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GENERAL PRINCIPLES OF LAW IN ADMINISTRATIVE PROCEDURE: THE PRINCIPLES OF EQUALITY AND TRANSPARENCY IN CIVIL SERVICE EXAMINATIONS

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ABSTRACT

This article examines the general principles of equality and transparency under Thai administrative law and evaluates their implementation in civil service recruitment, situating these principles within the broader global framework of the United Nations Sustainable Development Goals (SDGs). In particular, SDG 16 – Peace, Justice, and Strong Institutions – underscores the necessity of fair, accountable, and transparent public administration as foundational to sustainable development. By integrating insights from sustainability governance literature, especially frameworks emphasizing institutional accountability and stakeholder engagement, this study argues that the principles of equality and transparency in administrative procedures directly support SDG-driven public sector reform. Drawing on statutory analysis, administrative court judgments, and comparative models from Japan and the United Kingdom, the findings reveal persistent challenges in Thailand's recruitment system, including discriminatory eligibility rules, opaque examination processes, and insufficient oversight. Inspired by sustainability-based governance models, the study proposes reforms grounded in integrity, digital transparency, and independent oversight to enhance fairness and public trust. These measures not only strengthen administrative justice but also align Thailand's civil service system with SDG 16 targets, thereby promoting equitable, transparent, and sustainable governance.

KEYWORDS: SDG 16, Liberty, Equality, Natural Law Philosophy, Fundamental Rights Theory.

1. INTRODUCTION

Civil service examinations are a crucial mechanism for selecting competent individuals into public service. These examinations must adhere to the rule of law and good governance, guided by fairness, equality, and transparency (Civil Service Act, B.E. 2551 (2008)). However, in practice, Thailand's civil service recruitment process continues to face challenges such as discrimination among candidates, insufficient oversight mechanisms, and instances of corruption (Office of the National Anti-Corruption Commission [NACC], 2020). These problems undermine public confidence in the integrity of civil service recruitment.

The Principle of Equality is a fundamental concept enshrined in Section 27 of the Constitution of the Kingdom of Thailand (2017), which guarantees that all persons shall be treated equally under the law and prohibits unjust discrimination (Constitution of the Kingdom of Thailand B.E. 2560 (2017)). This principle is also embedded in Thai administrative law and serves as a foundation for public administration (Administrative Procedure Act, B.E. 2539 (1996)).

Likewise, the Principle of Transparency is a core component of good governance, aiming to ensure that citizens have access to government information and can verify the legitimacy of administrative actions (Official Information Act, B.E. 2540 (1997)). Transparency strengthens accountability and public trust in government operations (World Bank, 2020).

Violations of equality and transparency principles have been evident in various recruitment cases. A notable example is the 2022 Royal Thai Police entrance examination scandal, where exam leaks and abuse of authority in candidate selection revealed systemic corruption (Thai Office of the Civil Service Commission, 2022). Similar instances of preferential treatment for specific groups have also been reported, raising concerns about fairness and accountability in the recruitment process (Administrative Court of Thailand, 2021).

These recurring problems highlight the need to reform administrative procedures to reinforce fairness and transparency. At the global level, the United Nations Sustainable Development Goals (SDGs), particularly SDG 16: Peace, Justice, and Strong Institutions, emphasize the need for transparent, accountable, and inclusive institutions as essential conditions for sustainable development (United Nations, 1948; United Nations Development Programme [UNDP], 2021). Although SDGs are most often associated with environmental and educational reform, recent scholarship on sustainability governance underscores that institutional

transparency, ethical leadership, and stakeholder participation are equally necessary for long-term societal well-being. Research on integrating SDGs within university governance frameworks demonstrates how transparency, accountability, and systemic monitoring enhance institutional integrity, strengthen public confidence, and reduce corruption (Sivagurunathan et al., 2024).

Studies of social innovation in Thailand emphasize that human capital, social capital, and competencies—such as trust, shared knowledge, and goal orientation—are essential for creating transparent and accountable institutions (Pansuwong et al., 2022). These insights extend the administrative law framework by highlighting that institutional transparency relies not only on legal mechanisms but also on the social capacities underpinning governance.

On the international level, many countries have institutionalized equality and transparency in their civil service examinations. The United Kingdom, for instance, conducts open and merit-based examinations where procedures and outcomes are publicly available through the Civil Service Commission's website (Civil Service Commission (UK), 2018). Similarly, Japan has established an independent oversight body to ensure fairness and prevent irregularities in recruitment (Japan Civil Service Commission, 2018).

Given these issues, this study aims to analyze the general principles of law—specifically equality and transparency—within the administrative procedures of Thailand's civil service examinations, to identify challenges and propose legal and policy reforms that enhance fairness, transparency, and public confidence in the recruitment process (Administrative Procedure Act, B.E. 2539 (1996)).

2. OBJECTIVES

This article pursues four principal objectives designed to examine and strengthen the theoretical and practical applications of administrative law in Thailand's civil service recruitment process:

1. To study the general principles of law related to the Principles of Equality and Transparency as applied within the framework of Thai administrative law.
2. To analyze how these principles are implemented in civil service recruitment and the legal implications arising from their application.
3. To identify problems and obstacles that hinder the effective enforcement of equality and transparency in civil service examinations.
4. To propose legal and procedural reforms aimed at enhancing fairness, transparency, and public

accountability in the recruitment process for government officials.

These objectives reflect the integration of theoretical understanding with empirical evaluation, serving as a foundation for improving Thailand's administrative justice and public personnel management systems.

3. SCOPE OF THE STUDY

The scope of this article is delineated across three main dimensions—content, temporal, and comparative scope—to ensure comprehensive analysis and contextual relevance.

3.1. Content Scope

The study focuses on examining the general principles of administrative law that govern equality and transparency, as defined by Thai legal provisions and judicial precedents. Specifically, it covers:

1. Legal principles contained in the *Administrative Procedure Act, B.E. 2539 (1996)* and the *Civil Service Act, B.E. 2551 (2008)*, both of which serve as key legal instruments guiding administrative conduct (Administrative Procedure Act, B.E. 2539 (1996); Civil Service Act, B.E. 2551 (2008)).
2. The *Constitution of the Kingdom of Thailand, B.E. 2560 (2017)*, particularly provisions ensuring equality before the law and citizens' rights to access public information (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).
3. The analysis of administrative court judgments related to civil service recruitment disputes, which provide practical insights into the interpretation and application of these principles (Administrative Court of Thailand, 2021; Office of the Judiciary, 2016).

3.2. Temporal Scope

The study examines laws, administrative practices, and judicial decisions over the past decade (2013–2023), allowing for a contextualized understanding of contemporary challenges within Thailand's civil service recruitment process. This timeframe captures recent reforms, corruption cases, and the evolution of legal interpretation concerning equality and transparency, as reflected in national human rights and governance reports (National Human Rights Commission of Thailand, 2019; Office of the National Anti-Corruption Commission (Thailand), 2020).

3.3. Comparative Scope

To provide a global perspective, this article includes a comparative analysis between Thailand and selected countries recognized for transparent and equitable civil service recruitment systems—

particularly the United Kingdom and Japan.

1. The United Kingdom's Civil Service Commission model exemplifies open, merit-based recruitment grounded in transparency and public accountability (Civil Service Commission (UK), 2018).
2. Japan's National Personnel Authority (NPA) represents an independent central body ensuring standardization, fairness, and procedural integrity in recruitment (National Personnel Authority (Japan), 1947; Japan Civil Service Commission, 2018).

Lessons drawn from these comparative models inform recommendations for Thailand's future administrative and procedural reforms, particularly in strengthening institutional accountability and good governance standards (World Bank, 2020; United Nations Development Programme [UNDP], 2021).

4. RESEARCH METHODOLOGY

To achieve the objectives set forth, this study employs a documentary research methodology (qualitative legal research) that systematically reviews primary and secondary sources to explore the principles of equality and transparency in administrative law and their application to Thailand's civil service examinations.

4.1. Theoretical and Legal Analysis

This component involves a doctrinal examination of general administrative law principles. It explores the theoretical foundations of equality and transparency from both domestic and international legal perspectives. Key legal instruments include:

1. The *Administrative Procedure Act, B.E. 2539 (1996)* (Administrative Procedure Act, B.E. 2539 (1996));
2. The *Civil Service Act, B.E. 2551 (2008)* (Civil Service Act, B.E. 2551 (2008));
3. The *Official Information Act, B.E. 2540 (1997)* (Official Information Act, B.E. 2540 (1997)); and
4. The *Constitution of the Kingdom of Thailand, B.E. 2560 (2017)* (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).

The analysis is further grounded in classical and modern theories of justice and the rule of law (Dicey, 1885; Dworkin, 1977; Rawls, 1971; Finnis, 1980).

Additionally, relevant international instruments such as the *Universal Declaration of Human Rights* (United Nations, 1948) and the *International Covenant on Civil and Political Rights* (1966) are referenced to align the study with global human rights and governance standards (International Covenant on Civil and Political Rights, 1966). Anti-corruption and transparency frameworks are also considered

(United Nations Development Programme [UNDP], 2021; World Bank, 2020).

4.2. *Judicial Case Analysis*

Judicial interpretation serves as a crucial mechanism in understanding the operationalization of equality and transparency. The study therefore reviews Administrative Court and Supreme Court decisions involving recruitment disputes and discrimination claims. These judgments reveal patterns of legal reasoning and administrative discretion that either uphold or violate these principles.

Examples include:

1. Supreme Court Judgment No. 1620/2559 (Office of the Judiciary, 2016);
2. Supreme Court Judgment No. 1721/2550 (Office of the Judiciary, 2007); and
3. Administrative Case Digest on Principles of Equality and Transparency in Recruitment (Administrative Court of Thailand, 2021).

These cases provide doctrinal insight into judicial standards of review, proportionality, and lawful administrative discretion.

4.3. *Comparative Legal Study*

A comparative analysis between Thailand's administrative recruitment system and those of selected jurisdictions—particularly Japan and the United Kingdom—is conducted.

The United Kingdom's Civil Service Commission model demonstrates merit-based recruitment with independent oversight and public reporting mechanisms (Civil Service Commission (UK), 2018).

Japan's National Personnel Authority establishes centralized examination standards and procedural safeguards designed to ensure fairness and transparency (National Personnel Authority (Japan), 1947; Japan Civil Service Commission, 2018).

This comparative approach highlights structural and procedural mechanisms that may inform Thailand's administrative reforms.

4.4. *Data Sources and Analysis*

The data used in this research are derived from:

1. **Primary sources:** Thai constitutional and administrative laws, statutes, royal gazette publications, and judicial decisions;
2. **Secondary sources:** academic books, peer-reviewed journals, and legal commentaries in administrative and constitutional law (Aquinas, 1274; Locke, 1689; Kant, 1797; Fuller, 1964).

Content analysis is applied to synthesize findings, focusing on legal coherence, equality before the law, procedural fairness, and institutional accountability.

The interpretative framework integrates jurisprudential theory, statutory interpretation, case law analysis, and comparative governance practices.

4.5. *Expected Contribution*

By integrating theoretical jurisprudence and practical administrative law analysis, this research contributes to both academic scholarship and public sector governance reform.

The findings are expected to:

1. Enhance understanding of equality and transparency as foundational principles of Thai administrative law (Constitution of the Kingdom of Thailand B.E. 2560 (2017));
2. Offer policy recommendations for strengthening accountability and fairness in civil service recruitment (Office of the National Anti-Corruption Commission (Thailand), 2020);
3. Provide a comparative reference framework for future judicial interpretation and administrative reform aligned with SDG 16: Peace, Justice and Strong Institutions (United Nations, 1948; UNDP, 2021).

5. THE PRINCIPLE OF EQUALITY IN ADMINISTRATIVE LAW

5.1. *Concept and Legal Foundation of the Principle of Equality*

The Principle of Equality is one of the fundamental doctrines underpinning administrative law and democratic governance. It mandates that public authorities must treat individuals in equivalent circumstances equally, without bias, arbitrariness, or unjustified discrimination. The concept has deep philosophical and legal roots, deriving from the classical notion of "equality before the law," which forms a cornerstone of the rule of law (Dicey, 1885; Dworkin, 1977).

Empirical research demonstrates that individuals exercise opportunities more effectively when supported by psychological capital and empowerment, which enhance competence, autonomy, and resilience (Bhandari et al., 2024). These findings reinforce the administrative law perspective that substantive equality requires institutional arrangements that empower candidates rather than merely providing formal access.

In the Thai legal framework, this principle is enshrined in Section 27 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017), which provides that all persons are equal before the law and shall enjoy equal protection under the law (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).

This constitutional guarantee extends to administrative conduct, ensuring that state agencies exercise their powers in accordance with fairness and legality. The Administrative Procedure Act B.E. 2539 (1996) further reinforces this obligation by stipulating that administrative officers must act impartially, without favoritism or prejudice, and in accordance with lawful authority (Administrative Procedure Act, B.E. 2539 (1996)).

Equality in administrative law thus serves not merely as a moral aspiration but as a legally enforceable standard guiding administrative discretion, public recruitment, and the overall operation of state power.

5.2. Doctrinal Perspectives on Equality

From a jurisprudential perspective, the principle of equality has evolved into two primary dimensions: formal equality and substantive equality.

1. **Formal Equality** emphasizes the uniform application of the law to all persons under identical circumstances. This interpretation aligns with the classical liberal tradition of equal treatment before the law (Locke, 1689; Rousseau, 1762).
2. **Substantive Equality**, by contrast, recognizes that identical treatment does not always yield equitable outcomes. It allows differential measures to correct structural inequalities and promote genuine access to opportunity (Rawls, 1971; Finnis, 1980).

The distinction between these dimensions has been widely acknowledged in comparative and international law. International human rights instruments affirm both equal protection and the necessity of effective equality in practice (United Nations, 1948; International Covenant on Civil and Political Rights, 1966).

In Thailand, courts have increasingly recognized this dual dimension. Administrative decisions imposing arbitrary restrictions—such as disproportionate age limits or unjustified gender qualifications—have been found inconsistent with constitutional and administrative equality standards (Office of the Judiciary, 2016).

5.3. Application of Equality in Administrative Practice

The implementation of equality in administrative practice requires that state agencies apply uniform standards to individuals sharing comparable legal and factual conditions. Any differentiation must be grounded in lawful authority and rational justification (Administrative Procedure Act, B.E. 2539 (1996)).

In civil service examinations, equality requires that:

1. All qualified candidates be granted equal opportunity to compete;
2. Selection criteria be objective, transparent, and relevant to job functions;
3. Decisions be based solely on merit rather than irrelevant personal characteristics.

This requirement is especially important in contexts where administrative discretion is exercised. Unchecked discretionary authority may result in bias or unequal treatment, thereby undermining public trust in administrative justice (Office of the National Anti-Corruption Commission (Thailand), 2020).

Thai jurisprudence provides relevant examples. In recruitment-related disputes, courts have emphasized that equality must operate not merely as a procedural norm but as a substantive guarantee of fairness (Administrative Court of Thailand, 2021; Office of the Judiciary, 2007).

5.4. Challenges to Equality in Administrative Decision-Making

Despite constitutional and statutory guarantees, several practical challenges persist:

1. **Discretionary Abuse** — Broad discretionary powers in recruitment and evaluation processes may lead to arbitrary decisions unless guided by clear legal standards (Administrative Procedure Act, B.E. 2539 (1996)).
2. **Institutional Fragmentation** — Separate recruitment systems across agencies may produce inconsistent criteria and unequal access.
3. **Cultural Hierarchies and Informal Practices** — Patronage-based traditions may conflict with meritocratic standards (World Bank, 2020).
4. **Limited Access to Remedies** — Although appeals are available, procedural complexity and lack of awareness may restrict effective enforcement of rights (National Human Rights Commission of Thailand, 2019).

These challenges demonstrate that realizing equality requires both legal enforcement and institutional reform.

5.5. Comparative Insights and Global Standards

Comparative administrative systems offer valuable lessons.

1. In Japan, the National Personnel Authority establishes standardized recruitment procedures and safeguards impartiality (National Personnel Authority (Japan), 1947; Japan Civil Service Commission, 2018).
2. In the United Kingdom, the Civil Service Commission enforces merit-based recruitment

and investigates discrimination complaints (Civil Service Commission (UK), 2018).

- Both systems illustrate that equality in administrative law depends on independent oversight, procedural transparency, and enforceable accountability mechanisms (UNDP, 2021).

5.6. *Synthesis and Legal Implications*

The principle of equality in administrative law is both a constitutional norm and a structural safeguard against arbitrary state power. Under Section 27 of the 2017 Constitution, equality is elevated to a binding legal obligation that constrains administrative discretion (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).

Administrative agencies are therefore legally accountable for ensuring that their actions reflect equitable treatment in both form and substance (Administrative Procedure Act, B.E. 2539 (1996)).

In sum, equality functions as a control mechanism over administrative authority, reinforcing the legitimacy of state action and protecting citizens' rights to fair treatment. Its effective enforcement in Thailand's civil service recruitment system requires integrating constitutional safeguards, statutory clarity, independent oversight, and institutional accountability mechanisms aligned with global governance standards (United Nations, 1948; World Bank, 2020).

6. THE PRINCIPLE OF TRANSPARENCY IN ADMINISTRATIVE LAW

6.1. *Concept and Legal Foundation of the Principle of Transparency*

The Principle of Transparency constitutes one of the most essential pillars of modern administrative law and public governance. It embodies the notion that administrative activities must be conducted in an open, accessible, and verifiable manner, thereby enabling public scrutiny and accountability. Transparency strengthens citizens' trust in the state, deters corruption, and ensures that administrative discretion is exercised within the framework of legality and fairness (World Bank, 2020; United Nations Development Programme [UNDP], 2021).

In Thailand, the principle of transparency is explicitly recognized in multiple statutes. The Official Information Act, B.E. 2540 (1997) mandates that government agencies disclose official information relevant to public administration, subject only to narrowly defined exceptions (Official Information Act, B.E. 2540 (1997)). Similarly, the Administrative Procedure Act, B.E. 2539 (1996) requires that

administrative orders be reasoned, lawful, and capable of review or appeal (Administrative Procedure Act, B.E. 2539 (1996)). The Constitution of the Kingdom of Thailand B.E. 2560 (2017) further guarantees citizens' rights to access public information and to be informed of administrative decisions affecting their rights (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).

Collectively, these legal provisions form the normative and procedural framework of administrative transparency, obligating state authorities to act in good faith and to facilitate the public's right to know.

6.2. *Theoretical Basis and Governance Context*

From a theoretical standpoint, transparency is closely associated with the concepts of good governance, rule of law, and accountability. It functions as a preventive mechanism against corruption by transforming administrative processes from closed bureaucratic systems into open and participatory structures (Dicey, 1885; Fuller, 1964).

According to the United Nations Development Programme (UNDP, 2021), transparency ensures that decision-making processes are open to public observation and that information is accessible to those affected by such decisions. Transparency also requires that administrative decisions be justified and explained in clear and understandable terms.

In administrative law, transparency ensures that:

- Administrative decisions are based on identifiable and lawful reasoning;
- Public officers disclose information necessary for citizens to exercise their rights;
- Administrative discretion is subject to judicial and public scrutiny; and
- Citizens can participate effectively in governance by being adequately informed (United Nations, 1948).

6.3. *Elements and Mechanisms of Transparency*

Transparency in administrative law may be operationalized through three interrelated elements:

- Access to Information** – Citizens must be able to obtain government information concerning administrative decisions, policies, and procedures (Official Information Act, B.E. 2540 (1997)).
- Public Participation** – Transparency extends beyond disclosure to meaningful participation by stakeholders in decision-making processes (UNDP, 2021).
- Accountability Mechanisms** – Administrative actions must be subject to review, including administrative appeals and judicial scrutiny

(Administrative Procedure Act, B.E. 2539 (1996)).

When effectively implemented, these mechanisms reinforce administrative legitimacy and public trust.

6.4. Transparency in Thai Administrative Law and Practice

Several key statutes embody transparency:

1. The Official Information Act, B.E. 2540 (1997) guarantees citizens' rights to access government-held information.
2. The Administrative Procedure Act, B.E. 2539 (1996) mandates that administrative orders be reasoned and reviewable.
3. The Constitution B.E. 2560 (2017) enshrines citizens' rights to receive information concerning governmental decisions (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).

Despite this strong legal framework, administrative opacity persists due to bureaucratic culture and excessive confidentiality (National Human Rights Commission of Thailand, 2019).

6.5. Transparency in Civil Service Recruitment

In civil service recruitment, transparency ensures merit-based selection and prevents favoritism or corruption.

The Civil Service Act, B.E. 2551 (2008) and the Official Information Act, B.E. 2540 (1997) require agencies to disclose recruitment details, including eligibility criteria and results (Civil Service Act, B.E. 2551 (2008)).

However, reports from the Thai Office of the Civil Service Commission (2022) reveal recurring issues such as limited disclosure of interview methods and insufficient independent monitoring (Thai Office of the Civil Service Commission, 2022).

The 2022 Royal Thai Police recruitment controversy further demonstrated how opaque procedures undermine transparency and public confidence (Office of the National Anti-Corruption Commission (Thailand), 2020).

6.6. International Legal and Institutional Frameworks

Globally, transparency is embedded in international governance standards. The Universal Declaration of Human Rights affirms access to information and equality before the law (United Nations, 1948). Anti-corruption frameworks emphasize transparency in public administration (UNDP, 2021; World Bank, 2020).

Comparative administrative systems illustrate institutional safeguards:

1. In the United Kingdom, the Civil Service Commission enforces open and fair recruitment

principles (Civil Service Commission (UK), 2018).

2. In Japan, the National Personnel Authority ensures standardized examination procedures and independent oversight (National Personnel Authority (Japan), 1947; Japan Civil Service Commission, 2018).

These systems demonstrate how institutional independence and information disclosure function as safeguards against administrative corruption.

6.7. Challenges and Limitations

Despite legislative progress, challenges remain:

1. Overuse of confidentiality clauses;
2. Weak enforcement of disclosure obligations;
3. Limited public awareness of information rights (National Human Rights Commission of Thailand, 2019);
4. Cultural resistance within bureaucratic structures (World Bank, 2020).
5. These issues weaken accountability and perpetuate administrative opacity.

6.8. Legal Implications and Reform Directions

Transparency transforms the state-citizen relationship into one grounded in accountability and justification (Fuller, 1964; Dworkin, 1977).

To strengthen transparency in Thailand, reforms should include:

1. Codifying detailed disclosure standards in administrative law;
2. Strengthening independent oversight mechanisms (Civil Service Commission (UK), 2018);
3. Expanding digital governance systems (UNDP, 2021);
4. Promoting civic education and awareness of information rights.

These measures would align Thailand's administrative system with international governance standards.

6.9. Conclusion

The Principle of Transparency is a constitutional and statutory obligation within Thailand's administrative framework (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).

While the legal foundation is robust, effective implementation requires institutional reform, technological safeguards, and cultural transformation. Transparency enhances legitimacy, fairness, and accountability, particularly in civil service recruitment. By institutionalizing transparent procedures and independent oversight, Thailand can strengthen public confidence and advance toward a more accountable administrative state aligned with

global standards (United Nations, 1948; World Bank, 2020).

7. EQUALITY AND TRANSPARENCY IN CIVIL SERVICE EXAMINATIONS

7.1. *The Civil Service Examination as a Mechanism of Administrative Justice*

The civil service examination system serves as a critical gateway for recruiting qualified and competent individuals into public administration. It is designed to uphold the principles of fair competition, meritocracy, and public accountability. For this mechanism to function legitimately within the framework of administrative justice, it must operate in strict accordance with the principles of equality and transparency as recognized under Thailand's constitutional and administrative law framework (Constitution of the Kingdom of Thailand B.E. 2560 (2017); Administrative Procedure Act, B.E. 2539 (1996)).

In practice, however, Thailand's recruitment system continues to face challenges relating to discriminatory practices, lack of standardized oversight, and opaque examination procedures. Such deficiencies compromise institutional integrity and erode public trust in state administration (National Human Rights Commission of Thailand, 2019; Office of the National Anti-Corruption Commission (Thailand), 2020).

7.2. *The Principle of Equality in Civil Service Recruitment*

The Principle of Equality mandates that all applicants be afforded equal opportunities under identical legal and factual conditions. In Thailand, this principle is codified under Section 27 of the Constitution B.E. 2560 (2017), which prohibits unjust discrimination (Constitution of the Kingdom of Thailand B.E. 2560 (2017)).

The Civil Service Act B.E. 2551 (2008) further stipulates that recruitment must be based on merit and that eligibility requirements must apply equally to all candidates meeting statutory qualifications (Civil Service Act, B.E. 2551 (2008)).

Judicial precedents affirm these standards. In recruitment-related disputes, courts have emphasized that restrictions lacking rational justification violate constitutional equality principles (Office of the Judiciary, 2007; Office of the Judiciary, 2016). These decisions reinforce the requirement that administrative discretion must be reasonable, proportionate, and legally justified.

7.3. *The Principle of Transparency in Civil Service Recruitment*

Transparency requires that examination procedures, selection criteria, and evaluation results be publicly accessible and verifiable.

Under the Official Information Act B.E. 2540 (1997), public agencies are obligated to disclose essential recruitment information (Official Information Act, B.E. 2540 (1997)). Similarly, the Civil Service Act B.E. 2551 (2008) requires competitive examinations to be conducted in an open and impartial manner (Civil Service Act, B.E. 2551 (2008)).

Reports from the Thai Office of the Civil Service Commission (2022) reveal recurring issues such as non-disclosure of scoring criteria and insufficient monitoring mechanisms (Thai Office of the Civil Service Commission, 2022).

The 2022 Royal Thai Police recruitment controversy further exposed structural weaknesses in transparency enforcement and highlighted systemic corruption concerns (Office of the National Anti-Corruption Commission (Thailand), 2020). These events demonstrate that transparency is indispensable to maintaining administrative legitimacy.

7.4. *The Relationship Between the Right to Information and Administrative Transparency*

Access to information is both a precondition and manifestation of transparency. The Constitution (2017) and the Official Information Act (1997) explicitly recognize citizens' rights to access governmental information (Constitution of the Kingdom of Thailand B.E. 2560 (2017); Official Information Act, B.E. 2540 (1997)).

Failure to disclose recruitment-related information undermines procedural fairness and public oversight (Administrative Procedure Act, B.E. 2539 (1996)).

Oversight bodies and complaint mechanisms serve as safeguards when agencies fail to comply with disclosure obligations (UNDP, 2021; World Bank, 2020).

7.5. *Case Studies of Inequality and Opacity*

Judicial decisions have repeatedly affirmed that arbitrary age limits, discriminatory eligibility criteria, or opaque selection processes violate administrative equality standards (Office of the Judiciary, 2007; Administrative Court of Thailand, 2021).

Corruption-related recruitment scandals further illustrate the fragility of transparency mechanisms (Office of the National Anti-Corruption Commission (Thailand), 2020). These cases underscore the necessity for digital safeguards, independent auditing, and standardized procedures.

7.6. *The Interdependence of Equality and Transparency*

Equality and transparency are mutually reinforcing principles in administrative law. Equality ensures substantive fairness, while transparency guarantees procedural integrity.

Without transparency, equality cannot be verified; without equality, transparency cannot ensure justice. Together, they constitute the core elements of administrative justice (Dicey, 1885; Dworkin, 1977).

7.7. *International Perspectives*

Comparative systems demonstrate effective institutional safeguards:

1. In Japan, the National Personnel Authority ensures standardized and impartial recruitment procedures (National Personnel Authority (Japan), 1947; Japan Civil Service Commission, 2018).
2. In the United Kingdom, the Civil Service Commission enforces merit-based recruitment and provides independent oversight mechanisms (Civil Service Commission (UK), 2018).

These models illustrate how institutional independence strengthens transparency and equality (UNDP, 2021).

7.8. *Implications for Administrative Reform*

To align Thailand's recruitment system with international governance standards, reforms should include:

1. Establishing independent oversight bodies;
2. Standardizing recruitment criteria nationwide;
3. Digitalizing examination systems;
4. Strengthening statutory disclosure obligations;
5. Enhancing public participation and civic oversight (World Bank, 2020; UNDP, 2021).

7.9. *Conclusion*

The civil service examination process functions as a litmus test for the rule of law and administrative justice. Although Thailand's Constitution and statutory framework provide strong normative foundations (Constitution of the Kingdom of Thailand B.E. 2560 (2017); Administrative Procedure Act, B.E. 2539 (1996)), implementation gaps remain.

Embedding equality and transparency in recruitment procedures is essential to restoring public trust, reinforcing meritocracy, and strengthening institutional legitimacy in accordance with global governance standards (United Nations, 1948; World Bank, 2020).

8. LEGAL AND THEORETICAL FOUNDATIONS (RULE OF LAW, GOOD GOVERNANCE, AND ADMINISTRATIVE DISCRETION)

8.1. *The Rule of Law as the Cornerstone of Administrative Governance*

The rule of law serves as the fundamental principle underlying administrative activities in democratic states. It embodies the idea that government power must be exercised in accordance with established laws rather than arbitrary will, and that the state is subject to legality and accountability standards comparable to those imposed on citizens (Dicey, 1885; Fuller, 1964).

In the Thai legal system, the rule of law is explicitly recognized in the Constitution of the Kingdom of Thailand B.E. 2560 (2017), which affirms that sovereign power is exercised through constitutional institutions in accordance with the rule of law (Constitution of the Kingdom of Thailand B.E. 2560 (2017)). This constitutional commitment underscores that state actions must conform to legal norms, procedural fairness, and respect for human dignity.

A. V. Dicey (1885) articulated a foundational doctrine of the rule of law, emphasizing (1) the supremacy of law over arbitrary power, (2) equality before the law, and (3) the protection of fundamental rights through legal procedures. Dicey's framework has influenced modern constitutional and administrative jurisprudence, supporting the view that administrative actions must remain within statutory authority and be subject to judicial review when alleged to violate individual rights or exceed lawful powers (Dicey, 1885; Dworkin, 1977).

The rule of law is therefore not merely a procedural constraint but a substantive guarantee that state power will be exercised rationally, fairly, and predictably. It anchors both equality and transparency by ensuring that administrative discretion serves justice rather than convenience (Rawls, 1971; Finnis, 1980).

8.2. *The Principle of Good Governance*

Closely related to the rule of law is the doctrine of good governance, which has become a guiding framework for modern public administration. Good governance encapsulates legality, efficiency, transparency, participation, accountability, and responsiveness (World Bank, 2020; United Nations Development Programme [UNDP], 2021).

In Thailand, good governance has been institutionalized through statutory mechanisms, including the State Administration Act (No. 5), B.E. 2545 (2002) (State Administration Act (No. 5), B.E. 2545 (2002)). These principles require officials to act

with integrity and impartiality in accordance with law.

The Administrative Procedure Act, B.E. 2539 (1996) further obliges administrative agencies to exercise power lawfully, provide reasons where required, and ensure procedural fairness in administrative decision-making (Administrative Procedure Act, B.E. 2539 (1996)).

In civil service recruitment, good governance implies that recruitment must be merit-based and non-discriminatory, that relevant information should be disclosed to the public, and that complaint and redress mechanisms should be accessible and effective (Civil Service Act, B.E. 2551 (2008); Official Information Act, B.E. 2540 (1997)).

8.3. Administrative Discretion: Legal Control and Ethical Constraints

Administrative discretion refers to authority granted to administrative agencies to make decisions within limits set by law. While discretion is necessary for flexible governance, it must operate under the rule of law and be constrained by equality, transparency, and reasonableness (Administrative Procedure Act, B.E. 2539 (1996); Fuller, 1964).

Judicial review serves as a principal mechanism for controlling discretion. Thai courts have emphasized that discretion must be exercised in good faith, for legitimate public purposes, and on rational grounds consistent with fairness and equality (Administrative Court of Thailand, 2021; Office of the Judiciary, 2016).

Accordingly, discretion enables administrative efficiency only when exercised within lawful boundaries, with transparency functioning as a deterrent against corruption and favoritism (Office of the National Anti-Corruption Commission (Thailand), 2020; World Bank, 2020).

8.4. The Interrelation of Rule of Law, Good Governance, and Administrative Discretion

The three doctrines – rule of law, good governance, and controlled administrative discretion – operate as mutually reinforcing foundations of lawful and ethical public administration. The rule of law prohibits arbitrariness; good governance operationalizes legality through transparency and accountability; and discretion permits adaptive decision-making while remaining constrained by rational justification and non-discrimination (Dicey, 1885; UNDP, 2021).

In civil service recruitment, this relationship requires statutory authority for procedures, transparent disclosure of rules and outcomes, and reasoned decision-making that can be reviewed or challenged (Civil Service Act, B.E. 2551 (2008);

Official Information Act, B.E. 2540 (1997); Administrative Procedure Act, B.E. 2539 (1996)).

8.5. Theoretical Perspectives in Administrative Law

Administrative law reflects an enduring tension between individual rights and state authority. Classical theorists argued that legitimate authority must serve the common good and respect individual rights (Locke, 1689; Rousseau, 1762). Kant (1797) grounded legality in human dignity, emphasizing that individuals must never be treated merely as means to administrative ends (Kant, 1797).

Later theorists linked legality to moral integrity. Fuller's "inner morality of law" emphasizes clarity, consistency, and congruence between legal rules and their application, while Finnis's natural law theory stresses practical reasonableness and fairness in public decision-making (Fuller, 1964; Finnis, 1980).

Within modern administration, these perspectives converge on the idea that lawful governance is inseparable from justice, equality, and transparency, and that discretion cannot be justified solely by efficiency (Dworkin, 1977; Rawls, 1971).

8.6. Comparative Administrative Models

Comparative systems illustrate institutional safeguards for transparency and accountability. Japan's administrative framework emphasizes procedural fairness and oversight, including the role of an independent personnel authority in standardizing recruitment practices (National Personnel Authority (Japan), 1993; Japan Civil Service Commission, 2018).

In the United Kingdom, recruitment principles are enforced through an independent Civil Service Commission, supporting open competition and review of complaints (Civil Service Commission (UK), 2018).

These models demonstrate that effective governance relies not only on codified rules but also on institutions capable of monitoring compliance and ensuring accountability (UNDP, 2021; World Bank, 2020).

8.7. Implications for Thai Administrative Reform

To strengthen administrative legitimacy in Thailand, reform strategies should include codifying discretionary standards, strengthening review mechanisms, mandating disclosure of decision-making criteria, building ethical capacity among officials, and expanding public participation in oversight (Administrative Procedure Act, B.E. 2539

(1996); Official Information Act, B.E. 2540 (1997); UNDP, 2021).

From a sustainability governance perspective, these reforms align with SDG 16, which promotes effective, accountable, and transparent institutions, and targets reducing corruption while strengthening institutional accountability (United Nations, 1948; UNDP, 2021; Santaveesuk et al., 2025).

8.8. Conclusion

The doctrines of rule of law, good governance, and controlled administrative discretion form the theoretical and practical foundation of legitimate public administration. The rule of law provides legality; good governance strengthens transparency and accountability; and discretion, when ethically constrained, enables flexible administration while

remaining bound by fairness and justice (Dicey, 1885; Fuller, 1964; World Bank, 2020).

Integrating these doctrines into Thailand’s administrative practice requires not only legislative refinement but also institutional strengthening and cultural transformation toward integrity, openness, and accountability. Such reforms are indispensable for advancing an administrative system governed by justice, equality, and public trust (Constitution of the Kingdom of Thailand B.E. 2560 (2017); United Nations, 1948).

9. COMPARATIVE STUDY – THAILAND AND JAPAN

9.1. Recruitment Procedures and Transparency Measures

Aspect	Thailand	Japan
Legal Basis	Civil Service Act (2008), Administrative Procedure Act (1996), Official Information Act (1997)	National Public Service Act (1947), Administrative Procedure Act (1993)
Supervising Authority	Office of the Civil Service Commission (OCSC)	National Personnel Authority (NPA)
Examination System	Agency-based, semi-centralized	Fully centralized, standardized
Information Disclosure	Varies by agency; not always published	Mandatory publication of criteria, results, and annual reports
Appeal Mechanism	Administrative Court or OCSC complaint	Administrative appeal through NPA; judicial review optional
Oversight Independence	Limited; under executive branch	Strong; constitutionally independent
Public Trust Level	Moderate, declining due to scandals	High, sustained by transparency and accountability

The comparative analysis between Thailand and Japan demonstrates that institutional independence, procedural codification, and ethical culture are essential for realizing equality and transparency in civil service recruitment. Japan’s success lies not only in its robust legal framework but also in the consistent enforcement of these principles through an empowered and autonomous authority.

Thailand, despite having constitutional and statutory commitments to fairness and openness, continues to face implementation challenges rooted in structural decentralization and bureaucratic culture. Bridging this gap requires both legal reform and administrative modernization that embed transparency and equality as core operational values rather than optional ideals.

By adopting lessons from Japan’s model, Thailand can evolve toward a meritocratic, transparent, and accountable administrative system, thereby strengthening democratic governance and public trust in the civil service.

10. POLICY RECOMMENDATIONS

Based on the critical analysis above, several

policy and legal reforms are proposed to institutionalize equality and transparency in Thailand’s civil service recruitment process:

10.1 Legal Reforms

1. Amend the Administrative Procedure Act (1996) to explicitly codify the principles of equality and transparency as binding administrative standards, applicable to all recruitment processes.
2. Revise the Official Information Act (1997) to impose penalties for non-disclosure, require proactive publication of recruitment data, and establish an independent “Information Ombudsman.”
3. Introduce a Public Recruitment Integrity Act, modeled after Japan’s National Public Service Act (1947), to centralize recruitment standards and create uniform procedures for all ministries and agencies.
4. Codify Anti-Discrimination Provisions within the Civil Service Act (2008) to prohibit indirect discrimination and require justification for differential treatment in eligibility or evaluation.

10.2 Institutional Reforms

1. Establish an Independent Civil Service Oversight Body – a “Public Personnel Integrity Commission” with statutory independence similar to Japan’s NPA or the UK’s Civil Service Commission.
2. Powers: conduct audits, monitor compliance, receive complaints, and issue binding corrective orders.
3. Centralize Recruitment Administration under this new body to ensure consistent standards, digital coordination, and external supervision.
4. Develop a National E-Recruitment System integrating all civil service examinations under one transparent digital platform with features such as:
 - Public disclosure of test schedules, criteria, and scores;
 - Secure online applications; and
 - Real-time monitoring of examination integrity.

10.3 Administrative and Cultural Reforms

1. Promote Ethical Governance Training for public officials emphasizing integrity, impartiality, and the moral dimension of administrative law (following Kantian and Fullerian principles of justice and legality).
2. Embed a “Transparency Culture” within public institutions through internal performance

incentives, public disclosure rankings, and public commendation for compliant agencies.

3. Encourage Public Participation by enabling civil society organizations, media, and academia to monitor recruitment processes and report irregularities.

4. Implement Whistleblower Protection Mechanisms to safeguard individuals who expose corruption or discriminatory practices in recruitment.

5. Develop a Public Awareness Campaign to educate citizens about their right to access information and appeal administrative decisions.

10.4 Technological Reforms

The integration of digital tools can dramatically enhance administrative transparency. Recommended actions include:

1. Launching open data portals for publication of recruitment-related information;
2. Using blockchain-based examination systems to ensure data integrity and prevent score manipulation;
3. Employing AI-assisted audit systems to detect anomalies or irregularities in recruitment outcomes.

Such innovations would not only improve administrative efficiency but also reduce opportunities for corruption and discrimination.

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