


LEGAL ASPECTS IN THE CONSTRUCTION OF INCLUSIVE EDUCATION: STRATEGIES TO ENSURE EQUITY AND ACCESSIBILITY

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ABSTRACT

The article investigates the evolution of Inclusive Education, examining its development over the last decades and the impact of external public policies for the inclusion of individuals with disabilities. Initially, it highlights the historical marginalization of these people in the educational system and the struggle for their rights to access and permanence in formal education. Over time, the inclusion of students with disabilities in mainstream education has become a priority in various international and national legislations, which has driven significant transformations in pedagogical practices. The study addresses the different types of disabilities – physical, sensory, intellectual and multiple – and how each of them presents specific challenges for inclusive education. Legislation, such as the Brazilian Inclusion Law (LBI) and related decrees, are presented as fundamental milestones in the recognition of the rights of these people, especially with regard to higher education. The article also outlines an overview of accessibility policies in universities, which range from physical adaptations, such as ramps and elevators, to the provision of accessible teaching materials and the training of teachers. The focus of the article is the analysis of the role of Law as an essential tool to promote inclusion in higher education. The laws not only guarantee formal access, but also seek to ensure that this access is equitable, creating adequate conditions for the effective participation of students with disabilities in undergraduate courses. In addition, the article discusses the limitations and challenges in the implementation of these policies, such as lack of resources, institutional resistance, and the need for greater awareness and sensitization on the part of society. The article demonstrates that, despite significant advances, there is still a long way to go for inclusive education to become a full reality, with equity and accessibility guaranteed to all students with disabilities in higher education. Law continues to play a crucial role in this process, and it is necessary not only to create and strengthen laws, but also to ensure their effective enforcement.

Keywords: Public policies, Inclusion, Legislation, Law, Training.

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INTRODUCTION

Inclusive education is a principle that aims to ensure that all people, regardless of their particularities or conditions, have access to quality and equitable education. This concept values diversity as an enriching element and seeks to promote the full participation of all students, ensuring that each individual is respectfully

Law, especially through the Constitution of a country, exerts a decisive influence on the guarantee of fundamental rights, including the right to education. Modern constitutions often enshrine the principle of equality and non-discrimination, establishing that access to education must be ensured to all, without distinctions based on race, gender, and disability.

The legal framework plays a vital role in promoting inclusive education, providing guidelines and regulations that aim to ensure that educational policies are renewed in a way that ensures inclusion. Law establishes, for example, the need to create accessible school environments, adapt curricula to the needs of students with disabilities and provide adequate support so that everyone can learn on equal terms.

The intersection between inclusive education, the Constitution and the Law reveals how these elements complement each other in the construction of a more just and inclusive society. While the Constitution establishes the basic principles of equality and the right to education, the Law acts to transform these principles into concrete and applicable policies, protecting the rights of people with disabilities and ensuring that they have the same opportunities for access.

The convergence of efforts is essential for the promotion of inclusive education that not only welcomes diversity, but also ensures that all people, regardless of their characteristics, can fully develop their potential within the educational environment. The rigorous application of inclusion laws and policies is a crucial step towards creating a more equitable society, where education is a de facto universal right and accessible to all.

Inclusive education is born from the concern to build an inclusive society, it is a process that seeks to modify the conception of society so that it adapts the conditions for all individuals based on the understanding of differences, therefore of diversity without excluding certain characteristics (Werneck, 2000, p. 78).

The keynote of inclusive education is the participation of individuals at all school levels, it is possible to observe this movement has an international scope as a kind of result of campaigns to defend the dignity of the human person and human rights. It is also perceived that these are actions that are characterized with a cultural-social bias, with the

aim of making it possible for students to join together without any individual being willing to differentiate due to disability, so it is a recommendation for the participation of all in the pedagogical processes (Pacheco et al, 2007, p.55).

[...] an educational paradigm based on the conception of human rights, which 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. (Brazil, 2008, p. 5).

From a historical perspective, inclusive education is a set of educational policies that have the principle of integrating all types of children, thus being carried out in regular education, from the beginning of the school years. The greater strength of these guidelines as policies can be identified with the Law of Guidelines and Bases, it is not the intention to deepen this discussion now, but it is worth analyzing that this law presents a democratic approach to inclusion, however, this process has dictates that are requirements of adaptation on the part of the school and teachers, many of these are material and training needs (Machado and Mazzaro, 2004, p.67)

Inclusive education, by promoting the active participation of all those involved in the educational process, acquires a profoundly democratic character. It breaks with the traditional teaching model, which has historically assigned rigid and distanced roles to various actors – such as teachers, students and managers – and in its place establishes a more collaborative and participatory dynamic.

The new paradigm challenges the old educational positions, in which the roles of teaching and learning were clearly delimited and often excluding. In inclusive education, the construction of knowledge is seen as a collective process, in which everyone – students with and without disabilities, teachers, parents and the school community – has an active voice. This approach values the contribution of each individual, confirming that the diversity of experiences and perspectives enriches the learning environment.

The requirement for effective participation of all actors involved not only strengthens the bonds between school and society, but also promotes a more welcoming and respectful environment, where differences are seen as opportunities for collective growth. Students cease to be passive receptors of content and become protagonists of their own educational trajectories, at the same time that teachers and administrators are invited to reward their pedagogical practices and the adaptation of the curriculum to meet them.

This move towards a more inclusive and democratic education represents a significant break with the past, where education was often standardised and consistent. Today, inclusion requires flexibility, innovation and, above all, the active participation of all to ensure that the educational process is truly accessible and equitable. Through this joint participation, inclusive education not only promotes equal opportunities but also strengthens democratic ideals by creating a space where everyone can learn and contribute.

The subject of this relationship has to be understood as a subject who has specific singularities, characteristics of his own that do not exclude him by difference, on the contrary, included by attention to this difference. The inclusive perspective is constituted by a humanistic basis that takes into account individual growth, participation and insertion (Melo, 2004, p. 126).

Regarding school life, throughout the course it is possible to find special needs of students, inclusive education helps to face these issues by considering all needs, it is clear that according to disabilities the needs are specific, but considering the different difficulties facilitates the teaching-learning process so that diversity is the greatest characteristic to be built. As you can read in:

[...] needs that significantly interfere in the learning process and that require a specific educational attitude from the school, such as the use of specialized resources and support to ensure the learning of all students. With inclusion, differences are not seen as a problem, but as diversity. It is this variety, based on social reality, that can broaden the worldview and develop opportunities for all children to live together. Inclusive education should be a space for all, and thus favoring diversity for all, as we understand that each one has their specificity at some point in their learning (Alonso, 2013, p. 77).

The quote above clarifies that there are needs that affect the teaching-learning process, which highlights the importance of changes for learning in a way that includes and meets specificity, in order to make knowledge accessible to all, without exclusion parameter. It is important to highlight that this part of the pedagogical process establishes a definition of space that includes everyone, this definition ends up expanding the concept of inclusive education, therefore it opens up to favor diversity.

Inclusion actions in contemporary society are expanding in order to respond to current demands, from a misunderstanding of society that includes differences and accepts diversity, inclusive education presents itself as an urgency and contributes directly to democratic practices that aim at an environment without prejudice, the development of the

individual as a human person endowed with dignity gains new contours in contemporary society, the defense of difference and the space for the different are developed with the understanding of the concept of inclusive education (Lopes, 2019, p.112).

In the historical cut, the twentieth century was of great importance, in it we had the World Declaration of Education for All and the Declaration of Salamanca, in both documents there was a normative in defending access to common schools, and demanding the due adequacy recommending that in the teaching-learning process the focus is on the child, Therefore, there should be an effort by the community to build an environment that is beneficial for learning according to the needs of each one, as we see in: "[...] people with special educational needs should have access to regular schools that should integrate them into a child-centered pedagogy, capable of meeting these needs" (Abenhaim, 2005, p. 43).

In this area, the school must recognize and respond to the various needs of the individual in a way that guarantees them a quality education, that is, that the teaching-learning process takes into account the curriculum itself, the means of knowledge transfer, the teaching strategies, and the organization strategies for the effectiveness of these necessary adjustments. We have with the National Policy on Special Education in the Perspective of Inclusive Education (PNEEPEI 2008), that:

[...] education systems must ensure that students have a specific curriculum, methods, resources and organization to meet their needs; ensures specific terminality to those who have not reached the level required for the completion of elementary school, due to their disabilities (Brasil, 2008, p. 2).

Special (inclusive) education was not addressed in the 50s and 60s, it only appeared as a concern of politicians in the 70s with the discussion of the creation of new institutions. The greatest expression of this theme occurs from the 90s with the Declaration of Salamanca, at this time the organizations and favorable laws begin to be discussed, as a legislative complex that deals with this theme we have the constitution of 88 and the LDB of 96. In this construction, special education has been understood as the education of people with disabilities in its entirety, with no differentiation of types, therefore contemplating hearing, physical, mental, gifted, multiple physical disabilities, or resulting from the development of disorders.

When it comes to teaching and school, historically a perception of schooling as a privilege has been created, which was found when researched about the public policies that

legitimized educational practices that were nothing more than reproductions of social frameworks.

Therefore, the history of education is intertwined as an elitist conduct, the redemocratization of the country, from the Constitution of 88, which brought new nuances to the teaching processes, in this way it was possible to observe that the democratization of the school space allowed the discussion of inclusion and access as the primacy of the debate, however, even though this concern becomes important, the groups considered out of normality did not immediately become a focus of concern, Therefore, the struggles for the inclusion of these agendas is something constantly observed.

In the scenario of school failure, a naturalization of the processes of segregation that is normalized as a kind of natural selection, or even a meritocracy, is observed, however, this discussion does not continue since there is no talk of egalitarian conditions. It is possible to observe that there is an identification of the other that is not within the standard in order to exclude, this within the processes of creation of evaluative hierarchies, which in turn produces inequalities and distinctions, giving continuity to the sphere of segregation.

[...] Exclusion is a complex and multifaceted process, a configuration of material, political, relational and subjective dimensions. It is a subtle and dialectical process, as it only exists in relation to inclusion as a constitutive part of it. It is not a thing or a state, it is a process that involves man as a whole and his relations with others. (Sawaia, 2001, p. 9).

This process of exclusion and segregation is not part of the values established by the inclusion documents, it is not yet part of the international guidelines, it is a break with traditional teaching, this process of exclusion due to physical and intellectual characteristics is a portrait of this outdated teaching, inclusive education is organized on the dictates of special care, according to the nomenclature special education, ended up distancing himself from common education, for the second in not accepting singularities.

Regarding the history, there is an attempt to assist people with disabilities at the beginning of the empire, with the creation of two institutions: the Imperial Institute of Blind Boys, in 1854, now the Benjamin Constant Institute, and the Institute of the Deaf and Dumb, in 1857, currently called the National Institute for the Education of the Deaf. In 1926, the Pestalozzi Institute was founded, this institution specialized in the care of people with mental disabilities.

In 1954, the Association of Parents and Friends of the Exceptional was founded, the first association with this concern, which presented an importance to the support network of

individuals with disabilities. The specialized educational service for gifted people in the Pestalozzi Society was created by Helena Antipoff in 1961.

It is important to highlight that the educational service to people with disabilities is now based on the provisions of Law No. 4,024/61, the so-called Law of Guidelines and Bases of National Education – LDBEN, which describes the right of the "exceptional" to education, and requires that they be inserted in the education system.

The LDBEN of 1961 is amended by Law No. 5,692/71, technical, which defines the so-called "special treatment" for individuals with physical and mental disabilities, in this case, they also consider students who are behind in relation to their classes of origin and those who are gifted. However, even though there has been a legislative evolution, at this time significant changes have not been inaugurated in the contest.

The education system, although standardized with the aforementioned laws, was not sufficiently changed to meet the educational needs and their specificities, thus moving the disabled to places other than the common schools, the referral to the special classes was ratified. The National Center for Special Education was created in 1973 with the aim of managing the special education system in the country, however, it should be noted that at that time we were driven by authoritarian policies, about this, we have:

During this period, a public policy for universal access to education was not implemented, and the conception of "special policies" to deal with the education of students with disabilities remained. With regard to gifted students, despite access to regular education, specialized care is not organized that considers their learning singularities (Brasil, 2008, p. 58).

It is notorious that the advancement of human rights and human rights helped in the advancement of the development of policies of inclusion and concern for education in an egalitarian perspective, in this area the Federal Constitution of 1988, in its article 3, item IV, has its fundamental objectives in "promoting the good of all, without prejudice of origin, race, sex, color, age and any other forms of discrimination" ratifying the isonomic and egalitarian understanding of international documents.

The right to education, provided for in article 205 of the Magna Carta, deals with education as a right for all, guaranteeing the full development of the person, the exercise of citizenship and qualification for work, one can see the effort of the state to standardize treatment without predilections.

Also in the above-mentioned legislation, article 206, item I, in verbis "equal conditions of access and permanence in school" as one of the principles for teaching and

guarantees, as a duty of the State, the provision of specialized educational service, preferably in the regular school network, which is provided for in article 208 consecutively.

The need to enroll the child in regular education is provided for in the Statute of the Child and Adolescent – ECA, Law No. 8.069/90, in its article 55, "parents or guardians have the obligation to enroll their children or wards in the regular school network". As previously mentioned, the World Declaration on Education for All in 1990 and the Salamanca Declaration of 1994 are the guidelines for public policies related to this theme.

The process of "instructional integration" was published in 1994 with the publication of the National Policy on Special Education, and has the role of guiding the so-called process of "instructional integration" with the counseling of access to the common classes of regular education to those who "(...) they are able to follow and develop the programmed curricular activities of regular education, at the same pace as the so-called normal students" (BRASIL, 2008, p.19).

By reaffirming the assumptions built from homogeneous patterns of participation and learning, the Policy does not provoke a reformulation of educational practices in such a way that the different learning potentials in ordinary education are valued, but maintains the responsibility for the education of these students exclusively in the context of special education. The current Law of Guidelines and Bases of National Education, Law No. 9,394/96, in article 59, recommends that education systems must ensure students a specific curriculum, methods, resources and organization to meet their needs; ensures specific terminality for those who have not reached the level required for the completion of elementary school, due to their disabilities; and ensures the acceleration of studies for the gifted to complete the school program. It also defines, among the norms for the organization of basic education, the "possibility of advancement in courses and grades through verification of learning" (art. 24, item Inclusion: R. Educ. esp., Brasília, v. 4, n. 1, p. 7-17, jan./jun. 2008 11 V) and "[...] appropriate educational opportunities, considering the characteristics of the student, his interests, living and working conditions, through courses and exams" (art. 37). In 1999, Decree No. 3,298, which regulates Law No. 7,853/89, by providing for the National Policy for the Integration of Persons with Disabilities, defines special education as a transversal modality at all levels and modalities of education, emphasizing the complementary performance of special education to regular education.

It is important to emphasize that students who have special needs are inserted in the minority of disabled people and that inclusive education emphasizes the construction of a society that is committed to the spaces of development of these groups that are on the margins of society, the author Werneck (2000, p.54) points out that inclusion comes to "break crystallized barriers around the great stigmatized."

Within the constitutional contest, the above-mentioned author also states that it is essential to equalize opportunities so that all people, including people with disabilities, can

have access to all services, goods, built environments and natural environments, in search of the realization of their dreams and goals (Werneck, 2000, p. 56).

The Salamanca Declaration (1994, p.18) understands that the fundamental principle of this line of action is that schools should welcome all children regardless of their physical, intellectual, social, emotional, linguistic or other conditions.

They must welcome children with disabilities and gifted children, children who live on the streets and who work, children from linguistic, ethnic or cultural minorities and children and children from other groups or unfavorable or marginalized areas, with this concept it is understood that inclusive education is operationalized by a policy of justice in the social sphere, as it aims to reach individuals who have the most diverse special needs.

The laws on inclusive education expanded from the twentieth century. XXI, mainly in Brazil in the 2000s, and this is carried out through the following legal documents: National Policy on Special Education in the Perspective of Inclusive Education in 2008; Decree No. 6,571/2008 - Provides for Specialized Educational Service also from 2008; Convention on the Rights of Persons with Disabilities/UN - Ratified by Decree No. 6,949/2009 in 2009; Operational Guidelines for Specialized Educational Service in Basic Education - Special Education Modality, Resolution - No. 4 CNE/CEB 2009 idem, and Law No. 13,146, of July 6, 2015, the Brazilian law for the inclusion of persons with disabilities (statute of persons with disabilities) which came into force in January 2016.

Added to this scenario are the documents: the National Policy on Special Education in the Perspective of Inclusive Education in 2008, the Pedagogical Program of the Santa Catarina Foundation for Special Education – FCEE in 2009, the Special Education Policy of the State of Santa Catarina in 2009 and the Municipal Curriculum Guidelines for Basic Education of Blumenau in 2012. These are analyses of policies related to regional development that aim to analyze educational policies in order to understand the concepts and relationships that are established

It is important to highlight that inclusive education has faced, throughout history, specific challenges, especially with regard to the practical implementation of what is provided for in the law. Although legislation has made significant progress in recognizing the rights of people with disabilities and ensuring inclusive and accessible education, its effective application still encounters barriers in the daily lives of educational institutions.

One of the main challenges is the need to reorganize the educational system so that it is aligned with what the law determines. This involves everything from changes in the

infrastructure of schools, to make them physically accessible, to the adaptation of curricula and the training of teachers trained to work with the diversity of students. Without these adaptations, compliance with inclusion laws becomes partial, compromising the full participation of students with disabilities.

These obstacles reveal the need for coordinated action between public authorities, educational institutions and civil society to ensure that inclusion is not just a discourse, but an effective practice. Inclusive education is, in its essence, a manifestation of the democratic exercise of rights, because by including and meeting the needs of all students, without discrimination, the educational system materializes the principles of equality and non-segregation established in the Federal Constitution.

The construction of an inclusive educational environment is directly linked to the realization of fundamental rights. The challenge is to ensure that the inclusion process is continuous and effective, promoting an education that respects and values diversity, in line with what is recommended by current legislation. This requires not only compliance with laws, but also a cultural and structural change in the education system, ensuring that all students have the same opportunities

Therefore, the struggle for the inclusion of individuals with disabilities is formed by an ideology of democratic education and is based on human rights, thus it is a ratification of the humanist bias.

[...] The main deriving concept, known as "mainstream". [...] The process of integration through the main stream is defined by the so-called cascade system. In it, all students have the right to enter the mainstream and transit through it. They can either descend or ascend the waterfall depending on their specific needs. [...] The inclusion questions the concept of waterfalls [...] The objection is that the cascade system tends towards segregation [...] because a system that admits such a diversification of opportunities for students who cannot 'keep up with the class' in regular education does not force the school to restructure itself to maintain them. [...] Inclusion is, therefore, the term used by those who defend the kaleidoscope system of insertion. [...] In the kaleidoscope system there is no diversification of care. The child will enter school, in the regular class of regular education, and will stay there. It will be up to the school to find educational answers to the specific needs of each student, whatever they may be. Inclusion [...] tends towards a specialization of teaching for all. [...] Inclusion requires ruptures (Werneck, 1997, p. 52/53).

The proposal of special education was sometimes treated as a separate character, as it distances the individual with special needs based on the idea that the common schools would not have the contribution to receive them, so the separation into special classes would be more effective, with in-depth studies it was realized that the adaptation of the

student to the common classes would bring numerous benefits, found by the support network.

The discussion that Fraga et al (2017, p. 96) about special education being treated as segregation, integration and currently as inclusion, brings up the discussion about segregation being understood as the process of dissociation according to which individuals end up moving away from other individuals, based on the conviction that they would be better served in environments separate from the common classes; The term integration was more used by the European educational system and focused on the inclusion of students with disabilities in regular schools, but defined that it should be in separate classes. This model has as its principle the adaptation of the student, which means that the student and his family should adapt to the school, in the format that it establishes.

Mendes (2010, p.85) states that the term inclusion expanded in the American territory, as the expression school inclusion was used on a large scale to portray the inclusion of students with special needs in regular schools, in this sense the term inclusion is understood from a more expansionist perspective because it guarantees several situations, in the sense of ensuring the proper adaptation of the school in order to encourage acceptance, welcoming students, and restructuring spaces; this sense is consonant with the country's understanding of the subject, as we see in: "it is not the student who adapts to the school, but it is the school that, aware of its function, makes itself available to the student, becoming an inclusive space" (Brasil, 2001, p. 29).

In the prism of law, each and every student must be considered as a subject of law, so as not to be conditioned by their situation, however, even if there are laws that establish these premises there is a relationship of stigma, the laws seek to guarantee equality to all, but there are still exercises of power that hierarchize, and displace the disabled person to another place, to which he does not belong. To persist in isolation in special classes is to maintain differences without acceptance in the public sphere.

Vygotsky's socio-historical theory is based on social interactions, for this thinker the fundamental condition for the child to modify and become increasingly elaborated in order to develop human structures that are realized in thought and language is in social life, the human being with disabilities has historically been isolated from the group, which made its development very difficult, according to the theory above.

The sociogenic dynamics are fundamental for the development of the child and should occur in the family and in school life, when this does not occur, a psychosocial

problem is established. In this sense, integration in a common school, and an experience that will strengthen child development, since psychosocial exchanges will be established in an intense way, will be beneficial to the developing subject.

Vygotsky's concepts have great implications for thinking about inclusive education, as we can see in the definition of disability, compensation, in the evaluation of intellectual performance and in the need for semiotic mediation. The concepts are intertwined and allow for a broader conception of the idea of inclusion. The thinker in question aimed at a rupture of binary thoughts, through the above he did not follow a lineage of comparison, he understood the human being with a unique identity, and anything outside this definition can fall into normative criteria that exclude the individual.

The concepts worked by Vygotsky were not limited to psychoanalytic criteria, his considerations were always for the subject in relation, therefore, from the socio-historical categories, the subjective interpretation was criticized, the concept of compensation in particular was thought of by social realization, in view of this it was possible to overcome the limitations of disability once inserted in social reality, Overcoming the problem would not be an organic compensation, but rather through the social process of insertion, it is important to highlight that this inclusion has immediate results in the construction of the individual, since he builds self-esteem and ensures his existence in the social relationship he establishes.

In this theme, the evaluation of the individual's performance for Vygotsky there is a clear criticism of the methods of his time, since they are not considered as efficient practices, because they are influenced by psychometric approaches, what he understood as efficient is the concept of zone of proximal development, it means being attentive to intellectual dilation and not to his cognitive condition, It is about emphasizing the powers through a dynamic evaluation.

The entire Vygotskian perspective is based on genetic and biological lines regarding the development of the human being, so for this thinker, the need for semiotic mediation, that is, the use of cultural resources as an instrument in which speech is one of the most expressive, helped the entire development of the child. Thus, the social line would have a great influence on individual development, as we read in: "mediation is particularly important, as a resource to ensure the quality of the child's social and cultural experiences, and of capital importance to compensate for the functional limitations that children with

disabilities face, since a priori they find limitations in the organic or biological line of development" (Vygotsky, 1997, p. 78).

In short, it is only possible to conceive a full development of the individual from inclusion, in the Vygotskian perspective the essential factor of a satisfactory development of the human being is of the order of sociogenesis, therefore, social interaction goes through all levels of overcoming disability. Corroborating, in summary, we have (BEYER, 2005, p.3):

The great problem or great obstacle when we think of children with disabilities lies in the frequent isolation they experience, whether in the family, in school life, or in life in society. Isolation, in Vygotski's view, is not only a social or ethical problem, but has a very delicate psychosocial (more correct to say, psychological) facet. This vulnerability is due to the central Vygotskian premise of the need for sociogenic dynamics for healthy child development. The more intense and positive the psychosocial exchanges, the stronger the child's development will be, and the converse is true, that is, the weaker these exchanges are, the more lacunate such development will be

However, the greatest damage, in Vygotsky's view, would occur in the social plane, that is, according to his socio-genetic theory, the child with special needs would be weakened with regard to the importance of interpsychological exchanges. One of the fundamental Vygotskian premises, which states that the conditions of psychic development derive from the quality of social exchanges, would be directly implicated in the pedagogical decision of integrating (or including) or not students with special needs in the regular school.

PERSPECTIVES FOR INCLUSIVE EDUCATION

For a better understanding of the insertion of people with disabilities in undergraduate courses, after understanding the historical concept of inclusive education, it is worth researching the types of disabilities, this topic is important since special needs are diverse, and the legislative adequacy of a certain requirement does not guarantee a truly inclusive institution. Therefore, the methodological resource is to scrutinize the various types of disability to think about inclusion from the perspective of difference and that encompasses this entire complex.

The concept of a person with a disability is determined by Law No. 13,146 (2015 p.1) which says they are a person who has "long-term impairments of a physical, mental, intellectual or sensory nature, which, in interaction with various barriers, may obstruct their full and effective participation in society on equal terms with other people".

The understanding of special education orbited by the way of formation distanced from common education, this typology of teaching believed for a long time that segregating would give the individual specific attention to his needs, an adequate service, or even a restriction due to the non-adequacy of normativity, it ended up being permanent in the history of special education with studies in the area and the need to promote the

development of the field, Many books, scientific articles, and legislation were produced in order to understand how the most effective inclusion would be, which would produce true transformations in the lives of the bearers.

In this sense, a restructuring was observed in both regular and special schools, as we saw above, with the Salamanca Declaration what was established was that the most effective way to combat the differentiations of normality was to include the carriers in regular schools, so the practice of discriminatory attitudes would also be fought, the orientation consisted of "schools should accommodate all children regardless of their physical, intellectual, social, emotional, linguistic or other conditions" (Brasil, 2006, p.330).

The declaration also disseminated the concept of special needs as seen above, which should be highlighted is one of the gains of this legal document was the expansion of the understanding that interaction is one of the richest characteristics in the educational environment, so sociability is something that must be taken into account when it comes to the insertion of these individuals, as we can see in (Carreira, 2010, p. 44):

From the perspective of inclusive education, special education becomes part of the pedagogical proposal of the regular school, promoting the attendance to the special educational needs of students with disabilities, global developmental disorders and high abilities/giftedness. In these cases and others, which imply specific functional disorders, special education acts in an articulated way with common education, guiding to meet the special educational needs of these students. Special education directs its actions to meet the specificities of these students in the educational process and, within the scope of a broader action in the school, guides the organization of support networks, continuing education, the identification of resources, services and the development of collaborative practices. The most recent studies in the field of special education emphasize that the definitions and use of classifications should be contextualized, not being limited to the mere specification or categorization attributed to a condition of disability, disorder, disorder, syndrome or aptitude.

It should be clarified that the human being lives immersed in continuous transformations, in this way interactions can transform over time, and it is very important that the context is taken into account, in the face of this complexity, the directed pedagogical action promotes an effective teaching-learning process, and heterogeneous systems present a fertile soil for variations in diversity. Still in this sense of the definition of disability and its types, students with pervasive developmental disorders present alterations in social interactions and communication has noise.

As an illustration of this group, we have individuals with autism, autism spectrum syndromes and childhood psychosis. In addition, individuals with high abilities/giftedness

who have high potential in areas such as: intellectual, academic, leadership, psychomotricity and arts, it is important to emphasize that they have potential to create.

It is important to highlight that special needs are not treated with a single type of therapy, sometimes it is multidisciplinary teams that work, therefore, there are clinical and therapeutic treatments, in this area mental illness stands out. The specialized treatment that the educational system should offer was based on the texts of law 4024/61 and 5692/71, currently replaced by law 9394/96, the so-called Law of Guidelines and Bases of National Education.

The classification of diseases was a concern in the eighteenth century, with regard to disabilities it was in 1948 that ICD 6 was organized, also known as the Revision of the International Classification of Diseases, such taxonomy of diseases help in the treatment and refer the care of individuals, chronic and acute disease was also a concern of the Revisions of disease classification, It matters to us the classification of diseases that can be chronic, evolutionary or irreversible disorders.

The concept changed in 1976, during the IX assembly of the WHO, which established and published in 1989 the International Classification of Disabilities, Disabilities and Disadvantages: A Manual for the Classification of the Consequences of Diseases (CIDID). This international parameter has the functionality of determining disabilities, which can help when necessary to apply in social security, in the granting of benefits, in a less scientific sense of assistance, the evaluation of individuals who are undergoing therapeutic recovery treatments. As we read in (Amiralian, 2019, p.88):

ICIDH proposes a classification of the conceptualization of disability that can be applied to various aspects of health and disease, being a unified reference for the area. It establishes, with objectivity, scope and hierarchy of intensities, a scale of disabilities with levels of dependence, limitation and their respective codes, proposing that they be used with the ICD by medicine, rehabilitation and social security services. By this classification the following are conceptualized:

Disability: loss or abnormality of psychological, physiological or anatomical structure or function, temporary or permanent. These include the occurrence of an anomaly, defect or loss of a limb, organ, tissue or any other structure of the body, including mental functions. It represents the exteriorization of a pathological state, reflecting an organic disorder, a disturbance in the organ.

Incapacity: restriction, resulting from a disability, of the ability to perform an activity considered normal for the human being. It arises as a direct consequence or is the individual's response to a psychological, physical, sensory or other deficiency. It represents the objectification of disability and reflects the person's own disorders in activities and behaviors essential to daily life.

Disadvantage: impairment to the individual, resulting from a disability or incapacity, which limits or prevents the performance of roles according to age, sex, social and cultural factors, is characterized by a disagreement between the individual's ability to perform and the expectations of the individual or his or her social group. It represents the socialization of disability and is related to difficulties in survival skills.

The need to classify deficiencies was urgent not only for the biomedical area, but as a matter of human rights, so critical studies gained great notoriety, as Amiralian (2019, p. 45) narrates:

At this moment, the interpellation of a political nature had as one of the main targets the causal relationship between impairments, disabilities and handicaps assumed by the ICIDH. According to it, impairments meant loss or abnormality of a body structure or function – psychological, physiological or anatomical; disability meant the restriction or loss of the ability to perform activities in a way considered normal for human beings, and handicap was the disadvantage of an individual person arising from impairment or disability that limits him or her from performing a role that is normal in a given group³.

For critics, the affirmation of the causal relationship between these conditions reflected the sovereignty of biomedical language and the emphasis on curative proposals. As a result of the revision of the ICIDH, in 2001, the International Classification of Functioning, Disability and Health (ICF) was approved. The document is a milestone in the legitimization of an interpretative model of disability with a focus on barriers and the restriction of social participation of people with disabilities, which became known as the Social Model of Disability. From a strictly biomedical category in the ICIDH, disability has also taken on a sociological and political character in the ICF.

In conclusion, the scientific debates did not cease, the discussion on the meaning of "disability" did not end with the approval of the ICF. And yet, as possible to infer, the term disability has disappeared in this classification and the terms functionality and disability gain notorious growth. The WHO established as a proposal that the ICF should not be used only for those with disabilities, being used in a generalist way, that is, on all people, in these clashes it was possible to verify that what is at stake is the relationship of the individual with society, therefore, distanced from the biomedical area only.

Thus, in the ICF the essential concept to conceptualize a disability is the evaluation of the individual's performance in the context in which he performs his main activities, it is important to highlight that the Statute of Persons with Disabilities uses the same term. In a broad sense, there are many deficiencies and states of these, some of which can be repaired.

Decree 5,626, of December 22, 2005, in its paragraph 2, regulates Law No. 10,436, of April 24, 2002 and provides for the Brazilian Sign Language-Libras, and article 18 of Law No. 10,098, of December 19, 2000, and defines: "a deaf person is considered to be one who, due to hearing loss, understands and interacts with the world through visual experiences, manifesting its culture mainly through the use of the Brazilian Sign Language – Libras".

The same Decree in its sole paragraph explains that hearing impairment is characterized as "bilateral, partial or total loss of forty-one decibels (dB) or more, measured by audiogram at the frequencies of 500Hz, 1,000Hz, 2,000Hz and 3,000Hz". It is possible to list the types of hearing impairment are: conductive, mixed, sensorineural and central. Consecutively, we have the occurrence of conductive conductive when there are problems in conducting sound from the external auditory canal to the inner ear; It is important to note that in this case the correction can be done through surgery. Sensorineural hearing occurs when there is an impossibility of reception due to injury to the inner ear or auditory nerve. Regarding mixed disability, it is characteristic of when conductive and sensorineural losses occur in the same individual.

Blindness and low vision are classified as visual impairment, it is stated that "(...) severe or total alteration of one or more of the elementary functions of vision that irreparably affects the ability to perceive color, size, distance, shape, position or movement in a more or less comprehensive field" there is some difficulty in classifying low vision, it is understood as a complex concept, since it refers to the multiplicity and the various forms of impairment of visual functions, in this sense, visual impairments can range from a simple perception of light to a decrease in acuity and field of vision that directly interfere with life performance activities (SÁ, 2007, p. 8).

INCLUSIVE EDUCATION AND THE ROLE OF LEGISLATION: GUARANTEES, CHALLENGES AND PATHS TO EQUITY

Policies aimed at serving people with disabilities are widely discussed in Brazil, especially after the Salamanca Declaration of 1994, in which there were many advances, and later, with the Law of Guidelines and Bases - LDB 9394/96, implementing educational measures that assist people with disabilities (Rossetto et al., 2006).

However, special education in Brazil was, for a long time, based on medical parameters, with disability being understood in the pathological sphere. This approach promoted a distancing of people with disabilities from people without disabilities, making education differentiated in both groups. This change marks a step towards inclusive education, which makes no distinction of this type in its dynamics (Rocha, 2009).

Studying the history of legal parameters allows a better understanding of the problem of the current work, our intention is to analyze the legal development and observe the connections with international declarations and the demands of society at the time of

construction. It is also worth clarifying, the ideal terminology for this discussion is not disability, but special needs, as the legislation uses carrier we will have the methodological license to use the two terms since the theoretical contribution is from the field of law, however it is not our intention to feed the aspect of prejudice and discrimination that sometimes the nomenclature can entail.

The documents that are legal parameters for the inclusion of people with special needs have an essential foundation in ensuring accessibility to education, in order to reduce barriers and actions that may discriminate against the subjects involved.

Even so, with all the advances in the global perspectives for inclusion in the educational system, certain transformations were urgently needed, with emphasis on legislation in order to offer effectiveness in the treatment of this group at all levels of the learning process, in this sense it was important to observe their access and permanence (Bomfim, 2009, p.37).

It is necessary to analyze that in the context of the historical the guarantee of accessibility in higher education is not a widely researched theme, especially with regard to the effectiveness of legislation, there are not many studies that can prove the positive development of these policies, as a methodological cut of effectiveness it is worth a return to the discussion about the schooling of students who have such special needs, in the material field Law No. 9,394/1996, of Guidelines and Bases of National Education, has some chapters of concentration on Special Education.

The core of the issue is in the educational service that must be attentive to the specific needs of the individual and this attention must be made at all levels of education, therefore, it is clear that there is a need for specialized support, an organization that even guarantees the flexibility of the curriculum, the needs observed must be studied in order to contemplate a teaching-learning process that can be meaningful for the student.

In the Brazilian context, in which despite the time lapse of the Empire, the special education of people with mental disabilities was not a concern of the rulers, the population was mostly living in the rural part of the territories, the appearance of this type of need was not exponent, schooling was precarious at all levels. We see it in Jannuzzi (1994)

(...) At the time of the Empire, the education of people with mental disabilities was left aside, in the face of a predominantly rural and unschooled society, as it was not shown or talked about such people. But, with the advance of schooling, schools were organized for these subjects. However, as education in Brazil was only institutionalized between the end of the eighteenth century and the beginning of the nineteenth century, Special Education began only in 1854, marked by private

initiatives. Thus, the first institutions for people with mental disabilities emerged at the end of the empire, in Salvador (1874), with the Juliano Moreira Hospital and, in Rio de Janeiro (1887), with the Mexico School. The creation of these institutes was characterized as an achievement for educational possibilities. These institutions were run by the state and were created to treat severe cases of mental disability, which were believed to be medical problems. In fact, the growth of concern about the education of people with disabilities accompanied the social transformations of the country. Educational institutions for these subjects emerged through the efforts of some people who were sensitized to the problem and also who found support from the government. With the proclamation of the Republic (1889) and the adoption of the Constitution of 1891, it was admitted that each state had governmental independence. With this, Congress allowed the creation of higher and secondary education institutions, but discarded the obligation and free primary education. After World War I (1918), the federal government interfered economically in primary education, causing the states of São Paulo, Rio Grande do Sul and Rio de Janeiro to organize primary schools and schools for people with mental disabilities. Professionals such as doctors, psychologists and teachers were organizing and reflecting on pedagogical practices and making life possible for the most harmed. It is noteworthy, therefore, that the medical and clinical model has been the foundation of the educational bases since the beginning of the twentieth century, guiding the care of these people until today.

When we look at the legal parameters, we are actually paying attention to the development of inclusive education, since its development directly follows a framework for the creation of public policies, legislation, and official documents. The premise defended is education for all without any kind of differentiation, as far as society is concerned there is a need for it to adapt to include, in this sense "To include is to live with differences, transforming the education system to respect individualities, seeking to include all students in school activities" (Rezende, 2008).

The change in the medical paradigm was significant for education, previously, special education had a specific medical model since disability was understood as a disease and hence a justification for teaching to be segregated into special classes, the paradigm shift made it possible to get closer to the civil community, in this sense inclusion was understood with a more humanitarian bias. Removing special needs from the category of disease, pathology, offers greater opportunity for insertion in society, social interaction is an essential point to think about inclusive education from the perspective of the rights of human dignity. According to Platt (1999, p. 13):

[...] Throughout the history of disability, it is observed that institutions and entities have established educational policies aimed at the care of people with disabilities in a medical/therapeutic interaction, welfare/protectionism Auguste Comte, believed that the normal and the pathological are affirmed in relation to the knowledge of the normal and that diseases are nothing more than changes in the action of stimulants indispensable to health. This perspective, which would only be absorbed later by educational models, relativized the notions of normal versus abnormal, indicating ways to think of special education as just one more facet of teaching, in addition to opening up possibilities to think of inclusion as one of the aspects of pedagogical

diversity. Still on this theme, Canguilhem (1982) links the notion of disease to the inability to produce, within the capitalist perspective of normality, identifying health in what is useful. This discussion exemplifies the way society has treated people with disabilities for many centuries, attributing abnormality to the disease and, thus, the exclusion of the so-called abnormal from society, in productive terms.

The educational model emphasized for some time the notions of normal and abnormal, and the notion of abnormal was linked to pathology, this meaning manifested itself as a barrier to be overcome by a model of humanization of the special needs of individuals.

In order for the changes in thought to have occurred, it was necessary to organize events, forums, such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) in the 1990s, in that same year the World Conference on Education for All was held in Thailand, which gave rise to the World Declaration on Education for All. In 1994, the World Conference on Special Education was organized in Salamanca, Spain, which resulted in the Salamanca Declaration on Principles, Policy and Practices in the Area of Special Educational Needs, as previously explained. Rezende (2008, p 32):

the participants of the World Conference on Education for All proclaimed some goals for the realization of universal basic education. Among them, we highlight: all people must be able to take advantage of educational opportunities aimed at satisfying their basic learning needs (Article 1, § 1); more resources are needed for basic education, better institutional structures and changes in curricula and conventional education systems (Article 2, § 1); basic education must be provided to all children, young people and adults (Article 3, § 1); special attention must be paid to the basic learning needs of persons with disabilities by taking measures to ensure their equal access to education as an integral part of the education system (Article 3, § 5).

ACCESS TO SCHOOLING: CHALLENGES AND OPPORTUNITIES FOR AN EGALITARIAN EDUCATION

The inclusion of people with disabilities in a historical cut is a portrait of the legislation and public policies adopted by the country, although it is not effective as one would like, it ends up demarcating the advances of this group. Brazil has a history of access to schooling in a limited way and responding to the desires of the dominant elites, heterogeneous groups that deviated from the standard were never effectively included.

When it comes to the movement for the inclusion of people with disabilities, it is possible to situate it as a recent concern, the dichotomy inclusion x exclusion gains space for discussion after the democratization of the school, in this sense to think of a space for all is to think about inclusion.

Notwithstanding the history of the disabled, since antiquity has been marked by exclusion, in ancient societies such as the Greeks there was an extermination of those who were not in the standard at the time of their birth, the right to life was limited to people who were born without any deformity, therefore, perfect and functional, the disabled were understood as unnatural aberrations. As we see in:

[...] When a child was born, the father held a party known as 'amphidromia' [...]. Custom required him to take the child in his arms, days after birth, and solemnly take him into the room to show him to relatives and friends and to initiate him into the worship of the gods. The party ended with a family banquet. If the party was not held, it was a sign that the child would not survive. It was then up to the father to exterminate his own son (Silva, 2007).

In medieval times, this theme underwent a change in perception, with the primacy of the church in social issues, people with disabilities were considered, at first, something other than divine, a kind of punishment of transcendence, people at that time were subjected to exorcism.

In the second moment, from the perspective of charity, the church began to accept this group, however, they were excluded from social life, placed in the parts of the church that could not be seen, it can be conceived that at this moment began the perception of the right to life of this group, even if they were removed from the interaction, therefore not included, they were not doomed to death. Maranhão (2005, p. 25) narrates that:

[...] it was based on charity – a virtue that was based on the feeling of love for one's neighbor, forgiveness, humility and benevolence – content that was preached by Jesus Christ and that, increasingly, greatly conquered the disadvantaged. Among these were those who were victims of chronic diseases, physical and mental defects.

It is possible to observe the institutionalization of segregation in the eighteenth century through the creation of the National Institute of Deaf and Dumb, in France. Still in historical context, the nineteenth century presents its importance, it is a century that is the result of great scientific discoveries, especially in the area of humanities, in this sense there was great progress in the area of psychology and in the understanding of the being, special education began to be guided by this science, which helped a lot in therapies and behavioral studies, The highlight of this moment is that social relations began to be a point of interest.

The historical milestone of the twentieth century in inclusive education was the democratization of teaching as a result of market applications, the search for school

insertion generated the conception of special classes, therefore, the acceptance of difference even in separate classes was an advance in the discussion of spaces for the disabled. About this moment we have (Severino, 1999, p. 25):

The social proposal for the integration of people with special needs began in the 60s, giving rise to the Philosophy of Integration, in which disabled students could integrate into regular school after going through Specialized Institutions and selections that proved that these children were able to attend regular school. However, even entering regular schools, students with special needs did not remain in the same room as students considered "normal". They were placed in special rooms with a specific teacher and, only after achieving good performance, were they inserted into the common rooms (Severino, 1999, p. 25).

The philosophy of integration was a relevant step for the social integration of people with special needs, this step was only possible a posteriori of studies in the area, it should be noted that even though they were in the common school the inclusion was not total, therefore, there was still a way to go in this regard, however, it is considered that it was an advance, because the process of interaction, fundamental in this matter, began.

The above discussion made it possible to start the social mobilization that aimed to put an end to institutionalized segregation, this milestone was realized in the 90s, in this sense society began to create a more conscious thought about effective integration, this was accomplished by the realization that the enrollment of people with disabilities in common institutions did not mean real integration, However, it was the beginning of a socialization process. Although it did not offer an effective education that could be compared with those who were in the standard of normality accepted by society.

Carvalho (2000, p. 27), points out that at the end of the twentieth century there were numerous conflicts, which resulted in a sequence of modifications, pointing to the transformations that occurred in special education, as seen in another subtopic: special education has been present in Brazil since the time of the empire. The scenario of evolution in this theme has been transforming with it we have the expressions that most have fallen into disuse, "Education for all" and "School for all", in a historical path the author above points out that inclusive education has been expanded since the eighteenth century by names like Pestalozzi, in this sense this thinker emphasized the need to respect the individuality of the being, that is, the child in his development should be understood in a singular way.

Nevertheless, at this historical moment, even with Law No. 4,024 of 1961 – Law of Guidelines and Basis of National Education (LDBEN), which guaranteed the right to

education in regular schools for children with disabilities or gifted, there were setbacks in this construction: Law No. 5,692/71, which defended specialized treatment for students with special needs, ended up emphasizing the perspective of segregation, since these students would be removed from the conviviality of the classes and allocated to special rooms.

It should be noted that the body responsible for special education in Brazil was the National Center for Special Education (CENESP), which was created in the same decade as the aforementioned law, this body was responsible for expanding the integration movement of individuals with special needs, especially those who had partial or total, physical or mental restrictions.

Decree No. 3,298 regulated Law No. 7,853/89, which dealt with the National Policy for the Integration of Persons with Disabilities, this decree deserves to be highlighted in our research, because it was here that the concept of disability was established, as discussed above, the definition of the concept enables the best guarantee of rights since it builds possibilities to ensure the rights of what fits the concept.

FINAL CONSIDERATIONS

Disability can be understood as any loss or alteration in a psychological, physical, or anatomical structure or function that results in a limitation in the ability to perform activities that, for most people, are considered normal. This condition affects a person's performance in various areas of life, creating barriers that can be physical, sensory, or cognitive, impacting the way they interact with the world around them.

When we talk about permanent disability, we refer to that which is established at a certain point in life and, even with the application of medical treatments or therapeutic interventions, does not present full recovery. This type of disability implies that a person will live with the limitations imposed by their condition throughout their life. However, it is important to emphasize that permanent disability should not be seen as an insurmountable barrier to inclusion and personal and professional development.

With advances in the areas of service technology, inclusive education and public policies, people with disabilities, even those with permanent limitations, find new ways to overcome challenges and participate fully in society. The key to this inclusion is to adapt the environment and opportunities, promoting accessibility and equal conditions, so that disability does not become a factor of exclusion, but rather a part of human diversity that must be respected and valued.

It is important to highlight article 4 of the above-mentioned decree: the person has a Physical Disability when he presents a complete or partial alteration of one or more parts of the body, causing impairment to the development of physical function and presenting as: paraplegia, paraparesis, monoplegia, tetraplegia, triplegia, triparesis, hemiplegia, ostomy, amputation or absence of limb, cerebral palsy, dwarfism, congenital or acquired deformity of the limbs, except for aesthetic deformities and those that do not alter the development of functions.

As previously stated, the history of the insertion of people with special needs in higher education is the history of legislative evolution that helped the process of understanding disability and inclusion, the federal constitution itself has a prominent role in history for having in the late 80s and early 90s, in its article 3, item V, determines that the Union, the States, the Federal District and the Municipalities have as their fundamental objective "to promote the good of all, without prejudice of origin, race, sex, color, age and any other forms of discrimination" here it is perceived the fight against types of discrimination.

Another article of the CRFB, which deserves to be highlighted is art. 205, it reads: Education, a right of all and a duty of the State and of the family, will 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 (BRASIL, 1988, p. 56).

Article 206 of the same legal document guarantees equal conditions of access and permanence for all in regular education, in this legislative compendium we can see how legal documents portray society's discussions. The State's obligation to guarantee educational assistance is explicit in article 208, item III, "specialized educational assistance to people with disabilities, preferably in the regular school system" (Brasil, 1988).

As commented above in the topic, the importance of the involvement of the family and the entire community as participation, so the Statute of the Child and Adolescent (ECA), Law No. 8,069/90, in its article 55 establishes that it is up to parents or guardians to enroll their children in the regular school network, with this regulation the incentive of the support network in the educational process is expressed.

It is appropriate to resume the World Declaration of Education for All (1990) and the Salamanca Declaration (1994) as a historical milestone in the insertion of people with disabilities in higher education, because it was only after these declarations that the theme

began to be emphasized in the formulation of public policies that deal with inclusion in the educational system.

Decree No. 3,956/2001 of Brazil regulated the Guatemalan Convention (1999), this document understood special education in the prism of differentiation, which allowed a new interpretation of this type of education, in order to eliminate the barriers that hinder the access of people with special needs, who have the same human rights and fundamental freedoms, to schooling, because their limitations do not make them less a subject of rights. As explained here, Fonseca (2005, p.78):

The 1990s were marked by important changes in public educational policies regarding the schooling of students with disabilities, listing important advances that led to the implementation of a School for all, a fundamental principle of inclusion. Faced with this reality, the school is now committed to meeting human diversity, having to adapt to the individual needs of its students and no longer segregate or exclude those who do not learn, because this attitude ends up denying its role as a social institution. Fundamental principles of this process were established in 1994, at the World Conference on Special Education, which took place in Salamanca, Spain, in which the right of all to a quality education that meets their specificities is highlighted, and it is up to the educational systems to develop educational programs that favor learning, improving the school as an institution that promotes an inclusive society.

Thus, there were several events that marked the 1990s as an opportune moment of transformations for the history of inclusion of people with disabilities, there were advances in public policies, specific legislation and the commitment to understand the reality of this individual and insert him in a productive environment in the educational system for his formation as a political being and citizen.

According to this, Law No. 9,394/96 – Law of Guidelines and Bases of National Education presented what we can consider a new educational vision, this is observed in its article 59 that seeks to ensure students with special needs the curricular, methodological and organizational adaptation of the school, also allowing the terminality and acceleration according to the needs of each person.

The educational organization is also the subject of this legislation, we can see this in articles 24, item V and article 37, paragraph 1 in verbis: "appropriate educational opportunities, considering the characteristics of the student, his interests, living and working conditions, through courses and exams".

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