

Paramilitarism in Colombia: the thin line between armed politics and crime

Working Paper

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In May 2005, the Colombian President Alvaro Uribe ordered a massive operation in order to arrest Diego Murillo Bejarano, aka Don Berna or Adolfo Paz (Peace in Spanish!), leader of several paramilitary militias. Uribe's administration engaged a negotiation process in 2003 with the United Self-Defense Forces of Colombia (AUC) and the Central Bolivar Block (BCB) the two main paramilitary militias, and other secondary groups. Between 2003 and 2006, discussions took place in Santa Fe de Ralito, an isolated village in Northern Colombia, located in the hearth of a paramilitary influence zone. The government's aim was to demobilize more than 30 000 declared militiamen, that exerted a merciless armed control in more than a third of the territory. Their violent grip had caused the death of tens of thousands of people, pointed by them as guerrilla sympathizers. They were accused by national and foreign judges of a long list of various crimes: murder, war crimes, forced displacement, drug smuggling..

Adolfo Paz's arrest is a meaningful episode of this story. Paz was accused of violating the cease-fire, the negotiation's basic condition. He would have ordered the murder of a town-councilman (his wife and a friend were also murdered) who was opposed to one of his political allies. But this was not the first time Paz's legitimacy to negotiate with the government was questioned. Before becoming Adolfo Paz – the paramilitary – he was Don Berna – the druglord. Berna was linked to drug trafficking since the 80's, as a lieutenant of the Galeano brothers, members of the powerful Medellin Cartel. When his bosses were murdered by Pablo Escobar, the legendary tycoon of the drug Cartel, Berna joined Escobar's enemies. Then, he participated to the Pepes (Persecuted by Pablo Escobar) the underground alliance that helped the police forces to kill Escobar in 1994.

After Escobar's death, Don Berna became the greatest mob tycoon in Medellin. His power and his money allowed him to buy a paramilitary “block” and a seat in the negotiation table, becoming Adolfo Paz. Despite his past as a druglord, and the fact that Washington requested his extradition, the Colombian government reluctantly recognized him as a legitimate negotiator. However, there was harsh criticism, coming from Colombia and the US, against Paz's and other converted druglords presence at the negotiation table. His arrest in May 2005 was caused by the thinness of the line differentiating paramilitaries from regular bandits. While the newspapers were claiming that the negotiation would break and that the paramilitary would join their forest camps, a friendly arrangement was reached. Paz was put into custody, but he was not imprisoned. He agreed to remain secluded in one of his numerous rural properties, situated in the negotiation zone. In October, the Colombian government decided to

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suspend his extradition to the US. Facing the critics from Washington, Uribe ordered to lock Paz in the high security prison of Combita, near Bogota. In response, the paramilitaries suspended the negotiation, until the government accepted to transfer Paz to the Itagui prison, situated in a Medellin suburb, Paz's fief.

Paz's case is not rare. Most of the paramilitary chiefs came from the mob, and several of them were listed among the most wanted drug smugglers in the world. Indeed, one of the main obstacles to the negotiation was the skeptic – and sometimes reluctant – US support. Moreover, throughout the talks, Washington had always refused to suspend the extradition demands against paramilitary chiefs linked to drug trafficking. At the end, Paz was finally extradited to the US in May 13th 2008, jointly with twelve other paramilitary commanders.

In Colombia, the limit between armed politics and crime was used by the rulers of the state as a way to enforce their position of power. The possibility to discriminate legitimate violence from illegitimate violence is a fundamental trend of state formation (Elias 1975). I argue that, in such situation where the monopoly of violence by the state is strongly moving off-center, stateness does not lie on the monopoly of violence, but on the possibility to distribute legitimacy and legality labels to private armed actors. Yet, the use of these labels as a political resource is equivocal. The multiplicity of political actors that intervene in their distribution make impossible to one single individual or institution to control entirely the course of action. The presence of highly questionable organizations, guilty of egregious crimes and illegitimate at the eyes of national and foreign observers, and the intrinsic constraints of the state field, nourish the outcomes' uncertainty.

I. Background and theoretical elements

Who are the paramilitaries?

Negotiations between the Colombian state and the paramilitary groups were not typical peace talks. Indeed, there was no peace to be granted. The two parties were not enemies on the battle field. Paramilitaries had been underground allies of state forces in the fight against the guerrilla since the 80's. A 1968 law, revoked in 1989, allowed the training of civilian “Self-Defense” groups by the military. This had been a core tactic of counter-insurgency war all over the continent (Jones 2004). Military manuals of the time, which were frequently written by French and American experts, emphasized the importance of “civilian auxiliaries” and covert operations in the “modern warfare”. The use of these tactics resulted on the formation of armed groups composed by a mix of military officers, former military and violent professionals from the mob. In 1983 a report written by the Ombudsman condemned the penetration of crime and drug smuggling in paramilitary groups. Those links were pointed out by national and foreign NGOs from the 80's, but the first judicial investigations only started in the mid-90's. Between 1998 and 2000 three high-ranked generals were pursued by collaboration with the paramilitaries. These inquiries showed that the relationship between the military and their “shadowy brothers-in-arms” (Kruijt and Koonings 2004) was made of tacit support and, in some cases, overt collaboration. There were a synchronization on the battle field, for example when the military left a village just a few hours before paramilitary arrival. Paramilitary troops were sometimes transported by Air Force aircrafts, taking off and landing in military bases¹. More broadly, a kind of work-sharing was established. The military advanced in first place and pushed back the guerrillas. They were followed by paramilitary commandos who aimed to dismantle the rebel intelligence and logistic networks (Human Rights Watch 2001; Romero 2003). In this purpose they used terror against civilians in order to deter any collaboration with the insurgents. They carried out a disintegration of local forms of collective organization, aiming to facilitate the population control.

1 E.g. the Mapiripan massacre, well documented by an Interamerican Human Rights Court verdict (March 7th 2005).

Paramilitaries were not rebels fighting to get political representation. They were irregular armed actors looking for the legalization of their power. The armed control of people and territories allowed them to build large political alliances with local governments. As their guns guaranteed victorious polls, they had managed to get allies into the Senate and the Chamber of Representatives. Governors and mayors owed their seats to paramilitaries. The judicial investigations, conducted by the Supreme Court judges and the Attorney General Office (*Fiscalía*) since 2007, have uncovered large corruption networks. Politicians that had been elected thanks to paramilitary support opened the public treasury to their helpers. They got their rivals threatened or murdered and, in exchange, payed millionaire bribes to their armed allies. The appropriation of large sums of money was “institutionalized”; in paramilitary controlled zones, the “commanders” levied taxes on contracts and salaries. Frequently, firms signing contracts with local governments belonged to the paramilitaries themselves, or to their frontmen. Such public corruption was integrated to drug traffic, as public tenders served as a massive operation of money laundering.

Paramilitaries political influence was not limited to the rural peripheries of the Colombian State. They also got allies in the highest spheres of State power. For example, Jorge Noguera, who directed the DAS, the executive's intelligence agency, was an AUC's unconditional ally. Noguera set up a close cooperation between the intelligence agency and the AUC's Northern Bloc, which then operated in several provinces of the Caribbean region. This collaboration took the form of intelligence sharing, helping paramilitaries to kill union leaders, opposition politicians and intellectuals. The DAS also protected paramilitary commanders, up to provide armored vehicles for their personal use.

While it is too simplistic to say that paramilitaries are a mere subcontractor of State violence, their close relation to institutions must be stressed. This ambiguous relation can be characterized as a modality of what Beatrice Hibou calls -following Weber- the discharge. The discharge is characterized by forms of government that are “discontinuous, ex-post and often weakly institutionalized” (Hibou 1998, 154). Yet, paramilitary groups were not only a counter-insurgency project, they also functioned as political power's relays. They deployed what Joel Migdal (1988, 4-5) calls “state capabilities”, that penetrate society, regulate social relationships, extract resources and appropriate and use these resources for a specific purpose. The development of this “shadow state” (Reno 2008) did not lead to state failure. On the contrary, direct and indirect government overlapped, elite networks went through both official and underground. In short, paramilitarism has been intrinsically linked to the continuous process of state formation² in Colombia.

However, violence enterprises such as paramilitary groups are, by definition, unstable social configurations (Volkov 2002). They are built upon collusion networks that are fragile and dynamic. As written by Laurent Gayer (2008, 26) in a different context, “overlapping of power and wealthiness positions are continually renegotiated and depend, at least partially, on – fluctuant – social representations associated to paramilitaries”. These two aspects – social representations and negotiations – must be stressed. Firstly, in the Colombian context, social representations had been materialized on the debate around paramilitaries political status. The difficulty to establish if paramilitarism was armed politics or criminal violence was expressed on the legislative, judicial and media arenas. Diverse political actors, carrying their own representation of paramilitarism were competing in these different loci. Secondly, negotiations are held on an unstable basis. According to Béatrice Hibou, one of the characteristics of state privatization is the instability of the agreements between state and non-state actors. They are “far from being permanent or planned for the long term; on the contrary, they are voluntarily instable and volatile, secret and continually renegotiated” (Hibou 2000, 29). The maintenance of instability is one of the springs of state power. When state action is characterized by privatization and discharge (in opposition to direct control), the possibility, kept by state officials to continually change the rules of the game, allows them to keep an indirect control over formally independent actors (Hibou 2000, 61).

2 The concept on State formation, as opposed to State building, was developed by Berman and Lonsdale (1992)

This approach permits us to avoid a simplistic and binary view, opposing strong states to weak (or failed) states. Indeed, the state is not a monolithic and coordinated institution, but a fragmented space made of divergent and contentious forces. Such a conception can be linked to the conceptualization of the state as a “field” (Bourdieu 1993) where different actors are engaged in an “antagonistic cooperation” (Wacquant 2010). In this competitive space, paramilitaries had levers to influence the treatment they may receive. But this influence was limited, and the patronage links they established did not engage the whole state. Indeed, one can be astonished by the extraordinary reversal of their status. They went from being a *De Facto* power in swaths of the Colombian territory, enjoying tolerance from most of state officials, to being criminals judged by US courts. This reversal indicates how instable this shadowy collusions could be. When national and international contexts turned tolerance into an impossible option, fight against paramilitarism was instrumentalized in order to enforce the legitimacy of the state and the rulers³. Thus, paramilitaries appear to be a trend of state formation at three levels: first, they participate to the counter-insurgency strategy and to the territory control; second, they enhance the state as a bargaining arena; third, they become a danger that must be eliminated, legitimating by that the action of the state. In this paper, I intend to focus on the second and third aspects.

Why did they negotiate?

Alvaro Uribe arrived to the presidency in 2002 in a complex situation. Uribe had been senator and governor of the Antioquia province -one of the richest of the country- but also one of the most affected by drug smuggling and money laundering. He had been questioned about suspected past relations with the Medellín cartel. For example, a 1991 US Defense Intelligence Agency (DIA) declassified report⁴ includes Uribe in the list of “the more important Colombian narco-traffickers”. According to the document, the then-senator was a “close personal friend of Pablo Escobar” who was “dedicated to collaboration with the Medellín [drug] cartel at high government levels”⁵. One believed that Uribe was, both inside and outside the country, favorable to paramilitary groups. As a governor, he had supported the Convivir Act, a legal coverage for paramilitary groups (the law was declared partially unconstitutional by the Constitutional Court in 1998). He had also been one of the most virulent defenders of Rito Alejo del Río, a military general accused of collaboration with paramilitary groups. On the other hand, Uribe had been elected on a hard-line platform, promising to push the leftist rebels out of the ring. This project of an authoritarian state refound⁶ did not target the paramilitaries directly but could eventually become a threat for them, as it was incompatible with a fragmentation of territorial control. Moreover, suspicions on Uribe's past, pushed the president to show the eventual paramilitary demobilization as a restoration of the rule of law and a monopolization of violence by the state.

International context was complex too. The discrete tolerance that Colombian institutions had traditionally granted to paramilitaries was no longer a sustainable position. Human Rights organizations had been deploying for years an international denunciation campaign against this collusive relationship. On the international arena, the Colombian state was singled out and accused of keeping a military “Sixth Division” (Human Rights Watch 2001). International organizations seized these accusations and required the Colombian government to change its attitude *vis-à-vis* paramilitary groups. These accusations had an impact on relations with key partners; the United States, for example, conditioned their economic and military aid to effective results on the fight against paramilitaries.

3 The link between, on the one side, the instrumentalization of crime and violence and, on the other, the enforcement of power positions inside the state, has been theorized by Bayart (2004), Briquet and Favarel-Garrigues (2008).

4 Document declassified under the Freedom of Information Act, published by the National Security Archive, a research project hosted by the George Washington University: <http://www.gwu.edu/~nsarchiv/>

5 23 September 1991 (Date of Information 18 March 1991) *Narcotics - Colombian Narco-trafficker Profiles* Defense Intelligence Agency, Intelligence Information Report, Confidential. Source: Declassification Release Under the Freedom of Information Act, May 2004

6 Sophie Daviaud (2008) characterizes Uribe as an “authoritarian neopopulist”

Furthermore, Colombia has been one of the priority fields of the American “war against drugs”. Washington has financed the Colombian army and police through the Plan Colombia. This initiative was conceived in 1998-99 by the then-President Andrés Pastrana and received Bill Clinton's support. Paramilitary groups have been seen in Washington as global drug smugglers, and the violence they inflict to civilians have been made public by NGOs, trade unions and some members of the American Congress. Since the 9-11 terrorist attacks, these groups were also seen as one of the possible targets of the “war against terrorism”. This international context has determined a particular framing for the paramilitary issue. Instead of being considered as counter-insurgency groups, as they pretended, they had been treated as terrorists and drug traffickers. As a consequence, the US had been particularly intransigent on the extradition issue. For example, in September 2002, during Alvaro Uribe's first official visit to the US, Washington asked the Colombian authorities to extradite Carlos Castaño, the chief commander of the AUC. The following year, Colin Powell, US Secretary of State, announced the inclusion of the AUC in its terrorist organizations list.

This frame had clear consequences on the engagement of the negotiations. On the 1st of December 2002, the AUC high commanders declared unilateral ceasefire and announced their interest to engage in talks with the government. Since the beginning of Alvaro Uribe's mandate in August, contacts had been made between the government and the AUC. In November 11, the paramilitary commanders met Luis Carlos Restrepo, Uribe's High Commissioner for Peace. This secret meeting, publicly revealed by the Colombian press in 2010⁷, was called to explore the legal and practical issues of a possible negotiation. During the meeting, the High Commissioner asked the paramilitaries to declare ceasefire. Yet, they should present it as their own initiative, in order to let the government freely sell the talks to the public and international opinion. After the ceasefire, an exploratory commission was created; its report, released in June 2003, drove to the formal establishment of a negotiating table in July. The main negotiation table was set up in Santa Fe de Ralito, with the AUC. Two other groups, the Central Bolivar Bloc (BCB) and the Arauca Victors Bloc (BVA) refused to join the main table and asked for the creation of regional tables. The integration of these regional tables was finally achieved in March 2004. In the Ralito Agreement, that fixed the beginning of the official talks, the paramilitaries engaged to demobilize their troops before December 31th 2005. The first demobilization ceremony took place in November 2003, when more than eight-hundred men from the Nutibara Chieftain Bloc (BCN) handed over their weapons.

During those first negotiation episodes, there was a parallel legislative process. From the beginning of the Uribe Presidency, the new government submitted a bill to the Congress aiming to “facilitate dialogue and subscription of agreements with irregular armed groups”⁸. The “Public Order Act” was voted in December 2002. It modified the legal framework that had regulated peace talks with guerrilla groups during the 90's. Particularly, it eliminated political status granting as a prerequisite to engage in talks. This allowed the government to circumvent the legal imbroglio of establishing if paramilitaries were political actors or just a bunch of violence entrepreneurs.

But the Public Order Act was just a modification of an old law and it was not adapted to paramilitary bosses. The law permitted to amnesty combatants that were not persecuted for war crimes and crimes against humanity, i.e. “atrocious acts of ferocity or barbarism, terrorism, kidnapping, genocide, murder committed outside combat, or placing the victim in a position of helplessness”. However, all paramilitary commanders and most of their lieutenants were accused of having committed that kind of crimes. Therefore, a negotiation with those offenders implied the creation of a new legal framework. This law was subjected to two types of constraints. First, the paramilitary victims were mobilized in favor of a complete recognition of their suffering and the unveiling of the perpetrators and their accomplices inside and outside the state. This mobilization was coordinated by NGOs and received national and international support. Second, there has been in Colombia an international pressure in

7 “Documentos exclusivos: así se fraguó el acuerdo de paz con los 'paras'.” *Verdad Abierta*, April 26, 2010.

8 Public Order Act (Ley 782 de 2002)

favor of legal principles such as justice, truth and reparation. If the Colombian state came to grant pardon to war criminals, those offenders could be persecuted by foreign courts or by the International Criminal Court. Standards of transitional justice were not only a foreign policy issue. They were mobilized by national political actors interested in enforcing the victims rights ((Lecombe 2009)).

Accordingly, a new law had to be voted. The context was particularly favorable to paramilitary's interests. Indeed, the electoral agreements with regional politicians described above allowed them to influence national legislative arenas. Two congresswomen, Rocío Arias and Eleonora Pineda, became the major paramilitary cause advocates. They were convicted in 2008 because of their links with the paramilitaries. But paramilitary influence went far beyond these two cases. Before the beginning of the negotiations, the AUC had claimed to hold 30% of the Congress seats. The judicial inquiries proved this was not an exaggeration⁹. Despite this large influence, the law design took almost two years; the first bill was submitted in August 2003, but the law was finally ratified in June 2005. During this period, the legislative arena was the main scenario. The repertoires and logics of action were closely linked to parliamentary rules and timings.

2. Bargaining: a two-level game

Issues linked to extradition, and more broadly to paramilitary crimes pardon, determined bargaining and conflict dynamics. Those dynamics were driven by multiple interests. Paramilitaries were not engaged in political talks, which would seek to deeply transform institutions. They were interested in obtaining pardon for their egregious crimes, a legal guarantee against extradition and the legalization of their fortunes. On its side, the government had to deal with multiple constraints. International commitments and allegiance to Colombia's principal funder – the US – required the respect of extradition demands and a formal compliance to standards of transitional justice. On the other hand, paramilitary demobilization became a central legitimation discourse. “Removing more than 30,000 men to war” was a leitmotiv in the president's speeches. Success on the matter of negotiated peace – even partial – has been a challenge full of political gains.

Meanwhile, the government was confronted to the parliamentary arena. While scholars have shown that MPs convicted for their alliances with the paramilitaries had always voted for the interests of the latter ((López 2010)), a part of the majority disengaged from the presidential project. For example, Senator Rafael Pardo, a former Commissioner for Peace and Defense Minister, who had strongly supported Uribe's election, progressively became one of his main opponents.

The government was playing a two-level game; namely the Ralito talks table and the Congress. These two levels were inter-dependent. Paramilitaries could influence the vote of the law, and tried to influence the government's action. Their aim was to transform the latter's engagements on the table into legal warrants.

Initial positions and issues

The bill submitted in August 2003 was the first of a long series of projects, coming from the government or from MPs. This first bill, entitled “Criminal Alternativity Act”¹⁰, proposed very favorable conditions for demobilized paramilitaries. Yet, it met opposition from left-wing parties and the Liberal Party but also from some of the government's closest allies. Criticism also came from the US and from international organizations.

9 In december 2009, 107 MPs and former MPs had been pursued for “paramilitary conspiracy” or related offenses. There had been 17 convictions, three of them for “crimes against humanity”. Seven MPs had been acquitted or their procedures had precluded. The rest of the procedures were on phases of “preliminary inquiry”, “instruction” or “judgment”.

10 Ley de Alternatividad Penal

From the beginning, one of the main issues was to determine whether the paramilitaries were armed actors or drug smugglers. In November 2003, US ambassador William Wood held a meeting with a group of MPs. He said he hoped the law would not “become an excuse to evade extradition orders against Colombian criminals” or “provide shelter to drug traffickers who use the facade of armed actors in order to evade justice”¹¹. For their part, paramilitary leaders asked for “political and legal guarantees to enable (them) to reintegrate into civilian life without the extradition or the International Criminal Court specters”¹². Indeed, extradition then appeared as the major legal issue. Despite the initiatives of some MPs, who considered that legal guarantees against extradition should be granted to armed actors engaged in negotiations, President Uribe decided not to include the question in the legislative debates. When the government project became public in April 2004, paramilitaries harshly rejected it and proposed a referendum to decide on the neuralgic points of the law. In response, President Uribe stated, in a press release, that he had received death threats from druglords and paramilitaries. Moreover, numerous ceasefire violations had been registered. It was, according to the document, impossible to continue negotiations under those conditions. Moreover, the text confirmed the official position on extradition. It stated that “extradition is not subjected to negotiation. Those who want to avoid it should demonstrate their good faith and their determination to rectify their acts at the eyes of the international community”¹³. This confrontation added to an internal crisis of the AUC, marked by the murder of the historical leader of the organization, Carlos Castaño, presumably ordered by his own brother, Vicente. Castaño, according to one of his closest allies, was suspected to hold contacts with the American embassy aiming at his voluntary surrender to justice (Cívico 2009).

The critical moments of the negotiation were overcome with the Fatima Agreement. The text was signed by the High Commissioner for Peace and commanders of the paramilitaries¹⁴ on May 13th 2004. It created a “Location Area” (ZU) of 380 km² in Santa Fe de Ralito where the paramilitary commanders would stay with four-hundred of their men. Inside the ZU's borders, arrest warrants and military operations would be suspended. In consequence, paramilitaries got a temporary non-extradition guarantee, as they should not be arrested. The government managed to revive the negotiations. Besides, it got the control on paramilitary commanders displacements, as they needed a special permit to quit the zone. The negative to include extradition in the Agreement responded to two lines of action. Indeed, this position is part of the respect of Colombia's international engagements. Immediately after the signature, the US ambassador called a press conference. He told the journalists that he hoped that no secret guarantee might be granted to paramilitaries concerning extradition and confirmed his country's will to judge any person that would have violated the US law¹⁵. A few days later, Mary Lee Warren, US Deputy Attorney General publicly announced that the Department of Justice would request the extradition of six top paramilitary commanders¹⁶.

But the Colombian government strategy was not a automatic reaction to US pressure. Indeed, authors in international sociology show how, in relatively dependent countries, rulers manage to use foreign pressure (donors and/or international organizations) in order to consolidate their internal political power (Hibou 2006). Uribe's strategy can be analyzed as an instrumentalization of extradition, for bargaining purposes. This threat was a “sword of Damocles”, pending above paramilitary heads. Whereas the government was initially ready to grant large legal advantages to these commanders, it also needed to respond to internal and external constraints. In consequence, it had to enforce its position in the negotiation table. In August 2004, the government extradited Arturo Calderon, a member of the

11 “E.U. Pide No Tocar Extradición”. *El Tiempo*, November 5, 2003.

12 “Paramilitares exigen ser excluidos de alcance de la CPI.” *EFE*, March 18, 2004.

13 Presidencia de la República de Colombia. “Comunicado de prensa,” April 28, 2004.

14 Salvatore Mancuso, Vicente Castaño, Adolfo Paz, Javier Montañéz, Jorge 40, Julian Bolívar, Hernan Hernández, Miguel Arroyave, Ernesto Báez, Ramiro Vanoy

15 “Estados Unidos respalda con reserva acuerdo Gobierno-Paras.” *El Tiempo*, May 15, 2004.

16 “Vicefiscal de Estados Unidos formalizó la solicitud de extradición de seis jefes paramilitares.” *El Tiempo*, May 18, 2004.

The request mentioned the following persons : Salvatore Mancuso, Adolfo Paz, Miguel Arroyave, Ramiro Vanoy, Hernan Giraldo, Vicente Castaño. Four of them figured among the signers of the Fatima Agreement.

Central Bolivar Block that had been arrested under drug traffic charges. In December of the same year, President Uribe authorized the extradition of Salvatore Mancuso, the spokesman of the AUC and the man that was considered – since the Castaño's death – as the paramilitaries' leader. Yet, the extradition would only be effective if Mancuso did not fulfill his commitments with the negotiation process and the paramilitary demobilization¹⁷. On several occasions, President Uribe said that he would not extradite the members of the negotiation staff during the talks. The latter's reacted saying that extradition should not only depend on the President's will.

Parliamentary arena

At that stage of the process, it was quite clear that the main decision arena was the Congress. In July 2004 Eleonora Pineda and Rocio Arias, two MPs, self-proclaimed paramilitary “friends”, organized their visit to the Congress. Salvatore Mancuso, Ramon Isaza and Ernesto Baez gave a speech in front of MPs, journalists and some choked human rights defenders. Their message was clear; they had been forced to take up arms by the negligence of the state:

“Given the lack of response from the State, we were forced to change over our working tools for weapons, and on behalf of the victims of violence, resist and confront the war declared against Colombia by terrorists. This was about defending our lives, our dignity and our territory [...]. The trial of History will recognize the goodness and greatness of our cause”¹⁸

The consequence of this was the negative to go to prison:

“As a reward for our sacrifice, that permitted the liberation of a half of the Republic's territory and that avoided the transformation of our motherland into another Cuba or Nicaragua, we cannot receive jail”

The speech in the Congress showed how political recognition was important to paramilitaries. Recognition as political actor was not only a symbolic issue. Political armed actors, according to Colombian legislation, can be judged under the crime of sedition. Sedition can be amnestied, seditious criminals can occupy public charges – such as a Congress seat – and, last but not least, seditious criminals cannot be extradited. Sedition seemed to be the perfect way to erase paramilitaries' criminal past, legalize their fortunes and eliminate the risk of extradition.

Having been unable to impose a direct legal prohibition on their extradition, the paramilitaries tried to define drug smuggling as a “subsidiary crime” of sedition. A subsidiary crime is a crime that is part and parcel of a principal one. In that case, the offender is only judged for the principal crime. The judgment of a principal crime is final and binding. To get this kind of legal treatment, they had to be recognized as “seditious armed actors”. Yet, as sedition is considered by the Colombian Penal Code as an insurrection against the state, it was more than difficult to impose the idea that paramilitaries were seditious. However, during the debates of the Justice and Law Act, the government proposed an article (#71) modifying the Penal Code definition. Article 71 introduced in the criminal definition of sedition the creation of “self-defense groups whose actions interfere with the normal functioning of the constitutional and legal order”. Several MPs protested, saying that this article would allow druglords to become insurgents at the eyes of the law – as Don Berna case cited in the introduction – and to laundry the fortunes originated in drug traffic. Another article of the law (#10) was supposed to correct those issues. The text stated that armed groups “organized for drug smuggling or illicit enrichment” could not be eligible to the law benefits. Critics of the law considered that this article was

17 The resolution of extradition enumerated three commitments: To comply with commitments took under the peace process with the United Self-Defense of Colombia, AUC. To abandon illegal activities. To contribute to the participation of members of the AUC in the peace process.

18 Mancuso, Salvatore. “Discurso ante el Congreso de la República,” July 28, 2004.

not precise enough. Indeed, all paramilitary groups could argue that, whether they were engaged in drug traffic and all kinds of criminal business, the main purpose of their activity was counter-insurgency, and that crime was just a way to finance armed struggle.

The law was clearly advantageous for paramilitaries. Yet, it was not an absolute protection against extradition, and the government had been careful not to lose this legal resource. The law provided the possibility to exclude from its benefits an offender that had continued to incur in illegal practices or was not “committed to peace and conflict resolution”. The decision was discretionary and depended on the President. In practice, this meant that paramilitaries could be expelled from the Justice and Peace program at any time. They could become ordinary offenders and lose all their benefits in terms of penalties and non-extradition guarantees.

Despite the numerous critics addressed to the final government bill, the Justice and Peace Act was voted on the 25th of July 2005. According to human rights organizations, the law did not guarantee the victims' rights, as no compulsory judicial declaration was provided. Only the illegally acquired property should serve to victims restoration; no detailed investigation of their fortunes was provided. This measure opened the door to the use of frontmen and money laundering in order to legalize dirty capitals. Those critics were joined by international organizations, such as the Inter-American Commission on Human Rights (ICHR), an autonomous organ of the Organization of American States (OAS). The ICHR roughly criticized the law, asserting that “it does not establish incentives for paramilitaries to comprehensively confess the truth about their responsibility, in exchange for the important legal benefits they will receive”¹⁹. In that respect, the law did not help to clarify paramilitary crimes, to restore the victims and to establish the truth.

On their side, the president of the Foreign Relations Committee of the US Senate, as well as a group of Democrat Senators wrote separate letters to President Uribe, manifesting their concerns about the lack of severity of this law²⁰. Washington's main concern continued to be the extradition of Colombian drug smugglers. During 2005 second semester, US Congress debated on the financing of the paramilitary demobilization. The bill approving the aid passed by several stages. After a first and very strict one, that made almost impossible the funds release²¹, the Senate finally voted a text authorizing a 20 million dollars aid. The final bill relaxed some restrictions. Yet, it required a Secretary of State certification insuring that “Colombia (was) fully cooperating with the extradition of leaders and members of terrorist organizations required by the American justice”²².

Uncertain outcomes

The law did not put an end to the dynamic of conflict and bargaining between paramilitaries and the Colombian government. 2006 was an electoral year in Colombia. President Uribe was running for a second period in May, after having modified the Constitution in order to allow his reelection. Also, Colombians went to the polls in march to entirely renew the Senate and the Chamber of Representatives. Before the campaign had begun, informations about paramilitary influence during the precedent elections started to circulate. Scholars and journalists uncovered “atypical voting” in towns of the Caribbean region where a single candidate had got more than 90% of the ballots²³. Unknown politicians bounced from town councils – controlled by the paramilitaries – to the Chamber of Representatives²⁴. Journalistic inquiries maintained that politicians had paid 100 million of pesos (€35000) to get armed support coming from paramilitaries.

19 “Condena A Ley De Justicia Y Paz.” *El Tiempo*, July 16, 2005.

20 “Congresistas De E.U. Reclaman A Uribe Cambio En Justicia Y Paz.” *El Tiempo*, June 6, 2005.

21 “En Senado De E.U. Bloquean Ayuda A Paras.” *El Tiempo*, July 7, 2005.

22 “E.U. Aprueba Us\$ 20 Millones A Proceso Con Auc Bajo Condiciones Más ‘Suaves’.” *El Tiempo*, November 3, 2005.

23 López, Claudia. “Votaciones atípicas en las elecciones de congreso del 2002.” *Semana*, September 11, 2005.

24 Eleonora Pineda was elected councilor of Tierralta – a small town controlled by the paramilitaries – with 748 votes in 2001. Two years later she entered to the Chamber of Representatives supported by more than 82000 votes

For the 2006 polls, paramilitaries organized intensive debates about the electoral strategy they should follow. Some of them – g.e. Salvatore Mancuso and Jorge Cuarenta – even considered creating their own political party (Valencia 2007, 45-46). A meeting was called on January 2005 with paramilitary political advisers to choose the adapted strategy to expand their parliamentary influence²⁵. Following their advisers' opinion²⁶, paramilitary commanders decided to keep an indirect presence in the Congress and to focus on 2010 elections. This official line did not stop some paramilitaries, to long for a parliamentary seat. Someone like Giovanni Marin, a former paramilitary from Medellín, ran for the Chamber supported by the Representative Rocio Arias, who hoped to bounce to the Senate. Paramilitary political plans brought about opposition from members of the government and some political parties. President Uribe said that paramilitaries could not participate to politics before the regularization of their legal status²⁷. They promised not to intervene in the elections, but continued to covertly follow their strategy. Moreover, public political declarations continued. During his demobilization ceremony, Ernesto Baez, political commander of the BCB pled for an electoral reform that would create two reserved seats in the Chamber for demobilized paramilitaries²⁸.

The last episode of the Justice and Peace Act came along with the judgment pronounced by the Constitutional Court in May 2006. The tribunal, who considered that benefits provided by the law were too advantageous, introduced important modifications. Judges required higher penalties for paramilitary leaders, as well as stricter duties about victim restoration. They established the obligation of truth for testimonies, otherwise paramilitaries would lose all their benefits. Mostly, the Court was strongly opposed to the political status granted by the law to the offenders. The controverted article 71, that modified the Penal Code and gave a seditious status to paramilitaries was declared unconstitutional.

The reaction was immediate. Paramilitary commanders threatened the government, saying that they could not accept such conditions and that they might break the talks. Paramilitary spokesman Ernesto Baez proposed a Constitutional Assembly to modify Colombian institutions in order to “save the demobilization”²⁹. The government's reaction was ambiguous. On the one hand, it reminded to the demobilized paramilitaries that, as they had already laid down their weapons, compliance to the law was not an option. It reserved a special mention to extradition. Paramilitaries whose extradition had been suspended could lose this legal benefit. On the other hand, the government maintained that a statutory decree would be issued in order to implement the Court's verdict. Moreover, if necessary, the President could submit a new bill to the Congress. This consideration conducted to believe that Uribe would not fully respect the Court's judgment. As a journalist noted it:

“In other words, the law has already been made and self-defense groups should not question it, but the government may, on its own initiative, ask the Congress to modify it. To what extent or for what purpose? That is something that the president does not specify”³⁰

Meanwhile, scandals about paramilitary political influence went along. Strong evidence about meetings between parliamentary candidates and paramilitary commanders, aiming to establish a joint political strategy, pushed the party leaders to exclude suspected candidates from their lists³¹. Rumors were circulating about the fact that the US embassy would suspend their American visa to party leaders if they kept those shadowy allies³². A climax was attained with the testimony of the former informatics director of the Colombian intelligence agency (DAS, depending from the Presidency). Rafael Garcia,

25 “Todas las formas de lucha?” *Semana*, February 20, 2005.

26 Carlos Alonso Lucio, a former ELN guerrilla fighter, and Juan Rubbini, an Argentinian intelectual, where present et the meeting

27 “Lo que dijo el gobierno.” *El Tiempo*, November 2, 2005.

28 “Las AUC quieren dos curules en el Congreso.” *Semana*, February 12, 2006.

29 “Paramilitares desmovilizados quieren presionar al Gobierno para obtener más beneficios.” *El Tiempo*, August 16, 2006.

30 “Uribe amenaza con retirar beneficios a AUC.” *Semana*, August 14, 2006.

31 “Primeros expulsados de listas por relaciones con paras.” *Semana*, January 20, 2006.

32 “Y el gringo ahí...?” *Semana*, February 5, 2006.

accused of being a paramilitary supporter, declared that during the 2002 polls, politicians, paramilitaries and intelligence agents had drawn an alliance in order to commit electoral frauds. Those frauds would have benefited parliamentary candidates, but also to the then-candidate Alvaro Uribe³³. These declarations provoked a heated reaction from the President³⁴, but also nourished a growing journalistic and judicial interest for the unveiling of the paramilitary “shadow state”. This demand met a new offer. Paramilitaries started to look for new ways to put pressure on the government, and to force it to respect its commitments. One of those new ways was to reveal compromising information about their political links. Such strategy destabilized the regime and changed the structure of conflict and bargaining dynamics.

3. A desectorization crisis

So far, negotiations were limited to the Ralito talks table and to the Congress hall. Yet, the weakening of paramilitaries' legal status embittered the relations between the latter and the government. Paramilitary commanders were not intended to remain passive. They used two parallel strategies aiming to put pressure on the government and to force it to comply to its past promises. First, they released compromising statements to journalists and judges about their links with congressional officials, high civil servants and local politicians. Those testimonies triggered a major scandal known as “para-politics”, that destabilized the government and undermined the – already weak – Congress legitimacy. Compromising revelations became a major political asset for paramilitaries, but also gave new resources to a different kind of political actor: judges.

Secondly, paramilitary commanders tried to use their specific political resource, i.e. organized violence. From their cells, they piloted the reactivation of armed structures in order to put pressure on the government and to demonstrate their harming capacity. However, they were unable to effectively control a disorganized network of concurrent – and sometimes conflicting – armed groups. Therefore, this bargaining strategy appeared to be counterproductive, and ultimately allowed President Uribe to extradite the paramilitary bosses. This permitted him to appear as the man who dismantled the “paramilitary mafias”. He used the US requests for extradition to withhold the cycle of compromising revelations and to get Washington support when the scandal splashed his closest supporters. Thereby, the political maneuver was shown as mere law enforcement.

“Para-politics”

The development of the “para-politics” scandal had a strong impact on the relations between the government and the paramilitary commanders. Indeed, the latter used the testimonies given to the judges and their interviews released to the press as a political resource. They detained compromising information about number of politicians, most of them being Uribe's supporters. These information were released in a favorable context, as interest for the paramilitary “underground networks” had been growing since the beginning of the talks. Revelations nourished a multiplicity of “denunciation loci” (Aldrin 2005) with number of actors engaged in unveiling strategies. This complexity made it impossible for a single actor – neither the paramilitaries nor the government – to fully control the information flow³⁵. Translation of denunciations into judicial pursuits, targeting MPs and members of the President's closest circle, was the consequence of a “multi-sectoral mobilization” (Dobry 2009). In such situation, the judicial arena acquired a particular influence and visibility. Namely, “para-politics” gave a heightened value to judges' specific resources, i.e. the capacity to grant an institutional support to denunciations. A harsh conflict between the executive and the judiciary was one of the consequences of the judges' actions.

33 “El testigo clave.” *Semana*, April 1, 2006.

34 ““No dejaré que empañen mi campaña”: Uribe.” *Semana*, April 10, 2006.

35 For an analysis of these dynamics of denunciation in a different context we can read the article of Romain Bertrand (2008)

The massive media coverage of the links between paramilitaries and politicians began in September 2006, when information was found on a paramilitary lieutenant's laptop computer and released by the press. The laptop was found during the arrest of Edgar Ignacio Fierro, aka Don Antonio, the right hand of Jorge Cuarenta, chief commander of the North Block of the AUC. The computer's hard disk contained information about crimes perpetrated by the AUC; there were details about murders, money laundering, racketeering, and the financing and support of political campaigns³⁶. Political and judicial consequences were immediate. Inquiries against two Senators and one Representative – the three of them pro-government – were opened by the Supreme Court³⁷.

In November, Senator Miguel de la Espriella, a member of the parliamentary majority, unveiled the existence of a secret reunion held in 2001 between politicians of the Cordoba province and members of the AUC. Espriella declared that more than 40 politicians assisted to the reunion called by paramilitary commander Salvatore Mancuso. In January 2007, during his judicial testimony, Mancuso handed out the final act of the meeting. The document, intitled “Agreement for the Re-founding of the Country”, had been signed by 26 politicians, including Senators, Representatives, Governors and Majors. In spite of the efforts made by the government to calm down the scandal, the Supreme Court requested the signatories' statement. The recording of a conversation between Espriella, Eleonora Pineda and Salvatore Mancuso in 2006, broadcasted by a radio channel two years later, provides some information about the scandal's unreeling. During the conversation, Mancuso showed the unveiling of paramilitaries' political links as a strategy to trivialize that kind of alliances :

“The more people we uncover, the faster we will get a solution; Uribe can not put twenty thousand people in jail, no kidding! he can not put in jail a hundred of the most important people in this country. What is he gonna do his ministers, his vice president, his defense minister?”³⁸

In May 2007, Eleonora Pineda and Rocio Arias, the two Representatives that had organized the 2004 paramilitary visit to the Congress, held a meeting with imprisoned politicians. According to press sources, the two MPs told their former colleagues that the unveiling of paramilitary political links was part of a Salvatore Mancuso strategy aiming to destabilize the government. This would force the latter to respect its “commitments with the AUC leaders and to be concerned with finding positive alternatives for everyone”³⁹, both paramilitaries and politicians.

The judicial inquiries against members of the parliamentary majority and high public servants became a large political crisis. The President's closest allies were suspected by the judges and the opposition parties (the Liberal Party and the leftist PPD) questioned the regime legitimacy. The foreign affairs Minister, Maria Consuelo Araujo, was one of the first casualties in this political war. Her brother, Senator Alvaro Araujo was suspected of conspiracy with paramilitaries. In spite of the President's support for his Minister, she was pushed out of office by her brother's arrest⁴⁰. Three days later, the former director of the Colombian Intelligence Agency (DAS), one of the President's closest high civil servants, Jorge Noguera was arrested⁴¹. When Noguera firstly came under investigation in 2006, he had been appointed Consul in Milan. The magnitude of the accusations made it impossible for him to stay in office, and he thus had to flihg back to Colombia in December 2007. The arrest order was suddenly issued in regard of the charges he was facing : conspiracy and murder.

36 “El 8.000 de la Costa.” *Semana*, September 9, 2006.

“El computador de Jorge 40.” *Semana*, September 2, 2006.

37 “Corte Suprema abre proceso penal por paramilitarismo contra tres congresistas.” *Semana*, October 18, 2006.

38 “Reunión entre Salvatore Mancuso, Eleonora Pineda y Miguel de la Espriella.” *La W Radio*, December 19, 2008.

39 “Chantaje para.” *Cambio*, July 2, 2007.

40 “Escándalo por vínculos de su familia con ‘parapolítica’ tumbó a la Canciller María Consuelo Araújo.” *Semana*, February 19, 2007.

41 “Capturan al ex director del DAS, Jorge Noguera, acusado de vínculos con el paramilitarismo.” *Semana*, February 22, 2007.

The “para-politics” scandal also affected Colombian foreign policy. The vote of the Colombia Free Trade Agreement (CFTA) by the US Congress was hindered by illegality suspicions on Uribe's Administration⁴². The effects on national politics were immediate and shattered. The Congress was paralyzed by debates on political conspiracies; suspected MPs started to renounce in order to elude the Supreme Court – reputed to be more severe, but reserved to the higher dignitaries – and to be judged by ordinary justice. Judicial strategies and bill projects aiming to liberate imprisoned politicians, or at least to shorten their sentences, were evoked.

Initially, the government tried to save its parliamentary allies. According to Jose Obdulio Gaviria, one of Uribe's closest advisers, the “equality principle” would force judges to grant the same benefits to conspirator politicians than to paramilitaries. Namely, imprisoned MPs and governors could apply to the Justice and Peace Act⁴³. Interior Minister Carlos Holguin admitted he was working on the subject. He studied possibilities of a decree, a law or even a reform to the Justice and Peace Act, that would concretize Gaviria's thesis. In June, a pro-government MP submitted a law modifying the Penal Code and typifying conspiracy – the crime for which politicians were being judged – as a political crime. Rough opposition, even inside the majority, frustrated these initiatives⁴⁴.

Subsequently, it became clear that the scandal could not be contained. The only remaining solution for the government was to neutralize paramilitaries resources. A new element came into account; the formation of new armed groups, partly at the instigation of paramilitary negotiators. Yet, the proliferation of militias may discredit the pacification policy. Thus, the treatment of the paramilitary issue came under the scope of criminal policy, instead of political negotiation.

Rearmament

Since 2006, the OAS Support Mission for the Peace Process (MAPP), noted the formation of new paramilitary groups. They were constituted by middle and low AUC militiamen who had never laid down their weapons or had rearmed after their demobilization. Subsequently, the MAPP identified 22 new paramilitary structures and manifested its concern about the “veterans recruitment (by these structures, ndt.) and [the] control of illicit economy” (OEA 2006). In 2007, just after the last demobilization ceremonies, the MAPP stated that new paramilitary groups tended to stabilize, with the emergence of strong leadership positions and precise territorial integration, particularly associated with key drug traffic routes.

The gradual AUC demobilization process was running since 2003. However, at the same time new armed structures were being created. Some of them were directly controlled – at least at the beginning – by former AUC leaders, the same who were negotiating their return to civilian life. Indeed, as their bargaining power was based on organized violence, they were not willing to demobilize all their troops. The demobilization process was paradoxically accompanied by the creation of rearguards, designed to protect the paramilitary commanders vital interests (drugs and weapons smuggling routes, political feuds...) against the state or the guerrillas (DP 2004).

Accordingly, some of the most media covered demobilizations were just fake ceremonies, like when the Nutibara Chieftain Block (BCN) laid down its weapons in Medellín. On November 25th, 2005, 868 militiamen putted down their arms in an official ceremony – the first of its type – intended to mark the AUC's “commitment to peace”. Yet, quickly it became clear that a large proportion of men who participated in this event were not real paramilitaries. They were petty criminals and members of local gangs who had been recruited for the ceremony. Most of the BCN militiamen had kept their weapons

42 “Bush reconoce que la aprobación de TLC con Colombia será una batalla en el Congreso de EU.” *Semana*, March 7, 2007.

Daschle, Tom. “The Right Trade Deals With Latin America.” *The Washington Post*, June 26, 2007, sec. Editorial.

43 *Idem*.

44 “Gobierno desistió de presentar reforma para excarcelar a 'parapolíticos' que cuenten la verdad.” *El Tiempo*, July 19, 2007.

and had never took part to the peace process. They simply changed their *modus operandi*, becoming more discrete (ICG 2007). Namely, Eduardo Pizarro, director of the National Commission for Reparation and Reconciliation (CNRR), held the following statements in 2004:

“There is not city sweep by masked and heavily armed men. There is an invisible control, carried out with threats, covert and camouflaged weapons, neighborhood banishing [...] Today, a new wind blows, but residents keep saying that under this seemingly calm, the new lords of the local order are hiding: the paramilitaries who control Medellín outskirts with an iron hand”⁴⁵

Even if the BCN demobilization was just a facade, it resulted in a decrease of levels of violence. While 3557 people were murdered in Medellín in 2002, this level dropped to 1896 in 2003 and reached a historical low level in 2006 with 677 murders. This evolution responded to the use of “discrete” methods by the paramilitaries, but also to a more proactive law enforcement. Finally, according to some scholars (Alonso Espinal, Giraldo Ramírez, and Jorge Sierra 2007) Don Berna, who controlled most of the city's criminal networks, imposed a semblance of peace to his troops. Engaged in negotiations with the government, he was interested in staging this fake pacification.

Nevertheless, following the Constitutional Court's intervention, which weakened paramilitaries legal status, the relationship between the latter and the government got deteriorated. The negotiations worsening corresponded to the paramilitary rearguard reactivation. This strategy was used by paramilitary commanders in order to strengthen their political position and pressure the government to obtain the respect of its promises.

Thereby, in February 2007, Salvatore Mancuso, stated that more than 5,000 AUC former militiamen had taken up their weapons. While thinking about the “harmful consequences for the country” of such rearmament as well as denying his responsibility – or his fellow commanders' one – he linked it to the government's inability to meet its promises⁴⁶.

Yet, paramilitary bosses did not totally control this new paramilitary generation. From the beginning of the Ralito talks, the negotiators met opposition from some of their own men. Middle commanders who remained on the camps away from Ralito sometimes took advantage from the distance to overthrow their chiefs. This was the case of Miguel Arroyave, killed by one of his lieutenants in September 2004. The murderer, Pedro Oliveiro Guerrero, aka Cuchillo (knife) divided the Centauros Block after the death of his boss and created the Revolutionary Anti-Communist Army of Colombia (ERPAC) a 500 men gang who gained the control of drug smuggling in the Eastern Plains region⁴⁷. This conflict illustrates the division between high commanders, who had already accumulated a significant capital, and were interested in its legalization, and middle commanders, for whom the demobilization was not such a good deal.

Deep divisions also appeared among the top commandment. There were oppositions between those – like Salvatore Mancuso – who considered the possibility to negotiate their extradition with the US justice, hoping to reduce their sentence in exchange of informations about drug smuggling routes and accomplices. Indeed, Mancuso had manifested his support to one of the Justice and Peace Act articles, that provided convicts the possibility to serve their sentence overseas. On the contrary, other paramilitary commanders, like Don Berna, were radically opposed to the eventuality of being imprisoned in the US⁴⁸.

Those examples illustrate the fact that the AUC had never been a centralized institution, but a fragmented network of concurrent groups and individuals. Being secluded, cut off from their men,

45 Pizarro, Eduardo, “Una calma aparente. Paramilitarización urbana”, *El Tiempo*, 15 Août 2004.

46 “Rearme de las AUC es una realidad, Mancuso”, *El Espectador*, 5 Février 2007.

47 “¿Cómo fue realmente asesinado Miguel Arroyave?”. *Semana*, September 24, 2004.

48 “Desmovilizados Le Dieron ‘Golpe De Estado’ A Salvatore Mancuso.” *El Tiempo*, October 27, 2005.

they were not capable to drive a coordinated strategy to rearm their past armies. Rearmament is a complex phenomenon produced by multiple factors (Daviaud 2010).

For the government, admitting that the new armed groups were the consequence of gaps in the demobilization policy was to recognize its own mistakes. Thus, their existence was interpreted as regular criminality, not paramilitarism. As a matter of fact, they were officially called by the neologism Bacrim (acronym for Criminal armed gangs in Spanish). However, the security policy could not ignore the links between the former paramilitary commanders and the rearmament phenomenon. Indeed, paramilitary bosses, although they wanted to publicly appear as an unified political force, were competing for controlling the drug business.

In December 2006, the government ordered the transfer of paramilitary chiefs to the high security prison of Itagui, situated in a Medellin suburb. It was a response to both rearmament and para-politics scandal. Journalistic inquiries indicated that the links between former paramilitary bosses and the drug business were well documented by intelligence agencies⁴⁹. Yet, the government had decided to ignore this evidence, as it would endanger the credibility of its policy. Para-politics changed the situation; Uribe, how had been questioned since the beginning of his mandate for suspected links with paramilitaries was facing a major scandal, with pro-government politicians and high dignitaries accused of collusive links. The scandal's magnitude suggested that paramilitary allies were not exceptional cases, but just the tip of the iceberg. At the same time, armed confrontations between new paramilitary competing gangs gave more visibility to rearmament. For critical observers the conclusion was severe: paramilitary bosses had not laid down their weapons, they were still controlling underground armies and their political power was intact⁵⁰. The government had to drive away that kind of assertions and to give proofs of its authority. Paramilitaries transfer to a highly secured prison was the response to criticism coming from Colombia and Washington. Yet, by doing this, Uribe implicitly admitted that paramilitary were regular criminals and not political actors, exactly the opposite of what he had been doing since the beginning of the talks.

Armed politics or crime?

By that time, the question of the categorization of paramilitary crimes was burning. In conviction of a former paramilitary militiaman, issued in July 2007, the Supreme Court⁵¹ stated that the offender should be judged for conspiracy instead of sedition, denying the defense's advocacy. The tribunal's argument was that political offenders take up arms to transform the state or the political system in order to build a juster one. Paramilitary crimes could not match with in this definition:

“To accept that the crimes committed by members of paramilitary groups could be considered to be sedition, instead of conspiracy, not only assumes that their purposes were altruistic and that they were researching the collective welfare but also conducts to the circumvention of the victims' and society's right to meet justice and truth”⁵²

The verdict sealed a clash between the executive and the judiciary. When Alvaro Uribe learned the judgment, he accused the judges of having an “ideological bias” in favor of the leftist rebels and incited the Court to look for an “agreement with the executive”⁵³. The Court rejected the President's interference and asked for the respect of its independence. Meanwhile, paramilitary commanders announced they would stop their judicial testimonies until the situation had not been resolved; they accused the government not to have “respected the rules of their pact”⁵⁴.

49 “Tras las rejas.” *Semana*, December 2, 2006.

50 *Idem*.

51 In the Colombian judicial structure, the Supreme Court is the last resort, after the Appeal Tribunals.

52 Corte Suprema de Justicia de la República de Colombia. *Sentencia 26945*, July 11, 2007.

53 “Uribe acusa a los magistrados de la Corte Suprema de “tener un sesgo ideológico”.” *Semana*, July 27, 2007.

54 “Uribe dice que proceso de paz con paras no es un “capricho” de él sino “del Estado”.” *Semana*, July 25, 2007.

The government submitted a new bill granting political status to demobilized paramilitaries. Thanks to that, it managed to calm down the former commanders. Yet, this presumed political status was, more than ever, hard to defend. Two months earlier, *Semana*, the country's most important news magazine had revealed recordings showing that paramilitary bosses had continued to manage their criminal enterprises from jail⁵⁵. In the recordings, their lieutenants ordered murders, fixed the price of cocaine shipments and talked about hidden weaponry. The prison director had also been recorded, her conversation with a close friend engaged the responsibility of the government: "If I refuse (their demands), then they call the general director or the Commissioner for Peace, or even the Minister or the President... then, while I say no, my bosses call me to say yes". The government response was to minimize the facts, ensuring that there were "no evidence that the paramilitaries (had) violated the peace agreements"⁵⁶. As the leak supposedly came from the police, the President ordered the destitution of eleven high-ranked officers, and replaced the police national director.

As shown by those recordings, paramilitary's transfer to prison did not weakened their capacity to control violent enterprises on the streets. A confrontation between two Itagui inmates was particularly visible. Don Berna's control on the Medellin underworld was challenged by a fellow paramilitary commander, Carlos Mario Jimenez, aka Macaco (macaque). War was being held in slums of Medellin, not far away from Itagui prison. A well known Don Berna lieutenant and the president of the Envigado Football Club had been murdered. The latter was suspected of being linked to paramilitary criminal networks. In order to move the two bosses away from their troops, the government ordered their transfer to two army vessels respectively in the Caribbeans and the Pacific ocean. Such a move showed that the prison administration was not considered to be reliable. The difficulty to control such a powerful inmates was still denoted by a new episode. In February 2008 a police raid in Itagui found weapons and money in the paramilitary prison block.

This new evidence, even if it appeared as a slight offense compared to the records released moths before was significant from the political point of view. Indeed, the impossibility of controlling paramilitaries inside a highly secured prison was the main argument to legitimate extradition. Furthermore, paramilitaries had deployed an aggressive media strategy, aiming to refuel the still-burning para-politics scandal. Rocio Arias – the convicted MP – accused two of the closest Uribe allies in the Senate of having received support from paramilitaries during their political campaigns. Salvatore Mancuso, during a television interview broadcast in April 2008, held seemingly accusations against the Defense Minister and the Vicepresident. Finally, a demobilized militiaman testified that President Uribe had commanded a massacre perpetrated by paramilitaries. Contrary to precedent accusations, paramilitaries did not have any proofs to support their testimonies. However, past evidence about criminal collusions had created a context in which this kind of accusations were thinkable. This veracity explains the fact that the Supreme Court decided to open a preliminary inquiry to the Senators and members of the government mentioned by paramilitaries.

The framing of paramilitarism as a criminal issue, contradictory to the past government's advocacy in favor of political status, prepared the path to final extradition. At the end, this solution could be compatible to paramilitaries' interests. It was evident that the US would not resign to get their extradition. Yet, their surrender to American justice could be negotiated. Plus, while Colombian judges were not willing to grant pardon to war crimes, American courts were only interested in drug smuggling. As their opportunities in Colombia were getting more and more limited, paramilitaries engaged in bargaining with the American Embassy and the DEA. They had valuable information about traffic routes, criminal networks all over North and South America and fellow narco-traffickers. There is fragmented evidence about the existence of such bargaining, but no reliable sources about its content.

55 "“Te llamo desde la prisión.” *Semana*, May 12, 2007.

56 "No hay pruebas de que los paramilitares hayan violado los acuerdos." *Semana*, June 23, 2007.

Almost all the former negotiators⁵⁷ were finally extradited on May 13th 2008. The government justified its decision arguing that there was significant evidence about their criminal activities. Yet, this evidence was not new. Sending these offenders overseas was an attempt to stabilize the political situation. Paramilitaries had become a major threat to the political regime. First, their revelations, that started as a pressuring strategy against the government was following its own dynamics. Judges' legal activism had transformed the scandal into a political crisis. Second, rearmament proved that the demobilization policy had been unsuccessful. The extradition effect on rearmament remains uncertain. What is true is that extradition stopped the “incriminating statements” dynamic that had done so much harm to the presidential majority.

.....

Suddenly, the executive was positioned as the architect of paramilitarism's dismantling. This manipulation allowed it to respond to the criticism addressed against paramilitaries' extradition. While critics of the government denounced an operation aimed to silence the incriminating revelations made by paramilitary chiefs, the president claimed that extradition was a restoration of the law, violated by the paramilitaries who had not “played the game”.

The transformation of the situation led to a sort of “re-monopolization” of violence. It is important to stress the role played by the instrumentalization of the paramilitary issue. Indeed, the politico-criminal configurations are often “the target of new governing teams, that base their legitimacy on the will to break with the old order, for example on behalf of the fight against corruption” (Briquet and Favarel-Garrigues 2008). Denunciation of paramilitarism is a political resource for those who used to defend the merits of “self defense”. As state institutions had lost its legitimacy, accused of being “infiltrated” by “paramilitary power”, the executive displayed the disarming policy and the fight against new paramilitary groups. This was done with no regard to the weak results of those policies. Moreover, in the official discourse, primarily directed toward foreign partners, Alvaro Uribe is the architect of the disintegration of paramilitarism, which would be a matter of the past.

The alleged extinction of this “shadowy army” allowed Colombian leaders to self-issue a human rights respectability label, ignoring their role in paramilitary violence. Moreover, showing demobilization as strengthening the rule of law, justified the extension of an authoritarian security apparatus. The paradox of the relationship between crime and politics is the back and forth movement between mutually beneficial partnerships and instrumental denunciations (Briquet and Favarel-Garrigues 2008; Bayart 2004).

57 Salvatore Mancuso, Jorge Cuarenta, Don Berna, Hernán Giraldo, et Ramiro « Cuco » Vanoy . Macaco was extradited a few weeks before.

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