

Civil War, Institutional Change, and the Criminalization of the State in Central America

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## ABSTRACT

Though conflict scholarship has long examined what causes civil war, researchers have only recently turned to assessing what civil war leaves behind. Countries emerging from civil war are frequently beset by myriad social, political, and economic challenges, producing a tenuous peace and stunted recovery process. Scholars and policymakers link these adverse outcomes to a common feature of postwar settings: the acute weakness of the state. Though classic studies of foreign conflict found that war “made the state,” civil conflict is instead associated with state decay and breakdown. Yet the mechanisms that account for this pattern have received far less theoretical and empirical attention. Moreover, existing explanations are unable to account for cases in which internal conflict enhances state capacity.

In light of this puzzle, this dissertation asks: what explains the relationship between civil war and state weakness? I propose a novel approach that centers on wartime institutional change. My central claim is that civil war induces state weakness not necessarily because of institutional *destruction* but due to the wartime *introduction* of alternative, undermining rules that expressly contravene formal state functions, like the extraction of revenue, the control of violence, and the provision of public goods. In other words, rather than constituting the “wrong kind” of war for building states, civil war often builds the “wrong kind” of state institutions. I theorize the causal process underlying such transformations: as the perceived escalation of insurgent threat unsettles existing institutions, newly empowered counterinsurgent elites are allotted greater discretionary authority. Insulated from broader state and military structures, they then implement alternative, undermining rules that reflect their narrow interests. By forging a broader coalition with a stake in the alternative arrangements, the new rules are reproduced and consolidated.

I develop this argument by tracing how rules introduced during civil war undermine state institutions in two countries in Central America, a region that experienced brutal armed conflicts in the 1970s and 1980s. I analyze how undermining rules evolved in three state sectors across two wartime contexts: the customs administration and public security sector in Guatemala and land tenure in Nicaragua. Despite representing distinct domains of state activity, these three cases illustrate similar causal processes: as the escalating insurgent threat unsettled existing institutions, counterinsurgent elites gained greater discretionary authority and implemented alternative, undermining rules that reflected their narrow interests. By comparing across the cases, I also explain why the criminal-state activities devised in war have persisted. This comparative, process-tracing analysis draws on data collected during 20 months of field research in Guatemala and Nicaragua, which included extensive research in private and state archival collections and interviews with former military intelligence officers, politicians, prosecutors, and business elites, among others.

Overall, this dissertation provides a new perspective on the diverse political possibilities following civil war by urging us to understand the postwar institutional landscape as a product of the rules and procedures that take shape during conflict itself. Relatedly, it illustrates the need to rethink postwar policy efforts to reform state institutions. Postwar reconstruction is not merely a question of *strengthening* the rules governing state practice, but *displacing* the predatory rules that filled the institutional void in conflict.

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## ABBREVIATIONS

- AGCA: General Archive of Central America (*Archivo General de Centroamérica*)
- AHPN: Historical Archive of the National Police (*Archivo Histórico de la Policía Nacional*)
- APP: Area of the People's Property (*Área de Propiedad del Pueblo*)
- ARDE: Democratic Revolutionary Alliance (*Alianza Revolucionaria Democrática*)
- ARENA: Nationalist Republican Alliance (*Alianza Republicana Nacionalista*)
- CADEG: Anti-Communist Council of Guatemala (*Consejo Anticomunista de Guatemala*)
- CAS: Sandinista Agricultural Cooperatives (*Cooperativas Agrícolas Sandinistas*)
- CCS: Credit and Service Cooperatives (*Cooperativas de Crédito y Servicio*)
- CDC: Civil Defense Committee (*Comité de Defensa Civil*)
- CDS: Sandinista Defense Committee (*Comité de Defensa Sandinista*)
- CEH: Historical Clarification Commission (*Comisión de Esclarecimiento Histórico*)
- CEPAL: Economic Commission for Latin America and the Caribbean (*Comisión Económica para América Latina y el Caribe*)
- CICIG: International Commission against Impunity in Guatemala (*Comisión Internacional contra la Impunidad en Guatemala*)
- CIERA: Center for Investigations and Studies of Agrarian Reform (*Centro de Investigaciones y Estudios de la Reforma Agraria*)
- CIRMA: Center for Mesoamerican Research (*Centro de Investigaciones Regionales de Mesoamérica*)
- CNRC: National Commission for the Revision of Confiscations (*Comisión Nacional de Revisión de Confiscaciones*)
- COC: Joint Operations Center (*Centro de Operaciones Conjuntos*)
- COCP: Joint Operations Center of the Police (*Centro de Operaciones Conjuntos de la Policía*)
- DIAN: National Directorate of Taxes and Customs (*Dirección de Impuestos y Aduanas Nacionales*)
- DIC: Department of Criminological Investigations (*Departamento de Investigaciones Criminológicas*)
- DINC: Division of Criminal Investigations (*División de Investigaciones Criminales*)
- DIT: Department of Technical Investigations (*Departamento de Investigaciones Técnicas*)
- DN: National Directorate (*Dirección Nacional*)
- DoD: US Department of Defense
- ELN: National Liberation Army (*Ejército de Liberación Nacional*)
- EM: Death Squad (*Escuadrón de la Muerte*)
- EMP: Presidential Military Staff (*Estado Mayor Presidencial*)
- ENABAS: Nicaraguan Company for Basic Foodstuffs (*Empresa Nicaragüense de Alimentos Básicos*)
- EPL: Popular Liberation Army (*Ejército Popular de Liberación*)
- EPS: Sandinista Popular Army (*Ejército Popular Sandinista*)
- ESA: Secret Anticomunist Army (*Ejército Secreto Anticomunista*)
- FAR: Rebel Armed Forces (*Fuerzas Armadas Rebeldes*)
- FARC: Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*)
- FDN: Nicaraguan Democratic Front (*Frente Democrático Nicaragüense*)

FMLN: Farabundo Martí National Liberation Front (*Frente Farabundo Martí para la Liberación Nacional*)

FSLN: Sandinista National Liberation Front (*Frente Sandinista de Liberación Nacional*)

G-2: Section of Military Intelligence

G-3: Section of Military Operations

GN: National Guard (*Guardia Nacional*)

IGSS: Guatemalan Institute of Social Security (*Instituto Guatemalteco de Seguridad Social*)

IHNCA: Institute of History of Nicaragua and Central America (*Instituto de Historia de Nicaragua y Centroamérica*)

INRA: Nicaraguan Institute of Agrarian Reform (*Instituto Nicaragüense de Reforma Agraria*)

JGRN: Government Junta of National Reconstruction (*Junta de Gobierno de Reconstrucción Nacional*)

M-19: 19<sup>th</sup> of April Movement (*Movimiento 19 de Abril*)

MANO: Movement of Organized Nationalist Action (*Movimiento de Acción Nacionalista Organizada*)

MICE: Ministry of External Commerce (*Ministerio de Comercio Exterior*)

MICOIN: Ministry of Internal Commerce (*Ministerio de Comercio Interior*)

MIDINRA: Ministry of Agricultural Development and Agrarian Reform (*Ministerio de Desarrollo Agropecuario y Reforma Agraria*)

MILPAS: Anti-Somoza Popular Militias (*Milicias Populares Anti-Somocistas*); later Anti-Sandinista Popular Militias (*Milicias Populares Anti-Sandinistas*)

MINT: Ministry of the Interior (*Ministerio del Interior*)

MLN: National Liberation Movement (*Movimiento de Liberación Nacional*)

MP: Public Prosecutor's Office (*Ministerio Público*)

NOA: New Anti-Communist Organization (*Nueva Organización Anticomunista*)

NSD: National Security Doctrine

OCI: Office for the Quantification of Indemnities (*Oficina de Cuantificación de Indemnizaciones*)

OOT: Office for Territorial Ordering (*Oficina de Ordenamiento Territorial*)

PN: National Police (*Policía Nacional*)

PNC: National Civilian Police (*Policía Nacional Civil*)

REMHI: Recovery of Historical Memory Project (*Recuperación de Memoria Histórica*)

RN: Nicaraguan Resistance (*Resistencia Nicaragüense*)

SAT: Superintendent of Tax Administration (*Superintendencia de Administración Tributaria*)

SEM: Office of Special Ministerial Services (*Oficina de Servicios Especiales Ministeriales*)

SIC: Criminal Investigation Service (*Servicio de Investigación Criminal*)

SIN: National Intelligence Service of Peru (*Servicio de Inteligencia Nacional del Perú*)

UNDP: United Nations Development Program

UNO: National Opposition Union (*Unión Nacional Opositora*)

UPE: State Production Units (*Unidades de Producción Estatal*)

URNG: Guatemalan National Revolutionary Unity (*Unidad Revolucionaria Nacional Guatemalteca*)

USAC: University of San Carlos (*Universidad de San Carlos*)

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## PROLOGUE

It was a Sunday afternoon in June 2015, and I was three weeks into my pre-dissertation research. As I usually do at this stage in the summer, I hopped in a taxi and headed to *la colonia*—originally a squatters’ settlement on the outskirts of Guatemala City—to visit some friends I met on my first trip to Guatemala over seven years earlier.

The Guatemala of 2015 was, at once, dramatically different and eerily the same as the one I was first introduced to in 2008. The country was undergoing unprecedented social and political changes, which, at times, looked like they might wind their way right back to where they started. On April 16, 2015, Guatemalan investigators, with the help of the United Nations International Commission against Impunity (CICIG), revealed a vast corruption network within the country’s customs administration, which defrauded the state hundreds of millions of dollars. The network was named *La Línea*, after the phone line importers called to arrange customs duty adjustments. It was headed by the private secretary of then-Vice President Roxana Baldetti.

On April 25, citizens took to Guatemala City’s central square in droves to demand Baldetti’s resignation. They achieved it shortly thereafter. Months later, President Otto Pérez Molina, the other leader of the scheme, was forced to step down too—but not before a number of other criminal structures also came to light. There was the one in the Social Security Institute (IGSS), in which authorities negotiated shady contracts for faulty renal dialysis drugs, which killed 49 people and poisoned hundreds more. There was the one in the National Civilian Police (PNC), in which former agents embezzled nearly \$1 million allegedly spent on vehicle repairs. There was the one in the Ministry of Energy and Mines (MEM), in which officials accepted bribes in exchange for an electrical plant concession. The list goes on.

While Guatemala felt like it had plunged into uncharted political territory, that Sunday afternoon in *la colonia*, we did what we always did when I visited. We ate lunch and played Bancopoly. Bancopoly is Guatemala’s version of Monopoly, but with several apt, if unintended *chapín* twists. First, rather than buy and sell real estate properties modeled after the country’s major metropolitan area, in Bancopoly, you buy and sell entire provinces. That’s right, every square kilometer of Guatemalan territory is up for grabs to whoever is lucky enough to land on it and have the requisite cash in hand. In another all-too-appropriate metaphor, Guatemala’s public services are also for sale. The National Institute for Electrification (INDE), the Municipal Water Company (EMPAGUA), they too can be yours, not to mention state-owned transport companies like AVIGUA (planes) and FEGUA (trains).

And in perhaps the most apropos, if disturbing, metaphor, whenever we play Bancopoly, me, the *gringa*, I always win. The game ends when one player amasses the entire country—from the coastal lowlands of Escuintla to the northernmost frontiers of the Petén. And almost every time I am that player. It’s like some fucked-up homage to my American forerunners in Guatemala who plotted coups, armed tyrants, and whitewashed genocide—all in the name of winning economic power and loyal political partners.

That smoggy June afternoon, this part didn’t change. Again I won. But the symbolism that had always remained latent, which had always existed just under the surface was, for the first time,

spoken. Whenever any player sought to buy property, the banker, my friend's 20-year-old son, would jokingly ask, "*¿Y donde está mi comisión?*" "And where's my cut?" Because that's how things operate here.

More than a few times, my friend landed on Bancopoly's version of the "luxury tax" and watched her money slowly float away and into the coffers of the Superintendent of Tax Administration (SAT), in her words, "*para que los políticos lo puedan robar después,*" "So that the politicians can steal it later." When she landed on a "chance" card and received 145 quetzales from the Social Security Institute as workers' comp, she sighed, "*Por lo menos me está devolviendo un poquito de lo que robaron,*" "At least they're giving back a tiny bit of what they stole."

"Yes," I replied. "At least, there's that."

.....

In over a decade of fieldwork, I have had countless conversations with ordinary Guatemalans who are, on the one hand, exasperated by the daily acts of corruption that govern their lives, yet, on the other hand, acutely aware that the real problems are deep and systemic. Far from aberrations, predation and criminality constitute the "operating system" that organizes politics in Guatemala and throughout much of Central America. They are not the exception, but the rule. We will never know their true toll, but the costs are made manifest everyday in the form of families living in extreme poverty, schools shuttered due to teacher shortages, understaffed hospitals that lack routine medical supplies, overcrowded prisons that foment gang violence, and the untold individuals that simply leave, risking life and limb to make it to the other side of the US border.

As citizens throughout Central America mobilize to take back what has been stolen from them, this dissertation seeks to illuminate why and how corruption and criminality became the region's operating system in the first place. It traces the contemporary criminalization of the state, in large part, to Central America's dark history of civil war, which empowered counterinsurgent elites and their allies to establish new institutional innovations in order to steal, kill, and control. Though civil war is not solely to blame for the ills that plague Central America, the bloody 20<sup>th</sup> century conflicts played an important role in hardwiring within state institutions the perverse, predatory logics that systematically undercut development today.

We know that armed conflicts in Central America claimed hundreds of thousands of lives. But we know less about how they irretrievably distorted the institutional landscape as well. This dissertation seeks to tell that part of the story.

*November 15, 2016*

## INTRODUCTION

### THE CRIMINALIZATION OF THE STATE IN CIVIL WAR

#### The Puzzle

On April 16, 2015, the Guatemalan Public Prosecutor's Office (MP) alongside the UN International Commission Against Impunity in Guatemala (CICIG) uncovered a massive customs fraud network operating within the country's tax administration. Dubbed *La Línea* after the telephone line used to negotiate illegal adjustments to customs duties,<sup>1</sup> the network was comprised of a mix of public and private actors—customs agents, port administrators, union bosses, retail business owners, tax authorities, and, at the top, then-President Otto Pérez Molina and Vice President Roxana Baldetti.

According to wiretaps and computer files, importers contacted *La Línea* operatives to arrange adjustments through which they paid 40 percent of the customs duties they legally owed to the state and 30 percent to the criminal structure, pocketing the remaining 30 percent.<sup>2</sup> Recovered Excel spreadsheets, in fact, divide the customs revenue into two separate pools: “R1,” the amount directed to the Superintendent of Tax Administration (SAT), and “R2,” the amount captured by the illicit network.<sup>3</sup> Initial investigations indicated that *La Línea* siphoned off some \$330,000 on a weekly basis.<sup>4</sup> Though the total amount diverted from state coffers is impossible to discern with any precision, Guatemalan think tank ASIES estimates that in 2014 alone, the Guatemalan state was defrauded roughly US\$940 million, or 1.6 percent of GDP.<sup>5</sup>

The exposure of *La Línea* prompted a series of popular protests on a scale unprecedented since Guatemala's return to civilian rule in the mid-1980s. Guatemalans of all political stripes

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<sup>1</sup> Barreto 2015.

<sup>2</sup> CICIG and MP 2015.

<sup>3</sup> De León 2015.

<sup>4</sup> *El Periódico* 2015.

<sup>5</sup> ASIES 2017: 13.

converged on the capital city's *Plaza de la Constitución* with signs excoriating the country's corrupt political class and demanding “¡*Renuncia Ya!*”—that Pérez Molina and Baldetti tender their resignations immediately. Galvanizing a broader coalition of university students, indigenous Mayan communities, business elites, and urban popular sectors, the unrelenting protests eventually brought down the sitting government—an achievement that many had once considered impossible.

For the protesters, the *La Línea* revelations and the resulting popular response served as a watershed moment in the country's history. However, buried within the renewed political fervor was something else quite striking: this was not the first time that a massive customs fraud network had been uncovered within Guatemala's tax administration. In fact, in September 1996, almost two decades prior and on the eve of the signing of peace accords to end Guatemala's 36-year civil war, the MP exposed a nearly identical scheme that had taken root within the Ministry of Finance. This earlier criminal structure was called the Moreno Network after the lower ranking military intelligence agent who managed the scheme—a man by the name of Alfredo Moreno. The investigations, however, revealed that Alfredo Moreno was not the one pulling the strings. Instead the alternative, predatory institutional arrangements within the customs apparatus were devised and implemented by an elite clique of high-ranking military intelligence officers from within the president's inner circle, which had seized control of the state as the country's civil war escalated in the late 1970s. This narrow coterie of counterinsurgent elites crafted new rules for fabricating customs forms and “disappearing” shipping containers in order to siphon off revenue destined for state coffers. At the height of the state's counterinsurgent struggle, they used their political power and decision-making discretion to introduce new institutional

innovations, which would persist for nearly four decades and undermine the Guatemalan state's extractive activities on a systematic basis.

The emergence, evolution, and consolidation of the Moreno Network and *La Línea* raise a series of important questions for scholars of conflict and post-conflict politics: what accounts for the emergence of the new predatory rules and procedures within the state apparatus amid civil war? How and why do such arrangements survive democratic transition, peace, and postwar reforms and continue to distort political and economic development? Broadly, how does civil war shape state development in the long-term?

This dissertation seeks to pull back the curtain on the counterinsurgent state to better understand how conflict dynamics affect state institutions and how wartime institutional changes continue to structure state activities in the postwar period. In a turn from decades of scholarship on the causes of civil war, conflict scholars have started to direct increasing attention to what civil war leaves behind.<sup>6</sup> This burgeoning research agenda has produced a range of valuable insights on how the experience of conflict shapes political attitudes, identities, and participation at the individual level;<sup>7</sup> the lasting effects of war on local community structures;<sup>8</sup> and the relationship between armed conflict and broader patterns of postwar democratization and violence.<sup>9</sup> Yet, within the literature on the legacies of civil war, the machinery of the central state has been subject to less systematic scholarly inquiry. While classic theories of state formation point to the central role of foreign conflict in building the state apparatus, the institutional effects of civil war have been subject to far less theoretical and empirical scrutiny.

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<sup>6</sup> See Kelmendi and Rizkallah 2018.

<sup>7</sup> Balcells 2012; Lupu and Peisakhin 2017; Bellows and Miguel 2009; Blattman 2010.

<sup>8</sup> Gilligan et al. 2014; Bateson 2013.

<sup>9</sup> Huang 2016; Cruz 2011; Trejo et al. 2018.

Indeed, there are clear reasons to think that civil war dynamics might also spur institutional innovation and change within the state. In reorienting the power and resources of the state to eliminate an internal enemy, the existing rules governing state activity may be altered, discarded, or refashioned to facilitate counterinsurgency. This often occurs, in part, because the campaign to put down rebellion may empower new actors—specialists in information gathering, surveillance, and violence—in the process. The heightened sense of threat and anxiety may allow these actors to operate in the shadows and devise their own counterinsurgent methods—methods that fundamentally remake state institutions themselves. As a result of these dynamics, civil war can constitute a powerful site of institutional transformation. This dissertation is an attempt to understand civil war as a site of institutional creation and change within the state and to examine its lasting effects for state development even after the fighting has ceased.

### **The Problems of the Postwar State**

Though this dissertation, at its core, explains historical processes of wartime institutional change within the state, it takes as its point of departure a more contemporary problem: the woes of postwar societies and the attendant difficulties of sustaining peace. The violence and devastation of civil war often leave behind a range of social, political, and economic challenges that make postwar recovery, at best, slow and uneven and, at worst, doomed from the outset. The physical destruction wrought by civil war wipes out household assets, education and health facilities, and basic infrastructure, hampering human development. According to the World Bank, conflict-affected and recovering states account for 77 percent of the world's school-age children not enrolled in primary school, 61 percent of the world's population in poverty, and 70

percent of global infant mortality.<sup>10</sup> These deficits are only exacerbated by the postwar obstacles to economic recovery. Persistent volatility within conflict and post-conflict settings often shakes investor confidence, disrupting flows of foreign direct investment and making it more difficult to spark economic growth.<sup>11</sup>

The consequences of civil war for human and economic development are only compounded by the social and political problems that plague postwar countries. Formal political peace does not automatically induce quotidian social peace. Post-conflict societies often continue to face staggering levels of violence, often resulting from criminal activity by demobilized combatants.<sup>12</sup> The trauma experienced by individuals affected by conflict violence has significant, often life-long mental health consequences.<sup>13</sup> Wartime displacement can also trigger postwar social conflict as internally displaced persons (IDPs) return to claim the property and assets they were forced to abandon, only to find that others have confiscated them.<sup>14</sup> And, of course, the negotiated settlements or power-sharing agreements intended to end war and cement stability ultimately sit atop fragile political coalitions and less-than-credible commitments, which may give way to perceived political inequalities and continued strife.<sup>15</sup>

Combined, the nagging social, political, and economic problems that hamstring postwar recovery also contribute to another well-known phenomenon: the recurrence of civil war. As Barbara Walter notes, “the problem of civil war is now almost exclusively a problem of repeat civil war.”<sup>16</sup> Civil wars often generate a “conflict trap” in which “hatred and other rebellion-

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<sup>10</sup> World Bank 2011: 63.

<sup>11</sup> Murdoch and Sandler 2002.

<sup>12</sup> Trejo et al. 2018; Paris 2004; World Bank 2011.

<sup>13</sup> Murthy and Lakshminarayana 2006.

<sup>14</sup> Charnysh and Finkel 2017.

<sup>15</sup> Straus 2018.

<sup>16</sup> Walter 2015: 1242.

specific capital accumulates during war, making further conflict more likely.”<sup>17</sup> Indeed, for countries approaching the end of war, the risk of returning to conflict within five years is 44 percent.<sup>18</sup> Of the conflicts initiated in the 21<sup>st</sup> century, some 90 percent took place in countries that had already experienced civil war.<sup>19</sup> While there is still debate on the causes of conflict onset, there is little question that once initiated, conflict begets conflict.

Why is peace so difficult to sustain following civil war? And when peace does endure, why do the developmental deficits that characterize postwar settings remain so deeply entrenched? In seeking answers to these questions, scholars and policymakers alike have overwhelmingly converged on the same common denominator: the weakness of state institutions.<sup>20</sup> There is a fairly broad policy consensus that a defining feature of fragile, war-torn countries at risk of relapsing into conflict is the state’s “weak capacity to carry out basic functions of governing their population and territory.”<sup>21</sup> Postwar state weakness is thought to fuel violence, first and foremost, because ineffective institutions are unable to peaceably channel political disagreement. But beyond this, weak state institutions are incapable of providing basic goods and services like justice, security, and healthcare, which can foster widespread grievances and empower violent, non-state actors to fill the governance void.<sup>22</sup>

The link between armed conflict and weak or ineffective state institutions has prompted scholars of peacebuilding to focus increasing attention on post-conflict “state building” or “governance” as the critical determinant of durable peace. For example, Paris argues that “a

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<sup>17</sup> Collier and Sambanis 2002: 5.

<sup>18</sup> Collier et al. 2003: 83.

<sup>19</sup> Walter 2010: 1. To be sure, the risk of recidivism varies according to distinct conditions like the manner in which civil war concludes, the support of the international community, and the length and nature of the conflict itself. See Toft 2009; Licklider 1995; Quinn et al. 2007; DeRouen and Bercovitch 2008.

<sup>20</sup> Steenkamp 2009; Boyle 2014.

<sup>21</sup> OECD 2011: 11.

<sup>22</sup> World Bank 2011: 7.

rudimentary network of domestic institutions” is the first imperative of peacebuilding,<sup>23</sup> while Walter similarly posits that “good governance” in the form of robust political and legal institutions is the answer to staving off renewed conflict in post-civil war settings.<sup>24</sup> Similarly, Lake contends that peace is contingent upon the state’s establishment of social order—rules and laws—that society becomes invested in and which, in turn, become self-enforcing.<sup>25</sup> Though the precise terminology varies, contemporary scholarship generally portrays state building as “the *telos* (or end goal) of consolidating peace.”<sup>26</sup>

The weakness of post-civil war states is thus not only widely recognized, but understood as the core problem underlying civil war recurrence and motivating peacebuilding agendas.<sup>27</sup> Yet curiously, we know very little about *why* civil war weakens states. Indeed, the wartime central state remains somewhat of a black box within contemporary conflict scholarship. And while the corrosive effect of civil war on state institutions has been confirmed by a number of cross-national correlational studies,<sup>28</sup> these findings stand in stark contrast to the longstanding social science literature on state formation, which posits that war serves as a primary impetus for “making” the state or building administrative institutions.<sup>29</sup> What are the mechanisms underlying the broad empirical relationship between civil war and state weakness? And how does civil war shape state institutions more generally?

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<sup>23</sup> Paris 2004: 7.

<sup>24</sup> Walter 2015.

<sup>25</sup> Lake 2016: 27-29.

<sup>26</sup> Sisk 2013: x.

<sup>27</sup> It is important to note that the empirical relationship between civil war and state weakness is very difficult to disentangle. While early foundational studies within conflict research posited that state weakness fueled conflict onset, more recent scholarship that addresses endogeneity concerns head on finds instead that civil war onset induces state weakening. See Thies 2010.

<sup>28</sup> See Besley and Persson 2008; Thies 2005, 2006, 2010.

<sup>29</sup> See Tilly 1975, 1990; Bates 2001; Mann 1988.

## The Argument

This dissertation departs from the conventional wisdom, which tends to assume that civil war generates postwar state weakness because it degrades or destroys state institutions. Rather than deny the institution-building character of armed conflict, I posit that civil war is, in fact, often a site of institutional creation; however, the rules and procedures introduced amid civil war may come to undermine the formal functions of the state—as the case of the Moreno Network suggests. At its core, this dissertation thus re-examines longstanding questions on the relationship between war and state formation through a new lens: that of institutions and institutional change. My central claim is that rather than prompting sweeping processes of state building or destruction, civil war dynamics induce more minute changes at the level of state institutions, or the rules and procedures that structure behavior. These, in turn, have significant, longer-term effects on state performance.<sup>30</sup> Put simply, armed conflict alters the rules by which a host of state and non-state actors operate; precisely how state institutions change—the *kinds* of rules that are introduced—shapes the effects of conflict on state performance.

I argue that the rules that emerge may be guided by two distinct institutional logics: they may be *undermining* and generate outcomes that contravene a given state function, or *reinforcing* and produce outcomes that coincide with and bolster a given state aim. Drawing on this typology, I build a new theory of wartime institutional change within the state, which accounts for the different kinds of institutions and institutional logics that take shape as the escalation of

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<sup>30</sup> Most studies focus on state “capacity,” conventionally defined according to Michael Mann’s concept of infrastructural power: “the state’s ability to exercise control and implement policy decisions throughout the territory it claims to govern” (Soifer 2015: 9). In this dissertation, however, I rely on Centeno et al.’s concept of state “performance,” which is more relational in nature and thus combines the state’s capacity with “how this state capacity is deployed, and how it is received in its political, social, and economic environment” (Centeno et al. 2017: 8; see also Dargent et al. 2017). This concept better captures what the state actually *does*—how its latent abilities translate into specific outcomes when interacting with other political and social forces. I utilize “state capacity,” however, when referring to other studies where it is the specific outcome of interest.

the insurgent threat opens up space between the prevailing rules and their enforcement. Through the empowerment of new counterinsurgent elites or the centralization of authority in existing rulers, new, undermining rules reflecting narrow coalitional interests emerge and take root within the state. Conversely, where wartime institutional ambiguity leads to the creation of a broad-based coalition to devise new rules through a more expansive, deliberative process, reinforcing rules that bolster state functions are more likely to emerge.

Depending on the necessity and ability of this rules-making elite to forge a broader coalition of actors with a stake in the new rules, the undermining institutional arrangements are reproduced and consolidated. The postwar survival of the dominant wartime coalition thus dictates whether the wartime rules endure past conflict and continue to undermine state activities into times of peace.

In sum, this approach posits a new explanation for the negative relationship between civil war and state development through the lens of institutional creation and change. To the extent that civil war is correlated with state “weakness,” it is because of the kinds of rules and proceduress that civil war *creates*. In other words, rather than constituting the “wrong kind” of war for building states, as scholars of state formation have suggested, civil war instead often builds the “wrong kind” of state institutions.

### **Existing Analytical Approaches**

Though various strands of social science literature address the effects of civil war on state development, on the whole, they leave us with few accounts of *how* conflict processes induce state weakness—that is, how they render state institutions ineffective in carrying out core functions like the extraction of tax revenue, the monopolization of violence within society, and

the provision of public goods and services. The generalized pattern of state weakness among war-torn states is well established. But what are the mechanisms underlying this broad relationship? To the extent that existing analytical approaches offer insights on this question, they fall into three camps: 1) war and state building, 2) conflict, predation, and corruption, and 3) conflict and local governance. I address each of these analytical approaches below.

### ***War and State Building***

Prominent theories of state formation hold that war plays a critical role in building the state's administrative apparatus. Notably, Charles Tilly argues that national states in Western Europe were forged through the societal mobilization, territorial consolidation, and bureaucratic development required for fighting a foreign enemy. Compelled to accumulate greater resources for war, rulers find the public more tolerant of higher taxation amid looming security threats.<sup>31</sup> The accepted level of state extraction thus shifts to a "new and higher equilibrium" permitting the construction of a more robust administrative apparatus that persists long-term.<sup>32</sup> More recent scholarship tests the applicability of this war-centered, or bellicist, model in Africa and Latin America, lending support to Tilly's account yet through a negative focus by illustrating how the absence of external warfare and, in some cases, the availability of external wartime finance, has stunted domestic taxation.<sup>33</sup>

While there is a broad positive relationship between interstate war and state development, the empirical findings with respect to *intrastate* war and state capacity stand as a sharp contrast. Cross-national statistical analyses largely suggest that civil war actually diminishes state capacity. Timothy Besley and Torsten Persson, for example, find that countries engaged in

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<sup>31</sup> Rasler and Thompson 1985.

<sup>32</sup> Thies 2005: 454.

<sup>33</sup> Herbst 1990; Centeno 2002. See also Rasler and Thompson 2017 for updated research, in which they modify the traditional aphorism to "the most intensive types of war makes states, but states make war at varying intensity."

internal conflict have a tax ratio approximately seven percent lower than countries not engaged in civil war. Conversely, states involved in external wars have a seven-percent higher share.<sup>34</sup> Cameron Thies' cross-national study produces similar findings, with civil war onset significantly reducing state capacity.<sup>35</sup> Regional analyses of Latin America, Central America and the Caribbean, and the Middle East also lend support to these results and suggest that the negative effect of civil war on the state is magnified by conflict severity.<sup>36</sup>

Like studies of foreign war, research on internal conflict has generated relatively robust findings. Yet, in contrast to earlier work, there is far less consensus on the mechanisms that account for this empirical pattern. From the perspective of the bellicist state-making model, there are several potential mechanisms that might account for the negative relationship between civil war and state development. One potential explanation posits that civil wars are often more limited in scope and thus fail to mobilize society in the same way as interstate war.<sup>37</sup> With more circumscribed threats and greater social and territorial fragmentation, rulers cannot create the same "protection rackets" to accrue resources for state building.<sup>38</sup> Another explanation holds that internal rivals reduce the bargaining power of rulers, lowering investments in fiscal and administrative capacity. High levels of unpredictability and shifting loyalties in conflict prompt leaders to discount the future, with adverse effects for long-term state building.<sup>39</sup>

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<sup>34</sup> Besley and Persson 2008.

<sup>35</sup> Thies 2010.

<sup>36</sup> See Thies 2005, 2006, and Lu and Thies 2013. Interestingly, Thies (2007) finds that the presence of internal ethnic rivals in conflict with the state increases the state's extractive capacity in sub-Saharan Africa. While we might interpret these results to contradict other cross-national and regional studies, it is important to note that here the measure of the dependent variable is for the same year as the conflict, rather than ten years out to proxy for long-term state development, as in Thies (2005, 2006, 2010). This may account for the contradictory findings. Indeed, Thies (2007) contends that "situations of increased extraction have not led to the extensive reorganization of state-society relationships characteristic of the European experience," which has limited state building in sub-Saharan Africa overall (716).

<sup>37</sup> See Centeno 2002; Herbst 2000.

<sup>38</sup> Tilly 1985.

<sup>39</sup> Collier 1999: 8.

Overall, the explanations for why civil war hinders state development adopt the same macro-structural focus as studies of interstate war, centering on processes of institutional weakening due to divided loyalties and barriers to public investment. However, they are unable to explain alternative accounts, which find that internal conflict can also have “state building” effects. Slater, for example, finds that when domestic conflict is “endemic and unmanageable” it prompts elites to forge “protection pacts,” which facilitate state extraction.<sup>40</sup> Stanley also observes this dynamic in El Salvador, where the state exaggerated threats to legitimize greater demands on private capital.<sup>41</sup> Explanations premised on classic bellicist theories are thus unable to capture the more heterogeneous set of state outcomes within internal conflict.

### *Civil War, Predation, and Corruption*

While the state building literature emphasizes the destructive effect of civil war on state institutions, scholarship on the political economy of conflict recognizes how civil war creates alternative orders characterized by corruption and criminality.<sup>42</sup> Rather than represent “the breakdown of a particular system,” conflict is conceptualized as “a way of creating an alternative system of profit, power, and even protection.”<sup>43</sup> Intrastate conflict builds economies characterized by pillage, protection money, and illicit commerce.<sup>44</sup> Postwar state weakness is thus a product of the predatory practices bred during armed conflict. The parasitic, illicit, and predatory nature of the wartime economic activities engenders distinct mechanisms of production, exchange, and control that may weaken state institutions and stunt development.<sup>45</sup>

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<sup>40</sup> Slater 2010.

<sup>41</sup> Stanley 1996.

<sup>42</sup> Arjona 2014.

<sup>43</sup> Keen 1999: 11.

<sup>44</sup> *Ibid.*, p. 15; See also Kaldor 1999; Duffield 2000; Nordstrom 2004.

<sup>45</sup> Ballentine and Sherman 2003: 2-3.

The view of war economies as generating alternative institutional orders can be traced to a broader turn from economic grievance to economic opportunity as the key driver of conflict.<sup>46</sup> This view portrays rebellion as a distinctive form of organized crime aimed at looting resource rents on a continuing basis to form a viable armed organization.<sup>47</sup> This predatory behavior contributes to a host of private actors “doing well out of war.”<sup>48</sup> As insurgent looting generates violence and unpredictability, both governments and ordinary individuals discount the future, intensifying criminal practices for personal gain. And while existing research mostly focuses on insurgent-led criminal activities, key studies have developed concepts like the “*shadow state*”<sup>49</sup> and “the criminalization of the state”<sup>50</sup> to describe the nexus of formal state authority and private power brokers that prompt or prolong conflict. The informalization of economic arrangements within conflict generates “a patchwork of appropriated competencies and vested interests” at the level of state institutions as well.<sup>51</sup>

While scholarship on the political economy of conflict has usefully identified the incentives for institutional creation and/or transformation in civil war, it exhibits two important shortcomings. First, it focuses primarily on the economic agendas tied to conflict onset and duration, rather than aftermath, revealing far less about whether and how the criminal-state structures bred in conflict evolve once the fighting ends. Indeed, there is reason to believe that wartime criminal practices have an important effect on the postwar landscape. Postwar criminality is intimately tied to conflict-era structures, “exploiting and building on wartime

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<sup>46</sup> Collier and Hoeffler 1999, 2004.

<sup>47</sup> Collier 2000.

<sup>48</sup> Collier 1999.

<sup>49</sup> Reno 1995.

<sup>50</sup> Bayart et al. 1999: 13-16, 96-97.

<sup>51</sup> Schlichte 2003: 40.

informal trade channels and networks.”<sup>52</sup> Corrupt practices tied to militarization often remain endemic even after the transition to peace,<sup>53</sup> as the political, military, and business elites “who have extended domains of personal control during war [...] find that the stability of peace allows them better profits.”<sup>54</sup> The persistence of wartime predation in many postwar contexts thus suggests a more generalized pattern worth theorizing.

Second, existing empirical accounts do little to draw out the precise effects of conflict dynamics on state institutions and development. To the extent that they address the wartime “weakening” of the state, they hinge on a normative view that corruption necessarily weakens state institutions—an assumption that has been challenged by research on how bureaucratic corruption can bolster state functions.<sup>55</sup> Even a more rigorous account of how armed conflict foments corruption thus falls short in explaining postwar state weakness. To answer this question, we must understand precisely how the predatory institutional arrangements that emerge in conflict come to structure state outcomes.

### *Civil War and Local Governance*

Another research agenda related to wartime institutions has coalesced around the topic of rebel and paramilitary governance. Under this approach, the relationship between civil war and weak state performance might be seen as a function of armed actor decisions to build durable local institutions and their interactions with the civilians they seek to govern. As the conditions of civil war fragment territories and populations, insurgent groups may develop “effective and legitimate governance systems” through which they “provide public goods and regulate conduct

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<sup>52</sup> Andreas 2008: 118.

<sup>53</sup> Mampilly 2011b: 198.

<sup>54</sup> Nordstrom 2004: 201.

<sup>55</sup> Darden 2008: 35.

in areas they hold.”<sup>56</sup> In addition to generating new understandings of community and identity,<sup>57</sup> conflict dynamics spur institutional innovations to regulate local behavior.

Importantly, through this lens, civil war does not have a uniform effect on institutional development; instead, the dynamic and endogenous processes related to controlling territory and eliciting civilian collaboration can shape local orders in diverse ways.<sup>58</sup> Approaches to wartime governance thus move us away from the presumption that civil war has a singular impact on political development. Instead, conflict contexts hold myriad possibilities when it comes to local institutions.

Despite this critical insight, the literature on local order in conflict falls short in other ways. First, it focuses disproportionately on the rebel side of the wartime equation, failing to account for institutional creation and change on the part of state actors. Some insights on this question have been derived from studies of postwar Guatemala; Bateson, for example, finds that where wartime violence was most intense, communities are more likely to engage in collective vigilantism because of the persistence of local civil defense patrols.<sup>59</sup> But overall, wartime state institutions have remained on the margins relative to research on rebel governance and the co-production of order by state and insurgent forces.<sup>60</sup> Additionally, this scholarship tends to privilege local-level structures and fails to account for institutional change within the machinery of the central state. The state apparatus, however, is comprised of a host of rules and procedures that may be refashioned amid conflict. Capturing such processes is critical to understanding how conflict dynamics shape state development in the longer-term.

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<sup>56</sup> Arjona et al. 2015: 3; See also Mampilly 2011; Arjona 2016.

<sup>57</sup> Bergholz 2016.

<sup>58</sup> Arjona 2014.

<sup>59</sup> Bateson 2013.

<sup>60</sup> Staniland 2012.

## Central America from War to Peace

This dissertation examines the wartime introduction, consolidation, and persistence of alternative rules and procedures within the counterinsurgent state—specifically, those that have undermined the performance of extractive, coercive, and administrative institutions in the longer-term. To do so, it zeroes in on one particular regional context that remains relatively understudied within conflict scholarship in political science, Central America, and draws on in-depth institution-level analysis that spans the period from war to peace.

While empirical studies have focused on Central America to derive and test theories on the causes of civil war and political violence,<sup>61</sup> only now are scholars focusing on the region to examine the broader consequences of conflict.<sup>62</sup> Indeed, there is good reason to look to the countries of Central America<sup>63</sup> to assess what civil war leaves behind in the medium- and long-term. At the height of the Cold War, Central America served as a staging ground for US-backed anticommunist campaigns, which sparked civil wars in Guatemala, El Salvador, and Nicaragua to root out leftist insurgent groups. As asymmetric conflicts in which “the rebels [privileged] small, lightly armed bands operating in rural areas,” the Central American armed conflicts are emblematic of the types of irregular civil wars most prevalent during the second half of the 20<sup>th</sup> century,<sup>64</sup> allowing me to build theoretical propositions that are more likely to generalize to other cases.

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<sup>61</sup> Lehoucq 2012; Sullivan 2012, 2015; Brockett 2005; Wood 2003.

<sup>62</sup> Bateson 2013; Thies 2005.

<sup>63</sup> Following others and for the purposes of empirical study, I consider Central America as comprised of Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica. I exclude Belize, a former British colony, and Panama, which seceded from Colombia, because they were not part of the Kingdom of Guatemala ruled by Spain from the 16<sup>th</sup> century until independence in 1821. They thus reflect distinct historical and cultural features.

<sup>64</sup> Kalyvas and Balcells 2010: 418; Kalyvas 2006: 66-8.

In addition, the region's conflicts came to a close through negotiated settlements in the early and mid-1990s, securing formal political peace that has persisted for over two decades. In avoiding the "conflict trap," Central America provides a unique opportunity to assess when and why wartime institutional changes survive even after conflict has ceased. Though the problem of civil war is very often a problem of "repeat civil war,"<sup>65</sup> in Walter's words, conflict relapse is not the only possibility for war-torn states and societies. In countries that manage to clear the initial postwar hurdles to maintaining political stability, it is critical to understand how and why wartime practices and structures can continue to shape political, economic, and social development in the longer-term. Given the regional endurance of formal political peace, Central America provides a fruitful empirical context in which to do so.

### ***Historical Background***

The longest and bloodiest of Central America's internal armed conflicts, the Guatemalan Civil War officially began in 1960, six years after a CIA-backed coup overthrew President Jacobo Arbenz and brought an end to Guatemala's decade of "Democratic Spring."<sup>66</sup> Following a limited, unsuccessful insurrection by young military officers in the 1960s, the conflict escalated dramatically in the late 1970s and early 1980s when the country's leftist insurgent groups began incorporating diverse popular organizations and dramatically expanded their base of support territorially, especially in the northwestern, predominantly Mayan highlands of the country. As a result, military leaders not only targeted urban student, labor, and opposition leaders, but also carried out a brutal campaign to "drain the sea" of insurgent support, eradicating some 626 Mayan communities, according to the UN-backed Historical Clarification Commission (CEH). By the war's end, an estimated 200,000 people had been killed or disappeared and 1.5 million

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<sup>65</sup> Walter 2015: 1242.

<sup>66</sup> Gleijeses 1991.

had been displaced.<sup>67</sup> The CEH determined that the Guatemalan state, which committed roughly 93 percent of wartime abuses, had engaged in “acts of genocide” against five Mayan ethnolinguistic groups.<sup>68</sup> The conflict drew to a close in 1996 after the signing of UN-brokered peace accords between the government, military, and Guatemalan National Revolutionary Unity (URNG).<sup>69</sup>

As in Guatemala, El Salvador’s civil war (1980-1992) was fought between the US-backed military government and a series of leftist insurgent groups under the umbrella of the Farabundo Martí National Liberation Front (FMLN). Following years of violence between guerrilla groups and right-wing death squads, the country was plunged into civil war following the ouster of President Carlos Humberto Romero. The coup gave way to a campaign of mass killing by the Salvadoran armed forces beginning in 1981, which included the ghastly El Mozote massacre that claimed the lives of nearly 1,000 civilians, including some 150 children.<sup>70</sup> As government repression increased, the FMLN stepped up its assault of military and economic targets throughout the mid-1980s and even launched a 1989 offensive that resulted in major territorial gains. With the war at a stalemate and some 75,000 people dead, both sides signed the Chapultepec Accords in 1992, and the FMLN transitioned into a durable political party.<sup>71</sup>

As the civil war reached its most violent moment in Guatemala and got off of the ground in El Salvador, Nicaragua’s left-wing government initiated its own armed campaign against the US-backed Contra insurgency—a conflict that would persist throughout the 1980s. Having come to power in a successful revolution backed by the country’s urban and rural masses in 1979, the

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<sup>67</sup> CEH 1999: 20.

<sup>68</sup> *Ibid.*, p. 317.

<sup>69</sup> See Jonas 2000.

<sup>70</sup> See Danner 1994.

<sup>71</sup> For more information on the patterns of wartime violence in El Salvador, see the 1993 report published United Nations Commission for the Truth in El Salvador, available at <https://www.usip.org/publications/1992/07/truth-commission-el-salvador>.

Sandinista National Liberation Front (FSLN) dismantled the repressive, oligarchic structures of the 43-year Somoza dynasty and implemented a series of transformative social and economic programs to promote health, literacy, and land redistribution.<sup>72</sup> But following the 1980 election of US President Ronald Reagan, the United States ramped up its support for the former Somoza forces, which began organizing an armed resistance movement along the Honduran border. Garnering the support of disillusioned peasant communities, the Contra insurgency targeted Sandinista social and economic projects, prompting greater government repression. By decade's end, the Contra War had claimed some 32,000 lives and wrought nearly \$4 billion in financial losses.<sup>73</sup> The conflict ended with an agreement to demobilize in 1989 and the FSLN's electoral defeat in 1990.

Overall, Central America's three civil wars are emblematic of the kinds of asymmetric conflicts that took place throughout the developing world during the Cold War era. They pitted repressive counterinsurgent states against small, low-tech guerrilla groups, which sought to embed themselves in local communities in order to wage successful rebellion. Yet, at the same time, they represent important variation along a number of political and economic dimensions. On one side, the Guatemalan and Salvadoran Civil Wars were led by right-wing military governments, who allied with oligarchic elites, enjoyed financial and technical backing from the United States, and were guided by the US-crafted anti-communist agenda outlined in its National Security Doctrine (NSD). On the other side, Nicaragua's Contra War was fought between the leftist revolutionary state and a US-backed insurgency, which sought to overturn the FSLN's socialist-inspired political project. These divergent features will allow me to examine how the

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<sup>72</sup> See Nuñez 1991; Christian 1986; Spalding 1994; Colburn 1990; and Goodwin 2001 (Chapters 5 and 6) for histories of the Sandinista Revolution, the Contra War, and the resulting social, political, economic transformations.

<sup>73</sup> Martí i Puig 1997: 117. Casualty figures are from the Correlates of War Dataset available at <http://www.correlatesofwar.org/data-sets/COW-war/intra-state-war-data-v4-0>.

distinct dynamics within irregular, Cold War-era conflicts have shaped institutional development within war and beyond it.

### *Postwar State Weakness or the Criminalization of the State?*

In the aftermath of these brutal armed conflicts, all three Central American countries have defied the odds and sustained political peace. But presently, the region is best known for the unfulfilled promises that have characterized those two decades of peace. Today the countries of Central America are among the most violent, poor, and unequal in the world. In 2015, the region was featured prominently within the list of countries with the highest intentional homicide rates worldwide, with El Salvador and Honduras occupying the first and second spots and Guatemala ranked ninth.<sup>74</sup> According to data from the Latin American Public Opinion Project (LAPOP), in nearly every Central American country, the proportion of the population that has been victimized by crime exceeds the global average, with the majority of citizens seeing no point in reporting crime to authorities due to perceived police and judicial ineffectiveness and corruption.<sup>75</sup>

Central America's three postwar countries also suffer abysmal levels of human development. According to 2014 data from the Economic Commission for Latin America and the Caribbean (CEPAL), roughly 68 percent of Guatemalans, 58 percent of Nicaraguans, and 41 percent of Salvadorans live in poverty. In Guatemala, nearly half of children under five were malnourished.<sup>76</sup> Even as the rest of Latin America reaped the benefits of a major commodities boom in the 2000s, economic growth remained stagnant in Central America, averaging just over

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<sup>74</sup> Data are from the UN Office on Drugs and Crime (UNODC) 2016, which is available at <https://dataunodc.un.org/crime/intentional-homicide-victims>.

<sup>75</sup> Cohen et al. 2017: 72-73; see also Yashar 2018 for an in-depth examination of law and order institutions and violence in Central America.

<sup>76</sup> From UNICEF data on malnutrition in children, which is available at <https://data.unicef.org/topic/nutrition/malnutrition/>.

two percent between 2002 and 2009.<sup>77</sup> A combination of violence-related and economic factors have driven Central Americans—particularly from Guatemala, El Salvador, and Honduras—to migrate north in order to seek safety and economic opportunity. According to some estimates, one in every five native-born Salvadorans now lives in the United States.<sup>78</sup>

A simplistic explanation of these adverse social and economic outcomes in the postwar period is weak state capacity.<sup>79</sup> In this view, high homicide and crime victimization rates are driven by the inability of state security forces to control extralegal violence and ensure justice when the law is violated. Similarly, underdevelopment results from the laggard provision of healthcare, education, and basic infrastructure—challenges exacerbated by the state’s inability to extract tax revenue from the population. Indeed, a look at the conventional (if blunt) outcome- and survey-based measures of state capacity would characterize Central America’s postwar states as among the most ineffective and underperforming in the world. Table 1 provides a snapshot of these indicators for Guatemala, El Salvador, and Nicaragua fifteen years following their respective peace agreements. Even a decade and a half after peace implementation and recovery, Guatemala and El Salvador had among the lowest levels of tax revenue as a share of GDP globally. All three countries exhibited sub-par levels of political capacity relative to countries with similar populations and resources. Further, aggregate indicators for state fragility have remained very high, while all three countries found themselves in the bottom-third globally with respect to perceived government effectiveness and confidence in the rule of law.

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<sup>77</sup> Casas-Zamora 2009: 9.

<sup>78</sup> Menjívar and Gómez Cervantes 2018.

<sup>79</sup> See Casas-Zamora 2011; Yashar 2018; Shifter 2012.

**Table 1.1. Measures of State Capacity in Postwar Central America (15 years after conflict)**

Country	Taxes as share of GDP (all percentages for 2008)*	Relative Political Capacity**	Fragile States Index*** (most fragile=120)	Government Effectiveness (Percentile Rank)****	Rule of Law (Percentile Rank)****
Guatemala (2011)	11.6	0.660	80.1	28.0	14.6
El Salvador (2006)	14.6	0.728	76.1	49.3	30.6
Nicaragua (2006)	21.7	0.826	82.4	20.5	25.3

\*Casas-Zamora, Kevin. 2011. *The Travails of Development and Democratic Governance in Central America*. Policy Paper Number 28. Washington, DC: Brookings Institution.

\*\* Marina Arbetman-Rabinowitz et al. 2011. "Replication data for Relative Political Capacity Dataset." <https://hdl.handle.net/1902.1/16845>. Harvard Dataverse, v4. Relative political capacity measures a state's actual ability to extract resources from its population relative to its predicted level of extraction relative given the level of economic development.

\*\*\* The Fund for Peace. *Fragile States Index*. Accessed January 2019. Available at <http://fundforpeace.org/fsi/>.

\*\*\*\*World Bank. Worldwide Governance Indicators. 19 October 2016. Available at <https://data.worldbank.org/data-catalog/worldwide-governance-indicators>.

But in simply attributing present-day social and economic woes to state weakness, prevailing analyses miss a related, but separate phenomenon that characterizes contemporary Central America: the *criminalization* of the state. State institutions in the region not only lack the ability to carry out routine activities, but they have been penetrated by criminal structures, which have systematically undermined their functioning. Today Central American governments reflect what some have called "mafia states," in which "high government officials actually become integral players in, if not the leaders of, criminal enterprises, and the defense and promotion of these enterprises' businesses become official priorities."<sup>80</sup> Similarly, others have posited that a defining feature of the contemporary institutional landscape in Central America is the "parallel state," or institutional arrangements that combine "formal political authority [...] with an informal power structure that has emerged from the innards of the state, that is organically linked

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<sup>80</sup> Naím 2012.

to the state, and yet which serves its own factional, sector-based or institutional interests.”<sup>81</sup> In other words, viewing the region’s primary challenge as one of chronic state “weakness” tells only a partial story; state institutions in Central America are not merely incapable of carrying out core policies, but they abide by different logics entirely—logics that systematically distort state functions for predatory purposes.

Examples of these perverse institutional arrangements within the post-conflict period abound. Since the creation of Guatemala’s anti-impunity commission, the CICIG, in 2006 to investigate the “illicit security forces and clandestine organizations” left over from the war, numerous state-based criminal structures have been uncovered, including the customs fraud network *La Línea* discussed above. But beyond *La Línea*, the CICIG and its Guatemalan counterparts have revealed a series of illicit schemes within the Guatemalan Social Security Institute (IGSS) to negotiate multi-million-dollar state contracts with pharmaceutical companies for defective drugs in exchange for kickbacks to government officials. The illicit arrangements were believed to have killed 49 dialysis patients and led to serious infections in hundreds more.<sup>82</sup> In Honduras, local investigators exposed a similar scheme, which funneled millions in social security funds to the campaign efforts of the ruling National Party. The case represents just one in a series of “kleptocratic networks” that have flourished within the Honduran state—a political setting in which predation does not reflect the malfunctioning of the state institutions, but is instead the “intentional operating system” that drives state institutions, in the words of Sarah Chayes.<sup>83</sup>

In Guatemala, other investigations pursued criminal networks within the peacetime National Civilian Police (PNC), including death squads responsible for the extrajudicial

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<sup>81</sup> Briscoe 2008.

<sup>82</sup> García 2016.

<sup>83</sup> Chayes 2017: 2.

executions of prisoners in the mid-2000s. Similar extralegal activities have been uncovered within El Salvador's security forces. As in Guatemala, small, elite groups of police officers operating in the shadows carry out sweeps and extrajudicial executions of suspected gang members, who have been blamed for the staggering level of homicidal violence in the country.<sup>84</sup> Groups within both countries' police forces have also been involved in the theft and resale of drug shipments and other fraudulent activities.<sup>85</sup>

Across the region, criminal structures have become part of the fabric of the state, distorting the extraction of tax revenue, the control of violence, and the provision of basic goods and services. Against the conventional wisdom and in the words of one former Guatemalan government official, today's regional political landscape is best characterized not by weak institutions, but by "rather effective institutions, but for the wrong reasons."<sup>86</sup> In light of this broad pattern of state criminalization, the challenge for scholars of Central American politics is not simply to explain why state institutions in the region are ineffective, but what accounts for the alternative institutional logics that have come to define them.

## **Empirical Approach**

This dissertation traces the wartime origins of the contemporary criminalization of the state in Central America by examining how civil war dynamics shaped processes of institutional evolution and introduced alternative, often predatory "rules of the game" that came to undermine core state functions. While not all of the state-based criminal structures that have been uncovered were derived directly from conflict, wartime institutional changes played a critical role in "making" the state according to the undermining logics present today. In order to explain this

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<sup>84</sup> Silva Ávalos 2013; Avelar and Martínez d'Aubuisson 2017.

<sup>85</sup> Ibid.; See also CICIG 2013, 2015.

<sup>86</sup> Interview with author, June 23, 2015.

phenomenon, I adopt a comparative institutional approach, which looks across state sectors and leverages unique archival and interview data. In what follows, I describe the methodology, case selection, and data for this project in greater detail.

### ***Methodology***

This theory-building study departs from conventional correlational analyses, which attempt to pin down the causal effects of armed conflict on state capacity with little attention to the mechanisms driving those effects. To analyze how civil war dynamics shape state development, this dissertation utilizes process tracing at the level of specific state institutions or sectors. I follow Bennett and Checkel in defining process tracing as “the analysis of evidence on processes, sequences, and conjunctures of events within a case for the purposes of either developing or testing hypotheses about causal mechanisms that might causally explain the case.”<sup>87</sup> This dissertation focuses on the task of theory development. Given the dearth of empirical efforts to pin down the underlying mechanisms, my objective is to uncover the “intensive”<sup>88</sup> causal process linking civil war and postwar state development in order to build broader theoretical propositions that can be tested in other contexts. In this vein, process tracing allows me to “[capture] causal mechanisms in action”<sup>89</sup>—to identify the building blocks of wartime institutional change and how their sequencing produces specific institutional outcomes.

This is a particularly worthy goal because it also addresses a broader deficiency within conflict research: the emphasis on “suggestive correlations [...] without understanding the causal processes that underpin associations.”<sup>90</sup> Though process tracing has been an underutilized method within conflict research, leading scholars like Jason Lyall contend that it is critical for

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<sup>87</sup> Bennett and Checkel 2015: 7-8.

<sup>88</sup> “Intensive” causal processes focus on “the transformative sequences of events that originate after the initial cause and yield the effect of interest;” See Falletti 2016: 5.

<sup>89</sup> Bennett and Checkel 2015: 9.

<sup>90</sup> Lyall 2015: 186.

clarifying plausible causal pathways and the complex interactions between causal mechanisms. In Lyall's words, "without moving beyond correlation, we are left blind about the processes and dynamics that drive these relationships, impoverishing both our theories and our ability to contribute to policy debates."<sup>91</sup> By retraining our analytic lens on *how* wartime institutional changes unfold, this dissertation aims to enrich our understanding of the dynamics and processes that drive the relationship between conflict and important political phenomena, like state development.

In addition to departing from conventional correlational analyses, this dissertation also conceptualizes the object of analysis in a distinct fashion. Rather than drawing on typical blunt measures of state capacity, which have been roundly criticized,<sup>92</sup> as the dependent variable (i.e. tax revenue as share of GDP), my approach takes specific institutional logics and the processes through which they develop as its primary focus. It thus develops a novel conceptualization of the *kinds* of rules and procedures that might emerge within state institutions during civil war and seeks to uncover the conditions, dynamics, and processes that contribute to the emergence of those types of institutional arrangements.

To do this, I utilize comparative case study analysis, focusing on state institutional sectors as my comparative cases. By moving beneath the national level and zeroing in on specific realms of state activity, this dissertation heeds calls within the social sciences broadly to move away from notions of the state as "a static, timeless territorial 'container' that encloses economic and political processes" and instead disaggregate its institutional activities and functions.<sup>93</sup> In so

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<sup>91</sup> Ibid., p. 189.

<sup>92</sup> See Dargent et al. 2017; Bersch et al. forthcoming; Hendrix 2010; Soifer and vom Hau 2008; Centeno et al. 2017.

<sup>93</sup> Brenner et al. 2003: 2; see also Ferguson and Gupta 2002.

doing, it follows studies by scholars like Kathleen Thelen and Tulia Falleti, who look across distinct national contexts but zero in on meso-level processes of institutional evolution.<sup>94</sup>

Further, in comparing processes of institutional development, this study follows recent work urging scholars to rethink conventional ideas of what ought to be compared within the study of politics.<sup>95</sup> While most disciplinary studies define cases according to their values on the outcome of interest, valuable insights about the social and political world can also be derived by examining variation in “political processes (how things happen), practices (what people do), meanings (how people interact with symbolic systems), and concepts (how people order their worlds).”<sup>96</sup> This dissertation embraces this more expansive approach to comparison by looking across institutional processes to understand how civil war produces distinct institutional logics.

### *Case Selection*

Within the Central American context, I analyze three institution-level cases: the customs administration and police institutions in Guatemala and land tenure in Nicaragua. Each of these cases demonstrates the wartime emergence of alternative “rules of the game” that have similarly undermined state performance. These specific cases were selected for several reasons. First, they each reflect distinct domains of state activity (extractive, coercive, and administrative realms), allowing me to assess the common building blocks that characterize processes of state institutional change in a broader sense. Second, as mentioned above, by comparing the Guatemalan and Nicaraguan contexts, I am able to leverage variation on core political and structural factors, which could plausibly shape processes of institutional development in different ways. Specifically, the two countries differ widely in terms of civil war antecedents, regime

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<sup>94</sup> Thelen 2004, 2014; Falleti 2010. Of course, while Thelen and Falleti focus exclusively on formal institutions, my study differs in focusing on institutional arrangements that straddle the formal/informal divide.

<sup>95</sup> See Simmons and Smith 2017; Simmons et al. 2018.

<sup>96</sup> Simmons et al. 2018: 1.

structures and ideologies, and the kinds of resources marshalled to wage conflict. The comparison thus provides a critical opportunity to explore why we observe the emergence of similar kinds of institutional logics amid such stark differences. Finally, there are remarkable wartime archival resources that allow me to examine in detail processes of institutional change—often difficult to observe amid the shadows of war—within these sectors, another reason why these particular cases were selected.

My first case analyzes the wartime institutionalization of alternative rules for capturing customs revenues in Guatemala, which systematically undermined the state's extractive performance. As mentioned above, the structure that devised and enforced these rules, known as the Moreno Network, was forged by an elite clique of military intelligence officers, who were granted extraordinary discretion while infiltrating the state apparatus to wage counterinsurgency in the 1970s and 1980s. Insulated from broader state and military structures, they crafted a series of new rules and procedures for siphoning off customs duties. By forging a broader coalition of importers, security officials, and politicians, the Moreno Network ensured the survival of the predatory customs procedures even after Guatemala's transition to civilian rule.

The second case traces the emergence and consolidation of another series of undermining rules that developed in the context of the Guatemalan armed conflict: those governing extrajudicial killing. In the early 1970s, the escalation of counterinsurgency led to the enhanced autonomy and specialization of several elite investigative units within the National Police (PN). Through the fusion of these forces and privatized death squads, new institutional procedures to eliminate "undesirables" through extralegal means developed and came to distort public security provision in the longer-term.

The third case turns to the Sandinista-led state in Nicaragua. It explains the introduction of undermining rules within the agrarian reform program as the rebel threat escalated and land redistribution became a tool of counterinsurgency. By 1983, the growing territorial presence of the Contra insurgency led to a dramatic reorientation of the Sandinista's initially orthodox agrarian policies, prompting much greater individual and provisional titling. These practices crystallized into rules and procedures that undermined the state's ability to regulate land ownership and fomented conflict and corruption. The case thus illustrates how distinct regime structures and ideologies can still generate undermining institutional logics.

This dissertation focuses on three cases of undermining rules, above all, because it seeks to identify the mechanisms underlying the relationship between civil war and "weaker" states. Because they have the effect of contravening core state activities (see Chapter 2), this particular kind of institutional logic corresponds to the process and outcome of interest. Further, because cross-national studies identify a broad, negative statistical relationship between civil war and state capacity, undermining institutional logics may be more prevalent across civil war cases. However, I will address the conditions under which distinct, reinforcing institutional logics might develop amid armed conflict through a shadow case discussed below.

### *Data*

To carry out my process tracing analysis within these cases, I employ fine-grained data collected from wartime state and private archives and elite interviews conducted during a combined 20 months of fieldwork in Guatemala and Nicaragua.<sup>97</sup> Research in Guatemala was conducted from May to July 2014, June to July 2015, September to November 2016, and April to December 2017. In Nicaragua, fieldwork was completed from December 2016 to March 2017.

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<sup>97</sup> See Appendix for full list of interviews and archival collections.

My original archival research yielded unique primary documentation that, in combination, sheds light on wartime institutional processes that have long remained in the shadows. In both Guatemala and Nicaragua, the wartime developments chronicled and analyzed in this dissertation have remained “*un secreto a voces*” [“an open secret”], but have not been substantiated by empirical evidence. By delving into an array of state and non-state archives from the conflict periods, I have been able to illuminate precisely how civil war dynamics in the two countries gave rise the contemporary state structures that have been subject to much speculation, in addition to identifying a broader class of institutional logics that emerge in civil war more generally. These data thus constitute an important empirical contribution within the study of war and postwar politics in Guatemala and Nicaragua itself.

Data collection for this project also follows the burgeoning research focus on conflict archives within political science. In recent years, conflict archives have become more widely utilized resources to examine central questions within the study of political violence. As Balcells and Sullivan suggest, wartime archival documentation often offers better coverage of conflict events over space and time and greater subnational disaggregation, providing unique analytical opportunities.<sup>98</sup> With respect to process tracing analysis to uncover causal processes often difficult to observe, archives also hold advantages over other forms of qualitative data. As Schwartz and Straus note, the archival record “may detail events, actions, and perceptions in real time, overcoming some of the challenges posed by retrospective accounts.”<sup>99</sup> Moreover, archival data collection can potentially allow scholars to mitigate some of the physical risks associated

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<sup>98</sup> Balcells and Sullivan 2018: 139.

<sup>99</sup> Schwartz and Straus 2018: 226.

with interviews and participant observation in conflict zones and can facilitate greater transparency.<sup>100</sup>

Of course, qualitative archival research also faces important challenges. These include issues of access, selection bias, and internal validity.<sup>101</sup> And while archives are often seen as dusty documents to which the constraints of human subjects research do not apply, nearly every facet of the archival research process can impinge on ordinary lives.<sup>102</sup> The uncovering and sharing of sensitive information from historical archives must also weigh the potential harms and benefits to those directly named or discussed within them, as well as others who might be affected. In the course of my archival research for this project, I have remained attentive to these concerns and painstakingly evaluated each piece of archival information to assess potential harms.

While the political conditions and possibilities of archival access in both countries have deteriorated since the time of my field research,<sup>103</sup> Guatemala and Nicaragua do contain substantial archival records that detail institution-level dynamics during and after their respective conflict periods. In Guatemala, I conducted in-depth research in the General Archive of Central America (AGCA), the Historical Archive of the National Police (AHPN), and the archives of the Ministry of Finance and the court system (including the collection of over 17,000 pages of court files from the Moreno Network case). I also consulted private archival collections at the Center of Regional Investigations of Mesoamerica (CIRMA) and the Recovery of Historical Memory

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<sup>100</sup> Ibid.

<sup>101</sup> Ibid.

<sup>102</sup> See Carusi and Jirotko 2009; Davenport 2010; Tesar 2015; Wisser and Blanco-Rivera 2016.

<sup>103</sup> For example, in August 2018, the long-time director of the Historical Archive of the National Police (AHPN) Gustavo Meoño was abruptly removed, and the repository of some twenty million documents was placed under government control. International and domestic civil society leaders billed this move as an attempt to restrict access to sensitive materials that might contribute to human rights trials. See NSA 2018.

(REMHI) project. I also draw on publicly available and confidential records from the CICIG, the hybrid legal body investigating high-level criminal structures in the country. For the Nicaraguan case, I conducted research at the Historical Institute of Nicaragua and Central America (IHNCA), Stanford University's Hoover Institution, and within the archives of the Center for Investigation and Study of Agrarian Reform (CIERA), the research arm of the Ministry of Agricultural Development and Agrarian Reform (MIDINRA).

To supplement and triangulate these archival data, I also conducted semi-structured elite interviews in both countries. Given the concerns of selection bias inherent in archival sources, interviews with individuals knowledgeable about war and postwar institutional developments allow me to probe whether the historical archives, especially those produced by state organizations, omitted, altered, or misrepresented events and dynamics as they occurred.

I utilized snowball sampling to recruit interviewees, drawing on over a decade of research and professional activities in Central America. In Guatemala, I conducted 72 interviews with former intelligence officers, Ministry of Finance personnel, tax and customs officials, prosecutors, economists, security experts, and business leaders. In Nicaragua, I conducted 11 interviews with former MIDINRA and military officials, journalists, and legal experts. Per the research protocol agreed to with the UW–Madison IRB, I conducted all interviews myself without the assistance of an interpreter, and the names of interviewees are withheld in order to protect their safety and privacy. I also omit information revealed in interviews that attributes illegal activities to specific individuals and is not corroborated by other sources. More information on the dates and locations of interviews can be found in the methodological appendix.

## **Organization of the Dissertation**

This dissertation is organized as follows. Chapter 2 presents a theory of wartime institutional change, which accounts for why civil war constitutes a particular site of institutional transformation, the conditions under which undermining or reinforcing rules are introduced amid conflict, and why such rules may persist even after the establishment of peace. It details the causal sequence that characterizes the introduction of alternative rules within war and illustrates how distinct political contexts and coalitional configurations alter the extent to which the new institutional arrangements become consolidated and persist in the longer-term.

The second part of the dissertation examines the causal process underlying the introduction, evolution, and persistence of these alternative rules and procedures empirically within my three Central American cases. Chapter 3 traces the wartime emergence of undermining rules within Guatemala's customs apparatus by the Moreno Network, which systematically distorted the extraction of customs revenue. Chapter 4 demonstrates the introduction of similar institutional logics within Guatemala's wartime National Police (PN), which crystallized into new rules governing extrajudicial executions. Chapter 5 turns to the case of Nicaragua's land tenure institutions. It first discusses how this case allows me to assess a key alternative explanation related to state war-making strategies and then analyzes the emergence of new "rules of the game" within the land reform program, which stoked land insecurity and corruption.

Beyond tracing the wartime introduction of undermining rules, my dissertation develops a shadow case that illustrates the conditions under which conflict dynamics generate reinforcing rules, or those that bolster state functions. This shadow case, presented in Chapter 6, moves beyond Central America in order to capture alternative institutional logics developed in conflict.

It focuses on a wealth tax, known as the “Democratic Security Tax,” introduced at the height of Colombia’s internal armed conflict in 2002. These new tax measures were devised and implemented by a much broader rules-making coalition that incorporated economic elites. The case thus illustrates how, amid a similar wartime environment and institutional void, distinct coalitional configurations generated very different institutional logics.

Chapter 7 focuses on the question of postwar institutional persistence: what explains the survival of the undermining rules devised and implemented in war even after conflict has ceased? By comparing across the three Central American cases, I find that postwar institutional persistence is driven by the enduring political power of the wartime coalition underwriting the alternative rules. This insight challenges prevailing approaches to postwar reconstruction, which focus on formal institutional reform and fail to consider the broader coalitional foundations on which wartime institutional procedures rest. Finally, I conclude this dissertation by exploring how the theoretical propositions derived from my comparative analysis might travel to other conflict and post-conflict contexts, and whether the causal process crafted here might also apply to non-civil war threat environments. I also outline key implications for the study of the state and for postwar reform efforts aimed at strengthening governance and the rule of law.

## CHAPTER 2

### THEORIZING WARTIME INSTITUTIONAL CHANGE

Though there is a general scholarly and policy consensus on the destructive effects of civil war on state institutions, this prevailing view overlooks a body of newer research on civil war as a site of institutional innovation. While conflict is often portrayed as a context of lawlessness and disorder that erodes governance, a growing literature recognizes armed conflict as generative of distinct social, political, and economic institutions, as well as new communities and identities.<sup>104</sup> Even when the previous order has been dismantled, “some form of order often emerges in war zones, where clear rules are enforced.”<sup>105</sup> Indeed, civil war often leads to the production of new or alternative “rules of the game,” which can shape levels of social cohesion,<sup>106</sup> patterns of violence,<sup>107</sup> and democratization<sup>108</sup> even well after conflict has ceased. Understanding civil war as a site of institutional creation is thus important not only for explaining a variety of conflict processes, but also for assessing what they leave behind.

How do we make sense of the competing strands of research? Does civil war primarily trigger state breakdown through the destruction or erosion of state institutions? Under what conditions might the social, economic, and political processes unleashed in civil war create alternative state orders and institutional arrangements? My dissertation tackles these questions and seeks to reconcile the competing theoretical impulses related to the civil war’s destructive and generative tendencies through the lens of wartime institutional change. Though prevailing research on the relationship between war and state formation centers on macro-level processes of societal mobilization and bargaining, I move beneath this broad, structural lens and instead focus

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<sup>104</sup> See Bergholz 2016.

<sup>105</sup> Arjona 2014: 1362.

<sup>106</sup> Gilligan et al. 2014

<sup>107</sup> Bateson 2013.

<sup>108</sup> Huang 2016.

at the level of institutions: how does civil war shape state institutions and, in turn, state performance? Under what conditions might conflict foster rules and procedures that undermine state institutions and under what conditions might it reinforce them? What explains the persistence of the rules devised and implemented in war even after the fighting is over?

My central claim is that rather than prompting sweeping processes of state building or destruction, civil war dynamics induce more minute changes at the level of institutions, which can also have significant, longer-term effects on state performance, or how “state [organizational] capacity is deployed and how it is received in its political, social, and economic environment.”<sup>109</sup> Put simply, armed conflict alters the rules by which a whole host of state and non-state actors operate; precisely how state institutions change in war—the *kinds* of rules that are introduced—shapes the effects of conflict on state performance. The rules that emerge may be guided by two distinct institutional logics: they may be *undermining* and generate outcomes that contravene a given state function, or *reinforcing* and produce outcomes that coincide with and bolster a given state aim.

Drawing on this typology, I put forward a new approach to wartime institutional change within the state apparatus, which accounts for the different kinds of institutional logics that take shape as the escalation of the insurgent threat opens up space between the prevailing rules and their enforcement. Through the empowerment of new counterinsurgent elites or the centralization of authority in existing rulers, new, undermining rules reflecting narrow coalitional interests emerge and take root within the state. Depending on the necessity and ability of this rules-making elite to forge a broader coalition of actors with a stake in the new rules, the undermining institutional arrangements are reproduced and consolidated. Moreover, the postwar survival of the wartime coalition in favor of the undermining rules dictates whether they endure

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<sup>109</sup> Centeno et al. 2017: 8.

past conflict and continue to undermine state activities in times of peace. Conversely, where wartime institutional ambiguity leads to the creation of a broad-based coalition to devise new rules through a more expansive, deliberative process, reinforcing rules that bolster state functions are more likely to emerge.

Overall, this approach posits a new explanation for the negative relationship between civil war and state development. To the extent that civil war is correlated with state “weakness,” it is because of the kinds of rules and procedures it *creates*. In other words, rather than constituting the “wrong kind” of war for building states, as scholars of state formation have suggested, civil war instead builds the “wrong kind” of state institutions. Beyond providing a new explanatory framework, my model of wartime institutional change also lays out the causal process through which diverse wartime political settings, coalitional dynamics, and sequencing prompt the creation, reproduction, and consolidation of new rules within state institutions.

To develop this approach, this chapter proceeds as follows: first, I examine why civil war constitutes a site of endogenous institutional change—that is, the characteristics of conflict that generate institutional ambiguity and are conducive to the introduction of new rules within state institutions.

In the second section, I conceptualize the *kinds* of rules that emerge in conflict, focusing specifically on institutional logics that are undermining, or generate outcomes that contravene or diverge from a given state function, and reinforcing, or generate outcomes that coincide and converge with a given state function.

In the third section, I theorize the emergence of undermining rules—the primary focus of this dissertation—by elaborating the causal process through which the wartime escalation of the insurgent threat empowers and insulates political-military elites, who then introduce new rules

within state institutions. Depending on the political context and the presence of veto possibilities due to competing intrastate factions, the rules-making elite draws together a broader coalition in support of the alternative rules, allowing for their reproduction and consolidation. Here, I also highlight how the wartime development of undermining rules differs from the introduction of reinforcing rules that bolster state functions.

Fourth, I assess potential alternative explanations for the emergence of undermining rules in conflict, focusing specifically on two: 1) the role of state war-making strategies and 2) preexisting state institutions.

Next, I examine the second question at the heart of this dissertation: what explains the persistence of the undermining rules developed in conflict even after the fighting has ceased? I theorize that postwar institutional persistence is driven by the endurance of the distributional coalition underwriting the rules implemented during conflict.

Finally, I conclude with a summary of how my institution-centered approach not only gives us leverage in explaining the relationship between civil war and state performance, but addresses key conceptual and empirical challenges related to studies of “the state” more generally.

### **Civil War and Endogenous Institutional Change**

Against the macro-level focus of existing explanations, the central claim of this dissertation is that civil war induces more minute changes at the level of institutions, which can also have significant, longer-term effects on state performance. In short, armed conflict alters the rules by which a host of political and economic actors operate; precisely how the rules change—the *kinds* of institutional logics that develop—mediates the effects of conflict on state

performance in the longer-term. In this section, I explain why civil war constitutes a site of institutional malleability and facilitates the introduction of new rules structuring state activities.

Following standard approaches, I define institutions as the “rules and procedures that structure social interactions by constraining and enabling actors’ behavior.”<sup>110</sup> This understanding captures both formal and informal rules and procedures.<sup>111</sup> Importantly, per Douglas North’s original conceptualization, institutions are distinct from organizations, understood as the “players”—the “groups of individuals bound by some common purpose to achieve objectives.”<sup>112</sup> Organizations may include “political bodies (political parties, the Senate, a city council, a regulatory agency), economic bodies (firms, trade unions, family farms, cooperatives), social bodies (churches, clubs, athletic associations), and educational bodies (schools, universities, vocational training centers).”<sup>113</sup> The “rules of the game”—institutions—define the way these organizational actors play the game, but are distinct from organizations themselves.

*State* institutions are the constellations of rules and procedures that comprise the different arenas of government activity, defined here as the extraction of tax revenue, control over the means of coercion, and the administration of basic goods and services.<sup>114</sup> Though states perform a number of social, political, and economic functions, these three areas reflect analytically distinct domains and are most often cited in contemporary political science scholarship.<sup>115</sup>

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<sup>110</sup> Helmke and Levitsky 2006: 5. There are, of course, many alternative conceptualizations of institutions; however, this dissertation approaches institutions as “rules and procedures.” For overviews of alternative understandings, see, for example, Thelen 1999; Hall and Taylor 1996; and Moe 2005.

<sup>111</sup> See North 1990; Carey 2000.

<sup>112</sup> North 1990: 4-5.

<sup>113</sup> Ibid.

<sup>114</sup> Soifer 2015.

<sup>115</sup> Ibid.; Tilly 1975; Hanson and Sigman 2013.

Even as scholars of political violence focus greater attention at the institutional level, there has been relatively little theoretical discussion of what it is about civil war that generates institutional change. The presumption is that civil war—as a struggle for political control—prompts armed groups to build institutions to govern, and that wartime institutional design is driven by strategic calculations and objectives, group ideologies, interactions with the civilian population, and prewar structural features, among others. But why might state institutions become prone to change during civil war in the first place?

Here, I follow James Mahoney and Kathleen Thelen in attributing institutional change to “the ‘gaps’ or ‘soft spots’ between the rule and its interpretation” and to the levels of discretion potential change agents have in refashioning the rules.<sup>116</sup> These two dimensions go hand in hand. Where the rules are ambiguous, actors are often afforded greater latitude in refashioning them or redirecting them toward alternative objectives. But even where the rules are less ambiguous, discretionary practices may permit the grafting of new institutions onto old ones, which can eventually bring about change.<sup>117</sup>

Mahoney and Thelen’s theory of institutional change assumes a “power-distributional approach,”<sup>118</sup> whereby institutions are primarily distributive instruments and institutional evolution is “a contest among actors to establish rules which structure outcomes to those equilibria for them.”<sup>119</sup> Institutions are “created to serve the interests of those with the bargaining power to devise new rules.”<sup>120</sup> In other words, they are products of political coalitions and conflicts. Change is driven by the fluid coalitional bases on which institutions rest. As rules that pattern behavior, institutions have “unequal implications for resource allocation” and are thus

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<sup>116</sup> Mahoney and Thelen 2010: 14, 21.

<sup>117</sup> Ibid., p. 20.

<sup>118</sup> See Thelen 2004; Streeck and Thelen 2005; and Mahoney and Thelen 2010.

<sup>119</sup> Knight 1992: 126

<sup>120</sup> North 1990: 16

always “fraught with tensions” and vulnerable to revision.<sup>121</sup> “Inherent ambiguities or ‘gaps’ that exist by design or emerge over time” between the rules and their enforcement are exploited by political coalitions with distinct interests and, depending on the balance of power, may lead to institutional replacement, refashioning, or repurposing.<sup>122</sup>

There are three important features of civil war that prompt “gaps” in the rules structuring state activities and the exploitation of these gaps by competing political-military actors. They emerge from the understanding of civil war as a context of “dual or divided sovereignty.”<sup>123</sup> Though levels of contestation and violence vary, all civil wars are characterized by “the effective breakdown of the monopoly of violence by way of armed internal challenge.”<sup>124</sup> State leaders thus perceive a heightened sense of threat and vulnerability, which may alter military approaches to combating the enemy. Relatedly, the contested boundaries of sovereignty provoke uncertainties about who is an ally and who is a rebel: “civil war assimilates and makes undecidable brother and enemy, inside and outside [...] the killing of what is most intimate is indistinguishable from the killing of what is most foreign.”<sup>125</sup>

As a context of divided sovereignty, civil war is a moment particularly prone to institutional change, first, because it permits the suspension of existing rules to combat a threat often perceived as serious, if not existential. Though perceptions of threat vary, the condition of dual sovereignty often prompts a “state of emergency” or “state of exception” in which the actor claiming sovereignty transcends previously established rules in the name of preserving the polity, thereby generating an institutional gray zone.<sup>126</sup> As Giorgio Agamben writes, “One of the

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<sup>121</sup> Mahoney and Thelen 2010: 8

<sup>122</sup> Streeck and Thelen 2005: 19

<sup>123</sup> Kalyvas 2006: 18.

<sup>124</sup> Ibid.

<sup>125</sup> Agamben 2015: 14-5

<sup>126</sup> Schmitt 2005; Agamben 1998.

paradoxes of the state of exception lies in the fact that in the state of exception, it is impossible to distinguish transgression of the law from execution of the law, such that what violates a rule and what conforms to it coincide without any remainder.”<sup>127</sup> Indeed, the suspension of the rules in civil war, which occurs in a *de jure* sense through frequent wartime government declarations of states of emergency, creates deep institutional ambiguity, opening up space for change.

But even if civil war does not lead to the suspension of existing rules in such a dramatic fashion, it may discourage state leaders from monitoring compliance with the rules, either because such monitoring is too costly or because the existing rules undermine counterinsurgent objectives.<sup>128</sup> This is the second feature that makes civil war prone to institutional change. In combatting an insurgency, government leaders may not have the resources or personnel to oversee compliance with tax laws or the procedures governing police conduct, land titling, or road construction, for example. Cumbersome bureaucratic regulations may be direct obstacles to urgent wartime political and economic needs, like military acquisitions, recruitment, and surveillance. The new imperative of defeating an insurgency and safeguarding the state thus alters the enforcement of existing rules because of this reorientation of goals and priorities.

Finally, institutions are particularly susceptible to transformation in civil war because state actors are typically given high levels of discretion in planning and carrying out counterinsurgent operations, which may create new rules. The view of civil war as generative of alternative social, political, and economic orders emphasizes the license afforded to armed actors in such contexts. The “high degree of informalization of both the economy and politics” results in systems “extremely susceptible to arbitrary decisions and instrumentalizations for [...] private

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<sup>127</sup> Agamben 1998: 57.

<sup>128</sup> Collier 1999.

ends.”<sup>129</sup> Given the imperative of eliminating an internal enemy, armed actors exploit the permissive environment to introduce new rules.

Overall, my approach to wartime institutional change does not envision civil war as an exogenous shock that inevitably disrupts existing institutional arrangements or as a critical juncture that sets states unwaveringly on a particular developmental path. Instead, I view the wartime introduction of new rules as reflecting a less abrupt and endogenous process of institutional change.<sup>130</sup> Embedded in ongoing contestations over political power, institutional change is best modeled as a causal process that is not necessarily linear and may, in fact, be comprised of reinforcing and non-reinforcing event sequences, depending on levels of competition and coalitional dynamics amongst diverse political actors.<sup>131</sup>

Of course, more gradual, endogenous theories of institutional change seek to explain institutional emergence, transformation, and breakdown during “normal times.” In drawing on this approach, I certainly do not mean to claim that civil war reflects “normal times.” But while civil war can certainly be a source of tremendous institutional upheaval, recent political violence research points to significant variation in in wartime political orders, local institutional dynamics, and repertoires of conflict violence;<sup>132</sup> presuming that civil war reflects an exogenous shock that does similar work across national, and even subnational, contexts papers over this wide-ranging variation. In other words, while I do not consider civil war writ large to constitute a stable or normal political environment, I do posit conflict environments are not uniform and that the distinct dynamics within conflict matter for processes of wartime institutional change. For this

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<sup>129</sup> Schlichte 2003: 31, 33

<sup>130</sup> See Greif and Laitin 2004.

<sup>131</sup> Tsai 2006.

<sup>132</sup> Staniland 2012; Arjona 2016; Gutiérrez-Sanín and Wood 2017.

reason, I treat civil war as a setting propitious for institutional transformation but focus on specific conflict dynamics as the engines of institutional development itself.

### **Conceptualizing Variation in Wartime Rules**

Civil war constitutes a context particularly susceptible to institutional transformation within the state apparatus for the reasons laid out above.<sup>133</sup> Yet the question remains: in what ways might institutions change and with what effects? What kinds of rules and procedures might be introduced in the gray area between the prevailing rules and their enforcement? I draw from Gretchen Helmke and Steven Levitsky’s typology of informal institutions to conceptualize different kinds of rules that may emerge in the “gaps” or “soft spots” constituted in armed conflict and their distinct effects on state performance.<sup>134</sup> Here, one of the two dimensions used to classify informal institutions is their degree of convergence with formal rules—that is, “whether following the informal rules produces a result substantively similar to or different from that expected from a strict and exclusive adherence to the formal rules.”<sup>135</sup>

Here, I focus on a specific class of formal rules: the functions typically attributed to state organizations, most often defined as the extraction of revenue, control over the means of coercion, and the administration or regulation of basic goods and services.<sup>136</sup> I thus conceptualize two types of wartime rules that might be introduced within state institutions: 1) *undermining rules*, or those that diverge and produce substantively different outcomes from a given state

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<sup>133</sup> This dissertation does not claim that civil war is the only context susceptible to institutional changes within the state apparatus. Rather than claim that civil war is the primary causal force inducing institutional transformation, my purpose is to use the paradigm of institutional change to explain how and under what conditions civil war reshapes the state institutional landscape and, in particular, produces undermining rules that contravene state functions. I address this further at the end of the section.

<sup>134</sup> Helmke and Levitsky 2006: 13.

<sup>135</sup> Ibid.

<sup>136</sup> Soifer 2015.

function, and 2) *reinforcing rules* or those that converge with and produce substantively similar outcome to a given state function.

In addition to Helmke and Levitsky's typology, this conceptualization echoes other scholarly efforts to identify the range of relationships between formal and informal institutions. Lauth's early categorization, for example, cites "conflicting" relationships, whereby "the two systems of rules are incompatible," and "complementary" relationships, in which "they coexist side by side and mutually reinforce and support each other."<sup>137</sup> Similarly, among four potential formal-informal institutional arrangements, Grzymala-Busse points to "undermining" informal institutions, which "feed off and contravene emerging or existing formal institutions," and informal institutions that "support or reinforce" formal institutions.<sup>138</sup> Finally, in her research on hybrid governance and armed actors in Nigeria and Democratic Republic of the Congo, Meagher distinguishes between "constructive and corrosive forms of non-state order," which also speak to the undermining or reinforcing relationship between formal and informal authority.<sup>139</sup>

Drawing on these prior concepts and definitions, my framework places rules at the center of the relationship between civil war and state performance. Though certainly not the only context propitious for institutional transformation, counterinsurgent imperatives produce "gaps" or "soft spots" in the prevailing institutional order, creating an environment susceptible to change. The rules that emerge may be guided by two distinct logics: they may be *undermining* and thus generate outcomes contrary to a given state function, or *reinforcing* and thus produce outcomes that coincide with and bolster a given state aim.

Some additional clarifications with respect to the scope of this approach are in order. Importantly, my conceptual framework simplifies Helmke and Levitsky's typology (as well as

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<sup>137</sup> Lauth 2000: 25.

<sup>138</sup> Grzymala-Busse 2010: 321, 324.

<sup>139</sup> Meagher 2012: 1074.

the others I highlight), first, by glossing over the “formal” or “informal” quality of the rules in question and, second, by bracketing the other dimension, formal institutional *effectiveness* or the extent to which rules “that exist on paper are enforced or complied with in practice.”<sup>140</sup> I make these simplifications because of my focus on the *outcomes* of wartime institutional change. On the question of informal versus formal institutions, I am not concerned with whether the rules that emerge during civil war are official or unofficial, or whether they become so in the aftermath of conflict. As the coming chapters will illustrate, the boundary between “unwritten [rules and procedures] that are created, communicated, and enforced outside of officially sanctioned channels” and their “written” counterparts that are “created, communicated, and enforced through channels widely accepted as official”<sup>141</sup> is often much murkier in practice and, I would argue, less significant than their substantive outcomes.

On the second question, the effectiveness of formal institutions, I similarly posit that whether alternative institutional arrangements substitute for some “weak” set of rules or coexist beside some “strong” set of rules is secondary to and may actually be independent of the institutional outcomes themselves. As Grzymala-Busse notes, in transitional moments such as regime change and civil war, “we cannot assume the strength of any particular formal institution, since these are constantly being abolished, transformed, and established anew.”<sup>142</sup> Undermining rules can shape political outcomes whether the prevailing formal institutions are strong or weak and may, in fact, influence “the emergence and transformation of formal rules” rather than the other way around.<sup>143</sup> For these reasons, I focus not on the purported effectiveness of the

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<sup>140</sup> Helmke and Levitsky 2006: 13.

<sup>141</sup> *Ibid.*, p. 5.

<sup>142</sup> Grzymala-Busse 2010: 313.

<sup>143</sup> *Ibid.*, p. 314.

prevailing rules but on whether the new rules *undermine* or *reinforce* the set of specified activities typically attributed to state organizations.

Additionally, I distinguish undermining and reinforcing rules from the presence or absence of corruption. Per conventional definitions, corruption is “the misuse of public office for private gain.”<sup>144</sup> Though undermining rules often entail the misuse of public office for private gain, it is important that we not conflate them with corruption for two key reasons. First, as Helmke and Levitsky note, corruption is not always an institution—that is, corrupt behavior is not always “organized and enforced from above” or “rooted in widely shared expectations among citizens and public officials.”<sup>145</sup> Depending on the social and political context, corruption may instead be an anomalous activity or even an informal behavioral pattern that does not correspond to a set of shared rules.

Secondly, unlike the concept of undermining rules, which is rooted in substantive outcomes vis-à-vis state functions, corruption, even when rule-bound, does not necessarily imply a uniform effect on state performance. Despite the normative view that links corruption to state breakdown, some empirical accounts indicate that corruption may bolster state capacities. For example, Darden finds that, “where graft is informally institutionalized [...] it provides the basis for state organizations that are effective in collecting taxes [and] maintaining public order.”<sup>146</sup> In this sense, even institutionalized forms of corruption fall short for my purposes. Though I take corruption to be a (likely) symptom of undermining rules, it is merely a subset of the phenomenon of interest within this dissertation. Instead, my approach centers on the rules and

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<sup>144</sup> Treisman 2000: 399.

<sup>145</sup> Helmke and Levitsky 2006: 7.

<sup>146</sup> Darden 2008: 35.

their underlying logics, which entail specific outcomes vis-à-vis state functions.<sup>147</sup> And as I will demonstrate within my empirical analysis, undermining rules that entail corruption are not the only form we observe in the Central American context. In Nicaragua, for example, it was efforts to peel peasant support away from the insurgency—strategic military and political aims—that gave rise to new undermining rules within land tenure institutions.

The rule-bound quality of the phenomena in question also distinguishes them from *practices*. Practices, in the words of Lisa Wedeen, are “actions or deeds that are repeated over time; they are learned, reproduced, and subjected to risk through social interaction.”<sup>148</sup> While custom and repetition are inherent in “practices,” there is not necessarily an element of external enforceability as there is in conventional conceptualizations of rules and, in turn, institutions, as I define them here. My object of study is thus more specific than “practice” or “behavioral pattern;” it is further rooted in shared expectations and external enforcement.

Finally, it is worth reaffirming that I do not consider civil war to be the exclusive or even primary driver of institutional change or impetus for the creation of undermining rules within state institutions. Indeed, there is a vast social science literature that attributes institutional change to any number of exogenous shocks or to gradual and endogenous processes of transformation. While I do not see civil war as the universal cause of institutional change, I do consider it to be a context particularly susceptible to institutional transformation: as military imperatives alter the interpretation and enforcement of the existing rules, conflict dynamics open up space for alternative rules to emerge. And while undermining rules that subvert state institutions may emerge from a number of non-conflict-related processes, they represent an

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<sup>147</sup> In this sense, I adopt an approach similar to Koivu (2018), which sees corruption as individual behavior that obscures broader group-level interactions that imply specific state outcomes (48).

<sup>148</sup> Wedeen 2008: 15.

underexplored mechanism linking war and state performance. I will return to the generalizability of my theoretical framework beyond civil war threat environments in the conclusion.

My purpose in theorizing how civil war induces institutional change and the introduction of new, undermining rules is to explain the purported “weakness” or poor performance that characterizes most postwar states. The routine inability of postwar states to carry out their core functions flows directly from the kinds of rules and procedures that are created during conflict itself. I now turn to theorizing this process of wartime institutional change in greater depth.

### The Wartime Introduction of Undermining Rules

The primary focus of this dissertation is explaining the process by which internal armed conflict gives rise to undermining rules, which directly contravene the ability of postwar states to carry out the primary extractive, coercive, and administration functions typically attributed to them. How does the introduction of *undermining* rules within the state during armed conflict unfold?

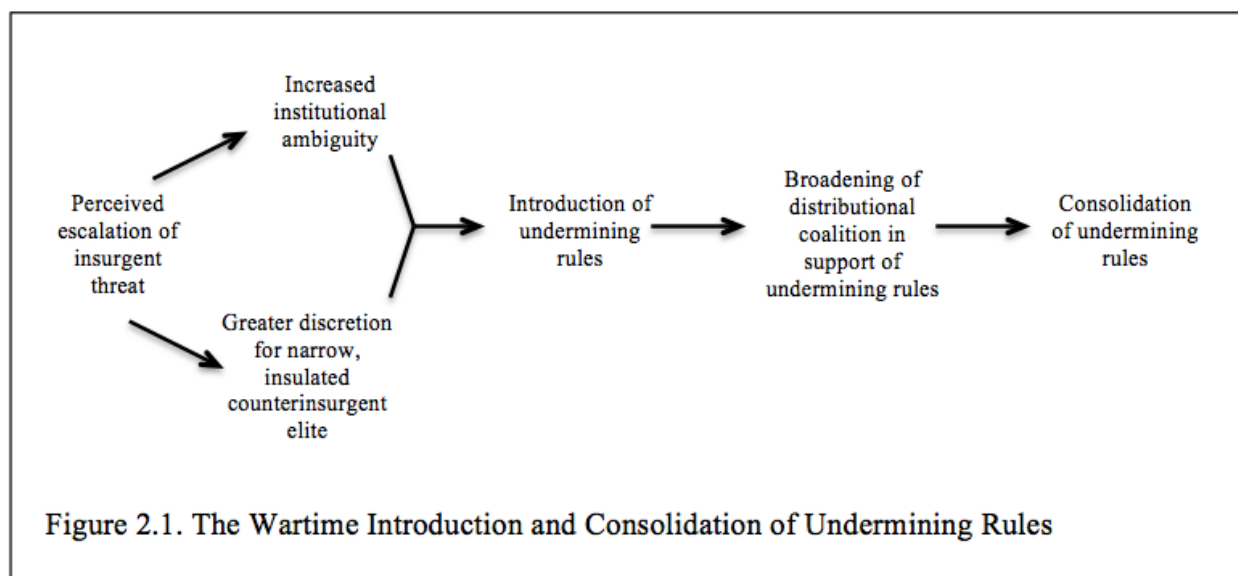


Figure 1 lays out the basic causal sequence through which wartime institutional change occurs. Through the lens of gradual institutional change, the introduction of new, undermining rules is not about sweeping upheaval or the radical transformation of political structures, but the institutional gray zone that emerges within the gap between the interpretation and enforcement of the prevailing rules. Rather than the onset of civil war itself, I am thus primarily concerned with the key wartime variable that generates institutional ambiguity: the perceived escalation of the insurgent threat. This perceived escalation may correspond to the actual expansion of rebel forces, rebel territorial control, and/or rebel resources; however, it need not map neatly onto some objective increase in insurgent military capacity to be *perceived* by rulers as increased threat. It may instead correspond to a geographic shift in battle—for example, the presence of conflict violence in population centers previously untouched by the fighting.<sup>149</sup> It may be fueled by the incorporation of political, ethnic, or religious groups seen as particularly dangerous within rebel organizations. It can also stem from the anticipation of foreign intervention on behalf of the insurgency. Perceptions of escalation may also correspond to new vulnerabilities within the state, irrespective of any change in insurgent capability (i.e. intrastate fragmentation, coup threats, natural disasters, etc.). In short, what matters is *the perception that the insurgency now poses a greater risk to the survival of the state.*

The perceived escalation in the insurgent threat prompts institutional ambiguity—it opens up an institutional gray zone—for the three reasons laid out in the previous section: 1) it permits the suspension of existing rules to combat a threat often perceived as serious, if not existential; 2) it discourages rulers from monitoring compliance with the existing rules; and 3) it grants rulers extraordinary discretion in planning and carrying out counterinsurgent actions, which may introduce new rules. Within my overall theoretical framework, it is thus the perceived escalation

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<sup>149</sup> Slater 2010.

in the insurgent threat that opens up the space between the existing rules and their enforcement, generating a climate propitious for institutional change.

But what accounts for the emergence of new undermining rules within the institutional void constituted in conflict? How do we get from the escalation of the insurgent threat to the consolidation of alternative rules and procedures that undermine state functions? As the perceived escalation of the insurgent threat unsettles prevailing institutional arrangements, it also empowers new political-military actors or further centralizes power in existing leaders, who, as the architects of counterinsurgency, are allotted high levels of decision-making discretion. Amid the sense of heightened vulnerability, this new or existing counterinsurgent elite becomes further insulated from broader political and military structures to avoid insurgent penetration.

Under the pretext of combatting the insurgent threat, this political-military elite devises and introduces new rules. Following Allison and Halperin's model of bureaucratic politics, the kinds of rules introduced "stem from control of implementation [and] control over information that enables one to define the problem and identify the available options."<sup>150</sup> When these wartime powers are highly concentrated, and the rules-making elite possesses short-time horizons and is shielded from broader state structures—as is often the case in irregular civil wars—the new rules are narrowly conceived and correspond to the circumscribed interests of those devising them. The counterinsurgent elite fashions and introduces distributive instruments through which benefits accrue to it narrowly, thus explaining the often-undermining logics that underlie wartime institutional arrangements. In other words, per the power-distributional approach, the counterinsurgent elite fashions and introduces distributive instruments through which benefits accrue to it narrowly, at least initially. In many ways, this logic follows from

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<sup>150</sup> Allison and Halperin 1972: 50.

Bueno de Mesquita et al.'s theoretical proposition that "a small winning coalition with a large selectorate provides the foundation for kleptocracy."<sup>151</sup>

The benefits accrued through the new rules, however, need not be purely material. Beyond the private accumulation of state financial resources or assets, the counterinsurgent elite may introduce undermining rules intended to increase or consolidate its political decision-making power or preserve its rule. In other words, this causal process does not depend on specifying the precise *motivations* of the rules-making elite in introducing undermining rules. It is instead the structural dimension—the narrow and insulated nature of the rules-making coalition—that makes the wartime introduction of undermining rather than reinforcing rules more likely. Held together by narrow sectoral interests and shielded from potential countervailing political forces, the new rules contravene conventional state activities.

But after their introduction, how are the new, undermining rules reproduced and consolidated? Particularly in wartime environments characterized by intrastate competition, the counterinsurgent elite must knit together a broader coalition to underwrite the new rules if they are to survive. In other words, if institutional change and persistence reflect contests to structure distributional outcomes, the counterinsurgent elite must assemble a "team" capable of prevailing in the contest.<sup>152</sup> The reproduction and survival of the undermining rules thus depends on the broadening of the distributional coalition with a stake in them. The relatively circumscribed counterinsurgent elite thus seeks to bring additional state and non-state actors into the fold and forge a robust coalition with a stake in the new rules. This stage is one of institutional consolidation: as distributional benefits accrue to the broader coalition, the undermining rules become increasingly consolidated. Of course, attempts to forge a robust distributional coalition

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<sup>151</sup> Bueno de Mesquita et al. 2003: 129-130.

<sup>152</sup> This is much in line with Bueno de Mesquita's et al.'s "winning coalition," which, when small, hinges on the distribution of personal rewards for survival

will vary depending on how the counterinsurgent elite understands the broader political environment in which it operates. I turn to this question next.

### **Variation in Political Context and Institutional Consolidation**

While the above framework presents a fairly straightforward sequence corresponding to the wartime introduction, reproduction, and consolidation of undermining rules, it is important to consider how the nuances inherent in diverse conflict contexts might shape processes of wartime institutional change. After all, wartime contexts are highly varied, dynamic, and fluid. Civil wars unfold in diverse political environments characterized by different levels of violence, insurgent threat, territorial control, and intrastate fragmentation, among other factors. In this section, I focus specifically on the latter—the fragmentation, political competition, and veto possibilities presented by rival political-military factions—in assessing the extent to which the undermining rules introduced in conflict become consolidated. In short, where the counterinsurgent elite faces few capable challengers, it might be possible to reproduce the new rules without bringing others into the fold; however, this also tends to produce undermining rules that are only weakly institutionalized because they are not underwritten by a broader coalition, as in cases of greater intrastate competition and veto possibilities. Here, I further unpack this variation by looking at how differences in political context shapes the manner in which new undermining rules are consolidated and their subsequent level of institutionalization.

Following Mahoney and Thelen, a key determinant of how the new rules are introduced is “veto possibilities” or whether there are political challengers “who have institutional or extrainstitutional means of blocking change.”<sup>153</sup> I posit that this factor—the presence of veto possibilities—conditions the extent to which the new rules become consolidated during wartime

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<sup>153</sup> Ibid., pp. 18-9.

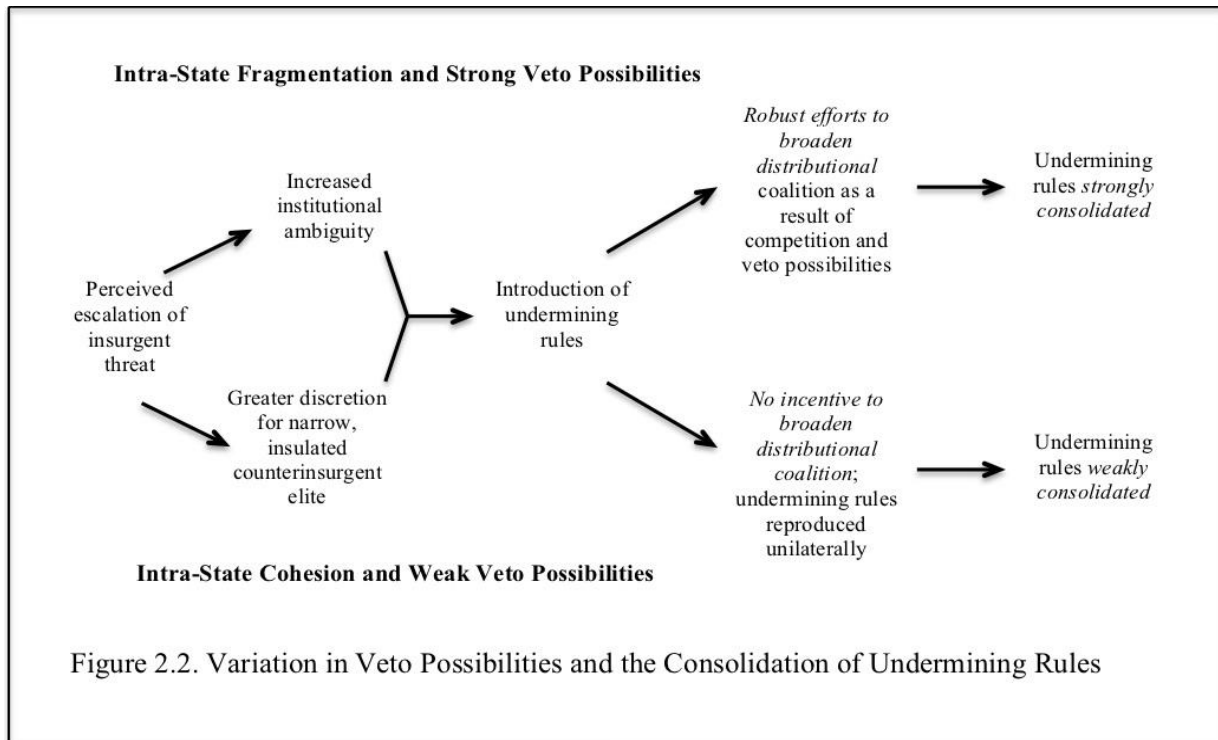
and beyond. This structural factor is thus critical to explaining the longer-term persistence of the undermining rules.

Here, I propose two stylized political landscapes: 1) political fragmentation and thus strong veto possibilities and 2) political cohesion and thus weak veto possibilities. Contexts of fragmentation are defined by multiple political factions competing for power to structure the rules, while contexts of cohesion are characterized by the absence of such factions. In the first case of political fragmentation and strong veto possibilities, the reproduction and survival of the new undermining rules is more dependent on the broadening of the distributional coalition with a stake in them. The relatively circumscribed elite accruing benefits from the new rules thus seeks to bring additional state and non-state actors into the fold and forge a robust political coalition in favor of the new rules as a means of fending off potential challengers. This stage is one of institutional reproduction, whereby the counterinsurgent elite offers material and political inducements to broaden the circle of actors underwriting the new rules. As the distributional benefits of the new rules continue to accrue to the broader set of coalition actors, they become strongly consolidated.

Importantly, and somewhat paradoxically, it is wartime contexts of intrastate fragmentation and strong veto possibilities posed by competing political-military factions that tend to produce the most firmly consolidated undermining rules. This is precisely because political division and the presence of capable challengers forces the rules-making elite to forge a broader coalitional base if the rules are to survive and be reproduced. In other words, the greater the veto potential of competing intrastate or intramilitary forces, the broader the distributional coalition with a stake in the new rules must be and the more deeply entrenched the new rules then become.

This is the primary difference between the processes of wartime institutional change in politically fragmented and politically cohesive environments. In wartime contexts with little political fragmentation and weak veto possibilities, political power is further centralized within a highly insulated political-military elite. Spurred by military imperatives, the ruling elite also uses its extensive decision-making discretion to devise and implement new rules that correspond to its narrow interests. But unlike contexts with strong veto possibilities, they are free to introduce and implement the new rules without drawing together a broader distributional coalition. This is because the potential backlash of competing intrastate or intramilitary factions is not a factor. With virtually no capable challengers, the highly centralized political leadership has less incentive to forge a broad-based distributional coalition with a stake in the new rules. Possessing near-total political control, it is instead able to enforce and reproduce the rules more unilaterally. As a result, the coalition in favor of the new rules is much narrower and more vertically structured. To the extent that the new, undermining rules take root, they remain only weakly consolidated. In other words, where the rules-making elite operates in the absence of competition from rival political-military factions, the undermining rules are unlikely to be supported by a broad-based distributional coalition and, as a result, remain on less sure footing.

Figure 2 maps the distinct paths through which undermining rules are introduced in wartime contexts with strong and weak veto possibilities. In short, the presence of intrastate competition and potential veto players shapes the kind of coalition the rules-making elite must knit together to reproduce and consolidate the new, undermining rules.



## Reinforcing Rules

What accounts for the introduction of undermining rules that contravene state functions rather than reinforcing rules, which bolster them? The emergence of undermining rules in these scenarios can be attributed to the narrow character of the counterinsurgent elite empowered to craft and implement the new rules. Insulated from countervailing political forces and possessing complete decision-making authority, the rules-making elite developing the new institutional arrangements focuses on the benefits that will accrue to it narrowly. Though it must forge a broad-based coalition in favor of the new rules to ensure their survival when faced with strong veto possibilities, the actual rules that are crafted and implemented correspond to its circumscribed interests initially. It is only after the introduction of the new rules that other coalition actors are brought into the fold. In this sense, it is the narrow, insulated nature of the rules-making elite that best explains the wartime emergence of undermining rules.

The structure of the rules-making elite is the key factor that differentiates the wartime emergence of undermining institutional logics from the development of reinforcing ones. Where the formation of broad-based rules-making coalitions takes place immediately following the escalation of the insurgent threat, the new rules that take shape are more likely to be reinforcing—that is, to produce outcomes that are substantively similar to the functions typically attributed to the state. The logic underlying this claim is similar to existing theoretical and empirical accounts of state building within internal conflict. Dan Slater, for example, argues that when the threat posed by violent internal contention is perceived by “a wide range of elites” as “endemic and unmanageable,” they come together to form “protection pacts,” or “broad elite coalitions” that consent to heightened state extraction.<sup>154</sup> Similarly, Diana Rodríguez-Franco argues that enhanced “elite solidarity” is key to increased taxation during armed conflict, while Gustavo Flores-Macías cites “cohesion among business and government elites” as critical to strengthening state capacity in war.<sup>155</sup> Together, these theories imply that when the political decision-making coalition is broader and encompasses actors beyond state elites, wartime institutional changes are more likely to have a state-reinforcing effect.

But what does the actual process of institutional change look like in such cases? As with the introduction of undermining rules, I posit that the emergence of reinforcing rules also begins with the perceived escalation of the insurgent threat, which opens up an institutional gray zone and deepens the need to introduce new rules to address the heightened sense of state vulnerability. But rather than empowering a narrow, insulated counterinsurgent elite or further centralizing power in existing rulers, the perceived escalation of threat instead prompts state elites to draw together a broad-based coalition *to create the new rules*. The new rules thus

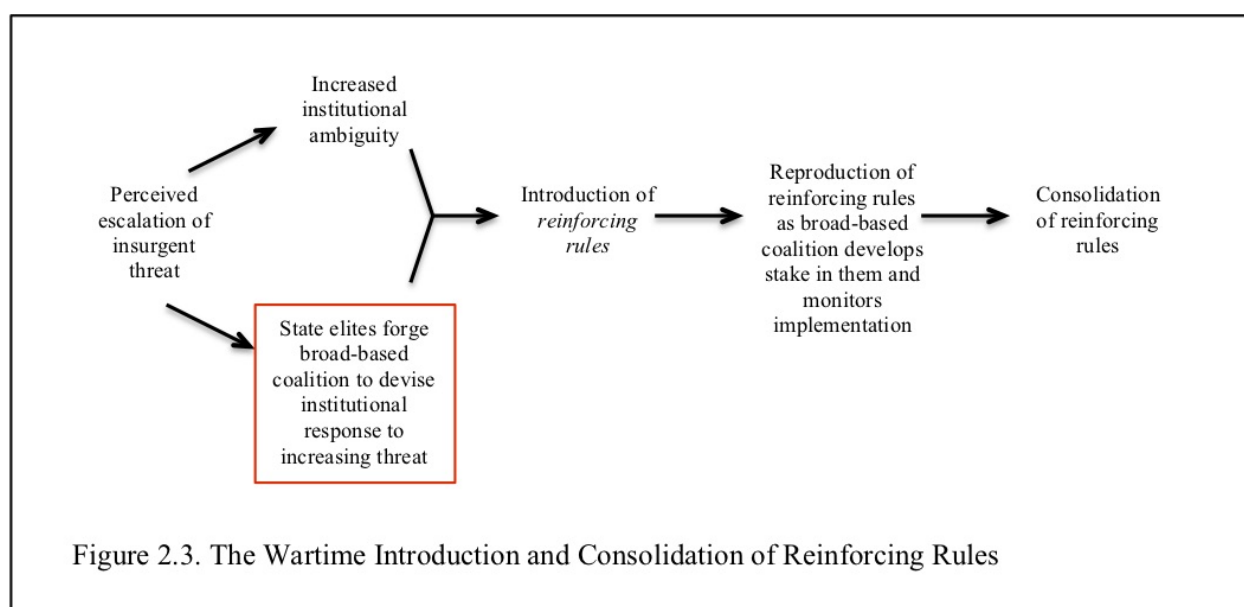
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<sup>154</sup> Slater 2010: 5-6.

<sup>155</sup> Rodríguez-Franco 2016; Flores-Macías 2014.

emerge from a more expansive, deliberative process in which the interests of distinct and sometimes competing elites are represented. The broad-based nature of the rules-making coalition reduces the chance that any one faction crafts the rules for its own benefit or in ways that may directly undermine state functions.

Having established a broad-based coalition in favor of the rules at the outset, the new reinforcing institutional arrangements are then reproduced through the gains they generate and the ability of coalition members to monitor their implementation. Both of these aspects have a fortifying effect. State and non-state elites strengthen their stake in the new rules because of the favorable outcomes. Underwritten by a robust coalition, the rules become strongly consolidated. Figure 3 illustrates the distinct causal sequence corresponding to the wartime introduction of reinforcing rules. Though the wartime creation of reinforcing rules within state institutions will be a secondary concern in this dissertation, explicating this variant of institutional change allows us to grasp precisely how coalitional dynamics and sequencing shape the kinds of rules that emerge in conflict. Where broad-based coalitions form *before* the creation and implementation of the new rules, the resulting institutional arrangements are more likely to bolster state functions.



## **Alternative Explanations**

As the above theoretical framework illustrates, I conceive of wartime state development as an endogenous process of institutional change in which the perceived escalation of insurgent threat creates a gap between the prevailing rules and their enforcement, allowing for the introduction of new rules that come to structure state activities in perverse and often predatory ways. The emergence of undermining rules in these scenarios can be attributed to the narrow character of the rules-making elite empowered to devise and implement new rules. Insulated from countervailing political forces and possessing complete decision-making authority, the circumscribed set of dominant political-military actors develops new institutional arrangements through which material and/or political benefits accrue to them narrowly. By contrast, where the formation of a broader counterinsurgent coalition takes place immediately after the perceived escalation of the insurgent threat, the new rules that take shape are more likely to be reinforcing. Whether the new rules are undermining or reinforcing thus ultimately hinges the nature of the rules-making coalition.

Yet, this is not the only possible explanation for variation in wartime institutional development. In this section, I unpack two potential alternative approaches that might better explain variation in trajectories of wartime institutional development: 1) differences in the state's war-making strategy and 2) prewar institutions.

### ***State War-Making Strategies***

The first alternative explanation corresponds to one of Tilly's classic studies of state formation, which suggests it is *the state's war-making strategy*—its preferred mode for extracting the resources to wage war—that best accounts for different trajectories of institutional development, rather than variation in coalitional dynamics and sequencing. In this account,

modes of war-making can be *coercion-intensive* or *capital-intensive*. Under coercion-intensive strategies, “rulers squeezed the means of war from their own populations and others they conquered, building massive structures of extraction in the process.” Meanwhile, under the capital-intensive scheme, “rulers relied on compacts with capitalists – whose interests they served with care – to rent or purchase military force, and thereby warred without building vast permanent state structures.”<sup>156</sup> The difference between coercion-intensive and capital-intensive modes is thus whether and to what degree the means of waging war are sought through the penetration of mass actors or ad hoc, often transitory, alliances with elites.

The two war-making strategies have distinct implications for the kinds of state institutions that develop. With coercion-intensive strategies, rulers sought access to “the resources [citizens] controlled through household taxation, mass conscription, censuses, police systems, and many other invasions of small-scale social life,” implying “penetration and bargaining [that] laid down new state structures.”<sup>157</sup> By contrast, capital-intensive strategies “relied on some version of indirect rule, and thus ran serious risks of disloyalty, dissimulation, corruption, and rebellion, but [...] made it possible to govern without erecting, financing, and feeding a bulky administrative system.”<sup>158</sup> In the latter case, the “bargains” struck with elites prompt “the broadening of institutions” and can foment predation.<sup>159</sup>

In other words, depending on the kinds of actors and mechanisms state leaders rely on to accumulate the means of war, the rules may shift in divergent ways. Under capital-intensive war-

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<sup>156</sup> Tilly 1990: 30-1.

<sup>157</sup> Ibid., p. 25.

<sup>158</sup> Ibid. While Tilly’s account does suggest that coercion- and capital-intensive pathways (as well as the intermediate variant, capitalized coercion) eventually converged on the formation of national states, these differences played a key role in varied state trajectories initially.

<sup>159</sup> Ibid. In 16<sup>th</sup> and 17<sup>th</sup> century Europe, this meant that “courts originally convened to enforce the king’s writ with respect to arms and taxes became vehicles for the settlement of private disputes, army regiments became convenient places to lodge the nobility’s incompetent younger sons, registry offices set up to receive fees for the certification of documents became sites of negotiation over inheritances” (118).

making, elite bargaining engenders perverse, alternative rules that can undermine state building.<sup>160</sup> By contrast, civil war contexts characterized by more coercion-intensive strategies are more prone to developing reinforcing rules that converge with the official functions of the state. Here, it is not necessarily the nature of the rules-making coalition that determines the kinds of rules that emerge in war, but the societal bases from which state leaders draw resources to wage war in the first place.

### *Prewar Institutions*

A second alternative explanation relates to the role of preexisting institutions. Prewar institutional arrangements may interact with wartime dynamics in different ways to generate particular social, political, and economic outcomes during war; however, the overarching intuition underlying this catchall category is that wartime rules and procedures are a function of those that existed prior to war.

Such an approach has been used to explain wartime phenomena like combatant-civilian relations and insurgent organizational cohesion. For example, Arjona argues that civilian responses to rebel and paramilitary governance during conflict depends on the quality of preexisting dispute resolution institutions. Where civilians have at their disposal high-quality dispute resolution institutions, they “are more prone to dislike the imposition of rebel (or paramilitary) institutions” and “rely on shared norms of behavior and conflict resolution schemes.”<sup>161</sup> Further, armed group governance efforts are themselves a function of preexisting

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<sup>160</sup> It is important to recognize the scope of the Tillyan model and the inherent limitations in applying it to contemporary cases of conflict. Tilly’s account draws on distinctions among a much broader range of polities found in Europe, from more coercive-intensive tribute-taking empires to city-states and federations, which deployed more capital-intensive strategies. In other words, the starting point, for Tilly, was not states, but other political forms found between the 10<sup>th</sup> and 15<sup>th</sup> centuries. Yet, it is the logic of Tilly’s account—that different modes of accumulating resources for war set polities on different institutional paths—that I contend matters for understanding how civil war shapes state development.

<sup>161</sup> Arjona 2016b: 101.

institutions. The introduction of new institutions to regulate civilian behavior is much more likely in communities with low-quality dispute resolution mechanisms prior.

Another approach to explaining conflict processes and outcomes as a function of preexisting structures is captured by Paul Staniland's research on insurgent cohesion and collapse, which puts forward a social-institutional explanation for insurgent organization and change over time. Staniland posits that, "the prewar networks in which insurgent leaders are embedded determine the nature of the organizations they can build when a war begins."<sup>162</sup> In particular, the social bases, or "structures of collective action and social interaction," provide the social and ideational resources that determine levels of organizational integration.<sup>163</sup> The structure of insurgent organizations thus flows directly from prewar social and institutional arrangements.

While these scholarly contributions examine phenomena distinct from my concern with wartime institutional change within the central state, they nonetheless reflect a theoretical intuition that applies to this dissertation: the view that the kinds of rules and procedures developed in conflict contexts are directly related to the kinds of rules and procedures within state institutions *prior* to civil war.

### **Explaining Postwar Institutional Persistence**

Overall, my theoretical model illustrates how alternative, undermining rules emerge and take root during armed conflict. But what explains the postwar persistence of these wartime rules and procedures? When might we expect the rules devised and implemented in civil war to endure and continue to shape the political, economic, and social landscape after the fighting has ceased?

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<sup>162</sup> Staniland 2014: 1-2.

<sup>163</sup> *Ibid.*, p. 17.

What kinds of postwar conditions are necessary to displace or dismantle undermining rules within the state apparatus?

In theorizing the postwar persistence of undermining rules, I again draw from Mahoney and Thelen's power-distributional approach to institutional change. Importantly, this framework refutes conventional approaches that treat institutions as inherently stable or "sticky."<sup>164</sup> As Mahoney and Thelen note, "there is nothing automatic, self-perpetuating, or self-reinforcing about institutional arrangements [...] Those who benefit from existing arrangements may have an objective preference for continuity but ensuring such continuity requires the ongoing mobilization of political support as well as, often, active efforts to resolve institutional ambiguities in their favor."<sup>165</sup> Institutional persistence is itself a dynamic process in which dominant political actors engage in ongoing struggles to adapt the rules in order to fend off or appease challengers, yet also maintain their own distributional benefits. The survival or dismantling of prevailing institutional arrangements thus reflects the stability of the coalitional bases that underwrite them.

In this view, postwar institutional persistence depends on the endurance and power of the dominant wartime coalition supporting the alternative "rules of the game." In postwar environments where the coalition with a stake in the undermining rules remains intact and continues to dominate political decision-making, we can expect the prevailing institutional arrangements to endure as well. By contrast, undermining rules introduced in war are more likely to break down or undergo change in postwar settings characterized by fissures in the wartime coalitions supporting them or where competing actors opposed to the existing rules gain political strength.

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<sup>164</sup> See Thelen 2004: 23-38

<sup>165</sup> Mahoney and Thelen 2010: 9.

The distinct paths of wartime institutional change in environments with strong versus weak veto possibilities hold important implications for when the undermining rules that emerge in conflict are more likely to persist or break down in its aftermath. Recall that in contexts characterized by intrastate or intramilitary fragmentation, undermining rules within state institutions become more strongly consolidated because the rules-making elite must draw together a more robust political coalition with a stake in the new rules in order to reproduce them. By contrast, settings with weak veto possibilities produce more fragile undermining rules because the lack of competing political factions seeking to alter or overturn the new rules; as a result, the narrow and vertically structured political elite is able to reproduce the rules unilaterally and does not need to bring other actors into the fold, leaving the rules only weakly consolidated. These differences suggest that undermining rules devised in wartime settings of relative political cohesion with low veto potential are actually weaker and more susceptible to breakdown in the postwar period. Instead, it is conflict environments characterized by greater fragmentation and veto potential that produce broader coalitional structures, which are more likely to survive and thus uphold the undermining rules following conflict.

This approach to postwar institutional persistence differs from existing explanations in several important ways. While the literatures on postwar reconstruction and peacebuilding are, in large part, normatively oriented, on the whole, they consider rebuilding the state apparatus to be the central task within postwar environments. Recent scholarly interventions have converged on the notion that staving off civil war recurrence and forging a more durable peace is a question of developing strongly institutionalized political and legal structures to enhance government accountability, channel dissent,<sup>166</sup> and rebuild “both the state’s monopoly of violence and the

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<sup>166</sup> Walter 2015.

legitimacy of that monopoly.”<sup>167</sup> By these accounts, civil war leaves societies deeply fragmented and lacking a unified political authority. As a result, the key postwar challenge is reconstructing state institutions that can effectively and peaceably manage conflict and political affairs.<sup>168</sup>

This state building consensus mirrors and complements postwar policy prescriptions that are prevalent within practitioner conversations as well. As Call notes, “agencies throughout the development, humanitarian, policy, and defense fields have recently endorsed the centrality of state institutions in postwar peace-building.”<sup>169</sup> The World Bank’s 2011 World Development Report, for example, cites “weak institutions” as “a common factor in explaining repeated cycles of violence.”<sup>170</sup> Such accounts, in turn, recommend political and legal reforms as a means of strengthening state institutions and public trust in them. Even within the field of transitional justice, there is an increasing recognition that the impact of justice and accountability mechanisms will be limited in the absence of robust and effective state institutions to support and carry them out.<sup>171</sup>

This focus on rebuilding state institutions as a means of securing peace most often looks to two key reform measures: 1) remaking formal state legal and political structures and 2) removing state officials and bureaucrats responsible for wartime human rights violations and predatory practices. The first, reforming legal and political structures, involves a host of institutional measures to promote new, democratic “rules of the game,” especially within the security and justice sectors, that provide for good governance. Such measures usually occur through constitutional reform or other postwar legislation and include, but are not limited to, bringing the armed forces under direct civilian control and removing the military from internal

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<sup>167</sup> Lake 2010: 2.

<sup>168</sup> Sisk 2013.

<sup>169</sup> Call 2008: 60.

<sup>170</sup> World Bank 2011: 10.

<sup>171</sup> Powell 2010.

security and law enforcement operations; creating new or restructuring existing police agencies to institutionalize their role in citizen security and crime prevention; devising new rules for the selection and training of judges to guarantee judicial independence; and, in some cases, decentralizing budgetary and administrative responsibilities to promote greater local participation in government decision-making.<sup>172</sup> Under the logic guiding such policy prescriptions, by rewriting the laws and procedures governing state activities, state actors will behave in ways conducive to the consolidation of peace and democracy.

The second key reform measure often prescribed to rebuild state institutions following civil war is the removal of wartime officials and agents responsible for human rights abuses either through “purges,” the expulsion of all state personnel affiliated with the previous regime, or “vetting,” the process of “assessing an individual’s integrity as a means of determining his or her suitability for public employment.”<sup>173</sup> Purges and vetting are state reform measures insofar as rebuilding state institutions requires getting rid of the “bad apples.” Under this logic, citizens are unlikely to trust newly reformed state agencies if they are staffed with personnel directly responsible for or affiliated with regimes that committed grave human rights abuses.<sup>174</sup> These past acts and associations call into question whether state personnel linked to repressive wartime regimes are likely to abide by the new, democratic rules during peace.<sup>175</sup>

Postwar policy prescriptions thus imply two separate hypotheses for when state reconstruction following conflict might succeed. Under the first, the instantiation of new rules through the reform of political and legal structures will reshape the behavior of state actors in ways conducive to consolidating peace and democracy. Under the second, the expulsion of state

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<sup>172</sup> Sisk 2013; Call 2007.

<sup>173</sup> Duthie 2007: 17.

<sup>174</sup> Mayer-Rieckh 2007: 484-5.

<sup>175</sup> Ibid.

personnel responsible for human rights abuses or associated with human rights-violating governments will enhance public trust in institutions and remove the state actors most likely to breach the new “rules of the game.”

My approach to the postwar persistence of undermining rules, however, turns this question on its head. If we understand the central postwar problem not as one of *rebuilding* state institutions, but *dismantling* and *displacing* the undermining rules that filled the institutional void in conflict, it is not difficult to see why both of these reform measures fall short. Institutional change and persistence is about the stability of the coalition with a stake in the prevailing rules. In this sense, we cannot expect the mere creation of new formal political and legal structures to automatically displace or overtake the undermining institutional procedures constituted in war. This instead depends on dismantling the broader political decision-making coalition through which numerous actors may have developed a stake in the alternative, undermining rules.

Understanding the central postwar challenge as one of dismantling undermining rules introduced in war also casts doubt on explanations premised on the removal of state personnel associated with gross human rights violations. On the one hand, the expulsion of state officials with a strong stake in the survival of the undermining rules may diminish their political authority and disrupt the broader coalitional foundations of the prevailing rules. Yet, on the other hand, the endurance of the undermining rules depends not just on select state actors, but usually also rests on a vast array of non-state actors who accrue benefits from the perverse institutional arrangements. Further, there is nothing to say that these former state officials will not use their connections, knowhow, and political power to reproduce the undermining rules from outside of the state sphere, or that the prevailing coalition in favor of the rules will not offer inducements to bring new state personnel into the fold. Without recognizing the broader coalitional dynamics

underlying the wartime rules, the mere removal or displacement of counterinsurgent actors holds limited promise for undoing the pernicious procedures introduced in war.

## **Conclusion**

Overall, this dissertation provides a new explanation for the relationship between civil war and state performance. Rather than inducing state “weakness” by triggering processes of state breakdown or decay, I posit that armed conflict often erodes state performance because of the kinds of rules it creates—undermining rules that contravene core state activities and distort state outcomes. In contrast to other bellicist explanations of state formation, the question is not whether war “made” the state, but *what kind* of state it made—one grounded in rules conducive to extraction, coercion, and administration or one rooted in rules that fundamentally undermine such activities.

Through this institutional framework, I illustrate how the perceived escalation of insurgent threat during conflict introduces institutional ambiguity, empowering new counterinsurgent elites or further centralizing authority in existing rulers. In the face of heightened state vulnerability, these actors then use their broad decision-making discretion to craft and implement new, undermining rules, which correspond to their own narrow interests. Depending on the political context, the rules-making elite seeks to knit together a broader coalition with a stake in the new rules to facilitate their reproduction and survival. The strength of the coalition underwriting the new rules determines the extent to which they become consolidated and prevail in the longer-term.

This new framework linking civil war, institutional change, and state performance contributes to scholarship on conflict, state formation, and the legacies of war in several key

ways. In a substantive sense, this approach urges us to understand the postwar institutional landscape as a direct product of the kinds of rules and procedures that take shape during war. Rather than a blank slate upon which new state institutions are constructed, the postwar environment already encompasses myriad institutional formations, which may have been devised and implemented in the shadows of counterinsurgency, but nonetheless influence political dynamics in overt and significant ways. Postwar phenomena like the conflict trap are not inevitabilities; neither is state “weakness.” Instead, a key to explaining the postwar institutional landscape in cases across the globe may, in fact, be found in the kinds of rules that develop in the midst of conflict and how they (re)structure the behavior of state and non-state actors thereafter.

Beyond these substantive contributions, my institutional framework also offers several conceptual and methodological advances over prevailing approaches to the study of war and state formation. In addition to capturing distinct trajectories of wartime institutional development within the state, this approach also conceptualizes wartime institutions in a way that overcomes the conventional focus on extraction and opens up new avenues of comparative analysis. Undermining and reinforcing rules, while corresponding to particular institutional outcomes, are not confined to any particular state sector. Rather, they are portable across arenas of state activity. Processes of wartime institutional change that introduce undermining or reinforcing rules may take place within the sphere of tax collection and administration; however, these concepts can also usefully apply to state agencies tasked with monopolizing the use of force, providing public goods and services, or regulating activities ranging from commerce to property ownership. In other words, my institutional framework provides a conceptual language that travels across state sectors and captures similar types of variation in institutional logics.

In an empirical sense, this framework thus opens up new avenues of comparison, which may point to new explanations for when civil war bolsters or undermines state performance. Rather than designing empirical studies using standard measures of state capacity as the outcome (i.e. tax revenue as share of GDP), this approach takes kinds of rules and institutional logics as the object of interest. In this view, similar conditions and dynamics may contribute to the emergence of similar *kinds* of rules across different dimensions of “the state.” This framework is thus useful for identifying causal processes and sequences, even when comparing across state agencies within the same country or across different country contexts. It also circumvents the tendency of cross-national research to draw on aggregate state capacity measures that treat the state as a unitary actor and the state apparatus as an undifferentiated mass of rules and procedures. By focusing in on the level of institutions and institutional processes, we are better able to account for the uneven competencies and practices that characterize different dimensions of the state apparatus. I illustrate this empirically through my analysis of wartime Central America in the following chapters.

### CHAPTER 3

#### THE WARTIME INSTITUTIONALIZATION OF CUSTOMS FRAUD IN GUATEMALA

At 6am on September 14, 1996, investigators from Guatemala's Public Prosecutor's Office (MP), accompanied by military intelligence and National Police (PN) agents, surrounded the home of Alfredo Moreno Molina, the alleged leader of a criminal network within the customs administration. Located in a secluded zone of the Guatemala City-suburb Mixco, Moreno's residence was protected by dozens of private security guards and PN officers, who reportedly fled to the surrounding ravines when investigators arrived.<sup>176</sup> Authorities on the scene began a search that lasted five hours, seizing computers, personnel files, and more than 50 IDs issued to Moreno by different state entities.<sup>177</sup> The judge that authorized the raid eventually arrived to inspect the piles of evidence. Finding sufficient proof of contraband and tax evasion, he ordered Moreno's immediate detention.<sup>178</sup>

Upon his arrest, Moreno was struck by a mysterious health emergency and rushed to a private hospital under heavy security. He gave his initial statement to MP officials from his hospital bed, declaring, "I am innocent of what they've accused me, and the grand show that has emerged in the media has nothing to do with these accusations. I am honorable, hardworking [...] and not part of a criminal band." Meanwhile, authorities received warrants to search six more properties, sequestering additional electronic equipment.

As they put the pieces together, investigators uncovered a vast series of institutional arrangements within the Ministry of Finance and the General Directorate of Customs, which they believed defrauded the Guatemalan state up to \$30 million on a monthly basis for nearly 20

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<sup>176</sup> *El Gráfico* 1996; Letter from the PN's Office of Professional Responsibility (ORP) to the Public Prosecutor's Office (MP), Moreno case files, September 27, 1996.

<sup>177</sup> *Siglo Veintiuno* 1996.

<sup>178</sup> Hernández S. 1996.

years. The mounting evidence not only revealed the fraudulent customs operations coordinated by Moreno, but shed light on the extensive web of associates he had woven in the process—individuals positioned at the highest levels of government. Just days after Moreno’s capture, five police chiefs, four customs administrators, and nine top military officials, including the vice minister of defense, were forced to resign for suspected connections to the criminal structure.<sup>179</sup> Moreno was charged with customs fraud, contraband, bribery, and tampering with evidence.<sup>180</sup>

Moreno’s capture and the unmasking of the “Moreno Network” was an extraordinary feat for the government of Álvaro Arzú (1995-1999), which was concluding a lengthy peace process to end Guatemala’s 36-year internal armed conflict. The case had been in the making for months and was nearly sabotaged on multiple occasions due to leaks from within the investigative agencies. But the highly distorted levels of customs revenue had reached a tipping point, according to top Ministry of Finance authorities.<sup>181</sup> Growing pressure from US intelligence officials—who had identified Moreno as the capo of customs at least five years earlier<sup>182</sup>—pushed the Guatemalan government to take action, according to one top executive official.<sup>183</sup>

Facing stiff resistance from customs personnel, the case was handed off to a small military intelligence taskforce, which worked covertly to investigate the anomalies and identify their source.<sup>184</sup> Even the prosecutors who eventually took over the investigation were unaware it existed until right before Moreno’s capture. As one prosecutor recalled in our interview, “Just a day before the raid on Moreno’s residence, I went to the Attorney General’s office and standing there were military intelligence agents who had participated in identifying the Moreno structure.

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<sup>179</sup> Ramírez Espada 1996.

<sup>180</sup> Juárez 1997.

<sup>181</sup> Interview with author, October 21, 2016.

<sup>182</sup> DIA 1991.

<sup>183</sup> Interview with author, May 30, 2017.

<sup>184</sup> Interview with author, June 12, 2017.

Perhaps not from a juridical standpoint, but they knew there was a network causing serious damage to the state and that it was necessary to move in.”<sup>185</sup>

Though the exposure of such a powerful criminal structure was unprecedented, knowledge of Moreno’s illicit dealings and his ties with top military brass was nothing new. The Moreno Network was, in the words of President Arzú, “*un secreto a voces*” [“an open secret”]. Previous leaders admitted their awareness of the scheme, but felt there was little they could do to dismantle it. Former president Vinicio Cerezo (1986-1990) confessed that despite rumors of criminal activity by military officers formally under his command, “in reality they operate with a lot of independence,” leaving him little recourse.<sup>186</sup> Similarly, ex-president Ramiro de León Carpio (1993-1995) revealed that he “had knowledge of the *contrabandista* Alfredo Moreno Molina but his capture was never ordered because no one, not even military intelligence, could provide proof related to the accusations.”<sup>187</sup>

A week before the raid on Moreno’s home, customs director Luis Pedro Toledo submitted his resignation, citing death threats that began even before his nomination and had reached an “unbearable level.” “Everyone knows about corruption within customs,” affirmed Toledo in a parting interview with the Guatemalan daily *La República*. “It’s not new, which indicates that, for [criminal] actions of this magnitude, there have to be well-organized mafias both within and outside of customs.”<sup>188</sup>

But where did these well-organized mafias come from? How had they managed to impose their will within Guatemala’s customs administration for nearly two decades, diverting millions from state coffers and systematically undermining the state’s extractive capacity? In this

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<sup>185</sup> Interview with author, November 9, 2016.

<sup>186</sup> Shetemul 1996b.

<sup>187</sup> *Prensa Libre* 1996.

<sup>188</sup> De León Polanco 1996.

chapter, I chronicle the genesis and evolution of the criminal structure operating within Guatemala's customs apparatus, which, while bearing Alfredo Moreno's name, never belonged to him alone. Instead, the Moreno Network was forged by an elite clique of military intelligence officers, who were granted extraordinary discretion while infiltrating the state apparatus to combat Guatemala's leftist insurgent groups in the 1970s and 1980s. Amid the heightened sense of threat and growing institutional ambiguity, this counterinsurgent elite became further insulated from broader state and military structures, allowing them to craft and introduce a series of predatory institutional arrangements to capture customs revenues—procedures that crystallized into undermining rules within the customs administration.

These new rules structured a series of illicit customs procedures, including the misrepresentation of customs duties legally paid and merchandise imported, to systemically siphon off large quantities of revenue destined for state coffers. They were strictly enforced through the use of coercion. Moreover, in line with my theory of wartime institutional change, Guatemala's fragmented political landscape marked by significant intramilitary competition prompted the narrow military intelligence elite to forge a broader coalition of state and non-state actors to reproduce the alternative rules. These not only included customs and security personnel, but political and judicial officials and domestic and international importers. As these members of Guatemala's dominant wartime distributional coalition developed a deeper stake in the predatory customs activities, the undermining rules became further consolidated, remaining intact even after the de-escalation of the insurgent threat and the return to civilian rule in the mid-1980s. Overall, the emergence and evolution of the Moreno Network illustrates how the wartime escalation of insurgent threat facilitates the introduction of new rules and procedures, which can drastically distort official state functions, like revenue extraction. It further supports my claim

that wartime contexts of intramilitary fragmentation and competition are particularly prone to the robust consolidation of undermining rules within state institutions precisely because they encourage the rules-making elite to forge a broader distributional coalition to underwrite the alternative institutional arrangements.

To illustrate these claims, the chapter proceeds as follows: first, I examine the escalation of the insurgent threat within Guatemala's armed conflict and its attendant effects on the existing institutional landscape. I assess how the perceived increase in insurgent capacity and territorial presence spurred the professionalization and heightened political influence of military intelligence, focusing specifically on elite units like the Presidential Guard's (EMP) intelligence outfit, known as *El Archivo*. Insulated from broader military structures, *El Archivo* was given extraordinary discretion to infiltrate the state apparatus under the pretext of preventing the flow of arms, cash, and recruits to the insurgency. In the second section, I examine how these developments gave rise to a new rules-making elite: the exclusive clique of high-level intelligence officers, known as the *Cofradía*, which took advantage their growing mandate to infiltrate government agencies in order to seize control of the customs administration.

The following three sections examine the intricacies of the undermining rules introduced within the customs apparatus thereafter. The third section analyzes the figure of Alfredo Moreno and the emergence of the Moreno Network, which coordinated contraband smuggling and customs fraud. The fourth section details the alternative "rules of the game" crafted by the Moreno Network, specifically the adjustment of customs duties, the falsification of import quantities, and the "theft" of shipping containers. The fifth section discusses how these new rules were enforced through the use of coercion and through the cooptation of security forces.

The next part of the chapter focuses on the latter stages of the process of wartime institutional change. Specifically, it examines how the narrow rules-making elite sought to forge a broader distributional coalition with a stake in the undermining rules. Here, my analysis points to two sets of players that were central to upholding and consolidating the undermining procedures within customs. The first was an organizational entity known as *Grupo Salvavidas* [“life preserver” group]. *Grupo Salvavidas* was an association comprised of retired military officers, judges, lawyers, MP officials, and politicians who used bribery within a range of state agencies to ensure impunity for illicit customs activities well into the 1990s. The second set of coalition members is comprised of the clients of the Moreno Network—importers and business elites—whose buy-in to the alternative procedures further institutionalized the distortion of customs revenues.

In the next section, I assess the two alternative explanations elaborated previously, which may account for the wartime introduction of undermining rules within Guatemala’s customs apparatus: the state’s war-making strategy and the effect of prewar institutions. The chapter concludes by returning to the broader causal process articulated in Chapter 2. It illustrates how the escalation of the insurgent threat, the increased decision-making discretion of a narrow military intelligence elite, and the creation of a broader wartime distributional coalition with a stake in the fraudulent activities spurred the evolution and consolidation of undermining rules within Guatemala’s customs apparatus.

### **Escalation of the Insurgent Threat and Expansion of Military Intelligence**

The undermining customs arrangements uncovered in the Moreno case are rooted in the process of militarization that unfolded as new strategic imperatives altered Guatemala’s

institutional landscape. The consolidation and empowerment of specialized intelligence units, such as the Presidential Staff's (EMP) intelligence outfit "*El Archivo*" was a key component of these changes and allowed for more robust surveillance of insurgent activities. Yet, at the same time, such developments granted high-level intelligence officers extraordinary discretion and permitted the infiltration of government ministries, ultimately generating alternative rules that would undermine state extraction. In this section, I examine how the strengthening of the intelligence apparatus and the development of units like *El Archivo* laid the groundwork for the institutional changes to come. In line with the causal sequence elaborated in Chapter 2, perceptions of heightened insurgent threat insulated and empowered a new counterinsurgent elite, while simultaneously generating a climate of institutional ambiguity and operational discretion. The result was a wartime environment susceptible to the introduction of alternative rules devised and implemented by a narrow set of political-military leaders.

Though Guatemala's internal armed conflict officially began in 1960 as an uprising of young, disgruntled army officers, conflict violence in response to insurgent gains peaked during the regimes of Generals Romeo Lucas García and Efraín Ríos Montt between 1978 and 1982. The escalation of rebel threat occurred in the mid-1970s when the leftist insurgent groups, which had maintained a limited territorial presence, revamped their military strategy and geographic focus. Rather than promote a more traditional Marxist approach based on a small vanguard that would trigger broader uprising, they instead sought the direct incorporation of diverse popular organizations, ranging from urban labor groups to rural Mayan communities.<sup>189</sup>

This strategic shift had born fruit by the late 1970s and early 1980s, allowing rebel organizations to expand their support base. According to military expert Héctor Rosada-Granados, by 1981 the insurgent movement had a presence in 16 of 22 departments of the

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<sup>189</sup> Brett 2016.

country, and “in at least 50 municipalities, public buildings had been destroyed as a way of anticipating the process of revolutionary reconstruction [...] after [the insurgency’s] imminent victory.”<sup>190</sup> In addition to insurgent gains within Guatemala, similar leftist challenges to neighboring regimes heightened the sense of threat. In July 1979, Nicaragua’s Sandinista rebels toppled the 43-year Somoza dictatorship, setting off a series of social, political, and economic transformations. In early 1981, El Salvador’s Farabundo Martí National Liberation Front (FMLN) launched its largest offensive of the period. Both domestic and regional military developments thus contributed to increasing alarm that a once circumscribed guerrilla challenge may, in fact, present a major threat to the Guatemalan state.

As fears mounted in the 1970s, the Guatemalan military, with US assistance, undertook serious measures to professionalize its ranks—measures that focused, above all, on strengthening the intelligence apparatus. A relatively young organization that only developed a national identity following World War II, the Guatemalan military remained woefully unprepared to take on the sophisticated tasks required of irregular warfare. Assessments from US military advisors suggest that the field of intelligence was particularly in need of strengthening due to widespread deficiencies within the army’s intelligence division, known as the G-2. One declassified US cable from 1968 claimed that, “within the armed forces the quantity and quality of intelligence gathered by the G-2 is minimal. Evaluation and analysis is nearly non-existent [...] The quality of intelligence produced is fair to poor. The caliber of agents is poor, the amount of money is low, and the systematic intelligence collation and assessment is poor.”<sup>191</sup>

An evaluation by Department of Defense officials nearly four years later was even more damning. It claimed that the army’s intelligence section:

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<sup>190</sup> Rosada-Granados 1999: 154.

<sup>191</sup> USAID 1968: 2-3.

...is relatively small and ineffective. Attempts by conscientious intelligence officers to improve its functions and capabilities have been met with little support from the Army and Government leaders, due in large part to suspicion and antipathy resulting from the former role of the G-2 in conducting investigations of a personal nature [...] Other reasons for lack of effectiveness stem from a lack of proper selection of agency personnel [...] and poor source administration and control.<sup>192</sup>

The strategy for tackling the weaknesses—both technical and interpersonal—in the view of US military advisors consisted of streamlining and strengthening intelligence gathering and analysis as well as empowering elite intelligence units thought to have fewer links the politicized practices of the past. On the first front, the military government of Carlos Manuel Arana Osorio (1970-1974) oversaw the creation of the Joint Operations Center (COC),<sup>193</sup> an agency proposed by US partners to “serve as the *one* location where *all* intelligence on insurgent personalities and their activities is collected and collated.”<sup>194</sup> The centralization of intelligence was also combined with enhanced training and resources. In 1980, the military established its Intelligence School (*Escuela de Inteligencia*) and in 1983, with CIA support, created an advanced intelligence training course.<sup>195</sup> By 1983, the Guatemalan army had some 2,000 new intelligence officers.<sup>196</sup>

But in addition to the streamlining and enhanced training, Guatemalan political leadership came to vest greater power in more specialized elite intelligence units, a response to distrust of the G-2. One such intelligence outfit, which will be the focus of this chapter, was known first as the *Centro Regional de Telecomunicaciones* (Regional Telecommunications Center) or “*La Regional*” and then later as the *Sección de Archivo General y Servicios de Apoyo*

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<sup>192</sup> DIA 1972: 1.

<sup>193</sup> In 1979, under the regime of Lucas García a similar intelligence center called the “Information-Gathering and Operations Center” or CRIO (Central de Recopilación de Información y Operaciones) was created (Vela 2002: 78).

<sup>194</sup> USAID 1968: 11.

<sup>195</sup> Vela 2002: 78.

<sup>196</sup> *Ibid.*

(General Archive and Support Services Section) or “*El Archivo*.”<sup>197</sup> *El Archivo* was the intelligence unit tied to the *Estado Mayor Presidencial* (EMP, Presidential Military Staff), a personal military advisory body that responded directly to the president.

Though some version of a presidential guard can be traced all the way back to Guatemala’s early post-independence period, *El Archivo* was first established under the military government of Enrique Peralta Azurdia in 1964. It was an initiative of the United States’ Office of Public Safety, which, on the basis of National Security Doctrine, sought to strengthen the military’s capacity to identify and eliminate “internal enemies” seeking to destabilize the domestic order.<sup>198</sup> US advisors chose to focus their resources and energy on *El Archivo* and “dismiss the army’s own intelligence structure due to mistrust between the US government and Guatemalan authorities”—mistrust that stemmed from continued suspicions of US intervention amongst the more nationalist factions of the Guatemalan military.<sup>199</sup>

Equipped with superior training and resources, *El Archivo* was formally tasked with “the collection and analysis of information on individuals considered enemies of the political interests of the government.”<sup>200</sup> But in practice its activities were far broader and more discretionary. The Historical Clarification Commission (CEH) notes that *El Archivo* operations extended well beyond presidential security and came to include “developing counterinsurgent activities, advancing political espionage, and elaborating analysis on individual citizens.”<sup>201</sup> While the activities of the G-2 intelligence section of the Guatemalan army largely corresponded to combat

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<sup>197</sup> In the rest of the chapter, I will refer to this organization as “EMP intelligence” or “*El Archivo*,” since the latter was the name used at the height of the unit’s autonomy and political power. Based on my interviews and conversations, it is also the name most Guatemalans associate with it.

<sup>198</sup> Schirmer 1999: 157.

<sup>199</sup> See Dirección de los Archivos de Paz 2011: 102. Efforts to strengthen *El Archivo* through technical assistance were also supported by other foreign partners, including the Israeli and Argentine governments (CEH, Tomo II: 99).

<sup>200</sup> CEH 1999, Tomo II: 101.

<sup>201</sup> *Ibid.*, p. 109.

in conflict zones, the smaller, specialized staff of *El Archivo* played a more overtly political role, selectively targeting political opposition to the regime.<sup>202</sup> To do so, it wove a vast network of civilian informants and controlled other state security organizations, like the investigative divisions of the National Police.<sup>203</sup> *El Archivo* also served as an architect of misinformation campaigns to cover up extralegal activities and manipulate the population.<sup>204</sup>

With its increasing specialization and discretionary power, the EMP's intelligence unit became a key perpetrator of human rights abuses beginning in the early 1970s. Under the pretext of eradicating the insurgency, *El Archivo* developed extensive links to the right-wing death squads operating at the time. Particularly under the government of Arana Osorio, which was heavily backed by the extremist National Liberation Front (MLN), EMP intelligence effectively “served as a security command center to coordinate ‘a covert program of selective assassination.’”<sup>205</sup> Such practices continued through the 1980s, despite the de-escalation of the insurgent threat following the most violent military campaigns waged in 1982. A February 1983 declassified CIA cable indicates that political leadership granted *El Archivo* officers the freedom “to apprehend, hold, interrogate, and dispose of suspected guerrillas as they saw fit.”<sup>206</sup>

But the discretion allotted to *El Archivo* at the height of the conflict went beyond the use of violence and came to encompass political control of a broad array of government agencies. According to the CEH, “beginning in 1978, members of intelligence [...] had penetrated various public entities, including the postal service, telephone service, immigration, customs, the courts, the Ministry of Finance, [and] the Public Prosecutor’s Office,”<sup>207</sup> among

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<sup>202</sup> Vela 2002: 75-6; See also Schirmer 1999.

<sup>203</sup> CEH 1999, Tomo II: 75-6, 86-9.

<sup>204</sup> Ibid., pp. 80-2, 100.

<sup>205</sup> Schirmer 1999: 158; McClintock 1985: 170.

<sup>206</sup> CIA 1983: 1; See also Amnesty International 2003: 4-5.

<sup>207</sup> CEH 1999, Tomo II: 100-1.

others. What began as a “simple infiltration” of these offices turned into “the total incorporation” of intelligence officers within them.<sup>208</sup>

The historical archives of the EMP shed light on this high degree of penetration, which included control of personnel transfers and communications. The 1982 year-end report published by the Secretary of the EMP, for example, cites the “coordination between EMP leadership, the Ministry of Communications, the National Civil Service Office, and the National Postal and Telegraph Service for the processing of new appointments.”<sup>209</sup> In the same year, the “Special Services” division of the EMP “collaborated extensively for the implementation of the communications systems of the Ministry of Finance, the National Police, and the Treasury Police [*Guardia de Hacienda*].”<sup>210</sup> EMP intelligence officers thus actively participated in staffing decisions and oversaw ministerial communications. As one former intelligence officer told me, “with the new technologies, all state entities had been infiltrated by the end of the 1970s.”<sup>211</sup>

The penetration of these government agencies by specialized intelligence operatives was, of course, seen as a very necessary counterinsurgent measure. Various security and justice experts explained that the state agencies infiltrated at the height of the conflict were viewed as strategic sites “theoretically related to national security,” or essential “to monitor the guerrilla movement.”<sup>212</sup> The insurgency’s reliance on the movement of people, information, money, and arms required the development of intelligence capacities throughout the state apparatus and became more urgent as the rebel threat escalated. Interviews with former intelligence agents and officers suggest that it was specifically the threat of overland weapons smuggling that prompted

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<sup>208</sup> Ibid.

<sup>209</sup> Secretaría del EMP, División de Comunicaciones. 1982. *Memoria de Labores*. Doc. C.2.1.6.2-5-S042-0003.

<sup>210</sup> Secretaría del EMP, División de Comunicaciones. 1982. *Memoria de Labores*. Doc. C.2.1.6.2-5-S042-0005.

<sup>211</sup> Interview with author, November 7, 2016.

<sup>212</sup> Interviews with author, June 18 and July 1 and 3, 2015; See also Peacock and Beltrán 2004: 20

the tightening of control in border outposts. “Really, it was the increase in the threat of arms entering via land,” a former intelligence official remarked. “The entry of arms by sea was easier to control. But the way of impeding [entry via land] was infiltrating the ministries.”<sup>213</sup>

Within the Ministry of Finance, which included the General Directorate of Internal Revenue and the General Directorate of Customs, this “infiltration” took the form of a new section called “Office of Special Ministerial Services” or SEM (*Oficina de Servicios Especiales Ministeriales*),<sup>214</sup> created in 1979. The SEM office occupied the 18<sup>th</sup> floor—the top level—of the Ministry of Finance building located in the heart of downtown Guatemala City.<sup>215</sup> The placement of the office on the top floor was, of course, strategic. In addition to providing an unparalleled view over Guatemala City’s historic center, it granted SEM personnel privileged access to the radio communications system anchored by an antenna atop the building.<sup>216</sup> The communications system allowed SEM officers to correspond with customs agents at territorial entry points and receive information about suspicious activities. Indeed, EMP documents from 1983 cite a “radio laboratory section” operating in the Ministry of Finance, which, among other activities, installed, de-installed, and repaired “base stations” at “different administrative and customs sites.”<sup>217</sup>

Though the vast majority of the civilian personnel were not privy to the inner workings of the SEM, many were aware that it existed and was staffed by military officers “on loan” to the Ministry.<sup>218</sup> Though rumors were rampant, Ministry of Finance employees preferred not to pry,

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<sup>213</sup> Interview with author, November 7, 2016.

<sup>214</sup> This office is, at times, referred to as *El Archivo*, further illustrating its links to EMP intelligence.

<sup>215</sup> Interviews with author, October 21, November 7 and 9, 2016; CEH 1999, Tomo II: 101; Moreno declaration, September 19, 1996 in Organism Judicial 2003.

<sup>216</sup> Field notes, October 13, 2016.

<sup>217</sup> Secretaría del Estado Mayor Presidencial, Sistema de Comunicaciones 1983 [Doc. C.2.1.6.2-5-S042-0011].

<sup>218</sup> Author correspondence with Ministry of Finance personnel, October 26, 2016.

especially when it came to military-related matters.<sup>219</sup> But the triangulation of archival documentation confirms that the SEM office was directed not just by any military officers, but by members of the EMP inner circle. Communications between the Ministry of Finance and National Police leadership as well as court documents name four “chiefs” of the SEM during the late 1970s into the 1980s.<sup>220</sup> EMP personnel registries, while incomplete, confirm that the first three were on the EMP payroll during the precise periods for which they served as SEM chief. Wartime documentation thus corroborates firsthand accounts citing the small, 18<sup>th</sup> floor SEM office as an EMP intelligence outpost, which was established under the pretext of capturing “explosives, weapons, things like that.”<sup>221</sup>

The professionalization of Guatemalan military intelligence, which culminated in the infiltration of government ministries by *El Archivo* operatives, illustrates how the counterinsurgent context created a climate propitious for change—for the introduction of new rules—within state agencies. Both the perceived escalation of the insurgent threat and persistent mistrust within the armed forces favored the strengthening of intelligence training and techniques as well as the empowerment of elite intelligence units. Under an aggressive national security mentality, political leadership granted intelligence officers a high degree of operational latitude. This *carte blanche* extended well beyond the use of violence and included control of the communications, personnel decisions, and routine activities within a number of state agencies,

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<sup>219</sup> Field notes, October 13, 2016.

<sup>220</sup> These directors of the SEM office are Major Francisco Ortega Menaldo (1979 to March 1982), Colonel Carlos Eliseo Gálvez Miranda (per police correspondence February and July 1983), Major Roberto Letona Hora (per police correspondence in January 1984), and Major Hugo Francisco Morán Carranza (per police correspondence in January 1986); See AHPN 1983, GT PN 30-01 S009 [Reference No. 5114058]; AHPN 1984, GT PN 30-01 S009 [Reference No. 5113696]; AHPN 1986, GT 50 S028 [Reference No. 4248230]; Secretaría del Estado Mayor Presidencial 1979-1982 [Doc. C.2.1.6.2-5-S001-0040; C.2.1.6.2-5-S001-0042], 1983 [Doc. C.2.1.6.2-5-S001-0049, p. 374], 1984 [Doc. C.2.1.6.2-5-S005-0013, p. 70].

<sup>221</sup> Interview with author, October 27, 2016.

notably the Ministry of Finance and its General Directorate of Customs. Combined, these dynamics fostered deep “gaps” between the existing rules and their enforcement.<sup>222</sup> At the height of the Guatemalan Civil War, the rules of the game were ripe for change.

### **The Rise of a New Counterinsurgent Elite: The *Cofradía***

As the intelligence apparatus was vested with greater autonomy, narrow groupings of officers within it forged strong personal loyalties. These loyalties solidified into tight intramilitary factions that sought political power and state resources through control of *El Archivo*. According to one former intelligence agent, these elite clubs based on “informal affinities” represented an “old boys’ club [*amiguismo*],”<sup>223</sup> with members using their positions of influence to favor others in the group. These informal affinities shaped both which officers were named to important intelligence posts and the distribution of resources accrued through control of the state apparatus. In addition, the fragmented nature of Guatemala’s military structure along these informally drawn lines fostered an environment of persistent intramilitary competition for power, influence, and resources during the course of the armed conflict. The strong veto possibilities that arose from this competition—perhaps best reflected in Guatemala’s five coups and countless coup attempts during the second half of the 20<sup>th</sup> century—would eventually come to influence the degree to which the undermining rules would become consolidated.

In the late 1970s and early 1980s, the most powerful of these intramilitary cliques came to be known as the “*Cofradía*,” a word alluding to the traditional “brotherhood” groups in Mayan communities. At first, the term “*cofradía*” was used in a more general sense and in response to the intelligence-speak used by CIA advisors working in Guatemala in the 1970s. As a former

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<sup>222</sup> Mahoney and Thelen 2010.

<sup>223</sup> Interview with author, November 7, 2016.

Guatemalan intelligence officer explained to me, “When you work for Intelligence, you are part of ‘the community.’ That’s what they’d say in the United States, and so it’s the name the advisors used here. But when they came and started using it, our officers said, ‘We’re not from the community, we’re from the *Cofradía*,’ to make it more Guatemalan [*chapín*].”

Though a more generic term initially, the *Cofradía* eventually came to represent exclusive clique of military officers that ascended to power with General Romeo Lucas García, who presided over the bloodiest period of the Guatemalan armed conflict. According to a 1991 Department of Defense (DoD) cable, the formation of the *Cofradía* is explicitly linked to intelligence-strengthening efforts as the insurgent threat escalated:

By the late 1970’s, it became obvious that at both the tactical and strategic levels, the best of the officers at ranks from captains to colonels, had to be put into positions where their talents could be best used to influence a favorable outcome against the guerrillas. Thus, many of the ‘best and brightest’ of the officer corps of the Guatemalan army were brought into intelligence work and tactical operations planning [...] But while doing so, the Intelligence Directorate became an ‘elite club’ within the officer corps, retaining the very best of officers for consecutive intelligence assignments.<sup>224</sup>

Thus, in the process of empowering a small group of intelligence officers to counter the guerrilla movement, the professionalization of the intelligence apparatus also spawned an “elite club” held together by more informal ties and which maintained a tight grip on political power.

Importantly, as the DoD analysis further notes, the *Cofradía*, was “vertical” in nature—a quality that sets Guatemala’s intramilitary dynamics apart from the rest of Central America. Rather than replicating the “tanda”<sup>225</sup> structure of horizontal loyalties seen within the Salvadoran and Honduran armies, Guatemala’s internal military intelligence cliques were mostly based on

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<sup>224</sup> Department of Defense 1991: 3-4.

<sup>225</sup> *Tandas* are “tightly knit graduating classes from the military academy,” which, in 20<sup>th</sup> century El Salvador in particular, “[dominated] the government (and the spoils that went with it) until they were displaced by another *tanda*” (Goodwin 2001: 157). They thus represent a more horizontal mode of military organizational leadership.

“leader-subordinate” allegiances.<sup>226</sup> The *Cofradía* was a “vertical column” integrated by officers of various ranks. One of the most prominent *Cofradía* leaders is General Manuel Antonio Callejas y Callejas, the Director of Intelligence during the Lucas García regime.<sup>227</sup> According to US intelligence reports, Callejas y Callejas is variously referred to as the “godfather” of army intelligence and the “bishop” of the *Cofradía*.<sup>228</sup> Before ascending to the top intelligence post, he served as sub-director of the Army’s operations division (G-3) and as second in command of the Mobile Military Police [*Policía Militar Ambulante*] and of troops stationed at the Cobán military base in the northern province of Alta Verapaz.<sup>229</sup> He went on to serve as chief of the Army’s National Defense Staff [*Estado Mayor de la Defensa Nacional*] under President Vinicio Cerezo and as director of customs and EMP chief under President Jorge Serrano Elías, who was ousted following an attempted self-coup in 1993.

Alongside Callejas y Callejas, the other central figure within the *Cofradía* was Luis Francisco Ortega Menaldo, who was a young major on the EMP payroll during the Lucas García years. Despite his youth, Ortega Menaldo enjoyed significant political influence as the son-in-law of former president Arana Osorio, who oversaw the dramatic escalation of counterinsurgent activities. During his father-in-law’s presidency, Ortega Menaldo, known for his elegant dress and command of English, Italian, and French, was a mere adjutant within the EMP; however, by 1978, he was brought on by then-Minister of Finance Hugo Tulio Búcaro to “help control tax collection.”<sup>230</sup> Once within the Ministry of Finance, he installed the SEM office and served as its

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<sup>226</sup> Department of Defense 1991.

<sup>227</sup> Callejas y Callejas was convicted of crimes against humanity for the forced disappearance of 14-year old Marco Antonio Molina Theissen in October 1981.

<sup>228</sup> Department of Defense 1991; Department of Defense 1988.

<sup>229</sup> Peacock and Beltrán 2004: 20.

<sup>230</sup> Brenes and Shetemul 1992.

first chief until the coup that ousted Lucas García in March 1982.<sup>231</sup> Even after the 1986 return to civilian rule, Ortega Menaldo continued to occupy prominent political positions, including head of the EMP from 1991 to 1993.

According to US intelligence reports and Guatemalan police documents, other prominent *Cofradía* members included Jorge Roberto Perussina, an infantry major who served as the head of *El Archivo* during Lucas García's tenure;<sup>232</sup> Brigadier General Edgar Augusto Godoy Gaitán, an assistant within the EMP during the late 1970s who would go on to serve as EMP chief in 1990;<sup>233</sup> and Marco Antonio González Taracena, minister of defense in 1995 and 1996. Later in the 1980s, the power of the *Cofradía* was reportedly offset by another faction comprised of field officers—a group known as the *Sindicato* or the “Operators.”<sup>234</sup> Among the top *Sindicato* leaders cited by US intelligence reports is Otto Pérez Molina, the former president now awaiting trial for his involvement in the customs fraud structure uncovered in 2015.<sup>235</sup>

However, as the group controlling the intelligence apparatus at the height of the conflict, the *Cofradía* had a distinct advantage, enjoying broad discretion, sophisticated surveillance technologies, and greater autonomy. Combined, these resources allowed the group to mount new structures to control state activities, which were ultimately appropriated for private benefit,<sup>236</sup> as I will examine in the following sections. But importantly, the corrupt activities spearheaded and sustained by the *Cofradía* were also underpinned by a hardline counterinsurgent vision, which was used to justify illicit activities. The *Cofradía* was more than an exclusive club grounded in

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<sup>231</sup> From Moreno's declaration, September 19, 1996; See Organismo Judicial 2003.

<sup>232</sup> AHPN 1982.

<sup>233</sup> Dirección de los Archivos de Paz 2011.

<sup>234</sup> The structure of the *Sindicato* is much closer to the *tanda* phenomenon, in that it is based on class loyalties from Guatemala's military academy (*Escuela Politécnica*). In particular, the *Sindicato* members were primarily comprised of those from Promotion 73 (See Department of Defense 1991).

<sup>235</sup> Department of Defense 1991.

<sup>236</sup> Peacock and Beltrán 2004: 19; Zamora 2002; Schirmer 1999: 155; interviews with author, June 25, 2015, July 13, 2015, September 27, 2016, and June 12, 2017.

personal affinities; it was also an “ideological group.”<sup>237</sup> According to Peacock and Beltrán, the members of the *Cofradía* “adopted a national security strategy that ‘framed the conflict within the total polarization [...] of the population.’ Civilians were not considered neutral, but potential opposition. The officials that formed part of the *Cofradía* sympathized with the line of thinking of the Taiwanese military, implementing repressive systems of social control and using intelligence information to commit brutal acts of violence.”<sup>238</sup>

To the extent that the *Cofradía* used its autonomy and influence to operate on the margins of the law and engage in corruption, such actions formed part of the broader counterinsurgent imperative and were permissible given the group’s sacrifices on behalf of the Guatemalan state. As one former military intelligence agent told me, the *Cofradía* “had a lot of power and tremendous influence, but really they overreached [...] They thought they had done good in combatting the guerrillas and so they felt they had a right to do such [corrupt] things.”<sup>239</sup> A combination of personal enrichment and ideological dispositions thus appeared to directly motivate the creation of the illicit customs procedures, which I elaborate in the rest of the chapter. Yet, importantly, the advancement of these *motivations*, I argue, was conditioned by the precise *structure* of this new counterinsurgent elite—its narrow configuration and insulation from countervailing political forces within and outside of the state. The corrupt underpinnings of *Cofradía* actions were thus made salient as a result of coalitional dynamics.

### **Alfredo Moreno and the Emergence of the Moreno Network**

By the late 1970s, Guatemala’s military structures had undergone two critical changes. First, with close US collaboration and economic assistance, the military intelligence apparatus

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<sup>237</sup> Interview with author, June 25, 2015.

<sup>238</sup> Peacock and Beltrán 2004: 19.

<sup>239</sup> Interview with author, May 30, 2017.

had been overhauled in response to the increasing insurgent threat. Technological inputs and enhanced training elevated the role of military intelligence in identifying and rooting out the “internal enemy.” In particular, specialized intelligence units with broad discretion successfully infiltrated nearly every corner of the Guatemalan state, overseeing day-to-day operations in a wide variety of agencies, like the Ministry of Finance. Second, and relatedly, vesting elite intelligence personnel with greater autonomy translated into the formation of exclusive clubs of intelligence officers like the *Cofradía*, which coalesced around deep personal loyalties and a shared, hardline counterinsurgent vision. *Cofradía* members subsequently drew on these affinities to retain political power and access to state resources.

Both of these developments led to the emergence of predatory procedures within Guatemala’s customs administration, which crystallized into undermining rules that came to contravene a core state function: revenue extraction. It was at this moment that the Moreno Network was born and began to implement new “rules of the game” within the customs branch. But who was the network’s namesake, Alfredo Moreno? How exactly did he come to forge ties with the high-ranking military intelligence officers implementing the new undermining rules within the Ministry of Finance and customs administration?

Alfredo Moreno Molina, the son of Alfredo Moreno Castellanos and Esperanza Molina Oliva, was born on February 20, 1947 in El Salvador. In his teens, Moreno moved to Guatemala City, where he eventually married Rosinda González Barrios Moreno and had three children. According to the earliest police records, Moreno variously served as an “office clerk [*oficinista*]” and a “driver [*piloto automovilista*].”<sup>240</sup> Yet, by the beginning of the 1970s, while in his mid-20s, Moreno had developed extensive personal and professional ties with top military officials—ties

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<sup>240</sup> AHPN 1971.

that granted him different positions within the state and ample opportunities to engage in illicit activities related to contraband and theft.

According to PN records, by February 1971, Moreno was serving as a “special agent” [*confidencial*] for Colonel Manuel Aceituno Arreola, then-chief of the Army Commissary. The Army Commissary, which was dissolved in the years following the peace process, imported and sold goods at deeply discounted prices for members of the armed forces and received significant tax exemptions. In this role, which he held into 1973, Moreno reportedly carried out “operations, of an investigative character” often in coordination with other military elements.<sup>241</sup>

But it is also from his post within the Army Commissary that Moreno first emerged as a key figure in the trafficking of contraband. According to a June 1973 note found within the police archives, Moreno informed the chief of the Detective Corps that,

Within a few days, a shipment of contraband Johnie Walker [sic] whisky will enter [...] arriving to the home of a woman who lives in Jardines de Asunción [...] The *contrabandistas* told her that if she wanted fifty boxes, they would bring them [...] Now we just have to wait until the day in which they bring them, and I will call you immediately, so you can grab them before they enter the house, so that they don’t suspect me, because if not, they’ll kill me before the rooster crows, worse because the woman knows that *I control theft within the Army Commissary*, and now that I can’t carry my gun because I lost my identification, I don’t have the opportunity to defend myself [emphasis added].<sup>242</sup>

Moreno’s acknowledgement that he “[controls] theft within the Army Commissary” suggests his shady activities were well-known within the upper echelons of the police, who may have even coordinated operations to steal contraband with him.<sup>243</sup>

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<sup>241</sup> AHPN 1973.

<sup>242</sup> AHPN 1973b.

<sup>243</sup> Of course, the note leaves Moreno’s intention in this particular case somewhat ambiguous. On the one hand, he may have been informing on these traffickers to assist anti-contraband operations. But, on the other hand, it is just as likely that he is covertly coordinating with police personnel the theft of the whisky shipment, so as not to raise suspicions of personal involvement—particularly given that the suspect knows he “controls theft” within the Commissary.

At the very least, knowledge of Moreno's activities did not keep him from ascending to similar posts monitoring imported goods entering Guatemala. By mid-1974, Moreno's boss in the Army Commissary, Enrique Galvez Sobral, was promoted to Director of Customs, where he retained Moreno as a special agent on his personal staff.<sup>244</sup> According to archival records, Moreno continued to engage in illegal activities from within the customs administration. For example, in July 1977, Moreno was arrested, along with two other customs inspectors, for stealing a package of 300 wristwatches being processed through the aerial division of the Guatemala City customs house [*Aduana Central*]. Moreno and his accomplices reportedly sold the watches to a Salvadoran individual "and split the profits in equal parts."<sup>245</sup> Less than two months later, Moreno's detention order was lifted.<sup>246</sup>

From his posts within the Army Commissary and the customs administration, Moreno became well versed in methods of passing contraband and stealing imported goods. He "learned, applied, and perfected" techniques not only to allow unregistered shipments to enter Guatemala, but to "alter legal documents" and undervalue merchandise.<sup>247</sup> Given Moreno's experience and contacts, there was no one better equipped to coordinate fraudulent customs activities as intelligence officers infiltrated the Ministry of Finance following Lucas García's rise to power in July 1978.

According to his 1996 declaration, at this time, Moreno was brought on board as an "investigator" in the SEM office, the EMP intelligence outpost located on the 18<sup>th</sup> floor of the Ministry of Finance. There he worked with then-Major Ortega Menaldo, one of the primary *Cofradía* leaders. Per police documentation, Moreno eventually ascended to the post of sub-

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<sup>244</sup> AHPN 1974.

<sup>245</sup> AHPN 1977.

<sup>246</sup> AHPN n.d.

<sup>247</sup> *Siglo Veintiuno* 1996c.

director of the SEM, just below Ortega Menaldo, who served as director until the coup on March 23, 1982, which ousted Lucas García and brought to power the junta led by Ríos Montt.<sup>248</sup> At this time, Ortega Menaldo was dismissed from the Ministry of Finance and from *El Archivo*; Moreno, however, remained within *El Archivo* during the Ríos Montt government.<sup>249</sup>

Officially, Moreno maintained that his role within military intelligence was confined to investigating contraband. In early 1981, a police report he filed describes threats he had been receiving from an anonymous caller warning: “Are you Moreno? Yes? Stop investigating contraband because in one form or another we’re going to fuck you, we’re going to get you involved in something you will regret.”<sup>250</sup> Moreno further claimed that his investigations within customs involved close collaboration with the US embassy to track and seize stolen cars.<sup>251</sup>

Yet others with knowledge of the case suggest that underneath his investigative work, Moreno, with the support of top intelligence officers, was mounting a well-organized criminal structure within the customs administration, drawing on his extensive contacts inside and outside of the state apparatus. While not the head of the scheme, Moreno served as “the manager;” his “bosses were the generals.”<sup>252</sup> As one former Ministry of Finance official remarked to me, with military intelligence’s “total control” of customs and Moreno’s expertise, together “they took advantage and charged for all of the merchandise that entered [Guatemala]. There was not a single importer who didn’t pass through [Moreno] first.”<sup>253</sup>

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<sup>248</sup> AHPN n.d.b.

<sup>249</sup> From Moreno declaration, September 19, 1996; see Organismo Judicial 2003.

<sup>250</sup> AHPN 1981.

<sup>251</sup> From Moreno declaration, September 19, 1996; see Organismo Judicial 2003.

<sup>252</sup> Interviews with author, November 2, 2016, November 9, 2016.

<sup>253</sup> Interview with author, May 30, 2017.

## The Wartime Introduction of Undermining Rules in Customs

From the SEM office, Moreno devised and implemented a series of customs procedures to capture revenues destined for state coffers. With the advent of the Moreno Network, customs fraud and contraband were no longer just deviant activities on the part of customs personnel at territorial entry points. They instead responded to well-specified and communicated rules coordinated from above and enforced from without; in other words, fraudulent customs *practices* crystallized into a series of *rules* structuring behavior in ways that directly undermined the state's official extractive aims.

The evidence gathered by prosecutors following Moreno's arrest—and especially the testimony of Francisco Javier Ortiz Arriaga, Moreno's right hand also known as “Lieutenant Jerez”<sup>254</sup>—revealed two primary sets of rules developed by the criminal structure to siphon off customs revenues. The first involved the adjustment of customs declarations to underreport the amount of taxes actually paid or to misrepresent the value, quantity, or type of goods entering the country. These adjustments exploited different aspects of the customs declaration process—in some cases with the complicity of importers and in some cases without. But under this umbrella, the distinct forms of fraud shared a central feature: they relied on the fabrication of information related to imports and/or customs duties.

One such method involved the falsification of receipts recording the amount of customs duties legally paid by importers. Here, importers would receive a receipt noting the actual, correct amount paid to customs authorities; however, the inspectors verifying the payment [*vistas aduaneros*] would record a significantly lower amount on the copy of the receipt that was then

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<sup>254</sup> Ortiz Arriaga was the treasurer of the Moreno Network, ensuring that the different customs posts provided the amount stipulated by Moreno and delivered the money to the different network participants. He received political asylum in Canada following the trial, but returned to Guatemala, serving as a key figure in *La Línea* in 2015.

passed on to the General Comptroller's Office and the Ministry of Finance. The difference between the actual amount recorded on the original receipt and the falsified, reduced amount on the copy was pocketed by the Moreno Network.

These kinds of customs duty alterations relied primarily on a form known as the 63-A. Per Ortiz's account, "the 63-A form is a receipt that includes an original and a copy [...] and so two forms were created [...] one was legal and the other fictitious, but with the same identification number. The original was given to the client, the importer [...] And the copy was made with the false form, which included a much smaller amount than what they paid [...] To give you an example, there would be a form saying they paid 50,000 quetzales, but according to the fictitious form, they paid 1,000, so the state was defrauded 49,000 quetzales."<sup>255</sup>

In other words, this form of customs fraud largely took place behind the backs of importers, with falsified documents allowing customs employees to siphon off a large chunk of taxes that had been legally paid. In his declaration, Ortiz suggested that by the mid-1980s, all customs agents engaged in this form of fraud for amounts exceeding 5,000 quetzales (\$1,700), on Moreno's orders. There were an estimated 100 or 150 adjustments per customs house on a weekly basis.<sup>256</sup>

Other falsifications to defraud the state did require the complicity of commercial actors. One, for example, involved reusing old import licenses for new shipments in order to simulate payment. This method relied on a form referred to as the DC-32, a license emitted following the payment of taxes to the Bank of Guatemala. According to Ortiz, "Per Mr. Moreno Molina's orders, with one of these DC-32 forms given by the Bank of Guatemala, up to ten imports could pass through [...] The exporters just retained and turned them in again when bringing another

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<sup>255</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

<sup>256</sup> From Ortiz Henry testimony, May 27, 1999; see Organismo Judicial 2003.

shipment up to eight or ten days later, all while paying off customs anomalously because it was the law that each shipment required its own DC-32.”<sup>257</sup> Here, commercial interests, in coordination with the Moreno Network, played a more active role, benefitting from the use of false documents while paying customs officials and inspectors under the table.

Another mode of fraudulent alterations involved the misrepresentation of the kind or quantity of goods entering the country. Based on previous arrangements between Moreno and importers, customs employees were instructed to underreport the quantity of merchandise or misreport the tariff category to give importers a break. For instance, importers would arrange to “put a weight that wasn’t true because at this time there were mixed tariffs [...] When merchandise came from Panama, if I remember correctly, [an importer] would have 150,000 kilos to declare, but 100,000 would be omitted, which is what Mr. Moreno Molina ordered and so that’s how they would create the ‘consignee guide’ [record of merchandise from point of origin]. Mr. Moreno Molina already had the contacts at the warehouses of the *Aduana Central* [Guatemala City customs house], so [the client] would go there to pay the taxes noted on the guide.”<sup>258</sup>

Aside from adjustments to misreport the nature and quantity of imports or to falsify the amount paid by importers, the second primary method of fraud was the “disappearance” or “theft” of shipping containers. In these cases, customs declarations and receipts “would be stamped as received by the General Directorate of Customs, but taxes were never paid” and the shipment would vanish.<sup>259</sup> Often times, the shipping containers were offloaded and immediately directed to clandestine fields off of major highways, where they were emptied of merchandise. The contraband would then appear in warehouses or on stores shelves days or weeks later.

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<sup>257</sup> Ibid.

<sup>258</sup> Ibid.

<sup>259</sup> Ibid.

Two witnesses that testified at the Moreno trial, former customs inspectors José Mariano Ortiz Henry and Erik de los Ríos, explained in detail how these shipping container “thefts” were carried out. According to De los Ríos, in some cases, shipments would be recorded as transiting through Guatemala from elsewhere in Central America to Mexico; however, the customs administrator at the Tecún Uman customs outpost on the Mexican border “would stamp the form as if the merchandise had left for Mexico when in reality it stayed in Guatemala.”<sup>260</sup> A similar procedure was used for merchandise that was destined for Guatemala, with officials at the Guatemala City customs branch signing off on the arrival of shipping containers when they had, in fact, skipped official processing. According to Ortiz Henry, the Moreno structure would charge 8,000 quetzales (\$2,700) to arrange the “theft” of 40-foot shipping containers and 4,000 quetzales (\$1,400) for 20-foot ones.<sup>261</sup>

Evidence gathered in the Moreno case further confirms that fraudulent operations were coordinated from the SEM office of the Ministry of Finance. In his role as intermediary between customs personnel and Alfredo Moreno, Francisco Javier Ortiz recalled that he was often “sent to the Ministry of Finance, the 18<sup>th</sup> floor, to personally hand over money to Mr. Moreno Molina.”<sup>262</sup> Further, the Moreno Network utilized the Ministry’s same radio communications system that connected the central customs office to the outlying border locations to communicate about fraudulent operations. As one former Ministry of Finance official described to me, “The General Directorate of Customs had its radio antennas up on the roof to receive information on customs revenues from all of the ports and other customs locations. They [the Moreno Network]

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<sup>260</sup> From De los Ríos testimony, May 26, 1999; see Organismo Judicial 2003.

<sup>261</sup> From Ortiz Henry testimony, May 27, 1999; see Organismo Judicial 2003.

<sup>262</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

used the same thing. They had radio devices to communicate, but just used a different channel. There was the official channel and their channel.”<sup>263</sup>

The illicit earnings accrued through the alternative rules governing customs activities were first channeled into different “funds,” but were then used to meet a series of quotas assigned to each customs branch. Ortiz Arriaga noted that in the 1980s when he first began as a low-level customs inspector, there was the “major fund” [*fondo mayor*] which consisted of the money received for arranging shipping container “thefts” and adjusting the 63-A forms, and the “minor fund” [*fondo menor*], which consisted of the bribes accrued by customs agents on the ground when they misreported the value, quantity, or type of merchandise. By the 1990s, however, the two funds were eliminated, and Moreno instead demanded that customs administrators meet a weekly quota of 50,000 quetzales (\$16,700), which he then doled out to his associates.<sup>264</sup> Thus, even the accumulation and management of Moreno Network funds was strictly organized and “rule-bound,” creating shared expectations among customs personnel.

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<sup>263</sup> Interview with author, October 21, 2016; evidence gathered by the military intelligence-led task force along with documents recovered from Moreno’s personal files indicate that the network utilized coded language to communicate about customs adjustments and the status of shipping containers that were to be “stolen” to evade taxes. The system of codes was based on an elaborate soccer metaphor, thus disguising the fraudulent operations with what seemed to be routine communications about the soccer team allegedly managed by Moreno and his associates. For example, the Santo Tomás port was referred to as “*portería del lado norte*” [“the goal on the north side”], while Puerto Quetzal was called “*portería del lado sur*” [“the goal on the south side”].<sup>263</sup> Shipping containers were referred to as “*jugadores*” or “players”—a “20-year old player” was a 20-foot shipping container, while a “40-year old player” was a 40-foot shipping container. Mention of a “hurt player” [*jugador lesionado*] indicated that a shipping container that was to be “stolen” per arrangements with the Moreno Network had been captured by authorities, and that network operatives should communicate with the “hospital,” the code for the central customs office (From Moreno declaration, September 19, 1996; see Organismo Judicial 2003; interview with author, October 21, 2016)

<sup>264</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

## Enforcing the Undermining Rules

Throughout the 1980s and 1990s, Moreno implemented a series of well-defined rules governing customs procedures—rules that were then effectively disseminated within the customs apparatus. But the mere existence of the alternative procedures within the customs administration did not guarantee their effectiveness. How did the Moreno Network enforce these new rules and garner compliance?

Within the General Directorate of Customs, the directives issued by the Moreno Network were, in large part, enforced through coercion—violent and nonviolent. Operating under the thumb of military intelligence elites, the Moreno Network possessed total control over the naming and transfer of customs personnel, recruiting and maintaining participants with threats of layoffs. Francisco Javier Ortiz, for example, only became part of the network when his position as a customs inspector was in jeopardy due to an upcoming round of cuts: “I was on a list of customs inspectors [*vistas aduaneros*] that were going to be let go by the General Directorate of Customs and came to learn that the only way I wouldn’t be fired was if I worked for Alfredo Moreno Molina.”<sup>265</sup> Once he was involved, Ortiz found that it was impossible to leave “because [Moreno] had all of the information on what we did in customs, he had all of the information on the anomalous operations that effectively took place.”<sup>266</sup>

Ortiz Arriaga was one of numerous customs employees coerced into abiding by the alternative institutional arrangements. Retaining one’s job and receiving a favorable post was contingent on complying with the new rules imposed by the Moreno Network; yet, after having submitted to the rules, backing out meant potentially being turned over to authorities and facing

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<sup>265</sup> Ibid.

<sup>266</sup> Ibid.

formal legal consequences for having participated in fraud, contraband, and bribery. Lower-level customs employees like Ortiz Arriaga were thus trapped between competing institutional norms.

Beyond the possibility of losing one's job or falling victim to blackmail, Moreno also enforced the undermining rules created within the customs administration through the threat of violence. According to Ortiz Arriaga, "Moreno made it known that whoever got in his way, he would kill him. He told us that, 'the one who betrays me dies.'"<sup>267</sup> He, along with the other customs operators who testified in 1999, intimated this was actually the fate of several network associates who had died mysteriously in the early 1990s, including lawyer Vicente González, who was believed to have developed significant discord with Moreno.<sup>268</sup> In another instance, former police officer Carlos Reyes, who worked for Moreno and Salvadoran importer Hipólito Santos in the "theft" of shipping containers, turned up dead with 38 bullet wounds. According to the testimony of Reyes' associate Ovidio Mancilla Aguilar, the brutal assassination occurred when "the money was no longer reaching Mr. Moreno's pocket."<sup>269</sup>

The use of violence to garner compliance with the illicit customs procedures perhaps comes as no surprise given the conflict context and the involvement of high-level military actors. Though the case files only point to these two murders as linked to the violation of the alternative rules within customs, the testimonies make clear that potential physical attacks were a powerful driver of behavior amongst individuals enmeshed in Moreno Network activities. The latent threat of violence as a consequence of deviating from the prevailing rules served as a powerful external sanction in the minds of those subject to the criminal structure's influence.

But beyond the use of coercion, the Moreno Network coopted personnel within the state security and judicial sectors to reproduce the undermining rules within customs. As Ortiz Arriaga

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<sup>267</sup> Ibid.

<sup>268</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

<sup>269</sup> From Mancilla Aguilar testimony, May 28, 1999; see Organismo Judicial 2003.

noted in his 1999 testimony, Moreno's illicit maneuvering within customs were possible because he managed to garner "all of the support within [...] the General Comptroller's Office, the Treasury Police [*Guardia de Hacienda*], the Public Prosecutor's Office, and the tribunals, and he had completely closed the loop within the General Directorate of Customs."<sup>270</sup>

Perhaps the most important agency for ensuring the safe passage of contraband was the Treasury Police. The institutional function of the Treasury Police [*Guardia de Hacienda*] was "to prevent and pursue crimes related to contraband and fraud."<sup>271</sup> After the customs personnel inspecting incoming shipments, the Treasury Police was the next line of defense against smuggling. Knowing this, Moreno and military intelligence effectively coopted the Treasury Police, ensuring that it allowed shipping containers to pass uninspected or, at times, even acted as the custodians of the imports that were "stolen" to bypass customs.<sup>272</sup> When the Treasury Police prevented Moreno Network shipments from entering Guatemala or captured contraband from network associates, key contacts within the agency worked to get operations back on track.

Within the Moreno case files, former custom inspectors Erik de los Ríos describes one such instance at the Agua Caliente customs point on the border with Honduras. The regional Treasury Police force had received information about Moreno-coordinated contraband passing through Agua Caliente and prevented it from entering. According to De los Ríos, Ortiz Arriaga, on Moreno's orders, contacted the Treasury Police's regional chief, Baudilio Hichos,<sup>273</sup> offering

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<sup>270</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

<sup>271</sup> AHPN 2010: 264.

<sup>272</sup> From Mancilla Aguilar testimony, May 28, 1999; see Organismo Judicial 2003.

<sup>273</sup> Baudilio Hichos went on to serve as a member of Congress for 25 years, from 1991 to 2016, jumping between five different political parties during this time. In 2016, he was arrested for a money-laundering scheme involving Guatemala's Social Security Institute (IGSS) in his home department of Chiquimula. He is also linked to the disappearances of several student leaders during his time serving in the Treasury Police during the mid- to late-1980s.

5,0000 quetzales (\$1,700) for each shipping container he allowed to pass uninspected. After striking the deal, the Moreno Network no longer faced interference in this part of the country.

On the operational front, upholding and enforcing the alternative rules within the customs administration thus required a mix of strategies. Within the General Directorate of Customs, coercion was the mechanism of choice. Operating under the thumb of Moreno and the military intelligence officers running the SEM, customs employees ranging from inspectors to administrators knew that their jobs depended on abiding by the predatory arrangements coordinated by the criminal structure. Once involved, there was little they could do to extricate themselves from the illegal activities, given the threat of criminal prosecution. Within other key agencies where Moreno did not have a direct foothold, however, cooptation was the strategy of choice. By sharing the spoils of fraudulent activities, Moreno effectively garnered the cooperation of security forces, which were critical in shepherding contraband, or at least ensuring that it faced minimal interference in bypassing customs processing.

### **Broadening the Wartime Distributional Coalition**

The use of coercion ensured the day-to-day criminal activities of the Moreno Network in a short-term sense. But the military intelligence officers pulling the strings also sought to secure the survival of the undermining rules into the future. This required a longer-term vision for consolidating a climate of impunity and a robust client base. As a result, the Moreno Network forged a broader distributional coalition of state and non-state actors who reproduced the undermining rules within customs. This coalition included two key sets of actors: 1) an association of lawyers, politicians, judges, and military officers known as *Grupo Salvavidas*, which bribed state officials to guarantee impunity for illicit activities, and 2) importers and

commercial elites who recurred to the Moreno Network's services. For the narrowly structured military intelligence elite overseeing the alternative rules within customs, creating a broader coalition of state and non-state actors with a stake in the new institutional arrangements was particularly important due to the competition posed by rival political-military factions. But, paradoxically, the heightened imperative of drawing together a more robust coalition in favor of the alternative rules also facilitated their deeper institutionalization.

### ***The Political Arm: Grupo Salvavidas***

On the political front, the Moreno Network developed a robust organizational body, which used the resources accrued through customs fraud to buy impunity within the Public Prosecutor's Office (MP) and court system, as well as finance electoral campaigns to ensure its survival following Guatemala's return to elected democracy. The pressure group became known as *Grupo Salvavidas* ["life preserver" group], a name alluding to its function of rescuing those facing prosecution for human rights and corruption-related crimes.<sup>274</sup>

*Grupo Salvavidas* was reportedly conceived by Moreno, Ortiz Arriaga, and Salvadoran smuggler Hipólito Santos Reyes and came into being in 1989. Though it acquired the status of a formal legal entity, the group, comprised of lawyers, judges, and high-ranking public officials, was created to serve as "a powerful influence-peddling [*tráfico de influencias*] network within all spheres of political power in the country."<sup>275</sup> In the words of one of my interviewees, "the name 'Salvavidas' had its significance. On the one hand, to cover the backs of the members of the group and, on the other hand, to be able to save anyone involved in actions related to contraband, drug trafficking, and tax evasion from the application of justice in the most sound and immediate

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<sup>274</sup> See Robles Montoya 2002; Peacock and Beltrán 2004.

<sup>275</sup> *La República* 1996b.

way.”<sup>276</sup> Through strategically managing and distributing the very resources accrued through contraband smuggling and customs fraud, *Grupo Salvavidas* fulfilled its primary function: to foster silence and complicity, thus ensuring the continued enrichment and political survival of its members and associates.

According to Ortiz Arriaga, *Grupo Salvavidas* consisted of “a support committee, an ad hoc committee, a board of directors, and branches.” The ad hoc committee, comprised of Moreno, Ortiz Arriaga, lawyers Elio Sánchez and Vicente González, and Colonel Augusto Catalán, served as the intermediary between *Grupo Salvavidas* and the customs administration, issuing personnel transfers and disciplinary sanctions for noncompliance. The ad hoc committee also decided which cases to take on in the event that Moreno Network affiliates were discovered and faced legal consequences.

The board of directors was the organizational entity that coordinated *Grupo Salvavidas*’ strategy and oversaw the distribution of resources to its members. The board’s president was Alfredo Moreno, the vice president was Elio Sánchez, the secretary was judge Osmundo Villatoro, and the treasurer was Ortiz Arriaga. Former dictator Efraín Ríos Montt, who formed his own political party following the 1986 return to civilian rule, was in charge of judicial affairs, and his party’s presidential candidate, Alfonso Portillo, who served as a president from 2000 to 2004, was in charge of political affairs.<sup>277</sup> In fact, Portillo received biweekly campaign contributions from the group—funds raised directly from customs fraud operations at the Valle Nuevo and Pedro de Alvarado customs houses—which he admitted to following Moreno’s arrest.<sup>278</sup> The “branches” were *Grupo Salvavidas* members who were not on the board of

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<sup>276</sup> Ibid.

<sup>277</sup> *La República* 1996c.

<sup>278</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003; *Siglo Veintiuno* 1996b; Shetemul 1996.

directors but operated within distinct state agencies, offering bribes and exerting influence to impede investigations and judicial proceedings.

Finally, the “support committee” was comprised of “all of the military officials.” The Moreno case files name Generals Ortega Menaldo and Callejas y Callejas, the most prominent *Cofradía* leaders, as well General Roberto Letona Hora and Colonel Hugo Morán Carranza, both former chiefs of the 18<sup>th</sup>-floor SEM office within Ministry of Finance. According to Ortiz Arriaga, the *Grupo Salvavidas* support committee “opened up the influence peddling” by drawing on its vast knowledge and control of the state apparatus. While remaining less directly involved in the day-to-day operations of *Grupo Salvavidas*, the military intelligence officers of the “support committee” were “the ones who maneuvered and executed strategies.”<sup>279</sup>

The modus operandi of *Grupo Salvavidas* was to target key actors participating in the investigations and trials of members or associates, offering bribes in exchange for information, silence, or favorable outcomes. The earliest of these cases were most often related to the very contraband and customs fraud activities coordinated by the Moreno Network. According to a prosecutor in the Moreno case, “*Grupo Salvavidas* was created precisely to settle the judicial cases related to contraband [...] [they] would give money to those who would clean up their tracks so that everyone remained silent.”<sup>280</sup> One such case occurred in the southern department of Jutiapa, along the border with El Salvador. Authorities had detected “anomalies in the 63-A forms at customs locations in San Cristóbal, Valle Nuevo, and Pedro de Alvarado.”<sup>281</sup> The investigation was handed off to local prosecutors, who compiled a long list of customs inspectors and administrators reportedly involved in illegal activities. With the help of *Grupo Salvavidas*, the customs personnel amassed 250,000 quetzales (\$83,000), which *Salvavidas* member Vicente

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<sup>279</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

<sup>280</sup> Interview with author, November 9, 2016.

<sup>281</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

González then handed off to the MP investigators assigned to the case. The case was promptly shelved before any charges were filed.<sup>282</sup>

But the cases pursued by *Grupo Salvavidas* were not just confined to cover-ups in customs. As its power and influence grew, the group also took on trials of a more political character. *Grupo Salvavidas* was grounded in the hardline counterinsurgent mentality that characterized the *Cofradía*; it thus also channeled resources toward the obstruction of investigations related to conflict-era human rights violations. According to one military intelligence agent, by the late 1980s, members of the group had witnessed the onset of human rights trials in other post-authoritarian contexts in Latin America and decided they needed to act. Despite the transition to civilian rule,

...this group [the *Cofradía*] remained, but there was a warning. Because of the other trials, like those related to [Chilean dictator Augusto] Pinochet, the warning was that the trials were coming. And so the members of the *Cofradía* came together and said, ‘the trials are coming, what do we do?’ So they deployed *Grupo Salvavidas* and further institutionalized the structure in customs to protect ‘our heroes.’<sup>283</sup>

Testimony from the Moreno trial confirms this account, citing the use of illicit funds to maintain impunity in the trials of military intelligence officers implicated in the 1990 killings of Guatemalan forensic anthropologist Myrna Mack and American innkeeper Michael DeVine.<sup>284</sup> What began as a means of safeguarding the predatory rules and procedures within the customs administration thus also became a key component of the *Cofradía*’s political strategy.

### ***The Clients: The Role of the Commercial Elites***

The long-term viability of the Moreno Network also depended on a solid client base demanding the criminal structure’s services. This client base was cultivated amongst a wide range of foreign and domestic business elites and importers, who grew accustomed to the savings

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<sup>282</sup> Ibid; Organismo Judicial 2003, De los Ríos testimony, May 26, 1999.

<sup>283</sup> Author interview, November 7, 2016.

<sup>284</sup> Organismo Judicial 2003, Ortiz Arriaga testimony, May 25, 1999.

they accrued by arranging customs duty adjustments and shipment “thefts” in exchange for off-the-books payments to Moreno and his associates. The alternative rules and procedures coordinated and enforced by the Moreno Network thus relied not only on the “hand that takes”—the corrupt officials willing to defraud the state—but on the “hand that gives”—the beneficiaries of customs fraud who provided financial incentives to state employees.

As discussed previously, not all of the predatory rules developed within the customs administration depended on the complicity, or even knowledge, of importers. The adjustments to the 63-A forms, for example, were carried out after businesses had paid the customs duties they legally owed; customs inspectors working for Moreno would drastically reduce the amount on the receipt copy submitted to the Ministry of Finance and the General Comptroller’s Office and siphon off the difference. As part of its investigation, the Ministry of Finance compared the 63-A forms it had on file with those provided to taxpaying businesses. According to records just from 1996, the year in which the Moreno Network was uncovered, twelve companies alone reported paying a total of 2.43 million quetzales via the 63-A forms. For those same businesses, the General Comptroller’s Office had only recorded roughly 39,000 quetzales in payments, a scant 1.6 percent of the total.<sup>285</sup> A very large proportion of what businesses thought they were contributing in customs duties was thus captured by the Moreno Network behind their backs.

But even when adjustments did occur with the knowledge and assent of importers, there is still some question as to whether they actually had a choice or whether they too were the victims of extortion. Shipments were often held up in customs until the payment of “commissions” to criminal operatives was complete, leaving importers few options. As one prosecutor in the Moreno trial noted,

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<sup>285</sup> “Listado de contribuyentes que se establecieron diferencias de valor en recibos 63-A,” Ministerio de Finanzas, 1996, Organismo Judicial, Expediente 22023-2003-00048 [Internal record: 2916].

In the case of the businesses, imagine Christmas is coming and these guys begin in with, ‘70,000 [quetzales] is the *cola* [bribe] or your merchandise doesn’t leave. We’re not passing it through until then.’ What a loss you would incur if you’re not able to sell your merchandise at Christmas! They were coerced, basically extorted [...] Yes, I believe there is such a thing as the corrupt and the corruptors [*corruptos y corruptores*], but a lot of people were obligated to fall into the role of corruptors because there was no other way to carry out commercial activity in Guatemala.<sup>286</sup>

Even where businesses were complicit in Moreno Network operations, it was sometimes a product of coercive tactics not unlike those facing customs inspectors and administrators.

It would be a mistake, however, to place all importers into the category of Moreno Network “victims.” Even where private sector actors initially felt they had no choice but to defraud the state, they certainly benefited and, in many cases, sought out the criminal structure regularly to conduct business. The case files from the Moreno investigation and trial highlight ongoing relationships between Alfredo Moreno and several foreign and domestic importers, who were critical to upholding the prevailing “rules of the game” within customs. One prominent example is the import-export company Bonanza, S.A., which dealt primarily with electronic equipment and household appliances. During the raids on Moreno’s residence and Bonanza’s Guatemala City warehouse, investigators recovered receipts for large expenditures made by Moreno himself.<sup>287</sup> In addition, there are series of letters from Moreno to Bonanza owner Armando Cabané, including one informing him that “various planned changes to general directors, including the director of customs and various ministers are ready”—moves that would facilitate the fraudulent operations within customs.<sup>288</sup>

Another private sector actor that surfaces in the Moreno investigations is German importer Peter Stolz, the owner of the Guatemala City-based “Lup” warehouses. According to

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<sup>286</sup> Interview with author, November 9, 2016.

<sup>287</sup> *La República* 1996d.

<sup>288</sup> Letter to “Bonanza, S.A., Armando Cabane,” December 22, 1991. Organismo Judicial, Expediente 22023-2003-00048 [Internal record: 2437].

Ortiz Arriaga, Stolz imported “boxes with clothing, electronics, ceramics, fruit, and whiskey” and relied on the falsification of customs forms to misreport the nature and quantity of the merchandise.<sup>289</sup> But according to prosecutors, Stolz developed a seven million-quetzal (\$2.3 million) debt with Moreno, leading to tensions that were eased by the mediation of *Grupo Salvavidas* members Alfonso Portillo and Roberto Letona Hora.<sup>290</sup>

In addition to Guatemala City-based importers, the Moreno Network developed commercial relations with US businesses as well. For example, an important client was Billy Najman, the owner of Miami-based Interamerica, Inc., which shipped US goods to Guatemala. Based on series of faxes and communications, investigators came to believe that Najman “organized the distribution of contraband coming from the United States to all of the retailers that sold it [in Guatemala].”<sup>291</sup> For example, on different occasions, Moreno, under the nickname “*El Colochó*” [the curly-haired one], advises Najman of changes within the ministerial posts that favor the criminal structure. When Otto Leal Rembert<sup>292</sup> was named deputy administrator of the central customs location in Guatemala City, Moreno told Najman that their “objective” had been “reached.”<sup>293</sup> In another communication, Moreno relayed that an individual referred to as the “*Procurador Fiscal* [...] has command in customs and knows the ‘values,’ he will be involved in the unloading of shipping containers.”<sup>294</sup>

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<sup>289</sup> From Ortiz Arriaga testimony, May 25, 1999; see Organismo Judicial 2003.

<sup>290</sup> Hernández S. 1996b.

<sup>291</sup> *El Periódico* 1996.

<sup>292</sup> Otto Leal is the brother-in-law of former director of military intelligence and president Otto Pérez Molina, who is awaiting trial in the 2015 customs fraud scandal known as *La Línea* (See Department of Defense 1993).

<sup>293</sup> Letter to “Interamerica, Inc., Billy Najman,” October 18, 1992. Organismo Judicial, Expediente 22023-2003-00048 [Internal record: 2276].

<sup>294</sup> Letter to Billy Najman, February 9, 1996. Organismo Judicial, Expediente 22023-2003-00048 [Internal record: 2270-2271].

Communications recovered from Moreno's properties not only illustrate the assurances he provided to clients regarding personnel arrangements within different state entities. He also reported on the state of operations within customs. With Billy Najman, for example, Moreno sent urgent communications about a shipping container being held up at Puerto Quetzal because of a change in customs inspectors, which brought in new personnel unaware of previous under-the-table arrangements. These new inspectors had added significant fines and taxes due to the misreporting of merchandise. With the help of customs employees under the direction of Moreno associate Oscar Rolando Chavez, Moreno advises Najman that, "the only thing I can do is go to the computer and erase all of the information on the authorization to not leave a footprint [...]. No one, not even the director [of customs] himself is permitted to annul a fiscal stamp already authorized with a designated number in the computer. But we had to erase the number everywhere the fiscal stamp passed," otherwise the shipping container would not be able to leave customs without paying the additional fines and taxes.

Moreno also wrote to Najman that the preferential treatment illustrates "there's an interest that things always turn out well for you" and that without erasing all traces of the container it "would not have been able to leave for anywhere. But thanks to the astuteness of [Oscar] Rolando [Chavez] and *El Colochó* it will be brought to a warehouse in the capital."<sup>295</sup> The incident thus illustrates how the Moreno Network mobilized its vast resources and contacts within the customs apparatus to keep its "customers," like Najman, satisfied and to garner their continued buy-in to the alternative rules within the customs apparatus.

Importers like Cabané, Stolz, and Najman owned legal businesses that dealt in licit merchandise, yet through unlawful means. However, there is some evidence that the Moreno

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<sup>295</sup> Letter to "Interamerica, Inc., Billy Najman," No date. Organismo Judicial, Expediente 22023-2003-00048 [Internal record: 2263-2266].

Network was also a conduit for *illicit* goods, such as narcotics. Through the 1980s and 1990s as the United States' "war on drugs" increasingly targeted Caribbean trafficking routes to curb the flow of cocaine across its borders, Central America emerged as a critical transit point for Colombian criminal organizations. As the "capo" of Guatemala's primary customs fraud network, Moreno also took advantage of the emerging drug market. According to investigators, Moreno's connection to the drug trade was through Salvadoran importer Santos Hipólito Reyes Salvador—one of the only individuals to face criminal charges with Moreno in 1996—who worked with businessmen to transport drug shipments disguised as containers of licit merchandise. According to prosecutor Oscar Contreras, with the raids on Moreno's and Reyes' properties, "there was sufficient evidence to affirm that there existed narco-contraband within the activities carried out by these two bosses. They utilized the network to traffic cocaine, primarily through their connections to international drug trafficking."<sup>296</sup> According to the 1998 testimony of Ovidio Mancilla Aguilar, who served as Reyes Salvador's personal security, the Salvadoran importer also smuggled arms from his home country.<sup>297</sup> Thus, while Moreno developed a solid client base amongst legal businesses seeking to evade taxes, he also appropriated the customs structure to gain a foothold in nascent, highly profitable illicit trades as well.

The role of importers and business elites in upholding, reproducing, and consolidating the undermining rules within the customs apparatus was far from uniform. Yet, while the Moreno Network possessed methods for defrauding the state that did not require the active participation of the private sector, it is hard to imagine the persistence of the structure for nearly two decades in the absence of a client base demanding its services on a recurring basis.

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<sup>296</sup> Hernández S. 1996c.

<sup>297</sup> From Mancilla Aguilar testimony, May 28, 1999; see Organismo Judicial 2003.

### **Assessing Alternative Explanations**

The above empirical analysis illustrates that the introduction and consolidation of undermining rules within Guatemala's customs administration can be explained by the narrow, exclusive nature of the military intelligence elite empowered to infiltrate state agencies and use its extraordinary discretion to reorient official state functions. Insulated from broader military and state structures, Guatemala's wartime counterinsurgent elite crafted and institutionalized alternative rules and procedures, through which material and political benefits accrued to it narrowly, at least in the beginning. This elite, however, forged a broader distributional coalition *after* the implementation of the new, undermining rules in order to guard against the veto potential posed by competing political-military factions within the state.

Though my empirical account supports this explanation, it is also important to consider two possible alternative theories related to 1) the Guatemalan state's particular war-making strategy, or the bases from which it marshaled the resources to wage war, and 2) the role of pre-civil war state institutions. In this section, I assess both of these alternative explanations in turn.

#### ***State War-Making Strategy***

The first alternative explanation worth examining is related to the state's war-making strategy. Here, the claim is that rather than the structure of the rules-making elite, it is the process by which state leaders extract the means of war that best explains variation in the kinds of wartime rules that develop within state institutions. Where the state's war-making strategy is "coercion-intensive" and thus based on "rulers [squeezing] the means of war from their own populations," reinforcing rules are more likely to develop within the state apparatus. By contrast, under "capital-intensive" modes of war-making, whereby rulers relied on ad hoc, transitory,

alliances with elites, alternative predatory institutional arrangements were more likely to emerge within state institutions.<sup>298</sup>

Based on this dichotomy and its implications, the wartime introduction of undermining institutions within Guatemala's customs apparatus largely fits with theoretical expectations. At the height of Guatemala's internal armed conflict, there were extremely tight links between state, military, and economic elites—links made clear in my above examination of the broader wartime coalition that came to underwrite the undermining rules implemented within customs. As a result, I cannot rule out the possibility that the predatory institutional arrangements that took root within the Guatemalan customs administration was primarily driven by the actors from which military leadership acquired the means of war. Instead I must also evaluate this possibility within a case that reflects a more coercion-intensive war-making strategy. I will elaborate this variant in Chapter 5, which focuses on wartime institutional change during Nicaragua's Contra War.

### ***Prewar Institutions***

The second alternative explanation is that the undermining rules within customs were not a product of wartime institutional changes but instead reflect rules and procedures that developed well before conflict onset. Indeed, customs fraud and contraband smuggling are not new phenomena in Guatemala, or Central America generally. However, as I will argue in this section, there is little evidence that such activities constituted *institutions*, or established rules and procedures that systematically structured behavior or were enforced from above. The weak power of the central state and the provincial basis of political authority made the coordination and prewar enforcement of predatory rules within customs far less likely. Instead it is the wartime process of militarization itself that created sufficiently centralized and powerful military structures capable of implementing and enforcing the newly devised rules.

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<sup>298</sup> Tilly 1990: 30-31.

Patterns of illicit commerce in Central America date back to the colonial period and are rooted in the Spanish Crown's fragile hold on trade in the Americas. During three centuries of conquest and colonization, the Spanish empire sought to implant a mercantilist colonial pact, which included the strict regulation of trade routes, price controls, and the imposition of exorbitant tariffs.<sup>299</sup> Yet, the Crown's monopoly over commercial relations within its colonies was tenuous at best. As the British and Dutch empires gained a greater foothold in the Caribbean in the mid-17<sup>th</sup> century, the weaknesses of Spanish colonial administration combined with the adverse local effects of protectionism fueled the flow of contraband to Central America. By the early 18<sup>th</sup> century, "the existence of fraud and contraband on the margins of the Spanish empire was not only well-known, but widely accepted."<sup>300</sup> The Viceroyalty's inhabitants not only grew accustomed to the savings accrued through contraband, but also acquired a taste for the often higher-quality British and Dutch goods flowing from the Caribbean. According to one Spanish captain-general operating in Guatemala, "the ports on the Atlantic Coast came to serve solely as a shelter for foreign ships."<sup>301</sup>

The economic woes driven in part by illegal commerce hastened the decline of Spanish rule in the Americas. A Central American congress of *criollo* leaders eventually declared independence on September 15, 1821, creating the Federal Republic of Central America. Despite lifting the heavy economic burden imposed by Spanish imperial policies, the Republic's fledgling administrative apparatus was no match for the parallel, illicit economy that had become entrenched in the region over centuries. The temporary junta that governed in the immediate post-independence years attempted to bolster the Republic's fiscal framework and improve

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<sup>299</sup> ICEFI 2007: 41; ASIÉS 2013: 9.

<sup>300</sup> González-Izas 2014: 41.

<sup>301</sup> Quoted in González-Izas 2014: 44.

revenue extraction.<sup>302</sup> The measures, however, had little effect on the tax revenues raised by the Republic. Following Central American independence, the government “did not receive the anticipated resources, above all due to contraband and bribery within customs.”<sup>303</sup>

After the dissolution of the Federal Republic of Central America in 1841, Guatemala was tasked with revamping its fiscal apparatus, now separate from the other governments of the region. The biggest impetus for institutional and infrastructural improvements to Guatemala’s customs administration was the economic transformation that accompanied the Liberal Reform period beginning in the 1870s. With the post-Independence economy floundering, a more modern class of liberal, largely foreign, elite gained increasing influence and reoriented the Guatemalan economy toward commercial coffee cultivation and export.<sup>304</sup> Liberal presidents Miguel García Granados (1871-1873) and Justo Rufino Barrios (1873-1885) oversaw increasing public expenditures on port and customs infrastructure to facilitate large-scale agricultural exports as well as new import tariffs.<sup>305</sup> Yet, with the overwhelming share of government attention on fostering commercial agriculture and exports, enforcement of the new tariffs was weak, and contraband smuggling continued with little interference.<sup>306</sup>

It was not until the dictatorship of Jorge Ubico (1931-1944) that efforts to combat corruption and customs fraud made any real headway. In 1935, Ubico oversaw the creation of the General Directorate of Customs and the Customs Code, which remained in place until the late 1990s when the Moreno Network revelations prompted the creation of the Superintendent of Tax Administration (SAT).<sup>307</sup> But as importantly, Ubico strengthened border security to stem the

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<sup>302</sup> ICEFI 2007: 24, 70-1.

<sup>303</sup> Ibid.

<sup>304</sup> McCreery 1983; Mahoney 2002.

<sup>305</sup> ASIES 2013: 29.

<sup>306</sup> Ibid., p. 30.

<sup>307</sup> Cordova Noguera 2014: 3.

flow of illegal arms from Mexico and Belize and enacted a *mano dura* [heavy-hand] policy to combat corruption amongst customs inspectors and agents, “who were known to receive bribes for the passage of alcohol and tobacco.”<sup>308</sup> Though Ubico also oversaw significant trade liberalization measures, in bolstering territorial control and administration, the government was able to “reclaim its auditing role” and crackdown on contraband.<sup>309</sup> Additional tariffs were introduced during the decade of “Democratic Spring” under elected presidents Juan José Arévalo (1945-1951) and Jacobo Arbenz (1951-1954).<sup>310</sup> Despite sweeping social and economic changes, the burgeoning reformist program could not withstand the combined political power of Guatemala’s landed oligarchy and US intelligence agencies, which came to see Arbenz as a communist threat and ousted him in a military coup on June 27, 1954.

There are two features of this pre-civil war history that suggest that patterns of contraband and customs fraud, while widespread, did not constitute rules and procedures that were enforced from above and came to structure behavior in a meaningful way. The first is that political authority in Guatemala prior to Ubico’s rule was organized regionally and based on *caudillo* or “strong man” rule. The central state was neither sufficiently powerful nor legitimate to coordinate a territorially comprehensive customs regime, predatory or not. In the words of historian Matilde González-Izás, “for over a century and a half, Guatemala was a fragmented nation. The central government was never capable of controlling national territory directly; for this reason, it was obligated to select *caciques* [local political bosses] or a segment of provincial elites to act in its name.”<sup>311</sup> In other words, the type of centrally managed scheme reflected by the Moreno Network would not have been thinkable given the prewar structure of political

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<sup>308</sup> ASIES 2013: 31.

<sup>309</sup> Ibid.

<sup>310</sup> ICEFI 2007: 146.

<sup>311</sup> González-Izás 2014: 193.

power. Second, and relatedly, the formation of a strong central state did not occur until the 1931 rise of dictator Jorge Ubico, who, per historical accounts, did more than any other leader to crack down on illicit activity within customs. In short, the rules and procedures implemented by the now-hegemonic central state under Ubico sought to eradicate contraband rather than institutionalize it.

The restructuring of political power and militarization of the state to cement the fraudulent activities occurred following the coup and subsequent counterrevolution, which gave way to a series of military governments that pursued a radical anti-communist agenda and rolled back previous fiscal reforms. But in addition to the tax structure, the customs administration itself underwent notable changes during the 1960s. As the country barreled toward civil war following a series of uprisings by dissident military officers, the Guatemalan army stepped up border security and increased its grip on state power. By the mid-1960s, as part of the counterinsurgent struggle, there was a robust military presence at all of the customs houses and territorial entry points.<sup>312</sup> In many cases, military commissioners were funneled into the customs administration and served as customs inspectors, where they engaged in illicit activities like drug and arms smuggling. In fact, this was the trajectory of several major Guatemalan drug traffickers like Arnoldo Vargas, Gonzalo Orellana, and Waldemar Lorenzana, who got their starts operating in military and customs circles along the Honduran and Salvadoran borders.<sup>313</sup> The militarization of the state apparatus in the 1960s thus fed the flow of contraband, which had been diminished by the reforms of the 1930s, 40s, and early 50s.

Prior to this moment, the regionally based nature of political power made this level of control and organization unthinkable. Despite the involvement of members of the economic and

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<sup>312</sup> Barreto 2015.

<sup>313</sup> González-Izas 2014: 250, 288-90.

political class in smuggling and customs fraud throughout history, there is no evidence that these tendencies rose to level of institutions—that is, rules rooted in shared expectations and enforced externally. It was the centralization of political authority and militarization of the state as a result of the escalating insurgent threat that would change this. In the words of one former Ministry of Finance official, once the military was firmly in control of customs “they began to realize that commerce brings in a ton of money [...] And they began to see that it’s not just contraband related to military equipment and supplies for the guerrillas, but that there are people with lots of money evading taxes too.”<sup>314</sup>

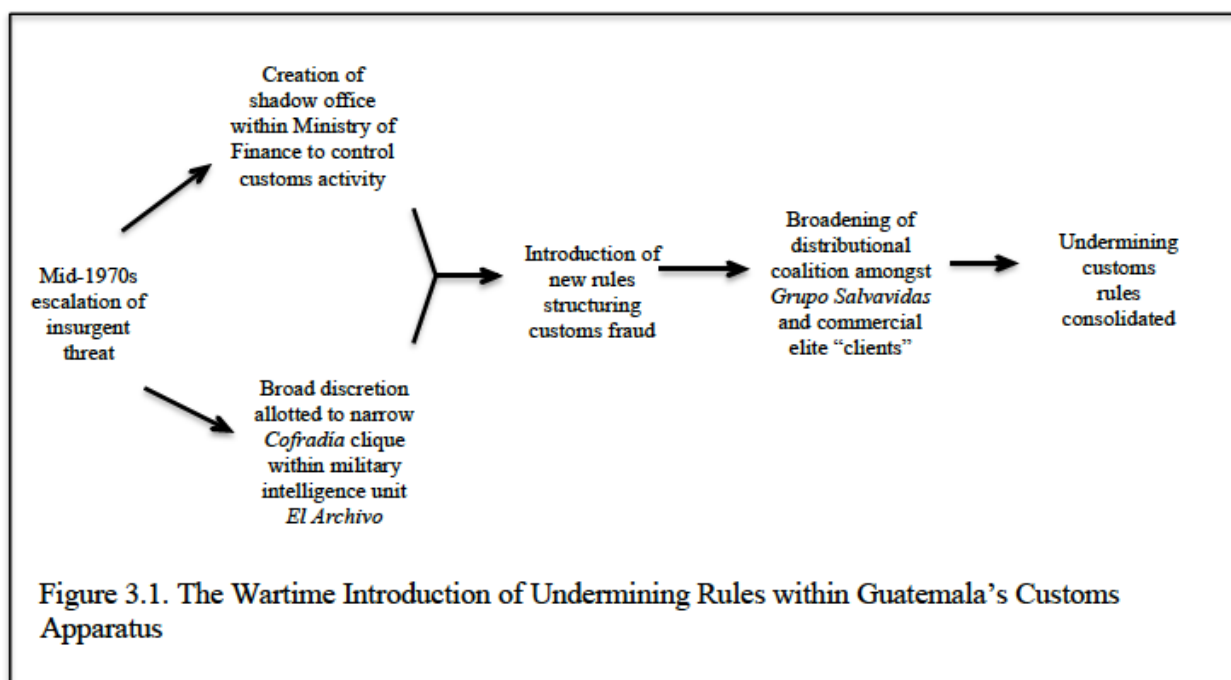
### **Conclusion: From Counterinsurgency to Organized Crime**

From his humble beginnings as an office clerk and low-level military agent, Moreno rose to “control theft” within the Army Commissary and eventually to oversee fraud and contraband smuggling within the General Directorate of Customs and the Ministry of Finance. Under the thumb of an elite military intelligence clique that had infiltrated every corner of the state apparatus by the late 1970s, Moreno not only worked with customs inspectors and administrators to extract bribes from importers, but crafted, implemented, and enforced an entire series of rules to siphon off customs revenues on a massive scale. These rules systematically distorted the Guatemalan state’s extractive capacity. In this sense, they constitute what I call undermining rules. The structure coordinated by Moreno and overseen by an elite military intelligence clique also drew together a high-powered group of lawyers, politicians, and security officials, known as *Grupo Salvavidas*, to buy impunity and guarantee the longevity of the undermining rules within customs. They cultivated a loyal client base that recurred to the Moreno Network to pass

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<sup>314</sup> Interview with author, June 12, 2017.

goods—licit and illicit—through customs unimpeded, further reproducing and consolidating the alternative rules of the game.



Zooming back out to the causal process elaborated theoretically in Chapter 2, the key wartime development that spurred the introduction of undermining rules within Guatemala's customs administration was the perceived escalation of the insurgent threat in the 1970s, following the reorientation of rebel strategy and subsequent territorial gains. As a result, discretionary power was centralized in an increasingly insulated military intelligence elite, which, amid an environment of institutional ambiguity, had thoroughly penetrated every corner of the state apparatus by the end of the 1970s. These elite political-military actors then introduced new rules that provided distributional benefits to them narrowly. However, given the political context of intramilitary fragmentation, the rules-making elite also needed to construct a robust coalition of state and non-state actors with a stake in the new rules to ensure their reproduction and survival. The result was a strongly consolidated set of undermining institutional arrangements that

dominated Guatemala's customs service throughout the armed conflict. Figure 3.1 illustrates this causal sequence within the specific institutional context of Guatemala's customs apparatus.

The military intelligence, Ministry of Finance, and legal authorities who worked on the case are unequivocal in linking the undermining rules that developed within customs to changes at the height of the Guatemalan state's counterinsurgent campaign. According to one former prosecutor, the intelligence elites operating within the Ministry of Finance "definitely took advantage of the internal armed conflict, and in a way, it gave them a certain amount of impunity to carry out illicit activities [...] Basically, contraband was very attractive because it left them with millions and millions. And the military was the institution protecting it."<sup>315</sup> Given their sophisticated surveillance tools, mandate to infiltrate and control key government ministries, and ability to weave together a broader coalition in favor of the new rules, "there was no other group as capable of creating such ordered disorder," in the words of a former customs official.<sup>316</sup>

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<sup>315</sup> Author interview, November 9, 2016.

<sup>316</sup> Author interview, June 2, 2017.

#### CHAPTER 4

### ORDERING POLICE VIOLENCE: EXTRAJUDICIAL KILLING IN WARTIME GUATEMALA

On the morning of September 25, 2006, masked special forces from Guatemala's National Civilian Police (PNC) charged into the notorious Pavón penitentiary to reclaim the facility from the clutches of organized criminal groups within. According to testimonies, the raid, dubbed "Operation *Pavo Real* [Peacock]," began with the gathering of prisoners in Pavón's "civic plaza" and the separation of some 25 to 30 individuals on a list compiled by Ministry of the Interior and prison officials. Once separated and taken to an isolated part of the detention center, the prisoners were forced to undress, bound, and beaten by state agents.

By the end of the operation that day, seven prisoners had been killed, many showing signs of torture and execution at point-blank range. Among the dead were detainees deemed leaders of the numerous illicit activities that flourished within Pavón, including Gustavo Adolfo Correa, who controlled the sale of liquor; Erick Estuardo Mayorga Guerra, who controlled the sale of crack cocaine; and Luis Alfonso Zepeda, the president of Pavón's Committee of Order and Discipline (COD), the "political-criminal" power that extorted detainee families. The most prominent prisoner executed was Jorge Batres, a Colombian sentenced to 12 years for drug trafficking. Batres was said to be the primary target of the operation.<sup>317</sup>

The Pavón raid was not the only prison bloodbath recorded during the period. A very similar scene unfolded 11 months earlier following the escape of 19 high-risk prisoners in the eastern province of Escuintla. On October 22, 2005, the detainees, most of whom were sentenced for violent crimes like murder and kidnapping, utilized a man-made underground tunnel to flee the El Infiernito prison. In response, top security officials devised "Plan Gavilán" to track down

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<sup>317</sup> This narrative is reconstructed from the investigation of the Human Rights Ombudsman; see PDH 2006.

the fugitives, deploying 68 police agents from the elite Criminal Investigations Service (SIC).<sup>318</sup> Once located, the escaped prisoners were not charged and returned to El Infiernito, but instead executed or tortured on the spot. Investigations implicated the SIC agents in three killings and four cases of torture in late 2005.<sup>319</sup>

In both the Pavón and El Infiernito cases, the prisoner killings and abuses were not excesses carried out by rogue police agents, but formed part of internal plans crafted by senior security officials within the center-right government of Óscar Berger, a member of Guatemala's traditional business elite. Those officials included Carlos Vielmann, then-Minister of the Interior; Víctor Rivera, Vielmann's top security advisor; Erwin Sperisen, head of the PNC; Víctor Hugo Soto Diéguez, chief of the PNC's Criminal Investigations Division (DINC); and Javier Figueroa, Soto Diéguez's deputy.<sup>320</sup>

According to investigations by the UN International Commission against Impunity in Guatemala (CICIG), both operations amounted to campaigns of "extrajudicial killing [that] followed a pattern of systematic conduct"<sup>321</sup>: conduct surveillance on targeted criminals through a network of informants; deploy elite police groups to eliminate them, usually by firearm and at close range; alter the scene of the crime to create the mirage of an armed confrontation; and manipulate subsequent investigations to ensure impunity for the responsible agents. The upper echelons of Berger's security cabinet were not executing their formal duties, but instead "acted

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<sup>318</sup> Fernández 2011: 138.

<sup>319</sup> CICIG 2018.

<sup>320</sup> Carlos Vielmann was acquitted by a Spanish tribunal for the Pavón case, but is facing trial in Guatemala for the El Infiernito-related killings. Víctor Rivera was murdered in April 2008 at the behest of a drug trafficker with whom he had alleged links. Erwin Sperisen was convicted for the Pavón case in a Swiss court in April 2018 and sentenced to 15 years in prison. Víctor Hugo Soto Diéguez was sentenced to 33 years in prison by a Guatemalan court for the Pavón killings in 2013. Finally, Javier Figueroa was acquitted in an Austrian court for the Pavón case in 2011.

<sup>321</sup> CICIG document in Annex 3, cited in Fernández 2011: 459.

as an organized criminal group that, under the protection of their official ranks, legitimized their illicit actions,” in the words of one CICIG document.<sup>322</sup>

The broader pattern of extrajudicial killing during the mid-2000s drew the attention of international officials. Phillip Alston, then-UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, concluded after his own fact-finding mission that while such actions “have not reached the category of official policy, [due to] their frequency and systematic character, [...] they suggest institutional responsibility.”<sup>323</sup> Indeed, Guatemala’s homicide rate skyrocketed after Vielmann and his team assumed the Ministry of the Interior in July 2004. It stood at roughly 34 homicides per 100,000 people when he took office and had climbed to 46 per 100,000 people by the time he was forced to step down.<sup>324</sup> Though it is impossible to discern precise figures, local NGOs estimated that some eight to ten percent of murders at the time were carried out “with the purpose of ‘eliminating’ supposed members of gangs and other criminals.”<sup>325</sup> In addition to extrajudicial killings, such incidences represented act of social cleansing, defined as “executions of gang members, criminal suspects, or other ‘undesirables.’”<sup>326</sup>

Extrajudicial killing and the more specific variant, social cleansing, are, of course, not unique to Guatemala, but an unsettling feature of the post-transition landscape in many Latin American countries and throughout the developing world. Across the globe, scholars, journalists, and policy experts have shed light on the deployment of death squads, or “clandestine and

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<sup>322</sup> Ibid. p. 361.

<sup>323</sup> Alston 2007: 11.

<sup>324</sup> Homicide rates collected from PNC data. Many thanks to Carlos Mendoza for sharing these data.

<sup>325</sup> Alston 2009: 8.

<sup>326</sup> Alston 2007: 2; per conventional definitions, social cleansing is a subset of extrajudicial executions, targeted at social groups considered “undesirable” (i.e. gangs). In this chapter, I use the term “social cleansing” to refer to the summary executions of alleged gang members and criminals, while “extrajudicial” or “extralegal” killing is used to refer to such executions that targeted other individuals more broadly (i.e. political opponents and suspected insurgents). As I will illustrate the rules governing wartime extrajudicial executions were applied to both categories of “internal enemy”—alleged criminals and alleged insurgents.

usually irregular organizations, often paramilitary in nature, which carry out extrajudicial executions and other violent acts against clearly defined individuals or groups of people.”<sup>327</sup> Rather than operating independently, such groups most often enjoy “the overt support, complicity, or acquiescence of government,” whose agents may participate in death squad activities directly.<sup>328</sup> Death squads have been recorded in El Salvador<sup>329</sup> and pre-Revolution Nicaragua<sup>330</sup> as a means of securing landed elite interests and within the Brazilian police<sup>331</sup> to combat gang dominance in favela communities. Further, they have served as quasi-state agents of social control in countries as varied as Uganda, Indonesia, and India.<sup>332</sup>

But perhaps even more important than the organizations that utilize extralegal violence and their sources of power is *how* they come to structure extrajudicial killing. Extrajudicial killings often abide by entrenched rules and procedures, which are routinized and clearly communicated amongst those implementing and enforcing them. As Daniel Brinks demonstrates in his research on police killings in Buenos Aires, São Paulo, and Salvador de Bahia, such violence constitutes an informal institution—“an informal rule of behavior that goes far beyond what the formal rules contemplate as the proper use of deadly force; this rule broadly condones killing, as long as it occurs in the course of routine policing.”<sup>333</sup> In such cases, the alternative rule is enforced by the judiciary, which fails to convict the police officer even with evidence that excessive force was used or the crime scene was altered.<sup>334</sup> Further, such a rule, according Brinks, *competes* with the formal “rules of the game” within the security and judicial

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<sup>327</sup> Campbell 2000: 1-2.

<sup>328</sup> Ibid.

<sup>329</sup> Mason and Krane 1989; Arnson 2000; Silvia Ávalos 2014.

<sup>330</sup> Schroeder 2000.

<sup>331</sup> Huggins 2000.

<sup>332</sup> Kannyo 2000; Cribb 2000; Gossman 2000.

<sup>333</sup> Brinks 2003: 2.

<sup>334</sup> Ibid., pp. 10-11.

apparatus—“it short-circuits due process and shows no regard for the physical integrity of those who come into contact with the police.”<sup>335</sup>

But where do such rules come from? How does extrajudicial killing by police agents, which systematically subvert the rule of law, come to constitute institutionalized procedures that are known and enforced within the state apparatus? In this chapter, I seek to answer these questions through the Guatemalan case, examining the origins of present-day undermining rules governing extrajudicial violence and social cleansing by the National Civilian Police. Adopting Brinks’ rules-oriented approach, I argue that the development of such procedures is rooted in the specialization of the police force and the broad discretion granted to concentrated groups of police elites at the height of the internal armed conflict.

Specifically, with the creation of highly insulated, elite investigative units like the Detective Corps [*Cuerpo de Detectives*], previous extralegal violence waged by right-wing death squads was incorporated into and institutionalized as routine security activity. The new rules were sanctioned by top military intelligence officials, who devised clear procedures for how to frame the resulting killings to the public. And they became increasingly consolidated as they were diffused to other security agencies and garnered the buy-in of economic elites threatened by insurgent expansion. Overall, the chapter illustrates how, as with Guatemala’s customs apparatus, conflict dynamics led to the introduction and consolidation of alternative rules and procedures, which, in this case, systematically distorted the provision of public security and subverted the rule of law.

To illustrate this claim, the chapter proceeds as follows. First, I discuss how the escalation of the insurgent threat in the 1970s altered the character and structure of the National Police, leading to the creation of specialized police investigative units subordinate to military

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<sup>335</sup> Brinks 2006: 225-6.

intelligence control and transformed under the US-promoted National Security Doctrine (NSD). In particular, I examine the development of one elite police division: the Detective Corps.

Drawing on death squad activities carried out by right-wing paramilitary groups in the 1960s and 1970s, I then demonstrate how the intelligence elites controlling the Detective Corps introduced new rules structuring extrajudicial violence and social cleansing. Planned from above and disguised as work of the feared *Escuadrón de la Muerte* (EM, Death Squad) and the Secret Anticommunist Army (ESA), the new institutional arrangements involved the use of previously demoted agents known as *rebajados*, who worked with the Detective Corps to collect intelligence on targeted individuals, eliminate them in brutal fashion, and then manipulate the crime scene to construct a veneer of right-wing vigilante justice. Next I demonstrate how these undermining rules became consolidated as they were transferred to other security organs like the Treasury Police and as the private sector developed a stake in them.

I then assess the two alternative explanations for the wartime introduction of undermining rules—state war-making strategy and prewar institutions—in this particular context. The concluding section examines how the evolution of the perverse institutional arrangements structuring extrajudicial violence mirror the broader causal process demonstrated within Guatemala's customs apparatus and outlined theoretically in Chapter 2.

### **The Escalation of Insurgent Threat and Police Specialization**

Following the CIA-backed overthrow of Arbenz and the installation of a series of right-wing military governments, the role of the National Police, which was created following Guatemalan independence in 1821, shifted dramatically. Driven by heightened fears of insurgent incursion into urban areas, the PN became subsumed within the state's virulent anti-communist

campaign, its institutional functions redirected toward counterinsurgency. This not only required the increased militarization of police forces, but their expansion and increasing autonomy vis-à-vis the judicial system. In this section, I will demonstrate how the PN, with significant US assistance and under the thumb of military intelligence, became increasingly specialized and vested with broad discretion to prosecute the counterinsurgent war. These transformations set the stage for narrow groups of police intelligence elites to introduce new, undermining rules with pernicious consequences for the rule of law.

### ***The Urban Insurgent Threat and PN Expansion***

Following the 1954 coup, the PN's primary function of social control shifted from the sphere of economic relations to that of political and ideological relations, as the perceived guerilla threat, specifically in urban areas, increased. While insurgent expansion within the northwestern Mayan highlands did not take off until the early 1970s, the guerrilla incursion into Guatemala City occurred somewhat earlier, after the vestiges of the first failed rebel uprising sought to regroup in the mid-1960s. Though small in numbers, Guatemala's primary insurgent organization, the Rebel Armed Forces (FAR), demonstrated surprising strength, engaging in urban guerrilla warfare tactics like targeted kidnappings and bombings. Comprised mostly of former military officers and soldiers, the FAR constituted "a major internal threat to [Guatemala's] stability for the foreseeable future," in the words of a 1968 US State Department cable.<sup>336</sup> Underscoring these vulnerabilities, that same year, FAR forces stormed the US Embassy in Guatemala City, murdering then-ambassador John Gordon Mein—the first US ambassador to be assassinated while serving abroad. Though the possibilities of toppling Guatemala's military government remained far off, the high-profile killing transformed perceptions of the FAR's capabilities and dramatically increased the sense of threat.

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<sup>336</sup> US Department of State 1968: 11.

As in the case of the Guatemalan military, the PN was woefully unprepared to assume the internal security tasks necessary to stem insurgent revival. Though it had been brought under the umbrella of the General Directorate of National Security in 1956,<sup>337</sup> the PN exhibited significant deficiencies with respect to countering guerrilla activity. These shortcomings were widely noted by US public security advisors in the 1960s. As one explained, the “police forces have a limited capacity to face up to any large-scale internal subversion, rioting or guerrilla warfare that might be fomented by Castro-Communists or to act as an effective deterrent.”<sup>338</sup> Though capable of minimizing small-scale unrest, the massive rebellion perceived to be on the horizon would be insurmountable in light of current police capabilities.

On the one hand, the existing deficiencies were structural, stemming from the absence of professional training, poor personnel and budget administration, limited equipment, and low morale.<sup>339</sup> Yet, on the other hand, the obstacles also had to do with leadership and political will. By the mid-1960s, US efforts to strengthen the police had continually been “thwarted by the [Government of Guatemala’s] failure to give the police minimal budget and administrative support”<sup>340</sup> and “to furnish the police the material and other resources necessary to make it an effective organization.”<sup>341</sup>

In response and under the direction of US advisors and top Guatemalan military brass, the National Police underwent a dramatic reorganization to expand police coverage within urban areas, institutionalize its counterinsurgent role under military control, and enhance its internal security and intelligence capabilities. In the early 1970s, new police stations and substations were created throughout the country. Particular attention was focused on Guatemala City, with

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<sup>337</sup> See US Embassy in Guatemala 1956.

<sup>338</sup> US Embassy in Guatemala 1961: 4.

<sup>339</sup> International Cooperation Administration 1956: 3-4.

<sup>340</sup> US Embassy in Guatemala 1963: 1-2.

<sup>341</sup> US Embassy in Guatemala 1964: 5.

four new police corps divisions institutionalized within clearly delimited operational zones.<sup>342</sup>

Moreover, the size of the police force nearly doubled in the course of a decade, increasing from 3,000 men in 1965 to 5,368 men in 1974.<sup>343</sup>

Further, as a means of streamlining its counterinsurgent functions, the PN became fully subordinate to the armed forces. This subordination took a number of forms. For one, Guatemalan military leaders came to occupy every post within the Police Directorate—the PN’s top coordinating body. By the 1970s, new police recruits had to have completed required military service. It also became standard practice for the police “to remit copies of daily activities to the Intelligence Directorate of the National Defense Staff and to the regional armed forces within their military zone.”<sup>344</sup>

The perceived escalation of the insurgent threat thus spurred the expansion and militarization of the PN. But as in the case of the armed forces, perhaps the most important effect of these dynamics was the empowerment of elite police investigative units that were relatively shielded from broader police and state structures. In the remainder of this chapter, I will focus on one of those units: the Detective Corps [*Cuerpo de Detectives*].

### ***Elite Empowerment: The Detective Corps***

Much like the evolution of Guatemalan military intelligence, a core measure undertaken to strengthen police counterinsurgent capabilities was the empowerment of narrow, elite investigative units, whose operational discretion far exceeded their formal duties. The most powerful of these groups within the PN was known as the *Cuerpo de Detectives*, or the Detective

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<sup>342</sup> AVANCSO 2013: 52.

<sup>343</sup> McClintock 1985: 157.

<sup>344</sup> AVANCSO 2013: 52.

Corps.<sup>345</sup> Though formally the branch of the PN tasked with criminal investigations, in practice, the Detective Corps maneuvered with relative autonomy from the broader police apparatus. It instead formed part of the narrow, elite intelligence coalition that enjoyed total political control and discretion. As its political power expanded vis-à-vis the judiciary (examined in the next section), these narrow interests would drive processes of institutional change.

The PN Detective Corps was formally established on November 3, 1970 under the Arana Osorio government; however, it originated following a series of police investigative units first created in 1925, when the PN first achieved organizational coherence.<sup>346</sup> Though it experienced a number of name changes throughout the early 20<sup>th</sup> century, its institutional functions remained intact throughout the period. Formally, the Detective Corps was charged with tasks “in support of prosecutors and judges in order to obtain, compile, secure, and study judicial evidence.”<sup>347</sup> Per its legislative origins, the Detective Corps neither corresponded to the preventive nor reactive dimensions of police activities; instead its sole institutional function was that of criminal investigation: “to study the causes and circumstances under which a criminal act occurred.”<sup>348</sup>

In practice, however, the PN investigative division far exceeded this mandate, particularly as the fears of insurgent incursion increased. Even soon after the 1954 coup, the Detective Corps’ predecessor, the Judicial Police, was given “the power to capture individuals markedly Communist from the previous regime who constituted a danger for the normal

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<sup>345</sup> Prior to 1955, the equivalent of the Detective Corps was called the “Section of Investigations,” the “Security Police,” and then the “Judicial Guard.” Following the 1982 coup, the Detective Corps transitioned into the “Department of Technical Investigations.” In 1986, it was renamed the “Brigade of Special Investigations and Narcotics.” And finally, from 1988 onward, it was called the “Department of Criminal Investigations.” See AHPN 2009: 9.

<sup>346</sup> AHPN 2009: 19.

<sup>347</sup> AVANCSO 2013: 62.

<sup>348</sup> AHPN 2009: 27.

development of the country.”<sup>349</sup> Throughout the 1950s and 1960s, PN investigative agents played a role in the surveillance and repression of those deemed political opponents by the sitting regime. For example, US public security advisors in the early 1960s noted that the brutality and brazenness with which the Judicial Police operated only deepened popular resentments and stoked further protest. Referring to the Judicial Police as “goon squads” “composed of hoodlums,” the officials lamented that, “this Service, through indiscriminate and unnecessarily violent tactics, perhaps contributed to the prolongation of anti-Government disorders by providing the opposition with dead and wounded ‘martyrs.’”<sup>350</sup> Thus, even the earliest iterations of the Detective Corps operated outside of the PN’s legal framework.

The nature of the PN’s investigative division, however, underwent a categorical shift with the formal creation of the Detective Corps in 1970. This shift involved two related elements: 1) greater specialization in investigative and intelligence techniques, which transformed the Detective Corps into an “elite” police organ, and 2) the insulation of the Detective Corps from the broader police apparatus and its operational autonomy under the narrow military intelligence elite controlling counterinsurgent operations.

First, the Detective Corps was envisioned not merely as a repressive force that operated at the whims of the President, but instead as a highly trained and equipped group capable of counteracting urban guerrilla activity. In a conversation between President Arana Osorio and US diplomats months prior to its creation, the Detective Corps was conceived of as “an elite police corps to deal with urban terrorism” and a “new high-level security force [that would use] the latest scientific techniques within the legal framework.”<sup>351</sup> While the previous Judicial Police carried out repression against political opponents, it lacked the investigative and intelligence

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<sup>349</sup> Ibid., p. 17.

<sup>350</sup> US Embassy in Guatemala 1962: 1-2; US Department of State 1962: 6.

<sup>351</sup> US Department of State 1970: 1.

capacity necessary to wage targeted counterinsurgent operations. The transition to the Detective Corps was thus seen as a means of bringing the PN's investigative apparatus into the fold of the state's broader intelligence efforts.

By the early 1970s, the Guatemalan government invested increasing resources in developing within the Detective Corps the requisite manpower, surveillance techniques, and intelligence collection and analysis capacities to serve as "a source of information that complemented the government's intelligence apparatus."<sup>352</sup> Toward this aim, the Arana Osorio government created the Detective Corps Academy in 1971,<sup>353</sup> which more than doubled the number of agents from 150 in 1962 to 324 by 1974.<sup>354</sup> But perhaps most importantly, the concept of police intelligence was more clearly delineated and aligned with the US-promoted National Security Doctrine, which guided the Guatemalan state's counterinsurgent struggle. According to documentation from the Historical Archives of the National Police,

Police intelligence is designed to protect the government against insurrectionist elements that try to subvert and undermine the internal security of the state. It should have the capacity to provide timely, precise information relative to the movements of subversives, the degree of insurrection that exists or other types of threat to the stability of the government to take necessary measures to counteract these actions. Within the framework of the counter-insurrection, police intelligence is the information concerning the subversive activities and the attitude of the population, which permits the police or other counterinsurgent forces to determine the existence of a climate of discontent, identify the tendencies, identify the leaders and members of the clandestine guerrilla organizations, know the places where they are found, their movements and methods of operation, and the terrain in which they act.<sup>355</sup>

The institutional functions of police intelligence thus acquired a new level of specialization.

Rather than merely operating as "goon squads" to face down political dissidents on the streets of Guatemala City, the Detective Corps engaged in the more technically sophisticated tasks related to intelligence collection and analysis, which elevated its role within the National Police.

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<sup>352</sup> AHPN 2009: 103.

<sup>353</sup> *Ibid.*, p. 48.

<sup>354</sup> US Embassy in Guatemala 1962: 1; McClintock 1985: 157.

<sup>355</sup> AHPN 1980: 1.

As a result, the Detective Corps became entirely insulated from broader police structures and was instead empowered to operate from the shadows, under the thumb of Guatemala's military intelligence elite. This is the second key change that occurred in the early 1970s. As a means of fending off guerrilla infiltration, the Detective Corps enjoyed *de facto* separation from the PN Directorate and instead operated as an arm of the elite military intelligence cliques controlling executive decision-making. The basis of the Detective Corps' autonomy and secrecy is clearly outlined in the PN archives detailing the functions of police intelligence. According to the prevailing view at the time, such entities "constituted the [insurgency's] favorite targets, given that, from within them, [the insurgency] can destroy discipline and secure greater freedom to develop clandestine activities."<sup>356</sup> As a result, officials urged that, "the intelligence unit should have a certain degree of autonomy to reduce the possibility of compromising its confidential operations."<sup>357</sup>

This autonomy from the PN command structure served to bring the Detective Corps under the umbrella of military intelligence, a move further facilitated by the creation of the Joint Operations Center of the Police (COCP) in 1972. The COCP was an inter-institutional agency formally tasked with "the elaboration of statistical analysis and the systematization of registered information" gathered from police patrols and activities. The COCP served as the main link between Detective Corps activities and the intelligence work being conducted by military officials.<sup>358</sup> It shifted the Detective Corps' institutional locus from the formal police organization to the narrow cliques of military intelligence elites, who were tied together by personal, informal affinities, as described in the previous chapter.

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<sup>356</sup> Ibid., p. 11.

<sup>357</sup> Ibid., p. 2.

<sup>358</sup> AVANCSO 2013: 23.

The perceived escalation of urban insurgent mobilization not only led to expanded police coverage, but gave rise to the construction of small, elite police investigative units like the Detective Corps, which developed enhanced intelligence capabilities. The Detective Corps' ascendance and insulation from PN organizational structures set the stage for the introduction of new, alternative rules governing the prosecution of urban counterinsurgent warfare. Per my theoretical framework, however, it is not just the elevation of narrow groups of counterinsurgent elites that matter for wartime institutional change. Such processes also require the opening up of a "gap" between the existing rules structuring state activities and the ways in which those rules are interpreted and enforced. This institutional gray zone would emerge as the role of the Detective Corps transformed vis-à-vis judicial institutions.

***Growing Institutional Ambiguity: Defanging the Judiciary***

As the late 1960s and early 1970s gave rise to greater police specialization, Guatemala's political leadership also took steps to dismantle the judicial checks on police power. This loosening of the "rules of the game" within the country's security and justice apparatus was driven by an overwhelming sense that, by scrutinizing police evidence against suspected subversives and in guaranteeing individual liberties unconditionally, the country's criminal tribunals were direct obstacles to effectively waging counterinsurgency. But in suspending the formal legal framework, political and military leaders also facilitated a growing institutional gray zone, which would permit the introduction of new, alternative rules to take shape and distort the rule of law.

As the threat posed by the FAR insurgency intensified, state security agents increasingly came to see Guatemala's court system as an impediment to counterinsurgent activities. This was largely because the formal legal guarantees built into the Criminal Code—especially those

underwriting *habeas corpus*—provided cover for suspected guerrilla operatives, whose clandestine activities could not be sufficiently proven to win convictions. According to the CEH, writs of habeas corpus [*recursos de exhibición personal*] were, in fact, effective legal tools to ensure due process and put a stop to inhumane treatment under state authorities in the early years of the armed conflict. For example, such petitions were successfully used to stop the torture of political prisoners from the November 1960 military uprising and to initiate proceedings against a group of labor leaders being detained illegally.<sup>359</sup> Thus, despite the wartime environment, constitutional guarantees effectively counteracted police abuses.

Yet, by the mid-1960s, the growing frustrations with these judicial checks on power had altered the institutional landscape. More and more, police forces decried that their efforts were squandered because criminal tribunals would let suspected insurgents walk free under the pretext of insufficient evidence. One newspaper article from the time reported that, “we’ve heard incessant complaints from police elements that it serves no purpose to capture criminals if, just a few days later because of a lack of evidence, they are as free as the trees in La Aurora [a zone of Guatemala City].”<sup>360</sup> A similar sentiment was expressed by members of the Guatemalan armed forces, who saw no use in bringing suspected rebels to trial. According to one ex-soldier testimony,

The Army felt that it was alone in carrying out the battle against the guerrillas. The thinking—this was our feeling—was why am I going to capture a guerrilla fighter if I can’t bring him to trial, if there is no one who is going to oppose him? It is better to have him dead than alive because perhaps the tribunal is going to set him free in 15 days [...] The idea of capturing them and bringing them to trial never occurred to us, we never thought about it.<sup>361</sup>

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<sup>359</sup> CEH 1999: 121.

<sup>360</sup> Quoted in AVANCSO 2013: 321.

<sup>361</sup> CEH 1999: 115.

For state security agents, recurring to formal judicial proceedings not only became undesirable, but completely unviable amid counterinsurgent imperatives.

The mounting mistrust and resentment toward the court system crystallized into a series of measures to formally defang judicial power. In 1966, the Guatemalan Congress, at the behest of military leaders, passed a series of amendments to the Criminal Code, which effectively suspended *habeas corpus* protections for those accused of a wide range of “subversive” or “terrorist” acts.<sup>362</sup> It also freed police agents from the threat of detention while being investigated for abuses. On their face, the measures allowed for greater police discretion in a subset of cases and sought to ameliorate the fundamental contradiction between waging counterinsurgency and upholding legal norms. In the words of a US government cable emitted at the time, “the net result of the new law is to arrogate the police judgments and functions which once were considered within the domain of the judiciary” in order respond “to the ever perplexing dilemma of adequate prosecution of criminals without the abuse of police power.”<sup>363</sup> A less generous reading of the measure, however, is that political leadership sought to dismantle the formal legal architecture to wrest prosecutorial power from the judiciary and empower police forces with broad operational discretion.

Indeed, the early 1970s witnessed the growing use of state repression to substitute for criminal tribunals, which had been deemed “ineffective in trying the subversives put before them.”<sup>364</sup> This period also saw the increasing declaration of “states of exception” to suspend all constitutional guarantees and facilitate heavy-handed counterinsurgent actions. According to a study by the Guatemalan research institute AVANCSO, the repeated state of exception decrees “granted the police legal cover to carry out repressive actions. Further, through the [state of

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<sup>362</sup> US Embassy in Guatemala 1966: 1.

<sup>363</sup> Ibid.

<sup>364</sup> AVANCSO 2013: 325.

exception], constitutional life was placed outside of the judicial realm and substituted for exception. This political ruse gave significant backing to political [over judicial] power during many years.”<sup>365</sup>

In sum, the specialization of the PN and the creation of small, elite investigative units was not the only condition favorable for the introduction of the new, undermining rules that would come to structure extrajudicial killing. Successful efforts to diminish formal legal checks on police power generated a pronounced zone of institutional ambiguity—a breach between the prevailing “rules of the game” that governed criminal prosecution until the early 1960s and the ways in which they were interpreted and enforced thereafter. This development would also prove crucial as new institutional arrangements within the PN emerged.

### **The New Rules of the Game: Structuring Extrajudicial Killing**

As the escalation of the urban insurgent threat prompted police specialization and facilitated a growing legal and institutional gray zone, the newly empowered police elites of the Detective Corps implemented a series of alternative procedures to eliminate the rebel threat—rules that routinized the extrajudicial killing of those deemed “subversives” and “criminals.” These police procedures provided for the identification of targeted individuals through sophisticated intelligence gathering, their elimination by suspended police agents acting as Detective Corps henchmen, and the manipulation of the crime scene to create the image of vigilante violence. Yet, they were also regulated and enforced at the highest levels of the Guatemalan government. Testimonial evidence suggests that the upper echelons of military intelligence and the Ministry of the Interior had a direct hand in devising the lists of targeted individuals and framing killings as a product of right-wing extremism. In this section, I elaborate

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<sup>365</sup> Ibid., p. 324.

how the *practice* of extrajudicial killing became *institutionalized* as the conflict escalated, systematically undermining the rule of law.

The proliferation of right-wing death squads in Guatemala began in the mid-1960s, shortly after the November 1960 uprising at the Zacapa military base, which marked the official onset of the internal armed conflict. Shortly thereafter, clandestine paramilitary organizations began to take shape, sprouting a number of groups including the Organized National Anticommunist Movement (MANO), Eye for an Eye [Ojo por Ojo], Righteous Jaguar [El Jaguar Justiciero], the New Anticommunist Organization (NOA), and the Anticommunist Council of Guatemala (CADEG).<sup>366</sup> The primary goal of these groups was the eradication of the burgeoning guerrilla cells forming in the country's eastern provinces. For example, the Organized National Anticommunist Movement, also known as 'Mano Blanca' [White Hand], identified itself with the insignia of a white hand atop a red circle and the motto, "this is the hand that will eradicate the renegades of the nation and the traitors to the homeland."<sup>367</sup> In one of its earliest manifestos, Mano Blanca declared that "the gangrene requires amputation of the infected elements, the cancer requires removal at its roots [...] We will impose order, organization, discipline, sense of duty, honesty, and work. No country can survive when anarchy, wearing the mask of democracy, dominates."<sup>368</sup>

The death squads like Mano Blanca thus envisioned nothing short of the complete elimination of those perceived as communist "traitors" through whatever means necessary. Through the end of the 1960s, their mission was made manifest through the circulation of hit lists and the brutal killings that followed. In 1967 alone, more than 500 names appeared on the

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<sup>366</sup> González-Izás 2014: 232.

<sup>367</sup> Ibid., p. 233.

<sup>368</sup> Ibid.

death lists prepared by the right-wing groups.<sup>369</sup> And by early 1970, hundreds of individuals had been brutally murdered, their bodies often strewn on roadsides and in public places.<sup>370</sup>

The brutal repression waged by the right-wing death squads was, in large part, facilitated by its links to soldiers and military officials, who played varying roles in paramilitary activity over time. For the most part, the groups were primarily led by civilians, having been established by large landowners in northeastern and eastern provinces like Jalapa, Chiquimula, Zacapa, and Izabal.<sup>371</sup> For example, the Mano Blanca “command” was comprised of five civilians, among them ranchers Raúl Lorenzana and Orantes Alfaro.<sup>372</sup> And increasingly, death squad operations drew significant financial support from members of Guatemala’s traditional oligarchy and business owners in other parts of the country, including Guatemala City, Antigua, and the southern coast.<sup>373</sup>

While initially organized in small groups under local civilian “chiefs,” the paramilitary forces, however, became increasingly tied to military commandoes in the region. They received formal military training from the Zacapa Military Brigade, and members were also provided armaments directly from Army caches. Within some military circles, the civilian-led death squads “were conceived of as the operational arms of [military] intelligence, above all to threaten and carry out executions against political opposition figures.”<sup>374</sup> In the case of some death squad organizations, the Guatemalan military had more direct strategic and operational control. According to US government cables from 1967 and 1968, groups like NOA, CADEG, and Ojo por Ojo were,

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<sup>369</sup> Ibid., p. 234.

<sup>370</sup> Bureau of Intelligence and Research 1970: 1.

<sup>371</sup> Interview with author, November 3, 2017.

<sup>372</sup> González-Izás 2014: 233.

<sup>373</sup> Ibid.

<sup>374</sup> Ibid., pp. 233-4.

...essentially fictional ‘organizations,’ allegedly composed of violently anti-communist ‘patriots’ who issue death lists, carry out executions, and, according to their own propaganda fly-sheets, claim credit for such terrorism. Actually, the acronyms and the ‘organizations’ they represent are psychological warfare devices of [Guatemalan government] clandestine forces – for the most part, the units never did exist except on paper, and the operations they threatened were actually performed by the [government] clandestine units.<sup>375</sup>

In other words, the paramilitary organizations were fronts for special forces of the Guatemalan military, who sought to frame the brutal killings as a product of right-wing extremist activity. Given “the apparent inability of [the] judiciary [to] handle the insurgency problem within legal norms,”<sup>376</sup> military units operating rather autonomously in the eastern provinces sought to conjure the image of vigilante action to justify a spate of selective killings.

It is precisely this model that would become the prevailing method of eliminating suspected “subversives” and “criminals” as the urban insurgent threat mounted and the PN’s Detective Corps developed a higher degree of specialization and discretion. Following from this chapter’s core claim, the *practices* of extrajudicial violence waged by large landowners and military units in the late 1960s became *institutionalized* by the early and mid-1970s, constituting a series of new rules and procedures implemented and enforced at the highest levels of Guatemala’s military dictatorship. In the remainder of this section, I illustrate the nature of these alternative rules, how they came to regulate urban police action, and their institutional and human toll.

After its initial rise and fall at the end of the 1960s, the paramilitary violence that stoked fear in the eastern parts of Guatemala witnessed a swift resurgence in and around Guatemala City following the “election” of General Kjell Eugenio Laugerud in 1974. The patterns of extrajudicial killing intensified throughout the decade, coming to a head during the regime of

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<sup>375</sup> US Embassy in Guatemala 1968: 3; See also Bureau of Intelligence and Research 1967; US Embassy in Guatemala 1967a; US Department of State 1967; US Embassy in Guatemala 1967b.

<sup>376</sup> US Embassy in Guatemala 1967a: 2.

General Lucas García (1978-1982). During this period, the death squad murders targeted both suspected insurgent operatives and collaborators as well as those deemed “delinquents” due to a history of common, often violent, crime. During the first ten months of 1979 alone, there were a reported 3,250 men and women executed in clandestine death squad killings.<sup>377</sup>

Primary evidence from former Guatemalan government officials and US government reports, as well as secondary historical accounts, further demonstrate the patterned nature of such extrajudicial killings and the ways in which they were enforced from above. The extrajudicial killing procedures began with intelligence gathering on the targeted “criminal” or “subversive” by Detective Corps agents, drawing on the sophisticated techniques and extensive network of informants developed throughout the decade. Most often dressed as civilians, detectives would maintain meticulous notes on the daily habits and movements of eventual victims.<sup>378</sup>

Once identified and tracked, the targeted individuals were murdered in notoriously brutal fashion, often by firearm, stabbing, or strangulation. In many cases, the cadavers exhibited skull fractures consistent with execution-style killings at point-blank range. More often than not, the bodies also showed signs of torture and were left in public places. These occurrences were especially frequent with common criminals in Guatemala City’s poorer shantytowns and recidivist prisoners captured in or outside of facilities like Pavón<sup>379</sup>—the precise site of the 2006 prison massacre that began this chapter. In the words of Michel McClintock, “the appearance of bodies of executed ‘criminals’ on the streets [...] was seen as a salutary lesson on the implacable and irresistible power of the state; those who stepped out of line did so at their peril.”<sup>380</sup>

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<sup>377</sup> *Diario Impacto* 1979.

<sup>378</sup> See CEH 1999, Tomo III: 91.

<sup>379</sup> McClintock 1985: 179-180.

<sup>380</sup> *Ibid.*

But another prominent feature of these routinized police killings was the attribution of responsibility to right-wing ‘death squads’ by affixing justifying notes to the bodies of the dead. For example, in cases of suspected insurgent sympathizers, the cadavers were tagged with labels that read, “For communists, this will befall all of you.”<sup>381</sup> In other cases, the victims’ bodies were pinned with notes justifying their deaths as justice for common crimes: “For being an attacker and a thief,”<sup>382</sup> and “For being an extortionist”<sup>383</sup> or with typical refrains like “One less”<sup>384</sup> or “Executed.”<sup>385</sup> The notes were then signed by one of two groups, which had come to replace the earlier paramilitary organizations of the late 1960s: the *Escuadrón de la Muerte* (EM, the Death Squad) or the *Ejército Secreto Anticomunista* (ESA, the Secret Anticommunist Army).

The attribution of responsibility to these death squad organizations effectively painted the executions as vigilante justice by right-wing extremists frustrated with the ineffectiveness of the state and the judicial system. Indeed, top Ministry of the Interior and military officials would repeatedly deny any connections between the Guatemalan state and the EM and ESA. For example, Minister of the Interior Donaldo Álvarez Ruiz admitted that while “the death squads are helping clean out the criminals,” they have no links to state security forces.<sup>386</sup> Indeed, the US State Department monthly reports on violence and human rights in 1979 and 1980 registered a separate category of killings for “rightist activity” or “right-wing terrorism,” further bolstering the notion that autonomous anti-communist forces existed in the country and carried out targeted extralegal executions.

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<sup>381</sup> Barahona 1980.

<sup>382</sup> *Imparcial* 1974.

<sup>383</sup> *Imparcial* 1974b.

<sup>384</sup> *El Gráfico* 1976.

<sup>385</sup> *La Tarde* 1980.

<sup>386</sup> Calderón S. 1978.

However, accounts from those within government and the truth commission reports indicate that this image obscured the reality of extrajudicial killings in Guatemala's urban zones. Instead, the 'death squad' killings were carried out by police forces and coordinated from above—by those within the upper echelons of the military and the Ministry of the Interior. On the ground, the "hit squads" responsible for the executions were drawn from the pool of "patrolmen demoted for criminal or disciplinary offenses," which were known as "*rebajados*."<sup>387</sup> As McClintock describes, in order to maintain their PN affiliation, the *rebajados* "must atone [for their previous infractions] by taking on particularly hazardous or dirty work." They thus constituted a pool of personnel at the bottom of the police hierarchy "available to carry out any task assigned to them."<sup>388</sup> The Detective Corps would coordinate small teams of *rebajados* to carry out the extrajudicial killings, using so-called "confidential funds" to pay off the executioners.<sup>389</sup>

But who devised the list of targets for the Detective Corps, with their *rebajado* hit squads, to pursue? How were these procedures governing extralegal killings enforced and regulated? Both the list of targeted "subversives" and "delinquents" as well the public efforts to frame the extrajudicial violence as right-wing vigilante justice were controlled and executed from the highest levels of government, including the president, the EMP, and the Minister of the Interior.

According to former Ministry press secretary Elías Barahona (1976-1980), an insurgent infiltrator, the manufactured death squad activity formed part of the government's plan to eliminate thousands of rebel operatives and sympathizers, while propagating the image of a regime that continued to "seek dialogue and peace."<sup>390</sup> According to Barahona, the EM and ESA

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<sup>387</sup> McClintock 1985: 185.

<sup>388</sup> Ibid.

<sup>389</sup> See REMHI 1997.

<sup>390</sup> Barahona 1980.

were part of an “official cover-up plan that consists of attributing all of the kidnappings and assassinations to a struggle between political extremes that want to violently achieve power” and sought to portray the government as “trapped between two fires.”<sup>391</sup> To lend further credence to this theory, the list of Guatemalans “sentenced to death by the ESA and EM” included the names of top government officials like Álvarez Ruiz, Lucas García, and Minister of Defense Aníbal Guevara.<sup>392</sup> Yet, in reality, the registry of future victims was prepared by military intelligence and Ministry of the Interior officials, who transmitted them to the Detective Corps leaders tasked with coordinating the operational follow-through.

Additional first-hand accounts from within government corroborate these rules and procedures governing extrajudicial executions. In February 1979, Vice President Francisco Villagrán referred to the death squad killings “in such a way as to give rise to [the] interpretation that government security forces were responsible,” and further attributed them to “police frustration in seeing released criminals walking the streets.”<sup>393</sup> And in equally damning statements, former chief of the Detective Corps Manuel de Jesús Valiente Téllez, who fled the country after persecution by police rivals, “confirmed that the regular security forces were responsible for murders attributed to ‘death squads,’ and declared that ‘as head of the detective corps he had himself been involved in similar murder and ‘disappearance’ operations ordered by higher authorities.”<sup>394</sup>

Rather than excesses of rogue state security forces or “justice” imposed by anti-communist paramilitary groups, the ‘death squad’ killings were instead highly routinized and regulated procedures for eliminating suspected insurgents and criminals. The PN’s increasingly

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<sup>391</sup> Ibid.

<sup>392</sup> Ibid.

<sup>393</sup> US Embassy in Guatemala 1979: 1-2.

<sup>394</sup> McClintock 1985: 159; See also *Prensa Libre* 1981; Schirmer 1998: 159.

sophisticated Detective Corps, which operated with high levels of discretion and autonomy from the PN command, stood at the center of the implementation of these alternative rules, coordinating *rebajado* groups to carry out the selective murders that were overseen and enforced from above. Such rule-bound behavior would serve to systematically undermine the rule of law and state security provision. And it would only expand as other public and private sector actors came to reap the benefits.

### **Broadening the Wartime Distributional Coalition**

The introduction and implementation of the new undermining rules structuring police extrajudicial killings emerged with the creation of a narrow Detective Corps elite, which operated under the thumb of Guatemalan military intelligence. It was further facilitated when the judicial checks on police activity were swiftly dismantled. But, in line with this dissertation's broader theory, these new institutional arrangements became an entrenched feature of state action because a much broader set of public and private actors stood to gain through their enforcement. In this section, I focus on two specific ways in which the coalition underwriting the extrajudicial execution procedures was broadened: 1) by diffusing the alternative rules to other parts of the state security apparatus, and 2) by garnering the buy-in of economic elites that felt threatened by the leftist insurgent challenge. In this final section, I illustrate how both of these developments contributed to the consolidation of institutional changes within state security institutions.

First, the alternative rules governing extralegal killings did not remain confined to the Detective Corps, but were implemented by other branches of Guatemala's police force. The diffusion of these rules as a result political and material inducements ensured that they were

reproduced on a much broader scale. By enveloping state security personnel within various agencies, the new rules became increasingly consolidated.

Though the Detective Corps was primarily responsible for coordinating small groups of *rebajados* to carry out death squad killings, historical evidence suggests that, eventually, each National Police division came “[to maintain] ‘dirty squads’ charged with picking up and killing suspected criminals and assisting the army’s political murder operations.”<sup>395</sup> Further, US government cables detail conversations between Embassy officials and President Vinicio Cerezo (1986-1990), the first elected civilian president since conflict onset, who acknowledged the role of state security forces in ‘death squad’ activity throughout 1986 and 1987.<sup>396</sup> At the beginning of 1989, US officials reported that, “selected individuals within the PN had been responsible for the death of numerous criminals in Guatemala. Former PN members who had left the PN for a variety of reasons were rehired into the Department of Criminal Investigations (DIC) of the PN [the agency that replaced the Detective Corps] for the specific purpose of capturing and killing individuals with long criminal records.”<sup>397</sup> The extrajudicial killing procedures thus became institutionalized not only within the Detective Corps, but among the ranks of its successors and the police apparatus writ large.

But the undermining rules also took root within other parts of the state security apparatus, such as the Treasury Police—the force tasked with combatting contraband and customs fraud. In early 1988, investigators discovered that Treasury Police leaders and agents were behind the notorious “*pánel blanca*” [“white van”] kidnappings and killings, which stoked terror throughout Guatemala City and hearkened back to similar crimes committed by the Detective Corps in the

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<sup>395</sup> McClintock 1985: 160.

<sup>396</sup> US Embassy in Guatemala 1986a; US Department of State 1986; US Embassy in Guatemala 1986b; US Embassy in Guatemala 1987a; US Embassy in Guatemala 1987b; US Embassy in Guatemala 1987c: 4.

<sup>397</sup> [Former Members of Guatemala National Police] 1989.

late 1970s. In the course of weeks, eight individuals, many of whom were popular organizers and affiliates of the University of San Carlos (USAC), were picked up by armed assailants driving a white van. Six of the eight later turning up mutilated and murdered.<sup>398</sup> The *modus operandi* was virtually identical to previous extrajudicial killing procedures: “they were committed by armed persons in military or police clothing, with some dressed as civilians; they used light colored vans with polarized windows and without license plates, or plates belonging to individuals; the material authors of the crimes acted with complete freedom and impunity; they did not hide their faces nor act with secrecy, but the apprehensions were conducted in the light of day and in the public’s eye.”<sup>399</sup> Following the removal of the Treasury Police’s chief and six agents implicated in the scheme, Minister of the Interior Juan José Rodil and PN chief Julio Enrique Caballeros would admit that the extrajudicial killings were not only carried out by one white van, but by several.<sup>400</sup>

According to the subsequent police proceedings, the Treasury Police agents claimed that they were “only complying with orders from above” and were operating “to detect contraband liquor” and other illegal goods.<sup>401</sup> But in reality, the acts of torture and extrajudicial killings reflected the extension of the undermining rules within the police to another branch of the state security apparatus—one that had also fallen under the tight control of Guatemala’s military intelligence elites, developed its own network of informants for intelligence gathering purposes, and executed ‘death squad’-style killings to take out political opposition.<sup>402</sup> According to the CEH, recurring to such procedures served to shore up the institutional and financial interests of the Treasury Police, who did the bidding of both military intelligence officials and private

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<sup>398</sup> *El Gráfico* 1988a, 1988b.

<sup>399</sup> CIDH 1998: 59.

<sup>400</sup> *El Gráfico* 1988c, 1988d.

<sup>401</sup> AHPN 1988: 1.

<sup>402</sup> CEH 1999, Tomo II: 87-88.

actors.<sup>403</sup> This example illustrates how, as other divisions of Guatemala's security service garnered a stake in the extrajudicial execution procedures, the undermining rules became increasingly entrenched.

In addition to state security branches outside of the Detective Corps, another critical set of actors that developed a stake in the undermining rules was Guatemala's traditional private sector elite, particularly the landed oligarchy, which remained threatened by popular unrest even after the fighting died down in the mid-1980s. While ranchers and commercial agricultural producers in Guatemala's eastern provinces initiated paramilitary activities, these same actors bought in to the state-regulated practices of extrajudicial killing when they became centralized under military intelligence and the Detective Corps in the mid- and late 1970s. In fact, Barahona's testimony revealed that the names that appeared on EM and ESA 'death lists' during the Lucas García regime were often provided by "a sector of private enterprise," especially in cases of targeted labor leaders who were agitating for workers' and land rights.<sup>404</sup> Indeed, US government officials posited that, by 1979, most of the 'death squad' killings in its monthly records "are probably the victims of business interests, often local landowners operating with greater or lesser impunity."<sup>405</sup> No longer needing to wage their own anti-communist campaigns, private sector elites developed a vested interest in the routinized extrajudicial procedures for eliminating political threats.

The landed class' stake in death squad killings persisted even after the de-escalation of political conflict. In the view of rural landowners, the continued implementation of the undermining rules was a necessary means of keeping the peasantry at bay as democratic transition gave way to increasing calls for land reform. In fact, in early 1987, renewed signs of

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<sup>403</sup> Ibid., pp. 93-98.

<sup>404</sup> Amnesty International 1981: 8.

<sup>405</sup> US Embassy in Guatemala 1979b: 6.

ESA activity emerged along Guatemala's southern coast as the threat of peasant-led land invasions mounted. According to US Embassy advisors, coastal ranchers were "scared and angered" by potential land seizures and could be behind the continued paramilitary threats.<sup>406</sup> As this case illustrates, Guatemala's economic elites had an abiding stake in extralegal killing procedures even after the conflict died down and in the face of a changing political landscape. This dynamic alongside the diffusion of the extralegal procedures across the state security apparatus ensured that the undermining rules were underwritten by a much broader set of actors than that which devised them, and that they would be reproduced and consolidated thereafter.

### **Assessing Alternative Explanations**

The above analysis supports the claim that it was the narrow, exclusive nature of the elite Detective Corps and their broad operational discretion under military intelligence that accounts for the emergence of undermining rules governing extrajudicial killings within policing institutions. However, as with the case of Guatemala's customs administration, it is important to probe the two alternative explanations outlined in Chapter 2, which posit that such institutional innovations were instead a product of 1) the state's particular war-making strategy or 2) prewar institutions. I address each of these possibilities in turn.

#### ***State War-Making Strategy***

As with the development of undermining rules within Guatemala's customs administration, it is difficult to rule out the possibility that state war-making strategies drove the development of the perverse institutional logics that transformed patterns of extrajudicial executions into rules enforced from above. Indeed, the Guatemalan state's more "capital-intensive" war-making strategy was also evident within policing institutions, which, under the

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<sup>406</sup> US Embassy in Guatemala 1987b.

thumb of elite military intelligence agents, forged robust links with private sector actors. As the above analysis suggests, the death squad activities that cropped up within Guatemala's eastern provinces were believed to have been carried out first by large landowners and cattle ranchers who feared insurgent incursion and labor unrest. It was these earlier *practices* that then became rule-bound and routinized from within the state apparatus, and specifically the Detective Corps. The case thus conforms to theoretical expectations under Tilly's approach based on the types of actors rulers depend on to accrue the resources to wage war.

Moreover, the wartime development of Guatemala's PN, in alliance with military intelligence and economic elites, stands as a stark contrast to police evolution in the Central American country that exhibited the alternative "coercion-intensive" form of waging war: Nicaragua. As some scholars have argued, the mass urban and rural mobilization to combat the Contra insurgency led to a more community-oriented, preventive police force in Nicaragua, which was not governed by similar undermining rules.<sup>407</sup> This institutional divergence also provides suggestive evidence that state war-making strategy is doing the work.

Yet, while this alternative explanation perhaps tells us why wartime institutional changes within Guatemala's PN did not bolster the rule of law—why it did not produce *reinforcing* rules—it cannot necessarily capture why it actually had an undermining effect. This question will be examined in greater detail in Chapter 5 by looking at the emergence of undermining rules within land tenure institutions amid the coercion-intensive war-making strategy pursued by the FSLN during the Contra conflict.

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<sup>407</sup> See Cajina 2013.

### *Prewar Institutions*

A second alternative explanation is that the undermining rules within the police force were created well before conflict onset in the early 1960s. Indeed, Guatemala's wartime public security force, the National Police (PN), is rooted in the urban policing institutions developed to prevent crime following the country's independence in 1821. However, as this section will illustrate, the link between policing institutions and *public* political authority was never fully cemented in the prewar period. Instead, the genesis of the police and its operations throughout the 19<sup>th</sup> and early 20<sup>th</sup> centuries was deeply intertwined with the power exercised by groups of economic elites, primarily the country's rural landowning class. These linkages rendered police power decentralized, diffuse, and personalistic. Due to the nature of prewar police authority and institutions, there is no evidence that extrajudicial killings were systematic or abided by a set of shared and coordinated rules prior to the armed conflict. It is only when the PN's structure becomes more centralized and is brought under the thumb of military intelligence following civil war onset that the regulation of extralegal executions occurs.

The earliest post-independence effort to formalize policing power in Guatemala occurred in 1825, when the Constituent Assembly issued a decree placing tasks related to the preservation of social order in the hands of "political bosses, municipal councilors, [and] auxiliary neighborhood leaders."<sup>408</sup> The decree, which crystallized into the 1826 "Police Ordinances," had national coverage and responded to an uptick in crime attributed to Guatemala City's vagrant population. But the police forces created by the measure merely consisted of individuals from the municipality who would conduct routine patrols under the authority of local political bosses. This model would prevail throughout Guatemala's first fifty years of independence. Though police functions were the subject of significant legislation, the statutes did little to delimit the

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<sup>408</sup> AVANCSO 2013: 13.

functions of public security agents, consolidate the organizational structure of the police, and establish an autonomous source of police power.

This would only change slightly during the Liberal Reform period (1871-1931), which witnessed the fusion of landed elite and state interests as a result of the country's economic reorientation toward large-scale commercial coffee production.<sup>409</sup> The institutional function of Guatemala's nascent police forces was increasingly directed toward the suppression and control of labor to meet agricultural production needs. In 1876, the state implemented the *mandamiento* system by which indigenous peasant communities were forced to supply labor to commercial coffee producers, who sometimes received as many as fifty to a hundred workers at a time. The *mandamiento* system was regulated by state-appointed *jefes departamentales* [departmental chiefs], who "were directed to throw the full weight of the law against any individual who did not cooperate fully with this provision."<sup>410</sup>

In this context, the police came to form a critical part of the state's coercive apparatus to enforce the *mandamiento* system and subsequent debt peonage arrangements. Under Liberal president Miguel García Granados, the police organization became known as the "Civil Guard," which, while still primarily confined to Guatemala City, had a more defined organizational structure.<sup>411</sup> It also engaged in more modern policing activities, like registering the population and maintaining crime statistics.<sup>412</sup> But above all, the Civil Guard and its successor, the *Policía de Seguridad, Salubridad y Ornato* [Police of Security, Healthiness, and Decoration] (1881-1925), operated under local political officials with deep linkages to the landed elite and served to

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<sup>409</sup> Mahoney 2002; Handy 1994; McCreery 1983.

<sup>410</sup> Reeves 2006: 93.

<sup>411</sup> GAM 2010: 64.

<sup>412</sup> AVANCSO 2013: 95-116.

enforce a series of labor laws to “ensure the finca order.”<sup>413</sup> This not only included corralling vagrants to provide manpower for coffee production, but for the construction of new infrastructure as well.<sup>414</sup> On a superficial level, the public security sector enjoyed greater organization and was formally an arm of the state apparatus; however, when we consider the fusion of state and planter interests, in practice, the police remained far less institutionalized and still primarily beholden to private powerbrokers.

Even after its renaming as the “National Police” in 1925, the institution largely retained its function of “social control” during the dictatorship of Jorge Ubico (1931-1944).<sup>415</sup> This trend would continue even after the October 1944 Revolution, which gave way to ten years of “Democratic Spring” and a host of social, political, and economic reforms. As a study by the Mutual Support Group (GAM) notes, even during this transformative period, Guatemalan police forces were “a non-functional police that [...] did not develop sufficient size and weight, and, wherever it was sought, projected itself as deficient, weak in technical infrastructure, unprofessional, and incapable of guaranteeing the social, economic, and political order that developed with democratic revolution.”<sup>416</sup>

In sum, the pre-civil war history of Guatemala’s police apparatus does not provide a picture of a coherent organizational force rooted in an autonomous or even public source of political authority. Instead, the Guatemalan police force mirrored the country’s broader trajectory of state formation<sup>417</sup>—one centered on regionally-based, private, and personalistic sources of power. As such, it is highly unlikely that any police killings were systematic and rose to the level

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<sup>413</sup> Ibid., p. 109.

<sup>414</sup> GAM 2010: 67.

<sup>415</sup> AHPN 2010: 32.

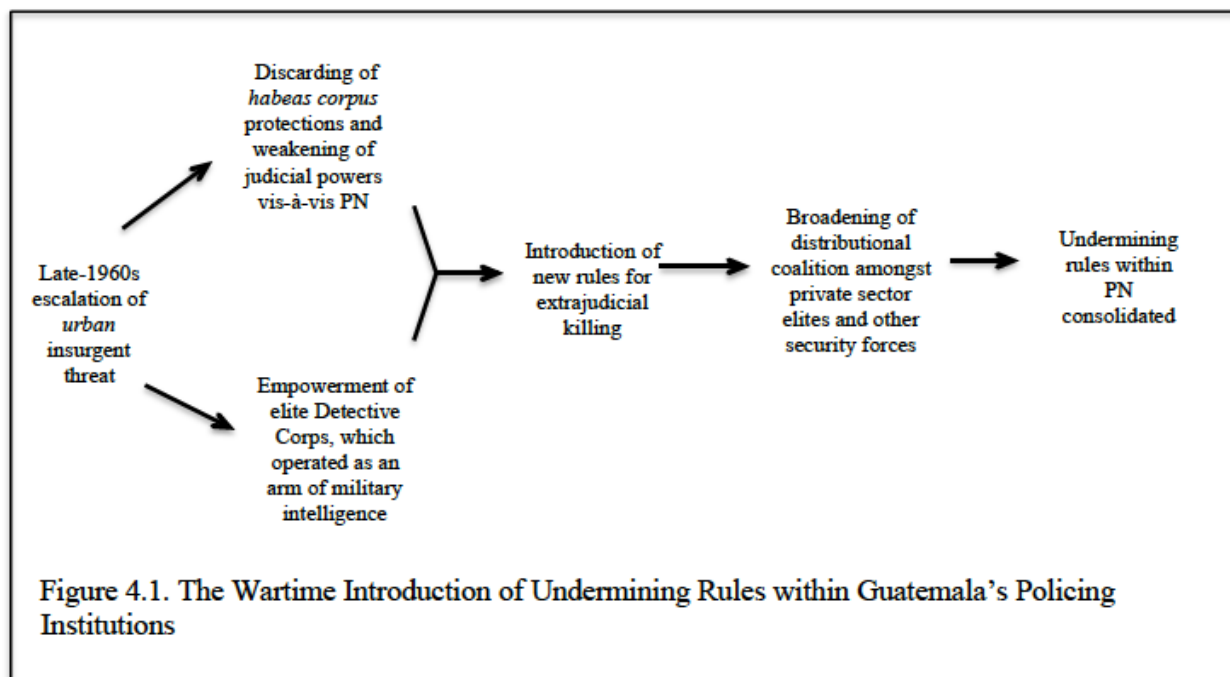
<sup>416</sup> GAM 2010: 96.

<sup>417</sup> See Holden 2006.

of rule-bound behavior, as they did once the urban insurgent threat escalated in the late 1960s and early 1970s.

### Conclusion: The Ordering of Death Squad Activity

In sum, present-day patterns of extrajudicial violence and social cleansing are rooted in wartime transformations, which generated and entrenched a series of new rules that undermined the rule of law and state security provision on a systematic basis. As with the rules governing customs fraud, the institutional arrangements within Guatemala’s National Police emerged out of a dynamic wartime context and the interplay of two factors: 1) the insulation and empowerment of a narrow counterinsurgent elite, and 2) the loosening of the prevailing “rules of the game”—growing institutional ambiguity.



This broader causal process is elaborated in Figure 4.1. As the urban insurgent threat mounted, police specialization and autonomy became the primary strategy to detect and eradicate insurgent sympathizers. Moreover, the dismantling of judicial checks on police power created a

vast institutional gray zone and facilitated the introduction of new police procedures. The alternative rules that emerged, which were sanctioned and regulated by the upper echelons of military intelligence, institutionalized extrajudicial killings and framed them as right-wing extremist activity to absolve state forces. And as the procedures were diffused beyond the Detective Corps and garnered the buy-in of the landed elite, they became increasingly consolidated, surviving even after Guatemala's formal transition from military rule.

The inner workings and activities of Guatemala's wartime National Police thus illustrate how similar threat environments and coalitional configurations can produce similar *kinds* of institutional changes within distinct state sectors; they can introduce alternative rules that undermine core state functions. In the next chapter, I examine this same causal process in a very distinct conflict setting and state sector: land tenure institutions amid Nicaragua's Contra War.

**CHAPTER 5**  
**LAND AND COUNTERINSURGENCY:**  
**REWRITING THE RULES OF AGRARIAN REFORM IN WARTIME NICARAGUA**

On June 25, 1991, Nicaragua's Minister of Agrarian Reform Gustavo Tablada sent shockwaves through Nicaraguan society when he claimed that 74 high-ranking officials from the Sandinista National Liberation Front (FSLN) had received legal titles for massive extensions of land in the months after the FSLN's 1990 electoral defeat.<sup>418</sup> In addition to the hasty legalizations, the outgoing government had also provided luxury homes expropriated by the state to Sandinista party leaders at deeply discounted prices.<sup>419</sup> Based on inventories from the Ministry of Agricultural Development and Agrarian Reform (MIDINRA), Tablada further claimed that, of the 9,363 titles issued between the FSLN's February 25 loss at the polls and the April 25 transfer of power, only a quarter had gone to the country's rural peasantry—the class that FSLN leaders had, for over decade, claimed were the protagonists of their revolutionary movement. The morning the story broke, the alleged property abuses earned a label that would become synonymous with Sandinista malfeasance and corruption for years to come: “La Piñata.”

For many, the “Piñata” revelations reflected the ultimate distortion of the FSLN's landmark agrarian reform program, initiated just after the 1979 revolution that toppled the Somoza dynasty (1936-1979). Despite the significance of reform efforts for many previously landless peasants,<sup>420</sup> the Sandinista's last act stung nonetheless. After over a decade of bloodshed, first during the Sandinista Revolution and then during the civil war between the state and the US-backed Contra insurgency, the Sandinista's program of social and economic transformation had ended with regime insiders using their power and influence for personal gain.

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<sup>418</sup> Navarrete 1991.

<sup>419</sup> Larson 1993.

<sup>420</sup> It is estimated that, by the mid-1990s, some 35 percent of rural families had received land under the Agrarian Reform Law; IRAM 2000: 121.

The parallels with the Somoza-led oligarchy were not lost on the Sandinista's fiercest critics.

"This is what thousands of Nicaraguans died for?" asked conservative politician Alberto Saborío the day after the "Piñata" details emerged. "They criticized Somoza for privileging large estates [*latifundismo*], meanwhile they fell into the same thing. How morally bankrupt."<sup>421</sup>

While the "Piñata" scandal drew societal outcry as a striking display of Sandinista hypocrisy, it is best read as a symptom of a much deeper underlying problem that festered during Sandinista rule: land insecurity. The abrupt legalizations carried out on behalf of top Sandinista cadre—authorized through post-electoral legislation—were made possible by the state's broader inability to regulate land ownership. One study found that, by the end of FSLN rule, some 78 percent of redistributed properties remained formally registered under their pre-Revolution owners.<sup>422</sup> Sandinista rule thus concluded not only with a series of brazen land grabs by political elites, but with land tenure in shambles and countless conflicts flaring up throughout Nicaraguan territory.

Why did the Sandinista's transformative agrarian reform program end in heightened levels of insecurity, corruption, and the overall inability of the state to regulate land tenure? In this chapter, I argue that the key to answering this question can be found in how Nicaragua's Contra War (1980-1990) remade the rules of land redistribution, legalization, and titling. As the perceived threat posed by the Contra insurgency deepened and large numbers of peasant producers defected to rebel's side, the narrow and highly centralized FSLN coalition in power devised and implemented a series of alternative rules structuring land provision—rules crafted with the counterinsurgent objective of recovering peasant support and preserving Sandinista political power. The introduction of these new rules, which permitted the individual and

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<sup>421</sup> Navarrete 1991.

<sup>422</sup> IRAM 2000: 36.

provisional titling of unregistered parcels, drastically undermined the state's ability to regulate land ownership. They thus constitute what I call undermining rules, or those that structure behavior in ways that contravene core state functions. Not unlike wartime processes of institutional change in the Guatemalan context discussed in Chapters 3 and 4, this case illustrates how, combined, the perceived intensification of insurgent threat and a narrow, insulated counterinsurgent elite led to the introduction of new "rules of the game" with perverse effects on state performance.

Relative to Guatemala's armed conflict, the Nicaraguan Civil War provides important variation on a number of political and structural features, allowing me to assess a key alternative explanation for patterns of wartime institutional development: the state's war-making strategy. Beginning in the early 1980s, the FSLN-led state, which had already implemented a number of transformative social programs, mobilized the Nicaraguan population for defense on a scale unprecedented in Central America. According to prominent explanations of the relationship between war and state building, it is this type of wartime extraction from mass actors that induces societal bargaining and generates administrative institutions.<sup>423</sup> Yet, an examination of institutional transformation within a key state sector—land tenure—reveals that, somewhat surprisingly, undermining institutional logics similar to those in Guatemala emerged instead.

By examining land tenure institutions, I broaden the scope of this dissertation beyond the extractive and coercive dimensions of "the state" to include a key administrative function: the regulation of property rights and, specifically, land. In so doing, I further my aim of assessing whether the same kinds of institutional processes unfold within distinct state sectors, thus leading to the evolution of similar kinds of institutional logics. This chapter, however, also contributes to an important issue within conflict scholarship more generally: the relationship between insurgent

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<sup>423</sup> Tilly 1990: 30-1.

support and land redistribution. In light of grievance-based explanations of civil war, scholars have long probed the question of whether land reform might serve as a potential antidote to rebellion.<sup>424</sup> More recently, Albertus and Kaplan found that large-scale land reforms were only possible in places where violence posed a serious threat to landowning elite interests. By contrast, powerful landowners succeeded in blocking land reform where violence and insurgent activity remained relatively low-intensity.<sup>425</sup> Relatedly, Joshi and Mason find that insurgent violence can play an important role in disrupting the landlord-sponsored clientelist networks that steer peasants away from backing land reform, thereby increasing support for it.<sup>426</sup>

This chapter addresses a distinct dimension of this question. Rather than looking at the role of land reform in ameliorating violence or the role of violence in generating support for land reform, I examine how attempts to utilize land reform as a tool of counterinsurgency can introduce perverse, alternative institutional arrangements that subvert the state's regulation of land tenure and property rights. In other words, land reform amid conflict may not only shape patterns of violence and control, but the very development of state institutions as well.

To trace the wartime introduction of undermining rules within land tenure, this chapter proceeds as follows: first, I examine the key features of Nicaragua's ten-year civil war against the US-backed Contra insurgency. Here, I argue that, in contrast to the Guatemalan armed conflict, the Contra War reflects a distinct war-making strategy in which the state "squeezed" the means of war from its population and mobilized mass actors broadly. This "coercion-intensive" strategy, in the view of Charles Tilly, is much more conducive to building a robust administrative apparatus; it thus predicts that the wartime processes of institutional change in the Nicaraguan case are more likely to produce reinforcing institutional arrangements.

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<sup>424</sup> See Albertus and Kaplan 2013; Mason 1986, 1998; Paige 1975; Wood 2003; Flores 2014.

<sup>425</sup> Albertus and Kaplan 2013.

<sup>426</sup> Joshi and Mason 2008.

The remainder of the chapter is dedicated to illustrating why, against these theoretical expectations, Nicaragua's Contra War instead gave rise to a series of alternative rules undermining state administration of land ownership. In the second section of the chapter, I discuss the early years of the FSLN's agrarian reform program, which maintained an orthodox, fully collectivized approach and ultimately had limited redistributive effects. Here, I also analyze how Sandinista economic and agrarian policies misread the social structures and practices of Nicaragua's landowning small and medium peasant producers and increasingly alienated them from the revolutionary project. In the third section, I assess the shifting composition of the Contra forces, positing that the Sandinista's estrangement of the peasantry, particularly in the north-central highlands, fanned the flames of insurgency.

The second half of the chapter traces how the perceived deepening of the Contra threat remade the rules of the Sandinista's agrarian reform program in ways that ultimately undermined the state's ability to regulate land tenure—that is, led to the introduction of undermining rules. The fourth section examines how the escalation of the Contra threat prompted greater centralization of power within the already insulated and vertically structured FSLN decision-making coalition. This narrow FSLN coalition utilized its extraordinary discretion to implement new rules and procedures corresponding to its specific interests—in this case, in an effort to maintain Sandinista political dominance.

The fifth section analyzes how, as the peasant bases of the Contra rebellion grew, land came to be viewed as a counterinsurgent tool on the part of the narrow FSLN leadership, who “flexibilized” and remade the rules of reform to stave off insurgent defection within highland peasant communities. I lay out in greater detail the undermining rules that emerged and came to structure land tenure amid the wartime climate of institutional ambiguity. The new, narrowly

devised rules entailed 1) the increased provision of land on an *individual* basis, and 2) “legalization” through the *provisional* titling of lands, many of which were not yet formally under state ownership. The sixth section takes stock of how these alternative rules undermined the state’s ability to regulate land tenure by war’s end, fomenting heightened insecurity and conflict as well as predatory practices carried out by top FSLN officials.

Importantly, and in contrast to the processes of wartime institutional change examined within the Guatemalan context, the relative cohesion and strict vertical structure of the Sandinista regime meant there were few veto possibilities posed by rival actors during the 1980s. As a result, the nine FSLN revolutionary commanders felt little need to forge a broader distributional coalition with a stake in the alternative land reform procedures to ensure their survival; in this sense, the undermining rules remained only weakly consolidated. I conclude the chapter by examining how, despite the “coercion-intensive” nature of the Sandinista’s counterinsurgent strategy, the narrow, insulated character of its political decision-making coalition still produced undermining rules with pernicious consequences for the state’s administrative capabilities.

### **Alternative Explanation: “Coercion-Intensive” War-Making within the Contra War**

In Chapters 3 and 4, my analyses within two distinct institutional domains in Guatemala, the customs administration and policing institutions, are unable to assess a key alternative explanation derived from Charles Tilly’s dichotomy between “coercion-intensive” and “capital-intensive” war-making strategies. In both cases, the reliance on private sector elites for wartime resources—“capital-intensive” strategies—ensured that robust state institutions did not emerge from conflict mobilization and bargaining processes, much in line with theoretical expectations. Yet, by extending my analysis to state development within Nicaragua’s Contra War, I am able to

assess this alternative explanation, as the Nicaraguan conflict of the 1980s exhibited the core features of “coercion-intensive” war-making. I elaborate these features and provide historical background on the Contra War in this section.

Most accounts trace the start of Nicaragua’s civil war to the moment between the FSLN’s revolutionary victory on July 19, 1979 and the January 1981 inauguration of US President Ronald Reagan, who promptly suspended aid to the revolutionary government and ramped up contact with the fledgling counterrevolutionary forces.<sup>427</sup> Conflict violence had largely wound down by 1988 after several decisive FSLN blows to Contra forces, the US suspension of Contra aid, and the start of peace negotiations between the Sandinista government and the Nicaraguan Resistance (RN). Hostilities more firmly came to a close, however, with the FSLN’s February 1990 electoral defeat.<sup>428</sup> For the purposes of this dissertation, I refer to the war years as those between 1980, when Contra groups first launched attacks against Sandinista Popular Army (EPS) outposts, and the 1990 transition.<sup>429</sup>

During a decade of bloody conflict, the Nicaraguan Civil War claimed an estimated 32,000 lives, on top of the reported 4,000 killed during the Sandinista Revolution.<sup>430</sup> At least 200,000 Nicaraguans emigrated during the conflict period, fleeing primarily to the United States, Costa Rica, and Honduras.<sup>431</sup> In addition to the devastating human toll, the Contra War inflicted extraordinary economic damage. FSLN leaders estimated that the financial losses wrought by

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<sup>427</sup> Núñez 1991: 153.

<sup>428</sup> Despite the formal cessation of civil war, ex-combatants both from Contra and state militias (*Re-Contras* and *recompas*) continued to engage in violence through the mid-1990s. See Cuadra and Saldomando 2000; Cajina 1997.

<sup>429</sup> Scholar and former Sandinista official Orlando Núñez (1991) provides a similar chronology (272).

<sup>430</sup> See Sarkees and Wayman 2010.

<sup>431</sup> Orozco 2008.

war totaled some \$4 billion.<sup>432</sup> Sandinista defense efforts also consumed a growing share of the national budget as the war progressed, peaking at 62 percent of all state spending by 1988. As a result, Nicaragua's external debt expanded four-fold and inflation ballooned to 1,347 percent.<sup>433</sup>

Though less than one-third the duration, Nicaragua's Contra War roughly maps onto the period in which Guatemala experienced its most extreme conflict violence. The Sandinista Revolution occurred after the first year of the Lucas García presidency and certainly contributed to Guatemalan government fears of a mounting insurgent threat. The earliest Contra incursions and the growth of the rebellion's base coincided with the Guatemalan state's most brutal counterinsurgent campaign waged in the northwestern highlands in early 1982.

It is difficult to understand domestic developments in any of the Central American civil wars without assuming a broader regional view. However, for the purposes of comparison, I isolate the Nicaraguan and Guatemalan armed conflicts in order to leverage key sources of variation that allow me to assess alternative explanations for when civil war might generate distinct trajectories of state institutional development. In particular, three central differences—civil war antecedents, regime structures and ideologies, and the United States' role—culminate in a fourth, which I consider most salient for this dissertation: state war-making strategy. In the remainder of this section, I lay out these differences and their theoretical implications

First, Nicaragua's ten-year Contra War was preceded by a successful revolution led by the Sandinista National Liberation Front (FSLN)—an event unparalleled in 20<sup>th</sup> century Central American history. Founded in 1961, the FSLN was formed by young political dissidents exiled in Honduras, who organized to oppose the increasingly repressive and neopatrimonial regime of

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<sup>432</sup> An estimated \$2.8 billion-worth of this total were direct conflict damages and the remaining \$1.2 billion represented lost profits caused by the disruption of productive activities (Martí i Puig 1997: 117).

<sup>433</sup> Ibid.

Luis Somoza Debayle (1956-1963), a close US ally.<sup>434</sup> The movement's namesake, Augusto César Sandino, was a Liberal general and eventual guerrilla leader, who spearheaded the Nicaraguan struggle against US occupation from 1912 to 1933. The figure of Sandino became synonymous with anti-imperialism and served as a rallying cry for FSLN leadership, who returned to Nicaragua to mount an armed movement, first amongst the country's rural poor and then its urban popular sectors.<sup>435</sup> Initially, the FSLN was no match for Somoza's US-backed National Guard (GN); however, a series of events in the late 1960s and early 1970s—including sham elections in 1967, a devastating earthquake in 1972, and the assassination of journalist and opposition leader Pedro Joaquín Chamorro—gradually turned the tide of the revolutionary struggle and eventually brought down the Somoza dictatorship.<sup>436</sup> The “quasi-corporatist” relationship the Somozas had maintained with economic elites began to erode as state kleptocracy ran amok and economic conditions deteriorated.<sup>437</sup> After several successful offensives and the unification of the different insurgent factions, the FSLN marched into Managua on July 19, 1979 and, the following day, presented the new unity government to a jubilant crowd in front of the National Palace.<sup>438</sup>

The Sandinista triumph that preceded Nicaragua's Contra War represents a key source of variation, which shaped subsequent state policies and the organizational bases of the regime. The Guatemalan armed conflict, by contrast, began six years after a successful counterrevolution, which undid the decade of popular reforms initiated by democratically-elected Presidents Juan

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<sup>434</sup> His father Anastasio Somoza García (1936-1956) ruled the two decades before him and his younger brother Anastasio Somoza Debayle (1967-1979) would hold power for 12 years after him.

<sup>435</sup> Christian 1986: 9-26; Martí i Puig 1997: 22.

<sup>436</sup> Goodwin 2001: 137; Spalding 1994: 57.

<sup>437</sup> Spalding 1994: 51.

<sup>438</sup> Christian 1986: 136-138.

José Arévalo (1945-1951) and Jacobo Arbenz (1951-1954).<sup>439</sup> While Guatemala witnessed its own revolutionary moment in October 1944, it was cut short after just a decade and experienced a dramatic reversal some six years before armed conflict onset. Though both countries experienced moments of social and political upheaval prior to conflict onset, Nicaragua's was one of revolutionary transformation while Guatemala's was one of counterrevolutionary rollback.

As a result, the states waging war against the insurgencies organized in Nicaragua and Guatemala were characterized by very different regime structures and ideologies. After toppling the Somoza dynasty, the FSLN, led by Daniel Ortega, dominated the newly formed Government of National Reconstruction (JGRN) and launched a sweeping program to effect social and economic transformation on behalf of Nicaragua's working and peasant classes. It implemented an internationally-recognized literacy campaign (*Cruzada Nacional de Alfabetización*, CNA), which reduced the national illiteracy rate from 50.4 to 12.9 percent in just five months.<sup>440</sup> It also organized the Popular Health Brigades (*Brigadistas Populares de Salud*), mobilizing some 73,000 volunteers to carry out mass anti-dengue and anti-malaria vaccination campaigns.<sup>441</sup> Other mechanisms to foster popular mobilization similarly flourished in the early years of FSLN rule. By the end of 1982, 1,200 new unions had emerged,<sup>442</sup> and, at the local level, the Civil Defense Committees (CDC) formed during the revolutionary years were converted into neighborhood governance organs known as Sandinista Defense Committees (CDS).<sup>443</sup>

While some private sector leaders had joined the revolutionary struggle and subsequently participated in the unity government, they were increasingly marginalized as the socialist-

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<sup>439</sup> Gleijeses 1991.

<sup>440</sup> Vilas 1984: 301.

<sup>441</sup> Núñez Soto 1991: 238.

<sup>442</sup> Vilas 1984: 247.

<sup>443</sup> MIDINRA 1985.

inspired FSLN project progressed and Sandinista leaders centralized power through the nine-member National Directorate (DN). By contrast, Guatemala's military-led state counted the economic elite, namely members of the landed oligarchy, as its strongest allies. In short, the foundations of regime support in Nicaragua and Guatemala could not have been more different: Nicaragua's wartime ruling party pursued sweeping socialist-inspired policies on behalf of the masses while Guatemala's military dictatorship enjoyed robust private sector backing and wielded state power on behalf of the country's most reactionary oligarchic forces.

In line with the distinct regime ideologies and bases of support at home, the Nicaraguan and Guatemalan conflicts varied on another key dimension: the role of the most significant international actor at the time, the United States government. After the 1980 election of Ronald Reagan, the US government undertook an extensive economic and technical assistance program to arm and train anti-Sandinista rebels. Between 1982 and 1990, the United States provided some \$321.65 million in Contra assistance.<sup>444</sup> US intelligence organizations were also involved in anti-Sandinista military activities in a more direct sense. For example, the CIA oversaw the mining of three Nicaraguan ports in late 1983—acts that fed FSLN rhetoric framing Contra activity as part of US imperialist “aggression” and a precursor to military invasion. The Sandinista regime did enjoy moderate economic and technical assistance from the Soviet bloc; however, aid dwindled by the mid-1980s and was never any match for US Contra support.<sup>445</sup>

In Guatemala, the United States, of course, figured on the opposite side of the playing field. As discussed in previous chapters, the Guatemalan government received significant US financial and technical support, especially in the wake of the 1954 coup orchestrated by the CIA.

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<sup>444</sup> Serafino 1989: 19; US officials also funneled money to Contra forces covertly through the illegal sale of arms to Iran in 1985 and 1986—a scandal known as the Iran-Contra affair; for more in-depth information on the Iran-Contra scandal; see Byrne 2017; Kornbluh and Byrne 1993.

<sup>445</sup> Kinzer 1984.

Though support to Guatemala was well below that provided to El Salvador, the country still received \$620.4 million in US aid between 1981 and 1988.<sup>446</sup> The contrasting roles played by the United States in Nicaragua and Guatemala not only had a profound effect on the balance of military capabilities, but also shaped the way the respective conflicts were understood and framed by state leaders.

I posit that, combined, these contrasts account for another source of variation, which I consider most salient for assessing explanations of wartime institutional development. Given the mass actors that were the foundation of the FSLN's political program and the nature of the US-backed Contra threat, Sandinista counterinsurgent efforts are best characterized as "coercion-intensive," in that FSLN leaders "squeezed the means of war from their own populations."<sup>447</sup> This mode of waging war embodies the classic explanation for how war induces state building: with coercion-intensive strategies, rulers sought access to "the resources [citizens] controlled through household taxation, mass conscription, censuses, police systems, and many other invasions of small-scale social life," implying "penetration and bargaining [that] laid down new state structures."<sup>448</sup>

An examination of the Nicaragua case, in fact, illustrates the dynamics of coercion-intensive war-making in line with theoretical expectations. As the Contra threat deepened, the popular programs and organizations mobilized as the vehicles of revolution were completely reoriented toward defense efforts. In the words of Orlando Núñez Soto, "being a Sandinista was no longer just a privilege with which you accessed power; it was also a cost that put your life at risk. The mobilizations were no longer just about cutting cotton or coffee [...] but incorporating

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<sup>446</sup> GAO 1989: 11.

<sup>447</sup> Tilly 1990: 30-1.

<sup>448</sup> Tilly 1990: 25.

oneself in the defense of the country.”<sup>449</sup> The organized proletariat, particularly those working in state-owned farms and agribusinesses, became “bastions of defense” in rural war zones.<sup>450</sup> Local level FSLN organizations like the CDS also became key instruments for detecting “counterrevolutionary sabotage” and countering any urban Contra front.<sup>451</sup>

In addition to recasting the goals and activities of Sandinista-affiliated organizations, the FSLN undertook a massive military build-up. According to Nicaraguan government figures, the EPS had amassed over 86,000 members by the end of the conflict.<sup>452</sup> Per US intelligence sources, by mid-1987, the EPS’ active-duty forces numbered 74,000,<sup>453</sup> with its total strength, including reserve and militia units, comprising 120,000 members, or approximately eight percent of the adult population.<sup>454</sup> Much of the troop build-up began in October 1983, when the government initiated conscription through the “Patriotic Military Service Law” [*Ley de Servicio Militar Patriótico, SMP*].<sup>455</sup> The scale and regulation of mass defense mobilization was without parallel in neighboring Guatemala and El Salvador, where the counterinsurgent campaigns privileged military specialization and alliances with the landed oligarchy.

Nicaragua’s distinctive war-making strategy thus predicts that the extraction of the means of war directly from mass actors would induce processes of contestation and bargaining that generate robust administrative structures. In other words, the resulting institutions would bolster or reinforce the extractive, coercive, and regulatory functions of the Nicaraguan state. Yet, as the remainder of this chapter will illustrate, my findings suggest just the opposite. Instead, within a

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<sup>449</sup> Núñez Soto 1998: 202.

<sup>450</sup> *Ibid.*, p. 292.

<sup>451</sup> MIDINRA 1985: 25.

<sup>452</sup> Ejército de Nicaragua 2009: 90.

<sup>453</sup> By comparison, Guatemala had just over 32,000 active-duty members, less than half the number in Nicaragua. El Salvador had nearly 45,000, roughly 60 percent. See US Department of State 1987: 5.

<sup>454</sup> US Department of State 1987: 3.

<sup>455</sup> JGRN 1983.

key arena of state administrative activity, land tenure, I find that FSLN leaders introduced undermining rules similar to those that contravened the state's extractive and coercive functions in the Guatemalan context. What accounts for the emergence of similar kinds of institutional logics during Nicaragua's Contra War? Why did the FSLN's coercion-intensive mode of waging war fail to construct reinforcing rules? In the remainder of the chapter, I tackle these questions by examining how FSLN leadership remade the rules of land redistribution and legalization in perverse and ultimately undermining ways as civil war escalated.

### **Early Agrarian Reform and the Estrangement of the Peasantry (1979-1983)**

Following the FSLN's historic victory, the new revolutionary government enacted a series of transformative social and economic policies, none more dramatic than the agrarian reform program. On paper, the agrarian reform program constituted one of the pillars of the Sandinistas' broader agenda, which was premised on the dramatic growth of the public sector and the expanded role of the state in production and economic development. The FSLN "blueprint" for revolutionary governance drafted in October 1979 clearly establishes the state as the nucleus of FSLN economic policy. Known as the "72-hour document," the plan declared that, "Our economy must adhere to comprehensive national planning whose hub must be the State Sector, through which we can establish in the field of production a strong base of social relations [...] and organization as a function of our historic and total liberation."<sup>456</sup> Though the FSLN never fully abandoned its pre-Revolution commitment to a mixed economy, the nationalization of lands and businesses swiftly remade the landscape of land and property ownership.

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<sup>456</sup> US Department of State 1986b: 11.

However, the expansion of the public sector did not quite translate into another of the Sandinistas' revolutionary promises: the redistribution of land to peasants and agricultural workers. In clinging to a more orthodox, fully collectivized model, FSLN leaders were slow to place productive lands into the hands of those working them. In this section, I lay out Nicaragua's agrarian reform institutions during the early phase of Sandinista rule to establish the baseline from which subsequent institutional arrangements would eventually diverge. I also examine how the sluggish pace of redistribution, declines in production, and the estrangement of the rural peasantry put the FSLN's agrarian program on its heels as the Contra War entered its most intense period in the mid-1980s.

Following the 1979 Revolution, the FSLN-led unity government inherited an economic situation marked by staggering land inequality and a paltry state sector. Under the Somozas, Nicaragua's productive lands were heavily concentrated in the hands of traditional agroexport elites, who also enjoyed privileged access to public credit at the expense of small peasant producers. Though peasants represented 75 percent of Nicaragua's producing class, they possessed only 13.4 percent of farmlands, with the 25 percent of large commercial producers owning the remaining 86.6 percent.<sup>457</sup> Further, 24 percent of producers with landholdings over 86 acres received a staggering 90 percent of public agricultural credits.<sup>458</sup> To consolidate its personalist rule, the Somoza dynasty had also, over the course of four decades, sold off national assets to members of the Nicaraguan oligarchy and foreign, primarily US capitalists.<sup>459</sup> By the time the FSLN seized power, only 19 public entities remained—six financial institutions, six national development institutes, and seven state enterprises that provided basic services (water,

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<sup>457</sup> MIDINRA 1980b, Cuaderno No. 11.

<sup>458</sup> CIERA 1980: 6.

<sup>459</sup> Vilas 1984: 111-2.

electricity, ports, rail, telephone, and postal service).<sup>460</sup> Combined, they accounted for 15 percent of Nicaragua's GDP.<sup>461</sup>

The first Sandinista attempt to bolster the state sector came through Decree #3 issued by the JGRN shortly after proclaiming victory. The decree authorized the confiscation of all of the property belonging to the Somoza family, members of the National Guard, and Somoza government officials. Given the broad-based nature of the opposition that eventually toppled the Somoza regime, this initial round of confiscations inserted the state into the Nicaraguan economy in a dramatic fashion, but with little controversy. Nicaraguans at all rungs of the socioeconomic ladder largely viewed the assets possessed by Somoza and his allies as "stolen property" to begin with. The seizures were thus seen as "reclaiming" what was, in fact, already public.<sup>462</sup>

These early nationalizations laid a strong foundation for state involvement in production and development without alienating the majority of Nicaragua's economic elites. The first year of confiscations (1979-1980) added 1.6 million manzanas (2.8 million acres) of farmland to state coffers. According to estimates, this constituted between 20 and 25 percent of the country's total farmland.<sup>463</sup> Additionally, the confiscations "recovered" some 1,200 large estates and a number of key agroindustrial firms, including "five of the nation's six sugar mills, three of its four slaughterhouses, the whole tobacco industry, dairy plants, rice mills, cotton gins, [and] coffee processing facilities."<sup>464</sup> FSLN leadership also extended state activity into the previously untouched service sector through a series of institutions like the Ministry of Foreign Trade (MICE), the Ministry of Internal Commerce (MICOIN), and the Nicaraguan Enterprise for Basic

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<sup>460</sup> Colburn 1990: 39.

<sup>461</sup> Ibid.

<sup>462</sup> Colburn 1990: 36.

<sup>463</sup> Spalding 1994: 66; Colburn 1990: 42.

<sup>464</sup> Spalding 1994: 66.

Food Products (ENABAS).<sup>465</sup> As a result, public sector production rose from 15 to 36 percent of GDP in just one year.<sup>466</sup>

The state's newly acquired lands and businesses formed the Area of People's Property (APP), which was to be the pillar of the country's national development model. Though always envisioned as coexisting with private property, APP-driven economic activities were to become "hegemonic," in the words of Minister of Agriculture Jaime Wheelock, in order to "favor changes in the distribution of national income to benefit the popular majorities."<sup>467</sup> The APP was managed by the National Institute of Agrarian Reform (INRA), which was eventually consolidated and restructured to become the Ministry of Agricultural Development and Agrarian Reform (MIDINRA) in April 1981.

In its first few years, INRA (later MIDINRA) oversaw three kinds of productive properties: agroindustries, comprised of businesses like sugar mills, cotton gins, slaughterhouses, and coffee-processing plants; agroindustrial service firms, which included fertilizer and pesticide plants, equipment manufacturers, and communications technologies; and state production units (UPEs), which were largely commercial farms and cattle ranches.<sup>468</sup> In particular, the UPE portfolio, which had grown to include 2,862 state farms and estates,<sup>469</sup> were seen not only as "generators of products vital for the national economy," but mechanisms through which the FSLN might achieve its revolutionary political objectives of "eradicating [...] relations of exploitation and propelling cooperative relations."<sup>470</sup> The early confiscations that formed the foundation of the UPE sector were augmented through Decree #782, which was passed on the

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<sup>465</sup> Colburn 1990: 41.

<sup>466</sup> Spalding 1994: 66.

<sup>467</sup> Vilas 1984: 212, 216-217.

<sup>468</sup> Colburn 1990: 44-45.

<sup>469</sup> Ibid.

<sup>470</sup> MIDINRA 1980: 1.

second anniversary of the Revolution and extended expropriations to lands deemed “idle, underutilized, or rented” on estates larger than 500 manzanas (875 acres) in the Pacific zone and 1,000 manzanas (1,750 acres) elsewhere.<sup>471</sup>

But even with the new expropriations, early FSLN agrarian and economic policies hit a series of roadblocks by 1982. The inexperience of UPE and agroindustrial managers was evident early on, generating widespread inefficiencies and a lack of “labor discipline” on state farms and within state enterprises.<sup>472</sup> Indebtedness mounted quickly, with nearly half of bank obligations more than ninety days overdue.<sup>473</sup> The value of agricultural exports declined by 27 percent between 1979 and 1982, while domestic production stagnated over the same period.<sup>474</sup> The purchasing power of wages dropped by over half between 1980 and 1982 alone.<sup>475</sup>

There is evidence that MIDINRA officials foresaw many of these growing pains and the initial declines they might generate. For example, a 1981 report published by MIDINRA’s research arm the Center for Investigation and Study of Agrarian Reform (CIERA) recognized that “the process of rationalization, confiscation, and the consolidation of APP enterprises [...] in addition to the readjustments in mobilization and limited supplies will [...] strike a blow to the organization of production.”<sup>476</sup> But these initial costs were seen as necessary to eventually allow economies like Nicaragua’s to overcome foreign dependency.<sup>477</sup>

The early troubles encountered by the FSLN’s statist model did, however, lend some legitimacy to another strand of MIDINRA policy: that promoting greater land redistribution. On this front, MIDINRA had envisioned the creation of two kinds of cooperatives: fully

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<sup>471</sup> Spalding 1994: 70.

<sup>472</sup> Vilas 1984: 217.

<sup>473</sup> Spalding 1994: 76.

<sup>474</sup> Biondi-Morra 1993: 50-54.

<sup>475</sup> *Ibid.*, p. 49.

<sup>476</sup> MIDINRA 1981: 28

<sup>477</sup> See Cardoso and Faletto 1979.

collectivized cooperatives dedicated to agricultural production, known as the Sandinista Agricultural Cooperatives (CAS), and Credit and Service Cooperatives (CCS), which would organize the provision of agricultural assistance as an intermediate step toward full collectivization. In light of the early troubles, by the beginning of 1982, MIDINRA planners viewed rural collectivization as “the principal pathway for the forward progress of revolutionary transformation in agriculture during the coming years. In the medium term, [MIDINRA] intends for the cooperative sector to have the greatest weight, [...] representing around 50% of GDP.”<sup>478</sup>

The cooperatives developed during this phase mostly sprang from the break-up of large nationalized estates and firms. While the cooperative sector represented only 5.6 percent of the total APP lands at the end of 1980, its share had grown to 26.2 percent by 1983.<sup>479</sup> Slight gains can also be seen in the productive share of cooperatives and small farmers over the same period. With respect to cotton harvests, for example, cooperatives came to account for 25 percent in 1983/84, up from a mere 9 percent in 1980/81.<sup>480</sup>

Despite the stated commitment to bolstering the cooperative sector, a number of challenges continued to stymie redistribution and collectivization. First, MIDINRA cadres tended to apportion pieces of less fertile land on the periphery of state farms for cooperative formation, undermining peasant production. They often treated cooperative members as labor reinforcements on UPEs, rather than producers themselves. In addition, the FSLN officials with the most experience and knowledge remained in posts overseeing APP farms and enterprises, leaving the cooperative movement with few experts to coordinate development and

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<sup>478</sup> DGFCRA 1982: 3-4.

<sup>479</sup> Baumeister 1998: 185.

<sup>480</sup> Vilas 1984: 240. APP production also experienced steady increases during this time, suggesting that it was the decline in production by large landowners that accounts for this increase more than anything.

production.<sup>481</sup> As a result, the program of collectivization remained “characterized by certain disorder and spontaneity, lacking a clear path of consolidation.”<sup>482</sup>

Even as cooperative development increased modestly, the Sandinista’s staunch state-centered and fully collectivized economic approach reflected deep misunderstandings of the structure of rural society—misunderstandings that would contribute to the increase in insurgent participation among Nicaragua’s peasant classes in the mid-1980s. In particular, the FSLN miscalculated the social and political weight of the country’s small and medium landowning peasants (those holding less than 865 acres), whose lives and livelihoods were premised on individual landownership. These sectors accounted for half of agricultural production in 1980.<sup>483</sup> Yet, during its first four years, FSLN agrarian and macroeconomic policies advanced with little regard for small and medium peasant producers, stoking resentment and alienating these groups in unforeseen, yet consequential ways.

An important feature that sets Nicaragua apart from Central America’s other two Cold War-era conflict countries is its rural class structure and, in particular, its sizable portion of smaller landowning peasants. According to Eduardo Baumeister, small and medium family-based producers, known as the *chapiolla* bourgeoisie, were the most important coffee producing class in Nicaragua, as opposed to Guatemala and El Salvador, where coffee production was dominated by large commercial elites.<sup>484</sup> Nicaragua’s more significant strata of small and

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<sup>481</sup> Spalding 1994: 78.

<sup>482</sup> Ibid., p. 4.

<sup>483</sup> Bendaña 1991: 43.

<sup>484</sup> Baumeister 1998. The disparities become clear when one examines the share of land held by these peasant sectors in Nicaragua and Guatemala. In pre-Revolution Nicaragua, nearly half of coffee lands, some 47 percent were in the hands of sub-family, family, and small employer units, while large estates and integrated producers (those combining production and commercialization) accounted for the remaining 53 percent. In Guatemala, this balance is quite distinct, with smaller producers possessing only 16.2 percent of coffee lands and large agricultural and agroexport elites holding the remaining 83.8 percent. Beyond constituting a smaller share of the landholding population, Nicaragua’s large commercial

medium peasant producers, which mostly resided in the north-central highland and mountain regions of Matagalpa, Jinotega, and Nueva Segovia, possessed strong attachments to individual conceptions of landownership and resisted collective agricultural practices. As José Boanerges, a CDS-turned-resistance leader, indicates, “the peasant is very individualistic and very self-concerned [*personalista*], in that he is very resistant to working collectively and opts for a parcel, for his 30 or 50 manzanas or whatever, but under a personal title.”<sup>485</sup> These sectors held an abiding “mercantile identity,” in which a “close, familial, local connection to commercial production” is central.<sup>486</sup> Peasant families were involved in every step of economic activity; “if they sell [what they produce] it is to be able to increase and multiply their production.”<sup>487</sup>

The fierce attachment to individual landownership within these peasant sectors brought them into direct conflict with the FSLN’s two-pronged agrarian reform strategy, which, on the one hand centered on state-run farms and agribusinesses, and, on the other hand, privileged an orthodox, fully collectivized model of redistribution.<sup>488</sup> For one, the mere existence of a small and medium peasantry was anathema to the FSLN’s political project, which envisioned a robust rural proletariat as the engine of revolutionary progress. An explicit aim of the land reform program was to “de-peasantize” [*descampenizar*] the Nicaraguan countryside by creating a class of wage laborers employed on state farms.<sup>489</sup> As David Kaimowitz writes, “the government thought the sector of small and medium commercial producers was small and of little importance [...] The peasantry as a social category was considered incompatible with socialism for many

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producers remained deeply fragmented along Liberal and Conservative lines through the 19<sup>th</sup> and early 20<sup>th</sup> centuries, further weakening their political position vis-à-vis smaller landowners. By contrast, Guatemala’s Liberal coffee elite maintained a tight grip on political power; see Paige 1997: 60; Mahoney 2002: 106.

<sup>485</sup> Bendaña 1991: 251.

<sup>486</sup> Núñez Soto 1991: 368.

<sup>487</sup> Ibid.

<sup>488</sup> Baumeister 1991b: 94.

<sup>489</sup> Ibid.

mid-level officials in key ministries.”<sup>490</sup> At the top, similar attitudes about the peasantry prevailed. MIDINRA minister Wheelock remarked to me in our interview that, “the peasant population was an isolated population, with little cultural development and which could easily be manipulated.”<sup>491</sup> The cultural and economic significance of individual property for many poor peasants was not perceived as genuine, but reflected the folly of “a salaried worker trapped in a subsistence economy, backward and incapable of understanding, as a producer, the nature of the transformations sown by the fall of *somocismo* and the ascent of a new popular power.”<sup>492</sup>

It is worth noting that some local FSLN officials understood the need to work within the societal constraints of Nicaragua’s unique rural landscape by making allowances for individual property, at least initially. For example, in a 1981 interview, Alonso Porras Díaz, FSLN political secretary for the highland departments of Jinotega and Matagalpa, remarked on the need for a “third way” of agrarian reform in these zones due to local particularities. Rather than the radical and “violent”<sup>493</sup> processes of confiscation that characterized areas with large *latifundios*, this “third way” entailed “stimuli and incentives to convince these peasant sectors of the necessity to collectivize their lands, their means of production.” In Porras’ view, by “raising consciousness and clarifying the advantages [...] that this form of production would entail,” small landowning peasants might be willing to shed longstanding practices of individual ownership over time.<sup>494</sup>

While local cadre were perhaps more cognizant of the significance of individual titles in rural

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<sup>490</sup> Kaimowitz 1988: 58.

<sup>491</sup> Interview with author, March 1, 2017.

<sup>492</sup> Ortega 1988: 201-2.

<sup>493</sup> Omar Cabezas Lacayo, chief of the Political Directorate of the Ministry of the Interior, referred to the process of agrarian reform as “violent” for the following reason: “It’s violent because violent is the dream of the peasants for the land that now they are being given, that they are going to exploit, with which they are going to produce, and that is going to create a new dynamic in the countryside that is going to transform a large number of things [...] That is why I say that agrarian reform is violent. Not because it has taken land from those who have more than 500 manzanas but because of the impact it has on the conduct, the life, and the dreams of peasants, in this sense it is violent;” CIERA 1981: 45-50.

<sup>494</sup> CIERA 1981: 69.

areas, they envisioned a more gradual, culturally sensitive means of collectivization, but not necessarily distinct outcomes.

The Sandinistas' misunderstanding of Nicaragua's small and medium peasant producers and the goal of transforming them into a class of rural wage workers translated into a series of agrarian and macroeconomic policies that stoked deep resentment across the north-central highlands. Notably, landowning peasants who resisted collectivization received scant attention in the form of land redistribution or credit and assistance. From 1981 to 1984, 82 percent of redistributed lands went to the fully collectivized cooperatives, known as CAS, while only 18 percent went to the partially collectivized credit and service cooperatives (CCS) or individual peasants.<sup>495</sup> The rural peasantry, however, was much more inclined to form CCS. According to the National Cooperative Census carried out in 1982, peasants were 80 percent of CCS members, while salaried workers were the remaining 20 percent; conversely, 53 percent of CAS membership were salaried workers, with peasants representing 47 percent.<sup>496</sup>

In addition to the prejudicial provision of land and credit, peasants with small landholdings were also hit hard by FSLN market controls, including the strict regulation of "internal commerce, prices, warehousing, the supply of goods, and domestic channels of commercialization." Chief among these adverse policies were "the coercive measures to control and obtain the surplus of agricultural goods," which "did the most damage to the most commercialized sectors of medium peasants."<sup>497</sup> Given the importance of smaller-scale agricultural production for peasant "survival and reproduction," in the eyes of individual peasant producers, FSLN surveillance and confiscations amounted to "asphyxiating them or alienating

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<sup>495</sup> Gutiérrez 1988: 119.

<sup>496</sup> Núñez Soto 1991: 319.

<sup>497</sup> *Ibid.*, p. 368.

them completely.”<sup>498</sup> In the words of Francisco García Rivera, a peasant who eventually joined the Nicaraguan Resistance (RN), “the treatment on the part of the authorities was terrible, everyone was living in uncertainty. They didn’t let us work peacefully because at every moment they were on the finca seeing what we had, how many *manzanas*, how many cattle, to take note. It was an absolute control and you no longer felt secure in what you possessed.”<sup>499</sup>

As the economic detriments of early FSLN policies disproportionately accrued to small and medium peasant landholders, more and more began to adopt the oppositional attitudes of large *latifundistas*, viewing the cooperative movement and state firms as the enemy:

[Small peasant landowners] echoed the propaganda of the large landowners, in suggesting that the provision of land, credit, and goods to cooperatives contributed to ‘making people lazy’ [*hacer haragana a la gente*]. State enterprises and cooperatives, also perceived as Sandinista, thus came to represent, for small property owners, a kind of ‘new landowner’ with substantial resources and high levels of technology.<sup>500</sup>

Though the Sandinista political and ideological platform, on its face, would have predicted a more organic alliance with the rural peasantry, the reality could not have been farther from the truth. By the mid-1980s, Sandinista policies had unwittingly created fertile terrain for Contra recruitment.

### **Peasant Mobilization and the Escalation of the Contra Threat**

The serious costs of peasant estrangement and resentment became clearer as small and medium rural landowners increasingly flocked to the resistance and the Contra rebels gained a greater territorial foothold within Nicaragua. Though the counterrevolutionary movement was first created by former Somoza-allied elites, the progression of the FSLN’s political, social, and

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<sup>498</sup> Ibid.

<sup>499</sup> Bendaña 1991: 168.

<sup>500</sup> Ibid., p. 44.

economic program prompted a qualitative shift in the character of the rebellion. In its earliest years, the conflict looked more like “a war of [imperialist] aggression, supported by the civic opposition and the armed peasantry;” yet, by the mid-1980s, it had mutated into “a peasant uprising, supported by imperialism and the pro-imperialist bourgeoisie.”<sup>501</sup> In other words, shifts in the nature and composition of the insurgency intensified perceptions of military threat, which would eventually generate institutional ambiguity and transformation.

The counterrevolutionary forces that formed in the wake of the 1979 revolution were primarily comprised of former National Guard (GN) members that served under Somoza. Forced to flee following Somoza’s ouster, the ex-GN members regrouped mostly in neighboring Honduras and in Miami, where they laid the organizational foundations of a military movement to regain political control of Nicaragua: the National Democratic Front (FDN). Following the 1981 inauguration of Ronald Reagan, CIA advisors became integral to FDN organizational efforts. Through classified portions of legislation passed in late 1981, the US Congress approved a \$19 million program of covert military assistance to the Contra, with the goal of establishing a territorial base along the border in Honduras from which to declare a “provisional government.”<sup>502</sup> From there, the insurgency sought to develop a social base within Nicaragua, first among Somoza-allied landowners and ex-GN family networks and then among Atlantic Coast indigenous communities and urban centers along the Pacific.<sup>503</sup> Even by early 1982, the nascent Contra groups had yet to gain a territorial foothold within Nicaragua but did launch raids from Honduras, “systematically [terrorizing] the population” by targeting cooperatives and peasant recipients of FSLN literacy and vaccination efforts.<sup>504</sup>

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<sup>501</sup> Núñez Soto 1991: 21.

<sup>502</sup> Serafino 1981: 1; “Los contras” 1987.

<sup>503</sup> “Los contras” 1987.

<sup>504</sup> Kruijt 2008: 120-1.

While the counterrevolutionary resistance remained a rather homogenous force in these initial years, the limited land redistribution, emphasis on collectivization, wide-ranging confiscations, and strict Sandinista control of social, political, and economic life had altered the composition of Contra forces by the mid-1980s. Disillusionment with FSLN governance fanned the flames of rebellion amongst peasant communities in Nicaragua's north-central highlands. They began to reorganize the local guerrilla units known as the MILPAS—previously the *Anti-Somoza* Popular Militias, but now the *Anti-Sandinista* Popular Militias. With US funds, the FDN's ex-GN leaders began a robust campaign to recruit MILPAS units and members to their cause.<sup>505</sup> Meanwhile, new counterrevolutionary movements formed along the southern border in Costa Rica (Democratic Revolutionary Alliance, ARDE) and the largely indigenous Atlantic coast (Miskito, Sumo, Rama Unity, MISURA, and Nicaraguan Coast Indian Unity, KISAN).<sup>506</sup>

According to Resistance records, there were a reported 3,002 FDN troops in November 1982. By the beginning of 1984, that figure had nearly tripled to 8,163.<sup>507</sup> Based on estimates of demobilized commandos and fighters killed in action, former State Department liaison Timothy C. Brown estimates that 45,000 to 50,000 Nicaraguans may have participated in the FDN, although Contra practices of forced recruitment and kidnapping make it difficult to know what proportion joined voluntarily.<sup>508</sup> Archival documentation from the Nicaraguan Resistance (RN) Army, the umbrella organization that joined the FDN and ARDE, further indicates that, even as early as 1982, a significant number of rebel commandos had agricultural backgrounds.<sup>509</sup> By

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<sup>505</sup> Brown 2001: 88-9.

<sup>506</sup> Martí i Puig 1997: 72.

<sup>507</sup> FDN 1982, 1984.

<sup>508</sup> Brown indicates that most of these members were voluntary; however, other accounts, such as that of former Contra fighter G. Enrique López Salinas, indicate that “in the final stage of the war, the counterrevolution fed its ranks, in large part, through kidnapping” (López Salinas 2011: 85); see also Brown 2001: 116.

<sup>509</sup> RN n.d.

1986, 42 of the primary 100 Contra leaders were peasants.<sup>510</sup> Of the fighters who laid down their arms during the 1990-91 demobilization period, an estimated 97 percent were members of the rural peasantry.<sup>511</sup> Over the course of a decade, the character of the conflict underwent a marked shift, culminating in “a peasant uprising, which could be considered the greatest source of erosion for the Sandinista Revolution.”<sup>512</sup>

Importantly, it was not just the small and medium peasant producers that were driven into the arms of the insurgency. Policies of confiscation and collectivization even drew ire from subsistence farmers and those working on larger estates—the supposed beneficiaries of agrarian reform. In prioritizing state farms and cooperatives, FSLN policies “generated contradictions amongst agrarian producers, who viewed these forms of property as unfair competition.”<sup>513</sup> The failure to recognize the significance of traditional property structures and rural hierarchies often meant that, “when a landowner left to join the Contra, he brought 50 peasants with him.”<sup>514</sup>

In addition, Contra commandos used their deep rural ties and superior understanding of local norms to enhance recruitment and operations. A 1985 report documenting a visit to the rebel-leaning municipality of Pantasma discusses the Contra advantage in garnering support: “Counterrevolutionary recruitment was based on a knowledge of the local power structure and on strict respect for the rural code, in addition to a more affective rather than political or ideological discourse, which succeeded in lighting a fuse [*prender la mecha*].”<sup>515</sup> In addition to these social and cultural understandings, peasant commandos also possessed organic structures through which to organize rebellion at the local level: the *comarca*. *Comarcas* are local

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<sup>510</sup> Morales Carazo 1989: 130.

<sup>511</sup> Brown 2001: 116.

<sup>512</sup> Núñez Soto 1991: 366.

<sup>513</sup> *Ibid.*, p. 82; see also Baumeister 1998: 165-6.

<sup>514</sup> Interview with author, January 17, 2017.

<sup>515</sup> CIERA 1985: 127.

governmental divisions corresponding to rural *campesino* settlements. Because MILPAS units had generally been organized along *comarca* lines, the FDN, in subsuming peasant resistance groups, also inherited local organizational forms that facilitated expansion and the decentralization of leadership.<sup>516</sup>

Though peasant groups found common cause with the founding Contra leadership, unlike the ex-GN leaders and their US backers, those who joined or allied with the anti-Sandinista resistance did not necessarily envision a radical seizure of power or a return to Somoza-era politics. Again, many had previously joined the anti-Somoza struggle and were not inherently opposed to FSLN governance on political or ideological grounds. As cattle rancher-turned-Resistance leader Diógenes Membreño Hernández remarked, “For the thousands of combatants, the majority of which are peasants, we didn’t join the fight to conquer power or to govern the country. Our intention was to achieve change [...] we didn’t fight for a return to the past. This was a peasant revolution, a legitimate revolution, a revolution that was born when the FSLN betrayed the Nicaraguan people [...] by straying from its original political project.”<sup>517</sup> In other words, it was primarily Sandinista governing practices that shifted the bases of Contra support, rather than any primordial opposition or US assistance alone.

By most accounts, FSLN leadership largely missed, or least underestimated, the rapidly expanding peasant bases of the counterrevolutionary movement, instead remaining fixated on the imperialist tenor of the conflict and an imminent US invasion. According to Orlando Núñez, the FSLN “whether because of tactics or ignorance [...] never recognized, not even partially, the existence of a civil war.”<sup>518</sup> Top FSLN officials like Wheelock, however, posit that an armed

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<sup>516</sup> Brown 2001: 13-6, 18.

<sup>517</sup> Bendaña 1991: 203-4.

<sup>518</sup> Núñez Soto 1991: 21.

conflict like that which developed in Nicaragua would have been unthinkable in the absence of US economic and technical assistance:

Imagine if the United State didn't have a policy of aggression and we had come to an understanding. I would say categorically the type of war that developed here would not have developed. We would have had some attempts by Somoza's guards that fled to El Salvador and Honduras to reorganize [...] Some of them did succeed and came back in the middle of the literacy campaign to kill volunteers. So we would have had these kinds of problems, but never the kind of war that developed in which there were at least 25,000 armed men from the *Contra* undertaking guerrilla warfare.<sup>519</sup>

But whether or not the primary impetus was US foreign support, FSLN missteps, or some combination of the two, the difference between the counterrevolutionary movement in 1981 and 1984 was not merely a question of numbers. The dramatic expansion of a distinctly peasant base would force the Sandinistas to bolster defensive efforts through institutional shifts at home.

### **Sandinista Centralization: Narrowing the Rules-Making Elite**

With the significant defection of highland peasant communities to the Contra insurgency by 1983, Nicaragua's institutional landscape was ripe for change—particularly within the agrarian reform program. As the government lost its territorial foothold in the north-central regions of the country—and in communities allied with the revolutionary movement in the 1970s, no less—the heightened sense of insurgent threat not only generated institutional ambiguity, but also further insulated and centralized power in the already narrow FSLN decision-making coalition. I argue that it is this structural feature that accounts for the introduction of undermining rules within the institutional void that developed after the initial period of FSLN reforms. Contrary to theoretical expectations, wartime institutional changes generated new, undermining rules within land tenure because the circumscribed FSLN rules-making coalition was shielded from countervailing political forces and was able to devise and implement

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<sup>519</sup> Interview with author, January 31, 2017.

alternative rules that corresponded to its own narrow interests—in this case, to maintain political power. In this section, I elaborate on how the narrow structure of Sandinista authority set the stage for the development and implementation of undermining rules within land tenure.

As I allude to above, Nicaragua’s early post-revolutionary Government of National Reconstruction (JGRN) was quickly dominated by its majority FSLN membership and eventually collapsed as the more conservative elite representatives stepped down. Even before this moment, however, the FSLN’s National Directorate (DN), the party vanguard comprised of the nine revolutionary commanders, was understood to be the “undisputed leadership” empowered to “[carry] out political directives with complete autonomy.”<sup>520</sup> In fact, it became common to hear at political rallies and assemblies the call “*¡Dirección Nacional ordene!*” [By order of the National Directorate!].<sup>521</sup> With the formation of the Sandinista Popular Army (EPS), whose institutional identity was directly linked to the party movement, the FSLN secured the fusion of the party, state, and military and consolidated full political control.<sup>522</sup>

Though the nine DN leaders professed the importance of popular participation, in practice, state authority was highly concentrated in the Sandinista vanguard. In the words of revolutionary commander Bayardo Arce, who coordinated the DN’s political commission, FSLN governance was anchored in “democratic centralism.” But as the Contra War took its toll, the conditions became ripe for “the strengthening of control, centralization, and verticalism.” Arce would admit that military and economic necessities pushed the revolutionary commanders to become “more centralist than democratic” in the end.<sup>523</sup> As part of this centralizing tendency, the DN undertook the administrative reorganization of the country, dividing Nicaraguan territory

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<sup>520</sup> Martí i Puig 2010: 83.

<sup>521</sup> Ibid.

<sup>522</sup> Cajina 1997: 75-119.

<sup>523</sup> Invernizzi et al. 1986: 65, 86.

into six discrete regions and three special zones to better coordinate defensive efforts. This reorganization, however, subordinated community leadership to the regional representatives of the Sandinista Assembly, which operated as a rubberstamp for DN decision-making.<sup>524</sup> Any previous local autonomy was thus subsumed by the FSLN's strict, hierarchical organization.

MIDINRA and its agrarian reform program were, of course, also subject to centralization efforts as the war progressed. Under the FSLN, "centralism spurred a return to the tendency to acquire property rights based on the initiative of rulers."<sup>525</sup> Observers, in fact, speculate that this centralizing tendency and "MIDINRA's power played a real role in leaving unresolved the updating of the land registry."<sup>526</sup> In other words, existing state institutions were unenforced and shielded from societal pressures to make room for alternative rules to take root.

In principle, MIDINRA was organized to foster broad participation and consultation. With respect to land reform, underneath the minister of MIDINRA, the maximum authority, there was a vice minister of agrarian reform, who coordinated all activities related to cooperative development, land reassignment, and titling.<sup>527</sup> The minister and vice minister were advised by a diverse group of experts and civil society leaders, known as the National Agrarian Reform Council. The council's members included the secretary general of the Rural Workers' Association (ATC), the president of the National Union of Agricultural Workers and Cattle Ranchers (UNAG)—both FSLN-affiliated mass organizations—the director of CIERA, the director of the Nicaraguan Finance Corporation, and a delegate from the Ministry of Planning.<sup>528</sup> Similar kinds of organizational entities were replicated at the regional level through the Regional

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<sup>524</sup> Martí i Puig 1997: 85-6.

<sup>525</sup> IRAM 2000: 36.

<sup>526</sup> *Ibid.*, p. 37.

<sup>527</sup> MIDINRA 1983b: 39.

<sup>528</sup> MIDINRA 1983: 30.

Agrarian Reform Councils, which provided recommendations to the MIDINRA delegates overseeing activities in the country's six regions and three special zones.<sup>529</sup>

Though MIDINRA's national and local structures, in theory, facilitated input from societal groups outside of FSLN circles, the reality of decision-making within the agrarian reform program was much different. MIDINRA's strict, vertical organization ensured that regional delegates operated as faithful surrogates of top party authorities. As the Ministry's 1983 work plan indicates, "the Regional Directorates and Special Zone Directorates of MIDINRA—as small-scale, comprehensive expressions of the central level—encompasses organs that guarantee compliance with the functions of the Ministry."<sup>530</sup> The latitude allotted to local cadre to implement agrarian reform policies more tailored to community needs was thus limited. Dissatisfaction with MIDINRA's strict hierarchical procedures became pervasive at the local level, particularly among resettled peasant communities. As one 1986 CIERA report admonished, "We consider that the style of centralized, vertical, and non-participatory conduct has produced [...] an unnecessary erosion of the [Sandinista] Front and the State in terms of resources and prestige."<sup>531</sup>

Insulated from outside political pressures and operating in a strict, vertical fashion, MIDINRA officials often substituted "political criteria" for formal selection procedures when it came to land reassignment.<sup>532</sup> Numerous land titling "acts" issued in 1983, 1984, and 1985 provide extensive histories of the cooperatives and individual peasants slated to receive legal titles, revealing that they most often had deep ties to the FSLN dating back to the insurrection.<sup>533</sup>

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<sup>529</sup> Ibid.

<sup>530</sup> MIDINRA 1983: 9.

<sup>531</sup> DGFCRA 1986b: 7.

<sup>532</sup> Interview with author, January 23, 2017.

<sup>533</sup> See, for example, DGFCRA 1983b; DGFCRA 1983c; DGFCRA 1983d; DGFCRA 1983e; DGFCRA 1984c.

Though coordinated by local party officials, such partisan decisions were also very much guided and sanctioned by those at top. Minister Wheelock described this process to me in our interview: the redistribution orders ascended to his office in Managua after receiving approval from the Regional Agrarian Reform Council, which included delegates from the presidency, military, Ministry of the Interior, and Sandinista party. Wheelock would approve the number and kinds of titles that would be granted in a given zone.<sup>534</sup> Further, the nine FSLN commanders who formed the DN were often present at titling ceremonies, infusing them with a revolutionary spirit. Titling was not merely the product of local decision-making on the part of low- and mid-level FSLN cadres, but a set of institutionalized practices sanctioned at the top.

Thus, despite the mass mobilization undertaken to wage war and the mounting peasant pressures for land, the decision-making coalition implementing agrarian reform procedures remained narrow, highly centralized, and impervious to countervailing political forces. As the escalation of the Contra threat prompted FSLN leadership to rethink the prevailing rules within agrarian reform, the structure of the rules-making coalition would ensure that the changes to come would not be subject to broad input, but would instead be devised and enforced by a narrow coalition of party leaders who possessed total political control.

### **Land as a Tool of Counterinsurgency: The Introduction of Undermining Rules**

The growing insurgent territorial presence and perceived military threat led to a dramatic reorientation of the land reform program to gain back lost ground. Rather than primarily a means of social and economic transformation, by 1984, agrarian reform became a tool of counterinsurgency.<sup>535</sup> It would “now be used to confront the Contra threat” both by satisfying the

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<sup>534</sup> Interview with author, March 1, 2017.

<sup>535</sup> Ortega 1988: 203; Martí i Puig 1997: 84; Spalding 1994: 83; interview with author, March 1, 2017.

land demands of potential insurgent recruits and arming the peasantry for military defense.<sup>536</sup> It is in this moment that the rules governing land redistribution were altered, generating undermining rules that came to distort the Nicaraguan state's ability to regulate landownership. With the drastic shift in the bases of Contra support and the heightened sense of insurgent military threat, the reorientation of FSLN counterinsurgent priorities and actions—including the use of land redistribution to reassert state control—created space between previous land reform procedures and their enforcement. Amid this institutional gray zone, FSLN elites introduced alternative arrangements for redistributing and titling lands on a provisional basis, which ultimately subverted state administrative functions.

Importantly, this case illustrates that the introduction of new undermining rules within the state apparatus are not only a product of predatory or corrupt motivations on the part of a narrow counterinsurgent elite, as the case of Guatemala's customs apparatus (Chapter 3) and even Guatemala's policing institutions (Chapter 4) might suggest. In the case of Nicaragua's land tenure institutions, the undermining rules were driven primarily by strategic and political motivations—the need to peel off insurgent support to win war and preserve political rule. Beyond constituting an ill-informed or poorly executed policy, the new redistributive procedures became a series of new rules governing how land was titled. This case thus illustrates how it is the *structure* of the rules-making coalition rather than the specific *motivations* fueling its actions that best account for the undermining institutional logics that emerged.

In this section, I illustrate how the rules structuring land tenure changed in two critical ways. First, whereas FSLN leaders had previously set a high threshold for redistribution based on a more orthodox, collective vision, the new rules were far more permissive of individual ownership, as well as group titles that did not meet the fully collectivized standard. Second, due

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<sup>536</sup> US Embassy in Managua 1983.

to the rapid increase in redistribution and the hasty confiscations required to meet them, there was an increase in the provisional titling of land—that is, temporary legal documents that authorized the reassignment of lands that had yet to pass into state hands. In this way, the alternative rules that emerged in response to the mounting Contra threat undermined the state's ability to regulate land tenure, thereby deepening land insecurity and destabilizing communities throughout the Nicaraguan countryside.

Though the early years of FSLN rule brought important socioeconomic benefits to Nicaragua's urban and rural poor, the escalation of rebel activity began to erode revolutionary advances towards the end of 1983. From its inception, the US-backed Contra insurgency saw economic destabilization as a means of bringing down the Sandinista regime, targeting state-owned agribusinesses and farms as early as 1981.<sup>537</sup> However, the economic costs of the counterrevolution increased dramatically a few years later as peasants flocked to the Contra cause and enhanced the insurgency's territorial foothold within Nicaragua. By the beginning of 1984, Contra forces launched attacks against ten cooperatives per month on average.<sup>538</sup> Between 1984 and 1987, the war-induced damages—both the destruction of goods and lost production—amounted to an estimated 40 percent of potential annual exports.<sup>539</sup>

The damages wrought by the armed conflict were not only economic, but political. With the 1981 dissolution of the unity government and the tightening political grip of the FSLN's nine-man National Directorate, the FSLN was now solely to blame for the country's economic woes—an attitude that manifested itself quite clearly in the results of the November 1984 general elections. Though the opposition coalition refused to participate and the FSLN won handily, the abstention levels were significant in regions heavily battered by the conflict as well as zones

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<sup>537</sup> Fitzgerald 1988: 36-7.

<sup>538</sup> Invernizzi 1986: 214.

<sup>539</sup> Fitzgerald 1988: 37.

where small and medium commercial producers constituted a sizable share of the population.<sup>540</sup>

Despite the victory, the electoral results were enough to signal to Sandinista leadership that the future of the revolutionary project was at risk due to deteriorating political support.

By 1984, the DN determined that the deteriorating military, economic, and political conditions warranted the “flexibilization” of agrarian policies to accelerate redistribution and meet local demands in peasant communities vulnerable to Contra recruitment. According to Eduardo Baumeister, this “flexibilization” involved four key components: 1) “an increase in the pace of reform;” 2) an increase in the provision of lands that were “not strictly collective,” such as individual titles and credit and service cooperatives (CCS); 3) the development of titling procedures for lands occupied by landless peasants and those on APP properties; and 4) the liberalization of price controls put in places during the early years of Sandinista rule.<sup>541</sup> Per MIDINRA plans and reports, the rationale for this institutional “flexibilization” was rather straightforward: to “strengthen the alliance with the peasantry”<sup>542</sup> as a bulwark against counterrevolution and “to recover its social base in the countryside [...] via concessions.”<sup>543</sup> In particular, efforts to “massify” land titling were seen as “a means of re-establishing [peasant] trust and security in the possession of their lands.”<sup>544</sup>

The shifts in agrarian policies were primarily targeted at the central and northern highland regions, which, in the subnational scheme devised by the FSLN, included Regions I (Estelí, Nueva Segovia, and Madriz), V (Boaco and Chontales), and VI (Jinotega and

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<sup>540</sup> MIDINRA 1985b: 2.

<sup>541</sup> Baumeister 1998: 166-7.

<sup>542</sup> CIERA 1988: 6.

<sup>543</sup> MIDINRA 1984: 36.

<sup>544</sup> DGFCRA 1984b: 21.

Matagalpa). These, along with the indigenous communities on the Atlantic coast,<sup>545</sup> were the zones most vulnerable to rebel incursion. Moreover, these regions contained tens of thousands of displaced families demanding land for resettlement. In 1985 and 1986 alone, some 300 properties were purchased or expropriated by the government to resettle communities forced to flee the violence in war zones.<sup>546</sup>

The new procedures to reassign lands on a massive scale in these zones were a part of “the contingency plans and immediate actions” to facilitate “grand mobilizations of the people in arms and decisive military victories against the counterrevolution.”<sup>547</sup> “Part of the war was the deployment of agrarian reform actions” in these regions, in the words of MIDINRA Minister Wheelock.<sup>548</sup> In 1984, for example, MIDINRA, Ministry of Defense, and Ministry of the Interior officials came together to formulate and implement a unified plan for Regions I and VI, which included measures ranging from land provision to the mass import of arms and foodstuffs to “influence all aspects affecting the will of the peasantry toward the Revolution.”<sup>549</sup>

As a result of the FSLN program of “flexibilization,” the pace of redistribution changed rapidly. In the first 10 months of 1984 alone, 2.15 million acres of land were titled and distributed to 35,000 families.<sup>550</sup> In 1985, an additional 890,000 acres were redistributed to some 19,070 families.<sup>551</sup> Overall, the land area titled to cooperatives, indigenous communities, and

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<sup>545</sup> In 1987, the FSLN government passed a statute granting autonomy to indigenous communities in the northern and southern Caribbean coast zones and recognizing traditional, communal forms of property.

<sup>546</sup> IRAM 2000: 35.

<sup>547</sup> MIDINRA 1984: 14.

<sup>548</sup> Interview with author, March 1, 2017.

<sup>549</sup> Ibid.

<sup>550</sup> Invernizzi et al. 1986: 225.

<sup>551</sup> MIDINRA 1986: 5.

individual peasants between 1984 and 1986 was nearly three-and-a-half times that titled between 1981 and 1983 and benefitted over twice as many families.<sup>552</sup>

But as important as the acceleration in the pace of titling, the new rules of redistribution dramatically tilted the collective-individual balance of land provision. Recognizing the clash between orthodox forms of collectivized agriculture and the individual-based structures that prevailed among the rural peasantry, FSLN leaders made much greater allowances for individual and semi-collective titling in an effort to shore up military and productive activities. Between 1981 and 1984, individual and semi-collective lands represented only 18 percent of all redistributed area; however, they had grown to 47 percent during the 1985-87 period.<sup>553</sup> In the years following the 1984 shift, the trend toward individual titling only became more pronounced. According to MIDINRA figures, there was a pretty even mix of individual and semi-collective titles issued in 1985; yet, the following year, individual parcels represented a clear majority, some 73 percent of lands and 86 percent of titles handed over.<sup>554</sup> Nicaragua's pre- and post-1984 land reform efforts thus bear little resemblance. While not wiping out collective agricultural institutions completely, the FSLN's initial strict vision of agrarian reform had largely been brushed aside due to military and economic necessities. This reorientation thus created a "gap" or "soft spot" within which to introduce new rules.

This reorientation toward non-collective titling in conflict zones was accompanied by key shifts in the class of beneficiaries and the sources of redistributed land. Under the new approach, land redistribution was targeted at landless peasants and those with only small subsistence plots, who benefitted from 82 percent of the titles handed out by the government in 1984.<sup>555</sup> Though

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<sup>552</sup> CIERA 1989: 41.

<sup>553</sup> Gutierrez 1988: 119.

<sup>554</sup> MIDINRA 1987: 152.

<sup>555</sup> MIDINRA 1986: 3.

poor and landless peasants were the primary beneficiaries of land reform in 1984, it is important to note that many of the assigned lands during the period formed part of the “special titling” [*Titulación Especial*] program, which legalized lands already in possession of peasants covered under Somoza-era titling program led by the Nicaraguan Agrarian Institute (IAN). Legalizations conducted under the special titling program thus did not actually “strike a blow to landlessness;” they instead formalized ownership for those already in possession of small parcels.<sup>556</sup>

But as peasant pressures mounted and displacement increased, non-redistributive efforts, such as the special titling program, took a backseat to the actual reassignment of lands.<sup>557</sup> FSLN leadership was thus left with a critical dilemma: where would the land for poor and landless peasants come from? While Sandinista cadres resisted the break up state-run farms and productive enterprises in the initial years after seizing power, such measures became unavoidable to meet peasant demands. Further, the dismantling of APP farms and enterprises was of political import; for many individual peasant producers, APP properties, which enjoyed disproportionate public credit and technical assistance, had become “the symbol of the betrayal” of the revolutionary process.<sup>558</sup> Much of the redistributed land post-1984 thus came from the break up of already acquired APP properties. According to a 1985 MIDINRA year-end report, roughly half of the redistributed land under the “*Plan Extraordinario*” that year came from the nationalized properties due to “the increasing necessities of land for thousands of peasant families without land or directly affected by the aggression.”<sup>559</sup> By the end of the war, only 35

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<sup>556</sup> MIDINRA 1984b: 23.

<sup>557</sup> DGFCRA 1983: 11; DGFCRA 1985b: 6; DGFCRA 1985c: 7.

<sup>558</sup> MIDINRA 1985c: 9.

<sup>559</sup> MIDINRA 1986: 6.

percent of land was concentrated in state-run firms, while 65 percent had been assigned to cooperatives and individuals.<sup>560</sup>

Yet, it quickly became clear that ceding APP lands would not be enough to meet peasant demands. As a result, the government passed more legislation in 1986 to expand the criteria of expropriation to idle lands regardless of size and to cover land claimed in the name of “national development.” Following the passage of the 1986 Agrarian Reform Law, the land reform movement “exploded,” and in 1986 alone, the FSLN carried out 30 percent of all expropriations.<sup>561</sup> Often times, the expropriated lands were a result of voluntary sales by Sandinista-allied commercial elites or negotiations with landowners, who put up little resistance when offered cash payments. Yet, other times, and especially as conflict violence exacerbated financial strains, land negotiations and promises of compensation were less credible and heavily politicized. In principle, MIDINRA officials intended for the expropriations to be “carefully planned, to distinguish the cases that should undergo a process of negotiation, those that should be oriented toward striking a blow to the counterrevolution, [...] from those owned by [individuals] who have fled the country and whose properties are required for the urgent need of peasant resettlement.”<sup>562</sup> In practice, the confiscations became more reckless and increasingly flouted formal legal channels.

Combined, the accelerated pace of reform, more individually oriented nature of redistribution, and hasty expropriations to meet the overwhelming demand prompted another key institutional change: it altered the rules of legalization and titling, privileging the doling out of provisional titles that ultimately exacerbated property insecurity. With the peasant demand for land outpacing the FSLN’s ability to formally nationalize it, many of the parcels titled to peasant

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<sup>560</sup> Baumeister 1998: 184.

<sup>561</sup> Spalding 1994: 83-4.

<sup>562</sup> DGFCRA 1985: 10.

families beginning in 1984 had not technically passed into state hands. Though it is difficult to discern the precise number, one study of found that 78 percent of redistributed properties investigated remained under the names of their pre-Revolution owners.<sup>563</sup>

The failure to formally incorporate expropriated lands into the state sector, however, did not prevent local Sandinista officials from issuing provisional titles. Though the titles looked like those established by the Agrarian Reform Law, they “lacked any registered record.”<sup>564</sup>

According to a study by the Institute for Investigation and Application of Development Methods (IRAM), this was the case for 70 percent of titles issued before the end of FSLN rule in 1990—“they were provisional titles that could not be entered into the public registries because they did not contain previous ownership records and were granted with the intention of being temporary.”<sup>565</sup>

Reports from field visits to the areas most affected by post-1984 redistribution efforts suggest the precarious nature of the titles was a serious problem at the time as well. In interviews with local officials and residents throughout the country, CIERA researchers found that “the better part of the titles handed out have been provisional titles” and that “there has not been a follow-up process for affected areas and titling.”<sup>566</sup> In Region VI, the coffee-growing zones of Jinotega and Matagalpa, which were hotbeds of Contra recruitment, researchers reported as the most significant challenges “the lack of legalization of lands captured by the State [and] the excess of provisional titles.”<sup>567</sup> Thus, even as the pace and scope of land redistribution increased, the tenuous legal basis of the titles handed out to peasant families deepened uncertainties about formal possession throughout the country.

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<sup>563</sup> IRAM 2000: 36.

<sup>564</sup> *Ibid.*, p. 39.

<sup>565</sup> *Ibid.*

<sup>566</sup> DGFCRA 1984: 1.

<sup>567</sup> *Ibid.*, p. 32.

Sometimes provisional titling was carried out as an ad hoc means of addressing the deepening problem of displacement and resettlement in conflict zones. For example, a MIDINRA evaluation of the land reform program from the first trimester of 1985 notes how during this period, “formal titling was minimal; however, [we] did achieve the relocation of displaced peasants in war zones affected by the aggression, effectively handing over the properties physically but leaving the formal titling pending for the second trimester.”<sup>568</sup> In other words, the urgent need to resettle displaced made provisional titling the most expeditious option for MIDINRA officials, who faced serious shortages of financial and human resources.

In other cases, the prevalence of provisional titles was the product of the incomplete special titling program, which gained ground for a short time in 1984 to guarantee land ownership amongst rural peasants who were a part of the Somoza-era agrarian reform movement. By 1985, the reassignment and titling of new lands had become “considerably superior” to the legalization of parcels assigned under Somoza.<sup>569</sup> The need to address the claims of peasants that had not yet been assigned lands meant that those seeking the legalization of already occupied parcels remained in an ambiguous and precarious situation.

Finally, another source of provisional titling was the reluctance of FSLN officials to grant formal ownership to fully and semi-collectivized cooperatives that were poorly organized, inefficient, and unstable. Though the official FSLN directive was to “flexibilize” the agrarian reform program and expand titling, some local leaders remained concerned about the inability of cooperatives to properly administer productive activities on the newly titled lands. Instead, they preferred a more gradual legalization process based on whether communities could successfully harness the land’s productive capacities. As one MIDINRA report urged, “The policy of

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<sup>568</sup> DGFCRA 1985: 13.

<sup>569</sup> DGFCRA 1985b: 6.

assigning titles to cooperatives should remain until after a certain amount of time in which they have demonstrated some level of organizational stability. During this period, the beneficiaries should be assured of and provided provisional legal backing.”<sup>570</sup> Persistent FSLN concerns about collective agricultural production amongst “backward” peasant sectors were thus another reason why temporary titling flourished in the mid- and late-1980s.

In sum, the social, political, and economic pressures that mounted with the escalation of Contra activity completely reshaped the rules and procedures governing land redistribution beginning in 1984. The accelerated pace and individual orientation of agrarian reform, when combined with growing peasant demands for land, led to the proliferation of fragile, provisional titles that would exacerbate land insecurity and conflict. In other words, the perceived increase in the insurgent threat unsettled the institutional landscape that formed during the early years of Sandinista rule and further concentrated power in an already narrow FSLN rules-making coalition. The result was alternative rules and procedures that expressly undermined the state’s ability to regulate land ownership, as I will detail more in the next section.

But while the alternative institutional arrangements were narrowly conceived and enforced by the FSLN’s highly vertical regime structure, they never acquired the same level of institutionalization as the undermining rules examined in the Guatemalan context. Unlike Guatemala’s political environment of intrastate fragmentation, the context of relative cohesion and the absence of viable political challengers in the Nicaraguan case meant that Sandinista leadership did not perceive a need to draw together a broader elite coalition with a stake in the new rules. In other words, the DN commanders did not attempt to forge a broader distributional coalition to shore up the undermining institutional arrangements because there was little need. As

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<sup>570</sup> DGFCRA 1986: 22.

a result, the undermining rules within the land reform program would prove much easier to dismantle in the aftermath of conflict—a process I will return to in Chapter 7.

### **The Fruits of “Flexibilization”: Land Insecurity, Conflict, and Corruption**

The institutional changes that occurred within Nicaragua’s land reform program as the insurgent threat escalated produced alternatives rules characterized by the hasty reassignment and provisional titling of often unregistered lands—rules that undermined the state’s ability to regulate land tenure during and well after the conflict ended. Following the FSLN’s 1990 electoral loss, which brought to power center-right UNO opposition leader and former JGRN member Violeta Barrios de Chamorro, it became clear that the vast majority of agrarian reform titles issued during the decade of Sandinista rule lacked formal and permanent legal backing.<sup>571</sup> Meanwhile, in his treatise attempting to debunk the “Piñata” allegations, Minister Wheelock admits that as much as 80 percent of the titles issued before the electoral loss were provisional.<sup>572</sup>

But in addition to the hasty property seizures by FSLN officials, the undermining rules within land tenure had produced two related adverse effects: 1) heightened land insecurity and conflict, and 2) costly restitution processes. First, the proliferation of provisional titles, the failure to update regional and national land registries, and claims of property theft by previous occupants (who were often still listed as the legal landowners), generated high levels of tenure insecurity and fomented violent conflict. Lacking firm legal backing, peasant families and agricultural workers lived in fear that their parcels would be reclassified as state lands and returned to their pre-Revolution owners.<sup>573</sup> These anxieties not only affected provisional titleholders, but tens of thousands of cooperative members and individual peasants with

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<sup>571</sup> IRAM 2000: 36.

<sup>572</sup> Spalding 1994: 167, fn. 25.

<sup>573</sup> *Ibid.*, p. 167.

definitive titles that included errors or had no documentation at all. According to Stanfield, over 100,000 titles issued before 1990 contained a defect of some kind.<sup>574</sup> Even with Law 88, passed by the FSLN in 1990 to automatically formalize temporary titles, competing land claims persisted and exacerbated the already precarious situation of countless families. Over a decade after the transition, 83 percent of rural land claims were still pending or under appeal (See Chapter 7).<sup>575</sup>

Not surprisingly, the conflicts over land and property often erupted into violence. Those occupying lands “react angrily to the threat of eviction while claimants attempt forcibly to reoccupy the land.”<sup>576</sup> In the case of reassigned cooperative lands, conflicts often took the form of collective land seizures, which peaked in the early years of the UNO government with 220 occurring in 1991 and 162 in 1992, per police statistics.<sup>577</sup> Unfulfilled promises regarding the provision of land to ex-combatants, both former Contra and Sandinista fighters, only increased the violence associated with land conflicts in the early 1990s, particularly amongst those who resisted demobilization and transformed into criminal groups.<sup>578</sup>

### **Rethinking the Relationship between War-Making Strategy and State Development**

Nicaragua emerged from the decade-long Contra War with staggering levels of land insecurity and conflict, which also facilitated a series of brazen land grabs on the part of top political elites. On their face, these phenomena appear to be some of the most pronounced outcomes of wartime destruction and state “weakening,” as the strains of armed conflict decimated the state’s capacity to administer land tenure and property ownership. But upon closer

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<sup>574</sup> Stanfield 1995: 13.

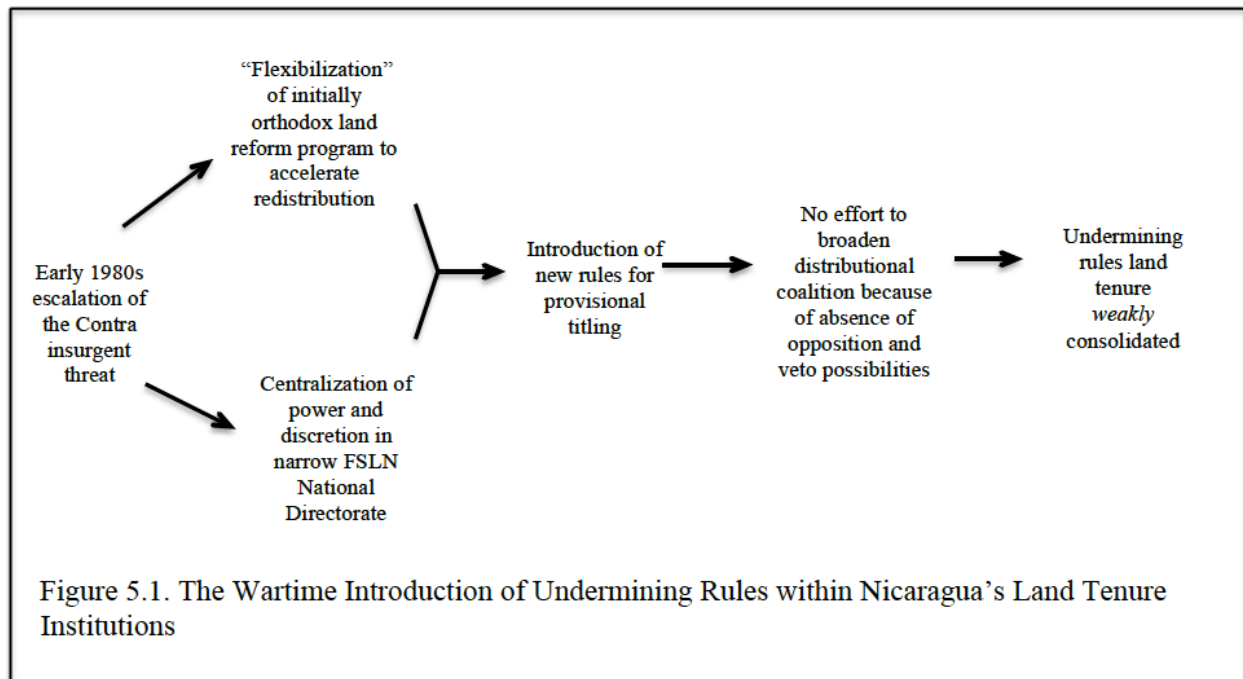
<sup>575</sup> Broegaard 2005: 852.

<sup>576</sup> Stanfield 1995: 5.

<sup>577</sup> Cuadra and Saldomando 2000: 26.

<sup>578</sup> *Ibid.*, pp. 17-24.

inspection, wartime institutional changes within the Sandinista’s landmark agrarian reform program reveal just the opposite: rather than institutional “destruction” or “weakening,” the escalation of the insurgent threat prompted the institutionalization of a series of undermining rules that systematically contravened the state’s administrative functions. This process is laid out fully in Figure 5.1. The undermining rules, which consisted of hasty confiscations and precarious provisional titling, were devised and enforced by a narrow, highly centralized, and vertically structured FSLN ruling party, which became more insulated and employed greater discretionary authority as the insurgent threat mounted. Yet, precisely because the FSLN faced few veto possibilities and did not perceive the need to forge a broader elite coalition with a stake in the new rules, they were only ever weakly consolidated and thus more vulnerable to revision at war’s end.



Overall, the introduction of undermining rules within land tenure institutions during the Nicaraguan Civil War casts doubt on a primary explanation for variation in wartime institutional development, as well as classic theories of how and why war “builds” the state. In the Tillyan

view, the Nicaraguan case reflects precisely the kind of war-making strategy that might build or reinforce the state's administrative apparatus. Due to unique historical and regime features, the Sandinista government undertook a "coercion-intensive" strategy for waging war against the Contra rebellion in which resources were "squeezed" from mass actors rather than procured or borrow from elite allies. Though the prevailing model suggests that this kind of wartime extraction induces processes of societal bargaining that create robust administrative institutions, the Nicaraguan case reveals just the opposite. It instead suggests that the kinds of institutional logics that emerge in conflict are much more a product of the coalitional structures overseeing wartime institutional policies than the source of wartime resources.

## CHAPTER 6

### REINFORCING RULES IN CIVIL WAR: COLOMBIA'S "DEMOCRATIC SECURITY TAX"

The within-case analyses presented in the preceding three chapters illustrate how new, undermining rules emerge within distinct state sectors during civil war and come to subvert core state functions like the extraction of tax revenue, the provision of public security, and the administration of land tenure. The three institution-level cases, while illuminating the undertheorized process by which wartime institutional *creation* distorts state activity, conform to broader cross-national findings that civil war “weakens” the state. Yet, this general empirical pattern has important exceptions. Indeed, a number of scholars have argued that internal conflicts can have a positive “state building” effect as surely as the foreign conflicts cited in early theories of state formation. Under what conditions do civil war dynamics lead to the introduction of new rules and procedures that bolster routine state functions, what I term *reinforcing* rules? Given a similar context of perceived threat escalation and growing institutional ambiguity, why do very different *kinds* of rules take shape, thereby shoring up conventional state activities?

This chapter seeks to shed light on these outlying cases by analyzing one illustrative example: the 2002 introduction of a new wealth tax during the Colombian Civil War. The reform, known as the “Democratic Security Tax,” was earmarked for security expenditures and came to represent 20 percent of the defense budget.<sup>579</sup> Though adopted by decree initially, Congressional legislation renewed the tax for three subsequent three-year periods, during which time it represented between 2.5 and 5 percent of government revenue.<sup>580</sup> Additionally, the government undertook significant efforts to revamp the efficiency of the tax administration itself,

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<sup>579</sup> Flores-Macías 2014: 479.

<sup>580</sup> Ibid.

implementing technological changes to combat evasion and triple the amount of revenue collected by the tax and customs administration (DIAN) between 2002 and 2012.<sup>581</sup>

Given the context of perceived threat escalation and growing institutional ambiguity, not unlike the conditions that produced institutional change in Guatemala and Nicaragua, why do very different kinds of rules—those that bolster rather than contravene revenue extraction—take shape within Colombia’s tax administration? I argue that these divergent outcomes are related to the structure of the political coalition making the new rules governing wartime state activity. In contrast to the Central American cases examined in earlier chapters, the coalition of actors empowered to devise and implement alternative institutional arrangements within Colombia’s tax administration was much broader, incorporating government officials, military leaders, and private sector elites. The resulting confluence of offsetting interests and oversight abilities ensured that the space for institutional innovation was not coopted for personal ends or directed toward the distortion of revenue extraction. As these new rules translated into tangible security gains, this broad rules-making coalition developed a vested interest in their persistence, leading to further consolidation.

Here, I treat Colombia’s Democratic Security Tax as a shadow case study intended to explore an illustrative outlier and thus probe inductively the conditions and dynamics that account for distinct outcomes.<sup>582</sup> Previous literature has already identified Colombia’s Democratic Security Tax as both an uncommon case of levying direct taxes on the top 1 percent and “state-making” in civil war.<sup>583</sup> The task of this chapter then is to understand, through within-case analysis, how the puzzling emergence of these new institutional arrangements came to be. In this sense, I move beyond the kinds of “case illustrations” frequently employed to improve

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<sup>581</sup> Rodríguez-Franco 2016: 204.

<sup>582</sup> Soifer 2019: 19-23.

<sup>583</sup> Fairfield 2015; Flores-Macías 2014; Rodríguez-Franco 2016.

external validity, yet criticized for their inattention to internal validity.<sup>584</sup> But at the same time, my within-case process tracing is necessarily concise (particularly relative to earlier historical chapters) because the goal is more specific: to illustrate why a similar wartime context resulted in divergent institutional logics.

With this in mind, there are two additional caveats worth mentioning. The first is that the core claim of this chapter—that the wartime emergence of reinforcing rules within Colombia’s tax administration has to do with the configuration of the rules-making coalition—is by no means novel. Indeed, the contours of this argument conform to that put forward by Dan Slater in his cross-case comparison within Southeast Asia and to analyses of the Colombian case by scholars like Gustavo Flores-Macías and Diana Rodríguez-Franco. My own elaboration of the Colombian case draws from Flores-Macías and Rodríguez-Franco to illustrate how different kinds of institutional developments take shape when broader political coalitions fill the wartime institutional void. The novelty of this chapter then comes not in its claims vis-à-vis Colombia, but in its contrast of Colombia’s Democratic Security Tax with the undermining rules that emerged within Guatemala’s and Nicaragua’s civil war contexts.

Second, while this chapter illustrates the introduction and consolidation of reinforcing rules within Colombia’s tax administration, I do not claim that such positive wartime institutional arrangements can be extrapolated to the Colombian state apparatus writ large. In fact, there is good reason to believe that undermining rules developed in distinct state sectors, perhaps as a result of distinct rules-making coalitions. For example, in 2008, investigations exposed the “false positives” scandal, whereby soldiers, motivated by “high-powered” material

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<sup>584</sup> Soifer 2019: 4-9.

and institutional incentives, executed civilians who were portrayed as left-wing guerrillas.<sup>585</sup> In 2006, the “parapolitics” scandal broke, eventually revealing links between over 130 Congressional deputies and Colombia’s violent right-wing paramilitary groups.<sup>586</sup> Examining these cases is beyond the scope of this dissertation and would not contribute to my immediate goal of assessing divergent institutional outcomes in civil war. But, in this sense, Colombia and its civil war context is emblematic of the need to move beneath the national level and beyond the tendency to treat the state as a unitary actor. Instead, Colombia’s complex political landscape reinforces the imperative of analyzing state development processes in greater depth and at the institutional level.

The remainder of this chapter proceeds as follows. First, I provide brief background on the origins of Colombia’s lengthy civil war, focusing particular attention on the perceived escalation of the insurgent threat in the late 1990s and early 2000s. This increased threat generated an institutional environment very similar to that which took hold at the height of the Guatemalan armed conflict and Nicaraguan Contra War—one susceptible to institutional innovation under heightened counterinsurgent imperatives. The second section then addresses why, amid this similar context, very different kinds of institutional logics emerged, highlighting the role of the broader rules-making coalition under President Álvaro Uribe. This section then details how these reinforcing rules—in the form of the Democratic Security Tax—became consolidated as security gains accrued to the state, military, and economic elites that comprised the rules-making coalition. The concluding section discusses how my within-case analysis of

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<sup>585</sup> Acemoglu et al. 2018; in addition, a May 2019 *New York Times* investigation revealed that such institutional incentives may have re-emerged during the government of Iván Duque (2018-present); see Casey 2019.

<sup>586</sup> Romero 2007; *The Economist* 2007.

Colombia's wealth tax posits important scope conditions for when civil war "weakens" state institutions and when it might strengthen them.

### **The Colombian Armed Conflict and Escalation of the Insurgent Threat**

Colombia experienced the lengthiest of the internal armed conflicts that raged in Latin America, beginning in the mid-1960s and finally ending in 2016. The civil war pitted the Colombian state and armed forces against a series of leftist insurgent groups, most notably the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN). The conflict landscape was further complicated, however, in the 1990s with the emergence of right-wing paramilitary organizations and the growing linkages between Colombia's non-state armed actors—on both the left and right—and illicit activities like the cocaine trade. In this section, I provide some brief background on Colombia's armed conflict, focusing specific attention on developments in the 1990s, which generated a perceived escalation of the insurgent threat similar to that which took place within Guatemala's armed conflict in the late 1970s and within Nicaragua's Contra War in the early to mid-1980s. These dynamics would further lay the groundwork for the institutional changes to come within the national tax administration.

The proximate origins of Colombia's over 50-year internal armed conflict can be traced to its earlier decade-long civil war between 1948 and 1958, which came to be known as *La Violencia*. This conflict, fought between the Conservative and Liberal Parties disputing political power, took a tremendous human toll, claiming somewhere between 134,000 and 400,000 lives.<sup>587</sup> Though *La Violencia* had died down by the mid-1950s when the warring parties agreed to alternate power, it laid the foundations of Colombia's two major leftist guerrilla groups that would challenge state authority beginning in the 1970s: the ELN and FARC. The ELN was first

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<sup>587</sup> Arjona 2016: 89; see also Palacios 2006; Bergquist et al. 1992.

created by guerrilla fighters linked to the Liberal Party in 1963, while the FARC originated in the peasant self-defense groups from the civil war period, which were galvanized by the 1964 government bombing of Marquetalia, which sought to repress the agrarian movement.<sup>588</sup>

Prior to 1978, the guerrilla groups were enmeshed in limited military activity, which, in the words of Francisco Gutiérrez-Sanín, “consisted mainly of long walks through the jungle, interspersed [...] with outbursts of internal conflict, that ended frequently in bloody purges.”<sup>589</sup> By the end of the 1970s, both the ELN and FARC had been reduced to a few hundred militants and were no match for the military might of the Colombian state.

Guerrilla organization and operational capacity, however, steadily expanded and strengthened in the mid- and late-1980s due, in large part, to economic factors. For one, the FARC watched its financial resources grow exponentially as it increasingly partook in illicit economic activities like the cocaine trade. Increasingly, the FARC served “as an interface” between Colombia’s peasant coca growers and the actors who commercialized coca. In controlling territory, it also garnered significant income by taxing coca production and commerce.<sup>590</sup> But the drug trade was not the FARC’s only profitable enterprise. More and more, violent activities like kidnapping, racketeering, and extortion contributed resources that were then deployed to combat the state. For its part, the ELN faced significant challenges in accruing the means of waging guerrilla warfare. But through the extortion of multinational corporations, it managed to survive and expand by the end of the 1980s.<sup>591</sup> As both the FARC and ELN, as well as smaller guerrilla groups like the April 19<sup>th</sup> Movement (M19) and Popular Liberation Army (EPL), expanded their ranks, territorial control, and selective attacks, they fueled the formation

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<sup>588</sup> Ibid., p. 96; Gutiérrez-Sanín 2004: 263.

<sup>589</sup> Gutiérrez-Sanín 2004: 263.

<sup>590</sup> Ibid., p. 266.

<sup>591</sup> Arjona 2016: 90.

of right-wing paramilitary organizations led by traditional landowners and ranchers. These groups, which also developed profitable economic linkages to the drug trade, prompted an eruption of violence that no longer abided by a dyadic logic.<sup>592</sup>

The armed conflict would peak, however, in the mid- and late-1990s, when FARC military capacity and territorial control reached its highest levels and the insurgency was seen as posing an existential threat to the Colombian state. FARC membership reached between 18,000 and 20,000 during this time, and both the number of military confrontations *and* civilian killings rapidly increased. According to data from the National Planning Department, the FARC engaged the Colombian military 321 times in 1992—a figure that had increased to 697 a decade later. During the same time frame, FARC-perpetrated massacres had more than quadrupled.<sup>593</sup> As the death toll climbed, President Andrés Pastrana (1998-2002) of the Conservative Party launched three years of peace negotiations that ended in utter failure. In hindsight, most experts concur that the FARC came to the negotiating table in bad faith, never intending to make peace and demobilize. Instead, the peace talks and the demilitarization of southern territorial zones allowed the rebels to bide their time, expand their illicit activities and military training, and wage even deadlier attacks on the Colombian government and society.<sup>594</sup> During Pastrana's presidency homicides increased by 18 percent and kidnappings surged by 15 percent,<sup>595</sup> underscoring the perverse consequences of the negotiations and the futility of making concessions to the insurgency.

The terror and bloodshed of the late 1990s and early 2000s generated deep fears amongst Colombian elites, who were personally affected by the violence at growing rates. By 2002, some

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<sup>592</sup> See Daly 2016 for an excellent analysis of the rise, fall, and remobilization of Colombia's paramilitary groups.

<sup>593</sup> Gutiérrez-Sanín 2004: 264-5.

<sup>594</sup> Arjona 2016: 91-2.

<sup>595</sup> Flores-Macías 2014: 484.

16 percent of business elites identified “insecurity” as the primary problem facing their industry, according to a monthly survey of entrepreneurs. Prior to 1998, “insecurity” had not been mentioned.<sup>596</sup> Indeed, an estimated 15 percent of the 2,500 yearly kidnappings involved members of the business community,<sup>597</sup> exacerbating the sense of threat posed by the FARC and ELN well beyond its earlier expressions. And in April 2000, the FARC imposed a new “law” in the territories it dominated, which taxed asset holders of over \$1 million USD up to 10 percent in order to receive an exemption from attacks.<sup>598</sup> Amid these shifts, many members of the private sector came to believe that a drastically new approach was in order. As flower exporter Francisco Bazzani articulated in his interview with sociologist Diana Rodríguez-Franco, “the country could not continue witnessing these levels of internal displacement and insecurity. We were aware that either we paid so the state could become stronger and fight the guerrillas, or we were going to be those displaced by the guerrillas.”<sup>599</sup>

These growing perceptions of an existential rebel threat were combined with an unsettling of the prevailing institutional landscape with the 2002 election of conservative presidential candidate Álvaro Uribe, who campaigned on promises to eliminate the leftist insurgent groups. Just four days after taking office, Uribe “assessed the security and fiscal situation to be so precarious that he resorted to extraordinary decree powers” to meet the mounting rebel threat.<sup>600</sup> By decreeing a “State of Internal Commotion,” Uribe resorted to a measure that had only been invoked on five prior occasions and suspended normal legislative checks on government action.<sup>601</sup> It gave the armed forces and Ministry of the Interior latitude to

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<sup>596</sup> Rodríguez-Franco 2016: 199.

<sup>597</sup> Rettberg 2004: 5.

<sup>598</sup> Ibid.

<sup>599</sup> Rodríguez-Franco 2016: 199.

<sup>600</sup> Flores-Macías 2014: 488.

<sup>601</sup> *The Economist* 2002.

carry out counterinsurgency by whatever means necessary. At the same time, Uribe ramped up anti-narcotics cooperation with the United States through Plan Colombia, which was initiated in 1999 and would empower state actors to an even greater extent.<sup>602</sup>

In sum, the wartime political climate developing in Colombia by the early 2000s was propitious for institutional transformations within the state apparatus—not unlike the political settings in Guatemala and Nicaragua at the height of their civil wars. The perceived escalation of the insurgent threat by state and non-state elites empowered counterinsurgent actors and generated a widening institutional gray zone, emblemized by Uribe’s State of Internal Commotion. Yet, with conditions similarly ripe for institutional change, what explains the distinct *kinds* of institutional logics that emerged? Why did the Colombian government adopt new rules and procedures that bolstered rather than undermined the state’s ability to extract tax revenue? I seek to answer this question in the next section.

### **Introducing and Consolidating the Reinforcing Rules**

The central claim of this chapter is that the reinforcing rules that emerged within Colombia’s tax administration, like the Democratic Security Tax, were the product of the much broader political coalition that headed up wartime institutional changes aimed at countering the insurgent threat. The new rules that contributed to the Colombian state’s extractive efforts were devised by a political coalition that went beyond state counterinsurgent elites and incorporated diverse private sector representatives. The broader nature of the rules-making coalition entailed more varied and offsetting interests, which ensured that institutional transformations were not coopted for narrow, personal ends,<sup>603</sup> as we might expect given the political discretion and

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<sup>602</sup> Mejía 2016; Tate 2015.

<sup>603</sup> See Bueno de Mesquita et al. 2003: 129-171.

arbitrary decision-making that often prevail in wartime environments. Moreover, through the oversight capacities granted to non-state elites and the concrete security gains wrought by the changes, this broader set of actors developed an ever-greater stake in the survival of the new institutional arrangements, facilitating their consolidation. In what follows, I analyze the contours of the rules-making coalition within the Colombian tax administration and assess how this translated into distinct institutional logics, which bolstered extractive functions.

The creation and implementation of the new institutional arrangements was preceded by an important reconfiguration of Colombia's dominant political coalition, which would have significant consequences for the *kinds* of new rules and procedures that took shape. As armed conflict violence peaked and peace talks floundered, in 2002, the Colombian people elected Álvaro Uribe, the right-wing candidate who had campaigned on promises of an aggressive approach to defeating the insurgencies. But importantly, Uribe's security strategy was not only premised on strengthening and empowering the Colombian police and military, who were given much greater operational latitude with the mid-2002 "State of Internal Commotion" decree; it was also contingent on addressing the parallel fiscal crisis that had ensued by garnering more substantial contributions from Colombia's entrepreneurial sectors. This was a tall task. During the previous three decades of fighting, business elites had demonstrated a staunch unwillingness to pay more in taxes in order to finance internal security efforts. As in most Latin American countries, Colombia's regressive tax system had been unmoved for decades.<sup>604</sup> When faced with the choice of contributing resources to bolster state security or to mobilize private militias, more often than not, regional business leaders opted for the private militia route.<sup>605</sup>

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<sup>604</sup> Gracher n.d.: 11.

<sup>605</sup> Gutiérrez-Sanín et al. 2007: 36.

Uribe's ascent to power, however, changed this—in large part as a result of his own positioning within Colombia's economic elite networks and the alliances he forged to come to power. By the time of his election, Uribe had long been a fixture within regional elite circles in Antioquía, which earned him strong support amongst landowners along the Caribbean coast and in the coffee-growing highlands.<sup>606</sup> Yet, by bringing into the fold more progressive entrepreneurial sectors, Uribe extended his base beyond regional economic elites. Benefitting from a moment of elite cohesion, he thus came to power with the broad backing of private sector leaders and maintained robust linkages with the business community throughout his presidency, appointing prominent entrepreneurial leaders to key cabinet posts.<sup>607</sup>

Given the climate of public-private sector trust and relative elite consensus, Uribe's seizure of emergency powers and introduction of Decrees 1838 and 1885 to establish the Democratic Security Tax faced little opposition from Colombia's wealthiest citizens, who would now be required to pony up. The tax affected Colombian taxpayers whose assets exceeded \$65,000 USD (169.5 million in Colombian pesos) and set the tariff at 1.2 percent of individual and corporate liquid assets. It initially affected some 120,000 corporations and 300,000 individuals—roughly 1 percent of the population.<sup>608</sup>

Financially, the new wealth tax bore remarkable results. According to a study by Cecilia Rico Torres, the Democratic Security Tax is one of the fiscal measures “that has registered the

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<sup>606</sup> Gracher n.d.: 17.

<sup>607</sup> Flores-Macías 2014: 489. Importantly, there were key antecedents to private sector participation in government during the previous Pastrana administration. Leading business executives and representatives of private sector associations actively partook in the unsuccessful peace negotiations from 1999 to 2002. While the failure of talks did not discourage economic elites from continuing to participate in policymaking, it did push them into the arms of Uribe's more heavy-handed security approach. See Rettberg 2004: 7.

<sup>608</sup> Flores-Macías 2014: 479.

highest levels of compliance” in Colombian history, at 98.2 percent.<sup>609</sup> Moreover, a number of voluntary contributions—made by over 10,000 individuals not legally required to abide by the tax—funneled an additional \$4 million into state coffers for security expenditures. It is important to note, as some scholars have argued, that compliance with the Democratic Security Tax also coincided with continued private sector resistance to more threatening long-term and comprehensive tax reforms.<sup>610</sup> But by forging a broader state/non-state governing coalition, Uribe succeeded in making his inauguration pledge a reality: “The wealthiest, the businessmen who with tenacity serve the nation well, will take on their shoulders new tax responsibilities.”<sup>611</sup>

Beyond the creation of the new rules, the broader political coalition also ensured their enforcement via fairly robust accountability mechanisms. The auditing capacity granted to non-state coalition members with offsetting interests played a key role in the state-reinforcing outcomes. Notably, an “Ethics and Transparency Committee,” which included “businessmen, academics, former ministers, the attorney general, and presidents of the main business associations, sought to periodically report on how revenue from the wealth tax was spent” and closely monitored military acquisitions.<sup>612</sup> The committee’s oversight, in addition to the more general mechanisms of government-business dialogue and collaboration, ameliorated concerns that the new rules were mere window-dressing and that resources accrued through the tax were being diverted from efforts to strengthen security, instead falling into corrupt hands.<sup>613</sup> The government’s private sector partners could be assured that “the state was protecting their interests and they were receiving a benefit from the public good.”<sup>614</sup>

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<sup>609</sup> Rico Torres 2006: 19.

<sup>610</sup> See Flores-Macías 2014: 490; Gracher n.d.

<sup>611</sup> Quoted in Rodríguez-Franco 2016: 198.

<sup>612</sup> *Ibid.*, p. 203.

<sup>613</sup> Flores-Macías 2014: 490.

<sup>614</sup> Rodríguez-Franco 2016: 201.

It was these benefits—which coincided with a steady decrease in violence—that allowed the reinforcing rules to be reproduced during consecutive legislative terms and even survive beyond Uribe’s tenure in office. Following the 2002 introduction of the Democratic Security Tax, most indices of insurgent violence declined, with guerilla confrontations dropping dramatically.<sup>615</sup> These security gains served as “a barometer of whether the tax was worth paying” and the Colombian state was making the most of the new resources at its disposal.<sup>616</sup>

Indeed, public opinion was favorable. The decrease in violence altered perceptions within Colombian society, particularly among business leaders. In mid-2002, just before Uribe’s inauguration, the proportion of entrepreneurs who identified insecurity as “the main obstacle for their business” was at an all-time high of nearly 16 percent. Yet, just three months later, that figure had plummeted to 9 percent.<sup>617</sup> Meanwhile, Uribe enjoyed a sky-high approval rating as the security gains accumulated.

Combined, these factors were favorable for the consolidation of the new reinforcing rules, which, while devised by emergency decree, were reauthorized through normal legislative channels three subsequent times under Uribe (2003, 2006, and 2009) and then continued under his successor Juan Manuel Santos, who assumed the presidency in 2010. The endurance of the wealth tax is best attributed to the diverse set of actors who developed a vested interest in the new “rules of the game” and thus stood to gain from their survival. As the discussion above suggests, Colombian entrepreneurs and economic elites perceived much lower levels of insecurity, which ameliorated the threats and potential losses that faced their business ventures. The Uribe administration garnered high levels of support for strengthening the Colombian state, and state security officials received a consistent stream of resources to continue these efforts.

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<sup>615</sup> Echandía 2008.

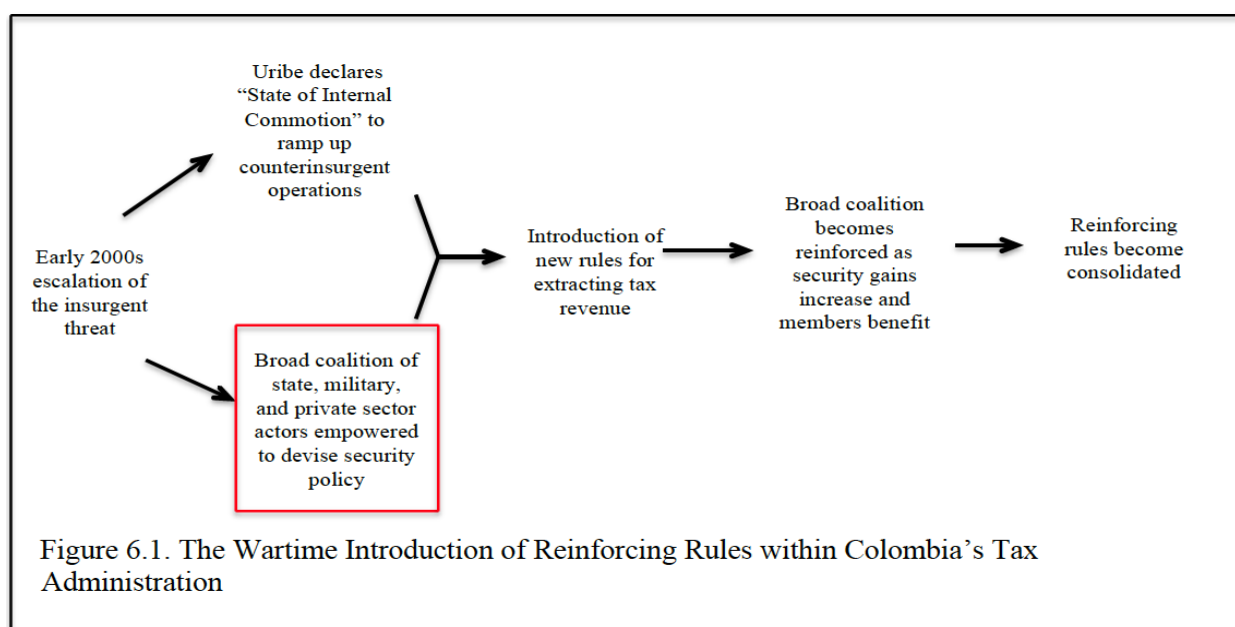
<sup>616</sup> Flores-Macías 2014: 493.

<sup>617</sup> Rodríguez-Franco 2016: 200.

With strong political backing, Uribe won a second term in office with a landslide victory in the 2006 presidential elections. In sum, the fairly broad political coalition that devised the reinforcing rules developed an abiding stake in their survival, ensuring that the new institutional arrangements were there to stay.

### Implications for Wartime Institutional Change

The above account illustrates the conditions under which civil war—and more specifically, the escalation of the insurgent threat within civil war—might produce distinct institutional outcomes. Though cross-national statistical analyses (discussed in Chapter 1) suggest that broadly civil war weakens the state’s extractive capacity, recent scholarly insights paint a more complex picture: in diverse country contexts, internal conflict has prompted a positive “state-making” effect, much like that identified within early theories of state formation premised on foreign war.<sup>618</sup> When might civil war generate institutional transformations that bolster routine state functions like revenue extraction?



<sup>618</sup> Slater 2010.

Through this shadow case study of the 2002 creation of Colombia's net wealth tax, introduced initially through emergency wartime powers, I demonstrate the crucial role of coalitional configurations in shaping the kinds of institutional logics that take root within the state. Figure 6.1 models the wartime introduction of undermining rules in Colombia's tax administration. Unlike the Guatemalan and Nicaraguan cases detailed in Chapters 3 through 5, the Colombian case suggests that when the wartime political coalition empowered to introduce new wartime rules incorporates a broader set of actors and interests—when it includes offsetting political forces—the resulting institutional arrangements are more likely to bolster, rather than subvert state functions. Having come to power through strong economic elite linkages, President Uribe knitted together a more expansive rules-making coalition that went beyond government and state security leaders and, in turn, acceded to the net wealth tax. Further, by granting private sector allies oversight and monitoring capacities and producing tangible security gains, the Uribe administration secured the implementation and persistence of the new rules. In short, wartime institutional changes within the tax administration abided by a positive, state-reinforcing logic because of the broader array of actors devising and implementing them.

The juxtaposition of this institution-level case with those previously examined from Guatemala and Nicaragua suggest that wartime political coalitions are a critical site of analysis in order to anticipate how civil war dynamics will shape state institutions in the medium- and long-term. But the comparison also points to an important difference that might help us define the scope of theoretical claims and operationalize coalitional configurations within future research. Crucially, the emergence of Colombia's 2002 net wealth tax occurred in the context of competitive, electoral democracy, while wartime institutional changes in Guatemala and Nicaragua unfolded within closed, autocratic regimes. Democratic politics may thus be a

powerful indicator of when broader political coalitions are more likely to devise and implement new “rules of the game” to counter an insurgent threat.

To be sure, there is not always a one-to-one correspondence between competitive democracy and broad rules-making coalitions. For example, in Slater’s cross-country study of Southeast Asia, Malaysia and Singapore both experienced state strengthening due to elite “protection pacts” amid internal conflict while facing a tightening authoritarian grip at the same time. Competitive electoral democracies might be more prone to the emergence of reinforcing rules in war, but are not the only kinds of regimes in which such institutional logics can take shape. This operationalization is thus blunt at best. Yet, the Colombian case yields an important theoretical intuition worth considering further: that wartime institutional changes developed amid democratic politics are more likely to be devised by broader political coalitions and thus abide by state-reinforcing logics. In other words, this particular subset of cases may be more prone to bucking the generalized negative relationship between civil war and state performance.

## CHAPTER 7

### AFTER THE INK DRIES: EXPLAINING POSTWAR INSTITUTIONAL PERSISTENCE

Civil war is a propitious site for institutional change, facilitating the introduction of new “rules of the game” within the state apparatus. Often times, the alternative institutional arrangements that emerge amid internal armed conflict structure behavior in ways that undermine routine state functions—like those examined within the previous chapters. Understanding the legacies of conflict for state development, however, requires more than capturing how civil war dynamics contribute to institutional innovation; we must also understand why such wartime institutional innovations then persist in conflict’s aftermath. This second question is the subject of this chapter: under what conditions do the undermining rules developed within civil war endure beyond it and continue to distort state activities, even after substantial postwar reforms?

Scholars and practitioners of postwar reconstruction point to two critical measures for dismantling the perverse and predatory activities undertaken during conflict: 1) remaking formal legal and political structures and 2) removing, or purging, state officials and bureaucrats linked to the conflict-era abuses. Under the logic guiding such policy prescriptions, by rewriting the laws and procedures governing state activities and by removing those associated wartime abuses, state actors are more likely to behave in ways conducive to the consolidation of peace and democracy.

In postwar Central America, legal and structural reforms to remake the state, as well as efforts to purge state bureaucracies of corrupt wartime functionaries occurred to varying degrees. Yet, in-depth analysis of the region’s post-conflict institutional landscape reveals that neither of these factors can fully account for when the undermining institutional arrangements that took

root during counterinsurgency survived past formal transitions to peace and democracy. Instead, I contend that the postwar survival of undermining rules within state institutions is best attributed to the postwar endurance of the wartime distributional coalition with a stake in them. In other words, rather than a product of some inherent institutional “stickiness,” the persistence of the undermining rules reflects an ongoing struggle to adapt those rules to a changing political environment and to preserve the dominant political coalition with a vested interest in them.

Viewed through the lens of institutional persistence, remaking the state following conflict is not merely a question of banishing previous wartime actors from the state sphere and strengthening the legal framework governing state practice; it is also about *displacing* the often-predatory and undermining rules that filled the institutional void constituted in war. As such, postwar structural reforms and bureaucratic purges will remain insufficient in the absence of broader efforts to dismantle the wartime coalition accruing benefits from the alternative rules. Moreover, dismantling this coalition necessitates looking beyond the formal state sphere and understanding the role of non-state elites in underwriting activities that exist on the margins of the law and distort routine state activities.

To illustrate this claim, I extend the three cases studies presented in Chapters 3 through 5 and trace the survival (or breakdown) of wartime institutional procedures after the signing of peace. Comparing across these three institution-level cases provides important leverage in assessing when and why undermining rules developed within state institutions endure beyond the conflict context in which they were created. While the rules governing customs fraud within the tax administration and extrajudicial killing within the police survived the civil war period in Guatemala, the alternative institutional arrangements that distorted land tenure procedures in Nicaragua were swiftly dismantled following the cessation of the Contra War. Through

comparative, process-tracing analysis, I show that this variation is best attributed to what occurred within the wartime distributional coalition—that is, the array of state and non-state actors garnering benefits from the conflict-era rules. In the two Guatemalan cases, postwar reforms failed to dismantle the broader wartime coalition with a vested interest in the new institutional landscape. By contrast, in Nicaragua, the narrower FSLN coalition that implemented the undermining rules within land tenure institutions was displaced as a result of the 1990 transition, thereby disrupting the prevailing institutional arrangements that emerged during the Contra War. In this chapter, I illustrate each of these postwar processes and explain the divergent outcomes. I conclude by reflecting on the implications of this comparative analysis for approaches to postwar reconstruction and reform.

### **Guatemala: The Persistence of Customs Fraud**

Though scholars have noted the pitfalls of postwar reconstruction in Guatemala,<sup>619</sup> efforts to remake the country's tax administration were quite impressive. Following the Moreno Network revelations in September 1996, which coincided with the conclusion of the peace process, tax administration authorities undertook robust, internationally backed efforts to clean up and reinvent fiscal institutions, particularly the customs apparatus. Yet, two decades later, the exposure of *La Línea*, whose *modus operandi* was nearly identical to that of the Moreno Network, revealed the reconsolidation of the undermining rules that had developed during armed conflict. In this section, I demonstrate why this was the case, illustrating how the actors central to wartime customs fraud procedures, while formally displaced from the state sphere, continued to exert influence through informal channels from without, thus preserving the dominant coalition deriving benefits from the illicit customs activities. Despite adhering to classic postwar reform

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<sup>619</sup> Cruz 2011; Hernández Batres 2014; Jonas 2000.

prescriptions, efforts to remake the Guatemalan tax administration had a limited effect in dismantling the perverse, alternative rules governing customs operations.

### *Postwar State Reform: The Creation of the SAT*

Beginning on the heels of the peace process, which concluded in December 1996, Ministry of Finance leaders took to implementing a new vision for a fresh, independent, and expert-led tax collection agency, staffed by personnel without links to previous administrations. In the late 1990s, and with significant international assistance, Guatemala witnessed the dissolution of the conflict-era General Directorates of Customs and Internal Revenue, the dismissal or retirement of some 2,000 employees, and the creation of the Superintendent of Tax Administration (SAT).

The bases of these reforms are laid out in the “Accord on Socioeconomic Issues and the Agrarian Situation,” which emerged from broad discussions held by civil society, state, military, and insurgent elites and was signed on May 6, 1996. Within the Accord, the Guatemalan state pledged to increase its tax burden by 50 percent between 1995 and 2000—a commitment that would set the goal at 12 percent of GDP. The Accord further stipulated a series of policy measures to help tax authorities achieve this objective, which included “promoting a reform to the Tax Code to establish heavier sanctions for evasion,” “evaluating and strictly regulating tax exemptions with the view of eliminating abuses,” “strengthening the existing mechanisms of investigation and collection,” and “simplifying and automating fiscal administration.”<sup>620</sup>

While the Accord did not explicitly mandate the creation of an entirely new fiscal apparatus, top Ministry of Finance officials were convinced that there was no rescuing the two existing entities responsible for tax collection. In the words of one high-ranking Ministry of Finance official, “when we went in to see what was going on with the General Directorates of

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<sup>620</sup> Government of Guatemala 1996.

Customs and Internal Revenue, we saw that there was corruption on all sides.”<sup>621</sup> In November 1996, then-Minister of Finance José Alejandro Arévalo announced the dissolution of both branches, whose activities would be subsumed by the new tax collection agency, which came to be known as the Superintendent of Tax Administration (SAT).<sup>622</sup>

The SAT, designed by Arévalo and other experts with the support of international financial institutions like the World Bank, was created through legislation passed in January 1998 “as an institutional response to corruption.”<sup>623</sup> Decree 1-98, which established the legal foundation of the SAT, accorded it a variety of institutional functions, including “the collection, control, and auditing of all taxes, except those collected by the municipalities, the administration of the customs system, [and] carrying out judicial actions to collect taxes.”<sup>624</sup>

The establishment of the SAT reflected the culmination of a yearlong, technocratic process to clean up and modernize Guatemala’s public finances and fiscal framework in order to “recover society’s confidence in public authority.”<sup>625</sup> An institutional aspect crucial to bolstering public trust in the country’s fiscal apparatus was enhanced autonomy, which was built in to the SAT’s design. Whereas the Ministry of Finance was led by executive appointees who, in turn, controlled internal and customs revenue collection, the SAT was headed by a board of directors, which consisted of the Minister of Finance as president, as well as the superintendent named by the president and three additional members named by the legislative branch, the courts, and the country’s universities, respectively.<sup>626</sup> Moreover, unlike the Ministry of Finance, the SAT was not subject to previous civil service laws restricting its ability to hire new employees, thus

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<sup>621</sup> Interview with author, May 30, 2017.

<sup>622</sup> *Siglo Veintiuno* 1996d; Ajanel Soberanis 1997.

<sup>623</sup> Arévalo 2014.

<sup>624</sup> ICEFI 2007: 220.

<sup>625</sup> Arévalo 2014: 5.

<sup>626</sup> *El Gráfico* 1997.

allowing it to pursue more independent processes for vetting and training personnel.<sup>627</sup> Further assuring its autonomy, the SAT was granted its own budget. Despite some political wrangling, in the end President of Congress Arabella Castro Quiñones hailed the approval of the SAT as “consolidating a change to the legal structure that permits future authorities to modernize the General Directorates of Customs and Internal Revenue, which, for years, have been dens of corruption due to the discretionary power of its officials.”<sup>628</sup>

Beyond creating a more modern, autonomous tax collection entity and updating the country’s fiscal framework, the creation of the SAT was accompanied by another key transition-era reform measure: the expulsion of civil servants associated with past administrations and corrupt activities. Given the thorough penetration of the customs and internal revenue services by organized criminal interests during the previous decade, the team of experts and authorities leading the design and implementation of the SAT was adamant on starting fresh with new employees that met a series of well-defined, more rigorous educational standards.

In a very small number of cases, inspectors, auditors, and administrators from the General Directorates of Customs and Internal Revenue were absorbed by the SAT or funneled into administrative posts within the Ministry of Finance. However, the dissolution of the previous tax administration resulted primarily in the dismissal or voluntary retirement of existing personnel, some of which had been in their posts for decades.<sup>629</sup> This was especially the case for customs personnel, most of which, in the words of SAT expert and eventual superintendent Carolina Roca, “did not even pass primary school and thus [had] to leave their posts to provide space to those who meet the requirements.”<sup>630</sup> Prior to the initiation of SAT operations in January 1999,

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<sup>627</sup> Guerra 1997.

<sup>628</sup> Larra and Dardón 1998.

<sup>629</sup> Interviews with author, May 30, June 12, and November 15, 2017.

<sup>630</sup> Guerra 1997.

the team of reformers arrived at a “mutually satisfactory” agreement with the unions within the customs system to create a voluntary retirement program. In the end, there was an exodus of some 2,000 customs employees. Just 1.25 percent of prior personnel remained in their posts.<sup>631</sup>

To fill the void, the SAT began contracting and training brand new personnel that met a series of more rigorous educational standards. But despite the best intentions of the SAT designers, the training and resources provided to new personnel were insufficient. According to one customs inspector who assumed the post with the establishment of the SAT, “we were only given very basic training, and so, above all, we were learning as we went. But the intention to do things correctly was there.”<sup>632</sup> In spite of the growing pains as the SAT remained “in diapers,” those who entered the newly minted agency “were more transparent [...] and so the SAT began to advance little by little.”<sup>633</sup>

More than any other state sector following the 1996 signing of the Peace Accords, Guatemala’s tax administration had undergone significant transformations in line with post-conflict policy prescriptions. For one, the Arzú administration oversaw the wholesale dismantling of the deeply tainted General Directorates of Customs and Internal Revenue—the “dens of corruption” where criminal structures like the Moreno Network had taken root and sapped the state’s extractive functions. In its stead, government technocrats created an entirely new tax agency, the Superintendent of Tax Administration (SAT), which was devised according to principles of autonomy, transparency, and good governance. Finally, a sweeping program of dismissals, forced retirements, and new recruitment and training ensured that the SAT was cleansed of any vestiges of the previous regime and instead staffed by more educated and newly trained inspectors, auditors, and administrators. In terms of postwar efforts to remake the state

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<sup>631</sup> Interviews with author, May 30 and November 15, 2017.

<sup>632</sup> Interview with author, November 15, 2017.

<sup>633</sup> Ibid.

apparatus, it appeared as though the creation and implementation of the SAT had checked all of the right boxes.

### *The Persistence of the Wartime Distributional Coalition*

Despite the promise of transition-era reform measures to purge, modernize, and strengthen Guatemala's tax administration, the country's fiscal apparatus became overwhelmed by corruption, fraud, and illicit activity once again. Evasion remained rampant, and only on one occasion in the subsequent two decades did the SAT manage to meet the 12 percent-tax burden established in the Peace Accords, reaching 12.1 percent in 2016.<sup>634</sup> The outcomes were far from the image projected by the team of experts and officials who conceived of the SAT and oversaw its establishment. As one of the SAT's early champions described to me, the agency "started as a dream and turned into a nightmare."<sup>635</sup>

What explains the persistence of the undermining rules within Guatemala's customs service despite the sweeping structural reforms and vetting procedures undertaken to remake the state's fiscal framework? I argue that the endurance of the pernicious, fraudulent procedures within customs was a result of the survival of the broad, wartime distributional coalition accruing benefits from the undermining rules implemented by the Moreno Network. This coalition—comprised of government officials, retired military intelligence officers, commercial elites, and organized criminal interests—was reconstituted with the arrival of President Alfonso Portillo, himself a key player in the Moreno scheme. Importantly, the Portillo administration did not necessarily usher in the re-entry of former counterinsurgent actors into the formal state sphere; however, many former political actors who enforced and accrued benefits from the undermining

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<sup>634</sup> SAT 2016.

<sup>635</sup> Interviews with author, November 2, 2016 and May 30, 2017.

customs arrangements used their knowhow and their access to official state channels to wield power from without.

Portillo, a political scientist by training and previous member of Congress, assumed office on January 14, 2000 as the fourth democratically elected president since Guatemala's 1986 transition to civilian rule. Despite his social democratic roots, Portillo ran with the Guatemalan Republican Front (FRG), the party of former military dictator and right-wing populist Efraín Ríos Montt. Though Portillo joined the FRG in 1995 while Ríos Montt served as president of Congress, the uncanny alliance between the two dates back even further to formation of the legal association used as a cover for customs fraud: *Grupo Salvavidas*. According to court documents from the Moreno trial, within *Grupo Salvavidas*, Ríos Montt was in charge of judicial affairs, while Portillo was in charge of political affairs.<sup>636</sup> During his first, unsuccessful presidential run in 1995, Portillo received biweekly campaign contributions from the group—funds raised directly from customs fraud operations at the Valle Nuevo and Pedro de Alvarado customs outposts—which he admitted to following Moreno's arrest.<sup>637</sup>

As *Grupo Salvavidas*' primary political operator, Portillo's electoral victory marked the return of many of the actors that the Moreno investigation and the creation of the SAT sought to displace. In the words of Peacock and Beltrán, the FRG, which controlled the executive and legislative branches, was “an important vehicle for the consolidation of the authority of the ‘hidden powers’ [...] that exercised an enormous influence [...] and obtained greater control within state institutions, further weakening the government's capacity to fight against corruption and impunity.”<sup>638</sup>

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<sup>636</sup> *La República* 1996f.

<sup>637</sup> From Ortiz Arriaga testimony, May 25, 1999, see Organismo Judicial 2003; *Siglo Veintiuno* 1996b; Shetemul 1996.

<sup>638</sup> Peacock and Beltrán 2004: 41.

Among the past figures who again rose to prominence with Portillo were three military intelligence officials discharged from the armed force in late-1996 due to their links with the Moreno Network: the architect of the SEM and its first chief, retired general Francisco Ortega Menaldo; and former colonels Jacobo Esdras Salán Sánchez and Napoleón Rojas Méndez. Though Ortega Menaldo never formally occupied a government position during the Portillo administration, experts indicate that he was one of Portillo's top advisors.<sup>639</sup> Similarly, Salán Sánchez came to serve as the *de facto* head of the President's Military Staff (EMP)—a unit linked to grave human rights abuses during the 1980s and 1990s, which Portillo had vowed to dismantle upon taking office. Rojas Méndez was a security advisor to Portillo during his campaign in a more formal sense and, for a time, served as second in command of presidential security during the Portillo years.<sup>640</sup>

Despite the mix of formal and informal roles played by the three former intelligence officers, they managed to wield extraordinary political power by straddling the state and non-state spheres. Ortega Menaldo, Salán Sánchez, and Rojas Méndez were emblematic of the faction of military intelligence, the *Cofradía*, which had coalesced initially around personal loyalties and a shared, hardline counterinsurgent vision, but became bound by the criminal enterprises they developed at the height of the conflict. Even operating from without, their access to formal state power through Portillo ensured their influence in the naming of personnel and the transfer of state funds, which were disproportionately funneled to the EMP.<sup>641</sup> As one former military intelligence officer told me, “[they] left the Army but when Portillo returned, they entered again, but now as part of an external structure.”<sup>642</sup>

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<sup>639</sup> Peacock and Beltrán 2004: 23; Font 2002.

<sup>640</sup> *Ibid.*; Reyes 2004.

<sup>641</sup> Peacock and Beltrán 2004: 50.

<sup>642</sup> Interview with author, May 30, 2017.

In addition to the re-emergence of retired military intelligence figures linked to the Moreno Network, Portillo's presidency also signaled the increasing political power and involvement of a "emerging" economic elite class, comprised of new-moneyed importers and commercial elites who served as a counterweight to the traditional oligarchic sectors that had long dominated Guatemala's political landscape. Emblematic of this private sector faction was Julio Girón, a chemicals importer, who was a good friend of Portillo's and became his private secretary in the early 2000s.<sup>643</sup>

Not only did importers like Girón have Portillo's ear politically, they also came to occupy important posts in Guatemala's ports and customs system, allowing them to revive and reconsolidate the undermining institutional arrangements within customs. Following the exposure of the Moreno Network, the Arzú government, as part of its broader structural adjustment program, privatized the country's port administration, creating the port companies of Puerto Quetzal and Santo Tomás de Castilla to insulate commercial activity from bureaucratic corruption.<sup>644</sup> Immediately after Portillo took office, Girón was named president of the Puerto Quetzal enterprise, where he also owned multiple businesses responsible for the offloading and transport of shipping containers. From this position outside of the official state sphere, Girón allegedly coordinated the same kinds of fraud and contraband smuggling implemented by the Moreno Network in the 1980s and 1990s. He stepped down in July 2002, after accusations by US officials that the port company was not doing enough to stop the flow of drugs and chemical precursors.<sup>645</sup> Economic elites within the import-export sector like Girón thus represent a key set of actors that formed part of the wartime distributional coalition in support of the undermining customs procedures rooted in the conflict period.

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<sup>643</sup> González 2002.

<sup>644</sup> Interview with author, May 30, 2017.

<sup>645</sup> Guoz 2002; *El Periódico* 2002.

Finally, despite the creation of the SAT and the sweeping postwar efforts to purge the customs apparatus, by the middle of Portillo's term, organized criminal interests had penetrated Guatemala's new, pristine tax administration—much like they did at the height of the counterinsurgent campaign in the late 1970s and early 1980s. While those who oversaw the implementation of the SAT lauded the progress made under its first few superintendents, the naming of Marco Tulio Abadío as head of the SAT in 2002 led to the “destruction of [the institution] as we knew it,” in the words of one economist.<sup>646</sup> Abadío served as head of the General Comptroller's Office during the Arzú government and rose to become superintendent of the SAT through an apparent accord with the retired military elites seeking to again control the customs administration under Portillo.<sup>647</sup> In March 2004, just two months after stepping down from the SAT, Abadío was indicted for the embezzlement of over 36 million quetzales (\$5.5 million) through a sophisticated scheme of shell companies.<sup>648</sup> According to investigations, the criminal network constructed by Abadío in the SAT dated to his days in charge of the General Comptroller's Office and was merely transposed when Portillo named him superintendent.<sup>649</sup>

In Abadío, the wartime distributional coalition underwriting the predatory rules and procedures in customs thus found its primary operator from the inside. Given his longer history of criminal activity and his reach within the state, Abadío and his associates were willing to dismantle the SAT's nascent institutional checks that had been built up over its short life in order to guarantee a climate of impunity for customs fraud and contraband smuggling. In the words of one former customs employee, Abadío was the representative of the “outside [criminal]

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<sup>646</sup> Interview with author, June 13, 2017.

<sup>647</sup> Interview with author, June 12, 2017.

<sup>648</sup> *El Periódico* 2004.

<sup>649</sup> Palma 2004.

structures that continued on the inside,” despite the perception among new SAT personnel that “[they] were doing things correctly.”<sup>650</sup>

The reconstitution and elevation of the wartime distributional coalition underwriting the fraudulent customs procedures during the Portillo presidency illustrates why they persisted into Guatemala’s period of peace, despite state reforms that appear, on their face, quite sweeping. Importantly, the case indicates that the re-entry of previous counterinsurgent actors into the formal state sphere is not a necessary condition of postwar institutional persistence; instead, military intelligence officers who had been formally discharged in the wake of the Moreno Network revelations managed to “return to the orbits of influence surrounding presidential power and customs,”<sup>651</sup> allowing them to exercise extraordinary political influence while straddling the state and non-state spheres. Meanwhile, other key coalition members with a stake in the customs fraud procedures—commercial elites like Girón and state operators like Abadío—adapted to the post-transition, nominally democratic environment and successfully maneuvered within the port system and the SAT to ensure the survival of the undermining rules within customs.

Political and legal reforms to remake the Guatemalan state’s fiscal apparatus and contract qualified personnel to administer the customs service thus fail to take into account the broader coalition of actors that exist on a plane above any formal institutional framework and transcend any neat distinction between public and private spheres. The state reform and vetting measures were tantamount to purging the operational dimension of public administration, while leaving the strategic planning level intact. As one former customs official remarked to me, “the way to understand this is like a beehive. You have the workers, and you can remove and replace all of

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<sup>650</sup> Interview with author, November 15, 2017.

<sup>651</sup> Interview with author, June 12, 2017.

the workers, but the queen is still there, the drones are still there. So it doesn't matter. The operations continue. This is what happened.”<sup>652</sup>

### ***New Players, Same Game: La Línea***

With the 2015 *La Línea* revelations, the MP and CICIG signaled that the reconstitution of the coalition underwriting the fraudulent customs procedures during the Portillo presidency was not confined to the group most closely linked to the Moreno Network, but extended to rival military factions. In many ways, the 2012 election of Retired General Otto Pérez Molina represented the ascendance of a clique of military officers that had bitterly opposed Ríos Montt, Portillo, and the hardline, former intelligence officers brought to power with the FRG. Instead, Pérez Molina, the top military representative during the peace negotiations, belonged to the more institutionalist faction of the armed forces that spurred the transition to democracy. Though this wing of the army remained peripheral when the illicit customs activities were first devised in the late 1970s, one of its affiliates, Roberto Letona Hora, became chief of the 18<sup>th</sup>-floor SEM office controlling customs operations following the coup of 1983.<sup>653</sup> While the precise military elites overseeing the illicit customs operations were reshuffled depending on which faction dominated, the broader structure of the wartime distributional coalition remained unchanged.

*La Línea* thus reflects a state-based criminal network very similar to the Moreno Network. It utilized methods of customs fraud and contraband smuggling that mirror those conceived at the height of the counterinsurgent period. Per MP and CICIG investigations, *La Línea*'s hierarchy consisted of a “top level” comprised of the president, vice president, and their representatives who oversaw the necessary personnel transfers and benefitted financially from the scheme; a “mid-level” of intermediaries outside of and within the SAT who coordinated the

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<sup>652</sup> Interview with author, June 2, 2017.

<sup>653</sup> Peacock and Beltrán 2004: 25-6.

customs duty adjustments; and a “low level” of customs inspectors and auditors who ensured the illegal adjustments were carried out on the ground.<sup>654</sup>

External mid-level intermediaries would correspond with internal network members within the upper echelons of the SAT to transmit information on the importers that had made arrangements with *La Línea*, thereby ensuring they were assigned to offloading ramps with customs inspectors who would allow shipments to pass with the falsified tax values and payments. Spreadsheets recovered by investigators illustrate how *La Línea* members organized the operations, listing the name of the enterprise, the shipping container registration number, the name of the customs inspector controlling the ramp to which the container was directed, the type of merchandise, the declared value, and the “charge” levied by the criminal structure, which ranged from 30 to 40 percent of the declared value.<sup>655</sup>

In addition, the coalition underwriting *La Línea*’s illicit customs activities mirrored the wartime alliance between retired military officials, tax authorities, importers and private sector elites, and organized criminal elements. Within the structure, the president and vice president’s interests were represented by Baldetti’s private secretary Juan Carlos Monzón, a retired army captain who was discharged in 1996 after suspected involvement in a car theft ring run by several of Alfredo Moreno’s relatives.<sup>656</sup> From outside of government, Salvador Estuardo González, president of one of Guatemala’s major publishing companies, coordinated the administrative and financial dimensions of the illicit customs operations, overseeing the distribution of illicit funds.<sup>657</sup> González’s relationship with Pérez Molina extends back decades to when González’s father served as Pérez Molina’s boss within the EMP during the 1990s.

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<sup>654</sup> CICIG and MP 2015.

<sup>655</sup> Ibid., p. 22.

<sup>656</sup> Barreto 2015; *Prensa Libre* 1996b; *El Periódico* 2013.

<sup>657</sup> Barreto 2016.

Finally, within the SAT, top officials, such as Superintendents Carlos Muñoz and Omar Chacón and customs head Claudia Méndez, ensured that the placement of inspectors and auditors allowed the illicit customs duty adjustments to proceed unimpeded.

In sum, the composition of *La Línea* underscores the notion that similar kinds of undermining rules and procedures persisted within Guatemala's customs administration despite two decades of political turnover. Though the players were distinct, the broader constellation of public and private sector interests endured and facilitated the survival of the undermining rules and procedures that expressly contravened the state's extractive functions.

### **Guatemala: The Persistence of Extrajudicial Killing in the PNC**

Guatemala's tax administration was not the only agency in which the undermining rules implemented in wartime continued to subvert routine state activities long after conflict had ended. Within the public security sector, particularly the new National Civilian Police (PNC), wartime procedures governing extrajudicial killing and social cleansing continued to structure police behavior and, at times, were enforced from the highest levels of the executive's security cabinet. In the analysis I present below, I argue that the persistence of undermining rules in this institutional context was similarly driven by the endurance of the broader distributional coalition with a stake in them—namely, the political, military, and economic elites that sought to cleanse society of “undesirables” and eliminate criminal competitors to their illicit enrichment schemes.

To be sure, there is a key difference in the postwar developments that unfolded within Guatemala's tax administration and its public security sector. While the tax administration witnessed the near-total expulsion of wartime personnel, especially from the customs branch, the same cannot be said for the police. Facing high violent crime levels, the government of center-

right president Álvaro Arzú feared the consequences of the lapse in security provision that might have occurred with the complete purge of wartime PN personnel. The government instead opted to “recycle” previous officers through limited training courses. While this distinction is important, I posit that the failure to expel previous police agents was less significant than the peacetime reconsolidation of the state-military-private sector alliance that upheld the rules governing extrajudicial killing in the first place. I lay out the evidence for this claim below.

### ***Postwar State Reform: The Creation of the PNC***

Despite Guatemala’s transition to civilian rule and the de-escalation of rural violence in the late 1980s and early 1990s, extrajudicial killings by state security personnel continued unabated. Though the ascent of former human rights ombudsman Ramiro de León Carpio to the presidency in 1993 brought renewed hope that state abuses would be restrained, violence appeared to only accelerate. For example, in the first six months of 1993, the Mutual Support Group (GAM) recorded 91 extrajudicial executions, which it largely attributed to eight new paramilitary commands that sought to “attack in the darkness, create division, and not allow a new Guatemala to flourish.”<sup>658</sup> In the first half of 1994, Amnesty International reported some 160 extrajudicial killings.<sup>659</sup> Beyond sheer numbers, this period also witnessed some of the highest profile murders, including President of the Constitutional Court Eduardo Epaminondas González Dubón and politician and journalist Jorge Carpio Nicolle, the owner of the daily *El Gráfico*.<sup>660</sup> Though PN forces were not the only state security entities involved in such acts, news reports from the period corroborate their central role in upholding the wartime institutional arrangements governing extrajudicial executions.<sup>661</sup>

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<sup>658</sup> *La República* 1993.

<sup>659</sup> Amnesty International 1994: 3

<sup>660</sup> *Ibid.*

<sup>661</sup> Palacios 2000; *El Periódico* 1998b.

Archival evidence and other firsthand accounts indicate that a primary reason the undermining rules were upheld was the continuing subordination of Guatemalan police forces to military intelligence units. Despite efforts to remake the Detective Corps' successor—the Division of Technical Investigations (DIT)—to free it from military influence, the grasp of intelligence officers on the PN's investigative personnel and functions remained firm. As Marie-Louise Glebbeek writes, the police chiefs in Guatemala City were directly under the control of the military's Directorate of Intelligence, and “even ordinary personnel such as police officers and agents often had double functions and worked at the same time for military intelligence units and for the National Police. A considerable number of individuals were mentioned in both personnel registers [...] The same person wore a military uniform in the military register and a police uniform in the register of the National Police.”<sup>662</sup> At both the strategic and operational levels, there was virtually no separation between the PN and military intelligence.

A more specific way in which military intelligence continued to enforce extrajudicial killing procedures within the police was through conducting parallel investigations that supplanted those of the Division of Criminal Investigations (DIC), the entity that substituted the DIT following the 1986 return to civilian rule. Given the linkages between military intelligence elites and the officers who oversaw the DIC, Intelligence Directorate (G-2) agents were deployed to the scene of extrajudicial killings to tamper with evidence and whitewash the acts to ensure impunity. As one PN detective stated in 1992:

The G-2 always show up at a crime scene. They have a [police] radio. They are always there. You can recognize which of them is G-2 because they always carry either a .45 mm or a .9 mm [pistol]. They often wear sunglasses and dress in tennis clothes, but you can pick out their weapon under their belts. And they usually arrive on a bicycle or a motorbike.

Q: Is it possible they were responsible for these crimes?

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<sup>662</sup> Glebbeek 2001: 433-4.

It is more than just possible. Since the G-2 use only two calibers of weapon—a .45 or .9 mm—there is a lot of speculation within the National Police about this. Publicly, the spokesperson says we are not related to the army and that we are in charge of criminal investigations in Guatemala. But there are always two investigations going on simultaneously: that of the police and that of the G-2 watching the police.<sup>663</sup>

By conducting unofficial investigations and cover-ups, Guatemalan military intelligence served to enforce the alternative rules governing extrajudicial killing by systematically ensuring that they went unpunished.<sup>664</sup>

Efforts to establish a police command and investigative unit that operated autonomously from intelligence agencies and to curtail parallel activities were consistently thwarted by military leaders. Just after De León Carpio assumed the presidency, he named a new civilian police chief, Mario René Cifuentes Echeverría, who sought the removal of military officers from the upper echelons of the PN. According to conversations between US political advisors and Cifuentes, which are detailed in an August 1993 US government cable, the police director lamented the continuing presence of six military “advisors” who were really “spies (*orejas*)” for the military.” Cifuentes further reported that the spies were “responsible to the interim police director Lt. Colonel Fernández Ligorria<sup>665</sup> ... [who] enriched himself at the police and doesn’t want to give up control or risk being exposed. To buttress his position, he has successfully sold the idea to the military high command that it cannot completely remove itself from the police.”<sup>666</sup> The continuing infiltration of the police by military intelligence was thus fueled by the desire of high-ranking officials to maintain their institutional privileges and secure the alternative rules governing routine policing.

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<sup>663</sup> Quoted in Schirmer 1998: 179-80.

<sup>664</sup> See Brinks 2006: 216-8.

<sup>665</sup> Lt. Colonel Julio Fernández Ligorria was also one of the military officers linked to the Moreno Network. See Peacock and Beltrán 2004.

<sup>666</sup> US Embassy in Guatemala 1993.

The most robust effort to diminish military influence in public security affairs came with the peace process, which concluded in 1996 and laid the groundwork for the refounded National Civilian Police (PNC). Within the peace process, the Guatemalan government, military, and guerrilla representatives signed the “Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society” in September 1996. The Agreement provided the bases of the PNC, which would be “the only armed police force competent at the national level whose function is to protect and guarantee the exercise of the rights and freedoms of the individual; prevent, investigate, and combat crime; and maintain public order and internal security.”<sup>667</sup>

In addition to these basic institutional functions, the Agreement put forward a number of other principles and objectives that would guide the formation of the PNC. For one, it included a dramatic increase in the size of the police force from 12,000 to at least 20,000 members by late 1999, as well as the expansion of police coverage throughout national territory. It further committed to the reform of public security laws; the establishment of formal hiring and promotions procedures, which included a six-month training course for recruits at the new Police Academy; an increase in the public security budget and police salaries; and targeted recruitment efforts within rural indigenous communities so that the makeup of the police force reflected the population it would serve.<sup>668</sup>

As importantly, the strengthening of the new police force would be accompanied by stipulations to remove the military from internal security functions and reduce its institutional strength vis-à-vis the police. The PNC was to be placed under the control of the Ministry of the

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<sup>667</sup> Government of Guatemala 1996b, Article 23.

<sup>668</sup> See Glebbeek 2001.

Interior and “under the direction of civil authorities.”<sup>669</sup> Further, both the size of the Guatemalan armed forces and military spending as a percentage of GDP was to be reduced by 33 percent in the years immediately following the signing of the Accords.<sup>670</sup> Under the leadership of its more moderate, institutionalist faction, the armed forces not only conceded some *de jure* political and economic power, but even undertook efforts to purge their ranks of the most hardline anti-democratic officers accused of coup plotting in the lead-up to the peace process.<sup>671</sup>

The Agreement on the Strengthening of Civilian Power envisioned a rather sweeping transformation of the Guatemalan public security apparatus; yet, in order to enshrine the Accord into law, the reforms would have to be passed by constitutional referendum, which failed in May 1999.<sup>672</sup> However, the PNC, which was formally created in July 1997, made significant strides during its initial years. By October 1999, it had grown to 17,330 members<sup>673</sup>—short of the 20,000-member goal laid out in the Accord, but still a 60-percent increase. Further, the PNC managed to extend its presence to all 22 departments of the country.

There were also important gains made with respect to public perceptions and trust, as well as institutional morale and performance. In the words of Marie-Louise Glebbeek, “the new force has a more service-oriented spirit and was received well by the majority of the population. They are better paid, better trained and seem to be more effective than their predecessors: the arrest rates are up and violent death and kidnapping rates are down.”<sup>674</sup> According to a report from the Washington Office on Latin America (WOLA), in those early years, “the government had approved new laws, raised police salaries, and provided equipment, weapons, and vehicles;

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<sup>669</sup> Government of Guatemala 1996b, op cit.

<sup>670</sup> Ibid., Article 63.

<sup>671</sup> Schirmer 1998: 269-74.

<sup>672</sup> See Jonas 2000.

<sup>673</sup> Glebbeek 2000: 438.

<sup>674</sup> Ibid.

the majority of these measures were undertaken with little financing from the international community, showing a willingness on the part of the PNC to invest its own resources. In general, the institution was well received by the population, at least compared to the old force.”<sup>675</sup>

But one distinct limitation with respect to the construction of the new police force was the recycling of officers and agents from the previous institution. Fearing the lapse in security provision amid high levels of crime and violence, President Arzú and government officials opted to reincorporate police personnel from the PN into the newly minted PNC. Though the estimates vary, somewhere between one-half and two-thirds of the PNC was comprised of previously serving members.<sup>676</sup> In principle, new recruits were supposed to partake in a six-month training course through the Police Academy, which included new protocols related to human rights protections. Yet, in reality recruits from the old force went through an expedited three-month version.<sup>677</sup> Despite the improvements that came with the renovation of the police force, there is a fairly broad consensus among experts that the recycling of personnel from the “old guard” seriously “undermined, the quality, efficiency, and professionalism of the PNC, [...] limiting the impact of the reforms.”<sup>678</sup>

### ***The Persistence of the Wartime Distributional Coalition***

Because such a significant share of the wartime PN force was reincorporated into the new civilian-led police institution, it is difficult to assess the effect this particular factor had on the endurance of the undermining rules structuring extrajudicial killing. The failure to purge the bureaucracy of wartime personnel is a key alternative explanation for postwar institutional persistence, as I lay out in Chapter 2. Unlike the case of Guatemala’s tax administration and

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<sup>675</sup> WOLA 2009: 4-5.

<sup>676</sup> Glebbeek 2000: 438; WOLA 2009: 4.

<sup>677</sup> Glebbeek 2000: 438.

<sup>678</sup> WOLA 2009: 5.

customs branch, it is entirely plausible that the continued institutional presence of lower-level wartime police actors influenced the coordinated extrajudicial killings that still prevailed within the public security sector.

Yet, in line with the main argument of this chapter, I find that it was the reconstitution and persistence of the dominant wartime distributional coalition that best accounts for the survival of the undermining rules within policing institutions. Because the undermining rules were enforced from above by an alliance of military intelligence and private sector elites, it was this broader coalition with a deep interest in the survival of the wartime procedures that continued to underwrite and implement them. While it is possible (if not likely) that agents from the old PN would engage in similar extrajudicial *practices* characteristic of the counterinsurgent period, their coordinated enforcement as a series of *rules* continued, I argue, because of the elite coalition with a vested stake in them. This coalition included former military intelligence officials, members of elite investigative units within the PNC, and right-wing private sector leaders seeking to eliminate social “undesirables” like gang members.

As in the case of Guatemala’s tax and customs administration, the reconstitution of this wartime distributional coalition was achieved during the government of Alfonso Portillo and his FRG party, which effectively “took the police corps back to the years prior to the signing of the Peace Accords”<sup>679</sup> and constituted “the watershed moment in the perversion of the PNC.”<sup>680</sup> According to one security and justice expert, there was a slight decline in social cleansing and extrajudicial execution in the immediate years following the peace process, “but the FRG enters

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<sup>679</sup> GAM 2010: 191.

<sup>680</sup> Interview with author, October 31, 2017.

and the escalation of violence begins again. Before, [crime] prevention and criminal investigation were privileged. But the FRG arrived and they had another project in mind.”<sup>681</sup>

The Portillo administration’s alternative police “project” subverted early PNC progress on a number of fronts. On a more technical level, in the words of one former military officer, the Portillo period “destroyed” the new Police Academy created in the late 1990s with the assistance of Spain’s Civil Guard.<sup>682</sup> Since its inception, the Academy had overseen a training program to prepare recruits for policing tasks under the new, democratic political environment, as well as more rigorous standards for hiring and promotion; however, the arrival of Portillo witnessed the jettisoning of these new procedures in order to promote those closest to the regime.

Just days after Portillo took office in 2000, he named a series of police chiefs who did not meet the requirements of the 1997 National Police Law, which stipulated that PNC officials “must have been police commissioners and have passed the training course in order to access the institutional hierarchy.”<sup>683</sup> Though the newly named Director of the PNC Baudilio Portillo Merlos claimed that the officials in question had completed the required courses, the Police Academy had no record of their participation. In the words of security expert Carmen Rosa de León, “this attitude [was] a backward step in the professionalization of the PNC and there’s no way a police career exists if later the chiefs are named at the convenience of the sitting authorities.”<sup>684</sup>

But beyond demolishing the new standards, the Portillo administration continued the *de facto* subordination of police forces, particularly the Criminal Investigation Service (SIC), to military intelligence. According to new SIC agents, the military intelligence officers from the

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<sup>681</sup> Interview with author, November 22, 2017.

<sup>682</sup> Interview with author, May 30, 2017.

<sup>683</sup> *El Periódico* 2000b.

<sup>684</sup> Zelada 2000.

elite EMP unit remained in charge of registering and providing identification for new investigative agents graduating from the Police Academy.<sup>685</sup> The wartime parallel investigations of extrajudicial killings conducted by military intelligence to cover up or manipulate evidence also continued well into Portillo's tenure.<sup>686</sup>

By placing the SIC and other police entities under the control of military intelligence structures, the Portillo administration marshaled the reconstruction of the wartime distributional coalition that had devised and enforced the rules governing extrajudicial killings. It further entrenched that political-military coalition by promoting hardline military officials linked to the wartime *Cofradía* clique to top security cabinet posts like Minister of the Interior. In August 2000, Portillo named Byron Barrientos, former military intelligence officer, as Minister of the Interior. Former colleagues of Barrientos indicated that "he was an unconditional collaborator of retired generals Francisco Ortega Menaldo and [Manuel Antonio] Callejas y Callejas," the two godfathers of the *Cofradía* intelligence clique.<sup>687</sup> In November 2001, General Eduardo Arévalo Lacs was transferred from his position as Minister of Defense to Minister of the Interior in direct contravention of the Peace Accord provision mandating civilian control of the Ministry.<sup>688</sup> Arévalo Lacs' naming similarly signaled the "consolidation of the influence of retired general Francisco Ortega Menaldo over President Alfonso Portillo on military and public security matters."<sup>689</sup>

On one hand, this reconsolidation of the wartime distributional coalition reinstated many of the corrupt, predatory activities that the *Cofradía* spearheaded at the height of the counterinsurgent campaign in the late 1970s and early 1980s. In the words of one human rights

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<sup>685</sup> *El Periódico* 2000c.

<sup>686</sup> Méndez Arriaza 2001b.

<sup>687</sup> Guerra 2000; Peacock and Beltrán 2004.

<sup>688</sup> Del Cid 2001.

<sup>689</sup> *Ibid.*

defender, “the police and military were converted into [sites of] plunder” with the arrival of the new Ministry chiefs.<sup>690</sup> Indeed, in 2011 Portillo and Arévalo Lacs were indicted for embezzling some \$15 million from the Ministry of the Defense a decade earlier.<sup>691</sup>

But just as importantly, there was a dramatic increase in extrajudicial executions recorded during Portillo’s presidency, hearkening back to the peak period of wartime violence and the undermining rules governing targeted killings disguised as right-wing paramilitary attacks. As the most hardline, repressive military intelligence clique consolidated its dominance, the wartime institutional arrangements it had created were revived as well. During the first five months of 2002, the number of extrajudicial killings surpassed all of those registered the previous year, leading human rights defenders to posit the return of large-scale social cleansing campaigns.<sup>692</sup> By the middle of Portillo’s tenure, the threats and attacks against human rights defenders in particular swelled to 374, including 49 killings—many of which exhibited the same *modus operandi* of the conflict period and motivated the creation of the UN International Commission against Impunity in Guatemala (CICIG).<sup>693</sup>

The efforts to scrap peace accord commitments that impeded the reconstitution of the wartime distributional coalition carried through from the Portillo administration to the government of Óscar Berger, during which time the undermining rules within the public security apparatus persisted as well (see the beginning of Chapter 4). The modification of the National Police Law introduced during Portillo’s government was later appropriated by Berger officials to continue permitting non-career officers to ascend to PNC leadership, thereby “breaking the

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<sup>690</sup> Interview with author, October 31, 2017.

<sup>691</sup> CICIG 2011.

<sup>692</sup> Castillo 2002.

<sup>693</sup> Open Society Justice Initiative 2016: 29.

hierarchical structure.”<sup>694</sup> Erwin Sperisen, a former member of President Álvaro Arzú’s security team with no police experience, was named chief of the PNC and brought on board several military advisors.<sup>695</sup> The appointments ensured that PNC investigations continued to function under the thumb of military intelligence.<sup>696</sup>

But beyond the endurance of military intelligence influence, Berger, a member of the traditional oligarchy, reintroduced another key player within the wartime distributional coalition underwriting extrajudicial killing procedures: the right-wing private sector elite linked to previous death squad structures. The top emissary of this group within the upper echelons of the public security apparatus was Carlos Vielmann, named Minister of the Interior in July 2004.<sup>697</sup> In his youth, Vielmann was affiliated with the right-wing, anti-communist National Liberation Movement (MLN), seen by many as the political arm of paramilitary groups operating at the height of the war.<sup>698</sup> He would later serve as president of the Guatemalan Industrial Chamber, the conglomeration of Guatemala’s major business sectors.

Intent on reducing Guatemala’s escalating violent crime rate, particularly extortion and kidnapping directed at economic elites, Vielmann brought on board security advisor Víctor Rivera, a Venezuelan linked to El Salvador’s right-wing party ARENA, which was involved in paramilitary activity in the early 1990s.<sup>699</sup> Much like during the Guatemalan armed conflict, Ministry of the Interior leadership coordinated small, elite teams of PNC investigative agents to carry out extrajudicial killings against suspected delinquents, as well as competitors within Guatemala’s criminal underworld. As one former CICIG investigator told me, on Vielmann’s

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<sup>694</sup> WOLA 2009: 18.

<sup>695</sup> Ibid.; Castillo and Guoz 2005.

<sup>696</sup> Sas 2005.

<sup>697</sup> Guoz 2004.

<sup>698</sup> Llorca 2004; Hernández Batres 2014: 9.

<sup>699</sup> Interview with author, January 4, 2017; Fernández 2011.

watch, Rivera “created a killing machine.” It began as a “social cleansing structure but later came to be seen as a means of generating income.”<sup>700</sup> In the prison massacre and executions discussed in Chapter 4, the rules and procedures structuring extrajudicial executions were virtually identical to their wartime counterparts: crime scenes were tainted and investigations were manipulated in acts coordinated from above to guarantee impunity.

During Vielmann’s first year as minister, there was a 230 percent increase in total violent homicides, including a 2000-percent increase in killings with signs of strangulation and a 3000-percent increase in execution-style murders at point-blank range.<sup>701</sup> Though it is impossible to discern what proportion of those extrajudicial killings were committed by the elite PNC investigative cliques under the direction of Vielmann, Rivera, and police leadership, the staggering increases suggest a revival of the wartime rules governing extrajudicial killings. And while failures to purge the new police force of wartime personnel may have, in part, driven this institutional persistence, the evidence suggests it was the reconstitution and enduring dominance of the wartime distributional coalition that was critical to the implementation and enforcement of the alternative “rules of the game” long after conflict had ceased.

### **Nicaragua: The Breakdown of Undermining Rules within Land Tenure**

While these postwar examples from Guatemala illustrate the conditions under which the undermining rules that emerge in civil war persist beyond it, Nicaragua’s land tenure institutions provide a stark contrast. Alternative procedures governing provisional titling, which had a dramatic effect on land insecurity, conflict, and corruption, became the prevailing institutional arrangements as FSLN leadership sought to peel peasant support away from the Contra

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<sup>700</sup> Interview with author, January 4, 2017.

<sup>701</sup> PDH 2006b: 10-1.

insurgency; yet, these procedures were effectively dismantled by the regularization campaign that took place at war's end under the center-right National Opposition Union (UNO) government, led by President Violeta Barrios de Chamorro (1990-1996).

In this section, I will illustrate how the breakdown of the dominant wartime distributional coalition drove the disruption of these alternative rules. After losing executive power in the 1990 elections, the FSLN retained considerable influence and successfully pressured the UNO into compromise on key political issues; however, within the land and property sectors, a new distributional coalition came to dominate—one comprised of UNO technocrats, US government agencies, and international civil society groups dedicated to resolving the confusion and conflict sown by agrarian reform policies from the mid-1980s. As a result, new procedures to secure and formalize land acquisitions came to dominate. Though overlapping claims and conflicts persisted in the 1990s and 2000s, the old “rules of the game” structuring provisional titling were successfully dismantled.

Before tracing the postwar breakdown of the undermining rules, it is important to recall that, relative to the Guatemalan cases, the undermining rules developed within Nicaragua's land institutions entered the postwar period on more fragile footing to begin with. Unlike Guatemala's political environment of intrastate fragmentation, the context of relative cohesion and the absence of viable political challengers in the Nicaraguan case meant that Sandinista leadership did not perceive a need to draw together a broader elite coalition with a stake in the new rules. In other words, the nine commanders of the FSLN's National Directorate did not attempt to forge a broader distributional coalition to underwrite the wartime institutional arrangements because there was little need. But in not bringing a more diverse set of actors and interests into the fold, the alternative titling procedures were far easier to dismantle and displace.

### *FSLN Influence and Incomplete State Reform*

Nicaragua's decade-long Contra War came to an end with the 1990 election of UNO candidate Violeta Barrios de Chamorro, a member of the short-lived governing junta established after the 1979 Sandinista Revolution. With 86-percent turnout, Chamorro won 54.7 percent of the vote, while sitting FSLN president Daniel Ortega won only 40.8 percent. The victory stunned both the UNO coalition and its backers within the Bush administration, who lifted the Reagan-era economic embargo and immediately asked Congress to provide \$300 million in financial assistance to the new government.<sup>702</sup>

The mere election of UNO represented the disruption of the revolutionary project pursued by FSLN leadership since July 1979. But in reality, it only constituted a “partial loss of the power apparatus”<sup>703</sup> for the Sandinistas for several reasons. For one, the UNO exhibited all of the fragmentation and discord that one might expect of a blanket opposition coalition. It was an agglomeration of 14 political parties ranging from the far left to the far right.<sup>704</sup> Beyond discontent with Sandinista policies, there was little programmatic consensus holding the UNO governing coalition together. The right-wing, ex-Contra bloc, represented by the figure of new vice president Virgilio Godoy, made it particularly difficult for the Chamorro government to advance politically. Godoy's backers were the most reactionary landed and private sector elites within Nicaraguan society and sought the complete privatization of state property and the total destruction of the Sandinista Army.<sup>705</sup> Any middle course not only alienated the *godoyista* contingent, but also risked throwing the country back into conflict.

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<sup>702</sup> Leogrande 1996: 343; Prevost 1996.

<sup>703</sup> Nuñez et al. 1998: 540.

<sup>704</sup> Merrill 1994: 105.

<sup>705</sup> Nuñez et al. 1998: 548.

In light of the fractures within the opposition, Chamorro and her moderate advisors had no choice but to strike a series of compromises with the FSLN in order to move political transition forward. Despite losing the presidential election and legislative majority, the Sandinistas retained 39 of the 93 seats in Nicaragua's National Assembly,<sup>706</sup> and had loyal civil servants across the state apparatus—including within social and economic policymaking agencies and the judiciary.<sup>707</sup> Further, despite popular disaffection with the party, the FSLN still had the most potent grassroots mobilizing capacity of any political force in the country.

As a result, the Chamorro government agreed to a series of compromises enshrined in the 1990 Protocol of Transition, which conceded continued Sandinista control in a number of arenas. The incumbent FSLN leadership recognized Chamorro as the electoral victor and legitimate president of Nicaragua with the power to name new ministers, while Chamorro would permit lower-level bureaucrats named under the Sandinistas to retain their posts. Importantly, the UNO government pledged “to respect the current Army's and Police Force's command structures” and, per a more informal accord, leave revolutionary commander Humberto Ortega as head of the armed forces.<sup>708</sup>

But the compromise that had the widest effect within Nicaraguan society was that created for agrarian reform. While addressing the property dilemma was a top government priority, the Chamorro administration never envisioned undoing the redistributive gains made during the decade of Sandinista rule. Instead, as a means of maintaining peace and stability, the government primarily sought to resolve land disputes by offering compensation to pre-Revolution landowners when full restitution could not be achieved. Within the UNO policy agenda issued before the election, Chamorro committed “to guarantee land for peasants who have possession in

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<sup>706</sup> Leogrande 1996: 343;

<sup>707</sup> Dille 2012: 95.

<sup>708</sup> *Ibid.*, p. 88.

the following forms: a) those who have received titles for the use of land under the Sandinista agrarian reform and are in possession of land, [and] b) for those who have occupied lands, who will be converted into subjects of the agrarian reform, regardless of judicial decisions and the right to indemnity of the affected.”<sup>709</sup> This approach was again echoed within the Protocol of Transition following UNO’s electoral victory:

We agree on the necessity of providing tranquility and juridical security to the Nicaraguan families that have benefitted from urban and rural properties by virtue of the assignations made by the state before February 25, 1990, harmonizing them with the legitimate rights that the Nicaraguans whose goods were affected have before the law [...] Forms of adequate compensation will be established for those who may be affected [*perjudicados*].

As part of this compromise, the UNO government permitted the *Piñata* laws—those hastily passed in the lame duck period between the 1990 election and the subsequent transition—to stand, providing legal backing to the FSLN cadres accused of seizing properties for private benefit.<sup>710</sup> Though the failure to return lands to their pre-Revolution owners certainly generated conflict, the Chamorro administration calculated that, with roughly one-third of Nicaraguan territory affected by the FSLN agrarian reform program,<sup>711</sup> the risks posed by stripping peasant beneficiaries of newly acquired lands were far greater.

### ***The Breakdown of the Wartime Distributional Coalition within Land Tenure***

Although the Sandinistas retained enough political influence to secure many of the Revolution’s redistributive gains, the UNO government did dramatically remake land tenure institutions—that is, the rules and procedures by which land ownership was validated and legalized. The wartime undermining rules that governed the granting of provisional land titles

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<sup>709</sup> Lacayo 2005: 299.

<sup>710</sup> President Chamorro even vetoed legislation passed by the National Assembly to overturn Laws 85, 86, and 88, known collectively as the “Piñata laws.” See Dille 2012: 125.

<sup>711</sup> Broegaard 2005: 852.

were scrapped almost immediately in favor of new internationally-backed procedures for regularizing land tenure and resolving the disputes that dotted the Nicaraguan countryside. The breakdown of the undermining rules in favor of these new postwar property procedures were, I argue, the result of the dismantling of the wartime distributional coalition and the dominance of a distinct group comprised of neoliberal technocrats and US government and civil society representatives. Instead of cementing wartime institutional arrangements, these shifting coalitional bases triggered postwar institutional changes that again remade land tenure.

The most critical postwar institutional changes involved the legalization of lands that had been untitled or provisionally titled under the FSLN and the establishment of new procedures to compensate pre-Revolution property owners whose lands were seized and redistributed. To initiate the new titling and regularization procedures, the Chamorro administration issued Decree No. 35-91 to create the Office of Land Ordering (*Oficina de Ordenamiento Territorial*, OOT), whose primary purpose was to review the lands claimed under the “Piñata laws” passed in early 1990 and issue formal titles, or *solvencias*, to those who followed the rules for lodging land claims.<sup>712</sup>

In order to do so, the OOT relied on provincial, inter-institutional commissions to investigate how the property in question was acquired and any denunciations lodged against those in possession of it. After collecting the documentation, the OOT then submitted it to a national commission to make the final determination about the granting of formal titles. If the national commission denied the formal title to the landholder on the basis of abuses discovered in the investigation process, the case would be remitted to the Attorney General’s Office to

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<sup>712</sup> Dille 2012: 126.

pursue restitution through legal channels.<sup>713</sup> The approved *solvencias* would then be inscribed in the formal registries of the Nicaraguan Agrarian Reform Institute (INRA), created in May 1990 as the overarching body tasked with “the direction and application of agrarian reform and rural development policy.”<sup>714</sup> The INRA performed the same tasks with respect to the postwar redistribution of lands to ex-members of the insurgent *Resistencia Nicaragüense* (RN), as stipulated in the transition agreements.<sup>715</sup> Though overlapping land claims and disputes persisted and necessitated complicated bureaucratic procedures, the new institutional mechanisms for land titling and regularization successfully displaced the previous “rules of the game.”

Another set of new institutional procedures established soon after the transition was related to the compensation of landowners who claimed their properties had been unjustly seized during FSLN rule. In September 1992, the Chamorro administration issued Decree No. 51-92 to launch the Office of Quantifying Indemnities (OCI) “to determine the fair value of properties that could not be returned to their original owners for the purpose of compensation.”<sup>716</sup> In conjunction with the National Review Commission (CNRC), the OCI laid the groundwork for determining who was due compensation for previously seized lands and what they were owed.<sup>717</sup>

The complete overhaul of land tenure institutions and the displacement of the previous undermining rules are a result of the distinct elite coalition that came to dominate Nicaragua’s political landscape at war’s end. In addition to the moderate UNO technocrats who oversaw institutional restructuring, the new postwar distributional coalition was driven by US government

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<sup>713</sup> IRAM 2000: 47; according to research by Benjamin Dille, *solvenca*, or formal title, applications were denied in roughly half of the cases lodged (Dille 2012: 126).

<sup>714</sup> IRAM 2000: 48.

<sup>715</sup> Ibid., p. 44.

<sup>716</sup> Dille 2012: 127.

<sup>717</sup> Ibid.

and civil society officials as well as representatives of international financial institutions, who applied political pressure and provided technical assistance to spur institutional change.

Immediately after Chamorro took office, US government officials sought the creation of a land restitution and compensation system and leveraged recently renewed economic assistance to press their demands. Of course, the primary concern of US representatives was the US citizens who had been affected by property seizures under the Sandinistas in the 1980s; however, “a secondary, more charitable result of the American role has also been advanced: clarification of property ownership rights, improvement of the property registration system, and improved administrative and judicial process [that] all improve the rule of law and the economic foundation of Nicaragua.”<sup>718</sup> The US government thus bolstered the new procedures that displaced previous provisional titling, fueled by the interests of its own domestic constituents.

US government support for remaking the rules within land tenure was accompanied by the backing of US civil society groups and international financial institutions, which became key members of the dominant postwar political coalition. A team of experts and mediators from the Carter Center, the American Bar Association, and the UW–Madison Land Tenure Center advised the Nicaraguan judiciary as it developed formal procedures to resolve land disputes and created five courts to address property issues.<sup>719</sup> This same US civil society team also crafted mechanisms “to improve the ability of government administrative agencies in reviewing nearly 16,000 claims by former owners and the 112,000 petitions for formal titles by current occupants.” The project was carried out with \$3.7 million in United Nations Development Program (UNDP) funds beginning in early 1995.<sup>720</sup> Other internationally funded projects provided support to register legal titles and ensure that the old rules were displaced by new

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<sup>718</sup> Dille 2012: 256.

<sup>719</sup> *Ibid.*, p. 129.

<sup>720</sup> *Ibid.*

formalized procedures. The World Bank, for example, financed investigations into and collections of existing land registries, which provided the foundation of the regularization process.<sup>721</sup> These were not only critical to legalizing titles for FSLN land reform recipients, but also for registering postwar titles issued to former Contra members.

In sum, by incorporating US government, international civil society, and technocratic elites into the prevailing policymaking coalition, the Nicaraguan government effectively transformed the institutional landscape within the realm of land and property rights, eliminating previous procedures that fueled conflict and insecurity. In contrast to prevailing theories of postwar institutional reform, this Nicaraguan case illustrates how the purge of bureaucratic personnel linked to the wartime regime is not necessarily related to the displacement of previous institutional arrangements. In Nicaragua, the abiding political influence of the FSLN ensured that Sandinista-appointed officials and functionaries remained in their posts despite political transition. Yet, the undermining rules structuring provisional land titling were still dismantled due to the reconfiguration of the elite distributional coalition underwriting institutional procedures. Though the wartime coalition perhaps remained intact and preserved existing rules and procedures within other sectors (i.e. public security), it broke down within the realm of land tenure—and took the pernicious titling procedures of the conflict-era along with it.

### **Conclusion and Implications**

By extending my process tracing analysis to the postwar period, the three above cases illustrate that the persistence of undermining rules developed within the state apparatus during conflict is best explained by the endurance of the prevailing wartime distributional coalition.

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<sup>721</sup> IRAM 2000: 44.

Though conventional scholarly and policy approaches focus on purging state personnel linked to repressive regimes and remaking the state's legal and institutional framework, the Central American cases analyzed in this chapter support a distinct explanation for when wartime institutional arrangements persist or break down—one that depends on the coalitional bases on which such rules and procedures rest in the first place. When the constellation of political and economic actors with a vested interest in the wartime institutional landscape remain the dominant political force, the alternative “rules of the game” devised amid counterinsurgency continue to structure state (and non-state) behavior.

In comparing the three cases above, we can observe how postwar purges and legal reforms provide less explanatory purchase relative to the endurance of the wartime distributional coalition. In the case of Guatemala's customs administration, postwar reformers cleaned house, expelling nearly every members of the General Directorates of Customs and Internal Revenue. They also created an entirely new and more autonomous tax administration, the SAT. Yet, the undermining rules introduced by military intelligence elites continued well into the period of peace and democracy because the government, military, and private sector coalition with a political and material stake in wartime customs fraud procedures remained intact and politically powerful. In the case of extrajudicial killing by PNC forces, the findings are similar. While the large-scale expulsion of agents and officers who served in the wartime PN did not occur, the police's legal and institutional framework was, in fact, overhauled quite significantly. The conflict-era rules governing extrajudicial executions, which were enforced through systematic manipulation and cover up, endured because of the continuation of the military-private sector alliance with a vested interest in them.

**Table 7.1: Evaluating Alternative Explanations for Postwar Institutional Persistence**

Case	Purge of wartime personnel?	Remaking of the legal framework?	Endurance of wartime distributional coalition?	Persistence of undermining rules?
Guatemalan customs institutions	Yes	Yes	Yes	Yes
Guatemalan police institutions	No	Yes	Yes	Yes
Nicaraguan land tenure institutions	No	Yes	No	No

By contrast, the breakdown of undermining rules within the realm of agrarian reform and property rights in Nicaragua illustrate how, even absent bureaucratic purges, wartime procedures can be dismantled through the displacement of the previous distributional coalition. Following Nicaragua's 1990 transition, FSLN personnel remained in bureaucratic posts throughout government due to compromises between the Sandinistas and UNO government. Yet, earlier institutional arrangements governing provisional land titling were swiftly dismantled because a distinct distributional coalition came to control political decision-making—one comprised of neoliberal technocrats, US government representatives, and international civil society groups.

In sum, this cross-case comparison suggests that scholars and practitioners of postwar reconstruction would do well to reconsider prevailing explanations for when postwar reforms effect meaningful institutional change. Removing wartime bureaucrats and remaking the formal legal framework within state institutions does little if the elite distributional coalition with a vested interest in the wartime rules remains intact and politically dominant. Furthermore, understanding the issue of postwar institutional persistence through the lens of political coalitions urges us to look beyond state actors and to incorporate the private players that often underwrite wartime institutional arrangements. Tackling the predatory rules and procedures that subvert state activity is, in fact, about much more than “the state” itself.

## CONCLUSION THE INSTITUTIONAL LEGACIES OF CIVIL WAR

Across the globe, civil war has taken a tremendous toll, not only on the individuals and communities directly affected by violence but also on entire societies living under the scourge of conflict. Armed conflict claims generations of parents, siblings, spouses, political leaders, workers, teachers, thinkers, artists, and activists. It can have profound, sometimes intergenerational, traumatic effects for those who witness and experience it. Civil war forces families to cope with the absence of loved ones and the household economic losses that accompany their absence. It can induce mistrust and fragmentation as victims and perpetrators continue to live side by side—and the lines between these very categories remain muddled. Civil war can decimate meaningful religious sites and disrupt longstanding cultural practices. It can set health, education, and human development back decades.

Scholars, policymakers, and activists have dedicated their lives and careers to understanding and illuminating the untold human consequences of internal armed conflict—sometimes at the risk of great personal peril. But while we have learned so much about the human costs of civil war, we still only have a limited grasp of what conflict leaves behind in another sense: its institutional toll. The perceived threats, existential fears, and emergency actions that permeate wartime environments not only prompt state security forces to kill, torture, maim, detain, disappear, and massacre; they also spur elites to remake the foundations of the state itself—the very rules and procedures that structure state activities and behavior. Sometimes those institutional ramifications reshape the state for the better, introducing new innovations that strengthen security, welfare, and administrative efficiency. Yet, more often than not, the institutional consequences of civil war have perverse effects on the state apparatus, expressly contravening political and economic development goals.

At its core, this dissertation illuminates these institutional legacies of civil war in a regional context where they continue to have profound and pernicious consequences: Central America. During the latter half of the 20<sup>th</sup> century, Guatemala, El Salvador, and Nicaragua were embroiled in a series of brutal armed conflicts, which, combined, claimed some 350,000 lives and displaced tens of millions more. But beyond the staggering human toll of the Cold War-era conflicts, Central America continues to confront the serious, longstanding consequences of war on state institutions. Today, Central America's institutional landscape is rife with alternative, often predatory, "rules of the game" that distort the ability of state agencies to perform routine functions like tax collection and public goods provision. Save for a few isolated pockets of institutional effectiveness, corruption and criminality have become the region's "operating system"—the rule rather than the exception.<sup>722</sup> While the causes of state criminalization in Central America are manifold and complex, wartime institutional changes played a critical role in shaping the region's dire political reality today.

Based on in-depth, comparative analysis of three institution-level cases within Central America, this dissertation constructs a new theory of how civil war dynamics and processes breed and consolidate new institutional procedures that subvert state functions—what I conceptualize as *undermining rules*. As the perceived escalation of insurgent threat creates space between the prevailing rules and their enforcement, existing or newly empowered counterinsurgent elites are allotted discretionary authority and, in turn, implement alternative, undermining rules that reflect their narrow interests. By forging a broader distributional coalition with a stake in the new institutional arrangements, the undermining rules become consolidated and continue to systematically distort state activities. By contrast, when the escalation of the insurgent threat draws together a broader set of actors and sectoral interests to devise new

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<sup>722</sup> Chayes 2017.

wartime “rules of the game” within state institutions, those rules are much more likely to bolster routine state activities—they are more likely to reflect what I term *reinforcing rules*.

Beyond crafting a new explanation for wartime institutional change, this dissertation also extends its theory-building approach to the question of postwar institutional persistence: why do the undermining rules developed in conflict endure beyond it, often despite sweeping state reforms? Postwar institutional persistence, I contend, depends on the endurance and power of the political coalition underwriting the alternative institutional procedures. In postwar environments where the distributional coalition with a stake in the undermining rules remains intact and continues to dominate political decision-making, we can expect the prevailing institutional arrangements to endure as well. By contrast, undermining rules introduced in war are more likely to break down when fissures in the dominant wartime coalition emerge or where competing actors opposed to the new rules gain political strength.

This dissertation thus offers a new comprehensive theory for how civil war shapes state development, focusing specifically on how wartime processes of institutional change and persistence remake the state apparatus during and after conflict. In the remainder of this final chapter, I extend these theoretical insights in three ways. First, I probe the explanatory leverage this theoretical framework provides beyond Central America, examining historical and contemporary cases in diverse regional and country contexts. Second, I explore the extent to which the causal process elaborated here might travel beyond conflict settings and reflect processes of institutional change in other threat-laden scenarios.

Third and finally, I draw out the broader theoretical, conceptual, and policy implications of this research. I focus particular attention on what my framework means for the theory and practice of post-conflict reconstruction and how we understand and analyze “the state” more

broadly. My hope is that these preliminary insights related to external validity and broader implications will enrich future research on the institutional legacies of civil, postwar reform, and state building.

### **Undermining Rules Within and Beyond Central America**

Within this dissertation, I have built a new theory of wartime institutional change and postwar institutional persistence to shed light on the mechanisms underlying the broad, empirical relationship between civil war and state weakness. The construction of this theory was based on in-depth, process-tracing analysis and cross-case comparison within and across specific institutional sectors in Central America. More specifically, I analyze the emergence and consolidation of new undermining rules within Guatemala's tax administration and public security apparatus and Nicaragua's land tenure institutions amid conflict.

Examining whether my theoretical approach generalizes beyond these Central American cases is, of course, a tall task given the shadowy, subterranean nature of the wartime institutional processes in question. My ability to conduct this fine-grained, process-tracing analysis has hinged not only on a decade of field experience in Central America, but on remarkable data access. Such conditions are quite rare in violent conflict settings. Therefore, systematically testing the claims put forward in this theory-building exercise is best left to future research and those with the necessary case expertise and access. Yet, in the remainder of this section, I take a preliminary look at other regional and global contexts in which my approach to wartime institutional change and state development might usefully apply. Far short of definitively testing hypotheses derived from my findings, I instead probe the dynamics, logics, and suggestive

evidence that undermining rules are not merely confined to these few cases, but a product of conflict processes found across the globe.

Within the Central American context, there are a number of other state institutional spheres that exhibit undermining institutional logics as a result of conflict. For example, in the Central American civil war case not addressed in this project, El Salvador, the rules and procedures structuring police behavior bear a striking resemblance to their counterparts in Guatemala. Devised and enforced by high-ranking military intelligence officials working with private sector elites, El Salvador's wartime police force also forged death squads that abided by alternative rules governing extrajudicial killing and social cleansing.<sup>723</sup>

As the peace process came to an end, the UN-sponsored Joint Investigative Group (*Grupo Conjunto*) delved into the nature and activities of these groups, revealing patterns and procedures similar to those found in Guatemala.<sup>724</sup> Comparable forms of crime scene manipulation and parallel investigative work were deployed to enforce the alternative "rules of the game" underlying extralegal killing.<sup>725</sup> In the words of journalist Héctor Silva Ávalos, the narrow police groups implementing the undermining rules "illustrates with clarity how the police elite [...] constructed fiefdoms and contributed to feeding the culture of impunity to benefit themselves or third parties."<sup>726</sup> Moreover, since the end of El Salvador's brutal civil war in 1992, the wartime rules governing extrajudicial executions have persisted, deploying sophisticated communications and intelligence networks to identify suspected gang members and disguise

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<sup>723</sup> Silva Ávalos 2014.

<sup>724</sup> United Nations 1994.

<sup>725</sup> Silva Ávalos 2014: 135-65.

<sup>726</sup> *Ibid.*, p. 124.

killings as a product of armed confrontations—much like the scene that unfolded within Guatemala’s Pavón prison in 2006.<sup>727</sup>

We can also identify institutional arrangements characteristic of undermining rules within Nicaragua’s wartime security forces. Though Nicaragua’s public security apparatus, particularly its police, have been lauded for their more community-oriented and preventive approach, historical evidence suggests that counterinsurgent imperatives in the early 1980s gave rise to undermining rules within the Ministry of the Interior (MINT), which allowed the passage of drugs and other contraband. According to former Sandinista investigator Álvaro Baldizón, the MINT, under top FSLN commander Tomás Borge, issued a directive in 1982 “which stated that all cocaine, precious metals, and US dollars recovered during MINT operations must be sent to Tomás Borge’s office. The proceeds from the sale of these objects were to be used to help finance MINT’s international activities” amid the struggle against the Contras.<sup>728</sup>

The effect, per Baldizón’s account, was that “there are no longer any trials for possession of cocaine since there is no longer any evidence to present.”<sup>729</sup> The new security sector procedures structuring the seizure of drugs and other assets thus directly contravened the rule of law. While the dearth of information makes it difficult to assess the persistence of these alternative rules, many experts and international officials suspect that these wartime arrangements have continued to shape the relationship between transnational criminal organizations and the FSLN government of Daniel Ortega today.<sup>730</sup>

Such undermining institutional logics are not only confined to the public security sector, however. Arenas of social policy also demonstrate the emergence and consolidation of

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<sup>727</sup> Avelar and d’Aubuisson 2017.

<sup>728</sup> US Department of State 1986c.

<sup>729</sup> Ibid.

<sup>730</sup> Interview with author, January 31, 2017; US Embassy in Managua 2006.

undermining rules and procedures. In the Guatemalan context, similar institutional logics developed within the Ministry of Social Wellbeing and came to remake the rules governing international adoptions. Historical evidence suggests that these rules and procedures developed at the height of the counterinsurgent campaign, as the Ministry of Social Wellbeing, the National Police, and the Armed Forces abducted and adopted out the children of suspected guerrillas,<sup>731</sup> much like during authoritarian periods elsewhere in Latin America.<sup>732</sup> Wartime reforms devolved significant power to notaries to authorize adoptions, weakening formal oversight and similarly abetting illegal adoptions in the postwar era. The counterinsurgent pretext and resulting legal changes thus established alternative institutional procedures that undermined the Guatemalan state's ability to regulate international adoptions.

Moving beyond Central America to Latin America more broadly, we can also observe other instances suggestive of the wartime development of undermining rules within state institutions. At the height of Peru's internal armed conflict in the early 1990s, the elite National Intelligence Service (SIN), led by secret police chief and presidential advisor Vladimiro Montesinos, devised an elaborate system of bribes to garner support for then-President Alberto Fujimori (1990-2000). The alternative arrangements drew in opposition politicians, military officials, judges, and media. According to McMillan and Zoido, Montesinos' scheme—laid bare in the video recordings dubbed the *vladivideos*—consisted of a series of “contracts,” which became “self-enforcing” and stipulated monthly payouts to counteract defection.<sup>733</sup> Further, by knitting together a diverse range of actors with a stake in these shadowy institutional arrangements—by broadening the distributional coalition—the new rules were effectively upheld and reproduced for nearly a decade.

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<sup>731</sup> SEPAZ 2009.

<sup>732</sup> Smith Rotabi 2014.

<sup>733</sup> McMillan and Zoido 2004: 75-6.

But beyond these Latin American cases, numerous other contemporary conflicts reflect similar institutional processes. This is perhaps due to specific features of the more globalized civil wars that have taken shape since the latter half of the 20<sup>th</sup> century, forms of conflict that Mary Kaldor terms “new wars.” New wars blur the distinctions between “war,” “organized crime,” and “large-scale violation of human rights” as a result of globalization and the proliferation of domestic, transnational, and international actors that profit from and finance conflict.<sup>734</sup> These kinds of conflict may be particularly prone to the rise of undermining rules because they entail a much wider set of actors that become part of the wartime distributional coalition—that is, the set of elites that develop a vested stake in the alternative institutional landscape within conflict. While counterinsurgent efforts often centralize decision-making discretion and political authority, the highly fragmented and informal nature of new conflict economies can facilitate mutual accords that fuel perverse, predatory activities in the long-term. In the same way that economic elites were critical to upholding the undermining rules that developed within Guatemala’s tax administration and police force, globalized warfare encompassing myriad private actors can shore up and consolidate the undermining rules that evolve in conflict.

We can observe these dynamics in a number of classic “new war” contexts. Perhaps the most notable of these cases is the former Yugoslavia, where “the mafia economy was built into the conduct of warfare, creating a self-sustaining logic to the war both to maintain lucrative sources of income and to protect criminals from legal processes, which might come into effect in peacetime.”<sup>735</sup> In his account of the siege of Sarajevo, Peter Andreas examines how wartime politics and private predation became intertwined, arguing that “some aspects of the criminalized

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<sup>734</sup> Kaldor 1999: 2.

<sup>735</sup> *Ibid.*, p. 55.

side of conflict are state-sponsored and directly serve political interests, such as when political leaders subcontract out key tasks to criminals and smugglers, because they either cannot or prefer not to perform these tasks themselves.”<sup>736</sup> The clandestine economic arrangements ultimately undermined the rule of law and the construction of robust state institutions. Yet, much in line with the central claim of this dissertation, the new wartime rules “[produced] state deformation more than state formation or state destruction.”<sup>737</sup>

Similar patterns can be seen in a diverse array of contemporary irregular civil war cases, ranging from Sri Lanka, where the centralization of political power generated kickback schemes for shady weapons deals,<sup>738</sup> to Angola, where military units devised rules for taxing gemstones,<sup>739</sup> to South Africa, where “criminal activities became embedded in the everyday functioning of the country’s governing institutions.”<sup>740</sup> While in-depth case analysis is necessary to determine whether such behavioral patterns constituted rule-bound procedures as they do in the Central American cases, a cursory glimpse suggests that more contemporary globalized conflicts are particularly propitious sites for the development of undermining rules within the state.

Yet, irregular “new wars” may not be the only type of conflict that gives rise to these perverse processes of institutional change. The conditions facilitating the wartime emergence of undermining rules within the state may even exist within regular civil wars, as illustrated by a notable and unexpected historical case: the US Civil War. Though historians of the Civil War and Reconstruction eras have tended to associate this period with the construction of the

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<sup>736</sup> Andreas 2008: 17.

<sup>737</sup> Ibid., p. 120.

<sup>738</sup> Mampilly 2011b: 188.

<sup>739</sup> Nordstrom 2004: 122-3.

<sup>740</sup> Ibid., p. 149.

contemporary American state,<sup>741</sup> a closer look at wartime dynamics reveal forms of corruption that may have, in fact, been elevated to the level of undermining rules.

As historian Michael Thomas Smith writes, “‘honest graft’ in the form of government employees using their positions to supplement their income through a variety of illegal or extralegal means during this pre-civil service reform era was rather the norm, as any observer of the nation’s customs houses or Indian trading posts likely knew.”<sup>742</sup> In fact, this routinized fraud, which sapped Northern resources, spurred the 1861 creation of the House of Representatives’ Select Committee on Government Contracts, which published a lengthy report detailing instances of government graft. The report spurred the passage of the False Claims Act in 1863.<sup>743</sup> Thus despite deep-seated US fears of political centralization, the wartime environment appeared to create pockets of elite military control favorable for the introduction of undermining rules within military contracting and acquisitions.

Though the above case illustrations are merely preliminary, the dynamics, patterns, and processes exhibited in these varied contexts provide suggestive evidence that the wartime institutional logics conceptualized in this project, in fact, apply more broadly. Additional research that employs more diverse regional expertise will be necessary to assess whether the causal sequences underlying these cases mirror those theorized within this dissertation.

### **Institutional Change Beyond Civil War**

An important critique of my theory of wartime institutional change is that the causal mechanisms, and thus the broader causal sequence, generalize to contexts well beyond civil war. My framework thus reflects a broader process of institutional change, rather than one confined to

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<sup>741</sup> See Bensel 1990.

<sup>742</sup> Smith 2011: 3.

<sup>743</sup> Greenbaum 2013.

armed conflict. While it is beyond the scope of this dissertation to assess the theory's application to non-civil war settings, this critique is, in many ways, compelling. Therefore, in this section, I offer some preliminary thoughts on this question. While it is certainly possible that this causal process generalizes outside of armed conflict contexts, I contend that the mechanisms theorized here rely on dynamics and conditions more likely to be found within civil war.

A primary reason why the process of institutional change theorized in Chapter 2 may travel beyond civil war is because its antecedent conditions are, in fact, present beyond conflict settings. The primary impetus for wartime institutional change, per my causal model, is the “perceived escalation of the insurgent threat,” which may proxy for a more generalized form of perceived threat escalation that creates greater institutional ambiguity and centralizes discretionary power. The construction of threat, of course, occurs in response to a wide range of scenarios, including foreign conflict, organized criminal violence, and perceived crises such as climate change and migrant influxes.<sup>744</sup> Through the lens of the securitization literature within international relations, securitization reflects “a set of interrelated practices, and the processes of their production, diffusion, and reception/translation that bring threats into being” and “[invests] the referent subject with such an aura of unprecedented threatening complexion that a customized policy must be undertaken to immediately to block its development.”<sup>745</sup> From this view, there is nothing inherent in the perceived escalation of threat during civil war that prompts the opening of an institutional gray zone and the provision of heightened decision-making discretion to a narrow state elite. In this sense, the introduction of new undermining rules is not necessarily dependent on specifically *political insurgent* threats.

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<sup>744</sup> See Arias 2017; Fontes 2018; Lessing 2017; Chaturvedi and Doyle 2015; Hammerstad 2014.

<sup>745</sup> Balzacq 2011: 3.

Yet, at the same time, there are reasons to see civil war as a particularly propitious environment for the kinds of institutional changes elaborated in this dissertation. Particularly in irregular civil wars, the internal nature of the constructed threat entails an important distinction. Guerrilla insurgencies seeking to topple the state not only work to capture territory and civilian support, but also to penetrate government agencies and redirect or sabotage state counterinsurgent efforts. Also within the spheres of state power “civil war assimilates and makes undecidable brother and enemy, inside and outside,” per Agamben’s original formulation.<sup>746</sup> The deep internal quality of civil war threats—their perceived locus within the state apparatus itself—is critical to the militarization of the state and the centralization of decision-making power in a way not necessarily seen in other crises.<sup>747</sup>

Amid external conflict, rarely are the perceived threats internal to the state apparatus itself. Likewise, other crises that might trigger securitization are less likely concerned with the capture or infiltration of state structures, such that dominant political coalitions are narrowed and reconfigured. While it is certainly possible that such causal processes can and do unfold outside of civil war, it is my contention that internal armed conflicts entail certain key conditions that make them more likely settings for the introduction and consolidation of new undermining rules within state institutions.

This claim gives rise to another question related to scope and generalizability: can the perceived escalation of the insurgent threat within one civil war context trigger similar processes of institutional change in a neighboring country? In other words, can there be cross-border or regional effects of the causal sequence I describe in this dissertation? Answering these questions is well beyond the scope of this project. However, in light of the growing recognition of the

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<sup>746</sup> Agamben 2015: 14-5.

<sup>747</sup> See Mampilly 2011b for a discussion of how militarization and centralization generate corruption in civil war.

transnational dynamics of civil war,<sup>748</sup> this is a very important avenue for future research. My framework, which depends on the *construction* of threat or *perceptions* of threat escalation, would suggest that cross-border spillover is indeed possible. When an insurgency has developed a territorial base and network of support outside of the borders in which it is formally operating, the perception of internal threat within the neighboring state may trigger similar processes of militarization and centralization that introduce new undermining rules.

Given the regional scope of this project, one particularly fruitful country context in which to examine these transnational dynamics is Honduras. Though Honduras never experienced its own civil war, it was seen as a potential site of insurgent penetration and became an important staging ground for regional counterinsurgent operations in Central America.<sup>749</sup> In light of the predatory, undermining rules that have come to define Honduras' political landscape today,<sup>750</sup> it is worth examining the extent to which these alternative institutional arrangements are rooted in wartime institutional changes that occurred in the 1970s and 1980s. Such analysis could illuminate critical transnational extensions of the causal processes I identify here.

### **Broader Implications**

By retraining our analytical lens on how wartime processes of institutional change shape state development in the medium- and long-term, this dissertation also invites discussion of a series of broader implications related to war and postwar state building, as well as how we understand, define, and evaluate the relevant features of states more generally. I conclude by elaborating four key implications of this research, which I hope will guide scholars, policymakers, and practitioners of post-conflict politics and state development. They include: 1)

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<sup>748</sup> See Checkel 2013.

<sup>749</sup> Schulz and Schulz 2018.

<sup>750</sup> See Chayes 2017.

incorporating the central state into analyses of wartime institutions, 2) rethinking conventional approaches to post-conflict reconstruction and reform, 3) disaggregating “the state” into its constituent institutional domains, and 4) problematizing concepts like “state strength” and “state weakness.” I address each of these implications in turn.

### *Understanding Wartime Institutional Change within the Central State*

Over the past decade, scholars of conflict and post-conflict environments have increasingly shed light on the institutional causes and consequences of civil war, specifically at the local level and those institutional innovations devised by insurgent and paramilitary actors.<sup>751</sup> This dissertation, however, illustrates a need within this field to more fully incorporate and analyze the machinery of the central state, which is also remade as a result of conflict processes and dynamics. By doing so, we can not only develop new insights regarding the effects of civil war on under-explored arenas of state activity, but we can also assess how wartime institutional changes might emanate from the center out.

Within studies of the micro-dynamics of conflict, divided sovereignty and territorial competition play a critical role in prompting armed actors to create new rules and procedures to control civilians and elicit compliance on the ground. Amid the complexity and fluidity of wartime environments, local institutions can help state, insurgent, and paramilitary actors regulate and channel behavior toward particular strategic ends. In some cases, such institutional innovations constitute novel mechanisms of political control in un- or under-governed territorial zones, while in others, they compete with already existing institutional structures at the local level. In either case, the upheaval and disruption of civil war can create space for new social and political orders—new “rules of the game”—to emerge.

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<sup>751</sup> Arjona 2014, 2016; Bateson 2013; Ch et. al 2018; Hoover Green 2018; Staniland 2012.

By pulling back the curtain on the inner workings of the counterinsurgent state, we can identify very similar dynamics within a distinct set of political domains: the institutions that structure central state activity. Wartime institutional evolution not only occurs on the ground in conflict zones, but also within the central state apparatus itself, thereby reshaping the behavior of state elites—and the non-state elites to which they may be linked. While understanding local institutional processes in civil war can help us identify the community-level consequences of conflict, there are a host of centrally-administered institutional processes related to taxation, coercion, and public goods provision that may also be affected by civil war and take place on a plane above local political processes. Moreover, institutional changes within the central state may flow outward and shape the wartime “rules of the game” introduced at the subnational level. Thus, as conflict scholars continue to study the institutional legacies of civil war, we would do well to move beyond the narrow focus on local insurgent institutional orders and to retrain our analytical lens on the machinery of the central state.

### ***A New Approach to Post-Conflict Reconstruction and Reform***

Beyond focusing greater attention on wartime institutional changes within the state apparatus, this dissertation also holds important implications for approaches to post-conflict reconstruction and reform. At the broadest level, my findings challenge a fundamental assumption inherent in both scholarly and policy conversations about postwar political imperatives: that the central objective of post-conflict environments is (or ought to be) rebuilding state institutions. As discussed in Chapter 2, scholars have treated postwar state reconstruction as a critical antidote to civil war relapse. Studies of civil war onset have pinpointed the role of state “weakness” or “absence” in triggering conflict in the first place.<sup>752</sup> Once initiated, civil war is

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<sup>752</sup> Fearon and Laitin 2003; Gurses and Mason 2010; Goodwin 2001.

thought to drive further institutional deterioration as contestation over the state's territorial control increases and state investment in goods provision and administration wanes.

Per existing accounts, by constructing robust state institutions following conflict, international and domestic actors can enhance government legitimacy, effectively monopolize the use of violence, and ameliorate grievances that threaten to exacerbate violence.<sup>753</sup> Therefore, building the state anew has become a taken-for-granted policy recommendation for addressing the myriad social, political, and economic challenges found in postwar settings.

This focus on rebuilding state institutions, however, rests on a fundamental, yet flawed assumption: that postwar states are blank slates upon which new institutions can simply be embedded or built again. Viewed through the analytical lens put forward within this dissertation, such a presupposition overlooks what civil war leaves behind in an institutional sense—the ways in which the postwar political landscape is already populated by myriad institutional formations, which continue to shape development and state functioning. Rather than blank slates, the postwar state apparatus reflects a constellation of complex rules and procedures often created or reshaped by conflict processes themselves. Therefore, understanding the varied logics that drive state institutions emerging from conflict ought to precede the one-size-fits-all prescription to build the state anew.

Relatedly, this dissertation suggests that, in light of the perverse, undermining “rules of the game” often implemented during civil war, postwar policy agendas must give just as much attention to *unmaking* predatory wartime institutional arrangements as they do to *remaking* the scaffolding of the state. Where alternative rules and procedures that expressly contravene state extraction and administration have taken root, the first imperative of the postwar period may be a process of *deconstruction*. Drawing from the explanation of postwar institutional persistence

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<sup>753</sup> Walter 2015; Lake 2016; Cruz 2011; Sisk 2013; OECD 2011.

elaborated in Chapters 2 and 7, dismantling wartime undermining rules requires dismantling the broader distributional coalition underwriting them—that is, the array of actors who accrue political and material benefits from their continued implementation and enforcement. Remaking the “rules of the game” is thus a matter of disrupting the dominant political coalition that maintains a vested interest in them.

The members of this coalition do not belong exclusively to the formal state sphere, but also include non-state actors as I illustrate in the two positive cases of postwar institutional persistence from Guatemala in Chapter 7. Thus, in addition to moving away from simplistic, one-size-fits-all policy recommendations regarding state reconstruction, new post-conflict research must look beyond the rigid strictures of “the state” to understand why perverse wartime institutional arrangements endure beyond armed conflict. If a variety of private actors also “do well out of war,”<sup>754</sup> our analytical lens must be widened to better capture how these actors continue doing well *after* war too.

### ***Disaggregating “the State”***

The first implications discussed above focus specifically on war and postwar environments. Yet, this dissertation also holds important implications for how we conceptualize and study “the state” more generally. Namely, it speaks to the importance of disaggregating the state apparatus into the complex and overlapping systems of rules and procedures that comprise it—into its different institutional spheres. Much in line with scholarly approaches to the state from an anthropological perspective, a key takeaway of this dissertation is that the state is not an autonomous, unified entity that stands as “the apex of society,” but rather is a complex of

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<sup>754</sup> Collier 1999.

“dispersed institutional and social networks through which rule is coordinated and consolidated.”<sup>755</sup>

In contrast to dominant frameworks within political science, this approach allows us to better capture the divergent institutional logics that may take shape within the same “state” context. Though securitization in civil wars exhibit a centralizing tendency, it is both theoretically and empirically possible that distinct distributional coalitions drive different kinds of institutional changes, thus producing divergent outcomes across different arenas of state activity.

Colombia’s armed conflict context is, perhaps, the best example of this varied institutional landscape. As detailed in Chapter 6, wartime processes of institutional change within Colombia’s tax administration at the height of the civil war produced new reinforcing rules, which contributed to the state’s extractive aims. However, within distinct state sectors, wartime developments appear more consistent with the emergence of undermining rules. For example, Colombia’s “false positives” scandal revealed routinized state security procedures to increase body counts by disguising civilian executions as insurgent combatant deaths.<sup>756</sup> A cursory examination of this case suggests that, in contrast to the institutional changes within Colombia’s tax administration, it was a distinct and rather narrow distributional coalition of high-ranking military officers driven by financial and career incentives that crafted the new undermining rules.<sup>757</sup> In contrasting the two cases, which were both components of Álvaro Uribe’s “Democratic Security Policy,” we can see how distinct coalitional configurations within “the state” can produce divergent institutional outcomes.

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<sup>755</sup> Sharma and Gupta 2006: 9.

<sup>756</sup> Acemoglu et al. 2018; Gordon 2017.

<sup>757</sup> Acemoglu et al. 2018: 6-9.

The Colombian context is just one setting in which the complexities of wartime political environments compel us to pull apart state institutional spheres and zero in on the construction of specific rules and procedures in a fine-grained manner. However, there are certainly tradeoffs inherent in this nuanced analytical approach. Importantly, focusing in at the institutional level makes it very difficult to design research strategies to evaluate the external validity of the theories derived from my analysis within Central America. Coding dominant distributional coalitions at a national-state level, for example, would risk overlooking potential variation across institutional domains; yet, undertaking such an enterprise within “the state” would be highly labor-intensive, perhaps unrealistically so. But despite the methodological limitations, it is my contention that disaggregating the state into its constituent rules and procedures is the most appropriate means of capturing and analyzing processes of institutional change, both within and outside of armed conflict.

### ***Rethinking State “Weakness”***

Finally, the theoretical and empirical claims within this dissertation speak to an overwhelming need to rethink the primary criteria by which scholars and policymakers understand and evaluate states and state institutions: according to their strength or weakness. Per conventional definitions, state “strength” and “weakness” refer to the state’s ability to implement its chosen policies.<sup>758</sup> Accordingly, the inability of the state to implement its chosen policies—most often normatively conceived of as falling along extractive, coercive, and administrative dimensions—is an indicator of the state’s institutional weakness.

State capacity is a core topic within political science. In addition to serving as an outcome of interest for scholars of state formation, it has been treated as a key explanatory factor for phenomena as diverse as criminal violence, political and social inclusion, economic

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<sup>758</sup> Mann 1988; Soifer 2008; Soifer and vom Hau 2008.

development, and land redistribution.<sup>759</sup> In particular, contemporary studies of Latin American politics by leading scholars in the field have focused increasing attention on how democratic progress has been accompanied by persistent institutional weakness, with pernicious effects on outcomes as varied as economic policymaking, taxation, civil-military relations, and political parties.<sup>760</sup> In many ways, the current research on state weakness in Latin America has grown out of Guillermo O'Donnell's core insights regarding the regional prevalence of "brown areas," or zones where the state is virtually non-existent in a functional or territorial sense.<sup>761</sup> In O'Donnell's words, this "disintegration of the state apparatus and the decreasing effectiveness of the state-as-law make governments incapable of implementing even minimally complex policies."<sup>762</sup>

This dissertation, however, challenges this prevailing approach and illustrates that the capacity-centric view of state institutions is incomplete at best. What often looks like state "weakness" is not actually the *absence* of state institutions or their *inability* to meet extractive, coercive, and administrative aims, but instead the *presence* and *effective operation* of alternative institutional logics, which distort or undermine core state activities. In other words, studies of the state apparatus tend to conflate poor performance with the ineffectiveness of the rules and procedures guiding state action; yet, I posit that such an approach obscures how the prevailing rules and procedures within state institutions often structure behavior in ways that expressly contravene or undermine government objectives, as they are normatively conceived. Such

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<sup>759</sup> See Centeno et al. 2017.

<sup>760</sup> See Murillo and Levitsky 2013; furthermore, Daniel Brinks, M. Victoria Murillo, and Steven Levitsky have undertaken a project on "Weak Institutions in Latin America," bringing together leading researchers on the weakness of constitutional frameworks, electoral institutions, coercive institutions, and property rights institutions, among others.

<sup>761</sup> O'Donnell 1993: 11.

<sup>762</sup> Ibid., p. 21.

alternative rules and procedures constitute, in the words of one my Guatemalan interviewees, “rather effective institutions, but for the wrong reasons.”<sup>763</sup>

This novel approach is critical for capturing the myriad woes that plague state institutions in the developing world and for analyzing their origins. By digging beneath blunt indicators of state capacity and superficial explanations premised on state “weakness,” we can shed light on the *effective* functioning of alternative, often subterranean, rules and procedures that abet state predation and undermine social and economic development. We can also rewrite conventional international policy agendas that view state weakness as the driver of instability, violence, and underdevelopment. The roots of these systemic challenges may not necessarily be found in institutional decay and deficiency, but in those perverse institutional arrangements that are “effective but for the wrong reasons.”

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<sup>763</sup> Interview with author, June 23, 2015.

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**APPENDIX:  
LIST OF INTERVIEWS AND ARCHIVAL COLLECTIONS**

**List of Interviews**

<b>Date</b>	<b>Interviewee</b>	<b>Location</b>
May 30, 2014	Human rights activist	Guatemala City
June 4, 2014	Human rights activist	Guatemala City
June 5, 2014	Historian	Guatemala City
July 3, 2014	Researcher and political commentator	Guatemala City
June 8, 2015	Economist	Guatemala City
June 12, 2015	Political consultant	Guatemala City
June 15, 2015	Ministry of Foreign Affairs official	Guatemala City
June 15, 2015	Former Ministry of Finance official	Guatemala City
June 15, 2015	Researcher and political commentator	Guatemala City
June 16, 2015	Historian	Guatemala City
June 17, 2015	Security expert and Ministry of Foreign Affairs official	Guatemala City
June 17, 2015	Journalist and politician	Guatemala City
June 18, 2015	Consultant and political analyst	Guatemala City
June 18, 2015	Academic	Guatemala City
June 19, 2015	Indigenous rights activist	Guatemala City
June 23, 2015	Security expert and former civilian intelligence official	Guatemala City
June 23, 2015	Former Ministry of Foreign Affairs and executive official	Guatemala City
June 24, 2015	Criminal justice expert	Guatemala City
June 24, 2015	Private sector representative	Guatemala City
June 25, 2015	Anti-corruption activist	Guatemala City
June 25, 2015	Human rights activist	Guatemala City
June 25, 2015	Historian	Guatemala City
June 26, 2015	Sociologist	Guatemala City
June 30, 2015	Academic and security expert	Guatemala City
July 1, 2015	Private sector leader	Guatemala City
July 1, 2015	Security expert and human rights activist	Guatemala City
July 2, 2015	Security and justice expert	Guatemala City
July 2, 2015	Former Presidential Commission on Human Rights official	Guatemala City
July 2, 2015	Security expert and academic	Guatemala City

July 3, 2015	Corruption and justice expert	Guatemala City
July 6, 2015	Retired military officer	Guatemala City
July 6, 2015	Academic	Guatemala City
July 13, 2015	Human rights activist	Guatemala City
July 15, 2015	Retired military officer	Guatemala City
July 15, 2015	Retired military intelligence officer	Guatemala City
July 16, 2015	Investigative journalist	Guatemala City
July 17, 2015	Military officer	Guatemala City
September 27, 2016	Investigative journalist	Guatemala City
October 13, 2016	Ministry of Finance employee	Guatemala City
October 21, 2016	Former Ministry of Finance official	Guatemala City
October 26, 2016	Retired military officer	Guatemala City
October 26, 2016	Investigative journalist	Guatemala City
October 26, 2016	Former insurgent leader	Guatemala City
October 26, 2016	CICIG official	Guatemala City
October 27, 2016	Retired military intelligence officer	Guatemala City
October 27, 2016	Retired military intelligence officer	Guatemala City
October 27, 2016	Investigative journalist	Guatemala City
November 7, 2016	Retired military intelligence agent	Guatemala City
November 7, 2016	Retired military officer	Guatemala City
November 8, 2016	SAT official	Guatemala City
November 9, 2016	Former prosecutor and SAT official	Guatemala City
December 15, 2016	Journalist	Managua
December 16, 2016	Former military advisor	Managua
January 4, 2017	Former CICIG investigator	San José, Costa Rica
January 12, 2017	Lawyer	Managua
January 13, 2017	Economist and private sector representative	Managua
January 13, 2017	Security expert	Managua
January 17, 2017	Economist	Managua
January 23, 2017	Economist and agrarian expert	Managua
January 24, 2017	Constitutional law expert	Managua
January 31, 2017	Journalist and organized crime expert	Managua
March 1, 2017	Former MIDINRA official	Managua
March 1, 2017	Former military advisor	Managua
May 24, 2017	Former Ministry of Finance official	Guatemala City
May 30, 2017	Former Ministry of Finance official	Guatemala City
May 30, 2017	Retired military officer	Guatemala City
May 30, 2017	Retired military intelligence agent	Guatemala City
May 31, 2017	Former SAT official	Guatemala City
June 2, 2017	Former SAT and customs official	Guatemala City

June 7, 2017	Security expert and former civilian intelligence official	Guatemala City
June 12, 2017	Researcher and former Secretariat of Planning official	Guatemala City
June 12, 2017	Former Ministry of Finance official	Guatemala City
June 13, 2017	Economist	Guatemala City
June 15, 2017	Economist	Guatemala City
June 16, 2017	Former Ministry of Finance official	Guatemala City
June 23, 2017	Peacebuilding expert and former Ministry of Foreign Affairs official	Guatemala City
October 9, 2017	Human Rights Ombudsman's Office representative	Guatemala City
October 9, 2017	Security expert and academic	Guatemala City
October 31, 2017	Human rights activist	Guatemala City
November 3, 2017	Academic	Guatemala City
November 15, 2017	Former customs inspector	Guatemala City
November 15, 2017	Former customs inspector and shipping company manager	Guatemala City
November 22, 2017	Human rights activist	Guatemala City

## Archival Collections

### Guatemala

Collection	Archive	Location
Records of the National Police (PN), 1882-1997	<i>Archivo Histórico de la Policía Nacional (AHPN)</i>	Guatemala City
Records of the Ministry of Finance, 1970s-1990s	Ministry of Finance	Guatemala City
Judicial records from case against Alfredo Moreno Molina, 1996-2010	Archive of the <i>Organismo Judicial (OJ)</i>	Guatemala City
Recovery of Historical Memory (REMHI)	Archive of the <i>Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHAG)</i>	Guatemala City
Archive of the <i>Estado Mayor Presidencial (EMP)</i>	<i>Archivo General de Centroamérica (AGCA)</i>	Guatemala City
Daily newspaper <i>El Gráfico</i> , 1980s and 1990s	<i>Hemeroteca Nacional</i>	Guatemala City
Daily newspaper <i>Prensa Libre</i> , 1980, 1993-1999	<i>Hemeroteca Nacional</i>	Guatemala City
Daily newspaper <i>La República</i> , 1996	<i>Hemeroteca Nacional</i>	Guatemala City
Daily newspaper <i>Siglo XXI</i> , 1992-1996	<i>Hemeroteca Nacional</i>	Guatemala City
Daily newspaper <i>El Periódico</i> , 1997-2013	<i>Hemeroteca Nacional</i>	Guatemala City
Weekly magazine <i>Crónica</i> , 1996	<i>Hemeroteca Nacional</i>	Guatemala City
Serie <i>La Morgue</i> (newspaper clippings from daily <i>Imparcial</i> )	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Archive of <i>Inforpress Centroamericana</i>	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Serie Cartapacios (Finanzas Nacionales, Violencia en Guatemala), 1972-1982	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
<i>Diario Oficial de Guatemala</i> , 1979-1982	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Serie Diario <i>El Gráfico</i> (Ministerio de Defensa, Ministerio de Finanzas, Contrabando y Robos), 1968-1998	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Archive of the <i>Comité Holandés de Solidaridad con Guatemala</i> , 1980-1982	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua

Collection of Amnesty International publications, 1979	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
General Documents Collection	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Guillermo Paz Cárcomo Collection	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Archive of the <i>Coordinadora Alemana de Solidaridad con Guatemala</i> (Ayuda Policía Nacional, Contrainsurgencia)	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Thelma Porres Collection	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Alba Amanda Pedroza Collection	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Robert Trudeau Collection	<i>Centro de Investigaciones Regionales de Mesoamérica (CIRMA)</i>	Antigua
Guatemala and the U.S.	Digital National Security Archive	Washington, D.C. and Online

### Nicaragua

<b>Collection</b>	<b>Archive</b>	<b>Location</b>
IHCA Collection	<i>Instituto de Historia de Nicaragua y Centroamérica (IHNCA)</i>	Managua
IHNCA Collection	<i>Instituto de Historia de Nicaragua y Centroamérica (IHNCA)</i>	Managua
<i>Memoria Centroamericana</i>	<i>Instituto de Historia de Nicaragua y Centroamérica (IHNCA)</i>	Managua
Archives of the <i>Centro de Investigaciones y Estudios de la Reforma Agraria (CIERA)</i> , MIDINRA, 1980-1988	Digital Library “Reforma agraria y transformaciones en el sector agropecuario en Nicaragua, (1979-2015)	Online (no longer available)
Archives of the <i>Dirección General de Fomento Campesino y Reforma Agraria (DGFCRA)</i> , MIDINRA, 1979-1987	Digital Library “Reforma agraria y transformaciones en el sector agropecuario en Nicaragua, (1979-2015)	Online (no longer available)

Collection <i>Orlando Núñez Soto</i> , 1978-2015	Digital Library “Reforma agraria y transformaciones en el sector agropecuario en Nicaragua, (1979-2015)	Online (no longer available)
Nicaragua	Digital National Security Archive	Washington, DC and Online
<i>Sección especial de investigaciones</i> miscellaneous records, 1983-1984	Nicaragua, Hoover Institution Archives	Stanford University
Alvaro Jose Baldizon Alvarez miscellaneous papers, 1985-1986	Nicaragua, Hoover Institution Archives	Stanford University
Ministerio de Defensa miscellaneous records, 1985-1987	Nicaragua, Hoover Institution Archives	Stanford University
Antonio Ybarra Rojas depositions, 1993	Nicaragua, Hoover Institution Archives	Stanford University
Enrique Bermúdez Varela papers, 1977-1990	Nicaragua, Hoover Institution Archives	Stanford University
Eden Pastora Gómez interviews, 1992	Nicaragua, Hoover Institution Archives	Stanford University
Leonel Poveda Sediles papers, 1982-1986	Nicaragua, Hoover Institution Archives	Stanford University
Alfonso Robelo C. papers, 1978-1990	Nicaragua, Hoover Institution Archives	Stanford University
Resistencia Nicaragüense Records, 1983-1989	Nicaragua, Hoover Institution Archives	Stanford University
Resistencia Nicaragüense Ejército Records, 1979-1993	Nicaragua, Hoover Institution Archives	Stanford University
Roger Miranda Collection, Miranda-Ratliff papers, 1987-2000	Nicaragua, Hoover Institution Archives	Stanford University