

Trans-Neoliberalism? A Critical Reading of Colombian LGBTI NGOs and Trans Women's Rights Activism*

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Abstract

Based on criticism of NGOization movements as a way to domesticate and depoliticize collective action, this work discusses the operation of NGOs that defend the rights of the LGBTI population—specifically trans women—in three Colombian cities: Cali, Bogotá and Barranquilla. Using ethnographic techniques, the authors analyze three organizations that defend the rights associated to sexual diversity and focus on their interactions with the trans-population, maintaining that the organizations defraud their operational goals in at least three ways: (i) they focus on legal mobilization

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—which promotes symbolic rather than material changes— as their main strategy; (ii) they reinforce polemic gender stereotypes that end up affecting the very population they defend; and (iii) they maintain relationships of instrumentalization, cooptation, and complementarity with the people they claim to represent.

Keywords: LGBTI, NGOs, strategic litigation, NGOization, legal fetishism.

¿Neoliberalismo trans? Una lectura crítica de las ONG LGBTI y el activismo por los derechos de las mujeres trans en Colombia

Resumen

Basado en la crítica a los movimientos de ONG como una forma de domesticar y despolitizar la acción colectiva, este trabajo discute el funcionamiento de las ONG que defienden los derechos de la población LGBTI, específicamente, de las mujeres trans, en tres ciudades colombianas: Cali, Bogotá y Barranquilla. Utilizando técnicas etnográficas, las autoras analizan tres organizaciones que defienden los derechos asociados a la diversidad sexual y se centran en sus interacciones con la población trans. Los hallazgos las llevan a argumentar que las organizaciones defraudan sus objetivos operativos al menos de tres maneras: (i) se centran en la movilización legal que promueve cambios simbólicos y no materiales, como su principal estrategia; (ii) refuerzan los estereotipos polémicos de género que terminan por afectar a la población que defienden; y (iii) mantienen relaciones de instrumentalización, cooptación y complementariedad con las personas que dicen representar.

Palabras clave: LGBTI, ONG, litigio estratégico, ONGización, fetichismo legal.

Neoliberalismo trans? Uma leitura crítica das ONG LGBTI e o ativismo pelos direitos das mulheres trans na Colômbia

Resumo

Baseado na crítica aos movimentos de ONGs como uma forma de domesticar e despolitizar a ação coletiva, este trabalho discute o funcionamento das ONG que defendem os direitos da população LGBTI e especificamente, das mulheres trans, em três cidades colombianas: Cali, Bogotá e Barranquilla. Utilizando técnicas etnográficas, as autoras analisam três organizações que defendem os direitos associados à diversidade sexual e se centram em suas interações com a população trans. Os resultados levam às autoras a argumentar que as organizações desapontam seus objetivos operativos pelo menos de três maneiras: (i) centram-se na mobilização legal, que promove mudanças simbólicas e não materiais, como sua principal estratégia; (ii) reforçam os estereótipos polêmicos de gênero que terminam afetando à população que defendem; e (iii) mantêm relações de instrumentalização, cooptação e complementariedade com as pessoas que dizem representar.

Palavras-chave: LGBTI, ONG, litígio estratégico, ONGização, fetichismo legal.

Introduction

Are NGOs good mediators between government decision-makers and civil society? Is it wrong to accuse them of bureaucracy and financial motivation? Why should it be such a surprise that they neither “represent” the LGBTI¹ population or trans women, nor do they have a social base? Colombia and other Latin American countries have seen a recent and significant, but chaotic, growth of third-sector organizations. Part of the problem is the conceptualization of this third sector, in its apparent confusion/cooptation with civil society and NGOs. A number of authors have demonstrated that the current denomination for the third sector is used indistinctively by government agents and

¹ The acronym LGBT or LGBTI has been used largely as an umbrella term for non-normative sexual orientations and gender identities that may exclude others that also challenge the compulsory heterosexuality. However, here we use the terms to refer to the populations whose common denominator is the fact that they fall outside the controlling sex-gender matrix.

members of international cooperation agencies to refer to what was once referred to as civil society, mixing in grass-roots organizations, non-governmental organizations, cooperatives, foundations, and associations (Álvarez, 2009; Gómez-Quintero, 2014; Cohen & Arato, 2000).

The empirical sources for this article reside in interviews applied, in 2016, to four transgender people who were responsible for forming the organizations mentioned here. We have researched the existence of mechanisms of accountability through which these organizations interact with this population to relate the actions carried out in their name. We have also studied the procedures to which claims by trans people are subject; trans people who resorted to these entities to request support over the course of claims against natural and legal persons. Finally, we explored the possible existence of a gender branding common to the professional labor of those interviewed in these LGBTI organizations: job stability, promotion opportunities, workload, pay and presence in management positions in comparison to cisgender people.

Our access to information was mediated by one of the authors who acted as a participant observer (Guber, 2001), and who recognizes herself and is recognized as part of the study population. The definition of the nature of her place as a researcher does not undermine her eligibility to examine the exchanges between third sector organizations and people with non-normative gender identities: her own subordinate experiences allow her to ask questions that attempt to explain this marginality (Haraway, 1988). This translates into an approach to the work of the trans people who carry out the work within these NGOs, striving to incorporate their different reflectivity.

This text will focus on NGOs whose agendas are related to sexual diversity, the LGBTI population, and the rights of trans women in three Colombian cities: Cali, Bogotá and Barranquilla. These organizations differ in the fact that some manage social projects promoted by public administrations; others avoid contractual relationships with the state to maintain their independence; and others still flow both ways. Our

main focus is put on how these organizations manage activism in relation to the rights of trans women.

As shown in the related literature, in the case of Latin America, a number of these organizations are becoming depoliticized as civil society actors in order to participate in the “outsourcing” of the state. After the Washington Consensus, many voices have claimed that the main public services have been privatized through complex relations, and the emergence of the so-called “third sector” is, undoubtedly, one of them.

A visible posture in the literature of reference maintains that the intervention of the third sector is one of the most ambitious attempts to isolate and inoculate the social movements, subjected first to a process of NGOization and then to outsourcing, both aimed at their domestication (Álvarez, 2011). Whereas social movements are seen as contentious and disruptive, the third sector appears as a partner or collaborator of the government within the frameworks established by neoliberal policies.

For authors like Sonia Álvarez (2011), the domestication of social action was verified in a number of phases, all related to the use of legal forms and organizations existing within the so-called “market democracies” (Dagnino, Olvera & Panfichi, 2006). First, came the depoliticization of the idea of civil society, which has been increasingly invoked since the mid-80s. This was followed by the depoliticization of NGOs, a process that reached its peak in the early 90s, until finally reaching the third sector towards the end of the 90s. For Álvarez, this is more than a mere semantic change or something natural or inevitable. On the contrary, it needs to be understood as the result of a deliberate strategy implemented by a government immersed in neoliberal policies and of transnational actors interested in the consolidation of such policies. She also considers it an expression of a process of dispute concerning the meaning, forms and roles pertaining to the associative lives of the citizens. The NGOs and their operation can only be understood within the structure of such processes of the growing precarity of the public and the political (Álvarez, 2001).

In Colombia, a characteristic feature of the years following the 1991 Constitution is the organization of activism with regards to diversity. As has occurred in a number of countries in the region, the diversity label has served as an umbrella label, which agglutinates a number of different struggles. Despite the fact that the feminist and the LGBTI mobilizations encompass different, often contrasting, agendas (such as abortion and adoption),² reference is made to a global “gender ideology” based on two basic premises: *a)* gender is socially constructed (this is the premise that is usually associated with “gender ideology”),³ and *b)* the differences created by this social construction have insurmountable asymmetries due to unequal resource distribution (Schild, 2016).

This agenda reached Latin America in the 1960s, together with the feminist and development movements, and it positioned institutional reform as a channel of inclusion. The mobilization and political dialogue of the late 80s and the discussions of the grassroots political organizations and political parties that led to women’s participation in the National Constituent Assembly were displaced by a new methodology of participation-action (MacKinnon, 2012; Bergtora, 2011). This new *modus operandi* was closely related to the transnational development agenda that led a number of multilateral organizations to include gender equality and the diversity agenda as one of the millennium goals; a general characteristic of the gender and diversity agenda all over Latin America (Goetz, 1997; Rupp, 1999; Hodgson, 2011; Molyneux, 2018; Fergusson, 1984).

² One of the ways in which the national debates have revealed the tensions between the LGBTI agenda and that of the feminist women’s organizations is through the debate on abortion. Some LGBTI organizations have argued about the right to abort highlighting the option of adoption as an alternative. This sheds light on both the heterogeneity of reproductive justice, and the diversity among gender organizations.

³ The expression *gender ideology* comes from the discourses of Pope John Paul II and Pope Benedict XVI, which have not yet been purged in the manifestation of Pope Francis. With this expression, the Vatican wants to denounce a body of theory that supposes that our identities are socially constructed and not a product of divine allocation. See: <http://lasillavacia.com/blogs/que-es-una-ideologia-de-genero-57494>

This positioning within the agenda led the Global South to organize itself around capturing funds for gender, diversity, and development. A number of NGOs from the Global North opened branches in Colombia to connect with transnational mobilizations that are basically dedicated to locating international normative standards in local spaces through the discussion of women's rights as human rights (Friedman, 2009; Woodcock, 2011; Johnson, 2018). This implied a change in the narrative of local gender and diversity activism, through the emergence and stabilization of new strategies, focusing on the use of the law: public actions of unconstitutionality, nullity proceedings, the monitoring of proceedings, and structural disputes, among others (Lemaitre, 2009; Albarracín, 2011, Lehoucq, 2016; Abadía, 2012).

This dynamic also fostered the transplantation of new participation-action methodologies that revolved around the constitutional scenario: they used concepts such as the constitutional block, the Colombian Constitutional Court, judicial action, judicial activism, and the text of the Constitution itself to formulate their strategies and term their demands (Roa, 2018). Strategic litigation or the mechanism through which the movement in favor of social changes with legal bases is developed before the constitutional courts rather than the legislative arena, was one of the preferred strategies of this gender and diversity agenda (Jaramillo & Alfonso, 2010; Sarmiento, 2012). The decriminalization of abortion in three cases is one of its most visible achievements.

The main feature of this new strategy that has led gender to diversity activism in Colombia is its focus on constitutions. The actors that make use of this —NGOs— seek to present the gender equality and diversity agenda as something which is already written in the constitutions, highlighting language-based ambiguities, appealing to arguments that show the state the inconvenience of not fulfilling international treaties incorporated into the constitutional block or seeking strategic cases that oblige the amplification of the standards in place to protect,

for example, cis women⁴ or trans women (Eisenstein, 1998; Cornell, 1991; Vergel, 2011).

In Colombia, this was only possible following the Constitution of 1991 given three factors visible to the so-called new law or progressive legislation: (i) the creation of the Constitutional Court in 1991; (ii) the establishment, in 1995, of the constitutional block by the Court as a tool that integrated international law and internal law; (iii) the inclusion of the equal protection clause in article 13 of the 1991 Constitution. The determination that the precedents of the Constitutional Court are associative and obligatory for all the judges of the Republic only dates back to the development of the doctrine of the precedent by the court. In this line, the Constitutional Court developed a huge jurisprudence on equality that is mandatory to all judges in all jurisdictions. That is, the Constitutional Court has been, in legal terms, the technical ally of the social movements that seek protection via the law (Jaramillo, 2006).

This turnabout in terms of the patterns of action has been documented by Magdalena León (2007), who identifies the state and NGOs as new knowledge production circuits, whereby the flow towards the institutionalization of the gender and diversity agenda has driven us to a sort of technocratic activism. This is how León labels the bureaucratic technification of gender militancy, characterized by the formalization of the demands, the bureaucratization of the processes, and the uncritical nature of the movements. As such, and viewed from an academic perspective, this movement towards institutionality, using legal channels and organizational forms such as those pertaining to NGOs, has sacrificed critical thought.

Within this context, this work is based on the use of ethnographic techniques for a critical characterization of three LGBTI NGOs based in three of Colombia's main cities:⁵ Madresanta Foundation in Cali, Colombia Inclusiva in Bogotá, and La Costa Dice Sí in Barranquilla.

⁴ The literature called women that have been born with female markers as *cis women*.

⁵ Names of all organizations are changed.

The research methodology includes an analysis of secondary sources on the evolution of these three organizations, especially for the period comprised between 2014 and 2016, bearing in mind the modifications to their legal nature, the changes in the sectors in which they intervene, the image they try to project of themselves to affect public opinion, and the management of the resources that they report on different public web pages. The study also includes the analysis of in-depth interviews with the users of such organizations in all three cases and an observation of these three organizations' intervention and activism.

It is through this context that this article analyzes the NGOs scope of action as new actors in the development of the trans women agenda and the pertinence of these actions. The first section presents a short review of current debates regarding NGOs in terms of performance perceptions and accountability. The second section addresses methodological issues and explains how, in the case of LGBTI NGOs based in Cali, Bogotá and Barranquilla, it is important to talk about the wave of NGOzation currently sweeping across Colombia. The third section analyzes the results by applying a theoretical framework to the main findings in the case of four LGBTI NGOs based in each of the three cities. Finally, the fourth section proposes a conclusion and highlights the main findings of the work.

The Process of ngozation

The social perception of NGOs constitutes one of the most critical current discussion points. In academic articles of the 80s, they usually appear as a social blessing, but this image has diminished in recent publications. According to this perspective, NGOs are considered the authority on topics such as gender, environmentalism, human rights, and other social issues. They are an important factor in the current political scenario as “agents of the global civil society” (Rehfeld, 2006), and many social mechanisms strengthen their image as actors who are good, amiable, and benign (Jad, 2007; Guenther, 2011; Fowler, 1996; Nelson, 2000; Mawdsley et al., 2005).

NGOs are community level actors that turn the hopes of the marginalized into a demand for the existence of a development sector (Courville & Piper, 2004). In this sense, the loss of faith in the state and the official political process as a vehicle for social change, led to the birth of a third sector made up of actors that operate outside the state structure, but that have the ability to mobilize efforts and reach agreements to provide social assistance (Gideon, 1998). Given the lack of government actions and the presence of market failures, this narrative gives rise to an intermediate sector that fills this regulatory gap and helps people that have been excluded from both the market and the political process.

At this point, it is important to analyze the vertical processes (bottom-up approach) that underlie NGOs, which, on the whole, allow the voice of the marginalized to be heard as they try to build alternatives based on community level experiences and activities. As authentic social actors, they do, in fact, represent the voices of civil society (Bebbington, 1993).

This type of narrative also highlights other attractive characteristics in terms of the role of NGOs. To begin with, they break the traditional political dynamic of representation as their members belong to the urban middle classes (Anheier & Dimaggio, 1990). They also represent an organizational model that is more attractive than the state's: they are efficient, small-scale, productive in relation to their costs, and easy to manage. Thus, they are able to avoid corruption and the concentration of power. Finally, NGOs increase the empowerment of civil society given that their performance favors decentralization, promotes political participation at community level, and strengthens a process of radical democracy. A number of case studies carried out in Latin America are good examples of such successful performance (Bebbington, 1993).

However, this image is not conclusive and many social actors and academics have demonstrated the bias behind such optimistic images (Cornwall et al., 2008). This negative position is based on a history of dichotomy between the state and the market, the division between

the state and citizens, the public and the private, but with a different emphasis. For academics that subscribe to this view, NGOization is a fashionable term in developing countries in the era subsequent to the Washington Consensus (Molineux, 2008). The neoliberal agenda that reduces the scope of public duties creates a new professional elite in charge of capturing international funds to replace the State in the provision of social services (Gideon, 1998). Thus, NGOization supports state withdrawal and coopts resources that were once considered public, but without a scheme of control or of accountability (Fowler, 1996).

In this scheme, the wellbeing of the citizens derives from volunteer philanthropists and the private sector, not from the public. In this context, the investors are more preoccupied with linking the secured resources at transnational and regional levels than they are with satisfying local needs (Feldman, 1997). This tends to interrupt all community links and leads to resource professionalization and specialization, privatizing social assistance and implying that, increasingly, those that work for NGOs focusing on diversity and trans-related topics have legal training, belong to the mid to high social classes and tend to be bilingual, they focus on managing international resources to execute strategic litigation on our borders, and they have precarious relationships with grassroots organizations. Despite this, these NGOs continue to present themselves as representatives of civil society (Céspedes-Báez, 2014; Jaramillo & Alfonso, 2006).

The legitimacy and goodwill of the transnational NGOs of the Global North or Global South have turned into a big question mark in academic spheres and in the development of public policies. Their popularity conceals their contradictory relations with the state, their donors, and the people that they supposedly represent (León, 2007). The question regards the point to which NGOs can be considered to represent them and what types of exclusions are given when comparing civil society, political subjects, and social mobilizations with NGOs' bureaucratic operations (Cavill, S. & Sohail, 2007; Wills, 2007; Rodríguez-Ruiz & Rubio-Marín, 2012).

The terms of this polemic around the social perception of NGOs, has permeated the development of the diversity agenda in Colombia over the last two decades. There are many NGOs, many interests, an agenda that seems homogeneous, and a number of social groups that feel betrayed in this dynamic. For them, the urgency of certain niches of action and their achievements in terms of constitutional jurisprudence, pointed out in the previous section, can be seen more as a transplantation of the needs and interests of white heterosexual women of the Global North or the transnational diversity movement than real victories in terms of the development of a diversity agenda in Colombia. Here, trans women and people with non-heteronormative identities continue to be affected by a homogenization that occults their difference and the way in which poverty, violence, and exclusion affects them (Prada, 2015).

NGOization and Trans Women

The literature on trans women NGOs follows the trajectory outlined in the section above: some works praise the NGOs; others distance themselves from some of the aspects pertaining to their operation; and others still, radically criticize their existence. Below, we provide an explanation of the three positions.

The first is that NGOs do, in fact, operate to claim the rights of these communities. In this sense, they have enough power of representation to enable them to obtain the legal recognition that the communities would not be able to obtain on their own (Betron, 2011). The work entitled “Different needs but equal rights. Giving voice to transgender communities through ASPIDH in El Salvador” focuses basically on presenting cases that demonstrate that the trans community now enjoys a certain legal recognition —especially in terms of health— thanks to the work of NGOs.

The second position, in contrast, suggests that NGOs are the direct enemy of the recognition of the rights of LGBTI rights (McGee, M. & Kampwirth, 2018). This position refers, in particular, to the danger

of NGOs that defend ideals that are opposed to the claims of these communities (Ho, 2008). The work entitled “Is Global Governance Bad for East Asian Queers?” reveals how the mobilization of NGOs that support religious ideals in East Asia have become a powerful adversary for LGBTI communities as they attempt to make themselves visible, obtain legitimacy, and claim the recognition of their rights.

Finally, the third position embodies a critical vision of the role played by NGOs in the recognition and visibilisation of the claims of LGBTI and feminist communities (Moureau, 2018). This position shows that NGOs are a double-edged sword that, in practice, has turned into more of a problem than an advantage. On the one hand, given the neoliberal and developmental dynamics, NGOs have become the most efficient mechanisms of fundraising to support these communities' mobilizations. In this sense, the organizations work as channels for the resources that the multilateral organisms or states themselves have made available to broaden these communities' rights discourse. However, on the other hand, NGOs have been shown to coopt the true interests and claims of the communities in a number of ways. First, in a very tenuous legal recognition in that, despite the NGOs' attempts to make visible the struggle of the LGBTI communities, in practice, this has seldom actually led to true changes in the law that recognize their claims and needs. Second, in the illegitimate cooptation of the LGBTI discourse. It is argued that NGOs have been put in charge of revealing a discourse that standardizes, attenuates and weakens the true claims of the LGBTI community. In this sense, the voice provided by the NGOs —incorrect and biasedly— represents the requests of grassroots organizations. The effect here is, on the one hand, the alignment of LGBTI discourses with state and multilateral agendas, and, on the other, the watering down of the strength and radicalism of the communities' real positions and needs. Finally, there is talk of patronage and bureaucratization in relation to social mobilization. With the NGOs' channeling of resources, it could be said that, in practice, obtaining these funds has been institutionalized through a single pathway. Grassroots organizations, which are those that directly represent the interests of LGBTI and feminist movements, have to couple their discourses to those that best suit the NGOs; otherwise,

they will be left with no funding to mobilize their claims (Moreau & Currier, 2018; McGee & Kampwirth, 2015; Johnson, 2018; Cavill, S. & Sohail, 2007; Peterson et al., 2018).

The following section describes the specific social context in which this alliance between NGOs and constitutional law has emerged in Colombia. Based on this analysis, we show how working with the law, in the specific case of diversity NGOs in Cali, Bogotá and Barranquilla, serves to depoliticize and domesticate the mobilization rather than to revitalize social activism. As such, the successes of strategic litigation⁶ become symbolic successes that generate few positive effects in people's lives.

Colombian LGBTI NGOs: It's Time to Account?

In Colombia, those belonging to non-normative sexual orientations and gender identities are subject to systematic discrimination from public and private actors (Prada, 2015). Growing international visibility of the topic and the expansion of equal protection jurisprudence have allowed the LGBTI community's demand for civil rights to be inserted into the public agenda, and for the Constitutional Court to attend to the guarantee-based approach of the Constitution of 91 and, as such, dictate sentences that recognize some of these rights.⁷ It would therefore make sense to examine whether, in attempting to improve the quality of life of those who they fervently claim to represent, they have influenced a series of exogenous factors rather than managing human rights agents.

The country's large NGOs, through an effortful media work, seems to monopolize the demands of the historically victimized LGBTI population

⁶ For Mónica Roa, one of the country's pioneers of strategic litigation, this concept is a way in which to achieve social change through legal mobilizations that detonate positive social reactions and put pressure on the judges to rule in favor of change (Roa, 2018).

⁷ We are talking about marriage rights, adoption rights, and social security partnerships in the case of gay couples.

group. All of them have woven a discourse of self-sacrifice and scarcity that positions them as the exclusive voice of a sector whose social marginalization leads to ever-increasing rejection by the funding bodies of the first world. Third sector organizations are the rock stars of the globalized era (Nelson, 2000). In the words of a trans woman who recently went through the proceedings for her transition:

They capitalize on philanthropy by receiving such plentiful funds as to make any *gamonal* or local boss envious. In contrast to public officials —exposed to a Single Disciplinary Code [Código Disciplinario Único]— they exhibit the spurious representation of a section of communities exploited from a perspective of pity, without promoting transformations that lead to a palliation of their deteriorated living conditions. As they are not accountable to anyone, they exploit the scarce social and financial capital, typical of those that have been expelled from the prosperity circuits. And it is not seldom that they exercise their voice without being part of those groups which they fervently claim to defend, building a discourse in which they contort the tenets of feminist theory at their whim, and, at the same time, try to ignore them in order to perpetuate the hegemonic paradigms of masculinity and femininity functional for patriarchy and the resulting violence against ordinary citizens (Interview with Informant 1).

Criticism of LGBTI NGOs is clear: they have no accountability scheme and this makes them use, defraud, and instrumentalize their operations and the relationship they have with the people they are supposed to represent. Based on this critical foundation, this section characterizes the three organizations analyzed in Colombia, delivering evidence on three levels: operational self-narratives (that gather the discourses in which different organizations describe their work in social networks), interactions with their service users (that gather testimonials of successful or failed relationships between the LGBTI community and these organizations for different requirements), and the budget management available in the network (reported by secondary sources), as well as the journalistic coverage in the national media of the funds that transnational and state agencies report as having delivered to these

organizations. This analysis will be made independently for each of the organizations.

The Bad Mothers: The Dynamic of the Madresanta Foundation in Cali

The Madresanta Foundation, a Cali-based NGO established in 2005, works with the Organización de Reivindicación, Exigibilidad y Garantía de Derechos de Mujeres Trans (Organization for vindication, enforceability, and guarantee of trans women's rights).⁸ Its steering committee includes Mateo Gómez, communications director who likes to be called *Wonder Woman*; Juan Pérez, a low-profile public servant, with no relevant attribution for the community and who likes to be called *Fernanda*; and the director, Pablo Abril Morado, who likes to be called *Mariah Stipenko* or *La Madre* (the Mother).⁹

Below the steering committee is a group of around six officials, two part-time cisgender professional women, and the rest, trans women. None of them have completed higher education, but they all seem to fall under the charismatic domination of Pablo Morado o *La madre*. The obedience of “las chicas” (the girls) to “la madre” is configured around an image of presumed courage or exemplariness of the person they follow. In this case, the aim is to create a hierarchical and uncritical relationship between *the mother and her daughters*, following a model derived from the prostitution districts in which the mother grants permission for the daughter to settle under her command and provides protection, and moral and aesthetic guidance, in exchange for blind obedience (Field notes, Researcher 1).

Morado, who likes to be referred to as a trans woman despite always dressing according to the gender code socially assigned to his masculine sex at birth, continuously alludes to stories that situate him as

⁸ <https://twitter.com/SantamariaFunda>

⁹ All names of the informants have been changed in order to protect the anonymity of our sources.

a hero of the LGBTI cause in Colombia. He maintains that there is no history of work related to non-normative gender identity previous to those undertaken by his/her foundation. "They are killing us", he repeats, taking ownership of the endemic violence against trans women in the city (Field notes, Researcher 1).

A person linked to the organization criticized the instrumentalization of the trans identity in the Madresanta Foundation as follows:

Has Morado had to deal with any of the dangers often faced by trans woman, when he socializes 24/7 with his gender identity as a cisgender man? Has he ever felt the panic felt the first time you go out dressed as a woman, knowing of the inescapable exposure and prejudice? Has he ever had to deal with refusal when trying to access administrative or health services because he looks like a woman whose ID says that he is a man? Has he ever experienced the uncertainty of embarking on a feminization process, without having the faintest idea of how to go about it? That he excuses himself behind an alleged vanity to justify his voice, seems at the very least inconsiderate to all the trans women who, through the public dimension of their appearance, have challenged the matrix of sex-gender control that pressures them to wear men's clothes, dealing with the innumerable and violent disciplinary mechanisms that become unleashed from that point. Could it be legitimate that the establishment of public policies urgently required by the LGBTI population should be represented by someone who, in their own words, dresses as a woman sporadically and mainly for fun? Here, patriarchy clearly manifests itself, imposing cisgender men to lead a collective which is victimized precisely because of sexist attitudes, which assume female and feminized bodies as its own to do with as it pleases. Is it only cisgender men that have the faculties to guide it? Would a person like Morado who has never wanted to make his CV public have such faculties? (Interview with Informant 1).

This criticism of cisgender men is recurrent in the sources analyzed. The argument is based on the fetishization of the female body deployed by trans organizations, which, by exaggerating the

physical and performativity codes of the hegemonic femininity in Cali (voluptuous seductive women) reproduce the problems of trans women, associated to poverty, violence and rejection (Prada, 2015). As such, and making sense of this criticism, the Madresanta Foundation promotes only two manifestations of the rights of the trans population: sexual freedom, which always concentrates on the delivery of condoms, and association to precarious occupations, especially prostitution and hairdressing (Field diary, Researcher 1).

Following are a number of examples to support the above. *Con las tetas bien puestas*,¹⁰ roughly translated, as *With your titties well set*, was Madresanta Foundation's slogan in the 2014 LGBT pride march. The T-shirts and, in general, all the abundant allegorical material displayed for the occasion —paid for with international funds— displayed a pair of breasts on a fuchsia background together with the creative slogan. A woman that left the foundation told us:

In their rush to show impetus, they came up with a dangerous association of themselves with an old sexist expression that links hegemonic masculinity to power, skill, and force. And to round it off, they reduced the transfeminine universe to a pair of *titties*. The exhibitionism of the march reinforces their image as beings that are prone to nudity and concerned only with satisfying their sexual desires. They are convinced that trans people graduate as women once they get themselves breast implants and a man. This is sad... (Interview with Informant 1).

*¿De qué vivimos? ¡de tercas!*¹¹ Roughly translated as *What do you live off? Off of our stubbornness* is the naive answer to a question asked by a participant in one of Pablo Morado's talks, somehow boasting of poverty, which is common to her/his activism. If we follow up on the processes that the foundation leaders deploy, we will see that they limit themselves to giving condolences on social networks for the many assassinations of trans women without any real follow up to

¹⁰ Retrieved from <https://www.youtube.com/watch?v=IOyDFrJSj28>

¹¹ Retrieved from <https://www.youtube.com/watch?v=IxE9wPdnbdM> at 44: 46

the cases, or at least none that is publically visible.¹² Their sponsored meetings¹³ attract the women mainly because they get a free snack and condoms. There is no evidence of the management of this organization to helping a single trans woman to access the education system, obtain a housing loan, demand her rights in the health system, or free herself from threats against her integrity (Field diary, Researcher 1). A trans woman told us about the funding of such organizations:

While they accumulate air miles travelling around the world to exhibit their huge efforts, the women ascribed to the organization implement types of training schools for those who barely managed to finish high school. All with the gracious auspices of the European Union, whose citizens, more concerned about Brexit or the Greek economic crisis, are ignorant to the fact that they are probably paying MA or PhD salary rates for these training sessions. They stole all that money. Every so often, they set up a pantomime for the funding bodies (Swedish Agency, European Union, Astraea), in which they act out personnel recruitment processes, when in actual fact the personnel never really changes. And although, until recently, they were denied state funding, they now enjoy the benefits of public funds (Interview with Informant 1).

Thus, what makes the scenario of the third sector organizations more complex in terms of the positioning of the diversity and trans agenda in Colombia and the imminent avalanche of state and international resources for the postconflict period is the elaboration, among these same organizations, of interlinked networks through which they mutually legitimize each other. Before competing, a more collaborative or “clientelistic” spirit has sprung up in which specializations per region and populational niches are developed. Thus, they consolidate their supposed aptitude when other twin organizations begin to cite

¹² Retrieved from <https://www.facebook.com/santamaria.fundacion.3/posts/1451463814868999>

¹³ Retrieved from <https://www.facebook.com/santamaria.fundacion.3/photos/a.1146799085335475.1073741828.1146771458671571/1382734315075283/?type=3&theater>

them as an example of professionalism and trajectory, expecting to receive the same favor in return.

The Madresanta Foundation, for example, works together with La Costa Dice Sí, Colombia Inclusiva¹⁴ and a series of satellite groups. Pablo Morado and the Madresanta Foundation, as mentioned above, have specialized in the trans population. The other two organizations promise to cover the whole LGBTI spectrum emphasizing the Atlantic Coast and Bogotá regions, respectively, while they desperately seek funds promising tax benefits to donors.¹⁵ Such organizations, behind their non-profit façade and as recently denounced in a number of national scandals, seem to serve as a black hole for national funds.¹⁶

Madresanta therefore has two fundamental characteristics: 1) it has much contact with the trans bases of the Colombian southwest, and 2) it reproduces some of the aspects that have been criticized with regards these types of organizations. This criticism is associated to three factors: their instrumentalization of the trans identity for the public discourses of their managers; the reproduction of gender stereotypes associated to the hegemonic femininity resulting from the exoticizing of the bodies of trans women (presented as sensual and voluptuous by the foundation's propaganda); the scarce monitoring and evaluation of the impact of the organization's intervention, especially focusing on the persistence of poverty, exclusion from the labor market, and daily violence against trans women.

¹⁴ Retrieved from <http://www.colombia-diversa.org/2015/04/colombia-diversa-santa-maria-fundacion-y.html>

¹⁵ <http://colombiadiversa.org/colombiadiversa/index.php/como/donaciones-en-efectivo>

¹⁶ Retrieved from <http://www.tributar.com/fundaciones-y-otras-entidades-sin-animo-de-lucro-fachada-para-el-lavado-de-activos-y-evasion-tributaria/> y <http://www.eltiempo.com/vida/educacion/cartillas-y-textos-del-ministerio-de-educacion-diversidad-sexual-en-colegios-37113>

Centralism and Legal Action: Colombia Inclusiva in Bogotá

Colombia Inclusiva is perhaps one of the human rights organizations with the best national media connections. It knows how to identify the cases that can attract the most public attention in order to present itself as a close ally of the LGBTI person involved, posing with that person in photos, interviews, etc. Despite its name suggesting national coverage, it clearly focuses on Bogotá. Thus, if a person is seeking a sex change operation via the public health system by appealing to the public legal administration, the case is not attractive to them, even when the pompous EU-funded project promises to “carry out activities in three broad interlinked areas: human rights, litigation, and communications”,¹⁷ or when it unashamedly points out that “the project will focus on research and training with the trans population”.¹⁸

The focus of the work carried out by Colombia Inclusiva is to develop strategic litigation strategies based on the selection of cases that they believe may foster an impact in the courts and the media. Its work, therefore, combines political marketing strategies with sophisticated legal ones. Their lawyers, for example, are always recruited from the elite universities in the country (all in Bogotá) and a number of their members are respected public-opinion-makers in Colombia. Others include respected academics (Field diary, Researcher 2).

The focus on strategic litigations does nothing for the problem, structurally. Thus, the organizations discriminate in their choice of the cases, they single out for litigation. In this sense, an informant told us:

I called and wrote to Colombia Inclusiva many times. No one answered. I also travelled to Bogotá in order to seek legal assistance in Colombia Inclusiva. I waited, I was patient. I just needed an expert to read my amparo action to ask for my reassignment

¹⁷ This item and 18 were retrieved from <http://caribeafirmativo.lgbt/2015/04/25/colombia-diversa-santamaria-fundacion-y-caribe-afirmativo-inician-proyecto-para-el-fortalecimiento-de-los-derechos-lgbt-en-colombia-con-el-apoyo-de-la-union-europea/#comments>

surgery. I waited a long time. No one ever answered. That's why I don't believe in NGOs. After two years, when a national newspaper published my experience as a trans woman on the International Women's day, one of the *gomelas* [swanky] who made me wait for help in Colombia Inclusiva asked me to be friends with her and to talk about my experience with an offensive "I want to get to know you". And I had the opportunity to respond: "You know me, certainly, you know me". And she is very famous and has a reputation now as a "voice of trans women", but she is not a real ally.

[...]

But you have to recognize one thing: Colombia Inclusiva has achieved a legal change. The shit I used for my process is a goal they achieved for us. They have experts and social networks to do their work with the judges. And this is important (Interview with Informant 4).

Despite this being a highly technocratized organization, the powers in motion within the organization are also charismatic. For example, its directors have been the same throughout its history and the organization's agenda and purposes seem to be a projection of their profiles. The managers' children have been linked to the organization and they have even created new organizations with similar purposes. As one of our interviewees told us: "diversity activism is more endogamic than the Catholic Church" (Field diary, Researcher 2). One informant told us about her surprise at this:

You can imagine my reaction. Months ago that bitch told me "they do not give individual help to members of the trans community because there are other organizations that do this job, they only litigate in certain cases". And then I read in a fashion magazine that the "other organizations" are the children of the director of Colombia Inclusiva. This is amazing and intolerable to us. But there are reactions. You can feel the rejection in the streets, and I know that some trans women wrote a strong letter in order to reject this organization and its dynamics [...]. But still they know how to get the money; this is the problem (Interview Informant 2).

The organization has grown quick and successfully. In addition to strategic litigation, it dedicates itself—in the same way as some of the NGOs working on rights litigation—to building repositories of judicial decisions that people can use to their own benefit. All of the judicial precedents are duly organized and classified on the web page.

But the organization also declares multi-million consulting contracts with state entities (such as the Ministry of Education and the Ministry of the Interior) at both national and district levels (interview with Informant 11). Colombia Inclusiva has designed sex education booklets for state schools; it has supported the design of cross-cutting gender policies for a number of territorial entities and national government offices; it has passed judgment in all LGBTI-related processes that have reached the Constitutional Court; and it has assessed and studied, for example, the state of the regulations in schools in Bogotá. Finally, its guidelines are always close to the bureaucratic elites and networks that “recommend” CVs with progressive profiles for high-level positions or they advocate in related causes. They also tend, very carefully, to the Constitutional Court elections, where a number of them—or their closest friends—have been associated as auxiliary judges (Interview with Informant 11). The organization’s team is part, as mentioned in an interview on the topic, of “closed social circles”.

Our analysis of Colombia Inclusiva demonstrates that, in contrast to the Madresanta Foundation, Colombia Inclusiva is an elite entity with few links to grassroots organizations, a high level of technocratization, and high incidence in the public debate as a result of its interactions with high government bureaucracy, territorial entities, and the main media sources. Despite this, it is evident that there is no control or accountability in terms of its management.

The Gritty Diversity: The Case of La Costa Dice Sí in Barranquilla

Founded in 2009, Corporación La Costa Dice Sí defines itself as a pluralistic institution which promotes diversity, has links with different social sectors, and dedicates itself to monitoring, research, training, public action, advisory, consultancy, accompaniment, and the promotion of the human rights of the LGBTI population. According to the information reported on its web page, La Costa Dice Sí carries out its incidence activities from a rights-based focus on three interdependent strategies: research into the state of the human rights of the LGBTI population in the region; exercises of citizen training and the recognition of and respect for sexual diversity and gender identities; advisory and consultancy services provided to local and regional governments, and state and social entities for the construction and implementation of public policies and affirmative actions.¹⁹

Jefrey Umaña,²⁰ director of the Barranquilla-based Fundación La Costa Dice Sí, was appointed the representative for LGBTI sectors in the peace talks in Havana. His discourse²¹ and proposals²² do not mention a hardline or affirmative action, revealing a social order that privileges men and whose intended appropriation of the feminine fosters rates of violence²³ against women that lead the regional statistics. They reinforce the narratives of the “lack of support of the local authorities”²⁴ demanding the state to “ban violence and discrimination against the LGBTI community”.²⁵ This action was repudiated by some members of the LGBTI community:

¹⁹ Retrieved from <http://caribeafirmativo.lgbt/>

²⁰ The names of those who intervene in this organization have also been changed.

²¹ Retrieved from <http://www.washingtonblade.com/2013/05/31/colombia-lgbt-activist-discusses-challenges/>

²² Retrieved from <http://sentiido.com/la-diversidad-sexual-y-de-generos-presente-en-la-habana/>

²³ Retrieved from http://internacional.elpais.com/internacional/2016/03/02/colombia/1456932147_395869.html?pid_externo_rsoc=FB_CM

²⁴ See note 10 above

²⁵ Ibid.

Pointing the finger at the state as being responsible for not protecting the population without considering the bases, which are what really promote marginality, has the perverse effect of making NGOs further concentrate the responsibilities pertaining to anyone who tries to establish a representation for others. Even more paradoxically, they use this social neoliberalism that leads them to serve as the providers of public goods and services to ask the state for more. That is, they use the aegis of the state at a whim to legitimize themselves before society and to show that the state does something (Interview with Informant 3).

La Costa Dice Sí was responsible for the design of the baseline and other guidelines for the LGBTI public policy for the Bolívar and Nariño departments, articulated as advisors and guides for state bodies. Their annual reports on the situation of the human rights of the sexually diverse and gender identities in the Caribbean²⁶ are a statistical digest of aggressions suffered by LGBTI people on the Atlantic Coast from which the state's thesis of inaction is argued. This inaction, a phenomenon by which public officials go from the public sector—which regulates—to the private—almost always in charge of execution—and *vice versa* occurs frequently, especially in tasks such as the LGBTI links of the municipal administrations and even in connection with the Ministry of the Interior.

La Costa Dice Sí differs from the organizations analyzed above: Madresanta Foundation and Colombia Inclusiva. La Costa Dice Sí includes experts from an elite university, in an alliance that is well known in the region (between the NGO and the most important elite university in Barranquilla). La Costa Dice Sí also contracts trans women to work, disseminate, and operate the organization. However, these trans women demonstrate the same hierarchical relationship with Umaña as the “daughters” of Madresanta demonstrate for their leader (Field notes, researcher 1).

²⁶ Retrieved from <http://caribeafirmativo.lgbt/docs/Informe-sobre-la-situacion-de-derechos-humanos-de-la-diversidad-sexual-y-las-identidades-de-genero-en-el-Caribe-2011.pdf>

La Costa Dice Sí therefore reveals a number of visible characteristics. It is an organization that focuses on media impact, which takes off in 2016 with the participation of its director as the representative for the LGBTI community in the Havana peace talks. Despite this, its operation grows out of the same problems experienced by the two other organizations: they operate through militancy and the construction of the significance of discrimination in public debate, they omit control of their management, and they avoid accountability. Derived from this, there is an important gap between the work they claim to be undertaking and its impact on social reality.

In the next section, we summarize the findings and propose three key relations in order to understand the interactions between NGOs and trans women: instrumentalization, complementarity, capture, and legalization.

Diversity Clientelism: Instrumentalization, Complementarity, Capture, and Legalization as Key Elements of the Relationship

The analysis to draw from this research is that there are at least three ways of highlighting the relationships between LGBTI NGOs and the actors involved in the field of diversity. These relationships include *instrumentalization and impersonation* (between NGOs and the LGBTI community), *complementarity and capture* (between NGOs and the local government and transnational cooperation) and *legalization* (between NGOs and the LGBTI community).

Thus, the cases do not reveal how the organizations frequently *make instrumental use* of the community that they represent; rather, this phenomenon is evident in two ways. The constant claims made by people linked to the communities who affirm that the organizations ignore their main problems and the organizations' leaders rhetoric instrumentalization of the subordinate identity (very visible in the case of trans women). This implies that, in all the cases analyzed, there is an important gap between the organizations and the populations they

represent, with no communication channels, interaction or control. The existence of this gap means that many of the men and women associated to the movement feel betrayed or used by the organizations, which, in contrast, seem to enjoy great economic and symbolic growth. This is made evident in the declarations of the informants in the organizational analysis.

But the cases also speak of relationships of *complementarity and capture*. It is evident that these organizations open the door to the funding scenarios that aligned their exercise with resources from international cooperation and resources from national and local governments. As we have seen, the organizations litigate, and develop and operate agendas of some (transnational, national or local) dimension, contributing not only to the outsourcing of public services and concerns, but also to the depoliticization and domestication of the requests of the communities they represent (now encoded as commitments, benefits, and obligations of promotion which the organizations have with their funders). In this sense, the organizations play successful roles in the construction of exchange and support networks in terms of incidence on the topic (at national and international levels) but they fail to connect organizations with “real cases”. The connection with networks and parallel disconnection with the bases ends up reproducing the same phenomena that the organizations report: structural discrimination, symbolic violence, and exclusion of the LGBTI community.

This leads us to the third effect: *legalization*. The legitimacy of social representation has been replaced by a model of formal legality which claims to “act” on behalf of the communities in two ways: using strategic litigation that promotes changes in the legal dimension and postpones material changes, and by formulating “organizations for action” based on the use of legal forms to render causes visible through the consolidation of judicial organizations: foundations, associations, fronts, blocks. To translate the needs of the communities to judicial forms would seem to be the main engine behind these organizations, sometimes, ignoring that the legal language constitutes a barrier between them and the people they represent (who perceive

them as opportunistic individuals who use their stories to foster legal changes that will not help anyone, as mentioned in the testimonial above). Again, there is an important absence of mechanisms that render visible, quantify, and socialize the work of the legal strategies (such as strategic litigation) for the LGBTI community. Accountability becomes fundamental when, after the existence of these three organizations, violence and discrimination against this community increases (according to the reports by the Historical Memory Centre, for example).

The process of NGOization described above has been possible in the case of the diversity agenda in Colombia due to a particular fact: the language of rights inaugurated and promoted by the Constitution of 1991 created an important gap in terms of action that only organizations with a high level of institutionalization and experts in technical language are able to use (Céspedes-Báez, 2014). This gap fostered a strategic alliance between the constitutional law and NGOs with visible results in the development of the feminist agenda in Colombia: the decriminalization of abortion in three cases, the struggle for proposing indicators that measure the success of public policies dealing with gender violence indicators, and the monitoring of a specific approach for the displaced population, among others.²⁷

The Constitution of 1991 created a space for disputes in the legal sphere, which, despite its good intentions, has a number of limitations attributable to the legal tools: to use them, a social and economic capital is required as they are encrypted with complex formalisms and technicalities and they fail to socialize more inclusive languages and processes. This consequently leads to the appearance of new actors that coopt such spaces of dispute, without them necessarily being connected to

²⁷ Here, we can also mention a number of successes that the LGBTI community has claimed as its own: the strict application of the law of non-discrimination in schools (sentence T- 478 de 2015), equal marriage rights (sentence SU- 214 de 2016), social security for gay couples (sentence SU- 623 de 2001), and the right to adoption in specific cases (sentence C- 271 de 2015). These changes can be recognized as a global trajectory (Iellis, A. & Bala, 2015).

the voices or interests that they represent (Spade, 2011), as we read in our informants' testimonials.

The participation-action which has taken place over recent years has been marked by such actors, and the dialogues and dynamics that these agents set up: diversity-related NGOs funded by multilateral agencies, which insert the topic of sexual diversity as a transnational debate; constitutionalist lawyers that use transplanted strategies (they build alliances with local actors, formulate media strategies and new litigation strategies for change, and they request *amicus curiae* from allied institutions); our outraged friends; and, of course, the Constitutional Court. The receiver of all these strategies is the Constitutional Court, an institution that is recognized by this new type of participation-action as the main receiver of all its requests. We also have to point out that many of the diverse NGO members have been linked to the Constitutional Court as judges following their activism. And we have to start to differentiate activism from funding (Álvarez, 2011).

But there is also an issue of misrepresentation. The first problem is related to the disregard of grassroots LGBTI community and trans women's organizations that do not have the technical training to insert themselves into the sophisticated interaction between transnational NGOs and the constitutional judges using the language of structural litigation. In addition, such social organizations do not have the social and economic capital required to maintain a social organization with the structure and scope of an NGO. From this point of view, the NGOs are elite opportunists that take advantage of certain agendas to favor extremely closed circles of beneficiaries, leading to the legitimization of the system but, above all, to the establishment of very few relationships with grassroots organizations and with the subjects they are supposed to represent.

The second criticism is related to the insufficiency of material changes fostered by the model. Despite the formal changes achieved in the materialization of sentences that favor the LGBTI population and trans women in particular, the text of the Constitutional Court's case law, as the new victory of sorts of the participation-action of diversity NGOs,

has turned into a dead letter that barely produces symbolic changes in distant technical debates, which never permeate the daily lives of the community who are not directly involved in the action (Albarracín; 2011; Sarmiento, 2012). The most serious factor is that institutional action legitimizes the state in two ways: we all feel that Colombia has a good environment for diversity because the Constitutional Court is doing something for the sexually diverse or because current NGOs are promoting legal change, but no one can *live on* sentences and laws. In this sense, this form of activist (or funding) action is a type of legal fetishism that ignores the limits of the changes achieved based on legal materials. However, as mentioned by Informant 4, trans women also recognize the value of this work.

The above is negative as it hides the administrative and daily violence to which trans and other people with diverse identities are subject to in different public and private spheres. The law has the perverse effect of legitimizing the state of things while it maintains and reproduces the *status quo* (Spade, 2011). Thus, this mode of action contrasts with the strong claims made by the Historical Memory Centre (CNMH) regarding the situation of people with diverse identities in Colombia (Prada, 2015). The report “Aniquilar la diferencia” describes how the LGBTI population was one of the most profoundly affected by the political and symbolic violence perpetrated by armed groups (especially the paramilitaries). A number of local academics have made the same complaints (Molinares, Bernal & Orozco, 2015), revealing how the situation has not changed for the LGBTI people, in spite of the work of NGOs dedicated to strategic litigation.

The last effect is the NGOs’ reinforcement of polemic gender stereotypes that end up affecting the very population they defend. This too is a problem of misrepresentation. As shown by the analyses, two of three organizations reproduce the trans woman identity associated with hyper sexualized, victimized and non- educated subjectivity. They work only with hairdressers and sex workers who tend to reproduce platitudes with regards the identity of trans women. Beyond assistance, there are no organizations working on education, professional training, or poverty as topics strongly related to trans women and

the LGBTI population. No policy on employment or labor has been promoted, clearly revealing that the organizations focus merely on a discourse relating to rights.

Conclusion

This paper began with a series of questions. Throughout this article, we have attempted to address these questions and raise the issues resulting from them.

Recent achievements by cis women, trans women and the LGBTI community have leveraged the new association of the diversity agenda, NGOs, and the constitutional law as an action mechanism for so-called “diversity activism”. NGOization and constitutionalization bring new questions and, despite their achievements, they cannot respond to the accusations insofar as the erosion of critical thought, the lack of promotion of material changes, and the exclusion of grassroots organizations from the technical legal discourse in terms of their actions. Therefore, both the tool and the actors are responsible for the limitations of the development of the diversity agenda in Colombia.

This new attachment to constitutionalism seems to betray the very people that it promises to help. Faith in the legal mechanisms ends up being functional to the social neoliberalism which uses NGOs as mechanisms for the depoliticization of the social movements and the outsourcing of the state's tasks as it focuses on formal changes that do not have an effect on people's daily lives. The changes in the lives of the LGBTI community are not radical and most of the literature celebrates the symbolic effects of the achievements, concealing the persistence of structural differences. Whether the NGO structure is an efficient tool for the vulnerable community is a question that therefore remains open to the reader. We declare ourselves skeptical insofar as its use and, for now, we insist on the importance of systematic investigation into this new system of action.

Many financial resources are being distributed in the name of the sexual diversity agenda. LGBTI issues, and mainly transgender issues, require special attention. The development discourse and the NGO structure have been perceived as the preferred language for this type of participation, and managed basically within the new figure of NGOs. Whether this form of action benefits or harms the people that they promise to help, or whether it benefits some and harms others, is something that we need to begin to examine; hence, the relevance of this research agenda. As mentioned earlier, we have to begin to differentiate between political and social activism and financial funding.

In employing this perspective, this paper finds the following to be true in the field of LGBTI NGOs' accountability: First, NGOs involved in issues of diversity have developed new ways of working, including institutionalized structures and strategies of cooperation and alliances that aspire to levels of formality and specialization in the development of bureaucratic objectives. The NGOs are perceived as "elites" and as "the new political parties". This has nothing at all to do with the NGOs' statuses as organizations that are independent of local governments. On the contrary, the NGOs' new objectives are suspiciously bound to the latter, precisely in order to influence and capture these levels of government. Thus, as the literature recognizes, NGOs display bureaucratization characteristics and quasi-governmental structures.

Second, there is a visible devaluation of the LGBTI NGOs in their role as mechanisms for representing civil society and facilitating connections and/or communication between civil society and the decision-making bodies in congress, government, and the legal system. LGBTI NGOs are increasingly distant from their social bases and ever closer to the entrepreneurial structures that characterize political action within the establishment.

Finally, important levels of articulation exist between LGBTI NGOs and international cooperation regarding funding in the global spectrum. The analysis of the organizations shows how, for example, the new sexual diversity based NGOs are very successful in terms of funding, but not so successful in the redistribution of resources of local benefits among

the communities they are supposed to represent. On the contrary, the people from these communities point out that their actions tend to be favorable to reproducing the stereotypes and symbolic violence suffered by the LGBTI community.

Raising questions related to the accountability of NGOs is important given their key role in the social arena. These entities have become much more effective than states as global players, especially economically dependent states because they are not state-based and are not held accountable. In the field of diversity, specifically, the accountability issue of the LGBTI NGOs and their lack of representation concerning the LGBTI population challenge the state and the civil society actors, in terms of inquiry development. We hope this work can contribute to this social inquiry as a prolific field.

References

- Abadía, M. (2012). Usos y abusos del sistema penal. Su uso como forma de emancipación femenina: un estudio de caso del delito de trata de personas en Colombia. *Revista de Estudios Sociales*, (42), 107-114. Doi: <http://dx.doi.org/10.7440/res42.2012.10>
- Albarracín, M. (2011). Corte Constitucional y movimientos sociales: El reconocimiento judicial de los derechos de las parejas del mismo sexo en Colombia. *SUR. Revista Internacional de Derechos Humanos*, (14), 7-33.
- Anheier, H. & Dimaggio, P. (1990). The sociology of nonprofit organizations and sectors. *Annual Review of Sociology*, (16), 137-159. Doi: <https://doi.org/10.1146/annurev.so.16.080190.001033>
- Álvarez, S. (2009). Beyond NGOization? Reflections from Latin America. *Development*, 52(2), 175-184. Doi: <https://doi.org/10.1057/dev.2009.23>
- Bebbington J. (1993). *NGOs and the state in Latin America*. London: Routledge.
- Bergtora, K. (2011). Gendering violent pluralism: women's political organizing in Latin America. *Third World Thematics: A TWQ Journal*. Doi: <http://doi.org/10.1080/23802014.2018.1477527>
- Betron, M. (2011) *Different needs but equal rights. Giving voice to transgender communities through ASPIDH in El Salvador*. USA: USAID.

- Cavill, S. & Sohail, M. (2007). Increasing strategic accountability: A framework for international NGOs. *Development in Practice*, 17(2), 231-248. Doi: <https://doi.org/10.1080/09614520701196004>
- Céspedes-Báez, L. M. (2014). Más allá de lo que es medible: el feminismo de la gobernanza y los indicadores en Colombia. *International Law: Revista Colombiana de Derecho Internacional*, 25, 375-444. Doi: <https://doi.org/10.11144/Javeriana.il14-25.madl>
- Cohen, J. & Arato, A. (2000). *Sociedad civil y teoría política*. México: Fondo de Cultura Económica.
- Cornell, D. (1991). *Ethical feminism, deconstruction and the law*. New York: Routledge.
- Cornwall, A. Harrison, E. & Whitehead, A. (2008). *Gender myths and feminist fables: The struggle for interpretative power in gender and development*. Malden, Oxford and Carlton: Willey-Blackwell.
- Courville, S. & Piper N. (2004). Harnessing hope through NGO activism. *Annals of the American Academy of Political and Social Science*, 592, 39-61. <https://doi.org/10.1177/0002716203261940>
- Dagnino, A., Panfichi, A. & Panfichi, O. (Coords.). (2006). *La disputa por la construcción democrática en América Latina*, México: FCE/CIESAS/Universidad Veracruzana.
- Eisenstein, Z. (1998). *The female body and the law*. Berkeley: University of California Press.
- Feldman, S. (1997). NGOs and civil society: (Un)Stated contradictions. *Annals of the American Academy of Political and Social Science*, 554, 46-65. Doi: <https://doi.org/10.1177/0002716297554001004>
- Fergusson, K. (1984). *The feminist case against bureaucracy*. Philadelphia: Temple University Press.
- Friedman, E. J. (2009). Re(gion)alizing women's human rights in Latin America. *Politics & Gender*, 5(3), 349-375. Doi: <https://doi.org/10.1017/S1743923X09990171>
- Fowler, A. (1996). Demonstrating NGO performance: Problems and possibilities. *Development in Practice*, 6(1), 58-65.
- Gideon, J. (1998). The politics of social service provision through NGOs: A study of Latin America. *Bulletin of Latin American Research*, 17(3), 303-321. Doi: [https://doi.org/10.1016/S0261-3050\(97\)00069-7](https://doi.org/10.1016/S0261-3050(97)00069-7)
- Goetz, A. M. (1997). *Getting institutions right for women in development*. London: Zed Books.

- Gómez-Quintero, J. D. (2014). Organizaciones no gubernamentales y entidades sin ánimo de lucro en Colombia: Despolitización de la sociedad civil y tercerización del Estado. *Gestión y Política Pública*, 23(2), 359-384.
- Guber, R. (2001). *La etnografía: método, campo y reflexividad*. Bogotá: Norma.
- Guenther, K. (2011). The possibilities and pitfalls of NGO feminism: Insights from postsocialist Eastern Europe. *Chicago: Signs, Journal of Women in Culture and Society*, 36(4), 863-887. Doi: <http://doi.org/10.1086/658504>
- Haraway, D. (1988). Situated knowledges: The science question in feminism and the privilege of partial perspective. *Feminist Studies*, 14(3), 575-599.
- Ho, J. (2008). Is global governance bad for East Asian queers? *GLQ. Duke: GLQ*, 14(4), 457-479. Doi: <https://doi.org/10.1215/10642684-2008-001>
- Hodgson, D. (Ed.). (2011). *Gender and culture at the limit of rights*. Philadelphia: University of Pennsylvania Press.
- Jad, I. (2007). NGOs: Between buzzwords and social movements. *Development in Practice*, 17(4/5), 622-629. Doi: <https://doi.org/10.1080/09614520701469781>
- Jaramillo, I. C. (2006). Reforma legal, feminismo y patriarcado en Colombia: el caso de la ley de cuotas para mujeres en cargos de alto nivel de la Rama Ejecutiva. In L. Cabal & C. Motta (Eds.), *Más allá del derecho. Justicia y género en Latinoamérica* (pp. 59-144). Bogotá: Siglo del Hombre.
- Jaramillo, I. C. & Alfonso, T. (2006). *Mujeres, cortes y medios. La reforma judicial del aborto*. Bogotá: Uniandes.
- Johnson, J. (2018). Feminist mobilization: How bait-and-switch male dominance undermines feminism and how feminists fight back. In J. E. Johnson. *The gender of informal politics. Gender and politics*. Cham: Palgrave Macmillan.
- Lemaitre, J. (2009). Legalismo feminista- los derechos de las mujeres en los años 90. In J. Lemaitre, *El derecho como conjuro* (pp. 197-276). Bogotá: Siglo del Hombre and Universidad de los Andes.
- Lemaitre, J. (2011). El amor en los tiempos del cólera. *Revista Sur-Artigo*, 8(14), 7-33.
- León, M. (2007). Tensiones presentes en los estudios de género". In L. G. Arango & Y. Puyana (Eds.), *Género, mujeres y saberes en Latinoamérica. Entre el movimiento social, la academia y el Estado* (pp. 23-46). Bogotá: Universidad Nacional de Colombia.

- Lehoucq, E. (2016). Constitución de 1991, Ley de Cuotas y movimiento feminista: el papel del derecho en la generación de estructura de movilización. *Revista Precedente* 8, 9-41.
- MacKinnon, C. (2012). Foreword. In B. Baines, D. Barak-Erez & T. Kahana (Eds.), *Feminist constitutionalism —Global perspectives*. Cambridge: Cambridge University Press.
- Mawdsley, E., Townsend, J. & Porter, G. (2005). NGOs history process. Relation with state, beneficiaries and donors. *Development in Practice*, 15, (1), 77-82.
- Molinares, V., Bernal, J. & Orozco, C. (2015). Identidades suspendidas por el silencio, la opacidad, la vergüenza y los tabúes. Narrativas sobre violencia sexual en la guerra irregular en el Caribe colombiano. *Revista de Derecho de la Universidad del Norte*, 43, 158-196.
- Molyneux, M. (2008). The “neoliberal turn” and the new social policy in Latin America: How neoliberal, how new?” *Development & Change*, 39(5), 775-797. Doi: <https://doi.org/10.1111/j.1467-7660.2008.00505.x>
- Nelson, P. (2000). Heroism and ambiguity: NGO advocacy in international policy. *Development in Practice*, 10(3/4), 478-490. Doi: <https://doi.org/10.1080/09614520050116622>
- Prada, N. (2015). *Aniquilar la diferencia. Lesbianas, gays, bisexuales y transgeneristas en el marco del conflicto armado colombiano*. Bogotá: CNMH.
- McGee, M. & Kampwirth, K. (2018). The co-optation of LGBT movements in Mexico and Nicaragua: Modernizing clientelism? *Miami: Latin American Politics and Society*, 57(4), 51-73. Doi: <https://doi.org/10.1111/j.1548-2456.2015.00290.x>
- Moureau, J. & Currier, A. (2018). Queer dilemmas. LGBT activism and international funding. In C. L. Mason (Ed.), *Routledge handbook of queer development studies* (pp. 223-238). New York: Routledge.
- Peterson, A., Wahlstrom, M. & Wennerhag, M. (2018). *Pride parades and LGBT movements*. New York: Routledge.
- Rehfeld, A. (2006). Towards a general theory of political representation. *The Journal of Politics*, 68(1), 1-21. Doi: <https://doi.org/10.1111/j.1468-2508.2006.00365.x>
- Roa, M. (2018). Social change and the courts: Options in the activists. *Advocacy Toolkit*. Madrid: Women’s Link Worldwide.
- Rodríguez-Ruiz, B. & Rubio-Marín, R. (2012). On parity, independence and women’s democracy. In E. Baines, D. Barak-Erez & T. Kahana (Eds.),

- Feminist constitutionalism –Global perspectives* (pp. 287-316). Cambridge: Cambridge University Press.
- Rupp, L. (1999). Forging feminist identity in an international movement: A collective identity approach to twentieth-century feminism. *SIGNS*, 24(2), 363-386. Doi: <https://doi.org/10.1086/495344>
- Sarmiento, J. (2012). La modulación de sentencias como medio para articular la oportunidad política de la Corte Constitucional colombiana. El caso de las parejas del mismo sexo. *Revista de Derecho de la Universidad del Norte*, 37, 283-320.
- Schild, V. (2016). Feminismo y neoliberalismo en Latinoamérica. *New Left Review*, 96, 63-79.
- Spade, D. (2011). *Normal life: Administrative violence, critical trans politics, and the limits of law*. New York: South End Press.
- Tellis, A. & Bala, S. (2015). The global trajectories of queerness: Re-thinking same-sex politics in the global south. Leiden: BRILL.
- Vergel, C. (2011). El concepto de justicia de género: teorías y modos de uso. *Revista de Derecho Privado*, (21), 119-146.
- Wills, M. E. (2007). *Inclusión sin representación. La irrupción política de las mujeres en Colombia. 1970-2000*. Bogotá: Norma.
- Woodcock, S. (2011). A short history of the queer time of “post-socialist” Romania, or are we there yet? Let’s ask Madonna! In R. Kulpa & J. Mizielinska (Eds.), *De-centring Western sexualities. Central and Eastern European Perspectives* (pp. 63-84). London: Routledge.