

**RIGHT TO EDUCATION FOR MIGRANT CHILDREN:
CHALLENGES OF POLICY IMPLEMENTATION IN
MAE SOT DISTRICT, TAK PROVINCE**

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Thesis
entitled
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MAE SOT DISTRICT, TAK PROVINCE**

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Lastly, I apologize for any technical and academically errors contained in this thesis. I am sole responsible for them.

Somporn Sanee

**RIGHT TO EDUCATION FOR MIGRANT CHILDREN: CHALLENGES OF
POLICY IMPLEMENTATION IN MAE SOT DISTRICT, TAK PROVINCE****SOMPORN SANEE 4937985 GRHR/M****M.A. (HUMAN RIGHTS)****THESIS ADVISORY COMMITTEE: VARAPORN CHAMSANIT, Ph.D.,****ASSOC.PROF. KRITAYA ARCHAVANITKUL, Ph.D.****ABSTRACT**

In recent years, a large number people from Myanmar have entered Thailand to search for better economic opportunity. Often, the migrant workers come with family including children. Children of migrant workers, particularly those with no legal status, are often unable to access their basic human rights, particularly the right to basic education. The purpose of this study was to determine if the migrant children are able to access the right to education which, in principle, is ensured by the Thailand Education for All policy.

Semi-structured qualitative interviews were conducted with 40 migrant children and 16 migrant parents/guardians, as well as 27 educators in Thai and migrant schools in the Mae Sot District of Tak province, where there is a high concentration of migrant workers. Supplementary interviews were conducted with workers at local Thai education authorities and NGOs in order to verify and supplement the information about the situation of migrant children and availability of education for them in the research area.

The most important findings of this study are as follows: Thailand has comprehensive legislation and relevant regulations that should work to ensure the enjoyment of educational opportunity for all migrant children. While education fees and four other main direct costs of schooling have been subsidized by the government under the current law and regulations, there are other direct and indirect costs which parents have to pay to enable their children to have access to the Thai state school. This financial burden has a strong negative impact on migrant children since the proportion of their expenses is quite high compared to their low family income. In many circumstances the only option available for these poor migrant families is to find the cheapest education available, or keep their children out of school. Additionally, the language of instruction and the curriculum in the Thai school are not familiar to migrant children and their families which often discourage migrant children from enrolling in Thai state school.

The migrant schools provide an alternative and crucial option for the education of migrant children. Up until now, however, there has been no legislation that provides legal recognition of these schools. The irregular status of these schools poses a significant challenge to their operation as well as the enjoyment of the right to education of migrant children.

**KEY WORDS: RIGHT TO EDUCATION/MIGRANT CHILDREN/MAE SOT/
MIGRANT SCHOOL****129 Pages.**

สิทธิทางการศึกษาของเด็กข้ามชาติ : ความท้าทายในการดำเนินนโยบายการศึกษาในอำเภอแม่สอด จังหวัดตาก (RIGHT TO EDUCATION FOR MIGRANT CHILDREN: CHALLENGES OF POLICY IMPLEMENTATION IN MAE SOT DISTRICT, TAK PROVINCE)

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บทคัดย่อ

ในระยะหลายปีที่ผ่านมา มีแรงงานข้ามชาติจากประเทศพม่าจำนวนมากหลั่งไหลเข้ามาในประเทศไทยเพื่อแสวงหาโอกาสที่ดีกว่าทางเศรษฐกิจ แรงงานข้ามชาติที่เข้ามาในประเทศไทยมักจะเป็นครอบครัวรวมถึงสมาชิกที่อยู่ในวัยเด็กด้วย พบว่าเด็กข้ามชาติเหล่านี้โดยเฉพาะกลุ่มที่ไม่สถานะทางกฎหมายมักจะเข้าไม่ถึงสิทธิมนุษยชนขั้นพื้นฐาน โดยเฉพาะสิทธิทางการศึกษา การศึกษาขั้นนี้ทำขึ้นเพื่อศึกษาสถานะการณ์การเข้าถึงการศึกษาของเด็กข้ามชาติตามแนวนโยบายการศึกษาถ่วงน้ำหนักของรัฐบาลไทย

การวิจัยใช้การสัมภาษณ์เชิงคุณภาพกับเด็กข้ามชาติจากประเทศพม่าจำนวน 40 คน ผู้ปกครองเด็กข้ามชาติจำนวน 16 คน ผู้ให้บริการการศึกษาทั้งจากโรงเรียนไทยและโรงเรียนของแรงงานข้ามชาติอีก 27 คน ผู้วิจัยยังได้สัมภาษณ์เจ้าหน้าที่ของสำนักงานการศึกษาในพื้นที่และเจ้าหน้าที่ขององค์กรพัฒนาเอกชนด้วยเพื่อใช้เป็นข้อมูลเพิ่มเติมเรื่องสถานการณ์เด็กข้ามชาติและโอกาสทางการศึกษา

ผลการวิจัยชี้ให้เห็นว่าประเทศไทยมีกฎหมายและระเบียบต่างๆ จำนวนมากที่รับรองการเข้าถึงสิทธิทางการศึกษาของเด็กทุกคนในประเทศไทยรวมถึงเด็กข้ามชาติ ในขณะที่รัฐบาลได้จัดให้มีการสนับสนุนเรื่องค่าใช้จ่ายทางการศึกษาในสี่หมวดหลักให้แก่เด็กที่เข้าเรียนในโรงเรียนของรัฐ ผู้ปกครองของเด็กยังคงต้องจ่ายค่าใช้จ่ายอื่นๆ อีก ค่าใช้จ่ายเพิ่มเติมเหล่านี้ก่อให้เกิดผลกระทบทางลบต่อการเข้าถึงการศึกษาของรัฐในกลุ่มเด็กข้ามชาติอย่างมาก เนื่องจากครอบครัวแรงงานข้ามชาติส่วนใหญ่มีฐานะยากจน ค่าใช้จ่ายทางการศึกษามีสัดส่วนสูงมากเมื่อเปรียบเทียบกับรายได้ของครอบครัว ดังนั้นครอบครัวจึงจำเป็นต้องหาทางเลือกทางการศึกษาอื่นๆ ที่มีค่าใช้จ่ายต่ำกว่า หรือไม่ก็ไม่ได้ให้เด็กเข้าเรียน ในส่วนของภาษาและหลักสูตรที่ใช้ในโรงเรียนไทยก็ไม่ใช่เป็นที่ยอมรับของเด็กข้ามชาติ ทำให้เด็กข้ามชาติส่วนใหญ่ไม่เข้าเรียนในโรงเรียนไทย

โรงเรียนของแรงงานข้ามชาติเป็นอีกทางเลือกหนึ่งของเด็กข้ามชาติ แต่จนถึงปัจจุบันโรงเรียนเหล่านี้ก็ดำเนินการโดยไม่มีความหมายรองรับ การไม่มีสถานะทางกฎหมายของโรงเรียนของแรงงานข้ามชาตินำมาซึ่งข้อท้าทายต่างๆ ซึ่งส่งผลกระทบต่อการเข้าถึงสิทธิทางการศึกษาของเด็ก

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CHAPTER I

INTRODUCTION

The right to education has been universally recognised since the creation of the Universal Declaration of Human Rights (UDHR) in 1948. Article 26 of the UDHR states, “*Everyone has the right to education,*” and most nations are signatories to this Declaration. The concept of education as a fundamental legal right is further supported by the 1959 Convention on the Rights of the Child (CRC), the seventh principle of which states, “*The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages.*”

The right to education has also been affirmed in Article 13 and 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the 1960 UNESCO Convention Against Discrimination in Education and the 1981 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Most recently, the September 2000 United Nations Millennium Declaration commits all 189 United Nations (UN) member states to achieving the eight Millennium Development Goals by 2015. Among these are goals for expanding and improving early childhood care and education, ensuring that all children have access to a free and compulsory primary education of good quality, achieving a 50 per cent reduction in levels of adult illiteracy, achieving gender equality in primary and secondary education, and improving all aspects of the quality of education.

However, substantial evidence exists that despite these covenants and declarations, education is not universally recognized as a legal right. With a worldwide estimate of more than 72 million children out of school in 2005, the majority of whom are girls, and with more than 40 per cent of Sub-Saharan African children receiving no education (UNESCO 2007: 49-50), it is also evident that education is not a *de facto* right.

1.1 Rationale for the Study

In recent decades, Thailand has assumed economic leadership within the northern part of Southeast Asia. Fast economic development has quickly transformed Thailand into a labor receiving country in the international labor market. The long and porous borders between Thailand and its neighbors, an active recruiting industry, and complacent border enforcement have contributed to the growth in migration of people from neighboring countries from a few thousand to at least one million during the 1990s. In 2004, there were around 1,280,000 migrant workers and members of their family registered with Ministry of Interior. Included in this number were the 93,082 children under the age of 15 who migrated to Thailand either as a part of family or on their own (Huguet and Punpuing, 2005:126).

Although there is an expanding study concerning migration into Thailand, the situation of migrant children particularly with the focus on their right to education is an under-researched topic. There are limited literatures covering the rights of migrant children to the access to education (Runcharoen 2004, OEC 2006, OEC 2009). Case studies reported by non-governmental organizations (NGOs) and UN agencies have revealed specific situations with regard to child labor, child beggars, children involved in prostitution, and child trafficking, including the push and pull factor (ARCM 2003, Caouette 1998, Archavanitkul 1998, Wille 2001). While the major research institutions including the Asian Research Center for Migration (ARCM) and the Institute for Population and Social Research (IPSR), and international organizations including International Organization for Migration (IOM) have reviewed the migration policy and the situations of migration in Thailand and its impacts, these studies have focused at migrant children as a small part of the larger context of migration (Amarapibal et al 2002, Atern and Chantavanich 1998, Chintayananda et al 1997, Archavanitkul 2003, Martin 2003, Huguet and Punpuing 2005, Chantavanich 1997).

Available information indicates that migrant children in Thailand do not enjoy basic rights including the right to education, with these children being very vulnerable to abuse and exploitation. Many of these young migrant children work alongside their parents instead of attending school, even though free compulsory education in Thailand had been extended to secondary level or 12 years. The Royal

Thai Government has an 'Education for All' policy, yet in practice constraints of nationality and ethnicity, language and culture, economic and legal status combine to exclude significant numbers of children from education.

Children who register with the Ministry of Interior are allowed to attend Thai state schools at their place of residence. The data presented in Samienrum (quoted in Huguet and Punpuing, 2005:43) indicates, however, that only a small percentage do so. The combined number of children from Cambodia, the Lao People's Democratic Republic and Myanmar who were enrolled in Thai public schools at secondary level or lower is 13,212 students or equaled only 14 per cent of the total number of registered children¹. This rate is based on the assumption that no unregistered children of migrants were attending school.

In theory migrant children, even if unregistered, can register in the Thai state education system. A Cabinet Resolution made this possible in 2005 recognizing the right to education of all children, including those without evidence of civil registration or Thai nationality (OCE 2008:11-14). In practice, however, the most optimistic estimates suggest that only around 14 percent of registered migrant children attend Thai schools (Huguet and Punpuing 2005:127). When the rather greater number of unregistered migrant children is brought into the picture, it is clear that the vast majority of migrant children are not accessing education through the Thai state education system.

The low percentage is due to a number of obstacles. Apparently some local schools do not accept migrant students, partially owing to a lack of awareness or clarity of the new policy regarding children without registration documents (OEC 2008:25). In many cases, it may be difficult for a migrant family to meet the expenses of attending school – for the purchase of uniforms, books and other materials (Sciortino and Punpuing 2009: id). Because migrant workers in Thailand are in a precarious position, most would be reluctant to assert the right of their children to attend school. For the children, language and discrimination often discourage them to access and stay in Thai school. Even if a few were enrolled in school, the medium of

¹ Actual enrolment rates would be somewhat higher if the number of migrant children aged 0-4 was subtracted from the denominator and if the population of 2003, rather aged 0-14 from those countries who registered with the Ministry of Interior in 2004, were used.

instruction would be the Thai language. That could be a barrier to learning for many of them and would also mean that their education may be of little use when they return home.

The migrant children in Thailand who are not registered are clearly in an inferior position to those who are registered. The unregistered children would mostly be considered illegal immigrants and subject to detention and deportation. Their precarious legal, economic and social situation increases their vulnerability to exploitation in employment and otherwise.

Mae Sot District, Tak Province is one among the border districts where there is high density of migrant population including the members of their family. Despite the low number of 26,914 registered migrant workers in Mae Sot in 2007, organizations working with migrant workers estimated that there are more than 100,000 migrant workers in Mae Sot. The number of migrant children in Mae Sot is unknown but the estimation by NGOs and CBOs is around 40,000 children. At the end of 2009, around 13,400 children were in schools, with almost 10,000 studying in not yet legalized migrant schools. These calculations reflect that although the Thai legislation ensures that every child will have equal access to education, half of all migrant children do not have access to school and two third of children are in unlegislated migrant schools where both students and educators are facing a number of challenges.

There are two main types of education provisions for migrant children in the area; Thai schools and migrant schools or the so-called learning centre, which are organized, and run by the migrant community. The migrant school is an alternative option for children who are not able to access to the Thai education system due to the constraints of nationality and ethnicity, language and culture, economic status and legal status combined. The migrant schools, in fact, support the Thai government to work toward the realization of the right to education for all but they have not yet received official recognition and support for the government. All migrant schools operate without the official recognition and legal status, which leaves them in a high security risk and an unstable condition. The Thai authorities do not accredit the curriculum used in migrant school so the certificate students receive is not recognized in Thailand and elsewhere. Schools have to find their own funding, technical, and

professional support. It is very hard for migrant schools to maintain and improve their education service.

1.2 Statement of Research Problem

In recent decades, Thailand has become a major receiving country of migrant and displaced persons, including their children, from neighbouring countries. As a state party to various international human treaties, Thailand is obligated to ensure that every child in Thailand enjoys his or her basic rights regardless of legal status, ethnicity, gender or religion. The right to education of children especially needs to be put as a priority of state policy and planning. However, the mere written acceptance of those treaties by Thailand cannot guarantee the right to education of migrant children in practice, ensuring that every child has equal rights. In reality the children of migrant workers and migrant children are deprived of their rights especially their right to education. Of 93,082 registered migrant children nationwide in 2004, only 13,459 of them were able to access the Thai education system in the 2005 academic year². This data clearly reflects that more of them are out of the Thai education system. There is evidence that some migrant children³ are studying in schools outside the Thai education system while the remaining are not accessing any education at all. When looking at the smaller area of Mae Sot District, Tak Province where an estimated 40,000 migrant children reside, less than a quarter of them have access to a recognised education system. As a state party to various human rights treaties, the Thai government is obliged to ensure that all children have equal access to education. The significant number of migrant children unable to claim the right to education should be considered a high priority by the Thai government.

This research study is about the barriers and challenge of access to a primary education of migrant children in the western district of Tak Province. The main reasons for conducting this research are as follows:

² The number of registered children refers to those under 15 years old while the number of migrant children in Thai education system is refer to children in pre-primary to higher-secondary level.

³ There is no database about the number of migrant children study in school outside Thai education system nation wide.

- A limited of research about the right to education of migrant children from a human rights perspective
- A need for systematic academically approached work that combines a focus on migrant children and right to education as an initial contribution toward fulfilling the research gap
- Mae Sot District, Tak Province is one of the areas that has a high migrant population and it has a distinctive approach on accommodating the education needs of migrant children

1.3 Objectives of Research

- 1) To examine the obligation of Thailand, as state party to various international treaties, concerning the protection and fulfillment of education rights of migrant children who are living in Thailand.
- 2) To investigate the current situation of migrant children in terms of access to primary education.
- 3) To examine the implementation of the new Thai educational policies, cabinet resolution 2005 regarding the education for children without legal registration or Thai citizenship, in the studied area.
- 4) To identify the challenges of access to primary education facing migrant children

1.4 Research Questions

- 1) What are the consistencies and inconsistencies between the legal and policy provisions in Thailand and the actual situation regarding the access to primary education for migrant children in the studied area?
- 2) What are the barriers and challenges for the access to primary education of migrant children in the studied area?

1.5 Significance of the Research

Academically, this research attempts to bridge the knowledge and experience of migrants regarding the education opportunities of their children, and it will be important and useful for government authorities, politicians, academics, students, non-governmental activist, and public in general to understand the issue of education provision for migrant children through a human rights perspective. The research looks into the situation of one of the most vulnerable groups in Thailand, migrant children. Hopefully the knowledge from this research will contribute to more recognition and respect of rights to education of child migrants and children of migrants.

1.6 Research Structure

The thesis is composed of six chapters in total. The current chapter, Chapter I Introduction, elaborates the introduction and the essence of the research. Chapter II is a study on the concept of Human Rights and right to education in both international and national level. Thai domestic laws, legal framework and their implementation at the national level are discussed in this chapter.

Chapter III is the Methodology chapter, which discusses the selection of the research site, selection of the samples and the design of interview questions and tools. The procedures for data analysis are also illustrated here.

Chapter IV is the place where additional data of sample groups are kept. As there is a large amount of information gathered regarding the lives of migrant workers and the current situation of education provisions for migrant children. Much of this information may not directly relate to the research questions, yet this information is useful in providing the wider context of migrants' situation and their environment.

Chapter V presents the research results and the analysis of these results. The right-based approach and the four-As framework will be use as a conceptual framework to analyze the finding.

Chapter VI, Conclusion and Recommendations, summerises the findings that are in support of the research questions and discusses the findings in term of policy recommendations.

CHAPTER II

LITERATURE REVIEW

2.1 Human Rights

The language of human rights may be a relatively modern creation, but the idea that underlies it can be traced back to at least the classical scholars. Although there is no explicit mention about ‘rights’ in the ancient and classical scholarly works, the root of the idea did originate in their works. For example, Plato (427-348 BC) developed an early version of universalism in ethical standards, implying fair treatment to all persons whether they were citizens or not. Aristotle (384-322 BC) discussed the importance of virtue, justice, and rights in accordance with the political community. Greek-Roman Stoics, such as Cicero and Seneca, talked about morality originating in the rational will of God and the existence of a cosmic city. The Stoics argued that this ethically universal code imposed upon all of us a duty to obey the will of God. Cicero provided the philosophical foundations for later theories of natural law, when he advocated a general set of universal principles, which should transcend local civil law (O’Byrne, 2003 and Shestack, 1998).

Early versions of human rights can also be found in moral teaching of Christian scholars, for example, St. Thomas Aquinas (1224-1274). Aquinas believed that ‘natural law’ was the idea that everyone is aware of and through which everyone become conscious within himself of what is right or wrong (Aquinas, in Winston, 1989), and that human dignity and value are inherent properties which are validated according to natural law.

The concept of right in the modern sense of human rights clearly emerges in the works of European enlightenment scholars, such as Thomas Hobbes (1588-1679), John Lock (1637-1704), and Immanuel Kant (1724-1804). In his *Leviathan* (1651), Hobbes claims that humans are violent and greedy animals, and they live in a natural state of anarchy. In order to protect themselves and ensure their personal security they come together to establish a set of rules. Individuals give up some part of

their personal freedom to the rulers in return for security. This is the basis of what Hobbes calls 'social contract'. While Hobbes was arguing for the right of rulers to rule, he was also claiming that the individual has the basic right to security. In effect, Hobbes had indicated that humans had an innate right for security from the state.

John Locke first suggested that there are natural rights, which are shared by all people; they are inalienable, and cannot remove by any political authority. Locke's *Two Treaties of Government* (1690) used the same methodology as Hobbes but came up with a different conclusion. Locke claimed that in a state of nature humans are naturally peaceful, free and mercantile "...and that is a state of perfect freedom to order their actions and dispose of their possession and persons as they think fit, within the bounds of the law of nature, without asking leave, or depending upon the will of any other man. A State also of equality, wherein all the power and jurisdiction is reciprocal, no one having more than another..." (1952:11). The social contract, in Locke's idea, emerges out of the occasional need for an independent authority in any disputes which may arise over trade or property. Locke argued that humans have natural rights to life, liberty, and property.

While, Hobbes and Locke provided the foundation of the political basis of human rights, it is Immanuel Kant who is credited with grounding human rights in an ethical base. Kant's argument is based on the qualitative recognition of fundamental 'human dignity', which later became a core concept in contemporary philosophical justifications of human rights. His main ideals are the 'equality' and the 'moral autonomy' of rational human beings. Kant provides a means for justifying human rights as the basis for self-determination grounded within the authority of human reason. Human rights are rights we give to ourselves as autonomous and formally equal beings.

The philosophical ideas defended by Locke and Kant have come to be associated with the political constitution of state in Thomas Paine's publication in 1791, the *Right of the Man*. Paine was a radical and democratic republican who believed in the sovereignty of the individual person. Paine, as a supporter of the revolution, argued that the formal implantation of rights within the political sphere was essential for the establishment of social justice.

After Kant, the human rights idea shifted away from the philosophical arena towards the active politic, both in writing and practice. The main movement of the temporary human rights doctrine has been the result of the horrific consequence of the Second World War. The Universal Declaration of Human Rights (UDHR) was created in response to the most horrific violations of human rights, exemplified by the Holocaust. This consequence left a legacy that enormous harm could result in allowing individual countries to define and pursue their own values. The United Nation General Assembly adopted the UDHR on 10 December 1948. In this process all state parties committed themselves to the belief in the existence of a universally moral order and a belief in all human beings possession of fundamental and equal moral status, enshrined within the concept of human rights. Human rights are, in the words of the preamble of the UDHR, “*a common standard of achievement for all peoples and all nations*” (United Nations, 1948).

2.2 Rights to education

2.2.1 International Laws and Instruments

The right to education has been universally recognised since 1948 in the UDHR. Article 26 of the Declaration proclaims that: “*Everyone has the right to education. Education shall be free, at least in the elementary and fundamental levels. Elementary education shall be compulsory...*” UDHR is a common standard and most nations are signatories to this Declaration. The UDHR emphasized the right to education with aims to provide to all with no cost and to support the fullest development of children in various aspects. The 1966 International Covenant on Economic, Social, and Cultural Rights (ICESCR) and the 1986 Convention on the Rights of the Child (CRC) further support the concept of education as a fundamental right. Article 13 of ICESCR extends this commitment to the concept of education as a fundamental right, including the universal right to a free and compulsory primary education, secondary and technical education available and accessible to all, with a progressive movement toward this being free to all and higher education being accessible to all on the basis of capacity, with a progressive movement toward being free as well. Furthermore, the Article defined the aims of education that shall be direct

to “...*the full development of human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedom...*”. This education aim is later elaborated in Article 29 of the CRC which calls on the governments to ensure that the education leads to the fullest development of the child as well as respect to child’s parents, his or her own culture, and language. Both treaties emphasize the state’s responsibility to take all appropriate means to ensure the progressive realization of this right. Children’s rights that relate to education are also detailed in Article 28 of the CRC which recognizes the right of children to education and requires State parties to provide free, compulsory, basic education, and to protect the child’s dignity in all disciplinary matters, and to promote international cooperation in education.

The International Convention on the protection of the Right of All Migrant Workers and Member of Their Families (IMWC) and the Convention against Discrimination in Education also contain provisions concerning the right to education. However, this research will not discuss these instruments because Thailand is not a signatory.

Most recently, the September 2000 United Nations Millennium Declaration commits all 189 UN member states to achieving the Eight Millennium Development Goals (MDG) by 2015. Among these are goals for expanding and improving early childhood care and education, ensuring that all children have access to a free and compulsory primary education of good quality, achieving a 50 per cent reduction in levels of adult illiteracy especially among women, achieving gender equality in primary and secondary education, and improving all aspects of the quality of education (World Education Forum, 2000).

The right to education is not an end to itself, but an important tool in improving the quality of life. Education is a key to economic development and the enjoyment of many other human rights. Education provides a means through which all people can become aware of their rights and responsibilities. As noted in Committee on Economic, Social and Cultural Rights General Comment 13,

“Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially

*marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities. Education has a vital role in empowering women, safeguarding children from exploitative and hazardous labour and sexual exploitation, promoting human rights and democracy, protecting the environment, and controlling population growth. Increasingly, education is recognized as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence.”*¹

However, while the vast majority of countries have signed up to, and ratified international conventions such as the CRC, far fewer have integrated these rights in national constitutions or provided the legislative and administrative frameworks to ensure that these rights are realised in practice. In some cases the right exists in theory but there is no capacity to implement this right in practice. Inevitably, a lack of government support for the right to education affects the disadvantaged groups hardest. Today, with a worldwide estimate of more than 72 million children out of school in 2005, the majority of whom are girls, and with more than 40 per cent of Sub-Saharan African children receiving no education (UNESCO 2007: 49-50), it is also evident that education is not a de facto right.

2.2.2 Right Based Approach to Education

Once States ratify international human rights instruments, they commit themselves, through whichever government is in power, to compliance with the rights embodied in those instruments. States hold the primary responsibilities and are accountable to the holders of those rights for their implementation. Right based approach imposes three types of obligations on States parties: obligations to respect, protect, and fulfill the right to education.

¹ Committee on Economic, Social and Cultural Rights, Twenty-first session 15 November-3 December 1999:Article13: The Right to Education, E/2000/22(1999).

To respect the right to education

The obligation to respect requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to education. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to education, for example, legislation that categorizes certain groups of children with disabilities as uneducable or limit the access to education because of citizenship, or arbitrarily interfering with customary or traditional arrangements for education arrangement.

To protect the right to education

The obligation to protect requires State parties to prevent third parties from interfering in any way with the enjoyment of the right to education. Third parties include individuals, groups, corporations and other entities. The obligation includes, inter alia, adopting the necessary and effective legislative and other measures to restrain, for example, third parties from denying equal access to education, prevent children from the cultural discrimination practices that prevent them to have access to education, ensure that educators meet appropriate standards of education, skills, and ethical codes of conduct.

To fulfill the right to education

The obligation to fulfill requires State parties to adopt necessary measures directed toward the full realization of the right to education. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national education strategy and plan of action to realize this right; ensuring that education is affordable for everyone; and facilitating improved and sustainable access to education, particularly for vulnerable groups; adapting the curricula to suit the needs of all children; and engaging parents to enable them to provide effective support to their children's education.

The duty to respect, protect and fulfill should be implemented without discrimination. The State is obliged to treat people equally. The authorities should establish standards and implement their policies in a way that does not discriminate

against certain groups. At the same time, different treatment must be reasonably justified for special individuals and groups who have traditionally faced difficulties in exercising this right including women, children in difficult circumstances, minority groups and indigenous peoples.

2.2.3 Quality Education and The four-As Framework

The right to education is a fundamental human right. Every individual, irrespective of race, gender, nationality, ethnic or social origin, religion or political preference, age or disability, is entitled to a free elementary education. Ensuring access to education is a precondition for full realization of the right to education. Without access, it is not possible to guarantee the right to education. The quality of the education provided is the other side of coin. Providing access to schools secures only one part of the right to education. Once in school, children should be educated with the aim to support fully development of them as stated, in the UDHR article 26 *"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 racial or religious groups ..."*

This aim is re-emphasized in Article 13 of the ICESCR 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... 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, ..."*

While the CRC is restating the same educational aim with the focus on the concept of the "best interest of the child" in its Article 29 which affirms that *"State Parties agree that the education of the child shall be directed to ...The development of the child's personality, talents and mental and physical abilities to their fullest potential..."*

The fulfillment of the right to quality education can be assessed using the four-As framework, which asserts that for education to be a meaningful right it must be available, accessible, acceptable and adaptable. The four-As framework, which lays down quality criteria for education from a human rights perspective, was developed by

the former United Nations Special Rapporteur (UN Special Rapporteur) on the Right to Education, Katarina Tomasevski. The four-As framework is helpful in assessing whether education is indeed in line with the agreed international human rights norms, but is not necessarily the standard used in every international human rights instrument.

The four-As framework proposes that governments, as the prime duty-bearer, has to respect, protect and fulfill the right to education by making education available, accessible, acceptable and adaptable (Tomasevski, 2004:i). The framework also places duties on other stakeholders in the education process: the child, which as the privileged subject of the right to education has the duty to comply with compulsory education requirements, the parents as the 'first educators', and professional educators, namely teachers (Tomasevski, 2004:8-9). The four-As framework have been further elaborated as follows:

Availability

The government is obliged to ensure that education is free and government-funded and there is adequate infrastructure and trained teachers able to support education delivery. Availability embodies two different governmental obligations: to permit the establishment of educational institutions by non-state actors and to establish them, or fund them, or use a combination of these and other means so as to ensure that education is available. Ensuring that education is available revolves rarely, if ever, only around funding. Freedom of parents and communities to establish schools has been part of international human rights law since its creation. Most countries thus operate some system of accreditation and/or licensing so as to ensure that schools are properly equipped and staffed and that their programmes conform to the definition of education. The balance, which needs to be struck between the governmental obligation to ensure that education is worthy of its name and safeguards necessary to prevent the Government from abusing its power to grant or withhold licenses, has generated endless court cases all over the world.

The other facet of the obligation to ensure that schooling is available is a safeguard against abuses of power by the government. A government may close a university because professors and students have challenged the official orthodoxy

exercising their freedom of expression. Or it may disregard the right to education and breach its obligation to ensure that education is available.

Accessibility

The government is obliged to secure access to education for all children in the compulsory education age-range. Compulsory education ought to be free and non-discriminatory, and positive steps should be taken to include the most marginalized children in society. Access is defined differently for different levels of education. The government is obliged to secure access to education for all children in the compulsory education age-range, but not for secondary and higher education. Moreover, compulsory education ought to be free of charge while post-compulsory education may entail the payment of tuition and other charges and could thus be subsumed under affordability.

Access to public schools should be guided by nondiscrimination. Non-discrimination is not subject to progressive realization but has to be secured immediately and fully. Respect of parental freedom of choice for the education of their children is also not subject to progressive realization but should be guaranteed fully and immediately. Its exercise, however, sometimes clashes with the elimination of discrimination for the rights of the child, such as deprivation of education for girls.

Acceptability

The government is obliged to ensure that the education, which is available and accessible, is of a good quality. The content of education should be relevant, non-discriminatory and culturally appropriate, and of an acceptable quality. The school itself should be safe and the teachers professional.

Acceptability requires minimum guarantees regarding the quality of education, thus urging governments to ensure that the education, which is available and accessible, is of good quality. The minimal standards of health and safety, or professional requirements for teachers, therefore has to be set, monitored and enforced by the government throughout the education system. The scope of acceptability has been considerably broadened through the development of international human rights law.

The focus on indigenous and minority rights has prioritized the language of instruction, which often makes education unacceptable if the language is foreign to young children and also to the teacher. Governments have been required to respect the right of minorities to set up their own schools in minority languages since the time of the League of Nations. More than half a century later, dilemmas regarding the language of instruction have increased rather than diminished. Demands that minority schools be made “free” (that is, state-financed) are often made but seldom granted. The right to be educated in one’s mother tongue has been on the international human rights agenda since the 1950s and controversies intensified in the 1990s, when the wisdom of unilingual education, even in one’s mother tongue, has been challenged, adding a new item to this endless controversy. The financial implications of multilingualism in primary school have further exacerbated controversies.

Adaptability

Education ought to adapt to children, following the thrust of the idea of the best interest of each child in the CRC as well as being able to evolve with the changing needs of society and contribute to challenging inequalities. It should be possible to adapt the education locally to suit specific contexts.

The usual approach is to review the contents and process of learning from the viewpoint of the child as future adult, while the CRC requires that the best interests of the child be given priority. The choice in the Convention to refer to the best interests of the individual child highlights the need for the educational system to become and remain adaptable. This re-conceptualization has changed the principle and practice of forcing children to adapt to available schools; the school effectively had a right to reject a child who did not fit or could not adapt.

Tomasevski finds that these four-As are individual components and at the same time interrelated to each other (Tomasevski, 2001:12-14). An adaptation of Tomasevski’s framework is the theoretical underpinnings of the quality education side of this study.

Figure 2.1 the Four-As Conceptual Framework

Conceptual framework

RIGHT TO EDUCATION	AVAILABILITY	<ul style="list-style-type: none"> – fiscal allocations matching human rights obligations – schools matching school-aged children (number, diversity) – teachers (education & training, recruitment, labour rights, trade union freedoms)
	ACCESSIBILITY	<ul style="list-style-type: none"> – elimination of legal and administrative barriers – elimination of financial obstacles – identification and elimination of discriminatory denials of access – elimination of obstacles to compulsory schooling (fees, distance, schedule)
RIGHTS IN EDUCATION	ACCEPTABILITY	<ul style="list-style-type: none"> – parental choice of education for their children (with human rights correctives) – enforcement of minimal standards (quality, safety, environmental health) – language of instruction – freedom from censorship – recognition of children as subjects of rights
	ADAPTABILITY	<ul style="list-style-type: none"> – minority children – indigenous children – working children – children with disabilities – child migrants, travelers
RIGHTS THROUGH EDUCATION		<ul style="list-style-type: none"> – concordance of age-determined rights – elimination of child marriage – elimination of child labour – prevention of child soldiering

Source: Tomasevski, Katarina. *Human rights obligations: making education available, accessible, acceptable and adaptable*. Stockholm: Right to education primer no.3, SIDA, 2001.

Figure 2.2 the Four-As Framework

4-A scheme

AVAILABILITY	SCHOOLS	Establishment/closure of schools Freedom to establish schools Funding for public schools Public funding for private schools
	TEACHERS	Criteria for recruitment Fitness for teaching Labour rights Trade union freedoms Professional responsibilities Academic freedom
ACCESSIBILITY	COMPULSORY	All-encompassing Free-of-charge Assured attendance Parental freedom of choice
	POST-COMPULSORY	Discriminatory denials of access Preferential access Criteria for admission Recognition of foreign diplomas
ACCEPTABILITY	REGULATION AND SUPERVISION	Minimum standards Respect of diversity Language of instruction Orientation and contents School discipline Rights of learners
ADAPTABILITY	SPECIAL NEEDS	Children with disabilities
	OUT-OF-SCHOOL EDUCATION	Working children Refugee children Children deprived of their liberty

Source: Tomasevski, Katarina. *Human rights obligations: making education available, accessible, acceptable and adaptable*. Stockholm: Right to education primer no.3, SIDA, 2001.

Discussion on the Conceptual Framework

The concept of the right based approach and the four-As comprehensively captures many facets of the right to education. However, it should be noted that the two frameworks is not definitive. Whilst it is a particularly useful way of explaining the right to education in terms of tangible factors, it is not necessarily the standard used in every international treaty and particularly in national law and as such should not be treated as a generic, comprehensive guide to what the right to education means under every law. When applying these frameworks to different contexts and target groups, prioritization and adjustment are needed. In this session, the research attempts to interpret the two frameworks when applying to the specific context of migrant children in the western districts of Tak Province. Migrant children are not citizens of the host country and live in an inferior status. A majority of the children are living in Thailand with no or unclear legal status, come from a poor family, use a different language and have different culture. To ensure that migrant children fully enjoy their right to education, these factors must be considered when developing educational policy and strategy and while implementing them.

Respect the right to education of migrant children

The Thai government should refrain from interfering directly or indirectly with the enjoyment of the right to education of migrant children. The Government must refrain from engaging in any practice that denies or limits equal access to education by migrant children, for example, policy or legislation that limits the access to education of migrant children, policy or legislation that limits the establishment of migrant community educational institutions, policy implementation that prevents or limits access to education of migrant children and the establishment of community schools.

Protect the right to education of migrant children

The Thai government is obligated to prevent third parties from interfering in any way with the enjoyment of the right to education of migrant children. The obligation includes adopting the necessary and effective legislative and other measures to restrain state and private education institution from denying equal access to

education, prevent children from the cultural discrimination practices that prevent them to access education, prevent children from being use as child laborers, ensure that educators meet appropriate standards of education, skills, and ethical codes of conduct.

Fulfill the right to education of migrant children

The obligation to fulfill requires the Thai government to adapt necessary measures directed toward the full realization of the right to education of migrant children. To fulfill also means that the government has to ensure that the end results of policy and legislation contribute to the progressive realization of the right to education of migrant children.

When looking at the Thai government obligation to fulfill the right to education of migrant children, the four-As framework will help to explain what stakeholder should do in order to ensure that all migrant children can fully enjoy their right to education.

The government's obligation to ensure that there are educational institutions and programmes in sufficient quantity, with the necessary facilities to function appropriately in the context in which they operate, *e.g.*, adequate structures, sanitation facilities for all children, trained teachers receiving domestically competitive salaries, teaching materials, and so on., and even facilities such as libraries, computer facilities and information technology.² In making education available, the government must establish and/or permit the establishment of schools and provide the resources necessary to develop the institutions.³

The government must also respect the availability of education by not closing community and private schools and fulfill the availability of education by actively developing school systems—that is, by building schools, developing programmes and teaching materials, adequately training and compensating educators, and support the operation of community and private schools.

² General Comment 13, *supra* note 33, at paras. 6–7; Tomasevski 1999 Report, *supra* note 26.

³ Tomasevski 1999 Report, *supra* note 26, at paras. 51–56.

The government is obligated to ensure that migrant children are able to attend a school under state supervision, a private school, or a community school. Accessibility should consist of, at least, three components. First, education must be accessible to all without discrimination. Secondly, education must be physically accessible to all. This means that schools should be located in a manner that enables all immigrant children to participate, including those living in isolated areas. This may mean building schools in the plantation areas where there is a significant number of migrant children, or providing a means of transportation for children to travel from home to school. Third, and finally, education must be economically accessible to all. While all education should be economically accessible to all, the requirement that education be free is subject to the differential wording of the ICESCR Article 13(2) in relation to different education level. Whereas the ICESCR is clear that primary education must be made free to all, secondary education must be made accessible only “by every appropriate means.” Moreover, school should not charge any indirect cost to migrant children and their family.

Acceptability addresses the form and substance of the education with regard to both quality and appropriateness.⁴ This is a duty based on principles of basic human dignity, and it requires that education be of a quality that has meaning to the individual students, to the community, and to society at large. Instruction should involve non-discriminatory subject matter and should incorporate content appropriate to the migrant students’ cultural, language and social backgrounds.⁵

More broadly, the concept of acceptability covers the material conditions of teaching staff, curricula, teaching method, and educational standard. The form and substance of education, including curricula and teaching methods, has to be acceptable *e.g.*, relevant to the needs and learning ability of migrant children, culturally appropriate and of good quality to students and parents.

Adaptability also addresses the need for education to be flexible and able to respond to the needs of migrant students within the diverse social and cultural settings. In achieving adaptability in education, the Thai government should provide resources that enable schools to develop education plans that meet the needs of the

⁴Tomasevski 1999 Report, *supra* note 26, at paras. 62–69

⁵General Comment 13, *supra* note 33, at para 1-10.

communities served by the schools including migrant communities. In addition to customizing the curricula, schools must monitor the performance of both the teacher and the students and make modifications depending on the results. An education system that is not adaptable is likely to have a high drop out rate for students.

In order for education to achieve these goals, it must be adaptable. The CESCR has further emphasized “education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings”⁶. Additionally, the government must allow for free choice of education by migrant parents without interference from government or third parties, subject to conformity with minimum educational standards.

2.3 Thailand and International Human Rights Instruments

Human rights refers to the concept of human beings as having universal rights, or status, regardless of legal jurisdiction or other localizing factors, such as ethnicity, nationality, and sex. As is claimed by Donnelly,

Human rights are, literally, the rights we have simply because we are human. They are equal rights: one either is or is not a human being, and thus has exactly the same human rights as every other human being. They are inalienable rights: one cannot stop being a human being, and therefore cannot lose one's human rights, no matter how horribly one behaves nor how barbarously one is treated. Human rights are also universal rights, held by every human being, everywhere.

(Donnelly, 2005:1)

The existence, validity and content of human rights continue to be the subject of debate in philosophy and political science. Legally, human rights are defined in international law and covenants, and further, in the domestic laws of many states. However, for many people the doctrine of human rights goes beyond law and forms a fundamental moral basis for regulating the contemporary geo-political order.

⁶ General Comment 11, *supra* note 106, at para. 7. (Art13 para 2, 13 (1999))

International human rights standards can be classified into two categories: declarations which are not legally binding although they may be politically morally so; and treaties, sometimes called conventions, covenants, or protocols which are legally binding instruments concluded under international law. It should be noted that international treaties can, over time, obtain the status of customary international law. Most treaties establish mechanisms to oversee their implementation. In some cases these mechanisms have relatively little power, and are often ignored by member states; in other cases these mechanisms have great political and legal authority, and their decisions are almost always implemented.

The Thai legal system is a 'dualist system', which means that an international treaty to which Thailand has become party to does not automatically become a part of Thai law. Such a treaty needs to be transformed into Thai law for it to be enforceable within the Kingdom as stated in Chapter X Sec. 197 of the 2007 Constitution of the Kingdom of Thailand, "*The trial and adjudication of cases are the powers of the Courts, which must proceed in accordance with the Constitution and the law and in the name of the King.*"

However, Section 190 of the 2007 Constitution stipulates, inter alia, that

"A treaty that provides for a change in the Thai territories, the extraterritorial areas in which the Kingdom has a sovereign right,... must be approved by the National Assembly...Prior to the conclusion of a treaty with other countries or international organizations under paragraph two, the Council of Ministers shall publicize relevant information, make arrangement for a public hearing on the matter, and provide clarification of such a treaty to the National Assembly, in which the Council of Ministers is required to propose the negotiation framework to the National Assembly for approval.."

As the process of becoming a State party to any treaty the Thai parliament needs to examine the treaty provisions to determine whether they will approve the process of becoming a State party of each treaty or not. In the case of Covenants, there have already been some legal provisions under existing law, which can give effect to the obligations there under. The Covenant can thus be invoked via such provisions before Thai courts, which enforce those provisions under the due process of law.

2.3.1 Status of Ratification and Reservation

The relationship between the international human rights standards and national framework poses a consistent challenge to Thailand. In the past, Thailand had hesitated to become a party to international human rights treaties or to abide by those instruments. Gradually, the country has become more ready to abide by human rights treaties. However, upon accession or ratification, the Thai government has entered a variety of reservations or to make interpretative declarations to indicate non-acceptance of various rights, indicating divergences between national law and international human rights standards. At present, the country is a party to seven principle human rights treaties:

- the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- the 1966 International Covenant on Civil and Political Rights (ICCPR);
- the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- the 1989 Convention on the Rights of the Child (CRC);
- the 2006 Convention on the Rights of Persons with Disabilities (Disability)

Table 2.1 Ratification of the Principle International Human Rights Treaties by Thailand

International human rights treaties	Entry into force	Reservations
ICCPR	29/01/97	Art.1(1), 6(5), 9(3), 20(1)
ICESCR	5/12/99	Art.1(1)
CRC	26/04/92	Art.7, 22
CEDAW	8/09/85	Art.16, 29(1)
CERD	27/02/03	Art.4(a, b, c), 22
2 nd CRC OPT	11/02/06	NA
1 st CRC OPT	27/03/06	NA

CEDAW OPT	22/12/00	NA
CAT	02/11/07	Art.30(1)
Disability	29/08/08	NA

Source: combined data from www.bayefsky.com last visited July 15, 2009.

2.4 Right to Education in Thailand

Thailand's education effort has been given a high mark in past years with continuing progress on key education indicators toward achieving the internationally agreed Education for All Goals by 2015. This includes the government's figures of high enrollment rate in compulsory education, a high percentage of female students in the education system, a high adult literacy rate and a relatively high coverage rate of pre-primary education.

Despite the right to free, quality basic education of 12 years being guaranteed in the previous Constitution (1997 Constitution), an estimated 419,000 primary school aged children (6 -11 year) were not enrolled in basic education during the 2005 Academic Year (Shoraku, 2008:3). One factor limiting access to education especially among the poor children is the cost of education. While education fees have been abolished under the law, there are other indirect costs, which parents have to pay to enable their children to have access to an education (Vittayakorn, 2008:3). This factor has a higher impact on children from a poor family since the ratio of family income compared to the potential educational cost is low and they have limited options to adjust themselves to the situation. In many circumstance the only option remaining is to withdraw their children from school.

There are also other factors, which prevent children from exercising their right to education. There is an estimated of 1.9 million so-called disadvantaged children⁷ in Thailand (Kom Chad Luk, 5 January 2009). These numbers include 6 categories: (1) abandoned and neglected children; (2) children physically or sexually abused; (3) children with undesirable behavior; (4) children with physical, mental,

⁷ In the context of educational provision, "disadvantaged children" are identified as those under the age of 18 (except in cases requiring special care, the age limit could be extended to 24), who are confronted with problems or find themselves difficult circumstances or in less favorable situations. These children need special assistance for a better life and well-being. Their development in all aspects must be commensurate with their age, enabling them to reach their highest potential.

emotional, intellectual and learning deficiencies; (5) socially deprived/poor children; and (6) HIV/AIDS affected children. (OEC, 2005:7). Lack of birth registration or citizenship, discrimination by teachers and peers as well as a lack of an education curriculum which is appropriate for the local context or ways of life for some groups of the population are some of the factors limiting access to education for children living in Thailand (OEC, 2008:11-12).

Quality education is another issue of major concern. Despite the relatively high figure (93 percent) of adult literacy presented by the government data (UNESCO, 2008:254), an assessment by the Organisation for Economic Cooperation and Development (OECD) in 2005 found that 37 percent of fifteen years old students were performing at a level indicative of very low reading abilities⁸. Thailand needs to pay attention to the disparity and increasing inequality in education between different groups of people. It is not satisfactory anymore to look at the average figure as this does not point to the wide gap, which will need to be addressed. The government needs to acknowledge and identify those “outreached” and develop appropriate measures to enabling them to exercise their right to free, quality basic education. Greater investment in and more effective management of the education system along with a more coherent strategy and mechanism of delivering education will be an important factor to further progress in education.

2.4.1 Thailand Education Situation

a. Education System

Education in Thailand is provided mainly by the Thai government through the Ministry of Education (MOE) from pre-school to upper secondary school. A free basic education of fifteen years is guaranteed by the constitution, and a minimum of nine years school attendance is mandatory.

Formal education services are divided into two levels: Basic Education and Higher Education. Basic Education is provided for at least 12 years before higher education, and includes Basic Education, Vocational and Technical Education (MOE, 2004:24-27). Early year education or pre-primary education, also part of the basic

⁸ UNESCO Newsletter no. 4 August 2005, retrieved from <http://cms.unescobkk.org/index.php?id=3235> on 24 April 2009.

education level, spans 2–3 years depending on the locale, and is variably provided. Basic education consists of at least twelve years of basic education. Basic education is divided into six years of primary education and six years of secondary education, the latter being further divided into three years of lower-secondary and three years of upper-secondary levels. Formal vocational and technical education is conducted at three levels: upper secondary (leading to the Lower Certificate of Vocational Education), post secondary (leading to a Diploma or Vocational Associate Degree) and university level (leading to a Degree). Higher education is predominantly provided at universities and colleges. The two distinct levels of educational attainment are the diploma level and graduate degrees. Non-formal and informal education is also supported by the State. See visualizes information in Figure 2.1.

The school structure is divided into four key levels: the first level is the first three years in primary school (Grade 1-3), the second level is for the last three year in primary school (Grade 4–6). The secondary level of schooling consists of the third level or lower secondary (Grade 7-9) and forth level or upper secondary (Grade 10-12). The education structure is also divided into academic and vocational streams. Students who choose the academic stream usually intend to enter a university. Vocational schools offer programs that prepare students for employment or further studies. In the academic year 2007, there were approximately 20 million students in both formal and non-formal schooling at all levels of education (MOE, 2008:2).

On the completion of each level, students need to pass the National Educational Test (NET) to graduate. Children are required only to attend six years of primary school and at least the first three years of lower secondary school. Those who graduate from the sixth year of high school are candidates for two decisive tests: Ordinary National Educational Test (O-NET) and Advanced National Educational Test (A-NET) the results of which will be used for an access to higher education.

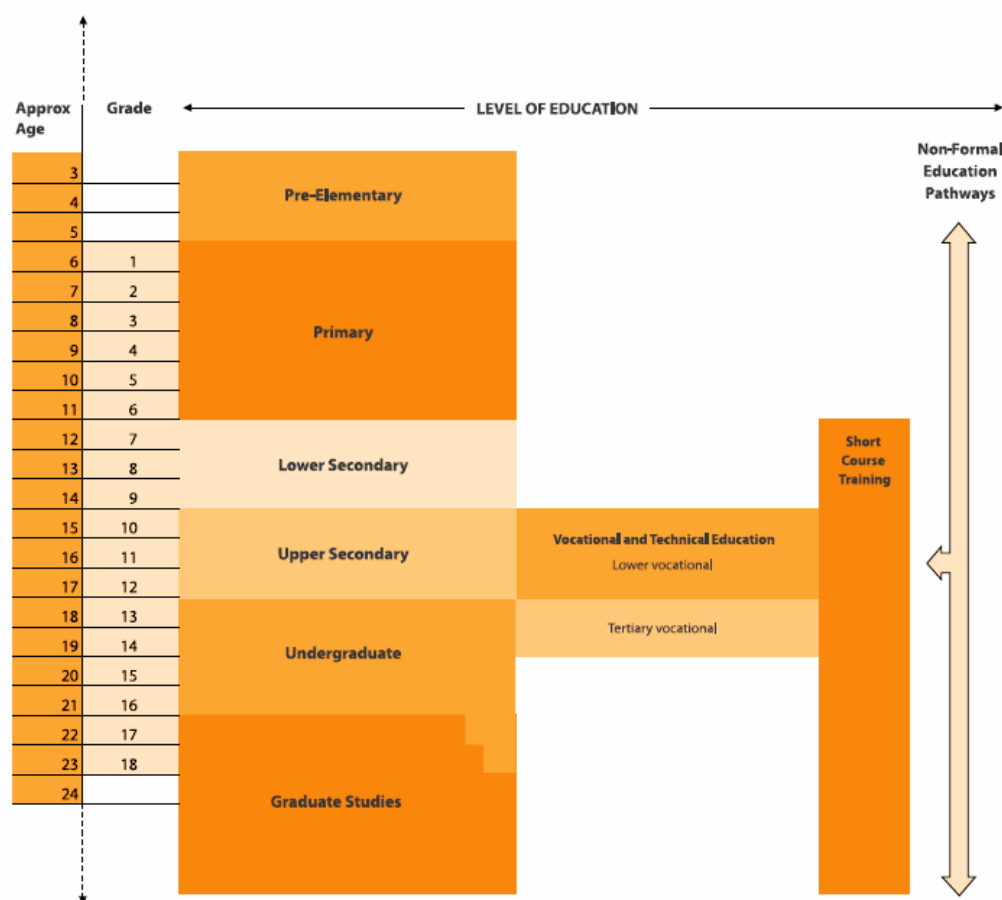
Public or state schools are administered by the government, and the private sector comprises schools run for profit and fee-paying non-profit schools which are often run by charitable organisations - especially by Catholic diocesan and religious orders. Village and sub-district schools usually provide early year education and elementary classes, while in the district towns; schools will serve their areas with comprehensive schools with all the classes from early year education to secondary

schools. Due to budgetary limitations, rural schools are generally less well equipped than the schools in the cities and the standard of instruction, particularly for English language and Science, is much lower, and many secondary school students choose to commute to schools in the nearest city.

At present, the teaching-learning activities of basic education in the general stream follows the 2003 Curriculum for Pre-primary Education and the 2001 Curriculum for Basic Education (Grades 1-12). The 2003 Curriculum for Pre-primary Education focuses on preparing children in terms of their physical, intellectual, emotional/mental and social readiness⁹, while the 2001 Curriculum for Basic Education covers twelve years of basic education consisting of 1,000-2,000 hours per year. In this curriculum, the knowledge and skills specified in Section 23 of the National Education Act have been grouped into eight subject areas: Thai Language; Mathematics; Science; Social Studies, Religion and Culture; Health and Physical Education; Art; Career/Technology-Related Education; and Foreign Languages. Activities that focus on responding to the learner's specific interests are also included. Flexibility is built into the curriculum in order to integrate local wisdom and culture, so that it is consistent with set learning standards in each of the core subject groups. The promotion of thinking skills, self-learning strategies and moral development is at the heart of teaching and learning in the Thai National Curriculum¹⁰.

⁹ Office of Basic Education Commission, Ministry of Education, retrieved from http://school.obec.go.th/sup_br3/cr_4.html on 02 October 2009.

¹⁰ Office of Basic Education Commission, Ministry of Education, retrieved from http://school.obec.go.th/sup_br3/cr_5.html on 02 October 2009.

Figure 2.3 the Thai education structure

Source: The Thai Education System, toward a learning society, MOE 2007:2.

b. Education Profile

Under the present education system, various types and methods of learning are offered to learners regardless of their economic, social and cultural backgrounds. Education approaches are classified as formal, non-formal, and informal. All types of education can be provided by educational institutions as well as learning centres organised by individuals, families, communities, community or private groups, local administration organisations, professional bodies, religious institutions, welfare institutes; and other social institutions.

Currently compulsory education is required from Grade 1-9 with provision of free education for fifteen years start from pre-primary education to G12. From the statistics presented in the report produced by Office of Permanent Secretary, Ministry of Education, in the primary level there were more than 100 percent of children

enrolled into the formal education system, the number decreases when moving up to higher educational level. At the last year of basic education (Grade 12) there were only 67 percent of school-aged children remaining in school in the 2007 academic year. In addition, when considering the drop out rate, the rate in secondary level education is more than two times higher than the primary level.

The study of the number of students and the drop out rate of secondary students should be emphasized and enhanced in order to provide an appropriate response. The number of students in the formal and non-formal education system, the percentage of students in the formal school system as a percentage of school-age population and statistics on the student dropout rate are shown in Table 2.2, 2.3, and 2.4 respectively. As of the academic year 2007 there were 36,712 schools and 65,897 teachers in formal education system (MOE, 2008:12). The ratio of students to teaching staff in formal education system during the year 2003-2005 at primary level is 20:1, lower secondary level is 19:1, and upper secondary level is 21:1.

Regarding the Educational budget, the amount of the budget is increased from 222,940 million Baht in 2002 to 294,954 million Baht in 2006, however, when comparing the budget to the Gross Domestic Product (GDP), the education budget reduced from 4.0 percent of GDP to 3.7 percent of GDP. Similar results are shown when looking at the percent of the education budget compared to the national budget, which is decreased from 21.8 percent in 2002 to 21.7 percent in 2006 (MOE, 2006:2).

Table 2.2 Number of students in formal and non-formal education system, academic year 2007

Level of Education	Number of Students		
	Total	Formal School System	Non-formal School System
Grand Total	17,280,256	14,482,194	2,798,062
Total Pre-Primary Education	2,580,895	1,758,573	822,322
Total Level 1-2/Primary Education	5,925,523	5,564,624	360,899
Total Level 3-4/ Secondary Education	6,343,604	4,728,763	1,614,841
Total Higher Education	2,430,234	2,430,234	NA

Source: The Development of Education National Report of Thailand, MOE 2008.

Table 2.3 Students in a formal school system as a percentage of school-age population by level of education

Level of Education	Age(Y)	Students as a Percentage of School-age Population				
		2003	2004	2005	2006	2007
Grand Total	3-21	75.75	81.64	82.84	84.69	84.61
Total Pre-Primary Education	3-5	65.00	71.44	74.95	75.02	73.77
Total Level 1-2/Primary Education	6-11	104.49	104.24	104.17	103.47	104.51
Total Level 3/ Secondary Education	12-14	84.01	92.47	96.67	96.67	96.37
Total Level 4/ Secondary Education	15-17	58.73	63.82	63.80	67.77	67.16
Total Higher Education	18-21	48.56	57.11	60.38	68.05	67.06

Source: The Development of Education National Report of Thailand, MOE 2008.

Table 2.4 Dropout rate at primary and secondary level under the Office of Basic Education Commission: academic year 2006

Level of Education	Enrollment in Initial Academic Year 2006	No. Of Drop Out Rate	percent of Drop Out
Total	7,421,648	110,881	1.49
Total Level 1-2/Primary Education	4,151,030	36,458	0.88
Total Level 3/ Lower Secondary Education	2,304,349	52,001	2.25
Total Level 4/ Upper Secondary Education	963,305	22,422	2.33

Source: The Development of Education National Report of Thailand, MOE 2008.

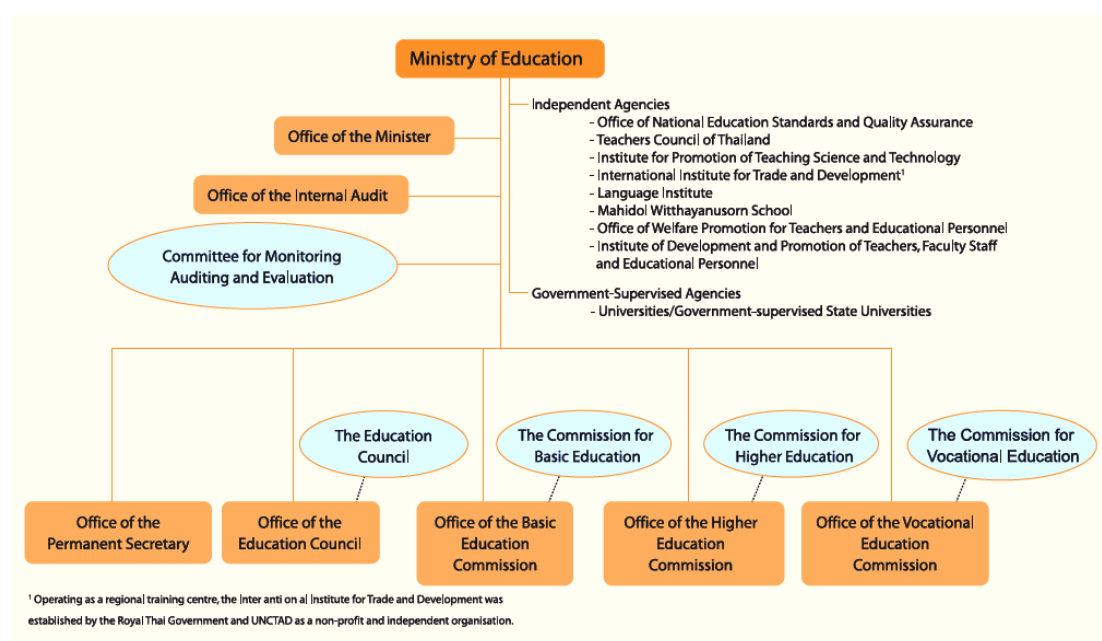
c. Administrative and Organization Structures

The 1999 National Education Act initiated an overall reformation of the Thai Education System. Considerable changes in the structure of management and administration have taken place in order to support the key teaching and learning changes. The 1999 National Education Act stipulates the administrative structure of education. Emphasis is on the decentralization of administrative responsibilities to the local level with the consolidation of education planning at the central level. The reformation process of the Thai Education System led to the establishment of 175 Education Service Areas (ESA) in 2003, this number had increased to 185 by 2008. A

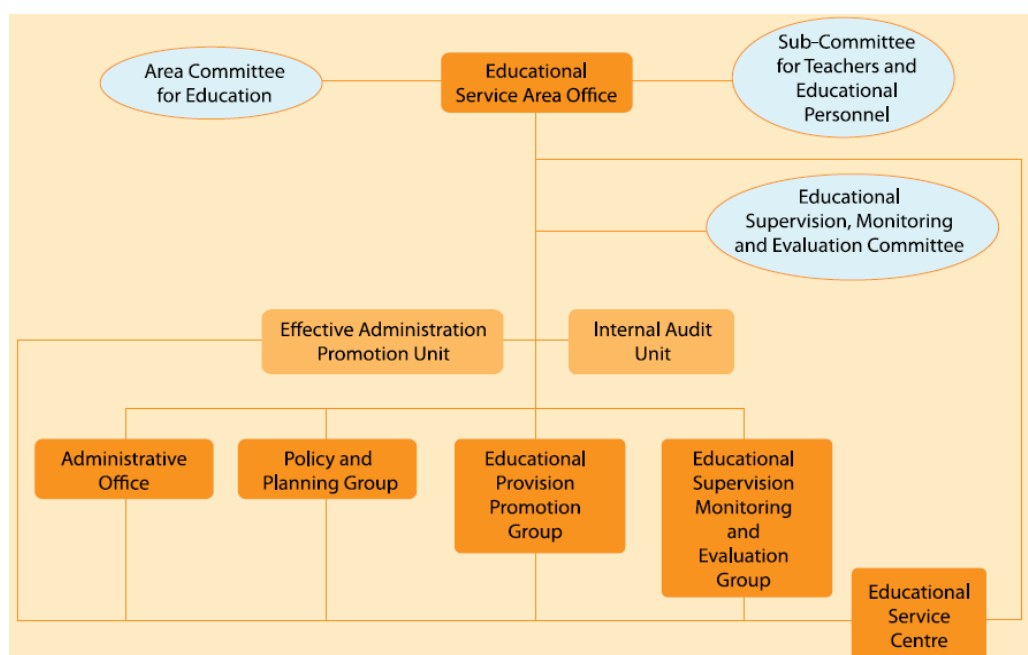
new structure for the organisation of the Ministry of Education at Central Level (Chart 2.4) has been implemented since 2002.

ESAs were established in order to decentralize educational administration. There are currently 185 Educational Service Areas in Thailand: 182 in the provinces and the remaining 3 in Bangkok (MOE, 2008:5-6). Each ESA comprises of an Area Committee, which is responsible for approximately 200 educational institutions and a population of 300,000 to 500,000 students. This structure is illustrated in Chart 2.5 below.

Figure 2.4 the Thai education administrative and organizational structure



Source: The Thai Education System, toward a learning society, MOE 2008:5.

Figure 2.5 the Educational Service Area structure

Source: The Thai Education System, toward a learning society, MOE 2008:6.

2.4.2 Thai domestic law and regulation

a. The 2007 Constitution

The Constitution is the supreme law of Thailand. Since the change from an absolute monarchy to a constitutional democracy in 1932, Thailand has had seventeen charters and constitutions, reflecting the high degree of political instability and frequency of military coups faced by the nation. After successful coups, military regimes abrogated existing constitutions and promulgated new ones.

Thailand's current constitution was promulgated in 2007, replacing an interim constitution promulgated in 2006 after an army-led coup. The 2007 Constitution was drafted by a committee established by the military junta that abrogated the previous 1997 Constitution. On August 19, 2007, a referendum was held in which 59.3 percent of voters voted in favor of the constitution. There are several controversies regarding the 2007 Constitution. Only half of the Senate is elected while the other half is appointed, the executive branch was weakened, and half as many members of parliament are needed to propose a no-confidence vote compared to the 1997 Constitution. The judiciary was strengthened and high ranking judges became

part of the appointment committees for the Senate, the Election Commission, and other independent agencies.

In term of education provision a free basic education is a legal right for all children in Thailand as enacted in the constitution and law. Chapter III Part 8 Section 49 of the 2007 constitution¹¹ states that “*A person shall enjoy an equal right to receive education for the duration of not less than twelve years which shall be provided by State thoroughly, up to the quality, and without charge*”. The constitution also elaborates that the state is the central actor in any claim to the right to education, it is the prime duty-bearer, the prime implementer, it is the guarantor, the signature vis-à-vis the international norms and standards, binding it to respect, protect and fulfill the right to education. One element of the State’s obligation to ensure the right to education is to support and promote the educational provision provided by non-state actors which reads: “*Education and training management by the professional organization or private section, alternative education, self-education, and life-long learning shall be protected and promoted by the State.*” (Chapter III Part 8 Section 49).

b. National Education Act B.E. 2542 (1999) and the B.E. 2545 (2002) Amendments

The current educational framework is based on the 1999 National Education Act. It, therefore, embraced issues of access, equity and quality in education to enable citizens to pursue promising careers. This also is conducive to making rational judgments and choices, so as to live in social harmony. Amendments were made in 2002 to accommodate shifts in responsibility areas with regards to education, religion, and culture.

The concept of education as a fundamental right is underlined in the current National Education Act (1999, amended 2002)¹² which emphasizes that in the

¹¹ Thailand 2007 Constitution, retrieved on 23 March 2009 from <http://www.concourt.or.th/download/Constitution2007byIFES.pdf> .

¹² Office of the National Education Commission (1999), *National Education Act B.E.2542 (1999,amended 2002)*, retrieved <http://www.edthai.com/act/index.htm>)

provision of education, all individuals regardless of their disabilities and disadvantages shall have equal rights and opportunities to receive basic education provided by the State for the duration of at least twelve years. 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. ...Persons with physical, mental, intellectual, emotional, social, communication and learning deficiencies; those with physical disabilities; or the cripples; or those unable to support themselves; or those destitute or disadvantaged; shall have the rights and opportunities to receive basic education specially provided.... Education for specially gifted persons shall be provided in appropriate forms in accord with their competencies.”

Such education, provided on a nationwide basis, shall be of quality and free of charge. The learning process shall promote major principles include the democracy system, rights, responsibility, freedom, the rule of law, etc, with an emphasis on the pride and protection of Thai identity and culture. Chapter I Section 7 states;

“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; pride in Thai identity; ability to protect public and national interests; promotion of religion, art, national culture, sports, local wisdom, Thai wisdom and universal knowledge; inculcating ability to preserve natural resources and the environment; ability to earn a living; self-reliance; creativity; acquiring thirst for knowledge and capability of self-learning on a continuous basis.”

Another important part of this section is the guarantee for a free and quality education for all children including children with special needs and disadvantaged children for at least twelve years. The act also identifies the key stakeholders in providing education to all children. Government is the main stakeholder in providing education, while at the same time parents and guardians also

have an obligation to ensure that children have the opportunity for a quality education.

Chapter 2 Section 11 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.”

The role of education provision is not limited only to government, private persons, local administration, community, organisations, family and so on also have a right to provide basic education as prescribed in the ministerial regulations. An Office will monitor education quality for National Education Standards and Quality Assessment, this is the same mechanism used for ensuring standards of education throughout the country.

Through the National Education Act of 1999 (Amended 2002), there have been educational initiatives to respond to social changes as well as to achieve the desirable outcomes of the Act. Measures have been undertaken over time. As a result, there are mixed outcomes regarding education in Thailand. Some statistics and educational standards have improved, for example, the enrollment rate, number of institutions, and educational budget, while the learning outcome is declining and dropout rates are increasing. More study is needed to identify and explore these problems.

c. The National Education Plan (2002-2016)

The current framework is based on the 1999 National Education Act. As mandated by Section 33 of the 1999 National Education Act, the Office of Education Council (OEC) in place of the former National Scheme of Education prepared a 15-year National Education Plan. Subsequent to public consultation, a National Education Plan was drawn up, which concentrated on the integration of all aspects of the quality of life. It emphasizes human-centred development and an integrated and holistic scheme of education, religion, art and culture. In this regard, Thai people shall attain full development in terms of physical and spiritual health, intellect, morality and integrity as well as a desirable way of life that focuses on living in harmony with other people.

Covering the 15-year period from 2002 to 2016, the National Education Plan will serve as a framework for formulating the development plans pertaining to basic education, vocational education, higher education, and religion, art and culture. It also provides guidelines for formulating operational plans at the levels of educational service areas and educational institutions. The National Education Plan represents a major reform plan, bringing together the relevant provisions of the Constitution and the National Education Act. Besides, it is based on the government policy aimed at transforming Thailand into a learning society, leading to a knowledge-based economy. The scheme enables all Thai people to have equal access to lifelong learning and, by being endowed with intellect, serving as a capital resource for income generating employment, thus protecting the country from economic and social crisis.

Based on the principles and guidelines provided by the Constitution and the National Education Act, it is hoped that the National Education Plan will: (1) lead to a knowledge-based economy and society; (2) promote continuous learning; (3) involve all segments of society in designing and decision-making concerning public activities. It is also expected that the National Education Plan will empower Thai people so that they are enabled to adjust to world trends and events while maintaining their Thai identity as well as to develop desirable characteristics including virtue, competency, happiness and self-reliance.

d. Thai Government Policies

In June 2005, the government launched the education policy for the Management of Education for Disadvantaged Children by Office of the Education Council. The policy aimed to provide basic quality education to all children and to develop the children to become future citizens. This policy makes aware the different needs and difficulties faced by disadvantaged children, in order to ensure that all of these children are able to access and complete basic education with providers having to respond properly to their needs. There are five policies as follows;

- 1) Providing education with equality, all disadvantaged children have appropriate education in various forms based on the idea of children's rights, human rights and human dignity.

- 2) Managing education with quality, which is suitable for disadvantaged children. The education should include intellectual, morality, ethnic and life skills that have the same standards as the regular education system.
- 3) Supporting educational resources and necessary factors to correspond with each type of disadvantaged child.
- 4) Managing administrative work for disadvantaged children.
- 5) Building a network for the management of education for disadvantaged children that has sufficient capacity to support and assist disadvantaged children.

The government planned to achieve targets by 2011 by adjusting law, rules and regulations that obstruct the access to education of disadvantaged children. They created a plan and processes that brings together public, private, and community sectors to manage and support the education for disadvantaged children (OEC 2005).

In July 2005, the Thai cabinet, following a Ministry of Education proposal, approved the new registration, which allows children without any evidences of civil registration or Thai nationality to access the Thai education system with no restriction to level of education (OEC, 2008:4). It is a progressive policy to ensure free education to all children in Thailand, including migrant children, to secondary education. The key issues in this registration include:

- 1) Extension of educational opportunity to all children with no civil registration or Thai nationality
- 2) The same amount of per head budget will be allocated to schools providing education to the children with no civil registration or Thai nationality
- 3) Setting up of a data base for people with no legal registration evidence or Thai nationality
- 4) Provision of proper education to refugee children.

2.5 Migration in Thailand

In the past, migration researchers tended to be focused on three main themes: the Thai migration policy; impact of migration on Thai society; and the

problems that migrants experience. The economic crisis of 1997¹³ and the change in migration policy of the Thai government since the migrant worker cabinet resolution of 1996¹⁴ triggered more research on the issue. Migration suddenly became greater issue of concern, in terms of human rights, its impact on Thai society, and policy analysis. Various institutions and scholars have conducted research and several NGOs have taken up the issue of migration. The main issues brought to the fore by institutions and NGOs is the registration policy of unauthorized migrant workers and its impact on management of the workers and working condition.

2.5.1 Thailand migration policy

Until today Thailand has never had a migrant worker policy. Since the 1990s migrant labor law has been controlled by a series of cabinet resolutions, which outline registration procedures and quotas. The number of registered migrant workers from three neighboring countries; Myanmar, Laos PDR and Cambodia under the cabinet resolution of 2004 reached 1,280,000 workers (Huguet and Punpuing, 2005:34). The majority of these migrants are from Myanmar. One major explanation of the increase in the numbers of foreign migrants is the push-pull theory. The migration push-pull theory considers internal and external conditions for demand and supply of labour movement, within or among the countries. Push factors present the situation that motivates workers to migrate, while pull factors are these economic realities that create the demand for such labor in the receiving country. One of the main push factors is the political and economic condition of the sending country. During the period of political crisis in Myanmar in the mid-1980s, a lot of people were forced to move. Later large-scale migration appeared as the consequence of economic hardship. Conversely, the political situations in Cambodia and Lao PDR have improved. This provided people with the freedom to move. Combined economic necessity, poverty, and unemployment were the main reasons for people to make the

¹³ The 1997 economic crisis caused an economic recession and high unemployment in Thailand. With this suffering the Ministry of Labour decided to revise its policy to reduce the number numbers of migrant workers in the belief that Thai workers should and will fill these positions when migrants leave.

¹⁴ The 1996 Cabinet resolution allowed workers from Myanmar, Cambodia, and Laos to register with the Thai authorities for one year, with the possibility of a one-year extension. The Resolution authorized employment in seven sectors in forty-three of Thailand's seventy-six provinces.

decision to migrate. At the same time, Thailand was in the middle of rapid economic growth. The high demand for labor and the wage difference between countries were the major pull factors for the arrival of migrant workers to Thailand (Harima et al, 2003; Huguet and Punpuing, 2005; and Caouette et al, 2000).

As various studies have suggested the ad hoc character of Thai migration policy is not a suitable strategy for the current migration situation (Amarapibal et al , 2002; Martin, 2003; and Archavanitkul 2003). Martin's (2003) study demonstrated that the trend of large number in-migration to Thailand would continue for another decade or more. There is clear evidence of the growing dependence on migrant labor in Thai provinces bordering Myanmar. The case studies also suggest that employer's dependence on migrant workers is likely to persist in the medium to long term, since there is little evidence of alternatives such as mechanization or a restructuring of work conditions to attract Thais. Based on findings from a labor shortage survey of the Ministry of Labor and Social Welfare (MOLSW) conducted by the ARCM in 2000, projected that between 2003-2005 Thai employers would need 202,585, 110,656, and 162,045 migrants respectively to fill jobs in fish processing, fisheries, and manufacturing (quoted in Martin, 2003:31). The need for these migrant workers was mostly concentrated on the coastline provinces e.g. Ranong and Samut Sakorn and the Thai-Myanmar border area e.g. Tak.

Other key criticisms of the Thailand's ad hoc migration policy focus on the lack of a monitoring system for the provision of services and protections to migrants, and corruption in policy implementation. Migrant workers in Thailand are largely unprotected by labor laws. Although the law provides for equal pay to registered workers regardless of sex and nationality (Section 53, the Labor Protection Act), migrant workers generally receive lower pay than Thais. The lower wage rates are the key reason why employers prefer migrant workers. An IPSR study of textile/garment industry in Mae Sot, Tak province in 2003 indicated that migrant women working in factories for garment manufacturing earned on average 40-80 baht for a 10-hour day or about 1,500 baht a month while the Thai minimum wage for the area was 133 baht a day (Martin 2003; 45-46).

2.5.2 Migrants children in Thailand

With few exceptions, children of migrants have not been the focus of research and there exists very little quantitative information about them. This neglect has no doubt occurred because of a focus on the larger issues represented by the presence of migrants in Thailand, particularly regular migrants, irregular migrants, refugees and displaced persons. The magnitude of the issue of children of migrants in Thailand was confirmed by the registration carried out by the Ministry of Interior (MOI) in July 2004, when 93,082 persons under age 15 were among the total of 1.28 million migrants from neighboring countries who registered (Huguet and Punpuing, 2005:43). Most labour and migration specialists in Thailand assume that the registration was far from complete but no systematic effort has been made to estimate the number of migrants in the country who did not register. Realistically, it must be assumed that the actual number of children of migrants and child migrants is much more than the official number.

Recent research has given much valuable information concerning the processes of migration to Thailand from neighboring countries, although most of the studies have not focused particularly on children. The World Vision Foundation of Thailand (WVFT) in collaboration with the Asian Research Center conducted one study that focused on labour migrants for Migration (ARCM) at Chulalongkorn University. That study carried out a survey of nearly 400 migrants in Mae Sai (Chiang Rai Province), Mae Sot (Tak Province) and Ranong. While only one per cent of the respondents were under age 15, it is likely that much of the information obtained from the respondents would also pertain to children and youth. The WVFT/ARCM (no date) study ranked the reasons for migration from Myanmar. Out of nine types of response, the three most important related to poverty: a) low wages in Myanmar; b) unemployment at the origin; and c) family poverty. The fourth most important reason for migrating out of Myanmar was the traumatic experiences suffered in the country, including forced labour and a combination of many problems.

Save the Children (United Kingdom) conducted a two-year participatory action research project from 1999 to 2001 among migrant children along the borders of China, Myanmar and Thailand. The reports of the project (Caouette, 2001) contain many direct quotes from adult and child migrants in Thailand or who have returned

home from Thailand. They make it clear that family poverty in Myanmar and Yunnan Province of China had prompted their migration to Thailand. In spite of the harsh conditions they often faced, many of the respondents felt that they could earn much more working in Thailand than at home. Migrants typically pay brokers to transport them to Thailand and cross the border. The same brokers or others in Thailand find work for them for a commission paid either by the migrants themselves or by employers but the migrants have little choice in their employment. Migrants to Thailand usually do not know what kind of work they will find until they arrive. In the WVFT/ARCM survey, 72 per cent of the respondents were not aware of the type of work they would do. Even if they knew the type of work, they did not have any information about working conditions or wages.

Many migrants cross into Thailand illegally or overstay border passes. At the time of entry, none of them has a work permit. The process of migration, which involves the use of brokers, in which the migrants have little information about their fate and which involves working illegally initially, places the migrants in extremely vulnerable situations. This is especially true for children. The migrants are often cheated or exploited by brokers and may end up in exploitative work situations. Children are sometimes abandoned when their parents are arrested for illegal entry (Caouette, no date).

There are many circumstances that result in children of migrants and migrant children residing in Thailand. Asian Research Center for Migration (2003) conducted research which provided an up to date and complete status of migrant children in Thailand. The research focused on three groups of migrant children in especially difficult circumstances, being street children, children in prostitution and child laborers. These children were of many nationalities including Cambodian, Burmese, Chinese, Lao, Bangladeshi, and Indian. Problems faced by children in all three groups are:

- 1) Inability of their families to protect them;
- 2) Lack of access to inoculations for preventable childhood diseases;
- 3) Lack of opportunities to receive an education;
- 4) Lack of necessary skills and knowledge needed to cope with daily life and work; and

- 5) Migrant children are assaulted, sexually abused, detained or held captive, and generally exploited for the benefit of others.

It is likely that the children of migrants and child migrants in Thailand have a little access to social services, including health and education. Migrants who registered with the Ministry of Interior were permitted to enroll in a health insurance scheme. In 2004, registered migrant workers needed to pay THB 600 for a medical exam and THB 1,300 for health insurance. If they required medical care, they could go to a local government hospital and be treated as if they were enrolled in the Thai Government's Thirty Baht Health Scheme. Some 817,000 migrants had enrolled for health insurance by November 2004 but the statistics on the programme are not disaggregated by age (Huguet and Punpuing 2005:VIII). Children under the age of 15 years are probably under-represented in the health insurance programme. As they are not legally permitted to work few would have a source of income, an important consideration when the total enrolment expense was THB 1,900.

Children who registered with the Ministry of Interior are, in principle, permitted to attend Thai public schools at their place of residence. The data presented in Samienrum (quoted in Huguet and Punpuing, 2005:43) indicates, however, that only a small percentage does so. The combined number of children from Cambodia, the Lao People's Democratic Republic and Myanmar who were enrolled in Thai public schools at secondary level or lower equaled only 14 per cent of the total number of registered children¹⁵. This rate is based on the assumption that no unregistered children of migrants were attending school. However, the information from various sources agreed that many migrant children have not attended any school. In 2004, in Samut Sakhon Province, where there is the second highest number of migrant workers, there were 2,896 children under 15 years old registered but only 60 children attending public schools (Chanthavanich, 2007:35). The study by OEC (2007:IV-VII) on the education opportunity of migrant children in Samut Sakorn province shows that the most important factor affecting the education opportunity of migrant children to obtain education are family conditions and attitude. Most of children move to Thailand with

¹⁵ Actual enrolment rates would be somewhat higher if the number of migrant children aged 0-4 was subtracted from the denominator and if the population of 2003, rather aged 0-14 from those countries who registered with the Ministry of Interior in 2004, were used.

their family and quite often the family has to move for work so it is hard for them to attend school. The other main reason is the economic situation. In many circumstances the children have to help their family earn income or look after younger siblings. More importantly many parents do not recognize the value of education and do not want to send their children to school. The study also elaborated that parental attitude toward their children's education is related to the time parents stay in Thailand. It found that parents who had lived in Thailand for a long time intended to send their children to schools.

In July 2005, the Thai cabinet, following a Ministry of Education proposal, approved the new registration which allowed non-Thai and unregistered migrants to access the Thai education system with no restriction to level of education. It is the progressive policy to ensure the free education to all children in Thailand, including migrant children, to secondary education. Since the policy was approved there has been a gradual increase in the number of migrant children registered in the Thai education system. In 2008 there were more than 41,000 migrant children enrolled in primary school (Sciortino and Punpuing, 2009:72). If we refer to the number of registered migrant children (93,000) in 2004, more than half of them are still outside of the Thai education system.

The low percentage is due to a number of obstacles. Apparently some local schools do not accept migrant students, partially owing to a lack of awareness or clarity of the new policy regarding children without registration documents (OEC 2008:25). In many cases, it may be difficult for a migrant family to meet the expenses of attending school – for the purchase of uniforms, books and other materials (Sciortino and Punpuing 2009: id). Because migrant workers in Thailand are in a precarious position, most would be reluctant to assert the right of their children to attend school. For the children, language and discrimination often discourage them to access and stay in Thai school. Even if a few are enrolled in school, the medium of instruction would be the Thai language. That could be a barrier to learning for many of them and would also mean that their education may be of little use when they return home.

A substantial proportion of the migrant children aged 12-14 years are no doubt working in Thailand, though they are not legally permitted to do so. Because of poverty in their home countries, many have probably migrated to Thailand for the

purpose of employment (FTUB, 2006 and Chanthavanich, 2007). Such children are especially vulnerable to trafficking and smuggling. Because their employment is illegal, there is a greater likelihood that it is also exploitative, with substandard working conditions and wages. In studies conducted along the border with Cambodia, Wille (2001:64) found that the migration of children to Thailand was usually voluntary, and often organized by families or friends. It was only when the children were in Thailand that they were often recruited into employment in exploitative conditions.

The migrant children in Thailand who are not registered are clearly in an inferior position to those who are registered. The unregistered children would mostly be considered illegal immigrants and subject to detention and deportation. Because they are not registered, they are not eligible for the Government health insurance scheme. Their precarious legal, economic and social situation increases their vulnerability to exploitation in employment and otherwise.

CHAPTER III

RESEARCH METHODOLOGY

This research used qualitative methodology, which is carried out by different methods; documentary research, semi-structural interviews, focus group discussions (FDG) and observation. The data are gathered from different resources include document research, interview, and observation. Multiple sources of data and different research methods use to ensure that the findings are consistent and valid .

3.1 Documentary Research

Five major types of documents and subject themes were studied and analyzed in connection with thesis's questions and objectives.

- Human Rights concepts, principles, and the challenges of implementing and monitoring these rights;
- Relevant international laws and agreement with regard to the right to education;
- Thai domestic law, legal frame work, and policies in accordance with treaty obligations and the implementation in practice with regard to right to education;
- The primary documents of non-state actors, i.e. Non-Government Organisations (NGOs) and Community-Based Organisations (CBOs) which are related to the education provision for migrant children;
- Migrant workers context and its complexity particularly on the issue related to migrant children

The documentary research was carried out to look in detail at the relevant provision to migrant education at both an international and national level. The study of these documents was to examine the education provision for migrant children and what are current policies and practices of the Thai state and non-state actors. All

primary resources from the government authorities, such as law, regulations, and educational strategic plans were researched. The researcher was also looking at the primary document of non-state actors, which are related to the education provision for migrant children.

Most of these documents can be taken directly from resource centres, government offices, NGOs and CBOs. The primary material documents were supplemented by secondary sources such as the reports and studies of international organizations, NGOs, academic institutions, journal articles, and newspapers.

3.2 Field Study Research

3.2.1 Research Design

An initial plan for the field study envisioned the visit of eleven schools, six Thai state schools and five migrant schools and interviews with 30 migrant parents from Myanmar who are living in western districts of Tak Province. When visiting schools the researcher was to interview a number of students, class teachers, administrative teachers, assistant teachers, and director. The research intention to choose western Tak Province as research site was because of its high concentration of migrant children and unique educational strategy for non-Thai children. In addition, it is uncomplicated to obtain the permission to do the field study. The reason for selecting migrant workers from Myanmar was to focus on the largest group of irregular migrant workers in Tak Province.

During the final thesis topic examination, the thesis advisory committee suggested reducing the sample size to nine schools and 20 migrant parents because the proposed number is greater than the researcher's ability in the designated time of 1.5 months field research. Among nine schools, five are Thai state schools and four are migrant schools. The four sub-districts were chosen because of the high number of both migrant population and school facilities for them in the area as well as the possibility of physical access during the rainy season. The categories used for choosing sample schools are the location, number of non-Thai students, the level of education service provided, and physical access during the rainy season. In term of location the researcher chose schools which are located in three different areas:

- 1) Semi-urban areas
- 2) Rural areas
- 3) Other areas – one school in an urban area and the other close to the Thai-Burma border

Within each area, except 3) there are Thai schools with high numbers of migrant children, Thai schools with low numbers of migrant children and migrant schools. As the result of the complication of education provision in category 1) urban area, the research only visited one Thai school with high number of migrant children and one migrant school.

Within the sixteen migrant parents, half of them have children studying in Thai school, six have children studying in migrant school, and two have children not studying in any school.

After the initial visit to the research site the researcher decided to limit the field study to cover only Mae Sot District of Tak Province due to the difficulty of physical accessibility and distance from school to school. Although the sample schools are located in one district, they represent the three different characters; schools in urban areas, schools in semi-urban areas, and schools in rural areas.

The research team consisted of one researcher and a Thai-Burmese translator. The researcher conducted all interviews on her own with the assistance from the translator when needed. Fourteen different sets of questions were developed for different target groups.

3.2.2 Data Collection and Methods

a) Semi-Structural Interviews: the research focused on qualitative interviews. A total of 102 qualitative interviews with informants were conducted mostly in school compounds, with some extra cases where interviews were conducted at the informant's house and workplace. Key informants can divide into seven groups as detailed in Table 3.1.

The interview questions comprised of a written lists of topics and questions. There are thirteen different sets of questions for target groups. In general the research questions and topics can divide in to three parts;

- (1) informant background,

- (2) information about school and education system,
- (3) informant's knowledge and attitude toward 2005 policy and education provision for migrant children.

The purpose for these interviews was to gather information, clarification and responses regarding the family situation, the understanding of the importance of education, and the knowledge of education situation and provision for migrant children. Although it used an in-dept interview, this research still opens the way for expanding the questions in order to deepen the theme as long as it is related to this research objective.

Prior to all interviews, the researcher introduced herself and the research topic, informed the informants that they could choose to answer the questions on voluntary basic, and assured confidentiality by stating that the information would only be used for research purposes with no reference to a specific individual without his or her permission. In some of the interviews the researcher asked for the permission to tape-record the conversation. Interviews took a varying length of time from 20 minutes to 80 minutes depending on the set of questions and the language used. With the children who can speak Thai the interviews need a shorter time because there is no need for translation time and they are not able to elaborate on the complication topic i.e. education quality, 2005 policy etc.,.

Table 3.1 Distribution of key informants

Number of informants	Thai Students	Migrant Students	Migrant Parents	School Directors	Teachers	Admin Teachers	Teachers Assistant	Total
Thai state school setting	19	19	9	5	10	3	1	66
Migrant school setting	0	15	5	4	4	0	0	28
Out of school setting	0	6	2	0	0	0	0	8
Total	19	40	16	9	14	3	1	102

b) Supplementary Interviews: the researcher sought additional information on the availability of education facilities and challenges of the access to and retention in the education for migrant children in Mae Sot by interviewing eight officers of the NGOs, CBO, and local government that work on the migrant education issue. The information was used to cross check with and compliment the information

collected from school visits and the in-depth interviews of students, parents, school directors, teachers, administrative teachers and assistant teachers.

c) Focus Group Discussion (FDG): the focus group elicited discussion of the quality education and the ways in which the students felt it should be in terms of

- (1) school facilities,
- (2) teachers and teaching method, and
- (3) relationships with friends.

Students were encouraged to discuss how they're feeling about school and people in school, any problem and challenges they may face and how they deal with it. Ten focus groups were conducted in six schools: four Thai state schools and two migrant schools. One FGD consisted of 3-4 students who had already participated in an in-depth interview. In order to help children express their feeling and their perspective, drawing was used as a key tool of these focus groups. The participants and the facilitator were sitting in a circle or around a table for the discussion. The facilitator began the meeting by introducing herself and explaining that the purpose of the focus group session will be discussing the meaning of quality or good education in participant's perspective. The facilitator later outlined the FDG process to participants. The process started with 20-30 minute drawing sessions on a topic of a happy school where participants like to go for both knowledge and fun. After the drawing session the facilitator facilitated a 30 minutes discussion on a good or quality education. The focus group meetings lasted approximately 60 minutes. Tape-recording was used to keep all data from the group discussion.

d) Observation: the interviews gave the researcher the information on the situation of education for migrant children at both the school and class room level, in the area as well as the direction of policy from the Thai government. The interviews were supplemented with school observation. Among these nine schools the observation of the school and classroom environment was carried out in order to gather more detailed information of teaching methodology, the relationship between teacher and student, the relationship between student and student as well as the physical environment in the school and classroom.

3.3 Language Used and the Use of Translator

The majority of interviews were conducted in Thai with 27 interviews from the 109 interviews conducted in Burmese. To facilitate the language difference between researcher and informants, a translator was used in these interviews. The translator was briefed about the research topic and the concepts underlining the research, which guided him in translating the questions and conversation between the researcher and informant. Simple principles on translation were provided to the translator to ensure that the translator would only facilitate the language translation and not interfere with an informant's answers.

3.4 Data Analysis Procedure

The data from the interviews was cumulated into tables. Since interview questions and topics were comprehensive, a large amount of supplementary information, i.e. information that does not related directly to the research questions, was collected. This information is presented together in Chapter IV Profile of Sample, in order to present a more comprehensive picture of the situation of migrant workers and migrant children and their education.

The portion of data that specifically relates to the research questions is presented in the Chapter V Results and Discussion. Five types of information were deemed relevant to the research questions;

1. the education facilities available for migrant children in the research site;
2. the situation of the access to primary education of migrant children;
3. what is informant perception on a quality education;
4. attitude of students and educators toward education provision for migrant children.

Quantitative analysis for the research finding has been applied to some extent with all the data, but no statistical techniques have been attempted.

3.5 Research Scope

The number of migrant workers, including members of their family, has increased in almost every part of Thailand in the past few decades. However, the scope of this study will be limited to only migrant children from Myanmar in selected urban and rural areas of the Mae Sot District, Tak Province. Mae Sot District has been selected to be the study site due to the large migrant population including children and the uniqueness of its education provision for migrant children. There are two main education provisions available for migrant children;

- 1) Thai state school, and
- 2) Migrant school

Mae Sot has a highest number of migrant school in the country and the education service provide at migrant school is up to the post grade 10 or higher education.

The study will focus on case studies of nine schools, 40 migrant children, and sixteen migrant families with primary school-aged children. As the migrant children tend to registered in school later than standard age level, some of children who participated in interviews are older than primary school-age level. The research decided to follow the education level a student attained rather than the strict educational age level. These nine schools are chosen based on the location, density of migrant children and migrant community.

3.6 Operational definition

- **Migrant Workers or Migrants**

A person, who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national (*Art. 2(1), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990*).

The term 'migrant' in article 1.1 (a) should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for

reasons of 'personal convenience' and without intervention of an external compelling factor.¹

In this research, migrant workers or migrants refer to migrant from Burmese who migrated to Thailand and have been engaged in remunerative activity.

- **Irregular Migrant Workers**

Someone who owing to illegal entry or the expiration of his or her visa, lacks legal status in a transit or host country. The term applies to migrants who infringe a country's admission rules and any other person not authorized to remain in the host country. (*IOM Migration Glossary 2004*)

- **Child**

An individual being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier (*Art. 1, UN Convention on the Rights of the Child, 1989*).

- **Migrant Children**

Children who are accompany and/or are dependent on adult migrant worker(s) including baby(s) born to migrant families while staying in the receiving country. Children who migrate into another State on their own and are not accompanied by any adult or guardian are also included in this category.

- **Migrant school**

Migrant school or learning centre refers to school, which creates and run by migrant community. These schools are not unrecognized by either Thai education system. Most of students and school staff are non-Thai citizen who are living in Thailand. School received funding from private donors and NGOs. Thai education

¹ *Measures to improve the situation and ensure the human rights and dignity of all migrant workers.* 1998. Report of the working group of intergovernmental experts on the human rights of migrants submitted in accordance with Commission on Human Rights resolution 1997/15. COMMISSION ON HUMAN RIGHTS Fifty-fourth session, Intergovernmental working group of experts on the human rights of migrants.

authorities prefer to call these schools as “learning centre” (Soon Kan Lean) and are working to register these schools to Thai education system.

- **Right to Education**

Right to Education is stated in various international human right treaties included article 26 of the UDHR, article 13 and 14 of the ICESCR, and article 28 and 29 of the CRC in respect to:

1. Governments are the prime duty-bearer and is expected to respect, protect and fulfill the right to education of all children;
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;
3. Primary education shall be compulsory and available free for all;
4. The development of a system of school 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;
5. Education shall be respectful of the child's parents, the child's 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.

- **Primary Education**

The main delivery system of the basic education of children outside the family in primary schooling. Primary education must be universal, ensure that the basic learning needs of all children are satisfied, and take into account the culture, needs and opportunities of the community. (*Article 5 the World Declaration on Education for All 1990*)

Basic learning needs are defined as essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to

participate fully in development, to improve the quality of their lives, to make informed decisions, and to continue learning. (*Article 1 of the World Declaration*)

Primary education has two distinctive features: it is "compulsory" and "available free to all." (*Article 13(2)a of the ICESCR*)

- **Post 10**

Post 10 refers to education level after grade 10 (Matthayom 4). This reflects the difference between Thai and migrant education system. Education level in Thailand divide to six years primary, and six years secondary while migrant school divide to six years primary, and four years secondary.

- **Compulsory Education**

Concept where children are required by the laws of a specific nation-state to receive an education. It is often closely associated with public education, that education which a state provides universally to children in its territory. An international consensus supporting compulsory education at the primary level is based on Article 26 of the 1948 Universal Declaration of Human Rights.

- **Basic Education**

The whole range of educational activities, taking place in various settings, that aim to meet basic learning needs as defined in the World Declaration on Education for All (Jomtien, Thailand, 1990). According to International Standard Classification of Education (ISCED) standard, basic education comprises primary education (first stage of basic education) and lower secondary education (second stage). It also covers a wide variety of non-formal and informal public and private activities intended to meet the basic learning needs of people of all ages. (*UNESCO 1990 World Conference on EFA: Meeting Basic Learning Needs, Jomtien, Thailand*)

- **Out of School Children**

Out of school children refer to migrant children who currently out of school. This includes those who have been to school either in Thailand or Myanmar and later dropped out and those who never been to school at all.

3.7 Ethical Consideration

The security of migrant workers and their family, and migrant teachers was a major concern for the researcher, as the presence of irregular migrants in Thailand is consider “illegal” under Thai laws. Confidentiality of information has been strictly maintained to ensure the safety and confidentiality of informants. The researcher fully informed all informants on the nature of the research and explained the means by which their confidentiality would be assured. Participation and answering of questions was conducted completely on a voluntary basic.

The same challenge is facing by migrant school so the research will not reveal the real name of participating schools in the report. The research will refer to each school using alphabet code.

Consent was obtained from all informants since some of informants are living here illegally. Tape recording of the interviews and FGDs were conducted with the oral permission of informants.

3.8 Limitation of the Study

The main limitation of the research concerns its focus to on specific area of Mae Sot District. However, it is hope that the findings will provide insights into some key issues that are relevant to the larger migrant children population particularly on their right to education.

Once the participating schools had been identified, their schedule and activities plan, school hours were taken into account to ensure that the research would create minimum disturbance to the students, teachers, and student’s parents. Even with the careful planning and consultation with all related parties, some of the research plan had to be adjusted to match the school and participants situation. The language barrier was another limitation; however an understanding translator has helped to overcome this challenge.

Another limitation is the inadequacy and inconsistent of statistics and information concerning migrant children in general and in specific on migrant education. More detail of this limitation will be discussed in Chapter V.

Addition to the status of Master Degree student, the researcher has also been working as a development worker in the field of migrant education on the Thailand-Myanmar border for the last three years. The knowledge, experience and connection the researcher has with both the issue and people on the border have provided both contribution and constraint to the research result. As a worker in the field, the researcher has gained many insights about the education issue, nature and situation of target groups, policy and practice in the field. At the same time the status of researcher can have an influence on some of the informants' particularly local education authorities, staff of NGOs and CBOs who are well aware of researcher's position.

CHAPTER IV

PROFILE OF THE SAMPLE

4.1 Profile of the Research Site

Mae Sot is a town in northwestern Thailand that shares a border with Myanmar to the west. The town is part of the larger Tak Province¹ and is on the Moei River, across from Mywaddy, Myanmar. Mae Sot District comprises 1,986 square kilometres of mountainous and forested land. The 2007 census, estimated its population at 120,569 and it is growing quickly. It has one of the highest migrant populations in Thailand. At the end of June 2007 there were 26,914 registered migrant workers in Mae Sot (Wangsiripaisan, 2009:15). However, the estimated number of migrant workers in Mae Sot District varies between 70,000 and 100,000, with up to 200,000 totals in Tak Province (Arnold and Hewison, 2005:321). The data from Ministry of Labour (MOL) shows that at the end of 2007 there were 26,912 registered migrant workers in Tak Province of which all but one are Burmese (Sciortino and Punpuing, 2009: 64-65). Migrants are employed primarily in factories producing textiles and garments, agriculture, construction, domestic work, rice milling, bricks, ice, and mining.

Trade with Myanmar constitutes the largest portion of Mae Sot's economy. During the years 2001- 2005 the value of border trade in Mae Sot area averaged 7,886.75 million baht per year with 7,173.2 million baht of that trade being exports to Myanmar. Border trade peaked in 2004 at 12,381.20 million baht, representing 54.43 percent of the value of all Thai-Myanmar border trade (Wangsiripaisarn, 2009:15). In addition to border trade Mae Sot is also well known for its high number of factories, particularly garment and textile. According to a report presented by the Federation of Trade Unions Myanmar (FTUB) in 2004 there were 125 officially registered factories in Mae Sot District (quoted in ILO, 2006:28). Most of the town's service industries are

¹ Tak Province comprised of nine districts which five districts on the west bordering with Myanmar, namely Tha Song Yang, Mae Ramat, Poppa, Mae Sot, and Umphang (from north to south).

supported by Burmese migrants who fill positions from factories, farms, border traders, small shops, to domestic work throughout the district.

For this study, research was conducted at five Thai state schools and four migrant schools in the four Sub-districts of Mae Sot, namely

- (1) Mae Sot,
- (2) Tha Sai Luad,
- (3) Mae Pa, and
- (4) Mahawan

4.2 Migrant Children

It was decided that the sample of children would focus on children in primary school age level with a maximum age at 18 years old. When the researcher submitted the request to the related authorities and organisations for permission, the submission detail requested for the interview of children in Grade 3-5 as they are in the age range (8-11 years old) and are mature enough to participate in an interview and are more likely to drop out of school. Due to the school schedule and the availability of informers, the researcher adjusted the sample profile as per informers and school situation.

In the end, the final sample consisted of 40 migrant children with the age range from 10-16 years old studying in Grades 3-8. There were 20 boys and 20 girls present in this sample as detailed in Table 4.1. Among the 40 children, 19 are studying in Thai state schools, 14 are studying in migrant schools while six are not in any type of school. They are mixed of ethnicity as detailed in Table 4.2.

Table 4.1 Age Distribution of migrant children

Age (Year)	8	9	10	11	12	13	14	15	16	Total
Girl	0	1	2	3	5	3	3	2	1	20
Boy	1	0	5	3	1	3	3	2	2	20
Total	1	1	7	6	6	6	6	4	3	40

Table 4.2 Ethnicity of migrant children

Ethnicity	Burmese	Karen	Mon	Ya Khai	Total
Girl	12	7	0	1	20
Boy	13	5	2	0	20
Total	25	12	2	1	40

More than 60 percent of migrant children who are studying in Thai state school were born in Thailand and almost all of those who are not born in Thailand moved to Thailand more than six years ago as detailed in Table 4.3. There were two children that do not match with the category; one student cannot remember when she arrived in Thailand and another is living in Myanmar but commutes daily to Thailand for study. All of the migrant children in Thai schools can communicate in Thai.

Table 4.3 Birthplace of migrant children

Setting/Where	Born in Thailand	Born outside Thailand	Total
Children studying in Thai state schools	12	7	19
Children studying in migrant schools	3	12	15
Children out of school	2	4	6
Total	17	23	40

When looking at profile of migrant children who are studying in migrant schools, only 20 percent of them were born in Thailand and the rest were born outside Thailand; 8 or 53 percent have been living in Thailand less than six years, with only 26.7 percent having been in Thailand for more than six years. Sixty percent of migrant children in migrant schools understand Thai language, but the level of understanding varies.

For those children who are currently out of school, only one third of them were born in Thailand. Amongst those children who were born outside Thailand, half of them have been living in Thailand less than two years. Less than 40 percent of all children who are not in school are able to communicate in Thai. Among those who can

communicate in Thai the level of understanding varies from only listening and speaking to listening, speaking, reading and writing. The details of where children were born, their length of staying in Thailand, and their Thai language skill are demonstrated in Table 4.4 and 4.5 correspondingly.

Table 4.4 Migrant children: length of stay in Thailand

Setting/Length of stay(Year)	Don't know	0-2	3-4	5-6	>6	Total
Children studying in Thai state schools	2	0	1	0	4	7
Children studying in migrant schools	0	1	3	4	4	12
Children out of school	0	3	0	0	1	4
Total	2	4	3	4	10	23*

*only provided numbers for those who were born outside Thailand

Table 4.5 Migrant children: ability to understand and communicate in Thai

Setting/Understand Thai	Yes	No	Total
Children studying in Thai state school	19	0	19
Children studying in migrant school	9	6	15
Children out of school	2	4	6
Total	30	10	40

4.3 Migrant Parents/Guardians

The sample consisted of sixteen migrant parents from sixteen families who have children in the compulsory education age. The parents/guardians are related to the interviewed children in section 4.2. There were twelve female and four male parents participating in interviews. Of these sixteen migrants, nine have children who are studying in Thai state schools, five have children studying in migrant schools, and two have children who are not in school. None of these informers were born in Thailand, the length of staying in Thailand varied from 2–20 years as detailed in Table 4.6. All parents/guardians of migrant children in Thai schools have stayed in Thailand more than 10 years and almost 67 percent of them can understand and communicate in

Thai. While 80 percent of parents/guardians of migrant children in migrant schools have stayed in Thailand less than 10 years and only 40 percent can understand and communicate in Thai. All parents of children out of school have been in Thailand less than 10 years and none of them understand Thai language. Table 4.7 shows the distribution of the parents who can speak Thai.

Table 4.6 Migrant family: number of year informer has been staying in Thailand

Year of staying in Thailand	1-5	6-10	>10	Total
Family of children in Thai state school	0	0	9	9
Family of children in Migrant school	1	3	1	5
Family of children out of school	1	1	0	2
Total	2	4	10	16

Table 4.7 Distribution of parents who can communicate in Thai language

Can communicate in Thai	Yes	No	Total
Family of children in Thai state school	6	3	9
Family of children in migrant school	3	2	5
Family of children out of school	0	2	2
Total	9	7	16

In terms of education background, two of the sixteen informers have no education and all those who have education attended school in Myanmar. More detail of the parents' education background is illustrated in Table 4.8.

Table 4.8 Education level attained (in years of formal schooling)

Year of schooling	0	1-3	4-6	7-9	> 9	Total
Family of children in Thai state school	2	3	4	0	0	9
Family of children in migrant school	0	0	3	2	0	5
Family of children out of school	0	1	1	0	0	2
Total	2	4	8	2	0	16

Migrant families with children in school tended to have fewer children than families, which have no children in school. When comparing between families who send their children to Thai and migrant schools, families with children in Thai schools have on average a smaller family size of 2.8 children per family while families who send their children to migrant schools have an average family size of 3.6 children as shown in Table 4.9 and 4.10.

Table 4.9 Family size; number of children

Number of children	1	2	3	>3	Total
Family of children in Thai state school	2	1	4	2	9
Family of children in migrant school	0	2	2	1	5
Family of children out of school	0	0	0	2	2

Table 4.10 Number of children in school

Number of children in school	0	1	2	3	Total
Family of children in Thai state school	0	5	3	1	9
Family of children in migrant school	0	2	1	2	5

Of these sixteen adults, six have at least some type of a variety of documents issued by Thai authorities. Due to the current situation and the study topic, the researcher did not ask in detail about documents held by informers. Overall, 75 percent of key informers are working with an average income of 80 baht per day. Most of them are working as cheap daily labor in farms, small businesses and Thai households. When looking at working parents, those families who have children studying in migrant schools tend to have both parents working. Total family income per day varies from as little as 40 baht to 450 baht.

Table 4.11 Distribution of working parent(s)

Working parent(s)	only one working	both parents are working	Total
Family of children in Thai state school	5	4	9
Family of children in migrant school	1	4	5
Family of children out of school	1	1	2

Table 4.12 Distribution of family income

Family income (Baht per day)	<50	50-100	101-150	151-200	>200	Total
Family of children in Thai state school	0	3	3	2	1	9
Family of children in migrant school	0	1	1	2	1	5
Family of children out of school	1	0	0	1	0	2

4.4 Education Facilities for Migrant Children in Mae Sot District

There are 134 state schools in western Tak Province, which in principle will accept every child who wants to register at school regardless of a child's legal status, document or ethnicity. In reality the data presented by Tak Province Education Service Area Office 2 (Tak ESA2, 2008) indicates that only 9,850 children with no civil registration or non-Thai children² were enrolled in 134 Thai schools under Tak ESA2 supervision.

Alternatively there are at least 61 so-called migrant schools operating without official recognition and with limited support from the Thai government. These 61 schools provide an education for almost 10,000 children. Although the schools have no legal status, Thai local education authorities in Tak Province are unofficially aware of them and work to support their operation.

The researcher conducted field study in both Thai state schools and migrant schools. After the preliminary discussion with key stakeholders, the researcher agreed to visit five Thai schools and four migrant schools in urban and rural area of Mae Sot. Table 4.13 provides basic information on the schools, which the researcher collected during the field research in September 2009. Some of the information is different from the official information present in MOE reports as of June 2009 because of the mid-semester dropout and change in personnel.

² In Thai school migrant children is grouped under the category of "children without Thai nationality". This category include different group of children from stateless children, hill-tribe children, migrant children and others. The school refers to these students as "G" group because when they put the students into the MOE databased they have to add G at the beginning of student identity number.

Table 4.13 Sample schools: basic information

School name	Type of school	Location	Location character	Grades taught
Baan Mae Pa Tai	Thai school	Moo3, Mae Pa	Semi-urban with high-density of factories	Nursery–G6
Baan Mae Pa	Thai school	Moo2, Mae Pa	Semi-urban with high-density of factories	Nursery–G6
Migrant school A	Migrant school	Moo3, Mae Pa	Semi-urban with high-density of factories	Nursery–G8
Migrant school B	Migrant school	Moo3, Mae Pa	Semi-urban with high-density of factories	Nursery–Post G10
Baan Mon Hinlekhfai	Thai school	Moo3, Maha Wan	Rural area	Nursery–G6
Baan Huay Maipan	Thai school	Moo5, Maha Wan	Rural area	Nursery–G6
Migrant school C	Migrant school	Moo6, Maha Wan	Rural area	Nursery–G5
Baan Tha Arj	Thai school	Moo3, Tha Sai Luad,	Urban and close to border and border market	Nursery–G6
Migrant school D	Migrant school	Mae Sot	Urban area	Nursery–G6

Thai state school

Five Thai state schools were chosen for the field study. Among the five schools two schools are located in semi-urban area, two schools are located in rural area, and one school is located near the Thailand-Burma border. The details of each school are as follow;

- Baan Mae Pa Tai School is located in Ma Pa sub-district of Mae Sot. The school is located in the centre of the village of which the population is mixed between local Thai and migrant workers. The majority of students, including migrant children, come from nearby villages. The school is only around 100 metres away from BHSO Migrant Centre. The school provides education services from nursery to grade 6. During the 2009 academic year there were total of 159 students in schools with 31 students with non-Thai citizenship. There are seven official teachers in school.
- Baan Mae Pa School is located in Ma Pa sub-district of Mae Sot. The school is located outside of the village and by the main Mae Sot–Mae Sariang highway. The school provides education service from nursery to grade 6. During the 2009 academic year there were 178 students with no students with non-Thai citizenship. The administrative teacher

said the school is well aware of the 2005 policy but there were no migrant children to enroll in this school this year. There are some hill-tribe students in the school, all of them having the Thai citizenship and ID card. There are seven official teachers in the school.

- Baan Mon Hin Lek Pai School is located in Maha Wan sub-district of Mae Sot. The school is located in the rural area and surrounded by farms and big plantations. There is a small Karen hill-tribe village nearby the school. Students are from the hill-tribe village or nearby farms. One teacher in the school has a strong relationship with leaders of the hill-tribe village and has been acting as the link between village and school. This is the school strategy of getting children to school. Significant number of migrant worker in this area has a relative or friend in this village and moved to this area because of this connection. In the researcher's opinion, this might also help to link the migrant children to this school. The school provides education service from nursery to grade 6. During the 2009 academic year there were 130 students with 52 students with non-Thai citizenship. There are five official teachers in the school.
- Baan Huay Mai Pan School is located in Maha Wan sub-district of Mae Sot. The school located at a big intersection and quite far from the nearest village. Because of this, it is quite hard and somewhat dangerous to walk or cycle to school. A majority of students travel to school in a paid school truck. The school provides education service from nursery to grade 6. During the 2009 academic year there were 120 students with 15 students with non-Thai citizenship. The low number of migrant children is caused by the school's location, no extra link to the migrant community and higher cost for transportation. There are seven official teachers in school.
- Baan Tha Arj School is located in Tha Sai Laud sub-district of Mae Sot. The school provides education service from nursery to grade 6. During the 2009 academic year there were total 777 students in school with 727 of them have no Thai citizenship. There are seven official

teachers in school. The school has participated in the MOE pilot project regarding the education provision for non-Thai children in learning centers since late 2008. This project is called “school within school” which links migrant schools to local Thai schools by also registering students in migrant schools in Thai schools. However, these students of the migrants schools still study in their original schools, or “learning centres” as referred to by the MOE. The Thai schools then provide technical support in terms of teaching, facilities and curriculum to the migrant schools. In addition, students from the migrant schools come to study in the Thai schools at least one day a week. This is the reason for the high total numbers of both Thai and non-Thai students in this school. At the time of this research, there were five learning centres which were linked to this Thai school and the total number of students coming from these five learning centre is 351.

Table 4.14 Basic information of Thai schools

School name	Location	Students			Non-Thai students*			Per cent of migrant children	Official Teachers
		Total	F	M	Total	F	M		
Baan Mae Pa Tai	Moo3, Mae Pa	159	82	77	31	NA	NA	19.5	7
Baan Mae Pa	Moo2, Mae Pa	178	94	84	0	0	0	0	7
Baan Mon Hinlekhai	Moo3, Maha Wan	130	81	49	52	29	23	40	5
Baan Huay Maipan	Moo5, Maha Wan	120	60	60	16	7	9	13.3	7
Baan Tha Arj	Moo3, Tha Sai Luad	777	376	401	727	347	380	93.6	4

*Non-Thai students refer to all students who do not have any evidence of Thai citizenship. This group will be record in MOE’s student data based with “G” category

Migrant school

Four migrant schools were chosen for the field study. Among the four schools two are located in the semi-urban area, one school is located in the rural area, and one school is located in the urban area. The detail of each school is as follows:

- Migrant school A is located in Mae Pa sub-district of Mae Sot. The school provides education service from nursery to grade 8. During the 2009 academic year there were 370 students with 21 teachers.
- Migrant school B is located in Mae Pa sub-district of Mae Sot. The school provides education service from nursery to post grade 10. During the 2009 academic year there were 300 students with 21 teachers.
- Migrant school C is located in Maha Wan sub-district of Mae Sot. The school provides education service from nursery to grade 5. During the 2009 academic year there were 252 students with 10 teachers.
- Migrant school D is located in Mae Sot sub-district of Mae Sot. The school provides education service from nursery to grade 6. During the 2009 academic year there were 358 students with 12 teachers.

Table 4.15 Basic information of migrant schools

School name	Location	Students			Teachers
		Total	F	M	
Migrant school A	Moo3, Mae Pa	370	173	197	21
Migrant school B	Moo3, Mae Pa	300	143	157	21
Migrant school C	Moo6, Maha Wan	252	126	126	10
Migrant school D	Mae Sot	358	171	187	12

4.5 Educators

A total of eighteen educators were interviewed, with fourteen educators from Thai schools and four educators from migrant schools. The educators here include 14 teachers, one assistant teacher, and three administrative teachers. The research categorized educators into two main groups: 1) teachers and teacher assistant and 2) administrative teachers.³

The questions designed for the two groups have a different focus which reflects their knowledge, attitude, and practice toward non-Thai students. Most

³ Among fourteen educators from Thai schools three of them are also responsible for student registration and school data maintenance and report. The research will refer to these teachers as “administrative teachers”

teachers from the Thai schools can only communicate in one language that is the Thai language, with the exception of one assistant teacher from Baan Tha Arj School who is Burmese and can communicate well in both Thai and Burmese. A reversed situation is seen in the migrant schools, all teachers from these schools who were interviewed cannot communicate well in the Thai language. Most of the migrant teachers use Burmese as the main communication language with knowledge of other languages e.g. English, Karen, and Ya Khai.

On average teachers from the Thai schools have more than 10 years of experience in education-related work while teachers from the migrant schools have less experience as detailed in Table 4.16.

Table 4.16 Teachers and assistant teacher: years of working in education field

Years of Work	0-3	4-6	7-9	10-12	>12	Total
Teachers in Thai school	3	2	1	1	4	11
Teachers in migrant school	3	1	0	0	0	4
Total	7	3	1	1	4	15

In addition to the eighteen teachers, administrative teachers and assistant teacher, nine school directors from Thai and migrant schools were interviewed. Among the nine directors, five are from Thai schools and four from migrant schools. Again none of the migrant school directors can communicate well in Thai while some of them can communicate very well in English. The main communication language of all directors of the migrant schools is Burmese. Among directors from the Thai schools none of them can speak Burmese or other ethnic languages. The main language of communication for these directors is Thai.

Three out of five of the Thai directors are originally from Mae Sot District and have been working in the area for more than ten years. All the migrant school's directors are originally from Myanmar but have been living in Thailand for more than five years.

4.6 Discussion

The profile of migrant parents clearly illustrates that those who have stayed in Thailand for a longer period of time and are able to communicate in Thai tend to send their children to Thai schools. In term of family income, there is no significant difference between the groupings of where parents send their children for school, although those families who send their children to Thai schools seem to have a more steady income despite having only one parent working. Families with child/children in a Thai school seem to have a smaller family size with fewer children in school.

When looking at the education level of parents, those who send their children to migrant schools have on average more years of schooling. The majority of parents has no document and is relying on social and professional connections when it comes to accessing services in Thailand. Some of the informants said that they got support from their employer to register their children in a Thai school, while some said a friend in the migrant community helped them in this matter.

Most of the Thai schools are small in size which means there are fewer than 120 students. Tha Arj School is an exception with almost 800 students. This is a new phenomenon and is a result of the openness to the registration of migrant children since 2005 as well as the pilot project to bridge the gap between Thai and migrant school under the “school within school” project. Before July 2005, Tha Arj School had fewer than 100 students.

In contrast migrant schools have a higher number of students with an average of 320 students and sixteen teachers per school. When looking at teachers’ qualifications and experience, most Thai teachers graduated from a teaching college with a teacher certificate while the majority of migrant teachers graduated from a college with a general degree and do not have any teaching certificate. In both settings there are in-service teacher training provided to teachers, although are in different content and organization.

The curriculum used in both settings are also different with the Thai schools using the standard Thai curriculum while there is no stand curriculum for the migrant schools. There is a mixed use of different curricula in the migrant schools including curricula from Myanmar, BBC curriculum (English subject), GED

curriculum, curriculum develop by World Education, and the Thai language curriculum developed by MOE.

CHAPTER V

RIGHT TO EDUCATION FOR MIGRANT CHILDREN IN MAE SOT DISTRICT

5.1 Overview

This section presents the information gathered from the interviews, field observation and focus group discussions (FDGs) in order to answer the two thesis questions, which are:

1. What are the consistencies and inconsistencies between the legal and policy provisions in Thailand and the actual situation regarding the access to primary education for migrant children in the studied area?
2. What are the barriers and challenges for the access to primary education of migrant children in the studied area?

To answer these questions, the four core topics are discussed across all target groups:

1. the education facilities available for migrant children in the research site;
2. the situation of access to primary education of migrant children;
3. the quality education;
4. the attitude of the informants toward education provision for migrant children.

These topics constitute each of next four sections of this chapter.

5.2 Education Facilities Available for Migrant Children

In 2003, Tak Province had 13,936 migrant children (age 0-15 years old) registered with Thai authorities (Wangsiripaisan, 2009:17). Due to the ineffective, high cost and complication of the migrant registration system this number did not reflect the reality of the migrant worker situation in Tak Province. From the estimation of community-based organizations (CBOs), non-government organizations (NGOs) and the local Thai authorities that are responsible for education provision and other

services for migrant children in the western districts of Tak Province. It is estimated that in Mae Sot district alone there should be at least 40,000 migrant children (Wangsiripaisan, 2009: id).

There are many player involved in providing education for migrant children in this area such as the Provincial Educational Service Area, NGOs, CBOs, migrant community. etc,. There are also a variety of education options available, the research focused on two main education options: the Thai state school and the migrant school.

Thai State School

The Thai government has an obligation to make education available for all children living in her territory including migrant children. There are 134 state schools in western Tak Province¹, which in principle will accept every child who wants to be enrolled. These 134 schools are supervised and managed by Tak ESA2. Among the 134 state schools are 19 small-size schools.² More than 51 percent or 69 schools are providing education service up to the primary level (Grade 6), with 40 percent of the schools providing education service up to the lower secondary level (Grade 9), while only 8.5 percent or 12 schools provide education service up to the upper secondary level (Grade 12).

In the academic year 2008, the total number of students in all Thai state schools in western Tak Province was 50,061 with 1,569 teachers. The teacher per student ratio is 1:40 while the average classroom size is 25 students per classroom. When looking at the number of classrooms compared with the number of teachers, it is obvious that the number of classrooms is greater than number of teachers. To respond to the insufficient teacher numbers, schools and ESAs have to annually raise funds for extra budget to hire substitute teachers. Using substitute teachers has helped in filling the lack of teachers in the short term, but there is a concern regarding the teaching quality and continuity among the substitute teachers.

¹ Western Tak Province refers to 5 districts along the Thai-Myanmar border under the supervision of Tak Province Educational Service Area Office 2 (Tak ESA2). Five districts comprised of Mae Sot, Phop Pra, Tha Song Yang, Mae Ra Mat, and Umphang District

² Small size schools refer to school that have less than 120 students

Table 5.1 Thai state schools in the western Tak Province

District	Number of Schools	Number of Classrooms	Number of Students	Number of Teachers
Mae Sot	44	556	14,120	544
Mae Ramat	27	309	6,227	238
Tha Songyang	21	493	11,504	261
Um Phang	16	220	5,315	147
Phop Pra	26	435	12,895	379
Total	134	2,013	50,061	1,569

Source: Tak Province Education Service Area, Ministry of Education, 2008.

The data presented by Tak ESA2 (2008) indicates that in the 2007 academic year only 9,850 children with no civil registration or non-Thai children were enrolled in the Thai state schools. Referring to the estimate of 40,000 migrant children in the area, this number indicates that less than 25 percent of migrant children registered with Thai education system. There are many constraints to migrant children entering Thai schools. Some of the barriers commented by NGOs, CBOs and Thai education authorities include:

- a lack of awareness among migrant families about a child's right to enroll in Thai schools;
- the security concerns of undocumented migrants, and a consequent unwillingness to assert their rights;
- the language of communication and instruction in Thai school
- the direct and indirect financial costs involved in attending Thai schools;
- a lack of awareness or a lack of willingness on the part of some Thai schools to register non-Thai children
- pressure for migrant children to work rather than attend school; and
- the itinerant lifestyle of many migrant families

These constraints were partly recognised and addressed by government authorities, NGOs and CBOs. A number of strategies were introduced in order to maximize the opportunity of migrant children to attend Thai state schools. For example the MOE works with each ESA to raise awareness among education personal

regarding the 2005 policy which allows the enrollment of all children in Thai state schools, regardless of whether they are non-Thai citizens or lack civil registration. CBOs and NGOs are working to raise awareness among migrant workers on their rights to education and equip them with necessary information regarding school enrollment procedures. Despite these initiatives, barriers remain for migrant children to attend Thai state schools such as the language of instruction, educational cost, and attitudes toward migrant children and their family. The research will discuss in more detail these barriers in a following section.

Migrant School

Alternatively there are at least 61 so-called migrant schools or “learning centres”³ operating without formal recognition by and with limited support from the Thai government. These 61 schools provide an education for more than 10,972 children (Tak ESA2, 2009). The biggest migrant school has 1,093 students, while the smallest has only 24 students. The level of education provided in these schools starts from the pre-primary level or Kindergarten(KG) to post grade 10. Among these 61 schools the majority of them (49 schools) provide education only up to the primary level while nine schools provide education service up to the secondary level. There are three schools, which only provide higher education and vocational training.

Although they are not formally recognised, Thai local education authorities in western Tak Province are unofficially aware of these migrant schools. There are likely to be at least as many existing migrant schools that are not yet known to the Thai education authorities. Thai local education authorities have started to collaborate with the migrant schools and provide some support for their operation. The support is limited due to the irregular status of the schools and the lack of laws and policy to support the work with these schools.

Many of the constraints for migrant children and their parents mentioned above with reference to Thai schools do not apply to migrant schools, and the number of such establishments is a testament to their success in meeting the otherwise unmet

³ The Ministry of Education prefers to call these migrant schools as “learning centre” in order to differentiate them from standard Thai public and private school.

education need of migrant children. The fact that such schools are formally unrecognised, however, brings its own set of challenges, including:

- a lack of recognition for the qualifications of graduating students;
- significant security concerns for the schools themselves and for the majority of the teachers (who are often irregular migrants);
- a wide diversity of curricula and variable teaching and school management standards;
- a lack of accountability mechanisms to ensure good quality education is provided;
- limited and precarious resources to build and maintain infrastructure, to provide teaching resources, and to pay teachers' salaries.

At the time of this writing, the MOE is working on a process to recognize migrant schools as “learning centres” by proposing a draft law on the registration of migrant schools to the Thai cabinet. The legalization of the migrant schools under the Thai education system has been on the MOE’s agenda since late 2008. To allow the MOE to work more effectively with migrant schools both at the national and local levels, the new so-called “migrant school registration law”⁴ is needed. This law will allow migrant schools to register with the MOE as learning centres (in Thai: Soon Karn Rean, ศูนย์การเรียนรู้). The registration will grant the migrant school a legal status in Thailand as well as the support and supervision from the Thai MOE. What support the migrant schools will receive and how the MOE will manage the schools is not yet clear as the legislation is still under a complicated approval process.

The option for migrant schools to register as ‘learning centres’ would address many of the challenges for these schools mentioned above. It would represent, therefore, a significant step forward in meeting the right to education of all children in Thailand. This possibility has been under discussion for several years; however,

⁴ The official name of this law has changed several times due to the change in the responsible ministry. The latest name is “Right of the individual or non-government organisation to provide basic education provision for children with no civil registration or non-Thai citizen” and is placed as a Ministry of Education regulation. As of June 2010, after the consultation meeting among Thai authorities it was suggested that the Office of Basic Education Commission (OBEC) should consult with Office of Education Council (OCE) regarding the duplication of the draft law purpose by the two offices.

practical proposals to implement such a policy have been delayed at the cabinet level as a result of the political turmoil in Thailand in recent years.

As mentioned above there are different players involved in providing the education service to migrant children. In relation to Thai state schools; the MOE through the Education Service Area is a key player. For the migrant schools, the key players are migrant communities, community based organisations (CBO), and non-government organisations (NGO). Communities or CBOs are often the ones who set up and run the school as they see the needs to educate the younger generation of migrants. To set up and run a school they will seek the support from private donors and NGOs. The support received may be in the form of funding, educational materials, technical support, i.e. teacher training, curriculum development, school management, and etc. In Mae Sot area NGOs also provide additional support on linking migrant schools with Thai educational authorities. The link helps to bridge the work of the two and integrate the migrant school to the Thai education system.

5.3 Access to Primary Education

Thai state school

The Thai government has an obligation to eliminate all forms of obstacles to quality education through affirmative action. Additional to the free education policy the Thai government recently introduced “a fifteen years free and quality education scheme” which provides additional support to students and their families. The Thai government allocated more than 11,000 million baht for this policy in the 2008 academic year. The provision of fifteen years cost-free schooling, one of 18 projects approved by the Cabinet in January 2009 as part of an economic stimulus package, entitles all students, from kindergarten to the end of upper secondary level (Grade 12), to various forms of financial assistance. All basic necessities in both government and private schools are covered. Included are tuition fees, listed textbooks, uniforms, education materials and equipment as well as the costs of other developmental activities (OBEC, 2009:4).

This policy covers all children in Thai schools including migrant children. Despite receiving additional support children and families still have to pay for other

direct and indirect costs such as daily pocket money, shoes, transportation costs, etc.,. In one of the schools which the researcher visited, a migrant worker family had to spend around 200 baht per child per month for pocket money and transportation while the family earns only about 2000 baht a month. The migrant family has to spend at least ten per cent of their income to send one child to Thai school. When adding in other costs e.g. shoes, school bag, scout and traditional uniforms, the educational expenses will be greater than ten per cent of family total income. Refer to the data presented in Chapter 4 section 4.2 which shows that more than 43 percent of interviewed migrant families have more than one child studying in school.

Table 5.2 Annual educational expenses under the government fifteen years scheme

Item	Annual Education Cost (THB)						
	Pre-Primary	G1	G2	G3	G4	G5	G6
Text books	200	483.2	347.2	365.6	580	424	496
Stationary*	100	195					
Uniform	300	360					
Student learning activity	15	240					

*with 360 baht budget government expects that parents can purchase at least two sets of uniform.

Source: Office of Basic Education Commission, Ministry of Education, 2009.

Table 5.3 Additional educational expenses

Direct cost	Indirect cost
Uniform <ul style="list-style-type: none"> • Additional student uniform • Sport and scout uniform • Traditional shirt • Shoe, sock School bag Stationary e.g. notebook, pen , pencil	Pocket money Transportation

Source: Office of Basic Education Commission, Ministry of Education, 2009.

Concerning the registration to Thai state schools, the study revealed that all of the Thai state schools had registered migrant children even before the 2005 policy. In the past non-Thai students would have a “red stamp” on their document to

identify that they had no documentation or no Thai citizenship. Since the 2005 policy was implemented the numbers of migrant children enrolled in Thai schools have increased and now they do not get the additional “red stamp” on their documents. With the new policy the children do not have to present any documents to the school if they do not have them. The school is required to register every child in the school regardless of legal status and documentation. If a child has no documents, the school staffs are obliged to fill the individual historical record form for the person who has no evidence of civil registration for children and use this as the registration document.

For those Thai schools that are well aware of the 2005 policy, they often adjusted the procedure to suite the needs and situation of migrant community. For example, the schools may provide or arrange for a translator to help for translation during the registration, organize additional registration for migrant children or try to get more information about these students through their parents’ employers.

“We accept all children to school regardless of their status and document. If they do not have any document the teacher will fill in the individual historical record form for person who has no evidence of civil registration.”

(Thai teacher, Baan Tha Arj School)

“ If they have no document, teacher will later go to talk to the parent’s employer to get more information...Most of the migrant can listen to Thai but cannot speak so we will ask other parents who can speak Thai and Burmese to help during the registration.”

(Thai teacher, Baan Huay Mai Pan School)

Regarding the mobility of migrant families, some Thai schools informally set up a system to ensure that the children registered with the school will not leave in a short period of time. Strategies included asking the migrant’s employer to guarantee that the concerned migrant family will stay in the area for longer than 6 months and registering children names to the MOE database at the latest cycle allowed, on 10th June each year which give children more time for registration.

A majority of migrant families who have children in Thai schools commented that it is not difficult for them to register their children to a Thai state school. The main factor that affects the registration is the family's ability to communicate in Thai. A majority of parents/guardians interviewed can communicate in Thai and for those who cannot speak Thai well enough they received support from their employer, friend, or school staff who could speak their language. Some of the comments from parents are as follows:

“It is not difficult for me to register my child at the school because my neighbour helped me with translation. She had been here more than 20 years and married to a Thai man.”

(Migrant parent, Baan Huay Mai Pan School)

“My employer helped to register both of my children to a Thai school. The school is close by so the children can cycle to school.”

(Migrant parent, Baan Tha Arj School)

“When I took my kid to school the first day, we have nothing because I don't know what the school will need and we do not have any Thai paper. The teacher is so kind she accepted my child to school, now he has ID card from school.”

(Migrant parent, Baan Huay Mai Pan School)

When asked for the reason why they choose to send their children to a Thai state school, most of interviewees commented that they wanted their children to go to a local school, to get “good education” and to learn Thai language. Some said that to study in a Thai school would help their children in obtaining Thai documentation⁵.

⁵ At the result of the Ministry of Interior (MOI) policy regarding the individual legal status of people living in Thailand in 2005, government authorities including MOE are required to conduct a survey among students in Thai schools and submit the report to MOI. Those who have no document of civil registration will, at the end of the process, received an Identity Card starting the 13 digits with “0”.

“To study in a Thai school is good because my children will learn Thai and they will get a better life here in Thailand.”

(Migrant parent, Baan Mon Hin Lek Fai School)

“We send our kid to a Thai school because it is close to our home, me or my sister can walk her to school every morning.”

(Migrant parent, Baan Huay Mai Pan School)

“Thai education is good and my child can learn many things in school. They learn Thai, learn to count, learn computer. He will get a good job when he grows up.”

(Migrant parent, Baan Mae Pa Tai School)

When asked about how they know about the Thai school registration, nearly half of informers heard from friend or employer. On the day of registering the parent/guardian is the main person who accompanies the child to the registration. If the parents/guardian cannot speak Thai they either ask a friend who can speak Thai to come along or ask their employer to accompany the child for the registration. When asked if the parents/guardians were aware of the 2005 policy, all but one were not aware of this policy and commented that “the Thai teachers have a good heart so they open the door for migrant children”.

None of the parents/guardians mentioned the need to present or provide any documents when registering the children to Thai school. Seven from nine informers said their child has Thai birth registration and they presented it to the school on the registration day. For the two who did not have any documentation, the school filled in the form for them.

When asking the parents/guardians of migrant children who study in migrant school or those who are out of school, all the parents/guardians were not aware that they can register their children in Thai schools. All of the parents/guardians interviewed believed that to register a migrant child in a Thai state school they will need some type of document issued by a Thai official, i.e. migrant registration card or birth registration document. One commented that:

“We are here with no document so we should not get in contact with any official. It is dangerous”

(Teacher, Migrant school A)

While another stated that

“to go to Thai school I need to have a migrant worker card and my child needs the birth registration, but we don’t have either of these”.

(Teacher, Migrant school C)

Although the parents/guardians believed that they are not allowed to register their children in a Thai school, a majority would prefer to send their children to a Thai school.

Migrant school

Alternatively, migrant families can send their children to migrant schools, which are spread out around Mae Sot and nearby districts. From the record of Tak ESA2 (2008), the first migrant school was setup in the area in 1990. There was one school in 1990 with 56 students and in 2008 there are at least 61 migrant schools with more than 10,000 students. Migrant communities with the financial and technician support run these 61 migrant schools from private donors, NGOs, and CBOs. There is no standards curriculum and educational material for all schools. Most of the teachers are non-Thai citizens and are working in Thailand irregularly. The language of instruction varies. Burmese is the main instruction language with some school using Karen and Mon language. On the higher education level e.g. after 10 Standard (Grade 10) some schools use English as the language of instruction.

To register to migrant school it is not compulsory to present any documentation, although families are encouraged to present any available documents. If a student has transferred from another school they are requested to present their certificate of previous education level. If a student does not have any documents then the teacher will re-evaluate the student’s knowledge before sending them to a suitable class. The migrant schools are flexible with the registration time often accepting children all year round include during the semester.

“We have children register to school all year round and many of them have nothing, no document and no money. We try to help them as much as we can so we provide students with stationary (pencil, workbook) and once a week we give free lunch.”

(Teacher, Migrant school D)

“Some students come from Burma but they have no certificate with them so the teacher will give them a test then they will be placed in the right grade level.”

(Teacher, Migrant school C)

In migrant schools it is not obligatory for the family to pay as many direct and indirect costs as in Thai state schools. Recently, families have been requested to contribute 20-30 Thai baht per month per family to the migrant schools. Even though, less than half of the parents contributed, the schools do not take this as a main concern. It is not compulsory for students to wear any uniform, all school textbooks and stationary is free though limited, and free transportation to and from school is provided. Students have to bring their own lunch.

The reasons families decide to send their children to migrant school are the low expenses and the teaching language and content are familiar to them. Another reason is the social connection between migrant families and school staff, particularly the school director. Many school directors are well known within the migrant community so the parents/guardians are confident to send their children to study with those they know and respect. When the researcher asked the parents/guardians to which type of school they would like to send children, a Thai state school or a migrant school, more than half of them responded that they would like to send their children to Thai state school but did not know the school regulations and worried about high expenses.

“We don’t have much money and this school is free. We pay nothing for our two children. In the morning the school truck will pick up our children and then send them back in the afternoon. If we have to pay money, I don’t think we can send our children to school.”

(Parent, Migrant school D)

“I send my child to this school because they teach with Burmese curriculum and Burmese language. One day we will go back home so it is important for my child to learn Burmese.”

(Parent, Migrant school C)

“I’ve known the school director for a long time, when he came to tell me about the school I am very happy and I send my kid to this school.”

(Parent, Migrant school C)

Additional interviews with children who are out of school and their families revealed that most of them are not aware of any education opportunity available. Most children and their families believe that they need some type of document to register in both Thai and migrant school. Some of the parents think that the school will not accept older children. Furthermore families of these children are living in poverty and need their children to work to support them. Although the informers are not aware of the available education options, they all agreed that education is important for their children’s future.

“We moved to Mae Sot last year, I do not know much of what is going on here. I do not see any school around our community....No one in my family has ID card so it is not easy to get the services [health and education]...”

(Migrant parent, children out of school)

“If we can we want our kid to go to school, but he is old now (11 years old) and never go to any school.”

(Migrant parent, children out of school)

“It is important to know how to read and write then you can find job easily and people cannot cheat on you.”

(Migrant parent, children out of school)

“It would be good if NGOs will provide evening classes near our house, my children can go to learn something.”

(Migrant parent, children out of school)

In order to respond to the situation of children out of school, the education provision need to be arranged in a way that is suitable to their conditions and needs e.g. schools with flexible schedules and provision of specific subjects such as Thai language and numbering.

Table 5.4 How migrant families know about school registration?

Setting/How they know about registration	Friend	Employer	School staff	Don't know	Total
Parent of Children in Thai school	4	1	1	3	9
Parent of Children in Migrant school	1	0	4	0	5
Parent of Children out of school	0	0	0	2	2
Total	5	1	5	5	16

Table 5.5 Who accompanies children to school registration?

Setting/Who accompany children to the registration	Parent/guardian	Employer	NA	Total
Parent of Children in Thai school	7	2	0	9
Parent of Children in Migrant school	5	0	0	5
Parent of Children out of school	0	0	2	2
Total	12	2	2	16

5.4 Quality Education

Thai State School

In Thai state schools, the government sets minimum standards of health and safety and provides support to improve these standards. All schools provide clean drinking water to students. The classrooms are safe and clean. There is sufficient

space, light, and furniture in the classrooms. School facilities e.g. playground, toilet, and canteen are in a good condition. The research revealed that most students and their families are happy with the school and classroom facilities although they would prefer to have a bigger playground, more sport equipment, and better information technology facilities.

“I like the school because it is clean and there are many trees and flowers.”

(Student, Hin Lek Fai School)

“School provides me free lunch everyday, it is good.”

(Student, Mae Pa Tai School)

“I like the science room because we can use different chemicals and equipments.”

(Student, Mae Pa Tai School)

“We don’t have enough computers for everyone so we have to share one computer with friends.”

(Student, Huay Mai Pan School)

Following the 2001 curriculum for Basic Education (Grade 1-12) Thai education is divided into 4 stages; stage one (Grade 1-3), stage two (Grade 4-6), stage three (Grade 7-9) and stage four (Grade 10-12). Students in Thai primary school (Grade 1-6) study eight subject areas, Thai Language, Mathematics, Science, Social Studies, Religion and Culture, Health and Physical Education, Art, Career/Technology-Related Education, and Foreign Languages.

Students in the state primary school study 25 hours per week and the main language of instruction is Thai, although many of the classrooms are mixed between children whose mother tongue is Thai, Burmese and Karen. The study found that those who are not Thai native speakers struggle to understand both the language of instruction and the subject content particularly on the higher level i.e. grade 5 and 6. At the same time, teachers are also agonizing about the student understanding and

outcome of learning particularly when it comes to the national assessment or national test (NT). Teachers revealed that children who do not understand Thai language well are more likely to get a low score which affects the school's and teachers overall performance.

There is one Thai state school, which recently started an English Programme (EP) for Grade 1, and 2. The language of instruction of these classes is English while the classes provide Thai and Burmese language as an additional subject. There are two teachers working with each class, one Thai teacher and one English-speaking teacher. The English-speaking teacher is not a native English speaker but Burmese teachers who are fluent in English. This project was created as a response to the increasing number of non-Thai speaking students in the school. A Thai teacher from this school commented that this is a good initiative but he is concerned about the study and the assessment outcome at the end of the academic year especially the student's skill and knowledge in Thai language.

Comments from teachers in Thai state schools revealed that migrant students are often doing well in Mathematic and English subjects while they are struggling with Thai and Social Studies.

“Migrant children are doing well with the subjects that don't need much Thai language, for example Mathematics. They often get a higher score than Thai students.”

(Teacher, Baan Tha Arj School)

“When they have to read a long text book in social study especially in a higher grade like Por 4 (Grade 4) or Por 5 (Grade 5), they take a longer time than Thai students and often still cannot understand it clearly.”

(Teacher, Baan Huay Mai Pan School)

“When studying Thai or social studies, migrant students are very quiet and do not speak out.”

(Teacher, Baan Huay Mai Pan School)

In the teachers' opinion the main reason underlining this low performance is their Thai language knowledge. When the students do not clearly understand the language of instruction, they often do not understand the subject content and assessment questions. When asked what subject's students like the most, more than half of the answers revealed that that teacher feel that children like to learn practical subjects such as art and physical education. The teachers feel that children do not like to study those subjects that require a lot of thinking, for example Mathematics and Science. One reason causing students to dislike studying Science is the lack of equipment and learning material.

More than 40 percent of students said they like to learn Mathematics because it is not a difficult subject and they can find the answers easily.

"Maths is very easy; I can find all the answers."

(Migrant student, Baan Huay Mai Pan School)

"I like Maths because I understand all of topics that teacher teach me."

(Migrant student, Baan Tha Arj School)

Around 26 percent said they like to learn Thai language and, if possible, they would like to learn more Thai language.

"Learning Thai language is fun and I know more vocabulary and grammar." (Migrant student, Baan Mae Pa Tai School)

"I like to learn Thai because I get a high score and I can read many different stories."

(Migrant student, Baan Mae Pa Tai School)

"I like to learn Thai language because teacher teaches me to read and write." (Migrant student, Baan Tha Arj School)

"I like to learn Thai language and want to learn more of it then I can help my parents read the signs when we go to hospital and market."

(Migrant student, Baan Huay Mai Pan School)

The answer varies regarding the subject which students like the least, the distribution is approximately the same at 12-15 percent among the seven subjects. The reason why students do not like these subjects is mainly about their understanding and learning capacity. If they do not understand the subject or cannot learn well they tend to dislike the subject.

Since the reform of the Thai education system, there is an initiative to promote parents and community involvement in school management and curriculum development. Every Thai school is required to set up an education board comprised of 9-15 members who represent all key stakeholders; community members, parents, and school management. No migrant parent is a member of a school board. Additional to the school board, schools must also organize parent-school meetings and home visits in order to get parents involved in their children's education as well as for teachers to get a better understanding of student situation. Information gathered from interviews revealed that migrant parents/guardians regularly attended the school meetings and activities but rarely participated in the discussion.

The majority of teachers in Thai state schools have graduated from a teacher training institution with a bachelor degree. For small size schools in the rural areas they are often unable to fill all required positions (both management and teaching level) and there is a lack of subject-specific teachers principally for English language and Science. All the five Thai schools, which the researcher visited, hired local teachers to substitute unfilled positions. Apart from the teaching role, many teachers are also responsible for other tasks in the school e.g. school administration, school activities, maintenance of school equipment, library management, etc. More than half of the teachers interviewed commented that they would prefer to do less outside classroom work and spend more time with the students but this is not possible with the current number of educational staff.

Migrant School

There is no minimum standard of health and safety set for migrant schools. Three from four schools where the researcher visited provide clean drinking water to

all children with the external support from a NGO. The classroom space is relatively small and in need of regular maintenance. There is insufficient space, light, and furniture in the classrooms. Most of the classrooms have fixed tables and a very small backboard. A majority of the classrooms have no permanent soundproof wall. The school facilities, e.g. playground and toilets, need improvement in terms of quality and quantity. None of the migrant schools have a canteen or separated cooking facilities so students often have lunch in their classroom or in the playground area. Most of the students, their families, and educators commented that they would like to get more support from the government and/or NGOs in order to be able to improve the school facilities.

“There are many students in the school when we have very small space, the classrooms are crowded and noisy....We also have problem with transportation, everyday we have to pick up children from home. The school has only one truck so the truck has to go four times. I hope we will get more funding to expand the classrooms, pay for the teachers and transportation.”

(Teacher, Migrant school C)

“We have very few teaching materials; we need more teaching aids, for example game cards and language posters, especially for teaching the Thai language.”

(Teacher, Migrant school D)

“I want to have a football field where we can play during the break.”

(Student, Migrant school D)

There is no standard curriculum implemented among migrant schools. In the four migrant schools visited, there is a mixed use of various curriculums as show in Table 5.6. Additional to diverse curriculums, teachers add extra explanation, based on the teacher's knowledge, to the class if the students do not understand the content guide by each curriculum or if the teacher is facing a problem of the students not understanding and interpreting the new curriculum.

“I am using WE [World Education] curriculum for Science and Mathematics subjects. The curriculum is good because it has content for both theory and practice but sometime I found it is too hard for students. We do not have suitable teaching material especially for Science so I only write down the text on the whiteboard.”

(Teacher, Migrant school D)

“If the students do not understand what I explain (following WE education), I explain more with the Burmese content.”

(Teacher, Migrant school A)

There is no standard assessment among the schools, each school can design their own assessment procedure and the examination content. Recently World Education (WE) introduced a pilot project which provided a standard assessment process and questions on three subjects; Mathematics, Science, and English, for 20 schools who implemented the WE curriculum.

Table 5.6 Migrant school curriculums

School name/ Subject	Thai	English	Math	Science	Social Studies	Burmese
Parami	MOE/WE	WE	WE	WE	Burmese	Burmese
Nam Tok	MOE/WE	WE	WE	WE	Burmese	Burmese
Hlee Blee	MOE/WE	WE	WE	WE	Burmese	Burmese
BHOS	MOE/WE	BBC	WE/Burmese	WE/Burmese	Burmese	Burmese

The main language used in migrant schools is Burmese, even though there are a number of students for whom Burmese is not their mother tongue. Among fifteen students interviewed, seven or nearly 47 percent is a non-Burmese native speaker. Eleven out of 15 students interviewed or more than 72 percent commented that they would prefer to learn in a language other than Burmese. Interestingly, eight from 11 interviewed students or nearly 73 percent would like to learn in the Thai language. The

main reason provided for this result is that they are living in Thailand and knowing Thai language is useful for their future, particularly in securing future work.

“I want to learn in Thai language because it will help me to speak Thai better and I then can play with Thai friends in Mae Sot.”

(Student, Migrant school C)

“I want to speak Thai, I want to live here.”

(Student, Migrant school D)

“I want to learn in the Thai language because there are some students in my class who can speak Thai.”

(Student, Migrant school D)

All the four teachers of the migrant schools interviewed were not professionally trained as teachers. Three of them have a bachelor degree and one has a high school certificate. One of the four teachers has worked as a teacher for four years while the rest have worked for less than two years in the position. After being recruited to be a teacher, they received training from the school, CBOs, and NGOs. All said that they received at least two training sessions per year. Teachers admitted that they needed more training and teaching practice in order to improve their teaching skills and the understanding of subject content. Due to the illegal status of migrant teachers, to attend professional development courses/training and getting peer support among migrant teachers is a great challenge. When organizations arrange training for migrant teachers they have to support the teachers on securing the travel documents or have to arrange for “secure transport”.

This process is both time consuming and involves high expenses. The illegal status of both the schools and the school staff creates numerous difficulties for the possibility for professional development of all the educators of migrant schools. Additional to the security concern, many teachers are facing the problem of low and unstable payment. At the time of the field study, two among the four migrant schools studied were not able to pay full salaries to their teachers since July 2009 (more than three months). With the average salary as a low 2500 baht per month, a cut or delay of

payment makes the teachers' life unbearable. However, these difficulties do not seem to deter the dedication of the teachers. One teacher said during an interview:

“Even though I do not get my salary, I still want to keep teaching because education is the only hope for our children. Education will help them move to a better life and I want to support them on this”
(A teacher, Migrant school D).

Acceptability of education provisions for migrant children

Thai State School

The main concern for education of non-Thai children including migrant children is that the education provision is not flexible and adjustable to cater to the learning capacity and needs of the target group. The research found that flexibility and adjustability is poorly implemented. Interviews revealed that despite recognition of specific needs and awareness of a specific provision of education for migrant children i.e. language barrier, poverty, and older than classmate there was no significant diversity or available options in terms of the curriculum, subject contents, teaching methodology, and school time for migrant children and other disadvantaged groups. The curriculum and teaching method for children from migrant and hill-tribe communities needs to be different from those who come from the Thai community. Due to the different learning ability, particularly language and age different, and different circumstance i.e. irregular status and poverty, the education provision should be adjusted to response to these needs.

Although majority of children from migrant communities speak Burmese as their mother tongue and several children from hill-tribe villages speak Karen language, the Thai state schools use Thai as the instruction language. There is no provision of preparatory classes for those who are not Thai native speakers. As a result, these children and their families have to struggle on their own to meet the requirements of the school. Moreover, many members of the migrant communities have long experiences of human right violations and are made up of non-Thai citizens, there is nothing in the education process to help them understand their situation and prepare themselves for an ambiguous and unstable future. Interviews with migrant families show that the family, including children, very much values education and the

study of the Thai language. However, they do not know what they can dream of for their children's future because they are living illegally in Thailand. When interviewing students, many of them expressed a dream of become a government official, for example, police officer, soldier or teacher, in Thailand.

“When I grow up I want to be a soldier in Nong Bua village (village in Prop Pra district) because when I was younger I lived there and I know many soldiers who worked there.”

(Migrant student, Baan Mon Hin Lek Fai School)

“I want to teach English in this school, I like English language and I want to stay in this village.”

(Migrant student, Baan Mae Pa Tai School)

“In the future I want to be a police man. Being a police man I can look after my family....I want to be a police man in Mae Sot because I like to stay here and my family wants to stay here too.”

(Student, Migrant school C)

This reflects that the children are not aware of the reality of their situation and will later have to face the painful fact that their legal status does not allow them to pursue their dream.

Migrant Schools

Migrant schools show more flexibility in its education provision in terms of costs, time schedules, and regulations, for example those concerning school uniform, documentation, and curriculum used. There is still a challenge regarding the language of instruction and teaching methodology. All of the migrant schools are very flexible in terms of the family's contribution for educational costs and student uniforms. All the migrant schools recently started to collect monthly contribution of 20-30 baht per family from student's parents. However, more than half of the parents are not able to meet this financial requirement and the schools accept the situation with no pressure to the students and their families. As a result, most students pay no cost to

their school while receiving extra support, as needed, for example transportation and boarding facilities. Although wearing a uniform is not compulsory, many migrant students prefer to wear school uniform because it grants them a desirable identity as a student and makes them feel safe.

“I like to wear a school uniform because I am a student. My problem is I have only two sets of uniforms and they are very old. I have to wash my uniform everyday.”

(Student, Migrant school D)

“When wearing student uniform, I feel safer when traveling from home to school.”

(Student, Migrant school A)

Despite a mixed use of curriculum in migrant schools, there is more child-focused content in the curriculums when compare with the Thai standard curriculum, particularly with the four subjects developed by WE. When teachers apply each curriculum to the classroom, they often adjust it to suite the student’s needs and available resources.

“In the classroom sometimes students do not understand what I am teaching because it is hard or new to them. If students don’t understand it, I adjust my teaching. For example, I do more card games or get smarter students to work with the weaker students. This will help students to learn better.”

(Student, Nam Tok School)

“If students have learning problems I will give him/her a tutor class.”

(Student, Migrant school A)

With the lack of teaching skills, knowledge of some subjects and teaching materials, it is hard for teachers to apply some of the child-centred technique and new curriculum. For example, the set row table (one row tale for 3-4 students) in a small classroom is an obstacle when the teacher wants to move students around and group

them for a small group activity. Regarding the subject in a new curriculum, for instance Science, when there is insufficient teaching material, e.g. chemicals to perform a lab experiment; it is hard for students to actively learn about the subject.

The subjects taught in migrant schools are designed to better accommodate the needs of migrant students and community, particularly Burmese and English language. There are subject related to peace and democracy, which will help the students to better understand their circumstances and prepare them for the future. The migrant schools should increase the number of study hours for the Thai language as commented by many students and parents during the interviews.

In terms of school time all schools have a standard school schedule, which is open to adjustment for semester length to meet the urgent needs of students and the community. Some schools open additional classes in the evening to cater to the need of older students who are working during the day and those migrant children who are studying in the Thai state school. There is flexibility in the school registration period. All migrant schools allow children to start their enrollment in the schools whenever it is suitable for the children and their family, including during the semester. They often try to include older children in the class.

The language of instruction remains as a challenge in migrant schools. Burmese is the main language of instruction in these schools whereas there are a significant number of students and teaching staff for which Burmese is not the mother tongue. Teachers' lacking teaching experiences and a limited understanding of the subject content is another challenging that migrant schools face. In addition, the poor school facilities and resources are a great challenge, which has a significant impact on the adaptability and capacity for improvement of the schools.

Adaptability of education provisions for migrant children

Adaptability requires that the education system be flexible and able to respond to the needs of students within their diverse social and cultural settings. In achieving adaptability in education, the Thai government should provide resources that enable both Thai and migrant schools to develop individualized education plans that meet the needs of the communities served by the schools. Schools must monitor the performance of both the teachers and the students and make modifications in

teaching content, teaching methodology, and school schedule depending on the results. The research findings demonstrate that migrant schools are more flexible and try to adjust to the needs of migrant children and migrant communities more than the Thai state schools. Migrant schools adjust the instruction language to the diverse classroom setting, adjust the teaching methodology as per the students' learning ability and add subjects that are relevant to students' backgrounds. There is less flexibility and adaptation in the Thai schools in all areas. Thai is the only teaching language in the Thai state schools, the main subjects and contents come from the national curriculum, and the majority of teachers are still using the rote-teaching model.

Migrant schools are well adapted to the financial barrier faced by migrant communities. All of the migrant schools provide additional support to children from poor families in order to keep them in school. Free stationary, text and exercise books, and transportation are provided. It is not compulsory to wear the school uniform in migrant schools. These measures help to reduce direct and indirect education costs and increase access to education for migrant children. Despite the fifteen-year free education policy in all Thai state schools, there are additional costs to be covered by the student's family, for example stationary, extra uniforms, and transportation. With the very low income of migrant families, they have to work hard to get enough money for these expenses.

5.5 Attitude Toward Education Provisions for Migrant Children

5.5.1 Migrant Parents/Guardians

All the parents/guardians interviewed expressed a deep interest in their children's education and valued education highly. Parents/guardians of migrant children in the Thai state school are less vocal about the quality of education and how the school should be managed. In general they are pleased with what schools have offered their children and what teachers have taught in the classroom. All of them indicate that their children are interested in school and learning, but cannot explain further how they know about this. Parents tend to pay a high respect to teachers and school staff and avoid questioning the teacher and school's authority. Parents/guardians are not well informed and knowledgeable about what is going on in

the school, such as school strategy, curriculum, teaching methodology, and activities. This is a major factor in parent/guardian participation in school management and student learning. When asking students who they turn to when they need advice on their study, the majority responded that they would ask help from friends in school or from older siblings or relatives. They would not ask their parents because their parents do not understand either the Thai language or the subject of their study well enough. Some said their parents are all away for work in another province so they could not consult with them. The busy working schedule of migrant parents, the language barrier and a shy cultural nature all contribute to these behavioral patterns.

It is not surprising why thirty percent of migrant parents were not able to comment on what is considered “quality education”, while almost 90 percent of them do not know if their children have any problems at school. With those who commented on what comprised “quality education”, general characteristics of the school and education system were described such as:

“Quality education means a school with good teachers.”

(Migrant parent, Baan Huay Mai Pan School)

“Quality education means a school where everyone is nice to each other.” (Migrant parent, Baan Mae Pa Tai School)

“Quality school means a school which provides free lunch.”

(Migrant parent, Baan Mon Hin Lek Fai school)

“A good school is where my child will have fun while learning.”

(Migrant parent, Baan Tha Arj school)

In comparison, parents/guardians of children in migrant schools provided a stronger opinion regarding ‘quality education’ including:

“To provide quality education, the school and education provider should ensure that the school’s discipline is set and effectively implemented.”

(Parent, Migrant school C)

“Quality education means a school where children are able to learn effectively and what they learn is useful for their lives.”

(Parent, Migrant school A)

When asked about which school parents want their children to attend, all parents of children in migrant schools and out of school children preferred to send their children to a Thai state school. The reasons behind this preference include a better future for children for both to continue to higher education or to get better work, a better opportunity for children to learn Thai language and culture.

“...attending a Thai school will give a better future to my children.”

(Migrant parent, Baan Tha Arj School)

“My child will have the opportunity to attend higher education in the Thai system.”

(Migrant parent, Baan Mae Pa Tai School)

“Thai school is good for my child because we want to live in Thailand and will not going back to Burma.”

(Migrant parent, Baan Mon Hin Lek Fai School)

“I sent my children to Thai school because it’s suggested by my Thai employer.”

(Migrant parent, Baan Tha Arj School)

Although the parents prefer their children to attend Thai state school, they have several concerns, which the children may face in this new environment. The major concern is the child’s ability to communicate in Thai and adjust to new teachers, friends, and environment. The higher educational cost in the Thai state school is another main concern for migrant parents/guardians. Many parents/guardians commented that they have to work harder or longer hours to get enough money for their children’s educational expenses.

5.5.2 Migrant children

All students interviewed expressed that they love to study in their current school, interestingly two third of the interviewed children in migrant schools showed interest in moving to the Thai state school. The reasons provided include: Thai schools have better educational provision and facilities, opportunity to learn the Thai language, and better security. Some of the direct comments from students are demonstrate below.

“I want to move to a Thai school because there is the better education provision in the Thai school.”

(Student, Migrant school A)

“A Thai school has better school facilities. There is a better and bigger building there.”

(Student, Migrant school A)

“Moving to a Thai school will give me a better opportunity to learn and improve my Thai language. In migrant schools there are very few people who can speak Thai.”

(Student, Migrant school B)

“If I go to a Thai school I will get better security. I do not think the Thai police will arrest any children in Thai schools.”

(Student, Migrant school D)

All migrant children in Thai state schools showed no interest in transferring to a migrant school. The main reasons why they like to study in the Thai state school are: good friends in school, fun learning activities, opportunity to learn the Thai language, and limited or no knowledge about migrant schools. Reflections from some of these students are as follows:

“I have many good friends in this school, I don’t know anyone in migrant schools.”

(Migrant student, Baan Huay Mai Pan School)

“There are lots of fun activities in my school...we learn to grow vegetables, sing songs and play volleyball.”

(Migrant student, Baan Huay Mai Pan School)

“Studying here I have a good opportunity to learn and practice Thai language. In the school I speak Thai all day.”

(Migrant student, Baan Mae Pa Tai School)

“I don’t know what they are teaching in a migrant school.”

(Migrant student, Baan Mon Hin Lek Fai School)

Many children commented that when they stay home they have no friends and feel lonely. They meet more people at school where they can enjoy both the learning and social activities. Nine out of nineteen students said they face a minor problem in school including: friends teasing, difficulty in learning English, and learning faster than other classmates and have to wait for others. These problems seem to have minor impact on the students’ intention to come to school as they have strategies to respond to these problems such as trying to avoid a teasing friend, consulting with teachers and family members when needed, and helping others to learn while waiting. In reality, however, students all over the world regardless of their ethnicity and socio-economic background similarly face these problems.

All except one of the interviewed students from migrant schools said that they have no problem regarding school attendance and study. One student who mentioned a problem has concerns about his worn-out school uniform. All children interviewed love to come to school because they think learning is fun and they have gained knowledge and skills which will be useful for their future. When asked if they would like to transfer to a Thai state school, more than two thirds expressed a strong interest to do so. When discussed in more detail on what will be their worry about studying in a Thai state school, 40 percent expressed a concern on their ability to communicate in Thai. Other concerns that the students expressed included the change of environment, getting to know new people, distance from home to school, and high educational expenses.

“My main worry about the Thai school is getting to know new friends and teachers. They may not welcome me. They may not want to talk to me.”

(Student, Migrant school A)

“Thai children may look down on me because I am Burmese and I am very poor.”

(Student, Migrant school D)

If I go to Thai school I have to travel further because now my home is very close to school. I don’t know how I can travel from home to a Thai school. Will the school truck pick me up?”

(Student, Migrant school D)

“I think if I go to a Thai school my parents will have to pay more money to the school. I am not sure if they can pay for this. I have other young brothers in the migrant school.”

(Student, Migrant school C)

Seventeen percent of migrant children in Thai state schools were not able to comment on what is considered “quality education”. With those who voiced an opinion on what comprises “quality education”, again general characteristics of the school and education provision were described such as:

“A good school is a school with good friends and good teachers. A good friend is a friend who will play with me and not tease me.”

(Migrant student, Baan Huay Mai Pan School)

“A good school is a school with good and clean facilities.”

(Migrant student, Baan Mae Pa Tai School)

“A good school is a school with a good curriculum and the teachers teach us subjects that are useful for us.”

(Migrant student, Baan Tha Arj School)

The majority of the comments by children in migrant schools regarding “quality education” focused on good teachers and teaching methodology which is suitable to their learning ability and needs.

“School should have good teachers who know how to teach and are kind to children. Teachers should not shout when students make a mistake.”

(Student, Migrant school D)

“Teachers should know how to encourage students and use a lot of games and songs.”

(Student, Migrant school A)

The other education qualities included; good school facilities, sufficient number of class room and furniture, more fun learning activities i.e. sport and music.

When interviewing children who currently are not in school, one third were not able to comment on this topic, while two thirds provided comments based on their limited knowledge and experience on school and quality of education. Three among four who commented on “quality education” gave vague explanation by referring to Thai school. One of them said:

“A good school is the school that looks like the Muslim Thai school [a private religion based school in Mae Sot], there are many nice buildings, many students and teachers in this school.”

(Migrant child, out of school children)

5.5.3 Educators

Eighteen teachers from the Thai state and migrant schools participated in the research interviews. When asking teachers about what constitutes “quality education”, teachers in migrant schools focused their comments into two main categories: student’s learning process and the results of learning.

“Quality education is the education which focuses on students and ensures that students can learn well. If students do not understand or are not able to learn, we should find what the problem is and find a solution for it.”

(Teacher, Migrant school B)

“Quality education should provide students with a good foundation which will provide them self-esteem and they can use this foundation for their future plan.”

(Teacher, Migrant school D)

A majority of teachers commented that quality education is based on the learning process which is suitable to student learning ability and ability to adapt to the changing situations of both students and community.

“Good education is based on good teaching methodology. The teaching that is suitable for children and helps children learn in the way that suits them the most.”

(Teacher, Migrant school C)

In comparison to the comments from teachers in migrant schools, a majority of teachers in Thai schools pay more attention to the end learning result.

“Good education will make good students who have both the reading and writing skills and good social ethics.”

(Teacher, Baan Mon Hin Lek Fai School)

“Good quality education will produce good citizens or good members of the society. Children who have education will become good members of the society in the future.”

(Teacher, Baan Mon Hin Lek Fai School)

“Good education is the education that enables students to learn well and work hard to improve their knowledge.”

(Teacher, Baan Mae Pa Tai School)

For teachers in the Thai schools quality education is the education that aims to create good members of the society and enables the learners to apply the knowledge they learn in their daily and future life.

The additional topic discussed with teachers from Thai state schools was their opinion regarding the education provision for migrant children and the government policy on this issue particularly the 2005 policy. The majority of teachers expressed a strong support for the “Education for All” policy and the importance of providing education to all children in Thailand regardless of their nationality, ethnicity, gender and religion.

“The 2005 policy is a good policy because it allows all children to enroll in Thai schools. It also helps us (school staff) to work with these children better.”

(Teacher, Baan Mon Hin Lek Fai School)

“It is good to provide education to all children because an educated migrant is better than an uneducated one. Now they learn about Thai language and Thai culture so they should understand Thailand better.”

(School director, Baan Mae Pa Tai School)

“When these children grow up they will be good friends to Thai people. For the border people this relationship will help to improve our border trade and relationship.”

(School director, Baan Huay mai Pan School)

All teachers agreed that education is a key instrument for child development and the creation of a quality citizen. However, when discussing further on the education provision for non-Thai children and children with no civil registration particularly migrant children, more than 44 percent of the teachers interviewed expressed concern about the large amount of government budget invested in this policy as well as the learning outcome of these children who are not Thai and not fluent in the Thai language. Some of the teachers commented that they would prefer the government to invest this budget to improve the quality of life of Thai

disadvantaged groups rather than spending it on the education provision of non-Thai children.

“I think the policy is good but in the long term there might be a problem in terms of school resources, for example, the number of classrooms and teachers for the increased number of students. The government will have to allocate more budgets for these.”

(Teacher, Baan Mae Pa Tai School)

“As a teacher I am happy to teach all children but as a Thai I wonder why we have to pay for these non-Thai children.”

(Teacher, Baan Mae Pa Tai School)

“At the beginning I am not sure why the government has to allow all children to register to school. After I moved to work in this school where there are many migrant children my thinking has changed I see more benefit of providing equal education to all children. I see there is a good friendship between students from diverse backgrounds in my classroom, it is good...Sometimes deep inside me I still question why our country have to pay a lot of money and resources to these children who are not Thai and one day they might leave.”

(Teacher, Baan Tha Arj School)

When discussing about migrant children in the classroom and in school, the majority of educators were happy to register and teach migrant children. However, many of them question about the budget and other resources the Thai government has to allocate to the education of non-Thai citizens when there is more need from poor and disadvantaged Thai children in the rural areas.

Attitude toward education provisions for migrant children

Migrant children and their families value education highly and see it as the key way to improve their life and build a decent future. Being unaware of the education provisions available for migrant children, language barriers, their irregular

status, and their living in poverty tend obstruct migrant children to have access to education. The majority of migrant children and their families believe that the Thai school will provide them better education and future because this education will help them better adjust to the life in Thailand, particularly in terms of language. The main concerns for migrant children and their families on attending a Thai school are the difference in language and culture, high education cost, and fear arising from the migrants' irregular status.

All Thai educators are well aware of the 2005 policy, which allows every child to register in a Thai state school. In principle, educators agree with this policy, though some are concerned about the budget, which the Thai government has to allocate for the implementation of this policy. The majority of educators interviewed have positive attitude toward migrant children and the government's policy to promote access to education of migrant children. The educators see that quality education will help to build good migrants who respect Thai laws and values and do not bring trouble to Thailand. In comparison, migrant educators look at the quality of education in two dimensions - process and end result. To provide quality education the teaching method and the content should enable children to learn and improve themselves. In the end the children will become good and active member of the society.

CHAPTER VI

CONCLUSION AND RECOMMENDATIONS

6.1 Conclusion

Thailand has ratified the Convention on the Rights of the Child (CRC) together with the International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and other documents which contain clauses on the right to education. By ratifying these conventions and documents, Thailand has put herself under the obligation to create an environment that respects, protects and fulfills the rights under the conventions, including the right to education. The general principles that must be taken into account when discussing the right to education include: 1) non-discrimination; 2) the best interests of the child; 3) to support the development of the child's personality, talents and mental and physical abilities to their fullest potential; and 4) provision of free, quality education to at least at the primary level. The Thai government is the key duty holder to the right to education of all children in Thailand including migrant children. In order to meet the obligation the Thai government is obliged to respect, protect, and fulfill the right to education. All children, including migrant children, are considered the bearers of child and education rights irrespective of their legal status, nationality, ethnicity or language of speaking. Their dignity and the right to education in Thailand must be respected unconditionally. Thailand has explicit obligations in transposing these principles into her national laws, policy provisions, and practice.

The research findings illustrate that Thailand has comprehensive legislation and relevant regulations that should work to ensure the enjoyment of education opportunity for migrant children. It is notable that current policy provisions in Thailand are progressively converging with international standards to a considerable degree. Thai government agencies, particularly the Ministry of Education (MOE), have declared the Education for All policy since 1992. In June 2005, the government,

by the Office of the Education Council (OCE) under the MOE, launched the education policy regarding the Management of Education for Disadvantaged Children. The policy aims at providing basic quality education to “all children” residing in Thailand and developing the children to become future citizens. This policy recognises the different needs and difficulties faced by disadvantaged children and tries to ensure that disadvantaged children are able to access and complete basic education and that education providers have to respond properly to the children’s needs. In July 2005, the Thai cabinet, following a proposal by MOE, approved a new regulation, which allows children without any evidence of civil registration or Thai nationality to access the Thai education system with no restriction to the level of education (OEC 2008). This is a progressive policy to ensure free education for all children in Thailand, including migrant children. However, these law and regulations, which support the right to education of migrant children, often give way to the more authoritative laws on nationality and immigration. The nationality and immigration laws impose on migrant workers, their families and their children an irregular and even criminal status. This criminal status results in the limitation of their freedom of movement, attainment of available information, and the deprivation of their enjoyment of educational opportunity.

When looking at the accessibility to and availability of education for migrant children, the research findings illustrates that there are several barriers to accessing the Thai education system by migrant children. Despite the right to free, quality basic education of 15 years being guaranteed in the current (2007) Constitution of Thailand, an estimated 419,000 children of Thai nationality aged 6-11 years old were not enrolled in school in the 2005 Academic Year (Shoraku 2008:3). One factor limiting access to education especially among the poor Thai children is the cost of education. If we also count the numbers of children who have no evidence of civil registration and/or non-Thai children, the number of out-of-school children will be even greater.

While education fees and other four main direct costs of schooling have been subsidised by the government under the current law and regulations, there are other direct and indirect costs which parents have to pay to enable their children to have access to a Thai state school. This financial burden has stronger negative impact

on children from poor families since the proportion of the expenses is quite high compared to the low family income. Most migrant workers in Thailand are working as cheap, unskilled labor and earn less than the minimum wage. As discussed earlier, a migrant family may have to allocate as much as one-fifth of its income in order to send one child to a Thai state school. In many circumstances the only option available for these poor migrant families is to find the cheapest education provision or keep their children out of school.

Additionally, the acceptability and adaptability aspects of the Thai education system are as suitable to the migrant child circumstance. The language of instruction and the curriculum in Thai state school are not familiar to migrant children and their family. Although the majority of migrant families and children interviewed prefer to study in Thai state schools, the language of instruction, that is the Thai language which is foreign to them, and the curriculum which is unfamiliar and not suitable to their needs and lifestyle, often discourage migrant children from enrolling in Thai state schools. There are many other constraints to migrant children enrolling and continuing to study in Thai schools. In summary, these barriers discussed in the previous chapter include:

- a lack of awareness among migrant families and children about a child's right to enroll in Thai schools;
- the security concern of irregular migrants in the face of Thai state authorities and the consequent unwillingness to assert their right to education;
- pressure for migrant children to work rather than attend school;
- the itinerant lifestyle of many migrant families who often have to move from one working place to another or move back to Myanmar when there is no work or security concerns arise.

These constraints were partially recognised and addressed by Thai government authorities, NGOs and CBOs. A number of strategies have been introduced in order to reduce the barriers and maximize the opportunity for migrant children to attend Thai state schools, for example the use of a Thai-Burmese translator during the school registration period, additional Thai language lessons provided after class, etc.,. Most of the migrant children and their families interviewed value education

highly and see it as the main opportunity to improve their lives and future. The barriers discussed earlier obstruct their access to and retention in the Thai education system.

Alternatively, some migrant children attend migrant schools or community schools which are scattered around Mae Sot and western districts of Tak Province. The migrant schools provide an alternative and crucial option for the education for migrant children. The schools support the Thai government to meet her obligation to respect, protect and fulfill right to education of migrant children. Up until now, however, there has been no legislation that provides legal recognition of the operation of these schools. The irregular status of these schools poses a significant challenge to their operation as well as the enjoyment of the right to education of migrant children. The fact that these schools are not formally recognized by the Thai state brings its own set of challenges to the schools and their students, including:

- a lack of official recognition of the qualifications of graduating students;
- a wide diversity of curricula and uneven teaching and school management standards;
- a lack of accountability mechanisms to ensure good quality education;
- limited and precarious resources to build and maintain infrastructure, to provide teaching resources, and to pay teachers' salaries;
- significant security concerns for the schools and the majority of the teachers and children (who are often undocumented migrants).

All migrant schools operating in Tak Province operate without formal recognition by the Thai state. They receive little, if any, support from the Thai government. Neither do they receive any funding support from the government. Nevertheless, at the local level, the Office of Tak Province Education Service Area 2 (Tak ESA2) unofficially collaborates with these schools and has started to provide unofficial support for their operation and the improvement of their education provision. These supports are still limited due to the irregular status of the schools and the lack of law and formal policy to support the work of these schools.

In order to address the constraints faced by migrant schools, the MOE, at the time of this writing, was working on the legal process to legalise these migrant schools as "learning centres". The Ministry proposed a draft law on the official

registration of migrant schools. The law was recently approved in principle by the cabinet and is now under the deliberation of the Council of State. When this law on the registration of migrant schools comes to the final approval and implementation, migrant schools will be able to register themselves with the Thai MOE. The registration will grant a legal status to the schools and hopefully will allow them to access support from the Thai government. The prospect of migrant schools being registered as what the Thai Government calls ‘learning centres’ should address many of the challenges mentioned above. It would represent a significant step forward in meeting the right to education of all children in Thailand.

6.2 Recommendations

The research would like to present the following recommendations to all related parties involved with providing education to migrant children including the Thai government, the state education authorities, non-government organisations (NGOs), community-based organisations (CBOs), schools, and migrant communities:

Policy Recommendations

1. To facilitate the realization of child and education rights of migrant children, Thailand should do more to implement and enforce various conventions related to migrant children to which it is bound. Furthermore, it should accede to other relevant conventions. This would uphold migrant children’s rights regardless of their legal status and nationality. Thereafter Thailand’s national law and education policy and regulations that have a bearing on the right and life of migrant children should be amended or created to improve and ensure that all migrant children will be able to enjoy their child and education rights.

2. National law on education provision and education management for non-Thai nationals particularly the law on the registration of migrant schools should be passed and implemented as soon as possible to support the operation of migrant schools as well as provide legal status to migrant schools and school staff.

3. The Thai education authorities should develop a clear strategy on awareness raising on education provision for migrant children among government

officials from different ministries, particularly Ministry of Education, Ministry of Interior, Ministry of Defense, and Ministry of Public Health. This will ensure that all related ministries understand the situation and policy regarding education for migrant children and will work to support the policy implementation.

Recommendations for implementation

1. Thai schools should adjust the education provisions to the diverse language, cultures and backgrounds of the students in the area. The adjustment should cover both the teaching content, teaching methodology, language of instruction, and provision to support migrant families with the direct and indirect educational costs.

2. Thai education authorities should provide proper support to migrant schools in terms of the operational cost and technical support in order to help migrant schools improve their education standard and quality.

3. Thai education authorities, NGOs and CBOs should work together to ensure that migrant workers are well informed about policy and regulation and the education opportunity available for their children and how they can access this opportunity. In order to overcome the language barrier, local mother tongue information should be made available for all related parties particularly for migrants.

4. Thai education authorities, NGOs and CBOs should work to ensure that migrant worker parents/guardians are able to participate in the learning process of their child. This can be initiated by eliminating language barrier, supporting the home visit by schoolteacher, including parents/guardians to school and learning activity. All of the activities should be conducted with the sensitivity to migrant workers' situation and culture.

5. Thai education authorities, NGOs, CBOs, and migrant schools who play a vital role in providing information and assistance to migrant families as well as enabling the migrant children access to education should regularly co-ordinate their activities and share information in order to more effectively support the migrant children and migrant communities with regard to their right to education.

6. The Thai government, NGOs, and CBOs should pay more attention to migrant children who are out of school as they are more vulnerable to exploitation and abuse. The government should make this issue a priority and should assign a specific

department to work on the issue. NGOs and CBOs should start to identify out-of-school children in terms of numbers, locations and the reasons why they cannot attend the school. Together with the Thai government, NGOs and CBOs should create a project which will help these children to get the education which suitable to their situation and needs.

Recommendations for future research

1. The roles and functions of migrant social networks are not mentioned in the literature review and not much is reflected in the field research about whether or not a social network exists. If a social network does exist, its organization and how it influences the education opportunity of migrant children needs further research.

2. The role and influence of local Thai communities and local government is another issue that needs further research. With the new education system, local community and government have a great involvement in and influence on local state school management and policy. To understand more about the two stakeholders would be useful for the arrangement of education opportunity for migrant children in Thai state schools.

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APPENDIX

The 2005 Cabinet decision regard the education for non-Thai children and children with no evidence of civil registration



คณะรัฐมนตรีอนุมัติหลักการร่างระเบียบกระทรวงศึกษาธิการว่าด้วย หลักฐานวัน เดือน ปีเกิด ในการรับนักเรียนนักศึกษาเข้าเรียนในสถานศึกษา พ.ศ. (การจัดการศึกษาแก่บุคคลที่ไม่มีหลักฐานทะเบียนราษฎรหรือไม่มีสัญชาติไทย) ตามที่กระทรวงศึกษาธิการเสนอ เมื่อวันที่ 5 กรกฎาคม 2548 และให้ส่งคณะกรรมการตรวจสอบร่างกฎหมายและร่างอนุบัญญัติที่เสนอ คณะรัฐมนตรี คณะที่ 5 พิจารณาแล้วดำเนินการต่อไปได้ และเห็นชอบแนวปฏิบัติการจัดการศึกษา แก่บุคคลที่ไม่มีหลักฐานทะเบียนราษฎรหรือไม่มีสัญชาติไทย รวม 4 ข้อ ตามที่กระทรวงศึกษาธิการ เสนอ ดังนี้

1. ขยายโอกาสทางการศึกษาแก่บุคคลที่ไม่มีหลักฐานทะเบียนราษฎรหรือไม่มีสัญชาติไทย ซึ่งเดิมเคยจำกัดไว้ให้บางกลุ่ม บางระดับการศึกษาเป็นเปิดกว้างให้ทุกคนที่อาศัยในประเทศไทยสามารถ เข้าเรียนได้ โดยไม่จำกัดระดับ ประเภท หรือพื้นที่การศึกษาทั้งการรับเข้าเรียน ลงทะเบียนนักเรียน นักศึกษา และการออกหลักฐานการศึกษาเมื่อสำเร็จการศึกษาแต่ละระดับตามร่างระเบียบฯ และแนว ปฏิบัติ

2. จัดสรรงบประมาณอุดหนุนเป็นค่าใช้จ่ายรายหัว ให้แก่สถานศึกษาที่จัดการศึกษาแก่กลุ่ม บุคคล ที่ไม่มีหลักฐานทางทะเบียนราษฎรหรือไม่มีสัญชาติไทย ตั้งแต่ระดับก่อนประถมศึกษาถึง ระดับมัธยมศึกษาตอนปลายในอัตราเดียวกับค่าใช้จ่ายรายหัวที่จัดสรรให้แก่เด็กไทย โดยจะต้องใช้ งบประมาณเพิ่มเติมเพื่ออุดหนุนจัดการศึกษาแก่นักเรียนนักศึกษาที่ไม่มีหลักฐานทะเบียนราษฎร หรือไม่มีสัญชาติไทย ในความดูแลของสำนักบริหารงานคณะกรรมการส่งเสริมการศึกษาเอกชน 1,269 คน เป็นเงิน 6.5 ล้านบาท

3. ให้กระทรวงมหาดไทยจัดทำฐานข้อมูล (เลขประจำตัว 13 หลัก) เกี่ยวกับบุคคลที่ไม่มี หลักฐานหรือไม่มีสัญชาติไทย เพื่อประโยชน์ต่อการจำแนกสถานะ และการอนุญาตและอำนวยความสะดวก ให้เด็กและเยาวชนที่มีข้อกำหนดเฉพาะระเบียบปฏิบัติหรือมีกฎหมายควบคุมเฉพาะให้ จำกัดพื้นที่อยู่อาศัยสามารถเดินทางไปศึกษาได้เป็นระยะเวลาตามหลักสูตรระดับนั้น ๆ โดยไม่ต้องขอ อนุญาตเป็นครั้งคราว ยกเว้น ผู้หนีภัยจากการสู้รบและบุคคลในความห่วงใย (POC)

4. ให้กระทรวงศึกษาธิการจัดการศึกษาในรูปแบบที่เหมาะสมแก่เด็กและเยาวชนที่หนีภัยจาก การสู้รบเพื่อพัฒนาคุณภาพชีวิต และการอยู่ร่วมกันอย่างสมานฉันท์

ทั้งนี้ ให้กระทรวงศึกษาธิการรับประเด็นอภิปรายของคณะกรรมการกลั่นกรองเรื่องเสนอ คณะรัฐมนตรี

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คณะที่ 3.1 (ฝ่ายการศึกษา ศาสนา และวัฒนธรรม) ซึ่งมีรองนายกรัฐมนตรี (นายจาตุรนต์ ฉายแสง) เป็นประธาน ที่เห็นควรอนุมัติงบประมาณเพิ่มเติมเพื่ออุดหนุนจัดการศึกษาแก่นักเรียน นักศึกษาในความดูแลของสำนักบริหารงานคณะกรรมการส่งเสริมการศึกษาเอกชน เป็นเงิน 6.5 ล้านบาทไปก่อน โดยให้เบิกจ่ายตามจำนวนนักเรียนนักศึกษาที่มีตัวเรียนอยู่จริง และเมื่อสำนักงาน สภาพความมั่นคงแห่งชาติได้ดำเนินการตามยุทธศาสตร์การจัดการปัญหาสถานะและสิทธิของบุคคล ตามมติคณะรัฐมนตรี เมื่อวันที่ 18 มกราคม 2548 และกระทรวงมหาดไทยได้ดำเนินการเร่งรัด สำรวจจำนวนนักเรียนนักศึกษาที่ไม่มีหลักฐานทะเบียนราษฎรหรือไม่มีสัญชาติไทย ตามลำดับแล้ว เสร็จ ให้กระทรวงศึกษาธิการรวบรวมเหตุผลและข้อเท็จจริง เพื่อทบทวนมาตรการอุดหนุน งบประมาณรายการนี้ต่อไป ไปดำเนินการด้วย

พร้อมทั้งให้สำนักงานสภาพความมั่นคงแห่งชาติ และหน่วยงานที่เกี่ยวข้องเร่งดำเนินการตาม ยุทธศาสตร์การจัดการปัญหาสถานะและสิทธิของบุคคลตามมติคณะรัฐมนตรี เมื่อวันที่ 18 มกราคม 2548 โดยในยุทธศาสตร์ดังกล่าว ประกอบด้วย ยุทธศาสตร์การกำหนดสถานะและยุทธศาสตร์ การให้สิทธิขั้นพื้นฐานแก่บุคคลที่มีปัญหาสถานะและสิทธิ ซึ่งจะเป็นปัจจัยสำคัญประการหนึ่งที่จะ สนับสนุนการบริหารจัดการศึกษาแก่บุคคลที่ไม่มีหลักฐานทะเบียนราษฎรหรือไม่มีสัญชาติไทยได้เป็น อย่างดีให้สัมฤทธิ์ผลโดยด่วน และให้หน่วยงานที่เกี่ยวข้องกับการจัดการศึกษาของเด็ก เช่น กระทรวงมหาดไทย กรุงเทพมหานคร กระทรวงกลาโหม สำนักงานตำรวจแห่งชาติ กระทรวง วัฒนธรรม กระทรวงการท่องเที่ยวและกีฬา กระทรวงคมนาคม กระทรวงวิทยาศาสตร์และ เทคโนโลยี และสภาการศึกษาไทย รับไปพิจารณาดำเนินการออกระเบียบให้สอดคล้องกับร่างระเบียบฯ รวมทั้งให้หน่วยงานฝักอาชีพของทุกส่วนราชการยอมรับหลักฐานทางการศึกษาที่ออกให้แก่เด็กตาม ร่างระเบียบฯ และให้กระทรวงมหาดไทยรับประเด็นอภิปรายในการเร่งรัดสำรวจจำนวนนักเรียน นักศึกษาที่ไม่มีหลักฐานทางทะเบียนราษฎรหรือไม่มีสัญชาติไทย ซึ่งขณะนี้กระทรวงมหาดไทยกำลัง จะดำเนินการสำรวจร่วมกับกระทรวงศึกษาธิการ ตั้งแต่วันที่ 1 กรกฎาคม 2548 เพื่อใช้เป็นข้อมูล จัดทำเลขประจำตัว 13 หลัก แยกเป็นอีกประเภทหนึ่งให้แล้วเสร็จภายในกำหนด 2 เดือน และให้ กระทรวงกลาโหมรับประเด็นอภิปรายในการสำรวจสถานศึกษาที่ตั้งในหน่วยที่มีข้อจำกัดด้านการ รักษาความปลอดภัย และมีผลกระทบต่อความมั่นคงเพื่อประสานงานกับกระทรวงศึกษาธิการในการ จัดนักเรียนนักศึกษาเข้าเรียนในสถานศึกษาที่เหมาะสมไปดำเนินการโดยด่วนด้วย

Ministry of Education Regulation on the registration of non-Thai children and children with no evidence of civil registration

เล่ม ๑๒๒ ตอนพิเศษ ๕๐ ง	หน้า ๕ ราชกิจจานุเบกษา	๑๕ กันยายน ๒๕๕๘
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ระเบียบกระทรวงศึกษาธิการ
ว่าด้วยหลักฐานในการรับนักเรียนนักศึกษาเข้าเรียนในสถานศึกษา
พ.ศ. ๒๕๕๘

โดยที่เป็นการสมควรปรับปรุงระเบียบเกี่ยวกับหลักฐานในการรับนักเรียน นักศึกษาเข้าเรียนในสถานศึกษาให้สอดคล้องกับกฎหมายว่าด้วยการศึกษาแห่งชาติและกฎหมายว่าด้วยการศึกษาภาคบังคับ เพื่อเป็นการเปิดโอกาสแก่บุคคลให้ได้รับการศึกษาอย่างทั่วถึง

อาศัยอำนาจตามความในมาตรา ๕ และมาตรา ๑๒ แห่งพระราชบัญญัติระเบียบบริหารราชการกระทรวงศึกษาธิการ พ.ศ. ๒๕๔๖ ประกอบกับมาตรา ๕ และมาตรา ๓๑ แห่งพระราชบัญญัติการศึกษาแห่งชาติ พ.ศ. ๒๕๔๒ แก้ไขเพิ่มเติมโดยพระราชบัญญัติการศึกษาแห่งชาติ (ฉบับที่ ๒) พ.ศ. ๒๕๕๕ กระทรวงศึกษาธิการโดยความเห็นชอบของคณะรัฐมนตรีจึงวางระเบียบไว้ ดังต่อไปนี้

ข้อ ๑ ระเบียบนี้เรียกว่า “ระเบียบกระทรวงศึกษาธิการ ว่าด้วยหลักฐานในการรับนักเรียน นักศึกษาเข้าเรียนในสถานศึกษา พ.ศ. ๒๕๕๘ ”

ข้อ ๒ ระเบียบนี้ให้ใช้บังคับตั้งแต่วันถัดจากวันประกาศในราชกิจจานุเบกษาเป็นต้นไป

ข้อ ๓ ให้ยกเลิกระเบียบกระทรวงศึกษาธิการว่าด้วยหลักฐานวัน เดือน ปีเกิดในการรับนักเรียน นักศึกษาเข้าเรียนในสถานศึกษา พ.ศ. ๒๕๓๕

ข้อ ๔ ในระเบียบนี้

“สถานศึกษา” หมายความว่า สถานพัฒนาเด็กปฐมวัย โรงเรียน ศูนย์การเรียนรู้ วิทยาลัย สถาบัน มหาวิทยาลัย หน่วยงานการศึกษาหรือหน่วยงานอื่นของรัฐหรือของเอกชน ที่มีอำนาจหน้าที่หรือมีวัตถุประสงค์ในการจัดการศึกษา

“หลักฐานทางการศึกษา” หมายความว่า เอกสารอันเป็นหลักฐานทางการศึกษาของนักเรียน นักศึกษา ได้แก่ ทะเบียนนักเรียนนักศึกษา สมุดประจำตัวนักเรียนนักศึกษา สมุดประจำชั้น บัญชีเรียกชื่อใบส่งตัวนักเรียนนักศึกษา หลักฐานแสดงผลการเรียนรู้ ประกาศนียบัตร หรือเอกสารอื่นใดในลักษณะเดียวกันหรือเอกสารที่กระทรวงศึกษาธิการกำหนดให้เป็นหลักฐานทางการศึกษา ตามระเบียบนี้

“องค์กรเอกชน” หมายความว่า สมาคม มูลนิธิ หรือองค์กรที่เรียกชื่ออย่างอื่นซึ่งจดทะเบียนเป็นนิติบุคคล

หน้า ๑๐

เล่ม ๑๒๒ ตอนพิเศษ ๕๐ ง

ราชกิจจานุเบกษา

๑๕ กันยายน ๒๕๔๘

ข้อ ๕ ให้สถานศึกษาถือเป็นหน้าที่ ในการที่จะรับเด็กที่อยู่ในวัยการศึกษาตามกฎหมายว่าด้วยการศึกษาภาคบังคับ เข้าเรียนในสถานศึกษา

กรณีเด็กย้ายที่อยู่ใหม่ สถานศึกษาต้องอำนวยความสะดวก และติดตามให้เด็กได้เข้าเรียนในสถานศึกษาที่ใกล้กับที่อยู่ใหม่

ข้อ ๖ การรับนักเรียนนักศึกษาในกรณีที่ไม่เคยเข้าเรียนในสถานศึกษามาก่อน ให้สถานศึกษาเรียกหลักฐานอย่างใดอย่างหนึ่งตามลำดับเพื่อนำมาลงหลักฐานทางการศึกษา ดังต่อไปนี้

(๑) สูติบัตร

(๒) กรณีที่ไม่มีหลักฐานตาม (๑) ให้เรียกหนังสือรับรองการเกิด บัตรประจำตัวประชาชน สำเนาทะเบียนบ้านฉบับเจ้าบ้าน หรือหลักฐานที่ทางราชการจัดทำขึ้นในลักษณะเดียวกัน

(๓) ในกรณีที่ไม่มีหลักฐานตาม (๑) หรือ (๒) ให้เรียกหลักฐานที่ทางราชการออกให้ หรือเอกสารตามที่กระทรวงศึกษาธิการกำหนดให้ใช้ได้

(๔) ในกรณีที่ไม่มีหลักฐานตาม (๑) (๒) และ (๓) ให้บิดา มารดา ผู้ปกครอง หรือองค์กรเอกชน ทำบันทึกแจ้งประวัติบุคคล ตามแบบแนบท้ายระเบียบนี้ เป็นหลักฐานที่จะนำมาลงหลักฐานทางการศึกษา

(๕) ในกรณีที่ไม่มีบุคคล หรือองค์กรเอกชนตาม (๔) ให้ชักถามประวัติบุคคลผู้มาสมัครเรียน หรือผู้ที่เกี่ยวข้อง เพื่อนำลงรายการบันทึกแจ้งประวัติบุคคลตามแบบแนบท้ายระเบียบนี้เป็นหลักฐานที่จะนำมาลงหลักฐานทางการศึกษา

ข้อ ๗ ให้สถานศึกษาจัดเก็บสำเนาเอกสารหลักฐานตามข้อ ๖ (๑) (๒) และ (๓) ซึ่งได้รับรองความถูกต้องแล้ว ไว้เป็นหลักฐาน และคืนฉบับแก่ผู้ปกครอง

สำหรับหลักฐานบันทึกแจ้งประวัติบุคคล ตามข้อ ๖ (๔) และ (๕) ให้เก็บคืนฉบับไว้ที่สถานศึกษานั้น

ข้อ ๘ ในขณะที่นักเรียนนักศึกษายังศึกษาอยู่ในสถานศึกษา เมื่อปรากฏว่ามีหลักฐานตามกฎหมายว่าด้วยการทะเบียนราษฎร มาแสดงภายหลัง ให้สถานศึกษาแก้ไขหลักฐานทางการศึกษาให้เป็นไปตามหลักฐานดังกล่าว โดยถือปฏิบัติตามระเบียบกระทรวงศึกษาธิการว่าด้วยการนั้น

ข้อ ๙ การบันทึกในหลักฐานทางการศึกษา ให้สถานศึกษาปฏิบัติดังนี้

(๑) ในกรณีที่หลักฐานทางการศึกษาเป็นรายบุคคล เช่น สมุดประจำตัวนักเรียน นักศึกษา ใบส่งตัว ประกาศนียบัตร เป็นต้น ไม่ต้องบันทึกหมายเหตุใด ๆ

หน้า ๑๑

เล่ม ๑๒๒ ตอนพิเศษ ๕๐ ง ราชกิจจานุเบกษา ๑๕ กันยายน ๒๕๔๘

(๒) ในกรณีที่เป็นหลักฐานทางการศึกษาเป็นหลักฐานรวมที่ใช้บันทึกข้อมูลของนักเรียน นักศึกษา ทั้งชั้นเรียน หรือจำนวนมากกว่าหนึ่งคน เช่น ทะเบียนนักเรียนนักศึกษา สมุดประจำชั้น บัญชีเรียกชื่อ เป็นต้น ให้หัวหน้าสถานศึกษาหรือผู้ได้รับมอบหมายบันทึกไว้เฉพาะในสมุดทะเบียนนักเรียนนักศึกษา โดยบันทึกลงในช่องหมายเหตุพร้อมกับลงนามกำกับข้อความว่า “ไม่มีหลักฐานตามกฎหมายว่าด้วยการ ทะเบียนราษฎร”

ข้อ ๑๐ ให้ปลัดกระทรวงศึกษาธิการรักษาการให้เป็นไปตามระเบียบนี้ และให้มีอำนาจตีความ และวินิจฉัยปัญหาเกี่ยวกับการปฏิบัติตามระเบียบนี้

ประกาศ ณ วันที่ ๕ กันยายน พ.ศ. ๒๕๔๘

จาตุรนต์ ฉายแสง

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