

The Alternative Dispute Resolution & Arbitration Measurement: Neo-Essential Adjudicative Jurisdiction to Learning Society

Panaikorn Boonkob¹

Kanijt Dhierasiddhangkura²

Retrieved 10-04-2024; Revised 03-05-2024; Accepted 15-05-2024

Abstract

This academic article is aimed to describe and contribute on the alternative dispute resolution & arbitration measurement before collateral estoppel jurisdiction with a view toward civil and transparently Thai society at large. Additionally, economic loss was from Hopewell Holding Corporation to Hopeless which was being symbolic of public policy conflict of interests toward administrative tort prosecution between state and private sector on adjudication. The impasse of this phenology event had been resolved with the alternative dispute resolution & arbitration for 29 years ago. Moreover, the crisis we were facing now has many surprises as pointed out throughout the structure of dual track economy in Thailand in which were reflected to the problem of corruption policy, civil livelihood, income allocation, ribbon development and human security and agricultural poverty.

To conclude this academic article, it describes the implication of multi-dimensions disciplinary of neo-essential legal perspective dimension. Therefore, Thai society and a case study of public policy corruption orientation are proved the importance of legal instrument,

¹Assistant Professor Panaikorn Boonkob, College of Law and Government, Si Sa Ket Rajabhat University, Master Degree of Public Administration, Major of Fiscal and Financial Management, Outstanding Score Coursework Award, Scholarship Track, NIDA, Thailand.

² Assistant Professor, Faculty of Humanities and Social Science, Si Sa Ket Rajabhat University.

alternative dispute resolution, negotiation & bargaining effectiveness and arbitration measurement implementation efficiency of neo-essential adjudicate jurisdiction so as to resolve civil & criminal lawsuits acceleration the long-life learning and knowledge based society.

Keywords: Alternative Dispute Resolution, Arbitration, Adjudicative Jurisdiction

Alternative Dispute Resolution

The alternative dispute resolution is meant the method to halt several conflicts cases adopted to attribute the option for breach of natural justice party except ordinary normal adjudication, jurisdiction, criminal trial in objective with lawsuit sentence judgment. The dispute party has been spent legal less expends and collaborative satisfied appropriately. Simultaneously, amount of cases is pleading witness lessen to be jurisdiction adjudicate criminal action procedure efficiently. This jurisdiction method is such as negotiation, bargaining, mediation and arbitration; nevertheless, Thai legislative civil action is cordially to be alternative dispute resolution as to (1) dispute negotiation (2) arbitration measurement.

Advantage Utility of Negotiations

(1) The mediation negotiation is similar to bargaining formally on simple step, none complexity, compared with dispute offering to arbitration or prosecution on jurisdiction court.

(2) You could use the service on negotiation without any expends.

(3) You could detriment contribution the result of mediation due toward party's satisfaction to halt problem with any mutual conditions from consent's party. The mediation agent is a person to encourage the smooth atmosphere so as to be effective agreement, conversation dialogue and compromise amidst dispute parties.

(4) The negotiation measurement could maintain fame and relationship both dispute parties on account of arbitration procedure confidentially. Differently, jurisdiction procedure must act openness; therefore, negotiation is finished to keep save fame and friendship relationship from 2 dispute parties.

Lawsuit and Dispute Cases to Negotiation

(1) General civil lawsuit

(2) Criminal lawsuit is a guilty to mediate between dispute parties such as obscenity action, contempt of freedom, exposure confidential secret, defamation, fraud, cheat, false imprisonment, asset injury, negligence, reputation injury, and invasion and so on.

(3) Criminal lawsuit is prosecuted by people themselves.

Regulations of Dispute Negotiation

(1) Dispute parties must volunteer and willing to mutual arbitration for 2 sides.

(2) Mediation and Arbitration must dialogue conversation framework politely without aggressive cruelty language.

(3) The negotiation abortion takes place with truth already conversation dialogues for commitment to dispute parties which is not referred the citation in jurisdiction adjudicate procedure on court.

(4) The court agreement is from compromise contract to consent 2 sides parties satisfaction.

(5) According to judgment lawsuit adjudication, the judge must scrutiny the compromise contract consent with the violation infringements to the rule of law.

What is Arbitration?

Arbitration is the alternative dispute resolution on civil lawsuit which dispute party agrees to halt cases totally or partially occur for future by arbitration. According to arbitration procedure, it opens to opportunity participation for dispute party express the motion order deposition & statement of case as to person witness or document evident to plead & prove by arbitration acknowledgement. The diagnosis jurisdiction discretion of dispute is from arbitration with document paper which is caused from arbitration on the legislative ground. The dispute

party, who must follow the rule, doesn't follow the rule from injunction sentence. Another party must prosecute to trial on court into administrative ground so as to act adjudicate jurisdiction enforcement from sentence decision. The adjudicate sentence on court which rectify & authorize toward diagnosis jurisdiction's arbitration at the most sentence. The dispute deputy party may not be appeal or petition to the Supreme Court except law determination for extraordinary case only.

Advantage Utility of Arbitration Measurement

- (1) Dispute procedure is halt conflict with flexibility and simple step.
- (2) Preservation is fame's dispute deputy party and business secret due to arbitration measurement confidentially; differently, judgment must act with openness to public society.
- (3) Dispute deputy party could select person who has knowledge, competency appropriately to judge the diagnosis sentence prosecution.
- (4) Dispute deputy party maybe agreement determination contribution consideration suitable & necessity to dispute occurrences so far. (Court of Justice Office, Department of Information and Public Relations, Criminal Court, 2019)

Experimental: Legal Instruments toward Changes and Risk Surrounding

This legal instrument will start with the research that examines the new global dynamic congruence environment and investigates whether the territory of public policy has changed in the new global ASEAN-EU setting. Neo-Liberalism economists use the rational expectation theory to describe and argue the financial dilemma and contention in order to generate public policy toward decentralization of economic growth, stability and sustainability for civil state. It will explore the challenges and concerns for monetary policy during this critical period when both risks to price stability and economic growth emerge almost side by side and it is possible that the effectiveness of monetary policy may have been eroded by the continual speed of globalization. Indeed, over the past couple of decades, the global financial market has gone through tremendous changes. One notable change is a rapid growth in the size and

number of types of financial instruments as seen by the growing pool of acronyms, such as ABS: Asset Backed Securities, MBS: Mortgage Backed Security, CDO: Collateralized Debt Obligation and CDS: Credit Default Swap. More importantly, the advent of some of these instruments allows investors to “slice and dice” risk exposure to cater for particular needs, but in doing so adds complexity to their evaluation and makes the structure even more opaque.³

Green Politic and Administration Thailand 4.0

The Thai Civil State, we want to be the five point plan, was the ultimate goal to be the most respected global quality of life & services and our shared responsibilities as follow:

Green Administration have a responsibility to our clients

–We must put our clients first, provide superior advice, products and services, and always acts with the highest level of integrity.

Green Administration have a responsibility to each other

–We must provide outstanding people the best opportunity to realize their potential. We must treat our teammates with respect, champion our remarkable diversity, share the responsibility for our successes, and accept accountability for our failure.

Green Administration have responsibility to our section

–We must put nation’s long-term interests ahead of each unit’s short-term gains, and provide superior results for our people. We must respect the local culture and take an active role in the communities where we work and live. We must honor those who came before us and extend our legacy for those who will come after us.

³ Poonpatpibul, Chaipat.2009. *Challenges for Monetary Policy in a Changing World*. Academic article of Bank of Thailand: Bangkok.

Results and Discussion: Five Point Plan for One Nation

I. Expanded Training

–We need to instill in our people and appreciation for our legacy, platform, opportunities, and Shared Responsibilities, and give them the tools to accomplish our goals.

II. Enhanced Focus on Talent & Development

–We need to deepen our commitment to building and developing our talent and help our people reach their potential.

III. Balanced Performance Appraisals

–We need to strengthen the performance appraisal process to consistently reinforce our Shared Responsibility–thereby maintaining yet balancing our numbers–oriented culture.

IV. Improved Communication

–We need to present a clear and consistently message of National Interest’s goal and Shared Responsibilities, celebrate our values and history, and better facilitate two–way communication.

V. Strengthened Controls

–We need to strengthen our independent controls and the control environment throughout the nation to support the economy in their efforts to grow responsibility, to minimize mistakes, and to ensure that when mistakes occur they are handles appropriately.

9. Conclusion: Resolution and Summary of Neo–Essential Adjudicative Jurisdiction

It’s widely asserted that Arbitration is the model for mediation organization toward imitation development of knowledge–based society and economy of Thailand as follow:

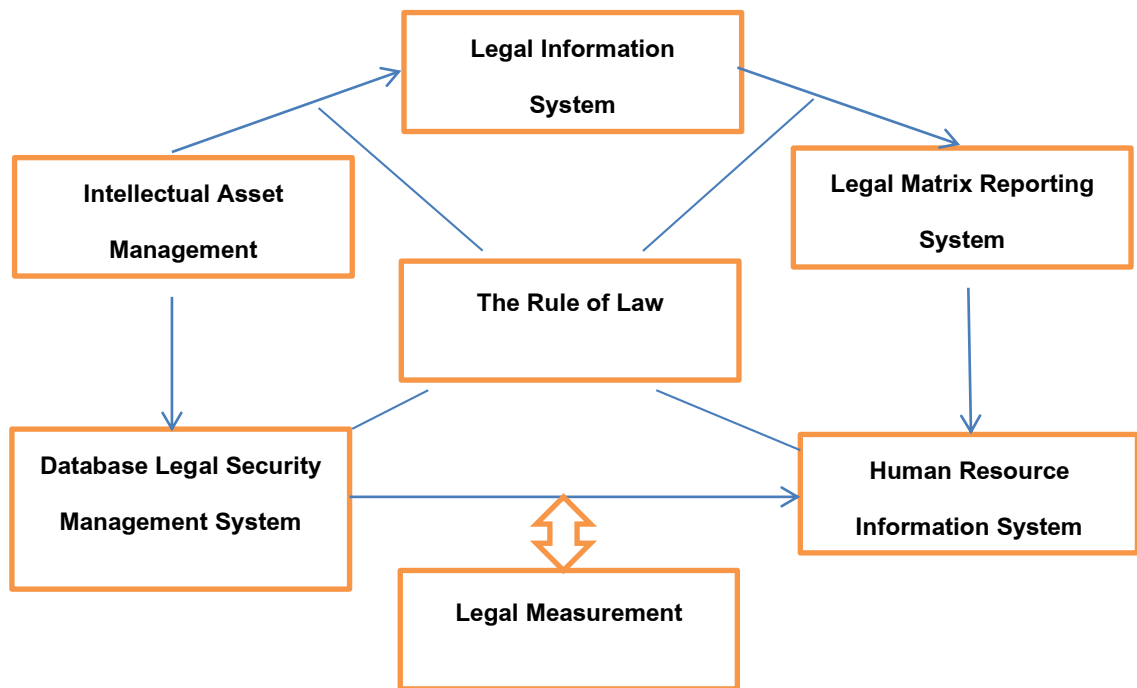


Figure1: Legal Arbitration toward Adjudicate Jurisdiction, concept's the author

In addition, knowledge-based society and economy was composed of PESEL model theory:

- (1) **P**roductivity is from efficiency management both of public and private sector.
- (2) **E**mpowerment is from the strengthening of people, government, economy and civil society.
- (3) **S**ustainability is from self-sufficiency economy and sustainable development.
- (4) **E**quity is from interdependent synergy and integration of all part directions.
- (5) **L**ocal Wisdom is from the ethic tradition and culture of symbiotic society with a view toward harmony agreement at the present. What's more, e-government is an example of information system especially internet usages to improve citizen service, economy, and the other public sectors effectively with good governance as follow (systematic theory):

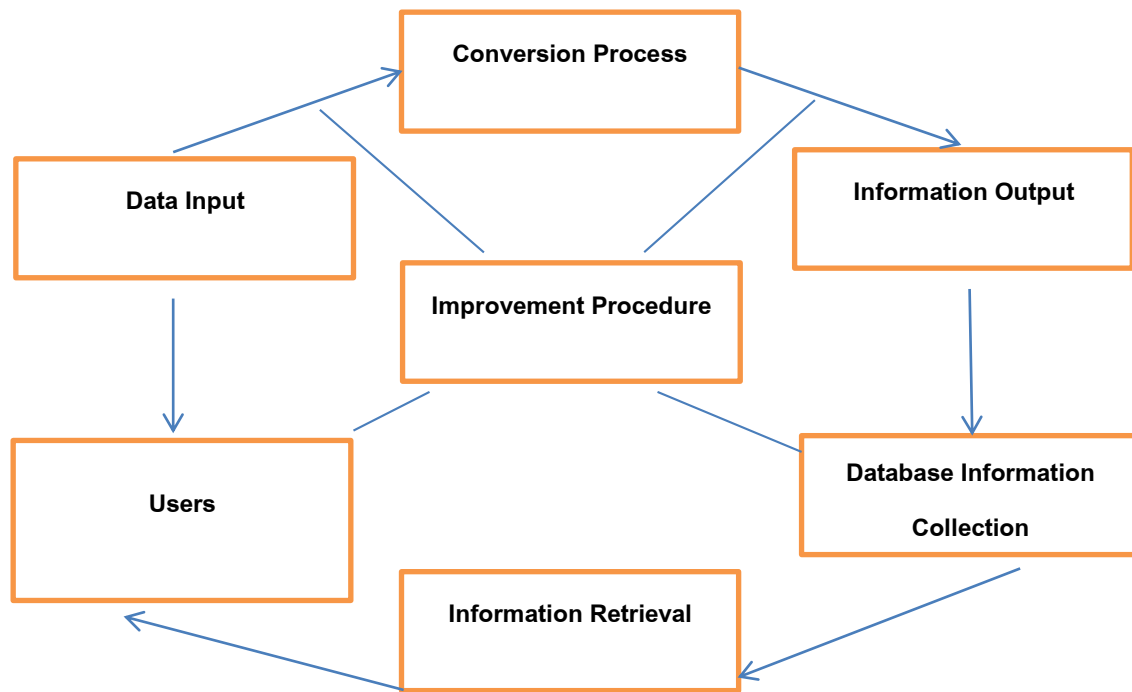


Figure 2: MIS for Information and Knowledge-based Society and Economy

Source: Management Information System: MIS definition from Jones & George (2003)

Acknowledgement: Paradigms of Arbitration Measurement in Thai Society

To keep abreast of arbitration paradigm, it is very crucial for policymakers with common challenges to put greater efforts in having a clear and in-depth understanding of one another's policy and best practices. This will, in the other word, help raise the comfort level and can usefully avoid potential policy misstep and create policy synergies that eventually foster confidence of investors. This is the kind of trust that no amount of legal text, conditions precedent, or covenants can match, but is developed through the friendship and goodwill among of friends within region. Thai society in Asia can learn in trend to possess better understanding and coordination, and therefore, policies and initiatives at the both inward-looking and forward-looking level can be more effective and timely.

To conclude, it is consequently that coordination and dialogue cooperation among pluralistic society be further strengthened to ensure that prompt remedial actions can be put in place in light of the ongoing global financial crisis both macro-economic and micro-economy. According to the neo-liberalism school's Keynesian, I hope to remind everyone that the present situation calls for the need to greater harmony cooperation, which requires concerted efforts by civil society, legitimacy institution, civic government and citizen partnership, in combating and encountering the global financial crisis. Financial Engineering Governance must be coherent with national policy and implication hand-in-hand with systematic framework. The impact of crisis nowadays and the effect of unwinding of measures taken would not be a zero-sum game, and all players could potentially lose. Thus, going forward, finding the right balance and creating ties between these four pillar, namely citizen, society, economy and nation-state interests, will be considerable task for national authorities so as to achieve the ultimate objective of the rule of law governance at large among the context of risk and change volatile global environment.

Suggestions and Recommendations

(1) The application of arbitration devices is useful and successful in terms of practices and expectation by means of the cooperation between jurisdiction court and other legal institutions holistically.

(2) The implementation of social safety nets and innovation is utilities for macroeconomic system in accordance of stability; therefore, the framework of sustainable development is accumulated with civil society strong for instance the formulation of drug addict suppression, human trafficking prevention and protection, one Tambon one dream school for children, the employment guarantee for career officers and pension for officials and so on.

(3) The operation of public policy appraisal and assessment has been expanded various policy makers and coordinators in light of change agent and the orientation of interdisciplinary approach by means of the mutual resolution of citizen center paradigm and concrete outcomes.

(4) The Emphasis of BSC: Balanced Scorecard feedback is an analysis and performance assessment in financial institutions and private sectors in which is the concept's Robert Kaplan and David Norton with a view toward financial engineering governance paradigm 3 pillars:

- Reserve Requirements maintain
- Open Market Operations: OMOs Implementation
- Standing Facilities Practices

(5) The appraisal of financial devices is mixed and synergized with monetary policy formulation and strategic management planning on account of the integration of SWOT: Strength, Weakness, Opportunities, and Threat analysis and matrix throughout executive decision making effectiveness and efficiency.

(6) Bank of Thailand is cooperated with the paradigm of MBO: Management by Objective and MBA: Management by Activity.

- Reporting
- Inspecting
- Monitoring
- Follow-up
- Evaluation

(7) The ultimate evaluation is composed of progress and achievement in accordance of goals and targets for information system decision consideration.

(8) The resolution consensus is the material of good governance and ethics/problem based approach by public choice theory and rational expectation theory; consequently, it will be solve and get rid of defect or illness and foster the guidance of systematic mapping in advance.

(9) The Management Information System: MIS is a key to success for decision making of finance; in the other word, it's called Evaluation MIS online and real time in order to solve and lessen resources and economic factors for economic system.

(10) PART: Performance Assessment Rating Tools is one of the devices to be procedure and processed for tactic management.

(11) The discipline of moral and integrity is embedded into managing governance and the paradigm of RBMS: Result Based Management System for holistic way covering HRM: Human Resource Management for grass root economy, civil state, household community and investment sectors for long-term Knowledge-Based Economy.

References

- Assael, Henry. *Consumer Behavior and Marketing Action*. 6th ed. Ohio: South-Western college.1998.
- Bailey, Bruce Crawford. *The Risk of Store Brand Grocery Product: Effects of Usage Occasion and Serving Method on Risk Perception and Brand Choice*. Doctoral dissertation, State University of New York at Buffalo.1999.
- Boone, Louis E.Kurtz, David L. *Competency Marketing*. Ohio: South Western/Thomson Learning.2002.
- Cronbach, L.J. *Education Psychology*.2nd ed. New York: Harcourt, Brace and Company.1963.
- Dale, Ernest. *Management: Theory and Practices*. New York: McGraw-Hill.1972.
- Engel, Jame F. and others. *Consumer Behavior*.8th ed. New York: The Dryden Press.1995.
- Flippo, Edwin B. *Management: A Behavioral Approach*. New York: McGraw-Hill.1970.
- Hanna, Nessim. And Wozniak, Richard. *Consumer Behavior: an Applied Approach*. New Jersey: Prentice Hall.2001.
- Intosh, Mc R.W. *Tourism Principles, Practices, Philosophers*.7th ed. New York: John Wiley and Son.1995.
- Jerome, Mc Carthy E. and Perreault, Jr. William D. *Essentials of Marketing*. Illinois: Irwin.1985.
- Kast, Fremont E. and Rosenzweig. James E. *Organization and Management*. New York: McGraw-Hill.1974.
- Lamp, Charles W. and others. *Principles of Marketing*. Ohio: South-Western.1992.
- Robbins, Stephen P.*Management*.4th ed. New Jersey: Prentice-hall, Inc.1984.

Schiffman, Leon G. and Leslie Lazar Kanuk. *Consumer behavior*. 5th ed. New Jersey: Prentice-Hall. 1994.

Schleh, Edward C. *Management by Result*. New York: McGraw-Hill. 1961.