

Report No. 103/2559 on rights of persons with disabilities in the case of an announcement for application to study at higher secondary education level at the Distance Education Institute violating rights of persons with disabilities.

Issue of Complaint

A complainant submitted a petition requesting the National Human Rights Commission of Thailand (NHRCT) to investigate a case of which he, as a person with physical disability, having weak muscles and thus having to insert a metal piece to keep up his spine; his buttock and both his legs shriveled, desired to study at higher secondary education level at the Distance Education Institute, but his application was turned down. The complainant referred to an announcement concerning application to study at higher secondary education at the Distance Education Institute for the first semester of tuition year 2015 in the non-formal education course at basic education level B.E. 2551 (2008). General qualifications of an applicant 2.1 required that any applicant must be able to sit an examination to gauge his/her achievement at the end of each semester and sit a national level examination for non-formal education (N-NET) at an examination field in Thailand, able to travel to make contact or to take part in activities as required by the institute by oneself, and is ready to be responsible for all kinds of personal expenses occurred. The complainant alleged that some of these qualifications deprived the complainant's right to education.

Actions

The NHRCT considered the petition and opined that the complainant was a person with disability according to the UN Convention on the Rights of Persons with Disabilities and the Persons (CRPD) with Disabilities and the Quality of Life Promotion Act B.E.2550 (2007), the complainant was therefore entitled the right to receive life quality development and rehabilitation of persons with disabilities' capabilities, especially right to education, and policies, rules, regulations and measures or practices of any government agencies, private agencies or individual persons could not be defined in any way that was unfair discrimination against persons with disabilities, including actions or lack of actions that were not directly intended to discriminate against persons with disabilities. Persons with disabilities have the right to access and benefit from public facilities, including welfare and other assistance from the state, for education according to the national education law, as appropriate in any place of education for specific education, or place for general education or alternative education or non-formal education; any agencies responsible for providing education facilities, media, service and any other assistance for persons with disabilities are to be appropriately supported. When the announcement referred to by the complainant required a general qualification of an applicant that s/he must be able to travel to contact or attend activities designed by the accused by her/himself and also to be responsible for all kinds of expenses occurred without taking into consideration its impacts on persons with disabilities, it therefore violated persons with disabilities' right to education according to Article 5 of the Education for Persons with Disabilities Act B.E.2551 (2008) which provides that "Persons with disabilities have the right to education" as follows: (1) to receive education without having to cover expenses from birth or when disabilities occurred throughout their lives, (2) to choose education services, places of education, systems and forms of education

by taking into consideration the persons' capabilities, interests, aptitude and special needs, (3) to receive education that is up to standards and quality guaranteed, including courses, learning processes and tests that are appropriate for special needs of each type of disability and each person with disability". The Commission thus came up with measures to solve this problem of human rights violation according to Article 28 of the National Human Rights Commission Act B.E.2542 (1999) and propose to Office of the Non-Formal Education and Informal Education Promotion, the accused, and Non-Formal and Informal Education Centers for special target groups to consider taking actions as follows:

Measures for solving the problem of human rights violation

(1) Ministry of Education by Office of the Non-Formal Education and Informal Education Promotion, the accused, and Non-Formal and Informal Education Centers for special target groups are to coordinate and do management work together, so that the complainant receive benefits and right to education as he should, including providing supports about educations of persons with disabilities in a way that is consistent with special needs of persons with disabilities according to the guiding principles and intention of the CRPD and Article 5 of the Education of Persons with Disabilities Act B.E.2551 (2008).

(2) The accused is to improve the announcement referred to by the complainant to make it not going against the principle according Article 5 and Article 8 of the Education for Persons with Disabilities B.E.2551 (2008), and Article 15 and Article 20 of the Persons with Disabilities' Quality of Life Promotion Act B.E.2550 (2007), and to be consistent with the guiding principles of the CRPD, Article 24, Section 2, to give persons with disabilities access to right to education.

Successes/progress in human rights protection

(1) The Distance Education Institute informed the NHRCT that it had already corrected the announcement by deleting contents concerning qualification requirements that violated rights of persons with disabilities, that was requirement no.3 "be able to sit an examination to gauge his/her achievement at the end of each semester and sit a national level examination for non-formal education (N-NET) at an examination field in Thailand", and replacing it with "be able to sit an examination to gauge his/her achievement at the end of each semester and sit a national level examination for non-formal education (N-NET) at an examination field", and deleting requirement no.5 "able to travel to make contact or to take part in activities as required by the institute by oneself, and is ready to be responsible for all kinds of personal expenses occurred".

(2) Office of the Non-Formal Education and Informal Education Promotion informed the Commission that it acknowledged the problem faced by the complainant about place of education and understood that the complainant had residence in Bang Bua Thong District, Nonthaburi Province. An investigation revealed that at present, the complainant had already applied to study at a non-formal education center in Bang Bua Thong District, Nonthaburi Province for the first semester of tuition year 2015. It was expected that he would complete education at higher secondary education level in the second semester of tuition year 2016.