narrow determination of liability. In recent years, mediation has increasingly served as an alternative to litigation in the United States. Mediation has a significant role in the ADR system because it is not bound by legal claims and issues can include the broader context of whatever the parties feel is relevant to resolving the dispute, including their

[1]Andreas Nelle, "Making Mediation Mandatory: A Proposed Framework," **Journal on Dispute Resolution** 7, 2 (1992): 287-313.

past, current and future relationship, and can reduce the level of conflict between the parties and better enable them to maintain their relationship. The parties have greater control over the mediation process and outcome, which is thought to increase their perceived fairness of and satisfaction with the process. The resolution is seen as more responsive to the particular interests of the parties and helps the people to manage future disputes more constructively.[2]

The original form of mediation is a voluntary process; it is entered into voluntarily and it produces a result which is solely based on the parties' agreement.[3] Although the parties tend to be satisfied with their outcome and experience in mediation, voluntary mediation programs consistently report low rates of utilization. The reason for the low rate of utilization is assumed to be the parties' lack of familiarity with mediation. There might also be a lack of familiarity among lawyers whose recommendations and encouragement are key factors in their clients' choice of process, and some parties and lawyer's reluctance to express an interest in mediation. Furthermore, some parties are not interested in the type of discussion and amicable resolution afforded by mediation.[4]

In order to increase the use of mediation, in recent years there has been a trend towards mandating mediation before a case goes to trial in order to divert more cases from the courts and to expose the parties to the benefits connected with mediation. There are many states that have adopted mandatory mediation programs for a variety of disputes. Introducing mandatory mediation has raised many issues. There are many advantages and concerns to the introduction of mandatory mediation, which this article will explore and analyze the mandatory mediation system in the United States and propose the idea of mandating mediation in Thailand.

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[2]Roselle L. Wissler, "The Effect of Mandatory Mediation: Empirical Research on the Experience of Small Claims and Common Pleas Court," **Willamette Law Review** 33 (1997): 565-604, at 566.

[3]Andreas Nelle, "Making Mediation Mandatory: A Proposed Framework," **Journal on Dispute Resolution** 7, 2 (1992): 287.

[4]Roselle L. Wissler, "The Effect of Mandatory Mediation: Empirical Research on the Experience of Small Claims and Common Pleas Court," **Willamette Law Review** 33 (1997): 565.

Mandatory Mediation in the United States

The fundamental concept of "mandatory ADR" means that the process requires participation of the parties, but allows them to reject the ADR outcome and try their cases in court[5]. Mandatory mediation came from this same fundamental concept. Mandating mediation removes the voluntariness of participation, but leaves intact the voluntariness of the agreement. The initial decision to accept or not to accept the agreement in mandatory mediation is made by the parties themselves, not made by the legislature or by the courts.

In the United States, mediation can be mandated by statute, court rule, individual court ruling or by a contractual mediation clause. The main areas in which mediation is currently mandated by statute are labor and family disputes, medical malpractice, civil rights disputes and certain consumer warranty cases. Court rules may require mediation as a prerequisite to filling a suit, either for certain categories of cases or for all cases. Individual court rulings sometimes mandate mediation on the basis of the Federal Rules of Civil Procedure's (FRCP) Rule 16[6] or more specific state statutes.[7]

There are many reasons to establish a mandatory mediation process, such as to deal with expanding court dockets and limited judicial resources. In addition, mandatory mediation aims to release the burden of the time and costs that result from litigation. However, the goal for determining the mandatory mediation process is not only to reduce the number of cases that are unmediated, although

[5]Dwight Golann, "Making ADR Mandatory: The Constitutional Issues," **Oregon Law Review** 68 (1989): 487-568, at 494.

[6]Rule 16 Pretrial Conferences; Scheduling; Management

(a) Purposes of a Pretrial Conference.

In any action, the court may order the attorneys and any unrepresented parties to appear for one or more pretrial conferences for such purposes as:

(1) expediting disposition of the action;

(2) establishing early and

(3) continuing control so that the case will not be protracted because of lack of management

(4) discouraging wasteful pretrial activities;

[7]Andreas Nelle, "Making Mediation Mandatory: A Proposed Framework," **Journal on Dispute Resolution** 7, 2 (1992): 289.

mediation would be beneficial, but also to reduce the number cases in which mediation is improperly imposed. Many commentators suggest that decision regarding the use of mandatory mediation should depend on an analysis that takes into consideration its benefits and costs.[8] However, researchers have proposed general criteria as guidelines for involved people to rely on when they mandate the mediation of laws or rules by following.

Type of Cases or Controversy

Generally, the parties'disputes are based on their rights or their interest. To resolve a dispute about rights, a mediation can focus on helpingthe parties to develop a shared perception of their respective rights or to attain a compromise between their different perceptionsof their rights. To resolve a conflict about interests, the mediation can focus on finding an agreement that accommodates both parties' interests. In many cases the mediation is both rights and interests.

The mediation establishs a workable solution that meets the participant's unique needs and creates options for mutual gain that can be the basic of an agreement. For this reason, it is particularly suitable for dealing with interest-centered controversies or for reorienting disputes towards reconciling interests. Therefore, mandating mediation work well if the parties's dispute occurs in the context of an ongoing relationship, which provides shared interests in the future. However, interest-based mediation will usually not be productive where the controveryis focused on the retrospective assessment of legal claims arising from an isolated past interaction, such as a traffic accident. If the parties have no future dealing with each other, it is unlikely that shared interests or opportunities for mutually beneficial arrangements arise. Because the parties' discussion will stay focused on the ex-post assertion of rights.In the rights-basedarguments with little or no opportunities for reconciling interests for example, claims arising from a traffic accident, rights-based mediation performs an essentially judicial task. Mediation is only beneficial to the parties if it is a better process for discovering and acknowledging their respective rights than judication. Mandatory mediation is

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[8]Roselle L. Wissler, "The Effect of Mandatory Mediation: Empirical Research on the Experience of Small Claims and Common Pleas Court," **Willamette Law Review** 33 (1997): 576.

appropriate in cases where the parties have an ongoing relationship. It is often on a contractual or institutional basis. Therefore, mandating mediation should be rooted in the legal and institutional structures of specific relationship rather than in the general framework of a court's procedural rules which apply to all disputes brought to court.[9]

Power Balance Between the Parties

Mandatory mediation can be appropriate if this mechanism is put in place to providethe weaker party with informational or economic support or other means to redress a power imbalance. In cases of considerable power disparities between the parties, mediation is unlikely to be an adequate process unless it can be modified to compensate for the power disparities. The reason that mediation is ineffective in these circumstances is that mediation does not emphasize rights, which might empower the weaker party,but, instead, hasa tendency to preserve power imbalances. The power imbalances is not only the differences in economic resources and access to information, for example, the superior power of a bank-mortgagee over a farmer-mortgagor as regard loan or the power imbalance betweena consumer and a producer when it comes to product warranty. Mandatory mediation can be appropriate if these mechanism are put in place that provide the weaker side with information or economic support or other means to redress the imbalance. One powerment example isthe Minnesota Farmer-Lender Mediation Act, which provides debtor for financial analyst and farm advocate assistance in mediations with creditors.[10]

Overcoming Barriers to Mediation

Mandating mediation is justified only if there are barriers preventing the use of mediation in cases that would benefit from it. The wide variety of barriers that exist and prevent a more extensive use of mediation include.[11]

Differences in Information and in the Assesment of the Situation

Normally, the parties do not have equivalent information about the facts underlying their dispute or do not share similar assessments of the situation. In

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[9]Andreas Nelle, "Making Mediation Mandatory: A Proposed Framework," **Journal on Dispute Resolution** 7, 2 (1992): 297.

[10]Ibid., at 292.

[11]Ibid., at 293-299.

cases where the parties assess the situation differently, making mediation mandatory is not justified because the mandate to mediate can only overcome barriers to entering the process. The barriers to reaching an agreement are not overcome by a mandate to mediate, unless it creates pressure to settle. In some cases, one party may reject mediation because it feels disadvantaged by a lack of information in the cases. In these cases, mandatory mediation will be a benefit as it could be modified to offer the party additional information, such as from a neutral expert. However, other less intrusive measures are probably superior, instead of forcing a party to go to a mediation feeling unprepared.

A Lack of Interest in a Speedy Resolution of the Dispute

Sometimes, one of the parties has an interest in attempting to delay the resolutionof the dispute, such as a defendant who knows that the plaintiff will probably not be able to sustain protracted litigation. If taking the case to court is better for that party than any possible litigation or mediation result, that party may pursue a strategy of holding out. Mandating mediationin this kind of case will serve the purpose of reducing the backlog of cases.

A Lack of Communication Between the Parties

Deficient communication can be both a substantive and a procedural obstacle to agreement. If the parties fail to agree on a process, which would be beneficial for them because they do not sufficiently communicate before going to court, mandatory mediatation can overcome this obstacle because it brings the parties to meet and the mediator can helpprovide informationthat help the parties to find the amicable solution.

Skepticism About Mediation

Skepticism about mediation by the parties and the lawyers may result in the low rates of using mediation process. This barrier may be tackled by education and information about mediation. Even though mandatory mediation is probably not the least intrusive means to spread information about mediation, the mandatory attendence atan information and screening meeting may be warranted in areas where skeptisicm about mediation is widespread. Moreover, mandatory mediation may be the best way to break the impasse in a situation where both parties would like to try mediation, but neither suggests it becausethe other party may read it as a sign of weakness.

Lawyer's Self Interest

In the United State, some lawyers will avoid mediation not just because of skepticism, but because of their self-interest, even where it conflicts the client's interest. This conflict of interest may be quite widespread. The mediation's potential for reducing legal costs is a risk to a lawyer's revenue. Considerating mandatory mediation in this case will help to tackle the problem ofthe lawyer's self interest when that interest conflicts with the clients interest.

Benefits and Concerns about Mandatory Mediation

The first advantage of mandatory mediation is that it may accelerate the settlement process. Mandatory mediation can induce parties and lawyers to focus on the case and to enter into negotiations. Once the parties are in mediation, the trained mediator adds structure to the settlement process and can facilitate discussions that can lead to settlement. Second, mandatory mediation requires parties initially hostile to the process of mediation, to participate and possibly settle their dispute via mediation. Mandatory mediation provides the parties an opportunity to settle while, in turn, providing the legal system an opportunity to reduce the number of cases going to trial. The third advantage of mandatory mediation is that mandating the process overcomes the sign of weakness that is often associated with mediation. Many lawyers view the suggestion of compromise as an admission of weakness and because of this view will delay the dispute resolution process with the hope that the responsibility of suggesting settlement will fall on the opposing party. However, when a statute mandates participation in mediation, it may be accomplishing what the parties secretly want, but will not express. Finally, mediation increases the exposure and hence the familiarity with the process. Parties that are more familiar with mediation are more likely to take advantage of its cost-savings and efficiency even when the process is not a result of a court order.[12]

Even though there are many good reason for mandating mediation there are several concerns about mandatory mediation. There are both law and policy

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[12]David S. Winston, "Participation Standards in Mandatory Mediation Statutes: "You Can Lead A Horse to Water…"," **Ohio State Journal on Dispute Resolution** 11, 1 (1996): 187-206.

issues. There are also concerns that the use of mandatory processes violates the constitutional rights of disputants,[13] and the introduction of any freedom-limiting duty into the legal system , needs to be justified. Requiring mediation as a preliminary step to litigation may interfere with the access to trial, which could constitute a denial of due process. Several courts, however, have held thatthe right to due process is not violated if the mandatory program is nonbiding and does not create unreasonable obstacles to trial or undue pressures to settle, such as increased costs and delay, or the disclosure of the mediator's conclusion to the court or to the public. The due process can be satified by ensuring confidentiality, fully informing the parties about the mediationprocess, and providing parties the opportunity to reject a mediated agreement and turn to the courts if necessary. Others maintain that mandatory mediation contradicts the emphasis placed on the consensual and participatory nature of the process, and that coercion into mediation can evolve into coercion to settle. Another critism of mandatory mediation is the increase of the number of cases resolved by settlement instead of by trial. Confidential mediated agreements contrast with publised adjudicated decisions that express legal norms and public values. In addition, if mandatory mediation program are esstablished primarily for disputes involving low-income parties or smaller amounts of money,a two-tiered system might develop in which the disadvantaged are unable to vindicate their rights, but instead are forced to resort to an informal, second-class justice system.[14]

It also has been argued that mandatory mediation may be an exercise in futility if one of the parties enters the mediation determined not to settle. Since this party's attitude will most likely drive the dispute to litigation anyway, little can be gained from forcing both parties through a process designed for settlement. Another argument against mandatory mediation statutes is that a mandatory process simply creates another legal obstacle for the parties to

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[13]Dwight Golann, "Making ADR Mandatory: The Constitutional Issues," **Oregon Law Review** 68 (1989): 487-568.

[14]Roselle L. Wissler, "The Effect of Mandatory Mediation: Empirical Research on the Experience of Small Claims and Common Pleas Court," **Willamette Law Review** 33 (1997): 571-572.

overcome on their way to litigation. Additionally, it has been asserted that unsuccessful mediation followed by litigation merely adds to the costs of the litigation process by forcing parties to double their efforts in settling a case.[15] Before mandating mediation, the principle of proportionality requires balancing the possible benefits from mediation against the costs of imposing mandatory mediation.[16]

Effects and Problems of the Mandatory Mediation Process

While there are many apparent benefits of mandatory mediation, such as enabling party control, reduce court dockets, and reducing legal fees and costs to those who reacha settlement, mandatory mediation, as opposed to traditional voluntary mediation, also raises many concerns in the mediation process, itself, including good faith participation, privacy and confidentiality, and the enforceability of any attained agreements.[17]

Good-Faith Participation

Most mandatory mediation statutes in the US fail to provide any guidance for the required level of participation by the parties. A few states have attempted to define the essential level of participation by quantifying it in terms of "good faith," but courts have had difficulty enforcing this standard. Some states have attempted to improve this problem by including language in the statute that forces participants to make a "good faith effort" at resolving the dispute.

Some have suggested replacing the traditional voluntary participation with a mandatory participation under a ‘good-faith’ participation requirement where parties are required to actively participate in mediation before fully litigating their case before a court. There are both proponents and opponents. A ‘good faith’

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[15]David S. Winston, “Participation Standards in Mandatory Mediation Statutes: “You Can Lead A Horse to Water…”,” **Ohio State Journal on Dispute Resolution** 11, 1 (1996): 187-206.

[16]Andreas Nelle, “Making Mediation Mandatory: A Proposed Framework,” **Journal on Dispute Resolution** 7, 2 (1992): 290.

[17]Jeff D. Rifleman, “Mandatory Mediation Implications and Challenges,” [Online], Available URL: http://www.mediate.com/articles/riflemanj1.cfm, 2012 (November, 1).

mediation requirements increase the efficiency of the overall legal dispute process through forced participation in a mediation session. Although there are some shortcomings, such as bad-faith participation where one or both parties have no intention to honor a mediated agreement, or use the information for further legal leverage, but good-faith participation does not interfere with the parties' rights to seek further litigation. The opponents argue that forced participation in mediation not only result in bad faith participation but can actually conflicts with the quality processes of traditional mediation. Good-faith mandatory participation also has decreased self-determination by allowing the judicial system to decide on the party's participation in mediation. The end goal to increase court efficacy and party-empowerment through a good faith participation in mandatory mediation has not succeeded, but rather turned many parties to treat mandatory mediation as just an extension of traditional procedural litigation, delaying access to litigation, and further entrenching the parties in their conflict posturing in opposition of the intended goals of good-faith mediation.

Client Privacy and Confidentiality

The most concern in mandatory mediation is the application of privacy and confidentiality rules to the parties involved in mediation, including the mediator. Parties who participate in mediation are often led to believe that the mediation process involves a confidential and private meeting that is meant to encourage and foster an atmosphere where the parties can resolve their conflict without fear of the content of the meeting being shared with any other party. As mediation becomes more institutionalized under state and federal control, new rules are required to better define the rules of confidentiality to help avoid potential conflicts in participant and mediator participation in good-faith definitions of privacy and confidentiality. Both parties and the mediator can be subject to the vagueness of the confidentiality provision of the public policy of the given jurisdiction. For example, parties, as well as the mediator, may be subject to provisions of law that may trump a signed confidentiality agreement that all participants had previously agreed to in mediation, exposing any perceived privacy to court rules. This can have severe ramifications, placing parties at risk for having fully participated in good-faith mediation under the auspice of complete

confidentiality and privacy.

Enforceability of Agreements

The question about the enforceability of mandatory mediation agreement has arisen when one or both parties fail to comply with the settlement agreement settlement. Failure to comply with an agreement can arise from many possibilities, including bad-faith participation, new found information that would have influenced the parties' agreement and imbalances in power when one party uses mediation as a way to coerce information or to cause increased delay or financial costs to the opposing party. How to enforce agreements raises concerns about the process and expectations between traditional and institutionalized mediation, and poses obstacles on how to ensure the future enforcement of reached agreements. Proponents of mandatory mediation focus on including provision for binding enforcement in drafted agreements, which inevitably is contrary to the traditional non-binding mediation processes. Some have proposed a "Memorandum of Settlement" to be the basis of a binding-agreement that is further expanded upon by lawyers in a more formal settlement agreement submitted to the court. This formal agreement then becomes a binding legal document that can then be enforced under existing contract statues and laws. Another proposal is that mediators clarify in their initial meetings with parties that any written agreement "be admissible as evidence in any action or legal proceeding to enforce its terms." But this idea might cause participants to reluctantly participate for fear of revealing something that could be used against them in the further litigation.

Conclusion

Mandatory mediation is not a medicine for the ills of judicial system. It is an appropriate ADR technique to help meet the needs of an overburdened judicial system, and encouraging the use of mediation. Even though, there are many good reasons to mandate the mediation, it does not mean that mandatory mediation can increase the rate of settlement. Also, mandatory mediation itself cannot completely reflect the standards and requirements that have made voluntary mediation so successful for willing participants. There are still many concerns regarding mandatory mediation, such as the meaning and level of "good faith participation",

confidentiality of the parties and enforceability of agreement. Therefore, before mandating mediation, besides considering about cost and benefit, the legislators, judges or parties who contemplate it should consider other dimensions such as types of controversy concerned, check for significant power imbalances and clarify which barriers to mediation they want to overcome.

As mandatory mediation is regarded with disputants' right in the justice system, mediation in the United States can be mandated by statute, court rule, individual court ruling or by a contractual mediation clause. Therefore, many states have passed statues that enable court to order disputing parties to participate in a mediation process. Even though, parties are not participating voluntarily in mandatory mediation, it is still a voluntary process because the utmost step in decision making is whether or not to accept the agreement is made bythe parties themselves.

Should the mediation be mandatory in Thailand? Even though the method of ADR has been recently implemented in Thailand, the Civil and Commercial Procedure Code has empowered the court to order the parties to settle the cases by conciliation or mediation before the hearing start since 1934. In Thailand, we have both out of court ADR and in Court ADR (Court Annexed Conciliation and Arbitration). The concept of the establishment of ADR in Thailand is the same as everywhere in the World; it is based on the voluntariness of the parties. Although the number of people using ADR in Thailand is not outstanding, the trend of using in-court conciliation shows that this method of dispute settlement is getting more accepted, satisfactory, particularly in Thai culture of compromise. Moreover, with the endeavor of the Court of Justice in promoting the use of conciliation before the court throughout the country, the rate of the use of mediation is dramatically increasing. However, there has not been any idea or research about mandating the ADR in Thailand. Although we consider section 20 bis the Civil and Commercial Procedure Code states that court has authority to order the parties to conciliate or mediate the case without considering that how far the progress of the case has been made. In doing so, the judges may either conciliate the cases by themselves or appoint any person or a group of people as mediators with an aim to achieving the goal of dispute settlement. This section has not been enacted to force

disputants to the ADR process but the court will order the conciliation when appropriate and in the interest of reconciliation. In addition, the parties can opt out from the process all the time.

According to the study of mandatory mediation in the United States, as indicated above, and taking into consideration Thai culture is familiar with the court system as it has existed for many centuries, mandating the mediation or conciliation in Thailand should at least be mandated by statute. Furthermore, the important criteria that should take in to account for Thai society is the imbalancing power between the parties. For example, in consumer cases most business operators, manufacturers or service providers are juristic persons having more influence and economic power than consumers or service users, and are always in the advantage positions. As a result, business operators are able to exercise their juridical rights without regard of time consumption and expenditures while consumers lack resources to combat with the business operators. This is a significant difference class in Thai justice system therefore, mandating mediation in Thailand can be appropriate if these mechanism are put in place to redress the imbalance.Besides considering the advantages, disadvantages and criteria to mandating the mediation in Thailand, bringing the idea of mandatory conciliation or mediation to Thai justice system needs a lot of explanation and strategy to have people understand the good point of mandatory mediation.

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