

## COMMON OR SPECIAL EDUCATION? ANALYSIS OF BRAZILIAN SPECIAL EDUCATION POLICY GUIDELINES

### *EDUCAÇÃO COMUM OU ESPECIAL? ANÁLISE DAS DIRETRIZES POLÍTICAS DE EDUCAÇÃO ESPECIAL BRASILEIRAS<sup>1</sup>*

### *¿EDUCACIÓN COMÚN O ESPECIAL? ANÁLISIS DE LAS DIRECTRICES DE LA POLÍTICA DE EDUCACIÓN ESPECIAL DE BRASIL*

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**ABSTRACT:** Based on a documentary research on the different policy guidelines for Special Education developed by Brazilian governments in 1994, 1999, 2001, 2008 and 2020, this article aims to discuss the conceptual and terminological changes to refer to the public of Special Education in the country, as well as the educational support offered for the Education of this population. Our analyzes show that, in the documents from 1994 to 2008, there were advances in terms of guaranteeing educational rights from an inclusive perspective, incorporating principles of the social model of disability to the detriment of the medical model. The number of enrollments of people with disabilities in public basic and higher education was also strengthened and expanded. However, in September 2020, the federal government published a decree establishing a new Special Education Policy, a few weeks later suspended by an injunction from the Federal Supreme Court, alleging that the decree returns to favoring segregation in private philanthropic institutions. Among other aspects, the proposal piggybacks on the liberal economic discourse of disclaiming the State's responsibility, according to which families would have the right to “choose” the type of education they want for their children.

**KEYWORD:** Inclusive education policy. Special education. Disability.

**RESUMO:** *A partir de uma pesquisa documental sobre as diferentes diretrizes políticas de Educação Especial elaboradas pelos governos brasileiros nos anos de 1994, 1999, 2001, 2008 e 2020, este artigo objetiva discutir as mudanças conceituais e terminológicas para referir-se ao público da Educação Especial no país, assim como os suportes educacionais oferecidos para a Educação dessa população. Nossas análises apontam que, nos documentos*

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de 1994 a 2008, houve avanços em termos de garantia de direitos educacionais numa perspectiva inclusiva ao incorporar princípios do modelo social da deficiência em detrimento do modelo médico. Também se fortaleceu e se ampliou o número de matrículas de pessoas com deficiência na educação básica e superior pública. No entanto, em setembro de 2020, o governo federal publicou um decreto que institui uma nova Política de Educação Especial, poucas semanas depois suspensa por medida cautelar do Supremo Tribunal Federal, sob a alegação de que o decreto volta a privilegiar a segregação em instituições filantrópicas privadas. Entre outros aspectos, a proposta pega carona no discurso econômico liberal de desresponsabilização do Estado, segundo o qual as famílias teriam o direito de “escolher” o tipo de educação que desejam para os filhos.

**PALAVRAS-CHAVE:** Políticas de educação inclusiva. Educação especial. Deficiência.

**RESUMEN:** A partir de una investigación documental sobre los diferentes lineamientos de política de Educación Especial desarrollados por los gobiernos brasileños en los años de 1994, 1999, 2001, 2008 y 2020, este artículo tiene como objetivo discutir los cambios conceptuales y terminológicos para referirse al público de la Educación Especial en el país, así como el apoyo educativo que se ofrece para la educación de esta población. , Nuestros análisis señalan que, en los documentos de 1994 a 2008, hubo avances en la actualidad en materia de garantía de los derechos educativos en una perspectiva inclusiva al incorporar principios del modelo social de discapacidad en detrimento del modelo médico. También se fortaleció y se amplió el número de matrículas de personas con discapacidad en la educación pública básica y superior. Sin embargo, en septiembre de 2020, el gobierno federal publicó un decreto que instituye una nueva Política de Educación Especial, unas semanas después suspendida por medida cautelar del Supremo Tribunal Federal, con el argumento de que el decreto vuelve a privilegiar la segregación en instituciones asistenciales privadas. Entre otros aspectos, una propuesta se engancha en el discurso económico liberal de la responsabilidad del Estado, según el cual las familias tendrían el derecho a “elegir” el tipo de educación que quieren para sus hijos.

**PALABRAS CLAVE:** Políticas de educación inclusiva. Educación especial. Discapacidad.

## Introduction

*“The confinement in the face of the different steals the color of everyday life, depriving us of the stupefaction in face of what is seen as new, as different. It is only with the coexistence with the difference and with its necessary acceptance that there can be the construction of a free, fair and solidary society, in which the good of all is promoted without prejudice of origin, race, sex, color, age and any other forms of discrimination.”*  
(FACHIN, 2016)<sup>4</sup>

The dispute over the locus of schooling for people with disabilities in Brazil has historically been tensioned between public education and segregated education in private

<sup>4</sup> Minister of the Federal Supreme Court in the text of the injunction in the Direct Action of Unconstitutionality no. 5,357/DF, 2016.

philanthropic institutions, as evidenced by Laplane, Caiado and Kassar (2016). The tension between the common and the special school was the title of the book published in 1986 by professor Marcos Mazzotta. More than 30 years later, we resume this discussion here now with new bases, focusing on the principles of inclusive education that we analyze in the light of Human Rights (DINIZ; BARBOSA; SANTOS, 2009; KASSAR, 2016; KASSAR; REBELO; OLIVEIRA, 2019; PLETSCH, 2020). From this perspective, the educational inclusion policy understands that individuals with disabilities must have access to education, participate in educational activities and learn. This implies the combination of three elements: 1) the recognition of difference as constitutive of the human; b) the specificities in the development of the subjects; and 3) living with cultural diversity, in a school/university with everyone and for everyone.

How this dispute between private and public sectors has been addressed and incorporated into federal guidelines for Special Education is the object of this article. Likewise, we intend to discuss the epistemological changes in the understanding of the phenomenon of disability, which moved from a biomedical perspective in the 1990s to a social model based on Human Rights in the 2000s, in accordance with advances in inclusive education policies. To this end, in methodological terms, we propose an analysis of documents that deal with the policy guidelines for Special Education elaborated by Brazilian governments, namely: a) 1994 - National Policy for Special Education; b) 1999 - National Policy for the Integration of Persons with Disabilities; c) 2001 - National Guidelines for Special Education in Basic Education; d) 2008 - National Policy on Special Education from the Perspective of Inclusive Education; e) 2020 - National Policy on Special Education: Equitable, Inclusive and with Lifelong Learning.

Our analysis takes as reference the provisions contained in these documents regarding the indication of the space for the education of Special Education students, the educational support system and the definition of who would be the Special Education audience. For this discussion, we will dialogue with the scientific production in the area and national and international documents on inclusive education, organizing the text into three axes: a) Education for All: advances, contradictions and political disputes; b) inclusive education as a human rights principle for the education of people with disabilities; and, c) Human rights at risk: the dismantling of the inclusive education proposal.

## Education for All: advances, contradictions and political disputes

After the period of the civic-military dictatorship (1961-1985) we had the promulgation of the 1988 Constitution with broad popular participation. In the process of preparing this document, different social groups, who lived apart from their rights and sought a more effective participation in society and in political decisions concerning them, made important gains. As stated by Gohn (2005, p. 8), the struggle of “non-citizens” was leveraged by the legal-legislative basis of this Constitution.

The constituent represented a significant advance in the social and educational rights of the Brazilian population. Among the achievements: the assumption of education as a social right; the universalization of compulsory education, public and free, guaranteeing, at least legally, the education of people who did not have access to the public school system; the establishment of principles for the education of students with disabilities in regular education; the implementation of a common system of complementary or supplementary support to guarantee the inclusion of people with disabilities in the teaching-learning process; the implementation of the collaboration regime between the Union, the states, the Federal District and the municipalities, instituting decentralization (LANNA JUNIOR, 2010; KASSAR, 2011).

However, even for Special Education, the historical dispute between public education and segregated private philanthropic institutions was made explicit in the adoption of the term *preferentially* to refer to the education of this portion of the population in the regular school system. Regarding public-private partnerships, Minto (2012, s/p, our translation) will point out that, contrary to social advances, it was also the Constitution, especially in the educational field, which “did not guarantee the exclusivity of public resources for the educational establishments maintained by the State, opening a gap – which, incidentally, has not yet been closed – for the private sector to appropriate new slices of the public fund for education”.

Not far away, in the context of the economic crisis of the 1990s, the international dissemination of the idea of a “*society for all*” grew. Already on the agenda in debates within the scope of the United Nations System, the precepts of “*an education for all*” supported by the principles of a non-segregated Special Education was announced. In 1993, in the document Standard Rules on Equalization of Opportunities for Persons with Disabilities (A/RES/48/96) (UNGA, 1994), in Session 48, Rule 6 – Education, it was stated that the education of persons with disabilities should be responsibility of the States, inserted in the regular education systems.

In this wake, the Salamanca Declaration, launched in 1994 at *the World Conference on Special Educational Needs: Access and Quality*, organized by UNESCO, with the participation of 92 countries and numerous non-governmental organizations, instituted the wide dissemination of the concept of inclusive education, starting to influence the development of public educational policies aimed at people with disabilities. In this document, the idea of guaranteeing Human Rights was presented, emphasizing the “commitment to Education for All, recognizing the need and urgency to guarantee education for children, young people and adults with special educational needs within the framework of the education system”<sup>5</sup> (UNESCO, 1998, p. 2). Thus, it was recognized that people with disabilities have the right to learn as part of educational processes in which their specific needs are met. Since ordinary schools represent the most effective means of combating discriminatory attitudes, of creating welcoming communities, building a society based on respect for difference and providing education for all; in addition, they provide an effective education for the majority of children and improve the efficiency, cost-effectiveness of the entire education system.

In this context, in 1994, in Brazil, the National Policy for Special Education was launched, which, according to the publication, was widely discussed with the civil society movement. In order to guarantee educational assistance, this document establishes general and specific objectives referring to the “interpretation of the interests, needs and aspirations of people with disabilities, typical behaviors and high abilities” (BRASIL, 1994, p. 7). Regarding the types of support and services, this document presents a broad spectrum, which in a way points to the tension between the conceptions of disability and Special Education that were circulating at the time, such as: home care, common class, special class, hospital classroom, integrated special education center, itinerant teacher, special school, pedagogical workshop, essential stimulation and resource room.

Lima and Mendes (2009), when analyzing this document, highlight as main characteristics: the conception of Special Education as transversal, permeating all levels and modalities of education; its complementary character to regular education, according to the author; the accountability of institutions specialized in offering educational services complementary to the regular education system - through the public-private partnership, in which the transfer of both funds and human resources is made possible, that is, the transfer of

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<sup>5</sup> Throughout the text, we will respect the nomenclatures and terminologies present in the documents in the verbatim citations, even to give visibility to the transformations in the explanatory models about disability.

teachers from the public network to private network; also sharing the responsibility with the community for lowering costs, but also for the realization of the right to education.

In other words, even in a political scenario strongly influenced by international political guidelines, whose focus was the organization and universalization of Basic Education, as a strategy of the so-called "social inclusion", and later guidelines for the schooling of students with disabilities in the regular system of education, the internal political tensions in the elaboration of the 1994 Policy maintain a paradigm of integration rather than the precepts of inclusion, disseminated in the Salamanca Declaration, and maintain the role of segregated private philanthropic institutions in the educational offer to Special Education students.

In this same environment, we had the approval of the Law of Guidelines and Bases of National Education (LDBEN no. 9,394/96). In general terms, education was then reorganized into two major levels: a) "Basic Education", which now encompasses early childhood education, elementary education, secondary education, youth and adult education and professional education; b) "higher education", which now encompasses sequential courses and programs and undergraduate, postgraduate and extension courses. On the education of "people with special needs", the chapter dedicated to Special Education preferentially maintains the regular school system present in the 1988 Constitution.

Still in the 90s of the last century, contrary to the achievements made in the 1988 Constitution, due to the State reforms that had a profound impact on education, the broad right was replaced by the priority of Elementary Education, by the universalization of High School and by policies, developed through programs, focusing on the most vulnerable social groups, in order to ensure enrollment and permanence in school, such as mandatory enrollment, enrollment age, duration of educational levels, national processes of performance assessment, national curriculum guidelines, among others. In the educational field, the interests of financial capital, the internationalization of the economy and the direct participation of proposals established by international financial institutions, in particular the World Bank and the IMF, which conditioned financial support to underdeveloped or poor nations to the incorporation of social policies designed by them (PEREIRA, 2008; OLIVEIRA, 2011; KASSAR, 2011; SOUZA; PLETSCH, 2017).

At the end of the 1990s, in 1999, Decree No. 3,298 (BRASIL, 1999) was ratified, which ten years later regulated Law No. 7,853 of 1989 (BRASIL, 1989), which instituted the National Policy for Integration of the Person with Disabilities. This document consolidated the norms of protection and quota system and, in the field of education, established special



education as a transversal school modality at all levels, mandatory in public educational establishments, preferably in the regular network, and also “compulsory enrollment in regular courses in public and private establishments for people with disabilities capable of integrating into the regular education network” (BRASIL, 1989, our translation). However, it also reiterated “the insertion, in the educational system, of public and private specialized schools or institutions”, and also addressed the need for services “in specialized schools exclusively when the education of regular schools cannot meet the educational or social needs of the student or when necessary for the well-being of the student” (BRASIL, 1989, our translation). In this list of contradictions between social advances and the permanence of guardianship provisions, this decree was still based on the medical model of disability, raising questions about normality by the assumption of organic incapacity in the definition of disability: “[...] incapacity for the activity performance, within the standard considered normal for human beings” (BRASIL, 1999, our translation).

Even though guided by the medical model of disability, an important step of this decree-law was the institution of the National Council for the Rights of Persons with Disabilities (Conade), with the objective of facilitating the decentralization of power and public administration, establishing an interface between civil society and government. This Council represented a way for civil society to participate with a decision-making voice in policies that concern the groups they represent and fight more actively to ensure the implementation of the National Policy for the Integration of Persons with Disabilities (SOUZA, 2013).

### **Inclusive education as a human rights principle for the education of people with disabilities**

In 2001, the *National Guidelines for Special Education in Basic Education* were instituted (BRASIL, 2001a), in which Special Education was assumed as a modality of school education with specific educational resources and services, of a transversal nature, which may be complementary (services of support to common teaching as a resource room, support professional and itinerant teaching), supplementary (enriched curriculum or educational acceleration for students with high abilities/gifted) or even substitutive (school or special class), “in order to guarantee the school education and promote the development of the potential of students who have special educational needs” (BRASIL, 2001, Art. 3, our translation). This document made the terms “inclusive education” official in our country, even

though it maintains the possibility of Special Education as a substitute modality in networks parallel to regular education and the transfer of funds and human resources to private institutions through public-private partnerships, the which in the analysis of Lima and Mendes (2006) ends up not enhancing the adoption of an inclusive education policy. Statistics at the time corroborate this statement, as in 2001, 59% of enrollments were concentrated in special schools, most of them philanthropic (BRASIL, 2001a).

In relation to the Special Education public, as in the Salamanca Declaration, there is the denomination of students with special educational needs, which in addition to covering students with disabilities, pervasive developmental disorders and high abilities/giftedness, elects students with other types of learning difficulties. As we can see, the term special educational needs enormously expanded the Special Education audience without showing how the assessments would be carried out and which technical team would be responsible for such action, for example, to define who would be the subjects with severe learning difficulties.

The document provides that for this category the school could even create special classes that should be transitory. However, considering that historically many students have been and continue to be assessed as students with learning difficulties and even intellectual disabilities, this classification can contribute to increasing the number of children assessed as having severe learning difficulties, which can be segregated from the ordinary classes simply because they do not fit the ideal Cartesian student model (SCHNEIDER, 1977; FERREIRA, 1995; KASSAR, 2002; SANTOS, 2006). Unfortunately, these practices and policies have not yet been overcome despite legal and conceptual advances on human difference. Recent research by Paiva (2017) showed that many children continue to be evaluated by the schools themselves as having intellectual disabilities and, once identified as such, the label and stigma remain and a significant part of them evade school. At the international level, Artiles and Kozleski (2019), in a survey conducted in the United States, found that poor, black and Latino students were the most evaluated as having learning problems and referred to specialized services. These studies corroborate the idea that the biomedical model and human homogeneity are still present in practices, discourses and school culture.

In fact, the 2000s were marked by an increase in tension between the development of socially referenced policies to fight poverty and policies aligned with financial capital. Right from the start, the government of Luís Inácio Lula da Silva, in 2003, had the goal of “combating the socioeconomic problems characteristic of the population with low purchasing



power and, in this way, promoting conditions of social inclusion for all segments of society, in special to those who are at a disadvantage” (SOARES, 2010, p. 31, our translation).

It was during this period that the issue of people with disabilities began to be addressed by the Human Rights portfolio, linked to the Presidency of the Republic. From this time, the ratification of the Convention on the Rights of Persons with Disabilities and its Optional Protocol (CRPD) of the UN in 2009 deserves to be highlighted; the transformation of Corde into the constitution of the National Sub-secretariat for the Promotion of the Rights of Persons with Disabilities (SNPD/SDH), in November 2009; and, the formulation of the Social Program for the Inclusion of Persons with Disabilities (2007) and the National Plan for the Rights of Persons with Disabilities “Living without Limits 2011-2014”, in dialogue with the goals of the Millennium Goals (ODM/UN), which articulated intersectorial strategies for coping with disability/poverty, having as main axes: accessibility, education, assistance and health; the person with a disability (collective citizen) changes place within the scope of rights and politics (SOUZA, 2017).

In line with the UN Convention on the Rights of Persons with Disabilities, in 2015, the Brazilian government enacted Decree no. 6,949, of 25 August 2009, by Law No. 13,146, of 6 July 2015, better known as the Brazilian Law for the Inclusion of Persons with Disabilities (LBI). The LBI represents an extraordinary advance in guaranteeing the educational and social rights of people with disabilities by "ensuring and promoting, under equal conditions, the exercise of fundamental rights and freedoms by people with disabilities, aiming at their social inclusion and citizenship" (BRASIL, 2015, p. 1, our translation). LBI also presents a set of concepts and actions in different areas. In this article, we highlight the idea of accessibility and its various definitions, which in Isabel Maior's analysis (2020) needs to be understood as a Human Right, as we have already indicated. We also highlight chapter IV dedicated to education, which ensures an “inclusive educational system at all levels and lifelong learning, in order to achieve the maximum possible development of their physical, sensory, intellectual and social talents and abilities, according to their characteristics, interests and learning needs” (art. 27, our translation).

Also in the educational field, in the first year of the government, there were initiatives to build public policies through sparse programs and through the adhesion of federal entities, focusing on inclusive education as a goal for the schooling of people with disabilities. Among the programs, we highlight the *Federal Program Inclusive Education: right to diversity*, which already focused on the formation of managers and teachers through the model of hub municipalities and multipliers (PLETSCH, 2011). Other programs were incorporated in 2007

within the scope of the *Education Development Plan* (PDE), according to Goal IX of the Everyone's Commitment to Education: "Ensure the access and permanence of people with special educational needs in the regular classes of regular education, strengthening the educational inclusion in public schools". Among other measures, based on the premise of "diversity in equality as the primary foundation of the educational act", it proposed "specific educational arrangements in which the human development of each and every one is promoted" (BRASIL, 2007a, p. 37, our translation).

In the wake of the PDE, the government launched, in September 2007, a proposal for a "National Policy for Special Education from the Perspective of Inclusive Education" (BRASIL, 2007a), proposing the end of specialized educational services in schools and/or special classes in philanthropic institutions, community and in all others dedicated only to specialized care. This proposal received numerous criticisms and the pressure of segregated private philanthropic institutions led, through presidential decree No. 6,253 (BRASIL, 2007b), to the continuation of the distribution of resources from the Fund for the Maintenance and Development of Basic Education and the Valorization of Education Professionals (FUNDEB) for community, confessional or philanthropic institutions with exclusive expertise in special education.

Therefore, in January 2008, SEESP presented a "new" version of the "National Policy on Special Education from the Perspective of Inclusive Education", now providing for specialized care in resource rooms and specialized reference centers (BRASIL, 2008). The 2008 policy presents inclusive education as "a political, cultural, social and pedagogical action, triggered in defense of the right of all students to be together, learning and participating, without any type of discrimination", understanding it in the field of Human Rights, which understands disability from a social perspective and "combines equality and difference as inseparable values, and which advances in relation to the idea of formal equity by contextualizing the historical circumstances of the production of exclusion inside and outside the school" (BRASIL, 2008, p. 1, our translation). It provides for the enrollment of all students with disabilities, pervasive developmental disorders and high abilities in the regular school system, with support from Specialized Educational Assistance (SEA) to be offered in a complementary manner (for students with disabilities and pervasive developmental disorders) or supplementary (for students with high abilities/giftedness) after school activities. This student body is defined as follows:

1. Persons with disabilities are those who have long-term physical, mental or sensory impairments that, in interaction with various barriers, may have restricted their full and effective participation in school and in society.
2. Students with pervasive developmental disorders are those who present qualitative alterations in reciprocal social interactions and communication, a restricted, stereotyped and repetitive repertoire of interests and activities. Included in this group are students with autism, autism spectrum syndromes and childhood psychosis.
3. Students with high abilities/giftedness demonstrate high potential in any of the following areas, isolated or combined: intellectual, academic, leadership, psychomotricity and arts, in addition to showing great creativity, involvement in learning and performing tasks in areas of interest (BRASIL, 2008, p. 11, our translation).

In this Policy, education systems were oriented to transform themselves into inclusive education systems, already in line with the Human Rights principles of the Convention on the Rights of Persons with Disabilities (CRPD). Therefore, the focus of the substitutive modality of Special Education was removed from the document, in the wake of other documents and programs that had been implemented in this government.

### **Human rights at risk: dismantling the inclusive education proposal**

In 2016, we experienced a coup d'état that ousted the democratically elected president, Dilma Rousseff. From this process, the government, until then vice-president Michel Temer, took over, redefining the Government Plan with the presentation of the “Bridge to the Future” project, which foresaw the restructuring of several areas, especially social policies. In this process, the so-called “updating” of the National Policy for Special Education in an Inclusive Perspective began. But, with his government's low popularity and lack of political articulation, the process has not moved forward.

It should be noted that it was during the Temer government that Law No. 13,409, of 28 December 2016, was instituted, which amended Law No. 12,711, of 29 August 2012, which provides for the reservation of places for people with disabilities in technical courses at secondary and higher levels of federal educational institutions. This change has increased the number of enrollments of people with disabilities in Brazilian Higher Education (CABRAL, ORLANDO; MELETTI, 2020). At the same time, the same government extinguished the Include Program, considered essential for accessibility actions in federal universities (MELO; ARAÚJO, 2018).

In the wake of political events, we have seen the advance of far-right conservative discourses and the intensification of fake news shootings that, in 2018, contributed to elect

Jair Bolsonaro to the position of president of the republic. As soon as the first lady took office, Michele Bolsonaro gave the speech in Libras, touching the unsuspecting people who did not know what was to come. Even in his first year of government, the position of interpreter of Libras, for example, was eliminated in federal careers, thus forcing universities, above all, to hire through outsourcing.

In his second year of government, during the pandemic caused by the new "coronavirus" (SARS-CoV-2), declared by the World Health Organization on 11 March 2020, the federal government presented the Decree 10,502 on 30 September 2020, which institutes the National Policy on Special Education: Equitable, Inclusive and with Lifelong Learning. Among the more than 200 repudiation notes and motions criticizing the decree, coming from researchers, scientific associations, organizations of families of people with disabilities, associations of people with disabilities, confederation of education workers, congressmen and sectors of the Federal Public Ministry (ABRASCO, 2020; AMPID, 2020; ANPED-ABPEE, 2020; INSTITUTO ALANA, 2020; among others), three aspects stand out.

The first is that the current government's proposal breaks with the principle of inclusive education in the field of Human Rights by strongly defending segregation through special schools, which in our country are mostly private philanthropic institutions. The second refers to the role of the State as a provider of education for people with disabilities, as the new federal policy institutes the primacy of the family in choosing the type of education to be offered to their children, according to the neoliberal discourse of the sovereignty of the consumer to freely elect the best educational service provider (SILVA *et al.*, 2020; PEREIRA; PLETSCHE, 2021, in prelo), thus making the State less responsible for the education of children and young people with disabilities. The third refers to problems of conceptual understanding. For example, Special Education and inclusive education are presented as distinct educational perspectives. In our understanding, Special Education is a transversal teaching modality with its own specialized techniques and resources that works collaboratively with basic and higher education to ensure the inclusion and educational accessibility of people with disabilities (PLETSCHE, 2020). Inclusive education, on the other hand, is a paradigm of public policy that, immersed in the assumptions of Human Rights, aims to induce access to education to groups that historically suffer from processes of exclusion of rights and, therefore, are separated from the right to learn in schools in their community, together with peers of their age in an environment constituted by/in diversity.

The text of the National Policy on Special Education: Equitable, Inclusive and with Lifelong Learning (BRASIL, 2020a) is based on official data such as insufficient enrollment in Specialized Educational Assistance (SEA) and the lack of qualification of teachers to work with these students to justify and defend segregation. A Minister of the Federal Supreme Court (STF), in a precautionary measure, of 1 December 2020, suspending decree 10,502 that institutes the aforementioned policy, stating that the rule cannot be used for "an involution in the protection of the rights of these individuals", referring to people with disabilities (p. 24, our translation).

Another aspect that draws attention in the document, despite the recognition of Special Education as an area of knowledge at CAPES and CNPq, is the denial of all scientific production accumulated in recent years on legal, pedagogical and scientific advances involving the schooling of people with disabilities, pervasive developmental disorders and high abilities/giftedness. In this sense, this proposal represents a step backwards by broadly defending access to segregated private philanthropic institutions, which is largely based on tutelary actions (which oppose the political agendas of social movements since the constituent days and the decision-making participation of people with disability) and the medical model of understanding disability.

On 11 December 2020, the STF judgment began on the suspension of Decree 10,502, which is expected to end on 18 December of the same year. Scientific organizations such as the National Association for Postgraduate Studies and Research in Education (ANPED) and civil society mobilized and more than 20 applications for admission by *amici curiae* (friends of the court) were presented to the STF. As part of the defense for the suspension of the decree, the Brazilian Coalition for Inclusive Education movement was created, which represents more than 40 civil society entities, including the National Association of Members of the Public Ministry for the Defense of the Rights of Persons with Disabilities and the Elderly (AMPID) in defense of the principles of inclusive education policy, as set out in the CRPD.

Eight *amici curiae* were also presented in defense of the decree, among which the National Federation of Education and Integration of the Deaf (FENEIS), which understands that the rights of the deaf were expanded with Decree 10,502. The defense of segregated educational spaces in special bilingual schools by the deaf is nothing new, as they believe that, as a minority linguistic group that uses Brazilian Sign Language (LIBRAS), only grouped with their peers is it possible to develop deaf culture and identity. In the oral support given at the ADI 6590 STF - *amicus curiae* by the representative of FENEIS and the Brazilian

Confederation of Deaf Sports (SBDS) there was a defense that the deaf understand themselves as a linguistic community with its own identity and culture, even questioning the fact that they are people with disabilities.

However, contrary to this idea, to start their arguments, the international motto of the struggle of people with disabilities is used: “Nothing about us without us”. The idea that bilingual education is an educational modality is not in accordance with LDBEN/1996, which recognizes Special Education as a modality, which would encompass bilingual education. Likewise, it is important to point out that the educational and linguistic rights of deaf people are already guaranteed by the national legal system and are included in the LBI: “IV - offer of bilingual education, in Libras as a first language and in the written form of Portuguese as a second language, in bilingual schools and classes and in inclusive schools” (BRASIL, 2015, our translation). Is it worth defending a decree that visibly attacks the Human Rights of the majority of the population with disabilities in Brazil only to reinforce a right already conquered?

Defenders of the decree also signal that a portion of the population with disabilities will not benefit from education provided in regular schools, as they demand specific programs, such as alternative communication and other resources. In addition to being discriminatory, this view is deterministic and even capacitive about the possibilities of human development. We have been investigating the educational processes of non-oralized children with multiple disabilities since 2012 and are currently researching the schooling and development of children with severe sequelae caused by congenital Zika virus syndrome (SCZV). The results of our investigations have shown that the school positively affects the participation and development of these children, as long as the appropriate pedagogical supports are offered, articulated, when necessary, in an intersectoral manner, with health and social assistance (ROCHA, 2018).

One of our hypotheses, under investigation by an interdisciplinary team with more than 50 researchers from UFRRJ, UERJ, PUC-RJ, FIOCRUZ (ENSP and IFF), is that the enrollment of these children in regular teaching classes, with the support, favors their well-being and, consequently, improves their schooling and health conditions. In this sense, proposing intersectoral actions taking as a reference the social model of disability and human functionality for the development of children with more severe disabilities (those who, according to the decree, would not benefit from the regular school) requires rethinking the social function of the school as an institution that, by welcoming diversity, expands the possibilities of development for students (DAINEZ; SMOLKA, 2019; PLETSCHE; ARAUJO;



ROCHA, 2020), thus contributing to the development of a more solidary society, based on social justice, a central aspect for the strengthening of democracy and a culture of human rights.

Finally, we cannot fail to emphasize that of the 1.3 million enrollments of students with disabilities, pervasive developmental disorders and/or high abilities/giftedness in Brazil, according to the 2019 Educacenso, 92% were in regular classes of regular education, mostly in the public education system (BRASIL, 2019). In this context, the arguments and positions presented throughout this article indicate that the challenge is to qualify and expand the financing of the Brazilian public school in order to accommodate the diversity and plurality that constitute it, “and it is not up to the Government to resort to the institutes of the classes or specialized schools to evade the provisions for the educational inclusion of all students” (TOFFOLI, 2020, p. 24). We conclude this article by reiterating our position for a public education, universal, free, socially endorsed and by the principles of Human Rights. Understanding that the most powerful way for the development of people with disabilities is living with others and vice versa, as it is in the interaction with the difference that we humanize ourselves.

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## REFERENCES

ARTILES, A. J.; KOZLESKI, E. B. Promessas e trajetórias da Educação Inclusiva: notas críticas sobre pesquisas futuras voltadas a uma ideia venerável. **Revista Brasileira de Educação Especial**, v. 25, n. 3, 2019.

ABRASCO. **Nota de repúdio ao Decreto n. 10.502**, de 30 de setembro de 2020, que institui a Política Nacional de Educação Especial. 2020. Available: <https://www.abrasco.org.br/site/noticias/nota-de-repudio-ao-decreto-no-10-502-de-30-de-setembro-de-2020-que-institui-a-politica-nacional-de-educacao-especial/52894/>. Access: 25 Oct. 2020.

AMPID-Associação Nacional dos Membros do Ministério Público de Defesa dos Direitos das Pessoas com Deficiência e Idosos. **Nota de repúdio contra o Decreto n. 10.502. 2020.** Available: <https://ampid.org.br/site2020/nota-publica-de-repudio-ao-decreto-no-10-502-2020/>. Access: 25 Oct. 2020.

ANPED-ABPEE. **Repúdio sobre o Decreto n. 10.502**, de 30 de setembro de 2020, que institui a Política Nacional de Educação Especial: equitativa, inclusiva e com aprendizado ao longo da vida. 2020. Available: <https://anped.org.br/news/anped-e-abpee-denunciam-retrocessos-em-nova-politica-de-educacao-especial-lancada-pelo-governo>. Access: 25 Oct. 2020.

BRASIL. Constituição (1988). **Constituição da República Federativa do Brasil**. Brasília, DF: Senado, 1988.

BRASIL. Lei n. 7.853, de 24 de outubro de 1989. Dispõe sobre o apoio às pessoas portadoras de deficiência, sua integração social, sobre a Coordenadoria Nacional para Integração da Pessoa Portadora de Deficiência - Corde, institui a tutela jurisdicional de interesses coletivos ou difusos dessas pessoas, disciplina a atuação do Ministério Público, define crimes, e dá outras providências. Brasília, 25 de outubro de 1989. Available: [http://www.planalto.gov.br/ccivil\\_03/leis/17853.htm](http://www.planalto.gov.br/ccivil_03/leis/17853.htm). Access: 10 July 2020.

BRASIL. **Política Nacional de Educação Especial**. Brasília: SEESP, 1994.

BRASIL. Lei n. 9.394, de 20 de dezembro de 1996. Lei de Diretrizes e Bases da Educação Nacional. **Diário Oficial da União**: Seção 1, Brasília, DF, n. 248, p. 27833, 23 dez. 1996.

BRASIL. **Decreto n. 3.298, de 20 de dezembro de 1999**. Regulamenta a Lei nº 7.853, de 24 de outubro de 1989, dispõe sobre a Política Nacional para a Integração da Pessoa Portador de Deficiência, consolida as normas de proteção, e dá outras providências. Diário Oficial da União, Brasília, 1999. Available: [http://www.planalto.gov.br/ccivil\\_03/decreto/d3298.htm](http://www.planalto.gov.br/ccivil_03/decreto/d3298.htm). Access: 10 July 2020.

BRASIL. **Resolução n. 2, de 11 de setembro de 2001**. Institui as Diretrizes Nacionais da Educação Especial na Educação Básica. Brasília: Ministério da Educação/ SEESP, 11 de setembro de 2001. Available: <http://portal.mec.gov.br/cne/arquivos/pdf/CEB0201.pdf>. Access: 10 July 2020.

BRASIL. **Educacenso**. Brasília, DF: INEP, 2001a.

BRASIL. Ministério da Educação. **Decreto 3.956, de 8 de outubro de 2001**. Promulga a Convenção Interamericana para a Eliminação de Todas as Formas de Discriminação contra as Pessoas Portadoras de Deficiência. Brasília, DF: MEC, out. 2001a. Available: [http://www.planalto.gov.br/ccivil\\_03/decreto/2001/d3956.htm](http://www.planalto.gov.br/ccivil_03/decreto/2001/d3956.htm). Access: 10 July 2020.

BRASIL. **Decreto n. 6.094, de 24 de abril de 2007**. Dispõe sobre a implementação do Plano de Metas Compromisso Todos pela Educação, pela União Federal, em regime de colaboração com Municípios, Distrito Federal e Estados, e a participação das famílias e da comunidade, mediante programas e ações de assistência técnica e financeira, visando a mobilização social pela melhoria da qualidade da Educação Básica. Brasília, 2007. Available:

[http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2007/decreto/d6094.htm](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6094.htm). Access: 10 July 2020.

**BRASIL. Política Nacional de Educação Especial na perspectiva da Educação Inclusiva – versão preliminar.** Brasília, setembro de 2007a.

**BRASIL. Decreto n. 6.253, de 13 de novembro de 2007.** Dispõe sobre o Fundo de Manutenção e Desenvolvimento da Educação Básica e de Valorização dos Profissionais da Educação - FUNDEB, regulamenta a Lei no 11.494, de 20 de junho de 2007, e dá outras providências. Brasília, 2007b. Available: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2007/decreto/d6253.htm#:~:text=DECRETO%20N%C2%BA%206.253%2C%20DE%2013%20DE%20NOVEMBRO%20DE%202007.&text=Disp%C3%B5e%20sobre%20o%20Fundo%20de,2007%2C%20e%20d%C3%A1%20outras%20provid%C3%AAs](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2007/decreto/d6253.htm#:~:text=DECRETO%20N%C2%BA%206.253%2C%20DE%2013%20DE%20NOVEMBRO%20DE%202007.&text=Disp%C3%B5e%20sobre%20o%20Fundo%20de,2007%2C%20e%20d%C3%A1%20outras%20provid%C3%AAs). Access: 10 July 2020.

**BRASIL. Política Nacional de Educação Especial na perspectiva da Educação Inclusiva.** Brasília, DF, jan. 2008.

**BRASIL. Lei n. 10.753, de 30 de outubro de 2003.** Institui a Política Nacional do Livro. Brasília, DF, 31 out. 2003. Available: <https://www2.camara.leg.br/legin/fed/lei/2003/lei-10753-30-outubro-2003-497306-publicacaooriginal-1-pl.html>. Access: 10 July 2020.

**BRASIL. Lei n. 13.146, de 6 de julho de 2015.** Institui a Lei Brasileira de Inclusão da Pessoa com Deficiência (Estatuto da Pessoa com Deficiência). Brasília, DF, 7 jul. 2015. Available: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2015/lei/113146.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/113146.htm). Access: 10 July 2020.

**BRASIL. Educacenso:** resumo técnico. Brasília, DF: INEP, 2019.

**BRASIL. Decreto n. 10.502, de 30 de setembro de 2020.** Institui a Política Nacional de Educação Especial: Equitativa, Inclusiva e com Aprendizado ao Longo da Vida. Brasília, DF, 01 out. 2020. Available: <https://www.in.gov.br/en/web/dou/-/decreto-n-10.502-de-30-de-setembro-de-2020-280529948>. Access: Dec. 2020.

**BRASIL. Ministério da Educação. Secretaria de Modalidades Especializadas de Educação. Política Nacional de Educação Especial: Equitativa, Inclusiva e com Aprendizagem ao Longo da Vida.** Brasília, DF: MEC/SEMESP, 2020. Available: <https://www.gov.br/mec/pt-br/assuntos/noticias/mec-lanca-documento-sobre-implementacao-da-pnee-1/pnee-2020.pdf>. Access: 10 Dec. 2020.

**BRASIL. Medida Cautelar na ação direta de Inconstitucionalidade 6.590.** Distrito Federal. Available: <http://portal.stf.jus.br/processos/detalhe.asp?incidente=6036507>. Access: 10 Dec. 2020.

CABRAL, V. N.; ORLANDO, R. M.; MELETTI, S. M. F. O Retrato da Exclusão nas Universidades Brasileiras: os limites da inclusão. **Revista Educação e Realidade**, Porto Alegre, v. 45, n. 4, 2020. DOI: <https://doi.org/10.1590/2175-6236105412>

DAINEZ, D.; SMOLKA, A. L. B. A função social da escola em discussão, sob a perspectiva da educação inclusiva. **Revista Educação e Pesquisa**, v. 45, p. 1-18, 2019. DOI: <http://dx.doi.org/10.1590/s1678-4634201945187853>

DINIZ, D.; BARBORA, L.; SANTOS, W. R. Deficiência, direitos humanos e justiça. **Revista Internacional de Direitos Humanos**, v. 6, n 11, p. 65-77, 2009.

INSTITUTO ALANA. **A inconstitucionalidade do Decreto n. 10.502/2020**. Disponível: <https://alana.org.br/>. Access: 10 dez. 2020

FERREIRA, J. R. **A exclusão da diferença**. 3. ed. Piracicaba, SP: Editora Unimep, 1995.

GOHN, M. G. **O Protagonismo da sociedade civil**. Movimentos sociais, ONGs e redes solidárias. São Paulo: Cortez, 2005. 120 p.

KASSAR, M. C. M. Políticas nacionais de educação inclusiva - discussão crítica da Resolução 02/2001. **Ponto de Vista** (UFSC), Florianópolis, v. 1, n.3/4, p. 13-25, 2002. Available: <https://periodicos.ufsc.br/index.php/pontodevista/article/view/1300>. Access: 13 Dec. 2020.

KASSAR, M. C. M. Percursos da constituição de uma política brasileira de Educação Especial Inclusiva. **Revista Brasileira de Educação Especial**, Marília, v. 17, p. 41-58, maio/ago. 2011.

KASSAR, M. C. M. Escola como espaço para a diversidade e o desenvolvimento humano. **Educação e Sociedade**, v. 37, n. 137, p. 1223-1240, 2016. DOI: <https://doi.org/10.1590/es0101-73302016157049>

KASSAR, M. C. M.; REBELO, A. S.; OLIVEIRA, R. T. C. Embates e disputas na política nacional de Educação Especial brasileira. **Educação e Pesquisa**, São Paulo, v. 45, e217170, 2019. DOI: <http://dx.doi.org/10.1590/S1678-4634201945217170>

LANNA JÚNIOR, M. C. M. **História do Movimento Político das Pessoas com Deficiência no Brasil**. Brasília, DF: Secretaria de Direitos Humanos. Secretaria Nacional de Promoção dos Direitos da Pessoa com Deficiência, 2010. 443 p.

LAPLANE, A.; CAIADO, K.; KASSAR, M. As relações público-privado na Educação Especial: tendências atuais no Brasil. **Revista Teias**, v. 17, n. 46, 2016. Available: <https://www.e-publicacoes.uerj.br/index.php/revistateias/article/view/25497/18546>. Access: 25 Oct. 2020.

LIMA, S. R.; MENDES, E. G. Políticas nacionais para a educação das pessoas com deficiência. In: SIMPÓSIO INTERNACIONAL: O ESTADO E AS POLÍTICAS EDUCACIONAIS DO TEMPO PRESENTE, 5., 2009, Uberlândia. **CD-ROM Anais**. Uberlândia, MG: Universidade Federal de Uberlândia, 2009.

MAIOR, I. L. Pessoas com deficiência no contexto da pandemia do COVID-19. In: **Palestra no III Congresso Nacional de Inclusão na Educação Superior e Educação Profissional Tecnológica**. Available: <https://www.youtube.com/watch?v=TH1ZrfyPuwo>. Access: Dec. 2020.

MAZZOTTA, M. **Educação Escolar comum ou especial?** São Paulo, SP: Pioneira Novos Umbrais, 1986.

MELO, F. R. L. V.; ARAÚJO, E. R. Núcleos de Acessibilidade nas Universidades: reflexões a partir de uma experiência institucional. **Revista Psicologia Escolar e Educacional**, v. esp., p. 57-66, 2018. DOI: <https://doi.org/10.1590/2175-35392018046>

MINTO, L. W. **Globalização, transição democrática e educação (inter)nacional (1984...)**. 2012. Available: [http://www.histedbr.fae.unicamp.br/navegando/periodo\\_transicao\\_democratica\\_intro.html](http://www.histedbr.fae.unicamp.br/navegando/periodo_transicao_democratica_intro.html). Access: 13 Dec. 2012.

OLIVEIRA, D. Das políticas de governo à política de estado: reflexões sobre a atual agenda educacional brasileira. **Educação e Sociedade**, Campinas, v. 32, n. 115, p. 323-337, abr./jun. 2011.

PAIVA, C. **O processo de avaliação e encaminhamento de alunos com deficiência intelectual para o atendimento educacional especializado**. 2017. 140 f. Dissertação (Mestrado em Educação, Contextos Contemporâneos e Demandas Populares) – Universidade Federal Rural do Rio de Janeiro, Rio de Janeiro, 2017.

PEREIRA, J. M. M. **O Banco Mundial como ator político, intelectual e financeiro 1944 – 2008**. Rio de Janeiro: Civilização Brasileira, 2010. 502 p.

PEREIRA, J. M. M.; PLETSCHE, M. D. A agenda educacional do Banco Mundial para pessoas com deficiência e o caso brasileiro. **Revista Brasileira de Educação**, 2021. No prelo.

PLETSCH, M. D. A dialética da inclusão/exclusão nas políticas educacionais para pessoas com deficiências: um balanço do governo Lula (2003-2010). **Revista Teias**, v. 12, n. 24, p. 39-55, jan./abr. 2011.

PLETSCH, M. D. O que há de especial na Educação Especial Brasileira? **Momento - Diálogos em Educação**, v. 29, n. 1, p.1-15, 2020. DOI: <http://dx.doi.org/10.14295/momento.v29i1.9357>

PLETSCH, M. D.; ARAUJO, P. C. A.; ROCHA, M. G. S. A importância de ações intersetoriais como estratégia para a promoção da escolarização de crianças com a síndrome congênita do zika vírus (SCZV). **Revista Educação em Foco**, Juiz de Fora, v. 25, n. 3, p. 193-210, set./dez. 2020. DOI: <https://doi.org/10.22195/2447-524620202532924>

ROCHA, M. G. S. **Os sentidos e significados da escolarização de sujeitos com deficiência múltipla**. 2018. 291 f. Tese (Doutorado em Educação) – Universidade Federal Rural do Rio de Janeiro, Nova Iguaçu, 2018.

SANTOS, R. A. **Processos de escolarização e deficiência**: trajetórias escolares singulares de ex-alunos de classe especial para deficientes mentais. 2006. 197 f, Tese (Doutorado em Educação) – Pontifícia Universidade Católica de São Paulo, São Paulo, 2006.

SILVA, G. F. *et al.* Educação Especial e diversidades: emergências atuais. **Revista de Educação, Ciência e Cultura**, v. 25, p. 7-14, 2020. DOI: <http://dx.doi.org/10.18316/recc.v25i1.6697>

SOARES, M.T. N. **Programa Educação Inclusiva Direito à Diversidade**: Estudo de Caso sobre estratégia de multiplicação de políticas públicas. 2010. 126 f. Dissertação (Mestrado em Educação) – Universidade Federal da Paraíba, João Pessoa, 2010.

SCHNEIDER, D. Alunos excepcionais: um estudo de caso de desvio. *In*: VELHO, G. (Org.). **Desvio e divergência**: uma crítica da patologia social. 8. ed. Rio de Janeiro: Editora Jorge Zahar, 2003.

SOUZA, F. F. **Políticas de educação inclusiva**: análise das condições de desenvolvimento dos alunos com deficiência na instituição escolar. 2013. 297 f. Tese (Doutorado em Educação) – Universidade Estadual de Campinas, Campinas, 2013.

SOUZA, F. F. As pessoas com deficiência e a educação: políticas sociais e de educação inclusiva nos governos do PT (2003-2011). **Agenda Social** (UENF), v. 10, n. 1, p. 44-59, 2017.

SOUZA, F. F.; PLETSCH, M. D. A relação entre as diretrizes do Sistema das Nações Unidas (ONU) e as políticas de Educação Inclusiva no Brasil. **Ensaio. Avaliação e Políticas Públicas em Educação**, v. 97, p. 1-23, 2017. DOI: <https://doi.org/10.1590/s0104-40362017002500887>

UNESCO. **Declaração de Salamanca sobre princípios, políticas e práticas na área das necessidades educativas especiais** (1994) (BR/1998/PI/H/7). Brasília: UNESCO, 1998.

UNGA. Resolution A/RES/48/96, of 04 March 1994. **Standard rules on the equalization of opportunities for persons with disabilities**. General Assembly, 4 mar. 1994.



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