

DANCE-RELATED PUBLIC POLICIES FOR INDIVIDUALS WITH DISABILITIES: A CRITIQUE OF ABLEISM AND DECOLONIAL THEORY IN THE SOCIOLOGY OF LAW

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ABSTRACT

The aim of this counterargumentative essay is to outline a theoretical framework within the sociology of law for studying public policy, specifically focusing on how it facilitates dance learning among individuals with disabilities in Ecuador. Additionally, it presents a debate from two perspectives: ableism theory and the decolonial epistemological model. As a qualitative exploratory study, it reviews Spanish-language studies published in 2018 onward and engages in a debate within the framework of the sociology of law. The results enhance the understanding of equality for individuals with disabilities regarding dance-related cultural matters within Ecuador's public policy framework.

RESUMEN

El propósito de este ensayo de contra argumentación es describir un marco teórico de las políticas públicas como campo de estudio de la sociología jurídica para el ejercicio del aprendizaje de la danza de personas con discapacidad en Ecuador y presentar un debate desde dos posiciones: la teoría capacitista y el modelo epistemológico decolonial. Se trata de una investigación exploratoria cualitativa con una metodología de revisión documental de estudios en idioma español con un filtro desde 2018 y un debate en el marco de la sociología jurídica. Los resultados que arroja la investigación apuntan a fortalecer la comprensión de la igualdad de las personas con discapacidad en el espacio de la gestión cultural de la danza dentro del marco de la política pública del Ecuador.

KEYWORDS: Public policy, disability, dance, inclusion

PALABRAS CLAVE: Política pública, discapacidad, danza, inclusión

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INTRODUCTION

The elegance of dance and movement brings humanity together; its tangible value is apparent in legal regulations, public policies, and individual empowerment alike. Ecuador's rights-based Constitution prioritizes equality as a guiding principle for the exercise of rights. Thus, recognizing dance education as an opportunity for all citizens to uniquely connect through movement while sharing a sense of equality in their emotions is important.

1. Overview of dance-related public policies

This section provides a general outline of public policies relevant to dance. Sánchez Arcos' work, titled "Bodies, echoes, and presence: cultural affairs management and the politics of performing independent dance in Quito," underscores the importance of critical cultural management in recognizing the bodies and interpersonal and professional dynamics sustained within the established space. Although it focuses on the work of the Independent Dance Front in the 1990s, the conclusions extend to the concepts of recognizing, reassessing, and reinterpreting with the perspective provided by the passage of time. It ultimately presents a challenge regarding the commitment to demonstrate practices to combat "convenient amnesia" (Sánchez Arcos, 2019). Aschieri also emphasizes the importance of the critical analysis that brought cohesion to the event "Cidade em movimento," highlighting the promotion of inclusive practices and equal rights for individuals with disabilities in the area of dance. Her study highlights how the methodology was adapted during the pandemic, with its transition to a virtual environment (Aschieri, 2020).

According to Bonin and Rubio in their study "Vocation and job insecurity in the dance profession in Spain: effects of ineffective cultural policy," there is a need to emphasize the social and labor support given to artists. This occurred in Spain during the 20th century. To achieve this objective, they identify various underlying factors, such as the scarcity of employment opportunities in stable dance companies and the "unsustainable rise of professional and higher conservatories in autonomous communities, as well as in the discourse of Spanish dancers within the paradigm of the new spirit of capitalism" (2019). Capasso, Mora, and Sáez (2020) highlight

the diverse demands made by performing artists in Buenos Aires during the pandemic-induced social isolation. They underscore the significance of recognizing “the active role of the sector and a new approach to the practice of performing arts” (pág. 0). Ortiz Vásquez’s work provides a gender and class analysis of the experiences of street artists who identify “the appropriation and reinterpretation of the body as a feminist demand.” This assertion is framed within the context of social protests, with the theoretical framework drawn from authors including Judith Butler and David Le Breton (Ortiz Vásquez, 2021). According to Schiro Díaz, it is crucial to highlight the cultural dimension of integration within Mercosur.

He highlights the case of chamamé and its process of heritage recognition in the Argentine littoral region and neighboring countries, all framed within the constructivist theory of international relations (Schiro Díaz, 2021). Navarro (2022) goes a step further by analyzing the concepts of corporality in Grupo Nzinga’s Capoeira Angola in the city of Salvador, based on the idea of constructing and deconstructing the concept of the body. Addressing the topic from the perspective of Latin American critical theory, Navarro highlights the imperative of identifying how power discourse seeks to whitewash popular cultures. She argues that decolonization cannot occur without de-patriarchalization, emphasizing the importance of analyzing the role of Afro-American bodies in the capoeira circle. This space notably showcases the presence of women, advocating for the diversity of identities both within the group and in the world. The study employs a valuable methodology, gathering oral testimonies associated with capoeira practice.

To summarize, while the cited authors acknowledge the critical lens necessary for assessing public policy in dance, they are also mindful of its broader implications within macro-level policy, particularly the influence by the current capitalist model with its strong emphasis on technology. Furthermore, they emphasize the importance of mobilizing civil society organizations of performing dance artists to advocate for their demands and seek solutions from public policy. The theoretical frameworks are enriched by insights from gender theory and constructivist international relations, particularly in highlighting the importance of considering the body within feminist analysis, as well as regional integration through the promotion of chamamé’s artistic heritage. These themes closely align with the current

study's examination of the normalization and functional standardization of the body's relationship with space in national contexts. Additionally, the discussion of body and dance normalization, as well as the exploration of capoeira, is strengthened by an analysis of the discourse used by powerful elites and its extrapolation in popular and oral narratives.

2. Identification of elements in the relationship between public policy and disability

We can now proceed to identify elements in the relationship between public policy and disability. We begin with Meléndez Rojas' "Inclusive education and disability in Costa Rica: a public policy perspective." This study explores the laws and public policies relevant to the education of visually impaired individuals. Aiming to increase the amount of data and the "available information concerning people with disabilities and the institutions implementing public policies in this area, it reviews related evolution, challenges, and endeavors. It determines a need for more disaggregated and systematized data to more effectively evaluate policies aimed at those with disabilities" (2018, pág. 0). Palacios' research is framed within the context of the pandemic and its widening of gaps for people with disabilities; it draws upon General Comment No. 6 from the Convention Committee, which outlines three dimensions for mitigating these disparities. The first involves formulating redistributive economic policies; the second combating prejudices, stigmas, and stereotypes via a conceptual framework of functional diversity and intersectionality; and the third expanding participation. Lastly, it is crucial to ensure the "guarantee of the right to universal accessibility, encompassing support systems and reasonable adjustments" (Palacios, 2020). Linares, García, and Rojas underscore the examination of the interplay between territorial appropriation, accessibility, space, and mobility as factors determining the social inclusion of population groups within a city who share a territory, in this case, the city of Bucaramanga, Colombia (Linares García, Hernández Quirama, & Rojas Betancur, 2019). Pineda López's study was also conducted in Colombia, specifically in the department of Quindío, and departs from conventional social theories of disability to emphasize the notion of "unlimited capacity," prompting a reevaluation of autonomy.

However, it anticipates criticism regarding the importance of considering the mechanisms of collective participation. Further, Villalba Rodríguez explores the significance of communication for social change within the public policy cycle in the context of Statutory Law 1618 of 2013. The study employs a qualitative approach, using a hermeneutical framework through a case study and semi-structured interviews with three groups: representatives from civil society, the government, and academia. It determines that, on the one hand, communities fail to recognize the importance of communication, while on the other, communication strategies have not been developed with the communities in mind (Villalba Rodríguez, 2020). The study “Analysis of Bogotá’s public disability policy (2007-2017)” examines eight elements, including: document and testimonial analysis of Decree 470 of 2007, a conceptual framework of disability, an overview or diagnosis, the supplemental framework stemming from the aforementioned legal instrument, and the outcomes of implementing the “Q methodology,” a research method in psychology and social sciences aimed at studying subjectivity to identify relevant issues and priorities for system actors. It also provides recommendations for reformulating public policy to effectively conclude the cycle (Roth, Gordillo Motato, González Moya, & Suárez Higuera, 2019).

Misischia, Angelino, and Méndez emphasize the significance of recognizing the strengths of networking, particularly through initiatives like the Latin American and Caribbean Interuniversity Network on Disability and Human Rights, as well as the Interuniversity Network on Disability in Argentina. This networking facilitates collective construction by bringing together experiences, opportunities, inquiries, endeavors, and proposals, thus contributing to the creation and advancement of public policies that ensure the right to higher education (Misischia, Angelino, & Méndez, 2020).

To summarize, the research noted in this section establishes the connection between the public policy cycle and disability and emphasizes the need to improve data quality to facilitate the technical evaluation of policy implementation. While different types of disabilities are considered, the first case focuses on education for individuals with visual impairments. The importance of national public policy’s adherence to the General Comments of the Convention Committee, particularly in the case of General Comment

No. 6, is indicated, given its complexity, breadth, and the international commitments it generates at the country level. Furthermore, territorialization criteria are taken into account, and once again, the issue of participation arises. While working within a theoretical framework of disability and society, it is crucial to establish opportunities for dialogue to frame decision-making processes essential for formulating public policy. Moreover, the research underscores the significance of communication, alongside the requisite adjustments to ensure the message effectively reaches the target demographic and elicits a response aligned with their interests. Consideration is given to the conclusion of the public policy cycle, which results in an assessment for potential reformulation. Additionally, the use of research methodologies that facilitate an exploration of subjectivity despite communication obstacles is emphasized. Other studies highlight the role of civil society via national and international networks to enhance their influence in shaping public policy.

3. The relationship between disability and dance

Having characterized various elements of public policy related to disability and dance, this section presents some considerations concerning the same.

Walker shares the conclusions drawn from the choreography *Unspoken Spoken*, highlighting the normative and regulatory framework in which life unfolds. These are self- or externally imposed rules that take time to recognize. This approach, which offers the opportunity to challenge norms, is crucial in addressing disability equality because historically, normalized environments persist without scrutiny. The choreography includes five characters, each with their own rules for questioning, surrendering, or fighting. The story is told through voice and movement by dancers with and without disabilities. The fundamental question concerns our own limits: What changes if we face what stops us (Walker, 2018)? The film is available on YouTube as *Unspoken Spoken - a new dance film from Candoco Dance Company* (Candoco Dance Company, 2018); the link is provided in the references.

The campaign “Disability and digital tools: dancing to raise awareness” showcases the use of virtual technology to conduct educational artistic activities through mixed dance. It aims to educate the general public on diversity and inclusion, bringing together artists, educators, human rights

professionals, and audience members both with and without disabilities (Madrid & Zérega, 2021). In another study, Colchado and Roncal analyze the “Present Body” project by the Kinesfera Danza Organization. This project encourages participation and interaction between people with and without disabilities through contemporary dance. The study notes that Peru has few avenues for addressing social issues through the art of dance or for making dance and culture available to everyone while considering their individual circumstances and embracing, respecting, and appreciating diversity (Colchado Olivera & Roncal Tello, 2020).

Similarly, Carrera and Ninahualpa present the outcomes of implementing the “Dance, movement, therapy” technique to improve volitional aspects affected by schizophrenia and intellectual disability. Using the volitional questionnaire, they determine that all patients given the technique showed improvement in volitional aspects (Carrera López & Ninahualpa Sánchez, 2019). In this therapeutic context, the use of folk dance has also been found to enhance attentional processes in students with intellectual disabilities (Herrera Guevara & Villamil Montaña, 2020). Analyzing inclusive dance experiences in Peru and Colombia, Riva Muñoz determined these serve as spaces for individuals both with and without disabilities where they can recognize, integrate, and exchange with each other (Riva Agüero Muñoz Najara, 2019).

In the intersection of dance as an art form and its practical application is the pioneering method of María Fux. Fux works with individuals who have diverse learning backgrounds and limited mobility, harnessing their strengths to create inclusive environments through dance and dance therapy (Tarazona Barbetti, 2020). This approach links “the concepts of educational inclusion, disability, artistic education, and dance therapy.” The methodology also incorporates an analysis of the legal framework concerning the evolution of disability rights, thus underpinning “the implementation of dance therapy as a pedagogical resource for inclusion.” Valla’s research indicates a pathway to fostering diverse corporeal expressions through gymnastics, particularly within its curricular component of dance (Valla, 2021). This seemingly tangential idea becomes significant when dance is institutionalized within the framework of public education policy implementation, anchoring and ensuring its progress. During the concluding session of the adolescence

seminar within the master's program in dance movement therapy at the National University Institute of Art in Buenos Aires, a strategy was proposed utilizing dance movement therapy as a nonverbal communication channel for adolescents, considering the sexual maturation phase they are in. This approach was meant to equip adolescents with protection mechanisms. The identified challenges included the fact that information tends to target children, often excluding adolescents (Gil Ogliastri, 2014).

Ferreira dos Santos, Gutiérrez, and Odilón argue that “dance can serve as a catalyst for personal and social transformation by providing opportunities for experiences and reflections on the acceptance of different bodies and expressions without disqualifying or belittling any form of diversity” (Ferreira dos Santos, Gutierrez, & Odilón, 2019). Pineda Niño's study, “Dance as a strategy to enhance communication processes in children with cognitive disabilities,” finds that “dance can act as a positive mediator not only in educational contexts but also in various processes for individuals with disabilities.” This concept of communicative mediation through dance could be of interest to cultural affairs administrators, enabling them to have an impact that will likely yield positive results. This experience is a component of Bolivia's IED, which is affiliated with IDARTES's CREA program (Pineda Niño, 2020). Another study examines the intersection of special education and performing arts education, with a specific focus on dance for individuals who are deaf. This study is part of the NUNA Dance Studio project, which seeks to train dancers in the necessary knowledge, skills, and attitudes via a qualitative methodology to “highlight their motor, cognitive, social, and affective values through body language” (Guzman Bustillos, 2022).

Another study, “The creation of collectives as a means of transforming the subjectivity of individuals with disabilities: a case study of the inclusive dance group,” aims to systematize the experience of the Inclusive Dance Group. This group follows the danceability methodology of Alito Alessi. The qualitative approach facilitates the defense of the definition, recognizing its potential ambiguity within discourse (Calzada González, Vargas Calderón, Peregrina Sámano, & Lara Silva Andrés, 2022). Additionally, the study “The benefits of dance in improving the quality of life of people with intellectual disabilities” demonstrates dance's positive impact and potential across various dimensions related to quality of life and human functioning among

individuals with intellectual disabilities. The empirical evidence indicates that this artistic activity fosters behavioral patterns and enhances specific dimensions of quality of life (Mercado García, Merino Gallego, & González Casas, 2021). Although various points are raised for discussion, including the societal perception of functionality requiring significant effort to conform to cultural norms, engagement in these activities has helped raise awareness for this community. That dance improves the quality of life of individuals with intellectual disabilities is indicated by the importance the community places on this activity and its association with growth potential, particularly in terms of opportunities, social relationships, and social participation. The study “Dance as a tool for promoting social inclusion in individuals with intellectual disabilities” systematically and methodically investigates the causes of social exclusion and marginalization faced by individuals with intellectual disabilities, with the intention of addressing and reversing them (Muñoz Benito, 2019). In the study “Dance in spatial perception development in schoolchildren with visual disabilities,” Zapata Mocha and Castro Castro indicate the importance of dance’s inclusion in the physical education curriculum. Using a qualitative pre- and posttest methodology, they determine dance “has positive and beneficial effects on the daily and academic lives of students with disabilities, particularly those with partial or complete visual impairment” (Zapata Mocha & Castro Castro, 2022). Another study integrates virtual elements into dance practice within physical education classes. The participants ($n=7$) had been formally diagnosed with a disability. Nine videos, a WhatsApp group, and the Teams platform were used to create a Spanish dance group choreography. The major identified challenge was “participants’ own perceived motor deficiencies” (Uríos, Llanos Tornero, & Abellán, 2020).

To summarize this section, the choreography *Unspoken, Spoken* and the projects “Disability and digital tools: dancing to raise awareness” and “Present Body” explore existential questions concerning the limits and rules imposed both externally and internally on individuals. This idea holds true for individuals with or without disabilities.

Furthermore, the art of dance engages with significant social contexts, offering an opportunity for individuals to cultivate an ethic of respect for diversity through their appreciation of this art. Extensive consideration of

therapy-focused projects, particularly those employing dance movement techniques to improve volitional aspects in individuals with intellectual and psychosocial disabilities, is crucial. A review of inclusive dance experiences involving individuals with and without disabilities is included, spanning both Peru and Colombia.

María Fux's method combines dance expertise with rights-based training, promoting empowerment. Incorporating dance into the gymnastics curriculum led to improved evidence and institutionalization. The seminar on adolescence within the master's program in dance movement therapy at IUNA indicated that while dance therapy was highly aligned with the needs of the target group, the available information was primarily geared toward children. Considering dance as a mechanism for mediating communication with individuals with disabilities should also be considered. Individuals with hearing disabilities exhibit motor, cognitive, social, and affective abilities within the dance experience, highlighting their strength in utilizing body language as a form of expression. Although the outcomes of dance prove beneficial for the quality of life of individuals with disabilities, social barriers emerge as the primary challenges to continuing this approach. Applying a quantitative approach and focusing on visual impairment, pre- and posttest assessments showed dance positively impacts the daily and academic lives of students both with and without disabilities. The dance class for individuals with intellectual disabilities ($n=7$), which incorporated tools such as videos, a WhatsApp group, and the Teams platform, enables students to express motivation despite their self-perceived motor deficiencies.

4. Insights from the field of sociology of law

Before comparing the doctrinal approaches identified in the literature review of public policy, it is relevant to offer a concise introduction from the perspective of sociology of law.

Lescano (2020) highlights Juan Agustín García's perspective of "always considering the law as a social construct" (p.). In turn, Fucito refines the analysis by introducing a "precise proposal for change, typical of positivism" (Year, pp.) and identifies the influence of tradition in "implementing progress inherent in the ideology of the Argentine intellectual class of the

time.” The next step is one that “distinguishes law from the norm,” reflecting the perspective of social phenomenology. In this context, a perspective emphasizing the interaction of law with other disciplines arises, prompting the advancement of political science through a critical examination of the phenomenology of power. The author raises a key question: can policy and law be considered separately (Lescano, 2020)?

Roberto Esposito articulates a political theoretical perspective that criticizes phenomenology. He challenges the idea of an interpretation that applies an ontological lens to policy, ultimately arguing that its essence is centered on the community. This idea is understood as that which is not individual but rather communal, drawing from the word’s Latin etymology, where the essence of the term is characterized by *munus*, signifying what is common rather than proprietary. Another prefix, such as *in*, can elucidate the concept of immunity, which ontologically pertains to the *munus*. This is a departure from the interpretative problem posed by phenomenology, giving rise to an essential idea for the political domain unrelated to moral interpretations. This exposition is crucial for this study, as it introduces the concept of “governmentality,” which refers to the technique through which policy is developed for the *munus*, bounded at one end by the prefix *com* and at the other by the suffix *in*. One could argue that policy technique aims to address the individual as a member of the community, taking into account their diversity (Hernández , 2018). The issue of phenomenological interpretation, which extends to questioning the moral quality of judges, is discarded in favor of a focus on investigating governmentality. In this case, this relates to the execution of the public policy cycle for addressing the needs of individuals with disabilities and the practice of dance.

5. The concept of “impolitics” by Espósito as the foundation for the public policy outlined in Ecuador’s National Agenda for Disability Equality 2021–2025.

Here, it is worth revisiting Espósito’s concept of the “impolitical” ontology of politics, which delves into the essence of political existence. Drawing on this approach as a technical mechanism of immunity, we can characterize the National Agenda for Disability Equality 2021–2025. This analysis will identify the policies, relevant indicators, and goals, as well as determine the

presence or absence of a baseline. It will also examine the institutions tasked with administering the benefits, thus serving as the governing bodies of sectoral public policy.

The National Agenda for Disability Equality (NADE) is a national planning tool designed to promote equality, specifically through affirmative actions targeting individuals with disabilities. It operates on a periodic cycle that coincides with the start of a new government, encompassing phases, such as evaluation, that lead to formulation, cross-cutting integration, observance, and monitoring. The agenda is structured around 12 thematic areas that advance rights as per the Convention on the Rights of Persons with Disabilities. This allows for the assessment of the country's progress in fulfilling international commitments, within both the inter-American system and that of the United Nations.

Concerning the exercise of rights to art and culture, the state objective is to promote the advancement of art and culture for individuals with disabilities across diverse societal domains. The governing and executing institutions responsible for implementing the benefits include the Ministry of Culture and Heritage, the Ecuadorian House of Culture, and decentralized autonomous governments. The National Council for Disability Equality (NCDE) also serves as a supporting institution.

Its four public policies are:

1. Promote the participation of artists and cultural affairs administrators with disabilities in artistic and cultural projects.
2. Encourage the provision of cultural goods and services for people with disabilities.
3. Develop training opportunities for artists and cultural affairs managers with disabilities.
4. Promote universal accessibility in cultural spaces. (Agenda Nacional para la Igualdad de discapacidades ANID 2021 - 2025, 2022)

The NADE 2021–2025 has been approved by the Secretary of Planning and has received academic recognition from the Pontifical Catholic University of Ecuador. Policies, before being implemented, undergo a participatory and consensus-based formulation process with service-providing institutions following participatory evaluation with civil society.

As a complementary methodology, guidelines aimed at bridging gaps are created. Furthermore, it is essential to specify the relevant sector institutions tasked with implementing these policies, particularly those focused on mitigation. Subsequently, the indicator, baseline for the year 2021, and target for 2025 are established. This approach aligns with Roberto Espósito's work regarding examining the essence of policy within its technical implementation. In Ecuador, the constitutional framework emphasizes direct democracy, featuring a fifth function of the state dedicated to citizen participation and social oversight. This organizational structure encourages dialogue between the public and private spheres.

The formulation of indicators generally follows a standard technique, unless particular specifications are needed. In terms of the present study, certain indicators exist that incorporate dance for individuals with disabilities without specifically highlighting distinctions based on disability type. The eight indicators are as follows:

1. Projects with competitive funding proposed by decentralized autonomous governments, where the baseline is seven and the target is to reach 21 by the year 2025.
2. Number of artists and cultural affairs administrators with disabilities participating in the National Culture System. This indicator currently lacks a baseline, which will need to be developed.
3. Evidence of artistic events featuring the involvement of artists and cultural affairs administrators with disabilities, facilitated by decentralized autonomous governments. This indicator currently lacks a baseline, which will need to be developed.
4. Development of audiences with disabilities for the arts. This indicator currently lacks a baseline, which will need to be developed.
5. Evidence of training for artists and managers with disabilities in arts, culture, and heritage programs. This indicator currently lacks a baseline, which will need to be developed.
6. Number of museums and libraries meeting accessibility standards.

These indicators aim to demonstrate and measure participation,

training, and accessibility in the cultural sphere for people with disabilities.

This argument aligns with the concept of the technical management of public policy as the essence of governance. The gathering of evidence will depend on the monitoring of service-providing institutions by the designated employee within the NCDE.

As a preliminary conclusion, it is important to highlight the significance of formulating equality-focused public policies within a protection-oriented framework. This approach aims to demonstrate material and substantive equality for the entire population. In this sense, equality is conceived as affirmative action for people with disabilities who have historically experienced marginalization. These categories fall within the legal domain and establish organizational mechanisms that are of interest to the field of sociology of law. This analysis can help answer the aforementioned question posed by Lescano, demonstrating that the interplay between law and policy constitutes part of a cyclical dynamic.

5. Debating public policy for disability equality through the lens of ableist theory and decolonial theory

The following section outlines points for debate for this approach, incorporating sociological insights by critically examining the concept of ableism, alongside perspectives from decolonial theory and the sociology of absences.

Ableism and functional diversity

The concept of ableism, as described by Toboso, “generally denotes an attitude or discourse that devalues disability, in contrast to the positive valuation of able-bodiedness, which is equated with a supposed essential condition of human normality” (Toboso, *Capacitismo*, 2017). He revisits the topic to bridge the gap between ableism and functional diversity. Following this, he positions the concept of functional diversity within “six distinct and interconnected dimensions of human experience: bodily, relational, political, ethical, social, and cultural, in relation to their corresponding dimensions within society. The idea of functional diversity emerges as a fundamental

element across all six dimensions, ranging from the bodily to the cultural” (Toboso, *Afrontando el capacitismo desde la diversidad funcional*, 2021). Ableism has been extensively studied in the Anglo-Saxon context. Some researchers, such as Fiona Campbell, have defined ableism as:

a network of beliefs, processes and practices that produces a particular kind of self and body (the corporeal standard) that is projected as the perfect, species-typical and therefore essential and fully human. Disability then, is cast as a diminished state of being human. (Campbell, 2008)

The issue raised by ableism is particularly significant in Ecuador given the continued prevalence of the traditional concept of legal capacity for safeguarding individuals with disabilities. Ecuadorian law has introduced mechanisms such as guardianships, as described in Article 367 of the Civil Code, which stipulates it as a responsibility imposed on behalf of those unable to manage their own affairs. Article 371 of the same legal code adds clarification, specifically mentioning those subject to interdiction, while Article 478 establishes that individuals “habitually in a state of dementia shall be deprived of the administration of their assets, even if they have periods of lucidity” (Código Civil, 2005). Article 1462 of the same code states that every person is legally capable, except those who are declared incapable by law. Moreover, the following article, which was amended in 2012, seeks to update the definition of those who are absolutely incapable, namely: “individuals who are mentally incapacitated, minors, and deaf persons unable to communicate verbally, in writing, or through sign language. Their actions do not establish natural obligations and preclude the provision of surety” (Código Civil, 2012). In other words, interdiction may be declared as a protective measure for the incapable individual.

According to Otaola and Huete, ableism is intertwined with socioeconomic factors that affect individuals with disabilities within a social model of disability, as outlined in the public policy agenda for disability inclusion. This could be understood in terms of the individual’s socioeconomic status within their assigned stratum, determined by their poverty quintile in relation to the benefits provided by social welfare programs (Otaola & Huete, 2019). Herrera and Vera contribute another perspective with their research on the participation of individuals with disabilities in university education; despite their presence in academia, barriers complicate the

advantages of their position (Herrera & Vera, 2021). Additionally, Danel and Gabrinetti review the “discussions surrounding social protection systems and the tensions arising from targeted policies,” aiming to address the following questions, all within the legal framework of rights: “Has this policy been designed and implemented considering social protection as a goal to be achieved? Are these programs linked to other state interventions, and are they framed within a social protection system? Do non-contributory pensions for individuals with disabilities remain embedded within social protection systems, and are they being aligned with employment-generation strategies?” (Danel & Gabrinetti, 2018).

Decolonial theory and disability

On the other hand, and to provide a critique of the approach to public policies regarding inclusion in dance for individuals with disabilities, one can draw upon the influential perspective of decolonial or postcolonial philosophy, as articulated by Boaventura de Sousa in his 2022 book *Postcolonialism and Decoloniality*. De Sousa, citing Mignolo, defines this approach as the criticism of colonial thought with interests of subjugation, focusing on “the underlying logic driving the establishment and development of Western civilization from the Renaissance to the present day” (De Sousa Santos, 2022).

He identifies five challenges that must be faced by authors identifying a Eurocentric colonial logic and intentionality in the intellectual production of Western modernity must confront: “the antinomies of the epistemic South in diaspora, the problem of matrioshkas, the issue of the strata of colonialism, the inertia or excessive life of dominant ideas, the eternal return of reaction, and realistic utopias.” For the purposes of the current study, the first challenge is highly relevant, as it focuses on the concept of the “antinomies of the epistemic South in diaspora” and identifies the challenges regarding the authorship of intellectual anticolonialism, which leads to questions about the possibilities of communication for the subaltern subject, understood here as individuals with disabilities.

While the discourse of modernity includes the concept of equality among its foundational ideas, it has been established, thanks to the rights-based paradigm, that there exist both a legal and a substantive equality achieved through affirmative actions for certain groups historically marginalized from

power. The author asks: “Can the subaltern subject speak? What happens when, instead of a misrepresentation, there is a false representation, an ignorance, an absence?” In the context of disability, the use of sign language within the deaf community raises an important question: can this linguistic barrier be perceived as part of a decolonial agenda aimed at concealing specific cultural identities? De Sousa Santos’ concept of a sociology of absence could also be applied here. There is an evident need to recover nonacademic, popular, vernacular, and traditional knowledge, as well as the accumulated best practices across various activities, for people with disabilities to exercise their rights, given the outlined challenge of “developing a postcolonial and decolonial consciousness within pervasive colonial institutions via the use of languages, narratives, and colonial stereotypes” (De Sousa Santos, 2022).

The concept of matrioshkas introduces the debate on co-creation and co-self-destruction as foundational elements in the appropriation of space by individuals with disabilities. De Sousa Santos cautions against solely focusing on analyzing the discourse of the colonizer; it is important to also consider how individuals with disabilities position themselves in relation to expressions that perpetuate their dispossession and dependency. A third issue highlights the strata of colonialism, referring to the successive layers over time in the co-creation relationships between the logic of the oppressor and the oppressed, to the detriment of their dignity and identity. A fourth challenge identifies the intellectual inertia that perpetuates dominant ideas, particularly within academia, despite criticisms of Eurocentrism, rather than proposing positive, constructive alternatives, both in terms of epistemology and methodology, as well as real-life policy (De Sousa Santos, 2022).

Lastly, the final challenge is characterized as “the eternal return of reaction,” often expressed collectively as a safe haven to perpetuate dependency. In most cases, reactionary ideology takes the form of apocalyptic visions and fundamentalist religious dogmas. While postcolonial or decolonial studies indicate the challenges, they also identify spaces of resistance utilized by oppressed social groups, such as individuals with disabilities. These expressions do not involve direct confrontation, and as such, they are not recognized as political actions aimed at positioning themselves against political power. At this point, De Sousa Santos references James Scott and discusses “everyday forms of resistance” that challenge material domination,

the “hidden transcripts,” like those that dispute situational domination, and the “development of dissident subcultures” that confront ideological domination (De Sousa Santos, 2022). In the context of disability care in Ecuador, practices implemented by mothers, teachers, caregivers, and individuals with disabilities span various fields. However, these practices remain largely undocumented due to associated stigma and concealment.

Thus, the counterargument can be summarized into two main avenues. First, criticism emerges from the epistemological model of modernity, which identifies a framework characterized by a binary logic of ableism and functional diversity. Second, it highlights an inclination toward subjugating the group of people with disabilities to perpetuate a colonial logic of subordination. These criticisms, one pertaining to the epistemological model and the other to the ontological understanding of policy, are reflected in legal expressions that, in turn, respond to the sociological understanding of the facts.

The question posed by Lescano regarding the separation between policy and law, as discussed herein, implies the need to delineate the epistemological model and political theoretical framework more clearly to identify the position of individuals with disabilities and uphold their dignity. This encompasses not only cultural rights, such as engaging in dance, but also the challenges they face due to their marginalization in terms of bodily beauty, movement, and, in some cases, the perception of sound. The sociology of law offers an apt social context for engaging in these reflections.

CONCLUSIONS

Although facts drive the theoretical apparatus of the sociology of law, having a robust theoretical framework enables the examination and extension of understanding to other phenomena. For instance, critical ableist theory arises as an extension of feminist theories, illustrating the exclusion of the subject, namely the person with a disability.

1. Decolonial theory, as an epistemological model, can shed light on the boundaries of exclusion experienced by individuals with disabilities, thus indicating areas of inquiry within the sociology of law.

2. Theories of the sociology of law benefit from insights drawn from other disciplines, such as contemporary political theory, which focuses on the ontological nature of its subject matter.
3. Public policy provides the minimal legal response to establish a foundation for addressing the needs of people with disabilities.
4. According to the ableist perspective, functional diversity falls outside the scope of equality policy within a rights-based model.
5. Ensuring the right of people with disabilities to engage in dance can be achieved through public policy, establishing governmentality as a technical mechanism that interprets policy based on results rather than metaphysical or moral considerations.
6. Drawing from Roberto Esposito's theoretical framework, disability presents a challenge to policy's coverage. In some cases, individuals within the community may be unable to express their personality due to cognitive impairments or psychosocial conditions, limiting their awareness and agency.
7. Incorporating dance into the physical education curriculum allows it to be firmly integrated into the domain of public policy, ensuring its sustainability and facilitating effective outcome evaluation.

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