The Governance of

Organised Crime in Chile

1990-2014

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PhD

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Politics

January 2016

Abstract

The redemocratisation of Chile set an important landmark for the governing of the country's security. Despite the initial effort undertaken by the democratically elected authorities to ensure the rule of law, the passing of time soon exposed the state's limited capacity for confronting the pressing risks that came along with more openness in the country. The perilous evidence of organised crime swarming in the country caught many of the country's public security actors unaware and thus confused regarding their response. A series of factors undermining an encompassing response to complex criminality were evident. Public security institutions lacked the knowledge, skills, and resources and, what is more, they were highly divorced from one another due to their previous experiences in delivering security within a dictatorship. However, and almost 25 years later, the governance of organised crime had been transformed into a complex engagement of policy dissimilar to that of early redemocratisation. Multiple public institutions, demonstrating a set of highly interconnected relationships, were able to engage in policy networks to put forth a series of security policy plans. This thesis aims to explore the scholarly relevance of such governance evolution by asking the following research question: how can we explain the governing relationships that Chile's public institutions have put up to confront organised crime since redemocratisation? This research project explains therefore how public security actors have been able to move away from inward and hierarchical patterns of policy action and develop instead horizontal relations that favour an inter-institutional style of policy-making. Through its empirical research, this thesis argues that Chile's state bureaucracies have been able to steer the governance of organised crime; however, not within the realms of a central unified authority, but through a set of self-governing institutions that, since the 1990 return to democracy, have gradually adopted norms, practices, and beliefs.

List of Contents

List of Tables

List of Figures

Author's Declaration

This work has not previously been presented for an award at this, or any other, University. Portions of Chapter 3 and Chapter 7 appear in C. Solar, (2015), "The inter-institutional governance of money laundering: an in-depth look at Chile following re-democratisation". *Global Crime*, 16(4), 328–350. The remaining parts of this thesis have been accordingly referenced or are the product of my own independent critical thinking.

Legend

- International boundary
- Expressway
- Road
- Railroad
- ★ National capital
- ✈ Major airport
- ⚓ Major port

0   100   200   300 Kilometers
0   100   200   300 Miles

Scale 1:18,950,000

PERU
Arequipa
Matarani
Tacna
Arica
Colchane
Iquique
Tocopilla
Calama
Mejillones
Socompa
Antofagasta

BOLIVIA
La Paz
Cochabamba
Santa Cruz
Oruro
Sucre
Potosí
Uyuni
Villamontes
Tarija

Lago Titicaca
Río Grande
Lago Poopó
Salar de Uyuni

PARAGUAY
Filadelfia
Pozo Colorado

San Salvador de Jujuy
Salta
San Miguel de Tucumán
Santiago del Estero
Catamarca
Formosa
Resistencia
Corrientes

Isla San Félix
Isla San Ambrosio

SOUTH PACIFIC OCEAN

Caldera
Copiapó
Huasco
La Serena
Coquimbo
Ovalle

La Rioja
Salinas Grandes
Laguna Mar Chiquita
San Juan
Córdoba
Santa Fe
Concordia
Paraná

ARGENTINA

Viña del Mar
Valparaíso
Santiago
San Antonio
Rancagua
Curicó
Constitución
Talca

Mendoza
San Luis
Río Cuarto
Rosario
San Nicolás de los Arroyos
Fray Bentos
URU.

San Rafael
Buenos Aires
Colonia
La Plata

ARCHIPIÉLAGO JUAN FERNÁNDEZ
Isla Alejandro Selkirk
Isla Róbinson Crusoe

San Vicente
Chillán
Concepción
Malargüe
Santa Isabel
Santa Rosa
Olavarría
Tandil

Temuco
Valdivia
Osorno
Puerto Montt

Zapala
Neuquén
Río Colorado
Bahía Blanca
Necochea
Mar del Plata

Río Negro

San Carlos de Bariloche
Ingeniero Jacobacci
Viedma

Isla Chiloé
Quellón

Esquel
Puerto Madryn
Rawson
Río Chubut

Puerto Aisén
Coihaique

Las Heras
Comodoro Rivadavia
Golfo San Jorge

SOUTH ATLANTIC OCEAN

Río Deseado
Puerto Deseado

Punta Yungay
Villa O'Higgins

Río Chico
San Julián

Río Santa Cruz

Puerto Natales
El Turbio
Río Gallegos

Stanley

Strait of Magellan
Punta Arenas
Porvenir
Tierra del Fuego
Ushuaia

Falkland Islands (Islas Malvinas)
(overseas territory of the UK; claimed by **ARGENTINA**)

Puerto Williams
Cape Horn
Beagle Channel
Islas Diego Ramírez

Inset maps

Isla Sala y Gómez (uninhabited)
105°21'54"
26°28'30"
SOUTH PACIFIC OCEAN
0   0.25 Kilometer
0   0.25 Mile

Easter Island
27° 0'
109°24'
Hanga Roa
SOUTH PACIFIC OCEAN
0   5 Kilometers
0   5 Miles

Isla Sala y Gómez
Easter Island
CHILE
ARG.
SOUTH PACIFIC OCEAN
0   1000 Kilometers
0   1000 Miles
PERU   BOL.

Pan-American Highway
Río Loa
Río Copiapó
Río Maule
Biobío
Río Salado
Río Dulce
Río Teuco
Río Pilcomayo
Río Paraná
Río Uruguay
Río Colorado

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1.

Introduction

On 17th December 2013, officials from over 20 public institutions met in the Palacio La Moneda, Chile's governmental palace, to launch the *Estrategia Nacional Contra el Lavado de Dinero y Financiamiento Terrorista* (ENLAFT). This policy plan was Chile's first national roadmap to counter money laundering from organised criminal activities. The policy highlighted an acute prognosis of various threats and risks in such matters, citing among other issues, that the main catalyst for the laundering was the drug trafficking occurring in the country, a causative trend common in Latin America (UAF, 2013; see also Thoumi and Anzola, 2010; Farías and Arruda de Almeida, 2014; Machado, 2012; Morris and Blake, 2010; Casas-Zamora, 2013; among others). Besides unveiling a glimpse of the state of the art in the country's rule of law, for matters of political science the ENLAFT also revealed that Chile's response to organised crime was the product of particular patterns of governance between security institutions. More specifically, its programme evidenced a fresh wave of public efforts, all pushing for a governing style reliant on networked relationships of knowledge and resource exchange. In that sense, the money laundering and the covert organised crime fuelling it appeared as a multifaceted phenomenon requiring joint action from public institutions. Such an appraisal of organised crime set up a puzzling question deserving closer attention: how did the ENLAFT become such a popular policy effort if public security institutions had traditionally shown little empathy for working together? It became perplexing how after two decades since the redemocratisation of Chile had occured, public officials had left behind unilateral and autarchic governing, instead embracing collective efforts to assess security. Following the 1990 redemocratisation landmark, only a couple of Chile's public bodies elaborated and executed security with little inter-dependence between them (Milet, 1997; Frühling, 1999). Nevertheless,

by late 2013, such governing processes had unmasked an unprecedented and continuing trend of institutional accommodation that allowed for a multitude of actors to break free from inward-looking rationales, eventually laying a common ground for crosscutting and encompassing organised crime policy-making (Ministerio del Interior, 2006, 2009, 2010; Tudela, 2010; Zúñiga, 2010; Dammert, 2013). For the purpose of this study, such evolving security arrangements are termed "the governance of organised crime". This approach depicts the inter-institutional relations that actors have engaged in to purposefully detect, prevent, and prosecute organised crime. Yet, such a particular pathway and its consequences for continuing democratisation have remained mysterious to scholars. It is against this backdrop that this thesis aims to study the following research question: **how can we explain the governing relationship that Chile's public institutions have developed to confront organised crime since redemocratisation?**

The past three decades of the governance of organised crime unveil a transition from independent-institutional governing, to one that scholars have termed as inter-institutional governing (Dupont, 2004). From the late 1980s to the early 1990s, policy-makers in the Ministry of the Interior publicly branded organised crime a low priority for security and executed policy through a secluded and administrative way. Until redemocratisation, no formal bureaucracy for confronting organised crime existed; in part, because the military dictatorship executed an iron-fist national security doctrine that exiled not only its political detractors, but also the threats capable of undermining the country's rule of law; these included drug trafficking and the organised crime that went unpunished up to the early 1970s (Huneeus, 2007; Fuentes 2004; Policzer, 2009; Fernández Labbé, 2009; Gootenberg, 2009). Once the army receded, the matter of organised crime was not seen as serious or with the same consequences for democracy, as it resulted, for instance, in other regional countries with a slightly longer period of redemocratisation, such as those in the Andean region (Dammert, 2009, 2012a, 2013;

Mares, 2009; Rospiglosi, 2008; Fukumi, 2003; Velázquez and Ayala, 2008; Carrión, 2007; Mainwaring, 2006). To the authorities, the phenomenon was merely associated with groups entering and distributing drugs through northern corridors connected to Peru and Bolivia, who were later caught (when possible) by police officials from either Carabineros, the militarised, uniformed branch or Investigaciones, the civilian investigative police.

As in industrialised nations, Chile had little systematic knowledge about crime and public policy (Tonry, 2011). The country's security institutions lacked deep knowledge of organised criminality, owned scarce resources, and recruited poorly skilled agents. Additionally, any traces of inter-institutional governance processes were limited to associations among bureaucrats inside ministries or within sporadic groups of the criminal justice sector. Such spontaneous and unsteady relationships meant policy makers could account for very few results in the fight against organised crime (Marcazzolo, 2008, 2013; GAFISUD, 2006). The overall somewhat blurry understanding of complex criminality amongst security institutions helped paint a picture of it as an unlikely threat to Chile's nascent socio-political order. Such a rationale was caused in part because of the blind belief in market opportunities and profitable revenues being more attractive elsewhere in the region. The governing scenario was therefore characterised by a sum of institutions that barely knew how to tackle a shady criminal experience, with corporate rationales dictating one-sided policy action.

Nevertheless, after over two decades of democracy, that approach evolved significantly and in 2000, the Public Ministry (the prosecutorial office, also known as *Ministerio Público*, or simply *Fiscalía*) came to replace the old justice system. Its attorneys (*fiscales*) became expert prosecutors whom shortly after put forth collaboration agreements with other security actors (Moreira Dueñas, 2012). In 2003, the Financial Analysis Unit, (*Unidad de Análisis Financiero*, UAF), was set up to prosecute money-laundering activities, later becoming the quintessential hub for policy between public and private institutions and eventually acting as the grand-

coordinator for the ENLAFT. The government reformed the Interior's ministerial powers and created new bureaucracies. Meanwhile, the policing bodies set up specialised units to confront the critical aspects of organised crime such as drug trafficking and money laundering, including later those lesser known aspects of it, such as cybercrimes and human trafficking (PDI, 2010; Carabineros, 2010; Tudela 2011).

Along with a change in the axis of government in 2010 - passing from the centre-left coalition, the *Concertación de partidos por la democracia* (or simply, *Concertación*), to the centre-right's *Alianza por Chile* (or simply, *Alianza*) - the issue of organised crime climbed into a more prominent place in the agendas of the institutional authorities. Sebastián Piñera (2010-2014) came to power with a provocative campaign to address criminality. Security was one of his most fierce criticisms of the *Concertación's* government. With a plea to curb complex criminality, Piñera promised restructuring and change for public institutions (Frühling, 2011; Dammert, 2013). The momentum for approaching organised crime was thus fueled by partisan stimuli, prompted by the arrival of the first centre-right government in five decades that came to coincide with the growing international outcry about crime in the Latin American and Caribbean sub-regions (Insulza, 2010; White House, 2011; UNODC, 2010; UNODC/WB, 2007; Tavares, 2014). Much of the organised crime self-awareness was in response to the transnationalisation of illicit activities that had placed new challenges on regional authorities in terms of facing the mobility of global networks of criminality (for transnational threats affecting Latin America, see Table 1.1; Albanese and Reichel, 2013; Garay and Salcedo, 2012; Wolf, 2010; Aas, 2007). Even though countries in Latin America did favour promoting their unilateral national defence and sovereignty, they came to recognise that the transnational problems had a better chance of being solved through cooperation within

16

Table 1.1 Scope of main transnational organised crime concerning Latin America.

Transnational Organised Crime Problem		Estimated Extent	Estimated Annual Value (Us$)	Estimated Trend	Potential Effects
Smuggling of migrants	From Latin America to North America	3 million entries (annual)	6.6 million income for smugglers	Declining	Irregular migration, vulnerability of migrants
Cocaine trafficking	From the Andean region to North America	309 tons (depart) 109 tons (at destination)	38 billion at destination	Declining	Addiction; drug related crime, corruption and violence in the Andean region; links with illegal armed groups in the Andean region; destabilisation and corruption in neighbouring states, Central America and Mexico
	From the Andean region to Europe	212 tons (depart) 124 (at destination)	34 billion at destination	Stable	Addiction, drug related crime and violence, destabilisation and corruption in Andean countries, the Caribbean and West Africa
Trafficking of firearms	From the United States to Mexico	20,000 weapons (mostly handguns)	20 million	Stable	Rising deaths in Mexico's drug cartel wars

Source: Own construction based on UNODC (2010).

the region as a whole, or within subsets of countries, according to geographical and issue areas (Mares, 2012; Shaw, 2014).

Public officials across the region realised that there was little understanding of this phenomenon. The reality showed a growing feeling of anxiety towards criminal actors, imagining them sucking up public and private resources to create illegal economies, corrupt state institutions, and operate outside the social order (LAPOP, 2010; Solís and Rojas Aravena, 2008). Such a critical scenario pushed institutional authorities to solicit one another on how to

tackle organised crime. In Chile, the authorities acknowledged the unsuitability of the existing policies, and the pressure inflicted by international bodies, urging for a more comprehensive approach (GAFISUD, 2006, 2008; Interior, 2009, 2010; UNODC, 2007, 2010). What is more, and a factor that deserves greater preliminary explanation, the countries' institutions were able to move into action, following more compelling evidence of criminal groups acting in the country.

1.1 Redemocratisation and Organised Crime

As society evolved following redemocratisation, so did the opportunities for criminal activity. While the country moved fast towards an open market economy, the deterrence to human and resources' mobility was brought down, with Chile soon joining what others have described as "the map of the global criminal economy" (Varese, 2006). It was considered that by the twenty-first century, worldwide, organised crime and its transnational version had created "an unprecedented dimension, both geographically and in terms of power" (Carrapiço, 2010, p. 19). Criminal groups quickly adapted to the environment bought about by redemocratisation and its political, economic, legal, and social junctures. Illegal groups managed to make a deal out of every imaginable form of profitable business that in past decades had been technologically impossible. The drug trafficking, cigarette counterfeiting, arms trafficking, and credit card cloning became just a sliver of the manifold skills carried out by these illicit and entrepreneurial criminal organisations. They also became more violent, gaining access to weapons, while corruption became one of their chosen means for evading or colluding with public officials. Back in Chile, these various forms of criminality had also become more evident, despite the political authorities' offering a soothing discourse on public security (Dammert, 2013).

In August 2013, the police raided the biggest drug laboratory yet to be found in a farmhouse in central Chile. Here, local and foreign citizens were extracting half a ton of cocaine paste previously brought from Bolivia, a cargo with a market value of US$15 million. In order

to persuade foreign drug producers to send over enormous amounts of dope, drug-traffickers agreed to trade one of their relatives or personal friends as "proof" that they would return the invested capital (Duarte, 2013). This type of evidence did not only expose the confidence that narcotic dealers had in the potential business, but also, the huge motivations for pursuing a criminal enterprise that translated into greater income. In late December 2012, Fabían Gálvez, the most wanted drug-trafficker in Santiago at that time, was captured. He was 31 years old and had grown up in Europe operating as a thief. His estimated personal assets were over US$2 million, a sum hard to put together since most of his money was scattered amongst property and belongings in the name of his family and acquaintances. He spent holidays in Spain, and in San Alfonso del Mar, a beach-side resort in Chile's central coast; as a fan of horse racing, his children were given five thoroughbred horses (Lezaeta, 2012). Most knowledge about the activities and characteristics of what has been described as "organised crime" came as processed information once the criminal justice system had categorised it (this point is discussed elsewhere, for example, in Hobbs and Antonopoulos, 2014). The mainstream press also took on an important role in the dissemination of organised crime activities in the country (see this discussion in Chambliss and Williams, 2012). Through printed articles and TV coverage, other criminal organisations, such as the "Cara de Jarro", the "Los Gaete", and the "Cara de Pelotas", became widely known to the public. In late 2012, a month before the capture of Gálvez, the police pulled off its largest yet drug seizure from a warehouse near the Lo Valledor groceries market in southern Santiago. After six months of investigation, the police arrested an organisation made up of both Bolivian and Chilean citizens. They were using cargo trucks loaded with onions to hide over 1,700 kilos of drugs while moving it from the northern border crossings to the city of Santiago, a trip of nearly 2,000 kilometres, using the country's main freeway (La Segunda, 2012).

Illegal cigarette trafficking had, by then, become the fourth illegal type of commerce entry in the country, behind drugs, arms, and human trafficking. Truck drivers crossed through the Los Libertadores crossing making their way from Mendoza, Argentina, a city at the other end of a route widely used for the transport and trade of goods. In two trucks, traffickers could freight up to 800,000 falsified cigarette boxes worth US$4 million. Cargos also arrived in the seaport of San Antonio, and through Chile's Norte Grande, the desert region bordering Peru and Bolivia and where uncontrolled crossings abound. The smuggling included the use of multiple people taking roles in shipment, transport, safekeeping, distribution and sales. Evidence suggests also that networks of corruption between traffickers, police and custom officials facilitated the entry of these and other illegal goods (Lezaeta and Rivera, 2013).

At the same time that the Lo Valledor case was in the public eye, ten detectives were accused of threats, torture, illicit enrichment, and providing protection for drug lords based in the working-class suburbs of Santiago. Soon after that, the misdeeds of another criminal organisation, the so-called "Banda del Cabezón", became public. Behind a sushi-food delivery façade, cocaine was being distributed among well-accommodated clients in eastern Santiago. A jailed convict, Leonardo Silva, led the band along with eight direct lieutenants. They managed their illicit business through various safe houses scattered across the city. In one of them, armed narco soldiers had a Japanese garden valued at US$40 thousand (Morales, 2012b). Imprisoned drug lords had proven their ability to exert systemic infiltration and manage an important portion of the organised crime in Chile, a trend evidenced elsewhere in the region (Macaulay, 2007a; Bailey, 2012). Law enforcement officers were seen to collaborate in both drug trafficking inside the penitentiary system and facilitating the coordination needed between the convicts and their criminal contacts on the outside.

When compared with the rest of the region, Chile's exposure to organised crime can be depicted as twofold. On the one side, the country enjoys a distinguished position in the

Americas' Southern Cone, with enhanced political stability, burgeoning financial and commercial markets, and a consumerist living standard (Oxhorn, 1999; Garretón, 2003; Mardones, 2008; Garretón and Garretón, 2010). The country also has one of the lowest homicide records, with 3.1 cases per every 100.000 inhabitants (UNODC, 2013); meanwhile, the victimisation of corruption and the perception of organised crime remain low when compared with the rest of the region (see Table 1.2). Additionally, the authorities have managed to maintain the political and security institutions, keeping them partially clean from any serious permeation of organised criminality, while the society is only minimally supportive of informal conducts such as bribery or the collusion between criminal groups and law and security enforcers when compared regionally (Luna and Zechmeister, 2010; Barómetro de las Américas, 2012; Solar, 2015c).

On the other hand, once the dictatorship ended, the curtains that had shut out various critical areas of underdevelopment were opened for a criminality that laid its foundation in pockets of poverty, vulnerability, and inequality (Frühling and Sandoval, 1997; Dammert and Malone, 2003; Dammert, 2013). As elsewhere in the region, Chile's post-redemocratisation rule of order remained as one of the unresolved contending issues in the public debate agenda (Whitehead, 2002; Hinton, 2006). Fear of crime has become widespread in social groups, leaving democratisers to react by extending resources for security institutions and publicising major plans to tackle criminality, that, up to a point, have kept levels of victimisation low when looked at comparatively (Frühling and Gallardo, 2012). While political authorities have disregarded its presence, ground level security actors have shown great concern about organised crime growing so fast and so extensively (Góngora Vargas, 2007; Segovia, 2013; OIM, 2008; Dammert, 2012a).

As a common tendency across countries in the region, little is known about rates and trends for many of the ordinary type of offenses, including: cybercrime, environmental

21

Table 1.2 Crime, rule of law, and perception of organised crime in Latin America.

	Intentional Homicide Per 100,000[1]		Perception Index[2]		Victim Of Corrup- Tion[2] (%)	Support For Rule of Law[2] (%)	Percep- tion of Org. Crime[3]
	1995	2010	Victimisation (%)	Corrup- tion (%)			
Argentina	7.8	5.5d	26.2	78.6	23.5	55.5	4.2
Bolivia	6.5a	8.9	26.2	74.2	32.3	56.4	4.2
Brazil	25.7	29.9e	15.8	65	23.6	70.3	3.9
Chile	3.2	4.5f	16.7	68.1	5.2	55	5.8
Colombia	69.7	33.4	20.5	78	10.4	63.8	2.5
Dominican Republic	12.7	24.9	16.5	77.6	17.5	67.3	4.1
Ecuador	13.4	21.7	29.1	73.9	21.1	45.5	4.3
El Salvador	139.1	66	24.2	64.6	11.4	47.4	2.2
Guatemala	32.5	41.4	23.3	75.5	21.2	61.6	2.2
Guyana	15	18.4	9	78.5	17.1	-	-
Honduras	42.1b	82.1	14	70.4	16.2	54	3.2
Jamaica	31.7	52.1	10.1	81.7	7.8	76.7	-
Mexico	18.4	21.5	25.9	76.3	35	61	2.9
Nicaragua	15.2	13.2	19.2	67.5	12.1	54.2	4.4
Panama	14.1	21.6	11.3	76.2	9.4	62.9	4.5
Peru	5.5	3.0f	31.1	79.4	32.0	49.5	4.3
Uruguay	6,4c	6,1	20.9	62.1	7.3	51.6	6.4
Venezuela	20,3	49d	26.2	76.1	18.5	72.9	3
Average	38,3	27,9	20.3	73.5	17.8	59.1	3.8

Source: Own construction based on UNODC Homicide Statistics Data 2010 (a2005, b1999, c2000, d2009, e2008, f2007)[1]; Barómetro de las Americas LAPOP 2010[2]; World Economic Forum 2010[3]. Business executives were asked on a scale of 1 to 7 if organised crime (e.g. mafia-oriented racketeering, extortion) in your country: 1= imposes significant costs on businesses, 7 = does not impose significant costs on businesses.

crime, tax-evasion, and drug-trafficking (Macaulay, 2007a; Tonry, 2011). Even though anecdotal and journalistic reports suggest that most of these behaviours are becoming common across the globe (Tonry, 2011, p. 6), for the Chilean authorities, there is some complexity in visualising the real extent and composition of the country's organised crime.

As well, particular issues associated with assessing organised crime have raised awareness about Chile's society taking a leading role in demanding services that mean a

profitable business for illegal actors. Drugs, cigarettes, firearms and stolen goods, ranging from cars to credit cards, are offered on black markets where most consumers are people who would regard themselves as honest and upright citizens. The feeling is that normal citizens have in part become the enablers of organised criminality (Finckenauer, 2011, p. 307). Indeed, organised crime cannot operate in a social vacuum. It relates to its social environment through constant and evolving interactions that blur the differences between consumers and suppliers in legal and illegal businesses (Kleemans, 2014, p. 38; Morselli, 2009; Arias, 2006). This point reflects a debate among criminology students as to whether organised crime should be dealt with as an external threat that endangers society and citizens, or whether it is the result of individual demands for illegal products and services (Carrapiço, 2012; Finckenauer, 2011). The first understanding demands a full criminalisation response, while the second calls for tailor made solutions that address "the roots rather than the symptoms of the problem" (Carrapiço, 2012, p. 27).

Taking this line, the question that drives additional examination is how organised crime is incubated in Chile and what fault lines have therefore been exposed among the institutions that confront it? In her study of Brazilian criminality, scholar Fiona Macaulay (2007a), argued that Latin American countries have failed to address complex crime because of a lack of reliable knowledge regarding security institutions, as well as the unintended consequences of the "active" or "passive" policy choices made by decision makers. Macaulay suggests a reality which Chile, when compared to the rest of its neighbours, has yet to divert from, a: "lack of reliable empirical data (both quantitative and qualitative); police forces that are institutionally fragmented, perform poorly in terms of crime fighting, corruption and human rights protection and yet are resistant to change; and a neglected prison system" (p. 629). When looked at against such a scenario, Chile remains a constant puzzle. It is a country with a relatively small population, a little over 16 million inhabitants. The concentration around the metropolitan

region of Santiago has favoured the management of the criminal justice sector, allowing it to be relatively well connected. The country has also been able to avoid issues of hierarchic and autonomous layers of security agencies because of its unified state nature rather than federal type such as in Argentina, Mexico, or Brazil. What is more, and as has been evidenced elsewhere in the region, the challenge of complex criminality has motivated the growth of a diverse and enthusiastic criminal policy community, including institutions from different levels of government as well from outside it and where recent policy consensus has enabled a thorough response (for a discussion in the case of Brazil, see Macaulay, 2007a).

Belonging to multiple policy areas, Chile's public institutions have come to brainstorm action guidelines to improve and update their knowledge on the matter of organised crime. In order to understand how different security institutions have looked out of their boundaries and built novel relations to assess organised crime, the next section introduces a set of academic tools that will allow this research to theoretically address the empirical concepts surrounding what was first introduced as the governance of organised crime and how it has been evidenced through the process of redemocratisation.

1.3 Governance, Policy Networks and Institutions: A Common Dialogue

This thesis's research question aims to explore how Chile's public security actors have engaged in policy action to control organised crime since the 1990 return to democracy. In order to understand such a puzzle, this section will introduce three explanatory frameworks: governance, policy networks, and historical institutionalism. By combining these three approaches, this thesis's main argument will advance our knowledge in at least two ways. First, by merging three theoretical approaches that tend to run in separate ways when doing political sciences, and second, by bridging them with the subject area of security policy-making. In that vein, these lenses provide a useful theoretical background for reading the particularities of the governance of organised crime in Chile. The first ideas will be introduced briefly in this section,

whilst finding a greater echo and more thorough discussion in subsequent chapters of this thesis.

First, it seems necessary to conceptualise the idea that public actors have carved and exercised a particular governing motion, identified so far as the governance of organised crime. By using an Anglo-Saxon governance approach, meaning the study of formations, experiences and responses to governing dilemmas, the aim is to explain the engagement of inter-institutional relations between actors evidenced since the 1990 landmark onwards. Such an understanding is helpful as we explore how policy institutions relate within the context of policy-making. Even though the governance approach evokes a deeper debate (reviewed extensively in Chapter 2), the term "governance" is hereinafter understood as the steering processes, means, and capacities for addressing the collective goals resulting from the interaction of different actors. Such governance is characterised by scattered and horizontal relations between participant members (Peters, 2014) and it refers mostly to the new practices of governing and the dilemmas under which they arise (Bevir, 2011). The patterns of these governing practices are characterised in the literature by being multi-jurisdictional and able to include people from different policy sectors. The openness and permeation of policy-making are two essential characteristics noted when addressing the governance of organised crime in Chile. The country's governing of criminal issues suggests that political, judicial, and economic actors, among others, are constantly stressed to provide collaborative policies that confront drug trafficking, money laundering, violence, corruption and black markets, among other offences. The governance literature would usefully suggest then that against such a policy-making scenario, the governance of organised crime could be better studied by assuming the idea that groups of interdependent actors are contributing to the production of public governance occurring through networks engagements (Torfing, 2012; Sørensen and Torfing, 2007; Kjaer, 2004; Enroth, 2011). When using the particular idea of network governance for policy-making,

however, a few subtle appreciations are called for. Despite the emphasis of scholars such as Eva Sørensen and Jacob Torfing (2007), in terms of the governance of organised crime in Chile, patterns of hybrid-style governing do not appear as strongly as the literature suggests when defining network governance since such an idea tends to also encompass the active role of both non-profit and private actors. To address this point, scholars have suggested using the governance approach in close relation to the particular role of the state (Marsh and Rhodes 1992; Börzel, 2011). Most of the governance of organised crime in Chile is still largely controlled by agencies from the public sector, with limited and mostly consultancy interventions from non-state actors. This rationale thus follows a trend of governance studies that scholars have suggested elsewhere (Rhodes, 2012; Matthews, 2012). In principle, it drives away the argument that network governance can be a result of a "decline" in the hierarchy state. What is more, the research in this thesis suggests that the governance of organised crime in Chile might even find a greater echo in the "adaptation" of the state as a way of reacting when delivering policy in light of societal complexities such as the one posed by organised crime (Lynn, 2011, 2012; Pierre and Peters, 2000; Bell and Hindmoor, 2009). This scenario departs from what occurs in the developed world, where security is legitimately dispersed through the hands of public and private actors, with the network governance approach seeming to encounter fewer obstacles (Zedner, 2009; Wood and Dupont, 2006; White, 2010; 2012; White and Smith, 2014). This point deserves additional exploration.

The network governance literature focuses on the engagement of institutions that are capable of making and implementing policy in the absence of a top-down authority (Sørensen and Torfing, 2007; Hertting, 2007). Thus, to talk about the governance of organised crime in Chile happening through networks seems to be theoretically inconsistent. Nevertheless, this thesis builds its own theoretical path by saying that even though the governance of organised crime happens under the umbrella of state authority, the multiplicity of members involved in it

has broken the strict hierarchical processes that the literature emphasises, forming instead purposeful horizontal interactions. This motion is defined as the movement from government to governance.

Such an understanding of the idea of governance casts a new light on matters important to security studies. In this vein, the thesis turns its attention to what scholars in the field of criminology studies have emphasised as security network governance. Benoît Dupont (2004) calls a security network "a set of institutional, organisational, communal or individual agents or nodes that are interconnected in order to authorize and/or provide security to the benefit of internal or external stakeholders" (p. 79-82). Even though multiple patterns of security networks can appear in the field of security governance, this thesis finds an echo in the institutional network type of governing as most representative for the Chilean case. Dupont (2004) explains that institutional networks for security are a form of governance that have as their explicit purpose "the facilitation of inter-institutional bureaucratic projects or the pooling of resources across government agencies" (p. 80). These networks feature a more inward-looking approach and are relatively closed to outside actors. In Chile's case, the institutional network approach is a good explanatory theory for unravelling how the pre-existing institutional networks within government were limited and seldom linked; however, as democracy rooted they became able to combine their efforts in designing "new nodes" through the circulation and sharing of resources. Such ideas are similar to what Dupont (2004) observed in developed countries such as France and Australia, and what others have found in developing countries such as South Africa (Cawthra, 2010). However, this approach is in part desirable since the cooperation between actors is not always as fluent as asserted by the literature. Empirical evidence collected from the Chilean case indicates that institutions, especially security ones, are reluctant to share much information as they want to guard their resources, and in some cases, become belligerent, one with the other. In that vein, arranging policy through

an institutional network type of governance seems to have created a paradox for public security actors. Chile's security actors tend to work more productively when their manner is inward rather than outward. Public security institutions are vertically large bureaucracies where the space for networked governance to happen is created mostly when institutional representatives are empowered with the legal and political powers to do so. A look at the governing reality, on the other hand, tells us that because of organised crime's manifold nature and the impossibility of it being confronted by a single state body, Chilean authorities and its larger political context were swiftly driven towards an institutional networked approach when trying to change ways to confront organised crime. This change in approach was viewed as the most appropriate motion as many actors across the state apparatus needed to be involved.

States do not have a unified set of interests but rather different institutions that proclaim multiple interests for developing policy (Smith, 1993, p. 48-50). Institutions therefore can build relationships among themselves by overcoming their differences and conflicting interests. Conflicts of consensus and beliefs surrounding policy problems are normal because they are intrinsic to how each state institution advocates for a series of interests. The quintessential point, however, is the desire to find an agreement on which to hang a similar view of what policy issues to put forth. Crime policy is known for being contested and complicated. Regardless of there being many institutions involved, there are also many kinds of crimes, ways to depict them, understand them, and mostly, different ways to deal with them (Tonry, 2011, p. 5). Organised crime sophistication and complexity makes such policy-making even more difficult (Finckenauer, 2011, p. 309). The challenge for organised crime governance is to eventually find a level of agreement between the many state institutions involved in its assessment. Such an endeavour poses a second leap in the theory embraced by this thesis: how did a number of participants, whose values and consensus as to the outcome of the policy were different and disputed, arrange to interact successfully in matters related to organised crime and

its policy-making? The governance approach described so far finds an exploratory framework that overlaps with the policy networks literature in very enlightening ways (Blanco, Lowndes and Pratchett, 2011; Griggs, Norval, and Wagenaar, 2014; Klijn and Koppenjan, 2012). Policy networks are understood as the means by which to categorise the relationships between groups and the state. For the legitimacy of a certain outcome, institutions share resources and have basic relationships of exchange through a positive sum game of power (Marsh and Rhodes, 1992, p. 251). Scholar Martin J. Smith (1993) proposes that networks exist where there is some exchange of resources leading to "the recognition that a group has an interest in a certain policy area" (p. 56). Thus, by using a policy networks approach, this thesis focuses the aim of its research on those institutions that have, since redemocratisation, formed a very particular and powerful policy community to confront organised crime. Such actors are the ones prosecuting crime and comprise: the Ministry of the Interior, the Public Ministry, the policing institutions (*Carabineros* and *Investigaciones*), and the Financial Analysis Unit. Figure 1.1 shows these institutions in 2014, regarding the governing level at which they act, and also their indexation in this thesis. The Ministry of the Interior elaborates and steers policy at the ministerial level, giving guidelines to the *Carabineros* and *Investigaciones*. The latter two are the ground level policing hands of the government, with their own corporate independence for determining and assessing plans to confront criminality. The UAF, another enforcing body, depends hierarchically on the Ministry of Finance; however, it is a semi-autonomous institution with ample legal powers in the making of economic intelligence. The Public Ministry is the sole criminal prosecution body with complete autonomy and independence from politics and any other societal actor. The rest of the scenario is joined from above by institutions such as regional multilateral institutions, international finance institutions and foreign governments; and from below, by those semi-autonomous overseeing institutions

Figure 1.1 Organisational chart of the prosecution policy community.

Foreign Actors	Multilateral Institutions (OAS, UN, IDB, etc)	International Forums (FATF, Interpol, etc)	Foreign Governments
Executive		Ministry of the Presidency	
Ministries	Interior Chapter 4	Others (Defence, Foreign Relations).	Finance
Enforcement Actors	*Carabineros* Chapter 6	*Investigaciones* Chapter 6	UAF Chapter 7
Independent Actors	Overseeing Institutions	*Ministerio Público* Chapter 5	Civil Society

Source: Own construction.

such as various superintendence for economic and financial matters, as well as groups from civil society.

To focus this thesis on the study of the prosecution policy community helps with the study of at least two relevant but currently under-researched aspects of Chile's transition to democracy. First, its participants comprise the most resourced and equipped institutions that have come to assess organised crime. Despite their vital role, however, there has not been an updated account that explores how they have confronted organised crime, that is, in terms of setting up a policy network. Previous studies of these institutions have set their remits individually and are delimited, thus taking little consideration of the broader governance

occurring among them and outside their jurisdictions. Consequently, focusing on the prosecution policy community expands this thesis's cumulative knowledge by capturing stories that transcend one single policy arena. By scrutinising the institutions that represent the government, the criminal justice system, the enforcers of law and the financial overseeing sector, this thesis's narrative combines different paths for how policy has been stablished, both within these policy sectors, and also in relation to their surrounding political setting. Also, for matters of future research, to focus on the prosecution policy community is advantageous since it sets a benchmark for inter-country analysis regarding similar governance patterns occurring elsewhere. Chile's prosecution policy institutions have similar institutional counterparts both in and out of the region, therefore, such analysis encourages future research to be done in systematic and comparative terms.

The 2013 ENLAFT policy programme has become central to contextualising the prosecution policy community within the broader governing arrangements that this thesis calls the governance of organised crime. In order to become operational, the ENLAFT set up three policy networks with members sharing matters related to the issue of organised crime, each addressing its prosecution, prevention, and detection (presented in Table 1.3). Such sub-categorisation of the broader issue area of crime and security in smaller subsets of actors, or policy communities, suggests that the crime and security policy sector narrowed down in order to concentrate on the particularities of each policy network. Overlapping the governance approach with the policy network literature enhances the study of the broader governing patterns that describe membership and resource distribution, and, what is more, accounts for the evolving practices that policy networks can engage in (Börzel, 2011). Chile's organised crime prosecution policy seems to fit well with this conceptualisation; nevertheless, a few words on this point will make the sketch clearer.

Table 1.3 Types of policy communities in the governance of organised crime.

Prevention	Detection	Prosecution
Central Bank of Chile	Comptroller General	Ministry of the Interior and Public Security
Superintendence of Banks and Financial Institutions	Carabineros (O.S.7.)	Public Ministry
Superintendence of Casinos	Carabineros (O.S.9.)	Carabineros (O.S.7.)
Superintendence of Pensions	DIRECTEMAR (Navy)	Carabineros (O.S.9.)
Superintendence of Social Security	Policía de Investigaciones	Policía de Investigaciones
Superintendence of Securities and Insurance	Internal Revenue Service	Financial Analysis Unit
Financial Analysis Unit	Customs National Service	
Ministry General Secretary of the Presidency	Ministry of Defence	
Ministry of Foreign Relations	Ministry General Secretary of the Presidency	
Public Ministry	Ministry of Foreign Relations	
	Financial Analysis Unit	
	Public Ministry	

Source: UAF (2013, p. 53, 59).

Following the policy networks and issue networks typology debated by David Marsh and R.A.W. Rhodes (1992), this thesis argues that to approach the governance of organised crime as a larger issue does not deliver a representative understanding of this thesis's research paradigm. It does not do so because issue networks are conceptualised as a larger group of participants with a wider range of interests, showing less compromise and willingness to outcome continuity and agreements. Therefore, its study would not capture the essence of explaining, for instance, how the resource exchange-driven type of governance evidenced lately in Chile has been possible, neither what institutions have been involved or what parts such pertaining actors have played across time. By looking explicitly at the prosecution policy network, this thesis is better able to account for the life-existence of such a group and its role in the policy outcomes of the governance of organised crime. It is important to start the empirical study of organised crime in Chile in this way partly because the four institutions that take part in the prosecution policy network are those that have confronted organised crime the

longest and with greater emphasis, before and after redemocratisation (Milet, 1997; GAFISUD, 2006; Dammert, 2013; UAF, 2013). It will remain a matter of future research to examine the case study of the prevention and detection policy networks.

The emphasis put on prosecution policy institutions sets up a third theoretical debate that needs to be intertwined with the explanatory framework explained so far. Because the governance and policy network approaches are providing with range (to explore the broad governing context of the redemocratisation), and scope (to study two and a half decades of inter-institutional governing processes), it is still necessary to conceptualise the institutional features that have enabled the governance of organised crime to occur. As will be shown in the subsequent empirical chapters, Chile's governance assembling responds, both in form, and in substance, to the country's very own set of established institutions, and most importantly, the structures, rules, and proceedings that shape these institutions' autonomous political lives (March and Olsen, 2009). To debate this point, this thesis seeks to particularly explore the prosecution policy institutions and their relations in the bigger context of Chile's redemocratisation. To do so, it draws particularly on the historical institutionalism lens embedded in the "new institutionalism" developed by modern political science (March and Olsen, 1989; Steinmo, Thelen, and Longstreth 1992; Rhodes, 1995, p. 53-54; Peters, 2011b, 2012; Lowndes and Roberts, 2013). This approach seeks, in the words of its exponents, to "elucidate the role that institutions play in the determination of social and political outcomes" (Hall and Taylor, 1996). What is more important for this investigation, however, is that historical institutionalism emphasises research at the national level, and in so doing, goes beyond the organisational level of the "sociological approach", or the individual level of the "rational choice" approach. Such a lens thus allows us to focus on the case study of organised crime governance on a national scale and over a significant amount of time. Indeed, historical institutionalism encourages doing empirical work in order to examine "the unfolding

relationships between the formation and implementation of public policy and the large collective bodies" (Lowndes and Roberts, 2013, p. 38).

The historical approach might not be crystal clear when referring to what an institution actually is. However, this point can certainly be taken as an opportunity. Scholar B. Guy Peters (2011, 2012) explains that proponents of the new institutionalism have "vaguely" answered the question of what is an institution. Academics have defined institutions both as formal common sense organisations such as legislatures or bureaucracies, but also as ideas that do not need to be corporeal nor embodied in a certain particular organisation. For the purposes of this investigation, the particular viewpoint of Vivien Lowndes (2002) on what guides the focus of the "new institutionalism" adds helpful explanatory power. For instance, rather than thinking about Chile's security-related institutions only as fixed organisations, the research sheds light on the decision-making processes, the procedures, the formal and informal rules, as well as the conventions that deliver a more fine-grained and realistic picture of what motivates and constrains political behaviour and decision-making between security and other political institutions. Because it is evidenced empirically that the policy-making of organised crime in Chile includes the participation of various public security actors, historical institutionalism helps us understand the relations among various branches of government and the state, and more specifically, their struggle for power, privileges, and resources (Thelen and Steinmo, 1992).

This latter theoretical puzzle leads to another essential debate about how institutions move into policy action and thus approach organised crime. The evidence suggests that there is little consensus and much debate between policy makers and security enforcers about the real nature of organised crime (Finckenauer, 2005; Wright, 2006; Zoutendijk, 2010). Chilean legislation does not provide a straightforward figure for organised crime in its criminal code. Rather, it delivers a definition for an "illicit association", a legal framework that law

enforcement agencies have used sparingly since redemocratisation when they are building a case against suspected organised criminals. It is defined in the Criminal Code as: "any association formed for the purpose of undermining the social order, against custom, against persons or property, is a crime that exists by the mere fact of organising" (Chile. Código Penal, 2013, p. 67). Even though the Chilean state is a signatory of binding international agreements, such as the United Nations (UN) Palermo Convention on drug trafficking and organised crime, countries tend to combat organised crime in different ways because their legislation for such matter responds to how domestic laws and policy initiatives have been configured (Sergi, 2015). In an unwanted paradox, countries are bound to their own national frameworks, whereas transnational organised crime finds less difficulty in moving across borders, taking advantage of inconsistencies and less risky jurisdictions (Wheatley, 2012, p. 77-78). The lack of a clear-cut definition in Chile has meant that security actors take action on organised crime using a blurry notion of what complex criminality actually implies. Since redemocratisation, Chile's institutions have assumed that organised crime is a distinctive phenomenon that enjoys the figure of a leader, structure and the division of functions, as well as some continuity in time. They have moved into action taking such features as commonalities to consider when arranging policy. Features such as leadership, structure, continuity and others, are commonly found in the criminology literature. Some authors have included other factors when defining it such as the threat and use of violence, ideology, restricted membership, as well as the use of extortion and corruption (Abadinsky, 2003; Albanese, 2000; Buscaglia and Van Dijk 2003; Carrapiço, 2012; Finckenauer, 2011; Findlay, 2008; Hagan, 1983; Von Lampe, 2004; Wright, 2006). As James Finckenauer (2005) explains, "how organised crime is viewed, perceived, and taken seriously, we should understand how countries shape efforts to combat it" (p. 68).

For conceptual purposes, this thesis broadly defines organised crime as involving the "continuing groups that monopolise illegal enterprise through violence and threats and enjoy

immunity of operation through corruption" (Hagan, 2006, p. 133). On the other hand, it must be said that rigid definitions for organised crime have long been problematic, not always reflecting how criminal phenomena may appear in any specific context. In fact, it has taken decades of effort for the academic world to reach a consensus regarding such a definition (Hagan, 2006, 1983; Albanese, 2000; Wright 2006; Finckenauer, 2005; Von Lampe, 2006; Levi, 2007). This thesis puts forward then that to better understand its governance, the phenomenon under study must remain in part free of a regimented theoretical approach. Thus, the use of the latter perspective allows us to approach how, with an open mind, governance can be seen to be constructed from a series of different conceptualisations, for instance, regarding how it is framed in law, how its prosecution has been conducted, how research studies have been done and how mutual prosecution across national borders has developed over time (Finckenauer, 2005, p. 68).

In Chile, because organised crime is believed to outdo day-to-day common criminality, it is seen as requiring strategic measures. However, because security institutions are constantly shaping their actions towards it more or less in response to their own conceptualisations of the issue, it is found that when relating to each other in a policy network, actors find using the same terms something of a challenge (Hobbs and Antonopoulos, 2014, p. 98). As this thesis will evidence –along with its empirical sections– Chile's organised crime has been described, on the one hand, as a group of hierarchical organisations with allegiance and devotion between their members that resemble and even take advantage of kinship relations. On the other hand, others have depicted it as a grouping of horizontal and loose networks bounded only for a short time, that is, as much as the illegal activity requires. The truth is that criminal organisations do not necessarily match structured categorisations. Rather, they sit along a continuum more or less limited by both depictions (Bailey, 2012).

In sum, this theoretical preview has demonstrated that because institutions are flexible and will change, and also because the issue at stake seems a rather undefined one, Chile's governance of organised crime is an evolving modern phenomenon that has ignited a very unique process of arranging policy-making networks. The next section will highlight a series of aspects where this thesis flags its originality and where its contribution to the literature is apparent. It will emphasise the novel take of this investigation when reflecting on Chile's organised crime governance and its contribution to the bulk of the literature, research that has somewhat omitted an in-depth consideration of security policy in the Southern Cone. It will also emphasise the understanding of governance given in this investigation and how it sets it own path away from the good governance approach used when studying governing issues in Latin America. In this sense, it sets out to explain how such an understanding of governance is closer to the Anglo-Saxon literature. Lastly, the section will account for this thesis's contribution to democratic policy-making, taking into consideration Chile's institutional developments following redemocratisation, and how to better understand its practices for governing.

1.4 Originality and Contribution

This introductory chapter began by presenting a critical question regarding Chile's institutional assessment of organised crime. By trying to answer such a query, this thesis presents a novel contribution to the academic scholarship in various ways. First, it breaks with the current bulk of research on organised crime issues in Latin America. For obvious reasons, scholarly efforts have ultimately been focused on a handful of countries that expose high levels of violence and the breakdown of the democratic rule of law. Central and North America have gained space in the political science and criminology literature because of the outbreak of killings, kidnappings, executions, and extortions linked to organised crime that have put authorities and the civilian world under such stress (Cruz, 2011; Wolf, 2010; Dudley, 2011; Bruneau, et al., 2011; Bryan

2012; UNODC, 2012; Gutiérrez Rivera, 2013; Silva and Rojas, 2013). Mexico alone has captured some huge academic efforts in the past decade, following the so-called war on drugs against the drug trafficking cartels (Bailey, 2012; Mercille, 2011; Bailey and Taylor, 2009; Bagley and Rosen, 2015; Shirk, 2011; Snyder and Martínez, 2009; Montero, 2012, Solar, 2014). Before that, the Andean countries seemed to have attracted great academic interest in explaining the relations between organised crime, terrorism and redemocratisation (Fuentes and Kelly 1999; Restrepo and Spagat, 2005; Gutiérrez Sanín 2006; Kennedy, 2007; Dreyfus 1999; Van Dun 2012; Franco, 2004).

In contrast, Southern Cone scholarship on policy and organised crime has received scarce in-depth attention, with the exception of a few scholars unveiling security matters in Argentina and Brazil (Hinton, 2006; Seri, 2012). Nevertheless, knowledge formulation framing the research through institutions based on security, as well as other criminal justice operators, appears limited in the sub-region (Macaulay, 2007a). The analysis of security and organised crime in Chile, for example, is minimal and the topic rarely gets more than a few paragraphs; these are inside pieces about crimes that are generally better understood (Gootenberg, 2009; Schultz and Zúñiga, 2009; Fernández Labbé; 2009; Dammert, 2012a). Chile's small amount of available literature about organised crime appears occasionally in very specialised local journals (see for instance, *Política Criminal*, and, the Public Ministry's in-house magazine, *Revista Jurídica del Ministerio Público*). Almost no studies have been published or written in English language monographs, essays, or journal articles, circumventing what is hitherto the established form of reproducing scientific knowledge. This thesis therefore aims to add a great substance of scholarly knowledge to the currently limited research on the sub-region. It must be said at this point that it falls out of the scope of this investigation to properly create a model that compares Chile's organised crime with any other in the region. Undertaking comparative research on organised crime is difficult because countries have different conceptualisations of

the phenomenon, and also because data documentation follows different protocols between countries, hindering systematic research (Hobbs and Antonopoulos, 2014, p. 98).

What this thesis aims to contribute more emphatically is an exploration of the relationship between the Chilean state, organised crime, and most specifically, its inter-institutional governing. Such a qualitative explanation, and potential future comparative analysis have until now remained unavailable. Rectifying this will set a benchmark in the research of policy-making for organised crime by integrating Chile with the rest of the literature and making it available for a worldwide community of academics and practitioners. It attempts to complete such a task by engaging approaches proposed by other scholars, for instance, Bailey and Taylor (2009) who argue that organised crime can evade, collude or confront the state or Sabet (2009) whose subsequent rationale suggests that states confront, conspire or tolerate it. By providing an insightful analysis into the relationship between organised crime and its governance in Chile, this thesis will connect these and other academic studies previously undertaken (Weyland, 1998; Diamint, 2004; Sverdlick, 2005; Naím, 2012; Hurrell, 1998; Shelley, 1995; Shelley, 2001; Sabet, 2013).

Second, selecting Chile as a case study is an opportunity to explore new theoretical arguments. Chile is a deviant case in Latin America as it is one of the countries that over-perform in matters regarding security and governability (IADB's Governance Indicators Database, 2012). Chile shows some of the region's highest values in the variables negatively correlated to organised crime such as the consolidation of democracy, crimes per capita, effective law enforcement, the presence of trained and special units confronting organised crime, anti-money laundering legislation and the independence and integrity of the judiciary; and the lowest in those variables positively correlated to organised crime, such as tax evasion and state capture (Buscaglia and Van Dijk, 2003). It seems prudent then to call Chile's case an outlier in comparison to other states such as Bolivia, Brazil, Colombia, Paraguay, Peru, and

Venezuela (IADB, 2012). In a 2010 opinion survey by the World Economic Forum (WEF), the average responses of the business executives surveyed regarding the question of how much organised crime (e.g. mafia-oriented racketeering, extortion) imposed significant costs on business (on a scale from 1 to 7), Chile ranked second (with 5.8 points) surrounded by Costa Rica (4.7) and Uruguay (6.4). The regional average was 4.09 (IADB, 2012). In that vein, and as Gerring (2009) has mentioned, the essence of dealing with a deviant case is to explore for "new—but as yet unspecified—explanations" (see also, Ragin, 1987; Sartori, 1991). Many of the theoretical explanations regarding Latin American studies come from case studies with poorly evaluated socioeconomic, political, and criminal-judiciary factors. In that vein, this investigation can set the grounds for making some as yet unspecified explorations of countries that do not perform that way and consequently extrapolate such ideas to other possible deviant cases, for instance, Costa Rica or Uruguay. This thesis, therefore, puts forward new explorations rather than testing established ones, and it does so by developing qualitative arguments about Chile's governance of organised crime, its procedures, and the institutions that take part in it.

Third, this investigation's theoretical arguments aim to build upon the current understanding about governance seen across the developing world. Much of Latin America's political science scholarship follows the line of governance research prioritising the "good governance" approach (Domínguez and Shifter, 2013). Scott Mainwaring and Timothy Scully (2008), two renowned scholars of Latin American politics, refer to the term "governance" as "the capacity of democratic governments to implement policies that enhance a country's political, social, and economic welfare", arguing that democratic governance "is mostly a top-down phenomenon concerned to how well democratic government and the state in a democratic regime are functioning" (p. 113). Scholar and practitioner Heraldo Muñoz (1993) writes about democratic governance in the region, using the term to describe a "doctrine" or "guiding

principle" based on the "moral, political, and juridical basis for safeguarding democracy and human rights" (pp. 30-38). Researcher Laura Tedesco (2004), along with other Latin American observers, relate to "democratic governance" when talking about the future of democracy, exploring issues such as regime transitions and democratic development.

In a different sense, the approach the term "governance" is given in this thesis follows the Anglo-Saxon debate discussed in recent decades offered, for instance, by David Richards and Martin J. Smith, (2002, p. 14-28), Anne Mette Kjaer (2004), Mark Bevir (2011, 2012, 2013), and David Levi-Faur (2012), among many others. This thesis thus proposes to analyse democratic governance in terms of patterns, formations, experiences and responses to governing dilemmas and not in terms of indicators of performance. It privileges the overall understanding of the assemblages for governing, specifically in the formation of policy and governance networks. In doing so it takes into consideration whether or not it is appropriate to extrapolate such a discussion to the developing world. One of the many arguments to do so is the need to update the lens used to learn about political processes in the Global South following a line of thought highlighted recently by a number of different scholars (Zurbriggen, 2011, 2014; Solar, 2015a, 2015b). As mentioned, practitioners and students have given the idea of governance a "good" or "democratic" connotation, partly inherited in the developing world by the international financial institutions and their prospects of managerial responses to the affairs of the state (Leftwich, 1993, 2000, p. 127-151; Kjaer, 2004, p. 172-184; Bevir, 2013, p. 15). This thesis does not argue that this quality and measure-oriented trend of thought has been unhelpful in explaining functioning governments (Fukuyama, 2013; Norris, 2012). While such theorising should be applauded, it is argued here that such an approach would ultimately undermine future in-depth research. This thesis suggests more firmly the use of a theoretical push to study the broader processes of public services delivery that so far been ignored by the good governance approach. The normative structural preconditions that good governance aims

to unveil have achieved only relative success among the "main unresolved challenges" that still persist in the south (Zurbriggen, 2014). Even if it is argued that governance, as it is understood in industrialised countries, differs greatly with the governance of the south (Peters, 2014), this thesis attempts to release the study of politics from the limits of normative managerial governance, and thus question whom is steering society and how this is happening. Such an answer will be diverse across policy sectors and scenarios. Nonetheless, the ensuing enlightenment would be much greater in terms of understanding policy-making.

Fourth, the original focus of this thesis relies on explaining how the evolution of redemocratisation in Chile has affected the ways of doing security governance. To focus this project in the post-1990 political context helps account for the changing governance processes that have influenced the outcome of various counter-crime and organised crime policies performed by Chile's institutions, such as the Ministry of the Interior, the policing bodies, the Public Ministry, the State Defence Council, the Financial Analysis Unit, and the Courts of Justice. Security institutions have adapted to a crescendo type understanding of organised crime through the years and most importantly, evolving from a non-democratic era to a democratic government. The research therefore sets up a discussion of both the particular and the overall consequences that have gradually occurred through the years and which are currently defining the modern security governance scenario. As has happened elsewhere, for instance, in Brazil (Macaulay, 2012, p. 824; 2007b, 2010), early democratisers in Chile did not fully appreciate the importance of crime and public security as they tried more enthusiastically to consolidate other democratic reforms, for example, constitutional issues, human rights, neoliberal reforms, and civil-military relations (Garretón, 1999, 2003; Garretón and Garretón, 2010; Siavelis, 2009, Silva, 2000). Thus, Chile's case presents a study opportunity for deliberating thoroughly on governance and redemocratisation (Warren, 2014), by looking at the problems and opportunities that have risen when governing organised crime.

A series of redemocratisation policies were gradualy set up, however, these have not always passed the test of time from one administration to the next. For instance, a long awaited formally planned initiative to enforce drug-trafficking detection in the porous border with Peru and Bolivia, was set up by Piñera at the beginning of his mandate. The plan *Frontera Norte* (northern border, in English) required the collaboration and commitment of various public agencies both in the policing and the management of security resources. Despite the authorities registering a rise in the seizing of drugs, illegal trafficking of goods, and human crossings in and out of the country, the plan's implementation also evidenced cases of suspected corruption in the acquisition of technologies and also anomalies in drugs control procedures. In consequence, the second government of Michelle Bachelet (2014-2018) aimed to review the plan's efficiency bringing with it uncertainty and doubts about the political support given to it. Security policies in Chile are predestined to be the object of revision or annulment shortly after their implementation. Against such a backdrop, this research points towards addressing one of Dupont's (2004) suggested lines of study regarding the "changes experiences by security networks over time, particularly in terms of membership, leadership and responsiveness to external factors" (p. 88). In order to answer these and other policy-related queries, the theoretical and practical aim of this thesis and its subsequent chapters, is to deliver a greater intellectual comprehension of such governing arrangements. By combining such stories, this thesis aims to contribute and improve the aspects of public policy that relate to the governance of organised crime. Thus, considering that policies respond to dynamic and constantly evolving social issues, this thesis builds knowledge upon past and present policy-making experiences to consequently contribute in the identification of the achievements and failures to be taken into account when discussing how to improve the governance of security issues. The next section will set up the blueprint for this thesis's research chapters, briefly highlighting how the above-discussed ideas fit within the overall narrative of this investigation.

1.5 Chapter Outline

The introduction will set the foundations for assessing the governance of organised crime in Chile following redemocratisation. To fulfil such an endeavour, three components of the theoretical literature have been elucidated to explore how, through network engagements, the state has been able to assess organised crime; the form in which public institutions have grouped together in a policy community to address the complexities of its policy-making; and finally, how these institutions have gradually accommodated their policy practices and rationale to the evolving aspects of redemocratisation that are used to address organised crime. Chapter 2 will thus provide a literature review on the governance, policy networks, and theoretical strands of historical institutionalism in order to explore how they fit together, giving an explanation of the research question set up in this introduction. The chapter begins by establishing that organised crime has put the state in a governance paradigm, not only in terms of resource coordination, but also by which means these resources are transformed into policy, and the consequences of the decisions. The chapter presents a revision of the governance, state centric, and state decentralising approaches to illuminate how state institutions have moved from government to governance rationales in order to assess organised crime. Because the way in which public institutions have built new security policies to control organised crime involves the collaboration of a range of public actors engaged in networks, it seems appropriate to jump into a review of some ideas regarding governance and the role of the state in delivering security. To understand how such governance is formed, the chapter emphasises the policy networks approach and how public actors take part in different security arrangements. This approach helps articulate how with the change of direction in the governance of organised crime, public actors who were connected through hierarchic and bureaucratic channels became able to circulate and share resources in an interactive way, breaking from their rigid policy-making. Finally, using the historical institutionalism approach, this section will review how institutions

adapt to gradual changes over time and will examine how institutions were influenced by the overall governing political system following redemocratisation. The essential feature to discover in this chapter is that even though it responds in part to established theoretical arguments considered in the literature, the governance of organised crime in Chile follows an original rationale, with its assemblage making it a unique expression of governance.

Chapter 3 will address the methodology used in this thesis. This chapter examines qualitative techniques of data gathering designed to provide appropriate information to engage with the theoretical approaches mentioned above. Because it was essential to grasp the process of governance building and its institutional evolution, the chapter puts its research focus on accessing sources that could detail how these processes occurred over time. In that vein, it looked for original primary forms of information in two ways.

The first methodological approach was through the gathering of written data. It remained essential for this thesis to compare and analyse written sources of governance such as inter-institutional agreements and overall crime strategies. Because most of the network governance was formalised through written statements – without ignoring that a good part of the governance occurred also, and sometimes only, through oral agreements – it was necessary to access and review these type of documents and extract from them the possible indicators of how governance was engaged. The chapter then moves on to explore a second research approach resulting in the capture of oral stories. The objective here was to grasp data from the very own actors who led the way and actively collaborated in the creation of governance patterns. An elite interview technique was used in order to recreate these governance procedures. In total, 43 individuals were interviewed based on their current or past roles in the making and implementing of security policies since democratisation. Interviewees included a wide range of professional backgrounds such as former and current government officials, the

police and armed forces officers, public prosecutors, judges, as well as private security businessmen.

Following the theoretical and methodological discussion, the main body of this thesis is divided into four empirical chapters and a conclusion. Each empirical chapter addresses one of the prosecution policy community institutions embedded in the governance of organised crime. Specifically, each chapter follows a chronological order of events starting around redemocratisation in 1990 and finishing by early 2014. By using such a framework, the analysis focuses on the institutional traditions, beliefs, and channels of action that have evolved through the years. The chapters aim, although in a subtler manner, to account for the role of other involved political actors who have belonged to either the prevention or the detection policy communities and also those in the private sector or foreign domain, such as local private security companies and multilateral institutions, respectively.

Chapter 4 will explore the role of the Ministry of the Interior as the heart of domestic security policy-making. The Interior is the representative of the executive branch in the handling of the security governance evidenced before and after redemocratisation, therefore its assumed role as a meta-governor for the prosecution policy community is essential to review. It is inside the Interior's bureaucracy that strategies against organised crime have been elaborated through the work of different sub-units in charge of overseeing and implementing anti-organised crime policies and crime in general. Both policing bodies are under the tutelage of the Interior, and the ministry also acts as the connecting hub between the president's office and other security-related agencies, such as the National Intelligence Agency (*Agencia Nacional de Inteligencia*, ANI). The chapter will explain how the movement from government to governance of organised crime was developed early following redemocratisation and how it later moved out from the sole confinement of the Interior as other public institutions gained more access to steer policy in the prosecution community.

Chapter 5 will examine the role that the national Public Ministry has played in the governance of organised crime. By constitutional mandate, the Public Ministry is the sole state body in charge of the investigation and prosecution of criminal activity in the country. It has taken therefore a leading role in cases suspected of organised crime and become an essential participant in the prosecution policy community. Because it acts as an independent body, its participation in any network type of governance responds in part to a restricted level of commitment and alignment that is allied with the goals of such network formation. In that vein, the chapter will explore how much space prosecutors have given up to permeation for other institutions as redemocratisation progressed. After its creation in 2000, the Public Ministry had to join the prosecution policy community while acting hand in hand with other public institutions, such as the policing bodies. The chapter will expose how the institution joined the governance of organised crime and how it was able to extend a rationale to prosecute among other institutions before any policy plan could be carried out.

Chapter 6 will analyse the role of the two main policing bodies in Chile, the *Carabineros* and *Investigaciones*. Since redemocratisation, both institutions have taken the sole charge of addressing street level policing issues in Chile. While they were both tainted by human rights violations during the dictatorship, in the past decades they have reformed and become two of the most essential members of the prosecution policy community. *Carabineros* and *Investigaciones* are fundamental members of any governing scheme because of their skills in policing practices, their gathered intelligence, plus their unique resources in dealing with organised crime. However, they have similar mandates and are informally branded as mirror-institutions, an issue that has created a troubling scenario for institutional networking. Their participation in horizontal engagements has shown that both institutions fight for resources, sometimes overlap in their investigations and are jealous of sharing intelligence. This chapter will emphasise how *Carabineros* and *Investigaciones* relate to one another and to other

institutions, and also how their different institutional approaches to organised crime has led to some successful and failed governance stories.

Chapter 7 will examine the role played by the Financial Analysis Unit. Because after the 9/11 terrorist attacks in the United States more awareness from the political authorities was placed in the area of the financial aspects of organised crime and terrorism, it is essential to review the governance role played by this institution in addressing illegitimate enterprises funnelling dirty monies to and from organised criminality. Due to the release of the ENLAFT policy programme for preventing money laundering and the finance of terrorism in 2013, this chapter explores how and why the UAF assumed such a role in the governance of organised crime. It explains, for example, how it found its way through a closed circle of unfamiliar public and private institutions to share financial records or to detect criminal conduct. The chapter looks at how network governance led to the consequent establishment of institutional relations between public and private bodies. What is more, the chapter will emphasise the role that the UAF assumed as a meta-governor for policy-making in light of their unique knowledge and capability for permeating other institutions in matters of organised crime and money laundering.

Chapter 8 will conclude by giving an outline of how Chile's public institutions shaped the way organised crime is controlled, in light of the theoretical and empirical arguments reviewed through the course of this investigation. The chapter will provide an explanation to the research question raised earlier in this introduction about how we can explain the governing engagements that Chile's public institutions have put up to confront organised crime following redemocratisation. The chapter emphasises three relevant conclusions. It will first discuss the context of Chile's movement from government to the governance of organised crime by looking at how the state security bodies managed to engage in networked arrangements for security. Second, it will explain how, with the formation of an early post-redemocratisation

policy network and its continuing evolution, the prosecution policy institutions embedded in it were able to relate to each other. Third, the chapter will discuss the adoption of network governance in more detail, taking into account how horizontality became essential to the issue of organised crime policy-making and subsequently to the development of relationships of resource exchange and commitments for consensual policy-making. The chapter concludes by outlining this thesis's contribution to the literature and its further lines of scientific enquiry.

2.

Literature Review

2.1 Introduction

To explore the governing engagements that Chile's public institutions have put up to confront organised crime, this chapter develops a theoretical framework that forges ideas from three main bodies of literature: governance studies, policy networks, and historical institutionalism. The chapter presents three separate sections in order to build such a theoretically informed baseline. Section 2.2 critically addresses the governance debate. It aims to discuss how the delivery of public services has evolved as changes in social, economic and administrative capacities have put states under constant pressure. On the issue of organised crime, the literature suggests that different forms of security provision are put into execution mostly because the state and its public institutions have been eroded by the threat that such a phenomenon implies. Even though, on the one hand, the state's formal authority has been supplemented or usurped by the ability of criminal groups to nullify or collude with government action, on the other, the reality shows that organised crime in Chile has not driven the state to lose its domain over security delivery but rather to hold on to it and adapt to novel forms of thinking and security provision. The resulting policy-making has not remained limited to a single core institution, but instead been diluted through various actors, most particularly, between those who have formed what this thesis introduced earlier as the prosecution, prevention, and detection policy communities. In that vein, current conceptualisations as to how public institutions can respond to organised crime do not necessarily provide a thorough enough analytical background on which to mirror Chile as a case study. Section 2.2 will thus introduce the so-called movement from government to governance to explore the core idea that confronting organised crime

undertakes a dynamic motion from hierarchic government to horizontal governance. Departing from such a perspective, this section will emphasise the state decentralising and state centric approaches as two useful categories for exploring the transition from unilateral and hierarchic patterns of governing to networked governing relations.

Section 2.3 follows such discussion in more detail and aims to untie a few remaining knots by considering the role of policy networks, their formation and their development. This section continues setting the debate on how, on the one hand, if organised crime is supposed to undermine state capacity, Chile's case study, on the other, shows that policy network formation is possible; that is, despite the core issue to address being problematic and certainly one that pushes for independent policy formulation. So far, both sections have a common and indivisible thread, the underlying concept of networking between institutions as the mean for sharing resources and the capabilities needed to confront organised crime. Section 2.3 stands alone with the intention to map out a rounder conceptualisation on the policy networks literature. This section will assert, for instance, that Chile's security institutions have formulated their own flexible but complex ways to approach organised crime. It claims that ensuing years of network relationships have preordained the evolution of understandings, procedures and beliefs for policy action among the prosecution policy institutions.

Section 2.4 will pick up ideas brought forward by the governance and policy networks literature and engage with the historical institutionalism paradigm to capture and examine how the institutions in the prosecution policy network have performed a gradual and dynamic movement towards horizontal policy-making. The historical institutionalism approach supports this thesis's layout when presenting each prosecution policy institution (the Ministry of the Interior, the Public Ministry, the policing bodies, and the UAF) as separate chapters. Each chapter draws upon the links necessary to reflect on the overall logic of the governance of organised crime that this thesis aims to shed light on. It does so by bridging those particular

and underlying processes for policy action that are narrated in the empirical chapters. This section thus concludes by assuming that a cumulative chronological narrative of events allows for a better exploration of how the prosecution policy community, as a networked governing arrangement, has come together since redemocratisation.

Section 2.5 concludes this theoretical examination by agreeing that the three frameworks explained above help in further advancing the exploration of how public institutions have confronted organised crime since redemocratisation. They do so by interpreting the state's security performance through the centric and decentralising approaches; by exploring the formation and development of public institutions policy communities in light of contending policy issues; and by accounting for the changing institutional complexities evidenced since the 1990 landmark, plus the factors that have been most influential in accommodating novel practices for security policy action.

2.2 From Government to the Governance of Security

This section will introduce a set of ideas regarding the debate between the delivery of security towards organised crime and the state's ability to perform such a task. It will begin by giving a brief account on the governance debate, as well as the state centric and state decentralising perspectives as discussed in recent Anglo-Saxon literature. This body of literature is commonly associated with the study of essential features discussed throughout the chapter and regarding political governing, such as the idea of governance rather than government; the role of core executives in policy-making; and the hollowed out state approach (Marinetto, 2003, p. 196). Even though this literature was originally coined to explain governing matters other than security in industrialised countries, its conceptual framework has also been adopted by scholars in areas of study that bring to light the so-called security governance literature (Wood and Dupont, 2006; Sperling, 2014; Webber, 2014). Following this cumulative line of research, this chapter is written is such a way that the empirical problem of organised crime is at the centre

of the narrative. Most ideas arising from the governance debate are understood in such a form, including how they consequently introduce illustrative analysis to the issue of organised crime governance.

The core debate put forward in this section is that the study of novel governance arrangements has become essential to better explore the complexity of current socio-political issues (Peters, 2015). Entangled policy areas such as crime, assume a purposeful governance between many multijurisdictional actors that tend to form horizontal rather than hierarchical networks; thus, allowing for its inter-institutional governing. Such understanding, however, is in contrast to the organised crime literature that accounts for paradigmatic perspectives that have undoubtedly put the governing institutions, especially those in the developing world, as dysfunctional silos of inward-looking capabilities, in part because of internal weakness or other external factors such as corruption and collusion with the vice of criminality. Although there are very different conceptions of governance, organised crime focuses on two of its most discussed features. First, it emphasises the processes of governing rather than offering a strict reading of the structures that govern, and secondly, it brings to light the changing notion that steps from uni-centric governing to the shared process of policy outcomes (Klijn, 2008, p. 508).

Over the past decades, governance studies have found an overwhelming echo across academia. Scholars such as Eric Hans. Klijn, Arwin van Buuren and Jurian Edelenbos (2012) have elevated such scholarship to be "the major perspective on decision-making, policy-making, implementation, and service delivery in political sciences and public administration" (pp. 294). Even though students do commonly share the concept's relevancy, the nature of governance is a contentious topic. Recently, Levi-Faur (2012) compiled at least four meanings of governance found in the Anglo-Saxon literature:

> Governance (as a structure) signifies the architecture of formal and informal institutions; as a process it signifies the dynamics and steering functions involved in

54

lengthy never-ending process of policy-making; as a mechanism it signifies institutional procedures of decision making, of compliance, and of control (or instruments); finally, as a strategy it signifies the actor's efforts to govern and manipulate the design of institutions and mechanisms in order to shape choice and preference (p. 8).

Acknowledging the variety of meanings the concept takes, authors have sided with different interpretations. This thesis incorporates such debates mostly by setting common grounds around the role of the state in the making of public policies. For example, Stephen Bell and Andrew Hindmoor (2009) define governance as "the tools, strategies and relationships used by government to help govern" (p. 191), while scholars Laurence Lynn Jr., Carolyn Heinrich and Carolyn Hill (2000) claim that governance might be defined as the "regimes of laws, administrative rules, judicial rulings, and practices that constrain, prescribe, and enable government activity, where such activity is broadly defined as the production and delivery of publicly supported goods and services" (p. 235). Identifying with this approach, Jon Pierre and B. Guy Peters (2000) assume that governance is the capacity of government to make and implement policy. More specifically, they refer to governance as the capacity of the state "to steer the economy and society, and how to reach collective goals" (p. 1).

On the other hand, some authors have identified the idea that governance may be discussed in the context of "organisations, policy regimes, networks, and other units of analysis" (Christensen and Tschirhart, 2011, p. 65). Jan Kooiman (1993) explains governance, for instance, "as the pattern or structure that emerges in a social-political system as 'common' result of the interacting intervention efforts of all involved actors (...) pattern (that) cannot be reduced to one actor or group of actors in particular" (p. 258). Following this argument, governance has come to replace the emphasis once put on state hierarchy or cost-benefits markets, suggesting more emphasis in the figure of networks (Bevir, 2011). Such a perspective relates governance to a "multijurisdictional" and "hybrid" phenomena, mostly since it is argued that "current patterns of governance practices combine people and institutions across different

policy sectors and different levels of government" (Bevir, 2011, p. 2). This understanding of governance, as a more inclusive term than "government", was summarised by Gerry Stoker (1998):

> Governance refers to a set of institutions and actors drown from but also beyond government; governance identifies the blurring of boundaries and responsibilities for tackling social and economic issues; governance identifies dependence in relationships between institutions involved in collective actions; governance is about autonomous self-governing networks of actors; governance recognizes the capacity to get things done which does not rest on the power of government to command or use its authority (p. 18).

Following Stoker's approach, the stated movement from government to governance, made some observers account that governing these days seems to be "less and less a matter of ruling through hierarchical authority structures, and more and more a matter of negotiating through a decentralized series of floating alliances" (Goodin, Rein and Moran, 2008, p. 11). Former models of policy-making that had centralised control mechanisms in order to decide what should be done to promote the public good, are from this perspective becoming obsolete as the "problems to which policy was addressed became (or came to be recognised as) increasingly complex" (Goodin, Rein and Moran, 2008, p. 14-15). Additionally, observers have noted an intricate process that involves the interaction of a multitude of actors who do not necessarily respond to top-down systems of rule (Sørensen, 2006, p. 99).

The study of governance has put authors like R.A.W. Rhodes (1997, 2007) in the spotlight because of their contribution to understanding governance as governing "with" and "through" networks. Through the so-called networked governance approach, actors are said to address policy in different nodes, with some of them being central but not "in a position to dictate to the others" (Goodin, Rein and Moran, 2008, p. 12). Network governance thus embraces a greater sense of participation by the involved policy actors than what is embraced through the hierarchical approach. Even though a network approach does not mean extensive and public participation, it does denote that a bigger number of participants are called because

they have a certain expertise in the complexities of the matters being dealt with (Fawcett, Mainwaring, and Marsh, 2011). The interactions between them and the coordination mechanisms engaged, will then form a certain stable pattern of policy-making that does not necessarily follow the control of a particular central actor (Sørensen and Torfing, 2007).

Students of security processes have identified with such a governance approach (Eilstrup-Sangiovanni, 2014). They have noted that in view of some very complex problems, such as organised criminality, the state has come to cede authority over its constitutive policy-making functions (Loader and Walker, 2001, p. 10; Loader, 2002, p. 126). Scholars suggest that "even in states that are, by most standards, flourishing, the demand for public security often exceeds the capacity of the state to provide it" (Dupont, Grabosky and Shearing, 2003, p. 332). Security as a good has been reconceptualised as being produced by various networks of actors because of the already mentioned process of transformation, from vertical and hierarchical structures to horizontal networks (Dupont, 2004, p. 76-88). Dupont (2004) usefully defines a security network as "a set of institutional, organisational, communal or individual agents or nodes that are interconnected in order to authorize and/or provide security to the benefit of internal or external stakeholders" (Dupont, 2004, p. 78). Dupont's definition certainly echoes that which is given in plain political science literature. For instance, Colin Hay (1998) conceives that networks are "modes of coordination of collective action characterized and constituted through the mutual recognition of common or complementary strategic agenda" (p. 38). In a similar vein to Dupont, Clifford Shearing (2005) proposes a nodal understanding for security provision, where new "diverse and complex" practices for security are supposed to be combined. In a research agenda looking primarily at the study of policing actors, Shearing endorses the term "governance of security" because it allows the recognition "that the police are only one node in a network of auspices and providers of nodes that work to govern security both alone and in conjunction with each other" (p. 58; Hoogenboom, 2010). The understanding

that public agents share the governance of security puts it into perspective that under the scope of network governance, the new challenges to security require flexibility and innovative responses (p. 62).

Despite the insightful use of security governance theories in developed countries, not all political settings seem favourable to a networked governance approach. First, it must be said that the Anglo-Saxon meaning of governance assumes a different meaning to that of the "democratic governance" or "good governance" approach given in modern studies on political science across regions of the developing world (Domínguez and Shifter, 2013). In Latin America, for instance, the democratic governance approach mostly refers to how well countries do in relation to a set of multiple dimensions depicting good or effective government (Andrews, 2010, p. 7). Much emphasis has been put in studying how recently democratised countries manage their political institutions based on a model of liberal-democratic politics. In a critical way, David Williams and Tom Young (1994) argue against the "narrow" concern of international bilateral and multilateral organisations, such as the World Bank, the International Monetary Fund (IMF), and the UN, when imposing policy analysis based on how well bureaucratic reforms have improved the coordination and efficiency of public services (p. 85). Such an approach has meant the inclusion of hierarchic roles for governments to protect human and civil rights, while also ensuring a "competent, non-corrupt and accountable public administration" (Leftwich, 1993, p. 605). This approach has been criticised in part, because it gives only a limited meaning to governance if understood as policy process; the interdependence between institutions; and the roles played by extra-governmental bodies. In short, the good governance approach has been categorised as too "administrative" and "managerial" (Leftwich, 1993, p. 606).

By importing the meaning of governance given in the Anglo-Saxon literature to the studies of political science in the developing world, a novel theoretical rationale can be

introduced to the governing patterns where informal and horizontal authority has come to supplement or supplant the formal vertical authority of governments. However, this leads to another puzzle. It is said that certain environments with a political culture of authoritarian regimes, such as those found in parts of the developing world, including Latin America, are not conducive to the emergence of networked policy engagements and instead cement the domination of hierarchical structures (Dupont, 2004, p. 78; Goodson and Olson, 1995, p. 318; Peters, 2015). Recently, democratised countries in Latin American can be seen to have retained core aspects of previous authoritarian regimes, one of them being a centralised and hierarchic approach to, for example, the delivery of security (Pearce, 2010; Call, 2002). Scholar E. Desmond Arias (2006) mentioned the puzzling situation some countries in the region confront in light of social conflict and human rights violations:

> While some have ascribed these disappointments to the failure of political institutions to eliminate the vestiges of authoritarianism and transform retrograde sectors of state and society, others have suggested that violence persists in Latin America not because of state weakness but, rather, because of the existence of external social forces and organisations that not only resist efforts to extend the rule of law but also engage with state actors to promote illegal activities and rights violations (p. 294).

Complex criminality and violence seems to have put the "good governance" approach and its managerial point of view in a disjunctive. Such a puzzle opens up a window of opportunity through which to extrapolate the Anglo-Saxon governance understanding by visualising what scholars in such debates have termed as state centric and state decentralising approaches.

2.2.1 Organised crime and the state decentralising and state centric approaches

While some students of Anglo-Saxon governance have viewed the current governance dynamics as a result or cause of the decline of the state, others have seen it as an adaptation to increasing societal complexity (Bevir, 2011, p.8). Advocation of the declining state position is advanced by those authors who assume the state's evident failure to implement effective reform

and to solve economic and social problems (Mayntz, 1993; Jreisat, 2002, p. 10). Under this approach, the idea that national government was the major actor in public policy capable of influencing the economy and society through their actions appears in doubt (Pierre and Peters, 1998, p. 223). The argument is that in the declining state position (a concept this thesis finds better use when understood as decentralising), the changes in the structure and governance of the state, in particular by market-oriented policies and public management reforms initiated in the 1980s, have become "imbued with the belief that public services of functions need not necessarily be delivered or conducted by purely public institutions" (Flinders 2006, p. 223). Rhodes (1996) proposes the "hollowing out" of the state as a way to understand the reducing ability of the core executive to act effectively regarding public functions. To Rhodes, the state's power and autonomy has become smaller and more fragmented, giving, what were once state-only responsibilities, to other civil society actors. Meanwhile, other networks of alternative public policy started to increase, and thus so did "doubts about the centre's capacity to steer" (p. 661). In that perspective, "the state has been hollowed out from above (for example, by international interdependence); from below (by marketisation and networks); and sideways (by agencies and the several of parastatal bodies)" (Rhodes 2007, p. 1248).

The notion that the state should have "primary responsibility" for the provision of security and crime control is confronting many challenges (Zedner, 2003, p. 156). Accounts from Latin Americanist students have shown that organised crime has certainly challenged the way that states perform and deliver public security. Institutional failures and states' inability to cope with issues of democratisation, neoliberal policies and globalisation has opened up spaces to criminal organisations in a counterproductive way (Manero, 2007; Sverdlick, 2005; Shelley, 1995). As legal markets have expanded, so too has the illegal sector, placing sufficient power and resources into the hands of criminals and therefore allowing them to become political actors and supported by some populations. In countries that have transited, or are still transiting to

democracy, organised crime has sadly permeated society and the political spheres in many different ways (Arias, 2006; Bryan, 2012; Bagley, 2004; Bailey and Taylor, 2009; Bergman, 2006; Engvall, 2006; Sabet, 2013; Sverdlik, 2005). Democratic institutions are being challenged through the creation of alternatively governed spaces; the undermining of their bureaucracies, especially through corruption and threat; mostly however, the erosion of their relationships with society as their core function has been violated and their limited resources compromised (Bryan, 2012; Brands, 2011; Pearce, 2010; Ungar and Arias, 2012). The performance of law enforcement institutions, for instance, reveals not only the impossibility of counteracting organised crime but also other issues such as low salaries and the skills of the forces (Sabet, 2009; Sabet, 2013). As security institutions become weak and unable to stop crime, other forms of security provision have proliferated and replaced their public counterparts, for example, vigilantes, private armies and the private security industry (Argueta, 2012, Call, 2002; Plöger, 2012; Vilalta 2011; Cuadra, 2003). These different forms of security provision can be legal while others are criminal, however, both have particular forms of interaction that have certainly come to challenge the state (Van Creveld, 2006, p. 346).

On the other hand, those in the state centric tradition have argued that the state has retained its distinctive importance. Instead of a reduced role for the state, its role has changed. Scholar Eva Sørensen (2006) argues that states now "operate under different circumstances than before (…) Thus the transformation that has taken place contains elements of both 'losing' and 'winning'" (p. 194). Even though the state centric literature acknowledges that changes such as contracting out and public private partnerships, have "moved government away form its role as the central source of authoritative allocation of values" (Pierre and Peters, 1998, p. 224), it refutes the hollowing out thesis and criticises the supposed steering problems of the state. For example, to Ian Holliday (2000), the state core has been fragmented in order to cover different areas of coordination "running on parallel tracks" (p. 173). Earlier, Martin J. Smith

(1993) argued that states are a set of distinct institutions that make the rules that govern society. Such institutions are not unified structures, but rather different parts dedicated to policy-making and the delivery of resources, thus making it hard to generalise that the state is having an authoritative issue without being specific as to what policy areas such claims are directed. Bell and Hindmoor (2009) argue that even though governance through markets, associations, and community engagement has increased, so too has governance through hierarchy. To them, governance has not replaced government because governments are not simply actors in governance relationships. The researchers assume that the state also "metagoverns", a concept relating to the state's capacity to oversee, steer and coordinate governing arrangements. In their words, the state can select and support key participants, mobilise resources, ensure fair and efficient governance and also, take prime carriage of democracy and accountability issues (2009, p. 191). Following on from the metagovernance approach, Peters (2012) also emphasises that "given the difficulties of imposing collective governance through negotiation in networks or other collections of social actions, the public sector has been the principal source of governance". He argues that, "governments are the principal source of law in most societies and have, in the Weberian conception of the state a monopoly on the legitimate use of force in society" (p. 21).

In a state centric way, some Latin American states have replied to crime with an iron fist doctrine in order to secure their monopoly over violence (Pearce, 2010; Godson and Olson, 1995). The militarisation of the public sector, for instance, has tended to increase in the region, not decrease, setting up an important problem when it comes to the governance of crime (Call, 2002). Other states have opted for less coercive means and introduced community policing programs under the banner of overall reform to their institutions, however, at the end of the day, they are leaving the basic law enforcement in the hands of the state (Frühling, 2012; Dammert, 2012a, 2012b; Ungar and Arias, 2012). As well, governments have decided to

address organised crime as a middle threat, allowing them to use both domestic defence and public security forces (Pion-Berlin, 2010; Diamint 2004, Call, 2002). States have acknowledged that criminal organisations are indeed a global phenomenon with increasing mobility and that their engagement goes beyond the capacity and capability of any one national government in terms of control (Harfield, 2008, p. 484; Paoli, 2002, p. 51). In that vein, new forms of prevention initiatives at the intergovernmental level have taken shape. States in Latin America have realised and recognised the interdependent nature of security, building a strong feeling of collective action (Ruland, 2005). Through the construction of geopolitical forums like the Organisation of American States (OAS), or the Union of South American Nations (UNASUR), countries have created bases whereby newly institutionalised bureaucracies can address criminality (Haacke & Williams, 2008; Davies, 2004; Weiffen et al., 2011; Herz, 2010; Shaw, 2014). As Elke Krahmann (2005) argues, "multilateral institutions allow nation-states to address transnational security threats that otherwise appear to be out of their reach" (p. 18).

Governance at the international level appears nevertheless to be dominated by state actors rather than non-state ones. Since states are powerful, large and well-financed institutions, they can disregard and override other interest groups, ignoring the demands of non-state actors for policy matters (Smith, 1993, p. 6). In Latin America, and even though non-governmental organisations and other interest groups participate in the security planning, their role has been related to expertise consulting rather than anything else (Weiffen et al., 2011; Bobea, 2012). This panorama might be open to change, however, in part due to new approaches to security being adopted. For instance, the 2003 OAS framework for inter-regional security assumed a less state centric approach including the private sector and civil society as relevant contributors to the region's security (Thérien et al., 2012, p. 154-6).

The governance debate therefore, through its state decentralising and state centric approaches, is somehow unable to impose a single perspective on the consequences towards

governance imposed by organised crime, at least when looking broadly at Latin America. Even though organised crime has caused the state to lose its sense of hierarchy and control in the policy process, the state's unique resources seem to put it in a privileged position to respond to such dynamic events. More accurately, the unintended consequences of the state's response to new challenges seem to have been a call for a reconstruction of its capacities (Matthews, 2012, pp. 281-290). While on the one hand, the state decentralising approach truthfully reveals that criminal organisations have undermined the role of the state, giving way to other ways of delivering security, on the other, the state centric approach correctly pinpoints that states can actually adapt and respond to organised crime, keeping control of their major governing role. Additionally, if states remain hierarchic and monopolise the provision of security, organised crime has proven to be resilient to state-only efforts to repress and control it. In short, both types of governance so far depict a series of advantages and flaws.

To overcome this, this thesis finds a useful theoretical approach when seeing things in an inductive way. The Chilean case denotes, for instance, that redemocratisation caused the proliferation of institutions that decentred authority away from the state (Fernández and Rivera, 2012; Siavelis, 2009, 2013). However, public institutions have mostly kept the governance of security issues, such as organised crime, under their control through adopting novel governing ways and most certainly through horizontal and networked arrangements for delivering policy. The analysis so far leads to the consideration that organised crime has caused an interesting interplay between both perspectives. The state centric and the decentralising discussions seem to work better as a hybrid rather than necessarily as two exclusionary concepts. Empirically, states do not deliver security as a whole. They do so through a mixture of institutions, which when forming networks for security, reveal features that are both centric and decentralising. It is not only the Chilean state that seems to have turned towards such equilibrium of approach (as will be discussed in the next empirical chapters), but other states in the region, such as

Mexico or Brazil, have done so as well even though at first sight they seem to fall in the decentralising grouping. States can either tolerate, collude, or confront organised crime, and since their governance engagements are understood as formed by various independent groups, when one of these nodes seems certain to fall behind, as the decentralising approach would suggest, others might have still a virtuous spirit, as suggested by the state centric approach (Bailey and Taylor, 2009; Sabet, 2009; Macaulay, 2012; Arias, 2006).

The governance for security, and the role of the state in it, is becoming increasingly complex as it entails the participation of various levels of government actors, as well as non-governmental institutions from above and below the state. These participants share the overall thinking, production and delivery of security, but, and even though they have come to govern dispositions behind a common objective, they can hold different underlying drivers for policy action. Klijn (2008) refers to such a puzzle by acknowledging that actors in a network society build different values and policy proposals as a result of their disputed views on how to assess problems that have become less governable (p. 506).

The decentralising and centric approaches can be better understood as two comprehensive and big-picture explanatory frameworks to understand security networks, useful for when examining odd partnerships between institutions such as happens when studying the governance of organised crime. Theoretically, this understanding concurs with what some scholars have indicated as the "duality between government and governance", where, in effect, complex policy cases are better seen sometimes as "government plus governance" (Fawcett, Mainwaring and Marsh, 2011). However, it remains a mystery whether or not the network governance of organised crime is merely a mask to gain broader legitimacy for decisions that the state has already taken. This thesis will bring forth a thorough empirical baseline to help enlighten such a conundrum.

Against this theoretical backdrop, the next section will engage in the study of policy networks to help uncover whether the governance of organised crime through networks has either underpinned governing through the use of hierarchies or whether it has done so through horizontality. As the state centric and state decentralising approaches have exposed, governance through networks does not follow logical parameters, but rather, is built upon the diverse actions and practices inspired by the different actors and changing complexities that re-draw the state's policy-making boundaries. This chapter sets as its aim therefore to argue that the policy network approach can better help explore centric and decentralising governance practices by looking specifically at the different relationships transpiring between state institutions and their social, political, and economical contexts.

2.3 Governance and Policy Networks

Because the already introduced network governance approach has been the object of most of the discussion so far, it is useful from here onwards to explain how this literature review advances upon the theoretical foundation of the policy network approach. Since this thesis's research aim has narrowed down to an exploration of Chile's prosecution policy community towards organised crime, it is now suitable to consider how a policy network approach allows for concentrating in such a unit of analysis.

A policy community has been defined as a network of a limited number of participants with a narrow and similar range of interests, who interact frequently and find consensus on principles and procedures for approaching a policy problem (see Rhodes, 1990; Rhodes and Marsh, 1992a, 1992b; Smith, 1993; Marsh, 1998, p. 14). On the opposite side to a policy community is situated a loosely integrated issue network. It is said that in between this continuum a series of different networks are formed with different membership compositions, various degrees of interdependence among their members and different distributions of power and resources (Rhodes, 1990, p. 304; Rhodes and Marsh, 1992a). As Table 2.1 briefly states,

Table 2.1 Differences between a policy community and an issue network.

Policy Community	Issue Network
• A limited number of participants with some groups consciously excluded; • frequent and high quality interaction between all members of the community on all matters related to the policy issues; • consistency in values, membership and policy outcomes, which persist over time; • consensus, with the ideology, values and broad policy preferences shared by all participants; • exchange relationships based on all members of the policy community controlling some resources; • power, more often than not understood as a positive-sum game.	• Many participants; • fluctuating interaction and access for the various members; • the absence of consensus and the presence of conflict; • interaction based on consultation rather than negotiation or bargaining; • an unequal power relationship in which many participants may have few resources; • little or no access and power is seen as a zero-sum game.

Source: Bevir and Richards (2009, p. 3).

in a policy community there is a balance of power where members see themselves involved in a positive-sum game. Also, there is consensus and consistency regarding the way a policy issue is understood as well as a commitment of resources between the participant members. This happens, in part, because representative leaders in such communities can compromise the resources of their institutions, depending on the level of hierarchical backing. On the other, the issue network primarily involves policy consultation and not shared decision-making (Rhodes and Marsh, 1992, p. 186-187).

Policy networks are depicted as sets of formal and informal linkages between governmental and other actors. Such an understanding puts in perspective the idea of endless negotiated beliefs and interest in how to approach a certain public policy problem (Rhodes, 2008, p. 426). In that vein, challenges to policy governing, such as organised crime, involve the conflicting values and demands of many horizontal counterparts who join the policy network and need to find cohesion in order to act successfully. Empirical reality shows that even within single jurisdictions or single agencies, the organisation of a durable policy network for action against organised crime remains highly vulnerable to the multiple agendas that

intervene in policy coordination (Harfield, 2008, p. 500). Organised crime has not only compromised national efforts, but efforts at the international level as well; thus effective responses to it can be understand partly as a result of intertwined beliefs of the problem that finds much entanglement when legal systems are conflictive, or when considering the side-effects of incapable or uncommitted individuals and institutions (Olson, 1997, pp. 76-78).

The overall fight against organised crime can also reflect what has been termed "an issue network". Issue networks are characterised as having a large number of participants with wide interests, sharing unstable patterns of interaction, and policy principles and procedures that are contentious and conflictive (Fawcett and Daugbjerg, 2012, p. 199). Many of the broad policy solutions coined, for instance, in international forums, remain heterogeneous in character in order to allow for a variety of political and economical conditions to adopt ad-hoc frameworks for security (Shelley, 1995), therefore favouring the issue network approach. What is more certain, however, is that tackling "wicked issues", such as organised crime, demands bringing together resources from a range of different providers and interest groups in networks (Blanco et al., 2011, p. 301; Peters, 2015, p. 9). By seeing this rationale through the lenses of issue and policy networks, it can be argued that whilst the former concentrates on a broader spatial and territorial basis grouping a variety of actors, policy networks, on the other hand, have a much-limited focus. Policy communities addressing organised crime have a defined policy anchor and a smaller subset of participants. As the Chilean case shows, the policy issue of organised crime has evidenced at least three policy networks with the mission of prevention, detection, and prosecution. It is understood as well that policy networks can align actors to the core activity of its policy-making mission, thus assuming that the different institutions engaged play an important role in the operationalisation of resources as well as in the power needed to facilitate policy interventions. However, some characterisations of policy communities give this type of network a rather vertical interdependence and limited horizontal articulation

between participants (Rhodes and Marsh, 1992, p. 183). This approximation undermines the empirical vision, showing that networks for countering organised crime can actually create and develop horizontal relations. Scholars have argued that policy networks are not necessarily static structures of rigid construction. Instead, certain policy networks evolve and break up their rigid relations as their members institutionalise beliefs and particular forms of behaviour that suppose flexibility, adaptation, and alteration (Marsh and Smith, 2000, p. 6). The network governance approach accounted for earlier in the chapter echoes such an idea, arguing that communities can build horizontal, less hierarchical, and yet, still self-governing networks.

Thus, even though the policy network approach might differ from that of network governance (Blanco et al., 2011), both ideas can find common ground if brought together for purposeful research analysis. If policy networks focus on decision-making and power relations regarding certain issues that are at stake, the governing network stream emphasises how these relations are managed, how the resulting networks connect to institutions and considers their deliberation processes. Also, if the policy network approach's main research questions ask which actors are involved in the decision making and what relations of power exist between them, the governance network understanding queries how these networks deal with the struggles over power and content, how they connect and how they are organised. For this thesis it is therefore both helpful and fundamental to acquire a detailed policy network approach and a more general governance perspective. Thus, it is found that there is little reason as to why these approaches should be considered as two unrelated entities (Klijn, 2008, p. 512). In sum, to explore the macro-level question on the changes to state and society relations, this thesis resembles the governance approach, while for those meso-level issues of policy outcomes and the inclusion or exclusion of individuals or groups from such arrangements, it uses the policy network approach (Fawcett and Daugjberg, 2012, p. 195). Even though this thesis focuses on the governance of organised crime concerning the macro level of security and criminal justice,

its focus is on exploring the meso-level where the prosecution policy network operates and where the concerned policy processes relevant to such a particular sub-sector are occurring (see Marsh, 1998, p. 15). Both approaches allow for the asking of a definitional question regarding how issues are arising across the community and how they are being solved. Even within the prosecution policy community, there are plenty of expectations where the means for resolving policy will be conflictive because of the clashing institutional rationales that take part in it (Peters, 1998, p. 24). The Ministry of the Interior, the policing bodies, the prosecutors, and the UAF all behave according to different sorts of traditions and so might even be seen as belonging to different and competing policy arenas such as the government, policing, and the criminal justice sectors. In that sense, it becomes essential to establish a conceptualisation of networks and their various co-existing policy views' that is, for instance, in terms of regarding how they have come together, how they have developed and changed and mostly, how such processes have had an effect on certain policy outcomes.

2.3.1. Policy networks: their development and change

Authors have criticised the policy network approach determining that it provides little explanatory power in terms of structural change and policy outcomes (Dowding, 1995). Some have argued that networking appears to exert explanatory power for the opposite reasons. For instance, networks seem to bring some parameters of stability to otherwise unstable, disorderly, unpredictable, and rapidly changing environments (Hay, 1998, p. 33). In this sense, some policy communities might be characterised by their continuity, rigidity, and verticality; however, the puzzling fact is that the different nature of policy sectors and the ad-hoc circumstances in networks' life trajectory, subsequently promote change rather than stability. In such a vein, authors have come to comment with greater emphasis on the lifeline of networks. Networks can be formed when there is common recognition and mutually reinforcing agendas that permit the coming together of actors. The practice of networking is then motivated by evolving

contacts and strategic decisions taken by participants, that will, up to a point, allow the closure of the network, its degree of policy scope and its agenda. A network can fail when certain responses to policy are perceived as failures or are no longer seen strategically from a collective point. Thus, the network exhaustion due to the full realisation of its agenda can lead to its termination, whether intended or not (Hay, 1998, p. 36). In contexts of challenging societal problems, Rhodes and Marsh (1992) propose that the exogenous or environmental changes belonging to four broad categories (economic/market, ideological, knowledge/technical, and institutional) can influence how and why networks change (p. 193-195). This focus allows us to identify where the major sources of stress to networks are coming from and how they might impact the processes of policy implementation. In short, policy networks are not closed or permeated from outside forces. Because networks might have participants that belong to substructures of bigger bodies, outside forces might have different effects from those caused by structures in their own institutional frameworks (Rhodes and Marsh, p. 192). This is a point to consider for this thesis since some Chilean institutions have confronted organised crime through their different sub-divisions. The Ministry of the Interior has done so through the bureaucracies of the Department for Organised Crime, and the policing bodies through *Carabineros*' O.S.9 and O.S.7, and *Investigaciones*' BRICO unit, to name just a few.

In their analysis of policy networks, Rhodes and Marsh (1992) also argue that change could be endogenous to the network, since the continual processes of negotiation that sets a network's policy approach is very much subject to adopting the prospects of different rationales (p. 195). This last point puts tension on defining or measuring any degree of change in a policy network. In a sense, Keith Dowding's (1995) criticism becomes valid because case studies can hardly provide a systematic explanation of network changes. More particularly, changes occurring in policy networks reveal information about their processes of evolution rather than any other measurable category. Focusing on policy network changes can shed light on other

essential aspects such as the routinised relationships and their continuity or instability; policy inertia or innovation; the dominant interests and promotion or resistance to change; the relationships between the salience of certain policy issue and change; and finally, the dimension of a network which might be prone to change, such as its policy ideas, its members and others (Rhodes and Marsh, 1992, p. 196).

Marsh and Smith (2000) answer more emphatically to such criticisms by proposing a dialectical approach that, in a nutshell, assumes that the knowledge of actors involved in a network plus the structural context create an iterative relation that shape agents' actions, the engagements they are in, and the outcomes of their policy decision-making. Policy networks are said to be structured so they can be maintained over time; nonetheless, they are open to change as long as novel roles, responses, and processes continue being routinised (p. 5-6). For the study of the governance of organised crime, it is fundamental to consider that policy networks are subject to change as exogenous and endogenous factors produce tension and conflict leading to, for instance, the adoption of new policies for security. Empirical discussion has asserted that the global flow of goods and people has propelled security institutions to face new challenges because of criminal organisations benefiting from the easier and faster connectivity that is occurring worldwide (Aas, 2007). Institutions engaged in policy networks for organised crime can therefore absorb, mediate, and interpret such changes creating sets of policy reactions that stress and clash with those of other participants; this causes either a breakdown or the development of new policies within the network formations. The prosecution policy network in Chile, for instance, has witnessed change caused by exogenous contextual factors (such as the pressure to abide to international accords) and by endogenous factors (such as the creation or evolution of post-redemocratisation institutions). Both categories of factors have introduced new structures, rules and beliefs that at the end of the day have influenced its governing arrangements. Marsh and Smith's dialectical approach entails at least five interactive

72

relationships that can help illuminate how policy networks, such as the prosecution policy network in Chile, are formed, based on particular sets of structures, institutional participation and policy outcomes:

- The broader structural context affects both the network structure and the resources that actors have to utilize within the network.
- The skill that an actor has to utilize in bargaining is a product of their innate skill and the learning process that they go through.
- The network interaction and bargaining reflects a combination of resources, the actor's skill, the network structure and the policy interaction.
- The network structure is a reflection of the structural context, the actors' resources, the network interaction and the policy outcome.
- The policy outcome reflects the interaction between the network structure and the network interaction (Marsh and Smith, 2000, p. 9-10).

Even though Marsh and Smith's framework might seem incapable of addressing the full complexities that networks entail, such a theoretical approach is useful when examining the governance of crime, at least for a few reasons worth considering.

Chile's case study provides empirical data that considers the structural context, the institutions taking part and the policy outcomes, as three important factors giving shape to the overall aspects of the governance of security. Second, the decentralising and centric approaches introduced earlier, can be accounted for as long as enough observations on the contextual factors and the institutional changes pertaining to the state and the delivery of security are considered. Third, the emphasis put later in this thesis on the institutions that form part of the prosecution policy network allows for the exploration of the beliefs and rules they construct in terms of confronting organised crime. Fourth, and as Marsh and Smith emphasis, as long as there is empirical material available, the theoretical framework can provide a more detailed analytical exploration of the chosen security policy field. Fifth, and in order to better understand the prosecution policy network from 1990 onwards, the object of analysis will work best when including a temporal perspective, in such sense that there is an exploration of how the network

was formed and how the results of its policy outcome over time. Such an approach allows for looking back and understanding the formation of the network. Additionally, it leaves an open window to explore how such engagements happened within the particular context of redemocratisation, plus how it affected the interests of actors and the development of future policy decisions (Marsh and Smith, 2000, p. 11-12).

Marsh and Smith's (2000) model for policy network analysis allowed others to build upon an understanding later denoted as democratic network governance. In this vein, the academic contributions of Sørensen and Torfing (2005, 2007, 2014) have added to the literature exploring network governance formations and their democratic anchorage. In part, this body of analysis overlaps and complements that of Marsh and Smith, because it highlights how exploring the political character of governance networks implies the necessity of assessing their democratic quality. By assessing the network governance of organised crime, it is assumed that security policy towards it can either undermine participatory and representative policy-making, while on the other hand, enchancing deliberation, and strengthening contestation (Sørensen and Torfing, 2014, p. 108-109). To study governance networks and their impact on democracy also helps us contextualise the environment whereby Latin American countries have engaged in such governing arrangements and consider whether or not such schemes abide to any democratic performance. It is argued therefore that governance networks are democratically anchored if they:

- Are controlled by democratically elected politicians;
- represent the membership basis of the participating groups and organisations;
- are accountable to a territorially defined citizenry;
- facilitate negotiated interaction in accordance with a commonly accepted democratic grammar of conduct (Sørensen and Torfing, 2014, p. 112-113).

Such "democratic anchorage" delivers a rather state centric interpretation of network governance since it initially proposes that public actors can metagovern networks. The

74

metagovernance approach simply denotes that one actor can take the reins of a network either by *influencing* their design and composition of institutional procedures; by *sketching* its framework, outlining the way the overall number of discursive frameworks within the network governs itself; by *managing* to resolve conflicts or tension and providing resources and inputs to participant actors; and by *participating* in the endeavours of the network that are influencing policy agenda and decision-making (Sørensen and Torfing, 2014, p. 116). A policy network approach and the role of metagovernors can therefore, in part, help enlighten the state-oriented governance of organised crime in Chile, as Smith (1993) pointed out, because the concepts of state involvement and policy networks can suggest the type of relationships that exist between certain state groups and their variation across time; the actors that are exerting the most pressure in terms of policy action; and also, the degree of state autonomy in making and implementing such policies (p. 7-8). However, as the subsequent empirical chapters will later highlight, when analysing the prosecution policy network there is the need to be aware of those groups of actors outside the government, or oven outside the policy network, that might provide an explanation of policy action occurring in the context of the community. As Smith mentioned, it would be inadequate to focus solely on certain groups, when it is necessary to provide a historical account that examines how relationships have developed for certain reasons and within particular policy sectors (Smith, 1993, p. 10-11).

State-oriented policy networks can have different characteristics depending on the arrangements and relationships between the actors that develop in the context of such a community. For instance, Smith (1993) argues that one type of policy community can enjoy greater policy-making intervention if state actors are sufficiently autonomous, producing closed relationships and infrastructural power. In such contexts, it is more likely that the policy outcomes will reflect the goals of the state actors because they will have greater control over the issues raised and the responses to them (p. 71). Paul Fawcett and Carsten Daugbjerg (2012),

argue over Smith's approach, suggesting that state centred governance with a relatively exclusive policy network, is characterised by the central role (metagovernance) that state authorities play in the outcomes of a network "either through direct intervention or through the imposition of a shadow of hierarchy over the activities of the network" (p. 199). Also, because of the limited number of actors in the network, horizontal coordination would mean that there is an "agreement in the 'rules of the game' and the structure of the network is likely to be relatively stable over time" (Fawcett and Daugbjerg, 2012, p. 202).

State institutions can engage in a policy network but have low autonomy, losing control of policy-making power to other foreign actors or group interests outside the spheres of the state (Smith, 1993, p. 69). This categorisation is helpful, since it has been argued that organised crime can undermine state actors and also promote the appearance of other security providers external to public control. Smith (1993) argues that policy networks with no dominant groups fall under the macro theory of pluralism studies. The presence of security policy networks with many actors and limited state control over the policy is not the most common case seen in Chile. However, for a future comparative exercise, for instance, with other countries in the region, it would be necessary to rely on this second categorisation for explanatory power, and again, refer to the above mentioned state centric and state decentralising governance approaches as methods that are both helpful and explanatory. State centred networks, on the other side, tend to be assessed through a state-oriented theory arguing that networks can take a different form but depend greatly on pursuing the interests of state actors (Smith, 1993, p. 74). The state oriented understanding is also deceitful in a way. As was emphasised earlier, the state cannot be taken as a one-dimensional machine, but rather a complex organisation where policy network approaches are flexible and deeply variable (Smith, 1993, p. 233).

In sum, the literature sees governance networks as the means of enhancing effective policy-making and policy implementation in a complex and fragmented world by integrating

the values of institutions taking part in it, as well as the historical and political contexts that have shaped the operationalisation, partnership, and outcomes of networks (Sørensen and Torfing, 2014). In this sense, the understanding of policy networks becomes an attempt to explore and explain the processes and interactive relations that have ultimately shaped governance (Smith, 1993, p. 72, 74). To undertake such a task, this thesis jumps into reviewing the historical institutionalism approach and its overlapping theoretical approximation using the above-mentioned aspects of the governance literature.

2.4 Institutions and Network Governance

It was considered earlier that networks are the product of a development over time. Time-oriented research can offer a holistic comprehension of how certain specific conditions have conduced to the formation of governing structures. As well, it can provide a greater explanation of the likely circumstances in which networks do not take form (Peters, 2007, p. 61). In that sense, the processes in which certain relationships can grow and later turn into networks, rely heavily on how the strengthening of an institutional trajectory is cultivated. Put simply, the nature of networks can be structured by how institutions interact along their lifespan, especially in a network's formative moments (Peters, 2007, 63-64). This last section addresses and expands this latter point by immersing itself in the study of historical institutionalism and combining its overlapping explanatory power with that of the already discussed governance and policy networks approaches. Because it has so far been said that confronting organised crime has developed new dimensions affecting the state and its institutions, it is suggested that the networks and the institutions that form part of the governance of organised crime have to continually adjust to the turbulences that criminality produces in the actors coping with its control. In a nutshell, an environment of insecure complexities demands the constant tweaking of the institutions and networks that may develop new dimensions as they adjust to novel social, economical, and political conditions (Peters, 2007, p. 65).

A puzzling logic takes root nonetheless because of all the various institutional traditions and practices that meet in a network formation. This greater involvement of institutions in networks has meant, as argued by Peters (2007), that there is a greater range of interests in a certain policy area (in this case, security) and that the functioning of any given policy network becomes subject to how much consensus is found among the agents and institutions participating. The internal effectiveness of a network depends, therefore, on the capacity to create shared commitments to the core content that the network is addressing, be it a policy product, a process, or a certain type of clientele (Peters, 2007, p. 67). The institutionalist approach is theoretically useful for understanding such rationale when applied to the study of organised crime. The phenomenon is a loosely understood concept that can demand different responses depending on the beliefs and traditions of any given institution. Exploring the governance of organised crime thus relies upon adopting a fairly constructivist vision of how public actors set up routines from the interpretation and implementation of principles and logic to address organised crime. Thus, because "no democracy subscribes to a single set of principles, doctrines, and structures" (March and Olsen, 2009, p. 167), evidence is needed that the public actors engaged in the governance of organised crime will participate in different approaches coherent to their own institutional aims and goals. The institutionalist approach acknowledges such matters and points out that institutions are structures with different beliefs, traditions, and procedures that characterise behaviours towards policy. Thus, political order can be created when different institutions form a complex arrangement with intertwined patterns that provide substantive policies (March and Olsen, 1984, 2009; Stoker, 1995). In the words of March and Olsen (2009), "Institutionalism connotes a general approach to the study of political institutions, a set of theoretical ideas and hypotheses concerning the relations between institutional characteristics and political agency, performance, and change" (p. 160).

The study of political institutions concerns not only the rules and procedures of formal and informal organisations; but also, establishing a clear analysis of how they are created, how they reformulate, and, in some cases, how they disappear (Stoker, 1995, p. 8-9). The institutionalist approach provides then with a suitable research framework to explore both the nature of the political bodies embedded in the governance of organised crime and the governance processes happening between them. As Rhodes (1997), mentions, modern times have included "a large-scale institutional differentiation between institutional spheres with different organisational structures, normative and causal beliefs, vocabularies, resources, histories, and dynamics" (p. 169).

The core assumption behind observing things through an institutional lens is that because governance occurs among different institutional arrangements, its complexities can be better explored if there is a clear understanding of the conducts, identities, and purposes that drive these institutions into a particular form of action. Such understanding must be put in perspective with the particular interest this thesis places on explaining the governance shifts from rigid bureaucracies to flexible networks. It is therefore prudent to steer the discussion to how students of institutions have approached such a puzzle as they became more aware of the dynamic and malleable processes occurring in the affairs of policy-making (Lowndes and Roberts, 2013).

2.4.1 The historical approach

Institutionalist scholars have shown an interest in "how political actors define their interests and structure their relations of power to other groups" (Thelen and Steinmo, 1992, p. 2). To pursue such a task in the ever-evolving environment of politics, authors have moved away from explaining rigidity and stability, to explore just the contrary: change, irregularity and informality. Because "old" institutional explanations seem "excessively static" and "incapable of coping with the dynamism and complexity of the contemporary political world" (Peters

2008, p. 17), the so-called "new" institutionalism trend came to offer convenient explanations for exploring an approach to institutional change.

For instance, March and Olsen (2009) suggest that the current processes of governance are characterised by a complex scenario of "dynamic" institutional arrangements (p. 160-162). Political actors belonging to various institutions interact in these settings in order to create policies. Such interactions can either affect institutions in terms of the continuity of a certain behaviour based on established rules, routines and norms, or, on the other hand, the adaptability of these to new environments. Institutions are therefore subject to either stability or change as a result of mutating governing arrangements. March and Olsen (2009) put forth a research challenge that seems adequate for this thesis. They assume that the "stabilisation" or "destabilisation" of institutions embedded in governance patterns can be explained by mirroring changing processes occurring over time. In this sense, one suitable query would be to ask, how did the governance of organised crime destabilise itself into a horizontal style of networked governance if at first it was stable and hierarchic? And then again, how can we explain the periods of stabilisation of the current networked governance? To explore such queries this thesis draws upon the historical approach to institutionalist theory. The underlying logic of historical institutionalism emphasises the formative periods of institutions, as well as how the ideas and assumptions of actors can shape change or stability to correspond with institutional policy (Peters, 2008, p. 4). Additionally, because it was argued that network policy formations to confront organised crime can struggle, for instance, when trying to find a consensus on how to interpret the issue and how to confront it, historical institutionalism seems a practical lens to use when trying to discover what ideas hold together such political bodies in terms of policy-making (Sanders, 2008).

Historical institutionalism is characterised by studying how institutions are created, maintained and adapt to circumstances in their long-term evolution. Scholars using this

approach have looked at the result of interactions among institutions involved in the outcome of policy. In this vein, such exponents are said to be more interested in exploring human motivation in terms of goals and collective actions in the public arena and less in the self-interested dimension held by any particular official, bureaucrat, elite, or other social group. Also, it generally puts a bigger effort on researching national scale case studies and over a significant amount of time. This approach allows discovering the particular relationships that happen between large political bodies when implementing public policies that are embedded in the "power constellations" of a particular political setting (Lowndes and Roberts, 2013, p. 38).

The role of ideas sets forth a useful parameter to distinguish historical institutionalism, for example, from a rational choice institutionalist perspective used by other authors to explain how individual rationales shape political strategies and outcomes. The rational choice perspective places more attention on the idea that political actors are acting strategically to achieve their ends. Yet, historical institutionalism cares more about the broad picture rather than the detailed stories (Sanders, 2008). In that way, it builds upon the idea that a historical analysis is needed in order to exhibit in-depth understanding of what is it that political actors are trying to maximise and why they prefer certain sets of goals to others (Thelen and Steinmo, 1992, p. 9). In the words of March and Olsen (2009), institutions are the "collections of structures, rules, and standard operating procedures that have a partly autonomous role in political life" (p. 160). In that sense, this research benefits from taking a historical institutionalist perspective first, looking at the overall ideas and goals embedded in security institutions and how political actors are circumscribed to these when moving into policy action; secondly, by looking at the overall process of security governance as an arrangement where various institutions meet; and thirdly, by trying to visualise what ideas, traditions and beliefs, are moving institutions to engage in a networked style of governance. This approach therefore uses the rules, routines, and norms that give identity to an institution as the basic unit of

analysis. However, and as has been argued by others, the historical analysis should be, when possible, supplemented with the study of micro-rational individuals and other macro-social forces (Rhodes, 1997, p. 171). Thus, and even though the conceptual framework of this thesis is mostly dominated by the historical approach, it becomes useful not to completely reject the "players" focus, but rather, take into consideration the actors' interests and strategies when relating to one another in order to draw attention to the way in which political situations have been structured (Thelen and Steinmo, 1992, p. 13).

2.4.2 Accounting for change

Chile's early governance of organised crime happened to involve few actors who were hierarchically engaged to control a phenomenon of which there was little knowledge. However, as redemocratisation transpired, horizontally connected institutions holding different and more elaborate understandings of organised crime, engaged in such governance. Yet, how can the theory help make sense of this institutional dynamism and the consequences for policy network formations? Because historical institutionalists prefer an inductive approach, meaning to explore an issue by looking at the reality of the problem first, its relevance for this thesis seems to strategically put things in a good direction. In more academic terms, the inductive method draws its conclusions "by empirical observation and the search for patterns and generalisation"; meanwhile, the deductive method "emphasises the value of drawing conclusion from the first set of principles through a process of conceptual analysis and reflection" (Stoker, 1995, p. 14). Such a descriptive-inductive approach, as Rhodes (1995) mentions, draws inferences from repeated observations and makes statements about the causes and consequences of political institutions together with the political values of a society that constrain rules, procedures, and behaviour (p. 43-44, 55).

Through an inductive and historical-comparative approach, Kathleen Thelen and Sven Steinmo (1992, p. 16-17) explain the causes of institutional dynamisms as responding to

multiple factors. The authors argue that changes in the socioeconomic and political context of industrialised nations produce institutions gaining more dominance in the policy outcomes. Building upon that rationale, some state centred reactions to organised crime have given a primordial role to the military over the traditional policing bodies because authorities believe that the former are plagued by corruption and collude with criminals. On the other hand, instability can also occur when exogenous changes produce a shift in the goals or strategies pursued by existing institutions. For instance, when police bodies react to organised crime becoming more complex, institutional authorities feel the need to re-arrange their guidelines to include the control of such complex criminal activities. Another form of dynamism can occur when in moments of dramatic change, such as institutional breakdown or institutional formation. Institutions need to adjust their strategies or goals towards policy in reaction to such changes. In Chile's case, these fluctuations were highly evidenced when redemocratisation occured. Security institutions that were once committed to internal repression in the non-democratic regime were dismantled and others were created in virtue of a democratic rule of law. For instance, and as the subsequent empirical chapters will reveal, the case of Chile's criminal justice reform introduced in 2000 changed the overall institution of justice bringing a whole new adoption of novel norms and procedures in terms of criminalising anti-social behaviour, conducting investigations and prosecuting, among other things, the issue of organised crime.

Historical institutionalism has been characterised through the explanation of change in moments of dramatic change, or periods of so-called critical junctures (Capoccia and Kelemen, 2007). Given this understanding, change happens when long periods of continuity are interrupted by a critical moment that sets forth a period of re-adaptation for institutional structures. However, the conception that external shocks are the main drivers of institutional change has left unattended gradual change, as well as the intra- and inter- institutional sources

of change (March and Olsen, 2009, p. 167). For the empirical case in this thesis, this latter perspective is also fundamental for explaining how institutions have favoured or resisted change when adopting a networked style of security governance. To reiterate, moments of institutional formation such as Chile's redemocratisation and other major institutional reforms evidenced since then, happen to work well under the "punctuated equilibrium" approach. However, subtler processes of institutional evolution cannot be accounted for when using such a lens. What this thesis will reveal through its empirical chapters is whether or not the network governance was significant enough to be considered as a "deviation from the status quo". It will thus explore if the recent triggers of change acted as the catalysts to move institutions from one hierarchic path of policy creation to another of networks. In fewer words, have any "critical junctures" influenced the governance of organised crime in Chile? Reality suggests that answering yes to this question is not the most compelling response, in part, because such networked governance seems to have happened because of gradual changes occurring since redemocratisation up to the current day. Such a puzzle leads us to emphasise theoretically with the idea of gradual change.

2.4.3 Explaining the gradual adoption of network governance

It is not crystal clear that security institutions in Chile approached a networked style of governance to control organised crime because of a critical juncture. Thus, it seems rather convenient to focus on the smaller, internal, incremental, and cumulative processes of adjustment that could give a more thorough explanation to the governing engagement that Chile's public institutions have put forward to confront organised crime since redemocratisation. As mentioned, authors have asked if institutional policies can be explained as a product of well-defined structured processes, or if they are the results of a more encompassing evolution (Peters 2008, p. 15). James Mahoney and Kathleen Thelen (2010) have worked on ideas of institutional gradual change going deeper when refining additional

explanations for institutional change. At first, the gradual understanding of institutional change seems to fit well with the Chilean case because security institutions have change mostly on the basis of a continuing political mobilisation, and not because of decisive events. This rationale is explained in part since crises in security issues have been invisible in Chile since redemocratisation, and secondly, because a majority of the security institutions involved in the control of organised crime have evolved and shifted, rather than emerged or broken down. However, some do fall into the latter category such as the Public Ministry and the UAF, both set up in 2000 and 2003, respectively. What remains a conundrum though, is what, when, and how certain endogenous and exogenous sources have produced gradual change in the ministries, police bodies, criminal justice system, and others, and how these institutions have responded to it. It makes sense therefore to explore what properties have allowed institutions to be dynamic and reflect on such type of changes.

In line with Mahoney and Thelen (2010), a look inside institutions can help consider the particular characteristics that enable or motivate actors to implement change. Then, it is necessary to look thoroughly at these actors, exploring what types of strategies are change-prone, and under what type of institutional environment, in order to finally establish what institutional features are defining vulnerability to certain strategies of change. Some of these ideas have been put to the test elsewhere, taking as their basis the work of Thelen and Steinmo (1992). This thesis borrows from their theoretical work the idea that institutional contexts, constitutional structures, political relationships and power interests lead to the pursuance of different policy choices that influence the overall processes of governance. Because it is understood that institutions either empower or constrain actors to react during changing conditions (March and Olsen 2009, p. 159), it is necessary to empirically discover what features of the security institutions explored throughout this thesis are structuring and creating the necessary capabilities for adopting a networked governance model.

In that sense, institutional governance can be very challenging. According to Torfing, Peters, Sørensen and Pierre (2012), the first requirement for successful inter-institutional governance is an effective government apparatus. Such a government should be able to create supportive and institutionalised environments that can provide full functions for state and also non-state actors (p. 104). This point is fundamentally relevant to developing countries, since it is expected that institutions in more fragile settings will be provided with lesser governance capacities for institutionalising policy networks and the role of governing institutions (O'Donnell, 1996; Levitsky and Murillo, 2009, 2013; Levitsky and Helmke, 2006). It might be necessary then for certain developing countries to achieve some level of institutionalisation before formal structures of networking can appear. In this regard, scholars have mentioned that "networks and other forms of interactive governance may be valuable instruments, but do need some structure within which to function" (Torfing, Peters, Sørensen and Pierre 2012, p. 111). As well, a second factor to consider is that institutions in certain democratised countries might still carry influences from authoritarian regimes, and therefore they may not be open to influences from outside their own boundaries hence avoiding flexible governance. This problem might be specific to the governance of organised crime since it is expected that many contemporary security situations will lead to effective cooperation from many policy areas and not only from the state, for example, private actors (Torfing, Peters, Sørensen and Pierre 2012, p. 121). Vivien Lowndes and Lawrence Pratchett (2014) argue, for instance, that institutions need to be analysed within the rules of the democratic game; they need to have been formally created, recognised and embedded over time; and also, they need to be monitored according to political conventions, accepted according to both formal and informal practices in polity. In redemocratised countries, institutions, norms and customs might still be under development. Thus, it becomes important to consider the complex institutional environments where they are

nested, and also, the power relationships that are shaping the historical legacy of institutions over time (p. 93-95).

In sum, the transformation of institutions from hierarchic to horizontal policy enablers overlaps with the networked governance approach explained earlier in the chapter, and the importance given to contextual scenarios under which such changes occur. Governance happens in processes of continuing interaction between various political actors that are also involved in changes occurring, not only in their national settings, but also, inside their own institutions (Peters 2008, p. 13). In the creation of networks between actors, their interaction is affected by processes of change in their own institutions, and even more, this interaction can produce change in existing institutions that were previously immune to it; this is because they were not exposed to a networked type of governance. It is appropriate therefore to close this section by saying that the governance of organised crime involves complex relationships of negotiating, coordination, and collaboration among various institutions and their contexts. Institutionalism and governance theories suggest that the patterns of these connections do matter and are essential for explaining those governing outcomes that remain under-researched (Ansell, 2008).

2.5 Conclusion

This theoretically informed chapter has demonstrated three explanatory bodies of literature that have conceptualised and advanced this thesis's scientific vocabulary pertaining to the study of governance, policy networks, and institutional theories. When viewed in conjunction with the empirical material examined subsequently in this investigation, these strands of theory help interpret security performances (mirroring the state centric and decentralising approaches explained earlier); explore the formation and development of policy communities (through the network governance models); and (using the historical institutionalist approach) account for

the changing institutional complexities that have allowed for such engagements to happen to Chile over the past decades.

The subsequent empirical chapters unfold such theoretical ideas, on the one hand, by submitting as evidence the multiplicity of actors involved in the prosecution policy area, their interdependency, and their preferred forms of action and control. On the other hand, the chapters will reflect on this theoretical backdrop by unveiling contended policy approaches and understandings for organised crime, the different relationships towards approaching criminality, and the main obstacles against engaging in interactive networked governance. The rest of this thesis then evidences the relationships and interactions among a variety of institutional features that reflect the complexity of the real political situations put forward by the governance of organised crime. The chapter also reviews how institutional dynamism has affected meanings and functions over time when controlling organised crime, and how these changes have produced unexpected outcomes, such as network governance, as well as how institutions have evolved in light of addressing organised crime. Before such discussion, this thesis will briefly discuss the methodological tools used in order to set out its empirical storyline based within the above constructed theoretical narrative.

3.

Methodology

3.1 Introduction

This methodology chapter unfolds the research techniques used to enlighten the core question driving this thesis: how to explain the governance engagement that Chile's public institutions have set up to confront organised crime since redemocratisation. In order to reflect on such a question, this thesis draws on two sets of tools that have proven useful when examining governance processes through time: a written data collection strategy based on the revision of historical documents, and an oral data collection strategy, centred on exploratory qualitative interviews among elite policy makers. Scholars have suggested that written and oral research approaches are helpful when trying to reconstruct the narrative of an event (Vromen 2010, p. 258). Thus, and since the governance of organised crime in Chile is an unfolding process, the purpose of combining both written and oral cumulative data offers a holistic view of how, when, and which interactions among real world actors have developed and shaped governing practices across time.

Authors such as Bevir and Rhodes (2003, 2006) are part of a series of recent governance authors who have tried to account for governance stories by following such methods. In their scholarly efforts, Bevir and Rhodes (2002) have proposed their own version of exploring network governance through what they call the "interpretive approach". This understanding aims to explain social action by means of "telling a story about how actions, practices and institutions came to be as they are and perhaps also about how they are preserved" (p. 134). The interpretive approach promotes, among other empirical activities, the revision of

documents and elite interviewing as part of a broader ethnographic and historical effort to better analyse the relations existing among interested stakeholders who produce policy results (Finlayson et al., 2004). This chapter builds on such conceptualisations; however, it does not follow its indications blindly. It would be erroneous to call this thesis's fieldwork research an ethnographic interpretivist endeavour. Nevertheless, what this thesis has certainly borrowed from the conceptual tools offered by Bevir and Rhodes, is their core belief that a productive way to study network governance and their historical features starts by concentrating on the time evolving traditions, dilemmas, and actions of the many security actors involved in governing. In a nutshell, this research theoretically borrows the understanding that governance processes should be approached in such a way that social action is explained in a narrative form (Bevir and Rhodes, 2002). By applying such a partial perspective of the interpretative approach, this thesis aims to make sense of different worlds, in which a list of institutions appeal to traditions and beliefs, an from where they generate different narratives to engage into policy action (Richards and Smith, 2004, p. 781).

Thus, to explore the network governance occurring in Chile since its redemocratisation, this chapter initially presents Section 3.2 where the task of collecting written data during fieldwork is explained. The subsequent Section 3.3 details the interview strategy used to gather actors' meanings of security traditions and governance processes; and thirdly, the concluding Section 3.3 explores both the tools' limits and advantages. Throughout its narrative the chapter presents two other essential parts: the list of participating interviewees and an example of the semi-structured questionnaire used during the personal encounters carried out during fieldwork.

3.2 Documented Data Collection Strategy

Scholar Ariadne Vromen (2010) explains that political scientists study existing documents and texts as part of their search for primary sources:

> Most are primary sources which are original documents produced by political actors ranging from executive, parliamentary or judicial arms of governments, policy-making agencies or non-government organisations. Primary sources can also be archival material such as photos, diaries, meeting notes and memoirs. Primary sources are generally considered to be documents that reflect a position of an actor and do not have analysis in them (...) This also emphasizes that the qualitative use of texts and commentary primary sources is to make meaning from them by using them 'to tell the story' or recreate a historical sequencing of events (p. 261-262).

This stage of the research aims therefore to identify and access sources of written data related to the institutional practices that form part of the security governance process related to organised crime in Chile. Following the advice of Vromen and other scholars who have written on qualitative research methods, the data is to be drawn from various written sources such as news accounts, agency newsletters, annual reports, memos, meeting protocols, government documents, hearing testimonies, reports, surveys and other studies (Yanow, 2000, p. 37). Since this thesis's research emphasis is on those actors being part of the prosecution policy community, the research aims to first identify and then access sources of written data. This could eventually provide the most in terms of reading practices, actions, texts, interviews and speeches, recovering these institutions' stories on the governance of organised crime.

The interpretive theory suggests that an historical qualitative method can help to identify actors' stories within their wider webs of beliefs which take place against the background of the traditions they modify in response to specific dilemmas. So, there is a need to begin by reading texts that construct the historical background to present-day debates as to how actors understand organised crime, what beliefs their institutions have created through time, how they allocate resources, resolve conflicts and coordinate action towards assessing such phenomena. This strategy aims to unpack institutions' constituent ideas and help identify their security traditions and dilemmas. Considering the partial interpretivist approach the research borrows, it could be said that this part of the research draws on the process of "decentring" governance stories (Bevir and Rhodes, 2004, pp.131-135). Such an approach helps us identify several ways in which institutions construct governance, allowing this study to highlight how governance

stories from various institutions exposed contingent, contested, and competing narratives of security governance.

Sources were acquired in various ways. A thorough search of various institutional websites was performed in order to access open data allocated to internet archives. In the search for governmental openness, most of Chile's public institutions allow open data access to the public through their institutional web pages. Some of the archives visited were available at internet addresses such as www.interior.gob.cl (Interior); www.fiscaliadechile.cl (Public Ministry); www.carabineros.cl (*Carabineros*); www.pdichile.cl (*Investigaciones*); and www.uaf.cl (Financial Analysis Unit). Another source of important written material was the Biblioteca Nacional web archive for existing laws, norms and treaties, available at www.leychile.cl. For news accounts, a fieldwork visit to the Centro de Documentación (documentation centre) at the newspaper *El Mercurio* in Santiago, was undertaken. From such a database it was possible to read and gather published articles in Spanish from that and other press outlets, including, *La Tercera* and *La Segunda*. These readings provided different accounts of facts and events that were later helpful for triangulating data. The common way to find a past article without referring to the paper version is through the relevant website; however, these online news aggregators do not always reflect the more refined versions that appear in printed form. Another two archive explorations were performed, one in the Pontifical Catholic University of Chile central library in Santiago, where policy documents and academic articles were available; while a second library visit was performed at the Charles E. Young Library, University of California, Los Angeles. This collection is catalogued as one of the most comprehensive in the hemisphere in terms of academic textbooks and databases as well as special gatherings on political and societal studies in the region. The cumulative information given by such specific sources allowed access to detailed narratives of how institutions in Chile, and to a certain extent in the rest of the region, had engaged in governing patterns dating well

back to the early twentieth century. Also, a point that will be discussed in the next section was that some of the participants who were contacted for an interview were kind enough to give the researcher printed or electronic public documents, such as institutional reports and memos.

3.3 Oral Data Collection Strategy

The purpose of conducting interviews for this study was to characterise the possibilities of the multiple interpretations of how organised crime should be confronted, and how such approximations evolved in governance engagements through time. Theoretically, the use of interviews aimed to access essential information on how the policy issue of organised crime was framed by the various parties to the debate, and how it later evoked change in the way institutions decided to confront it (Yanow, 2000, pp. 11-12). Empirically, an elite interviewing strategy was used to explain the meaning of actions; this provided a certain authenticity which could only come from the main characters involved in the governance of organised crime. These oral sources came from interviews with actors and members of various policy-relevant groups. Gary Gereffi (1995) catalogues this type of research as "strategic interviews". Features of this include the identification of elite respondents with a "unique (not representative) stock of information that the researcher is trying to tap; gain access (not sampling) is the primary problem; and semi-structured (rather than standardized) responses are the basis for conclusions" (p. 35). Sampling, in this case, became a purposeful task oriented to finding the right people among those who had the most relevant experience in the relevant issue of investigation (Flick, 2007, p. 80).

A total of 43 participants were interviewed (see Table 3.1). Even though the literature is substantial in terms of what an elite actually is, this thesis followed the parameters that brand such interviewees as "those that command a position of authority or privilege, often having some influence upon decision-making" (Wicker and Connelly, 2013, p. 3). Because there was

Table 3.1 Details of interviews broadly broadly grouped by organisation areas.

Interviewee	Position(s)	Interview Details
Former Senior Official; Private Security Executive	Department of Public Security Ministry of the Interior; Private Security Executive	9th October 2013, Private Office, Santiago Centro
Senior official	Undersecretary of Public Security, Ministry of the Interior	10th October 2013, Agustinas 1235, Santiago Centro
Former Senior Official; Private Lawyer	Undersecretary of the Interior, Ministry of the Interior	10th October 2013, Private Office, Providencia
Senior official	Department of Organised Crime, Ministry of the Interior	18th October 2013, La Moneda, Santiago Centro
Senior Official	Undersecretary of the Interior, Ministry of the Interior	29th October 2013, Private Office, Santiago Centro
Former Senior Official	Public Security Division, Ministry of the Interior; Researcher	24th October 2013, Academic Office, Santiago Centro
Former Senior Official	National Intelligence Agency, Ministry of the Interior	5th November 2013, Private Office, Santiago Centro
Former Senior Officer	Department of Organised Crime, Ministry of the Interior; Security Consultant	6th November 2013, Private Office, Las Condes
Senior Official	Undersecretary of the Interior, Ministry of the Interior	11th November 2013, Private Office, Santiago Centro
Senior Officer	Department of *Extranjería*, Ministry of the Interior; private lawyer	20th November 213, Private Office, Las Condes
Senior Official	Directorate of International and Human Security, Ministry of Foreign Relations	12th November 2013, Teatinos 180, Santiago Centro
Prosecutor	Public Ministry	10th October 2013, Private Address, Las Condes
Prosecutor	Public Ministry	27th November 2013, Gran Avenida 3814, San Miguel
Former Prosecutor; Private Lawyer	Public Ministry; Private business	25th October, Private Office, San Miguel
Former Prosecutor; Private Lawyer	Drugs and Counternarcotic Unit, Fiscalía Nacional, Public Ministry	23rd December 2013, Private Office, Las Condes
Advisor	Money Laundering, Economic crimes, Environmental and Organised Crime Unit (ULDDECO), Fiscalía Nacional	18th October 2013, General Mackenna 1369, Santiago Centro
Senior Advisor	Sexual Abuse and Family Violence Unit, Fiscalía Nacional, Public Ministry	19th December 2013, General Mackenna 1369, Santiago Centro
Senior Official	Drugs and Counternarcotic Unit, Fiscalía Nacional, Public Ministry	18th November 2013, General Mackenna 1369, Santiago Centro
Official	Drugs and Counternarcotic Unit, Fiscalía Nacional, Public Ministry; Academic Researcher	20th November 2013, Bravíssimo Gelatería, Las Tranqueras 50, Las Condes
Private Lawyer; Academic	University of Chile	22th November 2013, Private Office, Las Condes
Lawyer; Researcher	University Diego Portales, Chile.	17th October 2013, República 105, Santiago Centro
Judge	Tribunales de Juicio Oral en lo Penal, Chile	26th November 2013, Centro de Justicia, Santiago Centro
Judge	Tribunales de Juicio Oral en lo Penal, Chile	4th December 2013, Centro de Justicia, Santiago
Former Official (BRICO); Senior Officer in counternarcotics	Policía de Investigaciones	30th October 2013, Guadal 920, Estación Central
Senior Official	Brigade of Organised Crime (BRICO), Policía de Investigaciones	11th December 2013, Compañía de Jesús 2441, Santiago Centro

(Continues…)

Senior Official	Cybercrimes Brigade, Policía de Investigaciones	18th December 2013, General Mackenna 1314, Santiago Centro
Former O.S.7 Official; Senior Official in criminal and drug investigations	Carabineros	27th December, Paseo Bulnes 80, Santiago Centro
Senior Official	O.S.9, Carabineros de Chile	6th December 2013, Exequiel Fernández 1162, Nuñoa
Senior Official	O.S.9, Carabineros de Chile	22nd November 2013, Exequiel Fernández 1162, Nuñoa
Former Senior Official (General)	Army (Ejército de Chile)	16th October, Private Office, Santiago Centro
Former Advisor; Academic Scholar	Ministry of the Presidency; Ministry of Defence	24th October 2013, Academic Office, Santiago Centro
Former Advisor	Ministry of Defence	30th October, Private Office, Santiago Centro
Former Ambassador; Private Lawyer	Ministry of Foreign Relations	12th November 2013, Private Office, Santiago Centro
Senior official	Undersecretary of Defence, Ministry of Defence	20th December 2013, Villavicencio 364, Santiago Centro
General	Army (Ejército de Chile)	20th December 2013, Private Residence, Las Condes
Senior Official	Financial Analysis Unit (UAF)	29th October 2013, Moneda 975, Santiago Centro
Former Senior Official #1	Financial Analysis Unit (UAF)	7th November 2013, Café Juan Valdez, Rosario Norte 531, Las Condes
Former Senior Official #2	Financial Analysis Unit (UAF)	25th November, Starbucks Coffe, Agustinas 640, Santiago Centro
Senior Official	International Issues, Customs (Aduanas)	10th December 2013, Plaza Sotomayor 60, Valparaíso
Consultant	Private Financial Compliance Business	28th October 2013, Avenida Plaza 680, Las Condes
Lawyer	Private Consultancy in Private and Public Security	20th December 2013, Private Office, Las Condes
Consultant	Private Security and Commerce	22nd October 2013, Private Office, Santiago Centro
Former Governmental Security Advisor; Security Official	Municipality of Providencia, Santiago	25th November 2013, Pedro de Valdivia 963, Providencia

the need to classify elites into sector categories, in order to operationalise the term, this thesis sought to define certain parameters for the group in question. Elites were considered as such if they played a role in the broad scope of inquiry (the governance of organised crime); a position in one of the institutions that formed the prosecution policy community; and if they belonged to the top decision-making tier among such circles. At the end, the selection of elite individuals resembled more of a selection by decision-making, rather than simply through reputation or position (Moyser, 2006, p. 87-88; Knocké, 1994). This occurred because some elites fitting

such descriptive variables counted more than others in terms of their levels of knowledge and influence in relation to the organised crime decision-making process (Burnham et al., 2008, p. 231). Based on the evidence of such emphasised elite status and the relevant sources of identification, the resulting sample ended by including participants from current and former public offices in government, as well as prosecutors, police officials, judges, economic sector private executives, security consultants and other related actors such as private lawyers and law and political science academics. It must be pointed out that among the participants, many acted as gatekeepers to other "influential actors behind the scenes" who were included in the sample. Such a snowball effect (when elites were asked to nominate others for inclusion in the study) allowed access to the intricate networks of security elites (Odendahl and Shaw, 2001, p. 307-308; Moyser, 2006, p. 88). Lastly, the geographic boundaries for the study were set up at the national level.

The richness of all of these conversations helped shed light on those policy dilemmas that did not appear in the texts, interviews and speeches (Bevir and Rhodes, 2008, p. 176). Table 3.2 gives the example of a semi-structured questionnaire used during the fieldwork. Most personal encounters happened in the city of Santiago, but one was done in the coastal city of Valparaíso, where the Customs (Aduanas) headquarters is located. The longest interview lasted for almost two hours, however, the average was slightly less than one hour. The face-to-face interviews were conducted in different locations such as private offices, work offices, and only a handful in public spaces. Fieldwork confirmed the popular saying that "one benefit of interviewing elites and ultra-elites is that they typically have suitable space available in which to conduct the interview" (Stephens, 2007, p. 205). The whole sample of interviewees was guaranteed anonymity and confidentiality. These considerations were important due to their high profile in security matters. Participants are referenced in the text regarding their roles, and the institution that they belonged to previously, or at the time of being interviewed.

Table 3.2 Example of a semi-structured questionnaire used during the fieldwork.

(I)	**Introduction and interview protocol (resumed).**
	• *Objective:* "By participating in this project you will help us understand dilemmas and conflicts occurring when planning and delivering security"
	• *Information sheet (confidentiality):* "The researcher will not discuss what you have told with anyone and will not disclose to anyone that you are taking part in this investigation. Reports or any written piece from the research will be kept confidential"
	• *Consent form (audiotaping):* "Do you agree to take part in the study? If yes, do you agree to your interview being audio recorded? (You may take part in the study without agreeing to this)"
(II)	**Opening question.**
	• "Could you state who you are and your career experience up to this day?"
(III)	**Security governance questions.**
	• "Could you elaborate on your most relevant (*current or previous*) duties in the governing (*policy making/execution/evaluation etcetera*) of security matters?"
	• "In accordance to your involvements in security, what do you understand as organised crime?"
	• "How does such rationale (*regarding the last question*) translate into policy action in your job duties (*current or previous ones*)?"
	• "How do you relate such ideas when linking to those of other security institutions involved in organised crime counter efforts?"
(IV)	**Specific questions relevant to each participant and according to the interviewee institutional association.**
	• "Could you elaborate on the events regarding money laundering and organised crime countermeasures going as far back in time as your experience allows you?"
	• "Could you give any details regarding the political environment (national and/ or international) to that of when your institutions (i.e. department, division, unit, brigade, etc.) was put together?"
	• "During your time at (*pertinent department, division, unit, brigade, etcetera*), what did you foresee was its role?"
	• "How do you believe that such a role has evolved through time?"
	• "In your experience, how is counter-organised crime policy built?"
	• "If possible, could you give concrete examples?"
	• "How does (or did) your (*pertinent department, division, unit, brigade, etc.*) relate to other security actors?"
	• "What was the result of such relations and how would you describe them?"
	• (In case it applies to the interviewee) "Could you elaborate on the making of the national (*pertinent security policy strategy*) launched in (*relevant year*)?"
(V)	**Exit question.**
	• "Now that you are more acquainted with my research, who else would you recommend me to speak about these matters with?"

Specific details such as the position of the participants (minister, deputy minister, chief, director, etc.) were omitted because this would make them easily identifiable by correlating, for instance, the time when the interview occurred, the time when they were in office, and the title of their position (Odendahl, 2001, p. 313). For these matters, broad categories such as

senior, chief, and high official were used for anonymity, however, still dimensioning elite relevancy in the policy-making of security (Bryman, 2008, p. 124).

Questions were divided into two sections. A first set of broader questions aimed to understand the participants' experiences with traditions and practices related to security governance matters. The aim was to get a picture of the world through the eyes of those security governance actors in the country. Digging deeper into such matters helped to identify under what institutional traditions they had constructed different narratives, which in turn had led to the development of their own codes of behaviour and sets of meanings for policy governing (Richards and Smith, 2004, p. 783). Such an approach allowed, first, for the reading of experiences that the interviewees unveiled when referring to the complex nature of dilemmas and the conflicts in which they were involved when participating in the governance of organised crime, and second, indentification of to what extent they shaped actions and governing arrangements by appealing to specific traditions of security developed over the years.

A second more specific set of questions aimed to reveal the participants' institutional understandings of organised crime and their ways of addressing it. As Bevir and Rhodes (2004) suggest, such an emphasis in an interview strategy aims to let the interviewees explain the meaning of their actions, providing the authenticity that can only come from the main characters involved in the story (pp. 135-136). The resulting data was very rich in terms of exploratory and qualitative detail, shedding light on the distinctive features of situations and events related to the governance of organised crime across different institutional environments. Such an approach was very revealing in terms of the beliefs and personal experiences of the actors. The interviews thus provided information on understandings, opinions, what people remembered doing, their attitudes, feelings and the like (Vromen, 2010, p. 258).

As well, the semi-structured nature of the interviews allowed the researcher to "elicit data on perspectives of salience to respondents rather than the researcher dictating the direction

of the encounter, as would be the case with more structured approaches" (Barbour, 2008, p. 119). In that sense, more opportunities to make follow-up questions and reschedule the order in which the questions were asked became essential to ensure a fluid dialogue between the interviewer and the interviewee (Noaks and Wincup, 2004 p. 79). This is what Hillary Arskey and Peter T. Knight (1999) picture when they describe the interviewer as being a jazz player who can "improvise" during a "jam" session. Improvisation thus allowed for varying the question order, varying the phrasing of the questions, probing and asking for follow-up clarifications, going off track and also building trust and rapport between researcher and the interviewee (p. 39; Berry, 2002). The interviews were conducted in Spanish and audiotaped after obtaining the permission of the participants through a consent form that, among other aspects, specified the confidentiality and anonymity of the research. All translations, as they appear in the text, were done by the researcher. It was beneficial for the researcher to have personal links to some insiders on the institutions examined here. These were mostly acquaintances working in government, academia, and the public ministry. These insiders acted as gatekeepers to the subset of interviewees facilitating access to their telephone numbers, e-mails, or sometimes even directly contacting them on the researcher's behalf.

The broad range of participants meant the researcher encountered different scenarios and had to develop different ways to engage in a semi-structured type of interviews. The policing institutions were particularly accessible despite the high profile of their jobs and the sensitivity of organised crime issues. Officers from *Carabineros* and *Investigaciones* were surprisingly open and willing to participate. Some remained mostly inside the boundaries of what their ranks allowed them to say to a stranger, however, the majority conversed freely on a myriad of issues. The findings ran counter to the perception that security institutions are bureaucratic and unenthusiastic about talking to researchers. It remains untested if some or a

mix of the personal characteristics of the researcher (Chilean, male, in his early thirties, working in a foreign university) played a role in having access to their daily routines.

In sum, by setting up interviews with the different actors established in the governance of organised crime in Chile, this overall data collection stage sought to show and explain the various security traditions and policy dilemmas that could only be found below and behind the surface of those official accounts that did not appear in texts, interviews, and speeches. In that vein, the interviews permitted the participants to "explain the meaning of their actions" (Bevir and Rhodes, 2008, p. 176).

3.4 Methodological Rewards and Concerns

By using the two above outlined approaches, and because both research strategies are embedded in the interpretation of texts and actions, a few rewarding and concerning aspects should be taken into consideration.

First, and in a rewarding way, the research was able to contribute to the development of a narrative about past and current events based upon the meanings that the text and actions held for social actors. However, text and actions do not always tell the same story. By combining methods of research, each technique was meant to complement each other in order to give enough evidence to finally produce the best account of governance actions and institutional practices (Marsh and Furlong, 2002; Smith; 2008; Finlayson et al., 2004). This point deserves a brief explanation. The documented data collection strategy aimed to identify the "artefacts" (or traditions in this case) that were significant carriers of meaning for the institutions and related to the control of organised crime. Such data appeared more evident in institutional legal frameworks as well as in corporate memories and protocols. Later at the interview research stage, a group of "discourses" were identified from such core written texts, and allowed identification and gathering of how institutions talked and acted with respect to the organised crime policy issue. As Deborah Yanow (2000) emphasises, "the goal of this step is to be able

to say something about meanings -the values, beliefs, feelings- that are important to each policy-relevant community, as well as to extend the analysis of the 'artefacts'" (p. 20). In a nutshell, the documented data collection strategy sought to understand the intentions underlying the actor's practical reasoning in the particular situation of assessing how organised crime has impacted social order and how it has been confronted. Put simply, this was confronted by looking for concepts in texts. Meanwhile, the interview research strategy aimed "to explain the practical reasoning of the actors who engaged the event or artefact" (p. 23), unveiling the practicalities of the governance of organised crime that only its practitioners could reveal.

Next, and in a concerning way, there are undoubtedly certain risks that arise when taking on a research approach that focuses on the interpretation of texts and actions. This is because the research strategy will tend to generalise as it develops a narrative about the past based upon the meanings which the actions had for certain political developments. Such descriptions, it is argued, can offer only a partial interpretation of what narratives tell us about the overall security governance process. Marsh and Furlong (2002), for instance, note that explanations are built upon those interpretations that actors can give to their actions. They argue that "what is produced is a narrative, which is particular to that time and space, and partial, being based on a subjective interpretation of the views of, most likely, only some of the actors involved. Consequently, any such narrative must be provisional; there are no absolute truth claims" (p. 28). Dowding (2004), points out that when trying to understand a variety of political behaviours and institutions, the mere fact of taking the accounts from the actors themselves as the starting point, means that "these actors can often be significantly wrong about what they think they are doing, and over what are the effects of their activities" (p. 141). Dowding puts the interpretive method under scrutiny here:

> Where the interpretive method discovers facts that are consistent with other stories (that is whilst they differ they throw new light on other findings without contradicting them) then we undoubtedly have gained knowledge. However, if interpretive methods

challenge the truth of other findings, that is, they contradict them, we need to judge which narrative has to go (p. 141).

In any case, Dowding argues that definitive accounts of actions, practices or institutions are possible through methods of interpretation of data. He concludes that certain accounts can be challenged, and new evidence can overturn accepted beliefs. In his words: "actors can be wrong about their own actions, the nature of their practices, institutions and so on. For this reason we need to query their interpretations, and collect evidence not available to those involved themselves" (p. 142). Therefore, and regarding Dowding's concern, this methodological chapter also assesses the so-called "discredit" of written and verbal evidence by recompiling enough evidence that is based not only on the interpretations of participants (p. 142). It does this by assuming that actors can individually and differently interpret the social world (something the researcher agrees with), therefore acknowledging that all textual and oral sources need to be triangulated considering the parallel revision of other accounts of the same events. By drawing on a large number of interviewees and other primary and secondary sources, this thesis aims to deliver a set of empirical chapters based on the most trusted versions of the data being analysed that can be considered. The overall effort, therefore, seeks not to sketch a picture of the governance of organised crime as it would ontologically be, but rather, to explore the construction of arguments through an epistemology aimed at avoiding grandiloquent, unconfirmed, and overtly generalised political stories (Hay, 2002, pp. 61-65). On the contrary, through the methodological tools exposed here, this thesis brings forward a new understanding of politics through its own research methods rather than embarking on falsifying pre-existing theories (Hancké, 2010, p. 234).

In such a vein, this thesis aims to minimise the frequently criticised aspects of qualitative research in terms of its subjectivity, replication and generalisation (Bryman, 2008, p. 391-392). Starting with the latter, the investigation tries to generalise from the interview

results by way of reaching saturation. The limitation of following a non-probability sample diminishes the chances to generalise from the sample used here, for instance, the whole of the population of security elite policymakers in Chile. Elite interviewing is a technique that relies more heavily on personal contacts and introductions such as the snowball effect that have helped define how the sample was attained (Rivera et al., 2002). To pursue generalisability, this research chose to execute a number of interviews that could expand the results of that research until a point when more interviews would not add any new knowledge or perspectives regarding the similarity or dissimilarity of the results (Flicke, 2007, p. 81, citing Rubin and Rubin, 1995). By these means, the information gathered helped the researcher to evaluate its usability and generaliseability, taking into consideration the fact that sampling is an intricate method for use when conducting elite interviews (Woliver, 2002).

Replicability is also another difficult criterion in qualitative studies (Bryman, 2008, p. 376). Researchers could aim to replicate this investigation, for instance, if they feel that its results do not match that of other similar investigations in the literature. Although here replication was highly sought after, its applicability to this research presents a few issues that need to be considered. First, the anonymity of the sample prohibits other researchers from interrogating and knowing with certainty the specific participants who were interviewed. However, as Table 4.1, does the job of describing the nature and role of all the participants, tracing similar or even the same categories of elites is actually possible. Also, an example of the semi-structured questions, available in Table 4.2, offers a rather specific blueprint for any investigator to replicate. The same options are available when looking at the archive sources that are quoted through the text whenever used. Following such protocols should therefore give enough confidence to any social researcher who, bearing in mind that most academic work lays in originality rather than straight forward replication, would certainly be in a good place to extrapolate his or her own account of the governance of organised crime in Chile.

The unavoidable subjectivity of both the researcher and the interviewee was dealt accordingly to find a desire minimum. Both research techniques, the archival and elite interviewing methods, bring the worlds of practitioners and academics together in a "hopefully fruitful mutual dialogue" that, in part, depends heavily on how interpretation makes sense of the information transpiring between them (Burnham et al., 2008, p. 247). Acknowledging that it is not the obligation of the participants to abide strictly by the truth, or to ignore their reality and provide only the things they want to say and in a way that would justify their work, interviewees were asked to bring to the conversation a critique of their own roles in the governance in an unchallenging way (Berry, 2002). In fact, during the meetings, and following the guidelines for qualitative interviewing by Herbert J. Rubin and Irene Rubin (1995), participants were constantly asked for explanations and examples to unveil any subjectivity issues that would demand comparison with different accounts elsewhere.

Additionally, the researcher can, consciously or unconsciously, bring out a certain way of looking at things intrinsic to his or her own formation as an academic. Two issues were considered beforehand. As Rubin and Rubin (1995) argue, the preconceptions that the researcher can bring to certain aspects of the analysis need to be considered when performing the interview. Here, special attention was put on developing the semi-structured questionnaires in a way that would help diminish any biases or preconceived feelings the researcher might have (p. 85). Both these concerns can relate to broader aspects that are regarded in the literature as the confirmability of the study and the extent to which the research process is invaded by a number of objective values that appear along the route of the investigation (Bryman, 2008). Even though "objectivity is impossible in social science" (p. 379), this thesis resolved to rely on written and oral data plus a strong use of theoretical guidelines (as detailed in Chapter 2) to ensure the reader that, as far as possible, personal values and theoretical inclinations were avoided to assure fair treatment of the data and the results obtained from it. In addition to such

105

trustworthiness, the aim of this thesis has been to collate a fair representation of viewpoints among the social actors who participated in the research in order to grasp a better understanding of the authenticity of the research problem; as well as a more complete perspective of how, not just one group, but others as well, understand the social issues concerned with the governance of organised crime (p. 379, citing Lincoln and Guba, 1985).

The next four empirical chapters reflect on the methodological tools explained above in at least three ways. They do so first by setting a historical narrative that is supported by secondary written data. These data results are essential to build a story about governance that had not been written as a whole before, however it does so by using pieces scattered in various formats waiting to be collected and put together. Also, this methodological section serves as a point of reference for contextualising the oral data collection and how they feed the story put throughout the empirical chapters. The research finds a greater echo in ideas, facts, and explanations taken from the oral accounts gathered during the fieldwork stage. In consequence, the chapters that follow are a result of the researcher's analysis of the theory and the empirics obtained through the oral and written sources of information.

4.

The Executive's Security Metagovernor: The Ministry of the Interior

4.1 Introduction

On 11th March 1990, General Augusto Pinochet handed power to his democratically elected succesor, Patricio Aylwin, putting an end to the military regime that ruled Chile for 17 years. From that morning onwards, the redemocratisation of politics and the functioning of the state became a significant problem for the newly arrived authorities. As happened with other contending policy sectors, the redemocratisation of the country's security had to be carefully managed in order to ensure a sucessful and enduring return to social order (Garretón, 1989; Huneeus, 2007). Chile's civilian bureaucrats were thus at a crossroads. They not only had to deal with the suspicion and enemity of the security institutions, such as the courts of justice, the policing bodies, and the armed forces (all of whom sided with Pinochet's regime), but, they also had to assess the blooming security threats that these institutions were thought due to confront now that the iron-fist control of society was vanishing (Fuentes, 2004; Puryear, 1994). Unlawful and dangerous elements had, not surprisingly, taken control of different aspects of the redemocratisation processes in the Americas (Frühling, Tulchin, and Goldin, 2003). Chile was not immune to such traumatic events in light of its fragmented security community, its scarce institutional knowledge in handling a democratic rule of law, and, most critically, the growing evidence of its inequality, lawlesness, and vulnerability (Garretón, 2003). And yet, time revealed how Chile confronted these security threats with a particular model of governance that confronted the three utmost security threats that haunted the region: subversion, terrorism, and most importantly for this research, organised crime. The historical study of the transition of power between the military and civilians revealed at least two

concerning aspects regarding how the issue of organised crime was to be governed in democratic Chile. First, redemocratisation led to the recentralisation of the policy-making of criminality. Second, and consequently, it gave way to the formation of a renewed security policy community. Both aspects resulted as essential in understanding the historical evolution of the overall governance of organised crime that appeared once redemocratisation had sunk in. Most importantly, they focus this chapter's object of analysis on one of the state's most powerful security policy institutions: the Ministry of the Interior.

After 1990, the Interior became the flagship of the state centric perspective for complex criminality policy-making. Over the previous two decades, it had been the hub for the executive's internal order policies, first in the hands of Pinochet's generals, and later, in those of the civilian ministers who sided with the junta. Yet, until redemocratisation happened, its legacy of security merits was rather a dark one. Through the dictatorship, the Interior suffered several drawbacks, including massive rallies against the regime that required the fierce use of the policing bodies to push back protesters; frequent states of siege that resulted in the curtailment of public life; and last, but not least, the unveiling of atrocious political killings by the state's security bodies that revealed a lack of control over these institutions. By the end of the regime, the Interior had lost its course-plotting role among the rest of the state's security actors. Security institutions were suspicious of each other, duplicating their efforts, and showing little coordination (Arriagada, 1986, p. 17).

Nevertheless, the Interior's leading role in concentrating the state's policy responsibilities soon came to change as newly operating circumstances emerged. Once democracy took root, the Interior saw itself forced to govern a security policy community that could confront organised crime without the handicaps of the past. This move meant breaking with the regime's repression and setting the cornerstone for a democratically oriented type of security policy-making. This chapter will now analyse these points and tell the story of how the

Interior obtained the relevant faculties to become the enforcer of state centric policies and a metagovernor of the security policy network that later came to be recognised as the prosecution policy community. It will emphasise how criminal affairs shaped the pathways for policy-making, highlighting how the state centric perspective became pivotal to the governance of organised crime. What is more, as years went by, the consideration of new endogenous and exogenous factors regarding the rationale for security-making turned such institutional privileges towards favouring a networked governance where policy-making responsibilities where diluted across other actors, most notably, when the Public Ministry and the UAF entered the political arena from the mid-2000s onwards.

To explain such points in an orderly manner, the chapter is divided into five sections. Section 4.2 will start by briefly emphasising contextual information regarding the early attempts by Chilean institutions to counter organised crime during the decades before and after the military coup of 1973. This section will set up the background story needed to understand the empirical ideas explored during the rest of the chapter. Section 4.3 will then jump straight into the investigation of how the governance of organised crime was performed from 1990 to 1999. This first decade of redemocratisation sheds light on the state centric imprint that the Interior gave to the governance of organised crime, especially by handling the issue through its intelligence channels. Next, section 4.4 will explore how during the period between 2000 and 2009, the promotion of inter-institutional agreements led to the construction of a clearly defined networked governance engagement between the Interior, the policing bodies, the prosecutors, and the UAF. Up to then, the concept of organised crime was a extraneous notion to the authorities, so the formation of a policy network gave these actors a more indigenous approach allowing them to put forward locally designed policies at the same time as taking those from abroad. Section, 4.5 will examine the time frame from 2010 to early 2014 to account for those specific policy plans that followed and inter-institutional governance approach and the

consequences they brought for democratic governing. Finally, Section 4.6 concludes with a theoretical discussion to aid our understanding of the gradual macro-movement from government to the governance of organised crime. The section delivers a scholarly-informed exploration of the more detailed aspects regarding how networked policy engagements between the Interior and other actors were possible as the redemocratisation processes advanced.

4.2 The Fragmented Security Community Prior to Redemocratisation

To begin with, this contextual section will provide some historical facts about the early governance of organised crime up to the occural of redemocratisation. It acts as a genesis of the governance narratives that happened with the participation of the institutions reviewed in this thesis, thus, it also feeds the subsequent empirical chapters. Regardless of the broad nature of the section, its aim is to frame how Chile's security institutions headed towards the democratic transition in a fragmented and decentred way, where, and despite a state centric perspective being encouraged, institutions departed from the central steerings and faced redemocratisation on their own individual ways. Most notably, such analysis paves the way for the remainder of this chapter and sets the tone for the first challenge confronted by the Interior post-redemocratisation: regenerating trust and commonalities among divorced institutions.

Modern stories of organised crime in Chile date back to the 1930s. Then, local and foreign criminal groups supplied the national demand for recreational drugs, selling narcotics such as cocaine, morphine, and opium. Clients included different societal groups, from accomodated youngsters, businessmen and bohemians, to petty criminals and prostitutes (Fernández Labbe, 2009, p. 63-68). According to records from the Policía de Investigaciones, large and established trafficking bands acquired narcotics from local hospitals, while other subtances, such as opium, were brought from Bolivia and later sold to labour populations (p. 69). The authorities were worried about this expanding drug-consuming society. The country's particular geography allowed smugglers and traffickers to use both sea and land points that

111

were hard to access or too remote for the authorities to counter (p. 72-74). Thirty years on, panorama turned more radical as Peruvian cocaine overflew the continent including Chile. Once in the country, cargo enterprises moved the narcotics to "consuming hotspots" abroad, mostly, in North America. The port city of Valparaiso was considered, next to Callao, in Peru, as one of the easiest sources of narcotic supplies leaving South America for northern routes (Gootenberg, 2009, p. 253). By then, Chile had become one of the major highways for illicit cocaine next to Cuba. Officials in the United States, the UN, and the International Criminal Police Organisation (Interpol), recorded skyrocketing levels of arrests and seizures exposing Chile's "risk-taking empresarios" and their highly complex narcotics organisations (p. 261-264). The Chilean justice system was divided between civil courts and military courts, where the latter took much of the weight in prosecuting the drug trafficking and its shadow structures. By the end of the 1960s, the military prosecutors had unveiled the extent of the criminal activity by charging detectives, public officials and even ministerial authorities as accomplices in taking bribes and protecting criminal structures and drug markets (Fernández Labbé, 2009, p. 81-82).

Chilean public institutions responded by creating specialised units among their security agents. In 1964, *Investigaciones* created its anti-narcotics brigade, whom they would proudly, although unprovenly, call the first in its category in South America (Investigaciones. Historia del área antinarcóticos, 2014). *Carabineros* followed a similar path and in 1970 formed a special service directorate that it later called the Departament for Drug Prevention (or simply, O.S.7). Both of these specialised units were meant to investigate, arrest, and deliver traffickers to the justice system (Carabineros de Chile. Evolución de la Función Policial, 2012). From then onwards, the police bodies, as well as public officials, entered in a daily basis learning experience with the drug trafficking issue. Even though they kept scarce records as to the number of seizures and arrests, the police confiscated locally produced marihuana and cocaine,

as well as cocaine paste coming from abroad (Interview with senior officer in the Counternarcotics Brigade, Policía de Investigaciones, 30th October 2013).

Special concerns about organised crime were adopted by Salvador Allende in 1973. He signed the UN Geneva Convention on illicit drugs trafficking that, with the authorisation of Congress, later became the first official set of legislative measures punishing the production, sale, distribution and trafficking of narcotics (Decree N° 126, 20th February 1973). Allende's government saw a long trend reach its peak in terms of drug production and transport through Chile, and by 1972, the country was included in the list of states where the Drug Enforcement Administration (DEA) had a field officer (Marcy, 2010, p. 11). Up to Allende's overthrow, police, public officials and justice related actors were seeing first hand how there was little deterrence for organised crime in the country. Despite the anticommunist feelings in the US, it was acknowledged in Washington that Allende had greatly cooperated in the fight against drugs (Gootenberg, 2009, p. 264). However, no specific plans were launched on the matter.

When the military arrived in September 1973, Chile was used as a major cocaine developer because of the availability of chemical resources and the potential ways to transport refined narcotics. Some detectives in *Investigacione*s were allegedly working for the drugs traffickers. The authorities decided to purge the civil police and use the *Carabineros* as a counter-force in light of extradition requests from the United States charging officers for transnational criminal operations (Interview with senior officer Counternarcotics Brigade, Policía de Investigaciones, 30th October 2013). The drug trafficking scenario, however, vanished quickly following the 1973 coup. The polarisation of the country and the strict control of all social aspects exercised by the military junta, filed the dealing of narcotics and other conducts, as unwelcome business (Gootenberg, 2009). In short, as democracy washed away, so did the cocaine routes, that consequently moved elsewhere in the region.

Despite exerting harsh control over the country's security, the military could not escape addressing the issue of organised crime. As the problem grew in importance globally, in 1976 General Pinochet ratified the protocols of the UN Geneva Convention and declared them national law (Decree 32, 13th January 1976). In 1981, he also signed the authorisation of the South American Agreement on narcotics coined earlier in Buenos Aires (Decree 164, 16th February 1981). This latter agreement set the parameters for one of the earliest regional drug trafficking treaties that Chile engaged in with foreign governments. In its text, it is agreed that signing members should take action regarding "the seriousness of the problem brought by drug abuse requires the permanent attention of all countries in South America (…) and even though the magnitude, characteristics, and scope of this issue can take different forms, the risks, damages reach all" (Decree 164, 16th February 1981). The treaty gave explicit enforcement to the collaboration and exchange of information regarding the control and repression of drug trafficking, and it promoted the cooperation between national security bodies by emphasising in the need to harmonise norms, legal procedures and sentences. These recommendations were eventually partially enforced by Chile's security actors and they turned out to be the earliest signs of inter-institutional governance for organised crime.

For instance, in the mid-1980s, the *Carabineros* issued a mandate creating the directorate of special police activities that integrated various bodies such as an aero police brigade, a special operations group (known as GOPE), and also the O.S.7. They were supposed to reshape the institution into a structure that could "allow an efficient operation of the complex and dynamic activity that pertains to Carabineros" (Order N° 393, 24th September 1985). Earlier, the military junta had passed a novel Constitution giving *Carabineros* and *Investigaciones* the mission to strictly guarantee public order and enforce the rule of the law (Article 101, Constitución Política de la República 1980). By then, the military junta had

created a tight security policy community that included the Ministry of the Interior, both policing bodies, and the armed forces through their secret policing and intelligence services.

Nevertheless, and as the dictatorship advanced, security and law enforcerment actors re-oriented their institutional goals to assume anti-terrorist tasks leaving aside the issue of organised crime. For the junta, the armed left wing remnants were more threatening in light of the national security doctrine imposed to secure the regime (Barton and Murray, 2002; Fuentes, 2004; Huneeus, 2007). *Carabineros* and *Investigaciones* took an active role in supporting these security measures. Through its Communications Directorate (DICOMCAR), the *Carabineros* took part in the collegial intelligence bureaucracy of the National Informations Centre (CNI). Nonetheless, in 1986, after a series of human rights violations and killings attributed to a number of *Carabineros'* officials, its director, General Rodolfo Stange, decided to no longer participate in any of the coercive actions ordered by the government (Huneeus, 2007, p. 384). The move decisively influenced how the policing institutions embraced the future governance of criminality. Earlier, the dictatorship, through the channels of the executive, had promoted a cohesive engagement of the security forces, however, events turned out to contrary: because both policing bodies and the armed forces acted as patrolling entities, they embraced high levels of rivalry and fragmentation (Arriagada, 1986).

Despite the confrontations between the policing actors, they at least had a degree of connection between them. Alternatively, the judicial system became a less relevant actor in terms of addressing any criminality. During the regime, justice was severely marginalised and security agencies were able to act outside the law, sometimes with the acquiescence of its magistrates (Ensalaco, 2000; Barros, 2002). As the justice system was overrun, the state proposed that the 1980's Constitution set up the State Defense Council (CDE), as the entity responsible for the prosecution of complex criminality, including organised crime. The CDE

thus became the responsible not only for safekeeping the state assets, but for the wider scope of criminal issues affecting "the superior good of society" (Consejo Defensa del Estado, 2014).

To close this first section, it is worth analysing how institutional accomodation to the stages previous to redemocratisation unveil at least three important issues open to exploration. Chile's governance of organised crime was broadly influenced by the decision of pre- and post-coup governments to take part in regional and global efforts to confront organised criminality. The dictatorship might have used such agreements to legitimate the junta's stake in regional security; however, public institutions took the opportunity to grasp the issue and thus decided to abide to such frameworks. Secondly, since governing processes of security alienated the security and law enforcement bodies, *Carabineros* and *Investigaciones* took an inward-grown approach to crime rather than a shared perspective. The rivalry that the dictatorship's security community produced ended up highlighting a series of organisational differences and corporate interests such as uneven access to resources, but mostly, excessive militarisation. Finally, the inclusion of new actors, such as the CDE, put more stress on how to approach organised crime since now a different institution was taking its part in the prosecution roles, along with the courts of justice. Thus, and when the military receded to the barracks, the police bodies, the courts of justice and the CDE became the main practitioners of law and order. Meanwhile, the Ministry of the Interior took a leading role in its policy steering, overseeing and production.

As the next section will show, the bonding between these actors during the redemocratisation stages proved at first to be difficult. Even though the Interior felt that coordination was needed to uphold its governmental promises, the police bodies had their own agenda in terms of reorganising corporate tasks and goals. Despite their record of human rights violations, the policing institutions retained almost all power, as they had during the military rule; they were already positioned as the operative hands of the state in the day-to-day control of criminality and since the dictatorship had arranged the state's bureaucracy in its own way,

both institutions were under the political tutelage of the Ministry of Defence. On entering redemocratisation, the Interior needed to delicately pull both institutions away from their authoritarian legacy and put them to work under the new democratic path for policy action. Additionally, it had to deal with a justice system that had until then remained highly silent in the matters of organised criminality prosecution.

4.3 Recentring Security (1990-1999)

This section will explore the governing arrangements that were most significant for the Interior during the first decade of redemocratisation. It unveils how the governance of organised crime became a matter of complex assessment and had to be assessed by the intelligence channels, thus, letting the Interior choose specifically with what other actors to start engaging in inter-institutional frameworks. With the state centralising all security efforts through the Interior, the governance of organised crime post-transition remained highly hierarchical. A conduit of communication and command had at the bottom the police units seeing to the day-to-day control of crime, and at the top, the elite policy makers of the Interior and the intelligence community. This latter bureaucracy included high level ranking *Carabineros*' and *Investigaciones*'officers. This decade witnessed Chile's first years of exposure to international global trends of democratic responses to the rule of law. The authorities decided to put the country back on the map of shared agreements and the multilateral global efforts to confront insecurity since the country had experienced greater international isolation during the last years of the regime. This section therefore exposes how the governance of organised crime, and specially the institution of the Interior, was subject to both internal and external drivers of change that gradually influenced its understandings and beliefs about organised crime. Most notably, the section explores the novel patterns of policy action that redemocratisation demanded. The section examines thus why and how the Ministry of the Interior decided to metagovern such changes through recentralising a fragmented security community.

117

As mentioned, the Ministry of the Interior's understanding of organised crime evolved gradually as redemocratisation occurred. In fact, during the early 1990s, the Aylwin administration (1990-1994) established that organised crime was not a relevant threat to the nascent political order. By then, political violence had taken up most of the public officials' attention. The shooting of the right-wing senator and Pinochet ally, Jaime Guzmán, by an armed leftist group in April 1991, had caused the nation major concern, and monopolised most security operatives (Huneeus, 2007). It is important to mention here that during the twenty years that the *Concertación* were in office, the security agenda was shaped by the equilibrium of forces between government and opposition. Both sides permanently came to an agreement emphasised in the continuity of the redemocratisation. This provoked an extra effort from the state to ensure the safety of individuals and communities from both ends of the political spectrum, including protecting their private property and businesses (Silva, 2000). The deterrence of organised crime came from within such a framework for security policies, developing gradually to what we have categorised as the governance of organised crime.

The country was also overshadowed by the drug trafficking that was occurring in the Andean countries. At the time, the Ministry's bureaucracy was hardly ready to use policy-making to confront any form of criminality related to the major drug business occurring in the Southern Cone. The first hints of a reaction came when Aylwin created the National Council for the Control of Narcotics (CONACE). This body became the first inter-institutional bureaucracy post-dictatorship set to engage in issues preventing substance consumption through an horizontal policy-making approach (Decree 683, 22th October 1990). Through the CONACE, many public officials convened for the first time to assess the issues of organised crime and drug trafficking. One interviewee was able to recall how the Interior became aware of Chile's lack of public understanding of both criminal phenomena:

> My first relation with organised crime was through the CONACE where I started working in 1991. This was the first attempt of the government to deal with the issue of illegal substances. It was actually put toghetered after an anecdotique event. Barely a few month in his new job, the first undersecretary of the Interior during the redemocratisation received an invitation to attend the Inter-American Drug Abuse Comission (CICAD-OEA). When he got that letter we did not know whom to send, we did not even considered that an issue at the time. It was certainly something that was outside the canons of the Interior. That was the cornerstone that helped create certain institutionality on the matter (Personal interview with former senior official in the National Intelligence Agency [ANI], 5th November 2013).

It was in part because of the criminality evidenced in the rest of the region that the Interior got accidentally involved with the affairs of organised crime. Latin American countries in similar redemocratising stages to Chile had let foreign actors intervene in their security issues, most notoriously granting them access to their law and military agencies to carry out operations in their territories. The interviewee put great emphasis on the role that the United States had through the DEA, which at the time was actively figthting a battle against the drug cartels in Peru and Colombia (Nadelmann, 1987; Andreas and Nadelmann, 2006; Fukumi, 2008). The interviewee was able to explain the following:

> All of the organised crime's assessment came from the United States. It came directly from the DEA's ideology on organised crime, and also from the American embassy here in Santiago. At the beginning, they worked mostly with the police bodies. They agreed on that there was no organised crime, but rather illicit associations and criminal bands that were less organised. According to these first explorations, the conclusion was that the conception of organised crime according to United States and UN did not exist in Chile (Interview with former senior official in the National Intelligence Agency [ANI], 5th November 2013).

As the interviewe mentioned, the 1990s remained an obscure decade for understanding organised crime. Its evidence was still very blurry and the political discourse did not match the country's reality. However, even though little was being categorised as organised crime per se at that moment, two situations showed the contrary. A different group of authorities, mostly the policing bodies, argued that Chile was being used by foreign organisations as a laboratory for drugs that were later shipped to North America and Europe. Also, it was evidenced that foreign

groups, particularly European and Central American mafia, wandered freely in the country escaping from international warrants (Interview with senior officer Counternarcotics Brigade, Policía de Investigaciones, 30th October 2013). Aylwin's transitional government did not foresee that his security agenda would have to address unexpected levels and forms of criminality (Frühling, 2011, p. 114). When the "Harbour" ship was captured in 1992 by the United States authorities entering the sea of Cuba on its way to Miami with five tons of drugs hidden in its cargo, Chilean authorities came to one of their first notorious encounters with highly organised criminality. As a result of Operation Thunder, the DEA captured the ship's crew and its captain the Chilean citizen Yerko Huerta. Criminal investigations revealed that the ship's owner, Manuel Losada, another Chilean, had befriended the Colombian Cartel de Cali and agreed to move the million dollar load using one of its many enterprises in Panama as a façade. However, Losada and the other twelve people remained at large until a sting operation conducted by O.S.7 *Cabineros* officers, officials from the CDE and other international agencies, put Losada in jail in 1998 under the charges of illicit association for drug trafficking and money laundering (El Mercurio, 2000a). The Colombian police later reported that a drug-trafficker from Cali had visited Chile in 1991 to personally arrange the cargo's movement using Losada's cargo fleet (Muñoz, 2003).

Chile became also a well-known corridor for the illicit trafficking of drugs and chemical precursors to northern neighbours countries, just as it had been before the coup. This latter issue encouraged Aylwin's government to form the first counter organised crime policy groups between the Interior, the policing bodies and the CDE; this was in charge of prosecution policies, leaving the CONACE and other public bodies in charge of prevention policies. Figure 4.1 shows how, during this first decade, the prosecution policy community was shaped. The Ministry of the Interior was responsible, through steering instances like the CONACE, for directing and overseeing all state led attempts to create policy for organised crime. The

Figure 4.1 The prosecution policy community during the 1990s (coloured blocks) and other related actors.
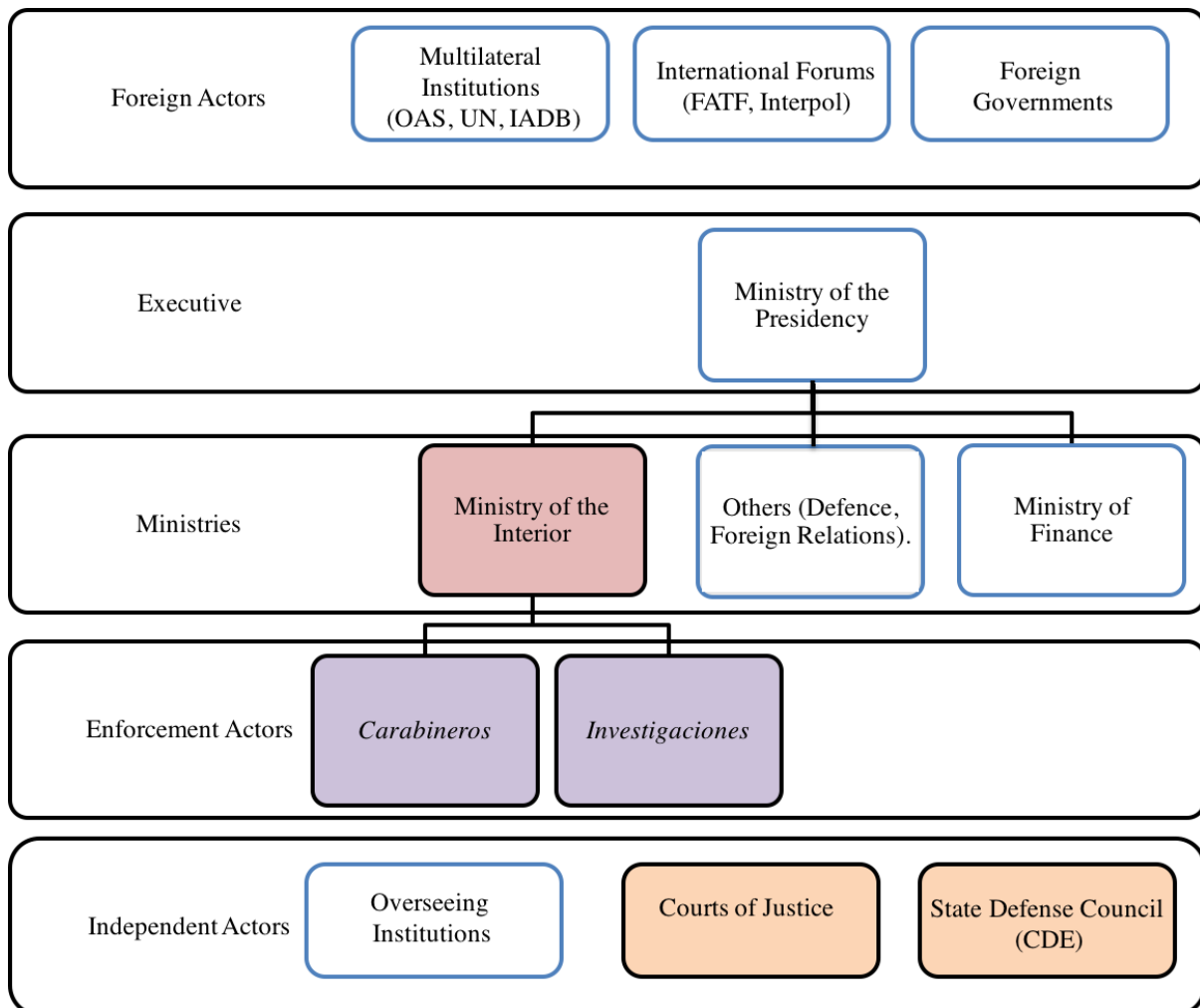
enforcement actors partnered up to organise joint field activities, while sometimes, and randomly, including other state actors such as the National Customs Services (*Aduanas*). The courts of justice and the CDE remained in charge of the formal criminal prosecution.

Examples of these inter-institutional linkages within the prosecution policy actors can be traced back to stages pre-redemocratisation. For instance, the *Carabineros* and *Aduanas* had an already standing agreement of mutual cooperation signed at the very end of the dictatorship that noted explicitly that "both institutions, according to their respective powers, will exercise joint coordinated action in order to supress illicit narcotics and drugs trafficking" (S/N, 23

March 1989). Networked inter-institutional governance started to appear thus in both vertical and horizontal ways; the former as a product of government oriented reforms through the hierarchies of the Interior, and the latter through the personal initiatives of the participating institutions. The relationships between institutions revealed how public security institutions re-oriented their efforts towards the organised crime issue by mainly opening new avenues for inter-institutional policy-making, an effort that eventually led to an identifiable prosecution community by the end of the decade. Even though the role of prosecution remained reserved to the above mentioned actors, the armed forces weren't completely alienated from such a circle. They had institutional representation in the CONACE, and were also part of the intelligence community that reported to the Interior with residual information, understood to be non-essential to national defence, but useful to other public organisms (Milet, 1997). Besides the armed forces, a wider issue network was formed by other state bodies such as the Public Health Institute (ISP), the Agricultural and Livestock Service (SAG) and the Civil Registry and Identification Service (Registro Civil).

Patricio Aylwin finished his transitional government in 1994 with security as one of his administration's most criticised topics, both by the opposition and by the public (Frühling, 2011). Eventually, security became an issue for the *Concertación*. As a consequence, public security actors were put under heavier pressure to align with the government's security agenda. The Interior led the implementation of a statistics system to follow all criminal prosecution and gain enough data to formulate policies that could show efficient operation of the governmental anti-crime strategy. Besides the collection of relevant data, a wave of modernisation processes were also launched, which aimed to set up formal cooperation channels between the Interior and both policing bodies (Tudela 2011). The Ministry favoured the formulation of anti-crime policies and more powers were given to the policing bodies, along with more judicial tools for state institutions to arrest, prosecute, and imprison (Fuentes, 2004, p. 25). In that vein, and

when Eduardo Frei (1994-2000) took the presidency, the government dealt with the issue of security through broader policy generation, calling for deeper inter-institutional coordination (Zúñiga, 2010).

President Frei kept the assessment of drug trafficking and other complex crime to the intelligence channels and specifically an office called the Directorate of Public Security and Informations (DISPI). In 1998, such a structure came to replace an earlier version of itself called the Council of Public Security, commonly known as La Oficina, whose main task was to compile information about terrorism and political violence, advising both the minister of the Interior and the Presidency. When the DISPI took shape, organised crime issues entered its jurisdiction. The Interior then created an instance in which the undersecretary convened a closed-door meeting with the chiefs of police, the director of the *Gendarmería* (the armed police force responsible for securing the prison system), the undersecretary of Justice, and a representative from the DISPI. They would meet once a week to discuss topics of public order and complex criminality in complete secrecy. The police would deliver reports to the civilian authorities and policy action was discussed. The group was first called the Policing Committee, and later, the Intersectoral Coordination Committee (Interview with former senior official in the Ministry of the Interior, 24th October 2013).

Out of the nascent versions of these inter-institutional committees, in 1994, the Interior managed to submit its first national plan on citizen security, a six-year-long policy guideline written by civil advisors from the Interior that aimed to improve police management. Even though each policing institution responded differently to the security demands, one of the leading goals of the Interior was to push *Carabineros* and *Investigaciones* towards modernising and democratising their approach to complex criminality. In that vein, *Carabineros* created later the Directorate of Drugs and Crime Prevention to define politics and strategies to coordinate and control the "problems of drugs in Chile". Its structure included the O.S.7 as well

as other intelligence, judicial, and financial advisors. The mandate used a particular description of the "worrying" drug issue that "despite the different efforts deployed to its control" showed an evident "rise". The decree also urged confronting "adequately national and transnational organisations dedicated to illicit businesses, in order to obtain a better efficiency and optimisation of the human resources and material at disposition" (Order N°117, 1ˢᵗ April 1996).

Carabineros' and *Investigaciones'* institutional powers changed in 1995 when a new legislation on illegal drugs and narcotics trafficking was passed. At this stage the introduction of Law N° 19.366 meant a significant improvement for inter-institutional cooperation. In that sense, one interviewee noted how the prosecution of organised crime was affected by this changing legal scenario as much as with the permeation of foreign trends to confront organised crime:

> By that moment, the only notion we had on organised crime was that from Interpol, and years later the one from the UN Palermo Convention. When the new law on drugs came in 1995, it introduced certain novel legal aspects we used a lot in terms of operational tools for prosecution. From that point onwards came a whole process of institutional growth. We realised that we weren't prepared to prosecute organised crime. We had invested up to four years to disarm only a small bunch of criminal groups. During that time, other bands were caught but the overall phenomenon we saw was that more and more foreign groups were linking with local criminals. Colombian and Italian criminals had by then migrated to the emerging and stable economy that Chile was renowned for (Personal interview with senior officer Counternarcotics Brigade, Policía de Investigaciones, 30ᵗʰ October 2013).

Political awareness called for Chilean authorities to expand their anti-organised crime agreements as part of their multilateral agenda with various regional and non-regional partners. Table 4.1 details the agreements signed by the government, taking into consideration the period between the signing of the UN Vienna Convention in 1989, and that of the Palermo Convention in 2005; these were the two milestones that influenced Chilean security actors' understanding of organised crime in a significant way. The move to engage in agreements with other countries and institutions meant, most notably, that the policing bodies would start partnering in novel

Table 4.1 Counter-drug trafficking and organised crime agreements signed by Chile between 1990 and 2005.

Year	Partner	Decree Nº
1990	UN (Vienna Convention)	543
1991	Mexico	105
1992	Brazil	102
	Paraguay	101
	Peru	426
1993	El Salvador	1066
1994	Bolivia	1604
	Jamaica	118
	Venezuela	1173
	United States	1508
	Argentina	1509
	Uruguay	1514
1995	Argentina, Bolivia, Peru	88
1996	Costa Rica	13
	Great Britain	29
1997	Colombia	415
	Cuba	545
1998	Spain	445
2004	Organisation of American States (OAS)	72
2005	Romania	104
	UN (Palermo Convention)	342

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inter-institutional governance schemes with their foreign counterparts. Seizing operations not only involved close collaboration with the DEA and other regional police bodies, but also introduced governing patterns with the adoption of novel rules of the game being played elsewhere against organised crime. According to statistics released from 1997 to 2003, the CDE became able to seize over US$ 32 million from at least five criminal organisations who were shipping imported cocaine from Peru and Bolivia through Chile; these were destined for consumer markets in Europe and North America. At the end of the day, it was these operations that gave credit to such inter-instituional engagements (Ávalos, 2004).

To close this section, a few remaining ideas are explored in more detail. First, it is apparent that the Interior swiftly managed to turn the page on the dictatorship's legacy of

subversive security issues. They steered the rest of the institutions to change direction when imprinting their own approach on those policy plans prioritised in line with the government's desired strategy to secure the democratic order. Second, it was also evidenced that as the political terror threat diminished, and the organised crime issue gained importance, the Interior decided to set up an institutional framework to regulate, coordinate, and give continuity to policies. This allowed for its gradual reaccommodation at the centre of policy-making. It was expected that its role as a metagovernor would bring together institutions that were highly divorced due to the authoritarian regime. Such an approach later translated in governance strategies and policies coordinated from within new conducts. These channels would come to define the future organised crime policy prosecution community and its governance. Thus, the next section will explore how these governing engagements developed over time as they were reinforced by the steering of the Interior. It will demonstrate also how other security institutions came to challenge that role and put the control of organised crime through more visible and formal governing practices.

4.4 Re-assessing Organised Crime and its Policy-making (2001-2009)

By the start of the twenty-first century, the understanding of organised crime among security actors had crystallised into a more definable form. Its rationale became clearer to officials as the concept took an operational conceptualisation. Most relevantly, in 2000, a judicial reform commenced to take place gradually in the country, criminalising illegal behaviours through a new institution: the Public Ministry. The public prosecutors were from then onwards in charge of directing, investigating, and criminalising issues including organised crime. The appearance of the prosecutorial body became an important landmark in the governance of organised crime for the Interior since now their exclusive relationship with the police bodies was disrupted. The public prosecutors were to work hand-in-hand with the police bodies in the control of crime without abiding by the political guidelines from the Interior. The executive could no longer

influence the prosecution of organised crimes as it had been prone to do before the reform of justice.

Following such a thread of events, this section will explore the next phase of inter-institutional relationships that led to a more perceptible governance of organised crime. It will examine how the Interior was able to lay the basis for networked governance and pave the way for participatory policy-making. As the section moves forward, it will also unveil how the policy community was re-organised in terms of its participants. It will emphasise the changing scenario for such governance once the Public Ministry and the UAF were set up and what these processes meant for the prosecution of organised crime. The section concludes by arguing that the gradual movement from goverment to the governance of organised crime became more evident during this decade as the state centric closed policy community opened up its frontiers to include new actors promoting horizontal policy-making and additional inter-institutional engagements.

During the 1990s, the institutional frameworks used to implement security policies in Chile were relatively few, happened seldom and when they did, were short-lived. The control of both public security and the more complex organised crime did not produce any formal institutionality, and governing patterns were left more or less to the will of the corresponding bodies. The prosecution policy community of the policing bodies, the CDE, and the Interior, did not come up with any serious strategies to confront organised crime during these years. The panorama seemed to change, nonetheless, as mentioned above, when the government decided to constitute the DISPI in the late 1990s. The lack of formal policies in the Interior was certainly coming to an end from this point onwards as more bureaucracy mushroomed regarding security issues. In a sense, the early 1990s partnership between the Interior and the police bodies swiftly became less reserved and security knowledge became dispersed. For the Interior, the

governance of crime control was dominated by policies that looked for prevention rather than prosecution.

By the early 2000s, the DISPI was a still a small office with merely half a dozen officials. Even though its officials oversaw complex crime, policy plans to control drug trafficking were still under the wing of the inter-institutional meetings, using the framework of the CONACE, in which the Interior acted as its executive secretary. The setting up of the new DISPI bureaucracy in the Interior, however, meant that the authorities had to unconsciously face the issue of formulating prosecuting policies for organised crime. Not only did the Interior grew wary of this issue, but a growing number of anti-drug trafficking operations also exposed that the *Carabineros* and *Investigaciones* were confronting diverse and more elaborate forms of organised crime that needed fruitful prosecution (Milet, 1997). Consequently, governmental authorities came to understand that organised crime had to be transformed, and even though it was still a contested matter, some authorities decided to call it a "major issue" (Interview with former senior official in the National Intelligence Agency [ANI], 5th November 2013). In that vein, and since the prosecution policy network came to agree upon the common rationale for the necessity of a control-type approach, a set of refined policies and the glimpse of improved policy management became more noticeable.

In 2004, the Interior launched its second national policy regarding public security issues, the National Citizen Security Policy, and two years later came the National Strategy for Public Security (ENSP). These sets of policy-driven plans incorporated the perspective of various actors and promoted the aggregation of resources, marking the Interior's first attempt to put networked governance engagements in the form of a written policy proposal (Ministerio del Interior, 2006). The policy-making, however, was not strictly covering organised crime at this point. Nevertheless, such efforts paved the way for its future governance in one particular way worth commenting on. In its role as the metagovernor of security policies, the Interior

imposed a culture of results that until then, had been unseen among the prosecution policy community. Empirical efficiency was recquired for *Carabineros*, *Investigaciones*, and even the Public Ministry's bureaucracy. The Interior exerted great effort in bonding all the community's actors under a common spirit by branding the ENSP as a matter of state interest, and getting the Ministry of the Presidency's approval in a move to authorise its steering faculties over those of other participating institutions. Extra pressure was put on the prosecutors to accept the new rules of the game, since they prefered to stick to their autonomy and independence instead of a political roadmap. One former senior official of the Interior was able to recall one such event:.

> I would say that one criteria developed through the years was to permeate among the different actors involved in security the belief that we needed to work on policy-making, not just on good intentions. We were demanded actions and results by our superiors; therefore, we required from all other public actors to compromise with results (Personal interview with senior official in the Undersecretary of the Interior, Ministry of the Interior, 29th October 2013).

A strong culture for metrics then began from 2003 onwards when the Interior launched its in-house crime barometer, the National Survey of Urban Citizen Security (ENUSC), a yearly poll set up to obtain information on crime views and victimisation. The Interior established that policies needed results based on a series of different categorical variables. These measurements were to be controled by the DISPI office who collected information mostly from the police bodies. However, the DISPI, with its non-official status, but commonly also validated as the intelligence body of the government, was restrained from speaking publicly about crime issues. Sooner rather than later, when public and private actors demanded governmental access to public information, the Interior realised that the DISPI was not the right entity to deal with such requests.

From that point onwards, it became a tradition, when possible, for the *Concertación* to assume its security policies through shared strategies that favoured institutional networking. Such an approach was at first tested in cities where governing engagements were materalising

on a smaller scale. In Talca, a southern city in the Maule region with little over 250,000 inhabitants, local authorities, *Carabineros*, the town council and other overseeing institutions, engaged in networked arrangements to hit on the region's black markets. This type of experience provided the Interior with solid evidence that networked governance between public actors could actually help stop complex criminality. One interviewee from the Interior commented on the main consequences following such an approach:

> I learned many things from my post in Interior. I was impressed at first by the multisectoriality of the issue and the enormous challenge it represented to assess it this way. I had to put a lot of energy in issues that the empirical evidence required some sort of coordination that we did not have. Those were years of learning for me, and I think they were also for the state (Personal interview with senior official in the Undersecretary of the Interior, Ministry of the Interior, 11th November 2013).

Over the years, the Interior elevated such an inter-institutional framework to assess the more complex issues concerning organised criminality cases. Even though these criminal forms required different planification and resources from the public actors involved, acknowledging institutional networks for governance eventually became the preferred format for confronting them. The authorities blended such an approach with novel tools to prosecute organised crime, which were imported from abroad. In 2004, after Chile suscribed to the UN Palermo Convention on drug trafficking and organised crime, a novel set of policies being discussed worldwide flooded the national arena. A former senior official who worked in the Interior's Department of Migration (Extranjería) noted how in the control of, for example, human trafficking, their understanding of such an issue took on a more complex nature after these events unfolded:

> In the early 2000s, norms and institutional practices were minimum. The issue of human trafficking set the alarms only after the suscription to the Palermo protocols. From then onwards, the topic was tepidly put in our work agenda. For example, we first had to ratify these agreements. I had to attend Congress and explain the UN resolution and its impact to our legal framework to lawmakers. This was only endorsed later in 2004 (Personal interview with former senior officer of the Departament of Migration, Ministry of the Interior, 20th November 2013).

For the Interior, the ratification of the Palermo Convention, and the simultaneous arrival of the Public Ministry, proved decisive for a new approach in how organised crime was to be defined. One senior official in the Interior's Department of Organised Crime explained it this way:

> Palermo and the new drug trafficking law are the game changers in terms of understanding organised crime. It became very important the day-to-day criminality public prosecutors started to unveil. From them we got a new approach on how organised crime was operating in the country. We realised we were not confronting necessarily big groups, but shanty-town criminal bands, even family clans, that made contacts with foreign groups that later delivered drugs and other illegal services inside the country (Personal interview, 18th October 2013).

The prosecution action, now passing from the CDE to the Public Ministry, led to a number of criminal bands being indicted with charges of illicit association for drug-trafficking. These cases (explored in greater detail in Chapter 5), set the parameters for understanding what type of complex criminality existed in Chile. Even though prosecutors referred to it colloquially as "organised crime", they decided to build their legal cases using the similar, but broader in nature, figure of illicit association (racketeering) that was available to them in the Criminal Code. This led the Interior to be driven by some of the same features that the public prosecutors took on when categorising organised crime: the presence of a leader, the distribution of function between participants, continuity in time and the intention to commit a crime under the laws that illicit association could be intertwined with, mostly, drug trafficking, money laundering and terrorism. Even though the prosecution policy community evidenced novel changes in its participants, and therefore in both the rationale given to the policy plans and the ideas and the beliefs towards organised crime, the Interior continued to appeal for intersectorial coordination; this was despite institutions developing their own conceptions and practices of how to best assess the phenomenon. From 2004 onwards, the new prosecution policy network (displayed in Figure 4.2) was formed by the Ministry of the Interior, the policing bodies, the

Figure 4.2 The prosecution policy community from 2004 onwards (coloured blocks) and other related actors.
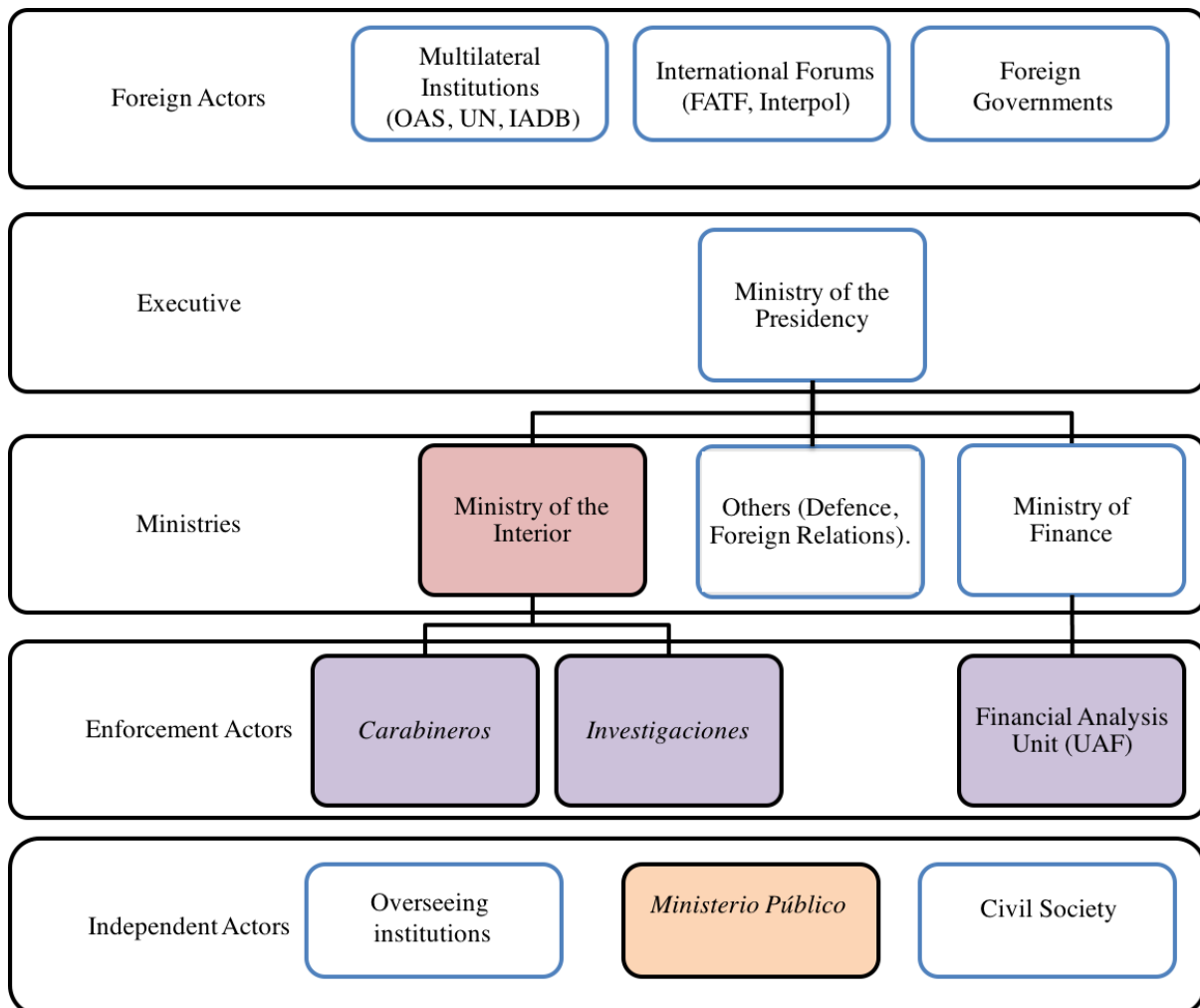
Public Ministry (replacing the CDE), and the Financial Analysis Unit. That year also marked the formal creation of the National Intelligence Agency (ANI) that stemmed from the DISPI and became the Interior's official bureaucratic channel, connecting the executive with its intelligence counterparts in the police bodies.

The creation of the ANI brought at least two relevant consequences to the continuing governance of organised crime. First, its assessment through the intelligence channels became mainly of consultive and analitical value to the Interior. The ANI, and its previous versions

were not policing bodies, thus, any potential data that would lead to a criminal investigation necessarily demanded the active role of the *Carabineros* and *Investigaciones*, although mostly, the need was to pass on any related information to the Public Ministry. Second, because the Interior kept on dealing with organised crime issues through its intelligence contacts, the issue, as well as others, including security threats such as terrorism, followed a different approach from what the authorities started to differentiate by calling public and citizen security. One interviewee who had worked for the Interior noted:

> In the issue of organised crime we had a different team that would participate in private meetings according to a number of security norms. The information discussed could not be kept in written from. It was closed work with secret information (Personal interview with former senior official, Undersecretary of the Interior, Ministry of the Interior, 29th October 2013).

It is worth noting then that the Interior was acquiring organised crime intelligence strictly though the channels of the ANI, however, its broader policy responses to criminality, such as the ENSP, were becoming more public and integrated by other institutions that also contributed input relating to drug trafficking and the various other criminal conduct highly correlated to the businesses of organised criminality. The Interior decided to pursue a more resolute agenda and use the ENSP as a blueprint against crime for Michelle Bachelet's government (2006-2010). The ENSP policy brought with it the approval of a multitude of security public actors. Its core agenda aimed to collaborativelly deliver resources to control criminality; identify a set of policies to be implemented; set up a group of performance indicators; and put forth goals to be accomplished over the subsequent four years (Ministerio del Interior, 2006). Surprisingly, it responded first to a hierarchic process of policy-making steered from the Interior that somehow eventually turned into a horizontal one. As the metagovernor of security policies and coordinator of the rest of its counterparts in the executive, the Interior offered to pay every ministry for the cost of keeping one official whose job was to make sure its pertaining ministry

would do its part in materialising the ENSP. The rationale was to have a team of attaches in charge of looking up resource collaboration, and mostly keeping up with the tasks defined in the strategy. This way, the Interior had an insider within each participating ministry. One former senior officer in the Undersecretary of the Interior commented:

> These officials were people of trust to each minister that we paid their salaries in exchange of them keeping all the expected goals from that ministry to materialise the ENSP. We believed that undermining crime was viable through prevention in various areas. We set up for each area a set of quantifiable goals by semester. In that sense, it was not just the Interior asking another ministry to modify their policies for the sake of security, rather it was the government in the name of Chile's crime reduction streategy. In short, the whole state and its government was being put behind the same goal. We made the policy-making of security in a horizontal way. That generated a certain level of success in terms of reducing crime indicators (Personal interview with former senior official, Undersecretary of the Interior, Ministry of the Interior, 29th October 2013).

The ENSP thus became a relevant tool able to build a dialogue between public actors that had a stake in preventing and controlling crime. It dealt especially with putting together actors that had until then worked separately, duplicating efforts and demanding greater public spending (Personal interview with former senior official, Undersecretary of the Interior, Ministry of the Interior, 10th October 2013). The Interior then began to address certain aspects of controlling organised crime in a less hierarchical way. In 2005, it partnered with the Ministry of Foreign Relations to coordinate working roundtables dealing with illicit migration and human trafficking. One former high official in the Departament of Migration in the Interior mentioned:

> Doing any work in those meetings was difficult and intermittent. Actors had little or scarce will-power to compromise. I did not believe it was because of ignorance regarding the issue, rather because the topic of human trafficking was absolutely out of the agenda. Other authorities did not see it as an important issue at the time (Personal interview with former senior officer of the Departament of Migration, Ministry of the Interior, 20th November 2013).

The Interior tried to set aside this issue since it did not consider the criminalisation of human trafficking to be under its jurisdiction, preferring to leave it to the policing bodies. However,

with the suscription to the Palermo Convention, Chile was required to send frequent reports on human trafficking to the UN. Additionally, the United States' Department of State had set up a yearly global report on human trafficking that also needed input data that the Interior was asked to provide. Both foreign bodies put pressure on the Chilean government to send out official memos on legislation, policies, and the overall situation of human trafficking. The Interior worked on the issue following its already networked style of governance calling out to the different public institutions that had a word in the matter. However, such relationships proved difficult as each institution had their own fields of action, and mostly, because of the multitude of people involved in policy-making at that time. The interviewee from the Department of Extranjería described how these first meetings usually were:

> Coordination was extremely difficult and we had no plan to understand the issue. Also, we were almost twenty-five people from fifteen institutions gathered in one room. That made work complex and for the same reason we decided to meet only once a month, which actually ended up subtracting any urgency from the topic (Personal interview with former senior officer of the Departament of Migration, Ministry of the Interior, 20th November 2013).

To close this section, a few final thoughts need to be shared. First, so far, the model of network governance seemed to have worked well for the Interior as long as general and broad policy issues regarding organised crime were discussed. However, as the issue of human trafficking evidences, when more fine-grained policy was required, the network approach became an obstacle to trying to put forth a common consensus in a short time. In fact, the human trafficking issue took at least six years of discussion since being first introduced by the Interior, and finally permeating both the prosecution policy community and the broader issue network of security and crime. Only in 2011 was a law specific to the issue passed in Congress, allowing the prosecution policy actors to start a new phase of policy-making now that the issue had a legal framework. Such an issue leads to a second idea worth highlighting. The prosecution policy community felt that they could only propose a new policy if they were backed by a solid legal

machinery. As the next section will explore in more detail, the administration following Bachelet, that of Sebastián Piñera (2010-2014), certainly benefited from a more favourable legal and administrative context, one that invigorated horizontal and networked governance, and where to build specific policies for organised crime.

4.5 The Institutionalisation of Network Governance (2010-2014)

The two decades of centre-left security policy-making in Chile came to an end once centre-right wing candidate Piñera took office in March 2010. However, and without much difference to that of the *Concertación*, Piñera's administration decided to replicate the model of network governance but, more abruptly, ordering that such relationships needed to fruitfully produce policy within three aspects related to organised crime: money laundering, drug trafficking and human trafficking. The multitude of public actors participating in the governance of organised crime demanded new levels of coordination and the Interior, as had been its tradition until then, assumed a stronger metagoverning role. A formal bureaucratic reconstruction of the Ministry during the early Piñera administration formally positioned the Interior in the role of policy coordinator for organised crime (Law Nº 20.502, 21 February 2011). However, early on, the authorities began to realise that the public security actors were far from easy to manage, and that the state centric model of security policy-making that had been followed in the past two decades had moved on to become diverse. Most notably, it was widely acknowledged that security institutions and other relevant public actors did not speak the same language, and were relunctant to even share basic understandings on how to craft policy (Personal interview with senior official in the Undersecretariat of the Interior, Ministry of the Interior, 10th October 2013).

This last section will therefore illustrate the final phase of the movement from government to the governance of organised crime and hazard how the prosecution policy community was able to come up with policy plans that demanded consensus, participation, and

the sharing of information and resources. The section will also make sense of the democratic anchorage of the policy community. It will explore the interactions and structures that allowed the participating actors to combine skills, and how a common democratic grammar of conduct was accepted as the network finally began delivering policies.

As was previously mentioned, once Piñera came to power, the Interior was able to continue its network governance engagements by putting together working roundtables with over a dozen public and private participants. The objective was to elaborate a diagnosis and reach a consensus on how to draft a policy action plan against organised crime. Actors included the prosecution policy community, but also others from the broader issue security network, such as other ministries and states bodies, as well as civil society through various NGOs. In part, the prosecution policy community as it was understood until then, came to distinguish itself form other policy communities once the Interior decided to detach them from the prevention and detection networks. Table 4.2 details the participating institutions in each of the three policy communities. As the table shows, institutions were able to participate in different aspects of the governance of organised crime, with the Financial Analysis Unit and the Public Ministry having responsibilities across the three policy networks. Once the prosecution policy network was formally acknowledged by its members and by the larger issue network, it became easier to launch its attempt to arrange organised crime policy. This move also happened, in part, because the institutions were already used to the exchange of resources and agreable to some basic points regarding how to confront crime. However, the specific nature of organised crime did remain a challenge for them.

The Interior decided to spread policy participation among public actors in search of novel understandings on how to control organised crime. The move, in terms of the Interior's role in the decision-making, implementation, and execution of policies, certainly evidenced a gradual loss of hierarchic control, but, in another way, it favoured the engagement of networked

137

Table 4.2 Types of policy communities in the governance of organised crime.

Prevention	Detection	Prosecution
Central Bank of Chile	Comptroller General	Ministry of the Interior and Public Security
Superintendence of Banks and Financial Institutions	Carabineros (O.S.7.)	Public Ministry
Superintendence of Casinos	Carabineros (O.S.9.)	Carabineros (O.S.7.)
Superintendence of Pensions	DIRECTEMAR (Navy)	Carabineros (O.S.9.)
Superintendence of Social Security	Policía de Investigaciones	Policía de Investigaciones
Superintendence of Securities and Insurance	Internal Revenue Service	Financial Analysis Unit
Financial Analysis Unit	Customs National Service	
Ministry General Secretary of the Presidency	Ministry of Defense	
Ministry of Foreign Relations	Ministry General Secretary of the Presidency	
Public Ministry	Ministry of Foreign Relations	
	Financial Analysis Unit	
	Public Ministry	

Source: UAF (2013, p. 53, 59).

institutional governance. In order to keep true to its state centric nature, the Interior needed to gain overarching coordination powers, and to eventually steer policy plans as matters of state policy. This opened the road up in two ways. It left the Interior with more chances for embracing broader authority, however, it also turned relationships more horizontal.

Piñera put significant effort into fulfilling his campaign promises on security, replacing the ENSP with an action plan called *Chile Seguro* (Gobierno de Chile, 2010). In a similar way to the ENSP, it outlined the main areas to be dealt with in terms of public security. Piñera had emphasised previously that his government would confront crime and drug trafficking efficiently by ending offenders' impunity, decreasing fear among citizens, recovering public spaces taken over by criminals and maximising the contribution of the police bodies to crime reduction (Piñera, 2009). From the *Chile Seguro* guidelines, three aspects became later policies in the control of organised crime. The interior led the deterrance against drug trafficking in the northern regions of Arica, Tarapaca and Antofagasta, through the *Frontera Norte* policy plan

138

which was launched in October 2011 (Ministerio de Defensa, 2011; Ministerio del Interior, 2011a, 2011b; Ramírez, 2011). The *Frontera Norte* came to redraw the way of understanding the governance of organised crime as its policymaking model resulted from a set of novel relations set up between institutions. Diagram 4.3 shows how the prosecution policy community engaged in a horizontal network. The Ministry of the Interior acted as a 'hands-on' metagovernor, meaning that it not only took a role in directing the policymaking effort, but it also acted as a complimentary partners to the rest of the institutions. Two extra plans, one against money laundering, and another towards countering human-trafficking, were both launched in December 2013 under the same style of governance architecture (UAF, 2013; Gallegos, Labrín, and Matus, 2013; Emol, 2013).

Piñera's administration decided to control organised crime with the tools its government had at the time. In a certain way, the right-wing administration picked up on the policies that the *Concertación* were not able to put together and, essentially, this gave them the final kick. For instance, in terms of the human trafficking issue, the Interior had formed a multisectorial working roundtable through a decree in 2008. However, from that point onwards, scarce policy was actually done, and this issue only became relevant again once its law was passed in Congress (Law 20507, 8th April 2011). Along this line, the approach of Piñera's government to the Interior's participation in the governance of organised crime aimed more to strengthen its role as metacoordinator of public institutions rather than to make the Interior a creator of new bureaucratic ventures.

Figure 4.3 The prosecution policy network and its horizontal representation for the *Frontera Norte*.
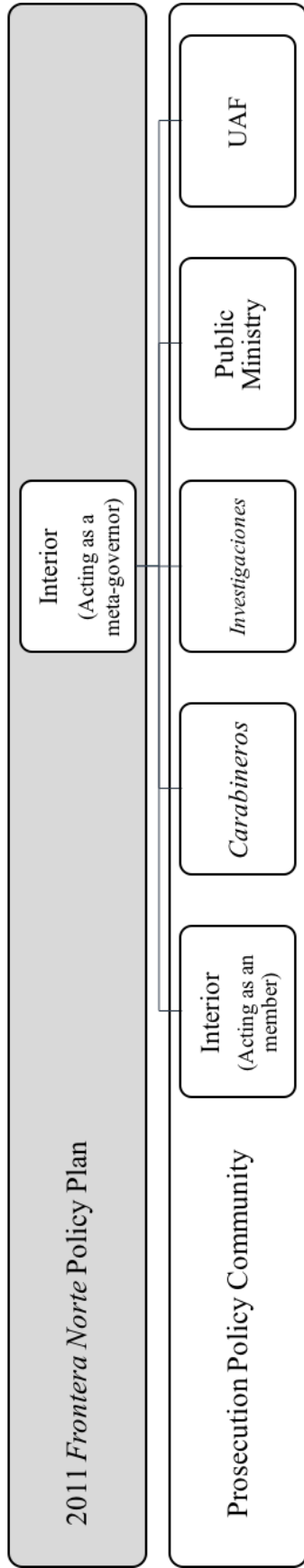
One senior official in the Interior's Department of Organised Crime commented on such an idea:

> The fundamental purpose in all policy relating organised crime in this government was to coordinate and reinforce the public institutions that already exist, see where they are failing, provide resources, and improve central coordination of government policy in these topics (Personal interview, 18th October 2013).

For the policy-making of these three policies, the Interior gave a metagoverning role to its Department of Organised Crime, a small office staffed by public officials who had built up a wealth of expertise on the matter. The department acted as a steering actor among the plethora of institutions participating in each policy plan. Following the *Concertación's* model, it called on public and private actors to arrange working roundtables. The interviewee from the Department of Organised Crime in the Interior was able to recall how the policy-making of such policies was carried out:

> We knew about different perspectives of the phenomenon so we discussed it in working roundtables. For instance, on one hand, groups from civil society, mainly NGOs had a focus on human rights issues. On the other, state actors in charge of its control applied the term in functiong of criminalising certain conducts. In this vein, we put to work together different subgroups that were in closely related areas. This was done to promote the consideration of more detailed perspectives about it. Once these groups reached consensus, the executive board under the Interior drafted a plan that was later sent to the pertaining institutions to revised it and insert their comments. In this way we made sure, even though it took longer, that the resulting policy reached consensus from every institution and civil society (Personal interview, 18th October 2013).

Through this way of policy-making, driven by horizontality and consensus, organised crime in Chile, and the core steering of its political assessment, remained in the Interior, however, it left the shadows of the intelligence channels, policy discussion became broader and more overt, and resource collaboration became the norm, showing a greater movement from government to governance engagements. The scenario gradually changed again as the new legal framework for the Interior was pushed forward in 2011. The Ministry was reconfigured in terms of how

its policies for crime detection and prevention were to be formulated, as well as in relation to how studies and policy diffusion were to be done. Reforms included that the *Investigaciones* and *Carabineros* would leave the political jurisdiction of the Ministry of Defence and pass that to the Interior. The latter would also assume a role by law in coordinating the rest of the agencies, institutions and public bodies that, until that moment, had had no relation to the control of organised crime (Law N° 20502, 21 February 2011). This role was certainly evidenced during the policy-making that ocurred for the National Strategy Against Money Laundering and Terrorist Finance (ENLAFT), where most of the coordinating roles were left to the UAF (detailed in Chapter 7). In line with the Interior's multi-sector and horizontal approach to organised crime, the ENLAFT meant the participation of over 20 public actors who participated in creating a money laundering diagnosis through working roundtables. Through this wide commitment, the Interior was able to involve all these public actors into dealing with over 50 specific tasks where each conceded to deliver resources (UAF, 2013). The day the ENLAFT was launched, the undersecretary of the Interior, Rodrigo Ubilla, said that Chile was among the few regional countries that had formalised a document of that nature. The objective of such policy, he noted, was to "attack the economic power of organised crime groups with concrete goals, dates, and responsibles" (La Segunda, 2013). One of the fundamental points in the ENLAFT was related to how actors were to "comprehend" and understand the phenomenon of money laundering in order to better "coordinate" among all intervening actors. This point evidences that the actors involved in the governance of organised crime were aware that they needed to talk in the same language about the phenomenon they were trying to control. This section thus closes such discussion by emphasising, as theory would suggest, that the prosecution policy for organised crime was able to deliver policy outcomes as a result of the gradually changing structures of its participant institutions, and also through the repetitive inter-institutional interaction that, despite a change in government colours, was kept as the main

rationale for governing policy. This section has additionally drawn upon the revision of historical institutional patterns to reveal the gradual movement from government to the governance of security, as well as the Interior's role as a metagovernor of security in such motion, a process that scholars suggest involves the duality between state centric and state decentralising perspectives. The subsequent concluding section enlightens this exploration and other complex ideas revised in this chapter.

4.6 Conclusion

Over the past two and a half decades following Chilean redemocratisation, the governance of organised crime has found a strong steering metagovernor in the Ministry of the Interior. During this time, the Interior has gained notorious political powers among its peers, allowing it to institutionalise the rule of law and to have a strong steering capacity regarding security issues. Thus, and as a first concluding idea, this chapter has demonstrated that the Interior's rationale to governing organised crime issues has been the result of a statecentric mentality where the capacity to get things done has rested on the power of the government to command and use its authority. Even though this conclusion seems at first-hand the core idea of this chapter, a closer analysis reveals that the Interior's central control to promote the public good of security has, nonetheless, varied across the decades. On the contrary to how the governance of organised crime came to be following redemocratisation, this chapter has unveiled that a network approach has worked better for the Interior in recent times. Such an approach allows for better identification and understanding of how the governance of organised crime has been tranformed over time into a governing engagement of a growing number of participants called into action when the complexities of the matter demanded it.

Such an idea could be complemented in part by agreeing to say that once the issue network of organised crime and security became big enough to host a dozen institutions

(favouring a state decentralising approach), the prosecution policy network formed across the years remained rather a small club where the interactions and coordination mechanisms between its participants followed a certain stable pattern of networked policy-making metagoverned by the Interior (favouring a state centric approach). The study of the most recent period of governance of organised crime illustrates that a series of actors governed security both alone and in conjunction with others. If Rhodes' (1997) doubts about the centre's capacity to govern were true in this case study, it could be said that the state capacity to steer the governance of organised crime has been put in doubt because of the presence of international interdependence on the organisms above it, for example, the UN; sideways, by new actors such as the Public Ministry and other overseeing institutions; and from below, by networks of policy related actors. Thus, the chapter has explored that Chile's capacity to steer from the centre has been influenced by all these three features, however, it has also highlighted the unintended consequences whereby state capacities have been reaccommodated to adapt to horizontal and networked arrangements for the delivery of security.

The chapter exposed also the complexities of the governance of organised crime. The participation of various institutions from both inside and outside the government's realm has meant the sharing of the overall thinking, production, and delivery of security, as shown by the latest policies for countering organised crime. As the following empirical chapters will demonstrate, other actors besides the Ministry of the Interior have built different values and policy proposals to assess the issue of organised crime. The policy networks approach has, nonetheless, given scholarly insights to suggest that such contesting traditions and beliefs towards organised crime policy can be overcome through the creation of networks of smaller, more limited participants with narrow and similar interests. In that sense, the Ministry of the Interior has played a vital role since redemocratisation in bringing the prosecution policy community together despite their differences. It was only after acquiring its new role as a

selector and supporter of security participants to mobilise and ensure resources for policy making, that the Interior took the executive's prime position of overseeing, steering and coordinating counter organised crime policy. As the subsequent empirical chapters will show, each participating institution suffered their own institutional processes of reaccommodation to the endogenous and exogenous factors that finally allowed for their inclusion in the policy network approach. In that vein, the next chapter will explore the Public Ministry and its greater involvement in the prosecution of organised crime since it was launched in early 2000s. It will also offer a theoretical explanation for how prosecutors were able to introduce a novel understanding of organised crime that went on to spread among the other institutions participating in the prosecution network.

The Criminal Prosecutor: The Public Ministry

5.1 Introduction

When the fresh wave of redemocratisation washed away the veil of authoritarianism from the criminal justice sector, the scrutiny over its institutions revealed the true nature of a policy system dominated by obscure, inefficient, and out of the law conducts that had failed to accomplish the true sense of justice. As happened with the Ministry of the Interior, the criminal prosecution system in Chile had to be delicately reformed if any hopes of a durable transition to democracy were to be considered. However, the redemocratisation of 1990 brought distinct consequences for the prosecution system. First, it inevitably got to enlighten a list of crimes that, during the previous 17 years, had not been given consideration or which courts had simply failed to oversee. What is more, the move meant that the criminal policy sector was elbowed to re-accommodate its functions in light of the new path to the rule of law desired by the recently installed authorities. The criminalisation of organised crime inadvertently became relevant after the 1990s milestone. The confirmation of foreign cartels and their local criminal partners using Chile as a platform for illegal businesses worried the authorities, who had to rely on the help of international partners to confront such an issue. Thus, Chile's criminal justice system was soon evidenced as being under-developed for prosecuting such a complex criminal phenomenon. This latter scenario was, in part, a response due to the tight control and intrusion set up by the dictatorship, making relevant only the issues of political violence and subversion. Put simply, once democratisation sunk in, the criminal justice system was caught unaware by organised crime, finding little deterrence and thus allowing it to swarm free in the country.

This chapter will therefore explore how Chile's criminal justice system, in light of such a discouraging scenario, was, over time, capable of adopting a complex and responsive framework for action once redemocratisation transpired. It will reflect on the changing institutional features that led first the CDE and later the Public Ministry to join in network governance, along with other public institutions. The empirical narrative provided in the chapter will shed light on how, between 1990 and 1999, the prosecutorial bodies were left mostly to their own re-organisation regarding how to confront organised crime; this was as the governmental authorities were rather focused on the future criminal justice reform that would come to replace the old ways of prosecuting. This meant that during the first decade of redemocratisation, the criminal prosecution of organised crime was mostly a slow and unattended issue that, and despite the discourse of the authorities, was only considered of importance once the criminal justice reform began to permeate the overall construction of criminal policies. The chapter will also explore how once the Public Ministry was established as the sole prosecutor of crime, its relationships with the policing bodies and the Interior were tainted by a different approach to criminality in at least two visible ways. First, regarding how the prosecutors brought a novel understanding to organised crime as they built new legal frameworks based on local jurisprudence; but also, and secondly, as they adopted the international guidelines promoted by foreign governments and multilateral institutions. In this sense, the chapter will highlight how the participation of the Public Ministry in the prosecution's policy community promoted the exchange of knowledge and resources that finally led to policy creation from 2010 onwards. By this point, the chapter will reflect on how the steering of the Interior to materialise network governance went hand in hand with the appointment of a new national prosecutor who brought forward an agenda favouring an inter-institutional approach to confronting criminality.

In order to understand how these ideas fit chronologically with the rest of this thesis's contents, this chapter carries out a sequential study along four sections. Section 5.2 explores the first decade of the return to democracy (1990-1999). It illustrates how the country's prosecution institutions inherited almost no policy directions for prosecuting organised crime, a scenario that was reversed only once complex criminality captured the attention of the authorities. This section will also demonstrate how with the arrival of foreign drug cartels in the country, and the presence of domestic criminal rings, the prosecution system was caught out and unable to react properly, with inter-institutional governance thus becoming the new rationale to follow. Section 5.3 will cover the 2000-2007 period, to explore how the reform to justice was implemented throughout Chile, bringing with it the establishment of the Public Ministry. It will illustrate the beginnings of novel engagements of governance as well as explore new understandings and beliefs about how to confront organised crime; this is as the recently set up prosecutorial body abided to patterns of action resulting after the everyday discoveries of novel organised criminal bands. The prosecutors also shaped their institutional actions based on their interactions with other actors dedicated to the prosecution of organised crime, mostly the policing bodies and the Interior. In this vein, Section 5.4 moves on to the study of the period between 2008 and 2014 in order to investigate how the Public Ministry came to consider the prosecution of organised crime an issue of serious complexity demanding permanent inter-institutional cooperation between public security institutions. This section will demonstrate how the Public Ministry's participation in the prosecution policy community sought to legitimise networked governance relationships. Section 5.5 ends the chapter with a theoretically driven discussion. It will argue how the Public Ministry gradually created its own institutional rationale towards confronting organised crime, an understanding that eventually led to an engagement in horizontal relations, with the institutions comprising the prosecution policy community. It will emphasise the empirical evidence provided within the chapter that

demonstrated the movement from government to governance and how this was articulated by the Public Ministry's engagement overtime on networked patterns of governance and the endorsement of such methods when building security policies.

5.2 Reacting to the Evidence of Complex Criminality (1990-1999)

Over the years, modern justice in Chile has swiftly evolved from a general understanding of a complex social disorder to a very specific form of assessing organised crime. In the true sense, Chile's justice system has been reactive to this criminological phenomenon. Its prosecution has been made possible in part because of the constant development of jurisprudence and other methods of prosecution that have been gradually acquired since the 1990 landmark. Thus, and to understand how the prosecution of organised crime has evolved, this section reviews the first decade of redemocratisation and explores how the changes occurring in the political and socio-legal arenas have affected the prosecutorial bodies and their approach to the more visible evidence of organised crime. The section draws on the discussion of two main ideas. First, and since being shown in the previous chapter, the Ministry of the Interior began to gradually acquire the attribution to steer, plan, and coordinate policy for organised crime. This section therefore deals with how the prosecutorial bodies performed their role in the shadows of such a pre-ordained governance organisation. Second, this section sets the tone regarding how the crossover from dictatorship to democracy drove the return to an independent judiciary, making it possible for the courts of justice to re-organise the rule of law without interventions. The section concludes by setting the tone for the criminal justice reform of 2000, considering how the existent justice actors gradually gave way to the Public Ministry that came to form part of the existing network policy schemes along with the Interior and the policing bodies.

Before entering into such points of discussion, a few contextual ideas need to be introduced. As was mentioned, during the military regime, the judicial system was severely violated and marginalised. The military junta was obsessed with extirpating all terrorist and

politically adverse parties that posed a threat to the de-facto government. To achieve such goals, the security agencies and the police bodies were granted permission to act outside the law with the acquiescence of the magistrates of the Supreme Court (Wright, 2007). The integrity of the institution was broken, and likewise the assurance of a fair trial for many Chileans was broken also. In fact, it was established that, although some cases were recounted, during the dictatorship very few judges dared to act independently (Ensalaco, 2000; Barros, 2002). Against such a background, the first decade of democracy saw a tendency towards reforming the criminal system that emphasised greater transparency and accountability. The move materialised when new judges were appointed to the Supreme Court, challenging previously held authoritarian enclaves (Mattear, 2004, Basabé-Serrano, 2014, p. 135).

During early redemocratisation, the judicial agenda was severely marked by human rights causes, and public attention was expectant as to how civil courts would handle the pressure to prosecute the investigations they had failed to oversee during the dictatorship. The revelations of up to then unknown burial and torture sites added a regretful commotion, catching most of the observers' attention when talking about reform of the criminal system (Roniger and Sznajder, 1999). The efforts to re-establish an independent judiciary certainly benefited from the lobbying that human rights organisations were able to carry out during redemocratisation. For this thesis, it is important to gently steer the focus of attention to explore instead what was happening to the prosecution of other offences that took place during redemocratisation, most notably, organised criminality.

By the early 1990s, the body responsible for the prosecution of complex criminality was the State Defence Council (henceforth CDE). The CDE was created in the 19th century as a concern focused on the losses of the state treasury. Over the decades, it became by law the state's representative in courts and trials, safeguarding its interests and heritage. By the 1980s, the functions of the CDE had been accommodated to the regime's recently passed constitution.

The *de facto carta magna* broadened its powers to intervene in various civil, criminal, and fiscal matters that affected "the superior good of society" (Consejo Defensa del Estado, 2014). After 1990, the CDE was refunded with a novel legislation that likewise highlighted its function to prosecute matters that could inflict serious danger on the state or society (DFL N°1, 7th August 1993). What is more, in 1995, the creation of a unit in charge of investigating cases of drug trafficking and money laundering gave the CDE an essential role in the prosecution of organised crime (Law N° 19.366, 30th January 1995).

The misdeeds of organised crime in Chile were brought to light in part because of the prosecution diligences undertaken by the CDE, in close collaboration with other pertaining actors, most notably the police bodies. For instance, after capturing the cocaine-loaded merchant ship *Harbour* off the coast of Guantánamo, the CDE prosecuted 12 members of a drug ring. Also, one of its investigations later unveiled that the renowned drug baron, Amado Carrillo Fuentes, and boss of the Mexican "Cartel de Juárez", had travelled to Chile. The Mexican authorities had put pressure on the so-called "Señor de los Cielos", making him run to a safe haven in the Southern Cone. Once in Chile, Carrillo Fuentes was able to buy dozens of luxurious properties and create a business façade so as to expand his markets in the region. During the five months, he was able to walk free and unrecognised. Similarly, between June and July 1993, seven close relatives of the Colombian drug lord, Pablo Escobar, had entered Chile and lived for a nearly two months while investing in real state (Ávalos, 2007).

The presence of Carrillo Fuentes made a big splash about the authorities' lack of surveillance regarding the issue of organised crime. In 2000, congressmen drafted a law project to create a special commission that would oversee those regulatory bodies that had failed to detect drug trafficking monies from arriving in the country. It was later revealed that the Mexican baron had entered Chile under the alias of Juan Arriaga Rangel, with the intention of making it his permanent home. His lieutenant, Manuel de Jesús Bitar Tafich, had settled

months earlier to assess the business and living conditions offered by Chile. In late 1996, Bitar Tafich obtained a legal permit from the Foreign Investment Committee (CIEChile), a multi-institutional state body whose secretary is appointed by the president, to invest US$300,000 in a housing complex in Santiago. Amado Carrillo had also received a permit to invest US$2 million as a capital investment (Afani, 2000). Despite the criticisms, the prosecution's handling of the drug-traffickers evidenced an initial collaboration between public security agencies that is worth revisiting.

After seizing a cargo of 12 kilos of cocaine that proved to have been sent by Bitar Tafich, DEA officers passed a notice to their Chilean counterparts in mid-1997 informing them that the "Cartel de Juárez" was in the country. It was later revealed that the cartel had gone undetected for at least 6 months. When Carrillo Fuentes died in Cuba in July 1997 his businesses in Chile became a known matter for the authorities. His fatal cosmetic surgery in La Habana forced his acquaintances to exit the country and fly back to Mexico, while leaving all monies behind. Chilean policemen had only recently put Carrillo Fuentes under surveillance, however, it was his death that later motivated the police to pass the information to the criminal courts. Judge Hadloff Ascencio then commenced on an investigation for illicit association for drug trafficking. Nevertheless, four years later all criminal charges were dismissed because no formal offences could be proven (Afani and Vergara, 2000). Later in 2001, however, Mexican judicial authorities captured and prosecuted Bitar Tafich who had fled from Santiago. In Chile, it was revealed that the tribunal led by judge Ascencio did not investigate the money laundering charges because the CDE, up to then the only institution with the powers to take part in such a prosecution, had not pressed any charges (Afani and Vergara, 2000). Although public security actors had started by then to work in collaboration, Chilean authorities failed greatly in delivering any formal justice. The police were only able to detained Bitar Tafich's wife, and two of her personal sentinels. After two months of investigations the three were released in late

1997, when a court decided that due to the lack of evidence the case needed to be closed (La Segunda, 2001). Police investigations were only able to claim US$116,000 of Carrillo Fuentes' monies. Later on, the Mexican justice seized all of the capo's assets in Chile.

The Carrillo case marked a critical chapter in the criminal justice story. The case showed that the Chilean authorities and the prosecuting institutions were hardly apt to confront complex criminality, drug trafficking or illicit investments. These offences seemed novel to the security actors, while the inquisitive system showed signs of aging when it came to coordinate some successful work between the public actors. The written, secret and overloaded functions that a judge had to perform in order to prosecute such cases generated highly bureaucratic and dysfunctional investigations. Also, and as a consequence of the tangled prosecution system, the record of successful sentences became relatively low, and greatly dependant on the work of junior lawyers and the police units involved. Indeed, in many cases, lower officials, rather than peers, assessed the judges' investigations. This practice put in doubt the quality of the system, opening a window for corruption inside the magistrates'court (Tavolari, 2005). In fact, later in the mid-2000s, judge Gloria Olivares received the most drastic sanction seen up until then in judicial history, after she was relieved of her post due to a "serious lack of work integrity". Judge Olivares was charged with dubious behaviour during the prosecution of the drug-dealer, Manuel Fuentes Cancino, "El Perilla", who was later convicted to 10 years' imprisonment for drug trafficking (Afani, Vergara, Rojas, and Ale, 2000).

In sum, and to close this section, even though the CDE created its anti-drug trafficking and money-laundering unit in 1995, the feeling of really knowing how to deal with organised crime was actually created over the subsequent years, when the CDE passed its powers in prosecuting organised crime to the Public Ministry. In early 2008, Hernán Peñafiel, the outgoing chief of the anti-drug trafficking and money laundering department in the CDE, suggested to the prosecutors, through the press, that a different approach for organised crime

should be considered. Peñafiel noted how the CDE team he had put together "without comparison and precedent", and included lawyers, finance experts, accountants, and policemen, had allowed him to cover all aspect of the complexity of organised criminality. When asked about the performance of the Public Ministry up until that point, he noted that it was hard to believe that no "spectacular cases" had been uncovered yet (Guerra, 2008). However, this failed to take into account that the prosecutorial system that had been set up in 2000 had brought with it different mechanisms that took longer to show successful results.

As the next section will illustrate, shaping a case for illicit association for drug trafficking and money laundering became harder than expected once the justice reform kicked in. The prosecutors received the bulk of the lengthy and complicated investigative burden, and the chances that a judge would rule in their favour were uncertain. Also, the action scenario for prosecutors became more complex since new policies and international norms began to influence the whole political and legal environment. No less important, it became evident that the previous role held by the police and judges was now to be expanded to various security actors that had come into play. In short, because of many factors that were absent during early redemocratisation, the "spectacular cases" Mr. Peñafiel was asking for came later than expected. The next section shows therefore that since the establishment of the Public Ministry, the prosecution of organised crime suffered a change in ways that created a whole new approach for prosecutors and for the public actors engaged in such a task. The section reviews the understanding and reasoning that the prosecutors gave to the phenomenon in the novel context brought by judicial reform, and how, as time went by, the Public Ministry came to the forefront of the public security scenario, as it took a leading role in replacing Chile's rusty prosecution system.

5.3 Establishing a New Form of Prosecution (2000-2007)

The prosecutional policy network that the CDE had been able to build with the Interior, the policing bodies, and the courts of justice (see Figure 5.1) came to and end once the Public Ministry took over the lead from them in the new criminal justice system. However, by becoming the last security actor to arrive, it had to quickly catch up with how these other institutions worked in such networked engagements. This section will therefore emphasise two ideas. First, it will consider how the Public Ministry was capable of accommodating the beliefs and traditions that were keeping the continuing prosecution policy community together , while secondly, it will explore how it moved on to engage in inter-institutional security governance after gauging its own appreciations of the criminal phenomena occurring in Chile; that is, after acknowledging that such a movement towards network governance was critical in ensuring results in the affairs of prosecutional justice.

To begin with, this section gives a brief contextual account of the role and powers that the Public Ministry came to enjoy once it was set up in 2000. The Public Ministry was created out of the most important update to criminal justice undertaken in the modern history of Chile. The criminal law reform (or simply, the reform) ended with the long established procedure where a sole judge acted as investigator, acusser, and adjudicator (Tiede, 2012). Besides the novel figure of the public prosecutors, the reform brought with it the practices of oral and public trials, testing the capacity of prosecutors to build criminal cases and deliver them in court. The Public Ministry was created as an autonomous body independent of the executive, judicial or legislative branches of the state. Among its roles fell the prosecution of criminals, taking defendants to court and giving protection to victims and witnesses. Even though its chief officer, the national prosecutor, was appointed by the three state branches, this role remained free of any political subordination, only being required to give accountability of the institution through an annual public statement (Law N° 19.640, 15th October 1999). The Public

156

Figure 5.1 The prosecution policy community (1990 – 2003) in coloured blocks, with other related actors.
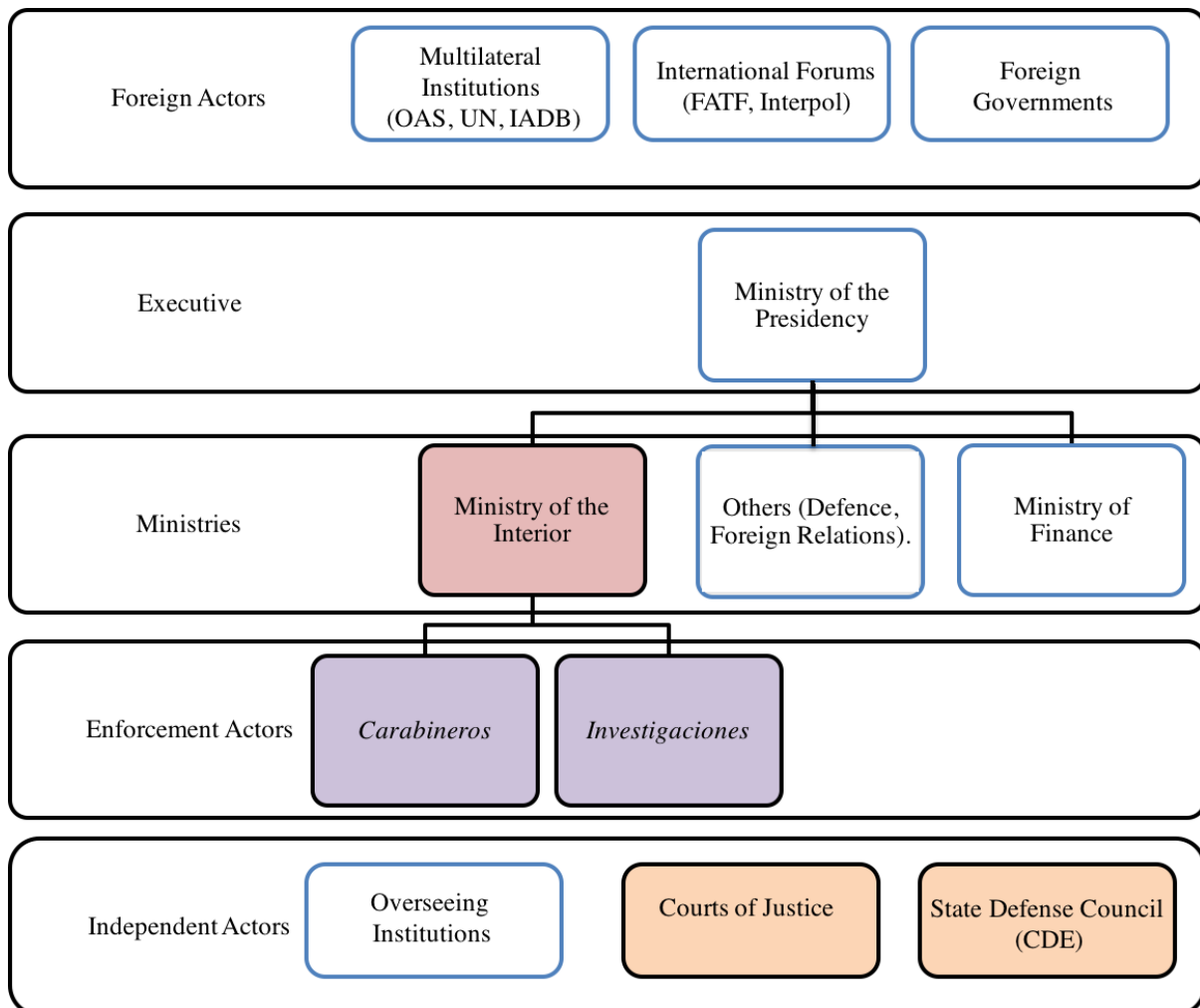
Ministry headquartered in Santiago, was a bureaucracy also known as the *Fiscalía Nacional,* in Spanish. Through its offices, junior and senior advisors drafted nationwide criminal prosecution policies. Its organisation included a series of divisions and advisory units addressing organised crime, money laundering, sexual crimes, drug trafficking and corruption, among other anti-social behaviours. These units were intended to formulate specific policies in each field and give advice to public prosecutors on the ground when confronting complex criminal cases.

Even though the Public Ministry did not have any initial policies for addressing organised crime, it was agreed that during the prosecution stage of any case they would work in collaboration with the policing bodies and other public organisms. By then, these had developed certain expertise in the policy issue of organised crime, and included the Medical Legal Service (SML), the Civil Registry and Identification Service and the Public Health Institute (ISP). By law, the prosecutors were required to act as commanding nodes in these networked policy schemes (Law Nº 19.640, 15th October 1999). When the reform was launched, Guillermo Piedrabuena, the first national prosecutor, said that the prosecutors "will have the tough, but rewarding mission to give transparency and modernity to a system that does not enjoy a positive evaluation in the public" (El Mercurio, 2000a). In light of their legally assumed role in the prosecution of organised crime, it was expected that a vast array of highly complex criminal cases were to demand a specified networked governance approach led by the prosecutors.

In August 2000, Chilean and Bolivian policemen, plus agents from the DEA, raided a chemical plant in Apacheta, Bolivia, used for the export of cocaine later transported for distribution through Chilean routes. Operation "Frontera" came to actually lay the ground work in certain areas, aiding the governance of organised crime to come into being. First, it became the first occasion where Chile and Bolivia worked together, combining in a shared effort between their police and their prosecutorial bodies. Despite the fact that neither of the countries had official diplomatic relations, authorities from both sides decided to share criminal intelligence, which was, up to then, a rare example of resource collaboration. The raid also consolidated Chile's long working relation with the DEA that later translated into the visit of the agency's chief official to Santiago (Consejo de Defensa del Estado, 2003). The "Frontera" seizing operation was also important from a legal perspective since the CDE was able to file charges for illicit association (racketeering), for the diversion of chemical precursors and for

money laundering, setting a legal precedent for future cases. Up until then, major drug busting cases, including the sea operation "Océano" reviewed earlier, had been brought forward by the CDE, leaving to the Public Ministry only those cases that entered its jurisdiction once the criminal reform gradually infiltrated the country's regions. In fact, because the Public Ministry was gradually introduced to organised crime cases, its understanding of it became the result of a slow paced process. Thus, by the time the CDE had gained certain experience in prosecuting organised crime, the Public Ministry was still making its way towards becoming the country's justice operator. The authorities from the Public Ministry knew their limitations, however, and decided to partner up with more experienced players. In this sense, and in virtue of reinforcing the new prosecutorial regime, in September 2001, the national prosecutor, Mr. Piedrabuena, reasserted the importance of working alongside the police bodies during the implementation of judicial reform, by then only active in three regions (El Mercurio, 2001a).

After a period of evaluation, the government noted a lack of efficiency between public actors as investigations showed low levels of collaboration. In his attempt to strenghten the continuing networked governance between public institutions, President Ricardo Lagos (2000-2006) aimed to improve policy bonds for a better assessment of criminality. In 2001, Lagos announced a package of security measures oriented to establish more efficient networked governance patterns. His plan included the creation of a long-promised shared criminal data system to be used as a resources grid between the police, the Public Ministry, and the judiciary. In a sense, the move came to support the idea that the reform to justice was a blast of fresh air for policy formulation between the government and other public security actors. In another governmental initiative, the executive gave a series of guidelines to establish special units across the country in charge of receiving complaints and information regarding drug trafficking. All information was to be distributed among the police, the CDE and the Public Ministry in case prosecution was needed (El Mercurio, 2001b).

The executive additionally saw the need to offer wide support to the new prosecutorial reform, and began accepting contributions from foreign partner countries. The United States sent academic texts to universities and the Public Ministry, and later established exchange and training opportunities for the prosecutorial ranks (El Mercurio, 2001c). The continuing judicial reform inflicted high expectations about complex criminality being taken to shore. However, the prosecutor, Piedrabuena, claimed that by the end of 2001, the reform had found relevant problems in terms of work coordination between the police and the prosecutors. He also argued that, even though crime was to eventually decrease, the reform was not the panacea for reducing it (El Mercurio, 2001d). The early years of the reform evidenced that institutions cleaved to different approaches and understandings of how to move forward with prosecution. During these initial stages, the *fiscales* found it hard to intertwine standards of action with their partners in the prosecution policy community. One advisor in the *Fiscalía Nacional* mentioned:

> The goal of the Fiscalía was to build standards of action towards addressing complex crime. However, most of the times, the police had one standard, we had another, and the judges expected another. In many occasions the police would say "look, we got proofs that these people worked together", however, we would knew that this evidence would not satisfy a judge. We looked for cases of illicit association, but these were the hardest to prove. The old system had convicted a few cases started by the CDE but during the first years the Fiscalía could not construct even one (Personal interview with advisor in the anti-drug trafficking unit at the Fiscalía Nacional, 20th November 2013).

In a strategic move, the Public Ministry put its advisory unit on organised crime, a body called ULDDECO (for its acronym in Spanish), to act as the consultive arms of prosecutors when facing organised crime. Its director, Mauricio Fernández, referred to these crimes as having been present in the country since 1996, and emphasised their complexity, arguing that Chilean prosecution legislation was not flawless (El Mercurio, 2002). By then the justice reform was operating in eight regions, and the increasing cases that alleged organised crime groups pushed the prosecutors to catch sight of things with their own eyes.

In June 2003, the German police caught Chilean citizen Patricio Gálmez under the charges of drug trafficking. The German services had seized two shipments of cocaine hidden inside fruit boxes. The Kristel Food Bananeras export business was a façade set up in Los Vilos, a small city in Chile's northern region of Coquimbo, from where Gálmez had until that point laundered at least US$500 million in properties and housing developments (Muñoz, 2004). The Bananas' case became relevant as it allowed public actors to set up complementary governing procedures of networked governance for organised crime: the *Investigaciones*' special unit on organised crime (BRICO) did the police work related to capturing Gálmez's partners in Chile; the prosecutors led the subsequent investigation; the Ministry of Foreign Relations assessed Galmez's extradition from Germany; the judiciary ruled a six years prision verdict; and finally, *Gendarmería* set up the drug baron's transport and assigned him a penitentiary in which to spend his sentence (Sulantay, 2007). One former prosecutor mentioned how the case influenced the Public Ministry's approach to organised crime present in the country at that time:

> By 2003 we were still a new institution. We thought that Chile did not have the big mafias or criminal bands like the ones we saw in Bolivia, Peru, Colombia or Mexico. Now, how did we eventually recognise organised crime growth in our reality? It started with the Kristel Food case. That was the turning point for the Public Ministry and we associated drug trafficking directly with money laundering. This was our very big first case of what we branded as organised crime. Then the Fiscalía Nacional created a yearly record of cases of such magnitude. But they were still no more than three or four per year (Personal interview with former public prosecutor, 25th October 2013).

Besides the justice reform, the legal environment in the country was becoming subject to foreign affairs that ignited change in the ways of dealing with crime. In December 2000, Chile signed the UN Palermo protocol against organised crime, together with other Latin American countries such as Argentina, Bolivia, Colombia, Peru, Mexico and Venezuela (UN, 2014). The Chilean parliament ratified it in November 2004, declaring its compromise to use this instrument as an example of the country's effort in the fight against organised crime (Troncoso, 2009). By the mid-2000s, Chile had also signed OAS's Mexico City declaration on security in

the Americas that aimed to promote security governance by calling for multilateral cooperation, information exchange, and judicial asistance (OAS, 2003; Shaw, 2014). Later in 2002, the country signed a mutual judicial assistance treaty with the Mercosur (Common Market of the South), allowing the Public Ministry to cooperate in prosecutions with Argentina, Ecuador and Paraguay (Picand, 2009). Also, by late 2003, Chile had created the *Unidad de Análisis Financiero* as a response to the growing cases of money laundering associated with drug trafficking. The country was then allowed to become a member of the Financial Action Task Force of South America (GAFISUD), a forum that gathered state representatives to discuss and shape anti-money laundering policies. Since the UAF only became an analysis body, once they got a suspicious report from the banking or financial sector, they would pass the relevant intelligence to the Public Ministry. These and other agents were already using the concept of organised crime freely, despite the fact that for the *fiscales* it was still a hard concept to digest. When interviewed in mid-2004, and after taking on the role of chief of UAF, Víctor Ossa mentioned that no bank would want to have their accounts filled with "organised crime monies" (Leiva, 2004). A month ealier, the police had made the second yet greatest seizure of cocaine in Chilean history: a cargo of 1.2 tons of cocaine hidden inside paint barrels was found near Lampa, a city in Santiago's metropolitan region. Police investigations led to the arrest of a Colombian citizen. When asked by the press, Clara Szczaranski, then chief of the CDE, argued that the huge amount of cocaine found "spoke clearly about organised crime" (La Segunda, 2004). The many references to organised crime put much pressure on the *fiscales*, who decided it was time to abide by a common nomenclature useful in the prosecution and policy-making of tools to counter organised crime.

A critical landmark regarding this latter issue was set up in April 2007, when a court ruled the first case for illicit association for drug trafficking since the start of reform. Prosecutors brought to justice a criminal band called the "Cara de Pelota", a powerful drug-

dealing organisation from La Legua, a poor *población* in southern Santiago. It was said during the trial that the band, led by Pedro González, had annual revenues of half a million US dollars, enjoyed immunity due to corrupt policemen, and had a web of protection from other various public services officials. During the trial, the prosecutors showed evidence that 16 of the band members were part of a structure with features that proved an illicit association: it had a leader, acted through hierarchical orders, had a long record of criminal activities across time, and used corruption and violent resources to make illegal profits by means of drug trafficking (Lezaeta, 2007). By then, prosecutors were building cases for "organised crime" using the legal tools available in the Criminal Code. The prosecutorial investigations boosted after the 2005 creation of a new legal framework on drugs that gave prosecutors stronger powers to hit narcotics trafficking, for instance, by increasing sentences if membership of any criminal association was proven (Law N° 20.000, 16th February 2005). The new norms also gave the Public Ministry more efficiency in their investigations, and allowed them to recurrently use undercover agents, tap telephones, and employ informants (Guerra, 2009). It also included categories such as the "micro" drug trafficking figure, a means by which to prosecute street dealers and small traffickers (Arrieta, 2011). Through such changes, it was said that the authorities finally achieved the powers necessary for penalising the whole chain of illicit drug trafficking (Marcazzolo, 2010, p. 145; Figueroa, 2008).

From the previous year, to the ruling of the "Cara de Pelota" criminal band, the Public Ministry had started a plan that involved using their entire legal arsenal to track down cases of organised crime. The continuing prosecutions made possible the arrest of over 50 dangerous criminals, financiers, carriers, dealers, and gunmen associated with various criminal groups (Lezaeta, 2006a). By mid-2006, public prosecutors had been able to put in jail other wanted narco leaders from organisations including the "Carne Amarga", the "Los Chinos" and the "Clan Maturana" (Lezaeta, 2006b). In its public account from early 2007, national prosecutor

Piedrabuena, highlighted the fact that prosecuting drug trafficking in Santiago's southern suburbs was one of the core tasks for what became his final year as Chief of the *Fiscalía* (Ministerio Público, 2007). By that point, the press had made public that a series of public prosecutors were under death threats from narco leaders who had been put in jail. The prosecutors responded with a call to continue "neutralising" organised crime in the following years (La Segunda, 2007). The prosecutors' intended bigger clamp down on organised crime meant subsequently rethinking it as a legal concept, since its approach continued to be only loosely understood. At one point, an organised crime specialised public prosecutor commented:

> When we started the case against the "Cara de Pelota" band and its criminal structure we did not have any helpful jurisprudence from the judicial reform. We decided then to give evidence grouping at least ten features to prove cases of illicit association for drug trafficking. We had proofs of their felonies across time, their different levels of hierarchy, the presence of a centre of power, their memberships, the use of technologies, means of defense through weaponry, you name it, and we could to prove it. We thought the judge would expect all of those requisites to be part of the evidence. However, as soon as we got the sentence we told each other that we needed to narrow these features down. This is when we gave way to a second phase as we moved into prosecuting other criminal structures (Personal interview with public prosecutor, 27th November 2013).

The more refined legal understandings of organised crime thus became a product of what the *fiscales* were actually able to prosecute. Such a rationale had an effect on the broader security governance of organsied crime. Because more cases of criminal bands appeared shortly after the affair of the "Cara de Pelotas", prosecutors and other public security actors were under pressure to establish a shared understanding of what was particular to the phenomenon that demanded their attention and resources. The prosecutors had used the concept of organised crime or illicit association, conversely thinking it would not affect coordination for the prosecution policy community. They thought that the legislation was moving quickly in terms of assessing organised crime, thus unveiling its definitional characteristics and allowing for its efficient prosecution in court. The sentences given for illicit association and drug trafficking then became the object of study by many prosecutors. After analysing the initial features that

broadly defined organised crime, taken from the case of the "Cara de Pelota", the *Fiscalía* decided to better refocus on only four main prerequisites that could demonstrate the existence of a criminal structure: the existence of a leader, its distribution of power, its continuity in time, and, finally, if the organisation served the ends of trafficking drugs in order to make a financial profit (Figueroa, 2011, p. 148). Regarding these characteristical complexities, one prosecutor argued the following:

> We were required to prove many features from these criminal structures. First, that they had a hierachic structure. This meant to reveal the ring's boss, its operators, its financers, and its 'soldiers'. Each of these roles had to be clearly identified. That required a lot of work, including access to bank accounts, tapping telephones, and spending a lot of time figuring out the code in which they talked to each other about drug cargos, places, people, and many other issues they would try to hide (Personal interview with public prosecutor, 10th October 2013).

Another public prosecutor, who was involved in the 2008 criminal case of the band "Los Gaete", similarly emphasised:

> After a while we decided to go strictly to court with these mentioned four features. We realised that they better defined how organised crime was evidenced in our national reality. We didn't have the structures seen in Colombia with the drug cartels, or in Spain with the ETA. In short, we settled on jurisprudence as a mirror of our in-house perspective (Personal interview with public prosecutor, 27th November 2013).

In the criminal sentence read out during the trial of the "Los Gaete", the court acknowledged that the crime of illicit association for drug trafficking had not, so far, been able to find a tight conceptualisation in the national legislation. This understanding gave prosecutors enough reasons to reconfigure the concept through jurisprudence, allowing certain flexible dynamisms to adapt to the ad-hoc domestic circumstances (Figueroa, 2011, p. 153). The prosecutors understood that because Chile was confronting its very own type of organised crime, there were hardly any useful comparative perspectives worth looking for elsewhere or from previous times. However, it was unclear if other public actors saw the phenomenon through the same lenses as they did and, consequently, this resulted in uncertainty as to how this approach could

translate into extra engagements of governance. To discuss such a matter, the next section will explore how the Public Ministry sought to enhance its approach to organised crime among other public prosecution institutions. It will continue with the analysis of how by understanding that organised crime had different interpretations to these other institutions, most notably those participating in the policy prosecution community, the Public Ministry was forced to make a common rationale in order to promote better prosecutional results. The next section will thus demonstrate how the Public Ministry assumed a central role in laying the groundwork for permeating other institutions through the rationale that the prosecution of organised crime could not benefit the multiple production of security policies unless certain points were brought together by the actors in the prosecution policy community.

5.4. Building Common Knowledge for the Policy Network (2008-2014)

In early 2008, the recently appointed national prosecutor, Mr. Sabas Chahuán, launched its roadmap for the next six years, putting forward a strong discourse for assessing complex criminality (La Segunda, 2007b). Chahuán's new imprint on the institution strongly underlined three aspects: administrative corruption, money laundering and organised crime. His plan was based in creating a countrywide verdict to allow the institution to differentiate criminality according to its complexity (La Segunda, 2009: Ministerio Público, 2009a; Chahuán, 2010). Mr. Chahuán's intentions were welcomed by the executive and by the lawmakers in Congress (Lezaeta and Muga, 2008). Days after he sent his policy proposal to government, the Public Ministry signed an alliance with the US Federal Bureau of Investigation (FBI) to coordinate the investigation of crimes related to transnational organised criminality, including sexual crimes, child pornography and human trafficking (El Mercurio, 2008). As a result of Chahuán's enthusiastic attitude towards prosecuting criminality, the "Los Cavieres" criminal organisation was dismantled later in 2008, under the charges of illicit association for drug trafficking, money laundering and weapons possession. Public prosecutors gave evidence gathered from

"thousands" of telephone conversations, documents, videos, pictures, plus testimonies from dozens of experts and from over 100 witnesses (Stuardo, 2010). The Public Ministry's tough pursuit of organised crime also brought to light policy plans that looked to intertwine with the prosecution policy network formed by the Interior, the policing bodies and the UAF (see Figure 5.2). Chahuán's plans were to gradually regain spaces taken by such drug trafficking entreprises (Ministerio Público 2009a, 2009b). One point worth mentioning here is that the Public Ministry sought to enhace inter-institutional coordination by acknowledging that organised criminality had its own complex features, one of them being the multicausality of its origins, an issue that consequently meant that no prosecuting institution could act alone, but rather, it demanded coordination among the security actors responsible for its prosecution (Muñoz, 2008). The authorities were worried about more criminal bands being discovered. The case of the "Los Guatones" unveiled how organised crime groups were able to launder important quantities of drug money while operating in conjunction with other drug organisations from abroad, mostly from Paraguay, Brasil, and Argentina (La Segunda, 2008). Having enough clean money allowed the drug organisations to finance their own security mechanisms to protect their narcotics shipments travelling from one place to another. They would also spend up to US$ 5,000 for a high calibre weapon (Lezaeta, 2009).

In light of the expanding drug scenario, the prosecutors broadened the scope of crimes that came under the banner of organised crime. They identified two other offences as being equally deserving of confrontation: human trafficking and money laundering (Fiscalía 2010a, 2011a; Ministerio Público, 2009c). The Public Ministry's engagement in networked governance became unavoidable from here onwards. In his first state of the nation discourse, from May 2010, president Piñera reinforced the creation of a *macrofiscalía*, a comprehensive

Figure 5.2 The prosecution policy community (2004 – onwards) in coloured blocks, plus other related actors.
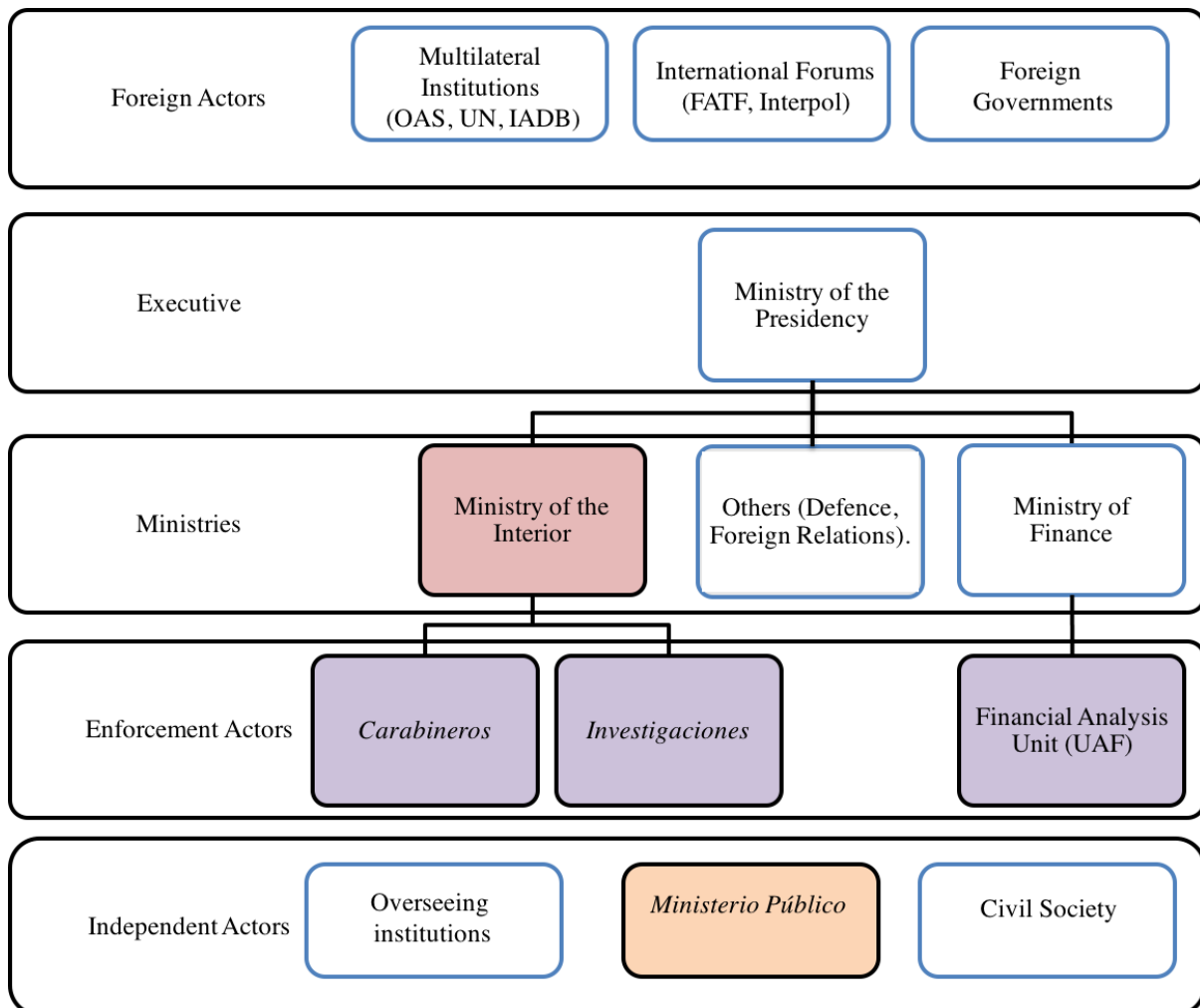
Source: Own construction.

hub for the prosecution of crime, that aimed to unify information mechanisms between institutions linked to public security. Such a plan only became reality, however, in September 2014 when president Bachelet signed its project bill and sent it off to Congress (Fiscalía, 2014a). Because the *macrofiscalía* initiative was weakened early on in Piñera's administration, the *Alianza* decided to better re-direct efforts to the working roundtables model sponsored earlier by the *Concertación* as the main trigger for practicing network governance. The Public Ministry joined such engagements as were led by the Interior in order to plan holistic and horizontal policies. The prosecutors were already familiar with working under such governing

architecture since they had organised their own bilateral roundtables with other institutions in the past, including the *Carabineros, Investigaciones*, Customs and the Internal Revenues Service (SII). From then onwards, the Public Ministry entered a fast pursuit of inter-institutional governing, following a plan to strenghten its corporate powers, an initiative called *Plan de Fortalecimiento* (Fiscalía, 2011b; Ministerio Público, 2009b; 2010b; Binder, Grafe and Oddone, 2010). In 2011 and 2012, it also launched guidelines to raise the number of prosecutions regarding the organised crime issue, and of similar rationale to those contained in a previous agreement signed with the police bodies and the Interior in 2010 (Fiscalía, 2010; Ministerio Público, 2011). Concerning the resource collaboration issue, the national prosecutor, Mr. Chahuán, argued that the Public Ministry's independence did not mean isolation from collaborative policy-making (Reed, 2010). In fact, in late 2012, an initiative led by the Interior and the *Fiscalía* created a joint mechanism for establishing standards for criminal reporting by the policing bodies (Fiscalía, 2013a; 2014c). The initiative sought to create qualitative and quantitative features to improve the processes of inter-institutional decision-making and allow for better information from the police bodies to be passed on to the prosecutors (see for instance, Ministerio Público, Official Letter FN Nª 224, 2008). *Fiscales* had already started to deliver training to the police bodies (Ministerio Público, 2012), and knew that each institution had its own standards and practices. It had become well known that prosecutional policies aiming for quantitative results ended up confronting the prosecutors and the police bodies rather than putting them together. The prosecutors argued that policemen were driven by the results of their seizures; in a sense, according to how many drug kilos were caught. One prosecutor put it this way:

> We weren't so much thinking in the daily success of operations. Our goal was to set up a case solid enough to succeed in court. For that we needed those everyday operations to be seen as the means towards an end. Policemen would come to us and say "We caught 800 kilos of drug in a truck and we got the driver as well". However, for us it was much more important to have the chance to follow the truck and get information that would later allow us to get the structure

behind that shipment. In short, our goals became much more ambitious. We were after a broader prosecution. When we started an investigation, we were not thinking in detentions or certain pieces of evidence. We thought in the courtroom trial. If we arrested people, we had to have enough arguments to present them a year later to a judge. Many times we encountered policemen who just wanted to make it to certain number of detainees at the end of the month; but, was this our real goal? In this issue we needed to align efforts with the police and the executive (Personal interview with public prosecutor, 27th November 2013).

When the Public Ministry realised that the drugs on the streets would not stop increasing, and, thus, that the seizure cap would continue to rise, they decided to divert their prosecution protocols. In order to overcome the metric-oriented rationale driving the *Carabineros* and *Investigaciones*, the prosecutors thought of different ways to engage in networked governance patterns that would actually encourage them to work together with other public institutions and bring them into line with mutual goals. For the Public Ministry, the desired institutional interaction meant setting standards of action between its prosecution partners. For instance, when law Nº20.507 (8th April 2011) to criminalise the issue of human trafficking was passed, the prosecutors arranged its advisory unit on sexual crimes (USEXVIF), together with the ULDDECO, to assess the criminal structures transiting people for illicit ends. After shared work carried out with the prosecution policy community in 2012, four people, two Dominican and two Chilean women, were given a total of 31 years in prison charged with illicit association for human trafficking. Authorities from the Interior and the Public Ministry recognised that the issue generated hundreds of complaints from alleged victims of human trafficking, most of them involved in prostitution schemes (Cuevas, 2013; Official Letter FN Nº575, 7th August 2015). Earlier, a research investigation done by the International Organisation for Migration (IOM) noted that Chile was experiencing important progress in the creation of institutional self-awareness about the issue. However, one of the recommendations from the study was to strenghten the inter-institutional working model steered by the Interior as the main rationale capable of bringing a coordinated assessment of the issue (IOM, 2008, p. 130).

The Public Ministry was represented by the USEXVIF unit and three other advisory units in the working roundtables that were set up by the Interior. This eventually led to the late 2013 policy plan regarding human trafficking. The inter-institutional agreement was a compromise including the Public Ministry, state institutions and a few non-governmental organisations such as the IOM (Ministerio Público, 2014). As showed in Diagram 5.3, the policy meant the metagovenrance of the Ministry of the Interior over an horizontally shaped prosecution policy network. One senior advisor working in the USEXVIF unit at the *Fiscalía Nacional* explained that the challenge for them was to incorporate human trafficking issues into the broad affairs of organised crime, and that this had been grasped by the institution:

> We as a unit were participants in the understanding that organised crime was something bigger than a normative description of an illicit association. We favoured such an approach to organised crime that helped us understand and make a comprehensive argument about these issues. This involved knowing and linking such an approach with a global reality, that is, the participation of women and children being victims of criminal structures (Personal interview with senior advisor at the Fiscalía Nacional, 19th December 2013).

After the 2013 policy for human trafficking, the Public Ministry became a frequent partner in inter-institutional governance (Ministerio Público, 2014). In July 2014, they signed a new agreement with the executive and the police bodies to intervene in 100 "critical" urban areas that drug trafficking was hitting the hardest (Fiscalía, 2014b). The agreement included a working roundtable to evaluate networked coordination and create a policy to prosecute brokers of imported narcotics; it also aimed to carry on the tradition of policy-making through such governing engagements. Consequently, the institution set forth to engage repeatedly in policy planning within the prosecution community, sometimes even overlapping with previous policy engagements. Even though the Public Ministry kept its autonomy and proposed its own prosecutional policy, however, the continuing engagement of inter-institutional governance

Figure 5.3 The prosecution policy network and its horizontal representation for human trafficking purposes.

2013 Human Trafficking Policy Plan	Interior (Acting as a meta-governor)
Prosecution Policy Community	Interior (Acting as an member) · *Carabineros* · *Investigaciones* · Public Ministry · UAF
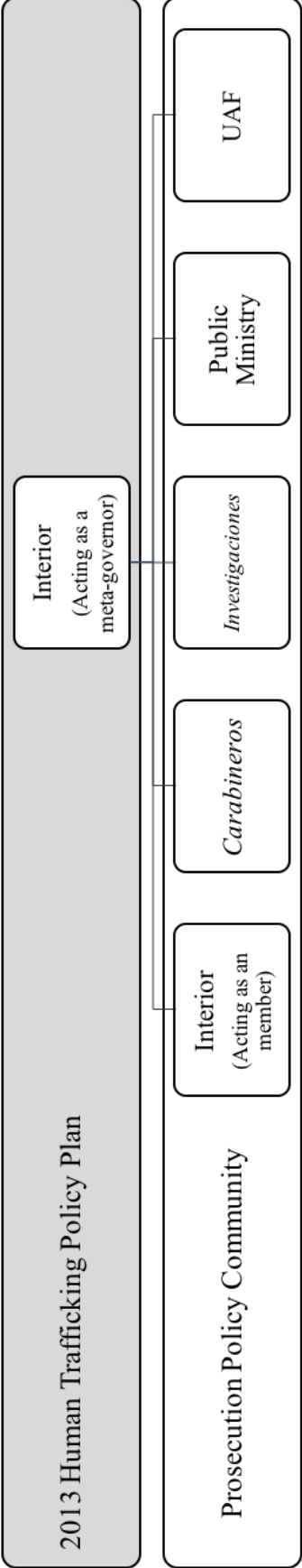
meant for them a slow permeation of other institutions' beliefs towards organised crime (Fiscalía, 2013b). An advisor working in the USEXVIF unit commented on this point:

> Lately, *Investigaciones* created a special unit in charge of human trafficking, the BITRAP. They still have few officers but it is an advance in terms of coordinating efforts with the prosecutors. I wish that these processes of inter-relationship moved quickly towards setting the same standards for action and had a visible impact on the prosecution of organised crime. However, if something has taught me this job, it is that processes of permeation are slower than what you would think, and more so, when you try to bring together different perspectives (Personal interview with senior advisor at the Fiscalía Nacional, 19th December 2013).

Prosecutors tried to compensate for the idea that each institution in the prosecution community could assess organised crime at their own pace. They produced guidelines and protocols of prosecution for the police bodies and other public actors such as the UAF; they also agreed to work with a range of public actors on plans that involved policy actions through collaboration rather than through the cumulative but isolated work of institutional parties. In conclusion, and following on from this latter point of analysis, this section has demonstrated that the Public Ministry's participation in the prosecution policy community birthed at least two visible results. First, that the prosecutors were at a crossroads between how much permeation they allowed the institution to get exposed to by being part of such networked governing. Because macro-oriented organised crime policies were understood to be steered by the Interior, over time, the Public Ministry learned to erect a barrier regarding how much compromise they would allow these inter-institutional arrangements. The experience taken from the multiple working roundtables was that the Interior and the prosecutors led the way in helping political policies and prosecutional policies find some common ground. Representatives of the Public Ministry became wary of the Interior intervening in prosecutions and asking for access to cases that were forbidden to third parties. Because of its autonomy, the Public Ministry additionally became cautious of various aspects when engaging in networked governance. For instance, their experience participating in various policy-making working sessions gave enough leverage to

173

authenticate them as a fundamental actor in any governance scheme whose requirements needed to be dealt with early on, that is, before the policy-making was negotiated. What is more, their growing experience as a node in a networked pattern of policy-making, allowed them to pursue their tasks under a network governance engagement by imposing a series of conditions. As one senior advisor in the Public Ministry put it this way,

> We would only participate in these rings of cooperation if we knew that there is a complete voluntary agreeement from all parts to cooperate; no policies will be imposed on us; and if we were guranteed that a policy action plan would be the result of this networking process. In simplier words, we don't meet for coffee and biscuits (Personal interview, senior advisor in the Fiscalía Nacional, 19th December 2013).

5.5 Conclusion

This chapter has demonstrated how the criminal prosecution of organised crime evolved from the period of redemocratisation onwards, moving from a scenario of almost non-existent practices, to one with very specific and particular sets of actions toward organised crime. Theoretically, the story told in this chapter illustrates how the governance of organised crime received greater refined emphasis once the Public Ministry became a relevant participant in the prosecution policy network. If the previous chapter emphasised the metagoverning role of the Ministerio del Interior, this chapter has highlighted the role of the Public Ministry through, at least, a few complementary and relevant ideas. First, it showed that even though the Ministry of the Interior steered and coordinated broad policy practices for organised crime, it was the Public Ministry who came to set certain rules about its prosecution. If it has not been for the role of prosecutors in establishing, first, a common knowledge about what organised crime was in light of Chile's legal framework, and later, on how to confront it using such adopted judicial tools, it becomes difficult to assume how the prosecution policy network could have find the necessary common consensus on the principles and procedures needed to approach such a problem. Second, the inclusion of the Public Ministry in the prosecution community already

formed by 2004 came to set up a balance of power between the most, up to that point, relevant actors: the Interior and the police bodies. The prosecutors assumed a commitment to working hand in hand with the policing institutions that broke up the close relation held between themselves and the Interior; consequently, it created a positive sum-game between the three institutions. In that vein, and thirdly, the chapter also explored how the interaction of the prosecution policy community came to create a network of knowledge where the constant dialogue between the participating institutions combined novel responses and roles to confront the issue of organised crime. The Public Ministry was indispensable, then, to help enlighten how the network was enabled to put to better use the skills bought by each actor. This move happened partly because it was of great importance for prosecutors to put up solid cases in order to succeed in their prosecution against organised criminal bands, a endeavour that, at the end of the day, was the result of a co-production between them and the policemen; also, up to a point, with the political support that only the executive could have provided, and which was gained by setting the contextual policy guidelines for each actor to abide by. These features were certainly evidenced during the prosecutors' participation in roundtables, bilateral exchange of routines and protocols with other institutions, but mostly, in their engagement in the inter-sectorial meetings that later led to the formulation of policy plans.

In that vein, this chapter also illustrated that the movement from government to governance of organised crime was seriously affected by the criminal justice reform that came into play from 2000 onwards. Again, the creation of the Public Ministry, and its membership in the prosecution policy community, led to the restructuration of the network that was until then following the hierarchies of central government run by the Interior. As it was evidenced closer to the end of the period under revision, the weakened metagoverning role adopted by the Interior suggested that other actors, such as the Public Ministry, were capable of acquring essential responsibilities for bringing horizontality to the community. In part, such a move was

explained in the chapter as the institutions in the network decided to give the Public Ministry enough authority to intervene in how the knowledge and resources of the network were actually being implemented in the day-to-day fight against organised crime. In fact, and even though the policy-making power of the Interior was enforced when trying to put together policy plans, it was the autonomy of the institutions, including the Public Ministry, that actually led the actors to feel that their self-governance upon policy action was conducive to policy-making consensus. The prosecutors came to the fore of the policy discussion with their own range of interests in the issue of organised crime. However, they created enough levels of commitment to the core of the policy contents, effort that translated later into the policies launched during the Piñera administration. Thus, through the timeline explored in the chapter, it became obvious that the Public Ministry engaged in organised crime, supported, first, by its accommodation to the policy network that was already being carried out, and secondly, by landing in a scenario that provided enough flexible boundaries and effective cooperation from the other institutions. The latter allowed them to create, recognise, and share novel rules for countering organised crime. This issue was exposed as the *fiscales* came to refine their approach to the prosecution of organised crime later in the 2000s.

It is important to also emphasise how, through the revision of the Public Ministry's institutional story, the gradual acquisition of change, from a hierarchic command to a network style of governance, became more swift and natural for prosecutors. In part, this was because the prosecution policy network was already a continuing and embodied practice by the time it was set up in 2000. Interestingly, and as the next chapter will explore, the policing bodies had, for instance, played a role since the early days of redemocratisation, when institutions were not engaged in any relevant network action; therefore, their adoption of such a style of governance assumed a different pathway to that of the prosecutors. The next chapter will focus its analysis on the policing institutions of *Carabineros* and *Investigaciones*. It will reveal how both actors

developed inter-institutional governance, how they assummed a role in the prosecution policy
community, and what the overall movement from government to governance of organised
crime meant for their institutional reformation following the landmark of redemocratisation.

6.

Policing Bodies: the *Carabineros* and the *Investigaciones*

6.1 Introduction

Policing functions in Chile are in the hands of two institutions: the *Carabineros* and the Investigaciones. The *Carabineros* is a military police with national authority and a preventive profile. By constitutional mandate they are "obedient, hierarchical and disciplined" (Law N° 18.961, 7th March 1990). The *Investigaciones*, on the other hand, has a civil profile dedicated to investigative tasks; nonetheless, they follow a very similar hierarchic and strictly disciplined organisation (Decree N° 2.460, 24th January 1979). Both institutions belong to the so-called *fuerzas del orden* (law enforcement forces), and are under the political and administrative tutelage of the Ministry of the Interior. Again, and as confusing as it might seem, they enjoy plenty of corporatist freedom to deliberate their own policy plans and institutional roadmaps for assessing crime (Frühling, 1999; Tudela, 2011). In colloquial terms, they are considered to be kin organisations because of their similar powers and administrative governments. Over time, both institutions have had agendas that overlap as they continute to fight for the limited state resources given to public security. More recently, such competition has increased. As was explored in Chapter 5, and following the 2000's criminal reform to Justice, the Public Ministry decided to collaborate with either body, a road that at the end of the day has inadvertently augmented their rivalry.

The Carabineros' and Investigaciones' relationship, based on ups and downs, can be traced back to the dictatorship. Both institutions' initial efforts to deal with issues of complex crime were abruptly refocused towards instead enforcing the junta's repression of its political and civilian opposition. The coup pushed each institution to follow a different path. The

Carabineros, on the one hand, took the predominant position, acting in conjunction with the magistrates. They also had relatively less intromission from the military junta when addressing policing issues. The *Investigaciones*, on the other, played a secondary role since they were excluded from the de facto executive. The institution gained less powers and resources and, what is more, its chief directors were mostly composed of retired military officers (Frühling, 1999, p. 63-68). Despite their differences, however, both policing bodies faced redemocratisation with the sense that they had become the "poor relatives" of the armed forces, in terms of budget, resources and powers (Maldonado 1996, p. 16). The dictatorship also promoted a gradual divorce between both institutions when it came to the policing. As was explained in Chapter 4, the armed forces, the *Carabineros* and the *Investigaciones*, shared little horizontal dialogue. As Arriagada (1986) put it: "It was common for one individual, to be arrested, interrogated, and released to be immediately arrested by another police" (p. 17). After 1973, both the *Carabineros* and the *Investigaciones* were put under the administrative tutelage of the Ministry of Defence. Pinochet set up the state's "public force" among the three branches of the military (Army, Air Force, and Navy), in addition to the *Carabineros*. Their task was to safeguard Chile's "territoriality, moral heritage and historical-cultural, transcendent values and permanent Chilean identity" (Decree Nº 444, 27th April 1974; Decree Nº 646, 9th September 1974). Through such a move, the junta was supposed to promote "inter-institutional cohesion". However, and as the events later showed, there was little harmony between these security institutions. The feeling of disaffection towards the militarisation and the politicisation of the policing bodies gave rise to a critical movement inside the police forces, one that called for the return of the traditional policing functions that were established prior to 1973 (Huneeus, 2007, p. 384). It would be only after the redemocratisation of Chilean politics that both policing institutions entered a new process of modernisation; this eventually improved their inter-institutional relations. This chapter sets out to explore how the *Carabineros* and *Investigaciones*

gradually reaccommodated themselves in the broad governance of security that, from 1990 onwards, left aside the terrorism-oriented security narrative and began to slowly refocus on the issue of organised crime. In that vein, the chapter examines two issues regarding *Carabineros'* and *Investigaciones'* involvement in the governance of organised crime. First, it studies how they adopted a horizontal inter-institutional governance pattern with other public security actors, despite their strong hierarchical nature. According to their commanding laws, both *Carabineros* and *Investigaciones* are currently enforced to comply with the rulings of the Public Ministry (in terms of investigation mandates), and with the Ministry of the Interior (in terms of governmental policies). However, when it comes to these relationships, a different power struggle is evidenced. Secondly, both *Carabineros* and *Investigaciones* deliver similar functions in terms of addressing organised crime. For instance, they both have units to counter drug trafficking, human trafficking and economic crimes. Yet, and when engaged in inter-institutional governance, they both follow very dissimilar understandings, proceedings, and beliefs regarding how to confront these phenomena. This latter issue has proven not only to be characteristic of the *Carabineros-Investigaciones* interaction, but, and as previous chapters have shown, it is common to the Ministry of the Interior and the Public Ministry as well. The chapter therefore studies how the *Carabineros* and the *Investigaciones* joined networked inter-institutional governance despite their inward looking and home-grown approach to confronting organised crime.

The chapter is divided into five sections. Section 6.2 explores the first decade of redemocratisation (1990-1999). This part accounts for the re-assessment of complex crime during the return to democracy, and how both the *Carabineros* and the *Investigaciones* moved away from the "national security" doctrine to a "public security" approach when engaging with crime. It also explores how the institutions created their first understandings of organised crime during redemocratisation. Section 6.3 examines the institutional re-orientation of the

Carabineros and *Investigaciones* to standards of performance strictly focused upon the addressing of complex criminality. The study of this period, occurring between 2000 and 2009, emphasises how both institutions came up with indicators to evaluate their approach to organised crime, whilst also accounting for the changing scenario triggered by criminal justice reform. With the arrival of the Public Ministry, both institutions had to reaccommodate their participation in the prosecution policy community. Section 6.4 explores the period between 2010 and 2014 in order to shed some light on the inter-institutional policies launched by the Piñera administration. This section illustrates the networked policy-making that the *Carabineros* and *Investigaciones* engaged in when creating policy plans. The chapter focuses on the formation and implementation of such inter-institutional networks, their utility according to the participating actors, and finally, the continuing governing processes. Section 6.5 concludes with a theoretical discussion to help us understand the rocky path that the *Carabineros* and *Investigaciones* have followed in the past 25 years, in order to gain the trust, resources and skills necessary to be considered one of the main players in the prosecution of organised crime. The section thus illuminates certain features that gave both institutions the chance to become co-producers of security, along with other public institutions.

6.2 The Redemocratisation of Policing (1990-1999)

The civilian bureaucrats who took government in March 1990 were strong at managing the return of the armed forces to their barracks. Soldiers, once turned policemen, were now meant to stick to defence functions without participating in any other state matters (Atria, 2009). Even though the democratisers' wishes came true early on, that is, since Pinochet handed over control of the country, the first decade of redemocratisation was particularly tainted by the struggle regarding civil-military relations and the human rights issues (Atria, 2009, p. 18; Silva, 2003). Putting aside that story, this section rather focuses in how the policing bodies approached redemocratisation, a process that nonetheless shares similar features with the civil-military

relations story when exploring the intervention of public institutions which were once controlled by an authoritarian regime. This section will discuss, therefore, how the re-adaptation of the security institutions to the new democratic scenario brought at least three visible consequences. First, what redemocratisation meant for the state as it had to establish a role as a development agent and focal point for collective action; secondly, how a certain group of repressive institutions needed to be reorganised; and thirdly, how the institutions that were central to the modernisation and democratisation process, such as the policing bodies, needed special consideration (Garretón, 1989, pp. 196-197). In virtue of these issues, and once in power, the participants of the security community engaged during the dictatorship in two different ways. Regarding the military forces, the newly appointed governmental leaders opted for sending them towards a public and civilian-led agenda, but most importantly, the authorities wanted to reduce their economic and human resources benefits (Garretón, 1989, p. 197). For the *Carabineros* and the *Investigaciones*, redemocratisation meant mainly about no more governmental intrusion, and the allocation of new resources to broaden their professional functions (Tudela, 2011, p. 11).

In the absence of the Cold War rhetoric of "external" and "internal" enemies, the government steered the security institutions away from domestic policing. Through great political effort, it moved the military onto other tasks such as international peacekeeping and humanitarian disasters (Weeks, 2014; Silva, 2001). The *Carabineros* and the *Investigaciones*, on the other hand, entered a reformation process aimed at demilitarising their policing practices (Frühling, 2009, p. 465-467). Both institutions still enjoyed centralist architectures with highly hierarchical features, whilst remaining sceptical of civilian-led reforms that could affect their corporatist interests (Frühling, 2009, p. 467). It was believed that after the dictatorship the *Carabineros* created a police subculture that isolated them from the political authorities (Tudela, 2011).

In the 1990s, despite the resistance to change, the establishment of a novel perspective to address crime, and eventually the issue of organised crime, grew stronger. President Aylwin aimed to transform the security doctrine that distinguished the dictatorship proposing a "citizen security" or "public security" approach as the most relevant way to address crime (Zúñiga, 2010). As a first measure, the executive ruled that the planning and coordination of public security policies were to be the sole powers of the Interior, the *Carabineros* and the *Investigaciones*, excluding the intelligence channels of the military (Decree N° 363, 18th April 1991). As the previous chapters have explored, during the 1990s, the *Concertación's* government dealt with organised crime issues through their intelligence mechanisms, a route that was actually paved by the Interior's attempts to steer and control criminality. In that sense, the Interior acted as the central node for coordinating the exchange of information and other resources between the *Carabineros* and the *Investigaciones*.

Aylwin's transitional government saw the security issue grow to become one of its administration's most criticized areas (Frühling, 2011), with the policing actors also coming under some strong pressure and scrutiny. Delinquency had caused a rise among various crimes, mostly assault and robbery. As an answer to such anxieties, a series of anti-crime policies were slowly put together in order to give the policing bodies more judicial tools to arrest, prosecute and imprison (Fuentes, 2004, p. 25). The government thus decided to considerably increase the budget for both policing institutions. Between 1990 and 1998, annual funds increased by 111,6% for the *Carabineros* and 170,2% for the *Investigaciones* (Frühling, 1999, p. 72). To some, the budget issue seemed only half the recipe for success. A novel approach to the criminal reality seemed to be required, and with president Frei's takeover of the executive in 1994, the government decided to address the issue of security through broader policy generation and deeper inter-institutional coordination (Zúñiga, 2010).

Governance arrangements for the police were enacted only after the 1994 national plan for citizen security was released to improve institutional management. The *Carabineros* and *Investigaciones* engaged in early inter-institutional governance patterns, for instance, through the *Puertas Abiertas* programme in 1994, and the *Seguridad Compartida* programme in 1996; initiatives that looked to gain the participation of civil society (Canales and Loiseau, 2003). The *Carabineros* implemented the *Plan Cuadrante*, a community based strategy that tried to "organise into 'cuadrantes', or zones, which have appointed personnel entrusted with thoroughly personalising themselves with the area and the community" (Dammert and Malone 2006, p. 43). However, Chile's unenthusiastic political system made it almost impossible for the civil society to influence issues of public order (Fuentes, 2004, p. 9).

Despite the role of the Interior in pushing both institutions for organisational change, the *Carabineros* and *Investigaciones* looked very much inside their own boundaries, and so their appeal for inter-institutional relations was very limited. Since the government was keeping the issue of organised crime to its intelligence channels, the policing institutions felt in need of updating their stance on complex crime; this was in order to later have greater chances of engaging in such governing patterns. In that sense, the *Carabineros* created the directorate of drugs and crime prevention in order to address the "problems of drugs in Chile" (General Order Nº117, 1996), and to develop a growing expertise towards assessing criminal organisations. One *Carabineros* interviewee commented how it was to deal with organised criminality back then:

> We started confronting the Colombian cartels that came to Chile. In these prosecutions, I saw real criminal organisations with organised hierarchies, different operational layers and even their own secret communications systems. We identified the Colombian Cartel de Cali as the leaders of drug trafficking schemes using Chilean façade businesses to receive the drugs in the country. In other cases, Chilean criminals contacted the cartels and brought the drugs themselves. In all cases we identified clearly who the "soldiers" were, the distributors, the sellers, those that tucked it away, in such a sense, everybody in the business chain. If we had to compare these realities, I would say that Chilean

organised crime seemed less developed to that of foreign countries (Personal interview with former O.S.7 chief and current senior official in Carabineros, 27th December 2013).

The *Investigaciones* was also gradually focusing its approach on organised crime issues as the intelligence channel demanded more knowledge of the criminal reality. Since the 1980s, they had followed a re-organisation of its bureaucracy as a countermeasure to the international drug trafficking that they claimed was on the rise. In 1992, the former department for narcotics and serious drugs evolved into a *jefatura*, a higher bureaucracy in terms of both hierarchy and resources, which was later known as the National Counternarcotics Command (General Order Nº 1.112, 4th January 1993). Its role was to steer and centralise all strategies delivered by the regional units. With such an administrative structure behind it, detectives were able to gain resources and eventually devote their sole attention to confronting the drug trafficking and the criminal organisations behind it. Similar to the *Carabineros*' focus, by 1995, the institution's approach turned to investigating the presence of foreign drug-traffickers in the country. An officer involved in such an investigation recalls how one special unit, the brigade for organised crime (BRICO), came to life as a result of such action:

> We started investigating with a small group of officers a whole "branch" that was link to the Cartel de Cali and the narco Alexander Rojas. They had a connection between Colombia, Chile, and Spain to move drugs belonging to that cartel. There was an important financial apparatus behind them working here in Chile. We took about four years in that investigation. What started with four officers, end up later with the first version of what is now known as the BRICO (Personal interview with former BRICO official and current high officer in counternarcotics matters, 30th October 2013).

The BRICO investigated crimes that were a "threat to the nation's security", in particular when there was evidence of organised criminality (General Order, Nº 1.653, 21th January 1999; Investigaciones, 2014). To deal with organised criminality they adopted the Interpol's approach. That Chilean policing forces assimilated a foreign perspective of organised crime had particular significance for its overall governance. Interpol's approach to organised crime

aimed to provide its community with a common definition that bought together its 177 members and facilitated, among other things, international cooperation (Interpol, 1998, p. 23). Notwithstanding, such a foreign approach to organised crime later turned extraneous for the other public security actors, especially since the criminal prosecutors were trying to define it based mainly on overlapping it with Chile's local jurisprudence (as discussed in Chapter 5). The Interpol convention outlined organised crime as "any association or group or people dedicated to one continual illicit activity which aim is to gain benefit, regardless of national frontiers" (Investigaciones, 2014a). Eventually, they would acknowledge that each country had its own definition of organised crime and therefore currently limit the reinforcement of this point without proposing any particular understanding of the issue (Interpol, 2014). However, and during most of the 1990s, it was Interpol's definition that policing members strictly followed. Regarding these issues and the creation of the BRICO, one interviewee mentioned the following:

> The BRICO was created with the powers to investigate a broad range of crimes from drugs, people, chemicals, and weapons' trafficking, including many other phenomena brought by international criminality since the mid-1990s. When we created the BRICO we got the director's command to pick up foreign experiences on how these crimes were fought, having in mind what happened in Colombia with the cartels, and also, in light of the increasing arrival of organised crime in Chile since the previous decade (Personal interview with former BRICO official and current high officer in counternarcotics matters, 30th October 2013).

Foreign perspectives on how to deal with organised crime then became essential for *Investigaciones*. Officials acknowledged the attitude taken by their superiors when sending teams abroad for training with foreign police bodies, with one interviewee noting that:

> Almost all officials working at BRICO had done courses and training with either the Carabinieri or Guardia di Finanzi in Italy, the Spanish police, the Bundeskriminalamt in Germany, or the CIA in the United States. We prepared with them various issues regarding the criminal phenomenon we experienced at the moment. That was an early step our chief director took. He had a clear view that we needed to develop special skills

we did not have by then (Personal interview with former BRICO official and current high officer in counternarcotics matters, 30th October 2013).

Despite such exogenous sources of change, the legal and institutional powers of the *Carabineros* and the *Investigaciones* saw great changes when the 1995 legal norm on illegal drugs and narcotics trafficking was passed (Law N° 19.366, 30th January 1995). Besides creating a criminal figure to punish drug possession, trafficking and money laundering, it provided the policing bodies a series of tools, such as the undercover agent and telephone interception, plus most notably, a more defined framework for working with the judiciary. Institutions believed that if it they decided to catch organised crime in the country, a major modernisation reform encompassing both of these features was needed. In that sense, they became immersed in the gradual re-organisation of their policing, planning ahead for the next ten years, and mirroring the changing scenarios, both foreign and domestic.

For the *Investigaciones*, the first stage of such a process started in 1997 when plan *Fénix I* was introduced in order to "contribute in the co-production of security and justice in line with the needs, demands, and expectations of society and its authorities". The modernisation process was considered as their "sustained effort for change" as it looked to re-arrange "institutional priorities" (Investigaciones, 2010, p. 12). Both *Investigaciones* and *Carabineros* entered similar processes in virtue of a trend that was backed by the government and also exported to other state institutions. Both policing actors were now considered as indispensable elements in the state's attempt to deliver public services through a novel management style (Tudela, 2011, p. 13). As was mentioned in Chapter 4, the Ministry of the Interior led the implementation of a statistics system that would follow all criminal prosecution and gain enough data to formulate policies that would show an efficient conduction of its anti-crime strategy. However, and besides the collection of relevant intelligence, the modernisation process for policing strongly

aimed to establish formal cooperation channels between the Interior and the policing bodies (Tudela 2011).

It is worth restating then that the redemocratisation wave shaped the early governance of organised crime, aiming to empower actors, use the intelligence channels and create, when possible, sources for inter-institutional linkages. The policy community towards organised crime prosecution was integrated back then by both policing bodies, the CDE and the Interior (see Figure 6.1). Also, other state bodies that carried out para-policing roles came to form part of a wider organised crime issue network. The Navy (Armada) was in charge of patrolling the costalline and ports using their maritime police service. The Air Force, on the other hand, controlled airports and cargo terminals, however, not by policing, but rather mostly by dictating security protocols and overseeing them (Milet, 1997). Nevertheless, by the late 1990s, the involvement of these last two actors was less frequent, and the *Carabineros* and *Investigaciones* continued to do most of the counter organised crime operations. It was believed that because of the policing actors' high degree of efficiency and capacity, these shores did not require military actors to step in as they did elsewhere in Latin America (Milet, 1997).

The *Carabineros* and *Investigaciones* certainly monopolised the policing prosecution tasks for organised crime at this time. Playing to their advantage, legal parameters and their own institutional laws prohibited their anti-drug trafficking work from being shared. Many queries about narcotics intelligence remained a secret to other institutions as well as to the public. Moreover, the channel that the Interior was enforcing for organised crime matters kept the status quo unaltered. Ironically, and even though the political authorities attempted to modernise policing, including more transparency in their daily routines, at the end of the day, both institutions benefited from the fact that they were the sole enforcers of the security policies, a feature considered a "major source of power" (Fuentes, 2004, p. 25).

189

Figure 6.1 The prosecution policy community during the 1990s (coloured blocks) and other related actors.

Source: Own construction.

In sum, this section has illustrated how both the *Carabineros* and the *Investigaciones* re-adapted their inter-institutional arrangements to a redemocratisation scenario of dissimilar understandings and practices for the novel issue of organised crime. The next section will explore how the policing institutions adjusted to changing attributions in fight against organised crime. The 2000-2009 era that is explored next, offers evidence for how, after the arrival of the Public Ministry, the reaccommodation of power and interactions between the policing and other prosecuting actors, meant a gradual reintroduction of new ideas on how to consolidate networked action through consensual interactions.

6.3. Performance Standards and a New Form of Prosecution (2000-2009)

By the late 1990s, the criminal scenario in Chile demanded more managerial coordination between the *Carabineros* and the *Investigaciones* (Tudela, 2011, p. 11). President Lagos came to office in early 2000 with a discourse centred on improving police coordination. In his electoral campaign, Lagos had promised to boost action towards organised crime by giving the courts of justice enough legal instruments to confront drug trafficking (Lagos, 1999). He believed in the idea that the *Carabineros* and *Investigaciones* needed to create task forces to complement each other's technical capabilities. Lagos also believed that the policing bodies "double tutelage" from the Interior (on political and policy issues) and Defence (on administrative and organisational aspects) needed to come to an end. This situation did not change at all during his administration, however, and the executive's dual administration was kept intact. Given those terms, this section will explore then how the executive's approach to organised crime called for more interconnection of state resources through the consolidation of networked engagements. It will illustrate how policies for both the *Carabineros* and the *Investigaciones* were introduced as a reaction to more cases of organised crime being uncovered. The section will also make a point as to how even though the intelligence conduct for organised crime, spearheaded through the Interior, was kept open as the main policy coordination channel, the policing institutions later engaged in their own governing platforms. Such a move happened in part because the security scenario demanded more specialised bodies, and consequently, it took the policing bodies to break with the back channels of the intelligence, consequently leading them to engage in a more publicly-oriented assessment of the organised crime issue.

Early in 2000, the *Carabineros* were able to seize a massive cocaine cargo transported by the ship, *Nativa*. A total of 8.800 kilos of the drug from Paraguay was being conveyed through the Pacific Ocean to the United States, and later using the Atlantic route to get to its

final destinations: Poland, the Ukraine and Turkey. Officials in the *Carabineros*, Navy, and Customs worked with information from the DEA to capture the vessel. The authorities believed that drug organisations were using Chile as a platform for exporting narcotics, since cargo ships departing form the country were less likely to arouse suspicion around control in foreign ports (El Mercurio, 2000c). Reports from the *Carabineros* emphasised that foreign drug traffickers also used fishing coves in the northern regions to store drugs, later transporting them to urban centres. A document produced between the *Carabineros*, *Investigaciones*, Customs and the Interior, which was later leaked to the press, noted how the maritime route was becoming one of the most used means for cocaine arriving from Peru to enter the country. The issue urged the Navy, which put maritime and air controls over the sea territory, to work in coordination with ground officials from the *Carabineros*, *Investigaciones*, and Customs. Such efforts were sometimes curtailed, however, as drug traffickers sailed outside territorial waters. Such was the case of the *Barthon Queen*, finally captured in the Canary Islands carrying three tons of cocaine (Emol, 2001).

The early 2000s brought a rising demand for policing services. Data compiled by the *Carabineros* revealed that 17% of their budget was allocated to countering organised crime type operations. Customs and *Investigaciones* had only 5% (El Mercurio, 2000d). In a cry for governmental attention that might have led to the injection of resources, both *Carabineros* and *Investigaciones* began to constantly emphasise issues such as the new routes used by drug traffickers; the more radical consumer behaviours evidenced; the presence of a greater number of foreign criminal structures; and the germination of criminal hubs in urban areas. It was another report that later set off the alarms by highlighting that Santiago's Metropolitan Region was gradually turning into a heroin micro-traffic hub (El Mercurio, 2000e). Police officials carried out up to three coordinated operatives at the same time. Operation "*Cruz del Sur*" involving *Investigaciones* detectives acting together with their counterparts in Argentina to stop

a marijuana trafficking scheme, while simultaneously raiding a country house and carrying out a sting operation in the Arturo Merino Benítez flight terminal, part of Santiago's main airport. One official from the BRICO unit was able to describe how foreign traffickers found a way to outflank border control and bring drugs into the country:

> The trafficking came from Bolivia and Peru. One member of a foreign criminal structure would come to make contact with distributors here in Chile and they would make a deal to hire transport. Depending on the agreement, an initial shipping was done, leaving the cargo just across the border into Chile. Then, another transport was used to put the drugs in Santiago. By then, the policing phenomenon was like pressing a balloon. If one pressed hard on one end, air would go to the other end. If we put our eye strictly on one crossing, we would eventually see drugs entering across other spots. Once in Santiago, the drugs would pass on to distributors and then again into micro-traffickers in the streets for selling (Personal interview with BRICO's senior official, 11th December 2013).

The BRICO unit was operating at its peak in terms of workload. Since its creation a few years previously, they had become the sole specialist *Investigaciones* agency, dealing with many aspects of organised crime. The scenario, however, came to change not too many years later when the *Investigaciones* created several other units that took up most of its crime catalogue. One officer from the BRICO highlighted the core nature of the unit back then:

> When the BRICO was created we were the operative arms of Interpol. Because of globalisation and mostly the disappearance of borders, the institution felt the necessity to create a unit to confront transnational criminality. The advantage we had after 1999 was that we were allowed to work on a wider range of crimes such as drug trafficking, money laundering, human trafficking and cybercrime. With the emergence of these crimes, our institution had to react and confront them before they would become massive. We even saw environmental crimes. Eventually, they turned so important that each one deserved its own specialised unit. However, we at BRICO were created with a particular essence. In contrast to other units that were after capturing a drug-dealer or seizing kilos, we were after the whole criminal structure. We did not care if we seized one kilo or a ton (Personal interview with BRICO's senior official, 11th December 2013).

Even though the work ethic of the BRICO disregarded the amount of kilos or number of detainees each operation brought with it, the approach adopted by the political authorities was heading in a different direction. The Interior was eager to show the public that policing units

were preventing a vast wave of organised crime from entering the country. In late 2001, the executive introduced a document delivering 20 measures to improve justice and citizen security. Among them, it gave instructions for improving police effectiveness by establishing policing goals based on performance indicators (Herrera, 2007, p. 3-4).

If the 1990s saw the beginning of the modernisation processes for the *Carabineros* and the *Investigaciones*, the 2000s evidenced the consolidation of quantifiable measures in both policing bodies. This devotion to complying with metric standards was highly reinforced by the Interior's approach to deliver efficient policy plans (as was seen in Chapter 4). The *Investigaciones* had recently ended their first modernisation initiatives, the *Fénix* I and II stages, when engineers from the University of Chile diagnosed a reorientation of its organisational development that brought a whole new approach to the institution (Badiola, 2009). From then onwards, the *Investigaciones* would refer to other public security actors as "users" to whom they would offer their "products" and "services". These included actors in the criminal justice system, such as the Public Ministry, the judiciary, and courts; those in the public and citizen security administration system, such as the Ministry of the Interior, Justice, regional and local governments and local communities; and the administrative authorities, such as the government and the Ministry of Defence (Herrera, 2007, p. 6). The *Investigaciones*' institutional roadmap for 2004-2010, the so-called plan *Minerva* (General order N° 2.088, 20th January 2006), promoted a "philosophy of horizontal work funded in collaborative linkages, proactive leadership and cross-cutting compromises aligned behind a common vision and goal" (Herrera, 2007, p. 12). It also confirmed that the *Investigaciones* had entered a process of "gradual transit towards a style of management oriented by results and a public service of excellence" (Investigaciones, 2004, p. 13). The *Investigaciones*' novel conception intended to elevante security as a public good, drifting away from their usual inward-looking approach to it (Badiola, 2007). In that sense, it aimed to make policy a result of the participation of various

194

social actors producing security, such as non-governmental organisations, international agencies, academia and other organised civil society groups. It was understood that the old bureaucratic pattern used by the *Investigaciones* was now inadequate, and that "new forms to engage security in society" (Badiola, 2007, p. 43) were needed.

Following this new rationale, the *Investigaciones'* 2005 public account referred to organised crime as one of its most "worrying challenges" (Investigaciones, 2005, p. 12). The institution even moved away from Interpol's notion to acknowledge its own understanding of organised criminality. It came to define organised crime as a "form of commerce though illicit means that in occasion involves threat and coercion, extortion, blackmail and other methods, besides the use of goods and services, increasing the risk of corruption in state agents" (2005, p. 12). It was clear that by the mid-2000s organised criminality had acquired import of a hefty magnitude. The trafficking of arms, humans and drugs offered the most worrying aspects of it, however, with great emphasis put on the narcotics issue in virtue of the rising influx from Andean countries. Eventually, their institutional development plan aimed at the following as their top goals: more detainees in court, contribute to reduce victimisation by organised crime and reduction of views of insecurity among the public (2005, p. 12).

Not only had the *Carabineros* and the *Investigaciones* adopted a result-oriented approach, but other institutions, such as Customs, also reformulated their tasks to improve performance indicators. Living with the permanent pressure of abiding by annual performance caps made institutions turn to their already growing inter-institutional linkages to better improve the management of their resources. Public security actors had strategic alliances with public and private entities in various aspects of their work. For instance, the *Carabineros, Investigaciones,* Interior and Gendarmería were all working together with a computerised system that registered detainees on drug trafficking charges. Other bilateral agreements, such as one between the *Investigaciones* and the Air Force, promoted the exchange of prosecution

proceedings. Another agreement, this time with the Navy, set out the guidelines for exchanging information regarding the suspicious movements of people and cargo in coastal areas and seaports (Investigaciones, 2005, p. 28).

Because of the inter-institutional grouping of actors and the profound motivations of each institution to comply with their self-imposed performance standards, both the *Carabineros* and the *Investigaciones* made pertinent changes to their bureaucratic structures thus, placing organised crime prosecution in a very relevant position. The *Investigaciones* created a command to oversee national policies towards organised crime (Investigaciones, 2006, p. 25). The *Carabineros*, on the other hand, created its own department for working against criminal organisations, the O.S.9. Interviewees emphasised the changing scenario that fostered the authorities' reorganisation of their bureaucracies.

> From early to mid-2000s we started to disarm notorious criminal groups trafficking drugs and committing other crimes in Santiago's quarters such as La Legua, La Victoria, and José María Caro. These parts of town were emblematic in terms of their criminal bands and the drug-traffickers that ruled them. Manuel Cancino, "El Perilla", or José Galarce, "El Joselo", in La Victoria, were criminals that nobody could catch because they had a criminal structure far more complex that any common narco. We couldn't catch them with enough evidence to prove all their criminal operations. We had to get in their clan, see how it worked, who was protecting them, the people they used to buy from and those that hide drugs, etcetera. That was a work in collaboration between our units of organised crime and anti-narcotics that eventually were put together under the same *jefatura*. From there, we set the need to address drug trafficking and money laundering as the most important issues of organised crime. Human trafficking would come third on the list (Personal interview with former O.S.7 chief; current senior official in criminal investigations and drugs issues, 30th October 2013).

One interviewee from Carabineros' O.S.9 was able to recount how the department was created:

> The O.S.9 was created in 2004 in those cities where the criminal reform was already active. In 2005, Santiago had its own unit. The department was supposed to be above all other units you find in a *comisaría* (Carabineros police station). We would search criminal organisations in specific crimes such as human trafficking and economic frauds. From 2005 onwards we worked hand in hand with the Public Ministry. This meant we were an essential part of the whole prosecution process. We were in charge of finding proofs to support prosecution so we were in the middle of the transition from the old criminal system to the new one with prosecutors instead of judges leading the investigation. From then to nowadays some things have improved while others have gotten worse (Personal interview with O.S.9. senior official, 6th December 2013).

Besides re-restructuring their corporate bodies, the *Carabineros* and the *Investigaciones* began preparing for the arrival of criminal reform and the new drug trafficking law that came with it (Law N° 20.000, 2nd February 2005). The justice reform meant a serious challenge for both policing institutions. In the old prosecutorial regime, police investigations were based around testimonies and confessions. The reform, however, brought with it the need for novel and more convincing proofs demanding new standards of prosecution.

The criminal justice reform triggered two consequences for the *Carabineros* and the *Investigaciones*. First, it evidenced the need to upgrade the prosecution of complex crime by giving resources to special units covering mostly, homicides, cybercrime and narcotics. Second, it highlighted the need to improve the coordination and exchange of information with the new actors who had joined the prosecution policy community, mostly, the Public Ministry and the UAF. Relationships between the policing institutions and the prosecutors became fundamental for improving the criminal prosecution system and ensuring its success (Melo, 2006). However, by the mid-2000s, when the reform was being implemented in the Metropolitan Region, several differences between the policing institutions and the prosecutors came to light, in terms of how to confront complex criminality (these grievances were explored from the Public Ministry's point of view in Chapter 5).

A study carried out among *Investigaciones* officials in the region of Valparaíso in 2006 revealed that officers were worried about prosecution performance since no standardisation of the new prosecution criteria had been agreed (Barros Lezaeta, 2006). The study also revealed that most officers did not believe that prosecutors were the "leading characters" of the prosecution system. This was a major issue to be dealt with since the justice reform clearly established that both policing bodies were auxiliary to the Public Ministry. Instead, police officers considered themselves as "collaborators", and believed that the success of the prosecution rested "in the mutual acknowledgement that one institution has legal and the other
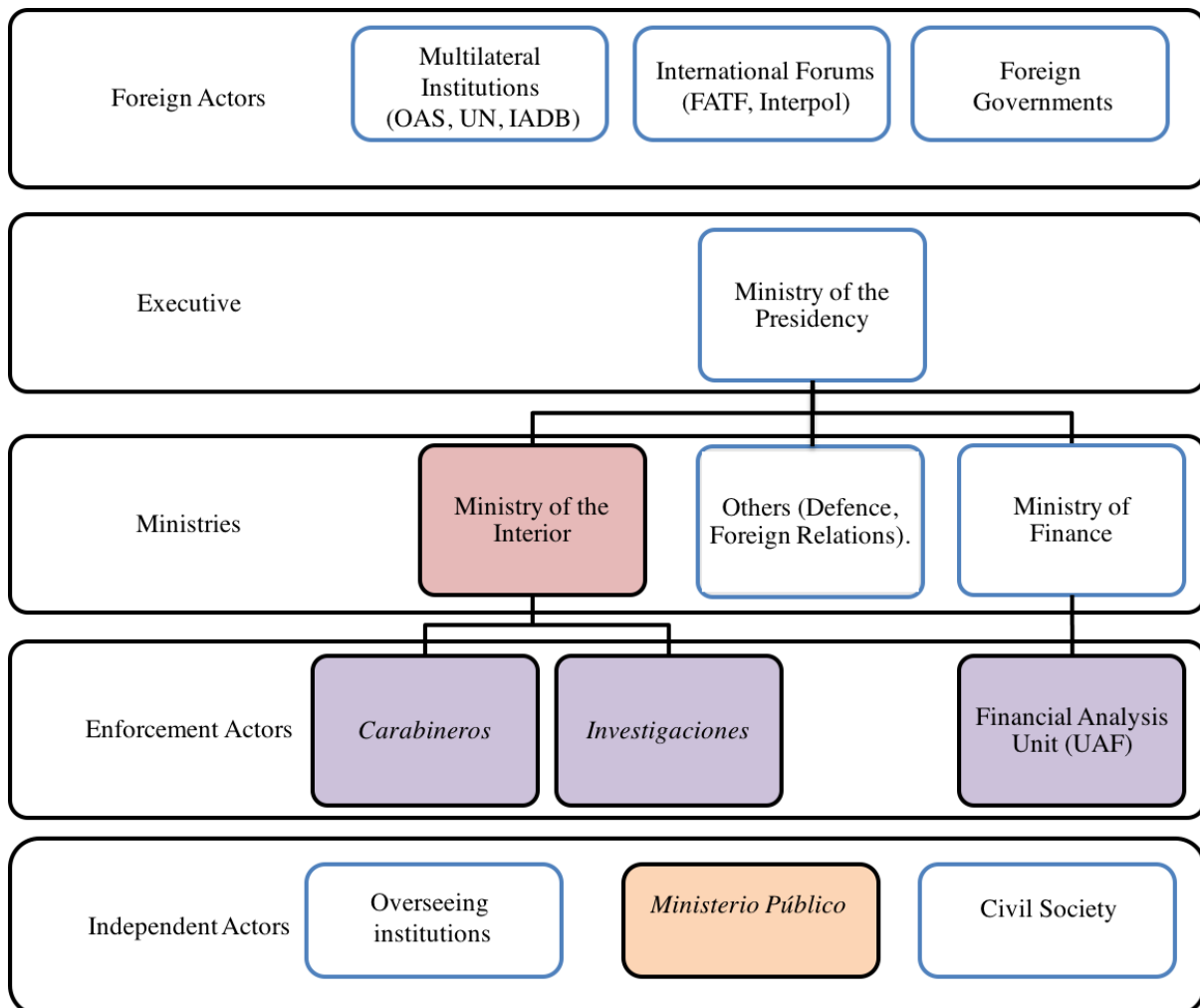
investigative cognizance and that both developed an understanding according to their experiences that were worth discussing and agreeing on" (Barros Lezaeta, p. 39-40).

One interviewee referred to how this issue became very relevant to police officers:

> Who generates the 99% of the leads towards organised criminal structures in Chile? We do, the police. If someone tells you that a certain prosecutor gave an order to investigate certain cartel that entered the country or a certain structure being formed somewhere inside the country, that is totally untrue. I have been 18 years in this job and can assure you that that it is just not accurate. We investigate in light of our own generation of criminal data. The whole prosecution system is not as organised as people would think. We generate leads, we file a complaint, we investigate and eventually we, in collaboration with the prosecutor, take the case to a judge (Personal interview with BRICO's former official and current high officer in counternarcotics matters, 30th October 2013).

As it was evident, the engagement of a new prosecution community, its core now formed by both policing bodies, the Interior and the Public Ministry (see Figure 6.2), brought novel inter-institutional collaboration as well as several points of disagreement. On the one hand, prosecutors were capturing criminal organisations in partnership with special units from the police; the *Carabineros* were contributing through the work of the O.S.7, O.S.9 and the GOPE and *Investigaciones,* mostly through the BRICO and the anti-narcotics brigade. Combined operations, mainly drug seizures and detentions, occurred frequently in the most critical quarters of Santiago; it was here that the executive had fruitlessly intervened years earlier, and remained where the drug dealing was still the worst. To both police forces, the critical points were *poblaciones* like La Legua, Santa Adriana, Intendente Saavedra, Sara Gajardo, La Victoria and José María Caro. The prosecutors came to conclude that there were at least 19 organised criminal bands acting in these districts. They even branded one as the "La Legua Cartel", which according to their intelligence had at least 16 other criminal branches, with subsidiary structures for protection, distribution and logistics (Lezaeta, 2006c).

Figure 6.2 The prosecution policy community (2004 – onwards) in coloured blocks and other related actors.

As it was explained in Chapter 5, what prosecutors considered as organised crime differed vastly from what the policing bodies meant as such. The issues became evident in the amount of organised criminal structures that each institution would say they had dismantled at the end of each year. Prosecutors counted only a dozen, while the police numbered hundreds. This type of discrepancy brought further stringency. While the Public Ministry was trying to give the illicit association figure a new approach to identify and prosecute organised crime, the police forces were reluctant to accept such a concept.

> I don't know what terms they were using, but to prove an illicit association is extremely difficult. The prosecutors always started by identifying such crime but never came to a sentence. It always ended as a simple charge for drug trafficking. That is because is too hard to show to a judge a complex criminal structure. It is also problematic to prove money-laundering charges. A couple of years earlier the press mounted a huge polemic about foreign cartels arriving in Chile. A whole issue was raised about if there was organised crime in the country or not. Authorities came to a definition of over 20 requisites, then half of them, and later only a couple. According to those, we agreed on that Chile did not have any organised crime. This was merely a political decision. In my point of view it was like trying to cover the sun with the fingers in one hand (Personal interview with former O.S.7 chief; current senior official in criminal investigations and drugs issues, Carabineros, 27th December 2013).

Another official noted that for the conceptualisation of organised crime, it was necessary to look at the international perspectives, certainly a point that prosecutors were trying to dismiss as they attempted to introduce a locally constructed definition of the phenomenon.

> Today's organised crime is based upon definitions found in international agreements. When we look at those, we could say that our organised crime is at an inferior level to other countries (Personal interview with senior official in the O.S.9 unit, Carabineros, 6th December 2013).

The criminal legislation of 2000 allowed prosecutors to work either with the *Carabineros* or the *Investigaciones*. However, both policing bodies found it extremely difficult to pool their understandings of complex criminality. The policing institutions created their particular responses to the prosecutors' demands about organised crime, many times duplicating effort. What is more, some officers believed that prosecutors took the decision to work with either force based on preconceived judgements. In that vein, the officials perceived that the prosecutors' uncertainty about working with either the *Carabineros* or the *Investigaciones* brought a certain level of "irrationality" to the policing (Barros Lezaeta, 2006, p. 47-48). Additionally, the institutions became wary of each other, bringing up doubts about the plausibility of their inter-institutional collaboration. One official in the *Carabineros* put it this way:

> Little by little we have brought down the walls between us. There was a time when police actors worked their own way. And still, police institutions are reluctant of each other. This happens in issues such as sharing information and participating in roundtables. Now, why do we refuse to pass on information? The Carabineros is the biggest security institution in Chile. We have the most information about crime out there. So, how much new info can we get in exchange? In that sense, in certain policy plans that include roundtables you can see that there is resistance to working collaboratively. The Public Ministry should join efforts between the police bodies but they are reluctant to do it. Instead they create differences. First they work with the Carabineros and don't share any information; the same thing with the Investigaciones. As I say, there is a drug for everybody. We could all work together. Instead, we are only slowly moving forward (Personal interview with former O.S.7 chief and current senior official in criminal investigations and drug issues, Carabineros, 27th December 2013).

The issue whereby both policing institutions had similar powers was eventually not seen as a negative matter by some officials. In terms of avoiding corruption and collusion with organised crime in the forces, one interviewee found it useful that the *Carabineros* and the *Investigaciones* shared their shores as it was a way of encouraging transparency:

> In a certain way it is a good thing that Chile has two police bodies because we counterbalance each other. Sometimes there are officials corrupted by crime either in our institutions or in the Carabineros. With the inclusion of the Public Ministry there is another pair of eyes watching our behaviour. At the end, because everybody keeps control of everybody we have stronger institutions (Personal interview with senior official in the BRICO unit, Investigaciones, 11th December 2013).

This section demonstrated that by the end of the decade, the *Carabineros* and the *Investigaciones* had been the object of a series of internal modernisation processes that brought change to their individual perspectives on organised crime. However, changes were also triggered by external factors such as the introduction of criminal reform that came to put stress upon their policing actions, as the Public Ministry demanded their resourceful collaboration. The next section will examine the time frame between 2010 and 2014. During this period, the centre-right government of president Piñera implemented a more rigorous approach for addressing the governance of organised crime through novel policy creation. The next section will then emphasise how both the *Carabineros* and the *Investigaciones* engaged in the prosecution policy community now that the political guidelines for resource sharing and

ideological consensus were to become the driving force behind the governance of organised crime.

6.5. The *Frontera Norte* and Networked Governance (2010-2014)

Mr. Piñera's presidential campaign highlighted two important issues regarding the policing of organised crime. The first was to bring the *Carabineros* and the *Investigaciones* together under the wing of the Ministry of the Interior, and the second, to put forth a resource package to increase personnel and budget for both institutions. As was mentioned earlier, Piñera came to power with a strong anti-crime discourse that was critical of the previous governments' handling of security matters. In his governmental roadmap, he promised to "prosecute and confront drug-traffickers with all of the law's energy" (Piñera, 2009, p. 78).

By early 2010, Piñera confronted a criminal scenario charged with drug trafficking and other organised crime cases. In March, detectives from the *Investigaciones* captured six Bolivians and ten Chileans as part of a criminal structure led by a felon convict in one of Santiago's penitentiaries. The criminal organisation managed to import huge amounts of cocaine by crossing illegally into the northern regions. In July, a similar criminal structure was also extinguished, this time including Chilean, Bolivian and Brazilian citizens who transported narcotics from Bolivia to Chile using the façade of a heavy machinery business. That same month, the police detained a dozen nationals from Chile, Paraguay and Argentina with one ton of marihuana hidden in various trucks coming from Brazil. Cases like these were repeated including local criminal groups charged with various illicit association crimes including robbery and trafficking (Investigaciones, 2011). It is worth mentioning again that even though Piñera announced his government was a game changer for criminal issues, in terms of organised crime policies he had little room to improvise and eventually preferred to continue using the networked governance patterns implemented by the *Concertación*. Piñera confronted a tight prosecution policy community including both policing bodies, the UAF and the Public Ministry

(see Figure 6.2). However, with his move to put the *Carabineros* and the *Investigaciones* in the domain of the Interior, the executive gained certain levels of policy control over the policing. When the executive launched its *Frontera Norte* plan to control drug trafficking in the northern regions bordering Peru and Bolivia, both the *Carabineros* and the *Investigaciones* had to deal with the bitter and sweet consequences of novel networked policy-making while still being subject to political pressures by the executive.

In early 2011, the executive reshaped the Interior's bureaucracy, renaming it the Ministry of the Interior and Public Security, and giving it the novel task of carrying out "sectorial and inter-sectorial coordination" for national public security (Law N° 20.502, 21st February 2011). Under such a rationale, engaging all efforts to confront organised crime trafficking seemed now feasible to the Interior and, subsequently, the *Frontera Norte* policy plan was invigorated. The initiative was an investment of US$60 million to catch criminal organisations transiting the northern regions during the next three years. In a networked way, it included the elaboration of policy protocols between the government, the armed forces, the *Carabineros*, the *Investigaciones*, Customs and the Agricultural and Livestock Service (SAG). Its aim was to provide control over the 140 illegal crossings that Chile shared with Argentina, Peru and Bolivia. This part of the plan meant at first that the *Carabineros* would receive special resources (vehicles and other technologies) for guarding the territories used by criminals when trying to reach urban centres (Ramírez, 2011; Carabineros, 2010; Interior, 2012). One police official who participated in the *Frontera Norte* commented on how its protocols were implemented:

> I was called to collaborate in the plan's elaboration because I am an expert in anti-narcotics policies and also because I was once chief of the anti-narcotics brigade in a northern city. I was the Investigaciones representative in the discussion that various authorities held regarding the plan's protocols. We discussed several times how we should put up as its protocols. An alliance was formed between Defence, Interior and the police bodies since we were the main actors to oversee the scenario that the northern regions presented. We formed a multi-disciplinary group and travelled to the border regions to make a roadmap of all the unauthorised crossings, see the legal ones, and sketch down the ways we could search for strategic nodes where to put police controls

Even though the plan was presented by the Interior as an opportunity to take a significant step towards confronting organised crime through inter-institutional governance, some of its participants were reluctant to take on such an approach. One senior official in the *Carabineros* was dubious of the role, for instance, that the military took regarding the plan:

> The military was supposed to pass on intelligence. But they had nothing regarding drug trafficking, that is not their mission, and they have never done it. They did not have any geo-referenced data, they did not know about the non-authorised crossings, about the human trafficking, nothing about drugs or goods trafficking either (Personal interview with former O.S.7 chief and current senior official in criminal investigations and drug issues, Carabineros, 27th December 2013).

Policing officials at this stage were reluctant of the "true-intentions" of other security actors when addressing organised crime. Some of them saw the military's interests in participating in such policies as a disguise to obtain extra resources:

> Because there are no traditional threats and no traditional wars, all security institutions try to justify themselves. They do it because it means a flow of cash to their institutions. I personally don't think it is appropriate to use the military on these shores. Maybe in other countries where things have gone out of control and looks more like a war. I don't believe it is wise to use the military even though it is tempting to (Personal interview with former O.S.7 chief and current senior official in criminal investigations and drug issues, Carabineros, 27th December 2013).

The implementation of the *Frontera Norte* brought continuing consequences for the governance of organised crime. Because both *Carabineros* and *Investigaciones* were permanent members of the prosecution policy community, both institutions gradually took a central role in determining the subsequent steps needed to get the programme on its feet. An *Investigaciones*' official accounted for the role that actors played during inter-institutional deliberation, and also how they dealt with the first consequences of making a stand against criminality.

To make the Frontera Norte efficient, we needed equipment. That task was given to the technical roundtable. They were in charge of searching the relevant technologies, make the public biddings, and acquiring resources so that each institution would have all the necessary tools to put the strategic plan in the right direction. In that group was included the armed forces, through their joint chiefs, the Carabineros, the Interior, and the Investigaciones. Currently, we are working together in implementing these guidelines farther south, meaning it would be four regions where the plan is actually working. This is a consequence of how the traffickers reacted to the tight control we put at first instance on the three regions where the plan was initiated. For a long time the unique centre for compiling all trafficking entering the country had been the cities of Arica and Iquique, but recently that moved south to Calama. If we could expand the plan south through the border we would have a much secure frontier than what we have now (Personal interview with former BRICO official and current officer in counter-narcotics matters, Investigaciones, 30th October 2013).

In a nutshell, the *Frontera Norte* created a wall for traffickers in the northern regions where it was being implemented. This pushed them to pursue alternative routes in order to evade the police. A *Carabineros* official was able to account for the necessity of continuing inter-institutional governance efforts and to avoid leaving such unexpected consequences out of reach:

Our participation in roundtables with the prosecutors, the government and the Investigaciones, allowed us to create a holistic vision of the issue. It also allowed us to tie together an integral effort in terms of prosecution proceedings. We as Carabineros don't have an independent construction of crime; it is the other way around (Personal interview with O.S.9. senior officer, Carabineros, 22th November 2013).

Even though this type of governance patterns seemed to be efficient in terms of putting together inter-institutional resources, to some interviewees the planning and execution of the *Frontera Norte* lacked centrality. Such an issue became most evident when considering the overall effects of its unintended consequences. Members of the *Carabineros* and the *Investigaciones* thought that the centrality of the network seemed more appropriate to fall back on the Interior. However, in their opinion, the Interior did not have good enough leadership to put forward a more meaningful governance of organised crime.

The Frontera Norte is more of a guideline to me. We are lacking someone who would take the lead, a political body who can convene policy towards organised crime. We are

grateful of this type of policy solution, but the only time we all sat together to discuss about organised crime in Chile was years ago and it was certainly a politically biased conclusion that we all reached. For instance, many times we don't know who represents the government in international meetings about organised crime. We assumed it would be someone from the Interior, but later we have had news about cases where they have sent a representative from Finance (Hacienda). Moreover, sometimes we don't even know if somebody went at all (Personal interview with former O.S.7 chief and current senior official in criminal investigations and drug issues, Carabineros, 27th December 2013).

When Piñera's government coined its policy plan to confront money-laundering finance (seen in-depth in Chapter 7), both the *Carabineros* and the *Investigaciones* played a major role in sharing inputs for its formulation through their O.S.7, O.S.9 and BRILAC units (UAF, 2013, p. 59). It came to be recognised through the policy that the prosecution institutions lacked intra- and inter-communication peers, even though these actors had already dealt with inter-institutional governance when enforcing the *Frontera Norte*. The *Investigaciones'* BRILAC unit became an active representative of the institution in the formulation of the anti-money laundering agreement (Investigaciones, 2014, p. 27-28). The unit had gained relatively enough experience since its creation in 2002 (General Order Nº 1.927) and by 2010 it had shown a number of major successes such as when it took nearly US$900,000 off just one criminal organisation (Investigaciones, 2012).

When the model was replicated into a third major policy plan, this time to prevent human trafficking (Interior, 2014, p. 6), the *Carabineros* and the *Investigaciones* were again pushed to participate in networked governance. The *Investigaciones* took part in it with its newly created brigade for countering the human trafficking issue, the BITRAP. This group became the institutions' organisational answer to the law passed in Congress punishing human trafficking (Law Nº 20.507, 8th April 2011). The BITRAP was composed of officers who had experience in the matter, either because they worked in the BRICO or because they had worked in other special units before. The continuing governance through working roundtables had, by this time, turned to producing an adverse felling in the police forces. Even though it was the

governing scheme proposed by the Interior, some officials recognised that it had become hard for their hierarchic institutions to accommodate such horizontal processes of policy-making; eventually, the more horizontal the linkage would get, the more challenging it would become for them to reach policy agreements. The police officers seemed more familiar with a top-down command and order style:

> Working roundtables started fine but they tended to dilute across time. To begin with, they become too bureaucratic and it gets difficult for us because we are a hierarchic institution. To all of these meetings we needed to send someone with enough hierarchy to take decisions. But that is difficult because senior officials don't have time to attend to all of these reunions. So most of them will go to the initial meeting and then they will just send in a deputy. At the end you would only have a group of lower-grade representatives that cannot take any decisions without first asking their superiors. Also, these mechanisms are very much depending on who is calling them. I mean, they depend on people rather than on institutions. If the person convening moves to another position, the agreement will immediately stop working. We have had good experiences with the Public Ministry, the Investigaciones and Customs. But these are not state policies at the end. I think that's why we have had dozens of these, and at the end only a bunch will work. If I could put it into fewer words, the government has to lead these things. A while ago we had a meeting where Customs did not want to pass any information. Why couldn't the government demand them to do it? I just can't understand it. Sometimes there is little willingness, very little at all (Personal interview with O.S.9. senior official, Carabineros, 22th November 2013).

One of the lowest points for the *Frontera Norte* programme came in 2012 when a case of suspected corruption among the public officials in charge of purchasing technological resources was unveiled. The scandal meant at least half a dozen officials being removed from the Interior after an investigation led by the Public Ministry, and an inquiry was started in Congress. Initial investigations showed that the state had paid up to 400% above normal prices for the equipment to detect drugs. The case put these two partners in the prosecution policy community in a difficult position since now the prosecutors were scrambling around the Interior's corridors searching for evidence to show any irregularities in the purchase of resources. By then, the *Frontera Norte* had come to deliver surprisingly effective results. From 2010 to 2012, drugs seizures increased by 90%, while the charges of illicit drug trafficking went up by 67% (Cámara, 2013). However, the following year, in late 2013, the plan was put under stress again

due to another case of alleged corruption, this time among *Carabineros'* officials in the O.S.7 unit in the city of Arica. A series of dubious cargos of drugs being seized by anti-narcotics officers put into question the performance oriented goals that the *Carabineros* had been abiding by. Even though the authorities claimed that *Carabineros* officers were not simulating seizures in order to reach their annual goals, to some, the use of performance indicators was undermining inter-institutional trust. Despite the allegations, metric standards were very much how institutions did measure their successes when confronting organised crime. By 2012, the *Investigaciones*, for instance, had put on its list of annual goals to "take down an extra 5% of organised criminal bands and drug trafficking" (Investigaciones, 2013, p. 42).

By the end of the Piñera administration, both the *Carabineros* and the *Investigaciones* seemed to have better relations with their foreign counterparts than with the other domestic public actors such as the Interior or the Public Ministry. By 2013, the *Investigaciones* had been involved in over a dozen coordinated efforts to deal with organised crime through the Interpol office in Santiago. Different operations led to cracking down on 33 foreign and local criminal organisations (Investigaciones, 2013, p. 38). To the contrary, the utility of networked governance among national actors, even though it worked in terms of putting down criminality, was still somehow hard to digest, and to some officers it was more like a one-time venture (Personal interview with high-officer in the BRICO unit, 11th December 2013). Police officials had efficiently dealt with joint schemes in terms of putting together field operations; yet, the focus of their discontent was plainly due to the refusal of certain institutions to share their intelligence. Since institutions were eager to keep an inward and secret approach to their information on organised crime, they encountered different criteria that ended up discouraging their support for inter-institutional governance. In a particular move, the *Carabineros* opted to address the issue and demanded consistency in the proceedings by creating a handbook for operations (General Order Nº 2.048, 2nd December 2011). Nonetheless, the characteristics of

the handbook remained undisclosed as it contained protocols pertaining to Law Nº 20.000, which guaranteed the secrecy of collaboration with the Public Ministry. As a result, the *Carabineros* and the *Investigaciones* blamed the Public Ministry for not being able to reach a unique perspective, embracing instead different alliances between them and each police force (Personal interview with former O.S.7 chief and current senior official in criminal investigations and drug issues, Carabineros, 27th December 2013; Personal interview with former BRICO official and current senior officer in counter-narcotics issues, Investigaciones, 30th October 2013).

In sum, this section has illustrated that the most recent historical developments considering the policing bodies' assessment of organised crime has been a gradual construction of networked practices that became more relevant because of the complexities of inter-institutional policy. After the 2000s modernisation processes, both police bodies gained a certain level of autonomy to re-orientate and build their own informed perspectives of the most relevant threats to the social order. However, and because it was not a familiar type of criminality to any of the police bodies, the assessment of organised crime triggered a dynamic process of bureaucratisation and resource management; this was dealt with by both institutions in accordance with their own identities and particular forms. Since the 2010s onwards, the governance of organised crime was severely affected by the dynamics of the prosecution policy community. Also, the continuing construction of rules and norms for participating institutions were strained in order to optimise resources that would eventually lead to policy plans. The next section will close this chapter by discussing a few theoretical arguments that help shed light on the *Carabineros'* and *Investigaciones'* historical practices for inter-institutional governance and the consequences that these processes have brought for their own institutional development.

6.6 Conclusion

This chapter explored how the Carabineros and the Investigaciones embarked on a gradual journey of change and accommodation towards organised crime policy-making following redemocratisation. This conclusion emphasises a couple of particular aspects that are worth briefly theorising. This section will firstly examine the idea of these institutions positioned themselves in the novel policy scenario brought about by redemocratisation, and consequently, eflects how they found a place among other institutions when engaging in policy network governance. As a first point to mention, the movement taken by both *Carabineros* and *Investigaciones*, from the dictatorship era to that of redemocratisation, brought out a change, from how to deliver security using a repressive approach, to later focusing on one where democratic and socially constructed notions of security where the norm. In short, the 1990 landmark drove them away from the state centric iron fist doctrine that characterised the authoritarian period. Consequently, and as a result of such a break, both institutions set up distinctive sets of rules regarding how to govern issues of security. Empowered partly by the metagoverning role of the Interior, both policing institutions found their role in the dynamics of post-coup security, as they were driven by new ways of thinking, producing and delivering the rule of order. Secondly, their continued understanding of organised crime meant the need for a collaborative policy effort. This was evidenced in the 1990, and meant that the creation of linkages between institutions, with such a pattern becoming a very sought after mechanism. The decline of the hierarchic and closed security community that characterised the dictatorship also brought with it the consolidation of a complex model of governance, where the legitimacy of the policy decision-making processes now rested on horizontal and consensual forms of action. In that vein, the frequent interaction inside the policy prosecution community created a similar range of interests; first, between the policing bodies and the government, and later, with the Public Ministry, the UAF, and other institutions that participated in the issue of security.

Regarding organised crime policy-making, the consistency of keeping (or actually, updating) commitments to resources within the participant members led to espousing the *Carabineros* and *Investigaciones* in the roles of decision-makers and advisors of organised crime. Such a consensus led to a third point regarding their day-to-day interactions with other public security actors as they swiftly changed the ways they negotiated, coordinated, and executed policy plans. As a result of a greater immersion within the security community, they were constantly pushed towards vaster involvement in the planning and delivery of organised crime governance. Even though the chapter evidenced that officials in both branches were worried about the level of compromise and willingness that the prosecution actors needed when engaging in networked governance, the flexibility that characterised these governing interactions nonetheless led to put in evidence how the policy networks evolved on time. Such change depended on the participants' level of consensus and disagreement, their inclusion and exclusion from the network, and most pertinent to this chapter, how much these actors agreed and disagreed with carrying out security policy.

In conclusion, by deeply considering the role that the *Investigaciones* and the *Carabineros* have played in the modern prosecution of organised crime, this chapter has strongly illustrated two of the main overarching topics of this thesis. First, it has shown that the movement from government to governance has influenced the policing institutions in at least two ways: i) regarding how they became independent actors who brought innate skills to the learning process of policymaking and the issue of organised crime, and, ii) by reflecting on their own structural resources and the interactions created with the policy network that was set up for such matters in 1990.

The chapter thus evidenced that the state centric and state decentralising continuum is a flexible path that institutions tend to surf at different times and for different reasons throughout their institutional history. The most evident feature of such motion has been for both

Investigaciones and *Carabineros* to continually assess organised crime in accordance with the Interior's roadmap of security policy. It is also, to do so in conjunction with their own horizontal relationships with other actors where their corporate autonomy is privileged. Such freedom of movement has allowed them to perform security policy outside the shadows of government, and actually, engage according to their own rules of the game in terms of how to deal with networked governance. The next empirical chapter will continue to emphasise this discussion by exploring the case of the UAF and the money laundering aspects that came to light once the prosecution of organised crime became a relevant issue following redemocratisation. The arrival of the UAF in the mid-2000s meant not only reconfiguring the prosecution policy network and its participating actors, but also, influencing their shared conventions and security practices. The chapter will reflect then on how the UAF joined the prosecution community and what consequences it meant for the network's knowledge, production, and policy delivery.

7.

The Money Laundering Watchdog: the Financial Analysis Unit

7.1 Introduction

After the 1990 redemocratisation landmark, Chile began to be one of those liberal democracies that were caught in the middle of globalisation processes regarding migration, trade and services, however, without any pertaining security frameworks for countering the illicit money flows associated with them (Contraloría, 2009; Farías and de Almeida, 2014; Reuter and Truman, 2004; Mares, 2009; Machado, 2012). Money laundering is a century-old technique, whereby criminals of unlawful enterprises erase the origins of their earnings while trying to eliminate any evidence that could make them perpetrators of offences (Schneider and Windischbauer, 2008; Van Duyne, Groenhuijsen, and Schudelaro, 2005). The sheer massiveness of such a phenomenon in Chile was evidenced by the return to democracy. Criminals enjoyed worldwide freedom to select where and how to make their money clean and legal (FATF. Report, 2000). Wealthy countries with developed financial systems and highly globalised economies were also in active engagement with the global governance of money laundering, although smaller and less-developed countries remained outside the frame (Weschler, 2001). The redemocratised countries in Latin America scarcely engaged in any initiatives to confront money laundering. Since the authoritarian resistance to the presence of such criminal conducts was being washed away (Mares, 2009, p. 213, 229), countries adopting liberal democracies confronted increasing levels of drug trafficking and money laundering. Additionally, a massive capital flight of licit monies leaving the region became problematic; this was in part because of the fear of it being expropriated with the introduction of norms to avoid taxation (Hinterseer, 2002, pp. 40-43; Grosse, 2001; Reuter and Truman, 2004, p. 181).

214

In this scenario, industrialised countries stressed the need to create anti-money laundering efforts. During a G-7 summit, the Financial Action Task Force on Money Laundering (FATF) was put forward as a policy-making forum to plan and review national and international action on what needed to be done (Gardner 2007, p. 329; Halliday, Levi and Reuter, 2014; Heng and McDonagh, 2014). Developed countries were mostly concerned with non-FATF members, since laundering activities were thought to move rapidly to regions where government oversight was less of a threat (FATF, 1999, p. 17)

In the early 1990s, the United States was deeply involved in investigating and targeting the worldwide narcotics industry through its law enforcement offices. In Latin America, various strategies led by the Drug Enforcement Administration (DEA) and the FBI helped seize drug trafficking money from Colombian and Mexican cartels (Nieves, 1998). These operations led to the belief that successful counter-organised crime efforts needed to simultaneously promote international cooperation and partnerships; henceforth, the problem of money laundering became an opportunity to put both issues into practice. Even though fewer than 40 countries worldwide complied with international standards, such as those enforced by the Egmont Group, the FATF did persuade countries to impose anti-money laundering policies, either using methods of coercion, such as blacklisting, or through mimicry (Sharman, 2008, p. 636). The move led to various countries, including Bolivia, Brazil, Costa Rica, Mexico, Panama, Paraguay and Venezuela, to create their own FIUs. In Chile, on the other hand, the 1995 anti-drug trafficking law gave the CDE the attribution to prosecute money-laundering offences (Law N° 19.366, 30th January 1995); however, a lack of clear governmental policy and efficient prosecution reigned through the first decade of redemocratisation. Neither the political institutions, the policing institutions or even the judiciary had any trained personnel or experience in these matters. Vagueness of policy was a problem that has dragged on over the past three decades. During the military dictatorship, little was done to prosecute money-

laundering cases. As was discovered later, General Pinochet had accumulated a dubious fortune while head of state and even after the regime had expired (Huneeus, 2007). To fill the policy and legislation void, the Aylwin government mandated the CONACE to adequate the 1988 UN Vienna Convention, which demanded regulations to confiscate criminal proceeds and curb banking secrecy (Dumbacher, 1997, p. 182).

Against such a backdrop, this final empirical chapter will emphasise the issue of money laundering that came to light as the criminalisation of organised crime became more complex after redemocratisation. It is important to include such a story in the narrative told so far, for at least a couple of reasons. First, the origins of money laundering set up early after redemocratisation were linked with the issue of organised crime, particularly after evidence of drug trafficking enterprises cleaning their monies through the financial, commercial and banking sector became more robust. Secondly, the chapter focuses its attention on how the historical revision of counter-organised crime practices in Chile meant allowing the prosecution of money laundering to take its own path; however, this was still linked to how the issues of organised crime policy were being arranged. Third, and consequently, the chapter will explore how it was that with the adoption of beliefs and practices by the prosecution policy community, the issue of money laundering took on such importance that a completely new institution dedicated to it was formed. When the Financial Analysis Unit (UAF) was set up in 2003, it immediately joined the prosecution policy community, although it struggled at first to permeate other actors with its rationale for including money laundering as an indispensable issue when prosecuting organised crime.

To illustrate such arguments, the chapter is divided into four parts. Section 7.2 will explore the 13 years (1990-2003) following redemocratisation and how Chile took counter-money laundering issues through the administrative conducts of different institutions, namely, the CDE, the CONACE, and the Ministry of Finance, all of whom imprinted their own

rationales regarding how to best govern money laundering. Through these institutions, and under supervision by external bodies such as the FATF, the UN and the United States government, the Chilean authorities took early action towards unlawful financial proceedings. The analysis revealed hereafter unveils the struggle to institutionalise counter-money laundering efforts in light of the need to first secure a capable institutional framework, and second, make this framework compatible with the culture in which such effort needs to operate. Next, section 7.3 analyses the events occurring between 2003 and 2008, the so-called "formative years" of the UAF. It seeks to advance the theoretical question regarding how newcomers can embed in network formations. The historical account provided in this part sets out to explain the conceptual understanding that the multiplication of institutional actors' and corporatists' interests can create sources of friction. The role played by the UAF in demanding action among many public and private institutions, whilst engaging in the agenda for network governance, set off a power struggle that led to a new problem: how to better institutionalise mechanisms for anti-money laundering coordination among different goal-driven financial and economical institutions. This section approaches then the theoretical idea that the constant interactions amongst more or less rational actors should improve rather than diminish their capacity to implement policy ideas (Hertting, 2007). The section will unveil how the UAF gambled upon the idea that interdependency among trustful network relations could eventually lead to the implementation of action towards prosecuting organised crime.

The following part, section 7.4, draws upon the period between 2009 and 2014. In this period the UAF positioned itself as the most relevant actor regarding money laundering counter-efforts, and an essential participant in the prosecution policy network. This section reflects on the idea that both the political environment and the tasks being undertaken by actors will influence the success of a network (Peters, 2007, p. 62). The public and private support that the UAF was able to put together to address money laundering pushed the prosecution

network to develop new dimensions, as well as adjust to the involvement of new actors, that merged to fit the niche created by the anti-money laundering effort. The section finishes by drawing on how the prosecution network had to become responsible for both policy formulation and implementation regarding money laundering issues once a major policy plan was set up in 2013. Section 7.5 concludes by theoretically reflecting on the idea about the successful patterns of network governance. This part explores why and how the UAF was able to immerse itself in the governance of organised crime since its inception, addressing issues seen in the theory such as how it was able to create linkages among public and private actors; how it generated a shared commitment to confront money laundering by means of common rules, goals, and expectations; and how by following a public rather than a private driven-interest helped the UAF to accommodate the existing governing structures. This final part discusses how the prosecution network was able to create an inclusive arrangement to involve many social interests. It draws as well on exploring how, when the policy network needed to decide on a common approach to the entangled policy issue of organised crime, institutionalisation became difficult, especially when considering the creation of consensual value and commitment among its members (Peters, 2007).

7.2 Criminal Phenomena and its Foreign-Imposed Awareness (1990– 2002)

During the late 1980s and early 1990s, the United States was actively engaged in bilateral and multilateral security cooperation agreements in the Americas, negotiating how to eliminate financial safe havens. In order to help countries draft money-laundering laws and regulations, as well as provide training in financial crimes' enforcement, it ran a number of different associations, for instance, the Summit of the Americas, the Caribbean Financial Action Task Force (CFATF), the Inter- American Drug Control Commission (OAS/CICAD) and the Egmont Group of FIUs (Nieves, 1998, p. 32) As a result of the United States' help in establishing different national FIUs to collect and analyse money laundering information, many states copied

the Financial Crimes Enforcement Network (FinCEN) model that advocated for multiple-source collection of intelligence (Gelemerova, 2009; p. 34, 37; Zagaris, 1999). Because at this time a formal FIU was not present in Chile, this section empirically reveals the struggle to institutionalise the capacity to deliver anti-money laundering efforts using various public actors. It explores the early redemocratisation action towards the narco financial proceedings in light of a trend developed by industrialised countries to establish global anti-money laundering standards. Thus, this section investigates the security rationales and practices that were introduced by external bodies. The revision of this stage also highlights what shaped and influenced the conduct of individuals and groups when addressing such a particular security objective.

As was mentioned, president Aylwin's initial bid to institutionalise financial intelligence began through the channels of the CONACE. However, its bureaucracy framework lacked the powers for confronting money laundering, neglecting several of the Vienna requirements (Decree N° 683, 22nd October 1990; Arlacchi, 1998). To the eyes of international overseers such as the FATF, a country reluctant to update its money-laundering performance was seen as counterproductive to the overall effort worldwide (FATF, Annual report 1990-2010). In light of foreign-imposed political and economic awareness, the Chilean government did try to comply with international standards by boosting diplomatic participation in bilateral and UN-arranged meetings. In 1994, it signed a cooperation agreement with the United States to eliminate the elaboration, processing and trafficking of illicit drugs and their transit through territorial waters (Decree N° 1.508, 17th August 1994). The agreement included funds for anti-narcotics services operating in the Antofagasta region (northern Chile, bordering Bolivia), as well as for training in chemical precursors control and money laundering. More interestingly, it arranged for American bankers to visit Santiago and participate with their counterparts in money-laundering legislation seminars. By then, scholars in the United States were calling for

more government and private sector cooperation to combat organised crime and its financial operations (Godson and Olson, 1995). In Great Britain, observers also suggested that success in controlling money laundering was effective because of the strong cooperation occurring between banks and law enforcement agencies (Levi, 2002). For Chile, this was, on the contrary, still a premature rationale. Local banks knew little about money-laundering countermeasures and, what is more, public actors were at an infant stage regarding the issue. As an example, the 1994 agreement between the United States and Chile emphasised that the embassy in Santiago had to control its completion in alliance with the CONACE.
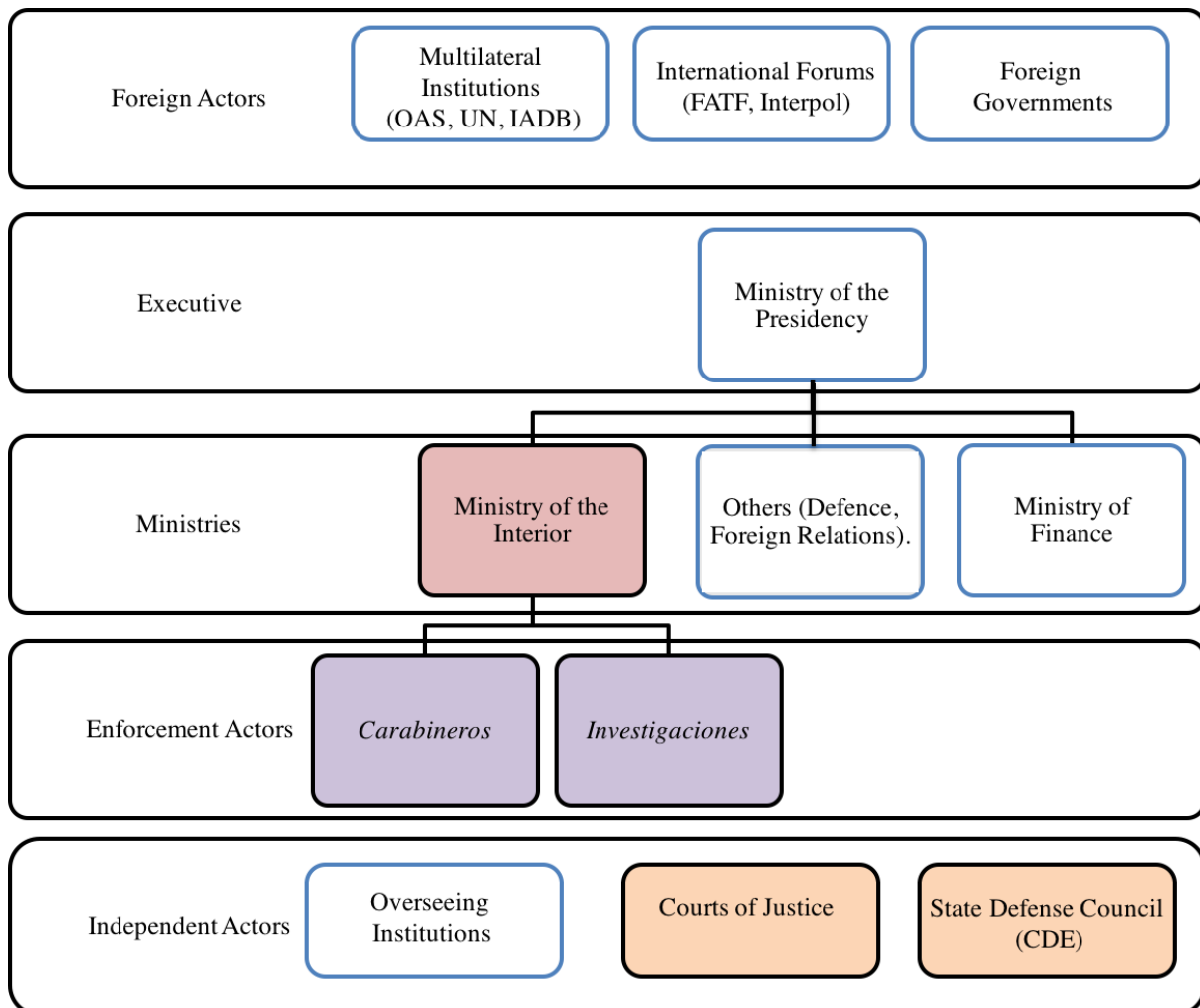
As a consequence of Chile's participation in regional and bilateral schemes, during president Frei's administration, Chile signed a novel anti-drug trafficking cooperation agreement with its neighbours: Argentina, Bolivia and Peru (Decree Nº 88, 4th May 1995). The agreement highlighted the need to establish a programme containing training initiatives for public officials as well as an exchange of relevant information regarding money laundering. Chile's diplomatic approach was certainly marked by the increasing trend in the region to assess the problem in a multilateral way. Earlier in 1992, an accord to regulate drug money laundering was adopted by the CICAD/OAS, which included improving national criminal law and international cooperation, as well as strengthening the role played by the financial system (Dumbacher, 1997, p. 185). The agreement was partly based on the 40 anti-money laundering countermeasures recommended by the FATF. This set of recommendations eventually became an international standard, demanding constant update through the years "to reflect on the changes in patterns of this criminal activity" (Gardner, 2007, p. 329). However, as scholar Liliya Gelemerova (2009) noted, the 40 recommendations "proved to be no less imperative than treaty obligations", as the FATF turned them into an "instrument of pressure" to evaluate countries' efforts in adopting its own standards, and endorsing FIUs as both intelligence and reporting institutions (p. 36).

When legislators gathered to discuss the text of the 1995 bill on drug trafficking, their understanding of the issue was certainly marked by the international scenario (Biblioteca del Congreso Nacional de Chile, 2005, p. 171). Policymakers and governmental authorities believed that Chile had done a fair job as the police and the CDE had shown certain successes from time to time in the dismantling of drug trafficking organisations. Surprisingly, and despite the major discussion given to the topic in Congress, Law Nº 19.366 did not include the term "money laundering" when it was published, and neither did it consider the creation of a FIU or any relevant counter-money laundering policies (GAFILAT, 2006, p. 15).

The CONACE and the CDE were left with counter-money laundering as one of the many issues facing the prosecution policy community (see Figure 7.1). However, confusion and uncertainty remained. While the CONACE was a multiactor institution serving as a forum for policy analysis and elaboration, the CDE remained an inward-looking body with secret and independent prosecution roles. Also, most public institutions remained ignorant of these roles and seemed to act independently. For instance, when the Ministry of Foreign Relations signed a broad political and economic cooperation agreement with the European Union, neither the CONACE nor the CDE received any specific mention. Interestingly, the only institution mentioned in the agreement with regard to money-laundering issues was the FATF (Chile. Decree Nº 213, 24th April 1999), evidencing the pressure imposed on Latin American countries to comply to foreign policy recommendations.

Observers emphasised that most political initiatives set to prevent the spread of money laundering could only be successful if there was an international exchange of intelligence and know-how between as many countries as possible (Dumbacher, 1997, p. 180; Reuter and Truman, 2004). It was believed that lax controls in certain countries had opened easy access to other more regulated jurisdictions, and therefore, global cooperation and common standards were needed (Morris-Cotterill, 2001). In that vein, in 1999, president Frei signed an agreement

Figure 7.1 The prosecution policy community during the 1990s (coloured blocks) and other related actors.

Source: Own construction.

with his Colombian counterpart, Andrés Pastrana, recognising that drug trafficking and money-laundering issues were "global problems", rather than a "single nation's effort" (Gálvez, 1999). Frei's visit to Colombia emphasised three issues worth commenting upon. First, that Chile was building international networks with more experienced foreign players (who also happened to be cooperating with the United States). Second, that the Chilean government was building a rationale emphasising issues such as money laundering and how non-drug producer countries should confront this. And third, that governance among countries had to be backed up by local

institutions in order to cope with the requirements and standards that this kind of agreement brought with it. Foreign efforts in this matter soon led to the joint creation of a FATF chapter for South America, a regional body called the GAFISUD (later changed to GAFILAT). The creation of the GAFISUD came after a memorandum of understanding signed in late 2000 by Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru and Uruguay. Mexico joined in 2006, Panama and Costa Rica in 2010, Cuba in 2012 and Guatemala, Honduras and Nicaragua in 2013 (GAFILAT, 2014).

By 2000, Chile's intentions to confront money laundering had raised strong concern among policymakers. One interviewee noted:

> Authorities from many countries realised that the prevention of money laundering had not been effective at all. Criminals still had their main weapon to keep abusing, and this was their economic capacity. As time went by, Chile and other countries thought that it was time to change direction (Personal interview with UAF senior official, 29th October 2013)

The creation of the GAFISUD and the signing of the UN Palermo Convention in 2000 became a turning point for the region. The document compelled, among other requirements, the setting up of public bodies to regulate financial institutions, lift bank secrecy and build FIUs (UNODC, 2000a, p. 22-23; UNODC, 2000b). One of the chief officials in the early stages of the UAF noted how the Palermo agreement set a new course:

> Chile took a very long time in passing a law for money laundering in terms of what the Vienna and Palermo conventions recommended. Actually, we took even longer in creating a FIU when most of other regional countries already had one. I would definitely say that the creation of our own FIU, the UAF, responded to that international trend. We had signed the FATF Convention, which explicitly talked about having a centralised institution. When legislators finally passed the law by the end of 2003, a whole culture of prevention landed. Before that we had nothing (Personal interview with former UAF's senior official #1, 7th October 2013).

The debate about the creation of Chile's UAF became public in 1999, when the government

drafted a second drug trafficking bill to replace the legislation of 1995. The creation of a new legal norm meant that all money-laundering prosecution roles moved from the CDE to the Public Ministry (Law Nº 20.000, 16th February 2005). The executive started to arrange inter-institutional governance schemes as the debate about counter-money laundering began to overlap with the criminal justice reform introduced shortly after (Brashear Tiede, 2012). Policymakers were eager to have a FIU working collaboratively with the Public Ministry, and in July 2000, the executive, the banking association (ABIF) and the Congress came to an agreement about the parameters of the bill that would finally create the UAF. The executive suggested that the UAF be put under the tutelage of the Ministry of Finance, as it would only have assessment and analysis powers. The move triggered a series of consequences, mainly for the CONACE and the CDE. Both institutions had to reaccommodate their functions, as the issue of countering-organised crime and money laundering was opened to include other public institutions. By then, the CONACE had gradually been taking money-laundering countermeasures since 1990, as Chile signed some novel international agreements, while the CDE was the prosecution body working together with the police bodies. Not surprisingly, any networked inter-institutional governance had more loose nodes than connected units. By late 1999, Clara Szczaranski, the CDE senior official, complained to the finance committee in Congress about issues of "information autism", since, in her opinion, the *Carabineros* and *Investigaciones* were only distributing "spontaneous information" (El Mercurio, 1999).

In late 2003, lawmakers passed the text for creating a FIU to prevent the use of the financial system and other economic sectors for money laundering (Law Nº 19.913, 18th February 2003, Article 27). The previous year, president Lagos had unveiled a "national compromise" against drug trafficking, a novel initiative that included a shared effort between public institutions and organised civil society. Together with the approval of a new anti-drug trafficking law and the creation of the UAF, these became the three most relevant efforts the

Lagos administration took towards countering drug trafficking and money laundering.

Building from the events detailed in this section, the next part will unveil how the UAF became Chile's sole entity accountable for formulating a policy targetting anti-money laundering activities. Because its tasks included the creation and execution of plans and norms for the economic sector, as well as the reporting of intelligence information from banking, finance, and other economic actors' daily operations, such an overload of powers consequently meant that the beginning of the UAF was a rocky one in terms of positioning itself in a political, economic and societal context remaining very much oblivious to money laundering. The next section will therefore reveal how the UAF's institutional maturing eventually caused the establishment of an overall anti-money laundering policy effort in the country. This was possible once it had introduced new behavioural and rational concerns to a forum of pertaining security institutions dominated by the Ministry of the Interior, the police bodies and the prosecutorial attorneys from the Public Ministry.

7.3 The "Formative Years" (2003-2008)

Early in 2000, the FATF put pressure on those countries that had not complied with its recommendations by publishing a list of "non-cooperative" countries, that is, understood as those where no countermeasures had been taken. The list included financial havens like Panama; however, no other country in Latin America was identified as such. The United States and its allies also decided to "name and shame" countries that had developed under-regulated financial centres (Weschler, 2001, p. 49). A year later, the 9/11 attacks on the United States gave the FATF new momentum in countering money laundering (Hampton and Christensen, 2002; Reuter and Truman, 2004). Its strategy relied heavily on destroying financial environments that enabled criminal operations for terrorist purposes (Gardner, 2007). Even though Chile remained free of any shaming, the country, along with other developing states, responded with extra mutual assistance (Levi, 2002; Deneault, 2007). In early 2004, a Senate

investigation in Washington DC following the dirty monies of terrorism, found that General

Pinochet had accounts in the Riggs Bank, held under various aliases, that amounted to US$8

million. A criminal prosecution in Chile later revealed that his personal fortune was over US$16

million. The press and other observers put Pinochet on a list with other dictators who had been

greatly enriched during non-democratic regimes (Huneuus, 2007). Elsewhere in Latin America,

autocrats who had grabbed power suffered unpopular corruption revelations that caused deep

political crises (Root, 2011; Van Dun, 2012). One interviewee emphasised how the beginnings

of the UAF were severely marked by national and international scenarios:

> I would say that back then Chile had a different risk understanding when compared with Argentina, Bolivia, Peru or Colombia. However, if you didn't shut the windows for criminality and things got worse in those countries, you were inviting them to come and make their dirty operations here. We learned that you have to make people get conscious about these things, because you don't get anything just by making up an institution like the UAF if you haven't permeated people's minds (Personal interview with UAF's former senior official #1, 7th October 2013).

This section will thus emphasise how the UAF was positioned within a political, economical,

and societal context that remained very much oblivious to matters of countering money

laundering issues related to organised crime. During the years after its inception, the UAF

managed to become an indispensable actor in the prosecution network alongside the Interior,

the police bodies, and the Public Ministry. The section will highlight how the UAF entered the

governance of organised crime through various practices, mostly demanding counter-money

laundering action from public and private institutions and organisations; establishing a direct

relationship in prosecution matters with the Public Ministry; and also, positioning itself as a

middle point between public and private actors, thus acting as a hub for information and

resources exchange.

The UAF initiated functions in 2004, and its authorities set up a "formative period" that

lasted until 2008 (UAF, 2004). During this time, the institution aimed to become part of the

broad political and social scene on the front line of finance and economic security. It was legally placed under the executive authority of the Ministry of Finance; nonetheless it managed to become a fairly decentralised institution backed by a set of overarching constitutional powers (Law Nº 19.913, 12 December 2003).

Both the FinCEN and the Egmont Group encouraged countries to adopt one of four categories of working with FIUs: a judicial or prosecutorial type, within the judicial branch of the state; a law and enforcement type, within national law enforcement bodies; an independent administrative type of unit, processing centralised information between the financial sector and the prosecution authorities; or a hybrid type combining the last two (Gelemerova, 2009; Egmont Group, 2010). Chile adopted the administrative type after confirming that prosecutorial and law enforcement powers were already tasks performed by the Public Ministry and the police bodies, respectively. The FIUs of the administrative type are most common in the Southern Cone. Besides Chile, Argentina and Peru also followed this model, however, their organisational patterns had different corporate structures and depended very much on each country's legal framework. The UAF thus became a central node between the financial sector and the public sector, something that neither the CONACE or the CDE had been able to do previously.

It was believed that the UAF had to make a better effort at concentrating its efforts on establishing policies and action plans to confront money laundering among public and private actors. Authorities then set up the creation of protocols to spot suspicious transactions in reporting institutions, incorporated international standards and practices and also broadened the number of countries with which they had signed collaboration agreements (UAF, 2004, p. 27). Following such a plan, the UAF engaged in collaborative agreements with dozens of Chile's public institutions, including the Budget Office (Dirección de Presupuestos), the General Treasury of the Republic (Tesorería General de la República), the General Comptroller (Contraloría General de la República) and the Superintendence of Banks and Financial

227

Institutions (Superintendencia de Bancos e Instituciones Financieras). The UAF officials initially claimed that its most relevant partners were the Public Ministry, the CDE, the Congress and the foreign FIUs. However, it also partnered up with a long list of financial, banking and other private economic bodies, in order to comply with anti-money laundering measures (UAF, 2004). Internationally, it joined the Egmont Group, allowing it to connect to intelligence exchange mechanisms globally. As well, and less than a year after its creation, it laid the basis for collaborative agreements with Argentina, Bolivia, Colombia, Peru and Paraguay, among other countries (UAF, 2004).

At first, it identified a total of 35 categories of *sujetos obligados* (regulated entities) that were subject to reporting suspicious transactions (UAF, Reporte Gestión 2004-2007). These included money exchange businesses, banks, insurance companies, casinos, auction houses and property firms, most of which had little knowledge or association with countering money laundering. The UAF tried to set a benchmark by proposing a common understanding between public and private institutions. To achieve that, it strictly followed the FATF's protocols, which was known as the "know your customer" approach. Such an approach aimed to eliminate anonymous accounts and maintain transaction records, making them available to legal authorities upon request, giving notification to the authorities if unusual or suspicious transactions arose (Gardner, 2007, p. 131). At the end of 2005, the UAF officials sent a series of written communications to introduce institutions to the language of suspicious signals and laundering alerts (UAF, Circular N° 0008, 31st May 2006). Officials became aware that creating a community of interested parties would mean taking extra steps, mostly because there was limited experience of how to spot the dubious movements of money. Guidelines and norms became a serious matter for the UAF and for almost all other pertinent actors. Interviewees noted:

> I remember at first that compliance officers would criticise to us that their clients did not want to share any information. Now these issues are well behind. I think we introduced an efficient culture against money laundering (Personal interview with former UAF senior official #1, 7th November 2013).

Another interviewee added the following regarding the role of private institutions.

> It is important to understand that there have always been doubts from the private sector especially when linking some suspicious transactions to complex criminality. Our legislation is not clear enough in that matter. It is a good thing that they have to report any suspicious transactions, however, it is not up to them to distinguish what criminal offenses are behind it (Personal interview with former UAF senior official #2, 25th November 2013).

The UAF had to win over its partners by taking an active role in organising individual meetings, tailoring most of their efforts to fit with how public and private bodies dealt with money laundering in their day-to-day activities. In that sense, and in order to improve the reporting system, officials met with all the banks licenced to operate in Chile, many insurance companies and most stockbrokers.

Regarding public institutions, the counter-money laundering efforts had translated into the engagement of unprecedented inter-institutional network governance. The UAF grew links with Customs, the *Investigaciones* and the Public Ministry, and by 2006, the main ports of entry for cash were hubs of inter-institutional control. Authorities mostly monitored the international airport in Santiago, as well as land points bordering Peru (Chacalluta, close to the city of Arica) and Bolivia (Chungará, near Arica; and Colchane, near the city of Iquique).

Most of these work agreements were taken into consideration after studying similar foreign experiences that recommended keeping records, and controlling cross-border money flows. The UAF expanded its network of foreign partners by signing collaboration agreements with Australia, Brazil, South Korea, Slovenia, Spain, United States, France, Guatemala, Mexico, Panama, Poland and Romania (UAF, 2005). Also, more powers were given to UAF officials, when, in June 2006, the plenary of the Egmont Group voted for Chile to join its

executive committee for two years. Later in 2007, the UAF also became president of the experts'

groups for money-laundering control in the CICAD/OAS (UAF, 2006).

The UAF's energetic proceedings meant that by 2008 there was the establishment of

new working relations with national partners, including: the Public Ministry, the Ministries of

Finance, the Interior and Foreign Relations, the CDE, the CONACE, the *Investigaciones*, the

Carabineros, Customs and various supervising institutions such as the Superintendence of

Banks and Financial Institutions (SBIF), the Superintendence of Securities and Insurance

(SVS), the Superintendence of Pension Fund Administrators (PAPS) and the Superintendence

of Casinos (SCJ). By partnering with such bodies, the UAF sought to strengthen its role as the

national watchdog, as well as forward the sharing and processing of relevant information and

the growth of new domestic and international inter-institutional alliances. By late 2007, it had

built a registry of 4,859 reporting institutions (UAF, 2008), and the number of annual suspicious

reports had increased from 53 in 2004 to 419. In the latter year, 140 reports were sent to the

Public Ministry and the CDE for investigation, and over 50 information requests were

exchanged with foreign FIUs (UAF, Reporte de Gestión 2004–2007, 38–47).

The UAF had by then set the foundation for inter-institutional governance. Nonetheless,

the prosecution against money laundering, by now also including the Interior, the policing

bodies and the Public Ministry (see Figure 7.2), was described as inefficient. Reports from

external organisations, mainly the FATF, highlighted that money-laundering cases in Chile

were linked to drug trafficking organisations that swept their dirty monies back into the

domestic economy through local banks; however, these groups remained mostly free of criminal

conviction.

Figure 7.2 The prosecution policy community (2004 – onwards) in coloured blocks and other related actors.

Source: Own construction.

A former high-level policymaker in the department of organised crime at the Ministry of the Interior explained, according to his perspective, what was so "perverse" about the form of exchanging criminal information with the UAF:

> If you are a law enforcement officer and detect a money laundering case, you cannot go to the UAF's director and tell him you've got certain information regarding an illicit. They will most certainly tell you that they cannot receive any information from you because you are not a regulated entity. This is a huge blowback for prosecutorial and enforcement agents (Personal interview with former senior officer, Department of Organised Crime, Ministry of the Interior, 6th November 2013).

In late 2006, when the FATF reviewed Chile's counter-money laundering performance so far, data from the old criminal justice system (in the hands of the CDE) and the Public Ministry accounted for an increasing but so far diminutive trend in judicial cases with final convictions. Since 2003, the CDE had received over 20 reports regarding different money-laundering cases. There were 21 subjects indicted, 18 condemned for illicit association, but only one convicted for money laundering. Meanwhile, prosecutors had 60 cases, out of which 11 had been indicted, but no subject had yet been sentenced (GAFILAT, 2006). These pale statistics did not match up with the growing political and policy discourse given over to money laundering.

As this section has explored, the end of the first four so-called "formative years" of the UAF subsequently came with a strong commitment to counter-money laundering from public prosecution actors through inter-institutional governance as the UAF continued signing work agreements that would set the tone for years to come. For instance, in 2007, the UAF and the *Investigaciones* agreed to share the latter's database for investigation; however, it wasn't until 2008, when it signed a broad collaboration deal with the Public Ministry, that it reemphasised its commitment to money-laundering prosecution (UAF, Convenio, 9th October 2008). The formative period ended with the UAF matching powers and gaining recognition with other more experienced institutions, especially the supervising organisms in the economic sector, such as the SVS and the SBIF. However, as one interviewee put it, the UAF was not yet considered "the sole voice regarding money laundering efforts" (personal interview with former senior UAF official #2, 25th November 2013). Thus, the next section will explore how during the period 2009–2014, the UAF positioned itself as the most relevant actor regarding anti-money laundering efforts. This section will investigate how the UAF adjusted their involvement to a novel rationale that consequently helped empower institutional connections between previously inward-looking institutions. By 2014, the prosecution network that had been set up became responsible for both policy formulation and implementation, that is, once a national strategy to

prevent and combat money laundering and terrorism finance had been launched. The section will demonstrate how network governance was institutionalised after a number of actors decided on a common approach to the intertwining issues of organised crime and money laundering.

7.4 Consolidating Governance and the Launch of a Formal Policy Plan (2009– 2014)

The period between 2009 to early 2014 unveiled a gradual change in the UAF's handling of security policies. From its initial tepid contribution to the governance of money laundering, it mutated to take a leading role in the overall fight against complex criminality. Its inter-institutional networking was enhanced, as this time it carefully aimed at putting forth a concrete anti-money laundering policy. This section will demonstrate how the UAF was capable of positioning itself within the prosecution network and even more how it attained subsequent roles in both policy planning and execution. In order to do this, it will reveal how its institutionalisation also created the overall establishment of an anti-money laundering policy effort. The analysis highlights how, given its position of influence, the UAF carried out such an influential process, and finally, how it subsequently shaped the security governance network given a particular time and space context.

As it was mentioned earlier, an important amount of the UAF's stamina was put into permeating the public and private sectors involved in the prosecution and the detection of money laundering. By 2008, the UAF noted that it had incorporated anti-laundering measures into the organisational culture of over 3,500 companies and institutions. The statistics showed a rising trend in terms of suspicious conduct as well. In 2004, it had sent only four cases to the Public Ministry for investigation, while four years later, that number had increased to 62. The two most important steps taken in this matter were the creation and diffusion of money-laundering policies, and the positioning of the UAF "at the same level" of those institutions involved in prosecuting money-laundering crimes (UAF, 2008, p. 4).

In order to develop both tasks, means were put in place to establish the UAF as an inter-institutional coordinator among state and other independent institutions, while public–private cooperation agreements were also promoted (UAF, 2009, p. 7). One interviewee recalls how these measures were taken into consideration:

> I believed that for many years everything related to the UAF remained under a veil of secrecy. Of course there are many things regarding our financial intelligence that are confidential, but we were a public institution with public budget and we had to act like one. We decided to make our audits, sanctions, trainings, diffusion, and many other activities public knowledge. We had to build a system of cooperation, mutual objectives and inter-institutional trust (Personal interview with former senior UAF official #2, 25th November 2013).

The UAF redrafted its "most relevant" partners to include the Public Ministry, the CDE, criminal justice actors, Customs, foreign FIUs, reporting entities and other national and international institutions involved in countering money laundering. Annual reports identified the UAF's "clients/ beneficiaries/users" according to its overall corporate strategy. Since 2004, the number of partners expanded from the initial five institutions (the regulated entities, the foreign FIUs, the Public Ministry, the CDE and the Finance Committee of the Chamber of Deputies), in part because of the UAF's increasing flow of collaborative effort with relevant public and private actors (UAF, 2009). Put simply, by increasing the number of "clients/beneficiaries/users", it enlarged the signing of cooperation agreements. This allowed for the exchange of resources with other public actors that then contributed, for instance, to the creation of a computerised network reporting system. Inside its bureaucracy, officials felt that they were beginning to be recognised as truly unique coordinators of national money-laundering efforts. Against this backdrop, in late 2009, a ministerial order gave the UAF sole representation to the GAFISUD, a role previously held by the Ministry of Finance (Order N° 1421, 22nd December 2009).

The record of convictions between 2007 and 2010 improved notably as well, and from 22 investigations, 33 subjects were finally convicted for money-laundering purposes. Out of

these, 18 corresponded to drug trafficking cases, three to public corruption and one to human trafficking, while the monies seized reached almost US$3 million (UAF, 2010, p. 22-23). In late 2011, the UAF renewed its annual collaboration agreement with the Public Ministry, giving wide powers to both institutions for sharing intelligence and procedures for counter-money laundering (UAF, Convenio, 15th November 2011). However, if on the one hand the UAF had successfully reinforced its collaboration with public actors, the private actors were still confused about UAF's role. One interviewee put it this way:

> My criticism is that we failed to promote our work and invite the private sector to take a more active role. You cannot have a good country risk evaluation if you haven't taken into consideration those vulnerable sectors. We can't just have them as passive partners waiting to be told what to do with a decision taken only among public actors. First, it undermines their commitment, and second, it blocks the permeation of our philosophy regarding the risk that they are confronting (Personal interview with former senior UAF official #2, 25th November 2013).

A former private bank executive and current consultant on compliance regulation accounted for the UAF's lack of timing with its regulated entities:

> If a private bank reports a suspicious operation to the UAF, they take it to the public prosecutors after doing their own intelligence assessment. The prosecutors will decide if it is worthy of investigation and ask one unit in the police for even more detailed analysis. In that sense, the structure is well organised and follows a clear pathway. However, if we go back to the bank, they do not have powers to withhold any operations. My point is that the prosecution arm will certainly be, and almost always is, reacting too late because most money movements, suspicious or not, have already happened (Personal interview with former private bank executive and current consultant in financial compliance, 28th October 2013)

By late 2011, the UAF officials were aware of such issues and eager for inter-institutional enhancements, although mostly, through public–private cooperation (UAF, 2011). The statistics identified that reports generated by private institutions were showing a rising trend. By 2008, the UAF had received 478 reports, while 3 years later the number had reached 1,796, most of them from private money transfer services (UAF, 2009; 2011).

By the start of 2012, the UAF had incorporated a strong stance towards public and

private governing relations, following the guidelines that industrialised countries had strongly emphasised decades before. In that vein, it set up the bases for what would later be the first national plan against money laundering, coined after the arrival of the Piñera government. The centre-right administration reinforced security measures, and more specifically, argued that private institutions were being constantly used as façades for drug trafficking and money laundering. In that vein, in July 2012, the Interior and Finance ministries signed a "strategic alliance" with the UAF, focusing on inter-institutional collaboration, which gave broad guidelines for developing a national strategy for financial security (UAF, 2012). The agreement came after the FATF updated its 40 recommendations identifying new risks while pointing out inefficient countermeasures in developing countries (FATF, 2012). This accord kicked off 1-year of policy-making led by the UAF, with strong political support from the Interior. Unveiled in late 2013, the *Estrategia Nacional Contra el Lavado de Dinero y Financiamiento Terrorista* (ENLAFT) was the result of a number of collaborative alliances between public and private institutions, with external assessment from the IMF and the Inter-American Development Bank (IDB) (UAF, 2013). One interviewee involved in the negotiation of the strategy commented on the processes that gave way to inter-institutional policy-making:

> The strategy came to improve our weaknesses regarding how to enhance the countermeasures against money laundering. This meant a call to over 20 public and private institutions that we thought we had to convene in order to identify what needed to be done. Then the UAF took the role of coordinator in consensus with all the institutions. The final policy generated a series of goals and tasks involving all actors as responsible for its success (Personal interview with senior UAF official, 29th October 2013).

Even though the UAF had received overall support from the Ministry of the Interior, people who had been familiar with the money-laundering counter effort held different opinions. A former vice minister of the Interior during the mid-2000s was highly critical of the UAF's first decade of existence:

I believe the UAF has not been a contribution but a waste of state resources. I could be wrong, but under my experience it had not been a pivotal player. Chile has never had a clear goal regarding money laundering. Not even now. I believe we just comply with international standards demanded after the country's entry to the OECD in 2010. Maybe we would be in a worst position without such agency. Maybe its mission is to create a preventive effect (Personal interview with former senior officer, Department of Organised Crime, Ministry of the Interior, 6th November 2013).

The unveiling of the ENLAFT prompted at least three immediate consequences for the governance of organised crime. First, the UAF thought that to see things from a distance it would be sensible adopt a peripheral vision that would allow it to walk in its peers' shoes. Officials noted that the success of the ENLAFT therefore depended on their contribution to the governance of organised crime issues through coordinating the system, rather than by letting self-governing attempts dominate. In that sense, a second issue was raised: how would the ENLAFT be fully comprehensive to all institutions involved? The solution was partly reached by putting forth mechanisms of cross-knowledge elaboration during its planning stages. One official mentioned the following:

We knew that there were many criteria and different understandings on the subject of money laundering. However, we approached this by concluding the same diagnostic among all representatives. This was that we needed to define prosecution protocols, amend institutional incentives, and improve the record of convictions. The latter meant that we needed to move away from institutional unilateral goals and establish a common effort. It was really important that all institutions generated the sufficient incentive to see things in such a way (Personal interview with senior UAF official, 29th October).

The relatively fast commitment from most institutions that the UAF experienced, responded to a third issue that is worth accounting. The officials felt that the ENLAFT could work better if it was seen as a reasonable and timely approach to counter complex criminality, one not requiring much complexity or bureaucratic intromission:

The policy-making tried to avoid approaching it as if this was the drafting of a major

bill. We thought that we had the adequate norms, and on the other hand that institutions were already conscious of their roles. Therefore, we just needed to coordinate. On the basis of that coordination, we decided to take the administrative steps to put something that would give us immediate results in a short amount of time (Personal interview with senior UAF official, 29th October 2013).

The establishment of the ENLAFT crowned the state's anti-money laundering efforts by engaging in a public policy that secured differentiated and coordinated mobilisation of resources. The institutionalisation of the previous fragmented efforts to counter money laundering activities seemed possible because of the UAF's lead role in making and enforcing polices in the absence of a top-down authority in the matter, despite the Interior's desire to become one. In that sense, this chapter has demonstrated that the institutionalisation of the previous fragmented efforts to counter money laundering activities seemed possible because of the UAF's lead role in making and enforcing polices in the absence of a top-down authority in the matter. Meanwhile, the UAF gained a predominant stake in governance participation, with other institutions being excluded over time, such as the CONACE and the CDE, all indispensable actors for money laundering policy construction during the early redemocratisation era. On the other hand, other actors were also able to relate via the UAF, such as those economic and financial overseeing institutions, and the private banking and finance sectors. The UAF, therefore, became a node in network governance through initiatives such as training programmes, data collaboration and intelligence management. Such additions were possible through the exchange of resources with other institutions. Additionally, the ENLAFT represented the outcome of investing in trustful network relations to make such exchanges possible. These interactions included not only public actors but also the engagement of private actors, who were needed to validate the rationale of anti-money laundering efforts, as well as optimise performance and maximise the outputs of such governance structure.

In that vein, the next concluding section will emphasise the idea that even though networks responsible for both policy formulation and policy implementation can become

contentious, the prosecution policy network opted for a common approach to the rationale and practices of organised crime and the issue of money laundering; this eventually led to a smoother institutionalisation of its policy outputs, for example, the ENLAFT. This next section will discuss the evolution of such bureaucratic projects, and the pooling of resources across government agencies, including the private sector. It will try to explain how democratic network governance can offer advantages in terms of delivering outputs and outcomes, mostly by what the literature points out as "enhancing political legitimacy among interested stakeholders, increasing technical capacity to produce valuable results, and leveraging administrative capacity to generate reliably successful implementation" (O' Toole, 2007, p. 215).
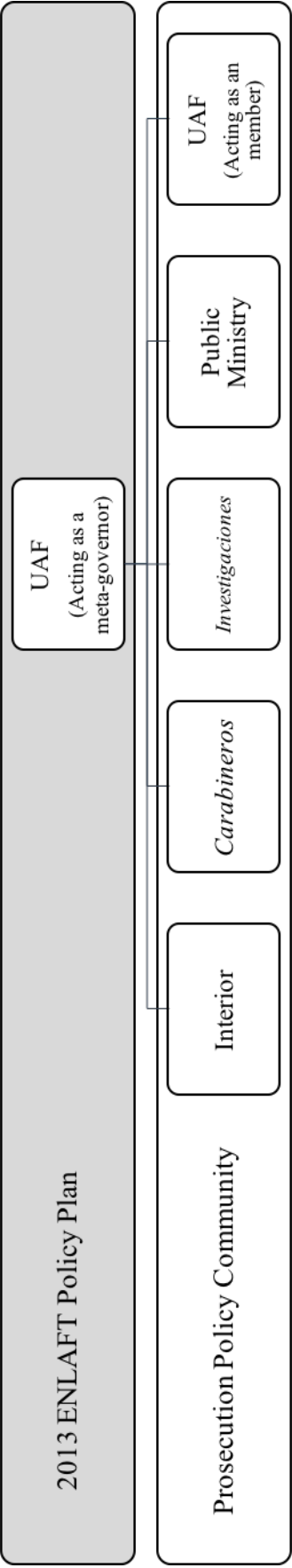
7.5 Conclusion

This chapter has demonstrated how since 1990 public institutions in Chile have gathered around the issue of money laundering related to organised crime. Its historical narrative has highlighted important issues about network governance and inter-institutional policy-making, essential for understanding how the overall governance of organised has developed in the country. As a first idea worth commenting upon, the chapter demonstrated that the movement from government to governance of organised crime finds a clear explanation in the role the UAF had after entering the prosecution policy community, that is, in channelling the resources to counter organised crime outside the boundaries of the state. Because the UAF had to depend so much on the permeation of its rationale as well as practices towards money laundering occurring in the private sector, it necessarily turned governing relations horizontal as it engaged in iterative relations with other actors. Even though the prosecution policy community remained closed to the Interior, the policing bodies, the prosecutors and the officials in the UAF, the broader issue network gained participants as more overseeing bodies and partner institutions joined the overall dynamic motion towards countering the issue of money laundering.

239

Also, the movement from government to the governance of organised crime became visible when the UAF took a leading role in disputing the metagoverning aspects of the ENLAFT to the steering privileges of the Interior. As seen in Diagram 7.3, the UAF became the metagovernor for the money laundering action plan launched in 2013, meanwhile, developing horizontal relations of network governance with the rest of the prosecution policy actors. Again, and even though the ruling capabilities remained in the hands of state actors, the handover of responsibilities from the Interior to the UAF showed that the traditional channels towards addressing organised crime, with the Interior as a metagovernor, were flexible enough to change; in this particular case, to other actor who represented the most innate skills for calling for authority in the proceedings of the community network. Put simply, even though the governance steering remained state centred, the fragmentation of its authority reinforced the declining hierarchical approach of previous engagements of the security governance.

It also becomes important to flag the role the UAF played in putting together the ENLAFT during the policy formation era (2008–2014). As the chapter has explored, the empirical case overlaps with theoretical arguments highlighting how public authorities can use their influential meta-governing capacity as "a way of enhancing coordinated governance in a fragmented political system" (Sørensen, 2006, p. 100). The UAF supported and facilitated such a governing exercise by driving other self-governing actors, such as private financial and economical reporting institutions, to interact in specific activities. Since the UAF participated as one more equal peer to these actors, this ultimate "hands-on" form of metagovernance proved effective, especially as it put the UAF inside the policy-making machine whilst also sharing and negotiating its governing paths with other institutions.

The chapter has also shed some light on the qualitative process of transformation for the governance of money laundering, from vertical structures to horizontal networks. The issue of money laundering started as a matter related mostly to the bureaucracy of the government and

Figure 7.3 The prosecution policy network and its horizontal representation for money laundering purposes.

2013 ENLAFT Policy Plan				
		UAF (Acting as a meta-governor)		
Prosecution Policy Community				
Interior	Carabineros	Investigaciones	Public Ministry	UAF (Acting as an member)

the policing bodies, such as the CONACE, and the criminal prosecution actors, such as the CDE. However, as more governance through interaction was evidenced, the political environment in which the money laundering governance network operated began to influence policymakers' reactions to money laundering in a way that promoted horizontal network formation. The UAF was able to influence policy because of its proximity to powerful ministries such as the Interior and Finance; it offered a unique expertise in the matters of money laundering, as well as providing legitimacy among other institutions to influence a range of interested parties who were willing to become part of the policy-making and implementation process of a broader policy to counter-money organised crime.

In sum, it was evidenced through the chapter how the UAF put together the preferences of a plurality of actors who aimed to provide tailor-made solutions to the specific case of prosecuting organised crime and its money laundering activities. The flexibility and adaptive capacity of the UAF to become a connector node in the prosecution policy community, with both private and public institutions, allowed the creation of a very successful asset, the ENLAFT. The next chapter will conclude this thesis by building a theoretically driven understanding that helps more deeply theorise into the nature of governing processes around security issues. It will thus highlight how governing networks are constructed, what facilitates or hinders inter-institutional relations, and what are the consequences for democratic governance when linked to the security actors' institutional developments.

8.

Conclusion

The civilian takeover of power in 1990 marked a major turning point in the governing of Chile's security. In contrast to the fragmented and authoritarian procedures to the rule of law seen during the military regime, it established a way of delivering security that called for inter-institutional governance alongside a democratic ethos. As the previous empirical chapters of this thesis have demonstrated, Chile's prosecution policy institutions then merged into network governance for assessing organised crime. These chapters have told the story of how and why such governance developed. This remaining chapter thus aims to bridge the empirical narrative presented so far with the academic literature put forward at the beginning of this investigation. In order to do so, the chapter is divided into five sections. Section 8.1 attempts to answer the research questions presented earlier in this thesis: how can we explain the governing relationship that Chile's public institutions have developed to confront organised crime post-redemocratisation? It targets three aspects of the answer taken from the empirical account: the movement from government to governance; the development and change of policy networks; and the gradual institutional adoption of network governance. Section 8.2 examines how these theoretical underpinnings correlate to three broad periods of time in the governance of organised crime, from 1990 to 1999; from 2000 to 2009; and finally from 2010 to 2014. Section 8.3 reflects on three empirically-driven ideas. This part exerts a strong focus on explaining how Chile's case complements the scholarly knowledge by exploring the role of the state in the delivery of policy; that of the security institutions in shaping the rule of law and social order; and finally, the effects on policy-making when dealing with complicated social behaviours such as the organised crime issue. Section 8.4 bridges this thesis's empirical and theoretical output

and translates it into policy recommendations. This part is connected to the concluding Section 8.5 in allocating this thesis as a contribution to both academia and the world of practitioners, suggesting it serves as an advancement in the study of governance in the developing world.

8.1 The Engagement of Governance

This thesis opened by presenting the research question of how could one better understand the governing engagements that Chile's public institutions have organised to confront organised crime since redemocratisation. In order to answer such a question, it was argued that the scholarly knitting of three theoretical approaches was able to build a comprehensive explanatory framework. It was reasoned that a governance approach exploring the role of the state in the delivery of public services, among them security, was not a clear-cut framework since the capability of the state to fight criminal groups is very much dynamic. This therefore reveals, on the one hand, aspects of the state decentralising in its capacity to execute and implement policy, but, in the other hand, it also reflects on the capacity of the state to adapt to novel forms of delivering security in the light of contending policy issues. From such a puzzle, it was also noted that when trying to understand Chile's security action using an inductive approach, reality suggested that public institutions in charge of the prosecution of organised crime were on the path of building horizontal interactive relations; that is, breaking away with a former hierarchic, overlapping, and secluded etiquette to instead deliver policy inherited from the previous authoritarian era. Thus, it was reasoned that to understand the movement from government to governance of organised crime, public institutions had engaged in policy networks. In this vein, even though their innate hierarchic features posed as a deterrent for building a policy community, this concern was somehow minimised as the redemocratisation entrenched. Because the analysis could have not been completed without emphasising what led institutions to engage in a policy community, and the consequences that this move brought in terms of their beliefs and practices towards organised crime, the research was complemented

by proposing that institutions set up their own paths to gradually accommodate complex policy issues. Their interaction with both endogenous and exogenous features promoted a continuous change, rather than just the imposition of forced transformations experienced after critical junctures. Even though the empirical sections of this thesis provided and account for enough relevant events occurring through the process of redemocratisation, it also placed great emphasis on how these events ultimately became a cumulative sum of a number of subtle but meaningful changes. Thus, each institution responded differently and accordingly to their innate capacity to adapt to such a changing socio-political environment. It is against this theoretical background that three broad processes of governing are discussed. This is in order to demonstrate how public institutions have confronted organised crime following the redemocratisation of Chile.

1) *The movement from government to governance*. Theoretically, the term "government to governance" was coined to explain how the planning and delivery of public services was being taken away from the state, mostly by governing forms based on markets and networks. The processes of governance occurring among actors outside the spheres of government led us to think that entangled policy issues required the presence of a multitude of actors who had come to replace the authority of the state in the steering and execution of policy. When reflecting on such ideas, organised crime, a champion in terms of "wicked" policy issues (Peters, 2015, p. 29), demanded its very own analysis. Whilst organised crime has caused the state to lose its sense of hierarchy and control in the policymaking process, the state's unique resources seemed to put it in a privileged position when responding to such dynamic events. Therefore, the movement from government to governance has not been defined by shedding light on who delivers policy, but, and as this thesis has explored, by emphasising how policy is being delivered. In this way, the movement from government to governance was evidenced when processes of policy-making that were once hierarchic and owned by a unique core central

246

authority, became horizontal and were deliberated upon in a multi-agency landscape with capabilities and resources to face policy issues spread across it rather than being situated in a centralised position. Since governments are complex bodies holding together a multitude of institutions, complex policy issues cannot be reduced to just a few organisms (Smith, 1993). The eruption of actors from above and below the state has meant the need for policy issues to find relevant actors at both levels. In that vein, when this thesis termed the process of confronting organised crime as its "governance", it aimed to elucidate that its governing has become a continuing horizontal and transverse process of policymaking. Governance is therefore constantly shaped and driven by changing life forces that result as the interaction among different institutions becomes ever more complex.

2) *The development and change of policy networks*. The movement from government to governance naturally led to a higher level of interaction between security related institutions that, because of the way the state is organised, had a unique role when confronting organised crime. Even though it is suspected that policy communities would embrace policy harmony and consensus towards the issue of their concern (Rhodes and Marsh, 1992; Marsh, 1998), the chronological study of Chile since redemocratisation allowed us to take a step back and rethink certain aspects of how policy networks are constructed, and also, regarding how it is that they change as their interests, practices and members tend to vary. The role of the Ministry of the Interior was essential in bringing together actors that before redemocratisation were isolated or reluctant to embed in arrangements that meant sharing resources and responsibilities. The Interior's authority and ability to negotiate nonetheless brought about the initial formation of a prosecution community with the policing bodies and the CDE. The most serious linkages in terms of policy networking, however, came later in 2004 when the prosecution policy community was finally formed, as was the UAF and the Public Ministry. It is worth emphasising that even though consistency and consensus might be the two most relevant

247

aspects discerning between a policy community and an issue network (Bevir and Richards, 2009), it is relevant to highlight the idea that both of these aspects are subject to reconfiguration on a daily basis. For example, this thesis has demonstrated that the policing bodies and the Public Ministry struggled to maintain a single perspective on the organised crime issue, moreover they had different opinions related to what policy road to take when assessing it. The detailed perspective that this investigation offered when scoping out the prosecution policy community and its interactions thus revealed that institutions are constantly engaged in negotiating their own beliefs and approaches to policy. In part, this dynamic interaction did respond, on the one hand to the fact that organised crime is constantly demanding novel approaches, and also, on the other, that institutions absorb different inputs from the political environment, leading them to arrange and submit different answers to the problems of policy-making.

3) *The gradual institutional adoption of network governance*. This thesis aimed to also categorise the governance of organised crime as that occurring in the architectural form of a network (Dupont, 2004; Hay, 1998). By assuming such a point of view, it proposed to empirically explore how stable and systematic inter-institutional relations were formed through time following the redemocratisation landmark. This point brought to light how Chile's security institutions transited from hierarchical silos of inward-looking policy-making, to those responding to an ad-hoc transformation of network horizontality, where the common recognition of the organised crime problem brought about the eventual reinforcement of policy agendas. The study of the decades after the redemocratisation landmark was thus essential for understanding how the security community at the end of the dictatorship was no longer strategic to its purposes or the security goals established during redemocratisation. As the dictatorship's actors terminated their previous network formations, they reconfigured into a new network, this time driven by the different ideological, technical, and institutional imprints imported by the

new democratic ethos. Yet, none of the policy institutions studied in this thesis took the same institutional path when engaging in such governance arrangements. On the contrary, the historical phases reviewed give evidence that institutions followed independent life courses when considering their participation in network governance. The Interior, the policing bodies, the prosecutors and the UAF, all seemed involved in network governance after novel roles, responses and processes towards organised crime were gradually routinised. Put simply, the exercise of having examined the prosecution policy community thus helped scrutinise how actors institutionalised their relations within their own organisations, within the policy network they joined,and with the broader socio-economic and political context (Marsh and Smith, 2000). Against this backdrop, Chile's policy-making for organised crime turned to converge on the influences of the globalising trends for countering it, while at the same time, exercising its domestic capacity-building to manage and control resources. The institutions embedded in the prosecution policy network witnessed some exogenous factors regarding the pressure to abide by international accords as well as endogenous ones, such as the creation or evolution of novel intra-institutional bureaucracies. At the end of the day, both these sources of change introduced a whole new range of structures, rules, and beliefs and could be expected to continue doing so.

8.2 Periods of Governance

The three broad topics discussed above were illustrated through the historical stages explored over this thesis's subsequent empirical chapters. Yet, the historical revision allowed for the overlapping of certain institutional development, providing a fine-grained explanatory power. It is worth re-emphasising that this next brief section does not try to tell a story by setting landmarks as critical junctures, but rather, it aims to encapsulate three periods of time that allow for better exploration of how the interweaving of relationships between actors led, in a unique manner, to how organised crime has been approached in the country.

1) Recentring governance (1990-1999). A first phase of the governance of organised crime was characterised by the way the state and its political institutions reaccommodated to the shifting waters of redemocratisation. The security related institutions reconfigured their organisational missions, structures and practices to that of the new post-authoritarianism stages. When organised crime became a relevant issue, it demanded a collegiate response from the political authorities, the law enforcement agencies and the criminal justice system. An embryonic prosecution policy network thus appeared, however, relationships were random, hierarchic and characterised mostly by dissimilar understandings of what organised crime meant. During the immediate return to democracy, the Interior assumed a metagoverning role that gave the state a position from where to steer policy-making. Such a role endured as organised crime followed the intelligence channels that grouped together the Interior and the policing bodies. By this time, and in a sense, since the prosecuting actors —by this time the CDE and the Courts of Justice— where left outside such channels, their stake towards countering organised crime was seemingly capped. This decade was also highly influenced by the foreign pressure put on external bodies concerned with the security of the region. Yet, it remained crucial for Chile's institutions to bed in working relations with more experienced players, such as the United States, the UN and the FATF, who brought with them knowledge and an initial sense of the relevance of inter-institutional working relations for policy delivery.

2) Engaging network governance (2001-2009). A second phase of the governance of organised crime resulted in the more visible engagement of the prosecution policy community as a whole. Its membership structure was certainly re-arranged as the Public Ministry and the UAF took over specific roles in the prosecution of organised crime and its money laundering activities, respectively. The network governing structure also reflected on the growing collaborations between actors and their willingness to deliberate on the issue of organised crime. The gradual dissemination of criminal justice reform throughout the country proved to

be particularly relevant to the Public Ministry and the policing bodies, since they became collaborators in the prosecution of crime. In this vein the movement from government to governance was definitely more explicit during this decade as the Interior lost its metagoverning role, ceding capabilities, for instance, to the UAF when it arrived to implement the money laundering policy-making, and to the prosecutors as they tried to combine the policing bodies together in a united effort towards criminalising criminal groups. Even though the government, through the role of the Interior, played a big role in drawing the contours for security and crime policy-making, it did not specifically address the issue of organised crime, instead letting the other actors in the network bargain for policy implementation independently.

3) Governance for policy-making (2010-2014). A third phase characterised the governance of organised crime, bringing with it the launch of a formal policy that dealt with organised crime in a collaborative way among a multiplicity of actors. The change in government from the *Concertación* to the *Alianza* still followed the gradual creation of policy through networked relations, however, this time it took an extra step with three policy plans that addressed drug trafficking, money laundering and human trafficking. The existence of a continuing prosecution policy network, and the adoption of communities for prevention and detection of other types of criminal conduct, brought about consequences for the policy agenda, in terms of taking decisions as what the network should do became a reality; most notably, as the *Frontera Norte* and the ENLAFT policies were formally launched. Yet, and as was mentioned earlier, the interaction of the prosecution policy community did not mean that consensus and consistency between institutions were suddenly in perfect harmony. The policing bodies still had their differences with the Public Ministry, and the Interior lacked transparency when it came to handling multi-agency bureaucracy, for instance, regarding the *Frontera Norte*. What is more, the ENLAFT policy showed that the UAF assumed metagoverning roles that were once strictly assigned to the Interior. This half-decade period

251

thus corroborates this thesis's initial argument that policy networks engaged in governance arrangements are a constant source of friction between dissimilar approaches to policy. The dynamism and flexibility of the network nonetheless owes much to the self-governing institutional rationales driving the security institutions. In that vein, it is reasonable to assume that in the future, the prosecution policy network might find different structures, participants and policy outcomes as its once stable and predictable interactions may lead to change and evolution.

8.3 The State, Security Institutions and Organised Crime Post-Democratisation

After setting out an historical revision to understand the governing arrangements towards organised crime in Chile, at least three theoretical issues are worth emphasising as they add greater value to the literature put under stress in this thesis. These are the complexity of the state as a whole and its role in the policy delivery; the organisation of security institutions as the essential actors in delivering the rule of law and social order; and the effects on policy-making when dealing with complicated social behaviours such as the organised crime issue. This section will thus shed light on how traditional scholarly knowledge in these three areas can be complemented by these ideas. Thus, it highlights how Chile's case suggests new roadmaps to follow when trying to understand modern political arrangements.

1) *The state and its role in the delivery of policy*. This thesis initially acknowledged that states are big complex machines with a capacity to rule and govern society through a set of distinct organisms (Smith, 1993). It also argued that as life has become more complex, so has the state, in terms of dedicating special parts of its overall bureaucracy to dictating solutions to demanding policy areas. Yet, the literature has inclined towards either further developing this general idea and saying, for instance, that states are being challenged when it comes to deliver resources that govern society, or, and in a critical way that states have come to concentrate in certain areas where they go on to develop more authority. Earlier in this thesis, such possibilities

were discussed as state centric and state decentralising perspectives. The conundrum was evident since the literature has put organised crime as a major trigger of state decentralising features, overrunning institutions and even replacing states' central apparatuses. Chile's case has helped enlighten this complex issue in a few contentious ways. First, it has illustrated that even small unitary states are extremely complex bureaucracies, where policy responses are solved by specific branches containing knowledge and resources that have been deposited across the decades. Yet, the problem lies in our understanding of what kind of category to make out of Chile's case and its history of governing arrangements. What is more, the problem persists as it become difficult to add Chile to the bulk of evidence from the rest of Latin America and the developing world. In a scholarly sense, few studies have enlightened this problem. Evidence from the region, such as from Brazil or Mexico (Bailey and Taylor, 2009; Sabet, 2009; Macaulay, 2012; Arias, 2006) or extra-regional, such as from South Africa (Govender, 2015), or even from developed countries, such as Canada (Sheptycki, 2003), has emphatically described how the governance of complex crime is a collaborative multi-agency combination of state centred efforts. However, and at the same time, this literature has also exposed the failure of the state to provide basic security, pushing towards a state decentralising perspective. Yet, by following the rationale explained earlier in this thesis it seems that the governance of organised crime finds a better explanation when noting that the movement from government to governance is better explained by "how" this motion happened, rather than only by "who" is steering it. Using Chile as a case study, this thesis has aimed to conclude that institutions tend to govern security in both a state centric and state decentralising direction. It seems so, since even when the state is losing or wining aspects of its policy-making centrality, it can, either way, engage in network governance communities. States enjoy extensive institutions that can replace certain aspects of their failing elements with other bureaucratic parts. In Chile, for instance, the presence of two policing bodies has allowed prosecutors to look for whom to

partner up with when one institution seems to be falling behind. In the developing world, similar cases are distinguished when a similar or even higher force replaces one underperforming policing body, criminal justice actor or political institution permeated by organised crime (Dupont, 2003; 2004). Since state organisms have rarely been excluded from a security governance arrangement for organised crime, this thesis has aimed to elucidate that the decentralising and centric perspectives can both favour the network governance approach, and that in the specific case of security policy for organised crime, referring to the state centric approach does not necessarily mean the hierarchy nor centrality of resources. As this investigation explored, public institutions tend to arrange policy in horizontal and disseminated forms because of its actors being self-governing institutions delivering their essential skills in this way.

2) *The security institutions and the rule of law and social order*. The organisational form through which security institutions engage in the governance of the rule of law thus becomes a pertinent conundrum to disentangle. This thesis argues that Chile's public institutions have galloped from authoritarian times into a modern democratic anchorage regarding their institutions. Further, the democratic network governance approach vindicated in the literature seems effective in terms of assessing their democratic qualities (Sørensen and Torfing, 2014). Even though the prosecution policy network institutions remain open to only four main participants, they have not undermined participatory and representative policy-making, on the contrary, through the implementation of working roundtables and policy plans they have aimed at consolidating the deliberation of security matters amongst a wider public and also promoted non-state participation. Nonetheless, and drawing closer to the literature on weak institutions (Levitsky and Murillo, 2009, 2013), security institutions do maintain a shadow of secrecy that rather neutralises their democratic performance, most notably when assessing organised crime in less transparent and guarded ways. Even though the Public

Ministry has brought greater levels of openness to the prosecution of crime, most protocols and criminal cases remain free of any accountability until they are viewed in a court of justice. Police bodies also remain highly secretive in their practice, avoiding any concessions to their intelligence. In a nutshell, the democratic anchorage of the governance relating to organised crime is, on the one hand, fixed to the control of democratic politicians and citizen accountability; nonetheless, and on the other, institutions make sure their processes and practices are underlined by a level of autonomy. In light of certain regional countries' incomplete transitions to democracy, the lack of transparency of their security enforcers and the self-rule of their corporate powers have encouraged observers to think that security governance arrangements can undermine democracy when in hands of institutions that still behave as they did during autocratic eras (Brinks, 2006; Van Cott, 2006).

3) *Policy-making and organised crime*. Finally, this thesis has attempted to reflect on certain criminological aspects of the literature regarding policy-making when dealing with complicated social behaviours such as organised crime. Chilean institutions have demonstrated a gradual acquisition of expertise towards organised crime control since redemocratisation. Even though the issue was never a priority during the dictatorship, in the span of two and a half decades it began to match other crime control priorities, following a trend that is able visible in developed countries (Jacobs and Wyman, 2014). The most important steps taken in that direction have been regarding the question: what accounts for organised crime in Chilean institutions. The definition of the subject matter has taken public institutions to prefer a domestic approach to it. Chile's unitary state formation has certainly put institutions in a good place regarding building policy and reaching consensus in a less complicated way; this has been evidenced in federal states with different layers of government agencies (Jacobs and Wyman, 2014, p. 531). Chile's experience with global standards was perceived as most important for the political authorities and the policing bodies, however, not so for the prosecution lawyers

from the Public Ministry. Even though the pressure to abide by foreign norms has received political and legislative responses, prosecutors have privileged the day-to-day intelligence analysis of criminal incidents. Chile's policy-making approach to organised crime has illuminated both official responses and also unintended approaches for policy action. Regarding the official responses, these policies have only recently come to set the guidelines for action against organised crime issues. In that vein, their operational success or failure, is still a matter to be studied. One thing is known though, that is that the managerial reforms across all institutions in the prosecution policy network have, until now, emphasised performance tasks; however, the scepticism for result-oriented policies is already evident, mostly in the policing bodies and those prosecutors who carry the weight of having to publicly accomplish yearly performance goals. Regarding the unintended consequences of organised crime policy-making, institutions can misbehave when the pressure to reach performance tasks is too high, as most notably occurs when it is rewarded with the promise of more resources. As has happened in Chile and elsewhere in the region, actors dealing daily with criminal groups can bend policies for evasion or collusion, by either turning the eyes away, joining a pay list, or because their lives have been threatened. In line with the literature, the case of Chile has demonstrated that the policy-making aspects of organised crime are very much dependent on social and cultural practices that deserve more explanation (Sabet, 2009; Montero, 2012; Allum and Gilmour, 2012).

8.4 Policy Recommendations

This chapter has examined so far the theoretical and empirical factors that aid an exploration into the governance of organised crime. Nonetheless, for the purpose of translating this scientific knowledge into an executive policy recommendation, this brief section rewrites such political thought in a language adequate to influence the realms of action outside academia.

Indeed, one of the lessons that emerges from exploring modern governance in Chile, and which has had a major impact on practical concerns, is the growing complexity of certain policy areas. Being organised crime one of them, it is recommended then that in order to better assess crime and its policymaking, practitioners should recognise its horizontal, multi-jurisdictional and inter-institutional governing. It is thus favoured that better policy-making for organised crime can be obtained if a greater sense of participation by the actors involved is embraced, both nationally and internationally (Zepeda and Rosen, 2015). Because there are currently a growing number of participants who are being called to assess organised crime, their expert skills need to act in conjunction with the improvement of performance. New challenges require a governance that is flexible, innovative and persuasive.

The issue of organised crime also pushes policy practitioners to assume that policy-making is a constant process of negotiation between counterparts. The virtue of negotiation is then encouraged as a tool to find cohesion and consistency in policy outcomes. It is recommended therefore that for the particular "wicked" case of organised crime, policy makers should settle on durable policy agendas that mirror consensus and the broad commitment of all active participants. In that vein, and since this thesis proposes that organised crime demands the set up of organised policy communities, it is argued that the relationships between institutions need to be based upon the positive sum-game of their power, skills and resources. The case of the ENLAFT policy for money laundering launched in 2013, for instance, demonstrated how actors can align with core activities during policy making, thus better operationalising their ouputs.

In terms of governance and the continuing joint engagements for policy, policy makers should acknowledge the inevitable shortcomings of having to deal with the adaptation and alteration of relations occurring between institutions. Chile's prosecution policy network for organised crime has proven to be a dynamic structure of mutating construction. Even though

policy makers do attempt to build long-lasting relationships, policies tend to enjoy a short life for multiple reasons. Chile's case has so far revealed that policy engagements change either because institutions change, but also, because the policy subject that triggered such a policy reaction now demands a different response. Most definitely, the governance of organised crime can show evidence of both of these factors when its development over the last two and a half decades is explained.

Finally, and when assessing the impact for democracy when studying policy through a network lens, practitioners should look for performance anchorage that can legitimate their outcomes, both for the affairs of their institutions within the political system and also attached to the broader contextual changes occuring in society. The governance of organised crime should be seen as guided by the tier of democratically elected politicians, in a sense because these represent the public and the responsibility imposed on them in managing security resources. Nonetheless, since the security aspect can fall into private hands outside the state, it is recommended that even this latter type of governing is implemented in accordance with a responsible democratic grammar of conduct. Again, the integrity of any given network for security should agree on the democratic rules of the game acting as its integrated core system of values. For policy makers in recently democratised countries, Chile's case denotes that legitimising security policy through the broader democratic affairs of the transition was fundamental in promoting a sustained impact on consequent governance.

8.5 Future Research

This final section discusses future lines of research, including where to edify subsequent knowledge on the topics dealt with, both in this chapter, and more broadly, through the overall investigation. Early on the need to bring Chile closer to the bulk of the literature on organised crime studies was noted. It was argued that from a political science point of view the country had remained an outlier to thorough scholarly examination. To fill that void, this thesis has

proposed a rigorous analysis regarding, first, the relationships between organised crime and the state, and second, how institutions engage in organised crime governing. Authors elsewhere on the continent have dealt with such problems by using different sets of wordings that have emphasised, among other things, aspects such as the *politics of crime* (Bailey, 2014), how crime has *redefined state-society relations* (Dammert, 2012b), the consequences of the *war on drugs* in the Americas (Bagley and Rosen, 2015), the *dangerous liaisons* between politics and criminal groups (Casas-Zamora, 2013), or the practicalities and consequences of *policing democracy* in the region (Ungar, 2011). The truth is that the general relation between crime and the performance of the state in Latin America has been broad in scope and superficial in its analysis. This thesis, on the contrary, has looked deeply into how state institutions have confronted organised crime and the consequences that this has brought for its democratic governance. In that sense, future research should build from this analysis, considering it in a comparative way if attempting to gauge the explanatory power of the Chilean case (in that vein see for instance Albanese and Reichel, 2013). Even though the Chilean case has reflected aspects of how the state has confronted organised crime, rather than evaded or colluded with it (Bailey and Taylor, 2009; Sabet, 2009), if the case actually is that institutions are evading and colluding with organised crime this then becomes very difficult to spot since it goes against the fundamental desire of organised crime to remain unseen and silent. Thus, it becomes paradigmatic to argue at first hand that Chile is actually over performing on such grounds. Despite such a notion, this research has clearly unveiled that Chile's state has created a solid ground from which to deliver resources and policy, and has been doing since the landmark of the redemocratisation. Future comparative analysis could therefore find greater regional explanations, if paralleled, on the one hand, with countries where institutions have fallen under the control of organised crime, or, on the other hand, where institutions remain strong and where policy-making has been efficient. Nonetheless, this thesis has tried to look beyond the

common methods of doing comparative politics, and conversely targeted it to set its own novel discussion regarding how the study of institutions, despite their performance, can add more knowledge to our understanding of the way in which political governing is being carried out. In that sense, a second important line of research emerging from this thesis's investigation is how to improve the use of the governance approach, that is, potentially as a lens to better explore processes of institutional development and policy-making.

Having said that, this thesis has aimed to distinguish itself from the rest of the topical literature on governance studies in Latin America by following the Anglo-Saxon understanding of governance, breaking away from the good governance approach that has dominated research on democratic policy governing the region. A future line of research that thus remains open is to commence a broader exercise of governance explorations, not only in security matters, but also in other aspects of social, political, and economical life. This thesis's analysis has paved the way for applying to the regional literature a variety of topical matters such as the state centric and decentralised role, the policy network approach to entangled issues that bring together both formal and informal institutions, and finally, the study of institutional development across long periods of time, their consequences for inter-agency collaboration, and their overall relation with political actors both within and outside the boundaries of the state. The way this thesis has explored Chile's case has added an untold narrative about how institutions once considered authoritarian and informal have turned their practices and traditions to encompass democratic and liberal tenets. The research outside Chile might not be straightforward in these aspects since it is acknowledged that security institutions in the rest of the region have followed dissimilar institutional pathways (Levitsky and Helmke, 2006). As well, the state centric and decentralised discussion is not easily detectable unless a great effort is put into studying long term political processes. Also, access to sources and interviewees might not always be as expedite as over the course of this investigation. Despite such obstacles,

the continuing search for governing explanations demands a more candid elucidation of interwoven political processes; that is, one that is compelling enough to show how governance engagements are occurring.

List of Acronyms

ANI	National Intelligence Agency
BITRAP	Human Trafficking Brigade (*Investigaciones*)
BRICO	Organised Crime Brigade (*Investigacione*s)
BRILAC	Anti-money Laundering Brigade (*Investigaciones*)
CDE	State Defence Council
CICAD	Inter-American Drug Abuse Commission
CNI	National Information Centre
CONACE	National Council for the Control of Narcotics
CIEChile	Foreign Investment Committee
DEA	Drugs Enforcement Administration (United States of North America)
DICOMCAR	*Carabineros* Communications Directorate
DINA	National Intelligence Directorate
DIRECTEMAR	General Directorate of Maritime Territory and Merchant Marine
DISPI	Directorate of Public Security and Information
ENLAFT	National Strategy against Money Laundering and Terrorism Finance
ENSP	National Strategy for Public Security
ENUSC	National Urban Survey of Citizen Security
GAFISUD	Financial Action Task Force for Latin America (later, GAFILAT)
GOPE	Special Operations Group (*Carabineros*)
FATF	Financial Action Task Force on Money Laundering
FBI	Federal Bureau of Investigation (United States of North America)
FinCEN	Financial Crimes Enforcement Network (United States of North America)
FIU	Financial Intelligence Unit

IADB	Inter-American Development Bank
INTERPOL	International Criminal Police Organisation
IMF	International Monetary Fund
IOM	International Organisation for Migration
ISP	Public Health Institute
LAPOP	Latin American Public Opinion Poll
MERCOSUR	Common Market of the South
OAS	Organisation of American States
O.S.7.	Department of Narcotics (*Carabineros*)
O.S.9.	Department of Organised Crime (*Carabineros*)
PDI	Chilean Investigative Police
SAG	Agricultural and Livestock Service
SII	Internal Revenues Service
SML	Medical Legal Service
UAF	Financial Analysis Unit
ULDDECO	Unit of Money Laundering, Financial Crimes, and Organised Crime (Public Ministry)
UNASUR	Union of South American Nations
UNODC	Unites Nations Office of Drugs and Crime
USEXVIF	Unit of Sexual Crimes and Family Violence (Public Ministry)
WEF	World Economic Forum

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