

## **Advisory Council of Jurists**

**Terms of Reference on the legal obligations of States for the implementation of economic, social and cultural rights, with respect to the right to education**

### **Questionnaire for the Background Paper**

#### **on the Right to Education**

Please complete the questionnaire and send all responses by e-mail to Stephen Clark: [stephenclark@asiapacificforum.net](mailto:stephenclark@asiapacificforum.net)

Responses to this questionnaire will be used in the Background Paper on the Right to Education which will be distributed to the Advisory Council of Jurists.

The APF Secretariat requests APF members to submit all responses to the questionnaire by **Friday 12 May 2006**. Thank you in advance for your time and contribution.

Information about the Advisory Council of Jurists and the terms of reference on the right to education is available at <http://www.asiapacificforum.net/jurists/>

## **Documentation**

Please provide the APF Secretariat with the following documentation:

### Constitutional provisions relating to:

- Right to education;
- Non-discrimination and the access for all; and
- Relevance of international law in the national jurisdiction.

### Answer:

1. The issues are stipulated in the Thai Constitution B.E. 2540 (1997) as follows:

### **Right to education**

**Section 42.** A person shall enjoy an academic freedom.

Education, training, learning, teaching, researching and disseminating such research according to academic principles shall be protected; provided that it is not contrary to his or her civic duties or good morals.

**Section 43.** A person shall enjoy an equal right to receive the fundamental education for the duration of not less than twelve years which shall be provided by the State thoroughly, up to the quality, and without charge.

In providing education by the State, regard shall be had to participation of local government organisations and the private sector as provided by law.

The provision of education by professional organisations and the private sector under the supervision of the State shall be protected as provided by law.

**Section 53, paragraph 2.** Children and youth with no guardian shall have the right to receive care and education from the State, as provided by law.

**Section 81.** The State shall provide and promote the private sector to provide education to achieve knowledge alongside morality, provide law relating to national education, improve education in harmony with economic and social change, create and strengthen knowledge and instill right awareness with regard to politics and a democratic regime of government with the King as Head of the State, support researches in various sciences, accelerate the development of science and technology for national development, develop the teaching profession, and promote local knowledge and national arts and culture.

### **Non-discrimination and the access for all**

**Section 29.** The restriction of such rights and liberties as recognized by the Constitution shall not be imposed on a person except by virtue of provisions of the law specifically enacted for the purpose determined by this Constitution and only to the extent of necessity and provided that it shall not affect the essential substances of such rights and liberties.

The law under paragraph one shall be of general application and shall not be intended to apply to any particular case or person; provided that the provision of the Constitution authorizing its enactment shall also be mentioned therein.

The provisions of paragraph one and paragraph two shall apply *mutatis mutandis* to rules or regulations issued by virtue of the provisions of the law.

**Section 30.** All persons are equal before the law and shall enjoy equal protection under the law.

Men and women shall enjoy equal rights.

Unjust discrimination against a person on the grounds of the difference in origin, race, language, sex, age, physical or health condition, personal status, economic or social standing, religious belief, education or constitutionally political view, shall not be permitted.

Measures determined by the State in order to eliminate obstacle to or to promote persons' ability to exercise their rights and liberties as other persons shall not be deemed as unjust discrimination under paragraph three.

**Section 55.** The disabled or handicapped shall have the right to receive public conveniences and other aids from the State, as provided by law.

**Section 80, paragraph 2.** The State shall provide aids to the elderly, the indigent, the disabled or handicapped and the underprivileged for their good quality of life and ability to depend on themselves.

**The National Education Act of 1999** also guarantees the child's rights for development without discrimination. In section 10, it also states that every person has equal rights and opportunity in obtaining 12 years of quality education without charge.

2. The Constitution does not specifically mention the relevance of international law in the national jurisdiction. Customarily, the Thai legal system subscribes to dualistic system, whereby international treaties that are self-executing can be applicable by courts and administrative authorities only through any transformation into domestic statutes. Nevertheless, **Section 200** regarding the powers and duties of the National Human Rights Commission of Thailand (NHRC) states that the NHRC has to examine and report the commission or omission of acts which violate human rights or which do not comply with obligations under international treaties to which Thailand is a party.

Relevant legislation referring to:

- Right to compulsory and free primary (or basic) education on a non-discriminatory basis;

Answer:

**Section 43 of the Constitution B.E. 2540 (1997)** stipulates that the State shall provide the fundamental education for the duration of no less than twelve years. **The National Education Act B.E. 2545 (1999)**, as an organic law, guarantees the education for all through freely providing at least twelve years of education by the government. The law provides that a nine-year compulsory education shall be provided to a child as soon as he/she enters the age of seven. The basic schooling lasts until the child reaches the age of sixteen, except where he/she has completed the ninth year of compulsory education.

- Right to secondary and higher education;

Answer:

Under Thai law, there is no restriction to get access to secondary and higher education.

In Thailand's second report on the implementation of the Convention on the Rights of the Child, it said that each child has the right to receive higher education depending on his/her ability regardless of gender, age, religion, colour, race, or urban/rural area, both in the Open University and the formal university system. The entrance examinations to attend universities are open to all.

- Financing of education;

Answer:

Section 60 of the National Education Act 1999 upholds the high priority of educations and; therefore, requires the State to allot budget for educational programmes, which include:

- the general subsidy for individuals in compulsory and fundamental education;
- the educational loan scheme for low-income families;
- the provision of budget and resources as deem necessary for children in need;

- the investment in public education in accordance with national education policy and programmes with the independence in their administration and with due regard to quality and equality in opportunity;
  - the provision of budget for higher education institutes and universities under the supervision of the State;
  - the establishment of low-interest loans for private education institutions in order to strengthen their self-reliance;
  - the establishment of education development endowment for public and private education institutions.
- Minimum age of employment;

Answer:

**Section 44 of the Labour Protection Act of 1998** states the minimum age of employment as 15 years of age.

- Minimum age of marriage; and

Answer:

The law stipulates that boys and girls must be at least 17 years old if they are to be married. However, a court may allow an earlier marriage if there are reasonable grounds e.g. religion.

- Minimum age of criminal responsibility

Answer:

**Under Section 73 of the Penal Code**, a child below 7 years of age, who commits a criminal offence, is not liable to punishment. This means that criminal responsibility begins when the child is over 7 years of age. Nevertheless, the child in question cannot be punished until he/she is over 14 years old. In 2003, **the Revised Penal Code No. 16** was issued which prohibits the imposition of corporal punishment and life imprisonment on an offender under 18 years of age. The Thai government also reported to the Committee on the Rights of the Child that the government is considering to increase the age at which criminal penalty can be imposed from 7 to 10 years.

#### NGO reports

- Reports on education by local, national and / or international non-governmental organisations within your country, especially the shadow reports produced for the country sessions of the UN Treaty Bodies.

Answer:

There are a number of articles, reports and researches on national education system conducted by local NGOs and academic institutions, but they are almost in Thai. The NHRC did not come across any report by international NGOs focusing on right to

education in Thailand. However, there were some reports prepared by international organisations such as UNESCO, ADB, or the United Nations. For example, the preliminary report prepared in 1999 by Ms. Katarina Tomasevski, Special Rapporteur on Right to Education, mentioned the status of the progressive realization of the right to education with a special emphasis on access to primary education where a number of countries including Thailand were referred. The text is available at <http://daccessdds.un.org/doc/UNDOC/GEN/G99/101/34/PDF/G9910134.pdf?OpenElement>. The ADB had a report assessing education situations in Thailand for its financial support. The UNESCO 2000 World Education Report overviewed the commitments to the implementation of the right to education adopted by international community.

## **Part 1: Issues raised in the Terms of Reference**

### **Preliminary Questions**

#### Education Policy and Programmes

1. Please provide an overview of the framework of government education polices and programmes in your country, including the division of responsibilities and financing between national, state and local governments.

Answer:

#### Educational framework

1. The right to education, including the principles of non-discrimination and the access to education for all, is guaranteed by a number of provisions in the Thai Constitution B.E. 2540 (1997). (Please refer to the answer above.)
2. The National Education Act B.E. 2542 (1999) was issued as required by Section 81 of the Constitution, which obliges the State to enact the law relating to national education. The Act serves as the fundamental law, which is instrumental to the reform of national educational system.
3. The Act outlined the administration and provision of education and training services, which included:
  - the objectives and principles
  - educational rights and duties
  - educational system
  - national education guidelines
  - educational administration and management
  - teachers, faculty staff and educational personnel
  - resources and investment for education and technologies for education

4. The Act guarantees that every person has equal right and access to twelve years of free compulsory education provided by the government, and the implementation is scheduled for completion within 5 years; and the Office of Educational Reform was established to carry out the tasks stated in the Act.

5. Since then, the administration of the Thai education system has undergone the major reform. The National Education Plan (2002-2016) was adopted by the government with the aim to transform the country into a learning society. The Plan has served as the framework for formulating the development plans pertaining to basic education, higher education religion, art and culture. It focuses on the integration of all aspects of the quality of life, emphasizes human-centred development and integration all types of education -- formal, non-formal, informal-- in an integrated and holistic scheme for lifelong learning. In this regard, the Plan aims at the full development of Thai people in terms of physical and spiritual health, intellect, morality and integrity, living in harmony with other people.

6. The Plan provides guidelines for formulating operational plans at the levels of educational service areas and educational institutions. The plan outlines 3 objectives and 11 policy guidelines for implementation as follows:

**Objectives:**

1. To achieve a knowledge-based economy and society
2. To promote continuous learning
3. To involve all segments of society in designing and decision-making concerning public activities

**Policy guidelines**

1. To enable all people to have access to learning
2. To develop learning reform for benefits of learners
3. To inculcate and to strengthen morality, integrity, ethics and desirable values and characteristics
4. To develop manpower in science and technology for self-reliance and enhanced competitiveness capacity
5. To develop a learning society to create knowledge, cognition, and integrity of people
6. To promote research and development to increase knowledge and learning of Thai people and society
7. To create, apply and disseminate knowledge and learning

No. 1-4 focus on all-round balanced and human development

No. 5-7 focus on building a society of morality, wisdom and learning

- |   |   |   |
|---|---|---|
| <ul style="list-style-type: none"> <li>8. To promote and create social and cultural capital limitation</li> <li>9. To limit, decrease and eliminate structural problems for social justice</li> <li>10. To manage resources and investment for education, religion, art and culture systematically</li> </ul> | } | No. 8-10<br>focus on<br>development<br>of social<br>environment |
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### Decentralisation

1. The Constitution emphasizes the importance of decentralisation, of which a Chapter is devoted for the concept and its process of implementation. **Section 289** particularly refers to the role of a local government organisation in undertaking education as follows:

...A local government organisation has the right to provide education and professional training in accordance with the suitability to and the need of that locality and participate in provision of education and training by the State...

However, the above right must not be contrary to the Constitutional provisions related to the right to receive the fundamental education not less than twelve years (Section 43) and the framework of national education (Section 81).

2. As a result, the former educational authorities were newly designed and new agencies were established. Educational administration and management at a central level was streamlined, and authority was decentralized to educational service areas, educational institutions and local administration organisations. Society, community and families can also play their roles through the works with local government administrations in order to develop curricular suiting for their local areas and needs.

3. Resource and budget allocation for education have also been distributed to educational institutions. Nevertheless, the government admitted that the centralisation of budget allocation is still problematic. Inequality and inefficiency persist due to the complexity of bureaucratic system.

In sum, the education administered and managed **by the State** is divided into three levels:

#### 1. Administration at Central Level

The main responsibility for education is under the Ministry of Education. It will be responsible for promoting and overseeing all levels and types of education; formulation of education policies, plans and standards; mobilisation of resources for education; promotion and co-ordination in religious affairs, art, culture and sports in relation to education; as well as monitoring, inspection and evaluation of educational provision.

#### 2. Administration in Educational Service Areas

The educational service areas have been established under the Basic Education Commission in response to the decentralisation of authority for educational administration as stipulated in the National Education Act. At present, there are 175 educational service areas in 76 provinces, 3 of which are in Bangkok. Each educational service area is responsible for approximately 200 educational institutions

in which there are around 300,000-500,000 students. Each educational service area requires an Area Committee for Education comprising representatives of community, private and local administration organisations; teacher association; educational administrator association; parent-teacher associations; and scholars in education, religion, art and culture. The Committee is responsible for the following:

- 1) Establishing, overseeing, monitoring and evaluation, dissolution, amalgamation or discontinuance of basic education institutions;
- 2) Co-ordination, promotion and support for private educational institutions in the area;
- 3) Co-ordination and promotion for local administration organisations so as to be able to provide education in accord with educational policies, development plans and standards specified by responsible bodies at central level;
- 4) Promotion and support for education provided by individuals; families, community organisations, private organisations, professional bodies, religious institutions, enterprises, and other social institutions offering a variety of training;
- 5) Allocation of budget for providing educational service to educational institutions and for their own operation.

### 3. Administration in Educational Institutions

Educational administration and management in educational institutions can be divided into 2 categories:

#### 1) At Basic Educational Level

The Ministry of Education decentralises authority to educational institutions through school-based management (SBM), where the institutions can take greater responsibilities on academic factors, budget, personnel and general affairs administration.

#### 2) At Higher Educational Level

All higher education institutions are allowed to develop their own administration and management system with flexibility and academic freedom under the supervision of the institutional council empowered by its own Act.

As for the education administered and managed **by local administration organisations**, the National Education Act stipulates that local administration organisations can provide education at any or all levels of education according to their readiness, suitability and the requirement of the local areas. The Ministry of Education is only responsible for prescribing the criteria and procedures for assessing the readiness to provide education of the local administration organisations as well as co-ordination with them and promoting their capability in provision of education. The Ministry of Education will also advise on the budgetary allocations for education. In transitional period to transfer responsibility concerning the provision of education to the local administration organisations, a 15-year policy was issued which focused on equal opportunity in basic education; educational administration systems; teachers,

faculty staff and educational personnel; and quality and standards in line with readiness and suitability of local areas.

Concerning the administration and management of education **by the private sector**, the National Education Act stipulates that they can provide education at all levels and of all types. The State is responsible for overseeing educational administration and management as well as monitoring the educational quality and standards of private educational institutions.

Justiciability of economic, social and cultural rights with respect to the right to education

2. Please provide details of cases from the national courts of your country with respect to the justiciability of economic, social and cultural rights, with a particular focus on the right to education.

Answer:

The information is not available.

3. Please provide information about remedies available and the enforceability of the decisions of national courts with respect to the right to education.

Answer:

The information is not available.

4. Please provide information relevant to your government's position regarding the proposed Optional Protocol for the International Covenant on Economic, Social and Cultural Rights.

Answer:

At present, the government has not considered the accession to the Optional Protocol.

**The right to receive an education:**

**available, accessible, acceptable, and adaptable**

**Availability**

*Functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. (CESCR General Comment No. 13)*

Expenditure

5. Please provide an overview of government expenditure on all levels of education in your country. Where there is a divide in education expenditure between national, state and local governments please provide this information. Where possible, figures should be disaggregated (primary, secondary, higher education, formal and non-formal) and expressed in both real terms and as a percentage of gross national product.

Answer:

About 3.5 per cent of GNP or 25 per cent of the annual budget is earmarked for education. In accordance with the statistics over the last decade (1990-1999), 44 per cent of the education budget was allocated for primary education, which is the highest percentage.

In 2005, the budget for education is alloted as follows:

	Million baht
	(approx. 38 baht : 1 US dollar)
- primary and secondary education	184,459.9
- higher education	40,308.7
- general education (not indication level)	3,558.7
- education management	30,706.9
- other forms of education	3,905.5
Total	262,939.7
	(21.9 % of annual budget)

6. Please provide information about education funding models used in your country. Issues for consideration could include (but are not restricted to):
- Funding for state and non-state (private) education institutions;
  - The dependence on school fees in any form, direct or indirect
  - Use of education vouchers;
  - Privatization of the education system.

Answer:

Chapter 8 of the National Education Act refers to the mobilisation of resources for education, which derives from both public and private resources. The current state of cost-sharing between participants in education and society as a whole will be divided into 2 categories: public educational expenditure and contributions from private sector and the society:

### **Contributions from public sources**

The investment for education from public sources includes the central government budget and subsidies for local funding and private expenditure. Despite the recent introduction of educational reform which encouraged greater support for education from local resources, the major source of local funding for education still comes from the central government. Nevertheless, the share of central government subsidies for municipal schools has remained nearly two times higher than the local budget.

## **Contributions from private sources**

Contributions from the private sector and society come from non-governmental sources and private educational institutions. Non-governmental sources are irregular and intermittent from donations of individuals and communities, other revenues of educational institutions, and foreign loans of international funds such as those from the World Bank, ADB, OECF and foreign countries. Concerning contributions from private educational institutions, they help alleviate the government's burdens on financial resources. In the last decade, the percentage of private educational institutions in providing general education at the pre-primary and primary levels were 25 per cent and 10 per cent respectively.

At the level of basic education, the government distributes subsidies to students in both state and private schools. Private degree-level institutions do not receive government subsidies and have to charge higher tuition fees than state degree-level institutions that have received government subsidies.

Other measures related to education funding were introduced to comply with the National Education Act as follows:

1. Two Acts were drafted to amend the relevant law so as to increase the tax rebates on donations for education and the tax exemption for educational materials.

2. A Committee comprising representatives from the Ministry of Education and the Ministry of Finance has considered a number of measures to attract more participation in educational provision from private sector. For example, the Ministry of Finance grants property-tax exemption to private educational institutions, and relevant rules and regulations were amended to enhance equal treatment between private and public educational institutions.

3. In addition, a number of tax measures for education purpose were considered such as the allowance to levy educational taxes by local administration organisations, or to levy inheritance tax for educational purposes. Nevertheless, due to the lack of adequate information and practices, the measures have not yet been introduced.

However, the Minister of Education recently accepted that financial distribution for education still needs improvement since it is unequally and unfairly distributed. The lack of contribution and participation from local communities results in the ineffective use of budget. He also suggested that the administration, management and investment of education should link with human resource development to develop the country's competitiveness, including national economic and social development. Educational institutions should gain more freedom of budget administration. In the future, the financial distribution should be in 3 forms: equally distributing among schools; additionally distributing to schools in poverty-ridden areas and schools with poor or disabled students; additionally distributing to small-scaled schools.

Note: Please also see answer to the question on education policy and programmes.

7. Please provide information about your government's laws, policies and programmes regarding acceptance of international assistance and cooperation in relation to education.

Answer:

Thailand does not have a particular law regarding acceptance of international assistance and co-operation in relation to education. However, there is the guideline adopted by the Cabinet concerned. The acceptance must not limit the country's negotiating power with partners on equal basis. In case of foreign loans, it can be done only for the commercial purpose and conditions or obligations of the contract must not put the country into a disadvantaged position. If the amount of financial assistance is not high, it is preferable to spend on such activities from the annual budget.

8. Please describe the role and impact of non-state actors such as international financial institutions and trans-national corporations on the realisation of the right to education in your country. For example, if your country has adopted a structural adjustment programme, has this impacted upon government expenditure on education policies and programmes?

Answer:

In recent years, Thailand has a number of international co-operation programmes with international organisations and other foreign partners such as UNICEF, UNESCO, British Council, the American Field Service.

In 1997, Thailand faced economic crisis of which economic low competitiveness, including insufficient skills levels of the labour force and weaknesses in the education system, were considered the major cause resulting in Thailand's difficulty to adopt new technologies to increase productivity. Therefore, the educational reform is needed to develop Thailand into a knowledge-based society.

Thailand received financial assistance from the Asian Development Bank (ADB) to initiate structural reforms to boost country's competitiveness. The ADB lent a US\$ 5,000 million loan to Thailand for a Social Sector Programme to mitigate the impacts of the economic crisis, especially on the poor and the disadvantaged. In fact, the Programme was initiated by the Thai government to support activities and policy reforms in labour, health and social welfare, and education sectors. Subsequently, 1,000 million baht was allotted to help prevent students dropping out of study at primary level, lower secondary level, and Buddhist religious schools. Over 328,000 students received scholarships and over 136,000 students applied for student loans. In addition, 13,000 baht was allotted as loans for education to educational institutions.

During the period of crisis, although total government budget for education was reduced, the share of public expenditure for education rose sharply from 20.6 per cent to 25.2 per cent.

### Infrastructure

9. Please provide information the availability and adequacy of infrastructure, especially for girls, for schools and other educational institutions in your country, including classrooms, library, sanitation facilities, safe drinking water and any other relevant facilities.

Answer:

Section 78 of the 1997 Constitution stipulates that the government will develop public utilities and facilities systems and information infrastructure thoroughly and equally throughout the country.

According to Thailand's second report to the Committee on the Rights of the Child, it said that the government allocated funds to provide teaching and learning materials for learners in each level. Other expenses are allotted in accordance with necessity and target groups classified by the level of education and necessities including special costs incurred. They include health care, textbooks, uniforms, supplementary food (milk), lunches (as in the School Lunch Fund Act of 1992) and transportation for students' travel to and from school.

Nevertheless, in the report, the government admitted that the lack of equipment and education materials, especially in science and technology is still a problem. The government sometimes cannot arrange for educational facilities in remote areas with small numbers of students. Children from such areas have to travel to nearby communities thus causing them difficulties in travelling to and from schools. It was also suggested that the standards in every school should be standardised and improved to the equal or almost equal basis.

In terms of IT infrastructure (electricity and telephone) and networking system, the expansion was aimed to cover 56 per cent of primary schools, all secondary schools and all higher education institutions. Under the networking system called EdNET, the SchoolNet (basic education level) and the UniNet (higher education level) were able to link more educational institutions. Nevertheless, the ratio of computers per head of students at basic education level is quite low (1: 120), while access to computers in secondary schools is higher. It was also found that the number of computers in private schools was higher than that in state schools; and access to the Internet of secondary schools is highest (89.7 %) in Bangkok and lowest (24.1%) in the Northeast. The basic infrastructure is required for the improvement. For example, 1,119 schools did not have fixed electricity and 21,591 did not have fixed telephone lines in 2002.

#### Teachers and support staff

10. Please provide information about the availability of qualified teachers and support staff for all levels of education in your country, on teacher training initiatives to meet 'education for all' goals, and any other relevant issues that impact upon this availability.

Answer:

In compliance with the National Education Act, the authorities concerned developed plan to recruit more teachers and staff for teaching, administration and demonstration. There are programmes for training teachers for educational reform, which can be categorized in 2 main respects: reform of the teacher training system and reform of teacher education institutions. A curriculum for the training of new teachers was developed; scholarships and job security is arranged to attract qualified students into teaching profession.

Capacity building programmes have been arranged for teachers both in central educational institutions, educational service areas, and local administration organisations. School-based training for in-service teachers development, which is a

new paradigm to effectively develop teachers, is introduced to contribute to the success of learning reform.

As for the reform of teacher education institutions, it is aimed at enhancing the quality of faculty staff in teacher's colleges and universities. In addition, scholarships were offered for teachers to continue their study of master and doctorate degrees. At present, it is in the process to establish the Institute for Development and Promotion of Teachers, Faculty Staff and Educational Personnel, including the Fund for such purpose.

In accordance with Thailand's second report to the Committee on the Rights of the Child, the average student-teacher ratio is 20:1. There are teacher shortages for subjects of mathematics, science, physics, chemistry, foreign languages and computer science. The report also mentioned that the authorities concerned have developed plan to recruit more teachers and staff for teaching, administration and demonstration. However, it has been recently reported that state schools at primary and secondary levels are facing the shortage of experienced and qualified teacher within 10 years due to the government's workforce reduction policy. The information shows that of 374,925 teachers, about 200,000 are aged 46-55 and approaching retirement or early retirement. The Office of Basic Education Commission admitted that it is unable to produce enough skilled teachers in time because the government is reducing its workforce. At present, the government replaces only 20% of all positions lost through retirement every year. In accordance with the Education Council, primary and secondary schools are now short of 99,570 teachers, and 21,784 schools do not have sufficient teachers. State schools still need about 50,000 more teachers. The problem also took place in state universities, and the government solved the problem by allocating budgets equal to the earnings of retired teachers to hire retired teachers to resume their duties on a yearly basis. Consequently, the budget will be spent on hiring temporary staff to teach in place of retired teachers instead of investing in students' education and development.

#### Teaching facilities and materials

11. Please provide information about the availability and adequacy of teaching facilities and materials including: classrooms, books and writing materials, information and communications technology equipment, libraries, laboratories, workshops, sporting equipment and facilities and other relevant materials.

In answering questions 5-11, please give consideration to the issue of diversity and the impact of 'availability' on the rights of minorities and indigenous people.

Answer:

Please see answer to question 9.

<b>Accessibility</b>
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<i>Educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. (CESCR General Comment No. 13)</i>
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## Non-discrimination

12. Please provide details of legislation and government policies and programmes relevant to issues of non-discrimination, equal treatment and equality of opportunity in education. Information provided should include (but is not limited to) consideration of issues of access for people living with disabilities, internally displaced persons, non-nationals, prisoners, refugees and other minorities.

### Answer:

The Thai Constitution and the National Education Act guarantees the principle of non-discrimination and equal access to education, especially the equal rights and opportunity in obtaining 12 years of quality education. (Please see details from answers above.)

In 2001, an extensive survey by the National Primary Education Commission identified 140,000 school-aged children, the majority of them highland children, as having difficulties enrolling and staying in school. Other groups experiencing these difficulties included children of seafarers, homeless children, migrant and stateless children, and children affected by AIDS.

In September 2002, the Ministry of Education issued the Regulation on the Rights of the Disabled to Access to Facilities, Media, Services and other Types of Educational Assistance, and is in the process of drafting the Bill for Establishing Education Funds for the Disabled and the Gifted. In practice, special education is provided for children with disabilities, i.e. impaired hearing, specific learning disorder, autistic children, as well as gifted and talented children. The teaching and learning of special education is organised in both special and inclusive schools. In accordance with budget allocation for the year 2005, 1003.72 million baht was spent on provision of special education for person with disabilities, compared with 786.37 million baht and 739.6 million baht in 2004 and 2003 respectively. In 2005, 26,541 children with disabilities attend regular schools while 12,992 attend special schools.

Other children in especially difficult circumstances (CEDC) are provided with welfare education. They will not only receive free education, but also with accommodation, food, clothing, equipment, textbooks and other necessities. Additional supporting schemes are also available. For example, educational personnel were dispatched to teach in the community where children live in remote areas. Other forms of assistance are street teachers, welfare schools, village schools. Several NGOs have given their assistance in providing education for CEDC such as in refugee camps, on streets, living near bus terminals, under flyovers or in construction sites.

In 2005, 27.01 million baht was allocated for programmes and services for children belonging to minorities and ethnic groups, of which 26.98 million baht was for welfare services in highland communities and 0.03 million baht for education for children belonging to minorities and ethnic groups.

In Thailand's second report to the Committee on the Rights of the Child, it stated that there was progress achieved in implementing education for the underprivileged as follows:

- The policy of “all children with disabilities who want to study shall have the right to do so” by which the government is able to accept up to 84,00 students with disabilities.

- The hill tribe children, the poor children, the children in remote areas, stateless children, children from different cultures, shall have access to free education with additional allocation of 27 baht per person/ per day for 39 welfare schools accommodating 31,050 students

- The street children shall have access to skills training to enable them to continue their study or to be employed in enterprises, to reintegrate into their families, or to live in temporary shelter for recovery and continue their study afterwards.

However, the government admitted that still some children do not have access to educational services or any schooling and the exact number cannot be confirmed. This is partly due to the limited flexibility and diversity in the methodology of education which is provided. In addition, stateless children who complete compulsory education are unable to obtain certificate issued by schools due to their statelessness. As a result, they are unable to work in labour market which requires educational certificate, and have to live traditional life working as farmers.

#### Gender parity and gender equality

13. Please provide details of legislation and government policies and programmes directed to improving gender parity and gender equality in education at all levels.

Answer:

Please see answer to questions no 32-33.

#### Physical accessibility

14. Please describe the main issues regarding geographical location of and physical access to educational institutions for people from urban, rural and remote communities, as well as for people with physical disabilities.

Answer:

Section 10 of the National Education Act stipulates that each person shall have right and equal opportunity to receive educational services by State, at least no less than 12 years without charge. This means that every person shall have equal access to compulsory education. Nevertheless, in practice, it has been found that people, particularly of marginalised group such as people living in remote areas, poor people, minorities, have limited access to education. In addition, in Thailand’s second report to the Committee on the Rights of the Child, the government admitted that the improvement for equal standards in schools are required.

Concerning people with disabilities, the Act further provides that people with “mental”, “physical” and “sensory” impairment shall be entitled to receive special education without charge, including necessary facilitating aid or appliance as prescribed by law. For more details, please see answer to question no. 12.

#### Economic accessibility

### *Primary education*

15. Is primary education compulsory and free for all? Please provide details of relevant legislation and government policies and programmes. For example, does your government have a plan of action for making primary education free?

Answer:

Yes, primary education is compulsory and provided free under the Constitution. Please see details in answers to questions related above.

16. Please provide information about any school fees, charges and other costs imposed on parents or guardians for primary education. Please describe the extent of financial assistance available for the completion of primary education.

Answer:

Please see details in answers to questions no.6 and 12. Nevertheless, there are also complaints from parents that some schools have charged “extra expenses” which are not covered by state funds such as the fee for computer usage. In remote areas, students have to pay a lot for travelling to schools, resulting in drop-outs or inability to enrol in higher level of education. The challenge to enhance education opportunities for poor children and to ensure their education continuation is, therefore, to reduce additional financial burden on their families.

### *Secondary education*

17. Is secondary education compulsory and free for all? Please provide details of relevant legislation and government policies and programmes.
18. Please provide information about any school fees, charges and other costs imposed on parents or guardians for secondary education. Please describe the extent of financial assistance available for the completion of secondary education.

Answer (questions no. 17 and 18):

The nine-year compulsory education in Thailand will be freely provided when a child enters the age of 7. In accordance with normal rate of studying, the first six years of study will be at a primary school and the last three years will be at lower secondary schools. (The structure of the Thai education system is composed of three-years education of pre-primary education, six-years of primary education, three-years of lower-secondary education, and three-years of upper-secondary education for the fields of both general and vocational education.) Please also see details from previously relevant answers.

### *Higher education*

19. Please provide information about fees, charges and other costs for higher education. Please describe the extent of financial assistance (if any) available for the completion of higher education.

Answer:

Higher education is provided in universities, institutions, colleges or other types of institutions. It is divided into 2 levels: associate degree or diploma level; and degree level. At diploma level, the majority courses offered are related to vocational and teacher education which require two years of study. The study at the degree level requires 2 years of study for students who have completed diploma courses, and 4-6 years of study for those finishing upper secondary education. Due to decentralisation policy, educational institutions of higher education can develop its own administration and management system, including tuition fees and charges, with flexibility and academic freedom under the supervision of the institutional council.

The government has set up financial schemes to help support students of higher education. First, it started from the Education Loan Fund which was provided by the Ministry of Finance. Learners would give debt repayment after their graduation. Nevertheless, the outstanding and unpaid debt was over 540 million baht, resulting in the later change into the Income-Contingency Loans (ICL) Fund. The Fund is designed to increase students' cost-sharing in higher education and to produce graduates in the areas that most suit the country's economic and social needs. The ICL Fund is the advance tuition fee paid by the government to students in each higher education institutions, and the students will pay back their loans according to their future monthly income once it reaches 10,000 baht. As for university students who do not wish to borrow from the Fund, they will receive a discount when tuition fees are paid. Nevertheless, the Ministry of Education faces the problem to get more cash from the annual budget for the ICL Fund in order to meet students' need. It is suggested that the Fund should be available only for students in need.

#### Non-formal education

20. Please provide information about access to non-formal education in your country. Issues for consideration include (but are not restricted to):

- The existence of and support for Community Learning Centres
- The legal and policy framework for the improvement of literacy for women.

Answer:

A main objective of education reform in accordance with the National Education Act is to design educational system as lifelong learning, decentralising the authority and budget from central agencies, encouraging local communities, families and society to take part in the process.

Concerning non-formal education, there are:

- provision for pre-school children, which include provision of educational services from 0-6 years old children, early childhood development centres by local communities, family-based early childhood development
- provision of fundamental education for literacy for adults aged 14 years and over through the literacy campaign with volunteer teachers and volunteer village

tutors, promotion of Thai language usage for Thai Muslims in the South, providing educational services for hill tribes people

- provision of general non-formal education on continuous basis for people who have no chance to study formal education, which is provided through classroom learning in public schools, official premises, factories and other organisations. The learning process is also organised through distance learning and self-learning.

- vocational non-formal education is offered through polytechnic colleges, industrial and community colleges. The education is the co-ordination among the Ministry of Education, the Ministry of Industry, the Ministry of Agriculture and Cooperatives and other agencies concerned.

- Activities to improve quality of life are organised by agencies responsible for educational services, welfare and public services.

Local communities have also played roles in informal and non-formal education. There are programmes based on community learning networks i.e. community learning centres, village reading centres, sub-district health offices, sub-district agricultural offices as well as natural learning sources in each community.

In informal education process, local communities become various sources of:

- local wisdom which includes culture and body of knowledge
- local media passing on knowledge, information, social values through several kinds of activities
- networking through co-ordinated and co-operative activities.

<b>Acceptability</b>
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<i>The form and substance of education, including curricula and teaching methods, have to be acceptable (eg - relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents. (CESCR General Comment No. 13)</i>
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Quality education and minimum standards

21. Please identify the relevant national and/or local institutions which are responsible for the implementation of the right to education. In particular, are there any specialised agencies, authorities or officials that have a mandate on the right to education?

Answer:

Please see details in answer to question no. 1 concerning the framework of government education polices and programmes, including the division of responsibilities and financing between national, state and local governments.

Thailand is also party to the International Covenant on Economic, Social and Cultural Rights, and the National Human Rights Commission has a duty to monitor the commission or omission of acts which do not comply with international human rights treaties to which Thailand is party. In addition, the NHRC appointed the Sub-Commission on Education and Development with a mandate on the right to education.

22. Please provide information about measures adopted by education authorities to provide quality education and to establish minimum education standards and an effective and transparent system for monitoring standards.

Answer:

The 1999 National Education Act requires measures for education standards and quality assurance as well as the establishment of the Office of National Educational Standards and Quality Assessment (ONESQA) with the status of a public organisation.

The development of educational standards and the development of quality assurance system have then been introduced in 2001 to ensure improvement of educational standards, including curriculum, teaching-learning processes and quality of all learners.

There are 3 types of educational standards: national educational standards; educational standards for internal quality assurances and educational standards for external quality assessment. As for the quality assurances system, it comprised quality control, quality audit and quality assurance. External quality assessment of all educational institutions will be conducted by the ONESQA at least once every five years. The assessment will be contracted out to qualified external assessors to train qualified people from private, professional and academic organisations. The assessment outcomes will be submitted to the agencies concerned and made available to the general public.

Both internal quality assessment and external quality assurance have been applied at both basic and higher education levels. In March 2003, 34,408 schools have been assessed and met the criteria.

Nevertheless, the quality of education is a growing concern in Thailand. According to Thailand Millennium Goal Development Report 2004, test results undertaken by the Ministry of Education to assess students' academic achievement at different education levels revealed very low scores across regions. Mathematics and science subjects were especially weak.

23. Please describe the indicators (including human-rights-based indicators) used by education authorities to monitor the realisation of the right to education in your country.

Answer:

The authority concerned has assessed achievements of national education since the promulgation of the National Education Act in terms of access to education, participation and progression as well as the outcomes of education and learning. The assessment was done through student enrolments, transition rates in basic education and enrolment rates from pre-primary to higher education levels as well as numbers of participants in education for children with special educational needs and non-formal education.

In Thailand Millennium Development Goals Report, it mentioned general situation of education in Thailand, assessing that the country almost achieves near-universal

primary education, and the country is now focusing on expanding secondary enrolment and upgrading the quality of education. The greatest challenge lies in improving quality, which is weak in both skills (e.g. mathematics, science and English) and creative and critical thinking. It is thus important to focus education reform on the curriculum, learning process and teacher development to achieve interactive and student-centred education. Information and communication technology (ICT) is expected to bridge the urban-rural gap and help prepare students and the community to participate in a knowledge-based society. Finally, expanding learning opportunities outside the classroom and life skills development add to the quality concern.

Thailand sets the MDG targets related to the right to education to achieve as follows:

- Halve, between 1990 and 2015, the proportion of people living in extreme poverty
- Ensure by 2015, boys and girls alike, will be able to complete a full course of primary schooling
- Ensure universal lower secondary education by 2006
- Ensure universal upper secondary education by 2015
- Eliminate gender disparity in primary and secondary education, preferably by 2005, and in all levels of education no later than 2015. (Remarks: Thai girls and boys have had equal education opportunity. There is a small gender gap at the primary level. Girls are outnumbering boys in higher education.)

To achieve above targets, there are following indicators:

- net and gross enrolment ratio in primary education
- proportion of pupils starting grade 1 who reach grade 5 (retention rate)
- net and gross enrolment ratio in lower and upper secondary education
- retention rate in lower and upper secondary education
- national test scores of primary, lower and upper secondary students
- IT literacy of 15- to 24-year-olds
- ratio of girls to boys in primary, secondary and tertiary education
- ratio of literate women to men of 15- to 24- year-olds

24. Please provide details of legislation and government policies, practices and programmes which may impact upon academic freedom and the autonomy of educational institutions.

Answer:

Please see details in the answer concerning constitutional provisions relating to right to education, and also the answer to question no. 1 concerning the framework of

government education policies and programmes, including the division of responsibilities and financing between national, state and local governments.

### Discipline

25. Please provide information about the legal status of corporal punishment and other forms of discipline that operate within the education system in your country.

Answer:

Corporal punishment is prohibited by the Ministry of Education's Regulation in 2000. Nevertheless, other forms of violent forms of punishment against children by teachers at schools such as verbal punishment, which were occasionally reported. The NHRC also received few complaints on the issue.

### Curriculum

26. Please provide an overview of how education authorities determine curriculum development at all levels of education within your country.

Answer:

The National Education Act of 1999 encourages broad-based participation in providing basic education service. Section 12 states that apart from State, private sector and local administration authorities, an individual, family, local community organisations, professional organisations, religious organisations, enterprises and other social institutions have the right to provide basic education as provided by law.

Section 27 stipulates that the Basic Education Commission shall determine the core curriculum for basic education with the focus on Thai identity, good citizenship, desirable ways of life and livelihood, including paving the ways for future occupation or further education. As for basic education institutions, they are designated to provide details of the curriculum related to situations within community and society, local wisdom, desirable characteristics for being a good member of family, community, society and country.

Section 28 stipulates that curriculum at various educational levels, including people with disabilities shall be diversified and suitable for each level by emphasizing the development of quality of life at different ages and capacities.

Section 34 establishes the Basic Education Commission, the Higher Education Commission and the Vocational Commission with duties to propose policy, development plan, educational standards, core curriculum, supporting resources, monitoring and assessment of educational services at their respective level. The comp

In preparation of the basic education curriculum, following activities are required:

- Specifying drafting personnel (comprising curriculum developers, psychologists, educational officers, experts, philosophers, representatives from various subject disciplines and organisations);
- Studying, gathering, and analysing data concerning past curricula, curriculum implementation results, successes and problems/obstacles;

- Studying educational curricula and guidelines for provision of education in various countries;
- Studying and determining vision as well as educational philosophy of Thailand;
- Laying down conceptual frameworks as well as expectations or standards of learners who are the products of basic education;
- Drafting the basic education curriculum in line with the above-mentioned conceptual framework;
- Gathering opinions during public hearings, and using the obtained data for revising the drafted curriculum;
- Preparing various types of teaching-learning materials, especially guidelines for educational management under the new curriculum, and guidelines for educational institutes regarding preparation of institute curriculum;
- Enforcing of the new curriculum;
- Conducting public relations activities to promote understanding of the new curriculum among all concerned;
- Training educational personnel, administrator, and teachers so that they become capable of preparing institute curricula and arranging effective learning for learners.

As for the preparation of educational institutions' curricula, they may be done through a task force composed of the educational institute board, curriculum administration and academic work board, parents/guardians, representatives of both government and private sectors, scholars, local resource persons, and local subject discipline experts.

27. To what extent is human rights education incorporated into the curriculum of primary, secondary and higher education?

Answer:

Human rights education is integrated in subjects in primary and secondary schools. At higher education institutions, human rights law is taught as elective subject in certain universities. The NHRC, through the Sub-Commission on Human Rights Education, has co-operated with the Ministry of Education in undertaking a number of activities to incorporate human rights into curriculums, which include:

- developing curriculums for human rights education in basic education institutions, higher education institutions and vocational education institutions
- developing human rights education course in more higher education institutions including universities
- training teachers in primary and secondary schools for teaching human rights

- integrating human rights education in Thai textbooks
- developing lessons plan for human rights education together with teachers
- supporting human rights reaserch

Parents / Legal Guardians

28. Please describe the extent to which parents and legal guardians are able to exercise freedom of choice with regards to educational institutions and educational programmes.

Answer:

Parents and legal guardians have freedom of choice in selecting educational institutions and educational programmes in Thailand. However, they are legally bound to have their children receive compulsory education. In addition, non-formal education services are provided by both public and private bodies to children outside the school system, including home schools.

Religious and cultural practices, languages of minority groups

29. Please provide details of relevant legislation and government policies and programmes regarding respect for religious and cultural practices and the use of languages of minority groups within schools and other educational institutions.

Answer:

The language of central Thailand is official school language both in formal and non-formal education systems. Local dialects such as hill-tribe and Yawi (used by people in the South) are also allowed. There is also a programme aiming to provide educational services to promote literacy among hill-tribes people by using non-formal education volunteer teachers. Muslims and students of different religions are allowed to dress in accordance with their religious practices at schools.

**Adaptability**

*Education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings. (CESCR General Comment No. 13)*

Education and work

30. Please provide details of legislation which prescribes the age for the completion of compulsory education and the minimum age of employment in your country.

Answer:

**Section 43 of the Constitution B.E. 2540 (1997)** stipulates that the State shall provide the fundamental education for the duration of not less than twelve years. **The National Education Act B.E. 2545 (1999)**, as an organic law, also provides that the state shall provide free education at least twelve years. It means that the state shall

provide a nine-year compulsory education to a child as soon as he/she enters the age of seven. The basic schooling lasts until the child reaches the age of sixteen, except where he/she has completed the ninth year of compulsory education.

31. Please provide an overview of the strategies, policies and programmes of governments and education institutions which enable the education system in your country to adapt to the education needs of those people who would otherwise not be able to undertake education. For example: working children and young people; children and young people in juvenile detention; working women; prisoners and other people in detention.

Answer:

In Thailand's second report to the Committee on the Rights of the Child, it described measures which were adopted to ensure that all children can get access to education. For example, NGOs are encouraged and supported to take part in providing teaching for children in especially difficult circumstances such as refugee camps. Education, both formal and non-formal, is also provided for children and youths in juvenile detention. Teaching personnel are dispatched to teach in remote communities where they live. Centres for the protection and assistance of children in education are established. Street teachers, welfare schools, village schools, provision of education in homes are among mechanisms to promote education for all children.

Please also see the answers to questions no. 32-33.

#### Education for women

32. Please provide details of legislation which impacts upon the right to education of women. Issues for consideration could include (but are not restricted to):
- The minimum age of marriage
  - Pregnancy
33. Please provide an overview of the strategies, policies and programmes of governments and education institutions which enable the education system in your country to adapt to the education needs of women.

Answer (questions no. 32-33) :

#### **General situation and gender aspect related to education**

The Constitution and related laws guarantee the right to education, equal access to education and non-discrimination. The goal of education in Thailand has, therefore, focus on the provision of universal education. Considering general situation in the aspect of enrolment, limitation of women to get access to education is not obvious although some gender differences still exist. Statistically, enrolment of boys and girls are almost equal at all levels. At present, the visibility of highly educated women in the public sphere is prominent even in conventionally male dominated areas such as sciences and engineering. As a result, gender aspect is not seriously discussed in

education, and it is also perceived that there is an agency which is directly responsible for gender and women's rights.

In practice, male students are more likely to study subjects for which there is higher market demand such as mathematics, engineering and science while female students tend to continue their studies related to female service occupations such as nursing and teaching. There are still gender quotas in applying for certain subjects of higher education such as medical and technical education. A reason given by educational institutions is concerned with the demand of labour market or services. (The only discipline that has a higher quota for female students is nursing.) In sum, female students' choices tend to be more limited, when compared with male students, due to a deep-rooted traditional attitudes in the society and certain measures which are not gender sensitive and balanced. Such educational disadvantage of women is also reflected in the proportion of women with low education in the workforce, where women receive lower education and work in low-skilled/low waged occupations/sectors.

In addition, parents' attitude is traditionally to give priority to sons' education, particularly in poor families. Daughters are taken out of schools after completing compulsory education and demanded to work to support family. In a sense, the limit of education opportunity for girls/women is related to economic affordability.

### **Minimum age of pregnancy and young mothers**

Concerning the minimum age of marriage, the law stipulates that boys and girls must be at least 17 years old if they are to be married. However, a court may allow an earlier marriage if there are reasonable grounds e.g. religion. At present, the problem of pregnant youths has caused serious concern to the public. In terms of the right to education, the formal education has not yet provided supporting educational system for young mothers. Pregnant girls have to leave schools and cannot continue their study. Nevertheless, non-formal education and open universities are available for them.

### **Education for the needs of women**

Formal education in Thailand confines boys and girls of particular age groups to classrooms at a specific location, and therefore is less flexible than non-formal education system where the outreach approach in teaching/training can be more accessible. As a result, non-formal and informal education is more flexible and accessible to wider target groups, especially women in work force and the rural areas. They can go to the non-formal education centre at night or over the weekend to take courses offered by the centre. In many cases, teachers are non-degree graduates, but local experts who can pass knowledge and provide training programmes. According to statistics, the rate of women's participation in non-formal education is high, except in adult general education.

Regarding specific programmes for women, they are mostly arranged in the non-formal education system since the purpose is to serve the disadvantage where women and children are part of it. Many training programmes are women-oriented such as cooking, food preservation, handicrafts, hairdressing and dressmaking. The skills obtained can be applied only for supplementary occupations rather than full-time

wage. Some programmes are general which both men and women can attend such as literacy, computer literacy and adult education.

There are also special programmes to prevent vulnerable girls from being lured into sex business. The “Saema for Life” Programme is specifically arranged for girls in northern part. In addition, private business and NGOs also provide scholarship for formal and non-formal education and also on-the-job training programme for women and girls in high risk areas.

It is also noted that, despite existing programmes provided for girls and women, they are scattered without specific direction, especially through gender lens. It still requires a plan specifically addressing women’s needs with a corresponding programme for women’s education in a more coherent direction. More women, particularly in poor regions, should be encouraged and supported to participate in basic and secondary education for adults, and to further their study in vocational and higher education, especially in science and technology.

### Special Needs Education

34. Please provide information about any special needs education policies and programmes that have been developed and implemented by government and non-governmental organisations in your country.

35. To what extent are schools able to adapt to the special education needs of individual students?

Answer (questions no. 34-35)

Please see answers to questions no.12, 32, 33.

## **Part 2: Activities of National Human Rights Institutions**

1. Please describe the mandate of your Commission for the protection and promotion of economic, social and cultural rights. What methods and approaches does your Commission use for the protection and promotion of human rights?

Answer:

According to Section 15 of the National Human Rights Commission Act B.E.2542 (1999), the Commission has the powers and duties to promote the respect for and the practice in compliance with human rights at domestic and international level. Section 15 also provides the broad-ranged powers and duties for the Commission to promote and protect human rights in all aspects, including the submission of recommendations to the Government and the Parliament such as the revision of law, as deems appropriate. This Section also includes the power to promote co-operation and co-ordination among government agencies, private organisations and other organisations in the field of human rights.

The issue of economic, social and cultural rights is one of the priorities of the National Human Rights Commission’s works. The Sub-Commission on Economic, Social and Cultural Rights was set up, comprising 7 experts on economic, social and cultural rights from government sectors, NGOs, academia and Commissioner as head

of the Sub-Commission, with mandates to promote the respect for and the practice in compliance with human rights principles. The Sub-Commission also promotes researches, raises public awareness and promotes co-operation and co-ordination among networks. In addition, the Sub-Commission is responsible to report its performance annually to the National Human Rights Commission for consideration.

The Sub-Commission focuses on the participatory approach, allowing people in local communities to get access and give information to the Sub-Commission. Since 2005, the Sub-Commission has organized seminars in all regions of Thailand. The seminar is seen as a way towards the full recognition and realisation of the economic, social and cultural rights within communities. The mode of operation for the seminar was to provide as much time as possible for discussion. Participants were asked to divide themselves into groups according to their problems or rights that have been violated, discussing and listening to each other's stories and extract the best practices in order to learn lessons to protect their rights. Seminars also serve as venues where people can expand their networks.

2. Has your Commission received complaints from individuals or groups relating to the right to education? If so, please provide a breakdown of the different type of complaints and, where possible, describe some of the most important cases and the role of your Commission in resolving these complaints.

Answer:

NHRC received some petitions, though very few, concerning right to education, as follows:

### **Case 1: Right to education**

A post-graduate student in engineering filed a complaint to the NHRC that his hand was broken by an accident and; therefore, cannot write properly. He sought permission from the university for a semester sick-leave which was later denied. He then petitioned for a semester extension in order to be able to graduate, and the petition was also refused. He claimed to NHRC that his right to education was being violated.

The petitioner sought for his status as post-graduated student to be reinstated. He also asked the permission not to take 4 pre-requisite courses since he already passed more advanced subjects.

### **The NHRC's action (Consideration of the case)**

After receiving the complaint, the NHRC contacted the University in question inquiring about the fact and possibility of the petitioner's request. The University informed the NHRC that, for the case, it is impossible to reinstate the student status for him. This is because he did not pass the prerequisite courses which are obligatory, and the status of his dissertation is not up to satisfactory progress state. Therefore, had the University granted him an extension for another semester, he would not have been able to graduate within the University within timeframe.

## **Case 2: Alleged violence in school**

A mother of a primary-school student filed a complaint to the NHRC that her daughter was verbally abused by her teacher at school. She claimed that her daughter was threatened by the teacher and; therefore, denied to go to school. The mother decided to talk with the teacher but was nagged and chased away. The day after, the mother went to see the principle of the school but met the teacher by chance. The teacher scowled at both mother and daughter in front of others and chased them away from the school. The daughter was afraid and beg the mother not to send her back, the mother then moved her to a new school.

The mother petitioned with the Office of Education Service Area in Nakhon Si Thammarat province and through channel 11. She also notified the police but the teacher pleaded not guilty. The mother claimed that it was known among villagers that the teacher is an influential figure; therefore, no party dared getting involved in the conflict. Similar cases also happened in the past.

The mother asked the NHRC to coordinate with responded bodies and assist her family to seek a way out .

### **The NHRC's action (Consideration of the case)**

After receiving the complaint, the NHRC contacted the school and the alleged teacher concerning the issue for fact-finding. The case is under proceeding.

3. Has your Commission conducted research and/or public inquiries on the issue of the right to education? If so, please provide the results of this research and the outcomes and recommendations of any public inquiries.

Answer:

The NHRC conducted awareness and education campaigns relating to the right to education (as mentioned in question 5). However, the NHRC has not conducted research and/or public inquires on the issue of the right to education.

4. To what extent has your Commission identified laws / policies / practices in your country that impact on the realisation of the right to education?

Answer:

In Thailand, the Constitution and the National Education Act already guarantee the right to education and equal opportunity to get access to education services. However, the NHRC found that there are still problems in certain areas of implementation which require improvements. Pleas see relevant answers in Part 1.

5. Has your Commission conducted awareness and education campaigns relating to the right to education? If so, please provide information about these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.

Answer:

The NHRC also established the Sub-Commission on Education and Development. Last year (2005), the Sub-Commission conducted 2 seminars on the issue of the right to education with the objectives to raise awareness on people's right to education and to give capacity-building on how to exercise the right. About 200 participants from government authorities, NGOs and officers from the Office of the National Human Rights Commission attended the seminars.

At the second seminar, the emphasis was concerned with the importance of informal and non-formal education. In accordance the National Education Act (1999), private sectors, local administrative, persons, families, community groups, NGOs, vocational organisations, religious institutions or other organisations can provide basic alternative education scheme without solely depending on the formal education system.

6. Please provide information about your Commission's general human rights education activities, including: materials used, information produced and how these activities have been made accessible to the community.

Answer:

**The National Human Rights Commission of Thailand has placed importance to human rights education. Therefore, it is one of our five focus areas in the Commission's Strategic Plan and has been carried out over the years by the Human Rights Education Sub-Commission.**

**Previously, an effort to integrate human rights education in the 12-year compulsory education was done in co-operation between political and high-level officers of the Ministry of Education and others. However, the Sub-Commission found that there are shortcomings of information, textbooks, teachers at various different levels. Teachers lack human rights teaching skills and appropriate teaching materials. Furthermore, the curriculum for higher level, such as in university, is not much developed.**

The Sub-Commission also gives importance to raise awareness with law enforcement officers. Last year, the Sub-Commission held a human rights training course for a group of them. The content of the training is comprised of the overview of human rights concept and issues, and how to apply them into practice.

Since 2004, the Sub-Commission has organised the first phase of seminars in five regions of Thailand. This phase aimed to raise awareness of teacher, school directors and education officers about the concept of human rights. About 250 participants were invited to join in each seminar. The success of the seminars was overwhelmed and the Sub-Commission decided to continue their second phase seminar.

On the second (pilot) phase, though the target groups were smaller, the issues of human rights education were more focused. Each group consists 25 participants of teachers from mainstream system, non-formal educational system and education officers from the Ministry of Education. The Bangkok Education Service Area 1

(under the Ministry of Education) in collaboration with the Sub-Commission set up methods of how to teach human rights and sustainable economic theory in schools. The methods were introduced to participants and they were encouraged to integrate them in their lessons.

The Sub-Commission also translated a “human rights lesson plan for South East Asian countries” by UNESCO and distributed them among participants. The aim is to give an outline for teachers to apply it in their teaching.

Please also see the answer to question no 27.

7. Has your Commission addressed the issue of the right to education in its annual reports? If so, please provide a copy of the relevant sections.

Answer:

In 2003 annual report, the number of complaints received by the NHRC was categorised in areas. The statistics showed that 1.86 per cent of cases was related to the right to education, while 68.72 per cent was concerned with the right to life and security.

In the report on human rights situation during 2001-2003, the NHRC described the situation of children and youths and their right to life, survival and development. The NHRC expressed its concern that there are still groups of children who cannot get access to education despite existing law and policy. These include children of hill-tribe and ethnic minority, street children, children in remote areas. A number of children leaving schools is also high due to various factors. They range from poverty, committing legal offences, being suffered from migrating with their parents, to becoming deserted when their parents were imprisoned on charge of drugs offence.

8. Has your Commission intervened in court proceedings on an issue related to the realisation of the right to education? If so, please provide details of the cases, the role of the Commission and the outcomes of the cases. Please provide copies of any submissions and court decisions.

Answer:

Section 22 of the National Human Rights Act does not allow the NHRC to intervene in court proceedings. It said that the Commission shall have the duties to examine and propose remedial measures for the commission or the omission of acts which violate human rights and which is not a matter being litigated in the Court or that upon which the Court has already given final order or judgement.

9. If your government has ratified any of the international human rights conventions listed below, has your Commission been approached by the government to contribute to the periodic reports to the relevant Committees, or alternatively, has your Commission provided a shadow report to the relevant Committees? If so, please provide copies of the sections relevant to the issue of the right to education.

- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;

- International Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination Against Women;
- Convention on the Rights of the Child
- Convention Against Discrimination in Education;
- Minimum Age Convention 1973
- Worst Forms of Child Labour Convention 1999

Answer:

The NHRC was asked to by the authorities concerned to fill in their response to the Human Rights Committee and the Committee on the Rights of the Child related to the works of the Commission. Nevertheless, the questions were not specifically referred to the right to education.

As for the shadow report, the NHRC once submitted it to the Human Rights Committee in 2004, parts of which are indirectly concerned with the right to education. For example, The NHRC emphasised the importance of human-centred development and people’s right to freely pursue their economic, social and cultural development, and urged the government to immediately take steps, especially the necessary legislation or regulation to allow people to have a meaningful participation in public policies and projects. The report also referred to complaints concerning the citizenship of highlanders and ethnic minorities. Most of them ask for 13 digits identity cards by claiming that without it, they encounter various forms of discrimination and the deprivation of their basic rights, including the access to education and health care. Children who completed basic education (taught by local community) cannot get access to higher education. Discrimination on the access to basic education also took place with people suffered from HIV/AIDS, refugees, displaced persons, asylum seekers. In addition, the report gave importance to human rights education as a life-long learning process, both formal and non-formal, at schools, universities, government institutions, mass media, private sector and communities. It recommends that raising awareness campaign should be systematically provided for people based on real experiences in order that they can realise their rights under the Constitution and other human rights treaties, which the government has duties to respect for. The government should also ensure that law enforcement officials, judges, lawyers and those involved within the justice system are aware of the international human rights obligations which the State party has a s s u m e d .

10. Does your Commission work in collaboration with civil society including the private sector, government or United Nations agencies or multilateral donors such as the World Bank, the International Monetary Fund and the Asian Development Bank on the issue of the right to education? If so, in what way?

Answer:

In conducting the duty, the NHRC works through a three-pronged approach, which requires the collaboration between the NHRC with academic institutions and civil society groups. The Sub-Commissions appointed by the NHRC, including the Sub-Commission on Economic, Social and Cultural Rights and the Sub-Commission on Education and Development, comprise a number of academics and civil society members. Concerning co-operation with international organisations, the NHRC also received financial support from Canadian International Development Agency (CIDA) to run projects on raising human rights awareness, including human rights education.

N.B. Facts, statistics and information in these answers are based on the following sources:

1. The Constitution of the Kingdom of Thailand, B.E. 2540 (1997)
2. The National Education Act, B.E. 2542 (1999)
3. Thailand's Second Report on the Implementation of the Convention on the Rights of the Child
4. Written replies by the Government of Thailand concerning the list of issues received by the Committee on the Rights of the Child relating to the consideration of the Second Periodic Report of Thailand (CRC/C/THA/Q/2/Add. 1)
5. *Education in Thailand 2004* prepared by the Office of the Education Council, Ministry of Education
6. *Thailand Millennium Development Goals Report 2004* prepared by Office of the National Economic and Social Development Board and the United Nations Country Team in Thailand.