
Should We Say “Functional Diversity” To Refer To “Disability”?

A Critique Of The New Postulates Of Political Correctness Around Disability¹

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ABSTRACT

This article addresses “political correctness” (PC) regarding the rights of people with disabilities and specifically the state of the question in Spain. First, we focus on the expression itself and clarify what is understood by PC. This implies reviewing, albeit briefly, the main conceptual and ideological framework PC is grounded in. Second, we describe the new conceptualisation of disability given by the *United Nations Committee on the Rights of Persons with Disabilities*, tasked with ensuring compliance with the *Convention on the Rights of Persons with Disabilities*. In Spain, this Convention is about to give rise to substantial legislative reforms in civil and procedural matters, leading to a turnaround in the way the matter has been traditionally treated. Thirdly, we expose a critique of the demands to turn “functional diversity” into the sole politically correct expression to refer to the condition of people with disabilities. To finish, I come back to the question of PC and present my position on the effects of this doctrine on the prevention of discrimination against marginalised groups.

KEYWORDS

Disability, disease, political correctness, medical model, social model, functional diversity, human rights, bioethics, paternalism, discrimination.

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1. Introduction

This article focuses on “political correctness” (hereinafter, PC) regarding the rights of people with disabilities. I address the state of the matter specifically in Spain.

First, I concentrate on the question itself, clarifying what I understand by PC. For this, it is necessary to briefly review the main conceptual and ideological framework PC is grounded in.

Second, I describe the new conceptualisation of disability given by the *United Nations Committee on the Rights of Persons with Disabilities* (hereinafter, the Committee), which must ensure that the *Convention on the Rights of Persons with Disabilities* (hereinafter the Convention) is complied with. In Spain, this Convention is about to lead to major legislative reforms in civil and procedural matters, representing a turnaround with respect to the traditional way of dealing with disability².

Third, I expose a critique of the demands to turn “functional diversity” into the sole politically correct expression to refer to the condition of persons with disabilities. I argue that the defence of this term can be explained by political tactics to claim the rights of persons with disabilities. This defence, however, is not justified, in that to my mind, the traditional view of disability—which links disability to a context of disease and medicine, the so-called medical model—resists its criticisms. The medical model is based on a certain objectivity of values as well as scientific knowledge. In the medical field, disease is an evil that must be prevented, but, naturally, this does not imply that sick people are bad; on the contrary, respect and empathy for the sick lie at the heart of the origin and meaning of the medical profession. This view is consistent with a wide range of principles underpinning our practices regarding sick and disabled people, including: the major role of prevention, treatment and rehabilitation, social medicine, public health, reverse discrimination measures, etc. Conversely, the model in which the “functional diversity” idea is inserted i.e. the social model, leads to a cascade of inconsistencies in our horizon of moral assessment. As the model’s very defenders often claim, it would be a real revolution: one that, to my mind, should not occur.

² Draft Bill reforming civil and procedural legislation to support persons with disabilities in the exercise of their legal capacity. *Boletín Oficial de las Cortes Generales* (Official Gazette of the Spanish Parliament), 17 July 2020, 21(1).

To finish, I come back to the issue of PC and set out my position on the effects of this doctrine on the prevention of discrimination against marginalised groups.

2. The idea of political correctness

2.1. A global battlefield and different local battles

To understand the phenomenon of PC, it is necessary to place it at the centre of an ideological battle between Right and Left. Such a battle takes place on a global stage as well as in a multiplicity of local scenarios, where it is modulated differently.

The battle's global setting is marked by the fall of the Berlin Wall, the end of the Cold War, and the triumph of global capitalism, generating major supra-State economic power, a network of global economic actors powerful beyond comprehension (Capella, 2005, 19); an industrial and military superpower, the United States, which is producing an ideology that serves its interests; and a communications network, the Internet, which, while allowing billions of people to interact freely, in so far as these interactions are not mediated or filtered by any institution, also operates as a monumental instrument for manipulating and deforming reality. The result is that in the global village's agora, propaganda has acquired unprecedented power, while the critical capacities of those taking part in the communications have in fact only diminished (Sartori 1998).

To complete this picture, we should bear in mind that since the beginning of the twenty-first century, other phenomena have clearly come to the fore, such as China's and Russia's consolidation of power as politically stable and successful —especially China—non-democratic states, with a growing capacity for global influence; the incidence (and awareness) of climate change; the global economic system's fragility in relation to averting crises such as that of 2008; the rise of populism, both on the Right and on the Left, with its potential for destabilisation; the consolidation of global crime and terrorism networks (Ferrajoli 2006); the risk of pandemics; and finally, population movements, large-scale migrations from poor to rich countries. In addition, the lot is occurring in a world where, as pointed out by Pinker (2012), there are less wars and widespread violence than in the past. In this way, ideological and economic power have grown, correlatively.

In this global scenario, the discussions around PC take the form, on the Right, of an attack on an ideology that would have emerged during France's May 68. This ideology would be characterised—according to this right-wing vision—by left-wing radicalism, which is deeply irrational and destructive of true social progress. It would have originated recalcitrant attitudes towards economic and human development. On the Left, capitalism is attacked. It is understood as incompatible with a whole series of demands that require correcting the political agenda. The Right's idea of progress is criticised, since it is based—as argued by the Left—solely on economic growth. Among these new political causes we find climate change, feminism, racial integration, the defence of migrants' rights, animalism, etc. The idea of PC on the global battlefield therefore alludes to an ideological controversy regarding the definition of progress i.e. what the essential values underlying the idea of human development are. In this context, the concept of PC plays an ambivalent role, since it serves both to vilify and to describe one of the two contenders: the left-wing contender.

According to Wilson (1995, 4), the expression PC was originally used ironically by the Left itself, to refer to an excessively rigid behaviour proper to communist orthodoxy; in other words, a form of fundamentalism. Films and literature have often characterised a politically correct life as one doomed to becoming fanatical or to dissolve, out of lack of integrity regarding its principles. However, the use of the expression has evolved and has been assumed by the Left as an appropriate term to refer to one of its ideological theses and to a general attitude towards reality (an attitude of moral commitment).

For the Right on the other hand, PC designates a series of ideas and attitudes at best immature, though well-intentioned, and at worst, an expression of deep moral perversity and irrationality born of envy, hatred of freedom and of others' prosperity. The moral attitude of the defenders of PC, be it true or hypocritical, would thus oppose their opponents' pragmatic attitude, the only attitude that can potentially bring some benefit to humanity.

However, I believe that this global battle is only an apparent one, or a "fake" one to use the language currently in circulation over networks. The victory of the Right came about a long time ago. The proof of this is that the Right has allowed itself to choose its enemy, i.e. May 68 intellectuals, and this enemy was as destructive of the Right's foundations as that of the Left (more of the Left's foundations I would say). Since the 1980s, the conservative ideological revolution, launched by Anglo-Saxon countries, has met most

of its objectives. Not even the overwhelming reality of potential human extinction due to climate change has succeeded in shaking its foundations.

The same cannot be said in other areas, whether regional areas or different spheres, such as the academic field. In the United States, major discussions have taken place around PC. It has certainly drawn a lot of attention from conservative *think tanks*, who have devoted huge amounts of resources to denounce PC's anti-liberal revolution. They argue that the scope and intensity of this revolution is so extensive, it poses a threat to the American constitutional system and, in particular, to the rights derived from the First Amendment (D'Souza 1991). Special attention has been given to the situation of universities, in particular regarding measures against racial and sexual discrimination. The Left, for its part, often argues that the notion of a PC threat is a myth created and financed by the Right and that PC does not possess such power, nor even that liberticidal desire, neither in the country nor in universities (Wilson 1995).

But, in my opinion, in contrast to the global situation, social mobilisations at the state level around PC issues can have a significant legal, political and social impact. The recent iconoclastic movement in the United States, and also to some extent, the "*black lives matter*" protests at its root, illustrate how PC debates can turn into concrete political actions.

2.2. Political correctness in Spain

In Spain, the notion of PC is also linked to the same spectrum of moral attitudes and political positions regarding the causes referred to above. However, we could say that PC is more directly related to certain language restrictions. In fact, the Right has created a derogatory term to refer to the agenda one could associate with PC: political "*buenismo*" (goodness, or righteous intentions). The meaning is the same as that alluded to above: a well-meaning but immature attitude.

According to Alvarez Ortega, PC is a language prohibition mechanism, included within the same conceptual field as "taboos" or "censorship", though with some differences³. According to him, PC should be understood as "a

³ Álvarez Ortega, relying on the work of Casas Gómez (1996), argues that there are "today at least three different coexisting notions of linguistic taboo: 1) the original Polynesian notion, of prohibition of transcendent (magical-religious) origin, that implies avoiding words or else risk a transmissible contamination that carries diverse negative consequences; 2) the strict western notion, of lexical elision for magico-religious motives (identifying mainly with the realistic perspective); 3) the generic western

mechanism of linguistic interdiction which, with the pretext of accommodating an ideology of progress and focusing on the public visibility of minorities, as well as the removal of historical affronts, imposes the avoidance of units that allegedly carry discriminatory connotations in favour of others, allegedly neutral and inclusive” (Alvarez Ortega 2010, 335-336).

The two main manifestations of PC thus understood would be inclusive language and the use of euphemisms. With regard to the former, we have witnessed over the last decade in Spain a significant growth of the feminist movement. This movement has requested, among other things, the use of inclusive language—to varying degrees, depending on which feminists one is talking about. I believe that it is in relation to disability that euphemisms, for their part, have been the most extensively used or valued. Whereas as in other countries, it is racial issues that perhaps prevail, in Spain, the question of PC is given most importance when referring to the state of persons with disabilities. Similarly, there is a general tendency to develop language restriction mechanisms in relation to some categories of victims of crime, such as victims of gender-based violence and victims of terrorism, but also, to a lesser degree, victims of racism.

In Spain, PC is also at the centre of a Left-Right battle, especially between the radical Left and radical Right. As far as feminism is concerned, we are witnessing fierce confrontations and manifest extremism. The latter is not the subject of this article, although it cannot be completely overlooked. A thorough and complete presentation of the situation can be found in De Lora (2019).

The concept provided by Alvarez Ortega seems to be a good starting point. Various notions of PC could be projected onto his concept. In one version, one that is in my view as reasonable and moderate as its use is limited, the notion would encompass two major aspects. First, that certain disrespectful forms of expression have a social impact and perpetuate racial, sexual, etc. discrimination. This does not necessarily imply that people who use such forms of expression consciously assume some form of discrimination. In some cases, the people discriminated against themselves share use such language. Second, a moderate principle of non-offense is also valid, according to which persons belonging to discriminated groups have the right not to be offended,

notion, which includes lexical prohibition regardless of its material and/or motivational scope”(2010, 329). The technical use of censorship, in his opinion, would consist of a restrictive state-institutional measure that applies essentially to written texts (2010, 333).

even if the offense consists solely in the practice of a society's common way of speaking. Correlatively, it would be justifiable, if only "*prima facie*", that speakers have an obligation to limit the use of certain expressions. Speech thus acquires greater moral, political and legal significance. This concept of PC, based on these two aspects, is fairly simple and, as I say, difficult to reject.

Nevertheless, a different concept of PC exists and it is generating a growing predicament. It would rest on two fundamental pillars: demands for a right to identity and an absolute interpretation of the principle according to which others should not be offended. This concept of PC, or ideology, does seriously threaten the continuity of critical thinking because, underlying the demands for a single language is the demand for a single thought.

As Alvarez Ortega points out, the repercussions of extending PC, with its continuous resorting to euphemisms, for example, in relation to situations in which people suffer from illness or disability, "create a mirage of symmetry that can lead to claims and situations; what is more, possible ensuing discussions also constitute genuine political incorrectness" (Alvarez Ortega 2010, 338). In addition, this combination of identity demands and the no-offense principle paradoxically leads some traditionally right-wing groups, such as religious faiths, to discover that PC can also be used in their own defence. In short, based on this concept, PC results in turning the no-offence principle into an absolute principle. Thus, by merely considering that a belief or way of life, or a simple custom forms part of its identity, a group can claim the right to define the correct terms to refer to it and, ultimately, to define the terms of the discussion.

Garzón Valdés illustrated the concept of fundamental rights using the notion of "preserve" of majority decisions (Garzón Valdés 1989). For Garzón Valdés, rights, in democracies represent a sphere that is "non-decidable" by the majority. Likewise, PC represents a demand for a sphere of the "non-speakable". We explore next how this sphere is configured as well as its foundations regarding the subject of disability.

3. A policy of transformation of the social mindset: from "incapacity" to "functional diversity"

3.1. Brief description of the transformation sought after

Javier Romañach and Agustina Palacios, the latter a deep connoisseur (and advocate) of the social model of disability, gave the following title to

an article they jointly wrote: “*El modelo de la diversidad: una nueva visión de la bioética desde la perspectiva de las personas con diversidad funcional (discapacidad)*” (“The diversity model: a new vision of bioethics from the perspective of people with functional diversity (disabilities)”). The first paragraph states that “people with functional diversity (disabilities) (...) Over certain periods, for example, during German Nazism, were killed in a vain attempt to eradicate their ‘imperfection’” (translation of Palacios & Romañach 2008, 37). In a quick summary of discriminations that “do not die out”, the authors illustrate the presence of discrimination in the laws, giving the example of Article 417 bis of Spain’s Penal Code which allows abortion when “the foetus is to be born with functional diversity” (sic) (2008, 39) and that this is the only case for which it is allowed to extend the period of abortion to 22 weeks. This demonstrates that the lives of people are clearly given a different assessment depending on whether they have functional diversity (2008, 40). Later, they emphasise that a conceptual confusion caused by Spain’s scarce implementation of the social model (at that time) is the mixing up of the concepts of disease and functional diversity (2008, 40). This confusion occurs in the context of the “rehabilitative model” or medical model of disability, which, according to these authors, should have already been abandoned. For this change—that is, the shift from the old and unacceptable rehabilitative model to the new model of diversity—to occur, they argue that ⁴:

it is imperative to eliminate the concepts of ability or worth from our language and seek a new term through which a person can find an identity that is not perceived as negative. The term proposed and defended in the diversity model is that *of women and men discriminated against for their functional diversity*, in short, *people with functional diversity*. Since its inception, the term has spread rapidly and generated a new identity in which diversity and the enrichment that comes with it is key (Palacios & Romañach 2008, 41).

⁴ The authors refer to the wording of the crime of abortion (which is not currently in force) and which was introduced in Organic Law 9/1985, of 5 July, on the reform of article 417a of the Penal Code. According to this law, abortion will not be punishable when, among other cases, “It is presumed that the foetus will be born with serious physical or psychic impairments, provided that the abortion is performed within the first twenty-two weeks of gestation and that the opinion of two specialists, expressed prior to the practice of abortion, is issued by an accredited public or private health centre or facility, and by persons other than that by whom or under whose direction the abortion is performed”. In point 2 of the same article, the legal period for performing an abortion resulting from rape is 22 weeks.

The footnote clarifies that “the term functional *diversity* (sic) was first proposed by Manuel Lobato and Javier Romañach on 12 May 2005, in message No. 13.457 of the Independent Living Forum” (p. 41). It is also indicated as a reference that in February 2007, the search for this expression in Google in Spanish yielded 26,000 results compared to 705 in 2005. As this article is written, as of September 2020, a total of 1,840,000 responses is obtained when performing a search for the Spanish term “diversidad funcional” (and 2,070,000 when googling “functional diversity” in English). It is understandably elating to be credited with the coining of the label.

The term “functional diversity” does not appear in the Convention. However, the text gives rise to a “social model” interpretation as it defends the following three characteristics of disability: (1) disability “is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers” (Preamble, paragraph “e”); (2) “Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity” (Art. 3(d)); and (3) disability is a homogeneous notion, so the same regulation should affect all people who “have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (Art. 1). This Convention can also be interpreted in such a way as to be compatible with the traditional —and, in my view, reasonable—medical or rehabilitative model, but there is no doubt that the Committee responsible for ensuring compliance with the Convention has endorsed the social model.

In my opinion, many criticisms should be voiced on the position of this Committee. They should focus in particular both on its famous *General Comment No. 1 (2014) of the United Nations Committee on the Rights of Persons with Disabilities* (Alemany 2018), and the regulatory consequences of the claim to eliminate or minimise the representation of persons with mental and/or intellectual disabilities (Alemany 2020). I wish to point out here that while the Committee does not accept the terminology that these authors deem “essential” for the full development of the social model, all its considerations are in line with this model and the elimination of the categories of the disabled, incapacitation, guardianship, representation of the incapacitated, etc. The Committee advocates a support system involving a series of radical changes in the way disability is legally treated. Examples of these changes are as follow:

- 1) “Replace regimes based on alternative decision-making with others based on support to decision-making” (Comment 28).
- 2) “Give the same credit to the complaints and statements of persons with disabilities as they would to people without disabilities (...) including the capacity to testify in judicial, administrative and other legal proceedings” (Comment 39).
- 3) “... their detention in institutions against their will, either without their consent or with the consent of a substitute decision-maker, is an ongoing problem. This practice constitutes arbitrary deprivation of liberty and violates articles 12 and 14 of the Convention” (Comment 40).
- 4) In the area of health, “States parties have an obligation not to permit substitute decision-makers to provide consent on behalf of persons with disabilities” (Comment 41).
- 5) As for forced psychiatric treatments, “Forced treatment is a particular problem for persons with psychosocial, intellectual and other cognitive disabilities. States parties must abolish policies and legislative provisions that allow or perpetrate forced treatment” (Comment 42). (...) deinstitutionalization must be achieved and legal capacity must be restored to all persons with disabilities, who must be able to choose where and with whom to live” (Comment 46).
- 6) “States parties have an obligation to protect and promote the right of persons with disabilities to access the support of their choice in voting by secret ballot, and to participate in all elections and referendums without discrimination” (Comment, 49).

In Spain, the Convention has been in force since 3 May 2008. Between this date and the *Committee’s Comment* I have just referred to, a number of reforms have been adopted based on the Convention. The Convention was still interpreted, however, as being compatible with traditional mechanisms for the protection of persons with disabilities, provided the disabilities were mental and/or intellectual. An illustration of this approach worthy of note is the Judgment of Spain’s Supreme Court No 282/2009, Chamber 1, of the Civil Court, of 29 April 2009 (*Sentencia del Tribunal Supremo Español nº 282/2009, Sala 1ª, de lo Civil, de 29 de abril de 2009*). The sentence judges a case of incapacitation of an elderly woman at the request of her children. The Court accepts the forensic reports of the previous two instances: in the first instance, Parkinson’s disease is discovered as well as a slight cortical

atrophy with no signs of dementia and with symptoms of depression; whereas in the second instance, a “moderate cognitive disorder, senile dementia, which functionally limits the ability to be self-governing and manage her assets completely and permanently” is found. The prosecutor, who in Spanish law has the power to protect minors and persons who are incompetent, or “incapable” (the legal term commonly used in Spanish is “*incapaces*”), did not deny the veracity of the diagnoses but strongly argued against the incapacitation request based on the Convention.

In the arguments presented before the Supreme Court, the prosecutor deems that the main problem with the appeal is to determine whether the lower court’s interpretation of Arts. 199 and 200 of the Civil Code⁵ is consistent with the Convention, specifically with article 12 of the Convention (legal basis 3). In the prosecutor’s view, “the declaration of incapacity violates the dignity of the incapable person and that person’s right to equality by depriving him or her of the ability to act and is discriminative with respect to capable persons”. To reach this conclusion, the prosecutor adopts the concept of disability assumed by the Convention, which would be a “minimum and open”, “dynamic” concept, “an ongoing process”, which accounts for the individual, biological and social dimensions of health; the prosecutor is referring to the “social model of disability” in contrast to the “medical or rehabilitative model”. According to the prosecutor, the Convention adopts “the social model and the principle of non-discrimination, colliding with the traditional representation of incapacitation, as a mechanism that replaces the capacity to act. It forces the “adoption” of a new instrument based on the support system that is projected onto the specific circumstances of the person, act or business to be carried out”. As a result, the Convention brings together “the legal capacity and capacity to act in an inseparable whole” and “exercises restrictions on the incapacitation instrument if the latter has an impact on the nullifying of the capacity to act”. Finally, the prosecutor proposes a solution, while reforms are made to the Spanish legal system: “the supervision, reinterpreted in the light of the convention, based on the model of support and assistance and the principle of the best interest of the person with disabilities”.

⁵ Art. 199. No one can be declared incapable, except by a judicial ruling by virtue of the causes established in the Law; Art. 200. Causes of incapacitation are persistent physical or mental illnesses or deficiencies that prevent the person from being self-governing.

The answer of Chamber 1 to this reprimand of the Public Prosecutor's Office on the Convention's correct interpretation is precisely based on considering the existence of a *nominal question* about how to refer to legal situations and procedures affecting persons with disabilities. The legislature will have to resolve this nominal issue. Yet, beyond how the question is resolved, mental and/or intellectual disability sometimes entails problems that limit the capacity for volition and comprehension. Therefore, incapacitation as a mechanism to protect the disabled is a requirement based both on the principle of the person's dignity and the principle of equality. The judgment concludes:

In this way, the present interpretation is the only one that renders the current regulation appropriate according to the Convention. Thus, the protection system established in the Civil Code remains in force, though based on the following proposed reading:

1. Always taking into consideration that incapable persons retain their fundamental rights and their incapacitation is only a form of protection. This is the only possible interpretation of Article 200C and Article 760.1 LEC.
2. Incapacitation is not a discriminatory measure because situations that call for protection present their own specific characteristics. We are referring to persons the intellectual and volition powers of whom do not allow them to exercise their rights as persons because they prevent them from self-government. The system is therefore not a family protection system, but a system of protection only of the person concerned (Legal basis 7).

On 17 July 2020, the *Draft Bill reforming civil and procedural legislation for the support of persons with disabilities in the exercise of their legal capacity* entered the Spanish Congress of Deputies. This project does not use the "functional diversity" label and maintains the apparently politically correct term: "people with disabilities". However, this is not the nominal solution given by the legislature that was assumed by the Supreme Court judges. It constitutes rather an incorporation of the social model into our system and, to some extent, the acceptance of the idea of "functional diversity". The triumph of the thesis of Palacios and Romañach is complete *in the pars destruens*. Indeed, the terms "incapacitation" and "incapable" have been completely removed from the draft's articles and, if the reform takes place,

from Spain's future Civil Code and Law on Civil Procedure—in the same way that guardianship is only contemplated in the case of minors.

In the Preamble, the legislator, as if he were remembering the judges' words pronounced in 2009, clarifies that

it is not, therefore, a mere change in terminology that replaces the traditional terms of “incapacity” and “incapacitation” with more precise and respectful ones, but a new and more accurate approach to reality, that raises awareness about a matter that has long gone unnoticed: persons with disabilities hold the right to make their own decisions, a right to be respected; the issue is therefore a human rights issue.

Later, he advocates a transformation of the social mindset “based on the new principles and not on the paternalistic visions that are now out of date”.

3.2. Criticism of a PC's shift towards the social model

The article of Palacios and Romañach reveals how the authors put the term “disability” in parentheses together with the expression “functional diversity”. They do so undoubtedly to reach more readers or, in other words, to let them know what they are talking about. Often, a problem of inclusive language and euphemisms is that most speakers do not put them into practice. Thus, the terms are locked away within academic or activist circles, thus raising the paradoxical risk of generating a subculture, when the idea is in fact to influence the idiosyncrasies of society at large.

The terms “handicapped”, “the disabled” or “crippled” have been replaced by the expressions “disabled persons” or “persons with disabilities”; moreover, in legal fields, the intention is to eliminate the term of “incapable” or “incapacitated” in relation to some mental and/or intellectual disabilities. In the general culture, as well as in legal culture, other terms have been used in the past that are now considered grossly pejorative. A paradigmatic example is the famous 1927 U.S. *Supreme Court Judgment Buck v. Bell* case. Discussing the mandatory sterilisation of people with mental disabilities, Judge Holmes concludes in favour of it, commenting that “*Three generations of imbeciles are enough*”. Holmes' arguments were not as unacceptable as these words suggest, but the comment is undoubtedly disrespectful towards

people affected by the constitutionality judgment. Naturally, today, they appear insulting.

Therefore, it is clearly justified to apply the PC doctrine's removal of disparaging terms and expressions in a given language context. In reality, PC, thus understood, departs little from the traditional concept of freedom of expression as a right to which limitations apply, including that of not insulting or slandering others, at least publicly. However, it is a different matter when PC attempts to restrict or eliminate the use of terms or expressions that are only pejorative once a particular approach has been assumed, in the present case, regarding disability. I am referring to a perspective that rests on a series of principles and premises which are not at all shared by the community of speakers (often, not even within the discriminated minority) and whose acceptance, in fact, would entail an in-depth review of many practices that are generally deemed to be justified. In this sense, the expression PC operates as a wedge that cuts through established custom, more or less inadvertently. In other words, they resemble new premises more than conclusions based on established premises. I believe the term "functional diversity" to be of this nature. It does not consist of adopting a perspective on disability rights, but of a new premise that is difficult to fit into many other generally accepted ones.

As advocates of functional diversity point out, the enemy to beat is the medical or rehabilitative model. According to this latter model, the concept of disease is basic and the concept of disability derives from it. The *International Classification of Impairments, Disabilities and Handicaps* (ICIDH), proposed by the *World Health Organization* in the 1980s, clearly responds to this model (WHO 1980). According to this classification, disability is the manifestation of impairments that are found in the body of the person with a disability—they are somatic. The given definition of disability is as follows: "any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being" (WHO 1980, 28). The disease, as a somatic condition, is the efficient cause, in the Aristotelian sense (Riese 1953, 69), of impairments in parts of the body that are necessary, although not sufficient, conditions of disability (Edwards 2017, 150). In the ICIDH's conception, disability is linked to the field of health, the body and, ultimately, medical practice. For their part, the social aspects that can affect the quality of life of those with a disability are conceptually separated: they would consist of social difficulties and handicaps. For example, polio is a disease that can affect motor neurons,

causing paralysis (an impairment) that prevents the patient from walking (a disability), which, depending on the social context, level of wealth, means available, etc., will be a major or minor handicap to carrying out a life plan. Contrary to popular belief, this approach does not ignore the social aspects that affect sick and disabled people. In fact, within medical practice, the discipline of social medicine has a long tradition, which has emphasised the social aspects of illness and its consequences.

Consequently, to my mind, when describing the disability model panorama as a scale that goes from centring on the individual's psychosomatic factors to focusing on contextual or social factors, saying that the ICIDH is at one extreme can lead to confusion (Braddock and Parish 2001; Edward 2017). Quite the reverse: nothing at the "individualistic" extreme corresponds to some versions of the social model that do seem to have reached an extreme. The reason for this is that the ICIDH is a reasonable proposal and, as such, it takes the social aspects of illness and disability into consideration; in fact, as Shakespeare points out, this classification was originally an attempt to give more importance to the social consequences of the impairments caused by the disease (Shakespeare 2014, 15).

The problem with this medical model cannot be, therefore, that it ignores the social conditions of disease and disability, and even less that it ignores the individual affected by the disease and disability. The problem, in my opinion, is that, in the first place, this model does not fit well with the political tactics of certain activists; the model is about forging, so to speak, the most appropriate doctrine to accelerate and transform the situation of people with disabilities (Oliver 1990). Secondly, the biomedical concept of disease and the scientific concept of medicine generally is not compatible with the very influential doctrine of social constructivism and philosophy's relapse into powerful—both epistemological and axiological—subjectivism. Both lines of criticism converge in the identity concept of disability. Based on this latter concept, the fight for the equality of the disabled (since it would no longer be politically correct to speak of "people with disabilities", as if it were a contingent property of the individual; Oliver 1990, p. xiii) is assimilated with the fight against sexual or racial discrimination.

From the perspective of political tactics, the insistence to eliminate *bio-medical* notions of disease and disability from the narrative seems to suggest that the element of deviation from normality that, indeed, is intrinsic to this biomedical perspective, carries with it a "moral deviation". Consequently, we

fall back on the classical conception of disease as an unnatural disposition, according to which “without health there is no possible ethics” (Gracia 2008, 36) and an unacceptable conclusion is assumed: that qualifying someone as “sick” is an insult.

From a philosophical standpoint, there are many reasons to criticise social constructivism in this matter (even though it is also very useful for political tactics). Manuel Atienza brings up the opinion of Mario Bunge on this issue, according to which *constructivism* is a mere destructive fashion of the Humanities faculties that is “as false as it is dangerous” (Atienza 2016, 265; Bunge 2009, 161). It would be a question of affirming that diseases are “inventions of the medical profession”.

Adopting a sociological approach to the concept of disease, Freidson points out that it may or may not be based on a biological reality (Freidson 1978, 215). Let us consider, for example, Parsons’ conceptual approach to the “sick person role”, characterised by four elements: 1) it involves a disability the individual cannot be held responsible for and which cannot be cured by one’s own will-power, a healing process is necessary; 2) the person is exempted from normal obligations due to the condition; 3) it consists of a deviation, but a legitimate deviation; and 4) the patient is expected to seek help to recover and cooperate in his or her own recovery (Parsons 1951, 229). Parsons presupposes that the disease has been diagnosed according to the medical profession’s criteria, but these criteria are situated from the profession’s internal standpoint. The criteria are not of sociologists’ direct interest. If attraction towards one’s own sex is socially classified as a disease called “homosexuality”, the sociologist will consider it from that point of view, regardless of whether it is a significant medical error. Conversely, an individual’s condition, which is a disease from a biomedical viewpoint, may not be considered as such from a social standpoint, as was the case in some indigenous communities in South America where syphilis was endemic and its manifestations were deemed normal (Gil 1969, 31). However, logically, the sociological approach does not deny the possible biomedical foundations of the qualification of a situation as a disease or disability (in the previous example, the reality of endemic spirochetosis); specifically, modern medicine would be characterised by its claim to be a science and to have scientific foundations, compared to other practices that it deems irrational.

This does not mean that medicine is exempt from evaluation. This is a key point in the discussion: I believe that it is not sufficiently justified to

assimilate evaluative with subjective. From there, the step of assimilating evaluative with political is taken too easily; let us recall the title of Oliver's book *The Politics of Disablement*, which reminds us of Carol Hanisch's commonplace expression, so valuable for contemporary feminism: "the personal is political". It also reminds us of De Lora's book *Sexual is political (and legal)*, although the latter adopts a critical approach (De Lora 2019). Medicine is a praxis in the Aristotelian sense: a professional practice that incorporates certain values that give it meaning and social justification⁶. Fundamentally, medicine is oriented towards avoiding certain harm to individuals. What counts as "harm"? "Harm" is any "setback to interest" (Feinberg 1984, 31) and "interests" are more stable than mere desires. They represent stakes that individuals have in certain "goods", so according to the extent to which these interests are more or less satisfied, the individual "gains" more or less. Some interests are only interests because the subjects make them their own, they are purely subjective. Others are objective, even if the individuals do not make them their own. This latter case includes all the interests that by their very nature are an objective condition for the possibility of subjective interests (Nino 1989): for example, the interest in staying alive.

A large part of human beings' objective interests are linked to the human species' condition of animal. The absence of pain or disability, staying alive or avoiding death are human beings' objective interests (Culver & Gert 1982, 27). For this reason, disease is an evil, a harmful condition, a state that it is rational to avoid. The condition of "disease" summarises evil for the human being, as "*soma*". Mental illness is also somatic, one might say "psychosomatic", as a brain disorder. The basic notion of disease is the one that delimits medicine's "battlefield" against these evils (the criminal law

⁶ The notion of "praxis" is fundamental. I believe that philosophers generally share the same idea of praxis: roughly speaking, a social practice oriented to certain ends and values. To interpret the deontological notion of profession (an expression of "professional deontology", that is ultimately a pleonasm) it is now a classic to go to the concept of "praxis": Adela Cortina, for example, after defining "practice" as a "social cooperative activity that is characterised by tending to achieve goods that are internal to itself and that can be provided by no other", affirms that professions are "practical" in this sense. From this follows that, first, not all occupational activities are professions, and second, medicine is naturally a profession, in which the "internal good" is the "good of the patient." See Cortina (1997). The problem is that outside philosophical circles, that is, where most of those directly involved in bioethical questions operate, "praxis" or "practice" is understood as that which is opposed to theory or what is theoretical (which is the meaning provided in the dictionary of the Spanish Royal Academy (RAE). Kant allows us to acknowledge that this opposition is nothing more than a false opposition, but since Kant's writings are not widely disseminated, it is worth noting that when we speak of medical "praxis" or "practice" we seek to describe all that is medicine: the medical technique, theory and ethics. See Kant (1999).

system also protects life and equality, yet it does not fight disease, it fights criminal conduct).

It is useful to distinguish between the concept of disease and its conceptions. What has been said so far refers to the *concept* of disease: a pathological condition of the body that produces (or increases the risk of suffering) any of the following ills: suffering, loss of the ability to experience pleasure, limitation of a healthy body's capacity, shortening of life or death.

The various *conceptions* of illness are different explanations of it: an imbalance that breaks the harmony of the body in the Platonic or cosmological conception (described in the *Timaeus*); a malaise caused by the lack of education regarding eating habits as in Hippocratic thought; or, according to Rousseau, the opposite, that is, the consequence of the pathological effect of civilisation on man's original and healthy nature; a manifestation of sin, of the immoral nature of the sick; an altered functioning of some of the parts of the body; the presence of foreign bodies, be they demons or germs, that harm the body; a social condition that is the result of discrimination against a minority; etc. (Riese 1953).

An *adequate conception* of disease depends, in turn, on what an adequate interpretation of medical practice would be, which needs to be considered in its context and within a particular problem horizon. The procedures of Homeric Greece's medicine—of a homeopathic nature and contrary-based cures, based on the principles "*similia similibus, contraria contrariis*"—well deserve to be considered "medicine" as long as the knowledge of disease and human experience remain within the forms of life and spirit of the ancients (Gil 1969). The passage from myth to logos determines a new understanding of medicine, which implies, first of all, a distinction between folk medicine and technical medicine and, over time, as from the beginning of the nineteenth century, a form of scientific medicine (Bunge 2017, 44). One cannot understand medical practice without understanding the concept of "progress in medicine." According to Bunge, this progress is mainly characterised by

the adoption of scientism, with the consequent rejection of anti-science and pseudoscience; the close union of medicine with basic biology; the adoption of the experimental method, in particular randomised trials; the search for mechanisms of action, in particular aetiologies; and the tacit adoption of emergentist and systemic materialism (translated from Bunge 2017, 58).

To conclude, the modern understanding of medicine presupposes a *bio-medical conception* of disease, which is based on a scientific explanation of the body's normal functioning and, correlatively, on a medical treatment of the deviation from normality when it carries some of the evils that medical practice must avoid.

This defence of the medical model and therefore the criticism of the conception of the “functional diversity” label and of the social model of disability, does not imply that one incurs in any of the errors below (contrary to what is usually affirmed):

1) It does not deny the fact that, from a sociological perspective, *some* “diseases” or “disabilities”, that is, behaviours or situations that are socially considered legitimate deviations from normality and that must be “cured”, may be biomedically unfounded; they may be pure social constructions (as, for example, “individualism” under the Stalinist regime). With respect to mental illnesses, we must be particularly attentive to the influence of social morality when qualifying behaviour as pathological. But this only means that an operational definition of disease will necessarily offer a well-defined scope of application (a set of clear cases that deserve to be considered diseases from a biomedical point of view—for example, malaria—and what should not be considered a disease from this same point of view—for example, gender, race or childhood— and a series of cases in the twilight zone (for example, controversial “paraphilias”). But neither this conceptual problem, nor the various links between medicine, values and social circumstances imply, as is claimed, that social constructivism theses are true.

2) In the same way, the medical model does not deny the complexity of the operational criteria duality for the concept of normal/abnormal and functional/dysfunctional disease (Chadwick 2017), nor does it say that evaluative questions are alien to them. But the model does contest that, in modern medical practice, these criteria are merely social constructs, even in the case of mental illness. As has just been pointed out, the qualification of “abnormality” may conceal, as indicated by Dupré and others (Dupré 1998), purely a manifestation of the transgression of social norms, but this is not necessarily the case.

3) The model does not imply a negative evaluation of sick or disabled people. The fact that disability is an evil does not mean that people with disabilities are bad, nor does it mean that the existence of disabled people

is necessarily painful or that their life is meaningless or worthless. As Laín Entralgo points out, when reporting the personalisation process of the disease, the person can face it in two different genuine and opposite ways: aversion and assumption (1981, 146). In the latter case, the essentially afflictive character of the disease may also take on a positive dimension, of benefit to the person, either of an immaterial nature (the blessedness of suffering for the religious, the strength of character resulting from overcoming, etc.), or a material nature (the pension obtained due to the illness, withdrawal from daily work, etc.). But this positive and subjective dimension of the disease does not put into question its objectively bad nature. It takes it for granted: happiness, improvement, compensation, etc., come because the evil is assumed, overcome, compensated, etc. In this sense, the process of identification with the condition of the disabled (now a substantive condition, not an adjective) is not denied by the medical model of disability, it is situated at a different level. But identifying it with the category of “functional diversity” would mean blurring all the problems generated by the condition of disabled people. Hence, some associations such as COCEMFE (Spanish Confederation of People with Physical and Organic Disabilities) advise against the use of “functional diversity”. It considers it a euphemism loaded with condescension, which generates confusion as “we are all diverse” and it detracts “from the problem of having a disability” (COCEMFE and Parliament of Navarra 2019, 5).

4) Finally, my position does not deny the value of individual autonomy nor the importance of groups to defend their interests. It does not entail unjustified medical paternalism, nor does it call into question the importance of the participation of people with disabilities in the political and legal decision-making that directly affects them. However, it does challenge the thesis, widespread today, that a given group’s representation can only be conducted by those belonging to that same group. Or, stated in terms of representation theory, the practical representation of interests can be exercised by individuals or institutions that are not representative, in a non-practical sense (Lifante Vidal 2018; Pitkin 1985). This thesis is essential to protect the interests of people affected by some types (and degrees) of mental and/or intellectual disability that seriously undermine their autonomy. Perhaps the most objectionable series of postulates that make up the “social model” is that of the unitary treatment of the phenomenon of disability. The identity conception of disability and the

denial of the possibility of representation eclipses the existence of diversity within disability and, as a result, the fact that there is inevitably a practical representation of interests among people in different circumstances: generally, the representation of people with mental and/or intellectual disabilities by people with physical and/or sensory disabilities.

4. PC and the fight for equality

To finish, I will come back to the general question of PC. Ayim (1998) clearly outlined, in my view, the arguments against PC. First, there would be the arguments against the ideological content of PC: the PC movement has resulted in a threat to freedom of expression, especially to academic freedom (whether regarding contents or in the way of teaching, as well as research restrictions) (Ayim 1998, 453-459). Second, a series of arguments is related to the methods employed by PC advocates: they ultimately end up applying the same sort of discrimination they wish to denounce and they use unacceptable methods (such as *escraches*—direct action demonstrations—, or using force to stop someone from speaking, etc.) (Ayim 1998, 459-461). As I indicated from the outset, these criticisms are assessed in a highly contextualised manner, in the sense that their degree of relevance depends on the specific case. The reason is that PC acceptability depends on its extent and form.

It is a matter of achieving a balance between freedom of expression and the interests of other people. In my view, gender-oriented inclusive language, for example, seriously undermines a principle of economy of words and hinders communication, without contributing much in the other direction, that is, in promoting equality between men and women. The main problem is that the interests one can weigh against freedom of expression are understood to justify an almost absolute principle of not offending third parties. According to this principle, it is enough for a group—the identity of which rests on its own will to be understood as a group—to feel offended, for this feeling to be regarded as a major reason for a sanction. The form of this sanction may be the diffuse social sanction of rejection (which can reach notably high levels of coercion through social media), or the concentrated form of sanction of (public or private) institutions or, even more seriously, criminal sanction.

Accepting a principle of offense as I have just described does not serve groups that are considered progressive only, far from it. In Spain, the cross-

fire of offended feelings is becoming so intense that artists, for example, are increasingly calling for a return to the situation of a couple of decades ago; as Vazquez points out (2010, 334-335), by removing irreverence or even the desecration of taboos, one is emptying artistic freedom of its value.

When I completed the first section of this article, I went to Garzón Valdés to suggest the idea that PC corresponded to the sphere of the “non-speakable”, a preserve of freedom of expression. This same author gave a very clear conceptualisation of tolerance, emphasising that tolerance only made sense if what is not tolerable is acceptably delimited (Garzón Valdés 1993). Thus, in a first basic valuation system, the fact of saying something can be deemed reprehensible, while in a second valuation system, the same words are not considered sufficiently reprehensible to deserve to be prohibited and/or punished. The second system incorporates both justification and limits to tolerance. In the PC battlefield, there is a marked tendency for supporters to believe that no circumstances allow for a given utterance, and for opponents to believe that no circumstances justify such intolerance. I must stress that the right balance is a matter of degree. The just balance is flexible, contextual and the limits are undefined. As in the case of almost all issues concerning freedom and equality.

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