

**Notes on the lives of intersectionality
within institutions**

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Abstract

Intersectionality has become a buzzword in universities, government agencies and civil society organizations in Latin America since 2010. It has been a concept, an analytical tool, and a label of feminist identity. To understand how this institutionalization happens, we move away from simplistic and incrementalist positions to reflect from neoinstitutional feminism the multiple possibilities in how power is resisted or not. Returning to the work of Fiona Mackay (2014) and Davina Cooper (2020), we argue that intersectionality will be contingent on the legacies and acts of forgetting, remembering, and borrowing from institutions while also aiming to be a performance that enables change despite its existing conditions. That is to say, it is not a linear or determined path but a chiaroscuro process that depends on the history and actions of the actors it mobilizes. In this sense, we propose that

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intersectionality is a living organism, in itself, nurtured by efforts and care but is constantly at risk from the violence and traps of institutions.

Keywords: intersectionality, institutionalization, neoinstitutionalism, proximity.

1. Introduction

“Intersectionality” has become a buzzword throughout universities, government agencies and civil society organizations (CSOs) (Davis 2008). That word, that began as a radical strategy of anti-racist feminism, has positioned itself as the preferred concept in Latin America’s feminist and human rights movements. The popularity of this term is such that more than one person and CSO has said, “I am intersectional”. However, the plural and widespread use of the word is not gratuitous.

The popularization and, more importantly, the adoption of the term has opened up various discussions. On the one hand, it has increased digital and face-to-face forums on what intersectionality is and how it is understood and implemented¹. On the other hand, some collectives, specifically those from decolonial tradition, have begun to question the advantages and risks of its institutionalization². We are interested in addressing this second discussion. Beyond establishing a definition, we focus on the exercise of thinking aloud and collectively about the implications of integrating intersectionality within the institutions that form, or claim to form part of, the broad human rights movement.

¹ Some recent examples this year were the events *Conversatorio por un enfoque de género e interseccional en la enseñanza de la economía* at the Universidad de los Andes on March 10, 2022 (see <https://youtu.be/WQOko7S8PBo>) and the *Conversatorio series La pandemia desde la interseccionalidad* at the Suprema Corte de Justicia de la Nación.

² The examples of these criticisms are diverse, and many circulate in social networks. One activist and media author who crystallises this position is Yuderkys Espinoza Miñoso (2019 and 2020).

With this objective, we start this work from the approach of feminist neoinstitutionalism³. This implies, in the beginning, distancing ourselves from simplistic approaches to reality, such as the structural approach, where all political action is vulnerable to co-optation, and the incrementalist approach, where change is possible through nominal action. In turn, reflecting on feminist neoinstitutionalism, proposed by Fiona Mackay, Meryl Kenny and Louise Chappell (2010), makes it possible to understand the historicity of power relations and to contemplate the multiple possibilities in how power is resisted or not. This approach offers tools to understand that reform and change do not depend exclusively on either agency or structure but is a play between exogenous and endogenous factors, path dependencies and wills (Mackay, Kenny and Chappell 2010, 582).

We propose that intersectionality within institutions is an exercise of opening possibilities. An example of *nested newness* is in Fiona Mackay's (2014) terms, but also a prefigurative exercise, and *as if* in Davina Cooper's (2020) terms. This implies that adopting intersectionality - which, as we will explain in the following paragraphs, is a concept/tool/label - is not a linear or determined path but a process of chiaroscuro that depends on the history and actions of the actors it mobilizes. In this sense, we argue that intersectionality is a living organism nurtured by efforts and care but is constantly at risk from the violence and traps of institutions.

As we will elaborate below, we move away from framing intersectionality as "triumph" or "assimilation". There is no single answer. Indeed, these are not the only two options. From our experience in Latin America, the trajectory of intersectionality is conditioned by the positionality of those making efforts to activate it.

³ Feminist neoinstitutionalism, or feminist institutionalism in MacKay, Kenny and Chappell (2010) terms, is variant of the new institutionalism that "has critiqued the gender blindness of the existing field, arguing that the application of a gender lens provides fresh insights into the core preoccupation of the field [formal and informal institutions environments; institutional change and continuity; questions about structure-agency dilemma, and institutional power] (Ivi, 580).

This monographic essay is divided into five sections. First, we develop the methodology of this reflection and how we use proximity to institutions, which we refer to as *feminist critical friends*, as a method. Subsequently, we give a brief account of how intersectionality has been adopted in Latin America and interpretations of this phenomenon. Third, we explain why it is necessary to distance ourselves from purist models that simplify the integration of the term into institutions as “triumph” or “assimilation”. In this section, we also show how the application of intersectionality in the region can be analyzed from Fiona Mackay’s concepts of nested newness and Davina Cooper’s prefigurative act. Then, we develop how intersectionality should be understood as *a life itself*. Finally, we outline the future questions and crossroads on the mainstream positioning of intersectionality.

2. Proximity as method

The exercise of thinking aloud in this essay is based on the accumulated experience of both authors inside and outside feminist organizations in the region. This article began as a series of unplanned, unorganized conversations that we have been polishing over the last two years, so it would be wrong to define it as an autoethnographic practice⁴. Rather, this theoretical reflection is nourished by the practice and observations that both of us have had in our work and experiences in activism.

The duality of being both practitioners and observers leads us to recognize our proximity to the object of study. We are close to the discussions on intersectionality because we focus on the term in our academic experience and apply this tool within our activist and labor spaces, which are often intertwined. In other words,

⁴ Autoethnography is a term that encompasses all those research exercises that use “both personal and autobiographical accounts and the experiences of the ethnographer as researched - either separately or in combination - set in a social and cultural context” (Blanco 2020, 172). While this text uses some of the above elements, it does not focus exclusively on lived experience nor does it use the narrative formats characteristic of this type of method.

we are part of the discussion on the institutionalization of intersectionality because we are part of those who promote it and analyze it.

We make the above recognition because we think from a feminist epistemology, which recognizes the value of localized knowledge instead of universal axioms and pretensions of objectivity. Returning to the proposal of situated knowledge, rational affirmations must start from a specific locality and positionality (Haraway 1988). We are within the discussions and part of the object of reflection. For this reason, it is necessary to examine the historicity of our life processes, the semiotic technologies we perpetuate or challenge, and the nonsense we use to understand the world (Haraway 1988, 579). Unlike other branches of institutionalism, the feminist approach to neoinstitutionalism allows for and celebrates the use of proximity as a method (see Sanders 2022). This approach also offers the idea of feminist critical friends to theorize our proximity.

Aiko Holvikivi (2019) and Louise Chappell, together with Fiona Mackay (2020), propose the concept of feminist critical friends to make visible and acknowledge that the advocacy and research done by feminists places us in an ambiguous position in institutions. We are critical and denounce failures within them, while at the same time, we share common goals and maintain relationships (work and friendship) in advisory practices. We are willing to complain, break the informal rule, and be strategic in how we position feminism to promote change within institutions. As Holvikivi (2019) argues, to be a feminist critical friend is to maintain an outsider/insider relationship because, regardless of position and employment relationship, it embodies a bridge between the feminist movement and the institution.

To think as a feminist critical friend, and in this case to write with one, involves recognizing the actors promoting change and being aware of the movements of progress and regress we will face in positioning our agenda (Chappell and Mackay 2020, 323). At the end of the day, the exercise is self-reflective. We must ask

ourselves how to grow and change the institution while questioning what relationships we build with it, what we do or do not allow, and what we denounce or do not. Thus, this essay compiles the reflections and critiques we have had in our work as activists and advisors in various institutions, some of them public.

3. The adoption of intersectionality in Latin America

As we mentioned at the beginning, we are not interested in discussing the definition of intersectionality. Although discussions about its nature and limits are relevant, we consider that this leaves out how it is integrated and applied, or, in Foucault's analytical approach (1971), how the discourse of intersectionality is constructed, assimilated and interpreted by different actors in relation. Thus, this section focuses on the trajectory this term has had in different spaces in Latin America. We clarify that it is not our intention here to evaluate or assess the use of intersectionality. This would imply carrying out an exercise of diagnosis and analysis of each of the institutions to be mentioned, which is outside the framework of our analysis. Otherwise, we will briefly review how intersectionality has been positioned in the region.

3.1. Origin of intersectionality

Initially, intersectionality was proposed in the early 1990s as a method of analysis by the Afro-American jurist Kimberlé Crenshaw (1989 and 1993) to understand and show how different systems of power, and therefore struggles, were experienced by black women in the United States. It takes up the development of the “race-class-gender⁵” trinomial of anti-racist feminism to explain the marginalized and

⁵ The race-class-gender trinomial was intended to show how the three categories are interrelated structures of oppression that determine the experience of racialized women (see in Davis 1981; Collins 1990 and Knapp 2005).

differentiated experience of racialized and poor women. In the following years, the method born in the legal academy began to popularize and become the tool-of-choice for critical analyses (Davis 2008).

As Knapp (2005) argues, intersectionality became a travelling theory that was positively received across disciplines for its ability to explain the multiple oppressions and inequalities experienced by people. However, the term has been repeatedly revisited to question the limits of its liberal origin, its focus on identity categories, and its effect of constructing “hyper-oppressed” people, among others. Regarding these discussions, Anna Carastathis (2008 and 2016), Jennifer Nash (2014 and 2018) Mara Viveros (2016) have made excellent exercises of synthesis and review of these criticisms.

From the above critiques, we rescue and emphasize Jasbir Puar’s (2012, see also in Puar 2017) reflection on how intersectionality is limited on the grounds that it emerged from a liberal and, therefore, Western epistemology. While the method emerged as a radical proposal taking up anti-racist genealogies, we point out that it in fact emerged from the legal discipline, which is a liberal and preponderantly universalist discipline (West 2000), to understand legal and political collective action. This does not mean that it is congruent with liberalism, but we accept that it emerged from the irruptive workings inside the law and was intended to function within its apparatuses (government and norms) (Cho, Crenshaw, and McCall 2013). So, let us talk about intersectionality being radical because it gestated on the periphery of legal academia, which is dominated by a cisheterosexist and racist logic, but this does not inherently make it a left-wing tool. This clarification of the origin of the term intersectionality is relevant because it will lay the groundwork for the following sections on understanding its institutionalization.

3.2. *Evolution in the Latin American scenario*

Intersectionality began to enter discussions in Latin America in the 2010s. Below, we present some examples of its adoption in spaces and institutions, some in which we have participated as members or interlocutors. As mentioned in the introduction, this text does not intend to evaluate such integration practices. Our objective is to illustrate what intersectionality is in the region today.

The first appearance of the term in institutions in the region was between 2010 and 2011 in the Inter-American Commission on Human Rights (IACHR) to define discrimination motivated by multiple risks and vulnerability factors in cases of human rights violations brought before the Inter-American System for the Protection of Human Rights (SIPDH) (IACHR 2019). In the following years, the Court of that system, the Inter-American Court of Human Rights (IACtHR), used the terms “intersection” and “intersectionality” to describe contexts or experiences of historically marginalized groups that are affected due to a set of factors (Zota-Bernal 2015). Some of the first cases in which these words were brought up are, in 2015, about the discrimination of a girl living with HIV/AIDS; in 2016, labor exploitation towards poor women's groups, obstetric violence against refugee women, and illegal separation of migrant families; and in 2018, about the lack of due process in the procurement of justice for infant victims of sexual abuse⁶. In the legal narrative of the Inter-American Court of Human Rights, intersectionality is a “proper” characteristic of victims and, specifically, of historically excluded groups; for example, Judge Ricardo Pérez Manrique argues that “all these vulnerabilities [of children from working families] acted together, enhancing *their* intersectionality” (IACt.HR 2020)⁷.

⁶ The names of these cases are, respectively: Case of Gonzales Lluy et al. v. Ecuador (IACHR 2015), Case of Female Workers of the Brasil Verde Farm v. Brazil (2016b), Case of I.V. v. Bolivia (2016a), Case of V.R.P et al. v. Nicaragua (2018).

⁷ Translation and emphasis in italics belong to the authors.

The jurisprudential development in the Inter-American Court on the subject has led the IACHR to integrate “intersectional discrimination” as one of its key elements of analysis and denunciation in its reports. Furthermore, it is also referred to in the considerations of the Commission in its lines of action to improve the impact of the monitoring of the human rights situation by themes and countries in its strategic plan 2017-2021 (IACHR 2017). Throughout these reiterations, the SIPDH demonstrates that it understands intersectionality as a concept of analysis, a term to name the experience that a certain group of people who are part of marginalized groups have lived.

For its part, the adoption of the term within public institutions in the region is varied. In addition to the fact that each State has a different trajectory in the fields of human rights and feminism, the differences between them are mostly because these are not monolithic or homogeneous entities, but are rather heterogeneous and contradictory structures in themselves (Cooper 2019).

The first mentions of intersectionality have been by specialized human rights or anti-discrimination bodies, which, taking up the position of the SIPDH, refer to it as a concept to explain the experience of marginalized groups. This use is also taken up by the judicial branches of the countries, such as the Judiciary of the Federation in Mexico (SCJN, 2020) and the Judiciary of Guatemala (2021); while others, such as the Constitutional Court of Colombia (CCC) (2019), the Supreme Court of Justice of Argentina (2021) and, incipiently, the Supreme Court of Justice of the Nation (SCJN) in Mexico (2020), consider it as a working approach. We highlight the adoption of the term by the CCC (2018), which, while referring to the concept of intersectional discrimination, has built a jurisprudence to establish that in cases of groups in situations of vulnerability, there is a duty to adopt an “intersectional approach” to “understand the complexity of the situation and, adopt

appropriate and necessary measures to achieve the respect, protection and guarantee of rights” (Ivi, 39)⁸. This interpretation recognizes that intersectionality is an analytical tool for evaluating contexts and offering a guide for differentiated action in each case.

The notion of intersectionality as a tool is adopted by other state agencies. In Colombia, the National Administrative Department of Statistics (DANE) (2020), the Special Jurisdiction for Peace (JEP) (2020) and the Unit for Attention and Integral Reparation to Victims (2017) establish that their actions are based on the intersectional approach to make visible the conditions of historically marginalized groups and make informed decisions on the matter. In Mexico, the Ministry of Foreign Affairs (SRE) (2020) also establishes that this approach will be one of the guiding principles of Mexican foreign policy. In Argentina, the Ministry of Women, Gender and Diversity (2020) and the Ministry of Health and Social Development (2018) have established it as a necessary action to “make visible, recognize and address particularities of different collectives” (Ivi, 34). However, we recognize that we did not find mention of it in most of the countries’ official documents during our documentary search⁹.

The increasing use of intersectionality may be due to different factors; thanks to our experience, we identified three. First, several States and the SIPDH have integrated into their work teams a new generation of gender and human rights professionals with graduate studies in the U.S., where the term is common. Second, there is some pressure from international bodies to promote its use, such as the Economic Commission for Latin America and the Caribbean (ECLAC) (2016), the Committee on the Elimination of Discrimination against Women (CEDAW Committee) (2017) and other agencies of the UN High Commissioner for Human Rights.

⁸ Authors’ translation.

⁹ Our documentary search was centered in the next countries: Argentina, Bolivia, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras México, Panamá, Perú and República Dominicana.

Finally, the third and most important reason is that feminist movements, activists and CSOs have promoted its adoption within their advocacy strategies, aiming to claim their rights and ensure their enforceability and protection.

This last point leads us to talk about the third type of institution that adopts intersectionality, civil society organizations. We clarify that we refer to CSOs as a type of non-governmental organization focused on a social object, usually taking actions to promote a certain agenda (Arhweiller *et al.* 2019). Unlike a social movement or collective, CSOs are constituted as legal entities with specific funding and decision-making and are institutions that seek to influence, subordinate or occupy functions of the state and the economy (Klein and Lee 2019). Now, the use of intersectionality by them has been broader than the previous institutions¹⁰. Most CSOs refer to the term as a working methodology, as well as an approach to demand from the state apparatus and regional organizations¹¹. Within this apparent homogeneity in our participation, both as employees, consultants and observers of CSOs, we recognize that the scope and theoretical-practical development is differentiated according to the resources, trajectory and training of its members.

We also identified that using intersectionality by CSOs has included adopting it as a definitory element of these institutions. It is increasingly common to hear that an organization *is* intersectional¹². The rhetorical action is intended to generate a set of expectations of its own about the rigor and ethics of its work, as opposed to

¹⁰ Although we are orally aware that several organizations had used the intersectional approach prior to 2015, our documentary analysis found no evidence of this effect.

¹¹ Several CSOs use this methodology. A non-exhaustive list includes “Mujeres de Asfalto” in Ecuador, “Observatorio Ciudadano” in Chile, “Equis Justicia para las Mujeres” and “Observatorio de Género y COVID-19” in Mexico, Dejusticia, “Red Lésbica Cattrachas” in Honduras, “Corporación Humanas” in Colombia, and “Centro de Estudios Legales y Sociales” in Argentina (see annex 1).

¹² Examples are the organizations Más Iguales in Peru, Comunidad de Lesbianas Inclusivas Dominicanas in the Dominican Republic, Equis Justicia para las Mujeres in Mexico, Organización Interseccional Pro Derechos Humanos in Costa Rica and Colectivo Cassia in Brazil (see annex 2). While we know that several organizations have integrated it into their theory of change, the authors did not have access to those internal documents in this research.

the use of intersectionality as a concept (for example, by SIPDH) that is intended to name an experience of oppression.

This designation, whether motivated by business strategy or a genuine commitment to social struggle, generates a new identity (see Hacking 1999); one that prescribes how inclusion should be in their work environment, the issues to be addressed and the voices they integrate and represent (Ahmed 2012). Likewise, this self-classification by a CSO is different from that made by an activist who calls herself an “intersectional feminist” because the former implies integrating it within its structure and rules that determine access to power, resources, and emotions within the entity.

In summary, intersectionality is adopted by Latin American organizations, states and CSOs as a concept, tool and identity label. Each of these three properties is used with a different objective, but all are symptoms of institutionalization.

However, we would like to clarify that what is described in the previous paragraphs are processes of institutionalization in two senses. The first, the most evident, is that institutions seek to integrate intersectionality as an internal norm (Meyer and Rowan 1977). In this second sense, they also use this term because it involves an institution's efforts to establish and change the interpretation of a term, in this case, “intersectionality” (Zilber 2002). They adopt the word, generate their own definition for it (whether as a concept, approach, or label) and communicate it to the outside world, leading, at the end of the day, to consolidate that understanding or to modify what people understand by it.

4. Distancing from simplistic models and moving towards neoinstitutionalism

Because of the increasing interactions between intersectionality and institutions, there have been criticisms of the danger of its adoption. In our experience, most of them are based on the decolonial position of Maria Lugones (2005 and 2009).

She warns that this term is a device of gender coloniality that seeks to homogenize the experiences of oppression and subordinate the experience of racialized women. Lugones (2005) also argues that intersectionality, both as a concept and tool, assumes that experiences can be fixed, separable categories dependent on state recognition (Ivi, 70). Thus, adopting intersectionality by collectives and activists, inside or outside institutions, results in assimilation to power. Instead, Lugones, and the rest of the decolonial current, propose to think in terms of *mixing* and *pilgrimage*.

We distance ourselves from this structural paradigm because it is limiting and reduced to explaining how intersectionality is adopted, changing and modifying spaces. Eschle and Maiguashca (2018) have done extensive work explaining the different risks of this type of hard assimilation approach, which Chappell and Mackay (2020) take up in their *feminist critical friends* proposal. Departing from the previous analysis of Eschle and Maiguashca (2018), we rescue that these narratives of hard assimilation, – in which the system is invincible, and there is no resistance – are deterministic and end up being a universalist explanation in front of multiple and local experiences, in particular of resistance and evolution that occurs in the Global South. We also distance ourselves because, within such a narrative, there is no possibility of reclaiming analytical tools or exploiting the incongruities and inconsistencies of the systems themselves. Intersectionality, as a term that emerged from the peripheries of liberalism, as we explained in previous paragraphs, has the potential to be activated in a paradigm to be dismantled from within.

Similarly, we take distance from incrementalism and nominal approaches, which persist in the social sciences (see Lindblom 1959 and Okin 1989). Additions to the legal text or small reforms do not ensure the change or modification of unequal norms in institutions. Nor can social struggle be approached as a game of small

steps (Hunter 2013), as it limits options and establishes a hierarchy's logic of relevance in social movements' demands. Thus, this approach is a persistent risk in feminist work when interacting with institutions because incremental change is easily lost as the dynamics of oppression mutate and innovate. Echoing the reflections of abolitionist feminism on the prison system (see Davis *et al.* 2022), we understand that social change is composed of a long-term struggle but requires consecutive and radical turns, turning upside down, in different senses and magnitudes, our spaces.

Observing and questioning what is happening with intersectionality as a concept/tool/label requires starting from a balance between the potentials and limitations of agency-structure relations. Feminist neoinstitutionalism, as we argued in the introduction, is an approach that allows the kind of analysis since it starts from pragmatism and not from the determinism of institutional life (Kenny 2007). To show the usefulness of this approach, we will develop two possible explanations, not mutually exclusive, taking up concepts from this perspective: *nested newness* and *prefigurative act*. Both offer clues as to what is happening with intersectionality as it is adopted by institutions in Latin America and will help us to lay the groundwork for our proposal of intersectionality as living organism.

4.1. Intersectionality as nested newness

The term intersectionality is being included as an axis of action of institutions to show a programmatic change in their achievements. The results have been diverse. In our experience, we have seen how it enables access to resources for the demands of historically marginalized groups, but also how it is used as a pretext for government agencies to claim that they have integrated a human rights approach or even to clean their names of past wrongdoings. Differences in adoption depend not only on the conceptual origin or willingness to implement but also on the trajectory and its resistance to change.

Fiona Mackay's (2020) concept of “nested newness” is a possible explanation for the differences in adoption by institutions. The author, also starting from the question of how institutions experience gender reforms, proposes to think of institutions as gendered regimes that will follow the trajectories and legacies of the past in order to understand – even deal with – progressive turns (Ivi, 552). Thus, the old organizational practice continues to determine actors' decision-making opportunities and capacities. Mackay argues, using the case of the UK parliament, that institutions “remember” old gender practices, “forget” new ones and “borrow” some others from allied actors to survive change (Ivi, 555). This concept of Mackay's is useful for thinking about the institutionalization of feminist ideas because it posits that it is a dynamic of resistance and power rather than limiting adoption to a fixed destination.

With this framework in mind, let us consider intersectionality as a current example of nested newness. The inclusion and use of intersectionality, whether as a concept, tool or label, will depend on the trajectory and access to networks that the institution in question has. We will take, as an example, its adoption by the high courts of the region.

Although several courts have added intersectionality as a concept and tool to their jurisprudence, CSOs and activists denounce its lack of application. This requires accepting that judicial powers are one of the states' least inclusive and most hermetic spaces (Serrano 2015), which emerged distinguished for being conservative power (see Gargarella 2010). With the resistance to change, the courts give signs of using the practices of remembering, forgetting and borrowing. On the one hand, courts selectively forget the intersectional approach, except in cases that are media cases or have CSO accompaniment¹³. For example, in the appeal

¹³ This research could not determinate the reason behind this “forgetting”. The causes of failing to remember could be inadvertently neglected to bring the concept, not being aware of it or purposefully do not use it. To identify which one is, the study would require a qualitative methodology to analyze the narrative and uses of intersectionality inside the legal practice.

(amparo en revisión) 275/2019 of the SCJN (2022), regarding the detention of three indigenous Tzeltal people during immigration control, its resolution does not recognize the experience of oppression that indigenous people live because of different factors and does not even mention the term “intersectional discrimination”, and only limits itself to speak in terms of racism. The judiciary also fails to implement the approach when it comes to policies and strategies to improve access to justice¹⁴. On the other hand, courts recall past practices to avoid facing the costs attributed to reform. We observe that courts use intersectionality in a similar way as they did (and continue to do) with multiculturalism, as a term that did not imply a radical transformation, but rather a tolerance and simple recognition of the existence of the “other”, who is by essence different (Song 2005, 2014, Guerra González, 2017). We observed a similar example in the Colombian Court, in case T-283 of 2016, on the violation of rights to a trans person in the penitentiary center of Bogota, where the mention of the intersectional approach is made only to state, without background analysis or explanation of the consequences for the case, that the plaintiff lived various oppressions. In other words, intersectionality appears to indicate that the “other” is in a more oppressed position than the rest. Zeballos-Cuathin (2021) explains that this limited way of using intersectionality is reiterated in cases involving racialized people.

Nevertheless, these same courts have promoted substantive changes with this approach. This is partly because they are institutions in communication with their counterparts in other States and other regional and international organizations, which allows for the circulation of knowledge and strategies. The flow of information, whether in the replication of good practices or citation of resolutions, provides clues to the judiciaries as to how the term is used. A clear example is

¹⁴ There is a wide variety of studies on the obstacles and challenges to access to justice in Latin America depending on the country or specific population. For a general idea of the current situation, see *Access to Justice in Latin America* (ACIJ 2020) and *Functioning of Justice in the Pandemic by COVID-19* (ICJ 2020).

that all the high courts refer to the jurisprudence of the IACHR when using the concept of intersectional discrimination. Another case is the first edition of the Protocol for Judging with a Gender Perspective of the Mexico's SCJN (2015), which references Colombia's jurisprudential development to show an example of how to analyze the intersectional approach. For example, the Colombian Constitutional Court (2021) used the arguments of international instances, such as CEDAW and IOM, to argue why the intersectional analysis should be integrated into the discussion on the unconstitutionality of VAT on menstrual management products.

4.2. Intersectionality as a prefigurative act

Despite the uneven trajectory in Latin America, feminists in different fields are pushing to adopt the intersectionality approach within their institutions. As friends and colleagues of many of them, we understand that they are aware of the criticisms that their institutionalization implies. However, their advocacy is mobilized by a desire to change the current order and create a better future. It may not be the perfect option, but it is the possible way they identify and are willing to invest resources (time, financial and emotional) to achieve it.

Faced with this situation, we find that one explanation for this political stance lies in the feminist re-reading of the "as if" theory. This concept, developed by Hans Vaihinger (1924) in his book *The Philosophy of As If*, describes a situation in which a group of people decide to accept a false or erroneous statement in order to seek meaning in an irrational world. Such a prefigurative act, which, in the beginning, had a negative perception as a merely discursive strategy, has been questioned by subaltern studies to show that it is a political action of material change by grassroots collectives (Carroll *et al.* 2019 and Cooper 2014). Within that development, we take up the analysis of Davina Cooper (2020), who recognizes that prefiguration, in reality, is an exercise of calculation and improvement that allows, between

truth and fiction, to mobilize change in reality. The author describes those institutions acting “as if” the necessary political and legal conditions existed may, in fact, be changing (Ivi, 3).

In our view, all the institutions we mentioned in the previous section perform a prefigurative act. They act as if they have the conditions, whether reflective capacities, human resources or political will, to implement intersectionality, whether as a concept, approach or label. In many scenarios, the possibility of just naming it within the organizational structure and logic opens doors to dialogues to initiate its implementation (Cooper 2020, 4). The discourse becomes a matter, or, in Butlerian terms, the performance is reiterated until it is perceived as normal (see Butler 1990).

Let us take the case of CSOs to go deeper. Beyond their political ideals, they are embedded in structures that function as regimes of inequality because they lack resources to guarantee labor rights to their members or because they replicate labor violence (Acker 2006). In Latin America, the closing of the civic space generates a situation of instability that forces CSOs to adopt strategies to maximize their welfare, either by financial resources or by capacity to influence politics and public opinion (Burns 2021, Serbin Pont and Boettger 2021)¹⁵. Despite this, several of them have established intersectionality as a guiding theme of their work in recent years. While this change may be due to a pragmatic calculation or an ethical act, situating oneself in intersectionality without having the conditions to embody it within oneself is a prefigurative exercise to encourage change. In conversations with colleagues and our experience as CSO employees, we observed that prefiguration allows us to generate reflections with a new standard that can stop past inertia and integrate new actors in its composition that diversify teams and work

¹⁵ See for a description of public space closure in Mexico: Guerra and Zwister (2022), in Venezuela Monsalve et al. (2021), in Nicaragua CADAL (2022) and in Colombia Márquez Restrepo (2021).

approaches. In other words, naming the institution “intersectional” builds, in reality, a space for experimentation that would otherwise be discouraged.

5. Many possible lives. Rethinking intersectionality

The previous two explanations are possible and partial answers to what is happening with intersectionality within institutions that show the existence of open, undetermined space. There is no one way; rather, it depends on the power relations, resources, and networks allocated to its integration. However, we believe that limiting our conclusion to “it depends” simplifies the complexity we observe in the region and in the struggle to adopt such a concept.

How we propose that intersectionality within institutions has a *life of its own*. While the metaphor makes sense to explain uncertainty and non-determinism, establishing a conversation in terms of living is advantageous because it portrays the complexity of trajectories. It helps us understand that the term is born, moves, responds to stimuli, grows, reproduces and, inevitably, dies.

We propose that such biological processes occur as follows in the case of a word within institutions. Intersectionality is “born” within them by the motivation of a group of people or by external pressures. Then, it “moves” in the conversations (written or oral) within them and gains popularity according to the social and legal acceptance it receives or not, which in this case would be the growth stimuli. If it receives the appropriate incentives, intersectionality “grows”, will be integrated into the formal and informal rules of the institution and will consolidate a network of resources and norms that give it strength and legitimacy. Otherwise, the term will remain in a recessive state and will gradually become an empty word that is not adopted by the institution or its members. Subsequently, its use will be replicated by other institutions, “reproduced”. At the end of this journey -which may last months or years- intersectionality “dies”, either because it will be replaced

by a new concept with better explanatory capacity, or because of disuse or attacks against it.

Although we do not detect a specific moment of “death”, we recognize that it is a potential risk inherent to any category and tool, especially to a current that is growing at an accelerated pace, such as feminism. For example, let us recall that the *race-class-gender* trinomial proposed by anti-racist authors has been discontinued in favor of intersectionality. These conceptual demises do not necessarily imply that there would be a fundamental error but are due to the evolution of discussions that decide whether or not to adapt old terms (see Kuhn 2004). Of course, this does not mean that the terms disappear. The “corpses”, in this case, the words appear in texts and discussions as memories that remind us of the trajectories of the past. Their traces even feed other lives, so that their legacies appear in new conversations as lessons and even warnings from the past.

Let us return to the example of the adoption of the term by the high courts to detail what we mean by intersectionality as living organism. The term was born within regional law when it was proposed at the IACHR talks as an explanation to describe the experiences of multifactorial oppression of certain groups. Over a period of six years, it moved from report to report gaining increasing support from SIPDH actors and was tested in new reports and cases before the Inter-American Court. These stimuli allowed intersectionality to grow; that is, it obtained a jurisprudential development and positioned itself as a guiding axis of work. Subsequently, the term began to be reproduced within the normative frameworks of the region. The courts of each State cited the jurisprudence of the Inter-American Court of Human Rights on the subject and thus gave birth to these terms in their respective countries. Likewise, with each new judgment, report or strategic plan of the Inter-American system that enunciates the term, intersectionality gains more weight and enters its adult phase. Although its death is unthinkable today, the disuse of intersectionality is possible in a now unknown future.

Despite it is the same term, we use the plural to recognize the different trajectories of the term due to the differences in its use in each institution or country. In some institutions, intersectionality lives as a concept; in others, it is a tool, and in a few others, it is part of the identity. Each of these three possibilities is a different way of life, valuable for its circumstances and with risks. This leads us to accept that we cannot delimit which life of intersectionality is adequate or correct; they move, grow, and reproduce according to the environment, stimuli, and possibilities of their institutions.

In the same sense, to speak of life leads us to recognize that, like any other living being, intersectionality is imperfect and can become “kind” or “violent”. In a reflective and diverse environment, intersectionality will be able to position itself as a tool that fulfils its goal of identifying how people experience different types of oppression and facilitating the development of actions to address it. Otherwise, when the term finds itself in unfavorable or adverse contexts, it will not grow and, therefore, will not generate any change. It even opens the possibility that intersectionality receives stimuli focused on making it part of the dominant system and, thus, making it grow to be a discourse that legitimizes the errors of its environment. The outcome of each of these lives is uncertain and complex.

Intersectionality is complex, and imperfect and has changed over time. Thinking of it as a life is a useful metaphor for, beyond thematic explanations, understanding that intersectionality goes through different processes to exist within institutions. In particular, it helps to prevent us from seeking simplistic explanations that reduce the presence of intersectionality as triumph or assimilation.

6. Conclusions

In this essay, we have explored what is happening with the institutionalization of intersectionality in Latin America. Through our experiences, nurtured by documentary analysis, we have used proximity to the phenomenon to think aloud about how the adoption of this term occurs. We have made it clear that we do not intend to make an evaluation, much less to assign a qualification to the trajectories of each institution. This descriptive and exploratory exercise aims, at the end of the day, to amplify our discussions from the region and shed light on what is happening with intersectionality in the Global South. In particular, we are interested in highlighting the relevance of feminist neoinstitutionalism and, with it, of skeptical analysis to conceal between assimilation and incrementalist views in the literature on intersectionality. As mentioned before, we move away from simplified explanations to think about the multiple and local processes each type of institution undergoes.

We explained that the term has been adopted since the 2010s by institutions in Latin America in three ways. It is a concept, which describes an experience of historically marginalized groups; an analytical tool, which establishes an axis of work that identifies and makes visible the particular needs in a specific case; and an identity label, which generates expectations and longings about the characteristics of a space. These uses are partially explained by Fiona Mackay's (2014) concepts of nested newness and Davina Cooper's (2020) prefigurative act. From this perspective, intersectionality is contingent on the legacies and acts of forgetting, remembering, and borrowing from institutions while aiming to be a performance that enables change despite existing conditions. Observing the indeterminacy of the outcomes, as well as the uncertainty they possess, leads us to think in terms of an object with life on its own. Intersectionality is born, grows, reproduces, moves and reacts according to the stimuli and the environment (favorable or not)

in which it interacts. Its presence in each space generates a different life, a particular experience. This implies that these lives will end, because they will cease to be used due to either substitution or disinterest.

The discussion in terms of life is virtuous because it stops deterministic inertia and leads to the recognition of a balance between the agency of the actors and the structure. We believe that this pragmatic and situated approach offers an opportunity to detonate reflective processes that diagnose what kinds of “lives” are found within their institutions. This conscious exercise of critique makes political action possible in dialogue. Likewise, the understanding of intersectionality as a set of lives is not limited to the Latin American experience nor is it exclusive to that term. We hope that our aloud thinking will resonate with other discussions in other latitudes, whether of this word or of other feminist terms that have been propagated.

With this essay, we also leave several questions pending. On the one hand, we recognize that there are particularities depending on each State and type of institution, as well as the multitude of governmental actors from academia and the social movement that is involved in these trajectories. Although we attempt to offer a general overview of the region, it is beyond the scope of this exercise to provide an in-depth description and will require continuity through case study analysis. On the other hand, we leave open several lines of future research on the dynamics of the lives of intersectionality and the quality of these lives. For example, what actors or processes give birth to the institutionalization of institutionalism? What factors determine the growth and reproduction of intersectionality among a country's institutions? How do we analyze the lives of intersectionality? What kind of life course is most likely to encourage change and endure? In particular, a key unanswered question is what the death of the term will look like and, indeed, whether a process of erosion of the term has begun.

We do not know how intersectionality will grow, let alone what its fate will be. We are observers and participants in those lives that occur in courts, laws, and offices. In whatever position we find ourselves, our duty to document and relate these trajectories persists. This essay complies with such duty.

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Annexes

Annex 1

<i>Organization</i>	<i>Reference material</i>
Mujeres de Asfalto	Blog “Mujeres en Ecuador: Activando desde la interseccionalidad” - https://asuntosdelsur.org/mujeres-en-ecuador-activando-desde-la-interseccionalidad/
Observatorio Ciudadano	Blog “8M en Chile: la urgencia de un feminismo interseccional” - https://observatorio.cl/8m-en-chile-la-urgencia-de-un-feminismo-interseccional/
Equis Justicia para las Mujeres	Report, <i>Políticas de drogas, género y encarcelamiento en México</i> - https://equis.org.mx/wp-content/uploads/2018/02/Gu%C3%ADa_Drogas.pdf
Observatorio de Género y COVID-19	Website, https://observatoriongeneroycovid19.mx
Corporación Humanas	Website, https://www.humanas.org.co/nosotras/
Dejusticia	Book, <i>Restitución de tierras y enfoque de género</i> - https://www.dejusticia.org/wp-content/uploads/2017/04/fi_name_recurso_365.pdf
Centro de Estudios Legales y Sociales	Website, https://www.cels.org.ar/web/2021/10/busqueda-laboral-para-el-equipo-que-desarrolla-la-agenda-transversal-feminista/

Table of organizations that state in their web pages or reports the use of an intersectional approach
 Source: Created by the authors

Annex 2

<i>Organizations</i>	<i>Reference material</i>
Más Iguales	https://www.masigualdad.pe/nosotros
Comunidad de Lesbianas Inclusivas Dominicanas	https://www.colesdomrd.com/intersexuales?lang=en
Equis Justicia para las Mujeres	https://sinmiedoaser.com/organizaciones/
Organización Interseccional Pro-Derechos Humanos	https://www.facebook.com/oidhcr/
Colectivo Cassia	https://institutolegado.org/tvlegado/eu-me-importo-coletivo-cassia/

Table of organizations that state on their web pages that they are “intersectional”
 Source: Created by the authors

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