Order and Crime: Criminal Groups´ Political Legitimacy in Michoacán and Sicily

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Chapter 1.
Illegal but Legitimate? The Concept of Legitimacy and the Debate on Social (Dis)Order

Authority is not synonym for legitimacy, and history helps to prove it. Correspondingly, each study of legitimacy follows social and political crises linked to lack of power, questioned political authority, and people's mistrust in governance processes. In 2000, almost a decade after the massive violence of Slobodan Milosevic´s administration in the former Yugoslavia, the Kosovo Report was presented to the United Nations Secretary-General Kofi Annan. The Commission's Report concluded, among other points, that the NATO military intervention designed to contain violence in the Balkans "(…) was illegal but legitimate. It was illegal because it did not receive prior approval from the United Nations Security Council. However, the Commission considers that *the intervention was justified because all diplomatic avenues had been exhausted and because the intervention had the effect of liberating the majority population of Kosovo from a long period of oppression under Serbian rule*" (2000, 4, emphasis added).

Two years later, in 2002, the United Nations International Criminal Tribunal for the former Yugoslavia Prosecutor, Carla Del Ponte, proved Milosevic's administration crimes against humanity. The former head of state (acting as his own lawyer) defended himself by denying the court's legitimacy (Rotella, 2002). Despite the particularities of the case, many questions regarding legitimacy arise. Is an "illegal but legitimate" scenario really possible? If so, how and under what circumstances? Is there legitimacy beyond or without legality? What is the source of legitimacy in such situations? Who decides? Why did Milosevic use the questioning of the court's legitimacy as a legal weapon? This case is helpful to draw a landscape of how relevant legitimacy becomes in certain political situations. Contexts like these and legitimacy's crises are undoubtedly proper instances for carrying out research on a fundamental social science concept, namely, legitimacy. This research makes use of one of these crises to study legitimacy in contexts of violent crime to examine why and when criminal groups, illegal agents *per se*, dispute legitimacy. Can these groups become illegal but legitimate?

The first and mandatory step consists of reviewing the central concepts, starting with the political legitimacy idea itself.[2] It has been a matter of interest for many disciplines, such as political science, sociology, philosophy, social psychology, but also in criminology and legal studies (Johnson, Maguire, and Kuhns, 2014; Schlichte and Schneckener, 2015). Each of

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[2] In this research, legitimacy is recognized as a phenomenon that potentially involves numerous social dimensions. However, here it is centered on political legitimacy, broadly speaking, addressing the definition of who rules over whom. Of course, political legitimacy involves more than questions of power, but it's highly relevant in understanding how and why criminal groups would be interested in it.

these approaches has its ideas, concepts, and methodologies through which disciplines shape their involvement in the debates around social and political legitimacy – some of them will be summarized in the first section of this chapter. Meanwhile, this research starts focusing on an in-depth exploration of, first of all, the concept of political legitimacy. This is done through a disciplinary review but also through specific scholarly reviews (especially of Max Weber). In that review, it will become essential to observe that legitimacy is not only a matter of interest for many disciplines but also an interdisciplinary problem itself. This discussion will become more evident when getting deep into specific social contexts, where many actors look for and possibly achieve legitimacy for themselves and their activities within their context.

This chapter begins with the literature on legitimacy which leads, later in the chapter, to a formulation of an operational concept of legitimacy that applies to this research. This operational concept is based on the literature review along with data collection and empirical references, and serves to highlight certain theoretical aspects that inform this investigation. My interdisciplinary approach to this topic offers some new perspectives on political legitimacy in criminal and violent contexts. In particular, this chapter explores how legitimacy relates to the idea of social order. Does legitimacy somehow exist outside of or without social order, or is it rather a source of (alternative) order? What kind of relationship does legitimacy have to social order? To flesh out this issue and explore answers, this chapter discusses the role of the state, and how the concepts of the social contract and sovereignty help to establish the state's authority. This is important because it allows us to understand how and why the state becomes the key reference point when talking about who, how, why and with whom, specific political actors become legitimate — or illegitimate.

The chapter's third section defines and analyzes non-state actors, particularly violent ones, and discusses legitimacy among state and non-state actors alike. Reflecting on criminal groups' experiences with legitimacy (they represent a specific kind of non-state actor in the contemporary world) sets the stage for a more in-depth discussion in chapter 2.

1.1. What is Political Legitimacy? Understanding a Social and Political Concept

Even though legitimacy involves several dimensions, this research focuses explicitly on political legitimacy. This idea involves problems related to power, government, and how different kinds of authority are established. According to *The Stanford Encyclopedia of Philosophy*, "Political legitimacy is a virtue of political institutions and of the decisions […] made within them" (Peter, 2016), a sentiment which works as a starting point to discuss such legitimacy from two angles: fist, from the perspective of that supposed virtue, and second, from the perspective of where that legitimacy comes from and how it is established. These issues involve both institutions and decisions. As a restrictive definition that constrains its meaning to the power of decision making, it is helpful to question the idea. For instance, what

happens when the decider is not legitimate? Or legal? Alternatively, how and why is the power of decision making challenged? Because of situations like these, political legitimacy involves intense and complex dialogues between those who pursue the "right to do and decide" and those who concede it. Moreover, what happens when more than one political actor is pursuing that right to decide? To answer those questions, this first section reviews what the existing literature has said about this concept.

When studying legitimacy, a significant problem is detecting if it involves a normative or a descriptive conception (Peter, 2016). In other words, is legitimacy a fixed idea, in which political actors should reach specific characteristics or virtues to become legitimate? Or is it a flexible or even volatile notion with characteristics that vary from case to case? The problem between both general, theoretical insights and particular perspectives crops up again and again when discussing "political" legitimacy, which raises the issue of whether we are debating a problem of political philosophy, or engaged in a more extensive social science discussion (Fossen, 2013, 426). To address this conceptual and epistemological problem, we follow a binary categorization originally proposed by Duyvesteyn (2017). His work helps to summarize, organize, and understand how legitimacy has been studied across disciplines. Duyvestyn's division consists, firstly, of literature in which legitimacy is defined by how it should be, or is supposed to be, what we'll call the *normative* perspective. The second category relates to how political legitimacy really is or could be in the field, that is, the actual practices of legitimization (Duyvesteyn, 2017, 671), which is the *descriptive* perspective.[3] The former is common to legal and philosophical approaches, while social sciences mostly use the latter.

However, philosophy, political philosophy, social psychology, legal approaches and many political theorists also rely on the normative perspective. But maybe what's most interesting about these works resides in what they say about what legitimacy *is not,* by naming characteristics that legitimacy should have and how its building process should be. The fields of sociology and anthropology, on the other hand, tend to use the descriptive perspective of legitimacy study. Their concepts, methodological instruments, and approaches let these disciplines distinguish differences and particularities from specific cases. As a result, they seem open to recognizing variations in definitions of legitimacy, including the social contingency influence. Nevertheless, it is true that other disciplines and their conceptual elements (such as the law, power, and shared beliefs) are also present in this kind of analysis. Finally, political science has scholars on both sides. Thus, it is not surprising to find scholars interested in both kinds of legitimacy, as will be shown for all disciplines in detail below.

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[3] This division is close and actually compatible with the one proposed by Fossen between *de jure* legitimacy, in which "[…] an authority´s being legitimate with respect to valid norms", and *de facto* legitimacy, means "an authority´s being taken to be legitimate". Fossen suggests that this division between *de jure* and *de facto* legitimacy, is a sort of disciplinary "division of labor between philosophy and social sciences" (2011, 20).

1.1.1. Normative Perspective of Legitimacy

The normative perspective works with ideal-type conceptions of legitimacy. It is profoundly attached to a normative analysis interested in general aspects of legitimacy, more than the factual aspects of its formation (Thornhill, 2006, 165). Hence, it is less sensitive to contingency and new perspectives on the idea. For instance, the legal approach of legitimacy mainly focuses on established norms, rules, and law in general,[4] emphasizing the accordance between practices and current legal frameworks existing in each case. That depends on the law, and sometimes on its interpretations. However, this may become a very restrictive perspective. From this point of view, people´s attitudes do not make the law (Soper, 1984). Therefore, if a population merely stops respecting normative commitment, this will not change the existing legitimacy setting, but only represent a non-observance of the law, which tends to be approached as though it were an inherently legitimate independent variable. For instance, the legal positivist school founded by the British legal philosopher, John Austin, tends to eschew moral evaluation of the law, and generally doesn't see the law's legitimacy as conditional or provisional.

Even when this approach recognizes historical changes and transformations of the law, it offers a limited frame for understanding legitimacy from a holistic social phenomena perspective because it does not take into account what happens outside the legal framework. Therefore, any possible struggle for legitimacy like, for instance, the emergence of a legitimate actor who does not achieve it through legal ways, or social behaviors attempting to disrupt and change the prevailing legitimacy´s configuration, become automatically illegal and, therefore, illegitimate (Hurd, 1999; Soper, 1984). However, considerations for this approach matters because of the socio-political influence of law. Its discourse and usage play a significant role when defining what, who, and when an institution is or is not legitimate. Enforced or not, the law can also work as an incentive for legitimation and then becomes source and resource to modify power relations (i.e., discourses, the use of public institutions and resources, etc.), as shown in chapter 2.

The philosophical approach to legitimacy comes from a moral perspective of governance, and studies the way power is justified (Buchanan, 2002). This approach seeks to understand 1) what kind of claim for authority occurs in general situations and 2) what is the ethical basis from which it is developed. Therefore, an important attention of this viewpoint is situated in the authority´s accomplishment of normative requirements with which an authority becomes legitimate, such as the reasons that people have to follow its directives and build together obedience (Raz, 1985, 8). The philosophical perspective is usually complemented by a political theory view, in particular within the modern political frame through Jean Jacques

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[4] As a matter of fact, from a philological angle *legitimus* meant specifically "lawful, according to law" in Classical Latin (Merquior, 2006, 2).

Rousseau. Although he did not focus much on legitimacy per se, he did develop some other concepts concerning it. The main one is the social contract.

The social contract is not a minor pact but a valuable repertory of principles for the sovereign. These principles provide legitimacy to govern: the social contract is "[…] a specific mandate given by those governed to those in government" (Ruggiero, 2006, 13). Hence, for the first time in political theory, power resided in people, who were able to transfer it to a superior entity through their own will, their own consent, and by doing so, people decide the legitimate authority. This represents the political materialization of the social contract. Bernard Manin´s ideas on Rousseau help to clarify this; he stated that legitimacy requires the highest level of public debate between everyone concerned or affected by each decision. Moreover, he argued that this should occur through public deliberations, justified on the ontological idea of the Rousseaunian social contract. By popular will, each political decision is a matter of public interest and thus everyone should deliberate on it before putting it into practice (Manin, 1987, 352).

Manin considered this deliberation process essential to achieve legitimacy; thus, everyone should take part in it: "[…] the source of legitimacy is not the predetermined will of individuals, but rather the process of its formation, that is, deliberation itself". And he even goes further than Rousseau and others: "We must, therefore, challenge the fundamental conclusion of Rousseau, Sieyes, and Rawls: a legitimate decision does not represent the will of all, but is one that results from the deliberation of all" (1987, 351-352). That requires an adequate political sphere through which deliberation is available and possible, but also to increase the levels of public interest as problems arise (Habermas, 2000, 77). The core question from this perspective is not what happens with legitimacy in specific contexts, but how it should be built, maintained, and possibly increased. All of that is based on irrevocable principles like civic participation, legal validity, and representation. Thus, political actors should march through the one valid path in order to be recognized as truly legitimate.

Social psychology is the other discipline in which a normative perspective on legitimacy arises. This angle focuses on people's beliefs, values, and social attitudes, exploring why people trust an authority. Social psychology understands trust not as something simply in an "on" or "off" position, but as a dynamic that is built between the ruler (or ruling institution) and the ruled. Social psychology is particularly interested in the cognitive elements behind how an authority is legitimized, how legitimacy is forged. These actions and strategies to construct legitimacy operate in a wide range that goes from trust to fear. These actions might influence decision procedures, political arrangements, and legal tools: general mechanisms through which the belief in the rightness of the decision and the process of policymaking are constructed (Tyler, 1997; Dahl, 1956). An absence of that belief also interests social psychologists, who examine as well how and when trust in authority is lost.

Therefore, relationships of trust between people and governments (and other institutions of authority) is a priority issue. Personal attitudes towards the ruler like confidence, expectations of the use of power, and general beliefs in the correctness of the authority are core elements, as well. As Tyler stated, "[...] legitimacy is a psychological property of an authority or social arrangement that leads to that which is appropriate, proper, and just" (2006, 375). However, this perspective does not usually consider cultural or sociological aspects of how legitimacy is generated, which is a limitation of this approach. In addition, power relations are not at the core of social psychology analysis since they are seen as resulting from of the legitimation processes. This discipline puts more attention on the acceptance or rejection of the rule, rather than on the source from where it emerges. In this case (as in the whole normative perspective of legitimacy), a requirement is acting as guidance to make legitimacy happen in society. Furthermore, only one kind of legitimacy is possible to aspire to, rather than variations of it or contesting/sharing scenarios – even more, sources and resources of legitimacy seem pure and static, regardless of whether the focus is on people's mindset, government, law, or codes. That contrasts with the ideas and disciplines of the descriptive perspective, as explained below.

1.1.2. Descriptive Perspective of Legitimacy

The descriptive perspective of political legitimacy involves the understanding of how legitimacy, as a collective accreditation of the political authority, is built in every case. To be more precise, this is an exploration of legitimacy as a process of building, rather than a fixed conceptual unit. This approach recognizes that a concept can be formulated and understood in linear relation to local conditions. That implies that political legitimacy will always be attached to the socio-political settings of each place (locality), reasonably linked to the historical circumstances analyzed (historicity), and not necessarily connected to standardized formulations. It is a perspective less of how legitimacy should be, and more of how it actually operates. This perspective fits and has been developed in anthropology, sociology[5], and some elements of political science with minor disciplinary variations. A detailed analysis is presented below.

Anthropology is quite helpful to understand the conceptual elements of how legitimacy works within societies – particularly those that generate the consent for the rulers to decide or govern. Among other features, this discipline recognizes the existence and relevance of both material and non-material resources of authority. Moreover, it also pays attention to practices and symbols that enable legitimate mandates independent of their legal condition. Those elements work together with a strong recognition of how locality influences the

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[5] Max Weber, of course, heads sociological approaches to legitimacy. Given his importance to the topic, the next section will specifically analyze his ideas and a general sociological perspective. Other scholars such as Tilly and Beetham whose work is of great importance on the topic are also explored in that section.

understanding of specific social scenarios. Approaching legitimacy from this point of view is accompanied by a profound knowledge of the empirical context and a sensibility of how locality has been configured through historical, cultural, political, and social terms. [6] However, an interdisciplinary dialogue is needed to share insights and build a comprehensive basis in which a legitimacy discussion becomes fruitful. In this regard, the anthropological work helps in the detection of how empirical realities are powerful enough to reconfigure conceptualizations. As a result, even when shared beliefs, valid moral conducts, and appropriate behaviors may act as strong elements to configure the law, other sources could exist on the ground to build legitimacy. Anthropological work examines those other sources on the ground.

Legitimacy in anthropology (and actually in the whole descriptive perspective with more or less emphasis) has an extra feature: it enables the legitimacy understanding as a process. In this regard, according to the Dutch anthropologist Henri Claessen, there is a qualitative difference between legitimacy as the condition or quality of being legitimate, and legitimation as the process itself or the act of making legitimate (1988, 25). That is especially important for understanding changes in legitimacy features through time and space. For instance, in postcolonial contexts, where the nation-state building process took place at different rates, the state had to make efforts to achieve legitimacy, sometimes competing against other (local and foreign) political actors (Claessen, 1988). Some of them succeeded, some of them did not, and some of them seem to share legitimacy (these are, of course, essential matters for this research and will be recovered further in the following chapters). Anyway, it is essential to underline the academic benefits of this approach to measure and understand legitimacy. The main reason, as Claessen pointed out, is that this perspective allows us to distinguish between different degrees and dimensions of both possibilities: being legitimate and legitimation (1988, 24).

Political science participates in this descriptive perspective debate by including a core concept for the discipline, which is the right to rule. Its importance addresses the understanding of political relations and the power configurations associated with legitimacy. Whether it is understood from a rational choice perspective or a normative one, power relations and the elements of interactions on which they occur are sources of analysis. Thus, distinguishing this approach from the others is fundamental. As a result, the role of the ruled (and not only of the ruler) becomes the priority. For political science, the understanding of why and when specific governance is accepted or denied and what are the consequences for society is core. As Beetham explained, understand legitimacy helps to solve "[…] why people

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[6] However, both sociologists and anthropologists have started to recognize that their analyses increasingly require a *meso* and *macro* level scope to get a comprehensive view of the locality (Beck, 2004; Robertson, 2005; Bouchard, 2011). This because global and national dynamics are more and more relevant in the local social configuration given the increasing and intense global connections in economic and commercial terms as well as sociopolitical consequences.

have the expectations they do about a power relations, why institutions of power systematically differ from one type of society to another, why power is exercised more coercively in some contexts than in others" (1991, 6). Moreover, understanding power relations becomes the first step in a holistic awareness of a commonly shared belief in this discipline, i.e., that the formal authority can govern over the governed.

Authority is the concept that enables the latter statement possible, a sort of grease to lubricate mandates. Political scientist Robert Dahl defined authority as "[...] a special kind of [...] legitimate influence" (1991, 54). That influence is relevant in political systems because leaders try to convert it into authority, explained Dahl. Since there are many ways to use and perform power, and some of them involving coercion and even violence, legitimacy acts as a sort of shock absorber by transforming obedience by coercive power into legitimate authority (Wrong, 1979). Thus, legitimacy fits in this approach as an instrument or as a governing path. Regarding the first case, a mandate seeks legitimacy in order to avoid the non-desirable scenario of the use of force to achieve obedience and consolidate authority. Addressing the second case, legitimacy seems to be understood as one way among many to practice authority, and it is a goal itself, rather than a tool to achieve another political goal. Nevertheless, the political science debate does not ignore legitimacy; moreover, its discussion goes beyond the social consequences in society's power relations.

Political science also tends to study legitimacy from its operative virtues. That involves a refreshing exercise by in understanding legitimacy holders´ benefits. Ruling a society as the legitimate authority differs considerably from lacking that authority. This operative function (Rothstein, 2009) involves (at least) two parts: the ruler, who seeks legitimacy, and the ruled, who legitimate the ruler. It is a socio-political relation involving two levels: 1) who enjoys the benefits and advantages of being legitimate and 2) who gives or refuses, removes or maintains, that political legitimacy – and also by which conditions and under what circumstances this happens. These two levels successively refer to sovereignty (first level) and social contract (second level). Both are core political science concepts and will be analyzed in detail later. Meanwhile, another perspective of political science is revisited, namely, the measurable approach.

With certain proximity to sociological analyses, the measuring legitimacy angle also uses this perspective. However, this work involves an epistemological dilemma. If measuring legitimacy is possible, then it has universal measurable standards, which only differs in the potential variation from case to case. Thus, this phenomenon becomes a gradation problem rather than a political process. Hence, legitimacy should be understood in the same manner everywhere and anytime in order to be able to measure it. It becomes a universal concept. Bruce Gilley is the author of one of these works. In "The Meaning and Measure of State Legitimacy", he measured and compared degrees of state legitimacy among 72 countries around the world (2006). This work faced two problems: in the first place, the state works as

the only possible analytical and, thus, measurable unit. That fact avoids the possibility of studying legitimacy among non-state actors. Secondly, his research encountered the problem of variations in legitimacy´s dimensions; to be more precise, it measured the degree of legitimacy by identifying an increase or decrease of specific variables, but ignored other possible additions, such as adaptations to particular contexts as a consequence of local processes of legitimacy-building. Thus, to offer a broader analysis, these studies require a continual redefinition of their criteria. Only then, will they be able to include other political actors within the exercise, and from a broader range as well.

Summarizing the descriptive perspective, rather than striving for a general or universal definition of political legitimacy, it focuses on social possibilities and conditions. The debate between both angles, the normative and the descriptive, could be summarized through the struggle between what legitimacy should be on the one hand, and how it could be on the other. However, even when both normative and descriptive perspectives work to summarize as well as organize the debate, in the literature they are not always clearly separated. This is the case with Max Weber´s ideas, a central scholar when it comes to this discussion. To some extent, Weber's sociological work sets the terms of the debate both in the past and the present. Weber´s relevance can be seen across disciplines, as well, and no definition of political legitimacy, either in the normative or descriptive arenas, can avoid referencing his thoughts. He is such a fundamental part of the social science landscape, that sometimes his immense contributions are taken for granted. Given that, the following section reviews his work.

1.1.3. Max Weber´s Legitimacy: Review of a Fundamental Scholar

German sociologist Max Weber was one of the first (if not the first) scholars who explicitly worked on political legitimacy´s conceptualization. Even more, his work helped create the social sciences, the main arena to develop the study and conceptualization of legitimacy in general, and its political aspects in particular (in the sense of authority, domination, and control). His work is a mandatory reference on the topic. His ideas work as the starting point and the archetypical conception of legitimacy. This section explains some of Weber's thoughts on it, as well as other scholars' ideas addressing him. Before continuing, a brief methodological warning is needed. Weber's work on this subject is hard to categorize in the binary scheme proposed here (normative and descriptive perspectives) for logical reasons. First, the most crucial Weberian thought regarding legitimacy is possibly a normative categorization, which could be understood as a normative feature. However, Weber himself considered that his legitimacy categories were no more (but also no less) than ideal-types. Thus, they work as operative simplifications of complex realities – this Weberian recognition on the limits of ideal-types is quite usual in the rest of his work; hence it is not exclusive to the conceptual considerations of political legitimacy. Therefore, this is a recognition of social contingency which also indicates a feature of the descriptive perspective.

Regardless, Weber's thought is present in most of the disciplinary approaches to this idea. This justifies a particular review of the author. According to him, legitimacy depends on what motivates social action. For instance, and following his social action conceptualization, in the action-motivated by self-interest it is not always enough to expect people's support for authority because individuals may not consider it convenient to follow authority to achieve or obtain personal gains. Therefore, the possibilities for legitimacy are lower, and the authority could expect an adverse scenario for putting in practice its mandate, which possibly increases the chances for relying on coercion. That latter scenario contrasts with the action guided-by-belief, in which people often have or perceive a sense of duty to act according to what authority requires of them and, consequently, a ruler is more likely to expect obedience from people (Weber, 1964, 124). Thus, it is mandatory for the ruler to generate an "[…] internal sense of moral obligation" (Johnson et al., 2014; Weber, 1964) to expect action guided-by-belief as a platform to build legitimacy. That sense could operate on the grounds of what social psychology explains, but it also has a deep relation with current or past moral values, beliefs, and the social construction of law and power.

According to Weber, the types of legitimacy (or as he called them, "types of legitimate domination") are threefold: the traditional, the charismatic, and the legal-rational (1964). All of them are stated in teleological terms and recognize the necessity of the ruler to generate conditions for obedience among the ruled. However, even more important, they all ground the possibilities of legitimation in people's belief in the authority, and not vice versa. The first type is the legal-rational. Weber explained that this one rests "[…] on a belief in the legality of enacted rules and the rights of those elevated to authority under such rules to issue command" (1964, 215). In this case, the established rules are the only possible path through which legitimacy can be created. That is because it is the sole way to become the authority and rule. Its rational characteristic assumes that the source of obedience from the ruled comes from the law because the power of the ruler was acquired through legal procedures. Therefore, the law is strong enough to give and to remove power from the government. That is why people assume the government's power to be legitimate.

In the second type of Weberian legitimate domination, the traditional, legitimacy comes from traditions and heritage, but also from the idea of ancient regimes and established ways of governing with its long-established patterns. In this regard, legitimacy rests "[…] on an established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them" (Weber, 1964, 215). Therefore, it could be found in any place where authority claims obedience by traditional habits, customs, conventions, behaviors, etc. (Bendix, 1966, 306). Some examples of this type are monarchical and religious regimes. The third type is charismatic domination, where the legitimate mandate is attached to a charismatic head of state. However, the person itself is not the only one who produces this type of legitimacy; his or her extraordinary qualities can also do it. Therefore, this type of legitimate domination appears only with the presence of that person, and it does

not need the rest of conditions (for instance, historical or ancestral, as in traditional rule, or the established rule and legal basis as in the rational type). Following Weber, charismatic legitimacy rests "[...] on devotion to the exceptional sanctity, heroism, or exemplary character of an individual person and of the normative patterns or order revealed or ordained by him" (Weber, 1964, 215).

As stated earlier, Weber´s categories are archetypical. However, they have been contested. For instance, according to British scholar David Beetham, Weber´s categorization has the problem of hugely focusing in people´s beliefs and not in how authority reacts or interacts with those beliefs. As a way to explain his diagnosis, it is possible to say that Beetham observed an excess of normative perspective in the original categorization, this is, too many normative characteristics that allow for reconsiderations, and thus signifying an absence of descriptive perspective because categories do not always explain specific empirical cases. That is why Beetham himself proposed his trinity of legitimacy by invoking its multidisciplinary character. Beetham´s categorization includes three levels of legitimacy: a) conformity to established rules, b) justifiability of the rules because of, or based on, shared beliefs, and c) legitimation to the ruler through expressed consent of the ruled (Beetham, 1991). Even when this scholar received critiques about the limitations of his proposal (Wrong, 1993; O´Kane, 2013; Fossen, 2011), he developed one of the first epistemological efforts pointing the symbolic dimension of legitimacy. In addition, he recognized a co-constitutive relationship between the ruler and the ruled. That suggested that both parts are continuously shaping each other, especially in terms of legitimacy. In other words:

> Beetham understood legitimacy not in terms of the different sources from which authority arises, but in terms of three dimensions upon which all legitimacy relies [...] This allows for a level of symbiosis; that people's perceptions of legitimacy are influenced by the justifications provided by an authority and that an authority's justification for its legitimacy, in turn, is influenced by the shifting beliefs of the people. Furthermore, the acts of consent displayed by the subordinate contribute to the construction of justification for an authority (McCullough, 2015, 4).

David Beetham is not the only one who has tried to increase or unfold the original Weberian classification. Matheson proposed an expanded five-category classification "[…] according to the particular explanation or reason why command and obedience are said to be legitimate" (1987, 200). He took Weber´s three types of domination to develop five legitimacy basics: 1) command-obedience on the basis of convention, grounded in norms; 2) contracts that specify that power-holder and power-subject assume mutual rights and obligations; 3) conformity with universal principles which are discoverable by all human beings; 4) sacredness of authority or of the norms which prescribe command and obedience and 5) expertise, where command and obedience are considered legitimate because the power-holder possesses some types of expertise which make him the right or even the best person to hold mandate at that moment (1987, 200-203). Despite the existence of other discussions, it is clear that Weber´s influence is located not only in the strength of his ideas to understand

legitimacy but also in proposing platforms through which legitimacy discussion emerged. While keeping those ideas in mind, the next section is centered explicitly on an operative concept of legitimacy that becomes useful for this research, as well as other investigations with similar empirical or methodological interests.

1.1.4. Towards an Operative Concept of Legitimacy

Conceptual frameworks are tasked with explaining what is observed in reality. However, empirical references are always required in order to dialogue with those concepts. After reviewing the discussion on political legitimacy, in order to design and propose an operative concept, this section aims to sort out five interrelated considerations designed to addressing the empirical cases reviewed in this research in the following chapters. Before presenting them, they require certain qualifications. First, the proposal is more a guideline of what is essential to observe regarding the interest of this research, which is how and why criminal groups look for legitimacy. Therefore, this analysis does not try to fix the weaknesses in the definitions already explored, and that could limit further analysis. Instead, it concentrates and structures thoughts from what is useful (and what is not) from conceptions to enable the operative concept of political legitimacy.

Any conceptualization of legitimacy must address the ruler as well as the ruled. Here we are not only talking about how power or authority shapes them, but people come to accept, validate, or even become resigned to it. Moreover, this is not a given or static relation but a dynamic and contingent one. However, there could be a third perspective in understanding how legitimacy works when there is more than one figure or institution seeking to become a power-holder. That involves the problem of multiples legitimacies on the one hand, and the problem of the nature of the legitimate actor on the other (Stinchcombe referenced by Tilly, 1985). How to build a definition that also recognizes the attempts of legitimate parallel authorities?[7] Any attempt should consider this scenario.

The second is the necessity of recognizing contingency in how legitimacy is built. That involves three analytical elements: locality, temporality, and rationality (Duyvesteyn, 2017, 677-678). Since the experiences of authority could differ at the local level (either because central power is not so present, because it coexists with another reference to the authority, or just because of the history of the place), then it is essential to recognize that political legitimacy is not fixed and, thus, changes. If so, then authority needs to reaffirm itself and its mandate. There will not be perpetual legitimate authority without any effort to preserve it. These efforts are necessary to identify and analyze. Sources and resources of legitimacy also

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[7] It remains as a matter of interest for the further discussion if two or more legitimate power-holders can coexist as authorities in the same time and space. Furthermore, what happens when those two or more authorities not only share legitimacy, but also become a source of legitimacy among them by validating each other´s power? This, of course, is a separate consideration from what happens with the ruled.

make sense in local dimensions – even when there could be universal values, this test should be made in the field to demonstrate it.

The third relevant consideration from the literature review directly concerns the hypothesis of coexistence of two or more parallel legitimate authorities. Charles Tilly stated; "Legitimacy is the probability that other authorities will act to confirm the decisions of a given authority" (1985, 171), that is, legitimacy as a relational concept (Duyvesteyn, 2017, 674). His idea remembers how the nation-state, as a political project, was not only successful by itself but as a whole system (the Westphalian). Mutual recognition between the members undoubtedly was one of its main sources of validation. That explains why some postcolonial countries, particularly in Latin America, spent so much time and effort in achieving recognition from the other nation-states during the first years of independence (Held, 1989). Following this notion, if today an actor pursues legitimacy, to what extent may other current authorities influence that pursuit? Is that always a conflict? Is it a negotiation? Alternatively, is it that there is no clear distinction between both potential "legitimates"? Nevertheless, this should be investigated in every case to comprehend empirical cases.

The fourth consideration arises from the presumption of contingency: political legitimacy understanding requires studying not only the current moment of the legitimate authority but also, how it became legitimate and how it was lost from another. In other words, this means giving history the relevance it deserves and locating how legitimacy has evolved in a specific place. One option to do so is by historicizing the completely political legitimacy process. For instance, that can be rationalized through a timeline method around the act of decision from a legitimate authority. In this regard, the first step (before the decision) concerns how the transfer of power occurred from the ruled to those who decide on politics, and also what gives them the right to make decisions on behalf of all in the first place. It is also important to understand how the decision is granted, and what are the characteristics of that legitimate authority (Mazepus, 2016). The second step (current moment of decision) is about the act of deciding, including the moral, legal, ethical and power bases on which that decision is possible and its consequences.

Finally, the fifth (after the decision) regards the perpetual need of the legitimate political actor or institution to reconfirm its legitimacy. This implies a recognition of the current setting of legitimacy in an ongoing social process. To do so, it is not enough for the authority to keep deciding but also to keep performing to maintain its decision-making power. This last point lets the research recognize the appearance of new political actors defying (or possibly sharing) previous political actor legitimacy and even more significant, the peculiarities of the social process in which legitimacy is disputed, rebuilt, regenerated, and recreated. Again, political legitimacy shows itself to be contingent on a number of factors. This issue will be revisited in following sections and chapters, and particularly within the cases analysis. However, and before leaving the theoretical discussion, the following section

explains legitimacy concerning another concept, social order. Indeed, it is a needed revision of this idea to establish its relation with some other related concepts.

1.2. The Right to Rule: Social (Dis)order, the State and the Grounds for Legitimacy

Ties connecting the social order, the state, and political legitimacy are close but not instantaneous. On the one hand, each society may be exposed to the resulting struggles of confronted views and expectations around how the social order should be. On the other, the same society will have its own formal and informal configuration of methods, structures, and institutions through which a legitimate mandate becomes valid, respected, and updated. In the modern world, the state is supposed to mitigate those social processes – depending on a number of factors. Legitimation processes play a primary role when shaping the social order by enabling condescending but productive relations between the ruler and the ruled. Moreover, legitimacy is an effective measure of the state´s strength: "[…] legitimacy includes the acceptance of the state´s symbolic configuration within which the rewards and sanctions are packaged. It indicates people´s approval of the state´s desired social order through their acceptance of the state´s myths" (Migdal, 1988, 33). A legitimate mandate enables government capabilities by defining the rules of the game (social order) and expecting approval and recognition for that social order as trustworthy and correct.

However, empirically, those statements highlight an important subject: does political legitimacy depend on the existence of a given social order? Moreover, should it be a specific model? If so, then it is impossible to be legitimate outside the established social order and outside the state as well. This might be close to a normative perspective of legitimacy, where the hypothesis of sharing or challenging legitimacy between two or more of those groups turns into a potential destabilizing factor triggered by misuse of normative legitimating tools. In other words, this premise will not take into consideration any legitimacy attempt made by illegal means; its goals and ends will never be more than outcomes of illegality. Nevertheless, political legitimacy can be possible in social disorder if sanctioned by certain social groups within the society. Furthermore, social disorder may eventually become a source and resource for building new social orders, but we will return to this topic later in this research. Here the focus is on how the social order, the state, and legitimacy become linked.

Apart from political legitimacy, three concepts inform this research: the social order, the state, and the sovereignty. In order to develop these ideas, the following section explores and analyzes the literature on: 1) sovereignty (specifically regarding the use of violence and the definition of the decision-maker), and 2) the social contract (in particular, the deliberation process and the acceptance of the ruler´s mandate). This discussion will serve as a guide to discuss, later, if political legitimacy is possible beyond the state and within a supposed social disorder. In other words, to what extent can legitimacy create social order and vice versa? As with the conceptual review, the focus is not on definitive or final answers, but theoretical and

epistemological insights, thoughts, and suggestions that later help analyze the cases that are the subjects of this research. Nevertheless, the discussion now delves into what social order is and its political and sociological relevance. That is intended to show that legitimacy is closely related to the development of social order and the state.

1.2.1. What Social Order Is and What It Is For

Social order is a trans-disciplinary problem for almost all social sciences. It starts from the presumption that individuals live in society. Therefore, this happens in a certain way in which coexistence needs to be possible, and it unfolds in terms of social order. Societies organize their social life through specific conditions, in which legitimacy becomes relevant for political reasons. However, there are also practical issues related to how those societies generate a particular order and predictability, which are essential for carrying out their chances for developing. In other words, to make society reasonably predictable, and develop expectations about other's behaviors, a proper social order is desirable (Banfield, 2003, 29). Some origins of social behavior predictability and conditioning can be found in the law, the respect for formal authority, or even the idea of a common good and shared destiny, just to pose some examples. However, what if illegality or informal authorities participate in the definition of social order? Moreover, what if social behavior conditioners go against the presupposed idea of a common good? Is that a social disorder scenario or just another sort of order? This research keeps those questions in mind to study two notional features of social order: 1) the role of legitimacy in the maintenance or changes in the social order (discussed here), and 2) the scenarios in which a supposed social disorder could become a source of order (discussed in cases´ chapters).

Belonging, cohesiveness, and people's trust in the establishment are all closely related, but they also connect social order with legitimacy (Gellner, 2003). Each case needs to define if those features are a result of obtaining legitimacy, or on the contrary, are means through which legitimacy is attained. What is known is that, when an authority is legitimate, a sense of belonging is more likely and, hence, the claim of authority is simplified. Additionally, how competent authority is at integrating popular social values and reproducing itself through social relations tracks closely to its sustainability and, of course, its legitimacy. With this background in mind, two questions become relevant: 1) is the social disorder always anomalous? To be more precise, what happens when atypical behavior, not aligned to the supposed dominant social structure, is more the rule than the exception? and, 2) is the social order capable enough to create society? In other words, is there a society where the disorder is dominant? Any possible answer to these questions involves recognizing the existing co-constitutive relationship between social order and social disorder.

Scholarly work examining the basis of social order comes from a variety of places. Balandier, for instance, argued that myths have the sociological function of explaining and shaping the

historical sense of social order (1970). However, the debate seems to have a consensus among traditional, modern, and contemporary scholars alike when recognizing, in the state, the central social order provider and manager *par excellence*. Thomas Hobbes considered the social order as a foundational part in which the Leviathan is possible and available, not as a consensus but as a needed coercion. The *homo homini lupus* owes its origins to this. According to this principle of political organization, and inspired by the idea of a superior general interest and a shared destiny, individuals resign their power to kill each other by conceding that power to a superior entity, that is, the state (Hobbes, 1998, 111-122). A more in-depth discussion on this will come later but here it's valuable to quote Ian Hurd on Hobbes's suggestions regarding social order preservation and maintenance:

> Although Hobbes' citizens join society by consent and retain a residual right to self-defense, the system is best seen as an example of a society based on coercion rather than consent, or even religious conviction, since (1) the motivation for joining is the fear of certain depredation in the state of nature, (2) the motivation for obeying the sovereign is the threatened sanction, and (3) the obligation to obey exists only while the sovereign maintains almost absolute power. The argument is sometimes made that Hobbes also relied on legitimacy or religion to help explain the maintenance of social order; however, the Leviathan is necessary precisely because these other mechanisms cannot be counted on to do the job. For Hobbes, it is the sword that ultimately maintains compliance, since neither self-interest nor legitimacy is sufficiently compelling (Hurd, 1999, 384).

Modern State societies around the world have made efforts to codify their social order. Laws, norms, constitutions, and punishment codifications are part of that effort. However, when a non-permitted action goes unpunished, the supposed predictability of social order seems to collapse, and social disorder can arise. Nevertheless, here it is argued that the absence of social order is not equal to chaos. Hence, the social disorder does not necessarily entail an absence of order but indicates a different kind of social setting. Of course, rebellion, violence, dissent, crime, deviance, and conflict in general do not necessarily means that there is no order, nor any society. And a different social order may rise from the ashes of the old order. Hence, disturbing behaviors with legitimacy pretensions may become a source of social order. For instance, crime (anti-social activities from a rigid legal perspective) and its perpetrators (likewise anti-social players from a rigid legal perspective) may become a source of social order by getting into legitimacy dilemmas — creating or renewing institutions, codes, values, and so on in their attempts to achieve, or maintain, political legitimacy.

Social order is needed to make antisocial behavior recognizable and punishable. This idea addresses how social structure is defined and how it operates in specific contexts, i.e. to recognize the mechanisms through which social order is achieved (Hetcher, 2003, 4). Those mechanisms condense social behavior based on norms, beliefs, ethics, values and how they become crystallized in institutions, laws, hierarchies and power relations. That is why the social order also works as a platform or channel through which social behaviors like consensus, negotiation, and conflict happen. Therefore, it functions as a sort of guide, to

outline the standards of social behavior. According to Michael Hechter, the maintenance of a particular social order depends on "[…] the existence of a set of overarching rules of the game, rules that are to some degree internalized, or considered to be legitimate, by most actors. Not only do these rules set goals, or preferences, for each member of society, but they also specify the appropriate means by which these goals can be pursued" (1987, 3 quoted by Hurd, 1999). That is why criminality, — a compendium of activities and values that go against the rules of the game — is such a valuable source for legitimacy for the sovereign.

> The gangster, the underworld, or the informal sovereign who has become "a law onto himself" are, in other words, central to the endeavors of governments and police forces to produce legitimacy, and to perform the sovereignty of the State. Likewise, both the underworld and the imputed amorality or corruption of State functionaries are central to the production of its opposite, "the community", as a sovereign repository of moral values and authentic sociality. Criminality as a "zone of darkness" is, in brief, the perennial outside, an unruly and originary source of sovereign life, and thus a necessary condition for any claim to establish and defend a social order (Hansen and Stepputat, 2005, 32).

We still have not addressed if, and how, this "perennial outside" can be successful in its attempt to become "a law onto itself", or even become the law itself. Social order is persistent but never static. It is dynamic and contingent, which means it must affirm and reaffirm itself through time and space (Frank, 1944). Contingency is similarly anchored to social dynamics. As a result, academic work has made efforts to explore and explain social order from big picture concepts to very local and specific scopes. Each big social theory has its own view on how social order is conceived, how it works, and even how it could be modified. Marxism, for instance, recognized dynamism in any social order by looking at the logic of dialectical materialism (Seidman, 2016, 24-30), while American sociologist Talcott Parsons took a clear static position by arguing that only institutions and how they regulate social action are relevant when determining social structures, in particular but not exclusively within democracy (Burger, 1977).

Given the long shadow cast by Parsons and the dominant assumptions of that point of view, it is important to stress that social disorder does not mean pure chaos or absence of authority, particularly when illegality and crime are the main causes of social disorder. In fact, social disorder contexts are powerful social inputs and/or frameworks for the creation of renewed complex social realities. From the ashes of a destroyed social order, a new one can be built. Hence, rather than long-stable social environments, social disorder should be studied for its relevant transition stages. The alleged social disorder scenarios facilitate 1) the establishment of a new social order and, 2) the enabling of zero-sum dilemma scenarios. Crime and criminals are usually associated with destabilizing governance because of their association with insecurity, violence, and corruption. Hence, hypothetically crime can overthrow a government´s legitimacy. If formal authorities do not recover that hypothetically "lost legitimacy", are empty spaces (scenarios without politically legitimate actors) possible? In

other words, does this open the door for politics without legitimacy? Here exactly the opposite is argued.

But before we get there, we review the state's role in the construction, permanence, and sustainability of a specific social order by honing in on two central features of the state: sovereignty and the social contract. Both are unavoidable topics when talking about legitimacy because the first addresses the foundations of the right to govern (and decide), and the second addresses the basics of people for whom an authority becomes legitimate. Moreover, they are essential concepts regarding social order because they support the idea that the state is the legitimate apparatus through which power and authority is supposed to be channeled.

1.2.2. Legitimate Power and Decisions: State and Sovereignty

Among monarchical governments in Europe, royal houses´ legitimacy was mainly based on the notion of the divine right of kings, the right to rule by divine mandate. Several centuries later, the foundations of governmental legitimacy had shifted to a broader social contract. Established ruling procedures also become more complex and included the idea of citizens (through elections or the use of formal or legal mechanisms and institutions to achieve power). Sovereign power moved away from royal houses and started residing in complex social configurations involving deciders, laws, codes, and even the people themselves (Wallerstein, 2006; Schmitt, 2001; 2004; Krasner, 2001; Crossman, 1986). That change is the focus of this section. What is the basis of that renewed social agreement and what are the implications for legitimacy? The answer addresses the understanding of a couple of core concepts within the social sciences: namely, the state, and the source of its right to rule and decide, i.e., sovereignty.

Logical statements on this topic suggest that only the state is sovereign enough to decide (where sovereign power resides varies depending on who explains it), and the legitimate mandate could only be reached through state channels. Within a modern framework, political legitimacy forms a central part (or even a complete definition) of the "who", "how", and "when" of sovereignty. Only the state can govern in a specific territory under certain principles while coexisting with other's sovereignties. They became the solitary holders of the renewed divine mandate (Held, 1989). Therefore, the state is supposed to win and preserve legitimacy as a positive but natural consequence of good government. If not, society will hypothetically have mechanisms to change political conditions, whether this only means to change the government or the whole basis of the social order. That change will reestablish legitimacy when it has been lost or is in crisis. However, in any scenario, the state is supposed to be the sole channel through which this can occur.

However, what happens if both state and sovereignty are empirically far away from ideal-types? What are the consequences of how the legitimate mandate is set? American anthropologist Clifford Geertz posed an interesting problem in *Current Anthropology* "What Is a State If It Is Not Sovereign?" (2004). This issue concerns him, particularly "[…] after the decolonization revolutions of the 1950s and 1960s have resulted in a renewed concern with the problems of government in multiethnic, multi-religious, and multi-linguistic countries" (2004, 577). Is the lack of sovereignty the end of the state? And if so, what is the role of legitimacy in that social and political equation? In the case of democratic regimes, as a theoretical principle, elections are the main source of fixing the lack of representation, bad government, and more. But what triggers that change is precisely the lack of legitimacy of the current government. All those are helpful suppositions to come back to Geertz's question. What happens when the state exists with its government but does not benefit from those qualities and advantages that legitimacy brings? If a state without sovereignty is possible (Geertz called these "complicated places"), is a state without legitimacy possible?[8]

Let me inject a word here on how this research understands the state. As a central concept in social sciences, of course, there is a vast literature on the subject. In this case, the "State in society" approach developed by Joel Migdal serves as a guide (together with conceptual tools from the anthropology of the state). Migdal´s work has considered how both the state and society interact with each other, particularly if one is embedded inside the other, or if it is a mutual constitution. He recognized that real states vary considerably in how much they resemble ideal-types, and he observed many institutions participating in the state-building process. He resolved the apparent conundrum by answering not only "what" and "who" the state is but also "how" it works (1988, 19). That serves as a platform to deal with the sovereignty dilemma in this section, and helps to maintain the discussion of legitimacy in a broad perspective.

Migdal offered the following definition: "The state is a field of power marked by the use and threat of violence and shaped by 1) *the image of coherent, controlling organization in a territory, which is a representation of the people bounded by that territory*, and 2) *the actual practices of its multiple parts*" (2011, 15-16; emphasis in the original). The former point refers to what is named as "the state" within the socio-political imaginary and gets close to the government members and public officials (but not exclusively). The second point recognizes the social and political participation of other institutions and individuals. This definition will be both useful and stimulating for this research. First, it helps us distinguish between different state realities by their empirical singularities. Second, it works to understand how state and non-state actors coexist and relate by recognizing multiple

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[8] These questions bring the analysis to another coming topic in this chapter, specifically in section 1.4.c; where does the lost legitimacy go? Can other political actors without sovereignty or non-state actors claim it? Is the same legitimacy lost by the state the one that the non-state actors claim? Or is it another type of political legitimacy? And finally, is it possible to share it?

institutions´ images and practices. This *mélange* has its own specific social and political features,[9] but allows for scenarios in which all those parts are politically competing and potentially looking for legitimacy mandates, and where the state is possible with, without, or with a variety of legitimacies coexisting. It remains to be determined if the "multiple parts" take part in the legitimacy process, to what extent, and how. The answers, again, will depend on each case. It is fundamentally an empirical issue.

> In every society there are different groups competing between each other to impose order. This is, to impose each one its own version of order. It means that the state is never the only actor capable of generating norms. On the contrary, it is always one among others, many actors, more or less institutionalized, more or less formal, with a more or less wide radium: churches, families, patronages, webs, corporates, communities…and the state is not obviously, naturally and immediately superior to the rest of actors even when it wants to be. Sometimes, State's lawfulness can impose above the others, in some spaces law can be reinforced with perfect regularity, but it is not possible to assure that it will be always like that. When that happens, when the state is successful in undermining the other powers, it is a consequence of a long struggle, and it is never a definitive victory (Escalante, 2011, 11).[10]

What does sovereignty mean for legitimacy? Anthropologists Veena Das and Deborah Poole suggest that the place to look is what they call the "margins of the state". They were specifically thinking of places that have been labeled as weak, failed, or partial states by political comparative studies (or "complicated places", as Geertz put it). They argue that this study of the offers "[…] a unique perspective to the understanding of the state, not because it captures exotic practices, but because it suggests that such margins are a necessary entailment of the state, much as the exception is the component of the rule". That perspective presents an opportunity to detach social order from the language of the state as a ghostly, rational, homogenous, lonely, and persistent authority (2004, 4-5). Her work is fully helpful in mapping the state from the locality and, with this, recognizing the margins of where authorities exist and are conceived. Their ideas opened the door for the study and recognition of non-rational, non-uniform, non-static sovereignties. In brief, "Whether labelled State or not, it seems that a wide variety of institutions constitute themselves as de facto public authorities, with greater or lesser success" (Lund, 2006, 676). Implications feed hypotheses of challenging, multiple, and successful legitimate authorities, and point the way toward conceptions of sovereignty and the state within descriptive perspective grounds.

Departing from that understanding, sovereignty 1) is no longer the state´s exclusive prerogative, but 2) it does not disappear just for that reason. Thus, some social groups may

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[9] The "*Mélange* society" idea suggests hyper-concentrations of authorities in the same space and time: "[…] groups exercising social control in a society may be heterogeneous both in their form […] and in the rules they apply […] [but] the distribution of social control in society may be among numerous, fairly autonomous groups rather than concentrated largely in the State. In other words, the over-all sum of authority may be high in the society, but the exercising of all that authority may be fragmented. In this mélange, the State has been one organization among many" (Migdal, 1988, 28-29).

[10] This and all the translations from non-English texts and documents are from my own.

be especially interested in taking advantage of these possibilities and operate in a sovereign mood, either by claiming authority, using violence, performing statehood practices, or pretending to become legitimate (and maybe simply becoming legitimate). Concerned with these problems, Thomas Blom Hansen and Finn Stepputat proposed the "de facto sovereign power" concept (2005). Ultimately, the monopoly of violence breakdown and sovereignty becomes a practice, which could be exercised by the state –or more precisely, by those who are supposed to be the sovereign through legal, political, or any other manner. Non-state actors, especially violent ones, may fit into the scenario of a fragmented sovereignty and exercise it. In this case, legitimacy will also be at stake. Sovereignty and legitimacy will always be related concepts. Following the scheme analyzed here, they would permanently need to involve at least two sides: the one interested in becoming sovereign/legitimate (which could be more than one), and the audience(s) with which sovereignty is exercised and legitimacy is sought, and possibly attained. The next section delves into the latter.

1.2.3. The Audience for Legitimacy: Social Order, Legitimacy, and the Social Contract

This chapter has questioned if political legitimacy is possible beyond traditional notions of the state and social order. However, there is another element to address, namely, with whom political actors attempt to become legitimate. In other words, who has the faculty (or power?) to grant (or deny) the condition of legitimacy? The answer points to the audience(s) of legitimacy. Matheson states that "Power-holders have an interest in securing obedience motivated by a belief in legitimacy, for legitimate authority is a less 'costly' form of authority than either coercive or reward-based authority" (1987, 200). Political legitimacy, as it has been explored earlier, is part of a relation between ruler and ruled. With that in mind, this section explores and debates the origins of the idea of the ruled legitimating the ruler. It is revisited to trace the logic behind this social process. In order to do so, the concept of the social contract guides the discussion.

State and sovereignty have deep linkages with the social contract idea. During the European Enlightenment Jean Jacques Rousseau proposed that sovereign power is no more than the expression of the general will, which can never be alienated. Therefore, the sovereign is nothing but a collective being and the power holder (1999, 51). Furthermore, while power can be transferred (for instance, as part of a government or regime change), general will cannot. Thus, the social contract is precisely the arrangement through which (either people, citizens, population, inhabitants, etcetera) power is transferred and, by doing so, sovereign gets legitimized. Moreover, this process can be developed in the opposite direction. The general will should be able to delegitimize and withdraw power to the sovereign and transfer it to a new one. That is why democracy is seen as the imperative legitimating mechanism, even despite the widely diverging interpretations of the concept (Duyvesteyn, 2017, 670). Any political actor or institution with legitimacy pretensions needs to regularly reaffirm itself

towards the population, and even towards other authorities. Otherwise, it will always run the risk of being delegitimized and, consequently, disempowered.

Empirically, the social contract plays a dual role. First, as an ideal-type it defines parts of the imaginary constitution of how authority should be in its legitimate condition. On the other hand, it helps to shape the audience of legitimacy. In other words, it helps to shape and justify the existence of a more or less inchoate audience onto which legitimacy efforts are intended to have resonance. Therefore, the social contract acts as a sort of glue between the transfer of power from people to authority as an act towards legitimating its right to rule. Naturally, this is far from being mere fiction. Real people (individuals or collectivities) live in society perceiving or suffering political actors' attempts to achieve legitimacy. However, this takes us to a new problem, i.e., how it happens. In the field, the state may share or compete legitimacy versus other actors. Thus, audiences of legitimacy, both in social order and disorder contexts, often distribute their credits to several authorities simultaneously (Hansen and Stepputat, 2005, 4). That may happen, for instance by respecting several coexisting rules, by trusting or fearing in one, another, or both mandates, or a complex mix of these.

On social order and legitimacy grounds, the social contract is more than merely the state´s business. No government can create a social contract by itself. It requires at least an effort from the authority to (at least symbolically) sign and attend that social contract celebration. Moreover, it seeks social relations of a desirable predictability (i.e., celebrating and respecting contracts, recognizing and respecting the law, such as the formal authority) (Duyvesteyn, 2017, 679). Any political order's claim, to be acknowledged as legitimate and fair, deserves recognition: "Legitimacy means a political order's worthiness to be recognized" (Habermas, 1976, 6). That is why is quite usual to find political claims in the name of the general will. That happens either through discursive, practical, or symbolic means. Thus, authority's agendas and visions of reality may compose those claims. On the other side of the coin, audiences of legitimacy receive and (ideally) evaluate them and participate in the process by giving, withdrawing, or transforming legitimacy. That scenario is an undoubtedly deliberative approach. However, when violence and fear join or mark those messages and claims, this process may vary in its stages. It is helpful to look at why political actors may be interested in these issues and observe the line connecting three concepts: legitimacy, the social contract, and the general will.

In Western Europe, where the social contract idea was initially developed, the credibility of the political project offered by the one who plans to rule played a primary role. Legitimacy came later as a consequence (Duyvesteyn, 2017, 679). Encouraging security had been the entry point for those pretending to establish the basis of a new social contract. Once warranted (or at least once the rules to do so are sanctioned), then it is possible to follow steps towards a legitimation process in which social order becomes firmly established. Following this idea shows the extent to which both legitimacy and social order become the

channels through which the social contract is supported. Audiences of legitimacy may vary. (Chapter 2 proposes how to categorize and recognize them – mainly when speaking about criminal groups' efforts at legitimacy. That process enables also involves a discussion of the methodology through which fieldwork and data from these actors becomes accessible.) Here the important point is to understand "who" is included in this legitimating process from the spectators' perspective.

Theoretically speaking, the social contract is a singular noun: it implies that there is only one within the same time and space. Its hypothetical expiration, malfunction, or decline is reason enough to renew it. However, again, empirical cases show contexts in which it is possible to talk about this in the plural. For instance, rebels may be able to propose their vision of social order, maybe establish it, and therefore set the basis for a parallel social contract. That might challenge the current status quo, but scenarios of cooperation, mutual understanding, or some other symbiotic relationship are of course possible. And as this analysis has repeatedly emphasized, this is a contingent process, and definitive victories are not guaranteed. That "never definitive victory" of political actors in their legitimating process (including the state), needs to continually reinforce and recreate their legitimacy. This opens possibilities for all those other institutions that, following Migdal, also constitute the state. Some of them, specifically the violent non-state actors, might also offer a social contract for their audience. Hence, they will need to "[…] explain and justify their agendas and actions; they need material and moral support from communities both inside and outside the conflict region. Without minimal legitimacy, an armed group is bound to fail in its attempts to stay in power" (Schlichte and Schnekener, 2016, 410). These collectivities will find themselves in a dilemma between coercion and legality to achieve or enforce legitimacy, and to reaffirm their claim to authority. The question of who these social groups are and how to study them is explored in detail in the next section.

1.3. Alternative People´s Legitimacy: Non-state Actors

Nowadays, cases around the world proliferate in which other actors seek and potentially achieve legitimacy. These "other actors" have been called "non-state actors" within the academic literature as a pragmatic manner to refer them. However, that pragmatism is a conceptual problem itself and highlights fundamental questions for this research: what and who are those non-state actors? What is their claim to legitimacy? And if indeed they are legitimate, how and why? Even when this happens in places around the world, the process and the specificities are neither uniform nor homogeneous. Each case is unique precisely because this search for legitimacy depends on material and immaterial elements, symbolic features, practices, power configurations, and local and historical conditions (i.e. the descriptive perspective of the political legitimacy), which are also particular and therefore need specific considerations. (These considerations will be explored in detail in the last section of this chapter.) In other words, to be understood, each non-state actor looking for

legitimacy has its socio-historical context that needs to be incorporated into the analysis, together with a consideration of what non-state actors are and to what extent they are equal or different.

Any group with minimum cohesiveness and whose members are not in government are supposed to be called non-state actors. However, social borders are not rigid. Thus, within a given social context, an individual can be the authority, criminal, citizen or more all at the same time and without even renouncing any of these roles. Also, as happens with the state, non-state actors are not monoliths, and therefore are not fixed entities or agents (or, at least, not always). These groups are part and parcel of complex socio-political processes, which often happen in the frame of conflict and dissension with authority. It is helpful now to identify some of the foundational thoughts about non-state actors to understand the limits and possibilities of the concept. When the social research and debate on globalization went beyond economic and financial issues and started addressing governmental and political processes, some scholars raised the question of a possible state-reduction or state-decrease. Consequently, non-state actors´ capacities appeared to be escalating, both politically and economically (Strange, 2002; Ianni, 1995; Hardt and Negri, 2001).

The hypothesis was that the international state scheme (the so-called Westphalian system) was becoming weak and useless in the face of new contestations, both local and global. With some distance, it seems fair to recognize that this premise was not complete or entirely accurate. In one hand, the state keeps having great analytical importance and, even more, not all the states face the same problems or in the same dimension. Thus, examining all the states, or the Westphalian system, in the same way is not useful. Furthermore, those new actors exist and grow as social groups with singularities and on-going activities. Thus, they have shown to be even more complicated and diverse (Josselin and Wallace, 2001). Some of them might be interested in dealing with legitimacy issues, either by claiming, questing, questioning, or giving it. This is why is it valuable to understand the concept of the "non-state actor".

Moreover, to analyze non-state actors involves questioning their problematic configurations. That includes studying their interior-group features but also how they are related with other political actors, including the formal or official authorities. For instance, are non-state actors comparable? If not, how to differentiate them? Is a taxonomy possible or desirable? Can a hybridity among them occur? Are they always entirely or unconditionally "non-state"? These questions demonstrate the challenges of the concept but must be addressed. Otherwise, complexity and ambiguity generated in societies by non-state actors may go unnoticed or misunderstood, including their political contribution, particularly when talking about claims to legitimacy. This research is centered on and interested in one specific sort of non-state actor, the criminal groups. However, before delving into them, it's helpful to locate this particular type in the spectrum of non-state actors.

This section addresses conceptual perspectives. Later, this will help to analyze and conceptualize specific cases. First, we explore problems with definitions of non-state actors, which will be pertinent to the socio-political contexts in which they seek legitimacy. This discussion will help us to classify them — specifically, how academic literature has proposed to categorize those non-state actors involved in violent actions or who performed themselves violently. Finally, a conceptual exploration of criminal groups is made in order to locate them into the range of violent non-state actors. That represents a first approach to these specific groups. The central interest is to propose a functional conceptual apparatus and guidelines to understand criminal groups' phenomena concerning their search for legitimacy.

1.3.1. What Is a Non-state Actor?

International relations and some studies in political science initially developed ideas on non-state actors. This concept can be situated as a disciplinary necessity to name and explain the involvement of some other actors in local, national, and international politics and economy (Higgott, *et al.*, 2000). That mainly happened during the last decades of the twentieth century, when the nation-state, its sovereignty, and the Westphalia system, offered insufficient frameworks to explain new social, economic, and political dynamics. Their participation in the so-called international society was expanded beyond the international arena, including global, national, and local stages, particularly during the second half of that century. In particular, complexity around world politics increased at the end of the cold war, when Berlin´s wall fell, and the Soviet Union broke up. The Balkan wars in the nineties and then September 11 (particularly involving so-called 'violent new actors') also influenced the discussion.

These new actors were not states nor were they supposed to become sovereign, but began to seem of great importance in different areas of the political landscape. Moreover, most of them had their own agendas (local, national, regional, and even global), a pivotal element to locate non-state actors in legitimacy discussions. Hence, the notion of non-state actors appeared as a practical and convenient solution to include this phenomenon in the spectrum of many disciplinary analyses within the social sciences. It was now possible to name those new groups. However, the debate was mainly focused on how they were contesting and threatening state power. Nevertheless, the understanding of how politics happened in these new contexts was incomplete because this approach left aside two discussions. Namely, it did not address how these new actors might perform as if they were the state (emulating or simulating it, or negotiating and collaborating with other non-state actors). Also, the discussion was not interested in understanding hybrid situations, i.e., when social mechanisms allow individuals to simultaneously be a part of the state and a non-state actor, or to go between these categories (Krause and Milliken, 2009, 202). Both aspects are profoundly relevant to study criminal groups, where corruption and the border between legal and illegal tend to be blurred.

That latter point addresses the interesting problem: how to empirically draw the line between where the state ends and society begins? According to some scholars, this is a question that could be exclusively answered through a local perspective, and far away from generalizations. Also, it might highlight the indicators to differentiate a state from a non-state actor (Escobar, 2001). This involves an inquiry into the relation between political actors with formal authorities within a given social context, and how and why legitimacy is pursued and disputed there. Thus, any definition of a non-state actor needs to be based on an empirical discussion of the state.

The literature tends to frame the state as a counterpoint to non-state actors, but fixed ideas of the state obscure the complex power, influence, and sometimes even the existence of non-state actors. For instance, some non-state actors can enjoy grades of autonomy with formal authorities, while others can also have, seek, or claim state affiliation (Josselin and Wallace, 2001). To resolve this problem, ideas of state and non-state cannot be static or non-empirical, even when we recognize them as ideal types. This dilemma becomes even more important in disorderly contexts (i.e. "complicated" and "marginal"), where crime, corruption, and violence render hard distinctions shadowy. The complexity behind this can be summarized when recovering Akhil Gupta´s concept, "blurred boundaries" (1995), which comes from an of ethnography of the state carried out in a northern Indian village, where he confronted the traditional and supposedly definitive distinctions between the state and the civil society. Gupta explains well how he came to realize that while these categories are real and useful, they are discursively constructed.

> Rather than begin with the notions of State and civil society that were forged on the anvil of European history, I focus on the modalities that enable the State (and, simultaneously, that which is not the State) to be discursively constructed. Looking at everyday practices, including practices of representation, and the representations of (State) practice in public culture helps us arrive at a historically specific and ideologically constructed understanding of "the State." Such an analysis simultaneously considers those other groupings and institutions that are imagined in the processes of contestation, negotiation, and collaboration with "the State." There is no reason to assume that there is, or should be, a unitary entity that stands apart from, and in opposition to, "the State," one that is mutually exclusive and jointly exhaustive of the social space. What I have tried to emphasize in this article is that the very same processes that enable one to construct the State also help one to imagine these other social groupings (Gupta, 1995, 393).

Postcolonial situations can pose intellectual challenges in using categories derived from Western European contexts. That is why Migdal´s definition of the state is quite useful. Both images and localized practices configure it and, beneath them, there are elements for the understanding of both state and non-state actors. The challenge is in how to operationalize non-state actors as social groups among others (of the multiple parts composing the state) with real practices developed in a power field marked by the threat and use of violence.

Following Migdal´s borrowing of a Bourdieunian concept, there is a dominant organization image within the field, coherent in a specific territory, which does not deny the interaction of other groups. Instead, these other groups help to build and shape social reality. Again, these thoughts are useful for particular social and disciplinary spaces where institutional constructions have historical and sociological peculiarities, and therefore, require different approaches. There are other disciplines and contexts, however, where ideal-types will be more accurate and helpful disciplinary tools. Empirical references are, again, needed in each case.[11]

Despite the common ambiguities around the definition of the non-state actor, the concept can be used in a practical form. In this research, a non-state actor will be understood as an analytical category to recognize (even when it's not possible to precisely define) those social groups and political actors through their own actions, practices, agendas, and interests that fit into narratives of being separate or distinguishable from the state. The category of non-state actors becomes helpful to explain social phenomena of those who participate in politics or social violence in a specific social space. Moreover, it helps to study how formal or legal authority is involved. This discussion is, of course, in deep relation with the search of legitimacy and the construction and use of power among these non-state actors. How and why they do so is explored in the next section.

1.3.2. Why and When? Non-state Actors In Search of Legitimacy

Non-state actors are political actors. As a result, claims to successful legitimation processes can emerge informally and through illegal or non-legal means. Legitimacy is not an exclusive attribute of the state or the legal or formal authorities. This is a key point, and inclines this research towards a descriptive perspective of legitimacy. Non-state actors can become legitimate or at least seek legitimacy. However, is that claim to legitimacy a quotidian practice of non-state actors, or is it a particular behavior for some of them? Are non-state actors searching for legitimacy as a pragmatic way to achieve their goals? Alternatively, are they ideologically or politically or financially motivated? Why and when does that claim happen? Political legitimacy might bring benefits for non-state actors. Depending on the case and context, it will invite support from a variable audience but also offer the advantage of performing action without being questioned. However, the question remains: is political legitimacy an end itself for a non-state actor, or is it the means through which other goals can be reached? And can these social agents dispense with legitimacy?

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[11] In this regard, and following Schneckener (2017), the distinction between violent actors and the state might become impossible as a result of the potential existence of collusion, collaboration, and overlap between the categories.

This applies quite broadly: to multinational and global firms; international, regional, and local NGO's; militias, terrorists, vigilantes, criminal organizations and bandits in general. Therefore, the agendas and actions mentioned above will be part of the answer to why and when claims of legitimacy claims apply. The possibility of a non-state actor becoming legitimate is related to the expectations of these actors from the imaginary construction of political authority. That opens a wide range of possibilities. Some of them will be interested in co-operating or influencing in specific topics of society, others will pursue drastic changes such as eliminating the formal and legal system of government, or merely to toppling the current administration, just to suggest a few possibilities. Non-state actors can be moderate or radical, depending on their agendas and practices. According to some authors, non-state actors are interested in participating in norm-formation or regulation (Peters, Koechlin and Fenner, 2009). That becomes a necessity for them, and can include their involvement in policy processes through legislative mechanisms, lobbying, or other formal routes. Their motivations can be political, ideological, economic, or a mix. These can be categorized as legal.

By contrast, the non-legal might be interested in disturb or at least ignore established rules through disruptive conducts (which does not mean that only rebels act violently, as will be explored in the next section). Justifications and motivations tend to be less economic and more political and ideological (but this is not always rigid), and are often illegal or conflict with established law. However, grey zones are possible: non-state actors can expand or redefine their interest through time, so an evolution of a "peaceful" non-state actor into a violent one is possible, and vice versa. In other words, they can shift between both categories as part of their historical process. Nevertheless, a common attribute of non-state actors seeking legitimacy is their participation in defining social order, either through the constitution of authority, the establishment of a mandate, or the definition of the ruler and the ruled.

Non-state actors involved in legitimacy issues need to be analyzed as well from their posture towards the ruler and the ruled. Since they participate politically, they have to establish relations with formal authorities. However, given that the support they seek comes from the ruled, this relationship becomes crucial to achieve legitimacy. Some of these actors use state resources (for instance, its legal system) as a claim to legitimacy (Schlichte and Schneakener, 2016, 417), while others defy the state to accomplish the same goal. Non-state actors establish their position in relation to the status quo, which indicates the flexibility and contingency they employ when choosing to compete with, borrow from, cooperate with, or flatly reject the legal authorities' legitimacy. Another possibility is shared legitimacy.

Non-state actors, and rebels/bandits in particular, as organized parts of these societies, can reproduce the experience of the state, building on former experiences (Förster, 2015, 204). That configures a path for non-state actors to achieve political legitimacy. But some non-

state actors are violent; they use violence along with threats and intimidation to achieve their ends. To what extent can they achieve legitimacy? This question cannot be answered in the abstract, but requires empirical references. Nevertheless, some conceptual points are both necessary and helpful.

1.3.3. Violence as Catalyst: Towards a Taxonomy of Non-State Actors

In the decade or so after the Second World War, the social sciences showed little interest in investigating the role of a particular sort of non-state actors, largely due to economic, financial, and geopolitical reasons. But especially at the end of the Cold War, and as neoliberal policies and free trade agreements took off in capitalist countries, some new actors started appearing in the analytical landscape. Examples include international organizations and international cooperation agencies (both constituted by state memberships), corporations and banks, and special international entities (most of them defined by Public International Law). And little by little scholars began looking at some other non-state actors whose principal characteristic was the use or threat of violence to achieve goals (including to legitimate themselves or their activities). These other non-state actors were rebels like militias, guerrillas, terrorists, and vigilantes, but also, criminal groups and so-called "organized crime".

All of these groups were defined within international humanitarian law as social formations and conglomerates with a minimum degree of cohesiveness, and certain duration in their violence campaign (Krause and Milliken, 2009, 203). However, in the post-cold war era, violent non-state groups with relevance in politics became common (Halliday, 2001, 37). Some showed clear international (or global) agendas and actions, but most focused on national, subnational, and sometimes very local agendas. However, combined with the existence of previous groups that already had violent actions (some of them with a long history), the study of what has been called "violent non-state actors" commenced. As Stathis Kalyvas stated, "Studying war now (after the cold war) calls for taking internal conflict seriously — a hard lesson for hard-wired scholars to take on state unity and dismisses non-state actors as secondary" (2010, xi). The use or threat of violence became a catalyst to distinguish specific kinds of non-state actors. Grouping them into a more limited, neat category became epistemologically convenient, even though some of the original problems of conceiving of non-state actors remained.

Nevertheless, is a violent non-state actor always or only violent? Asking this is crucial because it takes the analysis to the matter of legitimacy. Violent non-state actors can select from a diverse gamut of choices to obtain their goals. For instance, using the concept of rebel diplomacy, Bridget Coggins argues that rebels "[…] often dedicate significant time and attention to non-violent, diplomatic engagement and that the scope, direction, and timing of their efforts can help us to better understand the dynamics of contemporary civil war" (2015,

99). According to her, rebels are capable of (and sometimes encouraged) to develop rebel diplomacy in their relations with other formal and informal authorities. This idea offers insight into the interplay between violent and non-violent tactics, and shows that without such and understanding a big part of the story can be missed. But if rebels can negotiate and use non-violent resources, why continue to call them violent non-state actors? To answer, we must address how violence is understood in this research.

The concept of violence involves a whole conceptual dilemma and has been understood from many perspectives (symbolic, structural, implicit, etcetera). Above all, this research seeks an operational understanding. Rather than selecting a static definition, three authors works serve to sketch a conceptual outline of violence in the context of this study.[12] This outline uses three phases to identify violent practices in the context of those actors seeking legitimacy: to recognize different sorts of violence and how they might connect; to understand how violent social contexts are built through violent connections; and to analyze the function of legitimacy in those cases and contexts. For the first phase, regarding recognizing violence practices, Johan Galtung´s (1990) ideas are useful. As he states, violence can be subcategorized into three different clusters. The first one, direct violence, is the most evident and easy to recognize; an individual beating or killing someone else is a banal but simple illustration. The second is structural violence, defined by marginalization, humiliation, and denigration of the subjects (this has a profound link with social order notions analyzed above). However, Galtung includes cultural violence, which involves "[…] the symbolic sphere of our existence – exemplified by religion and ideology, language and art, empirical science and formal science (logic, mathematics) – that can be used to justify or legitimize direct or structural violence" (1990, 291).

For the second phase, regarding the understanding of how violent social contexts are built, Philippe Bourgois (2005) proposed the idea of a continuum of violent actions. He characterizes violent expressions as interconnected or associated actions, rather than isolated events. That opens possibilities to understand how violent people can also become victims of violence, but also to understand violence as social action attached to social context, rather than ephemeral acts. Finally, Hannah Arendt's definition from *On Violence* (2006) will be helpful for the third and final phase. Her thesis went against Freudian perspectives of what violence is. She did not think of it as irrational conduct by an ungoverned side of the human mind. She argued that violence always needs to be justified and, sociologically speaking, it is not an end itself but a means to an end. Hence, those "ends" or "goals" may be rationalized and so it should be with the use or threat of violence – which will have a direct relation to expected ends. Since those ends can be rationalized and attributed to a group or an individual,

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[12] For instance, the World Health Organization has a common definition of violence, which at least ignores social problems around the phenomenon: "Violence is the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation" (WHO, 2014, 2).

the means to achieve it will by definition be rational, as Arendt argued: "Violence, being instrumental by nature, is rational to the extent that is effective in reaching the end that must justify it" (1970, 79). Hence, the use or threat of violence actually works as a catalyst to conceptualize violent non-state actors within the rest of social groups competing for legitimacy. In other words, violence helps us to distinguish some non-state actors from the rest.

Sometimes, the use or threat of violence is not enough to categorize the so-called violent non-state actors. What difference or similarities exist between them? That is relevant because, while they may be categorized into this group, that does not mean that they are always equal or even of the same category, especially given their complexity and variety. Researchers must distinguish and classify them to identify and understand their particularities (Schultz, Farah, and Lochard, 2004; Vinci, 2006). However, this work always runs the risk of oversimplifying phenomena. While some scholars have focused on creating a list of the many and different actors that could fit in because of their activities, some others like Vinci have focused on categorizing them with a political interest rather than academic. Considering the problems of mobilization faced by rebels, this type of work faces the problem of categorization as a tool to improve effectiveness in confronting insurgents and terrorists (2006, 61).

In order to present a progressively multi-dimensional understanding, Miklaucic proposes a typology to examine what he calls illicit power structures through four successive analytic 'prisms': their ideologies, motivations, actions, and structures (2009). For this research, it will be a practical but ontological decision to distinguish them from two angles, namely: if the violent non-state actor shows interest or attempts to become legitimate; and by the use or threat of violence as a way to claim authority in three stages: current activities related to their agenda, social performativity with the formal ruler and ruled, and the pursuit of goals. However, the research focuses on Miklaucic prisms (and those three elements will be limited to criminal groups). The next section characterizes these groups.

1.3.4. Criminal Groups: Characteristics of a Violent Non-state Actor Regarding Legitimacy

In a rigid legal sense, crime and criminals refer to behaviors prohibited by law in a given time and space, which leads to a discussion of a non-legitimate people or activity from a normative perspective of legitimacy. But regardless of how it's categorized, this activity and its perpetrators have powerful consequences for how society is shaped. Social reality (including criminals and criminal activity) is contingent, and what is criminal can become legitimate or even legal (and vice-versa). In other words, crime may achieve legitimacy (descriptive legitimacy). How this happens can be translated into specific questions: Why may some of these criminal groups call for legitimacy? What are the sources and resources of that legitimacy? And what does that mean for power configuration in those places? Chapter 2 addresses these issues at length with regard to empirical cases, but here follow

some brief notes. The aim is to locate and identify criminal groups as a specific sort of violent non-state actors and address conceptual problems over them.

Of all the possible violent non-state actors, criminal groups are only one of them, but they represent the academic interest of this study. Following Krause and Milliken, we are specifically looking for those social formations which, when dealing with legitimacy aspirations, attempt to generate artificial distance, either from the government or from people, by showing a degree of cohesiveness (with or without leadership), and certain duration in their violence campaign. That distance, built through discursive elements, violence, symbolic elements, etcetera, lets them produce the image of a differentiated social group within a society. Even when this works as a representation, it highlights two relations: one with formal authorities (most of the time, the idea of the state itself), and another with the idea of "common people". The idea of a separate group, criminal and violent, but striving to become legitimate, has empirical consequences which this research is aware of. Arjona, Kasfir, and Mampilly offered some thoughts on this when talking about rebels.

> When rebels secure territory, they must decide how they will interact with local residents. They can rob and rape them, they can recruit them, they can ignore them, or they can try to govern them – for better or worse. The choice a rebel group makes is always momentous for civilians. A surprisingly large number of rebel groups engage in some sort of governance, ranging from creating minimal regulation and informal taxation to forming popular assemblies, elaborate bureaucracies, schools, courts, and health clinics. Some also focus on organizing non-combatants for commercial pursuits" (2015, 1).

This idea relates to how literature and legal codes have attempted to define organized crime. Given its complexity, that task has become interesting but problematic. According to Grégory Auda, it was in the New York Society for the Prevention of Crime issue of 1869, where "organized crime" was used for the first time (2009). Its original use was to describe migrant Italian communities in New Orleans and New York, which were supposedly related to Sicilian mafia. However, phenomena of mafia and crime became complex during the twentieth century, and broader, profitable and global during post-cold war era and the beginning of twenty-first century. German scholar Klaus von Lampe has collected more than 200 academic, legal, and institutional definitions of organized crime (and keeps counting...) (2019), which illustrates the need for more accurate terms to describe and understand the phenomena of criminal groups, especially from a legal perspective (Serrano and Berdal, 2002, 8).

Conceptual complications on this topic have increased over time. Unlike what happens with other academic concepts, the debate appears divided between exhaustive characterizations of criminal behaviors that allow authorities to find parties guilty, and complex elaborations to explain complicated criminal phenomena. Difficulties to define the topic clash with formal and intellectual efforts to delimit it. Paradoxically, the main problem to do so seems to be the

ambiguity, that is, the flexible and multi-interpretable ways in which this definition has been discussed. For instance, the United Nations Convention against Transnational Organized Crime, define it in the following manner: "'Organized criminal group' shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit" (2000). Ambiguity is the essential component of this definition.

A large variety of actors fit this definition, all guilty of the same illegality and the same behavioral ontology. Lumped together in this definition are not only drug traffickers and kidnappers, but fraudulent financial institutions like Lehman Brothers during 2008 financial crisis and non-regulated street vendors bribing corrupted police officers to sell legal commodities in Mexico City. Each of these clearly involves some financial trickery, reflects planning and coordination, and causes some unspecified harm to society. But classifying them in the same category obfuscates rather than clarifies. In addition to formal definitions, there are also imaginary constructions of what organized crime is; it happens in every society with criminal concerns and is shaped by media (from journalist constructions to cultural productions), legal and political discourse and, in a less direct way, also by the academic discourse. Hence, organized crime also becomes politically defined – as happens with most social concepts. But the conceptual problem is real: it results from the necessity to simultaneously address legal, social, academic, and political problems.

Von Lampe pointed out that there is a risk and an opportunity when dealing with definitions: "[…] 'organized crime' may evaporate in the hands of diligent researchers but [the opportunity is that] a lot will have been learned along the way about patterns of criminal cooperation and about illegitimate power in the hands of those who systematically and collusively violate or circumvent the law to the detriment of the common good" (2002, 197). In this research, we understand criminal groups as the organization of crime as a social phenomenon, rather than a completely separate social group. Moreover, when dealing with legitimacy, this organization of crime will involve 1) illegal activities, but also the effort of 2) creating the image of a cohesive, unitary organization with its own identity, 3) acting and performing in accordance with this identity, and 4) efforts at achieving or preserving legitimacy. Criminality is also understood as non-lawful conduct, which may fit into the first point referenced before. Both questions, how and why, will be answered in this research, and particularly with the cases analysis in the following chapters.

Meanwhile, this explains why we adopt "criminal group" rather than "organized crime" as a noun to refer to them. Kasper Hoffman stated that: "Part of the allure of a rebel group is its promise of a new and better society. Yet it is simplistic to think that rebels always stand in opposition to the existing socio-political order" (2015, 159). This is especially relevant when talking about criminal groups. Given that these groups are primarily motivated by economic

gain, could they also be interested in social and/or political change? Answers, of course, depend on specific cases, but none of these groups can avoid taking a position towards the socio-political order. Mainly because the current socio-political order is, in fact, the order in which those profits were possible and available in the first place, the analysis focuses largely on how this process happens. The next chapter describes how to tackle this problem methodologically.

1.4. Closing Remarks and Summary of Chapter 1

Given the vast academic work on political legitimacy, this research proposed the division between normative and descriptive political legitimacy. This twofold perspective helps this research to make operative a definition of political legitimacy. Between how political legitimacy should be (normative) and how it could be (descriptive), this research opts for the latter, while recognizing the relevance of the law and moral norms. Thus, state and non-state actors (especially illegal and violent ones) can perform practices of legitimation. Hence, even when the legality is a powerful source of legitimacy, it neither guarantees or denies political legitimacy. As a collective accreditation of political fiction, legitimacy is understood here as a social process building, rather than as a fixed conceptual unit. Consequently, political legitimacy will be perpetually attached to the socio-political setting of each analyzed case as well as to the local historical circumstances. Growing from those ideas, this chapter elaborated five considerations to design an operative definition of political legitimacy to empirically trace it under a descriptive perspective.

The first consideration addresses both ruler and ruled when defining legitimacy. The second consideration concerns recognizing the contingency in which legitimacy is built, i.e. its locality, temporality, and rationality. Thirdly, given that legitimacy is a relational concept, the hypothesis of legitimate parallel authorities' coexistence needs to be considered. The fourth consideration concerns the historical legitimacy-building process. Finally, as an ongoing process, the fifth consideration addresses the continuous necessity of the legitimate political actor to reconfirm itself and its legitimacy. In this regard, contingency becomes the rule and, as an ongoing process, leads legitimate political actors to a "never definitive victory". Deeply connected with this, this chapter also elaborated concepts closely related to political legitimacy such as the social order, sovereignty, and the state. By adopting the anthropology of the state as a conceptual framework, this chapter highlighted specific ideas emerging from these three concepts.

The social order is understood here as a set of social organization patterns that give societies predictability. In this regard, social order connects with legitimacy because it is through the latter that political actors change the former. It starts by altering the relationship between the ruler and the ruled, and follows by modifying collective ideas of belonging, cohesiveness, legality, trust, and sharing a common destiny or general will. Sovereignty was understood

here as a practice that could be more or less exercised by either state or non-state actors. When performing sovereignty, the same actions might also be read as practices of legitimacy. The state is understood not as a merely static body made up of officially recognized figures and institutions, but is dynamic, flexible and composed of multiple parts, legal and illegal, legitimate and illegitimate, official and unofficial. Thus, specific communities can mirror many functions and practices of the state. Moreover, as a more organized part of these societies, rebels will be capable of and interested in doing so. This is what sets the path for non-state actors to achieve political legitimacy. Finally, rather than organized crime, this chapter proposed the category of criminal group, a type of violent non-state actor involved in legitimacy struggles by performing an artificial separation from the rest of society.