

Special Education Policies in Different Realities: United States and Mexico

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ABSTRACT – Special Education Policies in Different Realities: United States and Mexico¹. This study aims to compare the definitions and directions of the legislation that ensures the attempts to include public students of Special Education in common schools in United States and Mexico. It works with the sociological-figurational theory of Norbert Elias (1993; 1994; 2001; 2006; 2011) to dialogue with the socially produced reality amidst the civilizing process between these countries. It uses the international comparative study as its methodology, analyzing education policies by legislation and public policies on the theme and looking for similarities and differences in the studied realities.

Keywords: Comparative Research. Educational Policy. Educational Legislation. Special Education.

RESUMO – Política de Educação Especial em Diferentes Realidades: Estados Unidos e México. O presente trabalho tem como objetivo comparar as definições e direcionamentos das legislações que asseguram as tentativas de inclusão de estudantes público da Educação Especial nas escolas comuns em duas realidades: Estados Unidos e México. Trabalha com a teoria sociológica-figuracional de Norbert Elias (1993; 1994; 2001; 2006; 2011), com o propósito de dialogar com a realidade socialmente produzida em meio ao processo civilizador entre estes dois países. Utiliza o estudo comparado internacional como metodologia, traçando uma análise das políticas de educação, por meio das legislações e das políticas públicas que tratam do tema, para em seguida buscar similaridades e diferenças das realidades estudadas.

Palavras-chave: Estudo Comparado. Política Educacional. Legislação. Educação Especial.

Introduction

This study addresses Special Education in the United States and Mexico based on their federal legal frameworks. Its analysis articulates the laws that regulate the rights of Special Education by focusing on students with disabilities, global developmental disorders, and high abilities and giftedness.

This factor emerges in the debate with the aim of this study, which, by understanding individuals as holders of rights, deems that the legislative aspects that ensure such rights stem from the agreements countries establish between themselves and international organizations to expand systems in favor of the civilizing aspect of *sympathy* (Elias, 2006).

In this sense:

[...] we hope to contribute to the refinement of the International Comparative Study on the Social Process of Special Education [...], so that it is possible to observe other aspects among the incalculable ones in the flow of the Civilizing Process that help in the interpretation that is intended to be made about how society has produced knowledge through the understanding that it is only possible to maintain a Civilizing Process as long as it allows one to understand the plurality in which it is to live in society (Hora; Pantaleão, 2018, p. 96).

Such considerations emerge from the fact that Mexico, although permeated by relations of local inequalities, remains in line with the discourse of production of a humanity that understands itself as plural and has inseparable singularities (Conceição, 2017; 2022). The United States, despite having a federal law for Special Education since 1975 based on previous frameworks, still shows inequalities regarding its materialization since each state has the autonomy to constitute its own legislation (Hora et al., 2022; Santos, 2022; Santos et al., 2024).

Thus, our investigative perspective is anchored in international comparative studies in Special Education, deeming this methodology as an interdisciplinary field based on dynamic and methodologically open knowledge (Sobrinho et al., 2015). Its comparative macroscopic analysis relies on the current legislation of each country on education and Special Education because, according to Elias (2011), legislation represents power in its own time.

Theoretical Framework

Thinking about legislation that values the schooling of public Special Education students requires observing the implications of cultural factors on legislation and that this movement occurs simultaneously but differently across countries. This process occurs with the expansion of the frameworks of thinking about the humanization of ourselves as individuals who make up society. We find that:

The pressures operating upon the individual now tend to produce a transformation of the whole drive and affect economy in the direction of a more continuous, stable and even regulation of

drives and affects in all areas of conduct, in all sectors of his life (Elias, 1993, p. 202).

Thus, the configuration of legislation that respects the singularities of public Special Education students belongs to what Elias (2006) enables us to analyze as the result of a *diachronic continuum* (Elias, 2006, p. 211) since in other times and spaces, such as those demarcated by wars, the existence of the other is understood as something to be lost by the impulses to kill or die at any moment.

Observing Special Education from an inclusive perspective involves understanding that the stage of civilization and sympathy defended by Elias (2006) required a long historical period to reach its current point (which is yet to end), which in Eliasian theory, will continue for generations in unfinished processes.

When these understandings materialized themselves in the legislation of many countries (even if culturally it is impossible to immediately change segregating behaviors), we at least have apparatuses with which individuals who need these legal affirmative actions can exercise demands against other individuals and against the State.

With this, we want to reinforce the cultural production between the relationship between established and outsiders (Elias; Scotson, 2000) in the objectification of the Social Process. Moreover, legislative aspects are unable to change the way in which subjects behave automatically; in other words:

Adherence to the common code serves their members as a social badge. It strengthens the feeling of belonging together in relation to 'inferiors' who tend to show less restraint in situations in which the 'superiors' demand it. 'Inferior' people are apt to break taboos which the 'superior' people have been trained to observe from childhood on. Breaches of such taboos are thus signs of social inferiority. They offend, often very deeply, the 'superior' people's sense of good taste, of propriety, of morals, in short their sense of emotionally rooted values. They arouse in 'superior' groups, according to circumstances, anger, hostility, disgust or contempt and, while adherence to the same code facilitates communications, breaches create barriers (Elias; Scotson, 2000, p. 171).

We base ourselves on these analyses to state the importance of the tensions that are provoked in the social fabric in which individuals who compose it may disagree with the changes in the templates to which they were adapted in the long historical duration.

As individuals, we are formed by individual history, our particularities, and the influences from the social environment, constituting us as a singular entity (identity-I). During our social development, we observe in groups or individually no single social level but many levels, some higher than others, such as social strata. Several factors can cause what Elias (1994) considers the social differentiation in the formation of human groups. This can follow the natural (biological factors) or the social order (cultural factors), connecting us to a group as soon as we become aware of this difference.

We can consider a stigma certain groups socially impose on others by using biological factors as a sign of inferiority from one individual to another.

Addressing Special Education students shows that biological and social factors become key elements that socially identify and stigmatize them as inferior, with variations occurring from one reality to another.

Analyzing the processuality of social relations, Elias (1994) bases sociodynamics on the chances of power between individuals and groups. For the author, the concept of power offers the opportunity individuals or groups of individuals enjoy to influence the destiny of those who maintain some relationship of (inter)dependence.

In these relationships, Elias and Scotson (2000) identify two groups of social actors, the established and the outsiders. The authors analyze the balance of power in the interrelationship between established groups (who enjoy privileges and power) and outsiders (who are marginalized because they fail to fit into a certain socially or biologically imposed standard).

The power of action and decision is directly linked to figuration in society, including the power attributed to it. Our individual freedom of decision is always limited and variable but it may be more limited to the group considered outsiders since their access to instruments of power is usually restricted, depending on their relationship with the established.

Thus, it is important to consider that the balance of power reinforces permanently unequal interdependence relations; an unstable, totally flexible situation loaded with feelings such as shame, fear, inferiority, pleasure, joy, disgust, among others. We are unable to consider that the currently established or outsiders will remain so since social relations are constantly changing.

The relative and fleeting status of the established depends on their control and maintenance of power to remain in this position. Thus, the interrelationship with other groups they establish/constitute refer to the power that can be tensioned and possibly altered depending on the interests and objectives at stake in this sociodynamic (Elias; Scotson, 2000).

At some stages the instruments of violence available to some may allow them to deny others what they need to secure and fulfil their social existence, or constantly to threaten, subjugate and exploit them; or the goals of some may actually require the social and physical existence of others to be destroyed (Elias, 1994, p. 44).

The stigmatization of outsiders and the social dynamics that build it corroborate our dependence on the time, place, and circumstances in which we were born and raised, the functions and the social and financial situation of our family members, and our schooling (which comprise only some mechanisms of access to power). In view of the social dynamics around the world, access to Special Education

varies according to location (*social habitus*) and to what is available in this modality.

Note that stratification is not a unique process in societies. It may vary with the modification of the *social habitus*. This has well-defined characteristics such as language (also flexible), production of identities-I and identities-we (as is the case of nationality), a definition of the place in which the individual is born and/or resides, and changing relations of power that are configured in the “[...] the manipulation of feelings in relation to state and nation, government and political system, is a widespread technique in social praxis” (Elias, 1994, p. 171). The feelings manifested between individuals and/or groups of individuals toward the State include love (affective charge) and hatred (conflicts and interests). The stratification of people with disabilities or public Special Education students changes according to the place from which they are approached and modifies the relationship of individuals with the State.

No stratification criterion suits all societies, only fitting forms of grouping according to someone’s or a social group’s perspective. Special Education students face a stratification of who defines them as such, i.e., from the perspective of the third person plural – “they.”

As for power relations and the established, we have instruments such as the educational policy of a nation, resulting from conflicts and struggles between interests in different contexts and an instrument for established people to maintain their status, reflecting a hierarchical behavior.

Principles of a methodological perspective of comparative research

We lean toward a comparative study perspective that aims to break with binary modes such as *better* and *worse* when analyzing the political contexts of countries; in this case the United States of America and the United Mexican States, or just Mexico, according to their historical constitutions.

We propose to produce paths that enables us to acquaint ourselves with other realities, which “[...] helps us to understand the chapter of human history that we write with others” (Sobrinho et al., 2015, p. 335; Martin; Pitthan; Machado, 2018).

Thus, we state that the way in which comparative studies in Special Education are carried out across countries explains the wide diversity of educational systems. This multiplicity of actions drives us to the need for comparative studies so that a certain social reality comes to dialogue with others, helping us to perceive a little of the other in us and making the conjuncture of exchanges establish itself to promote a social development of education that offers access to historically categorized knowledge.

This meeting between *others* opens perspectives interactions, enabling us to observe those the construction process of which of the

constitution of instituted and instituting policies across contexts will enable approximations of a self with the *other* and vice versa, favoring the increasing distance from ready-made truths and models, enabling us to be inconclusive (Freire, 2018).

This perspective of comparative study also favors the very way in which we study Special Education across countries since:

Our understanding of disability, when arranged in an international comparative study, has as one of its principles to grasp it not as something that is missing, but as what characterizes the singular, contributing to the care focused on particularity as a synthesis of human historicity, when comparing it with itself and across different times and spaces (Hora et al., 2022, p. 36).

Investigative comparative research can analyze the relationship of learning in Special Education as part of the Civilizing Process in the United States and Mexico under an anti-colonial stance.

The understanding of the production of knowledge, mediated by the processes of learning and teaching, can happen when we allow ourselves as individuals to belong to a macro-social condition (Elias, 2006) that is permeated by the interaction amidst the ideas in society in contact with what enables individuals to perceive themselves amidst plurality.

By trying to contribute to Education and particularly to Special Education based on the perspective of Inclusive Education by an International Comparative Study, we aim to produce research that reflects something beyond simplistic perceptions about what exists in one country and not in another and vice versa.

Thus, we refer to the fact of considering what we perceived in the United States and Mexico, the comparative study of which was fundamental to propose internationalization and promote a parallel between the same phenomenon: the schooling of students with disabilities, global developmental disorders, high abilities, and giftedness.

Let us consider that being human refers to a constant production that belongs to the Civilizing Process, as Elias (2011) points out, occurs when we observe the other, we are observed, and “[...] we produce the individual modes of interaction with which we characterize ourselves as a society” (Hora et al., 2022, p. 46).

With this, we argue that comparative studies enable learning from the other in a historical-cultural relationship built in society because “[...] this biological transformation of the human type [...] does not represent a prerequisite but instead is a result of the social liberation of man” (Vygotsky, 2004, p. 10).

Furthermore, knowledge construction entails comparisons. As a sensory path, it explains the objects and/or subjects to be known, promotes rationality, and is in charge of aiming at distinction by establishing parameters and deciphering and comparing the obtained information. We construct and reconstruct the very object of knowledge by observing.

When we look for references in comparative Education studies, we target principles that represent the need to recognize that we need to ask the sources when we lack knowledge, in which such direction finds the point of importance of the continuity of scientific research, which by questioning the other, questions itself.

Special Education Policies in the United States

To understand the chosen social relations under Eliasian theory, analyses refer to the macrosocial issues of the organization of the chosen countries. We must consider that its federated states and municipalities have relative autonomy to design their public policies for Special Education regarding the human, work, and financial material to execute what is provided for in federal law. Thus, the state of Connecticut serves as a research site, failing, despite following the guidelines in the federal law, to reflect the reality of all USA states.

Thus, the identity-we of the American citizen has a series of rights and guarantees the federal law recognizes and characteristics such as the recognition of space as a State, its own laws and social rules, and the languages adopted by the country. These laws can configure a matter of survival for certain groups (Elias, 2001).

Among the federal statutes for students with disabilities in the United States, we highlight the 14th amendment of the Federal Constitution (USA, 1899), the Americans with Disabilities Act, Section 504 of the Rehabilitation Act (USA, 1974), and the Individuals with Disabilities Education Act (IDEA) (USA, 2004). The Constitution of the United States, the oldest written constitution in force in the world, was promulgated in 1787. However, its 14th amendment was only adopted in 1868, which is directly related to the current formation of the identity-us of the American citizen in its section 1 by ensuring that:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Thus, we find that the configuration of legislation that respects the singularities of public Special Education students belongs to what Elias (2006) analyzes as the result of a *diachronic continuum* (Elias, 2006, p. 211).

In addition to these constitutional rights, other laws provide for guarantees such as the right to education and that all students with disabilities must be schooled in regular classrooms as similarly as possible to their peers without disabilities (Rothstein; Johnson, 2014; USA, 2004).

The 1990 Americans with Disabilities Act addresses the civil rights of people with disabilities and guarantees the prevention of

their discrimination regarding accessibility, employment, transportation, or public accommodation, ensuring that they have access to the same rights and services as those without disabilities. Rather than only referring to inclusion and access in the school environment, it includes any environment common to all people.

Section 504 of the Rehabilitation Act (USA, 1974) requires states to provide students with disabilities with appropriate educational services that can meet their individual needs to the same extent that they meet the needs of students without disabilities. An appropriate education for a student with a disability, in accordance with the regulations of Section 504 of the Rehabilitation Act (USA, 1974), may consist of education in regular classrooms, education in regular classes with complementary services, and/or Special Education with related services.

These laws address issues of Special Education and guarantees and protections for people with disabilities in society (Rothstein; Johnson, 2014). According to Rothstein and Johnson (2014), in 2008, the United States Congress amended the definition of disability to the ADA (1990) and Section 504 of the Rehabilitation Act. Both protect individuals with physical or mental impairments that substantially limits one or more major life activities.

In 1975, the United States Congress passed Law 94-112, the Education for All Handicapped Children Act, which defined rules, regulations, and legal guarantees for children/students with disabilities, despite previous legal provisions guaranteeing these rights. In 1990, the legislation changed to Individuals with Disabilities Act - IDEA (USA, 2004), which significantly changed in 2004 (Morin, 2014).

IDEA (USA, 2004) defines Special Education as “[...] Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability” (USA, Sec 300, Subsection/paragraph 39, 2004). The definition of person with disabilities, Special Education, and the Special Education population changed over time and were modified by law, i.e., also constituting a constantly mutating process (Elias, 1994).

Thus, the Special Education legislation in force constitutes a historical construction that has changed to fit reality since 1975 in the United States given the changes/adaptations that arise with the materialization of the policy in society.

IDEA (USA, 2004), the main law on Special Education in force in the United States, has four sections. Sections A and B cover all the rules, regulations, and procedures to determine eligibility to access Special Education and related services. Part C addresses procedures and services related to children with disabilities or at risk (known as early intervention), and part D defines federal funds for research, staff training, parent training, technology, and other ways to provide information on effective practices related to Special Education and early intervention for children.

As the federal fund covers some costs of Special Education, local administration (states, municipalities, or districts) must define and apply complementary funds to identify, evaluate, locate, and refer students who need Special Education, provide the appropriate school environment, and carry out early interventions (Zirkel, 2015; Rothstein; Johnson, 2014).

Students having a disability fails to render them eligible for Special Education and its related services. According to IDEA (USA, 2004), students fall into the definition of children/students with disability (with 13 categories) to be considered Special Education students.

[A] child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as 'emotional disturbance'), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services (USA, 2004).

In addition to categorization, a striking requirement from the IDEA (USA, 2004) is that students must request Special Education services as a result of their disabilities, i.e., students who need the related services and who are ineligible for Special Education lack the same rights and guarantees as eligible ones (Zirkel, 2015). If students can access the school curriculum in regular education classes, they have no access to the guarantees provided for by law.

Disability must adversely affect students' educational performance, requiring an instructional program specially designed for them. IDEA (USA, 2004) also limits the age range for students who have the right to Special Education (from three to 21 years). This age group encompasses the levels of education of the kindergarten to high school.

The literature has criticized this IDEA categorization system (Stiefel et al., 2018; O'Laughlin; Lindle, 2015), including for it failing to always reflect students' reality, which tends to label and/or stigmatize their disabilities and become something difficult to change. Another relevant criticism refers to the gaps in the categorization system as some states recognize students with high abilities, giftedness, and attention deficit as a Special Education population, whereas others fail to do so due to legislative autonomy of each state.

Thus, everyone has the right to a free and adequate education from the initial grades to the final grades of basic education in the United States, but accessing Special Education requires an evaluation process (Zirkel, 2013). Legal guardians, students aged over 18 years, school team professionals, or other professionals such as physicians or social workers can request this evaluation.

Students only undergo evaluation with the written consent of their legal guardians, so families are prominent in the balance of pow-

er (Elias, 1994) of Special Education. The entire evaluation process must be described before it is started and students' guardians may agree, disagree, or accept with reservations suggesting modifications.

If students are found to be eligible for Special Education, the process of team development of an individualized education program (IEP) begins, which is the document that guides student service.

According to the law, students' guardians must receive a copy of the IEP translated into their mother tongue, if necessary, within five school days after the meeting held to review and/or revise the IEP. This document must be reevaluated annually to define what changes should be made for the next school year and objectives must be reviewed, changed, or proposed.

In Special Education, IDEA (USA, 2004) stipulates that in addition to the IEP, students have the right to receive related services according to the need in their eligibility assessment. Mourin (2014) lists a series of services that may be available according to students' specific needs, such as psychological services and/or counseling, social assistance, physiotherapy, occupational therapy, speech and audiology services, guidance and mobility services, special transport, interpreter services, assistive technology, medical services (used for evaluation rather than for continued care in school), and school nursing.

This fails to mean that these services are available in all schools. Some are available in a certain region or concentrated according to the Special Education program specialty offered by the school. Some are usually fixed, such as school nursing and counseling services, and others may be itinerant, in which professionals are available at the school on certain days and times of the week.

Thus, the recognition of self-identity as part of the Special Education population in the United States establishes legal criteria such as falling into one or more of the 13 categories of disability in the IDEA; being aged from three to 21 years; having difficulty or limitations accessing the common curriculum due to a disability; undergoing an evaluation that involves professionals from several areas, such as education and healthcare providers; the development of an annually reviewed IEP, and, above all, the written consent of students' guardians in the evaluation process to implement the IEP. The evaluation may vary from state to state since they can define how the process will be carried out (USA, 2004; Morin, 2014; Zirkel, 2015).

Special Education Policies in Mexico

In continuity with the comparative perspective of this study, we have selected the following legislations to debate the right to access Special Education in Mexico: *Constitución Política de los Estados Unidos Mexicanos* (1917), *Ley General de Educación* (1917) (1993), and *Ley General de las Personas con Discapacidad* (2005) as they regulate the other state and federal legislation to be established and exclusively address the process of school education from kindergarten to the

stricto sensu graduate level. This study analyzed such legislation based on the State of Veracruz de Ignacio de la Llave.

Our observations on the legislation are also based on data such as those of the *Programa Sectorial de Educación 2020-2024*, which stemmed from *Plan Nacional de Desarrollo 2019-2024* by the Secretariat of Public Education of Mexico. This document was published in the Official Gazette of the Mexican Federation on July 6, 2020.

The issues it points out include the relevance of guaranteeing the right to the entire population of Mexico to an equitable, inclusive, intercultural, and integral education, which has the greater interest of children, adolescents, and youths as its main axis. The document estimates that 31.7% of the population aged from six to 17 years who are included as public students in Special Education are illiterate (México, 2020).

We chose to identify the laws that address the macro plan and how each law is to be configured. In other words, the analyses of Special Education in the Mexican legislation aim at a dialogue so the configuration of the legislative aspect of a country follows macrosocial plans, reverberating in organizations to apply it in an individual way linked to a whole.

Thus, *Ley General de Educación* (México, 1993) offers the criterion for serving individuals who have this right:

Article 41 – Special education aims to identify, prevent, and eliminate barriers that limit the learning and full and effective participation in society of persons with disabilities, severe learning, behavioral or communication difficulties, as well as those with exceptional abilities. It will serve students in a way that is appropriate to their own conditions, styles, and learning paces in an inclusive educational context, which must be based on the principles of respect, equity, non-discrimination, substantive equality, and a gender perspective (México, 1993).

In a practical way, the Mexican public management of special education operates with a policy that aims to improve the schooling of people with disabilities and/or with global developmental disorders. They concomitantly use Special Education services such as *Unidad de Servicio y Apoyo a la Educación Regular*, *Unidad de Atención al Público*, and *Centro de Atención Múltiple*, carried out in regular schools and/or in conjunction with it (Hora et al., 2023; Santos et al., 2024).

These constitute national services in which each state operates according to its own financial and professional conditions and in which multiple teams work in parallel with the common schools in complementary and supplementary services and substitute services.

For all cases, the teams composed of professionals from psychology, psychiatry, pedagogy, and social assistance, operate with evaluations to decide for the inclusion of Special Education students in regular schools. Otherwise, they will receive support in a space different from the school. On this issue, Pantaleão et al. (2017, p. 843) argues that:

The set of Special Education services made available by the Veracruz public administration, articulated with the challenges present in the continuation of studies by students with disabilities and/or with global developmental disorders, indicate the importance of a (re)envision of the conceptions of disability and the State that outline the inclusive policies implemented. In the process of (re)envisioning these conceptions, it seems important to us that the experiences lived in educational spaces be taken as a reference in the evaluation of educational policies and proposals. Without reference to what has been done and what is accomplished at school, we run the risk of continuing to take possibilities as an eternal becoming, while challenges and tensions will be seen as the justification for not doing so. In the set of these reflections, it is also important to highlight the trajectories and school flow of students who are the target audience of special education. Similar to what happens in several Brazilian municipalities, the municipality of Xalapa has a concentration of enrollments of this public in primary education, corresponding to the first years of elementary school in Brazil. An equivalent relationship is also observed when we focus our attention on early childhood education, whose number of enrollments are much smaller. Finally, we are alerted to the importance of conceiving the school as a social and historical institution, often marked by tensions and difficulties related to the exercise of inclusive education (Ferreira; Lopes, 2016). Understanding the school as a social and historical institution implies considering that, although not exclusively, school support services constitute an important device capable of enhancing pedagogical practices for students with disabilities and/or with global developmental disorders.

Thus, our defenses, even if valid, about the process of inclusion in common schools, must avoid value judgments regarding the perspective of the other, even if this other is on a similar path, as can be observed in article 3 of *Ley General de Educación* (México, 1993), alleging that this reflection demarcates a model of society that is supported, for example, by what is provided for by *Constitución Política* where as:

Article 3. All people have the right of education. The State – Federation, States, Federal District and Municipalities – will provide preschool, elementary, middle and high education. Preschool, elementary and middle educations are considered as basic education; these and the high school education will be mandatory. Tertiary education will follow the terms of item X of this article. Initial education is a child's right and it will be up to the State to raise awareness of its importance (México, 1917).

Both laws underpin the way in which *Ley General de las Personas con Discapacidad* (México, 2005) establishes the criteria for the provision of Special Education. Thus:

Article 2 – For the purposes of this Law, it shall be understood as: IV. Special Education – A set of services, programs, guidelines, and specialized educational resources made available to people with some type of disability, that favor their integral development and facilitate the acquisition of skills and abilities that enable them to achieve their goals in education (México, 2005).

It is important to note that Special Education in Mexico is aimed at people with disabilities or global developmental disorders. Thus, this population is to be served by the education networks as public students of Special Education (Pantaleão et al., 2017).

Ley General de Educación (México, 1993) also ensures that the State must offer inclusive, public, free, and secular universalization of Education, although, depending on the location and the resources available for a given school, the federative pact asks a certain amount from families on a voluntary basis, which varies according to the socio-economic conditions of each family nucleus. And these contribute, or not, with a symbolic value, called *propina*.

The nomenclature in Mexico for this activity should not be translated literally into, for example, Portuguese given that the perspective is linked to voluntary contribution rather than corruption toward benefits. Although we can establish a dialogue on issues between the public and the private, for this case, we preserve the voluntary and non-derogatory intention.

However, thinking about continuous and unfinished processes, the promulgation of this decree offered a great advance in the history of Education in the country since it shows the commitment by those who directly live with it, their family members, and organized civil society exercising force against the state, as in Juárez et al. (2016) and Conceição (2017). Thus:

Article 18. To comply with the provisions of article 3, item II, item f, the Federal Executive, within a maximum period of 180 days from the entry into force of these provisions, shall define a National Strategy for Educational Inclusion, which shall establish actions and steps for its progressive implementation. Special Education in its different modalities will be taught in exceptional situations (México, 1917).

We can observe, for example, how *Ley General de la Educación* (México, 1993) addresses Special Education in a text that shows a universal, public, and free design. However, despite prohibiting the collection of any amount for attendance at basic school, it allows the donation of various contributions:

Article 6 – The education that the State provides shall be free of charge. Voluntary donations for said education will not, under any circumstances, be understood as compensation for the educational service. The educational authorities, within the scope of their competence, shall establish the mechanisms for the regulation, destination, application, transparency and inspection of voluntary donations or quotas. The payment of any consideration that prevents or conditions the provision of the educational service to students is prohibited. In no case can enrollment, access to school, the application of assessments or exams, or the delivery of documentation to students condition or affect in any way the equal treatment of students to the payment of any consideration (México, 1993).

In addition to the apparatus that corresponds directly to the State in offering physical structure to fulfill inclusive education, other tools must be enhanced, such as one of the fundamental ones: teachers. Thus, initial and continuing education emerges as essential since, despite *the same disabilities*, the way in which each subject learns will vary according to his concept as an individual. Thus, determinisms and ready-made formulas fail to apply when we think about learning and teaching, regardless of whether individuals need specialized educational care.

Such prerogatives help us to analyze what is provided for in *Ley General de la Educación* (México, 1993) to address the importance of the participation of the State in public policies, without excluding the particularities of care, and the permanent training of teachers, so that its article 13 addresses the “[...] attributions [which] correspond exclusively to the local educational authorities, in their respective competences: I- To provide services of initial, basic education, including Indigenous, special, normal, and others for the training of teachers” (México, 1993).

In addition to the guarantee of legislation, the physical and material apparatus of education spaces, and initial and continuing training for teachers to work in education, we must join the financial factor; in a world such as ours, whose relations are based on those of exchange via money, education is impossible without financial investment.

Each country will define its financial organization and the responsibilities that fall to each federated entity. *Ley General de la Educación* (México, 1993) states the following:

Article 25 – The Federal Executive and the government of each federative entity, subject to the respective provisions of applicable public revenues and expenditures, shall contribute to the financing of public education and educational services. The annual amount that the State – Federation, federative entities, and municipalities – allocates to spending on education and public education services cannot be less than 8% of the Gross Domestic Product of the country, allocating from this amount, at least, 1% of the gross domestic product for scientific research and technological development in public institutions of higher education. In the allocation of the budget for each of the levels of education, continuity and concatenation between them must be given so that the population reaches the highest possible level of education (México, 1993).

This entails the urgency of analyzing education systems so that the issues that emerge from teaching practices offer financial resources for their execution and enable the federated entities to enter into an agreement so that the execution of the budget ensures the schooling of individuals. Thus:

[...] The distribution of power and authority are the basic elements of federative tensions, which manifest themselves both in terms of structure and processes. The interdependence that characterizes federations requires processes of sharing in deci-

sion-making about the political life of the nation, which, although having their guidelines provided for in the constitution, are largely determined by the dynamics of intergovernmental relations, the configurations of political institutions, and the design of public policies (Cavalcanti, 2019, p. 317).

The manner in which Mexico organizes its public policies for the educational service of basic schools depends on how the federative pact is operationalized between each state and municipality with the federal government and the agreements made with union entities, as provided for in the Transitional Parts of *Ley General de la Educación* (México, 1993).

Despite the scope of the legislation in pointing to Special Education in the Inclusive Perspective so students' assistance belongs to a long historical process, we are unable to consider this service as universal since:

The set of Special Education services made available by the Veracruz public administration, articulated with the challenges present in the continuation of studies by students with disabilities and/or with global developmental disorders, indicate the importance of a (re)envision of the conceptions of disability and the State that outline the inclusive policies implemented. In the process of (re)envisioning these conceptions, it seems important to us that the experiences lived in educational spaces be taken as a reference in the evaluation of educational policies and proposals. Without reference to what has been done and what is done in school, we run the risk of continuing to take possibilities as an eternal becoming, while challenges and tensions will be seen as the justification for not doing it (Pantaleão et al., 2017).

In other words, although enrollment in the common school network is legally foreseen, depending on social, economic, and political conditions, some municipalities or states have been unable to effectively serve the Special Education population in regular schools, who continue to enroll in specialized institutions linked to the State or philanthropic ones.

This dynamic between regular and specialized schools configures a continuous and unfinished flow that governments, civil society, and public Special Education students design due to the needs and paradigms of the inclusive school perspective in Mexico.

Synthesis and remarks

Without any reductionist and/or generalist aims, we systematized the points we deemed relevant in our analysis of the legislation and particularities of each reality. We understand that our syntheses and notes fail to exhaust the possibilities of discussions about the Special Education policies in these two countries, only constituting an important strategy that can indicate paths and guide us to an analytical-investigative practice. Briefly:

Chart 1 – Summary of Special Education policies in the United States and Mexico

Country	USA	Mexico
Federal Constitution and the right to Education	Amendment 14 (USA, 1899)	Article 3 (México, 1917).
Characteristics of Public Education	Public, free, appropriate education.	Inclusive, public, free, and secular education.
Legislation on people with disabilities	Americans with Disabilities Act - ADA and Section 504 section 504 of the rehabilitation act (USA, 1974).	<i>Ley General de la Persona con Discapacidad</i> (México, 2005).
Definition of a person with a disability according to the legislation	A person with a disability is someone who has a physical or mental impairment that substantially limits one or more major life activities.	People with disabilities, with severe learning, conduct, or communication difficulties, as well as those with high abilities and giftedness (Constitución Federal de los Estados Unidos Mexicanos, 1917).
Special Education Legislation	<i>IDEA – Individuals with Disabilities Act</i> (USA, 2004).	<i>Ley General de la Persona con Discapacidad</i> (México, 2005).
Definition of Special Education according to legislation	Specially designed instruction, at no cost to the parents, to meet the unique needs of the child with a disability. (USA, 2004).	Provide general or specific educational services in public and/or private spaces according to the specialized educational service the students present (Constitución Federal de los Estados Unidos Mexicanos, 1917).
Special Education Public	It covers 13 categories, but states have the power to broaden these categories. Disability must be a factor that impairs/limits students' access to the common curriculum.	People with physical and/or intellectual disabilities and global developmental disorders.
How does the special educational need service work?	Students must undergo a series of steps such as identification, evaluation, and referral, to have access to an IEP and related services. The IEP and the student will undergo reassessment every three years. Parental consent is a requirement for the beginning and continuation of the steps.	Identification of the special need by a multidisciplinary team.
What rights and guarantees deserve to be highlighted in Special Education?	- Free and appropriate public education; - Least restrictive environment; - IEP and related services;	- Service rehabilitation at multiple care centers; - Service in special education schools;

	- Guarantee of confidentiality of educational information; - Consent of parents and/or guardians and of the student over 18 years of age.	- Service at the regular school if authorized by the multidisciplinary team.
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Source: Elaborated by the authors.

Thus, the political guidelines the U.S. and Mexican governments promote equitable education that defines and defends a public, free, secular (Mexico), and appropriate (U.S.) education, offering conditions of access and permanence for public students of Special Education. However, the legislation by itself fails to configure a sufficient measure to guarantee educational quality for such a diverse public, as in the United States, which covers 13 categories to identify Special Education students, and in Mexico, in which the education of these students still takes place in specialized institutions, characterizing segregation.

By analyzing the legal documents on Special Education in these countries, we found, in a comparative way, the aspects that point to the guarantee of the right to education of Special Education students.

Thus, the movements to include students with disabilities in the regular public school have occurred at different paces and characteristics in both realities (whether due to historical factors, dynamics of updating policies, and the legal system), despite the similarity in the organization in Chart 1. The federal regulations in the United States and Mexico direct the practices of the federated entities responsible for materializing their Special Education policies.

Comparative studies are fundamental for this because they are international and establish a parallel between realities since, if we consider that being human is a constant production and part of the Civilizing Process, it occurs only when we observe the other, receive the other's gaze, and produce the individual modes of interaction with which we characterize ourselves as a society.

Norbert Elias (1993) contributes to research such as this as we find that guaranteeing education under the inclusive perspective addresses the limitations of those who defend the academic latifundium and their move toward the condition they so criticize (that of animalization) while claiming to live only with peers.

Thus, the definition and population of Special Education shows no consensus. Moreover, the United States encompasses a larger number of typologies, unlike Mexico (which includes high abilities or giftedness, a category absent from the typologies in the United States).

The inclusion/exclusion of typologies that possibly require Special Education motivated conflicts/tensions since each may require a specific organization of the school structure and management, as is the case with deaf students who need, for the most part, an interpreter in the classroom; or a visually impaired student who needs adapta-

tions, such as enlargement in their school supplies, and other technologies, such as screen readers.

Thus, studying the laws of the United States and Mexico in a comparative way implies that we intend to escape from the dichotomies between the *new* and the *old* or *good* and *evil*, which tend to produce value judgments about a supposed standard of what would be *good, fair, and beautiful*, seeking an albeit limited observation that requires analyses beyond legislation and that permeate the importance of the cultural ways in which each State has been organized.

These analyses stand amidst the continuity of research, whose individuals observed a constant flow of attempts at broad school inclusion, which may enable Special Education students to attend the same spaces of common school education, something that Santos (et al., 2024) and Hora (et al., 2023) found in their comparative investigations on the United States and Mexico, in which, even under adverse conditions, they found a process of school inclusion, yet to be totalizing, but which moves toward a de facto school education for all.

Final Considerations

The development of this study involved comparing the definitions and directions of the legislation of the Special Education policies in the United States and Mexico based on their federal legal frameworks that regulate the rights and guarantees of the modality, which entailed seeking inspiration in Norbert Elias' sociological assumptions and an investigative perspective anchored in international comparative studies in Special Education (Sobrinho et al., 2015).

The theoretical-methodological approach in this international comparative study on the social processes of American and Mexican Special Education shows the continuity of the civilizing process, especially if we consider the legislative, political, and sociocultural specificities of these countries. We stress that, based on Elias (1993; 2011), the civilizing process refers to the human condition of coexistence in society. Thus, conflicts and tensions configure possibilities of evolution in this process.

Thus, a study on two federations (United States and Mexico) must highlight that each reality has its own social and legislative organization, and analyses and debates must consider the particularities and figurations of these societies. After all, each society shares networks of interdependence and peculiar social processes that shape their formative-educational processes in and by Special Education.

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