

# The Development of a Causal Relationship Model in Alternative Dispute Resolution by Means of Mediation in Provincial Courts

Suchanoot Phantaneeyaa, Siriporn Yamnill<sup>a,b</sup>, Faculty of Social Sciences and Humanities Mahidol University, 999 Phuttamonthon 4 Road, Salaya, Nakhon Pathom, Email: [suchanoot.ph@gmail.com](mailto:suchanoot.ph@gmail.com),  
[siriporn.yam@mahidol.ac.th](mailto:siriporn.yam@mahidol.ac.th)

This study aims to examine the consistency of a constructed causal relationship hypothesis model and the empirical data of the factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts. The research collected questionnaire data from 230 personnel from a total 114 mediation and compromise units nationwide. The hypothesis model was constructed by synthesising of concepts, theories, academic papers, and related research then confirmed by in-depth interview method with experts. Findings revealed that a causal relationship hypothesis model fit the empirical data. Mediation success of model were; direct positive affected by disputant characteristics, mediator qualifications and disposition of implementers, respectively. Meanwhile, mediation success was direct negative affected by mediation process. Mediation success was also indirectly affected via disposition of implementers, including policy objectives, resources, and characteristics of the chief judge of the statistical significance .01. The variables in the model could explain the variation of mediation success 54% ( $R^2 = .540$ ). Disposition of Implementers had the variation 24% due to various variables ( $R^2 = .240$ ). Therefore, the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts should focus mainly on the Disputant Characteristics factor.

**Keywords:** *Thailand, Courts, Alternative dispute resolution (ADR), Mediation, Policy implementation.*



## Introduction

The Court of Justice is the major institution for creating justice for the people whose goal is to settle disputes with convenience, speed, and fairness. The Judiciary also has the power to formulate public policy in the form of laws, as legislative and the executive branch. In other words, the judiciary's judgment can be considered in two approaches: the first approach is considering under the Civil Law, which is not the origin of the law because of a legal interpretation. Meanwhile, the second approach is considering common law, as the source of law due to it was moderated by the verdict of the court. Regarding Thai law, although the law is in accordance with the Civil Law, the court's practice is currently considered a policy, including rules, regulations, which have the same characteristics as administrative regulations. The regulations determined by the court perform as guidelines for the court and office of the court, such as bail, or the request for release of the accused during an investigation, or the temporary release of the defendant during a court hearing, according to the Judicial Regulation on the Guideline of provisional release B.E.2545 (2002), including dispute resolution according to the Regulation of the president of the supreme court on mediation B.E. 2554 (2011) and the 2nd edition B.E. 2560 (2017) etc. (Yavaprabhas, S., & Whangmahaporn, P., 2012: 133-134).

In the past, the Court of Justice has faced trial issues due to the inappropriate proportion of the amount of cases that have filed with the court compared to the number of judges and court officials (Office of the judiciary, 2018: 104). Moreover, as for the promulgation of the Act promulgating The Law for the Organisation of Courts of Justice B.E. 2543 (2000), which is still in force today, this act was enacted to support the provisions of Constitution of the Kingdom of Thailand B.E. 2540 (1997), Section 236, stating that "The hearing of a case requires a full quorum of judges. Any judge not sitting at the hearing of a case shall not give judgement or a decision of such case, except for the case of force majeure or any other unavoidable necessity as provided by law" (Office of the Council of State, 1997). For this reason, the court must take more time trying to adjudicate the case than it has ever done. Therefore, as a solution to the problem, the government has determined alternative justice as a national justice policy. Government agencies responsible for policy implementation on alternative dispute resolution included Ministry of Interior, Royal Thai Police, Ministry of Justice, Office of the Attorney General and Office of the Judiciary (Sakchaipanitkul, Y., 2013: 5). For this reason, the Office of the Judiciary has a policy that courts around the country must have a system for mediation, along with the trial as an alternative for the people to resolve disputes on their own with a conciliator as a mediator to negotiate and find a mutual solution.

However, from the implementation of the mediation system in the Court of Justice, it has shown the data in the past eight years from 2011 to 2018, the proportion of cases that have



been successfully processed in the cases of mediation in civil cases, consumer cases, environmental cases and the criminal cases of Provincial Courts and Municipal Court in regions one-nine, appear as follows: 69.32% in 2011, 71.01% in 2012, 70.49% in 2013, 73.33% in 2014, 78.80% in 2015, 84.76% in 2016, 74.91% in 2017, and 84.30% in 2018 (Office of the judiciary, 2018: 104). It can be seen that dispute resolution has a discontinuous proportion of success, which may increase and decrease next year; not much different from the previous year. That means there are 70% or more success levels every year. This shows that mediation is successful at some level, but there may be some factors that need to be considered and improved in order to continue to increase further success for the purpose of alleviating the burden of court cases, reducing government and public expenses, and good relations of parties in a lawsuit. From research studies related to mediation success, it is found that there are many factors affecting mediation success, such as clarity of the rules and regulations in the policy, the adequacy of resources to support the policy, the executives' role in the development, personal qualities of the mediator, the willingness of the parties, the accurate and complete mediation process according to the standards, including the attitudes of implementers, etc (Kasetsart University, 2006; Hazelkorn, M., & Packard, A. L., 2008; Namloma, W., 2006; Nooruang-ngam, P., 2013; Pearson, J., & Thoennes, N., 1984; Fiadjoe, A., 2006; Mohamed, Ashgar Ali Bin Ali, 2008; Chittamma, A., 2008).

Therefore, in order to continuously increase the Court of Justice mediation, the researcher is interested in study on “the development of a causal relationship model of factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts” by studying only Provincial Courts, the court of first dispute resolution process for implementing the process of mediation to reduce the number of cases. Each Provincial Court also has the Mediation and Compromise Unit for their primary mission of promoting and developing alternative dispute resolution systems through mediation to provide alternative justice for the people (Regulation of the president of the supreme court on mediation B.E. 2554 (2011)). This research will benefit the development of success in the policy on alternative dispute resolution by means of mediation in provincial courts at a higher level.

### **Research Objectives**

To examine the consistency of a constructed causal relationship model of factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts and the empirical data.

## Research Hypothesis

- (1) A causal relationship model of factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts fits the empirical data.
- (2) Disposition of Implementers, Mediator Qualifications, Disputant Characteristics, and Mediation Process has direct effects on success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts.
- (3) Policy Objectives, Resources, and Characteristics of the Chief Judge have indirect effects on success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts via Disposition of Implementers.

## Synthesising Factors Affecting the Success in Implementing the Policy on Alternative Dispute Resolution by Means of Mediation in Provincial Courts

### *Factors Affecting the Mediation Success*

The literature review based on theories and relevant research on the factors affecting the mediation success required two steps. With regard to the first step, a synthesis of the variable regarding the policy implementation model based on concepts by six academics widely accepted and referenced. These academics included Van Meter & Van Horn (1975), Gorge (1980), Hambleton (1983), Sabatier & Mazmanian (1980), Cheema & Rondinelli (1980), and Alexander (1985). Further, four latent variables were selected from all variables since they revealed at least 80 percent of fitting opinions among the six academics. The four latent variables included the following.

- ***Policy Objectives (OBJ)*** consisted of three observed variables: (1) the existence of laws, rules, regulations, orders, manuals or other documents as guidelines or standards on the mediation process, (2) the clarity of policy objectives, and (3) the clarification of performance standards or performance evaluation.
- ***Resources (RES)*** consisted of four observed variables: (1) the adequacy of the budget, (2) the adequacy and quality of materials, equipment and mediation rooms, (3) the amount and quality of implementers, and (4) the proper working hours of the implementers.
- ***Characteristics of the Chief Judge (CHI)*** consisted of two observed variables: (1) the mediation development by the Chief Judge of the Provincial Courts and (2) the follow-up and solution of mediation problems by the Chief Judge of the Provincial Courts.
- ***Disposition of Implementers (IMP)*** consisted of three observed variables: (1) the collaboration of the implementers to perform their duties, (2) the knowledge and understanding of the policies, (3) the attitude of policy acceptance. However, the conceptual models of Van Meter & Van Horn (1975) and Gorge (1980) similarly speak of the disposition of the implementer variable in that it will be influenced by other factors. In other words,

according to Van Meter & Van Horn, the policy standards and objectives, policy resources, inter-organisational communication and enforcement activities, characteristics of the implementing agencies as well as economic, social and political conditions all influence the implementers' disposition, while the communication, bureaucratic structure and resources influence the implementers' disposition based on the Gorge' model. For this reason, the Disposition of Implementers (IMP) variable was the mediator variable in this research.

In connection with the second step, the specific factors of mediation affecting the mediation success were identified from the concepts, theories, academic papers, and related research. Three latent variables were as follows.

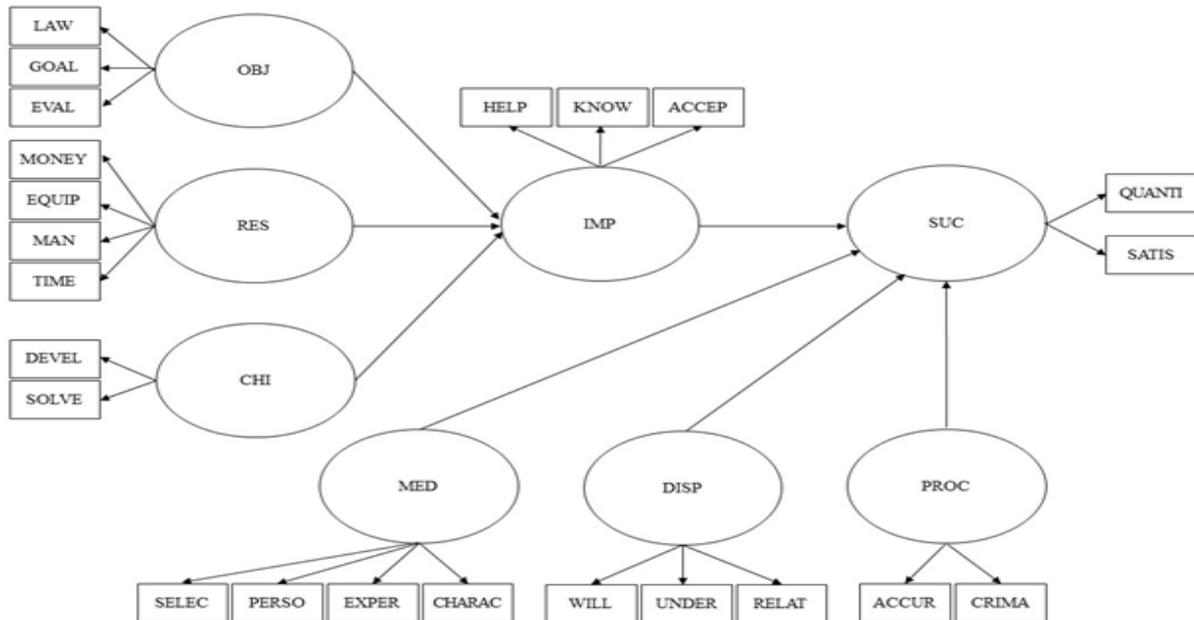
- **Mediator Qualifications (MED)** (Sakchaipanitkul, 2013; Hazelkon & Packard, 2008; Kasetsart University, 2006) consisted of four observed variables: (1) the selection method of the mediator, (2) the seniority and qualifications of the mediator, (3) the knowledge and experience in mediation, and (4) the personality of the mediator.
- **Disputant Characteristics (DISP)** (Pearson & Thoennes, 1989; Namloma, 2006; Nooruang-ngam, 2013) consisted of three observed variables: (1) the willingness of disputants to enter the mediation process, (2) the knowledge and experience in mediation, and (3) related persons.
- **Mediation Process (PROC)** (Chittamma, 2008; Namloma, 2006) consisted of two observed variables: (1) the accuracy and completeness of the mediation process, and (2) the enhancement of the mediation atmosphere.

### **Mediation Success**

- **Mediation Success (SUC)** was the dependent variable in this study. A review of the research literature was conducted in this study. Two observed variables were identified. The first variable was “**Customer Satisfaction**”, which could be obtained from: (1) the customers' satisfaction of the Mediation and Compromise Unit's services, process, mediation results, and the mediators, (2) the disputants' satisfaction of the cost and time minimising ability, and (3) the disputants' satisfaction of their relationship after mediation (Office of The Judiciary, 2016; Kasetsart University, 2006; Ware, 2007; Emery, Sbarra, and Grover, 2005; Chaisamran et al., 2011; Pearson & Thoennes, 1984; Mandell & Marshall, 2002). The second variable was “**Case Quantity**”, which could be obtained from: (1) the proportion of mediation cases to all cases in courts, (2) the proportion of mediation success cases to all cases in the mediation process, (3) the proportion of cases that followed the results of mediation to the mediation success cases; and (4) the proportion of waiting cases to the cases in the Provincial Courts (Office of The Judiciary, 2016; Kasetsart University, 2006).

All factors were confirmed by experts who were the Head of the Mediation and Compromise Unit and also received the national outstanding mediation award. The hypothesis model was synthesised from the interview results and confirmed by experts. The synthesised hypothesis model is shown in Figure 1.

**Figure 1.** *The Hypothesis Model of Factors Affecting the Success in Implementing the Policy on Alternative Dispute Resolution by Means of Mediation in Provincial Courts.*



## Methodology

To examine the consistency of a constructed causal relationship model of factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts and the empirical data, the questionnaire that was designed according to the hypothesis model was used as an instrument of the examination. The questionnaire was approved by the Committee for Research Ethics (Social Sciences) of Mahidol University, Thailand. To determine its reliability, the questionnaire was analysed using Cronbach Alpha-Coefficient. According to the analysis, the “Factors affecting the mediation success” section that contains 67 items revealed the alpha coefficient ( $\alpha$ ) value of 0.956, and the “mediation success” section that contains 11 items revealed the alpha coefficient ( $\alpha$ ) value of 0.838 respectively, both of which are greater than 0.70 and are thus acceptable for use in data collection (Hair et al., 2006).

### ***Population and Samples***

The population of this research consisted of 353 officials working in the Mediation and Compromise Unit in the Provincial Courts. The sample size was approximately 10-20 times per each observed variable and determined by using Structural Equation Modelling (Hair, et al., 1998; Schumaker & Lomax, 2010). The structural equation model analysis in this study was composed of 14 observed variables, and as a result, the sample size should include between 140 and 280 individuals. Meanwhile, the samples from 114 offices of the Mediation and Compromise Unit in the Provincial Courts were randomly sampled nationwide with the same proportion, altogether resulting in the total sample size of 230 officials.

### ***Data Collection***

This research received permission to collect data from the Secretary-General of the Office of the Judiciary according to the Ref. No. 025/46483. Copies of the questionnaire were mailed to the Mediation and Compromise Unit, together with an empty envelope for the sample group to return an answered questionnaire to the researcher.

### ***Data Analysis***

The consistency of the constructed causal relationship model with the empirical data collected from the sample was examined by using a software program to present the results of the analysis of the causal relationship model with empirical data. The researcher adjusted the model from the statistic values obtained from the analysis to get the model fit to the empirical data the most.

## **Results and Discussion**

The results and discussion of this research are divided into two parts. The first part includes the personal characteristics of the sample group, the second part includes the fitting results of the factors affecting the mediation success of the hypothesised model and empirical data.

### ***The Personal Characteristics of the Sample Group***

From **Table 1**, the sample group consists of more men than women, accounting for 50.4 percent of the total population. Most samples are between 31 and 40 (47.8%), followed by those aged between 41 and 50 (35.7%), 51 and 60 years old (9.1%), and less than 31 (7.4%) respectively. With regard to their educational background, most completed the undergraduate level (69.1%), followed by those with a Master's degree (29.1%) and those completing an educational program lower than the undergraduate level (1.8%) respectively. Of all the

samples, most graduated with a law degree from a university and also completed courses at the Institute of Legal Education of the Thai Bar Association (43.5%), followed by those with a law degree alone (28.3%), those with a law degree who are currently studying at the Institute of Legal Education of the Thai Bar Association (21.3%), those without a law degree (5.2%), and those without a law degree who are currently collecting law courses (1.7%) respectively. As for their status at the Mediation and Compromise Unit, most of them are officials (56.1%), followed by those holding the Head position (37.8%) and those who are employees (6.1%) respectively.

**Table 1:** *Number and Percentage of Basic Information of Samples (n=230)*

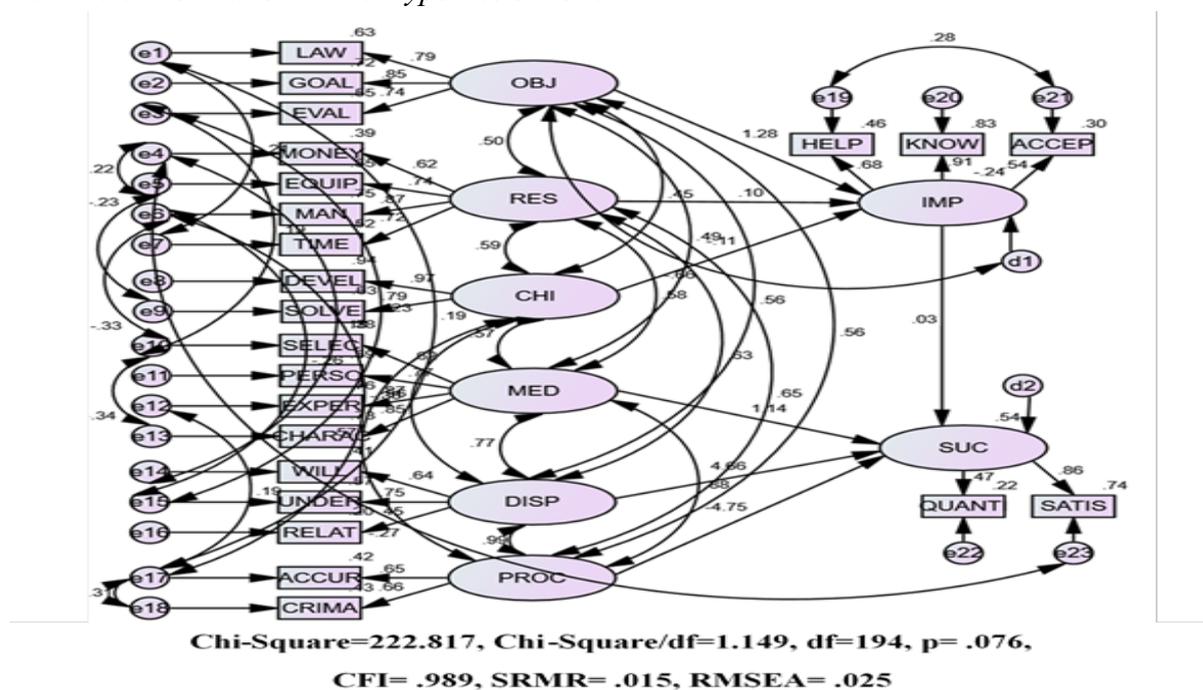
<b>Basic Information</b>	<b>Number (People)</b>	<b>Percent (%)</b>
<b>Gender</b>		
Male	116	50.4
Female	114	49.6
<b>Age</b>		
Less than 31 years old	17	7.4
31-40 years old	110	47.8
41-50 years old	82	35.7
51-60 years old	21	9.1
<b>Education Level</b>		
Bachelor's degree	159	69.1
Master's degree	67	29.1
Other levels (under bachelor's degree)	4	1.8
<b>Education in the specialised field</b>		
Graduated in law and the Institute of Legal Education of the Thai Bar	100	43.5
Graduated in law and currently studying at the Institute of Legal Education of the Thai Bar	49	21.3
Graduated in law	65	28.3
Did not graduate in law, but currently studying more in law	4	1.7
Did not graduated in law but graduated in other studies	12	5.2
<b>Status in the dispute resolution section</b>		
Head of section	87	37.8
Personnel of section	129	56.1
Employee	14	6.1

**The Fitting Results of the Factors Affecting the Mediation Success of the Hypothesised Model and Empirical Data**

The researcher conducted a hierarchical analysis as follows:

**Parameter Estimation and the Consistency Examination between the Hypothesis Model and the Empirical Data**

**Figure 2.** Shows the Coefficient of Effect Between the Variables Obtained from the Parameter Estimation in the Hypothesis Model



According to **Figure 2**, the consistency examination between the hypothesis model and the empirical data reveals that the chi-square ( $\chi^2$ ) = 222.817, degree of freedom (df) = 194, and p-value (p) = 0.076. That is not significantly different from zero ( $p > 0.05$ ), showing the acceptance of the main hypothesis that a causal relationship model of factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts fits the empirical data. Meanwhile, the results show the Comparative Fit Index (CFI) = 0.989, Root Mean Square Error of Approximation (RMSEA) = 0.025, and Standardised Root Mean Square Residual (SRMR) = 0.015. Therefore, by examining the indices consistent of hypothesis model and empirical data with various criteria, it can be concluded that the model fits the empirical data. The summarised data is shown in **Table 2**.

**Table 2:** *The Results of the Indices Consistent of Hypothesis Model and Empirical Data*

The Fit Indices	Criteria	Results	Result from the consideration
x <sup>2</sup> -test df p	P > 0.05	222.817 194 0.076	Meets the criteria
x <sup>2</sup> /df	< 2.00	1.149	Meets the criteria
CFI (Comparative Fit Index)	≥ 0.95	0.989	Meets the criteria
RMSEA (Root Mean Square Error of Approximation)	< 0.05	0.025	Meets the criteria
SRMR (Standardised Root Mean Square Residual)	< 0.05	0.015	Meets the criteria

### *Analysis of Causal Effect between Variables*

The results were conducted from estimating the coefficient of causal effects to analyse separately to consider the direct effect (DE), indirect effect (IE), and total effect (TE) as shown in **Table 3**, that revealed the variables in the hypothesis model fit the empirical data, which has causal effects to each other with the statistical significance level 0.01.

**Table 3:** *The Result of Analysis Conducted on the Direct Effect, Indirect Effect and Total Effect in the Structural Equation Model*

Independent Variable	Dependent Variable					
	IMP			SUC		
	TE	IE	DE	TE	IE	DE
OBJ	1.280	-	1.280	.032	.032	-
RES	.095	-	.095	.002	.002	-
CHI	-.112	-	-.112	-.003	-.003	-
IMP	-	-	-	.025	-	.025
MED	-	-	-	1.145	-	1.145
DISP	-	-	-	4.657	-	4.657
PROC	-	-	-	-4.748	-	-4.748
R-SQUARE	IMP	.240				
	SUC	.540				

**Remark:** 1.  $p < 0.01$  and  $|t| > 1.96$  indicates  $p < 0.05$ , and  $|t| > 2.58$  indicates  $p < 0.01$

2. DE = Direct effect, IE = Indirect effect, TE = Total effect

3. The values in parentheses ( ) = Standard errors

4. OBJ = Policy Objectives, RES= Resources, CHI = Characteristics of the Chief

### Judge

IMP = Disposition of Implementers, MED = Mediator Qualifications,  
DISP = Disputant Characteristics, PROC = Mediation Process, SUC = Mediation  
Success

### *The Direct Effect*

The findings of the research discovered that the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts is directly affected by IMP, MED, DISP and PROC, for which the approximate impact is 0.025, 1.145, 4.657 and -4.748 respectively. The influence of all variables is statistically significant at the 0.01 level that is in accordance with the hypothesis. ***The Disposition of Implementers (IMP)*** has a direct effect on the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts which is in accordance with the hypothesis. If the personnel of the Mediation and Compromise Unit have a positive attitude to the policy; based on the collaboration of the implementers to perform their duties, with the knowledge and understanding of the policies and a high level of attitude of policy acceptance, this will affect the high-level success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts. This conforms to Gorge, C. E. (1980), explaining that the policy acceptance of policy leaders was vital, due to the practitioners being able to use their discretions to do or do not do anything properly by considering both the personal benefits and the public benefits. This conformed to Hambleton, R. (1983) and Sabatier, P., & Mazmanian, D. D. (1980) in a model of “A conceptual Framework of The Implementation Process” and Cheema, D., & Rondinelli, A. (1980) in a model of “Model of Decentralisation Program Implementation Process” as well. ***The Mediator Qualifications (MED)*** has a direct effect on the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts which is in accordance with the hypothesis. This is due to the issue of Mediator Qualifications for this research being based on the selection method of the mediator, the seniority and qualifications of the mediator, the knowledge and experience in mediation, as well as the personality of the mediator. From the research, it can be explained that if the provincial court selects the appropriate conciliator, with the appropriate age and qualifications, this will affect the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts, as well as the level of experience and characteristics of the personality of the mediator. This conforms to Sakchaipanitkul, Y. (2013), who studied the policy implementation on the alternative dispute resolution of the Thai Attorney General's Office and found that understanding of methods, procedures, skills, expertise, neutrality, and the personality of the mediator would affect the success of implementing dispute resolution methods. ***The Disputant Characteristics (DISP)*** has a direct effect on the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts, which is in accordance with the hypothesis. This is due to the

parties who are voluntary entering the mediation process, as well as having the knowledge and experience in mediation, and the related persons, such as relatives, the lawyer of the party supporting the process of mediation of disputes at a high level, will increase the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts. This is consistent with Pearson, J., & Thoennes, N. (1989) who conducted the research on the divorce cases and found that coercion for the parties to negotiate without both sides being willing may lead to failure to mediate to end the case. Also, the interview with the experts gives the same reason that the success of mediation depends on many factors. One of the most important aspects is the nature of the parties that must be voluntary or consent to mediation, as well as an understanding of the benefits of mediation. As a result, the staffs of the mediation and compromise unit are considerable in providing knowledge and understanding about the mediation process in order to communicate to the partner what they will receive from the mediation, including relatives and lawyers who provide advice to support parties in the mediation process (Limparangsri, S., 2007). ***The Mediation Process (PROC)*** has a negative direct effect on the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts, due to the mediation process as mainly focused on the accuracy of the mediation process. Despite creating a good atmosphere for mediation, it may not benefit the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts. The interview of the experts providing the corresponding reason of mediation proceedings in court reveals the necessity to comply with the mediation standards specified in the mediation manual, prepared by the Office of Judicial Promotion to meet standards by a uniform practice. However, in practice, experts explain that a mediation atmosphere may be more successful than a strict process.

### ***The Indirect Effect***

SUC, the variable in the last order of the model, finds the indirect effect from OBJ, RES, and CHI which the approximate impact is 0.032, 0.002 and -0.003 respectively. The influence of all variables is statistically significant at the 0.01 level via IMP. The influence of various variables in the model can explain the variation of SUC by 54 percent ( $R^2 = .540$ ). Meanwhile, IMP has a variation due to the various variables by 24 percent ( $R^2 = .240$ ). ***The Policy Objectives (OBJ)*** have an indirect effect on the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts via IMP, which is consistent with the assumptions. As for the implementation of the policy on dispute resolution in the provincial court, the laws, rules, regulations, orders, manuals or other documents specifying the guidelines and the standards of the dispute resolution, including policy objectives and the clarification of performance standards or performance evaluation will cause the better policy implementation. As a result, personnel can perform tasks more easily based on the rules and guidelines for operation. This is in the same direction as the in-depth interview that the clarity of policy objectives is very essential. The exceeded writing

purposes may cause problems in interpretation and confusion in practice. In this regard, it is in accordance with Van Meter, D. S., & Van Horn, C. E. (1975), who illustrated that if the ambiguous and conflicting objectives and policy standards would lead to trouble with measuring and implementing policy. Meanwhile, Hambleton, R. (1983) and Cheema, D., & Rondinelli, A. (1980) explained in the same direction that the policy communication must be clearly defined with accurate indicators without confusing meaning. ***The Resources (RES)*** have an indirect effect on the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts via IMP, which is consistent with the assumptions. As for the Mediation and Compromise Unit of the province performing by the adequacy of the budget, the adequacy and quality of materials, equipment and mediation rooms as well as the amount and quality of implementers, and the proper working hours of the implementers will affect the disposition of implementers according to the policy, which becomes a mediator variable leading to the Mediation Success. This conforms to the expert interview results, which showed that adequate budget is considered very important in the operation, because it will enforce the work. Besides, the number of office materials is also crucial, due to the usability for attorney services or parties. In addition, as for the research on dispute resolution in the country, it is found that Sakchaipanitkul, Y. (2013) and Kasetsart University (2006) utilised the variable of resources in the research and concluded that this variable influenced the success of all mediation disputes. ***The Characteristics of the Chief Judge (CHI)*** have an indirect effect on the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts via IMP by negative influence. This finding is consistent with experts who have explained that the court executives are very important for the Mediation and Compromise Unit. If the executives give precedence and dedication to the mediation centre by giving questions and solutions to obstacles; especially coordination with other departments, this point will greatly benefit the work of personnel in the mediation center. However, Characteristics of the Chief Judge should be in the appropriate range, by providing an opportunity for the practitioner to give guidance on how to work, and designing work methods that are appropriate for each person's behaviour. If the executives limit the approach too much, it may result in high negative effects on the disposition of implementers. In this viewpoint, Van Meter, D. S., & Van Horn, C. E. (1975) illustrated that the success of the policy implementation also resulted from the nature of the department that implemented the policy. One of them was the encouragement from the executives. The executives must be people with appropriate qualifications, leadership skills in planning, development and work improvement. This point is the same as the concept of Sabatier, P., & Mazmanian, D. D. (1980) and Cheema, D., & Rondinelli, A. (1980).

However, OBJ, RES and CHI are just indirect factors affecting the SUC via the IMP, because they are analysed or interpreted by the practitioner. As Van Meter, D. S., & Van Horn, C. E. (1975) explained, Policy Standards and Objectives, Policy Resources, and Inter-Organisational Communication and Enforcement Activities were always scrutinised by

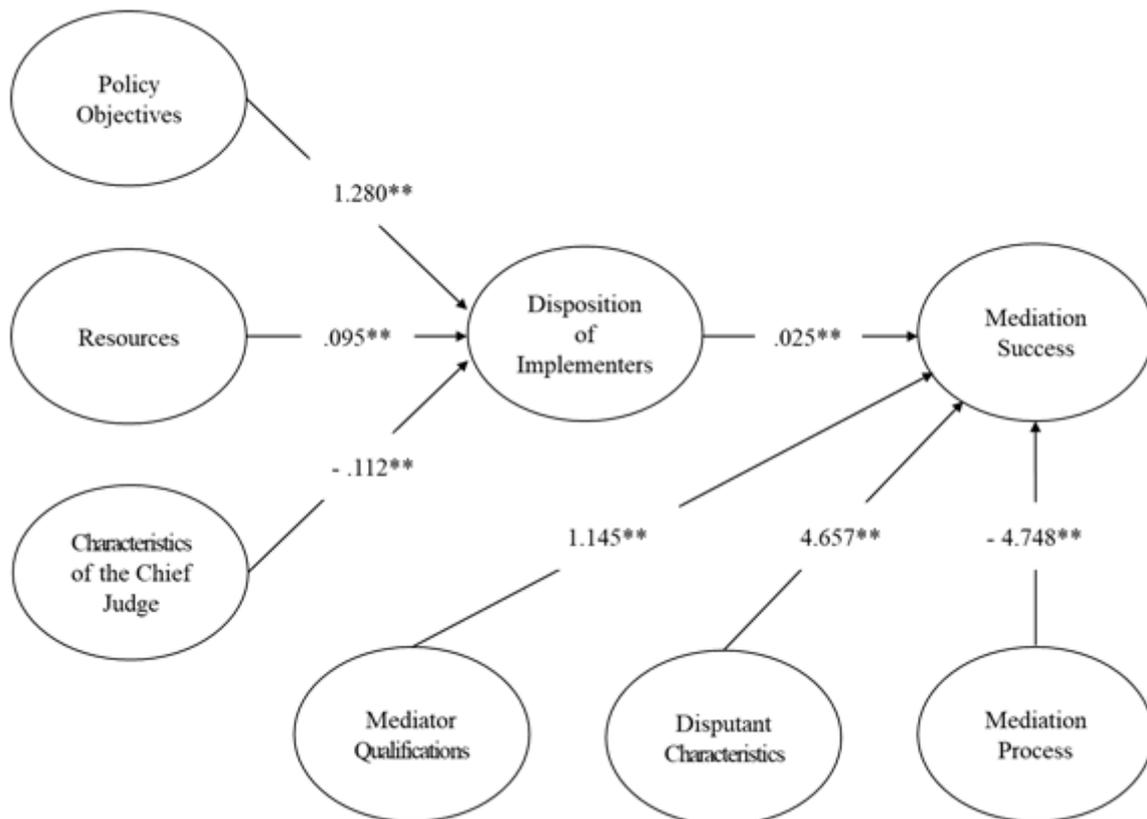
sentiment of the practitioner before responding to the policy. Meanwhile, a model of Gorge, C. E. (1980) explained that the disposition of implementers or policy leaders, policy acceptance of policy leaders is necessary. This is because practitioners can use their discretion to do or do not do anything by considering both their own benefits and the public benefits. Nevertheless, he viewed that the disposition of implementers would be influenced by policy objectives, in which the practitioner considered how the policy affected the interests of the organisation and personnel. In this regard, it is consistent with the results of this research that found IMP performing as a mediator variable of other variables affecting the success of the dispute mediation in the provincial court.

### **Conclusion and Recommendations**

The examination result shows the acceptance of the hypothesis model that a causal relationship model of factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts fits the empirical data. The influence of the variables in the model can explain the variation of SUC by 54 percent ( $R^2 = .540$ ). While the Disposition of IMP variables have fluctuations due to the different variables 24 percent ( $R^2 = .240$ ).

It is found that SUC is directly and positively affected by DISP the most, followed by MED and IMP respectively. However, the PROC has a direct negative effect on Mediation Success. Meanwhile, considering direct and indirect effect on IMP, it is found that this variable is affected positively by OBJ the most and RES respectively without being indirectly affected by any variables. In addition, CHI has a direct negative effect. Moreover, OBJ, RES and CHI are just indirect factors affecting the SUC via the IMP. Therefore, the results of the consistency examination of the developed causal relationship model of factors affecting the success in implementing the policy on alternative dispute resolution by means of mediation in provincial courts with empirical data can be summarised by **Figure 3**.

**Figure 3.** *The Mediation Success Model in Thailand's Provincial Courts*



**Remark:**  $p < 0.01$

### ***Recommendations for Implications***

The government, Office of the Judiciary, and Office of Judicial Affairs should formulate the policy to develop the Mediation Success of the provincial court in the following areas:

- The government should specify that the process of alternative dispute resolution by means of mediation is an important policy for legal and justice processes continuously.
- The Office of the Judiciary should implement an urgent policy for resource allocation, both in terms of budgets and the manpower in the Mediation and Compromise Unit in accordance with the volume of cases in each provincial court.
- The Office of the Judiciary or provincial court should make a Memorandum of Understanding: MOU with universities including regional universities or Rajabhat universities in different provinces located in the same area or close to that provincial court in order to create academic cooperation and various activities to develop, support or publicise the dispute resolution.
- The Office of Judicial Affairs and provincial court should conduct public relations activities in the field of mediation through social media such as blogging, social networking,



media sharing, or local radio waves, television advertising, or infographic document formats for easier access to the public.

- The provincial courts should organise learning exchanges about mediation techniques in courts or between provincial courts, so that the conciliator and the judges receive the opportunity to discuss, exchange techniques, create an atmosphere for mediation, as well as an experience in resolving various issues arising from mediation.

### ***Recommendations for Future Research***

The developed model should be practiced for research in other countries, or compared with Thailand, in order to see the differences in the ability to apply the dispute resolution policy to each country, which will lead to appropriate development of the dispute resolution process in their own country.



## REFERENCES

- Alexander, E. R. (1985). From idea to action notes for a contingency theory of the policy implementation process. *Administration & Society*, 16(4), 403-426.
- Chaisamran, N. et al. (2011). Review of UK court system: Background and structure of the employment law system in the UK. *COJ Comparative Law Journal*, 3(3), 139-158.
- Cheema, D., & Rondinelli, A. (1980). *Reinventing government for the twenty-first century: State capacity in a globalizing society*. New York: McGraw-Hill.
- Chittamma, A. (2008). *The development of the mediation system in the Court of Justice in Thailand*. Unpublished doctoral dissertation, Ramkhamhaeng University, Bangkok, Thailand.
- Emery, R. E., Sbarra, D., & Grover, T. (2005). Divorce mediation: Research and reflections. *Family Court Review*, 43(1), 22-37.
- Fiadjoe, A. (2006). *Alternative dispute resolution: A developing world perspective*. London: Cavendish Publishing.
- Gorge, C. E. (1980). *Implementing public policy (Politics and public policy series)*. New York: Congressional Quarterly Press.
- Hair, J. F., Anderson, R. E., Tatham, R. L., & Black, W. C. (1998). *Multivariate data analysis* (5th ed.). Upper Saddle River, NJ: Prentice Hall.
- Hair, J. F., Black, W. C., Babin, B. J., Anderson, R. E., & Tatham, R. L. (2006). *Multivariate Data Analysis* (6th ed.). New Jersey: Pearson Education International.
- Hambleton, R. (1983). Planning systems and policy implementation. *Journal of Public Policy*, 3(4), 397-418.
- Hazelkorn, M., & Packard, A. L. (2008). *Alternative dispute resolution in special education*. Carrollton, GA: University of West Georgia Press.
- Kasetsart University. (2006). *The evaluation of the effectiveness of court-annexed mediation system*. Bangkok: T&K Printing.
- Limparangsri, S. (2007). Public Relations and Mediation. *Yuttitham Parithat Journal*, 1(3), 48-52. Mandell, M. B., & Marshall, A. (2002). *The effects of court-ordered mediation in workers' compensation cases filed in circuit court: Results from an experiment*



*conducted in the circuit court for Baltimore City*. Baltimore, ML: Maryland Institute for Policy Analysis and Research.

Mohamed, A. Ali, B. A. (2008). Mediation in the industrial court of Malaysia. *Asian Journal of Mediation*, 4(23) 75-76.

Namloma, W. (2006). *The problems of mediation in Roi-Et Provincial Court*. An independent research, Mahasarakham University. Mahasarakham, Thailand.

Nooruang-ngam, P. (2013). The development of the alternative dispute resolution: A case study on the implementation of mandatory mediation in Thailand. *Journal of Thai justice system*, 6(2), 101-117.

Office of the Council of State. (1997). *Constitution of the kingdom of Thailand B.E. 2540 (1997)*. Bangkok: Nana Printing House.

Office of the judiciary. (2016). *Annual judicial statistics, Thailand 2016*. Bangkok: Petchrung print center.

Office of the judiciary. (2018). *Annual judicial statistics, Thailand 2018*. Retrieved from [http://www.oppb.coj.go.th/doc/data/oppb/Annual\\_Tha\\_2561.pdf](http://www.oppb.coj.go.th/doc/data/oppb/Annual_Tha_2561.pdf).

Pearson, J., & Thoennes, N. (1984). Mediating and litigating custody disputes: A longitudinal evaluation. *Family Law Quarterly Journal*, 17(4), 497-524.

Pearson, J., & Thoennes, N. (1989). Divorce mediation: Reflections on a decade of research. In K. Kressel, & D. G. Pruitt (eds), *Mediation research: The process and effectiveness of third-party intervention*. San Fransico, CA: Jossey-Bass.

Sabatier, P., & Mazmanian, D. D. (1980). The implementation and public policy: A framework of analysis. *Policy Studies Journal*, 8, 538-560.

Sakchaipanitkul, Y. (2013). *Implementation of the policy on alternative dispute resolution by means of mediation by the Office of the Attorney-General in Thailand*. Unpublished doctoral dissertation, Ramkamhaeng University, Bangkok, Thailand.

Schumacker, R. E., & Lomax, R. G. (2010). *A beginner's guide to structural equation modeling* (3rd ed.). New Jersey: Lawrence Earlbaum.

Van Meter, D. S., & Van Horn, C. E. (1975). The policy implementation process: A conceptual framework. *Administration and Society*, 6(4), 446-484.



Ware, S. J. (2007). *Principles of alternative dispute resolution* (2nd Ed). St. Paul, MN: Thomson/West.

Yavaprabhas, S., & Whangmahaporn, P. (2012). *Public policy of Thailand: Origin, Development, and Status*. Bangkok: Joodtong.