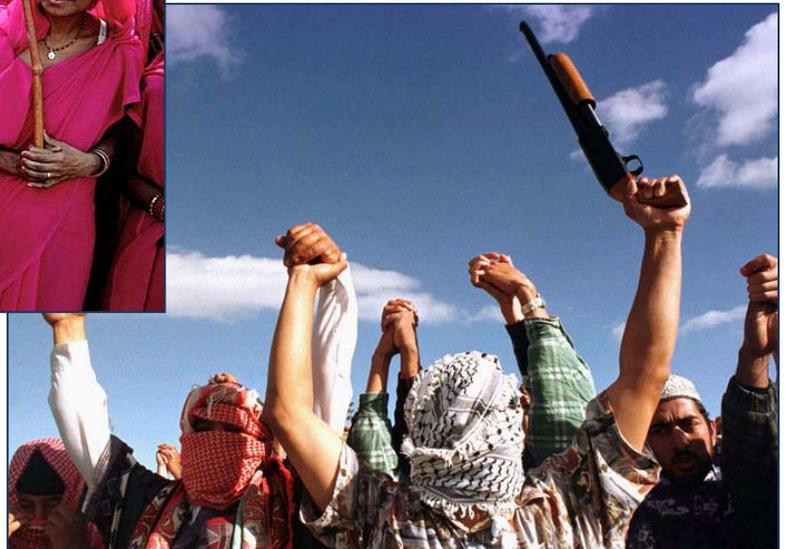


# Conceptualizing the Relationship between State Failure and Vigilantism

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Bachelor Thesis- International Development Studies

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# Summary

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This Bachelor thesis is about the state failure and vigilantism. Vigilantes are actors or groups that decide to enforce law themselves and take matters into their own hands. Vigilantism is often claimed to arise because of certain interpretations of state failure. Vigilantes that are said to arise 'in response to state failure' thus want to address crime in society as defined in the state system that is not addressed by the state. Vigilantes can also have a different legal system than the legal system of the state. These vigilante groups want to uphold this legal system, based on for example religious, local or sectarian norms and values, in society. Vigilante groups can also be a hybrid system of both of these aspects. The central question is how one can conceptualize the relationship between state failure and vigilantism. The state system that is present in the world today is based on claims of sovereignty. This entails that the state system has entitled itself the formal right to govern within its territory and the monopoly on violence. The state's claims for authority are also already 'included' in the existence of the state itself. With these claims also comes the state taking up certain created responsibilities to provide services to 'its' citizens. One can interpret failure of the state as; the failure to provide justice to all citizens in the way that they understand justice. One could say that in this way, vigilantes challenge the claims of the state. The main finding is that one can best understand the relationship between vigilantism and state failure in a way that vigilantes are unsatisfied with how justice is shaped in their environment and take up law enforcement measures of their own. In this sense, vigilantes are thus mainly responding to a perceived lack of justice as opposed to responding to the state. One could argue that it is not the fact that the state does not provide this that is the direct incentive, but the lack of this notion of justice in general. State failure is often conceptualized by scholars whom adhere to certain ideologies of what 'good statehood' is and from that 'requirements' are defined. State failure could however be conceptualized as a failure to fulfil the claim of it representing the common interest of citizens. One could however use these theories to better understand certain vigilante groups whom adhere to this interpretation of justice as well. Therefore one can use a normative mechanism to try to understand some of the theories on vigilantism and the position of certain vigilantes better.

# Chapter one – Introduction

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## 1.1. Main and sub question

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This BSc thesis is about the relationship between state failure and vigilantism. Vigilantism is not a very familiar subject and there has not been great amount of conceptualizing the term (Johnston, 1996). Vigilantes are however very fascinating when one is interested in how state and laws work in relation to the citizens who are often 'subjected' to this. Abrahams (as cited in Kucera and Mares, 2013, p. 2) describes that vigilantism presupposes "*The existence of the state, and of formal legal and other procedures involving the use of force over which the state normally claims a monopoly*". Vigilantism is described as a form of self help with the use of violence in situations of discontentment with the state and considered state failure. Vigilantes experience a degree of frustration towards the practical reality with regard to the state system and other actors whom they perceive to be: "*undesirables, deviants and public enemies*" (Abrahams, as cited in Kucera and Mares, 2013, p. 2).

This dynamic between vigilantes and the state pose some challenging questions. As already somewhat mentioned, the state claims to have certain rights with regard to their authority while vigilantes go against this and thus in some occasions ignore these claims. One could therefore wonder if vigilantes are challenging the claims the state makes. It also appears that vigilantes have a distinct paradigm of what society and law should look like and this paradigm can collide with the state's paradigm. So can one wonder how to characterize and explain this phenomenon of vigilantes that could have a very different legal paradigm than the state? Also the use of violence is an important subject with regard to the state and vigilantism. As described above, the state claims the monopoly on violence but vigilantes also use force. One could wonder how vigilantes legitimize the use of force in general and with regard to the state. To be able to have a distinct focus with regard to these processes I have formulated the main question and the sub questions of this thesis that gives focus to this subject. The main question of this thesis is:

How can one conceptualize the relationship between state failure and vigilantism?

The sub questions are:

1. Are vigilantes fundamentally challenging state sovereignty?
2. How can the rise and dynamics of vigilantism be explained by the quest of people to define themselves what justice is, based on other legal systems than the state?
3. How is the use of violence by vigilantes legitimized?

## 1.2. Objective

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The main objective of this thesis is to gain insight and discuss the controversy regarding the complexities around the relationship between state failure and vigilantism. The notion of state is often viewed as given while it is a system that is based on *claims* of power and sovereignty.

The starting point of what a state is already causes a lot of discussion and also the concept of state failure is not considered the same by all actors. The concept state is a too little studied subject and has become part of the hegemony to the point that one often does not even question its existence. The claim of the state is that it is the sovereign ruler and that the state system is the best way of delivering justice, prosperity and stability to people. Abrams (1988) describes this claim as illusory common interest. The relation between how actors interpret failure of the state and the states claims of sovereignty in relation to vigilantism is the main point of this objective. One could however wonder how great the role is that these perceptions of state failure play in the rise of vigilante groups. One could argue that vigilantes collide with certain claims the state makes. Therefore it is relevant to analyse in which ways vigilantes possibly challenge the claims of sovereignty that the state makes. The focus is thus to define the relationship between the claims of state sovereignty, views on the failure of the state and the rise of vigilantism.

While it seems that vigilantism is not a much known concept, modern culture is full of vigilantes like Spiderman and Batman. So the notion of justice beyond the state is known but vigilantism is not a well known concept. At my law courses at Wageningen University this concept of vigilantism has also not been elaborated on while it fits very well in the content of these courses. Therefore I think it is important to breach this knowledge gap by elaborating on the specifics of this topic in this Bachelor thesis.

### *1.3. Methodology*

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This thesis is a literature study. First I will review different definitions and explanations of vigilantism and the circumstances that have given cause to them. This will be the third chapter of this thesis but I'll start with studying this part because then I have a very clear understanding of what vigilantism is and how it is shaped in practise. This because once it becomes clear out of what kind of circumstances vigilante actors or groups arise, I will have a sharper focus when I dive into the complex dynamics of state and failure of the state. Afterwards I will thus start to use the knowledge on vigilantism to study the concepts of state failure and legal pluralism, which will be the second chapter of this thesis. Then I will use specific cases of groups of vigilantes and apply the concepts and processes discussed in the previous chapters on these cases to analyse how these apply to vigilante groups and actors. Finally I will write the discussion and the conclusion.

The second and the third chapter will thus mainly be on the review of theory on the important concepts. These concepts are studied by using several paradigms and will afterwards be used to analyse the case. The background of the core concepts is thus used to make a deductive analysis on the case studies in chapter four. Chapter four will also consist of the background analysis of the two cases. This background analysis will be used to make analyses of the legitimating arguments and meaning that become apparent from these vigilante groups. In this way, the case material will thus be used to also make an inductive analysis, derived from the cases study material.

#### 1.4. Limitations

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There are several limitations to the writing of this thesis. First of all there is limited time available to get to know a very complex subject. In this limited time, extensive reading has to be done and the research proposal and the thesis have to be written. Because of this it will not be possible to get to know all the details of the subject and some aspects would have to be kept out of the report. State and state failure in itself is already a subject that you can write many thesis reports on and which is interpreted differently by different actors, so I'll have to limit myself to a certain core of the subject. Legal pluralism within nation states is also a lot more diverse and complex than I will be able to fully grasp and comprehend within this time. The focus will therefore mostly be on legal pluralism in connection to vigilantism. The same applies to the cases I will be choosing to analyze. There have been many vigilante groups throughout history that all have their own specific context. Due to limited time I will not be able to discuss a broad spectrum of all these cases and will have to limit myself to two.

Another limitation is that this thesis is a literature study that is completely based on the work of others. The great benefit of being able to do your own research is that you can look for answers to the exact research questions in practise. Though regarding the many different sides to this subject, it would not be possible to find an answer to all questions in one real life situation. It would however be possible to find a vigilante group and study them and their specific circumstances in practise to get a better a feel for why these groups and actors decide to turn to action and violence. It is would be possible to do my own research, questions regarding legitimisation could be studied in practise by interviewing vigilantes on this topic. Also the meaning they give to certain practises in relation to their goals would become much clearer through field research. Literature does not provide the answers to the exact questions of this thesis and therefore the full extent of the topics and the chosen cases cannot be grasped. One can make interpretation based on these second-hand reports and be as accurate as possible, but this is quite a limitation to doing research. There is however enough literature on the issues of state failure, legal pluralism and vigilantism to get a good sense of the big picture of these complex structures.

#### 1.5. Structure

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The first chapter is the introduction. In the introduction the main and sub questions are mentioned. I will also discuss the objectives, methodology, limitations and the structure of the thesis.

The second chapter sets the background of the thesis, as the broader concepts will be defined. It is a reflection on the theory of the dynamics of state, state failure and legal pluralism that are needed to be able to make the conceptualization of the connection with vigilantism. Even though the state is often seen as given, one can consider that the system is based on *claims* of authority and sovereignty. There are many ways in which one can consider state and to be able to analyse this, some different definitions of what state is, the 'non-reality' of the state as defined by Abrams (1988), the Westphalian model, and eroding state power and will be discussed. As there are different ways in which one can consider the institution of 'state', there are also multiple ways in which actors see 'failure of the state'.

These complexities will be discussed and with that a 'mainstream' interpretation by Silva (2013) and the analysis of Abrams (1988) on the state will be used. Afterwards I will be discussing legal pluralism and how it poses a challenge on the claims of state and the states justice system, since not everybody abides by the same interpretation of what justice is and how it should be upheld. I will conclude with how one can consider the role of legitimacy in these complexities around state failure and legal pluralism.

The third chapter is about vigilantism. Vigilantism is often described as (often violent) actions by actors or groups in response to the failing of the present state system to protect them and uphold justice according to state law or a group or an actor has a different paradigm of what justice is than the state. In this chapter I will discuss these interpretations and question the centrality that is given to the role of the state by these scholars. I will first give a definition of what vigilantism is, what different aspects are involved and how vigilantism differs from terrorism. Afterwards I will explain the difference between vigilantism in response to 'state failure' and vigilantism that relates to legal pluralism. Then I will discuss vigilantism in relation to legitimacy.

In chapter four I will discuss two case studies. I will start with the case of the Gulabi Gang. The Gulabi Gang is a group of women in India that are a vigilante group. In India there is a lot of violence against women, like domestic violence, rape and dowry violence. A problem is that the execution of the justice system does not seem to provide (low caste) women with the possibility to seek justice by being able to sue offenders. The second case is PAGAD; People against Gangsterism and Drugs. PAGAD is a Muslim vigilante group that fights gangsters and drug dealers. This organisation is located in Cape Town, South Africa. PAGAD arose out of the very insecure environment that gangsters and drug dealers were causing in the area. PAGAD attacks these criminals by killing them with bombs or guns. There are also those that claim there might be more behind this organisation than is often assumed as they have relations with a militant Islamite group. It is interesting to consider whether this group might have been interested in spreading the Muslim norms and values in the community. I will be discussing these cases in the fourth chapter and apply the concepts of chapter two and three to this case to make analyses of these groups.

The last chapter will be the discussion and the conclusion, where I will discuss the objective and answer the main and sub questions.

# Chapter two – State failure

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## 2.1. What is the state?

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### 2.1.1. Introducing statehood

What state is can be viewed in different ways. Where you live can first of all influence what you expect from and how you look at the state. A person in North Korea will look different at what the state is than a person in Portugal and someone from Norway will have a different outlook on state than someone from Ethiopia. We can therefore argue that state is not a uniform concept that is viewed the same everywhere. Part of the trouble with defining what the state is, is that it is not a homogeneous entity and it is hard to define where the state 'begins' and where it 'ends' (Kyed, 2013). Expectations towards the state from citizens and what is viewed as a successful or a failing state is also not considered the same everywhere.

There are many views one can have on the state. Silva (2013) describes that the state is traditionally viewed as the solution to problems that can arise within a society, like war or economic and social problems. In this definition the state is associated with certain tasks it is 'supposed to' perform. State can be seen as a construct of expectations for a stable society and prosperity. By certain scholars the success of the general frames in society is 'put upon the shoulders' of the state system. This claim is however not only made by non-state actors, the state itself also makes the claims of authority, already simply by just 'being the state' (Abrams, 1988). The world is organized in states systems that have taken up their own way of governing and are aspiring to be in control over a specific area where they claim to have the sovereignty to deal with the problems that take place within their territory. This sovereignty is also part of a certain ideology of state. Weber (as cited in Krasner & Risse, 2014, p. 5) defines statehood in the following way:

*"Statehood as an institutionalized structure with the ability to rule authoritatively and to legitimately control the means of violence".*

This interpretation of statehood argues that the state has authority to define policies and in this way govern within its territory and that the state is in control over the means of violence. This is a definition from the paradigm that is in agreement with the sovereignty claims of the state and with the discursive legitimating arguments of the state system. However to be able to understand the state and state failure, it is relevant to first break down and analyze these concepts. In order to get a clear understanding of the deeper processes that are taking place, one can consider the theory of Abrams (1988), which will be discussed next.

### 2.1.2. The disputed reality of the state

A very relevant view on what the state is comes from Abrams (1988). Abrams (1988) describes that there is a difference between the state as a system and the state as an idea. He also mentions that the state is a social construction and is 'made up'. Abrams (1988, p.59) describes that:

*“We have come take the state for granted as an object of political practise and political analysis while remaining quite spectacular unclear as to what the state is”*

The world was not always organized in states, the way it is now is shaped throughout history. When one looks at the history of the continent of Africa, the boundaries as they are there are (mostly) not the result of the will of the African people themselves, but they are the result of colonialism. (Quane, 2013) The problem with that is that many countries in Africa exist of many different ethnicities, languages and tribes. This shows that aspects like the ‘creation’ of a state and the authority that comes with that are *constructs*. These constructs are kept ‘alive’ by a notion as acclaimed sovereignty and by the ‘existence’ of the state itself. It is the fact that there is such a thing as the state that makes the state be (Abrams, 1988). Abrams (1988, p. 63) explains this as follows:

*“We seem to have evidence that the state itself is the source of the state’s ability to defy our efforts to unmask it”*

And Abrams (1988, p. 68-69) also mentions:

*“In other words the state emerges (...) as an ideological thing. It can be understood as the device in terms of which subjection is legitimated; and as an ideological thing it can actually be show to work like that. It represents politically institutionalized power to us (...) It gives an sort account of political institution in terms of cohesion, purpose, independence, common interest and morality without necessarily telling us anything about the actual nature, meaning of functions of political institutions. We are in the world of myth. (...) One thing we can know about the state, if we wish, is that it is an ideological power.”*

It is very relevant that one is aware that the sovereignty and the monopoly of the state are a part of the discursive legitimisation of state power. The very existence of state is also the legitimisation of state as it represents “an illusory common interest” (Abrams, 1988, p. 64).

What is interesting for the analysis of ‘state failure’ and vigilantism is that it relates to how far the acceptance of this illusory common interest goes (Abrams, 1988). It is also important to be aware that the interpretation of what a state is, what statehood entails and what it ‘ought to’ be is interpreted differently by different actors. One could consider that the ideology of state would likely created expectations towards the state. What is thus relevant for this thesis is to also consider what this ideology means in the eyes of ‘the people’. Because if one wants to describe how people react towards to the state, it mostly relevant to consider how people might view the state. Abrams (1988, p. 71) describes the state system as follows:

*“A cluster of institutions of political and executive control and their key personnel, the ‘state-elite’, the government, the administration, the military and the police, the judicial branch, sub-central government and parliamentary assemblies”*

Though one needs to keep in mind how the claims of the state are given shape and what role they play in practise, to be able to define people’s expectations and reactions towards the state, it is also most relevant to consider the state as a system as defined above. Though one is thus speaking of an ideological power and ‘politically organized subjection’, one needs to consider how people that are under this subjection consider the state and how they react to it (Abrams, 1988). Therefore a description of the state of a system is also important in those analyses.

Even though the way Abrams (1988) defines reality can be confusing, the reason why it is very relevant is that it raises questions about the claims that states make regarding sovereignty. What the state is remains a concept that is difficult to grasp. When one for example walks into the street, where is then the state? Is the state visible in our behaviour, like stopping for a red light? Or is it in the fact that we have traffic lights in the first place? These are interesting thoughts that force us to think about what the state can entail.

### **2.1.3. Sovereignty and the Westphalian model**

The claim of statehood is about the exercise of power. A discursive legitimating tool the state uses is thus by claiming sovereignty based on the Westphalian model. Where it is often claimed that the Westphalian Model and the principle of sovereignty, non-intervention and equality of states originates from the peace of Westphalia, there are those that argue this is false (Stirk, 2011). Stirk (2011) describes that there is no direct link between the peace agreement and the model. Though this is often said to be the case, the peace of Westphalia was not the starting point of the concept and the claim of equal sovereignty, which is the primary focus of the Westphalian model. Stirk (2011, p. 646) describes:

*“There was little trace of sovereign equality in the peace of Westphalia or indeed of a modern conception of sovereignty at all. The peace itself was restorative not innovative in the eyes of its creators.”*

It was in the nineteenth century that this claim of sovereignty slowly became a part of the world order and then scholars also started linking it to the peace of Westphalia. This is important to be aware of since it shows that sovereignty that states claim to be the sovereign ruler is also not a very old notion because state systems are often discussed as if they are ‘set in marble stone’. It is possible that the claiming sovereignty was founded a long time ago with the Peace of Westphalia, this can be used to benefit the claims of the state. Why this is relevant to note next to the state claiming authority ‘simply’ because it is the state, is because the concept of sovereignty can be seen as even a step further while at the same time it relates to the theory of Abrams (1998). One could say that this history around the term ‘sovereignty’ is the wording that is given to the processes that Abrams (1988) describes.

It is relevant to discuss the notion of sovereignty to get a clearer view on what it entails. This leads to statements of people that do make the connection between the Peace of Westphalia and the Westphalian system, but these quotes can be used to get a better understanding of what these claims for sovereignty is argued to entail. Gross (as cited in Stirk, 2011, p. 642) describes:

*“The Peace of Westphalia, for better or worse, marks the end of an epoch and the opening of another. It represents the majestic portal which leads from the old into the new world (...) In the political field it marked man’s abandonment of the idea of a hierarchical structure of society and his option for a new system characterized by a multitude of states, each sovereign within its territory, equal to one another.”*

There have been some changes in the international relations with the rise of globalisation and international institutions but states still grossly takes the privileges that come with these claims of the Westphalian model (Stirk, 2011).

The claim of these agreements is thus that the state has the monopoly on violence and the right to govern within its territory (Krasner & Risse, 2014). It is thus important to be aware of these interpretations but also of the notion that these are *claims*.

## 2.2. State failure

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### 2.2.1. Introduction to state failure

Considering the complexities around the claims of state as mentioned above one can consider that defining state failure is also challenging. The way the state is viewed and what is expected is interpreted different by different actors and therefore there are multiple ways in which one can consider state failure. Also the claims that lie within the concept of state failure itself need to be considered. There are thus many of these ideologies related to state failure and I will use the analysis of Silva (2013) and the theory of Abrams (1988) to analyse this.

In this thesis elements of state failure that fit within this paradigm will be discussed to get somewhat of a view of what is a 'popular', state centred paradigm on state failure. State failure is challenging because as mentioned in the previous section; people from different backgrounds define what the state is or what it is 'ought to do' very differently from one another. Silva (2013, pp. 63-64) for example claims that the following elements are 'required' of the state:

*"The structural competency of a functioning state comprises the provision of the most basic needs, including social and economic conditions; rule of law with an effective independent justice system; security and social cohesion; political stability and division of powers; legitimate use of power for the public good with a functioning bureaucracy and respect for human rights."*

One can see that there are two overarching subjects at hand here. The first is the provision of basic services to fulfil the social and economic needs of a society. These for example can be provision of education, hospitals and the harbouring of social and economic human rights. The second is the provision of justice and safety within a state.

Rotberg (2003, p. 1) describes state failure in the following way:

*"Nation-states fail when they are consumed by internal violence and cease delivering positive political goods to their inhabitants. Their governments lose credibility, and the continuing nature of the particular nation-state itself becomes questionable and illegitimate in the hearts and minds of its citizens."*

One description of state failure is thus; failing to provide safety and protection and he is thus quite in align with Silva (2013). These analyses are based on claims that the state should provide stability and security. Another aspect in the statement of Rotberg (2003) that is very interesting is that he mentions when these things are not provided while citizens did consider it to be the states job, the people start to question the authority of the government and its claims of sovereignty. How one can interpret this will be analysed in 2.1.2 and 2.1.3.

### 2.1.2. Silva and state failure

As already mentioned earlier, the manner in which the state and thus also state failure is considered can take many forms. To be able to understand some of the processes that take place when the state is not fulfilling the 'obligations' it has taken on that resulted from its claims, it can be helpful to define this specific interpretation on state failure. To be able to do this the theory of Silva (2013) on state failure will be used. Silva (2013) has defined ten categories that he describes as state failure. This is thus an interpretation that exists among scholars but is subjective and resulted from a certain state centred paradigm.

This discussion will be continued later but first it is relevant for one to consider the alleged aspects of failure of the state. Silva (2013, p. 67) describes that there are ten categories by which state failure can be analysed:

1. *“absence of rule of law*
2. *authoritarian rule and clan loyalty*
3. *political instability and lack of legitimacy*
4. *economic and social instability which contributes to poverty*
5. *lack of security and internal conflict*
6. *impunity and ineffective justice system*
7. *loss of internal territorial control (de jure and de facto sovereignty)*
8. *gross criminal violations of human rights*
9. *loss of social cohesion and development*
10. *corruption and weak institutions, such as weak bureaucracy.”*

*Rule of law* plays is the first elements of what, according to a certain paradigm, law should entail. Silva (2013, p. 73) explains this concept as; states providing a good legal system to resolve conflict, control behaviour and obtain values in *“an enforceable body of law and an effective judicial system”*. According to some, this is a responsibility of the state to obtain a safe environment for its people and this is defined in the rule of law. According to this paradigm in cases of 'absence of rule of law, citizens cannot depend on the government to obtain 'good' court system that abides by the law (Rotberg, 2003).

Two structures in a society that are considered to be part of failure of the state are *authoritarian rule and clan loyalty*. Authoritarian rule is in some societies a remnant of the colonial times that has resulted in governments that rule their citizens with brute force (Silva, 2013). These governments are then more focused on obtaining and gaining as much power as possible, and less on the needs of the citizens. Clan loyalty is another problematic dynamic for the claims of the state that can erode its power. When citizens are more loyal to their clan than to their state, there is internal division and also no strong identification with the nation state (Silva, 2013). When internal conflicts arise, this can lead to conflict or civil wars (Silva, 2013).

With these two structures it is also relevant to consider that the idea that this is implied to be harmful is part of a particular paradigm. One could for example consider clan loyalty to be part of the reality of legal pluralism in which the state is not the only provider of law and authority.

The acclaimed sovereignty of the state might be in contest with these clans but to define the state as higher than the clans is part of the *claim* of the state. There might again also be actors who won't consider authoritarian rule to be an aspect of state failure.

*Political instability and lack of legitimacy* are also defined by Silva (2013) as an aspect of failure of the state. In this paradigm it is considered to be important that a state has 'good' political structures that citizens consider to be legitimate. What this legitimacy entails is again subjected to many different views on the matter. When people don't accept the government, this is considered as lack of legitimacy and it is implied that the people will likely not support the government or even counter it. Governments depend on their people's acceptance to be able to effectively enforce their authority. When there is no accepted authority present, people will less likely respect the claim of its institutions and will be more likely to take up their own enforcement measures (Johnston, 1996). This can lead to more support for other forms of authority, for example citizens starting up their own group to carry out law in a way they think it ought to be carried out.

*Economic and social instability* are considered to be relevant because they disrupt the level of welfare in a state. Silva (2013, p.76) describes it as follows:

*"State stability is rooted in the distribution of power and resources throughout society. Failed states do a poor job of delivering essential services and are easily recognised by their loss of control over the political and economic spheres. This is in addition to the high levels of corruption"*

A high level of corruption in a state is a great negative influence of the acceptance of the authority claim of the state. When government officials are corrupt and distribute state benefits among themselves, people suffer from it and this is thus considered to be state failure (Silva, 2013). This can lead to the people viewing the government as a bad caretaker and a bad representation for them. If this results in the people not have a lot of confidence in the state, it can lead to the creation of violent conflict out of discontent in society (Sannerholm, 2007).

*Lack of security and internal conflict* are according to Silva (2013) also elements of state failure. Rotberg (2003, p. 3) defines that there is: *"a hierarchy of political goods. None is as critical as the supply of security, especially human security."* When there is little security and conflict, citizens are often confronted with a high degree of uncertainty. A country that is torn apart by conflict, and thus lacks basic security provision which negatively affects development in a state, can also affect surrounding areas (Silva, 2013). This can be hard to overcome because there can be actors, like warlords or clan leaders that benefit from a chaotic nation that deduces government power, because this increases their influence and creates possibilities for them to gain control (Silva, 2013).

*Impunity and ineffective justice system* is the sixth category Silva (2013) mentions as a characteristic of state failure. When there is no effective legal system in place, people who commit crimes are also not held accountable for their actions. This could lead to a vicious cycle of more and more crime as offenders notice that their crimes don't lead to repercussions. This could then again, in an environment of poverty and other challenging circumstances, lead to more people going on the criminal path. Another problem with an ineffective justice system is that acts of corruption also go unpunished. This again can result in loss of acceptance for the government and its acclaimed authority and lead to unsafe situations because of increase in violence (Sannerholm, 2007). Another effect of an ineffective justice system is that people might be falsely held in custody (Silva, 2013).

All these aspects can create an environment in which people no longer go to the police because of this ineffectiveness or because of fear and distrust towards law enforcers (Silva, 2013).

*Loss of internal territorial control* relates to the concept of sovereignty as discussed in section 2.1. When a state no longer sufficiently controls what goes on within their borders, the claim of authority becomes merely a theoretical notion instead of it being carried out in practise. In practise the state often does not control what goes on within their borders (Silva, 2013).

*Gross criminal violations of human rights* relate too many of the categories already listed above. Human rights are about the social economic conditions but also about safety, security and stability as it is interpreted by this paradigm. The execution of Human Rights is discussed on in the international platform of the United Nations (Merry, 2006). Many stakeholders are involved in discussing the specifics of this implementation but it is argued that there are still faults in the system (Merry, 2006). For example that more powerful actors get more say because they can mobilise more resources. It is therefore not uncommon that there are countries that don't very much agree with the outcomes of the deliberations, yet they still have to implement those (Merry, 2006). From this, one can see that there are thus actors involved who argue that something is going wrong within the development and implementation phase. The development phase is dominated by a certain group which thus lead to disagreement about human rights. It is then not 'properly' implemented as it might represent the views that live within less powerful countries (Merry, 2006).

Apart from these difficulties in the development fase, there are also certain interesting dynamics around the interpretation and application of human rights. In the application processes, human rights are also adapted to the local contexts by translators (Merry-2, 2006). This means human rights exist in the social context in more than one uniform form (Merry-2, 2006). This contributes to human rights not being adhered to as it 'ought'. There are many processes that lead to the result of human rights violations as they are defined by the UN, of which many are other elements of Silva's (2013) list. But it is also important to know the bigger process to be able to understand the problems behind these 'violations'.

*Loss of social cohesion and development* is about the lack of a strong common identity and the presence of a low standard of well being. When there is very little social cohesion, it is said there can be more fragility and susceptibility for violent situations (Silva, 2013). Though one could also be of the opinion that the smaller groups in society their claims for existence weigh heavier than the claims of the state. This is thus again dependent on the paradigm one chooses to look through. Little development entails that there is a very low quality of life which is related to this interpretation of state failure because citizens are not taken care of 'well enough' by their government and people can't depend on the government to do so (Silva, 2013). In this paradigm this thus is claimed to be the responsibility of the state (Silva, 2013).

*Corruption and weak institutions* were already mentioned before as a part of this interpretation of state failure. Though corruption is not only present in 'failing' states as defined by Silva (2013), it is there that it takes place on a big scale (Rotberg, 2003). Silva (2013, p.81) describes:

*"Corruption remains one of the greatest challenges facing weak and failed states, threatening the integrity of state systems, eroding rule of law and leading to criminal entrepreneurs who take advantage of weak law enforcement, economic stagnation and poverty.*

*It comes as no surprise that many of the world's most unstable and least governed states are also those with the highest levels of corruption."*

All these factors play a role in this interpretation of state failure and they are all connected to each other. Taking all these factors together leads to enormous web of complex processes that affect each other back and forth and are said to pose enormous challenges to the state system (Silva, 2013). What continually happens is that citizens start looking for other informal ways to provide certain services that the state claims authority over (Building and Menkhaus, 2007).

### **2.1.3. Abrams and state failure**

When one connects the concept of state failure to the analysis of Abrams (1988), the explanation becomes quite different. First of all of course because Abrams (1988) has a quite a different view on state than Silva (2013). There several ways of looking at state failure by using the analysis of Abrams (1988).

First of all, one could argue that Abrams (1988) would not consider state failure in the way that it is explained by Silva (2012) to be 'real'. He would likely define that one can speak of certain ideologies that come forth out of the acceptance of the myth of state, for example the theory of Silva (2013). Considering this aspect of the theory of Abrams (1988), interpretations of state failure would be part of an ideology enforced by powerful actors to help enforce their claims. For example if a state applies the system of democracy and then an aspect of state failure that is mentioned is 'no or a poor democracy'. When in a state system is applying the opposite of what they define as failure, they would then possibly define 'their' state is a success. The claims that come with interpretations of state failure are ideological claims that are there to enforce the ideological claims of the state itself. Abrams (1988) describes that the state represents an 'illusory common interest'. One could argue that for example the interpretation of Silva of what the state is 'supposed to do', is a specific representation that comes forth of and is connected to this illusory common interest and thus of ideology. Abrams (1988, p. 68-69) describes:

*"The state emerges (...) as an ideological thing. It can be understood as the device in terms of which subjection is legitimated; and as an ideological thing it can be actually shown to work like that. (...) it is an ideological power"*.

One could argue that there are state actors or other international actors whom claim that there are certain requirements of what the state is supposed to represent and 'reinforce'. This is a claim of illusory common interest that becomes more concrete by binding specific requirements to this 'common interest'. Claims of power are then also made based on the dictated goodness of the policy and ideology than the state while it being the state itself that 'decides' it can do this. As Abrams (1988, p. 64) describes: *"The state presents itself to us as the first ideological power over men"*. What Abrams (1988) means by this is that the existence of the state system in itself is an ideological power. However if one would look further and consider the practical reality, one can see that states thus also represent *specific* ideologies. This specific ideology could be considered to be part of the claims of state. States that in its ideology are supporting specific 'characteristic' might base legitimating claims on this and might also judge or criticize other nations states that do not abide to this. An example of this is around the recent conflict in Libya were President Qaddafi assaulted his people when they rose up against him (Silva, 2013).

Hilary Clinton, the US secretary of state, stated in the Human rights council that Qaddafi no longer had the legitimacy to govern and should resign (Silva, 2013). This is an example of how one governments claim based on a particular ideology of what the state should do or not do challenges another government. One might derive from this that international platforms have become a 'playground' of where these different ideologies are contesting with each other. This is however not the focus of this thesis and will not be discussed further.

These specific ideologies could be seen as an extra illusory dimension that is added to the state. The first would then be the legitimating claim of the very existence of the state system itself, as Abrams (1988, p. 71) describes it as: "*Organized political force, acting in its own right*". The second dimension would be the enforcement of a specific ideology that represents what the 'good statehood' specifically entails according to a specific state. In this way, what the state says it is 'ought to do' and what state failure (the opposite of that) entails, can thus be used by the state for the legitimating claim that the state, when it abides by certain principles, is good and legitimate. This interpretation of Abrams (1988) thus applies to how theories, like the theory of Silva (2013) can be used as a legitimisation tool.

One could however also consider how Abrams (1988) would possibly define state failure himself. Abrams (1988) theory can be adapted to the concept of state failure by focussing on the actors in society whom consider the state to 'fail'. In this sense, the concept of state failure can be one that is used to explain how actors 'shatter' the claims of the state. Abrams explains that the concept of state is an ideological concept that thus presents a claim for legitimized power based on 'simply' the *existence* of the state. The state is thus representing a certain claim of power over certain functions, for example law enforcement. When people consider the state does a poor job at these functions and consider the state to fail, they are thus breaking down the claims of the state. Though the state might claim to be there in the best interest of the people, when the people consider the state to be failing at this; the claims of the state are being challenged. People that are unsatisfied with the way that (what they consider to be) justice is carried out in society than sometimes decide to take up their own 'justice enforcement system'. These are called vigilantes, whom will be discussed further in chapter 3 and 4. The term 'state failure' could be used as a concept that helps in trying to explain the collision between the claims of the state and the actions of vigilantes. Whether they are doing this purposely or not, one could argue that these people are then raising question on the claims of the state. The state that claims to represent their interests is not carrying out things to their satisfaction. This can thus take place in all circumstances, whether the state is 'succeeding' at carrying out its own ideology or not. The reason for this is that it depends on the paradigm on justice that people in society have. When there are actors whom are not in agreement with what the state defines as 'good statehood' or 'state failure' they might also turn to a new enforcement system to carry out what they perceive as justice.

This also implies that the presence of a state is not even necessary for these people to enforce this interpretation on justice. Though for example vigilantism is often connected to certain views on state failure, one could wonder of this is necessarily so. This will be discussed further in chapter 3. One could thus consider that the vigilantes are addressing certain events or dynamics in society that collides with their interpretation of justice.

Abrams (1988, p. 73) would in relation to this likely say:

*“I think we do need to ask whether the centrality given to the state in that analysis is really a service to understanding”*

One could still however analyse what the role of state on these occasions is and how the existence of these groups relates to the state system and the state as idea. Also one can consider whether these actors make the connection between the state and their actions themselves. It is relevant to question whether the presence of the state is a precondition for these groups to arise.

**2.3. Legal pluralism**

**2.3.1. Defining legal pluralism**

Legal pluralism is defined by von Benda-Beckman (as cited in Kyed, 2013, p. 990) as:

*“The theoretical possibility of more than one legal order, based on different sources of ultimate validity and maintained by forms of organization other than the state, within one political organization”*

Legal pluralism thus entails different legal systems being present on the same place. Initially when the concept of legal pluralism was thought of, it was a way to explain cases in which different legal systems applied, for example of the Native Americans that were both connected to the US legal system and their own indigenous legal system (Tuori, 2011). Legal pluralism relates to state failure in the sense that the state is not able to provide justice to all citizens in a way that they understand justice. This had led to multiple legal systems overlapping and existing in the same area. Nowadays legal pluralism is still present in presumably all jurisdictions around the globe (Quane, 2013).

Figure 1 displays an example of legal plurality in Mozambique, and as becomes apparent here, there are different official and unofficial legal systems that are in place in the same area and that can collide with one another (Sousa Santos, 2006).

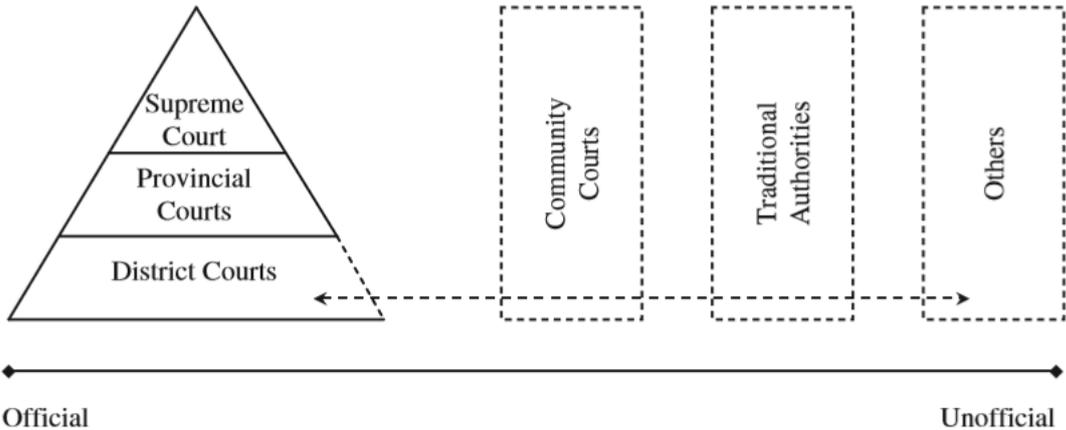


Figure 1. Reprinted from “The Heterogeneous State and Legal Pluralism in Mozambique” by B. Sousa Santos, 2006, Law & Society Review, 40, p. 54. Copyright 2006 by the Law and Society Association.

The reason why this is relevant to discuss is because it reveals the dynamics and hybridity around law. This contests with the argument of the state that it is the sovereign ruler with regard to law. Not all actors have the same paradigm on what a good legal system is. When one for example considers the difference between the United Nation's view on a good legal system and compare with the view of Muslim fundamentalists, there is a enormous gap between the two.

Another example of legal pluralism is that in Malawi, there are laws from the state against corruption. However civil servants there have a culture of helping out friends when they are in need. In this 'civil servant' legal system, it is still not acceptable to use state resources for your own benefit, but it is permissible to use these resources to help others. They even have a different name for it, not corruption but 'Katangale'. So even though these civil servants are going against the laws of the state, they are at the same time doing what people in their society believe is just to do. (Anders, 2002)

Quane (2013, pp. 676-677) describes multiple reasons why legal pluralism can occur:

*"In many instances, it reflects the particular historical evolution of the state in question. Occasionally, it reflects an attempt to ease inter-communal tensions and promote peace and security in conflict or post-conflict situations. In other instances, it reflects developments within international human rights law itself. (...) On other occasions, it may reflect a pragmatic response to resource or other constraints that are perceived to impede a population's right of access to justice."*

There are situations where even though there are multiple legal systems present, they don't collide. This peaceful coexistence of different legal systems is not the focus of this thesis, but it is relevant to be aware that different legal systems do not automatically lead to conflict. There also have been cases where the state restricted the reach of the other legal systems. In colonial times, it could be the case that indigenous people applied their own laws as long as it did not violate the laws of the state, like in South Africa (Tuori, 2006). There are different ways of using legal pluralism when focusing on the involvement of the state. These differences Tuori (2006) defines state legal pluralism and normative pluralism. This he (Tuori, 2006, p. 339) defines as follows:

*"State legal pluralism and normative pluralism differ mostly in terms of the involvement of state structures, in which the first sees the state legal system as a universal system and the non-state normative orders having validity only through the acceptance of the state system, and the second gives precedence to the local, viewing the state structures as interferences."*

Normative pluralism is relevant for this specific thesis. It is not the peaceful coexistence that is the focus but the aspects of legal pluralism in which groups or actors have a different definition of justice than the state and are in conflict with the state. Resulting from this they might then challenge the states claim of sovereignty.

### **2.3.2. State failure and legal pluralism.**

As already mentioned above, there are challenges that different legal systems can pose on the state. It also became clear that one can study this from many different angles. For studying these concepts in this these, the analyses of Silva (2013) and Abrams (1988) are used.

The problem with the state is that it is upholding a single legal system. This is happening while there often is a much divided landscape on what justice entails and how it should be pursued. The legal system in the state might also fail to uphold its ideology of justice on its own, but if citizens don't accept the court system of the nation state this can also erode the claims of the state. This is not about situations in which different legal systems coexist peacefully, but it is about cases of conflict in which multiple groups want to dominate.

Legal pluralism is often used in the sense that it is important to recognize and establish room for the indigenous people and allowing them to carry out their rules and resolving conflict through their own legal system (Tuori, 2011). Legal pluralism within a society can range from peacefully co-existing with the state system, to legal systems that are detached from and contesting with the state. Though the very existence of legal pluralism can be a cause for people to see beyond the state and consider there are multiple claims for justice enforcement (Quane, 2013). So even the systems that peacefully coexist with the state can influence the way one considers the role of the state in defining law (Quane, 2013).

Abrams (1988) might ask on what base there is such emphasis on the 'allowing' of the state for these people to carry out their system. What power does the state have above these other legal systems? An example of how he (Abrams, 1988, p. 63) considers state power is the following:

*"The difficulty we have experienced in studying the state springs in part from the sheer powerfulness of political power – the ability of Mr. Rees to deport Mr. Agee and give no reason for doing so other than the interest of the state is a fact and does need explaining"*

Abrams (1988) is speaking of 'politically organized subjection' which results in the ideology that these 'other' legal system need the acceptance and cooperation of the state in order for it to carry out its own legal system. Though Silva (2013) would argue that for example clan loyalty is bad for the state system, Abrams (1988) questions the starting point of why the state is ascribed such power in the first place. Abrams (1988) would possibly consider that the claims of the state that are made for a specific ideology to be placed above the others, is a claim that is also made based on the 'illusory common interest'. In order to uphold this claim the argument for making its own ideology be placed above the others would then be needed in order for it to support its claim. Not simply the ideology for the existence of the state might then be enough, there could also be a need to persuade citizens to consider the states ideology to be the best ideology. One of the ways to do this is to define a specific state ideology as 'good statehood' and to define deviations to that as state failure. One could also consider that the state 'profits' from calling for example clan loyalty state failure.

The other way to put the analysis of Abrams (1988) next to legal pluralism is to wonder how these different legal pluralities can challenge the system. These systems are not adhering to the legal system of the state and thus are not in agreement with the states defined ideology on justice. One sees that the state then often tries to exercise control on these groups by constraining their reach or by claiming to 'grant permission' for these systems to exist. One could say that 'granting permission' is an expression of the claim that these groups require the permission of the state, as the state puts itself above them. One could thus consider that the way that these groups are treated is also an enforcement of the claims the state makes.

Berman (as cited in Galan and Patterson, 2013, p. 786) describes that to assume that the state is the only source of legal normativity is a myth, as it assumes the state to be the singular legal normativity out there. He defines we live in a world of constant “*normative hybridity*” (Berman, as cited by Galan and Patterson, 2013). He describes that there are many communities that people can be a part of and law is part of those communities. This analysis also entails that law goes beyond the state and this contests the claim of sovereignty of the state as being the sole ‘justice provider’. Other communities people live in don’t always have the same notion of how law should be shaped as the state.

## 2.4. Legitimacy

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### 2.4.1. Defining legitimacy

State failure and legal pluralism can result in the loss of acceptance of the state system, which can be defined as legitimacy loss. To be able to properly define the relationship these concepts, it is important to have a clear understanding how one can use these terms. The problem with defining legitimacy is that it can have very political implications. For example when the international community proclaims a certain government or policy to be illegitimate on the basis of their standards while within this country different standards are present. Legitimacy carries the implication that one way of defining justice to be better than the other. Legitimacy can however mean different things to different actors and with that can also be used as a descriptive tool. It is important to try to get a clear general definition to be able to use in the analysis.

A question of legitimacy is defined by Rousseau (as cited by Bodansky, 2008, p. 596) as: “*If men are born free, what can justify their chains?*” With this statement, rule and authority are defined as chains that are put on citizens. So legitimacy can be about the question what gives any authority the right to command and rule. What is it, which justifies this rule? In this definition, legitimacy loss would then thus be about a conclusion from this question that there is little or no justification for the ‘chains’, which can be the result of many reasons.

The problem with using legitimacy in this manner is thus that there is no singular way to define how one can analyse this. One could use Silva’s (2013) paradigm of state failure that was described earlier and check whether states are fulfilling these ‘conditions’. This would then lead to normative conclusion based on a particular ‘ideology’ of whether actors adhering to this specific paradigm consider the state to be ‘a legitimate ruler’. The same somewhat applies to the statement of Rousseau (as cited by Bodansky, 2008). If one would judge whether citizens consider their governments claim for authority to be legitimate, one could still not declare that a government *is* legitimate (or illegitimate for that matter). The statement on the justification of chains can however be used in a descriptive way. The ‘what’ in the sentence can become a description of intend based on actions of the state and of other groups. ‘What’ are they claiming to be the justification of their rule? What legitimating processes are taking place? The focus then thus is on how for example the state or other actors justify their claimed authority over others.

Bodansky (2008, p. 601) mentions:

*“Legitimate authority” simply means “justified authority”, and theories of legitimacy attempt to specify what factors might serve as justifications—tradition, rationality, legality, and democracy, to name a few.”*

Only contrary to Bodansky (2008), these arguments will then not be used to define whether an authority is legitimate but how for example these arguments are used by actors to justify the authority they try to exercise over others. These arguments might be used as legitimating arguments about authority in general but power exercising actors could also have other legitimating arguments that apply to specific actions.

#### **2.4.2. Legitimacy in relation to state failure**

A way of looking at the relationship between legitimacy and state failure to consider a state system which does not fulfil its ‘obligations’ in the eyes of the people. Silva (2013) describes that when citizens don’t feel safe because there is a lot of crime and violence for example, the government can lose acceptance or legitimacy in the eyes of the people. The state tries to preserve the acceptance of the people and therefore uses certain claims, arguments or actions to defend this. So a state might claim legitimacy based on the Westphalian model or on other aspects for example that they were chosen out of democratic elections (Bodansky, 2008). How does a state legitimize its own use of power? What arguments do they use and on what ground do they claim to entitlement to sovereignty?

Of course there are many interpretations of state failure that one could use to explain the descriptive analysis on legitimating processes and in this thesis the theory of Silva (2013) and Abrams (1988) will be used. First I’ll mainly use the analysis of Silva (2013) and study possible legitimating arguments that can be derived when one takes a specific ideology as a starting point. There can be many analyses about how legitimacy relates to state failure. So considering the aspects of state failure as described by Silva (2013), what legitimating arguments can the state make in relation to these aspects? If the state would be doing a ‘good job’ at these elements, they might legitimate their power by pointing to these ‘successes’. When the obligations of the state are described in the manner of Silva (2013), then a government that is obtaining these points can use this as a legitimating strategy. This is thus about claiming legitimacy based on ‘accomplishments’. However one could say that these are accomplishment based on self-set standards and requirements.

However as concluded earlier, there are many states that have a lot of power but don’t ‘fulfil’ many of the points of their ‘chosen’ ideological framework on ‘good statehood’. If a government would also use a framework to describe whether a state is doing a ‘good’ or a ‘bad’ job, how could they then justify their rule if they would not be succeeding at fulfilling these points? The state might then for example focus more on the Westphalian model or argue that it is the legitimate authority simply because it ‘is’ the state (Abrams, 1988). There are of course, as already mentioned earlier, many different interpretations on what the state is and thus also what state failure is. When one would use the frame of Silva, the legitimating processes as described above could be mentioned but when one has a different paradigm, there will also be different arguments. For example when a government or a ruler claims that its rule is been ordained by God and that therefore their reign is justified.

One can also use the analysis of Abrams to analyse the relation between legitimacy and state failure. Abrams (1988) describes that the very existence of state is a legitimating argument of its claim for power. This was already mentioned earlier and is also relevant when one considers the relation between state failure and legitimacy. Abrams (1988) might also argue that ideologies on the defining of 'good statehood' are used as a claim for authority. As the foundation of the existence of the state is based on claims, one could argue that he would say that the concept of 'state failure' is also used in this way. In this way, a state would then claim legitimacy based on preconditions that it has set itself.

Then again, when one considers the theory of Abrams (1988) in direct relation to the people in the state, a different analysis could be made. State failure could be considered as a collision between the paradigm of the state and other paradigms. The states claims of that according to Abrams (1988) represent an illusory common interest can be challenged by people who are not in agreement with the ideology that the state is representing. They then challenge the legitimacy claims of the state. Though the state might present their ideology as 'good statehood', when people are not in agreement with that, they are challenging these claims. One could say that state failure can in this sense be considered as the failure to represent all people and represent what these people consider to be the main interest in society. Thus the failure *to actually* represent a common interest. It is the failure of the state to actually represent what it is claiming to represent. Based on this, legitimacy claims of the state and state failure could be analysed with the theory of Abrams (1988)

### **2.4.3. Legitimacy in relation to legal pluralism**

Legal pluralism is the concept that reveals the different 'legal realities' people have and thus also the different interpretations of law and justice that exist. This does not necessarily disrupt society, as already described above; different paradigms on justice can still peacefully coexist. The problem can arise when the actors with this different paradigm are not reluctant to use violence.

This thus relates to certain actors having a different view on what justice is than for example the state, and as a consequence they don't accept the state's legitimating statements of power. This leads them to 'saying' to the state: "*You are not justifying these chains*" (Rousseau as cited by Bodansky, 2008, p. 596). There can thus be a collision between state law and for example religious law. This entails that there is a power that is considered higher than the state. The state is according to radical Muslim group for example, not justifying the chains when they are trying to enforce a justice system that is in conflict with what they consider to be a higher law source. This is challenging because it touches questions of self determination and justice. As it is now, it is the state that is enforcing the claim that it represents the 'higher form' of justice. These groups with an opposing legal frame then collide with that. These dilemmas will be discussed further later in chapter three. Abrams (1988) would ask questions on where these claims of the state are derived from? He (Abrams, 1988) would emphasize that the state system is based on claims and therefore have no higher foundation than these other groups. This will be discussed further in 3.3.

# Chapter three – Vigilantism

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## 3.1. What is vigilantism?

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### 3.1.1. Defining vigilantism

It is important to first gain a comprehensive understanding of what vigilantism is to be able to further conceptualize the relationship between state failure and vigilantism. One can already conclude that state and state failure is interpreted different by different actors and are not absolute or objective terms. To get a more extensive look into the complexities of vigilantism, it is important to first describe what vigilantism entails. I will use the definition of Johnston (1996, p. 220), who uses 6 elements to describe what vigilantism entails, which are:

- *Planning, premeditation and organisation*
- *Private voluntary agency*
- *Autonomous citizenship*
- *The use or threatened use of force*
- *Reaction to crime and social deviance*
- *Personal and collective security*

*Planning, premeditation and organisation* entails that vigilante actions is not a 'spontaneous' act like a bar fight or acts of self defence but that a certain degree of thought or actions 'in advance' are required (Johnston, 1996). This does not have to be a great lengthy amount of planning but vigilantism is not a mere brutal response in the moment. A characteristic of vigilantism is thus the processes that take place behind it the action. Vigilantes want to address certain matters they consider to be unlawful or unjust and that are not addressed by the government (or another actor) and that they feel strongly about and therefore create their own system in which they try to uphold justice. As Dumsday (2009, p. 51) describes it about this premeditation:

*"An angry overreaction does not make one a vigilante. Vengeance and vigilantism may go together, but the former need not imply the latter."*

*Private voluntary agency* and *autonomous citizenship* is about the perspective of Johnston (1996) that a vigilante can't be a state actor in order for him or her to be a vigilante. He describes that it is impossible for someone to be and 'under' state authority while at the same time working 'outside' of the state as a vigilante. Even though one can agree with Johnston (1996) that you can't prioritize both intentions, this does not rule out that someone who is working for the government could have it's 'own agenda' and thus prioritize being a vigilante. This is in agreement with the statement of Dumsday (2009), who says that a state agent can be a vigilante if this person has its own plans as a vigilante and places this above the job as a state official. This excludes calling a police officer or other employee of the state that is doing their job as ordered a vigilante.

Dumsday (2009) goes even further by saying that a state agent can be a vigilante even if he has consent of the state for his vigilante actions, if that consent is granted under duress. One could for example think of the Bakassi Boys of Nigeria that are 'handling' robbers by publicly executing them

on the streets without any trial (Harnischfeger, 2003). This group first was tolerated by the state, until things got out of hand and the state made an attempt to control them (Harnischfeger, 2003). By the use of black magic the Bakassi Boys however frightened the state and the state has not attempted to stop them again (Harnischfeger, 2003). Though the Bakassi Boys were first somewhat allowed by the state, they are not state *officials*, they are vigilantes.

*The use or threatened use of force* is a very significant element of vigilantism. It is often assumed vigilantes always use violence to achieve certain goals. This is however not necessarily so. Some vigilantes merely threaten to use violence without ever (or hardly ever) using it. Johnston (1996) mentions that it is important to make this distinction. Vigilantism thus does always carry the connotation of violence with it, whether it comes to it or not. The violence that is used varies greatly as well. From 'mere' warning beatings to bloody public executions (Harnischfeger, 2003) (Sen, 2012).

Another element is that vigilantism is a *reaction to crime and social deviance*. This element is a very important part of the analysis as it is interpreted as the distinction between vigilantism in relation to legal pluralism and vigilantism in relation to state failure. It is as Johnston (1996, p. 228) describes that one should:

*"Draw a distinction between two modes of vigilantism: one having a focus on 'crime control', the other being concerned with 'social control' or, more specifically, with the 'maintenance of communal, ethnic or sectarian order and values'."*

Johnston's (1996) describes that the first option is that vigilantism is a response to crime, which entails that state laws are being broken but the offenders are not properly held accountable. As 'consequence' vigilantes decide to take matters into their own hands and enforce the law themselves. The second option (of social control) is about vigilantes maintaining a separate value set that is not maintained by the state. With the use of vigilante action, these actors enforce a different established legal system than that of the state. (Dumsday, 2009) There can also be vigilante groups in which both these aspects are included (Johnston, 1996). An example of this is the Sea Shepherds who are vigilantly pursuing to protect marine mammals by occasionally targeting pirate whale fishers (Nagtzaam and Lentini, 2007). Though the state also wants to protect the whales and they have laws on the subject, they fail to guarantee it (Nagtzaam and Lentini, 2007). This is thus the aspect of failure of the state as one would use Silva (2013) in the context of the Sea Shepherds. There is however another element to the Sea Shepherds that relates to legal plurality. In the ideology of the Sea Shepherds, these marine mammals' lives are equally important to the lives of people (Nagtzaam and Lentini, 2007). So while some might see the boat attacks as terrorist-like, they are in their justice paradigm assuming to save lives. So one could say it would be the same for them if there were people lying in the water and these pirates were killing them. This is a different interpretation of norms and values that equates human life to some other form of life. There are also legal systems that view a group as 'lower' than others, for initiatives of groups that are extremely right against certain racial or ethnic minority groups (Kucera and Mares, 2013).

The term 'social deviant' is a confusing term to use to define a vigilante group. It refers to these groups considering others whom deviate from their views on law and justice to be deviant. To claim that these groups are the result of this 'social deviance' is disputable. I will therefore through the rest of this thesis, refer to them as *alia-vigilante*. The term 'alia' is Latin for 'other', and this refers to these

groups having a different (other) set of norms and value than the state and the vigilantes who respond to crime (as defined by state law).

The problem with this definition is thus that it almost presupposes an absolute definition of state and state failure. As one could argue that in a Western state, a vigilante group who try to uphold religious law within society could be considered to be an alia-vigilante group. However when there is a state laws are based on religious law, then vigilante groups whom try to enforce 'Western' law might be considered alia-vigilante. This thus requires one to make an absolute definition of state law or to take the state as starting point to define whether it is contesting with or enforcing state law because the state is not doing this. The latter implies that whether a vigilante group is an alia-vigilante group or a crime fighting vigilante groups depends on the contours of state law. This also implies that whether a vigilante group could get a different 'label' when it would be present in a different state. One cannot leave this distinction out because it is a different dynamic whether vigilantes are enforcing the law that the state was 'supposed to' enforce or whether they enforce a different legal system than that of the state. But when there is thus mentioning of vigilante action in response to crime, one thus has to understand this is about crime as defined by state law. As one could of course also argue; what is crime? But that will not be discussed here and therefore the latter definition is used. In this thesis the more Western, 'mainstream' state mechanisms are mainly used as a starting point to describe the processes described above.

*Personal and collective security* is highly valued by vigilantes, as in response to its absence, they move to action. This can take many forms because not all groups define 'security' the same. Security can mean the absence of violence but it can also mean the upholding of what a vigilante considers to be right and 'just' norms. What is the essence for all vigilantes is that they are fighting for a higher goal, for a 'common good'. Vigilantism is thus not restricted to mere self defence or personal discontents; it also represents the concern for the bigger picture. With the groups that (mostly) react in a response to crime, this thus is the protection of people against offenders according to the state system. The alia-vigilantes try to spread their value system to others as they have a different justice system then the state which they consider to be just to spread to others. (Johnston, 1996)

### **3.1.2. Vigilantism or Terrorism**

The distinction between terrorism and vigilantism can be difficult to grasp. In some groups there might be some overlap, but terrorism is about targeting great numbers of people at the same time and creating fear among people (Monaghan, 2004). It is as Dumsday (2009, p. 56) says:

*"The main dividing line between vigilantes and terrorists is that vigilantes intentionally target offenders whereas terrorists intentionally target the innocent in pursuit of some larger political end."*

Vigilantes thus don't attack a large number of people from which they won't be able to separate the 'offenders' from the 'innocent'. The offenders can thus be described as individuals whom are acting in violation with the laws vigilantes are attempting to uphold. These groups and processes are complex and dynamic and it is therefore not a surprise that you cannot always put a group in one box. This can lead to different interpretations of a group being either a vigilante or a terrorist group.

Then there are also scholars that consider the groups that are involved in terrorist activities but also fall within the category of vigilantes to be a mix of both, which is defined as; terrorist vigilante groups (Nagtzaam and Lentini, 2007). The problem with vigilantism is that there has not been a great amount of effort to conceptualize it (Johnson, 1996).

De la Roche (as cited by Monaghan, 2004, p. 10) has developed a structured theory on the different groups or actors whom engage in collective violence, when it is nongovernmental and unilateral. This action consists of four categories, which are: rioting, lynching, terrorism and vigilantism.

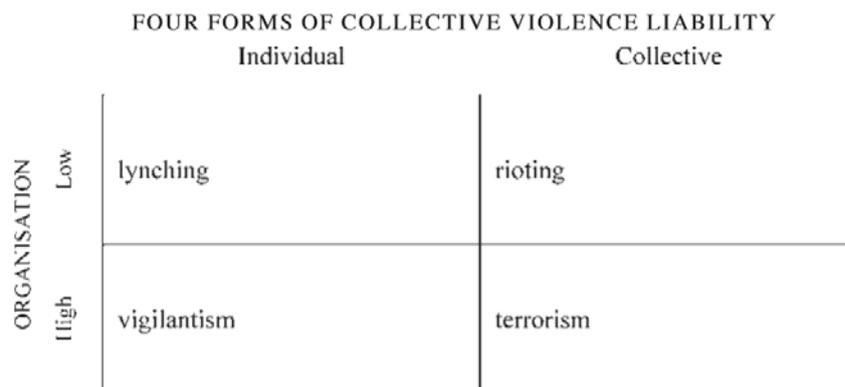


Figure 2. Reprinted from "Collective Violence as Social Control" by de la Roche, 1996, *Sociological Forum*. Vol. 11, No. 1, P. 10. Copyright 1996 by the Eastern Sociological Society. As cited by (Monaghan, 2004, p. 10)

As one can see in figure 2, the question is whether this violence is targeted at the collective or at specific individual offenders and whether the amount of organisation is high or low. Vigilantism is collective violence that is targeted towards individual offenders. This is also where vigilantism differs from terrorism, since terrorism is focused on attacking 'the collective' to hold them accountable for actions of a specific actor or group. The similarity between terrorism and vigilantism is thus that it both requires a high level of organisation. As already stated in 3.1.1., vigilantism has the precondition of premeditation and planning (Johnson, 1996). This aspect of terrorism will not be further researched in depth in this thesis, but is good to make a clear distinction when one analyzes specific cases. (Monaghan, 2004)

### 3.2. Vigilantism and state failure

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#### 3.2.1. Introduction to vigilantism and state failure

In the literature, a great deal of attention is given to the relationship between vigilantism and state failure. State failure can be define in many ways, as was described earlier. One could mention that vigilantism thus relates to certain expectations that citizens have and that the state has created through its claims and it's 'being the state'. The description of state failure of Silva (2013) can be used and analysed as a 'popular', often mentioned idea of aspects that can relate to expectations towards the state. It is often claimed that through the frustration about this 'failure' and 'ineffectiveness' of the state that vigilantes often arise (Candy, 2012). One can consider the previous description of state failure and place it next to the definition of vigilantism to generally analyse the relationship. But first it is relevant to consider some of the ways scholars have interpreted the causes of the rise of vigilantism.

Vigilantism is often defined as a reaction to a 'failing' system that is present and thus is seen as a symptom (Johnston, 1996). Later I will question this description as one can wonder if this relation is so 'direct'. Abrams (as cited in Candy, 2012, p. 129) explains the rise of vigilantism as follows:

*"Vigilantism typically emerges when groups of citizens take the law into their own hands, normally "in 'frontier' zones, where the state is viewed as ineffective or corrupt"*

And Candy (2012, p. 130) mentions that:

*"vigilantism appears in contexts of persistent insecurity where state mechanisms of legal authority, including police and courts of law, are inefficient, corrupt, or lacking a presence altogether."*

Vigilantism in these definitions is thus interpreted as a phenomenon of a reaction to certain insecurity in society for which the blame is laid by the state. It is thus presumed that there were expectations of the state and also a degree of acceptance of the state claims. It is thus also claimed that vigilantism presupposes a sense of order, for it is said that it is the failing in the eyes of the vigilante in this order that these groups are addressing (Kucera and Mares, 2013). Scholars describe that the circumstances in which these groups appear are often very insecure and dangerous circumstances (Candy, 2012). Out of these situations, communities try to arrange the provision of these lacking elements in society themselves. They don't fall into passivity; instead they take what is there and adapt that to a structure of security (Building and Menkhaus, 2007). As described in 2.1.2. state failure can be described in many different ways. I will now use the description of Silva and analyse how they *could* related to vigilante action

### **3.2.2. Silva, vigilantism and state failure**

The *absence of the rule of law* was the first element Silva's (2013) list of state failure. When state law has little influence or authority, this is described as a failure to fulfil the claimed function as upholder of law within a state. It is however about certain consequences that can arise from the absence of the rule of law that is described as a trigger of vigilantism (Candy, 2012). Though this is one perception, as rule of law is a coloured notion of law that originates from a certain paradigm, there are thus scholars who make this connection. The reason for this is that according to this paradigm, absence of rule of law that can cause lawlessness or insecurity. This then would lead to the vigilantes at a certain point no longer expect the state to create safety through law and therefore they come up with their own ways of dealing with insecurity (Harnischfeger, 2003). This is focused on "evening the score" by punishing the offenders (Black, as cited in Tankebe, 2009). State law is not the only form of law within a nation. There can be other legal systems in place that offer a structure of protection. The difference between these structures is that the state claims to be the authorized and sovereign ruler over a nation.

In a situation of *authoritarian rule* when rulers suppress the people, there is often also a group that objects to this rule. This resistance could come in the shape of a vigilante group and could both be derived from the violation of laws in society or from the presence of alia-vigilante. Suppressive rule is for example in violation with human rights to express one's opinion or have freedom of religion. And so there can for example be objections against this rule by 'supporters' of human rights that can result in vigilantism. Then there is also, *clan loyalty*, that relates to multiple legal paradigms being present. Alia-vigilantes can come forth of this element if the clans want to spread their norms and

values to others because they consider these others to be 'socially deviant' (Johnston, 1996). It does not necessarily have to be so that clans are focused on spreading their norms and values to others, but where there are different legal systems this can be the result. It depends on whether these groups are more internally or externally focused.

The element of *political instability and lack of legitimacy* can also connect to the rise of vigilantes. It is when citizens consider there is 'lack of legitimacy' of the existing order that they thus also disagree with the states claim of legitimate reign. When you relate this to the definition of vigilantism of Abrams (as cited in Candy, 2012, p. 129) it becomes visible that it is the perceived ineffectiveness of the situation, that makes people look for *new* ways of enforcement. When some form of acceptance of the state structures and claims was there and there were expectations towards the state but state officials are not able to protect the citizens; they lose the respect of the community (Harnischfeger, 2003). This is often described by scholars as legitimacy loss but one could thus also consider that this is about acceptance. Rotberg (2003, p.9) describes this process as followed:

*"A nation-state also fails when it loses legitimacy—when it forfeits the "mandate of heaven." Its nominal borders become irrelevant. Groups within the nominal borders seek autonomous control within one or more parts of the national territory"*

*Economic and social instability* are not mentioned as a direct cause of vigilantism in the literature. There is no mention of vigilantism arising to do something about poverty. There might be cases I am not aware of, but vigilantism is primarily related to criminological aspects in society. This does not remove poverty from the equation all together. It is possible that in very poor societies there is already a great deal of frustration about the situation. To get to know more about this possible underlying process of the role of poverty in vigilantism, more research would have to be done.

There is however a part of economic and social instability that relates to vigilantism, which is corruption. Corruption can be a trigger to vigilantism because the state officials that are corrupt might create anger and frustration among the population (Harnischfeger, 2003). Vigilantes are then be triggered by the frustration with these state officials, for example the Gulabi Gang, that I will discuss in chapter 4, has fighting corruption as part of their agenda (Sen, 2012).

*Lack of security and internal conflict* are often mentioned in the literature as triggers of vigilantism. With the states claim to sovereignty also comes the claim to decide on law and justice. When this is not fulfilled while it was expected and dangerous circumstances arise, vigilante groups are formed (Kucera and Mares, 2009). It is also fear that can cause hostilities and make people turn to support alternatives like vigilantes (Rotberg, 2003). Vigilantism that is said to arise when citizens consider the state to fail is often associated with some threat that exists and needs to be addressed and thus results from the situations of fear and insecurity (Rotberg, 2003). The very interesting dynamic however is that violence is also a *part* of vigilantism, as described in 3.1.1. So there are many examples of vigilantism arising from violent and insecure situations and eventually break the states influence down even more and might create violent situations themselves. This does not necessarily mean that citizens than don't consider these vigilantes to be 'good' anymore. When we consider the Bakassi Boys and the executions they perform on the street with machetes, the people of Nigeria still want them there (Harnischfeger, 2003). They say the region has never been this safe, even though this group uses a lot of violence (Harnischfeger, 2003). There are scholars whom consider that from these situations it appears that security is valued as higher than justice, which thus means that the

methods of enforcing the law might not be questioned anymore (Galeano, as cited in Sundar, 2010). Though one could then again argue this statement is rather subjective and normative as there might also be actors whom consider for example the executions of the Bakassi Boys to be just.

*An ineffective justice system* strongly relates to the latter element. First it is important to consider that this element implies that there is a norm for the effectiveness of a justice system while this is interpreted different by different actors. One could consider it as a degree violence that creates internal conflict and a lack of security that leads citizens to be strongly discontent with the justice system. Vigilantism is generally described as the creation of new systems of upholding justice as response to what is perceived to be failure of the state (by some) to provide it or to provide it as the vigilantes deem properly. Tankebe (2009, p. 248) states that:

*“Public recourse to, or expressions of support for, vigilante violence reflects, at in least in part, public resentment against the perceived procedural injustices of the nation-state and its legal apparatus.”*

Though this connection between this perceived ‘failure of the state’ and vigilantism is made, one could also argue that this connection is perhaps exaggerated. As described earlier, the vigilantes are reaction to injustice and though the state can play a role in their legitimisation process or in their frustration, one could consider that the state might not be the core of their action. This will be discussed further again later.

*Loss of internal territorial control* can both be caused by and can cause vigilantism. It can cause vigilantism if it results in for example violence, conflict and instability. Vigilantism also again can cause loss of territorial control as in situations where the state does not control there are cases where vigilantes take over. Vigilantism often is a popular justice system, which also entails that the people in some settings want the vigilantes to do what they are doing (Tankebe, 2009). There the people consider the vigilantes to be upholding a fairer and also a better legal system than the official state system does, or was ‘supposed to do’ (Harnischfeger, 2003). For the state to try to regain control would therefore be challenging. Vigilantism can thus challenge the structures of the state and with that also challenges the claims of the state of how far state power should reach in the first place (Sundar, 2010).

The connection between *gross violations of human rights* and vigilantism are already included in the previous elements. Human rights violations can relate to a very specific kind of vigilante group. These are the vigilantes that also have a strong believe in that human rights are vital for justice in society and they want to see these uphold (Gulabi Gang, 2014). However, focus on human rights by vigilantes does not necessarily mean that they don’t violate the human rights themselves by their vigilante law enforcement. Vigilantes that want to uphold human rights don’t necessarily copy paste them exactly from the book (Merry-2, 2006). As already mentioned earlier, there is a certain hybridity in the application of human rights when it is translated to a context (Merry-2, 2006). It would thus be very likely if vigilantes uphold a more hybrid form of the human rights, a form that is more adapted to the context (Merry-2, 2006).

*Loss of social cohesion* relates to the low standard of well being within a society which possibly connects to underlying frustrations that can cause vigilante activity. It is also interesting to consider whether a nation that does not have a strong common identity can trigger vigilantism.

One could say that it could be because no common identity means that there is a more divided setting of identities and communities that have their own paradigm on justice which they might want to see executed in rest of society, which I refer to as alia-vigilante (Johnston, 1996). Many of these processes will greatly depend on the context but it is important to try to get a sense of the underlying processes.

*Corruption and weak institutions* were already mentioned before. These elements are both possible triggers of vigilantism (Sen, 2012). It is when people believe that the state's institutions are fair and can be trusted; they are more likely to comply with the legal system of the state (Tankebe, 2009). When this is not the case, there will often be resistance and non-compliance with the state institutions, which will call for the need of alternatives (Tankebe, 2009).

Through making the connection between vigilantism and Silva's (2013) interpretation of state failure, the relation becomes more concrete. One can see how these elements of state failure can cause different vigilante groups to rise. One could also use other elements of other groups and the manner in which they interpret state failure, but to narrow it down I have chosen to use this paradigm.

### **3.2.3. Abrams, vigilantism and state failure**

Though in literature the connection between state failure and vigilantism is often made as a very uniform relationship, one could argue otherwise. Vigilantes can be connected to the state but Abrams (1988) would likely argue that the state should not get such a central role and that to ascribe vigilantism to state failure in a way that it is done in literature is also a way of being in agreement with the state. One could derive from this that saying that 'poor policy' by the state causes vigilantism one is forgetting to question the claim of the state *why it was described as its responsibility in the first place*. Bringing vigilantism in relation with state failure in this way could be seen for some part as an enforcement of those claims.

One could argue that it however is not wholly an enforcement, it can also break its claim down. The way one can consider this relationship based on the theory of Abrams (1988) is so dynamic that one could also argue the opposite. Vigilantes are actors whom are in essence trying to enforce their view on justice in society. As there is a state system in place (government, police etc.) this is also part of their 'reality' and analysis can be made about this relationship. However one could argue that in its core, vigilantes are actors who take up law enforcement because they want to see their view on justice become reality in society. This value for justice as they perceive it is what one can study from their actions. One could also say that this is what connects alia-vigilantes to 'crime fighting' vigilantes. Even though this separation is necessary for the studying of state, when one simply looks at vigilantes enforcement of justice, they are somewhat the same. The difference between the groups is that the alia-vigilantes are confronted with a state that has a different notion of justice than them and crime fighting vigilantes do not.

From this, one could argue that vigilantes are challenging the ideology of the existence of the state, whether they mean to do this or not. The reason for this is because the state is based on the claim of common interest though the vigilantes are in disagreement with that. So even though they might not intend to challenge the claims of the state, when one considers Abrams (1988) analysis on state and puts it next to vigilantes one can see that vigilantes are possibly defying these claims.

Then state failure might be seen as the failure to represent the *actual interests* of groups in society as opposed to the illusory common interest (Abrams, 1988).

### **3.3. Vigilantism and legal pluralism**

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The relationship between legal pluralism and vigilantism is complex. This relationship is set in the term alia-vigilantism, as I defined it earlier. The separation of vigilantism in response to crime and alia-vigilantism is added to get more structure and to build on the division made by Johnston (1996) in his list of characteristics of vigilantes. It is however also already concluded that vigilantism often is a hybrid of these two aspects. Alia-vigilantism is about multiple legal systems being present within a society whose norms and values collide. Alia-vigilantes are actively trying to uphold their legal system within society and also spread it to others.

There are many ways in which one can consider the relationship between vigilantism and legal pluralism. One could argue that legal pluralism falls under failure of the state, as the state is not 'able' to enforce justice in a way that satisfies the interpretation of justice of all people in a nation though they do claim to be the rightful authority in place to provide this. As already explained at 2.3., legal pluralism is the presence of multiple legal orders within an area. One of these legal orders can thus be a vigilante group. An alia-vigilante group is one of the multiple groups in a society in a state of legal pluralism. A big aspect of vigilantism is however that vigilantes don't peacefully coexist with the others legal systems. Since an implication of violence is a precondition to vigilantism, there is struggle against the other groups. This can be the state, but it can also be other communities, like different religious or cultural groups.

One can then wonder, what room do these different groups have in a society where the state claims sovereignty? Kyed (2013, p. 990) explains:

*"(...) legal pluralism policies offer little in terms of challenging that model: not only do such policies exclude significant aspects of local beliefs and practices, they also fail to acknowledge the informal practices of state officials, even when these seems to be the most legitimate in the eyes of the citizens. The de facto legal plurality within the state apparatus itself supports a rethinking of the concept of legal pluralism as composed of co-existing bounded systems, with the state as the superior sovereign entity. The alternative is to think in terms of relations or networks, multiple sources of law, and hybridity."*

The existence of vigilantism not only points to the state not being adequate in the eyes of the people, it also points to the reality that law is not as uniform as the state system presupposes. When one thinks about the term normative hybridity mentioned earlier, this points to the reality that the state does not represent all these ideologies. When there are structurally different cultures living together, discontentment can set in. In these situations, Kyed (2013) would say that it is better to start to accept this hybridity and to make this the starting point. This however does not solve the violence done by these groups to others around them, as this is part of their sense of justice. There are alia-vigilante groups that have a discriminative and violent nature. This does not however just extend to their own group; they move outside of it and often try to spread these laws in society. It is as Waldmann (as cited in Kucera and Mares, 2013, p. 4) describes:

*“Vigilantism can aim to eliminate crime, but it might also seek to achieve wider political goals (the latter strategy is particularly noticeable among the extreme right). Those who are involved in vigilante activities place themselves in the role of defenders of the wider community, which they want to influence ideologically to their benefit.”*

Alia-vigilantes are thus also defenders of a certain (moral) community and thus are also making claims about justice and authority. People’s beliefs of what is good and bad does not always stay in their own group, just ‘confirming’ each other and not being bothered about the outside world. The intent of vigilantes is to move out and ‘bring justice’ to others.

Abrams (1988) would likely argue that this is also what the state is doing. They are enforcing their claims through the use of violence or other mechanisms. He (Abrams, 1988, p. 77) describes:

*“Armies and prisons are the back-up instruments of the burden of legitimacy. Of course what is legitimated is, insofar it is legitimated, real power. Armies and prisons, the Special Patrol and the deportation orders as well as the whole process of fiscal exaction (...) are all forceful enough. But it is their association with the idea of state and the invocation of that idea that silences protest, excuses force and convinces almost all of us that the fate of the victims is necessary.”*

Abrams (1988) is thus referring to how the instruments that the state uses rest on claims. These are however claims that often are hardly challenges or discussed while the justice enforcement mechanisms of other groups are. This is derived, as Abrams (1988) explains, from the claim of the state that it has real power and is connected to the idea of state that it is there for the common interest. Therefore are the mechanisms of state also often defined as ‘common interest’ and ‘justified’, of which the fate of the people they punish is ‘necessary’ (Abrams, 1988).

### ***3.4. Vigilantism and legitimacy***

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#### **3.4.1. Legitimacy of crime-fighting vigilantes**

Now the aspect of vigilantism is added to the legitimacy questions, the discussion becomes quite different. There are many aspects that need to be considered when analysing this relationship.

First of all it is important to note that what one considers to be state and what one considers to be state failure is thus viewed in different ways and are based on claims (Abrams, 1988). To be able to make the distinction between alia-vigilante and ‘crime-fighting’ vigilante one can chose to define crime fighting vigilante as vigilante whom (generally) are in agreement with the legal frame set by the state and try to uphold this as they consider this to be absent. What is considered to be failure is often defined in literature as insecure situations that are not addressed ‘properly’ which then causes frustrations among the citizens about the way things are. The actions of government officials can also be the direct cause of the frustration in cases of for example corruption and discrimination by state officials (Sen, 2012). Though situations like this could lead to passivity, in the case of vigilantes it leads to action. Vigilantes start targeting the cause (the offenders) of their furiosity by the threat or the use of violence. The shape of this new justice system that they create differs per context but the common element is; the vigilantes take over. When one considers legitimacy it is mostly relevant to consider how the groups themselves legitimise their claims and (violent) actions.

Some general aspects about this have already been discussed. Now I will analyse the crime fighting vigilantes legitimating arguments in more detail. Legitimating arguments of the state with regard to their claimed authority have already been discussed grossly in chapter two but it is relevant to consider how it relates to vigilantism.

Even without stating anything about the specific ideology of the state, whether it refers to the Westphalian model or religious documents, there already lays this claim within the 'existence' of statehood itself (Abrams, 1988). This does not however rule out the relevance of these other claims, as it appears that actors do often expect a better legitimisation than the state simply exclaiming: 'we are the state! And thus are we the state!', as one can for example derive from the existence of vigilantes. What vigilantism reveals is that the states authority is on those occasions not simply accepted upon the 'claim of statehood' itself. Therefore these other claims are also relevant. How much these other claims of legitimisation are required also differs per surrounding. In some areas, there might be a lot of contesting processes present in which citizens don't agree with many of the aspects of the state. There might also be areas where the government does not even very much have to mention why they have taken so much power. They might have to justify policy but when the state is such a part of the hegemony, there will likely be little questioning of its existence or of its contours (Abrams, 1988). The crime fighting vigilantes are in agreement at least part of the ideology that state they live in has 'chosen' to represent. They want to see the laws in place enforced and they take this upon themselves as the state is not enforcing it. How much they accept the state, the specific contours of it and its set laws differs per case. How this applies to the Gulabi Gang and PAGAD will be discussed in the next chapter. One could already discuss how these vigilantes would possibly legitimize their actions.

Vigilantes whom are reacting towards certain set laws by the state that are not 'properly' carried out in practise have thus chosen to take over a certain part of this claimed responsibility of the state. A legitimating argument can thus be that these groups argue to be responding to a need in society. According to these claims, these vigilantes are thus turning to action because they considered that there was a lack of justice. Though one could say that they might be reacting to the absence of the state to carry this out, one could also consider this might give the state to much of a central role. The vigilantes live in a society where there is a state system in place. So they might include in their argumentation that the state was not fulfilling this justice and therefore they had to. In essence however one could argue the vigilantes are responding to what they consider to be a need in society.

One can thus argue that these vigilantes also do not agree to the claim of absolute sovereignty of the state as they set preconditions to it. This means that they decide that they undertake action were they see injustice and one could say that they thus interpret the state to fail to confront this injustice. To see whether the vigilantes very much make this connection between for example insecure situation and this being the 'fault' of the state would have to be analysed per case. The literature that is available on vigilantism does make the connection that vigilantes react to 'failures' that they considered to be 'the job of the state' (Tankebe, 2009). If this is the case, it would mean that these groups are somewhat in agreement with the claims of the state that it is a legitimate authority. Whether this is the case with the Gulabi Gang and PAGAD will also be discussed in chapter 4. If this 'recognition' is in place, than the legitimating arguments with regard to state also become quite relevant. As vigilantes are thus going against this claimed sovereignty while they do consider the state to have authority over the area in which they are enforcing their vigilante action.

Then they would likely provide arguments or actions of why they consider themselves to be entitled to go against the state that they do 'recognize'. To be able to define this further, specific cases will need to be considered which will be done in chapter 4.

There are also scholars that consider legitimacy with regard to vigilantes and the state quite differently than using it to describe legitimisation of the groups themselves. These are relevant to consider as they reveal how vigilante's legitimacy with regard to state are defined by scholars that have studied them. Dumsday (2009) considers one can judge vigilantes legitimacy based the grievance of the crime that they are 'avenging' in comparison to the inappropriateness of the penalty. So for example if an offender is guilty of murder and this person only has to in jail for 6 months, this displays a grievous crime and a poor penalty. This is a theory that is will be used very differently by people from different backgrounds. Some might say that a murderer deserves the death penalty while others think that a jail sentence of 5-10 years would suffice. Dumsday's interpretation of vigilante is also more on the level of specific actions of vigilantes. This is thus a normative way of defining legitimacy, using legitimacy as a tool to define whether vigilante's actions are right or wrong. Dumsday (2009) wants to define how far certain actions of vigilante can go for it to be 'permissible' in his paradigm. But as already mentioned, there then is not escaping placing a certain paradigm of studying these groups over others.

Weber (as cited in Kucera and Mares, 2013) describes the relation between the state and citizens as a contract. The contract entails that the state has the monopoly on violence and with that the obligation to protect its citizens from violence. When this contract is broken by 'state failure' it happens that citizens than also withdraw themselves from the contract and this can take the shape of vigilantism. When one interprets the relationship between state and citizens in this way, one thus says that vigilantes can legitimize their actions since in cases of 'state failure'; the contract was broken (Kucera and Mares, 2013).

What is interesting about this view is that it is argued that the state and citizens have come to some sort of agreement on the authority the state has (taken) over citizens. Though one could of course first of all strongly question whether that is the case, as the state claims to have the sovereignty to govern and then takes up this role, when can one speak of a contract being made? What is interesting is that Weber (as cited in Kucera and Mares, 2013) defines that there is a certain authority of the state over citizens, but that this authority is conditional. One could consider that vigilantes are through their actions also ascribing certain conditionality to state authority. The conditionality is thus a relevant part of the discussion on legitimating processes of vigilantes. Especially if they did 'recognize' the state as authority at first, they would likely feel the relevance to defend their actions in this respect. Because this theory is quite black and white, there is further no relevance for it in this thesis, but for the reasons described above one can consider it is relevant to be aware of these interpretations and take some elements out of it for the discussion.

### **3.4.2. Legitimacy of alia-vigilantes**

The vigilante groups that build on a different established legal system than the state in which they are present, for example culture, religion or a social group, have some interesting legitimating processes. These are the groups that I refer to in this thesis as alia-vigilantes. Though the legal system of the state that claims sovereignty but there are many communities that have different views on law than the state.

Alia-vigilantes choose to spread their own norms and values system, but some aspects about this form of vigilantism pose challenging dilemmas. A cause of conflict is that these legal systems of alia-vigilante are often not 'meant' to stay within the group, as already described in 3.3. When we take Muslim fundamentalists as an example, they believe they are answering to God when they are spreading their faith and are for example assaulting Christians (Kucera and Mares, 2013). These vigilantes consider another authority or another source of law than the state they live in to be higher and the thing that is 'worthy of chains' (Rousseau as cited by Bodansky, 2008).

One can also wonder about the question if one actor is can claim entitlement to define the dominating legal principles? (Candy, 2012) Because this is what the state does, with its claims for sovereignty it places its legal system above other legal systems.

One can ask what kind of legitimating claims these groups would make. As already defined above, they thus clearly have some different interpretation on law and justice than the state based on a different value system (Johnston, 1996). These could thus for example be a group whom base their norms and values on some form of local or religious law that is different from the state law. It is also used to refer to groups whom discriminate against a particular other groups whom they consider to be inferior to others (Tankebe, 2009). As there is great diversity and one also needs to consider in what nation state this group is placed, there might not be a great deal of common ground of justification between these groups. What one could consider to possibly be a similarity is that they do not accept the state as being 'the prime definer of justice'. Legitimating arguments could also be connected to the notion of a 'conditional' state system, similar to the previous section. The condition then is that the states justice system ought to be in agreement with their system.

What is most relevant again, is about vigilantes interpretation of justice. Though the state might play a role in their legitimatisation process, the main aim of these vigilantes is to carry out their view on justice. These groups have had the 'misfortune' of not living in a society where the system of political subjection, the state, carries out justice in way these vigilantes want to see it carried out. One could say that this is also the core of vigilantism. In this respect there is no need for a separation between crime fighting and alia-vigilantes. So as similar to 'crime fighting' vigilantes, alia-vigilantes are striving to achieve their view on justice in society. One could say this is the starting point of vigilante group which will likely influence their legitimating claims.

# Chapter four – Gulabi gang and PAGAD

## 4.1. Gulabi Gang

### 4.1.1. Background of the Gulabi Gang

The first case that will be discussed is the Gulabi Gang. First, some general information about the aim of the group will be discussed and with that also some general information about their leader. Following this, their methods in dealing with violence against woman will be addressed and also what these actions say about their identity. Then I will discuss the way in which they try to tackle corruption. Finally I will conclude with mentioning some examples about the resistance the Gulabi Gang has faced.



Figure 6. The Gulabi Gang now boasts of 400,000 members spread across 11 Uttar Pradesh districts [Supplied]. Reprinted from Aljazeera. (2014) Retrieved from: <http://www.aljazeera.com/indepth/features/2014/02/gulabi-gang-indias-women-warriors-201422610320612382.html>

The Gulabi Gang, also known as Pink Saris, is a woman's vigilante group from Uttar Pradesh, in the Banda district in India. This region is known for many problems regarding poverty and crime. Especially violence against woman and child marriages are somewhat established as 'normal' everyday practises in this region (Robinson, 2013). The Gang members also experienced these themselves, as the following example shows:

*Banwari Devi (52): C'mon take your clothes off (...), my rapist barked at me. He was a high caste man, he followed me into the field. I shouldn't have headed to the pastures alone, especially when the crops had already been harvested. But I really wanted to pee. When the crops are reaped, they are sliced off by sharp sickles, not uprooted, the dried ends of chopped stems are like a bed of nails& If I tried to run barefoot it would be like running over a field of spikes, the bottom of my feet would have been lacerated... I tried to run on the mud path and not through the field. But the man caught up with me and slammed my head against a tree& Then he took me. After he was finished, he spat on me. I was only eighteen. I went to the police, the politicians. Everyone said I had asked for it, going into the fields by myself. I wept a lot& didn't want to go near the pastures again& yet it was our only source of sustenance. My husband finally left me, and he took our boys. I was left with nothing at a young age. Now I am 52. Yes, I do go around beating men who attack village girls. You asked me why I joined the Gulabi Gang& So that women after me can walk through fields with long, fearless strides& (Personal interview with Banwari Devi at a public demonstration in Delhi, 17th September 2009 as quoted in Sen, 2012, p. 2).*

The Gulabi Gang's aim is to challenge human rights abuses and their main focus is on protecting woman but they also address corruption (Gulabi Gang, 2014). In the gang, the woman all were pink saris "for easy recognition as they publicize the plight of poor women" (White and Rastogi, 2009, p. 313).

Another reason why they wear the pink saris is to “*signify the womanhood and understated strength*” (Gulabi Gang-2, 2014). The Gulabi Gang mostly consist of Dalits, which is the lowest caste. Despite the fact that discrimination against Dalits has become illegal in the 1950s, they are still being suppressed (Sen, 2012). These laws have had little effect on the everyday practise of Dalits whom are still being discriminated against by members of higher castes (Sen, 2012). One can only imagine what it is like to not only being a Dalit, but to be a Dalit woman in a society that discriminates against both ‘traits’. Metcalf and Metcalf (as cited in Miller, 2010, p. 9) say about the role of woman in India:

*“Women throughout India are intimately familiar with abuse, ranging from neglect of female children to setting brides on fire, thereby freeing the man to collect another dowry for a new wife”*

The Gulabi Gang already consisted of some 20,000 woman in 2012 and according to sources the gang now has up to 400.000 members, which makes it the largest female vigilante group in the world (Sen, 2012) (Aljazeera, 2014). Every day about half a dozen women seek the help of the Gang because they have heard of the effectiveness of their strategies from others or have read it in the paper. Some even travel from very far to reach them. (Sen, 2012)

The Gulabi Gang was founded by Sampat Pal Devi, who spent over a decade to get this group together (Withe and Rastogi, 2009). In 2002, she saw a man brutally beat up his wife while the police were doing nothing to stop it (Sen, 2012). She tried to stop the man after which he hurt her as well (Gulabi Gang-2, 2014). The next day she gathered a group of friends and punished the man in public for his actions. This led her to aspire to form a group of woman who would fight injustice (Sen, 2012). At the time Sampat was also working as a government health worker. This made her aware of the problems of these women living in rural areas. Sampat also witnessed how little the government was doing to alleviate the difficult circumstances of the poor villages in the area. (Sen, 2012)

The Gulabi Gang does not only target offenders of violent crimes towards woman but also focuses on poverty reduction by tackling corruption. These are their two big agenda’s; fighting violence against woman and fighting corruption. Where the gang started out as a group of friends fighting for justice, the group became more and more popular because of their success in dealing with domestic violence (Sen, 2012). On their website, they (Gulabi Gang, 2014) describe themselves as follows:

*“The Gulabi Gang was initially intended to punish oppressive husbands, fathers and brothers, and combat domestic violence and desertion. The members of the gang would accost male offenders and prevail upon them to see reason. The more serious offenders were publicly shamed when they refused to listen or relent. Sometimes the women resorted to their lathis, if the men resorted to use of force today, the Gulabi Gang has tens of thousands of women members, several male supporters and many successful interventions to their credit. Whether it is ensuring proper public distribution of food-grains to people below the poverty line, or disbursement of pension to elderly widows who have no birth certificate to prove their age, or preventing abuse of women and children, the Pink sisterhood is in the forefront, bringing about system changes by adopting the simplest of methods - direct action and confrontation.”*

This group thus was initially founded to target violence against woman. One can also see that they first try to reason with offenders. When this does not solve the conflict and they find that the offender does not ‘see reason’, the Gulabi Gang turns to violence.

The reason behind the use of violence is as Sampat (Prasad, as cited by White and Rastogi, 2009, p. 314) describes it: *"To face down men in this part of the world, you have to use force"*. Their 'signature' weapons are the lathis. I call them 'signature weapons' because they always appear on photos with these weapons while they are also known to use some other weapons. Dhillon (as cited by White and Rastogi, 2009, p. 313) describes that they use multiple weapons like *"walking sticks, iron rods, axes, and even cricket bats"*. Turning to violence however is a last resort; as Sampat would much rather solve things through dialogue (Miller, 2010). Sampat (Berthod, as cited by Miller, 2010, p. 38) explains this with the following statement:

*"I've always advocated dialogue. I fight with my ideas, not my stick. When I try to persuade someone, I'm happy to keep talking for hours, using loads of examples to get my point across. I might not be that obvious, but I'm very patient! I can easily fly off the handle with a corrupt official, but I always try to win with words. Believe me, my unbeatable arguments are my most effective weapon"*

The Gulabi Gang claims they only use weapons to support their argument or to show that they are serious when an offender does not listen. The Gulabi Gang has established meeting points where woman can come to meet and talk about their problems with the members of the Gang (Sen, 2012). The manner in which they take actions regarding domestic violence, a member describes as follows:

*"Chamania (40) said, First we go to the police and beg them to do something. But the administration won't listen to poor people, so we end up taking matters into our own hands. In the case of a wife-beating, for example, should the police refuse to arbitrate, gang members first speak directly to the husband and demand he change his ways" (Sen, 2012, p. 5)*

Another example of the enforcement strategies of the Gulabi comes from Sen (2012, p. 6)

*"In January 2011, the Gulabis helped a 17-year-old girl who had been gang-raped by a group of men, including a member of the local legislature. When the rape victim, Sheelu Nishad, went to file a case, to her utter dismay she was arrested by the police under trumped-up charges. It turned out her attackers had already called the police, accusing her of theft. After the girl's father approached the gang for help; the Gulabis organized a demonstration in front of the police station, and, subsequently, another in front of the legislator's house. The gang's effective intervention led to the rapist's arrest, and Rahul Gandhi, the heir to the Gandhi family's political throne in India, traveled 370 miles from New Delhi to meet the victim. The gang, thus, struck fear into the hearts of abusive men"*

One can also wonder how the Gang deals with matters within families and what this says about their group identity. To learn about these dynamics, it is relevant to discuss some examples of cases in which the Gang had to deal with domestic situations. On one occasion, a husband sends his wife away. The Gulabi Gang first tried to reason with the husband to take her back and treat her good (Sen, 2012). They did not immediately turn to violence to solve the matter. They gathered the parties who were involved and they tried to solve the conflict through dialogue. The Gang appears to not be in favour of families 'falling apart'. This also appears from the conduct of some gang members whom did not leave their families when there were disagreements on their activities in the Gulabi Gang, but tried to negotiate with their families on the matter. (Sen, 2012) A Gang member explained:

*“Banhari Devi (21) said, I was recently married and my family thought it was a ridiculous idea and were dead against my stepping out of the household. My husband wasn’t supportive at all, but I was convinced that I wanted to join the Gang and so I did. This took months of persistence but my husband finally agreed” (Sen, 2012, p. 5).*

Though not all members might choose the same path as Banhari, from the Gulabi Gang’s methods it still appears they have not lost all value for the opinion of the men and their cooperation. Sen (2012) states that the Gulabi Gang therefore does not appear to have a very libratory voice in the dealing with domestic violence.

As already mentioned above, the Gulabi Gang also focuses on tackling corruption. An example of this is that on one occasion there was grain that was meant to be sold at a low price for people below the poverty line that was held back. The Gulabi Gang gathered the evidence to proof on who was responsible but when they presented it to the police, the authorities refused to do something about it. As a response, the gang assaulted a police officer (Sen, 2012). One of their methods in tackling corruption is thus by shaming the state officials in public by calling them out on their actions and by publically beating them (White and Rastogi, 2009) The Gulabi Gang also once stormed into an electricity office because the power had been turned off in order by state officials who wanted to get bribes for electricity from the village. They then successfully forced them to turn it back on. (Sen, 2012)

Though the Gulabi Gang is still mostly associated with fighting for woman’s rights they are now, through the tackling of corruption, also helping poor people in general. It would be likely that this contributes to their popularity among the poor and it could also lead to more support of men. Though there is no mention in the literature that this direct link exists, there is mention of male support for the gang (Gulabi Gang, 2014).

Apart from all the actions from their account, they have also had to undertake resistance and retaliation. The action of Sampat to help out her friend at the starting days of the Gulabi Gang already let to her being abused, as mentioned earlier (Gulabi Gang-2). There are many other examples of the resistance the gang faced of which some will be mentioned here to get somewhat a clearer picture of the difficulties the Gulabi Gang ran into while fighting for their cause.

On one occasion Sampat went to the police station to file a complaint and when she was there a police officer abused and attacked her (Gulabi Gang-2, 2014). Another example is that the husband of a gang member was held at the police station when he should have been released because the police heard he was married to a member of the Gulabi Gang. When the gang then organized a sit in, Sampat got attacked by two police officers with their lathis. She was able to shake them off and hit back with other members of the gang. Afterwards a group of police officers with machine guns came because they were informed of the situation. The situation did not escalate but the gang members were charged with a series of offenses. (Miller, 2010)

As a precaution towards being assaulted by their ‘opponents’, the gang members only wear the pink sari when they are gathering as a group (Berthod, as cited by Miller, 2010). These examples show the opposition that is faced and thus also the sacrifices the gang members have to be willing to make.

#### 4.1.2. Gulabi Gang analyses

When one considers Johnston (1996) his description of vigilantes, there are some analyses that can be made about this vigilante group. First of all the Gulabi Gang is a vigilante group that was, as Johnston (1996) defines it, founded response to crime. They are not an alia-vigilante group, even though they might have certain alia-vigilante elements that are not known in literature. They define that they are attempting to uphold certain human rights that they, one can interpret from their actions, to a certain degree considered the state was 'supposed to' uphold. In the region where they are 'stationed' there is a great deal of violence against woman that is not addressed by the state (or another actor for that matter). So the state is not protecting the woman against offenders in a way that the gang defines as an adequate defence.

Certain elements of Silva's (2013) analysis on failure of the state were discussed in chapter 2. These elements can be used to get a clearer picture of what kind according to this paradigm could be considered as state failure. Silva (2013) would define there are multiple aspects of failure of the state that relate to this case. These are; lack of security, an ineffective justice system, violations of human rights, corruption and weak institutions. These elements could also be somewhat related to the way the Gulabi Gang defines the problems and becomes apparent through the background description in which the Gulabi Gang has risen. There might be other processes that influence these direct elements, but that will not be analysed further. An influence that can be mentioned is the caste system in India and the lack of concern with that for the casteless people (Robinson, 2013). Though I have not extensively discussed the caste system to be able to analyse this relationship, it is clear that this is still a cause of discrimination in India.

One can also consider the theory of Abrams (1988) in relation to this case. First of all one could consider that Abrams (1988) might not see the great relevance in giving the state such a central role in the analysis. One can see that these women are responding to violence against woman and this goes against their view on justice. They see a need in society for a group that stands up for these women. As there is no one in place that does this, they created a justice enforcement system that addresses this violence. In this sense, there is little necessity for the state to have a central role in their actions. However one could also consider that the legal system of the state in the case of crime fighting vigilantes might have an empowering stimulus for the Gulabi Gang. One could argue that they might derive incentives from the law in their actions as they might have defined protection for woman as a right. This can be derived from the fact that *they themselves* point to the violence as violations of human rights law. How much of an incentive this is, one cannot tell without further research. One cannot tell how influential these legal systems are on the Gulabi Gang but one could think that the law might work empowering in this sense.

Another aspect of the analysis of Abrams (1988) can be applied to the case is the 'illusory common interest' of the state is being contested. One can see that the state first of all that the Gulabi Gang does not consider the state to be carrying out the interests of woman properly. The Gulabi Gang thus defines by its actions that the state is failing at representing their interests. This would be a way that one could consider state failure by using the analysis of Abrams (1988). One could say this is also enforced by the gangs discontentment with the corruption that is taking place.

An important focus of this thesis is the questions regarding the legitimating arguments of this group, especially regarding the violence that vigilantes use.

First one can consider the initial starting objective of the Gulabi Gang, which was to target violence against woman (Gulabi Gang, 2014). There are many descriptions of this outlook and the experience of gang members themselves. There are gang members that have experienced and witnessed violence themselves and this has led them to feel strongly about this cause. They define that according to human rights, this should not be allowed. The use of the mentioning of this right could be seen as a legitimating argument as it creates a sense of entitlement since this right is defined in human rights law. The Gulabi Gang could also be explained as a hybrid form of human rights advocates. They want woman to be treated well and for them to be respected. They stand up against the violence that many of the women have to face. This is in sync with the human rights regarding gender violence. At the same time, you won't likely find beatings as a recommended human rights strategy. You could say that the Gulabi Gang are translating human rights enforcement in a new way.

The Gulabi Gang is very focussed on defending woman and standing up for their rights. They argue that the violent practises against woman are unjust and they are standing up for justice (Sen, 2012). A substantial part of the legitimating practises is thus that they define the offenders as doing things that are unjust and themselves as standing up for justice. Members of the gang explain that they first try to reason with these offenders before turning to violence. When the offenders don't want to see this reason, violent repercussions follow. They are thus legitimating their actions by explaining that they first try dialogue before they turn to violence. They address their use of violence as a last resort and with that are thus saying that they only turn to violence when that is the 'only option they have left' (Miller, 2010). Sampat also ascribes a certain 'objective authority' to herself as she describes herself as a patient woman that first patiently tries to convince the offenders of 'reason' (Miller, 2010). The Gulabi Gang is thus also legitimating their actions by defining they are the ones who see 'reason' and they have to make the offenders see this as well. When the offender does not see this reason and is not in agreement with their paradigm, then he will be punished. One could thus argue that they are claiming legitimacy regarding their violent actions because of the offense and the unreasonableness of the offender. This thus means that if the offender has a different sense of reason and does not agree with the justice paradigm of the Gulabi Gang and might not even see their point of view, the members of the Gulabi Gang feel they have the right to beat this offender.

Another interesting dynamic is the Gulabi Gang's relation to the state. One can see by their actions that they have a great deal of 'recognition' towards the state. Even though they don't completely adhere to its claim of (absolute) sovereignty, as the gang does enforce justice by their own system, they do keep including them. One can see that often the gang members first go to the state when an offense has taken place or the gang gathers the evidence of an offense and presents it to the state first. These processes thus reveal that the Gulabi Gang is to a certain degree in agreement with the state's claims for authority. They, even though they are also aware of the corruption within the government, keep involving the state in their law enforcement strategies. However as the state is for example not willing to file complaints of poor people, they take matters into their own hands (Sen, 2012). This has also led to the beating of police officers and charges being pressed against gang members. One could consider that part of the gang's legitimating arguments is that they first of all give the state the chance to 'do it right'. Because of these methods, they can thus say that they gave recognition to the state but if the state does not help out they might then say it is legitimate to take action as they have no other actor to turn to. As a consequence they can claim legitimacy by pointing to the unfulfilled human rights and reveal that they tried to achieve their justice by turning to the state, but if the state does not help out they are still entitled to this right and are therefore entitled

to enforcing the law themselves. They describe that as a last straw, they have women have turned their miserable situations around by doing something about it. They have turned to organized violence because it was the only option available to them to change their situation. And because of that they: *“walk a tightrope between legally reprehensible and socially condoned action”* (Sen, 2012, p. 3).

It is important to consider that not only reasoning and arguments define the Gulabi Gang, practises and actions are also relevant and one can study whether there are legitimating meanings in those practises. Though it is of course challenging to see what these practises are as all the information is second hand from literature and not from personal study where one can focus on this. First of all it is interesting to see that the woman of the Gulabi Gang all wear pink saris. They themselves relate this to their representation for woman. One could say that they are wearing some sort of a uniform in representation of their goals. As they are *pink* saris, one can see that they are emphasizing womanhood. This in combination with their use of lathis, one could interpret that they emphasize womanhood and strength. Woman in their society are often treated poorly and with their emphasis on womanhood and strength, one could see they are giving another definition to woman than many in their society. With this one could interpret they give an empowered image of woman as strong people with rights. This could also implicitly be a legitimisation of their actions, as it shows a different image of woman than the image offenders ‘make them out to be’.

One could see the pink saris and the lathis as some sort of a costume and one might say carries a certain threat in it. This might be interpreted as a representation of their identity because in a way they demonstrate that they stand together and that they are not afraid to take action. This treat they pose one could argue represents their cause and the goal to stand up for themselves. One could say that the lathis shows they are not afraid of this and that if the state will not help them, they will carry out actions themselves. Whether this is the main objective is not clear from the literature but one could argue that these meanings carry out a certain challenging of the state.

The Gulabi Gang has also established meeting points for women who have been the victim of violence to come and talk to gang members about their problems. One could consider that these are sort of ‘safe havens’ that are established to find help and support. These woman that are not helped by the police, now have an alternative option. Instead of going to a police station to find help, they can now go to these meeting points. One could interpret this as an alternative police state that does want to help woman as opposed to the state officials that are not willing to do this. This could mean that the Gulabi Gang is again implicitly showing the state that if the police are not willing to help them, they will do it themselves. One could also then say that this is an implicit challenging of the state and legitimisation as they do help these woman that have no other place to go to.

This is also supported by the gangs persistent ‘trips’ to the police state. These actions ascribe meaning to the state but as the police do not help, they take action themselves. This could refer to the legitimisation of their actions as one could interpret the meaning of these ‘trips’ is that it shows there is no help from the state and therefore they are left to their own measures.

Then of course the question remains whether the Gulabi Gang is challenging the sovereignty of the state. As described earlier in this thesis, the state claims to be the rightful sovereign ruler. In this case it became apparent that the Gulabi Gang ‘recognizes’ the state and is to a certain degree in agreement with its claims for authority.

So when one considers the Gulabi Gang, is it challenging the acclaimed sovereignty of the state? This is not answerable with an absolute yes or no. First of all, in some way they might be challenging it. This because as already mentioned before, it is the very existence of these crime fighting vigilantes that reveals the practical reality of the state system as opposed to; what it is 'meant' to do according to the laws they were 'supposed to' uphold. For example, though the state might have abolished the caste system by law, it is still there in practise and they are not controlling it. In that sense the sovereignty of the state might already be questioned on basis of these things, even without considering the vigilantes.

The vigilantes reveal that it is possible to have a justice enforcement system apart from the state and because of that they give people an alternative. The Gulabi Gang shows it is possible to fight against rape, violence, murder, discrimination and corruption grossly without the state. So though the state might represent an 'illusory common interest', the vigilantes might erode this and define a new enforcement for a particular interest of a group (Abrams, 1988). In this sense, one can consider the analysis of Abrams (1988) that the Gulabi Gang is not seeing their interests represented in society though this claim is entailed in the system and ideology of the state. They thus demonstrate what they say the state should have done according to the system that is in place and in the eyes of a certain group but is not doing and with that point to a certain interpretation of failure of the state. One could say they are shedding light to what they consider to be its failures.

Why the answer could also be no has to do with the cause of the Gulabi Gang. It is *in theory* that what the state wants and what the Gulabi Gang want is somewhat the same. This is what is defined in this thesis as; vigilantism in response to crime. Though the citizens are shown a new law enforcement group, they are in theory not shown a different legal system. This thus does not challenge the ideology that the state is *in theory* adhering. The Gulabi Gang is also not eliminating the state from the picture but they are still seeking it's assistance before they take matters into their own hands. They are thus not *trying* to overthrow the state or be an alternative to the state.

## 4.2. PAGAD

### 4.2.1. Background of PAGAD

PAGAD, People Against Gangsterism and Drugs was founded in 1995 in Cape Town, South Africa. The residents of the Cape Flats (just outside Cape Town) were subjected to the 'rule' of drug lords and gangsters that threatened the security in the area (Monaghan, 2004). A group of teachers and social workers decided that it was enough and they started to have meetings together to figure out what had to be done about these circumstances and from those meetings, PAGAD was founded (Bangstad, 2005). The circumstances in which this happened, Monaghan (2004, p. 2) describes as follows:



Figure 7. Reprinted from Mail and Guardian; Africa's best read. (2012)  
Retrieved from <http://mg.co.za/tag/pagad>

*“The province has a long history of gangsterism and it is estimated that there are in the region of 80,000 active gang members in the Cape belonging to some 137 gangs. In the six months between the beginning of October 1994 and the end of March 1995, the police recorded 253 murders in the Cape Flats and attributed half of these in addition to half of the attempted murder charges as being gang related. Crime including murder, rape and drug-abuse are daily experiences for the people living and working in this area. Residents talk of ‘the community being on hold’, dictated to by the gangs, and how it is ‘the innocent who are behind bars’”*

With the end of apartheid in 1994, the political situation had changed drastically. Though great promises were made by the ANC government of better living conditions and more safety, this did not happen. It even got worse as you can see in table 1 (Bangstad, 2005).

**Table 1. Crime in Cape Town 1994–2000**

Year/Type of crime	Murder	Rape and attempted rape	Drug-related crimes	Aggravated robbery	Burglary and burglary attempts
1994	791	1,543	3,922	3,113	13,041
2000	1,049	1,776	5,100	5,488	16,134
Increase 1994–2000	32.6%	15.1%	30.0%	76.3%	23.7%

*Source: South African Police Services Crime Information Management Centre, Crime Statistics 1994–2000 for Western Metropolitan Area (2002). Available at [http://www.saps.org.za/8\\_crimeinfo/bulletin/942000a/wcmet.htm](http://www.saps.org.za/8_crimeinfo/bulletin/942000a/wcmet.htm)*

Reprinted from (Bangstad, 2005, p. 195)

Crime rates climbed and people started to distrust the government more. Some of the reasons for this distrust were the low level of solved crimes, corruption and the government failing to meet its promises (Bangstad, 2005). The distrust of the people has led to failure of the state in monopolizing the use of violence, which entails that in practise the state is not the only actor using violence to enforce justice (Bangstad, 2005). When PAGAD thus started, it was because of these circumstances. Their objectives are mentioned by Monaghan (p. 4, 2004):

- *“to propagate the eradication of drugs and gangsterism from society;*
- *to co-operate with, and to co-ordinate the activities of similar minded people and groups;*
- *to encourage the incorporation of these people and other groups into PAGAD’s campaign;*
- *to generate funds to realise their stated aims”*

The main aim here is the eradication of the bad circumstances that are caused by drugs dealers and gangsters. One of the main issues is what PAGAD’s methods for this eradication are. Some of the elements can already be derived from the aim, which is spreading awareness of the problems around drugs and gangsters and creating support for this cause. PAGAD spent a great deal of attention to this as they went past radio stations, churches, mosques and more of such groups to get the message around about the problems and about PAGAD. (Monaghan, 2004)

When PAGAD started to grow, they started to organise bigger meetings and protests. One protest was particularly noteworthy. In 1996, several thousand PAGAD members and supporters walked to the Parliament where they gave the minister of justice an ultimatum to start doing something about the gangsters and drugs. They told him, he had sixty days to do this or otherwise they would start to take action themselves. PAGAD had a list of requests of what the minister should do, among which was the reintroducing of the death penalty for drug dealers. (Monaghan, 2004)

PAGAD also organised protests by marching to the houses of drugs dealers. PAGAD then gave them a 24-hour ultimatum to stop their business or otherwise suffer certain consequences (Monaghan, 2004). One of these marches led to the murder of notorious gang leader Rashaad Staggie by a group of PAGAD supporters (Baderoon, 2009). Though PAGAD started out rather popular, it became more and more violent which decreased their popularity (Bangstad, 2005). Monaghan (2004, p. 6) describes:

*“The organisation has been accused of involvement in drive-by shootings, petrol and pipe bombings and other shootings, allegations that it strenuously denies. Its members have been charged with a range of offences including sedition, murder, attempted murder, possession of illegal firearms, malicious damage to property and public violence.”*

PAGAD's cause also started to 'widen', as they started to assault people who did not agree with them or their way of working. Critical media was for example not valued by PAGAD. A notorious example is the bombing of the house of academic Dr Ebrahim Moosa after he criticised PAGAD on a Muslim radio station (Monaghan, 2004). The police were also subjected to these threats, for example if they tried to stop PAGAD demonstrations they could expect repercussions. The police's discontentment with PAGAD also resulted from the fact that PAGAD has increased gangsterism since the police now have to deal with the lawlessness of PAGAD which leaves even less time for the police to deal with drugs and gangsters. (Monaghan, 2004)

PAGAD is also known to be a Muslim vigilante group. Though this was not very well known at first, it began to get more attention as the group got more 'famous'. Scholars disagree on whether the Muslim faith of members of PAGAD has anything to do with their goals. The US government does see PAGAD as a threat and they have listed them as a terrorist group (Firsing, 2012). There is some disagreement about whether PAGAD also has a political motive relating to their Islamic faith. These claims are partly based on the fact that there are quite some members of PAGAD that are also members of Qibla, which is a radical Islamic group (Monaghan, 2004). It is also claimed that the fight against drugs is sort of a cover up to the deeper desire to overthrow the state and to create an Islamic state (Monaghan, 2004). If this were true, it would indeed be covered under the fight for drugs since the members of PAGAD themselves have not, within the aim of the organisation, claimed this to be a goal. The reason why some actors claim this is part of their agenda is because of bombings that are claimed to be executed by PAGAD. Monaghan (2004, p. 15) describes:

*“The bombings of gay nightclubs, synagogues, tourist attractions and American-associated restaurants such as Planet Hollywood symbolise sexual freedom, the Judeo-Christian tradition, America and the West. Thus, it can be argued that they are representative of a target category and are collectively liable for the conduct of that target category.”*

And Firsing (2012, p.10) mentions about this:

*“By early 1998, they had also become antigovernment and anti-Western, according to the US State Department. PAGAD and its Islamic ally, Qibla, view the South African Government as a threat to Islamic values and consequently promote greater political voice for South African Muslims. PAGAD uses several front names, including Muslims Against Global Oppression (MAGO) and Muslims Against Illegitimate Leaders (MAIL), when launching anti-Western protests and campaigns”*

Though these bombings have not been claimed by PAGAD, they have been ascribed to them. The disagreement between scholars thus poses a challenge for how to interpret the actions of this vigilante group, but both sides can be taken into consideration for the analysis.

#### **4.2.2. PAGAD analyses**

PAGAD started out as a response to the lack of security which was caused by gangsters and drug trade. The people from the Cape Flats were fed up with these problems and appeared to lay the blame by the ineffectiveness of the government. The people were promised prosperity with the coming of the new ANC government, yet these promises were not fulfilled to their satisfaction. When PAGAD became more and more violent, people started losing their faith in them as well. Yet, they were afraid to say it out loud since PAGAD had also started targeting those who were against them. Though PAGAD seemed to start out in consensus with the people and the authorities, this did not last. Though the state failed to solve the problems in the eyes of the people, PAGAD was not able to supply them with an accepted alternative. So this 'side' of PAGAD led to the definition of a crime-fighting vigilante group. There is however also an alia-vigilante side to PAGAD. This mainly becomes clear in the way that PAGAD consider gangsters and drug dealers should be dealt with. Their view of how this should be done goes even further than how it is described in state law. As became apparent, PAGAD threatened the government to enter the death penalty for drug dealers. In this sense they have a different view on how drug dealers should be dealt with than the state. This also becomes clear from the fact that they kill drug dealers and gangsters themselves.

Another interesting aspect about PAGAD is their Muslim side. Though it is not completely clear what role this plays in their organisation, one can discuss what it would mean if the claims made against them were true. If it is indeed as the US is suspecting, that PAGAD is hiding their actual motives under a cover, what would this mean for their identity? First of all, this would also likely entail that the bombings of for example the gay night clubs were done by PAGAD (Monaghan, 2004). Because this is the 'evidence' that is held against them to support the allegation (Monaghan, 2004). If PAGAD were looking to overthrow the state and create a Muslim state, this would 'increase' the alia-vigilantism side of PAGAD. This could mean that their consideration would be that the state is not upholding justice in the right way, because the 'right way' would require the state to be Islamic. The difficulty with this allegation is than again the following; if PAGAD was responsible for the bombings in order to target Western, Judaic and Christian aspects of society, they would no longer be (or merely be) a vigilante group. Since the result of this would be that they don't 'merely' target individual offenders but are also targeting the collective; which results in it being terrorism according to the definition that was used in this thesis (de la Roche, as cited by Monaghan, 2004). If one would adhere to this definition, one would then have to call PAGAD either a terrorist vigilante organisation or simply a terrorist organisation. Another problem with this claim is that, despite the apparent link between PAGAD and the Islamic faith, PAGAD does not seem to be actively linking their faith to their vigilante goals. When considering PAGAD's goals as described above, one does not read the spreading of Muslim norms and values in it. This however does not rule out that individual members of PAGAD might have this 'hidden Jihad agenda'.

One could also argue that when one studies the organisation and the actions of PAGAD, that PAGAD members do not consider the state to represent 'their' interest of the eradication of gangsters and drugs as PAGAD deems properly.

One could thus argue that though the state system that poses the claim of representing citizen's interests would not be considered in this way by PAGAD (Abrams, 1988). What one can derive from a group like PAGAD is that though the state might pose the claim that the way the law is in South Africa is good, which Abrams (1988) would argue is based on ideology, PAGAD would not be in agreement with this. There is thus a conflict of ideologies of what is the best definition of 'the common interest'. One can consider that PAGAD would argue that killing drug dealers and gangsters is the best method to achieve certain goals. The state does not seem to share in this view. There thus is a collision between two ideologies of how this problem should be dealt with. One can argue that both actors would agree that it is a problem that needs addressing but their methods of enforcement are not similar.

As already described earlier, to answer questions on legitimacy, one can use many models. A relevant question regarding vigilantes is what the legitimating arguments of vigilantes are? What arguments do the vigilantes use to legitimate and 'defend' their actions? As mentioned above, gangsters are a big problem that causes a lot of insecurity in the Cape Flats. As a response to this; PAGAD was founded. A legitimating claim could be that it was necessary for the safety of the area that something had to be done. The residents appeared to have lost trust in the government and felt it had been 'enough' (Bangstad, 2005).

One could consider that PAGAD might have felt the situation lasted long enough to legitimize vigilante action and violence. Though it seems PAGAD started out as more an informative and protesting group that attempted to eliminate the insecurities through propagating awareness, it grew into a more and more violent group. One could argue PAGAD might have considered their tactics were ineffective which made them more aggressive and radical. This might also be used as a legitimating claim about their continuously more violent character.

It remains unclear how PAGAD justifies or gives meaning to the attacking of civilians whom disagree with their methods. Possibly they would legitimize their actions by stating that absolute support was needed for them to 'get the job done' and that citizens who spoke out against them were thus in the way of them achieving their goals. Or perhaps they considered these people to also be their enemies and 'part of the problem'. But there could also be many other reasons, their reasons do not become clear from the literature. What does become clear is that PAGAD's 'radicalization' made people scared to speak up against them.

As the rumours of hidden motivations to create an Islamic state are not 'official' pursuits, there are also not legitimating practises that can be defined. Of course, if this would be true, a legitimating argument could be that Allah is considered higher than the state; as they consider themselves to be defending and fighting for this higher cause. This higher cause would then be the spreading of (a certain take on) Islamic norms and values in society and with that be 'obeying the will of Allah'.

Again one can also look at certain actions and practises and how one might consider legitimisation and meaning in these. First of all, PAGAD started out as a group of people who were fed up with the violence in the area and therefore started to organise meetings. One could argue that these meetings somewhat symbolise the lack of faith these people had left in the government providing a solution. Though one could also argue their meetings were focused on the goal of eradicating gangsters and drug trade and thus that the state might not have such a central role.

Still it seems that this meaning of lack of faith in the government is part of it as this was defined in literature as a general 'atmosphere' in the cape flats. One might interpret these meetings as somewhat of a symbol of defiance towards the state to start having meetings to solve this matter.

One can also see some similar meaning in the information campaign of PAGAD. They started an attempt to rally a large number of people who were similar minded on PAGAD's goals. This could also be seen as a gathering of people in an attempt to fix a problem 'themselves', and this could be carry the meaning of an implicit defiance against the state. When PAGAD gave ultimatums to the government, this became more apparent. One could note that the meaning behind these actions (gatherings and protests) is them taking control and telling the state what to do.

The violence PAGAD uses is also very much focused on the killing of the people whom are responsible for the drug trade and those whom aren't as radical in their in achieving their goals as they are. It is remarkable that the citizens whom disagreed with PAGADs methods received the same 'judgement' as the drug dealers and gangsters. One could consider that the meaning of these killings might be connected to their goal to 'kill' the problems. One might also argue that if the bombings of certain 'Western' attractions are truly done by PAGAD, that PAGAD gives meaning to the Islam as the only just way of organizing a state. The meaning behind these actions could then be connected to the goal to destroy these other ideologies.

As with the Gulabi Gang, PAGAD also has an interesting dynamic with the state. As already defined above, the citizens had lost trust in the government. This thus implies that they first were in agreement (at least to a certain degree) with the states claims for authority but that this diluted because the citizens considered the state failed. Perhaps the vigilantes even had very high hopes because of the instalment of the ANC government. Their disappointment might have created a sense of legitimacy of alternatives. The problems with gangsters and drugs that the government did not solve also resulted in the loss of the states grip on the monopoly on violence. The legitimating argument by PAGAD could be that when the monopoly on violence is not used for the enforcement of justice and safety, it is not an accepted claim. As the monopoly on violence in this regard should serve to protect the people while in reality there an appeared to be great sense of lack of security. PAGAD has started to take up this claim for themselves. PAGAD also considered the laws in place to not be effective enough and demanded 'stricter' laws in the dealing with gangsters and drug dealers.

One could wonder whether PAGAD is challenging the sovereignty claims of the state. For many reasons one might consider this to be the case. PAGAD appears to have very little recognition for the state system as it is. They include the state merely to make demands and to make the government do what they want. If the government then does not listen to this, PAGAD turns to violent measures. PAGAD is quite a violent vigilante group and one might consider they are thus defying this claim of the state. This would be even more so if they, as some scholars claim, wanted to overthrow the government and create an Islamic state. This would mean total disregard for any of the claims this current government or any other government with a different paradigm than PAGAD might make. It would however not completely defy the sovereignty claims of the state system itself, but it does challenge its claim to be unconditional. So it would likely be accepted by them if it took a certain form. This thus means that unconditional sovereignty is challenged and preconditions are made in order for PAGAD to accept it. PAGAD appears to also defy the sovereignty claims because they are not in agreement with the claim of the state that it represents the common interest of citizens.

Though they might not be focused on this, one can argue that if one puts this claim of the state next to the actions and views of PAGAD, there is a collide between the two. In this sense one could thus argue that the claims of the state for sovereignty are being challenged.

This can also be related to Abrams (1988) in somewhat of the same way as the Gulabi Gang. These actors are not in agreement with how the drugs and gangsters are being handled by the state. Though the state is mentioned as an actor of which some things were expected, one could also keep the state out of the picture for a moment. As one looks at it this way, it could be argued that PAGAD is reacting to what they perceive as a problem in society, gangsters and drug trade. They perceive that there is a need to stop this and therefore they turn to action. The illusory common interest that Abrams (1988) defines as a claim of the state is also addressed. One could argue that PAGAD considers there to not be a proper addressing of gangsters and drugs and by their actions give meaning to their view.

# Chapter five – Discussion and conclusion

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## 5.1. Discussion

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The main objective of this thesis was to breach the knowledge gap on the relation between vigilantism and state failure, while especially focussing on its relation to the claimed sovereignty of the state. The focus also is to explain the difference between the vigilante groups that respond to crime and the alia-vigilantes and how this relates to the state.

As was mentioned before, the state claims authority and sovereignty to rule within an area. Concepts like state and failure of the state are not viewed the same by all and are used to made ideological claims. The theory of Silva (2013) and the analysis of Abrams (1988) were used to give direction to the answering of these questions. When one thus considers whether vigilantes challenge the sovereignty of the state, I am thus speaking of the *claim* of sovereignty. First of all, vigilantes can challenge states sovereignty claims by taking over the task of upholding the law. Vigilantes create their own law enforcement system and are thus not solely depending on the state for the enforcement of the law. The extent to which this law enforcement system challenges the sovereignty claims of the state differs per vigilante group, as became clear from the two cases. Vigilantism is often described as a reaction to the insecurity which is related to the interpretation that the state failed in what it was 'supposed to do' according to citizens. One could however also argue that they are responding to what they perceive is a lack of justice in society. Though one can analyse what role the state plays in these actions, it is also relevant to consider that what the vigilantes are trying to do is to meet a need for justice. As was explained in the analysis on the Gulabi Gang, one could consider that if the laws that the vigilantes take over are also part of state law, this might enforce their feeling of entitlement and create and incentive. Whether or how much this is the case would have to be studied per vigilante group. Abrams (1988) describes that the state carries out ideological meaning of a certain illusory common interest in its contours. One could argue that this 'common interest', which is thus a claim of the state, is being challenged by the vigilantes. Vigilantes detect certain dynamics in society what they perceive as injustice and they respond to that with a new law enforcement structure. One could consider that that is what Abrams (1988) would interpret as state failure; the non-ability to actually provide citizens the execution of their interests. One could argue that this is not even possible when one considers legal pluralism for example. Vigilantes are thus challenging the state in this way, whether they are aware of this or not.

Because vigilantes turn to violent actions they are, in different degrees, challenging its claims on monopoly on violence by taking over from the state. The general connotation that vigilantism carries is that this sovereignty that the state claims is at least conditional. These vigilantes are an embodiment of the message that the state in its current form has obligations towards its people. They can challenge the state by taking over when states are thus not able or willing to fulfil these 'conditions'. Acceptance of its claims is thus tied to certain preconditions, which differ per vigilante group.

There is however great diversity among vigilante groups, as already mentioned earlier. The amount of violence they use and the degree to which they are more or less challenging the states claims differs. When one considers the Gulabi Gang; they don't use a lot of violence and they also still try to 'use' the state system. When an offense has taken place they often first go to the police station to file a complaint. When on those occasions the government takes no action, they start taking action themselves in the form of quite 'minimal' use of violence. One could also consider that this challenging only relates to a certain establishment as opposed to the state system as a whole. Based on these interpretations one might argue that vigilantes challenge the state's systems claim of absolute sovereignty but not of conditional sovereignty.

PAGAD does not first go to the state to seek their assistance in a way that shows respect for the states claimed authority. They do go to the state but merely to threaten them to do something. Also when they turn to the state, they set up specific conditions of what the state should do in order to prevent PAGAD from turning to violent measures. PAGAD has turned to methods where they are dictating the state what to do. The difference here is that the Gulabi Gang is asking the state officials to perform a task that the state itself claims it will represent while PAGAD demands action based on demands and principles that PAGAD has defined. PAGAD is also a lot more violent than the Gulabi Gang. How vigilantes can challenge the sovereignty claims of the state by using violence will be discussed next.

Another way that vigilantes are thus (in some cases) challenging states claimed sovereignty is through the use of violence. Vigilantes that are setting up their own justice enforcement system apart from the state, often use violence to enforce this. This does not necessarily have to create more insecurity in the area, as became apparent through the case of the Gulabi Gang, but when the violence used by vigilantes is quite severe, like with PAGAD, it can cause more insecurity. This resulted from the fact that PAGAD also threatened and targeted civilians and state officials whom opposed their methods and because the police now also had to spend time on dealing with PAGAD instead of focussing primary on gangsters.

The Gulabi Gang uses less violence than PAGAD. The Gulabi Gang does not kill offenders; they consider the use violence to be a last resort to 'convince' offenders to change their ways. Another way the use of violence by vigilantes challenges the state system, is through the not abiding to the monopoly on violence claimed by the state. This entails that they are, in cases of perceived state failure or when they don't agree with the legal paradigm of the state, challenging the argument of the state that it has this monopoly on violence. This again entails that the vigilantes send the message that they are not in agreement with the claim that monopoly on violence is unconditional.

Vigilantes could also challenge states claims through them trying to enforce a different legal frame than the state itself. These are what I have called alia-vigilantes. The existence of legal pluralism in many states is not a new notion. There are many groups that have their own local, religious, sectarian or political believes. There are also many instances in which these groups peacefully coexist and are also not in conflict with the state system. Conflict arises when the people abiding by another legal system want to spread their view on justice to others through legal enforcement and violence. As for example became clear through an example of radical Muslims who want everybody in their surroundings, including the state, to abide by their legal system based on their faith.

Peacefully coexisting is not possible when multiple groups want to dominate and try to achieve this by using violence. Meaning that there is conflict about what good legal enforcement is, and by this the alia-vigilantes are challenging the claims of unconditional sovereignty as they consider another power to be higher than the state. These vigilantes are also revealing that though the state carries within its existence the claim of it 'being there' as a common interest, these vigilantes have a different way of defining what this common interest in practise should be. One could thus argue that this is a challenging of this claim.

Of course the other side to this story is that one always has to consider the context. Some vigilante groups are challenging the state more than others. One should also consider that states where vigilantes arise as a response to crime there probably already was a lack of confidence in the state. Though the vigilantes might then again contribute to it, they are then not the only cause of states claims being challenged. This is also because vigilantism in response to crime is often a symptom of the state not fulfilling what it claimed it would. As vigilantes are the reaction to what is already there, you could call them the whistleblowers of (certain interpretations of) state failure.

## *5.2. Conclusion*

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Vigilante groups are often related to failure of the state. Literature often described that as a consequence of states that do not fulfil the 'obligations' it has taken on, vigilantes take up new law enforcement strategies. These studies claim that these vigilantes have a degree of recognition for the state system but are putting more value on (what they describe as) the obligations of the state. One could however wonder whether the state always has such a central role. Though one can consider that the state possibly has certain influences on the vigilantes, it is possibly not so central as these studies presume. Vigilantes react to what they perceive to be a lack of justice done in certain areas of society. For the Gulabi Gang this applies to violence against woman and corruption and for PAGAD it is gangsters and drugs. The vigilantes are thus focused on these problems. Though the state might be an incentive or a discouragement for their actions, one needs to consider that these problems are likely the main focus of vigilantes. In this respect, one could define failure of the state as; the state does not represent the 'common interest' in a way that these vigilantes define it. Abrams (1988) defines this 'common interest' as a claim of the state and one could argue that vigilantes thus challenge these claims. From this it becomes clear that vigilantes are thus often defining the claims of the state as conditional. This implies that there are vigilantes who consider there are conditions to the rule of the state in which it is able to uphold its acclaimed sovereignty without them turning to action. The actual considerations of individual vigilante groups of course differ, but this is the general base on which vigilantism as response to crime exists.

There are also vigilante groups whom I have defined as alia-vigilante. These groups would likely challenge the state even more because they have a different paradigm on law and justice and want to see this spread in society. One can argue that these groups challenge the sovereignty of the state system as they define another 'ideology' (that a state is not obtaining) is be higher that of the state and more worthy of pursuit and execution. One could say that they are thus not only in disagreement with the general claim of the state that it is there as a common interest but they are also challenging the specific ideology that these states are obtaining.

Once again one could consider that if the state system would be in agreement with this other system (and carry this out as the vigilantes deem proper), they would likely not consider the state system on itself to be a wrong enforcement method. But as this is not the case, they thus take up these new methods.

This analysis also applies to the monopoly on violence. Vigilantes often use violence to enforce their newly created justice system which is thus contesting the claim of monopoly on violence of the state. The consequence of it is that there can be more violence and even less state control over the area, because of vigilante action. Vigilantes can through these dynamics thus be *contributing* to certain interpretations of failure of the state. This does not apply to all vigilante groups and also depends on the amount of violence that the vigilantes use.

Another main topic of this thesis was legal pluralism and alia-vigilantism. What these concepts reveal is that there are two sides to the existence of multiple legal orders within a state. There are states where multiple legal systems peacefully coexist. In those environments the state can still play an important role but there is also room for other legal paradigms. Alia-vigilantes want to spread and uphold their norms and values about justice within society. To achieve this they use violence or threaten to use it. The state is not able, and thus fails, to take up all these legal systems within its law. Abrams (1988) reveals that the state is upholding a claim that it represents a higher form of justice than these other groups. Alia-vigilantes go against these claims by turning to action to carry out what one could say they define as 'the best interest'.

One can thus make a distinction between crime fighting vigilantes and alia-vigilantism. It also became clear that often that vigilante groups can be a hybrid of both the 'crime-fighting' and the alia-vigilantes. Alia-vigilantes reveal that it is not merely the state that claims authority and has a legal frame it wants to uphold in society, alia-vigilantes have this same aim. Through the use and/or threat of violence they attempt to spread 'their' system in society. Whether this system is based on local, religious or any other kind of law and whether it 'makes sense' according to the Western paradigm or not, it is important to consider that these groups define 'their' justice as 'right' justice. One could consider that this is where the urge to rise in society and spread these norms and values comes from.

There are many different theories of how one can use legitimacy to analyse state and vigilantism. In this thesis, legitimacy is used as a descriptive tool in which different interpretations of the legitimating processes related to specific cases of vigilante action can be set out.

First of all, it can be concluded that vigilante groups with their own specific context and cause will also have their own legitimating arguments on the use of violence. These arguments might not even be easily comprehensible and understandable by someone of another culture because they are not always legitimating arguments based on 'reason', though they are sensible to the group themselves. There are some general conclusions that can be made that do apply more broadly.

Considering the *crime-fighting vigilante*, one could conclude that they often are reacting to a perceived injustice in society. This is often considered to be a result from what is defined as; failure of the state. As already described above it is these vigilante groups are often explained in this sense but it remains questionable how much the state really influences these vigilantes. It is described by scholars that the expectations that existed of the state to provide order and security based on the states claims for authority and sovereignty can cause frustration when it is not fulfilled. A general

legitimizing argument can then be that as the state did not fulfil this task, it should be done by another party. Though this might be possible, would these vigilantes not turn to action when the same need would be present but no state? What incentive is this interpreted failure for the vigilantes? More research would have to be done on this to be able to get a better grasp on the actual role of the state. One could consider that the presence of laws on issues that the vigilantes are addressing could be an incentive for the sense of entitlement of the vigilantes. If they attach value to the laws of the state this could be so. Vigilantes take matters into their own hands and might make the legitimating claim for the 'necessity' to use violence in this enforcement system. Whether the expectations towards the state were dominantly present by the vigilantes or not, one could say that the vigilantes consider there to be a need in society for justice that they feel has to be met. And as this is not done; they would likely legitimize taking up this justice enforcement strategies themselves.

Regarding *alia-vigilantes* one can conclude that they consider the legal system that is set by the state as not the 'right definition' of justice. They have a different legal paradigm they are trying to spread and enforce in society. They do not merely hold people in their own group accountable to these principles, but also apply this to other people by the use or threat of violence. Their legitimating arguments could take many directions, depending on the context. Similar to the 'crime-fighting' vigilantes, the *alia-vigilantes* want to spread justice in society in a way that they perceive it. These vigilantes perceive another source of law to be higher than the law as state defined it. One could thus conclude that the general overall legitimating argument is that what these groups perceive as justice is the higher goal which results into vigilante action and by which they legitimize these actions. Whether that is based on state, local or religious law or another existing view, it is the collide between the practical reality in society and the perception of what that reality should be according to vigilantes that leads to the manner in which legitimating arguments are defined.

Not merely arguments but also for example actions or items could carry legitimating meaning in it. To be able to study this properly it is important to be informed about the value these have to the vigilantes. It is therefore relevant to focus more on this in research in order to comprehend it better. One can see a certain degree of wholeness in the goals, arguments, actions and items that vigilantes have. This together represents how vigilantes give meaning to their definition of justice in their vigilante action.

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