

Complaint No.488/2554, Complaint No.162/2555, Complaint No.246/2555, and Complaint No.471/2555 concerning rights and liberties in education: A case of right to education by home school

In brief, the complainant complained to the NHRCT that home school is an alternative education which promotes self and life-long learning to children. The Ministry of Education has proclaimed a Ministerial Regulation on the Right to Basic Education by Home School B.E. 2547 (2004), stating that families need to register, requesting permission from their Education Service Area authority to provide this system of education. This requirement has created several obstacles for home school families to exercise their right to education. For instance, some education officials and coordinators do not recognize education by home school. Education policy of the Office of the Basic Education Commission does not facilitate families to be able to provide education according to the national education law. The Ministerial Regulation is interpreted in such a way that violates the right to participate in administration and provision of home school and would not link with all systems of education. And monitoring and evaluation is not consistent with the learning capacity development plan. The complainant had a view that the Home School Families Network should take part in the management and administration of this system of education by encouraging families to work together with relevant agencies in all sectors to solve any emerging problems, and to promote and support home school.

The NHRCT considered facts obtained from an investigation and related laws, and saw that in order to solve the problem on all sides and in a way that is consistent with the dimension of rights and liberty in education according to Section 49 and Section 50 of Constitution of the Kingdom of Thailand B.E. 2550 (2007), Section 12 of the National Education Act B.E. 2542 (1999), Section 37 of the third amendment B.E. 2553 (2010) of the National Education Act B.E. 2542 (1999), Ministerial Regulation on the Right to Basic Education by Home School B.E. 2547 (2004), Ministerial Regulation on Rules and Methods for Distribution of Education Administration and Management Authority B.E. 2550 (2007), Article 26 of the Universal Declaration of Human Rights, Article 13 of the International Covenant on

Economic, Social and Cultural Rights, and Article 28 of the Convention on the Rights of the Child.

The NHRCT therefore sees that it deems expedient to give policy recommendations to the Ministry of Education and Office of the Basic Education Commission through the Government Cabinet as follows:

1. **Ministry of Education** should make its policy on education by home school clear in order to promote Informal Education and to be an alternative for those interested. The three systems of education that are Formal Education, Non-Formal Education and Informal Education should be connected to be in the same direction and for the development of Thailand's Informal Education system, making it high quality and efficiency.
2. **Office of the Basic Education Commission** should accelerate to complete its production of a handbook for education by home school. However, participation of all sectors must be taken into consideration, so that those involved would have the same way of practice countrywide. To do so, there must be the same systematic understanding all over the country. After this handbook has been used, there should be hearing to learn about problems and feedbacks from using the handbook and evaluation together by those involved. Information gathered from this process would be used to improve the handbook, making it updated and appropriate for home school, and to create mutual learning which would lead to appropriate solutions to the problems.
3. **Office of the Basic Education Commission** should accelerate to take actions as stated in the Home School Development Plan, which is divided into two stages, long-term actions and actions in the forthcoming fiscal year, especially actions related to problems being analyzed and goals have already been fixed to come up with a Home School System Development Plan.
4. **Office of the Basic Education Commission** should accelerate to coordinate and consult with the Territorial Defense Command and other related agencies to

solve problems concerning military education or territorial defense education, especially to amend relevant laws, with rules and right for learners in home school system, non-formal education system, alternative education system and informal education system to be able to apply to be territorial defense students in accordance with Section 71 of Constitution of the Kingdom of Thailand B.E. 2550 (2007) which states that “Every person shall have a duty to defend the country, safeguard national interests and obey the law.” The state can conscript for army service to defend the country in time of war. To be able to apply to be a territorial defense student would allow a concerned person to receive military training and be ready to become reserved force for the country in the time of war.

5. **Office of the Basic Education Commission** should do public relations to provide home school organizers, those involved and people in general information about home school and promote common understandings. Related officials should receive training and knowledge to have clear guidelines for actions and adjust their attitudes concerning home school.
6. **Office of the Basic Education Commission** should consult with the Comptroller General’s Department and Office of the Council of State about rules for withdrawing budget for subsidizing home school, making them clear and becoming guidelines for actions. There should also be consultation to determine clear direction of actions in the future concerning rights and benefits for families that would receive subsidy money for each learner and subsidy money for home school.
7. **Office of the Basic Education Commission** should explain to those who organize home school, so that families and learners in home school system have knowledge and understanding on roles, authority, duties and operation of Office of the Basic Education Commission, Office of the Primary Education Service Area and Office of the Secondary Education Service Area , so that there would be common understandings and agility for doing things together between home

school organizers, home school learners and officials involved, and good mutual understanding and good attitudes towards each other for doing things in the future.

8. **Office of the Basic Education Commission** should review rules and steps for operation by reducing steps that are unnecessarily complicated, so that officials at the Education Service Area Offices can propose requests for permission to organize education to the committee for consideration and inform families that submit the requests for permission to organize education results of the consideration within 30 days from the date that a request for permission to organize education is received as required by a Ministerial Regulation on the Right to Organize Basic Education by Home School B.E. 2547 (2004).
9. **Office of the Basic Education Commission** should consider placing enough and appropriate officials in each education service area to give advices and suggestions and help facilitate families that request permission to organize home school. Their works should also be improved, making them effective so that basic education by home school would be effective and successful.

The Government Cabinet assigned the Ministry of Education to take the policy recommendations proposed by the NHRCT to the Government Cabinet above into consideration for taking actions together with comments from Ministry of Defense, Ministry of Finance and Office of the National Economic and Social Development Board according to its authority and duties strictly within legal framework and related Cabinet Resolutions. Office of the Basic Education Commission, on the other hand, have been taking actions to continuously promote and support home school by producing a handbook for organizing home school that focuses on participation of agencies – Office of the Basic Education Commission, Office of Primary Education Service Area , Office of Secondary Education Service Area and other organizations, as well as people and education organizers. Direction for operation has been made clearer for operation by informing all Offices of Education Service Areas to know and operate along the guidelines for requesting permission to

organize basic education by home school, guidelines for evaluation of knowledge, capability and experience of education organizers in case that they have education qualifications lower than upper secondary level or equivalent. Each education service area is also placed with enough and appropriate officials to give advice and suggestions and facilitate families that ask permission to organize home school and its operation is improved to be effective, so that basic education by home school is organized effectively and successfully.