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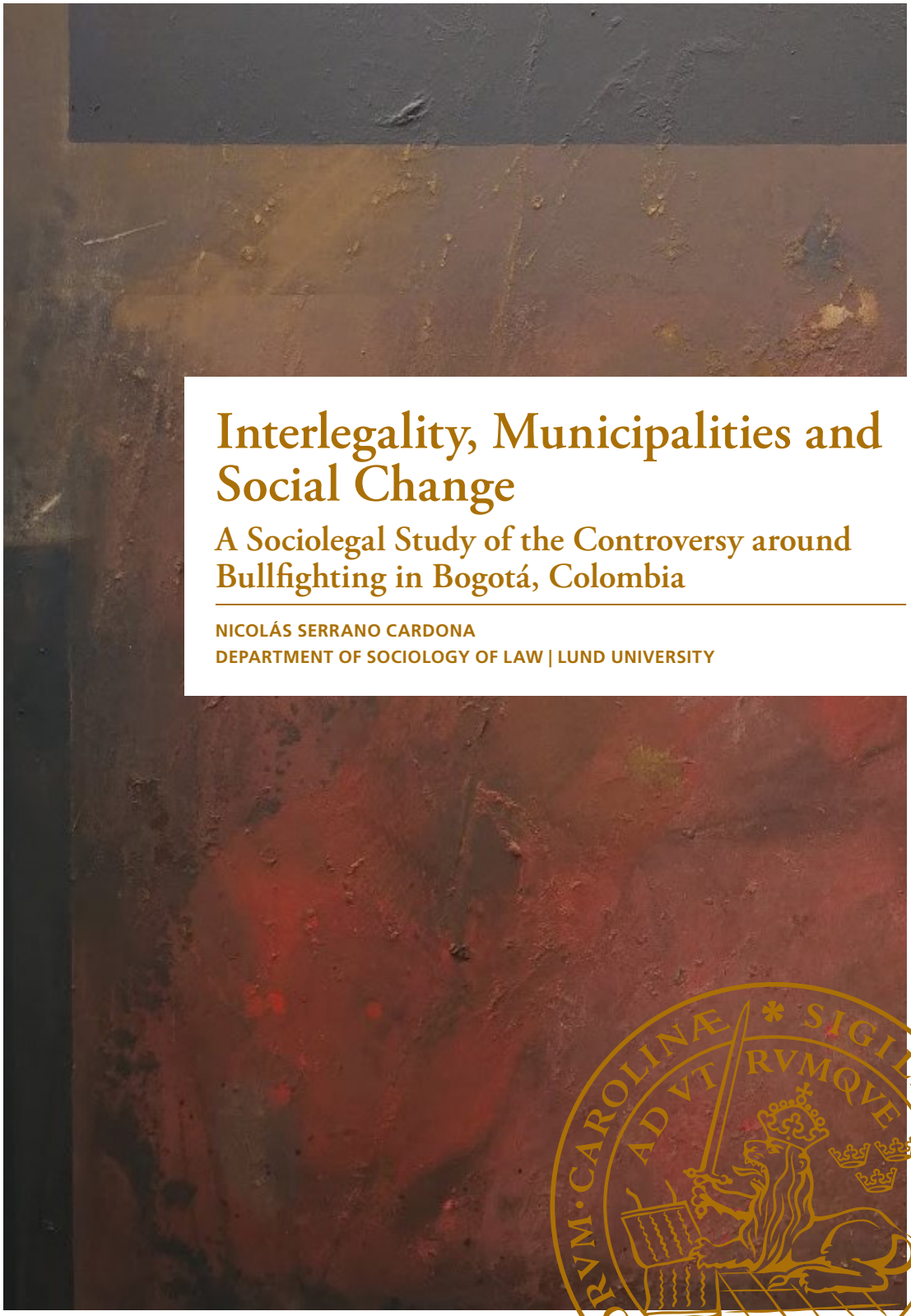

Interlegality, Municipalities and Social Change

A Sociolegal Study of the Controversy around Bullfighting in Bogotá, Colombia

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Interlegality, Municipalities and Social Change

A Sociolegal Study of the Controversy around Bullfighting in Bogotá, Colombia

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Abstract

This thesis ponders the participation of municipal authorities amidst processes of sociolegal change. Such interestoriginated from acknowledging the limited autonomy that municipalities have in the nested scalar jurisdictional order of most contemporary states, the relevance of municipalities as spaces of local democracy, the social movements' advocacy for social change at local levels, and the inherent nature of municipalities as places where the law is realised in space and time.

The thesis focuses on the progressive loss of social acceptance of bullfighting spectacles in Colombia, particularly in its capital Bogotá, since the last decade of the 20th century. Since 2012, Bogotá's municipal governments, in cooperation with social forces committed to animal welfare, have understood bullfighting as a spectacle that, above all, involves animal abuse, in contradiction to national provisionsthat address the spectacle primarily as a cultural expression. The controversy over bullfighting is embedded in a broader process of societal change fuelled by the recognition of animals as sentient beings and the proposal of new moral, social and legal principles upholding a different relationship between animals and humans.

The thesis draws on interlegality, scales and jurisdictions to describe and analyse the municipal level as a participant in complex interactions embedded in a far-reaching, historical, iterative and dynamic process of sociolegal transformation. It analyses interviews with social actors, national legislation, municipal resolutions, Constitutional Court cases and other normative documents as empirical material. The analysis traces the bottom-up and top-down movements of social objects and practices to understand the jurisdictional games deployed over time, reveal the different legal objects and interpretative frames used, and expose the jurisdictional arrangements that ultimately constrain the municipal scopes of action.

The study shows that the historical interlegal dynamic over bullfighting in Colombia restricted the recent attempts by Bogotá mayoral administrations to promote changes concerning the bullfighting spectacle by making the survival of bullfighting rules an issue of public interest related to urban public order and as a source of the plural national identity. This was possible by entangling the bullfighting canon into different legal spaces over time, thus constraining the definition of legal objects in terms of interpretative frames of bullfighting. The case shows how historical interlegal arrangements can adapt to societal changes through an iterative process of legal interpretation triggered by social actors. Municipal authorities are dependent on this continuous process of seeking and adjusting legal meaning through iterations, a process in which said authorities continuously seek social, political and legal intelligibility in their decisions.

Key words

Interlegality, legal scales, jursidictions, urban governance, social change, cultural change, law and culture, social policy, urban planning, socio-ecological transition, animal advocay, animal protection, civic culture, bullfighting, bullfights, sociology of law, Bogotá, Colombia

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1. Introduction

Bullfighting is a practice inherited from the Hispanic tradition that has been part of Colombia's socio-cultural and political life since colonial times. While it has always been a controversial practice, animal rights organizations and social movements concerned with animal welfare have put up significant resistance to bullfighting since the last decade of the previous century. These social forces, gathered under the anti-bullfighting umbrella, have focused intently on socially discouraging, legally regulating or abolishing bullfighting as part of their call for a new relationship between humans and animals based on the condition of the latter as sentient beings (Avellaneda & Peñuela, 2010; Molina Roa, 2018; Padilla, 2015; Vega, 2018).

Nowadays, fans and detractors of bullfighting accept that the practice does not enjoy the support of the majority of the Colombian population (Hernández & Palacios, 2018; Moreno, 2018). While groups of followers of the diverse expressions of bullfighting still exist in different regions of Colombia, the prior understanding of bullfighting as an unquestionable spectacle has disappeared. On the contrary, bullfighting has been the centre of gravity of multiple discussions that have inevitably shone a light on the past, sources of identity, imaginaries and forecasts of the future of Colombia as a nation (Rausch, 2016).

The struggle has been particularly vivid in Bogotá, the country's capital, where all the city administrations since 2012 have been against bullfights, at least in word (Vergara & Baraybar, 2020). Bogotá hosts one of the largest bullfighting fairs in the country at the city's bullring, *La Santa María*, a public asset managed by the municipal administration. The capital city is also home to several social organizations advocating for animal rights, animal welfare and the protection of the environment that have gained increasing influence in the local political sphere. According to official data, out of the city's total population, 86.5% in 2013 and 83.7% in 2015 believed that live shows where an animal is mistreated and killed should be prohibited (Bogotá 2013, 2015).

However, bullfighting has been and still is a permitted practice, which is considered an exception to animal abuse in the National Statute of Animal Protection (Law 84 of 1989) and enjoys a national regulatory framework that was adopted by the legislature in 2004 (Law 916 of 2004).

This perceived shift in the acceptance of bullfighting has encouraged successive Bogotá administrations to adopt decisions regarding bullfighting that have become highly controversial. In 2012, they attempted to negotiate certain bullfighting technicalities (e.g. not killing the bull) and to restrict who could use it and for what purpose. The municipal government supported a grassroots initiative in 2015 to conduct a citizen consultation to determine the city inhabitants' opinion regarding the practice. In 2020, it fostered processes of cultural change to discourage bullfights and created financial and administrative disincentives. The various municipal governments have claimed their decisions have been validated by the will of the majority, the progressive measures of animal protection taken at the national level (e.g. the national ban on wild animals in circuses in 2016, or the introduction of animal cruelty into the penal code in 2017), and their commitment to social movements working for the animal cause (González Cortés, 2020). The numerous animal advocacy movements have indeed strongly influenced Bogotá's municipal authorities through political agreements, participating in the development of plans, policies and programmes, and being part of the municipal bureaucracy and the City Council. Despite continuing to have representatives in the City Council, bullfighting enthusiasts no longer hold the support, at least publicly, of most the local political parties. They still have a significant presence in the National Congress, where the animal advocacy movement is still the underdog.

Bogotá's authorities have also claimed, albeit not always successfully, that their actions are legally based on their own interpretation of national legal provisions and the jurisprudence of the Constitutional Court. Systematically, bullfight supporters have contested all the municipal authorities' decisions regarding bullfighting under the premise that bullfights fall under the jurisdictions of the national legal space. The Constitutional Court has been the site of resolution of most of the controversies around bullfighting (Aguilar Gómez, 2017; Molina Roa, 2018). The Court, however, has proven to be deeply divided over the constitutional status of bullfighting in relation to the duty of animal protection in the Colombian legal order. From the constitutional legal space, conflicting interpretations emerged. Bullfights as culture and thus linked to the plural identity of the nation clashed with bullfights as animal abuse and, therefore, against the duty to protect the environment. The Court's interpretations have actively triggered a social and political response from the different actors involved in the controversy, including the municipal authorities of Bogotá.

Modern unitarian republics, like Colombia, have come to understand the municipal level as part of a hierarchical nested political and legal structure in

which municipal authorities hold limited autonomy to achieve the aims of the State through administrative measures. Municipalities are a central source of authority and a local expression of democracy. In Colombia, city councils are political-administrative public corporations and are not formally part of the legislative powers. Their primary function is to act as a forum for local democracy —city councillors are representatives of political parties and social groups— and be a space for interaction with the State. City councils have the authority to enact local regulations that, as a general rule, should not contradict national law. Instead, they ought to adapt the national legal frameworks to local necessities and particularities without breaking the boundaries set by national dispositions or policies. The municipal executive power (mayors and local institutions) are the administrators of a given territory. They are required to develop plans, programmes, policies and projects and make operational decisions; hence, the municipal level is usually considered a mere enforcer of official national laws.

This description is, nonetheless, not entirely accurate. Municipal bodies are also spaces where vast and complex political struggles and negotiations take place. Within city councils, social actors with enough influence might bring social demands into the political sphere and exercise political control over the local government. On the other hand, mayors — the executive authority—are not merely operators. Citizens elect mayors in Colombia based on a proposed government plan that usually emerges from political and social negotiations with organized city sectors. While designing and executing their administrative plans, mayors follow, interpret, adapt, and enforce broad range of legal dispositions. Municipal administrations use social, political, administrative and economic criteria when translating and transforming international and national regulations into plans, policies and governmental practices.

The case of bullfighting shows how the relationship between the national and subnational levels is not set in stone. On the contrary, it is under constant review: boundaries can become strict, mobile or blurry depending on social, political and legal considerations. Bullfighting illustrates how demands of social change can be the source of negotiation and tension within a given multilevel arrangement and how social groups' exigencies may aim to situate a given discussion or struggle in a particular jurisdiction and promote the change of an entire established jurisdictional order. Amidst the bullfighting struggle and as part of their advocacy strategies, social actors developed closer links to municipal authorities, occasionally becoming part of them, while advocating for and seeking access to local spaces of power and decision-making. In this context, municipalities also decide to challenge the constraints

to their autonomy based on the political agreements arising from the negotiation of social forces.

The bullfighting controversy has been –and still is– built upon the interactions between social forces, administrative authorities, legal actors and norms in an iterative process. The tensions arising around bullfighting are mainly normative. The bull, the fighters, the promoter, the arena, the audience and all the other actors that form part of the practice are normatively co-constituted. Bullfights have a specific set of rules and procedures that provide meaning and enable the conditions for this assemblage of humans, animals, spaces, times, movements and detailed sets of practices to exist. Bullfighting is inherently attached to the spaces where it is performed (the bullfighting ring). Bullfighting, its laws and its physical spatiality are entangled.

These rules have been embroiled in official Colombian law since the second half of the twentieth century, when bullfighting received social appreciation: as such, the detailed technicalities of bullfighting became, by different means, part of the world of official state law.

From 1964 until 2004, city councils were the public power enacting the bullfighting regulations. While in 1989, the National Congress enacted the National Statute of Animal Protection (Law 84 of 1989), bullfights were considered a legal exception to animal cruelty and no pain mitigation or prevention measures were included. In 2004 the National Congress enacted the Bullfighting Law (Law 916 of 2004), breathing new life into the practice. The national law labelled bullfight as an artistic expression of the human beings, triggering a long series of disputes in the Colombian Constitutional Court, where the law and the exception of bullfighting with regard to animal abuse were under constitutional scrutiny. In 2010, the Constitutional Court (C-666/10) declared a normative deficit to animal protection in Colombia concerning bullfights. Consequently, it limited the spectacle only to those territories where its social rooting can be proved.

Municipal authorities have been a key actor along this journey, in at least two senses. Initially, between 1964 and 2004 city councils and mayors were the authorities guaranteeing the internal structure and traditional practices of bullfights. Subsequently, after 2012, municipal administrations became an institutional force against bullfights but also legally authorities legally bounded to materialize national regulations and constitutional sentences over the Bullfighting Law and the National Statute of Animal protection.

The bullfighting controversy is an example of how societal change entails sociolegal transformations in which multiple actors interact in and through different legal spaces over time. It shows how social claims are transformed into policies, administrative decisions, and local regulations that aspire to

become formal rules. It is a sequence of interactive normative claims that inevitably address existing structural accounts of rules. A vital participant in the process is the municipal government.

The bullfighting controversy manifests the ambiguity of the municipal level that, as decision-making and local democracy site, must answer to local demands as part of an intended hierarchical nested legal structure. Municipalities have been understood as being, inherently, in constant tension between the universality of law and the contingency of city life (Blomley, 2016; Hubbard & Prior, 2018). An intermediary space that lies between the state and local culture (Drummond, 2011) and attempts to reconcile the categories of the "state seeing" (Scott, 1998) with the multiple local ways of seeing and doing. Incapable of carrying out legal harmonisation or unification, municipalities are forced to negotiate with multiple normative sources and deploy multiple governance strategies amid such a predicament (Hubbard & Prior, 2018). The general purpose of the research lies here: to better understand the possibilities and limitations of municipalities, particularly amidst processes of sociolegal change.

Social forces, municipal authorities, the legislature and the courts have been part of a broad and long dynamic process that I describe and analyse by drawing on the notion of interlegality and scales of Boaventura de Sousa Santos (1987; 2002) and Mariana Valverde (2009; 2010, 2015a).

Santos argues that we live in a plural normative world where different legal spaces distort social reality while seeking to be the sole regulatory force for the legal objects they create. The legal world takes the form of multiple interconnected legal spaces creating a wide range of legal objects under different scalar considerations. Social actors' sociolegal life is characterised by the trespassing and overlapping of those manifold legal spaces. Both the imbrications of legal spaces and their correlative experience are what Santos calls interlegality. I take inspiration from those highlighting interlegality as a dynamic law-making and transformation process under constant change that can be better understood from a historical standpoint (Engel, 2009; Gillespie, 2018; Svensson, 2005; Twining, 2009; Valverde, 2015b). For them, laws rarely exist in isolation from previous manifestations and other normative sources that never cease to exist entirely.

I draw on an understanding of the interlegal dynamic as an iterative, interactional process of meaning creation that refers to system-like legal orders (Taekema, 2017). The research draws on Valverde's interpretations of interlegality as an interactive process of meaning creation amidst scalar and jurisdictional constraints (2009; 2010, 2015a). In Valverde’s view, jurisdiction is the legal technicality that organises social objects into different legal spaces

while avoiding clashes between them. Jurisdictions differentiate and organise more than just the authoritative voices (the who) over a territory (the where). They define legal objects (the what) and the capacities and rationales of governance practices (the how) (Valverde, 2009, p. 144). Jurisdictions have a strong path dependence: when sorting out one of its elements (usually the source of authority or the territory), the rationalities of governance (the how) tend to be set by default. Jurisdictions limit the possibilities of shifting scales of authorities, among them municipalities (Valverde, 2010). In other words, jurisdictions constrain the potential allocation of practices and social objects in specific legal spaces and the deployment of their distortive properties.

The research at hand explores how the description and analysis of the interlegal dynamics is helpful in understanding and revealing the constraints and possibilities of municipalities amid ongoing processes of social change. It takes a particularly close look at the participation of Bogotá's municipal authorities in the controversy over the regulation of bullfights in Colombia. By following the sociolegal life of bullfights from 1964 to 2020, the thesis empirically examines the struggle in Bogotá (Colombia) over bullfights, a formerly popular spectacle inherited from the colonial Hispanic tradition that has progressively lost majoritarian support in the capital city because of the rising social protestations against animal cruelty. The bullfighting controversy is an example of how societal change entails sociolegal transformations in which multiple actors –among them municipalities– interact in and through different legal spaces over time.

Aim and research questions

I aim to better understand the constraints and possibilities of municipalities as forces of transformation amid ongoing processes of social change. I do so by studying municipalities as participants of extensive interlegal dynamics. This is intended as a contribution to existing reflections on empirical studies on interlegality, municipalities, and sociolegal transformations. I use the controversy over the regulation of bullfighting in Bogotá and Colombia as a concrete phenomenon to describe and analyse: a) the imbrication of the bullfighting canon into the Colombian official legal order, b) the sociolegal interactions between social forces, the legislature, the municipality of Bogotá, and the Constitutional Court between 1964 and 2020, c) the jurisdictional and scalar constraints that enable the possibilities of such interactions.

The following overarching question have guided the research:

How has the development of the interlegal dynamic around the bullfighting controversy in Colombia constrained the scope of action of the Bogotá municipal authorities from 1964 until 2020?

The research questions are:

1. How did the bullfighting canon become part of the official Colombian legal order? How did social forces participate in such an interlegal dynamic?
2. What jurisdictional claims did social actors involved make, and what jurisdictional games have been engaged in over time?
3. What legal objects and interpretative frameworks emerged over the course of the social and legal debate on bullfighting? How have they been articulated in the broader interlegal dynamic?
4. What jurisdictional arrangements have come into being due to the interlegal dynamic of bullfighting in Colombia?

As will be evident, I do not attempt to resolve the confrontation between critics and supporters of bullfights. Instead, I make analytical use of the controversy in order to understand how the municipal authorities are situated in a larger interlegal dynamic involving an ongoing social change process.

Situating the study: empirical studies on interlegality

Santos (1987) coined the term interlegality as part of his exploration of legal pluralism. According to Santos, during the 20th century and primarily in its second half, the law was systematically incapable of withstanding alone the increasing differentiation of society and the growing demands of social change. For Santos, modernity is in crisis, its potential in ruins. Santos, inspired by legal pluralism and the decentralized position of power brought about by globalisation, searched for a new legal paradigm beyond modern western law and the hegemony of liberal political theory.

In its different versions, legal pluralism aims to acknowledge all other legal orders of society and the connections that exist between them. Interlegality attempts to highlight the links between legal orders, neither as self-exclusive or contradictory, nor as mere discourse against State monism, but as the

interdependent and interconnected legal spaces and their impact on actors' experiences.

According to Santos (1987), “we live in a time of porous legality or of legal porosity made out of multiple networks of legal orders” (p.298). Consequently, “sociolegal life is constituted by different legal spaces operating simultaneously on different scales and from different interpretative standpoints” (p.288). Because of the interaction and intersections among legal spaces, the actors’ sociolegal experiences inevitably consist of transitioning and trespassing through and within them. Thus, one cannot properly speak about the law, but rather inter-law and interlegality: the interaction and intersection of legal orders and their phenomenological counterparts (1987, p.298). Interlegality aims to trace the complex, changing, uneven and dynamic process brought about by the relationships within and between legal orders and their correlative experience (1987, p. 290).

Santos devoted most of his energy to arguing how normative orders are socially constructed. He used the analogy with cartography to explain his point. In his account, the law and any other systems of norms are like maps: they are useful distortions of reality. Maps and laws are means to reduce the complexity of social life. It will prove useless –and impossible- to have a map containing all the details of a territory. Any map involves a selection of what to highlight (scale), a given distribution on a plane (projection), and a communication style (symbolism). These cartographic mechanisms provide each map with a specific capacity to orient and represent. Santos called these distortive properties Symbolic Cartography. The law is not very different to the maps in Santos's account: any normative order is a constructed map, an incomplete way to imagine and capture the complexity of the social dynamics at play. Scale, projection, and symbolisation are properties of legal spaces to create law and legalities. The functionality of maps derives from their capacity to simplify and thus distort reality. The distortion of reality does not automatically mean a distortion of truth if the distortive mechanisms are known (Santos, 1987, p. 282). A map does not lie; it is just incapable of reproducing the whole of reality faithfully. It is thus unable to act as a mirror; it can only create controlled distortions to be helpful.

According to Santos, creating laws –like maps– is not natural or objective. Instead, it is a decision based on an attempt to make each legal order as exclusive as possible in relation to the others in terms of the regulation and control of social action. Each legal order thus creates a different, distorted legal object in its attempt to achieve exclusivity (even inside the positive law system). The different legal objects created within an interlegal arrangement are not alike; they do not match. They pertain to different legal realities that do

not interact smoothly with each other. Distorting reality thus presupposes the exercise of power (Santos, 1987, p. 287): the capacity to define the details of an object, the centre and periphery of what constitutes legal knowledge and the symbols used when communicating legally are evidence of practices of power in each legal space. Power, however, is also exercised when defining the logic under which different legal spaces are organised.

Santos' arguments have significant implications. The different legal objects created in different legal spaces do not match. "In real sociolegal life, the different legal scales do not exist in isolation but rather interact in different ways […] this creates the illusion that the legal objects can be superimposed" (Santos, 1987, p. 288). Legal objects are dissimilar legal constructions based on different distortive properties that nonetheless look as if mirroring social objects. Herein lies the emancipatory potential of deconstructing and denaturalising legal nested scalar thought. Nested frozen harmony is an illusion only seen upon acceptance of the distortive properties of a given order. The Symbolic Cartography allows the law's illusion of coherency and rationality to be revealed, and it has the potential to uncover the existence of alternative legal orders in social life. As a result, it becomes possible to ask how legal spaces are related among themselves or in which type social actors have been socialised and become competent. When the coexistence and imbrication of diverse legal spaces -despite their different internal structures- is made evident, one can question the mechanisms that allow the preservation and retention of a multitude of such fragmented legal architecture as a single coherent corpus.

Santos's ideas on symbolic cartography and interlegality were born while sketching out an alternative view of the widespread paradigm of legal positivism based on a radical postmodern understanding of legal pluralism. Later on, his journey led him to put forward a sociology of the absences and the emergences, to search for counter-hegemonic global movements and, finally, to uphold new epistemologies among those historically excluded, marginalised and made invisible "beyond the line"(Santos, 2015).

The research at hand can be positioned within the literature of empirical studies of interlegality. The latter is varied in nature and addresses, from different angles, Santos' original interest in how the diverse legal spaces relate to each other and the correlative experience in everyday people's lives. I discuss the literature on empirical interlegal studies in the next section.

Dynamic legal pluralism, cultural diversity and ethnicity

One relevant strand of literature on interlegality was born out of the understanding of interlegality as dynamic legal pluralism (Hoekema, 2000;

Svensson, 2005). In this interpretation, and somewhat contrary to a static picture of separate and coexisting legal orders, interlegality is both the process of interaction between them and the outcome of said interaction (Hoekema, 2005). It addresses what social actors do when addressing different coexisting orders and thus seeks for the empirical dimension of legal pluralism (Sierra, 2004). In general, this field of study understands legal plurality as cultural diversity and usually identifies subordinated and dominant groups –commonly based on an ethnic criterion– and proceeds to describe the interactions between their norms, rules and frames of interpretation that provide certain social or cultural cohesion. While not always explicitly expressed, most of this literature departs from the premise that there is a local subordinated legal order shaping the identity of a group or community whose members interact with actors belonging to another one, usually positive, national and hegemonic.

The process of interlegality is conceptualised from an actor-oriented perspective (Hoekema, 2005) in which social actors, legal operators and authorities are the force behind the emergence of the law. This sense of interlegality understands the law as practice, a continuous give-and-take (Nwoye, 2014; Svensson, 2005) embedded in power relations and specificities of the context in which interactions happen. The engine of legal creation rests here, in "men and women seeking legal remedies to settle disputes [that are] the ones who set the law in motion, develop strategies, translating and appropriating the meanings that the law conveys, while at the same time they transact with their customs"(Sierra, 2004, p. 43). Research on interlegality therefore aids in describing what legal actors actually do in the face of multicultural problems, and how, when and why they encourage or discourage "the adoption of minority legal sensibilities" (Hoekema, 2008, p. 2). Interlegality is, from this standpoint, a window to understand how western culture and law are changing amid the contemporary challenge of diversity and how local and subordinate orders react to it (Hoekema, 2008).

For Twining (2000), interlegality poses the empirical question of how different orders relate and interact in a given context in terms of a dynamic process like symbiosis, subsumption, imitation, convergence, adaptation, partial integration, avoidance, subordination, repression or destruction (Twining, 2009, p. 489). Hoekema (2005) distinguishes between processes of incorporation (the reinstatement within the dominant state law of a specific Indigenous institution or norms) from recognition (a general grant of jurisdiction, when a complete complex of law, law-making and law administering institutions are recognised as part of the national legal and political order). Interlegality also involves the creation of "internal conflict rules", formal rules created to define "the scope and limits, the personal and

material competence of the Indigenous jurisdiction as well as the procedures to solve problems of 'mixed' cases" and conflicts over jurisdiction" (Hoekema, 2000, p. 190). Conflict rules are helpful in avoiding cultural misunderstanding (Hoekema, 2017) and keeping the interlegal process within the realm of the law; in its absence, interlegality becomes a merely political negotiation (Simon Thomas, 2009, 2017).

Interlegality as a process is understood mainly as cultural and legal encounters driven by interpretations that provoke "a battle for meaning, fights over what the customary entails and what your culture is about" (Hoekema, 2008, p. 4). These battles are fought over norms, values, frames of interpretation and legal institutions (Sierra, 2004).

Interlegality as an outcome is usually described as hybrid or syncretic, "a mixture of interpretations and transformations of the surrounding universe of plural legal repertoires" (Hoekema, 2005, p. 9). Also, as a blending process of incorporation (Proulx, 2005) that runs top-down and bottom-up. The outcome of interlegality has been identified as empirically manifested in: "(1) law, viewed as a legal framework for action; (2) institutions, which are instrumental for interlegal deliberations; and (3) practice, mainly through court procedures and decisions" (Svensson, 2005, p. 76). Some others have pointed out how it can also be seen in cultural practices like adopting a language or writing as the primary expression of the legal (Ekern, 2018).

Much of the attention to the outcome of interlegal processes is directed towards establishing a value-oriented analysis of it in the context of the defined power structure. Most empirical studies address indisputably historically excluded social groups or communities, and conceptualise power relations in terms of hegemony, subordination, and resistance (which can be, for example, expressed as adaptation, negotiation, or rejection). Aware of the risk of assuming an intrinsically positive understanding of legal plurality -a precaution explicitly elicited by Santos (2002) and other legal pluralists like Von Benda-Beckmann et al. (2009) and Maria Kyed (2011)- the empirical studies have aimed to provide evidence of the impact of interlegality in subordinate communities.

The review of interlegality in ethnic plural contexts showed an over-representation of studies on Latin America. On the one hand, this is due to my language search criteria (English, Spanish, Portuguese and Italian). On the other hand, while there are examples of empirical interlegal studies worldwide, Santos's work has been applied widely in Latin American academia and by those interested in the region's social, political and legal dynamics. The literature review suggests that interlegality has aided reflection on several key regional academic concerns, such as the extent to which contemporary nation-

states are still wedded to a colonial logic, and how such a link explains the contemporary exclusion of Indigenous and Afro-descendant peoples and other ethnic or social groups. It has also helped to provide an understanding of the emergence of new social movements, the impact of the neoliberal economic model, the place of the region within transnational power dynamics, and how nation-states and local communities interpret transitional and international law.

Empirical studies have examined, for example, how state law relates to custom and personal law to hinder women's rights in plural contexts rooted in a patriarchal system (Holden & Chaudhary, 2013). They also study how the relationship between state and customary law causes internal tensions between Indigenous authorities and increases the bureaucracy of Indigenous law (Terven Salinas, 2015), and how state law is systematically reluctant to share the monopoly of violence with customary legal systems (Márquez Porras & Mazzola, 2019).

A growing number of scholars have also analysed interlegality under the lens of the receding power of the state and the growing influence of neoliberal politics and its forms of governance, in order to lay bare the multiple existences of illegalities tied to plural systems of order. Interlegality has been used to explain how neoliberalism in Latin America is a factor of diverse forms of exclusion and dispossession given the fragmented sovereignties involving complex hybrids of legal and illegal pluralism (Sieder, 2013). In this context, it has been shown how interlegal dynamics involving customary laws, states law, 'soft' law, international laws and 'raw' law (the de facto rules and sanctions of outlawed armed actors) produce illegalities embedded in colonial logics that underscore the sovereignty of ethnic groups over their territories and make the violence of state and non-state actors indistinguishable (Machado et al., 2017; Weitzner, 2017)

Academics studying interlegality have also been aware of the risk of assuming a neat correspondence between ethnicity and customary legal orders. As anthropological research has shown, ethnic identities do not rely only on internal or immobile normative sources: "ethnic identities, Indigenous conceptions of justice, and the boundaries between subaltern and dominant forms of law are, in practice, produced and negotiated through multiple encounters and interactions between individuals, groups, institutions, and national and transnational legal orders" (Sieder, 2012, p. 105). In this sense, interlegal encounters involve the construction of "the other and difference" (Hoekema, 2008, p. 7) and explain processes of ethnic reorganisation or ethnic reconstruction as a response to a majoritarian order (Hoekema, 2005). For example, empirical studies have shown how the transformation of oral self-

management systems into written constitutional documents in Guatemala, has allowed the local community to retain sovereignty over their territory (Ekern, 2018). Similar is the way in which studies on interlegality have demonstrated how Indigenous communities, when addressing gender issues, rely on diverse normative referents and legal discourses to update their own local systems in concrete situations (Sierra, 2004, p. 43). In a different scale research concerned with the integration of Indigenous principles and values into constitutions in the Andean region has used interlegality as framework to study the increasing interconnection between Indigenous worldviews beyond local communities (Soler, 2020). In Mexico, interlegality - embodied in practices of interpreting, appropriating and accommodating the positive law order to the consuetudinary system - allowed communitarian systems of government to remain effective amidst social, political and legal changes in the country (Gaussens, 2019). In the Amazon region, interlegality has been suggested as a potential practice to link the local human-forest relations and the co-construction of laws in decolonial and transformative ways (Dancer, 2021; Vásquez-Fernández et al., 2021).

Within the literature that looks at dynamic plural legalisms, some scholars have highlighted the historical character of interlegality. For Twining (2009), legal pluralism is a social and historical fact, and thus, interlegality is useful in describing and analysing processes of norm creation and dissemination in a global ambit from a historical perspective (such as in a contemporary post-colonial context).

From this angle, interlegality helps to explain current social phenomena, like the persistence of the stigma attached to minorities in India and Bangladesh in accordance with the historical imbrication of colonial law in the official state law (O'Brien, 2021) or the water governance system of peasant communities in Lima (Perú), a process tied to its history since 1942 (Segura Urrunaga, 2017). In the European context, Svensson (2005) traced the recognition and incorporation of the Sami legal order –mainly related to land rights- in the Norwegian legal system since the XVII century. This historical reading allows him to see state law as a result of a continuous and slow adoption of subordinate orders while it, in turn, reshapes the latter reciprocally according to instituted regulations (Svensson, 2005, p. 52).

The historic nature of interlegality is of value in describing the "multiple pathways, varieties of agents, and almost inevitable interaction with pre-existing normative orders or regimes, involving resistance, rejection, adaptation, and so on"(Twining, 2009, p. 509). Twining, like others (Eckert, 2019; Engel, 2009; Gillespie, 2018; Taekema, 2017) believes interlegality helps to understand legal change as a process of norm creation : "laws rarely

(if at all) exist in isolation from previous incarnations" (Gillespie, 2018, p. 37). Interlegality thoroughly considers how all laws are borrowed and shaped through shifting temporal and spatial changes. This process is primarily interactive (Eckert et al., 2012; Taekema, 2017), even if it relates to, uses, and might itself become a more codified and systematic normative order.

A common feature of the literature on interlegality, cultural diversity and ethnicity is the tendency to associate ethnic legal orders as customary, local and subordinate. This is partly due to its focus on human groups in a position of indisputable historical exclusion, and results in it failing to address other social groups taking part in other interlegal processes. Research carried out by Santos himself has sharpened the distinction between local order and ethnicity. Santos, who believes that any global order is a local order that has become hegemonic (2002), paid attention to how local legal orders rising from diverse social groups –not only based on ethnicity– have increasingly attempted to become global in a counter-hegemonic movement (Rodríguez Garavito, 2019; Santos & Rodríguez Garavito, 2007). It seems that the research on interlegality and cultural diversity agrees that customary law mirrors while positive law distorts.

For the same reason, this line of research does not reflect extensively on the relationship between different social groups, communities and plural orders. This has also been noticed in the general legal pluralist field: Spiro (2020) has claimed that academia does little to understand how the communities are constituted, and tends to reify membership and overlook its determinations. While legal pluralism has attempted to understand and highlight the relevance and legitimacy of non-territorial communitarian membership –especially outside the nation-state affiliation-, little is done to address interlegality in non-subordinate norm creating groups[1]. One exception is Twining, whose approach to interlegality involves multiple sources of normativity in a worldview perspective and encompasses a detachment to ethnic considerations (while not of historical dependence). Also, Hoekema (2017), in his latest contribution, made a differentiation between "distinct" and "instrumental" communities. The former are "mini-societies" in which a cosmovision is the source of a holistic understanding of the world and the place of individuals and other beings as part of it. The membership of distinct communities is a profound source of cultural identity. Instrumental communities, on the contrary, lack

[1] In the broader field of legal pluralism and international trade and finance, scholars have noticed how non-state actors by imbricating their own legal regime with state entities help build authority, not because of its autonomy but establishing a link to other centres of global authority See Levit, J. K. (2005). A bottom-up approach to international lawmaking: the tale of three trade finance instruments. *Yale J. Int'l L.*, *30*, 125.

such a holistic sense. They are "deliberately created to promote some goal, like the representation of some industry at the national government level or to serve the future of an association of professionals" (Hoekema, 2017, p. 80). Following this basic categorisation, most of the interlegal scholarship has addressed what is –by premise– a distinct community, not an instrumental one.

In the next section, I will review another academic literature related to interlegality but concerned with revealing the limitations of social, political and legal action amidst multi-level legal orders and the co-constitution of law and space. While not considered formally part of legal pluralism, this line of thought addresses the relation between different sources of power, authority, control and regulation amidst the fall of nation states as the primary source of power. It has studied the relationships between state law and other groups that are not in a position of subordination. As part of its investigations, this research has addressed the role of cities and municipalities as a source of authority, control and cohesion.

Governance, scales, jurisdictions and space

This literature, more closely aligned with legal geography and critical legal studies, explores the possibilities of Santos' Symbolic Cartography to answer questions related to different governance strategies, multiple legal jurisdictions, the co-constitution of law and space, and processes of subjectification under plural normative forces. This work, despite not falling into the category of legal pluralism as such, is concerned with the multiplicity of centres of power, authority and normativity in the context of the neoliberal project, the relocation of the state as a source of power, and the emergence of transnational laws and other decentralised forms of coordination, regulations, authority and control.

In a prescriptive version of this stream of research, interlegality is a sociolegal fact to be described and assessed with regard to the functioning of its capacity to regulate or coordinate institutional activities. Similar to legal pluralist agendas, it aims to describe and conceptualise the interactions and contestation between the authorities that inhabit jurisdictional spheres (Berman, 2020). Within the field of European private law, for example, Smith (2004) argued for the constitutionalisation of interlegality as a means to search for "equilibrium between harmonisation and legal pluralism" (p.766) in the context of the decentralised regulation of online investment. An example, is Wai (2008) who developed an interpretation of interlegality from which transnational private law can be seen as "a decentralised and intermediate form of transnational governance that recognises and manages the multiplicity of

norms generated by plural normative systems in our contemporary world society" (p.107). Wai argues that transnational private law implies contestation as much as harmonisation. The fragmentation of international law and the multiple jurisdictions over the Antarctic regions has been identified as a scenario in which interlegality can provide new regulatory frameworks (Hogic & Ibrahim, 2021; Khan & Kulovesi, 2018). Klabbers and Palombella (2019) have recently returned to interlegality in order to address less formal and more substantive justice practices. Klabbers, in particular, has argued that this approach to interlegality might be of use in addressing the claims of authority emanating from the municipal level and founded on non-nation-state normative sources. His reading is based on a legal theory according to which normative claims can be considered legal manifestations (Klabbers, 2021).

Others have argued against the efficiency of interlegal scenarios in specific settings. Regarding land use in coastal areas in Australia, Hubbard (2020) considered the current interlegal arrangements excessively complex and unable to offer the flexibility required to deal with land-use disputes. Legg (2021) believes that interlegality generates conflict and contradictory implementation of the regulations in the case of wastewater management control. This literature has highlighted the contemporary challenges to regulating phenomena that defy a fixed nested territorial jurisdiction because of its high fluidity or its multiple demands on authority.

In its critical approaches, the literature on interlegality and multi-level regulation is mainly focused on discovering the arrangements that allow the naturalisation of power structures and limiting the possibilities of social and political action. Interlegality here is therefore a subsidiary result of the constraining conditions of power over interpretation and the construction of meaning. This research is influenced by Mariana Valverde's work based on Santos, especially her work on scales and jurisdictions (2009; 2010, 2015b). Valverde's theories have empirically studied how scale is a vehicle for understanding power amidst governance practices because of its property of creating different legal objects. For Valverde, the law is a mechanism of governance (thus legal governance) as the law structures the possibilities of action. Her focus has been twofold.

On the one hand, reveal how the sorting of social objects and practices in urban, national or transnational legal spaces enables certain technologies of governance based on the operation of scales. On the other hand, Valverde is concerned with the governance of multi-scalar arrangements. She noted, as have others, that Santos' interlegality seemed to be "hanging in the air" (Banakar, 2019) and sought to explain the "external" architecture enabling the multiple legal objects to coexist in apparent harmony. She addressed

jurisdiction as legal technicalities helpful in understanding "the governance of legal governance": how the architectures of the different legal spaces and their scales are governed. For Valverde, jurisdiction is the legal practice through which different scalar objects avoid clashing, a kind of "meta-governance" of law (Kaushal, 2015, p. 19). When distributing authority, jurisdiction allocates people, places or things to legal spaces and thus organises authorities (who), territories (where), objects (what), and logics and capacities upon them (how) (Kaushal, 2015, p. 18). While jurisdiction enables to follow the distribution of authority, scale is the property that makes it possible to understand the controlled distortion of the different legal spaces. In other words, jurisdictional practices avoid having more than one authority governing the same legal object. With these tools, Valverde shows how objects, subjects, and practices are sorted out and categorised in multi-scalar arrangements that become normalised and explain how different governance logics can coexist.

Several scholars have addressed this set of notions and analysed different governance strategies, technologies and jurisdictions, mainly in terms of regulation, coercion and control that enable processes of resistance or negotiation in social actors (Branco & Izzo, 2017). It has been used, for example, to reveal how the superposition of different jurisdictions explains the criminalisation of migration in Europe (Moffette, 2020) and how discretion is built into European jurisdictional arrangements to temporarily recreate borders within the Schengen area (Van der Woude, 2020). This field of study explains how national and local authorities create the day-to-day imbrication of criminalisation of migration through their spatial policing practices. By realizing that every legal scale is an incomplete agreement that deals with ambiguous or uncertain rules, Van der Woude demonstrated how through scalar jumps the authorities' discretional powers fulfil the embedded incompleteness of norm from other legal spaces. In this process the logics of each scale are entangled with political interests (2020, p. 115).

Strauss (2017), in a similar spirit, describes how jurisdictional allocation delimit the construct of human trafficking as a migration issue instead of a labour one. Specific allocations of authority and the construction of a wide variety of legal objects have been identified as a hindrance to the actual achievement of environmental justice (Bocarejo, 2020), environmental health (Ralf Becerra,2019), strategies of public health like access to supervised injection centres (Williams, 2016), and generally any alternative notions of justice (Branco & Izzo, 2017).

Interlegal dynamics and municipalities

One particular line of literature on interlegality and scales has come from the field of legal geography, which together with the more recent subfield of legal cartography has developed a legal interest based on the notion of space not as a surface upon which the law performs, but as a co-constitutive feature of the law's realisation (Reiz et al., 2018). As part of such an approach, interlegality has been used as a concept for the study of the co-constitutive nature of law and space amid legal pluralities and different jurisdictions (Butler, 2009; Orzeck & Hae, 2020; Robinson & Graham, 2018) and as a source of subjectivities and resistances (Robinson & McDuie-Ra, 2018). It has also been understood as jumbled law-making, a bricolage made up of various scales through which laws work (Gillespie, 2018).

A common feature of the geography-inspired literature is the interest in municipalities and cities. The distinction between city and municipal authorities is pertinent in such an enterprise. While cities are an assemblage of multiple legal orders, municipalities are administrative units entitled to govern their territory under a nested hierarchical scaled structure. Campbell (2013) proposed an understanding of cities as disparate legal orders operating at different scales, from the common law to the statutory, and from the municipal to the international in the local, national and global spheres (p.194). She understands the city mainly as social -in Latour's sense- as an assemblage of actors bound together by semiotic and material associations. The law, a mode of existence in Latour's terms, is the glue that imbues a particular assemblage with its social meaning. Campbell, therefore, empirically identified different ways in which the law creates assemblages in the city: by legal ordering (tending to dominate and control) and by legal consociations (cooperative legal forms of associations that involve new affiliations and alliances between persons and things) (p.193). Others like Drummond (2011), who studied Roma marriage law, conceptualised the city as " an intermediary place between state and local culture – a middle ground where people live and smooth over the intersections between the two" (Drummond, 2011, p. 3). Drummonds locates her research at the intersection of the relations between family, community, city, state, and globe to conceptualise municipal law as "the product of the journeys and the tensions that emerge *en route*" (Drummond, 2011, p. 12): the continuous outcome of the interlegal law-making process.

Quite commonly, municipalities and their resolutions have been understood as a space of governance. Valverde and Dubber (2006) examined how municipal power resides in the power of the police and their incessant search for urban order. In this line of thought, much of the research on interlegality

and municipal authorities aims to unveil -via genealogy- the otherwise-normalised regulations and coercion of urban governance practices and how they enter –or not- into conflict with other legal spaces, mainly the national. Valverde (2011) argued that urban authorities governed from a particular "seeing like a city", a fluid form of space governance that relies on pre-modern and modern legal tools. He also shows how the negotiation of norms in urban settings is a process with its roots in everyday interactions (Valverde, 2012).

Because studies on governance emphasised jurisdictional sorting out and genealogy instead of connectivity, interlegality seems to disappear in this stream of research. Blomley (2016), who understands the city as a jurisdictional space inspired by Valverde, believes interlegality in the city becomes visible when calling for a critical analysis of the hierarchical zero-sum nested understanding of legal jurisdictions and scales. According to Blomley, the non-critical understanding of normalised legal spaces makes it difficult to see and recognise interlegality in urban settings. Because the purpose of jurisdiction is to present a scenario in which there is no apparent conflict between legal spaces, it makes it difficult to perceive social forces attempting to modify jurisdictions or scale configurations, and ultimately hinders interlegality. Blomley sees jurisdictions -like Valverde- as performative: a practice organising the legal practice by creating distinct objects of regulation and control and reaffirming how different legal levels "speak law differently", with the police powers being the language of the municipalities and rights the language of state-nations. For Blomley, the path dependence of jurisdictions (sorting who and where to define the what and how) should be described and analysed to reveal how a scalar arrangement is created, thus exposing the interlegal process.

In this sense, albeit from a very different approach, Konzen (2010) argues for interlegality as a valuable concept for studying the regulation of public urban spaces and the patterns of exclusion created by the interlegal imbrication of state and non-state norms. Exclusion is not a natural result only when there is knowledge of how different norms operate as part of practices that constitute space. Azuela and Meneses-Reyes (2014), despite not referring to interlegality, have shown how the different actors' interactions concerning Mexican city resolutions and administrative measures shaped the emergence of law-space entanglements that created zones of exclusion for the urban poor. Gillespie (2018) tracking the emergence of interlegality exposed how multiple orders can enable elite capture and foster social exclusion in decision-making processes regarding territorial planning.

Municipal law has been described as inherently interlegal because municipalities regulate access to and control of spaces, buildings, and land

using multiple normative sources (Hubbard & Prior, 2018). This situation puts municipalities in a constant "epistemic and ontological tension between the universality, certainty and predictability of municipal law which is sought in general terms, and the particularity, contingency and reflexivity required in the multicultural city" (Hubbard & Prior, 2018, p. 60). To recognise that the regulation of the city is interlegal is a reminder that "the law enters into the making of place in a dynamic manner that belies claims about universality or consistency" (Hubbard & Prior, 2018, p. 54). They argue that municipal interlegality is therefore unique as it is "a normative negotiation rather than harmonisation or unification" (Hubbard & Prior, 2018, p. 54). By making reference to Philippopoulos-Mihalopoulos' studies on law and space (2011), Hubbard and Prior (2018) highlight how "municipal law is the perfect dissimulator: it adapts to local contingencies whilst maintaining the illusion of being both universal and timeless (p.54). The ultimate aim of municipal law is, therefore, not only to achieve order but also spatial justice, the latter a notion that rests on flexibility and not only universality and predictability. Flexibility is critical in highly varied contexts where "established concepts and definitions would merely reify existing inequalities and hierarchies of power, and not reflect the city as a constantly evolving space requiring forms of regulation attentive to its changing geographies" (Hubbard, 2020, p. 60).

The literature on interlegality and multi-scale governance has focused on municipal law and related governance practices, with less emphasis on the municipal authorities as actors participating in the law-making process entailed by interlegality. This critical stance towards governance practices has not explored other governmental practices embedded, for example, in the relationship between municipal authorities and social movements. This literature has primarily addressed municipalities as spaces in which social movements seek their own interests, without examining how such social practices lead to an understanding of how municipal authorities behave, for example, when deciding to defy a multi-scalar arrangement. The research at hand also attempts to contribute to this knowledge. The struggle over bullfighting is a struggle over the interlegal imbrication of the bullfighting canon in Colombian official law, which has positioned the municipal authorities and municipal law as key actors in the interlegal law-making process. These practices have emerged from the political commitment of anti-bullfighting social actors, and the efforts by such movements to occupy spaces of political representation and local government administrative decision-making.

Despite acknowledging interlegality as a historical fact with no intrinsic positive normative value that is not necessarily attached to ethnic groups, no

studies attempt to understand how historical interlegal processes of non-subordinate groups might affect the efforts of current social forces to promote social or cultural change. While the historical approach to interlegality addresses changes over time, this still takes place under the normative desire that a fundamental ethnic unit tied to the legal order should survive, even as part of a new hybrid form. There is an implicit –understandable– tendency to respect and protect tradition as much as the expectation of justice for subordinated and excluded groups depends on it. By honouring the standpoint of subordinated groups, the study of interlegality does not seem to fully consider the diverse range of actors and their different relative power positions amidst interlegal dynamics. Nor does it take into account how such positions and interlegal arrangements change over time, or how the legal objects might change in accordance with the scalar properties of legal spaces. The literature on interlegality, governance, and jurisdictions has developed some of these ideas by favouring genealogical studies when addressing the temporality of multi-scalar arrangements. It has been useful in identifying the epistemes that still survive at present, as well as the structural limitations to action, but comes at the expense of looking at the dynamics of change in which social forces are at play and, for better or worse, nurture the interlegal dynamic. Similarly, municipalities tend not to be considered forces of change, not even when social forces have occupied local spaces of power or become part of the municipal authorities.

Relevance of the study

The research at hand argues that when anti-bullfighting forces attempt to regulate, abolish or change bullfights, they face the challenge of changing the course of the historical embroilment between bullfighting's normative life and Colombian official state law. When municipalities deploy their strength to justify their autonomy to decide over the urban spatialized practices of bullfights, what they are challenging is the inertia of the multi-level and jurisdictional order originating in the entanglement of bullfighting regulations in the Colombian legal order. When different social forces and municipal authorities bring their demands to the Constitutional Court, they participate in a continuous law-making process constrained by the logic of the constitutional order.

I will show how the controversy over the regulation or abolition of bullfighting is a struggle amidst a historical process of interlegality in which the bullfighting canon –the internal regulations that give meaning to the bullfighting world– has been entangled in the Colombian official state law.

This process does not involve a historically excluded group: there is no evidence that bullfighting fans are a subordinated collective, or that they have been subject to historical exclusion. Instead, they are a collective that only recently has been at the core of social and legal disputes, because the social understanding of and practices towards non-human animals are changing. The research at hand considers this detail fundamental to the study of the controversy over bullfighting and, by extension, to municipalities amidst law-making processes.

The claims for justice brought by the animal advocacy movement are reshaped when entering different legal spaces with their distortive properties and the jurisdictional arrangements of the Colombian legal order. In the specific case of bullfighting, one cannot understand the difficulties of asking for animal justice without unravelling how the bullfight canon has become entangled in the Colombian law. I therefore contend that, after exposing the depth of the interlegality of bullfighting, one can better understand both how state law views the new and growing social claims regarding non-human animals, and the municipal authorities' opportunities to participate in such a change.

In this sense, I interpret the social and municipal attempts to regulate bullfights as being part of a sociolegal change process that entails interactive participation, within a historically interlegal arrangement, between bullfighting norms and official state laws. The role of municipal authorities in this dynamic is critical: the main change in the interlegal process has been the shift of the regulation of bullfighting from the municipal level to the national one. I will argue that the role of municipalities as forces of change in the bullfighting controversy depends on the normative inertia of interlegal processes over time. These restrictions limit the attempts by municipal authorities to use the incompleteness –discretionary space- built into national laws and Court decisions to fulfil their political agreements and intensify their expression of local democracy. As part of the social struggle the municipal decision were brought back to the Constitutional Court, where judges reinterpreted and readjusted their previous constitutional decision and meanings. The iteration of the interpretative processes is decisive in ensuring the intelligibility of interlegal dynamics over time.

Outline of the study

In chapter 2, I provide the general background to the research. I describe bullfighting in Colombia and the social forces involved in the bullfighting controversy: the bullfighting fans, the anti-bullfighting collectives, and other individuals with no clear organizational identity that joined the discussion for different reasons (i.e. the promotion of local autonomy or a mere disagreement with bullfights as a state-protected practice). A significant part of the background focuses on the aspirational character of the 1991 Constitution and the Constitutional Court's role as a pillar of the Colombian social, political and legal order.

In chapter 3, I address the conceptual framework. I review Santos' (1987, 2002) notions of Symbolic Cartography and interlegality. I also address Valverde's work on scales and jurisdictions in legal governance studies (2009; 2010) and her interpretation of interlegality as intertextuality (Valverde, 2015). The theoretical review argues for interlegality as a tool for describing and analysing municipal practices involving the denaturalisation of the intended coherency and rationality of nested scalar thought. It suggests following the extensive interactive interpretative changes over time in order to describe and analyse the municipal participation, taking into account the constraints of multi-scalar and jurisdictional arrangements.

Chapter 4 explains the methodological approach to the research. In the first section, I discuss the choice of bullfighting as a phenomenon for the study of municipal authorities. I describe the empirical material and the implications of having different sources through which I seek to present the interlegal dynamic. I also describe the analytical strategy that I employ to operationalize the theory and argue for the chronological description and analysis of the material as the better way to describe the development of the interlegal architecture over time.

Chapters 5 to 10 are the analytical chapters. They follow a chronological order. Each one addresses a time-lapse segment in which interactive processes defined fundamental points of reference in the bullfighting controversy. Chapter 5 addresses the first interactions of bullfighting in the Colombian legal system. It focuses on the origin of bullfighting regulations as municipal Resolutions (*acuerdos*) embedded in the National Police Code under the category of spectacle. The chapter describes how this early entanglement of the internal rules of bullfighting within the country's legal structure shifted to the national legal space with the Bullfighting Law (Law 916) in 2004.

Chapter 6 addresses the constitutional revisions to the Bullfighting Law between 2004 and 2010, placing art, tradition and culture at the centre of the

discussion at a time. The Constitutional Court, in particular, played a crucial role by activating the constitutional mechanisms provided to guarantee cultural rights to ethnic minorities and other social groups historically excluded from Colombian society. Focusing on the nation's unity and identity omitted the municipalities and gave rise to a resilient pathway that focused on culture as the nation's plural foundation.

Chapter 7 focuses on the constitutional revision of the National Statute of Animal Protection (law 84 of 1989) in 2010, in which bullfights are considered an exception to animal abuse. The Constitutional Court revision gave rise to a new interpretation of bullfights that was rooted in the Ecological Constitution, constitutional jurisprudence that drove the environmental aspirations of the 1991 Constitution. Such a framework developed the idea of animal protection as part of the duty of protecting the environment in Colombia and imposed restrictions on bullfights. As a result, bullfighting was found constitutional only under certain conditions, and was restricted to those territories where it is socially rooted. This set of interactions created space for the participation of the municipalities. I directly address the municipal level in chapters 8 to 10, which discuss the renewed role of the Bogotá administrations in the controversy between 2012 and 2020.

Chapter 8 describes the relationship between anti-bullfighting collectives and the municipal sphere. After failed negotiations between the Taurine Corporation of Bogotá, the municipality - as the bullrings' owner -decided not to rent out the building for bullfights. I will address the interaction between Taurine Corporation, the municipality and the Constitutional Court in this regard.

Chapter 9 focuses on the municipality's attempt to promote a popular consultation as a tool to identify bullfighting's social rootedness, a proposal born from the animal advocacy movement. follow. The initiative created a complex and intricate process involving several high courts, the Bogotá government and social forces. This chapter details how municipalities are restricted to their function of policing and constitute a limited expression of local democracy when facing the claims of change anchored in the national mechanisms of constitutional protection.

Chapter 10 describes a new municipal governmental strategy born out of the restrictions described in the final chapters and inspired by the Civic Culture approach. Civic Culture is a Colombian municipal government approach from early 2000 aimed at fostering cultural change by highlighting the symbolic functions of the law. The chapter focuses first on "*La Fiesta No Brava*", a cultural and artistic fair held at the same time as the Bogotá bullfighting fair to problematize the bullfighting spectacle. Finally, the chapter reviews the

enactment of the municipal Resolution (*Acuerdo*) 767 of 2020, where measures aiming to discourage bullfighting as a legal but socially undesirable practice (like consuming alcohol or smoking) were approved by Bogotá City Council.

In Chapter 11, the concluding chapter, summarizes and interlaces the discussions of the analytical chapters in order to address the aims and research questions. I develop the conclusion by arguing for the relevance of the inertia, iteration and flexibility of the interlegal dynamic as features that define the possible games of jurisdiction upon which, ultimately rest the municipalities as force of change.

2. Bullfighting, animal welfare and constitutional enthusiasm in Colombia

The enactment of the New Constitution of 1991 is a critical landmark in Colombia's social, legal, political and economic life. The 1991 Charter replaced the 1886 constitution that a conservative party had established in the midst of the *Regeneration* movement, which emphasized a unitary and centralist character through an understanding of the Colombian nation based on the Hispanic and Catholic tradition (Camacho, 1997). The regeneration movement relied mainly on laws and presidential decrees that prevailed over the Constitution to foster their ideals of order (Cruz Rodríguez, 2017; Henao, 2014).

Despite numerous legal and political changes over time, the critics of the 1886 constitution never believed the Charter granted primacy to rights in the Colombian legal system. On the contrary, the enforceability of rights depended on enacting specific laws and the presidential power. This is why some argue that, for decades in Colombia, the laws (*las leyes*) prevailed over the rule of law (*el derecho*) (Ángel & Hernán, 2020). It is also why the 1886 constitution was commonly understood as an obstacle to democracy, to the extent that "its existence was dependent on the systematic suspension of its validity" (Melo, 2017, p. 270). Indeed, Colombia was governed under states of exception for 32 years between 1949 and 1991 (García Villegas, 2017).

The initiative to change the old Constitution emerged from the student social movement in the late 1980s. In the background, years of State abuses and deep disappointment over the possibilities of consolidating a Colombian national state fuelled the need for change in the form of a new constitutional charter. The new Constitution merged the attempts to open the political sphere to historically excluded social groups, the will to adopt a more explicit human rights approach, the intention to implement new public management strategies based on local autonomy, and the execution of neoliberal politics (Lemaitre, 2009; Rodríguez Garavito, 2011).

The constitutional change in Colombia was a response to the crisis of the State, and stood apart from other processes of constitutional change in Latin America in which constitutions were solutions to openly dictatorial regimes, as has been noted by Negretto (2013):

> The constitution-making in Colombia in 1991 was a reactive process, a collective response by the political elite to state failure to contain political violence and social conflict in late 1980. It was also a response to persistent criticism in the media and in public opinion of the exclusive nature of the political regime, political corruption within parties and Congress, and the ineffectiveness of successive governments to provide public security and economic policy reforms despite the strong powers of the president in these areas. (p. 167)

Locally, the liberal government of the time had the political will to change the old conservative Constitution and open the country to a new global order. The change was in line with the regional institutional reforms guided by the Washington Consensus and, simultaneously, desired by actors willing to enter the political sphere, including guerrilla groups, students, Indigenous peoples, organized women, and peasants (Lemaitre, 2009). Such a trend was in line with the renewed hope in democracy and the victories by human rights movements against dictatorships in Latin America.

Following Rodriguez (2011), the 1991 Constitution ended up being the result of a combination of two transnational global projects. On the one hand, the neoliberal project, whose understanding of a thin rule of law was aimed at providing security to the market (predictability and guarantees to property rights); on the other, the neo-constitutionalism inspired by the human rights movement embodied in generous bills of rights and judicial review mechanisms (p. 164-167).

Since 1991, the country has officially been a constitutional social, democratic and environmental State under the rule of law ("*Estado constitucional, social, democrático y ambiental de derecho"*), establishing the supremacy of the written constitution as opposed to the legalist prevalence of the 1886 charter. The new Constitution included civil, political, economic, social, and cultural rights, and the mechanisms to guarantee them[2].

[2] The Colombian constitution is an example of what Frankenberg considers the archetype of the constitution as contract. In this archetype "the contractual constituent power is an internally structured plurality ("we, the people"), that aims at limiting the exercise of political power by respect the rights of individuals, and in which contracts serve as metaphors for the transformation of a state of nature (anarchy) into a social state (society), or of a ''society of individuals'' into an imaginary ''body politic" Frankenberg, G. (2006). Comparing

One of the most relevant changes took place in the juridical branch that, since 1991, has five High Courts: the Constitutional Court (head of the constitutional jurisdiction); the Supreme Court (head of the ordinary jurisdiction); the Council of State (head of the administrative jurisdiction); and the Superior Council of Judicature (head of the disciplinary jurisdiction)[3].

The 1991 Constitution reconfigured the Colombian legal realm due to "the rejection of violence and traditional politics and a distaste for the French-inspired tradition that had been hegemonic in the Colombian (and Latin American) legal field, including its formalist jurisprudence" (Rodríguez Garavito, 2011, p. 170). According to García Villegas (2006), the law in Colombia is ambiguous, as it regulates, imposes, and demands obedience while including, at the same time, rights that such a power can invoke. Both aspects (the regulating power and the citizens' rights) are part of the meaning of the Spanish word *derecho*, different from the clear distinction between "right" and "law" in English[4].

With the new Constitution, the law had the opportunity to become part of socially relevant discussions as it has de-formalized the juridical debate and reintroduced the discussion of how principles and values relate to social ends as part of the constitutional interpretation. The new Constitution strengthened the role of the law as a tool for assigning meaning to rights, giving more power to juridical decisions by the High Courts, especially the Constitutional Court, which became a common source of law. It also increased the conflict between the juridical, legislative and executive branches, as the high courts frequently reinterpret what Congress, the president, governors and mayors have decided.

The High Courts, through their interpretations, have developed the aspirational enunciates of the Constitution chart into concrete criteria guiding national laws, local regulations, policies, programmes and governmental decisions. For some scholars, the 1991 Constitution has enabled moderate opportunities for social emancipation based on legal change (Santos &

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constitutions: Ideas, ideals, and ideology—toward a layered narrative. *International Journal of Constitutional Law*, *4*(3), 439-459.

[3] It also set up the Office of the Attorney of the Nation (*Fiscalía General de la Nación*) in the context of a partial introduction of the adversarial system within the old inquisitorial system. Additionally, three different institutions were established as independent entities for State control: the Office of the Inspector General of the Nation (*Procuraduría General de la Nación*), the Office of the Controller General of the Republic (*Contraloría General de la Nación*), and the Ombudsman (*Defensoría del Pueblo*).

[4] According to García Villegas, Colombia follows the Rousseau tradition whereby rights are embedded in the law, which in turn is based on a general will tending towards a public good, in contrast with the Anglo-Saxon tradition, in which rights lie in the citizenship, not in the law.

Rodríguez Garavito, 2007; Uprimy & García Villegas, 2004). This position lies between the Marxist critique and faith in the liberal law, believing that the power of the law is, at least temporarily, sufficiently autonomous to be used by those subordinated in society and to limit their inherent violence (Rodriguez Garvito, 2009).

In particular, the Constitutional Court has played a significant role in the materialization of the constitutional promise of the social and the environmental rule of law: "the Colombian Constitutional Court dictated the underlying normative grammar for Colombian society, and it promoted a creative model of open jurisprudence to assume primary constitution-making functions for society, in a context of deep societal division and intense conflict" (Thornhill, 2018, p. 243). The Constitutional Court has adopted a doctrine characterized by its reliance on international instruments and the idea of a living Constitution that rests on the commitment to legal pluralism (Thornhill, 2018).

The new Constitution enacted several mechanisms for protecting human rights and democratic participation. The most used and socially acknowledged is the so-called *tutela*, a mechanism by which a citizen can appeal to a judge for the immediate protection of their fundamental rights when they are in danger or violated[5]. The *tutela* has become the most common legal procedure in Colombia. The Constitutional Court estimates that 7 million *tutelas* were filed in Colombia up to 2017. The new constitution also allows citizens to file a complaint when a norm violates the Constitution, or one of its principles, by initiating a constitutional revision in the Constitutional Court. Another important mechanism is the *acción popular*, a claim to protect collective interests for which the Council of the State acts as the final authority[6]. The

[5] "Every individual may claim legal protection before the judge, at any time or place, through a preferential and summary proceedings, for himself/herself or by whoever acts in his/her name, the immediate protection of his/her fundamental constitutional rights when the individual fears the latter may be jeopardized or threatened by the action or omission of any public authority. The protection shall consist of an order so that whoever solicits such protection may receive it by a judge enjoining others to act or refrain from acting. The order, which shall be implemented immediately, may be challenged before the competent judge, and in any case the latter may send it to the Constitutional Court for possible revision". (Political Constitution of Colombia,, art.86).

[6] This mechanism aims at protecting the collective rights and interests related to the homeland, space, public safety, and health, administrative morality, the environment, free economic competition, and other areas of similar nature defined in it. It shall also regulate the actions stemming from the harm caused to a large number of individuals, without barring appropriate individual action. In the same way, it shall define cases of responsibility of a civil nature for

Constitution granted plebiscites, referendums, popular consultations, and other forms of democratic participation to enhance control over political powers. Also, it gave the "freedom to constitute parties, political movements, or groups without any limit whatsoever, freely participate in them and diffuse their ideas and programs." (Article 40 of the Constitution of Colombia).

All these instruments are part of the idea of a living and open constitution that tends to transform the political will into juridical interpretations. A living constitution:

> […] rests on the presumption that society as a whole is constantly in the process of expressing a changing constitutional will, which is articulated through everyday political procedures such as elections, legislation and even seismic shifts of opinion. The task of the courts, then, is to adapt the existing text of the constitution to the manifest will of society, and to translate the will of society into constitutional formal provisions. In some cases, in claiming authority to interpret the will of the people, judges clearly assume the entitlement to replace the constituent power as the originating source of legal norms. (Thornhill, 2018, p. 258)

The new Constitution explicitly attempted to deepen decentralization in order to boost the democratization process, promote access to financial resources, and strengthen the competencies of local entities (Lanquer, 1991). Against the traditional centralism of Colombia and its strong presidential powers, decentralization measures were expected to increase democratic legitimacy, promote policies geared towards solving poverty and inequality in local settings, strengthen social capital and mutual learning, and ultimately contribute to the achievement of peace (Gutierrez, 2010). Decentralization was an attempt to overcome the limitations of a weak nation-state by handing a renewed leading role to the local levels (Eslava, 2015).

As part of these attempts, the Colombian administrative system recognized four different 'territorial entities' as administrative units with a certain degree of autonomy to manage their interests: departments, municipalities, districts (a special status given to particular municipalities such as Bogotá, the Capital District), and Indigenous Territories (the territories of Indigenous Peoples since before the Spanish colonization). Territorial entities enjoy relative autonomy to manage their interests within the limits of the Constitution. They have the right to govern themselves under their own authority, exercise the

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the damage caused to collective rights and interests". (Article 88 of the Colombian Constitution).

jurisdictions appropriate to them, participate in national revenues, manage their resources and establish the taxes necessary to exercise their functions.

Since 1993, through the Organic Statute of Bogotá (*Estatuto Orgánico de Bogotá*), Bogotá is a capital district. The city has been organized around a City Council that can enact municipal resolutions (*acuerdos*) within the framework of national law[7]. The mayor holds the executive power, and the administration is organized into Secretariats (administrative sectors between which the city's issues are divided). The mayor and the City Council are elected by direct vote every four years. The city mayor is the head of the government and the administration, and also the highest police authority in the city. Therefore, under the law and the National Police Code, they must dictate and enforce the regulations to guarantee citizens' safety and the conditions for protecting public rights and freedoms.

The decentralization process in Colombia allowed new independent political forces to rise to positions as governors and mayors across the country. It strengthened the executive power at the sub-national levels at the expense of the municipal and departmental councils (Gutierrez, 2010). Social movements and diverse social actors found a place in this new local political spaces in a renewed attempt to consolidate the Colombian State (Ospina, 2010). The case of Colombia highlights the effort to strengthen a nation-state by stressing sub-national processes in which modernization is at stake and in which the governments of urban centres play a fundamental role (Eslava, 2015; López, 2019). In this context, "Bogotá's success as a local jurisdiction has been read in opposition to the 'failure' of the Colombian nation-state and as an illustration of why nation-building efforts should be carried out today within the context of local jurisdictions" (Eslava, 2015, p. 71).

[7] The term *acuerdo*, which in the Colombian system designates the administrative acts through which municipal councils adopt decisions for which they are responsible, was translated into English using the term "resolutions", following the translation of the Political Constitution of Colombia approved by the Colombian Constitutional Court. See: https://www.corteconstitucional.gov.co/english/Constitucio%CC%81n%20en%20Ingle%CC%81s.pdf

Constitution, cultural diversity and environment

The recognition of cultural plurality was emphasised in the 1991 constitutional assembly. Representatives of the Indigenous and Afro-Colombian communities had a significant role in discussing the new political charter.

More than one hundred Indigenous communities speaking 65 different languages inhabit Colombia. In addition, a large part of the population is recognized as part of Afro-Colombian communities, and social groups in the Caribbean identify as ethnically diverse groups with their own language and traditions. In Colombia, there is also a small but significant Roma community. An essential aim of the New Constitution of 1991 was to provide a political and legal space for the historically excluded ethnic and social groups (Thornhill, 2018), a discussion led by representatives of ethnic communities, anthropologists and sociologists that were part of the Constituent Assembly. Under the goal of maintaining national unity, they attempted to amend the injustices of Colombian colonial history (Barreto Soler & Sarmiento Anzola, 1997).

The acknowledgement of the pluri-ethnic and multicultural character of the Colombian nation is one of the Constitution's most meaningful social and political changes. The 1991 Constitution settled on a multicultural model that "seeks to combine guarantees of liberal citizenship underpinned by universal values and aspirations of equality with the recognition of differentiated cultural rights for national minorities" (Laurent, 2021, p. 23). As in other Latin American countries, the Constitution brought a commitment to legal pluralism described by Thornhill (2018) as interlegal whose aim is "to guarantee a high degree of sensitivity between the legal/political order and different material groups in society" (p. 237). Interlegality is thus assumed as "the foundation for a multi-centric, multi-normative democracy, based on multi-centric citizenship, adapted to the post-colonial legal landscape"(Thornhill, 2018, p. 237)

The relationship between the State and multiple ethnic and cultural groups is explicitly stated in the Constitution: "The State recognizes and protects the ethnic and cultural diversity of the Colombian Nation" (Political Constitution of Colombia, art. 7). Culture is an asset deemed of protection: "It is the obligation of the State and of individuals to protect the cultural and natural assets of the nation" (Political Constitution of Colombia, art. 8)

The idea of cultural diversity as the foundation of Colombia was developed further when the new Constitution reaffirmed the state's secular nature (against Catholicism, the former official religion) and included the constitutional duty to protect Indigenous languages as a fundamental right (art. 10). In addition, it

created a special seat for Indigenous and Afro-Colombian communities in the Congress (art.171), granted authority to the Indigenous authorities within their jurisdictions (art.246, 286 and 287) and laid out special provisions for Indigenous territorial autonomy (art. 329 and 330).

Culture also became an asset in the form of material and immaterial heritage, an idea that was further developed when cultural diversity was defined as the foundation of the nation. Article 70 makes explicit the duty of promoting access to culture, related to the right to education and used as a vehicle to strengthen national identity:

> The State has the obligation to promote and foster the access to culture of all Colombians equally, by means of permanent education and scientific, technical, artistic, and professional instruction at all stages of the process of creating the national identity. Culture in its diverse manifestations is the basis of nationality. The State recognizes the equality and dignity of all those who live together in the country. The State will promote research, science, development, and the diffusion of the nation's cultural values. (Political Constitution of Colombia, art. 70)

This framework will be decisive for developing the interlegal dynamic around bullfighting, as I show in the analytical chapters.

Similarly, the 1991 Constitution opened up the possibility of including the social, economic and political concerns regarding the protection and rational use of the environment in the so-called Ecological Constitution, 34 different articles of the charter that cover a broad range of themes. They include a preamble, the protection of human life, the duty of protecting culture and nature, the guarantee of children's fundamental rights, the prohibition of biological and chemical weapons, and the dominion of the state over non-renewable natural resources, among others. Its cornerstone is article 79:

> All persons have the right to enjoy a healthy environment. The law shall guarantee the participation of the community in decisions that may affect it. It is the state's duty to protect the diversity and integrity of the environment, to conserve areas of special ecological importance and to promote education for the achievement of these ends. (Political Constitution of Colombia, art.79)

The Constitutional Court furthered the Ecological Constitution in Ruling T-411 of 1992 based on the idea that the Constitution is better understood as a programme that the legislator must develop.

> The legislator is not an instrument of free political action within the negative limits that the constitution imposes, but they develop the programme that the

> constitution contains. The Constitution is the programme of what the state must do, here and now, to create fairer and freer social conditions, in other words, what Schneider calls the "Concrete Myth". In this order of ideas, from a systematic, axiological and finalist reading, the concept of the Ecological Constitution arises. (T-411/92, p.7)

When refining its content, the court "deduced that the environment is a fundamental constitutional right for humans because, without it, life itself would be in lethal danger" (T-411 of 1992, p.9). Several constitutional decisions have developed the substantive content of the Ecological Constitution. The concept is well explained in the sentence C-126 of 1998:

> The 1991 Constitution profoundly modified the normative relationship between Colombian society and nature. This is why this Corporation has pointed out, in previous decisions, that the protection of the environment occupies such a transcendental place in the legal system that the Charter contains a true "ecological constitution", made up of all those provisions that regulate society's relationship with nature and that seek to protect the environment. The Court has also specified that this ecological constitution has a triple dimension within the Colombian legal system. On the one hand, environmental protection is a principle that irradiates the entire legal order since it is the obligation of the State to protect the natural wealth of the Nation. On the other hand, it appears as the right of all people to enjoy a healthy environment, a constitutional right that is enforceable through various judicial channels. And, finally, a set of obligations imposed on authorities and individuals derive from the ecological constitution. (C-126 of 1998, p.3)

A vital element of the ecological constitution is the notion of the social function of property. Rights holders, considered part of a community linked by principles such as solidarity and the prevalence of the general interest, may seek to transcend their individual interests to a communitarian level. The Ecological Constitution highlights the social function of property as an ecological one: the right to work, private property, and freedom of enterprise should aim to protect social rights and values, among them, the protection of life and ecosystems (T-411 of 1992, p.12)[8]. The National Statute of Animal

[8] Other legal ideas have been developed within the normative body of the Ecological Constitution. Some have addressed the duty to protect biodiversity (C-519 of 1994/ C-339 of 2002) and protect endangered species of fauna and flora (C-401 of 1997/C-012 of 2004). Others have stressed the search for equilibrium between environment and economics, referring to sustainable development (C-519 of 1994/ C-189 of 2006). The scope of the constitutional duty to protect the environment and the rights of future generations has also been defined: respect for not-yet-born citizens (C-126 of 1998).

Protection has also been part of the Ecological Constitution by being referred to in Ruling T-760 of 2007. More recently, the ecological constitution was also used as a framework to declare the constitutionality of Law 1638 of 2013 prohibiting animals in circuses. Here, the welfare of animals prevailed over other rights such as work and free choice of profession (C-283/14).

Modern bullfighting

The contemporary bullfighting world is composed of different styles of fighting a bull, multiple actors (e.g. promoters, performers, fans, journalists) and various types of relationships (e.g. social, economic). Bullfighting was introduced in Colombia as a social practice by the Spanish colonizers. The first record of bullfighting in the current Colombian territory dates back to 1534, as part of the celebration to receive a new Spanish governor (Rodriguez, 1999). Since then, and during the 16th century, bullfighting was held in different regions, usually as part of festivities in honour of the Spanish Crown or of a religious character, or just as social events.

There have been dozens of attempts to prohibit bullfights in Colombia, mainly during the colonial period (Hernández & Palacios, 2018). Charles III and Charles V of Spain proscribed bullfighting during the 18th century. It was considered a practice of uneducated people that negatively affected agriculture and the economy (Badorrey Martín, 2009). In such a period, however, different versions of bullfighting developed in the current Colombian territory and, over centuries, became endemic versions of it that still survive in various regions of the country. The most famous are *coleos* (a contest in which two horse riders compete to pull down a bull by the tail) and *corralejas* (informal bullfighting in which everyone can enter the ring and fight the bull).

After its prohibition -still during the colonial period- bullfighting became a popular and less aristocratic practice (Rodríguez, 1995). The country's independence did not significantly change bullfighting's position in society. Indeed, the liberation army's arrival in Bogotá was celebrated with several bullfights in different public spaces of the city. This tradition lasted for several decades to commemorate liberation from the Spanish Crown. After Colombia's independence in 1819, bullfighting continued as a well-established practice in the country as part of socially important festivities such as religious and public holidays or marriages (García Jaramillo, 2012).

Significant changes appeared in the second half of the 19th century when individuals –usually linked to cattle breeders– organized themselves in private

associations and began to sponsor bullfighting. They became fully formed promoters in charge of the announcement, organising, promoting, and managing the shows. In this period, around 1931, the construction of Bogotá's current bullfight ring, *La Santa María,* began thanks to the private resources of a bullfighting fan and cattle rancher. Copying a Moorish style –*Mudéjar,* an architectural style born from the Muslim influence in Spain- the ring was finished in 1944 with public resources. Since then, it has been the setting for a yearly bullfight season, bringing together promoters, cattle breeders, bullfighters, bullfight reporters, fans (grouped in organizations called *peñas*), and individual bullfighting enthusiasts.

The bullfight ring of Bogotá was a socially active setting: presidents, mayors, political candidates, ecclesiastic representatives, artists, and local celebrities gathered to make their public appearances. Attending bullfights was not necessarily an indication of knowledge of the technicalities of the practice. Bullfighting was a socially appealing activity, a spectacle where personalities wanted to be seen and portrayed in journals and chronicles. It was also a social activity: families used to go to bullfights and meet later on in order to discuss, assess and comment on the performance of the bull and the fighters in one of the many Spanish restaurants near the arena. Bullfighters were notable personalities in Colombian society, like César Rincón, who became nationally famous after being successfully acclaimed in Madrid's Bullfighting ring *Las Ventas* in 1991. Bullfighters had social prestige and recognition and were acknowledged publicly by national and local authorities as important public figures. In more recent times, outside the bullfighting season, the bullfighting arena of Bogotá has served as a location for other gatherings like political demonstrations, concerts, artistic exhibitions and a range of sports activities. Because of its architectural value, the bullfighting ring of Bogotá was acknowledged as asset of cultural interest and material heritage of Colombia in 1984. Since then, the building has been managed by the municipality, particularly by the institutions of the cultural sector.

Nowadays, there are 14 stable (not mobile) bullfighting stages in Colombia, the most important being those in Bogotá, Medellín, Cali, Manizales and Cartagena. Each year a national bullfighting season (the sum of the city seasons) is held by private organizations (associations, cooperatives and corporations). The endemic expressions of bullfights are still practised, of particular importance being *corralejas* in many of the small cities of the Caribbean coast and the *coleo,* which has a yearly international festival (5 Latin-American countries participate in the competition each year). Colombia is one of the eight countries in which bullfighting is a legally accepted practice. This research is concerned with the so-called Spanish or modern bullfighting

style, the form that anti-bullfighting actors most commonly want to be regulated or abolished.

Bullfighting is a practice that entails the timely assemblage of people, animals, artefacts, physical spaces, and normativity. While not always acknowledged, a bullfight (*la corrida*) is a collective practice, not a solo performance. A group of bullfighters fight the bull. The most well-known is the main bullfighter, usually called the *matador* (the killer). He is the captain of the party, accompanied by other bullfighters: the *picadores* (2 lance horsemen, each with an assistant) and *banderilleros* (3 footmen armed with barbed darts). They face the bull at different moments under the orders of the matador, who is the only one who can kill the bull.

Secondary bullfighters, whose task is to guarantee the safety of the bullfighters, also form part of the matador's crew. If necessary, they use a cape to distract, move, relocate, or provoke the bull in the arena. The matador also has a swordsman (*mozo de espadas*), a personal assistant whose duties range from helping the bullfighter to get dressed to handling the swords during the fight from the corridor outside the arena. Each crew member has a distinctive outfit and performs within a strict hierarchical structure. Other participants are the horse sheriffs (*alguacillos*), responsible for maintaining the condition of the arena; the muleteers (*mulilleros*), men with mules who drag out the dead bull; and the sandmen (*areneros*), who keep the sand clear by cleaning away blood, bull pats and horse dung. They all enter the arena in hierarchical order at the beginning of the bullfight in the *paseíllo:* a parade in which the performers greet the audience and the president of the bullfight (the leading authority of the spectacle). The parade moves across the arena to the sounds of the *pasodoble*, a peaceful march sometimes performed live.

The president is the authority of the bullring: he has to interpret and enforce the rules regulating the bullfight, and determines the timings, sanctions and rewards. According to the first bullfighting regulation of Bogotá, the president had to be the mayor or a delegate invested with the powers of a police inspector[9]. The president interprets the quality of the bullfighters and the bull,

[9] In the Colombian system police inspectors are authorities whose "main function is to promote peaceful and harmonious relations in the community; conciliate and resolve issues that arise in the exercise of citizen coexistence through police regulations. Likewise, by law 1801 of 2016 (National Police Code) it is additionally attributed powers to deal with issues relating to the control over the violation of the regime of works and urbanism, knowledge of matters related to the improper occupation of public space. By the nature of their position, Police Inspectors exercise functions of a principal nature as defined in police law" Colombian Ministry of Justice: https://www.minjusticia.gov.co/programas-co/conexion-justicia/Documents/Infografias/InfografiaInspectores/funciones.pdf

along with the audience's wishes. He also penalises any deviations from bullfighting regulations, protocol and technicalities. The president wave handkerchiefs of different colours to announce some of his decisions (like ordering the start of a bullfight or the return of a bull). A board made up of a representative of bull breeders, important fans, a veterinarian and other participants might accompany the president in his decision-making.

In an average bullfight (*corrida*), six bulls are fought for approximately two hours. Bulls are randomly and publicly assigned to the different matadors. After that, they are separated into bullpens according to their order of appearance. Each fight against a bull is called a *faena* (a literal translation of the word work) and lasts about 20 minutes each. Each *faena* has two *suertes* (parts) described according to the cape used for the bullfight: the first one is "the part of the cape" because of the large cloak that is held in both hands. This *suerte* is composed of two stages (*tercios*), the first of which is called the "stage of lances" (*tercio de varas*). Here, the main bullfighter (the *matador*) waves his cloak to induce the bull to charge. He must perform a particular set of movements, observe the animal's behaviour, make the audience aware of the quality and specific features of the bull, and draw attention to the best of them in order to show off his skills. He then gets the bull in position in the centre of the arena in preparation for the *picadores* (the lanced horse riders). Their job is to stab the bull's neck while charging at it on horseback, protected by special armour. A well-performed act of lances should keep the bull's head down and will result in its strength being diminished without being completely depleted. The second stage of the first part of a corrida is called the "stage of barbed darts" (*tercio de banderillas*), when another bullfighter on foot (*banderillero*) drives a pair of harpoon-shaped darts into the bull's shoulders. Its goal is to energize the bull, usually reduced in strength after charging the horse and being stabbed.

The second *suerte* (part) of the bullfight is "the part of the *muleta*", named after the small red cape used by the matador. This part only has one *tercio*, the "stage of death" (*tercio de muerte*). The bullfighter should perform a series of passes while holding the cape with one hand to demonstrate his command of it, his dominion over the animal, and his bravery by standing close as possible to the bull. When considered appropriate, the matador stands in front of the bull and attempts the "*suerte suprema*": a movement in which the bullfight should stick the sword between the shoulder blades and into the bull's heart. Depending on the performance, the president decides if the bullfighter deserves a trophy (an ear, two ears, or two ears and the tail). The president also chooses if the bull should be spared death ("pardoned" in the language of bullfighting)

due to its performance in the ring. The bull being pardoned is a prize for the breeder, who will use it as a stud if it survives its wounds.

The spectacle in itself happens around the bullfighting ring. The fight occurs in the *ruedo*, the sandy centre that forms the arena. Two concentric lines divide the *ruedo* three areas that mark out the distances for the matador's performance. A physical wooden barrier prevents bulls from escaping, protects the matador's troupe and creates a corridor (*callejón*) surrounding the arena. Several small entrances (*burladeros*) from the corridor allow access to the arena. First-class bullrings have several gates. Bullfighters and their assistants enter the ring at the beginning of the corrida through the troupe's gate. Bulls enter through the bulls' door (*puerta de toriles*). Dead bulls are taken out through the dragging gate. Finally, the main gate (*puerta grande*) is the one through which successful bullfighters leave the ring, carried on the shoulders of fans. Bullrings need other facilities: bullpens, a dragging courtyard where the mules bring the dead bull to be skinned by a butcher, and a troupe courtyard for horses.

Bullfighting is also what happens before and after the bullfight (*corrida*). Behind the scenes, veterinarians, doctors, police officers, animal carriers, bullfighting fans, public authorities, and various roles with specific functions in the bullfight are also a constitutive part of the spectacle. It involves private promoters, bull breeders, journalists, tailors, bullfighting schools and a network of fans, the most enthusiastic of which are organized in associations (*peñas taurinas*).

Bullfighting is also a business. A private natural or legal person offers to host a show, as occurs with other spectacles. The buyer (the audience) expects to receive what the promoter advertised: a bull, a bullfighter, and a fight. A ticket is a contract that legally binds promoters and audiences. This economic relation is at the core of the existence of modern bullfighting. Internally, the relationship between those involved in the show is formalized through labour contracts. The main bullfight usually pays its own troupe, whereas private investors –promoters- invest in hiring bullfighters and organize and pay for the facilities, materials and service personnel needed to carry out a bullfight. They have to ensure safety measures are in place for spectators and guarantee the show's quality. The promoter is in charge of marketing, media relations, and the everyday ticket sales and responses to refund and cancellation requests. The bullfighting promoters profit from the tickets and pay taxes to the municipality like any other business. In Colombia, each city has an organization (a legal person) that operates to promote, plan, advertise and organise the bullfighting season. In Bogotá, the most important promoter has been the Taurine Corporation of Bogotá (*Corporación Taurina de Bogotá*), a

private entity that has traditionally managed Bogotá's bullring through municipal tender. Bullfighters are usually organized in unions defending the workers' labour rights in the context of bullfighting. In Colombia, the most active union was the Union of Bullfights of Colombia –UNDETOC- (*Unión de Toreros de Colombia*). Only recently, the Bullfighting Association of Colombia –ASTOC- (*Asociación de Toreros de Colombia*) was created with the mission of defending bullfighting.

In the bullfighting business, the role of the breeders is vital. In high-quality bullfighting, only a particular breed of bulls is fought. After centuries of human selection, bulls for fighting are raised in rural areas in different conditions to cattle for human consumption[10]. They grow in open spaces, usually with high-quality pastures, far away from densely-populated areas and –in the case of high-class bullfights- for a minimum of four years before being sold for a fight. The bullfighting world usually refers to the bull in terms of "respect", which signifies admiration for the bull's qualities: its bravery, strength, and elegance. In the bullfight narrative, the bull's death is considered noble as it is embedded in the technicalities and procedures of bullfighting. After a good life, for a pasture animal, it is sacrificed with honours. Bullfighting fans usually praise the bulls killed in a fight by speaking disdainfully of the animals that die in the cattle industry, a misleading echo of the message of animal advocacy movements. When bullfighting fans talk about a bull being treated with care, they mean to the years during which it is bred.

Bullfighting has received many labels and interpretations: as a ritual, craft, art, sport, tradition, metaphor, business. In each of them lie different ethical, aesthetic, economic, social and political implications. Bullfighting has mainly been a terrain of struggle, and each interpretation has had a role in the controversy surrounding it. I will not attempt to solve the conflict around bullfighting in this research. Instead, the dispute is fertile ground for observing how social forces interact within a dynamic of interlegality under change. I will look at municipalities as part of such a dynamic architecture to better understand what has been their participation in such an attempt of change. I will not assess the validity of the different interpretations of bullfighting, treating them instead as part of the interactions being studied. I will focus on

[10] The existence of a special bull breed for fighting is a disputed issue. While bullfighting enthusiast claim that they have created a unique breed, anti-bullfighting activists disagree as they believe that breeds do not exist biologically. They consider cattle to be the same species, and the main criteria for biological identification and the social fight against discrimination. I will refer to bulls bred for fights as a special kind of breed, not due to biological reasons but because of its social differentiation amid the controversies around bullfighting.

how they exist in different legal spaces and the interlegal dynamic rather than its interpretative precision.

The normative world of bullfighting is co-constituted by the performative assemblage of people, animals, and objects in space and time. Bullfighting yields to strict regulations and a hierarchical structure based on specializations and seniority both in and out of the ring. The praxis is the origin of its non-written canon, and the execution of bullfighting is also the source of its changes. Bullfight has undergone many changes over time, even in the twentieth century. The most notable representatives of modern bullfights were once considered heretics for introducing new techniques to the practice. These norms, born out of repeated practice, became part of the Colombian official legal system in different ways and at different times, as has happened in other countries where bullfighting still exists.

Legal mechanisms of animal protection, bullfighting regulations and animal advocacy in Colombia

Colombia has specific legal provisions regarding the protection of animals. The first civil codes of Colombia (1837) regarded animals as things over which humans had a right. The goal was to protect ownership and domain over domestic and wild animals, as well as the derived right related to their exploitation, an inherited tradition according to which animals as property are the foundation of the promotion of economic development (Molina Roa, 2018). In 2017, the National Congress changed the Civil Code and formally acknowledged animals as sentient beings. Long before, however, legislation began to take steps towards a new way of understanding non-human beings as sentient from a legal point of view.

The first law that sought to adopt measures to protect animals in Colombia was Law 5 of 1972 (which remains in force although is poorly enforced nowadays), ordering the creation of Animal Defence Boards at the municipal level. These boards had eminently pedagogical functions and sought to promote a new way of relating to and coexisting with animals. The law was inspired by Catholic arguments that “saw in the good treatment of God's creatures a sign of the degree of civilization of the people” (Jaramillo and Urrea 2011 in Molina Roa 2017, p.234).

The Colombian legal system cautiously introduced further measures to protect animals with the National Code of Renewable Natural Resources and Environmental Protection (National Decree 2811 of 1974), which gave the

public administration the duty to manage the Colombian territory's environmental resources. While granting some protection to animals under the category of fauna and as part of the environment, the Code continued to view animals as an asset that however must be used responsibly.

With the enactment of the National Statute for Animal Protection (Law 84 of 1989), animals were granted special legal protection against "pain and suffering caused directly or indirectly by humans" (Art. 1). Although the Statute did not change the conception of animals enshrined in the Civil Code, the law was influenced by the moral philosophy of Peter Singer (Molina Roa, 2018). The legislation included wild and domesticated animals and explicitly aimed to prevent their pain and suffering, promote their health and welfare, ensure their hygiene, sanitation and appropriate living conditions, and eradicate and punish mistreatment and acts of cruelty towards animals (Art 2). It also aimed to implement pedagogical measures to promote respect for animals and develop activities to protect wildlife.

The 1989 law did not explicitly acknowledge animals as sentient beings: they were still things to which humans should not inflict pain and suffering. The law did, however, emphasize the State and individuals' duties to animals: "Every person is obliged to respect and refrain from causing harm or injury to any animal. He or she must also report any act of cruelty committed by third parties of which he or she becomes aware" (Art. 5). Article 6 of the law, between Paragraphs A and Z, defined the behaviours considered cruel by the law. It included wounding or injuring an animal by hitting, burning, cutting, stabbing or with a firearm, and causing the unnecessary death or severe harm to an animal by acting out of an abject or futile motive. The law also comprised as animal cruelty, among others: mutilation, the prolongation of agony, using live animals for the aggressiveness of other animals, using injured or unfit animals to work, overworking animals, leaving poisonous or harmful substances in places accessible to animals, and abandoning old or weak domesticated animals. Another act defined as cruelty was "pitting animals against each other so that they fight and making a public or private spectacle of the fights" (Paragraph E) and "making a public or private spectacle of the mistreatment, torture or death of trained or untrained animals" (Paragraph F). The law defines penalties, aggravating circumstances and fines for the acts of cruelty. Mayors and police inspectors are the authorities of first instance with the responsibility of dealing with infringements of the law (Art.46).

The statute included several exceptions: hunting and sport fishing, subsistence activities or control of wild animals. However, these were still subject to the regulations established by law regarding the administration of natural resources (Art.8) and killing domestic or agricultural pests using

pesticides or chemical products authorized by the Ministry of Agriculture (Art.9).

The Law acknowledged bullfights, cockfights and other spectacles related to bullfighting, such as *corralejas, rejoneo* and *coleo,* and the procedures used in those shows as exceptions (art.7). To approve the Statute, bullfights and other spectacles involving animals had to be assumed as exempted practices:

> The bill had to be restricted to ensure it passed the parliamentary debates (…) It would have been impossible at that time to propose a veto on bullfights, *corralejas* and cockfights taking into account the roots of those celebrations and the scarce awareness regarding the suffering of animals in such spectacles. (Molina Roa, 2018, p. 242)

Only recently, in 2016, an amendment (Law 1774) changed the Civil Code, the Penal Code and the Code of Criminal Procedure and unambiguously acknowledged animals as sentient beings that are nonetheless mobile properties. Since 2016, animal abuse that causes death or severe damage to animals' health or physical wellbeing has been labelled as a crime falling under the jurisdiction of municipal judges. Law 1774 of 2016 maintained the bullfight exception of the National Statute of Animal Protection. Currently, the Colombian legal system considers animals both properties and sentient beings with special protection status, but not rights holders. However, there is abundant jurisprudence in the country suggesting the possibilities of expanding legal protection to animals, as has been done for instance with natural areas (like rivers, mountains or entire geographical areas)[11].

In 1989, when the National Statute of Animal Protection was enacted, bullfighting was considered a spectacle regulated at national level by the National Police Code, the law that governs the powers, functions and activities of the police. The power of police lies mainly in legislature and is expressed in its capacity to limit freedoms while the function of the police is the enforcement of such power. Mayors are the chief of policing in their territories and have the duty to keep urban order, the primary function of policing. At that time of the enactment of the National Statute of Anima Protection, city councils were the authority enacting the bullfighting regulations in the form of a municipal resolution.

[11] See, for example, Constitutional Court Rulings C-632/11, a C-220/11, T-622/17, Supreme Court Ruling STC4360-2018 of April 5 2018, and Decree 1148 of July 5 2017 that designates the Ministry of Environment and Sustainable Development as the legal representative of the rights of the Atrato river.

In 2004, the National Congress enacted the Bullfighting Law (Law 916 of 2004) and declared bullfights as an artistic expression of the human beings, modifying the powers of mayors and local councils to regulate the practice. Since then, the Bullfighting Law has been the subject of intense revision in the Constitutional Court and the centre of widespread controversy.

The Constitutional Court has delivered several rulings that have assessed the constitutionality of bullfighting and matters related to its regulation[12] (C-1192/05; C-115/06; C-246/06; C-367/06; C-899/12; T-296/13; A-025/15; T-121/17; C-041/17; A-031/18; A-547/18). It has also examined the constitutionality of the Statute of Animal Protection, specifically the exceptions regarding bullfighting in its different versions (C-666/10).

As a result, nowadays bullfighting is allowed in Colombia but only in those municipalities where it is socially rooted. Urban centres –primarily Bogotá– have been at the centre of bullfighting controversies, especially since 2012, precisely because social rooting necessitates the territorialisation of the practice. Anti-bullfighting movements have played a central role in the discussions about bullfighting in Colombia, particularly in Bogotá.

Social movements in Colombia, in general, have been important forces of change since the beginning of the 20th century. Inspired by classical European social movements, they were rooted in the changes of the industrial era and mainly protested against unequal access to land in the context of the consolidation of the Colombian national state, whose main economic activity was agriculture and the extraction of raw materials. Most of Colombia's classical social movements had rural origins: peasants, Afro-descendant groups and Indigenous communities have been the customary actors on the Colombian stage, usually tied in with the vindication of their domain over a territory (Fals Borda et al., 2001). Urban areas were the site of union struggles and their fight for labour rights in a weak industrial economy.

Under the influence of foreign processes –such as the Cuban revolution, the student, feminist and civil movement in Europe and North America– a new wave of organizational processes emerged to shape demands linked to culture, identity and alternative ways of doing politics. The social movements in

[12] The Colombian Constitutional Court decides the constitutionality of national regulations (rulings preceded by a C) and over possible violations of fundamental rights by act or omission of public actors (rulings precede by a T). The Court also issues monitoring edicts of its own decisions (preceded by a A) and unification sentences when it considers that a decision has effect beyond the plaintiff, or that there are different interpretations that need to be integrated (preceded by the letter U).

Colombia have been described as active and prolific despite being organizationally feeble and lacking autonomy from sources of power like the State and armed actors (Archila, 2001).

Since the 1980s, a new generation of social movements made an extensive array of claims to national and local authorities: better provision of public services, access to financial aid, technical assistance, respect for ethnic, cultural and gender differences, the defence of the environment, and the protection against human rights violations (Archila, 2001, p. 28). New methods of political action blurred the differences between the different social movements, and between them and the different levels of the state and the market. Demonstrations, participation in politics, cultural change strategies, public communication, and consumer practices emerged as new forms of political action. This bottom-up political interaction was an answer to earlier top-down democratization, which usually took the form of legal reforms (Neira, 2006).

Movements concerned with the animal cause were born in this constellation of new political practices and organizational structures that were turning toward post-material values (Vergara & Baraybar, 2020). In Latin America, these movements have been portrayed as a network of different organizations and activists sharing a common core of animal advocacy (Méndez, 2020). Their primary inspiration was the academic production of European and North American scholars, which criticized the singular and unequal place of the modern human subject, favouring a new moral community not based on the differences between species.

Mendez (2020) suggests understanding the plurality of groups by their interest. Based on utilitarian approaches in which the capacity to feel is a fundamental moral pillar, some organisations aim for animal liberation. Others, looking for better conditions (welfare) away from unnecessary pain, believe it is right to use or kill animals under given circumstances. Finally, other groups claim that animals' existence does not depend on human purposes, and therefore advocate avoiding any use or consumption based on the exploitation or death of animals. As a political practice, veganism is usually linked to the former. The latter typically shifts the focus from pets or domesticated animals to other species that are less sympathetic to humans (Méndez, 2014).

In the First International Encounter of Animal Protection in 2012, the cluster of organizations defined themselves as a new social animal welfare movement that “vindicates and defends the right of all animals to a dignified life, to freedom, to the full development of their capacities in living environments” (Padilla 2011 p. 3). They described themselves as operating in decentralized,

heterogeneous participative and non-hierarchical structures. Their actions aim to emphasize the importance of local politics, of action-oriented mobilisation, and the use of conventional and unconventional forms of participation ranging from resistance to the proposal of alternative forms of political participation. As they acknowledged, an aim they share with other movements, like environmentalism, pacifism, or feminism, is to achieve social and environmental justice within an alternative project of a society founded on principles of non-violence.

Animal advocacy movements in Colombia merge macro- and micro-politics. They attempt to change cultural practices and subjectivities while pursuing institutional, administrative and legal transformations (Salazar, 2019). In the words of one animal rights activists, the use of juridical tools as part of political action is a "juridical turn" (Padilla, 2015, p. 20) in the animal advocacy movement that seeks the acknowledgement of animal rights and animal emancipation (beyond mere animal protection) by using the symbolic and instrumental power of the (Padilla, 2015, p. 19). This change in direction implies not only advocating in the legislative, local administration and political spheres, but also in the judiciary, especially in the High Courts where it is believed that political and moral discussions can have a place.

The social movements are aware of the unequal distributive capacity of the law when it comes to the allocation of power and resources to those who appeal to it (Padilla, 2015). They are also conscious of the risk of de-politicization through juridification of their claims and the obstacles that the legal field might raise to emancipatory energies (Ibid. p.33). They consider the function of the law as "eminently stabilizing, conservative" (Ávila, 2016, p. 49). However, in the Colombian case, the constitutional legal space has been the arena where struggles over proposed new social contracts find concrete realisation. Therefore, animal advocacy forces have aimed at find an expression in constitutional terms of the debate around the participation of sentient animals in the moral and political community (Padilla, 2015, p. 21).

Within the research process, I approached individuals from organizations that demanded the abolition of bullfighting in Colombia as part of a larger process of political and social change involving the relationship between humans and animals. They share anti-speciesism as a deep-seated moral foundation and understand veganism as a political practice. They also form part of a multi-level approach to political incidence.

3. Conceptual framework

According to Santos (1987), “we live in a time of porous legality or of legal porosity made out of multiple networks of legal orders” (p.298). Consequently, “socio legal life is constituted by different legal spaces operating simultaneously on different scales and from different interpretative standpoints” (p.288). Because of the interaction and intersections among legal spaces, actors’ sociolegal experiences are inevitably created by transitioning through and within them. Thus, one cannot properly speak about the law but rather interlegality: the interaction and intersection of legal orders and their phenomenological counterpart (1987, p.298). Interlegality aims to trace the complex and changing relations among legal orders and accordingly refers to a dynamic and uneven process that involves understanding the relationships within and between legal orders and their correlative manifestation in people's experiences (1987, p. 290).

Interlegality was born as part of Santos's call for an approach that went beyond the classical gap discussion amid his attempt to develop a postmodern understanding of the law. “In the modern era, law has become the privileged way of imagining, representing, and distorting, that is to say, of mapping these social spaces and the capitals, the actions and symbolic universes that animate or activate them” (Santos, 1987, p. 286). Santos argued that the legal world's fragmentation is not chaotic, but can be understood if the relation between law and society is acknowledged to be of controlled distortions, not correspondence: “laws misread to establish their exclusivity. Irrespective of the plurality of normative orders we detect in society, each of them, taken separately, aspires to be exclusive, to have the monopoly of the regulation and control of social action within its legal territory”(1987, p. 281). Santos used the analogy of cartography to explain the mechanism by which the law distorts social objects: the rules of scale, projection, and symbolization, a set of tools he called Symbolic Cartography.

The notion of scale entails the deliberate omission of details that allow us to see, or not, a given phenomenon in a legal order. Projection, the process by which three-dimensional life is transformed into two dimensions, implies the choice of a centre and a periphery that determines the location of legal capital.

Symbolisation alludes to the process of communicating and representing particular features in the form of symbols in each scale.

> Scale, projection, and symbolisation are not neutral procedures. The choices made within each of them promote the expression of certain types of interests and disputes and suppresses that of others. The autonomy of law as a specific way of representing, distorting, and imagining reality derives from the operation of these procedures. (Santos, 1987, p. 297)

Scales, in particular, reveal how the different forms of law make use of different criteria to create different legal objects upon the same social object:

> In real socio-legal life the different legal scales do not exist in isolation but rather interact in different ways (…) this creates the illusion that the legal objects can be superimposed. In fact, they do not coincide; nor do their 'root images' of law and the social and legal struggles they legitimate. (Santos, 1987, p. 288)

The implication is that it is not possible to trace the relationship between the different legal orders without considering the inner distortive mechanisms they engender. Symbolic Cartography intended to explain how each legal space creates the conditions for its own application, a process that presupposes the exercise of power (1987, p. 284). However, the distortion of reality is different from the distortion of truth: when the distortive mechanisms are known, it is possible to read the language and decision-making process involved in the representation of maps and, following the analogy, laws.

Staying on Santos, large scale legality is locally contextualized, rich in details and sensitive to distinctions, while small-scale legality is general and favours representing the relativity of positions between the part and whole or the past and present. In other words, large scale primarily represent while small scale primarily orient. The implication of moving between legal spaces is therefore the loss of information, as noted by Davies: "combined with the plasticity of scale, this lack of fit between the different levels and types of scale means that there is often no way of translating information cleanly from one scale to another, or that it is even possible" (Davies, 2017, p. 95). Davies concludes that some legal objects do not even exist in certain legal spaces, and that the mismatch involves not only what is highlighted but also what is missed when navigating through different legal spaces.

Scales and jurisdictions

Mariana Valverde has reinterpreted the cartographic analogy of Santos and the notion of interlegality in order to address urban issues from an interactive standpoint (2009; 2010, 2011, 2015a). Valverde's research on law and urban governance makes plain how the distortive properties of Santos, particularly scale, affect the experience of the plural legal web. Valverde's research has deepened the understanding, on the one hand, of urban governance as legal governance: the deployment of legal techniques that restrict the possibilities of action. On the other hand, it has aimed to show how urban governance practices generate settings for experiencing the plurality of the law by connecting narratives, symbolism, or affective dimensions with other mechanisms such as rules or styles of adjudication.

Valverde's contribution to interlegality and scale theory does not lie in further developing internal distortive mechanisms. On the contrary, she pointed out the processes through which multi-scalar orders coexist despite the different legal objects they might produce. Valverde was interested in what holds together an interlegal architecture given the plurality of orders and legal objects. She proposed the notions of scale shifting and and jurisdictional games as analytical tools for addressing the broader interlegal dynamics.

Scale shifting addresses the process through which a social object or action is allocated (or not) to a given legal scale: "scale shifting is one of the mechanisms that enable legal orders working at different scales to coexist" (Valverde, 2010, p. 234). The changing of scales is not only a technicality, as noted by Margaret Davies: it involves a modification of the reference framework in other processes such as "modes of authority, the definition of a legal subject, the sources of normativity, the affective ties between norms and subjects, and so forth" (Davies, 2017, p. 106). In other words, understanding the allocation of social objects or practices and their related cartographic properties, like scales, will enable the comprehension of an interlegal architecture. Understanding, using and changing the rules of allocation of multiple scalar orders is what Valverde labelled as a game.

The game of scales is the source of authority and acceptance of the different modes of governance: "once a particular issue has been allocated to one scale rather than another, it appears as naturally suited to a particular form of governance" (Valverde, 2010, p. 236). In this way, the given political or social origin of such an allocation is not explicit or contested. Thus, the allocation of social objects provides ground to the legitimacy of governance practices: "the legitimacy of different legal mechanisms, or rather different logics of

governance, is to a greater or lesser extent dependent on the scale of the mechanism in question" (Valverde, 2010, p. 238).

Jurisdiction, on the other hand, is a technicality that allows Valverde to understand how different legal objects are arranged to avoid collisions between them. It is "the governance of legal governance", the practices that sustain multi-level governance arrangements: "the practice whereby legislators, courts, and anyone who wants to summon or enforce the law, make claims about the "where", the "who", the "what", the "when", and the "how" of law (Valverde, 2009). Jurisdictions differentiate and organise more than just the authoritative voices (the who) over a territory (the where). They define and sort out the legal objects (the what) and the capacities and rationales of governance practices (the how) (Valverde, 2009, p.144). Jurisdictions have strong path dependence: when sorting out one of its elements (usually the source) usually set the other by default. Jurisdictions limit the possibilities of shifting scales of authorities, including municipal ones (Valverde, 2010). In other words, the focus on jurisdictions "provide rationales for why an act or a person, in a particular place, falls under the authority of a particular body and should be treated according to this or that kind of procedures" (Moffette, 2020, p. 271). Building on Valverde, Strauss (2017) has stressed how the "weight and force of social categories in the interaction of political and legal systems simultaneously reinforces and naturalizes legal and socio-spatial scales" (p. 53). According to Strauss, the social –not the purely legal- process of pre-sorting phenomena under a known, already naturalized jurisdictional order, is relevant when analysing multi-scalar relations. How actors decide to which jurisdiction to bring a claim activates the existing jusrisdictional mechanisms.

By focusing on jurisdictional practices, Valverde was able to reveal the unfolding of scalar logic and, at the same time, to understand how the multiple legal objects coexist. What Valverdes' conceptual frameworks enable is the usual unreflexively but conditioned revelation of the how: the means of governance, usually imperceptibly dependent on the distribution of social objects. Valverde suggests that social contestation does not usually address directly the how. Instead, social forces "creatively use the jurisdictional machine that exists" (Valverde, 2009, p. 144) to address governance possibilities as side effects of other issues. In Valverdes' theory, the how is rarely addressed directly as part of legal governance:

> Interlegality's games of scale and jurisdiction work so silently and efficiently that we do not think of asking questions such as: what would happen if, for example, those who have breached the criminal code were governed as if the criminal law were local? Would different rationalities and technologies of governance suddenly seem appropriate? (Valverde, 2009, p. 146)

In the same line of thought, I could research interlegality in terms of scales and jurisdictions in order to ask what would happen if the Bullfighting law were local. The difference is that, in the Colombian case, this already happened between 1964 and 2004. The case therefore makes it possible, as Valverde suggests, to provide a detailed historical picture of past governance practices as part of the analysis (Valverde, 2009, p. 154).

Fudge (2014) partly developed Valverde's past and current interest in governance practice. For Fudge, "jurisdiction functions as a mechanical sorting mechanism only during periods of equilibrium, which are punctuated by episodes of contestation when the question of appropriate jurisdiction and governance techniques is up for grabs" (2014, p. 31). In the periods of equilibrium, jurisdiction operates as a normalized procedure to allocate social relations and activities into different legal domains or regulatory contexts. In those periods, "the process of assigning jurisdiction over specific activities and social relations gives them an identity that distinguishes them from other activities" (Fudge, 2014, p. 32). While Fudge does not define equilibrium or contestation, her differentiation is intelligible and pertinent to the research at hand. In the interlegal dynamic of bullfighting, there are periods in which the legal contestation is absent. Fudge's contention resonates with Blomley, who highlights how many legal conflicts "necessarily bump up against, challenge or attempt to use such [nested zero-sum] jurisdictional architecture, framing certain phenomena as local, national or international matters, governed by distinct jurisdictions" (Blomley, 2016, p. 4). The bullfighting controversy involves a social contestation in which a given –and forgotten– jurisdictional arrangement is under renewed scrutiny, triggering a process of legal innovation "by the attempts to re-regulate fields perceived to be regulated in a manner that does not accord with moral expectations" (Eckert, 2019, p. 499).

Meaning and normative change

Interlegality is dependent on the jurisdictional sorting that allows distortive properties to unfold without severe clashes. Interlegality, however, is also the connection between such legal spheres. Valverde worked on a relational version of interlegality based on meaning and interpretation practices. By doing so, she highlights the meaning creation process entailed in the law as a situated, never-ending process of meaning negotiation between texts, and between texts and people (Valverde, 2015a, p. 5). As with her interpretation of Santos, such a perspective is mostly interactional.

> Santos uses 'interlegality' to encourage socio-legal scholars to move beyond structural views and instead try to understand legal power dynamically and relationally, paying close attention to the ways in which different legal orders, both formal and informal, and both past and present, constitute each other's practical meaning. (Valverde, 2015a, p. 5)

Her proposal draws on Bakhtin's understanding of intertextuality. She avoids Julia Kristeva's elaboration of intertextuality, one assumes, because of its structural hue[13]. Bakhtin was interested in understanding the creative process, and thus explored the productive character of the language in which "creativity exists in the myriad ways prior utterances, voices, and types of discourse are appropriated and reanimated" (Hodges, 2015, p. 43). Bakhtin's textual interpretations seek the possibilities of change from internal and external forces by focusing on interactions. Intertextuality conveys the idea that "any text is woven out of previous pieces of discourse that are merely stitched together into a new patchwork of coherence" (Hodges, 2015, p. 54). The conception of text embedded in such a general understanding is wide and broad, as it refers to "any coherent complex of signs" (Bakhtin 1986: 103 in Hodges 2015, p. 92). Ultimately, a text is any object of interpretation (Irwin, 2004, p. 229).

In Bakhtin's intertextuality, meaning emerges from context-specific communicative interactions (language becomes meaningful only on those occasions). For him, "the organizing centre of any utterance, of any experience, is not within, but outside—in the social milieu surrounding the individual being" (Voloshinov 1973, 93, in Hodges 2015 p. 43). This implies "the study of language as it takes on meaning in the socially-marked interactions between people" (Dentith, 2003, p. 27). To aid in understanding the process of creating textual meaning, Bakhtin uses dialogism—the idea that any text production involves an explicit or implicit dialogue with audiences and other texts—and heteroglossia, the idea that multiple voices coexist in literature and social life. Bakhtin's invitation is to understand the constant dialogue between a plurality of voices while negotiating meaning: creating, changing, approving, or contesting it.

[13] Kristeva's intertextuality departs from Saussure's structural theory of signs in which the signifier is the material expression of the sing (a sound or an image) and the signified, which is the immaterial part (the concept). The relations between them, according to Saussure, are arbitrary (lacking a logical connection). The interpretation of signs within a system is what creates (fixes) meaning in Saussure's theory. Saussure believed that the objective identification of all possible acts of speech was unattainable, hence its focus on the system that allows incommensurable utterances (Dentith, 2003, p.25).

Methodologically, Bakhtin's intertextuality implies "taking as your starting-point language in use rather than language as a code or underlying system" (Dentith, 2003, p. 27). More than the hermeneutic analysis of sources, the aim is to understand the dialogical interaction that creates or negotiates meaning in specific situations. The type of order implied in such a textual understanding is highly interactional. Following Dentith, "Bakhtin is prepared to retain a notion of reference, of the text's relation to the world around it, which must, at the very least, act as a kind of anchor for any utterance, giving it some location in time and space" (2003, p. 92). The interactive understanding of intertextuality, as Hodges claims "is key to unravelling the way the micro feeds into the macro […] it is through a series of interconnected discourse encounters that isolated truth claims or representations turn into larger narratives and shared cultural understandings" (Hodges, 2015, p. 54).

Valverde links such a view with the attempt of sociolegal scholars to "de-centre the hegemonic, authoritative speech of formal State law", exposing the perpetually failing act of trying to suppress dialogism and establish monologism (Valverde 2015, p. 9). We can understand why Valverde takes inspiration from Bakhtin, as she gives no privilege to any system of rule that precedes the understanding of legal meaning.

> The starting point of sociolegal analysis, its point of differentiation from conventional legal scholarship, is the claim that no legal text and no legal action is actually monologic, whatever it might claim. A statute or a Supreme Court decision may be written as if the collective author were a divine sovereign expressing its autonomous will; but this is sovereignty's rhetorical manoeuvre. From statutes to constitutions to judgments to administrative decisions to popular denunciations of certain laws, all legal pronouncements are responses to previous utterances. As such, their meaning is not inherent but is rather created in the fluid process by which such utterances are taken up, read or misread or ignored in subsequent interactions. (Valverde, 2015b, p. 351)

For Valverde, Santos's attempt to move forward into a new understanding of the law as a concrete manifestation leaves behind structural mental images. According to Taekema (2017), this effort is justified because interlegality deals with plurality, interconnection and tension, concepts that fit better with an interactional view of legal order. Interlegality allows us to keep sight of those otherwise excluded forms or laws that systemic orders disregard. Taekema examined the notions of systemic and interactional understandings of a legal order to argue for an interlegal approach that, by highlighting the creative character of interactional senses of order, can still maintain the attempts to consolidate a systemic arrangement of norms. Describing both perspectives of

orders as ideal types that do not exclude each other in concrete legal practices, Taekema sets the challenge of identifying links between them empirically.

While systemic conceptions see order as a structured whole in which norms have an exclusive place in relation to others, interactional notions see order as a practice of legal activity in which actors interact in search of regularity. While systemic approaches seek to solve the conflict over norms and rules in higher regulations, interactional perspectives find solutions by working out concrete problems and considering the parties' satisfaction. The interactional understanding of order implies the constant action of interpreting, applying and using the law. Acting legally shapes legal expectations and norms continuously as part of social life.

Taekema understands interlegality as a process of transforming a normative order, a process that "can take place in numerous different instances that give rise to a plurality of legal practices" (2017, p. 7). She suggests viewing interlegality as a process that combines and recreates different orders that is therefore crucial when understanding legal change. Both systemic and relational processes may take part in such dynamic: "A systemic view may acknowledge the relevance of interactional practice for the formation or interpretation of norms. An interactional view may acknowledge the importance of ordered sets of norms in shaping interactional expectations" (Taekema, 2017, p. 15).

Taekema advocates for prioritizing a relational view of order based on interactional problems and the interpretations given to a problem by specific actors in concrete situations. She suggests primarily identifying interactions as the source of the creation of the legal world, instead of the systems of legal meaning and texts that are the foundation of systematic or structural accounts of order.

Her proposal is founded on several considerations that are relevant to this research. Firstly, law creation processes cannot thrive without interactional practices involving the enforcement of a norm or its acceptance by legal subjects (including recognising the authority of lawmakers). The interactivity around enacted laws promotes social change, even if it might ultimately be aimed at modifying a system-like order. Paying attention to a system-like understanding alone hinders the comprehension of the full range of normative practices (like some social movements and municipal practices) that are important in the development of legal orders that present themselves as structured. Her second consideration is that language is an interactional practice in itself. Taekema points out that legal interaction has a communicative dimension from which order arises. Finally, she asserts that the cultural substance of language (images, stories, metaphors) is pertinent to

understanding how legal actors and subjects interact with each other. In this way, the practice of creating a sense of order develops a shared legal understanding, with the norm itself being essential, but only part of it.

Julia Eckert et al. (2016; 2012) also noted that it is misleading to believe that legal orders are only structurally interconnected. In their view, they are somewhat entangled by actors' practices. The interactional construction of the law involves understanding how meanings are assigned, a process not always pre-given by normative orders. A bounded, closed perspective of any normative system risks excluding struggles over meaning within normative orders, "a major feature of social interaction" (Eckert et al., 2012, p. 10). This consideration of inter-legality is rooted in Derrida's iteration: "any use, any engagement with an institution, implies an interpretation, a variation and a selection, and is, thereby, a constitutive act" (Eckert et al., 2012, p. 11). Iterations occur through situated interactions in which actors relate to each other under structural constraints.

> These contentions over meaning are what we consider the central site from which to understand normative change. (…) When people turn towards legal norms to express their hopes and strive for their future, they interpret norms in the light of these aspirations rather than simply in terms of existing normative orders. Of course, these aspirations are shaped by the normative orders that prevail in the historical situation within which they live; their perception of the world, of what it should be and what is wrong. (Eckert et al., 2012, p. 11)

Van der Woude (2020), when studying the EU's multi-scalar and jurisdictional arrangements, provided a helpful mechanism for understanding how interlegal connections developed amidst structural constraints. Her research highlights the incomplete character of EU regulations as a necessary condition for scale jumping practices. What links the different legal spaces is the constitution of ambiguous, incomplete or uncertain rules that enable the discretionary powers of other legal spaces. Such incompleteness is the outcome of political negotiations that set a minimum denominator among the parties involved (Van der Woude, 2020, p. 115). The mechanism through which the different legal spaces relate to each other, despite their differences, is interpretations that complete the meaning of such rules. Interlegality, in this way,

> shines light on the ways in which the different jurisdictional frameworks as well as the (political) actors involved together constitute the sociolegal reality highlighting the interactions and intersections between these frameworks as well as the struggles and decisions resulting from it. (Van der Woude, 2020, p. 126)

While the bullfighting case does not involve regional and national spaces, the empirical material shows analogous processes of struggle over incomplete rules and how interactions in different legal spaces assign their meanings.

Summary of the conceptual framework

In this section, I argue for a conceptual architecture that enables the description and analysis of the municipal authorities as participants of sociolegal transformations, understood as interactional interlegal dynamics subject to scalar and jurisdictional constraints over time. In this perspective, jurisdictions sort and organise different legal spaces to avoid clashes (Valverde, 2009). They create jurisdictional arrangements in which different orders coexist beyond a mere zero-sum relation or a nested structure. These jurisdictional orders constrain the shifting of scales that authorities might drive when governing (Valverde, 2010).

In this view, jurisdictional games express a strong path dependence once a given order has been settled: the rationalities of governance are rarely discussed explicitly but emerge from the definition of the authoritative voice, a specific territory, and a legal object (Valverde, 2009). The scalar properties of legal spaces constrain interactions as much as they impose an interpretative framework and decide over a given salience when constructing legal objects. The legal identity of social objects and practices tends to be fixed during periods of equilibrium of jurisdictional and scalar arrangements that are normalised (Fudge, 2014). During this time, interlegality and its constraints are difficult to discern and become visible for instance social forces promote demands for change (Blomley, 2016). However, social actors are not empty of jurisdictional or scalar understanding. Social actors carry out their jurisdictional sorting (Strauss, 2017) and imagine and project scalar construction by overlaying their legal experiences and awareness of multi-level governance when seeking legal spaces to address their concerns (Davies, 2017).

When starting from below, the process is usually expressed as a dispute and articulated as a political negotiation, and it seeks access to institutionalized spaces. Social claims, thus, are transformed into policies, administrative decisions, and local regulations that aspire to become formal rules. It is a sequence of interactive normative claims that inevitably address existing structural accounts of rules (Taekema, 2017, Eckert, 2019). The research at hand draws on the idea that municipal authorities are part of interlegality as a

process encompassing normative changes that involves the contestation and negotiation of meaning, a process that uses bodies of norms as a reference but that ultimately entails the interactions of legal and social actors through different legal spaces. These interactions are structurally constrained by the historical multi-scalar arrangement in place, the jurisdictional sorting of social objects, and the correlative distortive properties triggered.

4. Methodology

Methodological design

Interlegal studies usually select an event or space to describe and analyse how different actors interact and, as a result, how an entangled order emerges. Such a design usually reviews the relationships between the actors, the different normative sources raised, the interpretative frameworks, and the legal objects created. Research addressing scales and jurisdictions typically focuses on how claims against a scalar or jurisdictional setup are made and how the legal machinery reacts to such challenges (Valverde, 2009). The analysis typically involves an implicit comparison of the situation before the interaction and the outcome. Interlegal relations are usually studied through examples and situations that inform concrete analysis (Valverde, 2015a). Valverde has been reluctant to call such concrete situations cases because she does not intend to produce a generalisation "sharing light on truths crystallised in theoretical concepts" (Valverde, 2015a, p. 2). Instead, she aims to suggest an approach in which "ideas are means to the end of understanding our world as concretely as is possible" (Valverde, 2015a, p. 2). Her approach echoes those who believe case studies are detailed, context-dependent examinations that refine a nuanced view of reality (Flyvbjerg, 2006). Cases, in this sense, are comprehensive narratives whose value rests in their detailed description, expressing real-life complexities and contradictions that defy summarisation. When I refer to the controversy surrounding bullfighting as a case, I do so in this sense. I aim to capture the rich ambiguity of the municipal governments amidst processes of sociolegal change, which in turn entails apprehending the complexity of interlegal dynamics over time. I do so by describing and analysing a concrete and situated process of change: the progressive change in the social appreciation of the practice of bullfighting in Bogotá (Colombia).

I chose the bullfighting controversy after considering possible examples of municipal authorities' cultural governance strategies since the 90s in Colombia. Among them, I reviewed municipal practices that involved the active involvement of a social group and displayed an explicit attempt to bring about change. The bullfighting struggle stood out as a relevant setting for

research because it involved different strategies of municipal governance over a coherent arc of events and the participation of identifiable social actors. During the controversy over bullfights, the municipal government has attempted to govern bullfights by controlling urban spaces, mobilizing their power as a site of local democracy, and engaging in activities to encourage or discourage specific practices. The bullfight controversy is immersed in a wider process of change (the fall in social appreciation of bullfights) as part of a more profound transformation (the change in the relationships between humans and other animals). The controversy showed a clear presence of social actors engaged with the intended change (animal advocacy activists) and others resisting it (bullfighting fans).

I ruled out other possible cases related to the topic, such as that of Medellín, where bullfighting has not been abolished or regulated, but is not carried out because the municipality and the private owner of the ring agreed not to use it for bullfights. I also ruled out those municipalities where bullfights are practised but have not been a municipal concern, like Cali or Cartagena. The Bogotá example provided more significant expressions of municipal practices and substantial impacts on the national social and legal life. The focus on Bogotá highlighted the controversy, a struggle in which social forces, the municipality and the courts provided ample sources of empirical material and allowed me to access the not always visible manifestation between legal orders, scales, and jurisdictions. Other scholars investigating interlegality have implicitly followed a similar research logic by first identifying a more specific controversy, confrontation, disagreement, or negotiation over a legally-constructed social matter. Official or customary courts (Hoekema, 2008, 2016; Holden & Chaudhary, 2013; Nwoye, 2014; O'Brien, 2021; Sierra, 2004; Simon Thomas, 2009; Terven Salinas, 2015); institutional sites of participation (Gillespie, 2018; Hubbard, 2020; Hubbard & Prior, 2018; Machado et al., 2017); spaces of political discussion (Barbero, 2013; Bocarejo, 2020; Goodale, 2008; Segura Urrunaga, 2017; Vásquez-Fernández et al., 2021); and practices of enforcement and control (Robinson & McDuie-Ra, 2018; Strauss, 2017; Van der Woude, 2020; Williams, 2016), are typical concrete scenarios used when researching interlegality.

Those interested in interlegality and its time depth usually select different moments of a timeline in which interactions have been particularly evident and are relevant for future interactions or outcomes. Svensson (2005), for instance, focused on different moments during periods to explain the progressive incorporation of Sami normative principles and values in law institutions and procedures. In a somewhat different way of addressing time as a relevant dimension of interlegal processes, those working in a postcolonial context have

aimed to explain how the relationships between legal orders under colonial regimes are still relevant to understanding contemporary normative relations. For example, Machado et al. (2017) and Weitzner (2017) have shown how the encounters between official state and ethnic legal systems produced a series of emergent illegalities imbued in a persistent colonial logic. Engel (2009) adopted a rather particular analysis by studying how rapid processes of demographic and economic change brought the end of the interlegal arrangement between the local order and the official state law shaped at the end of the 19th century. His analysis shows how societal transformations have rendered innocuous the official and traditional norms regarding personal injuries as territorialized offenses. He focuses on the change of legal categories historically created, particularly on what is understood as an injury –which was closely related to where the injury happened– and who can call themselves a victim and act as one.

The relevance of the time-lapse sequence of events became evident with the initial review of the bullfight controversy. The actors' arguments systematically referred to past events and decisions, forcing me to go backwards in the chain of normative intertextual references and enlarging the empirical material. I end up addressing those years of widespread acceptance of bullfights in which the controversy was not evident, but the interlegal process was coming to life. Understanding these initial periods became necessary in order to understand change itself and the different role of municipalities and thus, achieve the research purposes.

I followed the methodological suggestions of Widdersheim (2018) to address historical case studies, Yin's (2018) notes on chronological structures and Gerring's (2016) consideration of temporality. While the research at hand is not historical, preliminary analysis of the empirical material –as I will explain later in this chapter– consistently pointed to past events that were required for an understanding of the municipal practices during the controversy of bullfighting. In this sense, the concrete analysis followed a chronological sequence that allowed me to trace an interlegal process. This design implied defining a spatial and temporal boundary for the concrete analysis (Widdersheim, 2018). I defined as starting point the entry of the bullfighting canon into the official legal world with Bogotá's first municipal regulations in 1964. The enactment of the municipal regulations was the first interlegal encounter between state law and the informal rules of bullfights. I followed the controversy until 2020, when the Bogotá municipal council enacted Resolution 767 to discourage the spectacle. The bullfighting discussion is an open-ended process, and further developments should be expected in the coming years.

I completed the preliminary analysis of the material by performing process-tracing (Gerring, 2016), identifying the relevant features to provide a complete and continuous picture of the interlegal dynamic. I began this route with the more recent municipal practices of Bogotá and went backwards until 1964. I then followed the chronology forwards until 2020. To judge the completeness of the continuity in time, I used the different accounts of the controversy provided by social actors, media, and legal and academic texts. The research framework helped me identify which elements were redundant or not pertinent to maintaining continuity, and allowed me to exclude some empirical material. The focus on Bogotá was an essential criterion for inclusion. For example, I restricted the review on the practices of social actors. Bullfighting fans and, animal have carried out wider political and social practices in several municipalities, interact with other levels of the Colombian government, and have established international support networks. I discarded most of this material because I could not locate them as part of the chain of events that I was following in Bogotá.

In the same way, material from the Constitutional Court that was generated as part of the bullfight controversy but has not generated any interaction over it or have been addressed in different social or legal processes was not included in the research. For example, I did not include the discussions on children's rights or public procurement procedures because they were tangential to the main path of the controversy. I also excluded some constitutional decisions that are part of the bullfighting debate but did not develop any new legal or social argument.

Empirical material

One of the methodological implications of describing and analysing an interlegal dynamic is the abundance of empirical material. Interlegality involves different legal orders, jurisdictions and scales that might evolve over long periods of time and thus offer multiple sources for its study. Previous research on interlegality has already addressed this circumstance. Goodale (2008), when addressing interlegality and scales in a historical account in Bolivia, moved "necessarily" (p.53) between a large set of registers: detailed discussion of law, practices of everyday life in rural areas, the transnational human rights movement, analysis of legal institutions, and representations of Bolivian modernity in international popular culture. Barbero (2013), when studying *encierros* –process of resistance in collective urban spaces during the

year 2000 in Barcelona– also had to rely on multiple sources of empirical material. Barbero explored how the juridification of the social claims involved the successive overlapping of different normative orders, carrying out his analysis based not only on formal law and regulations but also normative documents from migrants (e.g. manifestos describing their demands or claims, drafts resulting from the negotiations, banners). This material was complemented by alternative legal practices or the legal texts generated during social or political gatherings, interviews with participants and recordings (audio and visual documents) (p. 359). His analysis sought to identify any normative claims and their sources amidst the conflict to establish ways in which it interacted as part of resolving of the struggle (which resulted in formal regularization).

The specific manner in which the wide range of empirical material is handled differs. However, a common feature is a focus on practices: what actors do when facing normative encounters (Hoekema, 2005; Svensson, 2005), when addressing multiple legal orders (Bocarejo, 2020; Drummond, 2011; Engel, 2009; Sierra, 2004), or when playing the game of scales and jurisdictions (Moffette, 2020; Strauss, 2017; Valverde, 2009; Van der Woude, 2020). The practices of interlegality have been framed, in some cases, as "sites of interlegality", spaces in which interlegal interactions are evident. These can be participatory spaces (Gillespie, 2018), the collective development of documents and plans (Barbero, 2013) or spaces of formal legal interaction (Sierra, 2004). Analysis of interlegality has typically focused on courts as sites of legal encounters (Hoekema, 2005). Svensson (2005), for example, when describing how the Sami people's right to land has slowly been integrated into Norwegian state Law, relied on court archives to trace the entanglement of laws, institutions and procedures. Also, Terven Salinas (2015) studied the intercultural relations between Indigenous communities and official law in Mexico, focusing on indigenous courts in order to assess the impact of the normative encounter. Holden and Chaudhary (2013) focused on how combinations of legal sources successfully granted inheritance rights to women in the Courts of Pakistan. The studies of interlegality concerned with legal and urban governance have also considered courts as privileged sites where claims about jurisdiction and the scalar properties are defined or under revision (Hogic & Ibrahim, 2021; Valverde, 2009; Van der Woude, 2020). This analysis usually focuses on rules and frames of interpretation under jurisdictional considerations.

When addressing the bullfighting struggle, I faced the challenge of selecting empirical material while the interlegal process was unfolding as part of the

research process. Following my original interest in municipalities and their role in social change, I began with the municipal decisions between 2012 and 2020.

I identified four primary municipal governmental practices in this period: 1) The decision of the municipal government not to lease the bullfighting ring for bullfighting practices in 2012. 2) The efforts of the municipal government to promote a public consultation in Bogotá in 2015 to discover the inhabitants' opinion of bullfighting in 2015. 3) To carry out a series of educational and artistic actions to discourage bullfighting practices in the city in 2020 labelled as the *Fiesta No Brava.* 4) The enactment of Resolution (*Acuerdo*) 767 of 2020 with measures to discourage bullfighting and promote animal welfare.

In order to select the relevant empirical material, I identified the normative claims and traced them an activity that led me to different actor based sources. The first source was the municipal level itself. The municipality spoke largely through its Municipal Development Plans, a technical document used to sustain the normative claims in a municipality based on the participation of the different social groups in a city (and therefore responsive to social needs) and legitimized politically by the approval of the City Council (and therefore legal and legitimate in terms of local democracy). Once approved, development plans have the force of law, which means that they become a normative document against which municipal decisions and actions are evaluated politically and financially. Municipal authorities also speak through administrative acts and local resolutions enacted in the City Council. The second actor based source were the social forces. Their normative claims came out in different formats. Some for instance were included as part of political agendas like the Animal Advocacy Vote Agenda, a series of points defined by a large number of social organizations that work in the areas of animal rights, animal welfare, and environmental protection. Other normative claims arose from the messages that these organizations have communicated to public opinion, mainly the understanding of animals as sentient beings as a foundation of moral behaviour. I did not focus on normative claims coming from the animal advocacy movement. I also relied on public communication and letters from the Taurine Corporation of Bogotá when addressing the municipality, material that was made public in newspapers and on public platforms. The third source was the national level and its official laws, with the most important for the case at hand being the Bullfighting Law (Law 916/04) and the National Statute of Animal Protection (law 84/89). I also traced the parliamentary discussion around the enactment of the Bullfighting law within the legislature, a process that began in 2002. I reviewed the proposed projects, minutes of discussions, objections, changes and final versions as recorded and published in the official journal of the Congress. Finally, but no less important, the

Constitution of Colombia and the decisions of the Constitutional Court emerged as a typical normative source for the actors' arguments around the struggle. As is common in jurisprudence material, most court reasoning and decisions were based on previous sentences, and thus, I was obliged to review past Court decisions.

This initial map allowed me to define the empirical material of the research, which can be summarized into the following groups: a) interviews; b) normative documents from social forces; c) national laws; d) municipal laws and regulations; and e) Constitutional Court decisions. I explain each of the sources in detail on the following pages.

Interviews

I carried out face to face interviews in 2019 with members of the anti-bullfighting movement (four) and public officers from the Bogotá Institute of Animal Welfare (two). I carried out an additional online interview in 2020 with the plaintiff of Sentence C-666, a person with no affiliations to social movements.

The selection of the animal advocacy movement participants took place through "snow bowling" (Lune & Berg, 2017; Rapley, 2014), based on an initial contact provided by a leader of the anti-bullfighting movement who I was able to meet through academic contacts. The interviews were carried out with an unstructured layout where the interviewer has a limited range of topics that intend to address but does not have a set of pre-defined questions (Hammersley & Otazu, 1994). I carried out the interviews in a conversational style, with open-ended questions to encourage the formation of arguments, allowing the participants to develop the narratives on their terms (Berg et al., 2012) and enabling me to ask for clues to access their interpretative universe (Guber, 2019). I transcribed and analysed the interviews using pseudonyms.

As part of the interviews, I explained my research in terms of my interest in the municipal level, and why I think the bullfighting struggle was relevant. I also made my academic affiliation (university and department) explicit. I had to explain the sociology of law as an academic field and answer questions about the research and academic programme. That might have triggered the discussions about the legal field and specific laws due to a common tendency among the participants to highlight the law and not sociology. I explained to the participants that they were free to agree (or not) to contribute to the research while conducting the interview or at a later time. I also clarified that I considered it better for them to remain anonymous. The interviews had

different durations ranging from 30 minutes to two and a half hours, according to the wishes of the participants.

I understand interviews as interactions in which people try to convey meanings "as precisely as they can within the available, socially embedded discursive repertories (…) Each utterance is both the subject and the result of social and cultural discourses that can be identified through careful analysis" (Tanggaard, 2009, p. 1507). From this perspective "the interview is seen as a conversation that produces narratives (based on socially and historically available discourses)" (Breheny & Stephens, 2015, p. 279).

The interviews were meant to allow the participants to develop their narrative of the struggle. I stimulated the conversation by asking their opinion about the administrative decision over bullfighting in 2012. I prepared additional questions to move along the conversation, like their opinion of the role of the municipal level in the debate and the role of the social movements as part of it. The participants, however, consistently developed their arguments starting from what they considered the beginning of the struggle, usually the enactment of the Bullfighting Law in 2004, and for some even earlier when the social movement emerged in the 1990s. The participants' narrative then slowly moved into more recent events and introduced the municipality's role as part of the logical progression of the struggle. The participants' reconstruction of events was the primary material for tracing interlegality, as it linked their practices with the municipalities and the legal developments, particularly the Constitutional Court.

Normative documents from social forces

Both bullfighting supporters and opponents produced and shared public documents as part of their social and political activities. The media review and the interviews acted as a guide for the selection of material. I chose documents that looked at municipal or national authorities in which normative claims were explicit. This material has been used in research into interlegality to refer to those legalities that arise during the process –usually from struggle (Barbero, 2013). Usually explicitly directed towards institutional actors, such documents also speak to the general public about how and why social forces construct and argue for social issues to be dealt with as part of a public debate (Salazar, 2019). They are, in this sense, important sources for grasping the spaces in which legal, ethical and political claims are articulated, as is evident in the case of bullfights (Salazar, 2019).

As empirical material I used an Animal Advocacy Vote Agenda (*Voto Animalista*), a series of political commitments defined by many animal advocacy and environmental organizations to lobby political candidates during

elections since 2010. This material was found on online animal rights platforms and formed part of the narratives recounted by the persons interviewed. The Agenda has been identified as a valuable source in the connection between organized social forces and municipal authorities amid the interlegal dynamic regarding bullfighting in Bogotá and other Latin American cities like Quito and Lima (Vergara & Baraybar, 2020). While these kinds of agendas are generally viewed as a document with political value, in this research, they are also considered an important source to study interlegality. As I will show, most of the Agenda fuses moral positions grounded in animal studies and ethics, normative claims that emerged from international agreements (like the 1978 Declaration of Animal Rights), the principles and values of the Colombian Constitution and rulings by the Constitutional Court, and duties and competences of the different levels of the State. The Agenda became a critical document in explaining the bottom-up interlink between social movements, municipal authorities and Constitutional provisions.

I also relied on the letters between the Taurine Corporation of Bogotá and the Bogotá Administration, made public by the Taurine Corporation in the national media and still available online. This material, addressed to the municipal authorities but made public by its authors, paradigmatically shows the use of formal legal decisions to tackle specific discussions regarding the bullring and the bullfighting spectacle. Like the Animal Advocacy Vote Agenda, this formal communication exemplifies the communicative interactions between actors. In the case of the bullfighting fans, the use of strict formal legal language is evident.

An essential normative source in the case of the bullfighting fans' interactions is what I have so far called the bullfighting canon. This canon includes the structure, rules, technicalities, details, hierarchies, sanctions and interpretative frames of bullfighting. There is not a single written foundational document where the canon is laid down; this role has been assigned largely to the law. However, the description of modern Spanish bullfighting -included in the introduction to this research- was written using different webpages for bullfighting fans where the spectacle is explained[14]. As well as a review of Spanish academic journals devoted to the spectacle (mainly the *Revista de Estudios Taurinos* from the University of Seville). As will be seen in the analytical chapters, however, the differentiation between the non-formal canon

[14] The webpages used were: https://www.voyalostoros.com/?section=29&module=navigationmodule ; TOROS por Todo Sobre España (red2000.com) ; https://www.servitoro.com/terminologia-taurina

and legal bullfighting regulations is not easily noticeable, being most evident in the interpretation of the skill or condition of the bull.

Municipal laws and regulations

For the municipal level, I focused on the development plans of the different governments of Bogotá (2012-2015, 2016-2019 and 2020-2024), public communications from the Mayor's Office in the press, their webpages and administrative acts. Additionally, I refer to some public interviews and debates in 2020 between leaders from the municipal administration and bullfighting fans regarding cultural change activities that were posted on video streaming platforms like YouTube. As I have already explained, development plans are a planning tool with a particular structure embedded in national dispositions and urban planning knowledge. However, they are also the outcome of some social, political and economic negotiations over the future and the use of the city's resources over a period of time that have legal force after being approved by the City Council. Development plans are documents through which the municipal level expresses itself paradigmatically.

When it comes to the City Council of Bogotá, I reviewed Resolution (A*cuerdo*) 88 of 1964 (the first municipal bullfighting regulation) and Resolution (A*cuerdo*) 4 of 1994 (the last one before the national law). In them, the municipal expressions of bullfighting can be found. I also studied Resolution (*Acuerdo*) 767 of 2020, in which the municipality discourages the practice.

Additionally, I reviewed several public discussions of the Bogotá City Council's YouTube channel, including those in which the council rules on the viability of a popular consultation promoted by the mayor (the session on July 27/28, 2015), the debate on political control regarding the cultural change activities of 2020, *Fiesta no Brava*, (the session on February 27, 2020), and the discussion and approval of Resolution 767 of 2020 (the sessions on March 5 and June 9, 2020). I listened to the digital material while making time references for the different participants, before listening to the interventions again and then making notes and translations for specific interventions. The notes were helpful in identifying relevant connections to legal decisions, political arguments, the practices of actors, and the relevant speech to be transcribed. As empirical material, the City Council's discussions posed the challenge of addressing political discourse around legal matters. They are relevant precisely because the City Council features animal rights activists and pro-bullfighting politicians expounding their moral, political and legal arguments. On the one hand, they address their electorate, and therefore their

speeches attempt to link the formal legal sphere with the social dynamics to which they seek to adhere. On the other hand, the discussions make clear how municipalities attempt to interpret and realize the law under their structural constraints and possibilities.

National laws

The primary laws referred to are the Bullfighting Law (Law 916 of 2004), the National Statute of Animal Protection (Law 84 of 1989), and its amendment (Law 1774 of 2016) that changed the legal status of animals in the Civil Code and established new penalties and procedures in the Penal Code and the Code of Criminal Procedure.

Reviewing the enactment of the Bullfighting Law and the National Statute of Animal Protection was the main indication of the importance of addressing local bullfighting regulations of Bogotá before 2004, when the city was the authority responsible for handling bullfighting shows (Resolution 4 of 1994). A fundamental question was what changed between them and their relations with the broader set of interactions, and how to address it analytically. I paid particular attention to the parliamentary discussion and the project proposal reported in the Official Gazette of the Congress of Colombia[15].

Constitutional Court decisions

The line of jurisprudence concerning bullfighting and animal protection proved to be vital material. The Colombian Constitutional Court rules over the constitutionality of national regulations (rulings preceded by a C) and over possible violations of fundamental rights by act or omission of public actors (rulings preceded by a T). The court also issues monitoring edicts of its own decisions (preceded by A) and unification sentences when it considers that a decision has effects beyond the plaintiff or that different interpretations need to be integrated (preceded by the letter U).

Any citizen can bring these constitutional actions before the tribunal, with the mechanism of rights protection (*tutela*), in particular, being relatively simple and widely used. The Full Chamber of the Court (9 judges) reach decisions over reviews of constitutionality. Cases are randomly assigned to a reporting judge, who develops a hypothesis for resolving a case, which is discussed by the Full Chamber and can be modified, accepted or rejected in whole or in part by the other judges. In the case of protecting fundamental

[15] The number of the gazettes where the Bullfighting Law process was recorded are: 504/01; 636/01; 125/02; 133/02; 229/02; 237/02; 270/02; 316/02; 405/02; 488/02; 284/03; 327/03; 394/03; 469/03; 677/03; 680/03; 33/04; 430/04; 633/04; 639/04; and 832/04.

rights (*tutelas)*, the cases are selected by the Revision Chamber (two judges) and discussed in the *Tutela* Chamber (3 judges).

Once the Constitutional Court accepts a case, it also informs the national authorities and other actors considered relevant to the process. The Colombian constitutional system allows any citizen to participate in constitutionality proceedings by presenting their concepts, reasons or arguments around the suitability of the claim and/or the constitutionality of the accused norm, if this is done within a given period. Constitutional decisions enable a vision of the interaction of social actors with the Constitutional Court regarding the law and exemplify how the legal space level creates the conditions for the Court's monopoly of authority. The judges' written dissenting opinions or clarifications of majoritarian decisions can be added to the final ruling. The dissenting opinions reveal the tensions and controversies within the court when attempting to establish its exclusivity of regulation. They shine a light on the myriad possible interpretations that might emerge at the constitutional level, and also show how non-majoritarian interpretations are part of the interlegal dynamic in their own way: most of the Court decisions regarding Bullfighting Law were not approved unanimously. On more than one occasion, the interpretative suggestions of a dissenting judge were introduced partially in subsequent decisions and informed the demands of social actors.

I checked for all possible relevant decisions by examining the participant's information, carrying out a literature review of the case of bullfighting, and using the search engine on the websites of the Colombian Constitutional Court and the Juridical Secretary of Bogotá. The preliminary decisions selected were C-1192/05; C-115/06; C-367/06; C-666/10; C-889/12; T-296/13; A- 060/15; T-121/17; C-041/17; A-031/18; and A-547/2018[16].

Analytical strategy

I analysed the material in Spanish and translated only those elements that were relevant to the process of writing the manuscript in English. As the source for the constitutional terms, I used the approved translated version of the Colombian Constitution from the Comparative Constitution Project of the

[16] I exclude decisions C-246 of 2006 and A-154/06 from the analysis, fundamentally because a preliminary review did not provide new information to the analysis in relation to the research questions.

University of Texas and the University of Chicago[17]. The style of legal text and interviews in particular was edited as part of the translation. It is common, in written Spanish, to build long sentences with subordinate clauses, frequent pronouns, and the use of commas, colons and semicolons instead of full stops. These features are particularly enhanced in legal writing. It is also normal to use many pronouns in spoken Spanish. As part of the editing, I attempted only to shorten the sentences by separating the ideas with full stops and replacing the pronouns with the subject or making it clear with parentheses.

An initial reading of the material revealed strong inertia from past decisions and texts, with continuous references to what has been already settled or discussed, not only within the practices of the official legal space. This commonality forced me to address the time dimension in the most precise manner possible, without losing the opportunity to understand the distortion of the legal objects, the relationship with the multi-scalar order and how the interactions brought the discussion back to another time and level. This first analysis of municipal practices was done backwards from 2020 to 2015, and I looked for references to previous interactions with other actors or normative material of any kind. The preliminary identification and selection of material was carried out in this phase, and included material for different levels and periods with the aim of maintaining the density and continuity of the chronological order.

The review of the material allowed me to trace, as a relevant starting point, the enactment of the bullfighting regulations back in 1964 and their imbrication into the National Police Code in 1970, when bullfighting entered the legal sphere under the category of spectacle.

I ordered the material by drawing on Banakar's (2019) fluid notion of interlegality and its previous concern with bottom-up and top-down contextualization methods (2009, 2015). In this perspective, interlegality is not a situation or a stable pattern of organized orders but a process in which different orders enter into contact while constructing their own legal objects. Interlegality encompasses a movement that involves different rationalities and power relations depending on its trajectory:

[17] The Constitution was translated at the request of the Comparative Constitutions Project, an initiative directed by the University of Texas and the University of Chicago. The latest version (2021) has been approved by the Colombian Constitutional Court and made available in the Court website:

https://www.corteconstitucional.gov.co/english/Constitucio%CC%81n%20en%20Ingle%CC%81s.pdf

> The bottom-up process of interlegality, involves the large-scale concerns of the local law and the legal experiences of citizens making their way upwards into the national and transnational levels and being projected as new legal events (…) Interlegality which is initiated top-down has political force behind it (…) It is strategic, has a long-term perspective on regulation and is, therefore, universalistic in its scope. (Banakar, 2019, p. 66)

In Banakar's terms, the bottom-up movement of interlegality is socio-cultural, particularistic, tactical and closely linked to transitory or local interests. It usually lacks legal authority: "it cannot manifest itself as rules and policies, but as disputes between individuals and national governments, rights claims, a search for social change and reform, or defiantly as an expression of political resistance" (Banakar, 2019, p. 80). Banakar's approach makes it clear that interlegality is not the outcome of any particular scale, "but is reconditioned by the scope and logic which govern different scales" (Banakar, 2019, p. 65). Interlegality is thus a process entailing movement across different legal spaces from which a dynamic logic arises. Such a dynamic is communicative. Banakar attempted to find communicative paths between what have been considered internal and external readings of the legal phenomenon. The communicative actions "make the production and reproduction of norms and rules, whether social, cultural or legal, possible" (Banakar, 2015, p. 165).

Based on Banakar's ideas, the first analytical task was to re-organize the material into a map of trajectories, a series of events and claims following top-down and bottom-up movements over time. Based on the initial maps of trajectories, in which the process was reconstructed, I reordered the material in search of chronological logic. The jurisprudential line was complemented with different textual material from other sources. The reconstruction of the sequence of events did not differ significantly between the interviews and the legal documents. However, their density, the specificity of events and the connections between them were considerably increased. As if joining the dots to discover a picture, the overall final image changed when points were added. The whole process involved unfolding the interlegal dynamic being studied while addressing the connections across the different types of materials. A first reading of the material revealed strong inertia from past decisions and texts, continuously referencing what has been already settled or discussed, not only within the practices of the official legal space (where respect for legal antecedent is a norm). This commonality forced me to address the time dimension in the most precise manner without losing the opportunity to understand the distortion of the legal objects, the relationship to the multi-scalar order and how the interaction the discussion back to another time and level.

This initial map of trajectories was the basis for further reflection regarding possible empirical sources, classified by actor and in relation to past and present events. I also identified when, to whom, and by which means an interaction happened and if a normative source was evident. The review enabled me to identify critical events where strong interactions happened and, if so, how the municipality was involved.

The research adopted an initial bottom-up approach, as the bullfighting debate came into being due to the strength of social actors. It is a process involving claims and expectations based on the experience of law and policies. The upward movement inevitably encountered spaces of political negotiation and interaction with laws organized as systems of rules. I developed the analysis by attempting to link different legal spaces and how each level relates to the other. Then the interactions were analysed in reference to the structural constraints by identifying the practices through which jurisdiction and scale were realised in a given moment of a sequence of events.

The chronological analysis was done by tracing, through the material, bulls and bullfighting as primordial social and legal objects at the centre of the overall controversy. They served as a reference to describe and analyse the changes over time in the interlegal dynamic. I also identified which legal space invoked social actors and attempted to inquire about the logic behind such decisions as a sorting of social objects (Strauss, 2017). I then focused on the manifestation of the jurisdictional cascade described by Valverde (2009) (the, who, where, what, when and how) as analytical categories, and their relation to structural constraints and the distortive properties of each legal space. I performed this analysis for each of the segments identified as part of the chronological continuum. As will be seen in the analytical chapters, bulls and bullfighting suffered changes to their salience and meaning while moving through different legal spaces over time. The interactions of actors, and how they used interpretative frameworks to bring life to these different legal existences, were analysed. In this sense, I focused on which themes emerged, and at which point of the chronological series, in which legal space, and in reference to which other legal objects they appeared. I concentrated not on the quantity of the items and themes but on their quality: their situated meaning in relation to the chronological sequence, legal space, and jurisdictional arrangement (Valverde, 2015a). I recorded and included emerging, previously non-present legal objects in each legal space included in the analysis. I followed this incremental process of complexity over time until 2020. Finally, I analysed the mechanisms through which legal spaces relate to each other to outline a jurisdictional order and the role of municipalities in them (Blomley, 2016; Hubbard & Prior, 2018).

I address the challenge of focusing on interactions between texts, in their documentary existence, by relying on the idea of "document in use" (Reaply, 2007) and its development as documents in the field and documents in action (Jacobsson, 2016; Jacobsson & Prior, 2020). From this standpoint, documents are a fundamental part of social order, and are therefore subject to internal analysis but also to understanding their place in given situations. I address intertextuality with the help of the idea of "interaction over documents" (Jacobsson, 2016). Such an approach seeks to reveal what type of interaction a given document can sustain or promote, and to identify what kind of practices it might be linked to or to which other set of documents it might be related.

As a result, in the chronological development of the controversy, I had to be aware of significant changes in the multi-scalar arrangements. This meant identifying, describing, and analysing possible shifts of scales and distortions when social and legal claims were coming into contact with system-like orders. I do this by dividing the chronological order into two periods. The period from 1964 to 2004 will be considered as what Fudge (2014) called a period of equilibrium, a moment in which a jurisdictional order was set in place and was not subject to social contestation. Interlegality in this period is characterized by the imbrication of the bullfighting canon into Colombian legislation.

The period from 2004 to 2020 is, on the contrary, a period of contestation in which the previously defined jurisdictional arrangement was constantly challenged. I focused on the interactions around the Constitutional Court decisions and their relation to how social forces and the municipalities react to them. Here, social forces and municipalities participate in the normative process of challenging and realizing the jurisdictional order embedded in Bullfighting Law. Each call to the Constitutional Court and every attempt by the municipal government to create meaning in its legal space is a practice that represents a jurisdictional and scalar game. Two concepts, characterized by their ambiguity, will lead the discussion in this period: the legal assertion that bullfights are an artistic expression of humanity (Art. 1 of the Bullfighting Law) and the social rooting of bullfighting (Ruling C-666/10).

The analytical chapters follow the chronological order explained above, as the most straightforward strategy for a detailed presentation of a long, dense and convoluted complex of interaction (Yin, 2018). Following Widdersheim (2018) and Gerring (2016), I identified units of time in order to organise the relevant interactions into chronological order to be described in sequence and compared. I called these units segments, and they are represented in each of the analytical chapters (Chapters 5 to 10). The analysis is divided so that each chapter addresses a different segment of the more extensive interlegal dynamic. Each segment works as a unit in a chronological structure that is

required to preserve the sense of the case as a whole (Widdersheim, 2018). I defined each segment as a particular set of interactions under certain constraints described in the location of an action or object in a multi-scalar order and the correlative distortive properties operating. In each chapter, I will focus on the kind of interlegal relations established amidst the structural constraints.

In chapter 5, I describe how, before 2004, bullfighting was under the oversight of national law but was mainly regulated by municipal authorities. I focus on its character as a spectacle in the national context, the juridification of most of the bullfighting canon in municipal regulation, and the conurbation between the city's order and bullfighting's order. I describe the growing strength of the anti-bullfighting forces and the decline of the spectacle's popularity. I will finally analyse the enactment of the Bullfighting Law as a shift of scale that changed the multi-scalar arrangement and has a long-standing impact even today.

Chapter 6 analyses the Bullfighting Law through the Constitutional Court (years 2004 to 2010). I describe how detractors of bullfights appealed to the Court in search of a legal response to their demands. I analyse the cartographic properties of the constitutional level and the operations of meaning construction over the ambiguous legal assertion of bullfighting as artistic expression. As a result, bullfighting was interpreted as culture, heritage, tradition and part of a plural national identity. While the municipality is mostly absent in this segment, the processes undertaken in this period were fundamental for the ulterior interlegal dynamics. This chapter reveals the consequences of the previous scale shift as the restrictions of situating bullfighting at the national level become explicit for the first time.

Chapter 7 addresses the interactions around the National Statute of Animal Protection (years 2009 to 2010), describing and analysing the constitutional emergence of an alternative jurisdictional order in which the bull lies at the centre as a sentient being. The Constitutional Court interpreted the bull as subject to constitutional protection as part of the environment, in conflict with the previous decision centred on bullfights as culture and tradition. The Constitutional Court restricted bullfighting only to those territorial bodies in which bullfighting is socially rooted, as a solution to harmonize the duty to protect culture with the duty to protect the environment. The Court opened the door to the participation of municipal powers in the controversy with its decision.

In chapters 8 to 10, I address how the municipal authority implemented different measures to address bullfights in connection with the advocacy of the anti-bullfight movement. First, in Chapter 8, I describe how advocacy by social

movements informed the attempts to negotiate the mitigation of the bull's pain in bullfights and the administrative decision to cancel the leasing contract for the bullfight ring (years 2012 to 2013). Such a decision fostered much broader interaction in the Constitutional Court regarding the limitations of municipal authorities in managing public goods and restricting freedoms in terms of the relations between power and the functions of policing.

In Chapter 9 I describe how, based on a formal citizens' request for a consultation, the Bogotá municipality promoted participatory constitutional mechanisms to define the social rooting of bullfights in the city (years 2015 to 2018). The initiative gave rise to a highly complex set of interactions between social forces, the Bogotá municipal government and several Colombian High Courts. Multiple frames of interpretation, sources of normativity and opposed interpretations ended up discussing the limitations of local democracy, the relationship between majority and minorities, and the place of municipalities in them.

Finally, Chapter 10 addresses the more recent events in which the municipality has discouraged bullfighting through cultural change processes and administrative measures (year 2020). The municipality referred to civic culture, a governmental approach developed at the end of the 90s in Bogotá, to promote cultural and artistic practices in competition for social attention with the bullfighting season. The City Council enacted administrative measures to discourage bullfighting in line with the municipal management of other permitted but not state-promoted activities (like smoking or the consumption of alcohol) over such a period.

5. The bullfighting canon, municipal regulations and the national law

This chapter describes how bullfighting entered the legal world through regulations at the municipal level (Resolution 88 of 1964 in the case of Bogotá) linked to the 1970 National Police Code where bullfights were categorised as spectacles. As with other professional activities, regulatory frameworks were created for bullfighting in order to govern the practice. The multiple actors involved in the organization and realization of bullfights must comply with these rules. I will rely on the municipal Resolution 88 of 1964, to discuss how the rules and interpretative frames of the bullfighting canon included in local regulations were aimed at protecting bullfighting traditions from its internal disruptive forces, and maintaining the verisimilitude of the spectacle as the representation of a life and death confrontation. It created the bull as a sacrificial being and highlighted bullfights as spectacles linked to municipal authorities and their role as guarantors of urban order. In this manner, between 1970 and 2004, the link between national and local authorities made bullfighting technicalities an issue of public interest and conceived as part of the municipalities' policing functions.

I finish the chapter by reviewing the enactment of the Bullfighting Law (Law 916 of 2004) and the derogation of the municipal regulations on the subject. The enactment of the national law entailed an incomplete rearrangement of the jurisdictional order. The national law brought with it some normative innovations. However, the most relevant modification was the legal categorization of bullfighting as an artistic expression of human beings. This proclamation made bullfighting a new legal object (the what), which however exhibits uncertain governance possibilities (the how). Only when the law was contested by animal advocacy forces and interpreted by the Constitutional Court (the topic of Chapter 6) did the governance constraints and possibilities begin to emerge. The early introduction of the bullfighting canon into the Colombian legal order makes it fundamental to understanding

of whole controversy and reflecting on the possibilities and constraints of municipal authorities as forces of change.

Early provisions: local regulations and the National Police Code

Bullfighting regulation is a detailed and precise set of rules that define the language, technicalities, sequence of actions, control measures and sanctions before, during and after bullfights. Bullfighting regulations came into being as municipal resolutions approved by the city council, with the bullfighting canon as their source of inspiration. The first bullfighting regulations in Bogotá date from 1964 (Resolution 88). While the regulations had several amendments, its spirit remained the same from its inception until its derogation in 2004: On the one hand, it regulated the relationships between the municipality (the owner of the bullfighting ring) and the promoter (the private actor carrying out bullfights). This included controlling the labour and contractual relations of the professionals participating in bullfights, and providing measures to maintain urban order in terms of security and safety. On the other hand, the Resolution also regulated the internal order of the bullfight. This meant defining a language, technicalities, a sequence of time-space actions, duties, and sanctions for the bullfights. Bullfights were mainly a matter of municipal jurisdiction.

In Europe, at the beginning of the 20th century, the regulations were the outcome of an audience asking for quality and fairness, criteria that were expected to be found in a bull, in its total capacity, facing a man (Serna Rivas, 2017). Following such a path, Colombia developed bullfighting regulations at municipal levels to protect the integrity of the practice from its possible internal disruptive sources (Serna Rivas, 2017). For this initial body of rules, creating normative grounds to ensure the physical condition of bulls was critical.

The 1964 Resolution contained 104 articles divided into fifteen chapters. Chapter 1 is devoted to the announcements and organization of the spectacles, including contractual relations. It was clear that the spectacle felt under the authority of the Mayor's Office: "the organization and promotion of all bullfighting spectacles require a permit from the Mayor's Office" (Art. 2). This authorization was given after the verification of a series of requirements concerning public announcements, the provision of nursing and medical facilities, requests for police services, the payment of taxes, the provision of

compliance policies, and the definition of conditions for refunds and cancellations. The provisions aimed to comply with the urban mandates of health, security, and tranquillity, and to respect the rights of the bullfighting fans (as consumers) and the labour rights of the contractually-bound personnel involved in bullfights.

Most of the other articles were dedicated to preserving the internal order of the fights themselves. While it might sound awkward nowadays, the regulations intended to prevent all sorts of internal deviations that might arise within the bullfighting spectacle and that could jeopardize its verisimilitude. For most bullfighting fans, the spectacle is a fair representation of the struggle between life and death (Savater, 2012), ingrained in ritual forms (Pitt-Rivers, 2002; Robayo Rodríguez, 2012). The bullfighter must be shown, in a convincing manner, to be in danger, so that their courage and survival can be celebrated. The bull must therefore be brave and aggressive but also reliable and "noble", a word used in bullfighting to describe animals that attack the cape but not the bullfighter. The bull has a central place in the bullfighting world. Without it, there is no possible representation or ritual for those who believe the killing of the bull has ceremonial meaning. Bullfighting enthusiasts understand the bull's breeding practices, the protection of its capacities, and its death as a sign of respect for the animal. The condition of the bull is key to the proper development of the show, as explained by a bullfighting fan:

> The fighting bull, after five years of being the king, comes out to a bullring where a bullfighter confronts his bravery and shows it off. A spectacle in which there is neither cheating, nor lying. It is the millenary rite of life and death. The man can die. The bull can return to his pasture. Or die fighting. (Mera, 2021)

In order to be entered into a bullfight, the bull must comply with the associated aesthetic and physical demands, especially in a first-class bullring like the one in Bogotá. The economic and social value of the bull is determined according to its Spaniard heritage (its breed) and decreases if its physical conditions is not optimal (Ramírez Ramón, 2018). The bull "only fulfils its role properly in the modern bullfight after it has been subjected to a selection as rigorous and lengthy"(Pitt-Rivers, 2002, p. 82). Bullfighting, from breeding to the bullfights, re-creates the bull as a sacrificial being (Ramírez Ramón, 2018).

Bullfight regulations aimed, therefore, to deter potential trickery that could harm the authenticity of the performance and the bull itself. These threats could come from different sources (Serna Rivas, 2017). The cattle ranchers might not raise bulls to the expected standard in terms of age, weight and general health. The bullfighter may attempt to fight younger animals or make them less dangerous, for example by shaving their horns. They might also try to get a

particular bull selected for a bullfight. In addition, the economic interests of the private promoter could put the spectacle in jeopardy. Promoters might not actually provide what is advertised, or ease the controls and regulations under pressure from bullfighters or breeders. The behaviour of bullfighters should also protect the energy of the bull. The riders on horseback with pikes, for instance, should sap the bull's strength without weakening it to the point that the exaltation of human bravery rings hollow. The use of pikes, barbers darts and spears are thus under strict control.

Most chapters of the municipal regulations are a detailed description of how and when the different actors should behave and the penalties imposed if they do not. The regulations define the materials, sizes, and permitted uses of the weapons at the different stages, as well as the authorities in charge of verifying that the specifications are met (Chapter 2). They also describe the different spaces, services, and professionals that are required to be available in the bullring, such as nursing and medical facilities, the slaughterhouse, and bullpens (Chapters 4 and 6), defining the number, spatial location and behaviour of the different bullfighters. This includes their order of appearance, hierarchical status, uniforms and the respective punishments in the event of case of non-compliance with the rules (Chapters 9, 10 and 11). The regulations also addressed the expected behaviour of spectators (Chapter 7), who were not allowed, for instance, to open umbrellas, stand up during the bullfight, enter the ring, interact with the bull or utter offensive words. Police officers were entitled to use their force and impose pecuniary fines on spectators if needed.

Particularly important was regulating and controlling the condition of and requirements for cattle intended for bullfighting (Chapter 3). Through this, obligations regarding their age and weight were defined, certification to guarantee the bulls' condition pre and post mortem was made compulsory, and correlative sanctions in the event of non-compliance were designed. The weighing of the bulls received special attention, and the bullring scales were accessible only to a few authorities and kept under surveillance by the police. The scale tampering was punished with six months' imprisonment (Art. 22). Veterinarians had to check the bulls' condition and reject those with shaved or broken horns, eye problems or clear general weakness (Art. 23). Having bulls in poor condition could lead to financial penalties for the breeder and their suspension from the bullfighting circuit for up to two years. Once the bulls were assigned to a given bullfighter, they were isolated to avoid coming into contact with anything that might cause them harm or weaken their strength. Even those in charge of closing the doors of the stables were sanctioned if bulls were hurt in the course of their duties (Art. 28).

The regulation named the mayor as the president of the bullfight, and defined their role in the spectacle (Chapter 8). The presidency could be delegated to someone else, as long as that person was invested as a Police Inspector[18] (Art. 48). The president needed to be able to exercise the policing function within the bullring as they have a duty "to resolve, strictly subject to the precepts of these regulations, any incidents that may arise with the company, breeders, veterinarians and bullfighters of all kinds, or between said parties, their decisions being considered final and non-appealable" (art.48).

As president of the bullring, the mayor (or the person they may delegate for such a purpose) was responsible for ensuring that spaces, bulls, times and other seemingly mundane activities were in line with the rules. The mayor, or their delegate, had to be present at the bullring and, with the assistance of a bullfighting fan, guide and direct the spectacle in itself. The task entailed coordinating the different actors involved in the bullfight, maintaining the order of the spectacle, and ensuring that others follow the bullfighting traditions and technicalities. Unlike other spectacles, protecting the internal integrity and orthodoxy of bullfights became the duty of the head of the municipal executive power because they were invested with police functions. The presidency had to enforce the legal and non-legal norms that applied to bullfights, as well as any city regulations geared towards guaranteeing the city's public order. For the bullfighting orthodoxy, the presidency is a critical responsibility. The actions and decisions taken as part of functions of the presidency are administrative acts, and thus the president is subject to the principle of legality (de Rey, 2015, p. 56). In other words: "Presiding is a legal act. With legal consequences and which can entail responsibilities and sanctions. It is not something trivial"(de Rey, 2015, p. 157). The presence of an administrative authority was a sign of the autonomy of the decisions made within the spectacle (against the conflicting interest of bullfighting actors) and a legal link to the established local powers .

Indeed, the municipal regulation was tied to the national level through the National Police Code as much as it was the task of Police Inspector to ensure compliance with the regulations of the different public spectacles (Art.97, Resolution 88 of 1964). Bullfighting appeared as a spectacle in The National Police Code of 1970 and a presidential decree (1355 of 1970) through which the president aimed to achieve public order. Like other national legal

[18] In the Colombian system, Police Inspectors are authorities whose main function is to conciliate and resolve issues that arise while promoting promote peaceful and harmonious coexistence through police regulations (See footnote 8).

provisions in the second half of the twentieth century in Colombia, it was enacted under a state of exception[19].

The National Police Code is a national law regulating the power, functions and activities of the police. Its primary purpose is to guarantee public order, which results from preventing and eliminating security disturbances and promoting public safety, tranquillity, and public morality. The National Police Code distribute the power of the police (the capacity to enact police regulations and restriction of freedoms), the function of the police (the enforcement of their power) and the activity of the police (the material application of the police force, which is not juridical). Inherited from French and German law, the power of the police in Colombia reflects the idea that the State must rule and restrict freedoms to satisfy the community's needs (Parra, 2018). Police power is the power to issue rules and regulations to ensure public order so the state can achieve its purposes[20]. The power of the police rests primarily in the National Congress, the police functions on the administrative powers (presidents and mayors) and the policing activities within the institution of the police. Under exceptional circumstances, presidents, mayors and city councils are entitled to police power, such as when there is no legal reserve (matters that constitutionally are under the authority of the legislative), there are no further legal provisions for a subject, or during social emergencies. The Police Code acknowledges the mayor as the chief of the police at the municipal level and the head of the policing functions. Most of the subjects addressed by the National Police Code are everyday activities related to mobility, public works, commerce, rights to property, and many others in which limitations to freedom, duties, means of coercion, and contraventions are laid down. The National Police Code contains the regulation of the everyday practices of urban life.

In 1970, bullfighting was one of the numerous public spectacles organized by private actors in municipal jurisdictions. The National Police Code provided some rough guidelines to formalize the relationship between the private promoters, the municipalities and the audience (Arts. 160 to 170). The national regulations were in line with the municipal ones. The National Police Code

[19] The 1970 law survived with multiple amendments and declarations of non-constitutionality until 2016, when the National Congress enacted a new code (Law 1801 of 2016). The new code has also been the object of tremendous social controversy and extensive constitutional revisions.

[20] According to Parra, this interpretation has been the common ground for the Constitutional Court and Council of State in Colombia, while an understanding of police power as in common law has been used several times in the rulings of the Colombian Supreme Court. See: Parra, Y. I. G. (2018). *El poder de policía en el nuevo Código Nacional de Policía y Convivencia, Ley 1801 de 2016. Pensamiento Jurídico(47), 201-233.*

established that, as a business, promoters had to ask permission from the Mayor's Office to advertise and organize any kind of bullfighting activity. The National Police Code did not define significant specific administrative requirements for obtaining permission, except for "an indication of the type of spectacle, the name or names of the cattle breeder whose bulls are to be fought and the full name of the swordsmen or *matadors* who are to perform" (Art. 161). A "certificate from ranchers regarding the health and age of the bulls to be fought, and proof that the promoter has paid remuneration to the crew" was also necessary (Art. 162). Following the bullfight rules, the National Police Code determined ages (before the ages of four and seven) and weights (at least 435 kilograms) in order for the bulls to be fought in first-class bullrings, and demanded for veterinarian certifications for bulls and horses 24 hours before each *corrida*. It also defined the makeup of a Technical Board for every municipality with a permanent bullring, composed of the mayor, veterinarians, cattle ranchers, bullfighters and bullfighting fans (*aficionados*). The Technical Board was responsible for advising the mayor and ensuring adherence to the National Police Code provisions regarding bullfighting and other local regulations. The Police Code also reaffirms the mayor's role as president of the bullring (Art. 169).

The local regulation of bullfighting entangled the administrative power of the municipality to safeguard its orthodoxy. National law, expressed in the National Police Code -whose primary purpose is to provide order- was the normative source that linked bullfighting, as a spectacle, to the urban dynamics. The policing functions of the municipal level were oriented towards ordering the spectacle within the logics of the urban dynamic and uphold the technicalities of the bullfights mise-en-scene. These external and internal regulations in connection with municipal and national levels is common in legal provisions around the world regarding bullfighting (Donaire, 2015; Marcos, 2015; Serna Rivas, 2017).

Amidst this relation between the National Police Code and municipal councils in Colombia, several bullfighting regulations were enacted during the last decades of the twentieth century. In Bogotá, after Resolution 88 of 1964, new amendments appeared in 1976 (Resolution 13) and in its final version in 1994 (Resolution 4), the most complete local regulations before the enactment of the Bullfighting Law in 2004.

In the last version of the regulations, the imbrication between municipal power and bullfighting regulation was extensive. The Technical Board had to be assembled by a mayoral decree —an administrative act of the executive power at the municipal level— and should include a technical advisor, an inspector of the bullring, three veterinarians, a scale inspector, an inspector of

spears *(puyas*) and barbed darts *(banderillas*), four medical specialists, a representative of the ranchers, a representative of the bullfighters, and a chaplain. The Technical Board was under the oversight of the municipal ombudsman, a municipal public official with administrative control functions (Art. 11, Resolution 4 of 1994). In the same way, the outcome of the weigh-in was recorded in an official document that was distributed between the different actors, including the communications department of the mayor's office, which had to make it public.

This jurisdictional arrangement was in place as a natural provision and interrelation of scales because, in Colombia and Bogotá, bullfighting occupied a privileged social and political place during the eighties and the beginning of the nineties. This period was particularly important in the country due to César Rincón, a Colombian bullfighter considered in the bullfighting world to be among the best of all time (González, 2018). In October 1991, Rincón was carried *en hombros* (on the shoulders of the fans) out of the main door of the bullring in Madrid four times in a row in the same bullfighting season. Such an honour has not been awarded to anyone else in the bullfighting world[21]. The Colombian media broadcasted the *corrida* and interpreted Rincón's success as a source of national pride. Born from humble origins, Rincon was an inspiration for narratives of hard work, overcoming obstacles, and obtaining success. These were golden years for bullfighting: presidents, politicians, actors, social leaders and journalists used to gather in the bullfights, which became spaces to acquire and display social status (González, 2018). There were few discussions at the time regarding the animal pain involved in bullfighting. As explained in chapter 2, the Animal Protection Statute of 1989 included bullfighting activities as an exception. Thus, there were no obstacles or majoritarian desire to regulate the spectacle from a formal legal perspective.

In such a way, the ruling of bullfighting aimed, on the one hand (like any other spectacle guaranteeing the contractual obligations involved in selling tickets) to honour the contractual relations between professional participants of the spectacle, providing measures for health, hygiene and security in terms of the order of the city. On the other hand, it was aimed at ensuring the bulls' condition as a critical element of bullfights to preserve the quality of bull breeding and safeguard its physical capacities in order to provide a verisimilar spectacle. The governance of times, spaces, humans, animals and artefacts not

[21] The Spanish journal El País wrote at the time: "Four on-shoulders exits through the big door in five performances and nine ears cut, is the unprecedented artistic balance reached by the Colombian master César Rincón in Las Ventas in 1991; with this, he is proclaimed the absolute and indisputable winner of the Madrid season". https://elpais.com/diario/1991/12/30/cultura/694047607_850215.html

only create the sense of bullfighting as a distinctive spectacle, but as part of urban life. The performance of bullfights according to the municipal regulations became socially expected.

The operation through which bullfighting entered the regulatory space of the Colombian state, as a spectacle subject to the functions of the police at municipal level, has been largely dismissed as a valuable feature of bullfighting regulation. In part, it escaped the attention of those interested in cultural diversity, precisely because it was not an expression of a normative order of a differential social group; at least, not in the same way as other distinctive social groups, as Hoekema (2017) called those groups whose entire world view depended on their legal order. Bullfighting was part of the mainstream recreational offering in Colombia, and as such, its regulation was not considered a sign of a differential cosmovision. Regulation meant the rules of a spectacle, the conditions needed to conform legally as an economic activity involving labour relations, and the provisions needed to keep urban peace and order.

The interlegality involved in this jurisdictional order was invisible due to the popularity of bullfights and the naturalization of the jurisdictional arrangement for public spectacles, as Valverde (2009) and Blomley (2016) have pointed out. However, enacting municipal bullfighting regulations was an explicit practice of its fans and supporters: an early shift from informal to formal regulation common in countries where bullfights persist. Following Santos's analogy of maps, it was a bottom-up process creating local regulation that sought to represent rather than guide. The latest municipal regulations of Bogotá were adapted to the city's bullfighting ring (*La Santa María*) and addressed the relationships at the municipal level between the owner of the ring (the city administration), the private actor managing the space (the promoter) and clients (the spectators).

The rise of animal advocacy forces

Bullfighting lived in Bogotá for decades under the protection of municipal authority, which in turn, was linked through the function of policing to the national level. Governance of the spectacle aligned the achievement of urban order with the consistency of bullfighting tradition. The bull was held as a property functional to demonstrating human bravery, plasticity and the skill to dominate nature. Because of the social acceptance of the practice, no challenge was made to the jurisdictional arrangement. In a strict sense, we do not know

if municipalities ever had the power to prohibit bullfights based on moral or social considerations. There is no explicit rule pertaining to it, and there was no legal interaction attempting to answer such a question. As a permitted practice, the interlegal arrangement did not show a significant dynamic during this period. At this time, the imbrication of the bullfighting canon and the municipal regulation became almost indistinguishable. This is the jurisdictional order that social forces made evident and eventually challenged when promoting a different moral and social understanding of animals. Even during the nineties, the years in which bullfighting was largely popularized in Colombia, there were voices speaking out against the spectacle. This is how Alvaro, a leader of an anti-bullfighting organization, recalled the beginning of its activism:

> César Rincón, and how he was carried out in Madrid, is part of the story of my entry into animal advocacy. I started to do individual campaigns in my university at the same time I saw the relationship between César Rincón's exit on shoulders and his arrival here in Colombia. Cheered, lauded, applauded and in contrast to the social reality of drug trafficking that we had at that time. The Medellín cartel was planting bombs in this country. And there was this persecution to the *sicarios* (hitmen). One of my first campaigns was putting up billboards where I draw a parallel between a murderer of humans and a murderer of animals (...) At that time, I still did not link to what happens to other animals. (Alvaro, interview)

Public narratives of Colombia as a violent country are familiar. The restless search for peace, the end of the political conflict, and justice are typical tropes that reappear systematically in Colombian history. The details, detours, and interpretation of the Colombian conflict exceed the possibilities of this research. However, the internal conflict and the evocation of peace have strongly marked the Colombian relationship with the law and the Constitution. As will be seen throughout the empirical material, localized references to peace and violence constantly re-emerge as interpretative grounds in the social and political interactions around the protection of animals. The end of the nineties was when bullfighting experienced sharp decline and the claims against it started to become visible. As Alvaro recalls:

> It was not until the end of the '90s that the grassroots group I belonged to became a pioneer in the sense of proposing a social mobilisation, initially concerning the issue of bullfighting, but in a continuous way. Not only because of the contingent fact of a bullfight and a protest of very few people, but also because we started to work continuously, every day of the year, with plans, projects, strategies that started to bring together people and other groups. We

> then started to assemble several groups that began to maintain a presence in the bullring. Initially, it was seen as something extraordinary. Something jocular. When these massive demonstrations began at the end of the 90s, the media portrayed us in a cartoonish way: "These people are messing with bullfighting, no more no less! How dare they! (Alvaro, interview)

Bullfighting fans were also aware of the voices against the practice, coming mainly from younger generations (Rausch, 2016). After the national euphoria of Rincón's achievements, bullfighting fans perceived a drop in the spectacle's quality, an increase in ticket prices, and a lack of interest among new generations. In 1999, the older *Corporación Plaza de Toros de Santamaría* (Santa María Bullring Corporation), the private actor that organized the spectacle in Bogotá, was replaced by the *Corporación Taurina de Bogotá* (Taurine Corporation of Bogotá). Its main goals were not to allow the bullfighting traditions to be lost and to foster intergenerational change. For instance, and as part of these aims, the Taurine Corporation of Bogotá launched, as explained by its director Felipe Negret "a publicity programme with universities to generate renewed enthusiasm, as bullfighting enthusiasts are ageing and there are more and more enemies of the *fiesta brava* among young people"(El Tiempo, 2001).

Research on social attachment bullfighting in Bogotá has suggested reduced interest in the activity among the younger generations, their growing participation in public demonstrations against the practice, and their involvement in social movements fighting for animal welfare linked to international networks looking to regulate or abolish bullfighting (González, 2018). The anti-bullfighting movement was heavily steeped in public opinion. Here is how Alvaro remembered their work:

> There comes the point when the demonstration becomes part of the landscape, and we decided to start working in the territories. Locally. We started to organise theatre carnivals, with cultural elements, music, and different artistic expressions in the local areas, and that's where there was a turning point. That's what I've always noticed was responsible for a real change in the perceptions of people and society in general. As I say, bringing people out of the anti-bullfighting closet. What was previously thought to be a minority turned out to be the majority. Anti-bullfighting sentiment was the majority. A small sample of people began to be singled out, and when they saw that society, in general, rejected the practice, they also began to feel vulnerable. Because they went to the bullring as a platform for fashion, for recognition, for social interaction, which, it must be said, bullfighting fans hate. The pure bullfighting enthusiasts say: most people go to see what they should not. They are not aware of what is happening in the bullring. They do not pay attention to what happens in the

> bullring. Most of the people who go to bullfights go for the atmosphere. And what is the atmosphere? The alcohol, the press that go there. They want to be on the social page of the newspaper. It was a fashionable event, but not because they felt the act of bullfighting. There are very few who do. (Alvaro, interview)

Within this context, the legal arrangement changed in 2004 when the National Congress enacted the Bullfighting Law (Law 916 of 2004). In the next section, I will analyse the change of scale (Valverde, 2010) involved in enacting the Bullfighting Law and how the aforementioned movement changed municipalities' role in the struggle around bullfighting. As I will argue, such a change of scale opened the door to a different jurisdictional order and thus to construction of new legal objects, access to different frames of interpretation and, ultimately, new rationales of governance not previously present, when the only national reference was the National Police Code.

Bullfighting Law: from the municipal to the national level

In October 2001, the Colombian Congress submitted a draft for a National Bullfight Regulation. The bill was elaborated with the help of bullfighting schools, professional bullfighters and other members of the bullfighting world. From the beginning, the project aimed to harmonise the different regulations existing for different modalities and in different municipalities. (Colombian Congress Gazette, no. 405 of 2002, p10). The bill sought to guarantee the conditions of the contractual relations between the participants, provide a framework for security and sanitary environments, and clarify the relationship between promoters and municipalities. It was also aimed at formalizing the technicalities, procedures, hierarchies, and all the time-space governing of bullfights.

The bill was subtly different to the municipal bullfighting regulation of Bogotá. The national law had a more extensive scope, as it included the different types of bullrings and other modalities of bullfighting. The law also had to be complied with in the “entire national territory” (Art.2, Law 916/004). This fact, almost self-evident, implied a change of communication style: from a language based on the functions of the police that was typical of the municipal level, to a rights language typical of nation-states (Blomley, 2016). The bill sought explicitly to guarantee the rights of the audience, and particularly the fans, as consumers of a service, in the same way that municipal

resolutions did before: honouring a contract –a ticket– through which a bull belonging to a particular breeder and bullfighting crew with a specific name offer a verisimilar representation of the struggle between life and death.

As part of the legislative debate, economic motivations on the part of municipalities also emerged. Special attention was granted to small and medium-sized municipalities where "there is no regulation that obliges promoters at the national, municipal or local level to comply with the contracts they make with the municipalities" (Colombian Congress Gazette no. 270, 2002, p12). The bill also aimed to guarantee the compliance of the legal obligations of bullfighters and other professionals involved in the spectacle: "[To] provide Colombians with a law that allows them [bullfighters] to exercise their profession, and also that they comply with the conditions presented by promoters when they offer the service to be carried out in municipalities, fairs or festivals" (Colombian Congress Gazette, no. 270, 2002, p12).

As in the local regulations in Bogotá, the proposed law sought to protect bullfighting, as a spectacle and tradition, from its internal and external disruptive forces. In spirit, the Bullfighting Law was very similar to Bogotá's local regulations. It was mostly devoted to the Spanish bullfighting style and aimed to respect reflect the Hispanic tradition in Colombia: "We have totally Spanish ancestry, and we have their ideas and customs", declared one representative of Congress when supported the bill (Colombian Congress Gazette, no316, 2002, p.2). The first draft of the law explicitly had the aim of designating bullfighting as a practice under the competence of the National Ministry of Culture[22]. The Presidential Office, when reviewing the proposal, rejected the proposal because it was against the Constitution: "it would modify the Ministry's structure by assigning to it a public show that corresponds to the tutelage of the territorial entities" (Colombian Congress Gazette, 469 of 2003, p.4). The presidential office also objected to the substantive form –detailed and specific– of the regulation:

> Establishing national regulations for a public performance would mean framing it within the parameters of a legal category which, on the one hand, would make any behaviour contrary to the regulations, however insignificant, an infringement of the law. On the other hand, it would limit the free exercise of

22 The draft of the law said: "Bullfighting shows are purely artistic, and are therefore attached to the Ministry of Culture, as they are considered an artistic expression of human beings" (Art.1). In: Report for the First Debate on the Draft Law, Project 256 of the 2002 Senate and Project 110 of the 2001 Chamber of Representatives, through which the National Bullfighting Regulations are defined. (Colombian Congress Gazette no. 229, 2002. P.10).

> artistic expressions, their participants and the public, obliging them to adhere to rules with the force of law. (Colombian Congress Gazette , 469 of 2003, p.4)

The objection was not taken into account because, according to the proponents of the bill "the contested regulation does not limit, at any time, the spectator's free exercise of artistic expression, since they are not considered performers (artists) within the show" (Colombian Congress Gazette, no. 284, 2003, p.23). On the contrary, for the bill's promoters, the proposed law "establishes rules of behaviour for those attending, allowing the proper completion of the performance and ensuring the safety and physical wellbeing of those who attend and perform" (Colombian Congress Gazette, no. 284, 2003, p.23). Interestingly, the objections of the presidential office made it clear that the law could change the tutelage of the activity and use the coercive force of national law in service of professional rules, potentially endangering the freedom of artists and audience. The answer to the objections, on the other hand, reflects the rationale developed in the municipal regulations in which concerns around freedom can be dismissed because such a juridification is part of the spectacle itself.

Two arguments regarding the growing animal advocacy movement appeared as part of the deliberation of the law. In the midst of the parliamentary debate, one of the senators asked about the possibility of not killing the bull as part of the spectacle. The director of the bullfighting school of Cali, who had been invited to the debate, answered the question:

> It is true that there are some movements that have arisen with a great deal of impetus and strength against the death of the bull. But this is simply emasculating the bullfights (*fiesta brava* in original Spanish)[23]. It is as if someone had the idea of suspending the balls in football stadiums. The *fiesta brava* is a fiesta that the Colombians have ancestrally embedded in the hearts of its inhabitants. They have inherited it from the mother country as they have inherited the language, religion and customs. And this circumstance has meant that, over time, bullfighting has become a celebration of the Colombian people. The *fiesta brava* has a normativity and has a final objective, which is the death of the bull. On the day that the death of the bull disappears, then the *fiesta brava* in Colombia will also disappear. (Colombian Congress Gazette, no. 316, 2002, p.2)

[23] "*Fiesta brava"* is a common expression of Spanish origin that means *bullfighting. Fiesta* is the Spanish word for party, and *Brava(o)* is an adjective that, in the context of animals, can be translated in English as ferocious or raging. When referring to people, it is more closely related to the English words brave or courageous.

The social change achieved by anti-bullfighting social forces was one of the motivations for enacting the law. “What you and I are doing here is defending the bullfighting fair of Manizales, just as we defend the bullfighting fair of Medellín, the bullfighting fair of Cali, and of course the bullfighting fair of Bogotá; thank you very much to all of you”, stated one of the proposers of the bill (Colombian Congress Gazette no. 405, 2002, p23). In 2004, the Colombian Congress enacted Law 916 of 2004. Its final purpose states that:

> The purpose of this Regulation is to regulate the preparation, organisation, and realization of bullfighting spectacles and the activities related to them, in order to guarantee the rights and interests of the audience and all those involved in them. Bullfighting spectacles are considered as an artistic expression of human beings. (Art. 1)

The law maintained the bullfighting canon as an essential source of normativity: “the development of the spectacle shall conform in all respects to traditional practices and the provisions of this article and the following articles” (Law 916 of 2004, Art.59). Its final version also maintained the municipal authority and the technical boards as sources of authority and control over the animals, spaces, and people involved in bullfights. Mayors were still guarantors of compliance with bullfighting rules: “in every municipality where there is a permanent bullring, the mayor shall be in charge of ensuring strict compliance with all the provisions set out in these regulations” (Art. 85). They still had to exercise his role as Police Inspector, as well as having to assemble the technical by decree. Bullfighting was still a spectacle according to the National Police Code (Art. 83), and –as in the local regulations– a set of sanctions were set out for the audience, bullfighters, breeders and any other staff in case of breaking the traditions, protocols and technicalities included in the law.

The national law, however, made a differentiation between permanent bullfighting rings and mobile rings when it came to asking for municipal authorization:

> The holding of bullfighting spectacles shall require prior written communication to the competent administrative body or, where appropriate, prior authorisation from the same body, under the terms set out in these regulations. For bullfighting events to be held in permanent bullrings, in any case, merely written communication will be sufficient. In non-permanent bullrings, prior authorisation from the competent administrative body will be necessary. (Law 916 of 2004, Article 14)

> The administrative body has the power, in non-permanent or portable bullrings alone, to suspend or prohibit the holding of all types of bullfighting shows, for non-compliance with the stipulated requirements. (Law 916 of 2004, Art.19)

By permanent bullrings, the law refers to "those buildings or enclosures specifically or preferably constructed for the holding of bullfighting spectacles" (Law 916 of 2004, Art. 4). These arenas have specific spatial dimensions and infrastructure, such as barriers "different in their materials, structure and layout to traditional uses", a minimum of three double gates and four *burladeros,* an alley between the barrier and the wall, and enough spaces to manage bulls and horses in conditions of "safety and hygiene"[24]. This detail unleashed a major legal controversy years later. As I will show in Chapter 7, the factual meaning of "authorization" and "communication" was only defined in 2012, when someone asked the Constitutional Court to declare the article non-constitutional because it was endangering local municipal autonomy.

The Bullfighting Law also aimed to protect the condition of bulls and horses, interpreted in the regulations as their health. It ordered the certification of the bulls' origin, the hygienic and sanitary conditions of corrals and pens, and veterinary checks (weight, horn condition, general health) before bullfights. Also, to carry out post mortem forensic exams if deemed necessary (teeth inspections to validate the bull's age, certificates or analysis of the horns). As a new aspect, the national law included provisions for the loading, transport, and unloading of cattle. It gave the on-site inspector the duty to "ensure that the unloaded animals are permanently under supervision until they are ready for the fight", even with the help of the police if needed (Art. 39).

Recent research among bullfighting fans shows that guaranteeing the bull's qualities is still the primary concern for bullfighting enthusiasts. The provisions protecting the bulls' condition are indeed the most common rules broken within the spectacle (Serna Rivas, 2017). Bullfighting fans see the Bullfighting Law as positive for the spectacle and believe that compliance is needed for a healthy tradition: "respect for the rules is a basic link to the success of the show: if the tradition of purity is respected, the fans come to the arena and pay at the box office" (bullfighting fan interview in Serna Rivas, 2017, p.21).

[24] The permanent bullrings are those that have "a dragging yard connected to a hygienic slaughtering area, equipped with running water and drains, as well as a veterinary department equipped with the necessary means and instruments to carry out, if necessary, examinations or the taking of any samples that may be necessary following the provisions of these regulations" (Law 916 of 2004, Art. 5).

A relevant innovation of the National Law is the 60 definitions that should be considered for the "application and interpretation of the Regulation" (Art. 12). The local regulations are unintelligible for a Spanish speaker unversed in the terminology specific to the bullfighting world. The law introduced elements that only exist in the material aspect of the spectacle (like *banderillas* or *varas*), but also because it uses words in specific manners, like calling the bullfighter *espadas* (swordsman) or *matador*. It also introduced concepts endemic to the bullfighting world, like *trapío*, a term to describe the expected qualities of a bull. Bullfighting terminology has become a source of the formal interpretative field of the law. It included definitions ranging from the description of the bull, the spatial-temporal structure, its surroundings, and abstract concepts[25].

The law did not change the idea of bullfighting as a spectacle, and therefore paid attention to the relations between the different participants and between promoters and the audience under regulation. Still, the requirements for the spectacle included a complete list of ticket prices, proof of the leasing of the bullring, a policy of extra-contractual civil responsibility, proof of a request for police services, and certificates proving formal and transparent contractual relations. The economic dimension of the practice was embedded in national regulations that sought to strengthen the practice when considering the fighting bulls "products of high national interest" and, therefore, deserving of access to state financial sources for its promotion. (Article 31, Law 916 of 2004). The fighting breed of bull is part of the cattle industry in Colombia, an influential guild with connections to the legislative and judicial powers (Umaña Poveda, 2010). Commonly, breeders of bulls for fighting are also involved in breeding cattle for human consumption. The Colombian Federation of Cattle Breeders *(Federación Colombiana de Ganaderos)* –the most prominent trade organization of producers of cattle products in Colombia– developed a

[25] Here are some examples of Article 12 of the law: "*Lidia*. The set of *suertes* that, in an orderly fashion, give meaning to the bullfight. *Suertes*. Each of the lances of the bullfight. *Tercio*. Each of the three stages –*vara, banderillas, muerte* (the death)- into which the bullfight is divided. (…) *Trapío*. *Trapío* is one of the most used and least understood concepts today. By definition, it is a concept that includes multiple characteristics of the bull: it is not possible to speak of *trapío* without observing the origin of each bull, the stockbreeding to which it belongs, even its genetics. T*rapío* is particular and is not a common defining cause only in recognition. To standardise the *trapío* is to standardise the bull, that is to say, to standardise the *fiesta*, the bullrings, the public...The *trapío* has to highlight the origin of the bull, its breed, observing the bull's rusticity but also its characteristic of being a low and fine animal. *Trapío* is harmony, never kilos. *Trapío* is not the horns but the seriousness of the whole, its lustre, its constitution. There will be several *trapíos* according to the requirements of each bullring and the possibilities of each origin". (Law 916 of 2004).

Fighting Bull Trade Chamber in 2005[26] and the breed of bulls for fights is part of the Strategic Plan for the Colombian Livestock Sector.

Despite the cultural and historic defence of bullfighting in parliamentary discussion of the bill, only Article 80 calls for the intergenerational preservation of the tradition through bullfighting schools: "For the promotion of the festival of bullfighting, in view of its tradition and cultural validity, bullfighting schools may be created to train new bullfighting professionals and support and promote their activity". (Art. 80, Law 916 of 2004). However, the law –by describing the procedures and technicalities of modern bullfights– became in itself a textual legal reference of the bullfight tradition.

The most important change, and the ultimate source from which the rationale of bullfighting governance emerged, was the legal classification of bullfighting as an artistic expression of human beings. Categorising bullfighting as art was a point of inflexion in the controversy, mainly due to the interpretations of the Constitutional Court of Colombia. The law does not explicitly develop the implication of such a statement. Like other articles of the Bullfighting Law, its meaning and implication were not self-evident until a formal claim reached the Constitutional Court.

In Colombia, as in Spain, the law acknowledges bullfighting as an art instead of a sport or a craft. Bullfighting in Spain also has two regulatory frameworks:

> As a public spectacle, it requires the presence and control of the authorities for reasons of public order, and, on the other hand, as a bullfighting activity that follows a specific lex artis which it incorporates into the legal system so that it does not become distorted or deviate from its artistic and ritual essence. (Donaire, 2015, p. 191)

Even if not pure art, bullfight, for most of its fans, is an artistic expression that blends aesthetics and skilled performance (McCormick, 1992). By affirming bullfighting as artistic expression, the skill of administering death - the raison d'etre of bullfights - stands as a valid aesthetic criterion (Mitchell, 1986, p. 396). It is a common interpretation that allows bullfighting enthusiasts "to argue that a bullfighter's performance should be valued based on its aesthetic value, not its morality, precisely because bullfighting is not a sport, but rather, pure art" (Andrade, 2021, p. 2). Classifying bullfighting as art within the law required its detailed translation into legal language. As a result, if the desire is for to remain under legal protection, they cannot change unless the legal

[26] See: https://www.fedegan.org.co/programas/camara-gremial-del-toro-de-lidia

framework itself changes too. Paradoxically, its artistic and creative capacity is threatened; this is the consequence of activating the protective mechanisms attached to art and its extensive meanings at the national level. In the next chapter I will show the extent to which the legal categorization of bullfight as art under the national jurisdiction defined the possibilities and constraints of its governance.

Discussion

This chapter shows how bullfighting rules entered the Colombian legal order by means of municipal regulation in the 1960s, the National Police Code in the 1970s and national legal spaces in the early 2000s. The bullfighting canon, the traditional set of rules and interpretative frame of the spectacle, was the primary source of the municipal bullfighting regulations, municipal resolutions approved by the city council. Bogotá's bullfighting regulation was approved in 1964 and, like other municipal bullfighting regulations, was an extensive and detailed description of the human actors, spaces, animals, techniques, procedures, hierarchies, authorities and sanctions that painted a detailed picture of bullfights. They addressed bullfighting's social, political and economic dimensions and provided a normative foundation to govern the contractual, economic and legal relationships that developed around the spectacle. The regulation was shaped like a local map with a large scale and plenty of details that seek to represent rather than orient. Bullfights were also considered public spectacles according to the National Police Code, under the sight of mayors, who are the chiefs of police in their municipal jurisdictions. Bullfighting was an activity governed by municipal powers (the who) in their municipal jurisdictions (the where).

Within this jurisdictional order, while bullfights were held as spectacles, the bull was legally constructed (the what) just as it was in the bullfighting canon: as a sacrificial being that was the property of a breeder. The bull as a legal object was the source of intense mechanisms of monitoring and control, formal rules aiming to guarantee its condition in order to perform a verisimilar representation of the fight of life and death, danger and bravery, animal versus human. The municipal regulations' rationale is the thorough control of the interactions and practices involved in bullfights, with a view to guaranteeing the required conditions for the performance as expected in the bullfighting tradition. This included providing stable normative ground for labour, economic and other contractual relations, and setting out rules to guide the

behaviour of humans and animals. It also entailed a set of sanctions in case of non-compliance.

With bullfights being a widely accepted activity, the logic of their jurisdictional and multiscale governance effectively tied the traditional performance of the spectacle to the public interest. The municipal councils that approve the regulations, and mayors –in their role as presidents of the bullfights and chiefs of police– governed the spectacle with the intention of ensuring the preservation of its customs. The traditional order of the bullfight and the urban order of the city were entangled.

Bullfighting existed in coexistence with the municipal level for decades through the policing of a spectacle (and therefore regulated based on public order considerations) whose main feature is to maintain its integrity (and therefore regulated based on the technicalities of its internal order). Given its general social acceptance, no claims of cultural validation were needed.

The social and legal objects were challenged by the growing disapproval of and progressive lack of affection towards bullfights. The Bullfighting Law changed the jurisdictional arrangement by claiming that bullfights fell primarily under national jurisdiction to which municipalities owe obedience. Formally, mayors were still the authority that maintained order inside and outside the ring. The Bullfighting Law not only retained the detailed description of the activity but expanded its scope to other bullfighting modalities and the different types of bullrings. Following Santos's analogy of maps, the national law increased its capacity to orient without losing its ability to represent. As a legal object, bulls kept their meaning as property and sacrificial beings. Bullfights were still considered a spectacle subject to the National Police Code, but now they were also designated as an artistic expression of human beings.

The enactment of the Bullfighting Law was a shift of scale whose significance does not lie not in the number of new rules included in the regulation of bullfighting or its normative content. Instead, the changes were noteworthy because of their new position in the national legal space. They included introducing the language of rights, a desire to harmonize the different municipal regulations, and categorising bullfights as an artistic expression of human beings. However, the how of bullfighting governance was not made clear by the enactment of the Bullfighting Law. Its rationale and capabilities would only become specific through the interactions of citizens who brought claims against the Bullfighting Law before the Constitutional Court.

As I show in the next chapter, the discussion about bullfighting and art was linked to culture, heritage and identity, topics developed extensively at the constitutional level given the cultural plurality of Colombia. I will explain how

the reach of bullfighting as art emerged through the Constitutional Court interpretations regarding anti-bullfighting claims that sought constitutional validity.

6. The Bullfighting Law under constitutional revision: art, culture and national identity

The enactment of the Bullfighting Law was not well received among anti-bullfighting platforms.

> As the [social] movement evolved in small groups, we had no contact with politicians. We talked very little to them. We were only talking about social protests, but there was no impact on politics. The bullfighting regulations caught us with our pants down. We had absolutely no recourse that would allow us to imagine [what would happen] at that time. We did not have the tools. We just became indignant and kept on demonstrating. Demonstrating all the time. (Alvaro, interview)

Its impact, however, was not fully understood at the time. Once enacted, the effect of the law in relation to the municipal regulations previously in place was uncertain. The Bullfighting Law, however, generated a significant number of social claims that were translated into claims of non-constitutionality. Since then, the dynamic has entered a period of contestation in which the legal objects brought into being by the Bullfighting Law and the possibilities of its governance have been under constant debate. Between 2004 and 2010, the Colombian Constitutional Court accepted several legal claims against the Bullfighting Law. The role of municipalities was only addressed indirectly amid this discussion, and the municipal authorities almost vanished as a relevant voice, becoming a passive actor until 2012.

In this chapter, I will analyse Ruling 1192 of 2005 by the Constitutional Court –its first on the subject of bullfighting– and Ruling 367/06, in which mayors were relieved of their responsibility to act as presidents of bullfights. As I will explain, the interlegal process that began with the enactment of municipal regulations and continued with the enactment of the Bullfighting Law was completed by Constitutional Court interpretations. The Court, in this

sense, is understood as a privileged site were different normative positions come together under the distortive properties of the Colombian constitutional space.

The selection of the Constitutional Court as the site of deliberation around bullfighting is not a coincidence. It is rather an example of what Strauss (2017) called a pre-sorting of an already naturalized jurisdictional arrangement. The decision to launch a constitutional challenge implies an imagination of the constitutional space of dispute and an a projection of how some kind of legal knowledge would further the efforts of social actors (Valverde, 2009, p. 154). For presentation purposes and the consideration of international audiences the grounds for answering this question have been laid out in Chapter 2, where I explained how the open nature of the 1991 Constitution and the implementation of mechanisms for accessing justice have had a significant impact on the social relationship with the law in Colombia. Most of the socially sensitive topics in Colombia have been –and still are– addressed through the constitutional jurisdiction, which has been understood as a legal space in which the existence of socially progressive measures is made possible by virtue of the aspirational and non-formalistic nature of the 1991 Constitution. As part of the analysis, I will show how this legal imagination becomes concrete discourse and how they are transformed by the distortive properties of the constitutional order.

Most of the analysis will focus on the creation of meaning around the legal declaration of bullfighting as an artistic expression, a statement that was filled with legal meaning by the Court. The result of the interaction in the Court was the reaffirmation of bullfighting as artistic expression, but also as culture, and thus a cultural asset and source of identity for the Colombian nation. In this way, the possible ways in which bullfighting can be governed are limited to the municipal powers, and opened the door to future social claims of minority status by bullfighting fans, an interpretation highly contested until today.

Addressing the Constitutional Court

In 2004, the Bullfighting Law received its first legal claim, regarding which the Constitutional Court reached a decision over the course of a year (Decision C-1192 of 2005). The plaintiff, in general terms, argued that the Bullfighting Law was unconstitutional based on the inherent violence of bullfights, making them incompatible with their designation as artistic expression. As explained in Chapter 2, the 1991 Constitution has been a symbol of peace and a

mechanism for avoiding violence by democratic means. In a country with a long history of violence and restless internal conflict, the constitutional order has been associated socially with the protection and promotion of peaceful coexistence, extended in this case to non-human animals in the plaintiff's interpretation. Bullfighting law thus threatens the moral and social principles that lie at the core of the constitutional order in Colombia.

Specifically, the plaintiff presented several arguments to the Court. The first was that classifying bullfighting as an artistic expression leads to the violation of the principles of human dignity set out in Article 1 of the Constitution. Considering bullfighting spectacles as an artistic expression of human beings,

> […] violates the principle of human dignity by allowing the legislator to permit the participation of citizens in cruel rites [bullfights] that violate morality, under the pretext that it is a manifestation of culture, or that they are supposed to be artistic expressions. Thus, it presents scenes of violence to children, with the reality currently faced by the country and the influence of the media seemingly insufficient. (Plaintiff, C-1192/05 p.11)

The plaintiff, indeed, believed that allowing children over the age of ten to attend bullfights (accompanied by a responsible adult) and legally permitting the existence of bullfighting schools were against the constitution and international children's rights agreements. Bullfighting schools were, according to the plaintiff, against Law 84 of 1989 (the National Statute of Animal Protection) because they encourage the "killing of defenceless animals" (C-1192/05, p.12). The Bullfighting Law therefore failed to comply with Article 22 of the Constitution, in which peace is highlighted as "a right and duty". For the plaintiff, "bullfighting did not contribute to the realisation of peace" (C-1192/05, p.11). Finally, the plaintiff considered that the national scope of the law "was contrary to the 1991 Constitution's recognition of ethnic and cultural diversity, as it implies the promotion of violent activities across the territory of our State, which undermines the different existing ethnic groups, cultures (…)". The argument was that the national scope of the Bullfighting Law could show disrespect for some religions that coexist in the country, and therefore the legislature should not regulate controversial professions that are the source of social conflict (C-1192/05, p.11).

As explained before, once the Constitutional Court accepts a case, it informs the national authorities and social actors deemed relevant to the process. Also, any citizen that desires to participate in a constitutional discussion can do so by presenting –within a given time– their concepts, reasons or arguments around the constitutionality or unconstitutionality of a norm being challenged. In this case, most of the opinions provided by social actors came from

bullfighting supporters. Their arguments reaffirmed the artistic value of bullfights as being in opposition to violence. The skill of observing, dominating and killing the bull are the source of aesthetic appreciation as a deft performance full of transcendental meaning. As in some of the habitual interpretations, fighting bulls represents the struggle of life and death, described as a ritual because of its strict procedures, repetitive sequence of actions, symbolic narratives, and the death of the bull at the emotional peak of the show.

> [Bullfighting] is a context where art and plastic arts are judged. Where emotions are laid out and where every time, thanks to the Bullfighting Law, all the advantages are given to the animal. A spectacle in which, although there is tragedy in some *tercios*, there is also courage, danger, emotion and above all, art. (Arritokieta Pimentel- Journalist, C-1192/15, p15)

> Bullfighting festivities do not incite violence. On the contrary, bullfighting enthusiasts see life lessons in them and their different *suertes*; and in bullfights, the bullfighting ritual is precisely that: life, and its symbol, bullfighting. (El Clarín Bullfighting Club, C-1192/05 p.20)

The idea of bullfighting as a cultural expression in a broad sense was also brought before the Court. Bullfight is in this perspective tradition, knowledge and particular ways of life for social groups:

> The Bullfighting Law does not disregard the principle of human dignity, since what it really intends to recognize is bullfighting as a cultural spectacle, understood as the set of manifestations in which the traditional life of a people is expressed, and the series of ways of life and customs, knowledge in an era or in a social group. (*Asociación de Amigos Plaza de Toros Cesar Rincón de Duitama*, C-1192/05 p.15)

The Director of the Association for the Defence of Animals and the Environment (ADA) was the only social actor that submitted an opinion against the Law. In his account, the legislature did not objectively define the artistic practice, and relied on subjective appreciations that reflect not artistic but rather economic interests. Therefore, it did not favour the general interest, coming down instead on the side of particular groups of society:

> When legislators act for reasons unrelated to this [general] interest, acting subjectively, seeking to favour groups for no valid reason, they are contravening not only their mandate but also that contained in Article 13 [of the Constitution], which refers to receiving equal treatment under the law. They

> cannot arbitrarily bring about favourable treatment by categorising activities or persons. (ADA, C-1192/05 p. 21)

National authorities also commented on the case. The Ministry of Commerce, Industry and Tourism highlighted the cultural value of bullfighting in exactly the same terms as bullfighting fans, stating explicitly that the social body under consideration is the Colombian nation. The Ministry described bullfighting as an expression of the country's Hispanic tradition, and thus as a source of pride:

> [Bullfighting is] an activity and hobby whose historical origins lie in Spain and date back to the 15th century, and which over time has developed and spread to the point that today it is part of the cultural heritage, as an artistic expression, of so many countries, including Spain itself, France, Portugal and of course all the Latin American countries including Colombia. The assertion of barbarism endorsed by the plaintiff is an insult to all. (Ministry of Commerce, C-1192/05, p.19)

Meanwhile, the Ministry of Culture argued against bullfighting as an artistic expression. Referring to the legal definition of culture (Law 397 of 1997, the national law governing culture), the ministry adduced that violence against animals, people and other assets is incompatible with its philosophy, which is "the promotion of peace" (Ministry of Culture, C-1192/05, p.18). The ministry suggested that the Court should draw a distinction between expressions as a human characteristic that enables the externalization of feelings and ideas, and artistic manifestations as fields of knowledge and creativity that have historically taken the form of aesthetic and expressive languages. In the first case, all human beings develop skills to communicate and create a set of forms of representation. They are not necessarily arts but rather specialized fields, each with its own codes framed by technical, symbolic and aesthetic considerations.

> Based on the foregoing factual, technical and regulatory grounds, bullfighting shows cannot be considered as an artistic expression of human beings. Therefore, I respectfully request that the text challenged by the plaintiff (…) be declared non-constitutional. (Ministry of Culture, C-1192/05, p.18)

No municipal authorities were invited to present their opinion, and nor did any municipality decided to participate in the controversy stirred by the Court. Indeed, the plaintiff did not present the claim as a jurisdictional problem in which the municipal authorities were involved, attempting instead to challenge the definition of bullfights and animals as legal objects in the national space

on the basis of the authority of the Constitutional Court. The shift of scales effectively took the logic of the discussion to the national level, where the prominence of the Constitution as the foundation of the Colombian social contract obliterated the fact that, until very recently, bullfighting was strongly tied into the competencies of city councils and mayors. The themes on which the claim addressed the Court attempted to respond to the language of rights that characterized this legal space. The Court, however, established its own legal object and frames of interpretation, along with the proper way of communicating when dealing with the topic, including which interactions are deemed worthy of attention.

The Court, for example, considered itself incapable of tackling the claim based on the National Statute of Animal Protection, because instead of verifying the existence of a contradiction between the contested provision and a constitutional text, "the applicant seeks a declaration of its unenforceability based on purely legal considerations" (C-1192/05, p.26). The Court, however, accepted parts of the plaintiff's arguments by making use of the so-called *pro actione* principle[27].

In order to address the social claim in constitutional terms, the Court reformulated it into questions. Firstly, it asked whether the principle of human dignity, as set out in Article 1 of the Political Constitution, was not respected when the legislator granted bullfighting shows the status of artistic expression of human beings. Secondly, it debated whether the State's duty to recognise and protect the ethnic and cultural diversity of the Colombian nation (Political Constitution of Colombia, Art. 7), religious freedom (Political Constitution of Colombia, Arts. 18 and 19), and the freedom to choose a profession or trade (Political Constitution of Colombia, Art. 26) was violated by the general implementation of the Bullfighting Law throughout the national territory[28] (C-1192/05, p. 32). To solve the aforementioned constitutional juridical problems, the judge first examined "the competence of the legislator to define artistic expressions, and then proceeded to study the scope of implementation of the Bullfighting Law" (C-1192/05, p.32). The interactions regarding jurisdiction

[27] According to this principle, a claim can be known: "whenever it is possible to identify the text challenged, the charge raised or, at least, there is reasonable doubt as to the hermeneutic scope of the provision challenged or of the constitutional norm that serves as a parameter of confrontation." (Constitutional Court Sentence C-1192 of 2005 p. 26).

[28] The Court formulated a third question regarding the constitutional duty to protect children's rights. This discussion will not be addressed in detail in this text, because the Court subordinated the issue to the argument on bullfighting as culture.

in the bullfighting debate have taken the form of discussions around legal competence.

Discussing competencies: completing the jurisdictional order

As part of answering the question of the competence of the legislature, the Court swiftly ruled violence out of the constitutional discussion because of the legal impossibility of understanding abuse perpetrated on bulls as violence. Using Article 12 of the Constitution as a reference, "no one will be subjected to forced kidnapping, torture, and cruel, inhuman, or degrading treatment or punishment" (Political Constitution of Colombia, Art. 12) the Court deemed that "no one" was an expression fit only for humans:

> The concept of violence and cruel treatment contained in Article 12 of the Superior Text [the Constitution] corresponds to an anthropological vision of the person, according to which violent acts are understood to exist when any behaviour occurs in which a person is treated as if they were not human. Therefore, when there is an affirmation that someone is violent, it is done in order to demonstrate an inability to recognize their human attributes in themselves and others. Consequently, the plaintiff is not right when she affirms that the norm challenged is contrary to Article 12 of the Constitution, since the fighting of a brave bull does not entail, in any way, an act of violence in which a person is treated in a manner incompatible with their human dignity. (C-1192/05, p.38)

The above reasoning is one of the most common points of reference and discussion in the legal pathways created amidst the debate around bullfighting. Article 12 (recognizing the right to personal wellbeing) and Article 11 (regarding the protection of life and the prohibition of the death penalty) are strongly informed by the Colombian political conflict and aimed to limit the armed actor's and State's power, with different international instruments and agreements as a backdrop (Barreto Soler & Sarmiento Anzola, 1997). This is certainly an anthropocentric line of thought, and while the right to life has been extended, for example, to the sovereignty of some Indigenous communities for whom the meaning of life does not exist outside their connection to their territory, it has not been used in relation to animals. The plaintiff's claim shows the links between law and violence. In Colombia, "violence is equated to

lawlessness, and the remedy for violence is assimilated into the expansion of the *Estado Social de Derecho*, the State form that embodies the rule of law in the Colombian Constitution" (Lemaitre, 2019, p.2). The inner limitation of the Colombian rule of law, however, was incapable of considering animal abuse as violence. The Colombian Civil Code in force at the time considered animals as things and mobile properties. In turn, the National Code of Renewable Natural Resources and Environmental Protection (Decree 2811 of 1974) included animals –understood as fauna- as part of the environment and thus considered them collective heritage under the protection of the State due to their public usefulness and social interest. It was aimed at regulating the use and exploitation of animals, taking their ecological function into account (Estrada-Cely & Cedeño, 2017; Niño, 2019). The National Statute of Animal Protection (Law 84 of 1989) considered animals as sentient beings but without a legal correlate in the Colombian civil or penal code. The National Statute of Animal Protection, in fact, never used the word violence but instead defined abuse, cruelty and mistreatment as practices that the Colombian state attempted to avoid in human-animal relationships. By understanding violence as the non-recognition of the human condition, and by correspondingly establishing the link between violence and dignity in terms of human relations, the violence towards animals was left out of the Constitutional Court's argumentations from the beginning until the present day.

After establishing such a consideration, the Court found the legislature is a competent authority to classify a given activity as an artistic expression. On the one hand, this is because legislators can regulate the right to the freedom to choose a profession, art or trade. On the other, it is because the constitution addresses cultural diversity as the foundation of nationality (Articles 7, 70, 71 and 150), and thus, the Court agreed that the constitution granted the legislature the power to indicate which activities can be considered as artistic expression and which of them deserve special recognition by the State (C-1192/05, p32).

The Court's reasoning was based in part on the understanding of bullfighting as a profession. Determining whether any regulation of a craft, trade or art automatically entails its protection by state powers is a question that goes beyond the scope of this research. This, however, was the reasoning used in the case at hand. In Colombia, legislators usually regulate professions, taking the view that some activities might be a source of social risk. More than 60 professions are under regulation in Colombia because they are potentially harmful to the social body and individuals if practised without controls (e.g. medicine, pharmaceutics, journalism, engineering, and law). Bullfighting is not included among them because the law does not establish the practice as a profession, and performing bullfighting does not require the endorsement of a

legally institutionalized collegiate body. The Colombian legal system has also developed some regulations to protect artistic and cultural activities, such as making handicrafts or films, which are not considered professions but rather crafts, trades, and arts. However, they do not define the practice itself (how to make crafts or how to produce films), but generate legal frameworks for the groups of people that create what might be considered a creative process, which is in itself a constant open discussion entered into by individuals, private organizations and public institutions.

The Court developed a jurisdictional arrangement also based on the understanding of bullfighting as art by assessing the reasonability[29] of the legislative decision to give bullfighting the legal status of art:

> Not all human endeavours that express a personal vision of the world, that interpret reality or modify it through the imagination, regardless of whether they are carried out with the help of plastic, linguistic, corporal or sonorous resources, can be considered by legislators as artistic and cultural expressions of the State. (C-1192/05, p.34)

The Court considered the legislative decision to declare bullfighting as an artistic expression reasonable and proportionate.

> This classification [as artistic expression] satisfies the legal criterion of reasonableness, since *tauromaquia*, or in other words, "the art of bullfighting" [a quote from the Real Academy of the Spanish Language-RAE], as a manifestation of the diversity and pluralism of society, has been recognized throughout history as an artistic expression of the Ibero-American peoples. This has been recorded in different ways by world artists such as Goya, Mariano Benlliure, José Ortega y Gasset, Pablo Picasso, García Lorca, Ernest Hemingway, Orson Welles and Vicente Blasco Ibáñez; among Colombians we can name, for example, Botero, Obregón and Méndez in the pictorial field. Recognition of it has even influenced the field of universal culture through great operas such as Carmen by Georges Bizet, *zarzuelas*, flamenco and *pasodobles*. In our cultural context, it is related to other folkloric, artistic, pictorial and musical expressions that characterize the different regions of our country, a fact that can be seen with various popular rhythms such as *porros*, *merengue* and *bambucos*, and other musical pieces such as the 20th of January and the fair of Manizales. (C-1192/05, p35)

[29] The Court defined reasonable as "not manifestly absurd, unjustified or senseless, that is to say, completely apart from the purposes of correct reason" (C-1192/05 p.35)

The criteria of reasonability are potential gateways to further incommensurable discussions. The meaning of *tauromaquia* is as controversial as the practice that it names. The Greek root *machía* also means fight and war. It is also doubtful whether the Royal Spanish Academy is the right source to settle artistic matters and not to start them, as art in itself is an arena of intense struggles. The opinions of male high-culture artists, most of whom lived during the first half of the last century with a clear link to the Spanish tradition, could be considered outdated and partial. No artist was invited or decided to participate within the Colombian constitutional discussion. Nor did the Court touch upon the intense discussions in the artistic field regarding its own identity and the social, political and moral role of art in contemporary times. Finally, bullfighting –as an inspiration to artistic expression in the world and Colombia– confuses the object of representation (bullfighting) with the artistic practice and object (e.g. a picture or song). The Court did not assess the reasonability of the legislative decision, and had no interest in considering the standard of the deliberations made during the enactment the law, or the degree of representativeness that should be involved in making a national law in the democratic process. Despite being reasonable from a social or political standpoint, those criteria exceeded the scope of the constitutional level, because the complainant did not challenge them and because they are not part of the set of actions of the constitutional order.

The objective of this research is not to resolve such controversies, but to acknowledge that the constitutional legal space seek to provide a solution to controversies them in terms of its distortive legal mechanisms. In search of reasonable criteria that might have led the legislature to categorise bullfighting as art, the Court continued:

> Today, even though bullfighting activities are disapproved of by a sector of the population, and especially by animal defence associations, it cannot be ignored that it has historically been recognized as an artistic expression that manifests the cultural diversity of a people. This becomes so by understanding "art" as more than the "virtue, disposition or ability to do something" [quote from the Royal Spanish Academy- RAE]. In this case, it means deploying a set of techniques in the arena that materializes the bravery of man against the boldness of the animal. But it also refers to the manifestation of a human performance "through which a personal or disinterested vision that interprets the real or imaginary with plastic, linguistic or sonorous resources is expressed" [quote from the RAE], as occurs at the time of the performance, when the bullfighter, offers to the spectators' images that exalt attributes of humanity [*del hombre* in original], such as bravery, courage, patience and tenacity. (C-1192/05, p36)

The Court arguments reaffirmed bullfighting as a spectacle in which an audience enjoys the ability being performed and the comprehensive global interpretation that this entails. Violence is therefore diverted by its symbolic and representative character:

> On the other hand, bullfighting has also been categorised as a spectacle, in which people rejoice in an art and share moments of fun and entertainment. Even when the bullfighter or the bullfighter's safety is endangered, pain is inflicted and the bull is sacrificed, such manifestations do not correspond to acts of violence, cruelty, savagery or barbarism, but to artistic and, if you will, theatrical demonstrations of the constant dilemmas faced by human endeavour: strength and reason, daring and cowardice, life and death. (C-1192/05, p.36)

The Court, in this way, disregarded the opinion of the Ministry of Culture against acknowledging bullfighting as artistic expression. The Court's interpretation was aligned with the opinion of bullfighting supporters, for whom the spectacle is a sublimation of its materiality: the essence of bullfighting is its profound meaning, accessible to those who can interpret it in a certain way. The Court, in the same line of reasoning, recreated the bull as a legal object whose meaning is dependent on its sacrifice as part of a verisimilar representation of life and death in which the audience enjoy the exaltation of human bravery.

Based on the interpretation of bullfighting as spectacle, art, and culture, the Court suggested that the practice could be considered an artistic and cultural expression of the State, as intangible heritage of Colombian culture, and an object of special constitutional protection:

> It is clear that both manifestations of bullfighting, as art and as spectacle, belong inseparably to the concept of culture and, therefore, can be recognised by legislators as artistic and cultural expressions of the State and those who practise them (…). In the opinion of this Corporation, bullfights and bullfighting spectacles in general, correspond to a living manifestation of the spiritual and historical tradition of the Ibero-American peoples, such as in Colombia, and therefore, form part of the intangible heritage of our culture, especially protected by the Constitution (Arts. 70 and 71), which as such can be defined and regulated by legislators. (C-1192/05, p.37)

The Ministry of Culture is the national institution with the power to grant through an administrative act the status of asset of cultural interest. This category allows a given manifestation to be entered into the representative list of Colombia's immaterial heritage (which does not include bullfighting). The Court, and not the legislature, explicitly suggested classifying bullfighting as

a cultural expression of the State and part of its intangible heritage, and as worthy of special protection, even despite the dissenting opinion of several judges who found the decisions unreasonable (as I will show later). Through the actions of the Court, a law that had the primary objective of harmonising the rules of a controversial but permitted practice in order to guarantee the rights of spectators and performers ended up contributing to the development of a framework for constitutional protection.

The Court interpreted the Bullfighting Law as necessary interference by the public authorities in a private activity by putting the duty to protect the rights of those working in the spectacle, the rights of the spectators, the duties of the participants, and the protection of national culture under the same umbrella.

> It is indisputable that Law 916 of 2004 intervenes in an activity that was generally subject to the exercise of free private initiative, with the fundamental purpose of adopting bullfighting regulations aimed at preserving the artistic character of the *Fiesta Brava*. (…) The aforementioned regulations aim to establish a harmonious and systematic legal regime which –inspired by the mandate that the 1991 Constitution imposes on the State to protect culture– regulates the central aspects of bullfighting festivals to preserve their artistic nature by including provisions that safeguard: (i) the rights of the fans to view the spectacle in its entirety; (ii) the basic obligations of the bullfighting ranches; (iii) the suitability of the enclosures intended for the practice of bullfighting; (iv) the minimum fundamental guarantees that are recognised for the matadors or bullfighters in the exercise of their profession; and above all (v) a set of rules to safeguard the artistic integrity of the spectacle, to preserve the purity, health and bravery of fighting bulls and to avoid their mistreatment. (C-1192/05, p.43)

The Court reaffirmed what had been settled since the municipal regulation in the early sixties. It prioritised the rights of bullfighting fans as consumers of a show and the labour rights of their performers. It maintained restrictions on those involved in the activity and the spaces for controlling the intrinsically disruptive forces of the spectacle. It also understood the avoidance of mistreatment of animals to prevent any possible harm to the animals' ability to perform as expected. From a constitutional and cultural perspective, however, the normative assemblage of consumers' and performers' rights, the technicalities of the spectacle, and control over animals' condition, have very different implications. They become the foundation of the Colombian nation itself. The Constitutional interpretation and the process of meaning creation laid bare the scope of how to govern bullfighting that was only implicit in the 2004 Bullfighting Law. In this way, the municipal legal cartographic representation expressed in the municipal bullfighting regulations effectively

found a way to persist at a different cartographic level by means of its understanding as artistic expression of the human beings in national law and as culture in jurisprudence.

Furthermore, the Court opened the door to a discourse in which a professional group attempts to become a distinctive group. In this line of ideas, the Court defined culture in C-1192/05 using a previous decision, T-652/98, a ruling aimed explicitly at guaranteeing Indigenous peoples' rights in the face of historical and structural exclusion. The T-652/98 decision ordered the protection and restitution of the collective and individual rights of the Êbêra-Katío, an Indigenous community endangered by the construction of a dam. In this way, Ruling T-652 of 1998, a milestone in the defence of Indigenous rights, ended up protecting a practice born in Spain in the context of C-1192/05.

The relationship between bullfights, art and culture (specific to Article 70 of the Constitution), implies that bullfighting may be an activity that should be promoted to strengthen the plural identity of the nation. As a consequence, for example, the court found no constitutional problem in allowing the presence of children in bullfighting spectacles:

> Bullfighting represents a cultural spectacle in which persons can enjoy art and share community moments of fun, leisure and entertainment. It becomes one of the expressions of children's fundamental right to recreation as an activity inherent to human beings. (C-1192/05, p.49)

The attempt to maintain the verisimilar representation of the life-and-death fight between animals and humans of the national law was merged with the constitutional understanding of bullfighting as a national cultural expression and heritage. The outcome can be found in the arguments of bullfighting supporters since then:

> Bullfighting is a tension between man and a powerful animal that evokes all the fears of injury and death (…) The little traps allowed by the law and welcomed by the *matador*, always enveloped in his fear, slowly turn the bullfighting spectacle into a parody. If a fan pays for their ticket in exchange for seeing a bull with power and a man who honestly puts his life on the line, any cheating, no matter how small, is a monetary swindle and a betrayal of protected cultural heritage. (Interview with a bullfighting fan in: Serna Rivas, 2017 p.20)

Dissenting opinions: alternative scalar and jurisdictional games

Not all the judges in the Full Chamber (*Sala Plena*) of the Constitutional Court took a favourable view of the above argumentative line of reasoning. Five judges out of nine dissented. Two judges expounded the reasons they were in disagreement. Judge Jaime Araujo Renteria disagreed entirely with the interpretation of bullfighting as culture, in line with the arguments provided by the Ministry of Culture.

> Bullfighting does not constitute a manifestation of culture, much less an artistic expression, but corresponds to the demonstration of skill to evade the attack of an animal, which cannot be considered as an artistic language, but as bodily skill, as part of an inherited historical tradition that does not constitute a true cultural asset because it is, in my opinion, contrary to the essential values of a civilised and humane society. (Judge Araujo Renteria in C-1192/05, p.66)

Judge Araujo Rentería insisted that bullfighting was a violation of Articles 1, 12 and 22 of the Constitution, which establishes peace as the primary duty of the State (Judge Araujo Renteria in C-1192/05, p.67). In his opinion, the decision was subjective and without any rational or legal foundation: “I believe that the argumentation put forward, in this case, is, in my view, circular, based on facts, whereas law belongs to the realm of "ought to be" (Judge Araujo Renteria in C-1192/05, p.67).

Judge Humberto Sierra Porto also expressed a partially dissenting opinion: despite supporting the majority's decisions in the chamber, he disagreed with specific points of the sentence. In particular, he considered that the Court should have declared the expression "bullfighting spectacles are considered an artistic expression of human beings" as non-constitutional.

> The wording of this expression is ambiguous and leads to misunderstandings. It generates confusion in the interpreter and can lead to uncertainty about the meaning and scope of fundamental constitutional rights. It also creates uncertainty as to what the State's obligations and duties should be concerning an activity that cannot be considered "intangible heritage of our culture" as the judgment, with which I partially disagree, did. (Judge Sierra Porto in C-1192/05, p.58)

In his opinion, bullfighting is a permitted cultural expression until decided otherwise, but not a legally protected one (Judge Sierra Porto in C-1192/05, p.59). Its designation as intangible heritage of Colombian culture is “an

excessive and arbitrary interpretation" (Judge Sierra Porto in C-1192/05, p.64). This argument made evident the difference between harmonizing the regulation of an activity (an explicit goal of the law) and the protection and promotion of it as the nation's cultural heritage (as the decision suggested). Bullfighting, in the opinion of Judge Sierra Porto, is like boxing or wrestling: activities in which there is violence, harm and potential death, but which are permitted by the open nature of the Political Constitution, that is, its flexibility to involve the diverse range of expressions, values, worldviews and aspirations in a heterogeneous society (Judge Sierra Porto in C-1192/05, p.59).

The dissenting opinion discussed culture as a right that acquires its entire constitutional meaning in the context of the historical invisibility of specific social and ethnic groups in Colombia.

> The common thread that runs through the Colombian Constitution, from beginning to end, seeks to make visible those people who for a long time were left in the shadows to the point of invisibility: women, ethnic minorities, the disabled, the elderly, children, and aims to create a space for the development of their cultural rights. (Judge Sierra Porto in C-1192/05, p.63)

In this line of thought, there are no reasons to believe that those involved in bullfighting have been excluded as part of the construction of the Colombian nation-state. Hence, there are no reasons to consider them as a minority in constitutional terms. Judge Sierra Porto, in this regard, found that bullfighting does not deserve special state protection because it enters into contradiction with the protection of the environment. The dissenting opinion was therefore based on the fact that, since 1991, Colombia has been governed, at least formally, by a social and environmental rule of law, pointing to the exclusion of other constitutional duties of protection that present a more relevant constitutional problem, in the eyes of the judge:

> The Constitution of 1991 calls for the adoption of policies that guarantee the protection of the environment, forests, rivers, the different animal species and the diverse plant species of which Colombia possesses outstanding variety in the world. From this perspective, all policies –regardless of the ideology of the government in power– should be oriented *prima facie* towards protecting these values. (Judge Sierra Porto in C-1192/05, p.64)

The dissenting opinion found no constitutional basis for the protection of bullfighting, even if animals do not enjoy the same legal status as humans. "There is no constitutional precept capable of justifying the mistreatment and subsequent death of an animal for the sole purpose of entertaining a particular

audience or demonstrating human skill, elegance, bravery or courage" (Judge Sierra Porto in C-1192/05, p.64). The dissenting opinion, despite not being the interpretation voted for by the majority of the Court, showed that different interpretations are possible under the rules of the constitutional order, and therefore that different scalar constructions are possible. The arguments of the dissenting opinions have taken on a life on their own in the struggle around bullfighting. As will be seen later on, this line of interpretation was successfully picked up again in 2010 when bullfighting's exemption from animal cruelty contained in the National Statute of Animal Protection, was analysed by the Constitutional Court. It also influenced social discourse about bullfighting, which since then has acquired an environmental focus in several political spaces, such as in the negotiation of municipal development plans.

The decision 1192 of 2005 is a milestone in the struggle over bullfights but also have been criticized inside the Court and the social forces. First because of the way in which completed the ambiguity over the denomination of bullfighting as art in the law (Bullfighting is art, culture, heritage and part of the foundation of the identity of the Colombian nation). Furthermore, because of the way in which constructed legally the bull (and generally animals) as beings to whom constitutionally speaking, the term violence does not apply. Furthermore, the decision opened the door to normative discourses in which professional groups claim to become distinct social groups. The C-1192/05 ruling also fostered forceful confrontations. Social actors, municipal authorities and judges of the Court itself have not ceased challenging the majoritarian Court interpretations, especially because since 2005 the country has systematically increased the protective measures to prevent and animal abuse.

Mayors are not presidents

Several claims against the Bullfighting Law followed Ruling 1192/05, and as such the Court issued further decisions on the topic, with the most important being C-115/06, C-367/06 and A-154/06[30]. These decisions attempted to moderate the reach of the previous decision (1192/05) while continuing to develop the possible interpretations of the Bullfighting Law. Generally

[30] A-154/06 was the Court's response to a recusal motion against the appointed judges in the C-1192/05 and C-115/06 rulings due to their "public and recognised status as bullfighting enthusiasts" with "an interest in the decision" regarding the (partial) unconstitutionality of the National Bullfighting Law" (A-154/06, p.2).

speaking, in these decisions the Court did not challenge the previous interpretation of bullfighting as artistic expression and therefore as culture, despite limiting the scope of such understanding. Constitutional decisions, however, introduced several restrictions, especially with regard to the extent to which the State should promote bullfights.

I will focus on C-367/06 because of its relevance to the role of municipal authorities in relation to bullfights. In the ruling, the Constitutional Court did not agree with designating bullfighting as an asset of high national interest because it was not part of the country's macroeconomic structure (C-367/06, Paragraph 3.5.3). Neither did it accept the interpretation of bullfighting as a national educational priority, and therefore deemed using public funds to promote bullfighting schools to be against the constitution (C-367/06, Paragraph 3.6.2). In a similar manner, it prohibited children under the age of fourteen from working at bullfights and reaffirmed that in any case children bullfighters should comply with the national measures allowing minors to work.

As may be apparent, the constitutional discussion has not addressed the municipal authorities or the city level. Ruling C-367/06 found, however, that requiring mayors to act as the presidents of bullfights was against the constitution.

> The constitution assigned mayors the mission of guiding the destiny of the territorial entity through the exercise of the powers inherent to the administrative functions. Similarly, it would be unconstitutional to subject mayors to the legal duty of presiding over or coordinating the presentation of spectacles of a private nature, such as theatrical performances, film festivals, art exhibitions, art auctions, musical concerts, poetry recitals or others such as scientific congresses and medical symposiums. The public function, which constitutionally corresponds to them, is limited to ensuring that such events take place within a legal framework that guarantees the maintenance of public order. (C-367/06, Paragraph 3.4.2)

The Constitutional Court's interpretation, while still linking the executive municipal authorities to public order, detached them from the governance of the internal order of bullfighting. In arguing for this separation, the Court highlighted the way that mayors are elected through popular vote and the impartiality with which they must behave in order to avoid unequal treatment.

> This principle [equality] means that the mayor, legally considered as the first police authority in their territorial entity, should be excluded from participating as a preponderant protocolary and administrative figure in bullfighting

> festivities for which he is responsible for granting permits, licences and administrative authorisations, as well as imposing fines, denying permits, revoking licences or rejecting authorisations; state activities that necessitate not being involved in bullfights, because in certain circumstances the public authority would simultaneously be the controller of the spectacle and a part of it. (C-367/06, Paragraph 3.4.3)

Since 2006, the presidency of bullfights has been given to fans or private persons based on the decisions of promoters. However, as research into bullfighting fans in Colombia has shown (Serna Rivas, 2017), there exists a perception that promoters do not necessarily obey the regulations because they are caught up in conflicts of interest. As with any other spectacle, the presence of the police should be requested for bullfights, and even if mayors are not present, any internal violations cancan be reported to a police officer for the issuing of administrative sanctions, at least in theory. I have not found evidence of any such cases as part of this research. In the long run, however, removing mayors from bullfights had little impact; the national law, as the primary source of normativity, was able to maintain the internal order of the bullfights.

Finally, I would like to highlight how, in the midst of the controversy, the Court itself revealed its own fundamental logic as part of Colombian society and as a particular legal space. Because of the sustained alternative opposition within the Court, expressed in the systematic writing of dissenting opinions regarding bullfights, other judges refer to the role of such dissent in the Court itself and its role as part of the Colombian order:

> The Court's judgments fulfil a transcendental mission of defining the meaning of the Constitution. Therefore, a decision to write a separate or dissenting opinion also entails a primary responsibility: to articulate a useful critique of the Court's judgment, especially when that judgment may become a precedent. If a separate or dissenting opinion cannot be so directed, judges who save or clarify their vote may satisfy their legal convictions simply by announcing that they disagree with the Court. (Judge Cepeda in C-367 p.54)

The Constitutional Court indeed described itself as the institution that defines and sets meanings, this is the role that enables a distinction to be made between useful and redundant legal critiques. As the main channel and source for resolving conflicts or struggles, the law is once more reflected in the relationship that Colombian society has established with the 1991 Constitution. Dissenting opinions should allow such an aim:

> The essential objective is to contribute to the consolidation of an institution like the Constitutional Court, which adopts decisions that define the course of the

> country on issues that arouse enormous sensitivity, have a profound impact, or are recurrently subject to the exercise of constitutional litigation. (…) The individual voice of the magistrate must contribute towards clarifying the law, instead of confusing it, and must be part of the respect for the majesty of justice, instead of trying to delegitimise it. (Judge Cepeda in C-367, p.55)

As we will see, most of the dissenting opinions did indeed prove to be helpful critiques, though not necessarily as the above descriptions intended. They have sometimes informed different social actors that used them as part of their social, political and legal interactions. Dissenting opinions were used within the court by magistrates in their possible interpretations and solutions. The most noteworthy case is Ruling C-666/10, through which the constitutionality of the exemption for bullfighting contained in the Statute of Animal Protection was reviewed. The judge assigned to the case was none other than Humberto Sierra Porto, who used citizens' arguments of non-constitutionality as the raw material to further develop what he had already proposed regarding bullfighting.

Discussion

In this section, I described how designating bullfighting as an artistic expression in the Bullfighting Law triggered a search for meaning within constitutional interpretative frameworks. The meaning of describing bullfighting as artistic expression was not apparent just due to its presence in national law, or the detailed institution of bullfighting technicalities, procedures and vocabulary. When social actors approached the legal text and sought to validate their interpretations of it before the Constitutional Court, legal meanings emerged and assigned ulterior meaning to the provision. Only then does how to govern bullfights become evident. This was primarily done by fleshing out the meanings of the ambiguous assertion of bullfighting as an artistic expression of human beings.

The citizens that approached the Constitutional Court (the who), believing in the Constitution as a source and means of peace, an antidote to violence, and as a guarantor of their difference (as defenders of the moral condition of animals) found no echo in the Court's majoritarian decisions. The central position of animals in their claims shifted to the periphery in the Court's interpretative framework. Anthropocentric understandings of violence and plurality dismissed their demands and changed the social objects presented by the plaintiffs. The bull as a sacrificial performer replaced the bull as a sentient

being. The idea of a traditional heritage practice substituted the basic idea of a permitted and regulated craft. The national jurisdiction initially bound the validation of bullfighting as artistic expression to culture, and then to the heritage of a plural nation under the interpretative framework of the constitutional order. The interpretative chain left municipalities as subordinated actors amid the cultural debate, a national matter highlighted by the attempt to respond to historically excluded social groups.

The shift of scales does not constitute a zero-sum relation, as Valverde has already noted. What were once measures in local regulations to control unruly behaviour by bullfighting participants also became, in the national view, protective measures against external change. The search to harmonise and protect bullfighting expanded to one of safeguarding the plural nation itself. The search for order in bullfights was added to the quest for urban, national and constitutional order. Coherence and harmony as a core concern of the Constitutional Court, as a pivotal institution in the Colombian order is a significant distortive force along the interlegal path. This will be apparent in the following chapters, describing when the court struggled to balance its internal opposing forces.

The Constitutional Court did more than just solve a legal problem. The interpretative attempt to define meanings laid the ground for further possible understandings of social objects. The aims of the 1991 Constitution made the legal understanding of culture a positive value-oriented notion. There was little space for sociological or anthropological approaches seeking to problematize culture and tradition.

In the case of bullfighting, the attempt to amend historical exclusions through the relevance of culture in the constitutional agreement in 1991 met a paradoxical end. It is in this sense that the notions of majority and minority became one of the main subjects of debate within the interlegal dynamic of bullfighting. It was by means of the interplay of jurisdictions and the distortive properties of the constitutional scale that qualitative majorities could look like minorities in face of changes. The shift of scales, shows the bottom-up process through which a legal object accessed a new legal space, albeit not as described by the literature on interlegality and ethnicity. The concrete analysis of bullfighting describes the process in which a local order of a non-subordinated social group makes its way upwards.

The encroachment of bullfighting at the national level and the primacy of culture as key constitutional concern pushed the municipal level to the margins of the debate. The focus on the plural identity of the nation made it difficult to address whether cities should have autonomy in cultural matters. There was neither a discussion of whether identity should inevitably be a source of pride.

The multiscale arrangement of bullfighting, and the legal distortion generated in the search for protection, also obscured the fact that bullfighting has changed. The spectacle has not remained frozen over time, as the history of bullfighting clearly illustrates. The technicalities, procedures, spaces, professions and material tools that give life to bullfighting have changed over time (Thompson, 2010), as has social appreciation of the activity and its aesthetic forms. There is no reason to believe that they cannot change again. The absolute absence of such a realization in the debate has prevented the exploration of solutions outside the legal interaction around the social controversy. The merging of local and national bullfighting regulations hided the inner world of bullfighting itself. Not all performers in the bullfighting world are equal, and are its relationships either necessarily harmonious or fair. More evidently, bulls and other animals disappeared from the debate as sentient beings due to the distortive properties of the Court and the construction of legal objects in terms of the bullfighting regulations.

The interactions analysed thus far suggest that the anti-bullfighting social movements were not seeking a change in the multiscale architecture until now. There were no claims regarding the local autonomy of municipalities, for example. The anti-bullfighting movement's aims did not seem likely to position bullfighting on a given scale. Both social forces –for and against bullfighting– were competing for primacy at the national level and the use of state force. In this sense, bullfighting enthusiasts played the game of scales skilfully while the anti-bullfighting movement were only able to react to it. It was only in 2009 when the multi-scalar organization of bullfighting was challenged by claiming that cities had autonomy in the matter, opening the possibility of developing a new legal path using the environmental concerns of the 1991 Constitution and the well-established body of jurisprudence known as the Ecological Constitution. The new interpretation placed bulls at the centre of the constitutional considerations, with several consequences that included the return of municipalities as key actors in the debate.

7. The National Statute of Animal Protection under constitutional revision

So far, I have described how the Bullfighting Law –a municipal regulation- burst into the national legal space through the enactment of a national law that proposed a new jurisdictional arrangement whose meaning was further completed and elaborated in the Colombian Constitutional Court. This process, fostered by bullfighting actors amidst a process of falling social support for bullfights, sought a new jurisdictional structure to legally safeguard the spectacle. Until then, animal advocacy groups and other anti-bullfighting forces had challenged the legal objects that were built on this dynamic: namely, the understanding of bullfighting as art and therefore as culture, and as the implication for its governance.

In this chapter, I describe and analyse the emergence of a new set of legal interpretations centred on the constitutional assessment of the exemption for bullfights and other animal entertainment activities contained in Article 7 of the National Statute of Animal Protection (Law 84 of 1989). The focus on animal protection marked a fundamental difference from the developments I have discussed so far, placing animals, and particularly bulls, at the centre of the legal discussion by means of the Ecological Constitution, a solid and deeply rooted social and legal understanding of the 1991 Constitution that elaborated the State's duty to protect the environment. The legal objects created within this framework changed radically from those previously described, and resulted in the declaration of a normative deficit in the duty of animal protection with regard to bullfights. As a result, the Constitutional Court found that bullfights were only constitutional in those territories where the spectacle was socially rooted, recreating a space for municipal authorities as relevant actors in the bullfighting controversy.

Environment, fauna and animal welfare

The National Statute of Animal Protection (Law 84 of 1989) sets out duties towards animals, establishes violations, and defines situations of cruelty, penalties, aggravating circumstances and procedures to prevent and punish animal cruelty. When enacted, the law granted an exemption to bullfights, cockfights and other local Colombian spectacles such as *corralejas*, *rejoneos* and *coleos* and the rules and techniques involved those shows (Art. 7). Earlier in the 1980s, this was one of the conditions for introducing greater protection against abuse and cruelty for animals. (Molina Roa, 2018).

In 2009, a legal claim against the exemption for bullfights and cockfights contained in Article 7 of the Statute of Animal Protection reached the Constitutional Court. The plaintiff, a professor of environmental law, expounded several reasons to support his petition. As in previous claims against the Bullfighting Law, he argued that the recognition of animals as part of a moral community was a cultural manifestation, and thus related to the protection of culture. He also contended that, according to the constitution, "no one can be subjected to torture or cruel, inhuman or degrading treatment or punishment" (Political Constitution of Colombia, Art. 11), with the expression "no one" being sufficiently indeterminate to include sentient beings.

The plaintiff, however, also set out to interpret the exemption of bullfights in the context of the principle of the social and ecological function of property. Property has a social dimension that implies obligations. As such, it has an inherent ecological dimension (Political Constitution of Colombia, Art. 58). Bullfighting might be against the constitution because the function of property (like animals in the Colombian system) should disseminate values that our society deems essential, like the protection of the environment and the "respect for life, fair treatment and compassion". (Plaintiff, C-666/10, p.17)

Coherently, the demand pointed out the incongruence between bullfighting and the constitutional duty to protect natural resources (Articles 8 and 95-8 of the Constitution) and the diversity and health of the environment (Article 79 of the Constitution). Finally, the claim argued that the distribution of competencies between local and national entities laid out in the Constitution included "dictating the regulations necessary for the control, preservation, and defence of the ecological and cultural patrimony of the municipality" (Political Constitution of Colombia, Art. 313). Municipalities should therefore be given a say (for good or bad) on bullfighting matters.

The argument on the autonomy of territorial entities was the most important for the complainant. As he explained to me in an interview:

> I think that what most motivated me to confront the law was my belief that municipalities should have the autonomy to determine whether these practices should be maintained or not. The duty to protect animals was a supporting argument that the court itself used in several sections of the ruling, in order to say, in the end, that there is no absolute duty to protect [bullfighting] and that it was possible for Congress to grant permission of this nature for these practices of animal abuse. By this, I do not mean that I am not concerned with the issue of the environment. In fact, I am a lawyer who works on environmental issues. (Plaintiff, interview)

Unlike previous ones, this claim attempted to address the multi-scalar arrangement that underpins bullfighting. It did so by addressing bulls as property and part of the environment. In this manner, the claim highlighted the role of the environment as a fundamental agreement of the 1991 Constitution without necessarily contesting the role of animals in the Colombian system at the time: as mobile properties that humans cannot treat with cruelty. Such a legal translation allowed the development of new constitutional arguments regarding bullfighting and the role of animals in the Colombian legal system.

The change in constitutional reference framework directed the ruling away from culture and tradition. The social and institutional actors that participated in the legal controversy also elaborated new lines of reasoning. Most of the opinions had an explicit environmental focus and came from citizens with no apparent collective affiliation. Some linked the protection of the environment to the known argument around peace in Colombia.

> When in a social State governed by the rule of law, natural resources -including flora and fauna- are protected; we are therefore guaranteeing peaceful coexistence and the validity of a just order, bearing in mind that humans are part of the environment and that ensuring its protection is a fundamental duty. With this legal norm [the bullfighting exemption], the State is ignoring its aims and the general welfare of the community. (Citizen, C-666/10, p.11)

> Peace is not a term that is exclusively incumbent on human beings. Therefore, actions to preserve peace should be determined not only towards those of our own species given that, among other international pronouncements, the 1972 Stockholm Conference, of which Colombia was part, lays down in its Principle 25 that 'peace, development and the protection of the environment are interdependent and inseparable'. By determining them in this way, it is understood that in order to protect this right and ensure its fulfilment, the actions of the inhabitants of this country must not involve anything that threatens the protection of the environment. (Citizen, C-666/10, p.11)

Other actors referred explicitly to the Ecological Constitution:

> The Constitution not only protects the fundamental rights of human beings, it has been established as an 'ecological' Constitution, so it is of its essence to advocate for the defence of the environment, including wildlife. (Group of citizens, C-666/10, p.12)

The National University of Colombia's Faculty of Law issued an opinion developing the idea of the environment in the 1991 Constitution. The University framed the question in terms of the debate between the protection of culture and the protection of the environment, under the interpretation that the systematic mistreatment of animals is a violation of environmental human rights. The acknowledgement of animal rights was irrelevant, because the crux of the matter is the human responsibility for "the generation of environmental and cultural impacts related to the diffusion of unjustified values of cruelty, hate and environmental harm" (National University of Colombia, C-666/10, p. 13).

The Ministry of the Environment, Housing and Territorial Development, the Office of the Inspector General of the Nation, and the Ministry of Agriculture and Rural Development asked the Court to reject the case because, in their view, it posed no new constitutional problem. For them all the claims were already settled by the previous Ruling C-1192/05: "Bullfighting and cockfighting spectacles" are, above all, Colombian cultural and artistic expressions, because since time immemorial they have contributed to the peaceful coexistence of societies and acted as vehicles for socialisation and recreation" (Ministry of Agriculture and Rural Development, C-666/10, p.15)

The autonomy of municipalities was not a topic commonly addressed by the institutions and social actors participating in the process. Only the Association for the Defence of Animals and the Environment (ADA) referred to it in disagreement:

> We consider that allowing such behaviour to continue with living and sentient beings, precisely in regions where part of the population admits to it, supports its continuation and opposes any change in the customs of those who enjoy the spectacle, which encourages violence and cruelty towards beings that cannot defend themselves. (ADA, iC-666/10, p.10)

Bullfights in the framework of the Ecological Constitution

The Constitutional Court accepted the claim but reformulated the plaintiff's concern and determined a two-step line of argumentation: firstly, establishing whether there were any grounds for granting the exemption for bullfights, and secondly, determining whether the exception contradicted the constitutional duty to protect animal welfare (C-666/10, p.18).

The Court referred to rulings 1192/05 and C-367/06 to reaffirm that bullfights –being both art and spectacle– belong to the category of culture. Thus, the Court found reasons to consider bullfights as an exception. However, it interpreted the exemption in the Statute of Animal Protection as recognition of cruelty. For the Court, when categorising bullfights as an exception one also acknowledges bullfights as cruel. Otherwise, its exemption in the law would be illogical. In other words, the practices acknowledged as exceptions are cruel but lawful practices.

The Court supported its argument with an "objective" description of bullfighting, defined in opposition to a "subjective aesthetic" (C-666/10, p.22) description of Ruling 1192/05. The Court described bullfights using the definitions contained in the Bullfighting Law:

> *Picar el toro*: 'Stinging' the bull, an act that involves sticking a spear with a fourteen-centimetre-long point into the bull's back, an action which may be repeated up to two times; *Poner banderillas,* an activity that involves inserting *banderillas* (barber darts), straight and resistant wooden sticks with a sharp iron blade at the end, laid out with other smaller ones protruding in the opposite direction so that, when it sinks into the bull's flesh, it gets lodged and is prevented from falling (Arts. 12 and 50, Law 916 of 2004); *Descabellar*, which involves killing the bull using a jab between the rings surrounding the spinal cord. This procedure is carried out in those cases where, six (6) minutes after having received the first jab intended to kill the bull, the bull has not fallen to the ground -either dead or dying- in the arena. (C-666/10, p.23)

It was clear to the Court that bullfights involve acts defined as cruel by the National Statute of Animal Protection: they involve wounding and injuring an animal by cutting or stabbing, cause suffering and prolong agony, pit animals against each other to create a spectacle, and use live animals for training (like in bullfighting schools). The Court understood bullfights as a legally accepted form of animal cruelty, which the Constitution and the State are not obliged to protect. In opposition to C-1192/05, the Court found that bullfights are not a

source of pride and that there is no reason for their promotion, and as consequence, that they should be treated restrictively:

> With the description of these activities, it is clear that the Court understands that they constitute animal mistreatment, which, although tolerated, involves cruelty and, as such, are not a source of pride. There is also no constitutional mandate that entails any obligation regarding the protection or promotion of them [bullfights and other exempted cultural activities], which is why a restrictive interpretation by legal operators is mandatory. (C-666/10, p.27)

In forming the restrictive interpretation of bullfights, the Court relied on the Ecological Constitution, a body of jurisprudence developed from the idea that the 1991 Constitution is an environmental charter (see Chapter 2). The Ecological Constitution is a solid constitutional imaginary and body of jurisprudence that found great resonance in the C-666/10 ruling. This framework does not consider animals as equal moral beings, as claimed by some animal advocates. However, it does understand the Constitution as a programme that provide guidelines for legislative development, placing particular emphasis on the State duty to protect the environment, the right to enjoy a healthy environment, and the obligations of authorities and individuals that derive from it (C-126 of 1998 p.3). The social function of property is a vital part of it.

As a legal concept, the environment was understood by using as a reference the Ecological Constitution together with the declaration of the United Nations Conference on the Human Environment held in Stockholm in1972 and the World Charter for Nature (1982). Within this context, the court highlighted solidarity as the axis for understanding humans as part of the environment and, in consequence, as the principle for developing the constitutional duty of animal protection.

Ruling C-666/10 argued that the Constitution contains a complex understanding of the environment that explicitly involves a non-anthropocentric perspective. The Court referred to the social and ecological function of property as a constitutional principle that can restrict animal owners: "For the specific case [bullfights and other exempted cultural activities], the ecological nature of property and its consequences, and the greening of private property, sustain the limitations that, from the constitutional point of view, are derived for the ownership of animals" (C-666/10, p.51).

A constitutional non-human-centred vision of the environment implied that the duty of protection should aim to maintain a natural balance. It also obliges respect for other beings as a basic moral commitment in which human dignity

is realised. The National Statute of Animal Protection was understood as a legal materialization of the latter:

> In relation to their [animals'] protection, the concrete manifestation of this position is formed by two perspectives: that of fauna protected by virtue of the maintenance of biodiversity and the natural balance of species; and that of fauna that must be protected from suffering, mistreatment and cruelty without legitimate justification. The latter protection reflects the content of political morality and awareness of the responsibility that human beings must have with respect to other sentient beings (…) The protection derived from the Constitution goes beyond the anachronistic view of animals as animate things to recognise their importance within the environment in which people live: not simply as sources of useful resources for humans, but as sentient beings that are part of the context in which the life of the main subjects of the legal system –human beings– develops. (C-666/10, p.34)

Based on an expanded understanding of humans as part of a more complex relationship with natural resources and other species, the protection of animals involves a vision of solidarity with the environment. The acknowledgement of the capacity of other beings to feel obliges humans to behave accordingly, allowing the recognition of their own human dignity. Thus "a social state must seek, among other things, animal welfare, as this is a co-natural element in the development of the principle of solidarity, from which the constituent derived different duties that are enshrined in various parts of the Constitution" (C-666/10, p.39).

The Court, in such a way, developed an argument centred on understanding that human acts can bring pain to other beings, a situation that gave shape to a legal duty.

> In this sense, the question that arises is not whether beings to whom dignity is not recognized –who are not considered moral beings on an equal footing with people, such as animals– have rights. The legal analysis leads to the question of whether, in constitutional terms, the concept of dignity entails any duty of action, relationship or, even, consideration by persons –moral agents– concerning animals. (C-666/10, p.46)

The Court, within its range of action, argued that human responsibility to animals was part of the environment: "The rational –moral– superiority of man cannot mean the absence of limits to cause suffering, pain or anguish to non-human sentient beings" (C-666/10, p.47). The argument is instrumentally helpful in constitutional terms. It is, however, far away from the claims of

animal advocacy and anti-speciesist standpoints that, specifically attempt to avoid discrimination based on the differences between species.

The framework provided a new constitutional meaning of protection of the environment that, according to the Court, now implied an enhanced protection:

> In this regard, it is clear from the constitutional provisions an enhanced protection for the fauna found within Colombian territory as an integral element of the environment whose protection is mandated by the Constitution. Enhanced protection for all animals as members of the fauna inhabiting the Colombian State. A State duty -of a constitutional nature- that implies concrete obligations for the constituted powers. Consequently, they cannot support, sponsor, direct or, in general, actively participate in actions that entail animal mistreatment; in the same way, they cannot assume a neutral or abstaining role in the development of the protection that must be offered to animals. The protection of animals will also be based on the obligations of human dignity, which prevent such protection from being developed in ignorance of the responsibilities that, as superior beings, arise with respect to inferior species, and which undoubtedly constitute a moral obligation as laid out in the recitals of the World Charter for Nature. (C-666/10, p. 37)

The reinforced protection made an appeal to the different levels of the State, including municipalities as a constituted power, to actively protect animals.

Normative deficit in the duty to protect animals, restrictive interpretation of bullfights and social rooting

The interpretative work of the Constitutional Court regarding the National Statute of Animal Protection created a parallel dynamic in which an alternative jurisdictional order was created around the duty to protect the environment. The same constitutional authority created an alternative legal object out of bullfights, which are now considered as animal abuse instead of culture. In this interpretation, bulls are placed at the centre of the legal space and recreated not as sacrificial beings but as property with an ecological function. The Court also proposed an alternative governance mode for bullfighting, grounded in principles of solidarity and non-cruel treatment to animals as a materialization of human dignity. Within this jurisdictional and scalar structure, the Court engendered a rationality based on the deficit in animal protection and on a restrictive interpretation of the law that assigned new role to the municipal

jurisdiction as a relevant space for the realisation of the law. To avoid clashes between the legal objects and the jurisdictional order established by the previous decisions based on a cultural interpretation of bullfights, the Court proposed the criteria of social rooting (*arraigo social*).

This line of reasoning emerged when as part of the C-666/10, the Court reviewed the different manners in which the duty of animal protection has been limited in the Colombian legal order.

> It should be emphasised (…) that each of these limitations must have a valid justification in constitutional terms, i.e. they must be the result of an exercise of concrete harmonisation of values, principles, rights, duties or other constitutionally relevant elements that require the duty to protect animals to be tempered or limited in certain situations. (C-666/10, p.54)

The Court considered examples in which the duty to protect animal welfare had been limited in the National Statute of Animal Protection (e.g. religious practices, medical research, consumption habits) and their relationship with fundamental rights such as religious freedom, free development of personality or the right to education. It also examined whether the limitations were related to collective interests (such as public health), and focused on the specific measures to restrict pain and suffering in those exceptions.

In Colombia, at least formally, animals sacrificed for consumption should be killed by methods that ensure they are senseless or unconscious before being slaughtered. Similarly, the use of animals in research is restricted and, if used, approvals should be granted through a case-by-case evaluation by a bioethical committee. Bullfights and the other animal fighting practices included in the exceptions of Article 7 of the National Statue of Animals Protection had absolutely no measures to mitigate animal pain. It was a general, no specific exception. This reasoning, differently than in C-1192/05, does not believe that the Bullfighting Law cares about bulls, and therefore does not consider bull breeding, or the rules aimed at the ensuring bulls are in the conditions demanded the interests of the spectacle, as animal protection[31].

Ruling C-666/10 did not enter into conflict with the constitutional relevance of culture or its foundational role in the Colombian nation. However, the Court did not consider the exception made for bullfighting in the Statute of Animal

[31] The Court also considered the status of the other styles of bullfighting styles granted exemptions in the National Statute of Animal Protection. Law 1272 of 2009 declared the Sincelejo Corraleja Fair (*Fiesta de Corralejas de Sincelejo*), held in a municipality in northern Colombia, as a cultural asset of the nation, The *Coleo* on the contrary, was recognized as a sport since 2000 through an administrative resolution (Resolution 2380 of Coldeportes).

Protection as an expression of multiculturalism. As such, it did not view the complaint as a case of conflict between different cultures. The Court defines its role not in terms of deciding what is or is not culture but of assessing the balance between the different constitutional values:

> Given the broad meaning of the concept of culture and the very diverse manifestations it may have in a social environment, it does not fall within the competence of constitutional judges to interfere in the correctness or otherwise of this conceptual broadness. Neither do their competences extend to including or excluding activities within cultural manifestations, as this is the task of legislators in the exercise of their role as representatives of Colombian society, of the administration at all levels, but especially of the local level; or, the result of a simple notorious fact, which is rooted in a given society, as long as it does not disregard a value, principle, duty, right or constitutionally protected asset. (C-666/10, p.62)

With this analysis, the Court created a legal problem based on the tension between two different duties of protection, both relevant from a constitutional point of view, but nevertheless a distortion of the social and moral problem that entails reconsidering the role of animals in society. This is how the Court indirectly addressed the claims asking for greater autonomy for the local level. The Court concluded that the complaint expressed the lack of proportionality between a cultural manifestation, on the one hand, and the values, principles and rights essential to the constitutional order on the other (C-666/10, p.63). Given that bullfights are lawful animal cruelty without measures to prevent or restrict pain and suffering, the Court concluded that animal protection is deficient when it comes to bullfights.

> It is clear (…) that the challenged provision does not include weighting between the duty to protect animals and cultural expressions that involve the mistreatment of animals. Neither is this normative deficit made up for by other legal precepts. This contrast results in a normative deficit in the duty to protect animals because the legislature disproportionately favour cultural manifestations such as bullfights, *corralejas*, calf fighting, *rejoneo*, *tientas* and cockfights, which involve clear and forceful mistreatment of animals. (C-666/10, p.72)

The analysis also reiterated the leading role of legislators in closing the protection gap by adjusting the laws or, if deemed necessary, by prohibiting bullfights. It also, however, called out the different levels of the State:

> The exemption provided for in Article 7 of Law 84 of 1989 must include minimum considerations to guarantee, as much as possible, the welfare of the animals involved in such cultural events. This work must be complemented by the assistance of the administrative authorities with relevant regulatory powers in order to remedy the regulatory deficit in the aforementioned duty to protect animals. In this sense, regulations of legal and infra-legal rank must be issued, determining exactly which actions that involve animal abuse can be carried out during bullfights, *tientas*, *novilladas*, *rejoneos*, cockfights and *coleos*, and in activities related to these cultural manifestations such as breeding, confining, training and transporting the animals involved. (C-666/10, p.73)

The decision established that the only possible constitutional reading of bullfighting as an exception to animal cruelty involves maximizing the duty of animal protection. In other words, that an actual social and environmental state of rule of law should not promote bullfighting, even if the practice is allowed. This interpretation was made possible by constructing bullfights as cruelty, highlighting the pain inflicted on the bull and using the constitutional duty towards the environment as an interpretative framework. The varied construction of legal objects within the constitutional legal space enabled the restrictive governance of bullfights, a new mode (the how) with effects on the wider jurisdictional order. The Court described the restrictive nature of bullfighting governance as follows:

> In conclusion, it is contrary to constitutional terms for municipalities or districts to devote public resources to the construction of facilities for the exclusive performance of these activities [bullfights]. (…) Based on the foregoing, and concerning these specific activities and any that involve animal abuse, it is concluded that the State *may* permit them when they are considered a cultural manifestation of the population of a given municipality or district. Nevertheless, it must abstain from disseminating, promoting and sponsoring bullfights or intervening in any other way that entails encouraging them outside the limits defined in this ruling. This is the only way to achieve a harmonious interpretation of two conflicting constitutional principles in the specific activities exempted by Article 7 of Law 84 of 1989. (C-666/10, p.77, italics in the original)

The Court, under this framework, found the bullfighting exemption in the Statute of Animal Protection to be conditionally constitutional. One condition to its constitutionality is social rooting: when a population considers is as a tradition within an administrative unit:

> Therefore, the result, following the harmonisation of the constitutional values and principles involved, leads to the conclusion that the exception in Article 7 of Law 84 of 1989 is in accordance with constitutional norms only in those cases where the performance of such activities constitutes a regular, periodic and uninterrupted tradition of a given municipality or district within the Colombian territory. (C-666/10 p.75)

The Court reached the view that the fundament of the exemption of bullfights and the other cruel entrainment activities was their social rooting, broadly defined as their presence "in certain specific sectors of the population, i.e., their traditional, repeated and current practice in certain parts of the national territory" (C-666/10, p74). The Court did not discuss, for example, if the social and cultural context had changed since the law's enactment in 1989, a factor that might mean its basis is no longer valid. Ruling C-1192/05 was the source of the argument that social rooting still exists.

Social rooting, as a condition, involved the restriction of the spectacle in time (when) and space (where). The excepted activity, in order to be constitutional, must "take place only and exclusively on those occasions when they are usually carried out in the respective municipalities or districts in which they are authorised (C-666/10, p.75). Furthermore, "it may not be an activity lacking cultural roots of any kind among the majority population of the municipality in which it is carried out that would serve as grounds for exemption from the duty to protect animals" (C-666/10, p.77).

Social rooting became the indicator of tradition and the rationale of governance. The Court, however, did not explicitly point out who should assess social rooting or how to measure the suggested criteria. Most of the interlegal dynamic in the following years had to do with solving these matters in practice. Municipalities largely argued for their powers to complete such a task.

The C-666/10 decision had an important implication: bullfighting cannot expand in time and space. In line with the restrictive character, the Court ruled that bullfights cannot be carried out where they do not already exist. In addition, the Court respected the traditional nature of bullfighting acknowledged back in 1989 when the National Statute of Animal Protection was enacted, but denied any possibility of extending the exceptional status to other practices since: "the duty to protect animals implies the impossibility of extending the exception provided for in Article 7 of Law 84 of 1989" (C-666/10, p.75).

The Court subtly suggested a second condition in the conclusion to its decision, namely the mitigation of pain in bullfighting practices:

> The exemption therein [art 7 Law 84 of 1989] allows, until a legislative determination to the contrary, were one to occur, the completion of the activities of entertainment and cultural expression with animals contained therein, as long as it is understood that they must, in any case, receive special protection against suffering and pain during the course of those activities. In particular, the exemption in Article 7 of Law 84 of 1989 allows the continuation of human cultural expressions and entertainment with animals, provided that particularly cruel conduct towards them is eliminated or mitigated in the future, in a process of adaptation between cultural expressions and duties to protect fauna. (C-666/10, p. 77)

As I will describe in the next chapters, the definition of what future means, a time-related jurisdictional debate, fed an important part of the controversy in the urban sphere, especially in Bogotá.

Finally, the Court referred briefly to the autonomy of municipalities with regard to bullfighting, which as we saw was an essential topic for the plaintiff.

> With regard to the charge of violating the principle of autonomy of the territorial entities, this Corporation specifies that the challenged provision exceptionally permits the mistreatment of animals during certain cultural manifestations. However, it is an exceptional provision of restricted scope, as has been maintained throughout this ruling. In such a way, it does not limit the regulatory power of the municipal administrative authorities. Therefore, they can determine whether to allow the holding of such activities in the territory in which they exercise their jurisdiction. (C-666/10, p.77)

As I show in the following chapters, the struggle for a valid interpretation of these conclusions fuelled the debate and the complexity of the interlegal dynamic around bullfighting until 2018[32]. Ruling C-666/10 opposed, in spirit,

[32] The resolution section of the ruling summarized the decision in the following manner: "1) that the exception therein allows, until a legislative determination to the contrary, were one to occur, the completion of the activities of entertainment and cultural expression with animals contained therein, as long as it is understood that they must, in any case, receive special protection against suffering and pain during the course of those activities. In particular, the exemption in Article 7 of Law 84 of 1989 allows the continuation of human cultural expressions and entertainment with animals, provided that particularly cruel conduct towards them is eliminated or mitigated in the future, in a process of adaptation between cultural expressions and duties to protect fauna; 2) that they may only take place in those municipalities or districts in which they are the manifestation of a regular, periodic and uninterrupted tradition that is performed with a certain frequency; 3) that they may only take place on those occasions on which they have usually taken place in the respective municipalities or districts in which they are authorised; 4) that these are the only activities that may be exempted from the constitutional duty to protect animals; and 5) that the municipal

the previous ruling C-1192/10. Its argumentative line attempted, under the constraints of the constitutional order, to modulate the trajectory of previous decisions. The assessment of the balance between the duty to protect culture and the duty to protect the environment resulted in the normative deficit in the latter. The legal construct of social rooting was thought to preserve, in theory, the harmony of the constitutional order affected by the social controversy.

Dissenting opinions: further alternative scalar and jurisdictional games

As with other sentences regarding bullfighting, the Court did not reach its decision in unanimity. One judge (Gabriel Eduardo Mendoza Martelo) dissented completely based on the consideration that the plaintiff did not formulate an apparent constitutional problem and that the Court decisions were attributing regulatory competencies, a task of the legislature.

Two other judges (Maria Victoria Calle Correa and Jorge Ivan Palacio Palacio) also dissented, but for the opposite reason. In their regard, the bullfighting exemptions in in the Statute of Animal Protection should have been ruled completely unconstitutional. Despite agreeing with the ecological framework of the decision, the restrictive reading of the norm, and the conclusion that there is a normative deficit of protection of animals, they viewed the exception as unconstitutional based on its general character and absolute lack of consideration for the mitigation of animal pain. In their opinion, the limitations in time, space and opportunity do not grant enough protection to animals.

The dissenting judges further developed their argument in two ways. First, they discussed the competencies of the infra national level and its broader autonomy when it comes to protecting the environment, making specific use of the principle of subsidiary rigour, a technicality of the Colombian legal system that modifies the competence of territorial entities in cases of environmental protection. Subsidiary rigour forces administrative authorities to act in harmony with other levels and respect superior norms but also allows them, based on their policing functions, to order stricter measures to protect the environment. As a result, administrative powers can “democratically opt

authorities may under no circumstances allocate public money to the construction of facilities for the exclusive performance of these activities”.

for greater protection for animals, by virtue of the principles of regulatory gradation and subsidiary rigour" (Judges Calle & Palacio, C-666/10, p.91).

> The rules and measures of environmental policing, that is to say, those that the environmental authorities issue to regulate the use, management, exploitation and mobilisation of renewable natural resources or protect the natural environment, regardless of whether said rules and measures limit the exercise of individual rights and public freedoms for the conservation or restoration of the environment, or require a licence or permit for the exercise of a certain activity for the same reason, might be made successively and respectively more rigorous, but not more flexible, by the competent authorities at regional, departmental, district or municipal level, to the extent that the hierarchy of norms is lowered and the territorial scope of competencies is reduced, when special local circumstances so warrant. (Judges Calle & Palacio, C-666/10 p.93)

The dissenting judges argued for better balance between the cultural activities and the protection of the environment by declaring a deferred decision of unenforceability. This means that the Court should have declared the bullfighting exemption unconstitutional, but providing a time period in which legislators could deliberate and adapt the Statute of Animal Protection to the constitutional framework. If these changes had not been made in time, the article would have been automatically excluded from the Colombian legal system[33].

For the dissenting judges, the conditions set by the Court were unclear and did not allow the authorities to impose effective sanctions if the restrictions were not adhered to (Calle & Palacio C-666/10, p.89). Along the same lines, they found it problematic that the Court "did not choose one possible interpretation among several" or "exclude one meaning among several", but rather decided to define parameters and standards specific to other spheres of power (Judges Calle & Palacio, C-666/10, p.89).

The dissenting judges also disagreed with the Court's final decision, believing that it did not differentiate sufficiently between the constitutional protection of minority ethnicities and cultures and the protection of any cultural or artistic manifestation.

[33] This conclusion was reached by formulating a slightly different constitutional problem in which the main issue was not to determine the constitutionality of the bullfighting practices but the constitutionality of the exemption within the constitutional aspirations of the Animal Statue of Protection. The used of deferred decisions is not unheard of in Colombia, particularly in cases where the legislature has not been flexible enough to solve important issues. This solution was looked at again by the Court in 2017, as will be explained later on.

> In the first case, it is a matter of protecting groups and communities of people who have traditionally been excluded and marginalised from participation and representation in the official bodies of political, economic and social power (…) cultural and ethnic visions displaced from the Colombian cultural horizon that affected and jeopardised the dignity and survival of these communities, as well as depriving the entire nation of one of its greatest riches, its ethnic and cultural diversity. (Judges Calle & Palacio, C-666/10, p.90)

For the dissenting judges, bullfighting activities are not a constitutive part of any ethno-cultural minority. On the contrary, bullfighting is part of the widespread European influence over the Colombian nation that cannot, therefore, be understood as a minority in the same sense as, for instance, Indigenous or Afro-Colombian communities, or recent social groups that have received special constitutional protection due to their vulnerability (such as internal forced migrants).

Discussion

Amid the wide-ranging interlegal dynamic that was emerging around bullfighting, Ruling C-666/10 imposed a milestone that altered the trajectory of the bullfighting controversy. The force of the Ecological Constitution enabled the construction of legal objects centred on bulls, opening a new possible angle of approaching the legal and social debate. In terms of the interlegal dynamic, the Court created an alternative jurisdictional and scalar order for bullfighting on top of the revision of the National Statute of Animal Protection. In contrast to the previous rulings based on the cultural interpretation of bullfights, C-666/10 did not add new arguments to the interlegal process that began in the 1960s and had the spirit of the bullfighting canon at its core. The new interpretative line was enabled by focusing on bulls as mobile property with social and ecological functions, and the development of rationales that intended to restrict and not promote. Ruling C-666/10 provided an alternative understanding of human dignity based on the relational sense of the principle of solidarity, allowing the treatment of animals to be included as a criterion for evaluating the duties of human beings. Bullfighting as a spectacle was legally recreated as a permitted form of animal cruelty that demands specific measures in order to address the deficit in animal protection that it causes due to its status as a general exception in the National Statute of Animal Protection, therefore negatively impacting the duty to protect the environment. Such reasoning allowed the Court to establish two criteria for

granting conditional constitutionality to the bullfighting exemption. The first was to verify social rooting, a criterion that brings territories, times and objects together in a single mode (how) of legal governance. Only those municipalities where there is a majoritarian group that considers bullfights a tradition, and where the spectacle has been performed without interruption over time can continue to hold bullfights as an exception. The second criteria was the verification of measures to mitigate, alleviate or avoid animal pain. In both cases, C-666/10 involved the municipal authorities as an active participant in the capacities of governance. Under no circumstances were the authorities to actively promote bullfights.

The understanding of bulls as part of the environment promises a different governance possibility than bullfighting as a cultural asset. For instance, it made it possible to argue –even if in a dissenting opinion– for subsidiary rigour, a legal technicality that allows the Colombian jurisdictional architecture to be modulated and bestows extensive powers on municipal authorities when protecting the environment. An environmental approach therefore provides a different jurisdictional cascade effect (Valverde, 2009).

The restrictive and environmental interpretation of bullfighting shows, in this sense, how the cascading jurisdictional model is different during times of equilibrium or contestation, as suggested by Fudge (2014). The concrete analysis of bullfighting demonstrates how, in times of controversy, jurisdictional path dependence is a work in progress. It can entail the creation and assessment of parallel legal objects and jurisdictional orders. Ruling C-666/10 was an attempt at balancing the absolute primacy of protecting culture when addressing bullfighting, and it tried to find common ground in harmonising contrasting protection duties (culture and environment) by restricting bullfighting and setting out conditions based on its social rooting.

The effect, however, as I will show, was a clash of jurisdictional orders –culture-centred and environment-centred– that fuelled most of the bullfighting controversy. Social actors, municipalities and the Court itself in successive iterations returned to previous constitutional decisions to define social rooting and the concrete realization of the mitigation of pain and suffering: how, when, where and by whom the mitigation or prevention of animal pain could be enforced. As result of the C-666/10, the bullfighting legal discussion was expanded by addressing how animals should be treated amid the bullfighting controversy, but strongly constrained within the frameworks set by the Constitutional Court. In practice, this process was manifested in the attempt to clarify the uncertainties left by the constitutional decision using the mechanisms available in other spaces (like the municipal one). It is in this sense that Ruling C-666/10 made it possible for social forces and

municipalities to discuss and take action regarding bullfighting and the protection of animals. It allowed a shift of scales that was denied by the previous constitutional decisions that centred on the cultural character of bullfighting.

The Constitutional Court decisions became important points of reference in the extensive interlegal dynamic. As will be seen, the relationship to the constitutional level was a constant factor in the way the municipalities and social actors developed their own interactions. The aforementioned parties made continuous reference to the Court's rulings, highlighting the resolution statements for the decisions and any arguments used, and even the dissenting opinions in an iterative interpretative process.

In the following chapters, the focus will turn to the municipal level and the different interactions that different Bogotá administrations had with social forces and the Constitutional Court while seeking the regulation of bullfighting. I analyse three municipal strategies informed by the concurrence of social forces and the municipal powers of Bogotá by using Ruling C-666/10 as a reference: the attempt to avoid promoting the spectacle by not leasing the bullring in 2012, the call for a public consultation in order to define the social rooting of bullfights in 2015, and the promotion of cultural change activities and administrative measures to discourage bullfighting in 2020.

8. The struggle over the *Santa María* bullring

So far, I have examined how the jurisdictional order around bullfighting changed from a municipal Resolution related to the National Police Code to a national law whose factual reach was developed further by the Constitutional Court. I have also looked at how the Court developed two jurisdictional arrangements. One presented in Ruling C-1192/05, centred on the constitutional connotations of classifying bullfights as artistic expression and its relation to culture. The other arrangement was developed on the basis of Ruling C-666/10, focusing on the duty to protect the environment, the restrictive nature of legally addressing bullfights, and the conditional constitutionality of its exemption from being considered animal cruelty.

Ruling C-666/10 had a deep impact on the bullfighting struggle. Over the next few pages, I will focus on how, in particular, it shaped the possible ways that the Bogotá municipal authorities could participate in the debate around bullfights and their treatment as a social practice in the city. Three different yet simultaneous and interdependent processes emerged from C-666/10.

One was the decision by the new Bogotá municipal government (with Gustavo Petro as mayor) to stop leasing the bullfight ring to the Taurine Corporation of Bogotá in 2012. The decision was informed by the commitments to the animal advocacy movement and Ruling C-666/10, particularly, the restrictive and environmental interpretation of bullfights. The second was a new legal claim to the Constitutional Court regarding the scope of municipal authorities when granting permission for bullfights. This new legal process resulted in a new ruling, C-889/12, in which many of the powers of municipalities were discussed. The third was a case filed by the Taurine Corporation of Bogotá against the municipal decisions to cease the bullring leasing contract in 2012, dispute solved by the Constitutional Court in RulingT-296/13.

The Animal Advocacy Vote Agenda

Ruling C-666/10 had significant influence on the struggle around bullfights. Those seeking the regulation or abolition of bullfighting considered the decision to be progressive in its argumentation but weak and ambiguous in the decision it reached (Padilla, 2015, p. 27). To these forces, the key ideas conveyed by the Court were the conditional constitutionality of bullfighting, the call to implement measures for the mitigation of pain, and the view that the restrictive interpretation must guide the State's decisions in their different manifestations. Anti-bullfighting social forces were receptive to the idea that bullfights could only be carried out in those municipalities where it existed as a tradition. In this context, most of the efforts were aimed at clarifying –in practice- the role of the municipal authorities and the meanings of social rootedness. As the animal advocacy leaders acknowledge, the Court, despite delivering some guiding criteria, did not precisely define what 'socially rooted' means factually:

> The Court has never said so, and that is precisely why we started a follow-on process, which was the anti-bullfighting consultation in Bogotá. Initially, we began to propose animal rights strategies for popularly elected positions. We began to seek influence. After working with some politicians who achieved little things, we suggested putting forward more structured proposals so they would really commit to them. Then we began with an initiative called the Animal Advocacy Vote, which has been replicated in other parts of the world such as Mexico, Ecuador, Peru and consists of developing proposals that the candidates should sign and commit to implementing if elected. (Alvaro, interview)

As a result, 35 different organizations belonging to 12 different regions of the country wrote a statement on the occasion of the presidential and parliamentary election in 2010. The statement aimed to consolidate political commitments into an agenda of parliamentary and governmental actions that would decisively address key issues for the effective protection of animal welfare in Colombia. For this purpose, a webpage[34] was created as a tool to provide voters interested in animal advocacy with content and identify candidates' positions on animal protection.

The statement used Articles 192, 193, 194 and 195 of the Colombian National Resource Code (Presidential Decree 1608 of 1978) as the primary

[34] http://votoanimalista.blogspot.com/2010/02/declaracion-los-candidatos-al-congreso.html retrieved 07/08/2021

justifications for seeking the prohibition of the use of animals in circuses. The statement also encouraged the candidates to include and publicly present, in their governmental proposals and programmes, strategies and actions that were aimed at the effective and efficient protection of wild and domestic animals, and to state their position regarding the revocation of the bullfighting exemption contained in the National Statute of Animal Protection (Law 84 of 1989). Finally, the statement intended to elicit a commitment from the candidates, if elected president, to call for a popular consultation asking Colombians if bullfighting should be banned. Two of the presidential candidates signed the statement at the time, although neither of them was elected president. In any case, in 2013 the Colombian Congress enacted Law 1638, through which wild animals were banned in Colombian circuses[35].

A similar strategy was carried out for the Bogotá mayoral and City Council elections in 2012. This time, 15 social organizations prepared a statement for the city's mayoral candidates[36], containing considerations, principles and a public commitment expressed in 17 concrete points regarding the protection of animals. The statement reflects the interlegal architecture upon which social movements interacted with municipal powers. By acknowledging animal sentience, the treatment of animals should be based on respect, solidarity, humanist compassion, ethics, justice, care, the prevention of physical and emotional suffering, and the eradication of captivity, abuse, mistreatment, violence and cruel or degrading treatment inasmuch as they are considered subjects of State protection. Based on principles such as prevention, education and co-responsibility, the social forces engaged with the municipal administration (based on legal competencies) and citizens (based on their legal obligations and ethical commitment) to strive for the development and enforcement of policies, criteria, plans, programs and actions for animal protection (Paragraph B).

The text highlighted the "cultural change" that took the form of new subjectivities grouped in social movements that were making political demands to bring about respect for animals and "the prohibition of practices contrary to solidarity, coexistence and peace" (Point 5 of the Agenda). The Agenda framed the obligations of the municipal authorities within the 1989 Universal Declaration of Animal Rights, The Political Constitution, the

[35] Further analysis by the Constitutional Court on the constitutionality of the law (C-283/14) gave circuses two years to redesign their shows and hand the animals over to the environmental authorities.

[36] Guía de votación para animalistas: 2011 (votoanimalista.blogspot.com) retrieved 07/08/2021

National Statue of Animal Protection (Law 84 of 1989) and the Constitutional Court ruling C-666 of 2010.

As its first commitment, the Agenda sought to achieve recognition of animals as sentient beings, to work to satisfy animal welfare needs, and to eradicate animal cruelty. It included explicit acceptance of the interpretation in Ruling C-666/10 that "understands the environment as the context in which different sentient beings live out their existence, a conceptual basis that excludes any merely utilitarian vision that values animals exclusively as a resource, that is, as an element of exploitation by human beings" (Paragraph 1 of the Agenda). For the case at hand, the most relevant public commitments were "continuing with all the juridical and political actions needed to prevent the allocation of public resources to the diffusion, promotion or sponsorship of spectacles in which animals as tortured, mistreated or killed" (Commitment 3 of the Agenda), and "calling for a popular consultation where the inhabitants of Bogotá are asked if they want bullfighting and cockfighting to be prohibited, in separate questions" (Commitment 5 of the Agenda).

The rest of the commitments were related to different expressions of the animal advocacy fight and the expected role of municipal authorities as entities of control and regulation[37]. Some of them emphasised the need for public policies, like the demand to discuss and implement a District Public Policy for Animal Protection covering a broad but comprehensive range of activities, or a public education policy geared towards changing our relationship with animals and fostering responsible animal ownership. Other commitments were more specific, such as the creation of an Anti-Cruelty Squad within the National Police in coordination with animal defence organizations. These actions acknowledged the limitations of municipal powers, yet encouraged candidates to elevate proposals to the national level with a view to changing the Civil and Penal Code to classify animal mistreatment as a criminal offence, and to modifying the Statute of Animal Protection to give animals new "juridical value" through the revocation of all the exceptions (Articles 7, 8 and 9 of the Agenda).

[37] The demands were: the regulation and control of the sale of animals; vaccination and the mandatory sterilization of female dogs and cats; the implementation of systems for identifying animals and owners; effective sanctions against the mistreatment and abandonment of animals; the protection of wild fauna, including the strengthening of specialized bodies to investigate, control, prosecute and sanction commercial establishments, and animal traders and owners; the replacement of work involving animal-drawn vehicles; the regulation of guard dogs; the participation of animals in public shows; the elimination of euthanasia as a method of population control; the creation of the Centre for Animal Protection and Welfare (Commitment 9 of the Agenda).

The idea of creating a written document in which the political claims of animal advocacy and environmentalist social movements is not unique to Colombia. Anti-bullfighting forces have promoted similar strategies concerning municipal governments in Quito and Lima. These cases share a common context in which there is a change in social values, there are social movements capable of transforming these values into concrete proposals, and there is effective political representation that can translate social agendas into policy (Vergara & Baraybar, 2020, p. 134). The academic research into such political interactions suggests the decisive factor in the success of the agendas is not the social movement, but the will of political parties and their representatives to confront traditional elites. Gaining the interest of political leaders is thus, ultimately, the driving force behind the implementation of such commitments. While it does not stand in disagreement, the research at hand understands the role of social forces as pivotal to the definition of public issues that make sense not only for political actors but also social collectives (Salazar, 2019). The law is a fundamental source for the construction of social meaning that emerged from the discourse around bullfighting. The juridical turn that characterized some of the animal advocacy organizations interactions (Padilla, 2015) aims to make sense through the law the why and how collectives attempt to occupy institutional spaces (Salazar, 2019). This process involves playing the jurisdictional game, one in which social forces encouraged municipalities to push the limits of their relative autonomy, not only by making use of the available jurisdictional mechanisms but also by participating actively in the process of realising the law in specific territories and spaces.

In 2011, the future mayor of Bogotá, Gustavo Petro, signed several of the commitments contained in the Animal Advocacy Vote Agenda. As Camila, one of the social leaders of the animal advocacy movement recalls:

> What Mayor Petro did was to put the ruling [C-666/10] into action, as a ruling that had not yet been used. Because of Petro's rebellion, one cannot ignore that he imbued the ruling with a sense of rivalry with the elites (…) Petro signed 7 of our points when he was a candidate, the first of which was complying with Ruling C-666/10. He then found support in the popular mandate with which he came to power. (Camila, interview)

The commitment to animal advocacy organizations was materialized in the city's development plan, particularly the programme *Bogotá Humana Con La Fauna* (Bogotá Humane to Fauna) programme, written in conjunction with animal advocacy leaders. In the next section, I will address the Bogotá 2012-2016 Bogotá Development Plan and the governmental activities carried out during this period with regard to bullfighting.

Bogotá Humane to Fauna

The assurance of order is a central feature of urban legality, with the regulation of public health and the use of space being two of its cornerstones (Azuela, 2021). Examples of thinking around urban planning in Colombia can be found in the development plans of its cities, text written by the municipal administration that ought to mirror citizens' concerns and approved by city councils as municipal resolutions (*acuerdos*).

The basic structure of development plans involves the presentation of the desired future, following on from which critical problems are identified and addressed by suggesting solutions in the form of strategies that contain programs, projects, objectives, goals, indicators and the allocation of financial resources. This structure establishes criteria for pertinence, efficiency and effectivity, laying the ground for social, political and fiscal accountability. Once approved, development plans have the force of law and become the official route of action for city governments.

Development plans are frameworks through which local governments claim legality –due to their links to higher legal provisions– and legitimacy, based on their political approval. The municipal level is constitutionally bound by the principles of concurrence, coherence and subsidiarity, but it has relative autonomy to interpret the legal frameworks in order to find ways to respond to citizens' demands.

The backbone of the 2012 Bogotá Development Plan was the improvement of human development in the city from a differential standpoint. The Plan sought to achieve this by focusing on three strategic axes. First, reducing segregation and discrimination while placing humans at the centre of development concerns. Second, facing climate change and organizing itself around water. Third, the defence and strengthening of the public sphere (Alcaldía Mayor de Bogotá, 2012, p. 20). The plan focused on material factors involved in the segregation and discrimination of social groups in the city, with a stronger interest in social programmes than infrastructure, for example. The *Bogotá Humana* (Humane Bogotá) administration created a discursive framework in which governmental practices were usually legitimized by running contrary to the interests of urban elites.

The second axis, in particular, focused heavily on the organization of land in the context of climate change and risk management. This implied protecting the city's main ecological structure and using it as the foundation for a new model of urban growth. The concerns around territory, land and water governance were based on the geographical location of Bogotá, a city built on a network of wetlands, creeks and rivers next to a chain of hills. The city's

ecological structure is the complex of natural protected areas, parks, the Bogotá River basin and the 15 wetland areas that interact with the urban and rural dynamics of the city and its surroundings. The 2012-2016 Development Plan was characterized by the introduction of climate change as part of previous environmental concerns. The objectives and strategies of this axis were to protect and restore the city's bodies of water; to integrate new technologies into its transport system and prioritise mass transit; to promote cultural and individual changes concerning their use; to foster the conservation of natural resources; and to standardise and formalise recycling activities to strengthen integration in the region and its institutions, mainly from a risk management and environmental health management perspective. Within the environmental health programme, the plan intended to "promote a culture of protection of domestic and wild fauna based on the recognition of international advances on animal rights" (Alcaldía Mayor de Bogotá, 2012, p. 187). In this context, the concerns of animal advocates were formally included in the plan as an environmental concern under the wide-ranging umbrella of climate change.

In concrete terms, the commitment to animal protection was integrated into the development plan through the Bogotá Humane to Fauna project, which reiterated some of the essential commitments of the Animal Advocacy Vote Agenda framed as the materialization of animal well-being and public health. The programme was co-written by animal advocacy leaders in collaboration with the new local government (interviews with Camila and Alvaro).

The project was comprehensive in its approach to animal welfare. In general, it envisaged the development and implementation of a public policy to adapt shelters for the management and protection of canines, felines and larger species, "optimizing public health processes and promoting education and communication strategies that integrate actions and strategies that make it possible to dignify animal life" (Alcaldía Mayor de Bogotá, 2012, p. 207). One of the goals of the project was to "eliminate all the forms of animal exhibition in circus shows, turning this activity into one of professional human talent and enforcing compliance with the conditions defined in Ruling C-666/10 for the shows contained in Article 7 of Law 84 of 1989" (Alcaldía Mayor de Bogotá, 2012, p. 208). [38] I will not evaluate the efficacy of the development plan or to

[38] It also included: i) vaccination, adoption, identification and mass sterilization programs for canines and felines as a strategy to control overpopulation; ii) the eradication of the animal trade in street markets; iii) the regulation of the animal trade in formal commercial premises; iv) the generation of entrepreneurial alternatives for animal traders; v) the optimization of facilities, resources, equipment, and rehabilitation and reintroduction processes for wildlife animals; vi) the development of special programmes for the protection and conservation of endemic fauna; vii) the humane control of pigeon overpopulation; viii) the setting up of an anti- cruelty and animal rescue brigade; ix) the adoption of measures and strategies for the

what extent the government at that time fulfilled its promises. However, the fact that the development plan incorporated animal welfare concerns is relevant, an achievement of the advocacy strategy of social movements.

In 2012, the newly-elected mayor of Bogotá held several meetings with the Taurine Corporation of Bogotá, with the goal of complying with Ruling C-666/10 and fulfilling the commitment to the animal advocacy movement by providing a local solution to the deficit in animal protection in the context of bullfighting. The municipality asked the Taurine Corporation to avoid the last stage of the bullfights (the third *suerte* in which the bull is killed), and made a request for sharp implements not to be used in bullfights as a condition for the continuation of the leasing contract for the bullring[39]. The municipality upheld its suggestion in Ruling C-666/10 by the Constitutional Court. In its interpretation, municipalities were entitled to protect animal welfare and avoid any public support for such spectacles. The formal communication with the Taurine Corporation of Bogotá was framed within this 2010 Constitutional decision.

> The intention is to frame bullfighting as an authorised activity, within the indications contained in Constitutional Court Ruling C 666 of 2010. [The decision] states that the activity can be carried out 'provided that particularly cruel behaviour towards bulls is eliminated or mitigated in the future, in a process of adaptation between cultural expressions and duties to protect fauna. (Administrative resolution 196 of May 22, 2012)

The municipality argued its purpose was to avoid any possible promotion of an activity restricted by constitutional authority. Given the bullring's status as a public asset, the lack of mitigation of animal pain in bullfights was a form of promotion.

replacement of animal-drawn vehicles, creating alternative employment opportunities and carrying out educational campaigns and inspection and control. (Alcaldía Mayor de Bogotá, 2012, p.208)

[39] Contract 411 of 1991 was a leasing contract that was renewed between 1999 and 2012 with the Taurine Corporation of Bogotá. The absence of a public tender for the contract's renewal was legally challenged by a different bullfight promoter in an administrative tribunal in July 2012, because they believed it was against the principle of fair competence and administrative public morality. The tribunal agreed with the complaint, and ordered the municipality to end its contractual relationship with the Taurine Corporation of Bogotá (Ruling 288 of 2012, Administrative Tribunal of Cundinamarca). At that point, however, the contract had already been terminated based on the municipal interpretation of Ruling C-666/10.

> [the leasing contract] is evidence of a level of participation by the district administration (…) which is materialised in the promotion of this activity, by granting use of an asset under the figure of the mandate an asset whose nature is for public use (…). In itself, implies an investment of public resources and infrastructure to promote this expression by a public entity, exceeding the limits established by the Court. (…) Bullfighting in the Capital District is not being prohibited by the competent authority, but in compliance with a constitutional mandate, a contract is being terminated because its very object contravenes the order to moderate torture and cruel treatment of animals. (Resolution 280 14 of July 2012)

Because of the difference in the Court's interpretation, the Taurine Corporation raised a legal concept in the meetings through the former constitutional judge Manuel Cepeda, who argued that, in his opinion, Ruling C-666/10 did not implied avoiding the killing of the bull, or entailed any other changes to the technicalities of the spectacle. Congress, thus, was the only authority with the power to change the regulation of bullfighting. The Taurine Corporation of Bogotá also contended that Articles 14 to 19 of the Bullfighting Law only required written notification to the municipal authorities and not authorization from them, due to its status as permanent ring. This argument would be analysed and settled in judgment C-899/13.

The municipal proposal was refused, as recalled by the director of the Taurine Corporation of Bogotá during an interview in the Colombian media:

> By asking us not to kill the bulls, the mayor asked us for the impossible. We cannot transform the essence or logistics of bullfighting because they are enshrined in the law. It is like the mayor trying to remove Holy Communion from Mass by arguing that Mass can still be carried out in that way. And since the mass and the bullfighting are a liturgy … desire is one thing, and the way it is expressed in law is something else (…). Law 916 of 2004, which regulates bullfighting spectacles in Colombia, says, "all aspects of the realization of the spectacle will be adapted to traditional uses", and as bloodless bullfights are not a tradition in Colombia, the death of the bull cannot be eliminated from the spectacle. It would mean going against a law that has also been declared constitutional by the Constitutional Court. (Negret, 2012b)

The formal response from the Taurine Corporation of Bogotá to the municipal government was framed legally and published on the media:

> Through this communication, we wish to state that we decline the invitation made by your department to carry out "bullfighting activities in accordance with the instruction of 'no blood in the arena' [...] eliminating the stage of lances, the *banderillas* and the *suerte suprema*". In other words, we reject your

> proposal to carry out bullfighting shows in contravention of Law 916 of 2004, which structures bullfights in their entirety and includes the three thirds; that is, stage of lances, the *banderillas* and the *suerte suprema*. It is important to remind you, for your enlightenment and knowledge, that Rulings C-1192 of 2005, C-115 of 2006, C-242 of 2006, C-367 of 2006 have declared Law 916 of 2004 constitutional, along with the structural elements of bullfighting and its recognition as an artistic expression of human beings. On the other hand, and contrary to the interpretation that the municipal administration has made of Ruling C-666 of 2010, the ruling maintains the exemption for bullfights in the Statute of Animal Protection (Law 84 of 1989), and points out that any modification to the Bullfighting Law or eventual prohibition of bullfights, falls solely and exclusively within the competence of legislature. (Negret, 2012a)

The dialogue between the municipality and the Taurine Corporation of Bogotá was aftermath of the long interlegal pathways that have been studied so far. As the above statement shows, bullfighting went from being a municipal regulation to becoming a national law and, following the interpretation of the Constitutional Court, was entangled within the national level. The main change had been the limitation to its external governance by making any change to the spectacle as contrary to the law, to the Constitution and its guardian, the Constitutional Court. The ultimate message was that changing bullfighting is outside the competencies of the municipal authorities. The response from the Taurine Corporation of Bogotá is indicative of the effects of the interlegal dynamic under study. Promoters, bullfighters and bullfight participants accepted that they could no longer change the activity. According to what was set out by the Taurine Corporation of Bogotá, bullfighting could only change through mechanism of legal change. On the other hand, the organization's response exemplifies how the discourse of legal abidance circumvents other moral, ethical and even artistic reasons that have underpinned bullfighting supporters thus far. The once-permitted argument around how artistic practices could sustain the role of the bull in bullfights, was replaced by mere abidance to a written law.

The failure of the negotiations between the Taurine Corporation of Bogotá and the municipal government precipitated the cancellation of the lease contract for the bullring through an administrative act[40]. Since the Bogotá bullring is a public asset under the management of the municipality (specifically the Bogotá Institute of Recreation and Sport) and, as such, rented

[40] Administrative resolution 280 of June 14, 2012 of the Bogotá Institute of Recreation and Sport –IDRD *(Instituto Distrital de Recreación y Deporte)*, the municipal institution in charge of the administration of the bullfight ring.

to the Taurine Corporation, the municipal government decided to cancel the lease contract unilaterally.

The decision to cancel the bullring's lease was supported politically by the administration's commitment to animal welfare, which was in its plan for government and therefore known by the citizenry when casting their vote for mayor. The presence of the same commitment in the development plan, approved by the City Council as an expression of representative democracy in the city, was further backing for the decision. This is what the general secretary of the city, Eduardo Noriega, argued in a radio interview about the topic:

> It should be borne in mind that this was a proposal made by Mayor Gustavo Petro in his election campaign. Therefore, it was a proposal voted for by all citizens in the capital. Furthermore, it is incorporated in the instrument, in the road map of the administration, and in the legal statute that should guide the actions of the administration, which is the Development Plan (…) The Court's decision (C-666/2010) is quite clear, quite extensive and quite in-depth on the subject. And it is precisely this judgement of the Court that has been taken into account so that, from a legal point of view, the municipal administration supports the decision not to allow the *Santa María* bullring to hold any more bullfights. (Noriega, 2012)

In response, the Taurine Corporation of Bogotá filed a *tutela* against the Bogotá Mayor's Office of Bogotá and the Bogotá Institute of Recreation and Sport (IDRD by its Spanish acronym) that same year. The outcome of this impasse would not become clear until 2013, through the actions of the Constitutional Court (T-296/13).

Bullfights, municipalities and functions of police

Ruling C-889/12 focused on discussing the autonomy of the territorial entities. The plaintiff filed a legal claim against the limitations of the municipal authorities expressed in Articles 14 and 15 of the Bullfighting Law. As we have already seen, bullfight promoters only needed to inform municipal authorities of the preparation and organization of a bullfight in places with a permanent bullfight ring[41].

[41] "Article 14: requirements for holding bullfighting events. The holding of bullfighting shows shall require prior notification (*comunicación* in original) to the competent administrative body or, where appropriate, prior authorisation from the same body under the terms set out in these regulations. For bullfighting events to be held in permanent bullrings, in any case, written

The plaintiff contended that the national law limited local autonomy, especially in the context of Ruling C-666/10, according to which municipal authorities were given the opportunity to deny permission for such spectacles if measures to mitigate unnecessary pain and suffering were not taken. Ruling C-666/10 altered the legal landscape regarding bullfighting by settling a fundamental uncertainty around the declaration of social rooting and the role of municipal authorities in the jurisdictional order. This how a citizen participant in the process described the situation at the time:

> [...] there is no certainty in the country as to whether the authorities of the territorial entities can authorise the practice in its entirety, as it is currently being carried out. Among other reasons, because the regulation of the practice has legal force and these provisions have been declared constitutional. Or if, on the contrary, the Court imposed an obligation on the authorities of territorial entities to allow the practice as long as the conditions are strictly respected (…). Because if the Court orders the administrative authorities to exercise supervisory and oversight functions and they are not able to deny authorisation (...) then the order lacks meaning and practical utility. (Citizen, C-889/12, p.16)

The Bogotá authorities, when invited to present their opinion on the matter, maintained that the territorial entities had the autonomy to govern their assets –such as the bullring– and define the use made of such spaces.

> It is important to point out that legislators have no competence or discretionary power when regulating the parameters and conditions for the loan of properties (*inmuebles*) from a given territorial entity, as in fact happens when defining the Municipality as a mere processor of documents with no the possibility of determining how a given facility is specifically used. (Legal Director of the Capital District, C-889, 2012, P.10)

The Colombian Federation of Municipalities developed a similar argument[42]. For them, the main legal problem at hand was autonomy in the use of municipal properties, as the Bullfighting Law does not make a distinction between private or public bullrings. For them, the Bullfighting Law disproportionately infringed on the territorial entities' degree of autonomy:

notification alone will be sufficient. For events non-permanent bullrings, prior authorisation from the competent administrative body will be necessary" (Law 916/04).

[42] The Colombian Federation of Municipalities (*Federación Colombiana de Municpios*) is a private, non-profit, trade union institution that represents municipalities, districts and their associations in the formulation, agreement and evaluation of public policies.

> There are the local authorities that are called on to analyse the different circumstances that arise in each specific case, in order to determine whether to authorise the holding of a spectacle. The legislature cannot relegate them to being mere inert receivers of the communications sent to them by private individuals and through which spectacles are imposed on them, whether they involve bullfighting or of any other kind of spectacle. (Colombian Federation of Municipalities, C-889/10, p.12)

The Taurine Corporation of Bogotá and the Municipality of Cali argued to the contrary: for them, the autonomy of the territorial entities is respected because it is limited to ensuring the safety of the spectacles, a matter that is subject to scrutiny when municipal authorities are informed about a bullfight. The logic behind this reasoning is the understanding of safety as the physical and legal conditions considered necessary by the law in accordance with the risks involved when carrying out any spectacle. For them, municipalities are only entitled to refuse permission for the spectacle in those territories where there are no permanent bullfighting rings.

> […] the provisions challenged in this case contain a normative design by virtue of which, in those cases where there are permanent bullrings, the organisers are only required to 'communicate' the holding of a bullfight to the municipal and/or district authorities in advance. In those cases where there are no permanent bullrings, it is up to the competent authorities to make use of the power to grant or deny for the spectacle. (Taurine Corporation of Bogotá, C-889/12, p.13)

For bullfighting supporters, the presence of a permanent bullfighting ring was proof of social rooting and, therefore, there was no legal way to prevent bullfights.

> Given the fact that a bullring is permanent and that its construction and use for bullfighting for a prolonged number of years allows for the inference that bullfights are a tradition in that place. When the opposite is true it becomes difficult to determine whether a deep-rooted bullfighting tradition has existed there, a presupposition of Ruling C-666 of 2010. For this reason, the law has established that the competent administrative authority is responsible for granting the permit by taking into account the traditions of the municipality and the principle of impartiality that binds public authorities. (Bullfighting fan, C-889/12 p.15)

The Office of the Inspector General of the Nation also suggested a similar argument: “the mere existence of a bullring reveals that there is a tradition, which is frequently manifested, of holding bullfighting spectacles" (C-889/12,

p.17). In the institution's opinion, the presence of permanent bullfighting rings is an objective parameter of the tradition, as the physical structures themselves require a certain use. The Office of the Inspector General of the Nation also recalled the national character of the traditions, despite their local manifestation: "this activity is carried out in different parts of the country and in some it is particularly deep-rooted, with link to the Hispanic tradition. It is not cultural heritage of a specific municipality, but a common or shared cultural heritage" (C-889/12, p.17). These interpretations attempted to reconcile the C-666/10 with the Bullfighting Law.

The Court developed the analysis by following different argumentative lines, one of which situated cultural practices at the centre of the discussion, continuing the path developed since 2005. "Congress, exercising a competence that this Court has considered valid from a constitutional perspective, even in the specific case of bullfighting, has decided to recognise this practice as a cultural expression" (C-889/12, p.51, italics mine). In this manner, the Constitutional Court referred directly to bullfighting as cultural expression and not artistic expression, an outcome of the previous ruling C-1192/05 but not a feature of the enactment of the Bullfighting Law in itself. In the Ruling C-889/12, the Court reinterpreted the arguments of Ruling C-1192/05 as an example when referred to the Bullfighting Law as the discovery of a cultural expression by the legislature –again, not an artistic expression. According to the Court in 2012, Ruling C-1192/05, "declared constitutional, among other normative contents, the rule that recognises bullfighting as part of the cultural heritage of the nation" (C-889/12 p.27), despite such a statement having been produced as an opinion of the Court and not being contained in the Bullfighting Law. The Court therefore maintained the focus of bullfights as a cultural practice without going back to the discussion of bullfighting as art, and thus assuming the legal object created in its own legal space as the basis for its argumentation. This approach situates bulls, as sentient beings, at the periphery of the legal plane.

A second argumentative line was developed by highlighting bullfighting as a spectacle, a legal category that emphasized the role of municipalities as the guarantors of order. This duty is expressed paradigmatically in the functions of the police: "the activities carried out by the authorities of the territorial entities, in particular mayors, concerning authorisation for the holding of public spectacles (which is the subject matter of this judgment), are an expression of the exercise of administrative police functions" (C-889/12 p.32). In Colombia, the constitutional provisions distinguish between police power, police functions and police activity, all of which are different but related categories in the maintenance of public order by local entities.

> [Police Power] is eminently regulatory and refers to those provisions aimed at establishing limits and conditions for the exercise of civic activities, for the sake of protecting public order and social coexistence. This power is exclusive to the Congress of the Republic insofar as it deals with the justified limitation of constitutional rights. (C-889/12, p.32)

Police functions are "the activities carried out by the mayors, under the terms of the Constitution, in the maintenance of public order in their jurisdiction, for which they are the first police authority" (C-889/12, p.34). Police activity, on the contrary, is the "area of execution of the measures adopted by mayors in the exercise of police functions, the enforcement of which falls to the Colombian Police (…) and is aimed at maintaining the conditions necessary for social coexistence" (C-889/10, p.36).

The Court defined public order as a complex notion: "This concept, contrary to its common understanding, refers not only to the maintenance of security but also incorporates all those factual variables necessary for the full exercise of rights" (C-889/12, p.34). The idea of public order in Colombia is indeed, in social life, firmly attached to the notion of security. Politicians have used the word order systematically in the context of the armed conflict, and well-known State policies have moulded the idea that security is a precondition for the other values and the exercise of rights. As noted by García Villegas (2017), order has been largely a concern of right-wing and traditional parties, and it has been neglected by the socially progressive movements that have focused, in contrast, on emancipation. The Court placed a human rights approach to the heart of the discussion of public order.

> Public order (...) must be understood as the set of conditions of security, tranquillity and health that allow general prosperity and the enjoyment of human rights. In a constitutional democracy, this framework constitutes the basis and the limit of the police power, which is called upon to maintain public order, always oriented towards the full enjoyment of rights. (C-825/04 in C-889/12, p34)

Mayors, as holders of police functions, can amend particular details to make rules compatible with the conditions of the territorial entities. The space between making a rule compatible and its national subordination within the function of the police is narrow and inevitable:

> This is a consequence of the impossibility of the legislative power foreseeing all the factual circumstances. The police laws then leave a margin of action for their materialisation by the administrative authorities, since the form and opportunity to apply the limit of a right to particular cases correspond to rules

> or acts of an administrative nature that are issued within the legal framework by the competent administrative authorities. (C-825/04 in C-889/12, p.35)

When it brought the power, functions and activities of the police into the bullfighting discussion around the autonomy of territorial entities, the Court referred to one of the most important changes and purposes of the 1991 Constitution: the limitation of the executive power and the ample guarantee of rights. One of the main motives for changing the Constitution was to restrict the powers of presidents in particular, who enacted many of the legal provisions by executive decree. In contrast, however, and given the lack of formal animal rights and a constitutional framing of culture as a main protection duty, the discussion over the duty of animal welfare was relegated to a secondary plane. It brought on the contrary the idea that some –not defined by the Court– fundamental rights may be linked to the bullfighting performance. The function of the police was the main argument that led to the conclusion of the legal claim.

> The legislature have the power to define the conditions for the holding of public spectacles, including bullfighting, without being constitutionally obliged to grant discretionary margins of evaluation to mayors. This would mean nothing other than transferring the exercise of police power to mayors, which would contradict the Political Constitution. Therefore, the provision of particular requirements to be assessed by the local authorities can in no way be considered as disregarding the degree of autonomy that the Constitution confers on them, and even less as understanding the local authority as a "mere handler" of requirements. (C-889/12, p.50)

The Court concluded that local autonomy is expressed fully in the functions of the police. In the case of bullfighting, it entailed providing the conditions necessary for holding bullfights in accordance with national laws. For the government of Bogotá, this meant ensuring the condition of a permanent bullfight ring, under the terms of the Bullfighting Law. As already explained in previous chapters, the latter includes a detailed description of the facilities, contractual agreements, arrangement of spaces, safety conditions, and public order measures required to avoid public order disturbances in permanent bullfighting rings. The comprehensive reading of the Bullfighting Law, in the Court's interpretation, endorsing both notions (notification and authorization) as administrative police functions, allows the prohibition of bullfighting only if the requirements contained in the Bullfighting Law are not met: "Although legislators distinguish between authorisation and notification, in both cases

there are conditions that can be demanded by the territorial authority for the holding of the bullfighting spectacle" (C-889/12, p.52).

Finally, in this decision the Court reinterpreted the argument made in Ruling C-666/10, considering the role of the municipalities implied in C-666/10 to be limited by the police functions:

> It [Ruling C-666/10] cannot be understood as the granting of all-encompassing powers to the municipal administrative authorities, so that they can decide for themselves and before themselves the prohibition of the bullfighting activity. This is due to at least two types of reasons: (i) the constitutional nature of the exercise of the police function; and (ii) the existence of a legal provision, declared compatible with the Constitution, under certain conditions, which recognises and permits bullfighting in certain areas of the country. (C-889/12, p.57)

Municipalities can limit bullfighting only when there is objective proof that it is not socially rooted in a place, a legal practice that depends on where, when and for how long it has taken place "in a particular and specific location, where this rootedness is proven" (C-889/12, p.61).

> As can be seen from decisions C-1192/05 and C-666/10, it can be deduced that the constitutional jurisprudence notes that there is a legislative provision for the recognition of bullfighting as a traditional expression that forms part of the cultural heritage of the Nation. However, insofar as this practice involves animal mistreatment, it contradicts the superior mandate of environmental protection through the guarantee of animal welfare. Therefore, it is necessary to impose restrictions, also of a constitutional nature, on such activities. These limitations respond to two different levels: (i) the requirement of a qualified nature for cultural practices, in terms of rootedness, location, opportunity and exceptionality, excluding state recognition of other expressions that do not meet these criteria; and (ii) the state's duty to take action to discourage cultural practices that incorporate mistreatment or cruel treatment of animals. (C-889/10, p.45).

The ruling C-889/12 omitted the obligation to mitigate pain and suffering as condition of the constitutionality of the exception in the National Statute of Animal Protection. Ruling C-889/12 was not joyfully received by animal advocacy organizations, and as will be shown in the next section it was a fundamental precedent for the parallel legal dispute between the mayor's office and the Taurine Corporation. The decision, however, also reaffirmed the legal interpretation of bullfighting as animal abuse, and as such, in contradiction to the duty to protect the environment. Municipal authorities, though, do not have

wide-ranging powers to perform such duties. The Court compared bullfights with other allowed but not state-promoted social practices, leaving open the dilemma of accepting, as part of the plural identity of the nation, a practice that at the same time should be restricted by the state.

> Under these conditions, the local authorities lack normative support that would lead them to conclude that bullfighting activity is prohibited in general. On the contrary, it is a spectacle endorsed by legal norms, but which has been subjected to strict and specific restrictions by the Court, in order to make it compatible with the constitutional prescriptions related to the protection of the environment. In this sense, it shares unity of meaning with another series of activities which, although not constitutionally or legally prohibited, are validly subject to limitations, even intense ones, because there is an interest in discouraging them, as is the case with the consumption of tobacco or alcoholic beverages, for example. (C-889/12, p.51)

The comparison is not a futile one, as municipalities have been granted ample autonomy, even –or one might say precisely– because of their policing functions when it comes to restricting the consumption of alcohol, tobacco and psychoactive substances. In this sense, the Court reaffirmed that bullfighting should not be promoted and was subject to State discouragement, despite the means of promotion not being stated explicitly.

> Consequently, the balance established by constitutional jurisprudence favours the aforementioned mandate and, therefore, obliges bullfighting activity (i) to be carried out only in the precise terms set out in Ruling C-666/10; and (ii) to be subject to the State's discouragement, being, therefore, an activity that cannot be promoted by the public authorities. (C-889/12, p.58)

As has been done on several occasions, the Court also sent a wink to the legislative authorities as the most important absent actor in the social debate generated by bullfighting. The contradiction of including a practice now recognized as animal cruelty as part of the national heritage thus became evident:

> The Court reaffirms that the practice of bullfighting, not only in our legal system but also in the comparative law of the countries where this activity is practised, is not exempt from the debate and is validly questionable from various points of view, especially those legitimately interested in the defence of animals in the face of the cruelty and mistreatment to which fighting bulls are effectively subjected. It is for this reason that, as has happened in various latitudes, the organs of political representation have opted for a general

> prohibition of this activity; an option that is also fully compatible with the Colombian Constitution, as expressed in Ruling C-666/10. (C-889/12, p.59)

As usual, the Court did not reach a unanimous decision. In this case, three judges, Maria Victoria Calle Correa, Jorge Ivan Palacio Palacio, and Nilson Pinilla (the judge appointed to C-666/10) explained why they partially dissented with the Court's decision. Their main disagreements with the majoritarian decision were (i) "its non-consideration of the environmental aspect of the legal problem, through the principle of subsidiary rigour; and (ii) its conception of bullfighting as a fundamental right" (Judges Correa, Palacio & Pinilla, C-889/12, p.73).

The dissenting judges believed that, in the previous ruling C-1192/05, the Court made an "apology for bullfighting" (Judges Correa, Palacio & Pinilla, C-889/12, p.74)[43]. Furthermore, they argued, "in various dissenting and reasoned opinions, different judges have already provided evidence for rejecting bullfighting as a manifestation of art or culture" (Judges Correa, Palacio & Pinilla, C-889/12, p.85). For the dissenting judges (which included the appointed judge of the C-666/10) the, interpretation made of C-666/10 in the later ruling C-889/10, on the subject of municipal autonomy, was contrary to its original argumentation. Furthermore, in their view, the practice of bullfighting, due to the way it severely harms the constitutional mandate to protect animals, "although permitted under certain conditions, does not at present constitute the exercise of a fundamental right" (Judges Correa, Palacio & Pinilla, C-889/12, p.85). In this regard, in the considerations of the opposing judges, the analysis based on the power of the police –implying a limitation of rights– had no solid legal foundation. Ruling C-889/12 did not take into account the core arguments of the previous ruling C-666/10:

> (i) the recognition of the mandates for the protection of fauna and the prohibition of mistreatment that occurred in Ruling C-666 of 2010; (ii) the abandonment of the apologetic discourse around bullfighting and its replacement by factual discourse related to the animal suffering that occurs during bullfights; (iii) the set of conditions that led bullfighting from being a permitted activity to one that is constitutionally suspect, limited and restricted,

[43] The dissenting opinion went even further, as it considered that Ruling 1192/05 "fell into a fallacy known as the slippery slope, because from a legitimate conclusion of its argument (that animals are not rights holders), it derived another conclusion that goes beyond what was could reasonably be inferred (it affirmed that there is no constitutional-level prohibition of animal abuse)" (Correa, Palacio & Pinilla C-889/12, p.99).

> and even susceptible to being prohibited definitively. (Judges Correa, Palacio & Pinilla, C-889/12, p.78)

In relation to local autonomy, the dissenting judges called attention to how Colombian jurisprudence granted territorial entities the power to make stricter interpretations of the superior legal order when addressing its duty to protect the environment, particularly the principle of subsidiary rigour[44]. Such an argument had already been provided in the dissenting opinion of Ruling C-666/10, as shown in the previous chapter of this research. For the dissenting judges, this concession to the local level was grounded in the democratic and participatory character of the municipalities. "By providing for a inversion of the hierarchy of norms whenever the expansion of environmental protection is involved, it materialises the participatory sphere of democracy and the recognition of municipalities as hubs of political organisation" (Judges Correa, Palacio & Pinilla, C-889/12, p.82). Despite agreeing with the risks involved in the limitation of fundamental rights by territorial entities, the dissenting judges believed that such a situation is not what the case at hand implies. For the dissenting judges, Ruling C-889/12 is not a complete reflection of the Court's position regarding bullfighting.

> It is unfortunate for the Court, after explicitly defending the power of the mayors to prohibit bullfights in Ruling C-666 of 2010 and establishing the principles of the localisation, progressive restriction and prospective constitutionality of prohibition, to find that the definitive prohibition of bullfights by the authorities of territorial entities constitutes an unconstitutional exercise of police power. (Judges Correa, Palacio & Pinilla, C-889/12, p.111)

Furthermore, the judges considered, as had been suggested by previous alternative interpretations concerning the understanding of cultural minorities, that it was not reasonable to equate ethnic groups with groups of fans. The judges however implicitly accepted bullfighting as cultural manifestation (not artistic expression):

> One aspect to which the Court returns insistently when speaking of bullfighting is the assimilation of this activity into the traditions that make up the diverse cultures in the country. On this point too, the Court is imprecise in its reasoning. Even if legislative power recognises bullfighting as a cultural manifestation, this does not imply that bullfighting fans enjoy the status of culturally diverse

[44] The dissenting judges specifically discussed the development of the principle of subsidiary rigour (*principio de rigor subsidiario*) in constitutional jurisprudence, Rulings C-535/96 and C-554/07).

> based on this association. And this difference is important because the Court has recognised the existence of a vigorous network of constitutional guarantees in favour of ethnically diverse groups, which explains why, in making this erroneous conflation (between bullfighting enthusiasts and people who claim an ethnic or cultural difference), the Court gives it excessive "weight" [to the latter]. (Judges Correa, Palacio & Pinilla, C-889/12, p.108)

Finally, the dissenting judges, briefly but in no uncertain terms, addressed mayors and their entitlement to make decisions regarding leasing conditions under general public procurement laws, as well as the need for certification when granting administrative authorization for bullfighting:

> It should be noted that the Full Chamber considered it relevant to specify that mayors who are currently orienting their policies towards the limitation or eradication of bullfights should take it into account that the documents required for holding the event include a lease contract, and that they have broad powers to decide on the handling of public properties for lease (…) This means that the Plenary Chamber, on the one hand, considers it excessive for the law to grant mayors the power to prohibit bullfights in a general and absolute manner; but, on the other hand, it suggests solutions for those mayors who are implementing measures to eliminate bullfighting. (Judges Correa, Palacio & Pinilla, C-889/12, p.89)

As we will see in the next section, this wink to the municipal authorities bore no fruit, at least in the case of Bogotá.

Bullring, social rooting and governance of public buildings

While the Court was deciding on the autonomy of territorial entities to limit bullfighting (finally settled in the already described Ruling C-899/12), the Taurine Corporation of Bogotá claimed, through a *tutela*, that its fundamental rights to due process and freedom of expression had been violated by the unilateral cancellation of the lease contract. The decision to turn to the constitutional sphere instead of other courts was an important consideration. *Tutelas* are the last resort when no other legal mechanism is available to protect a fundamental right, and they usually do not apply to contractual disagreements, which should be resolved through administrative tribunals where the standard procedure is to temporarily revoke the administrative act

until a legal decision is delivered[45]. The Taurine Corporation chose the constitutional order because it did not deem the provisional suspension of the administrative act appropriate for its case. It also reached this decision because the average duration of proceedings in the contentious-administrative jurisdiction is approximately 10 years, which in the Taurine Corporation's opinion made such a judicial channel inappropriate for safeguarding the fundamental rights invoked (Taurine Corporation of Bogotá, T-296/13, p.14).

The Taurine Corporation referred to the right to culture and, particularly, Article 71 of the Constitution when stating that "the pursuit of knowledge and artistic expression are free", and thus referring to artistic expression as a right to freedom of expression. The Court found itself competent because the claim involved a controversy of a constitutional and not contractual order.

The Court did so by considering that the Taurine Corporation was a juridical person susceptible to rights such as due process and freedom of expression. Given the social object of the Corporation (the promotion, organization and management of bullfights) the Court viewed the request for the protection of its right to free artistic expression to be legitimate, because the effective expression of the art takes place through the organization, promotion and communication of the spectacle[46]. The decision of the Court revealed, in this way, a new possibility of governance given the national status held by bullfights since 2005, one not enjoyed by animals because they are not considered juridical persons in the Colombian system.

The Court determined its legal argument in terms of the impact of the municipal administrative decisions on the right to administrative due process and artistic expression (T-296/13, p.20). To that end, it decided to examine i) whether the due process is affected by a possible lack of competence of the municipal authorities to make decisions that alter the spectacle, and ii) whether the possible restriction of the diffusion of a regulated activity that is defined by law as art ignores the right to freedom of artistic expression (T-296/13, p.21).

[45] As the first instance, two municipal courts in Bogotá found that a *tutela* was not the appropriate act because, when an administrative act endangers a fundamental right, the normal procedure is to annul the administrative act as a protective measure until the case is settled, allowing the plaintiff to argue for the reasons why they found the act to have a pervasive effect (without, therefore, the burden of proof) (T-296/13, p.9). These decisions were contested by the Taurine Corporation and, thus, reached the last instance, the Constitutional Court.

[46] As references, the Court used cases involving the limitation of the freedom of expression in cases of libel and slander (C-442/11) and the freedom of expression in mass media (T-391/07).

The municipal government –through the Bogotá Institute of Recreation and Sport (IDRD)–explicitly disregarded the measure as a prohibition when responding to the claim:

> The municipality cannot, would not and will not be able to prohibit the holding of bullfighting shows in Bogotá. What it did, under the guidelines of a mandate contract, was to issue the instructions and provide them with the corresponding effects, in accordance with the applicable legislation, and also as the administrator of the aforementioned public venue. (IDRD, T-296/13, p12)

The IDRD considered its actions to be in line with Constitutional Court guidance, as the bullring entails the allocation and use of public funds in order to ensure the safety of the spectacle (such as the provision of police officers at the request of the promoters) and the maintain the premises. The IDRD informed the Court, in this regard, that the bullring required structural reinforcements to be able to guarantee the safety of the audience, an investment that should come from the public purse[47]. The IDRD, indeed, expressed the view that –based on such a consideration– the municipal authorities were entitled to request changes to the activities hosted in the bullring according to constitutional provisions, specifically Ruling C-666/10.

The mayor himself was part of the process, and his own intervention reaffirmed the legality of the Court's decision by recalling the deficit in protection established in Ruling C-666/10 and the duty of municipalities in the efforts to respond to them.

> The Court ordered the expansion of protections against cruelty and torture to animals, which –when used in cultural and recreational activities– had been totally and disproportionately excluded from such protection granting complete immunity from the contraventions established by Law 84 of 1989 (National Statute for the Protection of Animals) (…) The Court thus interpreted that there was a legal reserve for the adoption of absolute prohibitions in practice, which proves that the activity [bullfighting] has no constitutional guarantee, it is not located in a '*coto vedado de derechos*' [ius cogens]. But we must be forceful in stating that mitigation has already been ordered, that the mechanism of immediate protection is what seeks to address the serious deficit in the protection of animal sentience, which is already enforceable and does not

[47] The need for structural reinforcements was considered false by the Taurine Corporation of Bogota, which interpreted the information as a ploy to delay the return of bullfights to the city. The Court found the requirement for reinforcements to be true.

> depend on future legislation. To do otherwise would be to deny the seriousness and forcefulness of the Court's rulings. (Gustavo Petro, T-296/13, p.15)

The Court's decision was a systematic review of the previous constitutional decisions on the matter. The Court began by stating how "the bullfighting spectacle is defined and regulated by the legislators" (T-296/13, p.23), underlining its national character and, therefore, how it applies to the entire Colombian territory in the context of a unitary state. It also offered a reminder of how the practice is carried out in bullrings, with the first-class rings being acknowledged as such due to their longstanding tradition (like Bogotá's Santa *María* bullring). The Court emphasised how the structure of bullfights is legally defined as described in the Bullfighting Law: the succession of stages *tercios* that conduce to the death of the bull, a sequence that defines the unity and integrity of the spectacle. "According to the law, the 'stage of death' is an integral part of bullfighting, determined as the culminating and most significant phase of the bullfighting spectacle and artistic expression" (T-296/13, p.25). The Court also stated that "the bullring, whether permanent or non-permanent, is the only stage for the artistic spectacle of bullfighting, as determined by law" (T-296/13, p.26).

It also acknowledged its exemption in the National Statute of Animal Protection, and how said exception was considered constitutional in Ruling C-666/10, and thus confirmed the constitutional validity of the bullfighting modalities regulated in the law. The Court recalled how Ruling C-666/10 found limitations to the duty of protecting animals due to artistic and cultural manifestations (T-296/13, p.30). According to Ruling T-296/13, C-666/10 "also concluded that there *could be* deficient protection for the animals involved in the exempted activities" (T-296/13, p.30, emphasis mine). For such purposes, the Court defined criteria to limit such deficit under the condition of social rooting. Ruling T-296/13 did not develop the restrictive character of Ruling C-666/10 or address the limitations on the duty of protecting culture.

Ruling T-296/13, however, referred explicitly to who is the competent authority to deal with the future changes to the regulation of bullfighting. The municipality understood the future change as an immediate mandate to the municipal level after the public communication of the Court decision in 2010. The Court, on the contrary, relied on Ruling C-899/13 and its distinction between the power and functions of police to reach a contrasting interpretation. Ruling T-296/13 found that C-666/10 implied the constitutional principle of legal reserve. Any act of mitigation was tied to a future change in regulation that, under the condition of necessity, had to be carried out by the legislative power.

The Court also addressed the dissonance regarding the investment of public resources in the construction of buildings where bullfighting is carried out. For the Court, it was clear that the social fact of tradition was the principle upon which municipalities should base themselves. Municipal authorities should not invest in new bullfighting facilities, as this would imply promoting the tradition in places where it is not rooted. They can, however, invest in buildings with mixed uses only if the tradition has historically been carried out regularly and uninterruptedly Municipalities can also spend money on repayments and maintenance in the interests of the safety of participants, animals and the audience (T-296/13, p.33).

The Court's reasoning was supported by the previous analysis of the role of municipalities as function of police and not as power of policing. Their functions, therefore, are only embedded in its role of maintaining public order, understood as guaranteeing the conditions of safety, tranquillity and morality in bullfights, which are still related to the maintenance of its internal order. The Court found that a violation of due process had occurred:

> It is not possible for an administrative authority to alter the bullfighting spectacle to eliminate the third *tercio* (the stage of death) of the bullfight by means of an administrative act, given: (i) the legal definition of the bullfight with three thirds, including the third of death (L.916/04); and (ii) the constitutional validation regarding the practice of the bullfighting activity in conditions of time, manner and place that derive from the social rootedness of bullfighting -Ruling C-666/10-, not including administrative proscriptions of its legal structure as a cultural expression (…). The administrative authorities of the locality where bullfighting is practised, or the departmental or national authorities, are not empowered to establish additional requirements relating to the practice of this constitutionally admitted and legally regulated activity, in the absence of prior legislative provision to that effect, nor do they enjoy autonomous constitutional powers to validly provide for its alteration. (T-296/13, p.76)

The administrative act's lack of legal foundation represented a limitation on the promotion of bullfighting understood as artistic expression, and the Court therefore also ruled that there had been a violation of freedom of expression, interpreted as a limitation on the activities of disseminating the practice. The juridical decision ordered the restoration of the *Santa María* bullring as, "a permanent bullring for the performance of bullfighting shows and the preservation of bullfighting culture, without prejudice to other cultural or recreational uses as long as these do not alter its main, traditional, and legally recognised use as a first-class bullfighting venue" (T-296/13, p.94). This

involved “the adoption of contractual or other administrative mechanisms that guarantee the continuation of the artistic expression of bullfighting and its diffusion” (T-296/13, p.94) so that bullfighting could be re-established on the usual dates and occasions. It also ordered the refurbishment the bullring “for the holding of bullfighting shows in the usual conditions of their practice, as an expression of cultural diversity and social pluralism, ensuring the health, safety and peace of mind of the people who use these setting to perform or enjoy artistic expressions” (T-296/13, p.94).

The municipality asked for the Court’s decision to be annulled, asserting the disregard of precedent (especially in C-666/10) and the inconsistency of the judgment. They also argued, as judges did in previous dissenting opinions, that bullfighting fans are not minorities in the sense envisaged by the Constitution (as a category helpful to address the unequal relationships between the various social groups that make up the Colombian nation). The municipal authorities believed, furthermore, that the notion of social rooting should primarily be understood as an expression of the majority population of a territory. Finally, they expressed that, as with the other controversies surrounding the bullfighting issue, the Plenary Chamber, and not a *tutela* review chamber, should be the space to issue an opinion. (A-025/15). The following is an excerpt from the municipality’s request:

> In short: Ruling 666/10 had already been interpreted in a new way in C-889/12, although the latter stated that respected what had been agreed in the C-666/10. And let's be frank: the "anti-bullfighting" forces continue to view Ruling 666/10 as the normative anchor of their social aspirations. The "pro-bullfighting" forces, in turn, claim that their legal position was restored in Ruling C-889/12, which was now a correct interpretation of C-666/10. To add even more confusion, Ruling T-296/13 has adopted an even more radical interpretation of C-889/12 with even broader normative implications, by making a new and unexpected restrictive interpretation of the political-administrative principle of local decentralisation by emptying the 1991 Constitution of its environmental and animal protection content; by severely curtailing local powers in the field of environmental and animal protection imposing practices on local communities that do not accept them, paradoxically through the concept of local roots; and by introducing unnecessary dogmatic confusion into the constitutionally relevant category of "minority". All these rulings (666/10, 889/12, 296/13) shape a rather unstable and confusing legal framework. All these rulings are interpreted in different ways by social actors, with some claiming that they vindicate their positions and others, of course, that they vindicate their own. The same Court today has two completely different versions of the meaning of its jurisprudence. What better occasion than this for the Full Chamber to take up the matter and generate some clarity in a social

> conflict that shows no signs of ending in the immediate future? (Bogotá's Mayor Office, A-025/15, Paragraph 1.5)

The Full Chamber of the Constitutional Court confirmed Ruling T-296/13 based on the declaration of bullfighting as art and culture, and thus a source of identity of a plural nation following the line established by Ruling C-1192/05.

Four out of nine judges (Luis Ernesto Vargas Silva, Maria Victoria Calle Correa, Gabriel Eduardo Mendoza Martelo, Jorge Iván Palacio Palacio) dissented with the majoritarian opinion and decided to document their reasons. The judges reiterated the unsuitability of the interpretation of Ruling C-666/10 developed in C-889/12, because it ignored the restrictive character of bullfights. The ruling based on their opinion should have been interpreted as a source for mechanisms at the local level to compensate –immediately– for the normative deficit in animal protection. There is, consequently, no legal reserve. For them the original ruling was therefore changed:

> In resolving the nullity of that judgment (T-296/13), the Full Chamber decided to reinterpret Ruling C-666 of 2010, based on the spaces of indeterminacy in its orders. Through these open or indeterminate spaces, it concluded (in Ruling T-296 of 2013) that only Congress can adopt measures to mitigate the pain of the animals in these events or to modify any aspect of the bullfights given that, in the opinion of the Chamber, their structure was legally defined. It seems that (…) what the majority likes most about Ruling C-666 of 2010 are its "gaps". Because of these spaces of indeterminacy, the entire motivation of that judgment, which was transcendental for the protection of animal rights, disappeared. (Judge Maria Victoria Calle, A-025/15, p.88)

After the Court's decision in 2013, the city administration carried out two actions. The first was to prepare the public tender for the structural reinforcement of the bullring, a lengthy process that was only completed in 2017. The second –and encouraged by some anti-bullfighting organizations– was to begin the preparations in 2015 for a call for public consultation to determine the acceptance of bullfighting in the city. The idea was to get empirical sources to argue that bullfighting lacked social rooting in the capital.

Discussion

The constitutional ruling C-666/10 was the foundation of the revitalized participation of municipalities in the bullfighting controversy. The social and municipal authorities' search for the materialization of the constitutional

decisions brought about the declaration of the conditional constitutionality of bullfighting as an exception to animal abuse, the assertion of normative deficit in animal protection, the restrictive interpretation of bullfights, and social rooting as criteria for bullfights to be carried out constitutionally, fostered. In particular, the Bogotá municipal authorities, in conjunction with social organizations advocating for animal welfare, developed and implemented a series of measures at the municipal level linked to the reasoning used in Ruling C-666/10.

Most of the Constitutional Court rulings before 2010 were in response to the entanglement of bullfighting in the Colombian legal system and the designation of bullfights as an artistic expression of human beings. As a result, bullfighting was categorised as culture and a source of the identity of a plural nation amid a jurisdictional order in which municipalities had a marginal role. Ruling C-666/10 proposed an alternative scalar and jurisdictional order based on the understanding of the bulls as abused animals and bullfights as practices of animal cruelty.

It also put forward a new social and legal frame of interpretation by exalting notions of human dignity –grounded in how humans treat other sentient beings species and the understanding of respect for the environment– laying bare the dissonance of being proud of a cruel form of entertainment, even if in the context of a plural nation. When interpreting the exception made for bullfights in the National Statute of Animal Protection as a source of the deficit in environmental protection, the Court opened up the possibility of an alternative jurisdictional arrangement that challenged the previous, culture-centred one. In this interpretation, the role of municipalities was enhanced. This new framework changed the legal and social horizon for interpreting bullfights and, despite the efforts of the Court, clashed with previous rulings that only exalted the duty to protect culture, especially Ruling 1192 of 2005.

By defining the criteria of social rooting, the Court attempted to harmonize the different interpretations of bullfights occurring in its legal space. In Ruling C-666/10, the Court decisively constrained bullfighting shows by introducing a restrictive interpretation that made it impossible to promote a spectacle that was, nonetheless, allowed and reaffirmed as culture and thus as artistic expression. Social rooting was defined in terms of the manner, time, opportunity and location of the bullfighting spectacles and, therefore, operated as a mechanism for enabling governance capabilities at the municipal level. However, social rooting proved to be an ambiguous criterion whose factual materialization fuelled the controversy. The jurisdictional game did not work out as an automatic cascade mode, becoming, on the contrary, a conflictive

process between social forces, the municipal authorities and the Constitutional Court.

Ruling C-666/10 inspired a bottom-up movement in which anti-bullfighting social and political forces worked at the municipal level to prevent, mitigate or avoid pain and mistreatment in bullfights. The Constitutional framing of the bullfight controversy constrained the municipal authorities and the social forces when shaping their demands and administrative measures. This allowed them to advance their position in the debate and translate their demands under their own distorted mechanism.

However, the different interpretations of the Court also seeped into the municipal level. Social forces against bullfighting and Bogotá's government argued for adherence to Ruling C-666/10 as part of their social commitments, appropriating several of its core elements in their political interactions: the restrictive interpretations, the understanding of bullfights as animal abuse, the declaration of deficient protection, the mandate to remedy the animal abuse and the verification of bullfighting's social rootedness. Social forces supporting bullfighting also included in their discursive repertoire the fact that the ruling validated, once more, bullfights as art and culture.

At the municipal level, the anti-bullfighting social forces embedded their claims into the urban planning logic and within the frames of discourse regarding climate change and the organization of the territory according to ecological considerations. Animals were reconstructed as part of the fauna, and the search for their welfare was translated into the goals of the development plan, ensuring access to financial and human resources and grounds for local government accountability of the local government. The municipality adopted the materialisation of Ruling C-666/10 as one its governmental goals.

The impossibility of reaching an agreement, when the municipal government attempted to negotiate changes to the bullfighting rules with the Taurine Corporation of Bogotá, was the first sign of the radically different ways the constitutional decisions could be manifested at the urban level. Both the municipality and the Taurine Corporation of Bogotá relied on legal arguments grounded in different Constitutional Court interpretations when discussing the possibility of reducing animal suffering. The municipal authority's rationale, when decided to prevent the bullring from being used for bullfights, referred to the recent restrictive interpretation of bullfights made in Ruling C-666/10 regarding the autonomy granted to municipal governments to manage their assets (confirmed in the dissenting opinion of Ruling C-899/10).

The Constitutional Court eventually ruled that the termination of the lease contract was against due process in 2013. When deciding on the case, the Court gave constitutional primacy to an understanding of municipal authorities as a

function of police subordinated to the power of police emanating from the legislative branch in line with Ruling C-899/12. In its decision, the Court exalted bullfights as spectacles and thus, highlighted the role of municipal authorities as guarantors of urban order, as intended in the National Police Code. Unlike the periods when bullfight regulations emanated from city councils, under the Bullfighting Law the functions of policing were only to be directed towards preserving the security, peace, cleanliness, and morality of the city.

Municipalities, thus, did not have the power to formally change the internal rules of the spectacle, which now rest on the authority of the legislative branch and are upheld by the Constitutional Court. The meaning of authorization in the regulation of bullfighting was equated to notification and was limited to such a denotation, a legal meaning until then unknown. As the dissenting judges have shown, however, the specification of what is implied by the function of police is fluid and dependent on how objects are sort out. Municipalities expand their powers when protecting the environment, fighting crime or discouraging the consumption of alcohol. Such understanding would proved to be the source of futures developments in the controversy.

The Court also constrained the ability of municipal authorities to manage the bullring, despite it being a public asset. The bullring as a compulsory venue for the performance of the spectacle was addressed in the Bullfighting Law, and thus it should be used for its historical intended purpose. Once again, bullfighting was salient as a legal object, and the authority of the legislature – which uses the interpretative frame of the bullfighting world– regained prominence. Bullrings and bullfights came under the oversight of the Court as legal objects in the Bullfighting Law, described in terms of the bullfighting terminology and under the interpretative horizon of the bullfighting world. The governance of bulls, the main concern of animal advocacy forces, was the unreflexive outcome of these sequence of actions. Despite the environmental considerations of bullfights that were brought up again in Ruling C-666/10, the cultural path overcame the environmental one. The constitutional level, immersed in a dispute regarding the most appropriate interpretation of bullfighting and its related legal objects, ended up building on the original interlegal arrangement regarding the bullfight canon.

The municipal interpretation of Ruling C-666/10 made the link clear between the materialization of modes of governance and the development of jurisdictional and scalar orders in periods of contestation. The ambiguities left by the Constitutional Court were clarified by the join forces of social actors and the municipal level, only to return to the constitutional legal space and be assessed in the context of past constitutional decisions. The iterative nature of

the process ensured the progressive harmonization of the different rulings on the matter, but also the emergence of new arguments.

This iterative interpretative process allowed the Court to complete the meaning, for instance, of the obligation to remedy the normative deficit of protection in the future (when), a word that should be read, according to the Court, in relation to the legislative authority (the who). According to Ruling C-899/13, in the future means whenever the legislative decides. Also, the Court recognize in the legislative power the interpretations born out of its own legal space (like the link of bullfighting to culture). In addition, the Court supported the idea that bullfights are indeed a socially rooted spectacle because of the existence of the bullring, and thus stated a legal fact in order to solve what was supposed to be a social matter to be settled at the municipal level. As result, and as argued by the dissenting judges, the spirit of Ruling C-666/10 was transformed by the Court's iterative process of interpretation. Originally aimed at providing grounds for moderating the one-sided view of bullfights as culture and promoting the role of municipalities in the materialization of the law, the C-666/10 end up being modulate to fundamentally restrict the role of municipalities by considering them to be coercive forces in terms of the function of policing. The Constitutional Court ended up filling in the gaps in C-666/10, a task that was intended to be carried out originally by the municipal authorities.

The fact that the regulation of bullfighting was part of a public agenda that was open to public opinion, included in a governmental proposal, and later expressed in a development plan approved by the Bogotá's City Council, was a fact never addressed as a relevant feature amid the considerations of the Court. In the next chapter, I will explore a different approach to the controversy of bullfighting in which a different municipal measure was set in motion, in which a national participatory mechanism was used to define the social rootedness of bullfighting in the capital.

The attempt to conduct a popular consultation can be seen as an effort to develop a municipal administrative practice that did not rely –at least explicitly– on the coercion specific to the police function. It was, on the contrary, an effort to highlight the democratic nature of the local level in order to challenge the alleged social rooting of bullfights in the city. As will be seen in the next chapter, the initiative –which also came into being through the advocacy of social forces concerned with animal welfare– developed a new legal discussion in which the paradoxes and complexities of jurisdictional orders and democratic principles emerged.

9. Public consultation and social rooting

In 2015, as originally proposed in the Animal Advocacy Vote Agenda, a group of citizens formally asked the mayor's office to carry out a popular consultation to find out the Bogotá citizenry's opinion of bullfighting. According to municipal surveys, support for bullfighting was limited. Through the Bogotá Biannual Culture Survey, the municipality had monitored citizen's attitudes regarding the role of animals and spectacles in the city. The survey is a systematic inquiry instrument that aims to provide statistical data on cultural practices (in their artistic and social understanding) as an input for public policy decisions in the city[48]. In its 2013 and 2015 versions, the survey asked if "the live shows where animals are mistreated and killed should: a) be supported by the State; b) be allowed as long as no public resources are used; or c) be prohibited". The questions echoed Ruling C-666/10. The answers showed scarce support to such a spectacles: 4.1% in 2013 and 5.9% in 2015 answered that the state should support such activities. 4.8% and 8.9% of respondents in 2013 and 2015 respectively answered that they should be allowed as long as no public resources were used. 86.5% of people in 2013 and 83.7% of people in 2015 thought that the activities should be prohibited.

Resorting to direct participatory mechanisms opened a new strand in the socio-legal debate over bullfights in Bogota and Colombia, involving discussion of the municipal level as a site of democratic expression. One of the

[48] The 2013 survey had a stratified probabilistic sample of 14,299 people interviewed, giving a reliability of 95% and a sample error of +-1.0% for estimation over 50%. The 2015 survey had a stratified probabilistic sample of 15,674 people interviewed, giving a reliability of 95% and a sample error of +-1.2% for estimation over 50%. Source:

https://www.culturarecreacionydeporte.gov.co/archivos/observatorio/encuesta2013/Ficha_tec_EBC2013.html

https://www.culturarecreacionydeporte.gov.co/archivos/observatorio/ENCUESTABIENAL2015/EBC2015_PRES.html

most important milestones of the 1991 Constitution was its inclusion of several mechanisms for direct participation. The aspirational character of the Constitution encountered a vital source of social expectation based on a renewed democratic system against a traditional and badly reputed representative democracy that lacked legitimacy (González, 2021; Uribe de Hincapié, 1995; Velásquez & González, 2003).

After 1991, the Colombian system recognized different modes of direct participation: legislative and regulatory popular initiative, referendums, recalls of governors and mayors, plebiscites, open town halls (*cabildo abierto*) and popular consultations[49]. These mechanisms were developed and regulated by Law 134 of 1994, Law 1757 of 2015, and the jurisprudence of the Constitutional Court (C-150/2015). The introduction of direct mechanisms of participation laid bare the tension between a Constitution that limits the sphere of action of political decisions in search of the protection of fundamental rights and the promotion of democratic mechanisms through popular participation (García Villegas, 1997). Common sources of friction have been the pursuit of the primacy of rights over the law, and the search for a balance between potentially unfair majoritarian decisions and minority rights, a concern grounded in the plurality of the social and cultural groups that inhabit Colombia.

Popular consultations are mechanisms through which a general question on a matter of national, departmental, municipal, district or local importance is submitted by the President of the Republic, a governor or a mayor for the consideration of the people, so that they may formally pronounce themselves on the matter (Art. 8, Law 134 of 1994). The decision of the people is binding. Popular consultations are a concrete expression of the right to participation, and "also a way of channelling disputes between two democratically legitimised organs of public power. This is why the jurisprudence has said that it allows complex issues, on which there is executive-legislative confrontation, to be settled by the people, thus avoiding paralysis in the adoption of such decisions" (Ruling C-150, 2015).

The consultations involve answering questions that are "clearly worded, in such a way that they can be answered with a YES or a NO" (Art. 51, Law 134 of 1994). In order to hold a consultation, mayors must have the majoritarian consent of the city council and approval from the competent administrative

[49] I will henceforth refer to the constitutional mechanism as "popular consultation" a mechanism unique to the Colombian system. While the English translation might sound awkward, other possible choices like public consultation do not allow it to be differentiated from other citizen participation instruments.

court in order to guarantee its constitutionality. In the case of Bogotá, this authority is the Administrative Tribunal of Cundinamarca, the region in which the capital is located. Following constitutional approval, the National Registry Office must carry out popular consultations within the next two months. Once submitted to the citizenry, the consultation needs to obtain half plus one of the valid votes cast in order to be binding (provided that at least one-third of the total possible electorate has voted).

Popular consultations are explicitly not legislative or regulatory mechanisms. For this reason, they cannot be used to vote on laws issued by the legislative branch, or matters that threaten the constitution or change its content. For such cases, the citizenry or municipal authorities should appeal for a constitutional referendum or get the law amended through Congress. Popular consultations are constrained into a defined jurisdictional order in which the constitution and the legislative branch represent the national legal space. Only matters that are considered strictly municipal or regional in the eyes of the Constitution can be regarded as objects of popular consultation. In Colombia, popular consultations have been used to deal with a wide range of topics such as public services, peace, coexistence and the environment (Rodríguez-Pico, 2010). However, they became a very common mechanism in rural areas where local communities claim their political rights over their territories on the basis of environmental and health considerations, in the face of the increasing levels of extractive economic activity, primarily mining (Dietz, 2018; Gil, 2019; Hincapié, 2017). Within this context, in which local environmental claims come under national and international pressure, the Constitutional Court supported popular consultations as legally binding decisions over the use of the territory until at least 2017 (Hincapié, 2017, p. 93)[50]. Since 2018, with a new group of judges entering the Constitutional Court, a series of controversial revisions of previous decisions regarding popular consultations have, on the contrary, limited municipal autonomy (Benavidez-Vega, 2021).

The initiative to conduct a popular consultation about bullfighting is one of the most intricate sets of interactions in the context of the bullfighting debate. It involved bullfighting enthusiasts, bullfighting critics, the municipal government of Bogotá, the Administrative Tribunal of Cundinamarca, the Council of State (the last instance in administrative law), the National Registry Office, the Minister of Finance, and the Constitutional Court. What made their interactions particularly complex was the uncertainty of and continuous modifications to the legal decisions. Between 2015 and 2018, five different

[50] For example, see rulings C123/2014, T-445/2016 and C-035/2016.

decisions from three different Courts were issued on the matter, with the confrontation between the Constitutional Court and the Council of State along with the very rare declaration of nullity of two Constitutional Court decisions in 2018 (when a new group of judges enter the Court).

The different interpretations over bullfighting described so far encountered a critical point of friction in the debate whether a direct consultation with the citizens of Bogotá was a constitutional adjusted measure to address the bullfighting controversy at the municipal level. The final answer was no. In any case, the interactions around the question made it possible to reveal the constraints of the municipal level when facing the challenge of fostering change, from its in-between position in this case, by making use of participatory mechanisms.

Determining whether bullfighting fans were a cultural minority and therefore the subject of special State protection was a critical concern during the legal, political and social discussion around the direct participation of the citizenry. All the actors involved in the discussion assumed that most of the city's inhabitants were against bullfights. The tensions between the duty to protect minorities, animal welfare, the idea of democracy as the will of majorities, and the local level as a political arena, were strongly present during these discussions.

I will address these topics in several sections, beginning by briefly explaining the social origin of the initiative and how it was adopted, accepted and promoted by the Mayor's Office and discussed and approved by the City Council in 2015. Then, I will focus on the constitutional approval from the Administrative Tribunal of Cundinamarca, the derogation of the decision by the Council of State (the last instance of administrative law in Colombia), the further repealing of the decision by the Constitutional Court, and the latter's support for the popular consultation. Finally, I will analyse the reversal of such decisions within the Court itself, which ruled that the popular consultation was in fact unconstitutional, reducing the possibilities of the municipal level in regards to the bullfight struggle.

The origins of the popular consultation over bullfights

As explained before, one of the strategies proposed by anti-bullfighting organizations that found support in the municipal governments of Bogotá was holding a citizen consultation on the topic. First included in the Animal

Advocacy Vote Agenda, in 2015 the popular consultation was understood in the context of several Constitutional Court decisions as a means to identify the social rooting of the practice in the city. The direct participation mechanism was identified as an instrument for investigating the social and cultural matters, based on the Ruling C-666/10 interpretation that social rooting was related to the majority of a population.

The ultimate goal of the popular consultation was to dispute the Constitutional Court's interpretation that bullfighting was rooted in Bogotá due to the existence of the bullring, the occurrence of a bullfighting season, and the presence of a group of fans. It was also a response to the failure of the administrative decision to make use of its power over the bullring as a public asset. This is how one of the actors involved explained the emergence of the initiative:

> We created a group, the Animal Advocacy Legal Committee, which established a whole range of possibilities … it included people who had been members of the Constitutional Court, and of all these possibilities, it emerged that the best possible alternative was to hold a consultation with the people, where the people would be asked if there was a tradition and if there were roots in Bogota [of bullfighting]. This process was totally misunderstood by the Council of State and the Constitutional Court, obviously due to the influence of bullfighting enthusiasts, because they always said that the consultation sought to prohibit bullfights and that was not the case. What the consultation always sought, because we knew that we did not have the power to ban bullfights, was for the citizens to express themselves by means of a quantitative measure, in order to say whether we still have roots or not [in relation to bullfighting]. Whether we feel like it belongs to us or not. Then, a subsequent process could be carried out in accordance with Ruling C-666/10, saying that the tradition does not exist here and that we are not obliged to hold bullfights, a process that is perfectly in line with the Bogotá case. (Alvaro, interview)

The capital city had already carried out a popular consultation in 2000, when the mayor's office asked the citizenry if they accepted the No Car Day, a pedagogical strategy in which no private car use was allowed for one day of the year. The strategy was aimed at promoting other forms of transportation (like bicycles or public transport), reducing pollution, and improving the city's air quality. On that occasion, the proposal was accepted by more than 60% of the city's inhabitants, who voted for it as part of the public mayoral and City Council elections held in October 2000.

Following this antecedent, the municipal government formally supported and actioned the citizens' request. In March 2015, the proposal was sent to the City Council seeking its vote of approval. The mayor expected the National

Registry Office to carry out the consultation in October 2015 as part of the regular public corporation elections. The popular consultation intended to ask to the inhabitants of the city the following question: do you agree, YES or NO, with carrying out bullfighting and steer fights *(novilladas)* in the Bogotá Capital District[51].

The Bogotá City Council devoted three days of plenary sessions to discussing the mayor's proposal. It organized a forum on July 24th with the participation of bullfighting enthusiasts, anti-bullfighting organizations, members of the National Congress, academics, and former Constitutional Court judges. In addition, an internal commission was appointed to provide a report to the City Council regarding the legal, political and financial appropriateness of giving the go-ahead for the consultation or not.

The City Council debated displayed of the in-between situation of the municipal legal space. They had to balance their legal duty with their political promises to the electorate (which was mostly against bullfights). The council's discussions gravitated around three topics. The first was, the legality of the call for the consultation. The council's main concern was establishing its competence, and that of the mayor regarding the participatory mechanism and bullfighting itself. The second topic was the political character of participatory mechanisms: the extent to which the consultation reflected the people's will and the possible manipulation of the participatory mechanism as part of the future electoral process. Finally, the council deliberated the change in the human-animal relationship, together with the challenges that bring such a change to the legal and political order, and the understanding –or lack of– of bullfighting fans as a minority group.

The debate drew heavily on the procedural and constitutional matters and aimed at defining an authoritative voice to interpret the multiple Court decisions regarding the participatory mechanisms and bullfighting itself. A major concern held at municipal level was indeed, behaving within the frameworks of the law. As paradigmatically expressed by a city councillor during the legal discussion: "We public servants can only do what the law allows us to do, unlike private individuals who can act in ways that the law does not enable them to" (Councillor Jaramillo González, Bogota City Council. Plenary Session 27/07/2015, 6:31:28). This task was particularly difficult because of the already-mentioned different interpretative approaches

[51] The original question was "*¿Está usted de acuerdo, SI o NO, con que se realicen corridas de toros y novilladas en Bogotá, Distrito Capital?"*

to bullfighting, the political force of animal advocacy in the City Council, and a recent change to the procedures for direct participatory mechanisms[52].

The inner interpretative struggle of the Court was reproduced within the City Council debate. The committee appointed to establish the legality of the citizens' and mayor's request found that the consultation fit the Constitution based on Ruling C-666/10. The basis of this positive assessment was the conditional character of bullfighting, the restrictive measures ordered by the Court, and those excerpts in which the ruling reaffirmed that it "does not limit the regulatory powers of municipal administrative authorities" (C-666/10, p.77). The committee accepted that bullfighting was legal in Colombia and clarified that the consultation did not intend to change the law or prohibit the practice, but rather objectively define its degree of social rootedness. The committee concluded, therefore, that

> It must be defined whether or not bullfighting was rooted in a majority of the population. There is no other way of determining this other than through a popular consultation…not a survey, but the political manifestation of the majority of citizens on the issue. (Councillor García, Bogota City Council. Plenary Session 27/07/2015 2h32m50s)

Those who opposed the popular consultation considered it contrary to several constitutional decisions regarding bullfights. They based their legal arguments on the set of legal decisions formed by rulings C-1192/2005, C-889/12 and T-296/13, in which the Court ordered the mayor to refrain from using any administrative measure to avoid complying with its instructions. Some city councillors interpreted the consultation –an administrative procedure by the local administration– as another administrative obstacle. The arguments around the protection of culture and the impossibility of any authority other than the legislative regulating the activity were deemed reason enough to consider that the consultation should not be approved. In his opinion, Ruling C-666/10 was a limitation that does not apply in Bogotá:

> We have the bullring, the Santa María" (Cepeda 48:29) and because it has a long past: "the mayor's intention, skilfully, is to study the cultural roots from now and into the future. But the roots must be looked at from now and into the

[52] One primary concern was the legal framework into which popular consultations should be embedded. The National Participation Law (Law 139 of 1994) had recently been amended (by Law 1775 of 2015) and discussed in the Constitutional Court ruling C-150 of 2015. Most of the deliberation aimed to determine if the mayor's request was in line with the procedural requirements.

> past. It comes from behind. (Councillor Cepeda, Bogota City Council. Plenary Session 28/07/2015, 49m35s)

A significant concern was the question itself, which did not actually probe the social attachment of the practice but implicitly involved a prohibition, a matter that could not be put to primary constituents. The city councillor Dario Fernando Cepeda declared himself a bullfighting fan (*taurino*) and a minority:

> Here, we cannot stigmatize those who enjoy and believe that bullfighting is a cultural element. We believe so, as do many of Bogota's inhabitants. Here, we cannot say that bullfighting is a hobby of a dominant group (…) the fans are part of the people, humble people. Citizens who, through the generations, have been taught a culture that yes, is dying (…) you cannot trample on our culture with a consultation to the majorities. (Councillor Cepeda, Bogota City Council. Plenary Session 28/07/2015, 3h28m10s)

Moderates voices of the council in favour of the popular consultation also draw attention to the depth of the cultural change that lay beneath the discussion on bullfighting, a long-term process that transcended the political situation of the city.

> Animal advocates are not fanatics. No. It is a trend that humanity has been pursuing for centuries. And in many people, it is a deeply held feeling. It is a deep conviction that leads them to transform themselves. But at the same time, I do not consider people who practice bullfighting to be murderers. It is a culture that, like any other culture, can change and disappear one day. People entered this profession because at that time it had social backing. It was considered to have immense prestige. (Councillor Flórez, Bogota City Council. Plenary Session 28/07/2015, 6h09m11s)

The political dimension of the municipal level was vigorously expressed by the so-called animal advocacy block, a group of city councillors from different political parties who labelled themselves as promoters of political control actions and municipal activities with the aim of enhancing animal wellbeing in the city. The group led the discussion in support of the consultation and assumed a commitment to steer the debate regarding bullfights. In their view, the City Council had generally been in favour of the different measures aimed at improving animal welfare in the city[53]. The council did make a significant

[53] As a representative of the block, the president of the City Council, argued in favour of the popular consultation as part of wider activities carried out in the local legislature. These activities included the regulation of the commercialization of small animals (Resolution 509/12), guidelines for the creation of local animal protection councils (Resolution 524/13)

attempt to link itself to the bottom-up origin of the consultation, especially in opposition to the mayor and his administration.

> This is not one of your [the mayor's] fruits or achievements because it is an expression of what animal rights activists have been saying to those in power for decades. Today it fell to you, as the current governor, to take on this political force, to present this proposal (…) All credit to you, the organisations. (Councillor García Bejarano, Bogota City Council. Plenary Session 28/07/2015, 6h18m00s)

The delicate topic of the status of bullfighting fans was also tackled. Some councillors disagreed that bullfighting fans were potentially a cultural minority, because –despite the insinuation of the relationship between art and the fundamental right to free development of personality in the Constitutional Court– in their regard, there is no such formal categorization in the court's decision rationale. On the contrary, the Constitutional Court, has repeatedly indicated that limiting bullfights is possible, and that they can eventually be totally prohibited by the legislature. On the contrary, the councillors refer to human rights as a source of the animal rights movement:

> We are heading towards an increase in rights that were not recognised 30 years ago, such as the rights of animals as sentient beings. Although they are beings that cannot conceptualise and do not have articulate language, they do have a relationship of knowledge with their world (…) The whole human rights discourse, with its strong axiological burden, has been extended to the protection of sentient beings. (Councillor De Roux, Bogota City Council. Plenary Session 28/07/2015, 5h59m45s)

The City Council gave the green light for the popular consultation on the 28th of July 2015, with 29 votes for and 6 votes against. Ten city councillors did not vote, and left the session claiming a lack of legal certitude regarding the competence of the mayor and the City Council on the subject. As one of the councillors supporting the popular consultation stated when explaining her vote:

> I am left with a big doubt about lawyers. They always have solution A and solution B, which are in total opposition. Law stuff. But that's how it works. That's how they do it. There are enough arguments here to vote for and against.

and the city's Centre for Animal Protection (Resolution 531/13), the public animal protection and welfare policy (Resolution 532/13), and the provision of a city emergency number for cases of animal abuse (Resolution 538/13).

(Councillor Bastidas, Bogota City Council. Plenary Session 28/07/2015, 5h48m56s)

Having gained the approval of the City Council, the popular consultation proposal was sent to the Administrative Tribunal of Cundinamarca, the regional court in charge of the administrative law. The Cundinamarca tribunal found it to "fit the Political Constitution"[54]. The approval of the call for a popular consultation was a public acknowledgement of bullfighting as a municipal matter, one that has been part of public opinion for a decade and that reach by different means, a voice in spaces for political representation. Most of the discussion that followed the City Council approval revolved precisely around the pertinence of governing bullfighting as a local issue based on a democratic understanding of the expression of majoritarian will. In contrast to the attempt to govern bullfighting through the administration of public assets and the use of urban space –a claim disregarded by the Court based on the link between cultural practices and the space where they should be carried out– the call for a popular consultation brought about fundamental discussions of cultural diversity and democracy in Colombia.

The popular consultation in the high courts

The Administrative Tribunal of Cundinamarca found that the popular consultation met the constitutional criteria based on Ruling C-666/10. As such, the main constitutional concern was bullfighting as an exception to the duty of protecting animal welfare, as part of the complex understanding of the obligation to protect the environment. The Administrative Tribunal made two considerations regarding the Ruling C-666/10:

> The first consideration is that bullfighting does not have special constitutional protection as an activity, as there is no norm that provides specific protection beyond its status as an "artistic expression" in the terms of Article 71 of the Constitution. The second is that the operative part of the judgement under discussion, for the same reason, establishes that the exception to animal mistreatment laid out in Article 7 [Law 84 of 1989] can give rise to "legislative determination to the contrary". This reaffirms what was sustained in the first

[54] Administrative Tribunal of Cundinamarca, Section one, Subsection "A", File 25000234100020150155 7-00, ruling of the 20th of August, 2015.

> part of this paragraph, in the sense that bullfighting lacks constitutional protection. (Administrative Tribunal of Cundinamarca, 2015, p.28)

The Administrative Tribunal did not agree with awarding a legal reserve to bullfights: legislators are a source of bullfighting regulation but that fact does not make them the only authority competent to do so. It is also a duty of the State, at its different levels, to enforce the constitutional principles highlighted by the Constitutional Court in relation to bullfights.

> What happens is that legislators, within their freedom of configuration, undertook the task of regulating, and that is why the aforementioned exception exists in Article 7, as well as the National Bullfighting Law. But the fact that legislators have "colonised" this field of regulation does not mean, at least in the terms of Ruling C 666 of 2010, that, "per se", we find ourselves in a territory of legislation that excludes other types of normative manifestation. (Administrative Tribunal of Cundinamarca, 2015, p.28, quotation marks in the original)

The Administrative Tribunal also developed its arguments based on the social and ecological functions of property, the Ecological Constitution, and the principle of subsidiary rigour that, as we have seen in different dissenting opinions of the Constitutional Court, allows more robust police functions when environmental matters are under consideration by local authorities. It is also a principle used in the myriad popular consultations that have been deployed against mining projects in the country. Indeed, after having reviewed several decisions in which subsidiary rigour had been accepted as a valid principle for defining the relationship between the local and national levels,[55] the tribunal found that:

> Rulings like C-666 of 2010 and those already referred to on the principle of subsidiary rigour converge in the same direction. Namely, that in environmental matters –and bullfighting is one such matter insofar as it constitutes an exception to the general rule of animal protection– the weight of the local is decisive because the principle of subsidiary rigour is only explained, or only has a basis, insofar as the local perspective considers its application to be reasonable. (Administrative Tribunal of Cundinamarca, 2015 p.35)

[55] The Administrative Tribunal referred to rulings C-596 of 1998 and C-894 of 2003. In both decisions, the Court discussed municipal autonomy in environmental matters vis a vis the National Ministry of Environment and the Regional Autonomous Corporation, a regional decentralized environmental authority.

As part of its argumentation, the tribunal defined a minority group explicitly by referring to the United Nations definition (United Nations, 2010). The tribunal hence concluded:

> There is no evidence or elements upon which it can be affirmed that the hobby of bullfighting corresponds to a human group that has been subject to unconstitutional restrictions in the recognition of their rights, this is, that they are in a "non-dominant position". The affirmation that they form a minority whose rights must be protected by constitutional judges because of possible abuses by the majority, is not acceptable. (Administrative Tribunal of Cundinamarca, 2015, p.39)

Finally, the Administrative Tribunal did not find that a "model of virtue" had been imposed in the search for the regulation of bullfighting, because –unlike other expressions of the free development of personality that might be morally controversial– bullfighting involves bulls and horses in their status as fauna, which receive enhanced protection according to Ruling C-666/10. Thus, "bullfighting is a hobby that transcends the personal sphere because animal suffering is a necessary condition for its practice, and it can therefore be prohibited to the extent that it attacks other objects that enjoy constitutional protection" (1557/15, p.40).

The decision of the Administrative Tribunal of Cundinamarca was challenged by a citizen via a *tutela* and settled by the last instance of Colombian administrative law, the Council of State. *Tutelas* against tribunals, though less common, are accepted in the Colombian legal system as long as a tribunal's decision threatens a fundamental right and there is no other legal way to protect the right. When addressing *tutelas* involving constitutionality, the Council of State must send its decisions to the Constitutional Court, which decides whether they need to be reviewed or not. The motivation behind the *tutela* argued that the decision disregarded the following points:

> (i) the jurisprudential precedent developed in rulings A-025 of 2015, T-296 of 2013, C-889 of 2012 and C-666 of 2010 regarding the protection of bullfighting as an artistic and cultural expression of the nation; (ii) Article 7 of Law 84 of 1989 and Law 916 of 2004, which authorise and regulate bullfighting activities throughout the national territory within the respect of superior rights, duties, principles and values, with the restrictions imposed by the Constitutional Court; iii) the fundamental rights of the people involved in bullfighting activities, in different roles, as part of the legitimate development of their personal life projects; and iv) the right of minority groups to exercise and maintain their traditions, as well as the right of each person in these groups to access culture

> without discrimination or interference from the public authorities or the majority social groups. (Council of State, 2015, p.3)

The Council of State, in contrast to the Tribunal, defined the legal problem not in terms of the constitutionality of a popular consultation, but of whether "there was a violation of constitutional precedent" (2015, p.49). The Council of State decision elaborated the opposite argument to the Regional Tribunal, following rulings C-1192/05, C-899/12 and T-296/13.

The Council of State, in contrast with the previous discussions about culture, defined the latter as part of the principle of freedom expressed in the right to free development of personality. Interestingly, the Council accepted that the legal translation of culture is a reduction of an otherwise ample and complex concept: "Since we are trying here to see culture from the perspective of law and not vice versa, it is necessary to adopt a narrower conception of its content and scope than that of anthropologists" (Council of State, 2015 p.19). For the Council, the translation of culture within the constitutional world departed from the establishment of participation in the cultural life of the nation as one of the essential purposes of the State (Colombian Constitution, Art. 2), explicitly including, as an obligation of the State, the recognition and protection of its ethnic and cultural diversity (Colombian Constitution, Art. 7). The State must foster access to culture on equal terms (Colombian Constitution, Art. 70) in social and development plans or other incentives for persons and institutions that promote cultural manifestations (Colombian Constitution, Art. 71).

Such considerations were enough for the Council to argue, using rulings C-1192/05, C-666/10, C-889/12, T-296/13 and A-025/15 as precedents that the popular consultation was against several constitutional decisions and thus the Constitution itself. The Council of State decision was innovative in several ways. Firstly, because it interpreted T-296/13 and A-025/15 as rulings in which the social rootedness of bullfights had been established as a legal fact:

> In Ruling T-296 of 2013 and A-025 of 2015, which denied the nullity of that decision, the Constitutional Court affirmed that bullfighting activity in the Capital District has cultural roots, a decision that the [Administrative] Tribunal ignored by recognising the competence of the mayor to carry out the popular consultation under study. This issue exceeded the purely territorial interest, invading and ignoring what the law had already regulated at the national level. (Council of State, 2015 p.26)

No social inquiry or establishment of social fact seemed necessary, as the Constitutional Court itself had already determined, in its own terms, the social

rootedness of the practice in Bogotá. More importantly, the Council of State reaffirmed the legal reserve and reaffirmed the legislative branch as the only body with the power to define any possible regulatory change regarding bullfighting. The Council of State referred to legal reserve as a condition for the preservation of State unity that lies in the principle of plurality:

> The Constitution itself delimits the right to autonomy on the basis of the reservation it makes in favour of the legislative branch for the regulation of certain matters that are considered vital to the interests of the people, and not only of one or more local communities, in relation to general situations that must be regulated in a uniform manner to avoid the fragmentation of the State and the dispersion of the general interest in local interests. (Council of State, 2015, p.16)

The people, therefore, are the collective abstract national body while local communities are associated with administrative units. The implication is that the general interest is reflected in the Constitutional principles, and not necessarily in direct consultations with citizens. The Council also brought about, in this sense, the tension between the principles of the majoritarian will and plurality in presence of minorities:

> In application of the pluralist principle (…) the Court understands that it is not possible to submit the practice of a social custom, an artistic expression or a cultural manifestation to the approval of the majorities without violating the principle of tolerance that serves as its foundation and the neutrality of the State's worldview (…) The intended consultation is based on the intention of verifying its existence or degree at District level, by means of the vote taken on it, is not admissible from a pluralist conception, as rootedness, like other notions relating to artistic or cultural expressions, is a category that cannot be measured by means of the rule of majorities. Expressions of the self are not a quantitative matter to be endorsed or proscribed. (Council of State, 2015, p.29)

In compliance with the Colombian provisions, the State Council forwarded its decision to the Constitutional Court for possible review in March 2016[56]. The

[56] Chamber Eight, dedicated to reviewing *tutelas*, reviewed the case to determine whether the regional administrative tribunal decision "made the mistake of: (i) misruling substantively by disregarding rulings C-1192 of 2005, C-666 of 2010 and C-889 of 2012; (ii) misruling by disregarding the constitutional precedent set in Ruling T-296 of 2013; and (iii) violating the right to freedom of artistic expression of those who practice bullfighting" (T-121/17, p.25). In simple terms, misruling is when a norm is applied that does not fit a specific case. The debate, therefore, is whether or not a given rule was applicable to the matter under consideration by the judge. Respect for legal precedent, on the other hand, is the foundation of the constitutional supremacy established in Colombia, and implies the acknowledgement of the normative

Constitutional Court decision was issued in 2017 (T-121/17) and followed the legal pathways of the Ecological Constitution and the restrictive understanding of bullfighting contained in the original ruling C-666/10. It reached the opposite interpretation to the Council of State and reaffirmed the Administrative Tribunal decision that approved the popular consultation in Bogotá. The Constitutional Court defended the popular consultation as the materialization of the people as a sovereign power, which gives rise to legislators' power as creators the law (T-121/17, p.37). It also disregarded the claims of bullfighting fans to be a minority by discussing the special subject of constitutional protection, a population-based (not territorial-based) notion that grants special protection from the State to social groups whose manifest vulnerability places them in a position of inequality with respect to the rest of the population. Children, female heads of household, ethnic groups, people with different sexual identities, people with disabilities, the internally displaced population and the elderly have been declared subjects of special protection because they require special treatment in terms of access to justice, the protection of their rights and the guarantee of material equality through affirmative actions[57].

> In this regard, it should be recalled that for a minority to be constitutionally protected, it is not enough that its cultural practices are not carried out by a numerical majority, but it is necessary that its members have suffered and continue to be victims of some kind of historical, structural and systematic oppression because of their belonging to that social group. (T-121/17, p.78)

Bullfighting fans, therefore, cannot be understood as a minority under the constitutional terms described above, because "there is no evidence that they have suffered structural oppression as a result of being bullfighting fans" (T-121/17, p.78). The ruling did not consider bullfighting a constitutionally protected practice or an expression of the fundamental right to free artistic expression, as suggested in Ruling T-296/13, because the Court has systematically argued that legislators, if they so decided, could prohibit it.

The argumentation was largely founded on the previous change to the status of animals in the National Statute of Animal Protection, the Civil Code, the

character of the constitution and the Constitutional Court as its authorized interpretation (T-121/17, p.30).

[57] For examples of cases in which Colombian jurisprudence has defined subjects of special protection, see Bernal-Camargo, D. R., & Padilla-Muñoz, A. C. (2018). Los sujetos de especial protección: construcción de una categoría jurídica a partir de la constitución política colombiana de 1991. *Juridicas*, *15*(1), 46-64.

Penal Code and the Code of Penal Procedure in 2016. In that year, through the enactment of Law 1774 of 2016, the legislature formally granted animals the status of sentient beings and not things. As a consequence, the law criminalised certain actions related to the mistreatment of animals, and established a sanctioning procedure of a police and judicial nature.

Law 1774 did not penalise the activities that were considered an exception in Article 7 of the National Statute of Animal Protection. The Constitutional Court, however after receiving a claim through a *tutela,* found that the exemptions were no longer constitutional. The Court considered that the restrictive interpretation of bullfighting establish since 2010 was absent when the exemption for bullfighting was maintained. The exemption, being general in nature, was contrary to the now-criminal nature of animal abuse, like bullfights. The lack of any mitigation of animal abuse in bullfights "unreasonably and disproportionately neglect animals and thus disregard the previous constitutional decision [C-666/10] of conditional constitutionality" (C-041/17 Paragraph 2.8). The exception in Law 1774 was declared unconstitutional, but the Court deferred the effects of the decision for two years given the social effects that the immediate removal of the exceptions could have (C-041/17 Paragraph 7)[58].

Based on the non-constitutionality of the bullfighting exemption and the legal argumentation having the Ecological Constitution as constitutional support, the Court disagreed with the interpretation of the Council of State decision, reaffirmed the Administrative Tribunal ruling, and ordered the mayor of Bogotá to proceed with the popular consultation in the city.

When the Constitutional Court gave the go-ahead for the popular consultation Gustavo Petro was no longer mayor, with the new administration, headed by Mayor Enrique Peñalosa, entering power in 2016. He too described himself as being against bullfighting, and claimed that he was forced to reopen the newly-repaired bullring and allow the new bullfighting season to start in early 2017. The 2017 season triggered one of the biggest demonstrations against bullfighting in history and the deployment of a large-scale police operation with over 1000 officers to protect bullfighting fans from anti-bullfighting demonstrations. Riot police were deployed and the blocks

[58] The Court approved the ruling with four dissenting opinions (Luis Guillermo Guerrero Pérez, Alejandro Linares Cantillo, Gloria Stella Ortiz Delgado, Alberto Rojas Ríos). All of them explained their disagreement based on the ruling's primacy of culture over animal wellbeing, the non-rationality and non-proportionality of the use of penal measures to find a balance between two conflicting duties of protection, and the creation of a constitutional conflict because the penal exception was based on a constitutionally revised and accepted legal exception.

surrounding the bullring were a battleground, with violent clashes between the police, bullfighting fans and demonstrators. Cross allegations of improper use of violence by all sides were common at the time and are the source of political discussions to this day. From the perspective of animal advocacy organizations, in practice, the new administration acted in complicity with the bullfighting associations, as they directed the force of the police against the demonstrators and gave prevalence to the use of public space over the social forces protesting against the bullfights. For bullfighting fans, the violence of the demonstrations were a confirmation of the intolerance against them.

The Constitutional Court's order to hold a popular consultation was obeyed through Decree 355 of 2017, in which the mayor asked National Registry to carry it out on August 13th, 2017. The process was initially suspended because the National Registry Office (the national authority in charge of electoral processes) and the Ministry of Finance argued that the funds needed for the consultation should come from the city's budget. While the municipality was setting out a proposal include the consultation in the 2018 national elections in order to reduce costs, an action of nullity filed before the Constitutional Court by the Taurine Corporation of Bogotá led to Ruling C-121/17 (the one upon which rested the constitutionality of the popular consultation) being declared void. A new court, made up of a new group of judges, reviewed the nullity request for C-121/17, and revoked the ruling in 2018 through Ruling A-031/18. The judges found Ruling C-121/17 to be void because it did not acknowledge the legal precedent of C-889/12, which itself elaborated on C-666/10. In this manner, at that moment the Court chose a different constitutional referent: one in which the differentiation of power and functions of police do not allow municipalities to address bullfighting. As a consequence, the Court concluded that carrying out the popular consultation implied, in such scenario, a certain constitutional violation:

> Either such an outcome must lead to local authorities banning bullfighting in the Capital District (which is in clear contradiction to the precedent specified by Ruling C-889 of 2012, because local authorities have no competence to impose such a ban), or it must lead to local authorities disregarding the outcome of the consultation (which is unconstitutional, and illegal). (A-031/18, Paragraph 112)

The Court, like everyone else, assumed that the outcome of the popular consultation would be against bullfights. Without saying so explicitly, the Court also believed that the question included in the popular consultation was not aimed at determining bullfighting's social rootedness, but inquiring about its prohibition. The popular consultation as a mechanism for social inquiry was

rejected by a unanimous decision: "No appeal shall lie from this decision" (A-031/18, p.150).

The decision was received differently among the social movements. The director of the Taurine Corporation of Bogotá interpreted it as a victory for the rule of law and the recognition of the bullfighting fans as a minority.

> This decision is a no to cultural xenophobia and the legal order is preserved. The rule of law triumphs, and not the rule of opinion. It is a defeat for former mayor Gustavo Petro, for his arbitrariness and disrespect…popular consultations cannot be to oppress minorities. There have been five years in the courts and now this arbitrariness has been stopped. How good for this country, which demands and deserves peace, that legal decisions are respected. It is the best act of peace and demonstration of coexistence. (El Espectador, 2018)

In contrast, the anti-bullfighting social platform viewed the ruling as a sign of the defeat of participatory democracy:

> The votes of citizens only serve when they are for others for another. But when we citizens promote processes such as the anti-bullfighting consultation, we realize that our vote does not work. This decision is an affront to participatory democracy, and demonstrates how citizens are prevented from speaking out when the issue does not suit the powerful. (El Espectador, 2018)

Several months later, the Court also declared void Ruling C-041/17 (in which the legislature had two years to harmonize the exemption for bullfighting activities with the Civil and Penal Code) into Ruling A-547/18. The Court found that the 2017 decision disregarded a prior res judicata: Ruling C-666/10 had declared the bullfighting exemptions conditionally constitutional, but nonetheless fit to the constitution, and thus it was not possible to be found unconstitutional in a second ruling:

> Thus, it is concluded that, in effect, there are reasons to annul the Ruling C-041 of 2017, as requested by the applicants, given the obvious and blatant contradiction between what was decided in Ruling C-666 of 2010 -conditional constitutionality of Article 7 of Law 84 of 1989- and what was resolved in Ruling C-041 of 2017 -the two (2) year deferred unenforceability of the same normative content. (A-547/18, Paragraph 99)

Discussion

In this chapter, I reviewed the intricate interaction between social forces, municipal authorities and courts around the legality of carrying out a popular consultation to determine the social rootedness of bullfights in Bogotá.

The interactions over a possible popular consultation were heavily constrained by the previous interlegal arrangement, in which the regulation of bullfighting went from being a municipal Resolution under the National Police Code to a national law examine by the Constitutional Court. The popular consultation was framed as an inquiry into the social rootedness of the practice, a criterion set by Ruling C-666/10. The long-term aim of the popular consultation was to challenge the Court's statement on bullfighting being socially rooted in Bogotá using a participatory mechanism that became, in this manner, a mode of legal governance in itself. The spirit of the consultation attempted to question the marginal roles that municipal authorities had been side-lined into after the iterative decisions (rulings C-899/12 and T-296/13) regarding the meaning and reach of Ruling C-666/10. Within the interlegal dynamic under study, both social forces classified bullfighting and its impact on animal welfare as a relevant constitutional issue. Opponents and supporters of bullfighting actively sought out the Constitutional Court as the place to solve their disagreements over the legislation and the municipal decisions. Since its creation, the Colombian Constitutional Court has been characterized by the search for proportionate measures between conflictive principles, the understanding of the constitution as a living document and a commitment to a legal pluralist approach (Thornhill, 2018). The Court, in its attempts to find proportionate measures, sought to harmonize the duty to protect culture and the duty to protect animal welfare, transferring the authorship of the law "from the active political citizen to citizen qua legal rights holder" (Thornhill, 2018, p. 231). Through the search for proportionality, the law does not emerge from public decisions but from between rival principles articulated in the legal system, and thus "the extent to which the authority of binding legal norms can be traced to primary political acts or even substantively defined collective preferences is reduced" (Thornhill, 2018, p. 230). Animals, since the first interactions in the Constitutional Court, were discarded as a meaningful legal category in terms of rights, not even in terms of the minimum core of human rights in Colombia (the right to life, the right not to be tortured, the right to due process and minimal rights of subsistence)

While addressing the claims around bullfighting, the Constitutional Court created different legal objects and articulated different jurisdictional orders: how, when and by whom bullfighting should be addressed. The Constitutional

Court laid out two different interpretative paths regarding bullfights in Colombia. One, related to the Bullfighting Law, developed the ambiguous notion of bullfighting as an artistic expression and as part of the culture and heritage, activating all the previous mechanisms created in the country to protect ethnic minorities and other vulnerable or historically undermined groups. This interpretative line restricted the possibilities of modifying the regulation of bullfighting, based on it being considered part of the plural identity of the nation and on the insinuation that bullfighting fans were equal to other social groups in evident conditions of inequity, vulnerability or discrimination and –because of that– considered to be minorities or subjects of special constitutional protection. A second interpretative path was created in relation to the National Statute of Animal Protection and bullfighting as one of its exemptions. It developed the idea of bullfighting as lawful animal cruelty, acknowledged inadequate protection of animals on the basis of the duty to protect the environment, and imposed a restrictive interpretation of bullfighting in order to fulfil the enhanced constitutional protection granted to animals. This line of thought restricted bullfights to only those places where it is socially rooted, a notion that implies constraints on manner, opportunity, time and place within the sphere of action of municipalities. Social rooting is a localized legal governance mechanism in which the municipal authorities returned as key actors in the bullfighting struggle. Most of the conflictive coexistence of both the cultural and ecological constitutional interpretations of bullfighting emerged from the unclear municipal possibilities of action.

Within this frame, the call for a popular consultation - born out of the demands of social forces - was transformed into a municipal governmental strategy in search of participation in the bullfighting debate. After failing in its claim to manage the bullring as a public asset (because of the intrinsic legal character that bullrings have with the spectacle of bullfights), the municipal government sought to highlight the municipal level as a site of local democracy. It proposed calling for a citizen consultation to ascertain the majoritarian will regarding bullfighting, as an indicator of social rootedness. This call involved claiming bullfighting to be a local expression that had lost its previous general approval as part of the broader change in the relationship between humans and animals. It entailed challenging a jurisdictional order in which bullfights were a national matter based on the perceived majoritarian social disapproval of them, and its correlative expression as a political claim. Such a claim was sustained by the Cundinamarca Administrative Tribunal, disregarded by the Council of State, and reaffirmed and then subsequently rejected by the Constitutional Court.

When tackling the issue of the popular consultation, the different courts and the Constitutional Court itself reproduced the tension between the two possible interpretations of bullfighting, a process whose final stage came in 2018 when the cultural, and not environmental, understanding of bullfights prevailed. Favouring culture over the environment in the constitutional debate compelled the strengthening of a particular jurisdictional order, in which culture and identity are not matters in which municipalities have an authoritative voice. Despite the efforts of several judges, the environmental understanding of bullfights did not prosper within the Court, and thus the possibilities of a different jurisdictional order –in which municipalities have increased autonomy to protect the environment due to the technicality of subsidiary rigour– did not come to life.

As shown in the first interactions in the Constitutional Court, bullfighting as culture was founded on the mechanisms employed to protect and ensure justice for ethnic and cultural minorities in a post-colonial scenario. The recognition of multiple legal orders within a pluralistic legal approach, a feature of the Colombian Constitutional order that has been interpreted as a process of interlegality in itself, has also become a precondition for social inclusion and the construction of citizenship (Thornhill, 2018, p. 233). For the case at hand, the interlegal dynamic over bullfighting –built upon the legal recognition of its detailed technicalities, the acknowledgement of it as artistic expression, and its later interpretation as culture– enabled the entanglement of bullfighting in municipal and, subsequently, national legal spaces. The rules of bullfighting, being primarily what establishes its internal restrictions, hierarchies and sanctions for those participating in it, also became an external protection through the enactment of a national law. Due to the Constitutional Court interpretations, the rules of a spectacle were confused with the specific legal order of a distinct community.

By addressing the idea of bullfighting as a profession and spectacle practised by a quantitative minority, the effect of the social change process was converted into the creation of a legally-based tradition. Because of its understanding as a spectacle with a long past but a fading present whose technicalities are law, because of it being ambiguously labelled as artistic expression, and because it was finally interpreted as cultural expression by the Constitutional Court, bullfighting has been claimed to be national heritage. The ample constitutional provisions, and the emphasis of the Court when addressing the historical exclusions and inequalities in a post-colonial country like Colombia, ended up being used by the interlegal arrangement of bullfighting to sustain a Hispanic tradition. The process has shown, in the context of social and cultural change processes, how a once-popular custom

came to be claimed national cultural heritage by means of its entanglement within the official legal system.

While it had been already acknowledged that "the use of the concept of interlegality in Colombia meant that the cultural rights of indigenous communities could be extended, and it created legal grounds to support a condition of multiple inner-societal citizenships" (Thornhill, 2018, p. 235), such a process was specific to groups or communities in conditions of exclusion or subordination. The Constitutional Court has therefore spoken in terms of groups of special constitutional protection or minorities, qualitative legal categories always used to point out specific populations' unequal ability to enjoy fundamental rights (based on criteria like gender, age, ethnicity or other social conditions). The Constitutional Court has been clear regarding the cultural understanding of the bullfighting spectacle, but has never granted the status of minority –in constitutional terms– to those who enjoying and work in it (grouped under the open word *taurinos*).

Despite this, when deciding on the competence of the Bogotá municipal authorities to reach a decision over bullfighting using the rule of majority, most of the discussions by the City Council and other courts assessed the risks of addressing the cultural practices of minority groups through direct majoritarian decisions. In the end and in its decision, the Court was committed to the unity of the plural nation, the limitation of the power and functions of the police, and the harmony of the constitutional order itself. As noticed by constitutional scholars, the Colombian Constitutional Court usually defines the " collective legal form for the people, and for deciding which norms should express the sovereign will of the people in its entirety, above its factually pluralistic, fragmented form"(Thornhill, 2018, p. 235). The final judgment regarding the impossibility of carrying out a popular consultation – a matter eventually settled in 2018- was not based, however, on the legal status of bullfighting fans. Despite the social and political discourse around bullfighting fans as a minority, the constitutional impossibility of conducting the consultation was grounded, on one hand, in the previous decision in which bullfights were considered an exclusive matter of the legislature due to their national character. Because they only possess functions of policing, municipalities should not have special competences on national cultural matters. On the other hand, the impossibility was due to the specific question suggested for the consultation, which implicitly compelled the prohibition of bullfights. The Court assumed, as did all other parties during the bullfight struggle, that the consultation was going to be against the continuation of bullfighting. With this outcome in mind, the Court found that any possible outcome was against constitutional provisions (the local prohibition of something that can only be banned by the

legislative, or not being able to enforce the outcome of the popular consultation).

The legal impossibility of holding the popular consultation on bullfights was also a failure of using legal direct participation mechanisms as a formula for characterizing social categories like social rooting. No less importantly, it strengthened the legitimacy of the Colombian Congress as a space for the nation's deliberative democracy of the nation, and the site where bullfighting was situated following the enactment of the law.

10. Municipal authorities and cultural change

In January 2020, a new city government came to power in Bogotá. For the first time, the Green Party won the mayoral election and achieved a majority of representatives in the City Council. After the intricate debate over the limitations of municipal power to regulate bullfighting that had taken place since 2012 in the Colombian High Courts, the new municipal government found itself in the position of having the duty to comply with the national provisions while advocating politically for animal welfare. The anti-bullfighting stance of all the different political parties was strongly manifested in the composition of the new City Council, where there were no representatives –at least explicitly– of the bullfighting forces. On the contrary, activists from animal advocacy organizations were elected as city councillors, and animal welfare became a politically attractive topic and a consuetudinary preoccupation for the city. For the third time in a row, the city's development plan was put together with the participation of animal advocacy and environmental groups, which incorporated animal welfare concerns into the government of the new mayor Claudia López.

A new social contract for the city

The new development plan decisively integrated the immediate global concerns of the year 2020. The main objective of the approved plan was to:

> Consolidate a new social, environmental and intergenerational contract that allows progress towards equal opportunities, recovering the economic and social loss derived from the COVID-19 emergency, capitalising on the lessons learned, and the channels of solidarity, redistribution and economic reactivation created to address and mitigate the effects of the pandemic and, thus, building with the citizens, a Bogotá where the rights of the most vulnerable are guaranteed. (Resolution 761/20, Art. 2)

The plan aimed overcoming exclusion, discrimination and socioeconomic and spatial segregation as through social and productive inclusion, especially for women and adolescents. The plan proposed a strategic vision for the city based around five approaches: were gender, differentiation (by age, ethnicity, sexual orientation or territoriality, among others), participation, territoriality and civic culture[59] (the set of beliefs, habits and behaviours that enable coexistence in the city and the recognition of citizens' rights and duties).

According to the plan, these approaches "determine how the administration understands and addresses the realities of the inhabitants of the Capital" (Resolution761/20, Art. 6). They were oriented in a long term towards the achievement of Sustainable Development Goals and, in a short term, materialized in the programs, projects and indicators of the development plan that should be achieved by 2024.

In this way, the municipal government aimed to provide a discursive frame in which the city's problems were understood as based on unequal and varied power relations –in terms of intersectionality– and on practices of exclusion with concrete expression in the social construction of the territory. A participative and open process of solution building, involving collective actions of change adapted to social and territorial realities, was suggested as a lens through which to address the city's challenges. The development plan also sets out a series of attributes that "will guide the resolution of the dilemmas presented" to the municipal government while fulfilling the plan's goals (Resolution 761/20. Art. 7). The government defined these attributes as caring, inclusive, sustainable and conscious.

The municipal communication during the early stages of the pandemic underlined the idea that the municipal government was mainly a caregiver. A common slogan that became an institutional platform for providing welfare solutions to the city's inhabitants during the pandemic was "Caregiving Bogotá" *(Bogotá Cuidadora*). In parallel, the municipality began to design and implement a municipal care system that seeks to redistribute and reduce the burden of care work, especially for women. Solidarity, institutional confidence, interpersonal trust and changes in habits were exalted ideas that found an echo in the proposed approaches.

[59] A strict translation of the approach from Spanish would be "Citizenship Culture" (C*ultura Ciudadana*). I use the English term 'civic culture' as this is how the term has typically been translated. It does not mean that the approach is equal to other notions that can be found in academic literature, such as civic or civil behaviour. Civic Culture (C*ultura Ciudadana*) is instead a particular and local proposal of urban governance. In its original assertion in Spanish, the word citizenship (*ciudadanía*) was not used in its legal or political sense but in the common everyday sense that refers to anyone who lives in a city (an urbanite).

The Civic Culture approach, which emphasizes behaviour as a cultural construct, played a particular role. Civic Culture aims to guide the efforts of city governments to promote voluntary behavioural changes concerning what is considered a public asset, or what participatory processes establish as socially desirable outcomes. This approach highlights the capacity for self- and collective transformation, as part of collective actions promoted by the municipal government that can foster cultural change. According to the 2020-2024 Development Plan, cultural changes are possible due to four features:

> (i) The individual and collective construction of harmony between the three regulations: legal, moral and culture, in order to achieve coexistence. (ii) Education and culture have a fundamental role, both in explaining the reality we live in and transforming it. (iii) People have the capacity to cooperate in the achievement of collective good. (iv) The government can assume a pedagogical role by proposing the voluntary participation of citizens in the transformation of certain cultural traits that affect social welfare, for which it is based on collaborative governance focused on the responsibility of all in the construction of the city through social and decision-making participation. (Resolution 761/20, Art 6)

Civic Culture (*Cultura Ciudadana*) is an approach that was born in Bogotá in the municipal government of 1997-1999 and 2001-2003, which attempted to pursue social change by harmonising law, culture, and morality. Civic Culture used intensive communication practices and pedagogical discourses as part of its attempts to foster cultural change while relying on respect for the law, mainly the Constitution as a charter of rights, and fundamental related principles such as peaceful coexistence. Informed by Habermas's communicative action theory, the approach believed in a continuum between moral, cultural and legal argumentation (the communication between each of us, with others, and in the legal system) as a tool to bind the law with culture and morality (Mockus, 2001). This communication effort relied on cultural symbols and the ability of art to promote different understandings of social reality and, in that sense, promote social change. The task of the government under this approach is to harmonize the regulatory systems, recognizing each inhabitant of the city as "a moral subject capable of governing himself, a legal subject capable of linking his rights with his duties and a cultural subject capable of transforming some of his habits and some of his beliefs"(Ceballos & Martin, 2004). Based on such a governmental approach, the State should guarantee the protection of cultural and moral plurality within the official legal system. The approach was based on the idea that the effective rule of law requires a social norm of legal obedience (Mackie, 2015). In this sense, when

in disagreement with national provisions, the Civic Culture approach does not tend to fight official national law. On the contrary, it uses the law as an aspirational interpretative framework –mainly addressing the Political Constitution directly– for developing urban cultural governance strategies through communicative and artistic practices.

Within this general framework of the new municipal government, most of the activities concerning animal welfare were included as part of Purpose 2, "Changing our living habits to green Bogotá and adapt to and mitigate climate change". This purpose was aimed at improving the environment by respecting the ecological structure of the city, and "generating conditions of well-being for the population and other living beings present in the territory, promoting the transformation of habits and spaces, and fostering the development of awareness about our consumption, waste management and appreciation of all forms of life" (Resolution 761/20, Art 9).

The animal welfare activities were grouped into two programmes. Programme 22, "Cultural transformation for environmental awareness and care for domestic animals", aimed towards individual and collective transformations in the way citizens relate to the environment and all the forms of life in the city. The programme pursued collective decisions through participation, dialogue around territorial knowledge, social inclusion, cultural transformation and citizen co-responsibility, seeking:

> to create an environmentally-aware citizenry, with living, eating and consumption habits for the collective care of nature and animals, the conservation of ecosystems, the defence of the territory, and the respect for and good treatment of domestic animals and the importance of a plant-based diet. (Resolution 761/20, Art 15)

Programme 34, "Bogotá, protector of animals", was on the other hand centred on institutional actions for the protection of wild and domestic animals, aiming to guarantee "their comprehensive and specialised care, including the implementation of protocols for the welfare of animals used for human consumption, as well as the strengthening of control actions against the illegal trafficking of species"[60].

[60] The plan defined the following as goals of the programmes: i) Developing and implementing a strategy for social consensus-building around the resolution of highly critical environmental problems and conflicts; ii) Involving 3,500,000 people in the strategies of citizen culture, participation, environmental education and animal protection; iii) Implementing a programme for the specialised care of wildlife; iv) Increasing the technical or legal actions carried out to protect wild animals and prevent and control their illegal trafficking by 15%; v) Developing and implementing a programme of comprehensive care for synanthropic wildlife and a pilot

The development plan sets out an alternative approach to the governance of animal welfare in the city. While it recovers the already known understanding of animal welfare embedded in environmental concerns, it also made an explicit attempt to bring about collective actions, cultural transformations and behavioural changes. Despite not containing any specific provision for bullfights, the plan outlined a new attitude in which respect for national laws did not clash with the autonomy of municipalities to promote desired social and cultural changes based on collective agreements.

The 2020 bullfighting season and the *Fiesta no Brava*

The municipal framework explained before was developed practically when addressing Bogotá's annual bullfighting season in February 2020. Aware that banning the spectacle did not fall within its competence, the municipal authorities decided to organize –under the umbrella of the Constitutional Court decisions C-666/10 and C-889/12– a parallel free cultural program called *La Fiesta no Brava*" [61], including an extensive cultural and artistic offering in legitimate and peaceful rejection of bullfights. While it respected the Constitutional Court's authority, the activity also expressed political and moral disagreement with bullfights:

> Bogotá does not want bullfights, but we respect the law. Within the legal and cultural framework, we are going to discourage bullfighting shows in the city while we find a definitive solution to this type of practice, which should have already disappeared in Colombia. (Bogotá Secretary of Government, 2020)

Based on the environmental understanding of bullfights, the restrictive interpretative approach, and addressing the normative deficit in animal protection the discouraged activities were deemed lawful in terms of the C-666/10. The cultural activities organized were described as being enshrined in

programme to identify swarms in Bogotá; vi) Strengthening the Anti-Cruelty Squad; vii) Opening the Ecological House for Domestic Animals; (viii) Caring for 60,000 animals in need; and ix) Carrying out 356,000 sterilisations.

[61] "*Fiesta brava"* is a common expression of Spanish origin that means bullfighting show. *Fiesta* is the Spanish word party, and *Brava(o)* is a Spanish adjective that, in the context of animals, can be translated in English as ferocious or raging. When used in reference to humans, it is more closely related to the English words brave or courageous.

a Civic Culture strategy[62]. Animal advocacy organizations had an essential role in the *Fiesta no Brava* and were a central actor in the public communications of the municipal authorities. As the current mayor, Claudia López, declared at the inauguration of the activity:

> To all the animal, environmental, and citizen organizations that accompany us here today in this place [the bullring], which must once again be an emblematic place of life, of respect for all forms of life [I say]: unfortunately, this year there will be a bullfighting season in this bullring. Because, even though we reject it and we will not invest a penny in this bullfighting season, there is a current contract from the previous administration that must be fulfilled. And because we have restrictions due to decisions by the Constitutional Court that do not allow us, as we would like, not to hold this season this year. This year, we announce that the Mayor's Office of Bogotá will hold the *Fiesta no Brava*, the party of life. (Claudia Lopez, 2020, 0m20s)

The *Fiesta No Brava* included spaces for demonstrations by animal advocacy organizations and platforms that joined the institutional activities with artistic performances, forums and other advocacy practices. Most of them promoted the Animal Advocacy Vote Agenda based on the idea of animals as sentient beings and rights holders. The activities referred directly to the exploitation of animals and the promotion of anti-speciesist principles such as veganism, the consumption of products of non-animal origin, and the rejection of exploitation of any being.

Some of the cultural activities attempted to revive and make visible the practice of "payments" (*pagamentos*), an ancestral custom of several indigenous communities in Colombia through which, under the principle of reciprocity, an offering is made to nature for everything it gives us. In this case, and according to the municipal authorities present, the indigenous people offered a payment "for the lives of the animals that are sacrificed in bullfights" (2020, Bogotá Secretary of Government)[63]. As one of the leaders of an animal advocacy platform explained to the media: "We are organizing an activity around the *Santa María* bullring, an activity where we will be cleansing human

[62] In their public communications, the mayor referred to the *Fiesta No Brava* as the most important civic culture measure before the coronavirus pandemic. Source: Public accountability sessions of the cultural sector of Bogotá. Source: https://www.youtube.com/watch?v=8NsRJQ6UzBI

[63] Source: http://www.gobiernobogota.gov.co/noticias/nivel-central/bogota-anuncia-la-fiesta-no-brava-desincentivar-las-corridas-toros Retrieved on 25/09/2020.

guilt for a while… for the animals sacrificed and against all types of animal exploitation" (Canal 7/24, 2020).

After the celebration, of the *Fiesta No Brava*, the City Council discussed its social pertinence and legality in two sessions[64]. Most of the debate pointed out that the activities were within the frameworks of the Constitutional Court, especially rulings C-666/10 and C-889/12:

> The [Constitutional] Court said clearly and exhaustively that bullfighting activities cannot be the object of encouragement or promotion by public authorities (…) the State may -may, not ought– allow practices that involve animal abuse when they are considered a cultural manifestation of the population of a certain municipality or district. However, the State must -now it is a must- refrain from disseminating, promoting, sponsoring, or carrying out any other form of intervention or promotion of these violent practices (…) to protect the well-being of animals, the State can provide measures to discourage these practices. (Councillor Padilla, Bogota City Council, 27/02/2020, 55m15s)

Other representatives related the *Fiesta No Brava* with Civic Culture and the usual tropes of such narratives. By exalting admiration of the law, specifically the Constitution, as a fundamental political and legal agreement, a legal change was deemed necessary and, thus, civil action was also legitimized.

> What is civic culture? It is respect (…) What animal advocates have taught us is that respect for life should be in a broad sense. That the 11th right of the constitution —the right to life is inviolable— must be understood for human life and for life in general (…) We are facing a wonderful example of civic culture: there has been a moral and cultural transformation, but formal regulations are not consistent with this transformation. (…) We can take Article 11 of the Constitution and say that the right to life is inviolable; that there will be no death penalty. And [say] that bullfights are death sentences for animals, which are also lives. I imagine t-shirts all over Bogotá with that Article doing non-violent civil resistance and admiring that Article 11 in the perspective that bullfights does not exist anymore. (Councillor Cancino, Bogota City Council, 27/02/2020, 1h47m20s)

The 2020 municipal government developed a different possibility of acting as part of the process of social change. As it had done before in other civic culture strategies, it assumed a pedagogical role understood as creating the institutional conditions to foster cultural change. In this case, the institutional

[64] The municipal council held the political control debate on the 28th of February and 7th of April 2020.

cultural offering allowed certain social groups to manifest their opposition to bullfighting. It also allowed the municipal authorities to praise some parts of the law and disagree politically with others. Furthermore, public order was maintained during the *Fiesta no Brava*, by increasing the institutional presence on the streets while the police were –as intended– ensuring the safety of the event.

Civic culture is, as I have shown elsewhere (Serrano, 2022), an urban governance strategy that enables the maintenance of multi-scalar and jurisdictional order by evoking the constitutional principles and bringing together –more symbolically than instrumentally– different legal objects created in different legal spaces. In the case of bullfighting, Civic Culture entangled the admiration for the constitutional law as the source of order, the fulfilment of the mandate to discourage bullfights without prohibiting the spectacle in terms of the law, and the political and social commitments of a municipal government with high participation of environmental and animalist social forces. While doing so, however, the municipal authorities took a back seat as a source of legal authority and presented themselves more as a social and political authority. From this position, the municipality was able to simultaneously express public disagreement with and abidance to the Constitutional Court decisions while articulating a critique of the legislature, which continued to avoid the national debate around bullfighting.

Discouraging bullfighting and promoting the culture of animal rights

The municipal authorities also developed other formal measures through the City Council in 2020. In June of that year, Bogotá's City Council enacted Resolution 767, whose objective was to "discourage bullfighting practices authorized in the Capital District, contribute to correcting the regulatory deficiencies in animal protection, and strengthen the culture of animal rights" (Art. 1). This Resolution was the last municipal action carried out by the city in the long struggle over bullfighting. Discussed over two sessions,[65] Resolution 767 reflects the outcome of the whole dynamic described in this research.

[65] The municipal council discussed the proposed bylaw (Project 013 of 2020) on the 5th of March and 9th of May 2020.

The municipal Resolution accepts that bullfight is an allowed practice acknowledged as artistic expression and culture in constitutional terms, that no one except the legislature has the power to prohibit the practice. Furthermore recognises that the Constitutional Court has declared that the bullring in Bogotá should be available to the spectacle. However, it also acknowledges that bullfighting is a form of animal abuse, that there is a constitutional declaration of a normative deficit of protection for animals when it comes to bullfighting, and that the public authorities are obliged to behave in a restrictive manner with regards to the spectacle. In this sense, Bogotá's City Council discussed how the current legal status of bullfighting does not reflect the social acceptance of the spectacle. Even if not all the councillors who participated in the debate agreed with its future prohibition, they were all in agreement regarding the need to start gradually addressing the deficit in animal protection, in line with Ruling C-666/10.

The City Council, although expressed its disagreement with some of the Constitutional Court's substantive decisions, used the extensive constitutional precedents as framework for the definition of local measures. The Resolution aims at finding a connection between what was settled in the Court, the perceived majoritarian will of Bogotá's inhabitants, the decreasing numbers of spectators at bullfights, and the inexistence of formal measures to mitigate animal pain in the city.

The resolution contains ten articles, each traceable to a previously discussed point of the interlegal dynamic around bullfighting. Article 2 defined what was permitted according to Ruling T-296/13: namely, bullfights in the *Santa María* bullring as part of the bullfighting season and bullfights with steers (*novilladas*) as part of the city's Summer Festival. The City Council openly disagreed with the Constitutional Court, which validated bullfights carried out during the Summer Festival as a local tradition. In the City Council's view, those bullfights did not meet the criteria of social rooting[66] and they were judged as an unfair imposition. However, the City Council accepted the constitutional decision to avoid future difficulties with the Resolution. In practice, however, the article closes off the possibility –as the Constitutional Court did– of performing any other styles of bullfighting in any city space (for example in national fairs or other social gatherings organized on different premises).

Article 3 was aimed at making animal protection a reality, and thus required "the removal of all instruments that lacerate, cut, mutilate, wound, burn or

[66] The Bogotá Summer Festival was created in 1997 and has continuously featured bullfights with steers since 2004.

otherwise injure or kill animals" (Resolution 767/20). The article was widely discussed due to its controversial nature, and it was upheld based on the principle of subsidiary rigour, which grants increased power to municipal authorities when it comes to protecting the environment. The article reaffirmed the conditional constitutionality of bullfights and, in line with the duty to protect the environment and ecological patrimony (Paragraph 7 of Article 12 of Law 1421), assumes that it has a responsibility to progressively remedy the deficit in animal protection.

While previous changes to the weapons used in bullfighting had been rejected because such changes should happen in the future, in 2020 the City Council believed that "the future has come" (Councillor Carrillo, Bogota City Council, 05/03/20, 2h26m32s). As explained by another councillor, "We are now in the future. This ruling [C-666/10] is then years old" (Councillor Rojas Castillo, Bogota City Council, 05/03/20, 2h46m30s).

In the same spirit, Resolution 767/20 restricted the number of weekends per year on which bullfights can be organized to three, based on the historical minimum uninterrupted duration of the bullfighting season in Bogotá (Article 5).

The activities of cultural change were institutionalized in Article 4, which aimed to develop collective Civic Culture actions and use education and non-violent means to discourage bullfighting. Along the same line of thought, the City Council ordered that 30% of the advertising for the bullfighting activities be set aside to inform people about the animal abuse involved in the spectacle. The measure was inspired by the Constitutional Court, which repeatedly treated bullfights like other permitted practices that public authorities cannot promote, like smoking and consuming alcohol, because of their harmful effects. Finally, with the municipal government's agreement and approval, the resolution increased the local tax on bullfights from 10% to 20%. The revenue was divided between the Municipal Fund for Vulnerable and Poor People, the Secretary of Culture, and the Institute of Animal Protection.

In the context of the new municipal government, Resolution 767 of 2020 represents a new attempt to exercise municipal authority within Colombia's different jurisdictional orders, in tandem with the promotion of cultural change as a pedagogical strategy to discourage by constitutional order lawful activities. The City Council and the municipal government enacted the Resolution in the knowledge that it would be brought to the High Courts in the future as part of the long interlegal dynamic and continuous process of law making that has been deployed around bullfighting.

Discussion

In the previous chapter, I described the most recent municipal actions carried out by Bogotá governments as part of the controversy around bullfighting in the city. These actions are the last link in a chain of relationships between conflicting social forces, Constitutional Court decisions, and previous measures taken by past municipal governments.

The decision to carry out an educational campaign and pass a municipal Resolution with the aim of discouraging bullfighting was the result of a long process of interactions between different actors that have crossed paths in different social spaces over time. This series of past interactions led to a trajectory that has marked the limits of the transformative power of the municipal level. When the latest events are examined, two features appear significant in relation to the chronological sequence that has been described throughout the text. One is the growing influence of animal advocacy movement in political and decision-making spaces at the municipal level. The second feature is the increasing attachment to the forms of governance that constitutional discussions have encouraged and endorsed.

Ruling C-666/10, undoubtedly a landmark that altered the possibilities of governing bullfighting, also delimited the relationship between animal advocacy social forces and the municipal level. Although the anti-bullfighting forces continued to develop and promote messages and forms of communication praising bulls as moral peers of humans, their relations with the municipal level were fully embedded in constitutional rationality.

The most recent actions of the municipal authorities and the animal advocacy actors showed that the municipal authorities' possibilities of social change largely depend on the development of interpretations that are in accordance with constitutional postulates based on an increasingly sophisticated constitutional imaginary. By this, I mean a growing capacity to anticipate the distortions of the constitutional space, which requires knowledge of its scale and jurisdictional games.

Unlike the measures taken in previous years, the aim of discouraging bullfighting is entrenched in consecutive interpretations of bullfighting as lawful activity that are nevertheless in conflict with certain constitutional values. The way in which the pedagogical processes were catalogued as Civic Culture activities is an unmistakable sign of the desire for them to be framed within constitutional parameters. The new municipal measures echo and make explicit reference to the principles and values of the Constitution in order to develop new strategies to respond to social demands without contradicting the

jurisdictional order that emerged from the Constitutional Court following years of debate.

The municipal decisions made in 2020 are an updated version of the attempt to materialise the various iterations of the constitutional level, and to respond to social demands that have also, in their own way, been constrained to make use of legal sources strategically. In this way, both the social movements and the municipal level understand bulls as sentient beings, a formal category of animals included in the Colombian Civil Code since 2017. Bullfighting is understood as an artistic expression by the will of the legislature in 2004, and as a culture through the interpretation of the Constitutional Court in 2005. However, it is also a legal expression of animal cruelty and abuse by virtue of the open and pluralistic nature of the Colombian constitutional order. As the regulation of bullfighting has not included any measures to mitigate or prevent the pain and abuse to which animals are subjected, a restrictive interpretation for the different state authorities is required, and is assumed as a duty of environmental protection, which according to the Constitutional Court in 2010 is still deficient.

Due to the possibilities offered by the Colombian legal system, animal abuse has become a local environmental problem for several Bogotá municipal governments. In the city, by virtue of the broad competences that the sub-national levels have in relation to environmental protection, the police function is exercised in terms of discouraging bullfighting practices. The in-between position of the municipal level (Drummond, 2011) and the constant tension between the universal aim of the law and the plurality of local practices (Hubbard & Prior, 2018) was not eased when arguing for the municipal authority over the management of public asset or as a site of local democracy. On the contrary, the tension found relieve when grounded in a strong rhetorical adherence to the spirit of the constitutional order, the development of administrative measures in collusion with the creativity and expressivity of social life (like the *Fiesta no Brava*) and rationales of governance that increase municipal competences (like an environmental understanding of animal abuse and bullfights).

After being part of the bullfight controversy for decades, the municipal level seems to participate as inciter in the process of making and transforming laws. Municipal authorities relied on large and sustained claims of social and political legitimacy to foster administrative measures inspired by, and in some cases, agreed upon with social forces. Simultaneously, they have claimed the legality of their decision based on their own legal interpretation that however systematically agitate the constitutional legal space.

11. Conclusions

The departing point of this research was an inquiry of the role of municipal authorities amid processes of sociolegal change. Such a concern originated from the recognition of the limited autonomy that municipalities have in the nested scalar jurisdictional order of most contemporary states, the relevance of municipalities as spaces of local democracy, social movements' advocacy for social change at local levels, and the inherent character of municipalities as sites of realization, in space and time, of the law.

I focused on the concrete analysis of an ongoing process of change in a tangible legal, political and territorial space: the progressive loss of social acceptance of bullfighting in Colombia, particularly in its capital Bogotá since the last decade of the 20th century. Since 2012, and in cooperation with social forces committed to animal welfare, Bogotá municipal governments have addressed bullfighting as a spectacle that, above all, involves animal abuse in contradiction to national provisions that primarily view the spectacle as a cultural expression. The controversy over bullfighting is embedded in a wider process of societal change fuelled by the recognition of animals as sentient beings and the proposal of new moral, social and legal principles upholding a different relationship between animals and humans. In this sense, the case describes how legal transformations, understood as a struggle for the reconnection with moral obligations (Eckert, 2019) in this case towards animals, involve looking at a previously regulated field that now is contrary to the moral expectations of a large group of people. By studying the case of bullfighting, I aim to further explore the complexity of sociolegal transformations by better describing and understanding the municipal practices of sociolegal change.

The bullfighting case highlights how the demands of social forces implied a controversy between municipal and national provisions. While research on interlegality has shown how such movements commonly appeal to higher legal spaces in order to resist or oppose municipal power, the case at hand describes how a social force interacts with the municipal level as part of a multilevel advocacy strategy to challenge a broader multi-scalar and jurisdictional arrangement. The bullfighting case inevitably mirrors several features of the

Colombian context: the role of bullfighting in the social and political landscape (Vega, 2018), the longing for peace after years of internal conflict (Lemaitre, 2009; Lemaitre, 2019), the understanding of mayors and local governments as agents of change (Eslava, 2015; Tognato et al., 2017), and the strong affection towards the law (García Villegas, 2014; Rodriguez Garavito, 2009; Serrano & Baier, 2015). No less important is the relevance and primacy of the Constitutional Court as a legal space for addressing socially significant controversies, developing rights, and reinterpreting the people's will (Thornhill, 2018). The case of bullfighting also reflects other features common in Latin America: the concern for historically excluded ethnic and cultural minorities in a post-colonial context, the role of municipalities within decentralization processes, and the growing multiscale advocacy of new social movements.

I relied on the notions of interlegality, scales and jurisdictions (Santos, 1987; Valverde, 2009; 2010; 2015a) to analyse municipal practices as part of a broader interlegal dynamic extended over time and through different legal spaces, seeking to understand how bullfighting has been sorted into legal spaces and how, in such a process, social objects have been transformed into numerous legal objects and upheld by certain interpretative frames. By understanding how such a plurality of legal objects have been organized into jurisdictional arrangements, I aimed to comprehend municipalities' constraints and possibilities of action. For the research, which began with an empirical interest in the administrative decisions of the governments of Bogotá between 2012 and 2020, it was inevitably necessary to contextualise the municipal practices in larger sociolegal processes. Therefore, the research committed to an approach to interlegality in which past and successive bottom-up claims from social forces and top-down decisions by authorities alternate (Banakar, 2019; Engel, 2009; Svensson, 2005) in order to shape the intricate architecture of the still-ongoing controversy over bullfights.

Municipalities and the inertia of interlegal dynamics

The historical interlegal dynamic around bullfighting in Colombia constrained the recent possibilities of Bogotá's municipal government when it attempted to encourage changes to the bullfighting spectacle. It did so by confining the definition of legal objects in terms of the detailed bullfighting canon across different legal spaces over time. In this way, bullfights were legally defined, initially in a municipal regulation, and later on in the national law, as

successive phases (*suertes*) and stages (*tercios*) concluding in the bull's death. In this construction, inspired by the interpretative horizon of bullfighting custom, bulls exist primarily as sacrificial beings. Along the same lines, by legally linking the regulation of the bullring to the spectacle itself, the possibilities of governing the space beyond the rules of the bullfighting spectacle were limited. As a result, no possible changes in the structure of bullfighting would be allowed, including the suppression of the bulls' death. The detailed regulations of the physical space and the impossibility of holding bullfights in a different venue tied the bullring's regulatory possibilities to the rules of the bullfighting, over, for instance, the usually uncontested autonomy of municipal authorities to govern their assets and land.

The historical interlegal dynamic restricted the role of municipal authorities by making the safeguard of bullfighting rules and their interpretative frame an issue of public interest. This was initially achieved by introducing bullfighting as a spectacle in the National Police Code and, later, as an artistic expression in the Bullfighting Law. In both cases, albeit by different means, the internal rules of the spectacle were entangled across national laws, municipal resolutions and the corresponding duties of the municipal powers. In this way, two different jurisdictional arrangements assigning different roles to the municipal authorities had been set in place. One originated from the municipal bullfighting regulation enacted by the city councils and integrated into the National Police Code. A second one came into being through the enactment of the Bullfighting Law and the Constitutional Court's interpretations of it. As already noticed by Valverde (2009; 2010, 2015a), different scales do not work in a zero-sum relation despite the creation of different legal objects. They shape jurisdictional orders that, in the case of bullfighting, were aimed firstly at protecting the practice against its internal disruptive forces and later, in the face of adverse social changes, at restricting transformative external efforts. The fact that the initial bullfighting regulations emerged from the authority of the city councils has been a neglected but relevant aspect in the literature on bullfighting. However, most of the current situation regarding bullfights is still dependent on the primordial and detailed imbrication of the rules of bullfights and their interpretative frame into the official Colombian legal order. As this research shows, the rules of bullfighting entered the Colombian legal system in the 1960s as a municipal regulation tied to the national order through the National Police Code, which in turn, classified bullfighting as a spectacle. Under this arrangement, municipalities in Colombia, including Bogotá, fulfilled a dual role.

On the one hand, they were responsible for guaranteeing the conditions for the safe realisation of the spectacle in the context of urban order. This implied

protecting the spectacle's human participants, preventing it from being a source of disorder in urban life, and formalizing labour and contractual relations for those who work in and attend bullfights. On the other hand, municipalities had to provide conditions to carry on bullfights following the bullfighting canon. The municipal council, in this way, assumed the protection of bullfights against their internal disruptive forces. This entailed, for example, protecting the wellbeing of the bull and maintaining the bullfight technicalities in order to ensure a verisimilar representation of the fight between life and death and the exaltation of human courage over animals.

The mayor, as the president of the bullfight, a role that must be performed by a public official with the power to exercise the functions of a Police Inspector, paradigmatically exemplifies how the protection of bullfights was a matter of public interest. The Mayor's Office was obliged to ensure a traditional spectacle and be a guarantor of transparency and accountability, for instance, by publicly communicating the preparation, completion, and outcome of the bullfights. Municipal authorities adopted the specific language of bullfighting, complied with its structure, endorsed its hierarchies, and accepted the aesthetic criteria of modern (Spanish) bullfighting. They also validated the governance of animals, people, spaces and times according to the bullfighting canon, including penalties for those who did not comply with these norms. At the time, there were few challenges to bullfighting, municipal regulations, or the role of mayors and the municipal administration in bullfights because of the widespread social acceptance of the spectacle. Bullfighting fans did not need to argue about its cultural character or justify the welfare of animals in the spectacle.

This jurisdictional order changed with the enactment of the Bullfighting Law in 2004 (Law 916). Bullfighting fans and participants partially promoted the law in response to a lack of interest in the spectacle among new generations and the growing social understanding of bullfighting as animal abuse. The social movements committed to improving animal welfare and promoting a new relationship between humans and animals as sentient beings channelled the disapproval to entertainment activities in which animals were exposed to cruel treatment. The Bullfighting Law opened a new chapter by shifting the bullfighting canon from the local to the national legal space. At its core, the law maintained the entanglement of the professional rules of bullfighting in its articles. However, it relied on the authority of the legislative power to endorse them.

Bullfighting supporters explicitly sought to harmonise the different municipal regulations to guarantee the rights of bullfighting spectators and participants. It never became clear whether the previous jurisdictional design

did not provide enough security for the rights of those working in and attending bullfights. Implicitly, the law aimed to promote bullfighting in the face of generational change and protect it, not only from its internal disruptive forces, but also from the growing external pressures that decisively advocated for its regulation or prohibition from the year 2000 onwards. The game of scales played by the bullfighting fans exemplifies how a set of rules may end up having a different legal implication because of its location in a different legal space.

Most of the technicalities of bullfights were the same in the municipal resolution and the national law. Nonetheless, when situated in the national legal space, bullfight regulations were realised differently, particularly when interpreted in conjunction with the uncertain categorization of bullfights as an artistic expression of human beings.

The Bullfighting Law did not only unify the rules, concepts, structure of the spectacle, together with the people and animals involved in it and the spaces where it is performed (bull rings). It also allowed the development of constraints to govern bullfighting by introducing bullfights as artistic expression, a declaration without explicit normative content per se that turned out to be the main change in the national law. Classifying bullfights as an artistic expression at the national level would limit how bullfighting should be governed in the future without addressing the question directly, a phenomenon already noticed in studies on scale shifting (Valverde, 2009). Bullfighting as an artistic expression has also been a well-known interpretation of the spectacle among bullfight fans, an idea that existed widely in the normalized public narrative around bullfighting. The new legal object (what) –bullfighting as art– did not directly address who, where or how. In particular, the new jurisdictional architecture was not apparent because the formal rules regarding the role of municipalities did not change significantly in the national law. The law provided a regulatory framework in which the implication of classifying bullfights as artistic expression was indeterminate. In the following years, the new jurisdictional arrangement would be achieved through the decisions of the Constitutional Court, which were motivated by the social movements' claims of the law's unconstitutionality.

Municipalities and multiple jurisdictional orders

The animal advocacy and anti-bullfighting social forces argued that the Bullfighting Law was unconstitutional before the Constitutional Court, mainly

because they saw no relationship between the Constitution, the principle of protecting life, protection from torture, and the aspirations of peace and plurality. The decision to take these disagreements to the Constitutional Court reflects the Colombian legal culture, characterized by easy access to constitutional judges, a general social appreciation of the aspirational character of the Constitution, and confidence in a Constitutional Court that usually deals with progressive discussions. It shows a pre-sorting of the matter as a relevant national –not municipal- jurisdictional issue. From the constitutional space eventually emerged, and as a result of a constitutional debate, two possible jurisdictional arrangements that clashed but ultimately had to coexist and informed each other: one centred on understanding bullfights as animal abuse and contrary to the duty to protect the environment, which provides municipal authorities with extensive autonomy over bullfights. The second one, inherited from the legal objects and interpretative frame of the bullfighting canon understands bullfighting as culture and part of the national plural identity, granting limited autonomy to municipal powers.

The anti-bullfighting social forces aimed to discuss the constitutional correctness of the what (bullfighting as art) in search of an impact on the how. The Court (in Ruling C-1192/05), however, started by studying the competence of the legislature when categorizing a practice as art (the who and where), then went on to assess if the decision was reasonable before finally developing the legal object (the what) and some implications for its governance (the how). The Constitutional Court (in RulingC-1192/05) decided that the legislature had the constitutional authority to classify a practice as art and found its decision to do so reasonable. For the Constitutional Court to understand bullfights as artistic expression in legislature meant to regard bullfights as culture in constitutional terms, which implied understanding them primarily as a matter of national interest under the Colombian nation's principle of plurality. In addition, as a matter of urban order, as they were due to their status as a spectacle, bullfights became a source of the plural national identity. In this line of thought, the Constitutional Court suggested that bullfights could constitute intangible cultural heritage, despite the reluctance of the Ministry of Culture to grant such a category. The bullfighting canon found constitutional validation in RulingC-1192/05, although not without disagreement.

Dissenting opinions within the Court pointed out that bullfights should be interpreted within the framework of the duty to protect the environment, and thus, even if allowed, they are not deserving of special protection. The ambiguous and uncertain scope in terms of the rights and duties of classifying bullfights as artistic expression was another reason provided by dissenting

judges when explaining their disagreement with the majoritarian decision. The uncertainty of bullfighting as artistic expression became a source of constraint, which did not allow discretion in its interpretation and implementation or flexibility amid multiple scales of legal governance. In the end, it did not create a discretionary space for choosing a given jurisdiction or allow jumps between scales, as reported by other scholars on interlegality and governance in the EU context (Moffette, 2020; Strauss, 2017; Van der Woude, 2020). The legislature did not enact the law due to a political bargain searching for the lowest common denominator for agreement between sovereign states (Van der Woude, 2020). The designation of bullfighting as artistic expression was, on the contrary, a statement that replaced the original and failed attempt to force the Ministry of Culture to classify bullfighting as culture. The indeterminacy of the implication of bullfighting as artistic expression only resulted in a concrete mode of governance after the resolution of several legal claims to the Constitutional Court, which reaffirmed its role as the authority to define legal meanings in Colombia during the controversy.

The Constitutional Court was where an alternative legal object for bullfights emerged and governance constraints were defined. In Colombian legislation, bullfights do not exist in one single body of rules. Since 1989, the National Statute of Animal Protection has categorized bullfights, and other cruel entertainment activities involving animals, as general exceptions. Elaborating on the dissenting opinions in Ruling C-1192/05, the Constitutional Court developed in Ruling C-666/10 the notion of animal protection in terms of solidarity and moral obligation related to the duty to protect the environment. In this sense, the Court's interpretation of the exceptional character of bullfights created a problem of harmonization in the constitutional legal space: the duty to protect culture conflicted with the duty to protect the environment. While doing so, the Constitutional Court developed an alternative understanding of bullfighting as different to culture. Ruling C-666/10 defined bullfights as animal abuse, declared a normative deficit in animal protection in bullfights, evoked the reinforced constitutional protection for animals, and imposed a restrictive interpretation on bullfighting. Bullfights, even if culture, were not a source of pride, and neither should they be promoted by the State due to their inherent contradiction with other constitutional values. The Constitutional Court decided that bullfighting was only constitutional under certain conditions. Bullfights were only permitted in places where their social rooting was verifiable, and measures to protect the animals involved and minimize their suffering were needed.

During the attempts to balance the constitutional conflict, the cultural and environmental constructions of bullfighting outlined different jurisdictional

orders and thus, sketched out different possible ranges of autonomy for the municipal authorities. The primary source of controversy in public opinion and the Constitutional Court since 2012 was the extent to which municipal governments were legally entitled to regulate bullfights. The struggle ran so deep that it created a schism in the Constitutional Court, where two different interpretative paths emerged simultaneously and usually contradictorily.

After the Constitutional Court rulings in 2010, social movements asked that Ruling C-666/10 be implemented in different political scenarios, with different political candidates and in different legislative projects. The content and spirit of the C-666/10 became the primary normative source in the interactions of animal advocacy forces and the state, specially the municipal authority. It also became an obliged reference for the animal advocacy political activities in the City Council of Bogotá and the communication with public opinion. The interpretation of bullfighting as an environmental problem was added to the supportive narratives of those social movements seeking a less violent relationship with animals by changing consumption practices, promoting moral reflection on the condition of animals as sentient beings, or fostering the debate about the Hispanic heritage in Colombia. The environmental interpretation of bullfights brought interest in its social roots and the materialisation of a restrictive approach suggested by the Court. It relocated the bull at the centre of the social and political discussion by bonding the protection of the environment to the prevention and mitigation of animal pain.

The Bogotá municipal level, in fact, framed bullfighting as an environmental matter. The city's 2012 Development Plan, a resolution approved by the City Council, was drafted with the participation of animal and environmental advocacy groups using Ruling C-666/10 as a framework. The Court's decision was included explicitly as an activity that had to be fulfilled as part of the administrative tasks of the municipal government. The municipality interpreted the Constitutional Court decision –not without reasons– as a mandate to address the deficit in animal protection regarding bullfighting at the municipal level. The municipal authorities translated the directive into specific administrative measures.

The Bogotá municipal authorities believed they possessed the authority to negotiate the bullfight rules, manage the municipal bullrings autonomously, and call for a citizens' consultation on the subject. Their administrative decisions stemmed from their commitment to animal advocacy social forces and the conditional constitutional understanding of the spectacle grounded in the duty to protect the environment. These measures were an attempt by the municipal authorities to flesh out the Constitutional Court's Ruling C-666/10 with the legal objects and procedures of its own legal space –expressed

paradigmatically in the Development Plan– in order to fulfil their political commitments to social groups.

In the case at hand, the idea of municipalities as dissimulators in search of flexibility (Hubbard & Prior, 2018) is expressed by the political determination of the municipal authorities of Bogotá to complete the constitutional design through administrative measures. Ultimately, the Constitutional Court rejected the municipal interpretations.

Legal pathways, iteration and municipalities

The Constitutional struggle over bullfights showed how different jurisdictional orders count on the differential creation of legal objects within the same legal space. If bullfights were understood as contrary to the protection of the environment, municipal authorities would gain autonomy due to technicalities of the Colombian legal system, such as subsidiary rigour. Municipal competencies would become restricted if bullfights were understood as part of the national plural identity. The chronological review of the process illustrates that finding a primordial interpretative path was part of the law-making task.

At large, the controversy around bullfighting resembles the modification of a pathway, a performative process in which bringing back past socio-legal practices settles the possibility of the existence of a possible future. A pathway suggests the iteration of already walked ways, a process in which, by doing so, the path is at the same time reaffirmed and transformed without the initial trajectory being lost. Pathways might have multiple opportunities for walking, but once one is taken its inertia forces a route. However, other routes might become available, collapse within other routes and eventually change their direction. The interlegal dynamic unfolded before me during the analysis in just that manner. The municipal level is one of the multiple participants in such a path creation, joining the creation of legal objects, evoking other normative sources, setting interpretative frames, and defining peripheries and centres that inform their governmental practices

The iterative modulation of the precedent decisions was the mechanism by which the gaps, uncertainties and unexpected constitutional problems caused by the legal creativity of Bogotá's authorities and social forces were solved by the Constitutional Court. The review of the Constitutional Court's decisions between 2010 and 2018 reveals that Ruling C-666/10 was repeatedly reinterpreted and infused with new meaning, particularly when contradicting the interpretations presented by municipal authorities when arguing for the

legality of its administrative decisions. Through this continuous interaction, the Court sought to maintain the coherence of the constitutional legal space. In this process, authorization was equated to notification in the context of the municipal duties when allowing bullfight activities. Social rooting, initially a verification of territorial conditions of opportunity, duration and majoritarian will, was later understood as a population-based understanding tied in with cultural identity and the existence of a bullring. Implementing measures to mitigate animal pain in bullfights in the future was interpreted as the distant future of a legislative agreement, not the immediate future of a municipal decision after the formal publication of Ruling C-666/10. The iterative process preserved the legal coherence and social intelligibility of the wider interlegal dynamic by adjusting the complete legal pathway with each new interpretation. The performativity of jurisdictions did not work in a unidirectional cascade mode, as suggested by Valverde (2009). The outline of the jurisdictional order continually addressed the objects, territories, times and modes of governance in a cycle agitated by social forces and municipal governments. The jurisdictional order of bullfighting emerged as reliant on the uncertainty and incompleteness needed to allow municipal authorities to operate while being under constitutional oversight. While displaying path dependence, the jurisdictional games involved in the bullfighting case illustrate how the trajectory of the legal pathways rests on the iterative meaning creation process carried out by a jurisdictional authority. The bullfighting case reveals how every time the Constitutional Court walked a previously transited legal pathway also changed it and readjusted its trajectory. The successive constitutional revisions regarding Bogotá's administrative measures demonstrated how systematically the Court declared itself as the only competent authority to decide over the meaning and realization of its rulings. This included challenging and revoking its own past judicial decisions, as happened twice in 2018.

The Bogotá municipal authorities have been reliant on the continuous process of searching for and adjusting legal meaning through iterations. Artistic expression, culture, heritage, social rooting, authorization, and the future are just some examples of notions whose legal meanings were initially vague. They only achieved legal specificity after social forces –making use of their own imagined meaning– and the municipal authorities –risking an interpretation– agitated the interpretative controversy. When attempting to respond to social demands for change, the municipal authorities had to make decisions almost like a trial and error dynamic. The law-making process would not have taken place without the municipal authorities of Bogotá being active in their attempts to materialize a constitutional ruling or without the social

forces (pro- and anti-bullfighting) intensively challenging the Constitutional Court, sometimes over the municipal decisions. During the law-making process, the Bogotá municipal government was a driving force of legal change.

Ultimately, the Constitutional Court –not without polemic– found that the Bogotá municipal government's decisions were contrary to the constitutional order while strengthening the interpretative path of bullfights as culture. Eventually, the Constitutional Court privileged the interlegal arrangement of bullfights that had begun in the early 1960s over the environmental approach. In concrete terms, the Constitutional Court decision implied that any change regarding the legal status of bullfights must emerge from the legislative power. However, it maintained the limitations set by Ruling C-666/10 and its restrictive interpretation. While I have not addressed the topic in this research, anti-bullfighting forces have made several unsuccessful attempts to pass a bill regulating or abolishing the spectacle in the National Congress (at least once in each legislature).

For the purposes defined for this research, the decision to provide a legal reserve to bullfights has a different implication. As an outcome of the long interlegal process, the municipal level is essentially considered as a function of policing subordinated to the power of policing and, thus, an eminently coercive force. The role of municipalities as sites of local democracy, where social and political agreements may emerge, was surrendered in the bullfighting case to the forcible character of municipal authorities. The fact that most animal advocacy social forces have addressed the municipal power to regulate or abolish bullfights has helped to highlight such a coercive understanding. Even when exalting the municipal level as a site of local democracy through a popular consultation, the final goal of the initiative was to legitimize the restriction of bullfights without contravening the law.

Interlegal flexibility, social forces and change

The long interlegal dynamic has limited municipal authorities' power because bullfighting has been able to adapt its core legal objects over time. The case shows how interlegal arrangements may transform alongside societal changes and how difficult it can be to change them. The effect of this interlegal dynamic is not expressed in a static architecture or as a finished outcome. On the contrary, the strength of the interlegal arrangement manifests itself in the durability of core legal objects and essential interpretative horizons amidst the process in which different actors (the legislative power, social forces, the

Constitutional Court and municipal governments) have interacted over years when debating bullfighting. The integration of the bullfighting canon into the Colombian legal order back in the 1960s, when it was still a prestigious, socially accepted and economically desirable practice, has been resilient. Through the interactions of the bullfighting fans, the interlegality of bullfighting was adapted to the legal guarantees provided to historically excluded cultural groups by the Colombian system. In this manner, the interlegal arrangement born out of the once-thriving bullfighting still upholds a social practice in decay.

Bullfighting reinvented itself as a national tradition through the recurring legal interactions of social forces. The social and legal change involved in the attempts to regulate bullfighting implies transforming the old interlegal bullfight's arrangement in Colombia and the mechanism by which it has been able to revive as part of the plural national culture, even in spite of social changes, local political will, and national progressive legal dispositions aimed at protecting animals. Studying the long-term process around bullfighting reveals how socially and legally integrated past practices under pressure to change can find in their legal existence grounds for their continuation despite extensive societal changes. The dynamic around bullfighting also underlines the consequences of such a survival operation. Due to its entanglement with the law (in search of internal and external protection), bullfighting has restricted its creative capacity to the mechanism by which the law transforms itself. Only in future attempts to adjust the spectacle might one be able to fully comprehend the extent to which bullfighting's juridical life has become the source of its creativity. Then, one might ask again if it makes sense to consider bullfighting as an artistic expression.

The Colombian system is known to extend constitutional protection from historical excluded groups to other vulnerable groups (such as the internal forcibly displaced population) in order to guarantee their rights. However, the bullfighting case alludes to a process in which a professional group and its audience, without being in a position of exclusion, vulnerability, or being a distinct group (Hoekema, 2017), have achieved legal support to continue with a spectacle without changes. Not even when the Constitutional Court acknowledged the spectacle as animal abuse, recognised increased protection for animals, declared a normative deficit in the duty to protect animals, and imposed a restrictive interpretation of bullfights. The bullfighting case lays bare a dynamic in which the rules and interpretative frames of social practices –when they are put under pressure to change– transform their legal existence avoiding changes in its normative structure thanks to legal interactions. This research does not describe the shift from a local, undermined position of power

to a national hegemonic one but rather the attempt to resituate a social practice within the predominant spaces of hegemony by shifting scales. The outcome has been the emergence of a jurisdictional order in which the municipal government, a space occupied by anti-bullfighting social forces, has limited possibilities of fostering change.

Despite not being formally acknowledged as a group receiving special constitutional protection and not being recognised bullfighting as a cultural right, the outcome of the struggle has enabled bullfighting supporters to make social and political claims suggesting that they should be treated as minorities. These claims are a result from the legal struggle over bullfights and not its starting point. Using Hoekema's terms (2017), the case shows an instrumental group's attempt to be acknowledged as a distinct one through their legal interactions. During this process, the claims of those fighting for animal welfare have mainly been dismissed. The difficulties in translating the moral claims over animal sentience into the legal debate around bullfighting prevented it from being situated as part of the still-hegemonic anthropocentric understanding of animals. Despite widespread social disapproval of bullfights, the spectacle is embedded on the legal understanding that animals can be exploited under certain circumstances. Most animal advocacy groups' original concerns has inevitably been distorted into legal discussions of culture, environment, national unity, and the limitations of municipal autonomy. The research reaffirms how legal governance restrictions limit new, alternative ideas of justice (Bocarejo, 2020; Branco & Izzo, 2017; Ralf Becerra, 2019). The interlegal trajectory can constrain the specific development of new understandings of justice by confining the possibilities of legal objects, the frames of interpretation, and the larger jurisdictional order. The absence of animals as rights holders in the Colombian legal system compelled a legal understanding of bullfighting as part of the environment or cultural practice. None of them (environment or culture) faithfully reflects the aspiration of animal advocacy movements.

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Interlegality, Municipalities and Social Change:

A Sociolegal Study of the Controversy over Bullfighting in Bogotá, Colombia

This thesis is about the participation of municipalities in the sociolegal dynamics that take place when social forces claim social changes. In modern western States, the municipal level enjoys limited autonomy as part of an intended hierarchical nested legal structure but, nonetheless, it must answer to local demands as a site of decision-making and local democracy. This tension has given rise to discussions about the ambiguous role of municipalities as social and legal forces of change. This study contributes to this debate by focusing on the series of sociolegal interactions that occurs when municipal authorities contest the limitations to their autonomy and challenge a legally established multi-level order because they join social demands for change.

By following the sociolegal life of bullfights from 1964 to 2020, the thesis empirically examines the struggle in Bogotá (Colombia) over bullfights, a formerly popular spectacle inherited from the colonial Hispanic tradition that has progressively lost majoritarian support in the capital city because of the rising social protestations against animal cruelty. The bullfighting controversy is an example of how societal change entails sociolegal transformations in which multiple actors –among them municipalities– interact in and through different legal spaces over time.

Drawing on interlegality, scales and jurisdictions, this thesis provides a conceptual framework for understanding the municipal level as a participant in complex sociolegal interactions that are embedded in a far-reaching, historical, iterative, dynamic process of normative transformation. It also reveals the possibilities and constraints of municipal action amidst the dynamic process of sociolegal change and its continuous search for social, political and legal intelligibility.

Nicolás Serrano is an anthropologist with an M.A in Habitat from the National University of Colombia and an M.Sc. in Urban Development and International Cooperation from the Technische Universität Darmstadt and the Institute of Urbanism of Grenoble.

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