

# The Junction of Economic Ideologies: A Study of Economic Principles in the Constitution of Thailand\*

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## Abstract

*The Thai Constitution functions as a political instrument outlining state powers and relationships and as a meta-institution shaping societal norms, particularly in terms of economic frameworks and ideologies. Earlier Thai constitutions mainly endorsed market-oriented liberal economic systems. But the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) newly included the Sufficiency Economy Philosophy (SEP). However, the inherent ambiguity of SEP poses significant challenges for its translation into coherent economic policy. This development may have impacted the enforcement of law recently, especially in the context of regulating major corporate mergers. This inquiry studies mechanisms underpinning the ideological transformation in the legal framework and its implications for the theoretical foundations and practical application of the law. Legally analyzing the three most recent Constitutions and an institutional economic perspective, this study examines*

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*the Constitutions' ideological and economic provisions. It aims to understand the emergence of ideological divergence, the institutional ascendancy of SEP, and preliminary implications arising from this ideological conflict.*

Keywords: Constitution — Institutional economics — Sufficiency economy — Basic state policy

## I. INTRODUCTION

After two major business mergers in Thailand, questions arose about the enforcement capability of domestic antitrust laws. For example, in 2023, Chatra Kamsaeng noted inadequacies in the law's working mechanisms, such as a lack of transparency in deliberations and absence of leniency measures to incentivize cartel breakups.<sup>1</sup> Additionally, in 2020 and 2022, Kanoknai Thawonphanit questioned the application of antitrust laws, suggesting that the theoretical principles adopted by authorized committees or agencies might be flawed, leading to enforcement problems.<sup>2</sup>

Both perspectives created valid concerns from an antitrust law perspective. However, more broadly, whether the approval of these significant mergers might result from institutional deficiencies, especially institutions established by the Thai Constitution, is another moot point.

A connection between constitutional law and the economic system is commonly found in the constitutions of many nations. For example, in France, the Constitution of the Fifth Republic of 1958 established an economic constitutional law system (*bloc de constitutionnalité*) in the Constitution's preamble.<sup>3</sup> It supports the principles of economic freedom under the Declaration of the Rights of Man and of the Citizen (1789), as well as provisions from previous constitutions of the Republic. Under this economic constitutional law system, the current constitution upholds a liberal economic ideology alongside other economic freedoms, such as freedom of enterprise, private property rights, association, and personal liberty. These freedoms are guaranteed constitutionally, obliging the state to adhere to them. This has become a foundational condition in the state's economic ideology.<sup>4</sup> However, acceptance of this

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<sup>1</sup> ฉัตร คำแสง, “ขันนอตกฎหมายแข่งขันทางการค้า: เงื่อนไขจำเป็นสู่เศรษฐกิจใหม่ที่โตอย่างทั่วถึง” [Chatra Kamsaeng, “Tightening the Nuts of Competition Law: Necessary Conditions for a New Inclusive Growth Economy”] *The101.world* (8 December 2023) <<https://www.the101.world/amend-competition-law-for-inclusive-growth/>> (Thai).

<sup>2</sup> กนกนัย ถาวรพานิช, “ดีลควบรวม “ซีพี” กับ “เทสโก้ โลตัส”: รัฐประหารทางเศรษฐกิจที่ยังมาไม่ถึง?” [Kanoknai Thawonphanit, “CP-Tesco Lotus Merger Deal: An Economic Coup That Has Yet to Arrive?”] *The101.world* (15 November 2020) <<https://www.the101.world/cp-and-tesco/>> (Thai); กนกนัย ถาวรพานิช, “ดีลควบรวมทรูและดีแทค: กสทช. อยากถูกจดจำแบบไหนในหน้าประวัติศาสตร์” [Kanoknai Thawonphanit, “True-DTAC Merger Deal: How Does NBTC Want to Be Remembered in History?”] *The101.world* (3 May 2022) <<https://www.the101.world/true-dtac-nbtc/>> (Thai).

<sup>3</sup> Didier Linotte and Alexandre Graboy-Grobescio, *Droit Public Économique* (Dalloz 2001) 36–37.

<sup>4</sup> Frédéric Colin, *Droit Public Économique* (4th edn, Lextenso Éditions 2013) 145–51 and 155–58.

liberal economic ideology does not imply that the French Constitution excludes state intervention in the economy. The government still intervenes in the public interest, such as national security or preventing the misuse of economic freedom to infringe on the freedoms of others (such as using economic freedom to create a monopoly).<sup>5</sup>

Similarly, in Germany, the Basic Law for the Federal Republic of Germany enshrines the principle known as the Welfare State principle (*Sozialstaatsprinzip*).<sup>6</sup> This principle has influenced German economic ideology, resulting in what is called the social market economy (*Soziale Marktwirtschaft*); under this principle, the Federal Constitutional Court of Germany describes the national economic ideology as based on a balance between benefits to citizens and a free-market economy.<sup>7</sup> This principle establishes a mechanism that allows the state to intervene in the economy while protecting the market system's function.<sup>8</sup>

In the context of Thailand, after the 2014 Thai coup d'état and promulgation of a new constitution in 2017, one significant innovation was a new state economic ideology. This shifted from a market-led liberal economic system (since 1997) to the Sufficiency Economy Philosophy (SEP) based on the principles of moderation, reasonableness, and self-immunity, as outlined in speeches by His Majesty King Bhumibol Adulyadej of Thailand, as enshrined in Section 75 of the Constitution:

The State should organise an economic system which provides opportunities for the people to all together benefit from the economic growth in a comprehensive, fair and sustainable manner and to be self-reliant in accordance with the philosophy of sufficiency economy, should eliminate unfair economic monopoly, and should develop economic competitiveness of the people and the country.

This institutional change in the constitution has created ambiguity in the interpretation and enforcement of economic laws. This stems from SEP's lack of clarity as an economic ideology, functioning instead as a set of discourses. Nevertheless, some economists and legal scholars believe SEP offers solutions to development problems by linking it to various development goals. Chol Bunnag and Pusanisa Kamolnoratep (2020) indicate how SEP and Sustainable Development Goals (SDGs) both aim to

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<sup>5</sup> *ibid* 151–54 and 158–66.

<sup>6</sup> บุญศรี มีวงศ์โสม, กฎหมายมหาชนทางเศรษฐกิจเยอรมัน (สำนักพิมพ์นิติธรรม 2538) [Boonsri Meewongukote, German Public Economic Law (Nititham 1995)] (Thai) 97.

<sup>7</sup> Matthias Ruffert, "Public Law and the Economy: A Comparative View from the German Perspective" (2013) 4 *International Journal of Constitutional Law* 925 <<https://doi.org/10.1093/icon/moto44>>.

<sup>8</sup> Ordoliberalism, a German variant of economic liberalism, emphasizes the need for government to ensure that the free market produces results close to its theoretical potential but does not advocate for a welfare state and did not advocate against one. This has significantly influenced the economic system and economic ideology of the European Union (EU). It is a liberal economic system that acknowledges the role of the state as a counterbalance to economic power. See *ibid*; กนกนัย ถาวรพานิช, "ฟูโกต์และแนวคิดแบบเสรีนิยมแบบออร์โด" ใน พิพัฒน์ พสุธารชาติ (บ.ก.) ฟูโกต์กับลัทธิเสรีนิยมใหม่ (อิลลูมินเนชันส์ เอ็ดิชันส์ 2563) [Kanoknai Thawonphanit, "Foucault and Ordoliberalism" in Pipat Pasutarnchat (ed), *Foucault and Neoliberalism* (Illuminations Editions 2020)] (Thai) 147–61.

develop and balance social, economic, and environmental dimensions;<sup>9</sup> Kanoknai Thawonphanit (2017) argues that SEP is an essential condition for building economic immunity by eliminating unfair competition and promoting economic sustainability based on the middle path, knowledge, and morality.<sup>10</sup>

This article explores the mechanisms through which such an ideological transformation has emerged from the legal framework and examines how this transformation has influenced the theoretical foundations and practical applications of the law. Instead of debating whether the SEP provides a viable solution to existing challenges, the article focuses on how institutional changes in the Constitution have contributed to a divergence in economic ideologies and how the inherent ambiguity of these ideological provisions affects the interpretation and enforcement of legal norms.

This article's structure consists of 1) an analytic framework: explaining concepts and theories used to explain this phenomenon; 2) blurring of the sufficiency economy: reviewing perspectives on SEP and emphasizing how its ambiguity affects legal interpretation; 3) dynamics of economic ideologies: examining institutional changes in the Constitutions of Thailand from 1997 to 2017; 4) results: how divergence in economic ideology affects legal interpretation and enforcement; and 5) summary and epilogue: concluding remarks and implications of this phenomenon.

## II. FRAMEWORK TO ANALYZE THE JUNCTION

In examining constitutional economic ideology, this analysis departs from traditional legal provision interpretation. Instead, it uses institutional economics to see how changes in institutions influence the rules governing behavior by political actors. Complementing this approach, the concept of Ideological State Apparatuses is employed to trace the evolution of state economic ideology.

This political economy approach aims to illuminate the nature of conflicts in economic ideology and demonstrate how SEP's emergence as a new economic ideology has ultimately created systemic challenges.

To outline the analytical framework used in this article, here is a summary of the conceptual frameworks and theories employed in the analysis, beginning with the New Institutional Economics (NIE) perspective, followed by the state ideological apparatus.

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<sup>9</sup> ชล บุนนาค และภุชณิศา กมลนรเทพ, “ความสัมพันธ์ระหว่างปรัชญาของเศรษฐกิจพอเพียง (Sufficiency Economy Philosophy: SEP) และเป้าหมายการพัฒนาที่ยั่งยืน (Sustainable Development Goals: SDGs)” [Chol Bunnag and Pusanisa Kamolnoratep, “The Relationship Between Sufficiency Economy Philosophy (SEP) and Sustainable Development Goals (SDGs)”] *SDG Move* (13 October 2020) <<https://www.sdgmovement.com/2019/09/27/sep-and-sdgs/>> (Thai).

<sup>10</sup> กนกนัย ถาวรวพานิช, “กฎหมายแข่งขันทางการค้า ภายใต้ร่มเงาของแนวคิดเศรษฐกิจพอเพียง: ความลุ่มหลงหรือความขัดแย้ง?” ใน กฤษดา จันทน์มารจัรัส (บรรณาธิการ), *รฟพัฒนาศักดิ์ ประจำปีพุทธศักราช 2560* (สำนักอบรมศึกษากฎหมายแห่งเนติบัณฑิตยสภา 2560) [Kanoknai Thawonphanit, “Competition Law Under the Shadow of Sufficiency Economy Concept: Harmony or Conflict?” in Krisada Jantramajaris (ed), *Raphi Phattanasak 2017* (Institute of Legal Education of Thai Bar Association 2017)] (Thai) 230 and 233–34.

## A. New Institutional Economics

Generally, the legal profession views a constitution as supreme law defining state power order and the interactions of these powers.<sup>11</sup> This definition considers a constitution solely as a legal document, but it has significance in other contexts. A constitution is a political document that defines the relationships among the legislative, executive, and judicial branches, as well as the rights, freedoms, and duties between a state and its people. It is also an economic document that sets the rules for politicians, interest groups, and citizens with and without voting rights, as well as interactions among diverse actors in the political market or the balance of power in the policymaking process.<sup>12</sup> In NIE, the constitution represents a formal institutional structure that defines rules.

NIE<sup>13</sup> is a branch of economic study that emphasizes the nature and role of social institutions such as corporations, state, money, property, and family in economic life.<sup>14</sup> This article, follows the institutional definition of Douglass North.

Institutions refer to societal rules or humanly devised constraints that shape social interactions. Therefore, institutions are political, social, or economic incentive structures in human exchange.<sup>15</sup> These institutions comprise informal rules such as social norms, taboos, customs, and traditions, as well as formal rules in constitutions, laws, and property rights.<sup>16</sup> This institutional conception resembled what the Thai historian Nidhi Eoseewong called culture.<sup>17</sup>

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<sup>11</sup> หยุด แสงอุทัย, หลักรัฐธรรมนูญทั่วไป (พิมพ์ครั้งที่ 9, วิญญูชน 2538) [Yud Saeng-uthai, *General Principles of Constitutional Law* (9th edn, Winyuchon 1995)] (Thai) 39.

<sup>12</sup> See รังสรรค์ ธนะพรพันธุ์, “เศรษฐศาสตร์รัฐธรรมนูญ: บทวิเคราะห์รัฐธรรมนูญแห่งราชอาณาจักรไทย พ.ศ. 2540” (รายงานวิจัยเสนอต่อสำนักงานกองทุนพัฒนาสนับสนุนการวิจัย 2545) [Rangsan Thanapornphan, “Constitutional Economics: Analysis of the 1997 Constitution of the Kingdom of Thailand” (Research report submitted to the Research Development Fund 2002)] (Thai) 4–5.

<sup>13</sup> NIE differs from current mainstream economics in certain assumptions. Mainstream economics does not emphasize the role of institutions dominating economic actors’ thinking, viewing economic actors’ decisions as independently rational. However, NIE recognizes that institutions significantly influence economic actors’ decisions and acknowledges transaction costs. See John Harriss, Janet Hunter, and Colin Lewis, “Introduction: Development and Significance of NIE” in John Harriss, Janet Hunter, and Colin Lewis (eds), *The New Institutional Economics and Third World Development* (Routledge 1995) 5 <<https://doi.org/10.4324/9780203444290>>; Stefan Voigt, *Institutional Economics* (Oxford University Press 2019) 3 <<https://doi.org/10.1017/9781108573719>>.

<sup>14</sup> Geoffrey M. Hodgson, “Institutional Economic Thought” in Neil J. Smelser and Paul B. Baltes (eds), *International Encyclopedia of the Social & Behavioral Sciences* (Elsevier Ltd 2001) 7543 <<https://doi.org/10.1016/B0-08-043076-7/02250-6>>.

<sup>15</sup> Douglass C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge University Press 1990) 3 <<https://doi.org/10.1017/CBO9780511808678>>.

<sup>16</sup> Douglass C. North, “Institutions” (1991) 1 *The Journal of Economic Perspectives* 97, 97 <<https://doi.org/10.1257/jep.5.1.97>>.

<sup>17</sup> The determination of societal power relations does not derive from singular authority. Instead, it evolves through protracted processes of contestation and the preservation of power status among different social actors and institutions. See นิธิ เอียวศรีวงศ์, *ชาติไทย, เมืองไทย, แบบเรียนและอนุสาวรีย์ ว่าด้วยวัฒนธรรม, รัฐ และการจัดตั้ง* (พิมพ์ครั้งที่ 3, มติชน 2557) [Nidhi Eoseewong, *Thai Nation, Thailand, Culture, State and the Making of Thai Nation* (3rd edn, Maitichon 2557)]

Institutions are a key factor contributing to the differences in each country's economic system.<sup>18</sup> Although nations may superficially resemble one another or be grouped under the same economic system, when examined institutionally, they reveal how political actors, who are also economic actors, mutually interact.<sup>19</sup>

Institutional economics holds that the rules resulting from economic and political interactions over time shape the norms to which political and economic actors adhere.<sup>20</sup> These norms are sustained by public consensus (or, in some cases, by political power) that upholds the institution.<sup>21</sup> An example of this is the abolition of slavery, which stemmed from a shift in public consensus that rendered human bondage illegal.

NIE emphasizes these institutions as crucial constraints and rules, believing that these influence the behavior of economic actors.<sup>22</sup> Following this implication, it may be argued that the constitution plays a meaningful role in decision-making by legal actors such as courts, regulatory bodies, and different state agencies, as discussed in the following section.

A constitution is a meta-institution that defines rules (institutions) and serves as a benchmark for interpreting and framing other societal rules (institutions).<sup>23</sup> Formal state-established institutions, especially laws, must conform to constitutional principles. No law may contradict or conflict with them (see Figure 1). A constitution's inherent status as meta-institution that no other formal institution may contradict or conflict with is naturally determined, insofar as it alters structures, political mechanisms, and legal relationships,<sup>24</sup> by granting voting rights or recognizing land ownership. This institutional coherence also binds the government to implement policies aligning with constitutional provisions.<sup>25</sup>

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*Textbooks and Monuments: On Culture, State and Forms of Consciousness* (3rd edn, Matichon 2014)] (Thai) 115.

<sup>18</sup> Daron Acemoglu and James A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (Profile Books 2012) 28–32 <<https://doi.org/10.1355/ae29-2j>>.

<sup>19</sup> Michael Rodi, *Economic Analysis of Public Law* (Kate Miller tr, Springer 2022) 226 <<https://doi.org/10.1007/978-3-662-66089-8>>; This perspective differs from mainstream economics, which focuses on resource scarcity.

<sup>20</sup> Douglass C. North, *Institutions, Institutional Change and Economic Performance* (n 15) 11.

<sup>21</sup> Acemoglu and Robinson, *Why Nations Fail* (n 18) 32–48.

<sup>22</sup> Voigt, *Institutional Economics* (n 13) 3.

<sup>23</sup> Rangsan, “Constitutional Economics” (n 12) 3.

<sup>24</sup> บุญศรี มีวงศ์โฆษ, กฎหมายมหาชนเบื้องต้น (พิมพ์ครั้งที่ 4, โครงการตำราและเอกสารประกอบการสอน คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์ 2562) [Boonsri Meewongukote, *Introduction to Public Law* (4th edn, Textbook and Teaching Materials Project, Faculty of Law, Thammasat University 2019)] (Thai) 157.

<sup>25</sup> Rangsan, “Constitutional Economics” (n 12) 5.

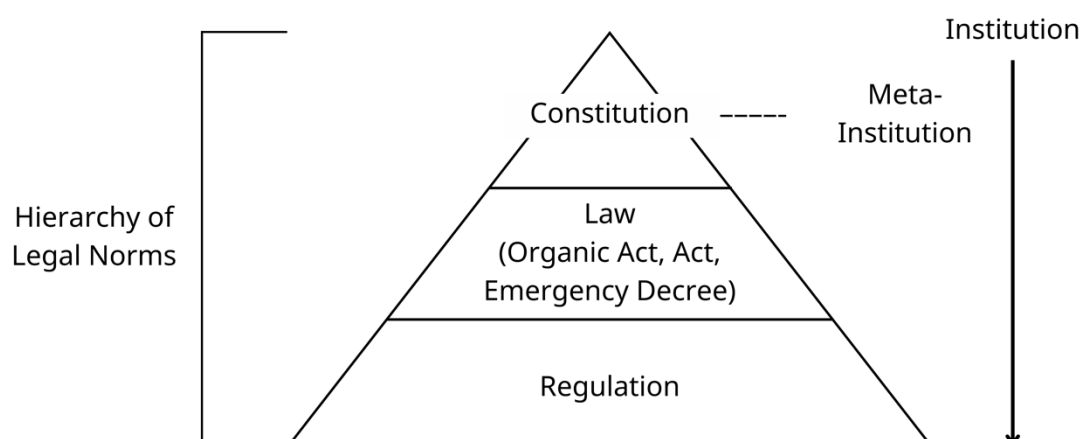


Figure 1: Constitution in the role of a meta-institution.

Source: Khemmapat Trisadikoon.

In economics, the goal of the constitution as an institution is the distribution of societal benefits by functioning as a long-term contract among diverse state political actors and interest groups,<sup>26</sup> such as the monarchy, politicians, military and civil servants, capitalists, and the general population.

The constitutional stipulation for the economic system aims to demonstrate the state's economic ideology, serving as a guiding compass and signal to political actors such as the state, capitalist groups, and citizens of economic roles to be fulfilled. For example, private entities (capitalist groups) would be unable to deal in goods if the constitution guarantees private ownership rights while upholding a free market economic ideology that shapes the direction of exercising such rights and freedoms.

In analyzing the constitution through NIE, two analytical approaches may be attempted. The first is the transmission of informational effects of rules, whereby societal members collectively understand constitutional norms, thus establishing them as fundamental information that facilitates prediction of societal behavior.<sup>27</sup> In this analysis, these norms align with the ideology of free and fair competition. The second analytical approach is the impact on incentive structures, where norms explicitly and implicitly influence incentives through positive (reward) and negative (punishment) mechanisms. However, in a constitutional context, the incentive structure related to free and fair competition ideology may be unclear, as a peripheral concern. Instead, these details are shown in legal provisions embodying constitutional principles and ideology, such as competition, public procurement, and public enterprise law.<sup>28</sup>

However, the constitution does not exist as a singular institution. Traditional institutions, particularly social norms, play an equally significant role in behavioral

<sup>26</sup> *ibid* 5.

<sup>27</sup> *ibid* 20.

<sup>28</sup> *ibid* 21.

transmission as legal frameworks. While laws may change rapidly, social norms typically evolve gradually and maintain flexibility.<sup>29</sup> This characteristic helps previously established social norms to retain influence over economic actors' behavior. Such institutional dynamics may consequently constrain the constitutional objectives.<sup>30</sup>

In addition, the study of institutions within a constitution and related laws is not limited to the context of their establishment, because institutions are deeply rooted historically; once norms are established in society, they tend to persist in the future. This persistence results from the interplay between economic and political forces at different times. However, existing norms may also be abolished due to political objectives of public consensus at any given time, challenging the current political power that upholds those institutions.<sup>31</sup> Therefore, this analysis simultaneously considers the context in which ideas leading to constitutional provisions were formed, as well as the provisions themselves.

## B. Ideology and Ideological State Apparatus

Legal education in Thailand mainly focuses on legal texts, principles, case precedent (*Dīkā*), procedural compliance, legal techniques, and juristic methods.<sup>32</sup> Therefore, the study of ideology falls outside Thai legal scholars' scope of interest, despite ideology's essential role in shaping legal development.<sup>33</sup> To understand the changing nature of economic ideology and SEP's emergence as a new economic ideological framework, Louis Althusser's concept of ideological state apparatus may be useful.

Althusser revisited Karl Marx's definition of ideology as a system of ideas and representational images guiding the mental life of people or social groups.<sup>34</sup> In this context, ideology refers to a set of ideas or thinking frameworks installed for understanding ourselves, the world, and society. Using a computer analogy, ideology is not the text typed on the screen, but rather the pre-installed operating system.<sup>35</sup>

Ideology fundamentally shapes individual cognitive frameworks and understanding, whereby those operating under distinct ideological paradigms develop differentiated modes of thought and comprehension.<sup>36</sup> Significantly, ideology

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<sup>29</sup> Voigt, *Institutional Economics* (n 13) 3.

<sup>30</sup> *ibid.*

<sup>31</sup> Acemoglu and Robinson, *Why Nations Fail* (n 18) 42–44.

<sup>32</sup> ปิยนุตร์ แสงกนกกุล, “กฎหมายกับอุดมการณ์” (2554) 1 ฟาติยวกัน 40 [Piyabutr Saengkanokkul, “Law and Ideology” (2011) 1 Samesky 40] (Thai) 40.

<sup>33</sup> *ibid.* 40.

<sup>34</sup> See หลุยส์ อัลธุสเซร์, อุดมการณ์และกลไกทางอุดมการณ์ของรัฐ (กาญจนา แก้วเทพ แปล, พิมพ์ครั้งที่ 3, สยามปริทัศน์ 2566) [Louis Althusser, *Ideology and Ideological State Apparatuses* (Kanjana Kaewthep tr, 3rd edn, Siam Paritat 2023)] (Thai) 78.

<sup>35</sup> กาญจนา แก้วเทพ และสมสุข หินวิมาน, สายธารแห่งนักคิดทฤษฎีเศรษฐศาสตร์การเมืองกับสื่อสารศึกษา (พิมพ์ครั้งที่ 3, สำนักพิมพ์อินทนิล 2560) [Kanjana Kaewthep and Somsuk Hinwiman, *Stream of Political Economy Theorists and Communication Studies* (3rd edn, Inthanin Press 2017)] (Thai) 216.

<sup>36</sup> *ibid.* 216.



functions as a state apparatus. Althusser's theoretical framework posits two distinct state mechanisms: the ideological state apparatus (ISA), operating through specific superstructural institutions,<sup>37</sup> encompassing religious, educational, familial, political, and legal frameworks,<sup>38</sup> and the repressive state apparatus (RSA), which functions through various manifestations of force, including governmental, military, carceral, and detention systems.<sup>39</sup>

Ideology is not uniform, but varies according to societal contexts,<sup>40</sup> potentially encompassing multiple sub-ideologies. However, the crucial aspect is which the ruling class produces and reproduces to establish hegemony, leading the masses to accept it as society's mainstream framework, deeply embedded in social consciousness. This maintains social structures that serve the ruling class's preferred mode of production.<sup>41</sup> The status of dominant ideology significantly impacts internal division and opposition within governed groups.<sup>42</sup>

For example, in capitalist societies, the saying "those with long arms can reach further" reflects a thinking framework produced by "long-armed people" (capitalists and ruling class). This ideology is presented for social acceptance, persuading 'short-armed people' like laborers to accept it as appropriate.<sup>43</sup>

Generally, in the contemporary era, there is an ingrained belief that law is neutral (value-free). However, in reality, law is also dominated by certain ideologies<sup>44</sup> and functions as a mechanism of reproduction. Understanding ISA helps reveal how institutions—which in this article are examined through the constitution, laws, and law enforcement manifestations—reflect the state's transformed economic ideology.

The next section will explore the ambiguity of SEP to demonstrate how initial debates are essential for understanding the problems of using it as a subsequent alternative economic ideology.

### III. BLURRING OF THE SUFFICIENCY ECONOMY

After the National Economic and Social Development Board (NESDB) adopted SEP as a framework for the Ninth National Economic and Social Development Plan (2002–2006), government agencies and academics studied and applied SEP concepts,

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<sup>37</sup> Marxist theory divides social structure into two components: superstructure and production mode (base structure). Although Althusser contested this view, these perspectives may not be fundamentally divergent, as ideology ultimately functions to encompass the superstructure.

<sup>38</sup> Althusser, *Ideology* (n 34) 49–50.

<sup>39</sup> *ibid* 48.

<sup>40</sup> *ibid* 49–53.

<sup>41</sup> Kanjana and Somsuk, *Stream of Political Economy* (n 35) 217.

<sup>42</sup> Althusser, *Ideology* (n 34) 56–57.

<sup>43</sup> Kanjana and Somsuk, *Stream of Political Economy* (n 35) 217.

<sup>44</sup> Piyabutr, "Law and Ideology" (n 32) 42.

contributing additional insights about the sufficiency economy.<sup>45</sup> This philosophy continues to predominate in Thai society today.

SEP has been explained differently by economists and development experts. For example, in 1999, Sumet Tantivejkul explained that “SEP, following the Royal Initiative, is a philosophy that guides ways of living and practicing as they should be, and can be practically applied at all levels.”<sup>46</sup> Similarly, in 2006, Chalongphob Sussangkarn asserted that “SEP is a philosophy applicable to behavior at all levels, not just at the micro level, but directly relates to the macro economy because the economic crisis arose from the economic system, stemming from insufficient behavior at both micro and macro levels, involving people at all levels, including the state level.”<sup>47</sup> Additionally, Nattapong Thongpakde (2015) states that “SEP is a philosophy pointing to ways of living and practicing for people at all levels, from family to community to state level, in both development and administration of the country to proceed along the middle path, especially in economic development to keep pace with globalization.”<sup>48</sup>

However, these examples of SEP explanations point in the same direction: that SEP is a way of life and practice for people at all levels. The difference lies in SEP’s status. The above explanations reflect that SEP may be seen as a philosophy, life ethic, or concept that supports mainstream economics,<sup>49</sup> depending on how academics and development experts apply it.

This presents a significant challenge regarding the future role of the SEP in economic frameworks. If SEP operates solely as a complementary concept to mainstream economics, it is likely to support the seamless functioning of the liberal economic system. However, if SEP is positioned as a moral framework for guiding individual behavior, it may conflict with core principles of the liberal economic system, which prioritize competition-driven economic gain. This tension arises from an inherent lack of clarity in the original conceptualization of SEP.

Looking back in history, the concept of SEP first emerged from King Bhumibol Adulyadej’s royal speeches to the Thai people, beginning in 1974. The explanation of SEP concepts in these statements took diverse forms, with each explanation potentially having different components, but similar implications. Specifically, the

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<sup>45</sup> See NESDB, กรอบแนวคิดทางทฤษฎีเศรษฐกิจศาสตร์: ปรัชญาของเศรษฐกิจพอเพียง (NESDB 2546) [NESDB, Economic Conceptual Framework (NESDB 2003)] (Thai) 12.

<sup>46</sup> *ibid* 19.

<sup>47</sup> ฉลองภพ สัสกรกาญจน์, “การบริหารเศรษฐกิจมหภาคตามปรัชญาเศรษฐกิจพอเพียง” [Chalongphob Sussangkarn, “Philosophy of the Sufficiency Economy and Macroeconomic Management” (TDRI 2006)] <<https://tdri.or.th/wp-content/uploads/2013/02/cs.pdf>> (Thai).

<sup>48</sup> ณัฐพงศ์ ทองภักดี, ปรัชญาเศรษฐกิจพอเพียงกับเศรษฐกิจศาสตร์และการบริหารพัฒนา (ศูนย์ศึกษาเศรษฐกิจพอเพียง สถาบันบัณฑิตพัฒนบริหารศาสตร์ 2559) [Nathapong Thongpakde, *Sufficiency Economy Philosophy and Economics and Development Administration* (Sufficiency Economy Studies Center, National Institute of Development Administration 2016)] (Thai) 9.

<sup>49</sup> See อภิชัย พันธเสน, เศรษฐกิจพอเพียงของในหลวงกับการวิเคราะห์ความหมายของนักเศรษฐศาสตร์ (สำนักงานคณะกรรมการวิจัยแห่งชาติ 2546) [Apichai Phansena, *The King’s Sufficiency Economy and Analysis of Economists’ Interpretations* (National Research Council Committee on Economic Branch 2003)] (Thai) 20–31.

development approach must be based on the middle path and non-carelessness, considering moderation, reasonableness, self-immunity, as well as the use of knowledge and morality as foundations for living. This approach aims to prevent crises and enable stable, sustainable existence under globalization and various changes.<sup>50</sup> On 4 December 1997, King Bhumibol Adulyadej delivered a significant royal speech on the occasion of his 72nd birthday:

... I have always mentioned in meetings that becoming a “tiger” is not important. What matters is having an economy based on sufficiency—an economy that allows us to sustain ourselves and have enough to live on. Sufficiency does not mean that every household must produce its own food or weave its own clothes. Such an approach would be excessive. However, within a village or district, there must be a sufficient level of production to meet needs. Certain surplus items that exceed what is necessary can be sold, but only within a reasonable distance to avoid high transportation costs. Economists often claim that such ideas are outdated—and perhaps they are. Other nations may require economies that rely on exchange, which are referred to as trading economies, not economies of sufficiency. Such economies may appear less glamorous. However, Thailand is fortunate to have the ability to produce enough to live on and achieve sufficiency . . . .<sup>51</sup>

In January 1998, the royal speech was published in a printing of 500,000 copies for public distribution, jointly issued by the Crown Property Bureau and the Office of the Crown Property.<sup>52</sup> A considerable part of this publication was devoted to explaining the self-sufficiency economy concept.<sup>53</sup>

This royal speech became the starting point for incorporating SEP into government policy, later embedded into the Constitution. The implementation process for this royal speech began in 1999 when NESDB invited a group of academics to compile and annotate the royal speeches on Sufficiency Economy.<sup>54</sup> This resulted in a set of SEP explanations, which NESDB later presented to His Majesty for royal permission to publish on 29 November 1999.<sup>55</sup> The key elements of SEP that NESDB summarized and published are as follows:

“Sufficiency Economy” is a philosophy that emphasizes the middle path as an overriding principle for appropriate conduct by the populace at all levels. This applies to conduct starting from the level of the families, communities, as well as the level of nation in development and administration so as to modernize in line with the forces of

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<sup>50</sup> NESDB, นานาคำถามเกี่ยวกับปรัชญาเศรษฐกิจพอเพียง (พิมพ์ครั้งที่ 5, NESDB 2550) [NESDB, *Various Questions About Sufficiency Economy Philosophy* (5th edn, NESDB 2007)] (Thai) 2.

<sup>51</sup> See พระบาทสมเด็จพระเจ้าอยู่หัวภูมิพลอดุลยเดช, พระราชดำรัสพระราชนานเมื่อวันที่ 4 ธันวาคม 2540: คู่มือการดำเนินชีวิตสำหรับประชาชนปี 2541 และทฤษฎีใหม่ (สำนักงานทรัพย์สินส่วนพระมหากษัตริย์ 2541) [Bhumibol Adulyadej, *The Royal Speech of December 4, 1997: A Life Manual for Citizens in 1998 and the New Theory* (The Crown Property Bureau 1998)] (Thai) 18–19.

<sup>52</sup> *ibid.*

<sup>53</sup> *ibid.* 18.

<sup>54</sup> Chalongsoph, “Philosophy of the Sufficiency Economy” (n 47).

<sup>55</sup> NESDB, *Various Questions* (n 50) 2.

globalization. “Sufficiency” means moderation, reasonableness, and the need of self-immunity for sufficient protection from impact arising from internal and external changes. To achieve this, an application of knowledge with due consideration and prudence is essential. In particular, great care is needed in the utilization of theories and methodologies for planning and implementation in every step. At the same time, it is essential to strengthen the moral fiber of the nation, so that everyone, particularly public officials, academics, businessmen at all levels, adheres first and foremost to the principles of honesty and integrity. In addition, a way of life based on patience, perseverance, diligence, wisdom and prudence is indispensable to create balance and be able to cope appropriately with critical challenges arising from extensive and rapid socioeconomic, environmental, and cultural changes in the world.<sup>56</sup>

Along with this explanation, SEP was described as having three key characteristics: moderation, focusing on sufficiency for necessities and appropriateness to one’s status and society, neither too much nor too little, and not causing trouble to oneself or others; reasonableness, making decisions based on academic principles, law, morality, ethics, and good culture, thoroughly considering all relevant factors; and good self-immunity, meaning preparation for potential impacts and changes.<sup>57</sup> Additionally, SEP requires three conditions: morality—a mindset of honesty, integrity, love, unity, altruism, generosity, and munificence; academics—using knowledge, prudence, and caution in planning; and life management—having patience, perseverance, and wisdom.<sup>58</sup> Later, this concept was modified and widely transmitted in the form of the three rings and two conditions (Figure 2).

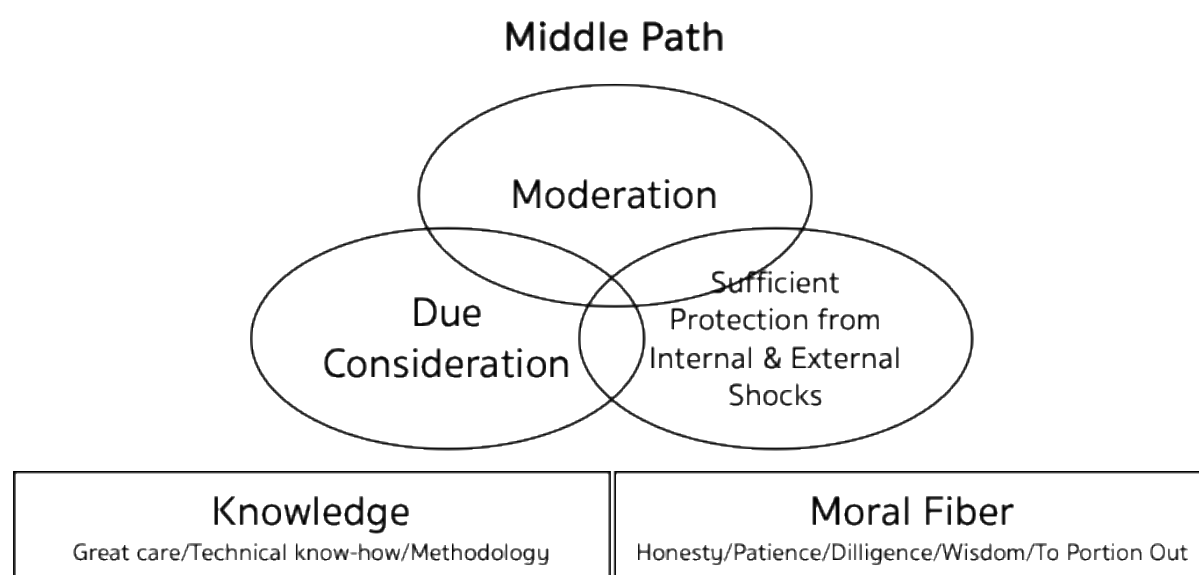


Figure 2: Common SEP models.  
 Source: Khemmapat Trisadikoon.

<sup>56</sup> *ibid* 7.

<sup>57</sup> *ibid* 8.

<sup>58</sup> *ibid* 9.

However, it should be noted from the above explanations of SEP that most of the content and explanations contain abstract, unclear terminology. If the content of SEP is examined, it becomes apparent that this concept is not a set of policy ideas or an economic system, as Nidhi Eoseewong explained. SEP is more like moral guidelines for life, rather than a true economic system.<sup>59</sup>

This leads to problems with implementing SEP. NESDB has typically transmitted the concept by publications such as “Economic Conceptual Framework: Sufficiency Economy Philosophy” (2003) or “Various Questions about Sufficiency Economy Philosophy” (2007). These documents often explain that SEP, especially in terms of sufficiency, serves as both the means and ends of development,<sup>60</sup> and emphasizes application at the individual level through a so-called explosion from within, or development of consciousness, faith, confidence, and recognition of value in self-implementation before expansion to other levels.<sup>61</sup> This approach does not differ from using it as individual moral principles, as suggested by Nidhi Eoseewong.

The question then becomes whether SEP, with its abstractness and ambiguities, may be used as a national economic ideology. Certainly, there are academic supporters of implementing SEP as state economic ideology, such as the aforementioned Kanoknai Thawonphanit. However, the question remains if such vagueness may truly serve as development guidelines in the form of an ideology or set of economic policies.

#### IV. DYNAMICS OF ECONOMIC IDEOLOGY

The national economic system was first outlined in the Constitution of the Kingdom of Thailand B.E. 2540 (1997),<sup>62</sup> which has remained in subsequent constitutions until now. However, prescribed economic systems have differed in diverse constitutions, causing instability and fluctuation in the economic system. This section will explain the evolution of the Thai constitutional economic system by dividing it into three periods.

The first was the initial stipulation of the economic system, appearing in the 2540 (1997) constitution, which prescribed that Thailand adopt a free market or liberal economic system as an ideal envisioned by the constitution drafters. As stated in Section 87:

The State shall encourage a free economic system through market force, ensure and supervise fair competition, protect consumers, and prevent direct and indirect

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<sup>59</sup> นิธิ เอียวศรีวงศ์, วัฒนธรรมเศรษฐกิจพอเพียง (โอเพนบุ๊กส์ 2555) [Nidhi Eoseewong, *Sufficiency Economy Culture* (Openbook 2012)] (Thai) 26, 33, and 41.

<sup>60</sup> NESDB, *Economic Conceptual Framework* (n 45) 43.

<sup>61</sup> NESDB, *Various Questions* (n 50) 9–11.

<sup>62</sup> Previously, the constitution did not specify a desired state economic system. It merely stipulated that the state should support the private sector's role in the economy, as stated in Section 68 of the Constitution of the Kingdom of Thailand, B.E. 2492 (1949) and Section 77 of the Constitution of the Kingdom of Thailand, B.E. 2534 (1991).

monopolies, repeal and refrain from enacting laws and regulations controlling businesses which do not correspond with the economic necessity, and shall not engage in an enterprise in competition with the private sector unless it is necessary for the purpose of maintaining the security of the State, preserving the common interest, or providing public utilities.

The background of this stipulated economic system links to the political and economic situations that led to this constitution. In terms of political factors pre-promulgation, Thailand was trapped in a cycle of military influence. The armed forces dominated politics from the 1947 Thai coup d'état until just before 1997. The military is deeply rooted in Thai society, wielding influence and supporting allied interests such as major capitalist groups (especially banking concerns) who backed the armed forces. Simultaneously, capitalist groups transformed their economic power into political might by supporting armed forces groups.<sup>63</sup>

In terms of economic factors before the 1997 Constitution, Thailand faced an economic crisis from financial liberalization without adequate business characteristics and infrastructure. This sparked an initial rapid economic growth that resulted in severe problems due to investment withdrawals and attacks on the Thai baht. Eventually, Thailand was obliged to seek support from the International Monetary Fund (IMF) and float the baht. The impact of this economic crisis raised awareness of the need to strengthen national institutions for growth and survival amidst changing global conditions.<sup>64</sup>

Academic research suggests multiple factors contributing to the economic crisis. Notably, Apichat Satitniramai argues that the crisis stemmed from the declining influence of the technocratic elite.<sup>65</sup> A widely accepted cause was Thailand's crony capitalism, particularly evident in the banking sector.<sup>66</sup> Government policy restricted new commercial bank licenses while preventing bank failures through the Financial Institutions Development Fund, despite losses from improper lending practices and inadequate oversight. Banks provided loans to politicians and associates for non-productive investments or land speculation,<sup>67</sup> activities that appeared to promote individual greed rather than genuine economic development.

After joining the IMF's economic recovery program in August 1997, Thailand received a US\$17,200 million loan, conditional upon implementing IMF requirements

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<sup>63</sup> Finally, capitalist groups freed themselves from the military to emerge as an independent power in political action, but such connections remained as mutual interest groups; see ผาสุก พงษ์ไพจิตร และคริส เบเคอร์, เศรษฐกิจการเมืองไทยสมัยกรุงเทพฯ (พิมพ์ครั้งที่ 3, ซีลส์เวอร์ม 2546) [Pasuk Phongpaichit and Chris Baker, *Thailand: Economy and Politics* (3rd edn, Matichon 2003)] (Thai) 408.

<sup>64</sup> คริส เบเคอร์ และผาสุก พงษ์ไพจิตร, ประวัติศาสตร์ไทยร่วมสมัย (มติชน 2557) [Chris Baker and Pasuk Phongpaichit, *A History of Thailand* (Matichon 2014)] (Thai) 379–80 and 383.

<sup>65</sup> See Chapter 5 in อภิชาติ สถิตนิรามัย, รัฐไทยกับการปฏิรูปเศรษฐกิจ: จากกำเนิดทุนนิยมนายธนาคาร ถึงวิกฤตเศรษฐกิจ 2540 (ฟ้าเดียวกัน 2556) [Apichat Satitniramai, *The Thai State and Economic Reform: From the Birth of Banking Capitalism to the 1997 Economic Crisis* (Samesky 2013)] (Thai).

<sup>66</sup> *ibid* 260–61 and 264.

<sup>67</sup> พอพันธ์ อู๋ยานนท์, ประวัติศาสตร์เศรษฐกิจแห่งประเทศไทย (สำนักพิมพ์จุฬาลงกรณ์มหาวิทยาลัย 2564) [Porphant Uyyanont, *The Economic History of Thailand* (Chulalongkorn University Press 2021)] (Thai).

outlined in the letter of intent.<sup>68</sup> These conditions mandated comprehensive liberalization of trade, investment, foreign employment regulations, deregulation, and state enterprise privatization. The government was required to enact about 40 laws to fulfill these conditions.<sup>69</sup>

In drafting this constitution, the main intent was political reform by restructuring and redesigning the state's power system, allowing citizens to control and scrutinize the exercise of state power as a safeguard against abuse for illegal, corrupt personal or crony interests.<sup>70</sup> Therefore, this constitution instituted mechanisms to improve diverse institutions, including economic ones. It endorsed a free market economic system to prevent large capitalist groups from abusing their political and economic privileges to form monopolies and act against free market principles. The provisions in this section were intended to block large capitalist groups from dominating the economy and operating in monopolistic and anti-competitive ways that undermined free trade.<sup>71</sup>

The second period marked a turning point in stipulating the Constitution's economic system after the 1997 Constitution had been in force for nine years. It was abolished by the coup d'état of the Council for Democratic Reform under the Constitutional Monarchy (CDRM). This paved the way for drafting the Constitution of the Kingdom of Thailand B.E. 2550 (2007), which aimed to improve upon the previous Constitution that had permitted significant political parties to secure an outright majority in parliament, undermining the checks and balances between the legislative and executive branches. However, drafters of the 2007 constitution still mainly adhered to the overall structure of the 1997 constitution as the basis for the new draft.<sup>72</sup>

The 2007 constitution echoed the previous constitution on Thailand's primary economic system, with the desirable economic ideology remaining a free market system. However, the drafters wanted this economic system to reflect fairness, so they added the phrase “... *and fair*” at the end, as stated in Section 84 (1):

The State shall act in compliance with the economic policy as follows:

- (1) encouraging a free and fair economic system through market mechanism, ensuring the development of economics in sustainable fashion by repealing and refraining from the enactment of laws, rules and regulations controlling business which do

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<sup>68</sup> *ibid* 266.

<sup>69</sup> *ibid*.

<sup>70</sup> คณะกรรมาธิการประชาสัมพันธ์ สภาร่างรัฐธรรมนูญ, กรอบเบื้องต้น ร่างรัฐธรรมนูญฉบับประชาชน (คณะกรรมการประชาสัมพันธ์ สภาร่างรัฐธรรมนูญ 2540) [Public Relations Committee of the Constituent Assembly, Basic Framework: Draft Constitution for Citizens (Public Relations Committee of the Constituent Assembly 2540)] (Thai) 3–4.

<sup>71</sup> See the discussion by Decho Sawananon (เดโช สวานานนท์) and Sujit Boonbangna (สุจิต บุญบงการ), Constitution Drafting Committee; คณะกรรมาธิการร่างรัฐธรรมนูญ, รายงานการประชุมคณะกรรมการร่างรัฐธรรมนูญ ครั้งที่ 13 (11 มิถุนายน 2540) [Constitutional Drafting Committee, Minutes of Constitutional Drafting Committee No. 13 (11 June 1997)] (Thai) 144–46.

<sup>72</sup> See สมคิด เลิศไพฑูรย์, “ความเป็นมาและเจตนารมณ์ของรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2550” (2550) 3 วารสารสถาบันพระปกเกล้า 5 [Somkit Lertpaithoon, “Background and Intent of the Constitution of the Kingdom of Thailand, B.E. 2550” (2007) 3 King Prajadhipok's Institute Journal 5] (Thai) 11.

not correspond with the economic necessity, and refraining from the engagement in an enterprise in competition with the private sector unless it is necessary for the purpose of maintaining the security of State, preserving common interests, or providing public utilities; . . .

At first glance, this appears to be a minor change. However, the intent of the 2007 constitution deviated from the previous one. Specifically, the ideology of a free-market system was separated from other measures supporting the free-market mechanism, such as ensuring fair and free competition, preventing direct or indirect monopolization, and protecting consumers.<sup>73</sup> Provisions regarding the state's economic activities incorporated the free-market system ideology, specifying that the state and state agencies must not intervene in, or control, market mechanisms or engage in businesses that compete with the private sector, except for national security, public interests, or public utilities.<sup>74</sup>

Additionally, Section 83 of the constitution required the state to promote and support implementation of the SEP in the economic domain. The government must promote and support the people and all societal sectors to apply the SEP as an appropriate guiding principle in their livelihoods and operations and widely transmit and promote knowledge about it.<sup>75</sup> Furthermore, Section 78 mandated that the state administration promotes implementation of the SEP.

The drafters brought the SEP into the constitution to serve as guidelines on the principles of sustainability and fairness,<sup>76</sup> considering the livelihoods, subsistence, conduct, and work of people at all levels based on moderation, reason, and resilience under conditions coupling knowledge with virtue. This philosophy was intended to be applied to economic, political, social, and agricultural development, as well as businesses of all sizes and types at the family, community, and national levels.<sup>77</sup>

During the transition between the 1999 and 2007 constitutions, NESDB promoted SEP as an alternative economic approach. After the 1999 crisis, NESDB reassessed national development strategies based on capitalism and mainstream economic dominance. They emphasized strengthening regional and rural community self-reliance through community-based economics, while urban sectors were encouraged to transcend materialistic desires that diminish human dignity. This led to the Ninth National Economic and Social Development Plan incorporating SEP,

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<sup>73</sup> Constitution of the Kingdom of Thailand, B.E. 2550 (2007), Section 84 (5).

<sup>74</sup> คณะกรรมาธิการวิสามัญยกร่างรัฐธรรมนูญ จดหมายเหตุ และตรวจรายงานการประชุม สภาร่างรัฐธรรมนูญ, เจตนารมณ์รัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2550 (สำนักงานเลขาธิการสภาผู้แทนราษฎร 2550) [Ad-hoc Committee for Records Intentions, Documents and Examining Meeting Minutes, The Intent of the Constitution of the Kingdom of Thailand B.E. 2550 (Office of the Secretariat of the House of Representatives 2007)] (Thai) 81.

<sup>75</sup> *ibid* 79.

<sup>76</sup> See สภาร่างรัฐธรรมนูญ, รายงานการประชุมสภาร่างรัฐธรรมนูญ ครั้งที่ 27/วันที่ 18 มิถุนายน 2550 [Constituent Assembly, Constituent Assembly Minutes No. 27, 18 June 2007].

<sup>77</sup> Ad-hoc Committee (n 74) 79.



followed by additional plans focusing on strengthening social foundations and environmental management with community participation.<sup>78</sup>

While empirical evidence regarding the incorporation of Articles 78 and 83 into the 2007 Constitution remains limited, an analysis of Thailand's contemporaneous socio-economic context suggests three primary factors underpinning SEP's constitutional integration:

First, the key issue recognized during the drafting of the 1997 Constitution was the state capture by networks of politicians, bureaucrats, and capitalists. This concern led to a political consensus on eliminating such patronage systems, resulting in provisions under Article 87. This differed significantly from the 2007 Constitution's context, where social problems were framed as issues of insufficiency and political greed, particularly targeting Thai Rak Thai government voter base-oriented economic policies.<sup>79</sup> The Thai elite viewed these policies as socially divisive, undermining Thailand's traditional consensus against power concentration in any single entity.<sup>80</sup>

Second, during the drafting of the 1997 Constitution, the Sufficiency Economy concept had not yet fully crystallized. Although King Bhumibol had spoken about it since 1974, these earlier speeches primarily offered partial lifestyle guidance rather than a systematic economic philosophy, as later appeared in his 4 December 1997 royal speech. The NESDB subsequently utilized this framework to oppose governments that threatened bureaucratic and technocratic political power, particularly during the Thaksin Shinawatra administration. The trauma of the 1997 economic crisis became a specter haunting Thai bureaucracy and society, generating fears about economic issues and reluctance to implement strong economic stability controls.

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<sup>78</sup> Porphant, *Economic History of Thailand* (n 67) 255–66.

<sup>79</sup> The Thai Rak Thai government's policies were criticized as populist, emerging from the 1997 Constitution's political reforms that created a unified, stable, and efficient government capable of implementing all promised populist policies. The critical turning point came in the 2005 election, where Thai Rak Thai achieved a landslide victory enabling the formation of a single-party government. See Apichat, *Thai State and Economic Reform* (n 65) 298; Porphant, *Economic History of Thailand* (n 67) 297.

<sup>80</sup> Thaksin Shinawatra's political approach mirrored corporate management, centralizing previously dispersed political power under his control. A clear example was the consolidation of various political parties and factions, known as "Mûng," under the Thai Rak Thai party. See รังสรรค์ ธนะพรพันธุ์, "จาก Thaksinomics สู่ทักษิณานิปไตย" (สรณิพนธ์รังสรรค์ ธนะพรพันธุ์) [Rangsan Thanapornphan, "From Thaksinomics to Thaksinocracy" (Thesis of Rangsan Thanapornphan)] <<http://www.rangsun.econ.tu.ac.th/data/03/03-07-01-จาก%20Thaksinomics%20สู่ทักษิณานิปไตย.pdf>> (Thai). This phenomenon was unprecedented in Thailand's political system, which firmly believed in the distinct functions of different political power groups operating under a shared consensus. However, Thaksin's government's emergence disrupted this consensus, being perceived as an unprecedented concentration of power. See อาสา คำภา, กว่าจะครองอำนาจนำ: การคลี่คลายขยายตัวของเครือข่ายในหลวงภายใต้ปณิธานอันยิ่งใหญ่ของพระบาทสมเด็จพระปรมินทรมหาภูมิพลอดุลยเดช (สยามปริทัศน์ 2564) [Asa Kampa, *Royal Network Ascendancy: The Evolution and Expansion of the King's Network Within Thai Elite Relations, 1947–1987* (Samesky 2021)] (Thai) 495; อาสา คำภา, ครองแผ่นดินโดยธรรม: อ่านประวัติศาสตร์ผ่านพระบรมราโชวาทและเครือข่ายในหลวง (สยามปริทัศน์ 2567) [Asa Kampa, *Righteous Rule: Reading History through Royal Addresses and the King's Network* (Siam Paritat 2024)] (Thai) 314–15.

Third, King Bhumibol's royal hegemony reached unprecedented levels in Thai society, unmatched by previous Chakri monarchs. This derived from his wisdom, experience, dedication to royal duties, longevity, and benevolence toward the Thai people. This royal hegemony evolved into what Asa Kampa terms "civil religion."<sup>81</sup> This became a crucial tool for bureaucrats and technocrats opposing the Thai Rak Thai party's populist government. It helped establish SEP as the dominant ideology, prescribing sufficiency patterns for state operations and encouraging public content while rejecting Thai Rak Thai's populist policies.

The incorporation of SEP into the constitution marked the beginning of creating an alternative ideology alongside the free-market economic system accepted in the 1997 Constitution. This situation required the state to enforce laws simultaneously under divergent economic ideologies: promoting free and fair competition while encouraging sufficiency living and managing the nation according to SEP principles.

In the third phase, the most significant turning point regarding endorsing an economic system in the constitution was the disappearance of free-market economy. After the coup d'état and its abrogation by the National Council for Peace and Order (NCPO), the Constitution of the Kingdom of Thailand B.E. 2560 (2017) was drafted. Under this new constitution, the desired economic system of the drafters should be clarified in Section 75.

The drafters sought to provide an economic system in which the people would have equal opportunities to benefit from economic growth in a comprehensive, fair, and sustainable manner in line with international development guidelines, enabling self-reliance according to the SEP which is globally accepted. The alternative would be a free trade economic system which the drafters viewed as exploitative, allowing those with superior economic status to exploit their privileges.<sup>82</sup>

Such a view of the constitution drafters reflects the thinking that Thai political culture is backwards, due to the insufficiency of politicians, military, and capitalist groups who are the country's leading political actors holding sovereign power.<sup>83</sup> It reflects a negative outlook on democracy and the free market economic system based on the perception of the policies of the Yingluck Shinawatra government (inherited from Thaksin Shinawatra). These policies were perceived as corrupt, distorted populist measures, lacking a sense of responsibility towards the nation and its people.<sup>84</sup>

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<sup>81</sup> Asa, *Righteous Rule* (n 80) 306–7. Asa Kampa defines "civil religion" as shared national beliefs imbued with widespread faith, wherein people, regardless of personal religious affiliations, are unified by common convictions.

<sup>82</sup> คณะกรรมการร่างรัฐธรรมนูญ, คำอธิบายสาระสำคัญของร่างรัฐธรรมนูญ (2559) [Constitution Drafting Commission, Explanation of the Draft Constitution (2016)] (Thai) 15.

<sup>83</sup> ออมสิน ชีวะพฤกษ์, "หลักประชาธิปไตยกับเศรษฐกิจพอเพียง" (เอกสารวิชาการส่วนบุคคล หลักสูตรนิติธรรมเพื่อประชาธิปไตย รุ่นที่ 4 วิทยาลัยรัฐธรรมนูญ สำนักงานศาลรัฐธรรมนูญ 2559) [Aomsin Chiva-phruek, "Democratic Principles and Sufficiency Economy (Philosophy)" (Individual Study Report in Rule of Law for Democracy Course (4th Class), Constitution Academy, Constitutional Court 2016)] (Thai) 11.

<sup>84</sup> See Constitution of the Kingdom of Thailand, B.E. 2560 (2017) preamble.

Furthermore, this provision shows that the free market economic system, previously endorsed in the Constitutions of 1997 and 2007, has been overthrown and replaced by a new desired economic system, the SEP (see Figure 3). Additionally, the intent behind stipulating principles for organizing the national economic system was to grant citizens equal, fair, and sustainable access to the economy according to the SEP while taking into account the balance between material and spiritual development. A further goal was to set principles for cases in which the state must engage in businesses competing with the private sector, including principles for overseeing cooperatives and small and medium enterprises. In this way, this Constitution reflects a central core ideology differing from the past.<sup>85</sup> It constitutionalizes an economic system with the SEP as primary guiding ideology and economic system for the first time.<sup>86</sup>

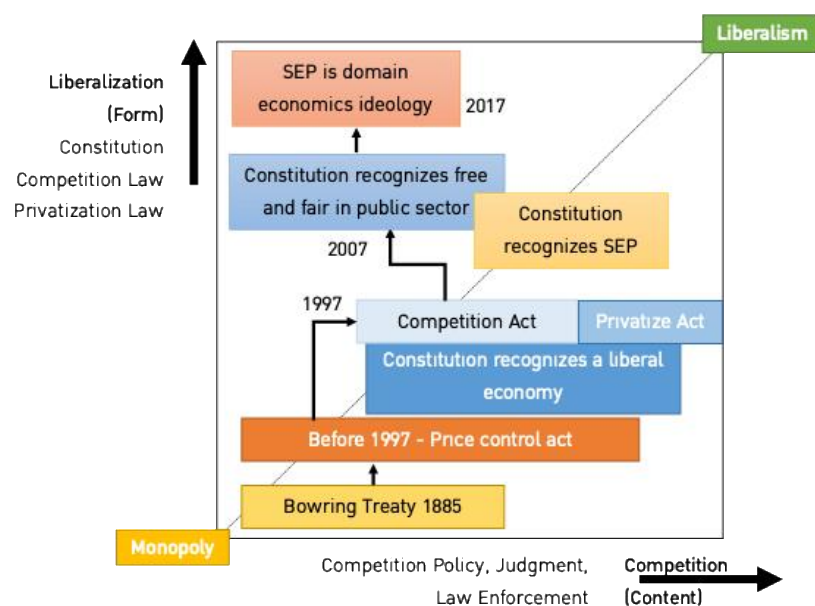


Figure 3: Institutional changes in Thailand's economic ideology.<sup>a</sup>  
Source: Khemmapat Trisadikoon.

<sup>a</sup> This figure illustrates institutional changes in Thailand, starting with the introduction of capitalism under the Bowring Treaty, followed by the emergence of price control concepts, and later the development of a liberal economy. However, the specific details of the 1997 situation are beyond the scope of this study.

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สำนักงานเลขาธิการสภาผู้แทนราษฎร, ความมุ่งหมายและคำอธิบายประกอบร่างมาตราของรัฐธรรมนูญแห่งราชอาณาจักรไทย พุทธศักราช 2560 (สำนักงานการพิมพ์ สำนักงานเลขาธิการสภาผู้แทนราษฎร 2560) [Office of the Secretariat of the House of Representatives, Objectives and Section-by-Section Explanation of the Constitution of the Kingdom of Thailand, B.E. 2560 (2017) (Office of the Secretariat of the House of Representatives 2017)] (Thai) 116.

<sup>86</sup> It should be noted that although the explanations provided by the Constitution Drafting Committee stated that Section 75, paragraph one, intended to convey the direction of the country's economic policies towards a liberal free market system, this provision did not explicitly specify a free market economy, as had previous constitutions.

As mentioned earlier, the endorsement of an economic system in the constitution aims to make the ideal economic system binding on the state and agencies as the supreme institution or rules that no other institution or rules may contradict or conflict with. The question then arises about how the dynamics that caused this major shift affected Thailand's economic system; this will be discussed in the next section.

## V. RESULT OF THE JUNCTION

Although Thailand's economic system is constitutionally codified, its stipulation under the chapter on directive principles of state policies means that the status of the economic system is not strictly binding. Also, it does not grant the people the right to take legal action to compel the state and agencies to comply.<sup>87</sup> Therefore, the status of such provisions merely amounts to guidelines for the government to adopt directive principles of state policies as part of its policies for national administration<sup>88</sup> and guide incoming governments to adhere to them.<sup>89</sup>

However, despite the absence of strictly binding directive principles, such status carries significant implications for determining institutions or rules that the state and state agencies must adhere to. Different institutions or rules will inevitably lead to different consequences. The dynamics surrounding the endorsement of economic systems across the three constitutions discussed have yielded different outcomes, reflecting the discrepancies and contradictions regarding economic systems in the constitution.

Moreover, endorsing this free-market system facilitated various constitutional principles as a guiding compass towards a free market economy: protecting private property rights; stipulating state policies supporting a free economic system; recognizing freedom of business operation; and fair competition. Section 87 led to the enactment of laws promoting a free economic system,<sup>90</sup> including the Trade Competition Act B.E. 2542 (1999), a significant consequence of this constitution and the state policy shift towards promoting fair competition instead of price controls. The influence of this provision also indirectly shaped trade competition rules by

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<sup>87</sup> See Constitution of the Kingdom of Thailand, B.E. 2540 (1997) s 88; Constitution of the Kingdom of Thailand, B.E. 2550 (2007) s 75; Constitution of the Kingdom of Thailand, B.E. 2560 (2017) s 64.

<sup>88</sup> สุรพล ศรีวิทยา, รายงานการศึกษาวิจัย เรื่อง การบังคับใช้กฎหมายให้เป็นไปตามแนวนโยบายพื้นฐานแห่งรัฐ: ศึกษาเปรียบเทียบต่างประเทศ (สำนักงานศาลรัฐธรรมนูญ 2560) [Suraphon Sriwittaya, *Research Study Report on Enforcing Laws in Accordance With the Directive Principles of State Policies: A Comparative Study of Foreign Countries* (Office of the Constitutional Court 2017)] (Thai) 217–18.

<sup>89</sup> พรรณพร สิ้นสวัสดิ์, แนวนโยบายพื้นฐานแห่งรัฐ (สำนักการพิมพ์ สำนักงานเลขาธิการสภาผู้แทนราษฎร 2551) [Panporn Sinsawat, *Directive Principles of State Policies* (Printing Unit, Office of the Secretariat of the House of Representatives 2008)] (Thai) 9.

<sup>90</sup> Rangsan, "Constitutional Economics" (n 12) 125.

empowering administrative courts to regulate state enterprises and concessionaire abuse of market dominance.<sup>91</sup>

Additionally, these provisions influenced trade competition rules by indirectly requiring administrative courts to regulate state enterprises' market power in concessionaire relationships. This is evidenced in Supreme Administrative Court Order 622/2545 between TT&T Public Company Limited (plaintiff) and Telephone Organization of Thailand (defendant).

The case concerned a dispute over a joint venture and investment contract for an expansion of 1.5 million telephone lines. The plaintiff claimed damages from unfair contract terms arising from the concessionaire's superior power. However, after the 1997 Constitution and telecommunications law, the defendant's status changed from industry regulator to telecommunications operator, raising issues about the plaintiff's rights and freedoms in business operations and fair competition.<sup>92</sup> Although the Supreme Administrative Court dismissed the appeal due to lack of jurisdiction to issue enforcement orders, this case reflects how the concept of free competition had been accepted as an ideological principle for judicial consideration.

These factors reflect how the constitutional provision on the economic system attempted to change the old political culture.

The constitution and the endorsement of a liberal economy represent an institutional change in Thai society. They reflect the public consensus toward a liberal economic system and the desire to eliminate the economic influence of the triangular relationship between politicians, capitalists, and bureaucrats. This institutional change has aligned diverse parts of the state to move unidirectionally, with efforts to adapt to the newly established rules. An example is the Administrative Court's affirmation of the principles of free competition and the non-dominance of state enterprises in the market.

Certainly, this may not have been entirely successful, and adaptation may manifest itself in other forms, such as state capture, wherein influential groups gain control over state power and cause state mechanisms to malfunction. This may render ineffective the institutional changes established constitutionally. For example, in the case of the Trade Competition Act B.E. 2542 (1999), business groups played a role by serving on the board under the law, which rendered the law unenforceable.<sup>93</sup> Nevertheless, this situation confirms that institutional changes have introduced a new set of rules. If social consensus intensifies under institutional change, the dominance

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<sup>91</sup> สุทธิพันธ์ จิราธิวัฒน์, ศักดา ธนิตกุล, และ คุณาธิป แสงฉาย, “การสนับสนุนระบบเศรษฐกิจแข่งขันเสรีที่เป็นธรรม” ใน กนกศักดิ์ แก้วเทพ และนวนน้อย ตรีรัตน์ (บรรณาธิการ), *แผนนโยบายแห่งรัฐ 5 ปี รัฐธรรมนูญไทย (ศูนย์ศึกษาเศรษฐศาสตร์การเมือง จุฬาลงกรณ์มหาวิทยาลัย, 2545)* [Sutthiphan Chirathivat, Sakda Thanitkul, and Khunathip Sangchai, “Supporting a Fair Free Market Economic System” in Kanoksak Kaewthep and Nuannoi Treerat (eds), *Five-Year Directive Principles of State Policies in the Constitution of Thailand* (Center for the Study of Political Economy, Chulalongkorn University 2002)] (Thai) 244.

<sup>92</sup> Supreme Administrative Court Order 622/2545.

<sup>93</sup> See วันรักษ์ มิ่งมณีนาคิน, “พระราชบัญญัติการแข่งขันทางการค้า พ.ศ. 2542: ข้อจำกัดและการปฏิรูป” (TDRI, 2554) [Wanarak Mingmaneeakin, “The Trade Competition Act of 1999: Limitations and Reforms” (TDRI, 2011)] <<https://tdri.or.th/wp-content/uploads/2012/09/wb92.pdf>> (Thai).

of old cultures may gradually weaken, and the institutional changing could be eventually realized. The changes were halted when a coup d'état occurred.

In the case of the 2007 Constitution, the free-market economy remained the primary economic system, according to Section 84 (1). However, this Constitution also endorsed the SEP concept in Section 83 as another set of economic ideologies. Nevertheless, these two economic ideologies were consistent, as the SEP stipulated in the Constitution was not an economic system per se. Instead, it was described as a concept emphasizing gradual development on a solid foundation, using the principle of self-reliance before self-development to achieve a better quality of life and being able to assist others, leading to mutual assistance.<sup>94</sup> Therefore, the SEP was more moral guidelines for personal lifestyle than an actual economic system.<sup>95</sup> Debates on SEP may conclude that it does not oppose economic development or hinder social mobility, when considering the context of King Bhumibol's speeches. However, the ambiguity in its practical application and adoption as part of institutional structures has led to a lack of clear direction in promoting or developing the economy in a concrete way that fosters economic mobility. On the contrary, SEP may have become a political project for the elite to foster contentment with poverty, allowing them to maintain their economic status.<sup>96</sup>

An example of the adoption of SEP by government agencies is reflected in various concepts and policies, especially when explaining that their actions aim to support and encourage people to live a sufficient lifestyle. In the Tenth National Economic and Social Development Plan (2007–2011) and the Eleventh National Economic and Social Development Plan (2012–2016), the policy is evidently filled with vague references to SEP, subtly implying contentment with the current state of life and the ability to maintain such status going forward.<sup>97</sup> Over time, it has gradually been used vaguely to explain almost everything, such as sustainability or approaches to achieving the SDGs.<sup>98</sup>

<sup>94</sup> See พระราชดำรัสพระราชทานแก่สมาชิกสหกรณ์หุบกะพง เมื่อวันที่ 28 มิถุนายน 2518 [Royal Speech by King Bhumibol to Members of the Hubbkpong Cooperative on 28 June 1975] (Thai).

<sup>95</sup> Nidhi, Sufficiency Economy (n 59) 26, 33, and 41.

<sup>96</sup> อรรถจักร์ สัตยานุรักษ์, ประชาธิปไตย คนไทยไม่เท่ากัน (มติชน 2557) [Attajak Sattayanurak, *Democracy: Inequality Among Thais* (Matichon 2014)] (Thai) 104–5.

<sup>97</sup> See แผนพัฒนาเศรษฐกิจและสังคมแห่งชาติฉบับที่ 10 (พ.ศ. 2550–2554) [The 10th National Economic and Social Development Plan (2007–2011)] (Thai); แผนพัฒนาเศรษฐกิจและสังคมแห่งชาติฉบับที่ 11 (พ.ศ. 2555–2559) [The 11th National Economic and Social Development Plan (2012–2016)] (Thai).

<sup>98</sup> “เมื่อมีการขับเคลื่อนนโยบายด้าน SDGs ในเวลาต่อมา มักจะมีการหยิบยกประเด็นเศรษฐกิจพอเพียงมาเป็นข้อพิจารณาหนึ่ง ในการจัดทำเป้าหมายต่างๆ อาทิ การส่งเสริมเศรษฐกิจฐานรากหรือเศรษฐกิจชุมชนตามหลักปรัชญาเศรษฐกิจพอเพียง ถูกนำมาเชื่อมโยงกับเป้าหมายที่ 10 การลดความไม่เสมอภาคภายในและต่างประเทศ” [“When the SDGs policy was being advanced subsequently, the sufficiency economy was often raised as one of the considerations in setting various goals. For example, the promotion of the grassroots economy or community economy according to the Sufficiency Economy Philosophy was linked to Goal 10, Reducing Inequality Within and Outside the Country.”] See สำนักงานสภาพัฒนาการเศรษฐกิจและสังคมแห่งชาติ, ระเบียบวาระการประชุม คณะกรรมการเพื่อการพัฒนาที่ยั่งยืน (กพย.) ครั้งที่ 1/2562 [Office of the National Economic and Social Development Council, Meeting Agenda, National Committee for Sustainable Development No. 1/2019] <<https://sdgs.nesdc.go.th/wp-content/uploads/2020/07/>> (Thai).

This ambiguity will become a crucial issue in the next constitution, as well as in shaping rules for political interest groups.

Additionally, the position and role of the state under the SEP must be clearly defined in terms of what the state's duties should entail. This differed from the free market economic system, where the economic ideology stipulates the state's role as the regulator of economic rules and non-interference in economic activities, except to maintain or rectify market failures in resource allocation.<sup>99</sup>

In practice, the state and most agencies remained bound to adhere to the free market economic ideology, as reflected in a Constitutional Court ruling which summarized that:

Section 67, paragraph two of the Fertilizer Act B.E. 2518 (1975) does not obstruct or impede the state's economic policy of supporting a free and fair market economic system and promoting sustainable economic development. As this Act aims to protect the people, this case does not contradict Section 84 (1) of the Constitution.<sup>100</sup>

Beyond Article 84's significance in establishing economic rules, Articles 78 and 83 of the Constitution also played crucial roles in defining state economic regulations, as evidenced in Constitutional Court decisions No. 11/2552 and No. 3-4/2557.

In Case No. 11/2552, the House Speaker forwarded members' opinions requesting the Constitutional Court to determine whether the Emergency Decree Empowering the Ministry of Finance to Obtain Loans for Economic Recovery and Stability B.E. 2552 (2009) complied with Article 184, paragraphs one and two of the Constitution (conditions for issuing emergency decrees). In this case, House members challenged that the Cabinet's loan decree violated constitutional provisions requiring national administration according to the Sufficiency Economy Philosophy, arguing that:

The rationale for issuing the Emergency Decree was not an urgent and unavoidable emergency, as the government had planned various projects, especially large-scale ones such as transportation projects. The government could delay non-urgent projects and allocate budget only to projects essential for citizens' daily lives, in accordance with SEP under Article 78(1) of the Constitution. The government's intention to obtain loans to support populist policies of the government and coalition parties merely aimed to build popularity, without considering the country's long-term debt burden.<sup>101</sup>

In the same case, the Cabinet, through then-Prime Minister Abhisit Vejjajiva's explanation, argued that their policy implementation aligned with SEP, explaining that:

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<sup>99</sup> See ฮาจูน ชาง, เศรษฐศาสตร์ฉบับทางเลือก – *Economic: The User's Guide* (พิมพ์ครั้งที่ 2, วีระยุทธ กาญจน์ชูฉัตร แปล, บุ๊คสเคป 2562) [Ha-joon Chang, *Economic: The User's Guide* (2nd edn, Veerayooth Kanchoochat trs, Bookscape 2019)] (Thai) 115–16.

<sup>100</sup> Constitutional Court Ruling 33/2555.

<sup>101</sup> Constitutional Court Ruling 11/2552.

The necessity existed to raise additional funds adequate for investment in projects evaluated as most effective for rapid economic recovery. Consequently, all projects underwent expenditure prioritization, aligning with SEP principles as prescribed in Article 78(1) of the Constitution.<sup>102</sup>

In Case No. 3–4/2557, the President of the National Assembly forwarded two opinions from members of Parliament and House Representatives, requesting that the Constitutional Court determine whether the draft Act Empowering the Ministry of Finance to Obtain Loans for Transportation Infrastructure Development B.E. . . . contravened or was enacted inconsistent with the Constitution. On the issue of economic ideology, both expert witness Thanong Bidaya, former Minister of Finance, and Cabinet representatives invoked SEP in their arguments. Thanong Bidaya stated:

There are financial risk problems arising from maintaining the debt ceiling not exceeding 60 percent, due to uncertain global economic factors and interest rates trending higher in the future. Moreover, it does not align with economic policies that must promote SEP implementation and does not primarily consider overall national interests. If this Act's enactment is permitted, it would result in future state investments following similar legislation to avoid proceeding through normal budgetary systems.<sup>103</sup>

The Cabinet's perspective was evidenced in the closing litigation statement by Deputy Prime Minister and Minister of Finance Kittiratt Na-Ranong, who asserted:

The government has established a fiscal sustainability framework to regulate and ensure sustainability and stability of the nation's financial system, while managing risks and impacts from economic system changes. This framework encompasses public debt-to-GDP ratio, debt service obligations relative to annual budget expenditure, and capital expenditure relative to annual budget allocation. Furthermore, the government has determined an appropriate loan repayment timeframe under this draft Act, benchmarking against Japan's case with an expected 50-year repayment period . . . . Moreover, investments in various projects under this draft Act require comprehensive economic, social, and environmental feasibility studies, conforming to SEP principles.<sup>104</sup>

The invocation of SEP extended beyond expert witnesses and Cabinet testimony to become a significant element in Constitutional Court deliberations, as seen in the Court's examination of Transport Minister Chadchart Sittipunt. Constitutional Court Justice Chalermpon Ake-uru specifically interrogated the government's consideration of fundamental state policies under Article 78(1) regarding loan procurement. The ministerial response framed the infrastructure initiative within SEP parameters, arguing that the spatial distribution of development

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<sup>102</sup> Constitutional Court Ruling 11/2552.

<sup>103</sup> Constitutional Court Ruling 3–4/2557.

<sup>104</sup> *ibid.*



beyond Bangkok's metropolitan boundaries aligned with sufficiency principles. The government's conceptualization of SEP emphasized localized development and opportunity enhancement, positing that infrastructure accessibility facilitated normative economic behavior within SEP frameworks.<sup>105</sup> This discourse reflects SEP's institutionalization as a normative framework (under ideological hegemony) within Constitutional Court jurisprudence, compelling executive authorities to demonstrate policy alignment with SEP principles.

Furthermore, during the inquiry, Constitutional Court Justice Supoj Kaimook expressed an opinion on project implementation:

These things, I think if we are going to do them, we shouldn't do everything overnight by borrowing 2 trillion baht for high-speed rail. If it were dual-track railways, I would not say a word, and we would not need to be sitting here. Dual tracks are very necessary . . . . First eliminate dirt roads from Thailand . . . before thinking about high-speed systems . . . . In my personal opinion, it is not yet necessary for Thailand, and regarding the two-trillion-baht loan, Chadchart's children and grandchildren will not finish paying it off.<sup>106</sup>

Justice Supoj Kaimook's judicial interrogation and commentary reflected an ideological framework grounded in SEP, emphasizing policy implementation through moderation and the middle path rather than accelerated growth trajectories. His comparative analysis of infrastructure priorities—contrasting high-speed rail systems with dual-track railways and basic road infrastructure—exemplified SEP's preference for addressing fundamental needs over ambitious developmental infrastructure projects. This judicial perspective demonstrates how SEP ideology influences the interpretation of economic necessity and development paradigms within constitutional jurisprudence.

A key perspective reflected in the views of Justice Supoj is the limitation placed on the state's role in fostering economic growth. While such policies are fundamental to a liberal economic framework—which emphasizes the importance of state investment in infrastructure to enhance economic potential, reduce logistics costs, and expand the scope of market competition—the government is constrained from implementing economic policies perceived as overly ambitious or disproportionate to its capacity. This restriction underscores the tension between fostering long-term economic growth and adhering to principles of prudence and moderation in state investment.

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<sup>105</sup> In the absence of publicly available Constitutional Court inquiry transcripts, this analysis relies on extant video documentation of the proceedings. See Voice TV – Talking Thailand, “ย้อนชัชชาติ ถูกศาลสั่งสอนเรื่องเศรษฐกิจพอเพียง หยุดโครงสร้างประเทศ” [“Revisiting Chadchart's Constitutional Court Hearing: Sufficiency Economy Philosophy and the Suspension of National Infrastructure Development”] *Facebook* (23 May 2014) <<https://www.facebook.com/watch/?v=417341449960802>> (Thai).

<sup>106</sup> Voice TV – Talking Thailand, “ย้อนฟังวาทะ ถนนลูกรัง สกิด ชัชชาติ” [“Revisiting the Judicial Discourse: Rural Infrastructure Arguments in Chadchart's Constitutional Court Hearing”] *Facebook* (22 May 2014) <<https://www.facebook.com/watch/?v=520767026439520>> (Thai).

These cases underscore the constitutional obligation for governmental economic policy implementation to demonstrate concordance with SEP principles. While policy initiatives require explicit SEP compliance justification, the operational parameters of such alignment remain conceptually ambiguous. Interpretative frameworks predominantly emphasize prioritization mechanisms, fiscal prudence, and comprehensive impact assessment.

This ambiguity reveals SEP's structural gaps, manifest in divergent ideological applications. SEP functions simultaneously as a political instrument for critiquing fiscal policy, particularly regarding sovereign debt, while government interpretations frame it within national competitiveness paradigms constrained by comprehensive impact assessments. The judicial interpretation presents a distinct paradigm, reflecting SEP's inherent conceptual ambiguity in ideological perception. Despite its position as dominant ideology, SEP exhibits significant variance in both substantive content and analytical application.

In terms of economic ideology, the emergence of these two economic concepts created economic challenges. Even a slight change in detail of the provisions transformed the free market economic system and fair competition, preventing monopolies previously endorsed in the 1997 Constitution. This disrupted the institutions or rules that had yet to be firmly embedded in the culture. It led different institutions to revert to the old culture prevalent in society, the patronage system and cronyism among politicians, capitalists, and bureaucrats that existed before enforcement of the 1997 Constitution. This ideological bifurcation generated significant ambiguity in state economic policy orientation. A fundamental question emerged regarding the state's appropriate economic role: whether to pursue traditional developmental functions such as infrastructure provision facilitating private sector economic optimization as constitutionally mandated or to adopt a more constrained role aligned with SEP principles, minimizing private sector stimulation. This dichotomy exemplifies the fundamental challenges arising from ideological ambivalence in economic governance frameworks.

Ultimately, in the case of the 2017 Constitution, which marked an institutional change in the later stage as a continuation from the 2007 Constitution, inclusion of the SEP provisions in Section 75 as the desired ideology and economic system aimed to curb populist policies and instill a sense of moderation in the minds of the people. However, it must be recognized that the SEP does not contain any ideological demands for the state to protect free and fair competition despite the Constitution endorsing the elimination of unfair economic monopolies.<sup>107</sup> The key issue thus returns to the economic ideology enshrined in the constitution.

The ambiguity surrounding SEP, which appears more as moral guidelines than an economic ideology, has nonetheless become the central pillar of the economic system in the Thai constitution. This situation creates confusion when it comes to defining the national economic direction, as it is unclear what role the state should

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<sup>107</sup> Constitution of the Kingdom of Thailand, B.E. 2560 (2017) s 75.

play. As mentioned, SEP does not hinder economic growth in the private sector but is often employed to emphasize contentment with the current state of life, which is neither particularly bad nor showing signs of significant improvement. This implies that if someone achieves economic success and rises above others, it is not considered wrong, as long as it does not involve corruption and is based on knowledge and safeguards against potential failures. With these foundations, such success is seen as attainable.

An example of this is the enforcement of the Trade Competition Act B.E. 2560 (2017), which addressed the previous issue of power being captured by business conglomerates. However, what occurred is that the enforcement of this law failed to manage two major merger cases that have emerged in the past 3–4 years.<sup>108</sup> While part of this may involve legal technicalities that are open to debate, one indisputable critical point is a lack of clear economic ideology to protect the market mechanism in the meta-institution of the constitution.

By contrast, if SEP were clearly defined as a call for enhancing the capacity to live within the market mechanism to cope with potential unfamiliar challenges—a possible interpretation, based on the King’s speeches—the outcome might differ. As previously discussed, SEP has never been, and has not been clearly presented, as a set of economic ideologies. Instead, it serves as moral guidelines for curbing the greed of citizens and politicians. This vagueness has prevented SEP from being used as an institutional framework for interpreting Thailand’s competition policies, especially in preventing private entities from using economic freedom to undermine the economic freedom of others,<sup>109</sup> which is a core principle of liberal economics.

Despite the vanishing of free-market ideology, capitalism persists in the economic system. This raises the question when the supreme institution and rules, which should guide other institutions and rules in society, lack an underlying ideology, an awkward uncertainty arises over which economic direction the state should take. Should it protect fair trade competition, dismantle monopolies, or allow the private sector to operate unfettered under extreme capitalism, permitting monopolies to continue, aligning with the underlying culture before the 1997 Constitution attempted to restructure incentives and establish new rules?

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<sup>108</sup> See Central Administrative Court Ruling No. (Red) 1617–18/2566; สำนักงานคณะกรรมการคณะกรรมการกิจการกระจายเสียง กิจการโทรทัศน์ และกิจการโทรคมนาคมแห่งชาติ (สำนักงาน กสทช) “กสทช. มีมติเสียงข้างมากรับทราบการควมรวม หรุ – ดีแทค พร้อมกำหนดเงื่อนไข/มาตรการเฉพาะเพื่อการคุ้มครองผู้บริโภคและการพัฒนากิจการโทรคมนาคม” สำนักงาน กสทช (31 ตุลาคม 2562) [The Office of the National Broadcasting and Telecommunications Commission (NBTC), “NBTC Majority Vote Acknowledges the Merger of True and DTAC with Specific Conditions/Measures for Consumer Protection and Telecommunications Development” *Office of NBTC* (31 October 2019)] <<https://www.nbtc.go.th/News/Press-Center/56941.aspx>> (Thai).

<sup>109</sup> This condition is referred to as the freedom paradox, a situation in which the state intervenes to prevent the excessive use of freedom from infringing upon the freedom of others. See Wolfgang Fikentscher, *Law and Anthropology: Outlines, Issues, and Suggestions* (C.H. Beck 2009) 412.

While this research does not generate conclusive findings, it reveals that institutional transformations have fundamentally altered the operational parameters for economic actors. The displacement of market liberalism by SEP ideology has potentially generated policy ambiguity, precluding clear identification of Thailand's operative economic ideology. The resultant implications are potentially deleterious: legislation potentially constraining economic liberties or imposing economic burdens may emerge, while regulatory interpretation by state apparatus, particularly in competition law enforcement, risks departing from its foundational principle of protecting competitive markets.

Regarding economic policy implementation, the presence of conflicting economic ideologies has emerged as a significant constraint on governmental capacity for growth-oriented investment. This limitation stems particularly from SEP's characteristic as a moral-philosophical framework rather than a definitive economic doctrine, thereby creating operational ambiguity in economic policy formulation and execution.

## VI. SUMMARY AND EPILOGUE

The focus of this study lies in understanding the mechanisms through which such an ideological transformation has emerged within the legal framework and the ways in which this transformation has shaped the conceptualization of legal application. This analysis explores the shifts in economic ideology through the theoretical perspectives of NIE and ISA, emphasizing the Constitution's role as a meta-institution. In this capacity, the Constitution serves as a foundational structure that shapes subordinate institutions, compelling the state and its agencies to adhere to the economic rules and frameworks codified within its provisions.

The 1999 Constitution's endorsement of a liberal economic ideology shaped the development of economic regulations and influenced the interpretation and application of laws to align with this ideology. However, the divergence introduced by the 2007 Constitution played a pivotal role in consolidating this economic ideology. The incorporation of the SEP, which had already begun to take root in Thai society and was institutionalized through its inclusion in the National Economic and Social Development Plans, eventually found its way into the constitutional framework. This development created a critical divergence, leading to ambiguity regarding the Constitution's economic direction. While, at first glance, SEP may not entirely contradict the principles of a liberal economic ideology, this situation introduced uncertainty about the state's role in shaping the economy's trajectory. It raised fundamental questions about whether the state should prioritize liberal market mechanisms or shift towards policies reflecting SEP and the appropriate positioning of the state within the economic framework.

Under the subsequent Constitutions of 2007 and 2017, the dominance of the free-market economy was challenged and destabilized by the introduction of the SEP

as a competing set of values. This ideological shift has created an uncertain and precarious position for the government in defining its economic role. Simultaneously, this uncertainty has extended to other political actors such as politicians, bureaucrats, and capitalists who face challenges in navigating and maintaining their relationships under the new constitutional framework. This state of ideological ambiguity is likely to persist, due to the Constitution's failure to provide clear institutional frameworks or rules. In this absence of ideological clarity, the awkwardness in governance and policy-making may intensify, as the Constitution does not effectively delineate incentives to guide behavior. As a result, political actors are likely to revert to entrenched cultural practices, further complicating efforts to align governance with the constitutional framework over time. This dynamic underscores the increasing difficulty of effecting cultural or institutional change through constitutional mechanisms alone.<sup>110</sup>

The first challenge emerges in the interpretation of laws governing business mergers, which underscores the ambiguity of the prevailing economic ideology. This uncertainty arises from institutional changes that have shifted focus away from free market competition and toward the SEP as a new economic framework. However, SEP lacks a robust policy framework to prevent market distortions and anti-competitive practices. At its core, SEP primarily emphasizes rejecting greed and curbing the political ambitions of governments, rather than addressing the structural dynamics of market competition.

Therefore, the institutionalization of SEP as a dominant ideology appears to serve more as an ethical doctrine aimed at promoting restraint and moral conduct among the population, while neglecting the regulatory oversight needed to curb monopolistic practices by powerful economic actors. This oversight reflects a fundamental limitation of SEP, which, in its essence, does not aim to safeguard against monopolization or market dominance, which is a core function of liberal economic ideologies. Consequently, this ideological shift inadvertently permits large capital groups to engage in economic activities that erode market competition, further complicating economic interactions.

This article does not aim to provide a definitive solution to the problem; instead, it seeks to analyze the issues arising from the constitutional meta-institution that affect how diverse political and economic actors interpret and establish the rules in allocating economic benefits. Evidently, if Thai society wishes to eliminate monopolistic practices and foster a mechanism of free competition, an essential step would be to clarify the national economic ideology, a process that requires public consensus.

This analysis suggests two primary trajectories for future research. First, an examination of implications arising from this ideological transformation would merit investigation, particularly regarding the correlation between ideological shifts and

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<sup>110</sup> รังสรรค์ ธนะพรพันธุ์, “บทวิพากษ์ร่างรัฐธรรมนูญฉบับปี พ.ศ. 2550” (สรณิพนธ์รังสรรค์ ธนะพรพันธุ์) [Rangsan Thanapornphan, “Criticism of the 2007 Draft Constitution” (thesis)] <<http://www.rangsun.econ.tu.ac.th/data/08/08-07-บทวิพากษ์ร่าง%20รณน%202550.pdf>> (Thai).

regulatory effectiveness in maintaining competitive markets. Free competition's role as a fundamental safeguard against market monopolization requires understanding how ideological transitions affect regulatory performance. Second, while constitutional reformation to reinstate market liberalism presents minimal technical challenges, the more nuanced research imperative involves identifying optimal institutional architectures capable of establishing market liberal ideology's hegemonic position compared to SEP's successful institutional embedding, thereby ensuring effective competitive market implementation.

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\* **Indexing Thai names.** "Although family names are used in Thailand, Thai people are normally known by their given names, which come first, as in English names. The name is often alphabetized under the first name, but practice varies." *The Chicago Manual of Style* (18th edn, University of Chicago Press 2024) §15.93.