From the Streets to the Chamber: Social Movements and the Mining Ban in El Salvador

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In 2017, El Salvador became the first country to adopt a national ban on all forms of metal mining. This remarkable policy development came after twelve years of mobilization in opposition to mine development in that country. This paper offers an overview of that process, highlighting the distinctive features of that campaign and analyzing the ways in which social mobilization connected with formal institutions and official policymaking dynamics. As such, it brings together two fields of study that have often separated along disciplinary lines—the study of informal, non-institutional, “street-level” politics of social movements, and the study of formal, institutional politics and official policymaking by governments.

A large body of research has emerged to analyze social movement origins, alliance structures and tactics. The connections between these movements and their policy consequences (or lack thereof), however, are less well documented and theorized (Bosi, Giugni and Uba 2016; Silva 2017). Social movement research generally finds that these mobilizations have identifiable political goals (Amenta et al 2010; Biggs and Andrews 2015; McAdam and Boudet 2012; King, Bentele and Soule 2007; Soule and King 2006), and that they are often at least partially successful in achieving their objectives. How and why they have an impact remains a matter of dispute. Given the significant role of social movements as an expression of collective demands, and the frequency with which people employ mobilization in search of substantive change, the circumstances under which popular mobilization becomes politically consequential should be better understood. To advance this work, movement theorists and public policy specialists need to construct a better account of the sequences and interactive effects that animate the movement-policy nexus, and to more accurately map possible causal mechanisms.

Documenting the connections between movements and policy is, however, an inherently difficult task. The challenges are in part due to movement volatility and the wide array of processes and timelines involved (Bosi, Giugni and Uba 2016; McAdam and Boudet 2012). As Silva (2017, 6) notes, “the very characteristics that draw us to social movements – their passion, fluidity, malleability, precariousness, creativity, and contingent nature – make it hard to establish their connection to observed changes with high degrees of confidence.” Solid research on the movement-policy link requires careful process tracing, a labor-intensive methodology that tends to limit the scope of the analysis to a small number of cases, which can blunt the contribution to theory building and rigorous testing.

This research also requires a commitment to studying movement dynamics and policy processes over an extended period of time, so that interactions can be monitored across various phases and any longer term consequences can be identified. Just as anthropologists are calling for “slow ethnography” to allow researchers to form reciprocal relationships with the communities they study and to capture the long term impacts of cultural change (Grandia 2015), so we might call for “slow movement studies” to allow

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1 The author thanks members of the Research Group Mega for the engaging discussions and observations that have defined our collaboration; DePaul University’s University Research Council, College of Liberal Arts and Social Sciences, and the Society of Vincent DePaul Professors for funding the fieldwork for this project; and CID-Gallup for access to public opinion data concerning views on mining companies in eight Latin American countries. The author alone is responsible for the contents of this paper.
scholars to trace the ways in which movements affect social and political processes across various phases of social conflict and reconfiguration, including both policy change and institutional adaptation.

Social movement analysts and public policy specialists have begun to develop these frameworks. In an ambitious study of ecology, antinuclear and peace movements in the United States, Switzerland and Italy, Marco Giungi (2004) found that protest by itself, had “at best a marginal to moderate effect” on policy, at least as defined in terms of adoption of legislation and increases/decreases in spending (70). Instead, policy change was more likely to depend on a “joint effects” process in which several factors were impacted simultaneously. In his formulation, which followed three kinds of policy shifts over the twenty-four year period between 1975 and 1999, joint effects referred to the combined impact of movement mobilization (typically in the form of increased protest), alliances with strategic political elites in the institutional arena, and shifts in public opinion demonstrating increased support for movement goals.2

Other analysts have also called attention to this interactive effect. Reviewing the literature on the political consequences of movements, Amenta et al (2010) identified 45 articles published between 2001 and 2009 in leading sociology journals that examined this topic (293). The authors of those studies found that the movements achieved desired impacts in 70% of these cases (having a “strong” influence in 33% and a “modest” influence in 37%) (292). Movement success was found to align positively with organizational size, multisectoralism, and diverse and complex leadership structures; with the construction of “resonant prognostic and diagnostic frames” which identified problems clearly and presented viable solutions; and with the successful use of political and electoral strategies to gain penetration and leverage, including activist insertion into formal institutional roles (296-97). To trace the connection between movement activities and policy results, Amenta et al employed a “political mediation model,” which highlighted the importance of “engaging in collective action that changes the calculations of institutional political actors, such as elected officials and state bureaucrats, and adopting organizational forms and strategic action that fit political circumstances” (298).3

Research on the interconnections between movements and policy is growing, but much of it has produced only tentative results. A small number of classic cases in U.S. and Europe have drawn disproportionate attention, making it difficult to know how well the findings apply to less celebrated cases or to dynamics in other regions, including Latin America. Research Group Mega (RGM), a network of researchers who focus on social mobilization in response to megaproject development in Latin America, has taken on the challenge of analyzing the movement-policy nexus in the Latin American context (Silva 2017). These megaprojects typically advance with State support under rules and regulations designed with limited local consultation or inadequate attention to environmental, social and human rights consequences (De Castro, Hogenboom and Baud 2016; see also Deonandan and Dougherty 2016; Lewis 2016; Veltmeyer and Petras 2014; Bebbington and Bury 2013). Social movements sparked by megaprojects regularly attempt to break through these constraints and demand access to public participation in the policymaking process. This kind of mobilization often begins with local-level protest but refracts in multiple directions when the campaign scales up to the national level. Driving questions in our analysis

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2 The extent and direction of policy change was found to vary by thematic area, with policies relating to domestic and low intensity issues being more responsive, and policies relating to high intensity and international issues being less so (Guigni 2004, 215-222).

3 Social movements were found to have weaker impacts on issues related to “the national cleavage structure,” and in cases when political and material stakes were high, in military affairs, and when public opinion was unfavorable (Amenta et al 2010, 295).
concern when and how social movements engage the national policymaking process and the circumstances under which their actions are consequential.

My paper is designed to contribute to this inquiry. Offering a longitudinal analysis of policy change, it traces the arc of transition in El Salvador’s metal mining policy and identifies the points of intersection between an unfolding mining resistance movement and the formal policymaking apparatus. In line with other research in this field, my study gives special attention to processes of political mediation that connect movement activists with state actors and institutions. It plots the path from policies that provided a receptive setting for mining investment, to policies that formally closed the sector down.

This work draws on field research conducted in El Salvador in 2010, 2012 and 2017, and in Washington D.C. in 2012 and 2017. In all, this assessment of mining policy development drew on responses provided in 86 semi-structured interviews. Interviewees included anti-mining activists and movement organizers; legislators, party leaders and administrative officials; business leaders and legal representatives; and research analysts involved with the Salvadoran mining conflict. This study also incorporates documents from websites and blogs of the Mesa Nacional Frente a la Minería Metálica and its affiliates; recorded testimony and legal briefs from the investment dispute between Pac Rim Cayman LLC and the Republic of El Salvador at the World Bank’s International Centre for the Settlement of Investment Disputes (ICSID); public opinion data from the Instituto Universitario de Opinión Pública (IUDOP) at the Universidad Centroamericana (UCA) in El Salvador and the CID-Gallup office in Costa Rica; and reports on legislative processes and deliberations that are posted on the website of El Salvador’s Asamblea Legislativa.

This case study points to four observations.

1. Movements play a critical role in identifying issues of public concern and advancing their inclusion in national policy discussion. As such, they contribute significantly to the agenda setting phase of public policy development. Movement representatives articulate grievances, raise awareness, and frame possible solutions, thereby extending the policy arena in new directions.

2. The ability of social movements to influence public policy may depend on their spatial reach (ability to connect across local and national threads), and breadth (ability to link across sectors). To elongate their networks, movement actors may combine “bridging” and “bonding” strategies (Putnam 2000). They may disseminate information through an array of interconnected clusters that have been built on common identities and shared experiences (bonding), and they may extend connective tissue beyond routine relationships by linking sectors across conventional social and political divides (bridging). The enhancement of movement reach and adaptability may be particularly important if durable policy change requires building alliances that transcend partisan polarization.

3. Targets are also dynamic players, and they can deflect, delay and defeat policy challengers through their own strategic interventions. Although social movement studies necessarily prioritize analysis of the movement, we should not lose sight of the way that targets adapt and reconfigure, opening and closing

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4 Unless explicitly authorized to use the respondent’s name, recent interviews are referenced here with a code that includes the country (ES = El Salvador, DC = Washington, D.C.); a randomly assigned respondent number; and the year in which the interview was conducted (17 = 2017). For more information, see the list of cited interviews at the end of this paper.

5 This study is part of my larger comparative research project on “subterranean politics” in Latin America, in which I analyze mining politics and policymaking in four countries—two where metal mining activities have advanced (Nicaragua and Guatemala) and two in which these activities have now been banned (Costa Rica and El Salvador).
space for contestation. Targets may undergo internal division, and their attachment to prior policies may obsolesce with changing circumstances. They may also shift the venues for confrontation, introducing new constraints. Participation opportunities for movement actors may expand, erode or require recalibration, depending on the behavior of targets.

4. Movement influence on advanced phases of the policy process, including policy formulation, adoption and implementation, depends on activist alliances with institutional actors who direct formal decision-making. Crossing the boundary between mobilization and policy networking requires the identification of “docking points,” or spaces where activists can insert public demands into the formal process of policy review, revision, and enforcement. Success in engaging these opportunities will determine how consequential a movement becomes.

The paper is presented in five sections. It begins with an overview of mining policy in postwar El Salvador and describes the early advance of the industry. The second section turns to the emergence of an opposition movement, and examines the bridging and bonding linkages that shaped movement expansion. The third traces the unfolding dynamics of the policy debate by examining three proposals (for mining promotion, moratorium and prohibition) introduced into the legislative process. The fourth describes the policymaking process that culminated in a mining ban. The fifth summarizes the findings and concludes.

1. Political Transitions and Market Openings

After a decade of civil war, El Salvador’s postwar political settlement left the newly created Alianza Republicana Nacionalista (ARENA) party in power. The 1992 peace agreement gave the demobilized Frente Farabundo Martí para la Liberación Nacional (FMLN) status as a legal party and the opportunity to compete for power, but ARENA consistently won the presidency and, with allied parties, controlled the main institutions of government for two decades. Its policies favored the interests of a transnationalized sector of the economic elite that acquired a strong position in banking and finance during the postwar transition (Bull 2017; ICEFI 2015; Schneider 2012; Segovia 2002). Policy making relied heavily on the planning proposals of FUSADES, a USAID-funded think tank that helped to staff the technical ministries (Vidal 2010; Spalding 2014).

Achieving four consecutive presidential terms, ARENA leaders had the opportunity to oversee the transformation of El Salvador’s economic model. Reforms included privatization of the banking and telecommunications systems, trade liberalization and expansion of the export processing zones, deregulation and, in 2001, a controversial policy of dollarization. To promote foreign investment, ARENA presidents signed investment laws, bilateral investment agreements, and free trade agreements that guaranteed intellectual property rights and allowed foreign investors to bring cases to international tribunals in the event of an investment dispute.

As elsewhere in the region, El Salvador revised its mining law during this period of neoliberal reform. New legislation was adopted in December 1995 under President Calderón Sol (1994-1999) following legislative debate and approval. To attract and incentivize investment in this largely undeveloped sector, the law rewarded mine investors with legal protections and tax exemptions. Exploration by “junior” mining companies progressed in the early 2000s under Francisco Flores (1999-2004), when the government adopted a yet more investor-friendly amendment to the mining law, reducing

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6 Junior mining companies are typically small-scale exploration operations financed with risk capital, whose assets are commonly acquired by larger and better resourced “senior” firms in the event of successful project development. See discussion in Dougherty 2011.
the royalties from 4% to 2% and increasing the size limit on concessions (Henríquez 2008, 28; TAU 2011, 33).

Although some members of the legislature were uneasy about this “give away,” the majority endorsed this initiative, arguing that investors brought entrepreneurial and technological skills that the country would need if these resources were to be extracted. As one diputado observed at that time, “I don’t believe that we’re giving our country away right now, or that they’re stealing that gold out of our hands, first because we don’t have it and because you have to invest and pour large amounts of money into it. Mining is not a factory that opens after a straightforward feasibility study… it’s one of the riskiest businesses there is, so it’s not a case of us giving away 2%.” The Ministry of Economy (MINEC) was charged with the task of reviewing permit applications and authorizing concessions, with specific authority assigned to the Office of Hydrocarbon and Mines. Other reforms extended the maximum period of an exploration concession, as discussed below. The new rules attracted investor attention; twenty-nine companies held exploration licenses in 2006 (TAU 2011, 39).

By 2004, the most advanced project was at El Dorado mine, a project initiated prior to El Salvador’s civil war that had been acquired through merger by the Canadian mining company Pacific Rim in 2002. The clock was ticking for the expiration of the concession when Pacific Rim acquired it, and the new management moved quickly to seek an extraction permit in December 2004. Pac Rim proposed to build a subterranean mine in Cabañas, one of the country’s poorest departments, in a region it categorized as the “gold belt” of El Salvador. This project was planned as a 10-year business, with two years to start up, six years of operation, and two years to close down. The projected value of gold exports from Cabañas mines topped US$1 billion, with a formal sector workforce of 2,818 in six proposed mines (TAU 2011, 41-42, 45), making this mining complex one of the largest (albeit short lived, by design) enterprises in the country. According to an economic projection commissioned by Pacific Rim with former Finance Minister Manuel Hinds (2007), which assumed a doubling of the expected life of the mine to twenty years, the El Dorado mine would produce an 8.4% increase in the GDP of Cabañas, leading to a 23% drop in the extreme poverty levels.

2. Constructing A National Opposition Movement

Launched formally in 2005, El Salvador’s anti-mining movement developed over time by forging cross-spatial linkages between local community organizations and national-level associations and building cross-sectoral connections of “bonding” and “bridging” varieties. This array of ties helped the movement to expand its reach and diversify its strategies, and provided the flexibility required to adapt to shifting opportunities. Local-level allies in the communities that had been targeted for mining exploration brought local knowledge and urgency to the process, as community residents mobilized to prevent imminent mining encroachment. National-level allies, although further removed from the mining zones, provided physical proximity to decision making centers and greater familiarity with policy making processes, which allowed resistance activists to make strategic choices about alliances, timing, and funding. Bonding networks drew on relationships among similar actors, and were infused with mutual understanding and trust. Bridging, by contrast, connected groups across wider cultural and power divides, which permitted valuable resource transfers that were sometimes accompanied by tension and mistrust.

These networking strategies parallel the distinction between “close” and “weak” ties that has generated substantial academic discussion in the study of social capital and movement organization (Granovetter 1973; Granovetter 1982; Levin and Cross 2004; Marsden and Campbell 2012; Biggs and

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7 As cited in Pac Rim Cayman (2013, 21).
Andrews 2015). Networks, in this formulation, are structures of opportunity for connection that may or may not be realized. Those built on close ties, in which participants have frequent, routine, and often organic (based on family, friendship and neighborhood) connections, are imbued with familiarity and permit a ready flow of interaction and communication. These mechanisms produce closed-circuit patterns of information diffusion that tends to reinforce message content through repetition and trust-based validation.

Weak ties, in contrast, link actors beyond their primary groups and provide more distinctive and less predictable flows of information. As the literature on the strength of weak ties indicates, these connections allow networks to extend beyond the clusters of redundant communication that characterize close-tie alliances, and kindle new linkages that can both broaden and accelerate the diffusion of mobilizing ideas and information. The cultivation of weak ties can also facilitate and expand multisectoralism, and permit greater functional specialization in keeping with the variation in resources and experience that the broadened networks can mobilize. These differences in capacity encourage repertoire diversification by connecting those, for example, who have different kinds of expertise with regard to lobbying, media access, legal strategies, and political party ties.

In terms of social movement impacts on public policy, close ties built on bonding techniques can stoke attitudinal uniformity and inspire recurring mobilization, including passion-driven protest and electoral engagement by providing emotional support and validation. Weak ties built on bridging principles, in contrast, can extend the network beyond its historical reach and encourage broader awareness of issues, permitting fuller shifts in public opinion. Although the latter increase the risk of increasing internal tensions and network fragmentation, they may also provide the leverage needed to affect a broader swath of popular views. This strategy, however, requires brokers who can link up previously disconnected movement segments and build bridges that span the gaps.

Local mobilization and bonding ties

“Vulnerability theory” contends that people who are most at risk due to a proximate threat are most likely to find it troubling and organize against it. In a recent study of the intersection between vulnerability, extraction, and public opinion, Eisenstadt and West (2017) drew on this theory to predict which sectors in Ecuadorian society would express the greatest level of concern about environmental conditions. Their survey results and geocoding of respondent location confirmed that concern was greatest among those facing objective vulnerability to harm (experiencing water scarcity and working in ecotourism, for example), and those residing within 30 kilometers of an active mine. This link between physical proximity to mining, the perception of threat, and heightened environmental concern suggests that residents of communities where mining projects are planned may also develop particular concerns about prospective detrimental consequences. This observation focuses attention on the logic of social mobilization in mining zone communities.

The Salvadoran “gold belt” included areas that had experienced active combat during the 1980s civil war. Several communities in concessioned territory had endured expulsion and flight following massacres and military campaigns little more than a decade before. Community residents underwent lengthy relocation in refugee camps, particularly in nearby Honduras, where Mesa Grande served as a temporary resettlement camp (Todd 2010; Smith-Nonini 2010; Viterna 2015). The experience of desperate flight followed by life in the camps left the trace of collective trauma, as victims attempted to cope with the magnitude of their losses. It also left an organizational foundation, as this population constructed various forms of self-governance while displaced. Although formally separated from the
military conflict in their home country, some refugees had family or community ties to the FMLN and maintained contact with FMLN combatants, who had a presence in the camps.8

Following years of displacement in the 1980s, many Salvadoran refugees returned to the villages in the northern region of El Salvador from which they had fled. Largely abandoned by the State during the final phase of the war and the early years of postwar transition, these communities turned inward and engaged in self-provisioning. They created health and educational services using homegrown “empirical” workers with little formal training but years of experience derived from the war (ES2417; Nonini-Smith 2010). Peasant producers renewed cultivation on prior or recently acquired land,9 and communities began the search for new products and practices that would allow them to survive. They formed local and regional organizations like the Coordinadora de Comunidades de Refugiados y Repobladores (CCR, later Asociación de Comunidades para el Desarrollo de Chalatenango) and the Asociación de Desarrollo Económico (ADES) in the repopulated community Santa Marta. These organizations in turn combined forces under the national umbrella of the Asociación de Comunidades Rurales para el Desarrollo de El Salvador (CRIPDES), which claimed to represent 100,000 people in 398 communities (http://www.cripdes.net/quienes-somos/historia). Many in the repopulated communities maintained strong ties to the FMLN, which, following its postwar transition into a political party, tended to win local elections there by a large margin.

This was the setting into which the mining companies advanced. Although some people in the gold belt were won over by the prospect of mining jobs or the general economic growth promised by company representatives, others viewed mining investors as intruders who again threatened their communities with displacement and political annihilation. Information about mine damages arrived through political and religious networks that connected northern El Salvador with mobilizations under way in Honduras and Guatemala. Open pit metal mining had advanced in the neighboring countries only a few years previously, and communities there had already begun to organize, often in opposition. Evidence of health problems and toxic spills had drawn the attention of international organizations and environmental rights defenders, who carried out research and disseminated these findings (Power 2008).

Residents of northern El Salvador report seeing evidence of mine exploration beginning in 2004. Chalatenango activists tell of residents in the municipios of Las Flores, Guarjila, Arcatao and Nueva Trinidad who repeatedly disrupted the activities of the company advance teams, closely monitoring their comings and goings, and surreptitiously removing survey markers planted in the fields that mapped their progress. As exploration advanced, activists took more forceful steps, blocking company vehicles that attempted to enter their zone, tracking down drilling sites, and threatening to burn equipment if it was not hauled away.10 In communities where the mining opposition was weaker, the movement focused on identifying allies and organizing informational sessions. Local leaders learned, according to one organizer, to “hablar sin hablar,” that is, communicate without making explicit statements that would invite rejection and retaliation. They adapted their protest style to emphasize artistic and cultural

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8 Jocelyn S. Viterna’s study of Salvadoran women’s mobilization into the FMLN guerrilla army found that many of those among a subgroup she labeled “recruited guerrillas” had lived in a refugee camp or repopulated community, where they had been targeted for recruitment. “This all-encompassing network,” she writes, “was strongly influenced by the FMLN: guerrillas or guerrilla supporters ran schools, organized protests, and even facilitated the transfer of supplies to FMLN combatants” (Viterna 2015, 94).
9 Under the terms of the Program de Transferencia de Tierras at the end of the war, some repopulated residents were permitted to resettle on semi-deserted farms and hamlets in this region.
10 ES2417; Cartagena 2009a, 230–231; see also the interview with Francisco Pineda, leader of the Comité Ambiental de Cabañas (CAC), in Labrador and Meza 2011.
activities, staging a “Caminata Verde en Defensa del Agua,” for example, instead of a marcha or protesta, terms which local people traditionally identified with leftist organizations (ES0417).

Spatial alliances and local-national connections

As community opposition deepened, wartime collaboration and postwar mobilization left organizational tracks on which to transit across the local-national divide. The move to defend the human right to water and impede private control of the water distribution system had mobilized a national network of activists, and the resulting Foro del Agua connected activists and civic leaders across the country (Haglund 2010; Almeida 2014, 70-78). Prior experiences with organizing permitted the rapid identification of potential allies whose usefulness and credibility as partners could be reliably assessed. As the prospect of metallic mine development became more imminent, previous organizational networks that linked local and national organizations were activated for another round. Community leaders in the emerging anti-mining front reached out to “trustworthy” organizations at the national and international levels for assistance in understanding and framing the evolving mining debate.11

In 2005, ten organizations came together to form the Mesa Nacional Frente a la Minería Metálica.12 This coalition, which combined grassroots community organizations from the mining zone with national-level NGO allies, became the backbone of El Salvador’s anti-mining mobilization. National network partners included the Unidad Ecológica Salvadoreña (UNES), a national environmental organization; Fundación de Estudios para la Aplicación del Derecho (FESPAD), a human rights organization; and the Centro de Investigación sobre Inversión y Comercio (CEICOM), an activist-oriented research center. Between the community organizations operating at the local level in territory targeted for mining concessions (discussed above) and their carefully curated national allies with specialization in environmental rights and legal protections, El Salvador’s anti-mining front developed spatial and multisectoral reach. (See figure 1). Using funds from transnational partners to hire both a full time facilitator and a communications specialist, the Salvadoran movement developed a formal physical operation.13 Organizational meetings of Mesa members were scheduled every two weeks (ES2017), and affiliates cross-posted messages on social media, where the organization had a robust presence.

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11 Early organizers repeatedly described the individuals and organizations they reached out to for the initial meetings as “de confianza,” suggesting that it was a significant criterion for inclusion.

12 Mesa membership rose from the initial 10 organizations to 13 by 2008 (Cartagena 2009a, 231, 233; Henríquez 2008, 29). Mesa members in 2006 included ADES, Caritas El Salvador, CCR, CEICOM, CESTA, CAC, CRIPDES, FESPAD, Unión de Comunidades Rurales del Norte de San Salvador y La Libertad (UCRES), and UNES. By 2008, the Asociación de Estudiantes de Economía Alternativa (ASEAL) of the UCA, the Asociación Amigos de San Isidro Cabañas (ASIC), and the Franciscan Justicia, Paz e Integridad de la Creación (JPIC) had also joined the coalition (Cartagena 2009a, 231, 233); additional members in 2017, when the Mesa was officially composed of 11 organizations, included MUFRAS 32, CORDES, Red Activista, and La Maraña, an offshoot of CAC (ES2017).

13 Actively seeking support abroad, Mesa representatives participated in numerous international events and exchanges during the 2005-2017 period (ES0717; ES0312; DC0112). ADES leaders attended nine international events in 2015 alone (ADES 2016, 12). The work of the Mesa was recognized with the IPS’s Letelier-Moffett Human Rights award in 2009, and Francisco Pineda of then-Mesa affiliated CAC received the prestigious Goldman Environmental Prize in 2011.
Figure 1: Overview of Anti-mining Movement Organization and Mechanisms

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<thead>
<tr>
<th>Movement bonding networks</th>
<th>Movement bridging networks</th>
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<tbody>
<tr>
<td><strong>Mesa Nacional Frente a la Minería Metálica</strong></td>
<td>Alliance with Catholic Church</td>
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<tr>
<td>National level*</td>
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<tr>
<td>CRIPDES</td>
<td>Cáritas-El Salvador</td>
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<td>UNES</td>
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<td>FESPAD</td>
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<td>Franciscan JPIC</td>
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<td>Local level*</td>
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<td>ADES</td>
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*Organizations listed for illustrative purposes. See footnote 12 for details.

Mesa leaders report working hard to frame a consistent story about who they were and what they wanted. They orchestrated a long and growing list of actions that included week-long events carried out simultaneously in several cities; marches involving hundreds of people starting out in the communities and concluding with demonstrations in front of central government buildings; delegations to visit mining communities in neighboring countries; petition and letter-writing drives; mock internment of mining companies; and local festivals in celebration of life and water. Their action frame crystallized around water rights, offering a powerful message that connected communities across the country. This message focused on the Río Lempa, which ran through the proposed mining zone and, according to antimining activist Andrés McKinley (2018), is “la fuente de agua dulce más importante de El Salvador, que provee el 50% del agua potable a la población, el 50% de la energía hidroeléctrica y el riego para la agricultura en más de la mitad del país.” Repeatedly described as the “arteria aorta del país,” the Río Lempa’s vulnerability to mine damage seeded both local and national alarm (Lourdes Palacios, as quoted in Cartagena 2009a, 247; McKinley 2016).

Bonding and bridging linkages to Catholic Church allies

Diverse church actors became recurring and critical partners, with Catholic leaders and activists operating both within the Mesa and beyond it. These connections included both the bonding ties of familiar long-term collaborators and bridging ties between autonomous actors with infrequent and tenuous links. Close ties emerged with the Catholic Church’s social action wing, Cáritas El Salvador, which was a founding member of the Mesa. Cáritas provided a physical office space for the Mesa’s coordination activities during the first two years of its operation (ES0817). Justicia, Paz e Integridad de la
Creación (JPIC), a Franciscan-sponsored organization, joined the Mesa soon after its founding, and its representatives became featured contributors and emissaries at national and international events (ES0112).

These activist church agents had previously-established trust bonds with Mesa activists based on prior collaboration, and they played a critical role as brokers to link the antimining network with more establishment-oriented church leaders in a classical bridging alliance (see figure 1). Although less consistently engaged with the issue and more politically and socially removed, the upper hierarchy of the Salvadoran Catholic Church entered the fray publicly in 2007, as the Latin American Catholic Church leaders more generally turned to embrace an environmental message. At the urging of the Archbishop of San Salvador, Fernando Sáenz Lacalle,14 the Conferencia Episcopal de El Salvador (CEDES), composed of the country’s eleven bishops, issued a joint statement in 2007 calling on the government to deny permits for metal mining (CEDES 2007). Declaring “this class of mining causes irreversible damage to the environment and surrounding communities,” the bishops concluded that metal mining in El Salvador “should not be permitted.” Following their own institutional dynamic, Church leaders joined the call for a mining ban.

As mining policy reform continued to stall, repeated this call three years later under the incoming Archbishop José Luis Escobar Alas (CEDES 2010). Public pronouncements by a widely respected elite actor helped to energize and expand the movement beyond well-worked circuits on the left.15 Although some individual parish priests preached in support of mine development (Cartagena 2009a, 244; ES1517), the institutional church leadership maintained its oppositional stance, facing down weekly pro-mining protests outside the Cathedral where the Archbishop offered the Sunday mass (McKinley 2010; ES3510; Nadelman 2015).

Growing attention to the environmental costs of mining fueled public opposition, which, as vulnerability theory would predict (Eisenstadt and West 2017), was well advanced in the mining communities. Responding to company claims that opponents to mining were an unrepresentative minority, the Jesuit UCA undertook a public opinion survey in the 24 municipios where metallic mining exploration concessions had been granted. Its 2007 IUDOP poll found that, when asked: ¿Considera a El Salvador un país apropiado para hacer minería?, 62.5% of respondents said no (IUDOP 2008, 1). The most common reasons for rejecting mining were the small size of the country (43%) and damage to the environment, particularly to water resources (24%) (p. 2).

Conflict and the electoral arena

As protests sponsored by the Mesa and/or the FMLN raised the profile of this conflict, and additional organizations aligned with this network, electoral risks associated with continued mine promotion began to increase. After almost a decade of collaboration with would-be gold mining investors, the ARENA government slowly backed away from mine promotion. Pac Rim officials who once reported an array of accommodations now found permits delayed and paper work returned for clarification. Gaps concerning property rights were found in their extraction application, and assurances about cyanide remediation and water safety no longer bought acquiescence. The Minister of Environment and Natural

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14 Trained as a chemist at the Universidad de Zaragoza in Spain, Archbishop Sáenz Lacalle rejected claims by Pacific Rim concerning their proposed processes of cyanide detoxification, reportedly finding them unscientific and manipulative (ES3510).
15 When asked in the 2006 IUDOP public opinion poll, “¿Cuánta confianza tuvo durante el año…en las siguientes instituciones:…?” 58.2% of respondents said “mucha” or “alguna” with respect to the Catholic Church, a confidence level which surpassed that expressed for all other institutions listed (Artiga-González 2007, 428).
Resources (MARN), Hugo Barrera (2006), expressed personal concerns, and bureaucratic processes ground to a halt.

When the country edged closer to the 2009 presidential elections, the fourth ARENA president in a row, “Tony” Saca, took additional steps to separate the government from the mining interests. Facing the country’s first truly competitive postwar presidential election, with popular journalist Mauricio Funes now running as the FMLN’s standard-bearer, Saca made a public statement on mining in March 2008. Proclaiming that “in principle, I do not agree with granting these permits,” Saca moved official opposition out into the open (as quoted in Pac Rim Cayman 2009, 30). The following year, only weeks before the March 2009 election, he called in to a live Catholic radio station program on mining, and pledged that he would “not grant a single permit” (López Piche 2009, 2). In defiance of Pacific Rim’s threat to file an investment dispute claim, Saca continued, “They are about to file an international claim and I want to make this clear: I would prefer to pay the $90 million than to give them a permit” (ibid, 2).

FMLN candidate Funes, along with his vice presidential candidate, FMLN leader and former guerrilla Salvador Sánchez Cerén, campaigned on a platform that was critical of metal mining, while his ARENA rival, Rodrigo Avila, remained silent. Launching their campaign in November 2007, the Funes team spent 17 months bringing their “Caravan of Hope” to municipalities across the country (Almeida 2014, 82-86). During a stop in Cabañas, Funes declared, “As long as [the mining companies] fail to demonstrate that these projects do not contaminate the environment and [do not damage] the health of our population, we are not going to permit metal mining” (Redacción Diario Co Latino 2008). Building outward from the FMLN’s formal membership of 80,000, his campaign networked with an array of civil society actors and social movement activists to get out the vote. Resistance organizations that had mobilized against privatization of healthcare and water in previous years were remobilized to support Funes’ election (Almeida 2009; Almeida 2010). Although the race tightened in the final lap, Funes emerged victorious in a 51.3% vs. 48.7% split.

Only weeks after Funes was elected, Pac Rim filed its claim against El Salvador at ICSID, with its initial $90 million claim rising to $314 million (Pac Rim Cayman 2013) before settling at $250 million as the case progressed. As the Funes administration officials moved into government offices and FMLN leaders renewed their commitment to a mining ban, the assassination of anti-mining leaders in Cabañas began. By the end of the year, three activists in Cabañas had been assassinated, and intimidation practices reminiscent of the civil war era had reappeared, taking an additional toll in the years that followed (Steiner 2010).

3. From the Streets to the Chamber

Unlike much of Latin America, where mechanisms of direct democracy became part of the institutional landscape during the period of electoral democratization (Breuer 2007; Selee and Peruzzotti 2009), direct forms of citizen participation remained limited in El Salvador. The country lacked a grassroots recall process, for example, and citizen groups could not introduce bills directly (Artiga González 2007, 335-37; ES0117; CREA 2004). Civil society groups with an interest in changing the law had to recruit cabinet officials or deputies to serve as sponsors of their bills. Civic organizations

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16 Tony Saca was often regarded as outside the mainstream of the Salvadoran elite by ARENA party leaders. See, for example, dismissive comments about Saca in a recent memoir by Gloria Calderón Sol de Oñate (2017), sister of ARENA heavyweights, the former President Armando Calderón Sol and the long-term ARENA party and legislative leader Milena Calderón de Escalon.

17 Bills can only be introduced by deputies or by the President acting through ministers. (The Constitution also permits the Corte Suprema de Justicia to introduce bills related to the judicial system and the Concejos Municipales
committed to increasing citizen capacity and strengthening public participation in the governance process had long labored to inform grassroots activists about how to press demands within official channels, but public institutional participation beyond elections remained underdeveloped.

Interest in the mining issue remained high, however, at least in some corners, and over the twelve years in which the metal mining conflict persisted, three kinds of bills were presented to the legislature. A mining reform bill designed to facilitate investment was advanced by the Partido de Conciliación Nacional (PCN). This bill would remove several requirements that were impeding mine investment and quicken development of the industry. A second proposal, declaring a formal moratorium on mine development, was introduced during the Funes administration by the ministers of MARN and MINEC. The third bill, proposed by the Mesa and submitted on its behalf by FMLN allies, would impose an absolute prohibition on metallic mining. All of these bills were sent for deliberation to the legislative committee in charge of environmental issues.

a. Reforms designed to promote mine development

The first bill was introduced by PCN deputies in November 2007 and contained reforms that would clear the way for successful extraction licenses (Asamblea Legislativa 2007). As noted in the ICSID testimony of Pac Rim managers, this bill was elaborated in close consultation with the company lawyers (Pac Rim Cayman 2016, VI-36). As gold prices began to rise, and ongoing exploration revealed additional high-grade gold deposits that increased the value of the concession, Pac Rim’s stakes in El Salvador rose sharply (Shrake 2010, 36). Corporate lobbyists and consultants were hired to mobilize support for the law change that would remove the unmet obligation to acquire surface property rights. Deputies from the PCN, an old-line conservative party and frequent ARENA partner in the legislature, agreed to introduce a bill to this effect in 2007 so that Pac Rim could resolve the deficiencies in its extraction application (Pac Rim Cayman 2016, VI-36).

Under this bill, property rights for surface land above a subterranean mine would no longer be required, although the company holding the mining rights would be required to assume responsibility for damages if so ordered by the court (Article 37). The bill called for the creation of a new Autoridad Minera, to operate under the Ministry of the Economy, which would be responsible for promoting, regulating, and monitoring the mining sector. This agency would respond to a governing board composed of seven people, five of whom would be appointed by the government, and an additional one each would be named by the private mining sector and NGOs actively engaged with mining issues.

Mining royalties would be increased, rising from 2% to 3%, with equal portions assigned to three groups: the Autoridad Minera and the MARN; the municipio where the mine was located and those

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18 See, for example, Departamento de Teología (2013); McKinley (2017); and CREA (2004).

19 Early proposals went to the Health, Environment and Natural Resources Committee, where they competed for attention with high profile health care deliberations. The committee was restructured in 2012 and mining proposals were subsequently assigned to the Environment and Climate Change committee.

20 Pac Rim’s lobbyists included former Christian Democratic Party presidential candidate, Fidel Chávez, father of PRES Vice-President Rodrigo Chávez, and Francisco Escobar, brother-in-law of Vice President Ana Vilma de Escobar. See Pac Rim Cayman 2016, VI-52. Rodrigo Chávez’s subsequent murder conviction further tarred the company’s image.
neighboring the mine; and a special Fondo Ambiental de El Salvador (Article 76). This measure, which would create a dedicated agency in charge of mining regulation, was designed by its sponsors to modestly increase the flow of revenues to the public sector, while simultaneously removing the property rights obstacle that prevented approval of Pacific Rim’s extraction permits.

This bill languished in 2008 as the Saca administration backed away from mine development and ARENA support weakened. The PCN, a once-powerful party that dated from the pre-civil war era, had eroded sharply after the creation of ARENA and never recovered. By the time of the 2006-2009 legislative session, it claimed only 10 of the 84 legislative seats, down from 16 in the 2003-2006 period. (See appendix 1). Favored by some traditional elites and rural voters near military bases, it was important as ARENA’s most significant coalition partner, but alone was unable to mobilize sufficient legislative votes to ensure a policy impact.

As delays appeared, Pac Rim attempted to recalculate its bargaining position by sweetening the deal. In a 2006 letter to Economic Minister Yolanda de Gavidia, Pac Rim president Thomas Shrake had proposed additional revisions to the mining law that would increase royalties; enhance environmental protections; create new taxes on mining to cover costs of a specialized regulatory division in MARN; and establish a “Legacy Fund” at each mine to generate capital for community investments following mine closure (Pac Rim Cayman 2013, 151-152). The company also pushed forward on its plan to win a much-coveted social license to operate (SLO), with multiple “community-outreach and sustainable development efforts,” including eye care for children, environmental education programs in the schools, recycling pickup, river solid waste cleanup, and planting over 40,000 trees (Shrake 2010, 37). None of these efforts produced evidence of a sustained mobilization in support of mining.

b. Reforms designed to support a moratorium

Discussion of a mining moratorium had emerged first during the Saca administration and continued through the Funes era. In 2006, amid growing antimining protest and accumulating official fractures, Saca administration had contacted a Peruvian mining law specialist, Manuel Pulgar-Vidal, to request an outside consultation. Pulgar-Vidal’s official charge was to prepare a report that evaluated the “suitability of mining exploitation in view of the sector’s current situation and country conditions, and identify the aspects that should be modified in the Mining Law such that the mining sector develops as an industry that utilizes proper mining practices to avoid environmental degradation” (Pac Rim Cayman 2016, VI-39).

During his 2006 visit to El Salvador, Pulgar-Vidal identified gaps in the country’s environmental and mining legislation, institutional capacity, and mechanisms for citizen participation, and he noted the lack of a shared understanding of mining governance across relevant agencies. He recommended that the government undertake a full scale strategic environmental assessment to identify the kind of regulatory infrastructure that would be needed before mining could be successfully introduced (ES1817; Pac Rim Cayman 2016). Based on an emerging understanding of the kind of state capacity that would be required for successful mine regulation, and a deepening awareness of regulatory deficits and risks, Salvadoran officials began an internal discussion of a “freeze” on the permitting process. By December 2006, the

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22 According to the MINEC official in charge of arranging the consultancy, a Peruvian expert was sought because of that country’s extensive experience with modern gold mining, and the consultant was identified by calling Peruvian government mining offices to request recommendations (ES1817).
Minister of Economy, under instruction from the President, started work on a new legislative proposal which would declare a three-year moratorium on metal mine licensing (Pac Rim Cayman 2016, VI-51-52).

Internal fractures undermined any formal moratorium declaration, leaving the subsequent Funes administration to deal with the issue. Continued structural dependence on private investment flows raised inevitable questions about the impact of any investment prohibition, particularly as FMLN candidates took on responsibility for governing. Funes administration officials expressed concerns about the impact of a ban on the government’s tenuous relations with the domestic business class and the complex dynamics evoked in the ICSID process (ES2717; Bebbington et al 2015). According to an FMLN deputy involved in the deliberations, the President called on the FMLN legislators to pull back from the ban on the advice of the country’s ICSID lawyer (ES0217). The respondent’s brief presented in defense of the Republic of El Salvador claimed that Saca had not imposed a de facto ban on metal mining, but had called only a temporary moratorium on license authorization while the administration examined reported deficiencies in its regulatory process. This distinction, deemed significant by the legal team for the success of the case, would be blurred if the country now approved a legal ban, and could jeopardize the case as it entered the crucial final step of the journey.23

In 2010, the Funes administration moved forward with a full-scale external assessment of mining viability in El Salvador, as Pulgar-Vidal had recommended in his 2006 report. Carried out by the Spanish consulting company, TAU Consultora Ambiental, and reviewed by a blue ribbon oversight committee to ensure its quality,24 the Strategic Environmental Assessment (SEA) identified a long list of environmental risks and vulnerabilities in El Salvador and described in detail the deficiencies in the government’s regulatory capacity (TAU 2011). It presented two possible alternatives—prohibition of metal mining or the introduction of mining with a strong program of regulation. Although the report did not adopt a clear recommendation, it did outline the kind of regulatory transformation that would be required if mining were to be introduced. According to this assessment, major policy change and institutional development would be needed in 17 areas, with 63 specific actions identified for change (TAU 2011, Table 19, 81-84).

Armed with this report, the Ministers of the Environment and the Economy jointly presented a proposal to the legislature in August 2012, calling for a formal moratorium. Noting that an outright ban could trigger ICSID demands against the State by any of the 26 companies that currently had exploration rights, Environment Minister Hernan Rosa Chávez (2012) concluded, “In reality, [the moratorium] is the only option.” This suspension, supporters argued, would endure until such time as the industry could be effectively regulated and the country could be made safe for metal mining activities. Given the long list of environmental obstacles to effective regulation and control, the eventual arrival of that moment seemed increasingly unlikely.

Mesa representatives rejected this initiative, however, noting that the decision about lifting the moratorium would be made by a 10-person board, which would include three people appointed by the

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23 Describing a meeting with the Mesa representatives at the Presidential Palace in San Salvador during this phase, the country’s legal representative reported that he strongly advised delay. “In the middle of a case,” he explained, “you don’t want to change the law. It would look even worse, like you were trying to manipulate the legal system to get what you want. Even if the law was changed, you couldn’t make it retroactive. It would help the other side to win their case without helping your side at all. I recommended that they wait until after the case was done and then decide if mining should be prohibited. Then they could weigh the pros and cons” (ES2717).

24 The four-person international oversight committee was composed of Robert Goodland, Ann Maest, Allan Astorga, and Anthony Bebbington, who chaired its work (Bebbington et al 2015, 205, fn 24).
sitting President and two business representatives. Arguing that this process could allow a future
government to declare the conditions ripe for mining, in spite of the massive community and
environmental damage that would be unleashed, the Mesa remained resolute in its opposition. For TAU’s
“failure to consult” properly and its unwillingness to conclude forcefully in favor of a ban, one Mesa
representative interviewed by the author denounced the SEA report as “garbage” (una basura) (ES1012).

c. Reforms designed to prohibit metallic mining

The PCN and Funes administration proposals clashed with the Mesa-backed bill, which called for
an outright ban on metal mining (Asamblea Legislativa 2006). First introduced in December 2006, this
bill was presented repeatedly over the next eight years by a group of FMLN deputies in response to Mesa
demands. According to the Asamblea Legislativa’s online database, this bill or a lightly adapted
equivalent was introduced 15 times between 2006 and 2014, as the antimining campaign built to repeated
crescendos and FMLN deputies put out renewed calls for action. Reintroducing the bill between one and
two times each year over this 8-year period, FMLN deputies demonstrated the tight connection between
the Mesa-dominated antimining movement and its political party ally.

The close link between the FMLN and Salvadoran social movements has drawn repeated
attention in the academic literature, particularly during the large-scale mobilization against health care
privatization in 2000-2003 (Almeida 2014, 70-78; Smith-Nonini 2010). This movement launched a work
stoppage and series of “white marches,” where up to 200,000 participants turned out in waves and dressed
in white to express solidarity with hospital workers. Guillermo Mata, the president of the national
association of physicians and high-profile leader of this mass mobilization, went on to become the
FMLN’s Vice Presidential candidate in 2004 and, following that defeat, a three-term FMLN diputado.
This strong movement-party affinity in El Salvador has been described by Paul Almeida (2006) as “social
movement partyism.”

A growing body of literature analyzes movement-based political parties, which have developed in
several Latin American countries, including Bolivia (MAS) and Ecuador (Alianza País) (Rosales-
Valladares 2017; Anria 2013; Kitschelt 2006; Van Cott 2005). This kind of linkage emerges when a
political party assumes the discourse, frames and mobilization strategies deployed by social movements;
when movement actors support a political party’s electoral work, encouraging an identification with a
party, sharing its messages, and getting out the vote in favor of the party’s candidates; and when, if
victorious, party leaders name social movement actors to positions in government. These connections are
often regarded as inherently unstable because of the tension between the institutionalization required for
political party development and the non-institutional and transitory characteristics of social movements.
The Salvadoran case represents a relatively durable version of this blend, perhaps because of the high
degree of ideological polarization that persisted there in the postwar years.

This close relationship between Mesa affiliates and FMLN diputados facilitated their continuing
collaboration on a legislative ban. As they had in 2009, Mesa activists sought commitment to a mining
prohibition from the FMLN’s 2014 presidential candidate, Salvador Sánchez Cerén, and celebrated the
appointment of Mesa allies to administrative positions when he won.26

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25 The remaining appointees were the Procurador de Derechos Humanos, two representatives of civil society and
two international mining experts.

26 Angel Ibarra, a founder of the Mesa’s national environmental organization UNES, became the Vice-Minister of
MARN.
4. Adoption of a Formal Legislative Ban

Responding to continuing claims that mining opponents were an unrepresentative minority, the UCA undertook a second public opinion survey in those municipios where metallic mining exploration concessions had been granted. This 2015 IUDOP survey revealed that opposition to mining, already high in 2007, had only increased, and had now become comprehensive in most of the mining zone. Whereas 62.5% of respondents in mining communities said “no” in the 2007 IUDOP survey when asked: ¿Considera a El Salvador un país apropiado para hacer minería? (IUDOP 2008, 1), this percent had increased to 79.5% in 2015. In keeping with the claims of vulnerability theory (Eisenstadt and West 2017), almost four out of every five respondents in this zone of heightened vulnerability, where the proximate threat was just down the road, felt that mining was not an appropriate activity for El Salvador (IUDOP 2015, 58).

Building on these pockets of strong resistance, community organizations affiliated with the Mesa introduced a new strategy to document local opposition (ES1617; ES1517). Appropriating the consulta process employed by anti-mining movements elsewhere in the region (Walter and Urkidi, 2016), and adapting it for use in the Salvadoran setting, CRIPDES organized five municipal-level consultations on the mining question in the country’s gold belt between 2014 and 2017.27 The towns selected for consultations were strongholds of the FMLN and politically atypical, even for their departments.28 The NO vote on mining was almost universal in these towns, ranging from 98% to almost 100%. Strategically pacing the consultas in propitious territory; dispersing the operational costs across the seasons and years; inviting domestic and international observers to witness the process; and promoting media coverage of the results, Mesa affiliates attempted to sustain the message of community opposition to mining and to keep the issue in the public eye.

Mesa leaders also continued their collaboration with the “International Allies,” a group of solidarity and development INGOs who provided financial support for the prohibition movement and drew international media attention to the cause (ES1617; DC0112; Democracy Center 2017; McDonagh and Orellana López 2017). The Allies organized protests and forums in their home countries, and they sponsored delegation travel to and from the US, Canada and Australia. They called attention to the violence directed against mining opponents in El Salvador and denounced the pressures placed on the country by the ICSID process. Media coverage of the Salvadoran mining story in the countries where mining company headquarters were located served both to inform readers abroad and, as refracted back into El Salvador, to convey to Salvadorans that the world was watching this case.

The final push toward a legislative ban was facilitated by the successful deleveraging of external pressure in the ICSID case, and by the move by Catholic Church officials to take more direct ownership of the process. Pacific Rim’s legal demand against El Salvador in ICSID raised the stakes on this issue,

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27 El Salvador had reformed its municipal code in 2005, adding an article to create, among other things, a mechanism for community consultation (Código Municipal 2010, 21). Under these provisions, if 40% of registered voters in a municipio petitioned for a Consulta Popular, the Consejo Municipal was required to call one. And if turnout in the consulta was at least 40% of the vote tally from the last municipal election, then the majority preference was to be regarded as binding.

28 The 2014 vote for the FMLN presidential candidate in the second round of balloting in these communities ranged from a high of 96% in San José Las Flores to a low of 61% in Cinquera, in both cases running substantially above the vote Sánchez Cerén received at the department level (48% in Chalatenango and 39% in Cabañas) and in the nation as a whole (50.1%).
even as it prevented the government from moving forward with legislative action. After almost eight years of legal pressure, Pacific Rim lost the ICSID case in October 2016. In a unanimous vote, the ICSID tribunal concluded that Pacific Rim had never completed the application process for an extraction license due to its failure to secure permission for underground mine construction from the owners of surface property, as required by Salvadoran law (Pac Rim Cayman 2016). Once the case was dismissed and the threat of repeated pounding by disgruntled junior mining companies retreated, the legislative process began anew.

The ICSID experience had raised alarm in the legislative chambers, and it contributed now to the forward movement. As one legislative observer (ES0117) noted, “With the claim filed in ICSID, we could see that we were unprotected, that any other firm could file a demand against us and we would be vulnerable. We needed to act to prohibit [metal mining] to prevent that from happening again. That [ICSID] decision could have gone the other way.” Salvadorans had faced the threat of paying out $250 million to a company that had never fully established its right to mine, or of being required, through external pressure, to authorize the initiation of an industry with well-documented potential environmental risks, which the country was, on the basis of the best evidence, unprepared to manage. The possibility of a ripple effect, as other similarly situated mining companies followed suit, further raised the potential costs.

Ironically, an institution and process that had been designed to promote international investment by increasing protections available for investors may have served, in this case, to fuel investment restriction. As anti-mining mobilization continued and evidence that the country was unprepared to control the industry accumulated, political leaders increasingly recognized the need to take definitive action that would contain the threat of new legal demands. When the policy freeze imposed by active litigation was lifted, a ban suddenly became feasible. As one Mesa organizer (ES2517) observed, “In that moment, the juncture opened.” In the words of an ARENA diputado (ES0317), “This year we found there was a window of opportunity.” Bishop José Luis Escobar Alas, the Archbishop of San Salvador, observed, “Si el CIADI falló de esa manera tan positiva, ¿por qué el país no es capaz de dictar una ley que prohíba la minería? Para más un organismo internacional protege a la nación, ¿por qué nuestros diputados no?” (Agencia de Prensa Salvadoreña 2016).

Still, the domestic stalemate on mining policy had not simply evaporated. One Mesa leader (ES2517) noted, “It was tough to figure out how to proceed. From October to January we were trying to decide how to move to the next step.” Some members wanted the President to issue an executive decree against metal mining; others were intent on getting the earlier FMLN-sponsored bill onto the Asamblea floor. Mesa leaders had the complex task of figuring out not only how they wanted to advance the prohibition on mining but also how to plan their organizational transition should the mining threat actually be eliminated. As a single-issue network devoted to halting metallic mining, the Mesa’s future in a post-mining world would require careful negotiation. They faced the additional challenge of processing the debate about artisanal and small-scale gold mining (ASGM), in which güiríeros took over abandoned mines and exploration sites, and further contaminated them using mercury-based processing to extract gold (Pacheco Cueva 2017; TAU 2011). Mesa members report being divided on that issue.

During this juncture, a new round of high profile intervention by Catholic Church leaders drove the process forward. In this final lap, collaboration between the Mesa and the Church hierarchy tended to accent the role of the Church. This recalibration of the anti-mining alliance triggered tensions and indications of mistrust, which are not uncommon in bridging relationships. Although that dissonance came at a cost, the emphasis on Church leadership also succeeded in easing the partisan identity of the cause and in giving the process a fresh start. As one Asamblea respondent (ES0117) observed,
“One thing that helped the Commission and the Assembly to move forward in 2017 was that the Church presented a new proposal. The Commission wasn’t required to go back to the old proposals that had already been debated and had already generated polarized responses. Instead, it could start fresh with a new proposal that was clear and straightforward. With the earlier ones, sometimes the bills were internally contradictory, or they missed an important issue. With this new one from the Church, those problems did not arise.”

This step involved collaboration among a variety of Church-aligned institutions and policy strategists. Institutionally the Jesuit-run Universidad Centroamericana (UCA) took the lead on developing a new mining prohibition bill in 2015–2016 (ES1017; ES1717; McKinley 2017). With assistance from the university’s legal team and faculty members in the department of legal studies, the UCA’s mission-driven “Social Projection” office oversaw a technical analysis of the bills under legislative review and, finding deficiencies, moved to draft a new one. Led by Andrés McKinley, the former Oxfam representative who had helped to bring together the Mesa in its early years, and by Omar Serrano, the Vice Rector of Social Projection, UCA officials convened meetings to prepare a new bill that was designed to prohibit metallic mining both above and below ground. It also set a two-year deadline for the elimination of small scale artisanal operations.

Closely attuned to political dynamics, they delayed distribution of the new draft, waiting for the “right moment” (ES1717). That moment came when the ICSID decision was finally delivered and that external threat was deleveraged. UCA administrators presented the new proposal to the Archbishop of San Salvador, José Luis Escobar Alas, who embraced it as his own. According to bill architects, the text was also vetted by the human rights ombudsman, the ministers of the MARN and MINEC, and the Salvadoran President (ES1017; ES1717). Under the leadership of the Archbishop, a delegation of Catholic authorities then formally presented this bill to the Asamblea on February 6, 2017, securing pre-arranged sponsorship from key legislative leaders.

Push back against heightened Church activism followed from well-positioned mainstream media and conservative leaders. Auxiliary bishop Gregorio Rosa Chávez (soon-to-be named as El Salvador’s first Cardinal) reported that an unnamed ARENA financier pressured him to abandon opposition to mining (Jimenez 2017). The Executive Director of El Diario de Hoy, the country’s major conservative daily newspaper, tweeted that “El Estado debe ser laico y la Iglesia debe abandonar la política. El retorno de la Iglesia a la política nos llena de tristeza” (Redacción UH 2017). But ANEP, El Salvador’s business peak association, took no formal organizational position on the issue (ES1917), and even voices that had once favored mining were now subdued (ES2617). “After the Pacific Rim case,” one observer noted, “no one wanted to defend mining” (ES1017).

As the days ticked by, Church officials doubled down on their campaign. Three weeks after the bill was introduced, the Archbishop organized a major signature drive in support of the ban, with priests

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29 Catholic activists in the Mesa had already begun meeting as a separate Catholic coalition, working “to develop their own voice” (ES2117; also ES0817; ES0917). Mesa representatives participated in the initial UCA-led discussions to design a new bill but stopped attending as the process advanced, citing a lack of confidence in the legal team (ES1017; ES2017).

30 The bill was presented by the Archbishop of San Salvador, José Luis Escobar Alas; auxiliary bishop Gregorio Rosa Chávez, the president of Caritas; Andreu Oliva, the UCA Rector; and José María Tojeira, the director of the Instituto de Derechos Humanos of the UCA. Fray Domingo Solís, in representation of the Franciscan JPIC, a member of Mesa Nacional, accompanied the second delegation the following month.

circulating petitions before and after Sunday mass. After more than 37,000 signatures were collected in a little over a week, Church leaders gathered several thousand followers to accompany them as boxes of petitions were carted over to the Asamblea. They were met by a contingent of Assembly members, including representatives of multiple political parties and by GANA diputado Guillermo Gallegos, the Assembly president, who promised rapid action. Claiming that the bill addressed fundamental questions of life and death, the Archbishop urged the legislators to step away from partisanship and provide unanimous support.

As with its predecessors, this bill was sent to the legislative committee on the Environment and Climate Change. Under the leadership of FMLN diputado Guillermo Mata, that 10-person committee had already moved mining to the top of its 2017 agenda, and members advanced quickly through the review of the new proposal. They paused to conduct a site visit at Commerce Group’s old San Sebastián mine, which had continued to leach heavy metals into the San Sebastián River long after its formal closing. They heard about mining hazards in more detail from the UCA’s resident expert, Andrés McKinley, and received a report from MINEC officials confirming that El Salvador had no outstanding extraction permits that would be affected by the ban. And they heard testimony from Carlos Padilla, the governor of the province in the Philippines where Pac Rim’s new owner, Oceana Gold, had operated a highly controversial mine. Padilla described the social, economic and environmental damage that this mine left in its wake. The committee report, citing the already precarious state of El Salvador’s environment due to deforestation, water stress, acid mine damage, and contamination, and weighing the vulnerabilities intensified by climate change and the country’s troubling record of social conflict, concluded with a favorable recommendation, and the bill moved on to the full legislature.

Taken up the next day, the bill was approved quickly in a 69-0 vote on March 29, 2017 (Asamblea Legislativa 2017). After ten years of legislative delay, debate, and dismissal, deputies from all five parties lined up to endorse this new policy. Support was a given with FMLN deputies, who festooned the chamber with banners reading “No a la minería, Sí a la vida.” After years of collaborative work with the Mesa network, FMLN leaders were quick to endorse the ban. GANA, a relatively new party which had emerged with Saca’s expulsion from ARENA and served as the FMLN’s frequent legislative partner, was also committed to approving the measure. The solitary PDC vote had been previously pledged in support of the ban, and provided mining opponents a slim margin of victory. The only question, then, concerned the deputies from ARENA and the PCN, who controlled the remaining 49% of the seats (see appendix 1).

Deputies in El Salvador traditionally owed their candidacy to their party, not directly to the voting public, and party bloc voting in the Asamblea was the norm. Changing the voting position of a deputy normally required persuasion at the level of party leaders rather than recruitment of individual deputies. New election rules governing preferential voting for individual candidates and the option of split ticket

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32 Escobar Alas framed the issue as follows: “Creo que dentro de todas las acciones que el hombre lleva a cabo, la más grave es la minería metálica. No hay un daño al ecosistema más grande que ese, y en nuestro país sería más lamentable aún, dado que somos un país pequeño y deforestado. Realmente, esta es una amenaza de vida o muerte” (as quoted in Gómez and Orellana 2017.)

33 For discussion of the environmental damage around the San Sebastián mine, see Pacheco Cueva 2017; PDDH 2016.

34 According to eye witnesses, some of whom reported a 70-0 outcome, an additional deputy attempted to vote in favor of the ban but their vote failed to register in the electronic database. Four others were listed as attending the session but did not cast a vote; ten were recorded as absent.

35 As frequent allies who together held half of the legislative seats, the FMLN and GANA rotated leadership of the chamber during the 2015-2018 legislative session (FUSADES 2017, 20).
voting, however, hinted at a possible reconfiguration of legislative voting practices down the road. Change was developing slowly, although disciplined party voting was still the norm.

Reflecting on the unanimity of the vote to prohibit mining, one long-time legislative observer noted that the 2015-2018 legislative election had brought into office a number of new representatives, and that ARENA in particular “had diversified” (ES0117). One young member of this cohort was John Wright Sol, a former firefighter in Fairfax County, Virginia, who hailed from a prominent ARENA-founding family. Elected as an ARENA deputy in 2015, Wright Sol became something of a party maverick.36 Taking inspiration from the work of a great uncle, George Melendez Wright, a U.S. biologist who helped to advance wildlife research in the US national park system (Shumaker n.d.), Wright actively sought a position on the legislature’s environmental committee. Hoping “to develop ARENA’s expertise on the topic” (ES0317), he served as the Environment and Climate Change Committee’s secretary, alongside FMLN deputy Guillermo Mata, the committee president. Wright’s decision to throw his weight behind the 2017 mining ban helped to move his party toward the emerging consensus.

The biggest surprise was the favorable vote by the PCN deputies, who, as the above narrative indicates, had a history of support for the mining industry, even collaborating with Pac Rim lawyers on a mining law reform designed to help the company to secure an extraction permit. The PCN had been ARENA’s most durable legislative coalition partner and was crucial to its ability to secure legislative majorities (FUSADES 2010, 126). With ARENA’s shift toward mining opposition, the PCN was left alone. One legislative observer (ES0117) interpreted the PCN vote as an effort to avoid political isolation, which was destined, in any case, to be futile (“Their thinking was ‘we’ll be alone in our opposition and lose anyway’”). Another (ES2517) viewed it as an attempt to avoid public condemnation, not just by Salvadorans but by the numerous international organizations that were now focusing on the case.

Party by party, ban advocates were able to bring the parliamentary groups into their legislative coalition. For those legislators who were not in agreement, the options were to adhere to party decisions to support the ban, in spite of personal reservations, or not to vote, either through absence or by non-participation. With the unanimous tally in support of the ban, the legislative debate came to a conclusion.

Analysis of national public opinion data collected in the aftermath confirms that the decision enjoyed broad national support. As vulnerability theory suggests, opposition at the national level was not as pronounced as that found in would-be mining communities, where 79.5% of respondents expressed opposition in 2015 (IUDOP 2015). Nonetheless, national level opposition to mining was clear and unambiguous in El Salvador, and ran above the regional norm. Asked, in an eight-country poll carried out by CID-Gallup in January 2018, ¿Cree usted que debería permitir la operación de empresas mineras o más bien cree que se deberían prohibir?, 58% of Salvadoran respondents said that mining companies should be prohibited (see table 1). This opposition level was second only to the 59% registered in Costa Rica. Just 24% of Salvadoran respondents stated that mining companies should be permitted, the lowest percent in any of the eight countries. Respondents in Panama and Guatemala also opposed mining, but the magnitude of rejection was most pronounced in El Salvador, where the number of opponents was more than double the number of supporters, and where the Permit-Prohibit Gap was widest (-34). When those

36 Wright’s views were at odds with traditional ARENA positions on social issues like same-sex marriage and abortion. In mid-2017, he declared he would not seek another legislative term.
calling for prohibition were asked why they opposed the operation of mining companies, 68% of Salvadoran respondents identified environmental damage as their main concern.\footnote{Overall, concern about environmental damage was the single most common reason given for opposition to mining in all eight cases. The percent who explained their opposition in these terms in the other seven countries ranged from a low of 44\% in the Dominican Republic to 65\% in Costa Rica.}

### Table 1: Informe de la opinión pública sobre las empresas mineras (%)

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<tr>
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<tr>
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<td>24</td>
<td>58*</td>
<td>18</td>
<td>-34</td>
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*Majority preference, exceeds confidence interval


5. Discussion and Conclusions

Determining the extent of movement impact on policy change is an inherently difficult task given the number of factors that could contribute to this outcome. To address these challenges, Amenta (2006) used the tools of historical institutionalism to carefully excavate and sequence primary source material as he examined the ways the Townsend movement contributed to social security policy development in the United States. To determine “when movements matter,” Amenta (2006, 31) reviewed the record in terms of the following criteria: “whether a challenger altered the plans and agendas of political leaders; influenced the content of the proposals as devised by executives, legislators, or administrators; influenced the votes of representatives key to the passage of proposed legislation; or influenced the speed or nature of the implementation of legislation.”

Using Amenta’s guidelines as the standard against which to judge the impact of the anti-mining movement in El Salvador, the evidence presented in this paper supports a positive assessment. The alliance formed by the Mesa Nacional and the leadership of the Catholic Church repeatedly pressed for a mining prohibition, disseminating information about the environmental and human rights costs associated with mining development. Their coalition combined Mesa’s capacity to connect grassroots activists at the local and national levels and exert sustained pressure, with the Church leaders’ access to both elite and mass publics and capacity for strategic interventions at critical moments. Connections between Mesa activists and the FMLN allowed the movement to locate party members and legislators who would
sponsor bills on their behalf, and gain access to party candidates who could be persuaded to pledge public support, including at the presidential level.

Challengers found it difficult to advance when movement targets shifted the venue to Washington, D.C., and the ICSID process constricted domestic debate. Transferring a hefty piece of the deliberative process to the international scale and encasing it in the strictures of administrative law disrupted the processes of democratic contention that had permitted social movement actors to bring this issue into the national policy agenda. Strategic bobbing and weaving by targets can complicate and contravene the work of social movement coalitions and their institutional allies.

Activists secured a rapid legislative finale, however, once the ICSID obstacle was removed. Church leaders played a direct role in drafting the bill that was ultimately approved and in lining up agents to spearhead the final push. By shifting the framing of the debate toward shared environmental and legal risks and away from partisan identification, they brought along the votes of key representatives who had once been located on the opposing side. The cross-party sweep of this prohibition vote enhanced outcome durability, making the new policy more difficult to dislodge.

It is possible, of course, that the prohibition would have been approved even without the sustained effort of mining opponents. Precise estimation of movement impact requires consideration of such counterfactuals (Amenta 2006, 30-31). El Salvador’s small size, heavy dependence on a single river system and well-documented vulnerability to climate change could have prompted a policy shift away from metallic mining based on technocratic criteria, even in the absence of a social movement advocating a ban. But it seems unlikely that the government would have taken this step without pressure from and accompaniment by movement actors. Bold technocratic leadership by elected or bureaucratic officials in El Salvador has not been widely observed, nor is it commonly seen in mining policy disputes elsewhere in the region. In most of Latin America, the mining industry has continued to develop, even where environmental costs have been heavy; a formal, national prohibition on mining is rare. Only Costa Rica has adopted similar legislation, and in that case as well, the ban followed years of forceful organizing by environmental and community activists.

In the absence of a social movement that pressured government officials and mobilized opposition to mining, it seems more likely that technocratic concerns would have led, at most, to a temporary moratorium rather than a ban. This was the direction that the Saca and Funes administrations explored when tough questions emerged about the viability of mining development. The perceived costs of a ban in terms of the business climate and the prospect of ICSID challenges tended to encourage an ambiguous response, as did the lingering hope of seeing mining jobs and tax revenues appear should the regulatory hurdles ever be satisfactorily met. But even the moratorium flirtation was at least partly the result of movement organizing and rising public concern. The deepening threat of political penalty for parties and officials who permitted mining advancement fueled implementation delays and further consultation, which opened space for deliberation and substantive policy review.

Mobilization by itself is “often insufficient to effect changes in public policy” (Amenta 2006, 24). Giugni (2004, 161) found “no consistent pattern of co-variation” between changes in organizational resources, such as increased movement membership and financial resources, and policy shifts that occurred over time. Nor would a spike in protests translate easily or naturally into an outpouring of new policies and programs. To deal with the divide between the “streets” and the “chamber,” social movement activists need to identify office-holding collaborators and commit to enduring forms of engagement with institutional actors, taking on the risks of formalization and centralization.
As we have seen in this analysis, Salvadoran movement actors collaborated with political party allies to secure candidate commitments to withholding permits, get their agenda on the legislative docket, and gain the votes needed to effect policy change. Institutional responses tended to align with trends in public opinion, which reflected strong, and perhaps growing, antiminining views. The evidence of rising public opposition is seen most clearly in the mining communities, where opposition came to border on consensus, but is also visible in survey results at the national level, where mining opponents outnumbered supporters by more than two to one. This information helped mining challengers to make an evidence-based argument about political costs. Elite recognition of these costs permitted a growing acknowledgement of mining’s social and environmental risks and encouraged office holders to be open to policy reform. All of this is consistent with Giugni’s (2004) “joint effects” model, in which the simultaneous emergence of protest, movement collaboration with institutional allies, and the successful promotion of supportive public opinion permit the achievement of policy change.

The 2017 prohibition on metallic mining in El Salvador left many issues unresolved. Most immediately, there is the question of how to eliminate artisanal and small-scale gold mining, which is notoriously difficult to regulate.\(^{38}\) The two-year deadline for the termination of mining by guarreros created an immediate challenge, which will test the regulatory and social development capacity of the state and the strength of the apparent consensus on metallic mining. There is also the possibility that the ban will face a constitutionality challenge in domestic court or that the prohibition could be lifted in a new round of policy making by a future administration.\(^{39}\) Fearing that possibility, Mesa activists continue to mobilize against the presence of Oceana Gold, which still owns land in Cabañas and maintains an active foundation named for the El Dorado mine.

Even if the ban were to be fully realized in El Salvador, the proximity of mining projects in neighboring countries, and the cross-border waterways that connect them, mean that El Salvador will not be immune to the environmental risks associated with industrial mining. Without similar policy changes in Guatemala and Honduras, or the creation of a highly effective transnational regulatory infrastructure, El Salvador, with its well-documented water stress and environmental vulnerabilities, will remain at risk.

Finally, although the mining prohibition demonstrates that the country’s neoliberal project has identifiable limits, any broader consequences in terms of the national development model are not clear. The mining debate demonstrates that the Salvadoran government is capable of setting parameters on foreign investment in order to response to citizen demand and meet environmental and social goals, and that it can mount a well-designed strategic defense when facing challenges in ICSID. But the implications, if any, in terms of development priorities and underlying frameworks remain to be determined. These questions raise the larger issue concerning how far the political settlement has shifted since the El Salvador’s postwar transition era.

Still, this case does demonstrate how a cohesive, multisectoral, national movement can employ political tools to affect the development of mining megaprojects and reshape national environmental policy. The antimining movement in El Salvador impacted the pace of mining policy implementation and the national policy agenda, and it helped to advance an innovative policy change. Mesa activists

\(^{38}\) Costa Rica’s 2010 ban on open pit mining also included a prohibition on small-scale gold mining, in that case following an eight-year transition. In 2017, the area designated for development by the now-nullified Crucitas mine project was inundated with illegal artisanal miners, some coming from nearby Nicaragua, where the practice is common. This episode captures some of the challenges associated with closing down this income-generating activity in a lightly policed region where other forms of employment are insufficient to meet the need.

\(^{39}\) The outcome of the 2018 legislative election was favorable for ARENA-PCN coalition, which together won an additional 5 seats, while the FMLN lost 8 seats and GANA dropped by one. See appendix 1.
reframed the mining discussion in terms of community empowerment and the fusing of local and national environmental risks, particularly in regard to water. They opened collaborative space with diverse domestic and transnational allies, and slowed the pace of mine approval, producing time for a countermovement to consolidate and accumulate force. Through a sustained public education campaign, political networking, and lobbying effort that recruited powerful allies, this movement generated a remarkable level of national agreement in opposition to metallic mining.

We are left with the question of generalizability, the Achilles heel of every case study. Can a movement against mining have national policy consequences outside a setting defined by a legacy of recent wartime community mobilization and a deep postwar partisan divide? Can mobilization have policy consequences only in a small country where water stress, high population density and acute environmental degradation intensified the perception of collective threat and helped to mobilize a broad and sustained national response? Are consequential movements dependent on the bricolage capacity of allies like the Catholic Church or the formation of a large network of international donors and allies? How significant is the impact of an international legal challenge by investors and the erosion of megaproject support among the domestic business elite? The approval of a mining ban in Costa Rica, the existence of mining prohibitions at the departmental level in Argentina, and local level permit suspensions in Guatemala and Peru, among others, suggest that the circumstances under which anti-mining movements have policy consequences may be varied. But fuller specification of those conditions will await future discussion.
Appendix 1: Number of Salvadoran deputies by legislative session and political party affiliation, 2003-2021

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Source: Inter-Parliamentary Union, PRALINE database, [www.ipu.org](http://www.ipu.org) and the Asamblea Legislativa website.

*Founded in 2009.
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