

# **Disability as Diversity: Normative Contexts and Living Processes**

**Miguel A. V. Ferreira** (UCM) [mavferre@ucm.es](mailto:mavferre@ucm.es)

**Eduardo Díaz Velázquez** (UCM) [eduardodiaz@cps.ucm.es](mailto:eduardodiaz@cps.ucm.es)

**Matilde Fernández-Cid Enriquez** (UCM) [choska@ccee.ucm.es](mailto:choska@ccee.ucm.es)

**Susana Rodríguez Díaz** (UNED) [srodriguez@madrid.uned.es](mailto:srodriguez@madrid.uned.es)

**Mario Toboso Martín** (CSIC) [mario.toboso@csic.es](mailto:mario.toboso@csic.es)

## **Recent evolution of Spanish legislation regarding the education of persons with disability**

In this section we sketch a brief summary of the evolution of the Spanish legislation about the education of persons with disability since the 80's decade of the last century. Through this period, Spanish society has undergone a remarkable transformation, both in its form of government as well as in the structure of the State, going from a dictatorship to a democracy and from a centralized State to a State of autonomous regions with an ample margin for self-government that, regarding education, are in charge of applying the general education system in their respective territories.

### ***1. The Spanish Constitution and the 1980's decade: policies for educational integration***

The last years of the 1970's decade, and especially the 1980's decade, mean a great change for Spain in dealing with the education of persons with disability, favoured by the socio-political change that followed the 1978 Constitution, and by the great changes in psicopedagogical orientations, theoretical and practical, such as, for instance, the Warnock Report (1978) (Alcantud, 2004).

The Spanish *Constitution* of 1978 expresses in its article 49 that the authorities "will carry out a policy of prevention, treatment, rehabilitation and integration of the physically, sensory and psychic handicapped, that will be given the specialized attention that they may require". The consolidation of these four principles will be given in the *Law 13/1982, of April 7<sup>th</sup>, for the Social Integration of the Handicapped* (LISMI). The Third Section of Title VI of this law is dedicated to education. Articles 23 through 31 reflect the educational

approach towards persons with disability, where it is declared that students will be integrated in the ordinary system of general education, and that they will receive the necessary support provided in the same law. It conceived Special Education as an integrating, flexible and dynamic process with a personal implementation in the different levels and stages of the education system, in particular in the free and compulsory ones.

The first experiences of educational integration in Spain correlate in time with the LISMI and its regulatory developments (Alcantud, 2004). The *2639/1982 Royal Decree, of October 15<sup>th</sup>, for the regulation of Special Education*, went further in the implementation of the four governing principles of the LISMI. It was repealed by the *334/1985 Royal Decree, of March 6<sup>th</sup>, for the regulation of Special Education*, that constitutes the decisive step in order to effectively implement those four principles. It reiterates what was established in the above-mentioned law regarding schooling in ordinary with the needed support and adaptations, and only in special units and centres when the inability to adapt so advises. It regulates schooling, support and adaptations, the qualification of the teaching staff, and it establishes a general curriculum for all students, taking personal characteristics into consideration, emphasizing the integrating approach of education. Special Education is regulated as an part of the education system and not as a separate type. The *334/1985 Royal Decree* establishes a gradual implementation delay of eight years, that was started in the 1985/86 school year. Its implementation scope is Statewide, notwithstanding the jurisdiction of the Autonomous Governments (Fernández, 2011).<sup>1</sup>

The integration of students with special educational needs in ordinary classrooms starts to become a fact from the *20<sup>th</sup> March 1985 Order for planning of special education and integration experimentation in the school year 1985/86*. Centres for Special Education were left, then, for specific attention of students that could not be integrated in ordinary centres due to their seriousness. Between 1985 and 1990 two positive evaluations of this integration program were carried out (Casanova, 2011).

---

<sup>1</sup> In 1981 powers regarding education started to be transferred from the Central State Administration to the Autonomous Governments, a process that finished during the 1999-2000 school year. From then on, Autonomous Governments are responsible for educational development in their territories. The acquisition of these powers has been uneven, going from 1981, when they were acquired by Catalonia and the Basque Country, until 1999, when they were acquired by Asturias, Castile-La Mancha, Madrid, Extremadura, Castile and León and Murcia. Ceuta and Melilla are the only territories where education powers still remain in the Central Government.

## **2. The 1990's decade: first steps towards inclusive education**

The Constitutional Law 1/1990, of October 3<sup>rd</sup>, for the General Planning of the Education System (LOGSE), was approved in 1990. In it, the regulation was established, when possible, for ordinary schooling of students with special educational needs, under a previous psicopedagogical evaluation by guidance units (Fernández, 2011). Chapter V of this Law, dedicated to Special Education (arts. 36 and 37), lays down that the education system will have the resources necessary for these students and, as it is done for students in general, it will adapt its curriculum to their necessities and characteristics.

The concept of 'special educational needs', derived from the *Warnock Report* (1978), is used for the first time in Spain in the 1990 LOGSE, and was strengthened on a world-wide basis by the *Salamanca Declaration about Special Educational Needs*, in 1994, approved by the *World Conference about Special Educational Needs: Access and Quality*.

Besides from strengthening the change about the attention towards students with special educational needs, started by the LOGSE in Spain, the *Salamanca Declaration* originated an ample legislative development in order to improve this attention. The 696/1995 *Royal Decree, of April 28<sup>th</sup> for the regulation of the education of students with special educational needs*, stands out in overseeing the conditions of the educational attention for these students and the guarantees for education quality.<sup>2</sup>

## **3. The turn of the century: achievements, difficulties and stagnation of inclusive education**

In the first years of the new century, important regulations of the education system were approved in Spain. Regarding the laws about the general planning of the education system, the 10/2002 *Constitutional Law, of December 23<sup>rd</sup>, for the quality of education* (LOCE), showed a certain backward movement from what had been reached until then, even though it was never enacted (Calvo et al., 2004). We reach, finally, the present-day 2/2006 *Constitutional Law, of May 3<sup>rd</sup>, for Education* (LOE). This law promoted the autonomy of educational centres in order to adapt regulations to the characteristics of the social environment and of the population. Together with the flexibility of the system in all its aspects (pedagogical, organisational, etc.), the LOE has contributed to facilitate the spread of inclusive education (Casanova, 2011).

---

<sup>2</sup> Departing from all these legislative documents, there have been more and more changes in the operation of education centres in order to assist students with special educational needs, and this concept of special educational needs has been considered in a more ample way, that also includes needs associated with socially unfavourable environments (154 and 167/2003 Decrees).

The LOE portrays Special Education as a part of the general regulation of the education system. It dedicates Chapter I of its Title II to the attention of students with “special need for educational support”, a necessity that can be originated from two reasons: late incorporation to the education system, great learning abilities or personal or schooling-history. When originated from disabilities or severe behaviour disorders, they are called “special educational needs” (art. 73).

According to the LOE, the Spanish education system is inspired, among others, in the following principles (art. 1):

- The quality of education for the whole body of students, regardless of their conditions and circumstances.
- Equity as a guarantee of equality of opportunities, of non-discrimination and inclusive education.
- Flexibility in order to adapt education to the diversity of aptitudes, interests, expectations and necessities of students.

Basic compulsory education consists in primary and secondary compulsory education. This education, according to article 3.8 of the LOE, should be adapted to students with specific needs for academic support in order to ensure their access, permanence and progress in the education system. According to article 74 of the LOE, schooling of students with special educational needs:

- Will be ruled under the principles of normalization and inclusive education.
- Will ensure non-discrimination and equality in the access and permanence in the education system, introducing necessary measures in the different education stages.
- Will only be carried out in special units or centres when these needs cannot be assisted by the measures of diversity attention of ordinary centres.

## **Current data about inclusive education in Spain**

Table 1 shows a set of statistical data published by the Spanish Ministry of Education for the 2009-2010 school year, about students with specific needs of academic support, education centres and related teaching staff, in non-University education under general regulation.<sup>3</sup>

---

<sup>3</sup> At the time of writing this article (January 2012), the Spanish Ministry of Education only offers a “news headline” of the data corresponding to the 2010-2011 school year,

**Table 1**

2009-2010 school year	Total	Public ownership	Private ownership
Students in schooling	7.608.292	5.142.439	2.465.853
Students with SEN in schooling	141.605	103.419	40.186
Integrated students with SEN	110.962	86.476	26.486
▪ Infant Education	14.493	11.381	3.112
▪ Primary Education	54.080	42.942	11.138
▪ Compulsory Secondary Education (ESO)	35.198	25.330	9.868
▪ Higher Secondary Education	982	754	228
▪ Vocational Training Cycles	1.451	1.137	314
▪ Initial Professional Qualification Programs	2.301	1.820	481
▪ Special Ed. Professional Qualification Programs	2.457	1.112	1.345
Non-Integrated students with SEN <sup>4</sup>	30.643	16.943	13.700
▪ In Special Education Centres	25.814	12.801	13.013
▪ In Special Education Units in Ordinary Centres	4.829	4.142	687
Ordinary Centres that integrate	26.015	18.053	7.962
Special Education Centres	479	193	286
Special Education Units in Ordinary Centres	993	914	79
Special Education teaching staff	8.988	5.624	3.364
▪ In Special Education Centres	7.410	4.093	3.317
▪ In Special Education units in ordinary centres	1.578	1.531	47

Source: Prepared by the authors with data from the Ministry of Education, Culture and Sports.<sup>5</sup>

much less detailed than the data referring to the 2009-2010 school year. For this reason, we will basically work with these last data.

<sup>4</sup> Of the 30.643 non-integrated students with SEN, 29.729 (97%) have these needs due to disability, and only 914 (3%) students have SEN non-related to disability. Given that the official data breakdown does not take this circumstance into account, we will consider 'approximately' that these students have SEN due to disability.

A series of remarks about students, education centres and teaching staff, extracted from Table 1, will be exposed next.

### ***1. Integrated education / Special education***

From 141.605 students with special educational needs (SEN), 110.962 (78,4%) were schooled in ordinary centres and 30.643 (21,6%) were non-integrated, in special education: 25.814 (18,2%) in specific special education centres and 4.829 (3,4%) in special education units in ordinary centres.

### ***2. Permanence and progression in the education system***

One of the aspects of greater importance, because of its implications for students with SEN, is their permanence and progression in the education system that, according to article 3.8 of the LOE, should be guaranteed by Education authorities. This issue has a decisive repercussion on personal development and on the qualification of students, conditioning their future education opportunities and their access to the working environment, and thus, to a life as independent and normalized as possible (Alonso et al., 2011).

The data corresponding to students with SEN integrated in ordinary centres show that when going from Primary Education (EP) into Compulsory Secondary Education (ESO), the number of these students drops down drastically, from 54.080 to 35.198 students. That means that in the transition between these two stages of compulsory education, 18.882 students (35 out of 100) stop being integrated in ordinary centres and are 'dis-integrated' towards the non-integrated special education.

On the other hand, from the 54.080 students with SEN integrated in the Primary Education (EP) stage, only 82 (just 2 out of 100) reach the stage of (non compulsory) Higher Secondary Education. Moreover, when going from Compulsory Secondary Education (ESO) to Higher Secondary Education, 34.216 students (97 out of 100) 'quit'. Since students with SEN taking other education after Compulsory Secondary Education (ESO), different than Higher Secondary Education, are only 6.209, it can be deduced that 28.007 students with SEN (79 out of 100) do not pursue their studies after Compulsory Secondary Education (ESO), 18 out of 100 take other education different than Higher Secondary Education and only 3 out of 100 go from ESO to Higher Secondary Education, the previous stage before the University.<sup>6</sup> From this data, it can be asked (Alonso et al., 2011): how many students with SEN will

---

<sup>5</sup> Web page 'Educatio Statistics. Non-University Education':  
<http://www.educacion.gob.es/horizontales/estadisticas/no-universitaria.html>

<sup>6</sup> The analogous data for students without SEN reveals that 36 out of 100 move on to Higher Secondary Education after the ESO.

be able to reach University education? What happens to those 28.007 students with SEN that permanently quit studying after the ESO? Predictably, at best, they start working (Casanova, 2011).

In the stage of Higher Secondary Education, students with SEN integrated in ordinary centres reach the number of 754, and 228 in private centres. That means that only 3% of students integrated in public centres move on to Higher Secondary Education after Compulsory Secondary Education (ESO), 2,3% in the case of students schooled in private centres.<sup>7</sup> Hence, the number (and proportion) of students with SEN that permanently quit the education system after the ESO is, respectively, in ordinary public and private centres: 20.507 (81%) and 7.500 (76%).

### **3. Education centres**

The data in Table 1 show that the number and proportion of students with SEN in public ownership centres (both ordinary centres, special education centres or special education units in ordinary centres) rises to 103.419 students (73%), versus 40.186 (27%) of them in the case of private ownership, from a total 141.605 students.

Of the 110.962 students with SEN integrated in ordinary centres, 86.476 (76,1%) study in public centres and 26.486 (23,9%) private centres. As for the 30.643 non-integrated students taking special education, the 25.814 (84,2%) students in specific special education centres are distributed quite evenly: 12.801 (41,8%) in public centres and 13.013 (42,4%) in private centres. On the contrary, of the 4.829 (15,8%) students in special education units in ordinary centres, 4.142 (13,6%) are schooled in public centre, and only 687 (2,2%) in units in private centres.

The data regarding the total number of centres schooling students with SEN indicate that, in the case of integrated education, the total 26.015 centres are distributed in 18.053 (69,4%) public centres and 7.962 (30,6%) private centres. In special education, of the 479 specific special education centres, 193 (40,3%) are of public ownership and 286 (59,7%) of private ownership. Regarding special education units in ordinary centres, the total 993 are divided into 914 (92%) in public centres and 79 (8%) in private centres.

It can be observed that, regarding ordinary education centres, public centres are predominant (18.053 versus 7.962 private centres), whereas in non-integrated education in special education centres, private ownership

---

<sup>7</sup> In the case of students without SEN, the respective proportions for students moving from the ESO on to Higher Secondary Education are: 41% (in public centres) and 26% (in secondary centres).

predominates (286 centres versus 193 public centres).<sup>8</sup> Regarding special education units in ordinary centres, those of public ownership clearly exceed private centres (914 versus 79), what suggests that private ordinary centres, in contradiction of the existing legal obligation, usually enrol a lower proportion of students with SEN (Alonso et al., 2011).

#### **4. Teaching staff**

The data regarding teaching staff indicate that of the 8.988 professionals dedicated special education, 7.410 work in the 479 specific special education centres and 1.578 in the 993 special education units in ordinary centres. In terms of ownership, the results show that 5.624 teachers (62%) work in public centres, 4.093 in the 193 special education centres of public ownerships and 1.531 in the 914 special education units in ordinary centres of public ownership. 3.364 teachers (38%) work in privately owned education centres, 3.317 in 286 specific special education centres and 47 in 79 special education units in private ordinary centres.

### **Barriers against inclusive education in Spain**

Different evaluative researches about the enrolment of students with SEN in Spain,<sup>9</sup> show an ambivalent scene, of remarkable advances and worrying stagnations (Echeita, 2011). Among the achievements, the process of educational inclusion in Infant education clearly stands out. All existing indicators show that the tax of enrolment in ordinary centres is very high, and so is the assessment about participation and learning reached in this stage. Difficulties appear beyond Infant education, as a consequence of the many educational barriers that exist in Primary and Secondary schools. The most important kinds of barriers detected are: 1) Barriers against the permanence and progression to the different education types and stages; 2). Barriers affecting resources for inclusive education; 3) Barriers in information and training; 4) Barriers against the access to integrated schooling; 5) Barriers derived from traditional education models; 6) Barriers derived from discriminatory ideologies<sup>10</sup>

---

<sup>8</sup> The logical explanation for this may be that generally private special education centres belong to associations of families of persons with disability, that come up with a more specialized teaching towards the precise disability.

<sup>9</sup> Marchesi et al. (2003); Echeita & Verdugo (2004), Echeita et al. (2009); Verdugo et al. (2009).

<sup>10</sup> A wide and detailed exposure of this types of barriers can be founded in Toboso, M., Ferreira, M.A.V., Díaz, E., Fernández-Cid, M., Villa, N., Gómez, C. (2012: pgs. 290-294).



## Conclusions

It can be concluded that, in general, but mostly in secondary education, in order to achieve equal rights, it is not enough with the formulation of specific laws, as in the case of Spain in the 1980's and following decades, but that a continuous commitment with inclusion, based on innovative initiatives, the Authorities' and education centres' leadership and a critical approach of problems, should always be maintained (Verdugo, 2011).

Policies for educational inclusion should be systemic, in order to assist every component of the education system in need of improvement: training and qualification of the teaching staff and other education professionals, a change in the dynamics of educational planning and curriculum design, a modification in the contexts in which students are included, evaluation and financing of the system, as well as attitude changes and fight against stereotypes.<sup>11</sup>

But, at the same time, educational inclusion must be thought of on a local basis, and located, with great attention to what happens in precise classrooms and education centres, trying to improve this close-up context as a strategy to move forward on to more global and systemic changes (Echeita, 2011). There are many successful experiences of educational inclusion of students with special needs that have not been generalized or established as global guidelines of action (Casanova, 2011).

The results of the CERMI Report (2010) suggest that the process of educational inclusion of students with SEN in Spain shows clear signs of stagnation, and that there are currently great difficulties in order to generalize educational inclusion, although the UN Convention about the Rights of Persons with Disabilities forces the State of Spain to bring this stagnation to an end (Alonso et al., 2011; Verdugo, 2011). In order to achieve this, the perspective that is present in the law should deliberately be implemented in education, recognizing that all students vulnerable to processes of marginalization or academic failure should for various reasons, have the right not to be marginalized and not to suffer academic failure, and have to right to quality education in the largest sense of the term (Echeita, 2011).

It is essential to promote policies that force the education system to generate adequate responses. In that sense, the Authorities must encourage clear and committed policies towards educational inclusion, for most likely, the most relevant characteristic of the process of educational inclusion in Spain, after three decades of policies, is that the main barriers that restrict the right to quality education of students with SEN have not yet been eradicated (Echeita, 2011).

---

<sup>11</sup> It is considered necessary, in that sense, to overcome the existence among the teaching staff, of an educational perspective based on students' difficulties, and not on students' rights (Echeita, 2011).

## References

- Alcantud, Francisco (2004). "La inclusión de estudiantes con discapacidad en los estudios superiores: una reflexión después de diez años". In Echeita, Gerardo and Miguel Ángel Verdugo (coord.) (2004), pp. 161-168.
- Alonso Parreño, María José and Inés de Araoz Sánchez-Dopico (2011). *El impacto de la Convención Internacional sobre los Derechos de las Personas con Discapacidad en la legislación educativa española*. Madrid. Ediciones Cinca.
- Calvo, María Isabel, Francisca González and Fabián Sainz (2004). "Compilación legislativa de España y sus CCAA tras la Declaración de Salamanca". In Echeita, Gerardo and Miguel Ángel Verdugo (coord.) (2004), pp. 169-208.
- Casanova, M<sup>a</sup> Antonia (2011), "De la educación especial a la inclusión educativa. Estado de la cuestión y retos pendientes", *CEE Participación Educativa*, 18, November 2011, pp. 8-24.
- CERMI (2010). *Los jóvenes con discapacidad en España. Informe de situación 2010*. Madrid. Cinca.
- Echeita, Gerardo (2011). "El proceso de inclusión educativa en España. ¡Quién bien te quiere te hará llorar!", *CEE Participación Educativa*, 18, November 2011, pp. 117-128.
- Echeita, G., Simón, C., Verdugo, M. A., Sandoval, M., López, M., Calvo, I. and González, F. (2009). "Paradojas y dilemas en el proceso de inclusión educativa en España", *Revista de Educación*, 349, pp. 153-178.
- Echeita, Gerardo and Miguel Ángel Verdugo (coord.) (2004). *La "Declaración de Salamanca" sobre Necesidades Educativas Especiales diez años después: valoración y prospectiva*. Salamanca. INICO.
- EDAD (2008). *Encuesta sobre Discapacidades, Autonomía personal y situaciones de Dependencia 2008*. Madrid. Instituto Nacional de Estadística.
- Fernández Santamaría, Rosario (2011). "El camino hacia la integración", *CEE Participación Educativa*, 18, November 2011, pp. 79-90.
- ISEI-IVEI, Instituto Vasco de Evaluación e Investigación Educativa (2002). *Influencia de la presencia del alumnado con necesidades educativas especiales en el rendimiento del alumnado ordinario*. Departamento de Educación, Universidades e Investigación del Gobierno Vasco.
- Lidón Heras, Leonor (2008). *Derechos humanos y discapacidad en España. Informe de situación. Fundación ONCE 2007*. Madrid. Cinca.
- Marchesi, A., Martín, E., Echeita, G., Babío, M., Galán, M., Aguilera, M. J. and Pérez, E. (2003). *Situación del alumnado con necesidades educativas especiales asociadas a discapacidad en la Comunidad de Madrid*. Madrid. Informe de Investigación presentado al Defensor del Menor de la Comunidad de Madrid.
- OMS (2011). *World report on disability*. WHO & The World Bank.

Toboso, M.; Ferreira, M.A.V.; Díaz, E.; Fernández-Cid, M.; Villa, N.; Gómez, C. (2012). "Sobre la educación inclusiva en España: políticas y prácticas", *Intersticios: Revista sociológica de pensamiento crítico* 6 (1), pp. 279-295.

Verdugo, M. A. (2011). "Implicaciones de la Convención de la ONU (2006) en la educación de los alumnos con discapacidad", *CEE Participación Educativa*, 18, November 2011, pp. 25-34.

Verdugo, M. A., Rodríguez, A., Sarto, P., Calvo I. and Santamaría, M, (2009). *Situación de la inclusión educativa en España*. Salamanca. INICO.