

The Exercise of Discretion in Adjudicating Disputes Related to Neglect of Duty Required by Law

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Abstract

The exercise of discretion in adjudicating disputes related to neglect of duty required by law was an analysis of the neglect of duty of government officials and its effects on people's rights and well-being. The study focused on the importance of exercising suitable discretion in justice process, developing specific standards of conduct, and training government officials about law and ethics to prevent the abuse of power. Moreover, guidelines for solving the neglect of duty were suggested that included developing clear regulations, setting appropriate penalties, and creating a mechanism for continuous monitoring the performance of duty to ensure transparency and accountability in public service. These measures will promote confidence in judicial processes as well as protect people's rights efficiently.

Keywords: Administrative Discretion; Neglect of Statutory Duty; Judicial Review in Administrative Law; Accountability of Public Officials

Introduction

In judicial processes, especially in administrative cases involving the neglect of duty required by law, the exercise of discretion of authority is an essential factor affecting the justice and righteousness of law. The term discretion means appropriate judgement or righteous consideration. Thai Dictionary of the Royal Institute of Thailand has defined discretion as proper judgement. Black's Law Dictionary defines the word "Administrative Discretion" as a public official's or agency's power to exercise judgment in the discharge of its duty. (Garner, 2004) Discretion is the power that provides

for government officials or courts to make proper decisions within a legal framework. An abuse of discretion may lead to violation of people's rights or legal insecurity. In the context of neglect of duty, government officials or local administrative organization fail to give suitable attention to the performance of official duty. An important controversial issue is whether the consideration of that action or neglect is regarded as violation of law. (Black, H. C. ,1990). The court should exercise the discretion in good faith and in fairness in accordance with the law, by considering facts, witness and evidence, including environments of that case in order that the judgement will be in accordance with the principle of justice and reasonable to create balance between the protection of people's rights and the maintain of efficiency in public administration.

The exercise of discretion involves with power given to government officials or courts. The judgement in the case that there is no clear regulation or when the situation is complicate and needs to be evaluated reasonably, so the exercise of discretion is an important tool for enforcing the law as flexible and responsive to specific situations. The main elements of theory of discretion include the power granted to government officials to make decisions within a framework of laws and regulations, allowing for flexibility in consideration and reasonableness.

Discretionary decision making should be based on the unique aspects of each case, providing reasons for the decision reached, evaluating the properness and overall possible effects on all parties involved.

The theory of the exercise of discretion has been developed continuously in many legal systems. According to Rawls, J. (1999), a British political philosopher, he discussed the concept of governmental authority granted to individuals to exercise discretion in governance. A part of the concept involves providing public authority to take action and exercise discretion to achieve justice in society. The study of Weber M. (1920), this German sociologist had mentioned the importance of exercising discretion in public administration. He believed that decision-making power that is not strictly adhering to set guidelines will facilitate the administrative system to tailor the actions and adapt the decision to fit specific scenarios.

This article discusses the exercise of discretion in adjudicating disputes related to neglect of duty required by law. By emphasizing the role of discretion in the judicial process to point out that discretion can be applied to promote justice and ensure fairness and transparency in responding to

disputes. Besides, the article analyzes the role of discretion in disputes related to neglect of duty, focusing on guidelines for exercising discretion by the Administrative Court and evaluating the appropriateness of such decisions through legal principles, the principle of proportionality, the principle of transparency, and the principle of equality.

The Exercise of Discretion in Adjudicating Disputes Related to Neglect of Duty Required by Law

The exercise of discretion in adjudicating disputes related to neglect of duty required by law focuses on explaining the role of discretion in the judicial process, adhering to legal frameworks to enhance fairness and transparency, including evaluating the impacts of exercising discretion in adjudication, both positive and negative, particularly the impacts of exercising discretion in cases related to neglect of duty.

The role of examining the exercise of discretion in adjudication, analyzing the role of discretion in disputes related to neglect of duty by focusing on studying the guidelines for exercising discretion of courts in administrative cases, and the impact of exercising discretion in adjudicating disputes related to neglect of duty required by law. Case adjudication related to neglect of duty required by law is of great importance as it ensures clear justice, protection of the rights and freedoms of people, including policy recommendations.

The Exercise of Discretion in Adjudicating Disputes Related to Neglect of Duty Required by Law

The exercise of discretion. The principle of exercising discretion is the authority or capability of state officials or assigned organizations to make judgments or decisions in situations that the law does not provide clear regulations. The exercise of discretion in considering the appropriateness of specific circumstances (Singkaneti, B., 2013). However, discretion should be exercised within the framework of law, the principle of appropriateness, and the principle of fairness in order to prevent violations of legal rights or harm to the parties involved.

The exercise of discretion involves the authority granted to state officials or courts to make decisions in cases that the law does not provide explicit regulations in theory and in practice, by emphasizing the importance of exercising discretion in the case that there are no clear rules or in complex situations that require officials to make decisions. According to James, G.D. (1990), the

exercise of discretion in legal processes is a vital tool for adjudicating disputes. The exercise of discretion allows a flexible and reasonable approach to decision-making. Moreover, the study by Adhayanto, O. et al. (2018), *Controlling Administrative Discretion: The Role of Law*, states that judicial discretion in administrative cases is a crucial mechanism for ensuring justice. Courts must evaluate various principles such as transparency, equality, and proportionality so that the decisions will align with the intent of the law.

Neglect of duty required by law occurs when an individual or a government official fails to give suitable attention to the performance of duty. Neglect of duty may affect the rights of citizens or disrupt public order. The causes of negligence include carelessness or a lack of responsibility. Laws often provide penalties or corrective measures to prevent unjust incidents including the nonfeasance the willful failure to execute or perform an act or duty required by law. That neglect may result in harm to a person's rights or interests such as refusing to approve official documents or unreasonable failure to follow legal procedures.

The Exercise of Discretion Must Be legitimized Within the Framework of Law

The exercise of discretion must be legitimized within the framework of law. Adjudicating disputes related to neglect of duty required by law is a complex and sensitive process since the judges or relevant government officials must exercise discretion in their decision-making to ensure that each case is adjudicated fairly and appropriately.

1) The exercise of discretion in adjudication involves decision-making in the absence of a fixed rule and with regard to appropriateness in each situation especially when the law does not provide clear solutions. Adjudicating the disputes related to neglect of duty, where there are various and complex facts, the exercise of discretion allows the judge to consider the potential consequences of the decisions as well as the fairness in adjudication. For example, if a government official decides to permit construction in an environmentally restricted area, the official should consider in accordance with environmental laws and principles an Environmental Impact Assessment (EIA) as well as a public hearing. Exercising discretion without adhering to legal principles may cause an error or injustice, which may have legal effects such as a lawsuit to the revocation of that order or decision.

2) The exercise of discretion in adjudicating cases related to neglect of duty required by law. Key principles include fairness -Judges should exercise discretion reasonably by considering the impacts of the neglect of duty and make decisions properly based on the facts of the case (Rawls, J., 1999) consideration of Impact - In exercising discretion, judges must consider the potential consequences for both society and individuals involved, as well as the impact on the overall fairness of the judicial outcome. reasonableness: discretion must be exercised with attention to the appropriateness of the penalty or remedy in cases of neglect such as providing a fair justice process for the victims and protecting the rights of people. (Dworkin, R.,1986). When there are no clear principles or rules or when situations are complex, discretion becomes an essential tool in the adjudication process. In cases where individuals or government officials neglect their duty, causing damage to others or to society, judges must consider the relevant facts and laws to ensure reliability by balancing the law enforcement and the protection of individual rights.

3) The abuse of discretion, as defined under Section 9 (1) of the Act on Establishment of Administrative Courts and Administrative Court Procedure, is the improper use of judgment or decision-making power by government officials. Such action exceeds the framework of the legal rules under the jurisdiction of the Administrative Court. To ensure the exercise of discretion by the administrative authority, abuse of discretion can be summarized in the following cases:

Exceeding Authority. This refers to a situation where an administrative authority takes actions or makes decisions beyond the scope of the official's legal power. (Namata, K, 2018)

Failure to exercise discretion or defective exercise of discretion occurs when an administrative authority fails to exercise discretion appropriately or fails to consider relevant facts. Such failure may arise from negligence, or a mistaken belief that the person has the power to act or to make the decision despite the fact that he or she does not have discretionary power to take the action or make the decision. (Namata, K, 2018)

Improper exercise of discretion occurs when an administrative authority exercises discretion without regarding the intended and authorized purpose of discretionary power and not giving adequate weight to public interest. (Soraat, N., 2021)

Exercise of discretion is inconsistent with the legislation. An administrative authority exercises discretion without regarding the fundamental principle of law. For example, an authorized official exercises discretion without considering the principle of proportionality.

Key principles that the Thai Administrative Court has applied in examining the appropriate exercise of discretion include the Principle of Proportionality. In exercising discretionary power, the administrative authority is legally empowered to make an administrative order based on the principle of proportionality to ensure that issue administrative orders are issued appropriately, based on proper consideration to the merits of the case. (Thapa, I, 2020) The principle of proportionality consists of the following essential elements:

The Principle of Suitability refers to the requirement that the administrative authority must exercise its discretion in issuing administrative orders to achieve the intent of the law appropriately. The issuance of an administrative order which cannot achieve the pursued objectives is considered as an unsuitable measure and is contrary to the principle of proportionality.

Principle of Necessity refers to the idea that the administrative authority must exercise its discretion in issuing administrative orders that has the least impact on people's rights and freedoms. However, if the matter is for the benefit of the people, the authority must issue an order that prioritizes national interests.

4) The exercise of discretion in adjudicating disputes related to neglect of duty required by law is a crucial tool in delivering justice in the justice system. Therefore, the development of principles and frameworks for the exercise of discretion in such cases is necessary to ensure transparency and fairness in Thai legal system.

5) The exercise of discretion in adjudicating disputes related to neglect of duty required by law. The exercise of discretion in adjudicating disputes related to neglect of duty required by law is the consideration under relevant legal frameworks, incorporating with the principles of justice by focusing on the impact on involved parties and society. Applying discretion in disputes offers the flexibility needed in addressing the unique aspects of each case. In adjudicating disputes related to neglect of duty, it is necessary to thoroughly analyze the facts of the case, evaluate the seriousness and the consequences of the neglect. If the neglect of officials has an

impact on the rights and well-being of citizens, the judgment should be made positively, with a focus on protecting the public interest. Rawls, J. (1971)

When exercising discretion, an administrative authority must not only comply with the applicable laws and regulations but also consideration for context and individual circumstances of each case. For example, the penalties imposed should be appropriately adjusted to align with the nature of the offense and to prevent recurrence in the future, take into account legal requirements, clarity and regulations related to official duty, and whether the neglect is caused by carelessness or irresponsibility.

Judicial Review of Administrative Discretion in Cases of Neglect of Duty Legality Reasonableness and Transparency

The review of discretion in adjudicating disputes related to neglect of duty must consider the aspect of legality, by examining whether the official has acted within the scope of authority prescribed by law, based on relevant provisions and reasonableness, including examining whether the official has exercised discretion reasonably through analyzing facts and circumstances at the time by avoiding unfair discrimination. Discretion must not be discriminatory, or cause damage to the disputants. Exercise of discretion must be transparent and intelligible. A government official should provide a clear explanation and evidence supporting the discretion (Moonma. U, 2015) to ensure that there was no intentional neglect of duty.

The review of discretion in the cases of neglect of duty required by law is a crucial process for maintaining the rule of law and justice in society. The court must consider aspects of legality, appropriateness, and transparency to prevent the misuse of power that causes damage to the parties involved. In reviewing omissions of official duty, the Administrative Court must also consider whether such inaction gives rise to state liability under the Officials' Tort Liability Act B.E. 2539, particularly where the omission causes direct damage to individuals or the public.

1) The role of reviewing the exercise of discretion

The role of reviewing the exercise of discretion is to prevent the abuse of discretion that may lead to unfair judgments. Reviewing the exercise of discretion is necessary, especially in cases of violation of rights or impact of adjudication. The review can be conducted by internal audit in the

legal system or through case reconsideration to ensure that discretion has been exercised properly and in accordance with standard practice.

2) The role of reviewing the exercise of discretion in the cases of neglect of duty is to ensure that officials exercise their powers according to legal rules without exceeding their scope of the powers granted by the law or unfair discrimination. This helps prevent the abuse of power, and the exercise of discretion must be based on fairness (Reasonableness) and appropriateness of a situation. The review ensures that decisions are made fairly and do not irrationally cause damage to any party, in order to promote justice, equality, and accountability. The review will encourage the authority to justify their exercise of discretion lawfully and consistently with good governance principles. In cases of negligence, the review helps in examining whether neglect is caused by carelessness, intention, or ignorance, in order to take corrective action or impose penalties to prevent neglect of duty or illegal practice. The review of discretion will boost people's confidence in the actions of the authority as well as promote transparency and accountability. Moreover, it can guarantee that the actions of the authorities are in accordance with the intent of the law and do not violate the rule of law as well as human rights. If it is found that the exercise of discretion has resulted in errors or damage, appropriate correction or remedy can be provided promptly for the victims. Thus, the review of discretion in adjudicating disputes related to neglect of duty is a crucial tool for balancing authority and responsibility of the government officials, including fostering public trust in the judicial system.

The use of mechanisms for reviewing the discretion exercised in a space controlled by legal principles is an important process in the Thai legal system to ensure fairness and accountability of public officials or authorities by applying criteria and guidelines for reviewing discretion and neglect of duty. (Namata, K, 2018) Under the law, If the authorities intentionally or unintentionally fail to perform their duties that result in harm to the state or the public, the court will consider the intent of the law, the severity of the neglect, the impact, and the intention or error of the authorities who neglected their duty.

The review of discretion must take into account the balance between protection of the accused's rights and the public interest, emphasizing fairness and accountability. It serves as a crucial

mechanism for controlling the exercise of power by government officials to ensure transparency, justice, and protecting public interests.

Adjudicating the Cases of Neglect of Duty

Neglect of duty refers to the failure to perform duties as specified by law or regulations. The key elements include duty, breach of duty, damage to the state or the public, and judgement. Officials who neglect their duties and cause damage must be liable both civilly and criminally under Section 157 of the Criminal Code and the Officials' Tort Liability Act B.E. 2539. Examples of case studies include police officers failed to investigate a crime, administrative officials failed to comply with government regulations, and local officers failed to protect the public interests. Preventing neglect of duty involves strictly complying with the law, upholding morality, and prioritizing the public interests. These principles can be applied to resolve complicated disputes appropriately.

Additional Legal Principle: Liability under the Officials' Tort Liability Act B.E. 2539 In addition to administrative and criminal responsibility, the omission of officials in performing duties imposed by law is also governed by the Officials' Tort Liability Act B.E. 2539 (1996). Under this Act, where an official's omission occurs in the course of official duties and causes damage to a person or the public, the State is primarily liable for compensation, regardless of whether the omission results from intent or negligence. The injured party is therefore not required to pursue personal liability against the official directly. This principle reflects a fundamental concept of modern administrative law: omissions by public officials are attributable to the administrative organization itself. However, where the omission is caused by intentional conduct or gross negligence, the State retains a right of recourse against the responsible official.

Accordingly, the Officials' Tort Liability Act establishes an essential legal framework for addressing omissions of duty by balancing effective remedies for injured persons with the protection of administrative continuity and public service integrity.

Consequences of Neglect of Duty

1) **In terms of civil law**, neglect of duty is considered a form of tort. Under Section 420 of the Civil and Commercial Code of Thailand, “A person who willfully or negligently unlawfully injures the life, body, health, liberty, property, or any right of another person commits a wrongful act and is bound to compensate for the damage caused.”

2) **Consequences under criminal law.** Neglect of duty that directly causes injury or harm to another individual or their property may be a criminal offense and can lead to serious criminal liability. For example, a careless act resulting in death or harm for another party. Under the Thai Criminal Code, Section 291 “Whoever, doing the act by negligence and that act causing the other person to death, shall be imprisoned not more of ten years or fined not more of twenty thousand Baht.”, Section 300 states: “Whoever, committing the act by negligence and such act to cause the grievous bodily harm to the other person, shall be imprisoned three years or fined not more of six thousand Baht, or both.”

3) **Impacts on professional responsibility.** When professionals such as doctors, lawyers or government officials fail to meet the higher standard of care expected within their specialized field. There may be additional penalties imposed under rules or codes of professional conduct. The damage arose as a direct consequence of the neglect of duty can serve as a basis for clearer and more verifiable discretion in professional negligence cases. The exercise of discretion in adjudicating disputes related to neglect of duties required by law plays a crucial role in ensuring justice and efficiency in the judicial system in Thailand. Developing appropriate and standardized guidelines for such discretion can promote public confidence in the justice system as well as protect citizens' rights. (Namata, K, 2018)

Approaches for Addressing Neglect of duty.

To address the problem, rules and regulations should be clear. Regulations or guidelines should prescribe the duties and responsibilities of individuals in each position in detail and with clarity, to prevent ambiguity that may lead to neglect of duty. Besides, specialized training for government officials should be organized to educate about relevant laws and ethics related to their roles and responsibilities, including professional ethics to raise awareness about the consequences

of neglecting duties. Furthermore, penalties for neglect of duty should be determined appropriately, fairly, and clearly to deter and prevent offences. Performance monitoring and evaluation system should be created to ensure that assigned duties are carried out appropriately. Complaints channels should be provided to allow the public or officials to securely and anonymously report or notify a negligence case. Finally, promoting an organizational culture that emphasizes individual responsibility. A leader should be an effective role model. Officials who demonstrate excellent performance should be recognized and rewarded. (Holmes, V., & Bartlett, F., 2003).

The Impacts of Exercising Discretion in Adjudication

1) Positive impacts of exercising discretion in adjudication. Flexibility and justice in a particular case. Discretion allows judges to apply the law in a manner that aligns with the facts and context of each individual case. For example, there is an exemption or a victim's empathy toward the offender. The exercise of discretion helps prevent strict interpretations of the law and can be adapted to different and unexpected situations. Discretion that is exercised properly, transparently and intelligibly builds public trust and confidence in legal service. It ensures justice for all parties involved and values the principles of human rights. Punumpai, K. (2022)

2) Negative impacts of exercising discretion in adjudication. Discretion can lead to bias or discrimination. If a judge holds a personal view or implicit biases, this contributes to unfair judgement and inequality in the justice system. Discretion can make the judicial process unaccountable because decision making relies on their personal judgement, rather than just on pre-determined criteria. The situation that is ambiguous or unclear regarding statutory interpretation or the impact of the law on individuals or organizations which may arise from a lack of clarity in the law or different judicial interpretations. Legal uncertainty can affect judicial decision-making. Exercising discretion excessively may result in inconsistent application of the law, which decreases public trust and confidence in the legal system. In some cases, discretion can lead to corruption if abused. Some forms of corruption involve wrongfully exercising discretion to benefit certain individuals or groups. This undermines the credibility and trustworthiness of the rule of law.

3) Impacts of exercising discretion in the cases of neglect of duty. The exercise of discretion in adjudicating disputes related to neglect of legal duty has affected public confidence in

the legal system. This motivates both public and private sectors to comply responsibly with the laws and regulations, especially in cases where government officials neglect their duties and causes damage to the public or society. The impact of exercising discretion in such cases can protect the rights of citizens and prevent future unethical behaviors. For instance, if an adjudication can effectively address the damage caused by an official's neglect of duty, it will promote the credibility of the justice system and enhance confidence in the nation's judicial system.

The Impact of Exercising Discretion in Adjudicating Disputes Related to Neglect of Duty Required by Law

1) Impacts on public confidence in the legal system, the state, and society. If people perceive that the court inappropriately exercise discretionary power or without transparency, their confidence in the legal system will decline. This affects the long-term stability of the state (Holmes, V. & Bartlett, F., 2003). If government officials or individuals neglect their legal duties but the judgement fails to reflect justice, people will lose confidence in the justice system and the state. The decline in trust can lead to a decrease in people's willingness to participate in the legal process.

2) Impacts on rights, equality, mentality, and society. If the neglect of duty has an impact on fundamental rights such as access to resources, safety, or legal protection, it can lead to social inequality. Unfair judgement may be an opportunity for imitation behavior or disregard of the law. According to research by neglect of duty related to public resources impacts equality and justice in economic and social systems. People who are affected from neglect of duty may experience stress and insecurity; for instance, assistance is not provided in emergency situations. Unfair adjudication decisions can also lead to community conflict or arouse protest movements. Research by Tyran, J.R. & Feld, L.P. (2001) reveals that perceptions of fairness in judicial processes significantly influence the public approval of legal outcomes.

3) Impacts on economy and national security. Neglect of duty in government agencies can affect the implementation of major government projects such as resource management, or budget allocation. If the decisions fail to achieve long-term resolutions, it may result in loss of personal and national resources. According to research by Fukuyama, F. (2011), neglect of duty contributes to weak state and negatively affects long-term social and economic development.

Adjudication of the Cases Related to Neglect of Duty

Adjudication of the cases related to neglect of duty must be handled seriously to ensure fair justice. Neglect of duty with a penalty will directly affect public confidence in the justice system. If officials or agencies neglect their duties - whether negligence or with intention, it can decrease public trust towards state mechanisms and erode confidence in the justice system.

Socio-economic impact. Neglect of duty can lead to economic and social damage. Government officials neglect their duties to prevent crime, do not safeguard public safety, or fail in managing state budgets and resources. These can cause negative socio-economic impacts.

Protection of Citizens' Rights and Freedoms. Adjudicating cases related to neglect of duty will guarantee the protection of citizens' rights and freedoms, aiming to deter government officials from committing offences, ensure justice for those affected, and prevent the abuse of power by combining with performance standards. Adjudicating such cases will set performance standards for government officials and agencies by emphasizing responsibility, integrity, transparency, and effective public service. Penalty for neglect of duty will be an essential tool for deterring and suppressing corruption in the public sectors, building confidence that government officials will perform their duties with honesty and ethics to prevent corruption. Therefore, the adjudication of these cases plays a vital role in society by maintaining justice, promoting effective public administration, and protecting citizens' rights.

Guidelines for Developing Policy Proposal

Apply knowledge for policy development to improve the legal system and future performances. The legal conceptual framework defines neglect of legal duty as a wrongful or unlawful act by a government official who fails to fulfill the assigned duties. A key principle involves proving intent or gross negligence as well as assessing the conduct based on the standard of care that a reasonable person would have exercised under the same circumstances and considering the consequences of neglect of duty. It consists of the following:

1) Set clear criteria for determining wrongful acts, including reviewing the development of practical guidelines and setting criteria to determine the act of negligence that constitutes an offense recognized by law. Establish a preliminary investigative committee to conduct some

preliminary fact findings to determine if there is merit to the complaint. Promote public participation by allowing victims or the public to report neglect of duty on social media platforms

2) The Principle of transparency in the Universal Declaration of Human Rights. Enhance judicial efficiency, utilizing modern technology to improve judicial transparency such as online conferencing platforms. Utilizing Online Dispute Resolution (ODR) system to facilitate the resolution of disputes between parties.

3) Increase penalties and extend remedies. Strengthen penalties for cases of neglect that cause serious damage to the public. Prescribe appropriate and proportionate penalties the offending behaviors. Implement a system of remedies and establish a victim compensation fund for those affected by the neglect. Additionally, create mechanisms for the rehabilitation and potential development of government officials.

4) Policy proposal on establishing performance standards. Performance standards for officials in each agency should be stated clearly. Identify clear and objective performance evaluation criteria. Establish performance monitoring and tracking. Develop precise guidelines for a fair and transparent process of fact-finding. Define clear guidelines for proving the offence. Implement witness protection measures and whistleblower protection during the trial. Promote an organizational culture that emphasizes accountability. Develop a comprehensive training system for continuous professional development.

5) Create channels for public participation in monitoring official performance. Practical proposals: establish an independent committee to investigate neglect of duty. Develop an information technology system for monitoring and evaluation. Create legal mechanisms for protecting rights and effective remedies. Expected Outcomes: reduce legal disputes related to neglect of duty, enhance public trust and confidence in the justice system, promote officials' responsibility and accountability in performing duties.

In developing policy proposals for adjudicating disputes related to neglect of duty, it should focus on amending legal standards, promoting transparency in the justice process, and prioritizing the victims. These approaches will create the ongoing between law and public administration, including fostering greater accountability of government officials for the greatest benefits of society and the nation.

Sample of a Supreme Administrative Court Decision Regarding the Exercise of Discretion by the Administrative Authority.

1) Sample judgement

Judgement of Supreme Administrative Court No. 630/2545 in the case that a government official neglected duty required by law under Clause 16 of the Regulations on the Custody of Money and Remittance to the Treasury of Government Agencies, B.E. 2520 (1977), issued under the authority of Section 21(2) of Budgetary Procedures Act, B.E. 2502 (1959). The regulation requires that government agencies that are responsible for collecting or receiving money issue a receipt to a payer, except in cases where official government documents specifying the amount paid serve the same purpose as a receipt. As the defendant failed to issue a receipt to the plaintiff. The Supreme Administrative Court held the defendant neglected legal duty, under Section 9, paragraph one (2) of the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999).

Criteria for determining liability. The court will examine the official's intention or negligence, the severity of impact on the intent of the law, and the impact on the public. In reviewing the exercise of discretion, the court will assess: legitimacy, the legality of the action, the appropriateness of the exercise of power, the fairness in the performance, remedies, compensation for damages, disciplinary actions, and a lawsuit.

Sample of a Supreme Administrative Court Decision Regarding the Exercise of Discretion by the Administrative Authority.

2) Sample judgement

Judgement of Supreme Administrative Court No. 470/2545. The Municipal Act, B.E. 2496 prescribes that a city municipality has the duty to maintain roads, waterways, drainage systems, as well as to prevent and control communicable diseases. The mayor is responsible for administering the municipality's affairs in accordance with the law. Additionally, Public Health Act B.E. 2535 (1992) authorizes local officials to maintain and monitor road conditions, waterways, drainage systems, and various public places, and have authority to remove public nuisance. However, the failure of the defendant (the city municipality) to act as alleged in the plaintiff's complaint does not constitute a

dispute regarding the administrative agency's or official's neglect of a statutory duty under Section 9, paragraph one (2) of the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542 (1999), which would allow the plaintiff to bring the case before the Administrative Court. The plaintiff claimed to have suffered hardship and damage due to the defendant's failure to repair the access road which was full of potholes and stagnant water that provided the perfect breeding grounds for mosquitoes; however, the plaintiff had not submitted any written request to the defendant to address or remedy for nuisance before filing the lawsuit. Therefore, the court held that a dispute or conflict had not arisen between the plaintiff and the defendant concerning a statutory duty neglected under Section 9, paragraph one (2) of the Act on Establishment of Administrative Courts and Administrative Court Procedure, B.E. 2542.

Summary of Knowledge

The exercise of discretion in adjudicating disputes related to neglect of duty is a crucial process in the legal system, especially in case the law does not provide clear answers or the interpretation is complex. Judges or relevant government officials must exercise their discretion in making decisions in these cases, by considering key principles that include justice, rightness, and the impact on society and those involved. Discretion serves as an important tool in adjudicating cases related to neglect of duty, where government officials or individuals in positions of responsibility fail to comply with legal requirements. The exercise of discretion in these cases will consider the severity of neglect, the consequences, and the appropriateness of applying various legal measures to penalize or remedy. The exercise of discretion in cases of neglect of duty often involves both legal and practical analysis, particularly the application of principles of justice, such as reasonableness and protecting citizens' rights. Decision-making must be based on accurate information and must take into account the potential impacts (Galligan, 1992). Analysis and Decision-Making in the Thai Legal System. In the Thai legal system, the exercise of discretion must focus on fairness and administrative law and regulations, which are often applied in disputes related to neglect of duty. The exercise of discretion in adjudicating such cases directly affects the enforcement of laws impacting the parties involved and can influence public confidence in the justice system.

Knowledge/Innovation from Research

The exercise of discretion in adjudicating disputes related to neglect of duties required by law has revealed new knowledge that can be applied in developing guidelines exercising discretion in the justice system. A theoretical framework proposed can be applied to enhance fairness and transparency in the adjudication of such cases. Establishing approaches for addressing neglect of duty. According to the study of dispute cases in various countries - such as the adjudication that related neglect of administrative law. It was found that the exercise of discretion must take into account several factors that include the severity of neglect, damage, and the appropriateness of penalties or remedies. Developing standards for the exercise of discretion in the Administrative Court of Thailand. This academic article proposes an approach for developing standards for the exercise of discretion in case of neglect of statutory duties. These standards can be applied to promote transparency and fairness in the justice process of the Administrative Court of Thailand. Furthermore, they can be used in adjudicating disputes related to neglect of duty in Thai courts by considering key elements such as the interpretation of laws, the assessment of the appropriateness of penalties, and its impacts on society.

Dissemination and Utilization of Research Findings

The exercise of discretion in adjudicating disputes related to neglect of duty is a process in which courts or decision-makers evaluate the facts and legal rules to determine whether that neglect is an act which results in damage to ensure that decisions are made in a fair and balanced manner. In exercising discretion, various criteria are considered such as analyzing the intent and actions of the accused, evaluating the damage, and assessing the appropriateness of penalties or compensation. The dissemination and utilization of the findings will promote greater understanding of the role of discretion in law enforcement and also encourage stakeholders to comply appropriately with the legal framework to prevent violations or neglect of duty in the future.

Development of a manual on the exercise of discretion can be used in training programs for judges or relevant government officials for setting standards for the exercise of discretion. Knowledge about legal rights and monitoring the neglect of duty can be disseminated to public through community training sessions or workshops. Raising public awareness by disseminating information

through social media or local media to help the public understand the role of discretion in adjudication as well as empower them to protect human rights violation. Promoting economic and social development. The appropriate exercise of discretion in adjudicating disputes related to neglect of duty will build confidence in the legal system, promoting investment and increasing private sector engagement. This also reduces conflict in organizations and society. Policy recommendations. Relevant agencies should participate in determining clear frameworks for the exercise of discretion in cases of neglect of duty. Additionally, strengthening internal audit bodies to develop transparent oversight systems and a proper complaint handling mechanism to allow the submission of complaints. Furthermore, training courses for government officials should be redesigned to integrate content on the exercise of discretion in dispute resolution, enhancing the potential of government officials.

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