

Governance of Live Performing Arts in Colombia: Building Strong Cultural Institutions on Weak Foundations

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Abstract

This chapter outlines the process developed by a Latin American country to construct robust regulatory institutions that aim to formalize and strengthen its performing arts sector. This process has secured private funding sources and established a virtuous cycle that implicates both national and local governments. This cycle ensures sustainability, growth, and a form of collaborative governance in the performing arts sector. Through an analysis that mobilizes institutional theory to explain governance as ‘rules of the game’, the study also highlights the significance of the Public Entertainment Act (Law 1493 of 2011) and its impact on how the cultural sector in Colombia functions. The Act established formal mechanisms to strengthen the cultural sector financially and mitigate the institutional regulatory weakness that is prevalent in Latin America. Therefore, we propose an expanded definition of cultural governance that highlights local-national and private-public collaborative processes of public policy realization. However, our analysis recognizes that the design and distribution of the parafiscal elements of the Public Entertainment Act introduce certain tensions across the country.

Introduction

The focus of this chapter is to reflect on governance from an institutional theory perspective (Hinings et al, 2017), particularly its formal regulatory and legal aspects (North, 1993, 2003) where the context plays a crucial role in determining its operations. Specifically, we aim to answer the central question of how cultural governance works in developing countries. Colombia has recently developed a Law and regulations for the live performing arts to encourage and promote the production, touring, and access to live artistic performances. By examining the paradoxical dynamics of the application of the Law and its regulations in Colombia, we hope to shed light on the specific challenges and opportunities of cultural governance in the context of a developing country.

We have developed our analysis in four sections. The first sections consist of a literature review and conceptualization where we analyze the ideas of institution, governance, and collaborative governance. We do this to extend the definition of cultural collaborative governance in a developing country. This definition considers the scope of governance as outlined in the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) and the Culture for Development Indicators.

Next, we describe some of the characteristics of the Latin American context that may significantly impact its practice of governance. We also present the characteristics of the legal and regulatory institution-building processes in mid-range developing countries, such as those found in Latin America. Although these countries often suffer from institutional weakness, Colombia has managed to mitigate the pattern that leads to serial replacement as a model of development and institutional change on the continent. This is due, in part, to establishing and implementing a few strong and formal institutions that are Laws and regulations that support and shape the cultural sector within the country.

The third section of our analysis explains the Public Entertainment Act (PEA), also known as Law 1493 of 2011. This law is the foundation for cultural policy in the performing arts in the country. Despite being situated in a generally weak institutional context, typical of Latin America, the PEA is considered a well-established cultural policy mechanism for the country. It has become an efficient formal institution. This legislation contains a set of measures that have consolidated arts production and improved the practice of live performing arts in Colombia: These policy measures include tax exemptions, fiscal benefits for national taxes, and a new source of resources for cultural infrastructure, production, and touring of performances. These measures do not rely on public budget allocations.

In the fourth part of our analysis, we discuss the implications of the PEA for cultural governance in Colombia. We analyze the PEA through a collaborative governance lens that reveals three main tensions or paradoxes in the PEA measures (Vanden & Huxham, 2011): 1) formalization versus diversity of artistic expressions and models of cultural organization; 2) the parafiscal contribution involving financing taxes on

tickets versus accessibility to performances; and 3) promotion versus control, regarding the new role of the Ministry of Culture.

We used an ecosystem level of analysis (Renz et al., 2022) in our research to focus on formal structures and institutions such as laws, public policies, and regulations and their impact on cultural governance in a developing country context.

It is difficult to assess the change as a result of the PEA in cultural management practice. There is not much consolidated and longitudinal data at the national level before or after the appearance of the law. As well, this law is quite singular in the manner that it combines market and State mechanisms to achieve its goals. As a result, it is a great challenge to carry out any comparative political analysis. We hope our ideas can encourage future research on this kind of cultural policy.

Cultural collaborative governance

We base our institutional analysis on the definition proposed by Douglass North (1993, 2003), in which *institutions* can be understood as the rules of the game in a society or, the socially constructed limitations that shape human interaction. These rules include formal legal limitations (laws, regulations, constitutions) and those informally associated with socially transmitted information and the heritage that we refer to as culture (routines, customs, traditions). As well, enforcement mechanisms may be cognitive, emotional, social or (para)legal (Abitbol, 2013). According to this definition, it is important to distinguish institutions from organizations: “Institutions are the rules of the game while organizations along with individuals are players in the game” (Faundez, 2016, pp. 389-390). In some cases, organizations function as institutions for individuals, since they also provide a structure for human interaction, but they are not the level of our analysis. We focus on the macro or national level of analysis, where the legal system functions as the pertinent institutional mechanism for studying cultural governance.

Institutions can, mostly, be identified in the economic, political, and sociocultural dimensions of the context. In the economic dimension, the macroeconomic environment includes market conditions and

geographic characteristics and influences the birth or evolution of institutions. Similarly, political elements are generally reflected in the laws that regulate the dynamics of a specific industrial sector. Finally, sociocultural institutions are revealed in the values and beliefs that have achieved the power of legitimacy, and complement other institutional elements that exist in a given society. These sociocultural institutions support the birth, development and evolution of a business sector (Crnogai and Hojnik, 2016).

These concepts within institutional theory have strong links with governance theory. The structural dimension of governance refers to the variety of political and economic institutions that have been created over time to steer the economy and society, and to reach collective goals: “a broad institutional definition of governance refers to the setting, application and enforcement of rules” (Katsamunski, 2016, p. 141), in the search for control, guidance, accountability, democracy and efficiency.

The good governance approach emphasizes that the state ceases to exist as an exclusive or defining actor, and its role must be collaborative: “through government, the state strategically develops partnerships for co-decision-making” (Katsamunski, 2016, p. 138). The New Public Governance paradigm similarly highlights dispersion of power across a complex network that includes government, the private sector, non-profit organizations, and a series of social groups. The central role of government is as a coordinator, not as a paternalistic provider and the prevailing understanding holds that “the essence of public service is to service citizens and pursue public interests” (Xu et. al., 2015, p. 14).

Considering good governance and New Public Governance theories, among others, Emerson and colleagues (2011) develop an integrative framework for collaborative governance that defines it as “the processes and structures of public policy decision making and management that engage people constructively across the boundaries of public agencies, levels of government, and/or the public, private and civic spheres in order to carry out a public purpose that could not otherwise be accomplished” (p. 3). This framework can be applied to public administration and policy level analysis, as we do in this chapter. It proposes three nested dimensions: (i) the general system context, a multilayered context of political, legal, socioeconomic, environmental, and other influences; (ii) the Collaborative Governance Regime (CGR), to denote a “system

in which cross-boundary collaboration represents the predominate mode for conduct, decision making, and activity” (p. 10); and (iii) its collaborative dynamics and actions.

In this framework, cultural governance refers to the set of political and legal structures, policies, practices, and dynamics that govern the cultural sector in a country. We understand culture in a broad, anthropological sense, consistent with an internationally accepted concept since that was affirmed in the Mexico City Declaration on Cultural Policies (1982): “(...) culture may now be said to be the whole complex of distinctive spiritual, material, intellectual and emotional features that characterize a society or social group. It includes not only the arts and letters, but also models of life, the fundamental rights of the human being, value systems, traditions, and beliefs”. Later, UNESCO established the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), an international treaty that provides a policy framework for the governance of culture.

The Convention promotes the right of independent sovereign States to develop cultural diversity and it outlines the institutional and regulatory structure necessary at all levels of interest in the sector. In the Convention, the governance of culture “encompasses the normative frameworks, public policies, infrastructure, institutional capacities, and processes that shape the cultural and creative sectors. Such governance aims to promote participation at all levels and by all actors, enabling a diversity of voices” (UNESCO, 2022, p. 21).

As an extension of the Convention, the UNESCO *culture for development indicators* consider the governance dimension and identify “regulations, policies, measures, institutional mechanisms and cultural infrastructures put in place by public authorities to structure dynamic cultural sectors, strengthen cultural processes, and protect and promote cultural diversity in all its forms (...) Cultural governance encompasses, on the one hand, standard-setting frameworks and public policies and, on the other hand, institutional capabilities and cultural infrastructure” (UNESCO, 2014, p. 62).

As we can see, the current UNESCO agenda on cultural rights and culture for development affirms the relevance of cultural governance. This agenda acknowledges the relevance of institutional norms, and the importance of citizen participation in forming and implementing laws, policies, and measures. The democratic aspect captures both good governance and New Public Governance paradigms, that crystallize in the collaborative governance framework proposed by Emerson et. al. (2011). It also appears in the participatory turn in cultural policies, which echoes the “evolution of models of governance, with stronger demands for participation by more active citizens” (Bonet and Négrier, 2018, p. 65). We understand the confluence of these concepts to be *collaborative cultural governance*, Therefore we propose the following definition:

the processes and structures of public policy decision-making and management in the cultural sector, that engage people constructively across boundaries of organizations and public/private spheres, to guarantee the right to participate in cultural life, protect heritage and promote the diversity of cultural expressions, promote creative capabilities, institutional capacities and infrastructures.

Institutional building process and governance in developing countries.

Murillo (2015) reminds us of the importance of understanding context to reconcile general theory with national political realities

Contextualization can mitigate the trend towards the generalization of "one-size-fits-all" theories and policies, while increasing the focus of their applicability, if we are able to understand how context defines political processes and are prepared to face the fact that human beings can react strategically to the knowledge we produce. (Murillo, 2015, p. 591).

The Latin American context is characterized by three fundamental traits that significantly impact institutional processes. First, the region is considered a "third world" area, consisting of economically underdeveloped societies. Such countries face urgent social needs like health and education, so the arts and

culture sector typically are not a priority in State agendas. To invigorate this sector, other strategies need to be developed.

Second, the “Dependency Theory” was proposed by the Economic Commission for Latin America, and the Caribbean (ECLAC / CEPAL, in Spanish). It establishes the notion of a dependent relationship between underdeveloped "peripheral" countries and developed "center" countries (Gollin, 2014). Latin American countries are classified as peripheral, while the United States and those of Western Europe are center. This dependency lens clarifies the nature of economic growth and development for countries in the region (Coatsworth, 2006). Most countries in Latin America have "dual economies" where formal and informal economies operate simultaneously within the territory of a single nation (Sibabrata, 2015). Theoretical concepts that help to understand and promote the processes taking place in center countries would not correspond or be applicable to peripheral countries. This observation implied a search for new and appropriate approaches, which also affected the concepts of governance proposed for Latin America (Treacy, 2022). This dualism is significantly influenced by international, regional, and local dimensions.

Further, in Latin America, the concept of governance is impacted by international advisory entities, especially in financial matters. The World Bank (WB), the United Nations Development Program (UNDP), and the Inter-American Development Bank (IADB) have greatly influenced the transfer and adoption of the definition of *Good Governance*, to achieve greater transparency concerning the aid granted to these nations. According to the World Bank, good governance

“refers to the manner in which power is exercised in the management of a country's economic and social resources for development, and it involves transparency and efficacy in three fundamental areas: (1) the method of electing, controlling, and replacing authorities (institutional stability), (2) the government's capacity to manage resources and implement policies (regulatory framework and government efficacy), and (3) respect for citizens (transparency, participation, openness, human rights, and the rule of law)” (Zurbriggen, 2014, p. 346).

Despite being normative, the logic of the "Market" was recommended as key for the development of these nations. Multilateral entities advocated privatization processes, reducing the size of the state's participation,

and its monitoring and control role. As a result, resources for planning activity were reduced, and a “laissez-faire” approach was promoted (Zurbriggen, 2014). However, these market-oriented policies had negative consequences, failing to reduce poverty or decrease inequality and hampering overall development processes. In the 21st century, the role of the state was rethought and restructured. Studies during this time emphasized the importance of regulatory institutions and the need for stability to achieve better long-term results. This restructured approach generated dual policy elements: market service mechanisms as a form of social organization and accountability processes within hierarchical structures as a form of control (Zurbriggen, 2014).

The third characteristic, “serial replacement”, results from interaction of the two previously mentioned characteristics. Existing formal institutions undergo significant and frequent modification in mid-range economies such as in Latin America. They are typically weak: “1) *enforcement of the rules is low, or there exists broad de facto discretion with respect to their application; and 2) institutional durability is low, in that formal rules change repeatedly, rarely surviving fluctuations in the distribution of power and of preferences*” (Levitsky & Murillo, 2013, p. 93). This environmental weakness can be attributed to five factors in these countries: (i) instability of the regime; (ii) electoral volatility; (iii) social inequality; (iv) importation of regulations and laws from external jurisdictions; and (v) rapid and thoughtless regulatory institutional design (Levitsky & Murillo, 2013).

This pattern of serial institutional change is evident in all Latin American countries. However, the strength of the regulatory institutional context varies between countries. Even in countries with weak institutional environments, there can be surprising variation in the enforcement and durability of the regulatory context that reflect the institutionalized policies. (Levitsky & Murillo, 2009).

Similarly, Estache and Wren-Lewis (2009) conclude that “institutional weaknesses in developing countries will make the optimal regulatory policy different from that of developed countries” (p. 731). They identified four weaknesses in Latin American countries: (i) *limited regulatory capacity* (ability to implement policy); (ii) *limited accountability*; (iii) *limited commitment*, that makes it very difficult to rely on contracts; and (iv)

limited fiscal efficiency, because fiscal institutions are unable to collect adequate tax revenue to provide for direct subsidies when consumers have limited ability to pay for services.

Since the beginning of the 20th century, in contrast to most Latin American countries, Colombia's political and democratic institutions have been relatively stable. The Constitution of 1886 lasted over 100 years and was replaced by the Constitution of 1991. Each coexisted with a high level of political repression (Gutiérrez, 2014). Nevertheless, the institutional stability of the political regime contrasts with a high volatility of its legal institutions. The Colombian Planning Department (DNP, in Spanish) (2017) found that entities in the national government's executive branch issued 94,748 regulations between 2000 and 2016, a daily average of 2.8 decrees, 11.2 resolutions, 0.3 circulars, and 15.4 other types of regulation.

Regarding the application and fulfilment of its regulations, Colombia comes 91st among 132 countries¹ (World Justice Project, 2022). For example, while the non-fulfilment of tax obligations in Colombia has improved from 46.3% in 2001 to 31.4% in 2009. However, evasion still remains significant (Parra and Patiño, 2010).

In sum, despite the stability of its formal democratic regime, Colombia shares the features of other Latin American countries in terms of its high regulatory volatility and the structural weakness in compliance with the regulations.

In contrast to the generalised weakness in the institutional context in Latin America, following the Constitution of 1991, Colombia has instituted strong cultural legislation, thus mitigating the 'serial replacement model.

Table 1 Recent legislation to promote cultural industries

Legislation	Year	Purpose
Law 98	1993	Promotion of books and democratisation
Law 814	2003	Promotion of cinematographic activity

¹ This is the result of the ranking based on eight factors: *Constraints on Government Power, Absence of Corruption, Open Government, Fundamental Rights, Order and Security, Regulatory Enforcement, Civil Justice, and Criminal Justice* (World Justice Project, 2022)

Legislation	Year	Purpose
Law 1379	2010	Consolidates and funds a national system of public libraries
Law 1493	2011	Public Entertainment Act (PEA): Consolidating and strengthening of live performing arts
Law 1556	2012	Use of Colombia as a film location

Ruiz & Toro (2018) observe that the film sector has benefitted by the establishment of new agencies like the Cinematographic Direction founded as a result of Law 814 of 2003. This public agency ensures that the Film Law has been enforced and promoted appropriately. As well, further regulations in the film sector have established a fund and coordination of agents on many levels (Rey, 2017). Further, the PEA (Law 1493 of 2011) has achieved “outstanding results in funding culture activities” in the live performing arts (Rey, 2017). This is the topic of our next section.

The Public Entertainment Act (PEA) in Colombia

Background

Before 2011, when the PEA was created, several factors contributed to the marginalization of the live performing arts sector in Colombia. First, national regulation only addressed the sector through Police Code, aiming to maintain public order. Second, the sector had an excessive and anachronistic tax code: every Cop\$100 that a producer invested in an event, up to Cop\$60 was returned to various levels of government: (i) national tax on public performances for sport (10% fee per ticket); (ii) municipal or district gambling and public entertainment tax (10% fee per ticket); (iii) for Bogotá, there was an additional poor people's fund tax (10% fee per ticket); (iv) sales tax (VAT) with a fee of 16% at the time, applicable to the contracting of artistic services; (v) 33% withholding tax on amounts paid to international artists.

Third, organising live performances was hindered by many onerous procedures, significantly raising transaction costs. A 2006 study by the Centre for Economic Development Studies (CEDE, in Spanish) at Universidad de los Andes, documented significant failure by producers to comply with current regulations regarding the authorization of public performances. In Bogotá, a theatre producer needed to deal with 14 different organisations to request permission for a variety of demands, submit documents and other forms to realize a performing arts presentation.

Fourth, the cultural infrastructure for the performing arts sector was both out of date and deficient. The sector lacked specific resources to build or improve the public and private touring of the performing arts.

In 2011, the PEA responded decisively to these difficulties. In 2009, the government's explanatory memorandum to introduce the Act, clearly demonstrates a neo institutional approach (North, 1993, 2003) in the diagnosis and proposed solutions:

“In the case of the live performing arts sector, due to the high tax burdens and few incentives established for the producers, the formal institutions that regulate the procedures for live performances have favoured the informality of the sector, such as tax evasion and non-compliance with procedures for permits. As a result of formal institutions and informal reactions, some negative social lessons occurred. For example, contracts for a foreign artist may be split basing one part in Colombia and another part outside the country to avoid Colombian taxes on the whole fee.

Therefore, the formalization of the sector proposed by the present bill will occur as a consequence of repealing the formal rules of the game that encourage informality in the sector and, at the same time, establish rules that engender incentives for producers of live performances and for those who contribute to the sector through their donations. This will also make it possible to reverse a number of negative social experiences that have customarily been established among producers”.

The PEA: Mechanisms and Impact

The mechanisms and results regarding formalization and promotion of the performing arts sector can be grouped into five components², found in the following table:

Table 1
Mechanisms and Impact of PEA

Mechanism / instrument	Description	Impact³
Tax reductions	<p>Taxes repealed:</p> <ul style="list-style-type: none"> a) national tax on public performances for sport; b) gambling and public entertainment tax (municipal); c) Unified Tax Fund for the Poor (municipal). <p>Sales tax reduction of up to 30%.</p> <p>Other tax reductions:</p> <ul style="list-style-type: none"> a) Artistic services are excluded from VAT, b) Withholding tax for non-residents reduced from 33% to 8%. Medium and small cultural organisations experienced tax reductions to virtually zero. Colombia has become an essential destination for artists such as Paul McCartney, Lady Gaga, Metallica, Cirque du Soleil, The Rolling Stones, Coldplay, and Maroon 5. c) A 100% deduction⁴ on withholding tax, for investments made in performing arts infrastructure projects. Encourages private investment (approval by the Ministry of Culture). 	<p>Tax incentives significantly reduce production costs, mitigating "cost disease" in the performing arts (Baumol and Bowen, 1965).</p> <p>The 2014 study for the Ministry of Culture, states: "the estimated fiscal benefit between 2012 and 2014, due to the repeal of taxes was Cop \$96.9 billion; this is the estimated savings for public shows with box office revenue greater than or equal to 3 TVU⁵" (Econometria Consultores S.A., 2014, p. 7).</p> <p>Tax reductions produce operating savings that could favour improved artist fees.</p>
2. Greater resources for the sector	<p>PEA created the cultural parafiscal contribution, which taxes tickets and attendance fees at or above 3 Tax Value Unit⁶ (Cop\$ 78,147 in 2012..., Cop\$ 127,236 in 2023). The Ministry</p>	<p>This measure raised a total of Cop\$ 222,255 billion, in 147 municipalities and districts of the country, as of December 31, 2022.</p>

² This classification is taken from the PEA Statistical Yearbook, developed by the Colombian Ministry of Culture and available at: <https://pulep.mincultura.gov.co/Paginas/avancesylogros.aspx>

³ The data presented and analyzed below is taken from the Statistical Yearbooks, developed by the Colombian Ministry of Culture and available at: <https://pulep.mincultura.gov.co/Paginas/avancesylogros.aspx>

⁴ Thanks to article 180 of Law 1955 of 2019, the percentage upgraded to 165%.

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⁶ The Tax Value Unit -TVU- ("Unidad de Valor Tributario", UVT, in Spanish) is the price used by national tax administration of Colombia (DIAN) to determine different tax obligations, such as the minimum amounts of withholding at source or penalties. The TVU is updated every year.

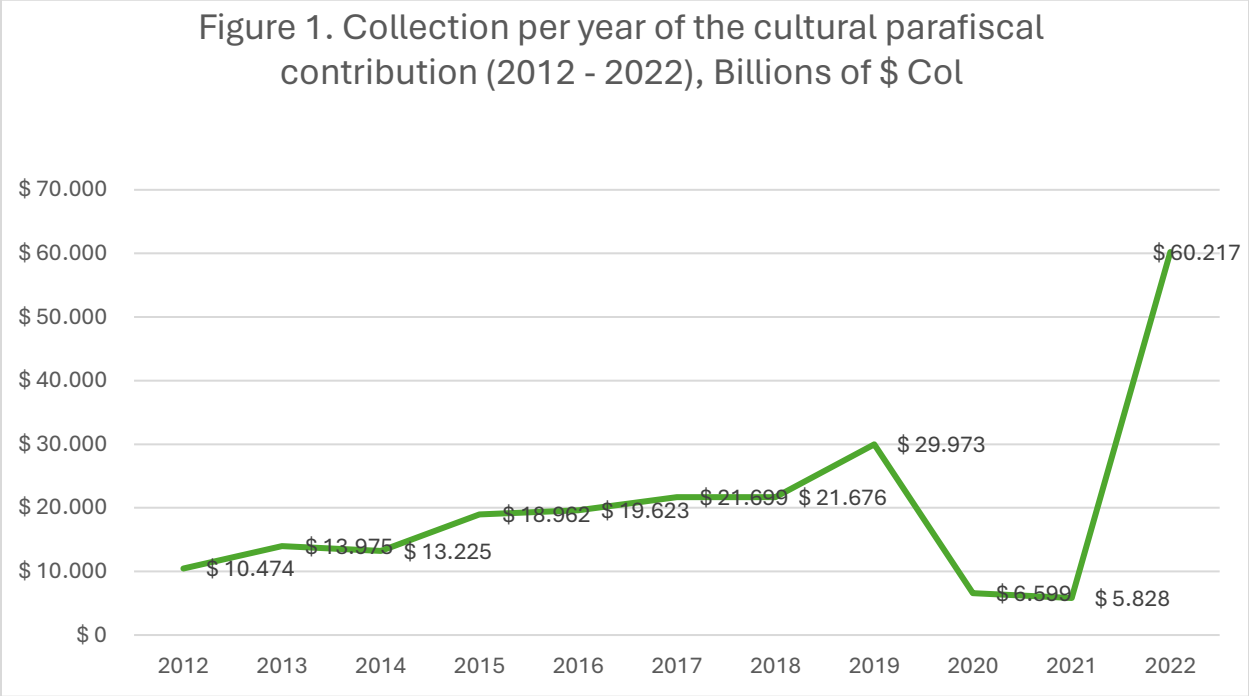
Mechanism / instrument	Description	Impact³
	<p>of Culture transfers this money throughout the country and to the municipalities in which it was collected, to be invested in performance infrastructure designated by the PEA. Monitoring occurs for conformity.</p> <p>During the pandemic, temporary use of this parafiscal contribution was enabled to support production, touring, and research in the performing arts. It was successful and was permanently adopted in 2020.</p>	<p>The pandemic affected this fund in 2020 and 2021, but the recovery produced the highest annual collection: \$60,217 billion, an increase of 200%, over 2019.</p> <p>Figure 1 describes the evolution of this funding, Five cities represent more than 80% of this fund with Bogota near 48%. Between 2013 to 2018, 145 public and private performing arts entities have benefited.</p> <p>This measure legitimizes and recognizes the value of work force in the performing arts sector. Investment in public entities neglected performance spaces to improve public occupancy.</p>
3. Registration and formalization	<p>The PEA created a sectoral database including producers of live performing arts shows; authorized online ticket sales operators; and a stage registry (Single Portal for Public Performances of the Performing Arts - PULEP, in Spanish, established 2016). This database supports touring of the performing arts in Colombia.</p>	<p>As of December 31, 2021:</p> <p>a) The Ministry of Culture has registered 1,837 producers, of which 200 are permanent and 1,637 occasional⁷, 1,266 are private organizations, 60 public organizations and 511 individual producers. 68% of these producers are small format, 20% medium format and 12% large format⁸.</p> <p>b) 23 companies that offer online ticket sales for live performing arts events were authorized.</p> <p>c) 310 stages are currently registered.</p> <p>From 2017 to 2021, producers recorded a total of 45,344 performing arts events with 53.03% in Bogota, Medellin, and Cali.</p>
4. Simplification of procedures and requirements	<p>a) Standardized authorizing procedures for live performing arts.</p> <p>b) Single point for producers to register;</p> <p>c) conditions are regulated for the loan of parks, sports stadiums, and stages for live performances.</p>	<p>Reduction of transaction costs for organizing events.</p> <p>To date, we know of no empirical investigations of this impact.</p>
5. Jurisdiction over copyright and related	<p>Copyright control was strengthened through the National Directorate of Copyright.</p>	<p>These measures enhance and strengthen State capabilities.</p>

⁷ Permanent means production of 10 or more events in a two-year period.

⁸ Format (Large, Medium or Small) is defined by the liquid assets they credit. Large format, equal to or greater than 1552 current legal monthly minimum wages; medium format, between 201 and 1551 SMLMV; and small format, equal to or less than 200 SMLMV.

Mechanism / instrument	Description	Impact ³
collective rights management societies		To date, we know of no investigations of this impact.

Figure 1 illustrates the cultural parafiscal contribution collection from 2012 to 2022:



Source: Authors, using data from the Ministry of Culture

The responsibility for managing resources generated by this Policy has professionalized practices in the Ministry of Culture and the entities responsible for culture across the country. It has also stimulated formalization processes in the performing arts organizations, contributing to the professionalisation and greater efficiency of the activities in the sector.

Finally, the provisions of the PEA tend to concentrate the production of live arts performances and the taxes collected in large and intermediate cities in terms of population. This trend is present in the cultural and

financial dynamics of other countries in the region, such as Brazil and the Rouanet Law (Friques & Luque, 2016)⁹.

Discussion: paradoxes and learnings

The PEA may be considered a strong and efficient formal institution, even when ~~this norm is~~ inserted in a generally weak institutional contexts such as that found in Colombia and Latin America. This has occurred because the policy emerged from the specific problems of the sector in Colombia. It is not an imported solution. Its formulation came about after a long, technical and participative process. Early studies began in 2006 and the first version of this Law was filed at the Congress of the Republic by the Ministry of Culture in March 2009, followed by two years of debate in the parliament. It was not a rapid or thoughtless institutional design.

Collaborative governance (Emerson et al, 2011) provides a useful frame for analysing the situation. We observed the following six characteristics reflecting collaborative governance in this project:

Observation 1: The PEA formally consolidated the sector in Colombia by introducing this novel legal framework that professionalized, and developed new resources for the performing arts sector ~~shows~~ and its infrastructure.

Observation 2. The PEA main drivers were: leadership by the Ministry of Culture and the sector's ecosystem of agents and organizations; significant reduction of taxes for production and the realization of new resources to improve cultural infrastructure; and the cooperation that results from the functional interdependence between national and local public agencies.

Observation 3. The PEA produced a Collaborative Governance Regime (CGR) where public and private organizations engaged to determine their common goals: simplify taxes requirements, and

⁹ “While the Southeast region already reached the amount of fifty millions of reais in 2000, the other regions only reached this value 12 years later (...) In 2013, this region [South] had more than the double of the third region with more collected money (Northeast)” (Friques and Luque, 2016, p. 6 - 7)

procedures for realizing arts performances. In return, the sector accepted control and a monitoring measure to homogenize the ‘rules of the game’.

Observation 4: The sector’s support of the PEA is anchored in the transparency of the virtuous cycle of the cultural parafiscal contributions and investments. The transparency results from participation in local committees where annual decisions are made to invest these resources to benefit of performing arts organizations and their venues. This mechanism has generated trust, accountability, legitimacy, and commitment.

Observation 5: At the national level, the PEA has generated collaboration among the Ministry of Culture, DIAN (National Office of Taxes and Customs) and the Industry and Commerce Superintendence (a regulatory agency). They share information and coordinate their roles in the national laws of culture, tax administration and consumer protection. In the same way, PEA has generated a cyclical dynamic between national and local levels of government. Parafiscal resources are collected nationally and invested locally. As Emerson and colleagues affirm, “procedural and institutional arrangements encompass the range of process protocols and organizational structures necessary to manage repeated interactions over time” (2011: 15).

Observation 6: The pandemic of COVID-19 had effects in the PEA allowing new objectives for the parafiscal cultural contribution that should generate modification of variables of in the Collaborative Governance Regime (CGR).

Despite the achievements in collaborative cultural governance by the PEA some underlying paradoxes and tensions must be considered:

1) *Regulation versus commercial practices and innovation*

Complexity arises when regulation occurs in the context of dual economy countries informal economy coexists with a formal economy. This complexity increases in the arts and culture sector, where diversity, flexibility, and informality are some of the dominant characteristics of its labour market (Menger, 2001).

Informality in developing countries implies entrepreneurial activities ‘outside the rules of the game’. Formal institutions suggest taxes and mandatory procedures.

While the PEA does not have explicit goals about formal employment, it does have rules for agents and organizations in the performing arts sector. Non-compliance with the rules generates tax sanctions that prevent development of the sector. Promotion and cultural stimulation of the sector appear circumvented by regulation which encourages unlawful behaviour. However, the PEA involves minimal and reasonable regulation like the registration of producers every two years and the one-time registration of events if conditions don’t change. This approach is accompanied by incentives embedded in a universal rule of law for all participants and access to resources for those who respect the norms. PEA provides many developmental advantages for the sector.

2) *Financing/taxes (parafiscal contribution) versus democratic access to performing arts shows*

Emerging countries and mid-range economies face fundamental demands from their health and education sectors as well as sustainability of their long-term economy. The inability of the State to finance the operation and promotion of the arts and culture sector weakens arts organizations and projects. This important limitation suggests that other indirect strategies might be necessary to guarantee the stability and growth of the arts and culture sector in the long term.

Around the world, models that finance cultural activities vary according to local conceptions of the role and participation of the State and civil society. In the US a “philanthropic model” pertains where *“the State facilitates cultural activities but ‘does not intervene directly’ in them. It stimulates them through taxation law”* (Raussell, Montagut, & Minyana, 2013, p. 214). In Europe, the State has traditionally played a more important role in financing both public and civil society cultural activities directly. Despite State financing laws and policies to stimulate some sponsorship and private investment have also been created.

The model in Colombia follows that in Europe, where the State participates in the financing of cultural activities, but with budgetary contributions that are much lower than those of the “Old Continent”. These

smaller public contributions provoke reflection about new ways to stimulate private investment in culture. The PEA contains inter-related fiscal measures and streamlined procedures to favour the development of the performing arts sector. It consolidates a virtuous cycle of financing for cultural infrastructure, production, and touring through a tax measure that both collects from and reinvests in the same sector. Investment decisions are made locally in committees composed of public and private members. These committees annually assign the proportion of public and private investment in performing venues, define the focus of resource allocation, and ~~the~~ approve ~~the~~ projects that meet technical requirements. Private agents and organizations are not only beneficiaries of the PEA, but they ~~can~~ also participate actively on ~~the~~ cultural policy execution and evaluation.

Despite the benefits of the parafiscal contribution, collection is concentrated in big cities, because it does not tax lower ticket prices. Close to 90% of the municipalities in Colombia are markets where citizens cannot afford higher ticket prices. Nevertheless, it was a measure developed through careful economic analysis, because previous economic investigations that supported the PEA affirm that, in Colombia, there is a low demand elasticity, in which a little increase in ticket price discourages cultural consumption and affects citizen access to the arts. In recent years, some people propose to decrease the tax threshold from 3 to 2 tax value units, to allow more municipalities to collect the parafiscal contribution and so enable access across the country. Some criticize municipalities where many beneficiaries are smaller organizations that don't contribute, and it would be fairer if everyone contributes and then benefits. These are topics of permanent debate.

Finally, as the effects of the pandemic of COVID-19 were revealed, the variations of parafiscal contribution are intensified: if the economy and the sector grow, the resources grow as well, but when the sector is affected, collection decreases severely.

3) Promotion versus control: conflicting roles for the Ministry of Culture

Implementation of the PEA altered the Ministry of Culture's traditional role of support by adding the role of control and monitoring the parafiscal contribution collection. This new role introduces tensions within

the cultural sector. The Ministry must inform the DIAN about possible tax evasion, as well as the Industry and Commerce Superintendent about unregistered events. In both cases, these reports can result in sanctions applied to producers by the appropriate authorities.

Conclusion

The PEA is a turning point in performing arts policies for Colombia. It developed formal mechanisms and rules to strengthen the cultural sector where informal practices typically dominate. This informality has been an institutional weakness across Latin America. Institutionalization is still in process in this context, but it has generated a set of policies and institutions that quickly produced change in the sector. Nevertheless, many challenges remain, because tax evasion and avoidance practices persist, as do the realizations of performing shows without the fulfilment of procedures.

The most outstanding mechanism of the PEA is the generation of a resource of private origin, collected and invested by the public sector to develop the living arts sector. Parafiscal contribution initiates a virtuous cycle that mitigates the traditional precarity embedded in the allocation of limited public resources for culture. This new measure prepared Colombia institutionally to be able to take advantage of new global trends in the production and commercialisation of the live performing arts. For instance, reduced sales of physical music recordings has increased the consumption of online music platforms and the demand for concerts (Mortimer, 2012).

The PEA is a novel legal framework in Colombia that developed the performing arts sector and its infrastructure. Its implementation occurred through what we are calling a ‘collaborative governance’ structure and process to manage the distribution of a parafiscal contribution. In this structure, several levels of collaboration coexist reflecting a shared motivation among public agencies (to exchange information and coordinate their functions more effectively), national and local government entities as well as public and private agents. This formalized collaboration produces tensions in a traditionally informal sector. How to balance citizen access to the arts across the country at the same time as increasing funding through a market-

driven pricing qualification; and how to balance the responsibilities of promotion and control undertaken by the Ministry of Culture. These are challenges specific to a developing country like Colombia. However, other central countries can learn from this form of collaborative governance applied to the cultural sector. Context matters when governance and institutional performance are being considered.

We believe that the observations and analysis of the changing institutional context for the cultural sector in Colombia offer valuable insights and contribute understanding to our central question concerning the function of cultural governance in developing countries.

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