

Shifting Frontiers of Citizenship: The Latin American Experience

Edited by

Mario Sznajder
Luis Roniger
Carlos A. Forment



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CONTENTS

Preface	xi
List of Contributors	xiii
List of Tables and Figures	xvii
Shifting Frontiers of Citizenship: The Latin American Experience	1
<i>Luis Roniger and Mario Sznajder</i>	

PART I

SHIFTING CITIZENSHIP IN LATIN AMERICA – COMPARATIVE PERSPECTIVES

Alternative Models of Democracy in Latin America	23
<i>Laurence Whitehead</i>	
Latin America and the Problem of Multiple Modernities	43
<i>Shmuel N. Eisenstadt</i>	
Four Models of Citizenship: From Authoritarianism to Consumer Citizenship	55
<i>Bryan S. Turner</i>	
Democracy, Freedom and Domination: A Theoretical Discussion with Special Reference to Brazil via India	83
<i>José Maurício Domingues</i>	

PART II

CITIZENSHIP AND THE POLITICS OF IDENTITY

Identity, Social Justice and Corporatism: The Resilience of Republican Citizenship	101
<i>David Lehmann</i>	

The Perils of Constituent Power and Multicultural Citizenship in Bolivia.....	133
<i>Robert Albro</i>	
Political Citizenship and Gender.....	155
<i>Gisela Zaremborg</i>	
Argentina's Recuperated Factory Movement and Citizenship: An Arendtian Perspective.....	187
<i>Carlos A. Forment</i>	

PART III

POPULAR PARTICIPATION AND CITIZENSHIP

The Crisis of Political Representation and the Emergence of New Forms of Political Participation in Latin America.....	219
<i>Leonardo Avritzer</i>	
Popular Impeachments: Ecuador in Comparative Perspective	237
<i>Leon Zamosc</i>	
Electoral Revolutions, Populism, and Citizenship in Latin America.....	267
<i>Carlos de la Torre</i>	
From Juan Perón to Hugo Chávez and Back: Populism Reconsidered.....	289
<i>Raanan Rein</i>	

PART IV

TRANSNATIONAL TRENDS AND CITIZENSHIP

States and Transnationalism: The Janus-Face of Citizenship in Central America	313
<i>Luis Roniger</i>	

Being National, Being Transnational: Snapshots of Belonging and Citizenship	343
<i>Judit Bokser Liwerant</i>	
Exiled Citizens: Chilean Political Leaders in Italy	367
<i>Maria Rosaria Stabili</i>	
The Latin American Diasporas: New Collective Identities and Citizenship Practices	385
<i>Leonardo Senkman</i>	

PART V

MARKET SOCIETIES AND INSTITUTIONAL FAILURES

Citizenship and the Contradictions of Free Market Policies in Chile and Latin America	411
<i>Mario Sznajder</i>	
Institutions and Citizenship: Reflections on the Illicit.....	431
<i>Deborah Yashar</i>	
National Insecurity and the Citizenship Gap in Latin America	459
<i>Alison Brysk</i>	
When Everything Seems to Change, Why Do We Still Call it 'Citizenship'?	475
<i>Philip Oxhorn</i>	
Bibliography	497
Index.....	537

INSTITUTIONS AND CITIZENSHIP: REFLECTIONS ON THE ILLICIT

DEBORAH YASHAR¹

Citizenship is formally defined by a set of institutionalized and/or contractual promises between the polity and its membership. It has classically been understood vis-à-vis three modern institutions – the state, the nation, and democracy. The state has provided the institutional apparatus to which people have turned for protection and services. The nation has provided the ‘imagined community’ for determining membership and associated rights. And democracy has provided the procedural means by which people have struggled over the content, access, and implementation of a range of rights (and responsibilities) that citizens increasingly expect in the contemporary world.

With the third wave of democracy, most contemporary political science research on citizenship has focused on this third institution – analyzing how democratization permitted the full exercise of citizenship rights and national democratic institutions channeled and defended citizen participation and accountability. Citizenship from this perspective is primarily understood as a product of democratic institutions. The expected promise of the contemporary period has been that even if citizenship rights are more restricted in scope than previously, the commitment to liberal democracy can be analyzed and upheld through the formal institutions that comprise democracy.

Yet citizenship is more fragile and dynamic than this. It is not only that people struggle over the terms, scope, and implementation of formal rules and institutions, but that nonformal organizations and actors can also affect this process in critical ways. This essay takes a small step towards highlighting both how theoretically constrained we are if we only assume the prevalence and impact of democratic institutions and how empirically narrow our findings are if we do so.

¹ I thank Luis Roniger and Mario Sznajder for organizing the research group on contesting liberal citizenship (Hebrew University’s Institute for Advanced Studies, spring 2009) and all the members of that collegial working group for their feedback. Thanks also to Miguel Centeno and Gay Seidman for their insightful and invaluable comments on an earlier version of this essay. Of course, all the normal caveats and *mea culpas* apply.

In particular, this essay makes two arguments. First, it argues that we need to expand the ways in which we think about institutions and their relationship to citizenship. Otherwise stated, citizenship is not just dependent on the quality of democracy; citizenship is *also* dependent on the quality of other institutions – including formal, informal, *and* illicit ones. Second, I focus on the last of these institutions – the illicit – and argue that scholarship has ignored the illicit economy and society at its intellectual peril. The second half of this essay, in particular, illustrates how illicit institutions have significantly created territorial enclaves and affected the *terms and experiences* of contemporary citizenship therein. Hence if we are to understand citizenship, we need to complement the classically formalist orientation with a set of grounded subnational realities that take into account how both formal *and* nonformal (informal and illicit) institutions structure the lived experiences of citizenship. This analytical step is critical because, as O'Donnell (1993) has noted, there is often a significant gap between the formal institutional promise and the lived experiences of citizenship. While much has already been written about how social cleavages (class, ethnic, and racial) constrain the extension and defense of citizenship, I will highlight here how nonformal markets and organizations can do the same – sidestepping, curtailing, and/or undermining the citizenship rights inscribed in contemporary polities. In particular, illicit markets and criminal organizations reflect, interact with, and at times emasculate, the modern institutions that ideally provide a foundation for citizenship.

Before discussing the diversity of institutions that matter and, in particular the prevalence of illicit institutions that shape the localized terms of citizenship for many people, I start off with a few words on citizenship, the state and the promise of legal formalism.

A FEW WORDS ON CITIZENSHIP: ITS FORMALIZED PROMISE AND INFORMAL PRACTICES

In my prior work, I have argued (drawing on Jenson and Philips 1996) that we need to conceptualize citizenship as a regime defined by three elements. First, citizenship revolves around membership – who can be a citizen.² Second, citizenship is defined by the rights (and in some cases

² Membership is closely tied to how polities define their 'nation' and the degree to which membership is determined by a fictive kinship, geographic birth, or a demonstrated commitment to certain ideals.

responsibilities) extended to its members.³ And third, citizenship is structured by interest intermediation, which structures the terms of participation and accountability by members in the polity.⁴ In other words, citizenship requires that we think about who is a citizen, what rights they have, and how they relate to the polity.

Yet once one is able to determine citizenship's formal manifestations, it is clear that citizenship in practice is never a product of first principles alone. Nor is it reducible to regime politics and the quality of democracy per se. Rather, it is also fundamentally shaped by institutions that mediate the principles and practices of citizenship. In this essay, institutions refer to formal and nonformal rules devised by people to structure and incentivize social, political, and economic interaction (North 1990); whereas North refers to formal and informal institutions, I refer to formal and nonformal institutions (since this essay will ultimately unpack the latter term to include the informal and the illicit). In this section I discuss the institutions that shape citizenship by identifying core *formal* institutions that shape citizenship, followed by a discussion of the *informal* practices that mediate (and sometimes riddle) this process.

One core *formal* institution in question is of course *the state*. The classic Hobbesian claim is that the state is the Leviathan that protects individuals who would otherwise live in a state of nature where life is nasty, brutish, and short. As such, the state provides the foundation for citizens to lead a life free from harm and to claim the rights and responsibilities outlined above. Rule of law institutions are designed to defend and protect citizenship (who can be a member; the rights that this entails; and the patterns of representation).⁵ Welfare state institutions developed much later to advance social rights in particular. And bureaucracies mediate citizen access to the state. This is the formal institutional story that we know so well – the ideal type that shapes how we think about state-society relations and the exercise of citizenship therein. In this regard, the state is a key actor (and a variable) – as a host of its characteristics (the quality of its personnel, the resources, the organization, the coordination, the reach of its institutions, its legitimacy, etc.) shape the implementation

³ Rights are often categorized according to Marshall's trilogy of rights (Marshall 1963). According to Marshall, civil rights are defended by courts; political rights are instantiated in legislatures; and social rights are institutionalized through welfare states.

⁴ Corporatism and liberalism have represented the classic ideal types of interest intermediation in both Latin America and Western Europe.

⁵ These rule of law institutions are thus predicated on (or in tension with) force and violence.

and access to information and services critical for citizens to exercise their rights and responsibilities. Any study of citizenship must therefore account for how states shape citizenship in practice. This formal story about the state is critical and well known, even if it has at times been sidelined by democratization scholars who have gazed most intensely at democratic institutions alone.

The formal content and practice of citizenship is defined not only by formal political/state institutions but also by its interaction with formal groups organized in civil society. In the economic realm, we of course know that formal markets can also affect citizenship – some (i.e., Friedman 2002) would argue that it advances it (both being predicated on individual liberties) while others would argue that markets/capitalism constrain it (as markets generate the inequalities that constrain citizenship in practice, as noted by a range of scholars such as Marx 1978, Marshall 1963, Walzer 1993, and Young 1995). Correspondingly, debates have ensued over if/how shifts in markets (and the institution that regulate them) can affect the content and practice of citizenship. Indeed, the contemporary literature on economic crisis and neoliberal reforms has highlighted how financial constraints and pressures have curtailed those rights – with a notable decline in the social rights of citizenship (Oxhorn and Ducatenzeiler 1998; Yashar 2005; Sznajder this volume). Alongside formal states and markets, formal social groups (such as interest groups, political parties, and formal social organizations) mobilize to contest the terms of membership, the content of rights, and the patterns of representation (i.e., the very content of citizenship regimes).⁶ The formal institutions of interest representation and contestation, thus, can also shape the form and content of citizenship. In this sense, citizenship is formal and yet incomplete, as noted by Saskia Sassen (2008). Today, the formal promise of the contemporary period is such that even if citizenship rights are today more restricted in *scope* (with an emasculation of welfare states and the corresponding social rights), formal civil society struggles continue to expand the membership, scope, and practice of citizenship.

Yet, theory and reality do not necessarily align, and Latin America is no exception here. Formal institutions (the state, markets, and social organizations) are critical but do not define the full scope of interaction. Rather they define what is legally recognized and perhaps normatively

⁶ See work by Alvarez and Escobar (1992); Alvarez, Dagnino and Escobar (1998); Oxhorn and Ducatenzeiler (1998); Feinberg, Waisman and Zamosc (2006); among others.

sanctioned activity. Once we gaze past the formal institutions, we are compelled to take greater note of other kinds of nonformal institutions, such as the informal institutions that mediate the practice of citizenship. Here, I take informal institutions to be 'socially shared rules, usually unwritten, that are created, communicated and enforced outside of officially sanctioned channels' (Helmke and Levitsky 2004: 727).

many 'rules of the game' that structure political life are *informal* – created, communicated and enforced outside of officially sanctioned channels [...]. Attention to informal institutions is by no means new to political science [...]. Nevertheless, informal rules have remained at the margins of the [recent] institutionalist turn in comparative politics. Indeed, much current literature assumes that actors' incentives and expectations are shaped primarily, if not exclusively by formal rules. Such a narrow focus can be problematic, for it risks missing much of what drives political behavior and can hinder efforts to explain important political phenomena [...] good institutional analysis requires rigorous attention to both formal and informal rules. Careful attention to informal institutions is critical to understanding the incentives that enable and constrain political behaviors. Political actors respond to a mix of formal and informal incentives, and in some instances, informal incentives trump the formal ones (Helmke and Levitsky 2004: 725–726).

These informal institutions are not recognized by the state. They are not a priori illegal or normatively problematic. They constitute the area that falls outside of legally regulated practices. Some of these practices might try to subvert citizenship; some might grease the wheels to defend citizenship rights; and/or others might in fact try to deepen citizenship. As Helmke and Levitsky (2004) highlight, these institutions can complement and accommodate state institutions where the latter formal institutions are effective; and they can substitute for and compete with state institutions where the latter are ineffective and/or corrupt. As such informal institutions can shape the practice and/or shore up the meaning of citizenship.

A range of important informal institutions affect citizenship, and I note a few examples here. Clientelism is key among them.⁷ In a context where citizens do not have equal access to the state and where resources are unequally redistributed, clientelism provides citizens with an alternative

⁷ For recent work on informal institutions see Levitsky and Helmke's edited volume and Perspectives on Politics paper. For work on clientelism see— Roniger and Güneş-Ayata (1994); Fox (1994); Stokes (2005); Calvo and Murillo (2004); and Nichter (2008), among others working on Latin America. For a more general discussion of each, see the edited volume by Kitschelt and Wilkinson (2007).

(perhaps the only) way to access the state and material goods. Clientelism becomes an informal (albeit potentially highly institutionalized) way to structure authority, power, and resources by accessing state resources and redistributing them through privatized channels – resources in exchange for support. Clientelism is an informal institution that emerges in a context of weak states and inequality. Patrons (some of whom are tied to political parties) can deliver goods (i.e., jobs and food) to citizens who cannot directly access them through state channels; the client in return is supposed to deliver electoral support to the patron. As Fox (1994) has noted, clients are not full partners in this process – with patrons mediating their access to the basic rights and services to which citizens are legally entitled.

Significant informal institutions operate in social and economic spheres as well – a point that is consistent with Helmke and Levitsky's overall interest in informal institutions (even if they do not focus on these kinds of extrapolitical examples).⁸ Indeed, the distinguished literature on informal economies – pioneered by Alejandro Portes, among others – is an important example. While citizens may be formally entitled to social rights (wages, housing pension, collective bargaining, etc.), many citizens are compelled to enter the informal economy that granted none of these formal rights. Hence, the informal economy refers to 'transactions where the state neither provides protection nor receives a 'cut'' (Centeno and Portes 2006: 26). In Latin America it is a significant part of the economy that includes street vendors, shoe shine boys, maids, security guards, among others, who work beyond state regulation. Centeno and Portes argue that it is not just that the state does not regulate these areas but that entrepreneurs also find ways to escape state regulation.

The relationship between the state and the informal economy is thus cyclically causal and negatively correlated. In general, the weaker the state, the greater the likelihood of an economy being able to escape its gaps. The more

⁸ In the social sphere, social movements present a classic example of organizations that have emerged –often in informal ways and without formal recognition. While many social movements seek formal recognition, not all do. Indeed as Piven and Cloward (1978) noted in their classic work on social movements, legal and formal recognition can ultimately weaken the very *raison d'être* of the social movement in question. The *piqueteros* would be an example of an informal social movement, as would the lion's share of social movements that emerge to make claims on the state and to denounce abuses that might take place. Many social movements aspire to achieve legal status – but they often start out (and in some cases remain) nonlegal entities; under these circumstances, they are technically 'informal' institutions; they might have internal rules and regulations but are not regulated by the state.

ambitious the scope of state regulation, the more cause for escape. The informalization of vast sectors of economic life leads, in turn, to the weakening of state institutions and the rule of law (Centeno and Portes 2006: 29).

What does the informal market have to do with a discussion of citizenship? The literature on the informal economy has highlighted the growth of labor markets that are not formally sanctioned but impinge on citizens' rights. Citizens who work within the informal labor market do not have formal access to legal labor or workplace rights (i.e., no minimum wage, pension, overtime, office safety, etc.) and corresponding services (i.e., legal recourse). Consequently, citizens' social rights are much diminished. While most states tolerate the informal economy (indeed Portes highlighted many years ago how informal and formal markets can be functional to the maintenance of capitalist systems), this systemic accommodation creates short-term remedies for citizens that in the long term minimize their ability to formally demand and protect their rights.

In short informal institutions (exemplified by clientelism and informal economies) emerge where states do not fully meet their obligations of incorporating, treating, and defending all citizens equally. In this context, entrepreneurial actors (both within the state and outside of it) find ways to advance their own interests and to create informal institutions that can produce 'low-intensity' citizenship (O'Donnell 1993). Informal institutions are not necessarily illegal or immoral. Rather, they are defined first and foremost vis-à-vis the state (does the state regulate? is it present?) more than by the law (are these practices illegal?). As such, informal institutions are neither inherently progressive nor reactive.

LOOKING BEYOND (IN)FORMAL INSTITUTIONS: ILLICIT INSTITUTIONS AND ORGANIZATIONS

This chapter, however, sets out to remind us that institutions are not restricted to the formal and informal. Indeed, nonformal institutions can in fact be divided into two types: the informal (as discussed above) and the illicit (as discussed next). Indeed, informal institutions often rub up against the illicit – an area relatively less discussed in the social science literature on informality – with Centeno and Portes as notable exceptions.⁹ In this article, the illicit is defined by state laws that determine/

⁹ My use of the illicit as a category separate from the informal does not entirely accord with Centeno and Portes, who also conceptualize these institutions vis-à-vis the state.

prohibit what can be produced, traded, taxed, and/or consumed. Laws (rather than certain inherent properties of goods and firms) define the illicit – identifying certain goods, social actors, and the economies that develop around them.

Juxtaposing formal, informal, and illicit institutions highlights, therefore, the crucial role played by the state vis-à-vis each realm. While variations in state regulations determine the (in)formality of institutions, variations in state prohibition/codification determine if it is illicit; the latter point is definitional (rather than causal). Using these two dimensions – regulation (by state) and prohibition (by law) – we find ideal typical conceptual distinctions between these institutions (See Figure 18.1).

Figure 18.1: Ideal typical role of national state in shaping institutions.

		<i>State Prohibition</i>	
		<i>Yes</i>	<i>No</i>
<i>State Regulation</i>	<i>Yes</i>	Illicit	Formal*
	<i>No</i>	Illicit	Informal

* Illicit activities can and do in fact take place in formal/legal institutions (witness Enron and Madoff in recent years). In this paper I do not emphasize this valuable point but do pick up a related one in the conclusion, which discusses how illicit activities can and do interact with formal state institutions (in direct and indirect ways).

They focus, however, explicitly on the economy while my focus is more general. Centeno and Portes (2006: 27) [drawing on Castells and Portes (1989:14)] distinguish between the licit and illicit but use it to distinguish practices within and between the formal, informal and criminal. For them, formal institutions entail licit processes of production/distribution and licit final products; criminal institutions entail illicit processes of production/distribution and illicit final products; and the informal moves from illicit processes to licit products. In this process, they note the relationships among these types of economies as well as the central role played by the state (with varied impacts depending on the degree of regulation and capacity to enforce the economy). Other studies have also analyzed the illicit in the region – including Andreas (2004); Arias (2006a and 2006b); Caldeira (2000) Dammert (2006); Davis (2006a) Fruhling (2003); but more systematic conceptual and theoretical work is still required.

- *Formal* – regulated by the state and lawful
- *Informal* – ‘beyond’ state regulation but not necessarily illegal (‘not officially sanctioned,’ as stated by Helmke and Levitsky).
- *Illicit* – Regulated by the state and unlawful

Hence, if ideal typical informal institutions are the area of non-regulation, illicit institutions are illegal in their content and/or practice. The actors involved in illicit activity might occupy legal positions (in the state and/or civil society); but their actions and activities defy the law. Indeed, as we will see below, in some cases the formal institutions propagate these illicit institutions (Arias; Cruz 2010; Reno 2000). While I will initially discuss these ideal types as airtight categories, they are not so clearly demarcated in practice. In practice, informal and illicit institutions are often intertwined, with social norms about what is *really* criminal activity varying across countries.¹⁰ Hence, the boundaries between informal and illicit are often less clearly demarcated than this ideal typical discussion would initially suggest – a point discussed in the conclusion.

What then is the illicit? Illicit activity is a byproduct of any regulated economy, society, or polity. In the economy, in particular, once goods are formally defined as illicit, it is likely that actors and black markets will emerge. As states define the boundaries of what is legal, actors often find ways to supply and access those illegal goods at a profit. The creation of illicit categories therefore creates the incentives for some subset of actors to subvert these regulations *if* doing so can lead to material gain (and the multiplicatory promise that material reward brings – including political power, social status, etc.). Otherwise stated, prohibition creates incentives for intermediaries that emerge to take advantage of, and make profit from, these prohibitions. The illicit economy has grown in this context around drugs, human smuggling, and other licit goods that are traded illegally. The illicit economy on its own is not directly tied to citizenship, as we have conceived it. However, the distortions produced by these economies (violence, competing parastatal violence, fear) can fundamentally curtail basic citizenship rights – including the most fundamental of all (freedom from harm), as discussed throughout the essay.

Illicit, however, does not necessarily equal immoral (Abraham and Schendel 2005: 4).¹¹ While the examples that I present next will largely

¹⁰ I thank Mario Sznajder for raising this point.

¹¹ Abraham and Schendel (2005) highlight that illegality is not necessarily immoral or socially unaccepted behavior; they therefore distinguish between illegal (defined by law) and illicit (defined by social norms and perceptions). While agreeing with their overall

draw on illicit institutions that are morally charged, it is important to emphasize that some illicit activity (especially under authoritarian regimes) can lead to morally progressive outcomes.

With these definitional observations, I turn next to contemporary Latin America, where illicit institutions critically impinge on the practice of citizenship (see Figure 18.2). Some of these illicit institutions have put down deep roots; some of them have expanded over time. Indeed, while the social science literature has primarily and often single-mindedly focused on the formal (and at times informal) aspects of the contemporary period in Latin America. The illicit has become such a visible and integral part of the political, social and economic landscape that it has fundamentally impinged on the practice of citizenship in many Latin American cities and regions. Politically, we know well the types (if not the actual patterns) of illicit activity that often take place – including vote fraud; coups; corruption; among others. While the third wave of democratization has proven much more durable than many thought possible, illicit political activity continues, including coup attempts in Peru, Guatemala, Haiti, Venezuela and most recently Honduras. Certainly acts of corruption and embezzlement remain part and parcel of national political debate – particularly after presidents step down.¹² All of these illicit acts curtail the practice of citizenship (whether votes cast are counted; whether elected presidents can complete their term; and whether state resources designated for social services are embezzled, to give but a few of the most salient characteristics).

In this rest of this essay, I move beyond the formal and political sphere to discuss how the illicit has expanded in society and the economy at large. While it is impossible to fully distinguish between these spheres (since they can be intertwined and embedded with the informal), I will argue in the rest of this section that the illicit economy has not only flourished but has both constrained the full exercise of citizenship rights and further corrupted the states that are theoretically supposed to be defending citizenship rights in the first place. As such, any study of

point that a) we should not assume that legality is neutral or moral; b) states are constituted by power relations and that therefore the law is a reflection of these power relations; and c) law and society do not necessarily share the same norms; I do not sustain the semantic distinction that they make between illegal and illicit – the latter term they argue can refer both to law and social norms. Rather I choose to follow common practice and use these terms interchangeably.

¹² For work on this issue, see Zamosc (this volume); Pérez-Liñán 2009; and Valenzuela 2004.

Figure 18.2: Expanding our view of institutions: Examples of formal, informal and illicit institutions.

	Politics	Social	Economics
Formal	States Transition pacts Regime rules	Legal orgs (i.e., parties, NGOS, Soc mvmts, etc.)	Property rights Legal firms Legal labor markets
Informal	Clientelism Coalitions	Non-legal Soc mvmts & organizations	Informal Economy
Illicit	Coups, Fraud, Extrajudicial killings Corruption	Paramilitary Gangs Org Crime	Illicit markets/Black markets Smuggling of all sorts (drugs, people, autos, money etc.)

contemporary citizenship should at least consider (if not evaluate) if and how the illicit shapes the terms and practice of citizenship. Indeed, I will conclude by suggesting that these institutions impinge on liberal citizenship and the state in the contemporary period.

THE CITIES AND GANGS¹³

Illicit social actors in Latin America are not new. Yet the new democratic period has seen the proliferation of organized illicit actors on a scale not previously seen. These new groups (gangs and organized crime) are not seeking to overthrow or defend the national state. Rather, they are seeking to assert control over subnational territorial enclaves with a range of motives in mind. These parastatal groups are operating outside of legal norms (although we will see below that they often do so in conjunction with state actors who make their illicit activity possible).

In recent years, gangs have become a more visible and active part of the urban landscape in Latin America. In particular, gangs have become more prominent in Mexico, Guatemala, El Salvador, Honduras and Brazil – to name among the most noteworthy cases. Many of these gangs have their

¹³ Gangs are classically not defined as organized crime. For the purposes of this essay, I will respect this colloquial distinction between organized crime and gangs. However, analytically speaking, I see gangs as one form of organized crime – all the more so as gangs increase their involvement in extortion, drug sales, etc.

Table 18.1: Central American gang membership estimates (2000s).

Country	Total Membership	Number of Gangs	Average Number of Members per Gang
Honduras	36,000	112	321
Guatemala	14,000	434	32
El Salvador	10,500	4	2625
Nicaragua	4500	268	17
Costa Rica	2660	6	443
Panama	1385	94	15
Belize	100	2	50
Total	69,145		

Source: UNODC (2007: 60).

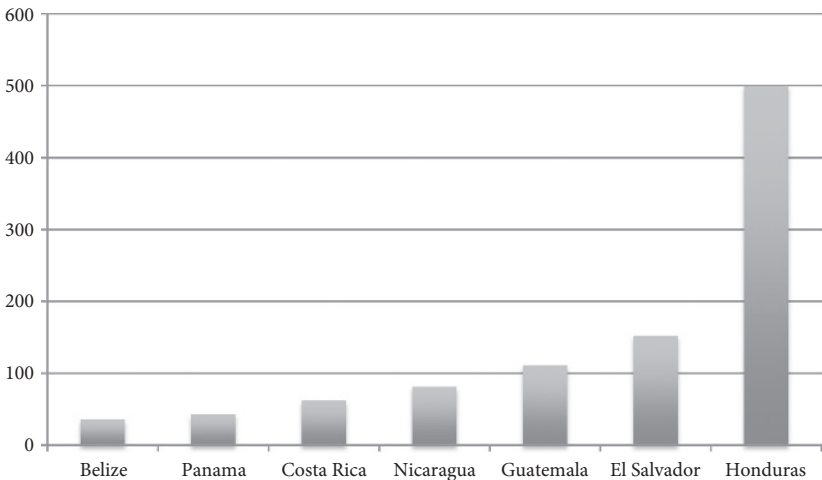


Figure 18.3: Gang member population per 100,000.

Source: UNODC (2007: 60).

roots in urban slums (*favelas*, shantytowns, *pueblos jóvenes*, etc.) but their presence has become more geographically widespread. In the Central American countries (notably, Guatemala, El Salvador and Honduras), these gangs started off as neighborhood youth associations – often composed of impoverished youth (in some Central American cases initially appealing to youth whose families had suffered during the prior civil

wars). It was common to portray these gangs (or *pandillas*) as unattached and marginalized youth who were in search of community, family, trust, respite, and identity; early academic studies (Levenson 1988) highlighted the relatively nonviolent characteristics of some of these organizations, which provided youth in the third wave a home after years of military violence that had torn apart families and homes. Rocha's work (2007) on Nicaraguan gangs also highlights the search for community that these gangs can offer – providing cultural, social, and even drug-induced experiences that tie them together.

Yet these youth gangs have taken many different forms over time – including becoming more territorial and violent in some cases. Many of these organizations in Guatemala, El Salvador, Honduras and Brazil have morphed from 'youth neighborhood associations' into organizations that not only provide community to local youth but also dominate certain territorial spaces within which they have come to assert their authority; in these spaces, gangs extract taxes, execute justice, wield violence, and at times provide physical security (when they are not challenged by competing gangs or the state). Demoscopía (2007) has conducted some of the most extensive empirical (although still preliminary) empirical work on Central American gangs; their research highlights the central importance of territoriality for gangs:

Un aspecto importante de la organización de las pandillas es la territorialidad [...]. En estos espacios se realizan actividades recreativas y delictivas, así como lucrativas y de Mercado [...].

El presente estudio revela una fuerte lucha entre las pandillas por controlar y dominar los territorios, cuya dinámica de control y de reunión no suele ser oculta; al contrario, las maras o pandillas suelen apropiarse de espacios abiertos y visibles a todos los que conviven en él. Esta visibilidad forma parte del control que desean demostrar y que en muchos casos ciertamente tienen sobre el territorio y sus habitantes.

La investigación brinda información que muestra que la modalidad de apropiación y defensa del territorio de las pandillas hace que las colonias o los barrios no cuentan con la presencia de muchas pandillas diferentes en forma simultánea; al contrario, cada pandilla trata de controlar un área y de mantenerlo como suyo e incluso expandirlo. En este sentido, los miembros de la maras buscan que su territorio sea cada vez más grande en función del espacio, de la cantidad de vecinos y personas, y de la cantidad de integrantes a la pandilla. En conclusión, el primer aspecto relevante respecto a la organización de las maras y pandillas es que la conquista y defensa de un territorio se da en el nivel local y está, por tanto ligada a la construcción de identidad e los jóvenes involucrados. Esta territorialidad es, asimismo,

concomitante al establecimiento de una estructura jerárquica básica. (Demoscopia 2007: 15–16)

In Latin America, many Central American, Mexican, and Brazilian gangs have assumed parastatal roles to control urban enclaves – both to control them politically as well as economically. They have assumed this parastatal role where the rule of law is weak. In this regard, gangs have occupied urban spaces over which they project authority and demand some form of silence or obeisance. They have been able to do so by force and/or by extracting rents in exchange for security – security that others will not steal their cars, violate their homes, rape their daughters, and kill their neighbors. While the need for security might in fact be a product of the gangs themselves, once ensconced in these areas, the gangs provide a parastatal way of resolving the problem when in fact the police and courts do not do so (more on this below).

Indeed, violence has become an important part of gang culture and practice. Gangs use violence to defend local territories – for which they charge protection; in theory, gangs do not commit crimes in their own backyards but commit them in other territories – although with the rising importance of domestic drug sales, this is perhaps no longer as true as it once was (Demoscopia 2007: 51–53). They use violence strategically to assert power within their organizations and over territory.¹⁴ Violence is most likely in contested spaces and areas where no authority is hegemonic; that is to say, in places where neither state nor rival gang have assumed dominance; it is the competition over these spaces that often results in violence. In this context, noncontrolled public spaces – including bus routes, intersections with traffic lights; streets without nighttime illumination, and the like are potentially lucrative spaces to assert control. While the high rates of urban homicide cannot solely be explained by gang activity, it is quite evident that the rise of gang activity (and in particular competition between and among gangs) is responsible for some of the crime (and homicidal violence) that we see in parts of Guatemala, Honduras, El Salvador, Venezuela, and Brazil.¹⁵

¹⁴ For parallels in the United States, see Levitt and Venkatesh 2000 a and b; Klein and Maxson 2006, among others.

¹⁵ The relationship between gangs and the larger organized crime groups in Central America is open to interpretation and debates. We know that they are not linked organically and have historically operated independently from one another. Some contend however that gangs have connected to drug trafficking over time (see debate in the pages of Demoscopia 2007, for example).

The rise in gangs has therefore shaped the daily lives of families living in these communities – while citizens might feel free to vote for whom-ever they like, they are not free to ambulate around their communities at will nor do they expect the state to protect them or meet their needs. To the contrary, the gangs often set the terms of order and violence on the streets. As such, citizens rights are restricted – especially for youth who are sometimes compelled to choose sides in those communities wrought by gang violence.

Indeed, the territorial claims and violent actions of gangs (and illicit actors and markets, in general) have implications for citizens who inhabit these same local spaces. Violence and fear are high. Holston and Caldeira's (1998) exemplary work highlights the many ways in which citizens have come to fear urban spaces (particularly in Brazil); as well as how citizens (including gang members and prisoners) have come to use rights talk to assert their claims (Holston 2008). As such, the rise in gangs and criminal activity has led to a marked rise in *citizen fears* about criminality and victimization – as highlighted in multiple surveys by Latinobarometer and LAPOP. People are afraid to take public transportation, to flag a taxi on the street, to go out at night, to stop their cars at certain traffic lights, and to visit certain neighborhoods that once were open to them. Rather, at least four types of responses have ensued.

First, it is clear that the feared rise in gang activity in particular and organized crime in general has translated in the 1990s and 2000s into *ballot box calculations* in places such as El Salvador and Honduras – where presidents who advocated draconian *mano dura* policies were elected into office;¹⁶ these policies seriously restricted the rights of suspected criminals – in particular those who were presumed to be gang members. In other words, the fear of gangs led politicians to enact policies that restricted the rights of citizens not only to associate freely but also to have a fair trial; while many of these policies were found to be unsuccessful in containing gang activity (in some cases leading gangs to become even more professional, hierarchical, and violent than previously) others have charged that these policies were unconstitutional because of the restrictions on civil rights.

Second, citizens have also responded by engaging in *extrajudicial actions* – particularly in Brazil and Guatemala. Paulo Sergio Pinheiro (2007) has written about the social cleansing campaigns that ordinary citizens and policeman have initiated against street children and gang members. Similar stories are appearing in Guatemala and El Salvador – where citizens are taking matters into their own hands; ironically, their fear of crime and distrust

¹⁶ Chevigny 2003; Holland 2007; and Cruz 2010.

in the integrity and capacity of judicial institutions has encouraged actors to engage in extrajudicial actions against suspected criminals.¹⁷ While the first citizen response outlined above used electoral mechanisms to limit democratic rights, this second response has sidestepped the state completely to limit democratic rights.

A third response has been for communities to debate *citizen security* – how the state can put citizen's concerns first and how communities can become involved in securing their own security.¹⁸ The jury is out on whether this has worked. But the important point is that citizens are seeking to institutionalize some kind of security in a case where the state has failed to do so; where gangs and organized crime provide a second best option; but where those same institutions form part of the problem.

A fourth response has been to see security as a *commodity* that should be bought, rather than publicly guaranteed and provided – a pattern evidenced by the rise in private security firms over the past few years (Arias and Ungar 2009).¹⁹

The flip side of this discussion about citizen's responses requires us to question why citizens would in fact become gang members in the first place. Indeed, what we see is that the gangs themselves are a reflection of the weakness of contemporary states and citizenship not only to protect citizens (as we have just outlined) but also to integrate gang members as citizens prior to their recruitment, and during their time, as gang members. Nicaragua perhaps provides one of the more successful examples of preventive political efforts to reach out to youth before they enter the illicit world of gangs (Yashar, forthcoming). Viewed as a whole, then, the existence and actions of gangs as illicit organizations highlight how weak states and citizenship are in practice in many urban areas – all the more so for the most impoverished of urban citizens.

Illicit actors do not operate only where the state is weak, however, but also where the state is complicit (Arias 2006 a and b; Cruz 2010). In this sense, the range of gang activity is in part a product of the kind of state

¹⁷ Angelica Snodgrass Godoy's (2006) fascinating work on popular (in)justice highlights that in fact extrajudicial responses are more widespread than responses to gang activity. In the highlands, they provide a means to take action in a context where communities have a profound distrust of the state and its ability to provide and uphold the rule of law.

¹⁸ There is a significant literature on citizen security, with particularly important and extensive scholarship by Patricia Dammert (2006) and Hugo Frühling (2003), among others.

¹⁹ I thank Mario Sznajder for making this observation during the 2009 Hebrew University conference. It is a point that is substantiated by the data on rising security firms and the anthropological work by Caldeira (2000).

that is present, which in turns shapes, as Helmke and Levitsky (2004) would hypothesize, whether gangs compete, undermine, accommodate, and/or complement the state that is present. In practice, therefore, the illicit rubs up against the formal in unexpected ways – sometimes in tension; sometimes in collaboration. This formal-informal institutional link is a vital area for further comparative research on gangs and citizenship.

THE DRUG MARKET, BORDERS, AND ORGANIZED CRIME

Urban gangs are a part of the illicit picture (sometimes a part whose impact is exaggerated by politicians and the media, especially in Central America) but certainly not the only one. The illicit sector is considerably larger than this, as highlighted by transnational organized crime. The late twentieth century has witnessed the increasing visibility of these transnational organizations and with it has come serious constraints on citizens' ability to exercise their formal rights as such. Colombia, Bolivia, and Peru have produced the world's largest percentage of coca and cocaine; while in any given year the acreage and yields have shifted, the region as a whole has jointly produced the majority of the world's coca and cocaine. Colombia produces 55% of the global total, according to the UNODC, followed by Peru and then Bolivia (UNODC 2008:13).²⁰ Civil wars in Colombia and Peru (not Bolivia) have been transformed by drug production, which in turn has affected the lives of citizens who are caught in the crossfire.

It would be a serious underestimation of the illicit economy, however, to focus on production and consumption alone. Indeed, the *trade and transit* of drugs (the process of moving the drugs from one destination to another) is a transnational process over which, and by which, illicit organizations have emerged to pursue huge profits. Today, South American drugs are transported through many countries to find consumers (mainly in the United States but also in Europe and Africa). 'The flow of cocaine

²⁰ According to the 2008 World Drug Report, global cocaine production in Colombia, Peru, and Bolivia reached 1,000 tons in 2004 and stayed around that level in 2005, 2006, and 2007 – with Colombia assuming the greatest share of production in these years, followed by Peru, and then Bolivia (UNODC 2008: 14). And world seizures of cocaine also increased significantly in these years; while cocaine world seizures fluctuated between 300 and 400 metric tons from 1996–2002, after that year, they went up significantly and steadily between 2002 and 2005 (almost increasing by 100 metric tons each year and reaching over 700 metric tons in 2005), and then declining just below 700 metric tons in 2006 (UNODC 2008: 27). In those same years the inflation adjusted US\$ wholesale price remained low in the United States (although it went up significantly in 2006) and remained flat in Europe in inflation adjusted Euros (UNODC 2008: 260).

from South America to the United States is one of the highest value illicit commodity streams in the world,' according to UNODC (2007: 25). Latin America has become, in particular, a world producer of cocaine and is increasingly producing heroin as well:

South America produces an estimated 900 tons of cocaine annually, most of which is shipped to 10 million users in the United States and Europe, a market worth some US \$60 billion in 2003.²¹ The value of the drug flow rivals that of the legitimate economies of the nations through which it passes (UNODC 2007: 15).²²

The illicit economy is, therefore, not limited to Colombia, Peru and Bolivia; nor is it peripheral to Latin American economies. Rather, it is a fundamental pillar of the regional economy. This illicit trade route has become particularly robust in Central America and Mexico (although we also find significant passage through Venezuela, Brazil and the Caribbean). UNODC (2007: 12, 17, 46, 47) reports that 88% of the cocaine going to the U.S. now passes through Central America in some way, with most of the cocaine taking a maritime route.²³ 'Central America suffers from being the conduit for the highest-value flow of drugs in the world' (UNODC

²¹ The absolute volume and patterns of illicit trade are by definition hard to track. Indeed, the drug monitoring community knows much more about production and consumption than about trade: the 'middle link of this chain' (UNDOC 2007: 1). This is why the UN tends to track trade by seizures. While this is an imperfect measure (in many ways telling us more about state policy than flows per se), it is the best proxy that policymakers have found thus far. See Figures 59 and 60 in UNODC (2008: 80–81). This proxy tells us that cocaine is largely intercepted in the Americas – with 45% intercepted in South America, 33 percent in North America, and 8% in Central America and the Caribbean (UNODC 2007: 87).

²² With regards to heroin, the US Department of State Bureau for International Narcotics Law and Enforcement Affairs (2007: 19) reports that 'Most of the heroin used in the United States come from poppies grown in Colombia and Mexico, though their opium gum production accounts for less than four percent of the world's total production. Mexico supplies most of the heroin found in the western United States Colombia supplies most of the heroin east of the Mississippi.'

²³ Lee (1999:17–18) reports that the organization and logistics of Colombian cartels started changing in the 1980s as demand increased in the U.S. – seeking greater economies of scale. 'Production and transport were revolutionized. The 'mule' system was superseded by fleets of light aircraft that could carry loads of 500 to 1,000 kilograms of cocaine. By the 1990s, traffickers were using merchant shipping, cargo jet aircraft, and semisubmersible vessels to export multiton loads of cocaine to foreign markets. Export routes, developed with extreme care, required the complex coordination of many activities: air, sea, and overhead transport; aircraft refueling and maintenance; loading and unloading and storage of drugs; delivery of bribes to appropriate officials in transit countries; and – in recent years – intensive collaboration with trafficking organizations in these countries.' Rensselaer W. Lee III. 1999. 'Transnational Organized Crime: An Overview.' In Tom Farer, ed., *Transnational Crime in the Americas* New York: Routledge Press, pp. 2–38).

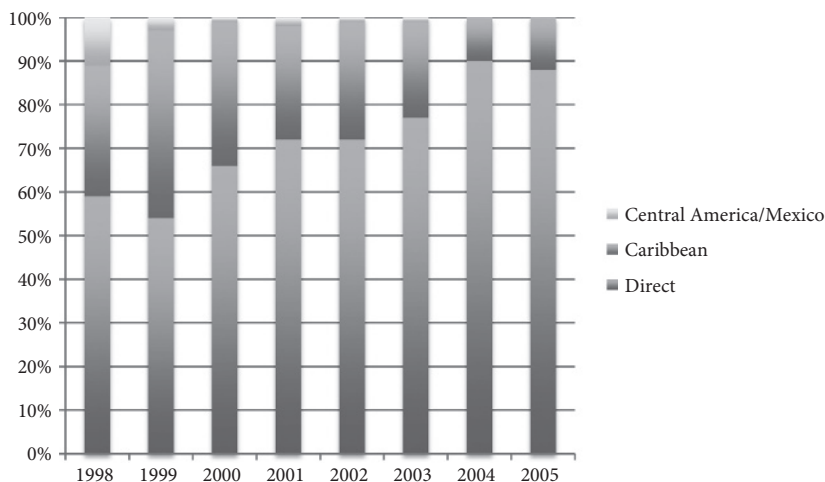


Figure 18.4: Share of cocaine flowing to the United States through Latin American transport corridors.

Source: UNODC (2007:46).

2007: 45). And reports of Mexico's drug wars under President Felipe Calderón highlight how significant, embedded, and destructive the illicit economy can be for citizens.

The emergence of this transnational illicit trade and transit has emerged, by definition, where there is *state prohibition* (often under serious pressure from the United States). Absent the prohibition, there would be nothing inherent in the drug or the trade that would make it illegal. In the Americas, the United States has taken the lead in trying to control the drug trade – with an important role played by the U.S. Drug and Enforcement Agency (DEA) in drug producing countries in the region and through its own certification system to determine acceptable state responses in other countries.²⁴ But this illicit economy has also emerged where states are weak and/or corrupt. Indeed, creating an illicit market (particularly in drugs) has created perverse incentives in politics and markets alike – limiting the profits accrued by farmers just as it concentrates those profits further down the chain in the hands of intermediary

²⁴ Also see UNODC (2008 Part 2), for a discussion of the Shanghai Opium Commission formed in 1909 and the multilateral instruments that followed. According to the United Nations, moreover: 'The drug control system is one of the oldest forms of multilateralism, spanning nearly a century.' (UNODC 2008: 31).

organizations (such as organized crime) overseeing the trade and transit of the goods. Indeed, criminalization of goods can lead to a transfer of rents from farmers to drug traffickers (Keefer et al 2008: 5) – leaving the former with little recourse to the state to regulate or defend these contracts.

Countries formally have many ways of *regulating* these goods – police, border control, courts and other state agencies. In practice, however, states have wielded an anemic, complicit, and/or reactionary response. The drug trade has therefore prospered in these conditions. Regardless of why the illicit economies emerges, once in place, it generates competition for control over territory and profits – a situation that has significantly increased violence, fear, and insecurity for citizens living in its midst.

Illicit organizations have responded strategically to these formal prohibitions and regulations by inserting themselves into, and taking advantage of, this illicit market.

The Colombian Cali and Medellín ‘cartels’ preferred the Caribbean corridor and used it from the late 1970s on. In the 1980s, most of the cocaine entering the United States came through the Caribbean into South Florida. But the interdiction successes caused the traffickers to reassess their routes (UNODC 2007: 46).

Indeed in this contemporary period, Mexican organized crime has assumed a primary mediating role in this multibillion-dollar-illicit trade economy. Trade and transit diversified in the 1970s, when Mexico diversified and started to *traffic* cocaine towards the north; cocaine was not produced domestically but rather was moved northward by Mexican organized crime, which took advantage of a more heavily patrolled Caribbean-Floridian port of entry. Not only has Mexican organized crime come to dominate this illicit trade and transit route – replacing once hegemonic and famous Colombian groups from Medellín and Cali; but so too the trade and transit route has shifted away from the Caribbean (where goods primarily moved through the islands and on to Florida) and towards Central America and Mexico (Astorga 1999; UNODC 2007: 15, 46). From the late 1990s on, the majority and increasing share of US-destined cocaine went through Central America as illustrated below in figures from USDIC/UNODC.²⁵ Colombian organized crime and their Dominican partners still dominate the US northeast, although this trade route has

²⁵ UNODC (2007: 25–26) reports that the drug trade started to move through Central America during the civil wars – although it is clear that the volume of trade increased subsequently.

diminished in comparative importance as other trade routes have developed in turn (UNODC 2007: 47); also see Lee (1999: 30). Indeed: 'According to the U.S. State Department, about 90% of all cocaine consumed in the United States passes through Mexico' (Meyer et al 2007: 2).

Small-time drug smugglers in Mexico then blossomed into more sophisticated drug trafficking organizations with increasing power to corrupt officials and police, eventually becoming the modern syndicates that control key corridors for the flow of drugs into the United States. Although many drug trafficking organizations operate in the country, the trade is currently dominated by what are commonly termed the Gulf, Sinaloa/Federation, and Tijuana 'cartels,' named for their places of origin. It is estimated that at least 20% of all drugs that enter the United States pass through the hands of at least one of these organizations. They control the flow of drugs within Mexico, as well as the transport of cocaine from South America, mainly produced in Colombia, through Mexico's Pacific ports and coastline, the Atlantic port cities of Cancún and Veracruz, and overland traffic through Mexico's southern states from Guatemala. Their main ports of entry into the United States are the border towns of Matamoros, Nuevo Laredo, Juárez, Agua Prieta, Nogales, Mexicali, and Tijuana (Meyer et al 2007: 2).

This changing geographic morphology is therefore a result of a crack-down/regulation both on the Colombian 'cartels' and the interdiction/prohibition of goods along the Caribbean waters; but it also highlights the strategic adaptability of illicit social actors to respond to legal regulations and crackdowns (i.e., to move to less regulated spaces where the state does not/cannot control them); what some have referred to as the ballooning effect applies to trade and transit, where crackdowns in one place lead to trade and transit in another.²⁶ In this case it is the Mexican groups that have come out ahead (at least for now) and have started to expand operations – not only within Mexico into other markets as well, including the United States, Europe, Central America, the Caribbean; they have reportedly even increased their influence even into production countries in the Andes (O'Neill 2009: 67).

This discussion of organized crime is not meant to ring a sensationalist alarm bell. Rather, it highlights that in Latin America's contemporary democratic regimes a) illicit institutions are powerful economic and social actors; b) their presence is not limited to urban capital areas but is in fact increasingly transnationalized and present in border areas (where

²⁶ See Kenny 2007 for a discussion of the strategic or competitive adaptation that takes place within the drug trade.

Van Schendel 2005 argues that the terms of citizenship are perhaps most contested in terms of identity, practices, and authority); and c) these groups are increasingly seeking to control territory in ways that not only define the economy (at times pumping resources into it) and society but also bleed into illicit, informal, and formal politics.

It is precisely where groups (gangs and organized crime) seek to establish and defend their territorial control/hegemony that violence has been on the rise. Illicit institutions do not necessarily lead to violence. Indeed, violence is costly and most organizations prefer not to use it if they can avoid it (Gambetta 1993; Kalyvas 2006; Snyder and Durán- Martínez 2009; Naylor 2009; Williams 2009; Reuter 2009). All things being equal, organizations prefer to wield hegemonic power that uses other instruments to assert and maintain power. That said, we also know that the stakes can be high to control the territorial enclaves noted above – especially as drugs filter into the equation. Where these illicit groups have competed over territory, violence has been comparatively high – both where organized crime and gangs have competed to control trade routes and where these organizations have fought to maintain their control over certain territorial enclaves.

In particular, homicide rates have increased where organized crime competes for territorial control with other organized crime groups and/or with the state (in some cases competing for survival, in others to create an illicit contractual relationship). While I will not here make the strong causal claim that competition over territory explains comparatively higher violence rates in some places over others, I will make the noncontroversial and softer claim that we know that these illicit groups have wielded violence when competition is high; have increased uncertainty and fear about crime (Caldeira 2000; Chevigny 2003); and have increased electoral concerns about controlling crime. Illicit groups also flaunt their presence in some cases by wielding violence both to stake out territorial claims, to punish defectors, and to beat out competitors. Indeed, my ongoing research suggests that this violence is particularly intense along the trade and transit routes (much more so than it is in the sites of production and consumption).²⁷ These patterns of violence are particularly in

²⁷ While drug production has been important in the Andes (Colombia, Bolivia, Peru) and also increasingly so in Mexico, the patterns of high violence are not equally visible across these cases. National homicide rates are very high in Colombia (where a civil war makes it hard to disaggregate what percentage of the violence is a function of war versus the illicit economy), moderately so in Mexico (although *much* higher along the western route than these national figures would suggest and increasing over time), and relatively

evidence in Western Mexico, northern Central America and Brazil. Where these markets are not legally regulated, contractual obligations are underwritten with the threat of force; in this context, where actors confront uncertainty and heightened competition, they are increasingly likely to use violence to define territories and settle scores.²⁸ This is true both of transnational organized crime in the drug economy as it is of local gangs – even though the scope and method deployed might be different.

For the population as a whole, the violence surrounding the trade and transit of drugs (as with the violence associated with some gang activity) has increased *citizen insecurity* in many countries along the trade route – most notably in Mexico, Guatemala, El Salvador, Honduras, Venezuela, Colombia and Brazil (see LAPOP and Latinobarometer surveys; Cruz 2009; Perez 2009). It is not that the drugs generate violence in and of themselves. Rather, it is that the actors involved in moving the drugs have deployed violence to assert their hegemony in key territorial enclaves (especially when and where there is competition with other armed actors – be it the state and/or other drug organizations). Indeed, only 24% of surveyed citizens responded that their country completely or somewhat guaranteed protection from crime (Latinobarometer 2008 – accessed online on 7/21/2010).

In short, the drug market is neither confined by national borders nor peripheral to prevailing efforts to advance free markets and state authority. Rather, drug markets emerged alongside and in defiance of national and international state efforts to prohibit their trade. These illicit markets have developed transnationally through trade and transit routes in borderlands, waterways, and airspace. As emphasized in the concluding remarks, these illicit markets were not only operating in defiance of the state but did so with the state – even when the consequences were deleterious for national citizens.

* * *

This brief discussion of illicit institutions highlights that the focus on formal institutions alone misses much of the political drama that defines day-to-day contemporary life. This is not only a descriptive oversight but it is one that fundamentally misunderstands both how contemporary

low in Bolivia and Peru. These data suggest that production is *not* the primary issue. Trade and transit are.

²⁸ In the book project that I am writing, I probe this dynamic further at the crossnational and subnational level.

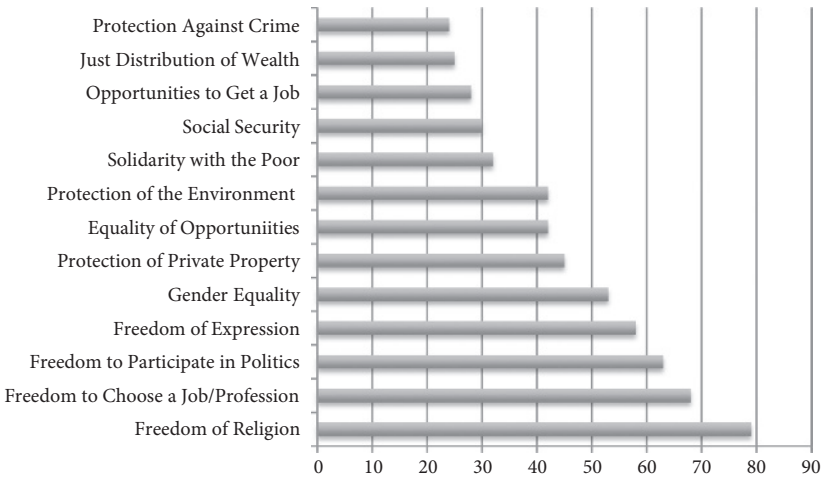


Figure 18.5 2008 Latinobarometer Survey perceived guarantee of freedoms, rights, and opportunities.

Question: To what degree does your country guarantee freedoms, rights, opportunities, or securities? [response: Completely guaranteed; somewhat guaranteed; little guarantee; not at all guaranteed]. Responses below only include completely or somewhat guaranteed

Source: www.latinobrometro.org (online, accessed 8/23/2010). Translation by author.

citizenship is experienced by many Latin Americans in the contemporary period as well how the illicit bleeds (literally and figuratively) into the formal and informal institutions discussed above.

CONCLUSION: ILLICIT INSTITUTIONS AND LIBERAL CITIZENSHIP?

What does this discussion of illicit institutions portend for liberal citizenship in Latin America? Why spend our time talking about illicit markets and organizations if the goal of this volume is to think about liberal citizenship and contestation thereof? This essay has advocated for a more encompassing research agenda that moves beyond formalism. This conclusion reiterates the main two points of the essay and discusses some implication for how we think about the state and citizenship.

First, this essay emphasizes that the relationship between states and citizens is not only shaped by formal institutions but is also shaped by informal and illicit institutions. It is crucial that we recognize these different kinds of institutions and the consequences that they have for citizenship. This conceptual point is the underlying theme of this paper and everything that I have said flows from it. It shares with O'Donnell (1993)

and Fox (1994), among others, the emphasis on the uneven patterns of citizenship as it relates to uneven institutional patterns. But this paper emphasizes not only the weakness of formal and informal state institutions (as these authors do) but also the corresponding role of the *illicit*.

Second, this paper has particularly highlighted examples of illicit actors that are carving out territorial enclaves to assert control over markets and authority therein – flouting state power and disregarding citizenship rights. The juxtaposition of gangs and organized crime highlight a particular way in which these organizations are challenging the relationship between states and citizens. These illicit actors/institutions do not accept the boundaries or content of the national state and thereby seek to rise above the rule of law. As such, they disregard the idea that all citizens are equal before the law. Indeed, they reject the idea that the state needs to determine the rules of interaction since these illicit institutions often assume a parastatal role over a given territory where they claim the monopoly on the use of force (although it remains an open question as to whether they are, or are not, considered legitimate actors at the local level). Otherwise stated, these illicit institutions aim to provide a protection racket (Tilly 1985) that not only promises stability and protection in exchange for taxes and loyalty, but wields violence to enforce their authority (be it over business deals, intra-organizational operations; or against competing groups) that operate outside of the legal contractual realm. In practice, these territorial enclaves are often rife with violence as illicit institutions often battle with the state and other illicit actors to assert control. Citizens are often therefore caught in the crossfire.

Taking these two points together, I have argued both that illicit territorial enclaves have emerged where the basic and unstated rights of citizenship are up for grabs – not only because the national state is not upholding basic rights but also because non-state actors (those seeking to control those territorial enclaves in the service of profit) are seeking to assert their authority. I have suggested that the existence and practice of these illicit organizations shapes the local spaces in which authority is asserted and rights are claimed/defiled. In the process, where the rule of law is far from certain, the illicit economy reflects and can re-shape the relationship between states and citizen. Accordingly, politics is not confined to formal and informal institutions but is also defined by the illicit, the complicit, and the cross-border.

Viewed from this perspective, illicit institutions/actors are contesting liberal citizenship in several ways – although not in the ways generally analyzed in the social movement and civil society literature.

The contestation of liberal citizenship is not the reserve of the 'good' social movements demanding inclusion, equality, autonomy and/or services, (to name but a few examples of claim making). It also the act of 'uncivil' movements and organizations that flout the law and seek autonomy from it for personal (rather than public) ends. Otherwise stated, not all contestation is deepening democracy and the role of citizens therein. In some cases, this contestation throws liberal citizenship overboard; on others it co-exists in tension with it – with illicit actors maneuvering between their legal and illicit lives, which are often juxtaposed and at times interconnected.²⁹

Were we to study only formal politics, we would fail to see the ways in which these illicit organizations are in fact sidestepping, challenging and even assuming state powers in certain areas – be it in well-defined favelas and shantytowns, as is the case with many gangs; or in port towns and border towns, as is often the case with transnationally connected or organized crime. Moreover, the line between 'national' territory and transnational territories becomes much more blurred. Saskia Sassen's (2008: 64) work finds parallel here – even though she is focusing on legal institutions. Indeed, her prose about the changing territoriality of authority is also apt for the world of illicit institutions as well. While Sassen has talked about different efforts to institutionalize formal and legal authorities, I highlight here how the illicit has parallel effects – not only seeking to dominate certain territories but to assume authority therein (challenging the authority of the national and local states in the process). This process of 're-assembling' the relationship between territory and authority has multifold and unexplored implications for citizenship and rights.³⁰

²⁹ Big organizations do not coordinate all licit activity; things are more decentralized than that. As Abraham and Schendel (2005: 54) have argued, at the micro-level people are often 'domesticating illegal flows.' That is to say they operate in decentralized ways that often are tightly integrated into more formal parts of the economy – shipping legal goods but also shipping illegal ones; crossing the border legally but smuggling at the same time: 'We argue that there is a qualitative difference of scale and intent between the activities of internationally organized criminal gangs or networks and the scores of micro-practices that, while often illegal in a formal sense, are not driven by a structural logic of organization and unified purpose. While we do not seek to establish that scalar threshold, the analysis in this volume makes clear that the 'armpit smugglers' or 'ant traders' who cross borders all over the world with small quantities of goods may together account for huge quantities of contraband, but they do not represent global syndicates of organized crime. For analytic, methodological, and policy reasons, it is necessary to rethink the core concepts currently used in analyzing transnational linkages of which states do not approve.' (Abraham and Schendel 2005: 4).

³⁰ Indeed, these observations require us to reflect on the classic theories of citizenship, which assumed that the state could and would determine the terms of membership

On a concluding note, it is critical to emphasize that the heuristic categories emphasized in this essay have boundaries that are often blurred in practice. While this essay has highlighted both the important heuristic distinction between formal-informal-illicit institutions *and* the importance of taking note of illicit territorial enclaves (as they affect citizens), the comparative empirics presented in this chapter remind us that these heuristic categories are more fluid (and corruptible) than the heuristic categories would suggest at first blush. Indeed, the *state* (as a formal institution) has proven key not only to determining (through prohibition and regulation) what is informal and illicit, but the state has often been *complicit* in both informal and illicit practices. The Latin American examples highlight both a national and more decentralized pattern where certain formal state institutions (such as the police, the judiciary, the attorney general) are particularly corrupt and complicit at multiple levels of government.³¹ It is not just that states cannot regulate illicit groups but moreover that state officials (and sometimes state agencies) profit generating illicit deals by taking kickbacks (Arias 2006a, Arias and Goldstein 2010, Brinks 2008, Cruz 2010, Leeds 1996, among others).³² Indeed, organized crime has occasionally played not only a parastatal role but also has underwritten political parties and candidates that it favors for political office (Arias 2006 a and b).

In this sense, the lines between formal and informal institutions (and illicit and licit authority) are blurred in significant ways. Not only do formal states that are weak and corrupt provide inviting spaces in which illicit groups and economies can thrive, but these same groups and economies can continue to undermine the legal formalism that these states are supposed to represent and advance. As Abraham and Schendel (2005: 7) state: ‘Students of illicit practices need to begin by discarding the

(nation), scope of democratic rights (citizenship), and the type of interest intermediation (liberal or pluralist). T.H. Marshall in particular argued that 19th and 20th century citizenship theoretically focused on the construction of formal institutions (courts, legislatures, and welfare states) to mediate the contradictions between democracy’s egalitarian promise and capitalism’s unequal outcomes. Yet this paper highlights that the 21st century has an equally important challenge – not only to address the unequal effects generated by capitalism in general and ‘free markets’ in particular but also to address the uncertainty and violence generated by the illicit institutions (including territorial enclaves and violence) that accompany them.

³¹ Reno 2000 also highlights how some African central states are fundamentally implicated in illegal practices.

³² See Snyder and Martinez 2009, who offer one way of thinking about how organized crime and the Mexican state struck bargains that have fallen victim to the PRI’s demise.

assumption that there is a clear line between illicitness and laws of states.' This is because illicit actors operate not only where the state is weak (as with informal markets) but *also* where the state is complicit. In this sense, the range of gang activity, in particular, and organized crime, in general, is in part a product of the kind of state that is present, which in turns shapes, as Helmke and Levitsky (2004) would hypothesize, whether illicit institutions compete, undermine, accommodate, and/or complement the state that is present. Hence, we need more attention to the distinctions between the formal, informal, and illicit but also the relationship *among* them.

What does this mean for citizenship in the region? Citizens face a practical and political dilemma. We know that citizen rights require the presence of a capable, accountable, and committed state – including not only Marshallian courts, legislatures, and welfare states but also Hobbesian/Weberian security institutions. For how can one be a citizen in practice (not just form) if one does not have a state that can provide the basic protection that states are supposed to provide? This is not a democratization question alone; rather, it is a question of building up a state that can provide for basic rights, including security; of building a state that can provide the legalized protection racket that Tilly (1985) popularized – one where people can come to expect that the state is not only a situation of men dominating other men; but also one where the state has the legitimate monopoly over the use of force in a given territory. Absent these kinds of states – citizenship is not just low (as O'Donnell 1993 noted), it is also curtailed. Yet we also know that many Latin American states have largely failed to achieve this kind of stateness – exhibiting complicity (and at times incompetence) with the informal and illicit patterns that have emerged. Hence we return to the practical and political dilemma for contemporary citizens: How to promote citizen security without empowering the very forces (in and outside the state) that have abused the rule of law in the past. The historic record shows how critically important and difficult it is to effect successful state reform (especially in the courts and security forces). Moving forward, therefore, will require us not only to think about democracy and formal institutional design but also to think more theoretically, conceptually, and systematically about the relationship between the formal, informal, and illicit.