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Elise Harmening

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Around The World:
America Ahead of the Curve with Discussion Around Least Restrictive Environment: Education Rights for Children with Disabilities Around the World

By Elise Harmening

The United Nations established the Convention on the Rights of the Child (“CRC”) in 1989. The final version was completed in 2002. Since 1989, according to the Office of the High Commissioner for Human Rights (“OHCHR”), 194 countries have signed in support and in effort to make a political and legal change for children’s rights in their respective countries. One element of the CRC is education for students with disabilities. Education rights are discussed at length in the CRC under Articles 23, 28, and 29. Article 23 specifically focuses on children with disabilities. Additionally, it addresses the responsibility for the state actor to provide free education so the child is “achieving the fullest possible social integration and individual development.” Extensive research shows that inclusion in education can help pull people with disabilities out of a vicious cycle of poverty across the globe. Jean-Francois Tran and Mitchell Loeb researched the aftermath of war-stricken countries for people with disabilities and found that education is key to access general opportunities for people with mild to severe disabilities. While the United States has refused to ratify the CRC, it is ahead of developing countries with inclusion and rights for children with disabilities but stands to learn from those following the CRC’s ambitious goal to fully integrate and offer free services to maximize the potential of students with disabilities.

The United Nations OHCHR gathered information from the education plan of every country that signed off on the CRC. Developing countries without the resources to feed their population are not generally able to establish a special education program for students with disabilities. The OHCHR’s “In the Field Report” from 2013 indicates that some target countries have moved towards a free primary education and include women in their education programs; others are trying to establish a system of education for children in general. Other countries have to focus on eliminating human rights violations occurring in schools. For example, Bolivia must eradicate corporal punishments in school that are disparately impacting minority children.

Education for girls is a starting point for some countries, while others are establishing laws, rules and regulations for students with disabilities. The OHCHR noted that it was rare to find a country with “least restrictive environment” laws or inclusion for students with disabilities. Russia established a new system of education for students with disabilities, including the right to free and necessary education with protection against discriminatory enrollment. The laws do not impede or facilitate inclusion. Iceland encourages inclusion for all students and has had heterogeneous classrooms since the early 1990s. The Centre for Studies on Inclusive Education reports that legislation such as the Equality Act of 2010 and their commitment to the CRC has established a right to inclusion for students with disabilities in the United Kingdom. The system in the United

Kingdom is most similar to that of the United States; however, they include the CRC and therefore look to maximize student potential. Despite its popularity and reference in the CRC, inclusion is not always seen as the best option for the child.

Finland, a leading country in innovative education models, has established its own education paradigm and law for students with disabilities. Through the Basic Education Act, Finland has established free education for all at their highest possible level without cost to the parent. The Basic Education Act states that all students have a right to inclusion but that the parent can choose whether that is the best option for the child. Conversely, the U.S. Supreme Court ruled in *Board of Education v. Rowley* that students must only receive a meaningful education, much like the Russian standard, but still requires inclusion. Providing for students to maximize their education level is not part of U.S. law.

Although U.S. children are not guaranteed an education to fully thrive, they are given the opportunity, to the maximum extent possible, to be educated with their non-disabled peers. Those in the field argue time away from non-disabled peers maximizes learning, but others suggest the real-world application of working along-side any person is more valuable for students to learn. This debate exists across the globe for countries able to focus on disability rights for students.

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