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**INTERNATIONAL AND RUSSIAN LEGAL PRACTICE FOR THE DEVELOPMENT
OF INCLUSIVE EDUCATION**

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Abstract

The article addresses a relevant research topic accounting for the orientation of modern European countries, including the Russian Federation, on the development of a socially-oriented type of economy and solving the social problems of people with disabilities. As a result of the conducted analysis of the legal possibilities and realities of people with disabilities obtaining professional education, we can conclude that the state takes certain steps to solve the issue but many problems remain unresolved. To overcome these issues, it is primarily important to develop inclusive education across Russia, which requires the psychological readiness of teachers, technical staff, and parents of children with disabilities. It is necessary to ensure the accessibility of the buildings of educational institutions for the education of children with various forms of disability. Despite the existence of a large array of regulations forcing educational institutions to provide accessibility for people with disabilities, educational institutions are unable to promptly follow them without additional funding. In general, all states need to form a positive attitude towards people with disabilities in their citizens. This type of measure can help to increase the accessibility of education for people with disabilities.

Keywords

Legal regulation – International experience – People with disabilities – Disabled persons

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Introduction

One of the priority tasks is related to meeting the interest of disabled persons with the transition to inclusive education being only the beginning of the long-awaited changes in society. The social status of people with disabilities and identifying the problems of the worldwide development of inclusive education for the complete inclusion of disabled persons in society present vitally important areas of research.

International legal mechanisms protecting the rights and freedom of people with disabilities have started to develop relatively recently. Initially, the international community dealt with universal norms and mechanisms for protecting human rights. In these acts, disabled people were not recognized as a separate vulnerable group. Later, having realized the need for specialized acts, based on the International Bill of Human Rights, the international community developed and adopted several international documents aimed at the special mechanisms for protecting the rights of socially vulnerable population groups. Thus, international agreements embodying the principles of human dignity and diversity and protecting the rights of children, women, workers, migrants, and people with disabilities began to appear.

Methods

Formal legal method, comparative legal method, legal modeling, legal norm interpretation, etc.

Results

The problem of protecting the rights of persons with disabilities is currently gaining importance both across the world in general and in the Russian Federation in particular. This fact is primarily associated with a steady increase in the number of people living with disabilities. According to the World Health Organization (WHO), in 2011, about 15% of the world population had some form of disability. Around 2-4% of disabled persons experienced certain difficulties in everyday life¹. According to the statement of the Federal State Statistics Service of the Russian Federation of January 1, 2018, there were approximately 12,111,000 disabled persons in Russia making up about 10% of its total population².

The priorities of international cooperation in the field of protection of the rights of persons with disabilities have, therefore, significantly changed as of late. The recognition of the problem of ensuring the rights of persons with disabilities as an international one contributed to the adoption of the Convention on the Rights of Persons with Disabilities (CRPD) along with its Optional Protocol in 2006. To the present date, the Convention has been signed by 177 countries. Russia signed the document on August 5, 2008 and ratified it four years later on May 3, 2012. The Convention embodies the principles of human diversity and human dignity. Its main idea is related to the paradigm of the state and society rejecting discrimination against a person based on their disability.

¹ U. Haeberlin, "Der gesellschaftliche Wandel und die Notwendigkeit einer wertgeleiteten Heilpädagogik in der Erziehung von Menschen mit Behinderungen", *Behinderte in Familie, Schule und Gesellschaft* num 4 (2018): 40–48.

² H. Reiser, *Psychoanalytisch-systemische Pädagogik. Erziehung auf der Grundlage der Themenzentrierten Interaktion* (Stuttgart, 2016).

However, despite the ongoing changes in the international and Russian state regulation of the legal status of persons with disabilities, the problems of protecting the rights of this socially vulnerable population group do not decrease in relevance. In other countries (aside from Russia) the turning point in the departure from the burdensome charity model and the rejection and exclusion of disabled people was reached through the adoption of the Convention on the Rights of the Child (1989), the United Nations Declaration on the Rights of the Mentally Retarded Persons (1971)³, and the United Nations Declaration on the Rights of Persons with Disabilities (1975). Many years of experience in successful inclusive education are demonstrated by Canada, Cyprus, Denmark, Belgium, Spain, Sweden, the USA, Great Britain, Italy, Norway, Germany, and Finland. The victory against segregation was achieved in the United States through the Education for All Handicapped Children Act (1975). Within the framework of the adopted laws, the restriction on people with disabilities was elevated, followed by their transition to mainstream education. Since September of 2011, tens of thousands of young people with disabilities have been receiving specialized education in Germany. Special jobs have been created for thousands of young people with severe disabilities. Small businesses also contribute to the pool of job opportunities for people with disabilities⁴.

The problem of innovative inclusive education methods has a steady trend⁵. For instance, K. O'Reilly addresses the search in the field creating alternative drama for theaters of people with disabilities⁶.

An example of care for people with disabilities is presented by the Russian Federation State Program "Accessible Environment" (2017)⁷. The measures for the social protection of persons with disabilities ensured by this Federal Law are the expenditure obligations of the Russian Federation with the exception of the measures of social support and services related to the powers of the state authorities of the Russian Federation regions in accordance with the Russian legislation.

Another subject-related document implemented in the Russian Federation is the Federal Law "On the social protection of persons with disabilities in the Russian Federation" determining the state policy in the field of protecting people with disabilities. Its goal is to ensure that disabled people have equal rights with other citizens, particularly in the implementation of civil, economic, political, and other rights and freedoms. Apart from that, there is an ongoing clarification of the adopted and the development of new standards for

³ The Declaration on the Rights of Mentally Retarded Persons: proclaimed by the General Assembly of the United Nations on December 20, 1971, № 2856. Retrieved from: www.un.org/ru/documents/decl_conv/declarations/retarded.html

⁴ S. P. Amiradze, *Obzor zarubezhnogo opyta v oblasti inkluzivnogo obrazovania, Nauchnyye issledovaniya v obrazovanii* num 2 (2012).

⁵ K. O'Reilly, "A playwright reflects on 'alternative dramaturgies'". *Research in Drama Education: The Journal of Applied Theatre and Performance* Vol: 14 num 1 (2009): 31–35; F. Leighton, "Accountability: The ethics of devising a practice as research performance with learning disabled practitioners" *Research in Drama Education: The Journal of Applied Theatre and Performance* Vol: 14 num 1 (2009): 97–113; G. S. Moran y U. Alon, "Playback theatre and recovery in mental health: Preliminary evidence", *The Arts in Psychotherapy* num 38 (2011): 318–324 y P. Paliocosta y S. Blandford, "Inclusion in school: A policy, ideology or lived experience? Similar findings in diverse school cultures", *Support for Learning* Vol: 25 num 4 (2010): 179–186.

⁶ K. O'Reilly, "A playwright reflects on 'alternative dramaturgies'..."

⁷ State Program of the Russian Federation "Dostupnaia sreda". Retrieved from: <https://rosmintrud.ru/ministry/programms/3/0>

the implementation of inclusive education, among which are: Concept of the Federal State Educational Standard for students with disabilities; Order of the Ministry of Education and Science of the Russian Federation of December 19, 2014 No. 1599 “On the approval of the federal state educational standard for the education of students with mental retardation (intellectual disabilities)”; Order of the Ministry of Education and Science of the Russian Federation of December 19, 2014, No. 1598 “On the approval of the federal state educational standard for the primary general education of students with disabilities”; Letter of the Ministry of Education and Science of Russia of March 11, 2016, No. VK-452/07 “On the Introduction of the Federal State Educational Standard for Health Impairments”; Interdepartmental Comprehensive Plan for Organizing Inclusive Education in 2016-2017.

The UNESCO defines inclusive education as “a process of addressing and responding to the diverse needs of all students by expanding their participation in learning, culture, and communities, as well as reducing isolation within education”.

The 2011 United Nations (WHO) World Disability Report states that “inclusive education is better for the majority and avoids isolation of children with disabilities”. Article 24 of the CRPD reflects their right for education and the requirement of the state to ensure conditions for the implementation of the principle of equality in the education of persons with disabilities through inclusive education on each level of education.

The largely important trend of social organization is social integration, the creation of a “society for all” where every individual plays an active role, having both their rights and obligations.

In the countries of Western Europe, inclusive education is understood as a strategically important component of the social “conception of normalization”⁸ of the lives of people with intellectual disabilities that later became a structure that elevated societal and informational barriers and limits in the participation in active life for the category of people with “unequal opportunities”⁹.

The research demonstrates that in other countries apart from Russia, the inclusive education model is characterized by high variability and mobility transformed into a holistic process, affecting both the international legal relations and “the society preventing discrimination at the state and local levels”¹⁰.

Concluding on the five years of development, particularly in the field of inclusive education, the Ministry of Education and Science of the Russian Federation¹¹ indicated the successful creation of the barrier-free environment: 9,341 inclusive school (21.5% of the total number of schools); 39,944 correctional classes in regular comprehensive schools teaching 270,514 children with disabilities; over 45 thousands of teachers and specialists received additional training in teaching children with disabilities. Eighty educational

⁸ A. Armstrong; D. Armstrong y E. Spandagou, “Inclusion: by choice or by chance”, *International Journal of Inclusive Education* num 15 (2011): 29–39.

⁹ U. Carle, *Kind-Umweld-Analyse als Werkzeug für die Unterrichtsplanung* (Bremen, 2002).

¹⁰ G. Feuser, “Prinzipien einer inklusiven Pädagogik”, *Behinderte in Familie, Schule und Gesellschaft* num 2 (2001): 25–29 y U. Haeblerlin, “Der gesellschaftliche Wandel und die Notwendigkeit einer wertgeleiteten Heilpädagogik in der Erziehung von Menschen mit Behinderungen”, *Behinderte in Familie, Schule und Gesellschaft* num 4 (2018): 40–48.

¹¹ The main results of the work of the Ministry of Education and Science of the Russian Federation in 2012-2017. Retrieved February 28, 2020, from: <http://m.government.ru/all/32232/>

organizations have been transformed in 74 subjects of the Russian Federation, the transformation involving a revision and change of the curriculum resulting in a new way of formation of the educational material¹².

Touching upon the comparison of child and adult disabilities, we should note the rate of child disability. The gap between the rates of child disability registered in Australia, Germany, and the USA is extremely wide: 3.4% (Australia) compared to 0.9% (Germany) and 0.5% (the USA) in children aged 0 to 4 years, the level of disability in Australia being determined according to the International Classification of Functioning, Disability, and Health¹³.

In 2008, there were 4.4 million people with disabilities in Australia, which amounted to 17.7% of the total population. In 2015, this proportion reached 18.3%, having decreased by 0.6% in three years. However, the prevalence of disability increased with age. Every ninth person (11.6%) aged 0 to 64 years and every second person (49.6%) aged 65 years and older had a disability. The prevalence of disability was equal in men and women (17.8%) and across the entire Australian population, 5.7% of people with disabilities had a severe disability¹⁴.

There are three types of schools in Germany: specialized schools (Sonderschule) that focus on educating children with severe mental and physical disabilities, correctional schools (Förderschule) that teach “difficult children”, and general schools.

Since the ratification of the CRPD, correctional and specialized schools have been closed in Germany. According to German specialists, the right of children with disabilities to study with other healthy children is only a right and is not mandatory yet.

The Constitution of the Federal Republic of Germany states: “No one can be oppressed due to disability” (article 3)¹⁵. The first integrated school in Germany was opened in Berlin in 1975.

The analysis of literature highlighted the two most important issues: providing a competitive and high-quality level of education and ensuring the social and psychological adaptation of students with educational needs. In Germany, 67% of kindergarten students study together with other children, in primary schools, this proportion reaches only 46%, and in high schools, it drops to 30%. Many regions of Germany lack a unified diagnostic standard for assessing the learning limitations and opportunities that are present. This applies to children having a “speech development delay” and “learning difficulties” associated with the level of proficiency in the German language.

These circumstances illustrate the need for a flexible methodology that would ensure the equal provision of knowledge to all the different categories of students accounting for their individual characteristics and respecting every student’s right for education. School

¹² H. Reiser, *Psychoanalytisch-systemische Pädagogik. Erziehung auf der Grundlage der Themenzentrierten Interaktion* (Stuttgart, 2016).

¹³ Disability, Ageing and Carers, Australia: Summary of Findings, 2018. Retrieved from: <https://www.abs.gov.au/ausstats/abs@.nsf/mf/4430.0>

¹⁴ Disability, Ageing and Carers, Australia: Summary of Findings, 2018. Retrieved from: <https://www.abs.gov.au/ausstats/abs@.nsf/mf/4430.0>

¹⁵ Zarubezhnyy Opyt Realizatsii Inklyuzivnogo Obrazovaniya. Retrieved from: https://studref.com/418575/pedagogika/zarubezhnyy_opyt_realizatsii_inklyuzivnogo_obrazovaniya

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graduates receive a diploma allowing them to enroll universities and continue their education¹⁶.

The conception of “Pedagogy for all” has long been tested in the Scandinavian countries, the USA, Australia, and England. This conception ensures the improvement of education quality in a targeted manner. Many countries provide significant assistance in the employment of disabled persons. The advantage of these programs lies in the integration of students with intellectual disabilities into the educational activities of general education groups (based on common school subjects) with the ability to achieve positive learning outcomes to the extent feasible for them¹⁷.

According to the statement of the Federal Register of October 1, 2019, there are currently 11.95 million disabled people in Russia, 679.9 thousand of them being children with disabilities. Among the adult population, there are more women with disabilities (57%) than men with disabilities (43%). With the general tendency of a decrease in the number of disabled people by 9% over the past 7 years, there has been an increase in the number of disabled people of group III by 10% and a rise in the number of disabled children by 18%. It must be noted that the latest trend towards an increase in the number of children with disabilities is a cause for concern and requires immediate action. Starting from 2015, the data includes the number of people with disabilities in the Crimean Federal District provided in 2015 according to form No. 1-EDV, in 2016-2017 – according to form No. 94 (Pensions). Since 2018 data has been provided from the federal state information system “The Federal Register of the Disabled Persons”.

Currently, over 65% of people with disabilities participating in surveys in various regions of Russia believe it is necessary to increase the degree of disabled persons participating in society without limitations, on equal terms with healthy people. According to the results of the survey, one of the most important discussed issues is the accessible environment, particularly related to education and employment.

To date, the conditions for inclusive education including a universal environment and special equipment for teaching children with disabilities have been created in 21.5% of Russian schools.

Legal literature proposes the following classification of the mechanisms monitoring the CRPD: 1) the supervising state bodies dealing with the rights of persons with disabilities in general; 2) coordinating (auxiliary) ministries and departments and other state and public bodies in the field of protection and realization of the rights of persons with disabilities; 3) other judicial state bodies “above” the state and the human rights mechanisms in the field of the rights of persons with disabilities. There is no doubt in the fact that, as mentioned above, the productive work of the CRPD is carried out through constructive dialogue with the states being parties to the Convention, and the process of interaction is greatly time-consuming. To illustrate the scale of the process, we analyzed the official website of the Office of the United Nations High Commissioner for Human Rights where all the procedural aspects of the interactions between the participating countries and the CRPD are uploaded (Table 1).

¹⁶ Osobennosti inkluzivnogo obrazovaniia v nemeckikh uchebnykh zavedeniakh, Retrieved from: <https://zagranportal.ru/germaniya/obuchenie/inkluzivnoe-obrazovanie-germani.html>

¹⁷ L. Ryłacska, Ryńnica klasy integracyjnej w szkole masowej. Retrieved from: <http://www.edukacja.edux.pl/p-7192-roznica-klasy-integracyjnej-w-szkole-masowej.php>

Country participating in the Convention	Date of ratification of the Convention	Report type (the date of submission to the CRPD)	Questions on the report (the date of submission to the CRPD)	Answers to the questions on the report (the date of submission to the CRPD)	Final remarks on the report (issuance date)
Germany	2009	Initial report September, 2011	April, 2014	August, 2014	April, 2015
Croatia	2009	Initial report October, 2011	October, 2014	December, 2014	April, 2015
Russia	2012	Initial report September, 2014	September, 2017	November, 2014	April, 2018
Slovenia	2012	Initial report August, 2014	September, 2017	November, 2017	March, 2018
Turkey	2013	Initial report August, 2015	October, 2018	January, 2019	No data

Table 1

The procedural aspects of the legitimation of regulatory documents

The provided table illustrates that the cycle of the countries reporting to the CRPD Committee on the first two years of progress after joining the Convention in the form of an initial report and receiving feedback takes four years on average. This circumstance raises several questions. What is meant by “subsequent” reports that, according to article 35 of the CRPD, must be submitted by the countries participating in the Convention at least every four years after the initial reports? Does this type of interaction and feedback count as the subsequent reports of the countries participating in the Convention on the work done in the four years of cooperation? Most importantly, when is the next cycle of reports and interaction in the form of constructive dialogue on the implementation of the CRPD supposed to take place?

The introduction of inclusive education in the system of Russian and international education experience has several advantages:

inclusive education is one of the main priorities of the state social policy implemented at all levels of education with varying degrees of problem-solving;

inclusive schools develop community-oriented people who respect differences and human dignity;

every person has the opportunity to recognize and communicate the principles of inclusive education to others making it the norm and putting into practice the conviction necessary to work on understanding and respecting differences and finding the foundations for cooperation.

Given the fact that the population of Russia in the period from 1989 to 2000 decreased by 1,840 thousand people, or 1.3% (the population decline has stopped at the moment but no growth is observed as well), and the number of people with disabilities in Russia increased from 4.8 million people up to 10.8 million (about 8% of the country population) in the period from 1993 to 2002, it can be concluded that the country is not experiencing the best socio-demographic situation. The state government is trying to take the necessary measures of legal and socio-economic regulation to improve the situation by

paying allowances, allocating funds from the budget for the implementation of national projects and social programs, stimulating the birth rate, and reducing the social imbalances in the society. However, the government does not always possess the funds required to implement all the government-planned activities.

Inclusive education can become an effective social project allowing solving some of the major social and demographic problems of the state and mitigating and greatly improving the integration of people with disabilities into society, which is the most important objective of the present study. The international experience of inclusive education implementation (30 countries of Europe, America, and Asia) demonstrates that it is inclusive education that allows providing primary, secondary, and higher education for people with disabilities in the most gentle and effective way.

Conclusion

The legal policy in the field of higher education of disabled persons is oriented towards people with disabilities as a social minority leaving the choice of the educational program and place of study to the state and educational institutions rather than the applicants themselves. The majority of the existing programs are specialized in accordance with a given diagnosis and localized in specific regions, which significantly narrows the educational choice of a disabled person. In modern times, higher education for disabled persons develops despite the dominating negative social attitude towards them (which manifests in the lack of action and explicit or implicit opposition of the society) and, in particular, the hidden discriminatory practices implemented by admission committees¹⁸.

Although the administrative workers recognize the need to improve the accessibility of higher education, they prefer not to launch large-scale measures for the social and educational integration of persons with disabilities to avoid unnecessary trouble.

The accessibility of higher education also declines due to the lack of the so-called rehabilitation component of higher education that requires additional budgetary allocations and must be provided along with educational services¹⁹. For many students with disabilities, the situation worsens due to the low economic status of their families translating into the inadequate home preparation conditions, the lack of a telephone, computer, and means of electronic communication. The academic experience of disabled students differs greatly across universities and their departments. Legal documents should pay more attention to the prevention and elimination of the elements of discriminatory policy implemented in educational institutions via an unofficial curriculum, i.e. the stereotypical informal relationships. The study of Russian and international experience of the implementation of the presented conception demonstrates that higher professional education presents a major resource for its realization. The concept of an independent life as an opportunity for a disabled person to determine, choose, make decisions, and manage life situations themselves is still in the process of formation.

¹⁸ S. Canby; C. Chilcott; B. Davis; P. Goater; K. Hogan; T. Kelly; S. Knight; L. Lane; M. Lansdown; A. Long; S. McGreevy; R. O'Brien; M. Rees; C. Rimmer; J. Stafford y C. Wiltshire, "Firebird Theatre company. Research in Drama Education", *The Journal of Applied Theatre and Performance* Vol: 14 num (2019): 55–57.

¹⁹ F. Leighton, "Accountability: The ethics of devising a practice as research performance with learning disabled practitioners", *Research in Drama Education: The Journal of Applied Theatre and Performance* Vol: 4 num 1 (2009): 97–113.

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