

Legal and political perspectives on inclusive education in Brazil and in the world



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ABSTRACT

This chapter presents and analyzes international documents and national legal provisions dealing with inclusive education, conceptions, strategies

and government, social and school objectives. It can be seen that since 1990 there has been an abundance of international and national regulations on the subject, denoting the centrality that inclusion has assumed given the urgency of serving the portion of the population that the measures in focus are intended to reach. This analysis points to the importance of revitalizing school paradigms in order to make room for plurality, which is fundamental to any nation that values the people who make it up.

Keywords: Inclusive Education, International declarations, National legal national.

1 INTRODUCTION

Since 1990, declarations have been promulgated that have brought to light and reinforced the debate on the rights of people with special educational needs on the world and national stage. Brazil, being a signatory of these documents, assumed the commitment to build socially and educationally, more opportunities for access and permanence with quality to children and young people who were excluded from the education systems for their characteristics considered as "deficient".

Since then, the debate, the policies, the literature of the area and the school experiences have shown that it is not up to people to adapt to the so-called normal model, but rather that society must create means so that all human beings can live with the same conditions of learning, fruition, physical, emotional, and social well-being.

As the organizing apparatus of society, the State has overseen producing legal devices that consider the movement that seeks various forms of equity, including education. Entities representing governments and civil society have also been working in this direction, among which we can mention the UN and UNESCO.

This chapter deals with the measures that we have seen taken in Brazil and in the world in recent decades as an expression of the discussion on the provision of inclusive education by governments, its major reasons, objectives, and scope, considering these two scenarios, the national and the international. Part of the survey of legal provisions and statements on the subject. It makes its



discussion considering the current socioeconomic context, both in what influences as an advance in inclusive education and in the questioning of its limits and political commitments.

1.1 THE INTERNATIONAL SCENE

The challenges arising from the inclusive perspective mobilize us to reflect on how to carry it out within the school environment to welcome those perceived as excluded without reproducing the duality between the normal and the maladjusted/abnormal. This concern becomes more latent after the redemocratization¹ of the country. However, the understanding of how to offer people with disabilities school education permeates, over the decades, different conceptions.

Around the 1960s, the model adopted for the so-called 'exceptional'² is integration. This movement allowed the enrollment of people with physical and/or intellectual disabilities in regular school, without worrying about their difficulties and/or adaptation needs. Glat, Pletsch and Fontes (2007, p. 348) point out that:

The Integration maintained, thus, the problem centered on the student, 'disdaiving' the school, which would only be able to teach those who were able to follow the regular activities, conceived without any concern for the specificities of those with special needs. (GLAT, PLETSCHE; SOURCES, 2007, p. 348)

The integration made it possible to attend the school banks, but in a segregated way, its remnants are sometimes found in the school spaces. In 1970, the institutionalization of Special Education occurs, following the international trend, the National Center for Special Education (CENESP) is created in the Ministry of Education, in 1986 its name changes to the Secretariat of Special Education (SEESP). This change occurred because of the Declaration of the Year of the Person with Disabilities, organized by the UN in 1981, whose motto was Full Participation in Equal Conditions

Despite the creation of this secretariat, in practice, few changes occurred in the daily lives of the few students enrolled with physical and/or intellectual disabilities. In this period, there was no discussion about students with global developmental disorders and with high endowment, with reduced supply to regular school for the population, those who could, attended special schools (GLAT; PLETSCHE; FONTES, 2007).

¹The struggle of social movements for better conditions for people with physical and/or intellectual disabilities predates the redemocratization in Brazil. However, we delimit this time window because since the 1990s there are substantial changes in the area of education that continue to endorse the current documents governing basic education.

²Currently, this term is at odds with the fundamental rights of persons with disabilities. It was used in 1961, in Law n. 4.024. "The Education of exceptionals should, as far as possible, fit into the general system of Education, in order to integrate them into the community" (BRAZIL). Available at: <https://todospelaeducacao.org.br/noticias/conheca-o-historico-da-legislacao-sobre-educacao-inclusiva/> Accessed: 14 Aug. 2023.



As the intricacies of exclusion act implicitly in public policies, we found it necessary to clarify the differences between inclusion and integration since, many times, although the political discourse uses the term inclusion, in fact what we have is the integration that condenses the partial insertion of the subjects. For Mantoan (2015) integration aims at the insertion of excluded groups, but changes and adaptations must come from these groups. In short, integration is conditioned to a social and also curricular segregation and, moreover, it is summarized in a process only quantitative, to the extent that it only adds disregarding the adaptations of the pedagogical models to all children, so that, under equal conditions and with a common curriculum, they learn, overcoming barriers that limit such processes. Inclusion is a complete insertion that affects everyone – the center of change being the system itself – so complex, yet complete when thought in qualitative terms. Since it indicates an act of equality among the members of the social whole.

In the 1990s, Brazil reorganized education (public and private), seen as an important element to meet the needs of the market and contribute to economic growth. "Thus, utopia and the conviction that it is possible to give another destiny to society mobilizes part of national and international society, generating the belief in the process of 'inclusion', appropriated by the market in the logic of capital" (ALMEIDA; CORRÊA, 2007, p. 252).

Special education and inclusive education gain relevance, largely because of the Convention on the Rights of the Child (UN, 1989, 12), which expressly ensures "[...] to children with disabilities access to education and the right to social integration and individual development". Law No. 99,710³ emphasizes that "[...] States Parties recognize that children with physical or mental disabilities should enjoy a full and decent life in conditions that guarantee their dignity, favor their autonomy and facilitate their active participation in the community" (BRASIL, 1990). The article 23 of the aforementioned law also attends to the movements of struggle that are organized to demand better conditions of access to the public and social spheres of children and adults with disabilities. According to Ana Rita de Paula⁴ (considered one of the main voices of the Brazilian movement for the rights of people with disabilities),

In Brazil, there was a mobilization process that occurred simultaneously in many states and regions of the country. This population began to organize itself in groups of a demanding character and political work for the defense of rights, leading the whole movement to organize itself nationally. Before the movements, it was the professionals of rehabilitation, special education and family members who spoke for this population. The media itself relied on these sources rather than dealing directly with people with disabilities, who were not seen as legitimate defenders of their lives. There were also no policies of their own, and the only thing the government did was a kind of charitable, welfare relationship, making very scarce resources available for philanthropic institutions to develop work for people with disabilities. The needs of this population were seen only as rehabilitation special education. With the movement, this scenario changes radically (2021, n.).

³The Act n. 99.710, promulgates the Convention on the Rights of the Child, following the premises of the UN (1989).

⁴Full interview, conducted on December 3, 2021. Available at: <https://iparadigma.org.br/a-luta-historica-pela-conquistados-direitos-das-pessoas-com-deficiencia/> Accessed: 13 Aug. 2023.



In the subsequent years of the Convention on the Rights of the Child (UN, 1989), there are conventions and declarations in the international scenario that propose goals and commitments to developing countries, which directly affect Brazilian educational policies. In a summary, we describe the most relevant ones in table 1:

Table 1 – Conventions and declarations on Special Education and the inclusive perspective in the international scenario.

Year	Conventions and declarations	Themes considered
1990	Jomtien Convention (Thailand)	It takes up aspects of the Universal Declaration of Human Rights and affirms education as a right for all.
1992	December 3 – International Day of Persons with Disabilities	It promotes discussions on the many themes of people with physical and/or intellectual disabilities. Each year a theme is chosen.
1994	Declaration of Salamanca (Madrid)	It states that everyone has the right to study in mainstream schools. It spreads the term inclusion and promotes discussions about this theme, being considered a milestone in inclusive education.
1999	Guatemala Convention	It discusses Universal Design to eliminate architectural barriers and the elimination of all forms of discrimination in society.
2000	Education for all: the commitment of Dakar (Senegal)	The commitment of the participating countries to quality education for all is reiterated. Some commitments are punctuated and deadlines are set for their fulfillment, including on equitable and inclusive education.
2002	European Congress on Disability (Madrid)	It focuses on non-discrimination and actions aimed at effective social inclusion.
2007	Convention on the Rights of Persons with Disabilities and its Optional Protocol (New York)	It aims to consolidate guarantees to people with disabilities on the basis of human rights, inclusion and citizenship.
2015	Sustainable Development Summit	It promotes the discussion on the 2030 agenda to achieve the 17 goals for the sustainable growth of the planet. Education is the fourth objective and it reiterates inclusive and equitable education.

Source: Prepared by the researcher.

In the midst of neoliberal expansionism and the growing movement of struggle against the inclusive theme, since 1990 (according to table 3), there is in the international scenario the delineation of commitments and goals to be achieved in all sectors, including education. It is important to note that multilateral organizations and international agencies, from this decade, precept with greater emphasis the right to education, the intention is to disseminate public policies that dialogue with the neoliberal ideology. As explained by Ball (2014, p. 229-230).

[...] Neoliberalism is "in here" as well as "out there." That is, neoliberalism is economic (a rearrangement of the relations between capital and the state), cultural (new values, sensibilities and relationships) and political (a way of governing, new subjectivities). [...] in a paradoxical sense, neoliberalism works for and against the state in mutually constitutive ways. It destroys some possibilities for older ways of governing and creates new possibilities for new ways of governing. It stimulates the production of new types of social actors, hybrid social subjects that are spatially mobile, ethically malleable and capable of speaking the languages of the public, of private and philanthropic value.



It is noted that while international declarations and conventions bring concern with the human being, with his inclusion and the preservation of his rights, there is an intrinsic relationship with the economic model in which education is universalized to sustain free initiative and competitive relations (FERREIRA; FERREIRA, 2007). It is understood, therefore, that education is important to improve people's living conditions, if it is within the standards that neoliberal ideals consider as qualitative – that is, everything that is outside this standard is marginalized.

Ball (2014) points out that neoliberal ideas create the false sense of power of choice and opportunity. It is therefore precepted that we are drivers of our lives, although freedom of choice is for the minority. The education offered and its model perpetuate monoculture and class relations, feeding the perverse cycle that exists between the oppressor and the oppressed.

For Shiroma, Moraes, and Evangelista (2011) in the neoliberal ideology, less intervention of the State and more intervention of the market is the logic proposed. Education (especially public education) has the obligation to 'teach' skills for contemporaneity. However, as a large contingent of people were out of school in the 1990s, in a situation of social vulnerability, 'education for all' as a human right is presented in the Declarations of Jomtien (1990), Dakar (2000) and Incheon (2015), published by UNESCO – fostering the pedagogy of skills as a pillar of education, thus forming subjects capable of meeting market needs around the world.

As Almeida and Corrêa (2007) point out, inclusion is now defended by multilateral bodies as an element that provides economic balance, important to the maintenance of capital, at the same time that the movements of social struggles gain visibility "[...] due to its emergency character, which imprints the possibility of meeting the basic social and economic needs of the population" (idem, p. 246).

After the World Conference on Education for All in 1994, the Declaration of Salamanca (considered a milestone), consigned new guidelines to the principles, policies and practices in the area of Special Education. For Lopes and Fabris (2013, p. 19) "[...] the theme of inclusion is in full harmony with the emergencies of the present", this is because "[...] in the search for the guarantee of social security, everyone is called to enter the game of the market" (idem, 21).

The Declaration of Salamanca states that:

2. The right of every child to education is proclaimed in the Universal Declaration of Human Rights and has been strongly confirmed by the World Declaration on Education for All. Any person with a disability has the right to express his or her wishes with respect to his or her education as far as these can be realized. Parents have the inherent right to be consulted on the form of education most appropriate to the needs, circumstances and aspirations of their children (UNESCO, 1994, p. 03).



Terminology adopted at the time. Students previously called students with special educational needs or with special needs, as of 2021, began to be called eligible students of Special Education services or public eligible for special education (SÃO PAULO, 2021, p. 20).

The Declaration reaffirms education for all and the need for articulation between social segments, together with the Government, so that children can attend regular education banks, stresses the importance of redefining teacher training and curricular adaptation to include all. The term inclusion is widespread and brings the perspective that everyone can be successfully educated. According to the Declaration of Salamanca:

3. The guiding principle of this Framework is that schools should accommodate all children regardless of their physical, intellectual, social, emotional, linguistic or other conditions.
4. Special Education embodies the more than proven principles of a strong pedagogy from which all children can benefit. [...] A child-centered pedagogy is beneficial to all students and, consequently, to society as a whole. [...]
7. The fundamental principle of inclusive school is that all children should learn together whenever possible, regardless of any difficulties or differences they may have. Inclusive schools must recognize and respond to the diverse needs of their students, accommodating learning styles and rhythms and ensuring quality education for all through appropriate curriculum, organizational arrangements, teaching strategies, use of resources, and partnership with communities. In fact, there should be a continuity of services and support proportional to the continuum of special needs found within the school (UNESCO, 1994. p. 5).

The circumscribed principles emphasize that schools should accommodate all students, special education will contribute to regular classes, benefiting those who need more assistance. In addition to Special Education, principle 7 emphasizes that it is necessary to respect the singularities of each one – the learning time and their way of learning – through the flexibility or adaptation of the curriculum if necessary. Everyone has their own story; your personal characteristics – beliefs, values, personal tastes. There are students who need more use of concrete, others operate well on the abstract level; some are more synesthetic – regardless of whether the public is eligible for special education, it is necessary to respect the student (MANTOAN, 2015).

The Declaration of Salamanca directly affects the legal system of Brazil, and is still relevant to inclusive education today. The premise spread by the Declaration is that it is up to schools to accommodate children and find a way to educate them. The Declaration stresses that:

All children, of both sexes, have a fundamental right to education and that it should be given the opportunity to obtain and maintain an acceptable level of knowledge; [...] each child has his or her own characteristics, interests, abilities and learning needs; [...] people with special educational needs should have access to common schools that should integrate them into a child-centered pedagogy, capable of meeting these needs (UNESCO, 1994).

Laplane (2004a) argues that the Declaration brings a naïve view that education has the power to change society alone. According to the author, the document brings an erasure of the political dimension in the guidelines presented, since its construction takes place in a simplistic way, without



considering the various contexts and realities that intertwine in school spaces, in addition to transferring responsibility exclusively to the school environment.

The definition refers to a broad concept of inclusion, but the statement that society "must be guided by relations of acceptance of human diversity" erases the fact that society is not characterized by this orientation and simplifies, in the form of a naïve prescription, a complex set of relations that, as we have seen, concerns social factors, economic, political, cultural, ethnic, religious, etc. (LAPLANE, 2004b, p. 28).

According to Laplane (2004b) the goal of making education accessible to all, including the public eligible for special education, corroborates "[...] with the tendency towards homogenization and the need to achieve high performance – measures of quality." In this scenario, school actors are most responsible for the success of inclusive policy and, consequently, for its failure. "In this context, educational systems have to fulfill their multiple and sometimes contradictory goals" (idem, p. 12).

For Ball (2014) multilateral organizations act with dimensions to reconstitute the school, the teacher, the student, thus, the policies implemented from the conventions and declarations "[...] they organize their own specific rationalities, making certain sets of ideas obvious, common-sense, and 'true'" (idem, p. 171). The author further states that "[...] the process of producing/making sets of ideas about policies [...] often involves the production of representations and translations of primary policies" (idem 171).

We also highlight, according to Table 3, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, known as the Guatemala Convention (1999). From it, public spaces must be adapted to eliminate architectural barriers (following the Universal Design⁵) and eliminate all forms of discrimination. In Brazil, the convention is approved by Legislative Decree n. 198, of June 13, 2001 (BRASIL, 2001a); and promulgated by Decree n. 3.956, of October 8, 2001 (BRASIL, 2001b). In the area of education, public and private buildings had to adapt with the installation of elevators and/or ramps, adapted bathrooms, totems, markers on the floor, adequate furniture, etc.

In Dakar (2000) some commitments were reaffirmed, because, despite advances, the number of out-of-school children was still very high (approximately 113 million).

3. We reaffirm the view of the World Declaration on Education for All (Jomtien, 1990), supported by the Universal Declaration of Human Rights and the Convention on the Rights of the Child, that every child, youth and adult has the human right to benefit from an education that meets his or her basic learning needs, in the best and fullest sense of the term, and that includes learning to learn, to do, to live together and to be. It is an education that is intended

⁵The American architect Ronald Mace, developed the concept of Universal Design in 1963, with the commission *Barrier Free Design*, with the aim of adapting the designs of equipment, buildings and urban areas for use by people with disabilities or reduced mobility. Currently, the concept of universal design is applied to assistive technologies and in the development of products, services and environments common to all, it is no longer restricted to public spaces or buildings or to the eligible public (CAST, 2008). Available at: <https://portal.unit.br/blog/noticias/desenho-universal-uma-tecnologia-criada-para-unir-pessoas/> Accessed: 10 Aug. 2023.



to capture the talents and potential of each person and develop the personality of the students so that they can improve their lives and transform their societies (UNESCO, 2000).

In relation to education, it was defined that in order to achieve the proposed objectives, the participating countries had to commit to:

I. mobilize a strong national and international political will in favor of Education for All, develop national action plans and significantly increase investments in basic education; II. Promote Education for All policies within an integrated and sustainable sectoral framework, clearly articulated with the elimination of poverty and with development strategies [...] (UNESCO, 2000).

The targets set at Dakar (2000) should be achieved by 2015. Year in which the Sustainable Development Summit takes place in Incheon (2015). It sets out an agenda with 17 goals to be achieved by 2030 in many areas to provide for sustainable growth and development. Education is included in objective 4:

- 4.1 By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes.
- 4.2 By 2030, ensure that all boys and girls have access to quality early childhood development, care and pre-school education so that they are ready for primary education. [...]
- 4.4 By 2030, substantially increase the number of young people and adults who have relevant skills, including technical and professional skills, for employment, decent work and entrepreneurship.
- 4.5 By 2030, eliminate gender disparities in education and ensure equal access to all levels of education and vocational training for the most vulnerable, including persons with disabilities, indigenous peoples and children in vulnerable situations. [...]
- 4.a build and improve physical facilities for education, appropriate for children and sensitive to disabilities and gender and that provide safe, non-violent, inclusive and effective learning environments for all. [...]
- 4.c By 2030, increase the number of qualified teachers, including through international cooperation for teacher education, in developing countries (UNESCO, 2015, s.n.).

In goal 4, inclusive education is put through a quality and equitable education for all, being necessary, according to the text itself, to guarantee access and equal permanence of children, young people and adults with disabilities or in conditions of vulnerability.

For Laplane (2004) providing quality education for all, considering the Brazilian education system, involves certain limitations. First, because the term quality focuses on questions: quality for whom? For the oppressed or for the oppressor? Within what perspective, of the construction of the critical subject or the immediatist subject? The author argues that since the Jomtien Declaration education postulates human development, in the economic and social sense, presenting itself as "[...] a basic condition for human development that focuses on the quality of the workforce, a variable strictly associated with the level of formal education of the population" (LAPLANE, 2007, p. 170).

Dardot and Laval (2017) explain that the imposition of the new world order focuses educational devices at the service of economic maintenance in order to establish new consumers and skilled labor. Competition between subjects intensifies, including within schools – among educators; students;



management – meritocracy is a reflection of this scenario, however it does not consider the starting line, only the finish line – the precariousness of the relations and services offered by the State prevails. For Dardot and Laval (2017, p. 32), "[...] In this new symbolic game, the most important thing is not the value created by labor power in the production process, but rather, the value that the individual becomes in himself."

The 2030 Agenda, as well as the previous commitments assumed by Brazil, follow the neoliberal premises and, therefore, the quality that is intended to be achieved here is the one that meets the needs of the market. In relation to inclusive education, the model adopted to its conquest also follows the demand of neoliberalism, culminating in the homogenization of demands.

1.2 LAWS AND DECREES THAT GUIDE INCLUSIVE EDUCATION IN BRAZIL

International declarations and conventions underpin the laws and decrees that determine and guide educational policies in Brazil. However, it is worth mentioning that the mere transmission of policies does not occur and, even with the influence of multilateral bodies, the policies instituted in the country were/are reinterpreted at the national level and reinterpreted at the local level (BALL, 2001). The translation of international texts or their adequacy sometimes produces changes in the statements and, consequently, different interpretations of the original document. As an example, Ferreira and Ferreira (2007) cite the terms Special Education and Inclusive Education treated as synonyms in some translations, an inconsistency that placed the definitions of inclusion and special education as unique.

And, despite being related to the interests of a capitalist economic agenda, Almeida and Corrêa (2007, p. 247) state that "[...] Inclusive education is a proposal for practical application to the field of education of a world movement, called social inclusion, proposed as a new paradigm [...]", which meets the movements of struggle that historically claim access to resources and social services. The authors emphasize that the right to equity and the raising of an education based on the inclusive perspective are legitimate, however, they call attention to the investments and resources made available for this purpose that do not arise at random, since in the neoliberal logic, all investment has an implied objective (to meet the interests of the market):

In view of the above, we can verify that inclusion is a necessary process for the maintenance of the current economic regime, which requires mechanisms that contribute to control, that is, to mitigate the overwhelming phenomenon of social exclusion, present in the relations established in contemporary society, which has as its main principle the accumulation of capital (ALMEIDA; CORRÊA, 2007, p. 248).

Thus, the inclusive theme is complex and with contradictions intrinsic to its process, necessary when we consider that everyone has the right to school learning. It is appropriate here to differentiate special education and inclusive education, the first is limited to people with physical and/or intellectual disabilities, global developmental disorders (GAD), autism spectrum disorder (ASD) and



giftedness/high abilities, other specificities are not found in this bulge. Inclusive education encompasses diversity and, therefore, special education, all the specificities are found here, including socio-economic, gender, color, beliefs, etc. Thus, the presence of inclusion in public policies permeates regular education and special education, "[...] since these occur in the dynamics of production of public policies and their economic and social determinations" (ALMEIDA; CORRÊA, 2007, p. 248).

Table 2 presents a brief synthesis of the guiding documents of education in the inclusive perspective, fostered after the redemocratization of the country.

Table 2 – Laws, decrees and/or documents that guide education in the inclusive perspective.

Year	Laws, decrees and/or guiding documents	Principles and/or objectives
1994	National Special Education Policy	The policy brings in its text a retrogression, by proposing the "instructional integration", in which only those with "[...] conditions to monitor and develop the programmed curricular activities [...], at the same pace as the so-called "normal" students ⁶ .
1996	Law n. 9394 – Law of Guidelines and Bases of Education	It is the law that regulates basic education. In it, it is stated that "there will be, when necessary, specialized support services, in the regular school, to meet the peculiarities of the Special Education clientele."
1999	Decree n. 3.298 – National Policy for the Integration of Persons with Disabilities.	The main objective is to ensure the full integration of people with disabilities in the "socioeconomic and cultural context" of the country. And reiterates the LDB (BRAZIL, 1996).
2001	Law n. 10.172 – National Education Plan	He reiterates the LDB and states that Special Education, "as a modality of school education", should be promoted at all different levels of education and that "the guarantee of places in regular education for the various degrees and types of disability" was an important measure.
2001	Resolution CNE/CEB n. 2	Establishes National Guidelines for Special Education in Basic Education. The document places as a possibility the replacement of regular education by specialized care.
2002	Resolution CNE/CP n. 1 /2002	The resolution gives "national curriculum guidelines for the training of teachers of Basic Education, [...] About Inclusive Education.
2002	Law n. 10.436/02	It recognizes as a legal means of communication and expression the Brazilian Sign Language (Libras).
2006	National Plan for Human Rights Education	Among its goals is the inclusion of topics related to people with disabilities in the curricula of schools.
2007	Education Development Plan (PDE)	In the scope of Inclusive Education, the PDE works with the issue of school infrastructure and accessibility, in addition to teacher training.
2007	Decree n. 6.094/07	Provides for the implementation of the Plan of Goals Commitment All for Education of the MEC. The document reinforces the inclusion in the public education system.
2008	National Policy on Special Education in the Perspective of Inclusive Education	Document that traces the history of the process of school inclusion in Brazil to support "public policies that promote quality education for all students".
2008	Decree n. 6.571	It provides for specialized educational care in Basic Education. It reinforces that the SEA should be integrated into the pedagogical project of the school.
2009	Resolution n. 4 CNE/CEB	The focus of this resolution is to guide the establishment of specialized educational care (SES) in Basic Education.
2011	Decree n. 7.611	Repeals Decree No. 6,571 of 2008 and establishes new guidelines for the duty of the State with the Education of the target public of Special Education.
2012	Law n. 12.764	The law establishes the National Policy for the Protection of the Rights of Persons with Autism Spectrum Disorder.

⁶ Currently, this term is at odds with the fundamental rights of persons with disabilities.



2014	National Education Plan (PNE)	Goal 4.: "To universalize, for the population aged 4 to 17 years with disabilities, global developmental disorders and high abilities or giftedness, access to basic education and specialized educational care, preferably in the regular education network.
2020	Decree n.10.502 – National Policy on Special Education	It institutes the so-called National Policy on Special Education: Equitable, Inclusive and with Lifelong Learning. For civil society organizations that work for the inclusion of diversity, encouraging enrollment in special schools – considered a setback.

Source: Adapted (BRASIL, 2023, s.n.)⁷.

The widespread discourse, at the time, was about the promotion of rights in the various areas – health, education, leisure, work and housing. According to table 4, after the Federal Constitution – CF (BRASIL, 1989) the country's legal system promotes laws that favor the inclusion of people with physical and/or intellectual disabilities in the various social spheres. The CF itself, in article 205 defines: "Education, the right of all and the duty of the State and the family, shall be promoted and encouraged with the collaboration of society, aiming at the full development of the person, his preparation for the exercise of citizenship and his qualification for work."

In relation to special education, in article 208, item III, it states that it will be ensured "[...] specialized educational service to the disabled, preferably in the regular school network". And in article 227, item 1, item III, "[...] creation of prevention programs and specialized care for people with physical, sensory or mental disabilities, as well as social integration of adolescents with disabilities, through training for work and coexistence, and facilitating access to collective goods and services, with the elimination of prejudices and architectural obstacles" (BRASIL, 1989).

The term 'preferably' has provoked different interpretations for inclusive politics. According to Nozu and Bruno (2015) the interpretations follow two strands, in the first, special education has a complementary, supplementary and, in some cases, substitute character to ordinary education; and in the second, this modality of teaching is seen as a complementary and/or supplementary service, without the possibility of replacing ordinary education.

After FC (1989), we have instituted the Special Education Policy (BRASIL, 1994), which despite proposing an integrative education, advises that only the student with "[...] conditions to follow and develop the programmed curricular activities [...], at the same pace as the so-called "normal" students, attend the common class. It aims to "[...] the admission of students with disabilities and typical behaviors in regular education classes, whenever possible" (idem, 1994). Already at that time, it was considered a setback, because it perpetuates segregation and attributes school failure to the student (MATOS; MENDES, 2014).

In subsequent years, after discussions with various sectors of society, the Law of Guidelines and Bases of Education – LDB (BRASIL, 1996) was approved. It summarizes the agreement

⁷ Available at: <https://todospelaeducacao.org.br/noticias/conheca-o-historico-da-legislacao-sobre-educacao-inclusiva/> Accessed: 14 Aug. 2023.



established between the signatory countries of the UN. Among the commitments made is the guarantee of access and permanence in school, including for those eligible for special education. The LDB (BRASIL, 1996) reaffirms the FC (BRASIL, 1989). Chapter V deals with special education. Article 58 defines who special education is for, replacing the term 'people with disabilities', written in the FC by 'students with special needs'. With the 2018 amendment, Article 58 states that:

"Art. 58. It is understood by special education, for the purposes of this Law, the modality of school education offered preferably in the regular school network, for students with disabilities, global developmental disorders and high skills or giftedness" (BRAZIL, 1996). It thus updates the term 'people with special needs'.

Paragraphs 1, 2 and 3 state:

§ 1 - There will be, when necessary, specialized support services, in the regular school, to meet the peculiarities of the special education clientele.

§ 2 - The educational service will be made in classes, schools or specialized services, whenever, due to the specific conditions of the students, it is not possible to integrate them into the common classes of regular education.

§ 3 - The provision of special education, under the terms of the **caput** of this article, begins in early childhood education and extends throughout life, subject to item III of article 4 and the sole paragraph of article 60 of this Law. (Text given by Law No. 13,632, of 2018) (BRAZIL, 1996).

For the provision of special education, Article 59 stresses that education systems must ensure:

I - specific curricula, methods, techniques, educational resources and organization, to meet your needs;

II - specific terminality for those who cannot reach the level required for the completion of elementary school, due to their disabilities, and acceleration to complete in a shorter time the school program for the gifted;

III - teachers with adequate specialization in high school or higher education, for specialized care, as well as teachers of regular education trained for the integration of these students in the common classes; [...] (BRAZIL, 1996).

Article 59 points out the measures that education systems must follow, combining flexibility and articulation of actions. Regarding students with disabilities, the need to ensure the continuity of studies in specialized schools is reaffirmed, including to ensure professional education. The LDB also mentions the institution of a national registry for students with high skills or giftedness, for the promotion of public policies appropriate to the full development of this public. The service focused on special education precepts conditions of accessibility and pedagogical adaptations whenever necessary, formalizing the presence of specialized teachers for the attendance and integration of students in ordinary classes.

The 1990s brought as a commitment the access and permanence of school, based on the universalization of basic education. According to Ferreira and Ferreira (2007, p. 43-44), universalization is seen:



[...] not as a right and a constitutive necessity of man, but to support the model of free enterprise and the relations of competitiveness. This universalization is instituted as if of a merely accounting nature: more students going through the system, for some more time, reaching more advanced school levels and at the lowest possible cost, regardless of the quality of the training.

We also highlight Resolution CNE/CEB n. 2, of September 11, 2001, which establishes the National Guidelines for Special Education in Basic Education. The document provides a brief history of the segregation of people with disabilities, stating that "[...] for a long time the different was placed on the margins of education, with the student being attended separately or excluded from the educational process, based on the standards of normality [...] ahead, we are working to have every child in school and to ensure a good school for all" (BRASIL, 2001c, p. 5).

The guidelines state, in Article 2, that "[...] the education systems must enroll all students, and it is up to the schools to organize themselves to serve students with special educational needs, ensuring the necessary conditions for a quality education for all" (BRASIL, 2001c).

The document also states that the adoption of the concept of special educational needs and inclusive education will provide significant changes in education. Instead of seeing in the student the problem, requiring this adjustment to education, it is the education systems and schools that should adjust to meet the diversity of their students (BRAZIL, 2001c).

The guidelines emphasize that the construction of an inclusive society is an essential process for the maintenance of the democratic State. In this context,

[...] inclusion is the guarantee that everyone will have continuous access to the common space of life in society, a society that must be guided by relations of welcoming human diversity, acceptance of individual differences, collective effort in equating development opportunities, with quality, in all dimensions of life (BRASIL, 2001, p. 20).

The principles of that document are: "the preservation of human dignity; the search for identity; and the exercise of citizenship" (BRASIL, 2001c, p. 24). It is reiterated that school spaces are consistent with the effectiveness of relationships based on respect, identity and dignity and, therefore, school inclusion represents equal rights and opportunities, despite the resistance that is perpetuated historically.

The guidelines state that complementary or supplementary specialized educational care (SES) can replace regular education, one of the factors that contributed to the non-potentialization of the inclusive policy. Other factors that substantiate with the disconnect between article 2 and its practice, was the reality of Brazilian schools, many did not have adequate physical structure, did not have equipment, the policy of training educators was not efficient; problems that in many places still persist (NOZU; BRUNO, 2015).



Also in 2001, the National Education Plan – PNE highlights that "[...] the great advance that the decade of education should produce would be the construction of an inclusive school that guarantees the attendance to human diversity [...] as for special schools, the inclusion policy reorients them to provide support to integration programs (BRASIL, 2001-2011).

The PNE (BRAZIL, 2001-2011) established in goal 16: "[...] ensure the inclusion, in the pedagogical project of the school units, of meeting the special educational needs of their students, defining the available resources and offering in-service training to teachers in office". The PNE directed the Brazilian educational system to the conception of an inclusive special education, corroborated, a few years later, in the National Policy of Special Education in the Perspective of Inclusive Education - PNEEPEI, in 2008.

Between 2001 and 2008 we highlighted the National Curriculum Guidelines for the Training of Teachers of Basic Education by defining that higher education institutions should institute in the curricula of licensure and pedagogy disciplines and themes aimed at diversity and the specificities of students with special educational needs. Later, Law No. 10,436 (BRAZIL, 2002) recognizes Brazilian Sign Language as a legal means of communication and expression. Ordinance No. 2,678 (BRAZIL, 2002) approves guidelines and standards for the use, teaching, production and dissemination of the Braille System.

The PNEEPEI (BRAZIL, 2008) is of paramount importance, establishes the SEA and the norms for the resource rooms and teachers of Special Education, updating some provisions of the National Guidelines of Special Education (BRASIL, 2001).

PNEEPEI (BRAZIL, 2008) in its presentation text acknowledges that:

[...] The difficulties faced in education systems highlight the need to confront discriminatory practices and create alternatives to overcome them, inclusive education assumes a central place in the debate about contemporary society and the role of the school in overcoming the logic of exclusion. From the references for the construction of inclusive educational systems, the organization of schools and special classes begins to be rethought, implying a structural and cultural change of the school so that all students have their specificities met (BRASIL, 2008).

It reiterates that the goal of special education is to enable "[...] the access, participation and learning of students with disabilities, global developmental disorders and high abilities/giftedness in mainstream schools [...]". The PNEEPEI despite defining the public of special education, states that these definitions "[...] must be contextualized and are not exhausted in the mere categorization and specifications attributed to a picture of disability, disorders, disorders and aptitudes" (BRASIL, 2008).

Special education acts as the teaching modality "[...] that pervades all levels, stages and modalities, performs specialized educational care, provides resources and services and guides as to its use in the teaching and learning process in ordinary classes of regular education" (BRASIL, 2008).



The SEA must be offered in the countershift, in the school itself or in another regular education or specialized center. The multifunctional resource rooms must have equipment (assistive technologies) and specialized professionals, the pedagogical activities must be different from those carried out in the common classes for "[...] the formation of students with a view to autonomy and independence in school and outside it" (BRASIL, 2008).

Resolution CNE/CEB n. 4/2009 establishes, in article 5, that the SEA [...], not being a substitute for the common classes, can be carried out in a specialized educational service center of a specialized institution of the public network or of a specialized community, confessional or philanthropic non-profit institution, [...]. (BRAZIL, 2009, p. 5).

According to Resolution CNE/CEB n. 4/2009, in article 10, the PPP of the regular school must institutionalize the offer of the SEA, providing in its organization:

I - Multifunctional resource room: physical space, furniture, didactic materials, pedagogical and accessibility resources and specific equipment; II - Enrollment in the SEA of students enrolled in the regular education of the school itself or of another school; III - Schedule of attendance to students; IV - SEA Plan: identification of the specific educational needs of the students, definition of the necessary resources and the activities to be developed; V - Teachers for the exercise of the SEA; VI - Other education professionals: translator interpreter of Brazilian Sign Language, guide-interpreter and others who act in support, especially to food, hygiene and locomotion activities; VII - Support networks in the scope of professional performance, training, research development, access to resources, services and equipment, among others that maximize the SEA (BRASIL, 2010, p. 7).

For Bruno (2010) the SEA has a reductionist character, since its proposal is generic and does not meet the various ages and needs of students, attributing to special education an instrumental character. Another criticism is that the model used for Special Education brings in its proposal of attendance the 'inclusion' composed of uniformity and homogeneity, which evokes a unique model in its way of existing. It is observed "[...] the undeniable advances towards the quantitative expansion of access to school by the clientele of Brazilian special education; and the failure in the school performance of this clientele, and the explicit incentive to private initiative (MATOS; MENDES, 2014, p. 44).

The new policy for special education - PNEE (BRAZIL, 2020), in view of being repealed, allows the offer of specialized schools and classes, as well as schools and bilingual classes for the deaf. In the new PNEE, it is the student himself or his family who decides whether the enrollment will be in the inclusive regular school or in a specialized class or school. Considered a setback, Mantoan (2017) states that the PNEEPEI remains current and would need few updates.

For the author, the substantial changes must come from the contexts of practice of these laws that in many times and places, do not affect the daily school life. Even with some overcoming, there is a clear segregation that imprints a veiled form of the marginalized logic to the system and corroborates



the persistence of normal/abnormal dyads, feeding prejudices and stereotypes maintained at the base of the educational process.

The school systems are also assembled from a thought that cuts the reality, that allows to divide the students into normal and disabled, the modalities of teaching in regular and special, the teachers specialists in this and that manifestation of the differences. The logic of this organization is marked by a deterministic, mechanistic, formalist, reductionist vision, typical of modern scientific thought, which ignores the subjective, the affective, the creator, without which we cannot break with the old school model to produce the upheaval that inclusion imposes (MANTOAN, 2015, p. 13).

The author also mentions that:

The paths proposed by our (misguided?) education policies continue to insist on "putting out fires." They do not advance as they should, following the innovations, and do not question the production of identity and difference in schools. They continue to maintain a distance from the real issues that lead to school exclusion (MANTOAN, 2015, p. 26).

It is important to consider that historically education in Brazil has not been a priority of the State for the social body, on the contrary, its failure and evasion perpetuated over the decades is evidenced. That said, so that inclusion does not occur only in the discourse, but if effective, the actions that involve it, must be rethought, reflected and repositioned from structural changes that have initiative of the educational dimension, seen as a fomenting element of breaking paradigms.

2 FINAL CONSIDERATIONS

Until one really considers the heterogeneity of students, teachers and managers, as well as school realities, which are reflections of the multiculturalism inherent in the very formation of the Nation, it is difficult to implement actions that truly cover everyone. "The proposals focused on the practical aspects of inclusion [...] they will only have chances of success if inserted in a broad analysis of the school as an institution crossed by conflicts and contradictory demands among themselves" (LAPLANE, 2007, p. 171).

As policies centered on homogeneity do not coincide with everyday school life, what we often have is a discourse that does not find an echo in practice. For Ball et al. (2014, p. 71), they are translations of politics that when engaging with other priorities and demands in the classrooms, "[...] drip [...] to become part of the bricolage of teaching-learning activities, which consolidate or displace the effects of previous translations." Thus, inclusive education in Brazil, despite the advances, still has a long way to go.

It is worth mentioning that education as a social right must embrace human diversity, always proclaiming the universal human nature, permanently socially constructed, permeated by rights and duties, among them that of equitable education. Although, even today the school carries in its spaces,



precisely the opposite, it seeks to encompass heterogeneity through the normalizing function, excluding those who do not fit into it.

Therefore, it is perceived the importance of the revitalization of school paradigms to give space to plurality, fundamental to any nation that values the subjects that compose it. Human nature is conceived as unique, which manifests itself in different ways, and in these circumstances one must exclude the categorizations that legitimize differences with the ideal of superiority and inferiority, privileged and marginalized, empowered and incapacitated.



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