TIJSEG

ISSN: 1300 – 7432
www.tijseg.org

Turkish International Journal of Special Education and Guidance & Counseling 2014, volume 3, issue 2

PARALLEL PATHS: INCLUSIVE SPECIAL EDUCATION AND RACIAL DESEGREGATION

Kıvanç BOZKUŞ
Artvin Çoruh University
Faculty of Education
kbozkus@artvin.edu.tr

ABSTRACT
The purpose of this study is to research the evolution of policy of integrating children with disabilities into the general education settings in the U.S., keystone events that shaped the fates of disabled children and outcomes of policy decisions.According to the direction that these purposes provide, this paper tries to answer these questions: (1) Is integration process of children with disabilities parallel to the racial integration? (2) Is the process perceived as separate from or similar to the racial desegregation by public and legislation? I first discuss vital policy decisions and court actions that pave the way for inclusive special education and racial desegregation. I then draw inferences from them to claim that the two paths, inclusive education and racial desegregation, have actually been parallel.
Keywords: Inclusive special education, special education, racial desegregation, racial integration

Introduction

Special education is a relatively new field, forits history goes back to a little more than 40 years. Much has changed during this time period. For example, we no longer separate *mentally retarded* children and call them as "severely brain damaged vegetables" (Hehir, 2005, p. 1). Inclusion of disabled children has always been mandated by several laws. Some court decisions provided foresight to integrate children with disabilities into general education settings (Ramanathan, 2008).Those decisions paved the way for several legislative acts like the Education for All Handicapped Children Act (EAHCA), the Individuals with Disabilities Education Act (IDEA), and the No Child Left Behind Act (NCLB). Although, the courts may have referred to a civil rights perspective, it is unfortunate that we need laws to provide every child with a basic need: education.

Before the existence of these acts, principals did not have to provide disabled students with access to education. This caused these kids to be separated from their non-disabled peers. They had to be served in special facilities because they were perceived as uneducable. In those facilities, they learnt nothing useful for their lives after leaving there. On top of it, they received a humiliating treatment from their so-called instructors who were supposed to prepare them for life (Hehir, 2005).

All this was because they were different than other children. From this point of view, there is a similarity between the separation of disabled children and the segregation of African American children. Although African American students received a more meaningful education compared to those of disabled students at that time, they were still separated from their peers whose skin color is different. Similarly, desegregation too was triggered first by court decisions.

However, these resemblances are not enough to make these two processes being perceived as parallel by public and legislation. Both have appeared at the same time period, have an aggrieved side that affected negatively, are results of differences, have been relieved gradually by court actions and laws, prevented other side from being more tolerant and open to individual differences, and have made a big progress towards success.

TIJSEG
ISSN: 1300 – 7432
www.tijseg.org
Turkish International Journal of Special Education and Guidance & Counseling 2014, volume 3, issue 2

Review of the Paths

Students with disabilities constitute a significant portion in public education. According to ideadata.org, nearly 9% of all school-aged children have at least one kind of disabilities. The disabilities cannot be excuses to restrict the inclusion of those children. The Civil Rights movement has been the basic defender of this claim.

Before the Civil Rights Movement, exclusion of disabled students was legal. For instance the *Beattie v. Board of Education* case of 1919 allowed public schools in Wisconsin to deny students with disabilities. The court concluded that including disabled students would be detrimental to other children's learning. LaNear and Frattura (2007) harshly criticize the decision:

> "In some perverted notion of fairness to thenormative group (i.e. the general education students), the basic sensibilities ofthe majority were favored over the educational opportunity of one child. Thus, theconstitutional guarantees-the fundamental rights and liberties-of one childwere subjugated to a 'depressing and nauseating effect' on the general sensibilitiesof the dominant class. Granted, this case occurred in 1919, yet this type of injustice isstill pervasive in American public schools today" (p. 92).

The *Brown v. Board of Education of Topeka* (1954) is considered as a victory by special educators despite its distinct subject of racial segregation because its emphasis on *equality*constitutes a model for all children (LaNear & Frattura, 2007). LaNear and Frattura (2007) argue that decisions that have conventional viewpoints accidentally allow discrimination of disabled children. According to them, despite the Brown's commitments, "dual systems of education" have survived evolving into "non-racial categories: general and special education" (p. 93).

Support comes from Skiba et al. (2008) who imply that racial inequalities continued through over identification of minority children in special education. They state that due to historically racial mistreatment to African Americans, racial disproportionalities became a standard in special education settings during the 1960s and 70s. Affected from the discrimination of minorities, special education of those years was mostly segregated and inappropriate to development of the disabled children. Dunn (1968) criticizes this situation by stating that "much of our past and present practices are morally and educationally wrong" (p. 5, as cited by Kavale, 2002). Research suggests that even today many educators have biases against minority and special education students (Murtadha-Watts & Stoughton, 2004).

The adventure of integrating disabled children into general education started with modifications to existing laws such as the Elementary and Secondary Education Act of 1965 (ESEA). Also, courts made decisions that were deeply rooted in the Civil Rights movement to emphasize the right of education for all children regardless of their handicaps. An important federal law that plays a major role in the lives of disabled children and their families was enacted in 1975. It was the Education for All Handicapped Children Act (EAHCA). It was a result of the ESEA and Civil Rights movement (Ramanathan, 2008). It evolved to let more opportunities to handicapped children. After several modifications, in 1990, it experienced a big amendment, and its name was changed to the Individuals with Disabilities Education Act (IDEA). It received modifications too. In the years 1997 and 2004, it was reauthorized to demand more accountability at the state and local levels. Also, the No Child Left Behind (NCLB) Act of 2001 renders all students including disabled ones accountable for achieving high standards.

According to McLaughlin (2009), IDEA is the main law which directs special education. She lists the basic features of this law; it guarantees "a free, appropriate public education" (FAPE) to students with disabilities (p. 5), and it secures the rights of disabled students and their families "through procedural safeguards" (p. 6). She interprets FAPE as "specially designed instruction and related services that

meet the unique needs of an individual student and which should be provided in the *least restrictive* environment possible" (p. 5).She indicates that the term "appropriate" was first defined by the U.S. Supreme Court during the case of *Board of Education of the Hendrick Hudson School District v. Rowley* in 1982. She states that related services are defined in the IDEAas "transportation, speech and language services, physical therapy, occupational therapy, technology, and recreation" (p. 6).

The IDEA defines the least restrictive environment (LRE) as

> "to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

The other important law governing the special education is the NCLB. It furthers the requirements of the IDEA by mandating schools and districts to achieve *Adequate Yearly Progress* (AYP) (McLaughlin, 2009). Both guarantees all students that they will receive a quality instruction that is standardized and accountable for local and state assessments. This also ensures that disabled children will be provided with all necessary support and resources and be included into general classrooms (McLaughlin, 2009).

However, LaNear and Frattura (2007) criticize the inclusion of disabled students into assessments associating it with a "one-size-fits-all" approach, for it allows schools to "demonize" disabled students if schools fail to make AYP. They also criticize the existence of dual laws governing the same area. They indicate that both laws have different focuses: IEP and AYP, so this forces administrators to opt for one of them in favor of either general or special education students. This is another reason of their "dual systems of education" theory. They offer "a merger of federal laws" to end confusion and segregation (p. 104).

Inclusion of disabled students appeared in late 1980s. One reason of this was the segregation of African American children. Spadafore and Leonard (2011) implied that if those children were allowed into all public schools, disabled students could be included too. The *Debra P. v. Turlington* (1981) case was a landmark in Florida. African American students from racially segregated high schools could not pass a state-wide diploma exam. The decision mandated the state to allow equal educational opportunities to those students before granting a diploma.

Many court decisions played a role in shaping special education policy (See Colarusso and O'Rourke (2003) for a detailed list of other cases). The *Board of Education of the Hendrick Hudson School District v. Rowley* (1982) required districts to provide students with necessary support to overcome difficulties resulted from their disabilities, the *Brookhart v. Illinois State Board of Education*(1983) states that modifying or waiving a state-wide diploma exam cannot be considered as an accommodation for disabled students, the *Irving Independent School District v. Tatro* (1984) decided that schools must provide disabled students with supplementary aids and services, the *Smith v. Robinson* (1984) required schools to reimburse costs of necessary residential placements, the *Honig vs. Doe* (1988) bans expulsion of disabled students due to misbehavior, the *Board of Education in Sacramento, CA vs. Holland* (1994) necessitates LRE for FAPE, the *Rene v. Reed* (2001) objected Indiana's attempt to ban accommodations for a state-wide diploma exam, and the *Chapman et al. v. California Department of Education* (2002), similar to the others, ensured students with disabilities to receive accommodations they need when taking a diploma exam.

TIJSEG
ISSN: 1300 – 7432
www.tijseg.org
Turkish International Journal of Special Education and Guidance & Counseling 2014, volume 3, issue 2

In Pennsylvania, the most important class action about special education is the *Gaskin v. Pennsylvania Department of Education* (PDE) of 1994. PDE were reluctant to comply with the laws governing special education. Families affected from violations of the laws along with some organizations supporting special education won the action. "The lawsuit… alleges that students with disabilities have been denied their federal statutory right to a free appropriate public education in regular classrooms with necessary supplementary aids and services. In particular, the plaintiffs allege that PDE has systematically failed to provide technical assistance and training, and to enforce the provisions in federal law requiring local schools and school districts to offer a full continuum of support services allowing students with disabilities to be educated in regular classrooms" (Rhen, 2005, p. 12). It mandates schools provide children with disabilities with supplementary aids before placing them to a more restrictive environment. PDE agreed to make several changes to improve school districts' abilities for more appropriate special education services.

Other than the laws and court actions above, section 504 of the Rehabilitation Act and the Americans with Disabilities Act are the laws that are broader in terms of defending the rights of disabled children and adults in public education.

Conclusions

The policy of inclusive special education was dependent on racial integration at the beginning. Later, it has gained its independence and owned specific laws. Now the IDEA and the NCLB govern special education. One of the reasons that special education remained 'special' is that disability has been rarely perceived as diversity (Hehir, 2005). That might have caused special education to be in need of the Civil Rights Movement.

The existence of dual laws governing the same area has been criticized. In the future an integration of the laws would be an option for effective policies. Also, it is criticized that policies do not reflect data-driven research, and thepractice of laws is limited to complying with laws.

In terms of practice of the special education policy there are many issues. Research presents a huge gap between policy and its practice, an existence of the effects of outdated policies, and perception differences between practitioners. Duhaney (1999) made "a content analysis of state education agencies' policies on inclusion" in special education. The study revealed that only seventeen state education agencies have embraced policies on inclusive education. McCarthy, Wiener, and Soodak (2010) have found that prior policies on exclusion of disabled students and segregation still have effects on current school administrators' policy practices, and thus this undermines change. Crawford and Tindal (2006) have discovered a noticeable difference between teachers' and principals' perspectives on inclusive special education policy.

It is quite certain that the evolution of the inclusion of students with disabilities into regular education settings has been parallel to racial integration. Both took power from the Civil Rights Movement. Laws that were made to solve racial integration problems also helped special education to solve its biggest problem: inclusion of the disabled children. Special educators inferred that the laws targeting discrimination work also for their case where exclusion of students due to their disabilities was seen as discrimination as well. It was not unusual to notice that a court case that was referring to the Brown decision. However, the word "parallel" is not used to describe similarities of the two processes. It may due to the lack of research that investigates the two areas together. From this standpoint, it is hard to claim that the two processes were perceived as parallel.

Although, there is no study indicates that including students with disabilities affects students without disabilities negatively (McLaughlin, 2009), including disabled students in a regular classroom has been a difficult process. The lack of research that clarifies the outcomes of inclusion makes this process harder (Hochschild & Scovronick, 2003).

If we look at the outcomes of the policy, we may conclude that many problems still remain despite the policies targeting them. Minority disproportionality, over identification, lack of funds and staff, poor quality in leader preparation are just some of the problems. Skiba et al. (2008) report the history and current status of minority disproportionality, and they indicate that disproportionality has been a chronic problem despite the direct reference to it in the IDEA. Also, the definitions of disability types in the IDEA are superficial, and thus they make the practice very problematic. Ahearn (2003) criticizes the definition of specific learning disability in the IDEA saying that "…the IDEA regulations concerning identification of a child with SLD do not have any reference to psychological processes" (p. 2). Kauffman (2010) criticizes that reforms are often offered by non-special educators. This may be one of the reasons that outcomes of policies are not satisfying because they do not reflect the real needs of the special education.

Despite the remaining problems, special education has made a steady progress in the inclusion of students with disabilities into the general education settings. It owes a big debt to laws and court decisions. They have been successful because their focus was solely on the inclusion, and the inclusion is just the first step. Now, it is time to make policies to eliminate the remaining problems.

References

Ahearn, E. M. (2003). *Specific learning disability: Current approaches to identification and proposals for change*. Alexandria, VA: National Association of State Directors of Special Education. Retrieved from http://www.nasdse.org/

Colarusso, R. P., & O'Rourke, C. M. (2003). *Special education for all teachers*. Kendall Hunt Publishing.

Crawford, L., & Tindal, G. (2006). Policy and practice: Knowledge and beliefs of education professionals related to the inclusion of students with disabilities in a state assessment. *Remedial and Special Education, 27*(4), 208-217.

Duhaney, L. M. G. (1999). A content analysis of state education agencies' policies/position statements on inclusion. *Remedial and Special Education, 20*(6), 367-378.

Dunn, L. M. (1968). Special education for the mildly retarded—Is much of it justifiable? *Exceptional Children, 35*, 5–22.

Hehir, T. (2005). *New directions in special education:Eliminating ableism in policy and practice*. Cambridge, MA: Harvard Education Press.

Hochschild, J., & Scovronick, N. (2003). *The American dream and the public schools*. New York: Oxford University Press.

Kauffman, J. M. (2010). Commentary: Current status of the field and future directions. *Behavioral Disorders, 35*(2), 180–184.

Kavale, K. A. (2002). Mainstreaming to full inclusion: From orthogenesis to pathogenesis of an idea. *International Journal of Disability, Development and Education, 49*(2), 201-214.

LaNear, J., & Frattura, E. (2007). Getting the stories straight: allowing different voices to tell an 'effective history' of special education law in the United States. *Education and the Law, 19*(2), 87-109.

McCarthy, M. R., Wiener, R., & Soodak, L. C. (2010). Vestiges of segregation in the implementation of inclusion policies in public high schools. *Educational Policy*.

McLaughlin, M.J. (2009). *What every principal needs to know about special education* (2nd ed.). Thousand Oaks, CA: Corwin Press.

Murtadha-Watts, K., & Stoughton, E. (2004). Critical cultural knowledge in special education: Reshaping the responsiveness of school leaders. *Focus On Exceptional Children, 37*(2), 1-8.

Ramanathan, A. (2008). Paved with good intentions: The federal role in the oversight and enforcement of the Individuals with Disabilities Act (IDEA) and the No Child Left Behind Act (NCLB). *Teachers College Record*, *110*(2), 278-321

Rhen, L. O. (2005). Gaskin v. PA: Implications for school leaders. *Administrator.*Retrieved from http://www.pattan.net/files/Gaskin/GaskinArticle.pdf

Skiba, R.J., Simmons, A.B., Ritter, S., Gibb, A.C., Rausch M.K., Cuadrado, J., & Chung, C. (2008). Achieving equity in special education: history, status, and current challenges. *Exceptional Children, 74*(3), 264-288.

Spadafore, S., & Leonard, S. (2011). Leading inclusive schools. *A presentation at the class of EDLDR 530.*

The Individuals with Disabilities Education Act. (2004). Retrieved from http://www.gpo.gov/fdsys/pkg/BILLS-108hr1350enr/