

Liberty and Equality in the Constitution: Integrating Natural Law Philosophy and Fundamental Rights Theory

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Abstract

This study examines the constitutional principles of liberty and equality in the 2017 Constitution of Thailand through the lenses of Natural Law philosophy and Fundamental Rights Theory, while 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—emphasizes access to justice, human rights protection, and accountable governance, all of which directly relate to the constitutional guarantees of human dignity, freedom, and equality. Drawing insight from contemporary sustainability scholarship, especially studies highlighting the integration of SDGs into institutional governance and assessment, the research argues that constitutional rights protection must align with global standards of inclusive, equitable, and sustainable societies. Through comparative analysis of constitutional provisions, judicial interpretation, and international human rights norms, the study identifies gaps between legal text and enforcement in Thailand, particularly in politically sensitive contexts. The findings propose that integrating SDG-derived principles—such as transparency, non-discrimination, and institutional accountability—into constitutional interpretation can strengthen Thailand’s rights protection mechanisms. Ultimately, this study contributes to the broader discourse on constitutional reform by linking natural law reasoning and fundamental rights obligations with sustainable development goals aimed at promoting justice, equality, and human dignity.

Keywords— SDG 16, Liberty, Equality, Natural Law Philosophy, Fundamental Rights Theory.

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I. INTRODUCTION

The principles of freedom and equality are foundational to constitutional law globally, having their origins in natural law philosophy, which holds that human rights are inalienable and inherent to all individuals, and thus cannot be revoked by the state [1]. This concept significantly influenced the Universal Declaration of Human Rights (UDHR) adopted in 1948, which proclaims that “All human beings are born free and equal in dignity and rights” [31].

In Thailand, the principles of freedom and equality have been consistently enshrined in various constitutional frameworks. Most notably, the 2017 Constitution of the Kingdom of Thailand, under Chapter 3: Rights and Liberties of the Thai People, states in Article 4 that “Human dignity, rights, liberty, and equality of all persons shall be protected” [6]. However, in practice, discrepancies in the interpretation and enforcement of

these rights continue to result in limited access to freedoms for certain groups.

Natural Law and Its Connection to Constitutional Rights

The philosophy of natural law posits that “basic human rights are not derived from statutes but exist by virtue of human nature itself” [11]. Several classical thinkers contributed to this tradition:

- Plato believed that justice should be grounded in the virtue of rulers, even if it meant governance without formal laws.

- Aristotle argued that “a good law must conform to reason and virtue,” emphasizing governance through law rather than by individual discretion [2].

- John Locke advanced the doctrine of “rights to life, liberty, and property,” which later underpinned many modern democratic constitutions [16].

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Thailand's constitution reflects these natural law principles through provisions such as Articles 26 and 27, which promote equality and non-discrimination [7]. Nevertheless, practical enforcement remains inconsistent, with many rights subject to restrictive interpretations.

Fundamental Rights Theory

The Theory of Fundamental Rights articulates that the state must respect, protect, and fulfill the rights of its citizens [9]. These obligations can be categorized into three levels:

1. Respect – The state must not violate rights (e.g., freedom of speech and expression).
2. Protect – The state must take active steps to prevent rights violations (e.g., anti-discrimination laws).
3. Fulfill – The state must adopt proactive measures to ensure the realization of rights (e.g., education and labor protections).

Although Thailand's Constitution formally guarantees civil liberties, exceptions frequently arise under special laws, such as the Emergency Decree and National Security Laws, which can unjustifiably restrict freedoms [6]

Practical Challenges in Legal Interpretation and Enforcement

In practice, freedom and equality are interpreted unevenly, particularly in politically sensitive contexts and national security issues [12]. For instance, laws governing public assembly and political expression have at times been used to curtail civil liberties.

Socioeconomic Inequality

Constitutional equality becomes ineffectual without addressing economic and social disparities. A 2019 report by the National Human Rights Commission of Thailand highlighted that the wealth gap between rich and poor significantly impedes the realization of genuine equality [18].

Conflict Between Domestic and International Human Rights Norms

Although the Thai Constitution recognizes fundamental freedoms, domestic legal enforcement often contradicts international human rights standards, such as freedom of the press, internet control, and the use of defamation laws [31].

Integrating SDG-based perspectives into constitutional rights analysis expands the scope of liberty and equality beyond legal text, highlighting their practical realization through institutional governance, access to justice, and protection for vulnerable populations. Natural Law philosophy and Fundamental Rights Theory similarly emphasize that individual rights are

not merely statutory privileges but moral imperatives that states must respect, protect, and fulfill. In the Thai context, however, disparities remain between normative principles and enforcement practices, especially in cases involving freedom of expression, political participation, and socio-economic inequality. These gaps mirror broader critiques in sustainability scholarship that institutions often recognize normative commitments—such as the SDGs—without fully operationalizing them in practice. [29]

Significance of the Study

Contemporary empirical research suggests that liberty and equality cannot be realized merely as legal guarantees but require empowered citizens with sufficient psychological capital, social capital, and competencies to meaningfully exercise their rights [4]

The concept of “ethical dissonance” in business education may be employed as a normative lens for constitutional analysis. It suggests that although institutions and organizations frequently proclaim commitments to ethics, justice, and social responsibility, their operational structures, incentive systems, or institutional cultures may in practice undermine those very values. This tension reflects a structural gap between declared principles and actual implementation. Such a gap parallels the concern identified in the present study regarding liberty and equality under the Thai Constitution—namely, that constitutional recognition of rights does not automatically guarantee their consistent and effective realization in practice. [30]

This research is crucial in examining how the concepts of natural law and fundamental rights theory can enhance the constitutional interpretation and protection of freedoms and equality. It also aims to identify practical reforms to strengthen Thailand's constitutional mechanisms for genuinely safeguarding citizens' rights.

II. RESEARCH PROBLEM

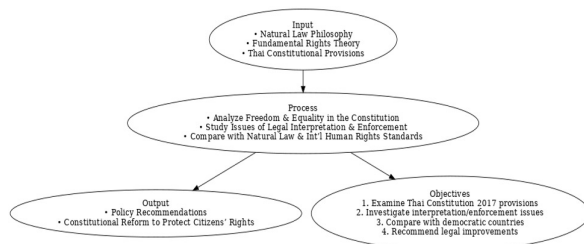
Based on the aforementioned context, this research aims to analyze the challenges associated with the interpretation and implementation of the principles of freedom and equality in the Thai Constitution. It will adopt the theoretical frameworks of Natural Law Philosophy and Fundamental Rights Theory to explore how these concepts may be integrated into the constitutional interpretation. The study seeks to determine how the Thai Constitution can be further developed to genuinely guarantee the rights and liberties of the people.

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III. OBJECTIVES

1. To examine the provisions of the 2017 Constitution of the Kingdom of Thailand relating to freedom and equality.
2. To investigate the problems and limitations in the interpretation and enforcement of the principles of freedom and equality in Thailand.
3. To compare the principles of freedom and equality in the Thai Constitution with those in constitutions of countries with strong democratic systems.
4. To propose recommendations for the development and improvement of the protection of freedom and equality under the Thai Constitution.

IV. CONCEPTUAL FRAMEWORK OF THE STUDY



This research is grounded in the integration of Natural Law Philosophy and Fundamental Rights Theory as conceptual lenses to examine how liberty and equality are interpreted, implemented, and protected under the 2017 Constitution of the Kingdom of Thailand.

V. DEFINITIONS OF KEY TERMS

Freedom in the Constitution refers to the right of individuals to act or refrain from acting without interference or restriction from the state, except as provided by law to maintain public order. This principle is a fundamental right enshrined in the constitutions of democratic countries and generally includes freedom of expression, freedom of religion, freedom of assembly, freedom of movement, and economic freedom.

Equality in the Constitution means the principle that all persons are entitled to equal rights and opportunities under the law without discrimination on the grounds of gender, race, religion, class, or socio-economic status. This principle forms the cornerstone of democracy and human rights and has been recognized in the constitutions of many countries, including Thailand.

Natural Law refers to the law that arises from the inherent nature of human beings and is not created by the state or rulers. It is a set of principles that exists above statutory law and is grounded in reason, morality, and justice. This concept holds that certain rights and

freedoms are inherent and cannot be infringed upon by the power of the state or unjust laws.

Fundamental Rights Theory denotes a legal concept emphasizing that every human being possesses rights that are protected by the state and the law and cannot be taken away. These fundamental rights are essential to living a life of dignity and freedom. The theory constitutes a foundational principle of democratic constitutions worldwide and is recognized in international human rights standards.

VI. THE MEANING AND CONCEPTS OF NATURAL LAW PHILOSOPHY AND FUNDAMENTAL RIGHTS THEORY

Liberty in the Constitutional Context

In the context of constitutional law, liberty refers to the right of individuals to act freely without interference from the state, unless such restriction is imposed by law with reasonable justification and in accordance with the principle of proportionality. Liberty is closely associated with rights, yet it emphasizes the individual's autonomy to live without unnecessary control, which aligns with the rule of law. Constitutions in democratic countries often define the scope and conditions of liberty by balancing the powers of the state and the freedoms of citizens, which is a fundamental principle of both democracy and universal human rights, as recognized by the Universal Declaration of Human Rights (UDHR, 1948) [31].

Strengthening liberty and equality in Thailand requires institutional reforms that enhance psychological empowerment, human capital, and social capital among citizens—factors empirically shown to mediate individuals' capacity to participate, innovate, and hold authorities accountable [26]

Components of Liberty in Constitutions

Modern democratic constitutions generally guarantee liberty in several dimensions:

Personal Liberty – The right to life and bodily autonomy, including protection against arbitrary detention (habeas corpus), except as provided by law in accordance with the rule of law.

Freedom of Expression – The right to express opinions and communicate without censorship, subject only to limitations for public order.

Freedom of Assembly and Association – The right to gather or form associations without interference, except for reasons of national security.

Economic Liberty – The freedom to engage in occupations or economic activities, free from unjust state restrictions.

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Freedom of Religion – The right to believe or not believe in any religion without coercion by the state.

Constitutional Limitations on Liberty

While constitutions protect liberty, such freedoms are not absolute. Limitations may be imposed if they meet the following conditions:

Legality – Restrictions must be clearly prescribed by law, avoiding arbitrary exercise of power.

Legitimate Aim – Restrictions must serve legitimate purposes such as public order, morality, national security, or the rights of others.

Proportionality – Measures must be necessary and proportionate to the aim pursued.

For example, restrictions on freedom of expression must not result in disproportionate punishments such as imprisonment for mere criticism.

Liberty under the Thai Constitution

The Constitution of the Kingdom of Thailand (2017) recognizes various forms of liberty:

Section 25 – Guarantees liberty of life and person.

Section 34 – Protects freedom of expression.

Section 42 – Safeguards freedom of political assembly.

Section 40 – Protects occupational freedom.

However, the Constitution also allows for lawful and proportionate limitations, as stated in Section 35, which requires that any restriction be in accordance with law and proportional to its purpose.

Equality in the Constitutional Context

Equality under constitutional law refers to the principle that every individual must receive equal rights and opportunities under the law without unjust discrimination. It is a core concept in human rights and democratic governance. Many constitutions enshrine this principle to prevent state-sponsored discrimination and ensure equal legal, political, economic, and social rights [31]

In contemporary constitutional discourse, the principle of substantive equality further deepens this analysis. While individuals may formally possess equal rights under constitutional text, equitable access to health information and digital services requires attention to language, culture, social vulnerability, and systemic bias, including algorithmic and data-driven disparities. Absent such considerations, rights may become formally equal yet unequal in outcome. Under the Thai Constitution, which guarantees human dignity, liberty, equality, and non-discrimination, the State bears obligations under Fundamental Rights Theory not only to protect individuals from inequalities and

discriminatory effects generated by data technologies, but also to fulfill these rights through proactive measures. Such measures must ensure that all groups—particularly marginalized or vulnerable populations—can access accurate, culturally appropriate health information in an equitable and meaningful manner. [34]

Key Categories of Constitutional Equality

Equality can be categorized into three major types:

Legal Equality – Equal protection and application of the law, prohibiting unjust discrimination such as biased judicial treatment or selective legal privileges.

Political Equality – Equal political rights, including the right to vote, run for office, and express political opinions.

Social and Economic Equality – Equal access to social and economic resources such as education, healthcare, and public welfare.

The Principle of Non-Discrimination

Many constitutions explicitly prohibit unjust discrimination, reinforced by international standards:

- UDHR: All individuals are equal before the law.
- U.S. Constitution: Equal Protection Clause.
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Constitutional Limitations on Equality

Though equality is a constitutional guarantee, it does not imply identical treatment in all circumstances. Exceptions may be made in cases involving:

- Affirmative Action – Special measures to assist vulnerable or historically disadvantaged groups, such as educational or employment quotas.
- National Security – Restrictions on political rights for certain groups, such as criminal offenders.

Equality under the Thai Constitution

The 2017 Thai Constitution ensures equality through:

- Section 27 – All persons are equal before the law and are entitled to equal legal protection.
- Section 40 – Protects economic rights.
- Section 42 – Ensures the right to form associations and political parties.
- Section 71 – Obligates the state to reduce economic inequality.

In sum, equality in the Thai Constitution emphasizes fair treatment under the law without unjust discrimination, while recognizing that special measures

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may be necessary to address structural inequality in society

The Philosophical Concept of Natural Law

Definition and Foundations

The concept of Natural Law is a legal philosophy that asserts law does not originate solely from state authority or human will, but is instead grounded in universal principles of morality, ethics, and justice. This perspective holds that true law must be just and legitimate; if state laws contradict moral principles, they cannot be regarded as valid laws [11].

Development of Natural Law Theory

The evolution of natural law can be divided into five major historical periods:

(1) Ancient Greek Period

Philosophers such as Socrates, Plato, and Aristotle argued that natural law exists above human-made laws and governs human conduct through reason and justice. Aristotle, in particular, proposed that natural law is inherent in human nature and can be discovered through rational inquiry [2].

(2) Roman Period

Roman jurists like Cicero developed the idea that natural law is derived from human reason and transcends state law. Cicero famously claimed, "True law is right reason in agreement with nature; it is of universal application, unchanging and everlasting." He further stated that natural law originates from God and nature [5].

(3) Medieval Period

Theologians and legal scholars such as Thomas Aquinas integrated natural law with religious doctrine. Aquinas categorized law into four types:

1. Eternal Law – God's divine order.
2. Natural Law – Law discernible through human reason.
3. Human Law – Laws enacted by states, which must align with natural law.
4. Divine Law – Laws revealed in sacred scriptures.

Aquinas emphasized that state law must be rooted in natural law to be legitimate [1].

(4) Modern Natural Law

Political philosophers like John Locke and Jean-Jacques Rousseau contributed to the modern understanding of natural law, focusing on natural rights such as liberty and equality. Locke argued that individuals possess inherent rights to life, liberty, and property, which governments are obliged to respect. Rousseau introduced the concept of the Social Contract, asserting that the legitimacy of state power must derive

from the will of the people and align with natural law principles [27].

(5) Contemporary Applications

Natural law continues to influence the development of human rights law, such as the Universal Declaration of Human Rights (UDHR) and international treaties like the International Covenant on Civil and Political Rights (ICCPR). Scholars like John Finnis have argued that natural law must be linked to fundamental values, including fairness, rationality, and justice [11].

Core Principles of Natural Law

1. Justice and Morality – Law must be grounded in moral and ethical principles; laws that contradict justice are not truly laws [12].
2. Higher Law Doctrine – Natural law stands above state law; the latter must comply with the former to be legitimate.
3. Natural Rights – Fundamental human rights (life, liberty, property) exist independently of state recognition and must be protected.

Critiques of Natural Law

1. Lack of Clarity – Critics argue that natural law relies on subjective moral interpretations that vary across cultures and historical periods.
2. Absence of Clear Standards – Detractors contend that natural law lacks objective criteria for determining which laws are just or unjust.
3. Conflict with Legal Positivism – Legal positivists maintain that law is defined solely by state authority, regardless of its moral content [9].

Natural law theory emphasizes that true law must be grounded in morality, justice, and rationality. It has deeply influenced modern legal thought, especially regarding human rights and the rule of law. However, its abstract nature and potential conflict with enacted legal systems pose challenges for practical implementation and interpretation.

Fundamental Rights Theory

The theory of fundamental rights is a legal concept emphasizing that all human beings possess rights that are equally protected by law and the state, and cannot be arbitrarily infringed. These rights form a core principle of constitutional democracies and serve as the foundation of international human rights norms.

Definition and Scope of Fundamental Rights

Fundamental rights refer to the essential entitlements of individuals for leading a life of dignity and for shaping the relationship between the state and its citizens. These rights are enshrined in national constitutions and international instruments such as the Universal Declaration of Human Rights (UDHR, 1948) and the

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International Covenant on Civil and Political Rights (ICCPR, 1966).

According to political and legal philosophers:

- John Locke argued that humans possess natural rights—namely life, liberty, and property—that must be protected by the state [16].
- Thomas Jefferson, in the U.S. Declaration of Independence, proclaimed that “all men are created equal” and are endowed with “unalienable rights.” [14].
- Immanuel Kant posited that all humans possess equal dignity and moral worth, which forms the philosophical basis of fundamental rights [15].

Categories of Fundamental Rights

Scholars and international legal documents typically categorize fundamental rights into three major groups:

1. Civil and Political Rights
 - Freedom of expression
 - Freedom of assembly
 - Right to a fair trial
 - Right to vote and political participation
2. Economic, Social, and Cultural Rights
 - Right to work and fair remuneration
 - Right to education and healthcare
 - Right to adequate housing and standard of living
3. Rights to Human Dignity
 - Freedom from discrimination
 - Right to live with dignity
 - Protection from torture and inhuman treatment

Core Principles of Fundamental Rights Theory

The United Nations has articulated three primary obligations for states concerning the protection of fundamental rights⁴:

- Respect – States must not violate individual rights arbitrarily (e.g., avoid enacting unnecessary restrictions on freedom).
- Protect – States must establish mechanisms to prevent third-party violations (e.g., anti-discrimination laws).
- Fulfill – States must actively ensure access to rights (e.g., public education and healthcare provisions).

Fundamental Rights in the Thai Constitution

The Constitution of the Kingdom of Thailand, B.E. 2560 (2017) enshrines fundamental rights in several provisions, notably in Chapter 3 on "Rights and Liberties of the Thai People." For example:

- Section 4 recognizes human dignity and individual rights.
- Sections 26–27 uphold the principles of equality and non-discrimination.
- Section 40 guarantees the right to legal justice. Although Thailand’s Constitution formally protects fundamental rights, practical implementation often faces challenges, particularly in the interpretation and enforcement of these rights—such as limitations on assembly and expression under special laws.

Significance of Fundamental Rights Theory Today

- Empowers citizens to understand and assert their rights.
- Provides a framework for constitutional development aligned with international human rights standards.
- Promotes justice and equality in society.

Challenges and Limitations

- Variability in interpretation – Different countries interpret fundamental rights in context-specific ways, sometimes restricting rights in the name of state security.
 - Balance between freedom and national security – Emergency or criminal laws may unduly curtail individual freedoms.
 - Socioeconomic disparities – Marginalized populations may lack access to guaranteed rights despite formal recognition.
- Fundamental rights theory remains a cornerstone of democratic constitutionalism worldwide. It asserts that all human beings are entitled to rights that the state must respect, protect, and fulfill to promote justice and equality. Nonetheless, enforcement remains a persistent challenge, especially in states governed by special laws or political imbalance. Hence, continued research and legal development are essential to realizing genuine freedom and fairness in society.

VII. PROBLEMS OF INTERPRETATION AND LIMITATIONS IN THE ENFORCEMENT OF THE PRINCIPLES OF LIBERTY AND EQUALITY IN THAILAND

The principles of liberty and equality form the cornerstone of democratic governance and have been enshrined in the constitutions of Thailand throughout its modern legal history. Notably, the 2017 Constitution of the Kingdom of Thailand guarantees all persons equal liberty and equality before the law. However, despite the seemingly strong textual protections, the practical implementation and interpretation of these principles remain fraught with limitations and inconsistencies,

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which often hinder the realization of genuine rights for the people.

1. Interpretive Challenges in the Principles of Liberty and Equality

One of the main issues concerning liberty and equality in Thailand lies in the divergent interpretations of constitutional provisions. Courts and administrative bodies frequently exercise varying degrees of discretion when adjudicating cases involving individual rights. For instance, although freedom of expression is constitutionally protected under Section 34 of the 2017 Constitution, it is frequently curtailed through other statutes, such as the Computer Crime Act B.E. 2560 (2017) and various national security laws. These laws are often interpreted broadly, thereby imposing significant restrictions on citizens' rights.

Such trends reveal that Thai courts and authorities tend to prioritize state power over individual rights, leading to a weakening of liberty protections in practice. Furthermore, the absence of clear, uniform standards for adjudicating fundamental rights results in legal uncertainty. For example, cases involving the right to political assembly have at times been upheld as constitutional rights, while in other instances, such rights have been curtailed on national security grounds. This lack of interpretive consistency undermines public confidence in the protection of constitutional liberties.

2 Limitations in the Enforcement of Liberty and Equality

Although the Thai Constitution explicitly guarantees liberty and equality, several barriers hinder their enforcement—especially in relation to social and economic disparities, which lead to unequal protection of fundamental rights among citizens.

2.1 Inequality in Access to Justice

In Thailand, individuals from economically disadvantaged backgrounds often face obstacles in accessing legal protections comparable to those available to powerful political or economic elites. For instance, in land rights or labor-related litigation, marginalized groups frequently lack the financial and legal resources to pursue justice effectively. In contrast, affluent entities can mobilize the judicial system to safeguard their interests, resulting in structural inequalities in legal outcomes.

2.2 Legal Discrimination

Despite Section 27 of the Constitution affirming the principles of non-discrimination and equality, certain social groups continue to receive inadequate legal protection, particularly women and LGBTQ+ communities. This is evident in areas such as family and

labor law, where equal protections are not fully realized.

Moreover, specific legal provisions, such as Section 112 of the Thai Penal Code (Lèse Majesté law), are often criticized for being used to suppress political dissent, raising serious concerns about the impartiality of the justice system and its adherence to constitutional equality.

2.3 Special Laws That Restrict Rights and Freedoms

In addition to constitutional provisions, several special laws grant the state sweeping powers to curtail individual freedoms. Examples include:

- The Emergency Decree on Public Administration in Emergency Situations, which authorizes the state to control or limit civil liberties during times of crisis.

- The Computer Crime Act B.E. 2560 (2017), which allows the prosecution of individuals for online speech deemed threatening to national security.

These statutes are often subject to broad interpretation and application, effectively becoming tools for the suppression of civil liberties, rather than protective legal mechanisms.

VIII. ANALYSIS OF FREEDOM AND EQUALITY IN THE CONSTITUTION: INTERPRETIVE CHALLENGES AND NATURAL LAW-BASED PERSPECTIVES

1. Interpretation of Constitutional Principles on Freedom and Equality

The principles of freedom and equality enshrined in the 2017 Constitution of Thailand form the cornerstone of its democratic regime. These are embedded in Chapter 3, "Rights and Liberties of the Thai People," guaranteeing rights to life, bodily integrity, freedom of expression, freedom of assembly, and equality before the law without discrimination. However, practical enforcement and judicial interpretation often reflect significant limitations, weakening full protection of citizens' rights.

A key constraint lies in the interpretation of civil rights under the guise of national security or special laws, such as the Emergency Decree on Public Administration in Emergency Situations or Section 112 of the Penal Code (Lèse-Majesté). The courts and state institutions tend to exercise broad discretion, often to the detriment of political and civil liberties.

For instance, the Constitutional Court Ruling No. 7/2552 (2009) upheld the prohibition of public assemblies near the Parliament on grounds of national security, without fully applying the principle of proportionality—a cornerstone of natural law and fundamental rights theories. This ruling was widely

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criticized for neglecting the balancing of individual liberty and public order, thereby compromising the constitutional right to peaceful assembly [19].

Similarly, the Supreme Court Judgment No. 3936/2563 (2020) punished a defendant for political expression online under the Computer Crimes Act. The ruling failed to uphold the constitutional guarantee of freedom of expression (Section 34), as the court broadly interpreted "national security" without considering intent, severity, or actual harm [25].

In matters of equality, disparities persist. The Constitutional Court Ruling No. 6/2565 (2022) determined that the Civil and Commercial Code's limitation of marriage to heterosexual couples did not violate the Constitution, justifying the discrimination under Thai cultural norms. This decision prompted criticism from human rights organizations as discriminatory and incompatible with the principles of human dignity and equality [22].

Another case, Constitutional Court Ruling No. 12/2555 (2012), affirmed the legitimacy of requiring public officials in certain positions to adhere to specific religious affiliations. From a natural law perspective, such legal distinctions undermine human dignity and equality by institutionalizing discrimination based on belief.

These judicial trends reveal a gap between constitutional ideals and practical application, often due to interpretations lacking in natural law reasoning and a robust application of fundamental rights principles. The result is a legitimacy crisis that erodes public trust in the constitutional order.

2. Relevant Case Analyses

2.1 Constitutional Court Ruling No. 7/2552

This case involved a government order banning public assembly near the Parliament. The Court reasoned that the restriction was necessary to preserve public order. However, legal scholars argue that the Court failed to apply the principle of proportionality, which assesses whether the means used are the least restrictive necessary to achieve the state's legitimate objective [19].

2.2 Supreme Court Judgment No. 3936/2563

This case dealt with criminal charges against an individual who criticized the government via social media. The court ruled this as a threat to national security. Critics point out the ruling's narrow view of freedom of expression, contrary to Section 34 of the Constitution and to international standards such as Article 19 of the ICCPR [13].

2.3 Constitutional Court Ruling No. 6/2565

The petitioner challenged the constitutionality of the Civil Code's restriction of marriage to heterosexual couples. The Court ruled that the law protected the "traditional Thai family institution." However, from a human rights standpoint, this represents a discriminatory interpretation, inconsistent with universal principles of equality and human dignity [31].

2.4 Constitutional Court Ruling No. 12/2555

This ruling upheld statutory requirements that certain public officials must adhere to a specific religion. While legally justifiable, such conditions contradict the non-discrimination clause under natural law, which mandates equal treatment irrespective of belief systems.

3. Advancing Interpretations Through Natural Law Frameworks

Natural law theory asserts that certain rights are inherent to human beings and derive not from state authority, but from morality, justice, and reason (Finnis, 1980). Integrating natural law reasoning into constitutional interpretation can strengthen the protection of freedom and equality. Key interpretive principles include:

3.1 Dignity of the Human Person

All rights originate from the inherent dignity of the person, not from statutory provisions (Kant, 1797). Courts must recognize that even marginalized individuals hold equal status and protections under the law [15].

3.2 Natural Justice as the Standard

Any limitation of rights must be not only lawful but also morally justified. The principle of proportionality should serve as a benchmark to ensure that state actions are necessary and minimally restrictive.

3.3 Openness to Universal Human Rights Norms

Constitutional interpretation should be informed by international human rights frameworks such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) [12].

3.4 Interpretive Generosity

When legal provisions are ambiguous, courts should favor interpretations that expand, rather than limit, individual rights. This aligns with the principle of interpretive generosity rooted in natural law jurisprudence.

3.5 Judicial Moral Reasoning

Court decisions should incorporate moral and ethical reasoning, not merely strict textual analysis. This enhances the legitimacy and justice of constitutional adjudication.

4. Conclusion: Bridging the Gap Between Law and Morality

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The examined rulings demonstrate a concerning divergence between constitutional guarantees and judicial practices, particularly when natural law principles are not integrated into legal interpretation. If freedom and equality are to function as more than rhetorical commitments, Thailand’s constitutional jurisprudence must embrace natural law-based reasoning—rooted in dignity, proportionality, and moral legitimacy. Doing so will strengthen both citizen protections and the credibility of the rule of law in a democratic society.

IX. COMPARISON OF CONSTITUTIONAL PRINCIPLES OF FREEDOM AND EQUALITY WITH NATURAL LAW AND INTERNATIONAL HUMAN RIGHTS STANDARDS AND LEGAL RECOMMENDATIONS

1. Comparison of Constitutional Principles of Freedom and Equality with Natural Law and International Human Rights Standards

Freedom and equality are fundamental components of democratic governance. These principles are clearly enshrined in the Constitution of the Kingdom of Thailand B.E. 2560 (2017), particularly in Chapter 3, which guarantees rights and freedoms of the Thai people—such as freedom of expression (Section 34), freedom of assembly (Section 44), and equality before the law (Section 27). However, when compared to the principles of natural law and international human rights standards, such as the Universal Declaration of Human Rights (UDHR) of 1948 and the International Covenant on Civil and Political Rights (ICCPR) of 1966, certain differences in the level of protection and modes of interpretation become apparent, especially in practice and in remedies available to the public.

1. Convergences

Thailand’s Constitution reflects a shared spirit with natural law theory in recognizing that individual rights are inherent and should not be unjustly restricted. It also aligns with international human rights standards in guaranteeing basic freedoms such as freedom of thought, religion, and protection against discrimination, as exemplified in UDHR Articles 1, 2, 19, and 20, and ICCPR Articles 2, 14, and 26 [13]

.2. Divergences

Despite the formal recognition of rights, in practice the Thai Constitution permits broad state authority to limit such rights. Judicial interpretation often emphasizes “legal limitations” rather than principles of natural justice. For example, the use of emergency decrees or national security laws has restricted public assemblies or expressions of opinion, violating the ICCPR’s standard of “full protection” [13]

Furthermore, whereas natural law posits that rights are pre-political and not dependent on legal codification, Thai constitutional rights are often qualified by legal phrases such as “as prescribed by law,” granting the state discretionary power to limit rights under the guise of legality.

Table 1: Comparison among Principle, Thai Constitution, Natural Law and International Human Rights

Principle	Thai Constitution (2017)	Natural Law	International Human Rights (UDHR/ICCPR)
Source of Rights	Derived from the Constitution and related statutes	Inherent by virtue of human dignity	Inherent, not dependent on state recognition (UDHR Art. 1)
Freedom of Expression	Section 34 allows expression but subject to legal limitations	Should only be limited when seriously infringing others' rights	ICCPR Art. 19 allows restriction only when necessary
Equality	Section 27 recognizes equality but allows for some exceptions	Absolute; not subject to state interference	ICCPR Art. 26 prohibits discrimination based on sex, race, etc.
Limitation of Rights	Phrased as “within the framework of the law,” enabling broad state control	Must be justified by natural justice	Restrictions must be “necessary and proportionate”
Remedies	Available via Constitutional or regular courts, but often slow and inaccessible	Emphasizes moral reasoning over legal formality	Effective remedies required (ICCPR Art. 2(3))

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These differences suggest that while Thailand's Constitution aspires to conform to natural law and international human rights norms, structural and interpretive limitations continue to hinder comprehensive rights protection. Incorporating natural law principles into constitutional interpretation and remedy mechanisms could better safeguard human dignity in Thailand.

2. Policy and Legal Recommendations

In light of the aforementioned analysis, several policy and legal measures are proposed to enhance the protection of freedom and equality in the Thai constitutional framework:

Judicial Interpretation Anchored in Human Dignity: Courts, including the Constitutional Court, should adopt interpretive methods grounded in natural justice and human dignity, rather than strictly adhering to statutory provisions. The "pro-rights interpretation" approach should be promoted, encouraging the court to adopt the interpretation that most favors the protection of rights in cases of ambiguity [9]

Constitutional Language Revisions: Ambiguous clauses such as "rights exercised as prescribed by law" should be revised to include clear moral and proportional limits. The principle of necessity and proportionality should be a mandatory requirement for any restriction on rights, and all such limitations should undergo independent judicial review.

Integration of International Human Rights Jurisprudence: Courts should adopt comparative interpretations with international decisions, such as rulings from the European Court of Human Rights (ECHR) or the UN Human Rights Committee, to align domestic standards with global ones. This includes recognizing UNHRC decisions as persuasive authority in Thai jurisprudence.

Accessible Legal Remedies for Citizens: Mechanisms such as Human Rights Litigation Funds and local legal aid centers should be developed to assist victims of rights violations. Additionally, a constitutional rights ombudsman should be empowered to conduct independent investigations and systemic recommendations.

Human Rights Education for Justice Officials: Continuous legal education programs should be established for judges, prosecutors, and public officials to deepen their understanding of natural law and moral interpretations of rights. University curricula should also intensify training in natural law theory and international human rights law.

Moral Reasoning in Judicial Decisions: Thai courts, especially the Constitutional Court, should provide

explicit moral and philosophical reasoning in their rulings, not solely legal arguments. This can increase public trust and legitimacy in the judiciary.

Summary

These recommendations aim to elevate the Thai legal system toward a more genuine protection of constitutional rights and freedoms, in alignment with the spirit of natural law, the intent of the Constitution, and international human rights norms. Implementing these changes would not only reinforce the rule of law domestically but also strengthen the legitimacy of Thailand's judicial and constitutional mechanisms in the eyes of its people and the international community.

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