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RICE UNIVERSITY

VIOLENTOLOGISTS AND MAGISTRATES: QUESTIONS OF JUSTICE AND RESPONSES TO VIOLENCE IN CONTEMPORARY COLOMBIA

by

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A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE DOCTOR OF PHILOSOPHY

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ABSTRACT

Violentologists and Magistrates:
Questions of Justice and Responses to Violence in
Contemporary Colombia

by

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Colombia is known for being both, Latin America's oldest democracy and the western hemisphere's most violent country where democratic mechanisms coexist with increasingly restricted basic and civil rights, authoritarian measures and acute violence. The attempts to consolidate a Nation-State, based on principles of national integration, have been blurred systematically by the elite's own needs for containing what they have historically understood as social disorder. Colombia, while seeking national integration, has been caught in the web of an exacerbated social disintegration which has not been understood by academic endeavors nor contained by emergency legislation.

This dissertation is an ethnography that reconstructs the cultural history of Colombian functional elites and their ambiguous relation towards endemic violence. The research is based on a systematic exploration (carried out in Bogotá from 1994 to 1996) of the spectrum of responses that Colombian academics and magistrates of the Constitutional Court have made in the face of the country's complex interrelated forms of violence. These two unusual ethnographic sites (Constitutional Court and the "violentology", a Colombian academic subfield) have been specially relevant in the shaping of key concepts and values concerning order, law, peace and security within a society in crisis.
By tapping into diffuse elite discussions about violence and their location within institutions, the dissertation ethnographically documents how alternatives to violence are sought in the midst of an acute Presidentialism and an extended culture of indifference and fear. More broadly, the research addresses issues on social and cultural dynamics within political institutions, issues on the production of discursive fields within cultures of expertise, and issues on subjectivity and creativity within institutional spheres.
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CHAPTER ONE: INTRODUCTION

"Antes que me hubiera apasionado mujer alguna, jugué mi corazón al azar y me lo ganó la violencia."

José Eustasio Rivera. 1927

"I draw what moves me, and if there is much violence in my paintings it is because I am surrounded by violence."

Luis Caballero. 1993

Back in the late sixties and early seventies Colombia was still imagined as a promising country with invested hopes in the future. As I grew up dramatic changes shifted this oniric vision giving way to cynical perspectives that slip constantly into apocalyptic visions of a country that is now difficult to imagine. Two major events, as my

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1 See Gonzalo Mallarino's sci-fi novel Año 2001: Romance en la Narcoguerra (1990) for an example of the apocalyptic vision of a country torn apart by corruption and drug politics. Another apocalyptic vision, common nowadays in mass media, is that of Colombia as the Bosnia of the Americas, and, more recently, of Colombia as the next millenium's Vietnam. In his national newspaper column (published in The Washington Post, The New York Post, The Houston Chronicle, The San Diego Union-Tribune, among others) Robert Novak demanded from the Clinton administration more attention and military aid to Colombia. "While the US deepens its participation in the Balkans it overlooks the transition towards a narco-state of one of the oldest democracies of Latin America", Novak wrote. The vision of a narco-state that Mallarino portrayed eight years back in his novel is now making an uncanny appearance in US mass media, as well as in the corridors of the Pentagon and US Congress (See "En cinco años la guerrilla derrotaría al Ejército". El Tiempo. April 11, 1998). A vision that fuels, as many analysts both in Colombia and the US agree, on the "vietnamization of Colombia". (See "Colombia: ¿Puede ser el Vietnam de América?". El Tiempo. April 12, 1998). These visions of the Colombia of the future echoe, in more than one way, Burrough's liminal nation in his novel Naked Lunch (1982).
memory registers, produced this radical fissure: The emergence of a parallel economy and culture, centered around the processing and international distribution of drugs; and the double seizure of the Palace of Justice, seat of the country's Supreme Court, first by a guerrilla assault squad and, in the course of the three days that followed, by the Colombian Army. The first, the emergence of the economy and culture of narcotraffic, was a slow and subtle, at times almost imperceptible process that spread systematically and surreptitiously under the social texture of the country, only to appear years later as an eruption of violence that disrupted the world as we had know it. The second, the seizure of the Palace of Justice, uncovered the fragility of life in Colombia and a sense of collapse that was dramatically highlighted by the stupidity of a country that nurtures death with the pretension of maintaining "the stability of its democratic institutions". These two events have imprinted a quite indelible mark in the lives and subjectivities of all Colombians, specially of us who came to age with their unfolding.

In a recent article\(^2\), published in a collection of essays that tries to make sense of the political crisis of the current administration\(^3\), the Colombian philosopher Lisímaco Parra describes what he understands as one of the most dramatic characteristics of

\(^2\) See Parra (1997).

\(^3\) Since late 1994 the Samper administration (1994-1998) has been involved in a major political scandal that uncovered the influence of drug money in presidential campaigns, the permeability of Congress to extended corruption and legal manipulation, the spectacle of politics and the numbness of a nation. In 1997 the book *La Crisis Socio-política Colombiana: Un análisis no coyuntural de la coyuntura* was published in an effort to understand "the quotidian spectacle of corruption, violence and cynicism of the political actors" (p. 9).
contemporary Colombia: On one hand, the crisis of the elites that rule the country and their incapacity to comprehend the intricate complexity of Colombia; and on the other, the intellectual failures to make sense of such crisis of the elites. Parra's arguments are centered around three novels written during the early 1950s⁴, which draw evocative portraits of the political elites of the country. The three novels give detailed descriptions of what Bourdieu (1984) calls habitus and formations of taste and distinction. The self portrait of the elites of Bogotá - zealously kept as center of power since the days of La Colonia - is shown in these three novels as double: On one side the buena sociedad (good society), characterized by the ascription to old patrician values, encapsulated in the past and reticent to any exposure to modernizing tendencies; and on the other side, the alta sociedad (high society), characterized by its desire of cosmopolitanism and consolidated around the industrial, commercial and financial spheres. In the first case social distinction and good taste were assured by the power of family names and lineage; in the second, by economic wealth.

In April 9, 1948 the populist Liberal candidate to the Presidency of the Republic, Jorge Eliécer Gaitán, is assassinated while walking out of a restaurant in downtown Bogotá. As suggested in the novels, that day the fissure between the elites was closed in a desperate attempt to contain the irruption of the chusma, that frenzy and amorphous mob that in a feverish delirium looted, raped, and destroyed the city. That day, argues Parra through the examples of

⁴ El Cuarto Sello, by Ignacio Gómez Dávila in 1951; Viernes 9, by the same author in 1953; and Los Elegidos, by Alfonso López Michelsen in 1953.
the novels, the incapacity of the elites to comprehend the intricate complexity of Colombia was instituted\(^5\). The interruption of the world as they knew it by the sudden irruption of those "hordes of barbarians", led the elites to label the other inhabitants of the city as enemies closing itself "to an understanding of the social phenomenon that was unfolding in front of their eyes." That day too, the historical period of *La Violencia* was inaugurated.

In my early teens, while growing up with the privileges of a well accommodated family in Bogotá, I recall with special freshness the labels we had for the Dodge Demon coupe. "*Un carro de lobos*" we used to say, a phrase that condensed a lack of social distinction and taste, a deep moral disapproval and disdain, and a sense of tackiness proper of those *clases emergentes* -ascending classes- which built sudden fortunes around marihuana. It was then the early seventies. By the mid eighties, marihuana was substituted by cocaine, and with substitution came an exponential increase of wealth. The social and cultural restructuring capacity of the narcos was further enhanced and now seemed deeply and permanently embedded in various layers of the country's social spectrum. The arrogance towards "those ascending classes" was slowly diffused as their sudden incursion into the spaces of the elites became a fact. Common spaces were now shared, the same schools, the same neighborhoods, the same country clubs, all of which suddenly became campgrounds of resistance and accommodation. The seductive display of the narcos' immense wealth and power, together with their failed attempts to fit

\(^5\) This incapacity of the elites to comprehend social and cultural dynamics is a key factor for understanding their culture of indifference towards violence.
into the categories of social distinction and taste of the elites produced a quite profound ambiguity in Colombian upper classes. Was the narcos own self presentation as the new cast of entrepreneurs give them a place in the spheres of the *alta sociedad*? Or on the contrary, was their own lack of taste and distinction keep them as outcasts? In fact a blend of both happened, and with it a profound fissure in the sense of cohesion within the elites. Today, as Parra acutely notes, Colombian elites are a hybrid and amorphous crowd, only articulated by an acute individualism that, as stated by Restrepo (1992), by magnifying private needs and interests is closing down the possibilities for social solidarity.

The seduction of narcotraffic unleashed deep social and cultural shifts that traverse the whole of Colombian society generating a new geography and architecture of social mobility. Social ascent has been boosted by the underground drug economy, as well as by the lavishing demands of the narcos. Following Camacho's arguments

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6 While many traditional country clubs and schools vehemently rejected applications from people that could not prove recognized lineages to *buena* or *alta sociedad*; high political and economic circles welcomed the new commers as well off partners for new ventures to unfold in the future.

7 The desire for cosmopolitan lifestyles is built on a persistent denial of the social tensions as well as a pungent indifference towards the fate of the other; as the novelist RH Moreno-Durán shrewly says, through one of his characters in the novel *El Caballero de la Invicta* (1993), "As a cell, he proceeded to cover with the thick membrane of indifference and suspended all activity." The boom in private bodyguards, armored vehicles, heavily secured shopping malls, airports, houses, schools, public and private offices provide an artificially kept normality that nurtures both delusion and denial.

8 As Camacho (1996) points out, vertical social mobility, already set in motion by modernization, was intensified by narcotraffic with an additional component that triggered unique processes of social hybridity in every class fraction: Narcotraffic while coining new values and models of success, rashness, economic opportunism and exacerbated individualism, subverted "the traditional perspectives on hierarchical ordering of society, as well as the religious canons and ideologies that sanction the existence, domination and
(1996), money laundering became not just a form of legitimizing fortunes, but more importantly, of knitting social relations with a wide spectrum of social agents (bankers, architects, real state agents, landowners, interior designers, artists, state functionaries, lawyers, gunmen, paramilitaries), not all belonging to high or good society but to other class fractions\(^9\), who saw in narcotraffic a ravishing logic of savage capitalism—the ultimate unraveling of success, power and agency. But the tentacles of narcotraffic have affected not just the dynamics of vertical social mobility, but also those of the underclasses: With the expansion of coca and poppy crops, processes of territorial feudalization have been unleashed within rural areas of recent colonization, within indigenous territories, and throughout the mobile frontiers of paramilitary or guerrilla dominated zones. These processes have increased the flow of internally displaced towards urban centers, as well as opened up opportunities for rapid economic accumulation (massive flow of peasants that push further into ecologically sensitive areas the agricultural frontier envisioning fortunes by cropping coca or poppy; local rural economies that fall into volatile booms with sudden flows of food suppliers, prostitution, drug intermediaries, hitmen and private armies).

Overall, narcotraffic in Colombia has had not only a deep effect in the country's complex and descentered formations of violence, but also a paramount importance in reshaping the social and cultural architecture. A new set of value systems, morality standards, signs of normality of class distinctions. The bases that supposedly configured us as a nation where not only supplanted but contradicted." (Camacho 1996: 132).

\(^9\) For a definition of class fractions see Bourdieu (1984).
success and material well being, have all condensed in a obscene praise for an individualism\textsuperscript{10} - extended, as I have been arguing, to all layers of the social spectrum- disengaged with the existing local social tensions, and incapable of comprehending the intricate complexity of Colombia. Social movements and alternative political options that question such incomprehension are often labeled as subversive, and thus repressed by the Armed Forces or the security apparatus of the State, or made targets for operations of "selective assassination" or "social cleansing" by paramilitary squads\textsuperscript{11}.

Rampant individualism, and the incapacity of power elites to comprehend the intricate complexity of Colombia, collide with the country's conflicting social realities like fast moving tectonic plates, generating immense amounts of contained energy. Like in geological dynamics this release of energy can be either violent or subtle and accommodating to the existing conduits of the earth's crust. In the first case, the violent eruptions have flooded with immense contradictions the life of invisible and marginilized underclasses and, through narcoterrorism, the sense of security of all urban class fractions; in the second case, the subtle but continues releases of energy have given way to a dramatic reshaping of the geography of

\textsuperscript{10} These type of individualism, resultant of a savage capitalism, and condition sine qua non for the success of any illegal venture, is founded on a self proclaimed mastery of the subject and its actions in the world, that is, on the idea of total agency.

\textsuperscript{11} Many are the examples of peasant movilizations that while legitimately claiming for solution to complex problems that intertwine lack of State attention with the existence of parallel justice and power systems, are dispersed on the basis of labelling them agents that serve mandates of the guerrillas. Consider for example the massive mobilizations of coca and poppy growers in Putumayo, during 1995, and the aftermath, in late 1997 of systematic killings in Puerto Asís (Putumayo).
social mobility, and the landscape of socio-cultural ideals and ethical models.

In this complex and volatile setting I have lived, and through it I have posed the questions that inform this dissertation. I cannot agree more with Parra's argument: One of the dramas of contemporary Colombia is the crisis of its ruling elites and their incapacity to imagine a country. I have consciously chosen to study two distinct groups, that of social scientists that study violence (violentologists) and that of magistrates of the Constitutional Court, not because they are the sole actors in processes of interpretation of violence, but because they allow an access to the understudied universe of Colombian elites. As I have been suggesting, violence and individualism have unfolded in a culture of fear and indifference at odds with an understanding of the complexity of the country's social realities. In such context tapping into diffuse elite discussions about violence, and their location in institutions, becomes an issue of paramount importance for understanding their own questions to justice and responses to violence.

As mentioned, in this dissertation I explore the particular characteristics of two institutional settings which, through their visions of power, political practices, and social realities, are imagining the country in attempts to produce democratic alternatives to violence. On one hand the violentologists, mostly of middle class and provincial backgrounds, have followed social trajectories that position them today as part of the country's functional elites. In

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12 Social trajectory, as suggested by Bourdieu (1984), "plays a large part in blurring the relationship between social class and political opinions, owing to the fact that it governs the representation of the position occupied in the
their increasingly active and multiple roles as State consultants or high rank functionaries, this segment of social scientists, who contend that the State is fragile, is playing a major role in providing discursive bases for the State’s executive branch (Presidency, ministries, supraministries, presidential advisors). On the other hand, the magistrates of the recently created Constitutional Court, most of them members of the buena and alta sociedad, have become key protagonists in the public sphere. As the disenchantment with democratically elected institutions increases, various segments of society have invested hopes in the judicial system. Violence and corruption, as in the case of other countries, have positioned judges and magistrates of high courts in the center of public debate. The magistrates of the Constitutional Court contend that the State has too much power primarily manifested in the form of presidentialism—a political practice that enacts an unlimited agency in the exercise of power-. In both cases, violentologists and magistrates are playing important roles in defining the State as an imagined space in which political practices and rhetorics articulate notions, desires and fantasies about violence and the possibilities for democracy.

In Chapter Two I offer the reader three different registers that inform my work in both visible and invisible manners. I start with the shaping of my research through a trajectory of my fieldwork opportunities, then I pass on to a description of social and cultural landmarks that introduce the reader to a more closer understanding
of the importance and social visibility of both violentologists and magistrates. I end the chapter with an effort to situate the dissertation’s findings and concerns in a broader context, thus opening up a comparative edge to my fieldwork analysis. I ask the reader to follow me now in a jump to Chapter Four, leaving for the next section of this introduction a discussion that frames more adequately my attempts in Chapter Three. In Chapter Four I frame the analysis of both violentologists and magistrates with Presidentialism as a backdrop -that is a political practice that combines unlimited agency or what I called above an obscene individualism with power structures-. In this chapter the key questions that I address are how these two different sites, each with its own burdens, complexities, and possibilities respond to questions of violence and justice: How are intellectuals understanding their role as builders of democracy? How are magistrates understanding jurisprudence as a form for constructing democratic cultures?

Investing in an endeavor of this kind required from me an active engagement with Colombia’s explanatory models of political culture and power dynamics. While carrying fieldwork I found myself bombarded by explicit and implicit cross-references to what soon became for me the "hacienda model". A folk theory that emphasizes particular legacies of the encomienda and the hacienda as recurrent traits that help explaining an exclusive and authoritarian historical continuum. Soon it became obvious that this interpretative matrix captured the gist of a wider framework through which local thinking makes sense of Colombian power structures. But still there was a piece missing in the puzzle. How was
this model accounting for the disruptions and dramatic shifts in social and cultural dynamics brought about with the flourishing of illicit economies? Was the model itself a sign of interpretative failure? Parra's (1997) acute analysis on the twofold drama of contemporary Colombia provided an important hint: On one hand, the crisis of the elites and their culture of fear and indifference; on the other hand, the intellectual failures to make sense of such crisis.

During the process of writing the dissertation I was confronted with the need of positioning the "hacienda model" within a broader perspective that would allow me to distance myself from what had become a powerful way for making sense of what elites and political violence were all about. The unlocking move was to think of this intellectual failure as closely connected to the type of hegemonic narratives of nation building that have been produced within the country. Understanding the production of narratives of nation building or national cohesion as closely intertwined with the development and social importance of fields of knowledge, allowed me to reposition the "hacienda model" in an overall different perspective.

During the 19th century the hegemonic position of Law -as a field of knowledge- produced narratives that argued for a national cohesion based upon the unity of language. With the flourishing prestige of historical interpretation in the late 1950s a new narrative of nation building is coined. Historical explanations soon provided means by which the process of economic modernization was to be understood as one of nation building and consolidation of national cohesion through markets and infrastructure. In the 1960s the
emergence of sociology, and later in the early 1970s the beginning of a continued revision of the historic period of *La Violencia*, produced yet another type of narrative. Economic history was displaced by interpretations that were struggling in making sense of the political upheavals of the country and its history of wars and amnesties as unifying thematic. Under such context emerges the "hacienda model" as a narrative that accounts for a national cohesion based on authoritarianism.

As I argued above the inauguration of the period of *La Violencia* in the mid 1940s was a symptomatic manifestation not just of the incapacity of the elites to comprehend the intricate complexity of Colombia, but also of the elite's own self portrait. The "hacienda model", born from an attempt to make sense of the violent eruption of political violence in the late 1940s, accounts only for the prevailing social conditions of the time. As violence evolved in a more fragmented, disseminated and surreptitious manners new cultural and social dynamics emerged as the new shapers of the geography of social mobility and the landscapes of sociocultural ideals and ethical models. Elites had dramatically changed at a rhythm that far exceed that of the intellectual imagination. In Charter Three I engage with the symbolic dimension of the "hacienda model"; that is, I use the "hacienda model" as a discursive formation through which the intellectual failure, highlighted by Parra (1997), is ironically manifesting.

In the last chapter I attempt to bring together my major concerns throughout the document by articulating them to issues on agency and creativity within institutional spheres. By using the
project of the Colombian artist Doris Salcedo as a non institutional referent and contrasting device, I revisit the violentologists and the magistrates in an attempt to disclose emerging agencies that, in creative manners, are partially challenging dominant formations of acute individualism and total agency. I end up the dissertation by constructing such tension in an effort to map some resources in Colombian life that are key for rethinking the political through the movements of subject agency in institutional settings and within power structures.

As a final note I want to address some broad issues about my own positioning and the sense that I make of my fieldwork and analysis. The dissertation has two distinct registers that respond to my own free floating position between "here" and "there". And this poses a difficult tension, although interesting and challenging to pursue and maintain. On one hand, my commitment and choices that led me to engage in such topic are political, and respond to a particular life history, social positioning, and professional trajectory that have led me to believe that using the tools and mental frameworks that this department has been molding throughout the years is a powerful mode in situations in which intellectual craftsmanship and political thinking are closely intertwined. On the other hand, my own professional commitment requires to positioning this research as part of the canon of US anthropological thinking, a canon in which local or field political value is disregarded as naive in the best of cases, and in which locally bounded ethnographic description and re-inscription are though of useful in the grounds of
comparative analysis, creative thinking and, of course career building.

And now again we tap into an old, problematic and unresolved question. For who is this work? For whom do we write? What is the purpose of the anthropological project? What is its validity? Is it one more element of a value extracting economy or is it a tool for political engagements. Of course no clean cut answers are at hand, but for sure the unfolding of this set of preoccupations is shaped by ones own positioning in the field. Most likely local political positioning combined with an overt alien status don’t match, but on the other side political positioning and native status might be giving way to overall different projects: ones in need for opening fluid dialogues with other local disciplines, and with other audiences complementary maybe to our traditional ones. In both cases the circuits of circulation and the challenges are different. Much more exciting and riskful in the case in which the distance between the intellectual imagination and the local political realities is cut short.
Figure 1. Doorway of the former Palacio de Justicia. Downtown Bogotá. November 1985. The inscription reads: "Colombians, the arms have given you Independence, the law will give you Liberty." (Revista Semana. Archives).
CHAPTER TWO: OPENING ROUTES.

Traces, Memories, Connections.

"Instead of crying for a lost world or announcing with contemptuous publicity the amazing novelty of what comes to us, our true teachers, Penelopes in their own way, always knitted together the old patience with the new impatience. They knitted over the everlasting surface of the immemorial universe contemporary chains, pasting the pages of the atlas of the moment with the parchments of the archaic. The planes, the cartography, the maps that follow, weave and draw these arabesques and prolongations, intertwining and flooding the memory in the dawn. Nothing changes yet everything is different."

Michel Serres. 1994

1. Reflecting on a Journey

Today, in the society of nations, Colombia is known for being both Latin America's oldest democracy and the western hemisphere's most violent country where democratic mechanisms coexist with increasingly restricted civil rights, authoritarian measures and acute violence. Attempts to consolidate the nation-state, based on principles of national integration, have been blurred systematically by the elite's own needs for containing what they have historically understood as social disorder. Violence has been a founding problem throughout the history of Colombia, one that became endemically visible and decentered in Colombian modernity with the coming of the era known as La Violencia (1945-1965). Today La Violencia is
not only the country's most salient memory landmark, but also the events that spread long-standing political hatreds which triggered today's complex forms of violence. After 180 years since independence from Spain, Colombia is still caught in a transitional phase toward democracy.

During the late eighties the aftermath of several years of frustrating attempts to bring guerrillas and government into dialogue was summoned by the Barco Administration (1986-1990). During this time I worked in the President's Office on programs to negotiate the demobilization and reintegration of guerrillas into civil society, and as a Colombian citizen I have, like others, experienced the quotidian effects of the constant awareness and news of various events and incidents of violence. In 1991 the opportunity to begin graduate work opened up the possibility of assessing anthropology as a means to understand something about how this culture was being shaped by pervasive forms and acts of violence. My interest was not so much in doing an ethnography of the perpetrators, victims, or actual acts of violence themselves and their immediate consequences. Rather I was interested initially in the impacts of violence on those who most expect to live free of it in terms of personal security, but of course cannot: that is, the lower and professional middle classes as well as the upper classes. I looked at how violence seeped into popular culture, media, advertising images, architecture (with a distinctive "narco-style" reflecting the taste and wealth of drug trafficking), and everyday speech and habits as well as at the marketing of security for homes, automobiles, etc. to a culture that is increasingly fearful of the effects of violence and helplessly or
complicity indifferent to its causes. This initial phase of my thinking about research was exemplified in an interview I produced for the *Late Editions* series (in *Late Editions 4, Cultural Producers in Perilous States*, edited by George E. Marcus, University of Chicago Press, 1996) with Doris Salcedo, a Colombian artist, well known for her installations dealing with the traces and effects in everyday life of the atmosphere of violence.

It was difficult to determine a site-specific ethnographic access to my inquiry thus far, so as I planned an extended period of fieldwork in Bogota, I shifted my interest to those institutional sties in Colombian State and society in which the daily work of particular professionals was taken up with responses to violence - understanding it and doing something about it within particular manifestations and institutional constraints. Not only do these professionals come from the Colombian middle and upper-class culture of fear and indifference in which I had already been interested, but their work defines locations for sustained fieldwork participation and observation. Further, probing the more active responses of elites to violence would allow me to assess actual constraints and untapped possibilities in those sites where there are a certain mandate and empowerment to define the pervasive violence of Colombia as a social problem.

As proposed for funding, my project focused on legal institutions. My aim was to explore the use and abuse of Colombia’s remarkable "state of siege" legislation before and after the new Constitution of 1991, as the State’s most expedient mechanism for the containment and management of endemic violence. With this working
framework, I attained funding and set off for a period of fieldwork to last from 1994 through 1996.

Upon arriving in Colombia in August, 1994, I found myself visiting and participating in associations familiar from my past: the Universidad de los Andes, from which I had graduated in economics in 1986; the Instituto Colombiano de Antropología (ICAN); and the Centro para la Investigación y Educación Popular (CINEP), a Jesuit NGO and the main human rights research organization in the country. Such associations and institutions are cross-cut and permeated by always very messy networks of personal association and circulation. A mainstay of past social science inquiry has rested on mapping and defining the characteristics of such networks as a basic contribution of research. My own questions were elsewhere, and the tracing of networks was only interesting to me as a way to locate and define the background of sites where the main activity and possibility was to act upon social violence as a function of State office, profession, and expertise. How to find my way through this labyrinth?

As I began to make contacts that would inform me about the Constitutional Court, where the most important decisions and debates about the state of siege legislation were taking place, I met a highly reputed psychoanalyst, disciple of Erich Fromm, who was once a political activist and a perceptive witness to changes in Colombia over a long period. We began a series of wide-ranging and open-ended conversations that continued through my entire period of fieldwork (a record of these is published in Santiago Villaveces and Jose Gutiérrez, *Una Travesía Freudiana Cruzando Colombia*. Bogotá, 1996: Spriridon). Oblique to the direct pathway of inquiry, this site
was important in my fieldwork as long as it served the purpose of being some sort of "control" upon my movements among the networks; a context in which interpretations could be shaped and reflected upon, as they were being thought. But the real muse of my fieldwork was Doris Salcedo's epistemological approach to violence. Her work motivated my own search for alternative ways of understanding violence within institutional spheres, at the same time that it provided a quite unique reference point in which to compare my findings at the light of what I ended up calling creative agencies.

It became very clear to me that neither networks nor one particular site—even one as important as the Constitutional Court—would be sufficient to address the more diffuse elite discussions about violence and their locations in institutions. Sites of focus were needed so as to provide some sort of comparative lever on how issues of violence were formulated and hopes for action were expressed. In my search for defining what later became the sites of research, I produced two subsidiary articles, one based on conversations with Hernando Valencia Villa, a "violentologist", by then Deputy Attorney General for Human Rights (See Villaveces 1997b); and another based on conversations with the Board of Directors of a Colombian business who have been engaged in an effort for promoting a "culture of tolerance" within their own organization (See Villaveces 1997c). With a draft of these two articles I returned to Houston in July, 1995, to discuss my research with my supervisors. After a couple of meetings at a Houston Café it was clear that my research was posing the problem of a multi-sited strategy for bounding this project. I finally settled on the juxtaposition of two
sites where different institutional openings and foreclosures were operating upon opportunities for active response to violence. One was the arena of the Constitutional Court, which I had initiated fieldwork to research. The other was that of the expert specialization and enterprise of violentology, the self-defined and often political State supported intellectual effort of the public sphere to address all aspects of violence in Colombian society. These were by no means the most obvious nor the only sites in which elite response to violence could be probed in a focused way—there are the media, journalism, the practice of criminal law, and most interesting of all, the recent effort of MDs to medicalize the problem of violence and define it as a public health issue through epidemiological studies (this latter is actually a transnational site since the movement to define violence as a matter of public health is truly global in scope).

While my field of study is open-ended and I may very well add sites in the future, I needed to strategically bound my dissertation. To me, the comparative, juxtaposed movement of my fieldwork back and forth between the Constitutional jurists and the violentologists made the most sense, even though as sites for ethnographic study they are quite incommensurate. But I did not choose them for their structural similarities, or even for how they define networks of elites, but for the ways in which each in its particular social manifestation and embeddedness defines possibilities for opening new public debates and terms of action in the consideration of the myriad forms and deep past of violence in Colombia.

Only ethnography that deals with the entire field by moving through clear design and choice in and between sites has potential
as a powerful means for defining this unruly field of intellectual and institutional life in Colombia's still very restricted democracy. The Constitutional Court and the academic violentologists can be viewed in juxtaposed relation to one another as spaces, or even experiments, where alternative and action are, if only realized in very constrained ways, at least possibilities. This is why I have made them together the medium of this ethnography.

2. Ethnographic Landmarks

Ten years ago, after proving to myself that I was more inclined towards social research engaged with fieldwork, rather than towards my former economic thinking, I was drawn to academic writings on contemporary Colombia. Since then, and sadly even more so now, violence has been overwhelmingly present, in explicit and surreptitious ways, in our lives. In following my need to satisfy this drive to understand rationally what Colombia was all about, I lost the obvious. Several years passed before I came to realize how the subtleties of violence determine so much of our daily choices. I recall a conversation in 1993 with Doris Salcedo, a Colombian artist, which shed light on what up to then had been a disquieting mystery for me: in Colombia we don't choose the theme of our work because the theme is already imposed upon us, she said, but so subtly, I added to myself, that one can hardly recognize it. Indeed, after Salcedo's commentary sequences of detailed images of the seizure of the
former Palace of Justice, first by the guerrilla, later by the army, flashed by my mind. Why are these images still haunting us? I ask.

A local Armageddon: The Seizure of the Palacio de Justicia

In November 1985, and after the failures of a negotiated amnesty with the Betancur administration, an assault commando of the M-19 guerrilla seizes the Palace of Justice. A block distant from Congress and the Presidential Palace 90 people were held hostage by a guerrilla squad, among them twelve magistrates of the country's Supreme Court. The days that followed the seizure and the tragic unfolding of the events marked an unforgettable landmark in the country's recent history. In hours the country would see through mass media how the edifice was burnt to ashes, and later, the still numb nation was going to confront the crude reality of adding to its death over 100 people among them magistrates and State functionaries killed or disappeared by the Army in their recapturing of the Palace of Justice. Twenty seven hours after the guerrilla's incursion, and as a preamble to the fatal conclusion, Army cascavel assault tanks aimed their weapons to the center of the main facade of the building. After impact, and when the dense and growing cloud of dust dissolved in the thin air of a dazed Bogotá, an enormous hole appeared under the capitals of the edifice on the left of the bronze lettered phrase of Santander: Colombianos, las armas os dieron la Independencia, las leyes os darán la Libertad (Colombians, the arms have given you Independence, the law will give you Liberty). This image, congealed in time and memory, was soon to
become not only the caption of the real and symbolic immolation of Colombian justice, but also a remainder of a profound and felt sentiment whispered repeatedly since then by most Colombians: "After this, the country is different". From the rumbles of the Palacio de Justicia gradual and incomplete changes in the ways in which power relates to the different faces of violence began happening: The Universidad Nacional rethought its relationship with the State by compromising in working for the development of a democratic culture; and a year later the strategic shift in the peace initiative of the Barco administration opened up the way for both, grounding the new relationship between State and academia, as well as triggering debates that lead to a National Constituent Assembly and a new constitution in 1991.

- Route 1: The Violentologists.

Bookstores

Bookstores are curious maps of mentalities and one often finds that they reflect more than what they promote. Bogotá's bookstores, most of them founded by European immigrants in the 1940s and 1950s (mainly German), are not any different from any other bookstore in the world except when one takes a careful glance. The usual literature pops out, history, novels, classics, philosophy, beautiful table books -proudly displayed on center tables and windows- that stand as proof of a flourishing industry in Colombia. The list goes on only to be gently disrupted by a discrete label that
reads *Temas Colombianos*. As one stops and lets the eye wonder upwards, right, downwards, left, and upwards again, one is confronted with truly Colombian themes: besides the usual books on local political scandals and economic analysis, the shelves are stacked with innumerable books on violence that stand as uncanny paper artifacts that reflect more than what they mean. A closer look, as the eye gets caught in a cover, a title, or an author, discloses the intricate web that knits the disruptive itinerary of violence: the fictionalized testimonies that talk about violence in the '50s or the new violence unleashed around the coca *chagras* that are spread throughout the abrupt geography of the country, the journalist accounts about the emergence of adolescent assassins, or *sicarios*, in the margins of the big cities, the political and historical analysis that scrutinize former and failed negotiations with guerrilla groups, the sociological analysis that unveil the connections between drug lords and paramilitary activities, and more recently, the accounts and testimonies on what some have called the newest and most profitable industry in the country, kidnapping.

**Writers**

As varied and multiple as the books on violence are its authors. The spectrum is wide and shows how we have learned, as Colombians, to seriously engage in what has become our heaviest burden; but it shows darker sides as well, sides that expose the rampant opportunism to use a nation's mischief for personal promotion. In the mid 1980's, a literature boom marked the end of
an epoch of conscious neglect, giving way to new times in which coming into terms with our own legacy of violence became intricately intertwined with the marketing strategies of the local editorial presses. The careful selection of material, so strictly enhanced by some publishers became a flaw. Random writers appeared publishing books that exalted the characteristics of one of the social agents involved in the conflict; others, less engaged, simply compiled dispersed documents and made a name for themselves. But, among the shelves of the bookstore, one also finds a systematic production of narrative building around the elusive yet so insistently referred topic of Colombian violence. Arturo Alape and Alfredo Molano have made, with testimonial and fictionalized accounts, their way into the best-seller lists of the country. Others like Gonzalo Sánchez, Alvaro Camacho, or Eduardo Pizarro have followed the academic path, inaugurated in the public university by Orlando Fals, Father Camilo Torres in the sixties, of explaining what, since then, has been publicly considered as part of Colombia's patrimony. After closely reading the titles under the label Temas Colombianos, and before disrupting the natural introversion that is nourished by a bookstore, it becomes less difficult to understand why it is that, as many say, in Colombia everyone is a "violentologist".

Journalists

During the years of the Betancur administration (1982-86), the ripening of the need to allow for a general amnesty to guerrilla groups opened the way for a massive circulation of literature on
violence. The mid '80s saw, in the democratization of the topic, the emergence of a vast array of possibilities for those who wrote about conflict in Colombia. While being Minister of Interior of the Barco administration (1986-1990), Fernando Cepeda, a political scientist trained at Harvard, pushed for the need to establish direct links between the academia and the decision making spheres of the government. On that basis, and due to a reformulation of the peace initiative of the former administration, the first commission for the study of violence -Comisión de Estudios sobre la Violencia - was formed in 1987. Its members, most of whom had ongoing research projects on violence funded by the Instituto Colombiano de Ciencia y Tecnología (Colciencias) -the Colombian version of the NSF-, saw the culmination of their work in the published report presented to the government. Before and during the publication of Colombia: Violencia y Democracia, there was the expected coverage from mass media. In an interview with Alvaro Camacho, a member of the commission, a journalist from the periodical Semana asked, "What do you all have in common?" Camacho, in an amusing tone responded, "We, the violentologists, are all the most peaceful people in the world". Today, ten years later, Eduardo Pizarro shrewdly remarked, "A bad joke of Camacho's that by chance was published by Semana. And so the word finally gained status. Recently, I saw a book published in Germany by a Bolivian author who writes about violence in Colombia and Peru. In the book, Mancilla, the author, already writes about the German violentologists."
The *Instituto de Estudios Políticos y Relaciones Internacionales* (IEPRI)

With time, both the relationship between academia and government, as well as the public exposure of the violentologists deepened. Soon, the *Instituto de Estudios Políticos y Relaciones Internacionales* (IEPRI), established in 1986 in the public national university as the cradle of the first systematic academic approach to violence, became not just a renowned center of production but also a well reputed publishing house. The IEPRI publishes two periodicals (*Análisis Político* and *Síntesis*); and, up to now, it has published more than 60 books, most of them a result of its ongoing research. Additionally, the IEPRI has sought other promotional strategies such as periodical columns in the two major Colombian newspapers (*El Tiempo* and *El Espectador*), weekly radio programs, and, from 1994 to 1995, a half hour TV program. With the changing of times, the Institute's internal structure has diversified: from having just one active area of research in 1986 (Violence and Illegality), it has come to have three more (Educational Policy and Political Culture since 1990; Governmentality, Democracy and Human Rights since the early 1990s; and International Relations since 1995). Prominent figures from the Colombian social intellectuals' milieu have been its directors: from 1986 to 1989, Francisco Leal (later academic vice-rector of the *Universidad Nacional*, now Dean of Humanities of the private *Universidad de los Andes*); in 1990, Jorge Orlando Melo (later Presidential Advisor for Human Rights, now member of the Inter-American Commission on Human Rights); from 1990 to 1992, Eduardo Pizarro; from 1992 to 1996, Gonzalo Sánchez; and since then,
Alvaro Camacho. Today, the IEPRI seems to have the necessary resources to fulfill the purpose that gave it birth, that of contributing to the formation of a political culture based on a conscience for peace, to the development of democracy, and to the reinforcement of international ties.

In March 1995, I started a set of interviews with those whose writings I had long before eagerly read. My conversations with Alejandro Reyes, a lawyer with an M.A. in sociology from Berkeley, fundamentally centered on the new roles assumed by the intellectuals while engaging with topics on conflict resolution, as well as the political relevance of expertise over critique. The intense hours spent with Eduardo Pizarro, a sociologist and Ph.D. candidate in political science from the Ecole des Hautes Etudes, son of a Navy general and brother of two well known guerrilleros\(^{13}\), shed light on the anxieties that a social scientist faces within the Colombian academic milieu, as well as on the frustrations that are imposed upon intellectuals by the elites of the country. Finally, the long and warm hours spent in the company of Gonzalo Sánchez, a lawyer trained in history and political science in Essex and one of Colombia's most prominent social scientists, introduced me to the richness and multiple layers that, ranging from the personal to the overtly political, constitute a willingness and commitment towards creative research in and about contemporary Colombia. In early May 1996,

\(^{13}\) Carlos, head of the former M-19 guerrilla, who was assassinated while in political campaign in 1990 after a successful peace negotiation that turned the M-19 guerrilla into a legalized political party; and Hernando, an active member of the Fuerzas Armadas Revolucionarias de Colombia (FARC), who was gunned down on a street in Bogotá in 1995 by the secret police.
and after several hours of what I learned to be a truly collaborative and creative relationship with one who is inappropriately called an "informant", Gonzalo Sánchez asked me to remind him, the following week, of a small proposal he wanted me to consider. After some short talk he told me about some of the activities that the IEPRI wanted to organize for the celebration of its ten years of labors, among which was their interest in commissioning evaluations on the work done by the Institute in its different areas; my name, he said, had been mentioned by some.

It was in late June when I received a formal letter, signed by Gonzalo Sánchez, inviting me to participate in the evaluation of the Institute. The evaluators were chosen, he said, because of their knowledge of the IEPRI and their ongoing research interests. The commission was called Comité Internacional Evaluador, as its members, with my own exception, were all foreign academics. Bruce Bagley, from the Institute Of Interamerican Studies of the University of Miami, was to evaluate the work done on drugs and international relations; Jonathan Hartlyn, from the Institute of Latin American Studies of the University of North Carolina, was to evaluate the work done in the area of governmentality; Daniel Pecault, from the Ecole des Hautes Etudes in Paris, was to evaluate the work in the area of Violence and Illegality. As for myself, and due to my interest in exploring issues around the way Colombian violentologists write about violence, I was put on the task of writing about my own fieldwork in the Institute. In early August, I started a second series of interviews with other members of the Institute, whose names were suggested by Sánchez, and with two "outsiders": Father Fernán
González S.J., a political scientist with an MA in sociology from Berkeley, sub-director of the CINEP; and María Victoria Uribe, an anthropologist with a MA from the Universidad Autónoma de México, director of the Instituto Colombiano de Antropología. Father González and Uribe are both well known authors on politics and violence in Colombia, as well as connoisseurs of the work of the IEPRI. In mid October I presented a preliminary version of the paper. The final version, formally presented to the Institute in early March and entitled "Entre Pliegues de Ruinas y Esperanzas: Viñetas sobre el Instituto de Estudios Políticos y Relaciones Internacionales", closed (for the time being) my ethnographic encounter with the violentologists. At the writing of this dissertation the director of the IEPRI is still considering whether or not to publish the final version of my paper.

- Route 2: The Magistrates

La Séptima Papeleta

The experiences of the Palacio de Justicia were perceived by progressive sectors of the country as an example of the politics of barren land. The immolation of the magistrates of the Supreme Court, ultimate judges and reputed professors of the most important

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14 The CINEP (Centro de Investigación y Educación Popular) is a non-governmental organization founded by a left wing of Colombian Jesuits. Among its main concerns are the promotion of human rights and the building of cultures of tolerance in the country. As the IEPRI, the CINEP has a wide selection of publications that include works on violence, political displacement, subcultures of drugs, and human rights.
Schools of Law in the country, was felt as the beginning of the bankruptcy of the Colombian justice system. An acephalus justice and the systematic assassination of visible political figures by the drug cartels gave little if any hope for containing an exponential spiral of violence. On the verge of new presidential elections the director of a national newspaper, the Attorney General of the Nation, the Chief of Police, and four presidential candidates were assassinated. A eerie feeling of collapse flooded streets and minds of Colombians. In August 1989 Luis Carlos Galán, the most popular candidate in the elite's youth, was assassinated during a political gathering close to Bogotá. The numbness and unhealed wounds left by the tragic disappearance of loved professors together with the bitterness of feeling severed the hopes invested in the political figure of Galán, led a group of law students from the four most elitist universities of the country to organize a rally of protest. The students of *Los Andes*, *El Externado*, *El Rosario*, and *La Javeriana* were joined by diverse social sectors on a massive gathering of over 14,000 persons who claimed, in their march to the *Plaza de Bolívar* in downtown Bogotá, an institutional renewal through the writing of a new constitution. The lending hand of national politicians behind the scene helped the student movement to articulate a proposal to include, in the presidential elections that were about to come, a ballot of opinion convoking a referendum to modify the old constitution of 1886. From then onwards the movement has been better known as *La Séptima Papeleta* (the seventh ballot).
State of Siege decrees

In early May 1990 and based on state of siege legislation President Virgilio Barco sanctioned a legislative decree that gave response to the immediate demands of La Séptima Papeleta movement. In a moment when the war against drug lords was at its apex and when the extended sense of collapse had permeated all public debates, the most expedient mechanism for promoting what was sought as a truly democratic initiative was through the use of state of siege legislation. Although the constitutionality of the decree was questioned by the sectors of the Supreme Court, the majority's approval gave way to the inclusion of the ballot for assembling a popular referendum in the following presidential elections. In August 24, 1990 and just 17 days after taking the oath as President of Colombia Cesar Gaviria signed the Presidential Decree 1926. Sheltered by state of siege legislation the decree responded to the political and institutional debates already triggered during the former Barco administration. Through this dubious juridical means the decree established the operating rules and mechanisms for the national constituent assembly. The political gain of such measure far exceeded the juridical problems posed by framing the revision of the constitution of 1886 as an "urgent need for re-establishing public order". The national constituent assembly began sessioning on January 1991.

The M-19 and the National Constituent Assembly
In 1988 the Barco administration pushes forth a new peace initiative designed upon the tragedies of the former Betancur's administration. Negotiations with the M-19 guerrilla were resumed and after more than a year of active dialogue between the presidential advisor for peace and reconciliation and Carlos Pizarro, commander in chief of the insurgent movement, a final agreement was achieved. In 1990 the M-19 gained full political status and in hours it shifted from been an illegitimate army of combatants to an organized political party. Their own style of political spectacle gained them fast recognition as well as fast votes. The composition of the newly formed constituent assembly gave a clear hint of such a recently gained force: 27% of the members of the assembly were elected on behalf of the M-19. The electoral success led the M-19 to share the collegiate presidency of the assembly with members of the country's political elite.

The National Constituent Assembly, elected with one of the lowest voting rates in the Colombian electoral history (20% of the potential voters), ironically allowed for the participation of a vast array of social sectors formerly excluded from politics: former guerrilla members sat together with union activists, indigenous leaders, and the traditional members of the political elites, in an effort to orchestrate together what was then imagined as the socio-political chart of the country for the next millennium. In August 1991 and after being in office for one year, President Gaviria brings to a closure the constituent assembly sessions giving way to a new constitution that accounted for wider civil and political rights, opened the way for municipal and regional autonomy, and restructured and
fortified the judicial branch. The elite student's movement felt the new constitution as part of their own doing, as well as the most effective and historically relevant mechanism to honor the doctrines and ideals of their martyrs, and the newly created Constitutional Court as the independent space through which their long standing hopes for institutional renewal could be actualized.

**The Constitutional Court**

From its myth of origin in the constitutional mandate, the Constitutional Court has assumed its role as "guardian of the integrity and supremacy of the Constitution". As such, the court has played a key role in unifying national jurisprudence as well as enhancing the scope and reach of existing mechanisms for conflict resolution. Ample sectors of the country have seen in the Court an independent space that in defending and promoting the Bill of Rights has a call on playing a determinant role in the search for a full democracy in Colombia. The Constitutional Court was inaugurated in February 1992 with seven magistrates that were appointed for a transitional period of one year. In 1993, the new Court of nine magistrates was appointed for a period of eight years. The newly appointed magistrates were elected by the Senate from lists presented by the President, the Supreme Court, and the Consejo de Estado. Since then the Court has played a key role in counter balancing the excesses of power that have imprinted, through the practice of Presidentialism, a peculiar character to the Colombian executive branch. Soon it became
obvious that the Court was having a profound effect in the distribution of power within the State.

The Court, as any other space of high power, is of difficult access to the lay man. My case was not the exception. While visiting a friend at the School of Law at the Universidad de los Andes during early 1995, I met by chance Rodolfo Arango, a young constitutional lawyer with a master's degree in philosophy from the public Universidad Nacional, and studies in law in the university of Mainz. At the time Arango was working as auxiliary magistrate of the Constitutional Court. Our conversations began in May 1995 and developed in multiple manners touching various topics from the emergence of the so called "new constitutionalism" as jurisprudencial practice and its development within the Court, to the characterization and juridical inclinations of each of the magistrates of the Court. With the help of Arango I was able to understand the paradoxes and contradictions that unfold within the Court in its attempt to contain all too well established authoritarian State practices. These conversations were complemented with pleasant and illuminating hours of discussion with Juan Gabriel Gómez, a young lawyer from the Universidad Externado de Colombia specialized in human rights and criminal policy, who generously shared with me his insights and typescripts on the Court. Finally, and thanks to the help of family and friends, I had access to short but rich encounters with professor Ciro Angarita, former magistrate of the Court, and with the magistrate José Gregorio Hernández, both of whom offered me glimpses of their own hopes and frustrations, as well as ways in which to probe and deepen my own insights.
3. A Broad Perspective

Contemporary anthropological approaches to political violence stress the agencies and agents behind particular situations and events rather than more generalized political, cultural or economic structures. Such a quest has led many Latin Americanists in the discipline to address broader issues of inequality, economic and political dependency, authoritarianism and human rights, by ways of voicing those agents who have been silenced by cultural, social or political difference and by practices of marginalization. This dissertation sheds light on the other half of the equation: by exploring the voices of those agents who share positions of power I engage with the dynamics that limit or make possible the production of alternatives to violence from within power structures.

The most common snapshots of the contemporary political history of Latin America have fallen into the recurring themes of violence and poverty, failure of leaders and stubbornness of those they lead. Crosscutting these issues the problem of authoritarianism has been identified as interlocking current. After years of sustained military regimes—from Chile and Argentina to El Salvador and Guatemala—and despite the emergence of fragile democracies in the 1980s, a legacy of terror is still haunting the region. In such a context current discussions in the social sciences have been brought about in an effort to "delve into the social, psychological, and ideological underpinnings of the terror-laden regimes that spread in South
America in the seventies and eighties", as Juan Corradi argues (1992). Such endeavor has led scholars and intellectuals towards the military rule and its aftermath in Argentina, Brazil, Chile, and Uruguay, and more recently, to the inner war experiences in Peru, Guatemala, and El Salvador.

In the first case, that of the Southern Cone, research has been centered around what has been labeled a transitional phase towards democracy or a "post-authoritarian situation"; nevertheless, the fairly new democratic regimes have brought a civil order that has not restrained authoritarian measures and practices but instead prolonged them. Studies have focused on a "culture of fear" and its aftermath in the large middle classes in Argentina, Brazil, Chile, and Uruguay, probing authoritarianism in everyday practices, institutions and discourse. In the case of Perú and Central America, research has mainly stressed the partial agencies of the victims and their struggles to resist and survive in highly volatile contexts: for example the rondas campesinas, as an alternative peasant justice system in Perú (see Starn 1995); or the use of silence as survival strategy among peasants in Guatemala (see Warren 1992). In any of these cases, social research in Latin America is still actively committed to talking against terror by ways of exploring, among the complexity and murkiness of multiple and decentered violence, new venues by which the disciplinary society in the region is subverted by cultural and social efforts engaged in a hope to construct democracy. Nevertheless, with few exceptions studies from the anthropological point of view have been hampered by the lack of engagement with elite populations.
Although the common perception that states that Latin America is now enjoying the benefits of democratic rule while having left in the distant past the restrictions of military dictatorships, the reality is far different. Did the overthrow of military rule imply an end to repression? Did political violence cease? Overall, what are the differences between the region's dictatorships and democracies? A closer look at contemporary Latin America suggests that what was thought to be a "post-authoritarian situation" is, at its best, a "restricted democracy" or dictablanda (soft dictatorship), as baptized by Peruvians. That is, a situation that in combining civilian governments and popular elections with acute authoritarian measures in the midst of state of emergency legislation, internal displacement and human rights violations, blends together a desire for democracy with the practicalities of totalitarianism (Fujimori's Perú is maybe the most explicit example of such a mix). Latin American democracies today operate on the basis of two opposing but complementary realities: that produced in the terrain of the imagined, founded on the rhetorics of democracy and institutional stability; and that performed in the terrain of the practical, founded on the need to sustain, through the use of force, a sense of cohesion in increasingly fragmented, ruptured and exclusive political systems.

In this context the Colombian case offers a quite unique opportunity for exploring this paradoxical blend that is shaping the region's cultural and political contours. A sustained civilian dictatorship in the form of Presidentialism together with the label of Latin America's eldest democracy have situated Colombia as a clear and historically sustained example of restrictive democracy. This
research is in the hope of shedding new light on the so called transitional phases to democracy in Latin America, by emphasizing the key role that elite populations have in perpetuating restrictions or in imagining alternatives to overt or veiled totalitarianism. What are the differences between the region's dictatorships and democracies? Maybe just few; but the contemporary social, political, cultural, ideological, and interpretative shifts allow for the emergence of "new" possibilities for change only visible if properly acknowledged by the social disciplines. Maybe today the call for the need of anthropologist to be more attuned to local political and social conditions stands on its own, as well as a more conscious gaze towards the multiple forces that highlight the ruptures, collapses and re-creation of order and disorder in everyday life, in particular among power elites.

The topic and goals of the research demanded an engagement with work in various fields. In a broad perspective, the project draws upon current trends in political anthropology, political science, cultural studies, and studies of law and society. In particular, the project draws on cultural and ideological analysis of the state (Abrams: 1988; Corrigan and Sayer: 1985; Taussig: 1992, 1997); and on analysis of the dissemination of violence and exclusion among social and cultural institutions (Foucault: 1977; Burchell, et.al: 1991).

Recent ethnographic analysis of violence have underscored the importance of regimes of representation not only in mediating the ways in which violence is understood but in generating violence themselves. My own ethnographic research on this constitutive aspect of violence draws on the works of Cover (1983, 1986); Das
(1990, 1995); Fraser (1997); Orozco (1992); Palacio (1989); Sarat and Kearns (1991, 1992); and Valencia (1993). All are focused on the significance and intrinsic violence of legal and intellectual narratives that address conflict and justice. As such, the interpretative approach of the project draws on research on legal consciousness and on recent ethnographically grounded studies on power, law and culture in contemporary Third World contexts (Northstrom and Martin: 1992; Northstrom and Robben: 1995; Warren: 1992). Specifically the research will be complementary to the work of Veena Das on legal and institutional exclusions of suffering (1990, 1995); to the work of Antonius Robben on functional elites in cultures of violence (1995); to the work of Susan Silbey on cultural perspectives on legal consciousness (1992); to the work of Orin Starn on the politics of anthropology in highly conflicting settings (1991; 1994); to the work of Julie Taylor on the emergence of authoritarianism in contemporary democracies (1993); and to the work of Kay Warren on the centrality of cultural issues to the study of conflict and violence (1992). Additionally the research provides ethnographic grounding for the work of Guillén (1979, 1974) on Colombian political history, for the work of José Gutiérrez on the psychoanalysis of Colombian power structures (1989, 1992), and for the work of Perea (1996), and Acevedo (1995) on elites and political culture in Colombia.
"The illusion is not on the side of knowledge, it is already on the side of reality itself, of what people are doing. What they do not know is that their social reality itself, their activity, is guided by an illusion, by a fetishistic inversion. What they overlook, what they misrecognize, is not the reality but the illusion which is structuring their reality, their real social activity. They now very well how things are, but still they are doing it as if they did not know. The illusion is therefore double: it consists in overlooking the illusion which is structuring our real, effective relationship to reality. And this overlooked, unconscious illusion is what may be called the ideological fantasy."


"As a cell, he proceeded to cover with the thick membrane of indifference and suspended all activity."

R H Moreno-Durán. 1993

In his essay "Religion as a Cultural System" (1973), Clifford Geertz explains the differences between a model of and a model for. The former only being a presentation of a particular perspective, while the latter an enactment of such perspective. Cultural patterns, as Geertz argues, pose such double aspect: they are simultaneously shaping and been shaped by social and psychological realities. While plunging into the contemporary Colombian intellectual milieu one encounters a dominant model of explaining political culture and
power dynamics. A folk theory of intellectuals that emphasizes particular legacies of the Encomienda and the Hacienda as recurrent traits that help explaining an exclusive and authoritarian historical continuum.

The intellectual oeuvre of Fernando Guillén Martínez (1925-1975) has become a landmark in Colombian sociological, historical and political thinking. Inspired by the works on culture and personality carried on by Cora DuBois, J. West, Abram Kardiner, Ralph Linton, and Erich Fromm, Guillen's most acclaimed work "El Poder Político en Colombia", was published in 1973 and reprinted in 1996, obligatory reading in the departments of sociology and political science of the country, has become a hiatus in Colombian social sciences. Described by many intellectuals as by far the most important interpretative synthesis on research on Colombian political history, as well as the first serious and systematic attempt to "give a sense of process to the Colombian history by highlighting the continuities between colonial institutions and the social and political struggles of the 19th and 20th centuries"15, Guillén's model opened the way for the academic production of works on Colombian historic sociology. Parallel to Guillén's production, and opening up its way more in the fields of anthropology and psychoanalysis, the work of José Gutiérrez complements Guillén's insights by providing arguments that emphasize the connections between education, elite mentality and authoritarianism.

While carrying fieldwork in Colombia I found myself bombarded by explicit and implicit cross references of what soon became for me the "hacienda mentality" model. Important insights and statements that are found in the interpretative matrix of Guillén and Gutiérrez were referenced throughout the course of my interviews, throughout my increased exposure to contemporary Colombian sociological literature and analysis, and, in a more uncanny way, through my own ways of making sense as Colombian of what elites and political violence were all about. By then it became obvious that Guillén's and Gutiérrez's interpretative matrix captured the gist of a wider framework through which local thinking makes sense of Colombian power structures and society. The story that was woven told about the heart and essence of power in a country riddled by a constant slippage into an exclusive democracy overwhelmed by restrictions. The search and emergence of new values, disruptive of the "hacienda mentality" logic and meant to transgress long standing totalitarian practices, was sought in the critique of total agencies and vertical power relations.

Today the story of this model has unfolded in ironic ways because of the failure to recognize that behind the "hacienda mentality" lies a broader problem which taps into more general cultural patterns of empowered western subjectivities (See Chapter Five below). The intellectuals, while identifying the structure of values and sentiments that constitute an elite authoritarian culture, have inadvertently been seduced by those same values and sentiments they sought so eagerly to critique. Their failure to recognize that total agencies and vertical power relations are also
reproduced in cultural forms which are not related with the hacienda mentality, including their own forms of total agency and expert authority, has not only weaken their critique, but also made them reinscribe certain authoritarian practices and beliefs through their own interpretative moves. On the other hand the magistrates, while inadvertently allowing for creative possibilities that break with the structure of values and sentiments proper of the hacienda model, fail to recognize such cultural patterns as obstacles to the production of alternatives to violence. If today's progressive Court changes in its composition, the reinscription of authoritarian practices and beliefs would be unchallenged, at least from within this segment of power structures.

What follows is a condensed version of a local composite tale that helps Colombian social scientists in making sense of the key problems that delineate a restrictive democracy: authoritarianism and total unchallenged agencies, elite cultures of indifference, and increased exclusions and marginalization.

ACT 1.
Culture and Power

The Ideological Fantasy

At the turn of the century a French traveler, Pierre d'Espargnat, wrote: "All business, all politics, all art, in other words, all the life of the Bogotá that thinks and acts, as it happens in many of these South American republics -oligarchic by force-, is centralized in the hands
of fifty Conservative families that took over that directive mission from the hands of other fifty Liberal families whom, waiting their providential destiny, represent the country for itself and for the foreigner. It is these families that make up the facade of Colombia."

Around the same time it was common, from those who gazed from the distance the power structures of the republic, referring to Bogotá as the South American Lhasa: Isolated, lost, and impermeable to the rest of the world, even if that world was also part of what was mistakenly called nation. At the same time, and not by coincidence with more emphasis, a counter representation circulated: The power structures of the country depicted Bogotá, in their own delusion, as the South American Athens.

According to the Colombian sociologist Carlos Uribe Célis (1985), it was ironically Eliseo Reclus, a French anarchist friend of Bakunin, who in the course of the 19th century invented that pompous title. Later on Miguel Cané, an argentine diplomat in mission in Bogotá between 1881 and 1882, echoed the invention of Reclus while referring to Bogotá as a well learned and intelligent society that counterbalanced its minute material progress with an extraordinary intellectual culture. The official appropriation of such convenient representation was not only immediate but perpetuated in time: In 1929, in the midst of a major restructuring of the national education system, one reads in the memoirs of the Minister of Education:

"Because of the quality of its scientific, educational and literary centers, as well as the publication of books and newspapers, the capital throughout time has been able to maintain its title of the South American Athens. In Bogotá, a city of 250.000, nine
newspapers are published, some of 16 to 20 pages long, a complete service of world cable information is available, as well as fifteen illustrated magazines."^{16}

The step between illusion and Zizek's ideological fantasy is given at the time when the first one is functionally articulated to the dominant power structure; allowing to unfold, within the ideological fantasy, the rudiments that guide the hegemonic constructions of social and political cultures and practices. In this case, the "reality" of the South American Athens is reflected, on one side, by a passionate purism for language which —as suggested by Gutiérrez (1961) and Deas (1993)— shows a desire for keeping an identification with the colonial structures as well as a false notion of national integration^{17}. On the other side, the "reality" of the South American Athens echoes a type of political culture founded in totemic cults and in processes that undermine the construction of public memory^{18}. The reality of

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^{17} Language not only kept a conection with the past, but also the hope for unity and for nation in a country that was completely fragmented by civil wars and with regions forgotten by a suffocating centralism. On the purism of language and national unity Gutiérrez says: "This suplementary character in the purism of language comes about after the collapse of the country constructed by Bolívar. It came as a reaction to the parochialism born from political and regional struggles, which, in turn, where the cause of a real national integration. The stress in the purity of language seemed to be showing the only unity that existed." (Gutiérrez 1989: 148, translation mine).

^{18} By totemic cults I am making reference to the sociocultural meaning of the suffix that is added on to the last name of the politician in turn. The suffix connotes a meaning of pertenence or adhesion to a political agent (Gavirismo - Gaviria; Pastranismo -Pastrana; Samperismo -Samper). By the undermining of public memory I am pin pointing to systematic forgetfulness, in the political imagination, of what have become public taboos or "public secrets" -for example drug money infiltration in political campaigns, or white collar corruption-. This consciouss forgetfulness is what closes down the circle of the ideological fantasy.
the South American Athens is thus unfolded in two realms, one rhetoric, the other cruesomely concrete.

The first one, the rhetoric, has shaped since the last century the hegemonic position of language as an instrument of power: At the end of the last century the ties between power and grammatics, as suggested by Deas (1993), are best represented in the figure of the Liberal general Rafael Uribe Uribe, author of the *Diccionario Abreviado de Galicismos, Provincialismos y Correcciones de Lenguaje*, and in the figure of the Conservative Miguel Antonio Caro, father of the Constitution of 1886, and author of the *Gramática Latina*, and the *Tratado del Participio y Del uso en sus relaciones con el lenguaje*.

"The knowledge of popular sayings, provincialisms and corrections was, without doubt, a help for attack or defense. Nevertheless, to challenge Miguel Antonio Caro, the main figure of the government in 1890, the knowledge of Latin was also necessary. Uribe Uribe hired a discrete tutor in that language, an ill reputed translator of religious treaties, taking lessons from him for three months at the end of which he said to Caro in a debate that he was not the only Latinist in Congress. To demonstrate it he quoted a proverb, *Nunca es fide cum potente socia*. Caro, bringing his hands to his head shouted: 'Horror! Horror! When anyone of you wants to speak to me in Latin I beg you, pronounce correctly the final syllables, because it is there that lies the crux of the matter.'*

The concrete realm in which the reality of the South American Athens is unfolded has been instrumental in laying the foundations

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for a political culture based in idolatries and exclusions: The sentiments of the irrational filial pertenence to a party, to a political faction, or even to an abstract idea of order, allow for the maturing of legitimised social practices as aberrant and appalling as the daily massacres that occur in any rural zone of the country, or as the campaigns of social cleansing in urban margins.20

"During this time [1980s] selective crime expands. Selective because the victim is previously defined either by revenge, or by its bond to a different social model, or by its activity in popular struggles, or simply because he/she is 'different' -homeless, beggar, prostitute, thug, homosexual, etc. The deeds of los de la moto (the bikers) were common, those petty assassins usually hired among juvenile gangs that inhabit marginal neighborhoods. Up to then violence was tolerated by everyone with an attitude of compliance towards the cleansing of those 'undesirable': Some played innocent 'this has nothing to do with me, I am not a drug trafficker', others promptly gave weapons and issued licenses thinking 'we have to defend ourselves', while others created or braced companies of armed vigilance because 'there is a lot of bad and vicious people out there'; in the overall, what was most preoccupying was the complicit silence that compromised the media and different sectors of the State thus creating an environment of mistrust and lack of credibility that ended up expanding to all spheres of society."21

20 According to data published in national newspapers, in 1993 between 30 and 40 people from marginal stata of society were assassinated monthly. This without counting the rural assassinations. This collective extermination, naturalized in many countries by the slogan "social cleansing", has been consolidating in Colombia since the mid eighties as a necessary process for sanitizing the sectors considered by the "official society" as desechables (wasteful); nothing more illustrating of the excess that the negation of the ideological fantasy can take.

History

An important sample of the literature on Colombian political culture departs from a historical revision, by arguing that it is through history that one can retrace the construction of today's forms of political association and power structures. It is not the subject of this dissertation to make a close reading of the Colombian national history and its ties with the formation of a certain type of political culture, but instead of highlighting the historical landmarks that Colombian authors identify as essential for the understanding of current Colombian power structures. Borrowing from Fernando Guillén Martínez, what is of interest at this point is the structure of the associative forms towards power that characterize our history. In following up the argument one immediately has to refer to the constitutive elements of the encomienda and later the hacienda, in order to understand their incidence in the construction of hegemonic power cultures and practices.

Since 1496 the Conquistadores had at their disposal the figure of the Encomienda, an institution that legally established forced labor camps under the direction of the Encomendero, who was commissioned by the Spanish Crown as administrator and tutor of the natives: Administrator of the taxes paid by the encomendados, and tutor of their political education. The encomienda is enforced

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23 The figure and function of the cacique—the native chief—in both the process of tax recollection and in the process of tutoring, where instrumental for the functioning of the Encomienda. The cacique soon becomes an ambiguous subject whose position is constantly negotiating his feeling of
for 150 years as a hybrid space where the logics of conqueror and conquered are blended together: This institution is almost exclusively the only form where labor, social, economic, and political relations develop encompassing both rural and urban life.

"All the social structure is framed by the encomienda starting, obviously, with the indigenous clans that while conserving their internal system of loyalties unchanged they represent the foundation that makes possible all the rest of the social edifice... The regime of the encomienda functions as an association that generates political power and whose active elements are the indigenous peoples who are guided and manipulated by the individualistic and paternalistic traits nurtured throughout the traditional Spanish history. Progressively, the poor white (petty functionaries, butlers, owners of untitled lands), the mestizos, the indigenous caciques and, at the end of the row, the indigenous peoples themselves (ladinos and fugitives) begin ascending the social ladder due to their functional complicity with the encomendero, as well as to their adoption of values and attitudes inbred from the tendencies to govern while obliging the governed ones to supply for the economic goods needed to sustain the government's own 'grandiosity'."^{24}

Around 1650, and in the midst of a dramatic reduction of the indigenous population, the economic viability of the encomienda is threatened. A new political process starts emerging by means of pertenence to a social group since he is the mediator between the logic of the victorious and the logic of the defeated. Similar to the function of the foreman in the Hacienda structure. For a elaboration of this argument see Guillén (1996: 47-113).

^{24} Guillén (1996: 80, 82; translation mine).
which the appropriation of land by the *encomenderos*, their families and the loyal *caciques* is legalized. During the period of the Colony power relations in the Viceroyalty, as well as those between the Viceroyalty and the Crown, were articulated through the structure of the *hacienda*. Any attempt of subverting that structure was rapidly coopted or simply eliminated. Maybe the most illustrative examples of the later are the unfoldings of many frustrated conspiracies or independentist attempts, specially that of the *Revolución de los Comuneros*. Only when changes appear as functional to the Creole power structures is it allowed to flourish; such is the case, as Guillén (1996: 195-238) argues, of the episodes that preceded and allowed for the insurrection that sparked the independentist revolution of 1810. With the emergence of the Republic the logic of the *hacienda* is disseminated through different niches of the newly born State: the administration of peace and justice continues to be an exclusive space for the *hacendados* (landowners) who soon become the magistrates, judges, and generals of the country. The visceral struggles that followed where only manifestations of their increasing powers:

"Episodes such as the antagonism since 1810 between federalists and centralists, or as the struggles between followers and opponents of Bolívar in the Ocaña Convention, are just critical junctions of a process of violence and attraction that the model of the *hacienda* unleashes for the destruction of other associative forms and other systems of social ordering."25

The violent dismissal of any other associative form was supplemented by the country's opening to international commerce, as well as by the use of land recompensing to the generals of the independence campaign. While the former undermined every possibility of success of local artisan manufacturing, and with it the possibility of new ways of associating with power structures, the later exacerbated the *hacienda* structure thus boosting the hegemony of such social and cultural ordering. Because of the latter is not difficult to understand how the building of the new nation was performed essentially through an increasingly intricate weaving of political kinships. Such ties are so strong that the irruption of capitalist production, lead by the new commercial and mercantile elites of Antioquia who opposed the economic logic of the *hacienda*, is skillfully appropriated by the *hacendados* through the manipulation of the vices of public bureaucracy:

"The warm social reception given by the *hacienda* and bureaucratic elites of the capital to those new comers, prodigiously rich in gold, reveals to the latter a weapon inexistent in their own milieu: The possibility to manipulate the central political power, not by a mercantile effort or by striving to colonize areas of the country, but by the bribing of the public functionaries. The alliance between the ascribing power of the patrons and doctors of Bogotá with the bankers and traders of Antioquia articulates a new form of political power: The pseudo-capitalist enterprise borrows from Antioquia's culture the financial skills whereas from the *hacienda* region the indiscriminate use of a labor force subject to a paternalist protection and affected by the authoritarian traumas that garantee the submission of the base. In the following hundred years the elitist
texture of Colombian society would have the apparatus of "capitalist rationality" to serve the old ascriptive norms of the *encomienda* and the *hacienda*.\textsuperscript{26}

In the overall, the dawn of the twentieth century was received under the hegemony of a social project that, following Guillén (1996), points towards an ascribing obedience that, in sustaining the unconditional attainment of personal prestige, serves as the means for political power and financial retribution; or a social project that builds the bases for a culture of indifference in the Colombian elites\textsuperscript{27}. This axiological matrix nurtures the formation of the traditional Colombian political parties, *Conservadores* and *Liberales*, in such a way that their historic rivalry is explained, according to Guillén (1974), as a need for controlling the bureaucratic bounty of the State or, if one wills, as a need for seeking identical benefits too scarce at some points to be shared by both parties. Perea (1996) argues that the period known as *La Violencia* (1945 -1965) is one of those moments that unveils how the antagonism between these parties is not founded on ideological grounds but rather, and paradoxically, on what both parties have in common: Their own cultural background. From this perspective the twentieth century in

\textsuperscript{26} Guillén (1996: 381, translation mine)

\textsuperscript{27} As Luis Alberto Restrepo says: "We share a culture of social indifference towards violence that builds the vital grounds in which the later grows. We witness violence and remain inactive, closed down in our own small private interests. An efficacious and constant will to mobilize ourselves against crime, based on a clear consciousness of social solidarity, and comparable to certain cultures in which the defense of human rights is an immediate reflection of collective survival is inexistent." (Restrepo 1992: 25, translation mine)
the country has been, in the words of Sánchez (1991) "a tragedy of the repetition of an anachronic Colombia, always the same as itself". In which the possibilities to break from the old colonial schemes has systematically been frustrated. In such a context the new constitution of the country began, in 1991, what most Colombians have seen as a venue that unties the bonds with the colonial legacy by recognizing the organizing elements of the ideological fantasy. As such, the new Constitution is socially seen as a concrete possibility for bringing value innovation and a opening to new political cultures and practices.

ACT 2.
The Hacienda mentality

Social Model

The above sections already suggest how from the end of the seventeenth century the hacienda, understood as an association of labor, power, and prestige, disseminated through the power niches that emerged with capitalism and with the new republic. It is also suggested that the value system of this associative formation, prolonged in various ways since then till our days, revolves around not only the accumulation of wealth but also around the gain of social power. In the overall, during the last half of the nineteenth century the desarticulation of the associations of artisans and the dissolution

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of the regular army bring about the consolidation of a quite unique social model through which the ways of being, of thinking, and of acting are construed.

This social model is sustained primarily by five axiological pillars: First, by the exercise of an unchallenged paternalist authority by means of which the terrateniente (landowner) becomes naturally the only protector of the rural, and later urban, crowds. Second, by the outgrowth of an authoritarian attitude fed by the fragility and instability of the land tenant or land worker who are submitted to the arbitrary will of the terrateniente. Third, by the formation of an ascribing and inherited solidarity nurtured by the complex net of compadrazgos that ratify and perpetuate the ties with the landowner's family. Four, by mimicking and defending the lordly attitudes as means for social mobility. Finally, by the understanding of authority as a lordly right borne from the legacy of the encomienda by means of which power and prestige become linked not to wealth, but to the closeness and complicity with the more powerful.

"Such norms invade and subordinate the attitudes and expectations of all groups: the Church, bureaucracy, Armed Forces, commerce, and industry, all of which adopt them and legitimize them as permanent informal institutions, veiled under the terms of "rationality" or the theory of capitalist development borrowed from foreign conceptual frameworks. The hacienda defined as an organization of servile semiowners, is going to be after the Independence a tool and decisive paradigm for social life. The economic bonding, the alternative to civil war, the
structure of the political parties, all have in it their origin and explication."

Hence, the State as such becomes an organization that is being continuously supplanted, with its own power structures precariously built and its ties with the rest of the nation almost inexistent\(^\text{10}\). Now then, according to some\(^\text{31}\), the permanence and success of such social being and acting is founded on three conditions: first, the associative structure of the hacienda which denies the access to power to those who do not belong to it; second, the power structures that are woven around the logic of the hacienda keep their hegemonic positioning as long as any other alternate form of association is coopted or annihilated; third, the axiological bases for the traditional political parties veil the characteristics of this hegemonic power by claiming policlassist democratic political ideals. These three conditions, explored below, are key in the formation of Colombian political subjects.

Political Subjects

During the conquest and maybe more dramatically so through the development of the encomienda, two opposed logics are

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\(^{29}\) Guillén (1996: 231-232, translation mine)

\(^{30}\) See for example the works of González (1997), Sánchez (1991), Pecault (1987) where it is argued that the precarious nature of the Colombian State is a distinctive trait of the political evolution of the country, when compared to other Latinamerican cases.

confronted: The Iberian logic that conceives the State as the sum of autonomous political wills, and the indigenous logic of the new World in which the structure of political power is based on kinship. The most neuralgic aspect of this clash, which later became a hybridization, is represented in the figure of the cacique who shifts from being the central axis of power and social relations in the community to become the tax collector (capitán de indios), a functional agent of the colonizing process. Without doubt, the figure of the cacique / capitán de indios rapidly secures tints of extreme ambiguity since in his double nature he inhabits a space in which the borderline between exclusion and cooption is easily blurred.

The agency of the cacique / capitán is sustained, for his own benefit or that of the members of his party, by a manifold complicity with the encomendero, later haciendado, and with their own structure of loyalties. If it was not so, the cacique / capitán would run the risk of progressive exclusion from small shares of power and, of course, of any possibility of social mobility. And it is precisely in the space of ambiguity where the Colombian political subject is constructed:

"The mestizos were compelled by prestige values and in search of social mobility, to closely associate with the cause of the great proprietor and to fight against the remnants of the indigenous population that had yet not escaped their taxing status. On the other hand, land in the Iberian culture has non economic value closely tied to 'grandiosity', to 'purity of blood', and in general to social power and prestige. The property, even though that of petty extension, was seen by the emancipated natives and the mestizos as the first and most fundamental step towards continuous social ascend. It is not strange that the proprietor in offering the possibility of obtaining a small piece of land, even
at the expense of a virtual servitude of the mestizo and his entire family hold, becomes figure of worship. A worship that involves not just gratitude but the interest of maintaining a social mobilization through an unconditional solidarity towards the proprietor.\textsuperscript{32}

Under such framework, and keeping in mind the common origin of the two traditional Colombian political parties, it is not difficult to understand why is it that traditional political affiliation, recruitment and activism have slight if not no relationship with political ideals and values. Instead, traditional political affiliation, recruitment and activism seem to be inserted under the logic of obedience and social mobility that construct the associative model of the hacienda. And it is the persistence of this logic what allows to explain the idolatry and totemic worship to personality, as well as the subsequent step from the terrain of the ideological to the terrain of the magical\textsuperscript{33}.

"As shown by the power of illustrious names, the public property is matched to the domestic in a sort of kinship inheritance. The particular sense of appropriation that traverses the filial knots is transported to the space of the collective as a personal gain from the State's arks. And the love, reverence and fidelity towards kin authority come into the public under the shape of unconditional following of political chiefs, reverential subscription to the party, and passionate militancy."\textsuperscript{34}

\textsuperscript{32} Guillén (1996: 125-126, translation mine)

\textsuperscript{33} For an example of magical thinking and the construction of political subjects see Taussig (1997).

\textsuperscript{34} Perea (1996: 182, translation mine)
Authoritarianism

As I showed above, authoritarianism, under the structure of the hacienda, feeds upon the fragility of the land worker or land tenant. Now, the belief that everything spins around lordly power is consolidated and naturalized, in the political system of the Republic, with the emergence of the traditional political parties and the internalization of the associative model of the hacienda. This narcissistic characteristic, as suggested by Gutiérrez (1961), gives way to a particular type of dogmatism that excludes everything that is not recognized as own, not because it is believed to be false, but because it is seen as inexistent. The other side of this type of narcissism is composed by the submissive tendencies, recreated and reproduced through the bonds of loyalty and obedience, performed through the use of mimesis and flattery as the sole mechanisms for social ascend.

"In order to avoid feeling the anguish of such a precarious equilibrium obtained through mimesis, the maestro makes his own the contents and expressions of the dominant social power. In doing so he strives with enormous energy to keep such norms in his own social environment, usually through an increasingly institutionalized violence. This is the backstage in which authoritarianism, as basic cohesive force of the hacienda, is constituted. The hacienda becomes then not just a human organization but also a normative institution de facto."\(^{35}\)

\(^{35}\) Guillén (1996 [1979]: 128-129, translation mine)
This anatomy of authoritarianism compels every bid of criticism towards the hegemonic power structures to disappear as well as to render impossible any attempt of solidarity towards alternate positioning. In such a way politics becomes a space were the sacred is intertwined and condensed with the profane in a way that secures the obstruction of new viewpoints. As others have already suggested in Colombia\(^\text{36}\), this structural impossibility of critique makes itself evident in the following paradox: Colombia, the eldest democracy in Latin America and the most violent country in the western hemisphere; a paradox that allows for the curious label of Colombia, a restrictive democracy.

"From time immemorial in our country coexist a history of democratic spaces and citizen's rights with a tradition in which the State, by lacking the monopoly of force, appeals to repression and authoritarianism by using state of siege legislation and violence as resources for political and electoral action. Together with the latter the private appropriation of power by the Liberal and Conservative parties, their instrumentalization of social movements, and their recurrent use of the law for personal gain, increases the difficulties for constructing a modern concept of the public."\(^\text{37}\)

This ambiguous civilist tradition has intensified the traits of intolerance, and thus of exclusion and human rights abuses, to such degree that it is common the identification of such characteristics as

\(^{36}\) López (1990); Perea (1996); Gutiérrez and Villaveces (1996); Villaveces (1997a, b)

\(^{37}\) López (1992: 47, translation mine)
constitutive of the Colombian political culture. Fabio López (1988) highlights in an article on intolerance throughout the political history of the country, the cultural model that was imposed during the period of the Regeneración as an example of the extreme dogmatism that leads to label divergent cultural models as "degenerate"; and with the label came the need to 'regenerate' the nation through the guidance of the Church. A guidance that while based on the educational system lead, according to López (1988) and Gutiérrez (1961, 1989), to institutionalized forms of intolerance and fanatism.

"Very soon the Colombian child learns how to differentiate social classes and how to establish differences. A well know insult among children is to call someone 'street boy'. Without doubt such early learning of discrimination most be attributed to that profound fear of the Colombian of the unknown, of the novel, and of social rebuke. For the child mentality it most be a profound deception to know that such radical differences exists among beings that otherwise seem equal, and that those differences have been established by an abstract entity whose force and brutality he is just beginning to touch: human society."38

ACT 3.
Violence and Alterity

Satanization

38 Gutiérrez (1961: 37, translation mine)
As suggested by Acevedo (1995) and Perea (1996), Colombian political life has been ciphered in a binary logic that prescribes an eternal battle between good and evil, being evil the political Other. The various ways in which the Other has been historically treated bluntly illustrates such construe: The native or *irracional* in the years that followed the conquest\(^\text{39}\); the heretics and impious slaves in the tribunals of the Holy Inquisition in Cartagena de Indias\(^\text{40}\); the *mestizos* and *peones* (rural wagers) in enclave enterprises\(^\text{41}\); during *La Violencia* those whose filial and political ties were in the opposition\(^\text{42}\); and more recently those who simply "I dislike"\(^\text{43}\). One example can depict such essentialism: In the midst of the brutality of *La Violencia* the Bishop of Santa Rosas de Osos becomes a celebrity in the country due to the virulence of his political speeches from the pulpit. The sermons of monsignor Miguel Angel Builes, published in the Conservative newspapers of Medellín and Bogotá, evidence radical positions against what in the moment was perceived as contrary to the political ideas of the Conservative party: liberalism, free masonry, and communism. The battle between the apocalyptic beast and the cross had been unleashed in a country were deep religious belief and extended illiteracy are perilously intertwined:

\(^\text{39}\) See for example *Shamanism, Colonialism and the Wild Man*. Taussig (1987)

\(^\text{40}\) See for example *La Inquisición en Cartagena de Indias*. Medina (1978)

\(^\text{41}\) See for example *La Vorágine*. Rivera (1924)

\(^\text{42}\) See for example *La Mala Hora*. García Márquez (1962). Or *Cóndores no Entierran Todos los Días* Álvarez Gadeazábal (1972).

\(^\text{43}\) See for example *La Virgen de los Sicarios* Vallejo (1994)
"This year of 1949 has begun with the signs of a world catastrophe... a cloud of extraordinary darkness shadows in a threatening and terrible manner the religious, social and political order. It comes with a name: World communism [which in the Colombia of the time was equated to the Liberal party as well as to subaltern political movements]."\(^{44}\)

The quote of the Bishop serves to have a sense of up to what limits did the satanization of the political Other went. It also allows to introduce a fundamental difference, visible throughout the political history of the country: Although the political Other has always been satanized, the dynamics in which this process unfolds, as well as the later exorcism of such malignancies, depends primordially on the ascriptive origin of this Other, in other words, it depends on the his ontogenesis. It is very different to challenge an Other that comes from the same cultural matrix than to challenge one that emerges from a completely different ascriptive order. In the first case, the battle is resolved by means of oscillatory movements that swing between chaos and the order that results from the periodical struggles for controlling the bureaucratic bounty. In the second case, the battle is resolved through the recreation of a visceral condition which bans all of what contradicts or uncovers that hegemonic ideological fantasy.

Oscillation

\(^{44}\) Monsignour Builes as quoted by Acevedo (1995: 178, translation mine)
I had already mentioned above how the two traditional Colombian parties share the same cultural matrix and hence are determined by elitist traits that serve identical purposes. Now then, this mimetic characteristic, although synchronically sustained, unfolds diacronically through pendular movements or oscillations between conflict and coalition, between war and peace. The civil wars of the nineteenth century were massive wars of elitists characteristics under which peasant mobilization was possible only through the sentiments and structures of loyalty and affiliation towards the patrón (land proprietor boss) who was also the party. This conditions allow for an understanding of why the role of the peasants during the civil wars was to provide labor force or military clientele, according to the degree of oscillation reached by the interparty dynamics, instead of a popular substratum for a revolution. José María Cordovéz Moure, the Bogotan chronist of the last century, wrote an illustrative account of such oscillatory movements:

"As soon as it was whispered that for any cause the Conservative Party would engage in hostilities, Agudelo would be one of the first to step forward with his own guerrilla or cavalry regiment formed by his land tenants and workers who followed him without hesitation. As soon as the temple of Janus was closed, Agudelo would retrieve to his private life to entertain his friends."\(^{46}\)


\(^{46}\) Cordovéz Moure (1961 [1893]: 1016, translation mine)
As Gonzalo Sánchez argues (1991), the unconscious of every interparty aggression was not total victory but the treaty or the armistice which turned to be the closing doors of the oscillatory cycles. War was constituted then as a mechanism through which the Other became a recognized political interlocutor; one which, following Guillén's (1996) suggestions, unveils the conflict/coalition relationship as a recurrent happening in Colombian political culture. The era of the so called Regeneración (1880-1905) constructed by the Liberal Núñez, and the Conservative Caro in which the United States of Colombia become a unitarian and centralized State, or the political era of the Frente Nacional (1958-1974) in which the partition of bureaucracy is agreed among the two parties, or more recently the National Constituent Assembly (1990), are all instances that bring to momentary rest this oscillatory movements. And, as it is argued below, it is in these instances of climax where the stake is between choosing to transgress or recreate the tragedy of repetition.

Viscerality

Throughout this chapter I have mentioned how one of the main characteristics that lead to the consolidation of the hacienda as a power structure is precisely the exclusion and / or elimination of alternative associative structures. This repetitive constrain surfaces precisely in the instances of coalition in which the power elites develop, under no party distinctions, common policies that secure their own interests. The use and abuse of state of siege legislation is the most blunt and sustained practice for securing such boundaries;
boundaries that are founding structures of the *hacienda*. It takes just a glimpse to the history of Colombian republican life, to unveil moments of such visceralità towards difference.

"The *hacendados* that a year back were engaged in cruel battles against each other were miraculously united when confronting José María Melo, a veteran of the wars of independence, the artisans and the regular Army. An alliance that history has labeled honorable and 'loyal to the institutions and to civility.' José Hilario López and Tomás Cipriano de Mosquera, Mariano and Pastor Ospina, Pedro Alcántara Herrán, Julio Arboleda, Manuel Murillo Toro, all of whom were promoters of gruesome wars were now reacting together against new forms of association that are disputing power. Some as Mosquera and Herrán, leave the US abandoning their own prosperous business; others, as Obaldía forget their past roles in organizing democratic societies and now think only on exterminating the 'usurpers'."^47

The defense and survival behaviors of the regime of privileges of the *hacienda* inspired power structures is tragically present throughout the history of the country. The development of the workers movement since the turn of the century and its crush in the banana massacres in the thirties, the repression of the student movement since the twenties, the identification of peasant movements with insurgency, all are just examples of the ways in which stigmatization works towards unfolding 'legal' exclusions of what's rendered as different. Law then becomes the most expedient vehicle for the legitimate erasure of alternatives. After the Law there

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^47 Guillén (1996 [1979]: 330, translation mine)
is no difference. And this practice, so intertwined with Colombian political culture and practices, has imprinted a heavy toll in the continuous blocking and weakening of social movements in the country. More recent examples are those from urban subcultures: garbage recyclers, street boys\textsuperscript{48}, juvenile gangs\textsuperscript{49}, homosexuals, war refugees, intellectuals; all, in one way or another, internal exiles that bring to the surface the profound limitations of the "integrating" capacity of Colombian official culture. On the last days of July 1997, while revising e-mail messages from the list Colombianos en el Exterior I came across the following:

Date: Wed, 23 Jul 1997 19:59:18 -0500 (CDT)
From: "Luis F. Cadavid" <lcadavid@primate.wisc.edu>
To: red caldas <r-caldas@lslsun.epfl.ch>
Subject: Re: r-caldas: Accion urgente por Urabá

Please circulate
Thank you

Luis F. Cadavid

> We are forwarding you a copy of the denouncement sent
> to various Colombian authorities on the genocide in
> Urabá.
> Help us stop the genocide by writing to the Colombian
> government. Humanity will thank you.
>
> Atte. Comisión Intercongregacional de Justicia y Paz.
> Santafé de Bogotá.

\textsuperscript{48} See for example José Gutiérrez's \textit{Gamín} (1973).

\textsuperscript{49} See for example the work of Germán Muñoz and Marta Marín \textit{El Rock en las Culturas Juveniles Urbanas}. (1995).
And why don't you circulate the massacres committed by the guerrilla since the 1950's? If the country has paramilitary groups is only for protection against the cancer that Colombia suffers. What would you do if your family is killed, if your life's savings are stolen? What would you do? Have you ever been in such a situation? I'm sure you haven't and that's why you want to circulate this.

Neurosis

Since the time William Cullen spoke about neurosis at the end of the eighteen century, the psychology of intention has occupied an important place in psychiatric and later in psychoanalytic inquiries. With the introduction of the concept of performance, as used by J.L. Austin⁵⁰, neurosis has been defined as a "lack of ability for optimum performance"⁵¹ that is, as a set of disturbances of the will that affect intention and hence agency. The neurotic, in lacking the power to bring his intention to an action, is confronted with a force that hinders his capacity to consciously guide his individual and social

⁵⁰ See Austin (1979). Performance is understood, for psychoanalytic purposes, as the capacity to translate with out delay an intention into an act. Neurosis would thus be a disturbance is such a process of trasformation; one that blocks the intention from manisfesting.

⁵¹ See Gutiérrez (1987)
agency. Neurosis, understood as a process closely connected to a socio-cultural context—as suggested by Freud (1962), Fromm (1955), and the culturalist school—is also a fruitful and privileged entry port to the intrinsic characteristics of what was called above the ideological fantasy. Social neurosis is precisely the necessary condition that blinds us from understanding as illusion that which structures our own concrete relationship with reality; in other words, and for the matter of this dissertation, that which impinges characteristics of its own to the Colombia political culture.

Synchronic analysis on the Colombian political milieu agree on arguing that what paralyzes agency in the country is to exclude everything that does not belong to the circle of privileges. Diachronic analysis, on the other hand, argue that the historical tendencies towards authoritarianism, stimulated by the laws, norms and anxieties embedded in the Iberian notion of prestige, make of the Colombian elites the monopolizers of both the power to reproduce or to transgress the neurosis. Many are the examples that highlight the intention of the elites to engage in authentic processes of value transformation: In his return to Bogotá after his exile in the prison of Bocachica, in Cartagena during the first half of the 1800s, the prominent politician Antonio Nariño promotes the destitution of Jorge Tadeo Lozano, by then President of Cundinamarca and representative of the interests and privileges of the hacendados; in the early 1950s Carlos Lleras Restrepo, later


President of Colombia, fosters a clandestine radio station that voiced the Liberal guerrillas and the newly born FARC; Antonio Caballero and Enrique Santos, members of long established elite families, found in the 1970s the journal *Alternativa*, dedicated exclusively to voicing the guerrilla's political ideals. Nevertheless, Colombian political dynamics have been marked by ceaseless openings and later closures of spaces for change, deepening the already existent political and social frustrations: during the second half of the last century the Liberal elites promote socialist ideals to which emergent social sectors affiliate, at the turn of some years the same elite -known as the gòlgotas- fights with arms these same emergent social sectors; since the consolidation of the Republic the recurrent history of war and amnesty shows the always tragic resolution of peace processes in visceral warfare; and more recently, since the writing of a new constitution in 1991 its actual development has been mined by systematic attempts from the Executive branch to undermine and, at times even to abolish, the viability of the Constitutional Court (vital instrument for the development of the constitution).

This double monopoly of the elites -being simultaneously a space that can reproduce or transgress the neurosis- is disseminated through the political structures and, in consequence, through the spaces of power and decision making. Furthermore it seems plausible to think that this neurosis also permeates the formation of rational structures that frame and interpret conflict in both the academic and the institutional spheres. Thinking and acting against multiple violence in Colombia is determined by this double monopoly of the elites: It can either enhance a systematic blocking of perspectives, or
it can promote efforts that voice and / or overcome the systematic exclusions that make of violence an inherent aspect of what Colombian democracy is all about. Maybe the most startling illustration of such condition is the paradoxical characterization of the country as the oldest democracy in Latin America and the most violent country in the western hemisphere.

In inquiring about violent formations in contemporary Colombia one is confronted ineluctably with a set of overtly political questions: Are there any viable spaces for creative critique and rupture from traditional political practices? Can these spaces exist within the actual power structures of the country, and if so, is it viable to promote the fracturing of restrictive cultural practices from these spaces?

This story on Colombian political culture is a folk theory of intellectuals that makes sense of the intertwining threads that constitute a restrictive democracy. Ironically, as it will be shown in the chapters that follow, the intellectuals' in weaving such patterns were seduced with the structure of values and sentiments they thoroughly critiqued; while the magistrates, blind to the process, failed to recognized the textures that constantly reinscribe authoritarian cultures and practices in Colombia. The hacienda mentality model resembles, allegorically speaking, the Tukano's myth of the boráro, gruesome forest spirit feared above all.
"The boráro is imagined as a monstrous manlike being, covered with shaggy black hair, with huge pointed fangs protruding from his mouth. He has big, pointed ears and a large penis. His feet are twisted so that his toes face backward and the heels forward, and his knees have no joints so that when he falls he has great difficulty in rising again. At night, the bats are the boráro's companions, but during the day he is often accompanied by huge blue Morpho butterflies.

Figure 2. The Boráro. A Tukano Forest Spirit. (Urraka Mandaca No.2. Bogotá, Dec. 1995).

"The boráro kills people by grasping them in a crushing embrace which turns the flesh into a pulpy mass but does not tear the skin or break the bones. He then pricks a small hole in the top of the head and
sucks out the pulp until only the limp skin is left covering the skeleton. He now blows up the skin, and the victim, although dazed and behaving as though in a dream, walks back to his maloca where he dies shortly afterward.

The twisted feet of the boráro, people say, often mislead the person who comes upon the tracks into believing that the monster went in one direction while, in fact, he was walking the opposite way. One should put one's closed fist into the track because this gesture will make the boráro's legs stiffen so he can advance only slowly.\(^{54}\)

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\(^{54}\) Reichel-Dolmatoff (1975: 182-183)
CHAPTER FOUR:
ALCHEMIES IN THE BATTLEFIELDS.

Before entering into the inner worlds of the academia and the law, and the particularly complex ways in which they are reflecting broad cultural debates and patterns that crosscut Latin America's intellectuality and statescraft, I want to provide the reader with a short map of the social location of both, magistrates and academics. In the first section I cite some historical referents that show how law was not only the dominant knowledge in the elites, and thus sign of social prestige, but also source of access to contemporary European intellectual debates. In the second section I turn the reader's attention to the contemporary scene where intellectuals and magistrates differ from each other not only in regard to their origins in divergent social segments (upper and middle class), but also in terms of social and professional prestige and visibility.

In Past Tense

During the times of La Colonia, and under the best tradition of a Catholic monarchy, all forms of education were in the hands of the Church. Political power and religious doctrine where intertwined in an educational system for those that, entitled to the right of rule, could prove a purity of blood: Access to higher education was a privilege granted only to descendants of Spaniards or Creoles. During
the 1600s two of the most prestigious universities were founded by the clergy: The Colegio Mayor de Nuestra Señora del Rosario by the Franciscans in 1654, and the Pontificia Universidad Javeriana by the Jesuits in 1623, and soon the first titles of Doctor in Theology and Jurisprudence were given, uniting in the lawyer the secular and the religious ruling principles.

In 1826, sixteen years after the Independence, the first public universities were created through a presidential decree. In an effort to build the newly born Republic higher education was to include not only Theology and Jurisprudence, but also Medicine, Philosophy, and Natural Sciences. Nevertheless, the privileged status of jurisprudence as holder of power and social prestige was not undermined. It was through law that social rules could be understood and manipulated, it was through land and law that access to power was achieved, and it was thanks to the debates within the Schools of Jurisprudence that access to European thought was gained. In the lawyer, ruler, landowner and intellectual met. By the end of the 19th century such fusion was so well developed that the Argentinean diplomat Miguel Cané characterized Colombia as a republic of scholars. It is not surprising that the most intense intellectual debates of the time were held at the Schools of Law, after all they were the spaces that were molding the rulers of tomorrow.55

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55 A clear example is the sustained debate throughout the 19th century on whether or not it was legitimate to teach Bentham's texts in the Schools of Law. For some, Bentham's texts were basic for laying the foundations of liberal ideology, and for undermining the union between power and religion; for others, the utilitarian models was a clear opposition to the Constitutional mandate that accepted Catholic faith as the moral base of the nation. (See Jaramillo: 1982).
In Present Tense

A Dialogue outside the Constitutional Court

- Are you almost done with the compulsory military service?
- No. I'm a bodyguard from the Police. See the bulletproof jacket?
- Bodyguard?
- Yes. I'm one of the bodyguards of José Gregorio Hernández, The President of the Constitutional Court. The man is really threatened you know; in the last days he's received four death threats from different people. I think that's because the Court didn't accept the decision of calling a state of siege. So we have to take good care of the man, we can't leave him alone even when his having lunch. Six of us take care of him. He is a good man.
- It's a dangerous job you have.
- Well one gets used to this. And if I get killed then the Police has to respond. They will give my mother around twelve million pesos (10,000 dollars) and that's money (He laughs). Look, I finished high school at 19 and what was I suppose to do? University? Not even in dreams. But now my brother can go because I lend him a hand. He is studying law at the Universidad Libre. You know, with law one becomes rich.

In a country accustomed to multiple forms of violence that traverse the different layers of daily public and private life awkward

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56 As recorded by Rocío Rubio, my research assistant in Colombia, when picking up photocopies from the Constitutional Court’s archives.
signs become manifestations of prestige and recognition. Sadly, in contemporary Colombia the most evident of these is the display of personal security. It is a common site in Bogotá, the country's capital and a city of over eight million, to encounter in the busy streets fast moving caravans of bullet proof Land Cruisers tailing equally secured luxury cars. A minister, a magistrate, a presidential advisor, a banker, or a wealthy businessman might be cruising the city at high speeds. Most of them lawyers by training and alumni of either of the four most prestigious private universities of the country (Andes, Externado, Javeriana, Rosario). Meanwhile, cautiously giving free way to the convoy by following the instructions of Police motorcyclers, the rest of the drivers patiently wait for what has become a natural spectacle of modern day Colombia. The chaotic traffic resumes after a sudden freeze. Within the chaos one of the country's most visible intellectuals might be driving his way to a meeting with a Presidential Advisor in his second hand Renault or Fiat. In Colombia, as their prices reflect, automobiles are still considered a luxury item and the salary of an intellectual usually doesn't allow for a brand new model. As opposed to the well off Colombian lawyers, the intellectuals redoubt is, for most, the public university, where high academic standards have not reverted into the social prestige of a private campus, at least for the last 30 years. The Universidad Nacional, the Universidad del Valle, or the Universidad de Antioquia, have been traditionally the most active academic centers in the country and as such have produced prominent intellectuals in all fields. As opposed to the lawyer, the Colombian intellectual by his own merits, and even sometimes by investing his scarce economic
resources, always finds a way to leave the country in search of graduate education. Today the corpus of Colombian intellectuals holds various MAs and PhDs from the most prestigious academic centers in Europe, US and Brazil. Nonetheless, in Colombia high academic standards have never been a match for the entitled social prestige and recognition that comes with family name, private education, and professional backgrounds.

With the reforms to higher education in the mid 1930s the access to intellectual debates was democratized, and with it the long standing equation lawyer/intellectual was broken. This rupture worked against the future intellectuals for it kept for the lawyer the access to power, social recognition and prestige, leaving the intellectual with nothing but hopes. Still today, as it was 100 years ago, lawyers are considered to be a sort of secular priests in whose hands lie the fate and destiny of the country. With social prestige, recognition and access to power secured, the lawyer has become naturally self confident; and Law, that seemingly eternal symbol of the pinnacle of power, has been taken as a form of social mobility for all of those who were not born in the right places.\textsuperscript{57} It is not by chance that many of today's older generations of intellectuals had a degree in Law\textsuperscript{58}. Nonetheless, their decision of engaging with social research rather than with legal practice furthers a life of comfort and stability. Instead, it triggered a cost that for some is too high to pay.

\textsuperscript{57} Today the other competing and extensive form of social mobility is the one that comes through rapid wealth growth from drug related activities (traffic, money laundering).

\textsuperscript{58} For example Gonzalo Sánchez and Alejandro Reyes, two senior researchers at the IEPRI.
The structural fragility of higher education and its low wages, combined with a lack of social visibility and prestige have become a heavy burden for the development of stable and solid intellectual communities. Not surprising is the explicit or implicit lingering feeling of social debasement in the Colombian intellectual. With a nostalgic memory the turn of the century is referenced as the times when power takers and knowledge holders were once united. Today, the only feasible possibility of mimicking such union is by making either the transit to State bureaucracy or through an exponential commitment to well paid consultancies with State agencies -primordially those of the Executive branch, i.e. Offices of the Presidential Advisors, Supraministries, and Ministries. Both cases -joining the bureaucracy or investing most of the time in consultancies- allow for an efficient overrunning of the social and economic burdens that come with marginalization and lack of recognition.

In a country torn by prolonged and decentered social armed confrontation, intellectuals and magistrates - a special breed of jurists specialized in constitutional law- meet in their attempt to make sense of violence. But in order to provide an adequate

59 For example in the cases of Salvador Camacho Roldán, José María Samper, and Miguel Samper (the last two ancestors of Colombia's president and lawyer Ernesto Samper).

60 Former and current members of the IEPRI have been on leave while taking State positions: For example Jorge Orlando Melo, former presidential advisor for human rights, and later director of the Biblioteca Luis Angel Arango (Colombia's central bank library); Alvaro Tirado, ambassador in Switzerland; Hernando Valencia Villa, former deputy attorney general for human rights; Iván Orozco, former auxiliary attorney general of the nation; Pilar Gaitán private secretariat for human rights at the ministry of defense; or Martha Ardila, director of a program in the ministry of external affairs.
ethnographic description and understanding of such meeting grounds attention must be drawn towards the effects that social location has over discourse production and interpretative legitimation. For both, intellectuals and magistrates, what is at stake in a highly volatile situation as that of contemporary Colombia is the future of its democracy. But how to begin realizing such project is another matter. For intellectuals democracy is achieved through the strengthening of the Executive branch of the State; on the contrary, for magistrates it is achieved by containing the overwhelming powers of the Executive manifested in the form of presidentialism\(^6\). And it is precisely here where the deepest irony lies: The intellectuals in deepening their working relationships with the Executive branch -cradle of Presidentialism- have accepted the rhetoric of State fragility and with it, the basis for the structure of values and sentiments that constitute the authoritarian political culture they so thoroughly criticized from the 1960s to the mid 1980s. On the other hand, the magistrates, self confident in their own position as defenders of a new constitutional order, find in Presidentialism a State practice that legitimates authoritarian measures, restrictions on basic and civil rights, and uncontrolled social policing, all key features of a restricted democracy or civilian dictatorship. These two opposing, and at first glance contradictory commitments, find legitimation in the ways each group understands itself as broker of foreign

\(^{6}\) A practice that, based on state of siege legislation, gives full legislative powers to the Executive branch thus allowing for totalitarian measures based upon extended repression and restrictions of fundamental rights of citizens. Presidentialism, as I argue further down this Chapter, is the basis for a restrictive democracy.
experiences and local realities: In the case of the intellectuals, the rhetorics of state fragility and the construction of democracy are articulated to a broader trend in Latin American intellectuality triggered in the aftermath of military regimes in the Southern Cone. In the case of the magistrates, the building of democratic cultures through a constitutional jurisprudence that defends the Bill of Rights over the concentration of powers in the hands of the President is articulated to the shifts in public culture induced by the jurisprudence of Constitutional Courts in post war Germany and Spain.

With Presidentialism as a backdrop, the two parts that follow (The Academia. and The Law) address how two different social locations, each with its own burdens, complexities, and possibilities respond to questions on violence and justice: How are intellectuals understanding their role as builders of democracy? How are magistrates understanding jurisprudence as a form for constructing democratic cultures?
PART 1
THE ACADEMIA

"When I was twelve I was almost run over by a bicycle. A priest that was crossing by saved me with a cry: Careful! The cyclist fell to the ground. The priest, without stopping, said: <<Did you notice the power of the word?>> That day I did. And now we know, also, that the Mayas knew it since the times of Christ, and with such rigor that they had a special god for the word."

Gabriel García Márquez. 1997

1. The shaping of Social Sciences in Colombia.

In this section I frame the shaping of the social sciences in Colombia under three major events that had a profound impact in the unfolding of the structure of higher education, and the outreach of social research. First, the liberal reforms of the education system in the mid 1930s. the unrestricted access to high education, and the fracturing of the equation elite / intellectual. Second, the effects of cultural openings that followed the reform in higher education institution building: The influence of contemporary European educational models, and the flow of European exiles. Finally, the collapse of the European models and the social sciences on the face of the violent eruption in the urban centers of otherwise rural cultural, social and political contradictions: The assassination of the populist liberal presidential candidate Jorge Eliecer Gaitan in Bogotá and the consolidation of La Violencia."
Upheavals at the dawn of the Century

The dawn of the century began with a strong conservative regime that carried to the 20th century deeply rooted legacies of the times of *La Colonia*. Although timid attempts to establish a public university system during the first years of the Independence, the conservative elites of the country firmly believed that the only possible way for maintaining the moral principles in society was through a strict control of education by the Catholic Church. By the end of the 19th century primary and secondary schools, as well as all the university system was in the hands of the clergy. One of the main functions of the Church was to educate the citizens as well as to educate the future educators, only in such manner could the country maintain the elusive unity that the civil wars of the last century had so eagerly sought.

In 1903, in the midst of a strongly conservative regime, the Organic Law for Public Instruction is sanctioned\(^6\). In following a constitutional mandate the law tied education to the doctrine of the Catholic religion and the State, and divided public instruction in four: primary, secondary, industrial, and professional. Primary instruction was defined as practical in essence and guided to provide the student with the basic concepts of citizenship, as well as skills for agricultural, commercial or industrial labor. Secondary education was divided into technical, which included general studies in humanities,

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\(^6\) This law is still considered to be the legal foundation of the Colombian education system. Still today the divisions in public instructions that the law typified are observed. For a detail analysis of the evolution of educational policies in Colombia see Molano and Vera (1982).
languages and profession oriented topics; and classical, which included also philosophy and literature. Industrial and commercial instruction was basically comprised of training the students in artisan, manufacturing and mechanical skills. Finally, professional instruction, which included law, medicine, natural sciences and engineering, would be in the control of the School of Philosophy and Literature of the Colegio Mayor de Nuestra Señora del Rosario, an elite university founded by the Franciscans in 1654.

The student's dissatisfaction with the restrictions imposed in higher education by the Church's narrowness gave way, in the early 1920s, to a timid student movement inspired in the famous Manifiesto de Córdoba that conveyed the liberal ideals of the Argentinean student movement of 1918. During the early 1920s an effort to modernize the country led the administration of Pedro Nel Ospina, to seek the reform of the education system. The German mission that was hired concluded on the need of creating an integral university that would encompass all the up to now dispersed faculties. Nevertheless it would be until 1935 that the mission's recommendations would be put into practice. By 1929, the newly born student movement formulated a solid critique to the traditional university system arguing for a liberty of professorship, administrative autonomy, and program modernization. Among the most active leaders of the time was Carlos Lleras Restrepo, later President of Colombia (1966-1970) and ironically, the first to militarize a public university campus (see below: The Universidad Nacional: Greenhouse of social confrontation). Overall, the students movement in reacting to more than one hundred years of clergically
controlled education laid down the foundations for the deep educational reform that was to come during the Liberal republic.

Institution Building and Cultural Awakenings

By 1935 the liberal administration compromises with a major educational reform that, although keeping the divisions in public instruction brought about in 1903, would bring into practice the recommendations of the German mission. The Organic law for the Universidad Nacional is sanctioned, and with it begins the construction of the Cuidad Universitaria, a higher education conglomerate that would bring together in a single space the public national university, the dispersed faculties, libraries, and research centers. With reform came the complete academic and administrative autonomy of the public university. Higher education was leaving the control of the clergy, and thanks to an increasing flow of Spanish, French, and German immigrants that were fleeing the wars, the latest pedagogical models in Europe were first introduced to the country.

"The period of the dominance of nazism in Germany, franquism in Spain, and later the French occupation by the Germans, unleashed a persecution to researchers, professors, and progressive authors who immigrated to many countries in America. Of the long list of immigrants some came to Colombia where they became diffusers of the most advance of universal thought."

63 The Cuidad Universitaria was conceived pedagogically by the German Fritz Karsen; and architectonically by Leopold Rother, Erich Lange and Alberto Willis.

64 Herrera and Low (1991: 98, translation mine).
The building of modern educational institutions was accompanied by a cultural awakening that was boosted by the opening of academia to novel currents of thought. Disciplines that were banned by the clergy and/or the conservative party appeared in the newly created campus: Marxism, psychoanalysis, the new French doctrines on public law, the German philosophy of law, phenomenology and existentialism, all began to flourish. The process of consolidation of new disciplines led to a rearrangement in the structure of Schools and Departments within the Universidad Nacional. Although this overwhelming novelty in the field of education, some well rooted structures were maintained and Law kept having a privileged position: The School of Law encompassed the Institute of Literature and Philosophy, the Institute of Economic Sciences, the Department of Philosophy, the Department of Economics, and the subdivisions of Sociology and Anthropology.

The development of the public university system was complementary to the development of a secular institution in charge of training the future professors of the universities. The Escuela Normal Superior is created in 1936 following the model of the Parisian Ecole Normale Superior, and as Herrera and Low (1991) argue, the Escuela would become an important leverage for the secularization of education: The ideal of forming good Catholics would promptly shift to that of forming good citizens in a space that would bring together the best intellectuals in their new role of teachers of teachers:
"The purpose of the Escuela Normal Superior is that of forming faculty for all levels of education, [the Escuela] is also a center of high studies were the researchers for laboratories, the future doctors, and the professors of letters and sciences are trained."65

With these ideals the Escuela Normal Superior attracted research and opened up fields that were until then unknown in the country: Julius Wolfram Schottelius publishes his archeological findings on San Agustín and Tierradentro; Paul Rivet engages in 1941 with the establishment of the Instituto Etnológico Nacional; Ernest Guhl pushes forward the incipient geographical research in the country; José María Ots Capdequi introduces the works of Durkheim, Mauss, Marx and Engels; Francisco Socarrás, a Colombian trained in Paris, introduces psychoanalysis; and the Jamaican Howard Rochester introduces English literature. By the end of the 1930s an important body of empirical social research was well in its way in Colombia, as well as the consolidation of important research institutes such as the Instituto Etnológico Nacional, and the Instituto de Ciencias Económicas which gave birth later to the school of economics at the Universidad Nacional. In the overall, during the 1930s and 40s a new intellectual elite was in formation. Distanced from the shifting modes, desires and hatreds of political parties, these elites would characterize themselves for their conscious avoidance of politics,

religion and philosophical speculation, and their deep investment in scientific research and secularization.

In 1941 the Instituto Etnológico Nacional is created as an annex to the Escuela Normal Superior. Its first director, the famous French ethnologist Paul Rivet, promoted research on physical anthropology, phonetics, linguistics and ethnology. Although the dominant perspectives were those of the French school, many of the studies produced in the 1950s and 1960s were heavily influenced by the US culturalist theories, in particular those of Kardiner, Linton, Mead, and Benedict (see above: Chapter Three). In 1942, the Instituto Indigenista Colombiano is established also as an annex to the Escuela Normal Superior; its first director was Antonio García, ideologue of the liberal Gaitanista movement and one of the most prominent figures in Colombian economic thinking. From these two institutes would come the first generation of professors of anthropology in the country.\(^6^6\)

Despite all this efforts it is only by the end of the 1950s that a process of diversification takes place within the social sciences. New faculties and departments emerge from the School of Law giving way to a final stage in the process of institutionalization of disciplines in the country. From the matrix of Law came first Economics (1951), and later Sociology (1959) and Anthropology (1962). Unfortunately, this process of institution building and cultural opening came to an

\(^6^6\) For example Roberto Pineda Giraldo, Virginia Gutiérrez, Gerardo Reichel-Dolmatoff, and Alicia Dussan. The first two influential figures in the development of the sociology and anthropology at the Universidad Nacional; the other two, the inaugural faculty of the department of anthropology at the Universidad de los Andes, in 1964.
abrupt end with the dramatic unfolding of political confrontation within an environment of rapid social deterioration. The exposure to the world was coming to an end as the increasing political violence in the country led Colombia to an spiraling numbness and a deep introversion.

La Violencia and the Social Sciences

By 1945 the liberal caudillo Jorge Eliécer Gaitán was the most important political figure in the country. His use of a vibrant populist rhetoric tinted with socialist ideals assured him a unique political base among the otherwise indifferent working populations. With his slogan el pueblo es superior a sus dirigentes (the people are superior to their leaders), Gaitán opened the valves of political participation to wide underclass segments in the midst of an spiraling political violence in rural Colombia. The rising rural criminality, foreshadowed but still kept unpunished by local and regional political headmans, together with the increased displacement of liberal families to urban centers led Gaitán to organize his famous manifestación del silencio, a silent rally that denounced to the Conservative President Mariano Ospina the political violence in rural Colombia. Gaitan's popularity together with his position as head of the Liberal party assured him the following presidential elections, but on April 9, 1949 he was assassinated in downtown Bogotá. At the pinnacle of his popularity Gaitán used to cry to the masses 'Si me

67 By 1947 the raids, threats, and political assassinations in the provincial cities and municipalities lead the Liberal party to establish casas de refugio (houses for refuge) in various cities.
matan, vengadme!" ("If they kill me revenge me!"). The day of the assassination this words broke as thunder the cold air of Bogotá. The popular rage unleashed followed a three day killing and looting of the country's capital, thousands died. The Bogotazo, as that day came to be known, exacerbated the political polarization and consolidated rural political violence. With Gaitán's death the era of La Violencia was already well on its way.

The volatile conditions of the country and the unforeseen bloodshed that was triggered in Bogotá had immediate consequences over the Escuela Normal Superior and the Instituto Etnológico Nacional. Many of the European immigrants that were involved in the establishment of both centers fled the country terrorized by what they saw as Colombia's imminent collapse. Meanwhile, the intellectuals with leftist ideals or sympathizers of Gaitán's social revolution, some of whom had participated in the seizure of radio stations during the Bogotazo, were promptly labeled by the government as guerrilleros intelectuales (intellectual guerrilla). Many were pushed to exile⁶⁸. Active centers of intellectual debate were shot down, as well as promising publications that were shaping local movements of social critique⁶⁹. With the space for ideological confrontation cleared Laureano Gómez, a feverish admirer of Franco's Spain and Hitler's ideals and by then elected President of Colombia, commissions in 1952 two Germans, with a recognized nazi inclination, for the direction of the Escuela Normal Superior. With a whole

⁶⁸ For example the historian Germán Arcieniegas, and the humanist Jorge Zalamea who leaves for Argentina in 1952.

⁶⁹ For example the Revista de Indias, or the journal Crítica.
generation of intellectuals crushed and silenced *La Violencia* began to unveil another of its multiple faces, that of cultural stagnation. Intellectual isolation and autonomy, together with the severing of ongoing cultural projects, left the country marginalized from important international debates.

Sánchez: "Throughout the twentieth century Colombian intellectual communities have been very weak, and *La Violencia* is in part responsible for this because it is a factor that disperses communities. *La Violencia* made us numb, it made us incredibly introverted because it not only killed people, but also centers, ideas, intellectual developments and traditions. Whereas in the rest of Latin America big research and intellectual centers were being constructed, here in Colombia everything was broken down. It was a dead period intellectually speaking, and the price we paid for that is our absence from the Latin American debates held during the sixties and seventies. Today we have intellectual figures but we are still a country too much immersed in itself. I believe *La Violencia* is responsible for that, and maybe we the violentólogos are too."

Despite this mesmerizing turmoil, some remnant fissures were kept dormant only to appear almost ten years later, after the dictatorship of Gustavo Rojas Pinilla. With the inauguration of the *Frente Nacional* (the political pact subscribed between the two traditional parties, known best as the *Declaración de Benidorm*) an "official" end to political violence was declared together with the reinstitution of a civilian government. In August 1958 the Liberal
Alberto Lleras Camargo takes office with a promise of letting new winds to blow in a country exhausted by civilian confrontation. The arrival to the county of Orlando Fals Borda, after completing his Ph.D. studies in Sociology at the University of Florida, coincided with the arrival of Father Camilo Torres, a charismatic priest trained in Sociology at the University of Lovaine in Belgium. Their desire to establish a department of Sociology at the public Universidad Nacional found prompt resonance in Eduardo Umaña Luna, a prestigious lawyer cousin of Father Camilo, and in Virginia Gutiérrez de Pineda, an anthropologist alumni of Rivet's Instituto Etnológico Nacional. The joint efforts flourished, and the department was established in 1959 with the goal of bringing sociological research to Colombia on issues of national importance.\footnote{The department produced important works on violence, student movements, indigenous communities, health and medical assistance. See Guzmán, Fals, and Umaña (1962); Friede (1963); Gutiérrez (1961); Williamson (1962).}

Parallel to this development, the administration of Lleras Camargo established a high government commission, the Comisión Especial de Rehabilitación \footnote{For a detailed analysis of Lleras initiative see Sánchez (1991).}, created in 1958 as a sort of council for the containment of violence. The commission was formed by almost all the members of Lleras' cabinet, including his Minister of Public Works, Virgilio Barco Vargas, later President of Colombia (1986-1990) and promoter in 1987 of an specialized commission for the diagnosis of violence formed by recognized intellectuals of the time (see below: Realignments and Crossroads). As complement of the commission Lleras creates the same year the Comisión Nacional
Investigadora de las Causas y Situaciones Presentes de la Violencia en el Territorio Nacional ⁷² (National research commission for the causes and present conditions of violence in the national territory), formed by two representatives of the traditional parties, two members of the Armed Forces, and two priests. The functions of this commission were specified in the decree as follows:

"The Commission will have the necessary authority for conducting its investigation in every place it considers necessary, as well as for accessing all official dependencies and have knowledge of all official reports, be them public, reserved or secret, with the sole purpose of founding its opinion in concrete facts." ⁷³

The stakes of the commission were high, so was the political resistance. During the first months of 1959 the commission was brought to an end under the arguments that first, it had already served its purpose; second, that its existence was no longer necessary for the government; and third, that its members were "exhausted". The commission disappeared quietly and its findings, if any, never released for public scrutiny. But fate had its ways. In 1960 Roberto Pineda Giraldo, another anthropologist alumni of Rivet's Instituto

⁷² This presidential commission sums up to the history of violence and presidential commissions in Latin America, Europe and the US. See for example Violence in America. Historical and Comparative Perspectives: A report on the causes and prevention of violence (1969); or Réponses à la violence: Rapport du Comité d'études sur la violence, la criminalité et la délinquance (1977); or the Comisión Sábado in Alfonsin's Argentina; or Colombia: Violencia y Democracia (1987); or the report Violencia y Pacificación (1989) in Perú.

⁷³ Presidential Decree 0942, 1958, as quoted in Guzmán (1986: 46,translation mine).
Etnológico Nacional, published a pioneer study El Impacto de la violencia en el Tolima: El caso del Líbano. Pineda's piece served as bridge between the department of sociology at the Universidad Nacional and Germán Guzmán Campos, one of the priests in the government commission. Guzmán was soon hired.

By that time Father Camilo Torres had already visited several of the most violent areas of the country and was already entangled in the complexities of violence. His observations were complemented by the extensive material that Germán Guzmán had compiled during the last years. The importance of the material was such that Guzmán joins efforts with Orlando Fals Borda and Eduardo Umaña Luna in an attempt to co-author a work meant to describe and explore the depths of rural political violence in Colombia. In July 1962 the two volumes of La Violencia en Colombia are published. The impact of the book was far more than the expected, and by October 1962 the publishers were already printing its 4th edition. As Sánchez (1993) argues, the biggest merit of the book was that of unveiling to public culture an otherwise proscribed issue: Radical reactions and dormant hatreds were soon triggered. For the Liberal party the findings of Guzmán, Fals and Umaña proved their old hypothesis that members of the party were persecuted and assassinated by the National Police during the Conservative presidencies of the late 1940s. The Conservative party labeled the book as "yet another lie written about the Conservative party". The debate kept heating up and made its way to Congress were the book was questioned or defended accordingly to political conveniences. The public declarations after
the debate are exemplary of the hatreds that the controversial book helped stir up:

"The Conservative Gustavo Salazar García declared publicly, during a debate at the House of Representatives, that the authors of the book earned their living in a way less dignified than that of the prostitutes."74

2. Creativity, Ruptures, and Crisis

The twilight of the 1960s came to Colombia in the midst of an intense internal political turmoil. Radical shifts in world politics and power distribution were occurring, and their felt resonance poured down from Vietnam, Moscow, and Cuba to the classrooms of the public Universidad Nacional. Soon the campus of the most important public higher education center in the country came to articulate and reflect broader socio-cultural tensions between legitimate and illegitimate orders. These tensions shaped the ways in which the dynamics of power between public university and the State were to unfold in the years to come. The sections that follow explore different aspects of such tensions, starting from the political radicalization of the public university, continuing with an exploration of the impact of political tensions in the shaping of intellectual production, and closing with the consolidation of a solid academic body of research around the period of La Violencia (1945-1965).

The Universidad Nacional: Greenhouse of social confrontation

By the end of the dictatorship of Gustavo Rojas Pinilla (1953-1957) and the beginning of the Frente Nacional the university students were considered to be the silent heroes of democracy, as they had been the first to trigger a massive resistance to Rojas Pinilla's continuity in power. Nevertheless, the sustained involvement of public university students as an opposing force to the new regime of the Frente Nacional, at the head of Alberto Lleras Camargo, soon sparked a radical change in the way they had been initially praised.

"During the first days of January, 1959, the students in Bogotá gave signs of a new awakening. In the Plaza de Bolívar, standing on top of a burnt bus, Antonio Larrotta, the most passionate student leader at the time, harangued the passersby with condemning phrases on the 'economic dictatorship' of Lleras who had just declared a raise in transport tariffs. The energetic protest of Larrotta was rewarded with a provisional success; Lleras retracted... Since then, Antonio Larrotta founded the Movimiento Obrero-Estudantil-Campesino (MOEC) to channel student activities towards the struggles of the urban and rural proletariat. Larrotta was then the first disciple of the newly born Cuban revolution."76

75 The Frente Nacional was inaugurated as a treaty between the two traditional parties, Conservative and Liberal, by which power was to be alternated and bureaucratic bounty shared during a period that extended from 1957 to 1974.

76 Broderick (1996: 141, translation mine)
As Larrotta's position proves, the radical shifts in world politics that were occurring at the time were to have a profound influence in the unfolding of the student movement: The Cuban revolution in 1959; the US intervention in Vietnam; the rupture in the Soviet Union with the Leninist-Stalinist orthodoxy; the consolidation of different currents of Marxism in Cuba, China, Korea, and Hungary; all gave arguments for political radicalism within university life. In such a context, the student movement while getting more involved and concerned with the realities and contradictions of the country, assumed critical positions towards US influence in Colombia, at the same time that it finds in the political ideals of the Cuban revolution a source of inspiration. Fidel Castro and Ernesto "Che" Guevara became the new figures to look up upon, as well as strong motivation for searching for political alternatives in Colombia. The student movement's ideals promptly began to gel around the Frente Unido, the political platform of the controversial chaplain of the Universidad Nacional, Father Camilo Torres\textsuperscript{77}. Camilo's project was guided by an open confrontation to imperialism through class struggle that was to be articulated in armed confrontation. The student movement soon sealed ties with the Frente Unido through the establishment of a national student organization the Frente Unido Nacional (FUN)\textsuperscript{78}.

By 1966 it was clear that the public university had become a greenhouse for radical positions that responded to unresolved

\textsuperscript{77} For a detail account of Father Camilo's life and political ideals, since his early years as member of a prestigious family in Bogotá until his death in 1966 as member of the ELN guerrilla, see Broderick (1996).

\textsuperscript{78} Most of the senior members of the IEPRI, students at the time of Camilo, were involved directly or indirectly with the FUN.
contradictions that had been traversing Colombia for decades. The death of Camilo, while in combat with an Army platoon in the jungles of Santander, fueled the students frustrations and lead to an escalating conflict within the university campus. During this time the Universidad Nacional had become site of the most important rallies against US interventionism, and as such target for State policing. Under state of siege legislation Carlos Lleras Restrepo -an important student activist during the 1920s and now President- militarized the campus of the Universidad Nacional inaugurating the pronouncements of student activists as subversives. The distance between the public university and the State was further increased during Pastrana's administration (1970-1974). The stigmatization of the Nacional as cradle of subversion and its subsequent marginalization was exacerbated with the petition of both students and faculty for autonomy, freedom of professorship, and for co-administration by representatives of students and faculty79. Pastrana's response was fast and effective. The administration appointed Juan Jacobo Muñoz as rector for the Nacional, commissioning him with the task of cleansing the campus from all those responsible for the university's political radicalism. For the first time in its history student expulsions followed faculty destitutions, the closing of entire Schools and departments, and the suspension of admissions to programs in the Social Sciences and the Humanities80.

79 This petitions ressembled those put forward by the Argentinian student movement in the province of Córdoba, in 1918.

80 As Henao (1985) mentions, the most affected programs were economics, law.
With spiraling tensions between the State and the *Nacional*, increased policing of the university's grounds, and the rise of the State's control over its internal affairs, the development of the *Universidad Nacional* was bound to the unfolding of the State's desires, hatreds, and aberrations. With the Presidency of Alfonso López (1974-1978) a breath came to the university: The number of admissions was expanded, programs and departments reopened, and sanctioned students and faculty re-incorporated. Paradoxically, this "redemocratization" of the public university was accompanied by a fragmentation of political interest in students and faculty, and dissolution of the student movement -mostly due to the fractioning and internal strife within the Colombian left-. In writing about politics, academia and public university, Hernán Henao (1987) characterizes such time as the "lumpenization of the classrooms". By then the capacity of the *Universidad Nacional*, displayed from the 1920's to the 1950s, to attract elite to its campus was shattered. From the early 1970s the country's political leadership would be in the hands of alumni of the traditional private universities, always discrete and quiet.

The profound fissures left by the politicization and later stigmatization of the public university were deepen during the repressive presidency of Julio César Turbay (1978-1982). With his sadly famous *Estatuto para la Seguridad* (Security Statute), Turbay's administration fostered indiscriminate and massive repression to public university intellectuals who were labeled insurgents, as the

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sociology, anthropology, and social work, at both, the *Universidad Nacional* and the *Universidad de Antioquia*. 
students before them; on these charges many were subject to life threats, disappearance, interrogation under torture, and exile. Meanwhile the social and economic segments of society kept nurturing the idea of the public university as soiled ground for disorder, social disturbance, and of a structural incapacity for preparing the leaders that the country needed. With the presidency of Belisario Betancur (1982-1986) radical shifts were to happen. In the midst of attempts to open up lines of dialogue between the guerrillas and his administration Betancur appoints Fernando Sánchez as new rector and urges him to start a similar process within the university. Although Sánchez’s sustained attempt to overcome the radicalized positions among different factions in campus, the search for convened solutions is frustrated by a more pungent confrontation between rector and students that leads to the death of a student activist. A new militarization of the university and its accompanying violence leads to an indefinite closure of the campus. Sánchez Torres resigns and Marco Palacios, a highly reputed academic -a historian with an Oxford Ph.D., today faculty member of the Colegio de México - is commissioned by Betancur as new rector of the university. Palacios’ agenda, as noted by Melo and Ramírez (1988), included reconstructing the relationship university / State / society.

"The rector’s project was not only concerned with maintaining open the university, but also with a series of transformations in the life of the institution that would guide it to achieve its true function as student educator and critical interpreter of society. The claim was to break through the so called 'university ghetto'
in order to strengthen, in a sort of 'reconciliation', the ties of the institution with civil society and with the State. This lead to a reinforcement of the perception of the university as a center of analysis of the country, as well as to extend the activities of consultancy and research.\footnote{Melo and Ramírez (1988: 92, translation mine).}

A generous budget, a substantial decrease in violent confrontations within the campus, and the implementation of concrete administrative and academic policies led the Universidad Nacional to begin recovering its once lost prestige. Today many see as Palacios' most important achievement the creation of the Instituto de Estudios Políticos y Relaciones Internacionales -IEPRI-, a vanguard center for social and political research that proved to be the most important liaison between the University and the State in the years to follow. With the IEPRI, a new era for a privilege position was to unfold. As Salomón Kalmanovitz, former Dean of Economics at the Universidad Nacional pointed out while making reference to the first visible intervention of the IEPRI in the political affairs of the country:

"Practically all the researchers that participated in one way or another in the commission for the study of violence came from elite public universities. This highlights the fact that neither the private university, nor the confessional one, nor the public campuses of province, could cope with the task that modern society assigns to the university: To research with deepness and seriousness, through a highly qualified personnel with an independent and critical standing, the
scientific, technical, and social problems in order to provide minimum guidelines for State action.\textsuperscript{82}

Social Research and Politics: A disquieting pair.

Since its origins in the early 1960s the department of Sociology at the Universidad Nacional had a remarkable record of commissioned studies all under the framework of the Alianza para el Progreso, Kennedy's program for Latin America. By 1963 Orlando Fals Borda - founding chair of the department and PhD from the University of Florida at Gainesville, together with Father Camilo Torres - sociologist from the University of Lovaine in Belgium and the social anthropologist Andrew Pearse were engaged with vast research, consultancy, and technical assistance with different State agencies (Ministry of Agriculture, Ministry of Interior, Colombian Federation of Coffee Growers, among others) and international organizations (Interamerican Committee for Agricultural Development, Interamerican Housing Center, Interamerican Program for Popular Education). Research was centered around the socio-economic changes in rural Colombia, violence, family structure, regional planification, and acción comunal (community action). By mid 1960s the department of sociology had already become a hiatus in the development of the Colombian social sciences. As Eduardo Rueda highlights,

"[In the department of sociology] two generations came together: That of the alumni of the Escuela Normal Superior and the Instituto Etnológico Nacional,

\textsuperscript{82} Kalmanovitz (1990: 40, translation mine)
most of whom had graduate degrees from the US, and a new generation influenced by modern US sociology... Both generations were united by one same circumstance: they had all been touched in some way by violence. The former had been expelled from the Etnológico, persecuted and accused, up to the point of having to immigrate. The latter, because they were formed in the difficult historic period [of La Violencia]. But both generations were preoccupied in unveiling the causes and circumstances that had permitted such a tragic event.\textsuperscript{83}

By mid 1960s it was clear that Colombian sociology had entered a accelerated process of institutionalization, later to be frustrated by the political unfoldings and the radicalization of the public university. The fragility of this process, as the Colombian sociologist Gonzalo Cataño (1986) points out, began to manifest at a moment of self-critique within the discipline: First, Orlando Fals Borda's strong critique within the department against the detached and objectifying forms of academic research were pushing towards Fals new epistemological standing, the investigación acción-participativa, by means of which researcher and researched merged into a common political standing. Fals project if articulated with the rising sentiments against US interventionism and the new hopes that were stirred by the Cuban revolution, became a dangerous methodology that could lead to an overtly revolutionary path. Second, the research and consultancies that had been undertaken were disclosing a further more complex reality that called upon the need of radical changes in land tenure, power distribution, and social welfare; such

\textsuperscript{83} Rueda (1993:190, translation mine)
disclosure determined an increasing tension with State projects which finally lead to Camilo Torres' decision to join the guerrillas, in October 1965. As Gonzalo Sánchez (1997) argues, in the life and work of Camilo Torres the tensions between critical thinking and guerrilla action came to its maximum tension.

By 1965 the department of sociology at the Universidad Nacional was already a failed project in the eyes of the State. The department had been stigmatized by its academic production and by Camilo's legacy. Many of the department's published works caused major distress, specially the first volume of La Violencia en Colombia in which the authors unveiled the atrocities that were being committed in rural areas of the country; and the political writings of Camilo Torres\(^4\) that triggered poignant reactions from both, Bogotá's elites who felt a deep betrayal from one of its most esteemed and revered members, and the high clergy, who saw in Camilo a major threat to authority up to the point of fingerling him publicly as mentally disarrayed. On the other hand, Camilo's decision of joining the guerrillas was yet another argument for believing that the university, and in particular the department of sociology, had become a cradle of delinquents.

As the political radicalization within the campus unfolds after Camilo's death in 1966, the department of sociology became a battlefield between different political factions that had divergent perspectives about how to come to terms with an ideological agenda that would lead research towards a radical transformation of reality.

\(^4\) For a exemplary selection of Camilo Torres' political writings see Escobar (1991).
By the end of the 1960s and early 1970s, the students movement, claiming a theoretical and practical affiliation with Marxism, virulently confronts the reforms to higher education introduced by the State with the help of foreign advisors on the grounds of US cultural invasion. The product of such confrontation unleashed a profound xenophobia that aggravated the already existing marginalization of the department of sociology. Soon the department was deprived of foreign money that was channeled mainly through the UNESCO, the Ford Foundation, the Fulbright, and the universities of Wisconsin and Münster. By then the State was not interested neither in the public university nor in sociology.

The active department of sociology of the early 1960s shifted into a lame department, alienated from the country's reality, and interested in defining theoretical problems such as the nature of the object in sociology, the relationships between object and subject, and so forth. The publications of the department shifted radically: The days in which the problems of violence and land tenure were axis of research gave way to papers on Hegel, Marx, Weber, Parsons, and Durkheim. The new project at the department was built upon the belief that only with a deep and clear understanding of 16th to 19th century European social and philosophical thinking could the department claim for intellectual independence. With this argument the silencing effects of fear were tinged and presented in an intelligible manner with such power that still today the department of sociology is considered to be immersed in its own cocoon, in its own fear. For the history of sociology in Colombia research and politics proved to be really a quieting and silencing pair.
La Violencia historicized

The intense political radicalization in the Universidad Nacional, the work of Guzmán, Fals and Umaña, as well as that of Camilo Torres kept lit a felt need to understand what had given way to the sustained political killings in rural Colombia during La Violencia (1945-1965). But this time the space for embarking on such a quest would be different. The department of sociology had entered a phase of intense depolitization and distancing from its founders, but the history department at the Universidad Nacional, with its reputation and sustained continuity since its origins at the Escuela Normal Superior, promised to be a safe soil in which to engage research on the touchy and tricky topic of La Violencia. The influence of prestigious schools in Colombian historiography (that of Marc Bloch and Lucin Lebvre, that of the New Economic History, and that of Marxism); the reputation that the Colombian historiographers had gained as interpreters of national processes (Juan Friede, Jaime Jaramillo Arrubla, Germán Colmenares); and the political diversity within the department that made impossible the consolidation of strong and activist ideological blocks, maintained history as a visible and recognized discipline. The new generation of historians combined this legacy with a Marxist influence and a desire to make sense of the Colombian violence of the 1950s and 1960s. With them a new chapter in Colombian historiography was born, that of the history of political violence.

In a short essay Bejarano (1985) makes a comprehensive balance of the approaches to the topic during the 1970s, and suggests
that research had as a frame of reference the early works of Eric Hobsbawn and Gonzalo Sánchez. Hobsbawn in his essay *La Anatomía de la Violencia en Colombia* (1974) characterized *La Violencia* as one of the major peasant mobilizations in the hemisphere, with the exception of the Mexican revolution, that degenerated into an anarchic civil war. Gonzalo Sánchez, in a paper entitled *La Violencia y sus Efectos en el Sistema Político Colombiano* (1976), furthers Hobsbawn’s characterization by adding that this anarchic war was particularly different from other peasant movements as it combined agrarian reformism with agrarian revolution and political banditry. Within this context the key question was What triggered this specific and violent peasant mobilization? The historiography that followed took two different venues: The first, interested in exploring *La Violencia* as the result of a strife for power among the elites that, combined with a weak and fragile State formation, led to a dissociation between the political spheres and the changing circumstances in the social and rural contexts; a dissociation that could only be broken through the exercise of violence. The second venue was committed to exploring the socio-economic factors that associated violence with capitalist development and modernization of the agriculture; or with a strategy of the dominant classes to frustrate democratic processes of access to land, specially in the Coffee regions of the country.

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85 See for example the work of Arrubla (1978), Fals (1968), Gilhodés (1976a), Palacio (1980), Pecault (1976); or Pollock (1975).

86 See for example the work of Fajardo (1977, 1981); Gilhodés (1976b), and Kalmanovitz (1978).
As Bejarano (1985) and Ortíz (1994) point out, Paul Oquist's interpretation of Colombian violence was instrumental for triggering new questions that would lead to a "rediscovery" of *La Violencia* in the mid 1980s. Oquist's study *Violencia, Conflicto y Política en Colombia* (1978), parallels the collapse of the Colombian State with the emergence of *La Violencia*, and highlights that the violent peasant mobilization was a composite that included layers of multiple social processes that were disclosed distinctively, rather than homogeneously, throughout the country. The new possibilities opened by Oquist's framework were boosted in 1982 with the Presidency of Belisario Betancur (1982-1986). Betancur's inauguration speech opened up new spaces for dialogue with the guerrillas, and his policies towards the *Universidad Nacional*, as I argued below, allowed for a reconciliatory process between the public university and the State. Talking and thinking about violence was no longer an indication of subversive sympathies but rather a national concern.

Overall, Oquist's analysis and Betancur's policies permitted the flourishing of a vast academic production on *La Violencia*. As Sánchez (1991) notes, two clear tendencies emerged in the historiography of violence: On one hand, studies that stressed on long durée perspectives through which *La Violencia* was understood as a structural component of the country's socio-political evolution. Under such perspectives research was guided by a desire to expand on the existing continuities and discontinuities with the vast spectrum of Colombian civil wars. On the other hand, a boom on regional

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87 See Bergquist (1981), Bushnell (1986), Jaramillo (1986); Ortíz (1985); Pecault
studies concerned in exploring the minute dynamics that defined the relationship between local agrarian and class structures with social conflict\textsuperscript{88}. Of special importance within this body of literature was Medófilo Medina's essay \textit{La Resistencia Campesina en el Sur del Tolima} (1986) engaged not only with the process of \textit{La Violencia} in the region of Tolima, but also with how it began to shape the contours for the emergence of the FARC, the oldest guerrilla in Latin America. From Medina's work yet another important venue of research would flourish, one that would articulate historical, political, and sociological interpretations with the emergence of new actors in conflict (see below: Presidential Commissions, Violentology, and the "Actors in Conflict" Model).

In the midst of this overwhelming production of studies on political violence, three events sealed the importance of \textit{La Violencia} as an axis of research in the social sciences: Two national seminars on the topic and a international symposium in June 1984. Besides addressing many of the issues that I have been raising throughout this section, the \textit{Primer Simposio Internacional sobre la Violencia en Colombia} \textsuperscript{89} had as one of its main goals the opening of dialogues between social researchers and artists in order to explore the cultural and artistic manifestations of \textit{La Violencia}. Unfortunately

\textsuperscript{88} See Arocha (1979); Fajardo (1979); Henderson (1985); Sánchez and Meertens (1983); Sánchez (1985).

\textsuperscript{89} Many of the papers presented in the symposium were later published by Sánchez and Peñaranda in 1986. See \textit{Pasado y Presente de la Violencia en Colombia} by Sánchez and Peñaranda (1991 [1986]).
this exploration was never encouraged and what was left of the
connection between cultural productions and violence was the
coining of a quite problematic concept, that of culture of violence.

In an interview to Jaime Arocha\textsuperscript{90} - an Anthropology Ph.D. from
Columbia University who's dissertation had just been published in
Spanish\textsuperscript{91} - his peer, Nina S. de Friedmann suggested the existence of
an "immemorial culture of violence" in Colombia. A concept that
while echoing an influence from the materialistic and ecological
schools in anthropology, highlighted a fatalistic and perverse
representation of Colombianeness. Some years later, in one of the two
national seminars, the concept was reintroduced by yet another
Colombian anthropologist, Carlos Uribe.

"There is a chapter in the great entanglement of the
immemorial Colombian violence that is kept carefully
veiled. I am referring to the cult of death and of the
symbols of violence that, with irrevocable vocation we
Colombians profess. It is a 'culture of death' that from
the remote times of the past has rooted deeply and
firmly in this piece of land that we now call Colombia.
We are all participants and as such we are all, in some
way, to blame. One doesn't need to be a gunman to be
part of the great congregation."\textsuperscript{92}

Within the framework of the seminar the concept caused a
flared curiosity and was soon appropriated by others in an attempt
to expand their interpretative toolboxes. The appropriation of the

\textsuperscript{90} See Magazín Dominical. \textit{El Espectador}, Bogotá, June 1, 1980.

\textsuperscript{91} See Arocha (1979).

\textsuperscript{92} Uribe (1988: 53, translation mine).
concept made its way to diverse spaces, from reports of presidential commissions\textsuperscript{93} to constitutional studies\textsuperscript{94}, and later on even to public culture. Today it seems that "culture of violence" has become a naturalized token in the Colombian imagination that, rather than clarifying, adds to the confusion and indifference and, as Thewelweit writes (1989) dangerously resembles arguments of extreme authoritarianism:

"The 'aggressive nature of human beings. The not-yet-fully-born is unsettled not only by his own emotions, but by emotions in general -by the human potential of others. He will sacrifice anything to avoid facing the dangers he perceives in the threatening animation of human productivity. He fears the uncertain future of historical potentialities -for who knows whether they will be endurable?

Alongside the fear that is the residue of the great wars, of fascism, the concentration camps, Stalinism, torture, the bomb, the fear of human potential is one of the most significant instruments of contemporary reterritorialization. We have come to distrust the powers of humanity: 'We have seen what humanity is capable of ... now let us leave it be. Let us restrain desire, the unconscious, the emotions -for they lead only to horror. We are best advised to learn to keep them under control, to master ourselves and others.'

Such fears may also be the source of the immense popularity of theories of human beings as intrinsically aggressive -for aggression itself is a source of relative concentration and self-collectedness. 'No' Göring sighed, 'there is a curse on humanity. It is dominated by the hunger for power and the pleasure of aggression' -Göring, 9 March 1946, in his Nurenbeg

\textsuperscript{93} See Comisión de Estudios sobre la Violencia (1987).

\textsuperscript{94} See Valencia Villa (1993).
cell, in conversation with the American psychologist Gilbert) ¹⁹⁵

While conducting fieldwork among the members of the IEPRI I brought up this issue on several occasions. To my surprise I found that the concept had been appropriated with a radically different meaning. It was meant as a tool that would highlight the cultural elements through which violence is re-created and transformed; in other words, a tool that would serve the purpose of stressing the urgent need of engaging research that explores the connection between cultural production and violence. Unfortunately, it was too late to restore the social effects of this misrecognition. Today, as one of my interviewees once mentioned, all Colombians are experts in interpreting violence, but with luck only a handful go beyond the culture of violence explanation.

3. Realignments and Crossroads

The IEPRI and the invention of violentology

The public proscription and mystification of topics on violence in Colombia, specially after the dirty war unleashed during the Turbay administration (1978-1982) and the assassination, disappearance and threats to intellectuals and artists, led to a self imposed censure in the social sciences. To talk about contemporary violence or more

so about guerrillas during those years was to hang a death sentence in ones shoulders. In August 1982 the Betancur administration was inaugurated with the promise of opening the space for a national dialogue that would bring peace with guerrilla groups. A new political pact between State and insurgency was in the horizon, and with it came the shaping of a new cultural pact between intellectuals and the State. The establishment and development of the Instituto de Estudios Políticos y Relaciones Internacionales -IEPRI- is the most explicit manifestation of such a pact. The sections that follow explore the crafting of the IEPRI within a broader context of national politics, mass media, and expectation building.

a. The IEPRI. Its Origin and Ideals.

The establishment of the Instituto de Estudios Políticos y Relaciones Internacionales -IEPRI- comes as a response of the public Universidad Nacional to the lack of presence of the academia in political debates. The peace pacts of the Betancur Administration, as it was argued in the sections above, opened up public debates around violence, amnesty, peace and negotiations with guerrilla groups. Although the tragic unfolding of the dialogues with the M-19 and the virtual collapse of Betancur's peace dialogues Marco Palacios, a prominent historian with an Oxford Ph.D., by then rector of the Nacional, sees in this context an opportunity to establish, within the university, a multidisciplinary institute for research and opinion building on national politics and international relations. In March 1985, Palacios constitutes a special commission in charge of exploring the possibilities of creating an MA program in Political Studies and
International Relations. Gonzalo Sánchez, by then professor in the History department, is appointed chair of the commission formed by three professors of the School of Law (Eduardo Pizarro, Víctor Moncayo, and Pablo Cáceres), and one from the department of Economics (Jesús Antonio Bejarano). In March 1986 the commission's report suggests to Palacios the creation of a research institute that would eventually serve as basis for a graduate program. In July 1986 the Consejo Superior of the university approves the creation of the IEPRI as a space that would respond to the needs of "contributing to the formation of a political culture engaged with the building of consciousness around peace, with the development of a political democracy, and the strengthening of international ties."\(^{96}\)

Since its origins, and specially with the boost that came from the results and public exposure of the IEPRI after Barco's presidential commission (see below), the Institute became a highly visible space in the national political panorama. As Sánchez said throughout one of our conversations, because the immediate involvement of the Institute with issues of national relevance it soon began to have a profile of its own. Today it is common for people to think of the IEPRI as something that is completely different from the Universidad Nacional. After ten years of intense productivity the IEPRI has become a necessary reference point on topics that range from short term political evolution and analysis, to drug traffic and guerrillas. Although the major stronghold of the IEPRI has been political violence and peace strategies, since the 1990s new areas of research

\(^{96}\) For a detailed evolution of the Institute see IEPRI (1996).
have been opened. Since 1995 the Institute has four major areas of interest: Illegality and Violence; Governmentality, Democracy, and Human Rights; Education Policies and Political Culture; and International Relations; all guided by the ideals of "working for the construction of a political culture based on tolerance, peace and the development of democracy." The visibility and importance that the IEPRI has gained throughout the years, its positionality within a broader history of relations public university / intellectuals / State, and its particular development during the last ten years render it as a unique space that reflects the paradoxes and contradictions that are shaping and defining the role of the intellectual in a country with complex and multiple formations of violence.


The Barco administration (1986-1990), inaugurated with the political slogan mano tendida y pulso firme (extended hand and firm pulse), combined military actions against insurgency and drug cartels, with the simultaneous promotion of rural strategies for development and spaces for negotiation with guerrillas. The latter policies where articulated in Barco's peace initiative. Barco's project was built upon the hopes and ruins left by the former administration's dialogues with the guerrillas, and still with the vivid memories of the tragedy of the Palacio de Justicia. The new attempt to search for dialogue with the guerrillas, in part echoing the jargon

of the pacification policy of 1958, was best summarized by its labeling: *Una Política de Cambio para la Reconciliación, Normalización y Rehabilitación.* (A Policy for Change for the Reconciliation, Normalization, and Rehabilitation). The Barco's strategy was meant to bridge the State and community (reconciliation), through the legitimation of normal institutional spheres for debating difference - i.e. Congress- (normalization), and through an ambitious rural development program in marginalized areas of the country -i.e. with heavy presence of guerrilla- (rehabilitation).

During his first year in office Barco commissions Fernando Cepeda, a polemic professor of political science from the *Universidad de los Andes*, as Minister of Interior. In early 1987 Cepeda, on behalf of President Virgilio Barco, calls recognized social intellectuals to conform a commission in charge of providing the Executive branch with "an independent and autonomous vision of contemporary violence in Colombia, as well as its roots, modalities, and regional proportions."98 With this gesture the Barco's administration officially and publicly inaugurates that new cultural pact established informally, a couple of years before, during the presidency of Belisario Betancur.

The *Comisión de Estudios sobre la Violencia* (Research Commission on Violence), as it came to be known, was formed on the basis of information released to Cepeda by Colciencias, a national funding agency that identified the names of those who had recently received research grants for developing topics around violence. Soon

the Comisión was formed. Its ten members were all academics of public universities - Camacho and Guzmán from the Universidad del Valle; Arocha, Fajardo, Jaramillo, Pizarro, and Sánchez from the Universidad Nacional; Ortíz from the Universidad del Quindio; and Peláez from the Universidad de Antioquia) with the exception of Luis Alberto Andrade a retired Army general. Once Cepeda made clear what the Barco administration was asking from the Comisión Gonzalo Sánchez, former chair of the History department at La Universidad Nacional and one of the IEPRI's most visible figures, was appointed as its coordinator. The commissioning of this study to recognized figures ascribed to what had been for years the stigmatized campground of social revolt was felt as an official reconciliation between State and intellectuals. A reconciliation well on its way in the Southern Cone that imprinted new dimensions to social intellectuals: The role of academics was expanded to that of specialized analysis, consultants, mediators between parties in conflict, and manufacturers of public opinion.

After six months of regular meetings and debates the Comisión had produced a set of short descriptive documents followed by sets of policy recommendations. The collection of such documents was then published by the IEPRI in collaboration with the Universidad Nacional and officially presented to Barco in the form of the book Colombia: Violencia y Democracia. In their exclusively pragmatic writings the Comisión made special emphasis in developing a typology of violence which highlights the coexistence of negotiable violences and non-negotiable ones. The former being political and organized violence -guerrilla, paramilitary squads, narcotraffic-, and
the latter being economic and cultural violence - violence reproduced in low income segments, family violence, violence and media, etc. This "report from the academia" concludes with the urgent need to promote a political reform.

With great expectations the government and the media received the published report of the Comisión. For President Barco Colombia: Violencia y Democracia was to become a landmark in the understanding of violence. On the occasion of its release Barco said:

"This publication will be an obliged text for all of those engaged with the analysis of the origins and actions of both armed organizations, and other organized or spontaneous forms of criminality that have disrupted our harmony and peaceful coexistence... Once the report is analyzed by the governmental authorities, as it will from this point onwards, as well as by political groups and media, a national debate on the topic will offspring. And this debate will provide the government with adequate tools for an independent evaluation of current and future policies." 99

The expectations of the media were also high so as the frenzyness product of the need for manufacturing headline news. Constant squads of journalists kept plunging into each of the members of the Comisión who had been consciously careful of their comments. In an interview with Alvaro Camacho, a member of the commission, a journalist from the prestigious periodical Semana asked, "What do you all have in common?" Camacho, in an amusing tone responded, "We, the violentologists, are all the most peaceful

people in the world". Today, ten years later, Eduardo Pizarro, a senior researcher at the IEPRI and member also of the Comisión still recalls Camacho's joke. Pizarro, in one of our conversations shrewdly remarked, "A bad joke of Camacho's that by chance was published by Semana." A joke that made up a label that, because of the media, gained status and later, national and international recognition. As Pizarro notes, today Mancilla, a Bolivian intellectual who writes on violence, is already talking about the German violentologists.

As Barco's administration moved on, and as noted by Barco himself during his speech, the government did analyze the report, and further, it later made active use of it by incorporating its arguments and jargon to a policy framework for the containment of violence: The Estrategia Nacional contra la Violencia (The National Strategy against Violence), framework of legitimation for the contention of violence through state of siege measures, became the most explicit example of the Executive's appropriation of the work of the violentologists.

Sánchez: "After the publication of 'Colombia: Violencia y Democracia' is interesting to see how much of its arguments were incorporated to the official jargon of the State. This of course is an important contribution, but also a complex problem. I remember when we began to analyze in the IEPRI the Barco's administration 'Estrategia Nacional contra la violencia'. It was surprising to see how that text was using all the language of 'Colombia: Violencia y Democracia'. It was full of it! But of course not with the same meaning. The language of our book had become instrumentalized, absorbed, and
reinterpreted, posing complicated questionings to us as intellectuals. I remember that we had in the IEPRI a very intense debate on this matters. It really was a debate that touched the IEPRI from the inside because the bottom line of the problem was that we had not defined clear limits between our agenda and that of the State. We had an immense ambiguity that went beyond ourselves: We had assumed an academic position, and that meant understanding that, when published, our work became of public domain, a social artifact if you will, that was read and taken in different manners. When 'Colombia: Violencia y Democracia' was published the FARC produced a press release with very positive comments on the book. Then we were in the middle of two opposites. It was very complicated for us to take positions. So the appropriation and instrumentalization of the language of the book by the State was a very complex matter."

In September 1988 the first contacts between the Presidential Advisor for peace and the M-19 guerrilla took place. On March 9, 1990 and after more than a year of conversations, demobilization of the guerrilla, and polishing of agreements, a peace treaty was signed with the M-19. Following this first successful negotiation came two others, one with the EPL guerrilla and another with the Quintín Lame, both during the Gaviria administration. With the peace treaties signed over 4.000 insurgents began the arduous process of re-incorporation into civil life. In despite of these thriving processes, negotiations with the FARC -the eldest and biggest guerrilla in the continent (with over 20.000 combatants)-, and the radical ELN were elusive at its best. Colombia was still in turmoil and the recognized
agents of conflict (guerrillas, paramilitaries and drug cartels) didn’t seem to be overrun but rather radicalized in their attempts to gain more military and political control.

In a context of sustained conflict, the use value of a model that stresses the historical, political, and sociological backgrounds of those agents that are politically recognized by the Executive branch as actors in conflict becomes paramount. Such input would provide the administration with a broader understanding of "the enemy" thus potentializing the administration’s own political leverage at the time of possible negotiations. This mode of interpretation, known in Colombian social sciences as the "Actors in Conflict" model, found a way of flourishing in the IEPRI. Since its origins in 1986, the IEPRI invested an important part of its energy and resources towards research on violence and democratic conditions for peace. Such decision is reflected in the importance that the studies on illegality and violence have gained throughout time\(^\text{100}\). The production of knowledge and the desire of the Executive branch to widen negotiations to the FARC and ELN guerrillas, and possibly -although

\(^{100}\) The first reference to actors in conflict was explicitly made in 1989 by Socorro Ramírez and Luis Alberto Restrepo, both members of the IEPRI, in a collection of essays on the peace process of Betancur (See Actores en Conflictio por la Paz). With the emergence, since the mid and late1980s, of other recognized violent actors (drug lords, paramilitary, and sicarios -hired gunmen), the literature on violence expanded in multiple directions. See for example Alvaro Camacho’s Guerra y Sociedad en Colombia (1988), Carlos Medina’s Autodefensas, Paramilitares y Narcotráfico en Colombia (1990), Francisco Leal’s Al Filo del Caos: Crisis Política en la Colombia de los Años Ochenta (1990); William Ramírez’s Estado, Violencia y Democracia (1990); Eduardo Pizarro’s Las FARC 1949-1966: De la Autodefensa a la Combinación de las Formas de Lucha (1991), and Insurgencia sin Revolución: La guerrilla en Colombia en una perspectiva comparada (1996); Ivan Orozco’s Combatientes, Rebeldes y Terroristas: Guerra y Derecho en Colombia (1992). Fernando Sarmiento and Ciro Kruthausen’s Cocaina & Co: Un mercado ilegal por dentro (1991).
never officially- to drug cartels and paramilitary squads, met in the "Actors in Conflict" model. Under this logic the IEPRI has produced a wide spectrum of documents and books that range from historical perspectives of violence in Colombia, to case analysis on peace policies and their failures, drug money and land tenure, paramilitary violence, and criminal policy in Colombia. Ironically, the same intellectuals that promote this model are those that in the first presidential commission argued vigorously for the recognition of multiple and increasing non-negotiable violences.

In early 1991, and in the midst of the reincorporation to civil life of the EPL ex-combatants, the Office of the Presidential Advisor for Peace and the Office of the Presidential Advisor for Human Rights, contacts a group of intellectuals with the purpose of forming a second presidential commission. The Comisión para la Superación de la Violencia (The Commission for the Overcoming of Violence) was soon configured by six members: Pizarro and Reyes from the IEPRI; De Roux from the Jesuit NGO Cinep; Gallón from the Comisión Andina de Juristas -an NGO for justice and human rights-; and by Eduardo Díaz and Roque Roldán. As in the first commission the general coordinator was from the IEPRI (Alejandor Reyes). The final report of the commission, published in 1992 as a book Pacificar La Paz, stressed on the regional conditions where the ex-combatants were settling. The report, following the logic of the "Actors in Conflict" model, constructs an Atlas of violence highlighting the "violent agents" that are crosscutting regional dynamics and that have the potential of undermining the process of reinsertion to civil life of former guerrillas. The report concludes with practical policy
recommendations for the construction of new rules for civil coexistence. As a novelty, the role of the intellectual under this commission is expanded to that of a committed actor in the viability of post-negotiation phases with former guerrillas. It was during this same year, 1992, that the intellectuals sealed their distance from the still active guerrillas, a seal that also protocolizes that new cultural pact between intellectuals and State. In the midst of a dramatic increase in kidnappings, bombings of oil pipelines, and urban terrorism perpetuated by the FARC and ELN guerrillas, the intellectuals sign a public letter to the Coordinadora Guerrillera Simón Bolívar (Joint Command of the FARC and ELN). The letter denounces the guerrillas as having lost all political ideals and ideological contend while promoting acts of terror unacceptable in any revolutionary tradition.

With the two presidential commissions intellectuals ran the risk of becoming the good conscience of the Executive's policies, policies that usually understand the contention of violence as a problem to be resolved by fueling the already overwhelming practice of presidentialism. A practice that, based on state of siege legislation, gives full legislative powers to the Executive branch thus allowing for totalitarian measures based upon extended repression and restrictions of fundamental rights of citizens (see section on The Law, below). Under such framework the work of the violentologists is seen as one of the inputs needed for a technical and efficient design of conflict resolution strategies. Although the violentologists feel such contention as one based on a misrepresentation by the Executive, a shadow of ambiguity still lingers: The violentologist claim as theirs
the noticing of multiple non-negotiable violences that crosscut Colombian realities, but at the same time have centered their interest and studies on models that render these violences and their victims invisible. This ambiguity is reflected in the following account by Gonzalo Sánchez, former chair of the first presidential commission and director of the IEPRI.

*Sánchez*: "There is a central issue in 'Colombia: Violencia y Democracia' that has not yet received an adequate recognition. Throughout my ongoing research on the history of war and violence in this country, I have encountered not just a long tradition of bloody warfare, but also simultaneously long traditions of conflict negotiation. Paradoxically, and albeit our own history, in Colombia we've been entering a phase of despair, we are out searching for international gurus, and we are buying all those technocratic tales that tell us that someone in the world has found the formula for peace. And here we are with this long tradition which is very well documented. A foreigner that comes to this country has to marvel about the capacity for conflict negotiation that we've unfolded throughout our history, but meantime we Colombians want the handy manual from foreigner experts. And this is so bothersome because it highlights a truly perverse parochialism, a false sense of globalization."

*Villaveces*: ""The famous Harvard guru that was recently invited to give some talks in Urabá."
Sánchez: "How about that! The country is spending millions to bring a gringo to say that the first thing we have to do in order to negotiate is to define a common ground. And this sort of things are the ones they come to say! Then in the major newspapers of the country you find headline titles that say 'An international expert says that in order to negotiate we must first define common grounds, and find a space for initial distention.' What I want to highlight here is the critical moment that triggers this unfolding: A very important aspect that was stressed throughout 'Colombia: Violencia y Democracia', was that this country has negotiable violences as well as non-negotiable ones. At that time this was a very audacious thing to say, and it happens to be, as we suggested in the book, that the macrocephalic growth of the latter would become overwhelming. But although this irrefutable fact we are still engaged in trying to find formulas for negotiating a violence that no longer exists. Strictly speaking political violence has entered a phase of very strong dilapidation brought in the form of guerrilla gangsterization. And this is reinforced with economic factors, with what I sometimes call the monetarization of violence through narcotraffic. To establish a guerrilla is to establish a business. Today if we want to dismantle the guerrillas we must dismantle big business, big enterprises. And this brings us to a completely different dynamics; one in which we no longer have clear interlocutors for a process of negotiation to take place. Today we are facing a different violence and still haven't realize it."

As Sánchez suggests throughout this fragment, the rapidly changing and contingent oriented desires of the State have now
framed the use value of research on violence under standards of conflict negotiation. As such, useful knowledge on violence becomes either that which allows for the economic modeling of causes and effects of conflict\textsuperscript{101}, or that which allows for constructing manuals for conflict resolution\textsuperscript{102}. The section that follows explores the emergence of these two new Colombian master narratives on violence, and the pull of attraction that they have on important segments of the publicly recognized "violentologists".

c. Allures of Power, Enticements of the State: The logics of conflict resolution modeling.

This section highlights, on one hand, the tensions that unfold within the IEPRI when trying to maintain the privileges of being the major contractor of the State's Executive branch while questioning the technocratic logics that give shape and direction to contemporary Colombian public administration. On the other hand, this section suggests that the most tempting resolution of such tensions is that of assuming the role of organic intellectual of the Executive branch, more aligned with models that disregard the depths of social sciences, while promoting what the Executive branch renders as "a type of research that is more important for the country", as a supraminister during the Gaviria administration labeled it. The

\textsuperscript{101} See for example Gaitán, in Deas and Gaitán (1995).

\textsuperscript{102} See for example the book of Bejarano (1995), published after being Presidential Advisor for peace negotiations during the Gaviria administration, or the book of Ríos (1997), published while still in office as Presidential Advisor for peace negotiations in the Samper administration.
following fragments from a conversation with Gonzalo Sánchez, director of the IEPRI, map out the context of such tensions as they are lived and interpreted from a self-reflexive perspective.

*Sánchez*: "Throughout the history of the IEPRI we have had a very complex problem because the external demands are overwhelming. We have to pay a toll for the success and visibility of the IEPRI. In a relatively short time it became almost impossible for the Institute's members to be thinking about long term research. The pressure from the media, and from State agencies that had hired consultancies with the Institute, required us to produce results on short term basis. This is a difficulty that we have been facing. The visibility of the IEPRI as well as the permanence of its members in the Institute is conditioned to high levels of productivity but often at the cost of depth in their research. And many critique us for this, not without a reason. But I think this has to do also with real unbalances between the different research rhythms within the Universidad Nacional. On one hand, the department of Sociology sees the Institute with great rivalry because they've always had the pretension to produce a great theory, definite for the country. But we are still waiting for it. On the other hand, the Institute has been more pragmatic and has engaged in the rapid manufacturing of products for the market, products that don't have the depth of a paused analysis. We are conscious of this problem, but the question is not whether we decide on one way or the other, but rather that the positioning of the IEPRI doesn't allow for combining both rhythms as one would like. At points I have personally lived such tension, sometimes you get swallowed by an overwhelming
array of external needs, and this at the end overflows not just the individual, but also the community of "violentologists".

Villavceses: "What are concretely these external needs?"

Sánchez: "Well the petitions that we constantly receive from the offices of Presidential Advisor's, or from diverse institutions and State agencies. But I think that if we look at the book "Colombia: Violencia y Democracia" as the product that gave the IEPRI its identity we need to consider a broader picture: In the Barco and Gaviria administrations the State is broken in by what I would tentatively label a techno-bureaucratic generation. This generation is invested in the State's modernization and it comes fundamentally, as you know, from the Universidad de Los Andes. Now this generation is self-proclaimed as the providers of modernization, and for them it is possible even to technify the processes of negotiation and pacification. If one reads the reports of Pardo Rueda103 one sees that we've reached even the limits of precision: the reports talk about the phase of distention, the phase of negotiation, the phase of reinsertion. Then one has the feeling that the only thing left to be thought of is simply the way in which the administrative structure needs to be organized in order to bring about a peaceful resolution of conflicts. I think this type of imagination is formulated theoretically by Jesús

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103 Presidential Advisor for peace negotiations in the Barco administration; Presidential Advisor for national security and first civilian after 40 years to be posted as Minister of Defense, both offices during the Gaviria administration. In 1996 Pardo published a book about his time in office during those two administrations; see Pardo Rueda (1996).
Antonio Bejarano\textsuperscript{104} in his last book, 'Una Agenda para la Paz'. Bejarano begins by criticizing 'Colombia: Violencia y Democracia' by saying that here in the IEPRI we've done all the possible diagnosis but have never thought of, as he calls it, the architecture of negotiation. Now that he learned the architecture of negotiation by being presidential advisor and ambassador he is going to share his formula with all of us. Then he is self-proclaimed as the final theorist of the impasse of violentology, as the beginner of a new practical, realistic, effective, and executive research on violence."

\textit{Villaveces} : "Would you say that there is a shift in research from a structural analysis of violence, towards an analysis focused on conflict resolution which is more accepted and understood by decision making agents in the Executive branch?"

\textit{Sánchez} : "I think your question brings us again to what we discussed some time back. All of us have fallen into an incapacity of recognizing the fact that violence has transformed, and under the frame of this lack of recognition we compromised ourselves with the wrong debates. It seems to be common knowledge that the topic of violence is overdiagnosed; one sees in the public sphere a natural reaction to this, people say: 'If everything is overdiagnosed then what is it that we have to do?' And of course the natural unfolding of such perception is that of learning how to negotiate, and for that we bring experts. Then the biggest risk is for issues on negotiation to

\textsuperscript{104} Presidential Advisor for peace negotiations, and Colombian Ambassador to El Salvador and Guatemala during the Gaviria administration.
become technified. We can still talk about negotiation but only if we open the issue to broader depths, if we talk about culture and about the immense complexities of this country."

For most of the public culture, as well as for those in decision making spheres of the State, the studies on Colombian violence have already overpassed their initial task: violence in Colombia is overdiagnosed say many, and its thematic comprehension is exhausted; it is time to move on to the sphere of the concrete, to the sphere of the applied.

"It is true that the so called "violentology" has advanced in exploring the origins, nature, modalities, and geography of conflict -this means, of course, considerable advances from the point of view of the comprehension of violence as phenomena- but it is equally true that the analysis of conflict negotiation has no correspondence whatsoever with the achievements of the former studies; furthermore, "violentology" seems to exhaust the utility of its own studies as soon as it enters the elusive terrain of proposing viable solutions."\textsuperscript{105}

The instrumental imagination as dominant discourse in agencies ascribed to the Executive branch (Suprministries, Ministries, and Offices of Presidential Advisors), is presented then as a light that channels the primordial confusion of the diagnosis of the violentologists by means of expanding on short term studies that can very well serve either as competitive merchandise in the market of

\textsuperscript{105} Bejarano (1995: 7, translation mine)
political propositioning or as pocket referents for those in charge of designing strategies for conflict negotiation. Accordingly, the intellectual must look more like a mandarin in need of reformulating, as Bejarano suggests, the new set of questions to be posed:

"[Academic explanations] fill with details the scenes of conflict without contributing to alter the fundamental contents of those same scenes, that is, the framework of possible solutions and even less they contribute in specifying a set of goals and procedures for eventual negotiations. It seems then that the paradigm that informs "violentology" (which can be reduced, without a caricature, to a platitude definition: the study of the manifestations, causes, and consequences of violence) has come to an exhaustion, therefore, we require a set of new questions [...] that can bridge the plethora of research on violence with the empty grounds of research for peace."\(^{106}\)

And this claim folds back into a radical movement towards the production of short term functional work, as Alejandro Reyes, a senior researcher at the IEPRI mentioned in one of our conversations:

Reyes: "'Violence is explained because of the fragility of the State. Those who are engaged in observing the country in depth and detail as well as the course taken by the conflicts can't be doing analysis for a different reason than the consolidation of the State. The only alternative would be to conceive of intellectuals as functional to the insurgency. I believe that the situation in Colombia has put us in the position of being organic intellectuals of the State.'"

\(^{106}\) Bejarano (1995: 10, translation mine)
A position, without doubt enticed with the new institutional rhetoric over the topic, which answers official concerns such as those addressed by Armando Montenegro\textsuperscript{107} while in office during the Gaviria Administration:

"Why is it that thinkers are more interested in studying certain issues that, although relevant are less important for the country?... In the case of violence it must be accepted that part of the answer lies in the fact that for many years there hasn't been a demand or an institutional need to study this topic in a massive way. [This lack of demand or institutional need is] In a certain manner due to our lack of influence and concern over the issue which was considered to be of the exclusive competence of the military. Fortunately, this has changed rapidly in the last few years."\textsuperscript{108}

The official demand, as suggested in my conversations with Sánchez (above), opens the way to convene intellectuals not only around the needs of the State but also around spaces of cooptation. For the Executive branch and its agencies the IEPRI has become a space that provides services. A place in high risk, as I recall Sánchez's words, of becoming "the good consciousness of State policies". A consciousness that fuels technocratic perspectives and, as Uliasi says, "assumes a narrow vision of what social sciences can offer

\textsuperscript{107} During the Gaviria Administration (1990-1994) Montenegro was director of the Departamento Nacional de Planeación. A supraministry in charge of all national and regional economic and social planning.

\textsuperscript{108} See Montenegro's Presentation in Deas and Gaitán (1995: x, translation mine)
and more so, that frequently ignores the fact that the use, misuse and manipulation of social research forms part of wider political processes. In addition, the increase of demand for services form those State agencies (Supraministries and Offices of Presidential Advisors) helps to maintain an academic numbness by offering to the State converts a sense of protection, enhanced by the same fragility of the Colombian academia. The toll is high for what is at stake is having important segments of visibly public intellectuals embracing the role of mandarins, the allure of power. Perhaps it is accurate to say that in 1995, and specially since the publication of the books by Bejarano, and by Deas and Gaitán, explicit glimpses of a new unchallenged grand-narrative within the circles of power and decision making are beginning to emerge. A grand-narrative heavily charged with a technocratic rhetoric that exacerbates the already existing dissociation between the studies on violence and public culture.

d. The Twilight of the "Actors in Conflict" Model?

In seems odd but one of the most critical problems of Colombian society is that, although crosscut by a complex net of violent formations, it has lost its capacity to see them. Today few are the efforts to make visible these multiple and decentered violences. It seems instead that the Colombian, no matter its class origins, has been caught in a zombie like state of numbness and confusion. The constant reference and experience of differentiated violence(s) in all

109 Uliasi (1975: 291)
aspects of everyday life has, without doubt, exacerbated such confusion. Today every discourse on contemporary Colombia that circulates in the public sphere be it academic, institutional, technical, or colloquial uses implicitly or explicitly rhetorics on violence. But as Octavio Paz (1991) suggests, at certain times in history smooth shifts occur form the symbol to the scribble or empty symbol; and precisely this is the tragedy of Colombia. The rhetorics on violence have become cemeteries of empty symbols whose danger is well illustrated by Blanchot's own example:

"Among certain 'primitive' peoples (those whose society knows no State), the chief must prove his dominion over words: silence is forbidden him. Yet it is not required that anyone listen to him. Indeed, no one pays attention to the chief's words, or rather all feign inattention; and he, in fact, says nothing, but repeats the celebration of traditional norms of life. To what requirement of primitice society does this empty language, which emanates from the apparent locus of power, answer? The discourse of the chief is empty precisely because he is separated from power - it is society itself the locus of power."\(^{110}\)

Today the discursive cacophony of violence has called upon the need to search for novel ways in which to construct new stories about violence that instead of reifying it, reinstall it within public culture. In Colombia, as well as in former socialist states as Rubie Watson suggests (1994), a powerful question seems to be guiding such quest: What is the cost for the individual and for society when there are no significant frameworks for publicly exploring traumatic

\(^{110}\) Blanchot (1995 [1980]: 9)
experiences and memories of multiple, descentered and itinerant violence(s)? And furthermore, what is the social cost when there are no significant frameworks for publicly exploring the diverse and often contradictory institutional cultures under which order, security, legality and peace are negotiated, reinterpreted and recycled? Unfortunately, the hegemonic interpretative gaze of the "actors in conflict" model -which has ample circulation and recognition in public and institutional cultures- stands alone as the sole framework for relating violence with political culture, and with structures, spaces, and associations of power. In becoming such a powerful interpretative framework the model of "actors in conflict" has left few if any spaces for the intellectual imagination to engage in a creative thinking that could address the questions above. As Malcolm Deas (1995) suggests, the model of "actors in conflict" has become, at its best, a literature on folklore:

"People make histories from events... and from what the literature on violence is concerned, the histories have turned into a goal in themselves, they are studied practically as folklore, and folklore, as well as its study, is conservative, not revolutionary"\footnote{Deas and Gaitán (1995: p.83-84, translation mine)}

Today what is at stake is nothing less than defining how violence is understood. The call is to decide whether to choose an alignment with the highly recognized but deeply exclusive, deceitful and conservative conflict resolution imagination, or with still emerging subaltern gazes -for example those of progressive art
circles (the installations of Doris Salcedo -see Chapter Five-, or the performances of Alvaro Restrepo), or NGOs (the works of CINEP in popular barrios, or the works of AVRE with rural victims of violence). What I want to stress at this point though is that the efforts, within the local intellectual community, to account for the absences and deceptions of the "actors in conflict" models, blend local and global crossroads in their quest for novel ways in which to talk about violence: A self reflexive mode that accounts for the unresolved dilemma of how to relate with the State, as well as for the sense of fragility and marginalization of the Colombian intellectual is brought into dialogue with the collapse of grand narratives, and the need for re-inventing history. The following excerpt from a conversation with Gonzalo Sánchez, by then director of the IEPRI, highlights this through illuminating moments of self reflexivity:

Sánchez : "I think the time has come for us to resignify the issue of violence. We have to reinstall violence because we have come to recognize that we can't overcome violence, and that issues of violence can not be considered alone in themselves. The problem is of all our society, it is not a problem that is localizable in the guerrilla, or paramilitary squads, it's a problem that traverses our social texture, our day to day realities. Overcoming the problem of violence implies literally a reconstitution of our society. We have to change the old lens through which we have understood violence. In a sense we must abandon the issues on violence as we've been accustom to see them. Then in some sense one can say that the issues on violence are
exhausted. And this is because we are entering a new terrain that accounts, in better ways, for the complexity of the country. Maybe we were caught in a false trajectory in our research on violence, a trajectory that was responding more to a feeling of intellectual marginalization and stigmatization, and in so doing we personalized violence, we sort of mummified it. Now we have to overcome that, we have to recognize the depths of violence. Today we know that the guerrilla can't be overcome by simply trying to understand its history and what they stand for, I think that leads us to dead ends. Peace in a sense is no more negotiable with the guerrillas, and today talking about dialogue is talking about a dialogue with society, it's society in dialogue with itself, and agreeing upon a process of construction of society, agreeing on the construction of political models. We have to demystify the actors and the importance they had in our old ways of understanding violence. Maybe those actors have also fallen in the dead ends of objectifying violence, they are also caught in the problem of personifying violence, they are caught in the idea that they are the agents of violence but simultaneously have to face the tragedy of having nothing to propose. One common thing that one finds among people that have had certain contact with the guerrillas is that when they ask what is it that you are proposing? Their answer is always silence. Nowadays they have no political project, they have nothing to propose, but still they are caught in a very complex problem: maintaining the status of actors with no script to back them up. That is why I insist that we must engage with different perspectives. And that is also why I'm eager to search the people, the human faces, the real world, society. In a way
we need to break the dissociation between the text on violence and the real world. The problem with the research on violence in this country is that the authors constructed violence as a sort of crystal sphere that explains all without saying anything. Violence was turned into a ludic artifact. Now what we need to do in order to remove that ludic character is to turn it back into society. From there on I have no answers, I am standing at that borderline. The only thing I can say now is that we need to reconstruct our gaze."

Villavecés: "How did you arrived at such conclusions?"

Sánchez: "Well from my own perspective I think that there is an overlap between two issues: violence and the variations in international ideological processes. When Berlin's wall falls everybody flips. The French tell you that one can no longer speak about society, that one can no longer talk about struggles, total chaos. We have to return to the individual, we have to engage with postmodern jargon, with what it has of creative but also with what it has of annulling. This triggers an intense conflict in myself because those two things coincided, and not just in me, but in what has been the development of Colombian intellectuals. First I felt sort of responsible for all the things I've written in the past, then I thought that after the Wall I would have to throw to hell my book on the Bolcheviques del Libano (Tolima), or my book on Las Ligas Campesinas en Colombia, and that all popular movements and struggles went to hell because the damn wall fell! I began to take seriously all this so I thought that before our history -as we have
written is erased, we have to engage in the titanic effort to rewrite it. And this we have to do because the Wall did have profound consequences. The first image that the fall of the Wall left us with is that the whole history of the 20th century was an illusion, a phantom, a history built upon deceit and lies. At the end of the 20th century we discover that we were in Plato's cavern all the time. Now if we want to attempt to walk out of the cavern we must reconstruct everything. This is the same as what has happen here in Colombia with the studies on violence. Suddenly we see that the actors in conflict model has a lot of deceit and lies; but this doesn't mean that we have to simply forget about it, we can't erase the past but what we can do is reconstruct it. Then we have to go back again, make new sense of our history and return with a refreshing gaze towards violence. And here is were I feel we've come to a borderline, to a limit. I feel nobody is sketching new routes and I think this is so because we are facing an intellectual crossroads. What I want to highlight here is that I see a very complex crossroads between this global political process and our own concrete and local process as intellectuals developing issues on violence. Both of these come in conjunction in the contemporary Colombia. And that is why today the recognition of those limits as well as the need to search for alternative understandings is highly politicized. But as I'm suggesting I don't see clearly how this is unfolding in the Colombian milieu. I think today we are still caught in that impasse and probably we will still be caught in it for some time more."

*Intellectuals for democracy*
At the end of his book *Guerra y Política en la Sociedad Colombiana* (1991) Gonzalo Sánchez welcomes the reader to explore promising terrains that unfortunately have been, up to now, unveiled: Engaging with issues on Colombian violence nowadays demands analyzing a wide array of dimensions. Studying violence in Colombia is an strategic field for both scanning the country's social and political depths; and, as Sánchez suggests, accessing the viability for constructing alternative social and political projects. To compromise with the invitation that Sánchez poses implies on one hand, breaking with mystifying processes that while masked by a sense of historical fatalism simplify the understanding of Colombian formations of violence. On the other hand, Sánchez suggestions imply breaking with understandings that, lost in disciplinary narrowness, reproduce an increasing distancing between sameness and alterity. In the Colombian academia this historic fatalism is veiled under both, the abstract definition of violent phenomena, and the identification of its causes with uncontrolled sentiments of hatred and revenge, or with natural conditioning of ancestral ferocity and primitive mentality\textsuperscript{112}; while the processes of systematic distancing between sameness and alterity allow for the social sciences to see themselves as disciplines that produce globalizing explanations disconnected

\textsuperscript{112} This identification has taken place due to the misunderstanding nourished by the concept of "culture of violence" made popular during the early eighties by two Colombian anthropologists. See Arocha and Friedemann (1980); Comisión de Estudios sobre la Violencia (1987); Uribe (1988); Valencia Villa (1993). For some this concept highlights the cultural elements through which violence is re-created and transformed; to others, the concept, while born from the materialistic and ecological schools in anthropology, highlights a fatalist and perverse representation of what it means to be Colombian.
from the public sphere and culture, as well as from emerging political and social movements.

Sánchez's contend, as told in the fragment above, suggests that this double break—with mystification and distancing—opens up the possibility for acknowledging social, cultural, and political phenomena that emerge in the margins of violence and that have been rendered invisible by academic production. Simultaneously, the break gives way for what he understands as a necessary reconstruction of key values that would allow for the emergence of novel ways in which violence, society and power are understood. The three sections that follow explore the challenges and paradoxes that the visible and dominant, yet fragile, intellectual elite of the IEPRI face on their quest of making sense of their lives as intellectuals, and their roles as producers of knowledge.

a. The ideals. The challenges.

In November 1996 and on occasion of the celebration of the ten years of the IEPRI, its newly appointed director Alvaro Camacho, a sociologist with a Ph.D. from the University of Wisconsin, published an article in El Tiempo, the country's major newspaper. The article, entitled "Una Década del Nuevo Intelectual" (A decade of the new intellectual) stands by its own as a small manifesto of the ideals that the IEPRI wants to project of itself into society. After showing the indisputable presence of the IEPRI as research and publishing house, with over fifty published books and a specialized journal that is well over its 30th issue, Camacho presents a short balance of the IEPRI's research. On presenting such balance Camacho pictures the IEPRI as
the most important research center in the country and key in reconceptualizing the topics that are guiding the most critical debates in contemporary Colombia: Violence, national security, civil and military relations, narcotraffic, history of the guerrillas, human rights, and international relations. Camacho continues his argument by highlighting that such importance has been possible not only because of the high qualifications of its members, but also and foremost, because their commitment in redefining the role of the "intelectual político", the political intellectual:

"Following the US sociologist C.Wright Mills, we’ve been engaged in constructing an objective analysis, but not a neutral one. Objectivity is imperious as a condition for professionalism and skill in the analysis and research; non neutrality is directed to enhance a sensibility against the scum that undermine democracy and equity. Having these two as guiding values of the duties of the scholarly signifies promoting the new type of intellectual that Colombia urgently needs."\(^{113}\)

With this words Camacho ends his article and seals the importance of the IEPRI. The message is clear, the Institute has crafted a new breed of public intellectuals who in constructing a knowledge base for public policy seem to have found the answer to sustain the tensions entailed by being a fragile player in a game of power politics and knowledge production. But less public views disclose a rather different set of challenges. For Sánchez the lack of

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\(^{113}\) "Una Década del Nuevo Intelectual". In El Tiempo. p. 12A. Sunday, November 24th 1996; translation mine.
tensions that the IEPRI is projecting to the outside is not a realistic one. Intellectuals in a country like Colombia, with weak, restricted, and parochial cultural formations, are bounded by a deep contradiction: They have to swim in the turbulence of seeking social recognition while striving for the construction of democracy. For Sánchez the major challenge of the Colombian intellectual is to learn how to position himself by knowing that political production can be done also from places different than those of the State. In the overall the challenge lies in the lingering question, how do intellectuals build democracy? The answers and disputes that are triggered by this question embody a political struggle over the practices, and self-understandings about the role of the intellectual within a society in crisis.

b. How do we build democracy?

This section shows three radically different approaches to what the role of the intellectual should be in a context in which the generalized perception is that of permanent collapse. The fragments that follow address the limits and possibilities of the relationship between intellectuals and the State by means of locating the Colombian intellectual endeavor within broader contexts: that of Colombian society and that of Latin American intellectual culture. The first fragments, extracted from my conversations with Alejandro Reyes, a lawyer with an MA. in sociology from Berkeley, disclose his own positioning as intellectual engaged with conflict management and resolution, as well as his own way of legitimating why contemporary Colombia needs pragmatic social scientist focused on
short term solutions. For Reyes, critical thinking and careful analysis are two things that only societies in peace can afford; as such, Reyes' endeavor is to constantly seek for ways in which to influence decision making spheres within the establishment.

Villaveces: "From your own experience and work, how do you perceive the allure that the State has upon Colombian intellectuality? Do you see any dangers emerging from this?"

Reyes: "Your question is almost self resolved. Most of Colombian intellectuals and social scientists that are engaged with research on contemporary violence in the country would agree that violence is explained because of the fragility of the State. In other words, the core of the problem is that we have an almost inexisten State, at best we have a precarious and illegitimate State. We can say, from a distanced perspective, that the country's violence is a violence that emerges as an attempt to create the State; it's a violence that is constantly disputing spaces for creating or modifying the State. I think we shouldn't lie to ourselves, I believe that the problem of thinking that those who reflect on violence are doing it because they want to be at the service of the State is a false one; and I say it's a false problem because everyone that is trying to look closely and with depth at the country, and trying to understand conflict dynamics, can not do it with any other reason than that of helping in the construction of the State. The only alternative would be that of intellectuals who are accompanying the insurgency, organic intellectuals of the guerrillas. If one doesn't believe in the guerrilla's
project of State construction, then the only alternative is to frame our work on violence under an effort to construct the State. In other words, the Colombian context has pushed us to be the State's organic intellectuals. It really doesn't matter if we are based in a public or private university, in any case the intellectual is perceiving himself as an intellectual of the State, and that is because the State is simultaneously the cause as well as the alternative to violence. We know in theory that conflict resolution ends with broad agreements of State consolidation that give room to the actors in conflict - guerrillas, paramilitaries, so on-; that is why I keep a close look at the dynamics that are unfolding throughout the country, and although I've been one of the few from the IEPRI that hasn't accepted positions within the State, a good part of my work is contributing to generate debates that, without doubt, are helping in the strengthening of the State. And I am not tricking myself in saying this. Additionally, I think that the historic mission of Latin American intellectuals, living under such precarious states and societies, is that of contributing for the construction and strengthening of the State. That is why I am not scandalized when I see people that do research on violence make a transit to the State for a few years and later return to the academia, even if they don't return one can see this as an input of the academia in the qualification of State functionaries.

As soon as I committed myself to this perspective I began to distribute the results of my research, participate in public discussions, forums, debates, as well as trying to engage
academically with matters on applied politics. For example, I have participated in four national forums that follow the logic of bringing together diverse actors in conflict. In such meetings we have had people such as Alvaro Vásquez -member of the Colombian Communist party- and general Valencia Tovar sharing the same room. What I want to highlight with this is that we as intellectuals are now used to perform in the same circles with the people that have State responsibilities and active participation in decision making processes. We are now talking the same language, but we as intellectuals have a unique advantage. We are not talking in the name of group or institutional interests, we talk about the country and for the country, for the collective destiny of the country in the long run. We can be talking about national security but we are not generals of the Armed Forces that have troops under their command and certain responsibilities to follow. We deal with the same issues as they do but we have the advantage of being capable of abstracting ourselves from situated interests and have a broader perspective on the nature of conflict.

In this conferences when one is asked the expected question what do we do in such a situation? One understands that there is a great lack of proposals and solutions, a lack of leadership. But we are still very weakly inserted in processes that lead to public action, in processes of collective political participation. Then one is necessarily confronted with the need of disseminating one's own diagnosis to someone; we get into a sort of moral dilemma when we ask with whom do we share our visions of how to exit the tunnel in which Colombia is caught. A big draw back is that we don't have a fruitful
dialogue with the generals of the Armed Forces who are, after all, the ones engaged directly with conflict. They are entrapped in an ideological position which sees our insights on national security as insurgent infiltration in the academia. For them we are producing images that critique and disrepute their own policies, and as such they align us mistakenly with the guerrillas, or with NGO's engaged in human rights advocacy, or with the interests of poppy growers, or those of peasant communities in crossfire situations. They see us with a highly ideologically charged gaze. But this is not the case with other segments of the State. We have fruitful dialogues with progressive sectors of the State, for example with Planeación Nacional [a supraministry for economic and social planning], the Office of the Presidential Advisor on Human Rights, and the Office of the Presidential Advisor on Peace. These sectors are also interested in changing the ways conflict has been managed, they appreciate our own points of view as disinterested and concerned only with a commitment to save the country.

Overall, we are not studying violence in order to increase the stream of knowledge the world has on the topic, but instead because we are committed to understand how the hell can we come out of this. This is the reason we've engaged our work in very pragmatic dimensions, we do short term studies because that is what is required. When the temple is crumbling down around you one doesn't engage with deep architectural studies; or when someone is drowning you can't afford to teach that person how to swim, you only have time to throw the lifesaver. I think that this perspective re-locates and redefines the need for publishing one's work. It is
very important to publish with quality and agility good articles on present day conditions that illuminate specific issues and influence decision making processes, rather than learned scholarly works on what is known about violence in the rest of the world. One has to sacrifice some academic standards in order to convey a clear message to the country. This type of work is not particularly important from an academic standpoint, but those debates on violence throughout the world are done in Oxford, Harvard, Yale or Paris 10, not in Sarajevo, Beirut, Medellín or Bogotá. In the places of conflict new theories on violence are not produced, they are only produced by people who have access to big libraries, comfortable environments, enticing discussion groups. We have to approach them to feed ourselves with new ideas and issues. The point I want to make is that here our role is different. In the short term we can’t expect any brilliant or novel interpretation in this field because we are engaged in trying to solve day to day problems. And we're committed to this because we see that we are moving through very critical times where any mistake we make is going to pay a heavy toll in the next twenty to thirty years."

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My intense conversations with Eduardo Pizarro, a sociologist and Ph.D. candidate in political science from the Ecole des Hautes Etudes in Paris, son of a Navy general and brother of two well known guerrilleros¹¹⁴, gave quite interesting spins to Reyes' arguments and

¹¹⁴ Carlos, head of the former M-19 guerrilla, who was assassinated while in
ideals. The fragments that follow explore the anxieties and frustrations that an intellectual has to confront not just as member of an academic community, but furthermore, as member of a broader context, that of Colombian society. For Pizarro, the attempts to legitimate the role of State counselor are just veiling mechanisms that hide the true tragedy of Colombian intellectuals, that of marginalization and lack of recognition by power elites.

_Pizarro_ : "I studied sociology in Paris, at an experimental campus, Paris VII Vansel, established after May 1968. I worked all the time very closely to Poulantzas who was my tutor. From those days comes my interest in political sociology. After that I did a master's in political science at Los Andes, in Bogotá. Later I returned again to Paris where I did my doctoral studies, at the Institute for Political Studies. My journey started in sociology and then shifted to political science. When I came back from France in 1985 I started to be very interested in the guerrilla phenomena, in particular with the relationship between guerrilla, conflict resolution and democratic construction. Those were the issues of my concern. I began writing short articles on the guerrillas and shortly afterward I was asked to join the commission of violentologists, in 1987. They called me to participate in that commission fundamentally because of the publication of three of my articles that talked about the guerrilla movement under a conflict resolution perspective. At that time I was

political campaign in 1990 after a successful peace negotiation that turned the M-19 guerrilla into a legalized political party; and Hernando, an active member of the _Fuerzas Armadas Revolucionarias de Colombia_ (FARC), who was gunned down on a street in Bogotá in 1995 by the secret police.
traveling quite often to Havana, Managua, and Mexico City to meet with members of the FARC and the M-19. By then I was already shifting from being a mere analyst to being a mediator in the conflict. That is why I was called to be part of the commission of violentologists."

*Villaveces*: "That Commission was the one coordinated by Gonzalo Sánchez."

*Pizarro*: "Yes. The team was very complex because almost all of us were academics with a strong critical standing against the State. By that time none of us had any perspective whatsoever to be working later for the State; on the contrary, we had an extreme aversion to being State functionaries. Our first discussions were obviously on the legitimacy of our role as members of a governmental commission. A governmental commission that was asking from us more than a diagnosis, but instead, instrumental formulas for the contention of violence. Our internal debate was centered on whether or not we could play that role and what would the response from the Colombian academia be if we decided to participate in the commission. This debate was in the midst of a moment where the relationships between intellectuals and State, specially in the sphere of social sciences, were very conflicting. Afterwards the time would come in all Latin America where intellectuals and State marry each other. Well, at that time we considered that our role was legitimate because the role of the intellectual shouldn't be just a critical one. We thought we had a role also in the instrumental. By the times of the
commission we were still shy about what that meant, we were
playing an instrumental function but we still weren't the prince's
counselors. We still didn't accept the possibility of transiting towards
being State functionaries. With time though we would accept that
transit.

The book that came out from the 1987 commission [Colombia:
Violencia y Democratia] was a very particular one. Since the
beginning we opted for not producing a deep diagnosis first, because
we had no time; and second, because we all came from very diverse
intellectual traditions. We decided instead to use the book as a means
for highlighting the diverse causes of violence, with very little
diagnosis but with many recommendations. In doing this we
consciously accepted a total instrumental approach. The book has a
very profound impact. Much more than what we thought it could
have. But the impact was not so much on the ways violence was
understood, but rather on the relationship between intellectuals and
State. This book opened the way for the Colombian intellectuals to
look at the State with less distrust, as well as the State to see with
better eyes the potentials of Colombian intellectuals. A radical shift
occurred in the relationship intellectuals / State. That was the
unpredictable effect of the book. Since then, a massive entrance of
intellectuals to the State begins to take place. And this is very
interesting because it opens up issues on cooptation, on legitimacy,
on how such small intellectual communities can be destroyed. We
have been struggling to build an intellectual community for the last
twenty years and now the State has the potential of absorbing it, and
coopting it; and that has a very deep cultural impact over the future
of Colombia. It is not the same in well established, consistent and strong intellectual communities, such as the US or French. In Colombia for ten intellectuals to leave the community and become State functionaries has a profound effect. But I also think that move towards the State responds to a shift within the intellectuals. That process had long before started in Latin America, but as always, it arrived late to Colombia. This debate was first started by Norber Lechner in Chile in 1978, when he posed the problem in terms of the transition towards democracy. Lechner later argues that the possibility of a transition to democracy triggers a shift in the intellectuals who, terrified by the military dictatorships in the Southern Cone and the civil wars in Central America, decide to contribute to the construction of democracy. In the Colombian case I think that the trigger comes after the failure of the peace initiatives during the Betancur administration, in 1985. The seizure of the Palace of Justice, the sentiment of rupture with the guerrilla, our own critique to the guerrilla. After the Palace of Justice one sees, for the first time, articles by intellectuals that critique the guerrillas. Besides that, I think segments of the Colombian intellectuality by then begin to feel the terrible need for contributing in some way to the construction of democracy. That's why at the end you'll see how most of us feel a deep compromise in being mediators. For example, during the Barco administration many meetings where held here in the Institute with guerrilla groups engaged in the peace process."

Villavaces : "You mentioned before the marriage between State and intellectuals, and it seems to me that that marriage is a very
ambiguous one. First, because it seems that the intellectuals suddenly jump from a very radical position that is constantly challenging the State, to becoming part of the State itself. Would this be pointing towards a sense of loss of the critical side? On the other hand, and maybe relying more on your personal experience, could you say that the intellectual has become suddenly trapped in a situation of passive complicity?"

_Pizarro_: "In regard to the first question I think that at the end there is a strong cooptation by the State. The critical positioning of the intellectual, which I think to be of paramount importance, has been somehow lost. We have become very pragmatic in the sense that we are now more engaged with proposing formulas rather than with a deeper comprehension and critique of our realities. That shift from being a critical intellectual to being an instrumental one is a generalized shift in Latin America. That is the debate in Argentina, in Chile. It is the intellectual that is not questioning the transition to democracy, or democracy by itself, but rather to be of service to the institutional consolidation. His texts serve as hints against the ghosts of dictatorship, serve as precautionary remarks, and so forth. And this has led a big part of the academia, in particular in the Southern Cone, to feel the need for a deep ethical compromise, for pragmatism and utilitarianism, for better wages, for political power. In overall for cooptation. What we are actually living in Latin America, particularly in Chile, is a massive cooptation of intellectuals. A massive incorporation of intellectuals to the State apparatus. In the Colombian
case, where the scientific community is much smaller, this is also taking place.

Now, by my own experience, I think that there is a vast array of responses of the intellectuals towards the State, not all of which are so heroic as they seem. Not all of them respond to ethical compromises, but to more mundane factors. But what I want to point out is that the negative effect that this process has had is that of weakening academia. And I truly believe that is going to have a high cultural toll in Colombia in the years to come. Before, I thought that the shift towards the State would have positive consequences to the country at the cost of having negative ones to the academia; today, I think it is negative for both, the country and the academia. I am absolutely convinced that the critical capacity of intellectuals has been impoverished. Personally I think I have somehow lived that process. I believe the Institute has lost its critical edge. Today one is more interested in influencing short term political processes rather than cultural constructions, if one can make that distinction. Our preoccupations now are more on how we exert influence over the Attorney General's Office, or over Congress, or over the political parties, and not over culture. Our pragmatism has led us to seek influence in the decision making spheres and our lack of critical positioning has divert us from culture. There is a lot of impoverishment and we have become imprisoned in it.

But coming back to the debate on intellectuals and the State, one has to highlight that the intellectuals in the Southern Cone or Central America were brutally torn apart by experiencing military dictatorship or civil war, and precisely those experiences were the
ones that led them to reconsider the issues on democracy. In other words, deep inside we as intellectuals have a sense of guilt because we undermined bourgeois democracies as inauthentic, we undermined the precarious institutions that exist in Latin America. In some way the intellectuals became responsible for the military dictatorships and the civil wars. We are responsible because we undermined the Chilean or the Uruguayan democracies. Now the time has come for us to expiate our sins by contributing to the construction of democracy. We were in a religious attitude in front of the confessional, trying hard to expiate our sins. Here in Colombia we felt partially responsible for the guerrilla, we had supported them, we had supported their ruptures with peace processes, and so on. That was our attitude back in 1987, during the times of the first commission of violentologists. By then we thought we had to do everything in our hands to amend what we had done before.

After that the role of critical intellectuals was no longer acceptable to us. We began to see with distrust those who had only a critical positioning. One finds in Colombia four types of intellectuals: The intellectual who is indifferent to the effects that his research might have; the critical intellectual who is fundamentally a radical leftist; the critical intellectual interested in constructing democracy; and the intellectual who becomes the prince's counselor, the one who makes the transit to the State. We began by distancing ourselves from the intellectual who is indifferent to the social impact of his research, so we began seeing with contempt the professors at the sociology department here, at the Universidad Nacional, only interested in Weber and pure science. We began to distrust the
radical leftist intellectual, and we felt threatened by the critical intellectual. Finally we began having a very ambiguous position towards the intellectual interested in being the counselor of the prince. An ambiguous position because we feared that the Colombian State would absorb the intellectuals and in so doing destroy our precarious academia. It was a question of self survival. The Institute as a precarious and incipient scientific community had to protect itself from the overwhelming threat that the State posed. Since then the most intense debate here in the Institute has been if its legitimate to be a counselor of the prince or if it is necessary to maintain a constructive but critical standing towards the establishment. The main issue here is that the instrumentalization of knowledge can be used or manipulated by the State in the sense that the State itself has the capacity to use this as an asset for constructing its own imaginary. The question is how we as intellectuals, who have the capacity to build culture and a relative influence over public opinion, can perform without been instrumentalized by a power elite. I think that we have been colonized and used by that elite. At the end one thinks that one is contributing to the construction of democracy, but maybe one is contributing to construct a different thing all together.

On the other hand, to maintain an intellectual position by trying to influence public opinion is very hard in this country, mainly because of an overwhelming lack of resources at hand. When one draws a comparison with the Mexican, or the French, or the Brazilian intellectuals one sees amazing differences. They are engaged with mass media and with deep and intense public debates. I’ve always
been amazed by the lack of space that the Colombian intellectual has. We only have two options, either we gain political influence through our transit to the State, or we write in the major newspapers. But in a country of over 35 million Colombia's major newspaper sells only 300,000 copies a day, and a book becomes a best seller in social sciences when it reaches 3,000 sold copies! We have no more options. It is a tragedy. And then again, I would not know how to measure the influence that an article of Reyes or mine have in public opinion. Here we think that we have a demolishing influence over the public culture, that each time we talk the country trembles, and I think that's bullshit. I think the cooptation by the State is by less heroic arguments. We want to make the transit because we want a decent salary, we want power, social prestige, because we are fed up by the elite's contempt towards the Colombian intellectual who, like the artist, becomes in their imagination simply a loser. One can build heroic justifications that validate the need of moving towards the State but this only shows a deep desperation of the Colombian intellectual who in desiring to influence political processes finds himself blocked by deeply rooted obstacles. Finally, our only option seems to be that of cooptation. Maybe then one could have the chance to influence a bit."

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My conversations with Gonzalo Sánchez, a lawyer with doctoral studies in history and political science in the University of Essex, and director of the IEPRI at the moment, were cardinal in locating
Reyes's and Pizarro's own understandings under yet a different perspective. The fragments that follow disclose broader issues that reflect not only the difficulties of being an intellectual in Colombia, but also substantial differences, overlooked by Pizarro, between the Colombian case and those of the Southern Cone.

*Villaveces*: "When talking about the influence that experiences from outside of the country have had upon the Colombian intellectuals who are engaged with topics on violence one could map two broad currents. The first one is marked by the experiences of intellectuals in the Southern Cone and their anxiety in re-constructing democracies banished by the military dictatorships. The other current, of a more global nature, is that represented by "postmodern" thought. One can argue that each of these let us say models, triggers processes in opposite directions: The Latin American current, as represented by Reyes and Pizarro, seems to be legitimizing the move towards pragmatics, towards an intellectual that is more of the kind of a corporate consultant specialized in conflict negotiation. The other current, "postmodern" if you will, pushes towards completely different domains more engaged with a reflexive mode that urges a need to resignify what we understand as violence in Colombia."

*Sánchez*: "Honestly I think that this way of posing the problem is a very valid one. Recently I started to do research on Colombian intellectuals and have had the chance to make different readings about them. First, I have been interested in exploring the impact of La Violencia in the Colombian intellectual community; and second,
because of my current position as director of the Institute, I've had the chance to reflect upon the role of research centers in Latin America, and I don't see the connection with the Southern Cone so clearly. The evolution of the intellectual spheres in the Southern Cone is very different than ours. Apparently we are confronting the same issues that the Chileans are confronting but in reality we are not. The first thing that comes to my mind when looking at the intellectual centers in Chile, Argentina, and Brazil is that when they are confronted with issues about dictatorship they are already a consolidated and solid academic community. When facing such questions these centers already have an international reputation, they have well known figures amongst themselves, big international figures that become not just local but global political actors. In other words, at the time of the crisis they still have a protagonic role, their exiles reinforce, in a sense, this protagonic role: It reinscribes their discourse, it allows for a discursive renewal that can address the questions posed from novel places. I think it's important to consider this backdrop. I think these research centers have served the purpose of constructing an important academic autonomy, in such a way that the person who makes the transit to the world of politics seems to loose the halo of intellectual. In those cases it seems to be clear that to maintain the status of intellectual one most keep an explicit distance from the State. In the overall the great difference between us and them is that, when dictatorship arrives, they were already well established and relatively strong communities.

In the Colombian case some particularities have to be highlighted. Throughout the 20th century the Colombian intellectual
communities have been very weak and La Violencia is partly responsible for it. La Violencia was a factor for the fragmentation of the intellectual communities. So we start of with fragments instead of solid intellectual communities. In the post dictatorial phases the intellectuals in the Southern Cone are incapable of engaging with a process of reconstruction because they were communities that were partially broken; communities constructed long before the dictatorships. In other words, after the dictatorship a rapid process of reconstruction of the intellectual worlds takes place, the academic spheres, the research centers, the journals, all the essence of intellectuality was soon recovered. Instead we were assaulted by violence and are still caught in it without having the chance to construct anything. We are a very precarious community with very painful struggles. Colombia has been at war since the dawn of the century, we haven't had the chance to reconstruct anything because we are still struggling to construct something. Overall the point that I want to make is that I don't think we are going through the same experiences as the intellectuals in the Southern Cone. Fifteen years ago the intellectuals in this country would all fit in the back seat of a VW Beetle. The intellectual layers in Colombia are still in an embronary stage and are not very permeable to the broader Latin American discourse. And this is another problem, the exposure and circulation of Colombian intellectuals in broader contexts in almost inexistent. Take for example any of the research centers in the country, Los Andes, La Javeriana, or even here the IEPRI. The people who have an exposure to the outside are very few. One finds that Bolivian or Peruvian intellectuals have much more circulation in
Europe or the US than Colombian ones. And this leads us to conclude that the intellectual communities in Colombia are not just very small and fragile, but also closed. I think that the comparison between the Colombian intellectual who faces violence, and the intellectual from the Southern Cone who faces post-dictatorial regimes is suggestive but we must be careful in avoiding parallel comparisons.

Another reading that I make is that paradoxically, in the 19th century Colombian intellectuals were very well informed and shaped by international debates. For example, if one reads Salvador Camacho Roldán today one will discover that he had an amazing access to information about what was happening in Colombia and in the world. It was a highly illustrated bourgeoisie. In the 19th century Colombia had an intellectuality formed by the same elites, well established, with a grounded international exposure. The capacity for statescraft and statesmanship that this Colombian elite had was quite remarkable. In a small, poor and precarious country, that elite had a very powerful standing. But the conditions in the 20th century are quite different. With such vertiginous shifts as La Violencia, how can we construct elite intellectual layers? At least 40 years have passed and we are still in a position in which we can't construct an intellectual elite. One could say that during the past ten years violence has become compatible with the construction of such intellectual layers; maybe after the first Commission in 1987 we began to construct an intellectual community. I'm not sure though if one can make a solid argument out of this. But in any case what is surprising is that issues on violence have promoted the emergence of new intellectual layers from younger generations. Here is where I
see that your other question can have resonance. Maybe this new layers are more receptive to the "postmodern", I don't know. But one thing for sure is that this new generation of intellectuals wants to make of their knowledge something bigger than participating in politics. The point is that the sense of marginality that the intellectuals of my generation have has pushed them to look for recognition from within the State. But the new generations don't have this marginality complex, and with time they'll reaffirm themselves as critical intellectuals."

Villaveces : "That sense of marginality seems to be covered by a constant need to highlight the resemblance between the Colombian case and the case of the intellectuals in post-dictatorial contexts in Latin America; at the same time that serves the purpose of legitimizing a new role of the intellectual as State functionary."

Sánchez : "In some way the construction that the intellectuals in post-dictatorial contexts make is self legitimizing. They feel they were responsible for dictatorships, that they were complicit, so now is the time to expiate that through a felt desire for reconstructing a new society. But once again, our deepest problem is our sense of marginalization. Let me share with you an anecdote. While being the chair of the History department at the Universidad Nacional, around 1980 or 1981, we received a call from the Ministry of External Affairs. It wasn't the Minister or the Vice Minister who was calling, but simply a functionary of an unknown dependency. They wanted us to make a small text of the Colombian history that could be
distributed in the our embassies abroad. So a meeting was arranged. And you know who came with me to the meeting? The academic vice rector of the university! That is the sense of marginality we had. And that is precisely the memory one has of such things. That is why the moment that we were called to the Presidential Palace to conform the first commission on violence is still in our memory. So the question is what does that signify in our context? It is the fact that the intellectual layers are suddenly recognized, so one stumbles ideologically and it becomes easy to forget one's own past commitments. In such a context is easy to fall for the State option, if one doesn't, one has to cope with a reduced space for independent thinking."

c. An exercise in self-critique.

In late June, 1996 I received a formal letter, signed by Gonzalo Sánchez, inviting me to participate in the evaluation of the Institute. The evaluators were chosen, he said, because of their knowledge of the IEPRI and their ongoing research interests. The commission was called Comité Internacional Evaluador, as its members, with the exception of myself, were all foreign academics. Bruce Bagley, from the Institute of Interamerican Studies of the University of Miami, was to evaluate the work done on drugs and international relations; Jonathan Hartlyn, from the Institute of Latin American Studies of the University of North Carolina, was to evaluate the work done in the area of governmentality; Daniel Pecault, from the Ecole des Hautes Etudes in Paris, was to evaluate the work in the area of Violence and
Illegality. As for myself, and due to my interest in exploring issues around the way Colombian violentologists write about violence, I was asked to write about my own fieldwork in the Institute. In early August, I conducted more interviews in the IEPRI as well as with two "outsiders": Father Fernán González S.J., a political scientist with an M.A. in sociology from Berkeley, sub-director of the CINEP; and María Victoria Uribe, an anthropologist with a MA from the Universidad Autónoma de México, director of the Instituto Colombiano de Antropología. Father González and Uribe are both well known authors on politics and violence in Colombia, as well as connoisseurs of the work of the IEPRI. In mid October I presented a preliminary version of the paper. The final version was formally presented to the Institute in early March 1997 and entitled "Entre Pliegues de Ruinas y Esperanzas: Viñetas sobre el Instituto de Estudios Políticos y Relaciones Internacionales."

(i) The Gólgota

Friday, October 25th, 1996. Early in the morning, I revised the last version of the paper that, a week before, was handed to all of the IEPRI’s members. At 10:00 am, I had to confront the faces and commentaries not just of those who I had interviewed, but of all of the Institute’s researchers, in short, with many of Colombia’s most known and reputed social scientists. My anxiety arose when

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115 The CINEP (Centro de Investigación y Educación Popular) is a non governmental organization founded by a left wing of Colombian Jesuits. Among its main concerns are the promotion of human rights and the building of cultures of tolerance in the country. As the IEPRI, the CINEP has a wide selection of publications that include works on violence, political displacement, subcultures of drugs, and human rights.
remembering a conversation I had a week before, when meeting for the first time with Daniel Pecault in an office at the Cinep. I recall his initial interest in hearing my own position with regard to the IEPRI's work on violence. "I heard you're very critical towards the violentologists", he said with his strong French accent, "I am too", he continued, "but I would like to hear more about your point of view". I was flattered and naively started a short presentation. More than half an hour should have passed with nods and complementary remarks before Pecault, in what I later thought as despotic, disdainful and even colonial remark, said, "Have you ever published something important? If you haven't, what do you think gives you the authority to criticize?" Needless to say, my relationship with Pecault came to a complete dead end. As I came near the campus of the Universidad Nacional, I couldn't stop thinking why the weekly meetings to discuss the latest paper, written in or for the Institute, were called Gólgotas. Was it a reference to the elite members of the Colombian liberal party in the 1840s who claimed that socialism had been created by Jesus Christ when in the Golgotha? Or was it perhaps a more direct allusion to the suffering that Jesus himself had to undergo before his crucifixion? What ever it was, I was about to know. Upon arriving to the third floor of what used to be the student dormitories, now converted into office spaces for the violentologists, I managed to reconcile a special sense of tranquillity and confidence.

(ii) The Oral Presentation

Just after 10:00 am, I entered the meeting grounds of the Gólgota: an ample and bright room in one of the corners of the
building that houses the Institute. The usual weekly administrative gathering had just taken place. Everyone was relaxing, with a cup of tea or coffee in their hands, and patiently waiting for the day’s oral presentation and discussion to start. As I walked in with Gonzalo, I was greeted amicably by my former interviewees. Soon the protocol started: Alvaro Camacho in his new role of director of the IEPRI showed me where I was to sit, after he officially started the morning’s Gólgota, with a curious and unsettling remark. "It is not usual to begin our meetings like this," he said in a harsh and somewhat angry tone, "but I just want to say that we are allowing Santiago to defend himself for a few minutes before our turn to behead him." It felt like being in front of the Holy Tribunal of the Inquisition, although this time, not accused of being a religious but rather perhaps an intellectual heretic. "But make it with a silver blade so it's worth the effort," I replied to Camacho, maybe to ease myself as well as the tension that suddenly inundated the room. On saying that, I started what came to be a 20 minute presentation of the main arguments I wanted to go through. After I ended, I turned on the tape recorder and waited for the inevitable. The comments were opened by Alvaro Camacho who took about the same time as my presentation to say what he needed to say. Others followed orderly. I was attentive to all the process, scribbling the critiques and suggestions on a blank pad of paper. I would occasionally explore the surroundings with my eyes, just to see William Ramírez walking from corner to corner of the room, in a meditative, yet impatient manner; or to notice the face of Fernando Uricoechea, a sociologist assigned to the Institute, wonder in amusement why he
hadn't read what seemed to be causing so much disturbance. I was bewildered by the incredible diversity of reactions, ranging from the most defensive to the most complicit ones, that I lost track of time and with it, the chance to tape three of the fourteen people that commented the paper. The session of comments stretched for two hours uncovering in its development a fascinating map of, what I later understood, as a performance of the politics of editing and disclosing contesting representations in a highly politicized environment.

( iii ) Triggering a spark.

The paper presented in the Gólgota was primarily concerned with presenting different forms of addressing debates, traits and questions that are at stake in the production of academic referents on the multiplicity of Colombian violence. The paper was crosscut by a recurrent question: For what and for whom one writes? In so doing it purposely disclosed the existing political and interpretative tensions within the Institute. The first section of the paper mapped the crossroads that Colombian intellectuals are facing: the wider context in which the intellectual activity is inserted; the thematic exhaustion in the studies on violence that many claim; and the loss of signification that the term "violence" has in Colombia. In the second section of the paper I explored the IEPRI as intellectual community, I highlighted its fragility, its lack of theoretical renewal, and the heterogeneous understandings that build an inner tension around the role of the intellectual in contemporary Colombia. The third section of the paper stressed the invisibilities and absences created by the
dominant discourses on violence by emphasizing that the model of "actors in conflict" erases collective experiences of violence, trauma and suffering produced elsewhere. The final section is an alert on the already existing risk of over privileging single and instrumental perspectives on violence.

As I mentioned, above the reactions to the paper were very radical. Some of the members of the Institute had rather personal and emotionally charged reactions, whereas others were deeply sympatethic with my arguments. Interesting enough there were no intermediate positions but rather polarized perceptions. Three arguments produced a profound and virulent reaction by some: First, the suggestion that the intellectuals had lost their critical edge triggered defensive arguments that highlighted the vast production of books and articles that the Institute has published as a counter example; nevertheless, these arguments disregarded the prevalence and increased dominance of short term diagnosis as indicator of the lack of critical positioning. Second, the problem of the invisibilities and absences was disregarded by some with the argument that there were people in the Institute that dealt with other types of violence different than solely the political one; nevertheless it was overheard the stress that the paper made on the fact that only the "actors in conflict" model has an ample circulation outside of the Institute. Finally, some reacted strongly against the suggestion that the Institute, as part of a broader intellectual community, was weak. As Alvaro Camacho pointed out, while making reference to the working opportunities within the State:
Camacho: "I would say instead that this is an attempt of the establishment to coopt these intellectuals, or maybe to just feed on their ideas, which is a logical attitude of any State that is not overtly authoritarian or totalitarian. There is an anecdote worth bringing into this discussion: the security advisor of the presidency in 1991 [Rafael Pardo], author of the Estrategia de Lucha contra la Violencia [Strategy Against Violence], publicly recognized that the ideas of that official document came mainly from the Institute. Thus it is more the State that is the one who accepts the perspectives of the intellectuals, rather than the intellectuals accepting the demands of the State."

On the other hand, other members of the Institute thought that the paper had the merit of keeping track of the problems associated with survival, security, and cooptation and their implications in the decision of choosing to research on specific topics in specific manners. As such, the paper was perceived as an opportunity to engage in a self-reflection that indeed, as the reactions around the paper proved, was meant to fuel old and latent debates within the Institute. Finally Gonzalo Sánchez made a quite interesting remark that serves the purpose to understand why the paper seemed to be so threatening to some and reassuring to others:

Sánchez: "I think the paper offers an evaluation on how some intellectuals live their relationship to a topic, and how from this relationship they question issues about the State, about their own experiences, about society, about crisis, etc. I was surprised when I
read in the paper the ways we disclose ourselves in front of others but not within our own. I was surprised to see so many topics popping up, so many differences within ourselves. I kept asking myself why don't we also share those things among us? Why don't we share the drama of doing research in this country? We come here to these discussions with finished products, that are somehow purified and fossilized, and we are not explicit about our own drama; we share this only with those we see foreign to our own daily life struggles. I think that is an interesting lesson that the paper has. Another issue that the paper raises which is somewhat uncomfortable for us to hear is that it questions the same image that the Institute has of itself. The Institute since its beginnings, publicly announced itself as a critical space that would work on the construction of a new political culture. We've laid out our own lines of action but we are not giving an adequate response to them, and this has to do with the types of relationships we establish with our own research."

(iv) The Closing Ritual

The Gòlgota came to an end with just enough time for me to make a few general and quick responses to the comments. People dispersed rapidly. On leaving, I met Saul Franco and Fabio López, two researchers of the IEPRI, who thought the paper had touched key aspects that the Institute had to be aware of. Before the end of the month, I had the chance to talk with them over lunch about the details around the paper I presented, as well as general concerns about the study of violence from their own perspectives -López from
that of political culture and Franco from that of epidemiology (fragments of these conversations are presented in Chapter Five below). Before leaving the grounds of the Institute, Gonzalo Sánchez and Alvaro Camacho asked me if we could meet at the building's parking lot. An obligatory lunch at a parrillada in the neighborhood followed. After a few minutes drive we arrived at one of the many popular Colombian restaurants that are scattered throughout the city. What was once a spacious family house, with a solarium in its center, was now a busy restaurant that served typical dishes, most of them a la parrilla. Cold beer was served. We were joined by Mariana Serrano, an old high school friend who is now a junior researcher at the IEPRI, and by Iván Orozco, a lawyer and Ph.D. in political science from Mainz, whom I had interviewed on several occasions when he was in office as Auxiliary Attorney General of the Nation and, more recently, as a senior researcher of the Institute. "The Gólgotas are usually harsher," Gonzalo said, "sometimes people even get very personal and disrespectful, but today people were very polite and rational." "None of our comments were said in bad faith." Alvaro added. But still, as I have recently learned, after two years of presenting the paper their promise of publishing my own perspective on the IEPRI is still on hold.
PART 2.
THE LAW

"Wise doctors of the law, proven alchemists of jurisprudence enmeshed in hermeneutics and syllogisms, searched for a formula that would allow the president of the Republic to attend the funerals. Days of over excitement were lived in the high spheres of politics, clergy and finances. In the vast hemicycle of Congress, tainted by a century of abstract legislation, between paintings of national heroes and busts of Greek thinkers, the evocation of the Mama Grande reached unforeseen dimensions, while her corpse is being filled with bubbles in the harsh September of Macondo... That's how she lived endless weeks and months stretched by the expectations and the heat, until Pastor Pastrana stood up in the plaza and read the decision. Public order is declared to be disturbed, tarraplán, and the president of the Republic, tarraplán, had extraordinary faculties, tarraplán, that allowed him to attend the funerals of the Mama Grande, tarraplán, rataplán, plan, plan."

Gabriel García Márquez.1961

In tracing the intricate paths of the legalist tradition in Colombia is not difficult to foresee how the law, in the 180 years of national history, has been consolidated as a tutelary deity of the country and, as such, as main protector of the statu quo, and belligerent defender of the republican institutions and the privileges and tares that underlie them. From an anthropological standpoint the study of the culture and practice of law in Colombia is specially relevant since law constitutes in itself a privileged window to access characteristic traits of Colombian power elites. It is not my intent to talk about the generalities of the legal practice and culture in Colombia, but instead, to focus in the particularities, within the space of law, that the
Constitutional Court unveils. Through this exploration I intend to show the complexities in which confronting world views infringe or preserve the suffocating authoritarian practices characteristic of the Colombian political culture.

Colombian political history has been characterized both by a totemic and fetishist cult to the space of law, as well as by the abuse of law as justification for the violence that has come or that is to come. It is in the process of interpretation of the norm where elaborate constructions that justify violence take place; but it is also in the space of law where possibilities emerge for breaking through old political practices. The jurisprudence of the Constitutional Court is the manifestation of this struggle since it provides a symbolic and interpretative argument that either legitimizes or censures the use of the state of siege regime.

In a comparative perspective the Colombian case sheds light to the wider problematic of the role of authoritarianism in the consolidation of democratic regimes. It also adds an interesting twist for a richer understanding of political institutions in Latin America. The recent political history of Latin America seems to be unfolding towards the consolidation of democratic regimes in countries where military rule had been the norm. The cases of Argentina, Chile and Brazil pose new questions that widely address issues on the so-called democratic transition. Among the society of nations, Colombia has been labeled as Latin America's oldest democracy, and as such has served the purpose of being a point of reference and exemplar of how the Spanish legacy could also allow for the building of constitutionally based and popularly represented political regimes.
Nevertheless, a close scrutiny on the exercise of power in Colombia adds complexities that deeply question such claims. The image of "democratic Colombia" crumbles down giving way to an underlying picture in which a sustained and acute authoritarianism is the norm. Colombia, as Fujimori's Perú, is enmeshed in defending traits of democracy within more restrictive and dogmatic political practices. In both cases, the figure of the President seems to be supplanting that of the dictator.

Acute political violence, civilian upheaval, and authoritarianism seem to be three recurrent themes that have crosscut the political history of Latin America rendering most of the countries as still in transitional phases towards democracy. In such contexts the lines that draw a distinction between "acceptable" and "exceptional" violence are blurred if not at best constantly shifting. An exploration of these issues in contemporary Colombia provides insights that help uncover the connections between legal practices and interpretations with the construction of public imaginaries and political cultures. In a context characterized by more than 15 years of coexistence with drug traffic, and over 50 years of coexistence with guerrilla warfare, what is an act of "exceptional" violence?

Politics and violence are the discursive axis of public culture in cases where the tension between a transitional phase towards democracy, and the endeavor to formalize a system of justice upon which contemporary liberal democratic society is to be founded, is not yet resolved. This complex embroidery of politics and violence in daily life helps maintain alive the public feeling of permanent crisis, and in doing so, it creates a natural setting in which every State
decision on the contention of violence is widely circulated, re-interpreted and re-framed. Exploring a visibily public institutional space -such as the Constitutional Court- in which the decision making processes fall on hands of legal and cultural brokers, unveils the struggle between producing viable alternatives to violence or reproducing authoritarian regimes for its contention. The sections that follow address, from different angles, the alchemy of culture and law.

The first two sections provide a historical perspective that frames the role of law in the definition of the State's mechanisms for containing violence. A brief description of the Colombian constitutional history provides the ground for understanding how the dynamics of the law shape and mold authoritarian political practices and cultures. On this basis, the following section provides a short account of the evolution of state of siege measures as the prevailing mechanism for the contention of violence. The third section explores the debates that surround the problematic definition of "normal" / "exceptional" disturbances of public order within opposing State institutions -Executive branch versus Constitutional Court-. A close examination of these debates opens up the problematic of representing and interpreting violence in politically and symbolically charged environments. Finally, the fourth section explores the role of the Constitutional Court's magistrates as cultural and legal brokers whose agency is key for a creative use of legal interpretation; one that breaks away from the State's cultural incompetence for treating difference.
1. Constitutional History as Political Engineering

The Law as political dynamics

In following the thesis of Valencia Villa (1987), the constitutional charts are by themselves social blueprints that unravel the axiological principles of a State as long as they describe and regulate what is understood as legitimate in all social layers. Under such scheme, the purpose of the constitutional chart would be to "administer the polemic matters of daily life in order to impose a rational order, a normative design through which the principles and procedures for resource allocation and conflict resolution are unfolded in every level and layer of society."116 Revisiting the constitutional history thus leads to the reconstruction of those landmarks that have imprinted strategic and concrete dynamics to the State formation and its political cultures. Constitutional dynamics, as based not in a social contract as Rousseau hoped but in the regulation and management of civil conflict, have to be seen from the perspective of political engineering, as opposed to the functionalist perspectives. The Peruvian jurist Fernando de Trazegnies in arguing for a dynamic understanding of the law says:

"The Law is not a 'thing' but a 'space' where many things happen; it is not a static transcription of the Great Power, but a place where powers are defined through multiple skirmish. In other words, the Law is not a result of power but a stage in the formation of power and in its constant questioning through

microscopic battles and major wars. Law can not be conceived as a feast of the victorious; on the contrary, Law is the battle in itself, a battle that never ends."\textsuperscript{117}

Under such a framework jurisprudence, as a process of interpretation and manufacturing of law, is understood as a cultural space in which encounters and disencounters happen. Hence, the practice of the law becomes primordially an unfolding of political dynamics that in defining power, molds cultures and knowledges on and about daily life. By using this argument as point of departure I explore in this section how characteristics of the Colombian political culture are performed within the space of law, in the realm of the imaginary (legal fetishism) as well as in the realm of the pragmatic (Constitutional history and State formation).

a. Legal fetishism

Recapturing the hegemonic position of language as instrument of power in Colombian political culture, and the close ties between power and grammatics disclosed specially at the turn of the century, leads to understand why in Colombia the authority embedded in the written law has become a genuine fetish. Written law in Colombia has become a kind of scribble in which the representation that is signified has lost every connection to its object of signification. A fetishism that according to some\textsuperscript{118}, echoes the predominance that the juridical knowledge had in the colonial regime:

\textsuperscript{117} Trazegnies (1981: 81, translation mine)

\textsuperscript{118} Lynch (1978), Gutiérrez (1989)
"The schools of law were destined to play a central role in the life of the colony. Multiple factors contributed. First, the students were sons of the Creole elite which had acquired properties and long term ties with the political future of the country. Access to universities was restricted to people with a straight Spanish blood line, as well as the majority of the governmental positions of importance. Second, because of the bearings of the courses on public law, the schools of law were intellectual centers for the discussion of the recent political and philosophical tendencies in Europe and US. "\(^{119}\)

This halo of sacrality that emanate from the lawyer as subject doubly blessed by the privilege of class as well as by the privilege of knowledge, is still today constituent of his own self representation. In September 1995 Nestor Humberto Martínez, Minister of Justice and Law, publicly released a study financed by this office on lawyers and the teaching of law in Colombia\(^{120}\). In his speech -now part of the introduction of the published study- and after recognizing the efforts of the research team\(^{121}\), Martínez says:

"A society as ours that has not been able to manage all its disencounters by the institutional means of a State of Law, and where violence and distinct expressions of private justice walk daily in front of our eyes, needs the most operators for the judicial system that act as


\(^{121}\) The research team was formed by Gustavo Zafra, a former member of the National Constituent Assembly, who acted as director of the study; Claudio Grossman, dean of the School of Law at the American University; and Robert Dinerstein, professor of Law at the same university.
agents for the prevention of conflict; as efficient priests of justice that allow for a social prophylaxis that restores the values of a rational, just and egalitarian community."\textsuperscript{122}

A prophylaxis that, as Pandora's box, continuously enacts doses of veneration to the authority of the Law: The amount of Constitutions and reforms (15 Constitutions between 1810 and 1886; 77 constitutional reforms, and a new Constitution in 1991), all brought about in the name of social order, have been reiterative pronouncements of this unlimited and mythical faith of the Colombian political imaginary in the power of the written:

"The continuous appeal of the establishment to constitutionalism as a remedy for all the social ailments, has been a permanent effort of containing and dissolving the insurgency of popular and peripheric sectors of society, of preserving and assuring the interests of the central strata of the social pyramid, and of providing the system with an appearance of legitimacy and rationale. Probably no other country in Latin America has changed so much its normative apparatus than Colombia, and probably no other Latin American country has changed so little its political institutions. In the overall, the constitutional reformism has been an operator of political and social immutability."\textsuperscript{123}

This unrestrained cult for order not only leads to processes of artificial veiling of disorder, as suggested for example by Michael

\textsuperscript{122} Ministerio de Justicia y Derecho (1995: 3, translation and underlining mine).

\textsuperscript{123} Valencia Villa (1987: 44, translation mine)
Taussig (1992); but also, and above all, to the monopoly of projects for national construction in the hands of the power elites. Revisiting the political history of Colombia shows that nation construction, as long as it has been reduced and absorbed by an strict constitutionalist tradition, has fallen exclusively into the space of the written law. And who are the ones who have access to the space of law but the power elites, at least in what concerns public order legislation? With such a panorama is not surprising to come to terms with the reasons of why the Colombian political system and practices have remained practically unmodified since the days of the Independence; or why the passionate cult to the stability of public order and the institutions of the Republic. This perverted cult to order has very well been the systematic drive that blocks any possibility for change. As the Colombian jurist Hernando Valencia Villa says:

"The cult to order as long as it has appealed without pause to the vicious circle of constitutional reformism for blocking access of alien forces to the State, has transformed Colombia into a violent society that constantly resorts to political warfare in search for access to power, resources, opportunities and responsibilities."\(^{124}\)

It is particularly revealing and paradoxical that the Movimiento de la Séptima Papeleta (Seventh ballot, see Chapter Two above) which paved the way for the National Constituent Assembly in 1990, was lead by the students of the Schools of Law of the elite

\(^{124}\) Valencia Villa (1987: 171, translation mine)
universities in Bogotá; and that the Constitutional Court, as physical and mental incarnation of the totemic cult to the Law, has gained a profile of space for change, and subversion of legal practices and cultures from within the State apparatus. The virulent reactions of the establishment to the decisions of the Court that contradict the desires to maintain untouched the roots of Presidentialism, are probably the best thermometer by which to measure the degree of subversion that the Court has reached. Recently, the academic and now auxiliary magistrate of the Court, Rodrigo Uprimny, said:

"In the social arena some sectors of the jurisdictional branch have compromised themselves in the defense of civil rights. This in turn has lead to the perception of the judicial apparatus, which has no popular origin, as more democratic space than the political institutions that are popularly elected. With this a very paradoxical displacement has taken place: democratic legitimacy has shifted from the political system to the judicial system."\textsuperscript{125}

b. Constitutional history and State formation

The State, following the insights of Corrigan and Sayer (1985), is not an object but primordially an ideological project whose main end is to actualize itself through exercises of legitimation, which in time have been codified and naturalized in State practices, cultures and institutions. Under such framework the State is understood as something constructed, and the constitutional history as an ongoing project of this sort. It is particularly neuralgic the place that Law

\textsuperscript{125} Uprimny (1996: 114, translation mine)
occupies in this process of State formation as long as, while being a
corporal manifestation of the Constitution, serves the double purpose
of representing simultaneously consensus and coercion: Through Law
the State defines who its enemies are (a specially relevant definition
in contexts of acute and decentered violence) while simultaneously
establishing, through an apparent consensus, the type of practices,
values and aspirations that, in the name of the Law, are authorized
by power by labeling them as legitimate.

"The routines of the state both materialize and take
for granted particular definitions. 'How things are'
(allowed to be) is not simply a matter of ideological
assertion (and 'consensus' is never merely ideational);
it is concretized in laws, judicial decisions (and their
compilation as case law), registers, census returns,
licenses, charters, tax forms, and all other myriad
ways in which the state states and individualities are
regulated... This is how we are collectively
(mis)represented -not abstractly, not ideally, but in
the very forms in which the rituals and routines of the
state operate. This is, without doubt, an immensely
powerful language, alternative representations
appearing fragmentary and insecure in the face of this
massively authoritative organization of what is to
count as reality."\textsuperscript{126}

The Constitution and the Law, as reflections of the process of
State formation, are thus spaces that wedge the concepts and
utterances through which the State is worshipped, critiqued,
apprehended, reaffirmed, and recreated. In his study of Colombian
Constitutionalism, Valencia Villa (1987) argues for the existence of

\textsuperscript{126}Corrigan and Sayer (1985: 197)
certain cultural tendencies, as expression of State rituals and
routines, that have made profound imprints in the legalist discourse
as well as in the republican rhetoric. The close ties between internal
conflict and State formation in Colombia, as many suggest\textsuperscript{127}, have its
clearest evidence in the evolution of the constitutional doctrine.
Colombian constitutional doctrine reveals not only a growing
ascription to punitive models for mitigating internal conflict, but also
traits that override the recurrent legal reformism by maintaining
immovable the structures of power. For such authors, the process of
State formation, as reflected through the constitutional history of the
country, has been characterized by the following: (i) A rhetoric of the
republican origins of the State that appeals to liberalism -understood
as the official ideology of western democratic nations, specially in its
centralist version inspired in the French Revolution- in which the
order of the Republic is always under exclusive domain of Reason
and Law. (ii) A centralism as the form the State adopts. Although the
spirit of the Constitution of 1991 towards the promotion of an
administrative decentralization, the territorial divisions lack ample
margins of autonomy so the strategic functions of the State can only
be exercised by national authorities. (iii) A Presidentialism as
primordial axis that articulates all political practices. Molded after
the political ideals of Simón Bolívar, The Liberator, the presidential
institution in Colombia has been formed as a type of republican
monarchy whose powers have increased and expanded throughout
time. (iv) A confessionalism as constitutive part of the State. The
Carrizoza (1979)
influence of Catholicism in Colombia since the times of the Spanish conquest have positioned the Church as a determinant force, and in multiple occasions as a legitimating hoax for the exclusions nurtured by the interests of the political elites\textsuperscript{128}.

The conjunction of all these factors in the Colombian political architecture, in particular in the legislative structure of public order, has lead to the betterment of the figure of state of emergency as a functional mechanism for the creation, through force, of a nation that has not been able to construct itself:

"The problem of the independence, that is the need to fill an ideological and institutional vacuum generated by the rupture with the colonial bond, turns into a project: constructing the State before the nation and without the nation to later extract the nation from the State, according to Bolivar's scheme. This in turn, must be done through the normative discourse, in accordance to the legacy of Santander."\textsuperscript{129}

And it is precisely this double seminal legacy that breeds, under the benediction of the fathers of the country, a profound and visceral cult towards Presidentialism. The early enthronement of presidentialism as the main totem of Colombian political practices, has made of it the point of inflection where an advanced project of State formation meets with a precarious reality of national construction. Presidentialism has thus become the point of definition.

\textsuperscript{128} On the role of the Catholic Church in State formation in Colombia see especially the works of DeRoux (1983 ) and González (1997).

\textsuperscript{129} Valencia Villa (1987: 171, translation and underlining mine).
of policies for constructing a nation by means of punitive models of conflict management.

Presidentialism as political practice

In the last day of the independence campaign Bolívar spoke: "The day we don't fear an external enemy that day all of the mishappenings will begin for Colombia. In that day the trumpets of civil war will sound." With acute vision Bolívar foresaw the future of the country. Against the publicly maintained belief that in Colombia democratic institutions are in force and stable, the political and constitutional history of the country reveals a profound and continuous instability present since Bolívar left power.

"Only Bolívar as head of a powerful army and faced with the thread of the Spanish reconquest of the liberated countries in Meridional America, could maintain the cohesion of the centralist State of 1821 which was to be governed from Bogotá, a distant capital whose range had to extend from the mouths of the Orinoco to the mouths of the Guayas, and from the golf of Veraguas to Maracaibo. With inexistent roads the provinces were kept isolated from each other, and centralism resulted being a juridical strategy for the needs of war."130

Here it is worth highlighting two main issues: on one hand, the inevitable concoction -since the independence campaign- of the duet cohesion / war; and on the other hand, the role assigned to the head of state as articulating axis of both the ideal of nation and the

130 Vásquez Carrizoza (1979: 12, translation mine)
architecture of the State\textsuperscript{131}. So it is how the institutional fragility of the state -maintained now for more than 187 years- is neutralized by the imaginary of cohesion that the head of State mobilizes through force or rhetoric. Since the dawn of the civil war of 1840 until now, Constitutional Law in Colombia has been, not a method for reflecting on the life of the State, but a strategy of power that alters the political conditions of the country with the sole purpose of annulling the adversary. In such a way is that unlimited presidential powers reflect, as suggested by the jurist Alfredo Vásquez Carrizoza, the permanent crisis of Constitutional Law in Colombia.

The war of independence against Spain, the attempts to consolidate as a sovereign republic \textit{La Gran Colombia} (what is today Ecuador, Venezuela, Panama and Colombia), together with the monarchic personality of Bolívar imprinted to the figure of the president unprecedented characteristics of unlimited authority. Since then, these characteristics have been maintained immutable throughout the republican life of Colombia. In words of Vásquez Carrizoza,

"The president in Colombia is almost the totality of the State. His word, his points of view, be them legal, economic or diplomatic, are acts of government. The advice of his ministers is only a reference to him, his powers for decision making are almost boundless."\textsuperscript{132}

\textsuperscript{131} For an example of the Bolivarian myth and its imbricacy with the formation of both State and Nation see Taussig (1997).

\textsuperscript{132} Vásquez Carrizoza (1979: 15, translation mine)
According to this same author, the presidential power in Colombia has evolved from a phase that can be labeled "imperial" - started with Bolívar in 1810 and extended to the Constitutional reform of 1910 - in which the privileges of a monarch are combined with forms of popular elections; to a phase that can be labeled "constitutional" - from the reform of 1910 until today - in which limits to the presidential power are incorporated in order to diminish the excess of centralism and presidential authoritarianism.

a. The Imperial Presidency

Once Bolívar disappeared from the political arena, and while he lay dying in his bed in the Quinta de San Pedro Alejandrino in Santa Marta, the fracturing of La Gran Colombia comes to its final stages. In the beginning of 1830 two Congresses are invoked simultaneously with the purpose of writing up the constitutions of what where now in fact two separate states: Venezuela and Colombia. The Colombian constitution of 1830 although it sought to reanimate and maintain the flaking unity of La Gran Colombia is born dead. The general José Antonio Páez in Venezuela issues, after seizing power by force, a constitution on September 22, 1830. That same year the general Juan José Flores declares himself chief of the new state of Ecuador and calls upon a constitutional assembly. Under the inevitable collapse of the Bolivarian State a new constitution is written in Colombia in 1832 which gave extraordinary faculties to the president in case of civil war or armed confrontation with another nation.

In 1832 the general Francisco de Paula Santander takes on the presidency of Nueva Granada (formed now only by Colombia and
Panama). Promptly he imprints a politically exclusive and legalist tint to the presidential figure. Santander bars from the State all of those who had once being members of the Bolivarian party by means of keen legalist manipulations. This in turn, creates an acute rupture within the newly born power elite of the country giving rise to two political parties, the *Liberales* and the *Conservadores*. This rupture, echoing Bolívar's words, leads to a sustained armed confrontation between the two parties -interrupted only when the privileges of power are at stake- whose climax can be traced to what has been known in Colombia as the epoch of *La Violencia* (1945 -1965). The *Nueva Granada*, as Vásquez Carrizoza says, once it established a precarious State, entered into the infernal vortex of violence and "holy wars between the parties"\(^{133}\).

The increasing polarization between the two parties leads to a war in 1840 and in 1841, as well as to a felt need to strengthen the figure of the president through an underlying of the urge for tranquillity and order. Under such circumstances a constitutional reform takes place in 1843 that frees the president of all legal control from the *Consejo de Estado* and from Parliament. The spirit of the reform was centralist and conservative allowing for any decision or legislative, executive or even judicial act to be dependent on the final decision of the president. In 1848, and in the midst of the fall of the monarchy of the Orleáns in France, the political prospect of *Nueva Granada* enters into yet another period of change: The members of the literary society *El Arbor Literario*, formed by

\(^{133}\) Vásquez Carrizoza (1979: 85-86, translation mine)
intellectuals from Bogotá’s elites interested in European romanticism who would be known later in politics as the "advanced" saw in the French Revolution of 1848 an incident that exalted the viability of political utopias. The ideas of dismantling the State in order to convert it into a set of sovereign and independent entities was set into motion in the Constitution of 1853, which adopted a federal system as mechanism for undermining the State while promoting the collapse of a central authority. It is in this Constitution the only time when the presidential authority was diminished to a minimum, but not without consequences.

The unbridled federalism unleashed by the Constitution of 1853 together with the lack of physical, ideological and cultural communication between the different regions of the country ends up abolishing the State as directive guide of the fate of the nation. In 1858 a new constitution legitimizes any attempt of insurrection from the new Sovereign States. The political feebleness of Bogotá came to such extremes that the London Times predicted a complete claudication towards any attempt of consolidating the Republic:

"The absorption of the weak republics of Central and South America by the United States is a fact that would take place shortly. Mexico and Nueva Granada are not only on the verge of collapse because their own fractioning but they are determinantly moving towards abdicating their nationality."

134 The London Times quoted by Vásquez Carrizoza (1979: 136, translation mine)
In 1859 the political chaos is unsustainable and insurrections burst in different regions of the country unfolding into a general state of civil war. On June 26, 1859 a riot breaks in Cartagena; on May 8, 1860 Tomás Cipriano de Mosquera, a former General of the anticolonial wars and now President of the State of Cauca, breaks relations with the confederate government, later to be joined by the States of Magdalena and Santander. The generalized state of war and the later victory of Mosquera precipitate the need for yet another constitutional change. In 1861 General Mosquera takes the title of "Provisional President of the United States of Colombia". In his triumphant entrance to Bogotá Mosquera arrives blessed with the halo of savior of the national unity. With the institutions of the confederate regime abolished the General begins his presidency under a regime of war that allowed him to mold at his will the political physiognomy of the country. The monarchic bolivarian phantom was returning, this time in the figure of Mosquera.

On February 4, 1863 the Constituent Convention meets in the town of Rionegro. The Convention, fearful of the omnivorous powers of the General, decides to legally tie the overwhelming personality of Mosquera. The new constitution, in a federalist mood, molds a State presided by a head of state whose period was limited to two years and whose faculties were restricted only to "foresee the preservation of the public order". With the Constitution of 1863 it was taken for granted that the weakening of the presidential powers would allow for stability and tranquillity in the sovereign states, nevertheless reality was contrary to desire. The lack of a central power unleashed more instability giving way to a cruel era of civil confrontation in
which war became the sole instrument for accessing power. In 1878, and after a prolonged civil war, a new coalition between the two parties, opposed to the excess of federalism, begins to take shape in the figure of Rafaél Núñez. In making reference to the times prior to 1878 Núñez wrote:

"In the last years of the unfortunate cycle that ends in this date, evil had reached its apex, if such a word can be applied to the utmost decadence. That famous phrase of M. Thiers, that makes reference to the Second Empire, came frequently to my spirit: 'There are no more faults to be committed'. The country was morally and materially reduced to rubbles. Since April 1, 1876 the ministry of Finance has disappeared, as Mr Parra, the secretary of the treasure, later confessed in his Report of 1878. The army had turned into an electoral instrument. The convictions for exile and confiscation were applied without judgment... That was madness for not to say an orgy."\(^{135}\)

With these words Núñez inaugurated the political process of the "Regeneration". In 1880, and after taking office as President of the Republic, Núñez starts a process of salvaging the authority of the central government. In 1885 a new civil war breaks pushing Núñez - who had been reelected President in 1884- to suspend completely all traits of federalism, and with it the Constitution of 1863. The new State was to be centralized, authoritarian and of a theocratic inspiration. On September 10, 1885 Núñez releases a decree that calls for a National Council of Delegates that were to write a new constitution, referred to as a "New Pact for Unity". The Council is

\(^{135}\) Vásquez Carrizoza (1979: 179-180, translation mine)
inaugurated on November with the presence of Miguel Antonio Caro who discloses what was to become the project of State in the Constitution of 1886: An authoritarian, centralist and pyramidal State with the figure of the president in the apex. In short, a State with a napoleonic presidency:

"Caro thought of the presidency as a type of monarchy tied only to popular election. With the hereditary principle suppressed, the President of 1886 is a king without a crown that disposes of the free assignment of his ministers, governors and functionaries of the national, departmental and municipal levels, as well as of the public forces and the veto over the laws approved by Congress. On top of that there would be two kinds of extraordinary faculties for the President of the Republic: Those that Congress gives 'pro tempore' and those that come forth with the declaration of state of siege."^{136}

With the approval of the Constitution of 1886 the attributions and characteristics of a president with absolute powers is consolidated. The president could assign ministers, governors and magistrates; bring into force his own decrees and laws; shape the national budget; plus have access to extraordinary powers in times of internal or external conflict. In 1888 President Núñez, in an attempt to close down all possibilities for infiltration of the opposition in his government, brings into force the Law 61, later to be known as "La Ley de los Caballos". With this law he gave a permanent character to presidential powers to repress and punish any type of opposition. This law gives birth to the coexistence, in the Colombian political

^{136} Vásquez Carrizoza (1979: 195, translation mine)
practices, to two parallel states: One that pretends a democratic normality, another that is adjusted to the reality of authoritarian restrictions. The Constitution of 1886 in proclaiming democratic principles without defining procedures or offenses leaves the door open for the government to proceed, in his convenience, to make such definitions. The Law of Horses in assuring the leadership of Núñez -who soon becomes a sort of political patriarch of the Republic- sows hatreds and radicalized intolerance that soon unfold into a new civil war.

La Guerra de los Mil Días ("The War of the Thousand Days") as it came to be known, leads the two parties in 1899 once again to an armed struggle. The nation is bankrupt, the public debt at its highest levels, and the resulting hyper inflation combines with the appearance of liberal guerrillas. On January 4th, 1901 repression is enhanced by the coming into force of legislative decrees for the containment of "those gangs of delinquents". On April 12 General Rafaél Uribe Uribe, by then chief of military operations in the Atlantic coast, releases in New York the "Peace Manifesto". A year later, and under the impossibility of continuing the war for financial reasons, the treaty of the "Wisconsin" is signed on board of a American battleship stationed in Panama bringing to an end the civil war. In 1904 a new period, later to be known as "El Quinquenio", begins for the Republic with the presidency of Rafaél Reyes, a former delegate in the National Constituency Council of 1885 and army official in the wars of 1885 and 1895. The military background of Reyes, his impetuosity for modifying the structure of the State, together with his initiative to calm down the spirit of war by means
of a National Assembly that would discuss the internal and external matters of the country, soon position him as the first prominent leader of 20th century Colombia. But the abuse of power by Reyes soon gave way to a fear of an uncontrollable dictatorship. In 1906 Reyes escapes miraculously an assassination plot. The perpetrators were condemned and executed in Bogotá. The increasing terror unleashed by these measures, in conjunction with the unfavorable conditions in which the treaty over the Panama canal was negotiated, hastened the fall of the General in 1909. Carlos E. Restrepo undertakes the presidency and immediately convokes a National Assembly in charge of modifying the Constitution of 1886. The reforms of Restrepo were meant to bring balance to the presidential regime by means of the elimination of centralist and authoritarian excess. The Constitution was beginning to be understood as the supreme chart that reigns over both laws and the dispositions of all the branches of the State, including the Executive.

b. The Constitutional Presidency

With the reform of 1910 important changes are introduced to the Constitution of 1886: the principle of universal suffrage is incorporated, the presidential period is fixed for four years, and most importantly the presidential power is subjugated to the normativity. Since then the president can be judged by "acts or omissions that override the Constitution and the law". Of special relevance were the changes introduced to the article 121:
"In what concerns the state of siege, the Chief of the Executive branch [the president] is prohibited from dictating 'Legislative Decrees' and he is required that, in case of disturbance of the public order, 'the government cannot overrule the laws by means of such decrees'. The presidential powers are limited to the suspension of the laws that are incompatible with such temporal situation. Stress is made in the collective responsibility of the President and his Cabinet specially in case of any abuse that they may fall into while exercising the extraordinary powers of the state of siege."  

Under these new parameters the governments of the first half of the century will have to face the problems of social and political instability. Although these improvements in constitutional matters, the article 121 maintains an ambiguous character as far as it sustains a confusion between 'state of exception', 'state of siege', and 'state of war'. Such confusion of course allows the Executive branch to apply the norm invoking the meaning that most suited its interests; and such was the case: The article 121 soon was turned into an efficacious instrument that solved any type of malady be them political, economical, social or those pertaining to disturbances of the public order. The executive branch, through the use of extraordinary decrees, did everything that was explicitly prohibited by the constitution, giving way to the coexistence of parallel states, or as Vásquez Carrizoza says, to the consolidation of a two floor system one which fakes normality, the other which applies restrictions. Since then and until now the extraordinary powers of the president have

\[137\] Núñez quoted by Vásquez Carrizoza(1979: 280, translation mine)
been used to confront not only disturbances in the public order, but also labor conflicts, political situations, and furthermore, constitutional amendments.

Although the 20th century was begun with a drift in the constitutional discourse that promoted the establishment of a more controlled and balanced executive power, the political practices throughout this century have proven that the imperial presidency is still today a figure that haunts the country. The following segment explores the history of the use and abuse of the legal figure of state of siege making special emphasis in the period that runs from 1958, time that sees the birth of the National Front, and 1991, year in which a new constitution is approved.

2. History of Fear: The State of Siege in Colombia

The German political theorist Carl Schmitt suggests that the legal arguments that support the existence of exceptional measures were molded in the Roman Empire, in times of the Republic: in case of popular insurrections the Roman Law allowed for the existence of a special magistrate -appointed by the Consul, on the Senate's petition- that could exercise extraordinary powers in order to defend the State. In feudal Europe the concept of "state of siege" is brought about to denote the sanction of precluding measures for defending the fortified cities. The state of siege, as a contemporary juridical figure, combines both of the former concepts for the first time during the napoleonic empire in the article 66 of the Additional Act of the
French Empire dated April 22nd, 1815. Article 66 specifies that no part of the territory can be called upon state of siege unless a foreign invasion or a civil upheaval is taking place. Later the French Constitution of 1848 would clarify that it was the law that was to determine both the circumstances and the requisites that should be fulfilled in declaring a state of siege. The Constitution of Louis Napoleon Bonaparte complements the figure of 1852 by allowing the head of State to declare the state of siege informing the Senate as soon as possible on his decision.

The fear of the populace, so latent and disseminated during the French Revolution, was the primal drive that allows for the consolidation of the figure of state of siege in modern legal theory and political practice. And it is that fear what fuels the need to search an order which is often defined through negative dialectics: order becomes all that reassures the identity of power, chaos everything that challenges it. It is of minor concern if the challenge is real or fictitious, what matters is its existence in the mind of the power holders. As Canetti suggests,

"The paranoid type of leader is the person who keeps danger away from himself by any means. Instead of provoking it or confronting it, instead of taking the risk of a battle, he seeks to close its path with shrewdness and precaution. The leader will create a free space around himself, a space that he can inhabit and from which he can observe every sign of closeness. He would do this from every angle because the conscious of knowing that he can be attacked by anyone maintains in him alive the fear to be surrounded. Danger is everywhere, no only before him. It is even more menacing behind his back, where he could not advert it on time. His eyes are
everwhere and he can not miss the most insignificant rumor because it could correspond to a hostile presence."\textsuperscript{138}

And what better than the figure of state of siege for appropriating that fear and instrumentalizing it through repressive measures that enforce an adequate social control and disciplining? The state of siege is a reflection of the State's paranoia, the reflection of its cultural incapacity to understand difference, and of its profound weakness to construct itself as a truly democratic space. Throughout this segment I explore in detail the fear of the Colombian political elite, and its multiple manifestations through time, while using and abusing of extraordinary legislation.

In Colombia the figure of state of siege is introduced in the Constitution of 1886 in the article 121. The article defines state of siege as the power that the government has to "declare disturbed the public order in all of the Republic or part of it" in order to bring into force the necessary measures for its restablishment. It is only until 1960 that the concept of control of state of siege measures is introduced in the Colombian constitution. By then, two State corporations, independent of the executive branch, where meant to enforce the control over the presidential powers: The Supreme Court of Justice which had to ensure that issued norms had a relation of connectiveness with the causes of disorder; and Congress, which was in charge of performing the political control of the decrees, that is,

\textsuperscript{138} Canetti (1987: 228, translation mine)
the assessment of the motive that the executive branch was evoking for the need of such measures. In Colombia the control functions from 1958 to 1991 were inexistente. As mentioned above, the President is allowed to call upon a state of siege in case of external war or "internal commotion", but the article 121 does not specify what is "internal commotion" thus giving way to a extremely lenient interpretations that, at most, evoke abstract violence as a justification for any governmental action.

The perversion of the figure of state of siege soon came to be. In 1928, the presidency of Abadía Méndez uses the figure to suffocate a workers strike in the banana plantations of the department of Magdalena, after the United Fruit Company refused to negotiate a sheet of petitions. The government's action resulted in a sadly famous massacre. In 1934, the outbreak of a strike in the Ferrocarril de Antioquia serves as excuse to declare the disturbance of the public order, in consequence new exceptional measures are brought into force. In 1942, during the Santos administration, a new modality in the use of the figure of exception is inaugurated; echoing the political practices of the nineteenth century the administration uses legal procedures to manipulate and produce political effects of importance: using the state of siege Santos closes down all the Departmental Assemblies, serving as antecedent for the closing down of Congress in 1949, during the presidency of Ospina. Meanwhile, and running parallel to these abuses, a growing hatred is being nurtured among the two parties, specially acute in the rural areas of the country.
On April 9, 1948 the liberal presidential candidate Jorge Eliécer Gaitán, representative of the ideals of the urban workers and peasants and symbol of the moral reconstruction of the country, is assassinated in Bogotá. From that date onwards the political power of the army is at rise as it shows to be the only State institution capable of maintaining a precious "institutional order". Simultaneously, sectors of the liberal guerrillas and the left will begin shifting towards the idea of the guerrilla movement as substitute of political action. As Vásquez Carrizoza says, "from then onwards a permanent state of siege was the only mechanism of survival of the government." The political chaos and a irreconcilable distancing between the conservative and liberal parties opened up the way for a military coup, on June 13, 1953 by the then Chief of the Armed Forces General Gustavo Rojas Pinilla. The dictatorship of Rojas Pinilla extends until May 1957 when a general strike promoted by the high bourgeoisie led him to exile. The bankers and industrial owners of the country upon agreement decide to paralyze the nation demanding the withdrawal of the General from power and the return of the presidency to civil hands. This unique and particular decision was preceded by various political pacts between the heads of the two opposing parties, Laureano Gómez and Alberto Lleras Camargo. These political pacts between the ruling parties inaugurated the epoch of the Frente Nacional (National Front), in 1958. From 1958 until 1974 the Presidency of the Republic was to be alternated between the two parties and the bureaucratic quota of the State shared to its minuteness.
The National Front starts on August 7, 1958 with the presidency of the liberal Alberto Lleras Camargo who rapidly understands the need to differentiate his government from the years of the dictatorship. In his inaugurating speech Lleras brings to an end the state of siege in all the territory, with the exception of those municipalities where public order was evidently disturbed. With his democratic image at its high, Lleras sagaciously leads Congress in 1949 to approve as ordinary legislation the legislative decrees issued by the General. An increasing fear of a conspiracy lead by sympathizers of Rojas Pinilla exasperates the sense of fragility of the government which soon calls upon a state of siege due to the existence of "irrefutable facts that disturb the public order." On December 3, 1958 and simultaneous to the return of Rojas Pinilla to the country, the government declares the state of siege in all the nation after assuring having unveiled a "subversive scheme to overthrow the legitimate authorities of the country." The precluding measures include the restriction of free circulation and the prohibition to release news that might "affect the tranquillity of the citizens."

In 1960 Congress issues the Legislative Act Number 1 that modifies the article 121 of the Constitution. With this new amendment significant changes are introduced to the legal rhetoric but not to the political practice. The constitutional reform forces the president to inform and account for the political motivations behind the decision of calling a state of siege; empowers the Supreme Court of Justice to decide over the constitutionality of the decrees issued by the government under extraordinary legislation; and gives to
Parliament and to the citizens the possibility of filing suits against
the constitutionality of the decrees. In 1961 the president issues,
under state of siege legislation, a set of norms that would gradually
reinforce the repressive apparatus of the State by authorizing the
issuing of public debt bonds that would help finance "the campaigns
for public order." With the emergence of new social movements in
the political arena -the Movimiento Revolucionario Liberal (MRL) of
Alfonso López Michelsen, and the Movimiento Obrero, Estudiantil y
Campesino (MOEC) inspired by the Cuban Revolution- once again
state of siege measures are put into force. The new restrictions
include the prohibition of public meetings and rallies, the prohibition
of transmitting political conferences or news attained to public order,
control and censuring of radio communications, and the issuing new
public debt bonds to increase military budget.

On August 7, 1962 the presidency of the conservative Guillermo
León Valencia is inaugurated. A new state of siege is declared on
May 23, 1963 in four municipalities of the department of Santander
due to a strike in the oil port of Barrancabermeja. Only one decree is
issued appointing an army colonel as civil and military chief of the
area. The colonel, embedded with this new powers, detains the

139 Although the later, Congress has never exercise its right over the political
control of state of siege measures since it believes that the declaratory act by
which public order is sought to be disturbed is of exclusive competence of the
president. Congress thus has always had a passive and complicit attitude in
these matters. On the other hand, the Supreme Court of Justice has exercised its
own rights only with second generation decrees, that is, those that develop the
specifics of the state of siege measures. In so doing the Court never questioned
the reasons that the president had for calling upon a state of siege because it
considers them to be Reasons of State, therefore not applicable for technical
constitutional debate. Finally, the participation of citizens in filing suits
against the constitutionality of any decree has been practically inexistent, or
at bst disregarded.
leaders of the oil syndicate, bans their organization and occupies their offices. On May 21, 1965 a student rally in Medellín that was protesting against the US invasion to Santo Domingo is used as pretext to declare the disturbance of public order in all the nation; but other reasons were underlying the decision, mainly the increasing popularity of the priest and academic Camilo Torres - cofounder of the School of Sociology in the Universidad Nacional (National University)- and the viability of his political leftist movement the Frente Unido (See Chapter Four Part One, below). The measures enforced increase the involvement of the Army in the judicial circuits by means of transferring some civil misdemeanors (those labeled as behavior against the State's security, and crimes against property, kidnapping, and extortion) to the Military Penal Jurisdiction.

On September 2, 1965, a new variation in the use of the state of siege is introduced. The increasing fiscal deficit obliges the government to present to Congress, at that time of Liberal majority, a package of economic actions. The package does not pass Congress so the president calls upon a state of siege in order to bring immediately into force the measures that had just been denied. Up to then, the Army had already turned into the most efficacious instrument for the protection of the regime of the National Front, as well as the most expedient space for conflict resolution. By the end of 1965 new decrees of state of siege seal, through the adoption of the "Organic Statute for the National Defense", the privileged position of the Armed Forces in the political structure of the country. On June 30, 1966, new decrees expand the control over governmental spaces
by the Ministry of Defense at the same time that introduce new misdemeanors to the competence of the Military Penal Jurisdiction.

On August 7, 1966 the presidency is for the Liberals in the head of Carlos Lleras Restrepo who begins his government with a strong critique to the lenient and abusive use of the article 121 in the former administration. Nonetheless two months after coming to office it is ironically Lleras, who years before played an important role in the Colombian student movement, the one that applies rigid measures designed to repress it. A rally against the visiting of Lleras and John D. Rockefeller to the campus of the Universidad Nacional, and their subsequent expulsion of the university grounds, leads him to authorize, for the first time, the military occupation of the university, thus breaking what was considered the university's own autonomy. In addition, Lleras authorizes the security forces to come about with lists of suspects involved in guerrilla activities as well as their constant surveillance. By using the argument "battle against subversion" daily life is militarized through a permanent reign of persecution to any demonstration of discern. As in former occasions, Lleras also uses the figure of state of siege as a mechanism for economic management of financial crisis: In 1966, and after a ban of Congress, his administration calls upon extraordinary legislation in order to give to the central bank the monopoly of holding and negotiating with foreign currencies. By the end of 1968 legislative steps crystallize an important reform to article 121 of the Constitution: First, it introduces an more agile mechanism that would allow for an expedient revision of the constitutionality of the decrees by the Supreme Court of Justice; and second, it introduces the new
figure of "state of economic emergency" which was to be used in cases of need of extraordinary legislation in such matters. But again, the new amendment maintains unmodified the convenient ambiguity in the definition of parameters for the use of article 121. By May 1970, and after an ambiguous victory of the Conservative Misael Pastrana Borrero over the General Gustavo Rojas Pinilla, now political head of the newly created Alianza Nacional Popular (ANAPO), new state of siege measures are brought into force. The evidence of electoral fraud, the subsequent mobilization of various popular sectors of the country, and the appearance of the M-19 guerrilla as armed section of the ANAPO, were reasons for the Executive to expand, once again, the incidence of the Army in the control and disciplining of daily life.

On August 7, 1970 Misael Pastrana Borrero takes office as the last administration of the National Front. During his government the use and abuse of the article 121 becomes already a normalized component of Colombian political practice: A student rally at the Universidad del Valle protesting the role of some US foundations in Colombia, or a general workers strike fall, in one moment or another, as sufficient reasons for the administration to enhance new state of siege measures. Pastrana, following the legacy of his predecessors, keeps up the State's paranoia towards popular movements exacerbating it to the point of weakening, almost to its extinction, the capacity of mobilization of student, labor and peasant movements. In 1974, the Liberal Alfonso López Michelsen is elected by a broad majority as the first president outside the National Front regime. The general sentiment is one of hope for the stability of the political
regime as well as for the normal functioning of the institutions; nevertheless, the heavy burdens of the National Front, by which the systematic ruling through extraordinary measures, seemed to be already naturalized as constitutive part of the "normal" political regime of the country. The López's administration sustains the use of state of siege as instrument for expanding on the spaces for military intervention, and suppressing student and peasant movements in praise of "maintaining the public order in all the national territory."

In his first appearance in Congress the elected president for the term 1978-1982, the Liberal Julio César Turbay Ayala, emphasizes his decision to use amply the article 121. On September 4, 1978, only a month after taking office, Turbay calls upon the state of siege and begins to unfold what was to become his own parallel constitution: The Security Statute. With the newly decreed measures Turbay gives birth to yet new felonies and contraventions, increases the punishments for already existent misdemeanors, expands the penal jurisdiction of the Military, and establishes television and radio censorship. With the Security Statute the long process of refining and fine tuning of the figure of exception begun in 1958 is crystallized. Once again the victims of the extraordinary measures are going to be altern social and political movements.

The administration of the Conservative Belisario Betancur (1982-1986) begins, as opposed to the former one, with a democratic opening that allows initial dialogues between drug lords and the government, and between the government and the guerrillas (FARC, EPL and M-19), later to be confirmed with the signing, in 1984, of the Agreements of La Uribe and Corinto. It is important to highlight
that in the first half of the Betancur administration, the lifting of the state of siege coincides with the proliferation of paramilitary groups that are engaged in a systematic extermination of popular leaders and that open up the way for the Dirty War in Colombia. In 1985 the dialogues with the guerrillas and the drug cartels end up tragically. The first one, with the guerrilla, ends with the cruel episodes that followed the seize of the Palace of Justice by a commando of the M-19. The second one, with drug cartels, comes to an abrupt end with the assassination of the Minister of Justice Rodrigo Lara Bonilla, giving way to what has been rendered in Colombia as the "frontal war against narcotraffic." In such a context the legislation born in the times of the Security Statute is revitalized. Since then, as argued by Orozco (1992), the undifferentiated treatment of rebellion and terrorism, and its tacit fusion between guerrilla violence and narcoterrorism, become foundational for exceptional penal legislation.

The Barco administration (1986-1990) is inaugurated in the midst of an increasing frustration due to Betancur's failed peace initiative, as well as an escalating threat of the private military apparatus of the drug cartels. Barco's campaign slogan "Extended hand and firm pulse" is illustrative of the governments intention to cope with these two new forces of disturbance. The acuteness of the dirty war together with the kidnapping and later assassination of the Attorney General of the Nation, Carlos Mauro Hoyos, leads Barco to issue in 1988 the "Statute for the Defense of Democracy", revitalizing with it, the use of state of siege legislation. The new statute once again typified new offenses, increased existing penalties, alleviate
the penal justice procedures, and modified the habeas corpus making it in practice virtually inoperative. In addition, the Statute facilitated the structuring of the Special Jurisdiction for Public Order as a substitute to the Military Penal Jurisdiction. Being conscious of the disrepute in which the regime of state of siege had fallen, the government begins to promote a constitutional reform that would modify in form, but not in content, state of siege procedures. The significant advances in the peace dialogues with the M-19 together with the increasing interest of various leading sectors of the country in modifying the Constitution of 1886, lead the government to compromise in facilitating the political conditions for a National Constituent Assembly.

On August 7, 1990, just a few months after the assassination of the Liberal candidate Luis Carlos Galán Sarmiento, César Gaviria Trujillo -his former chief of debate- takes office as the new President of the Republic. On August 2 the elected president Gaviria signs an agreement with representatives of a faction of the Conservative party (the Movimiento de Salvación Nacional), and with the newly formed political party, the Movimiento Alianza Democrática M-19. With this political agreement the administration was compromised in calling for a pluralistic constituent assembly. With the issuing of the Legislative Decree 1926 and, not surprisingly, using state of siege powers, the government calls for the conformation of the assembly arguing for the urgency of creating new founding bases for an institutional strengthening, since "the institutions as they are currently designed can not counteract the diverse forms of violence of the country." In the Sentence 138 the Supreme Court of Justice
declares the constitutionality of the decree. The Assembly is formed by means of a popular vote on December 9, 1990; starts sessioning in the first months of the following year and concludes in November 1991 with the delivery of a totally new constitution.

This short account of the recent political history of the country shows how extraordinary legislation has not been an exception but rather the rule of political practice and culture in Colombia. The regime of state of siege has been the hidden canister where power and culture are intertwined in its inner depths: State paranoia in alchemy with the State's own incapacity to recognize something different than itself; although publicly the state of siege has been presented as the sole mechanism efficacious enough to confront the multiple enemies that wait, in a perfect ambush, the occasion to destroy the established order. Fear and authoritarianism, two faces of the same coin:

"Within a history of secular fear to the crowds, the state of siege, in its punitive-restrictive use, had turned in the last decades in a statute that affirmed authority over liberty; in a legitimating statute for extended interruptions of the basic principles of State organization and human and civil rights; but above all, the state of siege had turned into a governmental instrument of a redundant criminalization of non violent social and political protest."\(^{140}\)

The widen spectrum of goals reached by means of the state of siege regime had, without doubt, exceeded the constitutional

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\(^{140}\) Orozco (1992a: 290, translation mine)
requirement of providing an agile and immediate response to specially convoluted situations. The prolongation of exceptional measures through time, and its succeeding and mimesis into the space of the ordinary, unveil two disquieting issues: On one hand, most of the punitive measures enhanced and legitimated through the regime of state of siege, adopted by Congress as part of the ordinary legal corpus, have permeated the fibers of daily life flooding it with restrictive inscriptions of liberty. On the other hand, the increasing absorption of the State in itself has lead to the normalization of political practices that, instead of been directed towards society, enhance the building of a protecting mucous that not only isolates the State from exposure to difference, but above all, safeguard it from the latent chaos that the same State has constructed as in existence "out there".

"That image of incapacity is the fetish that, hiding the exclusive nature of the Colombian State, is forced upon objectively as a phenomenon accepted by the public opinion. And he who says incapacity is simultaneously implying the need for enforcing the State apparatus, even if it means preserving, explicitly or implicitly, the prerogatives of the state of siege."141

The regime of exception and its privileged use as bond between State and society, has imprinted specific modalities to power relations; it has modified the presence and equilibrium between the Armed Forces and the rest of the political spheres of the State; and finally it has aggravated, by means of deepening the distance

141 Gallón (1979: 117, translation mine)
between power and society, the sentiments of intolerance. State paranoia, mixed with those characteristics that make the Colombian political culture, bring to life the paradoxical existence of an idea of democracy with authoritarian and dictatorial practices. As suggested by many authors\textsuperscript{142}, the existence in the power elites of the country of a well structured political culture explains why the advantages for keeping unmodified ideological advantages of normalizing the "exceptional" can be maintained. The particular dynamics of this paradox are explored in detail in the following segment.

3. Parallel States

As quoted by Marcus (1989), Edward Schieffelin's study of the Kaluli of Papua New Guinee describes how for these people the cultural order is constructed in a parallel relation between two worlds -one visible, the other invisible. For the Kaluli the unseen world is not supernatural or sacred, but instead parallel and ontologically the same as the visible world. Phenomenologically, as suggested by Steven Feld (1982), the unseen world is experienced and lived through an acute sensibility to sound: The Kaluli understand and perceive the sounds of the forest as points of connection between the two worlds.

In 1988, Carlos Jiménez Gómez, by the time Attorney General of the Nation, argued that Colombians where governed by two

constitutions: the juridical written one (the seen), the other, the practical one (the unseen) imposed by force and ruled by an essentially authoritarian, exclusive, and thus violent logic\textsuperscript{143}. Between both, the written and the practical, the sound of state practice is formed, and it is through the facility of hearing that sound that one can perceive the paradoxical coexistence of a long standing legalist tradition with legendary repressive and convenient political practices. For us Colombians, as for the Kaluli, the presence of the unseen is also a constitutive part of ordinary life; but as opposed to the Kaluli, the unseen world does not render a more complete existence but rather an existence doomed to the repetition of the tragedy: Individuals do not count when sided with the destinies of the Republican Institutions.

"Permanently harassed by a feeling of insecurity, Colombian society has been opening more loosely the space for its armed apparatus (Armed Forces and State security agencies), embedding the legitimacy of the State's force with unlimited boundaries and empowering it with never written rights, all with the idea that only then can peace and tranquillity prevail.\textsuperscript{144}"

Following the arguments of Robert Cover (1983), once understood the context in which narratives give meaning to the Law, this one is recognized not only as a system of rules to be followed, but as a world in which we live in, as a normative universe that

\textsuperscript{143} Note on the Double State of Ernst Fraenkel.

\textsuperscript{144} Carlos Jiménez Gómez. Cited by Gutiérrez (1988: 296, translation mine)
gains meaning through the force of private or public interpretative commitments that determine what is to be signified by the Law, and what is it that the Law should be. In the Colombian milieu this equation is valid only in appearance. The coexistence of a seen and a unseen constitution leads one to think that in Colombia there is a radical dichotomy between the social organization of the Law as power, with the organization of the Law as producer of meaning; or, as Uprimny (1991) defines, a clear cut separation between efficacious law -that regulates human relations-, and valid law -the written norm. The sections that follow explore aspects of these parallel worlds in their sounds through public order legislation.

Restricting the exception

The profound gap between Law as power and Law as producer of meaning is unveiled in Colombia, as it has been suggested, in the historical use of the figure of extraordinary legislation. The systematic naturalization of the state of siege as a political practice has lead both, in rhetoric and in practical terms, to blur the limits between what is the exception in the political, judicial, and social spheres. Is the need for state of siege legislation in Colombia exceptional, as political theory and theory of law argue; Or is it that what is the exception in Colombia is to live under a regime of normal ordinary legislation?¹⁴⁵?

¹⁴⁵ By normal ordinary legislation I mean legislation which complies with the normal legislative procedures of a democratic regime; that is, a legislation that has no extraordinary legal measures as constitutive of its corpus. At this point is worth remembering that state of siege legislation has recurrently been incorporated by Congress as part of ordinary legislation.
The paradox of the exceptional is understood, if all, at the discursive level, but at the practical level it has been turned into a privileged instrument and weapon of daily political practice. And it is precisely that use value of the paradox what allows for the coexistence of a discursive mobility that, as an opaque and viscous layer, hides the fixed nature of Colombian political practices. It is illustrative of this, as García (1993) suggests, that the Constitution of 1991 takes for granted that from a permanent condition of repressive legislation one can leap, almost immediately, to a context in which it is virtually impossible to suspend the basic and civil rights of individuals. And once again we are facing the fetishism of legal discourse, the same one that makes us believe that with a new constitutional text old political practices, by magic, are going to be modified. In the overall, the mobility of the political-normative discourse has been functional in maintaining the sacredness of "the stability of the institutions"; a statement that foreshadows a profound desire for keeping unaltered the traditional political and legal cultures and practices. As the American jurist Robert Cover argues,

"If law reflects a tension between what is and what might be, law can be maintained only as long as the two are close enough to reveal a line of human endeavor that brings them into temporary or partial reconciliation. All utopian or eschatological movements that do not withdraw to insularity risk the failure of conversion of vision into reality and thus, the breaking of the tension. At that point, they may be
movements, but they are no longer movements of the law."\textsuperscript{146}

But what happens when these movements are the Law? When the Law becomes insular or exiled in practice while maintaining its dominance just in the prescriptive? Can the Constitutional Court repatriate the Law by breaking away from the fixed nature of Presidentialism as political culture and practice?

a. Normative restrictions

With the approval of the new Constitution in 1991 essentially new changes were introduced to the Colombian political architecture. Maybe the most significant one was the shift in the axis of the new Constitution: Instead of being edified on the principle of State structuring, the new political chart was to be founded on the Bill of Rights\textsuperscript{147} as framework for the appraisal of individual and citizen's powers, as well as gatekeeper against the potential excess of the State. As such, the new constitution strengthens the Attorney General's Office, and creates the figure of the Defensoría del Pueblo, the Prosecutor General's Office -as arrow point for a judicial

\textsuperscript{146} Cover (1983: 39)

\textsuperscript{147} As Orozco (1992a: 90) defines it: "The expansion of the Bill of Rights tried first to fine tune the listing of civil and political rights, that is to say, human rights which were the main set of rights mentioned in the Constitution of 1886. At the same time the expansion of the Bill was sought to enrich the space of social, economic, and cultural rights, that is to say, those defined as "second generation" rights. These had been incorporated to the old Constitution through the amendment of 1936 but had a precarious development in the Colombian constitutionalism. Finally, third generation rights were introduced for the first time, these are the collective rights of solidarity, within which is of special importance the so called ecological rights." (Translation mine).
efficientism and as axis of the new accusatory system-, and the Constitutional Court, in charge of developing and regulating the parameters written in the new constitution.

As the magistrates of the Constitutional Court have commented in several occasions\textsuperscript{148}, with the Constitution of 1991 a new vision of the legal order and a new way of interpreting it were implemented. Since 1991, legal interpretation was to be guided by the Bill of Rights as prime directive of the constitutional norms and of what is know in legal theory as a Social State of Law. The latter, as defined by the Court, spins around the idea of the need for an existing communication between norm and reality; that is to say, a reconciliation between the social organization of Law as power, and the organization of Law as producer of meaning:

"The Social State of Law is located in equilibrium between a conception of law as the sole enforcing of rules, underestimating the issue of the social consequences; and a theory that only considers the adaptability of law to social realities in accordance to the subjective appreciation of the judge [legal realism], underestimating the problems that arise when applying the law unevenly and in unpredictable manners."\textsuperscript{149}

Following this democratic and libertarian spirit, and with the idea of restricting the indiscriminate use of extraordinary legislation, the Constitution introduces in depth changes to the state of siege

\textsuperscript{148} See for example Corte Constitucional de Colombia (1996)

\textsuperscript{149} Corte Constitucional de Colombia (1996: 127, translation mine)
regime. While in the Constitution of 1886 there was no space for exercising an interpretative control of the criteria and motivations for state of siege measures\textsuperscript{150}, the Constitution of 1991 introduces important changes in this regard. The new articles broach not only temporal restrictions for the use of state of siege measures (270 days maximum), but also the Constitutional Court as independent space for the political and juridical control of the motivations posed by the President in such cases. With such changes the Constitutional Court soon gained a key position in the map of power relations within the State: By identifying itself as "gatekeeper of the norms and spirit of the Constitution of 1991" the Constitutional Court opens up a space for the potential actual emergence of political alternatives within otherwise rigid legal institutions and cultures.

b. Political practices

Although the spirit of the new constitution was in fact restricting the abuse and normalization of state of siege legislation, the political reality of Colombia has not changed substantially since the Constitution of 1991. Some have seen as a rampant illusion the pretension of thinking that the nomos can, by itself, change the political ethos. Nevertheless, the parameters of the new constitution

\textsuperscript{150} The article 121 of the Constitution of 1886 did not impose any temporal restrictions to the use of extraordinary legislation allowing, in practice, to unquestion the power of discretionality of the President, thus facilitating the abuse and continuity of state of siege legislation. Although article 121 requires the President to pass to Congress substantial arguments that validate the extraordinary measures, as well as to comply with constitutional technicalities controlled by the Constitutional Commission of the Supreme Court of Justice; the exercise of control, in practice, has been minimum: Congress never challenged the political motives argued by the President, and the Supreme Court limited itself to a timid revision solely of the form of the decrees.
and the fact that there is a literal site like the Constitutional Court break the monopoly of legal interpretation of public order legislation, formerly a domain exclusive of the Executive branch. This new correlation of forces within the core of the State will determine, in the long run, if the use of state of siege legislation becomes again the rule or truly an exception.

A short analysis of the evolution of the use of the regime of public order from 1991 to August 1995 gives an idea of both, the role that the Constitutional Court has played, as well as the evolution of the jurisprudence for the contention of violence. Two basic issues are worth exploring in the presidential decrees: On one hand, the representation of the facts that the government argues as cause of "objective situations that aggravate public order"; and on the other hand, the type of juridical argumentation used by the government as support of the decree. Its convenient at this point to highlight the double importance -synchronous and diachronic- of jurisprudence: It is through jurisprudence that law is interpreted with the purpose of directing the effectivity of norms at the moment in which they are brought into force; but at the same time, it is through jurisprudence that interpretative landmarks are constructed through time, landmarks that are framing and conditioning future sentences. Hence, the arguments under which the constitutionality or unconstitutionality of a measure is declared, as well as the clarifications and rejections voted by each magistrate are undoubtfully of unrefutable relevance. The short analysis that follows is meant to introduce the reader into the interpretative
dynamics of the Court, before embarking in a Dante like journey to deeper circles of Constitutional culture and practices.

Between August 1991 and August 1995 four state of siege decrees were filed by the Presidency (three in the Gaviria administration and one in the Samper administration). The first decree\textsuperscript{151} was motivated by the petition of provisional liberty and Habeas Corpus by those charged of felonies that fell under the recently established jurisdiction of public order (mainly felonies related to guerrilla and drug activities). The President adduces a wrong interpretation of the Penal Code and argues for the need to "secure the correct usage of public order normativity so the efficacy of justice is not put at risk." The private deliberations that followed within the Court were in favor of the constitutionality of the decree; nonetheless, one magistrate clarified his vote while two rejected the majority's decision. The judge Cifuentes, in his aclaration of vote, emphasized that a correct usage of the Penal Code most provide every individual with all the warrantees for a just judgment, at the same time that urged the executive branch to promote efficiency within the legal system. The rejections presented by the judges Angarita and Martínez, argue the lack of clarity in the arguments that connect the disturbance of public order with the judicial practice. For both it is unsustainable the call for a state of siege for reasons of faulty legal interpretation.

The second decree\textsuperscript{152} is decided upon a guerrilla ambush to a Police convoy in the oil town of Orito, in Putumayo. With the decree

\textsuperscript{151} See Decree 1155. July 10, 1992. Presidencia de la República

\textsuperscript{152} See Decree 1793. November 8, 1992. Presidencia de la República
the executive branch argued the need of fortifying the justice system through expanding on judge protection programs, delegating the functions of judicial police to the Army, incrementing the Armed Forces budget, and "augmenting the moral and efficacy of the soldiers." The Court voted for the constitutionality of the decree, one magistrate clarified his vote and one rejected the decision. The Judge Martinez clarified his vote by arguing that although the revision of constitutionality of a decree is in theory a technical one, political considerations can not be dismissed in practice. Martinez then argues that with this decree the government implicitly renounces the possibility of dialogue with the guerrillas thus limiting its action to the strictly military; if such is the case Martinez says, it is possible that the measures that the government wants to implement would contradict sections of the Bill of Rights. In his rejection the judge Angarita argued that there is no objective situation of extreme danger to the stability of the institutions, but a strategic manipulation of the Executive branch to subject constitutional law to the Reason of State (base of Presidentialism). It is worth bringing into attention that this decree was in force until August 1993 when most of its measures were incorporated by Congress as ordinary legislation.

The third decree\textsuperscript{153} comes with the due dates of judgment of 724 people charged of drug trafficking, extortion, kidnapping, and rebellion. With this decree the government’s interest in focused on the need to "incorporate transitory measures in the judicial branch,

\textsuperscript{153} See Decree 874. May 1, 1994. Presidencia de la República
in particular in the Prosecutor General's Office, so that their functioning and operativity can comply with the requirements of the Constitution." The Court voted, for the first time, the unconstitutionality of a state of siege decree. Since the decision of the Court was not retroactive the judge Gaviria argued, in his clarification of vote, that every sentence of the Court must imply a retroactive suspension of the decree's measures. The rejections of the judges Herrera, Moron, and Naranjo are based upon the argument that the Court has no competence for knowing and further for evaluating Reasons of State. Their position stressed that in this case the Court is judging the motivations in the terrain of the political rather than in the terrain of the strictly judicial thus, usurping the role of Congress.

The fourth decree\textsuperscript{154} is decided upon three different issues: a massacre of 24 people in Uraba, a sense of an unleashed wave of "generalized violence", and a report of the Ministry of Justice that shows that 3 of 100 convictions are actually sentenced. With the call for a state of siege the president argues for the need to reinforce the carcelary system as well as the legal instruments used by the judicial agencies; this meant expanding on the tipification of criminal conducts and augmenting the sentences. As in the former case, the Court voted for the unconstitutionality of the decree with two magistrates clarifying their vote and two rejecting the decision. The judge Naranjo in his clarification argued that the state of siege legislation is not designed for the Executive to use as it pleases and according to the political dynamics of the moment. On the other hand,

\textsuperscript{154} See Decree 1370. August 16, 1995. Presidencia de la República
the judge Herrera suggested that since violence is chronic in Colombia the government should not use the resource of extraordinary legislation for its contention but rather the ordinary means. The rejections of the judges Arango and Moron argued on the inconsistency of the Court’s jurisprudence suggesting that with the same motivations the decree 1793 of November 1992 was accepted as constitutional. In addition, the Court’s decision was interpreted by this two magistrates, as an usurpation of the President’s competence to rule.

Normalizing the abnormal

According to Carl Schmitt (1985 [1922]), the architecture and problematic of the state of siege can only be understood in its true magnitude by reflecting on the concept of sovereignty. Schmitt’s insights, based on the political and constitutional history of the Wiemar Republic -in particular the use and abuse of article 48 (emergency provision act)-, suggest that the ruling of exceptional measures is essentially an act of sovereignty. On one hand, Schmitt argues that the sovereign is who decides in a conflicting situation what is the public interest, the State interest, security and public order. On the other hand, for Schmitt the source of exception must be conflict hence the exception has sense only if there exists a parameter of normality. Law becomes then situational and, in consequence, any decision over the exception responds only to partial knowledge. The use of such a backdrop allows for unveiling the coexistence of two differential concepts of “normality”: One factic, the other, strictly juridical. The political regime while constructing a
legal order defines what is public order and security, and thus what is what counts factually as "normal". Note that this understanding does not emerge from objective conditions and realities, but from the parameters that make a political culture. On the other hand, in the terrain of the juridical, the exception is in itself the total suspension of the existing legal order and hence it unfolds a condition of a juridical abnormality. In the overall, the dynamics of the regime of emergency are similar to that of the rites of passage in which one enters a space of altered order, of liminality as Turner (1967) says.

Ideally, the regime of exception should compromise not only a juridical abnormality but also a factic one. In other words, the use of the regime of exception should reflect some coherency between what was labeled before the social organization of law as power - that is the construction of factic parameters that define normality / abnormality- and the organization of law as producer of meaning - that is the construction of legal parameters that define normality / abnormality-. As it has been argued throughout these sections, in Colombia this coherency is inexistent, and the political culture and practices overflow and ridicules the legal reasoning: While the factic abnormality is adjusted to the immediate political conveniences and manipulations, the juridical abnormality is framed under a project that seeks to rationalize violence as a necessary condition for the clear cut definition of distinctive spaces of normality and abnormality. The next two sections keep on exploring these critical issues in the rhetorics unfolded over the definitions of normality and abnormality. The first section stresses the manner in which the constant desire for representing a controlled order is manifested; the
second section is centered around the ways in which jurisprudence creates meanings, through attempts of rationalizing violence, that oblige for radical changes in state practices.

a. Factic abnormality: Law as power

The exercise of Law as power simultaneously differs and blurs the latent, disseminated, and decentered chaos that traverses Colombian daily life, through artificial rhetorical layers. Legal rhetoric has become the means of reflecting a desired control over what is perceived as chaotic. In such a case little does it matter the legal effectivity of the norm but rather, the effectivity of it to justify an exercise of power. Hence, as Cover suggests in an essay on violence and the word, law as power operates in the terrain of the ideological:

"The function of ideology is much more significant in justifying an order to those who principally benefit from it and who must defend it that it is hiding the nature of the order from those who are its victims." ¹⁵⁵

This function of ideology is much more significant in as much as it is through it that the State exercises its own regulatory power - which is in essence the source of State authority-. This regulatory power is crucial because through it expressions, activities, and experiences of alterity are silenced. In other words, paraphrasing Corrigan and Sayer (1985), this regulating power erases everything that is materially -as opposed to ideologically- making us what we

¹⁵⁵ Cover (1986: 1608)
are. And this brings us back to reflect on the Colombian state of emergency culture: the abuse of the regime of exceptional legislation is a rampant example of the incapacity to recognize difference, an example of the cultural incompetence of the State. It is through the processes of regulation that the State matches normality with homogeneity in such a way that the former is defined in terms of excluding those who do not fit the canons of what is rendered legitimate (homogeneous). As Corrigan and Sayer (1985) argue:

"Overtly violent means have always been and still remain fundamental to the making and sustaining of this order. The general paradigm of regulation is of continuous and more or less violent suppression of alternatives coupled with active 'encouragement' by state agencies and activities of preferred forms: these latter are then typically re-cognized as 'provision', donation into a disordered vacuum. The ordinary procedures of state inflate to become taken-for-granted boundaries of the possible, occupying -in the way an army does a territory- the field of social vision. The same boundaries are massively, powerfully, sanctified in the magnificent rituals of state, catching us up with an emotional force difficult to resist."156

Villavecex : "Magistrate, can you clarify for me the criteria used by the Court to determine what is normal in regard to public order?"

Hernández : "The Court does not use the criteria of what is normal or abnormal. The criteria we use is different: According to the Constitution the state of emergency, in particular the state of siege, is

156 Corrigan and Sayer (1985: 199)
only constitutionally acceptable if certain requirements are complied. It is a problem of fulfilling a set of constitutional requirements: First, there has to be a grave disturbance of public order that endangers the stability of the institutions, the validity of the State, and the harmony among citizens. This has to be clearly proven by the Executive branch. The second requisite is that the ordinary tools at the government's disposition must be insufficient to attend the extraordinary situation. Our evaluation is hence based on a close connection to the context, to the facts; we ask questions such as Are we facing, as the government argues, a situation that complies with the former requisites? Can that situation be faced with ordinary measures? To answer such questions the Court asks for depositions from different State agencies as well as it allows for any citizen to produce their own concept. What we have seen in the history of state of siege in Colombia is not that the government doesn't have adequate tools for the contention of violence but rather that it misuses them. Although the use of state of siege legislation we still have massacres, the massacres are increasing and each time more cruel. The problem, and this is the analysis that sectors of the Court have made, is that violence can not be treated with short vision. There is a deep socio-economic and political problem, we have issues to deal with throughout the different regions of the country. In the overall a wide range of issues that the government has to confront directly instead of pretending that restrictive measures are going to be the solution. How many years have we lived under such violence? Decades. And what has the use of state of emergency legislation left? Nothing except deepening the causes of violence."
The Barco administration (1986-1990) illustrates the double facing of power elites: While simultaneously promoting a space for change in the Colombian democratic ideals through the National Constituent Assembly; the Barco administration brings into force, under state of siege legislation, the Statute for the Defense of Democracy (1988) and the Statute for the Defense of Justice (1990). The Statute for the Defense of Democracy opened the way for treating as terrorist acts social and political unarmed protest, thus seriously threatening the individual and civil rights of the citizens. The Statute for the Defense of Justice allowed for the existence of secret judges, witness and depositions, (jueces y testigos sin rostro), weakening the right of defense and presupposition of innocence. This doubleness keeps being reiterative in the Gaviria administration (1990-1994). Soon after the text of the new constitution is approved by the popularly elected National Constituent Assembly, Congress passes a law that incorporated as permanent and ordinary legislation, the measures brought into force by Barco's two statutes. Authoritarianism mimetizes in the ordinary reinstitutionalizing violence and exclusion as mechanisms for its own survival; simultaneously, the repetition the doubleness reinforces the frustration of reinstating the space for change as irrevocably non actualizable.
"The Statutes for the Defense of Democracy and Justice, turned into ordinary legislation after being purged from some unconstitutional formalities, are an instrument of war. The penal typologies that these statutes allow are resources for a witch hunt rather than for the punishment of specific crimes. The equation in the statutes between social protest and terrorism is an overt legal legitimation for official and extra official human rights violations. The Statute for the Defense of Justice is designed not to allow a just trial but a quick condemnation."\(^{157}\)

Under this new jurisdiction, and because of the vagueness of the term "terrorism" (defined as "all that causes founder, or public order disturbances, or collective destruction"), social protest, collective mobilizations, and strikes have been confounded with terrorist acts. In 1992 the board of the syndicate of the national telecommunications provider, the board of the syndicate of the federation of cacao growers, and others involved in labor negotiations were charged of terrorism and sabotage and later judged under the regime of the newly established Statute for the Defense of Justice. In November 1992, the Gaviria administration decrees a state of siege\(^{158}\), and in August 1993 passes to Congress the Law for Public Order which incorporates 139 articles ruled under state of emergency legislation. By the end of the year Congress approves the legislative project incorporating state of siege measures to the corpus of the ordinary penal code.

\(^{157}\) Orozco (1992b: 300-301, translation mine)

In evaluating the arguments presented in such occasion by Gaviria the Constitutional Court asks the concept of two experts from the Instituto de Estudios Políticos y Relaciones Internacionales - IEPRI- Gonzalo Sánchez and Iván Orozco. Both experts argue that the depositions presented by the Gaviria administration were based, not on "objective considerations that show a grave disturbance of public order", but rather in immediate political motives meant to align the government with "sectors of the establishment proclived to war", increase the popularity of the President, and shadow the recent failure of the peace negotiations with the FARC in Tlaxcala (Mexico). In addition, the experts disqualify the reasons evoked by the government as cause of a significant aggravation of public order: The spirals of violence are in historical and statistical terms something "normal" and its contention does not require the use of state of emergency legislation\textsuperscript{159}. With this argument the two experts open up another face of the problematic definition of normality: What is today in Colombia "normal" violence? What is that plus that turns the normal into a "significant aggravation of public order", as if was not always aggravated?

b. Legal abnormalities: Law as producer of meaning

The function of Law as matrix and producer of meaning has been framed, in public order legislation, by an urgent need of rationalizing violence in order for it to be apprehended by a normative act. This

requirement of the State combines, as in perfect alchemy, two crucial issues: On one hand, the concept of sovereignty as closely linked to the State's legitimate monopoly to use violence; on the other hand, the Hegelian conjunction between Reason and State, being the second the organic and functional materialization of the first. It is specially urgent, as some authors have suggested\textsuperscript{160}, to provide a cultural analysis of this strange and contradictory alchemy that unites opposites: Violence with Reason. As it has been argued throughout these sections, law is a privileged window to State practices and cultures precisely because law is a space of mediation, a crucible in which violence and reason are combined. It is in the ideological foundations of the Law where the constant negotiation and interpretation between these two opposites takes place: In the Law rationalizing violence is an imposed need. It is in the function of Law as producer of meaning where the attempts to rationalize the intrinsically irrational takes place.

The Colombian political history has been characterized both by a totemic and fetishist cult to the space of law, as well as by the abuse of law as justification for the violence that has come or that is to come. It is in the process of interpretation of the norm where elaborate constructions that justify violence take place; but it is also in the space of law where possibilities emerge for breaking through old political practices that promote exclusion. The jurisprudence of the Constitutional Court is the manifestation of this struggle since it

provides a symbolic and interpretative arguments that either legitimize or censure the use of state of siege regime.

_Villavecés:_ "Doctor Angarita how do you understand the interpretative negotiations that define what is to be rendered as normal?"

_Angarita:_ "A passionate topic. What is normal and what is abnormal is a debate that I tapped into in several occasions during my office at the Constitutional Court. It would be interesting for you to see the texts of several of my rejections or clarifications of vote. In November 1992, the government called a state of siege because the EPL guerrilla had ambushed a Police convoy in Putumayo. The government also argued twenty more motivations that led the President to think that an exceptional situation in public disorder was occurring in the country. I only accepted as valid the fact that the drug cartels were engaging in a frontal war against the judicial system in Medellín. For me that was truly exceptional. The rest of the Magistrates accepted the twenty motivations as valid. The point I want to get through here is that in constitutional practice and culture there is little effort to distinguish between chronic and non-chronic violence, there is no interest to reflect on the causes of violence; instead there are always extrajudicial considerations engaged more with short term political considerations beneficial for the ruling prince. Under such considerations it is amazing to see the laxity by which some magistrates pass as constitutional measures that are clearly undermining basic and civil rights. I've always emphasized
that it is urgent to critique and break away from the perverse
tendencies of Colombian constitutional practice which, paradoxically,
instead of defending and nurturing the validity of law, are constantly
endangering and undermining it. The perverse effect is that
Constitutional Law in Colombia is eroding and rendering vulnerable a
truly constitutional State."

Villaveces: "In other words, what is at stake in the decisions of the
Court is whether or not "objective facts" of disturbance are taken into
account as basic motives for cataloguing as abnormal violence at a
given time."

Angarita: "What is at stake is that the debate between what is
understood as normality and what is understood as abnormality is of
paramount importance in determining what we consider to be a truly
Constitutional State of Law. What is at stake is the existence of an
adequate space for the Constitutional State to operate. And of course,
if you are arguing that the situation is non exceptional you are
implicitly saying that all the instruments of legality and legitimacy
that make a Constitutional State of Law are in operation. But instead,
if you are loosely defining abnormality you can frame most of daily
life under such a label, and in doing so you are collapsing all the
foundations of a Constitutional State of Law. Now what is interesting
to see in the evolution of the jurisprudence of the Constitutional
Court are the shifts that are taking place: In the last two sentences
the Court has declared unconstitutional state of siege decrees that
before would have been interpreted as constitutional. This shift has
occurred because one can now distinguish a group of magistrates within the Court that are subscribing to my initial thesis, that is, judges that have the clear purpose of distinguishing all the motivations presented by the president by determining which of those are truly exceptional conditions of violence."

Villavecés : "How can you explain those shifts in jurisprudence? Some seem to be absolutely circumstantial and not really aligned with philosophical standings. Maybe one could hope that there would be some kind of coherence in the production of jurisprudence but one sees that sometimes the distinction between normality and abnormality is seriously engaged, whereas other times you see exactly the opposite."

Angarita : "It's not easy to find a convincing explication, but without doubt the political context and expectations have a significant incidence. The media is not so important as some tend to believe. An important consideration to take into account is that the Court's decisions are made by people and hence determined by the personality of each judge, which is also an accident. One must learn to see that each magistrate is a universe in its own, with their own peculiarities and perspectives, and whose constitutional message has sometimes diverse addressees: The constitutional message serves sometimes the purpose of booster of hopes, whereas sometimes it aligns with the old tradition of defending an abstract order."
Villavences: "And one could see this through the type of representation of violence that each magistrate is subscribing to."

Angarita: "That's one way. Another way is by exploring what type of commitment he has with the Social State of Law. In other words, up to what degree is the magistrate defending the will of the Constituent Assembly.

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The late magistrate Angarita, during his office at the Constitutional Court (1991-1993), provided the grounds for key interpretative parameters that subvert the legal endorsement to naturalized restrictive political practices. With time the doctrine exposed by Angarita has been instrumental for promoting important shifts in the position of the majority of the constitutional judges. An exploration of the interpretative lines argued by Angarita, recognized under the label of "New Constitutionalism", unveil both the radicalness of his arguments as well as the clarity of his interpretation of what the analytical axis that allow a true Social State of Law should be.

On February 24, 1992 President Gaviria calls for a State of Social Emergency - a figure for exceptional legislation in case of economic, social or natural disaster. This decree inaugurates the Constitutional Court's role as controller of state of siege measures, and as such it is often understood as the point of departure of a new jurisprudence regarding legal interpretations on violence and State practices. The
debates unleashed within the Court were charged not just with legal arguments but, and above all, symbolic statements. Although only one magistrate rejected the vote of the majority's acceptance of the constitutionality of the decree, the power of such judgment was of major importance: In his rejection Angarita laid out the foundations for understanding the role of the Constitutional Court as political leverage over the Executive's motivations for using state of siege legislation. Angarita's argument insists that the role of the Court is to determine if at the given moment of the release of the decree, objective facts that cause acute public order disturbances are actually taking place. Angarita's concern opens up automatically the discussion of normality and abnormality by explicitly recognizing that the concept of "normality" is problematic and ambiguous in itself. The concept "normality" can refer to either a situation of legality -when judicial rules and norms are in operation-, or to a situation of legitimacy -when there are no objective facts that are disturbing the public order. By making such as subtle yet key distinction, Angarita shows that Colombian legal culture has confused both situations by failing to recognize the fundamental difference between legality and legitimacy. During his office at the Constitutional Court (1991-1993), and through his interpretation of the role of the Court, Angarita made a clear cut distinction between an old jurisprudence that unquestions the motives of the president's use of state of siege legislation and thus of Presidentialism, and the emergence of a new jurisprudence. The radicalness of Angarita is maybe best understood in one of his arguments that serves the purpose of guideline for the "New Constitutionalism": The confusion
between legality and legitimacy has blurred the semantic boundaries between normality and abnormality, hence blurring the legal boundaries that separate the rule from the exception; in such case, the option between one or the other rests solely in the hands of political will.

From Angarita's standpoint, the history of the exercise of power in Colombia is a history that, in continuously presenting as legitimate solutions that are only legal, banalizes the concept of the exceptional. In Angarita's understanding, the confusion between legality and legitimacy has a double effect: On one hand, it reduces the scope of the Constitutional Court by bounding the debates to the political convenience of the Executive thus closing down the possibilities for alternative interpretations; on the other hand, it puts into public circulation ambiguous collective representations in which the boundaries between licit and illicit, or normal and abnormal, are blurred. This interpretation is key for highlighting and unveiling the deep connections between legal interpretation and culture. What is at stake within the Constitutional Court is not only the possibility of breaking from an authoritarian political practice and culture, but also from collective representations that are shaped by a narrow understanding of legal interpretation and cultural constructions.

Through time Angarita's arguments have had an increasing importance in the shaping of the jurisprudence of the Constitutional Court. In October 1995 the Court declared unconstitutional, for the first time, a state of siege decree with arguments inspired in the radical critiques of Angarita. With this decision new interpretations of violence seem to be giving way to a new balance of power within
the Court, one that argues that it is in the best interest for the construction of a jurisprudence on violence the understanding of public disorder as a constitutive part of Colombian "objective reality". In accepting that Colombian violence is endemic the Court avoids an overflowing of punitive and restrictive measures in the regulation of daily life. In this case, the alchemy between opposites, Violence and Reason, is curiously the only viable venue for building political and legal alternatives that enhance a true democracy in Colombia (See Chapter Five below). A statement of the Constitutional Court in October 1995 is illustrative of the powers that such rationalization has in the Colombian context:

"The state of external war can help illustrate the case of state of siege: The first case implies a sudden break of external hostility that endangers the sovereignty of the State. Such a case requires the use of exceptional measures to overcome facts that are completely new to the social reality.

In a similar way, if a sudden internal upheaval breaks endangering the constitutional order and undermining the stability and identity of the State, exceptional measures have to come into force. In such a case extraordinary legislation and the restriction of individual liberties are justified as transitory measures needed for overcoming such upheaval. The same argument can be used to justify exceptional measures in case of an unusual increase in the intensity of chronic events.

The fluctuating and chronic delinquency, as well as the old and permanent presence of different insurgent organizations is not comparable to any of the former situations.

The fact that the Constitution of 1991 limits the use of the state of siege is a statement that indicates the will to avoid the use of restrictive measures in cases of endemic maladies. The message in the
constitutional chart can not be clearer: the maladies that have become permanent must be confronted with equally stable policies, carefully thought and designed. The transitory measures must be kept only for transitory situations. The government cannot barter his condition of a statesman that fights the causes of the maladies for that of treating only the symptoms with heroic therapies that instead of restraining the pathos are potentializing it.

If to fight the endemic manifestations which unfortunately the country has been getting used to, all the punitive or policing measures needed must comply with the regime of full liberties. The will of the constituent is that the Bill of Rights be the rule and not the exception."\textsuperscript{161}


This last section explores the continuous negotiations that are at stake at the Constitutional Court. As a coherent and independent population with its own rules, practices, and beliefs the Court has coined and ascribed to what has been labeled the "new constitutionalism". The magistrates of the Court as a people use the "new constitutionalism" as their own founding myth which functions as both, a means to differentiate from others, as well as a means to cover, as in a homogeneous veil, the immense heterogeneity and contradictions that lie within the group. The constant movement of the magistrates through this thin membrane that separates the inner

world of the Court with the outer world of power and politics, positions them as legal and cultural brokers.

On one side, the privileged positioning of the Court as a key player in the distribution and balance of power within the State, has made of the magistrates brokers of legal interpretations that are either defending or subverting the historical practice of presidentialism in Colombia. On the other side, the magistrates in allowing, through their jurisprudence, for creative possibilities that break with the structure of values and sentiments proper of power elites play a quite unique role as cultural brokers. While the Court as a whole fails to recognize such cultural patterns as obstacles to the production of alternatives to violence, the reinscription of authoritarian practices and beliefs through the Court's jurisprudence seems to be solely dependent on the progressive nature of each of its magistrates.

This section explores the complexity and tensions proper of the culture and practice of the magistrates in their performance as legal and cultural brokers. The Constitutional Court, as a homogeneous collectively based upon a foundational myth, is for public culture the voice that interprets the Colombian constitution. As such, the Court represents a cultural institution paramount for the construction and perception of what is to be rendered as duties, rights, legality, and order in a society that sees itself in permanent collapse. On the other hand, the internal heterogeneity of the Court mirrors the two most dominant positions that have arisen within Colombian public culture in response to this generalized sense of collapse. Violence, as the foremost important cause of collapse, is sought by some to be most
properly contained by democratic processes heavy based on dialogue. By contrast, other sectors sustain that in the face of the country's collapse violence can only be contained by dictatorial measures. Within the Court these debates are articulated by the magistrates through their own guarantist or efficientist interpretations of state of siege measures.

The first part expands on the "new constitutionalism" as a founding myth of the Court that, while providing a sort of belief system for the magistrates, gives meaning, coherency and legitimation to their role as guardians of the Constitution. The second part develops an argument around the role played by the magistrates both as legal and cultural brokers. Using fragments of my conversations with Rodolfo Arango -former auxiliary magistrate of the Court-, I map the way in which the two most dominant positions that have arisen within Colombian public culture in response to a generalized sense of collapse are present within the Court: The magistrates Cifuentes, Gaviria, Martínez, and Hernández, lead the group of progressive interpretations that favor negotiated solutions to conflict, while the Magistrates Arango, Naranjo, Herrera, and Morón explicitly position themselves as defenders of interpretations that favor a concentration of dictatorial powers in the hands of the Executive.

The Founding Myth

During the second half of 1995, the Samper administration's insatisfaction with the independency of the Constitutional Court led the Executive branch of the government, in conjunction with
reactionary sectors of the Legislative branch, to promote a campaign of desprestige of the Court, up to the point of suggesting its closure\textsuperscript{162}. As a response the Court produced a document which revealed in detail the reach and impact of its agency in furthering the development of the Constitution and reshaping public culture. The argumentative axis of the document spins around the basic premises of what today is known as the "New Constitutionalism":

"The interpretation of the constitution is a cultural phenomena, and as such it depends on collective and individual representations. That is why in order to achieve an interpretative shift one needs not only the construction of new a constitutional text, but the emergence of a new sensibility, a new culture. It is necessary -following Wittgenstein's words- a new vision of the world, a new point of reference."\textsuperscript{163}

\textit{Villaveces}: "Can you tell me about the emergence of what is known as the 'New Constitutionalism'"

\textit{Arango}: "The basic idea is that the Colombian legal tradition has been extremely formal in its way of perceiving and understanding the transformative potentials that the law has over reality. As a matter of fact, law has a complex problem as it is seen by other social

\textsuperscript{162} The confrontations between the Constitutional Court and the Executive branch have been multiple. Although they first started during the Gaviria administration (1990-1994), their intensity and viscerality during the Samper administration (1994-1998) has proven the depths of power struggles within the highest spheres of the State. The climax of such confrontations occurred in March 1997 when Samper, after the Court had declared the inconstituency of a presidential decree, threatened to present to Congress a Law that virtually eliminated the Constitutional Court (See El Tiempo, p.12 A. March 16, 1997).

sciences as a fundamentally conservative discipline that defends the statu quo. In Colombia a lot of this has happened. Colombian law has always been influenced by foreign schools, specially by the French school of administrative and constitutional law which is extremely formal. More progressive visions of the law, known in the country as "new constitutionalism", break with this models. But what is that new paradigm? First, that the constitution is felt as something alive and that the people know, understand, and are conscious of their own basic rights. The US experience shows that it is possible to construct a citizen's culture based on their knowledge of their duties and rights. After the Second World War, US constitutionalism had a definite influence over German and Spanish constitutional models, and later the former two became inspirational for the Colombian constitution of 1991. This influence was shown in the importance that was given to the dogmatic sections of the constitution over the organic and functional ones; that is, the sections on basic rights and duties.

Now, this shift mirrors the confrontation between the traditional way of understanding the law and that of the new constitutionalism. The former was centered on the structure of the State, while the latter on the Bill of Rights. This shift opens up the way for a perspective interested in a material justice as opposed to a mere formal one. This means that whereas political, racial or sexual discrimination can comfortably coexist with a formalist perspective, with a progressive perspective such discriminations become legal material for challenging the existing socio-political structures. Law is
then not formal but something alive, something that dialectically transforms reality."

*Villaveces*: "Can the Constitutional Court be understood as bulwark of the New Constitutionalism?"

*Arango*: "Yes, I think so. For my understanding the Constitutional Court is the heart of the constitution of 1991. Let me give you an example: From a traditional legal perspective the role of the Bill of Rights as axis of the constitution is not well understood, for them the Bill of Rights is nothing more than a set of rhetorical enunciations that make of the constitution something messy, impossible to interpret in a clear and pure manner. The perspective of the new constitutionalism, which is what characterizes the jurisprudence of the Court, is radically different. The existence of a mechanism like the tutela serves the purpose of guaranteeing an effective and concrete protection of the Bill of Rights; and this means that the rights enunciated in the constitution become not rhetorical devices but actual means for the development of society. The recent history of the use and legislation that the Court has made through the revision of cases that made use of this legal instrument speaks for itself. The lay man now knows that if something arbitrary happens he can always find recourse in the tutelage; and this highlights the fact that a new culture is emerging, one in which the Bill of Rights becomes an operative reality.

As a defender of such perspective the Court has had a profound influence over society. Through recent jurisprudence the Court
tapped former untouchable interest of the Church, the Armed Forces, the mass media, and the financial sector. The fact is that the great independence of the Court has made of it a space seriously committed with the defense of the ideals of the constitution. Today many people stand for the Constitutional Court because they see in its existence a true conquest of civil society. Today the consequences of the Court's actions are still minimum because of the existence of more powerful forces that are shaping the dynamics of the country. But I truly believe that the Court has unleashed a revolution: people are now more aware of their rights and state functionaries are more aware of an adequate use of power. Ten years from now people will not equate power with abuse in this country. Why do I say this so emphatically? Well, because that was the same process that Spain and Germany experienced. When the Constitutional Courts were created in those countries a big reaction followed arguing against the politicization of justice. This was so first, because the political function of such courts wasn't understood; and second, because violence didn't ceased immediately. Today the problem in Spain and Germany is that the people are so conscious of their rights that an overwhelming amount of lawsuits is flooding the high courts. But the point I want to make is that the role of the Court is to trigger a cultural process that transforms people's consciousness, therefore its results can only be appreciated in the long run."

**Legal and Cultural Brokers.**

As García (1993) points out, with the new constitution legality leaps from a context of sustained repressive jurisprudence, to a
situation in which, at least rhetorically, the suspension of fundamental rights is abolished. The obvious gap between rhetorics and practice in the Colombian case, as it has been argued in this chapter, has been systematically covered by artificial layers that legitimize restrictive practices of social and individual liberties. As cultural artifact, the constitution of 1991 is undoubtfully an important hiatus as far as it presents itself as the only viable alternative parameter for the containment of Presidentialism. Nevertheless, as noted by Rodolfo Arango in our conversations, the emergence of a new value system powerful enough to shift the political culture is not by any means immediate.

Villaveces: "In following closely the jurisprudence on public order one finds two irrefutable facts: on one hand, a systematic assimilation of restrictive and apparently temporal laws into permanent and ordinary legislation; and, on the other hand, a naturalization of exclusive and authoritarian values in the public sphere -It's common in Colombia to hear in the streets how urgently we need a mano dura (strong hand). Both of these facts lead one to re-think that old thesis by which a weak State is maintained through sustained repression and authoritarianism, and that these, when naturalized in the public sphere, are believed to be not only the most adequate means for maintaining order, but worst of all, the only ones."

Arango: "Without doubt that is the case. I believe nobody foresaw the consequences that an assimilation of exceptional measures into
permanent legislation could have. Indeed, this way of exhausting the restrictive mechanisms through ordinary legislation is very dangerous since it leads directly into a repressive State. But I think one has to bring in perspective the doings of the Court. The Court has been entrusted with the mission of defending the constitution, therefore the analysis that it makes of those norms in ordinary legislation that had its origin in state of siege decrees has to comply with the defense of the basic individual rights. Let me explain myself: State of siege decrees that were declared constitutional at a given time, and later adopted as ordinary legislation, can be declared unconstitutional by the Court without it incurring in any inconsistency. Why? Because the frame of reference in which exceptional measures are adopted as permanent legislation is much more demanding that the frame of reference for analyzing solely extraordinary legislation. For example, in a state of siege public liberties are restricted, but these restrictions most comply with a minimum nuclei of rights -those guaranteed by international treaties which impede an absolute suspension of public liberties. Now then, if these restrictions were to be adopted as permanent legislation the Court would have to guarantee not only that the minimum liberties and rights of the citizens are not jeopardized, but also that such measures do not contradict a legal system of normality. All this demands the Court to seriously assume its role as an strict analyst of ordinary legislation, in such a way that the fear of a legal hardening and an ordinary repressive State are minimized.

But another interesting point that you highlight is how a Court, seriously engaged in containing the use of state of siege legislation,
can come to the conclusion that particular agents -such as narcotraffic or guerrillas in Colombia- have historically proven that they don't have the destabilizing power to subvert the institutions and bring about a situation of unmanageable governmentality. If such is the case one would conclude that, in principle, whatever these agents do would not lead to exceptional legislation. But to say this would be too naive and superficial since what the Court judges is not the actors but their actions."

Villavecés: "Is the concept of normality making reference only to acts?"

Arango: "In a normal and peaceful situation normality would be an institutional stability and a harmonic coexistence among citizens. The abnormality would be everything that leads to a state of instability and impossibility of a harmonic coexistence between citizens."

Villavecés: "But considering that in Colombia we have lived in an indeterminate or liminal zone characterized by 15 or 20 years of coexistence with narcotraffic, and over 50 years of coexistence with guerrillas what would an abnormal act be? Something that overrides the usual parameters of violence, or maybe the fact that narcotraffic and guerrillas exist?"

Arango: "I think is more of the former."
Villavecences: "An act of their doing in a specific spatio-temporal context."

Arango: "Yes, but not only the act alone, also it's the political signification the act. For example, the assassination of Alvaro Gómez Hurtado as such maybe doesn't shift the existing normality or abnormality in public order, but as you mentioned before, it can have profound political implications. With his assassination ends a democratic right that contained the unleashing of sectors of extreme right. In that sense, the political signification of the act is an essential factor in determining if we have crossed the threshold of normality."

Villavecences: "But that didn't happen when the Court declared the constitutionality of state of siege measures motivated by an ambush of the ELN guerrilla to a police post in Orito, Putumayo. Ambushes and massacres are tragically occurring everyday in this country, but they only seem to be recognized when instrumental for the Executive branch."

Arango: "In the case of Orito - and one can only understand this decision in a political and historical context- what happened was that the Court's majority holds a very clear position in saying that during the Court's first year of existence it shouldn't be ruling so strictly. Remember that by that time the new constitution had barely a year. The majority held this position with the argument that the Executive branch should have enough time and space to confront critical situations with all the elements at its disposition. Only after a couple
of years would it be possible to use ordinary legislation to contain situations considered before as abnormal. In that case the control of the Court would become more strict. And that is what has actually happened. In the sentence C-300 of 1994 the Court declares the unconstitutionality of a state of siege the decree arguing that the State's inefficiency could not be causal for justifying of emergency legislation."

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As I have been arguing throughout this chapter, the crisis of legitimation that has been embedded in Colombia long before the era of La Violencia and the Frente Nacional (National Front), is a cultural crisis ideologies, as well as practices that regulate the formation of identities and subjectivities, have began to crack and collapse. Under such framework the Constitutional Court, through its self-imaging as space for the development of the new constitution, has taken as its main goal the construction of political values that trigger, at least in principle, new cultures, agencies and public subjectivities. Such responsibility has put the Court in the eye of the hurricane. The attempt to realign the relationship between culture, law, and politics by means of breaking with rooted practices in the exercise of power, have made of the Court a laboratory for the tensions between old and novel ethos. In the fragment that follows Magistrate Hernández highlights his own critique to Presidentialism and its legitimation through the unclosing of the Court's position vis a vis Congress and the Executive branch.
Villaveces: "Magistrate, how would you characterize your own position towards the use of state of siege legislation?"

Hernández: "First I would like to stress the important developments in the Colombian constitution of 1991 with regard to the contention of state of siege legislation. Although the existing normativity, the constitution has not been recognized by the last two administrations, that of president Gaviria and that of president Samper. In practical terms the country has been living under a permanent state of siege in which even the controls and accountability of the Constitutional Court seems to bother. It is important to make a clear distinction between normativity and practice. According to Colombian normativity state of siege legislation can only be extraordinary, limited, and of restrictive use; but practice shows a different picture, one that points to the fact that we have become accustomed to live in a state of exception. It seems that Colombia is unable to survive with full democratic guarantees, and that its institutions can not operate under such conditions. It seems that we are doomed to live with our public rights restricted, with an overwhelming presidential power, with a Congress under interdiction that is always subjected to the decisions of the Executive. A Congress totally strange to complying with any type of political control. All of this points to the fact that instead of walking towards a complete democracy we seem to be constantly distancing ourselves from it. Living in a permanent state of siege, as we do in Colombia, is a clear example of a constitutional dictatorship."
What we have is a kind of masochistic democracy, a democracy only in appearance. We like to talk a lot about the Social State of Law, about the division between powers, about the constitutional guarantees to the citizen's rights and liberties, we like all that as long as it is in theory. When we move on to practice, when people see the effectiveness of the sentences of the Court, then there is fear. That is what is going on in our society. The Court's decisions empower Congress but what we see is a Congress that cries out for the return of a permanent state of siege in which its own attributions are severed. And this is because our Congress has no consciousness of autonomy, of independence, and of the role that it has to play in an authentic State of Law. The functions of political arbitrage of Congress have been lost, they only exist in the constitutional text, not in political realities. Fortunately the Constitutional Court, in the sentence C-004 of 1992, undertakes the material control of state of siege decrees. That is, the Court revises not only the formalities of the decrees but also the motivations. The Court verifies if the circumstances that the administration claims to be disturbing public order do require, for their contention, extraordinary legislation. And it is only natural that the Court takes this lead as long as it is precisely its role to guarantee, in practice, the prevailing of the constitution.

Last year for example, the first state of siege decree of Samper's administration was declared unconstitutional by the Court. In this occasion the administration was using the state of siege not because of the existence of a true disturbance of public order, but because the administration was facing a crisis due to the accusations against the
President for receiving drug money in his political campaign. The administration, worried as it was for the confinement of the defense minister Fernando Botero, decided to call upon a state of siege under the argument of the occurrence of massacres in Urabá; but those massacres have been happening in Urabá during the past years and had never been use as a motivation for state of siege measures. In this case the call for state of siege was theoretically based on such facts but in fact it was been use as a distracting device that took some pressure off the administration.

Afterwards, in a public debate, it was argued that the Court's decision created impunity, and that it left the administration eunuch, impotent to confront the problem of public order. And this is not true, If you observe closely the constitutional normativity states that the President can only use the recourse of state of siege when the ordinary mechanisms at his disposal have been exhausted and proven insufficient to defy the crisis. And what happens is that the President has continuously more and more ordinary tools: the President has all the instruments of normal legislation which gives the administration ample faculties for managing problems of public order, specifically those related to armed subversion; but on top of that, he has a vast array of norms, originated in state of siege decrees that later were passed as ordinary legislation by Congress. Although this immense heap of powers the executive always wants more so it's constantly searching for new ways to legitimize exceptional legislation as well as avoiding the controls of the Court. What happens now? That although the Court has declared the constitutionality of many decrees of state of siege the administration,
still not happy with the results is promoting a constitutional amendment through which the material control of state of siege decrees would be excluded from the functions of the Court. If such amendment is approved by Congress it would mean the return of the most virulent times of state of siege legislation; and this would have grave effects in the international image of Colombia as long as it would present the country as a fake democracy. Which it is. Colombia is a fake democracy, this is what I believe and I have no problem in accepting it even though I am a magistrate of the Court."

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The axis of public order legislation within the Constitutional Court is affected, without doubt, by the ill reputation and abuse of the figure of state of siege. With the Constitution of 1991, the Court is inaugurated as a space that contains, through the material control of the decrees of state of siege, exacerbated practices of presidentialism. This role of limiting the desires and abuses of the administrations is translated, within the Court, in the form of interpretative battles between those magistrates satisfied with "Reasons of State" -pillar of Presidentialism-, and those that defend a more balanced exercise of power. For both, the political foundations at stake are resolved through legal rhetorics and persuasion. It is important to highlight that these debates, usually understood as interpretative battles based upon differential understandings of the theory of the State, are in themselves cultural cleavages that reflect
and respond to a profound sense of collapse that crosscuts the country.

The profound cultural crisis that Colombia faces is mirrored in the jurisprudence of the Constitutional Court. The outcome of the interpretative debates within the Court are aligned either to cultural patterns that reproduce a political ethos based upon authoritarianism and restrictions, or to cultural patterns that seek an opening to an alternate political and legal ethos. These cultural patterns in competition are catalogued, within the legal terminology, as efficientist and guarantist positions. The former based upon a functionalist perspective of power, the latter on an ontological one. Such perspectives function as legal cosmogonies that connect in various ways culture with law, and with power. Now then, the battle between these two models (the functional efficientist model, and the ontological guarantist model) is manifested through culturally charged political confrontations that highlight the relevance of the Court's own heterogeneous composition.

Nine magistrates form the Constitutional Court: Carlos Gaviria, Alejandro Martínez, Eduardo Cifuentes, José Gregorio Hernández, Antonio Barrera, Fabio Morón, Vladimiro Naranjo, Hernando Herrera, and Jorge Arango. Each magistrate leads his own team of lawyers in which the most important figure is the auxiliary magistrate. Of the nine magistrates three -Gaviria, Martínez, and Cifuentes- are affiliated with the liberal party, the rest with different factions of the conservative party. Although the Court's public order jurisprudence is often variable, and in many occasions inconsistent, it is still possible to follow the interpretative positioning of each magistrate in
the debates on state of siege legislation. Three magistrates have been consistent in following guarantist positions: Gaviria, Martínez, and Hernández; whereas four of them have followed efficientist positions (those that defend presidentialism and uncontained state of siege legislation): Morón, Arango, Naranjo, and Herrera. The other two magistrates, Barrera and Cifuentes, fluctuate between efficientist and guaranteeist positions and thus have usually been the ones that incline the balance to one or the other side. What follows is a fragment from one of my conversations with Rodolfo Arango, auxiliary magistrate of Cifuentes, on his own insights about the Court's internal heterogeneity.

Villavicencio: "In your position as auxiliary magistrate of the Constitutional Court, and hence as privileged observer of the internal dynamics of the Court, how would you characterize each of the magistrates?"

Arango: "Some of the profiles are very clear. For example Ciro Angarita, who was a Court's magistrate until 1993, was an academic of very critical leftist thinking, strong defender of civil society, and very skeptic of the use of force as a means to overcome crisis. All of this attributes are reflected in his reasoning particularly in his arguments against the constitutionality of the first decrees of exception back in 1992 (sentences C-004, C-556 of 1992; and sentence C-031 of 1993). His interventions in the Court had always a radical edge, for him the regime of exception is only for borderline situations, that is, only applicable in case of catastrophe. One can say
that he was the one who laid the foundations for a clear break away from the historical legacy of state of siege legislation.

Magistrate Gaviria, appointed after Angarita's retrieval from the Court, is maybe the most impressive figure that the Court has today, mainly because of his consistently coherent philosophical standing. He too comes from an academic background, expert in philosophy of law, of very progressive leftist thinking, firmly believes that the use of force is not the mechanism for conflict resolution. Alejandro Martínez, former member of the liberal party, arrives to the Court after being member of the national constituent assembly on behalf of the newly created Alianza Democrática (the M-19s political movement). He is too a defender of progressive ideals, with some leftist inclination, and much against the use of the Reason of State. One can say that Martínez is also part of the progressive faction of the Court.

In like manner, Eduardo Cifuentes is of progressive thinking, specially with regard to issues on equality and individual liberties. In regard to public order and the strengthening of the State I would say that magistrate Cifuentes has played the most political role of all. His positions were initially the most pragmatic ones in the Court. He has always been of the argument that the Executive branch should be given a time span to show results in public order management. If the Court closed down the doors of state of siege legislation from the start, he argued, reactionary sectors of society could take advantage and undermine the constitution. Such sectors could very well argue that the constitution was idealist and that the Court's determination
had simply banned the administration from using all the instruments at its disposal for confronting the critical inner war we live in.

Magistrate José Gregorio Hernández, although of very conservative thinking, emphasizes the need to defend the Bill of Rights over the Reason of State. In doing so he explicitly critiques those positions that argue in favor of presidentialism; in particular those represented by the figures of Vladimiro Naranjo and Hernando Herrera. Both of whom think that the Executive branch should play a strong role in society, so far that it is the only branch that allows for stability to exist within the regime. In other words, social stability is dependent on the Executive's infinite powers for assuring the maintenance of public order in all Colombian territory. Morón has also stood up in this position numerable times. For all of them, the thought of limiting the executive's powers under such critical conditions as the ones we live in Colombia today, is to weaken the constitution and allowing spaces for the guerrillas and narcotraffic to flourish. In some cases these magistrates have even made an argument suggesting the need to restrict the role of the Constitutional Court, in particular to the material control of state of siege decrees. This is like taking a huge leap backwards in history.

Today the Court has a majority secured in favor of progressive perspectives that defend the rights of citizens and restrict the powers of the Executive echoing, paradoxically, Angarita's thesis which were though before to be inappropriate and mistaken. In terms of the regime of exception, the progressive votes are in the hands of Cifuentes, Gaviria, Martínez, and Hernández,; the fifth vote that makes majority is usually in the hands of Barrera. But Barrera is
a very flimsy judge. It is always very difficult to explain the way he votes."

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While the Court as a whole fails to recognize the structure of values and sentiments proper of authoritarian segments of power elites as obstacles to the production of alternatives to violence, the reinscription of authoritarian practices and beliefs through the Court's jurisprudence seems to be, ironically, solely dependent on the progressive nature of a total agency of each of its magistrates.

*Villavecès:* "It seems that the sentences of the Court are really value projections of the magistrates instead of being strictly rational ponderations. That is to say that the representations of violence that each magistrate has at his disposal are shaped into a set of pondered values that imprint a direction to the juridical decision. In the overall one can say that what exists in the Court is a heap of value projections so that what is really progressive is not the institutionalization of the Court and its founding myth, but its composition. As long as the magistrates come from a progressive political elite one can have the confidence that they are going to defend value systems that break with the traditional ways of coping with violence. But the opposite case can also happen."

*Arango:* "Very interesting remarks. I think I agree with you. Although the Court is made of magistrates the fact is that its role -as
it is the case for all constitutional courts in the world- is more of the kind of a political guidance; and that is so because of the function that it has. The Court has to evaluate the acts of power in order to check if they comply with the values and mandate of the constitution. That is why we understand the constitution as the navigational chart of the country. In other words, the constitution is the most important set of norms that a nation can have, and people progressively appropriate them as their own, nowadays people reference the Bill of Rights. Remember that the constitution of 1886 had no Bill of Rights. That is why the function that the Court plays is definitely political and it has an explicit influence over the routes that the country takes. You have define well the problem of legal interpretation and that leads to the question of who are the magistrates that conform the Court? The decision of the majority of the magistrates can make the country move into one direction or another, and it is precisely because of that why is it so dangerous that the role of constitutional control be taken back to the Supreme Court of Justice. They don't have the same perspective that the Constitutional Court has therefore they could lead the country in a complete different direction, one explicitly favoring Presidentialism."
CHAPTER FIVE.

BEYOND THE STAGE: Fantasy, creativity, and agency

"Life plays itself: Life risks itself: Destiny's plan is realized. What was only a dream figure becomes myth. And living myth. Myth, which the dusty remains of intellect know only as dead and consider to be a touching error of ignorance, figures fate and becomes being. Not the being that rational philosophy misrepresents by giving it the attribute of immutability, but the being that a first name and a patronymic express, and then the double being who loses itself in endless embraces -but also a collective being 'who tortures, beheads and makes war'."

Georges Bataille. 1938

In Chapter Four I explored how total agency is played out within a complex knit of social and cultural discourses and practices that bound and constitute the institutional spaces of violentologists and magistrates. On one hand, the intellectuals, while identifying the structure of values and sentiments that constitute an elite authoritarian culture, have inadvertently been seduced by those same values and sentiments they sought so eagerly to critique. Their failure to recognize that total agencies and vertical power relations are also reproduced in cultural forms which are not related with the hacienda mentality model, including their own forms of total agency and expert authority, has not only weakened their critique, but also made them reinscribe certain authoritarian practices and beliefs through their own interpretative moves. On the other hand the magistrates, while inadvertently allowing for creative possibilities
that break with the structure of values and sentiments proper of the hacienda model, fail to recognize such cultural patterns as obstacles to the production of alternatives to violence.

While Chapter Four stresses the ways in which internal possibilities and blockages arise within each site, in this chapter I attempt to return to the question of agency by ways of revisiting the sites from a different perspective: That provided by the partial agency performed by an artist, Doris Salcedo, engaged in questions of justice and violence in non institutional spheres. Through this move I want to suggest some answers to the question of how violentologists and magistrates play out more creative roles that break through the lore of total agency and performed protagonisms. I believe in the urgent need to understand agency in institutional contexts, as well as to come to terms with possibilities that emerge in contexts where agency gains power and definition through diverse institutional mechanisms. By means of using Salcedo's artistic project as a point of contrast I construct a tension between ethnographic fragments and Salcedo's own thinking. In doing so I am trying to address my own responsibility as a Colombian anthropologist to map some resources in Colombian life that are key for rethinking institutional subjectivities and agencies. I chose to end the dissertation with these existing tensions. I have no answers for its possible resolution, just a hope that new connections and dialogues can flourish in fruitful ways.

1. Aesthetics and Creative Agency
Since the beginning of the nineties Doris Salcedo, a world renowned Colombian artist, has built her aesthetic project around the politics of representing contemporary violence. Today Salcedo is one of the few voices in Colombia that confronts the givens and rhetorics of those specialized in explaining multiple and decentered violence the country. She confronts as well the representational tactics used by mass media in their depiction of violence as spectacle. I saw Salcedo's art for the first time in 1993 and it struck me as a powerful and innovative means to denaturalize the numbness of us Colombians towards violence. After engaging in fruitful conversations with Salcedo\(^{164}\), her artistic project unveiled a complex and politically charged expression of creative agency that was to suggest later, in my imagination, a search for creative agency within the institutional spaces in which my fieldwork developed.

Salcedo's own creative agency comes from her commitment to explore different venues in which to communicate the depths and reaches of violence. In so doing, Salcedo's main concern is to avoid the pitfalls of explaining the meaning of violence which leads, irrevocably, to the total abdication of actual suffering. Her overall project, as her work and words eloquently show, is actively engaged in an effort to reposition private suffering in the collective consciousness (See Das 1995); an effort that she finds impossible without displacing the authorial voice. Art for Salcedo is mediation, it offers the possibility for re-inscribing and re-articulating the lives of the survivors into the social circuits from which they have been

\(^{164}\) See Villaveces (1997a).
excluded. Her art provides what Bhabha (1994) calls an enunciative space in which the questioning of socially dominant categories of experience, culture, and interpretation is allowed.

The following is an excerpt from an interview with Doris Salcedo that I held in Bogotá, in July 1993, in the midst of an intensification of military operations against guerrilla groups, the increase of paramilitary raids and assassinations in rural Colombia, and the escalation of human rights violations.

_Salcedo_ : "It's hard to say when I began working thematically on violence. I think one really never is initiated into those topics; rather, one is always gaining more awareness and therefore focuses on certain aspects of reality. Developing awareness is developing one's own talent, it is, as a manner of speaking, placing your eye where it should be. Violence has always been present, one just needs a certain way of looking, of seeing certain things in order to unveil this presence. On the other hand, I think that art is always a product of necessity, and I think that in Colombia the artists don't have the option to choose the themes of their work because the themes are already imposed upon us. What one does choose is a vehicle by means of which one molds matter in order to achieve meaning within preset topics."

_Villaveces_ : "Would you say that your work on violence is a re-conceptualization that stands against the way violence is portrayed in the newspapers, in television networks, in the media in general?"
Salcedo: "I would rather say that my concerns lie in the affective dimension of violence. I am not interested in the actual body that has been hit by violence, but on how a violent event transforms the lives of the people that are surrounded by it. I am interested in how a violent event begins and continues to influence the lives of the people that were not directly touched by violence, that is, the ones that are not dead, the ones that outlived the event. The lives of those people crumble to the ground at every level. Most of the peasant women who had their spouses assassinated suffer a series of deformations, not only psychological but also physical. It's a new phase that shapes their life, a phase which is naturally painful. More painful than dying because it means keeping on living. The conditions of abandonment in which these women are, the lack of affection, the impossibility to make sense of their own life, the impossibility of constructing a perspective by means of which they can understand the tragedy—all of these factors have an immense impact on their own affective realms. I believe that the major possibilities of art are not in showing the spectacle of violence but instead in hiding it. Blanchot says that a disaster remains a disaster as long as it is not touched. One might be close to it but one can never touch it. If touched, if interpreted, the disaster will transform into something else. It is the proximity, the latency of violence that interest me. But also the affective dimensions associated with the latency of terror. I want to be able to convert the audiences into witnesses. My purpose is to stimulate the spectator/witness's memory of pain so they too can have the experience of other people's suffering. At this moment that memory becomes something
collective. It is precisely at this point where I think that art can work certain aspects that discourse can't, because discourse is almost always linear, no matter how complex it is. I think that art is able to conjugate a series of moments, of different times and spaces in one instant of perception. In a sudden instant one can create a space in which new meaning is generated. A meaning that breaks with the absurdity of mapping violence as a sequence of events, with a starting point, with an apex, with spans of life and death."

*Villaveces*: "So what you try to do in your work is to elaborate on the experience of a violent event in such a way that you're able to give voice to those that have been silenced not only by those events but also by those who conceptualize them? Here I am thinking about the journalists and the violentólogos."

*Salcedo*: "Yes. It is essentially pushing those dimensions of the event from the sphere of the private to the sphere of the collective and also from a forgotten past to a living present. That is not to say that a massacre erases another one, but what I want to point out is the attempt of putting them all together in the present. Because our present is determined by those events. Those events are defining us."

*Villaveces*: "Could you expand on what you said before about text and image? How do you see art as escaping the boundaries of written language?"
Salcedo: "I think that an image has the capacity of producing a series of spaces that remain. It is the duration. The images in art have a marvelous relation that can only be compared to life itself. Life, as well as the images, has a certain duration, a certain permanence. An individual who has had a hard life is continuously marked by the same fact. His life is constantly defining them and he cannot forget the fact precisely because of the harshness of it. In such a case, to forget would be an absurdity; in this case, remembering becomes the possibility of healing. Art. I believe, shares with life that concreteness and those healing possibilities. That is why one can claim that art is a vehicle of communication which operates at different levels at the same time. But in order for this to work one must work in the present, not in the past tense. A person who has disappeared has the amazing power of being constantly present. In the present everything can be conjugated. But obviously this is not claiming that images are timeless or that they can take the place of life's experiences, supplant the victims of violence or violence itself for that matter. But I do think that if the images are made in an intelligent way, they would have the capacity to show the richness and complexities that lie in the outside, in the margins. To show the pain of a person who has been shot, how the bullet entered the body and so on, is absurd. One has to position oneself with humbleness in the margins of this explicit pain. If one is outside then one can create a humble relation with the violent event, with the persons and with the worlds that remain. It is only then that one can allow things to come inside oneself filling one's center; then any intention of expression, of me expressing my own voice, will be displaced. The
active voice will be displaced. From this displacement I start my work. Now, art is paradoxical, contradictory; one doesn't have to conclude anything. That is another difference with literature. It is very difficult to write a text as a complete paradox. That is why I say that art provides an exceptional space in which to develop an idea, I don't have to reach any conclusion, I don't have to prove anything, I don't have to answer anything, I only have to pose a problem and, if I am intelligent, if I have talent, then the answer will be already there, in the piece itself.

In the creative process one works on many levels. At the intuitive one maybe you come across an object, you see it, you imagine it, whatever. The appearance of an object, a material, comes in a very intuitive way. On the other hand there is another type of intuition which comes from the information you have. Asking yourself about what is happening in the present leads to a well-oriented intuition. What is happening in Colombia today? What are the events that are making a mark on us? What are the particularly painful events? Another level of consideration is the space in which the pieces are going to be arranged, let's say, the space of the installation. What is the space of that language that I've decided to use? I am interested in starting from a real moment, a moment in the life of a real and specific person. Sometimes I keep track of her life. If I have the courage, I meet her; if not, I read about her, mainly life histories provided by a non-governmental organization that threatens victims of violence in Bogotá. Then I invent all that is missing. Once I've built up a character, my work turns into a sort of private performance in which I try to enact that character... By
inducing certain states of concentration from my readings, from testimonies, from looking obsessively at certain images, from carefully studying the clinic histories of many victims of violence that have been treated at a psychiatric level, from studying the symptoms that remain, the ways the post-traumatic stress is manifested, from this array of information I produce an art piece."

**Villaveces**: "You were talking about how violence has permeated our own daily lives, and about the ways in which your art deals with the evocation of these realities. How do you see the way in which an artistic image and the images on the media play against each other? What are the differences between these images? Do you perceive a difference in the audiences that are exposed to either of them?"

**Salcedo**: "In very simplistic terms I would say that the essential difference is that the media deals with the dead while art deals with death. In the media they are showing you the particularities, they are not showing you the dimensions of death which, by the way, are much richer and with out doubt much more profound, especially when you are confronted to the terrible forms in which death is manifested here, in Colombia. I think that is the radical difference between the artistic image and the images presented by the media. I think that art could eventually come to talk about death, and that necessarily implies transcending the dead body. Only then could the concepts be richer precisely because the experience of death is much more complex than the mere dying. That is why I insist that it has to be an experience from the margins, always from the outside, always
in the surroundings.... I think that in the moment when one positions oneself on the outside one has to hide some things, and that's precisely what my project is about. It is very difficult when you are working with blood to give blood a different meaning from the one it already has. Blood is already a very heavily charged symbol. Then one can not break the signifier, you cannot intervene in it, it always pushes you back to the dead body. Now, in this returning there is an immense sphere of experiences and emotions that are lost for the artists to explore. Instead, if you position yourself on the outside you can still work with those experiences, you can still interfere and you can still create meaning. For that meaning to be interpreted, at any level, from the most elementary to the most sophisticated one, it has to be communicated through the artistic image. If I show a dead body to an audience, what can they interpret? The audience will be incapable of producing meaning because there is no way of interpreting the image. The audience doesn't have the tools, and then the dead body is imposed not just upon the artist but also upon the audience. Instead, if I am working with things that are less evident, I can still hope to transform them... The only thing one does is to articulate them in a certain manner. In the instance when you articulate the elements an idea enters into the matter and signifies. At this moment it is extremely important to take into account the ways in which the audience recognizes itself in the work of art. Many studies have been concerned with the way in which the audience recognizes itself in a particular painting that portrays a human figure, on how an audience recognizes things about themselves in a piece of artwork. In such cases, the recognition starts first at the
level of your heart, then it reaches the intellect, and in this moment
the possibility of interpretation opens up. At that moment there is an
active and intense exchange between the audience and the work of
art."

_Villaveces:_ "That is to say, that the visual images produced through
the media are overdetermined, while what you pretend to evoke are
more indeterminate images that the audience has to give meaning to
in accordance to what they perceive?"

_Salcedo:_ "Yes. Marta Traba\textsuperscript{165} used to say that art didn’t evoke but
revealed. I think that is very beautiful because art reveals things
that one has, things that suddenly jump up, impressions and images
that are otherwise unmanageable. About a year and a half ago, in an
exhibition held at the Whitney Museum in New York, there were
photos shot at a morgue of open corpses, atrocities. The title of the
work was "Bogotá, Colombia. 1990." Then what can you do there?
Nothing. The photographer is not giving an image of Colombia
because that has nothing to do with it. That has nothing to do with
the latency of terror because the terror that is shown is already in
the past, and as such it can not become a part of the audience’s own
experience. It is very difficult for you, as audience or artist, to
connect yourself with a dead body torn apart and then stitched back

\textsuperscript{165} Marta Traba (1930-1983) was an Argentinian art critic and scholar who held
important teaching positions in the art departments of the _Universidad
Nacional_ and the _Universidad de los Andes_ in Bogotá. She was highly
influential in the development of Colombian artists from the fifties until the
seventies. She was also the first director of the Museum of Modern Art of
Bogotá, the _MAM_.
together again. You are not that. You are never going to see your body as that. That has no sense. After a moment one is left blocked, one can not make any sense out of those images!

Now, there is another aspect to this, and it has to do with how images touch the social context in which they circulate. At certain points in history the artists, in constructing a certain type of images, have played a very important role on allowing for the interiorization of fascist ideas in society. Once you've produced an image it starts to function in society in a negative or positive way -it doesn't matter, but the fact is that it starts to play a role. Images are not innocuous. Some of them might not produce signification, but they are surely playing another function. The photographs of corpses of tortured bodies shown by artists in and outside of Colombia, are examples of a detached and often classist gaze that is extremely violent. The point that I want to highlight is that this type of work produces an incredible uneasiness because of what it signifies. These types of images begin to work in the collective memory in a very peculiar way. They enhance indifference, classism, racism, exclusion. I think we have to work seriously against these exclusions, against the signification mobilized by those types of images."

2. A Critique of Total Agency

The critiques of western subjectivity which have been emerging in feminism, post-structuralism, subaltern studies, among others, stress the need to question the subject's position as a starting point
for understanding the cultural, social, ideological, and mental grids that constitute the individual's standing grounds. As these grids are knitted together in an individual they function as places in which ideas of self and the world are constructed. Partially condensed by power, institutional and disciplinary formations (Foucault 1977, 1980) and by habitus (Bourdieu 1984), the subject's position is best understood as a net that provides a standpoint, or a point of gaze, from which agency unfolds. Here I want to suggest that the gaze, or driving force of agency, creates a limited field of vision, or maybe more appropriately a field of fantasy, that is constituted as a space in which agency is enunciated and enacted. It is in this field of fantasy where the domain of objects and rituals of truth are produced and render the status of "reality"; in other words, the field of fantasy is the domain in which the fictions of the mind are made true, the realm where myth becomes, as Bataille points out, *living* myth and further, *being*. Contemporary theories of subjectivity that critique the humanist western models (for example Das 1995, Fraser 1997, Kristeva 1986, Spivak 1985), challenge the notion of a self-present and unified subject, by highlighting how in fact subjectivities are constructed as dynamic and unstable processes of never ending becomings. On such basis subjects, instead of being monolithic entities, are receptacles of mobile subjectivities that while being shaped by social and cultural discourses and practices, have the potentiality for shifting to alternative gazes, and fields of fantasy. In this fluidity lies the potential for breaking with ideas of a sovereign
universal subject in control, whose unchallenged fields of fantasy enunciate total agencies\textsuperscript{166}.

So much said. The question that now arises is what does Salcedo's artistic project help disclose in such regards? Salcedo's positionality talks for a mobile subjectivity that consciously displaces the authorial voice by allowing its movement to a marginality, thus facilitating the emergence of otherwise silenced voices. This shift allows the artist to construct an alternative field of fantasy that while displacing the hegemonic paradigm of social action as defined primarily by rational behavior, allows for the unfolding of an agency structured around the contingent (Bhabha 1994). The subject acts then as a mediator and articulator/producer of new meaning, or as a living space in which other forces -the displaced women in Salcedo's particular case- can be enunciated and put into circulation in otherwise inaccessible circuits. With this as a backdrop I want to revisit the violentologists and the academics in an attempt to disclose their own patterns of total agencies, or empowered humanist/western subjectivities, in order to later pass on to delineate other forms of agency that are emerging within these two institutionalized spheres.

\textsuperscript{166} Total agency is understood here as that unfolded by a self proclaimed coherent subject that, as Butler (1988) argues, "takes up the point of an agent who masters its environment and the social relations it is in without ever being of that environment or of those relations. If the structure of agency, reflection, or internalization, is identical to itself throughout its travels, then it is ontologically immune from the social field that it negotiates and, in keeping with the enlightenment versions of anthropocentrism from which this subject is derived, makes itself the ontological center of a world from which it is nevertheless ontologically distinct." (Butler 1988: 23-24).
During one of my many meetings with Eduardo Pizarro, a senior faculty at the IEPRI, in a moment of intense self reflection he bluntly pointed out how the violentologists had been haunted continuously and systematically by what he called a "deeply embedded form of messiahnism"; that is, a form of total agency manifested through a working ethos based on grand narratives that yield the intellectual either as savior of the guerrillas or of Colombian democracy.

Pizarro: "When we've asked ourselves the question of why did we give so much importance to the purely pragmatic or instrumental aspect we've always given the same answer: We thought we had to do the opposite of what we had done before. Before we had given analytical instruments to the insurgency, now it was time for us to give that kind of instruments to the State, but in a very ambiguous manner. I think that with such argument we were beginning the transit towards a new type of academic. But one thing didn't change. We kept the same messiahnism of the past: Before the intellectuals were the messiahs that were contributing to a revolutionary cause,

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167 Pizarro's messiahnism resonates with a notion of a "universal actor", immutable to any external change, that eerily resembles that found in Thewelweit's (1987) typification of the authors of Freikorps literature: "It is the historical-social-political dimension that these men invest with their fantasies and affects. The impulse to enter that dimension seems, however, to originate more as a tactic of evasion than from any positive attachment. What concerns them are the grand themes. In their writings, something at least as large as the fate of the fatherland always has to be at stake. They feel closer in spirit to mythical Nibelungs than to afternoon teatime. That preoccupation with large-scale politics, with the destinies of the race and humanity, implies a negation of the small, the close-at-hand, of microhistory. By moving outward to broad horizons, to the public and the social, they attempt to avoid the private, the intimate, the individual, or, more precisely perhaps, the singular." (Male Fantasies, Volume 1, p.88).
today we are the messiahs of democratic building. But in both cases we've maintained the same intellectual and ethical buffers."

Resonating with this messiahnism is the Court's own imaginary of being the sole "gatekeeper of the norms and spirit of the Constitution of 1991", and guardian of the "will of the people". Under such unchallenged entitlements the magistrates' protagonism is invested with the historico-mythological duty of defending the law, that phatasmagoric, omnipotent and omnipresent entity that will assure, under the judgement of Santander, the freedom of the citizens (see above, Memoria et Reminiscentia 1). Complementary to these working ethos, total agency is also performed through discursive formations that articulate, through language, the fields of fantasy of a rational sovereign subject. As I argued in Chapter Four, for the violentologists the discourse that is woven into the "actors in conflict" model follows such dynamics: Under this model, the actors that are classified by the gaze of the State as conflicting ones are reified, by the social analysts, in a move that molds such agents as sovereign unified subjects. As for the magistrates, language becomes the sovereign actor as it unfolds, following Bhabha (1994), "that progressive metaphor of social cohesion" through which cultural, political and social realities are treated as totalities "expressive of unitary collective experiences." In both cases, that of violentologist and that of magistrates, the construction of stereotypes structures a total agency through which an ambivalent mode of power and knowledge, closely connected to the fixed nature of colonial discourses, is lived, believed and imposed.
"An important feature of colonial discourse is its dependence on the concept of 'fixity' in the ideological construction of otherness. Fixity, as the sign of cultural / historical / racial difference in the discourse of colonialism, is a paradoxical mode of representation: it connotes rigidity and an unchanging order as well as disorder, degeneracy and daemonic repetition. Likewise the stereotype, which is its major discursive strategy is a form of knowledge and identification that vacillates between what is always 'in place', already known, and something that must be anxiously repeated... as in the essential duplicity of the Asiatic or the bestial sexual license of the African that needs no proof, can never really, in discourse, be proved."[^168]

3. Institutions and Emerging Fantasies.

In this section I turn back again to the institutional spheres of the IEPRI and the Constitutional Court in an attempt to disclose emerging resources that challenge, within these spaces, the structures of total agencies. What I am seeking to highlight is existing alternative practices and counter-narratives, opposed to the ones mentioned in the section above, that evoke and erase the totalizing boundaries - both actual and conceptual - of hegemonic agencies. These alternative practices and counter-narratives are each, in its own way, disturbing the single perspective gaze of total agency, and thus challenging the ways in which the "imagined communities" of law and academia are given monolithic identities.

[^168]: Bhabha (1994: 66)
In the first part of this section I use two fragments of interviews to members of the IEPRI, that resonate with Salcedo's own awareness of the limits of representation, and thus, with the need for engaging with alternative forms from which to enter otherwise silenced domains of experience, understanding and communication. In the second part I explore the mobile institutional subjectivities of two magistrates -that is the fluidity of the standpoints that allow them flexible and changing positionalities, opposed to predetermined and monolithic ones- that highlight how institutional agencies are partial, as well as constantly shaped by social and cultural discourses and practices. In both cases I show how the authorial voice is mitigated and displaced by two dissonant interpretative / cognitive styles: That of ambiguity, and that of contingency. In the final part I explore the redefinition of violence in which the late magistrate Ciro Angarita was invested. Through this example I want to highlight how a creative process that promotes radical shifts in the ways in which violence is imagined emerges within an institutional sphere.

On Form


Saul Franco is research associate at the IEPRI. He is an MD with a MA in social medicine from the Universidad Autónoma Metropolitana de México. The excerpt that follows was recorded during my presentation at the IEPRI, on October 25th 1996 (See above, Chapter Four).
Franco: "For me the biggest tension lies in the relation between violence and academia. I don't want to elaborate on this, but it is very curious that ten years after the Institute was created we have more violence in the country. I don't want to suggest that because the IEPRI has produced studies on violence during the last ten years there should be less violence in the country now. What I want to highlight is the fact that in the tension between violence / society / academia there are some serious things going on: Today there is more violence -in the extensive and intensive sense of the word- than ten years ago; and that might show that something is happening. I am not arguing that knowledge is enough for containing reality, but something is going on here. What is the social response to this? What does the academia do under such panorama? Last week [October 1996] I was in Caracas in a conference promoted by a well known institution. They thought that because the talks were on violence a huge amount of people would come. The average was only 90. Then they asked themselves, Is it that people already know too much on this topic? Is it that violence doesn't sell? Is it that the academia has nothing more to say? Is it that the word of the academia is not attractive? The second conference I had was in Barquisimeto (Venezuela). They also expected a big audience but we ended up being just 60 people, the seminar was on violence and inequity in Latin America. And the same questions rose again: Is it that society already knows too much about this? Is it that society doesn't want to hear more about this and hence the intellectuals decide not to talk about it because it hurts, or because it's uncomfortable, or because we have already dealt with it? Where is
the exhaustion? Is reality exhausted? No, because reality is worse than before. Is the topic exhausted? No, because it has many dimensions to it. Probably what is exhausted is the approach we have to the topic, the frameworks that we've used, the political articulations that we've sought. What is there to do then? Well, it is the opening up to those other issues, those other dimensions that are yet to be developed. It is also the seeking of new ways of articulating the problem within society in order to touch more the collective consciousness which we sometimes try to run away from."


Fabio López is associate professor at the IEPRI. He is a Historian with an MA in History from the University of Friendship in Moscow. The excerpt that follows was recorded during my presentation at the IEPRI, on October 25th 1996 (See above, Chapter Four).

_López_: "I want to highlight some examples that tell us more about the relationship between art and violence. In the Academia Superior de Artes de Bogotá -one of the few places were students from popular sectors come to work in plastic arts- a fair amount of topics that deal with the margins of violence, with the underworld, with the demoniac, with death, are being worked on. The students are trying to resymbolize all this through their own artistic proposals. Nevertheless, last night a friend of mine that works there was telling me about the pitfalls of all this. Although many are the cases in art in which death is resymbolized, few do lead to cultural transformations. I am telling this story here because I think we have to establish
dialogues with those spaces. Another example: three weeks ago there was a seminar on media and violence in Cartagena, organized by the Pan-American Health Organization. Some US MDs from a mental health institute came to the seminar and talked about the type of work they're doing. They are currently engaged in a close collaborative project with soap opera screenwriters who are interested in exploring how to portray, in a more complex manner, situations where intersubjective conflict occurs. A well known Colombian TV actor, Juan Angel, is now thinking about how to incorporate into screenplays different issues that are surrounding the contours of violence. Something similar to what is been done in "De Pies a Cabeza" and in "La Otra Mitad del Sol", two of the main TV series of Cenpro [a privately owned TV production company]. What I want to highlight with these examples is that we in the IEPRI should begin to be aware of the existence of these other spaces. There are many sites in which very interesting work is being done, and it is urgent for us to establish open dialogues with them.

Finally, I want to stress that we must draw our attention to the type of formats that have become standardized in our work. In the evaluation I did on the process of re-insertion to civil life of the members of the EPL guerrilla (Ejército Popular de Liberación), I was concerned mainly with whether these people knew about the texts that the social sciences had produced. To my disconcern nobody in the EPL knew about "Pacificar la Paz"-the book that tells about their own process of transit to civil life. I ask myself what is this telling us? Doubtless to say that we are facing a big problem in the mediums and formats we are using to reach our audiences. A book like
"Pacificar la Paz" has been very important, but it leaves out a set of cultural, psychosocial, and human issues. This is characteristic of all positivist discourses. I would say that this lack is because there is no engagement with more humane approaches to social realities. Let's think a little bit about the self inhibitions we have as authors. We must think, from which type of language we want to reach society; it is illusory to think that these people (the former EPL members) -who for the most part are illiterate- are going to read books made from the logic of the social sciences. We are only reaching a middle class audience, but then what are the formats that we need to use to be able to reach new audiences?"

**On Positionality**

"In a truly violent, authoritarian situation, nothing is more revolutionary than the insistence of a judge that he exercises such a "jurisdiction" -but only if that jurisdiction implies the articulation of legal principle according to an independent hermeneutic. The commitment to a jurisgenerative process that does nor defer to the violence of administration is the judge's only hope of partially extricating himself from the violence of the state."\(^{169}\)

In this section I bring to the forefront two distinct cases of partial agency: The case of magistrate Barrera, who exercises his jurisdiction on the basis of paralegal logics that sustain a structure of values and sentiments that constitute an elite authoritarian political

\(^{169}\) Cover (1983: 59)
culture; and the case of magistrate Cifuentes, who exercises his jurisdiction in the best sense of Cover's quote, as independent hermeneutics. Both are highly mobile subjects, maybe a sort of what Marcus (Forthcoming 1998) calls circumstantial activist, but each operating under a radically different logic. For the former, the authorial voice is displaced by ambiguity, whereas for the latter, it is displaced by contingency. In both, the fluidity in their standpoints allows for changing positionalities that speak about the structure of ambivalence that constitutes modern social authority.

As noted above, in Chapter Four, the interpretative and political battles about states of emergency within the Constitutional Court are solved, in the majority of cases, by those two magistrates - Barrera and Cifuentes- whose positions fluctuate between guarantists and efficientist models. On one hand, Barrera -considered in legal and academic circles as a flimsy judge- has been characterized as exemplar of a person that, coming from a small rural town of la costa (the north of Colombia) and without any grand social or academic background, finds its ways into the high court by ascribing himself to the logics of patron-client relationships. With a low profile his strategy and best ally has been ambiguity. His interventions in the Court's debates have lacked argumentative solidity but nevertheless, his positioning as critical figure at the time of defining the balance between the efficientists and guarantists positions have made of him one of the most important figures in the Court; at least in what state of emergency contention is referred. Barrera's own creative agency, a challenge in many ways to the total agency performed by the other magistrates, highlights the architecture of an essentially paralegal
logic engaged only with ambivalence, and where the use value of ambiguity is the mostly priced asset. Barrera's creative agency mirrors the most rooted cultural patterns that sustain traditional politics by responding to no other logic than that of protecting a structure of values and sentiments of traditional political culture. What is most illuminating about this case is that this type of partial agency while overtly contesting total agencies, is still embroiled in sustaining, through strategies of accommodation, the will of total and abject power. In other words, what Barrera illustrates, is that authoritarianism is not only solely reproduced by total agencies but also by partial and quietly complicit ones.

On the other hand Cifuentes, whose interpretative moves on state of emergency matters have also fluctuated between efficientist and guarantist models, unveils himself as a true strategist. For many\(^\text{170}\) he is the most political of all magistrates. For Cifuentes the frontiers that define normal and exceptional violence -central issue in the debates on state of siege legislation within the Court- are mobile and contingent to power stratagems. Cifuentes mobility responds, according to Gómez (1996), to an "hermeneutic style based on the pondering and balancing of the interests at stake." The magistrate's interpretations, heavily tinted with hermeneutic exercises based upon a minute analysis of current political factors and contexts, challenge total agencies within heavily charged ideological contexts. By allowing contingency to play a major role, Cifuentes performs an agency at best described as that proper of a

\(^\text{170}\) For example Gómez (1996); or Arango (interview).
chess master. As Rodolfo Arango, auxiliary magistrate of Eduardo Cifuentes, pointed out in one of our interviews:

Arango: "Cifuentes was basically the mind that was behind the idea of giving time and opportunities for the government to use exceptional powers in situations rendered as out of the limits of "normality". By doing so Cifuentes proved himself as been the most political of all magistrates because, although his personal convictions -by which he profoundly questions the abuse of state of siege legislation- he decides to choose a more pragmatic positioning whose effect can only be seen a posteriori. In other words, in accepting the constitutionality of the first decrees of state of siege and a year later questioning similar situations as unconstitutional, Cifuentes achieves a political effect which is showing that the use of exceptional legislation should be within limits. And this type of thinking had also a very important effect in regard to the defense of the Constitution and the interests of the Court. His was a very strategic thinking and his arguments were very intuitive and with a high political shrewdness. Remember that the new Constitution was very young and that the effects of restricting the figure of state of siege were yet to be seen. In this regard Cifuentes' thinking was very subtle and political since it undermines critiques from the establishment that argue that the government was never given a chance to use emergency legislation under the grounds of the new constitution."

Hallucination
The first chapter of Gerardo Reichel-Dolmatoff's ethnography on the study of narcotic drugs amongst the Colombian Tukano Indians, *The Shaman and the Jaguar* (1975), provides valuable historic references to the interpretations of the Indian's hallucinogenic experiences by early missionaries. The chronicles written mention how everywhere in the New World the Indians "talked to the devil" seeking his guidance and magic. Through the snuffing of narcotic substances the shamans would cross the threshold of "rational experience" and tap into supernatural forces that would provide healing or divinatory powers.

"They worship the devil in diverse forms and images, as is the custom among these peoples in the Indies; because, as I have said, they paint, engrave or carve him in many objects and parts, in wood or clay, and also in other materials of which they make a demon they call cemi, as ugly and frightful as the Catholics represent him at the feet of Saint Michael or Saint Bartholomew; but not bound in chains, but revered: sometimes as if sitting in judgement, sometimes standing, in different ways. These infernal images they had in their houses in specially assigned and dark places and spots that were reserved for their worship; and there they entered to pray and to ask for whatever they desired, be it rain for the fields and farms, or bountiful harvests, or victory over the enemies; and there, finally, they prayed to him and had recourse to him in all their needs, to find a remedy for them."171

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171 Gonzalo Fernández Oviedo y Valdés, Spanish historian of the Indies, quoted by Reichel-Dolmatoff (1975: 8).
The many snares of the devil, so disturbing for the priests that accompanied the Spanish Conquistadores, have not left the New World but rather inhabited it more openly. Today, out of its many faces comes an abruptly concrete one, that travels from North to South of the Continent, and disseminates from coasts to highlands and jungles; one that is prayed to and revered as before: Violence. Violence as untamed counterpart of lawmaking, both disseminated, both establishing in an endless mutual embrace their own frontiers. Two faces of the devil. "The critique of violence is the philosophy of its history", wrote Walter Benjamin, "because only the idea of its development makes possible a critical, discriminating, and decisive approach to its temporal data." And so it is. In the Critique of Violence Benjamin points out to the historical acknowledged distinction between sanctioned and unsanctioned violence as a means to highlight the existence of classificatory systems, typologies that define what belongs where. In asking for the meaning of such distinction Benjamin taps with the need of searching in the historico-philosophical view of law to unveil its relation to violence. Law's interest is the monopoly of violence, but violence, when not in its hands, threatens the law because of its mere existence outside of it. In this double play between inside and outside Constitutional law becomes the sphere for establishing frontiers; a membrane that while pursuing what is to be established as law, with violence as the means, uses violence as an end in its pursue for power making. "Lawmaking is power making, and, to that extent, an immediate manifestation of violence" wrote Benjamin.
But in the midst of the convoluted conditions of contemporary Colombia, yet a different critique of violence is been shaped and contoured from the very same depths of law. Within the Constitutional Court, and under the frame of the discussions on normality and abnormality, violence is being defined, in law's interest, as a constitutive part of Colombian "objective reality". As I have shown above (Chapter Four) the late Ciro Angarita, when holding office as magistrate of the Constitutional Court, insisted that the role of the Court, when considering state of siege decrees, was that of evaluating if objective facts that cause acute public order disturbances are actually taking place. Angarita's concern, as I argued, was to engage with the discussion of normality and exception by explicitly recognizing that the concept of "normality" is problematic and ambiguous in itself. In his thinking, the concept "normality" can either be referring to a situation of legality -when judicial rules and norms are in operation-, or to a situation of legitimacy -when there are no objective facts that are disturbing the public order. By making such as subtle yet key distinction, Angarita shows that Colombian legal culture has confused both situations by failing to recognize the fundamental difference between legality and legitimacy. During his office at the Constitutional Court (1991-1993), and through his interpretation of the role of the Court, Angarita made a clear cut distinction between an old jurisprudence, functional for the prevalence of Presidentialism as State practice, and the emergence of a new jurisprudence, committed to the prevailing of basic and civil rights. The confusion between legality and legitimacy, as Angarita argued, has blurred the semantic boundaries between
normality and abnormality, hence blurring the legal boundaries that separate the rule from the exception, allowing for the option between one or the other to rest solely in the hands of political will. From Angarita's standpoint, the history of the exercise of power in Colombia is one that has banalized the concept of the exceptional, by presenting as legitimate solutions that are at best only legal. With such arguments Angarita sought to restore the interpretative and political role of the Constitutional Court by means of returning to its sphere of influence the definition of limits, of clear distinctions between normal and exceptional violence. As I showed above (see Part Two, Chapter Four), the increasing importance of such arguments in the Court's jurisprudence signals the relevance of Angarita's earlier insights.

Angarita's observations on the need of recognizing the normality of Colombian violence are by themselves a way of defining, from within the law, what is the human condition in the country. As such they provides an alternative version of Benjamin's critique of violence. In Colombian political and legal history the boundaries between "sanctioned" and "unsanctioned" violence have been systematically blurred by the practice of Presidentialism. In such a context, the systems of classification that provide a distinction between those two types of violences have been volatile and, at best, contingent on the prince's convenience. Angarita's move shifts the gaze of the Constitutional Court not to the "sanctioned" violence which overflows the "out there", but to the unsanctioned violence from within the State apparatus; that is to say the violence that the Executive branch performs through the practice of Presidentialism.
With such a move law's interest shifts to the containment not of violence "out there", now classified as part of normality, but of an inner untamed and unaccountable violence resultant from a sort of power implosion. In this case, violence "out there" by not being in the hands of law, and instead of threatening law's order -which is non existent in prolonged state of siege situations- opens up the possibility for restoring it. This recognition of violence "out there" as a standard of normality becomes a necessary condition, in this case, for the return to a normal lawmaking status. Constitutional law, as Benjamin points out, is indeed the space for establishing frontiers, but in the case at hand, these frontiers are established by means of negative dialectics: The recognition of violence "out there" as disseminated, untamed and naturalized -thus without frontiers- assures the building of limits, of frontiers to the State's own excess. By taming Presidentialism -or the violence from "within"- the restablishment and restoring of the rule of law is assured. Angarita's acute interpretation feeds a critique of violence based on the philosophy of its local, and contemporary Colombian history, providing a complementary but yet differential spin to Benjamin's own critique of violence. Angarita's move, as in an illuminating hallucinatory experience or as an instance of artistic creativity, shifts the contours and planes through which violence is imagined and interpreted. An exercise of sociological imagination that is defining what is the human condition in Colombia.

But let me turn back to the space in which such move is produced: The Constitutional Court. As I argued in Chapter Four, lawyers in Colombia have been granted, throughout the history of
the country, a unique status that combines the privilege of class with a halo of sacrality acknowledged and revered throughout the whole social spectrum. In capturing such an imaginary Nestor Humberto Martínez, former Minister of Justice and Law, while referring to the need of restoring a State of Law in Colombia, called upon the "priests of justice", those secular pastors in whose hands lie the fate and destiny of the country. With the systematic dismantling, persecution, and frustration of alternative social and political movements, the possibilities for change originated in the middle and lower classes have been seriously undermined. Hopes have been shattered by continuous assassinations, and in a land barren of political alternatives few have been left as optioned for promoting viable social and political change. In such a context, and granted the fact that in fractions of public culture the Constitutional Court stands as a visible space that resumes the once lost hopes for viable political change, the role of figures like the late magistrate Ciro Angarita are paramount.

Today the often controversial decisions of the Court are displayed in front pages of the country's newspapers, and reported as prime news in radio and TV broadcasts, proving not just the visibility that the Court has gained, but the impact of its decisions in daily life. For some\textsuperscript{172} this dramatic incursion in public culture of the Court's unchallenged political creativity has been interpreted as the beginning of an era of constitutional dictatorship. Albeit such critiques, the Court has been shaping itself as a viable space for

\textsuperscript{172} For example Gómez (1996), or Orozco (1996).
democratic building. The hopes that many have invested in it are high for still in Colombian popular imaginaries the lawyer is, as the shaman or the Tukano's payé, the most important specialist within the native culture, one that illuminates realities through his interpretation of hallucinatory experiences.

"A payé's soul should 'illuminate'; it should shine with a strong inner light rendering visible all that is in darkness, all that is hidden from ordinary knowledge and reasoning. This supernatural luminescence of the payé is said to manifest itself when he speaks or sings, or when he explains his or others' hallucinatory experiences... The payé's interpretations thus 'shed light' upon these matters, in the strict sense of the expression. It is of importance, then, that the payé himself be able to have clear and meaningful hallucinations. His vision must not be blurred, his sense of hearing must be acute; that is, he must be able to distinguish clearly the images that appear to his mind while in state of trance, and to understand the supernatural voices speaking to him."\(^{173}\)

\(^{173}\) Reichel-Dolmatoff (1975: 77).
Figure 3. A local Armageddon. The ruins of the former Palacio de Justicia. Downtown Bogotá. November 1985. The main facade of the Palace of Justice after being burnt to ashes. Note the impact of an army assault missile on the left. (Revista Semana. Archives).
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