

April 2022 Entry (On Gangs and Governments)

“SAN SALVADOR, El Salvador — The government of El Salvador said Monday it has arrested more than 1,000 gang suspects after a wave of killings over the weekend.... The government declared a state of emergency and locked down prisons after 87 murders were committed Friday, Saturday and Sunday. Authorities have blamed the killings on gang members, and on Monday authorities said soldiers and police had raided gang strongholds around San Salvador.” – The Associated Press (authorship unattributed), [“El Salvador grabs 1,000 gang suspects in response to weekend killings,”](#) NPR, March 29, 2022.

“The killings of more than 80 people in El Salvador over the weekend have had a chilling effect on the general population and worried human rights defenders already concerned about the government’s approach to gang violence and its authoritarian streak. On Saturday alone, 62 people were murdered – the country’s most violent day in 20 years – in a surge of seemingly senseless violence against average Salvadorans that the government has attributed to the MS-13 gang.

The gang is likely aiming to send a message to the government, multiple security experts told Al Jazeera, as part of backdoor negotiations to reduce violence in exchange for privileges that the government vehemently denies are taking place despite mounting evidence.” – Anna-Cat Brigida, [“Surge in gang killings spurs fear, uncertainty in El Salvador,”](#) Al-Jazeera, March 22, 2022.

“El Salvador’s parliament has approved a state of emergency after the Central American country recorded dozens of gang-related murders in a single day. Police said there had been 62 murders on Saturday, making it the most violent 24-hour period since the end of the civil war in 1992.... Last year, the gang-plagued nation recorded 1,140 murders – a 30-year low. However, that still equates to 18 deaths per 100,000 inhabitants. In November, another spate of violence led to more than 40 people being killed within three days.

Hours before MPs voted on the new powers, which will remain in place for 30 days, police said four leaders of the Mara Salvatrucha (MS-13) gang had been arrested over the spate of killings.... Authorities say the MS-13 and Barrio-18 gangs, among others, number about 70,000 members and are responsible for homicides, extortion and drug-trafficking....

In April 2020, as coronavirus swept through the country, President Bukele imposed a 24/7 lockdown for imprisoned gang members after more than 50 people were killed in three days. He argued that many of the murders were ordered from behind bars and said prisoners belonging to rival gangs would be made to share cells in a bid to break up lines of communication.” – BBC Latin America (authorship unattributed), [“El Salvador: State of emergency after 62 gang killings in a day,”](#) March 28, 2022.

While viewing the MSNBC report on the [El Salvador](#) government’s crackdown on [MS-13](#) and [18th Street](#) gangs (YouTube, March 29, 2022), it occurred to me (probably not for the first time) that from the point of view of the gangs, the government – especially of a country like El Salvador – is just another rival gang, bigger, better armed, and blessed with legitimacy, but another gang nonetheless.

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This is not far from the arguments I made regarding the possible origins of [sovereignty](#) throughout, for example inGGDM section [3 Government Titles](#) and this view is humorously portrayed in the original Star Trek episode “[A Piece of the Action](#)” (ST:OS 1968). It certainly seems to be implied in Martin Luther’s Disputations (the “[95 Theses or Disputation on the Power and Efficacy of Indulgences](#)”) of 1517 that the Church had become another gang of fraudsters (e.g. John Tetzel, Pope Alexander VI Borgia):

82. To wit:—“Why does not the pope empty purgatory, for the sake of holy love and of the dire need of the souls that are there, if he redeems an infinite number of souls for the sake of miserable money with which to build a Church? The former reasons would be most just; the latter is most trivial.”

84. Again:—“What is this new piety of God and the pope, that for money they allow a man who is impious and their enemy to buy out of purgatory the pious soul of a friend of God, and do not rather, because of that pious and beloved soul's own need, free it for pure love's sake?”

86. Again:—“Why does not the pope, whose wealth is today greater than the riches of the richest, build just this one church of St. Peter with his own money, rather than with the money of poor believers?”

For his ‘disputations,’ (points of debate about the Church) [Martin Luther, an ordained Catholic priest, was excommunicated in 1521](#) after refusing to withdraw about a third of his disputations. And any gang of thieves, mercenaries, or a criminal fraud organization (or ‘robber baron’ or local Prince) in that time period could be excused for thinking more coarsely, along the same vein, that the Church and the hereditary authority they legitimized was simply a more lucrative racket. And certainly the [Nuremburg tribunal](#) — four centuries later — concluded that the [Nazi regime of Germany](#) was the 20th Century’s criminal enterprise of the gravest proportions.

Or to put it more simply in modern terms, same problem, different time and facade:

“Corruption is so rampant across Russia, really it’s a racketeering organization, not a government.” – [John Bolton](#), on New Day, CNN March 31, 2022.

(on the State)

“President Nayib Bukele ordered food for gang members held in Salvadoran prisons be reduced to two meals per day, seized inmates’ mattresses and posted a video of prisoners being frog-marched through corridors and down stairs....

Bukele wrote that those detained would not be released. His order that food for gang inmates be cut apparently was aimed at stretching current food supplies to feed the new detainees as well. ‘Don’t think they are going to be set free,’ Bukele wrote in his Twitter account. ‘We are going to ration the same food we are giving now (to inmates).’ ‘And if the international community is worried about their little angels, they should come and bring them food, because I am not going to take budget money away from the schools to feed these terrorists,’ the president wrote.

Bukele also posted a video showing guards with billy clubs roughly forcing inmates to walk, run and even descend stairs with their arms held behind their necks or backs. At one point, a handcuffed inmate tumbles down a flight of stairs as a guard forces him to descend running. The prisoner groans and then is forced to his feet to continue running. The inmates were stripped to their underwear, and their mattresses were taken away.” – The Associated Press (authorship unattributed), “El Salvador grabs 1,000 gang suspects in response to weekend killings,” NPR, March 29, 2022.

“El Salvador’s jailed gang members will see ‘not one ray of sunshine,’ said the country’s prisons director, Orisis Luna Meza, in April. He was describing the latest phase in the government’s hardline security policy, the ‘Plan for Territorial Control’ which imposed stricter, more inhumane conditions in the country’s maximum-security prisons. Natural light would be shut out from the inmates’ cells, family visits were banned and prisoners from two rival gangs - the MS-13 and Barrio 18 - would be housed together, mortal enemies living cheek-by-jowl in the heavily overcrowded cells.

Images of hundreds of half-naked, shaven-headed prisoners shackled together in the prison yards amid a worsening coronavirus outbreak sparked outrage among international human rights groups. Today, the government is not concealing the appalling state of its prisons but showing them off again, openly inviting journalists to film inside the dank, unsanitary cells. ‘Show me one privilege, just one’ the prisoners had received, President Nayib Bukele wrote on Twitter, his favoured form of communication.” – Will Grant, “[Did El Salvador’s government make a deal with gangs?](#)” BBC, October 3, 2020. [note, see Betteridge’s Law of Headlines]

Viewing the government – legitimate government – of any country as ‘just another gang’, bigger and better armed than rival criminal organizations, is both profoundly insightful, and profoundly shallow and self-serving at the same moment. The two are connected in and the view is buttressed by Max Weber’s classic definition of the State (1918) on the notion of the application of physical force:

“In his lecture ‘Politics as a Vocation’ (1918), the German sociologist Max Weber defines the state as a ‘human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory.’” – from Britannica.com article, “[state monopoly on violence.](#)”

The key conceptual difference between a government and a gang is the concept of legitimacy. It is a line that is both simple and stark, the division is as stark as the division between mainstream film-making and porn (see discussion of the evolution of the movie [Caligula](#) in GGDM section [5 Taxation & Census](#)). To be legitimate implies a sense of moral obligation, a state of rightness:

“If legitimacy is interpreted descriptively, it refers to people’s beliefs about political authority and, sometimes, political obligations. In his sociology, Max Weber put forward a very influential account of legitimacy that excludes any recourse to normative criteria (Mommsen 1989: 20). According to Weber, that a political regime is legitimate means that its participants have certain beliefs or faith (‘Legitimitätsglaube’) in regard to it: ‘the basis of every system of authority, and correspondingly of every kind of willingness to obey, is a belief, a belief by virtue of which persons exercising authority are lent prestige’ (Weber 1964: 382). As is well known, Weber distinguishes among three main sources of

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legitimacy – understood as the acceptance both of authority and of the need to obey its commands. People may have faith in a particular political or social order because it has been there for a long time (tradition), because they have faith in the rulers (charisma), or because they trust its legality – specifically the rationality of the rule of law (Weber 1990 [1918]; 1964). Weber identifies legitimacy as an important explanatory category for social science, because faith in a particular social order produces social regularities that are more stable than those that result from the pursuit of self-interest or from habitual rule-following (Weber 1964: 124).” – from Stanford Encyclopedia of Philosophy article, [“Political Legitimacy.”](#)

To put it quite simply, the power of gangs is not considered legitimate, even if the difference between a gang and a government is perceived as cosmetic, dogmatic, or the result of mass social programming (through religion, public education, media). For example, taxation:

“Wallenstein's particular genius lay in recognizing a new way for funding war: instead of merely plundering enemies, he called for a new method of systematic ‘war taxes.’ Even a city or a prince on the side of the Emperor had to pay taxes towards the war. He understood the enormous wastage of resources that resulted from tax exactions on princes and cities of defeated enemies only, and desired to replace this with a ‘balanced’ system of taxation; wherein both sides bore the cost of a war. He was unable to fully realize this ambition; and in fact his idea led to the random exploitation of whole populations on either side, until finally, almost fifteen years after his death, the war had become so expensive that the warring parties were forced to make peace. In any case, Wallenstein's idea inspired many, among them, Colbert, to ‘pluck the goose with a minimum of screeching.’” – from Military-History Fandom Wiki article, [“Albrecht von Wallenstein.”](#)

Legitimacy is (in the view of so many) the sole defining difference between criminal enterprise and legitimate government authority, and that is what we call politics; politics might precisely be defined as the art of creating legitimacy. Not merely maintaining legitimacy, but creating it over and over again, anew each time, and that is the trap, that is what the politics of the current time has forgotten in their quest for normalcy and stability, they merely focus on maintaining the status quo of legitimacy.

(on Authoritarianism)

[“But the country’s enormously powerful street gangs have proved a double-edged sword for Bukele. ‘We must remind the people of El Salvador that what is happening now is due to the negligence of those who protected criminals,’ the conservative Arena party said in a statement. That was an apparent reference to a December report by the U.S. Treasury Department that said Bukele’s government secretly negotiated a truce with leaders of the gangs. That contradicted Bukele’s denials and raised tensions between the two nations.](#)

[The U.S government alleges Bukele’s government bought the gangs’ support with financial benefits and privileges for their imprisoned leaders including prostitutes and cellphones. Bukele has vehemently denied the accusations. The explosive accusations](#)

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cuts to the heart of one of Bukele's most highly touted successes in office: a plunge in the country's homicide rate." – The Associated Press (authorship unattributed), "El Salvador grabs 1,000 gang suspects in response to weekend killings," NPR, March 29, 2022.

"The killings of more than 80 people in El Salvador over the weekend have had a chilling effect on the general population and worried human rights defenders already concerned about the government's approach to gang violence and its authoritarian streak....

Bukele has a history of eroding democratic norms and of persecuting his critics online and through government institutions. He has sent troops into the congressional building, used the coronavirus pandemic to arbitrarily detain citizens and taken to social media to harass journalists, civil society, and opposition politicians.

When his party took control of the legislature in May of last year, it immediately moved to remove the attorney general and Constitutional Court judges without following the proper procedure. Now, in a 'state of exception' and with democratic norms and human rights protections already eroded, there are few institutions to turn to in the case of abuse of power at this time, said Abrego [Abraham Abrego of San Salvador-based human rights group Cristosal]." – Anna-Cat Brigida, "Surge in gang killings spurs fear, uncertainty in El Salvador," Al-Jazeera, March 22, 2022.

"The president's belligerent tweets followed allegations in the high-profile online journal, El Faro, that his administration had held secret negotiations with gang leaders inside jail. Citing a number of leaked government documents, El Faro alleged that MS-13 leaders had received benefits like fast food or a relaxation of their harsh treatment in exchange for peaceful streets. The gang leaders were said to have ordered their members on the outside to reduce the levels of violent crime which blight El Salvador's communities, particularly murder and extortion. El Faro also made the potentially explosive claim that the Bukele administration had sought the gang's support in legislative elections next year....

So far, the government of Nayib Bukele has robustly denied the content of El Faro's report but stopped short of saying the documents were fake. I pushed Mr. Luna Meza three times to unequivocally state that the documents were false but, on each occasion, he prevaricated." – Will Grant, "Did El Salvador's government make a deal with gangs?" – BBC, October 3, 2020. [note, see Betteridge's Law of Headlines]

Authoritarianism and authoritarian tendencies, which always appeal to the Supra-Legitimacy (security) concerns of a segment of the population, naturally veer closest to the argument that the government is just another bigger, better armed gang. Supra-legitimacy holds that security concerns, protection against external and internal threats (including violent criminals and government actors), is the most primal legitimacy requirement in all times, places and ages, that trumps all others of the moment. This expectation at the root of legitimacy is not merely a momentary concept of personal physical security, but extends to all spheres – financial, residences, chattels – and into the future, it is tied to both production and reproduction (in the Marx macrosociology) and is most powerful when applied to the future of our children (generativity and the Census Power in GGDM):

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“That is the entire story to me, which is that if you don’t believe that your kids are going to be better off than you, then what’s the whole point of this whole thing? What’s the whole point of life? That’s literally the primary drive of human evolution is to stay alive and procreate, and then in order to keep your kids alive and better off so they can do the same thing. If you don’t think that, that leads to some deep nihilism and that is what I think you see within our politics.” – Saager Enjeti, [Rising with Krystal & Saager](#), The Hill YouTube Channel, November 3, 2020.

Authoritarianism has never and will never go away because of Supra-legitimacy; as long as there is fear of the natural world, of humanity, and ultimately of the existential void (for example, being randomly killed while being robbed by a violent criminal or just for walking down the street), there will be authoritarian tendencies and institutions. Even the existence of other states can lead to authoritarian tendencies within a human community or state. If you want to rid the world of authoritarianism, rid the world of wealth, inequitable distribution of resources, fear, violent crime, and most of all, states.

And because [virtue](#), [rightness](#), [prestige](#) are culturally-inherited interpretations, they can be bent to some extent to the purposes of legitimizing authoritarianism or authoritarian tendencies, especially when in the moment, people fear for their security or wealth, or the future of their children (generativity). Thus, the human concept of government, rising from the primal [Neolithic world](#), has a necessary ‘authoritarian tendency’; bluntly, sovereignty cannot exist without authoritarian tendencies and this is perhaps why the [mace](#) (bludgeon) became a popular sovereign symbol and political power is often referred to as bludgeoning the opposition into concession or acceptance. All of this, I believe, is consistent with the views expressed in GGDM regarding [hegemonic empires](#), the origins of sovereignty and the [separation of police and military](#).

As an aside before moving on, a quick search of Google on April 4, 2022 shows that Google has no idea about the term ‘supra-legitimacy’; I have noted previously that Google is an unreliable source to find real knowledge, it skews heavily toward whatever is shallow and popular at the moment. However, Merriam Webster Dictionary Online doesn’t know the term either; I do not believe I invented ‘supra-legitimacy’ as a term, I heard it somewhere and my mind grabbed onto it, but I am sure I invented the companion term in GGDM, ‘Meta-Aspect.’ Both concepts are central to the macrosocial philosophy of GGDM.

(on Habeas Corpus)

“Many Latin American systems have modeled their habeas corpus laws after the English common law writ, including El Salvador and Argentina. The writ, meaning literally ‘you have the body,’ was used to ensure that a detained person would always be brought before a judge to determine the legality of the detention. However, the adoption of the writ that protected the individual by allowing a court to declare the person’s detention unlawful necessarily granted broad powers to the judiciary. Latin America’s civil law tradition did not easily incorporate such expanded powers for the judiciary. Therefore, many Latin American systems created a hybrid for the civil law restriction on the judiciary and the individual protections guaranteed in a constitutional democracy such

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as England. The hybrid became the writ of amparo or ‘protection.’ The writ of amparo was first instituted in Mexico in 1847.

The writ of amparo is a federal proceeding which may be brought by any person who complains that his constitutional rights are being violated by a public official. If the petitioner is successful, the judge will grant only protection to that individual; the judge will not have the power to declare the law unconstitutional. Habeas corpus emerged in Latin America as a subset of amparo. Habeas corpus law applies only when a person is in custody, whereas amparo applies in other situations where a person is wronged by the act of a public official.” – Mary Holper, “[Habeas Corpus Reform in El Salvador](#),” *Law and Justice in the Americas Working Paper Series* (2003).

The Writs of Habeas Corpus and Amparo are tripwires to take the ‘gang’ out of the government, governments that are really gangs will trip over them and fall. Habeas Corpus begins when accountability becomes an expected part of legitimacy and arbitrary, corrupt, and petty abuses of power are no longer accepted, even if they are ‘legal’ or ‘customary’; this is not a new concept, in about 1620, Francis Bacon was sacked from his position as Lord Chancellor for taking bribes, even though such was arguably ‘customary’ in that time. The extent to which demands for accountability have existed and been enforceable have varied over time (humorously, see ‘the annoying peasant’ in [Monty Python and the Holy Grail](#), 1975), but they have always been there on some level (e.g., hence [Juvenal](#) and [Cicero](#) bemoaned “[bread and circuses](#)”), and [Habeas Corpus is the unique English law development](#) from the period that put a permanent legal stamp on accountability in the exercise of arrests and detention.

Habeas Corpus requires conceptually that the government be willing to honestly place its sovereign acts (or the acts of individuals within its jurisdiction, in the case of *Somerset*) for judicious, reasoned, fact-based mortal review by a semi-independent judiciary and to accept the results. This in turn requires an acceptance that the State is neither absolute in power nor infallible or even ill-advised (e.g. [Kitzmiller v. Dover Area School District](#), 400 F. Supp. 2d 707 (M.D. PA 2005)) and that it must be a self-amending system (à la Peter Suber's [Nomic game](#)) to survive in the long term; conversely, states which have viewed the judiciary as another part of the State’s monopoly on the use of physical violence within its geographic bounds have not long survived that delusion, recent infamous examples being the [People’s Court of Germany](#) in the 1930s and 1940s and perhaps, the [Khmer Rouge](#) of Cambodia. Other countries have gone through such periods but have been forced eventually to another course, possible examples might include the Reign of Terror in France and the Red Guards period in modern China.

Most people think of Habeas Corpus only in terms of freeing prisoners wrongly held by the government, but one of the most famous Habeas Corpus cases was brought regarding a negro slave who was held in chains on a ship in port in England by a private citizen for the purpose of being transported to Jamaica to be sold. In [Somerset v Stewart](#) (98 ER 499, 1772 A.D.), the English bench reasoned that no natural law existed that permitted one man to keep another as a slave (or to do the acts that were the subject of the case) and as such, slavery could only be created by positive law. The Court followed then that no such law existed in England and while such law may exist in other

places, it would not be enforceable in England, and ordered that the slave must be freed. I have argued in GGDM section, 1 Writs, that the *Somerset* case was precisely the reason why slavery was enshrined in the U.S. Constitution; the case would have been well known to the founders and including negro slavery in the Constitution would create positive law of the highest order (and you know already how that issue was resolved).

Habeas Corpus was created to set the king straight and to restrain the acts of the king and later, of Parliament and other government bodies whose excesses threatened the legitimacy of the government. The *Somerset* case, while involving only an individual holding another in chains, shares the same concept; Habeas Corpus and generally, the entire judiciary system always in some sense involves review and application of the State's monopoly on the use of physical force – this is no less true of the mechanisms for collecting a civil judgment, for example, in Pennsylvania, Plaintiff can have the Sheriff serve Judgement Interrogatories or even sell real estate and chattels at a Sheriff Sale – than it is of reviewing challenges to the government's arrest power (the monopoly in its rawest form), criminal prosecution, property seizure and restraint, and even judicial review of legislative acts.

“Habeas corpus first appeared in the Salvadoran constitution in 1841, although its inclusion was suggested by legislators as early as 1810. The model for Salvadoran habeas corpus law was the English system, which was founded upon the dignity of the person and the requirement that a detained person always have access to a court of law. Each subsequent constitution and the present constitution of 1983 have expressed an individual's right to the writ of habeas corpus. During the civil war in El Salvador during the late 1970's and early 1980's, there were frequent abuses of the writ of habeas corpus. Prisoners were denied the writ based on procedural technicalities, detaining authorities transferred prisoners without notice to the judge charged with hearing the case, or authorities simply denied that the person was in their possession. Those who needed habeas corpus protection the most, persons detained by the military, were denied their basic habeas corpus rights; thus the writ was only effective in cases of common crimes.”
– Mary Holper, “Habeas Corpus Reform in El Salvador,” Law and Justice in the Americas Working Paper Series (2003).

This self-amending concept is precisely the argument for an ‘independent judiciary’ – which means a judiciary that does not serve as a ‘show’ organ legitimizing the State's monopoly on the use of force to protect the current political and economic elite. The test for El Salvador in the next year will be the same rawest test as every other State faces: Habeas Corpus. Habeas Corpus was created for exactly the purpose of curbing the ‘authoritarian’ tendencies of political power and their wealthy backers or a supporting populist extremism.

By Charles W. Phillips