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Law Enforcement in Accordance with Directive Principles of Fundamental State Policies: Comparative Study with Foreign Countries

Suraphol Srivithaya

Senior Lecturer & Researcher, International College, Siam University, Bangkok 10160, Thailand

E-mail: iamsuraphol@hotmail.com

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Abstract

This research aims to analyze the law enforcement of directives principles of fundamental state policies in Thailand, comparing with nine foreign countries: Ireland, Germany, Spain, India, Bangladesh, China, the Philippines, Nigeria and Ghana. The study used a qualitative documentary research method and focus group discussions with 3 groups of key expert informants in order to determine why and how directives principles of fundamental state policies shall be enforced. The research results found that despite the provisions of all constitutions had not clearly provided the binding force of directive principles of fundamental state policies, the constitution of some foreign countries including Thailand trends to adopt increasingly the binding force and review mechanism of legal enforcement for directive principles of fundamental state policies, both the political enforcement by the parliament and the administrative enforcement by the government, especially the legal enforcement by the court or justiciability.

Keywords: *Law Enforcement; Directives Principles of Fundamental State Policies; Comparative Study with Foreign Countries; Legal Binding; Justiciability*

1. Introduction

Constitutions in countries with democratic governance have provisions specifying the framework of statehood, such as the form of the state and the state regime including institutions and organizations within that state, which determines the power relations between them and to check and balance power between organizations. This is an important condition in guaranteeing and protecting people's rights and freedoms as a guarantee of people's basic human rights (Keu-ngam, 1987). Constitutions in some countries also provide for increased protection of civil rights and liberties in addition to basic human rights. Directive principles of fundamental state policies have been established to serve as guidelines for the state to protect civil rights and liberties, as well as for the state's duties to develop the country in the areas of national security, politics, economy, society, culture, and justice process (Bhatia, 2015). Directive principles of fundamental state policies were first enshrined in the Weimar Constitution of The Weimar Republic, which later became modern day Germany. Its purpose was to provide guidelines for the government to comply with the provisions of the Constitution on issues related to fundamental state policies. This was a guarantee that the government policies were compiled with fundamental state policies and not vary according to any changing government. The German constitution was a model of fundamental state policies for other countries such as Ireland, Spain, and India (Blaustein, & Franz, 1990). Thailand introduced the directive principles of fundamental state policies into the Constitution for the first time in the 1949 Constitution, which were enshrined until the 2007 Constitution and the 2017 Constitution.

The directive principles of fundamental state policies that appear in the constitutions of many countries are merely guidelines for the government to use in formulating a national administration policy or for parliament to use as guidelines in enacting laws. But if the government or parliament neglects to follow the fundamental state policies, this provision does not have the capacity to use the rights of the courts to compel the government or parliament to comply in any way, such as Irish Constitution, Indian Constitution and Bangladesh Constitution stipulates that the provisions of the directives principles of fundamental state policies cannot be enforced in any court (Singh, 2000). Constitutions in some countries did not contain a provision that prohibits the rights to sue the

government, such as the Spanish constitution providing that parliament can enact enforcement laws in the event of violations of fundamental state policies in certain areas. But that provision is not enforceable if parliament has not enacted such a law (Bhatia, 2015). As with the Thai Constitution from 1949 Constitution to 1997 Constitution, 2007 Constitution, and 2017 Constitution, the supervision of fundamental state policies is considered the power of the parliament to set a question agenda for asking the government to implement government policy in accordance with the provisions of the fundamental state policies or the discussion for a no-confidence vote only (Charoenwongsakdi, 2012). Therefore, the directives principles of fundamental state policies are not mandatory. As shown in the decision of the Constitutional Court No. 48/2002 (Srivithaya, 2017), which is a decision that reflects the mandatory nature of the fundamental state policies according to the 1997 Constitution, which is a provision intended as a guideline for enacting laws and formulating government policies, which is a power under the control of the state affairs.

The 2007 Constitution has significantly changed the wording regarding mandatory conditions: in CHAPTER V, Directive Principles of Fundamental State Policies, Section 75, stipulated that “The provisions in this section are the **intentions** for the State the State to enact laws and determine policies for the administration of State affairs,” which is different from the previous constitution that used the word “**as a guideline.**” In this regard, the mandatory condition will be extended to the legal mandatory condition. It is not merely a condition of political compulsion or parliamentary control and organization that will have the power to enforce legal conditions. In cases where the executive or legislative branch does not comply with or neglects to comply with the provisions of this chapter, it must be the power of the judicial organization to come in and check the enforcement of the provisions in this section, namely the Constitutional Court and the Administrative Court. The Constitutional Court performs the duty of checking the legislation of the legislature so that it does not contravene or contradict the provisions of the Constitution. The Administrative Court has the power and duty to examine the actions of the executive branch so that they do not violate the provisions of the Constitution. By virtue of the Act Establishing the Administrative Court and Administrative Court Procedure, B.E. 2542, Section 9 (1) – (3), in cases where the executive branch neglects or does not comply with the directive principles of fundamental state policies, it will also be subject to the examination of the Administrative Court (Charoenwongsakdi, 2012). Therefore, it is very important to research the concepts, theories, and principles that form the basis of the directives principles of fundamental state policies, legal binding conditions and law enforcement in accordance with fundamental state policies with efficiency and effectiveness.

2. Objectives

The objectives of this research are as follows:

- 1) To study the evolution of concept, theory, and principle those are the basis for the foundation of the directive principles of fundamental state policies in the Thai constitution and foreign constitutions;
- 2) To analyze the concept and scope of examining fundamental state policies mandatory conditions and practices complying with fundamental state policies, both in Thailand and foreign countries.
- 3) To analyze case studies of decisions of the Constitutional Court and Administrative Court decisions in Thailand and opinions of the Council of State on issues related to fundamental state policies;
- 4) To recommend guidelines for amending the directive principles of fundamental state policies’ provisions and develop law enforcement mechanisms to be in line with fundamental state policies.

3. Materials and Methods

This research applied a qualitative research method by using documentary research and focus group discussions to collect data and information from 15 key informants divided into 3 groups: (1) a group of experts in government organizations and public administration (2) a group of qualified experts from judicial organizations and the justice process and (3) a group of experts from academic institutions in law and political science for achieving a triangular examination of data sources. After collecting data from 3 groups of key informants according to qualitative research method, then analyzing the data by content analysis, logical analysis, juristic method analysis and comparative analysis, as well as organizing the academic seminar to enquire opinions and suggestions from experts and related agencies, leading to improve the research results and to complete research conclusion and recommendations. By this research method, the author has undertaken a literature review and

related data collection from all document and information materials enough for the analysis framework of documentary research as follows:

The State will take any action for the benefits of the nation and people. The government must implement state policies for achieving national development goals. There is a constitutional provision as a guarantee to check government policies that every government must adhere to state policies that must be achieved. Scholars have defined the meaning of directive principles of fundamental state policy more clearly, stating that it refers to the guiding framework that are the main policies for the administration of state affairs that is the provisions stipulated in the Constitution to be used as evidence in enacting laws and setting administrative policies. All governments must adhere to and act in accordance with this framework (Sang-uthai, 1971; Keu-ngam, 1987; Cheuthai, 2011; Boonsuwan, 2005). To achieve the stability of statehood and respond to the people's needs, the parliament enacting laws and the government is responsible for executing administrative policies in according to the directive principles of state policies without fluctuating with political changes. The 1949 Constitution was first enacted in Chapter 5, the directive principles of State Policies. Until the 1997 and 2007 constitutions, Section 5 was changed from "Directive Principles of **State Policies**" became "Directive Principles of **Fundamental State Policies**" (Charoenwongsakdi, 2012) that are important for the administration of state affairs (Charuchinda, 2012) as follows:

- 1) The fundamental state policies are provisions that specify the important state duties that cover important missions and basic conditions necessary for national and people well-being in the long term;
- 2) They are central policies that bind the parliament and government to carry out important policies that are the basis for continuous national development, which is beneficial to the people as a whole;
- 3) They are guidelines for the administration of state affairs in any democracy because the people will receive guarantees in the state operation for the benefits of the people specified by the Constitution.
- 4) They express the principles of the national administration of Thailand to the people and the general public, at domestic and foreign levels, to receive clear guidelines for the administration of state affairs.
- 5) They are the parliamentary instruments used to check and control the power of the government administration to oversee whether it is in line with the directive principles set by the Constitution.

The state and the government are separate entities. The state is the sum of territory, population, sovereignty, and government, but the government is only one component of the state. The state policies and the government policies must be separated because the government is the center of individuals, political parties, and interest groups that take turns ruling the country according to their political agendas. The government therefore implements its policies that focus only on political goals for the benefit of political groups to the point of neglecting other policies that are beneficial to the people. There are six reasons for stipulating directive principles of fundamental state policies in the Constitution as follows (Traimas, 2002):

(1) Constitutional reasons: Stipulating fundamental state policies in the Constitution helps to make the elements of the Constitution complete in content and able to comply with the Constitution and produce real results. Because there are state policy guidelines that determine the responsibilities of the state and government that are binding obligations in the administration of the country;

(2) Reasons of state: This is because the state is the organization with the greatest responsibility for the public interest that is committed to the existence of the state (raison d'états) in order to preserve the benefits of the nation and the people. The Constitution must therefore establish fundamental state policies as an obligation for the state to administer the government according to the needs of the people;

(3) Reasons related to politics: The rotation of political parties in government causes legal uncertainty and public policy changes as the political parties take turns being in government. Therefore, there must be fundamental state policies as a central policy bound in the Constitution for every government to implement continuously;

(4) Governmental reasons: The fundamental state policies in the Constitution ensure that the state must have procedures in place to maintain fair benefits for the people. The people can use them as a tool to check the government performance according to people's desires and state policies in the constitution;

(5) Administrative reasons: The fundamental state policies in the Constitution is a guarantee to supervise the use of state powers conforming the principles of good governance, consisting of the rule of law, morality, transparency, participation, accountability and cost effectiveness (Srivithaya, 2015) in order to prevent unfair discrimination and implement constitutional provisions to achieve serious practical results;

(6) Reasons about the people: The fundamental state policies according to the Constitution are the common interests of society in which all citizens are guaranteed equal for equal benefits because the people have the right to participate in the initiative to propose draft laws related to fundamental state policies that are in the interests of the people as a whole for the President of the National Assembly to consider and proceed as specified by the Constitution.

The directive principles of fundamental state policies that define the state's missions related to many areas of state affairs are beneficial in many ways, namely: it helps the Constitution to have effective content and efficient practice; assuring the state to have requirements to solve the country's basic problems; developing the political system to ensure continuity in laws and policies; prevent discrimination against disadvantaged people in society; contribute fair governance of state affairs; maintain moral standards in national administration; protect citizens' rights, freedoms and citizens' participation in politics. However, the constitutional provisions regarding the directive principles of fundamental state policies cannot be concretely enforced because the measures of their legal enforcement deemed mandatory are not as efficient as they should be. As a result, the issue focuses of their enforcement whether relating to the political or legal enforcement. Their mandatory measures are flawed, whether the mechanism of political enforcement, such as the provision that the cabinet must declare the policy before entering into office in the parliament and the preparation of the cabinet's performance report under the directive principles of state policies to the parliament once a year. The question raising and the commencement of general debate are both neglected by the administrative. One mechanism is that the public can gather their names to propose a bill as prescribed the directive principles of state policies. In addition, the problems of the legal enforcement must be taken into consideration by the Constitutional Court and the Administrative Court, and also some organizations under the Constitution, cannot enforce the directive principles of state policies in practice (Sapchartanan, 2012). The issue regarding mandatory condition of the directive principles of state policies under the constitutions from chosen countries shall be taken for a comparative study in this paper (Srivithaya, 2017) as follows:

Table 1 Comparison of Mandatory Condition of the Directive Principles of State Policies

Countries	Provisions of the Constitution	Political Enforcement	Legal Enforcement
Ireland	Directive Principles of Social Policy	only political enforcement	no legal enforcement
Germany	Directive Principles of Social Policy	only political enforcement	no legal enforcement
Spain	Guiding Principles of Economic and Social Policy	only political enforcement	no legal enforcement
India	Directive Principles of Social Policy	political enforcement under the ideology of socialism, liberalism, Gandhi and Internationalism	Intention to have legal enforcement according to political, economic & social ideologies
Bangladesh	Fundamental Principles of State Policy	political enforcement under principles of Islam, nationalism, democracy and socialism	Intention to have legal enforcement according to political, economic, social, and religion ideologies
China	Provisions of State Policy	only political enforcement under the ideology of socialism	no legal enforcement
Nigeria	Fundamental Objectives and Directive Principles of State Policy	has political enforcement	no legal enforcement
Ghana	Directive Principles of State Policy	has political enforcement	Intention to have legal enforcement
Philippines	Provisions of State Policy	has political enforcement	Intention to have legal enforcement
Thailand	Directive Principles of Fundamental State Policies (Constitution 2007)	has political enforcement	Intention to have legal enforcement
	Directive Principles of State Policy (Constitution 2017)	has political enforcement	no legal enforcement

Source: Srivithaya, 2017

As shown in the above Table 1, the author has the reason for the countries selecting a comparative study in different criterion of countries selection: geopolitical difference in Europe, Asia, Africa and ASEAN; different mandatory conditions for political and legal enforcements for directive principles of state policies; different political, economic, social ideologies and religion principles.

4. Results and Discussion

The Constitution does not clearly provide for the directive principles of fundamental state policies to have legal binding clearly. The constitutions of Thailand and foreign constitutions tend to require that the fundamental state policies' provisions having more mandatory conditions and mechanisms for monitoring law enforcement in accordance with the fundamental state policies, both political enforcement by parliament and administrative enforcement by government, especially legal enforcement by the courts (justiciability) which relies on court decisions to interpret the constitution, such as the Supreme Courts of India, Bangladesh, Nigeria and Ghana. The German Constitutional Court has used "principle of practical concordance" for the principle of constitutional interpretation so that the Constitution is consistent between the fundamental state policies and other provisions in the Constitution, especially the chapter of basic rights of the people that supports the provisions of the fundamental state policy to have the legal enforcement. Later, the Court's rulings were developed that interpreted the provisions of the fundamental state policies and basic rights chapters equally, resulting in the fundamental state policies being more legally enforceable by the courts (Bhatia, 2015). The research results can be summarized and discussed as follows:

4.1 Law enforcement in accordance with the fundamental state policies in foreign countries

European countries

The Weimar Republic, which later became modern day Germany was the first country in the world to have the 1919 Weimar Constitution and it stipulated the provision of fundamental state policies included in Chapter 2, Basic Rights, without separating them into specific chapters. The 1937 Irish Constitution, which was the first constitution in the world prescribing state policies in a separate chapter, aim of being "general guidance" in enacting laws and having political enforcement only. If the parliament or the government does not enact laws according to the state policies, there will be no legal enforcement resulting in the right to sue for the people (Boyle, 2014). These two constitutions are models for many countries, namely Spain, India, Bangladesh, China, Nigeria, Ghana, the Philippines, and Thailand, which do not specify the legal enforcement of state policies in the Constitution. If the parliament does not enact laws or the government does not manage the country in accordance with state policy guidelines People cannot sue in court. The fundamental state policies therefore have political compulsions, such as the government's policy statements to parliament, setting up parliamentary commissions, posting questions to the government, debate for vote of no confidence. The mechanism of the parliament and government are thus used for enforcing state policy. The court mechanism rarely uses the power of the judicial review of state policy because it adheres to the principle of separation of powers in which the court will not use its judicial power to interfere with an act of government (Acte de gouvernement) that are within the power of the executive branch. The directive principles of fundamental state policies therefore have no legal enforcement for fear that if there is legal enforcement and the government is unable to comply with them for political, economic, and budgetary reasons, there may be many citizens using their rights to sue the government. In a decision of the German Constitutional Court, the Court used the "principle of practical concordance" as a principle of interpretation to ensure consistency between state policies' provisions and other provisions of the Constitution, especially in the Chapter on rights and liberties of the people. The outcome is that the fundamental state policies were served as a supplement to strengthen the rights and liberties provisions to be stronger than their own provisions themselves. In some cases, if we consider only the rights and liberties provisions alone, there may be problems in interpreting whether or not such cases will affect people's rights and liberties.

Asian countries

India is the second country in Asia to have the provision of state policies in Chapter 4 of the 1950 Constitution, after Thailand was the first country in Asia to have the provision of state policies in Chapter 3 of the 1949 Constitution. The Indian state policies are more obviously unique than the Thai ones because the Indian Constitution has set up the state policies in grouping of provisions based on 4 main principles of ideology: socialist

principles, liberal principles, Gandhian principles, and international principles that are mandatory according to the ideology of socialist democracy (Jaiswal, 2013). The Bangladesh Constitution of 1972, Chapter 2 stipulates that the state policies were classified in grouping of provisions based on 4 principles of ideology: secularity, nationalism, democracy and socialism. Later, it was changed from secular principles to Islamic principles. But the constitution of both countries stipulated that state policies have only political enforcement and not legal enforcement as well (Barakrishnan, 2009). China is a socialist-communist country. Its state policies are consistent with the context of Chinese society and the needs of the country, which has the spirit and ideology of governing the country in the socialist system with Chinese characteristics, based on the four principles of modernization and the reform for opening the country to the outside world under the leadership of the Chinese Communist Party. The 1982 Chinese Constitution therefore stipulates that the state policies are scattered in many chapters to be only “guidelines and recommendations” for enacting laws that have political enforcement and no legal enforcement (Ip, 2010).

The 1987 Philippine Constitution, Chapter 2 stipulates state policies, divided into 2 parts: Part 1: Principles specifying the mandatory conditions of state policies; Part 2: provisions of State Policies. The Thai Constitution, B.E. 2007 changed all previous constitutional provisions by specifying the fundamental state policies as "intentions" instead of "as a guideline", which requires this section to have political enforcement and administrative enforcement in an attempt to create more legal enforcement as well, but the constitution has no provision for legal enforcement by any court. Even though the constitution specifies this chapter as the basic principle of governing the country with very clear political enforcement like in other countries (Srivithaya, 2017). From the case studies of the decisions of the Indian and Bangladesh courts, it was found that there are rulings that are more prominent than those in every country where the courts try to decide on the issue of the compulsory nature and enforcement of state policies by interpreting them in connection with the basic rights provisions that have mandatory condition. From a status where the provisions of the state policies are only used as supplementary interpretations or under the basic rights mandate, to a status of equality in the interpretation of these two chapters of provisions together in order to make the state policies have the mandatory condition and legal enforcement in accordance with the state policies provisions. As a result, the court used its power to review and inspect the legislative and executive branches to determine if they performed their duties in enacting laws and managing the nation according to state policies (Singh, 2000). In the Philippines and Thailand, the courts often do not consider issues of mandatory condition and legal enforcement of state policies; for fear that they will interfere with legislative and executive powers, thus strictly adhering to the principle of separation of powers, such as in Europe.

African countries

The 1999 Nigerian Constitution provides that it is the responsibility of state organizations to operate and act in accordance with the objectives and directive principles of state policies. But it is clearly stated that the court does not have jurisdiction to decide whether which actions are consistent with or inconsistent with the objectives and directive principles of state policies. The 1992 Ghana Constitution stipulates that the directive principles of state policies are only guidelines for implementing policies and for interpreting the Constitution or other laws, which do not give rise to the right to bring legal action in court despite its clear provisions of political and administrative enforcement (Duru, 2011). According to a case study of the decisions of the Nigerian courts found that there are progressive rulings similar to the rulings of the Indian and Bangladeshi courts that have decided the issue of legal compulsory and legal enforcement of state policies, interpreted in connection with the chapter of basic rights that achieved legally enforceable outcomes. By interpreting these two chapters together, the provision of state policies and basic rights was equally achieved successful results of legal enforcement. In this case study, the court exercises its power to review and inspect the legislative and executive branches to prove whether they have performed their duties as specified by the chapter of state policies in the constitution that prescribed the state has a duty to enact laws and administer the country in accordance with the basic state policies as specified in the constitution.

4.2 Law enforcement in accordance with the fundamental state policies in Thailand

Nine Thai constitutions, including the 2007 Constitution, do not specify the legal enforcement of the directive principles of fundamental state policies, causing ambiguity in interpreting the mandatory condition of the Chapter 5 provisions when there is a dispute over law enacting by the parliament or government administration

according to the fundamental state policies that will that laws conflict with the state policies in the Constitution or not. Each judge of the Constitutional Court who has the authority to judge the constitutionality of laws has different interpretations of the enforcement of state policies. Therefore, it creates a difficult problem when deciding whether the directive principles of state policies have mandatory condition or not and how, which results in the following question: When a law has been enacted that clearly conflicts with the fundamental state policies, will the Constitutional Court be able to decide on the constitutionality of that law? To what extent will the law be enforceable? The unclear nature of such legal enforcement may also result in organizations with authority to carry out state policies not paying attention to this chapter of provisions because there is no legal obligation. As a result, the court is unable to inspect their compliance with fundamental state policies.

There is probably only a political enforcement, which is a check between the government and the parliament that may not be as effective as it should be because the political party that forms the government also has a majority in the parliament. The 2007 Constitution omitted the text "...and does not create the right to sue the state," leaving the provision that had been written in the previous constitution saying "state policies are only guidelines for enacting laws and determining state policy and does not create the right to sue the state". This is because Section 60 of the Constitution guarantees the right of individuals to sue government agencies, state organizations, state enterprises, local government agencies or others that are juristic persons can perform duties as specified by the Constitution, especially Section 76, paragraph one and paragraph two, stipulated that it is the duty of the council of ministers to make a government administration plan and a plan to enact laws necessary for the implementation of the fundamental state policies and government administration plan (Srivithaya, 2017). The state policies in the 2007 Constitution differ in each aspect from previous constitutions; it has been clearly divided into provision groups for state organizations and government agencies to plan government administration and legislation plan to prepare various projects corresponded to the fundamental state policies as specified in the Constitution.

4.3 The summary of data collected from the opinions and suggestions of 15 key informants

The focus group discussions to collect data and information from the opinions and suggestions of 15 key informants divided into 3 groups as follows:

Experts of government organizations and public administration

(a) The directive principles state policies should be determined based on state function criteria instead of state activity criteria, including state duties in five areas: (1) state welfare, (2) inequality remedies, (3) law enforcing process, (4) development and wealth, and (5) security and foreign affairs;

(b) The government should define the specific scope of state policies in three domains: (1) policy that is a major state function, (2) policy that is general basic needs and, (3) policy that is free from political partisan. This should be enacted a scope of principles and measures for implementing effectively.

(c) The state policies should have legal and administrative binding, not only political binding, because the members of parliament came mostly from election champagnes of unrealistic over-promising policies and then used them for corruption after winning the election. Thus, the parliament should be used as a mechanism to check the enforcement of state policy provisions as stipulated in the Constitution.

(d) It should establish the mandatory conditions of state policies by adopting an organic law specifying the implementation of administrative enforcement of state policies and having the mechanism responsible for inspection of the implementation of state policies by the government administration.

Experts of judicial organizations and the justice process

(a) All directive principles of state policies stipulated in the 2007 and the 2017 Thai Constitutions are important basic principles for governing our country. In Thailand, law enforcement does not arise from the provisions of state policies but it is caused by lack of awareness of respecting laws and public interests.

(b) The majority of experts in this group agreed that the Constitutions already have enough appropriate provisions on the directive principles of state policies. Therefore, it should not be further enacted to add more or less additional stipulation on directive principles of state policies in the Constitution.

(c) However, some experts in this group agree that the substance of the directive principles of state policies should be added to the constitutional provisions for 2 points: (1) state policy for developing the quality of citizens on morality and ethics; (2) state policy to encouraging the people to be good citizen.

(d) The directive principles of state policies should be stipulated in constitutional provisions that can be implemented. The mandatory conditions of state policies should be only political enforcement specified in the constitution to ensure effective implementation by the government and political parties.

(e) However, some experts in this group agree that the directive principles of state policies should have all political, administrative and legal mandatory conditions, including the establishment of the mechanism for monitoring the effective enforcement of state policies by the government and its agencies.

Experts of academic institutions in law and political science

(a) The constitution should determine the substantial contents of the directive principles of state policies to be implementing by administrative plans and clear operational goals. The evaluation period of the state policies implementation should be every years during of the term of government in office.

(b) The directive principles of state policies are not the policy guidelines of any government, which can be changed according to the wishes of any government and political parties. They will be basic policy guidelines that every government must follow and implement them as specified in the constitution.

(c) The constitution should have provisions of the directive principles of state policies to be compulsory conditions from political, administrative and legal mandatory to be consistent with the Thai social context because their enforcement is important to the national governance for the people benefits.

(d) The mechanism for monitoring the enforcement of directive principles of state policies should be clearly established by the constitution. The parliament mechanism system is sufficient enough for political enforcement, such as enacting laws to implement state policies, question sessions on state policies and report the results of compliance with state policies to parliament.

5. Conclusion

In the study and comparative analysis of the mandatory conditions and the mechanisms of law enforcement in accordance with the directive principles of fundamental state policies in the constitutions of ten foreign countries and Thailand, it can be concluded that every country, whether a European country, Asian, African, and ASEAN, including Thailand, there is political enforcement and administrative enforcement in accordance with the fundamental state policies by parliament and government mechanisms. Although the details of political enforcement organizations are varied and the level of intensity of political enforcement are differences, the constitutions of every country provide for political enforcement using parliamentary mechanisms, such as statements government's policy to parliament, a plan for the enactment of legislation and administrative plan in line with fundamental state policies, posting questions for political verification to determine whether the government has implemented the policies stated to parliament or not, and preparing an annual report on the results of implementation of fundamental state policies to the National Assembly every year, as well as debate for vote of no confidence. The parliament, especially the House of Representatives, has members of parliament who are representatives of the people that are directly elected by the people. Therefore, it is the parliamentary mechanism that has the authority and legitimacy to monitor politics in a democratic system. The government elected by the people for the administration of state affairs must operate in accordance with the political party's policies and the fundamental state policies stipulated in the constitution effectively for the benefit of the people and the country as a whole.

6. Recommendations

The recommendations of this research are as following:

(1) The Constitutional Court should be encouraged to play an important role in ensuring that certain fundamental state policies have the status of citizen's rights recognized by the Constitution because Section 27 of the 2007 Constitution states that "rights and liberties guaranteed by this Constitution expressly, by implication or by the decision of the Constitutional Court..." If the Constitutional Court has a decision confirming that the state policy on that matter is a right will receive protection and be directly bound by the parliament, the government, the courts, and other constitutional organs in enforcing certain state policies.

(2) The principles of the Portuguese Constitutional Court: “Unconstitutionality due to neglect to enact law” should be applied to control the constitutionality of legislation. If the legislature neglects to enact laws as specified by constitution on fundamental state policies, it will be considered unconstitutional. If this principle can be applied in Thailand, it will help push the parliament to enact more laws to implement the directive principles of fundamental state policies.

(3) The mechanism for exercising initiative rights to propose draft legislation by the people should be developed and improved because it can be served for pushing for the enactment of laws to implement certain fundamental state policies by people’s participation in the lawmaking process of parliament.

(4) There should be research on the mechanism of exercising initiative rights to propose draft legislation by the people so that the people can participate in enacting laws to implement the fundamental state policies to be enforced more efficiently and effectively.

(5) It is necessary to undertake a research on designing a mechanism to check law enforcement to be conformed to fundamental state policies, including political enforcement mechanism by the parliament, administrative enforcement mechanisms by the government and legal enforcement mechanism by the courts jointly ensure the effective and successful enforcement of fundamental state policies.

(6) There should be research and development into the mechanism of the Constitutional Court and the Administrative Court to play an important role in endorsing and verifying that certain state policies in the constitutional provisions of fundamental state policies have the status of basic rights guaranteed by the constitution the same as by foreign courts.

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