

Challenges of inclusion in higher education: international reflections on transforming educational practices

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Abstract: The objective of this article is to present the public policies implemented both in Spain and Brazil to support the access and permanence of students with disabilities, (including those with autism spectrum disorder, gifted and/or high abilities) in public institutions of higher education. For this purpose, we compare the two realities to observe their similarities and differences and to interpret how the processes of change in each context occur from a more interpretative side of the social sciences. The results show that in both cases there are recognition and attention to students with disabilities in education according to UNESCO's recommendations. It is observed that in both cases, there is a specific regulation on admission and permanence of students at the University. In Spain, this provision is exclusive to the disabled, while in Brazil, this provision is shared with other diversity. Finally, it is verified that the regulation of services is more detailed with legislation in Brazil, while in Spain, it is still in the hands of university autonomy based on a broad regulatory framework.

Key words: inclusion in higher education; affirmative policies; access to higher education

1 Introduction

The education of students with disabilities, including autistic spectrum disorders, gifted and/or highly skilled students, in formal classes cannot be considered as a new education movement. In an inclusive environment that takes into account the diversity of the population and its needs, the right to enter and remain in these classrooms at all levels has been regulated after the political movement of education for all.

From the perspective of schools, inclusive education plays a role in transforming and generating new and reflective practices, enabling the entire educational community to participate in the debate on the need to address these issues, in order to achieve high-quality education that takes into account diversity.

Until the 1990s, the education of the disabled has been carried out from the perspective of psycho-medicine. According to Laplane (2010, p.19), the psycho-medical perspective "refers to a system of ideas focused on deficits and deficiencies. One of the main marks of this conception is to understand disability as something inherent to the individual himself". At that time, the segregation of people with disabilities was the hallmark of special education, entrusted to few professionals and linked to medical-pathological institutions, which were concerned with the rehabilitation of abnormalities or the minimization of the damage caused by abnormalities.

Since then, there have been many achievements in the field of these rights through such activities as the World Conference on Education for All, Jomtien 1990, and the Salamanca Declaration in 1994 issued at the World Conference on Special Education and both declarations have been signed by the governments of Spain and Brazil, which led to major changes in their educational systems for the inclusion of people with disabilities.

The theme of inclusion has continued to be prominent since the beginning of the 21st century, launched by the Dakar World Education Forum in 2000. In 2006, Brazil and Spain participated in another overall framework, namely *The International Convention on the Rights of Persons with Disabilities*, held in New York, which drafted a document to safeguard the right of all persons with disabilities to education, and was signed by Spain in the same year and Brazil in 2009. Then came the *Lisbon Declaration* (2007) and the Geneva International Conference on Education (2008). In all these meetings, great progress has been made in providing necessary support for inclusion, with the aim of providing equal rights for all. These reference materials are internationally recognized, so our starting point is the same.

In 1998, with a focus on this research, the *World Declaration on Higher Education* was formulated in Paris, which inspired legislation in Brazil, Spain, and the world, aiming to safeguard the right of people with disabilities to higher education, including inclusive higher education (UNESCO, 1998).

In 2009, the Second World Conference on Higher Education was held in Paris (UNESCO, 2009). Although the topic of disability was not specifically addressed, it made clear the need to seek fairness and quality in higher education, and implicitly stated that it should be for everyone, regardless of their personal conditions.

An in-depth study has been carried out on the admission and retention conditions of disabled students in higher education (VELOSO e MACIEL, 2015; COUZENS et al, 2015; BUTLER et al, 2016; SILVA e CAMARGO, 2018; CASTRO e AMARAL, 2018). Significant changes have taken place in recent years from social attitudes to the support needed to integrate the disabled into higher education.

According to the 2018 Brazilian Higher Education Census (INEP, 2019), there were 2,537 institutions of higher education in Brazil in 2018, including universities, 107 public institutions and 92 private institutions; University centers, including 13 public and 217 private; 139 public and 1929 private faculties and 40 federal institutes. The total number of students enrolled in all of them that year was 8,450,755 with a progressive and steady increase of the university population in Brazil throughout these years, from just over 7 million in 2012.

With regard to the number of enrollments in graduation courses of students with disabilities, global developmental disorders or high abilities/superability, there has been an increase from 0.37% of the higher education student population of 26,663 students in 2012 to 0.51% in 2018 with 43,633 students with disabilities of the Brazilian university population (INEP, 2019).

According to data from the Spanish Ministry of Education (SPAIN, 2019), the Spanish University System (SUE), in the 2017-2018 academic year, had a total of 84 universities. There is no other type of higher education institution, being 82 in activity, with 50 public and 32 private. That academic year, 1,484,741 students were enrolled in Spanish Universities, including graduation classes, the first and second cycles, master's and doctoral degrees.

In Spain (UNIVERSIA, 2019), there has also been a significant increase in university enrollments in the study period, from 1.1 million students in 2012 to almost 1.5 million in 2018. The development of students with disabilities in Spain also multiplied. In 2012, there were 12,755 students, accounting for 1.1% of the total, while in 2018, there were 21,435 students, accounting for 1.5% according to the *IV Report on Higher Education* involving 65 universities.

As we can see when analyzing these data, considering the differences of the background and the process of inclusion of students in higher education, the two countries have similar behaviors. In the past decade, the enrollment of students has

increased by about 20%, and the enrollment of students with disabilities has increased by more than 70%. Although the proportion of students with disabilities declared in the universities of the two countries is quite different due to the different trajectories of these two situations, we support Omote (2016, p. 212), who stressed that high-quality teaching, with all necessary resources, can be fully utilized by all students, including students with disabilities, which is one of the elements that define university education as inclusion. Students with disabilities who have received such training need to be able to enter the labour market on an equal basis with anyone who has received the same training. The need to restrict the entry of people with defects in the market can be explained to some extent as the failure of inclusive education.

These two aspects, the gradual increase of enrollment and the important progress of disabled students in higher education, undoubtedly prove the rationality of this study.

In addition to entry, we must also consider the obstacles in physics, teaching, architecture, communication, emotion and attitude. And to some extent, we believe that these obstacles should be solved and overcome through policies. Lopez-Gavira and Moriña-Díez (2015) or André and Ribeiro (2018) discussed this issue as an invisible process for students with disabilities. Therefore, we agree with Moriña-Díez and Carballo (2020), who pointed out in their conclusions that recognizing the existence of needs as well as taking into account the recommendations based on other studies can promote the challenges of policy formulation and practice and help to build a more inclusive university for all.

Finally, we quoted Sebastián-Heredero (2010), who warned that when it came to inclusive education, it was necessary to reflect on the problems related to innovation and improvement practices in the process of school reconstruction. These practices were initially determined by policies, with the purpose of promoting the real participation of all students, and most importantly, promoting the performance of all students.

With the aim of analyzing the practices for the inclusion of students with disabilities in higher education developed in Brazil and Spain, this paper initially presents a comparative study of the public policies promoted in these countries to support their admission and permanence in higher education institutions, as well as the development of actions for the same purposes.

2 Methodology

The comparative method is used in this research given by Skocpol and Somers (1980, apud Collier, 1994). At that time, they claimed that it could be used for a few cases. Although there is a problem that the variables are more than the cases, in any case it allows us to make systematic analyses. If used properly, it can help us face the data. In this special case, by comparing the two cases and through their legislative development, we can see their mutual differences and explain how to change from the most interpretative aspect of social science in each case.

In order to carry out this comparative study, we regard it as a systematic procedure through which we can compare the legislative phenomena and determine the similarities and differences between them. According to these assumptions, we have deepened our understanding of the public policies for special education/disabled students to enter and stay in higher education through literature analysis of the main sources of each national legislative publication. Franco (2000) believed that analogy and comparison are the inherent process of understanding and establishing the behavior of discourse about reality, which will be the way we analyze data.

The selection criteria for each national legislative instrument began with the promulgation of its constitution. In both cases, the general education law and all laws on the inclusion of disabled students in higher education were adopted, and specific actions for enrollment and retention were formulated through decrees, resolutions, portals, notices and recommendations, and the establishment of student support services.

For a better understanding and visualization of the documents analyzed in both countries, we present a parallel

timeline of the two realities studied.

Table 1. Timeline of Brazilian and Spanish documents on higher education for students with disabilities

Decade	1970-79	1980-89	1990-99	2000-2009	2010-2020
Brazil		Federal Constitution	Law No. 9394/96 Notice 277/96 Portaria 1679/99	Law No.10558/02 Law No.11096/05 Resolution 14/07	Law No. 13146/15 Law No. 13409/16
Spain	Spanish Constitution		Law No. 1/1990	Law No. 6/01 Law No. 4/07	Real Decreto 1791/10 Real Decreto 1/13 Law No. 8/13 Royal Decree 412/14 Proposal 17/11/2016

Source: Self-compiled (2020).

These will help us to formulate the analysis variables for our research, namely: recognizing and caring for disabled students in higher education in general regulations; specific legislation on access and permanence in these institutions, as well as the management of support services for students with disabilities in these institutions.

Legislation has become crucial because the similarities and differences of the public policies implemented by these countries, as well as the facts analyzed, indicating the cultural and historical trajectory of the space they occupy. Franco (2000, p.197) said that "seeking to know the different solutions of other countries and other people to the problems, institutions and education have always been means of development and enrichment".

3 Public policies on access to higher education in Brazil for people with disabilities

In Brazil, article 205 of the 1988 *Federal Constitution* (Brazil, 1988) regards education as an obligation of the State and the family, regardless of the public and their physical and mental conditions. The fourth point of article 208 recognizes the highest level of education, research and artistic creation according to everyone's ability.

The *Education Guidelines and Basic Law* (Brazil, 1996a) stipulates that education must be organized on the basis of equal conditions or the principle of entering and staying in educational institutions, guarantee the right of disabled persons to priority in general institutions, and provide special and free educational care. In addition, it states that the education system will ensure that students with disabilities have specific courses, methods, technologies, educational resources and organizations to meet their needs.

The impact on inclusive education will need to change the educational environment and mobilize all relevant personnel to participate in this process. In the same year, LDB issued Circular 277/MEC/GM (Brazil, 1996b), which mentioned meeting the needs of students with visual, physical and hearing impairment, and suggested that the selection process of these students in higher education should be adjusted. This recommendation does not define the guidelines for continuing to receive this level of education, but focuses on implementing an appropriate policy, namely, "structurally adjust their conditions to enable them to receive higher education" (Brazil, 1996b).

In 1999, the website No. 1679 (Brazil, 1999) was published, with the objective of instructing the processes of authorization and recognition of courses, and accreditation of institutions, establishing the requirements for accessibility to the education of people with physical and sensory disabilities. In 2003, it was abolished and another new version was published with the aim of making it feasible according to the needs of implementing the recommendations.

The higher education policies formulated by the Brazilian federal government in the following years are targeted at

needs and priorities. In 2002, the University Diversity Program created by Law No. 10558 (Brazil, 2002) formulated the *Quota Reserve Law*, which aims to improve and evaluate the strategies for promoting higher education for people belonging to social vulnerable groups. Although the programme specifically refers to Afro-descendant and Brazilian indigenous people, the disabled are also included in the social vulnerable groups.

On this issue, Branco, Jezine and Nakamura (2016, Apud Cabral, 2018) stressed that "the focus of higher education policy is to expand the enrollment point to include the subjects excluded from this level of education in history, such as blacks, women, the disabled, public school students and low-income students" (pp. 260-261).

As Cabral (2018) said, the public policy of equal action (affirmative action) has a broad origin and a long history. From the perspective of inclusiveness, these policies have made greater progress since this moment.

When we probe into the guarantee of equal rights, we do not always get rid of the concept left over from history, in which this principle has been predominantly understood as the simple separation of privileges, personal immunity and class royalties in recent centuries (pages 10-11).

Thus, we highlight the publication of Law No. 11096 (BRAZIL, 2005), which expands the opportunities and duration of higher education for disabled people. The law established the "University for All" program to reserve a certain proportion of scholarships for the disabled in private universities, as long as they meet the criteria established in the program.

In 2005, the program included "Accessibility of Higher Education in Federal Institutions of Higher Education" was formulated, and resolution 14 (Brazil, 2007a) was issued in 2007, in which the first article emphasized the need for higher education institutions to promote action to ensure the full access of persons with disabilities to higher education, and provide "physical environment, portal and electronic website, selective process, educational practice, communication and evaluation so as to make specific response to different forms of exclusion" (page 1).

Anache, Rovetto and Oliveira (2014) emphasized the importance of moving the institutional structure and questioning the homogenization culture by reviewing the enrollment process, career selection type, curriculum organization and evaluation form on this issue, "leading us to discuss the rules of constructing teaching programs for higher education institutions from the perspective of inclusive education" (page 309).

In 2007, the *Education Development Plan* aims to improve the education at all stages of the country within 15 years, and puts forward a basic principle in one of its axes that emphasizing the opportunities and sustainability of the disabled in higher education is one of its basic principles:

i) expansion of the quota supply, [...], ii) quality assurance, [...], iii) promotion of social inclusion through education, [...], iv) territorial organization, allowing quality education to be accessible to the most remote regions of the country, and v) economic and social development, making higher education, both as a trainer of highly qualified human resources and as an essential part of scientific-technological production, a key element of integration and formation of the Nation (BRASIL, 2007b, p.15).

The perspective of inclusive education in Brazil, for students with disabilities, was gradually developed in higher education and a framework of security, access and residence rights have been established through the publication of the national special education policy from the perspective of inclusive education (Brazil, 2008). It cites "the horizontal nature of the special education model from children's education to higher education" (Brazil, 2008, p. 14).

In 2015, Law No. 13146 (Brazil, 2015) on the integration of disabled persons into society was promulgated, reaffirming the right to education, involving the process of selectivity, entry and stay in higher education institutions and professional and technical, private and public education specifically provided for federal education institutions. Law 13409

(Brazil, 2016) provides for the reservation of places in intermediate and advanced technical courses for persons with disabilities.

4 Spanish public policy on higher education for the disabled

Article 49 of the *Spanish Constitution* of 1978 (Spain, 1978) stipulates that the public authorities must formulate a policy of prediction, treatment, rehabilitation and integration in favor of the physically, sensory and mental disabled, and should provide special attention needed for social and educational inclusion.

The right of disabled persons to education and educational care stipulated in the 1978 *Constitution* was developed in accordance with the *General Organization Law of the Education System* (Spain, 1990), which emphasized in Chapter V that the education system would have the necessary resources to take care of students with special educational needs. The law follows the historical movement and takes the normalization and integration of schools as the principle.

Subsequently, the currently effective *Education Regulation*, namely the *Organic Law on Improving the Quality of Education* (Spain, 2013a), was promulgated. One of its objectives is to promote or maximize the development of individuals and professions. The autonomous region will be responsible for its normative development, and no major progress has been made in school inclusion.

In the field of higher education, the *Organic Law of Universities* (Spain, 2001) is the benchmark for the admission of disabled persons. For this purpose, there is an additional article 24, which specifically relates to the inclusion of disabled persons in universities, based on the provisions of Article 46.2.b: in terms of entering the university, entering the center, staying in the university and exercising their academic rights, they have equal opportunities and are not discriminated against on the basis of gender, race, religion or disability or any other personal or social status or situation. (Spain, 2001, p. 30)

The new *University Organic Law No. 4/2007* (Spain, 2007) is a sequenced recommendation, which stipulates that disabled persons must receive personalized help, support and adjustment from teachers, so that they can participate fully and effectively without discrimination in obtaining, entering, staying and exercising their degrees.

In order to supplement this specific view, Royal Decree 1791 (Spain, 2010) was promulgated, and the *Constitution of University Students* was approved. It also talked about access to and admission to the university and accompanying in the institution, as well as non-discrimination, the need for adjustment and the establishment of remedies, and pointed out the right not to be discriminated against because of disability or disease. The decree stipulates that universities must take necessary actions to ensure that students can acquire academic and professional knowledge and skills. The most important is to establish and develop services for disabled college students and provide necessary resources and support to ensure equal opportunities.

In this regard, Alarcón (2014) said that the main adjustments included were: adjusting the university entrance examination; 3% of tuition fees, resources, support and services shall be reserved for students who show the degree of disability recognized by law with the aim of promoting access and permanence in their studies. However, it is necessary to formulate the Ombudsman's Recommendation No. 17/11/2016, urging universities to reserve some places for the disabled, including in the postgraduate stage.

It is essential to highlight the Royal Decree 1 (SPAIN, 2013b) approving the *Revised Text of the General Law on the Rights of Persons with Disabilities and their Social Inclusion* and in its Article 20.C expressly states: Those persons pursuing university studies, whose disability seriously hinders them from adapting to the system of examinations established in general, may request and the universities will have to grant, in accordance with the provisions of their corresponding rules of permanence which, in any case, must take into account the situation of persons with disabilities

studying at the university, increase the number of examinations to make up for their difficulty, but do not reduce the required level. If appropriate, the examination should be adjusted according to the disability characteristics proposed by the relevant parties (Spain, 2013b, p. 36).

Finally, Royal Decree No. 412 (Spain, 2014) of June 6 stipulates the basic rules for the procedure of entering the official university graduation center, recognizes and orders that the tests must be adapted, according to the needs of each student.

As we said before, the specific legislation on the organization and management of universities is within the jurisdiction of autonomous regions. Therefore, according to the different regions, there are many specific features, but it is very common that all public universities and most private universities have support services for the disabled.

The opportunity to receive higher education takes into account the physical, intellectual, social, emotional, linguistic and other needs that form the basis of education for all, and stipulates that universities must formulate strategies to acquire knowledge within the scope of autonomy.

According to Alegre-Sánchez et al. (2019), the current legislation has taken positive measures, such as the establishment of personalized tutoring and guidance system for disabled students in universities, in order to plan strategies conducive to the educational trajectory and its sustainability throughout the graduation period. These actions contribute to the principle of equal opportunity and reflect the commitment to the quality of education.

For their part, Alegre-Sánchez, et al (2019) state that the approval and advances of legislation count on the active participation of the representative organizations of the disabled sector, which have developed a fundamental role for the advances and guarantee of the rights of these persons.

It also derives from the general legislation on universities (Spain, 2001, 2007), which requires universities to take anti-discrimination measures and positive actions. In addition to formulating support programs, providing resources and carrying out adjustments and procedures, it should also be based on the objectives and guarantees of the principle of equality of opportunity and conditions and non-discrimination, and be committed to providing universal accessibility design parameters for all.

Spanish universities have autonomy in meeting their needs and can propose different forms of actions through their services and programs for students with disabilities, who in many cases also have their own control and evaluation systems.

5 Final consideration

In the field of admission and retention policies for disabled students in higher education institutions in Brazil and Spain, we have noticed some similarities and differences, which are proved by their different realities and backgrounds.

The two countries have made progress in the promulgation of laws that recognize and guarantee the right to access to services without discrimination, mainly after the promulgation of their democratic constitutions, and the establishment and development of various equality (affirmative action) actions.

The laws and regulations regulating the inclusive process of the two countries are very similar, because they originate from the *UNESCO Global Guidelines Statement* and follow the specific instruments of each country, which are regulated by the general framework, the LDBN Education Law of Brazil and the LOGSE and LOMCE of Spain, as well as the specific framework for the enrolment of disabled persons and the inclusion of higher education, the provisions of Law 10558/2002 on the diversity of universities and the provisions of Law 4/2007 on Spanish universities.

The conception of the difficulties of access and permanence sometimes appears as a problem in terms of disability, however it has had a new vision from the explicitness of rights and relationships with the environment and the formulation of strategies to provide support services and resources, which is more obvious in Spanish law. Law 11096/2005 and Law

13409/2016 speak specifically about access to the university in Brazil with the determination of quotas, something similar to what happens in Spain with Royal Decree 412/2014 and with Recommendation 17/11/2016 although in Spain these refer exclusively to people with disabilities.

The perception of a gap between the two realities can be seen in the Spanish government's requirement of an individual action plan for students with disabilities in Higher Education, Royal Decree 1791/2010, to ensure the principle of equal opportunities, something that in Brazil has occurred only in Basic Education.

Likewise, in the actions developed by Spanish and Brazilian legislation, the need to create support services for students with disabilities is included in both; however, while in Spain, Law 4/2007, these services are created, supported and evaluated by the universities themselves, in Brazil, Resolution 14/2007, they depend on external and very focused resources that do not always materialize.

Finally, from the analysis conducted, it seems that although the specific actions of the two countries are very similar, in Spain, their regulations are formulated according to a framework law and the development of the university itself, while in Brazil, there are a series of provisions from the framework law, Law No. 4/2007 and Law No. 8/2013, which organize all these actions.

Social change and transformation require the development of equity and the creation of more convenient space through equal action between students and teachers. This is the common responsibility of individuals and groups to ensure the learning of all people. Finally, there should be more cooperative work that takes into account the unique needs of everyone, which is developing in both countries.

Although it is not the object of this specific analysis, we are aware that the universities of the two countries have, according to the regulatory standards of each context, their inclusion units to structurally organize the daily life of self-declared disabled people; but there are still many people with learning difficulties and/or disabilities outside these structures, who could attend to them and improve the quality of education and personal life.

Conflicts of interest

The author declares no conflicts of interest regarding the publication of this paper.

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