

Judicial Truth-Seeking in Administrative Adjudication: The Inquisitorial Function as Preventive Judicial Power

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Abstract

Administrative adjudication within the Thai legal system is characterized by an inquisitorial procedural structure that empowers judges to conduct fact-finding *ex officio*, request documentary evidence, and clarify disputed legal and factual issues necessary for lawful adjudication. While such inquisitorial powers are commonly viewed as procedural mechanisms designed to enhance factual accuracy, their deeper doctrinal significance within administrative justice remains insufficiently theorized. This article examines the truth-seeking function exercised by judges of the Thai Administrative Court of First Instance and analyzes how inquisitorial adjudication operates as a form of preventive judicial protection. Employing a qualitative doctrinal methodology, the study analyzes Thai constitutional principles, the Act on the Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999), procedural regulations,

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selected judgments of the Administrative Court of First Instance, and comparative scholarship relating to German and French administrative law. The analysis demonstrates that judicial truth-seeking functions not merely as a procedural technique of evidentiary clarification, but as a distinct doctrinal function directed toward preventing administrative injustice arising from incomplete factual records and informational asymmetry between public authorities and private individuals. The article conceptualizes this function as preventive judicial power, an ex-ante form of judicial authority aimed at preserving substantive fairness, effective judicial protection, and the rule of law within administrative adjudication.

Keywords: Administrative Adjudication; Inquisitorial System; Judicial Truth-Seeking; Preventive Judicial Power; Thai Administrative Law.

1. Introduction

1.1 Research Background and Thai Doctrinal Context

Administrative adjudication within the Thai legal system operates under a distinctly inquisitorial procedural structure established under the Constitution of the Kingdom of Thailand and the Act on the Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999).² Unlike adversarial litigation in ordinary civil proceedings, administrative judges are not confined to evaluating evidence solely submitted by the parties.³ Rather, the Administrative Court is empowered to conduct fact-finding *ex officio*, request documentary evidence from administrative agencies, summon relevant witnesses, and clarify legal and factual issues necessary for achieving a just resolution of the dispute.⁴ These procedural powers reflect the underlying rationale that disputes involving administrative authorities frequently arise within conditions of structural inequality, informational

² Putrijanti, A., Jurisprudence of state administrative courts in the development of state administrative law, *Jurnal Penelitian Hukum De Jure*, (2021), 21(2), 161–174. <https://doi.org/10.30641/dejure.2021.v21.161-174>.

³ Pettai, G., *Procedural challenges in the multi-layered enforcement of Thai competition law* [Master's independent study, Thammasat University], Faculty of Law, Thammasat University, (2025), https://ethesisarchive.library.tu.ac.th/thesis/2025/TU_2025_6601040170_21627_32133.pdf.

⁴ Prutipinyo, C., Administrative court procedures in environmental health and public health cases, *Public Health Policy & Laws Journal*, (2026), 12(1), 199–221, https://so05.tci-thaijo.org/index.php/journal_Law/article/view/289306.

asymmetry, and unequal institutional capacity between the state and private individuals.⁵

The inquisitorial nature of Thai administrative adjudication is particularly visible through the procedural role of the judge-commissioner of justice and the authority of the court to independently investigate facts beyond the evidentiary initiatives of the litigating parties.⁶ This procedural configuration differs significantly from the classical adversarial model traditionally associated with judicial passivity and party autonomy.⁷ Within the Thai administrative court system, judges are expected not merely to act as neutral arbiters between competing claims, but also to ensure that the factual and legal foundations of administrative action are sufficiently clarified before judgment is rendered.

Thai legal scholarship has generally explained the inquisitorial system as a procedural mechanism designed to enhance factual completeness, procedural fairness, and effective judicial review of administrative action.⁸ Existing studies have emphasized the role of the Administrative Court in

⁵ Bin Treef, M. A. M. M., Al-Qaaida, M. S., Abu Aisheh, B., & Alasaf, K. M., Administrative evidence without codification: Judicial discretion and procedural balance in Egypt and Jordan, *Frontiers in Political Science*, 8, 1804049, (2026), <https://doi.org/10.3389/fpos.2026.1804049>.

⁶ Surattanasanya, C., Roles of judge-commissioner of justice in procedure of Thai administrative court: In comparison to procedure of other court systems employing inquisitorial system, *Naresuan University Law Journal*, (2023), 16(1), 1–27, <https://doi.org/10.14456/nulj.2023.1>.

⁷ Wang, L., Wu, W., Que, L., Tyagi, N., & Zhang, A. X., From inquisitorial to adversarial: Using legal theory to redesign online reporting systems, *arXiv Preprint arXiv:2506.07041*, (2025), <https://doi.org/10.48550/arXiv.2506.07041>.

⁸ Office of the Prime Minister, *Regulation of the Office of the Prime Minister on public administration development B.E. 2569 (2026)*, *Royal Thai Government Gazette*, (2026, May 7), 143(Special Section 113 Ng), 1–2, <https://ratchakitcha.soc.go.th>.

reducing evidentiary inequality and facilitating access to justice in disputes involving public authorities. In particular, the Office of the Administrative Courts' comprehensive research project entitled *The Inquisitorial System and Judicial Adjudication in Thailand: Comparative Foreign Concepts and Directions for Thailand* (2020) provides an extensive analysis of the historical foundations, comparative models, and practical development of inquisitorial adjudication within the Thai legal system.⁹ Similarly, Thai doctrinal scholarship concerning the powers of judge-commissioners of justice, ex officio fact-finding, and procedural fairness has contributed significantly to understanding the operational structure of administrative adjudication under the inquisitorial model.

Nevertheless, despite these important contributions, existing Thai scholarship has largely approached the inquisitorial system from a procedural or institutional perspective. The dominant focus remains on procedural efficiency, evidentiary completeness, or the mechanics of judicial investigation. Relatively little attention has been devoted to examining the deeper doctrinal implications of judicial truth-seeking as a distinct form of judicial authority within administrative justice. In particular, Thai legal scholarship has not yet sufficiently conceptualized how inquisitorial powers exercised by administrative judges may function as a form of preventive judicial protection aimed at preventing administrative injustice before it becomes legally entrenched.

⁹ Pianwattanakulchai, A., Admissibility of evidence in the accusatorial system and inquisitorial system, *Sripatum Chonburi Academic Journal*, (2023), 20(2), 7079, <https://so05.tc-thaijo.org/index.php/SPUCJ/article/view/261268>.

This doctrinal limitation becomes especially significant in disputes involving administrative authorities, where private individuals often face structural disadvantages in accessing official documents, administrative records, and institutional information controlled by the state.¹⁰ Under such conditions, judicial passivity may inadvertently reinforce substantive inequality rather than preserve neutrality. The proactive exercise of inquisitorial powers by administrative judges therefore raises important theoretical questions concerning the relationship between truth-seeking, procedural fairness, judicial impartiality, and the legitimacy of judicial intervention in administrative adjudication.¹¹

1.2 Literature Review and Research Gap

Comparative scholarship on administrative adjudication has long recognized the distinction between adversarial and inquisitorial models of judicial procedure. In German administrative law, the principle of *Amtsermittlungsgrundsatz* obliges administrative courts to investigate relevant facts ex officio irrespective of party initiative, reflecting a conception of judicial responsibility directed toward substantive legality and objective truth.¹² Likewise, French administrative adjudication has historically embraced

¹⁰ Lestari, A. D., Syahuri, T., & Thohari, A. A., Restrictions on judicial review rights for state administrative officials: A critical perspective on Constitutional Court Decision No. 24/PUU-XXII/2024, *International Journal of Law, Crime and Justice*, (2025), 2, 1–14, <https://doi.org/10.62951/ijlcj.v2i3.688>.

¹¹ Chaivanich, K., Provisional measures in administrative adjudication: Preventive judicial power, proportionality, and the rule of law, *Journal of Public Administration and Law*, (2026), 3(1), 22–34, <https://so17.tci-thaijo.org/index.php/palsiuj/article/view/1684>.

¹² Verboeket, L. W., & van den Brink, J. E., Automated administrative decisions and due process: A comparative analysis – Netherlands, *Italian Journal of Public Law*, (2026), 18(1), 124–141.

an active judicial role in supervising administrative action, particularly through procedural mechanisms that permit judges to engage directly in factual clarification and evidentiary development. Contemporary comparative scholarship further suggests that inquisitorial procedures are frequently justified on the basis of procedural fairness, effective judicial protection, and institutional asymmetry between public authorities and private individuals.

Existing international scholarship has also explored the relationship between inquisitorial adjudication and procedural justice. Studies concerning equality of arms, administrative burden, and judicial effectiveness have emphasized that formal procedural symmetry may be insufficient in disputes characterized by substantial informational inequality.¹³ Within this framework, active judicial engagement in fact-finding is increasingly viewed not as a deviation from impartiality, but as a necessary mechanism for ensuring substantively fair adjudication.

In Thailand, scholarship concerning administrative adjudication has similarly acknowledged the importance of inquisitorial procedures within the Administrative Court system. Prior studies have examined the role of judge-commissioners of justice, the procedural authority of administrative courts to seek evidence *ex officio*, and the influence of continental European administrative law traditions on Thai procedural doctrine. Thai legal scholars have also analyzed the relationship between inquisitorial powers and

¹³ Lopes, G. P., Bias in adjudication and the promise of AI: Challenges to procedural fairness, *Law, Technology and Humans*, (2025), 7(1), 47–67, <https://doi.org/10.5204/lthj.3812>.

principles of fairness, legality, and effective judicial review in administrative disputes.

However, despite the growing body of comparative and domestic scholarship, an important doctrinal gap remains. Existing studies have not sufficiently examined judicial truth-seeking as an autonomous form of judicial authority operating within administrative adjudication. More specifically, there remains limited theoretical analysis of how inquisitorial judicial powers exercised by the Thai Administrative Court may function as a form of preventive judicial power directed toward preventing the crystallization of injustice arising from incomplete facts, asymmetric administrative records, and structural inequality between the state and private individuals.¹⁴

This article addresses that doctrinal gap by conceptualizing judicial truth-seeking not merely as a procedural technique of fact-finding, but as a preventive function of judicial authority within administrative justice. Through analysis of Thai administrative procedural law, comparative doctrinal scholarship, and judicial practices of the Administrative Court of First Instance, the study seeks to develop a more comprehensive theoretical framework for understanding the normative role of inquisitorial adjudication within contemporary public law.¹⁵

¹⁴ Wever, M., & Ybema, J. F., Procedural justice and the design of administrative dispute resolution procedures. *Social Justice Research*, (2024), 37(1), 76–99, <https://doi.org/10.1007/s11211-023-00428-4>.

¹⁵ Boe, M., Judicial professionalism, disqualification proceedings, and the ambiguous role of international criminal judges, *Journal of International Criminal Justice*, (2025), 23(3–4), 545–562, <https://doi.org/10.1093/jicj/mqaf024>.

2. Methodology

2.1 Research Design

This study adopts a qualitative doctrinal research methodology grounded in the systematic analysis of legal norms, judicial decisions, and underlying principles governing administrative adjudication.¹⁶ The methodological approach is designed to examine the role of judges in administrative proceedings within an inquisitorial system, with particular attention to the truth-seeking function exercised by judges of the Administrative Court of First Instance.

The research is structured as a normative and analytical legal study. Rather than relying on empirical or quantitative methods, the study focuses on the interpretation and synthesis of authoritative legal materials in order to identify doctrinal patterns, judicial reasoning, and normative implications arising from the exercise of inquisitorial powers in administrative adjudication. This design is particularly appropriate given the study's objective of conceptualizing judicial truth-seeking as a defining feature of administrative adjudication and as a form of preventive judicial power within public law.

The analysis proceeds from the premise that administrative adjudication is not merely a procedural mechanism for dispute resolution, but a normative institution through which legality, procedural fairness, and the rule of law are realized. Accordingly, the methodological emphasis is placed on judicial reasoning, doctrinal structure, and the normative

¹⁶ Bhat, P. I., Doctrinal legal research as a means of synthesizing facts, thoughts, and legal principles, In *Idea and methods of legal research*, (2020), pp. 88–91, <https://doi.org/10.1093/oso/9780199493098.003.0005>.

justification of inquisitorial judicial intervention in disputes involving public authorities and private individuals.¹⁷

2.2 Sources of Data and Jurisdictional Context

The empirical focus of this doctrinal analysis is the Thai administrative justice system, particularly the Administrative Court of First Instance established under the Constitution of the Kingdom of Thailand and the Act on the Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999).¹⁸ Thai administrative adjudication is doctrinally characterized by an inquisitorial procedural model, under which administrative judges possess affirmative powers and duties to investigate relevant facts *ex officio*, request documentary evidence from administrative agencies, summon witnesses, and clarify disputed legal and factual issues necessary for a just determination of the dispute. This study examines three principal categories of legal sources.

First, the research analyzes constitutional provisions, statutory law, and procedural regulations governing administrative adjudication in Thailand. Particular emphasis is placed on provisions of the Constitution of the Kingdom of Thailand, the Act on the Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999), and procedural regulations of the Administrative Courts concerning *ex officio* fact-finding, evidentiary

¹⁷ Yildirim, A., & Kilic, A., The principle of equality of arms in light of the decisions of the Constitutional Court and European Court of Human Rights, *Journal of Penal Law and Criminology*, (2021), 9(2), 341–411, <https://doi.org/10.26650/jplc2021-1010290>.

¹⁸ Paphangkornphurin, P., The legal doctrine and the role of the administrative court in the establishment of good governance standards in public personnel administration, *Naresuan University Law Journal*, (2025), 18(2), 113–139.

clarification, disclosure of administrative records, and the powers of judge-commissioners of justice. These legal provisions are examined to identify the doctrinal foundations and legal limits of inquisitorial judicial authority within Thai administrative adjudication.

Second, the study examines selected judgments of the Thai Administrative Court of First Instance involving the exercise of inquisitorial powers. The cases were purposively selected based on their direct relevance to judicial truth-seeking and preventive judicial intervention, particularly in situations involving ex officio fact-finding, disclosure orders directed toward administrative authorities, evidentiary clarification, and judicial measures aimed at reducing informational asymmetry between public authorities and private individuals. The selected cases further illustrate how administrative judges actively engage in factual clarification in order to prevent procedural inequality and administrative injustice.¹⁹

In total, the study analyzes a purposive selection of judgments rendered between 2018 and 2025 involving disputes in which the Administrative Court exercised active investigative authority beyond the evidentiary initiatives of the parties. The criteria for case selection include: (1) the exercise of ex officio fact-finding powers; (2) judicial orders requiring disclosure of administrative documents or evidence; (3) judicial clarification of disputed legal or factual issues; and (4) judicial intervention directed toward ensuring procedural fairness and substantive equality between the parties.

¹⁹ Nunn, G. A., Judicial enforcement of evidence law, *Vanderbilt Law Review*, (2025), 78(5), 1459.

Third, the study engages with both comparative and domestic doctrinal scholarship relating to inquisitorial adjudication, administrative justice, procedural fairness, judicial impartiality, and judicial truth-seeking. Particular attention is given to Thai legal scholarship concerning the inquisitorial system, the powers of the Administrative Court, the role of judge-commissioners of justice, and the principle of equality of arms in administrative proceedings. The study also incorporates comparative scholarship concerning the German principle of *Amtsermittlungsgrundsatz* and the French tradition of active judicial supervision in administrative litigation in order to situate Thai administrative adjudication within broader comparative public law discourse.

2.3 Method of Analysis

The research employs doctrinal analysis as its principal method of legal inquiry. Legal texts, judicial decisions, and procedural norms are examined through close reading and contextual interpretation in order to identify underlying principles, recurring patterns of judicial reasoning, and the normative implications of inquisitorial adjudication.²⁰

Rather than treating judicial decisions as isolated outcomes, the study synthesizes doctrinal approaches across multiple judgments to examine how administrative judges exercise inquisitorial powers in practice. Particular attention is given to the relationship between judicial truth-seeking,

²⁰ Majeed, N., Hilal, A., & Khan, A. N., Doctrinal research in law: Meaning, scope and methodology, *Bulletin of Business and Economics (BBE)*, (2023), 12(4), 559–563, <https://doi.org/10.61506/01.00167>.

procedural fairness, judicial impartiality, and the prevention of administrative injustice arising from incomplete or asymmetric administrative records.

In addition, the study adopts a functional analytical approach to assess how inquisitorial fact-finding operates within the broader institutional structure of administrative adjudication. This approach enables evaluation of how judicial intervention functions not only to clarify facts, but also to address structural inequalities between administrative authorities and private individuals and to strengthen the legitimacy and substantive fairness of administrative justice.²¹

The analysis further evaluates whether the exercise of inquisitorial powers in Thai administrative adjudication may be conceptually understood as a form of preventive judicial power operating *ex ante* to prevent the crystallization of injustice before administrative defects become legally entrenched.

2.4 Analytical Framework

The analysis is guided by three interrelated analytical dimensions, namely the scope of judicial truth-seeking powers under the inquisitorial system, the relationship between judicial fact-finding and procedural fairness particularly the principle of equality of arms and the limits imposed on inquisitorial intervention by the requirements of impartiality, proportionality,

²¹ Ramos, V. C., The EPPO and the equality of arms between the prosecutor and the defence, *New Journal of European Criminal Law*, (2023), 14(1), 43–70, <https://doi.org/10.1177/2032284423115707>.

and reasonableness.²² Taken together, these dimensions provide a coherent analytical framework for assessing judicial truth-seeking both as a procedural mechanism of administrative adjudication and as an expression of judicial identity within administrative justice.

2.5 Limitations of the Methodology

As a doctrinal study, this research does not seek to provide empirical generalizations regarding judicial behavior across all administrative courts. Its conclusions are grounded in legal interpretation and normative analysis rather than statistical inference.²³ Nevertheless, the focus on authoritative legal sources and judicial reasoning permits robust conclusions regarding the conceptual role of truth-seeking within administrative adjudication and offers a solid foundation for future comparative or empirical research.

3. Results

The results of this study demonstrate that judicial truth-seeking within Thai administrative adjudication operates not merely as a procedural mechanism of evidentiary clarification, but as a structurally embedded form of judicial authority directed toward the prevention of administrative injustice. Analysis of Thai constitutional principles, statutory provisions governing

²² Li, W., Li, Z., Li, W., Zhang, Y., & Li, A., Mapping the empirical evidence of the GDPR (in-) effectiveness: A systematic review, *arXiv Preprint arXiv:2310.16735*, (2023), <https://doi.org/10.48550/arXiv.2310.16735>.

²³ Zuber, B., & Majnik, T., Ensuring effective judicial protection in administrative disputes through the annulment power of the administrative judiciary, *Access to Justice in Eastern Europe*, (2025), 8(2), 121–136, <https://doi.org/10.33327/AJEE-18-8.2-a000113>.

administrative procedure, and selected judgments of the Administrative Court of First Instance reveals that inquisitorial powers exercised by administrative judges function as an institutional safeguard against informational asymmetry, procedural inequality, and incomplete administrative records.

The findings are organized into two interrelated dimensions: first, the legal and doctrinal foundations of inquisitorial powers within Thai administrative law; and second, the practical exercise of preventive judicial power through judicial truth-seeking in administrative adjudication.

3.1 Legal Basis of Inquisitorial Powers in Thai Administrative La

3.1.1 Constitutional Foundation of Administrative Justice. The constitutional structure of Thai administrative justice provides the normative foundation for inquisitorial adjudication within the Administrative Court system.

The Constitution of the Kingdom of Thailand recognizes the Administrative Court as an institution responsible for reviewing the legality of administrative action and protecting individuals against unlawful exercises of public power. This constitutional role requires the court not merely to resolve disputes formally, but to ensure substantively fair administrative adjudication consistent with the rule of law.²⁴

Unlike private litigation between formally equal parties, disputes involving administrative authorities frequently arise under conditions of institutional and informational inequality. Administrative agencies possess

²⁴ Cananea, G. D., & Parona, L., Administrative procedure acts in Europe: An emerging “common core”? *The American Journal of Comparative Law*, (2024), 72(2), 324–379, <https://doi.org/10.1093/ajcl/avae016>.

superior access to official records, internal procedures, technical expertise, and documentary evidence relevant to the legality of administrative action. Under such conditions, strict judicial passivity may undermine rather than preserve procedural fairness. The constitutional function of the Administrative Court therefore necessitates a procedural structure that permits judges to intervene actively in clarifying facts and legal issues where necessary to ensure effective judicial protection.

From this perspective, inquisitorial powers exercised by administrative judges operate not only as procedural tools of fact-finding, but also as constitutional mechanisms for preventing administrative injustice before procedural inequality becomes legally entrenched.

3.1.2 Statutory Basis under the Act on the Establishment of Administrative Courts and Administrative Court Procedure.

The doctrinal foundation of inquisitorial adjudication in Thailand is expressly reflected in the Act on the Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999). The procedural structure established under the Act differs substantially from adversarial litigation models by granting administrative judges affirmative authority to investigate facts and gather evidence independently of party initiative.

Section 66 of the Act provides that the court has authority to conduct fact-finding and seek additional evidence as necessary for achieving a just adjudication of the dispute. This provision reflects a departure from classical adversarial principles under which evidentiary responsibility rests primarily upon the litigating parties. Instead, Thai administrative procedure imposes

upon the court an institutional responsibility to ensure factual completeness where party submissions are insufficient.

Similarly, Section 67 empowers the Administrative Court to order government agencies or relevant persons to submit documents, records, or evidence necessary for adjudication. The significance of this provision extends beyond ordinary evidentiary administration. In practice, disclosure orders issued by the court frequently function to reduce informational asymmetry between administrative authorities and private litigants who may lack access to official records essential for challenging administrative action.²⁵

The procedural authority granted under Sections 66 and 67 therefore demonstrates that inquisitorial adjudication within Thai administrative law is structurally oriented toward substantive fairness rather than purely formal procedural neutrality. Judicial intervention in evidentiary clarification is legally authorized not to advantage either party, but to ensure that adjudication proceeds upon a sufficiently reliable factual foundation.²⁶

3.1.3 The Role of the Judge-Commissioner of Justice and Ex Officio Investigation.

The inquisitorial character of Thai administrative adjudication is further reinforced through the institutional role of the judge-commissioner of

²⁵ Dimitrova, D., & De Hert, P., Real transparency and real oversight of law enforcement data: The ECHR and the lack of accountability of indirect access procedures, *Utrecht Law Review*, (2025), 21(1), <https://doi.org/10.36633/ulr.905>.

²⁶ Linna, E., & Linna, T., Challenges for generative AI in legal reasoning, *Discover Artificial Intelligence*, (2026), <https://doi.org/10.48550/arXiv.2508.18880>.

justice.²⁷ Unlike ordinary adversarial proceedings in which judges primarily evaluate evidence submitted by litigants, the judge-commissioner of justice possesses affirmative duties to clarify disputed facts, identify relevant legal issues, request supplementary evidence, and conduct procedural inquiries necessary for resolving the dispute fairly.

This procedural role reflects the doctrinal assumption that administrative justice cannot rely exclusively upon party initiative in disputes characterized by unequal access to evidence and institutional information. The authority of administrative judges to investigate facts *ex officio* therefore functions as an institutional safeguard designed to prevent procedural inequality from distorting substantive justice.

Importantly, the exercise of *ex officio* investigative powers does not eliminate the requirement of judicial impartiality. Rather, inquisitorial intervention remains constrained by principles of proportionality, necessity, and procedural fairness. Judicial fact-finding is justified only insofar as it seeks to clarify contested issues necessary for lawful adjudication rather than to substitute judicial preference for party autonomy.

Accordingly, the Thai inquisitorial model reflects a recalibrated conception of judicial neutrality in which active judicial engagement may be necessary to preserve substantive fairness under conditions of structural inequality.

²⁷ Warasin, N., *The application of the distinctive features of the inquisitorial system to criminal trials in courts of first instance* [Independent study, Sukhothai Thammathirat Open University], (2024), <https://ir.stou.ac.th/handle/123456789/14507>.

3.2 Judicial Practice of Preventive Judicial Power in Administrative Adjudication

Analysis of selected judgments of the Administrative Court of First Instance demonstrates that inquisitorial powers are exercised in practice not merely to complete evidentiary records, but to prevent procedural injustice arising from informational imbalance between administrative authorities and private individuals. Judicial truth-seeking therefore functions as a practical manifestation of preventive judicial power operating within Thai administrative adjudication.

3.2.1 Judicial Orders Requiring Disclosure of Administrative Documents.

In several administrative disputes examined in this study, the Administrative Court exercised authority under Section 67 to order administrative agencies to disclose internal records, official correspondence, procurement documents, or administrative findings relevant to the legality of disputed administrative action. Such judicial intervention frequently occurred where private litigants lacked meaningful access to information exclusively controlled by the state.²⁸

The doctrinal significance of these disclosure orders extends beyond evidentiary administration. By compelling disclosure of administrative records, the court actively reduces informational asymmetry that would otherwise impair the ability of private individuals to challenge administrative action effectively. Judicial intervention therefore operates preventively by ensuring

²⁸ Di, X., & Jiang, Y. S., “Unavailable evidence” in civil trials: Dilemmas and implications of lawyer investigation orders in China, *The International Journal of Evidence & Proof*, (2026), <https://doi.org/10.1177/1365712726142224>.

that procedural inequality does not crystallize into irreversible substantive injustice.

From a doctrinal perspective, these practices demonstrate that inquisitorial adjudication within Thai administrative law serves a substantive equality function rather than merely a procedural fact-finding function.

3.2.2 Ex Officio Clarification of Facts and Legal Issues.

The study further identifies judicial practices in which administrative judges independently clarified disputed factual and legal issues beyond the arguments expressly advanced by the parties. In certain disputes involving administrative discretion or technical regulatory decisions, the court requested additional explanations, supplementary factual clarification, or expert documentation necessary for determining the legality and proportionality of administrative action.

These practices illustrate that administrative judges do not function merely as passive evaluators of competing submissions. Instead, judges actively engage in clarifying incomplete factual records where failure to do so may compromise the fairness or legality of adjudication.²⁹

The doctrinal implication of such intervention is significant. Judicial clarification of facts operates *ex ante* by preventing administrative defects arising from incomplete evidence from becoming legally entrenched through formalistic adjudication. Preventive judicial power therefore manifests not through judicial activism directed toward predetermined outcomes, but

²⁹ Faridah, S., & Hadiyantina, S., The role of active judges: A comparative study of civil cases and administrative disputes, *Jurnal Hukum dan Peradilan*, (2025), 14(2), 351–376, <https://doi.org/10.25216/jhp.14.2.2025.351-376>.

through proactive efforts to ensure that adjudication proceeds upon a sufficiently accurate and balanced factual foundation.

3.2.3 Judicial Truth-Seeking and Procedural Equality.

The analysis additionally demonstrates that inquisitorial intervention frequently serves to protect the principle of equality of arms within administrative proceedings. In disputes involving public authorities, private litigants often encounter practical limitations in accessing technical information, administrative records, or institutional expertise necessary to substantiate their claims.

Judicial truth-seeking measures such as ex officio evidence gathering, requests for clarification, and disclosure orders therefore function as mechanisms for correcting structural procedural inequality. Rather than undermining impartiality, these interventions reinforce substantive fairness by ensuring that adjudication is not distorted by unequal evidentiary access.

The findings consequently support the conclusion that inquisitorial adjudication within Thai administrative law embodies a preventive conception of judicial authority. Administrative judges intervene not only to resolve disputes retrospectively, but also to prevent procedural inequality and informational asymmetry from producing unjust administrative outcomes before such injustice becomes institutionally entrenched.

3.3 Doctrinal Implications of Preventive Judicial Power

The analysis demonstrates that judicial truth-seeking within Thai administrative adjudication should be understood as a distinct doctrinal function rather than merely a procedural technique of evidentiary

management. The inquisitorial powers granted under Thai administrative procedure enable judges to intervene proactively in factual clarification, evidentiary disclosure, and issue identification in order to prevent injustice arising from incomplete administrative records and structural inequality between public authorities and private individuals.³⁰

Preventive judicial power therefore reflects a doctrinal shift from purely corrective models of adjudication toward an ex ante conception of judicial protection. Under this framework, the legitimacy of judicial intervention derives not from adversarial passivity, but from the court's institutional responsibility to ensure substantively fair administrative adjudication consistent with constitutional principles of legality, fairness, and effective judicial protection.³¹

3.4 Comprehensive Fact-Finding Enhances the Quality and Legitimacy of Judicial Decisions

The analysis further demonstrates a direct relationship between judicial truth-seeking and the quality of administrative judgments. Decisions grounded in thorough factual examination exhibit greater coherence, transparency, and persuasive authority.³² Such judgments are less susceptible

³⁰ Techawanakorn, Y., The control of usage of discretionary power by Administrative Court of Thailand, *Journal of Multidisciplinary Academic Research and Development*, (2023), 5(4), 1–23.

³¹ Khabirpour, N., The principles of effectiveness, effective judicial protection and the rule of law, *European Human Rights Law Review*, (2023), 5, 477–481, <https://doi.org/10.17863/CAM.113824>.

³² Lonardo, L., & Loxa, A., Quality of the judgments of the Court of Justice: Coherence, efficiency, and the context of explanation, (2026), <https://doi.org/10.1093/9780198983002.003.0003>.

to subsequent challenge and more capable of withstanding appellate scrutiny.³³

This result indicates that proactive fact finding contributes not only to the correctness of individual outcomes but also to broader institutional legitimacy. By demonstrating a commitment to uncovering the factual reality underlying administrative action, courts reinforce public confidence in administrative justice as an effective mechanism for controlling the exercise of state power.³⁴

3.5 Truth-Seeking as an Expression of Judicial Identity in Administrative Justice

Finally, the results reveal that truth-seeking functions as an integral element of judicial identity within the administrative court system. Judges of the Administrative Court of First Instance are positioned not merely as arbiters of competing claims but as guardians of fairness in the relationship between the state and the individual.

This role reflects a normative conception of administrative adjudication in which judicial authority is exercised to reconcile the rule of law, the protection of individual rights, and the effective supervision of

³³ Georgoula, D., & Nguyen, L. N., Judicial reasoning as a mask: Rationalizing the transparency of the law of the sea tribunals, *Journal of International Dispute Settlement*, (2025), 16(3), idaf051, <https://doi.org/10.1093/jnlids/idaf051>.

³⁴ Viganò, F., Protecting judicial independence by strengthening public confidence in the judiciary, In *Rule of law in Europe conference*, (2021), pp. 47–54, Springer Nature Switzerland, https://doi.org/10.1007/978-3-031-61265-7_5.

administrative discretion.³⁵ The truth-seeking function thus emerges as a foundational characteristic of administrative justice and a key source of its democratic legitimacy.

4. Discussion

4.1 Doctrinal Limits of Prevailing Accounts of Inquisitorial Adjudication

Prevailing doctrinal accounts of inquisitorial adjudication in administrative law tend to conceptualize judicial truth-seeking primarily in instrumental or procedural terms. A dominant strand of scholarship explains inquisitorial powers as mechanisms intended to improve procedural efficiency, evidentiary completeness, or factual accuracy where party submissions are insufficient. While such explanations capture important operational functions of inquisitorial adjudication, they remain descriptively and normatively incomplete. They do not adequately explain why, in disputes characterized by structural inequality between public authorities and private individuals, judicial intervention is not merely permissible but institutionally expected as an essential component of administrative adjudication.

³⁵ Cao, G., Liu, C., & Zhou, L. A., Suing the government under weak rule of law: Evidence from administrative litigation reform in China, *Journal of Public Economics*, (2023), 222, 104895, <https://doi.org/10.1016/j.jpubeco.2023.104895>.

This limitation becomes particularly visible in administrative disputes involving informational asymmetry.³⁶ Administrative agencies typically possess superior access to official records, technical expertise, institutional knowledge, and documentary evidence relevant to the legality of administrative action.³⁷ Under such conditions, a purely passive judicial role may reinforce rather than mitigate procedural inequality.³⁸ Existing procedural accounts of inquisitorial adjudication therefore struggle to explain why active judicial engagement frequently operates as a necessary condition of substantive fairness rather than a deviation from judicial neutrality.

Similarly, classical interpretations of the principle of equality of arms continue to rely heavily upon notions of formal procedural symmetry, presuming that fairness is satisfied once parties receive identical procedural opportunities.³⁹ However, formal equality alone may prove insufficient where litigants possess fundamentally unequal capacities to access relevant evidence or challenge administrative authority effectively. In administrative adjudication, procedural fairness frequently requires asymmetrical judicial

³⁶ Koch Jr, C. H., Judicial review of administrative discretion, *George Washington Law Review*, (1985), 54, 469, <https://doi.org/10.4337/9781788110242.00008>.

³⁷ Baron, J. R., Sayed, M. F., & Oard, D. W., Providing more efficient access to government records: A use case involving application of machine learning to improve FOIA review for the deliberative process privilege, *ACM Journal on Computing and Cultural Heritage (JOCCH)*, (2022), 15(1), 1–19, <https://doi.org/10.48550/arXiv.2011.07203>.

³⁸ Brants, C., & Field, S., Truth-finding, procedural traditions and cultural trust in the Netherlands and England and Wales: When strengths become weaknesses, *The International Journal of Evidence & Proof*, (2016), 20(4), 266–288, <https://doi.org/10.1177/1365712716658893>.

³⁹ Khalilov, F. Y., “Equality of arms” in criminal procedure in the context of the right to a fair trial, *RUDN Journal of Law*, (2021), 25(3), 602–621, <https://doi.org/10.22363/2313-2337-2021-25-3-602-621>.

intervention directed toward correcting structural imbalance rather than preserving abstract procedural neutrality.

Traditional conceptions of judicial impartiality encounter similar doctrinal difficulties. Classical adversarial theory often associates neutrality with judicial passivity, treating active judicial fact-finding as potentially incompatible with impartial adjudication.⁴⁰ Yet within inquisitorial administrative systems, judicial intervention frequently constitutes an indispensable mechanism for ensuring effective judicial protection and reasoned decision-making. The realities of contemporary administrative governance therefore require a more nuanced understanding of judicial neutrality capable of accommodating active truth-seeking without collapsing into judicial partisanship.

Taken together, these doctrinal limitations suggest that prevailing theories of inquisitorial adjudication insufficiently theorize the normative significance of judicial truth-seeking within administrative justice. Existing models explain how inquisitorial powers operate procedurally, but they do not fully explain why such powers possess constitutional and institutional legitimacy within systems of administrative adjudication characterized by structural inequality and informational asymmetry.

4.2 Preventive Judicial Power as a Doctrinal Framework

The concept of preventive judicial power advanced in this study provides a more comprehensive doctrinal explanation of inquisitorial

⁴⁰ Wisnubroto, A., Lay, F. R. F., & Soumokil, Y. M., The active judge system in the adversary model: Prospects for its application in Indonesia, *International Journal of Science and Environment (IJSE)*, (2025), 5(4), 46–54, <https://doi.org/10.51601/ijse.v5i4.239>.

adjudication by conceptualizing judicial truth-seeking as an autonomous form of judicial authority rather than merely a derivative procedural technique. Preventive judicial power explains why judicial intervention in fact-finding is normatively justified even absent party initiative: judicial engagement operates to prevent the crystallization of administrative injustice arising from incomplete factual records, evidentiary asymmetry, and structural imbalance between the state and private individuals.

Unlike efficiency-based procedural theories, preventive judicial power situates inquisitorial adjudication within a broader temporal logic of judicial protection. Under this framework, administrative judges do not intervene solely to correct completed legal wrongs retrospectively. Rather, judicial intervention operates *ex ante* by identifying factual deficiencies, clarifying disputed issues, and ensuring evidentiary completeness before administrative defects become legally entrenched or produce irreversible consequences.

Preventive judicial power additionally reconceptualizes procedural fairness in substantive rather than purely formal terms. Rather than presuming that identical procedural treatment necessarily produces fair outcomes, this framework recognizes that materially unequal conditions may justify asymmetrical judicial intervention aimed at restoring substantive procedural balance. Judicial truth-seeking therefore functions not as an exception to neutrality, but as a mechanism through which substantive fairness is institutionally preserved within administrative adjudication.

Importantly, preventive judicial power does not authorize unlimited judicial activism. The legitimacy of inquisitorial intervention remains

constrained by principles of proportionality, necessity, procedural fairness, and reasoned justification. Judicial engagement is justified only insofar as it seeks to clarify contested issues necessary for lawful adjudication rather than to advance predetermined substantive outcomes. Preventive judicial power therefore reconciles active truth-seeking with judicial impartiality by grounding intervention in institutional responsibility rather than adversarial alignment.⁴¹

By making explicit this preventive dimension of judicial authority, the framework developed in this article clarifies a doctrinal foundation of inquisitorial adjudication that existing scholarship frequently presumes implicitly but rarely theorizes directly.⁴² Preventive judicial power thus emerges as a conceptually necessary framework for understanding how administrative courts exercise authority in a manner consistent with both effective judicial protection and the rule of law.⁴³

4.3 Comparative Administrative Law and Doctrinal Portability

From a comparative perspective, the preventive judicial power framework provides a refined interpretation of inquisitorial adjudication observable across multiple administrative justice systems.⁴⁴ Although doctrinal structures differ among jurisdictions, comparative analysis

⁴¹ Bishop, S. L., *Camerounian law and literature: Judging attempts at oppositional narrative* (Doctoral dissertation, University of Michigan), (1999).

⁴² Asimow, M., Inquisitorial adjudication and mass justice in American administrative law, In *The nature of inquisitorial processes in administrative regimes*, (Routledge, 2016), pp. 93–112.

⁴³ De Bellis, M., Multi-level administration, inspections and fundamental rights: Is judicial protection full and effective?, *German Law Journal*, (2021), 22(3), 416–440, <https://doi.org/10.1017/glj.2021.14>.

⁴⁴ Maile, A. D., Legislation on administrative procedures: The German experience. *Siberian Legal Review*, (2021), (2), 204–215, <https://doi.org/10.19073/2658-7602-2021-18-2-204-215>.

demonstrates that many administrative courts exercise forms of proactive judicial authority aimed at preventing injustice arising from evidentiary incompleteness and structural inequality.

4.3.1 German Administrative Law and *Amtsermittlungsgrundsatz*.

German administrative law provides one of the clearest doctrinal expressions of inquisitorial adjudication through the principle of *Amtsermittlungsgrundsatz*, under which administrative courts possess an affirmative duty to investigate relevant facts *ex officio* irrespective of the evidentiary initiatives of the parties.⁴⁵ Unlike adversarial litigation models that place primary responsibility for fact presentation upon litigants, German administrative courts are institutionally obligated to ensure factual completeness necessary for lawful adjudication.

Traditionally, *Amtsermittlungsgrundsatz* has been justified as a mechanism for ensuring objective legality, factual correctness, and the proper application of administrative law. However, the findings of this study suggest that the principle also performs a broader preventive function. By actively investigating incomplete factual records and clarifying disputed issues before judgment, German administrative courts prevent administrative injustice arising from informational deficiencies and procedural imbalance from becoming legally entrenched through formalistic adjudication.⁴⁶

⁴⁵ Pünder, H., German administrative procedure in a comparative perspective: Observations on the path to a transnational *ius commune proceduralis* in administrative law, *International Journal of Constitutional Law*, (2013), 11(4), 940–961, <https://doi.org/10.1093/icon/mot045>.

⁴⁶ Costa, D., Della Cananea, G., & Andenas, M., Administrative procedure and judicial review in France, In *Judicial review of administration in Europe: Procedural fairness and propriety*, (2021), pp. 48–50, <https://doi.org/10.1093/oso/9780198867609.003.0007>.

Importantly, German administrative doctrine does not interpret active judicial fact-finding as incompatible with judicial impartiality. Rather, inquisitorial investigation is understood as an institutional duty arising from the court's responsibility to ensure lawful and substantively fair adjudication. Judicial neutrality is therefore conceptualized not through passivity, but through objective and proportionate engagement directed toward factual clarification necessary for lawful judicial review.

4.3.2 French Administrative Adjudication and *Référé* Procedures

A comparable preventive orientation may be observed in French administrative law, particularly within *référé* procedures and the broader tradition of active judicial supervision exercised by the *juge administratif*.⁴⁷ French administrative judges possess substantial authority to intervene rapidly where administrative action risks causing serious or irreversible harm prior to full adjudication on the merits.

Although doctrinally framed in terms of urgency, provisional protection, and effective judicial review, *référé* adjudication reflects a distinctly *ex ante* conception of judicial authority. Judicial intervention is directed not merely toward correcting completed illegality retrospectively, but toward preventing irreversible administrative consequences before substantive rights are permanently impaired.

The French administrative tradition further reflects a broader conception of judicial responsibility in which judges actively supervise

⁴⁷ Duprat, J. P., The judicial review of *ex ante* impact assessment in France: An attempt to fuse the principles of legal certainty and institutional balance, *Legisprudence*, (2012), 6(3), 379–396, <https://doi.org/10.5235/17521467.6.3.379>.

administrative legality through investigative and procedural powers extending beyond passive evaluation of party submissions. Similar to the German model, judicial intervention is institutionally justified by reference to effective judicial protection and the preservation of substantive legality rather than by strict adherence to adversarial passivity.

4.3.3 Thai Administrative Adjudication as a Hybridized Inquisitorial Model.

Thai administrative adjudication reflects a hybridized form of inquisitorial procedure influenced by both German and French administrative law traditions while simultaneously adapting those principles to the institutional structure of Thai public law. Similar to German administrative adjudication, Thai administrative judges possess authority to investigate facts *ex officio*, request supplementary evidence, and clarify disputed legal and factual issues necessary for adjudication.⁴⁸ At the same time, the Thai Administrative Court increasingly performs preventive judicial functions resembling aspects of French administrative judicial protection through proactive intervention aimed at preventing procedural inequality and administrative injustice.

However, the Thai model also possesses distinctive characteristics arising from its constitutional role within a developing administrative justice system. Unlike classical continental administrative systems grounded in long-standing bureaucratic traditions, Thai administrative adjudication operates

⁴⁸ Reiling, K., Proof in administrative law: The German perspective, *Review of European Administrative Law*, (2024), 17(1), 81–110, <https://doi.org/10.7590/187479824X17117014447526>.

within a context where disparities in institutional capacity and informational access between administrative authorities and private individuals may be particularly pronounced. Consequently, inquisitorial judicial powers in Thailand frequently function not only to ensure objective legality, but also to preserve practical access to justice and effective judicial protection.

The findings of this study therefore suggest that Thai administrative adjudication should not be understood merely as a procedural transplantation of continental European inquisitorial doctrine. Rather, it represents a localized and hybridized doctrinal model in which inquisitorial truth-seeking operates as a mechanism of preventive judicial protection adapted to the structural realities of Thai administrative governance.⁴⁹

These comparative illustrations do not imply doctrinal uniformity across jurisdictions, nor do they suggest that preventive judicial power constitutes a formally recognized doctrine within all administrative justice systems. Rather, they demonstrate that preventive judicial authority captures an underlying normative dimension of inquisitorial adjudication observable across multiple legal traditions. Preventive judicial power thus provides a transferable analytical framework through which the evolving role of administrative courts in contemporary public law may be more coherently understood.

⁴⁹ Leyland, P., *Droit administratif Thai style: A comparative analysis of the administrative courts in Thailand*, *Australian Journal of Asian Law*, (2006), 8(2), 121–154.

5. Conclusion

This article has examined the role of judges in administrative adjudication through the lens of the inquisitorial system, focusing on the truth-seeking function exercised by judges of the Thai Administrative Court of First Instance. Through analysis of Thai constitutional principles, the Act on the Establishment of Administrative Courts and Administrative Court Procedure B.E. 2542 (1999), procedural regulations governing administrative adjudication, and selected judgments of the Administrative Court of First Instance, the study demonstrates that judicial truth-seeking constitutes a foundational element of administrative justice rather than merely a supplementary procedural mechanism of evidentiary clarification.

The findings reveal that inquisitorial powers exercised under Thai administrative procedural law particularly the powers of *ex officio* fact-finding, judicial clarification of disputed issues, and disclosure orders directed toward administrative authorities function not only to improve factual accuracy, but also to mitigate structural inequality and informational asymmetry between public authorities and private individuals. The analysis of selected judicial practices further demonstrates that administrative judges actively engage in factual clarification and evidentiary intervention in order to prevent procedural unfairness and administrative injustice before such injustice becomes legally entrenched through incomplete administrative records or unequal evidentiary access.

The central contribution of this study lies in conceptualizing judicial truth-seeking as a distinct doctrinal function articulated as preventive judicial

power. Unlike traditional models of administrative adjudication that conceptualize judicial intervention primarily as corrective and retrospective, preventive judicial power operates *ex ante* through proactive judicial engagement aimed at preventing administrative injustice before irreversible legal consequences arise. Within the Thai administrative justice system, preventive judicial power is reflected not only in abstract procedural doctrine, but also in concrete judicial practices involving *ex officio* investigation, evidentiary clarification, and judicial supervision of administrative legality.

At the same time, the study emphasizes that preventive judicial power is normatively bounded. The legitimacy of inquisitorial intervention depends upon compliance with principles of impartiality, proportionality, necessity, and procedural fairness. Judicial truth-seeking therefore does not authorize unrestricted judicial activism. Rather, it reflects a recalibrated conception of judicial neutrality in which active judicial engagement may be necessary to preserve substantive fairness under conditions of structural inequality between the state and private individuals.

From a comparative perspective, the study further demonstrates that Thai administrative adjudication reflects a hybridized inquisitorial model influenced by both German and French administrative law traditions. Similar to the German principle of *Amtsermittlungsgrundsatz*, Thai administrative judges possess affirmative duties to clarify facts and ensure evidentiary completeness necessary for lawful adjudication. Likewise, judicial intervention aimed at preventing procedural injustice within Thai administrative adjudication reflects a preventive orientation comparable in certain respects

to the protective logic underlying French *référé* procedures. The Thai Administrative Court system therefore illustrates how inquisitorial adjudication may evolve as a localized form of preventive judicial protection adapted to the institutional realities of contemporary administrative governance.

Recognizing preventive judicial power as a doctrinal component of Thai administrative adjudication contributes to broader debates concerning judicial authority, procedural fairness, and the legitimacy of administrative courts within public law. The findings challenge purely corrective models of judicial review and demonstrate that administrative courts perform not only retrospective functions of legality control, but also preventive functions aimed at safeguarding substantive fairness before administrative injustice becomes institutionally entrenched.

Accordingly, this study provides both a doctrinal framework and a comparative analytical perspective for understanding the evolving role of administrative courts in contemporary governance systems. By reconceptualizing judicial truth-seeking as preventive judicial power grounded in Thai procedural law and judicial practice, the article contributes to ongoing theoretical and comparative discussions concerning the role of courts in preserving the rule of law, effective judicial protection, and substantive administrative justice.

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