

Power Short-Circuited: Social Movement Organisation under Cartel Rule in Rural Guatemala

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Abstract. This article unpacks the effect that the presence of diffuse licit and illicit power structures has on states and citizens in the modern world. It does so by investigating how a drug cartel undermined social movement organisation around electricity provision in the San Marcos province of Guatemala. The cartel's presence contributed directly to the demise of movement activity and impeded the effective development of movement strategies in the face of menacing – albeit veiled – threats. In addition, the state's inability or unwillingness to prevent the violent assassination of movement leaders undermined the legitimacy of the central state in the eyes of movement leaders. This also contributed to the reproduction of the 'unrule of law' on the ground through the movement's subsequent rejection of formal state institutions.

Keywords: organised crime, social movements, repression, fragmented sovereignty, Guatemala

Introduction

Organised criminal networks such as those involved in drug trafficking have become a major repressive actor in Latin America. Local news outlets frequently document incidents in which drug traffickers or other types of private armed forces play a role in the harassment, torture and murder of activists, journalists and other citizens. An astounding silence on the part of local and national state authorities often accompanies these heinous human rights violations. Government actors are ineffectual keepers of public security at best and willing collaborators protecting themselves at the expense of the citizenry at worst. These developments are detrimental to the legitimacy and the effectiveness of governance of many Latin American states.

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The Guatemalan electricity movement, Frente en Defensa de los Recursos Naturales y los Derechos de los Pueblos (People's Rights and Natural Resources Defence Front, FRENA), forms a case in point. FRENA had been in conflict with monopolistic electricity provider Unión FENOSA over electricity prices and the maintenance of the electricity network in the San Marcos province on the Mexican border. The conflict inadvertently drew the attention of the Chamales drugs cartel under the local leadership of Juan Ortiz López. The spiral of contention between FRENA and FENOSA upset the local order to such an extent that the cartel allegedly started sending anonymous death threats to FRENA leaders. Eventually, armed and masked men in black cars – a common feature of Ortiz's activities – brutally killed several movement leaders. Curiously, several of these murders occurred when the national government had already issued a state of alert for the province and had moved the military into San Marcos to restore public order.

Rather than taking sovereignty for granted, this article traces how power and violence are exercised within the Guatemalan state and how this internal constitution of sovereignty affects civil society.¹ The struggle of FRENA leaders to build a social movement in a context characterised by the presence of organised crime presents a microcosm of the reality that many Latin American citizens face: that is, the fact that the Latin American state does not exercise a monopoly over the legitimate use of violence to uphold public order within its borders. In exploring the impact of the 2009–10 violence in San Marcos, I thereby answer Diane Davis's call to identify how the presence of armed sub- and transnational communities challenges the 'institutions, political authority, and social legitimacy of the nation-state – and with what impacts for states, cities, and citizens in the modern world'.²

The case of FRENA poses important questions regarding the dynamics of social movement organisation in the presence of such diffuse licit and illicit power structures. Why did drug traffickers become involved in a conflict over the provision of public services? Why did the intervention of the national government not cause a cessation of killing? How did this context shape FRENA's actions and perceptions of the state? While the difficulty involved in getting reliable data on drug traffickers' motivations and government complicity makes it impossible to fully answer all these questions, by analysing

¹ See Thomas Blom Hansen and Finn Stepputat, 'Sovereignty Revisited', *Annual Review of Anthropology*, 35 (2006), pp. 295–315.

² Diane Davis, 'Irregular Armed Forces, Shifting Patterns of Commitment, and Fragmented Sovereignty in the Developing World', *Theory and Society*, 39: 3 (2010), p. 411. In a similar vein, Andreas Schedler reminds the academic community not to overlook the 'subversive powers that can arise from *below* and in a decentralized manner from armed actors in society': Andreas Schedler, 'The Criminal Subversion of Mexican Democracy', *Journal of Democracy*, 25: 1 (2014), p. 10.

FRENA members' interpretations of these events this study will provide some partial answers, and focus attention especially on the third question.

Towards this end, this article focuses on FRENA leaders' perceptions of repressive actors and the effect these perceptions had on their subsequent development of contentious strategies and their views of the state.³ The data used in this article were gathered during three months of fieldwork in Guatemala and consist of interviews with movement leaders as well as participatory observation of an eight-hour regional meeting of all the local movement leaders and the central movement leadership in Tacaná, San Marcos.⁴ The article shows that Guatemala, like many Latin American states, is best described as a fragmented sovereign state, meaning that the state's central authority does not assert legitimate political power over the entire unity of its territorial domain. Local or global armed power-holders – such as street gangs or drugs cartels – coexist with more traditional forms of state authority in spatially constricted domains within the state's borders.⁵ The article specifies how the existence of multiple intra-state power holders, both private and public, may work either in favour of or against movement activists depending on the movement's ability to engage novel supportive authorities in a conflict.

The empirical analysis provides insights into why non-state armed actors may not be a best bet when movements are looking for allies and how government inaction – or the failure to prevent violent repression by non-state armed actors – may be perceived as a form of repression as well. The final section of the article discusses the effect that fragmented sovereignty has on state–society relationships. It argues that the state's inability or unwillingness to address movement repression reinforced the legitimacy of organised crime's use of

³ At the time of study, movement leaders had started to meet each other (and me) in secret. I therefore deemed it irresponsible to approach rank-and-file movement members outside of these meetings. For the same security reasons, I do not provide the names of most of my respondents; the leader of FRENA and a movement leader who has been mentioned by name in local newspapers as the survivor of an armed attack are the only exceptions. Where possible, I include references to secondary sources, such as newspaper articles and social movement reports of the Latin American Faculty of Social Sciences (FLACSO) for triangulation purposes. The translations of the statements that I use throughout the article are my own – as are all other translations in this article.

⁴ I conducted this fieldwork in the period between May and Sept. 2010. The distribution of respondents is as follows: Tacaná, interviews with five central coordinators; Malacatán, interviews with 24 regional coordinators; Tecún Umán, group interview with eight municipal coordinators; Chayen, group interview with six community coordinators. In addition, I interviewed two local representatives of the government's Presidential Committee for Human Rights (Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos, COPREDEH).

⁵ At the same time, economic uncertainty and poverty reinforce a dynamic in which marginalised populations rely on violence to defend their lives and interests in the absence of a central state that they can fall back on. Davis, 'Irregular Armed Forces', p. 402.

violence while further eroding the legitimacy of the state's authorities in the eyes of the movement. It shows that the movement responded to what Rachel Sieder calls the 'unrule of law', the absence of the rule of law and order, through the further rejection of formal state institutions.⁶

Latin American States as Ineffective Protection Rackets

The historical development of the European sovereign state provides background for an understanding of the concept of fragmented sovereignty, as well as its consequences for the relationship between society and the state. Charles Tilly argues that sovereign states should be seen as the extreme manifestation of a protection racket. Citizens pay the state for protection, when they assess that their lives and/or interests are under threat. The state can extract resources from society – such as taxes – in return for the provision of public security. These resources in turn further strengthen the state. According to Tilly, modern European states were able to centralise and legitimise political authority at the expense of more localised or personal forms of government because they constituted the most reliable and effective protection rackets for their citizens.⁷ Building on Max Weber's definition of the sovereign state as an entity that exercises a monopoly over the legitimate use of violence within its borders as a means to uphold public order, this means that citizens awarded the state this monopoly position because it protected them most effectively.⁸

State development in the Latin American region did not follow this process. Colonisation imposed an externally oriented rather than internally driven dynamic of state building on the region. Latin American decolonisation efforts maintained this dynamic, as independence resulted from the ambitions of local elite strongmen. These leaders had more incentives to fight each other – or their own subjects – over domains of power, than to cement a central state to defend their nations from external contenders.⁹ As a consequence, the central state did not constitute the most effective

⁶ Rachel Sieder, 'Legal Cultures in the (Un)Rule of Law: Indigenous Rights and Juridification in Guatemala', in Javier Couso, Alexandra Huneus and Rachel Sieder (eds.), *Cultures of Legality: Judicialization and Political Activism in Latin America* (New York: Cambridge University Press, 2010), pp. 161–81.

⁷ Charles Tilly, 'War Making and State Making as Organized Crime', in Peter Evans, Dietrich Rueschemeyer and Theda Skocpol (eds.), *Bringing the State Back In* (Cambridge: Cambridge University Press, 1985), p. 171; also see Hendrik Spruyt, *The Sovereign State* (Princeton, NJ: Princeton University Press, 1994).

⁸ Max Weber, *Politics as a Vocation* (Philadelphia, PA: Fortress Press, 1968).

⁹ Marcus Kurtz, 'The Social Foundations of Institutional Order: Reconsidering War and the "Resource Curse" in Third World State Building', *Politics & Society*, 37: 4 (2009), pp. 479–520; Miguel Angel Centeno, 'Blood and Debt: War and Taxation in Nineteenth-Century Latin America', *American Journal of Sociology*, 102: 6 (1997), pp. 1565–1605.

protection racket for Latin American elites throughout the nineteenth century. Authority generally remained dispersed among local power holders. The rise of authoritarian regimes throughout the twentieth century can be understood in a similar light, as these regimes appeared when an increasingly empowered populace started threatening vested interests.¹⁰

Jumping to the current era, several post-transitional developments contributed to Latin American states' inability to function as 'protection rackets' with the return to formal democratic governance. Firstly, the transitions to democracy after the harsh authoritarian regimes of the 1970s and 1980s did not necessarily constitute a break with a brutal past. Arbitrary and violent norms, practices and institutions endured, and citizens continued to distrust states, considering them likely to act against citizens and their interests rather than protecting them.¹¹ This contributed to the lack of a demand for a central state protection racket. Secondly, the adoption of neoliberal economic policies that frequently accompanied the return to democracy exacerbated violence through the widening of income inequalities and the increase in poverty across the region.¹² Simultaneously, neoliberal reforms of state spending cut away at the budget for national police forces.¹³ These two developments placed structural obstacles in the way of the creation of a state protection racket, as the state had minimal ability to build an effective state presence in marginal urban spaces or rural territories.

The absence of a central state protection racket created room for private protection rackets. Private security forces offer protection to the inhabitants of gated communities,¹⁴ gangs maintain public order in slum or squatter

¹⁰ Dirk Kruijt and Kees Koonings, 'Introduction: Violence and Fear in Latin America', in Kees Koonings and Dirk Kruijt (eds.), *Societies of Fear: The Legacy of Civil War, Violence and Terror in Latin America* (London: Zed Books, 1999), pp. 1–30; Paul Drake, *Between Tyranny and Anarchy. A History of Latin America, 1800–2006* (Stanford, CA: Stanford University Press).

¹¹ Kruijt and Koonings, 'Introduction: Violence and Fear in Latin America'; Manuel Iturralde, 'Democracies without Citizenship: Crime and Punishment in Latin America', *New Criminal Law Review: An International and Interdisciplinary Journal*, 13: 2 (2010), pp. 309–32.

¹² Enrique Desmond Arias and Daniel M. Goldstein, 'Violent Pluralism: Understanding the New Democracies of Latin America', in Enrique Desmond Arias and Daniel M. Goldstein (eds.), *Violent Democracies in Latin America* (Durham, NC: Duke University Press, 2010), p. 16; Oliver Jütersonke, Robert Muggah and Dennis Rodgers, 'Gangs, Urban Violence, and Security Interventions in Central America', *Security Dialogue*, 40: 4–5 (2009), pp. 373–97.

¹³ Davis, 'Irregular Armed Forces'; Arias and Goldstein, 'Violent Pluralism', p. 17.

¹⁴ Otto Argueta, 'Private Security in Guatemala: Pathways to its Proliferation', *Bulletin of Latin American Research*, 31: 3 (2012), pp. 320–35; Mark Ungar, 'The Privatization of Citizen Security in Latin America: From Elite Guards to Neighborhood Vigilantes', *Social Justice*, 34: 3/4 (2007), pp. 20–37.

neighbourhoods¹⁵ and vigilantes, paramilitary forces and guerrilla insurgents control rural areas.¹⁶ The globalisation of the drugs trade and the accompanying expansion of drugs cartels throughout the Andean countries and Central America has reinforced this dynamic even further.¹⁷ What all these non-state armed protectors have in common is that their coercive powers challenge the state's hypothetical monopolisation of the legitimate use of force.¹⁸ States continue to function as *de jure* sovereigns, but monopolistic claims to the legitimate assertion of violence over a unified and territorial domain are absent. Fragmented sovereignty characterises these states instead. Their borders contain multiple types of armed actors, both public and private, that act as the main authority in constricted spatial domains of power.¹⁹ The actor that is in charge of citizen protection is strongly correlated to the locality in which citizens reside.

The presence of multiple armed actors harms citizens' prospects of security. Indeed, the spatial constriction of authority under fragmented sovereignty entails that non-state authorities do not operate in a complete vacuum, but that they co-exist with central state or non-state authorities that govern larger spatial domains such as the city or the state.²⁰ The relationship between these various authorities is a precarious equilibrium that manifests itself as peaceful co-existence, active competition over power, or collusion between authorities to protect the status quo. The specific manifestation of the relationship between these authorities affects citizen protection and security.

Where non-state armed actors compete with state actors for territory and citizen loyalties, for example, violence can be extreme. The radicalisation of gangs and the increase in homicides under the *mano dura* (iron fist) policies in El Salvador and other Central American countries, as well as the protracted Mexican drugs war, are cases in point. Although the state may start competing with non-state armed actors to project an image of citizen protection, in practice such competition often results in the deterioration of security. Citizens get

¹⁵ Jütersonke et al., 'Gangs'; Chris van der Borgh and Wim Savenije, 'De-securitising and Re-securitising Gang Policies: The Funes Government and Gangs in El Salvador', *Journal of Latin American Studies*, 47: 1 (2015), pp. 149–76.

¹⁶ Ivan Briscoe, 'The Historical Development of the Nexus between Politics, Crime, and the Economy in Latin America', in Ivan Briscoe, Catalina Perdomo and Catalina Uribe Burcher (eds.), *Illicit Networks and Politics in Latin America* (Stockholm: IDEA/NIMD/Clingendael, 2015), pp. 31–54; Davis, 'Irregular Armed Forces'.

¹⁷ Briscoe, 'Historical Development of the Nexus'; Adam Morton, 'The War on Drugs in Mexico: A Failed State?', *Third World Quarterly*, 33: 9 (2012), pp. 1631–45.

¹⁸ Davis, 'Irregular Armed Forces', p. 398.

¹⁹ *Ibid.*, p. 402.

²⁰ *Ibid.* Also see Bartosz Stanislawski, 'Para-states, Quasi-states, and Black Spots: Perhaps not States, but not "Ungoverned Territories" Either', *International Studies Review*, 10: 2 (2008), pp. 366–70.

caught in spirals of violence between competing authorities, which provide them with partial protection at best.

In other cases, state and non-state armed actors are not so easily distinguishable from one another and at best represent two sides of the same coin. Javier Auyero's 'gray zone', Rivke Jaffe's 'hybrid state' and Kent Eaton's 'armed clientelism' all describe instances of an overlap between state and non-state authorities' control over territory and populations.²¹ Colluding interests or the distribution of various state functions between state and private actors shape the interactions that ensue. In the short term, such collusion may mean that citizens are able to turn to multiple authorities for protection and that peaceful co-existence results in lower levels of general violence. Alternatively, however, citizens may become the direct target of violence when they reject this constellation of local order. Indeed, the case of FRENA offers unique insights into the violent effect such inter-authority collusion may have on civil society.

The Case of FRENA

Fragmented Sovereignty in Guatemala

Fragmentation of sovereignty is particularly visible in Guatemala. Its basis can be traced back to the country's independence from Spain in 1821. As in many other Central American countries, colonisation had introduced an externally oriented, elite-controlled and dependent pattern of economic development that continues to mark the Guatemalan state-building process today. The post-independence emergence of an hacienda system contributed to the rise of a political system built on social exclusion through its reliance on forced labour from the relatively large indigenous community. Factionalism between the two elite Liberal and Conservative parties resulted in the establishment of a pivotal role for the military in governance.²² Criminal groups established patronage relationships with state authorities early on in the form of cooperation between smugglers, customs police and the army.²³ A

²¹ Javier Auyero, *Routine Politics and Violence in Argentina: The Gray Zone of State Power* (Cambridge: Cambridge University Press, 2007); Rivke Jaffe, 'The Hybrid State: Crime and Citizenship in Urban Jamaica', *American Ethnologist*, 40: 4 (2013), pp. 734–48; Kent Eaton, 'The Downside of Decentralization: Armed Clientelism in Colombia', *Security Studies*, 15: 4 (2006), pp. 533–62; also see Schedler, 'The Criminal Subversion of Mexican Democracy', p. 16.

²² John Booth, Christine Wade and Thomas Walker, *Understanding Central America* (Boulder, CO: Westview, 2010), p. 51.

²³ Jorge Dardón and Christian Calderón, 'Case Study on the Network of Juan Alberto Ortiz Lopez, alias "Chamalé" and "Brother Juanito"', in Ivan Briscoe, Catalina Perdomo and Catalina Uribe Burcher (eds.), *Illicit Networks and Politics in Latin America* (Stockholm: IDEA/NIMD/Clingendael, 2014), p. 225.

central state developed to the extent that this served the elite, rather than protecting society at large from external threats.

Fragmentation was extended during the Cold War. In 1954, a US-backed coup overthrew the democratically elected government of President Jacobo Árbenz to counter the threat that land reforms posed to local and international vested interests.²⁴ Several periods of insurgent uprisings and intense state-sponsored repression characterised the next 36 years. The conflict resulted in an estimate of over 200,000 deaths.²⁵ According to a 1999 Truth Commission report, the majority of these deaths were attributable to the military, whose reactive campaign included ‘acts of genocide’ against the indigenous population through the application of scorched-earth practices.²⁶ The central state manifested itself as something to be feared rather than something to be relied on for protection. In the process, the military crushed both real and imagined resistance without being physically present in much of the country; in rural areas, it relied on the centralised imposition of civil self-defence organisations. These Patrullas de Autodefensa Civil (Civil Self-Defence Patrols, PACs) were often forced to turn against their own communities in the process.²⁷ Fragmented sovereignty found an early basis in this dispersion of authority over state and non-state armed actors that colluded in their efforts to subject – rather than protect – society at large.

Termination of the internal conflict did not result in the appearance of a central state that could protect the security of the majority of its citizens. Instead, Guatemala continues to experience high levels of violence. Murders by gangs, attacks by extortion rackets on the heavily used bus system and drug-related violence are routine.²⁸ The Guatemalan justice system is one of the weakest in the world, as evidenced by the 2009 overall impunity rate of 99.75 per cent. As Hanna Bosdriesz and Sander Wirken document, this impunity reflects not just impotence or omission, but rather ‘the continuous and deliberate commission of acts undermining the justice system’ by actors

²⁴ Ricardo Sáenz de Tejada, *Revolucionarios en Tiempos de Paz: Rompimientos y Recomposición en las Izquierdas de Guatemala y El Salvador* (Guatemala City: FLACSO, 2007), pp. 30–40.

²⁵ Comisión de Esclarecimiento Histórico (CEH), ‘Guatemala: Memoria del Silencio’ (Guatemala City: Oficina de Servicios para Proyectos de las Naciones Unidas, 1999), p. 21: http://www.undp.org/content/dam/guatemala/docs/publications/UNDP_gt_PrevyRecu_MemoriadelSilencio.pdf (accessed 21 Dec. 2016).

²⁶ *Ibid.*, p. 48.

²⁷ Dirk Kruijt, ‘Exercises in State Terrorism: The Counter-Insurgency Campaigns in Guatemala and Peru’, in Koonings and Kruijt, *Societies of Fear*, pp. 33–62.

²⁸ Hal Brands, *Crime, Violence, and the Crisis in Guatemala: A Case Study in the Erosion of the State* (Washington, DC: Strategic Studies Institute, 2010); UNDP, *Informe estadístico de la violencia en Guatemala* (Guatemala City: Magna Terra Editores, 2007). Many of these practices are linked to the hidden forces (see note 30) operating in or near the government. Patrick Gavan, ‘Organized Crime, Illicit Power Structures and Guatemala’s Threatened Peace Process’, *International Peacekeeping*, 16: 1 (2009), pp. 62–76.

such as public prosecutors, police officials and judges who serve particularistic interests.²⁹

Several post-transitional developments have also contributed to the high levels of violence in Guatemala and the fragmentation of authority over private armed actors. Most importantly, the military apparatus continues to play an important political role behind the scenes, as military structures transformed into a parallel political structure controlled by so-called ‘hidden powers’ out to protect their own interests.³⁰ The expansion of Colombian and Mexican drugs cartels into Guatemalan territory connected these hidden powers to the violent transnational drugs trade.³¹ The post-transitional development of community-based policing in Guatemala, which relied heavily on the network of PACs, contributed to the fragmentation of public security in private security companies and organisations. The available data suggest that private security forces outspend the state by 60 per cent.³²

At the same time, poverty is rife in Guatemala. Nearly three-quarters of the population in the northern and north-western provinces, including San Marcos, cannot meet their daily household needs.³³ The combination of the lack of centralised public security with high levels of poverty reinforce violence and the creation of local protection rackets, such as armed neighbourhood watch committees, the common practice of lynching criminal suspects and the use of violence to protect personal livelihoods.³⁴ Insecurity and violence, combined with the structural exclusion from the judicial system and the

²⁹ Hanna Bosdriesz and Sander Wirken, ‘An Imperfect Success – The Guatemalan Genocide Trial and the Struggle against Impunity for International Crimes’, *International Criminal Law Review*, 14: 6 (2014), p. 1068.

³⁰ Susan C. Peacock and Adriana Beltrán, *Hidden Powers in Post-Conflict Guatemala: Illegal Armed Groups and the Forces behind Them* (Washington, DC: Washington Office on Latin America, 2003), available at: <https://www.wola.org/sites/default/files/downloadable/Citizen%20Security/past/Hidden%20Powers%20Long%20Version.pdf> (accessed 21 Dec. 2016); also see Kruijt and Koonings, ‘Introduction: Violence and Fear in Latin America’, p. 2; Gavigan, ‘Organized Crime’; Orlando Pérez, ‘Democratic Legitimacy and Public Insecurity: Crime and Democracy in El Salvador and Guatemala’, *Political Science Quarterly*, 118: 4 (2003), pp. 627–44.

³¹ Dirk Kruijt, *Drugs, Democracy and Security: The Impact of Organized Crime on the Political System of Latin America* (The Hague: NIMD, 2011), p. 28; United Nations Office on Drugs and Crime (UNODC), ‘Transnational Organized Crime in Central America and the Caribbean: A Threat Assessment’ (Vienna: UNODC, 2012), p. 23, available at: http://www.unodc.org/documents/data-and-analysis/Studies/TOC_Central_America_and_the_Caribbean_english.pdf (accessed 21 Dec. 2016).

³² Argueta, ‘Private Security in Guatemala’.

³³ Asociación de Investigación y Estudios Sociales (ASIES), ‘Mapas de pobreza y desigualdad de Guatemala’ (Guatemala City: ASIES, 2005), available at: http://www.ciesin.columbia.edu/repository/povmap/methods/Mapas_de_la_Pobreza_2002.pdf (accessed 21 Dec. 2016).

³⁴ Jim Handy, ‘Chicken Thieves, Witches, and Judges: Vigilante Justice and Customary Law in Guatemala’, *Journal of Latin American Studies*, 36: 3 (2004), pp. 533–61; Rachel Sieder, ‘Contested Sovereignities: Indigenous Law, Violence and State Effects in Postwar Guatemala’, *Critique of Anthropology*, 31: 3 (2011), pp. 161–84.

endemic racism that indigenous Guatemalans face, have also contributed to the rise of communal forms of governance and justice.³⁵ Guatemala hence forms an excellent exemplar of the coexistence of defensive and offensive private armed actors with state authorities that operates within the borders of many Latin American states, and of how this contributes to a general insecurity crisis and the deployment of routine violence.³⁶

The Development of FRENA

FRENA developed within this context of fragmented sovereignty. Its constitution can be traced back to the development of the electricity network in the San Marcos province. As in most remote provinces with communities and municipalities thinly dispersed throughout mountainous terrain, the national government gave little priority to the development of the electricity network in San Marcos. FRENA leader Feliciano Velásquez estimates, for example, that in his municipality some 60 per cent of the communities paid for, or constructed access to, the electricity network.³⁷ In the process, local communities obtained a sense of ownership and collective responsibility over electricity provision.

As part of the neoliberal policies favoured by Latin American governments at the end of the twentieth century, the Guatemalan government privatised the distribution of electricity through the General Electricity Law in 1996. This resulted in the acquisition of a monopoly over the distributive network by the Spanish company Unión FENOSA.³⁸ FRENA developed in response to the effects of the reforms to the electricity system on the livelihoods of small electricity users. Many users were confronted with price increases up to ten times the level under the state-owned electricity structure. Communal electricity taxes aggravated public indignation even further, as communal lighting was often non-existent. In a similar vein, the levying of additional service fees caused public outrage, given that the network's lack of maintenance often led to network failure.³⁹

Most importantly, the company imposed high levels of fines for non-payment of electricity bills. Three-quarters of the population in San Marcos

³⁵ Ibid., pp. 162–3.

³⁶ Davis, 'Irregular Armed Forces', p. 402.

³⁷ Interview, Feliciano Velásquez, Guatemala City, 26 May 2010. Other respondents provide similar accounts of communities that organised activities and attracted international funding to finance local connections to the national electricity network.

³⁸ Unión FENOSA subsequently created the distribution companies DEOCSA and DEORSA.

³⁹ Several respondents showed me their electricity bills to back up these claims. According to a company spokesperson, however, electricity distribution could not be profitable without these price increases and network failure occurred because people made illegal connections and refused maintenance workers access to their communities. See Irene Yagüe Herrero, 'La distribución de la electricidad. ¿Un polvorín a punto de estallar?' *La Revista* [Guatemala], 2: 80 (2010), p. 8.

lives below the general poverty line, meaning that they do not earn enough money to cover their daily household needs.⁴⁰ In addition, a coffee crisis had affected the province's population, most of whom worked as small-scale farmers or farm workers.⁴¹ Increased electricity prices and fines therefore placed a huge financial load on already-burdened households. The neoliberal reform of the electricity sector threatened people's ability to make ends meet and to ensure basic productivity in those cases where domestic industries were cut off from electricity.

In response, the communities filed individual and collective complaints with FENOSA. According to movement leaders, FENOSA agreed to address some of the problems but did not do so. In response, citizens also applied – unsuccessfully – to the local authorities to act on their behalf.⁴² In San Pablo, Tacaná, community leaders even took FENOSA to court to get the community's rights over the local electricity network reinstated. The community made a strong case, as it had constructed the local electricity infrastructure with its own funds and had signed over its title to FENOSA under threats of legal action.⁴³ Although both the Court of First Instance in Ixchiguan and the Court of First Appeal in Quetzaltenango ruled in the community's favour, the Constitutional Court overturned these decisions on a technicality.⁴⁴ The Court did not recognise San Pablo's Consejo Comunitario de Desarrollo (Communal Development Council, COCODE), the plaintiff in this case, as a legal personality.⁴⁵

Given the unresponsive ear the communities found at FENOSA's offices, the municipality and the judicial system, several communities initiated a campaign of non-payment. Estimates of participation range from 35,000 to 60,000 households who stopped paying their electricity bills.⁴⁶ In order to circumvent fines for non-payment, several communities also disconnected themselves from their meters and connected directly (and illegally) to the national network.

⁴⁰ ASIES sets this line at Q4,318 per person per year: ASIES, 'Mapas de pobreza y desigualdad de Guatemala', p. 13.

⁴¹ Interview communal movement leader, Chayen, 8 Aug. 2010.

⁴² Ibid.; interview departmental movement leader, Tacaná, 14 Aug. 2010.

⁴³ Interviews communal movement leaders, Tacaná, 14 Aug. 2010.

⁴⁴ Expediente 344–2006, Constitutional Court, 30 May 2006.

⁴⁵ This ruling is reminiscent of a tendency identified by Sieder, namely that the unresponsiveness of the Guatemalan judiciary, combined with the lack of sufficient resources and judicial expertise of domestic NGOs, creates an unfavourable climate for successful litigation over issues of human rights and socio-economic interests: Sieder, 'Legal Cultures in the (Un) Rule of Law', p. 164. Although Sieder discusses these consequences for indigenous movement formation in particular, the FRENA case shows that these dynamics also extend to consumer movements, where the indigenous element is secondary to other concerns.

⁴⁶ Official data on non-payment are not available. But newspapers cite figures ranging from 35,000 to 60,000 households. Gabriel Herrera, 'San Marcos: Vecinos y empresa se quejan. Ejército actuaría en conflicto por distribución eléctrica', *La Hora* (22 July 2009). Yagüe Herrero, 'La distribución de la electricidad'.

Although the magnitude of the non-payment campaign points towards a coordinated effort, respondents reveal that this was not the case.⁴⁷ Instead, the campaign constitutes a bottom-up dynamic in which community members decided to take a stance against FENOSA and to target the company where it would hurt the most: its profits. Once the campaign took hold, other communities followed this example. This resulted in the formation of the FRENA movement in 2008.⁴⁸ At the time of study, the organisation represented community-based opposition to FENOSA in 24 of San Marcos's 29 municipalities.

As discussed above, local state authorities initially showed little interest in getting involved in the San Marcos electricity conflict. Over the course of 2008, the movement therefore reached out to central state authorities instead. On 24 December 2008, FENOSA cut the electricity supply to thousands of families during their Christmas celebrations. In response, FRENA leaders realised that neither invoking support from local state authorities nor direct measures against FENOSA would have the desired effect of getting outsiders to support their cause. Within hours of the blackout, communities had organised and blocked the highways that connect the province to the border with Mexico to solicit intervention by central state authorities. The government responded by sending in riot control squads while the Policía Nacional Civil (National Civil Police, PNC) arrested 28 people. Three movement leaders were eventually prosecuted for the protests.⁴⁹

Up to this point, FRENA presents as a typical case of social movement formation in neoliberal contexts and nominally democratic states, where transnational resource management has often sparked consumer protests and popular opposition. FRENA's strategies reflect the commonplace approach of infrapolitics within such movements: the renegotiation of power relations by continuously testing the boundaries of acceptable forms of resistance.⁵⁰ Even the government's response of sending in riot squads and arresting movement activists is representative of a broader tendency of criminalisation of

⁴⁷ Interviews departmental leaders, Tacaná, 14 Aug. 2010.

⁴⁸ Movement leaders reject the suggestion that the insurgent legacy played a role in social mobilisation around the electricity protests. The scholarly literature on the San Marcos-based guerrilla Organización Revolucionario del Pueblo en Armas (Revolutionary Organisation of Armed People – ORPA) supports this assertion, as ORPA suspended linkages with civil society in the mid-1980s to protect civilians against (para-) military retaliation. Dirk Kruijt, *Guerrillas* (London: Zed Books, 2008), p. 97; Jennifer Schirmer, 'Whose Testimony? Whose Truth? Where are the Armed Actors in the Stoll–Menchu Controversy?', *Human Rights Quarterly*, 25: 1 (2003), p. 69.

⁴⁹ Also see Simona Yagenova and Rodrigo Véliz, 'Tiempos de criminalización y lucha', *Informe de coyuntura, Guatemala, Noviembre–Diciembre 2008, Documento de trabajo 135* (Buenos Aires: CLACSO, 2008).

⁵⁰ See James Scott, *Domination and the Arts of Resistance: Hidden Transcripts* (New Haven, CT and London: Yale University Press, 1990), pp. 190–7.

social protest.⁵¹ Indeed, FRENA is not an isolated case. The Guatemalan state often responds to social mobilisation through the criminalisation of social movement leaders and activities, combined with the use of states of alert and military interventions to restore public order.⁵² The fact that organised crime allegedly became involved in the repressive coalition nevertheless allows the case of FRENA to provide insights into a hitherto understudied aspect of the criminalisation of social protest: the role that private armed actors may play in this more general dynamic.

The Role of Organised Crime in San Marcos

Fragmented sovereignty ensured that FRENA could not organise contentious activities in San Marcos without attracting the attention of organised crime. The presence of organised crime in the region can be traced back to the 1970s, when San Marcos farmers started cultivating opium poppy for the Mexican heroin trade. The entrance of Colombian and Mexican cartels into Guatemala during the late 1980s, just when Guatemala's internal armed conflict started to calm down, contributed to the settlement of drugs traffickers in San Marcos.⁵³ Over time, local landowner and evangelical pastor Juan Ortiz López and his Los Chamales cartel consolidated control over the drugs trafficking network while forging close ties with the Mexican Zetas drugs cartel.⁵⁴ The subsequent decline in ordinary crime forms an important indicator of Ortiz's power, as local respondents ascribe this to the menacing presence of his criminal network and his desire to exert control over San Marcos.⁵⁵

Ortiz's interest in FRENA became apparent early on. This was probably the case because Ortiz's hometown of Malacatán formed one of the two hubs of

⁵¹ See Carolijn Terwindt, 'Criminalization of Social Protest: Future Research', *Oñati: Socio-Legal Series*, 4: 1 (2014), pp. 161–9; Chris van der Borgh and Carolijn Terwindt, 'Shrinking Operational Space of NGOs – A Framework of Analysis', *Development in Practice*, 22: 8 (2012), pp. 1065–81.

⁵² Anabella Sibrián and Chris van der Borgh, 'La criminalidad de los derechos: La resistencia a la Mina Marlín', *Oñati: Socio-Legal Series*, 4: 1 (2014), pp. 63–84. Simona Yagenova and Rodrigo Véliz, 'Violencia social', *Informe de coyuntura, Guatemala, Enero–Abril 2009, Documento de trabajo 152* (Buenos Aires: CLACSO, 2009), available at: http://www.clacso.org.ar/documentos_osal/descargar.php?link=975.pdf&nombre=Guatemala%20Informe%20de%20Coyuntura%20Enero-Abril%202009 (accessed 21 Dec. 2016).

⁵³ Given its location next to the Mexican border, the province was especially well located for drugs trafficking efforts. Dardón and Calderón, 'Case Study on the Network of Juan Alberto Ortiz Lopez'.

⁵⁴ UNODC, 'Transnational Organized Crime', p. 24.

⁵⁵ Ralph Espach, Javier Meléndez Quiñonez, Daniel Haering and Miguel L. Castillo Girón, *Organizaciones criminales y tráfico ilícito en las comunidades fronterizas de Guatemala* (Alexandria, VA: CNA Analysis and Solutions, 2011).

the movement's organisation.⁵⁶ Indeed, both Malacatán and the Guatemalan border municipality of Tecún Umán, another movement nerve centre, are strategic locations for the local drugs industry as well.⁵⁷ FRENA leaders note that at first they believed that Ortiz supported their cause. One respondent describes a visit Ortiz paid to FRENA's departmental coordinator Víctor Gálvez at his home in 2008: 'He ... came to convince him that FRENA needed to reach an agreement to pay Unión FENOSA, but that he was willing to support us, as civil society, he would support us.'⁵⁸

In spite of Ortiz's advocacy for an agreement, which is indicative of the position of authority Ortiz had taken in San Marcos's affairs, FRENA leaders interpreted this meeting to mean that Ortiz could be regarded as a potential ally. Encouraged, they subsequently decided to pay a visit to Ortiz's *finca* (estate) to solve an electricity problem:

We needed to speak to him because of a defect with the electricity lines that passed through his finca. Because of this defect, several communities were left without electricity. First we asked the mayor if he would intervene on our behalf. Because we knew that they [the mayor and Ortiz] were on cordial terms. In the end, Ortiz let us enter his finca, but under constant threats. He threatened us and said that nobody entered his finca and that he who entered, would stay there. ... This time we did receive threats from him.⁵⁹

The electricity conflict thus brought movement leaders face to face with the most powerful – and dangerous – power-holder on the ground. Ortiz's threatening response was the first sign to the movement leaders that he would not allow them to upset the order in his local domain by challenging FENOSA. The cartel leader's unwillingness to support the movement is probably best explained with reference to the existence of a multitude of local power-holders that characterises fragmented sovereignty. The authority of each of these power-holders stems precisely from his or her ability to control local order. Indeed, one of the main activities of armed groups is to deliver symbolic violent messages to their constituencies about who is in control.⁶⁰ FRENA's mobilisation in Ortiz's territory, without his explicit consent, directly defied his authority position. In addition, the movement publicly disregarded his orders by not paying back FENOSA what was owed in electricity fees and fines.

The public spotlight that FRENA shone on the San Marcos province through their highway occupations, combined with their questioning of

⁵⁶ Interview municipal movement leader, Malacatán, 2 Aug. 2010; interview municipal movement leader, Ayutla, 4 Aug. 2010.

⁵⁷ Dardón and Calderón, 'Case Study on the Network of Juan Alberto Ortiz Lopez', p. 228.

⁵⁸ Interview municipal movement leader, Malacatán, 2 Aug. 2010.

⁵⁹ Ibid.

⁶⁰ UNODC, 'Transnational Organized Crime', p. 22. Also see Ana Arjona, 'Wartime Institutions: A Research Agenda', *Journal of Conflict Resolution*, 58: 8 (2014), p. 1361.

organised crime's position of authority in the region, resulted in the escalation of the conflict. As discussed in more detail below, FRENA's activities subsequently met a broad repressive coalition consisting of both state and non-state armed actors. The effect this development had on the movement's strategies and perceptions of the state provides important pointers to the relationship between the presence of private armed actors and social movement criminalisation.

Fragmented Sovereignty and Social Movement Strategies

Just as state and non-state actors oftentimes co-exist, social movements do not operate in isolation. This is particularly relevant for situations of fragmented sovereignty where 'the state capacity (or willingness) to make rules, defend the social sphere, or defend NGOs [and social movements] can be limited' and where 'other actors beside the state can be responsible for the restriction of NGOs' operational space'.⁶¹ Fragmented authority structures probably affect movements by creating both opportunities for and threats to their subsequent development. As argued by E. E. Schattschneider, the weaker actor in a conflict prefers to expand the number of players engaged in the conflict to increase its power.⁶²

Social movement theory suggests that the relationship between such potential allies shapes social movement trajectories. In cases where actors compete with one another over power or co-exist peacefully, movement leaders may try to capitalise on existing divisions to organise more effective contentious activities.⁶³ Fragmented sovereignty impacts social movements in a similar manner by expanding the number of authorities that can either repress or support the movement.

In the case of FRENA, movement leaders were very much aware of the existence of multiple types of authorities that they could approach as potential allies. The highway occupations discussed above already evinced this. Fragmented sovereignty allowed the movement to upset the order in a space controlled by one authority – in this case the central state – to attract attention to its cause. Movement leaders recognised that their interference with international trade and border security through roadblocks would ensure a swift

⁶¹ Van der Borgh and Terwindt, 'Shrinking Operational Space of NGOs', p. 1070.

⁶² E. E. Schattschneider, *The Semisovereign People: A Realist's View of Democracy in America* (New York: Holt, Rinehart and Winston, 1960); also see Edward Gibson, 'Boundary Control: Subnational Authoritarianism in Democratic Countries', *World Politics*, 58: 1 (2005), p. 108.

⁶³ Gabriel Ondetti, 'Repression, Opportunity, and Protest: Explaining the Takeoff of Brazil's Landless Movement', *Latin American Politics and Society*, 48: 2 (2006), pp. 61–94; Mark Lichbach, 'Deterrence or Escalation?: The Puzzle of Aggregate Studies in Repression and Dissent', *Journal of Conflict Resolution*, 31: 2 (1987), p. 266–97.

government response – although they had miscalculated the government's willingness to protect their consumer rights.⁶⁴

Social movement theory also holds that when various repressive actors collude and act in a coordinated manner, effectively constraining the number of political opportunities, and focus on various aspects of social movement activity through violent and non-violent forms of repression, movement organisation will probably die down.⁶⁵ In the case of FRENA, the effects of such likely collusion became visible by the end of 2009. On 25 October 2009, an unknown assailant used a submachine gun to kill Víctor Gálvez, FRENA's departmental coordinator, in broad daylight. FRENA leaders immediately connected the assassination to Ortiz. More importantly, they ascribed this assassination to a broader collusive effort to repress the movement. One leader told me that two representatives of one of FENOSA's distribution companies had flown into Ortiz's finca, and that they had met there with Ortiz, the mayor of Malacatán and a San Marcos Congressional Representative to plan the assassination.⁶⁶ Another said that:

The son of a national Member of Congress confronted us [in the street]. He and his consorts confronted us and therefore we have no doubt that the attack [on Víctor Gálvez] came from that direction as the son of this Member of Congress said: 'As my father and the mayor say, only by killing all these big sons of bitches will this shit ever end.' And this is followed by the shots fired at our *compañero* [comrade] Víctor ...⁶⁷

In response to this alleged collusion between FENOSA, the cartel and local politicians, movement leaders once again turned to the central state for protection. In December 2009, several FRENA communities created new blockades along the border with Mexico to pressure the government into investigating

⁶⁴ Interview municipal movement leader, Malacatán, 2 Aug. 2010; interview communal movement leader, Chayen, 8 Aug. 2010; interview departmental movement leader, Tacaná, 14 Aug. 2010.

⁶⁵ This does not necessarily mean that elites explicitly spell out an agreement to cooperate in repression, but rather that the movement perceives itself to be targeted from all possible angles and thereby feels that it is left with little room for action. Doug McAdam, *Political Process and the Development of Black Insurgency 1930–1970* (Chicago, IL: University of Chicago Press, 1982); Sidney Tarrow, *Power in Movement* (New York: Cambridge University Press, 1998); Charles Brockett, *Political Movements and Violence in Central America* (Cambridge, New York: Cambridge University Press, 2005); Lichbach, 'Deterrence or Escalation?'.
⁶⁶ Interview municipal movement leader, Malacatán, 2 Aug. 2010. Scholars report that financial ties do indeed exist between congressional delegates and Ortiz, and between the mayor of Malacatán and Ortiz. See Julie López (2012), 'Giving the Green Light to Dirty Money: Guatemala', *InSight Crime* (13 April 2012), available at: <http://www.insightcrime.org/news-analysis/giving-the-green-light-to-dirty-money-guatemala> (accessed 21 Dec. 2016); Dardón and Calderón, 'Case Study on the Network of Juan Alberto Ortiz Lopez', pp. 232–3.

⁶⁷ Interview municipal movement leader, Malacatán, 2 Aug. 2010.

the murder of Víctor Gálvez, to demand that FENOSA stop its intimidation and to denounce its cutting off the supply to 30,000 households. A round table involving representatives of the police force, the departmental government, municipal mayors, community leaders, departmental bishop Álvaro Ramazzini and representatives of FENOSA initially resolved these blockades, which lasted for days. In return for the restoration of electricity services in several local communities, the movement activists agreed to open up the border.⁶⁸

FRENA's victory was short-lived, however, as it miscalculated the willingness of the central state to protect the movement's activities and to tolerate highway protests. The state issued governmental decree no. 14–2009, which declared an *estado de prevención* (state of alert) based on the threat the electricity conflict posed to public order.⁶⁹ Only one point in the decree was related directly to the provision of electricity. All other provisions pointed out that the government considered FRENA – rather than Ortiz or FENOSA – a threat to public order. Government actions during the state of alert provide additional evidence that it held FRENA responsible for the conflict. Some 130 communal movement leaders were arrested for 'acts of sabotage' to the electricity network.⁷⁰ The government reversed FRENA's actions, reconnecting users to the distribution network and taking out all illegal connections.

In the meantime, FENOSA negotiated a financial settlement with users who had been connected to the network illegally to cover the US\$10 million financial loss it had incurred. Perhaps one of the few victories for the movement was that FENOSA added no fines to these settlements.⁷¹ Several local movement leaders estimate that during this time 95 per cent of the people who had disconnected themselves were re-connected to their meters. As one regional movement leader recalls:

The first of January they installed a state of alert here in San Marcos. Why a state of alert? So that the police could enter our homes every twenty days. Fifteen agents would arrive, elements of the police, two patrols to our houses. 'You have to pay because it is your turn to pay.'⁷²

The occupation of city streets by tanks and the legal prosecution of movement activists destroyed FRENA's large-scale mobilisations. FRENA leaders recount how, by actively provoking the government's involvement in the conflict, the movement lost its momentum as movement members could no longer be

⁶⁸ 'Se restablece paso en fronteras', *Prensa Libre*, 19 Dec. 2009; 'Piden capturas por conexiones ilegales de electricidad en San Marcos', *Prensa Libre*, 21 Dec. 2009.

⁶⁹ Governmental decrees 1–2010, 3–2010, 4–2010 and 6–2010 extended the state of alert to 22 June 2010.

⁷⁰ See Yagüe Herrero, 'La distribución de la electricidad'.

⁷¹ 'Avanzan trabajos de reconexión de electricidad en San Marcos', *Prensa Libre*, 23 Dec. 2009.

⁷² Interview municipal movement leader, Malacatán, 2 Aug. 2010.

persuaded to engage in movement activities. Whereas in 2008 FRENA's gamble with invoking central state support resulted in a mediation process, in 2009 its attempts to gain central state attention for organised criminal movement repression resulted in the government seeking to restore order once and for all.

Ortiz allegedly continued to kill FRENA leaders without hindrance during the state of alert. On 11 January 2010, four FRENA leaders were attacked on their way back to San Marcos from the capital, where they had just attended a meeting with government authorities to solve the electricity conflict. Movement leader Jorge Lorenzo recounts how his car came upon a roadblock in Quetzaltenango set up by black pick-up trucks. Masked men opened fire on him and the other movement leaders in the car. Evelinda Ramírez was killed immediately and two other leaders were wounded in the process. Lorenzo escaped through the car's window.⁷³ Then on 17 February 2010 FRENA's vice-coordinator of the coastal zone Octavio Roblero, who had been subject to movement-related death threats, was shot to death (with 17 bullets) upon entering the local marketplace.

In response, movement leaders shifted to a more clandestine form of organisation. In addition, FRENA reached out to yet another ally: the Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Party, URNG).⁷⁴ Although the party is a very marginal force in contemporary Guatemalan politics, it assisted the movement throughout 2009 by raising issues related to electricity supply in San Marcos in Congress and by proposing a reform to the General Electricity Law, which was tabled in Congress.⁷⁵

For FRENA, this cooperation provided legitimacy and safety for their actions. As one regional movement leader states: 'We know that if it is just us in a park they will not let us organise an event. But when the Congressmen are present, they will.'⁷⁶ The presence of URNG officials also served to keep the drugs traffickers at bay, in that attacking a member of Congress would attract the national attention so unappealing to Ortiz. It might even shine an international spotlight on government complicity in

⁷³ Ibid.

⁷⁴ The roots of this party lie in a coalition of guerrilla forces that operated in the country during its 36-year internal conflict. Michael Allison, 'The Transition from Armed Opposition to Electoral Opposition in Central America', *Latin American Politics and Society* 48:4 (2006), pp. 137–62; Kruijt, *Guerrillas*.

⁷⁵ Also see 'Proponen reformas a la Ley General de Electricidad', *Prensa Libre*, 6 March 2009.

⁷⁶ Interview municipal movement leader, Malacatán, 2 Aug. 2010. For the URNG, the cooperation presented an opportunity to increase its electoral profile in a region where it had been steadily losing its electoral strength. Interview Carlos Mejía, URNG Secretary General in the Department San Marcos, Guatemala City, 26 May 2010.

the matter.⁷⁷ This strategy therefore acts at the boundaries of two autonomous spheres of power – the central government and the drugs traffickers. Movement leaders gambled that it might have been acceptable for Ortiz to kill movement activists, but that an assassination involving national political figures would probably be too risky.

All these developments show that FRENA leaders were very much aware of the need to manage the scope of the conflict and to play on the boundaries of each authority's power. In this manner, fragmented sovereignty provided them with an opportunity to reach a larger audience for their cause (highway occupations) or to protect themselves against more repression (meetings organised with the URNG acting as a shield). At the same time, however, these developments showed that the majority of state and non-state armed actors were unwilling to let the movement upset the status quo. This was probably the case because fragmented sovereignty entails the presence of a multitude of actors who are linked together in obscure, but oftentimes mutually dependent, manners.

This latter element is significant because effective boundary management of the conflict requires movement leaders to distinguish clearly between various authorities. The movement's evaluation of repressive actions forms a key element in this process.⁷⁸ Repressive actions influence movement development and strategy formation through the frame that movement leaders apply, that is, through their understanding of the problem the movement seeks to remedy.⁷⁹ Subsequently, movement leaders and members attribute blame for the problem, propose change and seek support.⁸⁰ Through framing, participants in a social movement define the repressive actors that they perceive themselves to be up against and spell out the necessary courses of action for the movement in response to repressive acts.

Failure to understand the shape of the repressive coalition means that movement leaders may run the risk of devising inappropriate or ineffective strategies. Such a danger is always inherent in resistance activities that test the

⁷⁷ Indeed, the impunity surrounding the murder in 2007 of three Salvadorean members of the Central American parliament had created such international reaction that the Guatemalan government saw itself obligated to accept the formation of a Comisión Internacional contra la Impunidad en Guatemala (International Commission against Impunity in Guatemala, CICIG). See Andrew Hudson and Alexandra Taylor, 'The International Commission against Impunity in Guatemala: A New Model for International Criminal Justice Mechanisms', *Journal of International Criminal Justice* 8 (2010), p. 5.

⁷⁸ Karl-Dieter Opp and Wolfgang Roehl, 'Repression, Micromobilization, and Political Protest', *Social Forces*, 69: 2 (1990), pp. 521–47; Lichbach, 'Deterrence or Escalation?'; Karen Rasler, 'Concessions, Repression, and Political Protest in the Iranian Revolution', *American Sociological Review*, 61: 1 (1996), pp. 132–52.

⁷⁹ Robert Benford and David Snow, 'Framing Processes and Social Movements: An Overview and Assessment', *Annual Review of Sociology*, 26 (2000), p. 615.

⁸⁰ Ibid.

boundaries of power, owing to the fact that the preferences and behaviour that authorities display publicly do not necessarily reflect their private face.⁸¹ Movements are left to continuously test and probe the limits of acceptable behaviour, without fully knowing what will provoke an authority figure. Fragmented sovereignty adds another obstacle to this process, however, by obscuring the face of the coalition of authority figures that a social movement is up against. Indeed, the accusations of inter-authority collusion described above constitute little more than hearsay.

In addition, the preferences of non-state authorities such as Ortiz are even more difficult to gauge, as his repressive involvement remains a mere allegation. This is the case because Guatemala is prone to high levels of violence in general. Given the random and frequent occurrence of violence, FRENA could not conclusively distinguish targeted violence from the violence a citizen might experience ordinarily. Nevertheless, movement leaders felt that they were under constant threat and observation:

They have their gang of murderers that go about in a dark car, with tinted windows. And they go about patrolling here and there in the urban area and they go out to patrol in the villages. To look at the leaders, where they live, so that afterwards they can come to kill them. And we have very specific incidents; sometimes they arrive on a motorcycle, sometimes in a car, because the other day they came looking for a fellow activist ... here in his house and five armed men accompanied them. And the people, they asked them what they were doing there at that time, what they were looking for, and they said that they were workers from the Bethel finca and that they were lost. But they were there to observe us.⁸²

Such threat perceptions amidst a general climate of fear and violence impeded the recruitment of new members, who were scared to join. Keeping the contentious spirit alive became a difficult task, as movement leaders lived in a constant state of fear.⁸³ Combined with the movement's failure to recognise that any type of social mobilisation in a region controlled by drugs traffickers would be regarded as a capital offence, and that the central state authorities would move to protect the existing balance of power rather than the movement, this factor resulted in the break-down of FRENA's momentum.

Fragmented Sovereignty and Movement Perceptions of the State

The excessive violence caused by fragmented sovereignty contributes to the delegitimisation of the state. When drug cartels engage in direct conflict with local authorities or the state's army, for example, the state fails to project an image of internal authority. The same goes for those instances

⁸¹ Scott, *Domination and the Arts of Resistance*, p. 14.

⁸² Interviews communal movement leaders, Chayen, 8 Aug. 2010. Also interview municipal movement leader, Malacatán, 2 Aug. 2010.

⁸³ Ibid.; interview communal movement leader, Chayen, 8 Aug. 2010.

where non-state actors infiltrate or corrupt the state. Conversely, state actions also shape the legitimacy of non-state armed actors. This dynamic occurs most obviously in those instances where state authorities recognise private armed forces as pivotal players in the design of public security policy. The post-transitional development of community-based policing in Guatemala – that relied heavily on the network of PACs and thereby legitimised public security provision by these groups – provides a clear case in point.⁸⁴ In a similar vein, the state-brokered gang truce in El Salvador turned gangs from social actors into legitimate political actors.⁸⁵

Additionally, the state's inability to provide security and other state services throughout its entire territory facilitates the legitimisation of non-state armed actors by creating a power vacuum. In those instances where the state's authorities co-exist or collude actively with private armed actors – or are engaged in an unsuccessful conflict with these actors over power – the authorities *de facto* reinforce the legitimacy of non-state armed actors on the ground.⁸⁶ The following sections show that such state failure to address non-state armed actors may also contribute to the delegitimisation of the public authorities themselves. In addition, it may cause citizens to organise or contract their own armed protection mechanisms, thereby reinforcing the dynamic of fragmented sovereignty.

State Delegitimation

In light of the perceptions of colluded repression during the state of alert, the movement's goals shifted from protesting against electricity prices to demanding the expulsion of FENOSA from Guatemala and the instigation of political change. Leaders deemed negotiating with either FENOSA or the central government as inappropriate, given the human rights abuses and the government's unwillingness or inability to stop drugs traffickers committing acts of violence. The presence of FENOSA in San Marcos, they felt, had become intolerable. My interviewees echoed the movement's public meetings at which attendees cry, '¡Unión FENOSA: fuera!' ('Unión FENOSA: leave!').

The prolonged state of alert further proved to movement leaders that the government was unwilling to protect the people's rights, as it suspended basic rights rather than protecting them. Every movement leader I spoke with said that they therefore have no idea of where to go or to whom to turn. Movement leaders came to see both local and national politicians as unresponsive to their plight. The government's decision to send in the military to defend FENOSA's profits, while failing to stop the violent attacks and threats on movement leaders, robbed it of any legitimacy it might have had

⁸⁴ Argueta, 'Private Security in Guatemala', p. 328.

⁸⁵ Borgh and Savenije, 'De-securitising and Re-securitising Gang Policies'.

⁸⁶ Davis, 'Irregular Armed Forces', pp. 399, 404.

in the eyes of the movement activists. Movement leaders therefore argued that a new strategy for action was necessary: ‘What have they [the politicians] done for their people? Nothing. Sold themselves to the transnationals. And on whom does it depend to send them to hell? On us. We can install new people ... From here on forward. Let’s give a vote for change.’⁸⁷

Although FRENA’s new political partner – the URNG – tried to capitalise on this momentum politically, FRENA’s departmental leadership and the branches that were involved in the movement for a longer period of time did not look favourably upon any form of participation in the national political system. This suggests the delegitimisation not only of existing political elites, but also of the nation-wide democratic process. Instead, movement leaders wanted to build the movement over time through participative mechanisms such as municipal development committees. They felt these mechanisms offered FRENA the chance to consolidate its bases and to empower society in a bottom-up manner.⁸⁸

This indicates that even when repressive efforts by non-state actors do not point to the active involvement of government authorities, contentious conflicts in a context of fragmented sovereignty have the potential to spill over into the political arena. The perceived complicity accentuates the limits on the state’s power – and how inaction undermines its sovereign legitimacy. In cases of contentious movement repression by non-state actors, government authorities run the risk of becoming implicated by default.

Reproduction of the ‘Unrule of Law’

Social movements are not mere subjects of fragmented sovereignty and the ‘unrule of law’, the lack of law and order on the ground. The FRENA case reveals that the movement reproduced these dynamics themselves as well. A government human rights representative recounts how, after the murder of Víctor Gálvez, his relatives and fellow movement members took his body home and initially prevented the authorities from conducting an autopsy:

So when the people from the Public Prosecutor’s Office came to pick up [the body of] Don Víctor, the people would not let them. They would not let them set up a crime scene, nothing. They took his body home. They denied access to his body to the people from the hospital, from the fire department, and from the Public Prosecutor’s Office. The people picked him up and they took him with them and they brought him home. Dead.⁸⁹

A similar incident occurred after the death of Santiago Gamboa during a shootout in the province’s coastal region. FENOSA personnel had entered

⁸⁷ Departmental Assembly, Tacaná, 14 Aug. 2010.

⁸⁸ Ibid.

⁸⁹ Interview local representative of COPREDEH, San Marcos, 29 May 2010.

the Las Brisas community to take away transformers for maintenance. Mindful that FENOSA had removed transformers from other communities and never returned them, leaving the community without electricity, the people ordered the workers to put the transformers back in place and took the workers and their protective detail hostage. A large police force attacked the community to free the hostages, and FRENA activist Santiago Gamboa was killed in the process.⁹⁰ Once again, the people refused to let public authorities enter their community in the aftermath of this clash:

The people from this community say that the police killed this man. The people are sure of this, but the problem is that they do not report it. Although maybe they did report it, because they [public officials] were examining the weapons of the police and all that. Maybe they did report it. But the big problem was that they [the people from the community] did not allow them [public officials] to do an autopsy on Don Santiago. They did not allow them to enter the community to take him away.⁹¹

Both instances reveal how fragmented sovereignty undermines the legitimacy not only of established political elites and the national political system, but also of public authorities more generally. In both cases, community members and movement leaders refused to cooperate with formal investigations into the deaths of their fellow movement activists and leaders. The refusal to cooperate with public officials serves as a public rejection of all formal state authorities that had proven unable or unwilling to stop violence and to protect local order.

Given the high impunity rate in Guatemala, where less than two per cent of murders are solved,⁹² it is unlikely that this dynamic inhibited an effective murder investigation. The chances that such an investigation would take place were infinitesimal to begin with. Nevertheless, these cases underline how fragmented sovereignty has a reproductive effect: the inability or unwillingness of the state to respond effectively to human rights violations results in the rejection of the state and its institutions and thereby in effect reproduces the ‘unrule of law’ on the ground.

Conclusion

This article has shown that fragmented sovereignty in general, and the presence of organised criminal networks in particular, adds another layer to the already complex manifestation of social movement organisation in contemporary Latin America. This additional layer is significant owing to the particular nature of organised crime in Latin America. First, these networks are extremely violent in comparison to their counterparts in the rest of the world. This

⁹⁰ Interview municipal movement leader, Malacatán, 2 Aug. 2010.

⁹¹ Interview local representative of COPREDEH, San Marcos, 29 May 2010.

⁹² Hudson and Taylor, ‘The International Commission against Impunity in Guatemala’, p. 4.

means that the involvement of organised crime in social movement repression has the potential to heighten it with exceptional degrees of violence. The disappearance – and alleged violent killing – of students in Guerrero, Mexico, is a case in point.

Second, consumer conflicts and conflicts related to the exploitation of natural resources and extraction industries have become frequent in Latin America. Over the last decade, organised criminal networks have expanded their activities to these lucrative industries.⁹³ The combination of these two developments suggests that organised criminal repression of social movements that organise to defend natural resources – and their own livelihoods – may well be on the rise and that organised crime, rather than state authorities, may become the main opponent to civil society action. The increasing expansion of ties between Latin American criminal actors, politicians and state institutions aggravates this development. The alleged state and non-state armed collusion in social movement repression that took place in the FRENA case may well become a general rule.

Such collusion between various state and non-state authorities also points towards a novel form of repression under fragmented sovereignty. As discussed in this article, illicit ties may prevent state authorities from intervening when organised crime targets social movements. Such failure of (central) state authorities to act against non-state armed violence may serve as the strongest repressive measure of all. Nominally democratic states need to uphold at least a semblance of respect for law and order in their treatment of social movements. Turning a blind eye to the behaviour of other actors relieves states of part of their repressive ‘duties’, while serving their main goal: the maintenance of the public order. This suggests that fragmented sovereignty is predominantly detrimental to social movement organisation.

The case of FRENA indeed showed that the dispersion of power among multiple state and non-state armed actors affected its trajectory in a negative manner. The movement initially used the presence of multiple spheres of authority to its advantage. By pushing the electricity conflict into the streets, FRENA effectively called for the central government’s protection, which translated into a mediation process. The movement failed to recognise, however, that the maintenance of local order formed one of the pillars of local drug trafficker Juan Ortiz’s power. FRENA could organise its activities only as long as Ortiz, one of the region’s most important authority figures, allowed it to do so. Unfortunately, FRENA leaders underestimated the extent to which they could count on Ortiz’s protection and to which he would tolerate the upsetting of local public order in his territory. This

⁹³ Briscoe, ‘The Historical Development of the Nexus’.

proved their undoing as Ortiz allegedly responded with a killing spree that targeted the movement's main leaders.

The case thus reveals that the presence of organised crime may penetrate all aspects of civil life and may inhibit social movement organisation to the extent that any activity in a spatiality controlled by organised crime may come to be seen as a direct affront to its authority. Appealing to such non-state armed actors for the formation of a joint contentious coalition, even if these actors do not necessarily collude with other authorities, is probably a hazardous strategy at best. Indeed, non-state armed actors more generally may be unwilling to support a contentious conflict that disturbs local order – or that attracts central state attention – and thereby threatens their livelihoods. One important question that this study's single case study is unable to answer is whether different types of non-state armed actors will always show such indifference to supporting social movements. Recent advances in the study of rebel and militia governance show that some of these non-state actors engage in governance activities beyond direct territorial control and local taxation.⁹⁴ Further research could analyse whether non-state actors that initiate more extensive state-building activities also constitute more willing movement allies.

In addition, the case of FRENA sheds light on the threat that the role of non-state armed actors in repression poses to the legitimacy of political authorities. The electricity conflict eroded the legitimacy of local and central political actors, of the national political system and of public officials more generally. Movement activists saw these authorities as unable – or unwilling – to protect their personal security in light of the murders and surveillance efforts that they ascribed to the local drug cartel. Whereas the relationship between state authorities and organised crime destroys the state's sovereignty and legitimacy from above, the case of FRENA shows that a bottom-up dynamic may operate as well. When state authorities are unwilling or unable to address organised criminal violence and repression, this in effect reinforces a dynamic in which citizens reject any formal semblance of the rule of law and state institutions more generally.

This finding poses important questions for our theories of institutional development. One common response to fragmented sovereignty and the presence of organised crime in Latin America is that states should invest in institution building to counter such trends.⁹⁵ Ivan Briscoe notes, however, that such approaches tend to overlook the obstacles that public distrust in state

⁹⁴ Arjona, 'Wartime Institutions'; Corinna Jentzsch, Stathis N. Kalyvas and Livia Isabella Schubiger, 'Militias in Civil Wars', *Journal of Conflict Resolution*, 59: 5 (2015), pp. 755–69. Also see, for this governance dynamic under cartel rule, Davis, 'Irregular Armed Forces', p. 401.

⁹⁵ Organization of American States (OAS), 'Scenarios for the Drug Problem in the Americas 2013–2025' (Washington, DC: OAS, 2013) Available at: http://www.oas.org/documents/eng/press/Scenarios_Report.PDF (accessed 21 Dec. 2016).

institutions, as well as government complicity in maintenance of the ‘unrule of law’, form for institutional development.⁹⁶ What possibilities do centrally sponsored judicial or police reforms offer for the reduction of impunity, for example, when people refuse to let crime scene investigators do their job? Only recognition that the effective functioning of institutions depends as much on public trust as on their institutional design will enable an approximation to a solution to governance and security problems in Latin America. At the same time, the case of FRENA shows that such a solution may perhaps be encountered more easily in the social capital constructed at the local – rather than the national – political level.

Spanish and Portuguese abstracts

Spanish abstract. Este artículo desentraña el efecto que la presencia de difusas estructuras de poder lícitas e ilícitas tiene sobre estados y ciudadanos en el mundo moderno. Lo hace así al investigar cómo un cártel de drogas minó la organización del movimiento social alrededor del servicio de electricidad en el departamento de San Marcos en Guatemala. La presencia del cártel contribuyó directamente en la extinción de la actividad del movimiento e impidió el desarrollo efectivo de sus estrategias de movilización debido a las intimidaciones recibidas. Además, la incapacidad o resistencia del estado a evitar los asesinatos violentos de líderes del movimiento minaron la legitimidad del estado central ante los ojos de los dirigentes sociales. Lo anterior también contribuyó a la reproducción del ‘no-estado de derecho’ (*‘unrule of law’*) desde la base social a través del subsecuente rechazo del movimiento a instituciones estatales formales.

Spanish keywords: crimen organizado, movimientos sociales, represión, soberanía fragmentada, Guatemala

Portuguese abstract. Este artigo desvenda os efeitos que a presença difusa de estruturas de poderes lícitos e ilícitos tem em Estados e cidadãos no mundo moderno. Isso é feito a partir da investigação de como um cartel de drogas minou a organização de movimentos sociais na questão do fornecimento de eletricidade na província de São Marcos, Guatemala. A presença do cartel contribuiu diretamente para o desaparecimento das atividades dos movimentos sociais e impediu o desenvolvimento efetivo das estratégias dos movimentos devido a ameaças, ainda que obscuras. Ademais, a inabilidade estatal ou indisposição em prevenir o violento assassinato de líderes dos movimentos minou a legitimidade do Estado central aos olhos dos líderes dos movimentos. Isto também contribuiu para a reprodução de um ‘Estado de (não) direito’ (*‘unrule of law’*) nas bases sociais, através de subsequente rejeição do movimento às instituições estatais formais.

Portuguese keywords: crime organizado, movimentos sociais, repressão, soberania fragmentada, Guatemala

⁹⁶ Briscoe, ‘The Historical Development of the Nexus’, p. 45.