

Thesis Title : Legal Problems on the Enforcement of the Rights of Disabled in Thailand

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### ABSTRACT

The most significant fundamental principle of human rights is the doctrine of Equity. But, de facto, all humans are not created equally. Hence, the mean to make them equal is to abolish what obstructs them. If such abolishment cannot be done, there must be legal measures to solve these problems. Also, in the case of disabled people, although the physical or mental infirmity is unsolvable but the law, as a social norm, must be the important mechanism to reduce these natural differences and leads them to live in society normally. Nowadays, the ad hoc committee of the United Nation has adopted the International Convention on the rights of disabled people to be an important model for all member states. In addition, there is the Individuals with Disabilities Education Act that is in enforced in the United States.

The present constitution is the Constitution of the Kingdom of Thailand B.E.2549 however it is only a temporary constitution. The result of the previous constitutional studies show that the Constitution of the Kingdom of Thailand B.E.2540 was the best but it was cancelled. This constitution covered all reasonable measures to promote, protect and ensure the full and equal enjoyment of all human rights. The results of these constitutional studies show that section 43 and 81 recognized the duty of the state to provide the equal right to education but they do not provide the right to special education for disabled people. Hence, it is not in collaboration with the principle of Equity that, "Treat like cases alike, treat different cases differently". Moreover, the National Education Act B.E.2542 has laid down such rights in section 10 and 37. At the present, disabled people cannot enjoy the right to education provided by law like normal people if the law does not prescribe the sufficient details according to their

impairment. Hence, it can be concluded that disabled people have no, de facto, equal rights to education like it is provided by law. Furthermore, the Rehabilitation Act B.E.2534, which is the major law to protect the rights of disabled people in Thailand, has no legal sanction that causes the lack of adequate and efficient practices.

To solve the problems mentioned, the author recommends amending the Constitution of the Kingdom of Thailand and the National Education Act in order to recognize the right to special education of disabled people and to enact the Special Education Act to be used and to amend the Rehabilitation Act to be more enforceable.

