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## The recrudescence of cartel-state conflict

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Thesis

**The recrudescence of cartel-state conflict**

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MSc Political Science – International Politics

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## **Introduction**

Rio de Janeiro's favelas have been known as areas of state absence (de Souza, 2019). There, armed drug dealers reign the communities through territorial, political and military dominance. Thus, armed clashes between rival groups and security forces are routine. Additionally, children and youths are recruited, armed and compensated for their labour (Dowdney, 2003). The solution has been an indiscriminate militarised policing strategy that attacks all criminal groups equally severely regardless of the activities they engage in. That strategy is executed by the Military Police, which is among the most violent in the world (Castro et al., 2020; Magaloni et al., 2020). This approach is known as “unconditional repression”.

In 2008, Rio de Janeiro shifted from unconditional repression towards a community-oriented approach called Pacification (de Souza, 2019). This was done through the creation of specialised units. They announced their occupation of certain favelas and a shift in policy objectives from eradicating drug trafficking to reducing violence. Accordingly, they ceased going equally hard on all criminal groups and repression became conditional on those groups' behaviour. Thus, this approach is known as “conditional repression”. By 2013 the Pacification strategy had dropped clashes between drug trafficking organisations (DTOs) and law enforcement by around 70 percent (Lessing, 2017).

Following the success of the Pacification strategy, it was rapidly overstretched to other sensitive areas, thereby surpassing the capacity of the units (Lessing, 2017). Consequently, after 2013, the policing approach backslid to unconditional repression, with a regrowth in violence. Moreover, by 2018 fatalities by the Military Police had exceeded the levels from before the implementation of Pacification (Castro et al., 2020).

In May 2021 around 25 people were killed in Rio de Janeiro, Brazil, in a gunfight involving drug traffickers during a law enforcement operation following Bolsonaro's new anti-narcotics policy (BBC News, 2021; International Drug Policy Consortium, 2021). These events came to pass within the framework of the United Nations' Single Convention on Narcotic Drugs and the subsequent prohibitionist policies which aimed at eliminating drug trafficking (Global Commission on Drug Policy, 2021). The global drug prohibition regime has generated, by steering repression at suppliers, an increasingly profitable market which, in turn, has stimulated the growth of DTOs with the capacity to not only defend themselves but coerce states through violent corruption and violent lobbying, often leading to cartel-state conflict

(Lessing, 2015). This occurrence is not exclusive to Brazil. Latin America – also known as the zone of violent peace – has followed a propensity to militarise law enforcement to combat criminal conflict, thereby increasing levels of violence and human-rights violations, and provoking the emergence of the “carceral state” (Flores-Macías & Zarkin, 2021; Levine, 2003; Magaloni & Rodriguez, 2020; Mares, 2017; Weaver & Lerman, 2010).

In the fight to eliminate drug trafficking, most states’ default choice has been unconditional repression, whereby states maximise their endeavours to destroy DTOs regardless of their activities and/or behaviour (Lessing, 2017). However, as states repress DTOs ceaselessly, because DTOs have nothing to lose and have the resources to do so (Oré & Jorgic, 2021), they fight back. Consequently, cartel-state conflicts have been intense and severely violent, as illustrated by the cases of Colombia, Mexico, and Brazil.

Yet some political leaders have also experimented with more conditional approaches, commonly in well demarcated areas and/or for fixed time intervals. Under [conditional repression](#), repression is still implemented but it is dependent on what DTOs do or abstain from doing; it is conditional on DTOs’ behaviour. As such, incentives are created for DTOs to abstain from undesirable behaviour (e.g. using violence against police officers or carrying arms in public).

Studies have analysed the effects of (un)conditional repression and have found that whereas unconditional repression recurrently creates more violence, transitions towards more conditional approaches have generated sudden decreases in violence and other undesirable behaviours (Braga et al., 2018; de Souza, 2019; Lessing, 2017; Magaloni et al., 2020; Pinto & Do Carmo, 2016). Yet states that have implemented conditional repression eventually return to unconditional repression. Therefore, the research question is: *why do states return to implementing unconditional repression on DTOs?* Moreover, why do they do that if they might expect a violent response from DTOs and after having experimented the benefits of conditionality?

To examine why states would return to unconditional repression after having enjoyed the benefits of conditional repression, the case study of Colombia’s “Sometimientos” will be analysed. Such analysis will be performed through explaining-outcome process tracing. This method of analysis is conducive to analyse a test of causal mechanisms – *public support*, *weak state governance*, and *repressive apparatus support* – which are delineated under the [theoretical framework](#). Most findings support the *weak state governance* causal mechanism,

which indicates that because weak states have a limited capacity to enforce laws, and because the coercion gap enables enforcers' forbearance, conditional repression tends not to be implemented as it was intended to, ultimately leading to its revocation.

The policy implications of this study are quite apparent as it might provide more clarity on how conditional repression could be implemented more effectively in the long-term. This is especially relevant in the current criminal conflict climate, where criminal enterprises generate as many deaths as all types of armed conflicts together (UNODC, 2019). Moreover, most work on (un)conditional repression has focussed on the implementation and effects of such approaches. Nevertheless, the academic literature on the topic has not made much progress in examining why states are inclined to return to the least effective approach – unconditional repression – nor about the processes that lead to that. Hence, this study intends to fill this gap in the literature.

### **Literature review**

There has been a lot of fragmentation among the subfields of political violence (Barnes, 2017; Kalyvas, 2019; Sánchez-Cuenca & de la Calle, 2009). Consequently, there is a group of scholars who argue that the most prevalent studies in political violence suffer from a few issues (Blattman & Miguel, 2010; Isaac, 2012; Kalyvas, 2003; Sambanis, 2004). Those issues include ambiguous criteria, the fact that certain subfields are secluded, and the problematic distinctions made between subfields – many of which have been presumed rather than proved. Therefore, they argue that our understanding of the relationship between state armed groups and non-state armed groups rarely correspond to how they actually use violence.

It is thus in the context of overcoming the disillusionments mentioned above that new typologies and frameworks have been developed to understand criminal politics – the relations between states and DTOs. One of such typologies has identified four kinds of relations between the state and DTOs: confrontation, enforcement-evasion, alliance, integration – from the most competitive to the most collaborative configuration, respectively (Barnes, 2017; Staniland, 2017). Similarly, a strand of research has focussed on the networks that assemble DTOs, civic leaders, and state officials to safeguard DTOs from repression, while bolstering their legitimacy and limiting violence, and has also delineated theories concerning criminal governance by concentrating on the regional and local level (Arias, 2006; Duran-Martinez, 2015; Ferreira, 2019; Idler, 2020; Lessing & Willis, 2019; Magaloni et al., 2020; Peters et al., 2009).

A likeminded group of scholars have depicted how state repression on DTOs backlashes, aggravating violence – and not just anti-state violence (Calderón et al., 2015; Dell, 2015; Lessing, 2015; Shirk & Wallman, 2015; Trejo & Ley, 2018). By evaluating the outcomes of capturing DTOs’ leaders, it has been shown that it exacerbates DTO-related violence in the short term, and that the spillover effects (e.g. growth in homicides, kidnappings and extortion) among the general population are more permanent; capturing kingpins also spread violence to other territories (Calderón et al., 2015). A comparable study identifying the effects of unconditional repression has demonstrated that when political parties endorsing iron fist approaches against DTOs win municipal elections, violence increases; accordingly, drug trafficking is forced to go along alternative routes, thereby raising violence in other municipalities (Dell, 2015).

Due to the violence and the intensity of conflicts affiliated with state repression, some political leaders and states have experimented with more conditional approaches. Conditional repression is an approach whereby the degree to which states’ security forces chastise groups or individuals is dependent on the perpetrators’ behaviour (Braga et al., 2001, 2018; Lessing, 2017). Unlike unconditional repression, whereby the objective is to destroy the perpetrator and its activities, conditional repression communicates a predetermined undesirable behaviour and what would be done to those that engage in it. As such, incentives are created for criminals to abstain from said undesirable behaviour. It is worthwhile to mention that conditional repression does not necessarily pertain to a particular policy. Instead, conditional repression may refer to policies or (policing) strategies that, purposely or selectively, focus more repression at DTOs that engage in certain unwanted behaviour.

Some researchers have focussed on assessing the impact of these approaches, examined whether conditional repression<sup>1</sup> has decreased violence when implemented in a variety of contexts, from youth gang violence in the US to cartel-state conflict in Colombia and Brazil (Braga et al., 2001, 2018; de Souza, 2019; Lessing, 2017; Magaloni et al., 2020; Pinto & Do Carmo, 2016).

Conditional repression, exemplified by Boston’s “Operation Ceasefire”, posits that crime can be avoided by increasing the costs of engaging in crime so that perpetrators perceive them as exceeding the benefits (Braga et al., 2001, 2018). That policing programme was meant

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<sup>1</sup> Focussed deterrence is the preferred term in the literature on crime control.

to deal with an outbreak in gang homicides. Therefore, an interagency enforcement group clearly conveyed to gangs that if they engaged in inter-gang violence, they would be sanctioned by means of all legal instruments available; they also offered help to those in gangs. The programme was successful in reducing youth homicides (by 63 percent) and gun assaults (Braga et al., 2018). Similarly, conditional repression can generate disincentives for DTOs to engage in violence (de Souza, 2019; Lessing, 2017; Magaloni et al., 2020; Pinto & Do Carmo, 2016).

This literature has demonstrated the counterproductive effects of unconditional repression and presented evidence of the potential violence-reduction benefits of conditional repression. In doing so, it has also provided an account of why states would try to implement conditional approaches. However, our knowledge of why states tend to revert to the least effective approach – unconditional repression – is still limited. Therefore, this study aims to address this gap in the literature.

## **Theoretical framework**

### *Conceptualisation*

Before stating the argument of why states revert to unconditional repression, the conceptualisation of (un)conditional repression will be clarified. State repression has been conceptualised as a state's threat or actual use of physical penalties on its citizens or organisations (within their jurisdiction) in order to inflict a cost on them, and discourage certain enterprises and/or behaviour regarded as challenging the government and its practices or institutions (Davenport, 2007; Goldstein, 2001).

In the context of the global drug prohibition regime, states have commanded the same degree of repression to all DTOs regardless of their engagement in violence or illicit activities. This is known as “unconditional repression” (Lessing, 2017). They are unconditional because, notwithstanding the behaviour DTOs engage with, all DTOs are targeted by the state equally severely. Cartel-state conflict is employed by DTOs as a coercive instrument: DTOs wage war against states to provoke alterations in states' behaviour (e.g. policy change). Moreover, this process expounds why unconditional repression is more susceptible to anti-state violence: approximately 60,000 homicides were caused by a campaign from the Mexican government to weaken DTOs (Calderón et al., 2015; Shirk & Wallman, 2015).

On the other hand, conditional repression refers to approaches whereby states' security forces selectively target individuals or groups due to their engagement in specific predetermined activities and/or behaviour (Braga et al., 2001, 2018; Lessing, 2017). As such, the premise of conditional repression is that interests and incentives matter and, thus, by states clearly conveying incentives and disincentives, alterations in criminals' behaviour can be elicited. By doing so, conditional repression is in line with deterrence as individuals and groups are met with additional repression *if* they engage in undesirable behaviour. Additionally, as with deterrence, conditional repression requires states to retain some repressive power in stock in order for their threat of violence to be credible (Lessing, 2017; Schelling, 1966).

Conditional repression then requires states to convey what would happen if organisations or individuals engage in undesirable behaviour. In practice, these can be in the form of policies of leniency, whereby those organisations eschewing the undesirable behaviour are met with less repression (Lessing, 2017); or prolonged penal sentences for those engaging in the undesirable behaviour (Braga et al., 2001). Additionally, conditional repression usually involves (the training of new) elite units to avoid corruption.

In the context of the present study, the groups involved refer to DTOs and individuals with ties to those organisations. Furthermore, the activities and/or behaviour mentioned can relate to an array of (illicit) activities such as bribing, exhibiting weapons in public, youth homicides, turf wars or cartel-state conflict. A good deal of conditional approaches and subsequent studies, however, focus on cartel-state conflict – as will this study. Thus, conditional repression, as the terminology implies, is conditional or dependent on predetermined DTOs' activities and behaviour.

#### *The weathering of conditional repression*

This theoretical framework suggests that states return to unconditional repression because sustaining or upholding conditional repression is costly for political leaders and difficult for weak states. As such, three key elements – *public support*, *weak state governance*, and *repressive apparatus support* – provide the foundations for the causal mechanisms developed below.

*Public support* is fundamental for conditional repression and, as such, if public support is absent or insufficient it can lead to the weathering of conditional repression. The successful



implementation of conditional repression involves reframing<sup>2</sup> the problem or issue to the public (Lessing, 2017). This implies reframing/reformulating policies' priority from, for example, drug eradication to violence reduction.<sup>3</sup> Once conditional repression has been implemented, however, this same reframing/reformulation can be potentially counterproductive. This means that if the aim was the reduction of violence, then even the slightest episodes of anti-state violence can lead to a reduced confidence in conditional repression (Lessing, 2017). Alternatively, repression can be conditional on anti-state violence but other undesirable behaviours like turf wars – whereby DTOs fight other DTOs for control over territories – may persist. Turf wars may persist because DTOs do not enjoy protection from the state against rival DTOs nor can they appeal to any legal tools in order to remedy infringements of business agreements (Shirk & Wallman, 2015; Trejo & Ley, 2018).

The core premise of the *public support* causal mechanism is that although conditional repression is known to reduce some specific undesirable behaviours (de Souza, 2019; Lessing, 2017; Magaloni et al., 2020; Pinto & Do Carmo, 2016), other undesirable behaviours might endure. Thus, the fact that other bad behaviours might persist can diminish *public support* for conditional repression. This point is especially salient if decision makers are facing elections.

The second causal mechanism is related to *weak state governance*. Weak states have been labelled as having limited state capacity, with the lack of crucial state capacities being a significant barrier for political stability and development (Acemoglu, 2005; Fergusson et al., 2022; Migdal, 1988). Among those crucial state capacities are the capability to restrain violence, enforce laws, and supply public goods to an extensive sample of society. On the other hand, weak states are susceptible to the uprise of organised crime due to low levels of state legitimacy, feeble border controls, and the inferiority of collective interests vis-à-vis individual interests (P. Williams, 2013). Organised crime offers, through illicit markets, safety nets for those lacking social and economic opportunities, thereby providing governance and public goods (Arias, 2006; Lessing & Willis, 2019; P. Williams, 2013).

Due to the limited state capacity of weak states, they tend to be comprised of unequal societies which, in turn, shape weak institutions. Institutions that involve the use of coercion to enforce the law can be weakened by lopsided political incentives across the legislative and

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<sup>2</sup> For more information on framing check the political psychology literature (e.g. Entman, 1993).

<sup>3</sup> This specific reframing is specific for drug related crime but may take other forms in other types of conditional repression.

enforcement process – a phenomenon known as the coercion gap (Holland, 2020). In this context, enforcement is comprised of fines, prison sentences, and seizure of assets. The asymmetry of political incentives consists of policymakers thinking and shaping policy “in terms of abstract institutional goals” (Holland, 2020, p. 120); and enforcers facing the real-life effects of enforcement on individuals. Individuals can then organise interest groups to bargain with enforcers. Following Huntington (1965), polities with high levels of social mobilisation but low levels of institutionalisation due to distrust – like those in Latin America – tend to be corrupt. This tendency for corruption facilitates enforcers’ forbearance – deliberate choices not to impose the law (Holland, 2020).<sup>4</sup> Furthermore, the fact that enforcers who forbear are mostly in positions of lower levels of public goods provision further bolster this argument (Fergusson et al., 2022).

Thus, the causal mechanism related to *weak states* posits that, despite the presence of conditional repression and its benefits, because the setting (of limited state capacity) in which it is implemented does not provide public goods, those lacking social and economic opportunities are likely to be drawn to organised crime. As such, organised crime is continued to be boosted and conditional repression undermined.<sup>5</sup> Furthermore, because weak states have a limited capacity to enforce laws, and because the coercion gap enables enforcers’ forbearance, conditional repression tends not to be implemented as it was intended to, ultimately leading to its revocation.

The last causal mechanism is related to the *repressive apparatus support*. Gurr (1988), in an attempt to understand the conditions in which states implemented coercion, posited that state repression would persevere because that is what professionals in coercion do. The notion is that states have integrated control over their territories through the use of force: by beating rebellions and secessions and subduing and uniting distinct peoples and minorities. Davenport and Loyle (2012), extended the former’s proposition in the quest to explore the puzzle of repressive persistence.<sup>6</sup> They did so by arguing that once repressive structures (i.e. security forces/repressive apparatus) are in place, “employees will have a vested interest in perpetuating the use of coercive action” (Davenport & Loyle, 2012, p. 81). In other words, states’ repressive

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<sup>4</sup> Holland (2020) clarifies that, although the coercion gap in federal systems is self-explanatory, coercion gaps can be caused even in unitary political systems.

<sup>5</sup> This does not imply that conditional repression’s objective is necessarily about crime reduction. Nevertheless, the rise of organised crime can be perceived by the public and policymakers as a shortcoming of conditionality.

<sup>6</sup> The puzzle of repressive persistence refers to the fact that research on the influence of state repression on dissent has produced inconsistent findings and, as such, the effect of state repression is unknown. Thus, it is puzzling that states persist in using repression. See Davenport (2005), and Davenport and Loyle (2012).

behaviour endures because the repressive apparatus has been devised for that end. Alternatively, state repression is not employed to influence undesired behaviour – in this case, DTOs’ illicit activities and behaviour – but to maintain the character of those in the repressive apparatus.

Thus, the proposition of why states persist in implementing repression on dissidents can be applied to the study of why states return to unconditional repression. As such, this causal mechanism posits that once a repressive apparatus is in place, those working in those organisations are intent on sustaining their resources and measures of constraint or coercion. Subsequently, because conditional repression requires elite units, those excluded from this “new” form of repression (e.g. military officers and generals) will compel their superiors to abandon conditional repression. The compulsion for political leaders to go back to unconditional repression is especially striking considering that they otherwise face potential coup (attempts) from those inside the repressive apparatus.

Having delineated the causal mechanisms the present study will test, the observable implications of the causal mechanisms will be outlined. If the first causal mechanism works as theorised and other undesirable behaviours (than those on which repression is conditional) endure or reoccur, they would lead to a reduced public support for conditional repression, and one would see a series of observable implications. For instance, (1) the presence of anti-state violence from DTOs, (2) turf wars between DTOs, (3) political leaders’ entanglement in scandals or controversies due to the apparent loss of effectiveness of conditional repression, and (4) civil society as well as the media voicing their discontent or lack of support for conditional repression.

If the second causal mechanism works as theorised and due the lack of provision of public goods more people are drawn to organised crime, we would see (1) a growth in organised crime after the implementation of conditional repression. Furthermore, if there is limited capacity to enforce laws and enforcers engage in forbearance, then we would observe (2) an erroneous implementation beset with corruption or nonenforcement of conditional repression.

If once a repressive apparatus is established its employees are concerned with sustaining coercive action, and therefore they pressure decision makers/political leaders to return to the known unconditional repression, we would see an array of observable implications. These observable implications would include (1) an endeavour from those active in the repressive apparatus to maintain access to their resources, which would be visible in the

form of press releases or press conferences. Moreover, we would behold (2) low morale among those active in the repressive apparatus, (3) reluctance among those in the repressive apparatus to cooperate with conditional repression, and (4) pressure from the repressive apparatus to relinquish conditional repression.

## **Methodology**

### *Method of analysis*

The present study will implement a qualitative research design. Specifically, it will make use of process tracing in order to test the conjectures delineated above regarding why states return to unconditional repression after having implemented conditional repression. Moreover, it will implement an explaining-outcome process tracing (Beach & Pedersen, 2019). Additionally, explaining-outcome process tracing has two points of departure: theory and empirics. Because the former traces the steps similarly to theory-testing process tracing, it is the direction this study will follow. As such, the present study will implement a theory-first explaining-outcome process tracing (Beach & Pedersen, 2019). Thus, this study's empirical approach should depart from the dependent variable – “return to unconditional repression” – and explain why that outcome came about in a specific case. Moreover, this method of analysis is appropriate as it tests a set of causal mechanisms, stated previously, to determine if they can account for the dependent variable.

### *Case selection*

This study will make use of a single-case study: Colombia's “Sometimientto” from 1991 to 1992.<sup>7</sup> Colombia's “Sometimientto” is appropriate to analyse why states return to unconditional repression considering our current knowledge about the topic. For instance, it features the implementation of conditional repression as well as a subsequent return to unconditional repression – a basic condition case studies on this topic should comply with (Lessing, 2017). Furthermore, this case is characterised by a return to unconditional repression under the same government or leadership, which is important as it would be otherwise easy to conclude that the switch in approach was simply due to changes in leadership and political preferences. Moreover, “Sometimientto” managed to put one of the most violent criminals

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<sup>7</sup> Colombia's “Sometimientto” refers to a policy (1991-1992) enabling voluntary surrender and plea bargaining for wanted criminals (e.g. Pablo Escobar).

behind bars. As such, it is of great significance to analyse why such a policy would eventually be rescinded.

#### *Data collection*

Considering the impracticability of conducting fieldwork to collect original primary data, the present study will first and foremost make use of secondary sources. Conducting interviews with those involved with the reforms that led to conditional repression and the subsequent return to unconditional repression would require the researcher to travel to Colombia, which is out of the scope of this study. Secondary sources, however, are much more accessible. These may include books and academic articles depicting and/or analysing the events that led the Colombian government to return to unconditional repression (Thies, 2002).

Despite the main employment of secondary sources, this study will also make use of primary sources such as newspaper articles and public government documents related to the “Sometimientto” policy. This usage is relevant considering their importance for process tracing and to test the causal mechanisms. The selection of primary sources will be made from websites like Suin-juriscal, a system that allows one to find Colombian government documents like constitutions, laws, decrees, resolutions, online and for free (e.g. Ministry of Justice, 1990a). Newspaper articles will be found at Colombian and international newspapers’ archives. Additionally, the search for relevant newspaper articles will be supported by databases like *Factiva*.

### **Analysis and discussion**

#### *Historical foundation*

Colombia’s prolonged conflict emanated from a civil war from 1948 to 1958 dubbed *La Violencia* (the violence), with the ensuing violence resulting in around 60,000 deaths (LaRosa & Mejía, 2017; Romero-Prieto & Meisel-Roca, 2019).<sup>8</sup>

The solution to *La Violencia* was the implementation of the National Front in 1958, whereby the two main parties would rotate the presidency every four years for the following sixteen years. However, this bipartisan solution excluded the others, thereby exacerbating the

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<sup>8</sup> Differing accounts estimate around 200,000 and even 300,000 deaths due to *La Violencia* but, based on demographic characteristics, Romero-Prieto and Meisel-Roca (2019) estimated the death toll to a maximum of 57,737 victims.

discontent about unfulfilled social demands. Inspired by the Cuban revolution, various guerrilla groups were engendered: the FARC (the Revolutionary Armed Forces of Colombia) and the ELN (National Liberation Army) were created in 1964, and the M-19 (19 April Movement) in 1973 (LaRosa & Mejía, 2017; Pardo Rueda, 1996).

Paramilitary groups were created to combat guerrillas and to defend peasant groups and DTOs. A benefit of these paramilitaries “was that they could carry out ‘dirty war’ operations without directly tarnishing the state or its armed forces” (Palacios, 2006a, p. 190). Coinciding with the existing illegal commerce in emeralds and the unprecedented cocaine demand in the 1980s, Colombia “emerged as the world’s largest coca grower” (Gootenberg, 2012, p. 170). This caused the drug business to become centralised, and for DTOs to experience unprecedented growth in resources to be even capable of funding paramilitaries and coercing the state (Pardo Rueda, 1996). To counter the boom of cocaine, the governments of the US and Colombia reacted by ratifying a treaty of extradition in 1980 (Congress of Colombia, 1980).

Up until the early 1980s repression against DTOs was quite peaceful and only was stepped up in 1984. Repression was increased due to the intrusion of DTOs into the political arena, typified by Pablo Escobar’s – leader of the Medellín cartel – election to Congress in 1982. According to Lessing (2017), Escobar’s drive to enter politics was the ability to influence de jure policy – specifically, rescinding the extradition treaty. Some accounts argue that DTOs feared extradition because it was the only way they could actually be chastised considering the structural state and judicial weaknesses in Colombia (Lozano, 1989; Pardo Rueda, 1996).<sup>9</sup> However, following an investigation from the Justice Minister, Lara Bonilla, it was revealed Escobar had been arrested for drug trafficking in 1976, and he was subsequently ousted from Congress (El Espectador, 2020).

Escobar’s ouster from Congress as well as the succeeding increased repression on DTOs was met by Lara Bonilla’s assassination in April 1984 (Associated Press, 1984; Palacios, 2006a). Consequently, extradition was back on the table, which marked the onset of cartel-state conflict. In 1986, however, the Supreme Court sentenced extradition unconstitutional (Palacios, 2006a, p. 198). Nonetheless, cartel-state conflict did not decrease in intensity. Rather, during the following administration (1986-1990), DTOs amplified their violent approach: the director of *El Espectador*, a newspaper that strongly criticised the involvement

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<sup>9</sup> Colombian judges and law enforcement could be intimidated or bribed/bought, characterised by Pablo Escobar’s *plata o plomo* (the money or the bullet). This is a form of violent corruption (Lessing, 2015).

of DTOs in politics, was killed in 1986 (Associated Press, 1986); Bogotá mayoral candidate, Andres Pastrana, was abducted, and the attorney general, Carlos Mauro Hoyos, was kidnapped and killed (Associated Press, 1988); Luis Carlos Galán, who was the preferred candidate for the 1990 presidential election was assassinated in 1989 (Associated Press, 1989a); two of the main newspapers were bombed, as well as the headquarters of the security and intelligence agency (Associated Press, 1989b, 1989d; Robinson, 1989); and an airplane was bombed where DTOs expected presidential candidate and Galán's successor, Cesar Gaviria, to be present (Associated Press, 1989c; Semana, 1995). After the assassination of Luis Carlos Galán, extradition was reinstated (Associated Press, 1989a).

*Sometimiento a la Justicia – conditional repression in Colombia*

Following the atrocious cartel-state conflict, the state's institutions had lost a significant degree of legitimacy due to their incompetence in suppressing neither the levels of drug trafficking nor violence. It is pertinent to question, then, whether the state reacted to DTOs' (excessive) use of violence with extradition or whether it was DTOs reacting to the enabling and possibility of extradition. Pardo Rueda (1996), claimed that during the most intense period of the cartel-state conflict, from 1988 to 1989, labelled as the "free-fire zone" (Palacios, 2006a, p. 213), extradition was not even active. Instead, the state reacted to episodes of anti-state violence, such as the slaying of Lara Bonilla in 1984, with extradition. Following that line of reasoning, Pardo Rueda (1996) argues, it is illogical for DTOs, specifically the Medellín cartel, to have engaged in anti-state violence. However, that argument has been refuted, postulating that, for instance, Luis Carlos Galán was eliminated precisely due to his campaign's support for extradition and because he "was all but certain to win the election" (Lessing, 2017, p. 128).

Not only had the state lost legitimacy due to its inability to curb drug trafficking and violence, but in total four candidates had been murdered in the run up to the 1990 presidential election (El Tiempo, 2021). Consequently, some parties were abstaining from participating in the 1990 presidential election, while others were requesting for the election to be postponed, and political campaigns had to happen under intense security. As such, the 1990 presidential election happened under a riddle of troubles.

The 1990 presidential election was won by Galán's successor, Cesar Gaviria, who despite supporting extradition, also proposed seeking and developing alternative mechanisms to it that strengthened the judicial branch in Colombia (Pardo Rueda, 1996). It also became a priority for the new administration to reduce the levels of violence rather than eliminating drug

trafficking. Consequently, a decree with a new policy, *Sometimiento a la justicia* (submission to justice), was introduced in 1990 (Ministry of Justice, 1990a). More decrees were issued modifying the policy (Ministry of Justice, 1990b, 1990c, 1990d) but, essentially, “Sometimiento” presented a bundle of incentives as those who handed themselves in voluntarily and confessed could procure the prime benefit of no extradition (Pardo Rueda, 1996). Those who surrendered themselves and confessed to crimes would get a reduced sentence of up to a third. Those who, additionally, collaborated with the authorities would get a reduced sentence of up to one sixth.

It is worthwhile to mention that the “Sometimiento” policy is in line with conditional repression. The “Sometimiento” policy matched the notion of a strategy that was not comprised of full-blown war nor peace, with the latter being perceived by the repressive apparatus and the public as collusion with violent non-state actors (VNSAs) (García Márquez, 1996; Pardo Rueda, 1996). On the contrary, it was about the rule of law, while also providing stimuli for the avoidance of DTO-related violence.

Policymakers initially did not expect for important figures in DTOs to capitulate, but in December 1990 and January 1991, two of the most important individuals involved in DTOs surrendered to the authorities under the “Sometimiento” policy (Gutkin, 1990, 1991). Their surrender was not untainted, however. Journalist and daughter of former president Julio César Turbay (1979-1982), Diana Turbay, was kidnapped in August 1990 after being deceived into an interview with a commander of the ELN (AP News, 1990). Turbay’s kidnapping was part of a wave of kidnappings which embroiled a total of ten persons (Pardo Rueda, 1996). According to García Márquez (1996), Escobar demanded for the no extradition to be unconditional, on the one hand, through legal means and, on the other hand, through an escalation of kidnappings of journalists.

Escobar surrendered himself to the authorities on the 19<sup>th</sup> of June 1991 on the day extradition was banned (Treaster, 1991). This after months of a coming and going of demands from the kingpin, who feared for his and his family’s life, partly due to the turf war between DTOs that had its origins in 1988 when the a rival DTO bombed Escobar’s house (e.g. AP News, 1988). On the other hand, the government demanded the release of the kidnapped but not as a deal for the former’s surrender. Ultimately, the kingpin’s surrender was facilitated by a priest who was seen as someone neutral in the chaos between the state and VNSAs. The surrender was illustrated as a success of the “Sometimiento” policy as it had managed to put a



halt to DTO-related violence, Medellín was calmed down, the state's function of social sanction was reinstated, the Medellín cartel was slowly being fractured, and a window of opportunity was opened for those who wanted to abandon crime (Pardo Rueda, 1996).

After a year of the Medellín's cartel leader in prison, rumours of a purge among said DTO erupted (Martinez, 1992; Semana, 1992). Following the news, the Director of Prisons affirmed that there was nothing abnormal at the prison (El Tiempo, 1992a). Yet after an investigation from the police it was revealed that the purge had been real and that important members (e.g. money launderers) of the Medellín cartel had been kidnapped, disappeared, killed and/or tortured (Martinez, 1992). The government considered these indicators as increasing the probability of the prisoners escaping and pointed to the necessity of moving Escobar to another facility – a Military Police battalion in Bogotá.

Before the transfer could be made, however, Escobar escaped prison on the 22<sup>nd</sup> of July 1992 (El Tiempo, 2015; Treaster, 1992). Following the flight, the government undertook an unconditional approach which indiscriminately ramped up repression, with US support, on Escobar and its associates. In return, the Medellín cartel also revitalised reprisals against the state, denoting the recrudescence of cartel-state conflict and the abrogation of the “Sometimiento” policy.

#### *Process tracing*

In order to test the first causal mechanism, which is related to *public support*, the present study will analyse the period from which “Sometimiento” was operative until when it was revoked, typified by Escobar's escape from prison. As stated under the previous subsection, once the leader of the Medellín cartel – the DTO which was unleashing most of the violence against the state – surrendered himself under “Sometimiento”, DTO-related violence ceased. For instance, the journalists who had formerly been kidnapped were released and kidnapping was discontinued, and the bombings were halted.

To be pertinent to the causal mechanism and its observable implications, there was very limited violence from DTOs towards the state and its security forces (i.e. anti-state violence) (Lessing, 2017; Pardo Rueda, 1996).<sup>10</sup> This is arguably due to the fact that Escobar was behind bars and a great amount of his associates also surrendered themselves under the “Sometimiento” policy. Regarding turf wars between DTOs, there is evidence of a rival group,

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<sup>10</sup> Lessing (2017) engaged in a data collection project on news accounts of cartel-state conflict from 1986 to 1993.

the Pepes (the Spanish acronym for “Those Persecuted by Pablo Escobar”), waging war against the Medellín cartel (Stone, 2016). Yet the Pepes only surfaced in 1993, after Escobar had escaped prison (Brooke, 1993). Concerning the Medellín’s cartel main rival, the Cali cartel, it had presented itself as entrepreneurs, relying more on corruption and bribery than on violent lobbying. Besides, the fact that the Medellín cartel was being increasingly targeted by the state, boosted the Cali cartel to the point of taking the former’s title of biggest cocaine seller, thereby giving it cause to hide (i.e. avoid turf war) (Brooke, 1991b; Lessing, 2015).

The “Sometimiento” policy and, specifically, Escobar’s surrender was received with great joy (Brooke, 1991a). There were those who were dissatisfied by the presumed lax measures of the policy, but the stop to DTO-related violence and the calmness “Sometimiento” brought transcended that discontent (Pardo Rueda, 1996). As such, there is no evidence of civil society or the media voicing their discontent concerning “Sometimiento” to the point where to government had cause to rescind the policy.

The prison where Escobar and some of his cronies were sequestered – La Catedral – was a topic for contention. Before Escobar even surrendered himself to the authorities, the question of where to seclude the kingpin emerged. On the one hand, it had to be somewhere removed from urban centres to avoid potential attacks to the prison to affect the general population. On the other hand, it had to be safe for those secluded in the prison considering that their enemies might want revenge on them. In the end, a building called La Catedral was designated as the prison but, according to the Ministry of Defence, some deficiencies had to be addressed beforehand (Pardo Rueda, 1996). Said flaws were to be tackled by the Direction of Prisons (Pardo Rueda, 1996). Then, following rumours that La Catedral would be a five-star prison full of luxuries, journalists were allowed into the prison and found out that it was comfortable but not plush (Pardo, 1991). After Escobar escaped prison, however, it became clear La Catedral was indeed full of luxuries, which sparked controversy nationally and internationally (Pardo Rueda, 1996; Treaster, 1992). Yet this was also after the abrogation of “Sometimiento”.

The second causal mechanism states that due to the limited state capacity of weak states, public goods are not provided widely, and therefore those affected by the lack of such provision are drawn towards organised crime. Evidence of this is Cali cartel’s rise contrasted to Medellín cartel’s downfall (Brooke, 1991b). This causal mechanism, additionally, posits that because weak states have a limited capacity to enforce laws, and due to the coercion gaps, conditional

repression is expected to be implemented erroneously and beset with corruption. Following Escobar's escape from La Catedral, investigations ensued, revealing a lack of sufficient oversight, corruption, ineptitude and/or connivance (Pardo Rueda, 1996).

The first piece of evidence for this causal mechanism emerges from the [rumours about a purge in the prison](#). Thereafter, the Director of Prisons addressed said rumours and declared in interview that there was nothing abnormal in La Catedral (El Tiempo, 1992a). Nonetheless, the police presented an investigation which uncovered that the purge had been real (Martinez, 1992), thereby indicating the Director's deception and collusion with DTOs and/or corruption among the enforcers.

The second piece of evidence lies in the government's response: transferring the prisoners to another facility. As stated in the previous subsection, they were to be transferred to a Military Police battalion in Bogotá. But first, the military had to take control of La Catedral, which required the presence of a superior. As such, the Vice-Minister of Justice was sent on the 21<sup>st</sup> of July 1992 to La Catedral alongside the Director of Prisons. Once they were outside,<sup>11</sup> however, the operation was delayed. Hours later, the Director of Prisons suddenly, without prior discussion and without protection, entered the facility, and after some time he also summoned the Vice-Minister. Subsequently, the Vice-Minister called the presidency, revealing that they were under control of the prisoners and that the inmates rejected the transfer. Consequently, the operation shifted into a rescue mission with special forces, which only arrived at dawn. What is worse, the rescue operation was also delayed until 7:30, when the Vice-Minister and the Director of Prisons were finally rescued (Pardo Rueda, 1996). By then, however, Escobar and some inmates had already escaped the prison (Treaster, 1992).

In the middle of the night, while the Vice-Minister and the Director of Prisons were being held captive, prison guards – which were dressed like inmates (El Tiempo, 1992b) – and prisoners lured members of a military squad to a fence to invite them to eat. Members of the military squad involved confessed to have been bribed so as not to hinder the escape – constituting the third piece of evidence. Following the escape, a reconstruction of the events was made which concluded that the main responsibilities lay on the fourth brigade of the military as it was in charge of the external surveillance of the facility, taking control of the prison and subsequently transferring the inmates (Pardo Rueda, 1996). According to Pardo

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<sup>11</sup> Guarding of the facility was mixed: municipal guards were responsible for the inside, while the fourth brigade of the military presided the external surveillance of the prison.

Rueda (1996), Minister of Defence from 1991 to 1994, the transfer of the inmates was unsuccessful due to the execution; specifically, because the given orders were not executed. This substantiates the second mechanism, specifically the coercion gap, which enables enforcers' – in this case, the fourth brigade of the military – forbearance.

As stated heretofore, after La Catedral was appointed as the place of seclusion for Escobar, the Ministry of Defence pointed some deficiencies which had to be addressed by the Direction of Prisons. Subsequent to the escape, some military engineers tracked the facility with some American sensors seeking for hidden tunnels. They found numerous hiding places with double walls and hallways (Pardo Rueda, 1996). As such, this is evidence that the Direction of Prisons did not implement the improvements pointed out by the Ministry of Defence and, instead, conspired with the Medellín cartel – whether candidly or under intimidation and bribery.

The third causal mechanism, related to *repressive apparatus support*, states that once a repressive apparatus is established, its employees are concerned with sustaining coercive action, and therefore may pressure policymakers to return to unconditional repression. Colombia's National Police has always been a controversial institution. Before *La Violencia* – which was briefly discussed in the historical subsection – was resolved by implementing the National Front, General Rojas announced a coup d'état in 1953 (Palacios, 2006b). Because the Police had partaken in the revolt a few years earlier, it had lost legitimacy before the public and the political institutions. Consequently, upon taking power, General Rojas put the Police under control of the Military (President of Colombia, 1953). This system remained in place until the new constitution of 1991, which established the National Police as a permanent armed body part of the public force, and of civilian nature (Asamblea Nacional Constituyente, 1991).

Following Escobar's escape from prison, an elite unit was created: the Search Bloc. It was comprised of a joint command between the National Police and the Military. Initially, however, this was not a popular approach for the Military as it had lost part of its coercive power once the National Police was not under its control anymore. Moreover, although that rivalry had lost intensity by the realisation of the Search Bloc, there was still jealousy and institutional preventions (Pardo Rueda, 1996). Because this constitutes an endeavour from the Military to maintain access to its resources, it also forms evidence for this last causal mechanism. Furthermore, after the fourth brigade of the Military had been condemned for the escape, the Military had a poor reputation and therefore also a low morale to continue fighting

DTOs (Croft, 1992; Pardo Rueda, 1996). This indicates a reluctance from the military to cooperate with conditional repression, as well as an apparent exhibition of low morale. Nevertheless, these observable implications come from government sources and not from press releases, which can be explained by Colombia's unitary political system. Additionally, this reluctance and low morale came to bloom only after Escobar's escape.

Further evidence of reluctance among those in the repressive apparatus to cooperate with conditional repression comes from La Catedral. For instance, the decision of militarising the prison (outside) was not well received within the army (Pardo Rueda, 1996). That decision was in displeasure of the Military, partly because the disorder and corruption in Colombia's carceral system was widely known. Therefore, this indicates that the repressive apparatus was reluctant to cooperate with "Sometimientto" and insinuates that the enforcers' forbearance was to be able to continue their coercive action. Conversely, why would the repressive apparatus want to oversee the protection of the criminals they had been chasing down for years? Notwithstanding, the repressive apparatus did cooperate with "Sometimientto", invalidating the previous support for reluctance among those in the repressive apparatus.

### **Conclusion**

The present study embarked on a research journey to analyse why states that have implemented conditional repression and enjoyed its benefits eventually return to the least effective approach known as unconditional repression. As such, this research has filled a gap that had been neglected. Having analysed the proof or lack of it for the causal mechanisms, it can be concluded that there is little support first causal mechanism related to *public support*. The present study has shown that during the "Sometimientto" there was limited violence from DTOs towards the state and between DTOs. Moreover, there was little discontent with the policy and when controversy ensued, it was after "Sometimientto" had already been eroded. As such, there is little support for the notion that due to the persistence of other undesirable behaviours from DTOs, the public decreased its support for conditional repression and therefore it was rescinded.

Most of the findings support the causal mechanism related to *weak state governance*. The collusion and corruption among the Direction of Prisons, which allowed the construction of hiding places, the inmates to take control of the prison to the point that the prisoners persisted in their violence, and the concealment of these events in La Catedral, confirm Colombia's

limited state capacity in enforcing the law, as well as corruption – which are characteristics of weak states. The fact that the fourth brigade of the Military was bribed and did not execute their orders indicates a coercion gap and, clearly, corruption – providing further support for the causal mechanism stating that conditional repression was not implemented as it was intended to, ultimately leading to its erosion.

These shortcomings beg the question: why did the Colombian government not create a unit specifically for the overseeing of those who surrendered themselves and to manage potential escapes? As mentioned in the [conceptualisation](#), conditional repression usually requires the creation of new units, precisely to avoid corruption among the existing forces. Granted, there was no handbook on how to implement such policies, but one could argue that it was due to the limited state capacities. Instead of creating new units, states with few resources would be expected to make do with their existing forces.

Regarding the third mechanism, *repressive apparatus support*, there are indications that the repressive apparatus, specifically the Military, strived to maintain access to its coercive resources. Furthermore, it has been confirmed that the repressive apparatus was reluctant to cooperate with conditional repression, as well as manifested a low morale among that establishment. Yet there is no evidence of those in the repressive apparatus compelling their superiors (i.e. policymakers) to abandon “Sometimientos”. Regardless of the confirmation of parts of this causal mechanism, and the forbearance of the fourth brigade of the Military, the Military did cooperate with conditional repression. This indicates the conditional repression – in this case, “Sometimientos” – did not erode because of the lack of support of the repressive apparatus.

This study also aimed to examine why states would return to unconditional repression if they might expect a violent reaction from DTOs. Because it is the *weak state governance* causal mechanism that was mostly supported by the evidence, it can be concluded that Colombia did not intentionally abandon conditional repression. As such, the authorities did not expect any violent reaction. Rather, it is because conditional repression was not implemented as it was intended to that it ultimately was rescinded. Yet this begs the question: if weak states are susceptible to the rise of organised crime and conditional repression is implemented to reduce the violence caused by organised crime, but conditional repression fails precisely because of weak state governance, what can such states do to ameliorate that causal nexus? This is one of the possible avenues for future research that this study suggests. Additionally,

although little support was established for the *public support* causal mechanism, public support does play a crucial role for the implementation of conditional repression in the long-term. Therefore, the present study would recommend for further research to investigate under which conditions the public would provide support for conditional approaches. Lastly, because this study has relied for a great deal on secondary sources, which is one of its limitations, it would be advisable for further research to be conducted using fieldwork and interviews.

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