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Constructing Authority Alternatives In Colombia: Globalisation and the Transformation of Governance

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Exclusive authority is the bedrock of the territorial state and the Westphalian model. Shared recognition among sovereign actors that there is no authority superior to that of the state demarcates global political space into discrete, self-enclosed domains, constituting the decentralized international arrangement. This mutual restriction of ‘outside’ authorities from ‘inside’ sovereign boundaries buttresses domestic claims to exclusive political authority at the same time as delegitimizing non-sovereign alternatives.¹

The discipline’s fixation on the state notwithstanding, Westphalian polities are hardly the only political community that exist. For some, world politics has always been about “multiple overlapping and intersecting sociospatial networks of power”, and today’s global forces are merely accelerating these complex relations and connections.² Others suggest that current processes of globalization are transforming the world’s social and political geography by facilitating alternative spatial configurations that are increasingly discontinuous with distinct, self-enclosed territories. The central feature of the emerging global order, according to John Ruggie, is the ceding of the “disjoint, mutually exclusive, and fixed territoriality” of modern international politics to new communal polities unbundled from state territories.³ Either way, collectivities identify and organize themselves in a multiplicity of ways in a highly fluid, heterogeneous political landscape. Within this “pluralist paradigm” of world order, the territorial state is considered just one among many sites of social relations and authority on the multi-centric, multi-layered world stage.⁴

A rich variety of authority types have influence within domains related to ideas, identities, issues, and markets. The distinguishing feature of these authority alternatives is that they tend not to be contained in discrete territories, but rather are present in the multiple, overlapping spaces that make up global relations. These sites can be found above, alongside, and below

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¹ R.B.J. Walker, *Inside/Outside: International Relations as Political Theory*, New York: Cambridge University Press, 1993; and Friedrich Kratochwil, ‘Sovereignty as Dominion: Is There a Right of Humanitarian Intervention?’, in Gene Lyons & Michael Mastanduno (eds), *Beyond Westphalia?: State Sovereignty and International Intervention*, Baltimore: Johns Hopkins Press, 1995, pp. 25-26.

² Michael Mann, *The Sources of Social Power: A History of Power from the Beginning to A.D. 1760*, Vol.1, New York: Cambridge University Press, 1996, p. 1. See also Yale Ferguson & Richard Mansbach, *Politics: Authority, Identities and Change*, Columbia, SC: University of South Carolina Press, 1996.

³ John Gerard Ruggie, ‘Territoriality and Beyond: Problematizing Modernity in International Relations’, *International Organization*, 47:1 (1993), p 174.

⁴ Ian Clark, *Globalization and International Relations Theory*, Oxford: Oxford University Press, 1999, p. 3; and James Rosenau, *Turbulence in World Politics: A Theory of Change and Continuity*, Princeton: Princeton University Press, 1990.

the state, they intersect national jurisdictions, and overlap one another. They are nonexclusive and nonlinear, and in many cases nonseparable.⁵ From institutions of global governance to the transnational third sector, from religious movements to criminal organizations, public and private alternatives to sovereign state authority can be located just about anywhere that human groups interact and make rules.

With the exception of some realist stalwarts, few would dispute that world order is undergoing a process of considerable change with profound implications for the institution of statehood, and the Westphalian model. Exactly how the diffusion of practices, processes and knowledge related to the growing inter-connectedness among societies is affecting the sovereign state, however, remains a matter of considerable debate.⁶ Most inquiries focus on globalization as a potential constraint on state capacity, autonomy and competence. Yet the transformation of global order, and in particular the emergence of alternative sociopolitical relationships, has also affected the less tangible and more elusive aspects of statehood such as authority and legitimacy. If exclusive authority is the foundation of domestic order, sovereignty, and indeed the Westphalian system, exploring how the emergence of overlapping and multiple sites of authority affect this dimension of statehood is critical to a fuller understanding of stability and governance.

This inquiry is particularly crucial in the global south where the territorial state is more often than not discontinuous with social relations, where it is common for states to contend with both domestic and external polity alternatives, and where the very notion of exclusive sovereign authority has always been problematic.⁷ Global trends appear to be exacerbating this phenomenon. The reconfiguration of social, political, and economic structures on a global scale loosens the container-like qualities of states, and entails a correlative shift toward global loci of authority and the legitimation of nonstate polities with domestic constituencies. At the same time, these special alterations involve the intensification of subnational forms of territorial organization.⁸ Such a move has facilitated the transformation of previously local associations into movements with a marked global dimension and with loyalties that transcend the national scale. What this all means for weaker Third World states is unclear. In

⁵ Naeem Inayatullah & David Blaney, *International Relations and the Problem of Difference*, New York: Routledge, 2004.

⁶ On the 'erosion of sovereignty' thesis, see Gideon Gottlieb, *Nation Against State: A New Approach to Ethnic Conflicts and the Decline of Sovereignty*, New York: Council on Foreign Relations, 1993; and Susan Strange, *The Retreat of the State: The Diffusion of Power in the World Economy*, Cambridge: Cambridge University Press, 1996. Others suggest that global governance and transnationalization may mean more – not less – state regulation. On globalization as a source of state robustness see Michael Mann, 'Has Globalization Ended the Rise of the Nation-State?', *Review of International Political Economy*, 4:3, 1997, pp. 472-496; and Philip Cerny, 'Political Globalization and the Competition State', in Richard Stubbs & Geoffrey Underhill (eds), *Political Economy and the Changing Global Order*, Oxford: Oxford University Press, 2000. The skeptical view about the transformative power of globalization can be found in Janice Thomson & Stephen Krasner, 'Global Transactions and the Consolidation of Sovereignty', in Ernst-Otto Czempiel & James Rosenau (eds), *Global Changes and Theoretical Challenges*, Lexington, MA: Lexington Books, 1989; and Stephen Krasner, 'Compromising Westphalia', *International Security*, 20:3 (1995), pp.115-151. The middle range position, that changing global conditions and imperatives may be stimulating evolution in the forms and functions of the modern state, against the backdrop of an adaptive and resilient institution of sovereign statehood, can be found in Jan Aart Scholte, *Globalization: A Critical Introduction*, New York: St. Martin's Press, 2000.

⁷ Francis Adams, Satya Gupta & Kindane Mengisteab (eds), *Globalization and the Dilemmas of the State in the South*, Basingstoke: Palgrave MacMillan Ltd., 1999.

⁸ Neil Brenner, 'Beyond state-centrism? Space, territoriality, and geographical scale in globalization studies', *Theory and Society*, 28 (1999), pp.39-78, distinguishes between the deterritorialization thesis, and the notion of reterritorialization that involves relativizing the significance of the national scale *vis-à-vis* both sub- and supra-national forms of territorial organization.

some cases the strengthening of authority alternatives may pose particular challenges to what are often already precarious structures of domestic governance and authority, legitimate extralegal systems of conflict resolution, and narrow the democratic controls properly exercised by nation states. In contrast, new spheres of authority can provide functional relief for weaker states and promote norm compliance and reforms, potentially enhancing state performance and legitimacy. Given the close correlation between weak states and domestic crisis, a key question relates to which types of authority arrangements are more likely to erode, or strengthen, sovereign authority.

The central theme of this paper is the changing nature of authority relationships prompted by the formation of global authority alternatives and the concomitant erosion in the norm of sovereign exclusivity. Specifically, what institutional arrangements are emerging to replace or complement sovereign authority, and with what consequences for state strength, legitimacy, and governance? I take up this issue by examining alternatives to sovereign authority in Colombia, where institutions of global and transnational governance are increasingly enmeshed with the state and local traditions of nonstate polities. The weakness of the Colombian state and the associated problems of democratic breakdown, insecurity, and violence are correlated with the persistent contestation of the fundamental rules of social order and authority. This tradition of a poorly consolidated central authority has been exacerbated by global transformations which have eroded the norm of exclusivity. Both developments have been conducive to the construction of direct relationships between civil society and non-state actors at many levels. Whether this transformation in the country's authority map will lead to a further deepening of the current crisis, or be a force for improvement, remains an open question.

This article starts with a review of authority and exclusivity as conceptualized within the Westphalian model. It next identifies how new forms of global governance, localization, and transnational social processes are leading to a multiplicity of authority relationships that compete with and complement that of the nation-state, stressing the importance of causal logics and the practices of civil society to the construction of these alternative relationships. I adopt a multi-scale approach that conceives of new loci of authority as emerging above, alongside, and below the state. The analysis continues with a presentation of the empirical research on emerging spheres of authority in the Colombian case, and of the global and domestic contexts which have increasingly legitimated such non-state polities. It concludes with an assessment of how non-exclusivity has affected state legitimacy and the state-building project in Colombia, and proposes lines of research related to these issues.

Westphalian Authority Narratives

Few concepts in political philosophy and the social sciences generate as much debate as that of authority. The subject of “ceaseless and acrimonious controversy”, political authority is bound up with fundamental questions about power, order, and obligation.⁹ Assumptions about how authority is apportioned and legitimated also constitute powerful scripts that privilege certain social realities over others. In the case of the Westphalian worldview, shared understandings about what are legitimate rules, institutions and identities have acted to reinforce the state as the dominant sociopolitical community and to naturalize the state's authority. This section examines the main elements of the notion of authority, and relates

⁹ Richard Friedman, ‘On the Concept of Authority in Political Philosophy’, in Joseph Raz (ed.), *Authority*, New York: New York University Press, 1990, p. 56.

them to the legitimacy of the state and the norm of sovereign exclusivity that prevail within what can be thought of as the Westphalian authority narrative.

Weber's classic interpretation of authority as power wielded legitimately implies that a rule or actor or institution ought to be obeyed, versus has to be obeyed.¹⁰ This base-line definition refers to the "right to rule", as conceptually and normatively distinct from the power to do so. As a mode of social control, legitimacy functions by motivating compliance because the control or power exercised is considered rightful. Those addressed by a rule obey it from an internalized sense of moral obligation, not because of a "simple fear of retribution or by a calculation of self-interest".¹¹ Hannah Arendt argues that "authority precludes the use of external means of coercion", and that "where force is used, authority itself has failed".¹² According to this view, legitimate authority, or accepted claims to command to which humans willingly submit, can be distinguished from *de facto* authority, or some form of power that achieves compliance without a correlative obligation to obey.¹³

Power, nevertheless, remains a key element in the authority equation. Weber's notion of legitimacy, embedded in coercive structures and "the 'threat of force' in relations between superiors and subordinates", points to the complex relation between power and authority.¹⁴ The state and its institutions are authoritative not only because the body politic acknowledges its right to rule, but also when it accepts as legitimate its power to coerce, the exercise of force and the threat of punishment. There are two quite different explanations of how authority operates, then: "submission or subordination that excludes compulsion" and "the rightful use of force in order to procure obedience".¹⁵ Thus, political authority "represents a fusion of power with legitimate social purpose" where the domination that an authoritative actor or institution has over another is considered morally valid by the polity.¹⁶

So what, then, are legitimate claims to, or grounds for belief in, authority? Acceptable justifications for acquiring and exercising power have varied throughout history. Divine sources historically legitimated social orders and rules, with religious doctrine and leaders being the earthly manifestation of God's authority. While this religious claim to authority was effectively replaced during the European Enlightenment by secular moralism, the political authority of many Islamic states still derives fundamentally from religious ideas.¹⁷ Traditional sources of authority in the Weberian sense also include heredity principles and the sanctification of the past, where power is legitimated on the basis of lineage and cultural

¹⁰ Max Weber, *The Theory of Social and Economic Organization*, A.M. Henderson & T. Parsons, trans., New York: Oxford University Press, 1947. On the distinction of authority over beliefs, as opposed to conduct, see Steven Lukes, *Moral Conflict and Politics*, Oxford: Clarendon Press, 1991, pp. 96-97.

¹¹ Ian Hurd, 'Legitimacy and Authority in International Politics', *International Organization*, 53:2, 1999, p. 387.

¹² Hannah Arendt, 'What is Authority?', in *Between Past and Future: Eight Exercises in Political Thought*, New York: The Viking Press, 1968, p. 93. For more on this argument see Peter Blau, 'Critical Remarks on Weber's Theory of Authority', *American Political Science Review*, 57 (1963).

¹³ On the distinction between *de facto* and *de jure* authority, refer to Joseph Raz, 'Authority and Justification', in Raz (1990), pp.115-141.

¹⁴ Reinhold Bendix, *Max Weber: An Intellectual Portrait*, Berkeley: University of California, 1977, p. 482, fn. See also Nicholas Onuf & Frank Klink, 'Anarchy, Authority, Rule', *International Studies Quarterly*, 33:2 (1989), pp. 149-173.

¹⁵ Friedman (1990), p. 62.

¹⁶ John Gerard Ruggie, 'International regimes, transactions, and change: embedded liberalism in the postwar economic order', *International Organization*, 36:2 (1982), p. 198. For more on this argument, see Rodney Bruce Hall, 'Moral Authority as a Power Resource', *International Organization*, 51:4 (1997), pp. 591-622.

¹⁷ David Beetham, *The Legitimation of Power*, Atlantic Highlands, NJ: Humanities Press International, 1991.

tradition respectively.¹⁸ Ethnicity and national identity validated self-determination and state-building during the twentieth century, and continue to be a source of political hegemony today. Modern claims to political authority are bound up with the consolidation of capitalist civilization and liberal democracy, and their creeds of classlessness, equality, and rationalism.¹⁹ Democracy's legitimacy further rests on its system of rules and rule-making procedures perceived as being in accordance with 'right process', and that benefit the widest possible constituency.²⁰

Performance criteria of modern political authority have been in evidence since the end of World War II.²¹ Legitimacy is increasingly based on good governance, measured by problem-solving effectiveness and the adequate provision of public goods such as justice, security, property rights protections, and the creation of wealth. In other words, political authority is ultimately based on fulfilling its primary function of serving the governed. "The case for legitimacy of any political authority", according to Joseph Raz, "rests to a large extent on its ability to solve coordination problems and extricate the population from prisoner's dilemma type situations".²² Indeed, the authority of democratic regimes in large part derives from its capacity to mediate and resolve social conflicts, and its successful record of economic development and prosperity.²³

Claims to legitimacy are in and of themselves an insufficient test of authority, however. Because authority refers to an accepted asymmetrical relationship of command and compliance, it must be validated in some way by the subject.²⁴ Robert Dahl sums it up this way: "Authority is a matter of the right to command, and the correlative obligation to obey the person who issues the command. It is a matter of doing what he tells you because he tells you to do it".²⁵ Where there is no authority, citizens do not accept a state's rules and institutions as rightful, and the operative mechanism of compliance becomes fear of the state's power to punish or incentive structures. Political authority cannot be imposed, as it hinges on the notion of mutual acknowledgment in which "legitimation claimed and the according of legitimacy coincide in a shared recognition of entitlement".²⁶

Acceptance of the authority relationship can take various forms, the most common of which are consent and compliance.²⁷ The liberal-democratic tradition offers the most voluntarist account of political authority in which the autonomous individual grants consent for the

¹⁸ Kalevi Holsti, *The State, War, and the State of War*, Cambridge: Cambridge University Press, 1996. Weber refers to three different claims of authority: traditional, legal and charismatic.

¹⁹ Philip Corrigan & Derek Sayer, *The Great Arch: English State Formation as Cultural Revolution*, Oxford: Basil Blackwell, 1985.

²⁰ Thomas Franck, 'Legitimacy in the International System', *American Journal of International Law*, 82:4, 1988, pp.705-759; and G. E. M. Anscombe, 'On the Source of the Authority of the State', in Raz (1990), pp. 142-173.

²¹ James Rosenau, *Along the Domestic-Foreign Frontier*, Cambridge: Cambridge University Press, 1997; and Karen Litfin, 'Environment, Wealth, and Authority: Global Climate Change and Emerging Modes of Legitimation', *International Studies Review*, 2:2 (2000), pp. 129-130.

²² Joseph Raz, 'Introduction', in Raz (1990), p. 132.

²³ Seymour Martin Lipset, *Political Man: The Social Bases of Politics*, Baltimore: Johns Hopkins University Press, 1981.

²⁴ Arendt (1968); Beetham (1991); and James Caporaso, 'Changes in the Westphalian Order: Territory, Public Authority, and Sovereignty', *International Studies Review*, 2:2 (1990), pp. 1-28.

²⁵ Robert Dahl, *Democracy and Its Critics*, New Haven: Yale University Press, 1989, p. 42.

²⁶ Steven Lukes, 'Perspectives on Authority', in Raz (1990), p. 209.

²⁷ Arendt (1968); Beetham (1991) and Litfin (2000). On the contradictions of consent as evidence of legitimate authority, see L. Green, 'Commitment and Community', in Raz, (1990), pp. 240-267.

purpose of pursuing particular rights and interests.²⁸ The governed's consenting to the rules of social order is indeed what democracy is all about, where institutions and power are legitimated by public mechanisms of elections and participation. Consensual practices are not unproblematic, however. The notion of limited government and a degree of individual autonomy raise conceptual inconsistencies with the idea of consent as a foundation for legitimate authority.²⁹ For others, consensual principles set against the backdrop of the implicit threat of coercion is troubling. As Claire Cutler observes, "the notion of consent tends to equalize the positions of subjects and obscures the asymmetry in power relations between the governed and the governors".³⁰ Summing up the position of realist thinkers, Steven Lukes concludes that a voluntarist approach to authority is "largely illusory", because "behind the authoritative reasons and rules of recognitions...there always lies the *force majeure* of the ruler or rulers".³¹

Political arrangements may also be authoritative by virtue of implied consent to the organizing principles of the polity, which includes compliance, in *not* exercising the exit option, or *not* actively rebelling against the rules of order. The mere "surrender of private judgment", which entails refraining from "examining what one is told to do or believe" in the face of public exercises of power, constitutes acceptance of that authority.³² Whether consent is purposive or not, these modes of legitimation amount to forms of social recognition of the entitlement to authority. Indeed, to meet the basic test of authority, the normative arrangement must be considered obligatory and must be acknowledged publicly.³³

Authority, along with the intertwined, yet conceptually distinct, concepts of autonomy, control and territoriality, figures as one of the pillars of sovereign statehood.³⁴ External authority derives from other states' acknowledgment of the right to exist and to represent the population within a territorial jurisdiction. Juridical sovereignty bestowed by the international community is explicitly exclusive in that it sanctions one sole state ruler and proscribes multiple claims to political authority. Shared recognition among sovereign actors that there is no authority superior to that of the state is indeed what constitutes the international decentralized order. The mutual exclusion of external actors from domestic authority structures essentially equates Westphalian sovereignty with these separate, territorial spheres of authority.³⁵

²⁸ This is to be contrasted with a communitarian or social contract view of the state in which consent to political power is for the purpose of uniting the individual with a community for the purpose of achieving the collective will. See Lukes (1991), pp. 15-116.

²⁹ On the parallel tensions between autonomy and consent, and anarchy and authority, see Raz (1990), pp. 6-11.

³⁰ A. Claire Cutler, 'Locating "Authority" in the Global Political Economy', *International Studies Quarterly*, 43:1, 1999, p. 67.

³¹ Lukes (1991), p. 99.

³² Lukes (1991), p. 92. See also Friedman (1990); and H. L. A. Hart, 'Commands and Authoritative Legal Reasons', in Raz, (1990).

³³ A. Claire Cutler, 'Private international regimes and interfirm cooperation', in Rodney Bruce Hall & Thomas Biersteker (eds), *The Emergence of Private Authority in Global Governance*, Cambridge: Cambridge University Press, 2002, pp. 23-40.

³⁴ Caporaso (2000); and Litfin (2000).

³⁵ In Krasner's sovereignty typology, Westphalian sovereignty refers to the exclusion of external actors from domestic authority configurations. The remaining three sovereignty types are international legal sovereignty, interdependence sovereignty, and domestic sovereignty, which is equated with the exercise of public authority within a state. See Stephen Krasner, *Sovereignty: Organized Hypocrisy*, Princeton: Princeton University Press, 1999, pp. 9-25.

The parallel to exclusive sovereign authority is an internal governance arrangement that pivots around the state. Internal state authority is founded on the citizenry's belief that the state's institutions ought to be obeyed and that the power wielded by the state is legitimate. The state's political authority to validate and enforce rules of social control related to the use of force, conflict resolution, the administration of justice, and extraction is, in the Westphalian worldview, monopolistic.³⁶ Substate polities, institutions, and actors may exercise influence and command certain loyalty within society, but such arrangements are considered subordinate to the political authority of the state. Indeed, when the fundamental rules of social order and authority are violently contested we speak of a legitimacy crisis. A critical component of stateness, legitimacy is not only "the key to state strength", but is also highly correlated with state-society cohesion and state performance.³⁷ Consensus regarding the underlying principles and purpose, or "idea", of the state is essential to its legitimacy, serving as a "mechanism for persuading citizens to subordinate themselves to the state's authority".³⁸ In states where there are strong legitimacy sentiments that the body politic directs to the state, and where competing claims to authority are rejected, strength is enhanced. Unopposed extraction of resources, high rate and low cost of compliance, ease of mobilization of the population, and little opposition to the fundamental principles of the state all contribute to strong performance, or help maintain internal cohesion even when performance is poor, reinforcing the state's monopoly on exclusive authority.³⁹ States whose populations do not accept the legitimacy of its power, or obey largely out of fear of reprisal or punishment, have an authority deficit that cannot always be compensated for by central power or repression.

There is a close relationship between domestic authority structures and external authority. The authority principle as it operates internally both legitimates the state's mode of exclusive social control, and functions to buttress the divisions between authoritative jurisdictions. Implicit in the citizenry's recognition of the state's right to rule is that other rules and entities – domestic or external – are illegitimate, or at least subordinate. Steven Krasner is right when he argues that violations of Westphalian sovereignty or a loss of interdependence authority are not always related to reduced domestic authority.⁴⁰ A transgression of the rule of nonintervention, for example, does not necessarily erode the legitimacy of domestic order, even though it may constrain and limit that rule. Rather, it is the incapacity of the state to maintain exclusive authority within the domestic jurisdiction that may result not only in the weakening of its external sovereignty, but also in an erosion of its internal sovereignty. Likewise, the state's inability to quash competing domestic claims for loyalty and to preserve exclusive dominion over domestic territory and population groups suggests internal authority is partial. Authority is compromised when the state can not bar external actors from domestic spheres of authority, nor subordinate nonstate national actors to the state's authority, and when these actors are recognized as legitimate and authoritative by the body politic. State authority then sits at the crossroads of the international and national domains: it helps construct the Westphalian world order by protecting political spaces from external authority,

³⁶ Beetham (1991), p. 129 observes that the principle of popular sovereignty can coexist with other legitimating principles, such as heredity or theocracy.

³⁷ John Gerard Ruggie, 'International Structure and International Transformation: Space, Time, and Method', in Czempiel & Rosenau (1989), p. 28. Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, Boulder, CO: Lynne Rienner, 1991; and Holsti (1996), pp. 82-98, also emphasize the importance of non-material attributes in measures of stateness.

³⁸ Buzan (1991), p. 83.

³⁹ Hurd (1999).

⁴⁰ Krasner (1999).

and designates domestic political authority as the final arbiter of power and control within a specific jurisdiction.⁴¹

The Westphalian narrative generates a world with sharply drawn lines demarcating discrete territorial jurisdictions administered in relative isolation from other sovereign actors. The globe is divided up according to the institution of sovereignty that effectively functions as an exclusive property right granted over specific territories.⁴² Within the “restrictive political context” established by a boundary or “precise linear division”, the sovereign state is conferred with an exclusive right to rule in a circumscribed space, and competing authority claims by subnational or transnational groups are *ipso facto* illegitimate.⁴³ State authority not only resides at the heart of modern statehood, but also reproduces and legitimizes both a domestic and a global order founded on exclusive entitlement.

Authority Multiplicity

The Westphalian worldview may be more robust in theory than in practice, however.⁴⁴ The reification of the state in mainstream international relations has overstated sovereign authority as well as obscured alternative sources of political community, loyalty, and identity. Reminding us that “the European experience has overwhelmed other forms of political organization and produced the antihistorical idea that the Westphalian polity is a universal form”, Yale Ferguson and Richard Mansbach stress that multiple and competing polities have been a constant throughout human history.⁴⁵ Medieval Europe epitomized the messiness of sociopolitical order, during which “overlapping and incomplete rights of government...were inextricably superimposed and tangled” and in which “different juridical instances were geographically interwoven and stratified, and plural allegiances, asymmetrical suzerainties and anomalous enclaves abounded”.⁴⁶ While the doctrine of sovereignty attempted to solve the feudal disarray by legitimating exclusive political authority and the monopolization of violence within fixed territorial spaces, this has remained an ideal form of political order at best. Even the consolidation of sovereignty in the post-war industrialized nations contradicts what may be the more common global experience, in which political authority is dispersed, alternative forms of order abound, governments compete for the loyalty of their citizens, centralized control over territories and boundaries is partial, and property rights regimes are not stable.

⁴¹ Caporaso (2000); and Krasner (1999).

⁴² Kratochwil (1995); and C. M. Hann, ‘Introduction: The Embeddedness of Property’, in C. M. Hann (ed.), *Property Relations: Renewing the Anthropological Tradition*, Cambridge: Cambridge University Press, 1998, pp.1-47.

⁴³ Peter Sahlins, *Boundaries: The Making of France and Spain in the Pyrenees*, Berkeley: University of California Press, 1989, p. 4, distinguishes between exclusionary boundaries, and the more fluid, social context of frontiers.

⁴⁴ The Westphalian ideal of terminating the medieval organization of overlapping and competing authorities within a territorial space has been widely questioned. See especially Stephen Krasner, ‘Westphalia and All That’, in Judith Goldstein & Robert Keohane (eds), *Ideas and Foreign Policy: Beliefs and Institutions and Political Change*, Ithaca, NY: Cornell University Press, 1993, pp. 235-264; and Andreas Osiander, ‘Sovereignty, International Relations and the Westphalian Myth’, *International Organization*, 52:2, 2001, pp. 264-266. For a discussion of the state’s persistent inability to monopolize violence within sovereign territories post-Westphalia, see Janice Thompson, *Mercenaries, Pirates, and Sovereigns*, Princeton: Princeton University Press, 1994.

⁴⁵ Ferguson & Mansbach (1996).

⁴⁶ Perry Anderson, *Lineages of the Absolutist State*, London: New Left Books, 1974, pp. 37-38.

To begin with, the proposition of exclusive internal state authority is rather dubious. Compound authority structures can be found in most domestic systems. Some openly, and even violently, vie with the state in cases of polities with diverse ethnonational or ideological groups with competing political and territorial claims. Perhaps more common is the nesting of authorities within others, where various political authorities share the same national or subnational territory, and maintain authority relationships with the same constituency, as is the case with municipal, regional and central governments.⁴⁷ The state may also encompass a wide range of non-political authority patterns that are structured around organized religion, charismatic and social movements, civic associations, criminal organizations, or indigenous or tribal groups. In such cases, the state is “only one of many collective symbols with which people identify and to which they may be loyal”.⁴⁸

World order stands in even sharper contrast to that produced by the Westphalian narrative. At the most elementary level, sovereign statehood does not preclude external influences – in fact transnational flows continually penetrate the state. Peripheral states are particularly porous, and hence vulnerable to global economic, political, and normative pressures. Likewise, the partial dependence of sovereignty on recognition by other states makes the idea of truly exclusive sovereign authority somewhat problematic. Westphalian advocates might argue that exclusivity refers to the “claim to internal autonomy and external independence *recognized* as legitimate by other states that are constituted as sovereign in the same way”.⁴⁹ And yet, even the norm of exclusive spheres of authority seems increasingly open to question. Informal empires, for instance, suggest that there exist legitimate authority structures in the international system in which states interact according to accepted dominant-subordinate rules that produce consenting identities.⁵⁰ Ian Hurd further argues that “legitimacy matters” in international institutions and that state compliance is evidence of global authority.⁵¹ Indeed, many international regimes point to rules and hierarchical ordering principles accepted as legitimate by sovereign states.⁵²

While the self-contained state is the locus of social and political organization in the Westphalian world, current global order is increasingly composed of multiple and overlapping jurisdictions and sociospatial scales. The ‘glocalisation’ of sovereign forms of governance has resulted in a complex web of cross-cutting and intersecting grids at the local, regional, state, and world levels.⁵³ This re-scaling of the state, which involves the devolution of specific aspects of governance capacities to supra and sub-state scales, has been paralleled by the emergence of a vast transglobal arena comprised of a dizzying array of private, nonstate

⁴⁷ Ferguson & Mansbach (1996), pp. 22-23 and 393-398.

⁴⁸ Ferguson & Mansbach (1996), p. 13.

⁴⁹ Connie McNeely, ‘The Determination of Statehood’, in Frank Lechner & John Boli (eds), *The Globalization Reader*, Malden, MA: Blackwell, 2000, p. 200.

⁵⁰ Alexander Wendt & Daniel Friedham, ‘Hierarchy Under Anarchy: Informal Empire and the East German State’, *International Organization*, 49:4 (1995), pp. 689-721. On heteronomous rules in international relations, see Onuf & Klink (1989).

⁵¹ Hurd (1999), p. 403.

⁵² Two noteworthy examples are the liberal international economy and the Cold War collective security system. See Ruggie (1982) and Alexander Wendt, ‘Collective Identity Formation and the International State’, *American Political Science Review*, 88:2 (1994), pp. 384-396, respectively.

⁵³ On the transformation of social spaces through processes such as ‘glocalisation’ and rescaling, see Brenner (1999); Peter Mandaville, ‘Territory and Translocality: Discrepant Idioms of Political Identity’, *Millennium*, 28:3 (1999), pp. 653-673; N. Smith & W. Dennis, ‘The restructuring of geographical scale: coalescence and fragmentation on the northern core region’, *Economic Geography*, 63 (1987), pp. 160-182; and Eric Swyngedouw, ‘Authoritarian governance, power, and the politics of rescaling’, *Environment and Planning D: Society and Space*, 18 (2000), pp. 63-76.

actors, networks, and polities. These manifold sociopolitical terrains are intertwined with, subsumed by, and superimposed upon other spaces or scales, presenting a global model increasingly at odds with one built on assumptions about self-enclosed territories and exclusive sovereign authority structures derived from state-centric epistemologies.⁵⁴ This spatial reconfiguration related to globalizing processes transcends the Westphalian “territorial trap”, producing new sites of power, authority and contestation through a reshuffling of sociopolitical relationships.⁵⁵

Although inadequate to capture the intricacies of what Neil Brenner describes as a “polymorphic institutional mosaic composed of multiple, partially overlapping levels that are neither congruent, contiguous nor coextensive with one another”, we can conceptually locate these alternative sites of authority above, alongside, and below the national space.⁵⁶ Rearticulating the basis of differentiation of political spaces away from the absoluteness of territoriality permits conceptualizing new sociospatial domains that can better accommodate issues not confined to a single space.⁵⁷ States, for their part, may still be tied to a territory, although these spatial designations are no longer mutually exclusive from other polities. At the same time, nonstate forms of social and political community are increasingly unbundled from territoriality: formal and informal institutions, actors, processes, networks and communities operate both within and across these scales, forming relationships, dispersing allegiances, and diluting claims to sovereign exclusivity.

At the suprastate level, the expansion of transworld institutions, multilateral regimes, and global laws reflects the ongoing movement toward mechanisms of global governance. Configurations above the state involve diverse functions to deal with “those dimensions of collective existence that [states] recognize to be irreducibly transterritorial in character” such as global capitalism, the environment, security and justice.⁵⁸ The fusion of individual national economies within one global economic structure has led to a growing regulatory role of multilateral economic institutions such as the IMF and the WTO. Changing global norms related to human security and responsibility for the provision of security in the post-Cold War period have resulted in a new role for regional organizations and the United Nations in peacekeeping, conflict resolution, and humanitarian interventions within state jurisdictions. Establishment of a permanent International Criminal Court with extensive jurisdictional and enforcement powers, and development of the first uniform worldwide code on universal jurisdiction all reflect the growing reach of international law and global legal institutions. At the regional level, the dispersion of some governance functions upward to a collective institutional apparatus in the tradition of the European Union continues to occur, albeit to varying degrees, in all the world’s major regions.

A second nonterritorial sociopolitical space slices through national domains, forming a vast cross-section of societies on a global scale that is conceptually located alongside the state. The agendas and activities of transworld NGO’s, privatized governance, world business enterprises, global civil communities, and transnational social movements have transformed

⁵⁴ Informative discussions of state-centrism in the social sciences can be found in John Agnew, ‘The territorial trap: the geographical assumptions of international relations theory’, *Review of International Political Economy*, 1:1 (1994), pp. 53-80; Brenner (1999); and Walker (1993).

⁵⁵ Agnew (1994).

⁵⁶ Brenner (1999), p. 53.

⁵⁷ In John Gerard Ruggie, *Constructing the World Polity: Essays on International Institutionalization*, London: Routledge, 1998, pp. 172-197, Ruggie speaks of the “paradox of absolute individuation” based on territory, referring to the contradiction between mutually exclusive territorial state formations and global issues.

⁵⁸ Ruggie (1998), pp. 190-191.

how people organize themselves. Whereas Westphalian collectivities were arranged hierarchically, as if on a ladder in which processes move up or down, “from one rung to the next in an orderly fashion” and with “the central state mediating all links between the external or higher levels and the internal or lower ones”, contemporary communal global relations are arranged horizontally.⁵⁹ With little or no state involvement, human groups form relationships directly with other national or global collectives, networks connect diverse associations in every corner of the world, and actors jump out of national spaces to link up with functionally complementary agents. Mobilized by the transnationalization of issues and interests as diverse as human rights, organized crime, business, religious-based terrorism, environmental protection, drug trafficking, and public health, these organizations slice through states and societies, set national and transnational agendas, and mobilize global constituencies.

A wide variety of actors, institutions and processes also occupy the subnational strata. National rescaling has transferred regulatory and political autonomy to municipal and provincial governments ‘below’ the state, while interest groups, NGO’s and civic associations increasingly are involved in a wide array of public and private functions in areas such as security, education, and development. Processes of reterritorialization not only shift political organization downward, but can also reveal and activate marginalized or dormant polities within the nation-state. Guerrilla groups, minority federations, religious movements and even criminal organizations may have largely local constituencies, but at the same time are embedded within frameworks whose spatial parameters exceed the territorial state. Indeed, many groups that operate below the state function on multiple scales simultaneously through global linkages that “increasingly subsume domestic policy processes themselves and incorporate domestic actors into wider, cross-cutting arenas”: local mafias fuse with global criminal and terrorist networks, provincial governments maintain trade offices in other countries and negotiate loans directly with the World Bank, and indigenous rights movements are transformed into global activists through common agenda setting with transnational NGO’s.⁶⁰

In reality, supranational, transworld, state, and subnational scales intersect, criss-cross and overlap one another in complex ways, making it difficult to neatly assign a space of residence. Any particular issue may engulf actors and processes in all spheres simultaneously, creating multilevel domains of action and stretching spaces so as to bridge different spheres. To take a striking example, the human rights regime is composed of the United Nations system, international organizations, regional structures, transnational advocacy coalitions, donor states, local and international NGO’s, and community activists, constituting an enormous network of actors whose issue is supraterritorial and whose jurisdiction is global.⁶¹

The understandings and practices related to the transformation of global sociospatial arrangements challenge what Naem Inayatullah and David Blaney call the “logic of straight lines” predominant in conventional thinking on authority.⁶² Multiple and overlapping layers of governance and political organization also become sites of competing claims to authority. Alternative organizational forms of political and social space give rise to new relationships,

⁵⁹ James Anderson, ‘The Shifting Stage of Politics: New Medieval and Postmodern Territorialities’, *Environment and Planning D: Society and Space*, 14:2 (1996), p. 151.

⁶⁰ Philip Cerny, ‘From “Iron Triangles” to “Golden Pentagles”?’ Globalizing the Policy Process’, *Global Governance*, 7:4 (2001), p. 398.

⁶¹ Thomas Risse, Stephen Ropp & Kathryn Sikkink (eds), *The Power of Human Rights: International Norms and Domestic Change*, Cambridge: Cambridge University Press, 1999.

⁶² Inayatullah & Blaney (2004), p. 5.

affiliations, identities, and loyalties to something other than the nation-state, rebutting the thesis of mutually exclusive territorial systems of rule based on the state, and in particular the notion that the nation state has a monopoly on authority.

The notion of exclusive state authority seems somewhat quaint in the face of such a multiperspectival tableau. National governments continue to be important sources of authority and political organization, but exist alongside multiple authorities in multiple spheres. The growing legitimacy of nonstate actors within domestic domains and authority relationships that stretch out into other sociospatial levels poses a challenge to the rules of power involving exclusive sovereign authority. Thus what has been described as a “power shift” away from the state – up, down, and sideways – to supranational, subnational, and transnational actors as part of the emergent world order also involves the rearrangement of authority.⁶³ World order is more appropriately conceived of, not as a rigid “collection of countries or relations among states, but as congeries of authority relationships, some of which are coterminous with countries and states and others of which are located within or extend beyond state boundaries. Mapped in this way, the globe more nearly approximates present day experience than does the conventional portrayal of some [180] discrete territorial units”.⁶⁴

Constructing Authority Alternatives

The focus in this paper is on the formation of alternative authority relationships between civil society and non-state actors or institutions. According to the concept defined earlier, for a claim to authority to be considered legitimate there must be some form of social recognition of and public compliance with what is in essence an asymmetrical relationship. What is it that contributes to individuals developing new legitimacy sentiments, and to regarding a non-state actor, institution, regime, community, or polity as authoritative?

Global processes appear to be facilitating the emergence of new authority relationships. Contemporary global order and technological transformations have increased exponentially the organizational options available to human communities within, between, and across the local, transnational and cosmopolitan scales. New social processes and relations thus open up endless possibilities for independent organization around non-sovereign nuclei, and for the formation of alternative legitimacy sentiments and allegiances. As James Rosenau points out:

under stable conditions most people have no difficulty knowing which collectivity commands their highest loyalties.... But when turbulence upsets global parameters, when habits of compliance begin to come undone and criteria of legitimacy begin to shift, loyalties, too, become vulnerable to change.⁶⁵

In addition to global developments that have increased the opportunity to forge new forms of sociopolitical organization, human groups also have motives for purposively seeking out alternatives to the state. In this case, developments at the macro-level combine with the steady substitution of performance criteria for traditional sources of authority at the domestic level to provide a more complete account of authority transformations.⁶⁶ The legitimacy of state power is increasingly unbundled from tradition and inertia, and coupled with the ability

⁶³ Jessica Matthews, ‘Power Shift’, *Foreign Affairs*, 76:1 (1997), pp. 50-66.

⁶⁴ Rosenau (1990), p. 39.

⁶⁵ Rosenau (1990), pp. 237-238.

⁶⁶ Rosenau (1990); Nicholas Kittrie, *The War Against Authority: From the Crisis of Legitimacy to a New Social Contract*, Baltimore: The Johns Hopkins University Press, 1995; and Litfin (2000).

of the state to solve problems, provide welfare, and establish order. This shift toward performance criteria of authority, prominent since the end of World War II as demands grew for economic prosperity, is attributed to the constraining effects of globalization, expanded analytic skills of citizens, technological developments, and processes of modernity and industrialization.⁶⁷ As Yale Ferguson and Richard Mansbach stress, the authority of any polity is in essence “an exchange phenomenon in which loyalties and other resources are provided in return for value satisfaction (or relief from value deprivation)”.⁶⁸ Thus, the systematic failure to provide value satisfaction may erode loyalty sentiments to the state, compromise compliance, and trigger interest in alternative rules of social order. For weak states on the global periphery that cannot meet the basic tests of empirical statehood, or legitimacy, the citizenry may be particularly disposed to authority substitutes. Hurd is right to caution that any “social system that relies primarily on self-interest” where members are constantly evaluating compliance and defection according to a payoff structure “will necessarily be thin and tenuously held together”.⁶⁹ Nevertheless, the sustained incompetence and inefficiency of many governments may precipitate the transfer of constituency allegiance to entities perceived to be more instrumental in achieving fundamental human needs and aspirations.

The emerging framework of multiple authority structures can present incompatibilities with the sovereign state. In extreme cases of competition for exclusive territorial control, where authority gained by one actor necessarily entails a corresponding reduction in state authority, the legitimate exercise of power can be considered zero-sum. Some governments also consider the intromission of global authorities in domestic affairs as an encroachment on their jurisdiction, or view alternative targets of citizen loyalty as potential rivals that need to be subordinated to the political authority of the state. Weak states may face particular challenges in this regard, where the combination of increased authority options with a persistently poor domestic performance may make these populations more prone to seek out alternatives. Furthermore, the growing legitimacy of nonstate actors as competent authorities within the domestic jurisdiction may exacerbate already precarious structures of authority and even undermine juridical sovereignty.⁷⁰ In failing states with acute internal political emergencies, the inability to generate confidence in state authority can be disastrous. The total collapse of sovereign authority, where coercive force is insufficient to maintain power, provides dramatic evidence for the importance of legitimacy to state strength, the obedience of the citizenry, and internal order.⁷¹

But states are not always in direct competition for authority, as the Westphalian model would suggest. Particularly in peripheral contexts, non-sovereign actors at every level of the global order increasingly carry out basic functions of the state within domestic jurisdictions that governments are simply unwilling or unable to perform. Markets, global institutions, NGO networks, paramilitary and subversive groups, and even criminal organizations are perceived by national constituencies as legitimate and competent authorities. Nicholas Onuf suggests that the reconfiguration of the state as a part of globalizing processes has led to a continual “functional specialization” by which authority is disaggregated and spun off to public and

⁶⁷ Rosenau (1990), pp. 61-77; and Litfin (2000), pp. 129-130.

⁶⁸ Ferguson & Mansbach (1996), pp. 36-37.

⁶⁹ Hurd (1999), p. 387.

⁷⁰ Mohammed Ayoob, ‘State Making, State Breaking, and State Failure’, in Chester Crocker & Fen Osler Hampson (eds), *Managing Global Chaos: Sources of and Responses to International Conflict*, Washington, DC: U.S. Institute of Peace Press, 1996, pp. 41-45.

⁷¹ Beetham (1991), p. 28.

private institutions in differentiated issue-areas.⁷² In this scenario, non-state actors, institutions and regimes are “recognized socially as possessing authority within certain issue domains”.⁷³ Such arrangements are prevalent in the Third World where state failure to fulfil basic functions or to provide fundamental public goods creates what Phil Williams calls “functional holes” which are quickly filled by a wide range of authority alternatives.⁷⁴

The active role of states in legitimizing non-sovereign authorities cannot be underestimated. Not only do national governments actively devolve governance and regulatory functions to local agencies, but with a few notable exceptions, most states acknowledge the authority of international organizations in limited issue areas. Wendt’s “international state”, in which certain state functions have been transferred to transnational structures of political authority with the collective capacity to sanction those who violate the norms related to the performance of those functions, captures this dynamic.⁷⁵ State acceptance of new authority arrangements is not limited to public institutions, however. Governments also legitimate the exercise of private authority, most notably by international economic regimes, transnational organizations and arbitration panels, through “devolution, delegation, or even silent permission”.⁷⁶ Neither do states seriously challenge that NGO’s now “assume authority in matters that, traditionally, have been solely within the purview of state administration and responsibility”.⁷⁷ On the contrary, the practice of sovereign outsourcing, particularly in the global south, on everything from budgetary to military matters, is actively reconstructing authority norms and knowledge.

At the same time, the social processes that bring together communities in new authority relationships involve understandings and practices by individuals and groups. The voluntarist approach to authority proffered by the liberal tradition, as well as Rousseau’s social contract, are based on the idea of purposive individuals agreeing to accept an authority exchange. Likewise, in John Boli’s notion of “rational-voluntarist authority” the principle of voluntarism prevails, in which knowledge and reason are the “causal processes that shape societal structure and operations”.⁷⁸ Although the presumption of individual freedom in these theories is, to my view, overstated, such approaches to authority importantly recuperate the agency of human communities in constructing social relationships and forming identities. Behaviour by and interactions among citizens, societal actors and the state continually creates, legitimates and transforms authority structures as a part of the constitutive process of interests and identities.⁷⁹ The repeated practices of individuals, networks, non-sovereign actors and of states themselves facilitate the transnational transmission of ideas, creating a new normative

⁷² Nicholas Onuf, ‘Intervention for the Common Good’, in Lyons & Mastanduno (1995), pp.43-58.

⁷³ Thomas Biersteker & Rodney Bruce Hall, ‘Private authority as global governance’, in Hall & Biersteker (2002), p. 209.

⁷⁴ Phil Williams, ‘Transnational organized crime and the state, in Hall & Biersteker (2002), p. 171.

⁷⁵ Alexander Wendt, *Social Theory of International Politics*, Cambridge: Cambridge University Press, 1999; and Wendt (1996).

⁷⁶ Cutler (2002), p.35. See also A. Claire Cutler, Virginia Haufler & Tony Porter (eds), *Private Authority and International Affairs*, Albany, NY: SUNY Press, 1999; Hall & Biersteker (2002); and Louis Pauly, ‘Capital Mobility, State Autonomy and Political Legitimacy’, *Journal of International Affairs*, 48:2 (1995), pp. 369-388.

⁷⁷ Ann Marie Clark, ‘Non-Governmental Organizations and Their Influence on International Society’, *Journal of International Affairs*, 48:2 (1995), p.508. See also John Boli, ‘World Authority Structures and Legitimation’, in John Boli & George Thomas (eds), *Constructing World Culture: International Nongovernmental Organizations Since 1875*, Stanford: Stanford University Press, 1999, pp. 267-300.

⁷⁸ Boli (1999), p. 275.

⁷⁹ For the constructivist position in International Relations, see Martha Finnemore, *National Interests in International Society*, Ithaca: Cornell University Press, 1996; and Alexander Wendt, *Social Theory of International Politics*, Cambridge: Cambridge University Press, 1999.

and institutional framework of world order.⁸⁰ It is through the meanings inscribed by these practices and interactions that alternative social arrangements are being constituted and legitimated. Authority is not something imposed from the top down which consenting behaviour then ratifies. Rather it is a social and political relationship based on interests, norms, identities, and ideas, continually being reproduced and modified through the everyday actions, shared expectations, and causal logics of individuals and communities.

Colombia's Authority Architecture

Deviating from the Westphalian ideal, Colombian sovereign authority has been partial and fragmented throughout its history. The relentless problems of state weakness, social instability, and violence are highly correlated with the difficulties in legitimating centralized authority, and with the persistence of alternative political orders.⁸¹ Colombian authority has indeed coexisted uneasily with diverse forms of sociopolitical organization that at different periods have operated alongside the state, have filled the void left by the state's absence, and have actively challenged the government for political control. This section will first sketch the historical contours of the Colombian state's overlapping authority structures with the regions, armed social movements, political parties, and the Catholic Church, followed by a discussion of the emergent authority alternatives. Brief presentations of five cases will serve to illustrate the features common to these authority challenges.

Splintered Authority Structures

Any discussion of state authority and alternative orders in Colombia must begin with the most evident constraint on the consolidation of a national political project: the weak presence, and in some cases absence, of the state apparatus in much of what is legally Colombian territory. According to Miguel Centeno, Colombia's "traditionally weak state has not been able to impose assumed centralized control even after almost two hundred years of independence", permitting the growth of strong regional loyalties and identities, and the formation of parallel, extralegal authorities.⁸² Adding to geographic complexities, politics of official exclusion resulted in a splitting off of wide swaths of the population that colonized remote territories beyond the reach of the state. This condition has given rise to alternative forms of social order and integration at the margins of the imagined Colombian community.⁸³ A strong federalist system throughout the nineteenth century exacerbated a tendency toward regional strength and autonomy relative to central consolidation.⁸⁴

⁸⁰ On the causal logic of interest formation through transnational processes see Andrew Moravcsik, 'Taking Preferences Seriously: A Liberal Theory of International Politics', *International Organization*, 51:4 (1997).

⁸¹ Marco Palacios, *Entre la legitimidad y la violencia, Colombia 1875-199*, Bogotá: Grupo Editorial Norma, 1995; Ingrid Bolívar, 'Sociedad y Estado: la configuración del monopolio de la violencia', *Controversia*, 175 (1999), pp.11-39; and María Teresa Uribe, *Nación, Ciudadano y Soberano*, Medellín: Corporación Región, 2001.

⁸² Miguel Angel Centeno, *Blood and Debt. War and the Nation-State in Latin America*, University Park, PA: The Pennsylvania State University Press, 2002, p. 329.

⁸³ María Teresa Uribe, 'Las soberanías en disputa ¿conflicto de identidades o de derechos?', in Gonzalo Sánchez & Maria Emma Wills (eds), *Museo, Memoria y Nación. Misión de los Museos Nacionales para los ciudadanos del futuro*, Bogotá: Ministerio de Cultura, Museo Nacional de Colombia, PNUD, IEPRI, ICANH; and Uribe (2001).

⁸⁴ Gonzalo Sánchez, *Guerra y Política en la Sociedad Colombiana*, Bogotá: El Áncora, 1991; Alvaro Tirado, 'Violence and the State in Colombia', in Eduardo Posada-Carbó (ed.), *Colombia: The Politics of Reforming the State*, New York: St. Martin's Press, 1998; and Marco Palacios and Frank Safford, *Colombia: Fragmented Land, Divided Society*, New York: Oxford University Press, 2002.

The most compelling example of alternative authority in Colombia has been the armed actors that have thrived alongside the state's incapacity to consolidate territorial control and exercise a monopoly on the legitimate use of force. The earliest guerrilla organizations that grew out of rural defense movements in the face of official repression and violence gravitated toward marginal areas and disenfranchised populations. Through a combination of ideological empathy, public works, the provision of basic services, and coercion, subversive movements succeeded in establishing a degree of legitimacy with these non-citizens who lacked a social contract with the state. The strategies of the *guerrilla*, paramilitaries and self-defense groups, and narco-mafias to essentially replace the state and control territory, markets, and political structures increasingly resemble 'warlord politics', where political violence and violent conflict resolution have effectively replaced the state of law. At the same time, these extralegal orders provide a modicum of stability, security, and identity. Although much of the escalating violence and predatory practices against the civilian population has jeopardized the authority of these armed groups, they nevertheless have been able to establish rudimentary social orders within communities shunned by civil society and excluded from central government policies. Remote areas remain a virtual no-man's land or have come under the *de facto* authority of the FARC, narcotraffickers, or paramilitaries. Ongoing efforts by subversive movements and the government to establish authority in these renegade territories, either through the use of force or through attempts to construct a new social project, illustrate what Maria Teresa Uribe refers to as ongoing "disputed sovereignties" between alternative orders and a legally constituted mandate.⁸⁵

A second theme that dominates the history of Colombia's fractured authority is the party system. Rather than channel political participation within a national polity, parties in Colombia were essentially highly polarized political subcultures around which political and social identities adhered.⁸⁶ The Liberal-Conservative party system produced a rigid, ideological dualism in Colombia from 1850 that replaced national unity with a divided political project. Society was mobilized along party lines, and clientelist practices embedded party identity, and loyalty, within all facets of public and private life. The strong social bonds between party and specific sectors of the population eventually led to extreme sectarianism that exploded in the period of *La Violencia* (1948-1957), during which the state was converted into a site of violent contestation between the Liberal and Conservative factions. Whichever party managed to capture the public apparatus dominated every level and institution of the state. Until the decline that began during the National Front period, political parties were effectively the dominant sociopolitical referent in Colombia, and the only source of identification and loyalty that managed to transcend the territorial, cultural and economic fragmentation that defined the Colombian experience. The form of nationality that was constructed through the two-party system, however, institutionalized a fractured authority structure and thwarted a centralized national project.

The Catholic Church is a third factor central to an analysis of authority in Colombia, both in conjunction with the state as a political player, and as an independent force in society. Following liberal efforts to limit the church's influence in public affairs in the middle of the nineteenth century, a conservative backlash returned the Catholic Church to the seats of power. Indeed, the establishment of the Republic of Colombia as a Catholic state in the 1886 constitution that would last more than one hundred years permitted the construction of a

⁸⁵ Uribe (2001).

⁸⁶ Daniel Pecaut, *Orden y Violencia: Colombia 1930-1954*, Bogotá: CEREC-Siglo XXI, 1987; and Gary Hoskin, 'The State and the Political Parties in Colombia', in Posada-Carbó (1988).

political project around the idea of an indivisible catholic nation.⁸⁷ Church positions on suffrage, civil liberties, property rights, education, marriage, and taxation were advanced as the basis of social order and protected by public policy. In spite of a move toward liberalization in the 1930s, the political institutions and norms advocated by the conservative state-church regime were incapable of integrating the regionally, culturally and socially divided nation around a modern democratic project.⁸⁸ The subsequent political reconciliation during the National Front period was partially based on a strategy of national unity in which both parties formally recognized the supreme authority of God and the Catholic Church.⁸⁹ Nevertheless, in a guilty-by-association logic the church suffered a parallel loss of legitimacy during this period of national crisis. A rapid process of secularization of Colombian society culminated with the 1991 constitution that formally terminated the Catholic character of the Colombian state. The Church, however, continues to be an important political interlocutor, and has transformed its role as a key actor in Colombian society and in negotiations between the government and the armed actors during the past decade.

Contemporary Authority Vignettes

A fractured order in which violent groups seek political power and legitimacy continues to be the defining characteristic of Colombia's authority architecture. Simultaneously, changes at the global level are stirring up the authority pot in Colombia in new ways. Radical transformations of social and political spaces have facilitated the formation of new relationships, loyalties, and even identities unrelated to sovereign authority. Some of these new relationships need to be understood within the context of Colombia's highly contested political landscape. Others have been impelled by the failure of the Colombian state to consolidate a legitimate national project, solve the over forty-year internal conflict, or provide fundamental collective goods and value satisfaction. But the formation of new authority relations and the transfer of loyalty sentiments have also been facilitated by transnational social processes and multi-layered modes of global governance. These globalizing processes transcend the norm of sovereign exclusivity and have made possible the creation of new social orders between Colombian society and non-sovereign, non-territorial entities. The rest of this section presents four case studies that illustrate the types of heterogeneous and overlapping authorities emerging in Colombia.

The cases were selected first and foremost on the basis of evidence suggesting a conscious bypassing of the state on the part of members of Colombian society in an issue area that would normally be the purview of public institutions. In addition to the intentional circumvention of the state, each case also displays voluntarist behaviour on the part of private organizations or citizens with regard to non-state actors. Although the motivations vary from seeking value satisfaction to a specific remedy, the cases all exhibit purposeful public actions by members of society that may be considered validation of the legitimacy of the alternative relationship. In this sense I adopt the relational definition of authority discussed above that requires a claim to authority to obtain some form of public social recognition or consenting behaviour by constituent members for it to be considered legitimate. A third selection criterion required that the cases not involve actors whose mode of compelling obedience or recognition was dominantly related to violence or the threat of violence. Such cases make

⁸⁷ María Emma Wills, 'De la nación católica a la nación multicultural: rupturas y desafíos', in Sánchez & Wills (2000).

⁸⁸ Alvaro Tirado, 'Las relaciones entre la Iglesia y el Estado en Colombia', *Revista Universidad de Antioquia*, 210 (1987).

⁸⁹ Fernán González, *Poderes Enfrentados. Iglesia y Estado en Colombia*, Bogotá: CINEP, 1997, p. 396.

arguments in favour of an ‘authoritative’ nature quite problematic, in that instrumental explanations or fear of reprisal become the overriding explanations for compliance, or at the very least are too entangled with normative factors to be very meaningful. Thus, obvious cases of potential non-state authorities in Colombia such as the paramilitaries or the FARC were not considered.

Although each case of an alternative socio-political relationship was selected on the dependent variable, this was justified by the central question posed by the research project. I intentionally chose scenarios that demonstrate distinct authority arrangements, yet with no prior certainty regarding what the effects would be on the Colombian state. My purpose is to inquire into the changing nature of authority structures in Colombia and to question how the dispersion of authority to non-sovereign actors has affected the legitimacy of the state. As will be discussed, the findings suggest varied consequences.

Each authority vignette tells a micro-level story of the formation of non-traditional authorities in Colombia in different arenas and issue areas. The cases additionally attempt to provide answers to six questions related to the overall project theme: 1) in what way was sovereign authority not recognized; 2) what was the motivation for individuals and communities jumping sovereign institutions and seeking alternative authorities; 3) what is the basis of authority of the non-sovereign actor; 4) what evidence exists that these alternative actors possess legitimate authority with Colombian society; 5) what is the socio-political site of the new authority; and 6) what are the implications for Colombian sovereign authority?

1. The Case of Las Palmeras: Human, Sovereign and Supranational Rights

The murder of six citizens in the rural elementary school Las Palmeras in Mocoa, Putumayo, on 23 January 1991, in a joint operation by the army and the National Police, put in motion one of only two cases from Colombia that have so far been tried by the Inter-American Human Rights Court.⁹⁰ Family members were devastated to learn the military version of the incident: that their loved ones were guerrillas who had been killed in combat against the army and police. To add insult to injury, the assassinated men were found dressed in the camouflage uniform of the FARC.

The families of the deceased immediately began legal action against the state on three different fronts: 1) under the military penal code against the Captain and 41 members of the National Police for human rights violations; 2) a disciplinary action against the Police for administrative errors in the execution of their duties; and 3) against the Police for material damages and vituperation of the families’ moral character by having associated them with the FARC. In the wake of the dismissal of the second charge by the National Police in Putumayo just five days after its filing, and the lack of response on the other two charges, the families filed charges of human rights violations against the Republic of Colombia three years later in January of 1994 directly with the Inter-American Commission for Human Rights.

The development of human rights norms, their codification in global legal standards, and their socialization of state actors represents one of the most significant transformations in international order and in the institution of sovereignty to have occurred in the second half of the nineteenth century. As reflected in the Universal Declaration of Human Rights and

⁹⁰ The main source for this case is the following documents by the Inter-American Court of Human Rights: 1) *Las Palmeras Case vs. Colombia, Preliminary Objections*, February 4, 2000; 2) *Las Palmeras Case vs. Colombia, Judgement*, December 6, 2001; and 3) *Las Palmeras Case vs. Colombia, Reparations*, November 26, 2002.

following the lead of the European human rights system in the 1950s, American integration mechanisms increasingly adopted institutional commitments to democracy and human rights in the post-war period. Although the US role in the region and Cold War interests continued to privilege a narrow interpretation of the norm of non-intervention and self-determination, legitimating state autonomy and authoritarian regimes at the expense of a genuine human rights regime in the region, efforts to promote human rights bore fruit with the ratification of the Inter-American Convention on Human Rights in 1978.⁹¹ The convention limits absolute state rights by granting individuals and substate organizations a legal instrument for accusing a sovereign state of human rights abuses before a supranational entity. Turning the traditional norm of sovereign exclusivity on its head, such institutional arrangements reflect the fundamental idea that human beings “have normative standing in international relations independent of their status as subjects or citizens of particular sovereign states”.⁹² Where a signatory state does not respond to the Commission’s recommendations, the case will be tried by the Court that has the authority to determine responsibility and establish remedies. In spite of institutional and financial constraints on the Commission and the Court, the Human Rights System’s credibility with the Latin American constituency continues to grow as evidenced by the steady increase in the number of denunciations against member states by their own citizens.⁹³

After a two-year investigation, the Commission made a series of petitions to the state of Colombia regarding the case of Las Palmeras, including that the Colombian authorities conduct a serious and impartial account of what occurred in order to establish official responsibility, that the state of Colombia process those responsible according to due process of the law, and that the state make reparations to the families of the victims.⁹⁴ The Colombian government initially indicated interest in an amicable solution to the case, and indeed moved on certain charges in the original lawsuit. Nevertheless, the plaintiffs concluded that there did not exist sufficient guarantees to reach an agreement, and on 6 June 1998 the Commission presented the case to the Inter-American Court. The Court subsequently found the state of Colombia responsible for violating the American Convention of Human Rights in relation with the extralegal deaths of the six occupants of the school Las Palmeras, and also for violating the judicial guarantees and protections stipulated in various articles of the same convention. Three different types of monetary reparations were ordered, as well as the requirement that the state of Colombia enact a penal process to try and punish the responsible officers, as well as those officials involved in the subsequent cover-up, in November 2002.

This case vividly illustrates the non-recognition of state authority by society. The litigants not only bypassed the judicial authorities in Colombia, but also resorted to international legal institutions and mechanisms in order to seek redress against their own government. Las Palmeras places in stark relief the unwillingness of citizens to accept actions, justifications, and legal decisions by the highest authorities in the land, even when doing so places them at significant personal risk. In this case, the lack of confidence on the part of the plaintiffs that the state would arrive at justice was such that they were not even disposed to wait until the legal process that resulted from the Commission’s recommendations ran its course. The motivation to take the case to the Inter-American system on human rights was two-fold: the

⁹¹ Margaret Keck & Kathryn Sikkink, *Activists Beyond Borders*, Ithaca: Cornell University Press, 1998.

⁹² Robert Jackson, ‘International Community Beyond the Cold War’, in Lyons & Mastanduno (1995), p. 63.

⁹³ In 1997, 458 petitions were received by the Inter-American Commission on Human Rights; by 2001 the number had increased to 718. See Inter-American Commission on Human Rights, *Annual Report*, 2002.

⁹⁴ Inter-American Court of Human Rights (2001).

conviction that, because of the complicity of the state in the murder of their family members, it was impossible for the legal authorities to arrive at justice, and at the same time, confidence in the authority of the Commission to obligate the Colombian government to effect some remedy that it otherwise would not have. There are multiple bases of the authority of the Commission and the Court. In the first instance it is a legal authority founded on public international law and the Convention's ratification by the state of Colombia, obliging it to abide by the System's recommendations. The authority of the Inter-American Human Rights System is also founded on epistemic knowledge held by the institution's experts in the domain of human rights law. Thirdly, its authority is normative in that its rule structures are perceived as benefiting a larger human community, and its rulings are based on global humanitarian standards and values accepted as universal and hence, above those at the national level. Its inscription in a system of international public law is legitimated through the practices of both states and private actors alike. Not only does the Colombian government submit itself to the higher authority of the Commission and the Court in regard to rulings on human rights issues, but private substate organizations and citizens engage in public social recognition of the System's legal-institutional claims to authority by presenting cases to the Commission, and by consenting to abide by its decisions. The Inter-American Human Rights System is clearly located above the state: a suprastate legal authority legitimated through the ratification of its member states who accept the superior influence of the public international law that constitutes the system. The potential implications for Colombian sovereign authority are mixed. The superseding of juridical sovereignty in human rights cases undermines state autonomy and gives rise to uneven norm compliance *vis-à-vis* the other armed actors in the conflict. On the other hand, the state's willingness to abide by the Commission's and Court's rulings and provide remedies to victims of violence caused through acts of omission or commission, suggests how suprastate legal institutions may impel reforms at the national level. In this case, the strengthening of the rule of law in Colombia would seem to be an essential step toward recuperating state legitimacy with its citizenry.

2. Gilinsky v. Antioqueño Financial Group: Borrowing Foreign Courts

On 25 March 1999, the Gilinsky family filed a lawsuit against the Antioqueño business group that sought indemnities of between \$76 and \$200 million related to irregularities in the acquisition of the Bank of Colombia, and its subsequent merger with the Colombian Industrial Bank in 1997. In the new financial entity, Bancolombia, the financial syndicate became the majority stockholder and the Gilinskys the minority partner. Two years later, the Gilinsky family alleged that the financial group from Antioquia had artificially inflated the price of the Bancolombia stocks that were handed over to the new minority shareholders on the eve of the merger, the value of which fell nearly 80% in the following twelve-month period.⁹⁵ What is noteworthy about the case is that, although involving two Colombian financial entities, and in spite of explicit contractual stipulations that any legal action would be settled in a Colombian court of arbitration, the lawsuit was filed in the United States District Court in the Southern District of New York.

The Gilinsky family advanced a series of legal and technical arguments to justify what at first glance was an anomalous legal proceeding, the most significant of which was that the

⁹⁵ For a summary of the case, see *Semana*, 'Líos conyugales: El matrimonio entre los Gilinsky y el Sindicato en Bancolombia entró en crisis, habrá reconciliación o separación de bienes?', 822 (29 March 1999); and Sibylla Brodzinsky, 'El Sindicato Antioqueño versus la Familia Gilinsky', *Revista Poder* (30 November 2001). A second class action suit on behalf of stockholders was brought simultaneously against the Antioqueño Group for the fraudulent use of credits obtained by J. P. Morgan to purchase the Bank of Colombia, the debt for which was then absorbed by the new Bancolombia and passed on to its stockholders. See *El Tiempo*, 'Multado Bancolombia por préstamo al BIC', 25 March 2001.

American Depositary Receipts (ADR's) of the Colombian Industrial Bank, later Bancolombia, were listed on the New York Stock Exchange. Lawyers for the plaintiffs in New York also argued on purely instrumental grounds that US courts were more likely to favour the minority stockholders than was the Colombian legal system.⁹⁶ The Gilinskys' interest that the process develop in the United States was also related to a belief that the legal proceedings and decisions in the United States were more reliable, and that the Colombian legal system lacked sufficient authority to try the case.

There are various bases for this lack of confidence in Colombian jurisprudence institutions. First was the conviction that there was insufficient technical knowledge and experience within the court system to resolve the issue. Indeed, that complex financial and commercial cases in Colombia are managed by the non-specialized ordinary court system is one of the principal reasons for passing such cases to the arbitration system. In addition, the delays and inefficiencies in legal proceedings, which commonly take between fifteen and twenty years, not only raise serious questions about judicial effectiveness, but is also one of the reasons that private arbitration has effectively replaced the ordinary justice system in Colombia.⁹⁷ Such a private mechanism was nevertheless viewed with scepticism by the plaintiffs and their lawyers because of the lack of experience in the complex issues involved, as well as in dealing with such a large lawsuit. What in Colombia is known as '*la excepción de pleito enorme*' refers explicitly to the lack of confidence by the legal system in itself to handle such big cases, and to make such large awards. Referring to the norm of a \$40 million outer limit, "the Colombian courts are simply not capable of deciding" a case such as this, according to lawyer Alberto Zuleta.⁹⁸ Doubts about the impartiality of Colombia's legal system was another reason for not wanting to try the case locally. Because of the enormous financial and political power wielded by the Antioqueño Group in Colombia, the neutrality of the judges was open to serious question.⁹⁹ Indirect connections or even direct influence that would manipulate the process were also considered very real possibilities. Indeed, one of the lawyers of the Gilinsky group argued that, contrary to the situation in Colombia, "they could trust in the impartiality of the American courts, given that they can't be influenced".¹⁰⁰ All these factors add up to a profound lack of confidence in the authority of the Colombian legal system to professionally and fairly try the case. That is, whereas the US District Court had enough authority to make a ruling, any decision made in Colombia would have been lacking in legitimacy.¹⁰¹

The Gilinskys ultimately failed in their attempt to convince Judge Reykoff of the US District Court in New York that the case be tried in the US courts. Arguing that "all legal channels in Colombian must first be exhausted", referring to the arbitration process stipulated in the original contract, nevertheless the door was left open to a subsequent filing in the American jurisdiction. The Gilinsky group has so far abstained from presenting the lawsuit before the

⁹⁶ *El Tiempo*, 'Para Gilinsky, el pleito apenas va a comenzar', 30 June 1999, p. 10.

⁹⁷ Interview with Alberto Zuleta on 26 March 2003 in Bogotá, Colombia, a lawyer who worked previously with the law firm that represented the Gilinsky family in this matter.

⁹⁸ Interview with Alberto Zuleta on 26 March 2003 in Bogotá, Colombia.

⁹⁹ The *Grupo Empresarial Antioqueño* employs 183,000 people in 126 companies in Colombia, and registered income that is the equivalent of 8% of the GDP in 1999. That same year, the *Sindicato Antioqueño* figured on the top 100 list of the most influential political and economic actors in Colombia, with Nicano Restrepo, one of the group's leaders, singled out as one of the closest private advisers to President Andrés Pastrana. See Vespasiano Jaramillo, 'Grupos económicos ponen la cara a la globalización', *El Colombiano*, 2002.

¹⁰⁰ *El Tiempo* (1999), p. 10.

¹⁰¹ Interview with Alberto Zuleta on 26 March 2003, in Bogotá, Colombia.

private arbitration system, underscoring the unwillingness to submit itself to Colombian legal institutions. Nevertheless, this case reflects a growing tendency to circumvent domestic systems of justice and take legal proceedings to foreign jurisdictions. Where it can be justified, the “borrowing of foreign courts” permits plaintiffs to have recourse to legal systems and procedures perceived as more effective or legitimate. ‘Forum shopping’ is an even more explicit strategy by plaintiffs to bypass the jurisdictional claims of national courts by choosing a legal forum based on maximizing returns from litigation.¹⁰² Since 1996 and the passing of legislation that permits the use of international arbitration, Colombia has experienced a significant increase in the number of cases that have been successfully taken to international legal fora, not only “raising serious questions about the juridical competence [of the Colombian legal system] to solve them”, but also suggesting an abrogation of traditional norms of jurisdictional sovereignty.¹⁰³

Global and foreign legal structures increasingly represent alternatives to national systems of justice. In this case, the plaintiffs refused to submit the case to Colombian arbitration procedures on the grounds of incompetence and partiality. While the expectation did exist that a decision made in the US system was more likely to be favourable, the Gilinsky group in large measure felt compelled to sidestep Colombian legal institutions and the delegative system established by the Colombian constitution because of a belief that it did not have sufficient authority to handle the case.¹⁰⁴ It was also justified in terms of the provision of a fundamental public good that the Colombia state was perceived as not being capable of proffering: the efficient, diligent, and competent administration of justice. The jurisdictional authority of the American court system was narrowly, and in the end unsuccessfully, argued on legal grounds. The authority of the foreign court was evidenced by the voluntary submission of the plaintiffs to the US legal system, and the willingness to comply with the final ruling that might have been made. Such bypassing of the Colombian legal system, both in terms of the *‘justicia ordinaria’* and legal private mechanisms, is an eloquent statement of the poor recognition of the state’s authority in matters of justice. Besides alleviating the legal system’s load, it is difficult to see how such circumvention could contribute in any way to its bettering or strengthening.

3. Peace Communities: Seeking Survival within the State

A week before Christmas of 1996, a group of paramilitaries arrived in Riosucio, Chocó, backed up by police and army units that provided air support and blocked the roads leading out of town.¹⁰⁵ Their joint goal was to root out the 5th front of the FARC that had dominated

¹⁰² Andreas Lowenfeld, ‘Forum Shopping, Antisuit Injunctions, Negative Declarations, and Related Tools in International Litigation’, *American Journal of International Law*, 91:2 (1997), pp. 314-324; and Franco Ferrari, ‘Forum Shopping Despite International Uniform Contract Law Conventions’, *International and Comparative Law Quarterly*, 51 (2002), pp. 689-708.

¹⁰³ The quote made in an article about the arguments made about why the lawsuit over the Metro de Medellín should be tried in an international arbitration court, in the newspaper *El Colombiano*, ‘Los Gilinsky insisten en fraude en compra de Bancolombia’, 12 June 2003.

¹⁰⁴ Interview with Alberto Zuleta on 26 March 2003, in Bogotá, Colombia.

¹⁰⁵ Sources for this case include Juan David Villa, ‘Comunidades de paz: un largo camino por recorrer’, *Cien días vistos por CINEP*, 45 (1999); *Secretariado Nacional de Pastoral Social*, ‘Comunidades de Paz. Una propuesta en Construcción: Balance y Perspectivas’, paper presented at the Seminario Taller Nacional *Comunidades y Territorios de Paz en Colombia*, San José de Apartadó, Antioquia, 27-29 October 1999; Mónica Arbeláez, ‘Comunidades de Paz del Urabá chocoano. Reglamentos jurídicos y vida comunitaria’, *Controversia*, 177 (2001), pp.11-40; CINEP, *Comunidades de Paz San Francisco de Asís, Nuestra Señora del Carmen y Natividad de María*, Bogotá: CINEP, 2001; and María Rueda, ‘Estrategias civiles en medio del conflicto: los casos de las comunidades de paz y de pensilvania’, Documentos de CESO, Bogotá: Universidad de los Andes, 2003.

the zone since their appearance in 1978. The area of Urubá in the department of Chocó was a remote territory that had been independently colonized by indigenous and African-Colombian minorities, and characterized by the complete absence of any state institution, public administration, or legal mechanism. A tentative social order began to take root as the guerrillas mobilized the population through political action and social projects. The guerrilla influence in the area grew stronger throughout the 1980's and 1990's, in essence establishing an "embryonic state" that organized communal life, established codes of conduct and justice, mediated conflicts, and offered security in return for loyalty and recognition of their authority.¹⁰⁶ According to Father Leonidas Moreno of the diocese in Apartadó and one of the Peace Community leaders, identification with and a sense of belonging to the FARC-based social order went hand-in-hand with alienation from a state that was only experienced through its military presence.¹⁰⁷ The first government counterinsurgent efforts in the mid-1990s were hardly welcomed by the Chocoano population, which was threatened and targeted by the military campaigns.¹⁰⁸ The bombing operations that lasted from December 1996 to February 1997 resulted in an exodus of 40-45,000 local peasants to other parts of Chocó, to border villages in the department of Antioquia, and to Panamá.

Unwilling to accept refugee status in unknown territory with a public administration perceived as hostile and whose assistance was meagre, the displaced community considered different strategies to return to their homes under minimum security guarantees. Officially designating themselves as a 'neutral zone' in accordance with International Humanitarian Law, this was evaluated and quickly discarded, just as similar experiments in Antioquia the year before had forced vulnerable populations to accept the presence of the military and national police as the legally constituted security force, exposing them to retaliatory actions by the *guerrilla*.¹⁰⁹

In search of a means to achieve genuine neutrality with regard to *all* the armed actors in the conflict, the Peace Community concept was conceived by the Catholic Church as an alternative form of territorial, social and political organization. The first Peace Community of San José de Apartadó was organized with the legal, technical and financial assistance of the local Catholic diocese, the Jesuit-based NGO Centro de Investigación y Educación Popular (CINEP), and national human rights NGO *Justicia y Paz*, as well as with aid from Oxfam, the British Department of International Development, the International Committee of the Red Cross, and Pax Christi. Joined by the second Peace Community San Francisco de Asís in Chocó seven months later, these social experiments in civil resistance now total four. Based on a commitment to a negotiated solution to the war, the communities do not bear arms, do not participate in the conflict, and offer no assistance to any of the armed actors.¹¹⁰ Individuals maintain a strict nonaligned status not only with the guerrilla and paramilitaries, but also with the state security forces for the purpose of protecting themselves in intense zones of conflict. The Peace Community designation has not guaranteed their safety, however. Members of the communities have been victims of paramilitary violence and threats by the FARC, as well as of counter-subversive operations and complicity with the

¹⁰⁶ Uribe (2000), p. 468. See also Claudia Steiner, 'Urubá: de región de frontera a región de conflicto', in Myriam Jimeno (ed.), *Conflicto social y violencia*, Bogotá: Instituto Colombiano de Antropología e Instituto Francés de Estudios Andinos, 1993; and *Imaginación y poder. El encuentro del interior con la costa en Urubá, 1900-1960*, Medellín: Universidad de Antioquia-Facultad de Ciencias Humanas y Económicas de la Universidad Nacional de Colombia, 2000.

¹⁰⁷ Interview with Father Leonidas Moreno, Apartadó, Antioquia, Colombia, on 31 July 2003.

¹⁰⁸ Uribe (2000), p. 469.

¹⁰⁹ Villa (1999), p. 25.

¹¹⁰ *Secretariado Nacional de Pastoral Social* (1999); and CINEP (2001).

paramilitaries on the part of the military forces.¹¹¹ Still, such alternative forms of social order represent perhaps the only available option left to these communities, short of taking up arms or abandoning their land.

Two features stand out about the Peace Communities: the absence of the state and the corollary presence of transnational civil society representatives. The demand that public institutions and security forces respect their neutrality is owed to the precarious relationship that exists between this region and the central government based on the exclusively coercive role the state has played, and to the distrust in the capacity of the state to provide the most elementary human right of physical safety. As an alternative, the Peace Communities have sought to organize themselves along alternative principles in cooperation with a vast network of national and international NGOs, Catholic church-based organizations, and national aid agencies. The intensification of the Colombian conflict and the 1991 constitution that permitted an expanded role by civil society in issues related to human rights and the peace process created multiple opportunities for cooperation and participation among members of the global third sector in the country. In the case of the Peace Communities in Chocó, among the organizations actively involved include the Diocese of Apartadó, the Riosucio Catholic Parish, the National Secretariat for Social Ministry of the Colombian Bishop's Conference, CINEP, the International and Colombian Red Cross, Caritas Española, Doctors Without Borders, Doctors of the World, OXFAM, UNICEF, International Peace Brigades, Pax Christi, the European Commission Humanitarian Aid Office (ECHO), the Acción Solidaria Aragonesa, and the High Commissioner's Office for Human Rights of the United Nations. These global civil society organizations aligned themselves with the Chocoana population to establish a viable entity founded on the shared normative commitment to human rights and peace. They maintain close working relationships with the Peace Communities and provide consultative and advisory services. They perform many basic functions that would normally be the responsibility of the public authorities: provide shelter, food, medicine and personal items to displaced people, work with victims of violence, offer medical attention, finance social and humanitarian programs, support for socioeconomic reactivation, and provide education in conflict resolution, human rights and international humanitarian law. They mobilize domestic and global public opinion on the issues involved, lobby the Colombian government as well as governments around the world on the Colombian situation, and obtain necessary resources from abroad that keep the communities afloat.

As in any social order, however, there is not complete satisfaction, with the most common complaints directed against the international community. Although recognizing the indispensable assistance they have provided, many of these NGOs have "used the human tragedy and drama of the displaced as a means of obtaining resources [for their organizations] that otherwise would have been difficult to secure", according to Miguel Ángel Afanador of the ombudsman's office in Urubá.¹¹² They are additionally accused of paternalistic attitudes toward helping affected populations that cannot help themselves, at the expense of providing for viable political and economic development projects.¹¹³

¹¹¹ During the four years of operation since November 1998, 19 Peace Community members have been killed by the FARC, and 28 by the paramilitaries, according to the Comisión Intercongregacional de Justicia y Paz, 'San José de Apartadó: Violencia contra Comunidades de Paz', *Utopías*, 79 (2000).

¹¹² Interview with Miguel Angel Afanador, Apartadó, Antioquia Colombia, on 31 July 2003.

¹¹³ Interview with Miguel Angel Afanador, Apartadó, Antioquia Colombia, on 31 July 2003; and interview with Edwin Arcila, Apartadó, Antioquia Colombia, 30 July 2003.

To sum up, independently established Peace Communities requested that the state security forces along with other armed actors respect their territorial sovereignty. The state was not only unable to protect residents, but the presence of the security forces actually put the population at higher risk for violence. Displaced populations organized themselves in conjunction with the Catholic Church, and together reached out to members of the national and global civil society to assist them in the creation of their alternative social community, to provide the necessary technical, legal and financial aid necessary, and to legitimate their project of social resistance. The Peace Communities acknowledge the moral authority of those transnational actors involved in their project whose mandate is to promote the principles of non-violence, neutrality, negotiation and human rights. This legitimacy has been publicly recognized and validated through the requirement that Peace Community members consent both to the administrative and disciplinary rules of the Peace Communities, the drafting of which was aided by the advisory organizations, and to the direct advisory role of these private actors in legal and psycho-social matters of the communities.¹¹⁴ Furthermore, a formal agreement between the Peace Communities and the Colombian government grants authority to establish separate rules within the communities, and consents to a legal order other than that which applies to the Republic of Colombia.¹¹⁵ The Peace Communities in Colombia represent not only an alternative authority relationship that has been formed in the sociopolitical space alongside the state that links substate actors with the global third sector, but also suggests a clear transfer of legal-institutional authority, however rudimentary, downward to a local political entity.

4. *Los Embera-Katío*: Transforming the Local into the Global

The Embera-Katíos were transformed in the span of a decade from a little known indigenous community of 3,000 that lived on a reserve in a remote corner of northwest Colombia into an association of well-organized political activists, globally connected with transnational environmental and indigenous movements.¹¹⁶ In 1993 the Colombian government granted permission to an international consortium to construct a dam on the River Sinú that passed through the Emberas' traditional lands. This sparked a massive mobilization effort in conjunction with the Colombian National Indigenous Organization (ONIC) for the purpose of having their "sovereign" rights over these lands recognized and of sharing in the benefits produced by the hydroelectric project. In an astute political move, the Emberas occupied the Swedish Embassy in Bogotá in 1994, claiming before an international audience that the consortium, in violation of Colombian law and statutes of the International Labor Organization (ILO), had failed to consult with the indigenous community on the expropriation of land, the construction of the dam, just compensation, or the project's environmental impact. Winning their first small victory with a limited participation agreement, the Emberas proceeded to design, in partnership with the hydroelectric group, Urrá s.a., a plan for community development with the proceeds from the project. Although the agreement was aborted by the ONIC for technical reasons in 1997, the Emberas had by then established themselves as a valid political interlocutor with the foreign companies and the Colombian government ministries involved in the project. When the Emberas filed a lawsuit against Urrá s.a. in 1998 for violating fundamental rights associated with their livelihood as well as the

¹¹⁴ *Secretariado Nacional de Pastoral Social* (1999).

¹¹⁵ Arbeláez (2001).

¹¹⁶ The principal sources for this case include: Ministerio del Medio Ambiente, 'Recuento del proceso para la Modificación de la Licencia Ambiental del Proyecto Hidroeléctrico Urrá en Colombia', 2000 at <http://web.minambiente.gov.co/urra/URRA-ESP.pdf>; Organización Nacional Indígena de Colombia (ONIC), 'El desarrollo globalizador y los pueblos indígenas de Colombia', Equipo Nizkor, at <http://www.derechos.org/nizkor/colombia/doc/inglodes.html>; and Cabildos Embera Katío de los Ríos Sinú y Verde, 2001, at http://www.gratisweb.com/embera_katio/.

cultural and ethnic integrity of their community, they won recognition of the state's obligation to protect their basic rights, were awarded an indemnization, and the filling of the reservoir was temporarily halted. Only one year later, however, the Ministry of the Environment approved going ahead with finishing work and the dam is put into operation.

The community's failure to halt the first stage of the hydroelectric project, or to at least be compensated for their economic and environmental losses, became its moment of conversion into a transnational movement of social resistance. Embera and ONIC leaders decided to take the issue to global fora as a way of making visible the indigenous movement's demands. Using the same logic applied in the occupation of the Swedish Embassy, Embera member Kimy Pernía traveled to Canada and presented his community's case to the Standing Committee on Foreign Affairs and International Trade to pressure the Canadian governments to intervene directly.¹¹⁷ This audience and other public speaking engagements resulted in the launching of the Ottawa-based Embera-Katío Support Network by Canadian NGO's involved in environmental and indigenous work in Latin America. The objective of the network was to launch a global public information campaign in conjunction with other NGO's designed, in the words of one of the network's founders, to "raise the issue's profile and press for action, i.e. help the Embera-Katío in their struggle against the impacts of the dam project".¹¹⁸ The network brought together a diverse group of activist organizations in Canada, the United States, Europe and South America, most in the areas of indigenous and aboriginal rights, environmental protection, and human rights.¹¹⁹ The group also actively lobbied the Canadian and Colombian governments, and the Canadian Export Development Company. An Embera-Katío Support Network website was set up, and the Emberas sent daily updates via e-mail to inform the movement's followers about local developments.¹²⁰

Drawing on the experience gained with the U'wa indigenous group in their lobbying effort against Occidental Petroleum, the Emberas' strategy was to mobilize world opinion in favour of their cause to force the governments of the firms involved in the project to take action. Their use of a global platform reflects the growing influence of a complex web of international environmental, indigenous, and anti-globalization actors that form part of the world-polity culture.¹²¹ By embedding their local struggle in a broader campaign of transnational concerns about threats to Third World forest reserves and indigenous land rights that has involved national governments, international organizations, and the third sector, the Emberas transformed a narrow, grass-roots campaign into part of a global resistance movement. At the same time, the agendas and resources of these global advocacy networks facilitated the internationalization of the Emberas' plight, helped organize their movement, and directed lobbying efforts. Although there are mixed opinions within the community regarding the success of this effort, for Abadio Green of the ONIC, the global mobilization not only halted construction of the second phase of the dam, but was also instrumental in

¹¹⁷ Urrá s.a. was composed of the Colombian Ministry of Mines and Energy, the Swedish company Skanska Conciviles, Nordisk Investment Bank and Nordbanken, and Canada's Export Development Corporation.

¹¹⁸ Electronic interview with Soha Kneen, 14 November 2002.

¹¹⁹ Some of the organizations involved in the Embera-Katío Support Network include the Coalition for Pueblos Hermanos; Lazos Visibles; Canadian Charter; Inter-Church Committee for Human Rights in Latin America – ICCHRLA; Aboriginal Rights Coalition – ARC; University of Virginia - Student Christian Movement; Rainforest Action Network, San Francisco; Nizkor International Human Rights Team (Spain); CONIVE - Indigenous Organization of Venezuela; and the Ontario Environment Network.

¹²⁰ When Pernía disappeared in 2001, the network in Canada attempted to rally global opinion to focus on the case. The website is still in operation. <http://www.carleton.ca/~sahaddad/embera/>

¹²¹ Keck & Sikkink (1998) and Boli (1999).

achieving an indemnization package. “Without the case being played out in the international community, this process would not have been successful”.¹²²

Following early efforts to achieve government recognition of and compliance with the Constitution of 1991 and ILO statutes on protection of indigenous territorial and cultural rights, the Embera-Katío community aligned itself with the ONIC and transnational activist networks. Their goal to stop construction of the dam or to participate in its benefits was to be achieved through bring international pressure to bear on the Colombian government, in the face of Environmental Ministry’s refusal to halt the project. The transnational environmental and indigenous rights movement’s legitimacy relates in part to the expertise provided by professional in the fields of law, sociology, the environmental, biology and anthropology,¹²³ and to its moral authority on the issue of advancing the rights of a global constituency. Although rationally pursuing particular interests within this forum, the Embera-Katío community also identified with the indigenous-environmental movement’s fundamental values and identity. To the extent that the Embera-Katío actively cultivated a relationship with this global movement, and publicly accepted the lobbying and public information activities conducted by these advocates on their behalf and indeed in their name, we can infer recognition of that private authority. This case vividly illustrates how transworld social processes that link up multiple actors in a variety of overlapping sociopolitical domains outside of state structures has become a new space for authority relations. The instrumental goal of this alliance was to pressure the government to abide by international standards and national law on collective indigenous rights over sovereign prerogatives. While some see forcing compliance with the ultimate authoritative source in Colombia, the Constitution, as a clear challenge to the state’s monopoly on legal rights, the Embera movement also implicitly affirmed state authority.¹²⁴ This case thus represents a double move: forcing state compliance with constitutional provisions was to be achieved by circumventing state authority and recurring to a global campaign that championed those same rights.

Conclusion

These four vignettes support the contention that Colombia’s experience with multiple authority arrangements represents a significant variation on the Westphalian theme. While this fragmented order is prevalent in Colombian history, contemporary global and domestic conditions appear to be exacerbating both challenges to sovereign authority and the formation of authority alternatives. At the national level, the state has demonstrated a poor capacity to solve the internal war, mediate social conflicts, and perform functions related to security and the provision of justice. These domestic dynamics occur against the backdrop of a global order that has increasingly enlarged the sphere of action of non-state actors and fomented linkages among societies. Taken together, these conditions act as global and local drives of change, helping to account for the dilution of state authority and the purposive creation of new forms of social order in the absence of the authority of the state.

The case studies take a small empirical step toward answering James Rosenau’s fundamental questions that have served as the backbone of this project: what are the conditions under

¹²² Interview with Abadio Greene, Medellín, Colombia, 28 July 2003.

¹²³ Interview with Abadio Greene, Medellín, Colombia, 28 July 2003.

¹²⁴ Boaventura de Sousa Santos, ‘El significado político y jurídico de la jurisdicción indígena’, in Mauricio García & Boaventura de Sousa Santos (eds), *El caleidoscopio de las justicias en Colombia*, Bogotá: Colciencias-ICANH-Universidad de Coimbra-Universidad de los Andes-Universidad Nacional de Colombia-Siglo del Hombre, 2001.

which authority is created, legitimacy sustained and compliance achieved?¹²⁵ Although each vignette tells a particular story, some general observations can be made about the formation, the form, and the consequences of alternative authority arrangements in Colombia.

Non-recognition of Sovereign Authority

All the stories begin with the intentional rejection and bypassing of the Colombian state's authority in distinct functional areas. The victims of the Palmeras massacre rejected the state's judicial authority, while the Gilinsky family sidestepped Colombia's legal institutions and arbitration system. The peace communities refused to submit themselves to public security forces or state administration, and the Emberas rejected a government decision that in their view failed to comply with constitutional and ILO provisions regarding indigenous rights. What most stands out about these cases is the strategic thinking and purposive behaviour demonstrated by individuals and communities in their circumventing of the state.

Motivation

The common theme of low value satisfaction cuts across these very different vignettes, and is a central cause of seeking alternatives. Both the case of Las Palmeras and the Gilinsky v. Antioqueño Financial Group demonstrate low levels of confidence in the integrity and the capacity of the Colombian legal system. Making a claim against the Republic of Colombia with the Inter-American Court of Human Rights was in large part motivated by the degraded rule of law that belief that achieving justice was impossible. Lack of trust in the Colombian legal system's competence, knowledge and efficiency, as well as in its perceived partiality, explain the Gilinsky decision to file their lawsuit in the US. Both the establishment of the Peace Communities and the Emberas' global lobbying efforts also suggest that bypassing the state was in large part due to its poor reputation and authority with its own citizens. Not only was the state unable to protect the displaced population, but the military and police were even identified as posing a direct threat to the civilians. The Emberas rationalized that framing their cause within an environmental and indigenous rights context and taking this cause to a global audience would be far more effective than limiting their efforts to an unresponsive national government.

Sites of New Authority

The four scenarios are graphic illustrations of how global processes now link up actors at multiple levels in overlapping sociopolitical spaces within which new authority relations take shape. The most complex of these non-territorial domains can be found in the cases of the Peace Communities and the Embers, where citizens engage in authoritative relationships with entities that conceptually exist alongside and below the state, and that among themselves maintain dense and multifaceted relationships. The Peace Community experiment in particular involves a vast network of national and international NGO's, aid agencies from other countries, and global and local church-based organizations that assisted in the establishment of the communities and continues to perform basic functions that would normally be the responsibility of the state. The formal acknowledgment of a distinct legal and administrative order within the Peace Communities makes the links between the local political entity and the global third sector especially forceful. As a new sociopolitical site of authority, the Inter-American Human Rights System is located above the state. However, that the system's supranational legal authority is granted by member states that submit themselves to its rulings suggests a domain of authority that also slices through the national level. And

¹²⁵ Rosenau (1990), p. 117.

finally, the example of borrowing foreign courts highlights a horizontal diffusion of legal authority to other nations' court systems.

Basis of Authority

The alternative sociopolitical arrangements in Colombian imply a variety of claims to authority. Legal authority is suggested by many of the cases. All the cases are very much correlated with the inscription of actors and institutions within different bodies of public and private law. The Inter-American Human Rights system, the Peace Communities, and indigenous jurisdictional rights all add an additional legal dimension to claims to authority, in that they are recognized by Colombian law. A second cross-cutting theme in nearly all the case studies is the moral authority of the non-state actors, associated with "their emancipatory and normatively progressive social agendas, or their ostensible objectivity or neutrality".¹²⁶ The Inter-American system's vigorous commitment to global human rights standards, the humanitarianism of the religious and transnational organizations whose only mandate is to protect and promote the rights of the communities threatened by violence, and the global environmental and indigenous rights movement's efforts to defend the rights of a marginalized and repressed global constituency, all evidence the moral authority of actors involved in transnational social action. Another basis of authority that can be identified in the social arrangements emerging in Colombia involving these transnational actors relates to epistemic knowledge. The authority of international organizations, aid agencies, and local and foreign NGOs in Colombia, as in many other contexts, is related to their superior credibility that comes of expertise, technical training, information, and experience.¹²⁷ As formulators of policy decisions, rules and principles, these actors also possess authority by virtue of the power and privileges of the agenda-setter.

Perhaps the most compelling claim to authority, however, is the performance record and problem-solving capacity of the non-state actors. Citizen participants in each of the authority arrangements reiterated their confidence in the capacity of the U.S. courts, transnational actors and international organizations to deliver fundamental public goods related to security, justice, property rights and way of life, and basic human needs. While the new authority scenarios point to multiple bases of legitimacy, given that low value satisfaction motivated defection from the state's sphere of action, it is a reasonable presumption that performance criteria have considerable casual weight. This, however, remains an empirical question.

Recognition of New Authority

These bases of authority additionally require some form of public recognition or compliance in order to be accorded legitimacy. Most of the Colombian scenarios again provide strong evidence of a social relationship in which individuals and communities acknowledge and consent to the power exercised by these non-state actors. The Gilinsky group voluntarily submitted itself to US laws and was willing to comply with the final ruling. In the case of Las Palmeras, the plaintiffs publicly recognized the Inter-American system's legal-institutional authority through the presentation of its claim, while the Colombian government's ratification of the system and compliance with its findings also legitimated its superior authority. Members of the Peace Communities comply with the transnational network's administrative and disciplinary rules, and consent to a direct advisory role of these private actors in the community. Additionally, the state legitimates the authoritative role of these transnational

¹²⁶ Rodney Bruce Hall & Thomas Biersteker, 'The emergence of private authority in the international system', in Hall & Biersteker (2002), p. 14; and Hall (1997).

¹²⁷ Keck & Sikkink (1998); and Hall & Biersteker (2002).

actors by consenting to the alternative legal order that applies within these communities. The Emberas, in conjunction with the ONIC, actively pursued a social relationship with the global advocacy network, and publicly received the lobbying and information activities conducted in the name of their community.

Implications for Sovereign Authority

What does this proliferation of alternative social relationships imply for the legitimacy of the Colombian state, and what does it matter? The empirical findings suggest that the ongoing transformation in Colombia's authority structures has had mixed effects on the state, with outcomes that both erode and enhance state authority and capacity. On the one hand, sovereign authority would appear to be compromised by the submission of juridical independence to supranational legal structures, as well as by the circumvention of the national legal system by private citizens. The Emberas attempt to force the government to give precedence to indigenous privileges over sovereign prerogatives can also be seen as a challenge to the state's monopoly on legal rights. Likewise, the legalization of autonomous jurisdictions within Colombian territory that are exempt from complying with national security, police, and justice regimes, potentially undermines sovereign authority and establishes a legal precedent that could lead to further dispersion. Similarly, although the mandate of all NGOs is to conserve the authority of the state, their prolonged activities alter the state-society relationship in ways that are still uncertain.

Conversely, other episodes demonstrate how non-state authorities may push forward institutional reforms that strengthen the rule of law and state compliance, contributing to the recuperation of the state's legitimacy with its citizens. In fact, both the Embera-Katio community and the victims of the Las Palmeras incident resorted to alternative sources of social power not for the purpose of evading state authority, but rather in order to pressure the state into abiding by its legal responsibilities. They adopted strategies that would effectively reaffirm the social order in which sovereign authority prevails. Likewise, the Peace Communities have become an intermediary between marginalized and disaffected sectors of the population and the national government, facilitating the development of a sociopolitical relationship that never existed. To the extent that alternative social arrangements become a force for progressive reforms, respect for international humanitarian law, and norm compliance, it is conceivable that the state may gain in legitimacy.

The degree and quality of state authority is highly correlated with a state's aptitude for governance, successfully mediating social conflicts and maintaining stability. The legitimacy of the state's power thus bears on those conditions related to breakdown and to the management of domestic crisis. Developments that potentially affect the exercise of state authority are vital to our analysis of sociopolitical order.

This body of research has shown that human communities are increasingly disposed to arrange and identify themselves in ways that transcend the presumption of exclusivity of state authority. Embedded in global processes, they interact with transnational actors in ways that generate shared meanings and expectations, that shape new institutional arrangements, and that modify existing social orders. It has been less successful at demonstrating the effects of these new relationships on the state-citizen relationship and on state authority, and hence on governance and stability. The findings strongly suggest that alternative sociopolitical agreements are not necessarily competitive claims to authority that imply state diminishment, but rather under certain conditions may substitute, overlap, or even complement sovereign authority. To better understand why some authority alternatives are more conducive to

enhancing state legitimacy and problem-solving capacity than others, additional questions would need to be answered regarding the specific institutional arrangements of non-sovereign authorities, their relationship with the state, their mandates, and the breadth or restriction of their issue domains. Future research would also require greater specification of indicators of authority.

Sovereign authority in Colombia has been and continues to be a variation on the Westphalian theme. It shares space with a plethora of alternative arrangements, many of which have developed in response to the state's own shortcomings and legitimacy deficit. The failure of the state to solve critical social problems, guarantee a minimal level of welfare, protect the civilian population, and end the internal conflict has chipped away at the authority relationship between state and body politic. In a vicious circle, its difficulties in solving problems makes its coercive power less effective, exacerbating an already unstable sociopolitical context, furthering disillusion with state authority. It remains to be seen whether the strategies adopted by Colombian society as it searches for solutions to fundamental social, political and economic problems will be a force for the relegitimation or the delegitimation of national political authority, and with what consequences for internal stability and quality of life.

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The aim of the Crisis States Programme (CSP) at DESTIN's Development Research Centre is to provide new understanding of the causes of crisis and breakdown in the developing world and the processes of avoiding or overcoming them. We want to know why some political systems and communities, in what can be called the "fragile states" found in many of the poor and middle income countries, have broken down even to the point of violent conflict while others have not. Our work asks whether processes of globalisation have precipitated or helped to avoid crisis and social breakdown.

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Research Objectives

- 1 We will assess how constellations of power at local, national and global levels drive processes of institutional change, collapse and reconstruction and in doing so will challenge simplistic paradigms about the beneficial effects of economic and political liberalisation.
- 2 We will examine the effects of international interventions promoting democratic reform, human rights and market competition on the 'conflict management capacity' and production and distributional systems of existing polities.
- 3 We will analyse how communities have responded to crisis, and the incentives and moral frameworks that have led either toward violent or non-violent outcomes.
- 4 We will examine what kinds of formal and informal institutional arrangements poor communities have constructed to deal with economic survival and local order.



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