DISCRIMINATION PRACTICES IN THAI SCHOOLS EXPERIENCED BY UNDERPRIVILEGED CHILDREN: A CASE STUDY OF CHILDREN OF THE HUMAN DEVELOPMENT FOUNDATION (HDF) KLONG TOEY, BANGKOK, THAILAND

PORNSUREE JAMSRI

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Ms. Pornsuree Jamsri
Candidate

Ms. Sriprapha Petcharamesree, Ph.D.
Major-Advisor

Mrs. Pusadee Tamthai, Ph.D.
Co-Advisor

Prof. M.R. Jisnuson Svasti, Ph.D.
Dean
Faculty of Graduate Studies

Ms. Sriprapha Petcharamesree, Ph.D.
Chair
Master of Arts Program in Human Rights
Faculty of Graduate Studies

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was submitted to the Faculty of Graduate Studies, Mahidol University
For the degree of Master of Arts (Human Rights)
on
November 10, 2006

Ms. Pornsuree Jamsri
Candidate

Mrs. Sairudee Vorakitphokatorn, Ph.D.
Chair

Ms. Sriprapha Petcharamesree, Ph.D.
Member

Mrs. Pusadee Tamthai, Ph.D.
Member

Mrs. Sienoi Kashemsanta Na Ayuddhaya, M.A.
Member

Prof. M.R. Jisnuson Svâsti, Ph.D.
Dean
Faculty of Graduate Studies
Mahidol University

Prof. M.R. Jisnuson Svasti, Ph.D.
Dean
Faculty of Graduate Studies
Mahidol University

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Pornsuree Jamsri

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PORNSUREE JAMSRI 4637990 GRHR/M

M.A. (HUMAN RIGHTS)

THESIS ADVISORS: SRIPRAPHA PETCHARAMESREE, Ph.D., PUSADEE TAMTHAI, Ph.D.

ABSTRACT

This study investigates the discrimination in education suffered by underprivileged children residing at a Child Welfare Home (CWH), the Human Development Foundation (HDF), in the largest slum in Bangkok, Thailand. Broken families and problems caused by poverty are the main reasons for the children's placement in the CWH. The elements protecting against discrimination in Thai laws and policies and International Human Rights Laws (IHRL) regarding the right to education were investigated as to their benefit or lack thereof to underprivileged children. The children have their basic needs met at the CHW and are entitled to get an education, a significant factor for human development.

Nevertheless, when they attend community public and private schools they experience discrimination as underprivileged children. The negative attitude towards underprivileged children forms the discrimination against them on the grounds of social status, which is against International Human Rights Laws (IHRL) as well as domestic laws. Underprivileged children need understanding from everyone but some teachers and peers are the main perpetrators in terms of violation of their human rights. Their rights are not fully respected as a variety of abusive incidents identified by the children show. Discrimination practices towards them takes various forms as physical abuse by teachers using sticks, hands, and feet striking on different parts of the children's bodies and verbal abuse using rude, demeaning words. Aggressive behaviour by the case study children is understood as the outcome of discrimination reflecting the negative actions toward them from others.

Discrimination has a serious impact on children's development for their whole life. Because there is no adequate oversight, it is open to chance that these discrimination practices will continue in schools. Although there are legal instruments to protect children's rights, these do not work because the implementation process is not in place. Also, underprivileged children accept the abuse that occurs to them as part of their life from an early age. Ultimately, their right to education can hardly be achieved if the discrimination practices continue in schools. The consideration of whether Thai education reform can be a tool to eradicate discrimination towards underprivileged children is also analysed in this study.

KEY WORDS: DISCRIMINATION / UNDERPRIVILEGED CHILDREN / RIGHT TO EDUCATION / HUMAN DEVELOPMENT FOUNDATION / EDUCATION REFORM

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การถูกเลือกปฏิบัติต่อเด็กด้อยโอกาสในโรงเรียน: กรณีศึกษา เด็กของมูลนิธิส่งเสริมการพัฒนาบุคคล (เอช ดี เอฟ) คลองเตย, กรุงเทพ, ประเทศไทย (DISCRIMINATION PRACTICES IN THAI SCHOOLS EXPERIENCED BY UNDERPRIVILEGED CHILDREN: A CASE STUDY OF CHILDREN OF THE HUMAN DEVELOPMENT FOUNDATION (HDF) KLONG TOEY, BANGKOK, THAILAND)

พรสุรีย์ แจ่มศรี 4637990 GRHR/M

ศศ.ม. (สิทธิมนุษยชน)

คณะกรรมการควบคุมวิทยานิพนธ์: ศรีประภา เพชรมีศรี, Ph.D., ผุสดี ตามไท, Ph.D.

บทคัดย่อ

งานวิจัยชิ้นนี้ เป็นการวิจัยการถูกเลือกปฏิบัติเกี่ยวกับสิทธิในการศึกษา ที่สร้างความเจ็บปวดให้กับเด็กด้อยโอกาสซึ่งอาศัยอยู่ในสถานสงเคราะห์ คือ มูลนิธิการส่งเสริมการพัฒนาบุคคล คลองเตย กรุงเทพฯ สลัมที่ใหญ่ที่สุดในประเทศไทย ความแตกแยกของครอบครัวและปัญหาต่างๆ อันเนื่องมาจากความยากจน เป็นสาเหตุสำคัญที่ทำให้แด็กเหล่านั้นต้องเติบโตในสถานสงเคราะห์ การวิจัย เน้นที่การศึกษานโยบายต่างๆ และ กฎหมายไทยและกฎหมายระหว่างประเทศว่าด้วยสิทธิมนุษยชน โดยเฉพาะการต่อต้านการเลือกปฏิบัติ รวมถึงรูปแบบและลักษณะของการเลือกปฏิบัติที่เด็กต้องเผชิญ จากความพยายามที่จะเข้าถึงสิทธิในการศึกษา ซึ่งถือว่าเป็นหัวใจในการพัฒนามนุษย์ และการวิเคราะห์ว่าการปฏิรูปการศึกษาจะนำไปสู่การขจัดการเลือกปฏิบัติได้หรือไม่ ทั้งนี้ในการศึกษา ใช้การสัมภาษณ์เชิงลึก และการสังเกตพฤติกรรมเป็นหลัก

ผลการศึกษาพบว่า แม้ว่าเด็กกลุ่มนี้จะได้มีโอกาสเข้าเรียนในโรงเรียนทั้งของรัฐ และเอกชน แต่กลับต้องเผชิญกับการถูกเลือกปฏิบัติมากกว่าเด็กทั่วไปด้วยเหตุที่เป็นเด็กด้อยโอกาส ทัศนคติในแง่ลบที่ครูมีต่อเด็กเหล่านี้เป็นตัวก่อให้เกิดการเลือกปฏิบัติบนฐานของสถานะทางสังคมของเด็กๆ ซึ่งถือว่าเป็นการขัดต่อหลักการและกฎหมายว่าด้วยสิทธิมนุษยชน ทั้งระหว่างประเทศและกฎหมายไทย การละเมิดเกิดจากทั้งครูและเพื่อน การละเมิดเกิดขึ้นหลากหลายรูปแบบ ทั้งทางกายและทางวาจา เช่นการเฆี่ยนตีด้วยไม้เรียว มือ และเท้าตามส่วนต่างๆของร่างกายเด็ก ส่วนทางวาจา ออกมาในรูปของการใช้คำหยาบคาย และคำพูดที่ทำให้เด็กเจ็บปวด พฤติกรรมก้าวร้าวของเด็กที่แสดงให้เห็นในกรณีศึกษานี้ เป็นที่เข้าใจได้ว่า เป็นผลสะท้อนของการตอบโต้ในแง่ลบของเด็ก ซึ่งเกิดจากการถูกกระทำบนพื้นฐานของการเลือกปฏิบัติจากผู้อื่น การศึกษาได้ข้อสรุปว่า การปฏิรูปการศึกษาที่ดำเนินอยู่ไม่ได้แก้ปัญหาการเลือกปฏิบัติต่อเด็กด้อยโอกาส เพราะไม่ได้มีการปฏิบัติอย่างจริงจังและไม่มีกลไกใดๆ ที่จะประกันหรือติดตามให้มีการปฏิบัติอย่างแท้จริง

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ABBREVIATIONS

COESCR	Committee On Economic, Social and Cultural Rights
CORC	Committee on the Rights of the Child
CCR	Committee on Conventions and Recommendations
CRC	Convention on the Rights of the Child
CWH	Child Welfare Home
HDF	Human Development Foundation
HRC	Human Rights Committee
IHRL	International Human Rights Laws
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
INGO	International Non-Governmental Organization
NEA	The National Education Act B.E. 2542 (1999) and Amendments (Second national Education Act B.E. 2545 (2002))
NGO	Non-Governmental Organization
NESDP	The National Economic and Social Development Plan
NEDP	The National Education Development Plan
ONEC	Office of the National Education Commission of Thailand
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund

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CHAPTER 1
ESSENTIALS OF RESEARCH

Education is believed to be a significant contributing factor for human development; it opens up career opportunities and it is considered as one of the important human rights. The right to education is stated in all International Human Rights Laws (IHRL), in several conventions as The Universal Declaration of Human Rights (UDHR) Article 26(1) *"Everyone has the right to education"*, The International Covenant on Economic, Social and Cultural Rights (ICESCR) Article 13(1) *"the right of everyone to education*", ICESCR Article 14 *"compulsory primary education, free of charge"* These all imply that education is needed and universal to everyone. It is as vital to human beings as health care, economic living conditions, food, and shelter.

Generally, the state of being children is protected by law and children deserve the right to education as a basic right regardless any life circumstances. The right to education of children has been recognized in Thai laws and has been expressed clearly through the Thai Constitution of 1997, The National Education Act B.E. 2542 (1999) and Amendments (Second national Education Act B.E. 2545 (2002)), the Child Protection Act B.E. 2546 (2003) and others that enunciated the education right of children and correspond to the international human rights laws. Children have a right to obtain education no matter what their social status and wherever they are from in the society.

Given the goal of achieving an education right for all, the right to education and related educational activities cannot work independently but must be exercised based on non-discrimination principle. This principle is an essential component necessary for the success of human rights. Thus, non-discrimination is required in every human rights law.

All IHRL, therefore, are implemented based on the non-discrimination principle that is stated at the beginning of every standard i.e., UDHR, Article 2 *"Everyone is entitled to all the rights and freedom… without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or*

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social origin, property, birth or other status.”, the Convention on the Rights of the Child (CRC), Article 2(1)“States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind… social origin, property, disability, birth or other status.”, the ICESCR, Article 2 *“The States parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”* and etc. As the above quotations illustrate, non-discrimination is counted as an essential factor in all human rights instruments.

Likewise, in the present Thai constitution of 1997 it also states in Chapter III Section 30 “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.”

Thus, government has obligations to ensure that people have sufficient basic needs including fundamental rights as stated in the Thai constitution as well as the IHRL, and implementation is based on the non-discrimination principle.

Specifically, the acceptance of the understanding that some groups of children experience having their right to education violated in Thai society is shown by the case studies of this thesis. They are one of the underprivileged groups as children residing at a Child Welfare Home (CWH).

The CWH is an organization that helps children who are facing difficulties in their life. This type of organization can be either run by a governmental or private agency. Children come into CWH for various causes such as domestic violence, sexual abuse, homelessness, disability, orphaned, poverty, and other forms of being underprivileged. CWHs have the responsibility to provide underprivileged children with their basic needs and additional important factors that are necessary for their development.

One example of a private CWH is a Mercy Home at the Human Development Foundation (HDF) in the Klong Toey slum, Bangkok, Thailand. This NGO has run a CWH for more than 30 years, and HDF has been helping underprivileged children,

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poor people, women, HIV/AIDS patients and others in several dimensions. These include, for example, education, health care, career opportunity, handicraft skills, empowerment projects, etc.

From admission, underprivileged children at HDF are categorized into three groups, namely, by family problem, the juvenile court, and types of personal violation. In HDF, Mercy Home is the section specifically in charge of underprivileged children. Currently, there are 169 children spread out over different locations in four sites according to age and sex. A vital role of Mercy Home is not only to act like home but also beyond that to be "a rest place" which rescues children from an unsafe environment and gives extra care and guidance to the children, so that society can benefit from them when they enter it on their own. Opportunity is provided to children in many areas, for example sufficient nutritious food, health care, education and special activities such as handicrafts, English conversation, Thai dance, etc. When children are admitted into the HDF, they get access to an education that leads them into the positive next chapter of their life. At admission, most of the children are barely literate and some have never attended a school of the educational system.

These Mercy Home children are usually considered and viewed as a particular group of the underprivileged children by the Thai community. Also, underprivileged children as a whole must deal with the Thai community's negative attitude toward them, with or without intention, and this negative attitude leads to discrimination in the right to education of children, including Mercy Home children.

As was illustrated previously by reference to human rights conventions, anti-discriminatory practices in right to education is not a new mandate to promote and protect human rights in every country, but the importance of it is how far each country can go to eliminate discrimination and move closer to the goal of protecting individual rights. Discrimination in the right to education is a human rights violation. Unless children are treated equally by eradicating discriminatory practices, Thailand cannot say that it has complied either with its own national law or international human rights laws. The existing acts and laws in Thailand can be effectively and efficiently implemented by the present Thai constitution, by government policy, and by educational reform in right to education only when children in Thailand have the education right on the basis of non-discrimination. Also, more studies about the right

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to education of underprivileged children are needed. Presently, there is a lack of such studies concerned with human rights. The Mercy Home children, as a primary, controlled population, is an accessible group to research for pointing out discriminatory practices against the right to education of underprivileged children. This research on discriminatory practices experienced by children at Mercy Home will be taken into account and analyzed from the human rights perspective.

1.1 Non–Discrimination Concept

All International Human Rights Laws (IHRL)[1] and standards are implemented based on the non-discrimination principle that is stated at the beginning of every standard. The examples of IHRL that are relevant to this research are as follows:

Article 2[2] Universal Declaration of Human Rights (UDHR) explicitly states *"Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind."* The realization of no discrimination is a crucial aim in order to ensure human rights for all to have equal rights. Nowak has emphasized the importance of non-discrimination in UDHR which pinpoints the equality goal that is an important element of UDHR: "In the early drafts in the (Human Rights Commission) HRComm[3] prior to adoption of the UDHR, the sole aim was equal treatment of nationals, aliens and stateless persons"(Nowak, 2005:45).

Similar wording is used for many of the international human rights treaty. Among them are International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention on the Rights of the Child (CRC), Article 2(2).[4] ICESCR states "*the present Covenant will be exercised without discrimination of any kind.*"

[1]The non-discrimination principle also applies for other international human rights treaties. For example, Art. 2(1) ICCPR, which reads: "[T]he rights recognized in the present Covenant, without distinction of any kind" Other international human rights treaties which also mentions the non-discrimination principle are: International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Discrimination in Education by UNESCO, Declaration on the Elimination of all Forms of Intolerance and of Discrimination based on Religion or Belief in 1981, Convention on the Prevention and Punishment of the Crime of Genocide, No.107 Convention concerning Indigenous and Tribal Populations or People by ILO, and No. 111 Convention concerning Discrimination in respect of Employment and Occupation by ILO.

[2]Art. 2 in UDHR states "Everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

[3] Human Rights Commission

[4] Art. 2(2) in ICESCR reads: "The States parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

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This covenant reconfirms that the non-discrimination principle, for all circumstances, is applicable for all the rights within the covenant.

The same principle is again stated in the CRC, Article 2(1),[5] "*States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind*." An essential factor in protecting and safeguarding children's rights is to apply the non-discrimination principle to all rights. The level of non-discrimination awareness can be an indication of the achievement of basic rights. Save the Children, one of the well-known children-focused International Non-governmental Organizations (INGOs), "challenges each to enforce the principle of non-discrimination, to promote diversity and difference and ensure that all children are afforded equal rights and equal opportunities in life"(Save the Children, 2000:8).

Non-discrimination is counted as an essential factor in all human rights instruments. According to the IHRL, there are various grounds for discrimination that one could discriminate against others based on race, colour, sex, language, religion, political or other opinion, nationality, ethnicity, disability, social origin, property, birth or other status.

The distinctive criteria stated in all the above conventions that some grounds are very broad, for instance, 'other opinion' and 'other status' terms and have dynamic implications when it comes to consider discriminatory practices against others. For such grounds "a determination can be made only on a case-by-case basis and is ultimately dependent on value judgments and historical experiences"(Nowak, 2005: 47). This does not apply for the grounds of race, religion, language, and origin. HRC considers each case based on law and available evidence. "The HRC has not issued a detailed consensus comment on the meaning of 'any other status', preferring to decide on a case-by-case basis whether a complaint raises a relevant ground of discrimination" (Joseph, Schultz, Castan, 2000: 528).

Most commonly, the existing discriminatory practices are known as a violation of human rights. The visible diversity among human beings and lack of understanding

[5] Art. 2(1) in CRC states: "States Parties shall respect and ensure the rights set for the in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parents' or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

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that everyone is different in nature and society, created numerous questions in one's mind about people who are different from oneself. This can be a cause for shaping an incorrect attitude towards other groups in a negative direction. When insufficient information is unable to satisfy one's curiosity about different peoples or when that information does not meet their expectation, there is more chance that discrimination will develop in their thinking. Then, a noticeable level of different forms of discriminatory behavior or violations against an unacceptable person of particular groups of people will take hold and occur.

In the year 2005, the right to be free from discrimination is highlighted as a CRC measurement to enunciate non-discriminatory implementation on children's rights mandates. Discrimination is recognized as a major cause of violation against the world's children on various grounds assaulting their humanity and also erecting obstacles in their life. In UNICEF's Study on Violence Against Children[6], under a section named Child Protection it is reported that "Though it has not been singled out, discrimination is also often a factor in the abuse and exploitation of children. And it is deeply rooted in many societies"(UNICEF – Fast Facts – Child Protection, UNICEF 2006). In 2006, another UNICEF report found that abused children and mistreated children are some of the hardest groups of children to reach including children facing discrimination and children in other forms of difficulties (The State of the World's Children 2006: Excluded and Invisible, UNICEF 2006). Although HRC aims to build-up equality for all as shown through non-discrimination articles adopted in IHRL, the equality principle does not mean asking an equal way of treatment for every child but rather that they need a proper treatment or care which can be directed differently on an individual basis in order to reach the goal of equal opportunity. In addition to equality of opportunity, children also need special care which pursues their chance to greatest development. Likewise, the Poverty and Children Research from UNICEF reaffirmed the need of extra care for children that certain categories of children are particularly vulnerable and require special commitment for their protection (Poverty and Children:

[6] A Study of Violence Against Children is a UN Study on Violence against Children is an international project which looks at the violence committed against children across the world and what can be done about it. The Study is a two year project, which aim is to help the UN, governments, communities, parents, children and organisations working with and for children to learn and better understand what violence is and how it affects children."[CRIN 2005] The project is a collaboration among Office of High Commissioner on Human Rights, UNICEF and World Health Organization since 2003.

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Lessons of the 90s for Least Developed Countries, UNICEF, 2006:19). As adults differ in so many ways so do children. The awareness of the fact that all are not the same indeed emphasizes that the appropriate action with respect to diversity is important and will help children to fulfill their rights. According to Save the Children, differentiation between children can only be justified if it can be shown to be in the best interests of those children. For example, respect for children's evolving capacities should allow them greater responsibility for decision-making as they gain in age competence. And without special assistance, children such as orphans, street children, children of migrant workers or displaced children are more likely than others to face discrimination in the exercise of their rights (Save the Children, 2000:29).

Children are a marginalized group in society as Save the Children mentioned that children in almost every society lack power and are therefore vulnerable to discrimination (Save the Children, 2000: 25). Specifically, underprivileged children are having more difficulty than other children. To achieve the commitment toward underprivileged children as stated in IHRL, it is important to eliminate discrimination in order to overcome the most severe barrier while implementing other rights within the conventions. The successful goal of universal education and the attendant implementation of the right to education and related educational activities require the non-discrimination principle to be exercised. This principle is a crucial factor to accomplish human rights. Thus, the non-discrimination concept is mentioned in here not only as part of the implementation framework in every human rights law but also required as a conceptual framework for this research.

1.2 Thesis Background, Questions, and Methods

1.2.1 Statement of Research Problem

As a ratifier of IHRL and other five major international human rights treaties conventions, Thailand has an obligation to get rid of all forms of discriminatory practices while pushing forward and advancing with other rights. The right to education of children is especially needed to be implemented to provide equality of opportunity regardless of any conditions.

However, the mere written acceptance of those obligations by Thailand cannot guarantee the right to education of children in practice, ensuring that every child has

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equal rights. There are some particular groups of children in Thailand who have to deal with discriminatory practices against their right to education at schools in various forms. Even though there are numbers of studies focused on underprivileged children, they have only examined the most general aspects such as food, accommodation, health, and children's development.

This research study is about discrimination of the right to education of underprivileged children from the Child Welfare Home (CWH) of Mercy Home at Human Development Foundation (HDF), Klong Toey in Bangkok as the study focus. The two main reasons for conducting this research are as follows:

- A lack of research[7] about children and their right to education from a human rights aspect.
- A need for a systematic academically approached work that combines a focus on underprivileged children, education rights, and the non-discrimination principle as an initial contribution toward fulfilling the research vacuum.

Therefore, this research can be a valuable contribution toward human resources development in Thailand. Although there are many organizations involved in providing assistance for underprivileged children, Mercy Home has been recognized as one with long years of services. It is, therefore, chosen as the research focus of this research study.

1.2.2 Objectives

- **Main Objective**

To examine the discriminatory practices against right to education of children from the CWH (Mercy Home) in Thai schools.

[7]In 2005, according to Global Initiative to End All Corporal Punishment of Children, the Ending Legalized Violence Against Children Conference was held in Bangkok and pointed out the prevalence of corporal punishment that "One indication of the low priority accorded to this issue is the lack of research into the violent victimization of children by adults in their homes, schools, other institutions and situations of child labour. No state can judge to what extent it is fulfilling its human rights obligations to children without this basic research" (Global Initiative to End All Corporal Punishment of Children , 2005: 8).

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- **Specific objectives**

1. To examine if there are any discriminatory elements in Thai laws and educational policies, and relevant International Human Rights Instruments in relation to the right to education.
2. To identify discriminatory practices against the right to education faced by children from the CWH (Mercy Home) and to analyze violations from a human rights perspective.
3. To analyze if the new Thai educational policies and educational reform would lead to elimination of discrimination in the right to education of underprivileged children.

1.2.3 Questions

Given the specific objectives, the completed research finds answers in regard to the following questions.

1. What are the discriminatory elements in Thai laws and educational policies and relevant International Human Rights Laws and Standards in regard to the right to education?
2. How is discrimination in the right to education practiced at Thai schools toward CWH (Mercy Home) children including the characteristics and root causes of discrimination?
3. Whether educational reform by the Thai government has been fulfilling educational rights to correspond with the latest educational policies and educational reform that can eradicate discriminatory practices against underprivileged children?

1.2.4 Methodology

In this research, documentary research and case study compose the main methodology. For the documentary research, the available data is examined from related organizations in the form of printed material and electronic data whichever they utilize. In using the case-study technique, in-depth interviews and participatory observation is applied to understand and analyze actual instances that occur with each subject. The following list explains more in detail about each method:

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1.2.4.1 Documentary Research:

The primary data is gathered from different sources as follows:

1.1 Profile of Mercy Home's children at the HDF and individual records from children's schools.

1.2 Official documents from Thai governmental agencies and UN documents

1.3 Available academic work and existing research

1.4 NGOs reports and documents

1.5 Educational news

1.2.4.2 Case Study: The Mercy Home at HDF

The research is focus on 6 cases of children in Mercy Home at the HDF as research subjects. Due to various levels of education for different ages, this research selected children based on the following criteria:

- Level of education: Grade 1 – Grade 9
- Sex: Female and Male
- Problem types: Family problem; Court referred; Subject of violence to person.
- Type of schools: Public and Private

Expressive study in the form of life stories is taken in this study by examining children's life from birth until the present time. Thus, the possible methods used in the research is as follows:

1) In-depth interviews: Interviewing is the main methodology being used for this research. This tool is conducted with respect to the following:

- Informants: Selected children (6 cases), and those concerned with children such as teachers, Mercy Home staff, and children's friends.
- Recording Methods: Notebook for written note taking is mostly used at the end of each day for denoting important issues in regard to guideline sets. A tape recorder captures some significant conversations during interviewing.

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2) Participatory Observation: There are daily and special activities provided by the HDF for underprivileged children, and it is helpful to formulate questions at the preliminary phase, getting to know the children, and gathering information by being present as their trusted friend instead of just a researcher. Following is a list of actual activities:

- Helping children with homework
- Preparing dinner, Washing Clothes, Cleaning floor
- Outdoor recreational activities, Camping, Outdoor concert
- Watching TV programs, Playing Games, Having Dinner

1.2.5 Scope and Limitations

This research is a study in the area of discrimination in the Thai education system. It takes a human rights approach and the analysis is based on IHRL and the Thai constitution with respect to both the principle of non-discrimination and the right to education. Because a thesis is an academic work, a discussion is needed for exploring and revealing examples of existing discriminatory practices. In this regard, this research has a specific focal scope by choosing underprivileged children at Mercy Home in accordance with the following criteria: Thai compulsory education (Grade 1 - 9), the state of being children (age under 18 years old), and enrollment as a student in either a public or private school. However, there is one case that might seem to be out of the age scope because she is studying in Grade 11. It is anticipated, though, that compulsory education in Thailand will be extended to grade 12, so her case has expected relevance for the near future. Also, her experience and her story about school is quite useful for the research and her information continuously gives a big picture of discrimination incidents in the education system. In addition, staff, teachers, friends, and those who have a linkage or connection to the selected children, are also taken into account by talking with them for scrutinizing discrimination of the right to education at the children's schools.

For gathering information from these underprivileged children one cannot do formal interviews with them through an appointment. Because they are energetic children, and they go to school regularly during the day, the best time for them is in the evening, but they are very tired from school. Naturally, the interviewing occurs whenever they are ready to talk. Thus, the best time to gather most of the data

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is over the weekend when they are alone and have less activity to do. The most important thing is that it is necessary to be with them all day long instead of a short hourly span to become acquainted with them and to observe them as well. They also have daily duties at the home, so it is really hard to arrange a specific time with the subjects. Thus, it is desirable to be flexible regarding time while collecting information.

The field research intensively started in May–July 2005. While the proposal was being developed, the researcher started to survey and spends time with Mercy Home children and collected overall data about the thesis in February 2005. In April 2005, the researcher spent months with the children doing activities with them in order to befriend them before gathering information.

1.2.6 Ethical Issues and Concerns

The information from all subjects in the case study is kept confidentially. For instance, their real names, hometowns, schools' names, teachers' names or their family members are not mentioned in the thesis. Especially, the data profile of Mercy Home's children was strictly protected. According to HDF's concerns, personal information of each child is not allowed to be disseminated publicly. At each step permission and consent of the respondents was obtained from the subjects, because it could affect the feelings of the children, of the HDF staff and of teachers at the schools. All subjects are informed about the purpose of the research before gathering information from them. If the respondents did not feel comfortable in answering any sensitive questions, they were allowed not to answer such questions at anytime.

1.3 Thesis Structure

The thesis is composed of five chapters in total. The current chapter, Chapter 1, elaborates the essentials of research. Chapter 2 is a study on the right to education of children based upon the right to education concept and the norms and right to education in Thailand which includes the educational situation in Thailand and Thai laws.

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Chapter 3 describes HDF and its work for underprivileged children in Bangkok and presents 6 case studies of HDF children. Each case study will be described as to their personal profile, family background and their life in school.

Chapter 4 deals with the analysis of discriminatory practices against right to education of underprivileged children in schools. The non-discrimination principle will be used as a conceptual framework to proof the discriminatory elements that happen in schools as well as in laws to clarify the theoretical framework that Thailand has to accomplish.

Chapter 5 focuses on the practice of and whether education reform in Thailand can be an effective tool to eliminate discrimination in the right to education of underprivileged children. It also discusses some elements that have been used to solve the discrimination problems towards underprivileged children.

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CHAPTER 2
RIGHT TO EDUCATION OF CHILDREN

According to Literacy Decade 2003-2012 report on 18 November 2005, there are “860 million illiterate adults, over 100 million children have no access to school, and countless children, youth and adults who attend school or other education programmes fall short of the required level to be considered literate in today’s complex world.” Exclusion from right to education of marginalized children was reaffirmed by UNESCO (United Nations Educational, Scientific and Cultural Organization), “Millions of children are excluded from their right to basic education and particularly to primary education” (Marginalized Children: UNESCO Education, UNESCO, 2003). For example, UNESCO states about 100 million of them that are “Street children are primary victims of exclusion” (UNESCO: Education-Vulnerable children>Street children, UNESCO, 2006).

Since this research examines in the area of children and their right to education, it is essential to clarify about its conceptual framework which are composed of non-discrimination in right to education concept, and theoretical framework, such as IHRL as well as domestic laws. Meanwhile, the context is narrowed down within the Thailand scope of the laws and relevant mechanisms that are applicable to right to education in Thailand.

2.1 Right to Education Concept and Norm

“Right to education” is based on two major concepts. First, looking from a state’s point of view, nationwide education benefits the nation, and as Douglas Hodgson states:

“A right to education can also be based on the need to train the younger generation as useful members of society and the world community. Various international human rights instruments recognize the right to education as a principal means to secure world peace through the training of its future citizens” (Douglas

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Hodgson. 1998: 18). The various international human rights instruments that emphasize the right to education are ICESCR and CRC.

Strengthening the knowledge of children is important, because in the future some of the children will become leaders and the rest as informed citizens that will participate in choosing leaders of the nations. The World Health Organization Department of Child and Adolescent Health and Development states: "The future of human societies depends on children being able to achieve their optimal physical growth and psychological development" (Child and Adolescent Health and Development, WHO, 2005). Significantly, children are the main target to provide right to education for them. Education is helping children to develop their physical and psychological abilities and

"the function of education is to assist individuals to achieve at least a basic standard of literacy and numeracy so as to enable them to function adequately in the various spheres of life in their respective communities" (Hodgson, D., 1998: 20).

Education helps children to understand their lives and it teaches children *how to* deal with difficulties which can give a sound foundation to the children's personality. In many cases, there is a link between good education and good citizenship as Russell mentioned the function of education that

"The most important of these is the establishment of universal compulsory instruction. It was found that boys and girls could be turned into better citizens and more efficient workers if they knew how to read and write than if they did not"(Russell, 1996:124).

The special rapporteur on the right to education, Mr.Vernor Munoz Villalobos, pointed out:

"The ideal solution is to invest in education not only to facilitate economic development but also, and above all, to build values and knowledge aimed at developing human dignity and proactive citizenship committed to the rights of the individual" (E/CN.4/2005/50 para 46).

Furthermore, education can bring people to understand and use other fundamental rights. The special rapporteur on children also cited not only that the right to education cannot work alone but also that it has to link with other human rights because the "right to education is the key to the enjoyment of all rights" (E/CN.4/2005/50 para 66).

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Second, the right to education will help to protect human rights overall. People who do not have education have less opportunity in life and are easily exploited into a wrong direction.

Thus, "Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights, and democracy"(E/C.12/1999/10 para 1).

Children are considered as one of the vulnerable groups in a society. If they do not acquire education, they will not know that they have rights or how to protect their rights, and they will be at great risk of being trafficked into the sex industry, child labor, child soldiering and other forms of exploitation.

Education can promote human rights and enable children to protect their own rights as well as make children respect others' rights. Stuart Hart explained:

"The key to the development of any nation is through the educating of its people. No civilized, humane or progressive society can ignore that right to schooling and education of its citizens, particularly its children" (Hart, S. 2001: 29).

In education concerning children's aspects, ICESCR and CRC are the two main treaties that have developed UDHR into a legal framework. ICESCR and CRC entered into force, respectively, January 1976, and September 1990. Article 26 in UDHR (Please see Appendix C) states that education is a human right:

"Everyone has the right to education. Education shall be free, at least in the elementary and fundamental states."

UDHR is a common standard, and it is understand by member states that education is recognized as under both customary laws[8] as well as the practices of international human rights laws. UDHR emphasized the right to education with objectives--to provide to all without cost and to lead children in their maximum development in various scales. This reveals a high degree of agreement in the discussion of the right to education (Hodgson, D., 1998: 63). In accordance with UDHR, international society reaffirmed the right to education as a human right in the legal binding instruments of ICESCR and CRC.

[8] Customary law develops from generally accepted practices which nations follow out of a sense of legal obligation (Hodgson, D., 1998: 62).

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ICESCR focuses on economic, social and cultural rights aspects worldwide. It was enunciated in the Article 1(3)[9] UN Charter mandate within the scope of economic, social and cultural rights and adopted by the General Assembly.

Specifically, the right to education is guaranteed in Article 13 (1) in ICESCR (Please see Appendix C): "The right of everyone to education" is for the purpose of human development on the basis of functioning with other fundamental rights. It is a major provision of right to education in this covenant.

In order to clarify right to education, COESCR, therefore, elaborated that:

"Education is both a human right in itself and an indispensable means of realizing other human rights…education is recognized as one of the best financial investments States can make…is one of joys and rewards of human existence" (E/C.12/1999/10, para 1) in their General Comment No.13.

It clarified objectives under Article 13 ICESCR by not only pointing out the aim of education in three respects to all in every educational style and systems but also that State Parties have to work on:

"three respects: education shall be directed to the human personality's "s*ense of dignity*", it shall "*enable all persons to participate effectively in a free society*", and it shall promote understanding among all "*ethnic*" groups, as well as nations and racial and religious groups"[E/C.12/1999/10, para 4). and also that "States Parties are required to ensure that education conforms to the aims and objectives"(E/C.12/1999/10, para 5).

There are more details given to achieve implementation with the well known "4-A Scheme" by Ms.Tomasevski, a former Special Rapporteur on the right to education. The 4 As refer to "Availability" as available institutions, "Accessibility" means accessible for everyone, "Acceptability" of educational materials and style, and

[9] The Charter of the UN Article1(3): To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion;

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"Adaptability" is flexibility of education. These are obtainable for State Parties to have a broad vision of right to education in their practices. Many countries use this scheme as a guideline for implementation right to education.

In addition to the above, Article 14[10] in ICESCR reaffirmed Article 13 of ICESCR that "the principle of compulsory education is free of charge for all." General Comment No.11 expressed *Plans of action for primary education* in accordance with this article COESCR stated that

"each State Party which has not been able to secure compulsory primary education, free of charge, to undertake, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all" (E/C.12/1999/4, para 1).

When there is no specific indicator to point to a low level of effort of the State Parties for successful educational planning from COESCR, still those State Parties have to increase their efforts in response to their obligations in right to education. As such, COESCR is seriously concerned about improvement in the quality of education, equal opportunity, and discrimination in education as possible standing and persistent obstacles. The treaty body demonstrated their concerns again in General Comment No.11:

"The Committee is fully aware that there may be diverse factors that have made it difficult for States Parties to fulfill their obligation to provide a plan of action…that have greatly exacerbated the extent to which the right to primary education is being denied" (E/C.12/1999/4, para 3).

In 1999, Thailand became State Party to ICESCR and was expected to submit the Initial State Report after one year. However, Thailand has still not submitted the state report, and this is now five years overdue, and, thus, there is no a concluding observation on Thailand from COESCR yet. Likewise, when there were no reports submitted, the COESCR cannot go to the next step. That means no evaluation and feedback on discrimination issue. It is open to a greater chance that the existing discrimination practices in Thailand continue to occur because no further actions can

[10]Article 14 in ICESCR: Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

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be taken to stop the discrimination. Indeed, Thailand not only fails to meet their obligation to submit reports but also demonstrates its reluctance to submit to international monitoring.

For the CRC, the right to education for children was also expressed in the 44th session by the UN General Assembly when CRC was opened for signature in November 1989 and entered into force September 1990 with significant number of acceptance member states. As of January 2006, 192 states had ratified CRC (Convention on the Rights of the Child, New York, 20 November 1989, UNHCHR, 2005); it is the most ratified international human rights treaty. CRC consists of fifty-four articles including forty-one articles regarding rights which are a combination of civil and political rights (ICCPR),[11] and economic, social and cultural rights (ICESCR).[12] In addition to the main CRC, the treaty has two[13] Optional Protocols which focus on children in armed conflict and on the sale of children, child prostitution, and pornography.

As indicated in CRC mandates, the primary emphasis of the CRC convention is to mainstream children's rights within the society as the same as adults and to strengthen children's rights as illustrated through its provisions. Although "Many people--government delegations and legal scholars--argued that there was no need for a special treaty to protect children's human rights," (Hart, S., 2001: 17-18) the

[11] For Instance, CRC provisions in accordance with ICCPR: "Thus, art. 13 CRC corresponds with the art. 19 ICCPR on freedom of expression; art.14 CRC with the art. 18 ICCPR on freedom of religion; art. 15 CRC with arts. 21 and 22 ICCPR freedom of assembly and association; art. 16 CRC with the right of privacy in art. 17 ICCPR; art. 6 CRC with art. 6 ICCPR on the right to life; art. 37 CRC with the protection from torture, and rights to liberty and fair trial in arts. 7, 9, and 14 ICCPR; art. 30 CRC with minority rights protection in art. 27 ICCPR, and the protection in judicial proceedings in art. 40 CRC with art. 14 ICCPR." (Sarah Joseph, Jenny Schultz, and Melissa Castan. (2000). "The International Covenant on Civil and Political Rights: Cases, Materials and Commentary". Oxford University Press, pp.469

[12] CRC reflects to whole article in ICESCR as stressed in Article 4 CRC "With regard to economic, social and cultural rights, Sates Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.", Arts. 24 and 25 CRC with right to enjoyment of the highest attainable standard of health Art. 12 ICESCR, Art. 26 CRC with Art. 9 ICESCR right to benefit from social security, Art 27 CRC with Art. 11 ICESCR right to a standard of living adequate, Arts.28 and 29 CRC with the right to education Arts. 13 and 14 ICESCR, right to enjoy his or her own culture, religion, language Arts. 30 and 31 CRC with Art. 15 ICESCR.

[13] 1.) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict which entered into force in February 2002; and 2.) In January 2002, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography became the second legal binding part of CRC

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overlapping mandates among three international human rights treaties and human rights bodies are not the problem because "the CRC demands full respect of the child's human dignity" (Hart, S., 2001:18). Having a separate convention on children can reduce workload on a particular treaty and can improve concentration on a theme and lead to a performance of maximum capacity of the treaties. The related articles on right to education of children are listed in the following:

Article 28 CRC (Please see Appendix C) elaborates "the right of the child to education" in terms of availability, accessibility of compulsory education of children as it responses to the UN Charter, Article 26(1) UDHR and Article 13 ICESCR mandates. The right to education is recognized and enforced by ratified State Members to guarantee the education right for children. The educational principle of right to equal opportunity and free compulsory primary education are emphasized within its Article 28(1)(a) CRC. This means that the ratified State Members not only provide education for children but also quality is considered for implementation within the development of these principles at a national level.

Article 29[14] CRC (Please see Appendix C) points out the objectives of "the education of the child." to reconfirm Article 28 CRC, Article 29 CRC stresses that the right to education is important for children's development with a respect of children's dignity. To attend to education with the right direction, The Committee on the Rights of the Child (CORC) adopted General Comment No. 1 (2001) "The Aims of Education" to clarify education purposes and its functions of Article 29(1) CRC that

"The core value of the Convention: the human dignity innate in every child and his or her equal and inalienable rights. … The aims are: the holistic development of the full potential of the children (29(1)(a)), including development of respect for human rights (29(1)(b)), an enhanced sense of identity and affiliation (29(1)(c)), and his or her socialization and interactions with others (29(1)(d)), and with the environment (29(1)(e))" (CRC/GC/2001/1. para 1).

[14] However, Thailand has made some reservations for Article 7, 22, and 29 of CRC, namely, that "The application of articles 7, 22… of the Convention on the Rights of the Child shall be subject to the national laws, regulations and prevailing practices in Thailand." Later on, Thailand included note 13:"on 20 July 1993, with regard to the reservations made upon accession by Thailand concerning articles 7, 22 and 29…subsequently, on 11 July 1997, the Government of Thailand notified the Secretary-General that it had decided to withdraw its reservation with regard to article 29" (Declarations and Reservations to the Convention on the Rights of the Child, Office of the United Nations High Commissioner for Human Rights, 1996-2004).

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Its functions are detailed into six points:

1. The dispensable interconnected nature of the Convention's provisions (CRC/GC/2001/1, para 6);

2. The process by which the right to education is to be promoted (CRC/GC/2001/1, para 8);

3. The obligations of State parties in relation to the establishment of educational systems and in ensuring access thereto [CRC/GC/2001/1, para 9);

4. A holistic approach to education which ensures that the educational opportunities made available [CRC/GC/2001/1, para 12);

5. The need for education to be designed and provided in such a way that it promotes and reinforces the range of specific ethical values [CRC/GC/2001/1, para 13); and

6. The vital role of appropriate educational opportunities in the promotion of all other human rights and the understanding of their indivisibility (CRC/GC/2001/1, para 14).

Nevertheless, the special rapporteur, who works under the charter based system, is one of the key factors to point out weaknesses and input relevant views to COESCR while implementing CRC. The present Special Rapporteur on the right to education, Mr.Vernor Munoz Villalobos, asserted that there is a need to "recognize education as a human right rather than an economic good, and Member States have an obligation to implement this right." Since "the aim of education is linked to human dignity and to the realization of the individual's rights that Member States have an obligation to implement", therefore, he also added that

"Primary education is the foundation of the whole system. If we can improve it, improve access and avoid drop outs at the primary level, we will have a strong basis to ensure continuation to secondary level" (Education is a Human Rights, Not an Economic Good-UN Expert, UNHCHR, 2004).

At this point, this outstanding aim of education helps State Members to have a better understanding that education's targets are not only to have places and resources for children' education but also to take the dignity issue into implementation. Respect

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for being a human being is vital for children as well as adults and State Members have to include this into education. Otherwise, the education for children will be no different than a market product that prepares them to be only an economic good for society.

2.2 Right to Education in Thailand

2.2.1 Education Situation in Thailand

In 1921, Thailand initiated a Compulsory Primary Education Act. Thus, by law, four years of education was required for everyone. Almost forty years later, in 1960, compulsory education was increased from four to seven years. In addition, disabled children's education was included. For the educational system, Thailand followed a 4-3-3-2 system until 1977 when this was changed to 6-3-3 system which means primary level for six years, lower secondary level for three years, and high secondary level for another three years. This is the system that is still in use now. The compulsory education is Grade 1 – 9 and basic education means Grade 1 - 12. In regard to Section 43 of the Thai Constitution 1997, this states that everyone should receive an education of not less than twelve years. However, compulsory education has yet to reach the twelfth year, although it was changed from six years to nine years in 1999. Currently, compulsory education is from Grade 1 – 9 requiring that everyone should receive an education for at least nine years. The numbers of students currently in the formal education system of each education level is shown in the following table:

Education Level	**Year (Students)**				
	2001	**2002**	**2003**	**2004**	**2005***
Primary Education	6,056,422	6,096,715	6,065,590	5,967,571	5,968,750
Lower Secondary	2,338,650	2,368,457	2,464,547	2,578,076	2,758,822
Higher Secondary	1,721,850	1,707,459	1,650,866	1,649,676	1,745,574
Higher Education	1,872,207	1,976,234	1,928,608	1,891,730	Not Specify

Note: * Estimated number.

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Source: A Report on Thai Education Situation for the Year 2004/2005, Root Causes of Problems and Solution Guidelines, Office of the Education Council, March 2006

In terms of the educational budget and number of teachers and students for the whole country, the education budget was reduced from 4.5% of GDP in budget year (fiscal year) 1997 to 3.7% of GDP in budget year 2005. Although the amount of money seemed to increase in number in the year 2005 yet when compared with the ratio between the education budget in 1997, the budget allocation for education was reduced, as shown in the above figure by the Office of Education Council in 2006 education report. According to the latest educational report in March 2006, the latest ratio of the educational budget between basic education and higher education is significantly different as shown in the year 2003 figure whereby the basic education budget is 12,733 baht/child/year while higher education budget receives 17,291 baht/child/year. Although the budget for basic education was increasing slightly during the past 6 years when compared to higher education, the basic education budget between the year 2003 and 1997 (12,300 baht), was always lower than the higher education budget as shown in the following table:

Education Level	**Year (Baht)**							
	1996	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**
Basic Education	10,580	12,386	11,481	11,574	12,085	12,338	11,818	12,733
Higher Education	22,721	25,646	21,404	21,145	19,373	17,589	16,384	17,291

Source: A Report on Thai Education Situation for the Year 2004/2005, Root Causes of Problems and Solution Guidelines, Office of the Education Council, March 2006

It is important to point out that the majority of the students are in basic education. This is especially true for underprivileged children as they are the target for basic education. More of the education budget should be earmarked for them rather than for higher education as “the government supports public universities much more than basic education and economists think that this is an unfair budget allocation because persons who can study in the public university are mostly from rich families and elites. This group of student graduates gain education for their

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personal benefit when compared to people who only gain a basic education."[Author Translation] (A Report on Thai Education Situation for the Year 2004/2005, Root Causes of Problems and Solution Guideline, Wittayakorn Chiengkul, 2006:16) According to the number of students and educational budget allocation, this indicates that insufficient funds for education causes disparity for underprivileged children as the budget has to go for the majority children within the country, and the priority of funding is given to higher education rather than schools for basic education It is hardly conceivable that there is anything extra in the budget to manage education for underprivileged children as a whole.

In terms of the decentralizing policy, the teacher shortage is another obstacle in Thai education system as the government reduced the number of governmental teachers during economic crisis in 1997. The Early Retirement Program for government officers including teachers was introduced by the government but there is no supported plan to handle the situation. There were more than 10,000 teachers who resigned from education system. Thus, many schools are facing the shortage of educational personnel. There are insufficient teachers especially in rural areas (Office of Education Council, 2006).

Education Reform has decentralized administrative management from 1 ministry of education with 14 departments, 1 university affairs office, and 1 education council office to 1 ministry of education with 5 offices and has changed local control from 76 centralized provincial district offices to 175 educational service areas. Nevertheless, the staff is composed of the same group of people with the same previous style of working.

The more effective change would be moving a whole educational mechanism together rather than changing part by part. For example, the budget should increase to generate an increase in a new generation of teachers before offering early retirement to teachers. To avoid a teacher shortage crisis, the government should have a backup plan and think of urgent assistance for this issue before moving forward to a particularly major change. Otherwise children are the group that suffer from its actions. In regard to Mr.Chiengkul, he pointed out that education reform is slow moving because it is only occurring at an administrative level. For instance, curriculum, and academic research has been reduced because scholars are not

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interested in conducting it. Also, parents and local communities are not involved as participants in education reform. (Office of the Education Council, 2006).

In 2005, Thai Education Situation for the Year 2004/2005, Root Causes of Problems and Solution Guideline reported that there are 11,545,000 children in learning stages (6- 17 years old) but 10,182,000 children have access into education. There are 1,363,000 children who are not in the education system and 1.3 – 1.5 million children are underprivileged children who do not have education. In total, there are approximately 1,377,966 underprivileged children in Thailand (A Report on Thai Education Situation for the Year 2004/2005, Root Causes of Problems and Solution Guideline, Wittayakorn Chiengkul, 2006:13).

As illustrated in the above figure, approximately 90% of underprivileged children are poor children and the rest comprise abandoned children, children from minorities, the children impacted from HIV/AIDS, drugs, and other problems in the whole country and 1.3 – 1.5 of them do not access the education system. This is quite a large number of children who have difficulty in accessing education because of various reasons especially economic ones. From the large number reported it is not a good sign for the education system in Thailand and the government needs to take serious care of this situation.

However, the constant situation of educational problems in Thailand is a long-term problem that needs to be dealt with at the legislative, policy, and implementation levels. The next part will spell out the Thai laws related to children's education.

2.2.2 Thai Laws

In Thailand, the state of being children (everyone who is below eighteen years old), is protected by law and children deserve the right to education as a basic right regardless of any life circumstances. The right to education of children has been recognized in Thai laws and has been expressed clearly through the National Education Act of B.E.2542 (1999), the Child Protection Act B.E. 2546 (2003) and others that enunciated the education right of children and correspond to the international human rights laws. Children have a right to obtain education no matter what their social status and wherever they are from in the society.

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In the scope of education and children, Thai Constitution 1997, National Education Act 1999, and Child Protection Act 2003 are taken into account as important legal frameworks in Thailand. The obligation of government has been stated in the constitution as well as in the education aim for all children.

2.2.2.1 Thailand Constitution of B.E. 2540 (1997)

Thai people have a Thai Constitution 1997 as the supreme law of the nation. One of the vital commitments is to eradicate all forms of discrimination. Focusing on the Human Rights topic, the indication of the Rights and Liberties of the Thai People are entitled in the Thai Constitution in Chapter III Section 30reads:

"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."

It spells out the respect of human rights on the non-discrimination foundation. The government has obligations to ensure that people have sufficient basic needs including fundamental rights as stated in the Thai constitution as well as the International human rights conventions, and implementation is based on the non-discrimination principle.

As being the underprivileged children, they are protected by law and have equal rights as any others in the community. The law continually mentions in educational scheme the right to education provided for everyone and without any discrimination as stated in the 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."

The implication of this section is invaluable, especially to the underprivileged children who need extra care and understanding otherwise this would not be the main mandate of the country. Accordingly Section 53 reads:

"Children, youth and family members shall have the right to be protected by the State against violence and unfair treatment. Children and youth with no guardian shall have the right to receive care and education from the State, as provided by law."

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Particularly, the children at the Mercy Home are secured under Section 53 which can assist this group of children to have a chance for growing up in the society and access to the basic rights as the right to education even if they do not have parents and/or guardians. In Chapter V, Section 80 states:

"The State shall protect and develop children and the youth, promote the equality between women and men, and create, reinforce and develop family integrity and the strength of communities. 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."

It has the purpose to empower people throughout their sufficient development and needs of human life towards underprivileged children. An encouragement of children's rights is another way to ensure their rights are being protected by the state though the assistance can be direct to children or indirect thru organizations that promote child rights.

2.2.2.2 National Education Act B.E. 2542 (1999)

The implementation of the constitution's right to education is reflected in the National Education Act of B.E.2542 (1999) and Amendments (Second National Education Act B.E. 2545 (2002)) in all viewpoints of targets, the major structure, responsibility and relevant instrument in educational management system. Likewise, the objectives and principles for achieving successful education in practicing education rights is added in the beginning chapter. Chapter I Section 7 reads:

"The learning process shall aim at inculcating sound awareness of politics; democratic system of government under a constitutional monarchy; ability to protect and promote their rights, responsibilities, freedom, respect of the rule of law, equality, and human dignity…"(The Office of the National Education Commission, http://www.moe.go.th Website, 2004)

This section introduces the respect to rights and freedom and the existing equality and human dignity that are considered as the first essential points in education. These goals should be a part of the education rights and duties. In chapter II Section 10 states:

"In the provision of education, all individuals shall have equal rights and opportunities to receive basic education provided by the State for the duration of at least 12 years. Such education, provided on a nationwide basis, shall be of quality and free of charge…those destitute or disadvantaged; shall have the rights and opportunities to receive basic education specially provided…."

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The importance of this section stresses that education has to be free and provides at least 12 years for all and for underprivileged persons, a special type of education is provided (The Office of the National Education Commission, http://www.moe.go.th Website, 2004). The direction of education is running towards the human rights background on equality, human dignity and non-discrimination principle. The compulsory education required in Section 17 reads:

"Compulsory education shall be for nine years, requiring children aged seven to enroll in basic education institutions until the age of 16 with the exception of those who have already completed grade 9. Criteria and methods of calculation of children's age shall be as stipulated in the ministerial regulations."

The Act contains education implementation as children's parents, guardians, and the government has an obligation to provide children education until grade 9 in regard to Section 11 NEA that reads:

"Parents or guardians shall arrange for their children or those under their care to receive compulsory education as provided by section 17 and as provided by relevant laws, as well as further education according to the families' capabilities."

In order to comply with domestic laws, Section 11 and 17 guarantees the right to education of children in that they have to get an education which is provided by the state, and this means the state must be responsive to the EFA if the state is achieving this goal as stated under IHRL as well.

In addition, this applies to every school not only public schools but also private schools; the ministry of education clearly states that the way to manage private schools and the way to organize their education quality corresponds to the same way as public schools in order that the same educational quality apply throughout the country. Section 43 NEA reads:

"The administration and management of education by the private sector shall enjoy independence with the state being responsible for overseeing, monitoring, and assessing educational quality and standards. Private educational institutions shall follow the same rules for assessment of educational quality and standards as those for state educational institutions."

Education quality will be monitored by an Office for National Education Standards and Quality Assessment; this is the same mechanism used for ensuring standards of education throughout the country.

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2.2.2.3 Child Protection Act B.E. 2546 (2003)

In regard to Thai Constitution 1997 on Article 29, 31, 34, 35, 36, 39, 48 and 50, there are exceptions for the restriction of individual liberties in these Articles. Due to the exceptions, Child Protection Act aims to ensure that children's rights are protected from exceptional liberties. The Child Protection Act B.E. 2546 (2003) came into force on 30 March, 2004 with the high expectations of both non- governmental and governmental organizations. To scrutinize children's problems, understanding the root-cause of the problems was started within the country and expressed under 88 sections. The facts about underprivileged children are recognized in laws, and also there is an acceptance that there are different types of children's problems existing in the society. The Act categorizes children in detail including the underprivileged children, such as homeless children, orphans, disabled children, etc. For non-discrimination principle, Section 22 – 31 Chapter 2 mentions it by reference. Section 22 Child Protection Act reads:

"All actions towards all children have to be mainly aware of maximum benefits of children and discrimination is not justified."

In other words, everyone who deals with children has to do so on a non-discrimination basis to achieve the children's benefits. The discriminatory practices against children's rights are considered violations against the law in every place and instance.

According to Thai law, corporal permission Section 26 Child Protection Act states: "Under the provisions of other laws, regardless of a child's consent, a person is forbidden to act as follows: (1) Commit or omit acts which result in torturing a child's body or mind;"

This implies that no one can harm children both physically and mentally regardless whether the punishment is by family members or others, including teachers; all is prohibited whether with the child's permission or without it.

The promotion of children's behavior is recognized in Chapter 7 of the Child Protection Act. According to Section 64, students are required to follow each school rules and regulations otherwise Section 65 Child Protection Act allows punishment on students in education institutes. The punishment, however, has to be done in an appropriate way. Section 65 reads:

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"If a student or pupil violates the provisions under Article 64, a competent official shall act in accordance with the regulations specified by the Minister and shall have the authority to hand over the student or pupil to the administrator of the school or educational establishment attended by the pupil or student for investigation, admonition or punishment in accordance with the regulations. In cases where it is not possible to hand over the student or pupil, the competent official may notify the administrator verbally or in writing.

Upon having admonished or punished the student or pupil, a competent official or administrator of the school or educational establishment shall notify the guardian for additional rebuke or disciplining.

The punishment of pupils or students shall be carried out reasonably for disciplinary purposes, in accordance with the regulations specified by the Minister."

It is difficult to scale and judge the reasonable punishment. The level of punishment is not clearly stated by the schools. It is possible that students are at risk of receiving unjustified punishment in schools.

In addition, the protection for children's welfare in all cases needs to be studied. Chapter 4 states that the steps to deal with the problems of children's rights have been indicated in this provision in case there are instances where serious abuse occurs. A clear view of when and how to confront the real situations, and noting the persons who have to be involved in cases are also revealed in that chapter. It also shows the first step of legal registration for protection of the rights of the child which are stated within the international community. The sensitivity to children's cases gives an important signal to society that the state is really concerned about children issues by providing a detailed procedure for dealing with ensuring protection of rights.

At the policy level, it is necessary to point out the key elements in education concerning the commitment the government has and its aim to achieve this commitment in the area of education for underprivileged children. Thus, the main highlights of the policy of the present Thai government is presented in the next section.

2.2.3 Thai Government Policies

The education policy was announced with its goals and target groups when the government proposed their commitment to the populace during the election (February 2001). Specifically, the government promises that they will provide education in

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correspondence with the Thai Constitution 1997. The implementation will be based on quality, equality, and building a sustainable learning society as a tool to bring the country from the economic and social crisis. The principle is “Education contributes toward creating the nation, the progress of human beings, and employment” [Author Translation]. According to the government website, the education structure and opportunity are key elements to achieve the goals of education for all with equality in Thai society. The government will organize education by using student-centered learning as a foundation, and they also state that they will support teachers with respect and dignity toward all (http://www.thaigov.go.th/th/policy/pt-11.htm).

In June 2005, the government has launched the Management of Education for Underprivileged Children Policies by Office of the Education Council. (Please see Appendix A: Official Documents from Cabinet.) It is a response from the cabinet on 26 October 2004 agreeing to do the government policies into implementation for underprivileged children. The aim is to provide basic education with equality to all and to empower them in the future citizens. This policy realizes that underprivileged children have different life styles and difficulties. They need special needs in order to access and complete basic education. There are 5 policies as the following:

1. Providing education with equality, all underprivileged children have appropriate education in various forms on the ground of children’ rights, human rights and human dignity.
2. Managing education with quality that is suitable for underprivileged children. The education has to include intellectual, morality, ethics and life skills which have the same standard with ordinary education system.
3. Encouraging educational resources and necessary factors to correspond with each type underprivileged children.
4. Managing administrative works for underprivileged children efficiently.
5. Building a network for management education for underprivileged children that has adequate potential to efficiently assist underprivileged children on time.

The government plans to achieve these targets by 2011 by adjusting laws (See Appendix A), rules and regulations that are education obstacles for underprivileged children, having explicit plans, developing process that bring public, private and

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community sectors to manage education for underprivileged children together, and manage budget allocation for underprivileged children education.

In general, one can see that Thailand has laws and policies that protect the right to education of underprivileged children and also reflect the IHRL that Thailand has ratified and, thereby, has commitments to the international community. Nevertheless, all laws can look good in context, but it is a different story when it comes to implementation. The study will show in later chapters the experiences of underprivileged children in schools-- how their rights are violated in educational institutions. All these legal instruments cited will have power when there is the political will to use and apply them in practice to accomplish the right to education for underprivileged children as planned by the government and in conformity to its commitment to the international conventions.

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CHAPTER 3
MERCY HOME CHILDREN AT THE HUMAN DEVELOPMENT FOUNDATION (HDF)

The underprivileged children usually come from the streets, broken families, the juvenile courts; some are drug addicts, are abused children, are abandoned, and have faced other forms of problems. Some of them live at child welfare homes (hereinafter CWH) as their shelter. The CWH is an organization that helps children who are facing difficulties in their life. CWH can be either run by a governmental or private agency. CWH have the responsibility to provide underprivileged children with their basic needs and additional important factors that are necessary for their development. HDF has a section that works with the same responsibilities of CWH that helps underprivileged children in terms of education, food, shelter, health care, and career opportunity.

HDF is a NGO which is located in Klong Toey slum (land being rented from the Port Authority of Thailand) in the center of Bangkok and has been working with the underprivileged children in Thailand for more than thirty years. Father Joseph Henry Maier (hereinafter Fr. Maier) is the HDF founder and director. In 1973, Fr. Maier lived at the slaughter house area in Klong Toey slum where he began his contribution to Thai society. He is a Redemptorist Catholic missionary priest, and he started his work to help in one of the poorest Thai group of city slums with a “One Baht School.” One Baht school was a school where students’ parents had to pay one baht per day per child. This cost covered tuition fee and daily food for students. Generally, students were pre-school students between 3 – 6 years old. The school was operated by people from the community who dedicated their time to teach the children and take care of them while their parents went to work during the day. The school was not an officially registered school and the teachers were not required to have a degree. The school was located inside the community and only chalkboards were used. According to a former teacher of the One Baht School, Fr. Maier continued his work

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by establishing a private primary school in Klong Toey slum in 1978. In 1983, he established an NGO, Human Development Center (HDC) at Sukhumvit Soi 40. Fr. Maier was the head of HDC as well as the pre-school on the second floor for slum children from the slaughter house and adjoining slum areas. HDF's ongoing initiative in education for slum children has meant a lot for the poor in the area and it is considered as one of the greatest initiatives for the people living in Klong Toey. HDF keeps expanding their obligations leading to their mission statement of "We are a partnership with the poor."[15] (HDF, 2004). HDF aims at being in close contact with the poor in order to help them with their needs and protect their human rights. HDF's work connects with many of the concerns of ICESCR and CRC, for example, housing rights, education rights, children's rights, and women's rights.

3.1 HDF Programs and Projects

HDF mission remains the same today and has expanded assistance into other issues. In 1998, HDF was formally registered as a foundation with the following objectives: "To promote the development of the quality of life and living conditions of people in slums; To offer due services and assistance; To educate them on how to improve their life; To promote educational development in the slums in Metropolitan Bangkok; To offer solely or jointly with other charitable organizations public services; Not to get involved in politics" [16] (HDF, 1998). HDF still has the same objectives for more than thirty years. HDF has 310 staff members who are working in four major areas:

1. Children in Need: There are 230 children at HDF being taken of by 30 – 40 houseparents. The HDF outreach team, which is the link between HDF and NGOs network, bring children in need to HDF. In some cases, it is the parents of a child who takes their child to HDF with their permission. HDF helps the children with providing education and ensuring other basic needs regardless the circumstances.

[15] HDF. (2004). "The Human Development Foundation Klong Toey, Bangkok 2004 Annual Report". Creative In-House Ltd.,
[16]HDF.(1998). "Foundation Details and Authorization to Establish or Amend the Foundation". September 25, 1998.

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2. Education: HDF has founded thirty three pre-elementary schools spread to each community in different periods all over Bangkok's slums with 4,200[17] (HDF, 2004) children between 3-6 years old. All HDF pre-schools are located inside the community which is convenient for parents to send their children for schooling and with affordable cost of daily education. When the schools were founded, Fr. Maier said "a bright future has to start with essential steps of reading and writing from early childhood days." It is with this concept, HDF attempts to push forward education for early ages. At HDF pre-schools, every child gets free milk and free lunch for every school day. Regularly, school starts from 8.00 AM – 3.00 PM, Monday – Friday.

3. HIV/AIDS Prevention, Education, Outreach, and Care: HIV/AIDS adults and children who are affected with HIV/AIDS live at HDF. Food, bed, medicine, milk and treatment are provided for 25-30 adults, 10 infants (below 4 years old) and 30 children (5-16 years old). HIV/AIDS infants have female staff members who look after them 24-hours. Some staff are living with their own children who have HIV/AIDS while taking care of other HIV/AIDS infants.

4. Community Services: Due to economic reasons, HDF is helping slum communities in term of fundamental needs, such as housing, health, food, and vital facilities for disabled persons, and also a Women's Group Savings and Loan, and small businesses for people with disabilities. As for being poor, people are living on a daily income. If the family earner is sick one day, they are not able to earn money for whole family on that day. So, the income earned affects the whole family in terms of food, facility expense, accommodation, health, and children's education. The help given also includes emergency help for meeting finances during school semesters and, for example, after the aftermath of a fire.

In addition to the above, HDF also operates a number of programs throughout the year, i.e. the Janusz Korczak School for Street Children, Legal Aid Clinic for poor children, Street Children Outreach, College and University Scholarships, International AIDS Conference, HIV/AIDS Programs and Support, HIV/AIDS Education and Outreach, and Tsunami Relief Project in the south of Thailand.

[17]HDF. (2004). "The Human Development Foundation Klong Toey, Bangkok 2004 Annual Report". Creative In-House Ltd.,

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3.2 Mercy Home Background

Mercy Home began with a place behind One Baht preschool at Lock 6, Klong Toey slum and from 1990 another Mercy Home opened in Sukhumvit Soi 71. These two places helped children with difficulties including children with HIV/AIDS. However, HDF could not afford the high rent and in 1996 HDF constructed a new[18] building for children at Lock 6. The number of underprivileged children doubled during the economic crisis in Thailand in 1997. Fr. Maier was aware of the space problems and expanded HDF.

In July 2001, HDF moved to permanent compound buildings in Klong Toey. In order to promote and protect children's rights, a thorough procedure and a firm, stable process were introduced into practice from its start. After registered as a foundation, HDF officially started with 34 children, 16 girls and 18 boys with 7 houseparent according to an interview of one HDF housemother. Children are placed in homes across the category. Children receive the opportunity to have friends who have different experience in their life and assistance from different houseparents. Most of the staff who take care of children, are from the Klong Toey community and they are familiar with and have an understanding of children's problems. The houseparent' education level is at the completion of compulsory education or high school. Some of the staff have university degrees. Most of them have been working at HDF for more than ten years.

As of 2005, Mercy Homes have five[19] different homes divided into categories of children ages, gender, physical condition and health condition as follows:

- Mercy Home 1: Boys home of 15 – 18 years old, 39 boys
- Mercy Home 2: Boys home of 6 – 14 years old, 49 boys
- Mercy Home 3: Girls and boys home of 3 – 5 years old, 9 girls and 15 boys
- Mercy Home 4 & 5[20]: Girls home of 6 – 18 years old, 57 girls
- Mercy Home 6: HIV/AIDS girls and boys home of below 1 year old – 18 years old, 21 girls and 18 boys

[18] HDF got a donation from Christiansen & Nielsen.
[19] In January 2006, Mercy Home 1 and 2 were merged together. Thus, all boys are living together in one Boys Home same as girls' home at Mercy Home 4.
[20] Mercy Home 5 previously was a girls' home of 15 – 18 years old; while doing this research it was combined with Mercy Home 4 and became a Girls home.

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Mercy Home 1, 2, 3, and 6 are located together at the main office of HDF at 100/11 Kae-ha Klong Toey 4, Klong Toey, Bangkok while Mercy Home 4 is located at 3757/15 Sukhumvit Soi 40, Rama IV Rd., Pra-Kanong, Klong Toey, Bangkok. Due to security and adequate space reasons, the Mercy Home for girls is located at the former HDF office in order to give the girls privacy.

3.2.1 Mercy Home Children General Overview

From admission, HDF legal aid section will gather overall information and open a file which contain a child's profile such as the child's origin, family detail, problems, educational background, cause of being an underprivileged child and in the case of physical/sexual abuse, physical check-up and police records are also included in their profile. The HDF children consist of the following three groups: family problems, the juvenile court, and types of personal violation in regard to children's problems.[21] When HDF has the required information which includes information from the HDF outreach team, the child will be located according to gender, age, and health condition. Children in one Mercy Home are not grouped because of the same problems, in order to let the children understand that people have different backgrounds.

In April 2005, there were 208 children at HDF, 39 with HIV/AIDS and 169 without HIV/AIDS who live at Mercy Home 1 – 4. According to HDF legal aids section, there are 152 children with family problems, 12 children from the juvenile court and 5 children from types of personal violation. The children are offered sufficient nutritious food, health care, education and special activities such as handicrafts, English conversation, Thai dancing, and cooking. The children can attend special activities during their free time or when sponsors offer extra opportunity for them such as participants at a concert, watching a movie at a theater, camping, and

[21]According to an interview with one of HDF legal aids staff, the detailed information are described below:

1. Children from family problem mean children who are neglected by family, street children, slum children, orphaned children.

2. Children from the court mean children who are sent or transferred from the juvenile court , are drug addicts, and were arrested or sentenced.

3. Children from the types of personal violation are children who were prostitutes, sexually abused, physically abused, and/or harassed by family members or others.

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traveling to other places. In addition, some activities such as art skills, music classes come from volunteers and treats with a party of visitors.

Houseparents have a vital role to encourage children to accomplish their success future. Mercy Home 1 has three housefathers, four housemothers in Mercy Home 2 while Mercy Home 3 and 4 have four housemothers for each home. They are responsible for the children's life while children live at HDF. They work as if they are parents, friends and counselors to the children. The houseparents' roles are to guide and teach children into the right direction and protect them from troubles. The children are obligated to help with housework such as cleaning restrooms, mop the floor, and iron their uniform. These train the children to have responsibility and reduce workload of housework for the houseparent. In addition, it creates a family atmosphere for the children within a friendly and warm environment.

At the rehabilitation stage, HDF helps children who finished their studies and have to leave HDF with searching for a job or offer them a job at HDF. In case a child does not have family or a place to stay, HDF will help in any way it can such as provide a place to stay for them before they have income. A follow-up process is initiated after children have left HDF in order to follow the children's situation whether they are able to manage their lives or they need other help. In many cases, a child will have problems with returning to his or her home, and if they are unable to stay with their families returning to HDF is an option.

3.2.2 Mercy Home Children's Schools

Providing the children with education is one of the most important objectives of HDF. As being underprivileged children, most of them are barely literate and some have never attended a school of the educational system.

HDF children are studying in three different types of education that suit them depending upon their age and ability. The children can study in the formal, informal, or the non-formal education system either in private or public schools including international schools and study aboard. HDF also founded one special school, "Janusz Korczak School" which is located at the HDF office for children who cannot attend any educational institution available in the system because they are far behind from children of the same age and also way behind in the grade system. Some groups of

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children have to study in other provinces; HDF has a connection in provinces as well as within Bangkok. Most of the children study at schools in Klong Toey area which are easy to travel to during their school days.

The following table is a summary of 169 children in each school system in regard to their age and level of education.

No.	School System, Types	Pre-School	Grade 1 – 6	Grade 7 – 9	Grade 10 -12	University	Total
1.	Formal, Public	-	29	11	7	2	**49**
2.	Formal, Private	11	66	8	1	-	**86**
3.	Informal, Public	-	3	6	4	-	**13**
4.	Non Formal, Public	-	-	1	-	-	**1**
5.	Janusz Korczak	-	11	-	-	-	**11**
6.	International	-	1	-	-	-	**1**
7.	Study Aboard	-	-	-	3	-	**3**
8.	Not Attending	5					**5**
TOTAL							**169**

Source: Interview with houseparents of Mercy Homes, April 2005.

HDF sponsors all expenses that occur while children attend their schools. Some children are able to go abroad because of donors. In addition, native English speaker volunteers are willing to help children prepare their intellectual ability by teaching them English and giving lessons that learn in western style.

3.3 Case Studies of Mercy Home Children at Their Schools

During fieldwork May – July 2005, the life stories of six Mercy Home children are examined in order to know their life as well as the facts that occur in their schools. Detailed information is divided into four main parts: Personal Profile, Family Background, Life in School and their related concluding discussion. The essentials of the children's background and the discriminatory incidents that occurred to them are separated into different focus points. For the forms of the discrimination experienced at school there are various examples presented of the characteristics of discrimination that children have to deal with. However, every case does not demonstrate only one form of the discrimination that occurred to an individual child because discrimination is composed of a variety of different actions. Thus, for this study the highlight of

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discrimination incidents has been pulled out from each case study to pinpoint the finding of discrimination elements in schools.

3.3.1 Public Schools

Case Study 1: An example of mainly verbal abuse in high school

1. Personal Profile

Name: Ma-prang **Age:** 17 years old **Sex:** Female

School Type: Public school **Grade:** 11

Ma-prang's personal interests are that she likes sports (volleyball) and to spend free time in the computer lab (chatting online). Her dreams are to work in the computer field, to go aboard and to adopt her niece as her daughter. Chatting online led her to meet her boyfriend who is studying at a public vocational school, and they have already met each other in person.

2. Family Background

Ma-prang is from a broken family. She does not believe that she has a home anywhere. Her mother had many partners who were heavy alcohol drinkers and smokers. Sadly, she kept moving with her mother until a woman whom she respects as her aunt brought her to Mercy to enter Grade 1. Her mother died at Mercy because of HIV/AIDS when she was less than 40 years old. Ma-prang has two siblings, one eldest sister (Mayom), and one elder brother. Mayom had lived in their home province with her aunt. But Mayom has had mental problems since she was raped by a husband of her mother's sister and was forced to take some medicine to try to abort after she became pregnant. Mayom has HIV/AIDS. She stayed at Mercy for some time but ran away and nobody knows where she presently is. Mayom has a 2-year old daughter who lives at Mercy 6 (HIV/AIDS children's home).

Ma-prang's elder brother is a freshman in the education faculty at a public university in central Thailand. He is working and studying at the same time. She first met her brother when she was in Grade 9. She had never met him before then because he lived in a different place with a step-grandfather while Ma-prang lived with her mother in Bangkok.

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3. Life in school

Ma-prang is studying at a public school that is located within walking distance from Mercy 4. She is studying in Grade 11. A strict male teacher is in charge of her class and he is a students' advisor also. There are different groups of students within the class. Her group has 5-6 people consisting of females and transgender males (Ka-Toey).

- Verbal Abuse

- The teacher swore at the students with very rude, demeaning language if they so much as whispered in class.

- One teacher always points to Ma-prang and scolds her even for a trivial matter such as when she was looking at her friend's bag the teacher said "I will walk over and slap your face." Then, every student looked at her.

- She was always criticized by this teacher. She also said "You are stupid and do not pay attention. When taking the exam, I doubt whether you will pass it or not."

- Moreover, this teacher said "If you need a student loan, I will tell the principal not to give you a student loan and cut your name off the financial aid list." [This teacher did not know that Ma-prang is living at HDF and her entire tuition costs are paid by HDF.]

- Another time when Ma-prang and her friends were laughing in class, the teacher asked Ma-prang "is Math a funny subject?" Her friends teased her that Ma-prang was this teacher's favorite.

- Ma-prang said that another female teacher says, "Men are monitor lizard animals (very vulgar name calling in Thai culture)," whenever she gets angry with male students.

- A teacher warned and threatened Ma-prang that she would call her guardians and have her sent to a moral reeducation camp for not wearing the school uniform in the correct style. (HDF children will be asked to bring guardians whenever they make a mistake, for instance, if they wear the school uniform in an incorrect style.)

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- If a student does not pay the tuition fee they are not allowed to take exams. A written document will be given to each unpaid student and/or their name will be announced in front of the class.

- Students are intimidated by the school practice of posting the students' photos on the school bulletin board and describing their mistaken actions in a public announcement. Once, Ma-prang went outside the school for buying a snack, and she had her picture posted and name announced.

- If students are cited for not behaving well, they are forced to move to another school. The school will find another school for them. The administrator in charge of teachers will make the decision. Ma-prang stated, "There are some idiotic stories of punishment. It is not allowed to bring a foam food container inside the school. If a student brings that, the student will be asked to move to study at another school." The teachers have also told the students that "Students should buy food within the school. You are not allowed to buy food outside school. If you do, you will be punished."

- Physical Abuse

- The teacher in the English class uses a wooden stick to hit the students if they do not give reasons when they haven't submitted homework.

- If students are wearing sandals or flip flops, students are told to take them off and walk barefooted the whole day, and they have to go back home without having their shoes returned to them.

The verbal abuse discouraged Ma-prang from studying and also caused her to have a lack of attention in the classroom. There is no positive outcome towards children who are always under the stress-inducing environment. When students feel that they are under an insecure situation, the worrisome atmosphere gradually reduces their ability in acquiring knowledge and distracts their motivation to be an active student. All discriminatory incidents created a big gap between the educative missions of the school in fulfilling the development of Ma-prang's academic ability. In addition, the school's rules intentionally took advantage of students. The rule "Foam containers are prohibited" clearly illustrates that the school uses this policy to make a steady income from this policy by rationalizing a sanitary reason as its basis.

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Case Study 2: An example of Discrimination by administrative policy of the school system

1. Personal Profile

Name: Ma-praow **Age:** 15 years old **Sex:** Male

School Type: Public school **Grade:** 6

Ma-praow is originally from a slum in a town in one province of the Northeast. He has a feminine manner and behavior [gender non-conforming]. He likes to help others such as taking care of younger boys at Mercy Home 2. He came to HDF without official documents such as a family registration. HDF is taking care of this, and he is currently waiting to get a citizen ID. He has a dream to be a tourist guide because he is interested in English and wants to become better in English conversation. If he gets a job and has an income, he hopes to help his brothers and sister by sponsoring their school tuition fee.

2. Family Background

Ma-praow has two brothers and one sister. His older brother is a slow learner. Ma-praow has been staying at Mercy with his youngest brother and sister since he was in Grade 3. He was a child worker and didn't go to school when he was with his parents because of economic reason. He had to help his family take care of his siblings, and he did the housework while his parents went to work. His life increased in difficulty and suffering when his mother passed away five years ago because of alcoholism and two years later his father died because of an addiction to glue sniffing. Subsequently, they became abandoned children with insufficient income. Parentless, the children had to survive by themselves, because their relatives were too poor to support them. Even so, Ma-praow's relatives blamed him when his father died because Ma-praow did not take care of his father. This made Ma-proaw feel guilty. When his older brother was accused by the police of being a drug dealer because some amphetamine was hidden in their house, the police could not evict him from the house because he received help from the village headman. Right now, Ma-praow's house has become a co-operative store. His former sponsor, an international foundation, introduced him and his siblings to HDF for further support.

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3. Life in school

There are several examples that Ma-praow has to deal with administrative staff at his school that forces an unfair situation on him.

- Ma-praow is not allowed to join the same club twice even though he was a club member at one school and wanted to become a member of the same club at the new school.

- No children from Mercy Home 6 (HIV/AIDS children from HDF) study in Ma-praow's school. There are only non-HIV/AIDS children in this school such as Mercy Home 2 and 4.

- When Ma-praow's student ID was made, the teacher changed his birthday because she referred to an erroneous attendance checking document that had the wrong date of birth. Ma-praow tried to explain the situation to the teacher but she said "Hey you! Stop making a story." So, his birthday has been mistakenly recorded since then. When he was admitted, he had lost his housing certificate and Ma-praow could not get any evidence to support his argument.

- When he applied to the school, he had to use someone else's document. After Ma-praow got his own document he wanted to change it but the school would not allow it. The computer staff person responded, "I am too lazy to re-type your information." At time of writing, students' data are in the process of correction, but this has not yet been completed. The school staff said that the ID cards will be corrected very soon. Obviously, some staff persons are unwilling to help the HDF children with their documents and necessary informational needs.

- The school limits the scholarship funds available to HDF children arguing that HDF children are already sponsored by HDF. HDF sponsors some students for 1,000 baht an academic year per student at this school. Scholarships rotate only among non-HDF students each academic year. Thus, non-HDF and HDF children are not getting equal opportunity for scholarships.

- Verbal Abuse

  - The teachers divided the students in two groups such as good students and those who always make a mistake, the so-called "brats." Generally, HDF children are considered as 'brats' who act against the school's regulation. This factor relates to the level of punishment. Ma-praow said, "Students who quit school is a very

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usual situation in the school." When 'brats' make a mistake, they are called into the room of the headmaster's assistant in order to get their behavior corrected.

If a student needs their behavior corrected, there are three options applied to them:

1. Stay outside the classroom for the whole class session.
2. Get scores subtracted from the particular subject.
3. Fail the class.

- HDF children are particularly sworn at by teachers about their students' uniform at the morning assembly around the flag pole when the whole school is present.

- The teacher's own negative attitude to HDF children are passed on to the children. They swear at HDF children with very rude words "monitor lizard animals" which teachers rarely use with Non-HDF children.

- Physical Abuse

- As Ma-praow recalled, his former teachers have not changed the way they punish students. They are still using a stick. In the 2005 academic year, teachers stopped using a stick for a while. However, after two months they started to use it again.

- Ma-praow's classmates bully him some times because they know that Ma-praow is from HDF and does not have parents, and because Ma-praow has a feminine manner. For example, his classmates will take his school bag, hide his shoes, hit his head or insult him by making nasty faces and actions. About his friends who are bullying him Ma-praow stated "They are having mental problems."

- After swearing at students, teachers will follow up by beating these students later on. HDF children skip classes because they do not want to be subjected to this kind of treatment. When the HDF staff finds out about HDF children's behavior that is a problem, they are sent to another school in the area.

As a result, the schooling system not only did not support Ma-praow but also made him feel that he did not have a strong connection with his school nor did he feel entirely part of the education institution as seen in they way they handled documentation and other incidents with discriminatory club policies and teachers

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attitudes. The system is uneasy for him to deal with as he is stigmatized by being from HDF and having a gender non-conforming feminine manner reflected through his teachers and his classmates bullying actions toward him. According to Ma-praow story, he starts forming the negative attitude against unfair school system and negative reaction to his bullied classmates as a way to protect himself.

Case Study 3: An example of Physical Abuse in school

1. Personal Profile

Name: Mawin **Age:** 11 years old **Sex:** Male

School Type: Public school **Grade:** 6

Mawin is a typical young boy who is addicted to computer games. He grew up in an extended family in the Klong Toey slum, Bangkok. His money is for gaming. He is the only child of his mother. He suffered from domestic violence. He enjoys his life on a day-by-day basis.

2. Family Background

His grandmother is the major income earner for the family and she is taking care of Mawin. His mother was a heroin addict. In his family, there are 7-8 family members (grandmother, aunts, and uncles). There are two to three persons of his family members who are drug addicts. Mawin was physically assaulted by his relatives. He was also beaten by his uncle whenever his uncle was home. His uncle used a leather belt to beat his daughter as well as Mawin. Sometimes, his grandmother also beats him with a wooden stick. Currently, his mother works at Mercy and has lived with a foreign partner for five years. Mawin has been living at HDF since November 2003.

3. Life in school

His life in school is very challenging. In July 2005, Mawin was studying in Grade 6 at a public school in Klong Toey. He studied at another public school during Grades 1 to 4, but he did not like it. He ran away from that school when he was studying in Grade 4 at the end of first semester. He's been experiencing continual trauma. He did not attend class from the second semester onward. Despite this fact, his former school passed him upward to Grade 5. He only went to the former school when there was an examination. His neighbor studied at another public school in Klong

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Toey area and Mawin followed him to a computer game shop every morning and they had to take the same local bus, a "Song Taew"[22] every day. Mawin was able to save money for the games by taking this cheaper smaller bus instead of the larger bus.

- Physical Abuse

- He stated that he did not want to go to school because he was always beaten with a wooden stick by teachers for not finishing his homework. "Everyone who cannot complete their homework will be hit."

- Some teachers asked the students who never did the homework to choose the size of the wooden stick before they got beat five times.

- Although the school tried to change his class from one to another one, this did not work out with him.

- His teacher in Grade 3 was one of the cruelest. He did not use a stick, but he used hands and feet when he got angry. He hit students on the students' shoulders with his hand.

- Mawin told that "I was beaten with 1.5 meter wooden board stick. "Because, I was late going from one class to another." The teacher did not listen to his explanation. Teachers used the stick to hit at the students' buttocks or shoulders.

- Every teacher at his school had their own stick. Some teachers might have a short-thick stick, some might have a long-thin stick and others had various kinds. If students were absent more than 3 times, they failed in that class. If students argue or fight together, students' parents are told to come to the school for a report.

The result of physical abuse harmed Mawin psychologically. His negative feelings toward school was formed as a reaction to physical abuse as he stated "I didn't feel sad when I quit this school." In addition, physical abuse at school reemphasizes his pain that he has from domestic violence previously. In regard to violence in both places, Mawin took the same way of action between domestic violence and incidents in school by escaping from classes as he wanted to stay only a very short time at his home. The place outside the institution became the safest place for him by spending time with other things outside his home as well as outside his school. Children have a long-term memory in regard to their good and bad experiences

[22] Song Taew is a local bus with two rows of long seat on the right and left of small truck or medium truck. It runs a short distance and its fare is cheaper than a regular-sized bus.

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as Mawin mentioned his teacher in Grades 1 and 2 as a good teacher, the best one he ever had in school.

It's an interesting but very distressing fact that the school ignored an enrolled child who skipped classes for a semester without communicating with the student's guardian. When the school does not eliminate the problem by solving it or doing something to improve it that equates with making the school have a part in the problem by allowing the problem to continue. Undoubtedly, his grandmother was not aware of the fact that Mawin skipped classes and played computer games instead. The ignoring of this problem has a big impact to Mawin's life outside school also as when Mawin was in grade 3, he and his friend stole a toy car at one nearby department store. "I got a 500 baht toy from there. The security staff could not catch us." He did a wrong thing without realizing its consequence by doing this theft which gave him more money for computer games.

3.3.2 Private Schools

Case Study 4: An example of Verbal and Physical Abuse

1. Personal Profile

Name: Mai **Age:** 16 years old **Sex:** Female

School Type: Private school **Grade:** 8

Mai is from the animal slaughter house area in Klong Toey. Mai and her brother came to HDF because they were poor and abandoned. Mai seems to be a quiet person but opens up and becomes more talkative when she is interested in something. For instance, she is very concerned about how her face looks. She always puts a lot of powder on her face and pink lipstick whenever she goes out. She likes to read the beauty sections in the magazines as well as watching TV programs about facial or bodily beauty. Her hair is always neat and tied with a rubber band on top. Her future plan is to study at a vocational school after she completes Grade 9. Like many other Mercy children she has never before thought about her future life or career. Perhaps she will continue her study with business as her main subject.

2. Family Background

Mai's father was working for a slaughter house business at night and in order to keep himself awake to be able to work longer hours, he started to use drugs

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(amphetamine). Her mother was staying at home and had no outside job. The parents often fought at home. Her mother decided to use drugs to spite Mai's father. Therefore, her parents became drug addicts and drug dealers in the slaughter house area. She relied on her aunt after her parents were arrested, charged, and jailed for being drug dealers. Mai and her brother, a twelve-year old boy at Mercy Home 2, were brought to HDF by her close neighbor. They've have been living at HDF since the end of 1998. In July 2005, Mai's parents got out of prison and separated.

3. Life in school

Mai first described HDF children's school life in that HDF students usually have their own group, and they like to spend time together. Mai skipped some class because she felt uncomfortable and did not like to study in that subject. She skipped class by hiding in the library, behind the school's church, or the playground. She added that she never did that at the previous private school during the six years she was there.

She said, "Teachers like to report everything although it is a small mistake." For example, if students move their seat without informing the teacher, this teacher will tell students to write their mistake into the students' behavior report.

- Verbal Abuse

- Mai shared her experience, "For me, she gets angry at me because I am a HDF child, and she will bring up all the old stories if I had made a mistake and starts swearing at me." She told about an instance when was sitting in the back and the teacher did not see that Mai had sat down before the class started. Then, thinking she was not there, the teacher swore about her in the classroom telling about Mai's terrible life and that of her parents. Thus, her classmates came to know about Mai and she started to get strange mean looks from them.

- Sometimes, the teachers have no reason to scold the students. Teacher just started questioning Mai with provocative sentences like "Why do you look at my face? You want to quarrel with me?" This made her feel frustrated and anxious so she would they keep quiet instead of greeting the teachers warmly. Mai replied "No, mam. There is nothing wrong, mam."

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- Mai said when she was in Grade 7, teachers always swore at her and her HDF friends saying that they were like hookers. Teachers in Grade 8 also scolded them by saying that they were whores.

- One time Mai had a new haircut but the head of the department told her that it was an inappropriate hairstyle. Even though some of her classmates had cut their hair in a worst style than Mai, the teacher neither pointed them out nor complained.

- One teacher insulted Mai: “You do not have parents to teach you. So, you have to stay at HDF.” Mai just ignored this and kept quiet. The HDF staff has responsibility to handle insulting cases like this when they happen with HDF children. It’s up to the HDF staff to decide if they should go to that school to talk with the teacher. Mai was interviewed by the HDF staff. Mai said, “Most of the time, I just ignored it.”

- Physical Abuse

- If a small piece of garbage falls on the floor, the teacher will hit everyone in the class. In these kinds of situations, it is difficult for Mai and her friends to control their emotions and they start arguing with the teacher.

- The HDF children are facing teachers pinching the children or flicking children’s ears, forced squat jumps and non-HDF children face this last, too.

- If the students are not wearing their uniform properly, they will be punished. For example, the girls have to wear the traditional skirt (green or orange color) the whole day. If they wear the wrong style of skirt to school, and if students just put their feet partly inside shoes and the teachers can see some part of their feet, students are forced to walk barefooted. For the boys, if any of the shirt’s buttons are unbuttoned, they have to take off their shirts for the whole day. The boys seldom wear the shorts wrong, so there is not punishment for that. The threat is that the boys’ shorts would be taken off if it’s worn wrong, but so far there has not been any example of this. A wrong style of socks will be taken from students and teacher will donate them to other places. In rare cases, the teacher in Mai class will not give any warning but just write it up in the behavior report.

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- Teachers beat a student's buttocks to the extend where the bruises turned green. In addition, if a student left books in the desk and did not do homework, the whole class was beaten.
- If a student left books at school, the student is fined 5 baht per book. Mai was charged 45 baht for 9 books once. However, the teachers allow the students to pay little by little if they do not have enough money that day.
- Additionally, exceptions are made as Mai pointed out; "Some Mercy students are not sworn at by teachers because teachers might gain advantages from the students. For example, my HDF friend is buying food for the teachers and taking care of the teaching material from the faculty room."

In regard to Mai's experiences of the discrimination that takes place in school, this causes her isolation from the class and society to increase. Generally, Mai does not like to join any activities at school neither academic activities nor sport games because she wants to stay away from her teachers as much as she can. She feels uncomfortable whenever she has to encounter the teachers.

She gets no motivation to study from an unfriendly and discriminatory environment. For her homework, Mai admitted: "I always copy my friends' homework every morning." She has to submit the mathematics report every day as she usually fails math quiz in class. She added "I do not like it." Lucky for her, she has many close friends in her classroom as well as in other classrooms. She doubted that it is because of her failure in mathematics and her need for help from others that made her have many friends; she thought it was because of something else. The HDF all help each other.

It is evident that teachers are using academic reports in an inappropriate way. Although its purpose is to inform guardians about their children academic ability as well as behavior, its aim is not to threaten students by writing details of everything—even the most trivial.

Case Study 5: A Physical Abuse example

1. Personal Profile

Name: Kaew **Age:** 15 years old **Sex:** Female

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School Type: Private school **Grade:** 8

Kaew was a former street child because her father was in a prison due to selling drugs and her mother ran away from her family. Kaew's life has been full of risks and risky ventures starting when she was 9 years old. She searched for food for her siblings as well as for herself. She had to deal with strangers outside her home and learned to survive in the world without support from her family. Asking for leftover food and selling jasmine flower leis were ways for the survival of her life. When she joined a class for street children at the Train Park she met and knew one teacher who was a BMA (Bangkok Metropolitan Administration) teacher. This teacher brought Kaew to HDF for supportive care. Kaew has a plan to continue her studies in her hometown after she completes Grade 9. She has a dream of being a Thai language teacher.

2. Family Background

Kaew lived with her parents until she was nine years old. When her parents left and were gone, Kaew and her siblings had to take care of themselves. Although her father was released after serving two years in prison, he, not only did not take care of her, but also sold their house and told Kaew to find him food. When Kaew and her brothers got placed at HDF, only she was able to stay at HDF, because her brothers ran away. They did not want to stay there. Currently, Kaew's brothers, a thirteen-year old and an eleven-year old, live with their parents and an aunt, respectively. They are back living in their hometown. Her father works there with a cement company and her mother is living there, too.

3. Life in school

Mistakes have been made concerning the administrative work and, consequently, students' information is not kept up-to-date. The sloppy record-keeping system allows students to pass to the next level of education without verifying their record. For example, Kaew studied in Grade 1 when she was seven years old as is required for every child in Thailand. Despite the fact that she did not study in Grade 3, the school mistakenly did not take her name off the school's register. Thus, when she came to HDF, she started in Grade 3 at a public school in the Klong Toey area. From Grade 4 to Grade 6, she studied at a private school.

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- Verbal Abuse

- One physical education teacher called her Blackie [black outwardly and inwardly—the second meaning bad character] and told her to bring her father to school if Kaew had a problem with being called this.

- One male teacher used vulgar language and told inappropriate sexual stories to the students. He is about 30 plus years old and he said that the dirty stories are a way of reducing students' tension.

- When a teacher thought there was an HDF child who did not show proper respect, in the Thai manner, to the teacher because the teacher had not seen Kaew's friend while she did show respect to the teacher, the teacher said, "Let her be like that as she is a HDF child who does not have parents to train or to educate her."

- Not only teachers, but Kaew's classmates sometimes use verbal abuse against her by saying "Get away from here, you don't have any parents--no upbringing."

- Calling a student by the parents' names instead of the student's own name is another Thai-style way of hurling insults among the students. Kaew experienced this insult.

- Physical Abuse

- Kaew said, "The school is still using it, and it is a very common punishment for us." Using a stick is considered as if it is an ordinary method for school punishment.

- Another punishment method is, to tell students to stretch out their fingers and squeeze them together so the teacher can use the steel edge of a ruler or the wooden part of the blackboard eraser to smack them hard on their fingertips.

- One physical education teacher once punished a student until the student's leg was broken by having to do repetitive squat jumps.

- If students use bad words, their mouth will be covered with the paper on which the bad words are written. The paper is taped over the student's mouth for the whole day and they are only allowed to take it off while having lunch. After lunch, that student's mouth will be taped with a new piece of paper with the same words.

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- Students are hit with a stick by teachers in front of flagpole during the morning assembly.
- A teacher used 2 drumsticks to hit students. Sometimes, he hit them until the sticks broke according to his uncontrollable violent moods.

All the trouble and hardships of school experiences persuade children to have their own mechanisms to protect themselves. As they are acted on and punished unfairly and cruelly by some teachers they decide that they do not want this to happen to them similarly outside the classroom by their classmates. Thus, it is a consequence that HDF children like to stay together in a group and form the gang to empower their group outside classroom. Although they have friends from the neighborhood children, they still they like to hang out together. The HDF children don't like to play at school. They prefer to isolate themselves from non-HDF children. Some non-HDF friends like to be with HDF children because they believe they will be under the protection of the HDF children if there is fighting between HDF children and non-HDF children. The HDF children will be together and protect each other in fights with non-HDF children. So that whenever this happens at school, non-HDF children will say, "HDF children occupy the world."

Case Study 6: A Physical Abuse example

1. Personal Profile

Name: Meena **Age :** 13 years old **Sex:** Male

School Type: Private school **Grade:** 5

Previously, Meena was a street child at the central railroad station area because of a broken family. A mobile library was provided by the government in a container car that had books inside, and this was his first classroom. He started Grade 1 with HDF. He was in the first group that moved into the new HDF building when it was finished..

2. Family Background

Meena' parents are separated. His mother is a single mother who worked as a sex worker. His mother had taken him with her while she had a customer. His

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mother's partners were not friendly to Meena and some also beat his mother and fought with him. His mother died recently because of HIV/AIDS. Meena has one elder brother. His brother used to live at HDF and later he moved out and stayed with his grandmother.

3. Life in school

Meena's first experience with books was the container car full of books. He studied the books inside the trains with the railway station policeman. There were also computers he tried and books were free of charge for him. At first, he went to public school in Grade 1 for only one semester but HDF moved him from the public school to his present private school. He never attended any formal school until he came to HDF. After he moved to private school, he had to restart Grade 1 again. He has been studying at his present school since Grade 1. Now, he is in Grade 5 at this private school.

- Verbal Abuse

- Teachers were also verbally abusive toward him. Teachers swore at him with insulting language calling him "water buffalo--meaning dense, stupid."

- Physical Abuse

- The teachers at the public school did not give him food at all--for lunch or snacks--because he did not finish his homework.

- They beat him with a steel ruler and detained him in the classroom alone while his classmates went to lunch.

- Some teachers beat him with a steel ruler for as long as they wanted. "I was beat so often that the beatings I got from teachers were uncountable," he said.

- Right now the wooden stick is getting used more often than before. Previously, teachers used the steel ruler with a 1 meter long and 1.5 inches width; they hit students until the steel ruler bent.

- If they used a bamboo stick, he felt terrible pain on his buttocks. "I jumped higher and higher with each hit."

- Teachers involved his classmates in Meena's punishment, for example, his classmates counted aloud each strike of the stick as the teacher beat Meena. Sometimes, Meena's friends in the class tried to help by intentionally miscounting and the teacher went by that wrong lesser number.

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- If students fought together, the teacher also punished them by striking them with a stick.
- In one class, his teacher asked Meena to stand on the desk and beat him while he was standing on that.
- Meena said that “Usually, my friends were punished less than me.” Although he was the one bullied by classmates, the teachers punished him, too. “Mostly, teachers did not investigate but they would punish the one who teachers had seen fighting back at that time more than the other one who started it by bullying.”

For punishment, Meena felt that he dealt with all types of corporal punishment in school enduring heavy stress, “I meet everything at school.” In fact, the outcome of violation towards children never helps to make things better regardless of any circumstances. This is exemplified by the fact that Meena confirmed that he still continues to do things that teachers do not want him to do and the credit that Meena has to teachers also decrease as shown that he ignores teachers assignments, Meena does not get from the punishment what the teachers aim is, namely to get him to change his behavior. The opposite is the case. Sadly, Meena shows that he does not care about punishment and accepts the physical abuse that occur to him because he has learned to expect it and it has taught him to get used to it. With this kind of idea implanted in a child, there is a direct negative affect on Meena’s human development skills.

3.4 Conclusion

Underprivileged children deal with violations that begin at home (by relatives), community (by neighbors), and schools (by teachers and peers). Although HDF provides good care in meeting sustenance needs and protection to underprivileged children, HDF children are confronted with discrimination in other places. The incidents at schools described explicitly by the children shows that they are not able to be free of discrimination in their lives. Initially, the marginalized children were treated badly within their family. Currently, their suffering is extended to another part of the society, schools. Different groups of people within schools with dissimilar reasons treat them badly. The discrimination practices are the elements that schools use to treat

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underprivileged children unfairly. The discrimination that takes place at schools was discovered by all the case studies to be in various forms of discrimination practices such as verbal abuse, physical abuse, and through misapplied administrative policy. The children elaborated on all these kinds of discriminatory experiences they personally encountered. Sadly, a tragic state of unfairness constantly occurred throughout their life starting with the family and shifting to the educational institution. The promise and hope to develop and realize their skills is in direct proportion to the level of discrimination against them. In other words, the more discrimination practices that occurred, the less opportunity to develop the children's skills further.

As a result, the aspiration and actual achievement of compulsory education with quality becomes a big question for them while there are discrimination elements all along their way. The identification of the facts of discrimination against children rights will be explained in the next chapter. The true incidents related by the underprivileged children will be analyzed as to discrimination practices and explained as to their direct and indirect impact on the children.

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CHAPTER 4
ANALYSIS OF DISCRIMINATORY PRACTICES AGAINST RIGHT TO EDUCATION TOWARDS UNDERPRIVILEGED CHILDREN

The discriminatory practices against underprivileged children in schools are organized into three different parts. Their background with their family, the discrimination elements being practiced in school and the continuous incidents of discrimination outside classroom are illustrated in this chapter. It addresses how underprivileged children are treated with inequality in the education system because of unjustified discrimination against them in regard to six case studies of Mercy children. The analysis will also include some loopholes that open up possibilities to violate the right to education of underprivileged children.

4.1 Mercy Home Children's Background Experiencing Violation in Life

Though many rights of children are violated by adults who live with and around them, the incidents that occur early in life during childhood are easily ignored and not given much consideration. Recognition of this fact was found by an INGO during their research: "Because they are children, their complaints are often not taken seriously." (Human Rights Watch: 2006) Even child survivors frequently overlook the seriousness of incidents, because they are not aware their rights are being violated. At the same time, though there is no serious action taken to stop the violators, the number and level of violent acts gradually developed until they are visible by others. The INGO publication, *Easy Targets: Violence Against Children Worldwide* especially pointed out that "silence and inaction allow violence against children to continue." (Human Rights Watch: 2006) This is similarly true for Mercy children who have experienced violence which affects their developmental abilities regardless of their life circumstances.

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This starts with Mercy children's family situation as they experience various types of violations from the family. What was already shown in the cases studied in Chapter 3 tells us many things. When, from the beginning of their life, children grow up in an abusive environment directed at them by family members, all incidents of violence they experience affect the development of their mental and physical health. According to case studies reported in this thesis all of the interviewed children are from unstable family environments disrupted by circumstances which led to the children being abandoned. When abandoned, they suffered abuse, a lack of basic rights, and were mistreated as human beings. If they had to depend on their relatives, they were considered a burden to the family and society. The situation in the cases of Ma-prang and Ma-praow are almost the same in that their parents passed away and they become orphans; the difference was that their parents died from different causes. Ma-prang's mother died because of HIV/AIDS while Ma-praow's parents [both mother and father] died because of using drugs. Mai and Kaew became abandoned children because their parents were in prison because of drugs. Though Mawin's mother was never arrested, she is using drugs as well. When their parents are not able to take care of them, a child's life is easily directed toward a wrong turn if the choice presents itself in their surroundings. Children who are not provided basic needs and have no access to basic rights [right to food, right to housing, and including right to education] are particularly susceptible. Kaew's father, a drug addict, not only did not take care of his children, he took advantage of his children by telling them to seek food for themselves as well as for him, and Kaew and her siblings even had no place to live, because he sold their house.

HDF children's families were not able to provide basic needs including education because of economic and social reasons. In the meantime, the children were exploited by family members, and the children suffered a role reversal from family-dependent to self-dependent without parents or guardians support and care in an appropriate way. An unavoidable abusive environment at home suppressed the children's potential to grow up secure in a warm and friendly atmosphere. In the family, the adults' intense feeling and stress about an inadequate income expressed itself toward the vulnerable members, children, in the form of abuse. Many of the HDF children interviewees experienced physical and mental abuse by their relatives,

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neighbors, and the overall social environment. For instance, Mawin's uncle used his leather belt to beat him; likewise, Meena often experienced physically abusive beatings by his stepfather. In another instance, Ma-praow's neighbor was trying to take over Ma-praow's parents' house by hiding drugs in their house. Kaew was verbally abused by a motorcycle taxi driver while she was trying to survive on the little income earned from selling jasmine flower leis at night.

The home abuse had the affect of causing the children to be emotionally distant from their home and not to want to spend time at home. They chose to try to find enjoyment in life outside rather than living at home. Ma-prang stressed clearly that she does not have a home. Mawin spent most of his time with computer games at internet cafes. Kaew and Meena were street children before they came to HDF.

Each child experienced a crisis in the early stage of life. They learned to depend on themselves to fight with the abuse adult human beings directed towards them in and outside their home in contrast to the experience of average children. If compared with average children, underprivileged children have experience dealing with real barriers in life far in advance of other children. Their brain and mental processes can operate in a dynamic environment and survive the traps and challenges of their difficult world. They are special children in terms of what they had to endure in fighting against the many forms of violations that challenged their lives.

For right to education, the families of Mercy children could not provide for any quality of education as education was considered as a thing far beyond their life's reality. Most of Mercy children were unable to access the education system at the same time as other children of the same age. In domestic laws, Section 43 Thai Constitution requires all get an education of not less than twelve years free of charge and as reflected in Article 11 and 17 NEA requires parents or guardians of children aged seven to have an obligation to send their children to attend compulsory education until sixteen years old and to have completed grade nine as mentioned in Chapter 2 of thesis.

Even though some children were in schools before coming to HDF, the education quality was very low because of a lack of attention from parents and some teachers. Ma-praow and Meena were examples of underprivileged children who were left behind in education because of being child laborers. Ma-praow had to work

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outside the home with his parents at a rice field and help with family housework and look after his siblings. Meena had to accompany and wait for his mother at her workplace while she worked as a sex worker at night. For Mawin, he did just enter the education system but most of his days were spent with computer games and he did not attend classes. No one paid sufficient attention to ensure that he got a proper education until several months had passed. His grandmother who worked only came to know afterwards that he rarely went to school, and she did not get any feedback from the school. Thus, merely starting school cannot count as the way to encourage a child's ability for learning if schools don't pay sufficient and proper attention to retaining and meeting children's need for education.

All of the above incidents that occurred in childhood are considered as violations against children's rights. It was illustrated in chapter 2 that children have an inviolable right to basic rights that includes an education right from their guardians in regard to IHRL and domestic laws. Abused children, therefore, not only suffer physically and emotionally from their life backgrounds but they, also, are children who suffer from discriminatory experiences that abuse their rights. These two experiences of abuse compounds their tragedy as it can lead to a phenomenon of learned reactive behavior and embedded stigma that often cannot be deleted for the whole life of underprivileged children. The domestic violence they experience as children can promote negative social behavior when they become adults. When children are mistreated, especially by their adult family members, it has a severe impact in many dimensions. UNICEF Innocenti Research Centre did a research on Children and Violence which explained that violations from adults towards children can lead abused children to violate other children. This is reemphasized in the idea known as "the cycle of violence" as "There is no doubt that the direct experience of violence [or neglect] in childhood substantially increases the risk of subsequent violent behavior." (Children And Violence, UNICEF Innocenti Digest No.2, 1997:2, 15) In addition to that, the later report by UNICEF Innocenti Research Centre on Domestic Violence Against Women and Girls issue also pointed out the impact of violence on children:

> Children who have witnessed domestic violence or have themselves been abused, exhibit health and behavior problems, including problems with their weight, their eating and their sleep. They may have difficulty at school

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and find it hard to develop close and positive friendships. They may try to run away or even display suicidal tendencies.(Domestic Violence Against Women and Girls UNICEF Innocenti Digest No.6, 2000: 9)

The violations that occurred in Mercy children's home life are unjustified in regard to the Article 19 (1)[23] CRC for not only do children's parents or relatives have to protect children from all types of physical or mental violence but also the state has an obligation to ensure that all children are protected from violence. When it is evident that abuse has happened, this means the state has not fulfilled its obligation. Since abuse is so frequent among Mercy children's life at home there is even a greater chance that violations will continue to happen again and again to underprivileged children in Thailand. There needs to be developed a better approach and solution to protecting their rights and eliminating all forms of violations of children from the society in general.

When there is no positive affirming role model for children, it is extremely hard for them to have appropriate behavior. They can only accept that they must stay in the intensely negative and stressful environment and, therefore, not being able to find a way out of that stress gradually shapes low self-esteem in children.

4.2 The Discrimination Elements Being Practiced in Schools

The fact that all students at public and private schools are still facing various forms of punishment is illustrated in the following table with basic information about punishment and incidents that happened in schools that violated children's rights.

No.	Description
1.	Not allowed to take exam if students do not pay tuition fee.
2.	HIV/AIDS children are denied opportunity to study in some schools.
3.	Need to show certain official documents (Household Registration, Birth Certificate) before being admitted to schools.
4.	Physical Abuse: When students are not finished or done with their homework, they are beaten on their hands or buttocks with a wooden stick by teachers.

[23] Article 19 (1) CRC reads "States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

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No.	Description
5.	Group punishment is applied when teachers cannot identify a person who did something, for example, trash falling on the floor or changing a seat without informing the teacher.
6.	Verbal Abuse: Using low class words showing lack of respect for students, for example, changing pronouns used for different students: teachers use "Mun (it)" or put "Ee (slave)" before calling students' name and refer to themselves as "Chan (me)" instead of "Khru (teacher)."
7.	Posting students' photos on board when students break school rules.
8.	Students have to pay fine when they left their books at school.
9.	Threatening students by deducting from their grade if students are not well-behaved or misbehavior written in their grade report for parents or guardians to see.
10.	No participation in decision making that affects their life. For example, if transferred to another school, school does not allow student to join the same academic club twice.
11.	When wearing incorrect part of the student uniform (shirt, skirt, short, shoes, socks), students are asked to change their clothes, and take off their shoes, and socks, for example, if it is the skirt, girls must wear a colorful skirt to identify them. (not the correct skirt uniform).

Source: 10-20 Mercy children from informal conversation during field research.

Children have been experiencing all forms of punishment from teachers, staff or peers as told in the Case Study section, Chapter 3. The general punishment to non-CWH children was signified from conversation with them as in the above conclusion table. Factors like how upset the teachers were, type of students' behavior, number of mistakes, places of punishment, available equipment, and surrounding environment affect the form and severity of punishment. "Punishment on students is very common and we (my friends and I) have been facing it since our parents put us in school."[24] None of children answered "No" to the question "Have you been punished by

[24] On October 23, 2005, a conversation with a group of 7 children who are studying in secondary school in private and public schools. They are not considered as CWH' children or underprivileged children.

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teachers?" They all answered "Yes." It seems very simple and easy to answer quickly to that question, but it means a lot in the sense of children's rights that children are dealing with punishments that often include physical and mental abuse. In 2006, UNICEF-Child Protection Information Sheet on Violence against Children realized that schools are one of the places that violence can occur. The impact of the violation can affect negatively the whole life of children as the following states,

> "Violence can have severe implications for children's development. It can also affect children's health, their ability to learn or even their willingness to go to school at all. It can lead children to run away from home, exposing them to further risks. Violence also destroys children's self-confidence and can undermine their ability to be good parents in the future" (UNICEF – Child Protection – Violence, UNICEF 2006).

Therefore, the negative impact of violence on children is comprehensive. Mercy children, on an individual basis, expressed explicit facts about the violence that had happened to them at schools from teachers, peers, and the education system in general. Although NEA has determined Educational Administration and Management for all education institutes as the schools educational framework, public schools follow the certain requirements and private education institutes and related organizations have been given somehow authority to independently manage their own teaching, learning styles, and academic activities suitable to learners in regard to the requirements in Section 43 – 46, Chapter V of NEA. Whereas, the public educational administration and management is directly organized by the ministry of education in accordance with Section 31 – 40, Chapter V NEA, every school has the framework to follow. At the same time, the public and private schools are taking an opportunity to collect some extra money from students in order to run schools business in the long term. In practice, it is understandable that there are other extra costs on top of tuition fees that the government budget has not totally covered, for example, students' meals, transportation, additional learning and teaching materials, facility expenses, and cleaning expenses. Instead of calling it "tuition fee" as it is really used for, various schools name all above expenses in different terms in order to protect themselves that they are follow the rules and ideally there is no tuition fee are kept in their schools. Some examples of terms that schools use for tuition fee are activity fee, school fee, learning materials, technology fee, seminar fee, and travel insurance. (Please see

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Appendix B: Example expenses letters from three schools) The violation against right to education of children is extended in that compulsory education is not free as it is required by domestic laws, Section 10 NEA, as well as IHRL, Article 13, 14 ICESCR and Article 28, 29 CRC. By calling different terms of tuition, it does not mean schools obey domestic laws. When compulsory education is not free, it reflect that the Thai government has not successfully complied with IHRL and domestic laws obligations. Yet, the elaborated obligations of ratified state parties by COESCR in General Comment 11 for Article 14 ICESCR that deals with Plan of Action for primary education is to secure everyone to receive free education within two years after adoption of the plan that applies to Thailand since 1999. (Please see more detail in Chapter 2)

The situation of underprivileged children from field research can underline the differentiation of punishment between Mercy children and non-CWH children, the differentiation in terms of physical abuse include degree of punishment, equipment-used for punishing them, parts of children's body that were beaten, and verbal abuse in type of words, enunciation level and degree of emotion that are being used towards Mercy children. All of the significant discrimination elements can be seen as listed by the following.

At the administrative level, administrative staff at schools practices discrimination against underprivileged children by not giving equal opportunity and support to Mercy children. Ma-praow asked the staff to update his personal information, but they refused to make the corrections. Schools do not allow Mercy children to apply for certain scholarships because they said Mercy children are already sponsored by HDF. Non-CWH children will not face the documentary problems because their family takes care of their documents and manages them in case they are lost. The above explicit discriminatory practices against underprivileged children are seen when Mercy children have to deal with administrative staff. This inequality of treatment goes against the principle as stated in Non-Discrimination concept, chapter 1 that proper treatment or care has to be done on an individual basis in order to reach the goal of equal opportunity. (More detail in Non-Discrimination Concept in Chapter 1) These experiences of the Mercy children are evident examples of an inequality in treatment that exists to underprivileged children in their right to education. The school

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staff should facilitate students on a case by case basis particularly children in difficulties like Mercy children. In Chapter V NEA, the educational administrative and management in public schools is monitored by ministry of education but not in the case of private schools in that they have freedom to manage their education as well as educational personnel. Even though their implementation is under supervision by ministry of education, there is more chance that schools will not get the right person into the right job as shown in the case of Ma-praow. If there is an independent recruitment process, schools are able to increase the recruitment procedure to guarantee the quality of educational persons who have a service-minded approach to work with students. Otherwise, non-service-minded persons can cause the lack of success within the entire education system.

Another incident showing failure of ensuring the education standard of quality is in the case of Mawin who was promoted to the next education level while he did not attend classes for a whole semester and just came for exam. How and why did the school let it happen without ever reporting his absence to his family or guardians? At Kaew's school her name was mistakenly placed in the school's register and the school did not report correctly on which students were in or out of education system. Ignoring students such as in these incidents did not help students to meet their education goals, rather, on the contrary, this practice does not support children to fulfill their human development and implies that the administrative staff and teachers intentionally abandoned their students who were in crisis and needed urgent help from them because they allowed such absences to continue over a long time. These incidents can also be interpreted in that these schools teachers may have had the aim of getting rid of this kind of student from the school as soon as possible by passing them to the next grade and often to another higher level school. Then, the schools will be free from the responsibility of taking care of underprivileged children. The implication of these consequences reflects a lack of attention of schools and teachers towards underprivileged children indicating the failure to ensure a quality of education in its applied standards. It is hard to imagine the level of quality of education for underprivileged children for maximum benefit as explicitly stated in Article 22 Child Protection Act that all actions for children have to based on maximum children's benefits and discrimination is unjustified. Although there is Chapter 7 with Article 47

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– 51 NEA mainly addresses educational standards and quality assurance with the intent of ensuring education quality, education assessment process, and determined responsible organization, an Office of National Education Standards and Quality Assessment requires all education institutes to meet the required quality which is guided by them. The main aim of NEA is not only that education is provided but also education institutes commit to have certain level of education quality. Schools have to give a proper education to their students with the highest quality that schools and teachers are able to provide to all students instead of giving a low quality education to neglected students and ignoring problems that occur. While the school had an obligation to communicate with a student's family, they did not accomplish their task completely. As Katarina Tomasevski explained the importance of the quality of education in that:

> "Acceptable standards of education are essential for achieving the equality of access and elimination of discrimination in schools, as well as for establishing an environment within which every child can be offered the chance to develop to his or her own full potential"(Tomasevski, K., 2004: V).

As cited in Chapter 2 right to education, Article 13 ICESCR means giving the right to education for all with the aim of education stating clearly that it is for basic human development. Though Thailand has not got specific comments from COESCR because it has not yet submitted the report, the general comment by COESCR applies to Thailand as well as other ratified State parties. According to Chapter 2, COESCR expresses their concerns thru the General Comment No. 13 on Article 13 ICESCR are about education quality, equality of opportunity and discriminatory practices effecting children's rights in their right to education. COESCR suggests that human dignity and to be able to participate in the society should be taken into account in education in order to fully develop the human personality. COESCR requests that State parties be successful in education plans; otherwise it is mere chance that their concerns are continuously addressed and children's education is moved forward.

For Mercy children's situation in classroom, the types and forms of discriminatory practices as discovered by them is that teachers identify Mercy children in class, for example the teacher told about Mai's background to her classmates which

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is a violation of Mai's right to privacy in regard to Article 17[25] ICCPR and Article 16[26] CRC guarantee that the individual' rights are protected from interference. That means children have a right to respect for their privacy and others have no right to discover children personal information if there is no consent from them. Some teachers obviously mentally categorize students into groups. One teacher divided good students and bad students. As education functions mentioned in Chapter 2, distinguishing students is a prohibited action as COESCR elaborates it in Article 29(1) CRC thru General Comment No. 1 about aims of education that to promote all human rights and be understood indivisibly. (Please see CRC/GC/2001/1, para 4) Serious physical abuse took place during lessons that was shown by the equipment used. Besides wooden canes, Mercy children were beaten with a steel ruler, a blackboard eraser, a drumstick, and some teachers used their hands to slap, pinch, and punch and even their feet to kick the children. The corporal punishment happened on different parts of Mercy children's body such as ears, fingertips, shoulders, and mouth as explained in detail in Chapter 3. The injury and pain from physical punishment are shown in the variety of welts and bruises children have in regard to the equipment used. Besides the equipment, the intensity and number of punishments and beatings require different amounts of time for recovering from the abuse and pain afflicted on their bodies. Students have to take sick leave from schools for medical care. To what right can this group of teachers refer in order to prove that the punishment towards students, particularly, corporal punishment on a discriminatory basis against underprivileged children is justified? These incidents of punishments in schools by teachers against underprivileged children are no different than crimes against others human beings as these child victims are also human beings. What is the difference between being children and adults?

Hitting people is wrong - and children are people too. Corporal punishment of children breaches their fundamental rights to respect for their human dignity and physical integrity. Its legality breaches their right to equal protection under the law. Urgent action is needed in every region of the world to respect fully the rights of all

[25] Article 17 ICCPR states: "1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks."

[26] Article 16 CRC reads "1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. 2. The child has the right to the protection of the law against such interference or attacks."

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children – the smallest and most fragile of people (Global Initiative to End All Corporal Punishment of Children, 2005: 3).

Not surprisingly, corporal punishment is justified through conservative Thais' opinion who agrees with inflicting corporal punishment as stated in Thai culture's traditional teaching style, as illustrated by the old Thai proverb, "*Love your cows, one has to tighten the ropes around them, and love your children, one has to beat them.*" Whereas in the present, "methods of teaching that use the threat of physical punishment as a motivation to conform have been found incompatible with the core objectives and purposes of education" (Tomasevski K., 2004: 38). Thus, Thailand is a country among at least 107 countries that have national laws that prohibits corporal punishment in school while corporal punishment is lawful in at least 81 countries (Global summary of the legal status of corporal punishment of children, Global Initiative to End All Corporal Punishment of Children, 2006).

In addition, serious verbal abuse is used by teachers in class. Calling Kaew "Blackie" as a dark-skinned person or a black person inside and outside instead of using her name, pouring unfriendly questions on Mai in classroom, the negative tones and declarations that discriminate against Mercy children's social status was illustrated in the cases of Ma-prang, Kaew, and Mai as they are children from CWH without adults to support and guide them properly which often cause them to misbehave--not knowing any better. Many rude words that teachers, of course, used with them for examples Mai's teacher swore at her as *a whore*, *lizard animals* was used in Ma-praow's class towards Mercy children, Meena's teacher swore at him *water buffalo* (meaning very dense and stupid). Telling children explicit sexual stories in class is totally wrong even outside schools. When a group of teachers have such behavior in classroom, it creates a negative atmosphere as well as a distraction to all students from studying. Students do not really acquire knowledge in regard to IHRL and domestic laws on the goal of learning with happiness. In other words, children are unable to study and develop all dimensions of intellectual, emotional, and ethical development with respect to children's rights.

All threats from teachers cause a stressful pressure on students learning while experiencing fear which impacts their ability to learn to develop themselves diminishing their power of concentration on classroom lessons even to meet an

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average education quality. In 2000, Thailand is one of the countries that has committed to the achievement of EFA at World Education Forum in Dakar in Senegal. How can Thailand achieve the education's goals of twelve years compulsory education with quality by 2015? Learning and teaching style are required to motivate learners to have creative ideas in a positive way and persuade them to study with respect to their own human dignity. In Chapter I Section 7 the NEA requires what education has to do on the issues of respect for rights and freedom, for equality and human dignity. Absolutely, implementing education's right for all is the same as other human rights that are based on the human rights principle of human dignity and non-discrimination principle. In contrast, the negative actions towards underprivileged children by some teachers--physical and mental abuse--are against the law. It is also evident that if the relationship breaks down between teachers and underprivileged children because teachers create an atmosphere of unfriendliness and stress, then students lose self-confidence and are unwilling to come to class. Therefore, children cannot get their right to education even though compulsory education is required by the State.

In Chapter 2 of this thesis, Article 13 ICESCR, COESCR enunciated the aim of education in the general comment 13 that education for all has to be worked on a human rights basis. The principle of equal opportunity and providing children's development with human dignity are recognized in Article 28(1) and 29 CRC. (Please see detail in Chapter 2) Within Thai laws, children are protected from all forms of violation, unfair treatment in accordance with Section 80 Thai Constitution. Especially, underprivileged children are provided extra care by the State for their good quality of life and help for them to be able to rely on themselves. It is mentioned under the same Section as well as Section 53 Thai Constitution in that underprivileged children have the chance to grow up in the society with access to basic rights as the right to education even though they have no parents or guardians.

Thus, how underprivileged children can access right to education further depends upon how far Thailand can go in eradicating discrimination in schools. Likewise, Mercy children as children from poor families or slums must be emphasized because in a context of Thailand underprivileged children are excluded from education which coincides with what the former UN special reporter Tomasevski stated, "Most

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of the children who had no access to schooling were living in remote rural areas, children of poor families, children living in slums" (Tomasevski, K., 2004:24).

Corporal punishment and verbal abuse blocks children's development that is considered as a violation of children's rights because children cannot reach the goals as stated in right to education Article 13, 14 ICESCR, Article 28, 29 CRC, and domestic laws (Please see more detail in Chapter 2) that Thailand commits to the international community. Furthermore, the State also has not accomplished the mandate of Article 19 CRC to protect children from all forms of physical and mental violence. The impact of discriminatory actions against the children produces effects that exist in the long term for the entire children's life.

Once children lack education, as explained in right to education concept in previous chapter, they are easily exploited by others. There is also more chance that other rights of children will continuously be violated in different forms because they do not know how to protect their own rights. In addition, when deprived of education it is difficult for them to contribute to society, and they may become a social problem or a government burden.

4.3 The Incidents of Violations Against Right to Education Towards Mercy Children Outside Classroom

In fact, identifying Mercy children as underprivileged children from a child welfare home opens the door for continuous violations because instead of having understanding or affection from teachers and classmates the opposite was demonstrated outside the classroom. For instance, when Ma-prang and Mai's teachers threatened them with probing, strange questions, they got a strange look from classmates, and they felt uncomfortable when they had to face their teachers and answer. Also, though students had the same hair style, teachers used a double standard judging between non-CWH and CWH children by only pointing out a CWH child and complaining about her hair style. These were really humiliating and stressful instances in their lives. Think about it. How one can stay in a place and make progress in life if there is always someone watching you with a negative view? This is not an easy environment even for adults in figuring out how they can live life smoothly in such a situation. CWH children already had to struggle and suffer in their lives from a

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dysfunctional background which made it even worse for them when it happened within the education institute. Kaew's teachers were taking her for granted as they were constantly using HDF children as servants (fetching and retrieving things for teachers and doing other jobs that teachers assigned for her to do) for the teachers' benefits. Additionally, Mercy children's peers at school bully them, i.e., Ma-praow was bullied by his classmates; Kaew's friends insulted her by calling her Blackie in the same way as her teacher did. Mercy children' peers used verbal abuse toward them and some of them did not want to be friends with CWH children. Kaew's friends scolded her and told her to get out, because she does not have parents even calling her parents' name instead of Kaew's name. Verbal abuse among peers and Mercy children often took place outside classrooms. Although some peers seemed to think that there is a certain pride in being CWH children because Mercy children always protected other Mercy children when fighting happened, it was also misunderstood that Mercy children are a gang and the cause of trouble and then they are easily targeted for rights violations in schools. The more discriminatory practices, the bigger gap occurs between Mercy children and society.

Consequently, Mercy children reflected extreme reactions to education in various forms in that they skipped classes, chatted online with some boys, hid out as truants in other places or reflected negative responses to education (lack of respect to malfunctioning teachers or education system). There was no positive connection between Mercy children and schools. The children developed negative behavior, were open to opportunities to be exploited (Ma-prang met her online boyfriend in person), dropped out from schools, could not form creative ideas, lacked problem solving skills, became isolated from society, and lost their academic interests.

All the above reported instances identify that Mercy children are being discriminated against in their right to education. Though the corporal punishment and mental abuse in schools seem to happen to all children both non CWH and CWH, the Mercy children are having higher degree of punishment because of discrimination against them. The study shows that children are punished individually in various forms and at different levels of severity. Thus, the frequency and intensity of punishment on Mercy children helps identify the scale of discriminatory behavior towards Mercy children. The significant result is that Mercy children reflect the fact that they suffer

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discrimination that is more than double as compared to their classmates. Definitely, they were not expecting that teachers and peers would act like that to them--abusing them physically and mentally in violation of their human rights. Nobody wants to stay in abusive and unsecured places if they have choices.

4.4 Conclusion

In analyzing the findings, it can be concluded that there are number of laws and regulations that are available to protect underprivileged children's rights. IHRL and domestic laws require eliminating discrimination practices in the society but these are not working effectively as illustrated by the detailed case studies. Discrimination practices still exist towards underprivileged children in schools. Examples of causes are 1.) They are children from a broken family or suffer from domestic violence from an early age. 2) Besides domestic violence, they are also violated by society and schools repeatedly, 3) They are used to the violence that happens in their life and consider it as a normal incident that is allowed to continue and be accepted into their life, and 4) Violence is continually reemphasized with violence directed toward them by people around them (relatives, peers, teachers, neighbors)

Thus, this violence directed at them is reflected as an aggressive form in their own behavior and they react negatively with the result that negativity leads to a negative outcome. The abuse never helps children to improve their behavior fruitfully. All of these forms of violation cause them to respond with similar aggressive behavior, to suffer low self-esteem, and a lack of attention to develop their abilities in life positively. Because they are ignored and abandoned by the system in the society they are left with the only action available to them, namely to fight for and protect themselves.

Furthermore, there are loopholes in laws that allow schools to violate underprivileged children's right to education that may or may not occur intentionally when the laws grant authority to the administrative office of a school to apply their school regulations when it is appropriate, as expressed in Chapter 2 that a punishment is allowed "in accordance with regulation." Unfortunately, physical and other kinds of demeaning punishment is justified under this provision. Likewise, the tuition fee is applied in a similar way in schools. For instance, in the case of private schools they

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have freedom to organize their business needs in regard to Section 43 NEA as cited in Chapter 2, namely, that they have choices to either follow the same rule of the state or have their own rules to avoid the responsibilities of the state. Thus, schools have ways to create rules and regulations that appear not to contradict the existing state educational institution rules, but as mentioned previously in this chapter they can collect tuition fees by simply calling the fees by a different term.

Referring back to the history, Thai education began with discrimination from its beginning. Because the palace became the place for educational opportunity in all particular skills, it was mainly open only to a small group of people that served the royal family. In addition, in Thai history, education, besides being formed within the palace was also present within the Buddhist temple. These two places demonstrate the coordination among the two elites, royal and religious, and their bureaucrats as the first steps in forming an education system. Knowledge was transferred from palace to temple in order to educate people in the desired direction. It would seem extremely difficult at the beginning to specify a concept of education for everyone, but the beginning system worked quite well and suited that historical situation. The palace was the place for most of the available knowledge existing during each period. It was the well-recognized place for collecting all skills together. The best teachers, artists, and chefs were found inside the palace. At that time, it was common practice that people who were interested in learning any skills would volunteer to work for the royal family expressing their loyalty to the country's rulers and also acquiring skills. However, this was limited only to the families of the elites who were already connected to and working in the palace for royal family members. Down through time, this practice became an accepted ideal. Today it continues to be evident in that well-connected, rich children study in certain government schools and poor students study in different schools. This way to distinguish schools is against human rights principles and is considered discrimination. As reported by the underprivileged children in the case studies, most of their classmates are from nearby communities and their parents are laborers.

In addition, there are two phenomena concerning the violation of human rights in right to education in regard to ICESCR and CRC. On one hand, all children in education system are confronting violations in human rights in forms of physical

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abuse, mental abuse, and threats on them. All harassment cannot be allowed to be inflicted on any person especially children who are protected under the IHRL and Thai laws. On the other hand, underprivileged children have a higher degree of punishment because of discrimination against them. It is clearly evident there is inequality of treatment and opportunity on a discrimination basis between non-underprivileged children and underprivileged children as highlighted in six case studies. There is discrimination against underprivileged children that is severe and cruel in terms of form and characteristics of punishment, type of equipment-used for punishment, and demeaning style of swore words. Mercy children bodies were physically beaten and injured. Administrative neglect added to the punishment by not even taking responsibility for facilitating underprivileged children's school documents. Underprivileged children rights have been violated since they were in their family and their suffering from violation of their rights was reinforced again in their schools and society when they experienced discrimination in the education system. In the focus on their right to education, from findings in this study, they do not have equal rights as other children in order to get equal opportunity in their education right.

Thus, the discrimination against Mercy children' right to education is considered as a violation of child rights and impacts other human rights. This has been pointed out in chapter 2 regarding all education articles and relevant laws. Thailand has not fully complied with Article 13, 14 ICESCR, and Article 28 and 29 CRC yet and is far from accomplishing in domestic laws as well.

However, as mentioned several times, this thesis is pointing out the dark side of underprivileged children's life in schools and the discriminatory practices towards them and how it applies on an individual case basis. The researcher strongly believes that there must be good teachers more than bad teachers in the Thai education system otherwise Thai education would not have constantly existed for centuries. Moreover, some other societal sectors such as religious institutes and business sectors were very helpful to children with difficulties such as the following examples: Buddhist monks at the temple and a seller at the traditional market gave food to Kaew and her family. An INGO sponsored Ma-praow and his siblings' education. A government welfare home gave a place to stay for Meena and provided BMA teachers to open up an opportunity for outreach to children like Meena and Kaew outside the school system. Finally, the

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sad question occurs: Who knows what would have happened to this group of children if they were not supported by HDF?

Nevertheless, our society can enhance opportunity for underprivileged children in right to education by creating understanding about the nurturing needs of underprivileged children and their difficulties in reality. The consciousness of their right to education has to be realized for them more in terms of education policies, rules, and regulations and taken seriously by being put into actions. The effective educational choices for them and awareness of eradicating discriminatory attitudes and actions will be able to lift their life for a brighter future.

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CHAPTER 5
EDUCATION REFORM IN THAILAND: AN EFFECTIVE TOOL TO ELIMINATE DISCRIMINATION IN THE RIGHT TO EDUCATION OF UNDERPRIVILEGED CHILDREN?

At present, Thailand is still implementing the National Education Act B.E. 2542 (1999) and Amendments (Second National Education Act B.E. 2545 (2002)) (NEA). Section 22[27] in NEA addresses learning reform as a kernel of the whole of education interests. Education reform is important and an essential action for the core expectation that underprivileged children will be brought out from under discriminatory practices in schools. A follow-up report assessment of the progress of education reform for the year 2005 is reflected in its Executive Summary by Office of the Education Council. The report evaluated three major reforms of learning, educational personnel reform, education standards and quality assurance based on the NEA. All evaluation points are significant keys in Thai education reform as follows: (Office of the Education Council, 2006).

1) Learning Reform involves curriculum, learning and teaching methods, admission and students' assessment process, and using technology for learning.

2) Educational Personnel Reform involves teachers, education administrative officers, and staff in related education fields including teacher production and teachers' institutions.

3) Education standards and quality assurance are another concern. Education standards, and the internal and external assurance are taken into account for all education level/institutes.

[27] Section 22 NEA reads: "Education shall be based on the principle that all learners are capable of learning and self-development, and are regarded as being most important. The teaching-learning process shall aim at enabling the learners to develop themselves at their own pace and to the best of their potentiality."

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There is no fixed formula for successful education reform or for the suitable methodology and strategy that are required to develop education, step-by-step, for underprivileged children. The reason for using these three aspects in this study is because these aspects cover important educational components such as its structure, resources, human resources, and measurement of its standards and quality which are at the heart of an educational system.

Key Elements of Education Reform to Overcome Problems of the Right to Education Towards Underprivileged Children

According to Chapter 4, Mercy children's life in schools showed evidential proof that they are discriminated against by teachers, staff, and peers in the education system as found by the research cited in the 6 cases studies. The discriminatory findings illustrate that underprivileged children:

a) Do not receive appropriate and obligatory assistance from the administrative staff (example: not correcting Ma-praow's personal information),
b) Do not have full access to education based on children's interests, (example: not allowing Ma-praow to enroll in the same club twice),
c) Do not have equality of opportunity (example: not allowing access to scholarships),
d) Do not enjoy their right to privacy (example: teachers identifying children social status and pointing out publicly to the class that Ma-prang, Ma-praow, and Mai are from HDF),
e) Are singled out for corporal punishments (example: teachers beating them with various implements and physical harassment of a high degree),
f) Are singled out for verbal abuse (example: teachers direct base words and threats at them more than with non-HDF students.)
g) Are singled out for bullying by classmates (example: bullying occurs inside and outside the classroom without intervention by teachers or staff).

In addition, for the broad view, all underprivileged children are mainly unable to get a free education as promised by law; and when they are in the education system

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they suffer physical and mental abuse without regard or respect for children's rights and dignity.

It would be possible for all existing violations and discriminatory practices towards underprivileged children to be thoroughly eradicated from the Thai educational system only if the associated persons and organizations end the discriminatory practices. To do this they need to make corrections or adjust available mechanisms to the awareness of some evident loopholes in education reform elements and weak points during implementation as applied to underprivileged children.

Because education reform consists of many extensive components such as mentioned earlier in this chapter, the following contextual analysis will discuss some major questions that relate to education reform from the perspective of underprivileged children.

5.1 Does a Child-centered Goal in Learning-Teaching Reform Ensure Underprivileged Children Their Right to Education?

To give a positive answer, there has to be flexibility and a realistic understanding about the needs and situations of underprivileged children. Child-centered learning allows children to study classes or activities in which they are particularly interested. Although every school has to follow the Basic Education Curriculum, this does not help underprivileged children to fulfill their maximum academic ability and all development dimensions.

In November 2001, the government released the Basic Education Curriculum 2001[28] as a core curriculum required for use as a curriculum framework for public and private education institutions. Effective in 2003, the core curriculum and local curriculum ratio is 70:30, respectively, to determine academic curriculum, attendance, student' assessment procedures for all types of education--formal, informal, and non-formal education. Also, this curriculum emphasizes eight[29] subjects. Basic Education is

[28] Basic Education Curriculum 2001 is determined by the Basic Education commission. Main aim is to fully develop Thais in terms of intellect, happiness, Thai culture, and capacity to continue further education or work (Administrative Training Set: Summarize Main Ideas , ONESQA, 2002: 12).

[29] 1) Thai, 2) Mathematics, 3) Science, 4) Social Studies, Religion and Culture, 5) Health and Physical Education, 6) Art, 7) Skills Training and Technology, and 8) Foreign Languages.

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divided into four[30] categories with required learning attendance hours. Basic Education Commission (hereinafter BEC) organizes education hours for learners as Education Range 1 and 2 requiring 800 – 1,000 hours/year or 4 – 5 hours/day, Range 3 is 1,000 – 1,200 hours/year or 5 – 6 hours/day, and not less than 1,200 hours/year or more than 6 hours/day for Range 4. For each class the required student attendance is 80%. (ONESQA, 2002:15) This required curriculum does expect schools to design their own way of teaching-learning methods that match with learners and community needs. Indeed, the required subjects and attendance are not flexible enough for underprivileged children. It is a great challenge for underprivileged children who have never been in school before to be able to adapt themselves to accept the education system into their life in a systematic way. When the semester starts there is no chance for them to get extra time to familiarize themselves with the system. It is extremely hard to adjust their life style in the sense from a free-floating structure to a rule and time-based one. This is due to the given fact that Mercy children are children who either did not have the chance to be part of the formal education system at all or had access to education late compared to other children. There are differences that underprivileged children have, in terms of intellectual ability, level of attention, and behavior, holding different opinions, developmental personality and interests, from the majority of the children in their classroom who are mostly younger than them.

The curriculum and learning teaching style are designed for the majority of children who do not have intensely stressful backgrounds. This is a key factor. Schools have to mainstream Mercy children while at the same time make sure underprivileged children's right to education is protected and enhanced by providing the appropriate choice that suits underprivileged children's situation. At least having time and opportunity for them, would enable them to adjust themselves if schools are willing to help mainstream these children into the system. This could be achieved by having flexibility in rules for setting learning hours, providing curriculum, and offering academic activities.

[30] Education Range 1: Grade 1 -3, Range 2: Grade 4 – 6, Range 3: Grade 7 – 9, and Range 4: Grade 10 – 12.

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As illustrated in the case of Ma-praow, the school rules do not allow students to attend the same extra-curricular club twice. This rule might be beneficial for non-CWH children who are young to explore other activities for their development rather than having the same activity only. However, Ma-praow is an older student by three-four years compared to his peers in the same class. He knows himself and what he really wants to study and is interested in learning. The school should allow him to join the same club twice in order to response to learning reform goal of learners-centered approach. "Student-centered education can best be promoted through an open educational system which provides maximum freedom, the widest possible choice of subjects and the greatest possible diversity of educational content" (The Nation, 1999). Although required by Thai laws, the Thai government and all related persons in education system lack awareness of the real obstacles confronted by underprivileged children. If underprivileged children have freedom to choose and are encouraged to acquire knowledge based on their interests, underprivileged children's ability and behavior have more chance to develop as other children even though they are older.

The suffering background of underprivileged children did not prepare them well for education in terms of attention and motivation to acquire skills in schools. It is understandable that the schools' curriculum is designed for the majority based on children's age at each education level. And also, students need to have the required background before students can go to the next step of learning from one to another level. The assistance to help underprivileged children for all prerequisite courses is a vital step for schools to help them. Therefore, the curriculum is for non-CWH children and is not designed for mainstreaming underprivileged children. Even though there is information about underprivileged children, it is only basic information, and lacks how government and other organizations can provide them with sufficient needs.

The Office of the Education Council pointed that the management and administrative work to assist underprivileged children for their education does not have enough variety. And there is no systematic and complete information on education of underprivileged children provided within the education system. When the information of underprivileged children shows no consistency of data and there is no accurate statistics, there can be no wide use of that information among organizations (Office of the Education Council, 2006: 61).

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5.2 Does Teacher/Administrative Certification Help to Eradicate Discrimination in Schools for Underprivileged Children?

Though certification is required for all teachers and educational personnel in order to try to guarantee that all of them have sufficient potential to help students or learners reach education goals, it has shortcomings in its application.

Before students are educated using the new approach, training for the education of trainers of teachers is required so teachers can understand methodology and apply it to the curriculum. Teachers have been trained in the new ways of teaching to grasp the new methodology. The main goal is to develop teachers' skills in all aspects in order to be able to facilitate students in the expected direction and to encourage them to fully develop in all dimensions including lifelong education. Additionally, all of this is to be based on a non-discrimination basis but it has not been mentioned in the training program. In 2005, for example, seminars and training for teachers in the key methods were organized by related educational organizations. "In the past year, all related organizations from the center, the educational service area, and other coordinated organizations were encouraged to do a learning plan. Also, developing teachers and staff needed to be able to manage learning-teaching based on learners in several ways" [Author Translation](Office of the Education Council, 2006: 3-21). Unfortunately, they only focus is on improving teaching methods while the concept behind this remains the same. Teachers play an active role in class and their attitude toward teaching is the same. With this method, it is one way to change a "chalk and talk" style.[31] In such a teaching style, there is no motivation for students to express their opinions, realize their basic rights, discover their learning abilities, neither does it create a critical thinking environment in class, it is one way communication rather than two-way interaction in the classroom.

At the same time, administrative staff and teachers' attitudes towards underprivileged children are necessary keys to promote non-discrimination principle in right to education for underprivileged children. Based on this study, building up self-esteem for underprivileged children by providing interactive learning style instead

[31] "The chalk and talk style relying solely on lectures and rote memorization with limited subjects prescribed in the curricular and no alternative available seems to be ineffective" (The Nation, 1999: 1).

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of “chalk and talk” style, will help underprivileged children to participate, share opinions, and develop confidence to deal with any unjustified discrimination practices. Thus, when their self-esteem is increased there is less chance to be victims by someone who tries to bully or take advantage of them. The previous “talk and chalk” approach was explained in a study on “Teaching as Facilitation of Learning: Successful Approaches, Course Design and Implementation” in that “regarding teaching as transmission of knowledge, teachers play the role of knowledge providers and students passive consumers and this type of teaching is often labeled as one-way teaching. (The Second International Forum, ONEC, 2002) When trying to change old teaching styles to a new interactive style, it needs to be understood that underprivileged students’ thoughts and capabilities should have more chance to share their point of views, participation, and more open discussion. Prejudicial attitudes by adults and peers toward underprivileged children need to be dealt with openly in the teacher training as well.

In August 2002, the ministry of education required all teachers to receive a teaching license which shows that being teachers, they are certified in intellectual and ethical abilities. This strategy makes sure that all teachers are qualified to cultivate every student in a good way regardless of their social status or students’ origin. Improving Teacher Effectiveness Through Certification: A Case of Thailand document which cited that “all teachers teaching in all levels of education except higher education at the degree level need to have teaching licenses by 20 August 2002.” There are two types of Teaching License of Two-year Provisional License (to be issued for each new batch of teachers) and Standard License (to be renewed every five years). (Charupan & Leksuksri, 2000) The present teachers can automatically receive a standard license of teaching as exceptions by the ministry of education. There should be, however a procedure or process to eradicate discrimination in schools and assure respect for human rights in all aspects towards all students, especially, underprivileged children rather than easily granting a teaching license to existing teachers. The key persons in schools, some of whom are teachers who violate underprivileged children’ right to education are still in schools and there is the great chance that the discriminatory practices in schools will constantly continue in the education system. As reported in Chapter 4, students identify the teachers that still

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abuse the children's physical and mental condition. Regardless of the ideal, a teaching license cannot guarantee the protection from discrimination in schools. It was required that by August 2002, all teachers were expected to qualify by getting the license, and now the third and fourth year have passed, but teachers' quality has not been changed as discrimination practices are still visible in schools. This shows that merely having a license is not enough; teachers fail to meet one of the goals of the license, namely to develop the learner on a morality basis. It is immoral of teachers to practice discrimination against their students. If they are immoral how can they teach morality to their students? To eliminate discrimination is not only dealing with having superb laws but it also has to deal with how to change some teachers' negative attitude towards underprivileged children in order to meet the required goals stated in the teaching license.

This is the first time in Thai education history that Thai teachers are required to have a professional license with the main goals: "1) To raise the standard of the teaching profession. 2) To develop the well-rounded learners with knowledge alongside morality. 3) To raise the overall standard of Thai education. 4) To stimulate teacher reform leading to the nationwide education reform" (Charupan & Leksuksri, 2000). In addition, a professional license for administrator is required by Teaching Profession Reform, Office of the National Education Commission. Due to the time-consuming process to receive a license, these strategies are ongoing projects. Teachers and related education personnel are accelerating in getting official recognition from the ministry of education. Together with teacher license, to solve the teachers' shortage, the ministry of education presents the proposal that "the cabinet approves a project for producing teachers for basic education for 5 years (2002 - 2006) in Bachelor's degree with expenditure 4,125 million baht which covers producing and developing teachers in inadequate fields" (Ministry of Education, 2003:2). Nevertheless, this is not a guarantee that the international ethical morality of human rights respect for individual rights will be added into part of the requirements for receiving a teaching license for incoming teachers. In regard to an interview with a teacher in one school in April 2006, she said that "I have been teaching at this school for eight years. In the last two years, the school administrative officers asked every

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teacher to fill-in a form to waive a teacher license for us. They said they will submit to ministry of education as requested. We did not have to do any test, or attend any seminar, or take any examination. Now, we are still teaching and waiting for a teacher certificate for all of us."

Due to the expressed goals of the teacher' certificate, this might be a rhetorical part of a solution to improve teachers' quality for underprivileged children in education reform. The existing teachers have to improve themselves to meet the requirements. Having a positive attitude and understanding towards underprivileged children should be taken into account to develop learners' knowledge with morality. There is a need to correct some teachers' behavior and attitude in schools as many publications, news reports and research found "teachers who are not teachers." When students cannot rely on them, how can the community and country develop in the future? If persons who cannot be trusted are in charge to form other persons, will an ethical Thai society exist? Therefore, teachers problems are in crisis and merely regularly hearing about teachers problems does not mean that all problems have been solved. Low teachers' quality makes the quality of Thai children and Thai society weaker"[Author Translation](Office of Education Reform, 2001: 20). Teachers are expected to be students' model; just transmitting knowledge does not entirely train students for their maximum growth. Emotion, ethics, social concerns, and other aspects of human development are encased into courses. There is consideration needed to be given to teachers who display problems, ignoring their responsibilities. In Mayuree Charupan's paper, "Ensuring Opportunities for the Professional Development of Teachers in Thailand" she reported teachers' situation, problems, and a teacher shortage in education system. She suggested ways to boost-up teachers' performance to motivate teachers to improve themselves. She cited at the beginning that "The quality and efficiency of the development of teachers, therefore, is an urgent task for educational development"(Mayuree Charupan, 2006). Using positive entitlements by increasing their salary, having awards for good teachers, and increasing pensions are possible beneficial ways to contribute toward good teachers with a possible good side effect of contributing toward solving the problem of discrimination in schools. Teachers who are contented and dedicated to their profession have, with the proper training, a better chance to be more self aware of their

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behavior, as well as understanding and applying equal treatment and respect for children's rights. The ministry of education presents the proposal that "the cabinet approves a project for producing teachers for basic education for 5 years (2002 - 2006) in Bachelor's degree with expenditure 4,125 million baht which covers producing and developing teachers in inadequate fields"(Ministry of Education, 2003:2). Could there be expenditure in producing and developing teachers who have an *inadequate knowledge* of the ethics and morality of universal human rights as it applies to children and especially underprivileged children?

5.3 Does the Implementation on Education Standards and Quality Assessment Ensure Right to Education for Underprivileged Children?

Basically, education for all does not mean only access into the education system but also the opportunity to complete education with quality. That should apply to underprivileged children as well as non-CWH children. The serious process has to be taken to monitor and ensure their right to receive a quality education and able to complete their schooling. By doing so, the quality of education is ensured by an Office for National Education Standards and Quality Assessment (Public Organization) (hereinafter NESQA). Their obligation is to direct, to follow, to investigate, and to evaluate at level of educational areas and education institutions. In both public and private education institutes, NESQA has to ensure educational quality in all types and levels of education both basic education and higher education. (Assoc.Prof. Prayoon Sriprasart & team, 2003: 72-80) Besides Section 9 (3)[32] on NEA, this change complies with Section 47[33] of NEA that "There shall be a system of educational quality assurance to ensure improvement of educational quality and standards at all levels." NEA granted authorization to schools administrators giving them the opportunity of managerial tasks by drawing an internal check on their schools performance. Since November 2005, Basic Education Standards has come into force in all education

[32] NEA, Section 9 states: In organizing the system, structure, and process of education, the following principles shall be observed: (3) Setting of educational standards and implementing system of quality assurance for all levels and all types of education;

[33] NEA under Chapter 6 Educational Standards and Quality Assurance, Section 47 reads: There shall be a system of educational quality assurance to ensure improvement of educational quality and standards at all levels. Such a system shall be comprised of both internal and external quality assurance. The system, criteria, and methods for quality assurance shall be as stipulated in the ministerial regulations.

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institutes on the basic education level for the purpose of "making all education institutions have equal quality of education" (Official document, Ministry of education, 2005).

Generally, National Education Standards are categorized into three major standard groups of eighteen standards in total. They are Standard Group 1[34]: Desired Thai standards in terms of Thai citizens and world citizens, Standard Group 2[35]: Education management guidelines, and Standard Group 3[36]: Building learning/ knowledge of society guidelines. (Office of the Basic Education Commission, 2005) All these standards are involved in Quality Assurance as well. Quality Assurance has two levels which are an Internal Quality Assurance (hereinafter IQA) and External Quality Assurance (hereinafter EQA). IQA uses Basic Education Standards has an education checklist and requires reporting once a year to the main organization. An annual evaluation IQA report[37] is completed by the internal staffs of each organization, and by authorized persons or organizations that are invited from highest level organizations to point out achievements and failures of performance. While EQA is evaluated by public organizations which are controlled by the education minister, experts and working groups focus on particular issues. An assessment has to done every five years with several processes such as providing seminars, training staffs, follow-up, evaluation and suggestions to education institutes. The evaluation for development education quality is done in terms of academic, educational human resources, and management schemes. The NESQA has to determine the assessment framework for representative organizations, and they will use that for evaluation. "NESQA has a duty "To control and ensure education standards and EQA that are done by external organizations" [Author translation](An education reform report to people, Office of the Educational Reform, 2001: 151). An annual assessment report is submitted to the education minister and the public in order for consideration in determining the current education status, education policy, and the budget and reform for the future. It is a good sign to have a mechanism and process to measure and

[34] Standard Group 1 has eight standards for learners' quality regarding good character, intelligence, and contented persons. Learners are the key goal.
[35] Standard Group 2 has two aspects: learning-teaching aspect (2 standards) and administrative & educational management aspect (6 standards.) Teachers and Administrators are the respective targets.
[36] Standard Group 3 is Community Development for Learning (2 standards) which aims at education institutions.
[37] A report has to show statistic, indicator, strength, weakness, and suggestion of education.

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evaluate education quality. In the meantime, an accountability and transparency of mechanism is needed to establish trust by the public. If they lack these essential qualifications, then their own work will not seem to qualify either.

However, how many schools will report all negative and positive incidents that happen in schools? How many schools will particularly discover the ongoing discriminatory practices in their institutes? How many schools have raised or highlighted the discrimination issue against underprivileged children in their report? In all IQA reports from various schools, all of them reported their strong ability but only a few minor weakness points were addressed in the reports and they are very general aspects such as learning-teaching materials, classroom environment, and space. The school's administrative officer do not report the facts of what happens in schools and they inform teachers not to criticize in the report also because it will impact to school performance when there is EQA. (Interview with teachers from private and public schools during October – December 2005) The IQA report has only one-sided information in that the ministry of education will receive from each school directly and the NEAQA will combine it into the framework in EQA for further evaluation. Practically, both assessment reports are focused on the general issues based on average children who are the majority children. There is no use of IQA as an effective tool to eliminate discrimination in schools. There are no strong or explicit concerns about discrimination in terms of underprivileged children's aspect in regard to the schools' implementation. The right of education of underprivileged children issue is not included in the evaluation by the NEAQA. Thus, it is open to the mere chance that discrimination against children will continue unabated within the education system.

From the study, the discriminatory elements in Thai laws and educational policies and relevant IHRL and Standards in regard to the right to education are illustrated in that all available laws are very useful in context but they have not yet received successful implementation. Although the laws protecting children's rights and their right to education have been provided, written laws alone cannot fulfill its mandates. Increasing a monitoring system could help to guarantee that the discriminatory elements would not occur in schools. In fact, in section of the study on laws (Chapter 2) it was shown that the present laws are not powerful enough to

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eradicate discrimination practices from society especially against underprivileged children. Although the law has designated a government agency within the ministry of education, namely, the National Education Standards and Quality Assessment group, to monitor education quality and ensure education for all in education reform, this does not work in the way that it should. There are wide loopholes affecting it in terms of staff quality and a way of implementing a monitoring process for the quality of educational standards as elaborated in this chapter. In addition, the roles of the IQA and EQA are not taken seriously enough by the government to ensure that education quality would be able to eliminate discrimination in schools.

Also when the monitoring system is weak, it is open to chance that schools will or will not continue to abuse the existing freedom of children. In the case of the budget allocation, when a large portion of the budget goes for higher education rather than basic education which covers the underprivileged children group then the children have reduced opportunity for educational development and quality. Moreover, the indication of the education budget (Chapter 2) showed that underprivileged children are not able to fully gain the benefits from education because mainly underprivileged children study in the ordinary schools with ordinary teachers and spare resources. Well-known schools attract and acquire the exceptional teachers and extra donations toward special resources from the affluent parents of the students. So, there is no chance for underprivileged children to be provided with the best quality of teachers and optimum teaching and learning facilities in the same way as well-known schools. The average support given to the schools underprivileged children attend in poor communities is, therefore, far below the support well-known students receive from their communities.

The discrimination in the right to education practiced at Thai schools toward CWH (Mercy Home) children including the characteristics and root causes of discrimination include negative attitudes about the social status of underprivileged children. Perpetrators use judgements about social status to justify discriminatory practices that occur to underprivileged children in forms of physical and verbal abuse in schools as well as outside schools as explicitly seen in Chapter 3. The impact on the psychological state and behavior of the victimized children reflect negative results from the discriminatory incidents as analyzed in Chapter 4. Similarly, Dr. Sombat

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Tapanya, an assistant professor of Psychiatry Department of Chiang Mai University, did a study on bullying in schools and he proposed a solution from his finding that the best way to protect children is that “the schools should deal with it at all levels from school policy to individual measures and create a culture that does not tolerate bullying, either from the students and the teachers themselves” (Bangkok Post by Neil Stoneham, May 2006).

Ultimately, educational reform by the Thai government has not yet met the goal of fulfilling educational rights to correspond with the latest educational policies and educational reform that can eradicate discriminatory practices against underprivileged children because of a lack of quality resources. There are no plans or steps for new incoming teachers to learn about discriminatory practices in schools. An entire structure needs to function together that includes producing adequate quality teachers along with powerful mechanisms for implementation and an equitable education budget allocation plus an effective monitoring system. If all these parts of the structure were in place and working, then the structure would be geared towards the right of underprivileged children to meet their education needs. In addition, awareness and action about discriminatory practices in schools is not happening and no action in itself is a violation to other’s rights as well as children’s rights. For instance, the study has not seen any awareness or action in regard to obtaining a teaching certificate.

Thailand has a good mechanism and process written in education reform to improve education quality for underprivileged children but has not used these effectively to meet optimal goals to eradicate discriminatory elements in the education system. Eventually, a good tool will be powerful if it is able to implement what is expected in context. The discrimination problem is not solved with only one single method, but it needs the entire education system to move together in the long-term to stop the tragedy and suffering caused by discrimination.

For the whole of this situation, there will be a possibility of improvement if all related organizations and people coordinate together and seriously fight against discrimination in our society on behalf of underprivileged children. In spite all that has been found out by this study, there is hope that there should be a way to change

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attitudes to overcome discrimination practices by first, pointing them out in a study as this one and in similar ones, and then to imbue human rights culture and ideas through integration within society including formal, informal and non-formal education. In particular, media can play an important role because it has been found to be a most influential factor in exposing and shaping people's minds toward accepting new attitudes.

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APPENDIX

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APPENDIX A

Official Document from Cabinet

ด่วนที่สุด

ที่ นร 1112/ 2879

สำนักงานคณะกรรมการ
พัฒนาการเศรษฐกิจและสังคมแห่งชาติ
962 ถนนกรุงเกษม กทม. 10100

๒ กรกฎาคม 2547

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

เรียน เลขาธิการคณะรัฐมนตรี

อ้างถึง หนังสือสำนักเลขาธิการคณะรัฐมนตรี ด่วนที่สุด ที่ นร 0504/ว(ล) 8752 ลงวันที่ 23 มิถุนายน 2547

ตามหนังสือที่อ้างถึง สำนักเลขาธิการคณะรัฐมนตรีได้ส่งเรื่องนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาสของกระทรวงศึกษาธิการ มาให้สำนักงานคณะกรรมการพัฒนาการเศรษฐกิจและสังคมแห่งชาติพิจารณาเสนอความเห็นเพื่อประกอบการพิจารณาของคณะรัฐมนตรี ความละเอียดแจ้งแล้วนั้น

สำนักงานคณะกรรมการพัฒนาการเศรษฐกิจและสังคมแห่งชาติ ได้พิจารณาแล้ว มีความเห็น ดังนี้

1. เห็นชอบในหลักการกับนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาสของกระทรวงศึกษาธิการ เพื่อใช้เป็นกรอบแนวทางในการจัดการศึกษาสำหรับเด็กด้อยโอกาส ทำให้เด็กเหล่านี้ได้รับการพัฒนาเต็มตามศักยภาพ สามารถพึ่งตนเองได้และอยู่ร่วมกับผู้อื่นในสังคมอย่างมีความสุข มีศักดิ์ศรี รวมทั้งมีส่วนร่วมในการพัฒนาสังคมและประเทศชาติ

2. ข้อสังเกตเพิ่มเติมต่อการดำเนินงาน ดังนี้

2.1 เนื่องจากเด็กด้อยโอกาสทั้ง 6 กลุ่มมีความต้องการบริการที่แตกต่างกันตามสภาพความด้อยโอกาสของเด็ก ประกอบกับฐานข้อมูลของเด็กแต่ละกลุ่มยังไม่สมบูรณ์เพียงพอ ดังนั้น ในการแปลงนโยบายและแผนไปสู่การปฏิบัติ ควรมีการจัดลำดับความสำคัญเร่งด่วน และเน้นการจัดบริการแบบนอกระบบการศึกษา และการจัดบริการแบบเคลื่อนที่ โดยให้องค์กรเอกชน ชุมชนมีบทบาทหลัก และหน่วยงานภาครัฐอำนวยความสะดวก พร้อมทั้งสนับสนุนด้านวิชาการอย่างเต็มที่

2.2 ควรกำหนดเป้าหมาย ตัวชี้วัดความสำเร็จและหน่วยงานหลักรับผิดชอบที่ชัดเจน และให้มีการติดตามประเมินผลการดำเนินงานตามนโยบายทุกปี เพื่อให้สามารถนำผลมาปรับนโยบายและแผนให้มีความเหมาะสมกับสถานการณ์ได้อย่างมีประสิทธิภาพ

จึงเรียนมาเพื่อเป็นแนวทางประกอบการพิจารณาของคณะรัฐมนตรีต่อไป

ขอแสดงความนับถือ

(นายจักรมณฑ์ ผาสุกวนิช)
เลขาธิการคณะกรรมการพัฒนาการเศรษฐกิจและสังคมแห่งชาติ

สำนักพัฒนาสังคมและคุณภาพชีวิต
โทร. 0-2282-9869, 0-2628-2649
โทรสาร 0-2281-6128

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ด่วนที่สุด

ที่ นร 0706/ 455

สำนักงบประมาณ
ถนนพระรามที่ 6 กรุงเทพฯ 10400

9 กรกฎาคม 2547

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

เรียน เลขาธิการคณะรัฐมนตรี

อ้างถึง หนังสือสำนักเลขาธิการคณะรัฐมนตรี ด่วนที่สุด ที่ นร 0504/ว (ล) 8752 ลงวันที่ 23 มิถุนายน 2547

ตามหนังสือที่อ้างถึง สำนักเลขาธิการคณะรัฐมนตรีขอให้สำนักงบประมาณเสนอความเห็นเพื่อประกอบการพิจารณาของคณะรัฐมนตรี เรื่องนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส เสนอโดยกระทรวงศึกษาธิการ ความละเอียดแจ้งแล้ว นั้น

สำนักงบประมาณพิจารณาแล้ว มีความเห็นดังนี้

1. เห็นชอบในหลักการนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส เพื่อใช้เป็นกรอบแนวทางให้หน่วยงานที่เกี่ยวข้องในการจัดทำแผนปฏิบัติการให้บังเกิดผลอย่างเป็นรูปธรรม เพื่อให้เด็กด้อยโอกาสได้รับสิทธิและโอกาสเสมอกันในการรับบริการการศึกษาขั้นพื้นฐานอย่างทั่วถึงและมีคุณภาพ เป็นไปตามเจตนารมณ์ของการปฏิรูปการศึกษา ตามพระราชบัญญัติการศึกษาแห่งชาติ พ.ศ. 2542 และที่แก้ไขเพิ่มเติม (ฉบับที่ 2) พ.ศ. 2545

2. สำหรับประเภทเด็กด้อยโอกาส ข้อ 4 เด็กพิการทางกาย/ทางจิต อารมณ์/ทางสติปัญญาและการเรียนรู้นั้น ได้มีกำหนดไว้ในมาตรการจัดการศึกษาเพื่อคนพิการดำเนินการโดยเฉพาะและได้รับสิทธิพิเศษในการจัดการศึกษาแล้ว การนำมาใส่ไว้ในคำจำกัดความตามนโยบายฯ ครั้งนี้จะซ้ำซ้อนกับมาตรการจัดการศึกษาเพื่อคนพิการ จึงเห็นควรตัดออก

3. นโยบายข้อ 3 ยุทธศาสตร์ที่ 3 การจัดตั้งกองทุนเพื่อระดมและจัดหาแหล่งทุนทั้งจากหน่วยงานภาครัฐและเอกชน ทั้งภายในและภายนอกประเทศ เพื่อให้การสนับสนุนช่วยเหลือการพัฒนาเด็กด้อยโอกาสนั้น เนื่องจากพระราชบัญญัติเงินคงคลัง พ.ศ. 2491 และที่แก้ไขเพิ่มเติม

/มาตรา 12 ...

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มาตรา 12 บัญญัติไว้ว่า การจ่ายเงินเป็นทุนหรือเป็นทุนหมุนเวียนเพื่อการใด ๆ ให้กระทำได้แต่โดยกฎหมาย ดังนั้น การกำหนดให้มีการจัดตั้งกองทุนขึ้น จะต้องพิจารณาให้สอดคล้องกับหลักการและเงื่อนไขตามที่กฎหมายบัญญัติไว้ด้วย

4. เนื่องจากการจัดการศึกษาสำหรับเด็กด้อยโอกาสมีหน่วยงานหลายแห่งเข้ามาร่วมรับผิดชอบในการดำเนินงาน ดังนั้น จึงควรที่จะมีหน่วยงานหลักในการนำนโยบายไปสู่การปฏิบัติพร้อมบูรณาการกับงานด้านพัฒนาสังคมในส่วนที่เกี่ยวข้องควบคู่กันไปด้วย ทั้งนี้ เพื่อให้เด็กด้อยโอกาสมีทักษะชีวิตสามารถพึ่งตนเองได้ และอยู่ในสังคมอย่างมีความสุขได้ต่อไปในอนาคต นอกจากนี้ การจัดการศึกษาสำหรับเด็กด้อยโอกาสควรจะดำเนินการให้ใกล้เคียงกับการเรียนการสอนของเด็กปกติมากที่สุด เพื่อใช้เทียบเคียงและประเมินผลสัมฤทธิ์เช่นเดียวกับเด็กปกติทั่วไปได้ ซึ่งสอดคล้องกับวัตถุประสงค์ของนโยบายฯ ดังกล่าว

จึงเรียนมาเพื่อโปรดนำเสนอความเห็นประกอบการพิจารณาของคณะรัฐมนตรีต่อไป

ขอแสดงความนับถือ

(นายวุฒิพันธุ์ วิชัยรัตน์)
ผู้อำนวยการสำนักงบประมาณ

สำนักจัดทำงบประมาณด้านสังคม 1
โทร. 0 2273 9250
โทรสาร 0 2273 9928

สำเนาถูกต้อง

(นายสัมฤทธิ์ ประเสริฐสังข์)
เจ้าหน้าที่วิเคราะห์นโยบายและแผน ๘ ว

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ด่วนที่สุด
ที่ นม 0207/ 44544

กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์
อาคารรัชดาวเวอร์ส ถนนวิภาวดีรังสิต
เขตจตุจักร กทม.10900

1 กรกฎาคม 2547

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

เรียน เลขาธิการคณะรัฐมนตรี

อ้างถึง หนังสือสำนักเลขาธิการคณะรัฐมนตรี ด่วนที่สุด ที่ นร 0504/ว(ล) 8752 ลงวันที่ 23 มิถุนายน 2547

สิ่งที่ส่งมาด้วย การปรับปรุงข้อมูล หัวข้อ เรื่อง สถานภาพการให้บริการการศึกษาสำหรับเด็กด้อยโอกาส หน้า 31 จำนวน 1 ชุด

ตามหนังสือที่อ้างถึง สำนักเลขาธิการคณะรัฐมนตรี ได้ส่ง เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส ซึ่งกระทรวงศึกษาธิการเสนอ และขอให้กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์ เสนอความคิดเห็นเพื่อประกอบการพิจารณาของคณะรัฐมนตรี นั้น

กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์ พิจารณาแล้ว เห็นด้วยกับนโยบายดังกล่าว เนื่องจากมีเนื้อหาครอบคลุมยุทธศาสตร์การจัดการศึกษาสำหรับเด็กด้อยโอกาสทุกด้าน โดยในส่วนของข้อมูลในภาคผนวก หัวข้อ เรื่อง สถานภาพการให้บริการการศึกษาสำหรับเด็กด้อยโอกาส หน้า 31 เห็นควรปรับปรุงข้อมูลให้เป็นปัจจุบัน รายละเอียดตามเอกสารสิ่งที่ส่งมาด้วย

จึงเรียนมาเพื่อโปรดพิจารณาดำเนินการต่อไป

ขอแสดงความนับถือ

(นายสรอรรถ กลิ่นประทุม)
รัฐมนตรีว่าการกระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์

สำเนาถูกต้อง

(นายสัมฤทธิ์ ประเสริฐสังข์)
เจ้าพนักงานวิเคราะห์นโยบายและแผน ๘ ว

สำนักงานปลัดกระทรวง
สำนักนโยบายและยุทธศาสตร์
โทร/โทรสาร 0-2612-8841 ,0-2612-8718

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ด่วนที่สุด บันทึกข้อความ

ส่วนราชการ ฝ่ายเลขานุการคณะกรรมการกลั่นกรองฯ ดูตที่ ๒๑ (ฝ่ายการศึกษา) โทร. ๐ ๒๒๘๒ ๑๑๑๕

ที่ นร ๐๕๐๕(กกก.๒.๑)/9 วันที่ ๑๕ ตุลาคม ๒๕๔๗ (ปรับปรุง ๑๘/๑๐/๔๗)

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

กราบเรียน นายกรัฐมนตรี

๑. ข้อเสนอ

กระทรวงศึกษาธิการขอให้นำเสนอคณะรัฐมนตรีพิจารณาให้ความเห็นชอบนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส และให้กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์ เป็นหน่วยงานหลักนำนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาสไปบูรณาการกับการพัฒนาสังคมในภาพรวม เพื่อให้เกิดผลในทางปฏิบัติอย่างเป็นรูปธรรมต่อไป

๒. สาระสำคัญของเรื่อง

กระทรวงศึกษาธิการรายงานว่า ได้จัดทำนโยบายจัดการศึกษาสำหรับเด็กด้อยโอกาสขึ้น เพื่อให้หน่วยงานที่เกี่ยวข้องใช้เป็นกรอบในการจัดทำแผนปฏิบัติการให้บังเกิดผลอย่างเป็นรูปธรรม และสภาการศึกษาในคราวประชุมครั้งที่ ๓/๒๕๔๗ วันพุธที่ ๑๒ พฤษภาคม ๒๕๔๗ ได้พิจารณาให้ความเห็นชอบแล้ว โดยมีสาระสำคัญสรุปได้ดังนี้

๒.๑ คำจำกัดความ

เด็กด้อยโอกาสหมายถึงเด็กที่มีอายุต่ำกว่า ๑๘ ปี (เว้นแต่กรณีที่ต้องดูแลเป็นพิเศษให้ขยายอายุเป็น ๒๕ ปี) ที่ประสบปัญหาหรืออยู่ในภาวะยากลำบาก หรืออยู่ในสถานการณ์ที่ด้อยกว่าเด็กทั่วไป จำเป็นต้องให้ความช่วยเหลือเป็นกรณีพิเศษ เพื่อให้มีชีวิตและความเป็นอยู่ที่ดีขึ้น มีพัฒนาการที่ถูกต้องและเหมาะสมกับวัย

๒.๒ ประเภทเด็กด้อยโอกาส

๒.๒.๑ เด็กถูกปล่อยปละละเลย ได้แก่ เด็กเร่ร่อน/ขอทาน เด็กถูกทอดทิ้งและกำพร้า เด็กในสลัม/ชุมชนแออัด

/ ๒.๒.๒ ...

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บันทึกข้อความ

ส่วนราชการ _____ - ๒ - _____

ที่ _____ วันที่ _____

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

๒.๒.๒ เด็กถูกละเมิดสิทธิ ได้แก่ เด็กถูกทารุณ โสเภณีเด็ก เด็กถูกข่มขืนและแรงงานเด็ก

๒.๒.๓ เด็กประพฤติตนไม่เหมาะสม ได้แก่ เด็กติดสารเสพติด เด็กตั้งครรภ์นอกสมรสหรือตั้งครรภ์ก่อนวัยอันสมควร

๒.๒.๔ เด็กพิการทางกาย/ทางจิตใจ อารมณ์ ทางสติปัญญาและการเรียนรู้

๒.๒.๕ เด็กขาดโอกาส/ยากจนเข้าไม่ถึงบริการ ได้แก่ เด็กไม่ได้เรียนหนังสือ เด็กถูกกรรมกรก่อสร้าง ถูกกรรมกรว่างงาน เด็กชนกลุ่มน้อย เด็กยากจน เด็กไม่ได้รับสัญชาติไทย เด็กไม่มีสูติบัตรหรือทะเบียนบ้าน

๒.๒.๖ เด็กที่ได้รับผลกระทบจากเอดส์ ได้แก่ เด็กเป็นเอดส์ เด็กกำพร้าเพราะพ่อแม่ตายเพราะเอดส์

๒.๓ วัตถุประสงค์

เพื่อให้เด็กด้อยโอกาสได้รับบริการการศึกษาและวิชาชีพ และได้รับการพัฒนาศักยภาพให้รอดพ้นจากสภาพด้อยโอกาส สามารถพึ่งตนเองได้ มีโลกทัศน์และการดำรงชีวิตที่เห็นคุณค่าของเอกลักษณ์ทางวัฒนธรรม รวมทั้งภูมิปัญญาท้องถิ่นที่หลากหลาย อยู่ร่วมกับผู้อื่นอย่างมีความสุข มีศักดิ์ศรี มีจิตสำนึก มีส่วนร่วมในกระบวนการพัฒนาสังคมและประเทศชาติ

/ ๒.๔ ...

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บันทึกข้อความ

ส่วนราชการ _____ - ๓ - _____

ที่ _____ วันที่ _____

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

๒.๔ นโยบายและยุทธศาสตร์การจัดการศึกษาสำหรับเด็กด้อยโอกาส

๒.๔.๑ ให้บริการการศึกษาอย่างเสมอภาคและทั่วถึง ให้เด็กด้อยโอกาสทุกคนมีโอกาสได้รับการศึกษาอย่างเหมาะสมและหลากหลายรูปแบบ โดยคำนึงถึงหลักการสิทธิเด็ก สิทธิมนุษยชน และศักดิ์ศรีความเป็นมนุษย์

๒.๔.๒ จัดการศึกษาอย่างมีคุณภาพ เน้นการเรียนรู้เพื่อชีวิตที่เหมาะสมกับเด็กด้อยโอกาส โดยต้องบูรณาการทั้งด้านวิชาการ คีลธรรม จริยธรรม และทักษะการดำรงชีวิตในสัดส่วนที่เหมาะสมและมีมาตรฐานคุณภาพเท่าเทียมกับการศึกษาในระบบปกติ

๒.๔.๓ ส่งเสริมสนับสนุนให้มีระบบการจัดสรรทรัพยากรเพื่อการศึกษาและปัจจัยพื้นฐานอื่น ๆ ที่สอดคล้องกับสภาพของเด็กด้อยโอกาสแต่ละประเภท

๒.๔.๔ จัดระบบการบริหารจัดการให้เอื้อต่อการจัดการศึกษาสำหรับเด็กด้อยโอกาสอย่างมีคุณภาพและประสิทธิภาพ

๒.๔.๕ สร้างและพัฒนาเครือข่ายการจัดการศึกษาสำหรับเด็กด้อยโอกาสให้มีความพร้อมในการจัดการศึกษา และสามารถให้ความช่วยเหลือเด็กด้อยโอกาสได้อย่างมีประสิทธิภาพและทันการณ์

๓. <u>ความเห็นส่วนราชการที่เกี่ยวข้อง</u>

๓.๑ กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์ พิจารณาแล้วเห็นด้วยกับนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส เพราะมีเนื้อหาครอบคลุมยุทธศาสตร์การจัดการศึกษาสำหรับเด็กด้อยโอกาสทุกด้าน และขอให้แก้ไขข้อความในเอกสารของสำนักงานเลขาธิการสภาการศึกษาในภาคผนวกหน้า ๓๑ จากกรมประชาสงเคราะห์ เป็นกรมพัฒนาสังคมและสวัสดิการ และแก้ไขปรับปรุงรายละเอียดในเอกสารให้เป็นปัจจุบัน

๓.๒ สำนักงานคณะกรรมการพัฒนาการเศรษฐกิจและสังคมแห่งชาติ พิจารณาแล้ว มีความเห็นดังนี้

/๓.๒.๑ ...

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บันทึกข้อความ

ส่วนราชการ _____ -๔- _____

ที่ _____ วันที่ _____

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

๓.๒.๑ เห็นชอบในหลักการกับนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาสของกระทรวงศึกษาธิการ เพื่อใช้เป็นกรอบแนวทางในการจัดการศึกษาสำหรับเด็กด้อยโอกาส ทำให้เด็กเหล่านี้ได้รับการพัฒนาเต็มตามศักยภาพสามารถพึ่งตนเองได้และอยู่ร่วมกับผู้อื่นในสังคมอย่างมีความสุข มีศักดิ์ศรี รวมทั้งมีส่วนร่วมในการพัฒนาสังคมและประเทศชาติ

๓.๒.๒ ข้อสังเกตเพิ่มเติมต่อการดำเนินงาน

๓.๒.๒.๑ ควรมีการจัดลำดับและความสำคัญเร่งด่วน และเป็นการจัดบริการแบบนอกระบบการศึกษา และการจัดบริการแบบผสมผสานที่ โดยให้องค์กรเอกชน ชุมชนมีบทบาทหลัก และหน่วยงานภาครัฐอำนวยความสะดวก พร้อมทั้งสนับสนุนด้านวิชาการอย่างเต็มที่

๓.๒.๒.๒ ควรกำหนดเป้าหมาย ตัวชี้วัดความสำเร็จและหน่วยงานหลักรับผิดชอบที่ชัดเจนและให้มีการติดตามและประเมินผลการดำเนินงานตามนโยบายทุกปี เพื่อให้สามารถนำผลมาปรับนโยบายและแผนให้มีความเหมาะสมกับสถานการณ์ได้อย่างมีประสิทธิภาพ

๓.๓ สำนักงบประมาณ พิจารณาแล้ว มีความเห็นดังนี้

๓.๓.๑ เห็นชอบในหลักการนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส เพื่อใช้เป็นกรอบแนวทางให้หน่วยงานที่เกี่ยวข้องในการจัดทำแผนปฏิบัติการให้บังเกิดผลอย่างเป็นรูปธรรม เพื่อให้เด็กได้รับสิทธิและโอกาสเสมอกันในการรับบริการการศึกษาขั้นพื้นฐานอย่างทั่วถึงและมีคุณภาพ เป็นไปตามเจตนารมณ์ของการปฏิรูปการศึกษา ตามพระราชบัญญัติการศึกษาแห่งชาติ พ.ศ. ๒๕๔๒ และที่แก้ไขเพิ่มเติม (ฉบับที่ ๒) พ.ศ. ๒๕๔๕

/๓.๓.๒ ...

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บันทึกข้อความ

ส่วนราชการ - ๕ -

ที่ วันที่

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

๓.๓.๒ เห็นควรตัดเด็กพิการทางกาย/ทางจิต อารมณ์/ทางสติปัญญา และการเรียนรู้ ซึ่งได้กำหนดไว้ในมาตรการจัดการศึกษาเพื่อคนพิการดำเนินการ โดยเฉพาะและได้รับสิทธิพิเศษในการจัดการศึกษาแล้วออก

๓.๓.๓ การกำหนดให้มีการจัดตั้งกองทุนจะต้องพิจารณาให้สอดคล้องกับหลักการและเงื่อนไขตามที่พระราชบัญญัติเงินคงคลัง พ.ศ. ๒๕๔๑ และที่แก้ไขเพิ่มเติม มาตรา ๑๒ บัญญัติไว้ว่า การจ่ายเงินเป็นทุนหรือเป็นทุนหมุนเวียนเพื่อการใด ๆ ให้กระทำได้แต่โดยกฎหมาย

๓.๓.๔ ควรมีหน่วยงานหลักในการนำนโยบายไปสู่การปฏิบัติพร้อมบูรณาการกับงานด้านพัฒนาสังคมในส่วนที่เกี่ยวข้องควบคู่กันไปด้วย ทั้งนี้ เพื่อให้เด็กด้อยโอกาสมีทักษะชีวิตสามารถพึ่งตนเองได้ และอยู่ในสังคมอย่างมีความสุขได้ต่อไปในอนาคต และควรจะดำเนินการให้ใกล้เคียงกับการเรียนการสอนของเด็กปกติมากที่สุด เพื่อใช้เทียบเคียงและประเมินผลสัมฤทธิ์เช่นเดียวกับเด็กปกติทั่วไปได้ ซึ่งสอดคล้องกับวัตถุประสงค์ของนโยบาย ฯ ดังกล่าว

๔. รองนายกรัฐมนตรี (นายจาตุรนต์ ฉายแสง) พิจารณาแล้ว มีคำสั่งให้นำเสนอคณะกรรมการกลั่นกรองเรื่องเสนอคณะรัฐมนตรี คณะที่ ๔.๑ (ฝ่ายการศึกษา) (เดิม) พิจารณา

๕. คณะกรรมการกลั่นกรองเรื่องเสนอคณะรัฐมนตรี คณะที่ ๔.๑ (ฝ่ายการศึกษา) (เดิม) ซึ่งมีรองนายกรัฐมนตรี (นายจาตุรนต์ ฉายแสง) เป็นประธานกรรมการ พิจารณาในคราวประชุม ครั้งที่ ๔/๒๕๔๗ วันที่ ๓๐ กันยายน ๒๕๔๗ แล้ว มีประเด็นอภิปรายและมติ ดังนี้

/๕.๑ ประเด็น ...

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บันทึกข้อความ

ส่วนราชการ _____ -๖- _____

ที่ _____ วันที่ _____

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส _____

๕.๑ ประเด็นคณะกรรมการ

คณะกรรมการกลั่นกรองเรื่องเสนอคณะรัฐมนตรี คณะที่ ๔.๑ (ฝ่ายการศึกษา) (เดิม) พิจารณาแล้ว มีความเห็นดังนี้

๕.๑.๑ การจัดทำแผนปฏิบัติการเพื่อดำเนินการตามเป้าหมายที่กำหนดในนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส ให้เด็กด้อยโอกาสทุกคนมีโอกาสได้รับการศึกษาที่มีคุณภาพอย่างต่อเนื่องและทั่วถึง ภายในปี ๒๕๕๕ ต้องคำนึงถึงการกำหนดระดับความสำเร็จของการดำเนินภารกิจตามยุทธศาสตร์ตามนโยบาย ทั้ง ๕ ด้าน ให้เป็นรูปธรรม และกำหนดตัวชี้วัดผลความก้าวหน้าของการดำเนินการ รวมทั้งกำหนดให้มีกระบวนการติดตามประเมินผลและรายงานเป็นระยะ ๆ

๕.๑.๒ ควรจัดแบ่งภารกิจตามแผนปฏิบัติการให้ชัดเจนว่าแต่ละกิจกรรมควรเป็นภารกิจของหน่วยงานใดหน่วยงานหนึ่งเป็นการเฉพาะ หรือเป็นกิจกรรมที่หน่วยงานมากกว่า ๑ หน่วยงานต้องร่วมมือกันดำเนินงาน โดยมีหน่วยงานใดเป็นหน่วยงานหลัก ทั้งนี้ เพื่อให้มีผู้รับผิดชอบต่อผลการดำเนินงานอย่างแท้จริง

๕.๑.๓ แผนปฏิบัติการดังกล่าวควรมีมาตรการสนับสนุนการมีส่วนร่วมขององค์กรปกครองส่วนท้องถิ่น และเอกชน และควรให้กระทรวงวัฒนธรรมเป็นหน่วยงานร่วมดำเนินการตามนโยบายด้วย

๕.๒ มติคณะกรรมการกลั่นกรองเรื่องเสนอคณะรัฐมนตรี คณะที่ ๔.๑ (ฝ่ายการศึกษา) (เดิม)

๕.๒.๑ เห็นควรให้ความเห็นชอบในหลักการนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส ตามที่กระทรวงศึกษาธิการเสนอ โดยให้กระทรวงศึกษาธิการรับไปปรับปรุงเอกสารนโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาสดังกล่าวให้เป็นปัจจุบันตามข้อมูลของกระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์

/๕.๒.๒ ...

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บันทึกข้อความ

ส่วนราชการ _____ - ๗ - _____

ที่ _____ วันที่ _____

เรื่อง นโยบายการจัดการศึกษาสำหรับเด็กด้อยโอกาส

๔.๒.๒ เห็นควรให้กระทรวงการพัฒนาสังคมและความมั่นคงของมนุษย์เป็นหน่วยงานหลักร่วมกับกระทรวงศึกษาธิการ และกระทรวงวัฒนธรรม รวมทั้งหน่วยงานที่เกี่ยวข้องอื่น ๆ จัดทำแผนปฏิบัติการตามนโยบายดังกล่าว เพื่อบูรณาการกับการพัฒนาสังคมในภาพรวมให้เกิดผลเป็นรูปธรรม โดยให้รับประเด็นข้อคิดเห็นของคณะกรรมการกลั่นกรองเรื่องเสนอคณะรัฐมนตรี คณะที่ ๔.๑ (ด้านการศึกษา) (เดิม) ข้อ ๔.๑.๑ – ๔.๑.๓ ไปพิจารณาดำเนินการด้วย

จึงกราบเรียนมาเพื่อโปรดพิจารณาอนุมัติตามมติคณะกรรมการกลั่นกรองเรื่องเสนอคณะรัฐมนตรี คณะที่ ๔.๑ (ด้านการศึกษา) (เดิม) ดังกล่าว และนำเสนอคณะรัฐมนตรีทราบต่อไป

(นายชาตุรนต์ ฉายแสง)
รองนายกรัฐมนตรี
ประธานกรรมการกลั่นกรองเรื่องเสนอคณะรัฐมนตรี คณะที่ ๒.๑ (ด้านการศึกษา)

อนุมัติ /เห็นควรมอบหมาย

(ทักษิณ ชินวัตร)
นายกรัฐมนตรี
๒๐ ก.ย. ๔๗

กราบเรียน นรม.
เพื่อกรุณาอนุมัติ มติ ครก.๔.๑/เสนอ ครม.ซ้ำ

(นายเลอศักดิ์ จุฬังคบุตร)
รองเลขาธิการนายกรัฐมนตรีด้านการเมือง
ปฏิบัติราชการแทน เลขาธิการนายกรัฐมนตรี
18 ก.ย. 2547

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APPENDIX B

Example Expenses Letters from Schools

SCHOOL EXAMPLE # 1

ใบรับเงิน เลขที่.....

ค่าใช้จ่ายในการพัฒนาผู้เรียน

โรงเรียน เซตตอง เมย กรุงเทพมหานคร

ชื่อนักเรียน.....นามสกุล.....ชั้น ป.4/1

☑ ค่าหน่วยกิต	100	บาท
☑ 1. ทำประกันอุบัติเหตุ	150	บาท
☑ 2. วัสดุคอมพิวเตอร์ ตลอดปีการศึกษา	100	บาท
☑ 3. ค่ากิจกรรมพัฒนาผู้เรียน	100	บาท
☑ 4. ค่าบัตรประจำตัว	20	บาท
☑ 5. ค่าบำรุงห้องสมุด	10	บาท
☑ 6. ค่าบำรุงอุณเสือ-เนตรนารี-ยุวกาชาด	5	บาท
☑ 7. ค่าประทับตราโรงเรียนที่เสื้อ	15	บาท
☑ 8. ค่าเข้าค่ายอุณเสือ-เนตรนารี-ยุวกาชาด (ป.4 - ม.3)	500	บาท

รวมเป็นเงิน 1000 บาท (หนึ่งพันบาทถ้วน)

ผู้รับเงิน.....

(.....)

วันที่ 13 เดือน พ.ค. พ.ศ. 49

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SCHOOL EXAMPLE #2

โรงเรียน ... เขตคลองเตย กรุงเทพฯ

ค่าใช้จ่ายนักเรียน ชั้นประถมปีที่ 2 ปีการศึกษา 1/2549

รายการ	จำนวนเงิน	รวมจ่าย	
ค่าบำรุง ภาคเรียนที่ 1 / 2549	560.00		
ค่าอาหาร ภาคเรียนที่ 1 / 2549	900.00		
ค่าเรียนเสริม ภาคเรียนที่ 1 / 2549	640.00		
ค่าหนังสือ	574.00		
ค่าสมุด	150.00		
ค่ากระดาษสอบ	50.00		
ใบงาน	160.00		
ค่าเข้งสะสมกองงาน	40.00		
ค่าเปรียบทัศนูปกรณ์ต่างๆ	120.00	3,194.00	
ค่ากระเป๋า	200.00		
ชุดพละ	260.00	460.00	
ค่าเรียนภาษาญี่ปุ่น	200.00		
ค่าอาหารภาคฤดูร้อน	200.00	400.00	
รวมจ่ายภาคเรียนที่ 1		4,054.00	

ค่าใช้จ่ายนักเรียน ชั้นประถมปีที่ 2 ปีการศึกษา 2/2549

ค่าบำรุง ภาคเรียนที่ 2/2549	560.00	หมายเหตุ
ค่าอาหาร ภาคเรียนที่ 2/2549	900.00	
ค่าเรียนเสริม ภาคเรียนที่ 2/2549	640.00	
ค่ากระดาษสอบ	50.00	
ค่าหนังสือ	200.00	
ค่าสมุด	109.00	
รวมจ่ายภาคเรียนที่ 2	2,459.00	

ชื่อ .....นามสกุล .....ชั้น.....

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SCHOOL EXAMPLE #3

รายการหนังสือ ชั้นมัธยมศึกษาปีที่ 3

โรงเรียน กรุงเทพมหานคร

ปีการศึกษา 2549

ชื่อ ..... นามสกุล ..... ชั้น ม. 3 / .....

*****โปรดตรวจเช็คหนังสือ ชนิด เครื่องเขียน ก่อนเซ็นชื่อรับของทุกครั้ง*****

หมวด ก

ลำดับ	รายการ	ผู้แต่ง	สำนักพิมพ์	ราคา
1	ภาษาไทย เล่ม 1	ฝ่ายการศึกษา	ฝ่ายการศึกษา	55
2	ภาษาไทย เล่ม 2	ฝ่ายการศึกษา	ฝ่ายการศึกษา	65
3	คณิตศาสตร์ เล่ม 1	สสวท.	องค์การค้าครุสภา	62
4	คณิตศาสตร์ เล่ม 2	สสวท.	องค์การค้าครุสภา	65
5	คณิตศาสตร์ เพิ่มเติม เล่ม 1	สสวท.	องค์การค้าครุสภา	60
6	คณิตศาสตร์ เพิ่มเติม เล่ม 2	สสวท.	องค์การค้าครุสภา	62
7	วิทยาศาสตร์ (สิ่งมีชีวิตกับสิ่งแวดล้อม)	สสวท.	องค์การค้าครุสภา	61
8	สังคมศึกษา เล่ม 1	ฝ่ายการศึกษา	ฝ่ายการศึกษา	75
9	สังคมศึกษา เล่ม 2	ฝ่ายการศึกษา	ฝ่ายการศึกษา	70
10	สุขศึกษา ฯ เล่ม 1	ฝ่ายการศึกษา	ฝ่ายการศึกษา	45
11	สุขศึกษา ฯ เล่ม 2	ฝ่ายการศึกษา	ฝ่ายการศึกษา	45
12	ภาษาอังกฤษ เล่ม 1	ฝ่ายการศึกษา	ฝ่ายการศึกษา	50
13	ภาษาอังกฤษ เล่ม 2	ฝ่ายการศึกษา	ฝ่ายการศึกษา	45
14	ทัศนศิลป์	ฝ่ายการศึกษา	ฝ่ายการศึกษา	65
15	ดนตรี+นาฏศิลป์	ฝ่ายการศึกษา	ฝ่ายการศึกษา	50
16	งานบ้าน+ประดิษฐ์+งานเกษตร	ฝ่ายการศึกษา	ฝ่ายการศึกษา	45
17	คอมพิวเตอร์	ฝ่ายการศึกษา	ฝ่ายการศึกษา	65
18	หนังสือคำศัพท์ภาษาอังกฤษ	กลุ่มสาระภาษาต่างประเทศ	ม.ต.	50
19	ใบความรู้ + ใบงาน	ทุกกลุ่มสาระ	ม.ต.	200
รวมหมวด ก				**1,235**

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หมวด ข ชั้นมัธยมศึกษาปีที่ 3

1. สมุดทำงานโรงเรียน

1.1 สมุด	60 แผ่น(สีฟ้า)	จำนวน	10	เล่ม
1.2 สมุด	40 แผ่น(สีเขียว)	จำนวน	6	เล่ม
1.3 สมุด	40 แผ่น(สีชมพู)	จำนวน	4	เล่ม
1.4 สมุดจดการบ้าน		จำนวน	1	เล่ม
1.5 สมุดทำรายงาน		จำนวน	3	เล่ม

รวมค่าสมุด	275 บาท
2. ค่ากระดาษสอบตลอดปีและวารโรงเรียน	450 บาท
3. ค่ากิจกรรมตลอดปี + อุปกรณ์เบ็ดเตล็ด + ค่าบริการห้องสมุด	600 บาท
4. ค่ากิจกรรมลูกเสือ-เนตรนารี	500 บาท
รวมค่าอุปกรณ์หมวด ข	1,825 บาท

ค่าหนังสือ (หมวด ก + หมวด ข) รวมเป็นเงิน 1,235 + 1,825 = 3

รวมเงินที่ต้องชำระทั้งสิ้น ..... 3060 ..... บาท

รวมเงินที่ชำระแล้ว ..... 3060 ..... บาท

ลงชื่อผู้จ่ายเงิน .....

ลงชื่อผู้รับเงิน ..... จ่ายแล้ว

ลงชื่อผู้จ่ายหนังสือ .....

ลงชื่อผู้รับหนังสือ .....

หมายเหตุ .....

.....

.....

รายการหนังสือ หมวด ก และหมวด ข ปีการศึกษา 2549

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APPENDIX C

The Relevant International Human Rights Laws on Right to Education of Children

UDHR

- **Article 26**

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

ICESCR

- **Article 13**

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

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(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State."

- **Article 14**

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

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CRC

- **Article 28**

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all;

(b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;

(c)Make higher education accessible to all on the basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

- **Article 29**

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

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(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

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BIOGRAPHY

NAME	Ms. Pornsuree Jamsri
DATE OF BIRTH	June 26, 1975
PLACE OF BIRTH	Bangkok, Thailand
INSTITUTIONS ATTENDED	Assumption University (1994 – 1998) Bachelor of Science (IT) Mahidol University (2003 – 2006) Master of Arts (Human Rights)
ADDRESS	8/496 Soi Aj-Narong 1 Aj-Narong Road, Bangkok Thailand Phone: +662-240-2007 E-mail: suree_mahidol@yahoo.com
SCHOLARSHIP	SIDA and Raoul Wallenberg Institute

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